LEGAL STUDY ON FULFILLING THE RIGHTS OF WOMEN PRISONERS IN CORRECTIONAL INSTITUTIONS

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ABSTRACT

Objective: Female prisoners are prisoners who must be given special protection, especially in fulfilling their rights, because they have different natures from men. With such a nature, it becomes the main basis for the need for legal protection for women. However, in essence, these regulations still generally regulate the rights of prisoners, as we know that women will experience conditions that men do not experience, such as menstruation, pregnancy, childbirth, and breastfeeding. So this becomes further research to analyze the fulfillment of the rights of female prisoners in correctional institutions. This research aims to analyze the implementation of fulfilling the rights of female prisoners based on Law Number 22 of 2022 concerning Corrections.

Method: This research is a type of normative juridical and sociological juridical research, with the approaches used, namely the statutory approach, case approach, conceptual approach, and comparative approach. By qualitative research methods, in this research, the data analysis used is qualitative research method analysis models.

Result: The rights of convicts must be given due attention in prisons, especially female convicts. Remember that there are many things that women experience that men do not experience, such as menstruation, pregnancy, childbirth, and breastfeeding. However, there is still a lack of facilities such as a lactation room for breastfeeding for prisoners who are pregnant, and/or if the child is having a tantrum, this room can be used so as not to disturb the activities of other prisoners.

Conclusion: Fulfilling the rights of prisoners is an important aspect of efforts to create better human resources after training in correctional institutions. The rights of convicts must be given due attention in prisons, especially female convicts. However, there is still a lack of facilities such as a lactation room for breastfeeding for prisoners who are pregnant, and/or if the child is having a tantrum, this room can be used so as not to disturb the activities of other prisoners. Apart from that, there are no regulations that specifically regulate the rights of female prisoners who are pregnant, breastfeeding, and with children.

Keywords: rights, prisoners, women.

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ESTUDO JURÍDICO SOBRE O CUMPRIMENTO DOS DIREITOS DAS MULHERES PRISIONEIRAS EM INSTITUIÇÕES DE CORREÇÃO

RESUMO

Objetivo: As prisioneiras são prisioneiras que devem receber proteção especial, especialmente no cumprimento de seus direitos, porque elas têm naturezas diferentes dos homens. Com esta natureza, torna-se a principal base para a necessidade de proteção jurídica das mulheres. No entanto, na sua essência, estes regulamentos ainda regulam, em geral, os direitos das prisioneiras, pois sabemos que as mulheres irão experimentar condições que os homens não experimentam, como a menstruação, a gravidez, o parto e a amamentação. Então isso se torna uma pesquisa adicional para analisar o cumprimento dos direitos das prisioneiras nas instituições correcionais. Esta pesquisa visa analisar a implementação do cumprimento dos direitos das prisioneiras com base na Lei Número 22 de 2022 relativa a Correções.

Método: Esta pesquisa é um tipo de pesquisa jurídica normativa e sociológica jurídica, com as abordagens usadas, ou seja, a abordagem estatutária, abordagem caso, abordagem conceitual e abordagem comparativa. Por métodos de pesquisa qualitativa, nesta pesquisa, a análise de dados utilizada é de modelos de análise de método de pesquisa qualitativa.

Resultado: os direitos dos condenados devem ser devidamente tidos em conta nas prisões, especialmente as condenadas do sexo feminino. Lembre-se de que há muitas coisas que as mulheres experimentam que os homens não experimentam, como menstruação, gravidez, parto e amamentação. No entanto, ainda há falta de instalações, tais como uma sala de lactação para amamentação para as prisioneiras que estão grávidas, e / ou se a criança está tendo uma birra, esta sala pode ser usada para não perturbar as atividades de outras prisioneiras.

Conclusão: O cumprimento dos direitos dos prisioneiros é um aspecto importante dos esforços para criar melhores recursos humanos após a formação em instituições correcionais. Os direitos dos condenados devem receber a devida atenção nas prisões, especialmente as condenadas do sexo feminino. No entanto, ainda há falta de instalações, tais como uma sala de lactação para amamentação para as prisioneiras que estão grávidas, e / ou se a criança está tendo uma birra, esta sala pode ser usada para não perturbar as atividades de outras prisioneiras. Além disso, não existem regulamentos que regulem especificamente os direitos das prisioneiras que estão grávidas, a amamentar e com crianças.

Palavras-chave: direitos, prisioneiros, mulheres.

1 INTRODUÇÃO

Human rights are fundamental rights inherent in human nature. The Universal Declaration of Human Rights (UDHR) as the first declaration of human rights in 1948 contains humanitarian principles, namely upholding the dignity and worth of a person's life (Wasel, 2022). Commitment to implementing and upholding human rights must be carried out by all parties without exception. Human rights exist to protect and guarantee the survival of a person with equal treatment without any particular discrimination,
especially for those who are classified as vulnerable, namely women, as regulated in Law Number 39 of 1999 concerning Human Rights (HAM) in articles 45 to Article 51 includes an explanation of Women's Rights, as part of Human Rights (Suryatni, 2020).

The reality of a person's survival in society cannot be separated from the phenomenon of crime and women are also part of this. Women have the opportunity to become prisoners if they commit crimes. Not a few women receive prison sentences for their actions that violate the law. On September 19, 2022, the Directorate General of Corrections (Ditjenpas) of the Ministry of Law and Human Rights revealed that there were at least 276,172 inmates of correctional institutions (prisons) and detention centers (Rutan), by gender category, namely that there were 13,615 inmates of prisons and detainees who were female and there were 262,559 are male (Kusnandar, 2022). Female prisoners present certain challenges for those in charge of Correctional Institutions because naturally there are differences between female prisoners and male prisoners. Women have specific needs such as restoring reproductive health, family planning, services for pregnancy and childbirth, and care after experiencing sexual violence or torture (Meilya, I. R., Hanafi, S., Siregar, H., & Fauzi, 2020).

At the regulatory level, there are no national regulations that specifically regulate women's rights. If you look at Law No. 20 of 2022 concerning Corrections, is a new law that replaces and revokes the validity of Law No. 12 of 1995 concerning Corrections. In this regulation, there is no distinction between female and male prisoners, it is still stated in general, namely Prisoners. The rights of prisoners as stated in Article 9 letter d are that prisoners have the right to: receive health services and adequate food by nutritional needs, however in this case there is no standardization regarding services and food by nutritional needs, especially for women who are pregnant or breast-feed.

Fulfilling the rights of female prisoners must be a priority in its implementation. Remember that there are many things that women experience that men do not experience, such as menstruation, pregnancy, childbirth, and breastfeeding (Hawkey, 2017). So it is appropriate for women's rights to be regulated in applicable regulations. Because, if it is not fulfilled properly, it is feared that there will be a bad impact on female prisoners and their children if they are pregnant or breastfeeding.

Based on the description presented above. It is very important to pay attention to the fulfillment of the rights of female prisoners because naturally women and men have differences, for example in the conditions of pregnancy, childbirth, and breastfeeding.
This situation certainly requires adjustments in the services and needs provided by the Correctional Institution to female prisoners. However, so far the implementation of these rights has not been realized properly. So based on that. The problem to be discussed in this research is what are the obstacles to fulfilling women's rights in correctional institutions? How is the implementation of fulfilling the rights of female prisoners in correctional institutions based on Law Number 22 of 2022 concerning Corrections towards fulfilling the Rights of Female Prisoners?

2 RESEARCH METHOD

Specifically, according to the type, nature, and objectives, legal research is divided into two normative juridical research and empirical juridical research. In the research carried out by the author, normative research or empirical doctrinal and juridical research is used. The research method used by the author in this writing is normative legal research, namely doctrinal legal research, also known as library research or document study. It is called doctrinal legal research, because this research is carried out or aimed only at written regulations or other legal materials, as library research or document study. After all, this research is mostly carried out on secondary data in libraries (Budianto, 2020). About the normative juridical type of research, the approach used is the legal approach applicable in Indonesia (positive law) (Nugroho, 2022). An analysis essentially emphasizes the deductive method as the main guideline and the inductive method as a supporting work procedure. Normative analysis uses library materials as a source of research data.

3 RESULTS AND DISCUSSION

3.1 OBSTACLES IN FULFILLING THE RIGHTS OF FEMALE PRISONERS IN CORRECTIONAL INSTITUTIONS

Based on Law Number 39 of 1999 concerning Human Rights, it is emphasized that human rights are basic rights that are naturally inherent in humans and are universal and eternal. Human rights are fundamental rights of citizens that must be fulfilled by the state (Nugroho, 2022). Therefore, human rights must be protected, respected, maintained, and must not be ignored, reduced, or taken away by anyone. The Law in Part Nine, article 45-article 51 explains Women's Rights, where Women's Rights in the Law are part of Human Rights.
Human rights must not be differentiated because they are universal, including for women. Women's human rights are the rights that a woman has, both because she is a human being and as a woman (Arvonne, 2017). There is a historical basis regarding women's human rights, namely that on December 18, 1979, the UN General Assembly approved a draft Convention on the Elimination of All Forms of Discrimination Against Women, namely the Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW). This convention regulates women's rights in all areas of life, so it can also be applied to women who are prisoners in correctional institutions. If we refer to Law Number 12 of 1995 concerning Corrections, convicts are convicts who are serving a sentence of loss of liberty in a correctional institution and Article 14 regulates the rights of prisoners. The rights of female prisoners and male prisoners are the same, only in this case, because the prisoners are women, several rights receive special attention compared to male prisoners.

The significant difference between women and men is in terms of nature, namely, women experience periods of pregnancy, childbirth, and breastfeeding. Women have specific needs such as restoration of reproductive health, family planning, services for pregnancy and childbirth, and care after experiencing sexual violence or torture. Deprivation of the freedom of one's rights while being an inmate in prison is no longer like before, where in the past in prison the inmates were tortured and made the human rights of the inmates disappear and currently inmates in prison receive more humane guidance without taking away the human rights of the citizens in the slightest inmates are responsible for the criminal acts they have committed. So on this basis, the human rights of inmates are owned and maintained during the period of inmates in prison (Ibrahim Danjuma, Rohaida Nordin, 2018).

The convict himself is a person who has been sentenced for a criminal act that he has committed in violation of the legal provisions in force in Indonesia (Vicki Dwi Purnomo, 2023). And for his actions, he has the right to be sentenced to imprisonment by the decision or decision of the court. Article 12 of Law No. 12 of 1995 states that punishments carried out against prisoners in prison are carried out based on the age, and gender of the prisoner himself, the type of crime committed, the length of the criminal sentence, and several other criteria that relate to the problem of punishment of the prisoner himself.

Through the words of Article 12, it can be interpreted that the prison is given the mandate to classify the prisoners themselves according to the type of crime committed, the length of the criminal sentence, and several other criteria that relate to the problem of the
punishment of the prisoners themselves. This includes female prisoners who are pregnant and giving birth to be classified and grouped so that these prisoners can receive treatment and health services according to the prisoners’ own needs (Tom Marshall, Sue Simpson, 2018).

Apart from health services, prisoners who are pregnant and breastfeeding also have the right to receive additional food intake according to the nutritional needs recommended by the doctor. In prisons, it is also mandatory that there be accommodation for all necessary health care and services both before and after birth and if there is a baby who is breastfeeding, they are allowed to stay in the prison and a suitable place must be prepared and a suitable place of care must be provided for the baby and the caregivers. A qualified person whose job is to look after the baby while they are not with or in the care of their mother. The provision of health services for inmates, especially pregnant and postpartum women, experiences several obstacles in its distribution, such as a lack of equipment for examining fetuses, an inadequate number of obstetricians on duty, and reporting procedures to detention guard officers before carrying out examinations on inmates (Desy Kristiani Rahma Putri, Anak Agung Sagung Laksmi Dewi, 2021). In fulfilling the rights of inmates, there are several obstacles that prevent it from running smoothly due to several factors, namely as follows:

1) Overcapacity often occurs in every correctional institution. On average, Indonesian prisons are overcapacity because the number of prisoners entering exceeds the number of prisoners leaving, so the numbers are not comparable and this causes a buildup of prisoners. This will certainly have an impact on the less-than-optimal coaching process. The coaching process will run well if prisoners can undergo the coaching process in a physically and mentally healthy condition. With overcapacity prison conditions, it is of course very difficult to achieve ideal conditions for prisoners to be trained. With so many prisoners in a prison, there will certainly be a lack of cleanliness in the prison. Less clean prison conditions will certainly give rise to new problems, such as many prisoners who are vulnerable to contracting various diseases.

2) Lack of officers with special expertise in the health sector to handle prisoners. In correctional institutions there is still a shortage of skilled personnel who have special skills such as psychologists to support the psychological health of prisoners, there is still a lack of medical personnel who are more skilled and professional in providing health care for prisoners who suffer from diseases that require special
treatment such as HIV, Tuberculosis, Bronchitis, etc. The absence of cooks who are experts in preparing food has resulted in the poor quality of food served to inmates, there is no nutritionist in prisons, as stated in the guidelines for administering food in correctional institutions that ideally the process of fulfilling the right to get food in prisons must involve nutritionists as supervisors in the food processing process and are also tasked with assisting the process of fulfilling the daily nutrition of prisoners.

3) Limited funds are certainly an obstacle faced by prison authorities in fulfilling prisoners' rights because limited budget funds mean that the development program process does not run well. The limited budget also means that the process of fulfilling prisoners' rights to receive adequate health and food services is not yet by the mechanisms related to fulfilling prisoners' rights, which is very dependent on the budget provided by the government as the implementer of the development program. This can be proven by the lack of complete facilities in prisons to support the daily needs of prisoners. Such as inpatient rooms, polyclinics, and other medical equipment. Of course, this must be overcome by planning a budget so that the process of coaching prisoners in correctional institutions can run optimally (Wibowo, 2020).

4) The lack of support from the government has many factors that cause the lack of government support in providing the facilities and infrastructure needed in the prison (Mukhlis, 2023).

3.2 IMPLEMENTATION OF FULFILLING THE RIGHTS OF FEMALE PRISONERS IN CORRECTIONAL INSTITUTIONS BASED ON LAW NUMBER 22 OF 2022 CONCERNING CORRECTIONS TOWARDS FULFILLING THE RIGHTS OF FEMALE PRISONERS

Regulations related to the protection of human rights are implemented to guarantee and protect the rights of humans, including prisoners. There should be no difference in the protection of human rights because these rights are inherent in humans to be protected even though they are serving time in prison. In 1963 there was a change in the institutionalization of prisoners, which was originally known as the prison system to become the correctional system. This change requires the view that the punishment imposed by prisoners is not an
act of revenge from the state but rather to educate and guide them so that when they are free they can reintegrate into society in general (Prabasini, 2021).

Correctional justice is not just the goal of imprisonment, but rather a process that aims to restore the unity of life and livelihood relationships that exist between convicted individuals and society (social re-integration) (Youssef, 2023). The aim of correctional services is not only to cause suffering to the convict due to being deprived of freedom of movement but it is also aimed at guiding the convict to repent, to educate him so that he becomes a useful member of Indonesian socialist society. Correctional institutions themselves have many types and have different functions, for example, types of Correctional institutions include the General Correctional Institution, the Women's Correctional Institution, and the Children's Correctional Institution. These three institutions are different in terms of programs and activities, although they are different, the rights of prisoners must still be protected and protected.

The rights of male prisoners and female prisoners are also different. It is natural for women to experience menstrual cycles, pregnancy, childbirth, and breastfeeding which male prisoners do not have, so it has become normal that female prisoners have special or special rights compared to men. Female prisoners are often treated inappropriately in correctional institutions. This is caused by several factors, such as a lack of understanding of prisoners’ rights in the Corrections Law by officers and prisoners themselves. Even though female prisoners are punished and deprived of their right to liberty as a form of accountability for the criminal acts they have committed, they must still be treated well and their human rights should be respected as appropriate (Prihananti, 2022).

### Table 1. Data on Residents Incarcerated by Women's Correctional Institutions who are Pregnant and Breastfeeding

<table>
<thead>
<tr>
<th>Agency Registration Number</th>
<th>Name</th>
<th>Age</th>
<th>Length of Sentence</th>
<th>Types of Crime</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIII.27/023</td>
<td>Rani Puspita Sari Binti Efendi (Alm)</td>
<td>37</td>
<td>-</td>
<td>Narcotics</td>
<td>Pregnant</td>
</tr>
<tr>
<td>BL.104/022</td>
<td>Rahma Dalena Binti Erizal</td>
<td>37</td>
<td>2 years</td>
<td>Embezzlement</td>
<td>Breast-feed</td>
</tr>
<tr>
<td>BL.18/022</td>
<td>Riska Sintia Binti Suherman</td>
<td>28</td>
<td>6 years</td>
<td>Narcotics</td>
<td>Breast-feed</td>
</tr>
<tr>
<td>AIV05/023</td>
<td>Siti Khomiyati Binti Suhadi (Alm)</td>
<td>44</td>
<td>-</td>
<td>Corruption</td>
<td>Breast-feed</td>
</tr>
<tr>
<td>BL.015/023</td>
<td>April Dayanti Binti Danke</td>
<td>29</td>
<td>2 years</td>
<td>Narcotics</td>
<td>Breast-feed</td>
</tr>
</tbody>
</table>

Source: Bandar Lampung women's correctional institution
Guidance for pregnant/breastfeeding female prisoners in correctional institutions remains the same as guidance for other prisoners in general, but there are indeed needs that must be provided for pregnant female prisoners (Gadama, 2020). Based on the theory of punishment, the punishment given to convicts currently aims to improve themselves as a result of crimes they have committed, so that if the convict is out of prison then he can be accepted back into society. Guidance from the Correctional Institution continues to provide rights for convicts who are pregnant/breastfeeding and still provide obligations that must be obeyed.

Regarding the rights to humane treatment of female prisoners in prisons, it is confirmed in Law no. 22 of 2022 concerning Corrections, namely Article 9i; and Article 68. This is also by the principles in implementing the correctional system which must be based on the principles of non-discrimination, humanity, and professionalism which are confirmed in Law of the Republic of Indonesia Number 22 of 2022 concerning Corrections, namely Article 3. The right to be treated humanely is the right of prisoners in prison to receive humane treatment and be protected from acts of torture, exploitation, neglect, violence, and all actions that are physically and mentally harmful. The right to be treated humanely is felt by female prisoners in class II prison in Bandar Lampung.

The provision of additional food for female prisoners who are pregnant and breastfeeding at Class II Prison in Bandar Lampung is well fulfilled. This is demonstrated by providing additional nutrition such as side dishes, vitamins, and milk to female prisoners who are pregnant and breastfeeding. Regarding the right to obtain additional food for female prisoners who are pregnant, giving birth, and breastfeeding in prison, it is confirmed in the Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning Conditions and Procedures for Implementing the Rights of Prison Inmates, namely Article 20 Paragraph (1). The right to additional food means that female prisoners who are pregnant or breastfeeding have the right to receive additional food by the doctor's instructions. What is meant by "additional food" is an additional number of calories above the specified average number of calories. For women who are pregnant, 300 calories are added per day, and for women who are breastfeeding, around 800 to 1000 calories are added per day.

Even though many rights and facilities are sufficient for pregnant and breastfeeding inmates, based on observations made by the author in the Bandar Lampung Class II Women's Correctional Institution, the author did not find a lactation room, which
functions as a breastfeeding room so that if someone The mother, namely the prisoner, can breastfeed comfortably, or if the child is having a tantrum, the room can be used so as not to disturb the activities of other prisoners. Due to limited space, the lactation rooms were transferred to individual rooms. In the implementation of fulfilling the biological rights needs of female prisoners are also not met, as well as the special needs of children, it can be seen that prisoners who are in the Class II Women's Correctional Institution Class II Bandar Lampung are not getting their human rights perfectly. As is known, this is an important right for every human being, including prisoners. Even though prisoners have limited freedom.

4 CONCLUSION

Fulfilling the rights of prisoners is an important aspect of efforts to create better human resources after training in correctional institutions. The rights of convicts must be given due attention in prisons, especially female convicts. Remember that there are many things that women experience that men do not experience, such as menstruation, pregnancy, childbirth, and breastfeeding. Based on the observations of the research team at the Bandar Lampung Class II Penitentiary, the fulfillment of the rights and facilities for female convicts, as well as the fulfillment of the rights contained in Law of the Republic of Indonesia Number 22 of 2022 concerning Corrections, has been sufficiently fulfilled for convicts, especially for female convicts who are currently breastfeeding or pregnant. However, there is still a lack of facilities such as a lactation room for breastfeeding for prisoners who are pregnant, and/or if the child is having a tantrum, this room can be used so as not to disturb the activities of other prisoners. Apart from that, there are no regulations that specifically regulate the rights of female prisoners who are pregnant, breastfeeding, and with children. These aspects need to be fulfilled by implementers of prisoner development tasks such as the Bandar Lampung Class II Penitentiary and the government in fulfilling prisoners’ rights to improve the quality of prisoner resources.
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