

# LEGAL PROTECTION RELATED TO THE DENSITY RIGHTS IN TERMS OF REWARDED IN CORRECTIONAL INSTITUTION

*by* Kadek Wiwik 24

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## LEGAL PROTECTION RELATED TO THE DENSITY RIGHTS IN TERMS OF REWARDED IN CORRECTIONAL INSTITUTION

Lily Faradina, Kadek Wiwik Indrayanti

Faculty of Law, University of Merdeka Malang

[lily.faradina@gmail.com](mailto:lily.faradina@gmail.com),

[astinaagra@yahoo.com](mailto:astinaagra@yahoo.com)

### Abstract

*The rights of prisoners have been explicitly regulated in Act No.12 of 1995 on Corrections. The law therein outlines 13 (thirteen) rights reserved for a prisoner while in a Penitentiary. The right to get a wage or premium for the work done is a right that is often neglected in practice in the correctional institution located in our country. This happens because of the stigma of the people who still tend to assume that a prisoner is a party that deserves to be treated arbitrarily because of the crime he has committed. It is this kind of thinking that ultimately also affects officials or prison officers who end up treating incendiary people like humans who are unfit to accept the rights that have been provided by the state. Many inmates are employed in penitentiaries who are not paid for by their employers. If this continues to be done then the purpose of punishment will actually violate human rights inherent in the Prisoners as human beings. However, prisoners must also be protected by their rights as human beings.*

**Keywords:** Correctional Institution; Right of Inmates; Wages and Premiums.

### A. INTRODUCTION

Article 28 I Paragraph (2) states that "Every person shall have the right to be free from discriminatory treatment on any basis and shall be entitled to protection against such discriminatory treatment." From this paragraph, it can be seen that human rights as a fundamental right which naturally or naturally has been possessed by every human being since it is in the womb are an absolute right that must be owned by everyone without exception and without discrimination from any party. This right also still applies to persons who have committed crimes prohibited by Indonesian legislation in order to obtain sanctions in the form of detention in the

Penal Institution. People like this we usually refer to as inmates.

Implementation of sanctions against the perpetrators of crimes committed by an institution called the Penitentiary that has been regulated in Act No. 12 of 1995 About Penitentiary: Penitentiary is a form of organization that collectively conduct guidance conducted by officers of the Penitentiary against those who are considered to behave incorrectly, and have a purpose as a place of retaliation and harassment for the perpetrators of evil but then the goal turns into a place of coaching for the perpetrators of crime so that they

become better than ever<sup>1</sup>. The above explanation should place the Society Institution itself as an institution that plays an active role in fostering these prisoners to become a better person in humane and appropriate ways in accordance with the rights they still possess as human beings.

Penitentiary system is a series of law enforcement that aims to make the Prisoners of Penitentiary realize their mistake, improve themselves, and not repeat the crime so that they can be accepted by the society, can actively play a role in development, and can live fairly as a good and responsible citizen. As stated in the Law of the Republic of Indonesia Number 12 the Of 1995 regarding Corrections. The Penitentiary system focuses on the care, coaching, education, and guidance for the targeted citizens aimed at restoring the unity of the basic relationships between individual members of the community and the community.<sup>2</sup> This guidance is done by Penitentiary in various ways, one of which is to require the assisted citizens to perform various jobs while serving his sentence at the Institute. With an adequate wage given to the work of the Prisoner, automatically the correctional officer of the Penitentiary has fulfilled the Human Rights of every prisoner who has done the work.<sup>3</sup>

The provisions of Law of the Republic of Indonesia Number 12 the Of 1995 concerning correctional in the fostering of prisoners in prisons. Mention

some rights possessed by inmates in accordance with Article 14 of RI's Law. 12 of 1995 on Correctional Institutions within the Penitentiary, these rights include:

- a. Conducting worship according to religion or belief;
- b. Getting treatment, both spiritual and physical;
- c. Gain education and teaching;
- d. Obtain adequate health and food services;
- e. Submitting a complaint;
- f. Obtain reading material and follow other mass media broadcasts that are not prohibited;
- g. Gain wages or premiums for work performed;
- h. Receive a family visit, legal counsel, or another specific person;
- i. Gain reduction of criminal penalty (remission);
- j. Gain an assimilate opportunity including family visiting leave;
- k. Getting parole;
- l. Getting time off free;
- m. Again other rights in accordance with applicable laws and regulations.<sup>3</sup>

The right to receive wages or premiums for the work the Prisoners do will bring great benefits to their lives in the future. If the rights are met then when the punishment period for the Nanggau is completed, then the wages earned can be used to finance family life or daily life to replace the time spent in the Penal Institution. Fulfillment of Wages Receiving Rights for Prisoners is also further regulated in Government Regulation Number 32 the of 1999 article 29 on Terms and Procedures for the Implementation of Right of Citizens Correctional Penitentiary namely:

1 Andi Hamzah, 1986, *Indonesian Penal System and Penalization from Retribution to Reform*, Pradnya Paramita, Jakarta, P.5

2 Alfind Lamber Far-Far, 2012, *"Optimizing the Rights of Prisoners to Gain Wages for Work Performed In Welfare Institution (LP) Class IIa Wirogunan"* Thesis, Faculty Of Law, Atma Jaya University, Yogyakarta, P.21

3 Act No. 12 the Of 1995 Regarding Corrections

1. Every inmate working is entitled to a wage or a premium.
2. The number of wages or premiums as referred to in paragraph (1) shall be in accordance with the prevailing laws and regulations.<sup>10</sup>
3. Wages or premiums as referred to in paragraph (2) shall be deposited and recorded in LAPAS.<sup>4</sup>
4. Wages or premiums as referred to in paragraph (3) shall be granted to the person concerned, if necessary to meet the basic needs of being in LAPAS or for the cost of returning home after a criminal term.
5. Provisions on wages or premiums shall be further regulated by a Ministerial Decree.<sup>4</sup>

Up to now the fulfillment of Wage Rights and Premium Rights over the work performed by Prisoners is a matter that tends to be viewed as a matter, of course, this is evidenced by the absence of regulations that explicitly regulate the technicality of wage or premium division to the prisoners for the work done in the Penitentiary, this causes the wage or premium does not have a basis for clarifying the rights of the prisoner and the results have an effect on the number of wages or premiums given to inmates who work is regulated or determined by the parties in charge of the Penal Institution violations of Human Rights in terms of fulfillment of Wages become very easy.

Based on the above explanation, this paper will examine;

How the implementation of the fulfillment of the Right of Prisoners in terms of getting wages or premiums for the work done in the Penal Institution in Indonesia as well as what obstacles or constraints affect the implementation of the fulfillment of the rights of prisoners in terms of getting wages or premiums in the Penal Institution.

## B. DISCUSSION

### 1. Implementation of the Right to Prisoners' Rights at Penal Institutions

As hard-working human and human beings, law enforcement has the ability to do good and bad. Like state and state power, law enforcement and law enforcement power can be both protector and violator of human rights.<sup>5</sup> Therefore, the fulfillment of the rights of prisoners in terms of getting wages is still a difficult thing to do because some law enforcers who are in prisons often assume that prisoners are appropriate to be treated arbitrarily and ultimately unconsciously lead to violations of human rights Human.

Penitentiary should be a place for the citizens built in order to form a more useful person when returning to the community environment later. During this time has also been proclaimed various kinds of useful work that can be done by inmates while inside the Penitentiary. Examples such as those that exist in Wirogunan IIA Class Correctional Institution which has work units as follows:

<sup>4</sup> Government Regulation No. 32 the of 1999 on Terms and Procedures for the Implementation of Right of Residents of Correctional Prisoners

<sup>5</sup> Koesparmono Irsan, 2004, *Human Rights and Law*, College of Police Science, Jakarta, P.25

- (1) Production:
  - (a) Persuasion (skinning)
  - (b) Welding
  - (c) Bamboo Panel
  - (d) Carpentry
  - (e) Agriculture
  - (f) Carpet woven
  - (g) Handicraft
  - (h) Screen Shirt
  - (i) Fisheries
- (2) Services:
  - (a) Tailoring
  - (b) Automotive
  - (c) Massage
  - (d) Laundry
  - (e) Hair Salon or Cut
- (3) Nonproduction
  - (1) Tamping TU
  - (2) Tamping BINAPI
  - (3) Tamping KAMTIB
  - (4) Working Activity
  - (5) Kitchen Tamping
  - (6) Tamping Cooperative<sup>6</sup>

These diverse types of work can also be a means to develop the interests and talents of each of the assisted citizens. In contrast to Penitentiary in Wirogunan, Class I Correctional Institution of Malang provides work in the form of various workshops, among others:

- a. Workshop of Cage Making Furniture Manufacture.
- b. Workshop For Wood Carving For Tissue Boxes.
- c. Food Box Making Workshop From Cardboard.
- d. Worm Making Workshop<sup>7</sup>

<sup>6</sup> Far-Far, "Optimizing the Rights of Prisoners to Gain Wages for Work Performed In Welfare Institution (LP) Class IIa Wirogunan."

<sup>7</sup> Gideon William K, 2014, "Implementation of the Right of Inmates to Receive Wages or Premiums for Work Conducted in Penitentiary (Studies in Class 1 Malang)," Thesis, Faculty of Law, Brawijaya University, Malang, P.125

The Beneficiary is also given a portion of 6 to 7 hours a day to do the work in the Workshop. As for the fulfillment of the right of prisoners in terms of getting wages is also regulated as follows:

- a. Calculation of Sale and Premium Price of Inmates.

Each production workshop must have cost that includes the price of raw materials, equipment used, to the cost of maintaining the equipment. Based on the decision taken by Kalapas Penitentiary Class 1 Malang City, the percentage of wages earned by each working prisoner is 10% based on the selling price of the goods they produce.

- b. Provision of Wages Provided to Prisoners.

There are various ways of providing wages to the inmates who have worked it. That is, by surrendering directly to the prisoners in cash, manifested as a necessity of the prisoners themselves, and by the Workshop's representatives. With the hope of being able to be exploited by the inmate when he is free later on.

The results above illustrate that the fulfillment of the rights of prisoners in terms of getting wages or premiums from the work that has been done is still less than optimal because the power to provide the wage amount is under the authority of the head of Penitentiary. In addition, there are also many institutions in other areas that may still not fulfill the rights of the citizens properly built as well.

Correctional institutions serve to provide a positive spirit to the inmates in order not to repeat the same mistakes or crimes later.

Because it is important to note that the Institute has an interactive process for carrying out its role. The correctional process must also mutually guarantee and respect each of the human rights that each of the roles is between the Correctional Officer, the Citizen, and the community as well.

The wages or premiums that are inherent in this prisoner are something that can become indispensable to families left behind when the prisoner is detained in a Penitentiary. The fulfillment of this Human Rights will greatly assist the inmate in running his life in the future as he again plunges into the community again. Like anybody in general, everyone who has done a job even though the person titled "Prisoners" must still be properly fulfilled of his right to get a reward. If this is linked to Human Rights supposedly regardless of what status it holds, that right remains inherent in every human being.

On the other hand, the lack of government attention in upholding the prisoners' rights in terms of this wage also resulted in the laxness of prison officials to act arbitrarily. In fact, many inmates who produce works and useful objects that can be sold by the Penitentiary but not given a decent wage or commensurate with the work. Indirectly this practice, if done in a sustainable manner, would become a habit that unconsciously and constantly violates the human rights of prisoners in Indonesia.

## **2. What obstacles or constraints affect the implementation of the fulfillment of the rights of**

### **prisoners in terms of getting a wage or premium in Penitentiary**

Based on the results of research conducted by Gideon Williams in his thesis entitled *Implementation of the Right of Inmates to Receive Wages or Premiums of Work Performed in Penitentiary (Study In Class 1 Malang)* there are several obstacles faced in the framework of fulfilling the right of wage or premium to such barriers or obstacles include the absence of clear rules concerning the number of wages that should be received by the Prisoners. It is not explained in detail what percentage the prisoner can receive from the work he has done. This resulted in Penal Institution assuming that the wage is not something important that can be put aside by itself.

The low level of sale of goods for the work of inmates because less marketed by Penal Institution becomes the next factor. Lack of access to distribute outside makes it difficult for the work that prisoners have produced to be marketed to the public. This causes the income earned by the Penal Institution to become less if the right to fulfill the wages is exercised. In practice, marketing is limited to officers in the Penitentiary itself. Therefore it would be better if the Correctional Institution further enhances the effort in order to promote the results of the work of the prisoner so that the right of prisoners to receive wages or premiums on the results of his work can be done well.

Marketing of the work of inmates can be done by way of promotion. Promoting can be done by an online method or Correctional Institution can hold an exhibition in

cooperation with related offices every few months in order to introduce the result of the work to the public.

Furthermore, one of the most fundamental or most classical factors is that the problems related to funds or budgets derived from the Government by Penal Institutions tend to be insufficient to provide wages or premiums to prisoners who have worked in the Penitentiary so that Penal Institutions override wage provision to Prisoners and prioritizes the operational costs of the Penal Institution.

Based on the description that has been discussed in the background above, the authors provide the following suggestions:

The fulfillment of human rights Inmates in prisons in the future can be easily done if the parties concerned are more aware of the importance of mutual respect for the rights of each party. It is necessary to provide training and education on the importance of human rights for every human being for prison officers and for prisoners who are undergoing their sentence so that there will be no more negative stigma for the citizens who are in prisons in prisons and vice versa, prisoners also will respect the rights of Penitentiary officers and the fulfillment of the rights of each party will run optimally.

A prisoner is not a person who should be hated or abandoned in any way. Inmates also remain a human being who remains inherent in basic rights which in this case is the responsibility of the state which must equal the rights of every citizen. Human Rights in relation to the fulfillment of wages or premiums for the work performed by the Prisoners

within the Penitentiary should be of concern to the government at this time because it concerns the lives of the prisoners when they are released from the Penitentiary. The State should be more assertive and pay attention to the rights of every citizen not to mention the inmates who are languishing in the Penitentiary.

### C. CONCLUSIONS

In practice, the provision of wages or premiums to prisoners cannot be done optimally by the Penitentiary. The legal basis underlying this is that Article 14 Sub-Article g of Act No. 12 of 1995 concerning wages or premiums for inmates who have done the work also, in fact, can not be implemented properly. In the case of wage or premium implementation mechanisms for inmates who have done the work, there are still many shortcomings of the Penitentiary itself. This is inseparable from the various constraints faced by the Penitentiary. Although many of the prisoners who have worked hard to produce the type of goods that have the ability to sell and can be commercialized, various constraints still inhibit the Penitentiary to be able to perform its obligations in full that is to provide wages. For the marketing process, it takes the ability and extensive network to be successful. Inadequate capability in marketing the products of the prisoners and the lack of networks owned by Penal Institution gives effect to the number of wages or premiums that should be received by the prisoners, but because of these obstacles hence the wage or premium cannot be given. The absence of official legislation regulating in detail the number of wages that should be received by the prisoners is also a constraint on the part of the Penitentiary. So far the amount of wages received by

the Prisoners is determined by the interested parties of Lembaga Permasayarakatan. The negative stigma of the title "Prisoners" is also still the cause of the difficulty of fulfilling the

human rights of the prisoners themselves. Prisoners are deemed worthy of punishment by performing works within the Penal Institution without being paid in return.

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