



## Legal protection of women's rights in penalty institutions

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### Abstract

The purpose of this study is to explain or analyze the protection of female convicts and the rights of female convicts while in prison. This research uses the type of juridical-normative research, namely legal research that conceptualizes principles, rules, norms and doctrines. This approach is also known by the general public as a normative legal approach or research. This normative research stage is carried out by conducting a literature study, namely a review of written references or sources, be it books, journals, or laws and regulations. The results of this study indicate that legal protection of the rights of female convicts in correctional institutions is both a means of legal protection as a holder of rights and obligations in relation to preventive and repressive legal protection. Protection relating to the rights of female convicts while in prison. The rights of female convicts who give birth in correctional institutions include the right to receive health care during pregnancy, the right to obtain additional nutritious food for pregnant women and babies, and the right to obtain service facilities for pregnant women and babies born in correctional institutions. The system for caring for children who are born and raised in correctional institutions is the health service system for inmates of correctional institutions and children who are brought or born in correctional institutions. children born and raised in correctional institutions receive health care facilities, as well as additional food solely to maintain the maintenance of the growth and development of children born and based in prisons.

**Keywords:** Criminal law, convict rights

### Introduction

The Republic of Indonesia is a rule of law based on Pancasila and the 1945 Constitution of the Republic of Indonesia, where law is a rule that regulates the relationship between one society and another. Law is created because of society, if there is no society then there is no law. Law is a rule that cannot be separated from human life, because law is a rule that governs every human action.

Law is also an important part of human rights in accordance with the 1945 Constitution, namely Article 27 paragraph 1 which reads "All citizens have the same position before law and government and are obliged to uphold that law and government without exception. Regulate everything in it and recognize and uphold human rights. Human rights are rights that are inherent in a person from birth and cannot be contested by others. Human rights are human rights, which are inherent in humans, where humans are also endowed with reason, mind and conscience (Suryadi Radjab: 2002).

The law applies to anyone who commits a crime, both male and female. The 1945 Constitution has regulated the rights of citizens to receive equal treatment before the law, which is also related to Article 7 of the Universal Declaration which states that "All people are equal before the law and are entitled to equal legal protection without discrimination." In the era of globalization, crime has increased very significantly, crimes or criminal acts can be committed by anyone for different reasons or factors, it is possible that crimes can occur in any circle or in any age group. It can be said that the perpetrators of crimes are not only men but do not rule out the possibility of being committed by a woman.

The biggest causative factor for women's crimes as perpetrators is driven by economic factors and other causes are household relationship problems. There are indeed out

of necessity but there are also those who want to get a more economic position (luxury), the majority are married women. Unknowingly those who commit a crime do not know what the consequences of what they are doing are so they are punished for committing a crime and in the end they become residents of a "Prison Institution" which was often called a prison which is the ultimate goal of law enforcement is a penitentiary.

Imprisonment is the most widely prescribed criminal sanction in criminal law so far. As human beings who are deprived of their right to independence, convicts experience various problems in living life in prisons, including life changes, loss of freedom and increasingly limited rights, to the acquisition of the label of a criminal attached to them and life in correctional institutions makes them separated from family and live with other convicts in accordance with what is stated in Article 1 point 1 and 7 of Law no. 12 of 1995 concerning Corrections.

According to the Decree of the Head of the Directorate of Corrections Number K.P.10.13/3/1, correctional is a therapeutic process in which convicts when they enter a correctional institution are in a state that is not harmonious with the surrounding community and has a negative relationship with the community. According to Law No. 12 of 1995 what is meant by correctional is an activity to provide guidance to correctional inmates based on the system, institutions, and methods of coaching which are the final part of the punishment system in the criminal justice system. Amendment of Law No.12 of 1995 to Law No.22 of 2022 where "Prison is an integral part of the integrated criminal justice system organized by the government as part of the law enforcement process in the context of services as well as coaching and guidance for reintegration social".

Law No. 22 of 2022 is a criminal justice subsystem which in its implementation includes law enforcement in the field of treatment of detainees, children and inmates which directly revokes Law Number 12 of 1995 concerning Corrections which is no longer in line with developments in society's law and has not been fully reflects the needs of the implementation of the correctional system.

Corrections according to Sudarto can be equated with the term resocialization. Meanwhile, Romli Atmasasmita provides an understanding of resocialization as a process of interaction between inmates, correctional officers and the community (Romli Atmasasmita: 2013).

The aim is to be able to change the prisoner's value system, so that it can adapt the norms that apply in society. Convicts or inmates must be directed to protect the community from welfare and balance and harmony of life in society by considering the interests of society, the state, victims and perpetrators.

In accordance with Law No. 22 of 2022 what is meant by Corrections is a criminal justice subsystem that organizes law enforcement in the field of treatment of detainees, children and inmates. While the meaning of the correctional system is an order regarding the direction and limits and methods of implementing the functions of the Correctional in an integrated manner. An arrangement regarding the direction and limits as well as the program for fostering correctional inmates based on Pancasila which is carried out in an integrated manner between the coaches, those who are fostered and the community to improve the quality of correctional inmates so that they are aware of mistakes, improve themselves, and not repeat criminal acts so that they can be accepted back by the community environment, and can play an active role in development and can live normally as good and responsible citizens (Saefudin, Wahyu: 2020).

Convicts or assisted citizens regulated in Law no. 12 of 1995 concerning Corrections, in Article 1 paragraph (1) Corrections are activities to carry out the development of Correctional Assisted Citizens based on the system, institutions and methods of development which are the final part of the punishment system in the criminal justice system.

1 Convicts or inmates are part of the association or community of people of a nation. Its existence is inseparable from the association or community of the surrounding community in relation to unlawful acts. Convicts or convicts as regulated in Law No. 12 of 1995 concerning correctional institutions, that in essence correctional inmates as human beings and human resources must be treated properly and humanely in a good coaching system.

In this case the correctional institution in charge of and fostering the Prisoners regularly and planned must pay attention to the background of the convicts themselves, for example their level of education, so that the expected goals can be realized. Thus, the coaching program for convicts needs to be handled specifically to suit the level of education and ability of the convicts themselves.

Female convicts or female convicts in a penitentiary have different needs from men, for example, a woman will experience her menstrual cycle so that hygiene issues become something that needs more attention. In addition, female inmates who are pregnant or about to give birth also need special care to ensure the health of mothers and children. When the child is born, the woman is also the one who can breastfeed. It is in this situation that shows that

there are differences between women and men which require different treatment between the two as well. However, in practice, unfortunately, correctional institutions do not reflect these differences, so that women's rights to fulfill special needs are not protected. Without adequate facilities. Women inmates are not only limited in their rights as inmates in general, but also experience difficulties when they have to face the circumstances that are inherent in them as women. Even though the concept that Indonesia is developing is coaching and not retribution, the government should pay more attention to the special needs of these women.

The current problem is whether the rights of female convicts are properly protected as regulated in Law No. 12 of 1995. Meanwhile, the Correctional Law does not specifically regulate legal protection for female convicts, even though the character of female convicts and Men are different both in terms of psychology and in terms of physical. Ideally, the placement of male and female convicts should be separated. The aim of establishing a women's prison is to separate male and female prisoners for safety and psychological factors.

### Research Method

This research uses the type of juridical-normative research, namely legal research that conceptualizes principles, rules, norms, and doctrines. This approach is also known by the general public as a normative legal approach or research. This normative research stage is carried out by conducting a literature study, namely a review of written references or sources, be it books, journals, or laws and regulations.

In juridical-normative research, that is research that starts deductively from an analysis of the articles in the laws and regulations as well as the opinions of the legal experts that regulate the issues to be studied. Juridical legal research means research that refers to existing literature studies or to the secondary data used. While normative in nature means legal research that aims to obtain normative knowledge about the relationship between one regulation and another and its application and practice (Abdul Kadir Muhammad, 2004).

### Result and discussion

#### 1. Construction of Legal Protection for Women Convicts

In Law Number 12 of 1995 Concerning Corrections (UU 12/95) there is no specific mention of the legal protection provided by the state in this case Law 12 of 1995 for convicts in prisons. However, it is stated in article 5 (chapter 2 of coaching) that the correctional coaching system is carried out based on: first, protection. Second, equality of treatment and service. Third, education. Fourth, mentoring. Fifth, respect for human dignity. Sixth, loss of independence is the only suffering. And seventh, the guarantee of the right to keep in touch with family and certain people.

In Article 27 of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) it is stated that equality before the law, this rule raises a consequence that the state fulfills the rights of citizens and there should be no discriminatory treatment against its implementation. Not equal treatment in the sense of really treating the same, but how about fulfilling the rights of citizens, the state still pays attention to the specificity and proportionality in it, what is fundamentally needed is a factor that must be highlighted.

The rights given to female convicts must be carried out properly in accordance with the needs of female convicts who are human beings in general. Among others, namely the right to perform worship, the right to receive spiritual and physical care, the right to education and teaching, the right to health and food services, the right to submit complaints, the right to receive reading materials and mass media broadcasts, the right to receive wages and premiums, the right to receive visits, The right to remission.

The process of fostering convicts under Law Number 12 of 1995 concerning Corrections begins when the person concerned enters the Correctional Institution. Correctional Institutions apart from being places of punishment also function to carry out coaching programs for convicts, where through the program implemented it is hoped that the convicts concerned have returned to society and can become useful citizens in society. Coaching is an activity to improve the quality of devotion to God Almighty, intellectual, attitude and behavior, professionalism, physical and spiritual health of convicts and correctional students.

The Correctional Center is one of the Technical Implementation Units of the Directorate General of Corrections, which is the executor of the Correctional System outside of Correctional Institutions. One of his duties is to conduct social research. Community research or case study is important as a method of approach in the framework of fostering lawbreakers. Given the importance and magnitude of the usefulness of making community research or case studies in helping judges to make an appropriate and fairest decision, and to determine coaching therapy, the contents of this community research report must be able to provide an overview of the client's (convict) life background, both in the past or after becoming a client. All the problems contained in his life and social environment can be included in the contents of the Community Research Report.

## **2. Rights of Women Convicts in Correctional Institutions**

Basically, both detainees and convicts have the right to get food, as stated in Article 14 paragraph (1) letter (d) of Law Number 12 of 1995 concerning Corrections, namely the right to receive proper health and food services. Prisoners' rights to proper food are further regulated in Government Regulation Number 32 of 1999 concerning Requirements and Procedures for the Implementation of the Rights of Correctional Assisted Citizens (PP 32/1999) in article 19 paragraph (1), it says that every prisoner and correctional student has the right to receive food and drink in accordance with the number of calories that meet health requirements. The problem of food needs has become a serious concern for Correctional Institutions, which in this case is under the auspices of the Ministry of Law and Human Rights (Kemenkumham). Basically, order and comfort will definitely be created if the food needs of convicts, especially female convicts, are met, however, they still have to comply with the regulations that we mentioned above. Correctional. This is because most of the cases experienced by female convicts are drug cases, so that the level of immunity is above the law and is irrelevant to prison officers. In terms of daily food, in prison for women convicts are given food 3 (three) times in 1 (one) day. In this way, what is implemented by Lapas is in accordance with the provisions

as stated in Article 14 of Law Number 12 of 1995 concerning Corrections.

The form of legal protection provided by the State for women convicts is contained in Article 27 of the 1945 Constitution of the Republic of Indonesia (UUDN RI/45) and equality before the law is clearly stated. And in particular the form of protection provided by the State for female convicts who are menstruating, pregnant, giving birth and breastfeeding, as well as making efforts to improve health services for female convicts and proper food services for female convicts.

The role of Correctional Institutions in providing legal protection for female convicts is to carry out mental development activities and implement a comfort system for each female inmate, one of which is to carry out internal peace if problems or disputes are found between fellow inmates and between inmates and prison staff. By imposing this comfort system, every convict will have a peaceful life while serving his sentence, until one day he is returned to society without breaking the law or committing a crime.

## **Conclusion**

1. The results of this study indicate that legal protection of the rights of female convicts in correctional institutions is both a means of legal protection as a holder of rights and obligations in relation to preventive and repressive legal protection. Protection relating to the rights of female convicts while in prison. The rights of female convicts who give birth in correctional institutions include the right to receive health care during pregnancy, the right to obtain additional nutritious food for pregnant women and babies, and the right to obtain service facilities for pregnant women and babies born in correctional institutions.
2. The system for caring for children who are born and raised in correctional institutions, as for the health service system for correctional inmates and children who are brought or born in correctional institutions. children born and raised in correctional institutions receive health care facilities, as well as additional food solely to maintain the growth and development of children born and based in prisons.

## **Suggestions**

1. Correctional institutions should be regulated in Law Number 12 of 1995 concerning Correctional Institutions, as well as Government Regulation Number 32 of 1999 concerning the requirements and procedures for implementing the rights of prisoners. Regulates specifically regarding special treatment for pregnant and lactating women in Women's Correctional Institutions. This is because the law does not regulate special treatment for coaching and all forms of coaching activities for convicts in prisons for pregnant women. This special treatment policy is only issued by each local correctional institution. In this case it would be nice if the special rights for pregnant female convicts in the coaching process of all forms of coaching activities are regulated in the form of laws and regulations as guidelines for the effectiveness of women's correctional institutions in Indonesia. Women who have special limitations in terms of coaching and guardians must also be regulated in a special coaching system.

2. Facilities and infrastructure in women's correctional institutions also need attention. Women who are pregnant and giving birth should be given good service, appropriate cells and baby care rooms. However, in Indonesia, especially in prisons, women who give birth cannot occupy a special block because of the limitations of the block, prisons which usually have a capacity of 164 but have more occupants than the specified capacity. That is why infrastructure facilities for female convicts must be considered, especially for female convicts who are pregnant, give birth and care for their born children in correctional institutions must receive more special attention from the government.

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