



Fulfillment of the Right to Special Treatment of Elderly Prisoners at Class II B Takengon State Detention Center

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ABSTRAK

Peranan lembaga pemasyarakatan sangat penting dalam melaksanakan pelayanan dan pemenuhan hak-hak narapidana diantaranya ialah dalam hal pemenuhan hak perlakuan khusus narapidana lanjut usia. Tujuan dilakukannya penelitian ini, untuk mengetahui pemenuhan hak perlakuan khusus narapidana lanjut usia dalam hal perlindungan keselamatan dan kesehatan di Rumah Tahanan Negara Kelas II B Takengon. Jenis penelitian ini adalah penelitian *yuridis empiris* dengan menggunakan sumber data berupa data primer yang diperoleh dari lapangan secara langsung melalui wawancara dan data sekunder yang diperoleh dari bahan hukum primer, bahan hukum sekunder, bahan hukum tersier. Cara pengumpulan data dilakukan dengan cara wawancara secara langsung dengan narasumber dan studi dokumen. Cara analisis data dianalisis secara kualitatif dan disajikan secara deskripsi yaitu menjelaskan, menguraikan, dan menggambarkan sesuai dengan permasalahan yang erat kaitannya dengan penelitian ini, Hasil penelitian ini menjelaskan bahwa pemenuhan hak perlakuan khusus narapidana lanjut usia dalam hal perlindungan keselamatan dan kesehatan di Rumah Tahanan Negara Kelas II B Takengon, sudah terlaksana sesuai peraturan yang berlaku, yaitu Pasal 6 ayat (1) dan Pasal 7 ayat (1) Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 32 Tahun 2018 tentang Perlakuan Bagi Tahanan Dan Narapidana Lanjut Usia.

Kata Kunci : Hak; Perlakuan Khusus; Narapidana; Lanjut Usia.

ABSTRACT

The role of correctional institutions is very important in carrying out services and fulfilling the rights of convicts, including in terms of fulfilling the right to special treatment for elderly convicts. The purpose of this research is to find out the fulfillment of the right to special treatment for elderly convicts in terms of safety and health protection at the Class II B State Detention Center in Takengon. This type of research is empirical juridical research using data sources in the form of primary data obtained from the field directly through interviews and secondary data obtained from primary legal materials, secondary legal materials, tertiary legal materials. The method of data collection was carried out by direct interviews with sources and document studies. The method of data analysis was analyzed qualitatively and presented in a descriptive manner, namely explaining, describing, and describing in accordance with the problems that are closely related to this research. II B Takengon, it has been implemented in accordance with the applicable regulations, namely Article 6 paragraph (1) and Article 7 paragraph (1) of the Minister of Law and Human Rights Regulation Number 32 of 2018 concerning Treatment of Elderly Detainees and Convicts.

Keywords: Right; Special treatment; Convicts; Elderly.



I. Introduction

In the Preamble to the Constitution of the Republic of Indonesia in 1945 it is stated that the purpose of the Indonesian state is to protect the entire Indonesian nation, promote general welfare, educate the nation's life and implement world order in order to realize social justice for all Indonesian people. Efforts to protect the entire Indonesian nation, one of which is realized by respecting, protecting, and fulfilling the rights of everyone to get recognition, guarantee, protection, and fair legal certainty and equal treatment before the law as stipulated in Article 28D paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 (National Law Development Agency, 2017).

Based on this, the implementation of every aspect of state life related to law enforcement including corrections needs to be directed to support efforts to protect the right to justice of suspects, defendants and convicts including their property rights. The prison system, which places great emphasis on the elements of revenge and imprisonment accompanied by the institution of "prison houses", is gradually seen as a system and means that is not in line with the concepts of rehabilitation and social reintegration.

Prisoners are not only objects but also subjects that are no different from other human beings who can at any time commit mistakes or errors that can be criminally charged, so they do not have to be eradicated. What must be eradicated are factors that can cause prisoners to do things that are contrary to the law, decency, religion, or other social obligations that can be subject to crime.

Based on this thinking, since 1964 the system of formation for prisoners and juveniles has fundamentally changed, namely from the prison system to the correctional system. Elderly criminals (LANSIA) are one of the fostered citizens in the Penitentiary who must receive intensive guidance and



direction. Because in terms of age, it clearly shows a weakened and less stable physical and mental condition, when compared to young prisoners.

In addition, elderly humans or often called Seniors or Elderly is a period in which the organism has reached maturity in size and function and has also shown deterioration over time (Akhmadi, 2005). The same thing was expressed by the Director General of Corrections of the Ministry of Law and Human Rights (Kemenkumham), Sri Puguh Budi Utami noted that in 2002 currently the number of prisoners and elderly prisoners spread throughout prisons / prisons in Indonesia amounted to 4,408 people. With such a large number, Sri Puguh said, the presence of special rules on treatment standards for prisoners and elderly prisoners has been considered urgent as part of vulnerable groups.

Meanwhile, the *Institute for Criminal Justice Reform* (ICJR) stated that in Indonesia, prisons and all the problems in them will never end to be discussed. Various suggestions and recommendations for reform of the penal system have also been widely echoed. One aspect of improvement that also needs to be encouraged is the provision of special treatment for elderly prisoners. Elderly prisoners deserve special treatment because their conditions and needs are different from other prisoner classifications (Taher, 2015). To realize human rights-based treatment of prisoners and elderly prisoners and based on *the Standard Minimum Rules for the Treatment of Prisoners*, a mechanism for the treatment of prisoners and elderly prisoners is needed.

The government through the Ministry of Law and Human Rights has issued Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners, precisely promulgated on November 10, 2018 in Jakarta. There are three positive impacts of Permenkumham Number 32 of 2018, namely reducing the burden and overcrowding in prisons, moving towards rehabilitation and not retribution, and as an orderly form of justice administration. State Prisons and Detention Centers as regulated in Article 1



point 1 of Law Number 12 of 1995 concerning Corrections are places where punishment and guidance are carried out for prisoners.

Penitentiary as the spearhead of the implementation of the principle of protection is a place to achieve the above goals through education, rehabilitation, and reintegration. In line with the role of the penitentiary, it is appropriate for correctional officers to carry out the task of fostering and securing prison-assisted citizens. Therefore, the role of prisons is very important in carrying out services and fulfilling the rights of prisoners, including in terms of fulfilling the rights of special treatment for elderly prisoners.

Article 3 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners, confirms that Special Treatment is given to Elderly Prisoners in the form of:

1. Provision of assistance in access to justice;
2. Recovery and development of social functions;
3. Maintenance and improvement of the degree of health; and
4. Security and safety protection.

Meanwhile, Article 7 paragraph (1) explains the protection of security and safety as referred to in Article 3 letter d, given in the form of: a). Separation in special residential rooms; and b). Minimal use of standard means of security. However, based on the observations of researchers at the Takengon Class II B State Prison, that 5 elderly prisoners have not been separated from other inmates. This is very contrary to the mandate of Article 7 Paragraph (1) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners.

Based on the background description of the problem mentioned above, the main problem that will be studied is, how is the fulfillment of the right to special treatment of elderly prisoners in Takengon Class II B State Detention Center?



II. Methode

This type of research is *empirical juridical* research using data sources in the form of primary data obtained from the field directly through interviews and secondary data obtained from primary legal materials, secondary legal materials, tertiary legal materials. The method of data collection is carried out by direct interviews with resource persons and document studies. The way data analysis is analyzed qualitatively and presented in a description is to explain, elaborate, and describe in accordance with problems that are closely related to this research.

III. Discussion and Analysis

Fulfillment of the Right to Special Treatment of Elderly Prisoners at Class II B Takengon State Detention Center

The punishment of criminal offenders cannot be separated from the penal system adopted by the legal system in Indonesia. An important part of the penal system is setting sanctions. Its existence will provide direction and consideration of what should be used as sanctions in a criminal act to enforce the enactment of norms. On the other hand, punishment is the most complex process in the criminal justice system because it involves many different people and institutions (Hikmawati, 2011). Before becoming a prisoner, a person can be referred to as a defendant and will be in the detention house before the verdict by the court as a result of his actions.

This is done to avoid the defendant running away or other unwanted things happening. Once the verdict has been decided and the verdict has been accepted by the parties concerned, the position of the accused has changed to that of an inmate. And will be in prisons or prisons for coaching. The Penitentiary hereinafter referred to as LAPAS is a place to carry out the formation of Prisoners and Correctional Students in accordance with Law Number 12 of 1995 concerning Corrections.



The purpose of coaching fostered citizens can be classified into two. *First*, prevent the recurrence of criminal acts, restore balance, and resolve conflicts. *The second* is to improve the perpetrators (fostered citizens). This is in line with the mandate of Article 2 of Law Number 12 of 1995 concerning Corrections which states that "this correctional system is held in order for prisoners to realize mistakes, improve themselves, and not repeat criminal acts that have been committed. The existence of a coaching model for prisoners in prisons is inseparable from a dynamic, which aims to provide more provisions for prisoners in facing life after completing their sentences (free).

In addition, coaching efforts are not only to repair or heal the prisoner alone, but also must be directed to prevent the repetition of crimes is considered to remain as the goal of coaching prisoners, because even though they have been healed of their evil deeds, but in the formation there is no effort to prevent the repetition of crimes, so coaching does not provide the best benefits. As happened long before, the term *prison* has also changed to correctional services.

Correctional institutions are institutions mandated by law to provide care and services through guidance and guidance for prisoners and prisoners. Detention centers and prisons were established to form a *check and balance system*, in the course of law enforcement between sub-systems in the Indonesian criminal justice system, namely the Police, Prosecutor's Office, Courts and Corrections. One form of crime is imprisonment. Imprisonment can be imposed on criminal offenders who are young, old, and also elderly.

According to the World Health Organization (WHO) which categorizes the elderly into 3 groups, namely (Barus & Biafri, 2020):

1. *Elderly* : between 60 and 74 years old
2. *Old age* : between 75 and 90 years old
3. *Very old* : over 90 years old.



Based on the results of field research, the number of elderly prisoners in the Takengon Class II B State Detention Center is 7 people, as can be seen in the table below.

Table 1.
Number of Elderly Inmates

No	Nama Narapidana	Usia	Jenis Kejahatan	Masa Pidana
1	Abdul Manan	72 Tahun	Perlindungan Anak	10 Tahun
2	Sulaiman Munthe	62 Tahun	Perlindungan Anak	6 Tahun
3	Ramli	63 Tahun	Perlindungan Anak	10 Tahun
4	Supriadi	67 Tahun	Perlindungan Anak	9 Tahun
5	Subani	68 Tahun	Hukum Jinayat	12 Tahun 6 Bln
6	Lasimin	69 Tahun	Perlindungan Anak	10 Tahun
7	Yan Bin Abdul Muthaleb	60 Tahun	Korupsi	4 Tahun

Sumber : Rumah Tahanan Negara Klas II B Takengon

Based on Table 1 above, it can be concluded that the number of elderly prisoners in Takengon Class II B State Detention Center in 2020 was 7 (seven) people. The types of criminal acts committed by elderly prisoners vary, such as the crime of molestation and rape of minors, corruption crimes, and jinayat law violators. The same thing stated by Yuhananda as the Head of Prisoner Services, currently the number of elderly prisoners of Correctional Assisted Citizens (WBP) at the Takengon Class II B State Detention Center is 7 (seven) people with several different cases.

The formation process carried out in prisons must not injure the human rights of prisoners, because prisoners are also like other human beings whose dignity and dignity must be recognized, respected, and protected by parties in the prison, because prisoners are also social creatures, as social beings prisoners cannot live alone. Prisoners must live together with others, this is in accordance with the purpose of coaching, which is to know themselves fully to determine their own self-awareness and be able to make changes in a better and more positive direction, therefore awareness is an important thing for prisoners to know so that they can easily follow the



formation process in prisons and can apply it in the midst of society when they finish serving their time punishment.

A form of service with an approach to upholding Human Rights (HAM) in the practice of formation in prisons is very important. Especially for elderly prisoners who have special needs characteristics that are different from people at lower age levels. The birth of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 32 of 2018 concerning the Treatment of Prisoners and Elderly Prisoners, to realize human rights-based treatment of prisoners and elderly prisoners and based on *the Standard Minimum Rules for the Treatment of Prisoners*, a mechanism for the treatment of prisoners and elderly prisoners is needed.

According to Yuhananda, the treatment of elderly prisoners with ordinary prisoners is in practice the same, but elderly prisoners after the issuance of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners, have the right to be given special treatment, such as providing assistance in access to justice, maintaining and improving health status, and protecting security and safety.

The same thing was said by Fakriah, elderly prisoners, are certainly vulnerable to disease, therefore, we pay special attention to these elderly prisoners, such as providing additional nutrition, vitamins and special places for elderly prisoners in accordance with the Regulation of the Minister of Law and Human Rights Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners. Fakriah added, in addition to fulfilling the right to special treatment for elderly prisoners in terms of health and safety rights for elderly prisoners, we also carry out separation in terms of residential rooms between elderly prisoners and ordinary prisoners, and prioritize the right to grant remission to elderly prisoners in accordance with applicable laws and regulations.



Based on the explanation above, it can be concluded that the fulfillment of the right to special treatment of elderly prisoners in terms of protection of safety and health at the Takengon Class II B State Detention Center has been carried out in accordance with applicable regulations, namely Article 6 paragraph (1) of the Regulation of the Minister of Law and Human Rights Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners, affirmed "The maintenance and improvement of the degree of health is given in the form of:

- a. Counseling and dissemination of elderly health information;
- b. Implementation of geriatric/gerontological care;
- c. Provision of palliative care;
- d. Fulfillment of nutrition and nutritional needs; and
- e. Provision of daily equipment needs.

Article 7 paragraph (1) of the Regulation of the Minister of Law and Human Rights Number 32 of 2018 concerning the Treatment of Prisoners and Elderly Prisoners, which reads "Protection of security and safety of elderly prisoners, is given in the form of:

- a. Segregation in special residential rooms; and
- b. Minimal use of standard means of security.

The legal basis governing the rights of elderly citizens in Indonesia is a derivative of Law Number 39 of 1999 concerning Human Rights. In addition to the Regulation of the Minister of Law and Human Rights Number 32 of 2018 concerning the Treatment of Prisoners and Elderly Prisoners, the Ministry of Social Affairs of the Republic of Indonesia also issued Regulation of the Minister of Social Affairs Number 5 of 2018 concerning National Standards for Social Rehabilitation of the Elderly, in order to deal with the phenomenon of increasing life expectancy and the number of elderly with the complexity of the problem requires institutional standards and social rehabilitation of the elderly.



IV. Conclusion

The fulfillment of the right to special treatment of elderly prisoners at the Takengon Class II B State Detention Center has been carried out in accordance with applicable regulations, namely Article 6 paragraph (1) and Article 7 paragraph (1) of the Regulation of the Minister of Law and Human Rights Number 32 of 2018 concerning Treatment for Prisoners and Elderly Prisoners, namely having the right to be given special treatment, Such as providing assistance in access to justice, maintaining and improving the degree of health, and protecting security and safety.



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