

# *Human Rights and Biological Needs of Prisoners*

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*Abstract--Biological needs as basic human needs cause prisoners to fulfill informally and deviate to fulfill their biological rights. Illegal sex business practices are rife at the Penitentiary as a reaction to prisoners' requests to be able to meet their natural needs. Indonesia as a rule of law has an obligation to guarantee the human rights of its citizens, including prisoners. So in this case, the biological rights of prisoners are part of human rights. The formulation of the problem in this study are: 1) How are the procedures for fulfilling biological needs for prisoners in prison? 2) What is the legal policy in the context of fulfilling the right to biological needs for prisoners. This research method is carried out through a normative juridical approach, namely the statute approach method. The purpose of this study was conducted to find out how to fulfill biological needs in this case can be done by prisoners by utilizing some existing formal instruments, such as family visit leave and conjugal visit. So far, the policy of guiding prisoners, especially regarding prisoners' rights related to fulfilling biological needs, should be regulated in the law so that there is a need for updates related to the penal law regulations.*

**Keywords:** *Human Rights, Biological Rights, Prisoners.*

## I. INTRODUCTION

Nowadays the problem of human rights is increasing in Indonesia. This is indicated by the increasing demands of community members both individually and collectively for the enforcement of human rights.

Violations of the law must be accompanied by a criminal offense for violators. One type of criminal code based on the Criminal Code is imprisonment which removes independence and puts the convict in prison. Prison prisoners who are only justified in taking away independence indirectly also deprive prisoners of their biological rights. This contradicts the principle of correctional conditions in line with changes in criminal objectives and the promulgation of Law No. 12 of 1995 concerning Penitentiary and international conventions on human rights and imprisonment.

Various national legal instruments such as Law Number 39 of 1999 concerning Human Rights and Law Number 1 of 1974 concerning marriage as well as international legal instruments such as international covenants on civil and political rights, conventions against torture and other cruel, inhuman or degrading treatment on punishment and conventions regarding incarceration place biological rights are part of human rights that demand the active role of the state to fulfill those rights. Based on research results obtained from the Ministry of Law and Human Rights and Members of the House of Representatives Commission III which states that it is necessary if there are special spaces in prisons for biological needs of prisoners. Although inmates are locked up as a result of their behavior, there are rights that must not be eliminated including the fulfillment of their biological needs.

## II. PROBLEMS

The formulation of the problem in this study are: 1) How are the procedures for fulfilling biological needs for prisoners in prison? 2) What is the legal policy in the context of fulfilling the right to biological needs for prisoners.

## III. RESEARCH METHODS

The type of research used is the literature using normative juridical methods, with a statute approach. Data collection techniques in this study use normative legal materials or literature. Analysis of legal materials in this study uses qualitative methods, namely by breaking down quality legal materials based on logic and statutory regulations, which have the quality as required legal materials and / or which legal

materials which is not required or has nothing to do with the research material.[1]

#### IV. DISCUSSION

##### *A. Procedures for implementing Biological Needs for Prisoners in Correctional Institutions*

Biological needs or what we often hear about sexual needs, are very important needs for humans, especially for married people, both men and women. Those who need their right to have a biological relationship or sexual relationship, because if their needs cannot be met, there will be deviant behavior, namely by engaging in promiscuity.[2]

Prisoners as human beings have the same position to continue to enjoy their basic rights. The fulfillment of these rights has been regulated in Law Number 12 of 1995 concerning the correctional system. However, at this time, in Indonesia there are no laws and regulations that regulate the rights of prisoners and prisoners to have a biological relationship between husband and wife in prisons and detention centers. Especially for prisoners, the husband and wife relationship can be carried out when the prisoner takes leave to visit his family.

The provision of facilities for intimate relations between prisoners and their legal partners is a human right that must be fulfilled because missing from a prisoner is the right of freedom only. Meanwhile, other rights such as biological needs must be fulfilled. However, it seems that the provision of special facilities for prisoners is difficult to implement in a policy, because in fact prisons in Indonesia are currently still struggling with various classic problems such as overcapacity and limited funds to meet the daily needs of prisoners.[3]

In addition to biological fulfillment that can be done by visiting family, it can also be done by a conjugal visit, a visit to a penitentiary where a prisoner is allowed to spend several hours or days in private with visitors, usually their spouse in a room that has been provided. Conjugal visit functions as intensive to motivate prisoners to comply with various rules in correctional settings

and to avoid violations that might disqualify them from having a husband / wife visit.[4]

By paying attention to the Indonesian context, there are several alternatives on how to fulfill biological needs for prisoners by procuring a conjugal room or more commonly referred to as a love room in a prison as a means of conjugal visit. Conjugal room making is a logical choice. This choice can accommodate the interests of prisoners, family and security aspects.[5]

A person's desire to have sex cannot be imprisoned. Benjamin Karpman said that sexual drive is very basic and instinctive and cannot be stopped because of detention (imprisonment). Prisoners tried to control from the very beginning in prison to maintain their heterosexuality. Visits from family members often provide relief.[6]

Biological needs are an important element in the form of rights over personal and family problems. Fulfilling the biological needs of prisoners is an implementation of these civil rights and the state is obliged to protect and fulfill them proportionally. In principle, the imposition of punishment only takes away a person's freedom, is not an act of revenge, in the sense that there is no torture in the form of acts, words or placement of the convicted person. Realizing the Conjugal Visit program is an act of providing treatment that is not torturous.[7]

##### *B. Legal Policies in the context of fulfilling the Right to Biological Needs for Prisoners*

The biological needs of prisoners will receive special attention. The Ministry of Law and Human Rights (Kemenkumham) is drafting regulations about it. the increase in sexual behavior to deviate prisoners is an important consideration for the government to follow up on. " Therefore, the fulfillment of this biological need must be formalized with strict regulations based on prisons as an educational institution.

In connection with the fulfillment of the protection of human rights for prisoners in this correctional institution, it has actually been regulated in statutory regulations. This can be seen from Law Number 12 of 1999 concerning correctional facilities, in Article 14 Paragraph (1) that prisoners have the right to worship according

to their religion and belief, receive spiritual and physical care, receive education and teaching, receive health services and food be appropriate, submit complaints, get reading material and follow other mass media broadcasts that are not prohibited, get wages or premiums for the work done, receive family visits, legal counsel or certain other people, get remissions, get the opportunity to assimilate including leave before being released, and other rights in accordance with the prevailing laws and regulations.

With regard to efforts to protect the human rights of prisoners, there is progress in policy development. So far, the policy of guiding prisoners, especially regarding the rights of prisoners, such as Law Number 12 of 1995 concerning correctional facilities, Government Regulation Number 31 of 1999 concerning the development and guidance of prisoners, Government Regulation Number 32 of 1999 jo Government Regulation of the Republic of Indonesia Number 28 of 2006 concerning amendments to the Government of the Republic of Indonesia Regulation Number 32 of 1999 concerning the terms and procedures for the implementation of the rights of prisoners of prison, in general it has referred to the SMR instrument or the United Nations Standard Minimum Rules for the Treatment of Prisoners. This instrument is an international regulation that guides countries in fulfilling the rights of prisoners.[8]

The formality of channeling the biological needs of prisoners only applies to those who are married. This is also done in the context of reward and punishment. That is, the distribution of facilities or facilities is given conditionally, namely to prisoners who are well-behaved and do not violate the rules.

The results of a study conducted by the Center for Policy Research and Development at the Ministry of Law and Human Rights indicated that 88 percent of prisoners agreed with a conjugal visit, a partner's visit as a form of program to fulfill official biological needs. This opinion was supported by 78 percent of prison officers and 84 percent of the community.[9]

So far, the policy of guiding prisoners, especially regarding prisoners' rights, such as Law Number 12 of 1995 concerning Corrections, Government Regulations Republic of Indonesia Government Regulation Number 31 of 1999 concerning Guidance and Guidance of Correctional Guidance, Republic of Indonesia Government Regulations Number 32 of 1999 jo RI Government Number 28 of 2006 concerning Amendment to Government Regulation No. 32 of 1999 concerning Requirements and Procedures for the Implementation of the Rights of Penitentiary Guided Citizens, RI Government Regulation No. 99 of 2012 concerning the second Amendment to Government Regulation No. 32 Years Conditions and procedures for the Implementation of the Rights of Prisoners and others, in general, have referred to the SMR instrument or the United Nations Standard Minimum Rules for the Treatment of Prisoners. This instrument is an international regulation which guides countries in fulfilling prisoners' rights.

To be able to develop policies for fostering prisoners based on human rights, it will be more effective by using a combination policy model, a combination of elite policy and rational policy.

Policies that can be taken in the context of fulfilling the right to biological needs are as follows:

1. Regulate the "existence" of prisoners 'biological rights in prison in the Act (legislative product), bearing in mind that the recognition of prisoners' rights is regulated in the Correctional Act, then the right to the biological needs of prisoners must be regulated in the law . In this case there needs to be an update to the existing Penal Act, or in other words there is a patchy change. This is one of the characteristics of the elite policy model. It's just that here policy makers must have a broad perspective and pay attention to facts on the ground.
2. Regarding the implementation of the rights or technical, regulated in a ministerial regulation. This policy was designed in a ministerial regulation with due regard to

rational considerations with an emphasis on aspects of effectiveness, efficiency and economics. This policy aims at maximum social benefit.[10]

#### V. CONCLUSION

The procedure for fulfilling biological needs in this case can be carried out by prisoners by utilizing some existing formal instruments, such as family visit and carried out by conjugal visit. So far, the policy of guiding prisoners, especially regarding prisoners' rights related to fulfilling biological needs, should be regulated in the law so that there is a need for updates related to the penal law regulations.

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