

# A Fulfillment of Criminal Conditional Rights Post Application of Law Number 22 of 2022 Concerning Correction

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DOI: <https://doi.org/10.52403/ijrr.20230820>

## ABSTRACT

Efforts to establish a system of improvement guidelines within the correctional system include the implementation of parole and determining the eligibility for parole, which are considered as rights for detainees in prison. The regulations governing these rights are outlined in Law Number 12 of 1995 concerning Corrections and are further guided by Government Regulation Number 32 of 1999, which details the requirements and procedures for the implementation of correctional assistance rights. This government regulation was later amended by Government Regulation Number 28 of 2006. The coaching activities and mentoring provided within the correctional institution encompass various aspects such as spirituality, social activities, counseling, health seminars, and work guidance. These coaching initiatives are designed to support detainees in their rehabilitation and reintegration into society. To ensure the effectiveness of these efforts, the correctional institution strives to innovate its services, improve infrastructure, and develop existing facilities to optimize the support provided to inmates. In summary, the focal points of these improvement guidelines revolve around parole implementation, detainees' rights, coaching activities, and the enhancement of correctional institutions' systems and services.

**Keywords:** Conditional Rights, Convicts, Correctional Institutions

## INTRODUCTION

In Indonesia, the process of coaching or guiding convicts is now referred to as "ease of correction." Correction is viewed as a system for addressing law violations and upholding justice, aiming to achieve social integration and the restoration of offenders' lives within the community. The vision of correctional efforts has been strengthened with the enactment of Law Number 12 of 1995 concerning Corrections.

One of the key elements in establishing a system of improvement guidelines is the implementation of parole, which includes determining the eligibility for parole. Parole is considered a right for detainees in prison. The regulations governing this right are outlined in Law Number 12 of 1995 and further guided by Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Implementation of Correctional Assistance Rights. Additionally, Government Regulation Number 28 of 2006 and Regulation of the Minister of Law and Human Rights No. M.01.PK .04-10 of 2007 provide further details on the terms and procedures for assimilation, parole, and vacation leave.

It is important to note that detainees have several rights, including assimilation and integration rights, as stated in Permenkumham No. M.HH-02.PK.05.06 of 2010. Therefore, the release of detainees is

not unconditional, and they must fulfill certain substantive and administrative conditions that are in line with the public interest and a sense of justice in society. The parole policy is continuously implemented each year, and a significant number of detainees are eligible for parole, with approximately 55,000 detainees being entitled to it in the current year.

However, concerns have been raised by the public, particularly during the Covid-19 pandemic, as there were simultaneous releases of detainees. Some believe that the government's decision-making process for releasing detainees was too fast, leading to an increase in the country's crime rate. Moreover, the issuance of the policy ahead of the months of Ramadan and Eid al-Fitr has sparked discussions on whether the crime rate tends to increase during this period. Data from the National Police's Crime Information Center indicates a 7.04 percent increase in the crime rate in Indonesia in the two weeks leading up to Eid al-Fitr this year.

In summary, "ease of correction" is the current term used for coaching convicts in Indonesia. Parole is considered a right for detainees, and the parole process is governed by specific regulations. However, the recent implementation of the policy has raised concerns regarding the potential impact on the crime rate in the country

## **LITERATURE REVIEW**

Prisoners are people who are serving prison sentences. The definition of a convict according to the Indonesian dictionary is a person in prison (a person who is serving a sentence for committing a crime). According to Law Number 12 of 1995 concerning Corrections, convicts are convicts who are serving the crime of losing their independence in correctional institutions. Convicts are ordinary human beings like other human beings only because they violate existing legal norms, they are separated by a judge to serve their sentence.

Prisoners are convicts or people who are serving a crime of losing independence in a correctional institution. A convict is a person who is sentenced based on a court decision that has permanent legal force, while what is meant by a Correctional Institution is a place to carry out coaching for convicts or inmates.

The definition of parole is contained in Article 43 of the Regulations Government Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Inmates, namely parole is the process of fostering convicts outside the Correctional Institution after serving at least 2/3 (two thirds). the criminal period provided that 2/3 (two thirds) of the criminal period is at least 9 (nine) months. The right to obtain parole for every convict is one of the rights that can be used by inmates in accordance with applicable regulations. The right to parole itself needs to be guaranteed for its implementation.

## **MATERIALS & METHODS**

The specifications of the research used are descriptive analysis and normative legal research. Descriptive research is research that leads to a detailed and in-depth portrait of what actually happened in the field.<sup>1</sup> as well as studying problems in society and procedures that occur in society and certain situations, including problems of relationships, activities, attitudes, views, processes that occur and the influence of phenomena.<sup>2</sup>

Normative legal research or doctrinal legal research is legal research that uses secondary data sources or data obtained through library research by examining reading sources that are relevant to the research theme, including research on legal principles, sources of law, legal theory, books, statutory regulations that are scientific in nature and can analyze the issues discussed.<sup>3</sup>

This study not only clarifies the problem, but also the rules regarding the fulfillment

rights of inmates in Correctional Institutions. Descriptive data collection is an approach method that is carried out through a normative juridical approach, namely researching and examining legal aspects that indicate the release of the process of carrying out conditional rights, in the Medan Class IA Penitentiary.

Data collection techniques were carried out using observation techniques and literature study. Observation techniques are defined as visible or recorded symptoms of research objects that will be seen and observed directly in the field of the process of implementing conditional rights, at Class IA Penitentiary in Medan with the aim of obtaining accurate data related to the object of research. While literature study is used to collect legal materials in the form of laws and regulations and other regulations related to the subject matter and problem formulation in this thesis. Literature review is a procedure carried out with a number of activities such as reading, reviewing and citing literature as well as revising the provisions of laws and regulations related to issues related to the process of fulfilling conditional rights, in Medan Class IA Penitentiary. After that, data processing is carried out to facilitate the analysis of the data that has been obtained in accordance with the problems studied.

Data analysis was used qualitatively, namely describing data in the form of sentences that were arranged systematically, clearly and in detail which were then interpreted to reach conclusions. The data analysis used in this study is qualitative analysis and conclusions are drawn using the deductive method, namely describing general matters and drawing specific conclusions according to the problems discussed in this study.

## **RESULT**

The enactment of Law Number 22 of 2022 concerning Corrections which was signed directly by President Joko Widodo on 3 August 2022 yesterday confirmed the enactment of the Correctional System which

is implemented based on the principles of protection, non-discrimination, humanity, mutual cooperation, independence, proportionality, loss of independence as one only suffering, and professionalism. "The establishment of Law of the Republic of Indonesia Number 22 of 2022 concerning Corrections strengthens the position of Corrections as a neutral position in the Criminal Justice System which responds to the dynamics of society's need for Restorative Justice.

Law Number. 22 of 2022 is a sub-system of criminal justice which in its implementation includes law enforcement in the field of treatment of detainees, children and inmates which directly revokes Law Number 12 of 1995 concerning Corrections which is no longer in line with developments in society's law and has not fully reflected the need for the implementation of the correctional system. receive social services and accept or refuse visits from family, advocates, assistants, and the community. Whereas in Article 8 which regulates WBP's obligations, namely obeying rules and regulations, following the Service program in an orderly manner, maintaining a clean, safe, orderly and peaceful life and respecting the human rights of everyone in their environment.

The Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham RI) through the Directorate General of Corrections (Ditjenpas) disseminates implementation guidelines in fulfilling conditional rights to convicts. Letter of the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham RI) with Number PAS-20.OT.02.02 of 2022 which has been signed by the Director General of Corrections, that the background to Law Number 22 of 2022 concerning Corrections mandates fundamental improvements in the implementation of functions Penitentiary which includes services, coaching, community guidance, treatment, security, and observation by upholding respect, protection, and fulfillment of human rights. Based on these

conditions and taking into account the Instruction of the Minister of Law and Human Rights Number M. HH-01.OT.

The scope of fulfilling conditional rights for convicts includes:

- a. Remission is a reduction in the period of serving a sentence given to convicts who meet the requirements in accordance with the provisions of the legislation.
- b. Assimilation is a prisoner reintegration program that is carried out by blending prisoners into community life.
- c. Visiting Leave or Visiting Family is a coaching program to provide an opportunity for convicts to assimilate with their families in their functions as parents, husband/wife, or children.
- d. Conditional Leave is the process of fostering convicts who are sentenced to short sentences outside prison.
- e. Leave Before Free is a process of fostering convicts who have leftovers
- f. short criminal period to integrate with family and society outside prisons.
- g. Conditional release is a process of coaching convicts outside prison to integrate with their families and communities.

The terms and conditions consist of:

- 1) Well behaved
- 2) Actively participate in coaching programs and
- 3) Has shown a reduced level of risk.

Conditional Release or PB for Criminal Convicts Terms that apply:

1. Fulfillment of a criminal past that has served at least 2/3 of a criminal past or 9 months of a criminal period.
2. During his 9-month sentence, he has shown good behavior and the calculation is valid before two-thirds ( $\frac{2}{3}$ ) of his sentence.
3. All activities such as coaching, which is

in the form of skills and independence have been carried out properly.

4. Activities in the convict coaching program can be accepted by the community. Of the four conditions for parole for convicts who commit general crimes above, they have been implemented well in the Medan Class IA Correctional Institution, indicating that the inmates' rights have been fulfilled. Even though the conditions have been set to be able to receive their rights, convicts still have bad behavior so that this is one of the obstacles in being able to distribute parole as a fulfillment of convicts' rights.<sup>4</sup>

Not only behavioral requirements, in this case several written requirements are also stipulated in the form of documents that must be completed, namely the following:

- a. Copies of excerpts from the minutes of implementation or the dossier of decisions from the court and the judge's decisions
- b. Reports on the results of risk assessments or also known as development progress reports given by correctional guardians as well as needs assessment reports issued by relevant assessors.
- c. A report on the results of litmas issued by the Community Advisor or PK which is already known by the Head of the Bapas
- d. Letter of notification to the State Prosecutor's Office regarding the plan to grant PB to inmates and Correctional Students related to it.
- e. Photocopy of register F issued by Chief of Staff
- f. Photocopy of the list of changes obtained from the Chief of Staff
- g. A statement stating that the inmate has

not committed an act that violates the law again

h. a letter of guarantee of ability made by the family and known to the lurah or village head which reveals that:

1) The inmates or Andikpas promised not to run away and not to commit acts that could potentially break the law again.

2) Assist in guiding and supervising assisted residents or Andikpas during the PB activity program.

3) Notification letter to the State Attorney. If within a period of 12 working days after the notification referred to in paragraph (1) d there is no reply, PB can still be given. As for the inventory of files and documents for penitentiary prisoners both at the Medan Class IA Correctional Institution, it has been carried out in accordance with the regulations in force by Lapas employees.

For foreign national convicts equipped with assisted citizens or Andikpas who are foreign citizens must complete the existing requirements in accordance with paragraph (1), besides that the assisted citizens or Andikpas are required to clean up the files or documents:

1. A letter of guarantee guaranteeing that the assisted residents or Andikpas will not run away and are willing to comply with the rules and requirements of:

a. State consulate or embassy; And  
b. Relatives, people, or a corporate body that has responsibility for the whereabouts and activities of inmates, or Andikpas as long as they are still within the scope of the territory of Indonesia.

2. A certificate issued by the Director General of Immigration or an immigration officer who is certain or has been appointed with a statement of contents if the person concerned is released from obligations in

terms of a residence permit; And

3. A statement issued by the NCB-Interpol Indonesia Secretariat containing a statement if the party concerned is not a person on the red notice list or other organized trans-national crime network.

The implementation of the procedure for granting parole rights to foreign nationals cannot be carried out because there are no convicts who have foreign citizenship in Indonesia Class IA Penitentiary Procedure for Granting Conditional Release:

1. Correctional officers collect data on convicts who are suitable and meet the requirements and have complete documents related to those who still have bad behavior, so this is one of the obstacles to being able to distribute parole as a fulfillment of convicts' rights. Not only behavioral requirements, in this case several written requirements are also stipulated in the form of documents that must be completed, namely the following:

a. Copies of excerpts from the minutes of implementation or the dossier of decisions from the court and the judge's decisions

b. Reports on the results of risk assessments or also known as development progress reports given by correctional guardians as well as needs assessment reports issued by relevant assessors.

c. A report on the results of litmas issued by the Community Advisor or PK which is already known by the Head of the Bapas.

d. Letter of notification to the State Prosecutor's Office regarding the plan to grant PB to inmates and Correctional Students related to it

e. Photocopy of register F issued by Chief of Staff

f. Photocopy of the list of changes

obtained from the Chief of Staff

- g. A statement stating that the inmate has not committed an act that violates the law again
- h. A letter of guarantee of ability made by the family and known to the lurah or village head which reveals that:
  - a) The inmates or Andikpas promised not to run away and not to commit acts that could potentially break the law again
  - b) Assist in guiding and supervising assisted residents or Andikpas during the PB activity program.
  - c) Notification letter to the State Attorney. If within a period of 12 working days after the notification referred to in paragraph (1) d there is no reply, PB can still be given.

As for the inventory of files and documents for penal convicts in Correctional Institutions or both in Medan Class IA Correctional Institutions, they have been carried out in accordance with applicable regulations by Lapas employees. For foreign national convicts equipped with assisted citizens or Andikpas who are foreign citizens must complete the existing requirements in accordance with paragraph (1), besides that the assisted citizens or Andikpas are required to clean up the files or documents:

- 1. A letter of guarantee guaranteeing that the assisted residents or Andikpas will not run away and are willing to comply with the rules and requirements of:
  - a. State consulate or embassy
  - b. Relatives, people, or a corporate body that has responsibility for the whereabouts and activities of inmates, or Andikpas as long as they are still within the scope of the territory of Indonesia.
- 2. A certificate issued by the Director General of Immigration or an immigration officer who is certain or has been appointed

with a statement of contents if the person concerned is released from obligations in terms of a residence permit

3. A statement issued by the NCB-Interpol Indonesia Secretariat containing a statement if the party concerned is not a person on the red notice list or any other organized transnational crime network.

The implementation of the procedure for granting parole rights to foreign nationals cannot be carried out because there are no convicts who have good foreign citizenship in the Medan Class IA Penitentiary. Procedure for Granting Conditional Release:

- a. Correctional officers collect data on appropriate prisoners and meet the requirements and have the relevant documents complete. TPP Lapas submits a proposed instruction aimed at the Head of the Lapas regarding the granting of PB.
- b. If the Head of Lapas agrees with the proposed PB grant, the Head of Lapas communicates this instruction to the Head of the Regional Office with a recommendation from the TPP Lapas
- c. The Head of Kanwil informs the proposal to apply conditional release from recommendation of the regional office's Correctional Observer Team to the Director General
- d. The proposal itself is in the form of detailed data or data collection on assisted citizens with attachments in the form of:
  - a) The Regional Office Correctional Observer Team as a result of the trial
  - b) A copy of the results of the judge's decision and the official report (BA) of the implementation of the decision in court
  - c) Photocopy of the list of changes obtained from the head of the correctional facility. The

implementation of parole at the Class IA Penitentiary in Medan has been carried out in accordance with the procedures carried out by the employees at the prison carefully, especially related to the data collection of convicts who meet the requirements for parole.

Conditional release for convicts of special crimes. The perpetrators of this special crime are imposed on convicts who commit crimes in the form of corruption, terrorism, drugs, drug trafficking, crimes against state security, human rights or serious human rights crimes and other trans-organizational crimes. The conditions imposed for inmates as above are as follows:

1. Condition:

- a. Willing and willing to cooperate with law enforcement agencies to help uncover criminal acts that have been committed.
- b. Has passed his sentence of at least 2/3 in a period of at least 9 months in prison.
- c. Have passed or undergone assimilation with a minimum period of ½ of the length of the sentence that is required to be served
- d. For convicts of acts of terrorism, they must fulfill the requirements by showing or demonstrating full awareness and remorse for their actions resulting in the imposition of the criminal sentence and are willing to declare a pledge:
  - 1) Loyalty to the Republic of Indonesia which is stated by Indonesian citizens in writing.
  - 2) Willingness not to repeat their crimes as declared by foreign national inmates (foreigners) in writing. The implementation of these parole conditions for convicts both at the Medan Class IA Penitentiary has been carried out properly and has complied with the provisions of the applicable

regulations. In practice it is also carried out directly by the Correctional Observer Team (TPP).

2. Following are the completeness of the files that must be completed by special criminal convicts:

- a. A statement stating that the convict is willing to cooperate with law enforcement agencies to uncover the criminal crimes he has committed.
- b. A copy or photocopy of the official report (BA) of the execution of the court decision as well as a quote from the judge's decision.
- c. Reports on the results of developmental development by correctional guardians or in other words the results of a risk assessment and the results of a needs assessment by the relevant assessor
- d. Reports on social research and observations made by social advisers (PK) known to the Head of the Bapas.
- e. Letter of notification to the State Prosecutor's Office regarding the application of parole. If within 12 working days after the notification referred to in paragraph (1) d no response is received from the District Attorney's Office, parole will still be granted.
- f. Copy of register by KaLapas
- g. Photocopy of the progress of changing the behavior of convicts from KaLapas
- h. A statement made by the convict or the convict himself containing a statement that the convict will no longer violate the law
- i. Letter of guarantee from the family for the ability stating that:
  1. Convicts will not run away and or commit crimes in violation of the law again.
  2. Assist in guiding and supervising convicts during parole activities

Terms and Procedures for Implementation of Assimilation, Parole, Leave Prior to Release and Leave on Conditional Leave. Even though several conditions have been established, various obstacles and obstacles are still found in the implementation of parole in Correctional Institutions.

The granting of the rights referred to in number 1 does not apply to convicts sentenced to life imprisonment and those sentenced to death. In addition, it was explained that for convicts of criminal acts of terrorism who are Indonesian citizens, they are still required to take part in the deradicalization program and declare a pledge of allegiance to the Unitary State of the Republic of Indonesia in accordance with Article 8 of the Minister of Law and Human Rights Number 7 of 2022. Meanwhile, convicts of criminal acts of terrorism who are foreign citizens are still required to take part in the deradicalization program and state that they will not repeat the deradicalization program. acts of terrorism in accordance with Article 8 of the Minister of Law and Human Rights Number 7 of 2022.

Furthermore, in the form of an assimilation provision for convicts is not required to pay off fines and/or replacement money. Leave visited by family Provision of leave visited by family cannot be carried out, because there are no provisions that regulate it. In closing, the Instructions for the Implementation of Conditional Rights for Convicts in accordance with Law Number 22 of 2022 concerning Correctional Services were prepared as guidelines for fulfilling conditional rights for convicts during the transition period.

The granting of parole to convicts in Class 1 A Penitentiary in Medan which is carried out through several processes and stages, namely that parole is given to convicts is

carried out through several processes and stages, in the form of carrying out community research by the Correctional Center (Bapas), siding of the Correctional Observer Team at Correctional Institutions, and of course the convict must also meet the requirements, such as having served 2/3 of a criminal term, good behavior, which we assess through an assessment.

Administrative Obstacles in granting parole to convicts after the enactment of Law Number 22 of 2022 in the Medan Class IA Correctional Institution, namely:

- a. There is no guarantor, this guarantor is needed in fulfilling the procedural requirements, where the guarantor in question is the prisoner's family who can guarantee the convict after he is released from his sentence so that it can be accepted by the local community. This guarantee letter is made by the family as an administrative file knowing the village head/lurah in the village where the convict lives. In the absence of guarantees for these prisoners, it makes it difficult to distribute parole as a fulfillment of prisoners' rights carried out by BIMPAS.
- b. Making Community Research (Litmas) as one of the conditions for parole is made in less detail detailing the prisoner's family. Even though the Community Research was used as TPP's reference material for efforts similar to coaching activities for the prisoner concerned.
- c. The slow process of submitting administrative completeness documents, one of the reasons that has become an obstacle to submitting these files is the abundance of proposal files from all prisons in Indonesia, where management is carried out centrally at the Office of the Director General of Corrections in



Jakarta. Because of this, it triggers obstacles to fostering prisoners. As for conditional release requirements, a Decree from the Directorate General of Corrections is needed. Lack of professional staff or experts in coaching, teaching and skills training activities. The problems experienced in fostering convicts that occur in the provision of parole for inmates after the enactment of Law Number 22 of 2022 in the Medan Class IA Correctional Institution are the limited number of experts. Only a small number of prison officers have the skills to provide guidance and training to prisoners. For example, training in carpentry skills, to acquire this ability requires a trainer who is capable and understands the profession.

For example, there are convicts who are reliable in the field of welding and are willing to help officers provide guidance to inmates. However, when the convict finished his sentence and left the prison, the welding training was neglected because no one continued to provide training. Juridical constraints include:

- a. Lack of information and provision of direction to the guarantor's family regarding the obligations and provisions that should be carried out. The majority of family guarantees are only used as a requirement for administrative completeness. This results in less accountability for the letter because there is no implementation of the obligations that should be carried out by the guarantor's family to the convict.
- b. Limitations of rules and regulations regarding parole still occur. The regulation only regulates the coaching process and procedures for obtaining the guidance. It has not yet been explained in detail regarding the supervision and guidance of convicts in their parole activities in the community. These

events often lead to discrepancies in the goals of coaching in the community so that they are not carried out and achieved properly.

- c. Obstacles to Culture and Society
  1. There is still strong prisonization and negative stigmatization from the local community towards perpetrators of convicts who are undergoing parole. With a lack of positive support from the community, it has an impact on hampering the success of community efforts that are carried out.
  2. The community does not yet understand well the duties and main meaning of correctional, so socialization is still needed to the community regarding this matter.
  3. Obstacles to the Economic Conditions of Prisoners Not all prisoners have sufficient economic conditions. And from several cases it was found that there were crimes due to economic limitations. For convicts who are used to their prison confinement, they feel that their needs have been fulfilled and there is no need to think about their economic problems.
  4. This has an impact on the impression that it is difficult for prisoners to make a living. Even some of them tend to choose to support themselves. Barriers to socializing and socializing also add to the difficulties for prisoners to make a living. So some prisoners who have difficulty in terms of the economy choose not to accept the right to parole. Because apart from having to provide for his own life during parole, there is still the obligation to report to BAPAS once a week. With the calculation of the burden that will be obtained, it can be one of the obstacles to implementing parole in Class IA Correctional Institutions, where the constraints are Less than Maximum Development Facilities and Infrastructure in Correctional Institutions. The number of facilities and infrastructure in Class IA Correctional Institutions is still lacking

when compared to the number of residents that prison. The impacts obtained include not all the needs and needs of convicts are met properly. The impact also occurs in the lack of coaching activities, so that the goals expected to make skilled convicts cannot be implemented optimally.

## CONCLUSION

Regulations regarding laws and regulations related to Law Number 22 of 2022 concerning Corrections, fulfillment of conditional rights for convicts include:

- a. Remission is a reduction in the period of serving a sentence given to convicts who meet the requirements in accordance with the provisions of the legislation.
- b. Assimilation is a prisoner reintegration program that is carried out by blending prisoners into community life.
- c. Visiting Leave or Visiting Family is a coaching program to provide an opportunity for convicts to assimilate with their families in their functions as parents, husband/wife, or children.
- d. Conditional Leave is the process of fostering convicts who are sentenced to short sentences outside prison.
- e. Leave before release is a process of fostering convicts who have a short remaining term of imprisonment to integrate with their families and communities outside prisons.
- f. Conditional release is a process of coaching convicts outside prison to integrate with their families and communities.

## Declaration by Authors

**Acknowledgement:** None

**Source of Funding:** None

**Conflict of Interest:** The authors declare no conflict of interest.

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How to cite this article: Krispinus Tarigan, Rahmayanti, Yasmirah Mandasari Seragih, T. Riza Zarzani. A Fulfillment of criminal conditional rights post application of law number 22 of 2022 concerning correction. *International Journal of Research and Review*. 2023; 10(8): 145-154.  
DOI: <https://doi.org/10.52403/ijrr.20230820>

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