



POLICY OF ASSIMILATION AND REMISSION OF PRISONERS ACCORDING TO THE PERSPECTIVE OF ISLAMIC CRIMINAL LAW

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Abstract: In government regulations, remission and assimilation are defined as reductions in reducing the criminal term granted by prisoners who are considered to have fulfilled the requirements specified in the legislation. Similar to remission, assimilation is defined as the intermingling of the prisoner into society under certain conditions so that he can get assimilation. In the perspective of Islamic law the granting of assimilation, remission is the provision of *intercession*. The purpose and purpose of intercession is to maintain the benefit and avoid harm, as well as to respect the rights of prisoners. With the holding of assimilation and remission policies have various objectives including the granting of prisoner rights and as a tool to encourage prisoners, then as a form of appreciation given to convicts who are considered to be truly carrying out their sentences and improving themselves. In its implementation, remission arrangements are contained in Law No. 12 of 1995 which contains corrections. This research method the author uses normative library and juridical methods.

Keywords: Assimilation; Islamic Penal Law; and Remission.

1. INTRODUCTION

The criminal justice system is a system that controls crime consisting of police, prosecutorial, court and correctional institutions and prisoners where the purpose of the institution is as a means of prevention so that the community does not become victims of crime, to solve the problem of crime that occurs so that the community feels satisfied and can show that justice can be upheld properly and strive for the absence of And there is no increase in evildoers, and if there is a society that has committed a crime, they will not repeat it (Luhut Pangaribuan, 2013).

There are various kinds of punishments in the criminal law that will be given to convicted convicts that are adjusted to the type of action committed by the perpetrator, as contained in article 10 of the Criminal Code, while contained in Islamic law the type of punishment can be seen from the light and severity of punishment, in Islam itself the punishment is divided into three parts, namely hudud, qisas and takzir. Regarding qisas, what is meant is the provision of punishment adjusted to the perpetrator's actions, for example if the perpetrator commits violence that causes the victim to suffer limb damage so that amputation must be done on the body part, then the punishment that must be given to the perpetrator is the same as what happened to the victim. However, the punishment must be based on the Sharia that has been established.

However, from the provisions that have been set previously, the perpetrator also has rights that must be respected and he also still receives protection from legal institutions in Indonesia, such as prisons. One form of protection of the rights possessed by perpetrators provided by the state is the reduction of the detention period or what is often referred to as granting remission.

The provision of assimilation and remission to criminal offenders in prisons is contained in various laws, including Law Number 12 of 1995 which contains correctional



services, the second is the Presidential Decree of the Republic of Indonesia Number 174 of 1999 concerning remission, Per-Law No. M09 NH.0-01 of 1999 which discusses the implementation of the Presidential Decree (Aditya Pramana, 2012).

Regarding previous studies that discussed remission and assimilation in the perspective of Islamic law in her book Tina Asmarawati entitled crime and punishment in the Indonesian legal system (Tina Asmarawati, 2012), Touching on the understanding, terms and procedures for granting remission to convicts. While in the discussion of remission, Khayatul wrote about the meaning, terms and conditions and other types of remission (Khayatul, 2021). Likewise, in the works of previous authors who discussed intercession such as Muhammad Tahmid in his book entitled Achieving the Ideal Criminal Law that focuses on Islamic criminal benefits and the reform of national criminal law (Muhammad Tahmid, 2012), Wildan S. Musthofa's thoughts as outlined in his book Code of Ethics for Judges on the Implementation of Remission and Assimilation (Wildan Suyuthi Musthofa, 2013) and in his book entitled Aceh jinayah law, the author explains what punishments intercede in Islamic criminal law (Ali Abu Bakr and Zulkarnain Lubis, 2019).

Based on this, there is no discussion about assimilation and remission, so this journal examines the perspective of Islamic criminal law.

2. METHOD

This research method is literature and normative juridical. This method is done by collecting data through documents, both written documents and electronic documents that can be a support in the writing process. i.e. analyzing Law Number 12 of 1995.

3. ANALYSIS OF STUDY FINDINGS

3.1. Criminal and Penal

Criminal is a punishment or a sanction imposed deliberately by the state through an authorized institution, namely the court, where the object of imposing this sentence is a person who has been declared to have legally violated the criminal law and of course the sanction is imposed through the criminal justice process (Bambang Waluyo, n.d.).

Punishment is a criminal conviction as a legitimate effort based on law to impose sanctions on someone who through the criminal justice process is legally and conclusively proven guilty of committing a criminal act (Bambang Waluyo, n.d.).

The types of punishments or crimes according to article 10 of the Criminal Code: are divided into two types, namely the main crime, which consists of death penalty, imprisonment, confinement, fine, cover-up. Then the second there is an additional Crime consisting of Deprivation of certain rights, Announcement of the judge's decision, Deprivation of certain property.

3.2. Assimilation and Remission in Positive Legal Perspective.

Remission is part of one of the coaching, where in principle coaching means in addition to providing punitive sanctions against the perpetrator, also providing *Reward* as an effort to provide one of the coaching, so that the coaching program can run and be responded to by WBP, while the purpose of the Correctional system is to strive so that fostered residents do not repeat their actions that violate the law that have been done as community citizens and then also aim to be able to play an active role in community membership again (Dwidja Prayitno, 2006).

Article 14 letter jo. Law No. 12 of 1995 "On Corrections" states that assimilation is part of the rights that must be obtained by fostered citizens. In order to prepare themselves, fostered residents return directly to the community. Assimilation is the



process of fostering prison-assisted citizens who are outside the Penitentiary. Regarding the efforts to merge a convicted person into the wider community without any barrier created by the stigma of the community itself. This is also proof that Indonesia's penal system is trying to be advanced and modern. Assimilation is the process of fostering fostered citizens with the community. The purpose of this assimilation is to prepare a convict to return to the community with a better personality than before.

3.3. Legal Basis of Assimilation and Remission.

There are some new provisions that are still valid today to regulate remission, namely the provisions in number 5 above, but these provisions can still be added with some provisions that are still valid for remission at this time. as will be described below: A) About Special Forgiveness (Presidential Decree of the Republic of Indonesia No. 120 of 1955). B) On Terms and Procedures for the Implementation of the Rights of Prison-Assisted Citizens and their amendments, Government Regulation of the Republic of Indonesia Number 28 of 2006. (Government Regulation of the Republic of Indonesia Number 32 of 1999). c) On follow-up remission. (Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-01. PK.02.02 Year 2010).

Regulations regarding assimilation are contained in: a) Law No. 12 of 1995 concerning Corrections in Article 14 Paragraph (1) letter j. b) PP No. 99 of 2012 concerning the Second Amendment to Government Regulation No. 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Prison-Assisted Citizens Article 36 Paragraph (1). c) Permenkumham RI No. 03 of 2019 concerning Amendments to the Regulation of the Minister of Law and Human Rights concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave.

3.4. Purpose of Assimilation and Remission.

The objectives of granting remission in the Presidential Decree of the Republic of Indonesia o. 174 of 1999 are: a) Provide a good psychological influence to prisoners, it can also be for overcoming potential disturbances of order and security in the form of prisoner escapes and other riots. b) As we know that remission can be given during the commemoration of religious holidays, it is also very high that prisoners will surrender through the guidance of their respective religions. c) Make criminal children and prisoners remain enthusiastic in their work, make changes for their survival in society.

Regarding assimilation, the gift aims to a) Develop potential or assist an inmate in achieving the expected goals. b) Provide opportunities for a convicted person in the institution to obtain education and skills aimed at preparing himself for life in society after serving a period of detention.

3.4. *Intercession* in Islamic Law.

In Islam assimilation and remission are known as *Intercession* (forgiveness of sentences). By definition *Intercession* According to Ali bin Muhammad Al-Jurjani, he mentioned that *Intercession* is a request to be released and/or reduced the sentence of a convicted person or can also be said to mean "a request from a person to another person that his wishes be fulfilled" (Abdul Aziz Dahlan, 2006).

3.5. Legal Basis of *Intercession*.

Surah al-Baqarah (2) verse 178:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ: الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنثَىٰ بِالْأُنثَىٰ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعٌ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ۗ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ فَمَنْ اعْتَدَىٰ بَعْدَ ذَلِكَ فَعَلَهُ عَذَابٌ أَلِيمٌ

O believers! It is obligatory upon you (to perform) qisas in respect of the person who is killed. Free people with free people, sahaya servants with sahaya servants,



women with women. But whoever obtains forgiveness from his brother, let him follow him well, and pay the diyat (ransom) to him well (also). Such is the leniency and mercy of your Lord. Whoever transgresses after that will be punished with great pain.

3.6. Conditions of *Intercession*.

In Islam the conditions for intercession are based on the type of punishment to be obtained, therefore each punishment in Islam has different requirements for interceding with the convict. On jarimah hudud when the case has not been submitted to the ruler and then the perpetrator regrets what he did or in other words he really repents. But if the case has reached the ears of the ruler / judge then it must be punished and Hadd punishment is carried out. Then in the takzir jarimah can be given at any time, regarding the qisas jarimah can be given but must be accompanied by the payment of diyat.

3.7. Purpose of *Intercession*.

Giving *intercession* in *sura an-Nisa* verse 85, contains the purpose of a person or group of people who have committed a criminal act can regain their rights, intercession is given in order to do good again. From the above verse it can be explained that safaah can be given at any time to a person with the aim of being able to carry out religious guidance, can do by inviting or giving virtue, then he will undoubtedly get a reward from him which is due to his own efforts.

4. CONCLUSION

Remission is part of one of the formations, Assimilation is the process of fostering prison-assisted citizens who are outside the Penitentiary. In Islam both are called *intercessions*.

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