

Reviving the Sense of Deterrent Effects To Prisoners Inside Penal Institutions

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Abstract— Prison sentence is a form of punishment which until now is one of the favorite punishments implemented and applied in the Indonesian punishment system. Imprisonment of the existing imprisonment proved to have a lot of gap abuse in him both by wardens or by inmates even by third parties. This in fact makes the prison yag should be the place to make the deterrent effect seems to change a lot. Even those changes made prisons a fertile ground for the inmates and made the prison a place of business. Therefore, it is necessary to solve the problem and find a way out to overcome the problem to create law that is safe and prosperous and revive the sense of a deterrent effect to inmates in prisons

Keywords— (*criminal, prison, inmate, deterrent effect*)

Abstrak— Pidana penjara merupakan sebuah bentuk hukuman yang hingga saat ini merupakan salah satu hukuman yang favorit dilaksanakan dan diterapkan di dalam system pemidanaan Indonesia. Pelaksanaan pidana penjara yang ada ternyata memiliki banyak sekali celah penyalahgunaan didalamnya baik oleh sipir maupun oleh narapidana bahkan oleh pihak ketiga. Hal tersebut nyatanya menjadikan pidana penjara yag seharusnya menjadi tempat untuk membuat efek jera rupanya banyak berubah. Bahkan perubahan tersebut menjadikan penjara menjadi lahan yang subur bagi para narapidana dan

menjadikan penjara sebagai tempat bisnis. Oleh karena hal tersebut maka sangat diperlukan pemecahan masalah dan pencarian jalan keluar untuk mengatasi masalah tersebut untuk menciptakan hokum yang tertib aman dan sejahtera serta menghidupkan kembali rasa berupa efek jera kepada narapidana di dalam lembaga pemasyarakatan.

Kata kunci— (*pidana, penjara, narapidana, efek jera*)

I. INTRODUCTION

Prison is an institution that in its implementation is expected to play a role to be able to transform life for someone who has a soul and a life close to a criminal act to be a citizen both social and individual. But it turns out many found that inmates returned to crime after getting out of prison. In fact, not infrequently the prison actually serves to increase knowledge and information about crime for the prisoners in it. The penal system has existed in the world for a long time, the history or development of crime that had been applied to the perpetrator has the types of criminal sanctions and procedures for the implementation of the following:

1. Criminal throw / dismiss / paralyze (19th century). The criminal form of removing / disabling is meant that the criminal is no longer disturbing the community, the removal is done in several ways such as throwing or

sending the villain across the sea. In this case also applies in Minangkabau customs, criminal sanctions can be in the form of excluding the disposing along the adat. In Indonesia, especially in the era of Dutch hindia criminal disposal was also done to many political people.

2. The system of forced labor penalization (17th century). For example, forced labor rowing the canoe, the ways of forced labor are gradually lost after the ship leaves the screen. In the Dutch East Indies forced labor as a criminal form was once also done mainly in the manufacture of highways and holes. Although the imprisonment known for centuries as "Bui" to the political opponents of the rulers has only become a common thing as a substitute for capital punishment, exile and exile.

3. The death penalty (16th century). Ways of execution of capital punishment in the 16th century. This is burned or split by pulled the train towards the opposite, buried alive, fried with oil, drowned in the sea or the heart is removed and stoned to death. Over time the death penalty procedure was done by giving attention to humanity so that finally death sentence was replaced by beheaded, hanging gown, and shot dead.

According to R. Soesilo, the type of punishment that ever existed in antiquity in Indonesia such as:

- 1) Burned live tied to one pole;
- 2) Turned off by using a kris;
- 3) Burned;
- 4) Beating;
- 5) Beaten with a chain;
- 6) Detained in prison;
- 7) Forced labor in public works.

However, the punishment is not used anymore, now the punishment as stipulated in Article 10 of the Criminal Code consisting of:

1. Criminal Principal: Death Penalty; Prison Crime; Criminal Cage: V; Criminal Penalties;
2. Additional Criminal Law; Revocation of certain rights; Deprivation of certain goods; Announcement of judge's verdict

The existence of punishment or punishment system and punishment as regulated in Article 10 of the Criminal Code is so much. In reality, however, Indonesia still implements an unfavorable stigma. Ie still think that the most effective punishment is a prison sentence. Indeed prison sentence can make a person feel a blasphemy as the main purpose of punishment. Prison sentences can also make a person feel a deterrent because his freedom is limited and even taken away by the imprisonment. In practice, the implementation of criminal, especially the imprisonment is still the most favorite alternative because in the verdict of the judge was still very dominant who decided that a case ultimately terminated by imprisonment. So that the prison should be ultimum remedium as if it has been a prima donna punishment in Indonesia.

Lately it has been revealed that many inmates, especially prisoners who have many treasures, are able to purchase facilities and are able to play the law in prison. Even some inmates were found to be turning a dreadful chamber from a prison into a very fancy booth and full of amenities that made the prison room the same as the rooms inside the hotel.

With the existence of these problems would make people feel very angry and growled both to the prison wardens and to the prisoners themselves. Even the public began to question about the existence of a very insecure

security system in prison. It has been proven and widely acknowledged that inside the prison has become the safest hub for drug traffickers and various other criminal acts. Issues related to prison security systems are still very alarming where many smugglers are also encountered such as communication tools and sharp weapons that are very dangerous if owned by inmates in prison.

In addition to the large number of smuggling incidents occurring within the prison, the prison itself has also become a highly fertile container for the growth of new prisoners as a beginner. Where the people who initially only forced to commit criminal acts, because they have entered in prison and have gathered with people who first experienced in the world of crime so menularka knowledge and incite to other inmates in order to be more serious crime berut berbutut. From there it will create a new crime that is more serious and more dangerous for the State in the future.

With the existence of such problems then it is necessary an effort to fix the criminal system and punishment for the prisoners and revamping the system yag applied in prisons or more often referred to as prison. The solution is an attempt to restore the sense of a deterrent effect to the prisoners who undergo the law in prison.

II. RESEARCH METHODS

This research is a legal research that combines doctrinal research and socio-legal-research research, the basis of doctrinal research is literature research covering primary law material, secondary law material as well as tertiary legal material. The legal materials used in this study consist of primary legal materials and tertiary legal materials derived from the results of previous studies

and dictionaries. Legal material is secondary data, while primary data is obtained from informants who are supporting data. Data analysis was done by qualitative analysis.

From the results of research that has been done authors then there are some results and discussions that will authors convey in this paper namely:

II. DISCUSSION

Deterrent is a feeling of fear experienced by a person for an act which he has done and has been rewarded for his actions. Deterrent can also be interpreted as a fear experienced by someone for having made a mistake. The mistake made him feel he had a mistake that must be immediately redeemed for being accounted for.

Jera also can apply to someone who feels pebuatanya during this merupakan actions that deviate both from social and from conscience. Deterrent which can also be interpreted as a repentance of a person for his mistakes and his sin has various elements such as:

1. Awareness that deeds are deeds are wrong actions and deviate from rules and social norms
2. Recognition of the mistakes he has made in both clandestine acknowledgment and overt acknowledgment
3. The intention or intention to correct the errors that he has done
4. Faith to account for all the effects of the mistake.

Deterrence begins with a real consciousness accompanied by regret. The deterrent response is a sense that arises accompanied by intentions to improve the circumstances that have changed or the impact it has caused.

While the sense of the deterrent effect is a consequence caused by the existence of a deed that has been regretted. Or a feeling of cultivation from the culprit located within the heart or conscience. Deterrent effect can occur due to internal factors and external factors. Internal factors can occur due to several things like:

1. Knowledge of the rules he has broken
2. Guilt that arises in the person's heart
3. Science that he previously got

While there are external factors that can affect the sense of deterrence namely:

1. Advice either in the form of warning or awareness
2. Strikes from others
3. Threats from others
4. Retaliation from other parties

Understanding inmates

In a large Indonesian dictionary it is stated that the definition of prisoners is a punishment person (a person who is serving a sentence for a crime): a prisoner. Meanwhile, in other dictionaries mention that inmates are people who are undergoing a criminal in prison.

Meanwhile Based on Article 1 paragraph (7) of Law Number 12 of 1995 on Corrections, inmates are convicts who underwent criminal lost of independence in Penitentiary. According to Article 1 paragraph (6) of Law Number 12 Year 1995 concerning Correctional, the convicted person is a person who is criminally based on a court decision that has obtained permanent legal force.

From the above understanding, it can be drawn a conclusion that what is meant by inmates is a person who is serving a sentence in prison for judgment verdict and loss of independence either fully or partially.

Although prisoners are the ones who are severely restricted to their independence, it is regulated in the law that prisoners still have a right that can not be fully restricted in accordance with Law No. 12 of 1995 on Prisons. In Article 14 it is determined that Prisoners shall have the right:

- a. perform worship according to religion or belief;
- b. received care, both spiritual and temporal care;
- c. get education and teaching;
- d. obtain appropriate health and food services;
- e. submit a complaint;
- f. get reading material and follow broadcast media others not banned;
- g. get a wage or premium for the work done;
- h. receive family visits, legal counsel, or other specific persons;
- i. get criminal reduction (remission);
- j. get an assimilate opportunity including family visiting leave;
- k. get parole;
- l. get free leave; and
- m. to obtain other rights in accordance with applicable laws and regulations.

These rights are a human right that can not be disturbed unless the

offenses are so severe. This is because every prisoner is essentially a human being. While as a human being he has a human rights that pengaturanya protected by law and international law.

Factor causes loss of deterrent deterrent effect

The loss of the deterrent effect of the existence of a prison becomes a problem that is very risky for a State. This is because the State is very responsible for the prisoners either in terms of supervision to the care or maintenance of inmates in prisons or prisons. A country with full responsibility for prisoners is required to ensure that prisoners remain in conditions set forth in applicable legislation.

There are several factors that cause the loss of deterrent effects of prisoners who are serving prison sentences include:

- a. Lack of supervision from the State
- b. Abuse and misappropriation of authority by the warden
- c. The existence of intervention from third parties
- d. Lack of number of guards in a penitentiary
- e. More number of inmates than the number of guards
- f. Places (prisons) that are insufficient or over capacity
- g. Unavailability of adequate security facilities
- h. Unorganized prison environment

Regarding the lack of oversight of the State has been proved by the occurrence of

several instances that the State neglected many prisoners who are serving their sentences in prison. The surveillance of the State under investigation can not be seen from the many cases of detention or prisoners detention, the escape of prisoners and the occurrence of violence and destruction that occurred within the prison or penitentiary.

The lack of oversight of this State is consistent with the factor of abuse and misappropriation of authority by wardens who are imprisoned in prisons or penitentiaries. The abuse of this authority is very dangerous and can even lead to an unregulated law within a State. Abuse and delinquency of authority by the warden strongly implicates the public image of the law within the State. Even in relation to the deviation, the public will widely judge that the law within the country has been abused entirely, whereas it is only done by the person who is the warden in the prison or correctional institution concerned. But it is certainly not ignored by the public, especially the people who lay to knowledge mengeai law. Surely they will think that the law has been and can be easily misused as long as it has money.

The loss of a deterrent effect that should be experienced by inmates was also inseparable from the existence of the intention of a third party. This third party memag very varied and very complex about the ways to intervene. But basically, those who can do this intervention are those who already have a qualified knowledge in the field of law. Instead of using his knowledge for something good, it is used for the purposes of science that can actually damage the image of law in the eyes of society, especially the public who lay against the law.

These third party interventions may include pressure on both the warden and the

warden's head, as well as interventions made directly to the prisoner. Interventions made to the warden or warden are more often performed by persons in positions in government or wealthy persons to persuade the wardens or warden's head with the lure of money and so forth. while the intervention made to the prisoners directly is in the form of evil conspiracy or to provide knowledge and persuasion to the prisoner that he can commit a fraud and law violation within the prison or prison. Even such third parties can persuade with ease and the things that make the prisoners happy.

Of course, with the intervention made by third parties, the convicts in general will be very willing and ready to carry out instructions from such third parties. In fact, it is also often the person who asks the third party to come to prison or correctional institution to provide knowledge and ways to get away with it or at least have access and gap in order to do something within the prison or correctional institution concerned. It can not be denied and is a public secret that is widely known by the public.

The most important problem and is a problem that has occurred even in developed countries is the limitation of the number of guards or guards in prisons or prisons. An unequal amount between the warden and the prisoner becomes a dangerous crime gap. Although wardens are also equipped with weapons to do critical things, they are still very dangerous when comparisons of prisoners and guards are disproportionate. This situation when there is a rebellion committed by the nuns and it will be very difficult for wardens and other law enforcement officers.

Limitations on the number of prison guards or prisons still occur even in almost all

prisons or prisons in Indonesia. The limitations are very dangerous if not handled seriously. Although the addition of wardens is also often done by the government but it is still very less proportionate.

The other side of the limitations of the number of prison guards in prisons or correctional institutions is the excessive number of inmates. The overpopulation of prisoners is a matter of great concern for the prison or prison environment especially. The excess of the number of narapida that occurred resulted in various kinds of problems such as:

1. Poor health
2. The high risk of rebellion
3. Tercecernya prisoners
4. Minimalist security
5. Risk of inmates escapes
6. The risk of smuggling is higher
7. Violence in prisons increases

With many risks that can occur anytime by the existence of the number of prisoners or prisoners incidents compared with the existence of facilities both guard and infrastructure facilities it is time for the government to do a prison revolution. The revolution is certainly unworkable except with the unity of vision between the government, the judiciary and the society in general and broad.

Furthermore, the inadequate place for inmates to occupy is a frightening specter for both the inmate and the warden and the State. Revolution or re-arrangement of punishment system becomes something very urgent and must be done by the State immediately.

Regarding the security facilities in prisons or prisons are some have a high standard in terms of security. But in reality, most prisons or prisons are still very limited to the security or guardians.

The deterrent deterrent effect is also an impact of the existence of a highly

unorganized system such as grouping of prisoners by type, form, punishment and so on. It is very influential on prisoners later. Because prisoners should not be mixed up like that. So that will trigger a new crime.

Settlement

In order to deal with the various problems that exist in prisons or correctional institutions of course require cooperation from all elements either from the government, the community to the prisoners or the convict itself. Cooperation can be in the form of reciprocal relationship or it could be in the form of mutual benefit. Mutually beneficial in this regard is advantageous in shaping the security, authenticity and legal certainty.

In relation to the deterrent effect that should be experienced and suffered or at least perceived by a prisoner or convict, so far no detailed comparison can be found. This is because it can not be calculated easily between people who feel deterrent or not. But it can only be seen from how the person will behave to improve his actions. Such improvements can be seen from the absence of new crimes committed after being released from supervision or imprisonment.

The current deterrent effect is still very poorly penetrated into the heart of a single portion or inmate. Some of them feel that being a prisoner is a cool thing, though many still feel that being a prisoner is a social torture that can result in them being highly excluded from their social environment both in their family environment and in the community environment they live in.

In some cases, inmates who do not feel the deterrent effect of hocking that has been told to him or have he lived, most of them are just trying to repeat the same minimal acts and create greater chaos. Prisoners who have completed their sentences and have no taste or a deterrent effect on their mistakes, they will

tend to take advantage of all the knowledge and experience of the crimes they have gained in prisons or penitentiaries for worse deeds than before.

The deeds they do due to the non-creation of a deterrent effect are often different from the previous violation. Sometimes they also know that doing the same thing will lead to worse damages for them. Because by repeating the same crime means they have become a recidivist with which it can make their punishment become increasingly in jail or in a penitentiary.

Although an inmate or prisoner may feel that he or she is familiar with prison or prisoner, but almost all of the prisoners will expect a freedom because of their many rights that can not be done due to the conditions of those inside the prison.

Meanwhile, the prisoners or convicts who have successfully completed their penalty period and they have a great sense of guilt even they are afraid when mixing with people who are close to crime. Their fears are very varied and very many kinds. One of the confessions is that they for some time alienated themselves from the crowds of the people in their neighborhoods because they still have the nickname as inmates in their environment, so that would cause a lot of impact for an ex-inmate such as:

1. Shake the psyche
2. The loss of a sense of sociality of the inmates
3. Inner pressure
4. Weakening of economic activity
5. Be reluctant to reconnect with relatives and close neighbors

With such a deterrent effect also does not make a person who has finished the

criminal will be able to return to the community. Returning to society is the return of someone from exile to the social community that had previously been lived.

IV. CONCLUSIONS

The conclusions of the discussion are as follows:

With the current system running in pelaksanaan pemidanaan in Indonesia still has many shortcomings and things that need to be solved for the creation of a prison environment or prison environment. Improvement of the system became the main basis for the creation of lawful justice in prisons or prisons. Some possible changes can be made:

1. Changing the system within the prison system with more emphasis on coaching and training to the prisoners or convicted with certain conditions such as:
 - a. Already underwent the same amount of criminal punishment he received
 - b. It has been shown to be well behaved
 - c. Serving to the State by willingly doing and showing love attitude towards the State
 - d. No offense while in time
2. Perform routine monthly health tests. This is very important because the health of a prisoner or convict should be the responsibility of the government.
3. Cooperation with judicial bodies in this case is the courts, in order to

have a good alternative in imposing penalties for perpetrators of criminal acts criminalized in order to be transferred as much as possible from imprisonment to other crimes such as:

- a. Social work penalty
 - b. Criminal exile
 - c. Criminal revocation of certain rights
 - d. Criminal alternatives that can create a deterrent effect to any person who violates the applicable legal rules
4. Grouping every prisoner or convict by:
 - a. Group by age
 - b. Grouping with criminal type
 - c. Grouping based on the severity of the criminal
 - d. Grouping based on the penalty period that is lived
 5. Increase the number of guards in each prison by:
 - a. Adding to the level of vulnerability of a penitentiary
 - b. Adjusting the number of guards with the number of prisoners has at least a 1: 100 ratio in order to be in sufficient security
 - c. Increase the number of contract warden. With the record that the contract is completed if the number of prisoners or convicts is less than the ratio of the number of guards.
 6. Improve prison security by:
 - a. Strengthening prisons with TNI / POLRI personnel

b. Strengthen the security of the prison places with various barriers such as iron fences around the prison and under the ground

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