

# Reconstruction of Prisoners' Rights and Its Contribution to Family Law Reform in Indonesia (Study in Lampung Province Correctional Institution

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**Abstract:** This research discusses the challenges faced by prisoners in the divorce process in Indonesia, especially in relation to their civil rights. The purpose of this study is to examine the implementation of divorce law for prisoners, as well as identify shortcomings in the fulfillment of these rights. This research uses a juridical and philosophical approach with field research methods, including interviews with relevant parties in correctional institutions and analysis of divorce data in religious courts. The findings show that many inmates are unable to attend divorce hearings, which reduces their opportunity to defend their rights and that the provision of children's education rights in LPKA has not been effective. Based on these findings, it is suggested that there should be a policy reconstruction that allows prisoners to be present in divorce proceedings, either in person or through communication technology, as well as standardizing the provision of educational rights for children of prisoners in LPKA. This research provides recommendations for family law reform in Indonesia that are more inclusive and equitable.

Keywords: Reconstruction of Prisoners' Rights, LAPAS and LPKA Lampung, Family Law Reform

**Abstrak:** Penelitian ini membahas tantangan yang dihadapi oleh narapidana dalam proses perceraian di Indonesia, terutama terkait dengan hak-hak keperdataan mereka. Tujuan penelitian ini adalah untuk mengkaji implementasi hukum perceraian bagi narapidana, serta mengidentifikasi kekurangan dalam pemenuhan hak-hak tersebut. Penelitian ini menggunakan pendekatan yuridis dan filosofis dengan metode penelitian lapangan, termasuk wawancara dengan pihak terkait di lembaga pemasyarakatan dan analisis data perceraian di pengadilan agama. Temuan menunjukkan bahwa banyak narapidana tidak dapat hadir dalam sidang perceraian, yang mengurangi kesempatan mereka untuk membela hak-hak mereka dan belum efektifnya pemberian hak peendidikan anak di LPKA. Berdasarkan temuan ini, disarankan agar ada rekonstruksi kebijakan yang memungkinkan narapidana hadir dalam persidangan perceraian, baik secara langsung maupun melalui teknologi komunikasi, serta pembuatan standarisasi pemberian hak pendidikan bagi anak narapidana di LPKA. Penelitian ini memberikan rekomendasi untuk pembaruan hukum keluarga di Indonesia yang lebih inklusif dan berkeadilan.

Keywords: Rekonstruksi Hak Narapidana, LAPAS dan LPKA Lampung, Pembaruan Hukum Keluarga

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#### **A. Introduction**

Law Number 22 Year 2022 on Corrections guarantees the rights of prisoners, including the right to legal counseling and humane treatment (Law Number 22 Year 2022 on Corrections, n.d.-a). Government Regulation No. 32/1999 Articles 51 and 52 also confirm that prisoners have civil rights, including the right to be involved in divorce proceedings (Law No. 22/2002 on Corrections, n.d.-b) and also the right to education in relation to convicted children. However, in practice, this right is often ignored, giving rise to an urgent need for regulatory reconstruction that allows prisoners to attend divorce proceedings in person or through communication technology and obtain their proper educational rights (Yusron Rofi et al., 2024).

This study seeks to analyze the implementation of the divorce process for prisoners and the right to education of prisoners in correctional institutions, identify shortcomings in the fulfillment of prisoners' rights, and develop recommendations for family law reform in Indonesia (Arifin et al., 2024). By reconstructing existing regulations, it is hoped that prisoners can gain better access to fight for their rights in divorce proceedings, thus creating balanced and comprehensive justice in the family law system.

Divorce in Indonesia is strictly regulated by Law Number 1 Year 1974 Article 39 paragraph 1, which requires a mediation process before a divorce trial can proceed (Law Number 1 Year 1974 on Marriage, n.d.). However, the implementation of this law faces particular challenges for prisoners in correctional institutions. Prisoners are often not allowed to attend divorce proceedings, and so receive a divorce decree without the opportunity to present arguments or defend their position. This situation violates the civil rights of prisoners and reflects the inequality of treatment in a legal system that should prioritize the principle of justice.

Then related to the right to education for child prisoners, the implementation of the fulfillment of the right to education for children in the Lampung Province LPKA has been carried out but has not been very effective, this is constrained by the absence of a standardized special education system for children in LPKA, so that a better regulatory model is needed regarding the standardization of the special education rights system for children in LPKA.

The novel aspect of this research is the urgency of policy changes to allow prisoners to be present in divorce proceedings, either in person or through digital facilities and the need for discussion regarding the fulfillment of the educational rights of child prisoners. This reconstruction aims to fight for justice for prisoners, and contribute to the reform of family law in Indonesia. By taking into account the lived experiences of prisoners, this research highlights the importance of striking a balance between the protection of individual rights and national legal reform.

The main focus of this research covers two important aspects that are still problematic in correctional institutions, firstly the inability of prisoners to attend divorce hearings, so that there is often acceptance of divorce certificates without knowing the trial process, and secondly related to the fulfillment of children's education rights in special correctional institutions for children. It is important to reconstruct the rights of prisoners to support family law reform in order to provide a basis for more inclusive and humanist policies in the context of family law.

This research also considers the rights of children in the criminal justice system. Law No. 11/2012 on the Child Criminal Justice System emphasizes the importance of

special treatment for children, including access to education during the criminal period (Law No. 11/2012 on the Child Criminal Justice System, n.d.-b). With 33 Lembaga Pembinaan Khusus Anak (LPKA) in Indonesia that accommodate more than 2,500 children, it is important to ensure that their rights, such as education and potential development, are fulfilled (National Law Development Agency, 2020). This research connects child protection in the correctional system with efforts to reform family law as a whole. Based on the aforementioned background, this article will discuss the Reconstruction of Prisoners' Rights and its Contribution to Family Law Reform in Indonesia (Study in Lampung Province Correctional Institution).

## **B. Research Method**

The research method used in this study is a juridical and philosophical approach, with the type of *field research* conducted in various correctional institutions in Lampung Province, including Class I Correctional Institution in Bandar Lampung, Gunung Sugih Correctional Institution, Sukadana Correctional Institution, and Kalianda Correctional Institution, as well as data analysis on divorce of prisoners in the Religious Courts in Lampung region. The juridical approach is applied to analyze the rights of prisoners in the divorce process based on various regulations, such as Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law, Government Regulation No. 32 of 1999 concerning Conditions and Procedures for Implementing the Rights of Prisoners, Law Number 22 of 2022 concerning Corrections, and Minister of Law and Human Rights Regulation Number 8 of 2024. The philosophical approach is used to explore philosophical values related to justice in legal treatment for prisoners. This research is descriptive analytic with a qualitative approach to produce written descriptive data from interviews with the Head and Staff of Correctional Facilities, as well as documentation. Primary data is obtained through direct interviews, while secondary data comes from literature, scientific works, and related laws. Data analysis was conducted qualitatively using an inductive approach and Magashid Syariah theory to develop recommendations for reconstructing prisoners' rights that provide justice. Data processing involved examining, reconstructing and systematizing information to contribute to the reform of family law in Indonesia.

## C. Result

# Profile of Lampung Province Correctional Institution

Lampung Province has several Correctional Institutions (Lapas) that function as places for the development of prisoners in accordance with the principles of correctional in Indonesia (Kashvi, 2024). One of the largest prisons is the Bandar Lampung Class I Prison, which is located in Rajabasa District. This prison has a large capacity and accommodates prisoners from various criminal categories, including serious crimes (Ministry of Law and Human Rights, 2023a). In addition, Gunung Sugih Correctional Facility, located in Central Lampung Regency, stands out in implementing self-reliance-based coaching programs such as agricultural training and technical skills (Haryadi, 2022).

Sukadana Correctional Facility in East Lampung Regency is one of the prisons that focuses on the development of prisoners with a social work approach, such as community service programs and entrepreneurship training (Rachman, 2021).



Meanwhile, Kalianda Correctional Facility, located in South Lampung Regency, pays special attention to the development of women prisoners and rehabilitation programs for drug offenders (Utami, 2023b). The profiles of these prisons reflect the diversity of focus and development programs tailored to the needs of prisoners in each region.

The correctional system in Indonesia is regulated through Law No. 22 of 2022 on Corrections, which replaces Law No. 12 of 1995. This system emphasizes the development of prisoners to become productive and useful individuals for society after completing their sentence. One of the main principles in the correctional system is the recognition of the rights of prisoners, including the rights to education, health, and social reintegration (Law Number 22 Year 2022 on Corrections, n.d.-a). In Lampung Province, the implementation of this principle is seen in the various coaching programs implemented in local prisons.

The handling of juvenile prisoners in Lampung is carried out through the Special Development Institute for Children (LPKA), which is located in Bandar Lampung. This LPKA is specifically designed to meet the rehabilitation and education needs of children in conflict with the law (Ministry of Women's Empowerment and Child Protection, 2023). The child development system in correctional refers to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which prioritizes restorative justice approaches and diversion to minimize the negative impact of imprisonment on children (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, n.d.-a).

In addition to LPKA, there are also collaborative programs between local government and non-governmental organizations in Lampung to support the social reintegration of juvenile offenders. These programs include skills training, psychological counseling, and family assistance (Kusuma, 2022b). The implementation of this program aims to prepare children to return to the community with adequate provisions (Hermanto et al., 2024). Overall, the profile and system of prisons in Lampung Province reflect the government's efforts to integrate humanist and inclusive correctional principles. With various coaching programs based on the needs of prisoners, this system is expected to not only reduce the level of recidivism but also make a real contribution to the reform of criminal law in Indonesia (Widodo, 2022).

#### The Rights of Prisoners and Children in the Perspective of Indonesian Law

The rights of prisoners in Indonesia have been comprehensively regulated in various laws and regulations, which aim to provide legal protection in accordance with the principles of human rights. Law No. 22 of 2022 on Corrections emphasizes that prisoners, as part of the prisoners, have the right to be treated humanely and have access to education, health, and justice. This provision replaces the previous regulation and strengthens the implementation of these rights in correctional institutions (Law Number 22 Year 2022 on Corrections, n.d.-b).

Government Regulation No. 32/1999 on the Terms and Procedures for the Implementation of the Rights of Prisoners also provides details of the rights that prisoners have, including the right to worship according to religion, get health care, and the right to education and skills training. In addition, prisoners are entitled to family visits, access to legal aid, and remission in accordance with their behavior during detention (Government Regulation No. 32 of 1999, n.d.). However, the

implementation of these rights often faces obstacles, such as budget constraints and lack of facilities in correctional institutions.

For juvenile prisoners, special rights are regulated through Law No. 11/2012 on the Juvenile Criminal Justice System. This regulation emphasizes the importance of differentiated treatment for children in conflict with the law, with a focus on rehabilitation and social reintegration. Child prisoners have the right to formal and non-formal education, psychological assistance, and skills development that are relevant for their lives after release (Law No. 11/2012 on the Child Criminal Justice System, n.d.-a).

The rights of children in the correctional system are also guaranteed by the Convention on the Rights of the Child, which Indonesia has ratified through Presidential Decree No. 36 of 1990. The Convention requires the state to pay special attention to the needs of children who are prisoners, including ensuring protection from all forms of violence and exploitation (Convention on the Rights of the Child, n.d.). As such, there is a legal responsibility for the government to provide facilities and programs that support the rights of children in correctional institutions.

In addition, the Minister of Law and Human Rights Regulation No. 8 of 2024 on the Implementation of Security and Order in Correctional Work Units regulates operational standards in correctional institutions to ensure that the rights of prisoners, including children, are still implemented even in situations that require tight security. This regulation aims to create a safe environment for all prisoners while ensuring their basic rights are fulfilled (Minister of Law and Human Rights Regulation No. 8 of 2024, n.d.).

However, the implementation of the rights of prisoners and children is often not ideal. Several studies have shown that limited human resources, facilities, and budgets are the main obstacles to the fulfillment of these rights. Therefore, the reconstruction of correctional policies is needed to ensure that the rights of prisoners, especially children, can be implemented optimally, which at the same time contributes to the renewal of family law and the national legal system in Indonesia (Darwan, 2020).

### Prisoners' Rights to Divorce Law and Family Law Reform

The rights of prisoners have important relevance in the implementation of divorce law in Indonesia, particularly in relation to the fair treatment of those involved in the divorce process. Law Number 1 Year 1974 on Marriage emphasizes that divorce can only be carried out before the court after going through a mediation process (Law Number 1 Year 1974 on Marriage, n.d.) . However, for prisoners, access to this legal process is often limited due to physical and administrative constraints in correctional institutions. In this context, the right of prisoners to obtain legal assistance, as stipulated in Article 14 of Law Number 22 of 2022 concerning Corrections, becomes an important instrument to ensure justice in the divorce process (Law Number 22 of 2022 concerning Corrections, n.d.-c).

The Compilation of Islamic Law (KHI), which is a family law guideline for Muslims in Indonesia, also has implications for prisoners facing divorce. KHI regulates the obligations of husband and wife and the impact of divorce on children, including custody (hadhanah) *(Compilation of Islamic Law, Article 116*, n.d.). Prisoners involved in divorce face major challenges in fulfilling these obligations, especially in terms of providing maintenance and maintaining relationships with children. This underscores the importance of protecting the rights of prisoners so that they can still carry out their legal and moral responsibilities despite being in a correctional institution.

The impact of divorce on children is also a major concern in family law reform. Children of divorced prisoners are vulnerable to psychological trauma, especially if they lose access to their incarcerated parents (Handayani, 2018). Therefore, policies are needed that not only guarantee the rights of prisoners, but also protect the best interests of children in accordance with the Convention on the Rights of the Child ratified through Presidential Decree Number 36 of 1990. This includes regulating children's visitation and communication rights with incarcerated parents (Convention on the Rights of the Child, n.d.).

The relevance of prisoners' rights to divorce law also includes aspects of mediation that are required before the divorce process. In conditions of prisoners, mediation is often difficult to conduct in person due to limited facilities and distance. Regulations that accommodate online mediation can be a solution to overcome this obstacle, so that prisoners can still undergo a fair legal process without having to sacrifice their basic rights (Sudaryat, 2023).

Reconstructing the rights of prisoners in the context of divorce law can make a significant contribution to family law reform in Indonesia. By ensuring access to legal aid, mediation, and protection of children's rights, the family law system can be more responsive to the needs of vulnerable groups, such as prisoners (Hanafi, 2020). This is in line with the principle of social justice that underpins Indonesian law, as set out in Article 27 of the 1945 Constitution.

Family law reform through a prisoner rights reconstruction approach not only improves the implementation of the law on the ground, but also strengthens the legitimacy of family law in Indonesia. By paying special attention to the unique situation faced by prisoners in divorce, family law policies can be more inclusive and reflect universal values of justice (Qadir, 2019).

#### **D. Discussion**

# Analysis of the Implementation of Prisoners' Rights in the Perspective of Family Law in Indonesia

The implementation of prisoners' rights in the context of family law, especially in divorce proceedings, still faces many challenges in Indonesia, including in Lampung Province. Although Law No. 1/1974 on Marriage and the Compilation of Islamic Law regulate the right of every individual to be present in court proceedings, prisoners are often not allowed to attend divorce proceedings in person. The process is often conducted remotely through representatives or written documents, which can lead to dissatisfaction on the part of both the prisoner and their spouse (Law Number 1 Year 1974 on Marriage, n.d.). The main reasons often cited are technical and security constraints in moving prisoners from prisons to courts (Widodo, 2022).

In correctional institutions in Lampung Province, such as Class I Correctional Facility in Bandar Lampung and Kalianda Correctional Facility, this problem occurs quite often. The policy that does not allow prisoners to be present at the trial is considered to reduce their access to justice, especially in providing testimony or fighting for their rights during the divorce process (Haryadi, 2023). In fact, in

correctional principles, every prisoner still has the right to get fair treatment in accordance with applicable law (Law Number 22 of 2022 concerning Corrections, n.d.-a).

Another problem is the lack of optimization of educational rights for children who become prisoners. Based on observations at the Child Special Development Institution (LPKA) in Bandar Lampung, the education program provided is still limited to skills training and non-formal education (Kusuma, 2022a). This is contrary to Law No. 11/2012 on the Juvenile Criminal Justice System, which emphasizes the importance of formal education as part of the rehabilitation of children in conflict with the law (Law No. 11/2012 on the Juvenile Criminal Justice System, n.d.-a). This obstacle is often caused by limited facilities and educators in correctional facilities, which has an impact on the lack of access to quality education for children of prisoners.

Going forward, it is important to reform policies related to the rights of prisoners in divorce proceedings and the right to education for children of prisoners. First, prisoners need to be given permission to attend divorce hearings in person, with adequate security arrangements. The presence of prisoners in the hearing can strengthen the principle of justice and provide them with the opportunity to actively participate in the legal process in which they are involved (Utami, 2023a). Second, for juvenile offenders, efforts are needed to design a special education system that suits their needs. This system should include formal education, skills training, and psychological support to prepare them for their return to society (Ministry of Law and Human Rights, 2023b).

In addition, it is important to standardize the special education system for juvenile offenders. This standardization can include a curriculum that is integrated with the needs of rehabilitation and social reintegration, as well as the provision of adequate learning facilities in each LPKA. Thus, this education system can be a tool to reduce recidivism rates and improve the quality of life of children in prison (Rachman, 2021).

More optimal implementation of prisoners' rights will not only improve legal protection for them but also contribute to the reform of family law in Indonesia. This policy reform shows the importance of a humanist approach in the correctional system, which is not only oriented towards punishment but also rehabilitation and social reintegration (Haryanto, 2023).

# Contribution of Reconstruction of Prisoners' Rights to Family Law Reform in Indonesia

Reconstructing the rights of prisoners is an urgent need to address the challenges faced in the implementation of family law in Indonesia, particularly in Lampung. One of the main issues is the inability of prisoners to attend divorce proceedings in person, which often hampers the legal process and creates dissatisfaction for all parties involved. Stricter provisions and facilities that support the presence of prisoners in court need to be arranged to ensure their right to justice is not neglected (Law Number 1 Year 1974 concerning Marriage, n.d.).

The right to education for children who are prisoners also requires special attention in the reconstruction of the correctional system. In Lampung, although there is a coaching program at the Child Special Development Institution (LPKA), its

implementation is still far from optimal. This shows that children of prisoners have not received the right to proper education as mandated in Law No. 11/2012 on the Juvenile Criminal Justice System (Law No. 11/2012 on the Juvenile Criminal Justice System, n.d.-a). A standardized special education system is a potential solution to ensure that children of prisoners receive continuous and relevant formal education (Kusuma, 2022a).

Family law reform can be realized through better recognition and protection of the rights of prisoners and their families (Lestari et al., 2024). The presence of prisoners in divorce proceedings can make a positive contribution to fairer and more transparent legal decision-making. This step not only increases the sense of justice but also encourages the integration of human values in family law (Haryadi, 2023). In addition, optimizing the right to education for children of prisoners will contribute to reducing *recidivism* rates and strengthening the social foundation of prisoners' families in the future (Rachman, 2021).

Philosophical studies show that family law that is not responsive to the special conditions of prisoners can be considered contrary to the principle of substantial justice. The right of prisoners to be present in divorce proceedings and the right of children of prisoners to education are forms of protection of fundamental human rights (Utami, 2023a). As such, the reconstruction of these rights should be an integral part of family law reform in Indonesia (Widodo, 2022).

In a practical context, this reconstruction can be done through the revision of correctional regulations and the implementation of more inclusive coaching programs. For example, technology such as online court can be a temporary solution to facilitate the presence of prisoners in divorce proceedings (Asnawi, 2024). On the other hand, collaboration between the Ministry of Law and Human Rights, the Ministry of Education, and civil society organizations is needed to design and implement a special education system for children of prisoners (Ministry of Law and Human Rights, 2023b).

The contribution of the reconstruction of prisoners' rights to family law reform is not only limited to aspects of justice, but also to the development of a more adaptive and humanist legal system (Asnawi., 2024). By paying attention to the needs of prisoners and their families, Indonesia can create a new paradigm in family law that is oriented towards social justice and family empowerment (Haryanto, 2023).

#### **E.** Conclusion

In Lampung Province, although there are a number of correctional institutions that are trying to implement more humanist and inclusive correctional principles, the rights of prisoners, especially in relation to their participation in legal processes such as divorce hearings and the provision of education rights to children of prisoners, are still not optimally fulfilled. One of the main issues faced is the prohibition for prisoners to be present in person at divorce hearings, which reduces their access to justice and ability to defend their rights in legal proceedings involving them. In addition, the provision of proper education rights for children of prisoners has also not been effective, with many limitations in formal education facilities and adequate teaching resources in the Lembaga Pembinaan Khusus Anak (LPKA). Therefore, it is necessary to reform policies that provide opportunities for prisoners, especially children of prisoners, to attend divorce proceedings with adequate arrangements related to security aspects, as well as ensuring the provision of higher quality and relevant education. This must also be balanced with an in-depth study to formulate a standardized special education system for children of prisoners, which includes formal education integrated with their rehabilitation and social reintegration process. With these measures, not only will the basic rights of prisoners be better fulfilled, but it will also contribute to the reform of family law in Indonesia that is more responsive, fair and humanist, and reflects stronger social justice values in the family law system.

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