

Legal Issues Regarding The Granting Of Conditional Release To Foreign Prisoners In Fulfilling Legal Certainty (Case Study At Class I Tanjung Gusta Medan Correctional Institution)

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ABSTRACT

Parole is a crucial component of the correctional system that aims to reduce prison overcrowding while ensuring legal certainty for inmates. However, the implementation of parole for foreign inmates in Indonesia faces significant administrative and inter-agency coordination challenges. This gap between legal provisions and practical implementation creates obstacles, especially for foreign inmates who face a more complex legal status and cumbersome bureaucratic procedures. This study aims to analyze the implementation of parole for foreign inmates to fulfill legal certainty at the Tanjung Gusta Class I Correctional Institution in Medan. Using an empirical juridical method with a qualitative approach, this study involved document analysis, interviews with prison officers, and direct field observations. The research findings revealed that the parole process for foreign inmates is hampered by complex bureaucracy, a lack of understanding among officers and the public, and inadequate coordination between correctional institutions, immigration authorities, and other related institutions. In addition, un-integrated administrative procedures cause delays in granting the right to parole. This study concludes that improving inter-agency coordination, simplifying administrative procedures, and strengthening outreach efforts to officers and the public are crucial to realizing legal certainty for foreign inmates. These efforts are expected to support the correctional system's goal of rehabilitation and social reintegration of prisoners while effectively addressing prison overcrowding issues.

Keywords: Parole, Foreign Prisoners, Legal Certainty, Correctional Institutions, Inter-Institutional Coordination

INTRODUCTION

In every society, legal norms are established to regulate behavior and ensure order and justice. When individuals violate these norms, especially by committing criminal acts, they are subject to criminal sanctions. During the sentencing process, prisoners who demonstrate

good behavior may be eligible for parole. However, public understanding of parole in Indonesia is often limited, with many considering it merely an attempt by the government to free offenders, thus creating a negative impression. In reality, parole is not granted automatically but is subject to strict requirements and procedures.

The Directorate General of Corrections under the Ministry of Law and Human Rights (DIRJENPAS KEMENKUMHAM) continues to rely on conventional measures to address prison overcrowding, such as conditional furloughs, parole, and remissions. Despite these efforts, there has been no comprehensive or innovative breakthrough to address the persistent problem of overcrowding in correctional institutions across Indonesia. These measures target different groups of inmates, with conditional furloughs granted to those serving sentences of less than one year and parole to those serving sentences of more than one year. Both require an application by the correctional institution based on the inmate's behavior during their detention. Even after being granted conditional release or parole, inmates are still required to report regularly to the guidance office (Bapas).

Overcrowding has led to a change in the role of correctional institutions, with detention centers (Rutan) now housing not only pretrial detainees but also prisoners serving short sentences, further exacerbating the problem. Remissions, which are usually granted twice a year, serve as another mechanism to reduce prison overcrowding, but certain serious crimes such as corruption, drug offenses, and sexual crimes against children are excluded from this benefit.

Parole in Indonesia allows prisoners to serve the remainder of their sentence outside of prison after completing at least two-thirds of their sentence, with a minimum of nine months served. This program is an integral part of the correctional system, which functions in conjunction with the police, prosecutors, and the judiciary. The legal basis for parole was first established in the Indonesian Criminal Code (KUHP), influenced by the progressive British prison system, and further regulated by the Wetboek van Strafrecht voor Nederlandsch-Indie (Penal Code of the Dutch East Indies). The initial provision required prisoners to serve three-quarters of their sentence before being eligible for parole, which was later changed to two-thirds, with a minimum of nine months.

While previous research has addressed parole in general, most studies have focused on domestic inmates and have not thoroughly examined the unique challenges faced by foreign inmates. These challenges include a more complex legal status, administrative barriers, and

a lack of coordination between agencies, which often result in delays and legal uncertainty. This study aims to fill this gap by analyzing the implementation of parole for foreign inmates at the Class I Tanjung Gusta Prison in Medan, identifying key obstacles, and proposing solutions to improve legal certainty and administrative efficiency.

The purpose of this study is to analyze the implementation of parole for foreign prisoners in order to fulfill legal certainty at the Class I Tanjung Gusta Correctional Institution in Medan. This study uses an empirical juridical method with a qualitative approach, aiming to provide scientific value by offering policy recommendations that increase the effectiveness of parole for foreign prisoners. The success of this study lies in its focus on foreign prisoners and the integration of inter-institutional cooperation in the context of correctional law, an area that has not been comprehensively studied in previous studies.

METHOD

This study uses an empirical juridical method with a qualitative approach to analyze the implementation of parole for foreign prisoners at the Class I Tanjung Gusta Correctional Institution in Medan. Previous studies on parole in Indonesia have mostly used normative juridical methods, which focus on legal norms and statutory regulations. However, such approaches often ignore the practical challenges and administrative obstacles faced in the field, especially for foreign prisoners. Empirical juridical research is considered more suitable to capture the complexity of parole implementation, because it combines legal analysis with direct observation and interviews with stakeholders.

Data for this study were collected through document analysis, in-depth interviews with prison officials, and direct field observations. The document analysis involved a review of relevant laws and regulations, including Law No. 22 of 2022 concerning Corrections and Regulation of the Minister of Law and Human Rights No. 7 of 2022. Interviews were conducted with key informants such as correctional officers, immigration authorities, and representatives from related institutions to gain insight into administrative processes and coordination mechanisms. Field observations in correctional institutions were also conducted to understand actual procedures and identify obstacles in the parole process for foreign inmates.

The data were analyzed qualitatively by organizing the findings into thematic categories, comparing them with the existing legal framework, and identifying gaps between theory and

practice. This methodological approach allows for a comprehensive understanding of the legal and practical aspects of parole for foreign prisoners, as well as offering recommendations for improving legal certainty and administrative efficiency.

DISCUSSION

The implementation of parole for foreign inmates at Tanjung Gusta Class I Prison in Medan provides a comprehensive illustration of the complex challenges and systemic barriers that persist in the Indonesian correctional system. The findings of this study indicate that, although legal frameworks such as Law No. 22 of 2022 concerning Corrections and Regulation of the Minister of Law and Human Rights No. 7 of 2022 provide a clear basis for parole, their implementation in practice is far from simple, especially for foreign inmates.

One of the most prominent challenges is the bureaucratic complexity and administrative fragmentation that foreign prisoners must navigate to obtain parole. This process requires fulfilling various institutional requirements, including those from correctional institutions and immigration offices, which are not always well coordinated. Highlighting that the administrative process for parole is often complicated, especially for foreign nationals, resulting in significant delays and legal uncertainty. In practice, the lack of integrated data systems and standard protocols between correctional, immigration, and related agencies leads to inefficiencies, repetitive processes, and misaligned responsibilities.

In addition, the effectiveness of the parole process is further hampered by limited understanding and awareness among correctional officers and the wider public regarding the procedures and special rights associated with parole for foreign prisoners. This knowledge gap results in inconsistent application of parole regulations and fosters negative perceptions about the legitimacy of the program. As Mardhati (2014) emphasizes, a successful parole program requires not only a clear legal framework but also effective outreach and capacity building for officers and the public. Without this, misunderstandings persist, and prisoners' procedural rights may not be adequately protected.

Inter-agency coordination remains a critical barrier. Although the legal framework mandates cooperation between correctional institutions and immigration authorities, practical implementation is often hampered by unclear roles, communication gaps, and the absence of formal coordination mechanisms. Clear institutional responsibilities and collaborative mechanisms are crucial for effective parole administration. The current lack of formalized

coordination creates barriers that slow parole processing and complicate the reintegration of foreign inmates.

In addition to administrative and coordination challenges, correctional institutions must address the unique social and cultural needs of foreign inmates. Language barriers, cultural differences, and limited engagement with inmates' home countries hinder effective post-release supervision and support. These factors highlight the need for tailored reintegration programs and international cooperation, which remain underdeveloped in the current system. The absence of such support can increase the risk of recidivism and hinder the successful reintegration of foreign inmates into society.

The study also revealed that the potential of parole as a strategic tool to reduce prison overcrowding is underutilized due to these operational and systemic barriers. Although parole is legally recognized as a mechanism to reduce overcrowding and support rehabilitation, its implementation for foreign prisoners remains suboptimal. Shows that fragmented management and poor inter-agency communication are major factors contributing to prison overcrowding and procedural delays. The lack of an integrated database or formal communication channels results in repetitive processes and misaligned responsibilities, ultimately delaying parole decisions and undermining the legal certainty that should be afforded to foreign prisoners.

Furthermore, the study's findings suggest that the challenges faced by foreign prisoners in accessing parole are not only legal and administrative but also deeply social. The stigma associated with being a foreign prisoner, combined with the complexity of the parole process and limited support systems, can have a profound impact on prisoners' psychological well-being and their prospects for successful reintegration. This emphasizes the importance of adopting a holistic approach in parole administration that addresses both the legal and humanitarian dimensions of correctional management.

To address these challenges, the study recommends comprehensive policy reforms focused on streamlining administrative procedures, establishing integrated information systems, formalizing inter-agency coordination, and enhancing training and public awareness initiatives. By addressing these barriers, Indonesia can improve legal certainty for foreign prisoners, optimize the implementation of parole, and advance the rehabilitative goals of the correctional system. This holistic approach not only protects the rights of foreign prisoners but also contributes to more effective correctional management and social reintegration,

ultimately benefiting the wider community.

In summary, the successful implementation of parole for foreign inmates at Tanjung Gusta Class I Prison in Medan relies on a holistic approach that integrates legal certainty, administrative efficiency, inter-agency cooperation, and tailored support for reintegration. Addressing these interrelated challenges will not only ensure the protection of the legal rights of foreign inmates but also strengthen the capacity of the correctional system to manage the inmate population effectively and humanely. This study thus provides valuable insights and practical solutions that can inform policymakers, correctional institutions, and relevant stakeholders in improving the administration of parole for foreign inmates.

CONCLUSION

This study aims to analyze the implementation of parole for foreign prisoners to ensure legal certainty at the Class I Tanjung Gusta Correctional Institution in Medan. The findings indicate that, despite a clear legal framework such as Law No. 22 of 2022 concerning Corrections and related Ministerial Regulations, the practical implementation of parole for foreign prisoners faces significant obstacles. These include bureaucratic complexity, the lack of an integrated administrative system, inadequate inter-agency coordination, and limited understanding among correctional officers and the public about parole procedures and rights. This research confirms that these challenges cause delays and legal uncertainty, which undermine the effectiveness of parole as a tool to reduce prison overcrowding and safeguard the legal rights of foreign prisoners. In addition, the lack of coordination between correctional institutions, immigration authorities, and other relevant agencies creates procedural redundancy and hinders the reintegration process of foreign prisoners, which is further complicated by cultural and language barriers.

This study advances the field by highlighting the specific difficulties faced by foreign prisoners in accessing parole, an area that has received limited attention in previous research that has largely focused on domestic prisoners. Using an empirical juridical approach that combines legal analysis with field observations and interviews, this study provides a comprehensive understanding of the gap between legal provisions and their implementation in practice.

The scholarly significance of this thesis lies in its recommendations for policy and administrative reform, including the need to simplify parole procedures, improve inter-

agency cooperation through formal communication mechanisms, and intensify training and public awareness programs. These measures are expected to improve legal certainty for foreign prisoners, optimize the implementation of parole, and contribute to the broader goals of the Indonesian correctional system, namely rehabilitation, social reintegration, and reduction of prison overcrowding.

In conclusion, addressing the identified barriers will not only ensure the protection of foreign prisoners' legal rights but also strengthen the capacity of the correctional system to manage the prisoner population effectively and humanely. This study thus provides valuable insights and practical solutions that can inform policymakers, correctional institutions, and relevant stakeholders in improving the administration of parole for foreign prisoners.

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