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Revision Required

9 pesan

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10 September 2019 pukul 13.06

Assalamu'alaikum, Wr. Wb.

Mohon untuk merevisi artikel sesuai keterangan Review Note

Demikian email ini kami kirimkan. Terimakasih atas partisipasinya dan kami menunggu perbaikan selambat-lambatnya 7 hari sejak email ini kami kirim.

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10 September 2019 pukul 16.44

Wa'alaikumussalam Wr Wb.. terimakasih atas informasinya 🙏🙏
[Kutipan teks disembunyikan]

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20 November 2019 pukul 09.14

Assalamualaikum, Wr. Wb

Sehubungan dengan Hasil Review yang telah disampaikan, maka kami mengingatkan kembali untuk mengirimkan hasil revisi artikel Bapak/Ibu. Kami harapkan hasil revisi dapat diteima paling lambat tanggal 25 November 2019. Terimakasih.

Wassalamualaikum, Wr. Wb.

Hormat kami,
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[Kutipan teks disembunyikan]

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26 November 2019 pukul 08.08

Assalamualaikum. Wr. Wb. Mohon maaf pengelola jurnal yang terhormat saya belum bisa menyerahkan revisi artikel saya bukan karena faktor kesengajaan. Saya sekarang sedang fokus utk revisi disertasi saya pasca ujian tertutup dan promotor menyegerakan saya untuk menyelesaikan revisi Krn akan dijadwalkan pengukuhan Desember. Mohon

kebijakan dari pengelola jurnal agar saya diberi waktu jika artikel saya diterima saya siap walaupun tahun depan di publish. Terimakasih atas perhatiannya
Wassalamu'alaikum Wr Wb

[Kutipan teks disembunyikan]

Jurnal Media Hukum FH UMY <jurnalmediahukum@gmail.com>
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26 November 2019 pukul 09.58

Assalamualaikum Wr. Wb

Terimakasih telah memberikan konfirmasi dan kami ucapkan selamat atas sidang doktornya semoga lancar hingga pengukuhan Desember. Terimakasih.

Wassalamualaikum Wb. Wb

Hormat kami,
Jurnal Media Hukum

[Kutipan teks disembunyikan]

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26 November 2019 pukul 10.33

Wa'alaikumussalam Wr. Wr. Aamiin ya ALLAH... Terimakasih untuk dewan pengelola jurnal yang terhormat..

[Kutipan teks disembunyikan]

Jurnal Media Hukum FH UMY <jurnalmediahukum@gmail.com>
Kepada: rina rohayu <rinarohayu11@gmail.com>

15 April 2020 pukul 11.09

Assalamu'alaikum

Kepada bapak/ibu Penulis Artikel di Jurnal Media Hukum UMY, kami mengingatkan kembali permohonan revisi sesuai review note yang pernah kami kirimkan pada tanggal 26-11-2019 .

Demi ketepatan terbitan kami di Juni 2020, kembali kami mohon bapak/Ibu untuk merevisi artikel sesuai review note yang kami kirim.

Demikian permohonan kami, dan hasil revisi kami tunggu secepatnya

Wassalamu'alaikum Wr. Wb.

[Kutipan teks disembunyikan]

rina rohayu <rinarohayu11@gmail.com>
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5 Mei 2020 pukul 09.16

Wa'alaikumussalam wr wb. Baik, terimakasih informasinya..

[Kutipan teks disembunyikan]

Jurnal Media Hukum FH UMY <jurnalmediahukum@gmail.com>
Kepada: rina rohayu <rinarohayu11@gmail.com>

2 Juni 2020 pukul 13.51

Assalamu'alaikum

Kepada bapak/ibu Penulis Artikel di Jurnal Media Hukum UMY, kami mengingatkan kembali permohonan revisi sesuai review note yang pernah kami kirimkan pada tanggal 26-11-2019 dan tanggal 15-04-2020.

Demi ketepatan terbitan kami di Juni 2020, kembali kami mohon bapak/Ibu untuk merevisi artikel sesuai review note yang kami kirim.

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Revisi Artikel an. Rina Rohayu H

1 pesan

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11 Juni 2020 pukul 10.34

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Assalamu'alaikum wr wb. Mohon maaf atas keterlambatan pengiriman perbaikan artikel saya. terimakasih dan salam hormat untuk pengelola jurnal

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Biaya Publikasi

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Kepada: rina rohayu <rinarohayu11@gmail.com>

12 Juni 2020 pukul 12.24

Assalamualaikum, Wr. Wb.

Sehubungan dengan artikel Ibu **Rina Rohayu H** yang berjudul **POSITIVISM PARADIGM SHIFT TOWARDS THE NURTURING OF PRISONERS : A Solution of Prisoners Behavior in the Correctional System** akan dimuat pada Edisi Juni 2020 maka kami mohon untuk menyelesaikan biaya publikasi sebesar **Rp1.500.000,00**, dapat dibayarkan melalui transfer ke **Bank Mandiri Syariah** dengan No. Rekening **7136402441** atas nama **Iwan Satriawan or Dewi Nurul M** kemudian mengirimkan **bukti transfer ke email jurnalmediahukum@gmail.com** . Kami harapkan pembayaran dapat diselesaikan maksimal tanggal **19 Juni 2020**. Segera, setelah bukti pembayaran dikirimkan, kami akan mengirimkan Letter of Acceptance. Terimakasih.

Wassalamualaikum, Wr.Wb.

Hormat kami,

Jurnal Media Hukum

rina rohayu <rinarohayu11@gmail.com>
Kepada: Jurnal Media Hukum FH UMY <jurnalmediahukum@gmail.com>

16 Juni 2020 pukul 09.22

Assalamu'alaikum wr wb. Saya sudah transfer biaya publikasi. Mohon di cek. Terimakasih
[Kutipan teks disembunyikan]



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19 Juni 2020 pukul 14.09

Assalamualaikum, Wr. Wb. Berikut kami kirimkan LoA agar dapat dimanfaatkan sebagaimana mestinya. Terimakasih. Wassalamualaikum, Wr. Wb.
[Kutipan teks disembunyikan]

 **LOA an. Rina Rohayu H, Absori, and Natangsa Surbakti.pdf**
173K

rina rohayu <rinarohayu11@gmail.com>

19 Juni 2020 pukul 15.41

Kepada: Jurnal Media Hukum FH UMY <jurnalmediahukum@gmail.com>

wa'alaikumussalam wr wb. Alhamdulillah.. Terimakasih banyak kepada seluruh tim pengelola jurnal..

[Kutipan teks disembunyikan]

POSITIVISM PARADIGM SHIFT TOWARDS THE NURTURING OF PRISONERS : A Solution of Prisoners Behavior in the Correctional System

Comment [c1]: What do the author mean with positivism paradigm in this paper?

Comment [c2]: Better using "inmate" instead of prisoners

ABSTRACT

Law Number 12 the year 1995 on the Correctional System mandate that a correctional facility is an institution from the criminal court subsystem that has the duty and strategic function as the implementation of imprisonment and also the nurturing facility to the prisoners. As above, correctional system function has differed greater and better rather than the former function which based on prisoner regulations. The Decree of Minister of Justice of the Republic of Indonesia Number M.02.PK.04.10 year 1990 on the Prisoners The Nurturing Pattern also referred to in conduct the nurturing. The existence of such regulations is not able to solve the problems in the correctional system.

Comment [c3]: Better using "Law Number 12 of 1995"

Comment [c4]: mandates

Comment [c5]: of

Comment [c6]: As above mentioned as aforementioned

Comment [c7]: The prisoners' nurtur pattern, or the inmates' nurturing patte

The Method in this research is the doctrinal or normative approach. The research result highlights that frequent crimes occurrence in the correctional system shows that implementing laws and regulations are not enough to change the behavior of prisoners. Besides the occurrence of frequent crimes in the correctional system, the prisoners are often become recidivist either repeating that been sentenced by the judge or conduct the new crime. The autonomous or conscience awareness of the prisoners, the officers, government and community are expected. The existence of psychological intervention in the prisoners coaching is considered to be effective with giving the psychotherapy, gradually grow the awareness autonomous in the soul of prisoners.

Comment [c8]: Either repeating the previous crime or conducting a new crim

Keywords : Positivism, Prisoners, Pattern, Nurturing.

I. INTRODUCTION

Correctional institution is a shift term of a prison. This softening term aims to humanize humans. At the beginning, the purpose of a prison was to retaliate against the perpetrators of crime, that now changes into coaching. Pupils viewpoint of a prison seems terrible because it is a place for bad people. It is not rarely for some people to reject prisoners who are free to return into the community.

Comment [c9]: What does "a shift term" --- please find another common words

The societies attitude cannot be neither blamed nor justified. It cannot be blamed on the attitude of some people who reject the former prisoner who comes back into the community, because former inmates often repeat their actions, even commit other crimes, which means that they do not show good attitudes and behavior. Commonly, ex-prisoners have negative influences on society, especially teenagers. On the other hand, the antipathy attitude of some people to former inmates cannot be justified, with the reason that inmates are someone who has just finished being fostered, they need moral and spiritual support from community

members. The ex-prisoner who wants to change to a better direction, must be protected by the community so that their good intentions do not turn into bad intentions.

The successful formation of prisoners will certainly be a reflection of their behavior when returning to the community. The rise of cases that occur in the correctional institution involving prisoners is certainly a big question on how the guidance pattern that has been received by inmates. Is it enough just to apply the rules¹ related to founding, which is only a form of legal positivism². Until today, some criminal acts and riots that committed by inmates were still happening in the correctional institution.³

The implementation of imprisonment in Islam was included in the category of *ta'zir* punishment since Qur'an does not regulate imprisonment. This refers to the notion of punishment *ta'zir* that is the punishment for jarimah whose penalty has not been determined by *syara'* is referred as *ta'zir* law.

In the view of Islamic criminal law, prison law is different from positive law. According to the Islamic law, imprisonment is not seen as a major

¹Law Number 12 from year 1995 concerning Corrections mandates that a Correctional Institution is an institution of the sub-criminal justice system that has a strategic function as the implementation of imprisonment as well as a place for fostering prisoners. The function of a correctional institution nowadays is far different and better than the function of correctional institution in the past years with the legal basis of Prison Regulations. See also the Decree of the Minister of Justice of the Republic of Indonesia No. M.02.PK.04.10 from 1990 concerning the Pattern of Guiding Prisoners, Prisons in a prison system, besides functioning as a place of imprisonment, also have several strategic objectives in terms of national development. These objectives states that Lapas has a dual function, namely as an educational institution and a development institution. Furthermore, see the Republic of Indonesia Government Regulation Number 31 from year 1999 concerning Guidance and Guidance-Based Citizens. In Article 3, guidance includes matters relating to: a. Devotion to God Almighty; b. Nation and state awareness; c. Intellectual; d. attitude and behavior; e. physical and spiritual health; f. legal awareness; healthy reintegration with the community; h. work skills; and i. work and production training.

²Legal positivism is a school of thought in the law that addresses legal concepts exclusively and is rooted in current legislation. Legal positivism is also interpreted as a theory which states that the law will only be valid if it is in the form of norms that can be enforced and determined by an instrument in a country. Look inside Anthon F. Sutanto, 2010, Non-Systematic Legal Sciences : the Foundation of Philosophy of Indonesia Legal Science Development, Genta Publishing, Yogyakarta, p. xiii.

³There are still prisoners who commit criminal acts of mistreatment and even the killing of fellow prisoners in prisons. Not only cases of abuse and murder, narcotics prisoners also still run the illegal business, although some of them are death row inmates for drug cases. Other acts of violations committed were riots and arson, as happened in several prisons in Indonesia. Seeing such behaviors, does not rule out the possibility after completing a period of coaching and mentoring, they commit another crime (residive).

Comment [c10]: What do the authors mean?

punishment but it is only regarded as a second sentence or a punishment of choice. The main penalty in Islamic law for the acts that are not threatened with *had* punishment is called *jilid* punishment. Usually, this penalty is only imposed on acts that are considered to be mild or moderate. Although it can also be imposed on actions that are considered heavy and dangerous. This is because this sentence is categorized as a judicial power, which according to the benefit consideration, it can be imposed for criminal offenses which are considered to be rigid.⁴

Comment [c11]: reference

The central position of the criminal can be seen from the power of the judges in imposing the criminal sanctions, where in carrying out the criminal application the judge has freedom and was not bound to other elements. According to Muladi, either *straf sort* or the type of punishment, *straf maat* or the length of penalty and *straf modus* or how does the criminal implementation, the judge has the freedom to get the right criminal punishment.⁵

Comment [c12]: please use more proper legal diction

In Indonesia, the replacement of the prison system into a correctional system was intended not only to formulate imprisonment, but also a founding and methodology treatment with multilateral oriented that use centered approach on the potentials of the prisoners, as well as the community as a whole (the community was involved in fostering and integrating prisoners in the community, hereinafter called as community building).⁶ Basically, imprisonment output was expected to make prisoners become good people that obey the law as the main product of law enforcement activities assisted by the community⁷.

Philosophically, correctionalism is a system of punishment that has been far moved to abandon the philosophy of retributive (retaliation), deterrence and resocialization. In other words, punishment is not intended to make suffering as form of retaliation, it is not intended to make wary by means of suffering, and also

⁴Rahmad Hakim. (2000). Islamic Criminal Law (Fiqh Jinayah), First Edition, Pustaka Setia, Bandung., p. 161-162.

⁵AgusRahardjo. (2008). **Mediation as the Basis of Criminal Cases Solving**. JurnalMimbarHukum, Vol. 20, p. 56.

⁶BambangPoernomo. (1966). The Implementation of Imprisonment in the Correctional System in Indonesia, Yogyakarta :Liberty, p. 95.

⁷BambangPoernomo, *Ibid*, p. 95.

does not assume the convict as someone who lacks socialization. Correctionalism is in line with the philosophical social reintegration that assumes crime is the conflict occurs between convicts and the community. Therefore, penalty is intended to restore conflict and to reunite convicts with their communities or reintegration.⁸

Comment [c13]: the philosophy of social integration

The existence of various provisions governing the issue of prisoner formation turned out to be ineffective in overcoming problems arising in correctional institution. In addition to the problem of the overload capacity that often becomes a classic problem in the correctional institution nowadays, problems also arise from the internal staff of the prison themselves.

Comment [c14]: ???
Please complete it reliable data

Talking about the repressive of imprisonment, today its position has run into gradation since it has received many challenges and pressures from various movements that have emerged lately, especially in Europe and America. Correctional institution that are well known in warding crime are now starting to fade away because of the consequences they caused, such as producing more dangerous criminals. Furthermore, imprisonment also shows its weaknesses by creating dehumanization and socialization, which occurred by the former inmates⁹.

Comment [c15]: ???

In addition, there is also a term that states prisons are schools for criminal. The interaction between fellow inmates who have different criminal acts, allow each other to share their experiences. So when the penalty is over, they will try to commit another crime. This will happen if the pattern of guidance obtained at the correctional institution is failed to reach the expected target.

II. STATEMENT OF PROBLEM

This paper aims to answer the problem, how does the shift paradigm on positivism in the pattern of coaching and the solution to improve convicts' behaviors so that the output of founding can be achieved?

Comment [c16]: Maybe it can be re-arranged so that the issue raised will be clearer.

III. RESEARCH METHOD

⁸Direktorat Jendral Pemasyarakatan. (2009). the Blueprint of Implementation of the Revision Correctional System, Jakarta :Direktorat Jendral Pemasyarakatan, p. 11.

⁹Muhari Agus Santoso. (2002). The New Paradigm of Criminal Law. Malang :Averroes Press, p. 15-16.

The method used in this study is a doctrinal or normative approach, by reviewing Law Number 12 from year 1995 concerning Corrections, Decree of the Justice Minister of the Republic of Indonesia No. M.02.PK.04.10 year 1990, and Government Regulation Number 31 from year 1999. In addition to regulations related to the pattern of prisoner's founding, the results of previous studies were in the form of journals and other scientific writings and comparing the pattern of Malaysian state punishment to conducted this writing analysis, in order to provide a solution to the pattern of founding to improve the prisoners' behaviours.

Comment [c17]: Please recompose part.

IV. DISCUSSIONS

Seeing the rules relating to the founding issues that applied to inmates are quite complete that it should be able to reap significant results. However, considering the rules alone is not enough without being supported by other aspects for example; the feasibility aspect of place that will be used by prisoners in a long period of time, prison officers who really have to maximally carry out their duties and obligations and should not be in contact with crime and violations (since many officers in this case are involved in crime and violations), the aspects of the prisoners themselves in fostering autonomous awareness¹⁰, the government must pay attention to the correctional system, as well as the communities that should help the government in preventing and overcoming these social problems.

Comment [c18]: Does the authors' mean with this phrase is the coaching or treatment?

Starting from the description of the above paragraph, the conception of correctionalism is not solely formulating the objectives of imprisonment, but rather as a guidance system, a methodology in the field of multilateral Treatment of Offenders with an approach that is concerned on the existing of individual potentials and those in the midst of society as a whole or community base treatment.¹¹

¹⁰ Can be juxtaposed with: Behavior on the basis of norms embedded in the actor, this factor can be called conscience awareness. In stateless societies, the means of law enforcement may be only peer groups - as public opinion - and conscience awareness. (Is the Eskimos Hoebel studied). In any society, the peer group has a large influence. "Law" for sexual violations, even if they are enforced, is more enforced by culture, peer groups, and conscience than by the police. Look inside, Lawrence M. Friedmann, 2015, Legal System : in the Perspective of Social Sciences, Nusamedia, Bandung, Seventh Edition p. 81.

¹¹ Widiada Gunakarya. (1998). History and Concept of the Correction. Bandung : Amrico, p. 83.

Individual-centered treatment of offender can be done with a psychological approach. Prison is the last stage when a person is found guilty and accepts a crime. At this stage, the perpetrator is placed in a correctional institution which aims to make the perpetrators of crime change into good people. However, in fact, many of them still committing crimes even more severe than before after leaving the correctional institution. This happens due to the process of social learning in the prison. In the concept of psychology, correctional institution must be a place of rehabilitation for criminals. Ideally, there will be behavioral and psychological changes for prisoners so that after they leave they can become people who behave well and useful to the community. There are several psychological concepts that can be offered in changing the behavior of prisoners. First, personal orientation, by means of individual / group therapy, for example cognitive therapy. Second, environmentally oriented, by creating a physical environment that supports the change of prisoners' behavior, for example the number of prisoners should be in accordance with the size of the cell space so that there is no density and distress that potentially lead to aggressive behavior of prisoners.¹²

Harsono highlighted the aspect approach used in intervening the fostering programs for inmates. He adds that coaching inmates with a top down approach was not effective at all. Therefore, this orientation should be change so that the guidance given to the prisoners can be effective as expected by the correctional institution. The renewal of the prisoners' orientation development changes from the top down to the bottom up approach. The bottom up approach is the formation of prisoners based on prisoners' learning needs, each prisoner must undergo a pre-test before the founding started. From the pre-test results, the level of knowledge and the learning expertise and desire will be known. In the middle of the training, a

¹² Ivan Muhammad Agung, ,the Contribution of Psikology in the Law Enforcement in Indonesia <https://vano2000.files.wordpress.com/2012/06/kontribusi-psikologi-dalam-penegakan-hukum-di-indonesia.pdf>. (Accessed June 24, 2018. 21.30 PM).

mid test needs to be held and post-test should also be done at the end in order to determine the success of the extent founding.¹³

Indeed, it cannot be denied that the implementation of the prisoners' founding will be difficult considering the large number of prisoners in every correctional institution throughout Indonesia. Therefore, the government through its ranks plays a role in creating a conducive and appropriate condition in the correctional institution, for example by minimizing the number of prisoners in each block and even in the sleeping area. This can be done by not convicting perpetrators of minor crimes or drug users. It is enough to give sanctions other than imprisonment due to the reduction capacity in the prison, so that the founding will be carried out properly. The other problem faced is also the imbalance in the number of prisoners with the existing officers, so it will be difficult to control prisoners and allow riots such as those that occurred in four prisons recently.

The authoritarian attitudes from the correctional institution officers also lead to friction between officers and inmates. The officer in this case is obliged to provide guidance to prisoners based on the mandate of the correctional law, but on the one hand, friction certainly creates an uncomfortable situation, which in the end the inmates do not really want to take part in the founding program. Obeying the rules just because they are afraid of officers can lead to insubordination and even rebellion that can explode at any time. On the other hand, mutual respect will foster a sense of awareness from the prisoners because they have been treated humanely.

The description of the above paragraph can be linked to the second *sila* of *Pancasila*, which means humanity. Soekarno used this terminology. In terms of humanity, *just and civilized humanity* means full appreciation of human values (dignity, life, body, rights, honor, needs, dignity, and decent living as humans).¹⁴ Prisoners are human, just like other human beings, what makes them

¹³Mochamad Rifai, Humanitarian Intervention Programme for the Prisoner, <http://publikasi.fisip.unila.ac.id/index.php/sosiologi/article/download/188/195>. (Accessed June 25, 2018, 22.00 PM).

¹⁴ Bernard L. Tanya, Theodoros Yosep Parepa, Samuel F. Lena. (2015). *Pancasila as Indonesia's Legal Framework*, Yogyakarta: Genta Publishing, p. 51.

Comment [c19]:

Comment [c20]: Suddenly linked to Pancasila. It is quite not in line with the issue raised.

different from the other human being is the deprivation of independence as a result of the actions they do, the court decisions that examine, decide and adjudicate the case.

In humanity itself, it contains civilization and justice. There is no justice and civilization without awareness of the value of humanity. Likewise, on the contrary, there is no respect for humanity without a commitment to justice and civilization. Then it can be understood that the second phrase of the second *sila* is *just and civilized humanity*.¹⁵

Fair and civilized humanity, thus is a series of synonyms that complement and presuppose each other. Respect for the weak (for humanity) for example, gives rise to guarantees of equal rights and non-discriminatory treatment based on socio-economic status, race, religion and gender.¹⁶

Humans are humans. Whatever its religion, culture, customs, language, gender, nationality or wealth, race, color, even their ideological orientation, every human being has the right to humanity.¹⁷

However we emphasize that individuals cannot be separated from the bonds of their social responsibility, their social responsibility must not harm their dignity as **Alkhalik**'s creatures.¹⁸

Saharjo in his book "Banyan Tree Pengayoma" states that criminal imprisonment as a criminal restraint of freedom should be curb individual independence by giving prisoners' the opportunity to repent. In addition, Saharjo has also established the main concepts of correctional conception, which are:¹⁹

1. People who get lost are protected by giving them life provisions as a useful citizen in society;
2. Dropping the criminal is not an act of revenge from the state;
3. Penance cannot be achieved by torture but by guidance;

¹⁵ Bernard L. Tanya, Theodorus Yosep Parepa, Samuel F. Lena, *Ibid*, p. 51-52.

¹⁶ Bernard L. Tanya, Theodorus Yosep Parepa, Samuel F. Lena, *Ibid*, p. 52.

¹⁷ Bernard L. Tanya, Theodorus Yosep Parepa, Samuel F. Lena, *Ibid*.

¹⁸ Bernard L. Tanya, Theodorus Yosep Parepa, Samuel F. Lena, *Ibid*.

¹⁹ Saharjo dalam Nelson Sihombing, **the Religion Coaching Pattern to the Prisoners in the Correctional System Class IIB** <http://nelsonsihombing.blogspot.co.id/2013/09/pola-pembinaan-terhadap-narapidana.html>. (Accessed June 24, 2018. 21.30 PM).

4. The state has no right to make someone more malicious than before they entered prison;
5. During the loss of freedom, inmates must be introduced to the community and may not be exiled from society;
6. The work given to inmates must not be time-consuming or only for the state's interests at the time;
7. Guidance and upbringing must be based on Pancasila;
8. Everyone is a human being and must be treated as a human being even though he has gone astray;
9. Prisoners are only given the loss of independence penalty;
10. It is necessary to establish new correctional institutions that are in accordance with the implementation needs of the guidance and conviction programs of institutions in the city to the places with the correctional process.

Based on the main principles stated by Sahardjo, one of the main principles in guiding prisoners is "Penance cannot be achieved by torture but by guidance". To make someone repent, it can be done by giving guidance to prisoners in the field of religion, so that it is expected that if an inmate has finished their penalty, the prisoners will repent and not commit another crime.

The tendency of the guards to carry out founding on the basis of positive thinking will create a stiff, rigid and intolerable impression. The hegemony of prison power (when it has not changed with correctional institutions) **still felt today**. The physical and psychological abuse from the prison's guards, both in the form of persecution and even resulted in death inmates, or verbal violence by speaking harsh and dirty **words**.

It is better that psychotherapy not only given to inmates, **but it also necessary to be given to the prison's officers in this case the wardens**. Boredom, paranoid due to the inmates that can threaten their lives, excessive feelings of worry because they are in the same environment with the perpetrators of crime,

Comment [c21]: This paragraph should be supported by data and complete its source of the data.

would certainly interfere wardens' psychics. These such pressures will definitely affect to their work, emotions and their behavior to the inmates.

Criminal pattern in the Comparative Study

Malaysia

Founding in Malaysia is known as the Pelan Development of Human Program. This program has some phases, that are:²⁰

1. In the first phase, all prisoners are required to attend disciplinary training within three months;
2. The second phase is the continuation of the first phase and the formation of identity and the principle of good life. This phase takes six to nine months and inmates are given the opportunity to explore their religions respectively;
3. In the third phase, inmates undergo skills training. The length of time in the skills program depends on the sentence served by the prisoners. To practice the skills program, the prison team cooperates with outside parties like the National Vocational Training Council and prisoners are given a kind of certificate if they have finished the skills course.
In addition, the Malaysian prison also signed a memorandum of understanding (MoU) with CIDB (Construction Industrial Development Board) for coaching courses such as making ceiling-plasters and dealing with coal. For inmates who serve short penalties undergo disciplinary training in the first and second phases only.
4. The fourth phase is a pre-free program in which prisoners are allowed to work outside specifically for well-behaved inmates. In the morning they go to work and in the afternoon they are returned to prison. In addition to the free program, the parole system was also introduced as the first, second and third phase of the continuation. For example, if an inmate is jailed for two years, then the last four months of the penalty will be spent outside the prison. Prisoners may return to their family

²⁰Deliani, (2007).the Implementation of Individualization Idea in the Execution of Convicts Nurturing.Jurnal Pro Justisia, 25 (2) : p. 103-104.

Comment [c22]: Please use the more specific term. Criminal Pattern is different from sentencing pattern and also crime pattern. Which one do the author mean

homes, and interact with the community under the supervision of parole employees.

Related to the guidance of children who are facing the law and obtaining a court decision in the form of imprisonment, Implementation of Guidance for Children Conflicting with the Law In The Child Act from year 2001, there are four different types of institutions for children who violate the law, with varying levels of security as follows :

1. Probation hostels

Probation Hostels are designated and determined by the Minister of Women, Family and Community Development. Regulation, management and inspection by the life insurance and the implementation is guided by The Probation Hostels Regulation from year 1982.

2. School of Tunas Bakti (STBs)

The Child Act stipulates that STBs are established for the education, training and detention of children. STBs are formed and established by the Minister of Community Virtue (Minister of SocialWelfare)and regulations for management and inspection by the life insurance, with the guidelines of The Approved School Regulations from year 1981.

3. Henry Gurney Schools

Henry Gurney Schools is operated by Imprisonment with a higher level of security than STBs. Activities were held with the guidelines of The Henry Gurney School Rules from year 1949.

4. Prison

The child punished to prison was placed in a Youth Rehabilitation Center carried out by imprisonment service. The Child Act from year 2001 stipulates that a child who is sentenced to prison will not be permitted to contact or be combined with an adult prisoner. Apart from this general protection, care and guidance for these children was

Comment [c23]: Please use a proper legal term.

Comment [c24]: Is it ACT of Malaysia

controlled by The Prison Act from year 1995, which stipulates that a person under 21 years old is called "youth offender".²¹

The Henry Gurney Schools are run by the prison service with a higher level of security and discipline compared to life insurance (Probation Hostels and STBs) facilities. This institution usually has a large area, with green open spaces, even though it is surrounded by armed security guards. The children's dwellings are dormitory-style, which is divided into houses supervised by a house master. Unlike a system in adults that focuses more on security, The Henry Gurney Schools encourages a closer relationship (one to one) between the house master and the children.

Henry Gurney Schools was designed with the British Borstal model, and like the life insurance facilities, the approach applied was discipline, strict routines, religious activities and skills training. There are also developed superior leadership skills and sports. In 2008, the Prison Office introduced the "Putra model" for integration rehabilitation activities, which included four phases, as below:

1. *Phase 1 (2 months) Orientation and Discipline Building*

At this stage, children are directed to understand school rules and participate in civic and religious education activities, as well as marching activities to develop discipline.

2. *Phase 2 (6 – 12 months) Character Reinforcement*

This phase applies the Therapeutic Community (TC) model for personality development. At this stage, it includes counseling sessions, moral education, religious communication and academic education. The academic program follows the applicable curriculum in public schools, with teachers appointed by the Ministry of Education.

3. *Phase 3 (6 – 12 months) Skill Building*

²¹NuriniAprilianda.(2014). A Legal Review on Children's Development Model Based on Education Children Friendly in the Correctional System, Center of National System Research and Development, National Legal Development Body, Ministry of Justice and Human Rights of the Republic of Indonesia

In this phase, boys can choose a certified skills training program through a Malaysian Skill Certificate or CIDB Program. The programs are welding, sewing, electricity, construction, landscaping, and non-certified skills activities, such as laundry, carpentry and cooking. For girls, schools offers courses in landscaping, cooking, sewing and batik. Religious activities, counseling and sports continue at this stage.

4. *Phase 4 (6 months)*

At this stage, children are prepared to reintegrate into society by volunteering outside the school institution. Every child at Henry Gurney School has a personal document where every development is recorded and evaluated every 3 months. Apart from the activities of resilience, in general, children take part in the same founding program. All schools personnel have received counseling training, but they still have not enough expertise to carry out individual coaching or behavioral change approaches. All staff received general training through the Correction Academy, but did not get specific lessons about the Son Model for dealing with child prisoners.

Children who are faced with the law will have greater pressure than adults in taking responsibilities for their actions. The use of the term *child crime* is considered inappropriate since it will affect the psychology of children with the labeled of *criminals*. The term *child delinquency* is more appropriate to use in the case of children who are faced with the law. Romli Atmasasmita emphasizes the importance of distinguishing between the treatment of wicked repetitions carry out by both, adults and children.²²The use of the term *delinquency* rather than the *criminal* will have a good impact to children. Children will be spared on bad stigma from the community when the children have finished the undergoing penalty. The well acceptance from the communities towards the inmates children who have finished undergoing punishment is very important. The communities

²²HarimanSatria. (2018). *Restorative Justice: Restorative Justice: New Paradigm of Criminal Justice* Jurnal Media Hukum, 25 (1) : p. 119.

acceptance serves as support provided so that former inmates can live in the community life without repeating their actions in violation of the rules. Children who commit acts (against the law) sometimes do not know either directly or indirectly that their actions committed include a crime that can led to sanctions.²³ Consequently, providing opportunities and support to the children faced by law, both in the process of legal proceedings and returning back to the communities are important to do so that children will never do any other actions that can plunge them into acts that are prohibited by law.

V. CONCLUSION

Problems that arise from behind the prisons wall will continue to be eternal, if there are no serious movement from the government to overcome it immediately. The classical pattern of positivism is considered no longer sufficient to form good behavior for prisoners. Cases of riots that led to the burning of correctional institution, cases of torture and even the killing and control of drugs from the correctional institutions that carry out by inmates became a bad portrait of prisons that stood under the roof of the Ministry of Law and Human Rights. The intervention of the pattern of guidance through a psychological approach to prisoners can even be carried out by the prisons staff.

In addition to the above description, making comparisons related to the pattern of founding with other countries in this case Malaysia, is deemed necessary in order to streamline the output of the process on fostering prisoners while undergoing founding in prisons for both adult and child inmates.

Thus, the successful formation pattern of prisoners will certainly be a reflection of their behavior when returning back to the community. The rise of cases that occurred in prisons involving inmates is certainly becoming a big question on how does the pattern of guidance that have been received by

Comment [c25]: It is not arranged in systematical order. Less coherence amongst paragraph, findings is quite unclear and has not answered the issue properly.

Comment [c26]: It is not in line with title and has not answered the issue raised

²³TrisnoRaharjo, LarasAstuti. (2017).,Diversion Concept towards Disability Children as Criminal Offender in the System of Children CriminalJurnal Media Hukum, 24. (2) : p. 182.

prisoners. Is it enough just to apply the rules²⁴ related to coaching, which is merely nuanced by legal positivism?

Comment [c27]: Conclusion does not need footnote. Please remove it.

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²⁴Law Number 12 from year 1995 concerning Corrections mandates that a Correctional Institution (hereinafter referred to as Lapas) which is an institution of the sub-criminal justice system has a strategic function as the implementation of imprisonment as well as a place for fostering prisoners. The function of such a prison is actually different and better than the prison's function in ancient times with the legal basis of Prison Regulations. See also Decree of the Minister of Justice of the Republic of Indonesia No. M.02.PK.04.10 from year 1990 concerning the Pattern of Guiding Prisoners, Correctional Institution in a correctional system, besides functioning as a place of imprisonment, also have several strategic objectives in terms of national development. These objectives, among others, state that Lapas has a dual function, namely as an educational institution and a development institution. Furthermore, see Republic of Indonesia Government Regulation Number 31 from year 1999 concerning Guidance-Based Citizens, in Article 3 guidance includes matters relating to: a. Devotion to God Almighty; b. Nation and state awareness; c. Intellectual; d. attitude and behavior; e. physical and spiritual health; f. legal awareness; healthy reintegration with the community; h. work skills; and i. work and production training.

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