

ICLU

Issue No. 1/2019

Indonesia
Criminal Law
Update

WOMEN BEHIND BARS IN INDONESIA



INSTITUTE FOR
CRIMINAL JUSTICE
REFORM

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Introduction

This edition of ICLU discusses the regulation in Indonesia regarding the rights of women in prison. Even though the number of imprisoned women in Indonesia is much less than men, women are naturally require different treatment. Based on the available data as of now, there is a trend that the number of imprisoned women is increasing in Indonesia.

By looking into various regulations that stipulate the rights of women in prison, ICJR hopes that it may encourage a policy change on the protection of the rights of women in prison

Have a good reading

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Women Behind Bars in Indonesia

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About ICJR

Since its establishment in 2007, the Institute for Criminal Justice Reform (ICJR) commits to take the initiatives in supporting overall criminal justice reform. ICJR is formed with a mission to support collective actions in honoring the Rule of Law and realizing criminal justice system with strong human rights protection.

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The early Indonesian criminal justice system is a system built for male offenders, so it is not sensitive to women's needs . This not only affects the policy but also throughout the process



1. The history behind Correctional Institutions for Women in Indonesia

Historically, the concept of imprisonment all over the world was built without consideration of the special needs of women in the criminal justice system. In the past, when it was formed, correctional institutions were only intended to confine men in special environments¹. Not surprisingly, the concept of the facilities' architecture, security, procedure, access to health, family visitation and training are designed more to suit the need of male prisoners².

This is also the case in the context of Indonesia's prisons / correctional institutions. The early Indonesian criminal justice system is a system built for male offenders, so it is not sensitive to women's needs³. This not only affects the policy but also throughout the process, there is not much documentation/archive regarding a policy drafting process that specifically addresses the background of the establishment of women's correctional institutions in Indonesia.

There is no clear record of the origin story of regulation for women's correctional institutions in Indonesia. Earliest regulations regarding women's correctional institutions are regulated in *Prison Reglement or Gestichten Reglement Staatsblad 1917 No.708*, Article 1 of the General Provisions describes forms of correctional institutions, which consist of⁴:

- 1) *Centrale gevangenis voor Europeanen* (central prison for the Europeans)
- 2) *Gevangenis voor vrouwen* (prison for women)
- 3) *Dwangarbeiderskwartier* (residence for people who are punished by forced labor)
- 4) *Landsgevangenis* (state prison)

¹ Penal Reform International(1), *Women in prison: incarcerated in a man's world*, <https://cdn.penalreform.org/wp-content/uploads/2013/06/brf-03-2008-women-in-prison-en.pdf>, p. 2, Prior to 1964 Correctional Facilities in Indonesia was referred as Prison in Indonesia

² Penal Reform International(2), *UN Bangkok Rules on women offenders and prisoners Short guide*, <https://cdn.penalreform.org/wp-content/uploads/2013/07/PRI-Short-Guide-Bangkok-Rules-2013-Web-Final.pdf>, page 04

³ Eva Achyani Zulfa, *Naskah Akademik Ruu Tentang Perubahan Atas Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan*, BPHN: 2013, p. 53

⁴ Directorate-General of Corrections, *Terjemahan dari Gestichthen Reglement (Reglement Penjara)*, Jakarta: 2004, p. 13

5) *Hulpgevangenis* (rescue prison)

6) *Crviel genvangenhuis* (detention house for non-military people)

Article 36 of the *Reglement* rules that it is important for the correctional institutions to be separated by sex⁵. Several Articles in the *Reglement* regulates specific provisions regarding women, namely:

- Article 38(2) concerning the exclusion of haircut regulations for women prisoners
- Article 57(4) concerning the prohibition of women to work outside the prison walls
- Article 31(1) jo 31(2) concerning the permission of women prisoners to bring their infant for breastfeeding

One problematic regulation that regulates women in prisons is Article 33(2) of the *Reglement* which states that security searching/body checkup for women in prison can be done by male prison officers.

The separation of women and men prison sections is basically just intended to put women in a separated place, prison area for women are relatively narrower because the facility is built and designed originally for men.

Therefore, women are placed in a separated block of what was originally male prisons. Divided by 3 meters high wall, with the purpose that there is no connection between men and women inside the facility, either as prisoners or as prison officials⁶. The separation is done as an effort to make men and women not able to see or hear each other⁷.

2. Women in Indonesia Prison

The number of women prisoners shows a much smaller number than male ones. Because the number tends to be less, it is very rare to see a women's specific approach in the legal system: such as fewer facilities available for women prisoners compared to men in the same regions and fewer or less training programs for women prisoners compared to the opposite sex⁸.

Indonesia currently only has 34 correctional institutions and 4 detention centers that are specifically designed to accommodate women and children, 23 of which have only been built in the last two years. Most of these women prisoners are still under the same roof as men's facilities. Therefore, half of the women prisoners in Indonesia are in male correctional institutions/detention centers, separated only by sections or cell block⁹.

⁵ R. Koesnoen, *Politik Penjara Nasional*, 1961, Published by Sumur: Bandung Ibid, p. 27

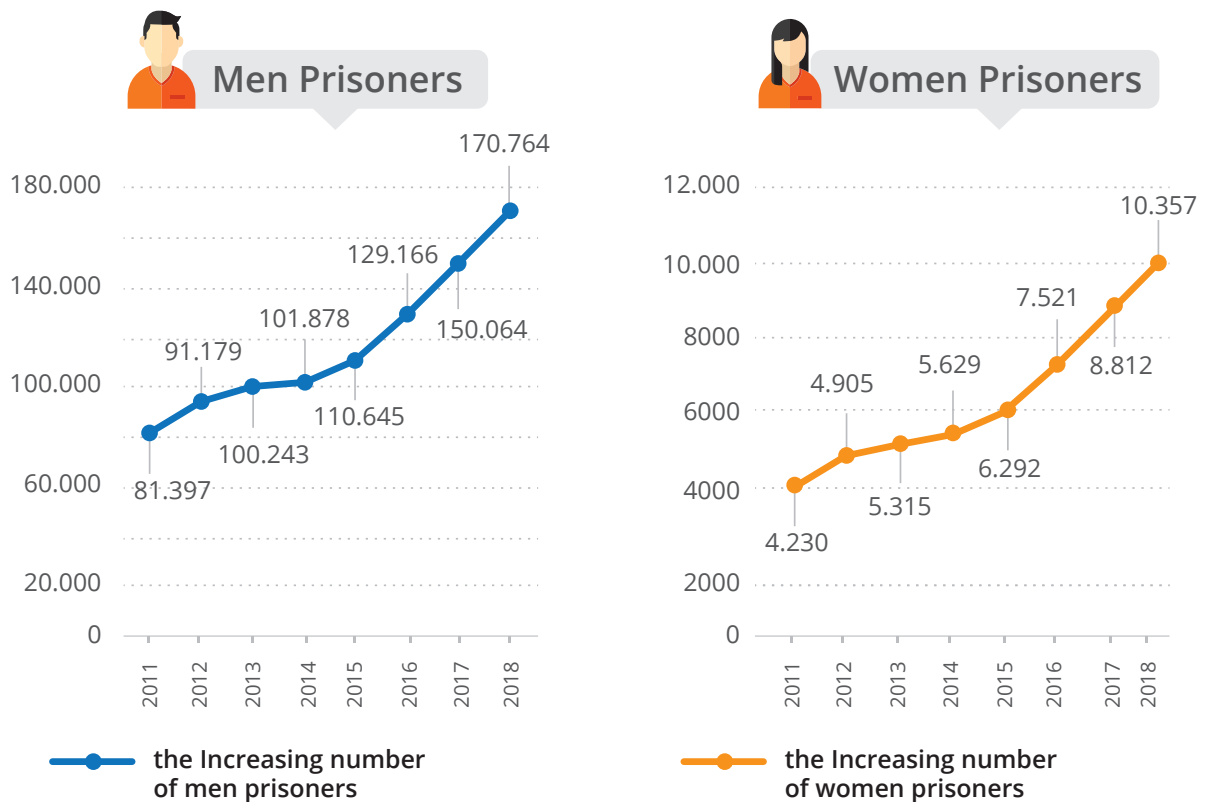
⁶ *Ibid*, p. 180

⁷ *Ibid*, p. 191

⁸ Rosemary Barberet dan Crystal Jackson, *UN Rules for the Treatment of Women Prisoners and Non-Custodial Sanctions for Women Offenders (the Bangkok Rules): A Gendered Critique*, ISSN 2013-9004 (digital); ISSN 0210-2862 (paper) Papers 2017, 102/2, https://ddd.uab.cat/pub/papers/papers_a2017v102n2/papers_a2017v102n2p215.pdf, p. 216-217

⁹ Directorate-General of Corrections, 2017, *Hak dan Kesehatan Perempuan di Lapas/Rutan Indonesia: Tinjauan Situasi Saat ini*, p. 11

Globally, there is an inclination of the number of women sent to prison in comparison to men¹⁰. In Indonesia, as of March 2019, there are 10,547 women in prisons, and 3,737 women are in detention centers. The inclination of women prisoners at the national level is higher compared to male prisoners. From 2011 to 2018 the number of women prisoners increased by 144%, while male prisoners are estimated lower at 108%¹¹.



In the detention centers, prior to 2015 the vulnerability of women to be in detention centers before the verdict also appeared to be higher than men. Based on the available data since 2011, there is a trend of women being more vulnerable for detention compared to men. In 2011 the number of women detainees was 65% compared to the number of women prisoners, while the ratio of men detainees with men prisoners in the same year was only 56%. The trend of women detainees outweighing the number of men detainees continued to 2012, 2013, 2014, 2015, until 2016 in the same comparative position between men and women.

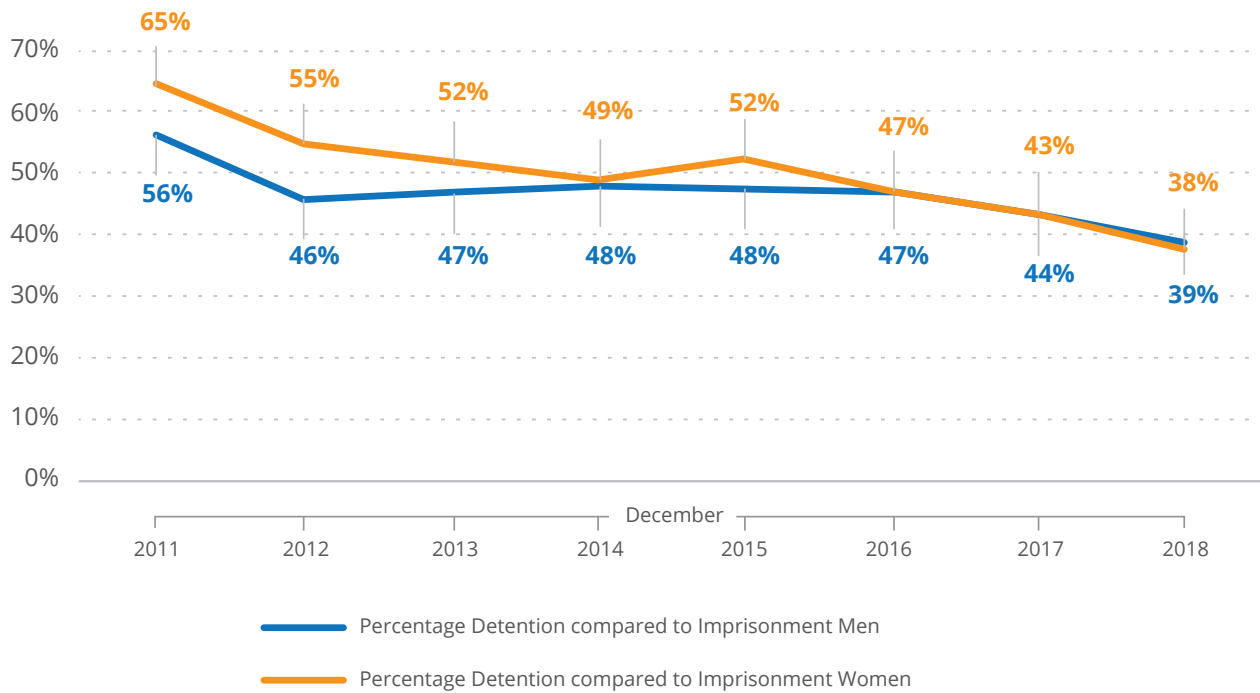
However, the increase in the number of women sent to prison does not necessarily mean that most women are criminals and deserve to be punished through miserable imprisonment. In fact, women offenders often face discrimination and multiple losses¹², women comparably carry out

¹⁰ In 2017, it was reported that the number of women in prison had reached 714,000, this number shows a 53% increase from the number in 2000 which was only 466,000. The increase rate in the number of women sent to prison is greater than of men whose increase rate is only 20%. See http://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_prison_4th_edn_v4_web.pdf

¹¹ Data is collected from <http://smlap.ditjenpas.go.id/public/grl/current/monthly/year/2011/month/12>, Accessed 9 March 2019

¹² Penal Refrom International(2), *ibid*, p. 3

Detention to Imprisonment



non-serious criminal acts and mostly are poverty driven crimes, such as theft, fraud, and minor narcotics crime without involving violence¹³.

In the initial mapping through data obtained from the Ministry of Justice and Human Rights' Director-General for Corrections, As of 1 February 2019, there were 10.447 women prisoners throughout Indonesia. Of these 10.447 women, 5.579 (53%) prisoners convicted for narcotics crimes without violence¹⁴. Of the remaining 4.868 women prisoners, 1.726 women committed non-violent crimes, 1.981 women were not yet known for their offenses. So, there were only 1.161 (11.11%) women prisoners who committed violent crimes¹⁵.

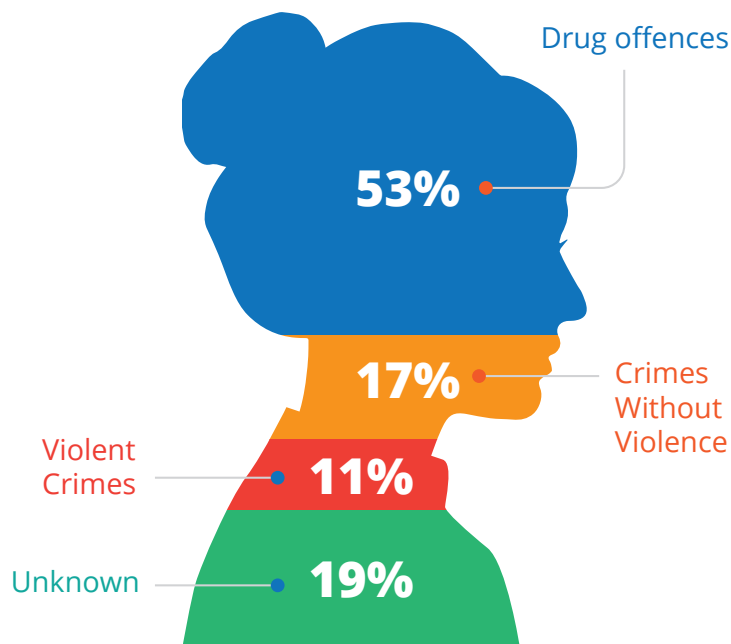
Looking at the tendency and vulnerability of women to be sent to correctional institutions, the criminal system in Indonesia should subsequently give more attention to several aspects of women prisoners' specific needs. Imprisonment of women should not eliminate the fulfillment of their basic rights as women.

¹³ *Ibid.*

¹⁴ Law No. 35 of 2009 on Narcotics is well known as a very problematic with high potential of criminalizing drug victims and drug abusers. Currently there are 28.609 people (21% of all the prisoners) convicted for using drugs. These people supposed to be in rehabilitation and not confinement.

¹⁵ This data is based and processes by data received from the Director-General of Corrections, because in the Corrections Database System there is no classification information based on prisoners' gender. So the data validation must be carried out continuously, but this findings provide an overview of the current situation of women's imprisonment in Indonesia

Women Criminal Offences



3. Correctional System is Obligated to Comply with the Specific Needs of Women in Prisons

In general, the concept of corrections in Indonesia's prison reformation is in line with state obligations as provided in International Covenant on Civil and Political Rights (ICCPR) which has been ratified by Indonesia through Law No. 12 of 2005.

Article 10(3) ICCPR provides that the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. This Article is aiming to shape the corrections system in the form of social reintegration.

The Human Rights Committee on 10 April 1992 adopted the General Comment describing Article 10 in the General Comment No. 21 Article 10 on Humane Treatment of Persons Deprived of Their Liberty (HRI/GEN/1/Rev.9 (Vol. I)) which supersedes General Comment No. 9.

The General Comment states that people who were punished with deprivation of liberty also have the right to enjoy all the rights as provided in the ICCPR, to which they were subject to certain restrictions as consequences of being in a closed environment¹⁶. Point 10 of the General Comment also explained that the purpose of the imprisonment system should not only be for retributory.

Regarding the fulfillment of civil and political rights in Article 10 of the ICCPR, specifically, the special needs of women are further elaborated in the document of the Human Rights Committee,

¹⁶ Persons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment, General Comment No. 21 Article 10 (Humane treatment of persons deprived of their liberty), HRI/GEN/1/Rev.9 (Vol. I), Poin. 3

Article 3 of General Comment No.28 (HRI/GEN/1/Rev.9 (Vol. I)) adopted 29 March 2000.

Member countries of ICCPR are called upon to ensure a full and equal fulfillment of civil and political rights between men and women, including taking steps to eliminate gender-based barriers in order to enjoy these rights.

In the context of Corrections, General Comment No.28 called for the participating countries to fulfill civil and political rights to an equal correctional system:

- Separating men and women prisoners, and ensuring female prisoners are guarded by only female officers
- Separating children from adult prisoners
- Separating treatment between men prisoners and women prisoners: including separation in various accesses:
 1. Rehabilitation
 2. Education program
 3. Conjugal rights for husband and wife relations
 4. Humane treatment in medical assistance and health care for expectant mothers
 5. Humane treatment in medical assistance and health for women in labor
 6. Humane treatment in medical assistance and health care for newborns.

In accordance with General Comment No. 21 Article 10 on Humane Treatment of Persons Deprived of Their Liberty (HRI/GEN/1/Rev.9 (Vol. I)) point 5 concerning Article 10 of the ICCPR, participating countries are called to refer to relevant instruments regarding standards of treatment for prisoners. One of which is the Standard Minimum Rules (SMR) for the Treatment of Prisoners (1957) which was first adopted in 1995 by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

In 2010, the UN adopted the United Nations Rules for Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, known as "Bangkok Rules." The adoption of Bangkok Rules was a step forward from the standard treatment of female prisoners, respect on women's specific needs was very minimal prior to 2010¹⁷. Bangkok Rules contains standards that must be met to support the fulfillment of the rights of women in prisons. It recognizes the increasing number of women sent to jail as an important and urgent moment to pay attention to women in

¹⁷ In accordance with Standard Minimum Rules (SMR) 1995 for the Treatment of Prisoners, specific needs of women prisoners are set forth in 6 Rules:

1. Rule 8(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;
2. Rule 23(1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate;
3. Rule 23(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers;
4. Rule 53(1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution;
5. Rule 53(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer;
6. Rule 53(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

prison's specific needs¹⁸ The Bangkok Rules is a complement to SMR and not to replace SMR. The general principle of Bangkok Rules is to give more attention to the specific needs of women aimed at achieving substantial gender equality¹⁹.

SMR has been developed since 2011²⁰ and the United Nations Standard Minimum Rules for the Treatment of Prisoners or later known as the Nelson Mandela Rules was issued in 2015. Respecting the 1995 SMR, the Mandela Rules contains additional regulatory materials regarding the needs of women in prisons, namely regarding consideration of the restriction use of solitary confinement for children and women²¹, the prohibition on the use of restraint instruments for women during childbirth, prenatal and postnatal²², and non-discrimination safeguard between men and women when the conjugal visit is allowed. So, how does it work in Indonesia?

4. Prisoners Classification under the Corrections Law

Indonesian regulations regarding the correctional system are regulated under Law No. 12 of 1995 on Corrections. This law has no specific rules that pay attention to the specific classification of women, nor classification based on the specific needs of women.

Generally speaking, the classification in the Corrections Law is based on the subjects that are serving time in sentencing, which consist of prisoners, juvenile offenders, and non-custodial clients. Prisoners or convicts are those who are sentenced to serve time in Correctional Institution (Lapas). Juvenile Offenders are any person under 18 years who underwent a program in the Juvenile Prison²³. A non-custodial client is a person who is under the supervision/care by the Probation Board/ Balai Pemasyarakatan (Bapas).

The implication of this classification is for the custodial supervision mechanism inside the Correctional Institutions (Lapas) and non-custodial supervision by the Probation Board/ Balai Pemasyarakatan (Bapas). The classification only applies to the custodial supervision inside the correctional institutions, while the guidance program/ non-custodial supervision by Bapas is not classified by sex.

Classification of prisoners in accordance with Law No. 12 of 1995:

Custodial Supervision of prisoners inside the correctional institutions is carried out on the basis of the followings classification: **a. age; b. sex; c. serve time; d. type of crime committed; and e. other criteria that are in line to the needs or development of the supervision.**

¹⁸ Annex United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) Preliminary observations, point 1

¹⁹ *Ibid*, basic principle

²⁰ The UN General Assembly in 2011 decided to form an expert group to revise the Standards made in 1955, UNODC acted as the expert group's secretariat, see http://www.un.org/en/events/mandeladay/mandela_rules.shtml

²¹ United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 45(2)

²² *Ibid*, Rule 48(2)

²³ This establishment had been discontinued

In the same Article, there is a classification based on sex. Article 12(2) then states that custodial supervision for women prisoners is carried out in Women's Prisons. Sex classified custodial supervision for minor prisoners is also included in: Article 20 for Criminal Juvenile/ Anak Pidana, Article 27 for State Juvenile/ Anak Negara, Article 34 for Civil Juvenile/ Anak Sipil.

In terms of prisoners' classification, Article 13, 21, 28, and 35 of Law No. 12 of 1995 mandate the establishment of a Ministerial Decree to regulate the Registration and Classification of Prisoners, Criminal Juvenile, State Juvenile, and Civil Juvenile. The implementing regulation regarding this material was the Decree of Directorate-General of Corrections Number: Pas-170.Pk.01.01.02 of 2015 concerning Standards for Registration and Classification of Prisoners and Detainees (Standard).

With this Standard, it is expected that the registration and classification service of prisoners and detainees not only can be organized in an orderly, effective and efficient manner but also to provide legal certainty for prisoners and detainees²⁴. The Standard also regulates grouping or classification based on certain criteria: on age, sex, serve time, type of crime committed, and other criteria that are in line to the needs and development of the supervision. Classification is carried out as an effort to facilitate an easier process of data collection from each of the respective group. While other material regarding the custodial supervision program is regulated in Law No. 12 of 1995, which are on: the rights of prisoners²⁵, criminal juvenile, state juvenile, and civil juvenile, along with their custodial supervision programs²⁶ and transfer procedures²⁷. Law No. 12 of 1995 also encompasses the rights of those four groups without distinction based on sex, which will be explained further.

5. Rights of Women Prisoners in Indonesia

As explained earlier, that when we are examining Law No. 12 of 1995 on Corrections, the classification between male and female prisoners is only for the needs of the custodial supervision process. There is no wording in this law that specifically addresses the needs of women prisoners²⁸.

6. Basic Human Rights in Law No. 12 of 1995

Within the framework of the prisoners' rights, there is no differentiation regarding the rights of women prisoners with men prisoners. Article 14(1) Law No. 12 of 1995 on Corrections explains that

²⁴ Director-General of Corrections (1), *Keputusan Dirjen PAS Nomor : Pas- 170.Pk.01.01.02 of 2015 on Standar Registrasi dan Klasifikasi Narapidana dan Tahanan*, Background.

²⁵ Regulated in PP No. 32 Tahun 1999 on the Terms and Procedures for Citizen Rights Patronage of Corrections, two times revisions, initially as PP No.28 of 2006 to PP No.99 of 2012

²⁶ Regulated in PP No. 31 tahun 1999 on coaching and supervision of prisoners

²⁷ Regulated in Minister of Justice Decree (now Ministry of Law and Human Rights) No: M.01-Pk.02.01 of 1991 on the Guidelines of the Transfer of Prisoners and Juvenile Offenders

²⁸ This writing is bound to only on the rights of prisoners and not on the rights of Criminal Juvenile, State Juvenile, or Civil Juvenile.

rights given to prisoners are the followings:

- a. Worship according to religion or belief
- b. Treatment, both mental and physical;
- c. Get an education and training;
- d. Health facilities and adequate food;
- e. File a complaint;
- f. Access to reading materials and other mass media broadcasts that are not prohibited;
- g. A wage for work performed;
- h. Receive family visits, legal counsel, or other particular persons;
- i. Get a reduction of serve time (remission);
- j. Get a chance to family visit leave;
- k. Parole
- l. Release on temporary license prior to the end of serve time, and
- m. Access to other rights in accordance with the legislation.

Further provisions on the prisoners' rights are regulated in the Government Regulations.

7. Supplementary Regulations on the Rights of Women Prisoners

Provisions regarding prisoner rights are also covered in Government Regulation as supplementary regulations, PP No. 32 of 1999 on the Terms and Procedures for Prisoners Rights. This PP had been revised two times, earlier as PP No. 28 of 2006 and then changed to PP No. 99 of 2012. These two times revisions only changed the provisions related to Remission, Assimilation, and Parole that applies to all prisoners, regardless consideration based on the prisoners' gender, while the provisions on basic rights especially for women has not changed. Specific aspects of the rights of women prisoners will be discussed further.

A. Physical Health of Men and Women Prisoners

Article 7(1) of PP No. 32 of 1999 on the Terms and Procedures for Prisoners Rights states that each prisoner has the right to receive physical care in the form of:

- a. Access to sports and recreational activities;
- b. Clothing; and
- c. Sleeping and bathing equipment.

Article 7(2) of PP No. 32 of 1999 further explained that the provisions of Article 7(1)(b) and 7(1)(c) shall be provided promptly after the convict was registered. Article 7(3) stipulates that Prisoners must wear a prison uniform that has been set.

The first different treatment between men and women is on the access to clothing, according to the explanation of Article 7(2) of PP No. 32 of 1999, clothing that should be provided for women prisoners are:

- 2 (two) sets of prison uniforms;
- 1 (one) set of working clothes;
- 1 (one) set of prayer hijab;
- 2 (two) undershirts;
- 2 (two) underpants;
- 1 (one) unit of sanitary napkin;
- 1 (one) pair of flip-flops.

Another regulation, the Director-General of Corrections Decree Number: Pas-981.Pk.01.06.07 of 2018 on the Standards for the Implementation of the Basic Needs of Detainees, Prisoners, and Juvenile Offenders describes the fulfillment of the rights of women prisoners' clothes.

The distribution of the right to clothing is carried out annually with the following details:

- 2 (two) sets of prison uniforms; 8 sets per year
- 1 (one) set of working clothes; 2 sets per year
- 1 (one) set of prayer hijab; 4 sets per year
- 2 (two) undershirts; 8 pieces per year
- 2 (two) underpants; 8 pieces per year
- 1 (one) unit of sanitary napkin; 12 units per year
- 1 (one) pair of flip-flops; 4 pairs per year

Whereas sleeping and bathing equipment are not distinguished between men and women, including beds, mattresses or mats, bed linen, pillows, blankets, bath soap, towels, toothbrushes, and toothpaste.

B. Health Care for Women Prisoners classified as Vulnerable Groups

Article 14(1) of PP No.32 of 1999 on the Terms and Procedures for Prisoners Rights guarantees that every prisoner has the right to obtain appropriate health services. Appropriate health services subjects to the availability of health center and its facilities with at least one doctor and one health worker in each prison.

Article 16(1) of PP No. 32 of 1999 states that a medical examination is conducted at least 1 (one) time in 1 (one) month and should be recorded in a Health Card. Further provisions regarding health services are regulated in the Decree of the Director-General of Corrections Number: Pas-32.Pk.01.07.01 of 2016 concerning Basic Health Care Standards in Prisons, Detention Centers, Correction Institutions, Child Development Agency (LPKA), and Child Temporary Placement Agency (LPAS).

Specific for women, standards inside the Director-General of Corrections Decree Number: Pas-693.Pk.01.07.01 of 2015 on Health Care and Services for Vulnerable and High-Risk Groups Standards (Standards) are applied. Women are classified as vulnerable groups²⁹.

The Standards clearly set forth that inside the correctional institutions/detention centers, vulnerable groups must receive health care and services needed³⁰, including women.

Special service standards for women prisoners are divided into 3 stages; reception phase (entry), main phase (during the serve time), and release phase (prior to the release).

Special Service Standard for Women in detention centers/correctional institutions.

Reception phase	Main	Release phase
<ul style="list-style-type: none"> a. Health care in health centers, including medical report, pregnancy tests, drug screening, Tuberculosis & HIV screening, screening for high-risk diseases b. Counseling services 	<ul style="list-style-type: none"> a. Early health care (both inside and outside) b. Distribution of women's special needs: <ul style="list-style-type: none"> 1. Sanitary napkins 2. Periodic medical check-up for pregnant women 3. Childbirth 4. Extra food for baby feeding 5. Special need for Muslim women in 40 days postnatal. c. For children born or raised in prison (Max. 2 years old) <ul style="list-style-type: none"> 1. Vaccinations 2. Vitamins 3. Extra nutritious foods 4. Baby's medical check-up 5. Nursing needs (diapers, milk bottles, infant formulas, newborn bathing equipment) d. Information, Education, and Communication (IEC) for mental health, spiritual counseling, addiction counseling, carried out individually or in the group by relevant agencies. 	<ul style="list-style-type: none"> a. Free pre-release counseling, especially for women prisoners/detainees suffering from special diseases or conditions b. Medical Report for a comprehensive and sustainable integration post-release c. Coordinate and cooperate with relevant parties in providing comprehensive management and sustainability, both in terms of treatment and rehabilitation of drug dependence

Other special health services standards:

²⁹ "buku ini dipergunakan sebagai landasan dan standar dalam memberikan pelayanan dan perawatan kesehatan bagi WBP yang termasuk dalam kelompok rentan yaitu anak, wanita dan lansia serta kelompok risiko tinggi yang sedang menjalani pidananya di Lapas dan Rutan," Translation: This book is used as a standard in providing health services and care for prisoners who are included in vulnerable groups, namely children, women and the elderly and high-risk groups who are currently serving their time in correctional institutions and detention centers. Director-General of Corrections, *Standar Pelayanan Dan Perawatan Kesehatan Bagi Kelompok Rentan Dan Risiko Tinggi (Selain TB & HIV)*, 2015, background

³⁰ *Ibid*, p. 91

- Medication needs standard³¹
- Referral health service standard³²
- Implementation instructions for drug rehabilitation³³
- Medical rehabilitation standard³⁴
- Palliative care standard³⁵
- The standard for controlling TB, hepatitis, scabies, leprosy and other infectious diseases³⁶
- Mental health service standard³⁷
- Comprehensive service handbook for HIV/AIDS and STIs³⁸

However, only a few of these standards pay attention to the specific needs of women. Three things that are considered are only 1. emergency consideration of obstetric,³⁹ 2. emergency conditions of the infant in referral health standards, and 3. prevention of mother-to-child transmission (PMTCT) inside HIV/Aids and STIs service handbook

C. Food Services on Pregnant and Breastfeeding Mothers' Special Needs

PP No. 32 of 1999 on the Terms and Procedures for Terms and Procedures for Prisoners Rights regulates that every prisoner and the juvenile offender has the right to receive advisable food and drinks the amount of recommended calories intake that meets health requirements.

Basically, General Provision regarding food gives no differentiation between women and men, aside from Article 20(1) PP No. 32 of 1999 saying that prisoners and juvenile offenders who are ill, pregnant or breastfeeding mothers, are entitled to receive additional food in accordance with the doctor's instructions. Article 20(3) also provides that the children born or raised in prison of women prisoners can be given additional food as the doctor's instructions, at the latest until the child is 2 (two) years old.

³¹ Regulated in the Decree of Director-General of Corrections No. Pas-01.Ot.02.02 of 2019

³² Regulated in the Decree of Director-General of Corrections No. Pas-35.Ot.02.02 of 2018

³³ Regulated in the Decree of Director-General of Corrections No. Pas-985.Pk.01.06.04 of 2018

³⁴ Regulated in the Decree of Director-General of Corrections No. Pas-30.Ps.01.07.01 of 2016 on Medical Standards of Rehabilitation Teraph

³⁵ Regulated in the Decree of Director-General of Corrections No. Pas.385.Pk.01.07.01 of 2016

³⁶ Regulated in the Decree of Director-General of Corrections No. Pas-31.Pk.01.07.01 of 2016

³⁷ Regulated in the Decree of Director-General of Corrections No. Pas-304.Pk.01.07.01 of 2016

³⁸ See Director-General of Corrections (2), *Pedoman Layanan Komprehensif HIV-AIDS & IMS di Lapas, Rutan dan Bapas*, 2012

³⁹ Obstretic emergency:

1. Abortus
2. Distosia
3. Eclampsia
4. Ectopic pregnancy symptoms
5. Antepartum bleeding
6. Postpartum bleeding
7. Inversio Uteri
8. Febris Puerperalis
9. Hyperemesis gravidarum with dehydration
10. High-risk labor and delivery

Primarily, women prisoners are allowed to bring their children, but only until the age of 2 years. When the child reached the age of 2 years, the child must be handed over to his father or relatives, or other parties with the signed consent of the child's mother.

The Head of each Correctional Institution is responsible for food management. Provisions regarding the administration of food ingredients are regulated in the Minister of Law and Human Rights Regulation No. 40 of 2017 concerning Guidelines for Preparation and Service of Food for Detainees, Juvenile Offenders, and Prisoners.

This Government Regulation also contains nutrition adequacy standard that refers to Regulation of the Minister of Health No. 75 of 2013. Assorted by sex: Male adult: 2.345 kcal, Female adult: 1.995 kcal and Children: 2.240 kcal.

Moreover, the frequency of the 10-days⁴⁰ menu cycle describes as follows:

1. Rice-based full meal 30 times⁴¹
2. Meat side dish: beef 5 times, chicken 8 times, dried fish 5 times, fresh fish 6 times, eggs 6 times
3. Vegetable side dish: tempe 7 times, tofu 7 times, beans 6 times
4. Vegetables 30 times
5. Fruits 10 times
6. Snack: sweet potatoes 10 times, mung beans 5 times

Minister of Law and Human Rights Regulation No. 40 of 2017 also administers regarding extra food in certain conditions: fasting in the Ramadan season, children, sickness, the elderly, expectant mothers, postnatal, and breastfeeding mothers.

Additional nutrition for expectant and breastfeeding mothers is arranged as follows: expectant mother in the first trimester will receive 180 kcal, second trimester: 300 kcal, third trimester: 300 kcal. As for breastfeeding mothers, additional calorie is only provided for 1 year postnatal, the first 6 months: an additional 330 kcal, the last 6 months: an additional 400 kcal. The additional ingredients consist of white bread, cow's milk, granulated sugar or biscuit, cow's milk, granulated sugar or bakwan/ fried vegetable cake, or onde-onde cake or apem cake, cow's milk, sugar.

For each breastfeeding mother's meal portion is added one type of cake or a glass of milk. For babies or children raised in the facilities, it is recommended to be given exclusive breastfeeding for 6 months, if not possible can be given 1-2 additional milk per day and 1-2 intermittent meals.

⁴⁰ Meal frequency per day: 3 times meals, morning 2/5 calory, noon 2/5 calory, evening 1/5 calory, or each 1/3 calory

⁴¹ To anticipate the availability of certain ingredients in certain areas, food conversion mechanism is also regulated in order to prevent a change in the nutritional value

D. Parenting and Visitation for Women Prisoners

There are no special provisions in the Corrections Law which explain that women prisoners have the right to raise their children in a prison. This arrangement is only implicitly contained in Article 20 of PP No. 32 of 1999 on the Terms and Procedures for Citizen Rights Patronage of Corrections in the context of food administration. Every child of a women prisoner who was taken into prison or who was born in prison could be given additional food for a maximum until the child reached 2 (two) years old.

Thus, women prisoners are allowed to bring their children until the age of 2 years, when they reach the age of 2 years, the child must be handed over to his father or relatives, or other parties with the signed consent of the child's mother.

Regarding the visitation right, Article 30(1) of PP No. 32 of 1999 explained that each prisoner has the right to receive visits from family, legal counsel or other people. Visits, as referred in subsection (1), shall be recorded in the Visitor Register.

Article 30 (3) of PP No. 32 of 1999 requires each Correctional Institutions to provide at least 1 (one) special room to receive visits.

The Government Regulation has no specific provisions that regulate special visitation rights for women prisoners or guarantee the right of prisoners to visit their children, even though as explained above, despite the acknowledgment of children less than 2 years old can be taken and raised in correctional institutions. Correctional Service Standards of the Director-General of Corrections Decree No. PAS-14.OT 02.02 of 2014 also do not guarantee visitation rights for the child of women prisoners.

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