



Urgency of Fulfilling Sexual Rights for Prisoners Perspective of The Non-Discrimination Principle

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Abstract

The unfulfilled sexual rights for prisoners cause problems related to potential such as psychological shocks, sexual violence between fellow prisoners, high divorce rates for married prisoners, besides that the absence of sexual rights for prisoners in laws and regulations in Indonesia violates the principle of non-discrimination for prisoners so it needs to be studied in the perspective of human rights, especially sexual rights for prisoners. The method used is normative juridical with a doctrinal approach. The results showed that the urgency of regulations related to sexual rights for prisoners so that there is fulfillment of sexual rights that do not injure the principle of non-discrimination for prisoners so that legal certainty related to sexual rights for prisoners can minimize psychological shocks, sexual violence between fellow prisoners, high divorce rates for married prisoners.

Keywords:

Rights, Sexual, Prisoner.

Introduction

The unfulfilled *sexual rights* for prisoners need to be studied in the principle of non-discrimination. Even though they have the status of prisoners, they must also be seen as human beings who have human rights and must be free from various discriminations, including when serving their time in prison. Because, for days, months, or even years in prison for a long period of time and not getting the right to fulfill their sexual needs, of course, will have many implications in prison, such as sexual deviance, sexual business, and so on.

Prison life as depicted in Frank Darabont's *The Shawshank Redemption* about the cruelty of life in prison, is actually a real portrait of life in prison. As described above, prison life in Indonesia is also still synonymous with problems such as violence between inmates, riots, escapes and deviant sexual behavior as a real picture of a problem faced by the Correctional System in Indonesia.¹ However, along with the spread of the human rights protection movement at the global level, Indonesia's national "imprisonment" paradigm should have followed this trend.²

The fulfillment of biological needs is basically a basic need for humans, be it women or men. However, if they are in prison, of course, the fulfillment of this desire will be disturbed. According to Dr. Boyke, who explained that men who experience blockages in releasing their sexual desire can cause sexual deviance. Many cases of sexual deviant behavior occur in Correctional Institutions, for example, such as anal sex which occurs due to blockage of the sex canal from inmates. Sex with the same sex in prison has become commonplace. This has a positive effect when there are always inmates who are victims of sexual deviation. Usually, those who are victims of sexual lust satisfaction among fellow inmates are those who are relatively young.³

Sexual intercourse as a necessity, as well as other needs that also demand fulfillment. An inmate in a correctional institution should need sexual intercourse. In this case, it is specifically for inmates who are already married. In essence, Human Rights are a basic right owned by every human being and are also a gift from God Almighty. Thus, Human Rights are not only rights that originate from the State and the law. Therefore, what is required by the State and the law is only the recognition and guarantee of protection of Human Rights, especially having relevance to the principle of non-discrimination.⁴

Globally, prisoners' sexual rights are a contentious issue. Data from several countries show the impact of denying these rights: In a study by the WHO (2015), over 60% of incarcerated men reported engaging in same-sex activity despite being heterosexual, often under coercive or transactional circumstances. The Indonesian National Commission on Human Rights (Komnas HAM) reports frequent complaints from prisoners' spouses about the inability to fulfill marital intimacy, leading to family breakdowns. Research in the US

¹ Aditya Yuli Sulistyawan, Membangun Model Hukum yang Memerhatikan Kebutuhan Seksual Narapidana di Lembaga Pemasyarakatan : Telaah Paradigma Konstruktivisme, *Jurnal Ilmu Hukum* Vol. 4 No. 1 (2014) Hal 214

² Harison Citrawan, Seksualitas dalam Penjara : Studi tentang Kebutuhan Biologis Narapidana dari Perspektif Hak Asasi Manusia, *Widyariset*, Vol. 16 No. 1, (April 201) Hal. 32.

³ Boyke Dian Nugraha, *Di Balik Ruang Praktik Dr. Boyke*, Jakarta: Bumi Aksara. 2009, hal. 36.

⁴ Nurhakiki, *Kebutuhan Conjugal Visit Bagi Narapidana Menurut Hukum Islam* (Banda Aceh, Fakultas Syari'ah Dan Hukum Universitas Islam Negeri Uin Ar-Raniry Darussalam, 2021)

shows that denial of conjugal visits correlates with higher incidences of sexual violence in prisons. In European prisons where conjugal visits are allowed, there are lower rates of sexual assaults and better mental health outcomes for inmates (Moran & Jewkes, 2015). According to a survey conducted by the Indonesian Correctional System (Ditjenpas, 2018), 75% of married prisoners expressed that lack of sexual fulfillment contributed to psychological distress and conflict within prison walls.

Previous research has explored various aspects of prisoners' rights and their fulfillment in correctional facilities. Maulidani (2022) examined the urgency of fulfilling emotional support rights for prisoners from the perspective of Islamic jurisprudence. Daulay, Zulfirman, and Limbong (2024) investigated the fulfillment of biological rights for married prisoners in Class IIB Padang Lawas Correctional Facility. Alkautsar (2023) analyzed legal protections for female prisoners based on Law No. 12 of 1995 concerning Corrections, focusing on Class IIA Kuningan Prison. Ardani and Djarodi (2023) explored the fulfillment of sexual needs of prisoners in Class I Cipinang Detention Center, highlighting the social and institutional dimensions of such rights. Meanwhile, Irawan (2016) studied the advancement of reproductive health rights for female prisoners in Class IIA Sragen Correctional Facility. Collectively, these studies underscore the multifaceted challenges in ensuring prisoners' rights, covering emotional, biological, legal, and reproductive dimensions within the Indonesian correctional system.

Novelty from this paper contributes a novel perspective by analyzing the fulfillment of sexual rights for prisoners within the framework of the non-discrimination principle, specifically in the Indonesian context where this issue is underexplored. While existing studies have addressed conjugal visits and their effects on recidivism or inmate behavior in Western countries, little attention has been paid to how denying such rights in Indonesia violates international human rights norms, particularly Articles 2 and 12 of the Universal Declaration of Human Rights (UDHR). This study uniquely combines human rights law, correctional policy analysis, and psychological impacts, proposing concrete legal and administrative reforms to align Indonesia's correctional system with global human rights standards.

The urgency of fulfilling *sexual rights* for inmates who are married and have a partner outside prison and when their partner visits, there is no romance room that can be a place to provide the fulfillment of prisoners' sexual rights, in fact, there is a relationship between the happiness of inmates and the fulfillment of *sexual rights* If it is fulfilled at least 10 (ten) times

a year, this is like the book *Sex Starved Marriage*, Michele Weiner Davis, and usually every married person cannot bear not to have sexual intercourse if it has passed 1 (one) month.

Method

This study is a normative legal law study using a statute approach. The study's objective is to study legal objectives, justice values, validity of legal rules, legal concepts, and legal norms. The data sources used in this study are secondary data, which means the analysis is qualitative.⁵

Analysis and Discussion

1. The Relevance between Sexual Right and Human Right

According to Jhon Locke, human rights are natural rights that are directly granted by God the Creator. Therefore, it cannot be revoked by any force in the world. Human life is fundamentally based on this right, which is a natural right that is inextricably linked to human life.⁶ Sexual necessity is considered one of the human rights because it is a basic need to maintain offspring. Similar to the need for food and drink, sex is a basic need that must be fulfilled. This should apply without exception, including for inmates.⁷

So far, inmates only have the right to be visited by their families for 3 (three) hours, but for married inmates there is no right to sexual needs, so during visiting hours there are often inmates and their spouses who make out in front of minors who are also visiting, even to the point that there are those who are related to using makeshift sarongs. So, this phenomenon needs to be overcome so as not to injure the rights of prisoners in fulfilling their *sexual rights*.

The implication of the non-fulfillment of sexual rights for married inmates, so that there is often a phenomenon if male or female inmates who are incarcerated and their spouses outside the prison ask for a divorce because of the unfulfilled biological inadequacies for months or even years.

Inmates are sexual and human people. As a result, they will constantly exhibit their sexuality in some way, which may involve engaging in physical intercourse. While it can influence how sexuality is expressed, the jail system cannot dictate or suppress how it is expressed. Haney does in fact observe that prisons typically have a significant impact on how a person expresses their sexuality: "These inverted sexual dynamics, in

⁵ Eka NAM Sihombing, Cynthia Hadita, *Penelitian Hukum* (Malang: Setara Press, 2022).

⁶ Masyhur Effendi, *Dimensi dan Dinamika Hak Asasi Manusia dalam Hukum Nasional dan Internasional*, Jakarta: Ghalia Indonesia, 1994, hal. 3.

⁷ Nitibaskara, R. *Catatan Kriminalitas*. Jakarta: Jayabaya University Press, 1999.

which forced homosexual behavior is used to perform hypermasculinity, are a testament to the power of prison to fundamentally change people, to distort and disturb their sexual identities as well as other core aspects of their pre-existing'self'.⁸

Legal protection of inmates can be understood as an attempt to safeguard the law against a variety of inmate liberties and interests pertaining to inmate care. Law Number 22 of 2022 concerning Corrections and Law Number 39 of 1999 concerning Human Rights really control the legal protection of prisoners' rights in Indonesia.⁹ The achievement of prisoners' development in compliance with the Correctional System as enforced by the Correctional Law is the fundamental component of protecting prisoners' human rights. The Correctional System is an integrated arrangement of elements that form an integral unit that forms a conception of the treatment of people who violate criminal law on the basis of the idea of rehabilitation, resocialization, which contains educational, corrective, defensive and individual and social elements.¹⁰

Given the state's role as an obligor in numerous national and international human rights agreements, integration between the penal system and human rights protection is essential. In the normative framework, Law Number 22 of 2022 concerning Correctional Services has, in theory, protected prisoners' human rights while they are being coached in correctional facilities. Consequently, in the realm of correctional facilities and detention facilities, the government must be able to meet the demands of human rights protection, which of course is gradual. However, according to Prof. Ramly Hutabarat, if a deeper analysis is carried out, the penitentiary law has not regulated the needs of inmates which is actually very principled, namely about the fulfillment of the right to sexual needs.¹¹

Prisoners have the right to get fulfillment for what is their right. Because human rights themselves are universal, that is, all human beings have human rights and are natural, that is, human rights are a gift from God. It is very inhumane if the rights of prisoners are not properly implemented. Because in fact they are also creatures created by God who are given reason and feelings to them. There should be no difference in

⁸ Godfrey D Kangaude, A sexual rights approach to addressing gender-based sexual violence among male prisoners in Malawi, *African Human Rights Law Journal*, P.4; C Haney 'Perversions of prison: On the origins of hypermasculinity and sexual violence in confinement' (2011) 48 *American Criminal Law Review* 127

⁹ Barda Nawawi Arief, *Several Aspects of Criminal Law Enforcement and Development Policy*, Bandung: Citra Aditya Bakti, 1998, p. 155.

¹⁰ Bambang Purnomo, *Kumpulan Karangan Ilmiah*, Bandung: Bina Aksara, 1982, hal 151.

¹¹ Asep Kurnia (ed.), *HAM dalam Sistem Pemasarakatan*, Badan Penelitian dan Pengembangan HAM, Jakarta, 2010, hal 18.

the fulfillment of rights between prisoners, all must be treated equally before the law. Regarding whatever their mistakes, as well as whatever the background of the inmate's family. All must be carried out in accordance with the applicable regulations.¹²

Female detainees have a right to health services, which the jail must provide as part of its coaching program. It is generally accepted that there are two fundamental human rights: fundamental individual rights and fundamental societal rights. The most notable right that results from the existence of this fundamental social right is the right to health care, which in turn gives rise to other individual rights, such as the right to medical services.

The right to spiritual care for female inmates is linked to the fulfillment of psychomoral and spiritual needs. Activities to meet these needs can be carried out through the optimization of religious activities both in the form of worship guidance and religious counseling. Human rights are considered basic rights owned by every human being that cannot be infringed upon by any party or anyone. In fulfilling rights, of course, it cannot run smoothly due to several factors. The same thing also happened in an effort to fulfill the right to health services for female inmates at the Lalat Narcotics Prison. The right to get health services is a right that must be fulfilled by the prison as the organizer of the coaching program, but in the process of fulfilling this right there are still several obstacles faced by the prison in fulfilling proper health services to inmates.¹³

The primary legal argument in these civil rights cases is based on the tenets of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. Naturally, we must ascertain the causal relationship between the number of divorce cases and sexual deviations that take place in correctional facilities and the satisfaction of the inmates' entitlement to sexual requirements. Therefore, limitations on inmates' rights during the correctional development process should not harm individuals' (inmates and their spouses') rights to establish a family and obtain protection for their personal lives, in keeping with the spirit of correctional services based on human rights protection.¹⁴

¹² Muhammad Mustofa, *Lembaga Pemasyarakatan dalam Rangka Sistem Pemasyarakatan*, Jakarta: Pustaka Litera Antar Nusantara, 2007, hal.28.

¹³ Penny Naluria Utami, Pemenuhan Pelayanan Kesehatan Bagi Narapidana Perempuan Di Lembaga Pemasyarakatan Narkotika Langkat, *Jurnal Ham* Vol 11, No 3, Desember (2020)

¹⁴ Okky Cahyo Nugroho, Pemenuhan Hak Atas Kebutuhan Seksual Warga Binaan Pemasyarakatan, *Jurnal Hak Asasi Manusia* Vol 6 No. 2, Desember (2015)

The question of what constitutes a livable world is not a pointless one. It's not only a philosopher's question. It is posed in a variety of people from different backgrounds. If all philosophers, then I'm content to accept that conclusion. It becomes an ethical matter, in my opinion, not only when we ask ourselves what makes my own life bearable, but also when we ask ourselves, from a position of authority and from the perspective of distributive justice, what makes—or should make—other people's lives bearable. In the response, we discover that we are not simply devoted to a particular perspective on what life is and ought to be. Assuming that the uniquely human life is important, the most valuable, or the only way to approach the value problem carries a constant risk of anthropocentrism. However, in order to counter that tendency, it might be necessary to ask both the question of life and the question of the human, along with the related questions of whose lives count as lives and who counts as a human, as well as the question that has been bothering many of us for years: What constitutes a grievable life?¹⁵

Enjoymen of Domination, the state is making its presence known in Shakespeare's *Measure for Measure*. The ruling class is employing two well-known diversionary strategies. One is military endeavor overseas: "Why do all the dukes fall upon the King if the Duke and the other dukes do not come to composition with the King of Hungary?" Another is a domestic witch hunt for suspected dissidents. Stating that the public believes he has been careless, The Duke believes it is preferable to abstain and let his delegates enforce the laws. He enlists a dubious network of holy brothers and poses as a friar in order to spy on his delegates in yet another act of tyranny and paranoia. When upper-class individuals get involved, the system begins to bite. Some bawds and their clientele are persecuted. Angelo tries to take advantage of Isabella after attempting to save Claudio.¹⁶

Lesbians and gay men today have a lever thanks to the rhetoric of rights. According to a Court of Human Rights ruling, sexual orientation may be included by the anti-discrimination provisions of Article 14 of the European Convention on Human Rights, which was integrated into UK legislation by the Human Rights Act of 1998. The 'rights' we would presently assert, however, have not been uniformly acknowledged throughout history and are still not recognized now, as we are well

¹⁵ Judith Butler, *On Being Beside Oneself; On the Limits of Sexual Autonomy* in *Sex Right* Edited by Nicholas Bamforth, New York: Oxford University Press, 2005.

¹⁶ Alan Sinfield, *Rape and Rights: Measure for Measure and the Limits of Cultural Imperialism* in *Sex Right* Edited by Nicholas Bamforth, New York: Oxford University Press, 2005.

aware. In the words of Jeffrey Weeks, "Rights do not exist in nature." The claim for rights is always made in terms of certain rights rather than others since they are the result of social interactions, shifting historical conditions, and the balance of forces. We are essentially altering the concept of what can be considered a right by advocating for a broader definition of rights.

In Scotland, Northern Ireland, and the Republic of Ireland, male-to-male sex was completely prohibited as recently as 1970. In England and Wales, as well as in all but one of the twenty-three nations that are currently members of the European Union, it was stigmatized as immoral and extremely undesirable due to an unequal, higher age of consent. However, just thirty years later, in 2000, the Dutch Parliament amended the Civil Code to state that "two persons of different sex or of the same sex may contract a marriage." Male-to-male sex was outright banned as recently as 1970 in the Republic of Ireland, Scotland, and Northern Ireland. Due to an uneven, higher age of consent, it was stigmatized as immoral and highly undesired in England and Wales, as well as in all but one of the twenty-three countries that today make up the European Union. The Dutch Parliament, however, changed the Civil Code in 2000, just thirty years later, to allow "two persons of different sex or of the same sex may contract a marriage."¹⁷

Sexual rights are a subset of human rights that specifically pertain to an individual's autonomy, dignity, and freedom in relation to their sexual orientation, gender identity, and sexual expression. The relevance between sexual rights and human rights lies in the fundamental principle that all individuals are entitled to certain inherent rights simply by virtue of being human. Human rights are grounded in the inherent dignity of every human being. This dignity encompasses all aspects of a person's life, including their sexuality and sexual identity. Denying someone the right to express their sexuality freely undermines their dignity.

Sexual rights recognize individuals' autonomy and agency over their own bodies and sexual choices. This includes the right to choose one's sexual partners, to engage in consensual sexual activities, and to make decisions about reproductive health without coercion or discrimination. Human rights principles uphold the principle of non-discrimination, which means that all individuals should be treated equally and without discrimination based on characteristics such as race, gender, sexual orientation,

¹⁷ Robert Wintemute, From 'Sex Rights' to 'Love Rights': Partnership Rights as Human Rights in *Sex Right* Edited by Nicholas Bamforth, New York: Oxford University Press, 2005.

or gender identity. Ensuring sexual rights helps to combat discrimination and promote equality for all individuals, regardless of their sexual orientation or gender identity.

Health and Well-being: Sexual rights are closely linked to individuals' health and well-being. Access to sexual health services, education, and information is essential for promoting safe and fulfilling sexual lives and preventing sexually transmitted infections, unwanted pregnancies, and other health risks. Freedom from Violence and Coercion, Human rights include the right to live free from violence, coercion, and abuse. Protecting sexual rights involves combatting discrimination, stigma, and violence against individuals based on their sexual orientation, gender identity, or sexual practices.

Recognizing and protecting sexual rights contribute to broader goals of social justice and equality. It ensures that marginalized groups, such as LGBTQ+ individuals, are afforded the same rights and opportunities as everyone else, fostering a more inclusive and equitable society. Sexual rights are an integral part of human rights because they uphold principles of dignity, autonomy, equality, and non-discrimination for all individuals, regardless of their sexual orientation, gender identity, or sexual practices. Protecting and promoting sexual rights is essential for building a more just and inclusive society where everyone can live free from discrimination and violence.

2. Phenomenological Lack of Fulfillment of Sexual Rights for Prisoners and the Offer of Solutions

So far, there has been a conjugal visit, which is a visit to the Correctional Institution where an inmate is allowed to spend several hours or days privately with visitors, usually their husband/wife/partner which is carried out in a room that has been provided. On this occasion, the parties can engage in sexual relations and it is recognized that such visits can preserve family bonds and increase the chances of success for the inmate to eventually return to life outside prison. In addition, conjugal visits serve as incentives to motivate inmates in complying with various rules in Correctional Services and to avoid violations that may disqualify them from having conjugal visits. Other countries that provide conjugal visit facilities include Denmark, the Netherlands, and Sweden. In the country, conjugal visits are given in the form of allowing inmates to visit their husbands/wives/partners within three hours. The couple spends their time in a special room consisting of a bed, bathroom, and other facilities. In one of the United States states, California, conjugal visits are given to inmates who have a husband / wife to visit in person and have sexual intercourse. In

Pakistan, permission is given to male inmates to visit their wives twice a month for one night. Other countries that also provide this conjugal visit facility include Australia, Brazil, France, Thailand, and Saudi Arabia, each of which has rules in implementing the conjugal visit. In some developed countries, conjugal visits can even be used as a reward for inmates who behave well during the sentence period.¹⁸

There is no sexual rights for prisoners, so there are often various irregularities. The fact that sexuality is an essential component of being human is undeniable. Different experiences and expressions of sexuality occur in relationships—whether with oneself or others, in isolation or in community. Therefore, sexuality is inherent to all societies, even those found in prison. The expression of sexuality is influenced by a wide range of elements, including those related to biology, psychology, society, politics, economics, culture, ethics, law, history, religion, and spirituality. The way society views prisoners and the circumstances in jail are likewise influenced by these interconnected elements. Jail conditions, which are impacted by the aforementioned causes, invariably shape the experience and expression of sexuality in jail. Men and women alike spend a great deal of time together and in close quarters when incarcerated. This makes it more likely that they will engage in sexual behavior. Because there are no women incarcerated, people who do not identify as homosexual may nevertheless engage in sexual activity with other guys. It would be illusory to believe that prisons have control over inmates' sexuality, even while they do have the ability to influence how they express themselves sexually. Only the expression and experience of sexuality may be shaped by prison systems. This is important since prisons can have a beneficial or negative impact on inmates' sexual health.¹⁹

In prisons, sexual health is more than just the absence of illness or dysfunction. It goes beyond just not having HIV in prison. In fact, the sheer lack of sexual abuse or violence is also not sufficient. The entire person—their physical, emotional, mental, and social aspects—is involved in sexual health. All of these factors must be taken into consideration in order to advance sexual health in prisons, and inmate demands must be met holistically as opposed to piecemeal. The essentials of life—food, clothing, bedding, leisure activities, personal security, and a suitable place to live—have an

¹⁸ Aditya Yuli Sulistyawan, Membangun Model Hukum Yang Memerhatikan Kebutuhan Seksual Narapidana Di Lembaga Pemasyarakatan : Telaah Paradigma Konstruktivisme, *Jurnal Ilmu Hukum Riau*, Vol. 4 No. 1 (2014)

¹⁹ Godfrey D Kangaude, A sexual rights approach to addressing gender-based sexual violence among male prisoners in Malawi, *African Human Rights Law Journal*, P.4

impact on one's sexual health. Sexual health and general living situations are not unrelated. Perhaps another misconception about prison systems is the separation of these from sexuality and sexual health. Promoting a good and courteous attitude about sexuality and sexual interactions is a critical first step toward improving sexual health in prisons. Prison administrations need to consider the idea of allowing inmates to engage in healthy sexual relationships. This, however, is one of the biggest obstacles and calls for a change in societal perceptions about gender roles and sexuality. According to the technical consultation, sexual rights need to be upheld, safeguarded, and realized in order to attain sexual health. The definition of sexual rights was as follows:²⁰

"Sexual rights embrace human rights that are already recognized in national laws, international human rights documents and other consensus documents. They include the right of all persons, free of coercion, discrimination and violence, to ... respect for bodily integrity ... consensual sexual relations ... pursue a satisfying, safe and pleasurable sexual life." The concept of sexual rights is still a contested one and there is no consensus at the global level.

The state must fulfill and protect the provision of romantic space as an attempt to meet the sexual needs of prisoners' rights in correctional institutions, departing from the facts of sexual deviation and the concept of sexual rights from a human rights perspective. This is necessary in order to protect the prisoners' human rights. Since we can all agree that normatively political law is a lengthy process, the reformulation in question does not require amending Law No. 12 of 1999 as the foundation for its regulation.²¹

An analysis of sexuality in women's prisons reveals a variety of sexual practices, including masturbation, forced sex, and consensual sexual contact. However, there is currently no unified classification system that can categorize the range of sexual behaviors observed in female prison contexts. Without this taxonomy, academics, legislators, and prison employees are less able to identify the specific sexual behaviors that are harmful or violent in these correctional settings. As a result, the purpose of this article is to clearly define, characterize, and explain the whole range of sexual

²⁰ World Health Organisation (WHO) Defining sexual health: Report of a Technical Consultation on Sexual Health 28-31 January 2002 (2006) 5.

²¹ Jt Pareke, Reformulasi Penyediaan Ruang Asmara Sebagai Upaya Pemenuhan Kebutuhan Seksual Hak-Hak Narapidana Di Lembaga Permasalahatan (Suatu Wacana Pengaturan), *Al-Imarah: Jurnal Pemerintahan Dan Politik Islam* 41 Vol. 4, No. 1, (2019)

activities that exist in women's prisons. The suggested classification system aims to cover the entire spectrum of sexual behaviors that take place in women's prisons and to pinpoint specific actions that represent a risk to the safety and wellbeing of female convicts. The typological continuum also seeks to expand victim/perpetrator treatment, policy, and programming, support the development of sexual exploitation/victimization prevention, education, and training for correctional staff, and advance evidence-based sex in prison society future research. The collection of speculative and exploratory comments that follows is consistent with the classification schema's "sexual violence" category. The authors claim that this type of sexual behavior, which is typified by its coercive, forceful, and submissive forms, causes the most obvious and serious harm to female inmates, transforms the relationships between inmates and staff into ones of power and control, and jeopardizes prison administration as a whole. This calls for further debate.²²

In contrast to the UK's fulfillment of sexual rights, Participants in this study were limited to two jail locations in Scotland and Northern Ireland in the United Kingdom. The acceptability of this strategy in different circumstances requires more investigation. Throughout the three successive stages of the study, every attempt was made to involve as large a group as possible. However, since involvement in this intervention and its creation was completely voluntary, it is probable that this sample overrepresents people with more influence or involvement in jail operations.²³

In the context of correctional institutions in Indonesia, the integration of the correctional system with human rights protection is a must in seeing the role of the state as an obligor in sharing human rights instruments, both national and international. In principle, within the normative framework, Law Number 12 of 1995 concerning Correctional Services has provided human rights protection for inmates during the process of coaching in correctional institutions and detention centers, the government must be able to meet the demands of human rights protection, which of course is gradual.²⁴

²² Angela Pardue et al, Sex and Sexuality in Women's Prisons: A Preliminary Typological Investigation, *The Prison Journal* Vol 91 No. 3 September (2011)

²³ Steen, T., Brandsen, T. and Verschuere, B "The dark side of co-creation and co-production: seven evils", in Brandsen, T., Verschuere, B. and Steen, T. (Eds), *Co-Production and Co-Creation. Engaging Citizens in Public Services*, Routledge, New York, NY, . (2018), pp. 284-293

²⁴ Okky Cahyo Nugroho. "Pemenuhan Hak Atas Kebutuhan Seksual Warga Binaan Masyarakat", *Jurnal HAM*, Vol. 6 No. 2 Desember 2015. hal. 132.

The principle of discrimination needs to be applied in order to fulfill *sexual rights* for married prisoners, considering the values that live in society (*living constitution*) in Indonesia, physical relations can only be carried out by married couples. Any act of violence is not justified as one of the methods of coaching inmates. According to article 5 of the Code of Conduct for Law Enforcement Officials, "No law enforcement officer may cause, encourage or tolerate acts of torture nor may he give orders from superiors or exceptional circumstances as justification for torture". Furthermore, article 10 of the International Convention on Civil Political Rights (ICCPR) was reaffirmed that, "All persons deprived of their liberty will be treated humanely and with respect for the dignity that is their human nature."²⁵

In the context of sexual rights, it needs to be understood that there is no explicit provision in human rights norms regarding sexual needs as a right.²⁶ Therefore, it is necessary to construct sexual needs as a form/embodiment of several civil and political rights contained in various laws and regulations. At that stage, the parameters contained in human rights norms will be interpreted and associated with the facts that have been obtained.²⁷

In order to shed some light on the meaning of public apology in the numerous tumultuous historical and contemporary contexts where human rights are violated, I will examine the apologetic state and the emotions associated with apology today. Apology is a kind of language from the state as well as an area of mentalité and sensibility embodied in discourse and in writings of different kinds. Along the way, we will encounter figures that seem to be calling to us, as though we are following an allegorical route that represents the stages of a pilgrim's journey: vindication, confession, regret, remorse, recognition, exculpation, retraction, responsibility, repentance, and, at the end of the journey, reconciliation, placation, and atonement—flanked by two sets of powerful twins—The angel of redemption is looming above reform and redress, reparation and restitution. The prefix that appears so often in these words indicates that these mental states are the result of something that has happened; they are reactions to an earlier action or occurrence and are made in reference to an object, which brings us back to the original topic: an apology is, in this sense, a compact, an agreement between various parties, not a lone initiative. Later on, I will

²⁵ C. De Rover, *To Serve and To Protect*, Jakarta: PT. RajaGrafindo Persada, 2000, hal 272

²⁶ Okky Cahyo Nugroho. "Fulfillment of the Right to Sexual Needs of Correctional Assisted Citizens", *Journal of Human Rights*, Vol. 6 No. 2 December (2015), p. 138.

²⁷ *Ibid.*

return to this mutual self-fashioning and recursive recombining. Famine in Ireland. There is a significant distinction amongst all of these apologies in terms of accountability for the sufferings in question. World affairs leaders have been portrayed as priests by their public apologies: Neither Tony Blair nor Hillary Clinton are directly involved in all of the activities for which they have expressed regret. In fact, when they are directly involved, they seem to be less inclined to do so. Similar to how religious rituals exorcise demons, their vocal retractions are magical, sacramental gestures intended to calm, relieve, and expel wrath and resentment. These expressions of regret and responsibility are not the same as those made in public by those directly involved, such as the police in the Stephen Lawrence case. Apology is a new political passion, particularly when it comes to past transgressions; it combines two distinct speech patterns, each intricately entwined with concepts of self-reflection and self-examination, or, to put it another way, self-memory: a theological and sacramental language of atonement and repentance on the one hand, and the psychoanalytic 'talking cure' and group psychotherapy sessions to heal victims of abuse, bereavement, and mental suffering on the other. To characterize these modern acts of repentance and atonement, the French have even coined a new word: *répenteance*. Both of these discourses are not legally or politically correct; in this sense, presidential politics have shifted from being presidential to being priestly.²⁸

For what reason should we deny people their "love rights" or "sex rights"? After all, if partnership rights are human rights, are they universal rights that all countries must eventually respect? From "Basic Rights" to "Love Rights" to "Sex Rights," At first glance, some might contend that a same-sex couple's claim to the same treatment as a different-sex couple does not seem to relate to human rights. They might believe that human rights violations include things like extrajudicial killings, torture, and detention without charge. Therefore, they might not view Lisa Grant's quest to get her unmarried female partner the same benefits of free rail travel from her employer, South-West Trains, as a human rights matter. Jill Percey's male colleagues received payment for their unmarried female coworkers. In fact, Lisa Grant's claims were rejected by the European Court of Justice in 1998. One of the many factors influencing the Court's decision might have been its belief that the inequality in question was "trivial" and did not require careful analysis. For two reasons, this response to Grant

²⁸ Marina Warner, *Who's Sorry Now? Personal Stories, Public Apologies in Sex Right* Edited by Nicholas Bamforth, New York: Oxford University Press, 2005.

v. South-West Trains is incorrect: first, the right to be free from discrimination is a fundamental human right, regardless of whether it affects one's physical integrity or liberty; and second, in some discrimination cases, the symbolic value of the non-discrimination principle may outweigh the benefits that are actually denied. This remark does, however, reflect a practical reality.²⁹

The phenomenon of inadequate sexual rights for inmates is a complex issue involving several factors, including prison environments, prison policies, social stigma, and unequal access to sexual health and education services. Phenomenological aspects such as limited access for inmates often face limited access to information about sexual health, reproductive services, and contraceptives. This could be due to prison policies that restrict access to these materials or because of the stigma against open discussion of sexuality in prisons.

The implications for inmates are Higher Health Risks, Inmates have a higher risk of sexual health because of risky sexual behaviors in prison, such as having sex without a condom or sharing syringes. However, they often do not have adequate access to sexual health services to prevent and treat sexually transmitted diseases or related diseases.

Stigma and Discrimination for Prisoners often involves aspects of their identity, including sexual orientation and gender identity. This stigma can limit the ability of inmates to talk about sexual health issues or to seek the support and services they need. The lack of sexual rights can also be related to the inability of prisoners to protect themselves from violence or to obtain help after being victimized. To address the lack of sexual rights for prisoners, the necessary solutions include various actions. Access to Health Services: Inmates must have equal access to sexual health services, including routine checkups, sexually transmitted disease tests, contraceptives, and adequate treatment for sexual health conditions.

In addition, there is a need for Training for Prison Officers so that prison officers are trained to understand and respect the sexual rights of prisoners, as well as to identify and handle cases of sexual violence or harassment in prisons. Stigma removal, Programs to reduce stigma against inmates, including those related to sexuality and gender identity, can help create a more open and supportive environment in prisons.

²⁹ *Ibid.*

The application of the principle of non-discrimination for the sexual rights of prisoners in the perspective of human rights has great urgency for several reasons. The principle of non-discrimination is one of the basic principles in human rights expressed in various international instruments, including the Universal Declaration of Human Rights. Providing equal sexual rights to prisoners is a manifestation of the principle of universality of human rights. Welfare and Health: Discrimination against the sexual rights of inmates can result in a negative impact on their well-being and health. Unequal access to sexual health services, sexual education, and protection from sexual violence can increase the risk of sexually transmitted diseases, unwanted pregnancies, and sexual violence. Respect for Human Dignity, so every individual, including prisoners, has the same human dignity and the right to be treated fairly, without discrimination. Respecting the sexual rights of prisoners is a form of recognition of their dignity and human values. Prevention of Violence and Harassment.

The application of non-discrimination principles can help prevent sexual violence and harassment in prisons. When inmates feel recognized and supported in their rights, they are more likely to report cases of violence and seek help. Building a Fairer and Inclusive Society, in treating prisoners fairly and without discrimination, The importance of building a fairer and more inclusive society to support the rehabilitation and social reintegration of prisoners which can ultimately reduce the crime rate. By applying the principle of non-discrimination to the sexual rights of prisoners, we recognize that human rights are universal and should not be cut down selectively. It is important to ensure that all individuals, including prisoners, have the same opportunity to live with dignity and rights guaranteed by international law and human rights principles.

In considering the urgency of sexual rights for married prisoners from the perspective of Pancasila philosophy, we can refer to the basic values that are upheld in Pancasila. Fair and Civilized Humanity because Pancasila recognizes human dignity as civilized creatures. Sexual rights are an integral part of human rights. Therefore, married inmates also have the right to live a healthy and dignified sexual life. The unity of Indonesia, not only in the political sense, but also in treating each individual fairly. By granting equal sexual rights to married inmates, this can strengthen the sense of solidarity in society, that every individual has the same value in the eyes of the law. Social Justice for All Indonesia People, granting sexual rights to married inmates is a step towards social justice, which ensures that basic rights are still protected even if a

person is serving a sentence. Recognized sexual rights for married inmates can contribute positively to the fulfillment of their rights and also to avoid sexual misconduct in prisons,

From the perspective of the philosophy of Pancasila, the urgency of sexual rights for married prisoners lies in the principles of humanity, unity, and social justice. This is an important step in ensuring that human rights are respected and protected at all levels of society, including for the sexual rights of married prisoners.

Conclusion

The urgency of applying the principle of non-discrimination to the fulfillment of sexual rights for married inmates so that it can minimize psychological shocks, sexual violence between fellow inmates, and the high rate of divorce against married inmates in order to fulfill human rights for prisoners. It is important to formulate policies so that the coaching process in correctional institutions and detention centers can have facilities to fulfill *sexual rights* for married inmates in order to avoid various negative impacts and potentials that can occur if sexual *rights* for inmates are not fulfilled properly, this is in accordance with the Pancasila philosophy which can fulfill the principles of humanity, unity, and social justice.

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