

Formulation Policy Meeting the Biological Needs of Narratives in Justice Perspective

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ABSTRACT

Biological needs (sexual needs) are the primary needs for everyone, and prisoners who have the right to biological needs, require attention from the government regarding regulations or policies that regulate prisoner's biological needs. A problem arises and needs to be studied more deeply regarding how the policy formulation regarding prisoners Biological needs from a justice perspective. This research method uses the normative juridical method, namely by analyzing the data qualitatively, meaning that the data obtained leads to a theoretical study in the form of principles, legal doctrines and the contents of the rule of law which are described systematically. The policy regarding imprisonment is still the alternative most often applied by law enforcers, which results in prisons becoming/overcapacity so that the coaching process is not optimal, one of which is about fulfilling biological rights and creating a sense of injustice. In order to achieve an optimal and just social policy, criminal policy, and law enforcement policy, it must be oriented to the values that are aspired to. This policy needs synergy between the government (policymakers), law enforcement officials and the community, in order to realize justice.

Keywords: Policy; Justice; Biological Needs; Convict.

INTRODUCTION

Integration between the correctional system and human rights is a must in the state's role as a policymaker in various human rights instruments (Okky Chahyo Nugroho, 2015). In principle, as stated in

Art 5 of Law Number 12, the Year 1995 concerning Corrections, the correctional guidance system is implemented based on the principle of "Guaranteeing the right to remain in contact with certain families and people." In addition to the implementation of guidance based on applicable principles, attention must be paid to prisoners' rights following Article 14.

The rights of prisoners are regulated in Articles 11-41. Government Regulation Number 58 of 1999 concerning Requirements and Procedures for Implementing Authority, Duties and Responsibilities of Care for Prisoners. However, the explanation of the rights of prisoners does not mention and explain biological rights; in this case, the sexual needs of prisoners (between husband and wife) in prison.

Related to this, one of the basic needs of prisoners that is still unnoticed, is the biological needs in prisons. So far, both at the legal-normative and practical level, it seems that the state has not paid attention to these basic needs, even though the consequences of not paying attention are quite complex. Until now, the shift in the paradigm of prison to prison since 1969 has not yet been able to answer the challenge to the phenomenon of the biological needs of prisoners (Citrawan, 2013).

As reported in electronic news, the House of Representatives (DPR) approved the discourse for the Ministry of Law and Human Rights to build a sex room for

prisoners/prisoners who are married. According to the Deputy Chairman of the DPR for the 2009-2014 period, Priyo Budi Santoso said that "Concerning fulfilling biological needs is very humane. Therefore I support that a sex room is a built-in prison, as an effort to fulfil prisoners' rights" (detikNews, 2010).

According to Ramly Hutabarat, that the penal law has not regulated the needs of the inmates which are very principle in nature, namely regarding the fulfilment of their rights to sexual needs. The failure of the state to fulfil the rights to the sexual needs of prisoners in prison can have negative implications in the prison environment, for example, by the occurrence of sexual deviations (Okky Cahyo Nugroho, 2015).

The fulfilment of sexual desires or needs is an integral part of human life when the libido drive increases and sexual stimulation increases. At the same time, sexual needs are not fulfilled or channelled, which can have an impact on the behaviour (sexual deviation) of the inmates who are in prisons (Maryani, 2019). Prisoners' sexual behaviour varies widely, including fantasizing about sex, masturbating, engaging in deviant sexual activity (homosexual or lesbian), having intercourse without the knowledge of the guards, and ordering commercial sex workers.

The impact of these deviations has a high risk; that is, it is one of the main factors of contracting HIV / AIDS. This is indeed worrying, considering that the primary function of the correctional facility is as a process of fostering assisted residents when reintegrating with the community (Langden & I Nengah Suantra, 2018).

Based on the normative level, biological needs (sexual needs) are primary needs, as well as the need for food. Prisoners are ordinary humans who have the right to biological needs, who need attention from the government in terms of regulations or rules governing the fulfilment of the prisoner's biological needs. To meet sexual needs, a prisoner in prison can use several

mechanisms, including using the assimilation period, parole, pre-release leave, conditional leave, and leave to visit family. However, these rights have not been able to fulfill the sexual needs of prisoners in prison substantially (Okky Cahyo Nugroho, 2015).

Several countries have implemented a conjugal policy visit. However, in Indonesia, there are no regulations regarding this matter. A conjugal visit is "an opportunity for psychological contact granted to a prisoner and the prisoner's spouse, usually in the form of an overnight stay at the prison" (Langden & I Nengah Suantra, 2018). This means the opportunity for physical contact or meeting was given to detainees and their spouse, usually in the form of an overnight stay in prison.

Conjugal Visit has been implemented in several correctional institutions abroad although the numbers are still small. As reported on a website page entitled "*The Dark Origins And Troubling Future Of Conjugal Visits In American Prisons*". In the article it states:

In pop culture and the public imagination, "conjugal visits" are a trope that tends toward either the lurid or the comic, conjuring up images of sex with prisoners and providing fodder for both porn and sitcoms.

In reality, conjugal visits which are now often known as "extended family visits", exist around the world so that prisoners and their families can maintain healthy connections with one another. They are not primarily about satisfying the prisoner's sexual needs (Interesting, 2016).

There are varying policies regarding *Conjugal Visit* known as Family Visit. Such is the case in Qatar Central Prison, which announced the opening of a villa where couples and children visit inmates. That same year, Israel allowed conjugal visits for inmates who were homosexual as well as married. Unlike in Canada, every 2 (two) months prisoners are allowed to spend up to

72 hours, with their spouse, children, biological/adoptive parents, siblings or other relatives or with joint law partners. Many countries in Latin America allow private visits for inmates who are not married. In Mexico, conjugal visits are universal practice for both married and unmarried. In some prisons, entire families are allowed to live with their imprisoned relatives for extended stays. In 2007, the prison system in Mexico City began allowing inmates to make conjugal visits with same-sex partners. In the eastern hemisphere, India's top court ruled in 2015 that sex with a partner or artificial insemination for the sake of having children is a fundamental prisoner right (Interesting, 2016).

The basic principle of correctional institutions in Indonesia is as a gate for the implementation of the development of prisoners/assisted citizens who play a role in "re-popularizing", or a place of guidance for prisoners to be prepared to return to society after being released from detention, because the goal of this institution is a change in nature, way of thinking and behaviour, educational interaction processes must be built. However, in its development, the penitentiary always gets problems, especially regarding the *Conjugal Visit*.

From the above background, a problem arises and needs to be studied more deeply, regarding how is the policy of formulating the biological needs of prisoners from a justice perspective?

RESEARCH METHODS

The method used in this research is a normative juridical study by conducting literature studies to collect secondary data. Normative legal research is carried out by examining library material (literature) which is secondary data, which is in a ready-to-publish state; its form and content have been compiled by previous researchers. They can be obtained regardless of time and place (Soerjono Soekanto dan Sri Mamudji, 2010). This study uses 4 (four) specification research that *statute, conceptual, historical* and the philosophy of law and principles of

law. The data analysis method used is qualitative, meaning that the data obtained leads to theoretical studies in the form of principles, legal doctrines and the contents of legal principles first described systematically, then a qualitative analysis is carried out. Data collection is done by means of *library research* (literature), namely by collecting legal materials based on problem topics that have been formulated and studied according to the classification of problems according to their sources and hierarchies in a comprehensive manner.

RESULTS

The correctional system is organized in order to form Correctional Assistance (WBP) to become fully human, aware of mistakes, improve themselves, and not repeat criminal acts so that they can be accepted by the community, can actively play a role in development, can live naturally as good citizens and this jawab. Sistem be conducted to establish the WBP in order to integrate a healthy community through coaching and mentoring in the correctional (prisons) (Haryono, 2017)

Correctional Institute is one of the technical unit of the Directorate General of corrections that serves as a place to carry out coaching Prisoners and Correctional Students. Apart from being a place for people who have been convicted of losing their independence, prisons are also places for guiding prisoners so that after completing their crimes, they have the ability to integrate and adapt to community life outside prisons (Haryono, 2017).

Prison in the correctional system is carried out while still upholding one's dignity as a human being. The treatment is intended to keep the prisoner in position not only as an object, but also as a subject in the coaching process with the ultimate goal of returning the prisoner to the community as a good and useful person (convict resocialization) (Haryono, 2017).

Prisons implement the correctional system in Indonesia. Also, the correctional system provides an essential meaning for

the development of a criminal law system in the field of criminal implementation, in which each series of correctional systems has one unity in criminal law enforcement. Therefore, in its implementation, it cannot be separated from the development of a general conception of the criminal system (Priyatno, 2013).

In the last criminal justice process is the Penitentiary. A correctional facility is an institution, which was also known as a prison in the past, namely a place where people who have been sentenced to certain crimes by the judge must carry out their crimes (Tina Asmarawati, 2015).

According to Sahardjo, prisons are not only punishing the perpetrators of criminal acts but as a place to foster or educate perpetrators of criminal acts who are in prisons, so that they become good citizens and obey the applicable laws (Tina Asmarawati, 2015).

The correctional system, according to Sahardjo, is a concept that has a philosophy of protection. This conception is accepted as a system for prisoners (*treatment of offenders*) (Tina Asmarawati, 2015). Finally, known as the correctional system, from the term it can be seen that the purpose of conventionalization is no longer a matter of imposing sanctions and punishments, but, rather, the process of guiding prisoners. This means that people in prison can be accepted again in the community in a better condition than before (social re-integration) (Pembimbing Kemasyarakatan Indonesia, 2020).

As regulated in Article 1, paragraph (2) of Law Number 12 of 1995 concerning Corrections, states that:

"The Correctional System is an arrangement regarding the direction and boundaries and methods of fostering Correctional Assisted Citizens based on Pancasila which is carried out in an integrated manner between the coaches, who are fostered, and the community to improve the quality of the Correctional Assistance Citizens in

order to realize mistakes, improve themselves, and not repeat criminal acts, so that they can be accepted back by the community, can actively play a role in development, and can live naturally as good and responsible citizens".

Correctional institutions guide through rehabilitation in order to be able to shape the personality and mentality of prisoners / assisted residents who are deemed inadequate in the eyes of the community to change to an average direction and to follow applicable norms and laws. In the implementation of this guidance requires the cooperation of components that support the success of the process of guiding prisoners, namely officers of prisons, rehabilitation institutions, prisoners/assisted residents, and the community. This is because the four of them are mutually sustainable with one another.

Penitentiary is an estuary in the criminal justice system that functions to carry out guidance, and the concept of correctional care is closely related to change the paradigm from retributive punishment (emphasizing justice in retaliation), restitutive (emphasizing justice in compensation), restorative (which emphasizes recovery circumstances) (Pembimbing Kemasyarakatan Indonesia, 2020).

In carrying out its duties and functions, the correctional institution implements a correctional system which is used as a method of guidance for inmates / assisted citizens and students. Prisoners / assisted citizens are human beings who face difficulties and have disturbed social status so that they need guidance (Maryanto et al., 2014).

Guidance for prisoners / assisted citizens in general includes, care, general education, religious education, as well as skills education or work related to the community. In order to achieve optimal results from the implementation of the correctional system, it will very much

depend on the methods and development program itself (Maryanto et al., 2014).

The development of prisoners / assisted citizens is based on the pattern of training for prisoners that have been established by the Ministry of Justice of the Republic of Indonesia based on the Decree of the Minister of Justice No. M. 022-PK.04. 10 of 1990. However, this guidance will undoubtedly depend on the situation and conditions that exist in the correctional institutions because they have different backgrounds (Erina Suhestia Ningtyas et al., 2013).

According to Fachrurrozy Akmal's observations, Law Number 12 of 1995 concerning Corrections has not yet accommodated the technical interests of risk assessment and criminogenic assessment. Risk and needs assessment is an important instrument in determining corrective action and treatment for prisoners (Pembimbing Kemasyarakatan Indonesia, 2020).

The implementation of the correctional system is based on the prevailing policy, as a policy for crime prevention. Criminal law policy is part of criminal politics. According to Sudarto, criminal politics is defined as 3 (three) definitions, namely:

1. Definition in a narrow sense, namely the overall principles and methods that are the basis of reactions to legal violations in the form of crimes;
2. The broader definition is the overall function of the law enforcement apparatus, including the workings of the courts and the police;
3. The definition in its broadest sense is the whole policy carried out through the laws and regulations of official bodies, which aim to uphold the central norms of society (Pembimbing Kemasyarakatan Indonesia, 2020).

According to Barda Nawawi Arief, policies are divided into 3 (three) parts, namely:

1. As part of *social policy*, reform of criminal law is essentially part of an effort to overcome social problems

(including humanitarian problems) in order to achieve goals National.

2. As part of the criminal policy (*criminal policy*), criminal law reform is essentially part of the efforts to protect the community (*social defence*), especially the prevention of crime.
3. As part of the *law enforcement policy*, criminal law reform is essentially part of an effort to renew the *legal substance* in order to make law enforcement more effective (Wibowo, 2016).

In order to achieve social policy, criminal policy, and law enforcement policies, it must be oriented towards the values that are aspired to.

The correctional system can be seen regarding the rights of prisoners, as a law state, the rights of prisoners are protected and protected by law enforcement officials, especially by officers in prisons. Prisoners are protected for their rights even though they have violated the law, any action was taken against inmates, whether in the form of guidance or other actions, must be protected and must not conflict with the objectives of the penal system itself (Mulyono & Arief, 2016).

Development of prisoners with the correctional system is an effort to combat crime in a broad sense which is part of a criminal policy or criminal politics. The criminal policy is used in the embodiment of efforts to reduce the density of prisoners in the criminal system policy through pre-planned stages, namely the formulation stage by lawmakers (Mulyono & Arief, 2016).

Meanwhile, the theory of criminal policy presented by (Barda Nawawi Arief, 2013) states that:

"From the description above, it can be said that the search for alternatives to imprisonment is the embodiment of selective and limitation policies. The selective and limitation policies are not aimed at eliminating the crime, but simply an effort to avoid the negative side and weakness/shortcomings of imprisonment".

In connection with the above problems, the formulation policy to fulfil the biological needs of prisoners in the perspective of justice is inseparable from the *criminal policy* in it, as according to GP Hoefnagels, namely "criminal policy is a rational organization for social reactions to crime. The *criminal policy is the rational organization of social reactions to crime*). "According to Hamdan, in a practical sense, the political criminal is a rational business community to tackle crime (M. Hamdan, 1997; Tina Asmarawati, 2015).

As quoted by Dey Ravena and Ade Mahmud in the *Journal of Southwest Jiaotong University*, problem crime there was a fact of life Social Crime cannot be eliminated, but can only be reduced in quantity and quality. This statement can be proven empirically from the time humans were born until now, crime continues to exist and becomes increasingly complex (Dey Ravena dan Ade Mahmud, 2019).

As for the close relationship between the purpose of punishment and criminal institutions, one of which is to take action and policies like those carried out by prisons, according to Sahardjo, prisons are not only punishing the perpetrators of criminal acts but as a place to foster or educate perpetrators of criminal acts who are in prisons, so that they become good citizens and obey the applicable laws (Tina Asmarawati, 2015).

The correctional system is a social reintegration process that aims to restore the unity between the life, life and livelihoods of the prisoners. Penalty runs based on the fulfillment of Human Rights (HAM). As contained in Articles 71 and 72 of Law Number 39 Year 1999 concerning Human Rights which states that:

Article 71:

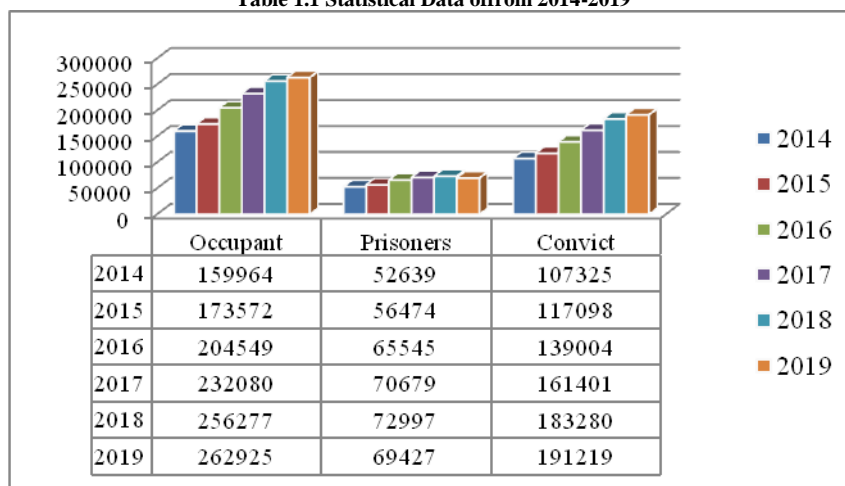
"The government is obliged and responsible for respecting, protecting, upholding and advancing human rights as regulated in this law, and -Other laws and international human rights accepted by the Republic of Indonesia".

Article 72:

"The obligations and responsibilities of the government as regulated in Article 71, include effective implementation steps in the legal, political, economic, social, cultural, defense, state security and other fields".

However, until now, the public still thinks that prison is a formal reaction to crime. Crime or *the oldest social problem the oldest social problem* (Dey Ravena dan Kristian, 2017). Which occurs in society, and has not been resolved. If you look at the statistical data of prison residents from 2014-2019, it shows an increase every year. It can be concluded that if the residents of correctional institutions increase, it means that the crime rate has increased. As illustrated in the table below:

Table 1.1 Statistical Data offrom 2014-2019



Source: Correctional Statistics 2019 2019 (smslap.ditjenpas.go.id)

Imprisonment is still the alternative most often applied by law enforcers, resulting in institutions correctional facilities become/overcapacity that the coaching process is not optimal (Pembimbing Kemasyarakatan Indonesia, 2020). Therefore, there needs to be a change in the rules of prisons in order to reduce crime rates and decrease prison occupants.

Overcrowded issues are a priority at this time. However, this does not mean that the government can turn a blind eye to even one eye on this problem. Because it is feared that it will cause or even add to other more complicated problems in the correctional institution. One of the new problems that arise is about the sexual needs of prisoners.

According to Sulistyawan, in his research "*Membangun Model Hukum yang Memperhatikan Kebutuhan Seksual Narapidana di Lembaga Pemasyarakatan: Telaah Paradigma Konstruktivisme*", which shows the close relationship between the right to sexual needs and basic civil rights contained in human rights regulations both national and international. Denial of the existence of biological needs for prisoners is also denial of the state of nature of a prisoner as a human being. Various findings regarding activities to fulfill the sexual needs of prisoners in correctional institutions are a phenomenon that cannot be ignored (Kemur et al., 2019).

Normatively, the state has the obligation to meet individual needs for physical and mental health. Specifically, Article 12 of the International Economic, Social and Cultural Covenant states that "the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." (Okky Chahyo Nugroho, 2015).

As a consequence, this article requires an achievement that is proportional to health standards in accordance with the ability, especially the economy of a country. Thus, the rules regarding the fulfillment of sexual needs should be a direct derivative of

the right to health and a decent life, given the empirical facts that occur in the field (Okky Chahyo Nugroho, 2015).

However, in reality, the increase in the population of correctional institutions continues to increase. From this increase, new problems emerge regarding the fulfilment of prisoners' rights that are not fulfilled, one of which is the fulfilment of the prisoners' unfulfilled biological needs. Unmet biological needs result in a lot of incidents of sexual abuse that occur in prisons. Therefore, it is also necessary to have clear regulations to regulate the biological fulfilment of prisoners who are driven by adequate facilities and infrastructure.

Pamudji said that one of the needs needed by prisoners is the need for association with the opposite sex, for adults (especially those with families), the need for affection, and sexual relations are basic needs that are very necessary in achieving mental balance (Mahendra, 2020).

The problems above certainly lead to a discussion about the paradox of human rights, which on the one hand obliges the state to fulfill the biological needs of prisoners, but on the other hand the state is also obliged to apply the principle of proportionality to it (Citrawan, 2013).^[1] In general, according to Brenda V. Smith, biological needs can be divided into seven dimensions: sex for pleasure, sex for trade, sex for freedom, sex for transgression, sex for procreation, sex for safety, and sex for love. More specifically, with the consideration of prison security, there is an interesting logic built by Smith, that:

"arguably only sex with staff has the potential to disrupt prison safety and security. The other three - masturbation, sex between prisoners, and sex with visitors - are not clearly a threat to safety and security, particularly if properly managed. In enforcing the prohibitions against all sex, correctional authorities miss opportunities to educate inmates about violence in relationships, safe sex, and to encourage healthy relationships that could offer

support upon return to the community. " (Brenda V. Smith, 2006)

If you look at the penitentiary grace rules as regulated in Law Number 12 of 1995 concerning Corrections, it is actually in line with the logic built by Smith above, that the harmonious relationship between prisoners, their families, and officers in prisons is a determining factor for effectiveness. Reintegration of prisoners into society, in initiating a mechanism to fulfill the biological needs of prisoners, the state first needs to explicitly regulate biological needs as the prisoner's right in law (Citrawan, 2013).

Roni R. Nitibaskara said that the need for sex is a basic need that absolutely must be met, as well as the need for food and drink. Many parties suspect that the failure of the state to fulfill the rights to sexual needs of prisoners in prison can have negative implications in the prison environment, for example, with frequent sexual deviations and fleeing (Sulistyan, 2014).

As we know, through the mass media there was an escape in the Penitentiary. Many experts put forward the reasons, although it can be emphasized that the situation (extern) and the factor in the convict himself (Tina Asmarawati, 2015) Regarding the negligence of officers, it does not need to be addressed in this matter because after all the pure intention or intention to run away is not only because of the officers' negligence (Tina Asmarawati, 2015). The causes of flight include:

- a) There is a tense life situation, due to pressures, extortion, food care, lack of health (pain).
- b) Unfair acts, such as protracted detention, the length of the sentence that was felt to be too severe was not worth it.
- c) According to a convict in America, the heaviest punishment was the desire to fulfill an unaltered biological need.
- d) Addiction or too attached to smoking habits and drugs or potions (cannabis) (unable to hold back), because the environment is completely limited, especially in the material field.
- e) Longing for family and children.
- f) The desire to take revenge against the person who harmed him.
- g) The desire to do more criminal acts.
- h) Take revenge on the officer who "hurt him" so that the officer will be prosecuted by the authorities because of the escape incident, and so on.

Based on these factors, normatively, the state should not ignore the biological needs of prisoners because psychologically biological needs are the basic needs of adult humans. The absence of regulation on these needs indicates that the state denies these basic needs, so that policies are needed to facilitate the sexual needs and behavior of prisoners (Langden & I Nengah Suantra, 2018).

It can also be seen in table 1.2 regarding the data on the condition of the Correctional Technical Implementation Unit, which is still not evenly realized. As mandated by applicable laws.

Table 1.2 Mandate Establishment Unit General

UPT CORRECTIONAL	REGULATORY	CONDITIONS OF CURRENT	MANDATE OF LAW	AMOUNTS ARE STILL REQUIRED
LAPAS	Act No. 12 of 1995 on the Penal	237	514	277
BAPAS	Act No. 12 of 1995 on the Penal	73	514	441
RUTAN	Regulation No. 27 the Year 1983 on Implementation of KUHAP Pasa 18 Paragraph 1	219	514	295
RUPBASAN	Regulation No. 27 the Year 1983 on Implementation of KUHAP Article 1	64	514	450
LPKA	Act No 11 of 2012 concerning SPPA	33	34	1
LP Perempuan	Act No 11 of 2012 concerning SPPA	33	34	1
LPAS	Act No 11 of 2012 concerning SPPA	0	34	34
Rumah Sakit	Act No 44 Year 2009 Regarding Hospitals	1	34	33

Source: Correctional Statistics Data for Program and Reporting Section 20/01/2019 (smlap.ditjenpas.go.id)

From the shortcomings or weaknesses in general above then found 10 (ten) Correctional Technical

Implementation Units (UPT) with the *overcapacity* highest level, namely:

Table 1.3 Mandate Establishment of UPT

No	UPT	Number of Occupants	Capacity	Over Crowded	J Home Officers
1	Cabrutan Bagan Siapi-Api	799	98	715 %	36
2	Cabrutan Langsa	497	63	689 %	48
3	Lapas Kelas IIA Labuhan Ruku	2.240	300	640 %	49
4	Lapas Kelas IIB Tanjung Balai Asahan	1.471	198	643 %	110
5	Lapas Kelas IIA Banjarmasin	2.674	366	631 %	112
6	Cabang Rutan Bireuen	435	65	569 %	40
7	Cabang Rutan Teluk Kuantan	363	53	568 %	46
8	Lapas Kelas II A Jambi	1412	218	548 %	149
9	Rutan Kelas IIB Takengon	408	65	528 %	26
10	LPKN Kelas II A Bandar Lampung	1044	168	521 %	90

Source: Correctional Statistics Data for Program and Reporting Section 20/01/2019 (smslap.ditjenpas.go.id).

To overcome this, the Menkumham issued regulations, namely Permenkumham Number 11 of 2017 concerning *Grand Design for Handling Overcrowded*, namely structuring regulations, empowering human resources, improving facilities and infrastructure and strengthening institutions (Pembimbing Kemasyarakatan Indonesia, 2020). This regulation needs synergy between policymakers and law enforcement officials for the realization of justice.

Before discussing the biological needs of prisoners with a justice perspective, it can be known in general about justice itself. As in the book (Agus Santoso, 2014) Justice comes from the word fair, according to the Indonesian dictionary fair is not arbitrary, impartial, and impartial. Fair mainly means that decisions and actions are based on objective norms. Justice is basically a relative concept, everyone is not equal, fair according to one is not necessarily fair to another, it must be relevant to public order in which a scale of justice is recognized. The scale of justice varies greatly from place to place, each scale is defined and fully determined by society according to the public order of that society.

For most people justice is a general principle, that individuals should receive what they deserve. Some of them mention the term legal justice which refers to the implementation of law according to the principles determined in the rule of law. There is also the term social justice which is

defined as general conceptions of social firmness which may not conflict with the conception of individual justice or justice in general.(Agus Santoso, 2014)

In Indonesia, justice is described in the Pancasila as the basis of the State, which is social justice for all Indonesians. The values contained in the social justice system for all Indonesians are based on and embodied by the divine will, fair and civilized humanity, Indonesian unity, and citizenship led by the wisdom of wisdom in deliberation or representation in these five values-values that are the purpose of living together. So in the five precepts are contained the values of justice that must be realized in life together (social life). As for justice, it is based and embodied by the essence of human justice, namely justice in the relationship of man with himself, man with other human beings, man with society, nation, and country, as well as human relationship with God. The values of justice must be a basis that must be realized in living together with the state in order to realize the goals of the State, namely realizing the welfare of all its citizens and all their territories, and to educate all citizens (Agus Santoso, 2014; Kaelan, 2007).

Justice is the equal treatment of those who are equal before the law to everyone. Ideals of law are born from ideas of justice or considerations related to justice, preceding legal provisions (Tina Asmarawati, 2015).

In order for policymakers and law enforcement officials in Indonesia to be better off and the public to believe in the applicable law, a policy that reflects a sense of justice and justice enforcement officers is needed. The government (policymakers), must have a fair character and law enforcers who have a vision of justice, as in the ideals of traditional law dreamed of by the Indonesian people (Tina Asmarawati, 2015).

Justice is a will that remains and continues to apply to give everyone what is their right. This is conveyed by Cicero, who stated that justice is "a deep desire to give everyone what is their right." Likewise, Plato mentions as a characteristic of justice: "Give everyone what their right is." From this opinion, it can be concluded that the thought of law in Roman times has affirmed justice is closely related to the will (*voluntas*) and feelings (*affectio*) (Pembimbing Kemasyarakatan Indonesia, 2020).

CONCLUSION

The results of the study, the authors conclude, that the rate of crime that occurs in Indonesia is increasing every year, which results in ineffective policies regarding the correctional system, and causes problems in prisons to become/*overcapacity* so that the guidance process is not optimal. Besides that, it also raises other problems, namely sexual deviance in prisons, such as fantasizing about sex, masturbation or masturbation, same-sex relationships (homosexual or lesbian), and ordering commercial sex workers. If this deviation is allowed, it will have an impact on the prisoners, namely a high risk of contracting HIV / AIDS. The government or policymakers and law enforcement officials need to make changes and optimize the penal system policy because the policy does not implicitly explain the fulfilment of prisoners' biological rights, which reflect justice.

Suggestions to policy makers, law enforcement officials and the public so that they can synergize all supporting elements

to reformulate and optimize the prevailing correctional system policy. However, all of these are inseparable from supporting factors, including: 1) the policy itself, 2) competent human resources, 3) adequate budget, 4) proper facilities and infrastructure to carry out the guidance process and fulfill all rights. One of the needs of prisoners is to meet the biological needs of prisoners in prison (this means and infrastructure does not mean providing luxurious facilities and infrastructure but according to prison standards and does not conflict with the fulfillment of human rights).

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