

Protection of the Rights of Breastfeeding Female Inmates in Women's Correctional Facilities

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Abstract: The rehabilitation and treatment of female inmates must differ from that of male inmates due to distinct physical and psychological needs—particularly for those who are pregnant or breastfeeding. Pregnant and breastfeeding women possess rights that must be upheld, even while serving sentences in correctional institutions. These inmates receive special attention compared to the general inmate population. While they share the same fundamental rights as other inmates—such as the freedom to worship according to their religion and beliefs, access to healthcare, visitation rights, and the provision of adequate, nutritious food—they are also granted additional rights. These include access to enhanced nutritional intake and specialized health facilities, such as ultrasound services to monitor fetal development. This approach ensures that the fulfillment of their rights aligns with applicable Indonesian laws and regulations. Research findings indicate that pregnant and breastfeeding inmates are provided with specific health services, including check-ups by prison doctors at the facility's clinic, prenatal ultrasounds, delivery services, and immunizations for their children at designated hospitals. Breastfeeding inmates receive supplements to aid lactation and extra nutritional support, particularly if they face difficulties with breastfeeding; these health services are funded by the state. Nevertheless, certain facilities remain unavailable within correctional institutions, such as dedicated lactation rooms and separate housing arrangements that distinguish pregnant inmates from the general inmate population.

Keywords: Protection, Rights, Inmates, Breastfeeding Women.

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Abstrak: Pembinaan terhadap narapidana wanita dengan narapidana laki-laki haruslah berbeda sebab narapidana wanita memiliki perbedaan baik secara fisik maupun psikologis, terutama bagi perempuan yang sedang hamil dan menyusui. Perempuan yang sedang hamil dan menyusui memiliki hak-hak yang harus terpenuhi sekalipun mereka sedang menjalani hukuman dalam lembaga pemasyarakatan. Warga binaan yang sedang hamil dan menyusui mendapatkan perhatian lebih dibandingkan warga binaan lainnya. Adapun hak-hak yang diberikan kepada warga binaan pemasyarakatan pada umumnya sama dengan warga binaan lainnya seperti pemenuhan hak untuk beribadah sesuai agama dan keyakinan, pemenuhan hak terhadap pelayanan kesehatan, hak untuk mendapatkan kunjungan, pemenuhan hak untuk mendapatkan makanan yang layak dan bergizi, sedangkan hak-hak tambahan yang diberikan kepada warga binaan khususnya yang hamil dan menyusui misalnya mendapatkan asupan gizi yang berlebih serta menyiapkan sarana dan prasarana kesehatan khusus misalnya pelayanan USG untuk mengetahui perkembangan janin. Hal tersebut menegaskan bahwa pemenuhan hak-haknya telah sesuai dengan ketentuan perundang-undangan yang berlaku di Indonesia. Fasilitas terhadap hak-hak perempuan hamil dan menyusui, berdasarkan hasil penelitian ini yaitu warga binaan pemasyarakatan yang sedang dalam masa hamil dan menyusui diberikan fasilitas kesehatan seperti cek kesehatan di poliklinik lapas oleh dokter lapas, USG kehamilan, persalinan, imunisasi untuk anak dari warga binaan tersebut di Rumah Sakit yang telah ditetapkan oleh Lembaga Pemasyarakatan. Bagi warga binaan yang menyusui diberikan vitamin pelancar asi dan extra fooding terutama bagi warga binaan yang mengalami kesulitan dalam proses menyusui. Fasilitas kesehatan tersebut ditanggung oleh negara. Meski demikian masih ada beberapa fasilitas yang belum tersedia di dalam Lembaga Pemasyarakatan, contohnya ruang laktasi dan kamar yang masih belum terpisah antara warga binaan yang sedang dalam masa kehamilan dengan warga binaan lainnya yang tidak mengalami hal tersebut.

Kata kunci: Perlindungan, Hak, Narapidana, Perempuan Menyusui.

Introduction

The State bears the responsibility of guaranteeing the human rights of every individual serving a sentence in a correctional institution. The State must ensure that human dignity is respected fairly and equally, and that individuals are free from all forms of discrimination. Pursuant to Article 9 of Law Number 22 of 2022 concerning Correctional Affairs (hereinafter referred to as the Correctional Affairs Law), the State formally acknowledges that prisoners remain legal subjects possessing a set of rights that must be respected, guaranteed, and protected in fulfillment of constitutional obligations. These

rights include, among others: the freedom to practice one's religion and beliefs; the right to physical and spiritual care; the right to education, instruction, and recreational activities, as well as opportunities to develop one's potential; the right to healthcare and adequate food meeting nutritional needs; the right to access information; the right to legal counseling and legal aid; the right to submit complaints and/or grievances; the right to access reading materials and follow permitted mass media broadcasts; the right to humane treatment and protection against torture, exploitation, neglect, violence, and any acts endangering physical or mental well-being; the right to workplace safety guarantees and wages or premiums for work performed; the right to social services; and the right to accept or refuse visits from family, legal counsel, support persons, and the public. Furthermore, under Article 10 of the Correctional Affairs Law, prisoners who meet specific requirements are entitled to sentence reductions (remission), assimilation programs, leave to visit or receive visits from family, conditional leave, pre-release leave, and parole. Collectively, these rights manifest the principle of respect for human rights, which must be realized through a correctional system that is both just and humane.

Under Law Number 22 of 2022 concerning Correctional Affairs, the correctional system is a subsystem of the criminal justice system responsible for law enforcement regarding the treatment of detainees, juveniles, and correctional inmates. This system prioritizes the principle of **pengayoman** (protection and guidance), symbolized by the banyan tree. This concept, originally proposed by Sahardjo, was subsequently refined by the decision of the Conference of Prison Leadership Officials on April 27, 1964. It was at this juncture that the correctional system replaced the traditional prison system as the method for rehabilitating inmates. This shift was also reflected in the renaming of institutions from *Rumah Penjara* (Prisons) to **Lembaga Pemasyarakatan** (Correctional Institutions), abbreviated as LAPAS.¹

Issues regarding access to maternal healthcare for pregnant or breastfeeding female inmates remain a fundamental concern in the effort to uphold human rights—an essential element of a civilized legal system. The State,

¹ Hamja, *Pemberdayaan Lembaga Pemasyarakatan Terbuka Sebagai Wujud Pelaksanaan Community Based Corrections Di Dalam Sistem Peradilan Pidana Di Indonesia* (Yogyakarta: Deepublish, 2015), 2–3

bearing constitutional responsibility, is obliged to guarantee the protection, respect, and fulfillment of these rights comprehensively for every individual, without exception. Within the framework of Indonesian positive law, the right of inmates to access healthcare is legally guaranteed by Law Number 22 of 2022 concerning Correctional Affairs, a right further reinforced by Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Exercise of Rights by Correctional Inmates. Both regulations explicitly state that every inmate must be treated humanely and provided with access to adequate healthcare services. However, the implementation of these normative provisions still faces various obstacles; specifically regarding female inmates who are pregnant or breastfeeding, the realization of the right to healthcare often encounters substantive challenges. In practice, access to adequate medical care is often compromised by limited health facilities and infrastructure within correctional institutions. It is not uncommon for a single facility to be staffed by only one or two healthcare professionals serving a large inmate population, thereby preventing the delivery of optimal medical care—particularly for inmates requiring specialized treatment. This situation clearly conflicts with the mandate of Article 20, Paragraph (1) of Government Regulation No. 32 of 1999, which explicitly affirms that every inmate has the right to receive adequate health services and care in accordance with established standards. Consequently, the state is obligated to ensure the availability of healthcare infrastructure and sufficient medical personnel in every correctional institution to guarantee the fulfillment of the right to health for all inmates, especially those belonging to vulnerable groups, such as pregnant or breastfeeding women.²

Mental and emotional support plays a crucial role in ensuring the well-being of pregnant and breastfeeding female inmates. A lack of access to adequate counseling or psychological assistance can negatively impact their mental state, ultimately affecting the physical health of both mother and child. Law Number 23 of 2002 concerning Child Protection clearly emphasizes the urgency of providing a safe, healthy, and supportive environment as a prerequisite for optimal child development—including for children born to and

² D, Mirnawati. "Hak-Hak Narapidana Wanita Di Lembaga Pemasyarakatan Kelas II A Watampone Perspektif Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan." *Jurnal Al-Dustur: Journal of Politic and Islamic Law* 2, no. 1 (2019): 76–89

raised by female inmates within correctional facilities. However, reproductive health education has not yet been fully integrated into the inmate rehabilitation system; consequently, many female inmates lack sufficient knowledge regarding prenatal and postnatal care, including proper breastfeeding practices. This situation can compromise the health of both mother and child. Therefore, mainstreaming reproductive health education programs into the inmate rehabilitation curriculum is essential and aligns with human rights principles, which demand fair, humane treatment that upholds the dignity of every individual, free from discrimination. The need for reform in this area aims not only to improve the quality of life for female inmates but also to generate positive impacts on the broader social order. Creating a correctional environment that is responsive to the specific needs of pregnant and breastfeeding female inmates requires synergy among state institutions and non-governmental organizations, alongside active civil society participation. Although a legal framework for protecting inmates' rights exists in principle, its practical implementation still faces various obstacles and has yet to function optimally. Therefore, it is crucial to reformulate policies that focus on strengthening access to mental health services and providing comprehensive education within the correctional system, as part of efforts to ensure respect for the dignity of every inmate in alignment with human rights principles.³

Method

This study employs an empirical legal research approach (socio-legal research), examining the operation of law within society by observing how specific statutory provisions are implemented in actual practice, rather than merely analyzing legal norms textually as is done in normative legal research. This approach was selected because the data analyzed herein derives from fieldwork conducted at the Class IIA Women's Correctional Institution in Medan; consequently, the study focuses not only on the normative aspects of the legislation but also on the actual facts regarding the fulfillment of rights for pregnant and breastfeeding female inmates.

³ Yeni. "Perlindungan Hak Asasi Manusia Narapidana Wanita Dalam Instrumen Hak Asasi Manusia Internasional." *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional*, 2015

The research was conducted at the Class IIA Women's Correctional Institution in Medan, located on Jalan Pemasarakatan, Tanjung Gusta, Medan, North Sumatra. This site was chosen because it is the only correctional facility exclusively for women in Medan, housing female inmates from various regions across North Sumatra, including those who are pregnant or breastfeeding.

Primary data were obtained directly from the field through interviews with staff at the Class IIA Women's Correctional Institution in Medan—specifically those in the inmate and ward rehabilitation division—and through direct observation of the implementation of rights fulfillment for pregnant and breastfeeding female inmates within the facility. Secondary data were gathered through a literature review (documentary study) of relevant legislation—particularly Law Number 22 of 2022 concerning Correctional Affairs and Government Regulation Number 32 of 1999 concerning Requirements and Procedures for the Fulfillment of Rights of Correctional Inmates—as well as books, scientific journals, and prior research relevant to the subject matter. The data collection tools used in this study included a structured interview guide designed to elicit information from correctional facility staff, an observation sheet to record the conditions and facilities available to pregnant and breastfeeding inmates, and a review of relevant laws, regulations, and official facility documents. The collected data were then analyzed qualitatively to assess the alignment between the actual fulfillment of the rights of pregnant and breastfeeding female inmates and the provisions of applicable laws and regulations.

Result and Discussion

Terms related to law and criminal law feature in daily life, yet people often struggle to grasp the meaning of law in general and criminal law in particular. Criminal law focuses on unlawful acts—whether they are currently occurring or anticipated. It functions effectively only when supported and implemented by law enforcement agencies, which work to address criminal disturbances in society through both preventive and repressive measures.⁴

⁴ Moh Hatta, *Beberapa Masalah Penegakan Hukum Pidana Umum dan Pidana Khusus* (Yogyakarta: Liberty Yogyakarta, 2009), hlm. 26.

The protection of rights for pregnant and breastfeeding female inmates is specifically regulated in Article 20 of Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates. This article governs matters related to the Right to Supplementary Food: pregnant and breastfeeding inmates are entitled to supplementary food in accordance with a doctor's instructions; the Right regarding Children: children of inmates who are born in the correctional facility or brought into the facility are entitled to supplementary food based on a doctor's instructions; and the Child Age Limit: the provision of supplementary food for such children is granted until the child reaches the age of 2 (two) years.

The system for the treatment of pregnant female inmates in correctional institutions in accordance with applicable regulations, as well as the forms of legal protection and rights afforded to them while incarcerated in Indonesia.⁵

Legal protection for the rights of female inmates includes preventive legal protection; this form of protection consists of preventive measures taken by correctional officers to address discrimination among inmates, specifically measures regarding security and order as mandated by law. Regulations concerning the exercise of female inmates' rights are set forth in Government Regulation Number 32 of 1999 regarding the Requirements and Procedures for the Exercise of Rights of Correctional Inmates; Article 20 stipulates protections for pregnant female inmates and their children, stating, among other things, that:⁶

1. Inmates and correctional wards are entitled to receive supplementary food (*extra food*) in accordance with a doctor's instructions;
2. Children of inmates who are cared for within the correctional facility are also entitled to supplementary food in accordance with a doctor's instructions, up to a maximum age of 2 (two) years;

⁵ Tirsia D.G Ticoalu, "Perlindungan Hukum Pada Narapidana Wanita Hamil Di Lembaga Pemasyarakatan", *Jurnal Lex Crimen*, Vol: II, No. 02, (April-Juni, 2013) hlm. 126

⁶ Rahma Putri, Desy Kristiani, Anak Agung Sagung Laksmi Dewi, and Ni Made Puspasutari Ujjanti. "Peran Lembaga Pemasyarakatan Dalam Memenuhi Hak Narapidana Perempuan Hamil Dan Pasca Melahirkan." *Jurnal Interpretasi Hukum* 2, no. 3 (2021): 550–54

3. Children of inmates who have reached the age of 2 (two) years must be handed over to their fathers, their families, or other parties—subject to the mother's consent—with the handover recorded in an official report (*Berita Acara*);
4. In the interest of the child's health, the Head of the Correctional Facility may determine supplementary food other than that mentioned above, based on a doctor's recommendation.

Under Law Number 22 of 2022 concerning Correctional Affairs, the correctional system is implemented to guarantee the protection of the rights of detainees and children; to enhance the character and self-reliance of inmates—fostering an awareness of their wrongdoing, self-improvement, and the avoidance of recidivism so they may be reintegrated into society; and to protect the public from repeat offenses (Article 2). To achieve these objectives, correctional functions encompass services, rehabilitation, community guidance, care, security, and monitoring (Article 4), all carried out in an integrated manner alongside other law enforcement agencies. This implies that law enforcement in Indonesia does not conclude with the judicial process but extends to the rehabilitation and secure custody of inmates. In this context, inmates are placed in Correctional Institutions (*Lapas*); within these facilities, they receive guidance, direction, and security measures in accordance with prevailing laws and regulations. These functions are carried out exclusively by Correctional Institutions (*Lapas*), State Detention Centers (*Rutan*), Correctional Centers (*Bapas*), and State Confiscated Property Storage Houses (*Rupbasan*)—bodies and institutions authorized to execute judicial decisions. Notably, Article 61 of the Correctional Law identifies women—specifically regarding their reproductive role—as a group with special needs entitled to special treatment; this aligns with Article 62, which stipulates that a child of a female inmate—whether brought into the facility or born there—may reside with their mother until the age of three and must be accommodated specifically alongside her.

Research conducted at the Medan Class IIA Women's Correctional Institution indicates that the facility houses approximately 854 female inmates. Among them, four are currently breastfeeding their infants within the prison. While the number of breastfeeding inmates fluctuates over time—reflecting the turnover of the inmate population—their presence remains a matter of special

attention for prison authorities, given that their health and nutritional needs differ from those of the general inmate population.

The fulfillment of inmate rights is governed by Law No. 22 of 2022 concerning Correctional Affairs, which establishes the specific rights held by each inmate. Article 9, letter d, of the Law stipulates that every inmate is entitled to healthcare services and adequate food that meets nutritional requirements. Following pregnancy and childbirth, the next stage involves child-rearing. The Medan Women's Correctional Institution offers options regarding this: first, it determines whether the inmate's family is willing to care for the infant; if not, the inmate is permitted to care for the infant within the prison until the child reaches the age of three. Upon reaching the age of three, the infant must be handed over to the family.

Infants residing in the correctional facility also receive supplemental nutrition, healthcare services, immunizations, and infant-specific foods such as milk, porridge, and other baby foods. Furthermore, if the family is willing to care for the infant at home, the facility provides a "remote breastfeeding" service (*ASI Kaljar*); the mother pumps breast milk within the facility, which the family can then collect without quantity restrictions. Consequently, in cases where an incarcerated mother has a child under the age of three, that child is permitted to be brought into the facility and cared for there.

In addition to physical care, inmates are entitled to spiritual care. This spiritual care encompasses spiritual guidance and character education, as stipulated in Article 6, paragraph (1) of Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Exercise of Rights by Correctional Inmates. The regulation does not elaborate on the definition of "spiritual guidance," as the explanatory notes simply state that the term is "self-explanatory." In practice, spiritual guidance is interpreted as religious activities conducted by the correctional facility in collaboration with the local Ministry of Religious Affairs office and religious organizations. This is authorized under Article 5 of the aforementioned Government Regulation, which permits correctional facilities to collaborate with relevant government agencies, other civic organizations, or individuals whose activities align with the operation of the correctional system.

Conclusion

Pregnant and breastfeeding inmates receive special attention compared to other inmates. While they generally enjoy the same rights as other inmates—such as the right to worship according to their religion and beliefs, access to healthcare, visitation rights, and the provision of adequate, nutritious food—they are also granted additional provisions. These include enhanced nutritional intake and access to specialized health facilities, such as ultrasound services to monitor fetal development. This confirms that the fulfillment of their rights aligns with applicable Indonesian laws and regulations. Regarding facilities for pregnant and breastfeeding inmates, the study found that they are provided with services such as health check-ups by prison doctors in the facility's clinic, prenatal ultrasounds, delivery services, and immunizations for their children at hospitals designated by the correctional institution. Breastfeeding inmates receive supplements to boost milk production and extra nutritional support, particularly those facing difficulties with breastfeeding. These health services are funded by the state. Nevertheless, certain facilities remain unavailable within the correctional institutions; for instance, there is a lack of dedicated lactation rooms, and pregnant inmates are not housed separately from other inmates.

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Author Contributions Statement

AA, contributed to the conceptualization of the study, data collection, data analysis, and manuscript drafting. NS contributed to the methodology, validation, and manuscript revision. All authors have read and approved the final version of the manuscript.

AI Usage Statement

The authors declare that the use of Artificial Intelligence (AI) in this research was limited to supportive functions, such as language editing, grammar checking, and improving clarity and readability. AI was not used to generate the main ideas, conduct substantive analysis, interpret data, or draw scientific conclusions. The authors take full responsibility for the originality, accuracy, and academic integrity of the entire content of this article.

Conflict of Interest

The authors declare that there is no conflict of interest regarding the research and publication of this article.

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