

# The Juridical Implications Of The Implementation Of Prisoner Services As A Correctional Function On The Indonesian Criminal Justice System

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**Abstract.** The improvement of the correctional system in Indonesia is marked by the passing of law No. 22 of 2022 Concerning Correctional Facilities (The Correctional Law). One of the things that are regulated regarding the implementation of prisoner services is a correctional function. Thus, the role of correctional institutions will undoubtedly be more in implementing services for prisoners placed in the State Detention Center (Rutan). This, of course, will have an influence on the existence of correctional facilities as part of the criminal justice system. The analysis and discussion of this study use a normative juridical method with a law approach and legal concepts, especially regarding the penitentiary system and the integrated criminal justice system. The results of the research and discussion show that strict and precise regulation regarding implementing prison services as a correctional function is one form of legal certainty for the existence of prisons as part of an integrated criminal justice system. This shows that prisons work not only in the final process of a series of criminal justice processes, especially inmates' development but also when the criminal justice process is working.

**Keywords:** prisoner, correctional system, criminal justice system

## 1. Introduction

Indonesia has a new Correctional Facilities Law with the ratification and enactment of Law No. 22 of 2022 concerning Correctional Facilities. The amendment to this law is to answer the needs and polemics related to the existence and treatment of inmates in prison as well as strengthening the Correctional System. Besides that, it is also to answer the dynamics in the community related to the implementation of restorative justice. In practical terms, changes to the Correctional Law, among others, depart from the idea that the main task of correctional facilities is related to the treatment of prisoners, prisoners and correctional clients[1].

Many things are substantially new regulated in the law and are changes from the previous provisions. These substances include strengthening the position of correctional officers in the integrated criminal justice system, expanding the scope of the goals of the correctional system, reforming the principles in the implementation of the correctional system, regulating correctional functions which include services, coaching, community guidance, care, security, and observation as well as several other matters.

One of the interesting things to discuss is related to the arrangement for the implementation of prison services. Law No. 22 of 2022 concerning Corrections Facilities

regulates the implementation of services for prisoners as one of the functions of correctional. This arrangement is of course one of the new things and can be said as an improvement to the previous law. In Law No. 12 of 1995 concerning Corrections Facilities (the old Correctional Law) it is not clearly regulated regarding the provision of services to prisoners. Regarding detainees, it is only regulated regarding the treatment of prisoners as contained in Article 51 paragraphs (1) and (2) of Law No.12 of 1995 concerning Corrections Facilities.

Regulations regarding detention houses (Rutan) as places of treatment for prisoners are regulated in Government Regulation Number 27 of 1983 Concerning the Implementation of the Criminal Procedure Code. Besides that, it is also contained in Government Regulation Number 58 of 1999 concerning Conditions and Procedures for Implementing the Duties and Responsibilities of Detainee Treatment. Although it is not comprehensively regulated clearly in the old Correctional Law, the responsibility for managing detention centers and caring for prisoners is part of the correctional facility and part of the Directorate General of Corrections.

In the provisions of the Criminal Procedure Code, detention is an authority possessed by law enforcement for each level of examination, so the service or treatment of prisoners is carried out by each of these law enforcement institutions. Likewise with the place of detention, where each law enforcement institution has it [2].

Article 4 of Law No. 22 of 2022 concerning Corrections regulates that the implementation of prison services is one part of the correctional function and is regulated similarly to the guidance of prisoners and other correctional functions, although it is different in terms of the place where prisoners are carried out by the Detention Center. The implementation of prisoner services in the law is contained in Chapter Three, Part One regarding prisoner services starting from Article 19 to Article 27. In addition to the implementation of prisoner services, many things related to prisoners including rights and obligations are explicitly regulated in the law. The regulation regarding the implementation of prisoner services in the new law certainly has an influence and is related to the regulations for the implementation of prison services which have been the basis and technical regulations regarding detention services by the Detention Center. This is considering that the promulgation of this law on the one hand is an effort to harmonize, harmonize, and harmonize the legal basis for the implementation of correctional duties with other relevant legal rules[3].

Another important thing that is also related to the regulation of the implementation of prison services in the Correctional Law is the affirmation that prisons are part of law enforcement and are an integral part of the integrated criminal justice system. The existence of a correctional function setting in which it regulates the service of prisoners, of course, shows that correctional facilities have a role in a series of criminal law enforcement processes or the criminal justice process. This is considering that the status of a prisoner is a status attached to someone who is still in the ongoing criminal investigation stage. Detention of a suspect is against someone in the status of investigation and detention of a defendant is against someone at the stage of prosecution or trial.

In a criminal justice processes, correctional facilities are usually only seen as the estuary of the series of processes. The correctional facility is the place for the execution of a sentencing decision in the form of imprisonment, meaning that the correctional facility will only work after the entire series of criminal justice processes are completed. Thus, this role means that it is more related to the function of the correctional facility as a place for fostering prisoners.

The regulation of the implementation of prison services as a correctional function in the new penal law of course has implications for the integrated criminal justice system. To discuss and analyze this, this study discusses the issue in accordance with the title stated at the beginning of this paper.

## **2. Methods**

This article is a normative legal research study. Research and analysis will be carried out by collecting and analyzing secondary data[4]. Secondary data is obtained by reviewing library materials, including a study of legislation and legal concepts or theories.

This research uses a statutory approach and a conceptual approach to law. The legal approach is carried out by reviewing all laws and regulations or regulations related to the issue being researched[5]. The author will examine the implementation of prisoner services as regulated by Law No. 22 of 2022 concerning Corrections. The conceptual approach departs from the views and doctrines in the science of law. Researchers will study and examine the theories of the correctional system and the concept of the criminal justice system.

## **3. Results And Discussion**

### **3.1. Arrangements for the implementation of prison services as a correctional function**

The term correctional was first openly put forward by Sahardjo in 1963. In his speech it was stated that the purpose of imprisonment is correctional. This then becomes the basis for coaching those who are sentenced[6]. At first the concept of correctional was born as a form of shifting the function of punishment from imprisonment to reintegration and resocialization. Sentencing not only protects the interests of the community and the rule of law, but also the interests of the convict himself.

Correctional administration works based on a system called the correctional system. Within the system there are officers, detainees, children, inmates, and the community itself who work based on an integrated method of implementing correctional functions. The correctional function itself includes; services, coaching, community guidance, maintenance, security, and observation.

As a part of the correctional system, prisoners are attached to a service function, besides this function is also attached to children. It is known that detainees are suspects or defendants who are undergoing the judicial process and are being held in detention centers. Detention of a suspect or defendant is based on the provisions of the Criminal Procedure Code (KUHAP) and the authority for detention rests with authorized institutions at every level such as investigators, public prosecutors, and judges. Detention of a suspect or defendant based on his type according to article 22 paragraph (1) of the Criminal Procedure Code, one of which is detention in a detention center. Where in the case of detainees being placed in a detention center, the implementation of the service is the responsibility of the detention center based on Article 21 of Government Regulation Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code, which is managed by the Ministry of Justice (Ministry of Law and Human Rights, in particular the Directorate General of Corrections).

Detention is one form of deprivation of one's freedom, in other words that detention is basically an act that limits one's freedom of independence. This indicates that detention is directly related to human values and human dignity. Therefore, detention may only be carried out by an authorized official and the period of time is regulated in a limited manner in the provisions of the criminal procedure law[7].

The implementation of services for prisoners cannot be separated from efforts to guarantee and implement the rights of prisoners themselves. In many laws and regulations, efforts to protect human rights are also guaranteed for suspects or defendants in detention. This means that the detention should not be carried out arbitrarily by the authorities[8].

In this new correctional facilities law, the rights of detainees are clearly regulated as contained in Article 7, namely:

- a. Carry out worship according to their religion and beliefs
- b. Get treatment, both physical and spiritual
- c. Get education, teaching, and recreational activities, as well as opportunities to develop potential
- d. Get health services and proper food in accordance with nutritional needs
- e. Get information service
- f. Get legal counseling and legal assistance
- g. Submitting complaints and/or complaints
- h. Get reading material and follow mass media broadcasts that are not prohibited
- i. Get humane treatment and be protected from acts of torture, exploitation, neglect, violence, and all actions that harm physically and mentally
- j. Get social services
- k. Accept or refuse visits from family, advocates, companions, and the community

The rights mentioned above are rights inherent in detainees that are in accordance with the Convention Against Torture And Other Cruel, Inhuman, or Degrading Treatment or Punishment of 1984. The existence of these rights places the position of prisoners on an equal footing before the law and guarantees them to be protected from harm. All forms of arbitrary treatment.

The implementation of prisoner services at the detention center includes receiving prisoners, placing prisoners, implementing prison services, and releasing prisoners. Placement of detainees in detention is carried out based on age and gender criteria or other reasons according to risk assessment and other needs.

### **3.2. The juridical implications of the implementation of detention services as a correctional function for the integrated criminal justice system**

Correctional facilities are part of an integrated criminal justice system that carries out law enforcement in the field of treatment of detainees, children, and inmates in the pre-adjudication, adjudication, and post-adjudication stages. The function carried out by the Correctional Center shows the nature of the criminal justice system, where it is said that the criminal justice system is closely related to the law enforcement system. This is because the criminal justice process is rooted in a process of enforcing the law[9].

The criminal justice system is said to be a system because it consists of components or institutions, each of which has the authority and duties according to its field. Even though it is divided into components, the whole thing works together to achieve the same goal[10].

The objectives of the criminal justice system according to Mardjono Reksodiputro are :

- a. Prevent people from becoming victims of crime
- b. Resolving crime cases that occur so that the community is satisfied that justice has been served and the guilty are punished

- c. Trying that those who have committed crimes do not repeat their crimes again [11].

The objectives of the criminal justice system mentioned above are in line with the objectives of the correctional system, so it is appropriate to say that correctional facilities are one of the components that work to achieve the objectives of the criminal justice system.

Correctional functions as regulated in the Correctional Law are described in the form of duties and authorities of the institutions that run the correctional system, one of which is the Rutan. The implementation of the prison service function by the Rutan as one of the correctional functions leads to the goals of the correctional system, namely guaranteeing the protection of prisoners' rights and protecting the community from repeating criminal acts.

Previously, the position of correctional institutions as part of the criminal justice system was only seen in the work of Correctional Institutions (Lapas) in providing guidance to prisoners. Thus, it means that the correctional position is located at the end of the criminal justice system process in order to realize the ultimate goal of the criminal justice system in the form of rehabilitation and resocialization of lawbreakers[12]. Another opinion also says that correctional facilities are the last component in the criminal justice system and in the criminal justice process[13]. This is also true if the context of the problem in question is the function of fostering prisoners.

The current reality is that the new Correctional Law does not only regulate the function of coaching, but also regulates the service of prisoners as one of the functions of correctional facilities and is comprehensively regulated in the law. With the regulation of the implementation of prison services as a correctional function, it shows that prisons have had a role since the beginning of the work of the criminal justice process through services to those who are carrying out the criminal justice process, both in the status of suspects and defendants.

The provision of services to detainees by the Detention Center at the same time also relates to the detention authority of other components of the criminal justice system. In the event that the detainee is a suspect in an investigation process, then there is the authority of the Police investigator. Likewise, if the defendant is in detention by the Public Prosecutor and at trial, then there is authority from the components of the Public Prosecutor and the Court Judge there. Thus, it is necessary to have cooperation and coordination between these institutions. In the context of the criminal justice system, this is what Mardjono said as integration in an integrated criminal justice system. Muladi also referred to the terms synchronization and harmony[14].

Coordination between the detention center and other law enforcement agencies or detaining agencies has existed since the admission of prisoners to the release of prisoners. This is like the release of temporary detainees by the Detention Center, which must be based on the request of the competent authority to detain. Including, for example, the transfer of prisoners must obtain permission from the competent authority.

Apart from such coordination and cooperation, the implementation of prisoner services in the context of fulfilling the rights of prisoners by the detention center is also a tangible manifestation of the role of the correctional facility in achieving the goals of the criminal justice system and creating a law enforcement system that upholds human values. The criminal justice system as a process of enforcing the law carried out by the detention center must of course be supported by the treatment of its institutions that uphold human rights and be strengthened by being regulated in a law as a form of legal certainty.

Amendment to the Correctional Law is a strengthening as well as an affirmation of the existence of prisons as part of the criminal justice system. Penitentiary through the existence of the Rutan as a prison service provider shows that in this system the correctional facility has been working since the beginning of the criminal justice process and is no longer dominant only in the final stages.

#### 4. Conclusion

Detention service is one of the correctional functions regulated in Law No. 22 of 2022 concerning Corrections facilities. Detention services are carried out in prisons. With the comprehensive regulation of detainee services in the correctional system, there will be a strengthening in terms of correctional facilities compared to the previous law. The implication of this regulation further emphasizes the role of prisons as part of the criminal justice system in Indonesia. Correctional through the detention center as a place for the implementation of correctional functions does not only play a role in the final part of a series of criminal justice processes, but when the judicial system begins to work.

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