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Governance of Correctional Systems in Indonesia

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***Abstract*—The Indonesian correctional system currently could be traced back to decades ago, where previously it used a prison system. The governance of the system in Indonesia can be divided into three different periods as the kingdoms, the Dutch Occupation and Indonesia now. This paper is aimed to identify and to analyze some principles adopted, the applicable legal basis as well the function of correction system run at those eras. Based on its development, the then prison system turned into a correctional system in Indonesia has a pivotal role and can be a way to solve many problems faced by the LAPAS in the current new normal condition. The literature study was used as a method to obtain the research findings. This study based on those principles yield an explanation in how expansion on correctional system in Indonesia began with the prison system used in both of the kingdoms and the Dutch Indies turned into a correctional system in 1953. LAPAS in Kingdoms era served as a place to hold inmates who have been found verdicts before being sentenced temporarily. Meanwhile, the term of LAPAS was called as a Prison in Dutch Era has a function to provide a deterrent effect or fear for inmates. Under Indonesia now, a correctional house as we called as the LAPAS is a place to provide guidance for inmates during sentencing in jail and provide correctional facilities that could be used for prisoners to prepare prisoners to return to society after their term has ended.**

Keywords—correctional system, prison, and governance of correctional system

I. INTRODUCTION

Prison is one of several sanctions given to people who commit on criminal acts. In Indonesia, the development of prison system can be explained from different periods as old Kingdoms, the Dutch occupation, and Indonesia now. In the early days of old kingdoms, a prison have functioned as a temporary place to detent people who committed criminals as they have to await verdict from courts [1], and the form of punishment was death penalty or bodily punishment, fines and cursed that was called as "sukhaduhkha" [2].

In Kingdoms period, it had a set of legal rules made by Kings or Jurists written in *Prasasti* (inscriptions) or legal books that those can be interpreted as government announcements, decree or charters [3]. Law was formed from the process of interaction in society and based on local culture; even some are still used now. Berman [4] stated that law has a relationship with culture, and the particular on criminal law does not yet recognize unification. It means that different criminal law rules still apply in different regions or kingdoms. The great kingdoms such as Kingdom of Sriwijaya and Demak applied different criminal law rules, for instance.

The history of prison during the reign of the Dutch occupation in Indonesia was known that prison system which was used to carry out criminal law. The system used to make life unpleasant for people who have committed crimes [5]. It was preceded by the Vereenigde Oost-Indische Compagnie (VOC) as called as the Dutch Company era, there were three types of detention houses as named: (1) *Bui* whose place was limited to the city administration; (2) *Kettingkwatier* is a place for prisoners who are chained; and (3) Vrouwentuchthius is a place to accommodate Dutch women who violate decency or are referred to as "overspels" [1].

The history of imprisonment in Indonesia has its own characteristics at any periods. In the Dutch occupation era, it is known there were significant reforms in prison system governance. Governance reform is a change in organizational structure and management has an impact on better providing services [6] and was aimed to make prisons better in providing services for inmates despite that is still had an discrimination against Indonesian (*Pribumi*), as Narag and Jones [7] argued the governance reform has changed an organizational structure which it brought some improvements to the organizations itself and how person who works inside organization can perform a best quality of services particularly for the Inmates. After Indonesia Independence from occupation, it emerge a new chapter for the prison system in Indonesia, and it was worked under military. In 1963, Sahardjo introduced a correctional system in Indonesia, and *pemasyarakatan* was stated as goal of imprisonment [8].

II. RESEARCH METHODS

This study is a qualitative research by using a literature reviews and document analysis which namely a searching and summarizing some empirical literature that is appropriate and relevant in order to understand a governance of Indonesian Correctional system in different periods. Some documented

literatures from books, scientific articles from international and national journals, and documented reports (Government Reports, Correctional Annual Reports, etc.) have been analyzed.

III. Results and Discussion

This study resulted on some explanations on governance of correctional system in Indonesia based on different periods, as follows:

A. Kingdoms Periods

The prison has been functioned as a place to temporarily hold people who were subject to punishment and waiting the verdict granted. In this period, some of the forms of punishment are varied based on criminal committed, as follows:

- *Sukhaduhkha* is subject to a fine, for example, is *wakcapala*, *hastacapala*, *amuk*, *amungpang*, and *wankai kabunan*. It means an exposed corpse to morning dew. Hindu manuscript *Sarasamuccaya* explained that the action fined is due to negligence for a murder occurred at night and no people know the murdering and the corpse was exposed later to the morning dew.
- Intended to kill person as a murder was granted a severe punishment. The article of *Astadusta Kutaramanawadharmasastra* law stated the killer would obtain capital punishment. For instance, *Patih Deha* and *Lembu Sora* from Majapahit Kingdom who both of them received sentence to death penalty after killing *Kebo Anabrang* during *Ranggalawe* rebellions.
- In faith books of the Majapahit article 220 to 225 stated there is fine have been issued for people who swearing against people with a certain degree or level. Swearing or cursing is called *wakcapala* and amount of the fine will be charged depended on to person who scolds and is cursed at. For example, a nobleman cursing a *brahmana* (priest) will be fined with a two *tali* (a currency name at time), or the fine will be double in charge if a waiya (farmer) cursing a brahmana; however, if a *Shudra* (lowest class at the society) cursing a brahmana is not only enforce to pay fine but also he will be sentenced to death. Other criminal acts are subject to pay fine is a fights cause people die as it called *hastacapala* [9].
- After granted a sentence, the prisoner who committed criminal will be locked up first in prison to await on execution of sentence either in the form of death/capital punishment or fine or curse. Then, the prisoner will be sent to *Penjara* which is a house used to lock prisoner up.

Prasasti is a legal basis used in every prison during this period. Prasasti is inscriptions that it can be interpreted as flattery or praise, and as guidelines or threats for people [10]. The evidence of this is Sriwijaya era, the Prasasti can be seen in the Telaga Batu explained a legal system is based on sanctions in the form of curse [11]. Another legal system evidence is called *Kutaramanawadharmasastra* comes from a book of Kutara and Manawa which has basic faith on Hindu Buddhist [9].

Some historical evidence in term of building house called Penjara that has been found in Kingdom of Kutai Kertanegara. The evidence indicated a shape and some materials for making a house as prison. The material used to make prisons was from wood, the Ulin wood. The Ulin wood is known to be very reliable in building houses as it has strong logs to support the building. Additional, the prison also was equipped with hinges and lock slots made from iron [12].

B. The Dutch Occupation

In 1819, the prison system in early Dutch occupation have adapted a concept that went back to the Dutch Company (VOC) era in which people who were convicted to be forced labor using chains and people who were convicted of forced labor for a fee [13]. Meanwhile, in 1854 - 70, the prison system had begun to improve, since General A.J. Swart made a policy for making a good condition of prison house with rule about order, food, clothing, health for any convicted who live in prison as well getting access on paid works inside jail for them. Watson et al. [14] stated that every convicted person have basic needs and rights as normal as other human being, however their needs is different. It means that human being have basic needs and rights despite people live in prison.

There were disputes between General A.J. Swart and General A.W. Rappard in 1816 as Rappard argued that prison condition was not sufficient for any prisoners, particular for the *Pribumi* prisoners. There were lacks of space, lighting, clear air and water. Rappard challenged the Swart policy had impacted to European prisoners being lazier as they did not do anything inside jail. As result, the implementations of Swart Policy had created injustice among the prisoners, and later were being corrected in order to gain more conducive for all prisoners [15].

However, it came to a criticism emerged from the Dutch parliament, and in 1865, Governor General Sloet van de Belle ordered Resident Rioew to study about governance of prison in Singapore as a model for improving prison services in Dutch East Indies [16]. Prison in Singapore worked on some principles included creating a kindness, trust, and involving all stakeholders to pursue and to achieve common goals [17]. Yet the results of the investigation on Singaporean prisons conducted by Resident Riouw did not immediately lead to an improvement on prison. This investigation had created some regulations namely was Staadblad 1871 Number 78 (Tucht Reglemen van 1871). This regulation was drafted by the Department of Justice, which was only founded in 1870 and assigned to prison affairs previously administered by the *Pokrol* Jenderal. This regulation instructs the convicts to be separated between: (a) Indonesian and European groups, (b) Women and Men, and (c) Severe convictions with other

convicts. Every prison must have documented records on people in prison and divide them into different sections in accordance with the degree of incarcerated. The head of prison was prohibited from entering or confining people if there is no court decision [1].

In years 1905 to 1918, there were major changes on condition of prisons. Many new prisons were built with appointed, reliable and competent employees. Recruitment of competent employees has been able to improve services for prisoners [18]. For instance in Glodog Prison, the government built a special prison as a model prison [19]. This prison is a house for prisoner convicted *Kerja Paksa* could have access to work by given them job inside prison. The regulation (Staatblad 1871 Number 78) could have created governance reform on prison system that could be able to make better services for prisoners and prison system itself [20]. Building some new prison was continued from 1905 to 1918 including central *govangenis* (central prison). The central prison usually has large capacity of up to approximately 700 inmates, then unfortunately was hard to administer due to each group of prisoners need to be treated with special treatments [16].

The prison system began to implement New Prison Reglement (Gestichten Reglement) Staatblad Number 708 on 1st January 1918, and continued to 1942. During this period, the government held special prisons for several groups of people who were imprisoned, but the government had problem to implement the policy as World War I occurred. However, the government still underwent building special prison in Jatinegara for convicted person who sentenced to life [21], and also in 1925 building prison in Tanah Tinggi for children under the age of 20 who convicted crimes.

C. After Indonesian Independence

After Indonesian Independence, it was a new chapter on prison system in Indonesia despite there was governance of the prison was under military arrangement. On 5th July 1963, Sahardjo introduced the term of *Pemasyarakatan* in prison system. In 27th 1964, correctional system was standardized as a substitute for imprisonment. By implementing correctional system, it means that the LAPAS (*Lembaga Pemasyarakatan*) has officially functioned as a place to prepare any prisoner to be able to have integration with community back after they released from jail, particularly for prisoner who did not sentence for life. Later, the implementation of the correctional system has become more stable with the promulgation of Law Number 12 of 1995. This regulation has vision to make prisoner could be assisted in good manner and have soft skills through trainings, and thus they can be accepted back by community as well being good citizens when they release. However, there are still many obstacles despite has been changed from the prison system to Correctional system or the LAPAS [22], as follows:

- The prison house is legacy from the Dutch period due to high cost in price to build a new prison as result government keeps using the old prison.
- There is lack of employees who understand about correctional system and how to work with the new system.
- High cost on Rehabilitation price for ex-prisoners who leave jail in order to be back to communities.

In spite of many barriers, Indonesian government continues to fix many problems regarding implementation of new prison system. Some efforts have been done to dealt with new system include enhancing the competence of prison's employees, facilities and infrastructure used on the prison. Under Indonesia now, a correctional house as we called as the LAPAS is a place to provide guidance for inmates during sentencing in jail and provide correctional facilities that could be used for prisoners to prepare prisoners to return to society after their term has ended.

IV. CONCLUSION

Governance of correctional system in Indonesia can be traced back on centuries ago as Indonesia had experienced different period of ruling. The periods are the kingdoms, the Dutch government and Indonesian government. Each of periods has different in how to implement the prison or correctional system. The correctional system as we call as the *Lembaga Pemasayarakatan* (LAPAS) in Kingdoms era served as a place to hold inmates who have been found verdicts before being sentenced temporarily. Meanwhile, the LAPAS was called as a Prison in Dutch occupation has a function to provide a deterrent effect or fear for inmates. Under Indonesia now, a correctional house as we called as the LAPAS is a place to provide guidance for inmates during sentencing in jail and provide correctional facilities that could be used for prisoners to prepare prisoners to return to society after their term has ended.

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