

The Impact of Overcapacity on Fulfilling The Basic Rights of The Assisted Citizen in Prison in The Perspective of Human Right

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Abstract- Prison is actually a place for people who have obtained a fixed decision from the Judge, with the aim of providing guidance to criminal offenders to realize their mistakes, improve themselves, and cause deterrent effects, so that they do not commit criminal offenses and can fulfill their life needs. But the reality of prisoners in prisons is not only by prisoners, but also by detainees, people who are still undergoing a trial process. This then causes over-capacity in prisons, so that the impact on the fulfillment of prisoners' rights becomes unfulfilled as it should be received, especially in terms of fulfilling the basic rights of prisoners. This situation not only causes various problems, but human rights violations can also occur. On that basis, the problems that will be examined are what is the impact of over-capacity to fulfill the basic rights of prisoners in prison and how alternative solutions that can be done in minimizing the problem of over-capacity in prisons. The method used to answer the problems mentioned above is normative juridical research by conducting library research and empirical juridical research by conducting field research in prison in Class II Magelang. The data used in this study consisted of primary data obtained through interviews with field visits and secondary data taken from books, legislation, similar research results published in scientific journals and other literature. The entire data that has been obtained is then analyzed qualitatively. This research is expected to obtain results in the form of conclusions, about the impact of over-capacity in prisons not only due to the high level of crime, but also the application of policies to perpetrators of crimes in the fulfillment of basic rights, and will find alternative solutions in overcoming the occurrence of overcapacity in imprisonment by applying criminal sanctions against perpetrators in the form of criminal sanctions is not only aimed at penal sanctions, but also other criminal sanctions such as non-reasoning, criminal supervision, criminal penalties, social work crimes, and conditional free granting programs that can be carried out by applying the concept of diversion and restorative justice by paying attention to basic rights according to the concept of human rights. Thus, the problem of overcapacity in prisons will be overcome, and the criminal proceedings continue to run as they should.

Keywords: *Prisons; Over Capacity; Basic rights of prisoners; alternative Criminal solutions.*

I. INTRODUCTION

Philosophy of correctional is a system of punishment that has far moved to abandon the retributive philosophy, deterrence and also re-socialization. In other words, punishment is not intended to make suffering a form of retaliation, it is not intended to deter suffering, and also does not assume the convict is someone who lacks socialization. Correctionalism is in line with the philosophical social reintegration that assumes crime is the conflict that occurs between convicts and the community. So that punishment is intended to restore conflict or also reunite convicts with their communities or reintegration.

Correctional institutions are institutions of the criminal justice sub-system having a strategic function as the implementation of imprisonment and at the same time as a place for fostering prisoners as mandated in Law Number 12 of 1995 concerning correctional facilities [1]. The implementation of the rights of prisoners is regulated in Law Number 12 of 1995 concerning Penitentiary and this is based on Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of Correctional Citizens' Rights, Government Regulation No. 28 of 2006 concerning Amendments to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of Correctional Citizens' Rights, Government Regulation No. 99 of 2012 concerning the Second Amendment to Government Regulation No. 32 of 1999 concerning Terms and Procedures for the Implementation of Correctional Rights for Prisoners.

According to Law Number 12 Year 1995 Correctional prisoners are prisoners, correctional students and correctional clients. The treatment of prisoners with a correctional guidance system in addition to preventing the repetition of crime and protection of the community, also seeks to integrate correctional prisoners in dynamic community life. The density of occupancy rate of detention or prison prevents detention or prison in carrying out the function of service or guidance.

Correctional institutions are charged with the task of realizing the objectives of the criminal justice system, namely short-term goals and long-term goals [2]. Most

of the Penitentiary Institutions in Indonesia experience Over Capacity or exceed the capacity of residents of both prisoners and detainees which will affect the level of supervision, accuracy and vigilance of prison officials.

II. METHOD

The research method used is normative juridical research by conducting library research and empirical juridical research by conducting field research at the Class II Correctional Institution in Magelang. The data used in this study consisted of primary data obtained through interviews with field visits and secondary data taken from books, legislation, similar research results published in scientific journals and other literature. The entire data that has been obtained is then analyzed qualitatively.

III. RESULTS AND DISCUSSIONS

A. *Impact of Over Capacity on fulfilling the basic rights of the assisted citizens at the Penitentiary*

The country of Indonesia as a legal state, so that in carrying out all life of the state must be in accordance with the rules of the law that apply to the creation of law in the community. This is in accordance with the term Indonesia is the rule of law (Rechstaat) based on Pancasila [3]. Mochtar Kusumaatmadja, said that law as a means of renewing society, serves as a channel for human activities in the direction of the desired development [4]. Whereas the legal state according to Bagir Manan, is a type of state that is commonly owned by nations in the world today. The rule of law leaves the type of state that governs according to the wishes of the ruler. Since this change, the state has been governed by a law that has been made and provided before and the authorities are subject to the law [5].

Legal policy in the renewal of the penal system has been carried out by making law number 12 of 1995 concerning Correctional Services which treats prisoners more humanely. This is the basis for consideration of the correctional system which aims to prepare prisoners to be able to interact in a healthy and responsible manner in the community. Several other problems are also faced by prisons today, namely the excess number of prisoners compared to inadequate space capacity or overcrowded. The data obtained shows that one of the things that have not been fulfilled the basic rights of each prisoner is the lack of capacity from prison to provide appropriate places and facilities for prisoners due to the number of prisoners who have far exceeded their existing capacity [6]. This happened in several prisons in Indonesia, including; at the Class IIA Correctional Institution in Magelang, where the capacity of the room is for 221 (two hundred twenty one) people, but it is filled by 559 (five hundred fifty nine) people; in Cipinang Class 1 prison 3,802 with a capacity of 880, Salemba Prison was occupied in 1582 with a capacity of 572.

Excess capacity that is not comparable with area and occupancy will have a very fast effect on prisoners and prisoners contracting infectious diseases. On the other hand, poor sanitation conditions will accelerate

unhealthy environmental processes [7]. Excess capacity that is not comparable with area and occupancy will have a very fast effect on prisoners and prisoners contracting infectious diseases. On the other hand, poor sanitation conditions will accelerate unhealthy environmental processes.

Lidya Suryani Widayati said that overcrowded had an effect on the state budget because the cost of eating residents had increased. The training facilities that had previously been very minimal became increasingly minimal, because the funds were concentrated to cope with eating inmates. As a result of continuing, inmate services and security are not optimal. Other impacts arising from overcrowded conditions include the emergence of cases of sexual abuse, health problems and violence. This leads to a coaching process that actually triggers recidive problems or labeling problems or stigmatization for a former prisoner. Some research results conclude that prisons are not considered as an ideal institution for fostering an inmate. Some classic prison problems that record many studies usually include overcrowded problems which lead to other problems, namely funding problems and guidance / rehabilitation problems [8].

Penitentiary success of prisoners is inseparable from the facilities available. In this case the means in question must also refer to the Minimum Standards Rules for the Treatment of Prisoner, 31 July 1957. What is that? Bedrooms or ventilated rooms, water and room lighting. Clean and healthy food, health facilities such as hospitals, sports facilities. All of that is to support the course of coaching. Therefore, the availability of this facility is one measure of correctional facilities [9].

Government policy in providing health services to the people who are in correctional facilities and state detention centers, as stipulated in Article 14 paragraph (1) letter d of Law Number 12 of 1995 concerning Correctional Services, states that prisoners are entitled to proper health and food services. The article above, is then operationalized into the Regulation of the Minister of Justice of the Republic of Indonesia Number: M.04-UM.01.06 of 1983 concerning Procedures for Placement, Care of Prisoners and Rules of Conduct of State Detention Houses. Article 8 Paragraph (1) Every prisoner has the right to obtain proper health care; paragraph (2) Health care in the State Detention House (RUTAN) is carried out by doctors of the State Detention House (RUTAN) which is in charge of maintaining and caring for the health of prisoners; paragraph (3) For health care purposes, the Head of the State Detention House (RUTAN) can collaborate with the local health office or the nearest hospital. Except for severely ill and mentally ill prisoners, it can be done in a hospital outside the RUTAN (see Article 9 paragraphs (1) and (2)).

B. *Solutions that can be done in minimizing the problem of over capacity in prisons*

As legal developments follow every human need [10]. Genoveva Alicia, an Institute for Criminal Justice Reform (ICJR) researcher at a press conference in Jakarta, Wednesday (2/27), said that based on data

from the Director General of Correctional Services as of January 2019, the number of prisoners and prison prisoners had reached 203 percent of existing capacity. This is because the large percentage of use of prisons in legislation and imposition of imprisonment are not balanced with sufficient facilities and infrastructure. He added that imprisonment is a criminal threat in many laws and regulations.

Basically there are three (3) points of thought about the objectives to be achieved by the existence of a punishment, namely: 1) To improve the person of the criminal himself; 2) To make people deterrent to committing crimes; 3) To make certain criminals become incapable of committing crimes which in other ways cannot be repaired again [11]. Overcrowded prisons have a negative impact, including swelling food budgets for inmates.

The cost of translucent prisoners' meals is Rp. 1 trillion. All food and living expenses of prisoners are borne by the people's taxes. The money is collected through the state budget and disbursed to cover 200 thousands of prisoners. One prisoner was given an average ration of Rp. 15 thousand/day. The total 2018 State Budget allocated to feed them is Rp 1.391 trillion. The process in guiding prisoners and carried out through four stages, namely the stage of maximum security, the medium security stage, the minimum security stage and the integration stage. In the criminal philosophy it has 2 (two) functions, including: fundamental functions and theoretical functions [12].

The change in treatment of prisoners from the prison system to the correctional system with a concept and approach to development (treatment approach) provides protection and enforcement of the rights of prisoners in carrying out their crimes. Correctional system is a more humane and normative treatment system for prisoners based on Pancasila and is rehabilitative, corrective, educative, and integrative characterized [13]. Criminalization is intended to fulfill conflict or reunite convicts with society (reintegration) about social reintegration that has been regulated in Article 2 of Law Number 12 Year 1995 concerning Corrections. To achieve the goal of coaching, it must be supported by the implementation / application of the law [14].

Indonesia embraces the principle and the concept of Pancasila contained in the preamble of the Constitution of 1945. [15] One that needs to be done is justice that has some characteristics with the concept of restorative justice eg criminal acts to be understood in the overall context, moral, social and economic and stigma can be removed through restorative actions. [16]

The emergence of various crimes in a new dimension recently showed growing crime in accordance with the development of society. [17] The solution is to apply criminal sanctions against perpetrators in the form of criminal sanctions not only aimed at penal and non-criminal sanctions but can apply other criminal sanctions such as non-reasoning, criminal supervision, criminal penalties, social work crimes, and parole giving programs that can be done with the

application of the concept of diversion and restorative justice by paying attention to basic rights according to the concept of human rights. Problematic law enforcement in Indonesia is a way of thinking that is very perspectives legislation [18].

IV. CONCLUSION

The negative impact of the capacity of residents of correctional institutions on the fulfillment of the basic rights of the prisoners includes health problems, security issues, prisoners and prisoners contracted by infectious diseases, problems of violence and swelling of food budgets for prisoners. The impact of overcapacity in prisons is not only due to the high level of crime, but also to the implementation of policies against perpetrators of crimes in terms of fulfilling basic rights. Alternative solutions in overcoming the occurrence of overcapacity in Correctional Institutions by applying criminal sanctions against perpetrators in the form of criminal sanctions are not only aimed at penal sanctions, but can also be applied to other criminal sanctions such as non-reasoning, criminal supervision, criminal fines, criminal social work, and programs giving parole, which can be done by applying the concept of diversion and restorative justice by paying attention to basic rights in accordance with the concept of human rights. Thus the problem of overcapacity at the Penitentiary Institution will be resolved, and the criminal proceedings continue to run as they should.

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