

Factors that Cause Prisons in Indonesia to Fail to Achieve the Goals of Punishment

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Abstract- This research analyzes the factors cause prisons in Indonesia fail to achieve the goals of punishment existing regulations. The normative legal research is used with legislative and conceptual approach. Primary, secondary, and tertiary legal materials are used in this research. The results of the research conclude that in order to achieve the goals of punishment, it needs support from the law enforcement. The factors that influence the effectiveness of law enforcement are law factor, law enforcer factor, facility factor, society factor, and cultural factor. The five factors are interrelated with the success of the inmates' coaching.

Keywords- Cause, Fail To Achieve, Punishment, Prison

I. INTRODUCTION

The national law keeps on improving for the sake of Indonesian citizens' life. The improvements include those of legal rules issue of punishment system and inmates' coaching. Related to punishment and coaching, there exist Human Rights which are implemented from the values of Pancasila as the philosophical thought and foundation of life for the nation and state. The Human Rights have to reflect the noble values of Indonesian people which are formulated in the five sila (principles) of Pancasila as a unity [1]. The principles of human rights warranty, recognition, and protection are also reflected in the preamble of the 1945 Constitution of The Republic of Indonesia. The just and civilized humanity (*kemanusiaan yang adil dan beradab*) is stated in the preamble of the 1945 Constitution, which means that human rights have become a fundamental state principle. The human rights recognition in this fundamental law is also followed by legislations under the 1945 Constitution, of which is Act Number 12 of 1995 on Correctional Service [2].

Inmates are imprisoned members of the society which cannot be separated from their essence as human beings who must work to fulfill their livelihoods. Thus, the work has a very strategic value in coaching inmates. The work activities in prison should be a simultaneous activity, so that in addition to being treatment oriented, the work activities in prison should also be profit oriented as a consequence of a productive activity [3]. With such orientation, the coaching activities conducted in prisons are sought to encourage a conducive atmosphere as much as possible as well as giving opportunities to inmates to develop their potential, which is manifested in the form of productive work activities that are in accordance with inmates' talents, educational background, skills, and expertise. The independence development program is an

effort used in Act Number 12 of 1995 on Correctional Service, in which the output is that every inmate has the ability and skills that can be used as to return to live in a free and well-responsible society [4].

The coaching for inmates should be beneficial, for they have the same opportunity as the community members in general to contribute actively and productively in nation building, during and after their imprisonment time. In order actualize it, there are factors needed to be eradicated so that the inmates will not do things that are contrary to law, moral, religion, or other social obligations that can be subjected to crime [5]. Therefore, the harmony and balance of relations between officers, prisoners and the community is a prerequisite for achieving the goal of the correctional system in Indonesia in efforts to prevent and eradicate crime. A process is needed to do an effort to prevent and eradicate crime. The process of "building an independent human being" is a depiction or the ultimate goal of social system in Indonesia [6].

The correctional system intends to restore inmates as good citizens, protect the public from the possibility of repeated crime, the application of the values contained in the principles of Pancasila becomes an inseparable part of the process development, so that a sanction can achieve the goals of punishment. This statement is relevant to the reality in the prisons today, that what is intended in the Act on Correctional Service is a mere ideal expectation. However, many facts show the opposite illustration. The poor management of prisons in Indonesia can be observed from the complex problems that occur in prisons. From the description above, this article will discuss the following issue: what are the factors that cause prisons in Indonesia fail to achieve the goals of punishment?

II. RESEARCH METHOD

Normative legal research method is used in this research. Therefore, this research is included in prescriptive descriptive legal research with the aim of finding the solution of the problem [7]. Primary and secondary legal materials which have been collected related to the research are compiled descriptively on legal norms in regulations that govern the coaching in prisons in Indonesia.

III. FINDINGS AND DISCUSSION

Punishment intends to restore a criminal to a better person that brings benefit to the community, as well as to fix the balance and harmony in society. The punishment imposed to an inmate is not only considered as a mere recompense for his malign act or deterrent effect, but there is a certain purpose to rehabilitate his behavior and reintegrate him with the society [8].

The coaching for inmates should be beneficial, so that they have the same opportunity as the community members in general to contribute actively and productively in nation building, during and after their imprisonment time. Support from the law enforcement is needed to achieve the goals of coaching. According to Soerjono Soekanto, there are 5 factors that influence the effectiveness of a law enforcement, they are: 1.) Law factor, 2.) Law enforcer factor, 3.) Facility factor, 4.) Society factor, 5.) Cultural factor [9]. The five factors are interrelated with the success of the inmates' coaching. Those factors are the parameters of why prisons in Indonesia still cannot achieve the goals of punishment.

Law factor. Sometimes there is a conflict between legal certainty and justice in the application of law enforcement, this is due to the abstract conception of justice, whereas legal certainty is a normative procedure. So, the obscurity of the rule of law or legislations cause ineffectiveness occurs at the implementation stage. The regulation of the goals of correctional system is mentioned in Article 2 Act Number 12 of 1995 on Correctional Service [10]: "Correctional system is held in order to form a community of correctional institution to become a whole human being, aware of their mistakes, atone themselves, not repeating their crime so that they can be accepted again by the society, and being able to live normally as good and responsible citizens." As mentioned by Act Number 12 of 1995 on Correctional Service, inmates have the rights that must be given during the coaching process in the prison.

Article 14 paragraph (1) and (2) stated that [11]: (1) Inmates have the right to: a. do worship according to their religion or belief; b. get treatments, both spiritual and physical; c. get education and teaching; d. get proper health and food services; e. state complaints; f. get reading materials and updates from non-forbidden mass media; g. get salary or premium for the work done; h. get visits from families, legal counsel, or other certain people; i. get a reduction in criminal terms (remission); j. get the opportunity to assimilate including a leave to visit family; k. get parole; l. get a leave before their release; and m. obtain other rights in accordance with applicable laws and regulations. (2) Provisions regarding the conditions and procedures for implementing inmates' rights as referred to in paragraph (1) shall be further regulated by Government Regulation. Based on the articles mentioned above, the law enforcement basically aims to make inmates aware of their mistakes, atone, not repeating their crime so that

they can be accepted again by the society, being able to involve actively in the development of society, and being able to live normally as good and responsible citizens.

In order to apply the law, the prison does not only carry out punishment so that someone loses his independence, but also to return those inmates into the community. To implement the rights of the inmates, the coaching process in the prison should consider [12]: 1. Pattern and layout of the building; 2. Quality and quantity of officers; 3. Prison Management; 4. Welfare of the Officers; 5. Coaching Facilities / Facilities; 6. Budget; 7. Natural resources; 8. Quality of Coaching Program. b). Regulations on the coaching program for inmates are mentioned in Government Regulation Number 31 of 1999 on Coaching and Guidance of The Rights of Inmates [13], the regulations are as follows: (1) Coaching and mentoring programs include personality guidance and coaching and independence activities. (2) Coaching programs are intended for prisoners and correctional institution students. Furthermore, article 3 regulates that [14]: Personality coaching and guidance and independence activities as referred to in Article 2 cover matters relating to: a. Devotion to God Almighty; b. Awareness of nation and state life; c. Intellectual; d. Attitude and behavior; e. Physical and spiritual health f. Legal awareness; g. Healthy reintegration with the community; h. Job skills; and i. Work and production training.

Regulations regarding cooperation between prisons and third parties in conducting inmates coaching are arranged in Article 14 Regulation of The Minister of Law and Human Rights of The Republic of Indonesia Number M.2 PK.4-10 of 2007 on terms and procedures for carrying out assimilation, parole, leave before release and conditional leave, which reads as follows [15]: In terms of the implementation of assimilation, a cooperation between the prison and third parties is needed, the cooperation must be based on an agreement made between the Head of the Prison and the Third Party that gives work to inmates. No matter what, inmates are humans who still have potential that can be developed positively, in which they will be able to be more productive and to live better than before doing a crime.

As a matter of fact, a coaching process cannot work effectively because of the conditions of the prison are no longer healthy, in addition, the output is not in line with the expectations of coaching itself. Based on the formulation in the legislation, government regulations, and ministerial regulations regarding the participation of third parties in inmates coaching, making it difficult for correctional officers to carry out coaching, especially their participation in independence programs. The independence program in prisons is currently carried out only in a free time and it is due to the inability of correctional officers to carry out independence development program. This is resulted from the lack of expertise of prison offers to carry out coaching, thus

showing that in the formulation of the regulation there are no provisions that regulate explicitly about the law regarding coaching in prisons that results in the ineffectiveness of the goals of punishment.

Law Enforcer Factor. The inability of law enforcers to carry out inmate coaching leads to ineffectiveness or failure in achieving the goals of punishment. In terms of the functioning of the law, the mentality or personality of law enforcers plays an important role. If the regulations are good but the quality of the officers is not good, it will cause problems. One of the keys to successful law enforcement is the law enforcers' mentality or personality, especially regarding the implementation of the correctional system. The application of correctional system consists of interactive process between the inmates, officers, and society, which is supported by proper coaching program to achieving its goals. This is closely related to the functions and tasks of correctional officers, that is being able to actively mobilize, coordinate, and direct all elements of the existing resources in the efforts of inmates social reintegration. However, the current correctional officers cannot optimally support the implementation of correctional system.

Article 8 Act Number 12 of 1995 on Correctional Service mentioned [16]: "Correctional officers are law enforcement functional officials who carry out tasks in the areas of guidance, security, and guidance for inmates' coaching". Article 4 paragraph (2) Regulation of The Minister of Law and Human Rights of The Republic of Indonesia Number M. 01 PK. 04. 10 of 2007 on Correctional Officers stated [17]: The requisites of becoming Correctional Officers are: a. Civil servants having a minimum education of Senior High School or equivalent; b. Healthy, both physically and mentally; c. Have the experience of working in a Correctional environment for at least 5 (five) years; and D. Not undergoing a disciplinary sentence. The requisites above show that the quality and quantity of the officers are still low if seen from the special tasks that are charged to the Correctional Officers. Therefore, it is necessary to add a rule that requires the correctional officers to have a license/certificate before they are allowed to carry out the task. This certificate contains the meaning that the Correctional Officer is an officer who has been specifically educated to improve the skills taught to inmates. The problems of coaching in prison indicate that the leadership of prison organization influences the success of inmates coaching. In addition, the number of inmates that exceeds the prison capacity may cause the coaching to be ineffective.

The absence of supervision in prison coaching makes the implementation of coaching to loosen. Furthermore, the lack of correctional officers has become a problem in inmates coaching [18]. It is concluded that the current correctional officers still have some shortage, such as: a. The quality and quantity of the officers are lacking if seen from specific tasks assigned to them; b. Uneven level of

quality of the correctional officers, especially for those who carry out tasks in prison; c. The lack of experts, such as doctors, psychologists, psychiatrists, sociologists and instructors in certain field of skills; d. The low welfare level of correctional officers. Such conditions may indirectly influence or obstruct the performance of correctional officers.

Furthermore, the problem of overcapacity leads to the ineffectiveness of the supervision conducted by correctional officers, thus resulting in the failure of achieving the goals of punishment. This causes a lot of deviation in prisons, for example: discrimination, smuggle of prohibited stuffs, inmates escape and rebellion [19]. The efforts to empower inmates through work skills development program should be improved. It is due to the facts that exist in many prisons, such as: a. Coaching implementation still shows a tendency towards orientation with the policy implementations that focus on security approaches; b. The works given to prisoners have not been adjusted to their talents, educational background and expertise so that there is no clear pattern regarding the work of prisoners; c. There is no clear division of the types of work, both in the category of skills and productive work. Law enforcer factor greatly influences the effectiveness of inmates coaching in prisons. The cases mentioned above show that besides the problem of overcapacity, the ineffective inmates coaching are also caused by the indiscipline attitude/the ability of law enforcers, especially regarding the correctional officers that conduct supervision and coaching within the prison.

Facility Factor. The standard prison facilities are set in Article 14 Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number: M.01.PL.01.01 of 2003 on The Pattern of Building of Prison Technical Implementation Unit [20]. The article mentions the standard building blocks for inmates, block arrangement, open area, land, trellis and block doors, and also the width of the stairs of each block. In addition, it also regulates the standard for inmate rooms, recreation room, and a multi-purpose hall consisting of coaching place, counseling place, and a place for other activities.

The regulation indicates that the standards of detention and coaching for prison inmates have been arranged. However, there have been several criticisms of prison in treating prisoners, such as the death of inmates inside the prison. Most of the inmates who died are suffering from illness before entering the prison, and it gets worse in the prison due to the lack of treatment, nutrition, poor sanitation within the prison, as well as overcapacity of the prison. The lack of supporting facilities may lead to ineffective coaching.

Society factor. The purpose of correctional system is to give coaching and guidance to the inmates. Article 1 paragraph (2) Act Number 12 of 1995 on Correctional Service stated, "Correctional system is a set of order regarding direction and limits and the way to guide

inmates according to Pancasila and it is carried out in an integrated manner between the officers, inmates, and society in order to improve the quality of the inmates so they can be aware of their mistakes, atone themselves, not repeating their crime so that they can be accepted again by the society, actively involved in society development, and being able to live normally as good and responsible citizens” [21].

Active participation from the society is one of the absolute components for interactive activities between inmates, officers, and the society. However, the reality shows a lack of society participation. It may be due to the fact that some members of the society still cannot accept the inmates to be returned into the society. Such thing leads to the failure to achieve the goals of punishment, that is to return the inmates into the society [22]. Without the participation of the society, the goals of correctional system to reintegrate inmates to the society will be hard to achieve, even though the quality of coaching programs within the prison is good. Because of that, a good cooperation between prisons and the society is needed to conduct inmates coaching [23, [24].

Cultural Factor. Correctional system is a series of law enforcement intended to make inmates aware of their mistakes, atone themselves, not repeating their crime so that they can be accepted again by the society, and being able to live normally as good and responsible citizens [25]. The society should accept former inmates and not isolating them. Thus, the negative stigma that is usually attached to former inmates will gradually disappear.

IV. CONCLUSION

Law factor, that is the unclear rules regarding the participation of third parties in coaching inmates in prisons, especially in independence program, makes it difficult for correctional officers difficult to do coaching; 2. Law enforcer factor, that is the correctional officers who are not educated specifically to improve the skills taught to inmates. What happens so far is that correctional officers only maintain security and order within the prison; 3. Facility factor, that is the lack of decent facilities inside the prison. This is due to the fact that prisons are not built representatively and the lacks of facilities have resulted in less optimal inmates coaching; 4. Society factor, that is the lack of society participation in terms of inmates coaching that resulted from the lack of society awareness of inmates; 5. Cultural factor, that is the negative stigma attached to former inmates that causes most of them to find difficulties to reintegrate into society.

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