

IDEAL FOSTERING CONSTRUCTION FOR PRISONER IN DETENTION CENTER BASED ON JUSTICE VALUE

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ABSTRACT

The purpose of this research is to formulate ideal construction of prisoners in custody based on the value of justice. In this research the approach method used was the method of sociological juridical approach. Data used were primary and secondary data. Analysis of data was analytically descriptive. The results of the study found that the ideal construction of the value of guidance of prisoners in the house of state custody based on the value of justice and Construction ideal of legal norms. The ideal construction of the value of fostering inmates in Rutan (prison) on the basis of the value of justice is to realize the guidance of prisoners which protect human rights, guarantee the presumption of innocence and treatment according to the dignity as human beings. The ideal construction of its legal norms is by changing the provisions of Article 4 (2c) and Article 41 paragraph (1) of Government Regulation No. 58/1999 on Terms and Procedures for the Implementation of Authority, Duties and Responsibilities of the Prisoners.

Keywords: Ideal Construction, Fostering of Prisoners, Justice

A. Introduction

The criminal law works as a regulating institution of society, and it has the duty to define the line between the action that is qualified in accordance with the criminal law and the disqualified action against the criminal law. The acts that violate criminal law are provided with criminal penalties, and accordingly, based on the authority of law enforcement tools, lawsuits and judgments may be filed in certain ways in accordance with applicable criminal penalties. A person who is sentenced to a prison sentence is a prisoner.¹

According to Soedjono Dirdjosisworo, inmates/prisoners are ordinary people—like other human beings—who violate the existing legal norms, then separated by a judge to serve a sentence. Furthermore Soedjono Dirdjosisworo argued about the definition of the convicted person is the person who was convicted of missing his independence and run his punishment in a certain and limited environment that brings the consequences of various sufferings that he wanted to avoid both physically and mentally². The prisoner according to Salimi Budi Santoso is a human being whose actions violate the legal norms, is then sentenced by a judge.³

Related to the problem of convicted person and prisoner Adi Sujatno stated that in the provision of Article 1 paragraph (6) of Law no. 12 of 1999 on Corrections stated that the definition of a convicted person is a person convicted based on a court decision that has obtained permanent legal force. Whereas in Article 1 paragraph (7) the Correctional Law is meant by prisoners is a convict who underwent loss of poverty in Penitentiary (LAPAS)⁴. Thus, the purpose of holding the prison as a place to accommodate the perpetrators of criminal acts is intended to make a deterrent (regret) and no longer commit a crime. The regulations are made hard, even often inhumane⁵. On the basis of this case, the imprisonment is the most frequently imposed by the judge's verdict, so that the condition deserves more attention and needs to be updated. According to Mulder in Dwidja Priyatno, "The politics of criminal law should always pay attention to the issue of renewal also in the issue of deprivation of liberty".⁶

¹ Bambang Poernomo, 1986. *Pelaksanaan Pidana Penjara Dengan Sistem Pemasyarakatan*. Liberty, Yogyakarta. hlm. 93

² Soedjono Dirdjosisworo, 1984. *Sejarah dan Asas - asas Penologi (Pemasyarakatan)*, Amrico, Bandung, hlm. 233

³ Salimi Budi Santoso, 1987. *Kebijaksanaan Pembinaan Narapidana dalam Pembangunan Nasional Berdasarkan Sistem Pemasyarakatan*, Dirjen BTW, Jakarta, hlm. 36

⁴ Adi Sujatno, 2004. *Sistem Pemasyarakatan Indonesia (Membangun Manusia Mandiri)*. Direktorat Jenderal Pemasyarakatan, Departemen Kehakimandan HAM RI, Jakarta, hlm. 12

⁵ C.I. Harsono HS, 1995. *Sistem Baru Pembinaan Narapidana*. Djambatan, Jakarta. hlm. 22

⁶ Dwidja Priyatno, 2006. *Sistem Pelaksanaan Pidana Penjara di Indonesia*. PT Refika Aditama, Bandung, hlm. 2

The Penitentiary Idea was first promulgated by Sahardjo, on July 5, 1963 in a speech conferring the HonorisCausa Doctorate degree in Law Science by the University of Indonesia. The following quotation of the speech is Sahardjo, arguing that:

"Under the banyan tree we have set up to become a counselor for the officers in fostering the prisoners, our prison criminal purpose is formulated: in addition to inflicting suffering on the inmates to repent, educating him to become a useful member of Indonesian society. Briefly the purpose of imprisonment is the penalization".

The idea was then further formulated as a system of guidance on inmates in Indonesia to replace the imprisonment system on April 27, 1964 at a conference of the Directorate of Corrections in Lembang Bandung. Penitentiary in this conference was declared as a system of guidance of prisoners and is a manifestation of justice that aims to achieve social reintegration Citizens PenasPenasit (WBP) in its capacity as individuals, members of society, and God's creatures.⁷

Based on the provisions of Law Number 12 Year 1995 concerning on the correctional, mentioned the definition of Correctional and Penitentiary System. Furthermore, in the provision of Article 1 point (3) of the Law on Corrections, it is mentioned Penitentiary Institution hereinafter called LAPAS is a place to carry out the guidance of Prisoners of Correctional⁸. Correctional task bridges the process of negative life between prisoners and the elements of society through fostering, a change to a positive life.⁹

In addition, the communities are responsible for the violation of the law, they must be directly included in the convict business and are encouraged to receive the prisoner who has been released from the Penitentiary as one of his citizens and assist him in his new life¹⁰. The above organizations and individuals can assist prisoners in solving difficulties concerning their families, work and so on. The way of association with such society above the community participates directly in the guidance of inmates.¹¹

The definition of fostering in general is a process of human use, equipment, money, time, methods, and systems based on certain principles for the effort to achieve the goals that have been determined with the utility and maximum results. Another notion of "fostering" is any effort or action that is directly related to the planning, preparation, development or development, direction, use and control of something in a useful and effective manner.¹²

Fostering is a major aspect in the penal system as a system of treatment for prisoners, so the pattern of implementation of fostering within the Penitentiary must be well executed so that the ultimate goal of the penitentiary system can be achieved. Regarding guidance within the Penal Institution, BambangPoernomo puts it as follows:

In-institution guidance is part of the penal system after being reduced by outside counseling, but in practice its implementation of such division of tasks is still carried out together because of lack of consideration of personnel and facilities. Particularly in the process of assimilation or integration desperately requires an educated security force, and the task of after care is only possible to proceed with a relatively large provision of funds. Guidance and guidance activities within the institution still need to be further developed in accordance with the meaning of the Indonesian penal system to increase efforts to create new patterns of prison implementation and treatment of new ways to prisoners in accordance with the principle of criminal renewal.¹³

In general, the fostering of the Prisoners aims to enable them to become fully human beings as those who have become the direction of national development through:

1. Strengthen their faith (mental endurance);
2. Fostering that they are able to interact naturally within the life of the group while in the Penitentiary and the wider life (community) after undergoing the punishment;

In particular, the fostering of the prisoners of the penitentiary is aimed at for the duration of the conviction and after completion of their crime:

1. Successfully reestablish self-esteem and self-confidence and act optimist of his future;
2. Successful acquire knowledge, minimum skills for supplies, able to live independently and achievement in national development;
3. Successful of being a law-abiding human being reflected in his disciplined and disciplined attitude and behavior and able to raise social conservatism;

⁷AdiSujatno, 2008. *Pencerahan di BalikPenjara. Dari SangkarMenujuSanggarUntukMenjadiManusiaMandiri*. Ed. Dalmeri. Teraju, Jakarta. hlm. 122- 123

⁸LihatrumusanPasal 1butir (1), (2) dan (3) Undang-Undang No. 12 Tahun 1995 tentangPemasyarakatan

⁹Adi Sujatno, 2004. *Op. cit.*, hlm. 14

¹⁰ H.R. Soegondo, 2006. *SistemPembinaan NAPI ditengah Overload Lapas Indonesia*.Lukman, (Ed.), InsaniaCita Press. Sleman –Yogyakarta. hlm. 3.

¹¹*Ibid.*,hlm. 4

¹² Tim Peneliti BPHN dan FISIP UI, 1988. *Aspek-aspek yang Mempengaruhi Penerimaan Bekas Narapidana dalam Masyarakat*. Laporan Penelitian, Badan Pembinaan Hukum Nasional Departemen Kehakiman, Jakarta. hlm. 16.

¹³ Bambang Poernomo, 1986. *Op. Cit.* hlm. 189-190.

4. Successful in having soul and spirit of devotion to nation and country.¹⁴

In the General Explanation of Law No. Law No. 8 of 1981 on the Criminal Procedure Code (KUHP), it is stated that "Everyone, suspected, arrested, detained, prosecuted and/or brought before the Court, shall be presumed innocent before a court decision, which declares his guilt and obtain a permanent legal decision ". As a consequence of this legal principle against a newly suspected person or accused of committing a crime even if arrest is held, detention for examination or has been prosecuted before the Court should not be treated as a guilty person before his or her fault is proven by applicable legal procedure. Against such a person shall not be unlawful acts, since as a legal person his / her rights are guaranteed and protected by law.¹⁵

According to TanuSubroto, the recognition of this principle in the applicable Criminal Procedure Code in our country is:

1. To provide protection and guarantee against a suspect or defendant who has been suspected or charged with a criminal offense in the process of examining criminal cases, in order not to be raped of their human rights.
2. To provide direction and guidance for law enforcement officers who conduct case checks and simultaneously restrict their actions in conducting the examination.¹⁶

YahyaHarahap stated that in order to recall the meaning of the suspects and defendants, it should be noted again the definition formulated in Article 1 paragraphs 14 and 15, Criminal Procedure Code which explains:

1. The suspect is a person who due to his actions or circumstances, based on preliminary evidence is suspected to be a criminal offender.
2. The accused is a suspect charged, examined and tried in court.

From the above explanation, YahyaHarahap further said, both suspects and defendants are people who allegedly committed a crime in accordance with evidence and real circumstances or facts. Therefore the person:

1. Must be investigated, and examined by the investigator
2. Must be prosecuted and examined before the court by public prosecutors and judges.
3. If necessary against the suspect or defendant, the act of force may be taken in the form of arrest, detention, suspension and seizure of the object in the manner prescribed by law.¹⁷

The detention house(Rutan) is the technical implementing unit where the suspect or defendant was detained during the investigation, prosecution and examination process in court (Decree of the Minister of Justice of the Republic of Indonesia No. M.02-PK 04.10 of 1990). The detainee is a suspect or defendant placed in the State Detention Center for the purpose of investigation, prosecution and examination at the Court (Decree of the Minister of Justice of the Republic of Indonesia No. M.02-PK 04.10 of 1990).¹⁸ The above view is certainly not to be blamed entirely, because so far the public itself has not got the picture of adequate information, as a result of a scientific study of the situation that occurred in Penitentiary (prisons). Therefore, there needs to be a proving effort that can answer various questions about the condition of prisons and detention. Are prisoners and prisons in their management very bad and degrading or otherwise vice versa, excellent in meeting the needs of its inhabitants?¹⁹ Based on the above description, then the researcher wants to examine how the reconstruction of ideal fostering inmates in the House of Justice prison based on the value of justice.

B. Research Methods

Based on the formulation of the above problems, it can be stated the purpose of research is to reconstruct ideal fostering in the prison based on the value of justice. Theoretical research significance of this study is expected to formulate a new theory in the field of material and formal criminal law, providing a real picture of the effectiveness of fostering of prisoners in the house of detention of KarisidenanKedu. The results of this study are expected to be useful as material/source of scientific information in the field law enforcement and crime prevention and can serve as a reference for future studies, as a comparison for similar researchers. Practically the results of this study are expected to provide benefits as input to the Directorate General of Corrections under the Ministry of Justice and Human Rights of the Republic of Indonesia in conducting fostering on prisoners. Making a positive contribution to law enforcement officers is as a reference for thinking in solving problems related to fostering inmates.

In this research the approach method used was the method of sociological juridical approach. The soci-legal approach is intended to study and examine the mutual relationship between law and other social institutions. Here the law is not conceived as an autonomous normative phenomenon, but as a social institution that is associated in real terms with other social variables²⁰. To obtain the data needed to compile the writing of this law, the research specification used in this research is descriptive analysis, ie

¹⁴DepartemenKehakimanRepublikIndonesia, 1990. *PolaPembinaanNarapidandanTahanan*, Puslitbang, Jakarta, hlm. 10

¹⁵ Tanu Subroto, 1984. *Dasar-dasar Hukum Acara Pidana*. Armico, Bandung. hlm. 19.

¹⁶*Ibid.*, hlm. 20.

¹⁷ Yahya Harahap, 2005. *Pembahasan Permasalahan dan Penerapan KUHP. Penyelidikan dan Penuntutan*. Edisi Kedua. Sinar Grafika, Jakarta. hlm. 330.

¹⁸AdiSujatno, 2008. *Op. cit.* hlm. 126 dan 127

¹⁹ArthaFebriansyah, dkk, 2014. *RealitasPenjara Indonesia, SurveiKualitasLayananPemasayarakatan (Wilayah Jakarta, Banten, Palembang, Yogyakarta dan Surabaya)*. Center For Detention Studies, Jakarta. hlm. 3

²⁰Ronny HanitijoSoemitro, 1988. *MetodePenelitianHukumdanYurimetri*.Ghalia Indonesia, Jakarta. hlm. 34-35

research that aims to obtain a clear and systematic picture of the state or facts that exist on the problems studied and studied as something intact²¹. Specification of this research is descriptive analysis in accordance with the problems and objectives in this study. Descriptive is not in a narrow sense, meaning that in providing an overview of existing phenomena done in accordance with research methods. The facts are illustrated with an interpretation, evaluation and general knowledge, since facts will have no meaning without interpretation, evaluation and general knowledge²². Sources of data used in this study include primary data and secondary data. Primary data is a research material in the form of empirical facts as behavior and result of human behavior. They are both in the form of verbal behavior (real behavior), as well as behavior that is documented in various behavioral results or records (archives). On the other hand, the secondary data is the existing data in library materials. Secondary data include documentation, books, and research results in the form of diary reports and so on.²³

C. Research and Discussion

Criminal reform in Indonesia is not defined as the abolition of imprisonment in the composition of criminal law, but attempts to seek new attempts to imprisonment and the treatment of new ways of prisoners colored by the basis of humanity, using methods, techniques, and social processes. The execution of imprisonment needs to be developed towards the renewal of the imprisonment with the penal system.²⁴

Manifestation and guidance of the convict in all aspects of his life and restrictions on his freedom of movement and association with the community outside the institution adapted to the progress of his attitude and behavior and the duration of his punishment must be lived. Thus, it is expected that the convicted person at the time apart from the institution, is really ready to live a good society again.²⁵

The concept of a growing social prerequisite in Indonesia suggests that the imprisonment in Indonesia is conducted by a penitentiary system, a statement in addition to the direction of destination, the move to prison may also be a way to foster and nurture the prisoners. From the concept then developed ten principles for guidance and fostering with correctional system.²⁶

The treatment of prisoners based on imprisonment system is not in accordance with Pancasila and the 1945 Constitution. In essence, the Prisoners of Correctional Institution as human beings and human resources must be treated well and humane in an integrated system of fostering in order to actively play a role in development, and can live fairly as a good and responsible citizen. Penitentiary system is a series of law enforcement that aims for the Prisoners of Penitentiary to realize their mistake, improve themselves, and not repeat the crime so that it can be accepted back by the society.

In relation to the fostering of the prisoners in the prison center, from the results of research in KarisidenanKedu Prison former territory (Kebumen prison, Purworejo prison, Wonosobo prison) obtained the following data:

1. Kebumen House of Detention

The general condition of KebumenPrison: the change of name of Lapas toRutan based on Ministerial Decree of Justice No. M.04.PR.07.03 Year 1985 dated September 20, 1985. Rutan building occupies a land area of 3,630 m2 with a building area of 3.140m2 located at Jln. Hero no. 163 Kebumen. The capacity of the residents of RutanKebumen per 2017 is 176 people.

Physical conditions to support the implementation of legal counseling and protection of discrimination against prisoners and prisoners:

- 1) The physical facilities owned by Rutan in the form of buildings and land
- 2) The means of safeguarding the security and security of the State Detention Center (Rutan)

The number of residential rooms at KebumenRutan entirely with details as follows:

- 1) Room of inmates: 7 rooms
- 2) Room of prisoners: 7 rooms
- 3) Room cell: 2 rooms
- 4) Blocks / children's room: 1 room
- 5) Female Block: 2 rooms

2. PurworejoHouse of Detention

The general condition of Purworejo prison: the change of name from Lapas into Rutan based on the decision of the minister of Justice No. M.04.PR.07.03 Year 1985 dated September 20, 1985. Rutan building occupies a land area of 3.418 m2 with a building area of 1,732 m2 located on Jln. May. Jen Sutoyo No. 61 Purworejo. The capacity of residents of RutanPurworejo per 2017 is 122 people.

²¹MuktiFajar ND, Dkk, 2010. *DualismePenelitianHukumNormatifdanEmpiris*, PustakaPelajar, Yogyakarta, hlm. 192

²² I.S. Susanto, 1990. *Kriminologi*. FakultasHukumUndip, Semarang. hlm. 15

²³*Ibid.*,

²⁴BambangPoernomo, 1986, *Pelaksanaan Op. cit.* hlm. 239

²⁵SoedjonoDirdjosisworo, 1984. *Sejarah Op. cit.*, hlm. 199-200

²⁶DwidjaPriyatno, 2006. *SistemPelaksanaan Op. cit.* hlm. 97

Physical conditions to support the implementation of legal counseling and protection of discrimination against prisoners and prisoners:

- 1) The physical facilities owned by Rutan in the form of buildings and land Hall, and mosque
- 2) The security facilities to maintain the security and detention of the Rutan of barrier wall / razor wire

Number of residential rooms at Purworejo prison entirely with the following details:

- 1) Room of inmates: 16 rooms
- 2) Room of detention: 7 rooms
- 3) Room cell: 2 rooms
- 4) Children's Block / Room: -
- 5) Female Block: 1 room

Daily activities of inmates and prisoners Rutan Purworejo: in the morning is for sports (Tuesday and Friday) at 08.10 WIB Dhuha prayer and recitation 07.30 - 09.00 WIB. In the daytime is independence, and evening is for prayer and the relaxation.

Organizational Structure of Rutan Purworejo:

Head of Rutan / Plt: Herdiana, Bc.IP, S.Sos
Kasubsi Management: Supriyanto
Kasubsi Service of Prisoner: Marjuki, A.KS
Ka. Security Unity: Teguh Budiyono, S.IP

3. Wonosobo Prison

The general condition of Purworejo prison: the change of name from Lapasinto Rutan was based on the decision of the minister of Justice No. M.04.PR.07.03 Year 1985 dated September 20, 1985. Rutan building occupies a land area of 3.418 m² with a building area of 1,732 m², the capacity of residents Rutan Wonosobo per 2017 a number of 77 people.

The position of Rutan is stipulated in Presidential Regulation no. 24. The duties of the Forests carry out the prison of prisoners and detainees Rutan Functions: perform services and care of prisoners/inmates, perform the maintenance of the security and order of Rutan, carry out organizing elements and household.

Physical conditions to support the implementation of legal counseling and protection of discrimination against prisoners and inmates:

- 1) The physical facilities owned by Rutan in the form of buildings and land Hall, and Musola
- 2) The security facilities to maintain the security and detention of the Rutan of barrier wall / razor wire

Number of residential rooms at Purworejo prison entirely with the following details:

- 1) Room of inmates: 8 rooms
- 2) Room of detention: 4 rooms
- 3) Room cell: 1 room
- 4) Block / quarantine: 1 room
- 5) Female Block: 1 room

In relation to the fostering of prisoners in some foreign countries, the following illustrates the description of the implementation of guidance of prisoners in several countries:

1. Imprisonment in Singapore

The Republic of Singapore has organized prison imprisonment by imitating the system in the UK. Under the terms of Prison Act No. 14 Year 1969, then the implementation of prison jail implementation with Correction system for rehabilitation purposes. Prison Act No. 14 of 1969 was the result of a change from the Prison Act of 1933 which was in conformity with the Penal Code of Singapore as a result of a new change of criminal law stemming from the British Straits Seeking Straits of Britain.²⁷

In this case the guidance of inmates in the institution (internal treatment) is less than the guidance of inmates outside the institution (external treatment). The Singapore government tends to embrace a criminal renewal system that leads to a new attempt at imprisonment on the basis of community treatment, although a new, more effective strategy to prevent crime in the form of such a system should be further considered.²⁸

Next T.T.B. Koh presents data in Singapore that illustrates that in 1970 of a number of crimes prosecuted as many as 3734 cases was only ± 165 people who were cut off with imprisonment. Detailed court rulings in the amount of 29.2% are subject to fines, 2.7% are subject to probation, 0.4% are required to enter the Reformative Training Center, and 4.7% are imprisoned. The decision strategy is Singapore's court policy by mimicking a system in the UK that uses a system of delays in prison implementation, for the reason that sending someone to jail is seen as the last choice.²⁹

²⁷Bambang Poernomo, 1986, *Op. cit.* hlm, 208

²⁸*Ibid.*, hlm. 209

²⁹*Ibid.*, hlm. 210

The success of prison reform in Singapore lies not only with the system of courts determined by the police, court and prison personnel, but also by adequate conceptions and facilities. Conception of correction system has essence on change and control. Correction conception needs active interrelation between inmates and officers. While the provision of facilities to educate the skills of inmates is only available in the field of industry and educators for these skills are not easily obtained. In connection with the difficulties in renewing the new effort of imprisonment and the treatment of new ways to the prisoner, K.V. Veloo as Chief Probation and after care Officer in Singapore stated that the main means to be able to change the behavior of the convicted person is the interpersonal relationship and the guidance officer.³⁰

2. The Prison System in Malaysia

The organizational structure within the Malaysian Department of Prisons (Jabatan Penjara Malaysia) is under the Ministry of Home Affairs (The Ministry of Home Security). The Ministry of Home Affairs of Malaysia has authority in terms of policy-making relating to the fostering of offenders in Malaysia. The Director-General of Malaysia's Prison is responsible to the Minister through the Secretary-General of the Ministry in terms of discretion, supervision, and overall control related to punishment in Malaysia. The Director General oversees the Headquarters of the Jail which also oversees two deputy director-generals and several division chiefs. At the regional level, each institution is headed by a director, senior superintendent, or superintendent depending on the size of the institution and the number of prisoners.³¹

The Malaysian prison term is the last institution in the criminal justice system (criminal justice system) in Malaysia. The Malaysian prison office manages about 47 institutions, covering the following institutions:

- a. Jail;
- b. Center for Recovering Morals (Rehabilitation Center for Narcotics Addicts or Drugs);
- c. Detention Center;
- d. Unlicensed Migrants Depot (Illegal Immigration Detention House)
- e. Henry Gurny's School (a school for bad boys).

The main objectives of the Malaysian Prison Office include the following:

- a. Carry out the responsibility in ensuring the safety of the state through the safe detention and execution of punishment in harmony with the objectives of the criminal justice system (*Sistem Keadilan Jenayah*);
- b. Carry out a systematic and dynamic fostering program to form responsible individuals, knowledgeable, skilled, and able to become useful citizens after returning to society;

Malaysia's Prison Office's vision is to become a world-class corporeal organization in 2010. The Malaysian Prison Office's mission is to protect the community by providing safe detention and effective recovery programs.

While the duties of the Malaysian Prison Office are summarized in the following matters:

- a. Conduct detention in accordance with court order (the Court) or other authorities until the free period is reached;
- b. Ensure public safety by securing offenders within the prison;
- c. Providing fostering programs through various approaches to law-breakers so that they can return to society as law-abiding and socially productive citizens.³²

Prison inmates in Malaysia are referred to as *banduan* (prisoners or male prisoners) and *banduanita* (prisoners or female prisoners). *Banduan* and *banduanita* are law violations or laws, either sentenced (severed) or those who are undergoing a period of detention (reman). The *Banduan* and *banduanita* are grouped again in several groups, namely:

- a. Young *Banduan and banduanita* (B.M), who is less than 21 years old;
- b. The first *Banduan and banduanita*, the first law-breakers to commit a crime;
- c. Repeated bandits and bundles, law offenders who have repeatedly committed a crime (recidivist);
- d. *Banduan and banduanita dadah*, law offenders who have been sentenced for violating articles related to the misuse of drugs or narcotics (*dadah*).³³

The legal source for the implementation of the imprisonment administration in Malaysia is the 1995 Prison Act and the 2000 Prison Rules. Both are guided by the UN Minimum Rules Standards. The two basic laws of Malaysia's imprisonment impose that the primary purpose of imprisonment (which involves deprivation of liberty) is to ensure that upon completion of the crime, those offenders may return to society and work as ordinary productive citizens in general.

In its fostering, the principles of legality, humanity and uniformity apply to the administration of imprisonment across countries with the same standard of treatment for all inmates. It was said by AdiSujatmo³⁴, that the general principle can be briefly described as follows:

- a. Rules and discipline are applied explicitly but fairly, without any excessive restrictions other than for the purpose of establishing a safe and orderly detention of life in a prison society;

³⁰*Ibid.*, hlm. 211

³¹AdiSujatmo, 2008. *Op. cit.* hlm. 187

³²*Ibid.*, hlm. 188-189

³³*Ibid.*, hlm. 190

³⁴*Ibid.*, hlm. 191

- b. In monitoring the inmates, officers seek to influence them by modeling and leadership, thus creating a desire to cooperate;
- c. Fostering is given all the time to increase self-esteem and personal responsibility of prison dwellers so that their morale can be established, forming citizenship souls and good working habits, building their awareness to become useful citizens after completion of crime.

Fostering to lawbreakers is an integrated conspiracy effort that involves lawmakers themselves, prison officials, and the public. Presented by AdiSujatmo that in practice, the Prison Act prioritizes a fostering system based on the "training for freedom" philosophy based on 5 (five) basic ideas:

- a. The prison regime provides training to establish good moral and mental (positive) and work skills for all inmates in accordance with their criminal jurisdiction;
- b. Each prison institution must have (provide) facilities and personnel to ensure the training is carried out;
- c. Because experience proves that most of the prison inmates are accountable (trustworthy), then to them to the extent possible placed on institutions with minimum security or open institutions;
- d. Communities should be involved in supporting the administration of imprisonment so that the impression that lawbreakers are a 'wasted' society can be eliminated;
- e. Communities are also responsible for the continuity of fostering offenders by helping them to serve crime so that they can integrate effectively in society;

Jail in Malaysia rejects all forms of punishment in the form of forced labor (slavery) and other inhumane acts. Malaysia's prison rules also provide guarantees for the fulfillment of the rights of prison inmates, namely:

- a. Right to get wages;
- b. The right to rest for 16 (sixteen) hours a day and night off for one and a half days a week;
- c. Right to health services;
- d. Right to opportunity to correspond and receive parcels or other items, either by mail or other shipping services;
- e. Right to normal working hours;
- f. Right to a safe and healthy working environment;
- g. Right to get a visit from a legal counsel to ensure the legal rights of the occupant;
- h. The right to file a complaint if the services provided by the officer or the prison are not satisfactory.³⁵

The process of guidance of prison inmates (guides and guides) is carried out through three stages: the stage before the conviction, the stage of the Crime (the Stage of Restoration of the Sabitan), and the stage after the completion of the criminal (Recovery after Sabitan). The main orientation of fostering to lawbreakers is as an effort to rehabilitate, and not merely punitive acts. The fostering process within Malaysian prisons is directed at efforts to prepare lawless abusers to return to society as law-abiding citizens and become productive citizens.

The provision of basic education is also an integral fostering program in Malaysia. This is done because in general, prisoners are illiterate or do not pass primary education. Classes with a medium of instruction that English or Malay are led by professional full-time teachers. In each prison library facilities are also provided that provide both fiction and nonfiction books, as well as newspapers and magazines.³⁶

Recreation and outdoor activities are performed in addition to efforts to improve the physical and psychological health of the inhabitants, as well as to instill how to use healthy leisure time, reduce stress, anxiety, and avoid boredom. Therefore, every Malaysian prison institution is provided with indoor and outdoor recreational facilities such as soccer field, badminton, basketball, *sepaktakraw*, table tennis and chess. Prison residents are also given the opportunity to watch movies (cinema) and television, and listen to music. Community organizations are given the opportunity to sponsor sports events in an attempt to minimize feelings of isolation among the inhabitants.

Efforts to improve faith and the opportunity to practice the teachings of religion are also important fostering programs. The fostering program is seen as important in an effort to instill and raise moral and mental awareness. Therefore, all residents are given the opportunity to carry out their religious orders. Prison officers are seen as an important element in fostering efforts to the inmates of the prison. The key factor shown in each prison institution in Malaysia is a vigilant and sympathetic attitude and at the same time establishing professional standards of superior competence. Prison officers are provided with training to improve their professionalism and competence.

Prisoner guidance programs require facilities or facilities including educated and skilled manpower, good organization, adequate equipment, sufficient finances and so on. To support the success of guidance on prisoners, State Defense officers need to be equipped with knowledge about fostering by providing training to achieve quality standards in terms of education and expertise, especially in the field of skill development for prisoners, in addition to adding facilities that are still inadequate.

The ideal construction of criminal nursery is in a fair value-based creed, encompassing the ideal construction of values and legal norms. The ideal construction of the value of fostering inmates in Rutan on the basis of the value of justice is to realize the guidance of prisoners who protect human rights, guaranteed the presumption of innocence and treatment according to the dignity

³⁵ *Ibid.*, hlm. 192-193

³⁶ *Ibid.*, hlm. 193-194

and dignity as human beings. While the ideal construction of legal norms is to change the legal norms in the provisions of Article 4 (2c) of Government Regulation No. 58 of 1999 on Terms and Procedures for the Implementation of Authority, Duties and Responsibilities of Care The detainee reads that " c) the principle of protection and Article 41 (1) of Government Regulation Number 58 Year 1999 reads that "prisoners still have political rights and civil rights in accordance with applicable legislation". Construction Ideally being Article 4 (2c) of Government Regulation Number 58 Year 1999 states that the official of the detention in performing his duty shall pay attention to (c) biological practices and relationships with husband / wife and Article 41 (1) of Government Regulation Number 58 Year 1999 reads that " retains political rights and civil rights in accordance with applicable regulations and the right to obtain information with the family and other third parties through means of communication, such as Mobile "

D. Conclusion

The principles of guidance on prisoners in the current State Detention Center are based on the following concepts: protection, Equality of treatment and service, Education and guidance, Respect for human dignity and dignity, Loss of independence is the only suffering, Guaranteed things to keep in touch with the family and certain people. The concept of a penitentiary system aims to restore life, livelihood and livelihood relations between the Prisoners and the community. The ideal reconstruction of prisoners in prisons based on the value of justice, namely the legal aspect of the amendment to Article 4 paragraph 2c of Government Regulation No. 58 of 1999 with its reconstruction adds the right to have a biological relationship with the wife / husband. And the amendment of Article 41 (1) of Government Regulation Number 58 Year 1999 with its reconstruction adds the right to obtain information through the use of communication tools such as mobile phones.

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