

Implications of the Correctional System on the Right to Integration of Prisoners

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Abstract. *The purpose of this study is to determine and analyze the Correctional Institution system that provides integration rights to prisoners.. In this writing, the author uses a normative legal method with a descriptive analysis research specification. Departing from the rights of prisoners stated in Law Number 12 of 1995 concerning Corrections and the 10 principles of corrections, especially the fifth point which emphasizes that during the loss of freedom of movement, prisoners and students must be introduced to and must not be isolated from society. This principle conveys the message that prisoners are not marginalized people. That prisoners are restricted in their movements because they are in prison, and as long as their freedom is reduced does not mean that they are isolated from society. Step by step, prisoners get leniency, including visits from friends, family, friends, community organizations. And in accordance with the development of their guidance in accordance with the stages in their correctional process, the opportunity to meet, gather and be in the middle of the community environment will be given. So as one form of implementing the fifth principle, namely the granting of integration rights (conditional release, conditional leave and leave before release).*

Keywords: *Correctional; Institutions; Integration; Prisoners.*

1. Introduction

The Unitary State of the Republic of Indonesia is one of the big countries that highly prioritizes the applicable legal provisions. The positive legal rules that apply in Indonesia are clearly an important component in building a safe, peaceful and peaceful life.¹ Criminalization in Indonesia cannot be separated from the principle of the rule of law according to Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, fourth amendment in 2002, which means that the state

¹Sumaryono and Sri Kusriyah, (2020), The Criminal Enforcement of the Fraud Mode of Multiple Money (Casestudy Decision No.61 / Pid.B / 2019 / PN.Blora). Jurnal Daulat Hukum: 3 (1) March

is based on law (*rechtstaat*) not on power (*machtstaat*). The rule of law in this case has the duty to protect all the interests of the nation by

provide protection and welfare for every citizen.²This has implications that general welfare becomes a constitutional ideal, accompanied by the growth of an intelligent Indonesian society that is capable of leading the Indonesian nation to become a sovereign and prosperous country.

In the process of enforcing criminal law, there are provisions regarding criminal sanctions in which the imposition of criminal sanctions for criminal convicts has a purpose. The purpose of imposing criminal sanctions must function to foster, namely by making lawbreakers repent and not function as revenge. This view and understanding is in accordance with the nation's way of life contained in Pancasila, which upholds humanitarian values.³

The problem that arises is whether criminal sanctions can guarantee someone to remain obedient to legal norms after serving their sentence, while the crime occurred not only due to moral deviation but also due to socio-economic factors? While criminal sanctions in the form of punishment alone will not be useful for renewing the legal, moral and mental awareness of lawbreakers, if they only comply with the Law without considering the mental, physical and spiritual readiness of the perpetrator or lawbreaker.⁴

Therefore, it developed towards reintegration, namely that punishment is aimed at restoring the conflict that occurs between the convict and the community. Because the occurrence of a crime is essentially a conflict between the perpetrator of the crime and the victim and also the community in general. In line with the theory of social reintegration, the Correctional System is explained in the provisions of Article 2 of Law Number 12 of 1995 concerning Corrections.

The Correctional System aims to restore the unity of the prisoner's life relationship to realize mistakes, not repeat them, and be able to reintegrate into society and play an active role in development. In the legal process, the perpetrators of crimes are ultimately in the Correctional Institution to be held accountable for their actions. The global and dominant problem currently in prisons or detention centers is over capacity. This is caused by the disproportionate capacity of existing correctional institutions to the number of prisoners, so there needs to be a program to accelerate the provision of prisoners' rights.

²Sulistiyawan Doni Ardiyanto, Eko Soponyono, and Achmad Sulchan, (2020), Judgment Considerations Policy in Decree of the Court Criminal Statement Based On Criminal Destination, *Jurnal Daulat Hukum*: 3 (1) March

³Petrus Irwan Panjaitan and Pandapotan Simorangkir, (1995)., *Correctional Institutions from the Perspective of the Criminal Justice System*, Jakarta: Sinar Harapan Library, p 9.

⁴Ibid, p 10.

Coaching is an effort that is done consciously, planned, directed, regularly, to improve a person's knowledge and skills, carried out with guidance, direction and supervision actions to achieve the expected goals. After the public prosecutor carries out his duties in executing the verdict.⁵

Departing from the rights of prisoners stated in Law Number 12 of 1995 concerning Corrections and the 10 principles of corrections, especially the fifth point which emphasizes that during the loss of freedom of movement, prisoners and students must be introduced to and must not be isolated from society. This principle conveys the message that prisoners are not marginalized people. That prisoners are restricted in their movements because they are in prison, and as long as their freedom is reduced does not mean that they are isolated from society. Step by step, prisoners receive leniency, including visits from friends, family, friends, community organizations. And in accordance with the development of their guidance according to the stages in the correctional process, the opportunity to meet, gather and be in the midst of the community will be given. So as one form of implementing the fifth principle, namely the granting of integration rights (conditional release, conditional leave and leave before release).

Granting Integration Rights is one form of fulfilling the rights of every prisoner who has fulfilled both administrative and substantive requirements. For this reason, the author is interested in conducting research with The purpose of this research is to find out and analyze the Correctional Institution system that provides integration rights for prisoners.

2. Research Methods

The approach used in this study is normative juridical or written legal approach (statute approach). The normative juridical approach is an approach carried out based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this study. This approach is also known as the literature approach, namely by studying books, laws and regulations and other documents related to this study.

3. Results and Discussion

3.1. Correctional Institution Terminology

The correctional system as a system of treatment for inmates of the Correctional Institution then only received formal legal recognition after the ratification of Law Number 12 of 1995 concerning Corrections, which began to be enacted on December 30, 1995, the State Gazette of the Republic of Indonesia Number 77 and Supplement to the State Gazette of the Republic of Indonesia Number 13641. Philosophically, Corrections are a criminalization system that has moved far away

⁵Suhendar, (2019), Investigation of Corruption Crimes and State Financial Losses in Criminal Law Optics. Pamulang Law Review, 1 (1). p 85-100.

from the philosophy of retributive (retribution), Deterrence (detention), and resocialization. Correctional Institutions according to the Ministry of Law and Human Rights of the Republic of Indonesia are technical implementation units (UPT) of corrections that accommodate, care for and foster prisoners. Meanwhile, the definition of Correctional Institutions according to the Indonesian Language Dictionary is an institution is an organization or body that conducts an investigation or carries out an effort. And corrections is a name that covers all activities that are entirely under the leadership and ownership of the Department of Law and Human Rights, which are related to assistance or demands for sentences/former prisoners, including former defendants or those who have been brought to court in criminal acts and declared to have been involved, to return to society.⁶

The Correctional Institution wants to create prisoners who have skills after leaving the Correctional Institution. The goal is that after released from the Correctional Institution, prisoners can live their lives and be accepted in the midst of society with the hope of not committing criminal acts. Efforts are carried out in addition to being a constitutional mandate⁷, is also a conscious effort made earnestly in helping prisoners to rediscover the importance of living in harmony and peace in society, nation and state.

3.2. The Correctional Institution System Provides Integration Rights to Prisoners

The prison system that only emphasizes the elements of retaliation and deterrence greatly influences the implementation of prison sentences. In life imprisonment, if the prison system is still in effect, then throughout his life the prisoner has the potential to experience inhumane treatment that harms his dignity and honor as a human being. Meanwhile, in prison sentences for a certain period of time, the implementation of the prison system has a major influence on the future of prisoners and society. This is because the nature of prison sentences for a certain period of time is temporary, meaning that prisoners will return to live in the midst of society when their sentence ends, without any guidance and improvement (rehabilitation) in the prison system, it is feared that prisoners will take revenge or repeat crimes that are worse than before.

Until now, Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates has changed 2 (two) times. The first change was ratified by Government Regulation Number 28 of 2006, while the second change was ratified by Government Regulation Number 99 of 2012. The changes to these government

⁶Hendra Fitrianto, (2016). Patterns of Prisoner Empowerment, *Equilibrium Journal*, III (2) November, p 244

⁷Ayom Prayoga, et al. (2023), The Role of Correctional Institutions in the Criminal Justice System in the Guidance Process as the Final Goal of Punishment, *Journal of Education and Counseling*, 5 (1), p 5990

regulations indicate that efforts to protect the rights of prisoners continue to develop. These changes aim to improve the correctional system so that it continues to respect human dignity.

Although the protection of prisoners' rights through legislation has shown improvement, the reality in the field has not been fully realized. Several factors such as the number of prisoners exceeding prison capacity (overcrowded), limited facilities and infrastructure, and inadequate competence of correctional officers have caused the implementation of the fulfillment of prisoners' rights to be less than optimal. The classical view that prisoners are someone who deserves to suffer has become an obsession in society that consciously or unconsciously also hinders the fulfillment of rights for prisoners.

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Furthermore, the right to integration is the granting of conditional release, leave before release and conditional leave for prisoners who commit crimes other than terrorism, narcotics and psychotropic precursors, corruption, crimes against state security and serious human rights crimes, as well as transnational organized crime, or foreign nationals.

Prisoners are convicts who are serving a sentence of loss of liberty in a Correctional Institution (LAPAS). Prisoners are not only objects but also subjects who are no different from other humans who can at any time make mistakes and errors that can be subject to criminal penalties, so they do not have to be eradicated. What must be eradicated are the factors that can cause a person to be subject to criminal penalties. Criminalization is an effort to make prisoners aware so that they regret their actions, and return them to being good citizens, obedient to the law, upholding moral, social and religious values, so that a safe, orderly and peaceful community life is achieved.⁸

Based on the principles for the protection of all persons under any form of detection or imprisonment (Body of principales of the protection of All persons under any form of detection or imprisonment) issued by the UN General Assembly on 9 December 1988 with resolution 43/173, there should be no restrictions and violations of any human rights of persons under detention, arrest or imprisonment

⁸Situmorang, Victorio H., R. Ham, and JHRS Kav. (2019), Correctional Institutions as Part of Law Enforcement. Scientific Journal of Legal Policy. 13 (1), p 85.

must be treated in a manner that is decent and respectful of their dignity as a human being.⁹

The Correctional System as a system of treatment for Prisoners, Children, and Inmates is implemented through the Correctional function which includes Services, Guidance, Community Guidance, Care, Security, and Observation by upholding respect, protection, and fulfillment of human rights. This is in accordance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment as ratified by Law Number 5 of 1998 concerning the Ratification of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

Thus, Corrections are no longer only at the final stage of the criminal justice system but have been working since the beginning of the criminal justice process. This Law was formed to strengthen the Corrections System in Indonesia which with Law Number 12 of 1995 concerning Corrections has adopted the concept of social reintegration as a substitute for the concept of retribution and deterrence. This Law, in addition to strengthening the concept of social reintegration, also strengthens the concept of restorative justice adopted in the Juvenile Criminal Justice System and the renewal of Indonesian national criminal law.

This law is an improvement on the material contained in Law Number 12 of 1995 concerning Corrections, including:

- a. Correctional services are the final stage of the criminal justice system which carries out development activities for correctional inmates;
- b. the scope of the implementation of correctional duties only includes the implementation of guidance and mentoring for correctional inmates;
- c. there are no regulations regarding prison services;
- d. provisions regarding the provision of guidance and mentoring for correctional inmates are still very general and there is no mechanism for providing more targeted programs;
- e. provisions regarding the implementation of services and guidance for children have not yet been adjusted to changes in regulations regarding the juvenile criminal justice system;
- f. regulations regarding the implementation of security in correctional institutions and health care for prisoners have not been clearly regulated;

⁹Elly Rosana, (2016), Democratic State and Human Rights. Tapis Journal: Journal of Islamic Political Aspiration Observation, 12(1). p 37-53

g. cooperation carried out by related government agencies, other community bodies or individuals is carried out only in relation to the implementation of coaching;

h. protection for correctional officers in carrying out their duties and responsibilities has not been regulated; and regulations regarding facilities and infrastructure are only related to the provision of clothing and official housing and there has been no use and development of information technology as a supporting facility for the implementation of correctional duties.

As an improvement to the previous Law, new material added to this Law includes:

a. strengthening the position of Corrections in the integrated criminal justice system which enforces the law in the field of treatment of Prisoners, Children and Inmates;

b. expanding the scope of the objectives of the Correctional System not only to improve the quality of Prisoners and Children in their Care but also to provide guarantees of protection for the rights of Prisoners and Children;

c. the renewal of principles in the implementation of the Correctional System is based on the principles of protection, non-discrimination, humanity, mutual cooperation, independence, proportionality, loss of freedom as the only suffering, and professionalism;

d. regulations regarding Correctional functions which include Services, Guidance, Community Guidance, Care, Security and Observation;

e. affirmation of regulations regarding the rights and obligations of prisoners, children and inmates;

f. regulations regarding the implementation and provision of Community Service, Guidance, and Guidance programs, as well as the implementation of Care, Security and Observation;

g. regulations regarding support for intelligence activities in the implementation of Security and Surveillance functions;

h. regulations regarding the code of ethics and code of conduct for Correctional Officers and guarantees of protection of the rights of Correctional Officers to receive security protection and legal assistance in carrying out their duties and functions;

i. regulations regarding the obligation to provide facilities and infrastructure in the implementation of the Correctional System including the Correctional Information Technology system;

- j. regulations regarding supervision of the implementation of Correctional functions; and
- k. regulations regarding cooperation and community participation carried out in the context of organizing the Correctional System.

Regarding the rights of prisoners, they have been legally constructed, namely in the provisions of Article 9 of Law Number 22 of 2022 concerning Corrections, which reads:

Prisoners have the right to (a) practice their religion or beliefs; (b) receive treatment, both physical and spiritual; 9c) receive education, teaching, and recreational activities as well as opportunities to develop potential; (d) receive health services and adequate food according to nutritional needs; (e) receive information services; (f) receive legal counseling and legal assistance; (g) submit complaints and/or grievances; (h) receive reading materials and follow mass media broadcasts that are not prohibited; (i) receive humane treatment and protection from acts of torture, exploitation, neglect, violence, and all acts that endanger physical and mental health; (j) receive guarantees of work safety, wages, or work bonus; (k) receive social services; and (l) accept or reject visits from family, advocates, companions, and the community.

Regarding the rights of prisoners, they have been legally constructed, namely in the provisions of Article 9 and also regulated in the provisions of Article 10 of Law Number 22 of 2022 concerning Corrections, which reads:

Prisoners have the right to:

(1) In addition to the rights referred to in Article 9, prisoners who have fulfilled certain requirements without exception are also entitled to:

- a. remission;
- b. assimilation;
- c. leave to visit or be visited by family;
- d. conditional leave;
- e. leave before release;
- f. conditional release; and
- g. other rights in accordance with the provisions of laws and regulations.

(2) Certain requirements as referred to in paragraph (1) include:

- a. well behaved;
- b. actively participate in the coaching program; And
- c. has shown a reduction in risk levels.

(3) In addition to fulfilling certain requirements as referred to in paragraph (2), prisoners who will be given leave before release or conditional release as referred to in paragraph (1) letters e and f must also have served a minimum sentence of 213 (two thirds) with the provision that 2/3 (two thirds) of the sentence is at least 9 (nine) months.

(4) The granting of rights as referred to in paragraph (1) does not apply to prisoners sentenced to life imprisonment and those sentenced to death.

Fulfillment of Integration Rights is essentially a stage in the process of implementing imprisonment and rehabilitating lawbreakers based on the correctional system. The stages in question are a series of law enforcement as an effort to combat crime and rehabilitate lawbreakers in the criminal justice system. One very important aspect related to the fulfillment of assimilation and integration rights is that in fact, the management function and administration system for rehabilitating prisoners needs to be implemented optimally by optimizing the improvement of technical skills of correctional officers, improving the moral integrity of human resources, improving discipline, improving the bureaucratic system, the judicial administration system, strengthening leadership commitment, solving overcapacity problems, improving supervision, and increasing community participation, as well as improving the quality of facilities and infrastructure.

4. Conclusion

Regarding the rights of prisoners, they have been legally constructed, namely in the provisions of Article 9 which are also regulated in the provisions of Article 10 of Law Number 22 of 2022 concerning Corrections, which reads: Prisoners have the right: In addition to the rights as referred to in Article 9, prisoners who have met certain requirements without exception are also entitled to (a) remission; (b) assimilation; (c) leave to visit or be visited by family; (d) conditional leave; (e) leave before release; (f) conditional release; and (g) other rights in accordance with the provisions of laws and regulations.

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