



THE IMPLEMENTATION OF CORRECTIONAL SYSTEM IN INDONESIA BASED ON JUSTICE VALUES

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Abstract

From the past until now the imprisonment (deprivation of independence) remains a first choice in the criminal sanctions system often imposed by the judge in deciding cases. Punishment must contain elements of humanity, education and justice. Imprisonment is not only to provide a deterrent effect by confining the perpetrator in a cell of detention. When viewed more deeply, imprisonment does not simply affect the capacity of the prisoners but will also increase the cost of legal aid. Guidance of prisoners is done no longer in accordance with the development of values and the nature that grows in the community. This article aims to analyze the correctional system in Indonesia based on the value of justice. This research used the paradigm of constructivism with the nature of research used was descriptive and prescriptive. Method used in this research was the method of empirical juridical approach. Data sources in the study consisted of data obtained directly and from library materials. This research used secondary and primary data obtained from data collection methods by library study and field study done by conducting interviews. The data analysis used was descriptive qualitative. The results show that in the formation of prisoners are often not in accordance with the mandated Correctional Law Article 14 paragraph (1) on the rights of prisoners and in the provisions of PP. 31/1999 on the Establishment of Prisoners in Correctional. It is the basis of how prisoners should be well-treated and humane in an integrated system of punishment. The diversity of problems born then raises the idea that the existence of prison use can no longer work effectively. Many parties then questioned the efficiency of the use of prisons when viewed from the burden of the state budget. The state budget is increasingly bloated with the high crimes that happen in Indonesia. In response to comprehensive mitigation, in particular the basic rights of inmates in suppressing over crowded, in addition to increasing occupancy capacity, another tactical solution is needed only to spread the capacity and security stability of the crowded area into the area that still allows its capacity. Another step is to optimize the provision of the rights of the assisted citizens, namely remission (reduction of criminal life) and social reintegration programs, such as Conditional Parties (CB), Conditional Leave (CB) and Free Leave (CMB).

Keywords: Crime, Prisoner, Guidance, Correctional System, Justice Values.

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1. INTRODUCTION

Related to the problem of convicted persons and prisoners, Adi Sujatno stated that in the provision of Article 1 paragraph (6) of Law no. 12 of 1999 concerning Correctional mentioned that what is meant by "the convict is a person who is convicted based on a court decision that has obtained permanent legal force". Whereas in Article 1 paragraph (7) of the Correctional Law which is meant by "prisoners is a convict who is undergoing loss of poverty in Penitentiary (LAPAS)". There are many types of criminal sanctions, imprisonment is more often used to punish offenders. It can still be seen today. With the restriction of freedom of movement of perpetrators of criminal acts in prison, it can be said that prison sanctions are more effective in punishing perpetrators. In the prison system, insurrection is the main thing. Thus, the purpose of holding the prison as a place to accommodate the perpetrators of criminal acts, is intended to make a deterrent (regret) and no longer commit a crime, for the regulations are made hard, even often inhumane.

The imprisonment is one of the most commonly used criminal sanctions as a means to tackle the problem of crime. The use of imprisonment as a means to punish the perpetrators of new criminal acts begins at the end of the 18th century which stems from the ideology of individualism and the humanitarian movement, so that the imprisonment increasingly plays an important role and shifts the position of capital punishment and criminal to the body which is considered cruel. On the basis of this case, the imprisonment is the most frequently imposed by the judge's verdict, so the condition is deserved to get more attention and need to be updated. According to Mulder in Dwidja Priyatno, "The politics of criminal law should always pay attention to the issue of renewal also in the issue of deprivation of liberty".

The imprisonment system emphasizes the element of insurrection and uses its starting point of view on prisoners as individuals, it is solely deemed to be inconsistent with the personality of the Indonesian nation based on Pancasila and the 1945 Constitution. For the Indonesian nation the thoughts on the criminal function are no longer mere aspect of oppression, but also a business of social rehabilitation and reintegration, and gave birth to a system of guidance against violators known as the Penitentiary System. The Penitentiary Idea was first promulgated by Sahardjo, on July 5, 1963 in a speech conferring the Honoris Causa Doctorate degree in Law Science by the University of Indonesia.

The idea was then formulated further as a system of guidance on inmates in Indonesia replacing the imprisonment system on 27 April 1964 in the

Conference of Directorate of Corrections in Lembang, Bandung. Penitentiary in this conference is declared as a system of guidance of prisoners and is a manifestation of justice that aims to achieve social reintegration Citizens Penas Penasit (WBP) in its capacity as individuals, members of society, and God's creatures.

Based on the provisions of Law Number 12 Year 1995 concerning Correctional system, mentioned the definition of Correctional and Penitentiary System. The meaning of the Penal System is an order of direction and boundaries and the way of guidance of prisoners based on Pancasila which is implemented in an integrated manner between the builder, who is nurtured, and the community to improve the quality of prisoners in order to realize mistakes, improve themselves, and not repeat criminal acts so it can be accepted back by the community. Furthermore, in the provision of Article 1 point (3) of the Law on Corrections, it is mentioned "Penitentiary, hereinafter referred to as LAPAS, is the place to carry out the guidance of Convicts and prisoners of Correctional".

Hope of the coaching was different from the fact in the field. Guidance of prisoners which are now done often no longer in accordance with the development of values and the nature that grows in the community. In the guidance of inmates are often inconsistent with those mandated by the Correctional Law Article 14 paragraph (1) on the rights of prisoners and in the provision of PP. 31/1999 on the Establishment of Prisoners of Correctional, is the basis of how prisoners should be well-treated and humane in an integrated system of punishment. Based on data collected from the SDP (Database of Correctional system), the Regional Office of North Sumatra is the region with the largest number of convicts and prisoners who numbered 30,858 people as of March 27, 2018. It is followed by the East Java Regional Office with the number of convicts and prisoners of 24,771 people for the same period. Meanwhile, the Regional Office of West Sulawesi is the region with the lowest number of convicts and prisoners, which are 798 people.

Based on its capacity, per March 2018, only 5 (five) regional offices in Indonesia are not overloaded, namely DI Yogyakarta, Maluku, North Maluku, West Sulawesi and Papua. Meanwhile, the number of offices that have over capacity is 28 regions. East Kalimantan is the region with the largest percentage of the largest prison and prison coverage in Indonesia with 11,174 inhabitants, whereas the capacity should be 2998. This figure is fantastic because of over capacity 8716 people reached the capacity of 373 percent. The second order was the Riau Regional Office, an area with a total population of 10,741 people, with a supposed capacity of 3503 people. Over capacity of 7,238

people, reaching 307 percent. The third sequence is the Regional Office of North Sumatra, the region with the largest number of residents in Indonesia of 30,858 people, with the capacity should be 10,917 people. Over capacity of 19,941 people, reaching 283 percent.

This over capacity has nothing to do with the penal system in Indonesia, where all prisoners and detainees must be imprisoned. The problem of overcapacity in prisons is closely related to the punishment system applied in Indonesia, where all inmates and prisoners should be imprisoned instead of alternative punishment, such as social work. As seen both in the Criminal Code and the Criminal Code Draft. Prison prosecutions still occupy the greatest proportion in the punishment process. In fact, as quoted from the National Legal Development Board (2010), punishment must contain elements of humanitarian, educational and justice. It does not only provide a deterrent effect by confining the perpetrators in the cell of detention. When viewed more deeply, imprisonment does not only affect the capacity of the prison but also will make the cost of legal aid increased.

The phenomenon of overcapacity problems that has been happening in prisons has reinforced the public's negative view of prison management. Prisons are deemed to have failed to provide service to their inhabitants. This institution is also seen as failing to be a place to turn bad behavior into good behavior. In other words, the implementation of the criminal under penal institutions intended to provide a sense of security and to protect the public from crime, is considered not implemented maximally. The above view is certainly not to be blamed entirely, because so far the public itself has not got the picture of adequate information, as a result of a scientific study of the situation that occurred in Penitentiary. Therefore, there needs to be evidence that can answer various questions about the conditions of prisons. Is correctional in its management very bad and degrading human dignity or quite the contrary, very good in meeting the needs of its inhabitants?

2. RESEARCH METHODS

The constructivism paradigm was used in the study. The nature of the research used is descriptive and prescriptive. The approach method used in this research was empirical juridical approach method. Sources of the data in the study consisted of data obtained directly and from library materials. This study used secondary and primary data obtained through data collection methods by library study and field study conducted by conducting interviews. The data analysis used was descriptive

qualitative. Researchers are expected to analyze it by combining every problem that exists.

3. RESEARCH RESULT AND DISCUSSION

For prison imprisonment based on the current penal system in Indonesia it refers to Law Number 12 of 1995 on Corrections. As well as the General Explanation of Correctional Law which is the juridical philosophical basis of the implementation of correctional system in Indonesia, it is stated that:

1. For the Indonesian state based on Pancasila, new ideas about the function of criminal punishment which is no longer merely a prison but also an attempt at the rehabilitation and social reintegration of prison-built residents has spawned a counseling system that has been in place for more than thirty years, called the penitentiary system.

2. Although there have been various improvements on the prison of criminal punishment (Article 14a KUHP), conditional release (Article 15KUHP), and special institutions for the determination and punishment of children (Articles 45, 46 and 47 of the Indonesian Criminal Code) basically the nature of punishment is still derived from the principle and system of imprisonment. The imprisonment system places great emphasis on the element of revenge and guard, so that the institution used as a coaching place is a prison house for prisoners and a state education house for a guilty child.

3. The imprisonment system emphasizes the element of retaliation and insurrection accompanied by prison house institutions gradually seen as a system and means inconsistent with the concept of social rehabilitation and reintegration, in order for prisoners to be aware of their guilt, no longer willing to commit a crime and become responsible citizens for themselves, their families, and their environment.

The mandate as stipulated in Law Number 12 Year 1995 on Correctional is to socialize again in the form of guidance so that the targeted citizens can return to the community in a natural way and become good citizens and responsible, and can be active and play a role in development. Judging from the purpose of the Correctional system certainly gave birth to a great hope that the targeted citizens will actually become a new person after undergoing a period of coaching in a penitentiary. Facts that occur in the field say otherwise. Apparently a penitentiary can no longer necessarily make person become repentance or regret his actions, but can affect a person to commit crimes or other offenses even if they are in prison. The condition of the penitentiary with the various problems that arise resulted in the correctional

institution is no longer a place that can be used to achieve the purpose of punishment.

The diversity of problems born then raises the idea that the existence of prison used can no longer work effectively. Many parties then question the efficiency of the use of prisons when viewed from

the burden of the state budget is increasingly bloated with the high criminality that occurred in Indonesia.

The following is the data of the number of inmates and prisons in the month of March 2018, namely:

Table 1. Latest Data of the Number of Occupants of the Month of March 2018

No	Working Unit	Prisoner	Inmates	Total	Capacity	% Capacity	% Over Capacity
1	Regional Office Aceh	2109	5417	7526	4371	172	72
2	Regional Office Bali	868	2053	2921	1454	201	101
3	Regional Office Bangka Belitung	511	1696	2207	1253	176	76
4	Regional Office Banten	3516	6467	9983	4637	215	115
5	Regional Office Bengkulu	793	1828	2621	1487	176	76
6	Regional Office D.I. Yogyakarta	401	1178	1579	1920	82	0
7	Regional Office DKI Jakarta	7407	9049	16456	5851	281	181
8	Regional Office Gorontalo	212	690	902	767	118	18
9	Regional Office Jambi	849	3203	4052	1986	204	104
10	Regional Office Jawa Barat	5491	17162	22653	16060	141	41
11	Regional Office Jawa Tengah	3113	10032	13145	8554	154	54
12	Regional Office Jawa Timur	7822	16949	24771	12345	201	101
13	Regional Office Kalimantan Barat	1693	3101	4794	2379	202	102
14	Regional Office Kalimantan Selatan	1682	7059	8741	3347	261	161
15	Regional Office Kalimantan Tengah	937	2848	3785	1868	203	103
16	Regional Office Kalimantan Timur	2786	8388	11174	2998	373	273
17	Regional Office Kepulauan Riau	1074	3462	4536	2480	183	83
18	Regional Office Lampung	2345	5977	8322	3970	210	110
19	Regional Office Maluku	337	867	1204	1303	92	0
20	Regional Office Maluku Utara	270	736	1006	1477	68	0
21	Regional Office Nusa Tenggara Barat	822	1981	2803	1123	250	150
22	Regional Office Nusa Tenggara Timur	705	2688	3393	2751	123	23
23	Regional Office Papua	512	1531	2043	2137	96	0
24	Regional Office Papua Barat	268	753	1021	984	104	4
25	Regional Office Riau	2441	8300	10741	3503	307	207
26	Regional Office Sulawesi Barat	217	581	798	818	98	0
27	Regional Office Sulawesi Selatan	3339	6137	9476	5745	165	65
28	Regional Office Sulawesi Tengah	927	2065	2992	1589	188	88
29	Regional Office Sulawesi Tenggara	1094	1551	2645	1966	135	35
30	Regional Office Sulawesi Utara	765	1862	2627	2183	120	20
31	Regional Office Sumatera Barat	1028	3840	4868	3209	152	52
32	Regional Office Sumatera Selatan	3457	9606	13063	6166	212	112

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33	Regional Office Sumatera Utara	10383	20475	30858	10917	283	183

Source: SDP (Prison Database System) that has been modified.

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The East Kalimantan Regional Office is the region with the largest percentage of overcrowding and prisoner capacity in Indonesia with 11,174 inhabitants, whereas the capacity should be 2998. The figure is fantastic because the over capacity of 8716 people reaches 373 percent capacity. The second order is the Riau Regional Office, an area with a total population of 10,741 people, with a supposed capacity of 3503 people. It is over capacity of 7,238 people, reaching 307 percent. The third sequence is the Regional Office of North Sumatra, the region with the largest number of residents in Indonesia of 30,858 people, with the capacity should be 10,917 people. It is over capacity of 19,941 people, reaching 283 percent.

Related to the problem of overcapacity is not related to the system of punishment in Indonesia, where all inmates and prisoners should be imprisoned. The problem of overcapacity in this prison is closely related to the penal system applied in Indonesia, where all inmates and prisoners should be imprisoned, not get alternative punishment, such as social work. As seen both in the Criminal Code and the R Penal Code.

From the past until now the imprisonment (deprivation of independence) remains as first choice in the system of criminal sanctions. It is often imposed by the judge in deciding cases. Barda Nawawi Arief stated that the imprisonment is not only resulted in deprivation of independence, but also caused negative effects on matters relating to deprivation of independence itself. Negative effects such as seizing the normal sexual life of a person, so that it often occurs obscene behavior that is the existence of homosexual relations and masturbation among the convicted. It can also low down the family social economic life. Moreover, the imprisonment is said to give the evil stigma (stigma) that will continue to be attached even though the concerned is no longer committing a

crime. Another consequence which is also often highlighted is that prison experience can lead to degradation or degeneration and human dignity.

In the punishment process, prison detention still occupies the greatest proportion, whereas punishment must contain humanitarian, educational and justice elements. Criminalization is not merely a deterrent effect by confining the perpetrators in the cell of detention. When viewed more deeply, imprisonment does not simply affect the capacity of the prison but will also increase the cost of legal aid.

The phenomenon of overcapacity problems that has been happening in prisons has reinforced the public's negative view of prison management. Prisons are seen to have failed to provide service to their inhabitants. The institution is also considered a failure to be a place to turn bad behavior into good behavior. In other words, the implementation of the criminal under penal institutions intended to provide a sense of security and to protect the public from crime, is considered not implemented maximally.

The above view is certainly not to be blamed entirely the correctional system, because so far the public itself has not got the picture of adequate information, as a result of a scientific study of the situation that occurred in Penitentiary (Perlas). Therefore, there needs to be evidence that can answer various questions about the conditions of prisons. Is prison in its management very bad and degrading human dignity or quite the contrary, very good in meeting the needs of its inhabitants?

The issue of guidance for inmates is essentially a study of law enforcement in which it examines the problem of legal work that is the law that regulates coaching for inmates in the context of a penitentiary system. The prisoners' cultivation is necessary in relation to various elements, especially the institutional form, which corresponds to the level of development of all life and full of devotion. In addition, the communities responsible for the violation of the law must be directly included in the convict business and are encouraged to receive the prisoner who has been released from the Penitentiary as one of his citizens and assist him in his new life.

In the implementation of prison sanctions, this Social Institution will not only have a positive impact on prisoners, but also give a lot of negative impact to the prisoners. The positive impact of course with the imposition of prison sanctions will provide a deterrent effect, admit mistakes and not repeat it again, as a tool of self-introspection so that

later can blend with the community as a good citizen. It turned out that not only stopped as a process of self-introspection because apparently there was a negative impact that arose, namely the status or stigma that was born in the process of imposition of criminal sanctions imprisonment that is as "ex-prisoners".

To this day, it remains to be seen in the view of some societies that a prisoner does not have adequate rights, it is evident from the growing phenomenon in the life that prisoners are deemed to be very innocent. This rival is certainly contrary to the principles referred to by the Penitentiary system, as it is in Law No. 12 of 1995 on Correctional, there are rights that should be obtained by a convicted person, without reference to the crime committed or as soon as the punishment received. This is done because it concerns the Human Rights attached to him as a human being who is a gift as a creature of God Almighty since he was born.

The coaching business is aimed at the psychiatric to develop the creative, the credence, the initiative to be honest, polite, social, and able to curb its passion and love to God; to his physical life and his power to be healthy, strong and able to stand on his own by earning a decent and sufficient living; to his personality as an individual and a member of the community in order to have a sense of self-worth and full responsibility and likes to serve the community and the state, so as to be more aware of his duties and rights as citizens and respect the law. To keep the inmates from being isolated from the community where he will return, the prisoners are always confused with the community and his family.

Not only seen against the targeted citizens only, law enforcement officers who have obligations in settling the crime sometimes infestation illness, egoism act safe origin as long as the formal conditions meet. It is not surprising that the product produced does not reflect the values of justice because it is based on ritualism alone to make enforced efforts regardless of whether the action is in accordance with the law or not. Cases of misconduct, misbehavior and occasional misuse of punishment serve as a scourge in law enforcement. In addition, institutionalization actions (the importation of law offenders in prisons or detention centers) will potentially pose a danger of prisoning, stigmatization and recidivism.

Many criticisms are born when the evolving reality is related to the imposition of criminal sanctions imprisonment, because it carries more negative effects both from the nature of the deprivation of one's liberty, as well as the effectiveness of the imprisonment.

Guidance to the targeted citizens should be a concern regarding criminal policy making. It

should be remembered that the detention conducted by assisted citizens within the penitentiary serves as a means to study or improve skills related to the modus operandi that is done by exchanging experiences with other assisted people in one cell.

The effectiveness of prison imprisonment according to Barda Nawawi Arief can be seen from 2 (two) main aspects of purpose of punishment, that is aspect of society protection and improvement aspect of perpetrator. What is meant by the aspect of community protection includes the purpose of preventing, reducing, or controlling the crime and restoring the balance of the community, among others, resolving conflicts, bringing security, fixing damage, removing the stains, reinforcing the values that live in society. While the definition of improvement of the perpetrator includes various objectives, among others, to rehabilitate and socialize the perpetrator back and protect him from ill-treatment outside the law.

Indonesia currently is embracing retributive theory where retaliation is one form to realize justice for both victims and perpetrators. By punishing the perpetrator and putting him in prison is considered sufficient to fulfill the values of justice for the victim even though it will not bring back the damages both morally and materially victims. But it turns out by inserting the perpetrator into the prison then makes the perpetrators repentance or not repeat his actions again. Precisely there are many cases that suggest that imprisonment is the best place for perpetrators to commit another criminal act as well as a similar criminal offense when they get out of jail.

Justice is one of the objectives of law in addition to legal certainty and legal benefit. The essence of law rests on the idea of justice and moral strength. The idea of justice is never out of touch with the law, for speaking of the law, clearly or vaguely is always a matter of justice. Speaking of justice issues in relation to the law is inseparable from the problem of legal objectives. The purpose of the law as stated by van Apeldoorn is: to organize the relationship of life in peace. The law calls for peace. The so-called legal order, they call peace (vrede). The judge's decision, called vredeban (vredegebod), a crime means a violation of peace (vredebreuk), criminals declared non-peaceful (vredeloos), ie excluded from legal protection. Peace among human is defended by law by protecting certain human interests, honor, freedom, soul, possessions and so forth against the disadvantage.

In response to comprehensive mitigation, in particular the basic rights of inmates in suppressing over crowded, in addition to increasing occupancy capacity, another tactical solution is needed only to smooth the capacity and security stability of the crowded area into the area that still allows its

capacity. Another step is to optimize the provision of the rights of the assisted citizens, namely remission (reduction of criminal life) and social reintegration programs, such as Conditional Parties (CB), Conditional Leave (CB) and Free Leave (CMB).

In the reform of criminal law in Indonesia, the development of thoughts concerning the purpose of criminalization has been contained in the Draft of the Criminal Code of 2015 in Article 55, as follows:

- (1) Criminalization aims to:
 - a. prevent the commission of criminal acts by enforcing legal norms for the protection of the people;
 - b. socialize the convicted person by conducting coaching so as to be a good and useful person;
 - c. resolve conflicts generated by criminal acts, restore balance, and bring peace to society; and
 - d. free the guilt of the convicted person;
- (2) Criminalization is not intended to tell and degrade human dignity.

In fact, comprehensive reform of the criminal law should include renewal of the metrical (substantive) criminal law, the formal criminal law and the criminal law. If renewal is not synchronized, then there will be difficulties in the implementation.

In essence, all convicted persons who are criminals will lose their independence after being decided by a permanent law enforcement judgment which shall then be convicted will be placed in prison as a prisoner. In prisons, all inmates are re-processed in accordance with applicable law so that later can return to live in society. This process is carried out to meet the objectives of the criminal law itself, namely to fulfill the sense of justice in society by implementing and enforcing the rule of criminal law in order to create justice, benefit and legal certainty. Therefore, it drives the idea that is based on the values of humanity and justice with more emphasis on improvement efforts for the perpetrators.

Based on these matters, the Indonesian nation should in the future need to do the construction of criminal law system by creating "masterpiece" in the form of Civil Code, Criminal Code and Criminal Implementation Law which is used as the basis in every criminal case handling should more reflect the sense of justice both for victims and perpetrators criminal acts and more broadly for society and not just legal justice. In addition that must use a humanist approach by exploring the legal values of Indonesian wisdom culture of the Indonesian nation more just and wise and should be encouraged and prioritized rather than a formalistic

legalistic approach that is rigid and does not create a sense of justice in society.

Prisoners sentenced to imprisonment are individuals whose rights are partly restricted in particular to the right to freedom of movement. However, prisoners can still enjoy other rights without discrimination. In Indonesia, the provision of criminal sanction for the purpose of fostering Prisoners in Penitentiary is no longer merely imposing but also conducting rehabilitation and social reintegration to prisoners as prisoners. If a prisoner is punished with imprisonment and retaliation, then the prisoner shall not be aware of the wrongdoing he has committed.

The social reintegration program or better known as Remission, Assimilation, Conditional Parties (CB), Conditional Leave (CB) and Free Leave (CMB) services aims to return incarceration Citizens re-socialize in the community as a person who has been exposed to legal problems without having to give a negative stigma to the actions or mistakes they have make up with the coaching they get in prisons. There are several conditions stipulated in Government Regulations that tend to be in harmony with the spirit of the Act so as to delay or exclude certain rights for a certain period of time in accordance with applicable laws and regulations. The rules of this requirement apply generally to all inmates, whereas the conditions of the prisoners are different from each other so that discriminations are still found therein. Where restrictions are imposed, it is not justifiable to be contrary to Article 28 J of the 1945 Constitution which affirms that restrictions on human rights can only be done by law and are not subject to the laws below them.

Implementation of the rights of prisoners in prisons still faces obstacles related to human rights principles. There is still a disagreement among law enforcement officers regarding the definition of justice collaborator that should have been determined when the actors have entered the Penitentiary. Penal Institution has made maximum effort in giving the rights of prisoners according to procedure proposing the granting of rights of prisoners who sometimes take a long time to get a decision accepted or rejected proposal.

Judging from the burden of the budget with the increasing number of criminality in Indonesia, the perpetrators who then thrown into prison will surely burden the state. How so, until the affairs of eating, bathing, illness, or other things is all become the state's responsibility. Eating a day three times is reversed by the number of convicts not to mention when they are sick or other needs. Infrastructure in jail was increasingly inadequate, the facility cannot protect the prison inmates. The purpose of fulfilling the values of justice is increasingly farther.

Government in this case the Directorate General of Corrections, Ministry of Justice and Human Rights Republic of Indonesia to amend Law No. 12/1995 on Correctional especially relating to the rights of prisoners, in which some of the requirements stipulated in Government Regulation No. 99/2012 are not harmonized with Law Number 12 of 1995 on Corrections so as to be able to fulfill basic principles of treatment of prisoners and prisons in accordance with international principles, "standard minimum rules for the treatment of prisoners".

4. CONCLUSION

The condition of the penitentiary with the various problems that arise has resulted in the penal institution is no longer a place that can be used to achieve the purpose of punishment. Various problems are born then raise the idea that the existence of the use of prison can no longer run effectively. Many parties then question the efficiency of the use of prisons when viewed from the burden of the state budget is increasingly bloated with the high criminality that occurred in Indonesia.

Related to the problem of overcapacity, it is not related to the system of punishment in Indonesia, where all inmates and prisoners should be imprisoned. The problem of overcapacity in this prison is closely related to the penal system applied in Indonesia, where all inmates and prisoners should be imprisoned, not get alternative punishment, such as social work. As seen in both the Criminal Code and the R Penal Code.

From the past until now the imprisonment (deprivation of independence) remains a first choice in the criminal sanctions system often imposed by the judge in deciding cases. In the punishment process, prison detention still occupies the greatest proportion, whereas punishment must contain humanitarian, educational and justice elements. Criminalization is not merely a deterrent effect by confining the perpetrators in the cell of detention. When viewed more deeply, imprisonment does not simply affect the capacity of the prison but will also increase the cost of legal aid.

In Indonesia, the provision of criminal sanction for the purpose of fostering Prisoners in Penitentiary is no longer merely imposing but also conducting rehabilitation and social reintegration to prisoners as prisoners. If a prisoner is punished with imprisonment and retaliation, then the prisoner shall not be aware of the wrongdoing he has committed.

The social reintegration program or more popularly known as Remission, Assimilation, Conditional Parties (CB), Conditional Leave (CB) and Free Leave (CMB services aims to return the

rehabilitated Citizens re-socialize amongst the community as a person who has been exposed to legal problems without having to stigmatize negatively the actions or mistakes that have they make with the coaching they get in prisons. There are several conditions stipulated in the Government Regulation that tend to be in harmony with the spirit of the Act so as to delay or eliminate certain rights to be certain of certainty in accordance with the prevailing laws and regulations. The rules of this requirement apply generally to all inmates, whereas the conditions of the prisoners are different from each other so that discriminations are still found therein. Where restrictions are imposed, it is not justifiable to be contrary to Article 28 J of the 1945 Constitution which affirms that restrictions on human rights can only be done by law and are not subject to the laws below them. Correctional institutions need to be revisited because of the many negative impacts and problems that arise that instead of making the deterrent actors actually get the perpetrator to get new lessons in committing the crime. In addition, the stigma born from public institutions as "ex-convict" is not really disappear and will continue to be attached to the former citizens built. Judging from the burden of the state budget higher because of the increasing crime raises the question of when the State should bear the burden of the budget, so it needs to be reviewed because the existence of correctional institutions can no longer function efficiently and practically.

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