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Implementation of Granting Healthcare Facilities to Pregnant Prisoners in Women's Detention Centre Class IIA Surabaya

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ABSTRACT

The fulfilment of prisoners' rights must be granted to every prisoner, including children, men, and women, as stipulated in Law No. 12/1995. Fulfilment of these rights includes the right to receive healthcare and proper food. The treatment between female and male prisoners is quite different, especially for pregnant prisoners. Therefore, this research aims to find out the implementation of granting healthcare facilities to pregnant prisoners in women's detention centre class IIA Surabaya. This type of research is empirical juridical with a combination of qualitative and quantitative approaches. There are 2 sources of legal material used, such as (1) the primary legal source comes from community legal aid institutions, the right to health pocket book, Law No. 22/2022 on correctional facilities, Law No. 39/1999 on human rights; (2) the secondary legal source comes from the results of filling out questionnaires and interviews. Although the health facilities provided in the detention centre are supportive, some pregnant prisoners stated that the health services provided were inadequate and there was a lack of counselling on pregnancy programmes. Therefore, the detention centre seeks to fulfil the health rights of pregnant prisoners as stated in Law No. 22/2022.

Keywords: *Healthcare, Pregnant Prisoners, Rights Fulfilment*

INTRODUCTION

Human rights are important to realise because they guarantee the principle of equality for all human beings, including prisoners. Prisoners include correctional students, correctional clients, and prisoners.¹ The fulfilment of crucial rights for prisoners is to receive healthcare and proper food. The treatment between female and male prisoners is quite different, especially for pregnant prisoners. The regulation regarding the fulfilment of prisoners' rights is regulated in Law No. 22/2022 Article 9 which contains that prisoners have the right to worship their faith, get well-maintained health facilities, get education in developing their potential, receive legal aid, get reading materials during detention, be respected as human beings, be guaranteed security during detention, receive social services and can still get visits during the detention period.

The ratification of Law No. 22/2022 was conducted against the background that the provisions contained in Law No. 12/1995 on correctional are not compatible with the development of community law and do not fully reflect the needs of the implementation of the correctional system and needs to be replaced. Regarding the fulfilment of the right to health, Article 25 Paragraph (1) of the Universal Declaration of Human Rights states that everyone has the right to a standard of living adequate for the health and well-being of themselves and their families, including the right to food, clothing, housing and healthcare and necessary social services, and the right to security when unemployed, sick, disabled, widowed, old age, or other circumstances that cause them to lack income that is beyond their control. In Article 20 Paragraph (1) of Government Regulation No. 32/1999 on the conditions and procedures for the implementation of prisoners' rights, it is stated that prisoners and correctional students who are sick, pregnant, or breastfeeding are entitled to additional food in accordance with the doctor's instructions.

The article's elucidation states that supplementary food is defined as the addition of calories above the average number of calories prescribed. A pregnant woman is entitled to an additional 300 calories a day. In addition, breastfeeding women may receive between 800-1000 calories a day. The provision of supplementary food to mothers and infants is indeed implemented in prisons. Pregnant and breastfeeding prisoners are housed in different cells from other prisoners. These pregnant prisoners have the same rights as others but with more attention by being given pregnant women's milk and other additional food such as green bean porridge or fruit. Pregnant prisoners should routinely come to the health clinic for consultation or to have their pregnancies checked by midwives or officers who control pregnant prisoners so that their health conditions are maintained. Therefore, this research is conducted to find out the implementation of granting

¹ Ary Ardiansyah and Mitro Subroto, "Analisis Faktor Penghambat Pemenuhan Hak Terhadap Narapidana Hamil Dan Menyusui Di Lembaga Pemasarakatan Perempuan Kelas IIB Bengkulu," *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 3 (2021): 1036–1047.

healthcare facilities to pregnant prisoners in women's detention centre class IIA Surabaya.

LITERATURE REVIEW

Correctional Institution

Correctional system is an organised system regarding the direction and limits; and the way to develop correctional prisoners based on Pancasila which is implemented in an integrated manner between the fosterer, the fostered, and the community to improve the quality of correctional prisoners to realise their mistakes, improve themselves, and not repeat criminal acts that can be re-accepted by the community, can actively participate in development, and can live reasonably as good and responsible citizens.² Therefore, it requires officers who have qualified abilities and understand all aspects related to the correctional system to achieve this purpose. The tendency of the success or failure of a development process in correctional institutions can be identified from the high and low rate of recidivists detained in correctional institutions.³ Recidivism is the repetition of a criminal act committed by someone who has been detained but after returning to the community he/she repeats the criminal act or even worse than before.⁴ If the recidivism rate decreases every year, then it can be interpreted that the correction process in the correctional institution is successful and vice versa. A correctional officer has a significant role in realising the implementation of the vision and mission of the correctional institution, which is to rehabilitate and reintegrate into society the correctional prisoners through development programs so they can be able to return to society to become useful and productive human beings; and who will no longer commit the same actions as before. In conducting services and fulfilling the rights of prisoners, such as health and consuming proper meals.⁵

Health Rights for Pregnant Prisoners

Pregnant women belong to one of the vulnerable groups.⁶ Therefore, pregnant prisoners should receive special care and treatment while pregnant in prison. Unfortunately, this situation is contrary to the actual situation and if this is neglected, it will cause disruption to the health of the mother and the baby in her womb. According to Nelson Mandela, special accommodation is needed for all prenatal and postnatal care and treatment for pregnant and breastfeeding prisoners.

² Ibid.

³ Marsudi Utoyo, "Konsep Pembinaan Warga Binaan Pemasyarakatan (Analysis of Prisoners Guidance to Reduce Level)," *Pranata Hukum* 10, no. 1 (2015): 37–48.

⁴ Seena Fazel and Achim Wolf, "A Systematic Review of Criminal Recidivism Rates Worldwide: Current Difficulties and Recommendations for Best Practice," *PLoS ONE* 10, no. 6 (2015).

⁵ M. Aris Kurniawan, "Pemenuhan Hak Pelayanan Kesehatan Terhadap Narapidana Wanita Hamil Di Lapas/Rutan," *Justitia: Jurnal Ilmu Hukum dan Humaniora* 8, no. 2 (2021): 313–318.

⁶ Dr. Sarbini and Sinarianda Kurnia Hartantien, "Legal Protection of Vulnerable Groups' Rights in General Elections," *YURIS (Journal of Court and Justice)* 2, no. 2 (2023).

Arrangements should be made wherever possible for the child to be born in a hospital outside the prison. If a child is born in prison then that fact should not be included on the birth certificate.⁷ In addition Nelson Mandela also stated that restraint instruments should not be used on women during labour, during childbirth and immediate postpartum. Basically, the Corrections Law No. 12/1995, which has now been declared invalid and replaced by Law No. 22/2022 on Corrections, does not specifically contain and regulate the treatment of female prisoners and detainees in reproductive function, especially pregnant women, maternity and breastfeeding. However, under Law No. 22/2022, this is now regulated specifically. The Article 62 Paragraph 1-4 of Law No. 22/2022 stipulates that:

Paragraph (1)

Children of detainees or children of female prisoners who are brought into detention centres or prisons, or who are born in prisons can stay with their mothers for a maximum of 3 (three) years old.

Paragraph (2)

The child of a detainee or the child of a female prisoner as referred to in Paragraph (1) shall be placed specifically together with the detainee or female prisoner.

Paragraph (3)

If the children of detainees or children of female prisoners as referred to in Paragraph (1) are children with special needs, the children may be placed in a disability service unit.

Paragraph (4)

The child as referred to in Paragraph (1) may be supplemented with food under the direction of a doctor or nutritionist.⁸

RESEARCH METHODOLOGY

This type of research is empirical juridical with a combination of qualitative and quantitative approaches. Empirical juridical research is legal research in which researchers analyse data in the actual situation as a source of data which can be achieved through interviews or observations which are then reviewed with applicable legal provisions.⁹ The legal provisions used by researchers are Law No. 22/2022 on correctional facilities. This empirical juridical research is conducted to

⁷ Nelson Mandela, *Aturan Standar Minimum Perserikatan Bangsa-Bangsa Terkait Perlakuan Terhadap Narapidana*, 2015.

⁸ Menteri Sekretaris Negara, *Undang-Undang Republik Indonesia Nomor 22 Tahun 2022 Tentang Pemasyarakatan* (Jakarta, 2022).

⁹ Dr. Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum : Normatif Dan Empiris* (Jakarta: Prenadamedia Group, 2016).

measure the success of the application of these arrangements to prisoners in Women's Detention Centre Class IIA Surabaya. There are 2 sources of legal material used, such as (1) the primary legal source comes from community legal aid institutions, the right to health pocket book, Law No. 22/2022 on correctional facilities, Law No. 39/1999 on human rights; (2) the secondary legal source comes from the results of filling out questionnaires and interviews.

RESULT AND DISCUSSION

According to Saleh, there is an emphasis on the amendment of Law No. 22/2022 on correctional facilities such following below:

1. Strengthen corrections in its participation as part of an integrated criminal justice system;
2. Improving the quality of prisoners and children for their re-integration into society and providing guarantees and protection for prisoners and children;
3. Reforming the principles of the correctional system and establishing the rights and obligations of prisoners, juveniles, and prisoners;
4. Organising activities and services for community development and mentoring in care, security, and observation;
5. Affirm the code of ethics and behavior of correctional officers, information on the guarantee of protection, and the right of officers to obtain legal assistance;
6. Fulfilment of facilities and infrastructure to improve quality that adapts to the latest developments in the IT field.¹⁰

There are several healthcare facilities available at the Surabaya Class IIA Women's Detention Centre, such following below:

1. Procurement of laboratory tests (HIV, drugs, and triple elimination tests);
2. Health counseling;
3. 24-hour emergency room;
4. Antenatal program;
5. Outpatient Program;
6. Blood tests;
7. Covid-19 Vaccine;
8. Elderly Health Services.

Other facilities are provided by the Women's Detention Centre Class IIA Surabaya as a form of humanitarian service to prisoners. In addition, the women's detention centre has provided facilities by providing supplements and additional

¹⁰ Maria Ulfah, "Pemenuhan Hak Narapidana Atas Pelayanan Kesehatan Dan Makanan Yang Layak Serta Fenomena Biaya-Biaya," in *Percikan Gagasan Tentang Hukum V Hak Asasi Manusia* (Bandung: Fakultas Hukum Universitas Katolik Parahyangan, 2018), 167–182.

food by taking into account nutrition for pregnant prisoners. The fulfilment of humanitarian rights is further clarified in Law No. 22/2022 on correctional facilities. The fulfilment of humanity in the new legislation clarifies the pattern of what are the rights and obligations of prisoners. However, according to Mrs Putri Rahmawaty as the Head of the Sub-Section of Work Facilities for Detainee Services of Women's Detention Centre Class IIA Surabaya confirmed that the overall human rights that are the rights of all people, in the enforcement in Women's Detention Centre Class IIA Surabaya only negates the right to freedom. The Women's Detention Centre Class IIA Surabaya seeks the recovery of prisoners to the pattern of social life in addition to still getting care in terms of health, food, and drink as well as protection to keep prisoners and detainees in a safe condition. In health activities, the Women's Detention Centre Class IIA Surabaya has 4 health staff, namely 1 doctor, 1 nurse, and 2 nurses with the division of midwife working hours divided into 2 divisions, which are morning midwives and night midwives. In addition, the health room also has its own poly building and adequate first treatment needs. The Health and Services Division also provides a cookery room to cook meals for inmates with a range of meals tailored to the nutritional needs of each inmate.

The facilities provided are food and drink that are provided, it should be known that drinking water in the Porong area is murky so that the Women's Detention Centre Class IIA Surabaya diverts a water truck from the Prigen. The food obtained by the inmates is held 3 times a day and the provision of drinking water with hot temperature. Calling in certain doctors to conduct impromptu examinations such as dentists and other doctors to hold small examination programmes in the detention centre. In addition, there is the provision of goods visits and face-to-face visits with families on Tuesdays and Wednesdays, Tuesdays for both visits and Saturdays only for goods visits. The goods visit in question is the delivery of goods that are limited to food only that can be received by the Women's Detention Centre Class IIA Surabaya for prisoners and detainees.

The Budget Implementation List (DIPA) provides funding for the necessities of special needs and pregnant female prisoners while staying in Women's Detention Centre Class IIA Surabaya. The prisoner will, however, be responsible for paying for their medical expenses apart from the Women's Detention Centre Class IIA Surabaya. In order to receive funding outside the penitentiary, prisoners must obtain a Social Security Administrator for Health (BPJS). If they do not already have one, Women's Detention Centre Class IIA Surabaya will aid in the process of creating it. The polyclinic at Women's Detention Centre Class IIA Surabaya lacks ultrasound equipment; the penitentiary will separately fund this service for pregnant female prisoners. After numerous meetings with an obstetrician, if she is required to deliver the baby using all necessary equipment, the prisoner will be responsible for covering the expense of childbirth. Pregnant women need support not only physically but also mentally. The Women's Detention Centre Class IIA Surabaya

has provided several facilities to support the mental aspects of pregnant prisoners, including being allowed to have visits with their husbands and families. This helps pregnant prisoners go through their pregnancy period until preparation for childbirth.

CONCLUSION AND SUGGESTION

Conclusion

Fulfilment of health rights for pregnant prisoners in Women's Detention Centre Class IIA Surabaya has been pursued by officers in correctional institutions as stated in Law No. 22/2022 on correctional facilities. A doctor, a nurse, and two midwives provide health care facilities for pregnant female prisoners in the Women's Detention Centre Class IIA Surabaya. For particularly vulnerable prisoners (the elderly, pregnant women, and those with special needs), several health-related programs are conducted. The application of Budget Implementation List (DIPA) funds in Women's Detention Centre Class IIA Surabaya is applied only to treatment within the penitentiary; outside of that, outgoing examinations or further treatment outside the penitentiary will be paid for by the prisoners themselves. Therefore, the penitentiary mandates Social Security Administrator for Health (BPJS) ownership for all prisoners. The penitentiary health worker has provided the best healthcare facilities and adequate counseling for the pregnancy program. Prisoners' statements, however, indicated a lack of education concerning pregnancy and prenatal periods. While receiving medical services, several pregnant female prisoners now imprisoned in the Women's Detention Centre Class IIA Surabaya feel helped for their facilities' services.

Suggestion

Health facilities for prisoners do require cooperation with the nearest health centre or hospital. However, the importance of providing sufficient antenatal material to create an education programme on pregnancy, perhaps the provision of this material can be considered to be done so that it can be educated to the inmates or detainees of the Women's Detention Centre Class IIA Surabaya.

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