CHAPTER IV

A. Detention System in Indonesia

Detention system is identical to the "jail" or coaching by detention. In fact, the main tasks and functions of detention system also include service to prisoners, care for confiscated goods, protection, and guidance to prisoners and detention clients. Therefore, sub-systems of detention (later called detention technical implementation unit) not only detention but also providing supervision for state prison inmates care, home goods storage for the state confiscated the belongings treatment of prisoners or who become evidence, as well as detention centers for training of prisoners and detention clients.[23]

In philosophy, detention is a criminal system that is far left philosophy of retributive (retaliation), deterrence, and resocialization. In other words, punishment is not intended to make the pain as a form of retaliation, is not intended to deter by suffering, and also do not assume that a person convicted as a lack of socialization. Detention philosophy in line with the social reintegration assumes crime is the conflict between the prisoners and the community. So punishment is intended to restore the conflict or convict reunite with his society (reintegration).[24]

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[23] Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.HH-OT.02.02 2009 on the Implementation of the Blueprint for Reform Prison System, 2009, Ministry of Law and Human Rights, the Directorate General of Detention, p. 11.

[24] Ibid, p.11

1. Guidance in Prison

Basically, the pattern of the detention system adopted in the Law No. 12 of 1995 concerning detention been widely adopted standard minimum rules for the treatment of prisoners. One concept that refers detention SMR is can be seen from the final goal of detention, where coaching and mentoring children of prisoners or criminal leads to the integration of life in the community. In the preamble of Law No. 12 of 1995 concerning of detention clearly stated that acceptance back by society and the involvement of prisoners in development is the end of detention administration. Coaching process prevailing in the detention system and the recognition of the principle that treatment is more humane than incarceration system that puts vengeance and deterrent effect.[25]

Goals of the Detention System is the establishment of prisoners become fully human, aware of the error, fix yourself, do not repeat the crime, returned civic, active in development, normal lives as citizens and responsible. While the function of inmates making fused (integral) with healthy and can play a role in society freely and responsibly. Interpreted the intent of the whole man as a prisoner or criminal child-directed human figure to its disposition to a relationship with God, a personal as well as the environment.

[25] Ibid, p.123

While commentators described as a healthy integrated rapprochement with the prisoners[26]

2. Some Regulations Concerning Health Service on Detention System

a. Cost of Treatment and Care Of Prisoners, Detainees, and State Child

Based on the Ministry of Health circular No. 1993 MK.00.S.J.V.0352 on Financing Treatment and Care Prisoners, Prisoners and the State Children. In accordance with the Joint Decree of the Minister of Justice of the Republic of Indonesia and the Ministry of Health of Indonesia No. 1987 and No. M.01.UM.01.06 Year: 65/Menkes/SKB/II/1987 on the Development of Public Health Efforts in State Prison and Detention Services are followed by Joint Decree of the Director General of the Ministry of Justice of the Republic of Indonesia of Detention and the Director General of Public Health Department of Health numbers: E.UM.01.06-66 and number: 1273/Binkesmas/DJ/VII/89 on Implementation Guidelines and instructions Technical Development efforts

[26] Ibid, p.123

in Public Health State Prison and Detention Services, we hereby inform the following matters:

1) In the guidelines has been established that in the case of detainees, prisoners and children need referral to the clinic state and if necessary to the government hospital or a private hospital, especially emergency cases sought to be freed from the cost or commuted as much as possible. If that is not possible then the cost of the examination / treatment can be attributed partly or wholly to the families or the elderly prisoners, child prisoners and the country concerned.

2) In connection with point 1 above, it is hereby confirmed that the detainees, prisoners, and children who are not able to state, funding and treatment in health centers and hospitals are not able to be treated as people in general in accordance with its social function.

3) A poverty letter to inmates, prisoners and children state that will be treated or cared for by doctors of RUTAN or LAPAS.[27]

b. Health Services for Detainees or Prisoners Who Are Not Able.

Department of Justice of the Republic of Indonesia, Directorate General of Corrections Number: E.UM.01.06-08 Year 1989 On Health Care For Detainees or Prisoners who are not able. That, pending the completion of the Implementation Guidance Joint Decree of the Minister of Justice of the Republic of Indonesia and the Indonesian Health Ministry numbers: 65/Menkes/SKB/II/1989 dated 6 February 1987 that is now being formulated in conjunction with the Department of Health on Health Development in the House of Detention and state detention institution, then you are hereby notified that the health services for patients detainees and prisoners who are not able their economic status may be granted for free of charge at the hospital that has been designated.

[27] Set of Legislation about Detention Care Sector, 2004, the Ministry of Health No.: 1993 MK.00.SJV0352 about Financing Treatment and Care Detainees, Prisoners and Children of State, Ministry of Justice and Human Rights of the Republic of Indonesia, Directorate General of Detention, Jakarta, p. 33-34.

And could be fulfill, such as:

(1). Submit letter of request to the office of district health department or health department to include personal data detainees / prisoners in question to get a recommendation.

(2). Bring these recommendations to the referral hospital devoted.

(3). Not able to carry a letter from the head of the prison/ detention center to hospital chief reference intended.[28]

B. The Results of Interview and Observation

Based on the results of interview to the prisoners at LAPAS Klas IIA Yogyakarta, consisted of 22 male and 6 female prisoners. States that, the environment in LAPAS are clean and well maintained. This caused some prisoners take turns cleaning the prisons in every day with the schedule and division of tasks that have been set by LAPAS officers. Participants are prisoners themselves, both in the men and women. This

[28] Set of Legislation about Detention Care Sector, 2004, the Department of Justice Affairs, Directorate General of Detention number: 1989-08 E.UM.01.06 On Health Care for Detainees / Prisoners Needy, the Ministry of Justice and Human Rights Affairs, Directorate General of Detention, Jakarta, p. 67.

also applies to any room where prisoners live a day, there are about three prisoners who in turns to clean their room every day. The room of male prisoners is divided into two, namely large and small. For large space, there are around 23 prisoners. As for the small, there are three prisoners until 7 prisoners. As a whole and as far as my observation in the LAPAS, environmental hygiene problems well preserved.

LAPAS also empower some prisoners who have been to clean the rooms where officers work every day, such as cleaning floors, windows, and toilets. In return, they were given a room that contains only three until four people, where they can get out before the clock out because of need to prepare all the equipment other prisoners. Their works makes drinks, prepared meals, and also clean LAPAS office in every day. This is done solely by LAPAS officers to establish awareness and also prisoners have high discipline.

In line with the above statement, in Article 2 of Law No. 12 of 1995 concerning Detention affirmed that, "hosted by the Detention System in order to form the prisoners become fully human, aware of errors, improve themselves, and not to repeat the offense in order to be accepted back by society, can actively participate in the development, and can live naturally as a good and responsible citizen".

1. Facilities

The existence of complete medical equipment should be supported with adequate experts. Other experts such as psychiatrists, psychology, teaching, cooking (chef), and legal advisors are also planned to be held in prisons. These experts should have a standard of expertise in their respective fields.[29] Based on the majority statements of prisoners, the health facility in prisons is good enough. This proven by presence of sufficient clinic has complete facilities and also have room for prisoners who required hospitalization were treated for illness, doctors should consider getting serious treatment. There are two clinics in the prisons, namely general clinic and dental clinic, and also have each doctors in their fields who serve them 24 hours a day.

The prisons action taken in accordance with the statement that also exist in the "Standard Minimum Rules for the Treatment of Prisoners" related medical services, which in Article 22 paragraph (1) which states:

> "At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health

[29] Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.HH-OT.02.02 2009 on the Implementation of the Blueprint for Reform Detention System, 2009, Ministry of Law and Human Rights, the Directorate General of Detention, p. 125.

administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality. "[30]

2. Treatment

Every morning officers always check the prisoners, to ascertain whether there are prisoners who are sick or not. Usually, if there is prisoner sick, officers will take them directly to the clinic for examination or its own initiative if it is in the mornings. However, if there is a prisoner sick at night, some of the prisoners said that the remains will be served. First, they told the officer, second officer asks prisoners complaints, third, officer will call the medical officer or an authorized physician for follow up complaints come the prisoners.

In line with statement above, in chapter 24, 25, and 26 "Standard Minimum Rules for the Treatment of Prisoners" related medical services, stated that:[31]

- Article 24

  "The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical

[30] *http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx* accessed on august 11, 2013 at 9.32 pm.

[31] Ibid.

or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

- Article 25

  (1). The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

  (2). The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

- Article 26

  (1). The medical officer shall regularly inspect and advise the director upon:

    a. The quantity, quality, preparation and service of food;

b. The hygiene and cleanliness of the institution and the prisoners;

c. The sanitation, heating, lighting and ventilation of the institution;

d. The suitability and cleanliness of the prisoners' clothing and bedding;

e. The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

(2). The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

If the illness suffered by the prisoners should be referred out of LAPAS, the authorized physician will provide prisoner's sick note issued by a local physician prisons, based on the Ministry of Justice of the Republic of Indonesia, Directorate General of Detention Number:

E-1986-22 PK.01.08 On sick note detainees or prisoners released by doctors at RUTAN or LAPAS.

The statement above has similarities to the "Standard Minimum Rules for the Treatment of Prisoners" related medical services, which in Article 22 paragraph (2) which states:

> "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers".[32]

For female prisoners, Polyclinics in prisons also give special attention to the checks reproductive health, and prisoners who are pregnant, those rights also stated in Article 23 paragraph (1), namely:

> "In women's institutions there shall be special accommodation for all Necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born

[32] Ibid.

in prison, this fact shall not be mentioned in the birth certificate".[33]

3. Management of Food

Management of groceries in LAPAS managed by the prisoners themselves as a chef who previously have been trained by LAPAS officers under the supervision of Sub Section BIMASWAT. The rules governing the procurement of food for prisoners/ detainees listed on the Department of Justice of the Republic of Indonesia Number: A.PL.03.06-110 of 1990 on the procurement for the BAMA / detainees, as follows:

> "Herewith we respectfully inform you that the Department of Justice has received a check book BEPEKA year 1988/1989, where there are problems of implementation of the budget of the findings of a routine in the prison / detention as those on pages 35 and 36 of the 25 items":
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> "The purchasing prices of food for the prisoners in a LAPAS institution (LP) were higher when compared with the market price. From inspection there are eleven LP purchase groceries at IDR. 771.23 million, the purchase price when compared to the market price, the higher is IDR. 102.98 million. This happens because the committee purchases less

[33] Ibid.

careful in doing research on the fairness of the price offered in partnership unit ".

In connection with the issue findings, prompted attention to the things you as follows:

1. "In the implementation of the procurement for the purposes BAMA prisoners / detainees in order to note the provisions, among others":

   a. Presidential Decree No. 29 of 198 on guidelines for the implementation of the budget;

   b. Circular Indonesian republic justice minister March 18, 1989 UM.01.06 number M.02-1989 on guidelines for prisoners costs BAMA / state detainees / child;

   c. Secretary general of the Justice Department telegram dated 5 March 1990 regarding the number A5.UM 02.03-12 unit cost price equalization BAMA.

2. Requirements that must be met in determining the winner of the auction by the head office / UPT candidate winning the auction by the committee, namely:

   a. offer is technically accountable;

   b. calculation of the price offered can be accounted for;

c. this offer was the lowest among qualified proposal.

3. In addition to the requirements listed in paragraph 2, it should be noted also:

   a. the average unit price of a per day should not be more than the number A5.UM.02.08-12;

   b. unit price of each type of food offered by the winner or potential winner of the first than the local market price;

   c. if there is one type of food offered unit price exceeds the local market, then head of the Office / Unit or negotiating committee should implement a minimum price equal to the market price list;

   d. negotiating the price would push the average unit price of a day, so the state will not be harmed as the BEPEKA findings.

4. To keep things that are not expected, then the detainees receipt needs to be checked again about his health

C. Discussion

In this paragraph, data on health care protection of prisoner taken from interviewee at LAPAS Klas IIA Yogyakarta, some

comments can be higlighted. First, health care protection of prisoner were better than before, it is proven by health service from medical office in LAPAS. Second, clinic has tried to meet the existing facilities and infrastructure in accordance with the minimum standards that have been set, but for isolation rooms for prisoners to be in isolation provides only limited room only. Third, all patients who were referred for checks out or treatment out of Lapas must be accompanied by a nurse and escorted by officers, after had received a recommendation from a doctor in Lapas. Fourth, there is health insurance, the clinic does not charge a fee for each service that is obtainable in Lapas. Both prisoners were treated at the clinic inside and outside of Lapas.

Head of LAPAS Klas IIA Yogyakarta said that, Basically the field of health care for prisoners is very important and in view of the serious problem because it involves the lives of many people. The pattern of health care in LAPAS Klas IIA Yogyakarta is based on Article 14 paragraph (d) of Law No. 12 of 1995 that "health care and decent food"[34], it is proven by the clinic that has adequate facilities are ready to serve the prisoners 24 hours a day.

And procurement of food for prisoners each day which is managed directly by the LAPAS, under the supervision of Mr.

[34]Interviewed with Head of Lapas Klas IIA Yogyakarta, Drs. Rudy CH. Gill, Bc.IP, was held on 24 August 2013 in Office of Lapas at 09.15 am.

Suwanjono, S.H. as Head of Sub Section BIMASWAT. Improvement in health care is one of concern of LAPAS officers to prisoners who live in it.

Ari Darmayanti[35] said, while the mechanism of health care for prisoners (detainees / Prisoners) in the LAPAS Klas IIA Yogyakarta, as follows:

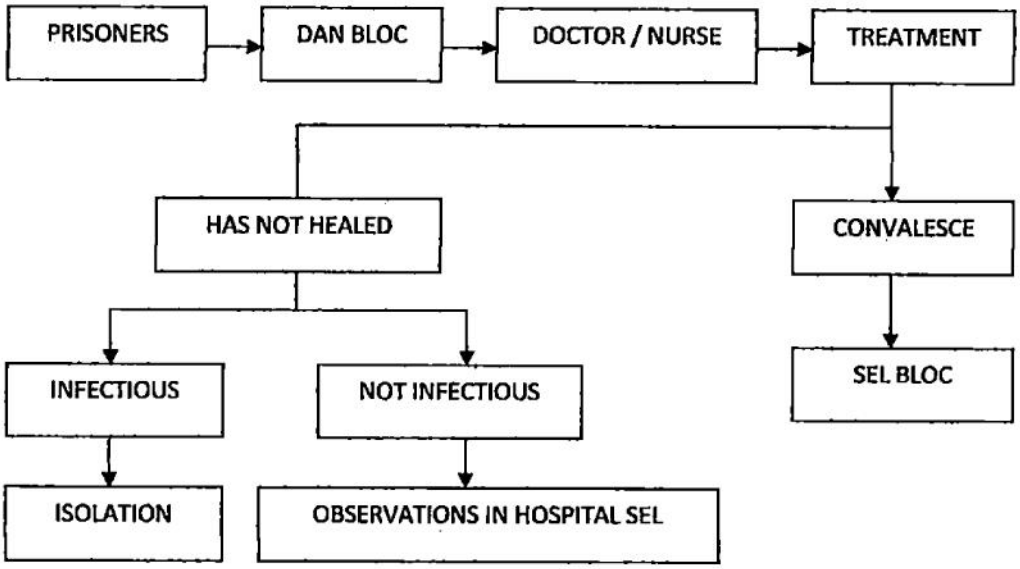

Table 1. Mechanism of Health Service in LAPAS Klas IIA Yogyakarta.

For prisoners who do not fulfill the process as described above, then the clinic has the authority to reject the prisoner. This conducted to prevent these undesirable things happen. So for prisoners who want treatment must have permission or the permission of the

[35] Drg. Ari Darmayanti is the Medical Officer, She Function to Keep the Health System in Lapas Klas IIA Yogyakarta.

commander who was on guard duty in their respective blocks. Mrs Ari said that this procedure is not intended to made complicate of inmates who want treatment, but rather to the prevention of the things unwanted happen, which will threaten the safety of others as well as yourself.

Based on the research, the right of health for prisoners in LAPAS Klas IIA Yogyakarta has been in accordance with the regulations related to the health of prisoners. This is because of in addition to implementing the existing regulations governing development in prisons, also many regulations adopted from "standard minimum rules for the treatment of prisoners".