

Transfer of Prisoners Between Correctional Institutions Based on Pancasila Justice Values

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Abstract. *The transfer of inmates between correctional institutions is an important process in the correctional system in Indonesia, which aims to support the process of rehabilitation and social reintegration. However, the mechanism of transfer often faces challenges in upholding the principles of fair and equitable justice. This study aims to analyze the transfer of inmates between correctional institutions based on the values of Pancasila justice. The approach used in this study is a descriptive qualitative approach with a case study method that examines how the transfer process is carried out, the obstacles faced, and the extent to which its implementation reflects the values of justice contained in Pancasila, especially social justice for all Indonesian people. The results of this study indicate that although the transfer system has a clear legal basis, there are various obstacles in implementation related to lack of resources, inconsistencies between policies and field practices, and discrimination that occurs in some cases. Therefore, this study suggests the need for reform in the management of the transfer of inmates to better reflect the principles of social justice, as well as increasing the capacity of correctional officers to understand and apply the values of Pancasila more consistently.*

Keywords: *Correctional; Justice; Pancasila Values.*

1. Introduction

The principles contained in the Universal Declaration of Human Rights (UDHR) are principles that are intended for all individuals without exception, including prisoners. The principles of the UDHR concerning prisoners include: no one shall be subjected to torture or to inhuman or degrading treatment or punishment (Article 5); and All are equal before the law and are entitled to equal protection of the law without discrimination, all are entitled to equal protection against any form of discrimination contrary to this declaration (Article 7).

The Universal Declaration of Human Rights was accepted and announced by the UN General Assembly on December 10, 1948 through resolution 217 A (III), The

definition of human rights intended here is human rights in the universal sense or human rights that are considered applicable to all nations. Starting from the basic understanding, namely rights that are given directly by God or also called basic rights that are natural.¹

Article 10 Paragraph (1) of the International Covenant on Civil and Political Rights (ICCPR) states that: "Everyone who is deprived of his liberty shall be treated humanely and with respect for the inherent dignity of the human person". This provision implies that the loss of liberty is the only suffering imposed on prisoners. Therefore, prisoners must continue to be treated humanely and their dignity as human beings respected. In addition, Article 26 of the ICCPR states that: "All persons are equal before the law and have the right to equal protection of the law without any discrimination". This provision implies that in fulfilling the rights of prisoners as a consequence of the application of the law, discriminatory treatment is not permitted.²

The Correctional System in Indonesia is currently regulated by Law Number 22 of 2022 concerning Corrections (hereinafter referred to as the Correctional Law). This law seeks to correct the concept of imprisonment previously used in colonial law. The change in the concept of imprisonment to the concept of correctional is intended as an effort to reshape the prisoners in correctional institutions optimally, by implementing programs that are intended to deter as well as rehabilitate and reintegrate them socially.³

The concept of imprisonment is gradually being abandoned because it is not in line with the concept of rehabilitation and social reintegration. The Correctional Law also emphasizes that the treatment of prisoners referred to as Warga Binaan Pemasyarakatan (hereinafter abbreviated as WBP) with the prison system is not in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia.

However, in practice, the ideal goal of the correctional concept cannot be easily realized. Several obstacles still occur. Starting from the problem of excess capacity of residents (prisoners), the practice of "renting luxury cells," inmates who can "freely" enter and exit correctional institutions, to the problem of the non-functioning of the development program run for prisoners, because in correctional institutions they can still commit crimes again. It was also revealed that several correctional institution officers were actually parties who played an

¹ Stikes Prodi and IKM Prima, "The Relationship Between Environmental Sanitation and Personal Hygiene with the Incidence of Scabies in Prisoners at Class IIa Prison in Jambi in 2013" 2, no. 2 (2013).

² Nurseha and Supritjatna, "Deradicalization Development Strategy for Terrorism Convicts at Class II B Sentul Special Penitentiary.

³ Prodi and Prima, "The Relationship Between Environmental Sanitation and Personal Hygiene and the Incidence of Scabies in Prisoners at Class IIa Prison in Jambi in 2013."

important role in the escape of convicts.⁴

Several examples of cases above reflect that the correctional system in Indonesia is still far from ideal. Several researchers have also expressed this. In the issue of weaknesses in the practice of classifying prisoners as regulated in Article 12 of Law Number 22 of 2022. In practice, the placement and guidance carried out for prisoners who have different natures or characters cannot run ideally because there are still obstacles, such as the problem of excess capacity of correctional institution residents, limited number of correctional officers, limited funds and equipment needed in correctional institutions.⁵

The correctional system in Indonesia faces various complex and interrelated problems. One of the main problems is the overcapacity of Correctional Institutions (Lapas), which has a direct impact on the fulfillment of the basic rights of correctional inmates (WBP). Data from the Directorate General of Corrections of the Ministry of Law and Human Rights shows that in March 2020, the overcapacity rate of Prisons, State Detention Centers (Rutan), and Special Correctional Institutions for Children (LPKA) reached 270,466 people or 106 percent of the existing capacity. This condition causes various problems, including inadequate housing, lack of fulfillment of consumption and health needs, and disruption of guidance programs that should be an integral part of the correctional system.⁶

One solution that can be applied to overcome the problem of overcapacity is to transfer inmates between prisons. However, this policy must be based on the principles of justice that are in accordance with the values of Pancasila. The transfer of inmates is not only aimed at reducing density in a prison but must also consider aspects of human rights, the welfare of inmates, and the effectiveness of guidance. Therefore, the transfer policy must be based on the values of justice contained in Pancasila, such as just and civilized humanity, social justice for all Indonesian people, and respect for human rights and dignity.⁷

In the context of the legal system in Indonesia, the development of inmates has been regulated in Law Number 22 of 2022 concerning Corrections. This law emphasizes that the correctional system must be oriented towards the development and rehabilitation of inmates so that they can return to being productive members of society. However, in its implementation, the transfer of inmates often still faces various challenges, such as the lack of specific regulations regarding the criteria and mechanisms for transfer, the potential for

⁴ Rizqi Fauzi and Muhammadiyah West Sumatra, "The Impact of Over Capacity of Inmates in Class IIb Tanjung Pati Penitentiary on the Rights of Inmates" 12, no. 1 (2025): 502–10.

⁵ Muh Akhsan and Iman Santoso, "Psychological Impact of Correctional Relocation of Inmates" 11 (2022), <https://doi.org/10.19109/intelektualita.v11i1.10176>.

⁶ Lidya Suryani Widayati, "Rehabilitation of Prisoners in Overcrowded Prisons," nd, 201–26.

⁷ Adib Althof and Achmad Sulchan, "Religious Private Vocational Development System In The Class IIA Institutional Agency In Semarang," 2019, 38–51

discrimination, and the suboptimal coordination between related institutions.⁸

A study by Victorio H. Situmorang emphasized that a Pancasila-based correctional system must be able to integrate three main interests, namely the interests of the inmates, the inmates, and the community. Therefore, the transfer of inmates between prisons must be designed in such a way as to reflect the values of Pancasila justice, including by ensuring that transfer decisions are not only based on administrative needs, but also take into account aspects of the welfare and human rights of inmates.⁹

Furthermore, in the context of restorative justice-oriented sentencing, the transfer of inmates must also consider social, economic, and psychological factors that can affect their social reintegration process after serving their sentence. In this case, transfers carried out with the principle of justice will contribute to the success of the rehabilitation and reduce the rate of recidivism in the future.¹⁰

By considering these various aspects, this study aims to examine how the policy of transferring inmates between prisons can be realized within the framework of Pancasila justice values. The main focus of this study is to assess whether existing regulations are in accordance with the principles of justice in Pancasila and to provide policy recommendations that can increase the effectiveness of transferring inmates in the Indonesian correctional system.¹¹

Inmates are indeed people who have broken the law. However, it does not mean that the basic rights inherent in them are lost and can be treated inhumanely by other parties to atone for their mistakes. Inmates who are serving their sentences in Correctional Institutions (LAPAS) are still human and they still have basic rights as human beings. The essence of prisoner services in the Correctional system is an effort to provide care to prisoners so that they remain physically and mentally healthy to face the trial process. Treatment of Prisoners and Correctional Students is one of the supporting factors for the implementation of the Health Rights of Prisoners and Correctional Students in Correctional Institutions which generally aims to protect the health rights of Prisoners and Correctional Students so that they always remain physically and mentally healthy to serve the remaining sentence.¹²

⁸Mechanical Engineering, Manufacturing Polytechnic, and Bangka State, "Budimas Journal FOR INMATES OF CLASS IIB SUNGAILIAT PRISON Budimas Journal" 04, no. 02 (2022): 1–7

⁹Thomas Wira et al., "Class II A Langkat Narcotics Correctional Facility" 11, no. 3 (2023): 127–40.

¹⁰Marisa Jemmy and Fitra Oktoriny, "Mapenaling Activities for Guidance in Correctional Institutions," 2001, 1249–57

¹¹Agus Eka Mahardika and Correctional Science Polytechnic, "Implementation of Law No. 12 of 1995 Concerning the Achievement of Correctional Goals Through Open Prisons," 2020, 481–93.

¹²Strengthening Human Resources Capacity, "Strengthening Human Resources Capacity of Ta' Mir Masjid At-Taubah Class 1 Penitentiary in Semarang in an Effort to Improve" 14, No. 1 (ND): 119–

Efforts to advance and protect the human rights of correctional inmates to health rights are not easy and can be done in a short time. This requires a long process as the development process itself. Therefore, these efforts need to be carried out continuously, sustainably, and in an integrated manner by all parties involved, namely the government, socio-political organizations, the community, and various non-governmental organizations.¹³

In the criminalization process carried out by the court, there are several main instruments that serve as guidelines in punishing convicts who have been found guilty by the court, one of which is imprisonment. Religious guidance in the correctional system has a dual function, namely as an obligation for religious people as well as therapy to shape the personality of inmates to be in accordance with religious values and social norms. Guidance carried out based on the correctional system aims for prisoners to be accepted back into society.

In the past, the prison system emphasized the elements of retaliation and deterrence with the concept of a "prison house." However, this approach was gradually considered inconsistent with the concept of rehabilitation and social reintegration. Therefore, the correctional system is present as an alternative to help prisoners realize their mistakes, avoid repeating criminal acts, and return to being responsible members of society. Personality development in the correctional system includes the development of religious awareness, national and state awareness, intellectual abilities, legal understanding, and social integration.

Since 1964, the correctional system for prisoners and juveniles has undergone a fundamental change from a prison system to a correctional system. This system is part of criminal law enforcement that cannot be separated from the development of a more humane concept of punishment. In its implementation, the correctional system prioritizes the values of Pancasila and the 1945 Constitution which places prisoners as human beings who must be treated humanely in an integrated correctional system. Therefore, the role of correctional officers as educators is very important to achieve the expected correctional goals.

In the implementation of prisoner development in correctional institutions, there are various obstacles, both from officers, prisoners, the community, and from the available facilities and infrastructure. The new development system places prisoners as both subjects and objects. As subjects, prisoners are recognized as human beings who have dignity and basic rights, while as objects, they remain in a development system that has a different position from correctional officers. Prisons function to help prisoners become better people, realize their mistakes,

58.

¹³Convicts In, Class Ila, and OF Palu, "Analysis of Sanitation Conditions and Personal Hygiene of Prisoners in Class Ila Penitentiary of Palu City," 2019, 196–203

and commit not to repeat unlawful acts.

One of the main obstacles in rehabilitation is the lack of awareness of prisoners regarding the purpose of rehabilitation. Many of them still consider themselves as convicted individuals who are difficult to accept back into society. In addition, there are also prisoners who fight officers and violate prison rules. In fact, the rules applied are intended for their own interests. Another obstacle faced is the increasing number of prisoners every year, which shows that the rehabilitation system in prisons still needs to be improved to be more effective in achieving the goal of social reintegration.

Pancasila is the foundation of the Indonesian state which plays an important role in forming the legal system and maintaining social justice. Social justice is a principle that is upheld in the Indonesian constitution, and Pancasila as the legal basis provides a philosophical and ideological foundation to achieve this goal. In the ever-evolving global context, social justice is becoming an increasingly relevant issue, where social inequality and injustice are challenges that need to be overcome. Therefore, it is important to examine the role of Pancasila as the legal basis in realizing social justice in Indonesia.¹⁴

Legal reform is an effort that has been made to make changes or updates to the legal system in a country. Since the reform era in 1998, legal reform efforts have become one of the main focuses of the government in order to build a more democratic, transparent, and accountable legal system. One of the main aspects of legal reform is the effort to improve social justice. Social justice is the principle underlying the formation of the Indonesian state, as stated in the Preamble to the 1945 Constitution.

Justice for a pluralistic society like Indonesia has yet to be agreed upon. The problem is that the form of justice is not in line with the understanding and assessment of justice. Justice is something that is very difficult to realize. Justice is a human desire to get a decent life, which fulfills their rights in living life. In living life, humans are social creatures who are inseparable from weaknesses and shortcomings. These weaknesses and shortcomings are what make justice difficult to realize because justice belongs to God Almighty.¹⁵

As a pluralistic nation, Indonesia has many ethnicities, races and religions. This makes it difficult to realize the justice desired by a pluralistic nation like what happens in Indonesia, because the definition of justice is interpreted differently between interpretations by one ethnic group and another. However, the Indonesian nation is a nation that lives with many cultures that can give rise to customary law rules, local wisdom, and customs that serve as guidelines or

¹⁴Indonesian People, "Pancasila Axiology 67" VIII, no. 2 (2019): 67–86

¹⁵Postgraduate of Ngurah Rai University, "Pancasila Justice in Perspective" 3, no. 2 (2018): 139–

foundations for the realization of justice.¹⁶

The customary law, local wisdom, and customs are summarized into a national legal framework that is used as positive law that applies to all ethnic groups and cultures in Indonesia. Legal norms and legal rules obtained from ethnic groups, cultures and religions in Indonesia are then realized as the highest legal basis of the Indonesian nation in realizing the legal justice desired by the community. The highest legal basis or foundation of the Indonesian nation is Pancasila and the 1945 Constitution.¹⁷

The elaboration into legal norms which are then called Instrumental values. Instrumental values must still refer to the basic values that are described. The elaboration can be done creatively and dynamically in new forms to realize the same spirit and within the limits allowed by the basic values. The elaboration clearly must not conflict with the basic values. The basic values in question are values taken from Pancasila.¹⁸

Law is a tool to create justice. Justice in law is the justice desired by all people living within the framework of the law itself. Therefore, law requires a basis in forming justice that can be accepted by the wider community. The many problems regarding law, especially problems in the formation of laws and regulations, cause problems in achieving justice. Law is still a mere political desire, not the desire of society in general.¹⁹

By using the fundamental norm foundation, namely Pancasila in the formation of good law, Pancasila is always and must be used as the main pillar in forming laws and regulations that are in accordance with the spirit of the Indonesian nation that humanizes fair and civilized humans and social justice for all Indonesian people. Therefore, it is necessary to understand the justice of Pancasila in order to provide a common perception of justice that will be the basis for the formation of good law.²⁰

The problems that arise in interpreting the essence of Pancasila are obstacles in forming good laws. Pancasila is flexible, following the development of the times. Several experts have different opinions about the essence of Pancasila, depending on the scientific needs they use. However, to study and research the

¹⁶ Rajarif Syah et al., "Implementation of the Juvenile Criminal Justice System in Indonesia: A Justice Values Perspective," 2024, 54–63.

¹⁷ Social Justice, AND Indonesian Unity, and Christian Siregar, "Pancasila, Social Justice, and Indonesian Unity," no. 45 (nd): 107–12

¹⁸ Tri Mulyani, "The Concept of Mediation in Settling State Administrative Disputes Based on Pancasila Justice Values" 10 (2022): 133–59

¹⁹ Hardani Widhiastuti, Mulya Virgonita I Winta, and Arumwardhani Nusandari, "Group Counseling to Increase Self-Confidence of Female Inmates" 5, no. 2 (2023): 58–68

²⁰ Convicts In, Class Ila, and OF Palu, "Analysis of Sanitation Conditions and Personal Hygiene of Prisoners in Class Ila Penitentiary of Palu City," 2019, 196–203.

essence of Pancasila, of course, it requires the same understanding by experts, so that it does not give rise to multiple interpretations in interpreting the essence of Pancasila.

Of course, the essence of justice in Pancasila must be described in the form of legal norms that are free from personal or group interests. The realization of the truth of Pancasila into legal norms, of course, Pancasila is able to provide its own value about justice in realizing legal justice for the Indonesian people. Legal justice that originates from Pancasila is expected to be able to provide an understanding of the meaning of the true truth of justice, which comes from our own nation, not a legacy from foreign nations. Justice based on Pancasila must be realized, described, and realized into Indonesian legal norms in order to realize justice that provides protection of rights and obligations for all Indonesian people in the form of laws and regulations.²¹

Good legislation is legislation that meets the basic requirements for the formation of legislation owned by the Indonesian nation. This must be in accordance with justice based on Pancasila, in order to realize legal justice that is recognized by the entire Indonesian nation without doubting the form of legal justice that exists, because legal justice is formed based on the principles of the formation of legislation based on Pancasila justice. Of course, the basis for the formation of legislation based on Pancasila justice must be found with deep thought and understanding of the truth of Pancasila as the philosophical and ideological basis of the nation.²²

With a fair correctional system, the transfer of inmates between correctional institutions must be carried out by considering the principles of justice and humanity. Currently, various challenges are still faced in the transfer process, ranging from administrative aspects, uneven prison capacity, to potential human rights violations. Therefore, a more systematic policy is needed and based on Pancasila values so that every decision taken is not only procedural, but also considers aspects of social justice.

Justice in the transfer of inmates must reflect the values contained in Pancasila, especially the second principle on just and civilized humanity and the fifth principle on social justice for all Indonesian people. These principles must be the basis for establishing a transfer mechanism that not only prioritizes technical aspects, but also considers the welfare and rights of inmates. Thus, the correctional system can be more humane and reflect the noble values of the nation.

In addition, improvements in the inmate transfer system will also contribute to

²¹ Marisa Jemmy and Fitra Oktoriny, "Mapenaling Activities for Guidance in Correctional Institutions," 2001, 1249–57.

²² Widayati, "Rehabilitation of Prisoners in Overcrowded Areas."

the effectiveness of their guidance and social reintegration after serving their sentence. Fair policies will help reduce the potential for conflict within prisons, create a more conducive environment for guidance, and prevent discrimination or abuse of authority in the transfer process. With a more transparent and justice-based system, public trust in correctional institutions can also increase.

Efforts to realize equitable transfers of inmates certainly require synergy between the government, correctional officers, and the community. Clear regulations, ongoing evaluation, and involvement of various parties are needed to ensure that transfers are carried out in accordance with the principles of justice mandated by Pancasila. This policy reform is not only to fulfill the legal aspect, but also as part of the moral responsibility in building a more dignified correctional system.

By considering these various aspects, it is hoped that this research or study can provide real contributions in formulating a more just and effective inmate transfer policy. The implementation of Pancasila values in the correctional system will bring benefits not only to inmates, but also to social stability and legal justice in Indonesia. Therefore, justice-based transfer policy reform must be a priority in efforts to realize a more humane and just correctional system.

2. Research Methods

This research is a Library Research, namely, research conducted using literature (library) in the form of books, notes, previous research from the results of the research using a normative legal approach, namely an approach carried out based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. The research specifications used in this research are descriptive analysis, namely by describing the applicable laws and regulations and linking them to legal theories and the practice of implementing positive law.²³¹⁹ While the analysis referred to in this writing is to group, connect, explain, and give meaning to the main problem so as to obtain correct research results. The type of data used in this study is qualitative data. While the data sources use and secondary data. Secondary data is obtained from several previously existing sources. Secondary data is obtained through literature study. Literature study is a process of collecting data sourced from books, literature, and opinions of legal experts related to this research, or other sources in the field to support the success and effectiveness of the research, namely by separating in general between primary data and secondary data²⁴. Secondary data in this study includes three categories of legal materials, namely:

²³ Moh Nazir, "Research Methods, Editors Riska Agustine & Risman FS," Jakarta: Ghalia Indonesia, 2015.

²⁴ Quantitative Approach Education, "Qualitative Research Methods and R&D," Alfabeta, Bandung, 2016.

3. Results and Discussion

3.1. Urgency of Transferring Inmates between Correctional Institutions

In the correctional system in Indonesia, security and order are fundamental aspects in realizing the goal of fostering inmates. One form of strategy in maintaining this stability is the policy of transferring inmates between correctional institutions. This transfer not only serves as a solution to the problem of overcrowding that often occurs in various prisons, but also as a preventive measure in dealing with potential conflicts, grouping of prisoners, and negative influences between inmates that can hinder their rehabilitation process.²⁵

In the context of security, the referenced article emphasizes that order in correctional institutions must be maintained through effective policies based on the actual needs of each prison. One factor that often triggers security disturbances is the dominance of certain groups in prisons which can lead to acts of violence, drug trafficking, and corrupt practices in the correctional environment. Therefore, the transfer of inmates between prisons is a strategic step in breaking the chain of power of certain groups that have the potential to control life in prisons illegally.²⁶

In addition, the transfer of inmates is also closely related to the classification and category of prisoners based on their risk levels and development needs. The article that is the basis for this discussion explains that each prison has a different level of security, ranging from minimum security to maximum security. The transfer of prisoners can be carried out based on the results of an assessment that shows special needs, such as the transfer of high-risk prisoners to prisons with tighter security to prevent escapes or disturbances. Conversely, prisoners with low risk levels can be transferred to prisons with a more open development system to prepare them for social reintegration after release.

Furthermore, the urgency of transferring inmates is also related to the condition of facilities and resources available in each prison. Overcrowding not only impacts security, but also affects the quality of services, health, and access to development programs. This article highlights that the imbalance between the number of inmates and the available capacity can cause various problems, such as increasing rates of violence, the spread of disease, and the low effectiveness of development programs due to limited educators and counselors in prisons. Therefore, transferring inmates can be a solution in distributing the prisoner population more proportionally, so that they get more decent basic rights.²⁷

²⁵Abdullah, RH (2016). The Urgency of Classifying Prisoners in Correctional Institutions. *Fiat Justisia: Journal of Legal Studies*, 9(1), 54-66.

²⁶Arief, BN (2010). *Legislative Policy in Combating Crime with Imprisonment*. Yogyakarta: Genta Publishing.

²⁷National Legal Development Agency. (2013). *Academic Manuscript of the Draft Law on the*

Thus, the urgency of transferring inmates between correctional institutions is not only related to administrative aspects, but is also closely related to efforts to improve security and order within the correctional environment. As explained in the article *Urgency of Security and Order Regulations in Correctional Institutions in Indonesia*, good security management is key to creating an effective correctional system, where the transfer of inmates can be an important mechanism in realizing this goal. Therefore, more targeted regulations and policies based on factual conditions in each prison are needed so that this transfer can run in accordance with the principles of justice, effectiveness, and ideal correctional goals.

From the perspective of correctional policy analysis, the transfer of inmates between correctional institutions is a strategic instrument in maintaining security and order stability. However, the implementation of this policy still faces various challenges that need further attention.

One of the main challenges is the lack of clear standards and evaluation systems in determining which inmates should be transferred and the destination of the transfer. In practice, transfer decisions are often reactive to emergency conditions, such as conflicts between inmates or overcrowding, without being supported by long-term analysis that considers the effectiveness of rehabilitation. As a result, the transfer of prisoners has the potential to create new problems in the destination prison, especially if the transfer is not accompanied by adequate distribution of facilities and resources.²⁸

In the correctional system in Indonesia, security and order are fundamental aspects in realizing the goal of fostering inmates. One of the strategies implemented to maintain this stability is the policy of transferring inmates between correctional institutions. This transfer not only serves as a solution to the problem of overcrowding that often occurs in various prisons, but also as a preventive measure in dealing with potential conflicts, grouping of inmates, and negative influences between inmates that can hinder their rehabilitation process.

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Transfer of Prisoners.

²⁸Handayani, IGAKR (2015). Implementation of Prisoner Transfer in the Correctional System in Indonesia. *Journal of Law and Justice*, 4(2), 253-270.

²⁹Harahap, MIR, & Ramadhani, W. (2022). Overcapacity of Correctional Institutions as a Criminogenic Factor for Repetition of Criminal Offenses by Inmates. *Indonesian Journal of Criminal*

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Thus, the urgency of transferring inmates between correctional institutions is not only related to administrative aspects, but also closely related to efforts to improve security and order within the correctional environment. Good security management is key to creating an effective correctional system, where the transfer of inmates can be an important mechanism in realizing this goal. Therefore, more targeted regulations and policies based on factual conditions in each prison are needed so that this transfer can run in accordance with the principles of justice, effectiveness, and ideal correctional goals.³¹

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Law and Criminology (IJCLC), 3(1), 28-34.

³⁰Sitti Nuraulia Insani. (2019). Implementation of Granting of Assimilation Rights for Inmates at Class I Makassar Penitentiary.

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The urgency of transferring inmates between correctional institutions is not only related to administrative aspects, but is also closely related to efforts to improve security and order within the correctional environment. Good security

³²UNES Journal of Swara Justisia. (2022). Mapenaling Activities for the Adjustment of Inmates in Prisons.

³³Ministry of Law and Human Rights of the Republic of Indonesia. (2022). Law Number 22 of 2022 concerning Corrections.

management is key to creating an effective correctional system, where the transfer of inmates can be an important mechanism in realizing this goal. Therefore, more targeted regulations and policies based on factual conditions in each prison are needed so that this transfer can run in accordance with the principles of justice, effectiveness, and ideal correctional goals.³⁴

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In addition to the security and guidance aspects, the transfer of inmates also plays a role in overcoming the problem of overcapacity which can have a negative impact on the welfare of inmates. The capacity of each prison is different, and the placement of inmates must be adjusted to the capacity and facilities available. By carrying out the right transfer, the distribution of inmates becomes more even, thus reducing the risk of conflict due to inadequate conditions, such as high density which can trigger tensions among prison inmates.³⁵

The urgency of transferring inmates between correctional institutions is strongly related to the principle of classifying inmates. Proper grouping of inmates will create a more effective correctional system, while transfer is one of the main instruments to ensure that each inmate is in an environment that suits their rehabilitation needs. Therefore, the transfer policy must be carried out systematically and based on in-depth assessment results in order to have a positive impact on the security, guidance, and welfare of inmates in the correctional system.

The transfer of inmates between correctional institutions is an important strategy in the correctional system in Indonesia, especially in maintaining security, increasing the effectiveness of guidance, and overcoming the problem of overcapacity. Based on the analysis in this study, it can be concluded that the

³⁴Ministry of Law and Human Rights of the Republic of Indonesia. (2018). Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates.

³⁵Legal Study Development Foundation. (2024). Implementation and Obstacles in Granting Remission to Inmates at Class II A Kupang Penitentiary.

transfer policy must be carried out systematically and based on a comprehensive assessment in order to provide optimal benefits for all parties involved.³⁶

One crucial aspect in implementing this policy is having clear standards for determining who should be transferred and where the transfer should take place. If transfers are only reactive to emergency conditions, such as conflicts between prisoners or overcrowding, then this policy will not provide a long-term solution and has the potential to create new problems in the destination prison. Therefore, an evaluation system based on the risk profile and rehabilitation needs of inmates must be developed to ensure that each prisoner is placed in an appropriate environment.³⁷

In addition, the aspect of readiness of facilities and resources in the destination prison is also a factor that should not be ignored. The transfer of prisoners must be accompanied by adequate resource allocation, both in the form of infrastructure, supervisory staff, and appropriate rehabilitation programs. Without such support, the transfer will only be an administrative action that does not bring significant changes to the correctional system as a whole.

From a correctional policy perspective, the transfer of inmates can be an effective instrument if it is carried out in a planned and data-based manner. However, the biggest challenges in implementing this policy are coordination between correctional institutions, limited facilities, and the imbalance in the distribution of correctional personnel. Therefore, stricter regulations and ongoing evaluation mechanisms are needed so that this policy can run in accordance with the principles of justice, effectiveness, and ideal rehabilitation goals.³⁸

With this research, it is hoped that it can contribute to the development of correctional policies in Indonesia, especially in creating a more structured, fair, and successful inmate transfer system that is oriented towards the social reintegration of prisoners after serving their sentences.

3.2. Implementation of Pancasila Justice Values regarding the urgency of transferring inmates between correctional institutions

In the correctional system in Indonesia, the Pancasila justice values are the main foundation in every policy, including in the process of transferring inmates between correctional institutions. This transfer is not just a transfer of place, but also reflects efforts to uphold human rights, equalize facilities, and maintain security and order in prisons. Therefore, the implementation of the Pancasila

³⁶Legal Study Development Foundation. (2024). Implementation and Obstacles in Granting Remission to Inmates at Class II A Kupang Penitentiary.

³⁷Correctional Institutions' Efforts in Handling Violence between Inmates. (2022).

³⁸Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.2.PK.04-10 of 2007 concerning the Conditions and Procedures for Implementing Conditional Release.

justice values in this policy is a crucial aspect that must be considered, in order to ensure that every inmate receives fair treatment, in accordance with the principles of civilized humanity.³⁹

The implementation of Pancasila justice values in the transfer of Correctional Inmates (WBP) between correctional institutions cannot be separated from the philosophical, sociological, and legal foundations underlying the formation of Law Number 12 of 1995 concerning Corrections. This law aims to change the paradigm of the criminal system from a prison system that emphasizes the aspect of retaliation to a correctional system that focuses more on social guidance and reintegration. In the context of WBP transfers, the implementation of Pancasila justice values must be realized by ensuring that transfers are carried out transparently, objectively, and based on human rights principles.⁴⁰

As part of the correctional system, the transfer of prisoners must consider the principles of humanity and justice as reflected in the second principle of Pancasila, namely "Just and Civilized Humanity". In practice, the transfer of prisoners from one correctional institution to another must not be carried out arbitrarily, but must be based on objective needs such as security factors, health conditions, and development programs that are in accordance with the needs of individual prisoners. This aims to ensure that every prisoner gets an equal opportunity in the process of rehabilitation and social reintegration.

Law Number 12 of 1995 also emphasizes that WBP as human beings and human resources must be treated humanely in an integrated development system. Thus, the transfer of WBP must be in line with the principle of substantive justice that upholds human rights, maintains a balance between state interests and individual rights, and reflects recognition of human dignity. The implementation of the value of justice in the transfer of WBP must also pay attention to aspects of transparency, accountability, and good coordination between correctional institutions so that there is no abuse of authority that can harm WBP.⁴¹

With this approach, the transfer of prisoners between correctional institutions can be an instrument that supports the main objective of the correctional system, namely providing opportunities for prisoners to improve themselves, develop skills, and ultimately return to society as better individuals. Therefore, the value of Pancasila justice must be the main guideline in every policy related to the

³⁹Abdurachman, A. (2023). Reconstruction of the Regulation of the Protection of Prisoners' Rights in the Correctional System Based on Pancasila Justice Values. Dissertation, Sultan Agung Islamic University.

⁴⁰Appludnopsanji. (2021). Reform of the Indonesian Criminal Justice System Based on Pancasila Insight. *Kertha Wicaksana Journal*.

⁴¹Butar-Butar, E., & Subroto, M. (2022). Contribution of Open Prisons in Efforts to Implement the Community-Based Correction Concept. *Undiksha Citizenship Education Journal*, 10(2), 190-200.

transfer of prisoners in order to create a more humane, just, and rehabilitation-oriented correctional system.

This philosophical basis aims to overcome the problems that occur, and this is a sociological basis that in fact the treatment of Correctional Inmates based on imprisonment is not in accordance with correctional based on Pancasila and the Constitution because perpetrators of crimes are not treated with dignity, and between the perpetrator and the victim or their family are not reconciled. In fact, the perpetrator must not only be held accountable but must also be integrated into society.⁴²

In addition to being a breaker of the frozenness that occurs at the level of reality, the philosophical basis should also be a breaker of legal deadlock as the most effective alternative and a means of national renewal and development. Law Number 12 of 1995 was formed for that purpose, to build and direct a new paradigm in fostering correctional residents who were originally directed by the concept of imprisonment.⁴³

Law Number 22 of 2022 aims to organize a Correctional System based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

There are four important elements in this Correctional System. The first element is that the correctional system is the guidance of Inmates based on Pancasila. The second element, the method of implementation is integrated by involving the instructor, Inmates and the community. The third element, the expected results are self-awareness and deterrence for Inmates. The fourth element is the achievement of success of the correctional system, namely the re-acceptance of Inmates by the community, being able to play an active role and the ability to live normally for former Inmates.⁴⁴

The purpose of the correctional system regulated in Law No. 22 of 2022 is to ensure that prisoners are not only punished, but also given the opportunity to improve themselves through rehabilitation, skills development, and restoration of social relationships. The correctional system in Indonesia aims to create prisoners who are aware of the law, have the skills to live independently, and can reintegrate into society without repeating criminal acts. Thus, this system is expected to reduce the crime rate and create a safer and more harmonious society.

⁴²Erfandi. (2022). Implementation of Pancasila Values in the Development of the Criminal Law System in Indonesia. *Pasundan University Journal*.

⁴³Ministry of Law and Human Rights of the Republic of Indonesia. (2013). *Academic Manuscript of the Draft Law on the Transfer of Prisoners*. National Legal Development Agency.

⁴⁴Ministry of Law and Human Rights of the Republic of Indonesia. (2018). *Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates*.

Efforts to shape Inmates into whole human beings are to restore prisoners and correctional students to their natural state, in the relationship between humans and their God, humans and their individuals, humans and their fellow human beings, and humans and their environment. Thus, through a well-functioning correctional system, inmates can integrate healthily with society, so that they can return to their role as free and responsible members of society.⁴⁵

As stated at the beginning, as a ratio legis and the purpose of the formation of this law, Law Number 22 of 2022 aims to change the previous correctional paradigm, namely from a prison system to a correctional system. Of course, the purpose of the material contained in Law Number 22 of 2022 concerning Corrections which is driven to fulfill this is a goal that is coherent with the values of Pancasila, namely the second principle, Just and Civilized Humanity.

With the aim of forming laws based on the values of justice, indirectly, the legislators have placed the principles of forming laws and regulations in the content of their legal norms. Indeed, this is a chain that is not fully realized by the legislators.⁴⁶

The paradigm shift driven by Law Number 22 of 2022 by reflecting on the values of Pancasila, namely the second principle, shows that Pancasila actually contains a theory of goodness to protect the interests of all Indonesian people, namely by guaranteeing the safety of all lives as an inseparable unity, and protecting every individual citizen from abuse of power and guaranteeing the fulfillment of their human rights. However, it remains based on the principle of truth, namely a theory that teaches about what causes a choice to be right and what causes a choice to be wrong.⁴⁷

A justice-based correctional system can be implemented based on the seven principles stated in Article 4 of Law Number 22 of 2022;

First, Principle of Humanity (Article 4 Paragraph 1). Principle of Humanity correctional system must be carried out by paying attention to basic human rights, dignity, and honor of prisoners. Corrections based on the principle of humanity aim to avoid torture, degrading treatment, and all forms of human rights violations. This principle also regulates equal treatment for all prisoners, without discrimination, and prioritizes their physical and mental well-being during the rehabilitation process.

⁴⁵Ministry of Law and Human Rights of the Republic of Indonesia. (2022). Law Number 22 of 2022 concerning Corrections.

⁴⁶Lala, A. (2021). Implementation of Pancasila Values in the Development of National Criminal Law. Indonesian Journal of Social Science.

⁴⁷Leonard, T. (2021). Renewal of Criminal Sanctions Based on Pancasila Philosophy in the Criminal Law System in Indonesia. Sebelas Maret University Journal.

Second, Principle of Restorative Justice (Article 4 Paragraph 2) The principle of restorative justice in the context of corrections prioritizes a deeper approach in restoring relations between prisoners and the community, including victims of the crimes committed.

The principle of restorative justice also emphasizes the importance of integrating prisoners into society after undergoing rehabilitation, as well as reducing the social stigma they may face. In this context, prisoners are given the opportunity to improve their behavior, and society is given the opportunity to understand and accept the recovery process.

Third, The Principle of Transparency (Article 4 Paragraph 3) is The principle of transparency requires all correctional processes to be carried out transparently and accountably. This means that every policy and decision related to corrections must be supervised and known by the public. This principle aims to avoid abuse of power and provide a sense of justice to prisoners, families, and the community.

With the principle of transparency, prisoners have the right to know their rights while in prison, as well as the processes and procedures followed in their education. Transparency also includes supervision that can be carried out by independent institutions to ensure that the prison system is running in accordance with the principles of justice.

Fourth, Rehabilitative Principle (Article 4 Paragraph 4) The rehabilitative principle in the correctional system prioritizes the goal of guidance that is not only to punish, but also to improve the behavior of prisoners. Guidance carried out based on this principle aims to rehabilitate the mental, social, and morals of prisoners, so that they can return to being productive members of society after serving their sentence. This principle also involves the process of providing skills and education, which can help prisoners obtain better job opportunities and lives after release.

Fifth, Principle of Procedural Justice (Article 4 Paragraph 5) The principle of procedural justice stipulates that the correctional process must be carried out in accordance with applicable law, with due regard to fair and transparent procedures. In this case, every prisoner has the right to receive fair treatment during their detention period, and has the right to apply for parole or assimilation, in accordance with applicable legal provisions. This principle also involves the right of prisoners to obtain clear information regarding their rights and the procedures to be followed.

Of these principles, there are some that have not shown the accommodation of the value of the second principle of the implementation of fostering of Inmates, namely "loss of freedom is the only suffering". This is because loss of freedom is not a principle but a state or condition that is influenced by socio-cultural, political

and economic factors, so it is necessary to consider the ratio legis when including the principle that loss of freedom is the only suffering.⁴⁸

In the context of the transfer of prisoners between correctional institutions, the implementation of the Pancasila justice values must be realized by considering various aspects, such as the condition of the capacity of correctional institutions, security factors, basic rights of prisoners, as well as psychological and social aspects that affect the rehabilitation process. The transfer of prisoners should not only be seen as an administrative mechanism, but also as part of a broader correctional effort, which aims to ensure that prisoners receive optimal guidance according to their needs.⁴⁹

In addition, the transfer of prisoners must consider the principle of justice by paying attention to their basic rights as individuals, including access to health services, education, and legal assistance. Transfer decisions must be made transparently and based on objective considerations, so as not to cause discrimination or unfair treatment of prisoners. Thus, the implementation of the value of justice in the transfer of prisoners between correctional institutions can be an integral part of realizing a more humane correctional system that is oriented towards effective recovery and social reintegration.⁵⁰

In the correctional system, the Pancasila justice values must be reflected in every policy, including in the transfer of inmates (WBP) between correctional institutions (prisons). The principles of correctional do not explicitly include the principle of obedience to the law as the main basis for maintaining security and order in prisons. However, Pancasila mandates that every law and regulation must guarantee respect for decisions made through deliberation and their implementation must be carried out in good faith and with full responsibility. In this context, court decisions are valid and binding decisions.⁵¹

One of the principles of corrections emphasizes the maturity of WBP as citizens who have moral responsibility, are able to control themselves, and obey the law as part of a commitment to the people's decision. This principle must be the basis for correctional policies, including in regulating the transfer of WBP between prisons. The implementation of Pancasila values is not only a normative basis but also provides philosophical justification for policies related to security and order.⁵²

⁴⁸Muladi, & Sulistyani, D. (2013). Corporate Criminal Liability. PT Alumni Bandung.

⁴⁹Prasetyo Utomo, N. (2020). Development of a Religious National Criminal Law System Based on Pancasila Values. *Jurnal Juristic*.

⁵⁰Ramadhan, MI, Thalib, A., & Badaru, B. (2022). Application of Criminal Sanctions in the Guidance of Prisoners at Class I Makassar Penitentiary. *Journal of Lex Generalis (JLS)*, 3(4), 2539-2550.

⁵¹Samud. (2021). Criminal Law Enforcement from the Perspective of Just and Civilized Humanitarian Values. *Journal of Islamic Economic Studies and Research*.

⁵²Saputra, N. (2021). Building National Criminal Law on the Foundation of Pancasila Justice in the Form of the Value of the Almighty God. *Journal of Muhammadiyah University of Surakarta*.

Article 5 of Law Number 12 of 1995 concerning Corrections has not regulated the principles that explicitly support the readiness of prisoners to return to society in better conditions. In fact, the purpose of the correctional system as regulated in Article 2 is to foster prisoners so that they are able to play an active role in development and live a more decent life after release. The transfer of prisoners based on the value of justice must consider these aspects, so that it is not just an administrative policy, but also a means to improve the welfare of prisoners.⁵³

Law Number 22 of 2022 concerning the Juvenile Criminal Justice System (UU SPPA) contains various provisions regarding the data collection and classification of prisoners based on several aspects, such as age, gender, length of sentence, and type of crime committed. These provisions aim to create a criminal justice system that is more humane, fair, and in accordance with human rights, especially in handling child and adult prisoners.

There is a view that the classification of WBP risks creating social classes and has the potential to cause unfair treatment. However, according to Franz Magnis-Suseno's thinking, justice must consider the welfare of society as a whole. In this case, if the classification and transfer of WBP can ensure the protection of human rights and respect for their dignity, then the policy is in line with the principle of justice in Pancasila.

The rights of prisoners as regulated in Article 9 of Law Number 22 of 2022 cover various aspects, such as the right to worship, receive education, health services, and the right to receive family visits and legal counsel. In the context of the transfer of prisoners between prisons, the fulfillment of these rights must continue to be guaranteed. Transfers must not hinder access to these basic rights, but must support the main purpose of corrections, namely to foster and return prisoners to society in better conditions. Therefore, the implementation of the Pancasila justice values in the transfer of prisoners must pay attention to the balance between security, order, and protection of human rights in order to create a more humane and just correctional system.⁵⁴

The implementation of the value of justice in Pancasila regarding the urgency of transferring Inmates (WBP) between Correctional Institutions (Lapas) is closely related to the principles of social justice and just and civilized humanity. Article 9 Paragraph (1) of Law Number 22 of 2022 concerning Corrections mentions various rights of prisoners, including other rights in accordance with applicable laws and regulations. Although it is not explicitly stated regarding the right to obtain skills training as a provision for a more decent life, the principle of social justice in the fifth principle of Pancasila emphasizes that every citizen has the right to education, health, employment, and business opportunities. Therefore, the correctional

⁵³Sitti Nuraulia Insani. (2019). Implementation of Granting of Assimilation Rights for Inmates at Class I Makassar Penitentiary.

⁵⁴Law Number 22 of 2022 concerning Corrections.

system must ensure that these rights are fulfilled through a development mechanism, including the transfer of prisoners to other prisons that are more appropriate to their development needs.

The transfer of prisoners between prisons is not only administrative, but also reflects the government's efforts to implement social justice. Based on Article 15, Article 23, Article 30, and Article 37 of Law Number 12 of 1995, prisoners are required to follow an orderly and structured development program, including criminal children, state children, civil children, and correctional clients. To ensure the effectiveness of development, the transfer of prisoners can be carried out to adjust their educational, health, and skills needs. This shows that transfers between prisons are not only for security purposes, but also for social justice which ensures that every prisoner has an equal opportunity to receive proper development.⁵⁵

Law Number 12 of 1995 also mandates the establishment of the Correctional Advisory Center and the Correctional Observation Team through Article 45, which is tasked with providing advice and considerations to the Minister of Law and Human Rights regarding the form and program of guidance. The existence of this body strengthens the implementation of the second and fifth principles of Pancasila in the correctional system by ensuring that decisions regarding the transfer of inmates are made based on the principles of justice and humanity. Thus, the policy of transfer between prisons must consider the welfare factors of inmates and their rehabilitation needs so that they do not fall back into criminal acts.⁵⁶

However, weaknesses in the implementation of social justice in the correctional system are still evident in the lack of adequate facilities for education, health, and skills training for inmates. The government needs to improve cooperation with related agencies in providing development facilities, such as job training centers and skills improvement programs. In addition, the professionalism of correctional officers must also be improved to ensure that prisoner transfer policies are truly carried out based on development needs, not just administrative decisions.

Thus, the transfer of WBP between prisons must be seen as an instrument to ensure social justice for prisoners. The implementation of Pancasila justice values in the correctional system requires continuous policy evaluation so that every prisoner gets their rights fairly, especially in access to education, health, and the opportunity to get a better life after serving their sentence.

⁵⁵Legal Study Development Foundation. (2024). Implementation and Obstacles in Granting Remission to Inmates at Class II A Kupang Penitentiary.

⁵⁶Yusriando. (2021). Implementation of Penal Mediation as an Manifestation of Pancasila Values to Support the Supremacy of Law in the Framework of National Development. Unissula Journal.

Thus, the implementation of Pancasila justice values in the transfer of Prisoners (WBP) between Prisons (Lapas) must be an integral part of a just and recovery-oriented correctional system. The policy of transferring prisoners is not merely an administrative mechanism, but also a reflection of the principles of just and civilized humanity and social justice for all citizens, including those serving sentences. Therefore, transparency, accountability, and the fulfillment of basic rights of prisoners must always be the main considerations in every transfer decision. With proper implementation, the correctional system can be an effective place for development, allowing prisoners to undergo better rehabilitation, and increasing their chances of returning to society as more responsible individuals. This is in line with the main objective of corrections which is not only to uphold the law, but also to build whole people in accordance with the values of Pancasila.⁵⁷

4. Conclusion

The implementation of inmate transfers between Correctional Institutions (Lapas) in Indonesia aims to overcome overcapacity, improve security, and support the effectiveness of guidance, but still faces various obstacles in practice. Complex administrative procedures, less than optimal coordination between agencies, and an imbalance in the number of officers and inmates often hinder the smooth running of this process. In addition, the lack of facilities in the destination prison and the psychological impact of sudden transfers are also challenges that need to be overcome. Transfers aimed at reducing overcrowding in one prison often create new overcrowding in other places, so they do not completely solve the problem. Therefore, reforms are needed in the correctional system through increased coordination, infrastructure improvements, the implementation of stricter inmate classifications, and reducing dependence on prison sentences with alternatives to community-based rehabilitation and social work so that the goals of guidance and social reintegration can be achieved optimally.

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