



## LEGAL PROTECTION FOR PRISONERS IN ILLNESS WHO REQUIRE HOSPITAL TREATMENT

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### Abstract

Indonesia has ratified the Convention Against torture and other cruel, inhuman or degrading treatment or punishment (adopted and opened for signature and accession by General Assembly Resolution 39/46 of 10 December 1984 into Law Number 5 of 1998 which came into effect on 28 September 1998). The Convention relates to the promotion and protection of the rights of prisoners which are accommodated in the prohibition of torture and other treatment or punishment that is cruel, inhuman and degrading to human dignity. Suspects who are detained and experiencing health problems, it is in the interests of investigative examinations and for the smooth running of examination of suspects requires treatment. In Indonesia, regulations regarding the rights of prisoners in the health sector are contained in several laws, including based on the decision of the Minister of Justice of the Republic of Indonesia No. 1995 concerning Corrections, Government Regulation Number 32 of 1999 concerning Requirements and Procedures for Implementing the Rights of Inmates. Health services for prisoner patients are carried out in a promotive, preventive, curative and rehabilitative manner, the implementation of which is currently not yet running optimally, this is indicated by the fact that health services for prisoners have not been carried out on a scale, integrated, integrated and sustainable basis. The implementation of care for prisoners in sick conditions who require hospital treatment will run well if in the system of fulfilling the rights of prisoners they are positioned not only as objects of detention, but also as active participants. In this case, prisoners themselves also determine the implementation of their rights.

**Keywords:** *Prisoners, Health Rights, Legal Protection*

### INTRODUCTION

Juridically, guarantees for Human Rights in Indonesia have been regulated in the Legislative Regulations in the preamble to the 1945 Constitution which contains statements and acknowledgments that uphold dignity and human values. In the 1945 Constitution it is stated that every person has the right to live and have the right to defend their life and existence, apart from that it is also stated that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to receive health services.(Indonesia R.). Convention Against torture and other cruel, inhuman or degrading treatment or punishment (adopted and opened for signature and accession by General Assembly Resolution 39/46 of 10 December 1984), has been ratified by Indonesia with Law Number 5 of 1998 which came into effect on 28 September 1998. This convention relates to the promotion and protection of prisoners' rights which are accommodated in the prohibition of torture and treatment or other punishments that are cruel, inhuman and degrading to human dignity.(Wibowo, 2007) Correctional Institutions as the final agency in the criminal justice process must be able to achieve the goal of imposing the crime itself. Correctional Institutions in an effort to provide protection to the community through the punishment of revocation of liberty in the form of imprisonment are linked to crime prevention efforts, by providing guidance and education to prisoners. Apart from being a reward for the convict's mistake, the sentence imposed is also to protect the public from convicts.(Putra Jaya Union, 2001, p. 31)

The examination process in a criminal case itself starts from investigation to execution in a correctional institution. Correction is a coaching process to restore the unity of life of the convict. One of the rights that prisoners have, namely the responsibility for treating prisoners,(Budiyono, 2009)Prisoners have the right to receive prisoner care including physical and spiritual care, in terms

of health services (Indonesia PR, p. article 9), apart from that, based on the decision of the Minister of Justice of the Republic of Indonesia No.M.02- PK.04.10 of 1990 concerning Prisoner Development Patterns, every prisoner has the right to receive adequate health services, in which every detention center is provided with a polyclinic and its facilities and at least one doctor is provided. and another health worker which is explained in section C regarding health care. (1) Every prisoner has the right to receive adequate health care. (2) Health care for detainees in Rutan/Cabrutan is carried out by Rutan/Cabrutan doctors, in the event that there is no Rutan/Cabrutan doctor, it can be done by medical personnel. (3) Health checks are carried out at least once a month, unless there are complaints, then a doctor can check them at any time. (4) On advice

Detention Center/Cabrutan doctors and with the permission of the party detaining detainees who are sick and cannot be treated at the Detention Center/Cabrutan Clinic, can be sent to the General Hospital with the permission of the detaining agency with POLRI/CPM escort. In fulfilling the rights above, there are still many things that are limited to recognition in legislation, but their implementation is still far from reality. Detention centers as technical implementation units are required to be able to realize these rights. As a form of protection for detainees' rights, one of them is Health Services which also includes psychiatric services to carry out diagnoses in appropriate cases, to provide treatment for mental disorders. Medical officers see and examine each detainee as soon as possible after the detainee enters and thereafter do so as necessary with the main aim of: determining the presence or absence of physical or mental illness and taking all necessary measures and separating detainees who are suspected of having an infectious disease by a detainee. Based on the description of the background to the problem above, research was conducted with the title Legal Protection for Prisoners in Sick Conditions Who Require Hospital Treatment.

### Formulation of the problem

1. What is the legal protection for detainees who are sick and need hospital treatment?
2. How is Prisoner Care Implemented in Cases of Illness that Require Hospital Treatment?

### METHOD

Research Methods reveal the methods used in the research process or methods for completing data analysis in accordance. This research was carried out by reading, reviewing and analyzing library materials to explore and develop the data obtained. The data will be analyzed and presented qualitatively. The qualitative approach is a research procedure for producing analytical descriptive data.

### RESULTS AND DISCUSSION

#### Legal Protection for Prisoners in Sick Conditions Who Require Hospital Treatment

Whereas in the Decree of the Minister of Justice of the Republic of Indonesia Number: M. 02-Pk.04.10 of 1990 concerning the Pattern of Development of Prisoners/Detainees of the Minister of Justice of the Republic of Indonesia. As stipulated in the Ministerial Decree, it is stipulated that:

1. Every prisoner has the right to receive adequate health care.
2. Health care for detainees in the detention center/Cabrutan is carried out by doctors at the detention center/Cabrutan, in the event that there is no doctor at the detention center/Cabrutan it can be done by medical personnel.
3. Health checks are carried out at least once a month, unless there are complaints, then you can be seen by a doctor at any time.
4. On the advice of the Detention Center/Cabrutan Doctor and the permission of the party detaining detainees who are sick and cannot be treated at the Detention Center/Cabrutan Clinic, they can be sent to the General Hospital with the permission of the detaining agency with POLRI/CPM escort.

Apart from that, it is also explained that in the event that a sick detainee requires further treatment, the doctor or health worker at the Detention Center ("RUTAN") / Detention Center Branch or Penitentiary Institution ("LAPAS")/Penitentiary Branch provides recommendations to

the Head of the Detention Center/Detention Center Branch or Prisons/ Penitentiary Branches so that health services are provided in hospitals outside the Prison/Detention Center Branch or Prison/ Penitentiary Branch. And health services at the hospital must obtain permission from the detaining agency and the Head of the Detention Center/Detention Center Branch or Prison/ Penitentiary Branch. (Indonesia PR, 1999) Prisoners who are taken and treated in hospital must be escorted by police officers. The costs of health care in hospitals are borne by the state. Based on several basic regulations governing various matters regarding the rights to health services for prisoners which have been described previously, to determine in general the specific health service rights for prisoners in health services, the rights to health services for prisoners consist of:

1. Prisoners have the right to receive adequate health services.
2. Prisoners have the right to a clean environment.
3. Prisoners have the right to receive information and education about health (Dewi, 2008).

In particular, the right to health services for inmates has been regulated in various National Legal Instruments. The guarantee of recognition of the right to health can be seen from several legal instruments as follows:

- a. Law Number 12 of 1995 concerning Corrections states that the rights of inmates are: (Society, 1995 )
  - 1) Inmates have the right to receive care, both spiritual and physical care;
  - 2) Inmates have the right to receive adequate health and food services;
  - 3) Inmates have the right to submit complaints.

Apart from that, Government Regulation Number 32 of 1999 concerning Conditions and Procedures for Implementing the Rights of Inmates, also states that prisoners have the rights to health services. Suryono Sutarto believes that the conditions for carrying out detention can be qualified into objective and subjective conditions. (Sutanto, 1987) Objective requirements emphasize the basis for detention which is viewed from the perspective of the criminal act, while subjective requirements are reasons viewed from the perspective of the need for the suspect or accused to be detained. For a suspect who is detained and experiencing health problems, for the purposes of the investigation and to ensure a smooth examination of the suspect, treatment is needed. Suspects who are sick in detention must not be treated arbitrarily, in the sense that examinations cannot be carried out, so as not to violate the suspect's human rights. In the event that the health condition of the suspect/accused is seriously/chronically ill, the person concerned can submit a request to the investigator to have a health examination carried out on the person concerned so that the detained patient can still be examined properly, after the detained patient can recover his health which is a basic right to life. for prison patients. This is in line with Law Number 12 of 1995 concerning Corrections which emphasizes that the aim of punishment is an effort to make prisoners and criminal children aware of regretting their actions, and returning them to be good citizens, obeying the law, upholding moral, social and social values. religion, so as to achieve safe, orderly and peaceful social life. (Surbakti., 2005, p. P.320)

The following are the efforts taken in terms of implementing health services regarding the rights of prisoners, that there are 4 (four) indicators of health service efforts which are also applied to each prisoner, namely:

1. Promotive Health Service Efforts.  
Promotive Health service efforts are an activity and/or a series of health service activities that prioritize health promotion activities.
2. Preventive Health Service Efforts.  
Preventive health service efforts are preventative activities against a health problem/disease. Efforts to prevent disease must of course start from a clean environment and food intake that meets nutritional needs. Each individual's nutritional intake needs differ between individuals, this depends on age, gender, activity, body weight and height. The protein needs of toddlers are not the same as those of teenagers, the energy needs of students who are athletes will be much greater than students who are not athletes. (holil M. Par' L, 2017) Apart from the above, regular health checks can detect health and prevent it early.

3. Curative Health Service Efforts.

Curative health services are an activity and/or a series of treatment activities aimed at curing disease, reducing suffering due to disease, controlling disease, or controlling disability so that the quality of sufferers can be maintained as optimally as possible.

4. Rehabilitative Health Service Efforts.

Rehabilitative health services are activities and/or a series of activities to return former sufferers to society so that they can function again as members of society who are useful for themselves and society to the maximum extent possible according to their abilities. Rehabilitation is an effort to return former sufferers to society, so that they can function again as members of society who are useful for themselves and society, to the best of their abilities. This rehabilitation consists of:

- a. Physical Rehabilitation is for former sufferers to obtain as much physical improvement as possible. For example, a person who, due to an accident, breaks his leg, needs to receive rehabilitation for the broken leg, namely by using an artificial leg that has the same function as a real leg.
- b. Mental rehabilitation means that former sufferers can adjust to individual and social relationships satisfactorily. Often along with physical disabilities, mental disorders or disorders also appear. In this regard, former sufferers need to receive psychological guidance before returning to society.
- c. Vocational Social Rehabilitation means that former sufferers occupy a job/position in society with the maximum work capacity in accordance with their abilities and disabilities.
- d. Aesthetic rehabilitation, namely aesthetic rehabilitation efforts, needs to be carried out to restore a sense of beauty, even though sometimes the function of the body's organs themselves cannot be restored, for example: the use of prosthetic eyes.

Rehabilitation health services are carried out for recovery after health care, according to information sources from the correctional health clinic, providing medication and education to detainees, convicts and correctional students about the correct way to consume medication and follow-up is carried out on observation patients. Rehabilitation health services are limited to patients with infectious diseases and high risk. Apart from that, Law Number 39 of 1999 concerning Human Rights Article 4 states, among other things: the right to life, the right not to be tortured, the right to personal freedom, thought and conscience, the right to religion, the right to be recognized as a person and equality before the law. , this statement means that every person has the same rights and obligations as a human being, that the implementation of the value of equality and position in society is applied in various fields, including in the field of law.

One of the principles that is believed to be the principle of equality of justice under law where everyone is equal before the law without exception, this principle is used as a standard for equalizing marginal groups or minority groups. The implementation of health services for prisoners is carried out in 2 forms, namely immediate (urgent) and routine. Urgent health services for those suffering from illnesses that are classified as serious illnesses and can endanger the safety of prisoners. Routine health services are health services that are provided continuously or health services that prisoners can receive. In the health sector, according to Soekidjo Notoatmodjo in his book *Health Ethics and Law*, the law regulates people's rights as follows:

- a. Everyone has the right to Health.
- b. Everyone has the same rights in gaining access to resources in the health sector.
- c. Everyone has the right to obtain safe, quality and affordable health services.
- d. Every person has the right to independently and be responsible for determining their own health services for themselves.
- e. Everyone has the right to a healthy environment for achieving health status.
- f. Everyone has the right to receive information and education about balanced and responsible health.

- g. Every person has the right to obtain information about their own health data, including actions and treatment they have received or will receive from health workers. (Notoatmodjo, Health Ethics and Law)

### **Implementation of Prisoner Care in Sick Conditions Requiring Hospital Treatment**

Application: Treatment of prisoners who are sick and require hospital treatment involves several special considerations to ensure that the prisoner needs medical care while maintaining the prisoner's security and control in the health care environment. There are several things that need to be done to ensure that prisoner patients receive health services as mandated by law, sometimes as follows:

- a. In Terms of Security:
  1. Parties providing health services to detainee patients must be provided with security and prison guard officers must continue to ensure the security and control of detainees and health workers.
  2. Placement of detainees in separate medical treatment rooms or isolation rooms may be necessary, depending on health conditions and security risks.

In conducting an evaluation of the illnesses suffered by Detainee Patients, the initial stage is that medical personnel must determine the stages in examining and handling the health of Detainee patients. This aims to ensure that health services for Detainee Patients do not clash with the process of handling cases of detainee patients, apart from that, in carrying out Medical services such as administering drugs, medical procedures, or other interventions must be provided by qualified and experienced health personnel. When carrying out health checks on detainee patients, supervision and supervision must be carried out by officers appointed by the court with the aim of ensuring security and preventing escape or other security incidents. And the need for cooperation between health workers and prisoner guarding authorities. Security officers need to communicate effectively with medical staff to ensure a good understanding of prisoner care needs.

Where Collaboration with external parties, such as police officers or prison guards, may be required to provide additional protection and assistance if necessary. Apart from that, in terms of conducting medical records for health workers, accurate and detailed medical records must be maintained to provide good monitoring of the detainee's health condition and for legal purposes. Implementing treatment of prisoners requiring hospital care requires effective collaboration between prison institutions, medical staff, and security forces to ensure safe and effective treatment. Health services at the hospital must obtain permission from the detaining agency and the Head of the Detention Center/Detention Center Branch or Prison/Penitentiary Branch. Prisoners who are taken and treated in hospital must be escorted by police officers. The costs of health care in hospitals are borne by the state. Regulations regarding this escort are also regulated in the Head of the National Police of the Republic of Indonesia No. Pol.:4 of 2005 concerning Management of Detainees at the National Police Detention Center of the Republic of Indonesia. (Indonesia, 2005) The regulation states that in the event of an emergency/seriously ill prisoner, a doctor or health worker can be brought to the existing detention center and/or to the hospital, accompanied by guard officers in accordance with procedures.

The right to health is an important international human rights standard, health care for prisoner patients is the same as service standards in society, the implementation of prisoners' rights in the correctional system is an implementation of law enforcement that upholds and respects human rights (Wiku, 2007), no one should suffer from lack of health care just because they are in detention, this right should not be lost even if they are a prisoner. The implementation of care for prisoners in sick conditions who require hospital treatment will run well if in the system of fulfilling the rights of prisoners they are positioned not only as objects of detention, but also as active participants. In this case, prisoners themselves also determine the implementation of their rights. Health services outside the prison or detention center are carried out at the request of the detainee, with a recommendation from the prison/penitentiary doctor, then with the permission of

the detaining party and the head of the detention center or prison with the assurance that there will be someone who can provide escort. (Tobing, Letezia., 2014)

- b. Standard Operational Procedures for RUMKIT BHAYANGKARA TK II MEDAN
- 1) The inpatient administration officer explains to the patient and his family.
  - 2) Explanation of information about the patient's whereabouts in prison status.
  - 3) Security Ensure that there is an attendant to accompany the patient.
  - 4) Security coordinate with guard officers for the possibility of handcuffing under certain conditions.
  - 5) Security must interrogate every visitor to a prisoner status patient and ask permission from the guard officer before granting permission to visit.
  - 6) Security It is mandatory to inspect luggage and ensure that visitors do not bring prohibited items such as: alcohol, drugs, sharp weapons, firearms.
  - 7) Security ensure visitors do not bring cellphones, cameras, recording devices or other electronic devices.
  - 8) Security give visitor cards to visitors and ask to leave identification.
  - 9) Security maintain custody status patients..

## CLOSING

### Conclusion

Based on the description of the research results and discussion in the previous chapter, the following conclusions can be drawn:

Health services for prisoner patients are implemented in a promotive, preventive, curative and rehabilitative manner. Currently, they are still not running optimally, this is indicated by the fact that health services for prisoners have not been carried out on a scale, integrated, integrated and sustainable basis. The right to health is an important international human rights standard, health care for prisoner patients is the same as service standards in society, the implementation of prisoners' rights in the correctional system is an implementation of law enforcement that upholds and respects human rights (Wiku, 2007), no one should suffer from lack of health care just because they are in detention, this right should not be lost even if they are a prisoner. The implementation of care for prisoners in sick conditions who require hospital treatment will run well if in the system of fulfilling the rights of prisoners they are positioned not only as objects of detention, but also as active participants. In this case, prisoners themselves also determine the implementation of their rights.

### Suggestions

In the formation of future laws, whether in the form of changes to laws and/or the formation of new laws, it is the main focus of the legislative body together with the government or the Ministry of Law and Human Rights to jointly coordinate in forming regulations that regulate more specifically regarding prisoner health services in accordance with the developmental conditions or needs of prisoners in detention centers. Apart from that, special attention is also required by the government, where the government is obliged to provide an adequate budget for health development and involve the wider community in health development.

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