

## Reconstruction of the Implementation of Imprisonment in Indonesia's Penalty System Based on the Value of Justice

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### Abstract

The right to receive remission and parole is a human right of prisoners while attending coaching during their prison term in Indonesia is still discriminatory as it has not been based on the value of justice because not all prisoners automatically receive remission or parole even while undergoing guidance in a correctional institution of good behavior. This encourages the author to conduct a study that raises the weaknesses of prison in the prison system in Indonesia currently and how to reconstruct the implementation of imprisonment in a system that has justice values. The research method used in this article is a non-doctrinal method with a constructivist paradigm. The results showed that the fulfillment of prisoners' rights, especially the right to remission and parole rights, was not based on the value of Pancasila justice. It is still discriminatory because it still combined the Integrative Theory with the Theory of Retaliation and not promoting humanity. Therefore, it is necessary to have reconstruction in Article 14 as an effort to fulfill the rights of prisoners. Where the rights of prisoners must be distinguished between absolute or absolute rights with relative rights. the practical implications of reconstruction of the fulfillment of prisoners' rights based on the value of justice in the context of rehabilitation, reintegration and must also through a restorative justice approach.

**Keywords:** Reconstruction, Imprisonment, Justice Value.

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### INTRODUCTION

Correcting the prisoner's behavior as the goal of imprisonment is a very humane concept; there is even an assessment that the idea is too advanced when compared to the untapped field of law currently. In subsequent developments, it turned out that it was not as fast as previously thought and it took decades to be implemented into the Republic of Indonesia's Law Number 12 of 1995 concerning Corrections as a substitute for the Dutch East Indies's 1917 Stb. 708, it turns out that it is not only enough to bring improvements to people who are imprisoned, even various incidents such as the escape of prisoners, riots that occurred in Correctional Institutions (Lapas), and the condition of prisons which was apprehensive because the number of prisoners exceeded the capacity and prisoners were infected with HIV disease can be prevented.

The Indonesian state, which is based on Pancasila, always carries out new ideas regarding the

function of punishment which is no longer just imprisonment, but also an effort to rehabilitate (repair, heal) and social reintegration of the prisoners that have given birth to a system of guidance called the prison system [1].

The correctional system is an order regarding the direction and boundaries and methods of fostering a correctional based on Pancasila which is carried out in an integrated manner between the coach, who is fostered, and the community to improve the quality of the prisoners in order to realize their mistakes, improving themselves and to not repeat the criminal acts anymore so that they can be accepted back by the community, and can play a role in the development of the society by living their life as a good and responsible citizen.

The correctional system in Indonesia currently, however, is a series of criminal law enforcement units as its implementation cannot be separated from the

development of a general conception of punishment. This means that the nature of punishment still departs from the principle and system of imprisonment which emphasizes the elements of revenge and detention [2]. This condition is seen as a system and means that are not in line with the concept of social rehabilitation and reintegration that unable to see the prisoner as a subject that is no different from other human beings who, at any time, can make mistakes that can be convicted.

The definition of Correctional Institutions (Lapas) according to law Number 12 of the year 1995, are places to carry out the development of prisoners and correctional students, while the definition of Correctional Assistance Citizens is prisoners, correctional students, and correctional clients who are convicted based on a court decision that has obtained permanent legal force.

Thus, LAPAS means that it only functions to carry out guidance for convicted persons who are serving a criminal loss of independence. Whereas in the KUHP system, the types of criminal loss of independence (Article 10 KUHP) include imprisonment (both life imprisonment and temporary imprisonment) and imprisonment. However, in reality, LAPAS is also inhabited by convicts who are sentenced to death and/or who have the status of state detention. So that with this fact, it means that LAPAS has performed a function that exceeds its main function, namely carrying out the guidance of prisoners. This problem arose because the regulatory aspect which is the basis for services for death row inmates has no specific regulations on death penalty services, while the provisions for Prisoners services already have regulations, which are regulated in the Regulation of the Minister of Justice of the Republic of Indonesia Number M. 04. UM.01.06 1983 concerning Procedures for Placement, Care of Prisoners and Rules of State Detention Centers.

The formation of Law Number 12 of the Year 1995 concerning Corrections, has a very important historical value in the history of Indonesian law because it puts the correctional system in place of the prison system. Law Number 12 of 1995 concerning Corrections replaces the prison system under the arrangement "Ordonnantie op de Voorwaardelijke Invrijheidstelling (Stb. 1917-749, 27 December 1917 jo. Stb. 1926-488), Gestichten Reglement (Stb. 1917-708, 10 December 1917), Dwangopvoeding Regeling (Stb. 1917-741, 24 December 1917) and Uitvoeringordonnantie op de Voorwaardelijke Veroordeeling (Stb. 1926-487, 6 November 1926) as long as they are related to correctional services, because they are not in accordance with the spirit of Pancasila and the 1945 Constitution. Because the ideology contained in the making of Law No. 12 of 1995 concerning Corrections, among others, are stated in the "Considering" section c, which states: "...that the correctional system as referred to in letter b, is a series

of law enforcement aimed at making the Correctional Assistants aware of their mistakes, improve themselves, and do not repeat criminal acts so that they can be accepted back by the community, can actively play a role in development, and can live their lives as good and responsible citizens;"

These noble aspirations, according to Sahardjo, are not fully supported by the promulgation of other laws and regulations that abolish imprisonment. Likewise in the Draft Criminal Code 2018 which is currently in the process of legislation in the Indonesian Parliament, imprisonment is still maintained as a type of crime, even though the sentencing objectives adopted by the Draft Criminal Code 2018 as regulated in Article 58 which states that:

(1) Criminalization aim is to:

- a. prevent Criminal Acts by enforcing legal norms for the protection and protection of the community;
- b. socializing the convicted person by providing guidance and guidance to become a good and useful person;
- c. resolve conflicts arising from Criminal Actions, restore balance, and create a sense of security and peace in society; and
- d. foster a sense of remorse and relieve guilt in the convict.

(2) Criminalization is not intended to torment humans and degrade human dignity.

As a post-colonial country, Indonesia's legal system cannot be separated from past experiences of the transplantation of Dutch colonial law in making its economic exploitation effective. Even though it has proclaimed itself as a sovereign state but the legal system used is still a legacy of Dutch colonialism, this gesture was emphasized by various dictums to function the remnants of colonialist law in terms of filling in the void of national law to regulate the entire Indonesian society.

The goal of the prison system is of course not the same as the correctional system, meaning that if the type of punishment is imprisonment, the system that is enforced should also be a prison system, not a guidance system. Thus, the correctional system that is currently in place is not yet protected by a just law. This problem is what urges the author to study it further in a research with the following issues:

1. What are the weaknesses of the imprisonment penalty in the prison system in Indonesia currently?
2. How is the reconstruction of the implementation of the imprisonment penalty in the prison system in Indonesia that is based on justice value?

## METHOD OF RESEARCH

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis

of the understanding that lay observation and objectivity in finding a reality or science knowledge [3]. Paradigm also looked at the science of social as an analysis of systematic against Socially Meaningful Action through observation directly and in detail to the problem analyzed.

The research type used in writing this paper is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach method used in this research is Empirical-Juridical [4], which is based on the norms of law and the theory of the existing legal enforceability of a law viewpoint as interpretation.

#### **As for the source of research used in this study are**

1. Primary Data is data obtained from information and information from respondents directly obtained through interviews and literature studies.
2. Secondary Data is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, the author use data collection techniques, namely literature study, interviews and documentation where the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data [5]. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

## **RESEARCH RESULT AND DISCUSSION**

### **1. Weaknesses of the Imprisonment Penalty in the Prison System in Indonesia Currently**

Efforts made by law enforcement officers in implementing crime prevention strategies as an effort to protect the public are carried out by using preventive, repressive, and curative measures in the framework of law enforcement. The field of law enforcement is very broad, it is not only concerned with actions if a crime has already existed or there is a suspicion that a crime has occurred, but also protects the citizen from the possibility of a crime where actions that are taken by law enforcement officials in the matter of overcoming crime with preventive action (prevention) involved many bodies such as the legislators, police, prosecutors, courts, civil service and officials for criminal execution as well as ordinary people.

The process of awarding a crime in which these bodies each have a role can be viewed as an

attempt to prevent the person concerned and society in general from committing a crime and the agency that has the direct authority and obligation to prevent this is the Police.

Law enforcement officials in the prevention of crimes are repressive actions, while what is meant by repressive actions are all actions taken by law enforcement officials after a crime has occurred. Repressive action can also be viewed as prevention in a broad sense.

Criminal is suffering deliberately imposed by the state on a person who commits a prohibited act (a criminal act). Penal is a reaction to many offenses that are given to them in the form of sorrow that the state deliberately inflicts on offenders and is also formulated in the written law.

The system of sanctions in the Criminal Code of a nation reflects the culture of the people of that nation. This is in accordance with the view that the most important part of the Criminal Code of a nation is the system of sanction because the system will reflect the socio-cultural values of the nation. So that the more repressive the criminal formulation in the Criminal Code is, will give the meaning of the more repressive the nation's people are in giving reactions to the perpetrators of criminal acts will be.

Repression is not only meaningful because of the seriousness of the criminal formulated, but also because the criminal threat formulation system, for example, is very imperative, does not have an alternative nature, and does not give the perpetrator the possibility of improvement. This statement can also be applied to child crimes. Thus, the more repressive the criminal sanctions formulated for children, the more repressive the nation's society will be in reacting to child delinquency. Traditionally, the theory of the purpose of punishment can generally be divided into 2 (two) groups of theories, namely the absolute theory and the relative theory. According to Walker, as quoted by Cavadino and Dignan [6], the theory of the purpose of punishment that is often discussed is retributive to punish perpetrators and reductivists to reduce the level of crime in society.

The development of retributivists and reductivists is a combination of retributives and reductivists, as Cavadino and Dignan explain that the two most frequently cited justifications for punishment are retribution, and what will call reductivism. Retributivism justifies punishment on the ground that it is deserved by offender; reductivism justifies punishment on the ground that it helps to reduce the incidence of crime. Various other theories also exist, some of them combining elements of both retributivism and reductivism.

Punishment is needed in the formulation of the criminal law to determine the nature of humans, which, according to Franz von List quoted by Bambang Purnomo [7], who posed a problematic nature of crime, that is protecting interests by attacking other interests. And according to Hugo de Groot who was also quoted by Bambang Purnomo who stated that evil suffering befall due to evil deeds.

As mentioned above, some argue that crime is a means of retaliation or is based on absolute theory. And there are those who argue that crime has a positive goal or is based on objective theory, and there are also opinions that combine the two theories of the purpose of punishment.

Various thoughts emerged regarding the benefits of punishment, so that several theories and concepts of punishment emerged, including:

- a. Retributive Theory (Retribution Theory) or the Theory of Retaliation, the prison sentence which is known in Indonesia today is contained in Article 10 of the Criminal Code which is a form of various theories that believe in the benefits of a sentence where punishment as a form of suffering that is deliberately given to the perpetrator of a criminal act turns out to have different benefits.
- b. Theory of Prevention, where sentencing as an effort to make a deterrent to prevent the recurrence of a crime is the basic idea of deterrence, meaning that the purpose of punishment is a means of prevention.
- c. Rehabilitation Theory, the imposition of punishment to the perpetrator of a crime, is not only seen as a retribution for an act that is detrimental or detrimental only, but there is a certain use, namely, in its implementation where it is not corporal punishment, but a loss of independence, thus it can be said that someone is placed in a certain place with the intention of limiting a person's freedom where the aim is to reform the perpetrator of a crime so that he can behave appropriately by instilling the prevailing norms in society, or it can also be said that the punishment for a person who is a criminal offender aims to rehabilitate his behavior.
- d. Abolitionist theory, The existence of an abolitionist movement, namely dissatisfaction with the results achieved from the sanctions in the form of imprisonment, in fact, encourages a movement that forms a free society, by eliminating imprisonment as a reflection of punitive thinking. Meanwhile, according to Gregorius Aryadi [8], the abolitionist group wants to abolish the criminal law, because it is no longer suitable to be maintained in a civilized society, as well as because it is deemed ineffective in preventing crime in society.
- e. Integrative Theory (Combined Theory), where Muladi [9] categorizes the purposes of punishment into 4 (four) objectives, including:
  1. Prevention (general and special).
  2. Community protection

3. Maintaining community solidarity.
4. Crime is reward/ balance

Until now, Indonesia has not yet set the goal of positive legal punishment as its legal umbrella but only a theoretical one put forward by legal experts, the purpose of the existing punishment is only the conceptual stage as conceptualized in Article 54 of the Draft Law on the Criminal Code of 2019. (Bill-KUHP 2019) as can be seen in the introduction.

The purpose of punishment in the draft Draft Criminal Code 2019, is contained in the letter a, b, c, and d of the "Considering" preamble of the Republic of Indonesia's Law Number 12 of 1995 concerning Corrections (Penal Law). In the 2009 Correctional System Implementation Blueprint, chapter II which has been described in the journal guidebook that philosophically, correctional is a criminal system that has moved far away from the philosophy of retributive, deterrence, and socialization. In other words, punishment is actually not intended to make suffering as a form of retaliation, it is not intended to deter suffering, nor does it assume the convict is someone who lacks socialization. Correctional facilities are in line with the social reintegration philosophy which assumes that crime is a conflict between the convicted person and the community. So that punishment (punishment) is aimed at restoring the conflict or reuniting the convicted person with the community (reintegration).

Thus the Weaknesses of Prison in the Correctional System in Indonesia is because Indonesia does not yet have a humane goal of punishment based on its positive law, which causes injustice in fulfilling prisoners' rights, especially the right to get remission and the right to get parole as it is still based on the combination of Integrative Theory with Retaliation Theory.

#### **Reconstruction of the Implementation of the Imprisonment Penalty in the Prison System in Indonesia That Is Based On Justice Value**

Article 1 point 5 of Law Number 12 of the Year 1995 concerning Corrections (Correctional Law) refers to prisoners as prisoners assisted by the prison (WBP), as a result of changing the terminology of prison into correctional facility or penitentiary (Lapas). Since 1964. The prison has been turned into a "Penitentiary". The principles of treatment of lawbreakers, convicts, and prisoners have changed from the principles of imprisonment to the principles of correctionalism which are later called the Correctional System.

Correctional means returning to society to become good citizens and becoming useful to society. The correctional system emphasizes the side of guidance, not retaliation so that the convicted person

can understand and realize his mistake so that after being returned to the community, he will not repeat the illegal act again. Therefore, Sahardjo in Achmad [10], as the initiator of a penitentiary, has argued since 1963 that violations of the law are no longer referred to as criminals, but as stray people.

At the beginning of the implementation of the correctional system, Sahardjo as the initiator of prisons has raised several obstacles in implementing the replacement of prisons into prisons, namely: (a) changing prisons according to the ideals of correctional facilities require a large cost; (b) there are still few correctional officers who understand the objectives of the correctional facility; (c) cost issues; and (d) there are still many people who are not accepting prisoners after leaving prison.

There are two different interests in the life of a correctional institution as a logical consequence of the acceptance of the concept of prisons, namely humanitarian interests for prisoners, who are obliged to attend re-education and re-socialization for the future of prisoners themselves, and the protection of society and the State who have been harmed. As a result, security and development interests must go hand in hand, even if they sometimes clash.

In line with the transformation of prisons into Penitentiary, the emphasis on the treatment of prisoners and children of criminals should have completely changed, because the basis has changed from retaliation to reformation. Because of this change, convicts and convict's children have been given various rights, such as the right to perform worship, receive care (spiritual and physical), education and teaching, health services and proper food, submitting complaints, receiving family visits, legal counsel, or certain other persons, reduced sentence (remission), assimilation (including leave to visit family), parole, and leave prior to release. These rights are given in line with the guidance or correctional process that has been carried out by the correctional institution [11].

Guidance in the correctional system is carried out based on the principle of protection, equality of treatment and service, education, guidance, respect for human dignity, loss of independence is the only suffering, and guaranteed the right to keep in touch with certain families and people. The prison system has been designed in such a way that in accordance with the concept of the originator of the prison, namely Sahardjo, that the loss of freedom (freedom) is the only suffering experienced by prisoners and criminal's children, while other rights cannot be reduced.

The penitentiary system is organized in order to form a WBP to become fully human, aware of mistakes, improve themselves, and not repeat crimes so that they can be accepted back by the community, can

actively play a role in development, and can live naturally as good and responsible citizens (Article 2 Correctional Law). Long before the Correctional Law was enacted, through the Correctional Directorate Service Conference in Lembang, Bandung on 27 April 1964, 10 Principles in the correctional system had been formulated.

Imposing a penalty is not an act of retaliation from the State, and because of it, any act of torture shall not be subjected to prisoners, whether in the form of actions, speech, treatment, or placement.

Repentance cannot be achieved by torture, but by guidance. Prisoners must be instilled an understanding of the norms of life and life, and be given the opportunity to reflect on their past actions. Prisoners can be included in social activities to foster a sense of community life.

The state has no right to make someone feel worse than before he entered the institution. Therefore, a separation must be made between recidivists and non-recidivists, who are lightly punished, the type of crime committed, adult, juvenile, child prisoners, and convicted prisoners.

During the loss of freedom of movement, prisoners must be introduced to and must not be isolated from society. Gradually, prisoners will be guided in the midst of society which is a necessity in the correctional process.

Work given to prisoners may not be time-consuming, or be reserved for the interests of the State at any time. The work given must be the same as work in the community and support efforts to increase production.

Guidance and education provided to inmates must be based on Pancasila. Education and guidance must contain religious education, including practicing worship, a spirit of mutual cooperation, tolerance, kinship, a sense of unity, a sense of Indonesian nationality, and a spirit of deliberation for consensus in a positive sense, prisoners must also be involved in activities for the common and public interest.

Prisoners are human and must be treated as humans even if they are lost. It is not permissible to show a prisoner that he is a criminal, so that the correctional officer may not behave or use words that can offend him.

Prisoners are only sentenced to lose their independence. It is necessary for prisoners to have a livelihood for their families by providing paid work. Prisoners are provided with the necessary educational institutions or given the opportunity to obtain education outside the institution.

It is necessary to establish new correctional institutions in accordance with the needs of program implementation and to move institutions located in the city center to a place that is in accordance with the needs of the correctional process.

If this guidance has shown results, namely that the convict and/ or criminal child has succeeded in returning to being a good human being through the correctional process, the prisoner and/ or child criminal can immediately be returned to the community. Various policies and rights granted to prisoners and/ or children of criminals (hopefully) will be able to encourage the correctional process to be better and faster. Good behavior is the main requirement in giving remission. While in the correctional institution this good behavior can be shown by actions that help the correctional institution's duties.

However, the program of guidance for criminal convicts and children as described above is constrained by the limitation of remissions for perpetrators of extraordinary criminal offenses. Where the remissions are not the same as for the perpetrators of ordinary crimes.

The moratorium on remission of prisoners who perpetrated extraordinary crimes, experts differ in opinion between those who think that withdrawal of remission is a violation of human rights, this opinion is represented by Yusril Ihza Mahendra and Ifdhal Kasim, Chair of Komnas HAM, and Deny Indra Jaya and Mahfud MD view that remission does not violate human rights [12]. The difference of opinion between the two camps shows that the formulation of articles on human rights in the Constitution and in other laws is still very abstract so that if one wants to seek benefits for the people, there must first be a dichotomy between people's justice on the one hand and justice for prisoners who commit extraordinary criminal acts, on the other. Or the human rights of the people and the rights of prisoners who commit extraordinary criminal acts. People have the right to be prosperous, the right to attend good schools/ colleges, the right to get a decent and dignified job according to their abilities and so on.

Voices or opinions that are contrary to remission for extraordinary crimes are caused by at least three things, namely The lack of understanding of the paradigm shift of prison into a correctional facility, the purpose of punishment that is no longer retribution but rather guidance (correctional), and that Criminalization is an effort to make prisoners or criminal children feel sorry for their actions and able to return to be a good citizen, obey the law, uphold moral, social and religious values, so that a safe, orderly and peaceful community life can be achieved.

The imprisonment system, which places great emphasis on retaliation for fines and imprisonment

through "prison houses", is seen as incompatible with the concept of social rehabilitation and reintegration, so that prisoners realize their mistakes, no longer desire to commit criminal acts, and return to being responsible citizens of the community and themselves and their families.

However, in reality, the sub-system of the criminal justice system is not working properly as People's sense of justice is disturbed as this can be seen in the process of assessing prisoners and children who are entitled to receive remissions. Lack of personnel and training facilities in prisons will result in difficulties in assessing, and as a result, the head of the correctional institution will result in difficulty in assessing, and as a result, the head of the correctional institution tends to take shortcuts to always be a member and it seems as if it is his duty to give (right) remission to convict and child criminal. Besides, it is often accompanied by the provision of a certain "price". This situation will be easily exploited by people or groups who have a lot of money, such as perpetrators of extraordinary criminal acts, to obtain maximum remissions. Especially for prisoners who commit extraordinary criminal acts, the behavior is to give money under their hands in order to obtain the maximum remission. The behavior of prisoners who commit extraordinary criminal acts is the opposite of prisoners who are penniless or poor.

The three things above, which are generally used as a basis or reason for refusing to grant remissions to prisoners who commit extraordinary criminal offenses, should not be used as an excuse to undermine the basic philosophy of prisons and their prison system. Correctional institutions must adhere to the 10 principles of the correctional in carrying out their duties.

Perpetrators of extraordinary crimes must receive the appropriate punishment. However, the commitment that has been built is to no longer apply crimes that are no longer in the form of retaliation, and change it to a correctional system, which is based on the 1945 Constitution of the Republic of Indonesia, which stipulates that the Republic of Indonesia is a rule of law that guarantees human rights with the principle of free and fair justice. Impartial, the moratorium on remission of perpetrators of extraordinary criminal offenses, including discrimination against convicts who have received sentences of less than 9 (nine) months who cannot obtain parole compared to convicts sentenced to more than 9 (nine) months, must be reconstructed.

The Correctional Law has provided and stipulated remission for every perpetrator of extraordinary criminal offenses, and every prisoner who has served more than 9 (nine) sentences can obtain parole, thus this provision becomes discriminatory, because the convicts sentenced to less than 9 (nine) months of not obtaining or not being able to apply for

parole, but must be a pure criminal. In Article 14 article 1 letter i of the Correctional Law it is explained that inmates are entitled to a reduction in the sentence (remission). However, in the Government Regulation of the Republic of Indonesia Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Prisoners, as a derivative regulation of the Corrections Law, it turns out that it eliminates the rights of prisoners who commit extraordinary crimes to get remission as well as other convicts.

Based on the theoretical description and empirical juridical data as stated above, in relation to the implementation of imprisonment in the correctional system in Indonesia, especially with regard to the rights of prisoners as regulated in Article 14 of Law Number 12 of 1995 concerning Corrections (Correctional Law) In connection with the existence of discrimination in the provision of remissions and parole, Article 14 of Law Number 12 of 1995 concerning Corrections (Correctional Law) must be reconstructed by dividing the absolute rights and rights that can be applied for, against the rights that can be applied for, because of their nature that is an application, then the application can, of course, be granted and/ or rejected by the recipient of the application, namely the penitentiary of the Ministry of Law and Human Rights. Seeing the foregoing, the Reconstruction of the Implementation of Prison in the Correctional System in Indonesia which has the value of justice, as an effort to present Pancasila justice is needed as an effort to humanize humans, especially Pancasila justice for inmates, due to discrimination in granting remissions and parole. In realizing this, it is necessary to reconstruct Article 14 and the explanation of Article 14 of Law Number 12 of 1995 concerning Corrections, by reconstructing the

#### **Article into 3 (three) paragraphs, as follows**

(1) Prisoners have the absolute right to:

- a. perform worship according to their religion or belief;
- b. receive care, both spiritual and physical care;
- c. get education and teaching;
- d. get proper health services and food;
- e. submit a complaint;
- f. obtain reading material and follow other mass media broadcasts that are not prohibited;
- g. get wages or premiums for the work performed;
- h. receive visits from family, legal counsel, or certain other people;

(2) Prisoners have the right to apply as a relative right to:

- a. get a reduced sentence (remission);
- b. get the opportunity to assimilate including leave to visit family;
- c. get parole;
- d. get a leave-permit before being released; and

- e. obtain other rights in accordance with the prevailing laws and regulations.

(3) Provisions regarding the terms and procedures for the implementation of the rights of prisoners as referred to in paragraph (1) shall be further regulated by a Government Regulation.

## **CONCLUSION**

1. The Weaknesses of the Imprisonment Penalty in the Correctional System in Indonesia is that it does not yet have a correctional objective in its positive law which caused injustice in fulfilling the rights of prisoners, especially the right to get remission and the right to get parole as it still combines the Integrative Theory with the Theory of Retaliation even though the law should prioritize human values.
2. The legal reconstruction as referred to is in Article 14 and the Elucidation of Article 14 of Law Number 12 of 1995 concerning Corrections, by reconstructing the Article into 3 (three) paragraphs which prioritize human values so that the implementation of imprisonment for the convicted person can be in accordance with the value of justice.

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