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# A Juridical Analysis the Act Draft Correctional in Fostering Inmates in Future Indonesian Correctional Institution

Nur Rochaeti\*

University of Diponegoro Semarang

etikfh@live.undip.ac.id

Desy Maryani

University of Dehansen Bengkulu.

**Abstract.** Efforts to overcome crimes using criminal sanctions are considered the most appropriate ways to minimize crimes, although the formal processes have limitations that an idea to make efforts and provide other facilities in overcoming crimes are greatly necessary. The function of prisons may cause the dehumanization of criminal offenders and eventually result in a loss for those spending a long time in correctional institutions (prisons), in the form of inability to productively continue life in the society. Act No. 12 of 1995 on correctional and development in correctional institutions was implemented in integrated manners as the development efforts to well return the inmates back and then provide benefits to the society. The arising problems are related to how the recent policies on correctional and analysis of the bills in developing inmates in future Indonesian correctional institutions. The research method approach used is a normative judicial approach to analyze the policies on the recent correctional institutions and bills. The research result shows that the recent correctional policies have not yet accommodated the fulfillment of inmates' rights in correctional institutions. Furthermore, the analysis on correctional bills in developing the inmates has given some rights to the inmates – yet not entirely, related to the fulfillment of rights for vulnerable groups, including elderly, transgender, children, disability, sex, health, and educational rights, as well as no minimal sentencing limitation that the development was made in the correctional institutions.

**Keywords:** *correctional, fostering inmates, correctional institution*

## INTRODUCTION

The term correctional was first suggested by the late Mr. Sahardjo, S.H. (Minister of Justice at that time) on 5 July 1963 in his speech when receiving the title of *Doctor Honoris Causa* awarded by Universitas Indonesia. Correctional was considered as the objective of imprisonment punishment. The correctional system was the idea

of Dr. Sahardjo, related to “*Treatment of Offenders*”. The correctional conception was not merely formulated in response to the objective of imprisonment sentence but a development system, a methodology in the field of “*multilateral-oriented treatment of offenders*”.

The inmates' guidance and development principles were formulated in the correctional system, known as ten correctional principles: a. Protect and give the inmates life skills that they may play their roles in the society as good citizens who provide benefits for others; b. Criminal punishment is not the state's retributive actions; c. Give development not persecution that they may regret what they have done before; d. The state has no right to make them worse or more evil than before subjected to punitive actions; e. when losing their freedom to move, the inmates should be introduced to and not be isolated from the society; f. The jobs given to inmates may not only function for killing their time, and those may not also give to fulfill the needs of state offices or interests only in a certain time. The jobs given should be the ones found in society and support the efforts to improve production; g. The guidance and education given to inmates should be based on the Indonesian Five Basic Principles (known as *Pancasila*); h. Inmates as the lost persons are humans and they have to be well treated as humans; i. Inmates subjected to punitive actions who lost their freedom is considered as one experienced affliction; j. provided and encouraged with facilities supporting the rehabilitative, corrective, and educative functions in the correctional systems.

The correctional system is a process to develop inmates based on Indonesian five basic principles (*Pancasila*) and consider inmates as God's creatures, individuals, and members of society. Mental, physical, personality and social developments are held for the inmates [1]. Since time long punishments were based on the various theories of punishment, whose object ranged from a deterrent, reformatory, preventive, and retributive. Whichever may be the punishment the prime purpose of giving justice to the society was important. The focus was always to punish the criminal [2].

# Religious Education Based Pesantren by Islamic Religious Counselor to Prostitutes

Alfiatu Solikah\*

Universitas Muhammadiyah Malang, Indonesia  
 alfykdr@gmail.com

Khozin

Universitas Muhammadiyah Malang, Indonesia

Syamsul Arifin

Universitas Muhammadiyah Malang, Indonesia

Abdul Haris

Universitas Muhammadiyah Malang, Indonesia

**Abstract.** Prostitution is a social phenomenon, which always presents as long as someone needs it. Once the prevalence of prostitution, the government provides "localisation". Localisation is beneficial for all involved. But it is not comparable with its disadvantaged in terms of juridical, normative, philosophical, sociological and religious aspects so that in 2017 the government closed it—likewise localisation in Kediri. But the practice of prostitution is still ongoing, the Islamic religious counsellors provide religious education. The purpose of this study is: To describe and analyse the rationale of Islamic religious counsellors and to carry out religious education, its implementation, and its implications. This research uses the foundation of the calling theory of Willemse, the faculty theory of Jalaludin, the social control theory of Mulyadi, and the dramaturgy theory of Goodman. This research approach is a qualitative phenomenology. Methods of collecting data on observation, interviews, and documentation. Analysis in the form of phenomenological analysis. This research was conducted on woman prostitutes in the Kediri District localisation. This research has concluded: First, Islamic religious counsellors carry out religious education to women prostitutes is the existence of intrinsic and extrinsic motivation; Second, the implementation of pesantren-based religious education uses the andragogy learning process as needed and directly utilised; Third, the implications of religious education for women prostitutes among other things they feel called to return to the right path and switch professions while the implications for the environment in the form of more religious life.

**Keywords:** religious education, pesantren, religious counsellors, woman prostitutes

## INTRODUCTION

Anthropologists describe that prostitution is an inevitable fact, because of the division of roles of men and women that have emerged in primitive

societies, women are directed to serve the sexual needs of men [1]. This cannot be denied until now, so prostitution becomes a social phenomenon that will always be present as long as someone needs it.

Prostitution has a power for whom needs it. As the history of Cleopatra's life in Egypt; Marilyn Monroe in America, Ken Dedes in Java, the Dewi Durga in India, Heloise in France and the others. A type of civilisation that is very worldwide, because of the great influence on the politics of the time.

Very lively of prostitution, the government localises prostitution activities with the cause of adverse impacts to be minimised. The localisation of prostitution has many benefits acquired for all those involved in it [2]. They sustain life from the localisation, so when it is closed, it carries the economic impact for them [3].

The benefit of the localisation of prostitution, is apparently not comparable with disadvantageous, after seeing some aspects of juridical [4], normative [5], philosophical [6], sociological, religion. Considering some of disadvantageous on the life of society, nationality and religion, the localisation in the year 2017 was closed by the government. In contrast, nine localisation in Kediri, which was closed by the Ministry of Social Affairs in 2017 then, on the other hand, the practice of prostitution is still running.

The localisation closure impacts the increasingly more risky practices of new style prostitution. At night clubs, malls, hotels, massage venues, cars, are filled with the practice of covert prostitution [2]. In addition to the millennial prostitution, the transactions of its service agreements using the online network are also increase.

The Islamic religious counsellor is given the task, responsibility and authority in full by the government to conduct religious guidance and development counselling through religious language. The target of religious counselling is to empower the community, both the general public and the special community, as localisation [7].

The inhabitants of the former localisation are largely women prostitutes. They were looking for money use their sex vendors from children to seniors. Their background is complicated, so they

# Reorienting Legal Education Under the Fourth Industrial Revolution

Ibnu Sina Chandranegara\*  
 University of Muhammadiyah Jakarta  
 ibnusunach@umj.ac.id

Muhammad Ali  
 University of Muhammadiyah Jakarta  
 alitaherparasong@umj.ac.id

**Abstract.** Throughout history, legal education in Indonesia has focused on developing theoretical concepts rather than developing problem-solving that lives in the community. Besides that, legal education in Indonesia still does not appear to be autonomous because it is still oriented towards the political system adopted at the time. At present, legal education in Indonesia faces a future challenge, the fourth Industrial Revolution. The article intends to outline the direction of legal education oriented in facing the challenges of the fourth Industrial Revolution. This research method is normative juridical research. The method used is the conceptual approach and statue approach. Therefore, reforms to legal education in Indonesia are carried out through various improvements to the curriculum and more dynamic learning methods. The more clinical application of legal education becomes the direction of reform that can be addressed.

**Keywords:** legal education, fourth industrial reform, law reform

## INTRODUCTION

After more than a century, legal education in Indonesia has proceeded with scientific problems that have led to different kinds of assessment speculations. On the other hand, legal education in Indonesia has tried to answer the various challenges of the times that continue to develop so, legal education in Indonesia more or less different than conventional, and this is considered as *condicio sine qua non*[1]. While other groups consider that the development of, legal education in Indonesia has prostituted itself into social education, with approaches and methods of the social sciences, and therefore needs to be reoriented [2]. When referring to the evaluation conducted by Hikmahanto Djuwana, it turns out that the purpose of, legal education in Indonesia is not autonomous. The purpose is very dependent on what is desired by a government or specific conditions applicable in Indonesia [3]. At present, legal education associated with the faculty of law is one of the most established faculties in Indonesia. Until 2015 330 legal education institutions were consisting of 306 faculties and 24 other institutions. According to the

Mardjono Reksodiputro, if each year graduates 100 people, each year there are 13,000 law graduates in Indonesia [4]. The actual number is certainly greater now because new student enrollments tend to increase each year. After all, there are faculty of law accept 700 new students. As a producer of Bachelor of Laws, certainly, the most relevant measure of the success of the faculty of law is whether graduates have a positive role in the development of the legal field. Therefore, it is not wrong if there is a lawsuit against the existence and role of legal education if you see the legal conditions in Indonesia that have not changed much from the sad conditions, let alone faced with the presence of The Fourth Industrial Revolution which is undeniable a widely discussed concept [5].

This article was based on library research and the empirical experience of the author who studied law in Indonesia. nevertheless, the main purpose of this article is intended to outline the direction of reorienting legal higher education in the face of the dichotomy of the development of legal science as an internal challenge and the presence of the Industrial Revolution 4.0 external challenges.

## METHOD

This research is using a normative juridical research method. We used secondary data that includes primary and secondary legal material in the form of laws and regulations and draft laws that are appropriate to the context. Secondary data obtained through a literature study. We used the conceptual and statue approach. Data analysis was carried out by systematizing the data and subsequently the data was used to create an alternative concept for legal education in Indonesia to respond to the fourth industrial reform

## RESULT & DISCUSSION

History of globalization shows that each changing era has its *core*. Ritzer and Toffler's description shows that the movement of change is always triggered by technological developments that gave birth to the era of the Fourth Industrial Revolution, which not only does not only open wide interactions but also disrupts various fields of human life [6]. Disruptive was originally a phenomenon that occurred in the economic world, especially in

# A Juridical Analysis the Act Draft Correctional in Fostering Inmates in Future Indonesian Correctional Institution

*by Nur Rochaeti*

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Nur Rochaeti\*  
 University of Diponegoro Semarang  
 etikfh@live.undip.ac.id

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Article 1 Point 3, The Act of the Republic of Indonesia Number 12 the Year 1995 on Correctional, mentions that correctional institution is a place to develop the correctional facility's inmates. The word "correctional institution" first appeared in 1963, intended to replace the term "jail" functioning as a facility to develop inmates [3].

The development in a correctional institution is one realization of the confinement sanctions subjected to the convicted persons, as a part of criminal justice system processes as the realization of sanctions subjected to the inmates. According to Muladi, the sentencing purpose is to improve the individual, and social damages resulted from criminal actions. A set of sentencing purposes that should be fulfilled with the objectives as the main emphasis should be casuistic. The intended set of sentencing purposes consists of; a. Prevention (General and Particular); b. Public Protection; c. Public Solidarity Maintenance; d. Rewarding/Balancing.

Imprisonment in the form of self-isolation in the jail walls, in fact, experiences changes along with the civilization development of a nation. Thus, the criminal sanctions by developing inmates in the Indonesian correctional institutions have experienced significant changes, especially related to the treatment methods to the inmates.

The problems are related to the policies on the recent correctional facilities and analysis of bills to develop inmates' in the future Indonesian correctional institutions.

## METHOD

The method approach used in this research is a normative judicial approach and comparative method to figure out the management of other countries related to the development of inmates in the correctional institutions (prisons).

## RESULT & DISCUSSION

Sentencing is not intended to create affliction as a retributive form, no deterrent effects to suffer the convicted persons, and without assuming the convicted persons as those with poor socialization. The correctional facility is under the social reintegration philosophy assuming that crimes are conflicts happening between the convicted persons and the society. Thus, the sentencing is intended to settle conflicts or reunite the convicted persons with society (reintegration).

The new concept changes in guiding and developing inmates explained in the following table[4], [5]:

Table 1. Correctional Facility Concept changes

No	Component	Imprisonment	Correctional Facility	New Correctional Facility
1	Philosophy	Liberal	Indonesian Five Basic Principles (Pancasila)	Indonesian Five Basic Principles (Pancasila)
2	Legal Bases	<i>Gesetten Reglement</i>	<i>Gesetten Reglement</i> with its changes	Correctional Law
3	Objective	Deterrent Effect	Development	Improving Inmates' Awareness
4	System Approach	<i>Security Approach</i>	<i>Security Approach</i>	<i>Security Approach</i>
5	Classification	<i>Maximum Security</i>	<i>Maximum Security</i> , <i>Medium Security</i> , <i>Minimum Security</i>	<i>High Consciousness</i> , <i>Half Consciousness</i> , <i>Low Consciousness</i>
6	Approach	<i>Maximum Security</i>	<i>Maximum Security</i> , <i>Medium Security</i> , <i>Minimum Security</i>	<i>High Consciousness</i> , <i>Half Consciousness</i> , <i>Low Consciousness</i>
7	Treatment for inmates	Object	Subject	Subject/Object
8	Development Orientation	<i>Top-down Approach</i>	<i>Top-down Approach</i>	<i>Bottom-up Approach</i>
9	Development Character	Exploitation	Work training	Independent/Confident
10	Remission	Awarded (1017-1949)	Rights (1950-1986)	Rights and Obligations (1987-Now)
11	Building Form	Jail	Jail, building not yet reflecting correctional institutions	Needs a special designed plan
12	Inmate	Neglected/not developed	guided/developed	Introduced to him/herself, motivated to develop him/herself
13	Family	Not given opportunities, neglected roles	Given opportunities to also develop the inmates	Full opportunity to each development stage
14	Advisor/Government	Directed to give deterrent effects that the inmates will not do any crime in the future as they will be put in jail if repeating to do criminal crimes.	Directing inmates not to recommit criminal actions after discharging from the correctional institutions	Paragon, as long as the correctional facility officers cannot be the paragons, they should resign. The correctional facility officers should be able to motivate inmates to think positively and constructively.

The development functions and duties of correctional institutions to the inmates should be implemented in integrated manners to make those who have completed their imprisonment period become good citizens. The development implemented in the correctional institutions should be based on a principle held by the correctional advisors to reach the targeted objectives from the development itself. The purpose of a correctional system is to recover the life relationship between inmates and society that the correctional institutions have implemented a developing process for inmates to change and have a better life.

The psychological impacts include a. loss of personality, b. loss of security, c. loss of personal communication, d. loss of goods and services, f. loss of heterosexuality, g. loss of Prestige, h. loss of belief, i. loss of creativity [6].

In the correctional draft act, the development made for inmates should be intended to repair the cracked relationship. The inmates have extensive opportunities to socialize with society; and conversely, the society should actively participate and support the development of inmates as the realization of social responsibility. According to Clement Bitola's [7], keeping those violating the



law existing in society is something important since jail basically may cause dehumanization. Social reintegration is based on the premise that crimes are only the disorganization symptoms occurring in society. Society should also be responsible for the efforts made to develop inmates. The development implementation may give wider room for the society and inmates to interact with each other.

The National Advisory Commission on Criminal Justice Standards and Goals support the social re-integration model. This condition explains that maintaining those violating the laws in the society is something important since jail or correctional institution results in dehumanization [8].

"Prison tends to dehumanize people ... Their weaknesses are made worse, and their capacity for responsibility and self-government is eroded by regimentation. Add to these facts the physical and mental conditions ignore the rights of offenders, and the riots of the past decade are hard to be wondered at. Safety for society may be achieved for a limited time if offenders are kept out of circulation, but no real public protection is provided if confinement serves mainly to prepare men for more and more skilled criminality."

The fulfillment of inmates' rights is classified into vulnerable groups: adult recidivists and adult non-recidivists, and inmates with severe criminal conduct and mild criminal conduct, adults, teens, children, disability, elderly, as well as transgender. The efforts of making protection, improvement, enforcement, and fulfillment of human rights have become the main principles in all correctional system implementations. Thus, the principles may be contextual through the correctional system organization principles. The principles covering the correctional system organization are as follows: a. non-discrimination, b. protection for vulnerable groups, c. the best interest for children, and d. legal certainty, accountability.

The involvement and participation of the society must develop the inmates in the correctional institutions. For those fulfilling the requirements to be involved in public activities, it can be shown with the people's acceptance in their environment. In the development based on society, it is necessary to approach with organizations or institutions during this time involved in the development in the correctional institutions that the efforts to optimize the role of society may well succeed. The cooperation and participation of society in providing job opportunities to the freed inmates will surely help the recovery or restoration process and as one effort to minimize the criminal activities as the human basic economic needs are well fulfilled.

The management in several countries, such as France, Portugal, Vanuatu, Queensland, New South

Wales, and New Zealand, the state law system has recognized a system called semi detention or periodic detention. Weekend detention is an alternative or sanction type subjected to the inmates when the judge thinks that there is no better decision to make that the inmates are only imprisoned on Saturdays and Sundays. Thus, they may still work on weekdays like the common people whose several rights are lost that the previously mentioned ideas may practically be re-achieved (Constitutional Court Decision Number 022/PUU-III/2005:31). Based on the sentencing system in France (Sub-section I-Semi detention, ARTICLE 132-25) it is stated that;

"Where a trial court imposes a custodial sentence of one-year imprisonment or less, it may decide the sentence is to be served in semi-detention where the convicted person establishes that he has a trade or profession, or his assiduous participation in a course of education or professional training, or apprenticeship or temporary employment with a view to social rehabilitation, or his essential participation in the life of his family, or the necessity to undergo medical treatment."

In the above formulation, it is shown that the legal system used by France mentions that human rights are highly appreciated. For less than one-year imprisonment, the convicted individual may still do trading and work based on his/her profession, or participate in an education or professional training, or internship intended for social rehabilitation, or important participation in his/her family life, or an obligation to do a medical treatment. Those are committed under the supervision of correctional officers, who previously make sure that the inmate does not run away, that there must be a guarantee either in the form of securities or warranty for his/her family.

In New Zealand, the system is called periodic detention well known since 1963. This system is not far different from that known in Portugal known as weekend detention. As a nation of laws, the appreciation of the inmates' human rights should always be greatly upheld and protected as it is although the perpetrator has committed criminal conduct and made mistakes as mentioned in the offense formulation available in the applicable regulations of law.

Slovenia has succeeded in maintaining the lowest detention number in the world. Not enough facilities to completely hold the recent jail population that the jail density has become a serious problem. Slovenia officially became the nation of abolitionists in 1989 after the constitution was changed to prohibit death sentence although the death sentence has effectively been abolished with the last execution made in 1957. As a new democratic country based on the constitution (1991)

established that human life is violable and the death sentence was prohibited. (Flander and Bučar Ručman 2015; Flander and Meško 2010; Meško and Jere 2012; Šelih 2012).

Lesbian, Gay, Bisexual, and Transgender (LGBT) prisoners, The significant vulnerability of LGBT persons in the criminal justice system in many counties calls for the formulation of policies to address the needs of this group and the development and implementation of strategies that ensure that they are not discriminated against in their access to justice and victimized in the criminal justice system, due to their sexual orientation or gender identity [9].

To ensure that persons with disabilities can access justice on an equal basis with others, relevant legislation and procedures are needed. Those who are charged or convicted of a crime are not discriminated against in the criminal justice system. Prison sentence should be used as a last resort in all cases. This principle should be fundamental in deciding whether to imprison offenders with disabilities, and especially those who have committed non-violent offenses, taking into account the level of care they are likely to receive in prisons [9].

#### CONCLUSION

The research result shows that the recent correctional policies have not yet completely accommodated the fulfillment of the inmates' rights in correctional institutions. Furthermore, the analysis on the correctional bills in developing the inmates has given several inmates' rights yet not entirely, related to the fulfillment of rights for the vulnerable groups, such as elderly, transgender, children, and disabilities, sex, health, and educational rights, well as no minimal limitation of sentences that the development was made in the correctional institutions. Several countries give the sentencing system in institutions functioning as confinement under one year, the convicted person may still have the rights to trade or do the work based on his/her profession or participate in an education or professional training for social rehabilitation or important participation in his/her family life.

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