

THE IMPLEMENTATION OF GUIDANCE FOR CORRUPTION CONVICTS IN INDONESIA

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Abstract

Regulations regarding the implementation of guidance for corruption convicts in Indonesia are regulated in the provisions of Law No. 12 of 1995 and elaborated through Government Regulation no. 31 of 1999. In relation to the guidance of corruption convicts, it is carried out through three stages, namely the initial stage, the advanced stage and the final stage, with classification first.

Keywords: *Corruption Offenses; Gratification; Reasons for Abolish Prosecution*

INTRODUCTION

Penitentiary is one part of the sub-system of criminal justice that plays a role in providing guidance to prisoners. Expectations from the implementation of prison development as contained in Law No. 12 of 1995 is how inmates realize their mistakes and return to being good citizens of society and can be accepted back by their environment, respecting moral values, caring for others and obeying worship so as to create a safe, orderly and peaceful environment.

Guidance for prisoners is a very important thing in the process of law

enforcement in Indonesia. Efforts to provide guidance to prisoners by emphasizing on restoring and unifying relationships with the community will have a good impact on both prisoners and society in general. With the social rehabilitation and reintegration system, prisoners can return to being a responsible society in their environment.¹

Regulations regarding the guidance of prisoners are regulated in the provisions of Article 12 Paragraph (1) of Law No. 12 of 1995 and elaborated through Government Regulation No. 31 of 1999 which is regulated in Article 7 Paragraph

¹ Darmawati, Riza Marwati, Ruslan Achmad, Muchtar Syamsuddin. "The Essence of Fostering Inmates in the Penitentiary System". *Journal of Law, Policy and Globalization*. Vol. 94: 87-91, See too, Pratiwi, S. A., & Lemes, I. N.

(2018). *Pelaksanaan Pembinaan Narapidana Sebagai Upaya Mengatasi Timbulnya Residivis Dilembaga Pemasyarakatan Kelas Iib Singaraja*. *Kertha Widya*, 6(1).

(1) explains that the development stages are divided into 3 stages, namely the initial, advanced and final stages.

As in the provisions of Article 12 Paragraph 1 of Law No. 12 of 1995 that in the context of coaching prisoners in prisons, classification is carried out on the basis of: age, gender, length of sentence imposed, type of crime and other criteria according to the need or development of guidance patterns.² The purpose of holding this classification is none other than so that there is no prisonization in prisons.

Corruption is one of the crimes of an extra ordinary nature because corruption tends to be committed by those who have a good social status, if it is seen from their position in work before entering prison. perpetrators of corruption crimes who have obtained permanent legal force, they are obliged to undergo a period of punishment through guidance in a correctional institution. Sukamiskin Prison is a prison that is inhabited by most of the corruption convicts.

Fostering corruption convicts who previously had political power and great influence on the government and had an established education and economic level was not an easy thing. Prisons are demanded to be able to restore their

residents to be good people and be able to live again in the community naturally, but on the other hand this role sometimes does not work because the prisoners in Sukamiskin are mostly people who have intellectual intelligence above prison officials.

In addition, the implementation of guidance to prisoners is faced with the quantity and quality of the correctional officers. Lack of correctional officers as well as the quality or level of knowledge of correctional officers, when faced with corruption convicts, of course they are not maximal in terms of providing guidance in prisons. Therefore, the training program for prisoners cannot be implemented properly in accordance with the coaching activities that have been planned by the prison.

This paper examines the implementation of guidance for corruption convicts in prisons, which aims to analyze and evaluate the implementation of guidance for corruption convicts in prisons.

DISCUSSION

Definition of Guidance and Legal Arrangements on Guidance for Corruption Prisoner

According to the Indonesian Dictionary, guidance is an effort, action and

² Law No. 12 of 1995

activity that is carried out in an efficient, effective manner to obtain better results.³ According to Masdar Helmi, guidance is all efforts, endeavors and actions related to the process and organization and management of everything in a systematic and planned manner.⁴

According to Mathis, guidance is a procedure by which people gain certain skills to achieve organizational direction. Therefore, this process is tied to several organizational goals, guidance can be seen both narrowly and broadly.⁵ In addition, guidance can also be interpreted as an activity that protects and enhances what already exists as desired. guidance is a development process similar to education. The purpose of guidance is a procedure for contributing to assistance to others to organize, restore and expand the knowledge and expertise that is already owned, in addition to gaining new skills and knowledge that can become capital for further improvement effectively and efficiently.

Regulations regarding the guidance of corruption convicts in prisons are carried out in a comprehensive manner the same as general prisoners regardless of the type of crime committed as contained in the

provisions of Article 12 Paragraph (1) of Law No. 12 of 1995: In the framework of guiding prisoners in prisons, classification is carried out based on: bahwa:

- a. Age
- b. Sex
- c. Duration of the sentence imposed
- d. Type of Crime, and
- e. Other criteria are in accordance with the need or development of guidance.

This is a formulation regarding the placement of prisoners in terms of guidance in prison. The approach used in the implementation of guidance is using the security approach as the main approach, in this case it is divided into 3 classifications, namely maximum security, medium security and minimum security. Besides that, it also uses a rehabilitation approach.

The implementation of imprisonment in prisons is based on principles and regulations that have been agreed upon by the international community, among others, Standard Minimum Rules for The Treatment of Offenders (SMR) have been established by the United Nations congress regarding The Prevention Crime and The Treatment of Offenders which is carried out for five years. once. In the SMR, it has

³ Kementerian Pendidikan dan Kebudayaan. *Kamus Besar Bahasa Indonesia*. Edisi Ketiga. (Jakarta: Balai Pustaka.2005). p.134

⁴ Masdar Helmi. *Dakwah dan Alam Pembangunan I*. (Semarang: Toha Putra. 1993).

⁵ Mathis Robert. *Manajemen Sumber Daya Manusia*. (Jakarta: Salemba Empat. 2002). p. 112

been stipulated that, among other things, it is not allowed to treat prisoners based on differences in religion, ethnicity, and social status of prisoners. This principle has been contained in the Correctional Law contained in the explanation of Article 5, namely the provision of equal treatment and services to the prisoners of the correctional facility without distinguishing people.

Implementation of guidance for prisoners in prisons is based on three levels of guidance as regulated in Article 7 Paragraph (2) of Government Regulation No. 31 of 1999. The stages of the coaching process in question are: Initial Stage, Advanced Stage and Final Stage. In the implementation of guidance, the Head of a Prison is obliged to plan, implement and control the activities of the guidance program.

Implementation of guidance for Corruption Convicts in Correctional Institutions.

Guidance is an action, process, result or statement for the better. In this case it indicates the progress, increase, growth, evolution, of various possibilities, developing, or increasing something. Here there are

two elements of understanding, namely guidance from a goal and secondly, coaching can show improvements to something.⁶

Article 15 of the Correctional Law requires every prisoner to participate in certain programs and activities in an orderly manner. Regarding the provisions of this article, it can be concluded that prisoners who are in prison are obliged to participate in a whole series of guidance programs.

Based on data from the Directorate General of Corrections, it shows that the number of corruption convicts scattered throughout the Regional Offices of the Ministry of Law and Human Rights is 4,743 people.⁷

Guidance for corruption convicts still refers to the guidance pattern of prisoners in general because there are no specific provisions regulating guidance for corruption convicts.

The stages of implementing guidance for inmates are divided into three stages, namely the initial stage, the advanced stage and the final stage. Guidance in the early stages starts from the time the prisoner enters the prison until he undergoes 1/3 of his prison term, preceded by a period of admission and orientation and continued with

⁶ Mifta Thoha. *Pembinaan Organisasi : Proses Diagnosa dan Intervensi*. (Jakarta: Raja Grafindo Prasada. 2003). p. 7

⁷ Source of data from the Director General of Corrections August 28, 2019

personality and independence development. In the advanced stage it is divided into the first advanced stage (1/3 to 1/2 of the criminal period) with a further personality and independence development program, while in the second advanced stage (1/2 to 2/3 of the sentence) inmates who meet the requirements are entitled to file assimilation. Meanwhile, the final stage of guidance is known as the integration program, where inmates are entitled to apply for parole, leave before release, and conditional leave.

The Early Stage

Guidance in the Early Stage begins with the Admission period and the orientation period. This period begins with a period of monitoring, research and environmental recognition. The Admission and Orientation Period (AO) is also known as Mapenaling. Mapenaling is a program that is carried out at the early stages of coaching when corruption convicts enter and are placed in prisons, namely during registration and registration, the period of introduction, observation and environmental research. This activity is to find out everything about the personal data of corruption convicts. Regardless of the length of the criminal period, every corruption convict or other general prisoner is obliged to

attend mapenaling and be placed in the mapenaling room block. The mapenaling period usually lasts a month at most. At this stage, assisted residents are given an introduction to the environment in prisons, introduction to prison and WBP officers in prisons and an explanation of the rights and obligations of prisoners in prisons. New prisoners will be introduced into the correctional system as a training process consisting of work units.

Convicts who are admitted to prison are required to be registered. The admission and orientation stages are also the initial stages of collecting identity and data related to prisoners since the prisoner is admitted to prison, where the results of the data collection will be used as initial guidelines for further coaching processes. In addition, several other activities carried out at this stage were health checks, taking photos and fingerprints as well as making handover notes which were carried out in the registration sub-section. Data resulting from observations and data collection relating to the prisoners are used to ensure planning for the implementation of a personality development and independence program.

The guidance stage at this early stage is a series of guidance that corruption convicts must undergo. Especially for the

admission period and it is important orientation for corruption convicts to be followed so that they can mingle with the new prison environment.

The next stage is the guidance on personality and independence, where in this stage of personality guidance, corruption convicts are directed to the mental and character guidance of the correctional community members so that they become cautious and have a sense of responsibility towards themselves, their families and society. For self-reliance guidance, some of the corruption convicts who have the skills only act as managerial actions towards other prisoners.

The Advanced Stage

Advanced Stage Guidance consists of the first and second advanced stage guidance. The first advanced stage of guidance is a follow-up guidance plan from personality and independent guidance at an early stage.

The first advanced stage is run from a period of 1/3 of the criminal period to 1/2 of the criminal period where it is filled with further personality and independence guidance.

Advanced guidance is personality guidance which consists of religious activities and character, in this case what is taught to corruption convicts, not only

knowledge about religion but how to practice these practices.

In addition, national and state awareness guidance activities were carried out, guidance activities on intellectual abilities were implemented for corruption convicts on how to think broadly, and physical fitness activities.

Corruption convicts in carrying out skills development activities only act as managerial, where corruption convicts only act as managers in managing funds, the results obtained and then are processed back into business capital.

If the first advanced stage of guidance has been undertaken by inmates for 1/2 (half) of his prison term and from the results of the Correctional Observer Team Session results have shown changes and progress, the guidance process is extended through the second advanced stage (or commonly known as assimilation. The form of assimilation of corruption convicts is to employ them to third parties.

However, sometimes the implementation of assimilation still faces obstacles. This is due to the implementation of assimilation which is sometimes carried out simultaneously with parole. Corruption convicts occasionally carry out assimilation only to abort obligations to existing regulations. Meanwhile, if we look at the purpose

of the assimilation itself is to seek assimilation not only to fulfill the guidance implementation but there must be results obtained from the implementation of these activities.⁸

The Final Stage

The final stage is a process of guidance to inmates who have carried out 2/3 of the actual criminal period or at least 9 months. This guidance is called final stage guidance, which is an activity in the preparation and implementation of the integration program. Prisoners who have fulfilled the requirements as stipulated in the statutory regulations are entitled to receive Leaving Towards Free (CMB), Conditional Release (PB), and Conditional Leave (CB) which are carried out outside prisons.

The guidance program in this final stage is part of the guidance program to integrate prisoners into the life of the community after meeting the predetermined requirements. Apart from having to fulfill the document requirements as required in Article 87 Paragraph (1) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 3 of 2018, there are additional provisions that must be fulfilled by corruption convicts to obtain

parole, namely that they must attach evidence of fulfilling the obligation to pay fines and compensation as stated in Article 88 Paragraph (2) of the Government Regulation.

There are additional requirements for convicts of corruption in obtaining their right to receive parole because the criminal act of corruption has a large impact and influence compared to other crimes. the crime of corruption is an extraordinary crime that has caused huge losses to the state so that there is a tightening in granting parole on the grounds of fulfilling the sense of justice in society.⁹

The effect of deterring the implementation of guidance must be considered, but must pay attention to the return of state losses. The period of one month after the decision is legally enforceable to pay the replacement money, in the author's opinion, is too short. The return of state losses through the form of replacement money payment in the author's opinion requires additional time, where if we look at the existing rules, only one month is given after the decision to make replacement money payments. In addition, to avoid continuing corruption crimes, the payment of replacement money to prisoners should be

⁸ Results of Interviews with Community Advisors at Correctional Services, Class 1 Makassar.

⁹ Darmawati. (2019). *Aspek Hukum Pemenuhan Hak Atas Pembebasan Bersyarat Bagi Narapidana Korupsi*. Jurnal Restorative Justice. Vol.3 No.2. p.2

allocated directly by building facilities and infrastructure that were previously corrupted. Thus, the phenomenon of impoverishing corruption convicts can be realized.

CONCLUSION

The implementation of guidance for corruption convicts is broadly regulated in Law No. 12 of 1995 and followed up by Government Regulation no. 31 of 1999. The stages of guidance for corruption convicts are divided into 3 stages, namely the initial stage, the advanced stage and the final stage. There is no difference in the implementation of guidance for corruption convicts with the exception of the additional requirements that must be met to pay replacement money and fines to be granted the right to obtain parole.

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