

APPLICATION OF CONJUGAL VISIT IN THE INDONESIAN STATUTORY SYSTEM FOR CORRECTIONAL ASSISTED PERSONS

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Abstract: The problem of meeting the sexual needs or biological needs of prisoners is a problem that is often the cause of chaos in prisons. The non-channeling of these needs sometimes causes the inmate's emotions to become uncontrollable. In Indonesia, some provisions allow married prisoners to gather with their families through CMK (Family Visiting Leave) as stipulated in the Decree of the Minister of Justice of the Republic of Indonesia Number: M.01-PK.03.02 of 2001 concerning Family Visiting Leave for Prisoners. This regulation provides an opportunity for married inmates to go to their family's residence for 2 (two) days or 2 x 24 hours to allow the married prisoner to meet his sexual needs while taking time off. However, in practice, these regulations have yet to be maximized because this is often used by officers and has become a topic of discussion in the mass media. Various opinions and studies mention the need for prisoners to be given this right, one of which is the Conjugal Visit policy. Conjugal Visit is also often referred to as the "*Romance Chamber*". Based on this, researchers are interested in researching how the Indonesian Law Regulation system regulates conjugal visits. The method used is the Normative Juridical method. They are namely answering problems through literature both primary, secondary and tertiary. The assumption found is that Cobjugal Visit has yet to be regulated and has no legal umbrella. However, this is a basic right for every human being having his status, whether he is a Prisoner or a free man.

Keyword: Conjugal Visit, Indonesia



INTRODUCTION

The problem of meeting the sexual needs or biological needs of prisoners is a problem that is often the cause of chaos in prisons. The non-channeling of these needs sometimes causes the inmate's emotions to become uncontrollable. In addition to impacting security and order inside the prison, a man who experiences obstruction in releasing his sex desires, as Dr. Boyke Dian Nugraha explained, can result in the person concerned committing sex deviance. Cases of sexually deviant behavior occur in prisons, such as anal sex or same-sex sex (homosexual).¹

The results of research in prisons and detention centers in six provinces throughout Indonesia conducted by the Center for Policy Assessment and Development for three months from May 4 to August 6, 2009, stated that deviations in prisoners' sexual behavior varied in terms of objects and ways of obtaining objects. The study addressed 326 inmates, 108 respondents consisting of the Head of Prison, Head of Development, Kabid Kamtib, Kasi Binadik, and Guardian of Prisoners, as well as 22 people including the families of prisoners showed results: 81 percent or 264 inmates said they felt uncomfortable when their biological needs were not met. In addition, as many as 78 percent, or 244 inmates, often fantasize about sex, 171, or 57 percent, masturbate, and 52 percent or 169 inmates engage in deviant sex activities or by breaking the rules.

Several other studies related to meeting the sexual needs of prisoners also mentioned some deviant sex activities or breaking the rules. According to research conducted by Soni Sofyan, as quoted by Fausia Isti Tanoso, there are several ways for prisoners to meet their sexual needs of prisoners in Sukabumi Class IIB Prison in 2005, namely:²

- (a) Secretly cooperate with officers so they can have sex with their wives, both inside and outside the prison. The popular term for having sex inside prisons among inmates is called "manggul". It is usually done after the staff officer's working hours and

¹ Aditya Yuli Sulistyawan, *Building a Legal Model that Pays Attention to the Sexual Needs of Inmates in Prisons: Study The Paradigm of Constructivism*, Journal of Legal Sciences, Vol. 4 No.1 home. 215

² Fausia Isti Tanoso, *Thesis Conjugal Visit Policy as a Fulfillment of Rights for Prisoners*, U Faculty of Law Universitas Indonesia, p. 56



completion of visiting hours and is carried out in the staff's workspace, warehouse, and bathroom.

(b) Other activities in reducing the tensions generated by the increased libido and the onset of stimuli that they sometimes create themselves as a result of being away from their wives or loved ones are:

a. Masturbation

- 1) It can be done yourself through readings and images that can arouse the prisoner's sexual arousal.
- 2) Through the help of others. Through the help of a wife or girlfriend during the visit. The inmate wears loose pants, and the inner pockets of the pants are cut so that when the hand is put in the pocket, it can immediately penetrate and hold the public because it is not wearing panties. This is done in the visiting room because visitors and inmates can make direct contact and sit next to each other or face to face, and it usually ends until the inmate reaches orgasm.

b. Having same-sex sexual intercourse

It is done in two ways, namely:

- 1) Carried out with violence, threats, and coercion,
- 2) It was done willingly. It is done by persuasion as if a man persuades a woman. Sometimes it takes time until the child wants to, as long as the series is given food or cigarettes.

The deviant sex behavior of the inmates inside the prison also affects the prisoners' health. They are having sex anally or through the anus, for example. Having sex in this way increases the risk of transmitting sexually transmitted diseases. Compared to other sexual activities, sexual activities that involve penetration into the anus have the highest risk of transmitting sexually transmitted diseases, such as HIV, genital herpes, genital warts, chlamydia, hepatitis B, gonorrhea, and syphilis. People who have sex through anal are 30 times more at risk of developing HIV than those who perform vaginal penetration. Exposure to



human papillomavirus (HPV) can trigger the growth of warts in the rectum to anal cancer. Unlike a lubricating-protected vagina, penetration in the anus can damage the tissues. Using lubricants will not prevent the risk of damage to the tissues of the anus. This condition also allows bacteria and viruses to enter the blood vessels easily, thereby accelerating the spread of sexually transmitted infections, including HIV. Although couples who have anal sex do not have sexually transmitted diseases, bacteria normally live in the anus, so they are at risk of infecting the partner. Sexual intercourse carried out from the anus and then moving to the vagina also risks causing bacterial transfer and triggering a urinary tract infection.³

In addition to affecting the security and order in prison and the health of prisoners, the disruption of meeting the sexual needs of prisoners (especially those who are married) also affects the harmony of the household of an inmate. The imprisonment of a person makes a husband have to leave his wife and family for some time. This condition makes a husband unable to fulfill his obligation to provide for his wife. Including the inner living and biological needs of his wife. If there is an opportunity for the prisoner to meet the sexual needs of his wife, of course, this will also help the prisoner maintain his marriage.

In Indonesia, some provisions allow married prisoners to gather with their families through CMK (Family Visiting Leave) as stipulated in the Decree of the Minister of Justice of the Republic of Indonesia Number: M.01-PK.03.02 of 2001 concerning Family Visiting Leave for Prisoners. This regulation provides an opportunity for married inmates to go to their family's residence for 2 (two) days or 2 x 24 hours to allow the married prisoner to meet his sexual needs while taking time off. However, these regulations have yet to be optimally used by officers and have become a topic of discussion in the mass media. So that results in the prisoner's rights being violated. Especially the basic thing.

Prisoners, as human beings, have the same position to enjoy their basic rights. The fulfillment of these rights has been stated in Law Number

³Young people Gave Prasasri, *Six Anal Dangerous Doctor Said Reason*, <https://www.liputan6.com/health/read/4154440/seks-anal-berbahaya-dokter-ungkap-alasannya> downloaded from www.liputan6.com at August 14 2020.



12 of 1995 concerning Correctional Services. Furthermore, the minimum requirements in the development of prisoners are set forth through the *Standard Minimum Rules for the Treatment of Prisoners* that the United Nations has established in the First United Nations Congress on the Prevention of Crime and the Treatment of Criminals, held in Geneva in 1955 and approved by the Economic and Social Council through Resolution 663 C (XXIV) dated July 31, 1957, and Resolution 2076 (LXII) dated July 31, 1957. Resolution 2076 (LXII) dated July 31, 1957 (LXII) dated July 31, 1957, and Resolution 2076 (LXII) dated July 31, 1957, and Resolution 2076 (LXII) dated May 13, 1977.

Barda Nawawi Arif, as Fausia Isti Tanoso stated that imprisonment not only resulted in deprivation of freedom but also caused negative consequences for matters related to the deprivation of life itself. The negative consequences include depriving a person's normal sexual life, so there are frequent homosexual relationships and masturbation among convicts.⁴

In line with that, R. Soegondo mentioned that the sentence of imprisonment, in addition to experiencing suffering due to *the deprivation of freedom and independence (the deprivation of liberty)*, also experienced other sufferings after the prisoner concerned was placed in the prison, namely, among others, the following sufferings:

- (a) Loss of freedom of determination of will (*loss of autonomy*),
- (b) Kehilangan rasa aman (*loose of security*),
- (c) Loss of the right to own personal goods and services (*loose of goods and services*),
- (d) Loss of freedom of intercourse with the opposite sex (*loss of heterosexual relationship*).⁵

The fulfillment of the prisoner's sexual needs and the resulting impact of not meeting these needs are old problems that continue to be sought for answers. Various opinions and studies mention the need for prisoners to be given this right, one of which is with the *Conjugal Visit*

⁴ Fausia Same Tanoso, Op. Cit, hlm. 5

⁵ R. Soegondo, Thesis *Family Visiting Leave in the Correctional System (Penological Approach to Alternatives to Reducing Inmate Suffering Due to Revocation of Independence)*, Diponegoro University, p. 2



policy or intimate visits or the visit of the legal spouse of the prisoner into the Penitentiary so that the prisoner and his legal partner (his wife or husband) can have intercourse. It is agreed that it is one of the policy alternatives to meet the sexual needs of the prisoner. On various occasions and in writings in the media, this *Conjugal Visit* is also often mentioned as the "Romance Chamber".

Fausia Isti Tanoso, in the conclusion of his research, stated that *Conjugal Visit* is part of fulfilling rights for prisoners. This is reflected in the principle of a criminal conviction, not an act of state revenge in the point of the concept of correctional, which implies that against prisoners, there should be no torture in the form of actions, speech, means of treatment, or placement. The only suffering is the elimination of independence. In addition, the principle of prisoners as stray people human beings and they should be treated as human beings is also a principle that can be embodied in the application of *Conjugal Visit* because as it is known that human beings as beings who have diverse needs, and one of their basic needs is sexual needs. Even *the Standard Minimum Rules for the Treatment of Prisoners* emphasize that *special Attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interest of both or in other words needs to be given special Attention to improving and developing the relationship of the prisoner and his family in this case including the wife, for the common good that both want.*⁶

Another conclusion of his research states that *Conjugal Visit* needs to be applied in the Penitentiary. This is not reflected in the fact that sex is a basic human need. A person's desire to have sex cannot be "imprisoned" as physically the person goes into prison. Sexual deviance that occurs within the Penitentiary is a form of adaptation carried out by the occupant (prisoner) to meet his sexual needs. The application of *Conjugal Visit* is one of the fulfillment of rights for prisoners, this is not reflected in the fact that sexual needs are fundamental in nature.

Several things in the research that have been carried out mention the importance of *Conjugal Visit* to meet the needs of prisoners, but there

⁶ Fausia Same Tanoso, *Op. Cit*, p. 78



have been no studies that have tried to find a format for how the *Conjugal Visit* mechanism can be applied in prisons in Indonesia. This study is trying to find answers about this.

The complexity of the issue of the prisoner's right to have sex is certainly an interesting issue to study. So that researchers are interested in conducting research on how to regulate conjugal visits in laws and regulations in Indonesia. It is hoped that through such research, it will be able to find answers to existing problems.

THEORETICAL FOUNDATIONS

1) Conjugal Visit

Conjugal Visit is not really a term that is unfamiliar to be used in prisons. Literally, Conjugal Visit is: an opportunity for physical contact granted to a prisoner and the prisoner's spouse, usually in the form of an overnight stay at the prison. Thus, it can be said that Conjugal Visit is a very important factor in reducing homosexuality, improving the morality of prison residents, and in conjunction with family visiting programs and family visits is a promising factor in preserving marriage relationships.⁷

Conjugal Visit is a periodic legal intimate visit to which an inmate is entitled to his or her legal partner. This visit should be carried out in a closed room with facilities according to the purpose and purpose of the intimate visit. Several countries have implemented Conjugal Visit, including: United States, Australia, Brazil, Canada, Denmark, Germany, Ireland, Israel, Mexico, New Zealand, Russia, Spain, United Kingdom and Saudi Arabia. We must change the paradigm of prisons as places of wasted punishment as a place of 'second chance' for someone to get better in the future. Imprisonment does not mean that the human rights of an inmate should be oppressed.⁸

Di kutip dari Wikipedia, a **Conjugal Visit** is a scheduled period in which an inmate of a prison or jail is permitted to spend several hours or days in private with a visitor, usually their legal spouse. The parties may engage in sexual activity. The generally recognized basis for permitting

⁷ Ibid, p. 7

⁸Ninon Coemi, *Friendly Room in Prison*, downloaded from www.ninontalks.wordpress.com Saysnggah on September 18 2011



such visits in modern times is to preserve family bonds and increase the chances of success for a prisoner's eventual return to life after release from prison. Additionally, they serve as an incentive to motivate inmates to comply with the various day-to-day rules and regulations of the prison, and to avoid any infringement which might disqualify them from having a Conjugal Visit. The visit will usually take place in designated rooms or a structure provided for that purpose, such as a trailer or a small cabin. Supplies such as soap, condoms, lubricant, bed linens, and towels may be provided.⁹

Fausia Isti Tanoso in the conclusion of his research stated that *Conjugal Visit* is part of fulfilling rights for prisoners. This is reflected in the principle of criminal conviction, not an act of state revenge in the point of the concept of correctional, which implies that against prisoners, there should be no torture in the form of actions, speech, means of treatment or placement. The only suffering is the elimination of independence. In addition, the principle of prisoners as stray people is human beings and they should be treated as human beings is also a principle that can be embodied in the realization of *the Conjugal Visit* program because as it is known that humans as beings who have a variety of needs, and one of the basic needs is sexual needs. Even *the Standard Minimum Rules for the Treatment of Prisoners* emphasize that special Attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interest of both or in other words needs to be given special Attention to improving and developing the relationship of the prisoner and his family in this case including the wife, for the common good that both want.¹⁰

Conjugal Visit needs to be implemented in the Penitentiary. This is inseparable from the fact that sex is a basic human need. A person's desire to have sex cannot be "imprisoned" as physically the person goes into prison. Sexual deviance that occurs within the Penitentiary is a form of adaptation carried out by the occupant (prisoner) to meet his sexual needs.

⁹*Conjugal Visit*, downloaded from wikipedia.org, downloaded on the 1stAug 7, 2020

¹⁰ Fausia Same Tanoso, *Conjugal Visit Policy Thesis as a Fulfillment of Rights for Prisoners*, Faculty of Law UI, p. 78



The application of *Conjugal Visit* is one of the fulfillment of rights for prisoners, this is not reflected in the fact that sexual needs are fundamental in nature.¹¹

The *Conjugal Visit* policy or intimate visits or legal spouse visits of prisoners into prisons so that prisoners and their legal partners (their wives or husbands) can have intercourse, agreed to be one of the policy alternatives to meet the sexual needs of prisoners. On various occasions and writings in the media, this *Conjugal Visit* is also often mentioned as the "*Romance Chamber*".

The existence of *Conjugal Visit* is motivated by prisoners as human beings having the same position to continue to enjoy their basic rights. Prisoners are convicts who are serving a sentence and lost their independence in prisons as stated in Article 1 number 7 of Law Number 12 of 1995 concerning Corrections. Even though prisoners lose their independence, prisoners are still Indonesian citizens who must be protected by their basic rights. The rights of prisoners who must remain protected in the Indonesian correctional system have been regulated in Article 14 paragraph (1) of Law Number 12 of 1995 concerning Correctional Services. The article does not specify the right for inmates who have a family to obtain the fulfillment of their biological needs or the channeling of their biological desires while they are serving their sentences in prison. Denial of the existence of biological needs for prisoners is also a denial of the *state of nature* of a prisoner as a human being. In fact, one of the ways for prisoners to get the fulfillment of their biological needs or the distribution of their biological desires is to use the Right to Leave to Visit The Family which is regulated in Article 35 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2013 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave before Release, and Conditional Leave.

Inmates who have a family will automatically be separated from their legal partners while serving their sentences in prison. When the prisoner is separated from his legal partner for a long time, there can be a

¹¹ Ibid, p, 79



lack of communication, feelings of loneliness, so that they cannot enjoy the company of their legal partner. This will risk the infidelity that will be carried out by the prisoner's legal spouse, because of the non-fulfillment of the needs of the husband and wife in the household so that they find a way to meet their biological needs with others. The prison itself does not have the facilities and infrastructure to meet the biological needs of prisoners to meet their legal partners in terms of channeling their biological desires. Everyone who is in prison has a different reaction in meeting their biological needs, because between one prisoner and another prisoner will be different in controlling their biological needs. Some people can control their biological needs well, and there are some people who tend to even suppress their biological needs so that they cannot control their biological needs well.

The provision of biological facilities to meet the biological needs of prisoners is not solely to pamper prisoners but what needs to be remembered is that this gift is a form of *reward* for prisoners, in terms of consideration of the attitudes and behaviors of commendable prisoners while serving their sentences in prisons, and the provision of biological facilities facilities is an application of human rights, where when talking about the rights of prisoners, it cannot be separated from prison principles, one of which is the principle of criminal conviction is not an act of state revenge in the point of the concept of correctional which means that against prisoners there must be no torture in the form of actions, speech, treatment methods or placement. The only suffering is the elimination of independence. The realization of a healthy and comfortable biological means program is one of the things related to the non-torturous way of treatment. In addition the principle of prisoners as stray people is human beings and they should be treated as human beings is also a principle that can be realized in the realization of a program of healthy and comfortable biological means because as it is known that the human being as a being has diverse needs, and one of its basic needs is the sexual needs that belong to the biological needs.

It is therefore fitting that what Rawls said that what argues that what causes injustice is social sites so it is necessary to re-examine which principles of justice can be used to shape a good society situation.



Correction of injustice is carried out by returning (*call for redress*) the community to the original position (*people on original position*). It is in this basic position that the *original agreement between* the members of society is then made as equal. The meaning is how the substance of justice can indeed be appropriately accommodated based on the arguments that the restoration effort is given appropriately and this is also one of the forms and forms through *conjugal visits* to prisoners.

RESEARCH METHODS

The research method used is a qualitative method through the normative juridical method approach, which is a method used by mastering the law for a certain problem and how to implement or apply these legal regulations. This normative juridical approach includes research on legal systematics, research on the degree of legal synchronization. Normative legal research, also called literature law research is research carried out by examining existing library materials, namely primary legal materials, secondary legal materials, and tertiary legal materials for subsequently these legal materials to be systematically compiled, studied and then drawn a conclusion in relation to the problem under study. The literature study in question is to inventory legal materials from various sources. The approach used in this study is *socio legal research*. The notion of *social legal research* is an approach that constructs law as a reflection of the life of society itself that emphasizes searches, empirical realities with consequences referring to written laws and also making observations of behavior that actually occurs. This approach mainly studies and examines the law and its implementation¹²(*law in action*), in this case the¹³ application of *conjugal visit* as a program for fostering prisoners in prisons.

RESULTS AND DISCUSSION

Conjugal Visit or *Bilik Asmara* had become a hot topic of discussion among Indonesians. Basically, *Conjugal Visit* as an inmate development

¹² Lexy J. Moleong. 2001. *Qualitative Research Methods*. Bandung : PT. Juvenile Rosada Works, p 4.

¹³ Ronny Hanitijo Soemitro. 1992. *Legal Research Methods*. Jakarta : Ghlmia Indonesia, 1992, pp 34-35.



program is defined as a model or reference used to update or build policies in fulfilling the rights of assisted citizens in a better direction.

Coaching itself can be viewed from two points of view, namely from the point of renewal and from the point of supervision. Coaching that comes from the point of renewal is to change something into a new one and have better values for future life. Meanwhile, coaching that comes from the supervision point of view is an effort to make something more in line with the needs that have been planned.¹⁴

Conjugal Visit until now has not been regulated in the laws and regulations in Indonesia. The *Conjugal Visit* program was previously contained in the 2009 Performance Accountability Report of the Ministry of Law and Human Rights as an achievement of performance results and was part of the program to improve the Performance of Judicial Institutions and other Enforcement Agencies. The policy assessment and development activities in the report are contained in the form of socialization of the results of a seminar held by the Ministry of Law and Human Rights entitled "Demands for Meeting Biological Needs in the framework of the Prisoner Development Process from the Aspect of Fulfilling Human Rights (*Conjugal Visit*). Furthermore, the Ministry of Law and Human Rights basically supports the existence of *Conjugal Visit* which is poured into a Family Visiting Leave program. Family Visiting Leave is essentially the only rule that can bridge for inmates to gather with their families. The main reason for granting the right to leave to visit the family is that it is intended for inmates to make adjustments from life in prison to community life, in addition to interacting directly with their family and legal partners. Although legally there are no specific rules regarding *Conjugal Visit*, the Ministry of HUKum and Human Rights continues to strive to develop a *Conjugal Visit* scheme. Until now, the *Conjugal Visit* discussion is still being held at the Center for Policy Assessment and Development of the Ministry of Law and Human Rights.

Efforts to reconstruct the provisions in guaranteeing the rights of prisoners who must remain protected in the Indonesian correctional

¹⁴ In its Heliany, dkk, *System Coaching inmate of institution Correctional Class I Cipinang Reviewed based on Law Number 12 Year 1995 about Correctional*, National Seminar Scholars ke5 Year 2019 p.3.



system must still be regulated in Article 14 paragraph (1) of Law Number 12 of 1995 concerning Correctional Services. The article does not specify the right for prisoners who have a family to obtain the fulfillment of their biological needs or the channeling of their biological desires during their sentences in prison. Denial of the existence of biological needs for prisoners is also a denial of the *state of nature* of a prisoner as a human being. In reality, one of the ways for inmates to get the fulfillment of their biological needs or the channeling of their biological desires is to exercise the regulated Family N GI Leave Entitlement in Article 35 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2013 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave.

In general, the mechanism for granting *Conjugal Visits* can be carried out just like family visiting leave, only because of its implementation in the Penitentiary. Narapidana who have met the requirements are entitled to propose a *Conjugal Visit*. *Conjugal Visit* is granted to inmates who have served 1/2 of the criminal term or are in the assimilation stage on predetermined substantive and administrative conditions. *Conjugal Visit* is also given within the time limit. Prisoners are required to show proof of marriage book, identity card (KTP) and also kk (family card) as stated in the administrative requirements. *Conjugal Visit* is given within a limited time in the prison, and is given at least once every 1 (one) month.

But of course, the provision of biological means facilities to meet the biological needs of these prisoners is not solely to pamper the prisoner. The provision of this facility is a form of reward for prisoners, in terms of consideration of the attitude and behavior of commendable prisoners while serving their sentences in prisons. Furthermore, the provision of biological facilities is also an effort to implement human rights, where when talking about the rights of prisoners, it cannot be separated from the principles of prisons, one of which is the principle of criminal prosecution, not an act of state revenge. It is stated in the correctional concept item that for prisoners there should be no torture in the form of actions, speech, treatment methods or placement. The realization of a healthy and



comfortable biological means program is one of the things related to the non-torturous way of treatment.

Sexual needs are basic human needs that are directly related to biological maintenance and survival. As has been stated by Abraham Maslow that the biological needs of the human being as the need to survive, failures in the fulfillment of one of the biological needs of the human being can generate an imbalance that can cause pain, since basically those needs are interconnected and affect. In prisoners, the fulfillment of sexual needs is obstacles to be distributed, this is because prisoners are convicts who are serving a sentence and lost their independence in prison so that the rights of prisoners have also been regulated in Article 14 paragraph (1) of Law Number 12 of 1995 concerning Correctional Services, which in the article does not explain the right for prisoners who have a family to get the fulfillment of their biological needs or the distribution of desires his biological as long as they serve their sentences in prison. The obstruction of meeting these needs will certainly cause anxiety and unrest for prisoners, where based on previous studies, it can be known that there are various ways that have been taken by prisoners to meet their sexual needs, including in ways that are not commonly done by society. This certainly creates unrest, and can be bad for the inmate himself, both mentally and physically. It is possible that the fulfillment of deviant sexual needs can result in the spread of disease, and not only that sex businesses such as prisons and detention centers that enforce biological spaces illegally should not be left alone because these circumstances will certainly make a difference between prisoners who have money and prisoners who do not have money in terms of using the room to channel their sexual desires and also the use of the room illegally would be bad for the integrity of the Correctional Institutions. Therefore, it is appropriate for the biological facilities program to be implemented in order to prevent deviations made both by prisoners and by individuals in prisons.

Therefore, the juridical reconstruction of *Conjugal Visit* as a program for fostering prisoners in prisons based on justice in the provisions of Law Number 12 of 1995 concerning Correctional Services is as follows:



**Reconstruction Proposal Matrix Table Law Number 12 of 1995
 concerning Correctional Services in Article 14 paragraph (1) letter (j)**

Before reconstruction	Once in Reconstruction
<p>Article 14 (1) The prisoner shall have the right to: a. perform worship in accordance with his religion or belief; b. receive care, both spiritual and physical care; c. obtaining education and teaching; d. obtain proper health and food services; e. lodge a complaint; f. obtain reading materials and follow other mass media broadcasts that are not prohibited; g. obtaining wages or premiums for the work performed; h. accept visits from family, legal counsel, or other specific persons; i. obtain a reduction in the criminal period (remission); j. getting assimilation opportunities including leave to visit family; k. obtaining parole; l. obtain leave before release; and m.obtain other rights in accordance with applicable laws and regulations</p>	<p>Article 14 (1) The prisoner shall have the right to: a. perform worship in accordance with his religion or belief; b. receive care, both spiritual and physical care; c. obtaining education and teaching; d. obtain proper health and food services; e. lodge a complaint; f. obtain reading materials and follow other mass media broadcasts that are not prohibited; g. obtaining wages or premiums for the work performed; h. accept visits from family, legal counsel, or other specific persons; i. obtain a reduction in the criminal period (remission); j. get assimilation opportunities including leave to visit family including the right of <i>Conjugal Visit</i> which will be further regulated through applicable laws and regulations ; k. obtain parole; l. obtain leave before release; and m. obtain other rights in accordance with applicable laws and regulations ;</p>
<p>Explanation of Article 14 paragraph (1) letter j</p>	<p>Explanation of article 14 paragraph (1) letter j. What is</p>



	<p>meant by the right of <i>Conjugal Visit</i> is a periodic legal intimate visit which is the right of an inmate with his legal partner with the aim of making it easier for prisoners to make adjustments from life in prison to community life, in addition to interacting directly with their family and legal partners.</p>
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Through *conjugal* visits in Law Number 12 of 1995 concerning Correctional Services, it is hoped that it can become a means of social construction, the fulfillment of prisoners' rights aims to cause a real social change by means of mastery or direction using the law to a situation to which it is aspired. In this case, the purpose of fulfilling the right warga binaan masyarakatan itself is so that the Assisted Citizens can become full human beings, regret and not repeat mistakes, and prepare to return to society. Because the goal is to be a full human being, the human rights of the Assisted Citizens are guaranteed and protected by the law through the instrument of social justice.

On the other hand, prisons will also position more in the practical level of the role and position of prisoners as part of Indonesian society which needs to receive serious Attention from various levels of society so that the prisoners can enjoy a peaceful social life. ¹⁵Recovery efforts through the *Conjugal Visit* process can be an important instrument in the development of Prisoners by containing the meaning of treating someone who has the status of an Inmate to be built to rise to be someone good. On the basis of such a sense of coaching, the target that needs to be cultivated is the person and ethics of the prisoner who is encouraged to generate a sense of self-esteem in oneself and others, as well as develop a sense of

¹⁵ Djisman Samosir, *The Function of Imprisonment in Punishment in Indonesia*, Binacipta, 1992, p 70



responsibility to adjust to a serene and prosperous life in society, and furthermore potentially noble and high morale.¹⁶

Conjugal Visit in Law Number 12 of 1995 concerning Corrections is another form of the implementation of guidance carried out by prisons that prioritize the role of the community by considering that it is very necessary if they have left the prison as stated by Andi Hanzah and Siti Rahayu, namely: "During the transition period between the release of prisoners from prison and adjustment to community life, there was a point of return. They easily bring the flow back to the deviant life that has been done in the past". Meanwhile, the opinion expressed by Romli Atmasasmita argued that: "although society has the same meaningful role in the process of resocialization of prisoners, but on the part of society itself tends to reject the presence of prisoners in their midst"¹⁷¹⁸.

Indeed, in terms of practicality, *Conjugal visits* in Indonesia seem to have not been realized, because factually prisons in Indonesia are still struggling with the problem of overcapacity, limited funds to meet the daily needs of prisoners and obstacles related to facilities in prisons and detention centers such as hygiene, sanitation and limited space. However, through the progressive transformation in sentencing gradually or *Conjugal visits* which are carried out gradually will make the implementation of correctional services in accordance with Law Number 12 of 1995 concerning Correctional Services will run optimally.

CONCLUSION

Efforts to reconstruct the provisions in guaranteeing the rights of prisoners who must remain protected in the Indonesian correctional system must still be regulated in Article 14 paragraph (1) of Law Number 12 of 1995 concerning Correctional Services. The article does not specify the right for prisoners who have a family to obtain the fulfillment of their biological needs or the channeling of their biological desires during their

¹⁶ Bambang Purnomo, *Implementation of Prison Sentences With a Correctional System*, Yogyakarta:Liberty Publishers, 1986, p.187.

¹⁷ Andi Hamzah A *Summary of The Criminal System In Indonesia*, Presindo Academy, Jakarta, 1998, p 12

¹⁸ Romli Atmasasmita, *Imprisonment In A Potpourri*CV. Armico Bandung, 2002, pp.53.



sentences in In reality, one of the ways inmates get the fulfillment of their biological needs or the channeling of their biological desires is to exercise the Right of Leave to Visit The Family which regulated in Article 35 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2013 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave.

In prisoners, the fulfillment of sexual needs has obstacles to be distributed, this is because prisoners are convicts who are serving a sentence and lost their independence in prison so that the rights of prisoners have also been regulated in Article 14 paragraph (1) of Law Number 12 of 1995 concerning Correctional Services, which in the article does not explain the right for prisoners who have a family to get the fulfillment of their biological needs or the distribution of their biological desires as long as they serve their sentences in prison. This certainly creates unrest, and can be bad for the inmate himself, both mentally and physically. Indeed, in terms of practicality, *Conjugal visits* in Indonesia seem to have not been realized, because factually prisons in Indonesia are still struggling with the problem of overcapacity, limited funds to meet the daily needs of prisoners and obstacles related to facilities in prisons and detention centers such as hygiene, sanitation and limited space. However, through the progressive transformation in sentencing gradually or *Conjugal visits* which are carried out gradually will make the implementation of correctional services in accordance with Law Number 12 of 1995 concerning Correctional Services will run optimally. Therefore, it is appropriate for the biological facilities program to be implemented in order to prevent deviations made both by prisoners and by individuals in prisons.



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