



Gender Equality in The Correctional System for Female Inmates: Studies on The Protection of Human Rights

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Abstract. Various international legal instruments have reviewed and regulated the treatment of gender-based women. Moreover, women who are involved in criminal cases and facing the law must be regulated in such a way that the content material that will be regulated in positive law still absorbs or absorbs principles that reflect the fair treatment of women. As a criminal justice subsystem that organizes law enforcement in the field of treatment of prisoners, children, and correctional assisted citizens (WBP), the Correctional institution plays a very substantial role starting from the pre-adjudication, adjudication, and post-adjudication stages. Through the Correctional System, the treatment of prisoners, children, and WBP is carried out through the Correctional function which includes service, coaching, community guidance, care, security, and observation by upholding respect, protection, and fulfillment of human rights. Imprisonment should be understood as the ultimate remedium (last resort). Moreover, the litigant is a woman who has a double burden (domestic role and reproductive function), such as breastfeeding while caring for and educating children. The problem in this paper is to identify and analyze the protection of human rights in the correctional system for female inmates who are studied based on gender equality. This study is the result of thinking with conceptual, case, and futuristic approaches, so the type of research used is normative legal research. Furthermore, the specification of this study is descriptive analytical. To get objective data, the type of data needed is secondary data. This data was taken by way of document / literature study using qualitative analysis methods. The results of the problem analysis in this paper show that there must be a structured and systematic mechanism that does not necessarily cut off the role of women as mothers in giving birth, breastfeeding, nurturing, and educating children. With the existence of Correctional Law No. 22 of 2022, the Ministry of Law and Human Rights as an extension of the government shows a responsive attitude to women's needs and the values of justice for women who face the law and serve sentences in prisons or detention centers can be implemented. This is evidenced by the accessibility of a child from a prisoner or a child of a female inmate to be taken to a prison or prison or who was born in a prison can stay with his mother for a maximum of three years old.

Keywords: Gender Equality, The Correctional System, Female Inmates, The Protection, Human Rights

1. Introduction

The Indonesian nation has the obligation to comply with the applicable laws without exception, and has human rights that have been listed in the Law. The State of Indonesia has an obligation to protect its citizens without exception. If a person resists the law or social deviations that are not in accordance with legal norms, he will be criminalized by law, and sanctioned based on the judge's decision in accordance with the applicable law. Assisted citizens who are deprived of their freedom by the state on legal grounds, are a vulnerable group in society. The possibility of them getting good treatment and a good response from the community is still difficult, there are even people who still cannot accept their existence after being exposed to a case and are considered as inmates or former inmates of the community. So it is necessary to provide understanding to the community to be able to accept their existence as assisted citizens or former assisted citizens, both male and female perpetrators.

In the context of the Indonesian constitution, gender equality is one of the important aspects reflected in the principles of Human Rights (HAM) and is the main focus in this contemporary era. However, gender stereotypes remain a significant challenge in achieving social justice and there is still a gap between constitutional principles and social realities faced by women and gender minority groups.

The fulfillment of the rights and guarantees of human rights protection of inmates in Correctional Institutions must still be fulfilled. Nothing can be reduced in the slightest. Correctional is an institution formed to foster and rehabilitate community members who have committed violations of the law and violations of values and norms in society. The correctional system in prisons by shaping inmates to become better people and correct mistakes, and providing guidance, as well as knowledge. The term "correction" is a term commonly used to refine the word, which originally "prison" changed to "correction".

The inmates are the ones who are deprived of their numbness by the state based on the law, they are very vulnerable in the community. The possibility of them receiving bad risk treatment, being interrogated by using violence to obtain confessions, torture, forcible disappearance, to accepting humane conditions of detention and that do not degrade human dignity, is very easy to befall the inmates.

As a criminal justice subsystem that organizes law enforcement in the field of treatment of prisoners, children, and correctional assisted citizens (WBP), the Correctional institution plays a very substantial role starting from the pre-adjudication, adjudication, and post-adjudication stages. Through the Correctional System, the treatment of prisoners, children, and WBP is carried out through the Correctional function which includes service, coaching, community guidance, care, security, and observation by upholding respect, protection, and fulfillment of human rights.

The role of correctional institutions is to shape inmates to become better people and correct mistakes, and to provide guidance, as well as knowledge. The term "correction" is a term commonly used to refine the word, which originally "prison" changed to "correction". Assisted citizens who are deprived of numbness by the state based on the law, they are very vulnerable in society. The possibility of them accepting the risk of

being mistreated, interrogated by violence to obtain confessions, tortured, forcibly disappeared, to accepting conditions in detention that are inhumane and degrading to human dignity, is very easy to befall the inmates Based on the above, the identification of the problem is based on how to protect human rights in the correctional system for female inmates who are studied based on gender equality?

2. Method

As a consequence of the selection of the topic of the problem to be studied in the research whose object is a legal problem (while law is a rule or norm that exists in society), the type of legal research used is normative legal research. Bambang Sunggono explained that normative legal research is "research that examines principles, systematics, levels of synchronization, history and comparison of law[1] or called doctrinal legal research. In normative law research, the type of data needed is secondary data.[2] This data was taken by way of document / literature study (Library Research). Literature research is a theoretical study, reference, and other scientific literature related to culture, values, and norms that develop in the social situation being studied[3]. The data obtained in the study are arranged logically and systematically. To get objective data, the type of data needed is secondary data. This data was taken by way of document / literature study using qualitative analysis methods.

3. Result And Discussion

Indonesia is a country that aspires to educate the life of the nation, and protect the entire nation[4] which is an inseparable part of the formation of the Indonesian state. The sentence of protecting the entire Indonesian nation contained in the preamble to the 1945 Constitution is an obligation for the state to continue to treat all citizens fairly, dignified, and authoritative without exception, including the inmates of the Correctional Institution which in this article is abbreviated as Prison. So that national development is carried out equally to all circles, the development in question is not only about infrastructure development but also in educating the nation's life [5]. One of the elements of society that needs to get the attention of the government is the inmates who are fostered in prisons.

Every individual in a country, especially Indonesia, all get the same treatment in the law regardless of age and gender with other names as the principle of equality before the law and every individual has the right to protection, guarantee, recognition, and certainty against the law. The statement has been regulated by Article 28D paragraph (1) which reads "every citizen has the right to fair legal recognition, guarantee, protection, and certainty as well as equal treatment before the law". This means that Indonesia in all fields in this country must be based on law and everything related to legal products, namely legislation.

Likewise with the guidance obtained by the Assisted Citizens, where the Assisted Citizens have the right to receive fair guidance in the Correctional Institution. In Indonesia, the penitentiary system for inmates who undergo coaching not only provides a

deterrent effect, but in this coaching it is carried out so that they become better individuals so that they can adapt to the community environment. In addition, coaching is carried out periodically in the law enforcement process, with the aim of preventing the repetition of criminal acts. Fulfillment related to the rights of prisoners is regulated in Article 9 of Law Number 22 of 2022 concerning Correctional Services.[6]

A correctional institution or prison is a place for inmates to serve their sentences in a cell, where inmates are obliged to carry out what is called coaching. Correctional institutions have the task of carrying out coaching with the aim of fostering the system, institutions, and systematics of coaching as the last effort of the criminal system in criminal justice.[7] As a place to protect and improve the inmates, in this case it is based on the principles of coaching and protection and is included in the final stage of criminal justice that imposes a prison sentence on the convict.

3.1 Gender Studies

The issue of gender equality is still an endless issue and is still being fought. Gender in this context does not refer to biological differences between men and women. Gender emphasizes more on the differences in roles, functions and responsibilities between the roles of women and men.[8] Gender is the result of socio-cultural constructions that can change along with the times. The problem that occurs is not about the difference in roles, functions and responsibilities, but the injustice that can arise due to these differences so that it is detrimental to one of the parties (gender). [9]

Gender is a concept that identifies differences between men and women from a sociocultural perspective. Gender in this sense defines men and women from a non-biological perspective. In other words, gender is a concept that is used as the basis for the sociocultural society (social construction) influence to identify the roles of men and women as benchmarks that do not consider biological type as equal or as a means to discriminate one-sidedly based on considerations of biological, sensual or maternal traits. Men are considered strong, rational, masculine and powerful. Traits and attributes themselves are interchangeable traits. It means that there are men who are sensual, gentle, motherly, there are women who are strong, rational, powerful.

Gender issues are not only related to the gender of women or men, but are related to the process so that there is equality such as no discrimination, justice and equal rights between men and women. Although men are stronger in nature than women, so they are considered people who provide protection to women, but women can also give tenderness to men and also to children. However, this instead triggers gender inequality because women are considered weaker than men. Even though it is currently a period of women's emancipation, which means that they are free and not limited by gender stereotypes, women are still often victims of domestic violence, rape, and sexual harassment which shows gender discrimination. Even though now is the era of women's emancipation, it means that a woman can no longer be colonized, free of her rights and cannot be restricted by anything and under any circumstances.[10]

3.2 Correctional System

Prisons are institutions formed by the government to accommodate, control, and nurture inmates who are serving their prison terms. In carrying out its function as a correctional institution, it aims to achieve social justice for all Indonesian people as mandated in Pancasila,[11] by providing good service, not treating inmates arbitrarily.

Indonesia knows the term "correction" which is coaching for Correctional Assisted Citizens (WBP). According to Article 1 Paragraph 2 of Law No. 22 of 2022 concerning Correctional Services, "The Correctional System is an order that regulates the direction and boundaries as well as the method of implementing the functions of Correctional Services in an integrated manner. Correctional services are part of an integrated criminal justice system that organizes law enforcement in the field of treatment of Prisoners, Children, and Assisted Citizens in the preadjudication, adjudication, and post-adjudication stages.

The implementation of Correctional Services as part of an integrated criminal justice system is based on a system called the Correctional System which is an order regarding the direction and boundaries as well as methods of implementing Correctional functions in an integrated manner between officers, prisoners, children, assisted citizens, and the community. The Correctional System is organized in order to provide a guarantee of protection for the rights of Prisoners and Children and to improve the quality of personality and independence of the Assisted Citizens so that they are aware of their mistakes, improve themselves, and do not repeat criminal acts, so that they can be accepted back by the community, can live reasonably as good citizens, obey the law, be responsible, and can actively play a role in development and at the same time provide protection to the community from repetition of criminal acts.

The Correctional System as a system of treatment of Prisoners, Children, and Assisted Citizens is carried out through the functions of Correctional Services which include Service, Coaching, 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 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

3.3 Fostered Residents

Assisted residents are people who are considered legally guilty and serve a criminal term according to the period that has been determined in the Correctional Institution. A convicted institution is a person who has been convicted based on a court with a decision to obtain legal force. Based on Article 1 number 3 of Law Number 22 of 2022, that "Assisted Citizens are inmates, fostered children, and clients. They are part of the community group in the prison, and are given education, given good teaching, and do

positive things, and are fostered with various skills. So, they are said to be Correctional Assisted Citizens (WBP), by fostering and socializing them in Correctional Institutions, both female and male assisted citizens.

3.4 Gender Equality in The Correctional System for Female Inmates by Studies on The Protection of Human Rights

Discussing the concept of gender, the word gender is gender, sex. Gender is defined as the visible difference between men and women in terms of values and behavior. Gender is a difference between men and women culturally and emotionally, and they have the same rights. Gender equality is a common condition between men and women in obtaining their rights as human beings and being able to participate in activities that can build and develop such as education, politics, socio-culture, economics, law, values, norms, and so on.

The realization of gender equality has 4 indicators, namely: access, participation, control, and benefits. Access is an opportunity to obtain a need, and obtain fair access between men and women, as well as to use the resources available in the region. Participation is participation, the participation of a person or group in participating in an activity, and carrying out their roles as men and women. Control is the power or authority of a person in making a decision. Controls have systems, policies, and rules that must be followed and mutually agreed. Benefits are functions, uses that can be enjoyed by a person or group.

The results of the problem analysis in this paper show that there must be a structured and systematic mechanism that does not necessarily cut off the role of women as mothers in giving birth, breastfeeding, nurturing, and educating children. With the existence of Correctional Law No. 22 of 2022, the Ministry of Law and Human Rights as an extension of the government shows a responsive attitude to women's needs and the values of justice for women who face the law and serve sentences in prisons or detention centers can be implemented.

The idea of formulating the protection of minimum rights for persons deprived of their liberty by court decisions was pioneered at the international meeting of the Criminal and Prison Law Commission in Bern, Switzerland, in 1926. Until finally it comes down to the formulation of an instrument in the form of standard minimum rules or basic principles whose integration into the national legislation of each country, very much depends on the will of the country itself. Various legal instruments have studied and regulated the treatment of women based on gender. Moreover, women who are involved in criminal cases and facing the law must be regulated in such a way that the content material that will be regulated in positive law still absorbs or absorbs principles that reflect the fair treatment of women.

The rights of inmates are in accordance with Law of the Republic of Indonesia No. 22 of 2022 concerning Correctional Services Article 9, that inmates have the right to:

- a. carrying out worship in accordance with their religion or belief;

- b. receiving treatment, both physical and spiritual;
- c. obtaining education, teaching, and recreational activities as well as opportunities to develop potential;
- d. get proper health services and food in accordance with nutritional needs;
- e. obtain information services;
- f. obtaining legal counseling and legal assistance;
- g. submit complaints and/or complaints;
- h. get reading materials and follow mass media broadcasts that are not prohibited;
- i. to be treated humanely and protected from acts of torture, exploitation, neglect, violence, and any acts that harm physical and mental harm;
- j. obtain work safety guarantees, wages, or premiums for work results;
- k. get social services; and accept or decline visits from family, advocates, companions, and the community.

Rights that are the distinguishing rights of citizens Male to female fostered female inmates get rights as the nature of women, like experience menstruation pregnancy, childbirth, and breastfeeding.

4. Conclusion

There must be a structured and systematic mechanism that does not necessarily cut off the role of women as mothers in giving birth, breastfeeding, nurturing, and educating children. With the existence of Correctional Law No. 22 of 2022, the Ministry of Law and Human Rights as an extension of the government shows a responsive attitude to women's needs and the values of justice for women who face the law and serve sentences in prisons or detention centers can be implemented. Suggestions There should be legal disparities in the implementation of sanctions, the process of

The running of punishment, as well as the coaching process, should not cause disparities law. Because equality in law should be the foundation of a just and democratic society. Everyone deserves to be treated the same before the law without considering any differences in background, by building the existence of fairer laws such as increased transparency, monitoring and evaluation, it will have implications for the elimination of discrimination and the realization of justice in the Indonesian penitentiary system.

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