

Research Article

Relevance of Article 7 of the Universal Declaration of Human Rights to the Enforcement of Prisoners' Human Rights in Correctional Institutions

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ABSTRACT: The treatment of prisoners often still deviates from human rights standards. In fact, prisoners are entitled to the same protection before the law as the general public. The purpose of this study is to examine how Article 7 of the Universal Declaration of Human Rights affects the protection of human rights of prisoners in Correctional Institutions. This study applies a normative juridical approach and a descriptive method of analysis. Data were collected using literature study techniques, as well as using qualitative data analysis techniques. The results of the study show that there are still problems related to the fulfillment of prisoners' rights to equality before the law and non-discriminatory treatment in correctional institutions, making Article 7 of the Universal Declaration of Human Rights relevant to be implemented. Several regulations in Indonesia show that there is a strong legal basis to support the implementation of Article 7 of the declaration. The findings of this study imply the need for optimal enforcement and supervision in fulfilling human rights for prisoners.

KEYWORDS: Correctional Institutions; Human rights; Prisoners.

I. INTRODUCTION

The noblest creature that God has created is the human being, who possesses high dignity and degree and has its independence. Every human being is equal in terms of dignity, rights, and degree of life. The term "human rights" refers to the equal rights that human beings are endowed with at birth.¹

John Locke asserted that the inherent rights given to humans by God are referred to as human rights. Consequently, they cannot be disregarded by any authority in the world. These rights are fundamental to human existence, as life cannot be sustained in their

¹ Fardhan Wijaya Kosasi, 'Deklarasi Universal Human Right Dan Pemenuhan Hak Asasi Bagi Narapidana' (2020) 7 *Justitia*. [798].

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absence. Human rights are inherent entitlements accorded to every individual by virtue of their intrinsic human dignity, deriving not from legal statutes or societal norms but recognized universally based on their humanity. Every individual, public, and state must respect, safeguard, and protect these fundamental rights.²

As an integral component of the human rights guaranteed to all individuals, the rights of prisoners held in correctional facilities must likewise be upheld. In Indonesia, issues related to the human rights of prisoners are still relevant, both in terms of law and policy and in terms of implementation in practice.

The final stage of the criminal justice system is the correctional institution, which holds the responsibility for rehabilitating convicted prisoners. Although deprived of their liberty, prisoners in correctional institutions remain entitled to their fundamental human rights.³ This is guaranteed by the State, which asserts that: “Every person shall be entitled to protection of his/her own person, family, honor, dignity, and property under his/her control, as well as be entitled to feel secure and be entitled to protection against threat of fear to do or omit to do something being his/her fundamental right”.⁴

The Universal Declaration of Human Rights, particularly Article 7, states that “all are equal before the law and are entitled without any discrimination to equal protection of the law” and serves as one of the main pillars in the protection of fundamental human rights. The essence of this article represents a philosophy that applies to all individuals, including prisoners. The fundamental principles of equality and justice are reflected in this article and must be implemented across all levels of society.

The prisoner rehabilitation system must support the belief that the sole form of suffering is the loss of liberty, as well as the principle of equal treatment, protection, education, guidance, and respect for human dignity. Correctional Institutions have the responsibility to safeguard the rights and interests of prisoners, as outlined in Article 5 of the Correctional Act. As such, Correctional Institutions have two main objectives:

² Suparman, *Hukum Asasi Manusia* (Pusham UII 2017).[3].

³ Penny Naluria Utami, ‘Keadilan Bagi Narapidana Di Lembaga Pemasyarakatan’ (2017) 17 *Jurnal Penelitian Hukum De Jure*. [382].

⁴ Article 28 G paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Firstly, as an educational institution; *secondly*, as an institution that upholds and protects the rights of prisoners, which is part of a broader protection of human rights.⁵

The treatment of prisoners in Indonesia frequently deviates from the stipulations of Article 7 of the Universal Declaration of Human Rights. Even though this regulation has been internationally recognized, discrepancies and differences often exist between the established rules and principles and the realities or treatment observed in practice. This creates a significant challenge in ensuring that prisoners are not only recognized as individuals with rights but also treated with human dignity.

A number of persistent and unresolved issues, such as overcrowding, extortion in service delivery, limited access to healthcare and education, incidents of violence, discrimination based on social status, and many more, have made Indonesia's correctional institutions a frequent focus of public concern. Human rights violations against prisoners in Indonesia highlight the misalignment between the rules and their execution.

Therefore, considering the State's responsibility to uphold various human rights instruments for all Indonesian citizens without discrimination. Thus, it is imperative and necessary that the correctional system be integrated with the protection of human rights.

Accordingly, this study aims to analyze the relevance of Article 7 of the Universal Declaration of Human Rights to the enforcement of prisoners' rights, as well as to examine how these rights are respected during their incarceration in correctional institutions.

II. RESEARCH METHODS

The issue is examined through a normative legal approach, indicating that the study relies on a review of literature or secondary data related to the fulfillment of prisoners' human rights. Data collection techniques are carried out using *library research* techniques (literature studies) from various literatures, such as books, journals, or other scientific publications related to the issues studied. Furthermore, the data analysis used qualitative analysis. The study findings were subsequently articulated descriptively, resulting in a descriptive-analytical outcome. Thus, the study provides an explanation related to the

⁵ Hanafi, 'Upaya Regulator Pemenuhan Hak-Hak Narapidana Pada Sistem Pemasyarakatan Di Indonesia' (2023) 15 *Al-Adl : Jurnal Hukum*. [384].

relevance of Article 7 of the Declaration of Human Rights to the enforcement of prisoners' human rights.

III. TREATMENT OF PRISONERS IN CORRECTIONAL INSTITUTIONS IN INDONESIA

One of the most important concerns with human rights protection in Indonesia is the treatment of prisoners. The main responsibilities of correctional institutions are to enforce the law, provide counsel, and assist prisoners to reintegrate into society upon completion of their sentences. However, the conditions that exist in correctional institutions are often contrary to human rights values.

Although various regulations or rules at both international and national levels have been established concerning human rights, including for prisoners, the fulfillment of these rights has not been optimally implemented. Certain treatment towards prisoners that contradict with regulations or laws and do not reflect the fulfillment of human rights for prisoners include discrimination, overcrowding, special treatment for certain groups, torture and violence, etc.

Discriminatory treatment towards prisoners in Correctional Institutions in Indonesia is a serious and complex issue. This reflects a gap in the implementation of the principle of equality before the law. Although there are regulations governing the rights of prisoners, treatment observed in practice often shows violations, injustice, and abuse of power, such as:

1. Special Treatment

Special treatment for prisoners often refers to practices or regulations that provide privileges to certain groups of prisoners. For example, based on their social, political, or economic status, certain prisoners may be given special treatment, such as improved facilities or special access.

Everyone is entitled to human rights, including prisoners. This concept is in accordance with the principles under the Universal Declaration of Human Rights. This concept affirms that discrimination against prisoners is strictly prohibited. Although some of their liberty has been deprived, everyone remains entitled to equal treatment with dignity and non-discrimination based on their status or the type of

crime they committed. According to the Universal Declaration of Human Rights, everyone is equal before the law, even prisoners. However, some cases reflect that there is special treatment for certain prisoners. In instance, luxurious facilities equivalent to a first-class hotel room were found in the cell of Fahmi Dharmawansya, a corruptor held in Sukamiskin Correctional Institution. His cell has a sitting toilet in its bathroom, a water heater, a TV, and air conditioning. Fahmi Dharmawanshya also has easy access to leave the cell and is allowed to use a cell phone. Another example, corruption convict Setya Novanto is often suspected of being given special treatment at Sukamiskin Correctional Institution. The use of electronic equipment and the fact that his cell is larger and fancier than other prisoners' cells are evidence of special treatment for certain groups of prisoners.⁶

According to Government Regulation No. 32/1999 on the Terms and Procedures for the Implementation of Prisoners, in Article 28 paragraph (3), prisoners are not allowed to bring electronic devices or electronic media, such as radios or televisions, into the correctional institution for their personal use. However, in practice, several cells have access to electronic devices and other luxury facilities used for their personal use.

Article 5b of the Amendment to Law No. 12 of 1995 on the Correctional Act, which asserts equal treatment and services, has been violated by the existence of luxurious facilities in cells and the fact that only a certain group of prisoners are able to utilize them. In terms of treatment and services, prisoners should receive equal treatment; no prisoners should be given special treatment. This principle is also in accordance with Article 7 of the Universal Declaration of Human Rights, which stipulates that everyone, including prisoners, should be treated equally before the law.

This notable piece of evidence showing deviation and inconsistency in the prisoner's rehabilitation process is the existence of luxurious facilities within the

⁶ Rika Nurhayati, 'Perlakuan Istimewa Bagi Narapidana Koruptor Pada Lembaga Pemasyarakatan Sukamiskin Dihubungkan Dengan Undang-Undang No 12 Tahun 1995 Juncto Peraturan Pemerintah No 32 Tahun 1999 Tentang Syarat-Syarat Dan Tata Cara Pelaksanaan Hak Warga Binaan Pemasyarakatan' (2024), 4 *Jurnal Innovative*. [3343].

cells accessible just to certain groups of prisoners, thereby infringing upon the principle of equal treatment and services for everyone. This perspective emphasizes the purpose of equality in the correctional system, namely that no prisoner is subject to discrimination and they should receive equal services and treatment.⁷

Hence, the existence of luxury cells within correctional institutions reflects an abuse of authority by law enforcement officials. The existence of cells with special facilities illustrates the extent to which law enforcement diverges from both international law and domestic laws in Indonesia.

2. Torture and Violence

Despite the existence of numerous regulations relating to the implementation and fulfillment of prisoners' rights, human rights violations in correctional institutions remain prevalent, such as the 2020 case of prisoner torture at the Class II A Yogyakarta Narcotics Correctional Institution. The National Commission on Human Rights (Komnas HAM) publicized allegations of torture against prisoners at the Class II A Yogyakarta Narcotics Correctional Institution. In accordance with Komnas HAM's investigation findings, the acts of torture were accompanied by various forms of degrading treatment. In addition to injuries, many prisoners also suffered from mental disorders as a result of these atrocities. During Komnas HAM's most recent visit to the correctional institution in November 2021, several prisoners were reportedly found with scars and even festering open wounds. Since mid-2020, prisoners in the correctional institution have been subjected to various forms of physical torture, including beatings, whippings, and kicks.⁸ Eight other forms of degrading treatment were also found at the correctional institution by the National Human Rights Commission (Komnas HAM). Prisoners are subjected to degrading treatment, such as being shaved bald while they are naked, eating food that has been regurgitated, and drinking and washing their faces with urine. Torture occurs when

⁷ Rizki Putri Suprpto, Maudyna Fitria, Firda Yunita Dewi, 'Asas Persamaan Perlakuan Dan Pelayanan Di Lembaga Pemasyarakatan Terhadap Sel Berfasilitas Mewah' (2021) *10 Jurnal Rechtsens*. [206].

⁸ Jullia Putri Shandyana, 'Pemenuhan Hak Narapidana Kasus Narkoba Menurut Undang-Undang Pemasyarakatan' (2024) *1 Indonesian Journal of Law and Justice*. [11].

prisoners are deemed to be breaking the rules, when they first arrive at the correctional institution, or in the first two to three days and during the familiarization period.⁹

Not enough with once, this torture and degrading treatment against prisoners occurred again in March 2022 at the Class II A Narcotics Correctional Institution in Yogyakarta. The actions were similar to those that occurred in the previous year, including making prisoners drink urine, washing their faces with urine, and eating food that had been regurgitated. Physical abuse also occurs, especially when prisoners are new or when they break the rules during the first one to two days of their detention. For newly admitted prisoners, this type of torture serves as a form of discipline and education.¹⁰

Violence committed by correctional officers constitutes violations of multiple articles and regulations, which may be subject to strict sanctions and potential criminal prosecution. Yet, it is clear that prisoners and detainees still possess rights that must be upheld, including the right to be treated with respect and dignity, as well as the right to be regarded as equal human beings. Such actions not only constitute violations of the fundamental rights of prisoners, but also reflect discrimination, injustice, and a failure to uphold human rights in accordance with established standards.

The acts of torture and violence within the correctional institutions constitute a violations of several articles, such as Article 9 letter i Law No. 22/2022 on Amendments to Law No. 12/1995 on Correctional Act, which states that every prisoner is entitled to humane treatment and is protected from acts of torture, exploitation, neglect, violence, and all acts endanger physical and mental health. In addition, provisions related to the right to be protected from torture are regulated in Article 4 of Law No. 39/1999 of Human Rights.

The right to legal protection and the right to a living wage in the correctional institutions are two important rights for prisoners.¹¹ Given that Indonesia implements

⁹ *Ibid.*

¹⁰ Umi Hamidah Alfita, 'Perlindungan HAM Terhadap Narapidana Di Lapas' (2023) *1 Gudang Jurnal Multidisiplin Ilmu*. [13].

¹¹ Nurul Hudha, Rahmatul Hidayati, dan Budi Parmono, 'Perlindungan Hukum Terhadap Narapidana Pelaku Tindak Pidana Narkotika dari Kekerasan dalam Lembaga Masyarakat (LAPAS)' (2024) *30 Dinamika Jurnal Ilmiah Ilmu Hukum*. [9442].

a correctional system to enforce prison sentences, imprisonment serves not only as a means of deterrence but also as a tool for the education and rehabilitation of prisoners.¹² Therefore, in the implementation of rehabilitation programs for prisoners, the fulfillment of human rights of prisoners must be maintained and carried out without acts of violence and torture.

3. Discrimination Based on Social Status and Religion

Discriminatory acts also occur based on the religion, gender, and social status of prisoners. Several prisoners are subjected to different treatment based on their background, which reflects injustices in the legal and correctional systems.¹³

The social status of the prisoners often influences such treatment, with those from impoverished backgrounds or lacking connections to authorities being more susceptible. They are often viewed as inferior to prisoners from the upper social classes who have the power to obtain and be entitled to special treatment. Moreover, prisoners of minority religions or beliefs often face difficulties practicing and receiving adequate facilities in correctional institutions.

The prevailing tendency among predominant religious groups, such as Islam and Christianity, to have greater access to religious services in prison, while other faiths encounter limited access, is a salient concern. Some prisoners may experience feelings of abandonment or lack of support in their religious practices. Consequently, the correctional system may exhibit an imbalance in its treatment of religious practices. This demonstrates the necessity of ensuring that all prisoners have the same rights to practice their religion by providing equal treatment to all groups of prisoners.¹⁴

As occurred in Class II A Bagansiapiapi Correctional Institution, where there are several prisoners who adhere to the Tridharma belief. The religious guidance services provided to prisoners who adhere to the Tridharma belief are not yet fully optimal. As a result, several prisoners receive minimum access to the religious guidance to

¹² *Ibid.*[9450].

¹³ Umi Hamidah Alfita, *Op.Cit.*[16].

¹⁴ Johanes Gabe Saputra Manulang¹, Bagio Kadaryanto, dan Irawan Harahap, 'Implementasi Bimbingan Keagamaan Bagi Narapidana Beragama Aliran Kepercayaan Tridharma' (2024) 7 *Collegium Studiosum Journal*. [55].

which they are purportedly entitled. The biggest obstacle in the implementation of religious guidance is inadequate facilities. Prisoners cannot worship effectively without sufficient space and comprehensive religious resources, which results in the quality of guidance and services provided.¹⁵

In principle, correctional institutions, in carrying out the rehabilitation of prisoners, should uphold the principle of equal treatment and service, ensuring that all prisoners receive non-discriminatory treatment regardless of their background or status.

4. Discrimination in Rehabilitation Program

As the final stage of the criminal justice system, the main purpose of the correctional system is to foster or rehabilitate prisoners through institutional structures, rehabilitation techniques, and the overall system. The rehabilitation programs offered by correctional institutions are designed to assist prisoners in achieving their goals, including preparing them to become contributing and deserving members of society upon their release.

Yet, in practice, there are several prisoners that have been facing discrimination throughout the rehabilitation program. Such as the treatment of death row prisoners is distinct from others. Although death row prisoners experience psychological stress as a result of receiving the death penalty, they are not required to participate in rehabilitation program activities, which should serve as a type of health care. Several death row prisoners experience depression as a result of this treatment.¹⁶

In a manner similar to that of Class I Batu Nusakambangan Prison, inmates who are incarcerated for a specified duration are required to complete the phases of the rehabilitation program. Meanwhile, there is no rehabilitation program phase for death row prisoners, and they are not obligated to participate in any rehabilitation activities. Those who have been sentenced to death have the option to participate freely or voluntarily in activities provided at the correctional institution, either actively or passively. The injustice of the rehabilitation program in the implementation of

¹⁵ *Ibid.*[59].

¹⁶ Djernih Sitanggang, Efa Laela Fakhriah, Sigid Suseno, 'Perlakuan Terhadap Terpidana Mati di Lembaga Pemasyarakatan dalam Perspektif Hak Asasi Manusia' (2018) 25 *Jurnal Media Hukum*. [103].

this correctional system is reflected in the differential treatment between death row prisoners and prisoners with fixed sentences.¹⁷

In addition, the treatment of disabled prisoners is also one of the issues in the law enforcement process. Injustice often occurs, such as when the officers handle situations involving prisoners with disabilities without adequately understanding their rights.¹⁸

For prisoners with disabilities, it is crucial to ensure accessibility to infrastructure and facilities within the correctional institution. This is necessary in order to assist prisoners who have difficulty carrying out activities that they are unable to independently complete. The availability of such facilities will ensure the untroubled implementation of rehabilitation programs for prisoners with disabilities.¹⁹

However, at present, correctional institutions in providing infrastructure and facilities are considered inadequate or severely limited for prisoners with disabilities. The realization of the rights of persons with disabilities to receive special services is significantly impacted by this. Certain equipment, including wheelchair accessibility, hearing aids, and canes, must be accessible when providing services to prisoners with disabilities. The rehabilitation programs for prisoners with disabilities are significantly impacted by the availability of various services that are not accessible in all correctional institutions. The standards of physical accessibility outlined in the law and the practice are distinct. Many correctional institutions lack the necessary amenities, such as special toilets and disability-friendly access paths. As a result, prisoners with disabilities find it more difficult to adapt to prison life while completing their rehabilitation. Officers, other prisoners, and the public often stigmatize and discriminate against prisoners with disabilities. Such a view might severely impact those prisoners' well-being and mental health.²⁰

¹⁷ *Ibid.*[106].

¹⁸ Muhamad Rifqi Nazief Hanif, Mitro Subroto, 'Analisis Kualitas Pelayanan Terhadap Narapidana Penyandang Disabilitas Berdasarkan Hak Asasi Manusia di Lembaga Pemasyarakatan' (2023) 3 *Jurnal Kawruh Abiyasa*. [69].

¹⁹ Mitro Subroto dan Yoga Dhimas Yunanta Muktya, 'Aksesibilitas Fisik Dan Sosial Bagi Narapidana Disabilitas Di Rumah Tahanan Negara Kelas I Surakarta' (2024) 4 *Innovative: Journal Of Social Science Research*. [8].

²⁰ *Ibid.*[9].

Regardless of the fact that Article 36 of Law No. 8/2016 on Persons with Disabilities obliges law enforcement agencies to provide facilities or accommodation for persons with disabilities in any judicial process. Additionally, Article 37 paragraph (1), obliges correctional institutions and state prisons to provide a disability services unit.²¹ Hence, there is still a discrepancy between the existing law and the reality in correctional institutions regarding the accessibility of prisoners with disabilities. Similarly, the Universal Declaration of Human Rights obliges that every person shall be treated equally before the law and without discrimination.

One of the main components of the criminal justice system is the rehabilitation of prisoners. Throughout the process, rights, dignity, and prisoners' interests as citizens must be upheld. Therefore, justice serves as a key concept that guides the rehabilitation of prisoners.²²

Discriminatory treatment and neglect of the principle of equality before the law for prisoners in correctional institutions in Indonesia indicate that the enforcement of prisoners' human rights is not yet fully optimal. While Indonesia has adopted various international rules related to the protection of human rights, in practice there are several cases where prisoners are subject to injustice based on their social status, religion, or background. The discrimination that arises, whether in the form of restricted access to rehabilitation programs, places of worship, differential treatment for certain groups of prisoners, or violence experienced by prisoners, creates inequality. Thus, a discrepancy arises between practices and the legal norms governing them.

²¹ Article 36 and Article 37 paragraph (1) Law Number 8 of 2016 on Persons with Disabilities (State Gazette of the Republic of Indonesia Year 2016 Number 69, Supplement to the State Gazette of the Republic of Indonesia Number 5871).

²² Ferinando Fachrudin Putra, Padmono Wibowo, 'Analisis Kebijakan Pembinaan Narapidana dalam Rangka Mewujudkan Sistem Pemasyarakatan yang Manusia dan Berkeadilan' (2023) *1 Triwikrama: Jurnal Ilmu Sosial*. [84].

IV. ENFORCEMENT OF PRISONERS' HUMAN RIGHTS IN CORRECTIONAL INSTITUTIONS IN INDONESIA

Prison inmates are individuals whose freedom of movement is restricted. However, their other rights must be fulfilled and protected without any discrimination. In Indonesia, the implementation of prisoner sentencing now encompasses efforts to rehabilitate and reintegrate them into society. Thus, the human rights of prisoners must be respected within the correctional institutions.

Human rights are fundamental freedoms inherent in every individual. Therefore, everyone must respect them. No one is allowed to neglect, denigrate, or eliminate them, not even the government. Including prisoners who are incarcerated in correctional institutions during their completion of sentences. While prisoners' freedom of movement has been restricted, it does not equal limiting their other human rights. As a state institution, Correctional Institution is obligated to ensure that prisoners are treated in a manner that respects their human rights.²³

Individuals who are incarcerated in correctional facilities are entitled to human rights that are not exclusive to the public. Prisoners are afforded the opportunity to mature and learn from their mistakes and grow. Protection, recognition, respect, and fulfillment of fundamental rights of prisoners are some of the human rights that are sought to be upheld in Correctional Institutions, but have not been fully achieved.²⁴ The principle of equality should be maintained as an endeavor to uphold human rights for all prisoners, without exception.

In accordance with the previous explanation, human rights are inalienable and pertain to each and every person, regardless of their status, whether they are officials, citizens, suspects, defendants, or prisoners. They must be treated with dignity, honor, and pride as a human being. They must be treated with respect and dignity, as they are human beings, because:

1. As individual with equal dignity;
2. Having the rights to legal protection equal to others;

²³ Fardhan Wijaya Kosasi, *Op.Cit.*[802-805].

²⁴ Agung Rammando, Muhammad Azizul Fajri, 'Eksistensi Dan Hambatan Penegakan Ham Di Lembaga Pemasyarakatan Di Indonesia' (2024) 6 *Causa: Jurnal Hukum dan Kewarganegaraan*. [64].

3. Entitled to equal legal protection and justice rights.²⁵

The protection of the human rights of prisoners can be determined as an endeavor to uphold them. The protection of prisoners is established on the basis of the rehabilitation of prisoners in accordance with the established correctional system. In contrast, the correctional system is a structured arrangement of integrated elements that function as a unified whole. This forms the concept of treatment for criminal law offenders based on the principles of rehabilitation and resocialization, which include educational, corrective, and defensive aspects that consider social and individual factors. Consequently, actions that are inconsistent with this principle cannot be sanctioned for the rehabilitation of prisoners, particularly those who have been involved in unlawful activities such as torture or abuse.²⁶

As the final institution involved in the rehabilitation of prisoners, It is imperative that the Correctional Institution prioritize the rights and interests of prisoners. The correctional system must ensure that every privilege of a prisoner who has served their sentence is upheld. Consequently, the rehabilitation of prisoners in the Correctional Institution is equally critical to the fulfillment of the purpose of punishment.²⁷

Protection of the human rights of prisoners is not only extended to general prisoners. As well as to prisoners with disabilities. Ideally, these disabled prisoners should receive the same treatment. They have the right to receive guidance, humane treatment, and to have their dignity and worth respected.²⁸ Therefore, the treatment and respect for human rights for both general prisoners and prisoners with disabilities must be carried out without distinction and discrimination.

The rehabilitation provided to prisoners is regulated by the concepts found in Pancasila, the 1945 Constitution, and the Standard Minimum Rules for the Treatment of Prisoners, which are reflected in the 10 concepts of Corrections. Both the institutional

²⁵ Fajar Putra Prastina R., 'Jaminan Hak Asasi Manusia Narapidana Daam Pembinaan Narapidana di Lembaga Pemasyarakatan' (2021) 4 *Jurist-Diction*. [114].

²⁶ Hanafi, *Op.Cit.*[388].

²⁷ Roysimon Wangkanusa, 'Perlindungan Ham Bagi Narapidana Di Lembaga Pemasyarakatan Menurut Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan' (2017) 5 *Lex Administratum*. [40].

²⁸ Muhamad Rifqi Nazief Hanif, Mitro Subroto, *Op.Cit.*[70].

structure and correctional personnel play a pivotal role in maintaining order and protecting human rights.

In Indonesia, the rehabilitation of prisoners is conducted in a series of phases, each of which is closely associated with the enforcement of prisoners' human rights in correctional institutions. The active participation of prison officers in every phase of rehabilitation facilitates violations. Furthermore, prisoners have been historically classified as a minority group that warrants punishment and suffering based on their conduct and actions. They are often referred to as "societal trash." Hence, treatment that is inconsistent with the principles of rehabilitation is deemed acceptable. It is evident that this perspective is in complete opposition to the principles of rehabilitation and human rights. Consequently, it is imperative that the implementation of human rights be a primary concern in every rehabilitation process.²⁹

As long as the rehabilitation processes are discriminatory and violate prisoners' rights, detention or imprisonment through the current correctional system may not have a rehabilitative, enlightening, or added value effect for a prisoner. Such an outcome is the consequence of the government's neglect of correctional institutions, which leads to insufficient security policies for prisoners and exacerbates the enforcement of prisoners' rights against discriminatory practices. Accordingly, prisoners receive inappropriate treatment without regard to their rights.³⁰

Therefore, human rights protection for all citizens, including prisoners, became crucial in Indonesia's established law. The existence of various laws regulating the enforcement of human rights, including those of prisoners, serves as an important guideline for correctional institutions in fulfilling the human rights of prisoners. As a correctional institution in the criminal process, the Correctional Institution plays a crucial role in the establishment of an appropriate criminal justice system and the enforcement of human rights. The protection of prisoners in correctional institutions must be sufficiently attentive to their rights, in light of the numerous laws and regulations which demand this.

²⁹ Diyah Irawati, *Menuju Lembaga Pemasyarakatan Berwawasan Hak Asasi Manusia (Suatu Refleksi Lembaga Pemasyarakatan Sebagai Tempat Pembinaan Narapidana)* (UKI Press 2006).[8].

³⁰ Efraim Jhon Gamis, 'Perlindungan Hak-Hak Narapidana Terhadap Diskriminasi dalam Lembaga Pemasyarakatan' (2016) 4 *Lex Administratum*. [24].

V. RELEVANCE OF ARTICLE 7 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS TO THE ENFORCEMENT OF PRISONERS' HUMAN RIGHTS IN CORRECTIONAL INSTITUTIONS

The recognition of human rights is a predication of the Universal Declaration of Human Rights, which asserts that all individuals possess fundamental rights. Ini menjelaskan bagaimana pemenuhan hak dasar tersebut menjadi dasar terhadap asas kebebasan, keadilan, dan perdamaian dunia. In addition, it asserts that the state must uphold human rights through the legal system to ensure that all individuals have the freedom of expression, freedom of religion, and freedom from fear. According to the consensus of this Declaration, freedom, justice, and world peace are based on the assumption that all individuals possess equal and inalienable rights, which include their inherent dignity. Neglecting and diminishing the rights of others will lead to actions that are reprehensible and provoke the human conscience.³¹

In light of Indonesia's support for the Universal Declaration of Human Rights, it is obligated to safeguard human rights at all societal levels, and this includes the rights of prisoners. Human rights values must be incorporated into the operations of correctional institutions and the treatment of prisoners as a government institution and representation of the state.

According to the concept of equality before the law, prisoners in correctional institutions must be treated equally with respect to their rights and position. Equality within the Correctional Institution is equivalent as equality before the law. It implies that everyone has the same status while incarcerated. It is thus closely related to the norms and sense of justice found in the law.³²

A way to maintain human values and dignity is by granting prisoners the rights they are entitled to. As a human being, everyone possesses inherent rights. Individuals involved in legal issues have several inherent rights, including the provision of services free from discrimination based on gender, race, language, religion, ideology, economic

³¹ Fardhan Wijaya Kosasi, *Op.Cit.*[801-802].

³² Julita Melissa Walukow, 'Perwujudan Prinsip Equality Before The Law Bagi Narapidana Di Dalam Lembaga Pemasyarakatan Di Indonesia' (2013) *I Lex et Societatis*. [166].

status, political status, and other statuses. These are prerequisites for the realization of these rights and serve as guidelines in providing services based on the principle of equality.

States must take proactive measures to prevent citizens from violating their human rights in order to fulfill its commitment to uphold those rights. The objective of interpreting legal protection for prisoners is to protect their liberty, fundamental rights, and other interests that are pertinent to their well-being.³³

According to Article 7 of the Universal Declaration of Human Rights,

“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination”.³⁴

This Article affirms the principle of equality before the law and protection against discrimination. In the context of prisoners in Correctional Institutions, this Article emphasizes that all individuals, including prisoners, are entitled to be treated fairly and equally before the law, without any discrimination.

Prisoners, although they have been convicted and sentenced, do not lose their basic human rights guaranteed by human rights, including the right to equality before the law. In Correctional Institutions, such equality implies that prisoners' rights must be equally protected, such as the right to humane treatment, the right to health, the right to practice their religion, and the right to educational and rehabilitation services. Discrimination based on religion, social status, or other backgrounds is prohibited in Correctional Institutions.

The relevance of Article 7 of the Universal Declaration of Human Rights in the enforcement of the human rights of prisoners in Indonesia is illustrated by the existence of supporting legal regulations that ensure the equal and non-discriminatory treatment of prisoners and the protection of their fundamental rights during their sentences.

These are a few regulations that are pertinent to Article 7 of the Declaration of Human Rights:

The 1945 Constitution of the Republic of Indonesia, Article 27 paragraph (1), which reads:

³³ Wahyu Abdillah Somantri, Padmono Wibowo, 'Keadilan Bagi Narapidana Di Lembaga Pemasyarakatan' (2022) 4 *Jurnal Pendidikan dan Konseling*. [3577-3578].

³⁴ Article 7 of the 1948 Universal Declaration of Human Rights.

“All citizens shall be equal before the law and in government and shall uphold the law and government without exception”.

In Article 28 G paragraph (1), which reads:

“Every person shall be entitled to protection of his/her own person, family, honor, dignity, and property under his/her control, as well as be entitled to feel secure and be entitled to protection against threat of fear to do or omit to do something being his/her fundamental right”.

These two articles affirm the principle of equality before the law for all segments of society, including prisoners. This promotes the right of prisoners to receive equal legal protection without discrimination and to prevent them from being subjected to torture or other cruel treatment while incarcerated in correctional facilities.

Law No. 39/1999 on Human Rights also regulates the recognition and respect for human rights in Indonesia, particularly the rights of prisoners.

“Everyone is recognized as an individual who has the right to demand and obtain equal treatment and protection before the law as befits his or her human dignity”.³⁵

This article applies to everyone, which implies that prisoners, even while serving their sentences, have the right to be protected from discriminatory treatment that could harm their dignity and honor.

Law No. 12/1995 on Corrections is equally relevant and promotes principles under Article 7 of the Universal Declaration of Human Rights. It is demonstrated by the existence of arrangements that pertain to equal treatment:

“Correctional Institutions aim to achieve fair and balanced legal objectives through the rehabilitation of prisoners and correctional students, with a focus on protecting human rights”.³⁶

The correctional system’s objective is to prioritize the protection of human rights in order to facilitate the rehabilitation of prisoners, in accordance with the principles of Article 7 of the Universal Declaration of Human Rights.

Additionally, the right to human rights is defined in the Government Regulation

³⁵ Article 5 paragraph (1) Law Number 39 of 1999 on Human Rights (State Gazette of the Republic of Indonesia Year 1999 Number 165, Supplement of the State Gazette of the Republic of Indonesia Number 3886).

³⁶ Article 3 Law Number 12 of 1995 on Corrections (State Gazette of the Republic of Indonesia Year 1995 Number 77, Supplement to the State Gazette of the Republic of Indonesia Number 3614).

Number 32 of 1999 on Requirements and Procedures for the Implementation of the Rights of Prisoners and Corrections. The following laws also specify the prisoners' rights placed in Correctional Institutions, which state that:

“Every prisoner is entitled to humane and dignified treatment, in accordance with applicable international standards, without discrimination”.³⁷

Such a principle ensures that prisoners have equal rights before the law and are protected from being subjected to discriminatory treatment.

In the implementation of Article 7 of the Universal Declaration of Human Rights, the aforementioned regulations suggest a strong legal foundation and the alignment of principles. This ensures that prisoners in Indonesia remain entitled to their fundamental rights, which must be both respected and protected throughout their sentences.

Despite the fact that there are still Correctional Institutions that treat prisoners in a manner that violates human rights. However, it is anticipated that the protection of prisoners' rights can be more consistently, fairly, and humanely upheld in Indonesia by implementing the principles outlined in Article 7 of the Universal Declaration of Human Rights and other supporting regulations. Therefore, ensuring that each prisoner is treated equally, is not subjected to discrimination, and is respected for their dignity as a human being.

Therefore, Correctional Institutions must enhance their services by striving to provide the best possible service in addition to enforcing policies and regulations. As this is closely associated with human rights, which must not be violated by anyone, including the government. In reality, Correctional Institutions have not been as effective in enforcing human rights for prisoners as they should be. This flaw must be rectified promptly to demonstrate the state's commitment to protecting the human rights of its citizens. The correctional system can formulate regulations for the treatment and exercise of various rights that are not yet legally safeguarded to enhance the realization of prisoners' human rights to the fullest extent.³⁸

³⁷ Article 2 Government Regulation Number 32 of 1999 on Requirements and Procedures for the Implementation of the Rights of Prisoners and Corrections (State Gazette of the Republic of Indonesia Year 1999 Number 69, Supplement to the State Gazette of the Republic of Indonesia Number 3846).

³⁸ Fardhan Wijaya Kosasi, *Op.Cit.*[805-809].

VI. CONCLUSION

Every person, including those imprisoned in Correctional Institutions, is born with fundamental rights called human rights. The principles outlined in Article 7 of the Universal Declaration of Human Rights must be implemented and ensure that prisoners' human rights are fulfilled by upholding equality before the law and non-discriminatory treatment. Those principles are relevant to be maintained because there are numerous issues in the fulfillment of prisoners' human rights in Correctional Institutions, such as discrimination, special treatment towards certain groups of prisoners, violence and torture. As evidenced by the existence of numerous laws related to the enforcement of these rights, such as the Correctional Law and the Human Rights Law, there is a solid legal basis for the application of Article 7 of the Universal Declaration of Human Rights in the context of defending the human rights of prisoners. It is expected that the rights of prisoners can be upheld in a more consistent, fair, and humane manner, ensuring that all prisoners are treated similarly and without discrimination.

ACKNOWLEDGMENTS

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DISCLOSURE STATEMENT

The authors report no potential conflicts of interest.

FUNDING

No funding was received for this research.

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How to cite:

Riky Prasetya, Tajul Arifin and Ine Fauzia, 'Relevance of Article 7 of the Universal Declaration of Human Rights to the Enforcement of Prisoners' Human Rights in Correctional Institutions' (2025) Vol. 8 No. 2 *Jurist-Diction*