FULFILLING THE SEXUAL NEEDS TO INCREASE THE MENTAL HEALTH OF PRISONERS IN PENITENTIARY INSTITUTION

by Nur Rochaeti

Submission date: 03-Jan-2023 03:17PM (UTC+0700)
Submission ID: 1988156984
File name: 03_FULFILLING_THE_SEXUAL_NEEDS.pdf (221.65K)
Word count: 2638
Character count: 14128

Sys Rev Pharm 2020;11(12):856-858
A multifaceted review journal in the field of pharmacy

FULFILLING THE SEXUAL NEEDS TO INCREASE THE MENTAL HEALTH OF PRISONERS IN PENITENTIARY INSTITUTION

Desy Maryani[1], Nur Rochaeti[2], Nyoman Serikat Putera Jaya[2]

[1] Faculty of Law, Dehasen University, Bengkulu, Indonesia
[2] Faculty of Law, Diponegoro University, Semarang, Indonesia

ABSTRACT

Mental health is among the crucial issues for prisoners. The length of detention affects mental health, and the lack of biological needs. Human rights regulations are closely related to the development of prisoners such as those issued by the United Nations regarding Standard Minimum Rules For The Treatment of Prisoners and the discourse on the provision of sex room has long existed, so that the government can consider providing a space for inmates to meet their sexual needs in order to avoid sexual deviations in institutions correctional. This research uses normative research methods. The provision of sex room as an effort to fulfill the sexual needs of prisoners in prisons in terms of human rights is that there are several international legal instruments and national law stipulates that prisoners must be treated with respect for their dignity and human values, including the right to personal problems and their families.

Keywords: Romance Room, Sexual Desire, Prisoners, Biological Needs, Mental Health.

Correspondence:
Desy Maryani
Lecturer at the Faculty of Law, Dehasen University, Bengkulu, Indonesia,
desymaryani1985@gmail.com

INTRODUCTION

Mental health is among the crucial issues for prisoners.[1,2,3] The length of detention affects mental health, and the lack of biological needs.[4,5,6] The handling of criminal acts committed by prisoners cannot be separated from the criminal justice system and the state continues to protect the inherent rights of prisoners, especially regarding Human Rights. Human rights regulations are closely related to the development of prisoners, as issued by the United Nations regarding Standard Minimum Rules for the Treatment of Prisoners. Starting from the arrangement that has been issued by the United Nations, it shows that the state still has to give the rights of prisoners as stated in the Standard Minimum Rules, even though the prisoners have been deprived of their right of freedom through the correctional institutions. Indonesia has replaced the prison into a prison system which is a colonial legacy. Related to treatment of offenders, the correctional concept of a coaching using the multilateral oriented treatment of offenders method. Correctional institutions have a very important meaning, because they change the pattern of the prison criminal system towards a correctional system, which is to provide guidance and guidance for prisoners.[7] In guiding and fostering prisoners, it is carried out with more emphasis on reintegrating prisoners in accordance with the principles of correctional facilities.

The correctional system aims to resolve conflicts between prisoners and the community, because the criminal system has left retaliation and detention against inmates. This is seen from a philosophical aspect, so that while in the correctional facility, prisoners can improve their behavior so that they are able to reintegrate into society.[8] The discourse on the provision of sex room has been around for a long time, so that the government can consider providing a sex room for inmates to fulfill their sexual needs in order to avoid sexual deviations in prisons.[9] Hence, the problem identified was formulated to analyze the provision of sex room as an effort to fulfill the sexual needs of prisoners in correctional institutions in terms of human rights and biological needs to fulfil the mental health of prisoners. The approach used in this research is to use normative research methods.

SEX ROOM TO FULFILL THE SEXUAL NEEDS OF PRISONERS IN HUMAN RIGHTS PERSPECTIVES

The protection of human rights in the correctional environment is increasingly being echoed today, in line with the normativity of international human rights that must be integrated into the Indonesian national system. This directly impacts on the progress of individual protection, in this case the prisoners, during their coaching period in a correctional facility. However, things that are still subject to public discussion are related to fulfilling the rights to sexual needs of prisoners in prisons. Of course, there are many things that need to be considered in initiating a mechanism for finding the right to sexual needs of prisoners in prisons.

The study of human rights and mental health of inmate requires a comprehensive analysis of various disciplines.[10-15] This section tries to draw concepts from psychology and law in order to become the operational basis for this research. The main theory about biological needs from the perspective of psychology is the adage created by Abraham Maslow, namely about, a hierarchy of basic human needs, into five hierarchical levels, that are physiological needs, safety needs, biological needs, self-esteem needs, and self-actualization. Although in the next explanation, Maslow stated that there is no justification that biological needs are included in the category of physiological needs, the development of contemporary psychology has proven that sexual desire in adulthood (adolescence) is the most basic need for humans.[16]

Several international legal instruments have stipulated that prisoners must be treated with respect for their dignity and human values, including their rights to personal and family matters. The derivative form of the right to privacy and family concerns is the right to sexual needs. In connection with these rights, there are several laws and regulations currently in effect.

First, Universal Declaration of Human Rights (UDHR), UN General Assembly Resolution No. 217 A (III) dated 10 December 1948. Article 12 stated that "no one can be arbitrarily disturbed by his personal affairs, family,

household or correspondence, nor is it permitted to violate his honor and good name. Everyone has the right to legal protection against such disturbances or violations". Based on the Universal Declaration of Human Rights, especially regarding civil rights, the family is a group unit of society that has the right of protection by the state, but this right has limitations. Such limitations may only be imposed on the law in order to guarantee recognition and respect, taking into account the requirements of appropriateness, social values, public order, and public welfare.

Second, United Nations Resolution on Civil and Political Rights (International Covenant on Civil and Political Rights/ICCPR), General Assembly Resolution 2200 A (XXI) of December 16, 1966. Article 6 number (1) confirms that "every human being has the inherent right to life. This right must be protected by law. No one can be arbitrarily deprived of his right to life". Furthermore, Article 10, No. 1 stated that "everyone who is deprived of his or her freedom must be treated humanely and with respect for the inherent dignity of the human being". In addition, Article 17, No. 1 stated that "no person may be arbitrarily or illegally interfered with in his personal, family, home or correspondence problems, or be illegally attacked by his honor and reputation".

Article 6 point (1) and Article 10 point (1) in the resolution give the right to freedom for every prisoner to be treated humanely and respect the inherent rights of the prisoner. However, these rights are different from those when not serving a sentence. Fulfillment of sexual needs as a human right for prisoners needs to be regulated with various restrictions and studies that adhere to the values of society and do not harm human values.[17]

The state is basically obliged to provide protection for every individual, including regarding forming a family. This is stated in the UN Resolution on Civil and Political Rights, especially in Article 17 regarding the right to privacy (personal) issues. A person's sexual life is part of his private life, of which it constitutes an important aspect.[18,19] Private life thus guarantees a sphere within which a person can establish relations of different kinds, including sexual ones and thus the choice of affirming and assuming one's sexual identity comes within the protection of Article 8".

Basically, the treatment of prisoners must prioritize and uphold the dignity of prisoners as human beings, including regarding the right to sexual needs, because this right is a personal right (privacy) as a human that deserves attention by the state.

Third, Standard Minimum Rules for the Treatment of Prisoners (The Standard Minimum Rules for the Treatment of Prisoners/SMR), Resolution No. 663 C (XXIV) of 31 July 1957 and Resolution 2076 (LXII) of 13 May 1977". Article 37 confirmed the right to freely communicate by letter and receive visits from family and friends. In terms of social relations and rehabilitation, Article 79 stated that "special attention should be paid to maintaining and promoting such relations between detainees and their families as desired in the best interests of both". Article 80 stated that "from the start of a prison sentence, consideration must be given to his future after release and he will be encouraged and assisted to maintain or build up his social relations with people or institutions outside the institution in such a way as to promote the best interests of his family and his own social and rehabilitation".

The regulations regarding the Minimum Standard Rules above, show that the United Nations has provided protection to prisoners/detainees by providing treatment in accordance with the minimum standards for treating prisoners/detainees, including those related to family relationships. Family relationships have an influence in order to maintain good social relations with their families. This is done to eliminate the negative effects of imprisonment experienced by prisoners/detainees, so that efforts to reintegrate prisoners into the community can be achieved in accordance with what they aspire to.

Fourth, United Nations Resolution on Basic Principles for Treatment of Prisoners (Basic Principles for Treatment of Prisoners) Number 45/111 dated December 14, 1990."Point (1) stated that "all prisoners shall be treated with respect due to their inherent dignity and value as human beings. (All prisoners should be treated with respect for their dignity and human values)". Furthermore, point (5) stated that "all prisoners shall retain the human rights and fundamental fredoms set out in the Universal Declaration of Human Rights, and where the State concerned is a party, the International Convenant on Economic, Social and Cultural Rights, and the International Convenant on Civil and Political Rights and the Optional Protocol thereto. As well as such other rights as are set out in other United Nations Convenants"

In this resolution, it is stated that all prisoners must be treated and given respect for their dignity and human values because every prisoner is obliged to be treated based on the rights set out in the UDHR. Fifth, Law No. 39 of 1999 concerning Human Rights. Based on Article 1 paragraph (1), this stated that "human rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gifts which must be respected, upheld and protected by the state, law and government, and everyone for the sake of honor and protection of dignity and dignity human".

The state is obliged to protect the rights of citizens, including the rights of prisoners, because in exercising these rights, it is inseparable from the aspect of the state bureaucracy, so the need for protection of dignity as a human being even though the prisoner's position is serving a sentence in a prison.[20] Based on some instruments, it gives the idea that prisoners must be treated with respect for their dignity and human values, and every prisoner must be treated humanely, uphold human dignity, and pay special attention to providing improvement of the prisoner's family ties, including the right sexual needs, because the rights regarding the sexual needs of prisoners are part of the rights regarding privacy and family matters.

CONCLUSION

The negative impact of imprisonment in fulfilling the sexual needs of prisoners in correctional institutions causes sexual deviation of prisoners in prisons, including homosexuality, lesbianism, masturbation, oral sex, and anal sex. The provision of sex room as an effort to fulfill the sexual needs of prisoners in prisons in terms of human rights is that there are several international legal instruments and national law that stipulates that prisoners must be treated with respect for their dignity and human values, including the rights of personal and family matters. The derivative form of the right to privacy and family concerns is the right to sexual needs.

Ethical Clearance:
This research was ethically approved by Faculty of Law, Universitas Diponegoro, Semarang, Indonesia

Funding:
This research receives no external funding.

Conflict of Interests:
There are no conflict of interests

REFERNCES

1. Wolff N, Blitz CL, Shi J. Rates of sexual victimization in prison for inmates with and without mental disorders. Psychiatric Services. 2007 Aug;58(8):1087-94.
2. Okie S. Sex, drugs, prisons, and HIV. New England Journal of Medicine. 2007 Jan 11;356(2):105-8.
3. Velimesis ML. Sex roles and mental health of women in prison. Professional Psychology. 1981 Feb;12(1):128.
4. Haugebrook S, Zgoba KM, Maschi T, Morgen K, Brown D. Trauma, stress, health, and mental health issues among ethnically diverse older adult prisoners. Journal of Correctional Health Care. 2010 Jul;16(3):220-9.
5. Dumond RW. Inmate sexual assault: The plague that persists. The Prison Journal. 2000 Dec;80(4):407-14.
6. Richters J, Butler T, Yap L, Kirkwood K, Grant L, Smith AM, Schneider K, Donovan B. Sexual health and behaviour of New South Wales prisoners. Sydney: School of Public Health and Community Medicine, University of New South Wales. 2008.
7. Saum CA, Surratt HL, Inciardi JA, Bennett RE. Sex in prison: Exploring the myths and realities. The Prison Journal. 1995 Dec;75(4):413-30.
8. Irawati D. Menuju Lembaga Pemasyarakatan Berwawasan Hak Asasi Manusia. UKI Press;2006.
9. Atmasasmita R. Cetak Biru Pembaharuan Pelaksanaan Sistem Pemasyarakatan. Ministry of Law and Human Rights;2009.
10. Smith BV. Rethinking prison sex: Self-expression and safety. Colum. J. Gender & L.. 2006;15:185.
11. Bantjes J, Swartz L, Niewoudt P. Human rights and mental health in post-apartheid South Africa: lessons from health care professionals working with suicidal inmates in the prison system. BMC international health and human rights. 2017 Dec 1;17(1):29.
12. Fellner J. A corrections quandary: Mental illness and prison rules. Harv. CR-CLL Rev.. 2006;41:391.
13. Kupers TA. Toxic masculinity as a barrier to mental health treatment in prison. Journal of clinical psychology. 2005 Jun;61(6):713-24.
14. Maschi T, Aday RH. The social determinants of health and justice and the aging in prison crisis: A call for human rights action. International Journal of Social Work. 2014;1(1):15-33.
15. Zinger I. Human rights compliance and the role of external prison oversight. Canadian Journal of Criminology and Criminal Justice. 2006 Apr 1;48(2):127-40.
16. Fitriyani. Kajian Cepat Tentang Permasalahan Penemuan Hak Kebutuhan Seksual Bagi Narapidana di Lembaga Pemasyarakatan. Jakarta: Badan Penelitian dan Pengembangan HAM;2011.
17. Maslow A. Motivasi dan kepribadian. Jakarta:Pustaka Binaman Pressindo. Jakarta. 1994.
18. Kilkelly U. The right to respect for private end family life: a guide to the implementation of Article 1 of the European Convention on Human Rights. Directorate General of Human Rights Council of Europe; 2001.
19. Hamilton C, Kilkelly U. Human rights in Irish prisons. Judicial Studies Institute Journal. 2008(2):58-85.
20. Hutapea TP. Penerapan rehabilitasi medis dan sosial bagi prajurit tni dalam putusan pengadilan/the implementation of medical and social rehabilitation for indonesian national armed forces personnel in court decision. Jurnal Hukum dan Peradilan. 2018 Mar 21;7(1):67-86.

FULFILLING THE SEXUAL NEEDS TO INCREASE THE MENTAL HEALTH OF PRISONERS IN PENITENTIARY INSTITUTION

ORIGINALITY REPORT

6%	2%	4%	4%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	Submitted to Doncaster College, South Yorkshire Student Paper	1%
2	Submitted to University College London Student Paper	1%
3	Submitted to University of Reading Student Paper	1%
4	tls.or.tz Internet Source	1%
5	Ma. Carmen Martín-Cocinas Fernández, Magdalena Gómez-Díaz, Rosario Gómez-Sánchez, Ma. Carmen Conesa-Fuentes et al. "Effects of an Emotional Education Program on Prisoners", Journal of Forensic Nursing, 2021 Publication	1%
6	Rainey, Bernadette. "Jacobs, White, and Ovey: The European Convention on Human Rights", Oxford University Press, 2020 Publication	1%

7	id.123dok.com Internet Source	1 %
8	Irfan Amir. "Constitutionality of Wiretapping by KPK in Optimization of Red-Handed Catch Operations", Al-Bayyinah, 2022 Publication	1 %
9	mafiadoc.com Internet Source	1 %

Exclude quotes	On	Exclude matches	< 1%
Exclude bibliography	On		

FULFILLING THE SEXUAL NEEDS TO INCREASE THE MENTAL HEALTH OF PRISONERS IN PENITENTIARY INSTITUTION

GRADEMARK REPORT

FINAL GRADE

/76

GENERAL COMMENTS

Instructor

PAGE 1

PAGE 2

PAGE 3