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The Application of Assimilation Rights in Exercising the Rights of the Assisted People

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ABSTRACT

The criminal justice system in Indonesia has the final stages in the criminal justice process. Correctional services in carrying out coaching for people convicted in the judicial system which previously adopted a prison system with the intention of making prisoners have a deterrent effect on what he did. Prisoners provide guidance in the correctional institution in accordance with the authority and main duties of the correctional institution, which provides services in the form of fostering people who are undergoing a criminal period to be accepted back into the community. The inmates who carry out the guidance have a number of rights granted by the state. The guarantee for the granting of this right has been regulated in a formal legal instrument, so that its implementation is a constitutional obligation. Correctional assisted residents have the right, one of them is assimilation. Assimilation is given as a commitment to the correctional model that is formed to achieve social re-integration. The function of a prisoner must be returned to the community in accordance with the ideals of the prison, namely so that the inmates can carry out socialization again to the community. Assimilation given has a number of terms and conditions that apply. At the coaching stage, assimilation is the final stage of coaching, to be ready to be released again and to process socially in the community. Assimilation is given having a number of terms and conditions that apply. At the coaching stage, assimilation is the final stage of coaching,

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KEYWORDS

Assimilation; Correctional; Assisted Residents

1 INTRODUCTION

Indonesia has a criminal justice system model in carrying out the process of seeking justice and also to provide penalties for Indonesian people who violate criminal rules. A person making a speech will carry out a number of processes of investigation, investigation, termination and prosecution. A person where the judge has already received a sentence, namely imprisonment, then the execution of the judge's sentence will be delegated to a Penitentiary by the prosecutor. The implementation of imprisonment is that individuals will be imprisoned with a certain time limit so that they do not have the freedom to carry out their activities in society as before (Hamzah, 1993: 32). Prisoners will be placed in a correctional facility to serve their sentence and will be supervised by correctional officers. Implementation of guidance, namely so that the objectives of the correctional system can be carried out. The penitentiary system is a series of laws that are enforced with the aim that the Correctional Assistance Citizens are aware of the mistakes they have committed, as their self-improvement, and the crime is not repeated so that the community can receive it properly, can participate in active development and can have a life as a responsible citizen of Java, good and fair. Therefore, coaching is carried out to improve the behavior of the assisted residents. The assisted people are the subject in the implementation of guidance, and the basis for the implementation of the rights of the assisted citizens based on the principles of human rights.

Correctional assisted residents who carry out coaching in a correctional institution have a number of rights. The rights of prisoners in prison are written in Indonesian national law. This right is in the form of health care, physical, spiritual, remission and assimilation rights. As for the many rights mentioned above, their fulfilment must be guaranteed by the executor of the guidance. The essence of carrying out the correctional system is so that the Correctional Assistance Citizens are ready

and able to carry out healthy integration with the community, thereby being able to carry out their role to become responsible community members and have more freedom. With this aim, the rights of the assisted citizens must also be exercised. Assimilation as the right of the inmates, assimilation is coaching carried out in the middle of the community so that the guidance carried out can be oriented towards social reintegration. Assimilation is carried out to achieve the goal of socialization, namely guidance based on social reintegration. The rights of the assisted residents, one of which is the provision of assimilation, have also been regulated by the constitution, so that the correctional institution is obliged to provide this right in an effort to fulfil the rights of the inmates and the implementation of the obligations of the correctional system.

Assisted residents have the right to carry out training in a correctional institution. This right must be given to guarantee the protection of the rights of assisted citizens, basically this right is given in accordance with the principles of humanity. In this case, the right of assimilation is a form of guidance carried out in the community. This is done so that the assisted residents can be accepted in the community again and can carry out activities like the community in general. Then in assimilating the assisted residents, there are a number of rules and procedures for its implementation, of course this is a kind of bureaucratic process to get assimilation. Granting of this right must be given, for the purpose of the correctional system, namely to re-put the inmates. This goal must be done so that the assisted people can be accepted in the community.

2 METHOD

The research was conducted using a normative juridical approach, which refers to legal materials and sources as material for analyzing the problems raised by the researcher. The approach is an effort to synchronize existing legal provisions on legal protection of regulations or other legal norms relating to regulations applied in the field (Asofa, 2001: 15). The data used are legal materials with literature studies. The research carried out was of a descriptive type in order to explain and explain the problems raised in the study.

3 RESULT AND DISCUSSION

The rights of the inmates have been stated in the legal instrument, namely in Article 14 of Law Number 12 of 1995 concerning correctional services, which describes a number of rights of the inmates, namely:

- a) Carry out their worship according to their beliefs or religions;
- b) Be cared for, physically and spiritually;
- c) Receive teaching and education;
- d) Get proper food and health services;
- e) Telling the complaint;
- f) Follow mass media broadcasts and obtain other permitted reading material;
- g) Receive premiums or wages from the work performed;
- h) Accept legal advisors, family or other designated parties;
- i) Obtaining remission or reduced sentence;
- j) Gaining assimilation opportunities includes leave from family visits;
- k) Obtaining parole;
- l) Get time off ahead of freedom; and
- m) Obtaining other rights according to the prevailing laws and regulations.

A number of these rights are a form of fulfilling the basic human rights of an assisted citizen. The rights granted must be made according to existing provisions. One of the fulfillment of this right also applies to the right of assimilation. In Article 1 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2013 concerning Requirements and Procedures for Granting Remissions, Assimilation, Family Visit Leave, Parole, Leaving Prior to Freedom, and Conditional Leave it explains that assimilation is the process of Prisoners and Correctional Protege which is fostered where the implementation is carried out so that the Correctional Students and Prisoners are able to mingle with the community.

Assimilation is given for the benefit of the inmates so that they can quickly return to the community to carry out social reintegration after providing guidance. Assimilation is also given to accelerate the process of social reintegration, so that the assisted people become fully human as part of society. This needs to be done because after coaching, the assisted residents tend to be isolated or hated. The existence of emotions that drives people often rejects ex-convicts in everyday life. Generally, this impulse develops over a picture of the deviant behavior that is carried out, for example for prisoners due to fraud and theft. At times like this, suspicion and worry arises towards ex-convicts regarding the occurrence of theft in the community as well

as the emergence of hatred against prisoners who are present in the community (Efendi, 2018: 3). To finish off that thing, in providing guidance to assisted residents, the law has regulated all the implementation of guidance in prisons, one of which is the stages of guidance. Stages of the correctional process Regulations related to the stages of the correctional process are in Article 7 of the Republic of Indonesia Government Regulation No. 31 of 1999 concerning Guidance and Guidance of Assisted citizens. Correctional where described:

- 1) The implementation of training for prisoners is carried out in a number of stages;
- 2) The development stage of Paragraph 1 (one) includes 3 (three) stages namely:
 - a. Initially, this guidance is carried out by observing, researching and introducing the environment (*mapenaling*), from the time it is received up to at least 1/3 of the next sentence. He did the maximum coaching.
 - b. Continued stages of continued coaching after 1/3 of the actual criminal period and if referring to the opinion of the Community Advisory Council has achieved good progress, for example the attitude shown is obedience to the existing regulations in the correctional institution, discipline, correction and conviction, the related prisoners will be given freedom more and placed in a medium security penitentiary.
 - c. The final stage. Follow-up coaching / guidance after 2/3 until the completion of the criminal period. Coaching at this stage, if the conditions are met, will be able to get leave before being free or parole where the implementation of the guidance is carried out by Bapasa outside the Penitentiary, which is then said to be Correctional Client Guidance. Guidance is guidance given to improve quality so that someone is devout to God, professional, behavior and attitude, physical and spiritual health.

The initial stage of coaching is carried out by orienting the prisoners and a period of adaptation which is called the environmental introduction period (*mapenaling*). *Mapenaling* is a means for new assisted residents to recognize the existing rules in LAPAS and RUTAN so that they can carry out their lives properly. *Mapenaling* contains obligations, prohibitions, types of disciplinary punishment, and disciplinary violations for inmates. The coaching provided focuses on personality building. Correctional team and officers will carry out observation, introduction, and environmental research within 1 (one) month. This coaching is carried out for 1/3 (one third) of his prison term. Providing guidance in the form of legal awareness, intelligence or intellectual ability, state and national awareness, as well as awareness

of their religion. In this stage, the implementation of coaching is accompanied by maximum supervision from the correctional institutions (Arriatama, 2019: 8).

Furthermore, at the advanced coaching stage, when the convict has served 1/3 of the sentence to ½ of the criminal period, a further development stage will be carried out. At this stage inmates will be given self-reliance training in the form of several skills to support small industrial businesses, while the development of these skills is carried out according to the talents or interests of each prisoner. Then, if at the stage of further coaching, the prisoner shows good behavior and has reached the target, then he will get broader guidance, namely assimilation and then a suggestion can be given related to Free Leaving or Parole with minimum supervision. When all has been done, a prisoner will carry out the final stage of coaching, namely the planning stage of the integration implementation program. for prisoners whose conditions are met, they can receive parole or leave before release. Implementation of guidance outside the correctional institutions where the implementer is the Correctional Center (Bapas) (Government Regulation No. 31 of 1999 concerning Guidance and Guidance of Correctional Assistance citizens).

In order to obtain assimilation rights, a assisted citizen must fulfill a number of predetermined conditions, namely administrative and substantive requirements as this is explained in Article 6 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.01.Pk.04-10 Year 200, namely:

No	Substantive Requirements	Administrative Requirements
1	Regret and awareness have been shown regarding his mistake until he received a criminal sentence	Quotation of judge's decision (extract verdict)
2	The existence of positive morals and good character	Community research reports made by Community Counselors or development reports on the development of prisoners and Correctional Students made by Correctional Guardians
3	Achieve success with a coaching program that is followed zealously and diligently	Notification letter to the District Attorney regarding Conditional Cut, Free Prior Leave, Parole, and the plan to provide assimilation to related Prisoners and Correctional Students
4	the community can accept programs for the development of related Prisoners and Criminal Children	A copy of register F (a list where the contents are related to disciplinary violations carried out by Prisoners and Correctional Students during

		their criminal period) from the Head of LAPAS or the Head of RUTAN
5	Have good behavior during the criminal life where he has never received a disciplinary sentence for assimilation at least in the past 6 (six) months	A copy of the list of deductions or changes in the period of punishment, for example, remissions, pardons, etc.
6	Has served a sentence of 1/2 (half) of the total sentence	Statement of commitment from parties who can accept prisoners and correctional students, for example the private sector, government agencies, schools or families knowing the local government is as low as the village head or village head.

If the two conditions above have been met, the prisoner concerned can make a petition to carry out assimilation in the Correctional Guidance (BAPAS) section, where if there is a Correctional Observer Team (TPP) trial, the head of the Penitentiary can continue with the local area of law and human rights. From the Head of the Regional Office for Law and Human Rights, then forward it and make a decision whether or not the proposal is accepted. If the proposal is accepted, then it is given to the Minister of Law and Human Rights for approval and if it is already the prisoner can assimilate.

Assimilation is the process of developing correctional students and prisoners who are blended into society. As for this assimilation, this is a form of guidance carried out by returning and re-integration of society to the community. Assimilation is the right of the inmates. Assimilation is part of coaching carried out by social institutions in order to prepare the inmates so that they can return to social reintegration. Assimilation can be given to prisoners or correctional students who have fulfilled the requirements according to Article 21 Paragraph 1 of the Regulation of the Minister of Law and Human Rights No.21 of 2013 concerning Terms and Procedures for Remission, Assimilation, Family Visiting Leave, Exemption, Leave Towards Free, and conditional leave, that the provisions for granting this assimilation are:

- 1) Have good manners
- 2) Actively participate in the coaching program well, and
- 3) Has served half the criminal period (½ sentence)

The conditions above must be met in order to obtain assimilation rights. Giving assimilation is carried out by recommendation from the Correctional Advisory Center

and the Correctional Observer Team (TPP) to the Head of the Correctional Institution. Assimilation is an important part of running a good correctional system to achieve social reintegration.

In providing assimilation for the assisted residents to accelerate the process of returning to the community so that they can function as another community. Conditional leave, leave ahead of freedom, conditional release and assimilation according to paragraph (1) have the following objectives:

- 1) Encourage and motivate the Prisoners and Correctional Students towards the goal of guidance
- 2) Provide opportunities for correctional students and prisoners to use skills and education to prepare themselves to live independently in society when they are free from punishment;
- 3) Give encouragement to the community to play an active role in the correctional that is held.

These reasons are the basis for providing assimilation for the assisted residents to motivate themselves to conform to the ideals of coaching held by prisons to change the behavior of their assisted residents.

4 CONCLUSION

The inmates as the subject of development for prisons have a number of rights that must be given constitutionally, because this right is written in the law. One of the rights of assisted citizens is the right of assimilation, namely guidance carried out by returning prisoners to the community. The provision of this assimilation is the final stage of coaching carried out by the correctional institution. The correctional facility can provide assimilation if the requirements specified by the law are met. In addition, assimilation is given as a form of state commitment in building a correctional model that aims to achieve social re-integration, where every prisoner must be fostered so that they function again as society in general. The function of a social institution that has a punitive basis is based on restorative justice. This means that the punishment or correctionalization given is in the form of guidance, in order to become a healthy society and not to violate the rules (again). Assimilation is only given to participants who are considered capable or ready to be deployed back into the community.

5 DECLARATION OF CONFLICTION INTERESTS

Authors declare that there is no conflicting interest in this research and publication.

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Mohammad Ashraff is from Politeknik Ilmu Pemasaryakatan, one of the Graduate School under the Ministry of Law and Human Rights in Indonesia. His research interest in concerning to Law, Justice and Crime, as well as Correctional Institution development.

Quote

“In situations of captivity the perpetrator becomes the most powerful person in the life of the victim, and the psychology of the victim is shaped by the actions and beliefs of the perpetrator.”

Judith Lewis Herman

**Trauma and Recovery: The Aftermath of Violence
- From Domestic Abuse to Political Terror**