

Fulfillment of Detainees' Rights at the Detention Center Based on National Police Chief Regulation No. 4/2015 on Detainee Care at Polda Bali

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ABSTRACT

Regulation of the Chief of Police of the Republic of Indonesia Number 4 of 2015 concerning the treatment of detainees is the basis for the implementation of the duties of police officers of the Bali Police Detention and Evidence Directorate. This study aims to identify and analyze the fulfillment of detainees' rights at the Bali Police Detention Center, as well as to find out the factors that become obstacles in the implementation of the protection of these rights. This type of research uses a normative legal approach supported by empirical with data collection techniques through literature studies, interviews, and observations. The analysis is carried out descriptively and prescriptively to provide a clear picture of the conditions for the fulfillment of detainees' rights. The results showed that the implementation of the fulfillment of detainees' rights in accordance with National Police Chief Regulation Number 4 of 2015 still faces various obstacles. Bali Police detention centers can only implement the provisions stipulated in Article 10, while the provisions in Article 7 governing the placement of detainees are still not optimally implemented. The main obstacle in the implementation of the fulfillment of detainees' rights is caused by the large number of detainees held and limited facilities. Improvement efforts that have been made include the application for the construction of a new building and the loan of special placement cell space. In conclusion, to improve the fulfillment of detainees' rights at the Bali Police Detention Center, there needs to be more attention from the police and adequate policy support, so that all provisions in the National Police Chief Regulation can be implemented optimally and the rights of detainees can be fulfilled properly.

Keywords: prisoners; rights; fulfillment

INTRODUCTION

Humans are social creatures who always interact with each other. Since birth, humans have interacted with other humans in a place called society (Cooley, 2017; Gladden, 2019; Levinson, 2020). At first, a person interacts with his parents and the older he gets, the wider the scope of his interactions in society. Over time, these interactions can affect his behavior. In line with this development, the law also continues to develop and change following human needs in order to regulate all aspects of human life for the realization of national goals in accordance with the mandate of the opening of the 1945 Constitution of the Republic of Indonesia (UUD 1945) which contains the ideals of the nation, among others, to participate in implementing world order (Nurwahyu, 2022; Sulardi, 2015).

The detention system or retaliation theory is considered inappropriate because the treatment of detainees tends to be retaliation for the crime or offense they have committed. According to Immanuel Kant, the basis of the justification of a punishment is found in what is called the *Kategorische Imperativ*, which requires that every unlawful act must be avenged and the crime that is not avenged is an injustice (Renzikowski, 2021). In this system, a lawbreaker who has been proven guilty will be punished and treated with harsh and harsh measures as a reward for the crime he has committed. Apparently it is no longer relevant to be used and contrary to the philosophy of Pancasila which emphasizes on guidance and protection, so that the conception of the correctional system was born which prioritizes guidance and protection of someone who commits an act against the law.

Regulation of the Chief of Police of the Republic of Indonesia Number 4 of 2015 concerning the treatment of detainees makes the basis for the implementation of the duties of members of the Bali Police detention and evidence, besides that which is the basis in the Bali Police detention house, namely the Law regarding detainees getting humane treatment and being protected from acts of torture, exploitation, omission, violence and all actions that endanger physical and mental. Thus detainees must be separated with different criminal offenses to avoid acts of torture or being influenced by the minds of different criminal offenders (Adnan et al., 2024; Herman & Adi, 2023; Setyaningrum, 2021).

Bali Police detention center for female and male detainees have been separated according to the room, but due to limited space or detention room for criminal detainees are still in one place or room. Criminal and drug detainees become one place of detention which causes discomfort for detainees. The limitations of the detention room cause detainees cannot be separated according to the case. This problem has violated the right of detainees to get humane treatment and be protected from torture, exploitation, omission, violence and all actions that endanger physical and mental because detainees will be affected by detainees with different types of criminal acts.

This research draws on several relevant previous studies. Agus Rahardjo in his research on cybercrime highlighted the importance of protecting individual rights in the legal system, including the rights of detainees, as well as the need for reform in the correctional system to protect human rights. Dwiatmojo also points out that many problems in the fulfillment of detainees' rights are caused by limited facilities and ineffective policies. In addition, Djiman Samosir emphasizes the importance of guidance for detainees to prevent reoffending (Dimas, 2021).

The purpose of this study is to identify and analyze the fulfillment of detainees' rights at the Bali Police Detention Center based on National Police Chief Regulation Number 4 of 2015, as well as to find out the factors that become obstacles in the implementation of the protection of these rights. In addition, this study aims to provide recommendations for improving the correctional system at Polda Bali so that the rights of detainees can be fulfilled optimally. The benefits of this research include academic contributions in adding to the repertoire of knowledge in the field of criminal law and corrections, practical references for the police and policy makers in formulating better

policies, and increasing public awareness of detainees' rights. Thus, this research is expected to encourage reform in correctional policy in Indonesia to prioritize human rights and prisoner rehabilitation.

RESEARCH METHOD

The type of research in this thesis is normative legal research supported by empirical which is intended to provide legal argumentation as a basis for determining whether an event has been right or wrong and how the event should be according to the law. This research will look for matters related to the fulfillment of detainees' rights according to laws and regulations and examine the principles that apply to norms, rules, and laws related to the implementation of detainees' rights in detention centers in Bali Police. The approach used in this research is the statute approach and the analytical & conceptual approach. This approach is done by looking at the views and doctrines that have developed in the legal science. The concept in this study is how the implementation of detainee rights is viewed from the concept of law and how the government makes regulations in the form of legal protection provisions against detainee rights in accordance with what has been determined by law and must not deviate from what has been determined by law.

The sources of legal materials in this research use primary, secondary, and tertiary sources of legal materials. In addition to using legal sources, researchers also used non-legal sources in making this research.

- 1) Primary Legal Materials; 1945 Constitution, Law of the Republic of Indonesia Number 2 of 2002 concerning the Indonesian National Police, Regulation of the Chief of the Indonesian National Police Number 4 of 2015 concerning detainee care.
- 2) Secondary Legal Material; is a legal material that explains the primary legal material, namely legal books, scientific works on law, results of legal research, journals and literature materials that have relevance to the issues taken in this study.
- 3) Tertiary Legal Materials; are legal materials that will provide explanations and instructions related to primary and secondary legal materials, namely legal dictionaries and large Indonesian dictionaries.
- 4) Non-legal material; is material that is used as a complement to legal material, namely by conducting interviews and direct observation or observation in order to obtain data related to the research.

Legal materials and non-legal materials in this research will be analyzed descriptively and prescriptively.

- 1) Descriptive means that the researcher in analyzing wishes to provide a description or explanation of the subject and object of research as a result of the research conducted.

Prescriptive is intended to provide an argument against the results of research that has been done. In this case the author will provide an assessment of the fulfillment of detainees' rights at the Bali Police detention house as well as an opinion on the suitability of the law to the facts and events in the field from the research results.

RESULT AND DISCUSSION

Implementation of Detainees' Rights at the Detention Center Based on National Police Chief Regulation No. 4/2015 on Detainee Care at Polda Bali

In the implementation of the rights of detainees, the main topic of conversation is how the rights of detainees can be implemented properly in accordance with applicable regulations, in fact many are found to often not be a concern and neglected by officers or law enforcement officials. Although the suspect or defendant is in the process of detention, it does not mean that it can be treated arbitrarily.

In carrying out their duties to provide care and services to detainees, police officers from the Bali Police Directorate of Detention and Evidence must follow the rules and regulations that apply to National Police Chief Regulation Number 4 of 2015 concerning Detainee Care. According to Article 1 on detainee care states; "Detainee care is the process of detainee services carried out from the reception to the release of detainees", The purpose of detainee care according to Article 2 of the National Police Chief Regulation Number 4 of 2015, namely as a guideline in detainee care by upholding human rights and the realization of orderly, safe detainee care and facilitating the judicial process.

Based on the National Police Chief Regulation Number 4 Year 2015 Article 7 which contains the placement of detainees, at the Bali Police detention center the implementation of Article 7 can only be separated based on gender where detainees should be placed separately according to age, gender and type of criminal offense. This provision still cannot run optimally due to the small size of the building and the lack of cell space that allows for separating detainees according to the crime committed and for underage detainees, officers from the Bali Police Detention and Evidence Directorate direct the investigator to deposit the detainee at the Denpasar Police detention center.

In National Police Chief Regulation Number 4 Year 2015 Article 10 contains detainee services which include spiritual and physical guidance, food provision, medical examinations, detainee clothing, visiting time and submitting complaints. Religious awareness activities for detainees in Bali Police detention centers are carried out by respecting and providing time and opportunities for detainees to carry out worship in accordance with the provisions regulated by the religion adhered to by each detainee carried out in the cell room of the Bali Police detention center. Physical care for

detainees is by providing opportunities for detainees to carry out routine sports activities together. Physical care carried out in the form of exercise with gymnastics and stretching together every Friday morning led by officers from Subdit Harwattah.

Food service is one of the rights of detainees that must be implemented and fulfilled by the organizers of state detention centers (Clark, 2020; NA & James, 2017). Food with balanced nutrition rules is needed by detainees to maintain and improve health status so as not to get sick and be able to carry out their daily activities. Therefore, the menu and portion of food given to detainees in detention centers in Bali Police have been adjusted by nutritionists in order to meet nutritional standards per day. Before the food is distributed to detainees, Bali Police officers on duty will check the food to avoid any prohibited items entering the cell room.

Health maintenance of detainees in Bali Police detention centers by conducting periodic health condition checks every once in a while. The detainee health check is carried out by officers from the Bali Police Medical and Health Division (Biddokkes) to detect early and prevent infectious and dangerous diseases in detainees so as not to cause detainees to suffer severe illness or even die. If further treatment is needed, then officers from the Harwattah Subdit will be responsible for taking the detainee to the Bhayangkara Hospital for treatment. Clothing for detainees in Bali Police detention centers has been provided by Bali Police. Clothes are given to each detainee in the form of detention clothes and replacement of clothes for washing is carried out once a week.

Visits or *besuk* aim to provide time for detainees to meet their families or close relatives. Visits for detainees at the Bali Police detention center are held every Tuesday and Thursday as well as religious holidays at 10:00 am to 4:00 pm in the visiting room provided by the Bali Police. Visitors are allowed to provide food to detainees but the food must be checked first by police officers before being given to detainees. Every detainee has the right to submit a complaint to the officer on guard, such as complaints of pain or complaints if they get inhumane treatment from fellow detainees or from police officers on guard.

In the National Police Chief Regulation Number 4 Year 2015 Article 12 states, detainees are given political rights and civil rights in accordance with the laws and regulations. The implementation of political rights of detainees at the Bali Police detention center has been running according to regulations. This can be seen from the participation of 14 detainees in the simultaneous regional elections on November 27, 2024. Despite being in detention status, the detainees have Bali ID cards and the same rights as Indonesian citizens to determine the leader of Bali for the next five years. Voting was held under the tight security of Bali Police Dittahiti personnel, Bhabinkamtibmas, and Bhabinsa Dangin Puri. The implementation took place safely and smoothly without a hitch. This step also ensures that every citizen, including prisoners, can still exercise their constitutional rights even though they are in prison.

Obstacles and Efforts in the Implementation of Detainees' Rights at the Detention Center Based on National Police Chief Regulation No. 4/2015 on Detainee Care at the Bali Police Department

Detention centers are now developing from a prison system to a correctional system based on Pancasila which is implemented through a coaching program so that prisoners or detainees realize their mistakes, improve themselves and no longer repeat criminal acts so that they can be accepted back by society and can carry out and develop their social functions in the midst of society through their active role in the field of development.

Through an interview conducted with the Head of the Detainee Care Section (Kasi Wattah), IPTU Ifadloh Hidayati, regarding the obstacle factors which include internal and external factors in the implementation of the National Police Chief Regulation Number 4 of 2015 concerning detainee care at the Bali Police Detention Center, she stated that there are indeed several obstacles in the implementation of the fulfillment of detainee rights at the Bali Police detention center (Joisangadji & Malik, 2023; Lisnawati et al., 2017; Mulligan, 2022). Some of these obstacles include internal obstacles stemming from facilities and infrastructure that are still inadequate to fulfill all the provisions stipulated in the National Police Chief Regulation No. 4/2015 on Detainee Care, as we know the facilities and infrastructure available at the Bali Police detention house are quite limited, the facilities available at the Bali Police detention house such as small cell rooms so that detainees can only be separated based on their gender and if there are minor detainees then the officer will immediately advise the investigator to entrust the detainee to the detention house at Denpasar Police.

This small cell space has always been the most difficult problem to deal with because in addition to causing a problem it will also cause detainees to become easily ill and the transmission process will be fast. The external factors that cause the obstruction of the process of implementing the Perkap include the obstruction of the process of transferring detainees in the Bali Police detention center to correctional institutions and detention centers outside the Polda which originated from the Covid-19 pandemic so that many entrusted detainees from the Public Prosecutor (JPU) were deposited in the Bali Police detention center and there are still frequent delays from the Investigators and Public Prosecutors (JPU) to submit extensions of detainees to Bali Police Detention Center officers which is a risky thing for detention centers, because in this position the detention house cannot detain someone without an official order and a strong basis.

The opinion of the Head of Detainee Maintenance Section (Kasi Hartah), IPTU I Made Purwata, regarding the obstacles faced in the implementation of the fulfillment of detainees' rights at the Bali Regional Police Detention Center, namely from internal factors caused by the lack of guard officers on duty, where guard officers only number 5 (five) people compared to the large number of detainees, namely 73 (seventy three)

detainees so that officers are required to always be on duty optimally. He also argued that as for external factors that cause obstacles in the fulfillment of detainees' rights at the Bali Police Detention Center in addition to being caused by the number of entrusted detainees from outside the Police Agency, the factor of lack of awareness of the law by the community can also cause an obstacle, where people who do not understand the law will tend to have a high potential to violate the law so that it will affect the number of detainees detained in the detention center.

Based on the results of interviews that have been conducted, the authors can conclude that the main problem that occurs in the Bali Police Detention Center is caused by the number of detainees who exceed the capacity that can be accommodated by the available cell space, this is the main problem that causes the implementation of Perkap Number 4 of 2015 concerning Detainee Care, especially in Article 7 related to the placement of detainees has not been able to run optimally. Due to this problem, it is important that there is an effort and participation from Police officers at the Bali Police Directorate of Detention and Evidence, this is because based on the data that the author has obtained that the problem of the number of detainees and the placement of detainees has occurred repeatedly and still cannot be followed up to the maximum.

Apart from the number of detainees who tend to exceed the capacity that can be accommodated in the cell room, the cell room building structure factor also hinders the implementation of Article 7 of Perkap Number 4 of 2015 related to the placement of detainees, this is because the cell room building structure tends to be one so that it causes detainees cannot be separated according to the case violated by the detainee. Obstacles to the implementation of the provisions in Perkap No. 4/2015 on Detainee Care must be immediately followed up by police officers from the Bali Police Directorate of Detainees and Evidence, so that the same problem will not arise in the following years

Through an interview with the Head of Detainee Maintenance Section (Kasi Hartah) Mr. IPTU I Made Purwata regarding efforts to implement Perkap No. 4 of 2015 concerning Detainee Care at the Bali Police Detention Center, he explained that in accordance with the duties of the Police, officers from the Directorate of Detention and Evidence conduct various ways in an effort to fulfill the rights of detainees, both Pre-Emptive, Preventive and Repressive. Pre-Emptive officers from the Directorate of Detention and Evidence of Bali Police always provide direction to detainees related to the rules and ethics in the cell room, besides that the officers on guard are also given direction by the leadership to always treat detainees humanely. In Preventive efforts, police officers on duty will periodically check the conditions and conditions in the cell room so that the possibility of violations in the cell room can be prevented, in addition to the addition of *CCTV* in the cell room so that the guarding of prisoners becomes more optimal. In Repressive efforts when there has been a violation of the provisions and

regulations in the cell room, the detainee concerned will usually be given sanctions in the form of not being given the opportunity to receive visits from family and relatives for 1 week.

Due to the large number of detainees, the Head of Detainee Care Section (Kasi Wattah) Mrs. IPTU Ifadloh Hidayati also explained that the Police from the Directorate of Detention and Evidence of Bali Police have attempted to apply for the construction of a new building, but for now it still cannot be implemented. She added that the Pre-Emptive efforts of officers from the Directorate of Detention and Evidence of Bali Police have a program in the form of providing mental guidance to detainees by inviting police officers from the Psychology section of the Bali Police HR so that the mentality of detainees can be guided and it is hoped that this guidance can improve the detainee's personality. Preventively, members of the Bali Police Directorate of Detention and Evidence also carry out regular checks in the detention room to prevent prohibited items from entering the cell room. And Repressive efforts, according to him that by not giving besukan to detainees for 1 week is the best choice because the sanction is the most humane because violence in the cell room is strictly prohibited by law, and it is hoped that the sanction is enough to be able to deter detainees from committing an offense.

Related to the problem of the number of detainees entrusted from outside the Police Agency, the police from the Directorate of Detention and Evidence of Bali Police have coordinated with the relevant agencies that entrust detainees in order to immediately transfer detainees to correctional institutions or detention centers outside the Polda, so that problems related to the number of detainees can be resolved immediately. From the results of the author's interviews with the Head of the Detainee Care Section (Kasi Wattah) and the Head of the Maintenance Section (Kasi Hartah), there are various efforts have been made by police officers from the Bali Police Directorate of Detention and Evidence.

Related to the problem of the number of detainees held in the Bali Police Detention Center which exceeds capacity and the placement of detainees who should be separated according to the case violated by the detainee. Efforts have been made by police officers from the Directorate of Detention and Evidence of the Bali Police, namely in 2019 the Directorate of Detention and Evidence of the Bali Police has submitted an application related to the construction of a new building and cell room so that the Bali Police Detention Center can accommodate a larger number of detainees without reducing the rights of detainees and the provisions stipulated in Perkap Number 4 of 2015 concerning Detainee Treatment, but there are obstacles to the construction of this new building due to the budget available at the Bali Police still cannot meet the implementation of the new building.

Due to the delay in the construction of the new building and cell room, police officers from the Bali Police Directorate of Detention and Evidence have dealt with problems related to the number of detainees by borrowing the cell room of the Bali Provost Special Placement (Patsus) and moving some of the detainees with Criminalism cases to the cell room. The permission to borrow this cell room is only temporary, this is because for now Bidpropam Polda Bali has not made any arrests. It is hoped that the Directorate of Detention and Evidence of Bali Police can immediately be able to follow up on the issue of the number of detainees and the placement of these detainees, so that all the rights possessed by detainees as well as the provisions stipulated in Perkap Number 4 of 2015 concerning Detainee Care can be fully implemented.

CONCLUSION

In the implementation of the fulfillment of detainees' rights in accordance with Perkap No. 4/2015 on Detainee Care, Bali Police Detention Center can only implement the provisions stipulated in article 10 which includes spiritual and physical development, food provision, medical examination, detainee clothing, visit time, and submission of complaints. However, there are still provisions that have not been implemented to date, namely the provisions in Article 7 which regulates the Placement of Detainees as one of the rights of detainees to obtain proper housing.

Obstacles in the implementation of the fulfillment of detainees' rights at the Bali Regional Police Detention Center in fulfilling the provisions of Perkap No. 4 of 2015 concerning Treatment of Detainees are caused by the large number of detainees held in the Bali Regional Police Detention Center as well as building factors that tend to be one so it is not possible to separate detainees according to their cases. The efforts have been made by police officers from the Bali Police Detention and Evidence Directorate in the form of proposing the construction of a new building to increase the capacity of the Bali Police Detention Center and temporarily borrowing the cell room of the Bali Provost Special Placement (Patsus) and moving half of the detainees with other criminal cases to the cell room. In this way, it is expected to reduce the problem of the number of detainees in Bali Police Detention Center.

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