

THE IDEA OF LEGAL REFORM IMPLEMENTATION ASSESSMENT RISKS AND CRIMINOGENIC NEEDS OF RESIDIVIST INMATES IN OVERCOMING RESIDIVISM

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Abstract

The implementation of the development program for prisoners cannot be separated from the results of assessment recommendations carried out by correctional assessors, both risk assessments and needs assessments as stated in Law Number 22 of 2022 concerning Corrections. In carrying out the assessment, there are several obstacles in terms of substance, structure, infrastructure, culture and society so that the implementation of the guidance does not run optimally, resulting in recidivism. Every year, the number of recidivists at the Class II A Gorontalo Penitentiary increases. Through a case and conceptual approach, this research attempts to formulate a way to solve problems in terms of carrying out assessments for recidivist prisoners. Where the solution is to overcome this problem, a psychologist's assistance is needed in the assessment process to provide special treatment for them in order to create a more effective correctional system and provide protection, rehabilitation and reintegration for prisoners so that they do not repeat criminal acts.

Keywords: Assessment, Recidivism, Inmates, Criminogenic, Prison.

A. INTRODUCTION

The change from the prison system to a penitentiary system changes the perspective on law enforcement in Indonesia.¹ Correctional Institutions are prison enforcement institutions in Indonesia with a penitentiary system.² The Correctional System is organized to guarantee the protection of prisoners'

¹ Aditya Nugraha., Konsep Community Based Corrections Pada Sistem Pemasarakatan Dalam Menghadapi Dampak Pemencaraan, *Jurnal Sains Humaniora*, Vol.4, no.1, 2020, page.1244.

² Galih Puji Mulyono., Upaya Mengurangi Kepadatan Narapidana Dalam Lembaga Pemasarakatan Di Indonesia, *Law Reform Jurnal*, Vol.12, no.1, 2016, page.1-15.

rights, improve the quality of personality and independence of inmates so that they realize their mistakes, improve themselves and not repeat criminal acts so that they can be accepted again by society, and can live normally as good and law-abiding citizens.³ Correctional institution means not synonymous with prison.⁴ The criminal justice system in Indonesia strives to achieve the goals of rehabilitation and reintegration of prisoners into society. Corrections are in line with the principle of social reintegration which considers mistakes as disputes that occur between the convict and society. So that punishment aims to reduce disputes or reunite the convict with his community (reintegration).⁵

The measure of the success of the penitentiary concept is the restoration of the life, life and livelihood relationships of the correctional inmates, in other words, there will be no more repetition of post-coaching crimes in the Correctional Institution.⁶ One important step in this process is the implementation of effective corrections. The Correctional Institution is not a place for revenge for inmates who have committed wrongs.⁷ Correctional administration is regulated in Law Number 22 of 2022 concerning Corrections, which regulates various aspects related to the rights of Correctional Inmates and mandates Community Counselors and Correctional Assessors to carry out recidivism risk assessments and assess the needs of Correctional Inmates.

The current Penitentiary System is better and more humane than the previous one, but it does not eliminate the intention of a person to commit the crime again referred to as recidivist.⁸ It is necessary to first understand the meaning of recidivism. Recidivism is defined as the tendency of individuals or groups to repeat despicable acts even though they have already been punished for committing those acts.⁹ Coaching in correctional institutions is an effort to prevent the repetition of criminal acts.¹⁰

The coaching program has been prepared in such a way in correctional institutions, but its implementation until now as outlined by the Correctional Law is only limited to hope because in fact it shows the opposite picture.¹¹ The high recidivist rate in several countries, including Indonesia, is the reason for the author to discuss this topic. Until now, recidivists are still found in correctional institutions, including the Class II A Gorontalo Correctional

³ Ely Alawiyah Jufri, and Nelly Ulfah Anisariza., Pelaksanaan Asimilasi Narapidana Di Lapas Terbuka Jakarta, *Jurnal ADIL*, Vol.8, no.1, 2017, page.1-26.

⁴ Sulistyanta., The Correctional System Revitalization: The Understanding Required to Revitalize Convicts' Correctional Facilities, *Yustisia Jurnal Hukum*, Vol.10, no.1, 2021, page.111-123.

⁵ Mochamad Sueb., *Cetak Biru Pembaharuan Pelaksanaan Sistem Pemasyarakatan*, Jakarta, Direktorat Jenderal Pemasyarakatan, 2009.

⁶ S. Samsu and H. M. Yasin., Optimalisasi Pelaksanaan Pembinaan Residivis Narapidana Narkotika Pada Lembaga Pemasyarakatan, *Jurnal Ilmiah Hukum : Al-Ishlah*, Vol.24, no.1, 2021, page.18-38.

⁷ Ibrahim Nainggolan., Lembaga Pemasyarakatan Dalam Menjalankan Rehabilitasi Terhadap Narapidana Narkotika, *Jurnal Edutech*, Vol.5, no.2, 2019, page.141-174.

⁸ Dessi Perdani Yuris Puspita Sari., Pelaksanaan Pembinaan Narapidana Residivis Di Lembaga Pemasyarakatan, *Jurnal Volkgeist*, Vol.4, no.1, 2021, page.85-99.

⁹ Prianter Jaya Hairi., Konsep Dan Pembaruan Residivisme Dalam Hukum Pidana Di Indonesia, *Jurnal Negara Hukum*, Vol.9, no.2, 2018, page.199-216.

¹⁰ Ridha Nur Arifa., Pembinaan Terhadap Narapidana Residivis Tindak Pidana Penyalahgunaan Narkotika, *Jurnal Tahqiq*, Vol.18, no.1, 2024, page.44-60.

¹¹ Salsabila Oktaviani., Problematika Kegagalan Program Pembinaan Residivis Di Lapas Kelas I Surakarta, *In Press SPK*, Vol.21, no.1, 2024, page.139-147.

Institution. Based on the results of field data obtained at the Gorontalo Class II A Penitentiary, there were 73 recidivist prisoners in 2023, an increase from 2022 when there were only 69 recidivist prisoners inhabiting the prison. For 2024, the number of recidivists will even increase quite rapidly, up to 110 prisoners as of August. In carrying out training for prisoners, an assessment is carried out to see what appropriate training program to provide to prisoners.¹² An assessment is also carried out to determine the criminogenic factors in the occurrence of criminal acts so that the results of the assessment provide appropriate intervention. Understanding how risk and needs assessments are applied to recidivist inmates is important to identify the factors that contribute to recidivist criminal behavior. With this study, it is hoped that a more effective way to reduce recidivism can be found through more accurate and targeted assessments.

In some developed countries, the implementation of prisoner assessment, including for recidivist, has developed to become an integral part of the penitent system. In the United States, the assessment of recidivist inmates is often carried out through the Risk-Need-Responsivity (RNR) Model. The model assesses three main components: relapse risk, criminal need (a factor that drives criminal behavior), and responsiveness (how well inmates respond to rehabilitation programs). Assessment tools such as Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) are used to assess the level of risk of inmates.

Assessments are carried out on prisoners, both risk assessments and needs assessments. Recidivism risk assessment is important in determining the right approach to help Correctional Inmates avoid repeat unlawful behavior. On the other hand, a needs assessment is carried out to identify the individual needs of WBPs related to rehabilitation and reintegration. This includes aspects such as education, work skills, treatment, psychological support and social reintegration. In order to ensure the fulfillment of the rights of Correctional Inmates, appropriate and comprehensive needs assessments are essential to design effective rehabilitation programs and facilitate successful reintegration.

The penitentiary system in Indonesia carries out specific assessments of prisoners to determine the level of risk, including the risk of repeat crimes, security risks and safety risks as well as the type of their needs. In general, assessment of recidivist prisoners has been carried out, but there are still prisoners who commit repeat crimes. With recidivism in correctional institutions, this is the most fundamental problem because there is no change in behavior for prisoners after serving a criminal period in correctional institutions. In fact, if we refer to Law Number 22 of 2022 concerning Corrections, it states that one of the goals of Corrections as intended in the provisions of Article 2 point b is to improve the quality of personality and independence of inmates so that they realize their mistakes, improve themselves and not repeat criminal acts, so that they can be accepted back into the community, able to live normally as good, law-abiding, responsible

¹² Riki Afrizal, Iwan Kurniawan, and Tenofrimer Tenofrimer., Implikasi Yuridis Pengaturan Pelayanan Tahanan Dalam Sistem Pemasarakatan Terhadap Sistem Peradilan Pidana, *Jurnal Ilmu Hukum, Humaniora Dan Politik*, Vol.4, no.3, 2024, page.442-450.

citizens and able to play an active role in development.¹³ Therefore, it is important to carry out assessments, including risk assessments and the need for them to be given appropriate coaching treatment based on the results of the assessment.

Prior to the issuance of Law Number 22 of 2022 concerning Corrections, the provisions for carrying out assessments were specifically regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 12 of 2013 concerning Risk Assessments and Needs Assessments for Prisoners and Correctional Clients. Furthermore, with the dynamic development of correctional policies, the implementation of assessments for prisoners is regulated in the provisions of Minister of Law and Human Rights Regulation Number 35 of 2018 concerning Revitalization of Correctional Administration. The assessment of correctional inmates/clients is carried out by correctional assessors and community counselors.

The problems that will be studied in this research are first, the implementation of risk assessments and needs assessments for recidivist prisoners. Second, the obstacles faced by Correctional Officers as well as the ideal concept in carrying out assessments to minimize recidivist prisoners in Gorontalo Class II A Prisons. The aim of this research is to find out and analyze the implementation of risk assessments and needs assessments for recidivist prisoners as well as to find out and analyze the obstacles faced by Correctional Officers and to find the ideal concept in conducting assessments to minimize recidivist prisoners in Class II Gorontalo.

The state of the art or previous research has been searched by the author and found an article written by First, Astrika Puspita Rani, the findings show that the implementation of the risk and needs assessment of prisoners can help fulfill prisoners' rights, especially in providing guidance. Obstacles in carrying out the assessment were the appointment of assessors who were not in accordance with procedures, there were multiple assessor positions and a limited budget.¹⁴ Second, Bastanta Sena Patria Surbakti, the findings show that the implementation of the Risk and Needs Assessment for Prisoners has an important role. As an instrument that can be used as an indicator in determining a comprehensive coaching program and knowing the risk of prisoners repeating crimes.¹⁵ Third, Darmawati, the findings were that the assessment model for developing recidivist prisoners was created according to the type of crime committed and indicators of assessment achievement were determined. The assessment system must be supported by online-based technology so that coaching can be controlled and more transparent.¹⁶

Meanwhile, the focus of the study that researchers want to study is more on the implementation of risk assessments and criminogenic needs for

¹³ Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasarakatan, Pub. L. No. 22 (n.d.).

¹⁴ Astrika Puspita Rani, and Sabar Slamet., Implementasi Penilaian Risiko Dan Penilaian Kebutuhan Berdasarkan Peraturan Menteri Hukum Dan HAM RI Nomor 12 Tahun 2013 Tentang Assessment Risiko Dan Assessment Kebutuhan Bagi Narapidana Dan Klien Pemasarakatan, *Jurnal Residive*, Vol.7, no.2, 2018, page.47-64.

¹⁵ Bastanta Sena Patria Surbakti., Implementasi Assessment Need And Risk Bagi Narapidana Narkotika, *Jurnal Justitia*, Vol.8, no.3, 2021, page.133-143.

¹⁶ Darmawati., Pembaruan Model Penilaian Pembinaan Narapidana Residive Berbasis Teknologi, *Jurnal Al-Adalah*, Vol.7, no.1, 2022, page.75-92.

recidivist prisoners. What this research aims to achieve is to find a solution to the problem in terms of implementing needs assessments and risk assessments for recidivist prisoners where special treatment is needed for them in order to create a more effective correctional system and provide protection, rehabilitation and reintegration for prisoners so that they do not recidivate criminal act. Apart from that, there are still several things that need to be improved in order to perfect the implementation of prisoner assessments to adapt to current conditions and developments. Among them is providing a special needs and criminogenic assessment model for recidivist inmates so that there is a difference in assessment with other general inmates.

B. RESEARCH METHODS

The research method that will be used in unraveling the concept of the assessment implementation model for recidivist inmates has several important stages. This research uses an empirical normative legal research type. Empirical normative legal research is a type of normative legal research that is supported and equipped with empirical data.¹⁷ The normative approach is carried out by reviewing the laws related to the implementation of assessments, starting from Law Number 22 of 2022 concerning Corrections to the rules regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 12 of 2013 concerning Risk Assessment and Needs Assessment for Prisoners and Correctional Clients. Empirical data collection is carried out by involving data collection from the field, for example through interviews or direct observation regarding the use of needs assessments and criminogenic assessments of recidivist prisoners. The problem-solving approach in this research was carried out using a case approach and a conceptual approach. The case approach is carried out by examining cases of research material.¹⁸ The problem-solving strategy is carried out by identifying problems that occur in the implementation of risk assessments and needs assessments for recidivist prisoners through a case approach to problems found in the field. Apart from that, analyzing the problems that occur and looking for solutions through a conceptual approach in the hope of producing recommendations for improvements to the problems studied.

C. RESULTS AND DISCUSSION

1. Implementation of Risk Assessment and Needs Assessment for Recidivist Prisoners

Corrections play an important role in the criminal justice system, especially in terms of implementing law enforcement in the field of treatment of prisoners, children and correctional inmates. The provisions of Article 2 of Law Number 22 of 2022 concerning Corrections state that the correctional system is implemented with the aim of providing guaranteed protection for the rights of child prisoners, improving the quality of personality and

¹⁷ Irwansyah., *Penelitian Hukum, Pilihan Metode Dan Praktik Penulisan Artikel*, Yogyakarta, Mitra Buana Media, 2020.

¹⁸ N.D. Mukti Fajar, and Yulianto Achmad., *Dualisme Penelitian Hukum Normatif Dan Empiris*, Yogyakarta, Pustaka Pelajar, 2009.

independence of inmates so that they realize their mistakes, improve themselves and not repeat criminal acts, so that they can be accepted. returned to the community environment, can live a normal life as a good, law-abiding, responsible citizen, and can actively play a role in development and provide protection to the community from repetition of criminal acts.

Seeing that the aim of the correctional system is to provide a forum for carrying out the process of behavior change and social integration, it cannot be separated from the view that crimes or violations committed by prisoners cannot only be seen as formal legal violations but are conflicts that occur between the perpetrator of the crime and the victim. and caused by certain factors. The factors that cause a crime to occur are then referred to as criminogenic factors which can be minimized by providing appropriate intervention.

In the implementation of inmate coaching, of course, it requires a basis in its implementation, for that it is necessary to assess the needs and risk assessment of the correctional inmates concerned.¹⁹ In general, assessment can be interpreted as an assessment. Further assessments are carried out to assess individual characteristics based on previously established standards. In the penitentiary system in Indonesia, specific assessments are carried out on inmates or correctional clients to determine the level of risk, including the level of risk of repeat crime, security risk, security risk, stability risk or social risk and the type of their needs. Information regarding the level of risk and type of needs based on the results of the assessment is then used as a basis for consideration for determining appropriate and appropriate treatment, both in the form of placement and appropriate and appropriate treatment, both in the form of placement and providing appropriate coaching programs, so that the correctional process is expected can run effectively and efficiently.²⁰

It is hoped that the development of risk and needs assessment instruments will ensure that the implementation of coaching and mentoring will be more focused, effective and efficient so that correctional objectives can be achieved in accordance with the expectations of the Corrections Law. Technically, the provisions regarding the implementation of Risk Assessments or what is usually called Indonesian Recidivism Risk Assessments and criminogenic needs are specifically regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 12 of 2013 concerning Risk Assessments and Needs Assessments for Prisoners and Correctional Clients, where in This assessment is carried out by an assessor.

Based on the provisions of Article 1 of the Republic of Indonesia Minister of Law and Human Rights Regulation Number 12 of 2013, it is stated that a risk assessment is an assessment carried out to determine the level of risk of repetition of criminal acts by prisoners or correctional clients. Meanwhile, a needs assessment is an assessment carried out to determine the most appropriate coaching or mentoring needs for prisoners or

¹⁹ Rama Fatahillah Yulianto, and Umar Anwar., Pelaksanaan Need and Risk Assessment Sebagai Strategi Penerapan Tujuan Sistem Pemasyarakatan, *Jurnal Ilmu Hukum Media Keadilan*, Vol.13, no.1, 2022, page.47-64.

²⁰ Nugraheni, Novie Amalia., The Implementation of Restorative Justice for Narcotics Addicts Based on Legal Benefits, *Jurnal Pembaharuan Hukum*, Vol.11, no.1, 2024, page.30-40.

correctional clients based on factors that contribute to the criminal acts they commit.²¹ Risk assessment refers to the risks that prisoners may pose to themselves, others and society, both in terms of security, safety, compliance with rules in correctional institutions, the possibility of controlling criminal networks from within prisons or the possibility of causing unrest in society and the risk of repeat crimes criminal.

Apart from that, risk assessment is also used to identify and map clients/inmates who need extra supervision for the level of risk they have. The level of risk resulting from this assessment will be used as a basis for meeting the needs for coaching/mentoring programs for prisoners. The higher the level of risk from the assessment results, the more intensive the coaching program must be provided, and vice versa.²² For needs assessment, it is necessary to measure/assess things related to education, employment, financial conditions, family conditions, environment, recreation, mental health, etc. This needs assessment is related to criminogenic factors, where these factors are dynamic and can be changed through providing appropriate coaching programs. In fact, according to Samosir, the coaching program must be structured in such a way as to foster good legal awareness in the community.²³

Risk assessment in recidivist inmates generally examines two types of factors, namely static factors and dynamic factors. Static factors include criminal history and demographics (age, type of crime, number of previous convictions), which cannot be changed. Meanwhile, dynamic factors include aspects that can change, such as drug use, antisocial attitudes, social networks, or mental factors. Research shows that understanding dynamic factors is crucial because interventions are more effective if they focus on changeable factors.

Recidivism risk assessments and needs assessments for recidivist prisoners have a significant impact in the context of criminal justice and rehabilitation efforts. The main impacts are: Risk Management, recidivist risk assessment assists in identifying the level of risk that a prisoner will re-offend upon release. By understanding this risk, the justice system can take appropriate action to manage the risk, such as setting appropriate levels of supervision or intervention. Determination of Intervention, the needs assessment helps in assessing the rehabilitation or intervention needs of the prisoner to reduce the likelihood of reoffending. This may include educational programs, skills training, counseling, or medication recommended based on the individual profile of the prisoner.

Another impact is Decision Making, the results of risk and needs assessments form the basis for decisions within the justice system, such as parole, rehabilitation programs, or lesser sanctions. These decisions should be based on accurate and comprehensive information to optimize the chances of successful social reintegration of the prisoner. Resource Efficiency, by using

²¹ Peraturan Menteri Hukum Dan HAM RI Nomor 12 Tahun 2013 Tentang Aseessment Risiko Dan Assessment Kebutuhan Bagi Narapidana Dan Klien Pemasarakatan (n.d.).

²² Direktorat Jenderal Pemasarakatan., *Instrumen Dan Pedoman Asesmen Risiko Residivis Indonesia (RRI) Dan Asesmen Kebutuhan Kriminogenik*, Jakarta, Direktorat Jenderal Pemasarakatan, 2019.

²³ Djisman Samosir., *Fungsi Pidana Penjara Dalam Sistem Pemidanaan Di Indonesia*, Bandung, Bina Cipta, 1992.

risk and needs assessments, criminal justice and rehabilitation resources can be allocated more efficiently. High risk prisoners can receive more intensive attention while those with specific needs can be directed to the most relevant programs. The final impact is a reduction in recidivism rates, overall, the implementation of risk and needs assessments aims to reduce recidivism rates or the rate at which prisoners return to the criminal system after release. This has the potential to reduce the burden on the criminal justice system, prevent new crimes, and increase community safety.

The implementation of assessment is carried out by correctional assessors. The duties of the assessor based on the provisions of Article 8 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 12 of 2013 are collecting data on prisoners and clients, extracting information through interviews with inmates and clients, recording every piece of information from the intake of inmates and clients to the termination of guidance and counseling in case notes, verifying and analyzing data and information on inmates and clients, provide an assessment of the level of risk and needs, make guidance planning for prisoners and clients based on the results of risk assessment and needs assessment, and make a report on the results of risk assessment and needs assessment and submit a report on the results of risk assessment and needs assessment to the Supervisor.²⁴

Along with the development of community policies, the implementation of risk assessment and needs assessment for detainees, prisoners, and correctional clients in general is also regulated in the Minister of Law and Human Rights Regulation Number 35/2018 concerning the Implementation of Corrections. Recidivism in general understanding is understood as a broad term that refers to the relapse of criminal behavior, including due to a rearrest, reconviction, and reimprisonment.²⁵ With the presence of recidivist prisoners in the penitentiary, of course, this is the most fundamental problem because one of the expectations of the implementation of guidance and guidance is a change in the behavior of prisoners after serving a period of punishment. Therefore, recidivist risk assessment is important in determining the right approach to help prisoners avoid repeated unlawful behavior. In addition, needs assessment is also required to identify the individual needs of prisoners relating to rehabilitation and reintegration. Based on data obtained at Class II A Gorontalo Correctional Facility, out of 642 prisoners, 110 of them were recidivist prisoners in 2024.

²⁴ Peraturan Menteri Hukum dan HAM RI Nomor 12 Tahun 2013 Tentang Asement Risiko dan Assessment Kebutuhan Bagi Narapidana dan Klien Pemasyarakatan.

²⁵ Zidan Ardana M., Maya Shafira, Firganefi Firganefi, Gunawan Jatmiko, and Damanhuri Warganegara., Residivis Kejahatan Penyalahgunaan Narkotika Persfektif Teori Kontrol Sosial, *Jurnal Hukum, Pendidikan Dan Sosial Humaniora*, Vol.4, no.3, 2024, page.1-19.

Table 1: Number of Recidivist Prisoners in 2020-2024

No.	Year	Total
1	2020	83 People
2	2021	86 People
3	2022	69 People
4	2023	73 People
5	2024 (Jan-August)	110 People

The data in Table 1 shows that in the last three years there has been fluctuation in recidivist prisoners in Gorontalo Class II A Prison. Where in 2020 the number of recidivists was 83 people, in 2021 86 people, in 2022 there was a decrease of only 69 people, in 2023 it rose to 73 people and in 2024 there was an increase to 110 people. This is a challenge for correctional assessors to provide appropriate assessments to them so that there is no repetition of criminal acts. Some of the recidivist inmates who serve their sentences in Correctional Institutions are narcotics inmates. One of the important reasons why an assessment needs to be carried out is because this assessment is not only in order to overcome the risks of their actions due to narcotics but also related to dependence, the relationship with the physical risks of inmates and concerns the coaching program which is different from other inmates.²⁶

Based on the results of interviews with Correctional Assessors at Gorontalo Class II A Prison, the implementation of Recidivist Risk Assessment and Criminogenic Needs Assessment for recidivist inmates has the same instruments as inmates in general. Especially for recidivism risk instruments, they are divided into main risk factors, additional risk factors, special risk factors for female prison inmates/clients and special risk factors for prisoners/correctional clients with narcotics crimes. Relevant factors to be assessed in the risk assessment are issues related to criminal history, the attitude/view of the inmate about the crime and violence, the level of danger or consequences caused by the crime committed (e.g., violent crimes and sexual crimes are considered more dangerous crimes compared to non-violent crimes and non-sexual crimes).

Meanwhile, the instruments of criminogenic needs include the assessment of family and marriage factors, education and employment factors, narcotics use factors, illegal drugs and alcohol consumption, social relationship factors, leisure/recreation factors, financial management factors and anti-social attitude factors/views on criminal acts. Based on the value obtained from the implementation of the assessment, it is used as a benchmark/reference basis to provide intervention to correctional inmates based on a case plan for their criminal term. The implementation of the assessment is carried out at the first time the prisoner enters the penitentiary to find out how much risk there is to the continuity of community life in the prison. Then when there is a court decision that has permanent force, a re-assessment is carried out on the inmates to find out what needs and coaching programs they will undergo in prisons.

²⁶ Ahmad Pajri., Pelaksanaan Asesmen Risiko Dan Asesmen Kebutuhan Terhadap Narapidana Narkotika Di Lapas Narkotika Kelas III Sawahlunto, *Jurnal Hukum Pidana Dan Kriminologi DELICT*, Vol.2, no.1, 2024, page.42-50.

2. Ideal Concept of Risk and Criminal Assessment Implementation for Recidivist Prisoners

A conception that has been made and planned well, there are times when its implementation does not go as it should.²⁷ The implementation of risk assessment and needs assessment for recidivist inmates does not always run according to expectations and experiences several obstacles. To see the obstacles in the implementation of the assessment, the author uses Soekanto's²⁸ law enforcement theory to conduct an analysis. The obstacles/obstacles in implementing the assessment based on the results obtained in the field if linked to law enforcement theory can be examined from five indicators including substance, structure, facilities and infrastructure, society and culture factors.²⁹

The substance of the law in this case includes laws and regulations and other provisions related to the implementation of assessments for recidivist prisoners. So far, the implementation of assessments for inmates and correctional clients has been carried out by the Community Supervisor Correctional Center and also the Correctional Assessor. When viewed from the provisions of Law Number 22 of 2022 concerning Correctional Services in Article 1 Point 23, it is stated that a Community Supervisor is a correctional officer who carries out social research, mentoring, guidance and supervision of clients both inside and outside the criminal justice process.³⁰ From the above understanding, if viewed from the existing regulations, the Correctional Center (*Balai Pemasyarakatan/Bapas*) Community Supervisor actually does not have the duty to carry out assessments/assessments of correctional inmates/clients based on the Correctional Law. The implementation of assessments for recidivist inmates is the task of the Correctional Assessor as mentioned in the provisions of Article 1 Point 24 of the Correctional Law which explains that a correctional assessor is a Correctional Officer who carries out assessments of prisoners, children, and inmates. Where the fostered citizens referred to here are inmates, correctional students and correctional clients.

Not only prisoners are assessed through assessment, but in this case correctional clients are also assessed. The implementation of the assessment by the Community Supervisor is to assess correctional clients. Where in the provisions of Regulation of the Minister of Law and Human Rights Number 12 of 2013 concerning Risk Assessment and Needs Assessment for inmates and correctional clients in Article 2 that Risk Assessment and Needs Assessment are carried out for inmates and correctional clients. Law Number 22 of 2022

²⁷ Mohammad Ibnu Fajar., Pelaksanaan Pembinaan Narapidana High Risk Di Lembaga Pemasyarakatan Khusus Kelas I Batu Nusakambangan Ditinjau Dari Aspek HAM, *Jurnal Idea Hukum* 9, no.1, 2023, page.42-67.

²⁸ Soerjono Soekanto., *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Jakarta, PT. Raja Grafindo Persada, 2011.

²⁹ Kartono, Kartono and Suhendar Suhendar., Assessing Cohabitation from the Perspective of Living Law, the Criminal Code the National Criminal Code, *Jurnal Akta*, Vol.11, no.3, 2024, page.906-913.

³⁰ Dedy Wahyudi, Syafril Warman, and Akmal Akmal, Implementation of Law No. 22 of 2022 Concerning Corrections in Connection with the Development of Juvenile Prisoners at the Class IIB Lubuk Pakam Correctional Institution, *Judge: Jurnal Hukum*, Vol.5, no.01, 2024, page.45-49.

concerning Corrections also does not specifically regulate the methods and procedures for implementing risk assessments and assessment of inmates' needs.³¹ This results in the implementation of assessments requiring further rules and more detailed technical guidelines to be used as a reference for assessors in carrying out assessments of prisoners.

From the results of field data obtained through interviews, it is found that in the implementation of the assessment, the standard format of recidivist risk assessment instruments and criminogenic needs between recidivist inmates and general inmates used to conduct assessments is the same and there is no difference in instruments. So, the indicators of inmate needs, including recidivist inmates, are submitted to the prison guardian, guardian who will monitor the development of inmates and can also be monitored through the Prisoner Development Assessment System. Where according to the author's analysis, special treatment is needed during the implementation of assessments for recidivist prisoners, especially related to their needs so that there is no more repetition of criminal acts.³²

The second obstacle is related to the legal structure. The structure in this case is related to Human Resources who carry out the implementation of the assessment, namely the Assessment Assessor. To be appointed as an assessor in carrying out the assessment, it must meet the requirements as stipulated in the Provisions of Article 7 paragraph (2) of the Minister of Law and Human Rights Number 12 of 2013. The requirements in question include: have participated in and been declared to have passed the training and practice of risk assessment and needs assessment, have carried out risk assessment and needs assessment practices under the direct supervision of an assessor at least twice, have carried out risk assessment and needs assessment practices to inmates or clients independently at least four times, and mastering the practice of interviews, case recording, and risk assessment and needs assessment techniques. The number of Correctional Assessor human resources in the Gorontalo Class II a Correctional Institution is 15 (fifteen) people who have been certified, but those who are active/functional to conduct assessments on inmates only number 7 (seven) people who are on duty in the inmate guidance section / students.

The implementation of duties as correctional assessors is not all functional because the assessors have their own duties and they hold dual positions, such as for example for the guard section, they focus on the duties on their part and do not focus on the assessment of prisoners. In addition, another obstacle related to this human resource is that not all correctional assessors can carry out their duties to conduct assessments because they are not equipped with trainings that can support the implementation of their duties as assessors, although in this case they are certified but still do not understand how to conduct assessments/assessments on prisoners. The implementation of assessments carried out by assessors is not supported by

³¹ Muhammad Ali Adnan, Gideon Siringo Ringo, and Atika Sunarto, Implementation of the Correctional System for Inmates in Class I Correctional Institution Medan, *Journal of Law, Politic and Humanities*, Vol.4, no.6, 2024, page.2009-2019.

³² Achmad Arifulloh, The Unlocking Emphaty Through Restorative Justice: A Mediation to Healing Theft, *International Journal of Law Reconstruction*, Vol.7, no.2, 2023, page.231-244.

maximum training/training so that the knowledge and skills to carry out assessments are very limited. Until now, the implementation of training has only been limited to zoom meetings.

In addition to prisons, Correctional Assessors are also available in Bapas Class II A Gorontalo. Based on data obtained at Bapas Class II Gorontalo that until now only two out of 13 Bapas Community Supervisors have participated in assessor training. In fact, the entire number of PK Bapas is actively assessing correctional clients. The problem that exists in Bapas Class II A Gorontalo is almost the same as in Class II A Gorontalo Prison, namely correctional assessors are not supported by training to support their duties as assessors.

In technical guidance and training for assessors who will conduct assessments, they must pay attention to four important aspects provided with the aim of providing guidance or training so that the assessment results made are good assessments and have met the requirements as determined by the Directorate General of Corrections. These 4 things include:³³ the guidance provided regarding the technical training of risk assessment and needs assessment must refer to the training guidelines that have been made, the guidance provided regarding technical and training may only be provided by a professional teacher with the requirement that he has participated in training and the teaching staff has a letter of determination issued by the Directorate General of Corrections, all officers who will be given the authority to conduct assessments must follow technical guidance for three days (both theoretical and practical) under the supervision of supervisors, and the technical guidance provided will be carried out for a minimum of three days, including the practice of assessment of inmates and correctional clients.

The third obstacle is related to facilities and infrastructure. To be able to carry out the assessment process for recidivist inmates, of course, it must be supported by adequate facilities and infrastructure. This includes facilities, technology used, budget and infrastructure that supports the implementation of the assessment. Data obtained directly from the results of interviews with assessors that one of the obstacles in the implementation of the assessment is not supported by an adequate budget, there is no special space for the implementation of the assessment even though in the implementation of the assessment it requires a calm situation between the client and the assessor himself to obtain accurate data to assist the client himself in providing coaching recommendations. The fourth obstacle is related to community factors. The implementation of assessments carried out by correctional assessors according to the view of correctional clients that the implementation of assessments carried out so far has not removed the negative stigma of inmates in the community. This is because the assessment is indeed focused on what is the need of inmates in correctional institutions, not to remove the negative stigma of inmates in the community.

The negative stigma of society against prisoners, especially recidivists, certainly affects the acceptance and support of coaching programs outside the

³³ Bayu Tri Wahyudi., Implementasi Aseessment Risiko Dan Kebutuhan Dalam Rangka Mendukung Refitalisasi Penyelenggaraan Pemasarakatan, *Jurnal Ilmu Hukum Dan Humaniora*, Vol.8, no.3, 2021, page.149-185.

Correctional Institution, especially the social reintegration program. The public may have a negative view of the results of the risk assessment that has been carried out by the assessment and consider it not as an effort to reduce recidivist inmates. The public may not understand how the implementation of risk and inmate needs assessments can help reduce recidivism and support the implementation of social reintegration in society. The last obstacle is related to cultural factors. In the assessment instrument, culture is not a tool that can specifically classify prisoners according to the tribe in the community but only records and factors that are assessed so that there are certain characteristics that are considered to violate norms, for example, the use of "tattoos" for inmates in some tribes is considered taboo, but in the culture of other tribes it is considered a common thing.

A strong stigma in society against recidivist inmates can hinder efforts in terms of conducting an objective assessment process. In some cultures, recidivist inmates may be considered bad people and have received negative stigma in society so that it is difficult to get support in the implementation of prisoner coaching. In addition, in an environment that does not emphasize the importance of education or skills training, of course, there are difficulties in implementing the program as a result of the assessment regarding the needs of prisoners. In societies that do not prioritize education, inmates do not receive the training they need to reduce the risk of recidivism.

From the obstacles faced above, an ideal concept can be formulated in carrying out risk assessments and needs assessments for recidivist prisoners, where the assistance of a psychologist is needed during the assessment with the aim of being able to see the psychological and behavioral conditions of prisoners. Apart from that, with the assistance of a psychologist, in-depth interviews will be carried out and explore the life background, involve the family and intervene and monitor the progress of the prisoner. Assessments involving psychologists for recidivist prisoners need to be carefully designed to identify and treat the root causes of recidivism.

Psychologists play an important role in identifying psychological factors that influence prisoners to return to committing criminal acts. Through clinical interviews, psychological tests, and behavioral observations, psychologists can uncover emotional problems, addictions, or personality disorders that drive such repetitive behaviors. This assessment is important for understanding individual risks and needs. Based on the results of the assessment, psychologists can help design a rehabilitation program that is in accordance with the psychological needs of recidivist prisoners. These programs can include individual counseling, group therapy, or cognitive behavioral therapy to address psychological disorders and help inmates develop new skills in dealing with life stressors and triggers that typically lead them back to crime.

In addition, psychologists can also be involved in designing programs that focus on social and family reintegration for recidivist prisoners. By facilitating therapy that involves family members, psychologists can help create a supportive environment for inmates not to return to criminal patterns. This approach also aims to rehabilitate prisoners emotionally and socially. After undergoing a rehabilitation program, psychologists conduct periodic evaluations to monitor the progress of inmates. This evaluation ensures that

the rehabilitation program is effective and provides an opportunity to adjust strategies if there is a change in the mental or social condition of the inmate. Through a comprehensive and collaborative approach, it is hoped that prisoners can achieve successful rehabilitation and better reintegration in society.

D. CONCLUSION

The implementation of Risk Assessment and Needs Assessment for recidivist prisoners has been carried out but has not been implemented in accordance with what is expected by the Corrections Law because there are still recidivist prisoners who repeat criminal acts. The implementation of assessments has not been optimal due to several things, including the assessment arrangements for inmates and correctional clients which have been carried out by Community Supervisors Correctional Center and also Correctional Assessors. Meanwhile, the Corrections Law does not state in detail that the task of Community Guidance of the Correctional Center is to carry out assessments. Apart from that, assessors have their own duties and sometimes hold multiple positions so they are not focused on completing their duties as assessors because they have to take care of other work, not to mention the knowledge possessed by assessors is still very limited. because knowledge regarding the implementation of assessments is still lacking. Not being supported by supporting facilities and infrastructure such as a special room for carrying out assessments and limited budgets are also indicators that the implementation of assessments is not yet optimal. To be able to support the implementation of the assessment, psychologist assistance is needed in carrying out the assessment so that there are no more recidivist prisoners. Apart from that, there is a need for a special budget allocation for carrying out the assessment as well as a special room for carrying out the assessment as well as special instruments/guidelines for recidivist inmates so that the results of the assessment really look like what the training is like. needs of recidivist prisoners. In addition, in the concept model of implementing assessments for recidivist inmates, it is necessary to directly involve psychologists in providing assistance in order to reduce recidivism and open opportunities for inmates to seriously change and live a better life.

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