

Implementation of Health Laws for Prisoners with Serious Infectious Diseases as an Effort to Fulfill the Right to Health According to Human Rights

Emmeninta Florence Surbakti¹

¹Program Study Magister Hukum Kesehatan, Pascasarjana UNPAB, Indonesia

Email: emmeninta23@gmail.com

Abstract

Fulfillment of rights health for prisoners, especially those suffering disease infectious Seriously, it's one of them challenge big in system correctional and health Indonesian public. This study aim for analyze application law health in context correctional, with focus on suffering prisoners disease infectious serious as effort fulfillment right health according to human rights view Human (HAM). This study use approach juridical normative, via study literature and analysis document related regulation applicable legislation, incl Constitution Republic of Indonesia Number 39 of 1999 concerning Human Rights Human, Law Number 17 of 2023 concerning Health, as well studies cases and secondary data related condition health inmates in some institution correctional. Findings show exists gap significant between legal norms and practice in the field. Although regulation legislation has acknowledge and guarantee right health as part from human rights, implementation in institutions correctional Still face various obstacles, incl limitations source power, infrastructure does not adequate, as well lack of awareness and training for officer correctional and labor health. This study recommend enhancement allocation budget for health in institutions correctional, remedial infrastructure and facilities health, as well development of training programs for officers and personnel health. Additionally, it is required more cooperation tightly between the Ministry of Health, the Ministry of Law and Human Rights, as well as institution correctional for ensure effective implementation from law health for prisoner.

Keywords: Health Law, Prisoners, Disease Infectious, Human Rights Human, Correctional

1. INTRODUCTION

Man is creature God's most noble and beautiful creation high degree as man. All man own the same dignity and rank, and have the same rights too. All man free develop himself in accordance with healthy mind as creature creation of God. Equal rights as man this is what often happens called Human Rights Human (HAM). Rights Man means rights inherent in humans based on its nature as man. Humans are a combination of physical and mental, or body and soul, which are complexly interrelated. Every individual has a need for service, which is an integral part of the human life experience. To carry out daily activities, a nation and state need public services provided by the government or bureaucracy as a form of administering power. No matter their condition, citizens have the same right to access government health services, including those in correctional institutions such as detainees, convicts, or children. This principle of equality makes the distinction between citizens and prisoners irrelevant when it comes to health services. The concept of punishment has changed from a revenge orientation to an emphasis on social rehabilitation and social reintegration. In this approach, convicts are treated as individuals who have the potential for change, not as mere objects of punishment. Prisons can act as a starting point in the development process, supporting education, rehabilitation and reintegration goals. Officers who work in correctional institutions play an important role as implementers of educational programs. By juridical guarantee of Human Rights Humans in Indonesia have arranged in Opening The 1945 Constitution of the Republic of Indonesia. The 1945 Constitution of the Republic of Indonesia has load honorable confession tall honor and dignity as well as values very noble and basic humanity. In Article 28A to with 28J confirmed that every man must guaranteed human rights Humans, because of Human Rights Man is right fundamentals inherent

in the self human nature natural and universal as grace of God Almighty since man born. Every man since He born own freedom and rights For treated The same without discrimination whatever.

Article 1 number 1 of the Law Number 39 of 1999, Concerning Human Rights Human Rights (HAM), emphasized that :

“Fundamental Rights Humans is a set rights attached to reality and existence humans as a creature of God who is One and is His obligatory award respected, upheld high and protected by the rule of law , the Government, and everyone for the sake of honor as well as protection dignity and respect human”.

Article 1 number 6 of the Law Number 39 of 1999, Concerning Human Rights Human Rights (HAM), said that :

“Violation of Human Rights Man is every deed somebody or group of people included State officials are good intentional nor No intentional or gross negligence oppose law reduce, limit and or revoke human rights Man somebody or groups of people who are guaranteed by law and who are not get or worried No will obtain solution fair and correct law based on mechanism applicable law”.

Human Rights Issues Man since post second world war until moment this become something hotly discussed. This related with the more strengthen it demands protection rights basic from concerned community various interest they. Strengthen it demands will protection of Human Rights Man That No regardless from influence global development, viz with appearance various agreements International guarantee protection and respect towards Human Rights Man in various one of these dimensions is right on degrees health. In Article 4 of the Law Number 17 of 2023 concerning Health (new Health Law, replaces 14 Rules Legislation calm Other health), confirms that.

Everyone has the right

1. Live a healthy life physically, mentally and socially;
2. Get information and education about balanced and responsible health;
3. Obtain safe, quality and affordable health services in order to achieve the highest level of health;
4. Receive health care in accordance with health service standards;
5. Gain access to Health Resources;
6. Determine the necessary Health Services for himself independently and responsibly;
7. Obtain a healthy environment for achieving a degree of Health;
8. Accept or reject some or all of the assistance actions that will be given to him after receiving and understanding the information regarding the action completely;
9. Obtain confidentiality of personal health data and information;
10. Obtain information about his/her health data, including actions and treatment that he or she has received or will receive from medical personnel and/or health workers; and
11. Get protection from health risks.

In line with matter on so Prisoners have too stated rights clear in the Law Number 22 of 2022 concerning Corrections (Penitentiary Law) is a statutory regulation that regulates the correctional system in Indonesia. The Corrections Law replaces Law Number 12 of 1995 concerning Corrections Article 7 :

Prisoners have the right:

1. Carry out worship in accordance with their religion or beliefs;
2. Receive care, both physical and spiritual;
3. Receive education, teaching and recreational activities, as well as opportunities to develop potential;
4. Get adequate health services and food in accordance with nutritional needs;
5. Obtain information services;
6. Receive legal counseling and legal assistance;
7. Submit complaints and/or grievances;

Next, according to Law Number 22 of 2022 concerning Corrections (Penitentiary Law) is a statutory regulation that regulates the correctional system in Indonesia. The Corrections Law replaces Law Number 12 of 1995 concerning Corrections. The correctional system functions to prepare correctional inmates so that they can integrate healthily with society, so that they can play their role again as free and responsible members of society. Based on this explanation, it is mandatory for the state to protect the rights of its citizens, including convicts who

are undergoing a period of guidance at Correctional Institutions (LAPAS). A set of rights contained in human rights must be protected by the state, including the right to health which is an elaboration of the right to life contained in Article 9 of Law Number 39 of 1999 concerning Human Rights. The right to health as part of human rights must be realized in the form of providing various health fulfillment efforts to the entire community by providing quality health development (Hafid Abbas, 2008: 1). The form of obligation for citizens to fulfill the right to health is to provide adequate health service facilities and public service facilities, this provision is contained in Article 34 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Continuous with the objectives of punishment, one of which is not solely focused on retaliating against deviant and unlawful acts committed by prisoners, but also to ensure that prisoners can return to society by understanding and applying the laws and regulations that apply in society, so that they do not commit wrongful acts again. breaking the law. This effort can be carried out by developing the personality, character, morals and behavior of prisoners. Good health conditions have a big influence on increasing the productivity of convicts after completing the training period, to start life in society again with a new chapter and to meet their living needs. The training carried out in prisons is filled with skills activities that can support the careers of prisoners after completing the training period in prisons. In order to be able to implement new skills and expertise to fulfill their lives in society, health is an important factor that must be fulfilled by Correctional Institutions in ensuring the rights of prisoners as stated in Law Number 12 of 1995 concerning Corrections. The number of sufferers of *Human Immunodeficiency Virus* (HIV) and *Acquired Immune Deficiency Syndrome* (AIDS) in prison is not small. However, handling HIV/AIDS sufferers still requires more focus. In 2014, the government revoked the budget intended for handling HIV/AIDS sufferers in prisons and detention centers (RUTAN) in the Jakarta area. This is because there is no State Revenue and Expenditure Budget (APBN) to provide treatment for prisoners and detainees who suffer from HIV/AIDS. In general, the cumulative number of reported cases of HIV infection until June 2018 was 301,959 people for the entire community. In 2017, HIV became the most dangerous infectious disease suffered by convicts and detainees with a total of 1,678 people, while there were 776 people suffering from *Tuberculosis* (TB). TB is a disease that is often contracted by prisoners because of the easy spread of the virus that causes TB, apart from that, TB requires quite a long treatment in the healing process. It is estimated that the number of TB sufferers in prisons is more than 776 people, namely 1,224 people. The high number of dangerous infectious diseases in prisons should be of greater concern to the government, because health is a right for everyone, including prisoners. Apart from that, dangerous infectious diseases have a risk of transmission to other healthy prisoners, while prisoners who suffer from infectious diseases themselves have a high risk of causing death. Tuberculosis was the disease that contributed the most deaths in the 2012-2017 period.

2. METHODOLOGY

The research entitled " Application of Health Law for Prisoner with Disease Infectious Are you serious as an effort to fulfill the right to health according to Human Rights View. This human use approach juridical normative. Research methods juridical normative is methods that focus on assessment to regulation legislation, documents official, as well related literature with subject study for analyze and describe how application law health for prisoners, especially those who suffer disease infectious serious , as form fulfillment right health in Human Rights framework Human (HAM). In research here , source primary law used includes :

1. Constitution Number 17 of 2023 concerning Health, which becomes base law in maintenance health in Indonesia, including in institutions correctional.
2. Constitution Number 22 of 2022 concerning Correctional, which regulates about system correctional institutions in Indonesia, incl right health for prisoner.
3. Constitution Republic of Indonesia Number 39 of 1999 concerning Human Rights Man, who becomes base normative fulfillment right health as one of the right basic humans must guaranteed by the state, incl for prisoners .

Study this also uses source law secondary form literature, journals, and research relevant past for support analysis to implementation existing laws and regulations. Approach this possible researcher For interpret norms and principles applicable law, as well study its implementation in context fulfillment right health for prisoner with disease infectious Serious.

3. RESULTS AND DISCUSSION

Constitution Republic of Indonesia Number 39 of 1999 concerning Human Rights Man

This study focuses on interpretation and application Constitution Republic of Indonesia Number 39 of 1999 concerning Human Rights Human (Human Rights Law) as base normative in ensure right health prisoner fulfilled. The Human Rights Law, especially Article 9, states, "Everyone has the right life

prosperous physically and mentally, located stay, and get environment a good and healthy life " and Article 25 which states , " Everyone has the right on service health ". Based on articles the Human Rights Law in full explicit confess right health as one of the right human rights that must be guaranteed by the state, incl for prisoner. Hence, according to writer to articles the show that government responsible answer for ensure access service adequate health for all individual, without except for those who are in institution correctional. This matter covers prevention, treatment, and control disease infectious serious inside prison, as well provision service appropriate medical care with standard applicable health in a way general. The country must take step concrete for fulfil his obligations in guard health prisoner, who is not only important from corner human rights perspective but also for health public in a way whole. Application law health in institutions correctional often face obstacles, incl limitations source power, facilities health is not adequate, and limited access to service health professional. Therefore that is necessary work the same between the Ministry of Health, the Ministry of Law and Human Rights, as well as institution correctional for increase quality and accessibility service health for prisoners. Implementation policy effective healthcare in prisons need enhancement capacity facility health prison, training for officer health prison, and monitoring as well as evaluation periodically to service health provided. Final words from this study emphasize that the Human Rights Law provides strong foundation for fulfillment right health prisoner. With referring to the articles Specific in Human Rights Law. This research underline the importance of the deep state take step proactive and effective for ensure that convict, as part from population entitled on right basic man, get access to service quality health.

Law (UU) Number 22 of 2022 concerning Corrections

The enactment of Law Number 22 of 2022 concerning Corrections which was directly suppressed by President Joko Widodo on August 3 2022 confirms the implementation of the correctional system which is implemented based on the principles of protection, non-discrimination, humanity, mutual cooperation, independence, proportionality, loss of independence as the only suffering and professionalism. The establishment of Republic of Indonesia Law number 22 of 2022 concerning neutral corrections in the Criminal Justice System which responds to the dynamics of society's need for Restorative Justice said the Secretary of the Directorate General of Corrections, Heni Yuwono 14. Law Number 22 of 2022 is a criminal justice subsystem which in its implementation includes law enforcement in the field of treatment of prisoners, children and inmates, directly repealing Law Number 12 of 1995 concerning Corrections, which is no longer in accordance with the development of social law and does not fully reflect the needs of the implementation of the correctional system. In accordance with the preamble in the contents of Law Number 22 of 2022 concerning Corrections, namely considering:

- a. That in essence the treatment of suspects, defendants and convicts who have been deprived of their liberty must be based on the principles of legal protection and respect for human rights. which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia;
- b. Whereas correctional services are an inseparable part of the integrated criminal justice system organized by the government as part of the law enforcement process in the context of services as well as coaching and mentoring for social reintegration;
- c. Whereas Law Number 12 of 1995 concerning Corrections is no longer in accordance with the legal development of society and does not fully reflect the needs for implementing the correctional system and therefore needs to be replaced;
- d. That based on the considerations as intended in letters a, letter b, and letter c, it is necessary to establish a Law on Corrections

Health for Prisoner With Disease Infectious and Efforts to Fulfill the Right to Health

In this country, rights on health, incl for prisoners, guaranteed in Constitution Republic of Indonesia Number 39 of 1999 concerning Human Rights Human Rights (Human Rights Law), esp in Article 9 which states everyone has the right life prosperous physically and mentally, get environment a good and healthy life, and Article 25 which confirms it right everyone up service health. However, there is a gap between ideal legal norms and reality on the ground significant gaps, esp in context fulfillment right health for prisoner with disease infectious. Corrections in Indonesia face various challenge in provide service adequate health for prisoners, especially those who suffer disease infectious such as HIV/AIDS,

Tuberculosis (TB), and Hepatitis B and C. Conditions overcrowded prisons and a lack of them ventilation often creates conducive environment for spread disease infectious. Additionally, access to service quality health still limited, fine from facet facilities, resources Power humans, as well as availability drugs. In context normative, the Indonesian government has take steps for repair this situation. For example, Regulations Government Number 32 of 1999 concerning Terms and Procedures for Implementation Inmates ' Rights Correctional confirm that prisoner entitled on service proper health. However, in practice implementation regulations this still far from satisfying. Lack of budget, sources power limited human beings, and lack of awareness about importance health prisoner become inhibitor main in fulfillment right this health. Study of condition health inmates in some institution correctional services in Indonesia shows that prevalence disease infectious more high in prison compared to with population general. This matter No only threaten health prisoner that themselves, but also officers prison and society general, remembering lots the final convict will return to public. Fulfillment of rights health for prisoner with disease infectious serious no only problem health public, but also a matter justice social and rights basic man. One of challenge main in application law health in institutions correctional is lack of coordination between institution related. Ministry of Health, Ministry of Law and Human Rights, as well as Directorate General Correctional need work the same in a way more effective for ensure that prisoner get access to service adequate health. This includes prevention, treatment early, and management disease contagious in prison.

Apart from that, stigma and discrimination to prisoner with disease infectious Serious become obstacle other. This stigma no only come from fellow prisoners, but also from officer prison and even from power health that yourself, you can obstruct access prisoner to service health. Education and training for all party related, incl prisoner, officer prison, and labor health, about disease infectious and rights Prisoners are really needed for overcome this problem. Investment in infrastructure health in institutions Corrections are also important. This matter No only covers development or renovation facility health, but also provision equipment adequate medical care and access to drugs essential. Enhancement capacity service health in prison must accompanied with enhancement quality the service, through training and certification for power health prison. Monitoring and evaluation in a way periodically to service health in institutions corrections are also very important. This matter can done through internal audits or externally by the institution independent, like National Human Rights Commission Man or non-governmental organizations operating in the field health and human rights. Supervision this no only ensure quality service health is given, but also becomes mechanism for ensure accountability government in fulfillment right health prisoner. Fulfillment of rights health for prisoner with disease infectious Serious is not quite enough the country must answer executed with serious and systematic. This matter No only need commitment politics and allocation source adequate power, but also improved governance and coordination between institutions, and change attitude public to prisoner. Fulfillment of rights health prisoner is an integral part of Indonesia's commitment to right basic humans and health public. With so, effort fulfillment right this must become priority in the development agenda national.

4. CONCLUSION

This study has show that still there is significant gap between ideal legal norms and reality application in the field. Although various regulations and laws has adopted for ensure right health prisoners, implementation from regulation the often not effective because various reasons, incl limitations source power, infrastructure does not adequate, as well lack of coordination and commitment from party related. Fulfillment of rights health for prisoner with disease infectious serious no only is something obligation law and morals for the state, but also constitute need basic must guaranteed for support rehabilitation and reintegration prisoner to in public. Fulfillment efforts right This need Work the same closely between the Ministry of Health, the Ministry of Law and Human Rights, institutions correctional, organizational world health, as well organization public civil. Recommendation for increase fulfillment right health prisoner with disease infectious Serious covers enhancement allocation budget for health in institutions correctional, development and maintenance infrastructure adequate health, training and improvement capacity officer health and officers prison, as well development of prevention and detection programs early and treatment disease infectious. Apart from that, it is also important to overcome stigma and discrimination to prisoner with disease infectious Serious through education and advocacy for increase awareness and understanding about right basic humans and health.

REFERENCES

- "Health Behind Bars : A Study of Health Conditions of Prisoners in Indonesia." 2018. Report Public Health Foundation Research .
- "Inter-Agency Cooperation in Fulfilling the Health Rights of Prisoners ." Analysis Health Policy 5, no. 2 (2019).
- Ali, Zainuddin. 2015. Legal Research Methods . 1st Edition , 6th Printing . Jakarta: Sinar Graphics .
- Amendment to the 1945 Constitution to 4
- CNN Indonesia. Prisoners ' Health HIV/AIDS Sufferers Neglected ." Accessed February 20 , 2024, from <https://www.cnnindonesia.com/nasional/20141127163757-20-14298/kesehatan-tanganan-penderita-hiv-aids-terabaikan>.
- Constitution Number 39 of 1999 concerning Human Rights Man
- Constitution Republic of Indonesia Number 12 of 1995 concerning Correctional
- Constitution Republic of Indonesia Number 17 of 2023 concerning Health.
- Constitution Republic of Indonesia Number 36 of 2009 concerning Health
- Constitution Republic of Indonesia Number 39 of 1999 concerning Human Rights Man . Source LN. 1999/ No. 165, TLN No. 3886, LL SETNEG: 29 P.L.
- Hafidah , Amalia Rahma, Diana Lukitasari , and Ismunarno . 2020. " Implementation of Health Law for Prisoner Sufferer Disease Infectious Dangerous as Forms of Fulfillment of the Right to Health Reviewed from Human Rights Perspective Human Rights (HAM)." Recidive 9(1): 34-42. Sebelas Maret University. Accessed from Jurnal.uns.ac.id.
- Kompasiana . "When HIV Takes Action in Prisons ." Accessed February 23, 2024, from <https://www.kompasiana.com/jepretpotret/5c29cd09bde5753de0745259/when-hiv-beraksi-di-lapas?page=all#sectionall>.
- Kurnia, Titon Slamet. 2007. The Right to Optimal Health as a Human Rights in Indonesia. Bandung: Alumni.
- Law (UU) Number 22 of 2022 concerning Corrections
- Law Number 17 of 2023 concerning Health.
- Novian Rully, et al . 2018. Strategies for Handling Overcrowding in Indonesia: Causes , Impacts and Solutions . South Jakarta: ICJR. of Justice Decree Republic of Indonesia Number : M. 02-PK.04.10 of 1990 concerning Development Patterns Prisoner / Detainee .
- Regulation Government Republic of Indonesia Number 32 of 1999 concerning Conditions and Procedures for Implementing the Rights of Inmates Correctional .
- Simanjuntak, Thomas Wira Dharma and Irvan Sebastian Iskandar. 2023." Implementation Policy Health Services for Prisoner Tuberculosis Sufferers in Correctional Institutions Narcotics Class II A Langkat ." Journal of Citizenship Education Undiksha 11(3). Accessed via <https://ejournal.undiksha.ac.id/index.php/JJPP>.
- Sinlae , Ronny Adrianus. 2016. " Granting Rights to Health Services for Prisoners Suffering from Serious Illness in Correctional Institutions Regency Dompu." Faculty of Law, Atma Jaya University Yogyakarta.
- Tempo.co. "Tuberculosis is a Health Problem in Prisons that Needs a Solution." Accessed February 23, 2024