

# Application of Disciplinary Punishment Against Prisoners Who Violate Orders (Study at Class II A Prisons in Bekasi)

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**Abstract.** This research is based on the implementation of the correctional system as a multidimensional activity. The purpose of this study is to describe the performance of disciplinary punishment against inmates who violate the rules at Class II A Bekasi Prison according to Law no. 12 of 1995 concerning Corrections. This type of research is field research. The approach is normative-empirical, and the data collection technique is through library research, interviews, and observations and analysed by inductive analysis techniques. The results of the study indicate that the application of disciplinary punishment to prisoners in prisons is by Law Number 12 of 1995 concerning Corrections and Article 9 paragraph (4) of the Regulation of the Minister of Law and Human Rights Number 6 of 2013 about Procedures for State Corrections and Detention Institutions.

**Keywords:** Application; Disciplinary Punishment; Correctional Inmates; Code of Conduct

## 1 Introduction

Indonesia is a vast country and is a country of national development law that covers all aspects of people's lives, nation, and state to realise a just society. The development of criminal law (criminal sanctions) is currently not placed as a way / method to retaliate, but shown to revitalise the perpetrators of crimes. A person gets criminally convicted of committing a crime and has no consequences arising from a criminal conviction.[1]

The goal of legal science must be to be free from political ideology towards better change to maintain balance in society.[2] Responding to the development of the criminal law mentioned above, the model of implementing sanctions on court decisions also changed from the prison system into the correctional system itself must have certain elements that interrelate and process under certain conceptions.[3]

The laws created by man have the aim of creating an orderly, safe and orderly state. Likewise, criminal law, which is one of the humans' laws, has two functions, namely 1) Regulating community life and organising a living order in society, and 2) Protecting legal interests against heinous acts with criminal sanctions. [4]

Article 1 paragraph (3) of the Constitution of the Republic of Indonesia of 1945 states, "The State of Indonesia is a state of law", and the characteristic of the state of the law is the

protection of human rights. With this explanation, human rights in Indonesia are interpreted as fundamental rights in humans. Which is essentially the human right attached to each individual is a right that no one can revoke because human rights as a gift of God brought from birth.[5]

The criminal law is imposed on a person who commits violations of the norms that live in a society regulated in Indonesia's positive criminal law. When a criminal has been handed down, a person has been found guilty through the criminal justice process and must carry out his sentence in a penitentiary as a final component in the criminal justice system. In addition to being a place to serve punishment, the function of a correctional institution is to carry out coaching that cannot be separated from elements in society so that at the end between prisoners and the surrounding community as a whole from the negative aspects. In addition, correctional institutions can also help distrust the law if ex-convicts fail to interact again with the district. This is a failure to prevent recidivists.[6]

In reality, there are many obstacles in this institution, such as the conditions of the correctional institutions, as well as obstacles from the inmates, even though the guidance is carried out for the benefit of the inmates themselves so that the mandate of Article 2 of Law Number 12 of 1995[7] concerning correctional facilities can be carried out, namely: "forming correctional inmates to become fully human beings who realise their mistakes, improve themselves, and do not repeat criminal acts so that they can be accepted by the community and become good and responsible citizens."

Convict coaching is a system, and as a system, prisoner coaching has several components that work interrelated to achieve a goal.[8] There are at least fourteen components: philosophy, legal basis, objectives, systems approach, classification, treatment of prisoners, the orientation of development, nature of coaching, remission, the form of building, prisoners, families of prisoners and supervisors or the government.

The implementation of this corrective function, according to Sudarto, is closely related to the purpose of the prison sentence itself, were imprisonment in addition to causing pain to the convict due to the loss of freedom of movement, guiding the convict to repent, educating him so that he becomes a valuable member of the Indonesian socialist society.

Article 47 paragraph (1) of Law Number 12 of 1995 explains that the head of the Correctional Institution has the authority to give disciplinary action or impose disciplinary punishment on prisoners who violate the security and order regulations within the Correctional Institution he leads. Paragraph (2) describes the type of disciplinary punishment as referred to in paragraph (1) in the form of 1) silent cover for a maximum of 6 (six) days for prisoners or criminal children, and or; 2) Postponing or eliminating certain rights for a certain period following the applicable laws and regulations.

In implementing this disciplinary punishment, the Correctional Institution officers must also ensure that there are no arbitrary acts in carrying out the orders in the laws and regulations. Therefore, Article 47 paragraph (3) also stipulates that correctional officers administering disciplinary action or imposing disciplinary punishment as referred to in paragraph (1) are obliged to treat prisoners legally and not act arbitrarily; and Basing his efforts on the rules and regulations of the Correctional Institution.

The placement of a suspect or defendant in a detention centre is the initial process of losing freedom of movement as stated by Baharudin Suryobroto[9] Prisoners who are placed in prisons are an initial suffering process as long as there is no decision from the Criminal Court that decides whether the initial deprivation of independence must be ended or must be continued and then it is decided definitively whether the person concerned should then be

subject to forfeiture of liberty as a criminal sanction, which the implementing agency carries out its implementation for the crime lost due to independence or the correctional institution."

Implementing the correctional system as a system is a multidimensional activity because efforts to restore the unity of relations are complex. Compliance with the rules that apply in the correctional institution is one of the indicators in determining the criteria for good behaviour towards prisoners.

## **2 Methods**

If viewed from the place of research, this research is included in field research (Field Research). Because the data obtained directly comes from the object in question. In addition, this field research requires extensive field notes, which are then coded and analysed in various ways.[10] This research is normative, empirical research, which is an approach that uses a logical concept which states that the law is not only identical with written norms made and promulgated by authorised institutions or officials but also related to the reality that exists in society.

The data used in this study are primary data and secondary data. Primary data is data obtained directly from the research location in information related to the problem. Secondary data is data obtained by studying library materials in legislation and other literature on the issues discussed. Secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials.

## **3 Discussion**

### **3.1 The Role of Disciplinary Punishment in Efforts to Improve a Sense of Security and Order in Class Prisons**

The correctional system is currently adjusted to Chapter I General Provisions Article 1 number 2 of the Law on Corrections "The penitentiary system is an order regarding the direction and boundaries as well as the method of fostering correctional inmates based on Pancasila which is carried out in an integrated manner between the coaches, those who are promoted and the community.[11] To improve the quality of prisoners in prison so that they are aware of their mistakes, improve themselves, and do not repeat criminal acts so that they can be accepted by the community, play a role in development, and typically live as good and responsible citizens.[12]

The correctional institution itself is a place to carry out the guidance of prisoners and disciplinary students whose confirmation is contained in the provisions of Article 1 point 3 of the Law on Corrections. Security and order are part of the implementation of coaching programs. Therefore, a safe and orderly atmosphere in correctional institutions needs to be created. However, to ensure the performance of orderly life in prisons, it is necessary to have rules that must be obeyed and the mechanism for imposing disciplinary penalties by every prison inmate. The role of disciplinary punishment in the Bekasi Class IIA Penitentiary is significant because it creates a sense of security and order in the Penitentiary and As for the obligations that every prisoner must obey according to the provisions of Article 3 of the Regulation of the Minister of Law and Human Rights Number 6 of 2013 concerning the Order of Correctional Institutions, namely every prisoner or detainee is obliged to:

- a. Obedient to worship according to their religion and beliefs and maintain religious harmony;
- b. Follow all programmed activities;
- c. Obedient, compliant, and respectful to officers;
- d. Wearing the prescribed uniform;
- e. Maintain tidiness and dress according to the norms of decency;
- f. Maintain personal and residential cleanliness and participate in activities carried out in the context of cleaning the residential environment; and
- g. Follow room apples conducted by correctional officers.

The rules regarding obligations for prisoners themselves cannot guarantee that whatever is mandatory for prisoners to obey is violated or challenging to implement. So from here, there is a need for restrictions or prohibitions that should not be carried out by inmates and must obey every ban in the Class IIA Bekasi Penitentiary Institution. In the provisions of Article 4 of the Regulation of the Minister of Law and Human Rights Number 6 of 2013, it contains prohibitions that correctional inmates, namely, should not carry out: Every prisoner or detainee is prohibited from:

- a. Have a relationship with prisoners or detainees as well as with correctional officers;
- b. Commit immoral acts or sexual deviations;
- c. Fight or hinder correctional officers in carrying out their duties;
- d. Entering sterile areas or certain places determined by the head of the Correctional Institution or detention centre without permission from the authorised correctional officer;
- e. Fight or hinder correctional officers in carrying out their duties;
- f. Carrying and illegally storing money and other valuables;
- g. Store, manufacture, maintain, distribute, and consume narcotics and narcotic precursors and other dangerous drugs.
- h. Storing, making, carrying, distributing, and consuming alcoholic beverages;
- i. Equip residential rooms with air conditioners, fans, televisions, and other electronic devices;
- j. Owning, carrying and using electronic devices, such as laptops or computers, cameras, recording devices, cell phones, pagers, and the like;
- k. Performing electrical installations in residential rooms;
- l. Making or storing firearms, sharp weapons, or the like;
- m. Carrying and storing items that can cause explosions and fires;
- n. Perform acts of violence, both physical and psychological violence, against fellow prisoners, detainees, correctional officers, or guests/visitors;
- o. Issue provocative words that can cause disturbances in security and order;
- p. Make tattoos, grow hair for male prisoners or prisoners, make piercings, wear earrings or other similar things;
- q. Entering other residential blocks and rooms without the correctional officer's permission;
- r. Carry out activities that may interfere with or endanger the personal safety of prisoners, detainees, correctional officers, visitors, or guests;
- s. Doing damage to the facilities of the Correctional Institution or detention centre;
- t. Committing theft, extortion, gambling, or fraud;
- u. Spreading heresies;
- v. Carry out other activities that can cause disturbance to the security and order of the Correctional Institution and detention centre.

Of the many obligations and prohibitions regarding the rules that must be obeyed and obeyed by every prisoner, it cannot guarantee that the inmates who have been fostered will abide by the rules and will not commit crimes again. The prisoners themselves cause problems that often arise because they violate a lot by looking for weaknesses or gaps from the officers in practice.

From the results of the author's interview with the KN prisoners at the Class IIA correctional institution Bekasi, which is the cause of the problems faced by the prison class IIA Bekasi from the prisoners themselves:

#### **a) There are Problems Outside The Correctional Institution**

Often problems between prisoners occur due to issues outside the Bekasi Class IIA Penalty Institution, meaning that in this case, before the inmate commits a criminal act or before being in a Class IIA Priority Institution, Bekasi, they have personal conflicts in the community, so that problems during their stay in a community environment where inmates are deemed unresolved when the convicts in battle meet in the same cell at the Class IIA correctional institution Bekasi, the inmate will try to resolve it in the penitentiary institution despite the rules regarding obligations and prohibitions that have been enforced in the class IIA correctional institution. Bekasi could have the convict violated it to solve the problem. An example of a problem outside the Penitentiary is the existence of debts between prisoners. The issue of deficits and receivables is one of the factors that are difficult to be socialised by the Institutional officers themselves, which causes problems within the Penal Institution to occur because these problems can arise when prisoners meet or are in the same cell.

#### **b) Problems from Prisoners**

The problem with the prisoners themselves is that violations often occur. Violations committed by inmates in the Class IIA correctional institution Bekasi are due to misunderstandings between one inmate and another. Which resulted in arguments between fellow prisoners, a form of misunderstanding from the prisoners themselves, namely differences in thoughts and behaviour patterns of prisoners in residential rooms

#### **c) Biological Needs**

The limited hours of visiting and the prohibition of communicating with family outside the Educational Institution require the inmate to do prohibited things or have been regulated in Class IIA Bekasi. Biological needs are familiar to everyone. For prisoners, physical conditions are challenging to do because they are far from family. There are times when inmates channel their biological needs during visiting hours even though the inmates are aware of the prohibitions that have been stated in Article 4, paragraph 2 of Ministerial Regulation Number 6 of 2013 concerning Orders for Corrections and State Detention Centers, namely: Committing immoral acts and sexual deviations.

#### **d) Special Needs**

The particular needs of prisoners are what often occurs in correctional institutions. The situation and place that becomes the implementation of the requirements for the prisoner. It is undeniable in its performance that prisoners occasionally violate the rules for their own sake

because the length of the sentence served by inmates makes the prisoners themselves want to look for the weaknesses of officers to commit violations. And in different ways to meet their unique needs, while the causes of the prisoners' interests themselves include: communicating with families who have not received visits for a long time or have lost their right to visit, and use them for use on social media (such as Facebook, Twitter, WhatsApp, etc.)

### **3.2 The Application of Disciplinary Punishment for Prisoners Who Violate The Rules and Regulations of The Bekasi Prison According to Law Number 12 Of 1995 Concerning Corrections**

Security and control is an absolute requirement for the implementation of coaching programs in every correctional institution.[13] Therefore, a safe and orderly atmosphere is always conditioned in various ways to prevent disturbances in security and order that arise both within and from outside the Penal Institutions to improve the quality of the Penal Institutions. Therefore, the correctional institution officers must supervise the prisoners to avoid violation of the penitentiary rules and regulations.

Security measures are carried out to create safe and orderly conditions in prisons based on the principle that prevention is better than taking action. Security officers monitor any symptoms that cause disturbances in security and order and take security measures by stopping the occurrence of disorders in security and order. Disciplinary punishment is a form of punitive enforcement for prisoners who violate discipline. Disciplinary punishment is a sentence imposed on a prisoner or detainee due to committing an act that violates the rules of the prison or detention centre.

In applying disciplinary punishment for convicts, the inmates must first know the extent to which the disciplinary violations were committed by the inmates. The types of violations committed by prisoners can be light, medium and severe violations. The types of violations committed by prisoners are regulated in Article 10 paragraph (1), paragraph (2), paragraph (3) of the Regulation of the Minister of Law and Human Rights Number 6 of 2013 concerning the Order of the State Penitentiary and Detention Center:

1. Minor Level Violations, including:
  - a. Not maintaining personal and environmental hygiene;
  - b. Leaving the residential block without permission to the block officer;
  - c. Not wearing a predetermined uniform;
  - d. Not following the apple at the appointed time;
  - e. Wearing earrings, necklaces, rings, and belts;
  - f. To act or utter inappropriate words and violate norms of decency or decency; and
  - g. Doing actions based on the consideration of the disciplinary observer team are included in the act that can be subject to a light level disciplinary penalty.
2. Medium Level Violations, including:
  - a. Entering sterile areas without the officer's permission;
  - b. Make tattoos and equipment, piercings or the like;
  - c. Carrying out activities that may endanger the safety of oneself or others;
  - d. To commit acts or issue inappropriate words that violate religious norms;
  - e. Doing buying and selling activities or receivable debt;
  - f. Performing acts that fall into the category of receiving a light-level disciplinary sentence regularly more than 1 (one) time; and
  - g. Performing actions based on the consideration of the hearing of the disciplinary observer team included in the act can be subject to a moderate disciplinary penalty.

3. Severe Level Violations, including:
  - a. Not following an established construction program;
  - b. Threatening, resisting, or assaulting officers;
  - c. Make or store firearms, sharp weapons, or the like;
  - d. Damage to penalty institution or Rutan facilities;
  - e. Threatening, provoking, or other acts that disrupt security and order;
  - f. Possessing, carrying, or using communication devices or electronic devices;
  - g. Making, moving, storing, distributing or consuming beverages containing alcohol;
  - h. Producing, holding, storing, distributing or consuming narcotics and other addictive substances;
  - i. Make attempts to escape or assist inmates or other prisoners to escape;
  - j. Committing acts of violence against fellow residents and officers;
  - k. Installing or having others install electrical installations in residential rooms;

Disciplinary punishment is given when an inmate is suspected of a disciplinary violation. After knowing the violations committed by the inmate then a punitive sentence can be handed down to the inmate. Heavy or light in the provision of disciplinary punishment for inmates judging by the small number of violations committed. From the provisions of Article 9 of the Regulation of the Minister of Law and Human Rights No. 6 of 2013, the type of disciplinary punishment that can be given to inmates who violate the order, among others, light-level Disciplinary Punishment, Moderate-level Disciplinary Punishment, Delaying or negating certain rights as referred to in paragraph (2) letter b can be in the form of delaying the time of the visit, and severe disciplinary punishment.

Regarding the violation of the use of communication devices (mobile phones) secretly carried out by inmates with the initials AB, after an investigation by the security officer, the inmate followed the TPP (Correctional Observer Team) hearing conducted by penalty institution Class IIA Bekasi. And the Penalty Institution Class IIA Bekasi provides a firm policy as a form of security interests and at the same time the provision of severe disciplinary punishment in the form of being included in an exile cell, not getting the right of Remission, Family Visiting Leave, Conditional Leave, Assimilation, Leave Before Release and Parole in the current year and recorded in register F. According to AB, that the cause of the violation was because during his sentence in Penalty Institution Class IIA Bekasi He rarely meets with his family and rarely also gets a visit by his family that makes him feel saturated to the point of wanting to communicate with his family by using a mobile phone or communication device privately without the consent of the prison officer. The beginning of the disclosure of violations committed by AB is the existence of monthly check by the Search Team in every male residential room that has previously indicated a breach of the order, and this is where AB is proven to have, carry and / use communication tools that the Search Team has found.

Furthermore, regarding the violation of extortion against fellow inmates, based on interviews with inmates with IP initials, it can be known that in terms of extortion against fellow inmates, it began when there were reports from other inmates that IP was extortion against fellow inmates. So that the security officer immediately conducts a preliminary examination as the basis for the subsequent investigation. And because of IP actions, the penalty institution conduct law enforcement by sanctioning in the form of being included in an exile cell, not getting the right of Remission, Family Visiting Leave, Conditional Leave, Assimilation, Leave Before Release and Parole in the current year and recorded in register F.

From the results of the author's interview with an inmate with the initials SA, SA said that he entered the seclusion cell due to the accidental factor carried out by his son. Starting when the security guard searched the luggage carried by the SA family, he got food shipments from

his family and in a plastic bag addressed to SA. There was one sim card. According to Asa's confession, the sim card had just been purchased by his son for personal gain and not for the site's benefit because a child forgot to separate personal property with SA property. And because of his son's transparency, SA was sanctioned in the form of being included in an exile cell, not getting the right of Remission, Family Visiting Leave, Conditional Leave, Assimilation, Leave Before Release and Parole in the current year and recorded in register F.

From the Penalty Institution Class IIA Bekasi itself, according to Mr Satriya Wicaksono, Penalty institution Security Kasubsi Class IIA Bekasi, in the event of violations committed by inmates or prisoners allegedly there is an element of criminal acts then the head of prison or head of jail will forward to the competent authority and will be processed legally.

According to the interview results with Mr Aghni Novan, Kplp Penalty Institution Staff Class IIA Bekasi, the application of disciplinary punishment must follow the procedure of staying disciplined punishment. Suppose the inmate commits a violation of the order. In that case, KPLP (Correctional Institution Security Unit) asks the security and order administration to conduct an examination and make the News of the Examination event of violations of the order to convey to the Head of Penalty Institution Class IIA Bekasi, which is then submitted to the Chairman of TPP (Correctional Observer Team) for immediate trial. TPP Then conducted a particular problem of BAP results (News of Examination Event). When it is deemed necessary to produce witnesses and perpetrators to provide additional information as needed, then the results of the TPP hearing will then be given to the Head of Penalty Institution Class IIA Bekasi as a consideration to impose disciplinary punishment. Then, the Head of Penalty Institution Class IIA Bekasi submits to KPLP to carry out disciplinary punishment. Then KPLP submitted a copy of the disciplinary penalty decision given a record of its implementation to the coaching unit to be recorded in a copy of register F.

The examination conducted when the inmate in the process of action was discussed by the Correctional Observer Team (TPP) to be further considered by the Head of Prison in imposing disciplinary punishment. The sentence can be in the form of retribution following the provisions of the Minister of Law and Human Rights Regulation No. 6 of 2013 on the Order of Correctional Institutions and State Penitentiary.

Any inmate who commits an act categorised as violating discipline (severe offender) will be recorded in register F. Register F is a record book of violations of order committed by inmates/prisoners. When disciplinary violations committed by inmates /prisoners are recorded into register F, it can automatically affect the rights of correctional residents to Remission, Family Visiting Leave, Conditional Leave, Assimilation, Leave Before Release and Parole. Violations recorded in register F are serious-level violations such as violations of carrying communication devices, violations of fights or violent riots, issuing provocative words that can disrupt security and order.

The application of disciplinary punishment is a form of the construction of Penalty Institution Class IIA Bekasi against inmates who commit violations of the order. Penalty Institution Class IIA Bekasi has made various efforts to prevent inmates from committing breaches of preventive order so that no violation of the order occurs by providing coaching to inmates in the form of work guidance and work skills. (Making guitars, bird cages, making furniture, making clothes).

From the results of the author's interview with Mr Satriya Wicaksono, Penalty institution Security Kasubsi Class IIA Bekasi, the efforts made by officers for Penalty Institution Class IIA Bekasi in prevention when there is a violation of discipline committed by correctional residents are:



#### **a) Physical Security**

What is meant by physical security is security both in terms of physical buildings, such as making boundaries of areas that certain inmates can enter and in terms of security personnel. The division is:

Ring 1 is the outermost area of Penalty Institution that can only be entered by inmates who already have specific criteria. These inmates are referred to as tamping (companion prisoners), i.e. inmates who must be qualified have served a minimum criminal term of 6 months, have done 1/3 of their illegal time, have never violated the order, have physical and spiritual health and have unique skills and skills, this is based on the provisions of article 7 of the Regulation of the Minister of Law and Human Rights No. 9 of 2019 on Changes to the Regulation of the Minister of Law and Human Rights Number 7 years. Two thousand thirteen on the Appointment and Dismissal of Leaders and Tamping at the Institute of Education.

Ring 2 is an area where there are facilities for inmates such as worship, clinics, halls, canteens, etc. This area is only accessible to inmates of interest only and at certain times. Ring 3 is the deepest area where correctional residents spend most of their time. There are cells divided into blocks.

#### **b) Other Efforts are Made When an Act Violates The Order**

Such as fights between fellow inmates based on reports from other inmates. If this happens, the officer will immediately examine further treatment. Other repressive actions could be placed in an isolation cell with a specified time and transferring to another Penalty Institution based on the meeting results and the disciplinary punishment team at Penalty Institution.

The role of officers is significant to maintain the security and order of Penalty Institution Class IIA Bekasi from disturbances caused by inmates and enforce the law firmly and fairly against inmates who commit violations for the realisation of the correctional purpose itself. So, in this case, the efforts made by officers in prevention when there is a violation of discipline committed by correctional residents is good, because after all, prevention is better than treating. According to the results of the author's analysis, the application of disciplinary punishment against correctional residents who violate the order in the Class IIA Bekasi penitentiary has been practical because it has based its actions in carrying out disciplinary penalties following Article 47 of Law No. 12 of 1995 on Correctional Institutions and by establishing with Article 9 Paragraph (4) of the Minister of Law and Human Rights Regulation No. 6 of 2013 on the Order of Correctional Institutions and R Umah Prisoner of state.

#### **4 Conclusion**

Based on the results of research on the application of disciplinary punishments against Correctional Residents who violate the order in The Class IIA Bekasi Penitentiary, the author concluded that the first form of order violation is the violation of carrying a communication device (mobile phone) committed by AB, extortion violations against fellow inmates executed by IP. Then the offence of carrying a sim card is carried out by SA. The application of disciplinary punishment against correctional residents in Penalty Institution Class IIA Bekasi

is based on Law No. 12 of 1995 on Correctional Services as stated in Article 47 and based on the Regulation of the Minister of Law and Human Rights No. 6 of 2013 on the Order of Correctional Institutions and State Penitentiaries Article 9 paragraph (4) which states that severe disciplinary punishment includes entering in an exile cell for six years. (six) days and can be extended for 2 (two) times 6 (six) days and do not get the right of remission, family visiting leave, conditional leave, assimilation, leave before release, and parole in the current year and recorded in register F. And the case of the most common violations of severe discipline in Penalty Institution Class IIA Bekasi will be examined by officers, Which then the results of the examination will be used as recommendation material for the TPP hearing, and then from the results of the TPP hearing will be given to the Head of Penalty Institution Class IIA Bekasi as consideration to impose disciplinary penalties. It can be known in Penalty Institution Class IIA Bekasi from 2017 to 2018. There have been cases of violations of the order of 54 people who committed violations that have implications for severe disciplinary penalties.

Penalty Institution Class IIA Bekasi is recommended to be more intensive in conducting supervision in each residential room and where prisoners carry out daily activities 1 X 24 hours. To minimise the disruption of security and order in correctional institutions.

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