



## Fulfilment of health service rights in order to improve the welfare of elderly prisoners

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### Abstract

One of the rights of prisoners is to get health services and proper food. This is regulated in Article 14 paragraph (1) of the Correctional Law. Correctional institutions are not only inhabited by those with a young age but also by those with old age or the elderly. Based on Permenkumham Number 32 of 2018 concerning the Treatment of Elderly Detainees and Prisoners, it is explained that prisoners aged 60 years must be given special treatment including health services and proper food. At the Correctional Institution Class II A Banda Aceh there are 7 elderly prisoners and require health services and proper food in accordance with their rights. The research method used is sociological juridical with a descriptive approach. The results of the study indicate that the right to obtain health services and proper food has been regulated in various laws and regulations, so that normatively it has a strong legal basis so that these rights can be fulfilled. This is also done in order to achieve the goals of the correctional system. The fulfilment of the right to health services for elderly prisoners at the Correctional Institution Class II A Banda Aceh Penitentiary has not been carried out optimally, especially promotive services, namely the unavailability of sufficient human resources such as psychologists, counseling, and health extension workers. Likewise, routine health checks have not been carried out because of the limited number of doctors assigned.

**Keywords:** Prisoners rights, health service, elderly prisoners

### Introduction

In the Indonesian legal system, criminal law is known as the rules that regulate all acts that should not be done (prohibited to be done) by every Indonesian citizen along with strict sanctions for every violator of these rules and the procedures that must be followed by the competent parties in its enforcement. Talking about criminal law is the same as talking about sanctions, namely what type of punishment will be imposed on the perpetrators of criminal offences. The provision of sanctions in the form of a special suffering to someone who has actually committed an act that is expressly formulated and threatened with punishment by law is called punishment.<sup>[1]</sup>

Punishment is seen as the last weapon in tackling and preventing crime.<sup>[2]</sup> The imposition of punishment or sanctions against someone proven to have committed a criminal offence is not solely aimed at retaliation for the actions committed, making the perpetrator deterrent or scaring others from doing the same thing.<sup>[3]</sup>

The more important purpose of the sanctions is that in addition to the sanctions given being the final verdict on every violation committed by citizens is also a manifestation of responsibility for all his actions. sanctions are derivatives of the regulations that follow it is a deterrent effect for violations of the law that have been committed so that if not done again. basically, the sanctions given are guidance, empowerment, and education of citizens who provide lessons as well as experience so that it becomes a good thing in the future. The trick is to change the value order that exists in individuals in the future with the hope of becoming a better, productive, creative and dignified society.

In undergoing sanctions carried out by citizens, an institution known as the Penitentiary is needed. Correctional Institution does not necessarily exist just like that, but has gone through a long and tortuous process. In the past, correctional institutions were known as prisons, but

Sahardjo (1963) in his inaugural speech for the *Honoris Causa* degree at the University of Indonesia revealed that everyone is a human being and must be treated as a human being, even though he has strayed, it should not be shown to the prisoner that he is a criminal. Instead, he must always feel that he is seen and treated as a human being. So based on Sahardjo's views, the Prison was later changed to the Correctional Institution.

In general, prisoners who are in correctional institutions are adult men, as in the research of Nila ambarsari and Pudji Astuti showing that as of January 2019 the total number of prisoners in Indonesia was 185,128 with the classification of adult male prisoners totalling 172,702, adult female prisoners 10,261, male child prisoners 2,129, female child prisoners 36 people. This further shows that adult male prisoners dominate correctional institutions in Indonesia.

As time progresses, criminals are not only adult men. However, criminals also include elderly prisoners. Based on the statement of the Director General of Corrections Sri Puguh Budi Utami in 2018, it was recorded that the number of prisoners who had the elderly category in correctional institutions in Indonesia amounted to 4,408 people.<sup>[4]</sup> This number is so high that it requires special rules regarding the standard of treatment for elderly prisoners and detainees which are considered urgent as part of a vulnerable group.

Law Number 22 of 2022 concerning Corrections classifies elderly prisoners into groups with special needs and special treatment. Furthermore, Article 1 paragraph (1) of the Minister of Law and Human Rights Regulation Number 32 of 2018 concerning the Treatment of Elderly Prisoners and Inmates states "Elderly is a person who has reached the age of 60 (sixty) years and above". Furthermore, paragraph (2) explains "Special Treatment is an effort aimed at providing ease of service to assist the Elderly in restoring and developing themselves in order to improve their level of social welfare."<sup>[5]</sup>

Special treatment for elderly prisoners is contained in Article 3 of the Minister of Law and Human Rights Regulation No. 32/2018 on the Treatment of Prisoners and Elderly Prisoners, namely special treatment in the form of providing access to justice, restoration and development of social functions, maintenance and improvement of health status, and protection of security and safety.

Specialised health services must be provided for prisoners belonging to vulnerable groups, namely the elderly. Elderly prisoners are a weak group, must be given special services and care because they have experienced mental and physical decline. So in this case, elderly prisoners have special rights which are regulated in Article 6 of the Minister of Law and Human Rights Regulation Number 32 of 2018 concerning the Treatment of Prisoners and Elderly Prisoners. It is further explained in paragraph (1) that the maintenance and improvement of health status is provided in the form of: <sup>[6]</sup>

- a. Counselling and dissemination of elderly health information,
- b. Implementation of geriatric/gerontological care,
- c. Provision of palliative care,
- d. Fulfilment of nutrition and nutritional needs, and
- e. Provision of daily necessities.

One of the correctional institutions that provide special treatment for elderly prisoners is the Banda Aceh Class IIB State Detention Centre. The number of inmates of the Banda Aceh Class IIB State Detention Centre is around 580 people as of (December 2022) including 6 elderly inmates. In this case it is clear that the condition of the Banda Aceh Class IIB State Detention Centre is experiencing overpopulation. Overcrowding has an impact on the suboptimal coaching programme carried out by elderly prisoners. In addition, there is a lack of health services for elderly prisoners.

Regulations regarding the fulfilment of the health rights of elderly prisoners have been regulated through Minister of Law and Human Rights Regulation No. 32/2018 on the Treatment of Elderly Prisoners and Inmates. However, in reality, so far the provision of special treatment, especially related to the fulfilment of health rights for elderly prisoners in the Banda Aceh Class IIB State Detention Centre, has not been fulfilled properly in accordance with existing regulations. This is due to problems related to the cost of health care and the limited supply of medicines and facilities available. In fact, elderly prisoners in the Banda Aceh Class IIB State Detention Centre suffer from many degenerative diseases such as high blood pressure, diabetes, and gout.

In essence, the treatment of elderly prisoners and adult prisoners must be differentiated. This is because elderly prisoners experience physical and intellectual limitations that require special treatment and the objectives of the Minister of Law and Human Rights Regulation Number 32 of 2018 concerning the Treatment of Elderly Prisoners and Prisoners can be achieved. However, in this case the special treatment of elderly prisoners has not been running optimally in the Banda Aceh Class IIB State Detention Centre.

### Research Method

This type of research uses empirical juridical, namely, research on the role of law enforcers in carrying out their functions, which discusses how the law works in society and customary gampong institutions. The data used are primary data and secondary data. Data collection techniques using

interview techniques and reviewing documents and laws related to this research. Furthermore, the data is processed and analysed with qualitative descriptive analysis techniques. <sup>[7]</sup> Based on the background above, the problem formulation in this research focuses on fulfilling the right to health services in order to improve the welfare of elderly prisoners.

## Result and Discussion

### The Legal Basis for Fulfilling the Right to Adequate Health Services for Elderly Prisoners at the Banda Aceh Class IIB State Detention Centre

The rights of prisoners including elderly prisoners to proper health services in correctional institutions have been regulated in various legal regulations, including

#### 1. 1945 Constitution

In the 1945 Constitution as amended by the second amendment, Article 28 H paragraph (1) states that every person has the right to live in physical and spiritual prosperity, to live and obtain a good and healthy environment and to obtain health services. Article 34 paragraph

(3) states that the state is responsible for the provision of health care facilities.

#### 2. Law No.36 Year 2009 on Health

In Law Number 36 of 2009 concerning Health, Article 2 states that health is a human right and one of the elements of welfare that must be realised in accordance with the ideals of the Indonesian nation. Health development is organised on the basis of humanity, balance, benefits, protection, respect for rights and obligations, justice, gender, and nondiscrimination. Article 4 confirms that everyone has the right to health, Article 5 confirms that everyone has the same rights in gaining access to resources in the health sector and Article 6 confirms that everyone has the same in obtaining safe, quality and affordable health services.

#### 3. Law No.39 Year 1999 on Human Rights

Article 9 of Law No. 39/1999 on Human Rights explicitly states that every person has the right to live, to survive and to improve their standard of living. Everyone has the right to live in peace, security, peace, happiness, physical and mental prosperity, and everyone has the right to a good and healthy environment.

In particular, the rights of prisoners to obtain proper health services have been regulated in several special laws of the correctional system, namely

#### 4. Law No. 22 Year 2022 on Corrections

Article 9 states that prisoners have the right to receive care, both spiritual and physical care, get health services and proper food and submit complaints.

#### 5. Government Regulation No.32 of 1999 concerning Conditions and Procedures for the Implementation of Prisoners

- a. Every prisoner and correctional student is entitled to spiritual and physical care provided through spiritual guidance and ethical education. Each correctional centre shall provide such guidance officers in co-operation with relevant agencies, community bodies or individuals.

- b. Every prison shall be provided with a clinic and its facilities and shall be provided with at least one doctor and one other health worker.
- c. Health checks are carried out at least 1 (one) time per month and recorded in the health card. If the results of the examination reveal the presence of an infectious or dangerous disease, the patient is treated in a special way and notified to his/her family. The cost of health care in hospital is borne by the State.
- d. In the event that the patient or prisoner requires further treatment, the prison doctor provides a recommendation to the head of the prison that the health services of the prisoner concerned be carried out at a public hospital outside the prison.

**6. Decree of the Minister of Justice Number M.02-Pk.04.10 of 1990 concerning Patterns of Prisoner Development.**

The care of prisoners is to keep them always in a state of physical and spiritual health, therefore it is always sought that they continue to obtain sufficient basic needs, namely, the need for proper health services, food, clean water for drinking, bathing and so on.

**7. Decree of the Director General of Corrections no: E.03.PP.02.10 of 2003 concerning Minimum Service Standards for Health and Food Services for Prisoners and Correctional Students in Correctional Facilities, the things regulated in the regulation are:**

- a. Institutionalised health services are still simple, with doctors and clinics providing first aid services.
- b. Referral of patients is carried out in a makeshift manner, depending on the conditions in each prison.
- c. Forms of promotive, preventive, curative and rehabilitative services are carried out systematically.

**8. Minister of Law and Human Rights Regulation No. 32/2018 on the Treatment of Elderly Prisoners and Inmates**

To elderly prisoners, special treatment is given to elderly prisoners with the aim of assisting elderly prisoners in restoring and developing themselves in order to improve the level of social welfare and also to provide fulfilment of the needs of elderly prisoners in order to maintain physical, mental and social abilities. In addition, it is also in improving the degree of health for elderly prisoners.

**Health Service Efforts at the State Detention Centre Class II Banda Aceh**

Health service efforts are an arrangement that brings together various health efforts, both community and individual in an integrated and mutually supportive manner to ensure the achievement of the highest degree of health. The implementation of the fulfilment of the rights of prisoners, especially elderly prisoners, to health services at Class IIA RUTAN Banda Aceh includes:

**1. Promotive Service Efforts**

Promotive health services for prisoners is a process to improve the ability of prisoners to maintain and improve their health to achieve a perfect degree of health, both

physical, mental, and social. Prisoners must be able to recognise and realise their aspirations, needs, and be able to change or overcome their environment. Promotive health service efforts are only carried out on prisoners who come for treatment at the Class IIA Banda Aceh Detention Centre Clinic on an outpatient basis and are carried out by doctors and nurses of the Class IIA Banda Aceh Detention Centre Clinic. This situation is due to the fact that the Class IIA Banda Aceh Detention Centre does not yet have promotive service facilities and human resources such as psychologists, counsellors or health extension workers.<sup>[8]</sup>

**2. Preventive Services**

Preventive health care for prisoners is a process to prevent and protect prisoners from disease or health problems. The aim is to achieve a perfect physical, mental and social health status.

Preventive health services for elderly prisoners at the Class II A Banda Aceh Prison are carried out by.<sup>[9]</sup>

- a. Initial screening of newly admitted inmates
- b. Isolate inmates suffering from infectious diseases.
- c. Periodic checks are carried out for elderly prisoners who suffer from illness. For example, hypertension control is carried out once a month using a blood pressure measuring instrument. For elderly prisoners suffering from diabetes mellitus, routine checks are carried out once every three months using a simple sugar test. For elderly prisoners suffering from cholesterol disease. The check is carried out once a month using a simple test slat and finally for elderly prisoners at RUTAN Class IIA Banda Aceh checked once a month.
- d. Administration of medication and vaccinations to prevent certain diseases
- e. Keep the environment clean.
- f. Keeping food and drink clean for elderly inmates

**3. Curative Health Care Efforts**

Curative health service efforts in elderly prisoners at Class IIA Banda Aceh Detention Centre include:<sup>[10]</sup>

- a. Basic medical treatment for elderly inmates who suffer from illness and can still be treated on the street.
- b. Temporary inpatient health services for elderly prisoners who suffer from illnesses and according to the analysis of the Prison Clinic doctor need special observation, then hospitalisation is carried out at the Prison Clinic.
- c. Referral health services for prisoners who experience illness, and in the opinion of the doctor can no longer be handled at the Prison Clinic, in this case prisoners who suffer from special diseases and require special treatment as well.

**4. Rehabilitation Health Services**

Efforts of rehabilitation health services for elderly prisoners of Class IIA RUTAN Banda Aceh. Is for or restoring elderly prisoners from their former suffering which includes, physical rehabilitation services for prisoners suffering from physical disorders due to trauma. For elderly prisoners who experience physical problems due to trauma while they can be rehabilitated at the RUTAN clinic only. For elderly prisoners with mental health and behavioural problems, rehabilitation health services will be carried out in cooperation with hospitals and rehabilitation centres.<sup>[11]</sup>

From the explanation above, it can be explained that the implementation of the fulfilment of the rights of elderly

prisoners to proper health services at Class IIA detention centre in Banda Aceh has not gone well, especially in promotive and preventive health services. Promotive health services at Class IIA Detention Centre Banda Aceh have not been carried out regularly and are only carried out for prisoners who come for treatment individually to the Detention Centre Clinic and health counselling is carried out only once in a while by extension workers from the Puskesmas and the Health Office.

Preventive health services for elderly prisoners at Class IIA RUTAN Banda Aceh have been well implemented. This can be explained by the fact that health checks for elderly prisoners are carried out routinely at least once a month to find out and prevent the onset of disease.

### 5. Environmental Health Efforts

Elderly prisoners are entitled to the availability of an environment in correctional institutions as mandated by the 1945 Constitution Article 28 H paragraph (1) which states that everyone has the right to live in physical and mental prosperity, to live and get a good and healthy environment.

#### a. Clean Water Facilities

According to the Head of Sub Division of Bimaswat, the water in Class IIA Banda Aceh Detention Centre is sourced from underground water (borehole) which is sucked up using a water machine and accommodated in a storage tub / bag, in addition to borehole water is also facilitated by water from PDAM. Water supply in quantity is sufficient and meets health standards.<sup>[12]</sup>

#### b. Waste water and rubbish disposal facilities

Based on the researcher's observations and information from the Head of the Bimaswat Section, wastewater disposal is carried out through sewers located around the detention centre building. Waste disposal facilities in each residential room for elderly prisoners are provided with a waste basket. The garbage is thrown into the garbage container by the inmates who are assigned by the person in charge of the inmate's residential room and finally the garbage is picked up by the garbage car.<sup>[13]</sup>

#### c. Sports Facilities

The sports facilities available at Class IIA Detention Centre Banda Aceh are a volleyball court and a futsal court.

#### d. Organisation of Food and Drink

The implementation of food and drink in Class IIA RUTAN Banda Aceh is a series of activities ranging from planning to food distribution as well as monitoring and evaluation in order to achieve an optimal level of health.

For elderly prisoners, through the provision of healthy food. Healthy food and beverage services are the right of prisoners including elderly prisoners, this has been stated in Article 14 of Law No. 12 of 1995 concerning Corrections which states that prisoners and detainees get health services and proper food.

Until now, Class IIA Detention Centre Banda Aceh does not have a nutritionist. For the processing of food ingredients both when receiving food from the contractor, storing and cooking food ingredients and distributing food to prisoners are all carried out by prisoners assigned to be responsible for managing the food. And supervised by a team of supervisors and coaches who have been appointed by the Head of the Detention Centre.<sup>[14]</sup>

Balanced food and nutrition are needed by elderly prisoners at Class IIA Detention Centre Banda Aceh, to maintain and improve their health status so that they do not get sick and can carry out their daily activities. Providing food that is not of the right quantity and quality can lead to various health problems, including malnutrition, making them susceptible to disease and lack of motivation and apathy.

### Conclusion

The implementation of the Fulfilment of the Right to Adequate Health Services for Elderly Prisoners at Class IIA Banda Aceh Prison is not in accordance with the Regulation of the Minister of Law and Human Rights Number M.HH.02.UM.06.04201 concerning Guidelines for Health Services within the Ministry of Law and Human Rights. This is evidenced by the existence of *over* capacity or the number of prisoners who exceed the capacity, with health workers who only have 1 (one) general practitioner. The availability of inadequate space, such as the absence of a laboratory and a complete supply of medicines. In addition, elderly inmates are placed in a shared room with other inmates and the number exceeds the capacity for one room. The Class IIA Detention Centre in Banda Aceh only has 1 (one) general practitioner and 3 (three) nurses and can only treat mild conditions, lack of budget in the implementation of health services to prisoners and inadequate health facilities and infrastructure in Class II Detention Centre in Banda Aceh.

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