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LAW ENFORCEMENT AND LEGAL AWARENESS OF FEMALE PRISONERS IN CORRECTIONAL INSTITUTION OF PONOROGO*

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ABSTRACT

Female prisoners actually have 15 trials to attend or 4 months in duration. However, most of them do not have adequate understanding concerning this legal process. Thus, this study is conducted as a field research by using qualitative approach. This study tends to describe the law enforcement and the legal awareness of female prisoners in correctional institution in Ponorogo. Moreover, how the coaching process given by the prison officers is conducted is another matter to be discussed. The result of this study presented that mostly, female prisoners are sentenced for 3-9 months in prison, but it turns out to be 1-3 months due to imprisonment. Had the verdict is responsibly announced and conducted, it will be appropriate. However, the fact is that the law enforcer, i.e. judge, police officer, prosecutor, and prison officer ask for some money from the female prisoners. This action, of course is breaking the law. After being sentenced, female prisoners actually realized that they are guilty. In this case, the coaching process in correctional institution in Ponorogo has conducted in a good way. However, the coaching process is not gradually conducted when the prisoners are released.

Keywords: *Enforcement, Awareness, Coaching, Prisoners*

A. INTRODUCTION

Before someone is sentenced as a prisoner, the person is called as defendant. It literally can be defined as a person that commits the crime yet he/she still undergoes trial process until he/she is sentenced. Once it is announced, then the person is called as prisoner. In Ponorogo, imprisoned persons or the prisoners commit crimes in form of gambling (70%), traffic accidents (10%), theft (10%), sexual harassment (5%), and corruption (5%). Moreover, as by 19 April, the prisoners jailed in correctional institutions in Ponorogo are classified as follows:

- a. Number of defendant; There are 128 adult male defendants, 9 adult female defendants, and 1 boy defendant. There is no young female defendant. Totally, there are 138 defendants.
- b. Number of prisoner; There are only 38 adult male prisoners without having adult or young female prisoner.

- c. Number of defendant and prisoner; Totally, there are 176 defendants and prisoners. However, the total capacity of the prison is only 107 people. Thus, there is over capacity about 64 people and the total percentage is 164%¹.

In the correctional institution in Ponorogo, there are 166 male prisoners and 1 boy prisoner. For the female prisoners, there are 9 people. Furthermore, these female prisoners are imprisoned for several cases. They are 3 people sentenced for fraud, 4 people sentenced for thieving, and 2 persons sentenced for gambling. Here, male and female prisoners are placed separated. As for the child prisoner, he is then removed to a correctional institution in Kediri after receiveing the verdict since there is no designated prison for children in correctional institution of Ponorogo.

Based on the Criminal Procedure Law, it is explained that the trial process is carried out through several stages, including: summoning the litigated parties by the judge, examining the defendant's health identity, asking questions done by judge to the defendant whether or not accompanied by attorney (if the threat of punishment is more than 5 years, the defendant shall be accompanied by attorney), examining the indentity of the attorney, stating indictment by the prosecutor, stating exception of the defendant or his attorney, stating the interlocutor of the indictment, verivifying the proofs by the public prosecutor (presenting witness statements, letter proofs, and expert witnesses), verifying proofs by the defendant (presenting the witness who defines the defendant), reading of the charges by the public prosecutor, stating the duplicate of the defendant, conductiong confidential deliberation of the judge, and deciding the verdict of the judge².

During the trial process, prisoners are required to attend 15 trials in 4 months. However, many female prisoners do not understand the law. Thus, guidance on law enforcement and legal awareness is needed so that they will not repeat their action and they are able to back to their normal live. For that reasons, the researcher is interested to study the legal sociology of female prisoners imprisoned in correctional institution Ponorogo. This study covers the law enforcement that reviews the penalties for certain committed criminal actions, the acknowledgment of wrongdoing, and the regularity in

¹ Web resmi Rutan Ponorogo. <http://www.rutanponorogo.go.id/>. diakses tanggal 20 April 2017. Jam 09.15

² M. Karjadi dan R. Soesilo 1988. " Kitab Undang-undang Hukum Acara Pidana dengan Penjelasan Resmi dan Komentar " . Bogor, Politea. Hal 77

the trial process. As for the legal awareness of female prisoners, this is seen from the commitment to not repeat their mistake in the future.

Referring to the background described above, the research problems for this study are, 1) how is law enforcement and legal awareness of female prisoners in correctional institution of Ponorogo?, and 2) How is the coaching process for female prisoners in correctional institution of Ponorogo is given by prison officers?

The objective of this study is to determine in what state is of law enforcement and legal awareness of female prisoners in correctional institution of Ponorogo and the coaching process for female prisoners in correctional institution of Ponorogo given by prison officers. Theoretically, this research is expected to be an additional reference for the Ministry of Justice and Human Rights, the Correctional Institution of Ponorogo, and other researchers interested in studying female prisoners. In addition, it is expected that this research can be additional reference to the treasury of science as well as scientific insights of researchers and public in general concerning the problems of female prisoners. Practically, in the other hand, this study is expected to provide education for female prisoners to raise their legal awareness in order not to repeat their wrongdoing and to give contribution for Correctional Institution of Ponorogo in providing education for female prisoners by raising their legal awareness and giving religion understanding.

The literature review that underpin this study includes law enforcement, legal awareness, sociological jurisprudence, Law Number 12 of 1995 on Corrections, the Code of Criminal Procedures (*KUAP*), and other legislations relating to law enforcement and legal awareness of prisons.

Jimly Asshiddiqie perceives law enforcement as the process of doing efforts for the establishment or functioning the legal norms as a behavioral guide of legal relationships in social life.³ Moreover, Ewick and Silbey say that “legal consciousness” is formed in real action, so it is necessary to be studied empirically. In other words, legal awareness is a matter of “law as behaviour”, not “law as a rule of norm or principle”⁴

Roscoe Pound, the initiator of sociological jurisprudence, states that law should be viewed as a social institution functioned to meet social needs. In this case, law is

³Jimly Asshiddiqie, 2013. *Hukum Tata Negara dan Adminstrasi Negara*. Gramedia.hal 5

⁴*Ibid*, hal. 511

perceived as a concept that can be developed in such a way to be a social engineering toolkit. Benjamin Cardozo states that law is a principle that its development heavily depends on its outer components. Thus, logic, history, customs, and codes of right behavior are the forces that have an enormous influence on the development of law. According to Anzilotti, it is started from the field of sociology which deals with the relationship between the phenomena of social life and law (the scopes are: analyzing the social basis of law, the legal effect on social phenomena in society, and observing the performances of law enforcement officers in legal institutions)⁵

This study was conducted in correctional institution of Ponorogo for 4 months, from April 25, 2017 until August 25, 2017. Then, the data obtained from the field is thoroughly analyzed. The subjects of this study are the Head of correctional institution of Ponorogo, public relation officer of correctional institution of Ponorogo, and the female prisoners. The primary data used in this study is obtained from the result of interview of all research subjects. Meanwhile the secondary data is obtained from the documentation, review of literature from related books and sites concerning to law enforcement and legal awareness, legal sociology, and coaching process for the female prisoners.

B. GENERAL DESCRIPTION OF CORRECTIONAL INSTITUTION CLASS IIB OF PONOROGO

People who stay in correctional institution are not only the prisoners, but also the defendant, those who are still in the process of trial and have not been determined guilty or not by the judge. The civil servant who handles guidance of prisoners and prisoners in correctional institutions is called prison officers, or formerly known as prison wardens. The concept of correctional institution was first initiated by Justice Minister, DR. Sahardjo in 1962 and then it was legalized by President Sukarno on April 27, 1964. This is regulated in Law No. 12 of 1995 on Corrections.⁶

The Ministry of Justice and Human Rights of the Republic of Indonesia is an institution that regulates the existence of correctional institution or sometimes known as prison. For regional office in East Java, correctional institution class II B Ponorogo is

⁵ *Ibid*, 50

⁶ Nikmah Naura. http://www.blog.nikamhnaura.com/visi_misi_dan_tupoksi_lapas_kelas_ii_kota_Makasar/ diakses tanggal 20 April 2017. Jam 09.00

located on Jl. Soekarno - Hatta No. 54 Ponorogo. Established in 1919 on a land of 7.145 m² of physical building area 1,081 m², Ponorogo correctional institution experienced a physical rehab on first floor office space in 1994-1995. In addition, halls, park buildings, and residential blocks are also renovated in 2004-2005. Head of Rutan held by Mr. Hendro S.N., AMdp., S.Sos., Msi. Meanwhile, the composition of the members consists of: Taufiq H. Amd, S.H, M.H on the prisoner subsection service, Haryono, S.H on the unity of prison escort, and Sucipto, S.H in the Subsection section of the detention house.⁷

In the system of criminal law in Indonesia, there are two terms of prison that mostly known by people, they are:

Jail: This is where the suspect / suspect were held for a while before the decision of a permanent legal court to prevent the defendant from fleeing. Those who occupy Rutan are suspects or defendants. The duration of detention is during the process of investigation, prosecution and examination in trials in the District Courts, the High Court and the Supreme Court.

Prison: This is a place to conduct guidance for prisoners and Prisoners Correctional. The prisoners are prisoners / convicts. The duration of coaching is during detainees undergoing punishment or criminal sanctions. Prisoners are in prison after being sentenced by a judge with permanent legal action.

Although they seem different, actually jail and corectional institution have some similarities. One of them is both jail and corectional institution are the Technical Implementation Units ruled the Directorate General of the Department of Justice and Human Rights (see Article 2 paragraph (1) of Government Regulation No. 58 of 1999). By virtue of the Article 38 paragraph (1) of Government Regulation Number 27 of 1983 on the implementation of the Criminal Procedure Code, the Minister may establish certain jail as prison or correctional institution. With the Decree of the Minister of Justice No.04.UM.01.06 of 1983 on Stipulation of Certain Prison as Corectional Institution, prison or correctional institution can be a functioned as jail, and vice versa.

1. Law Enforcement For Women Prisoners In Ponorogo

Jimly Asshiddiqie defines law enforcement as the process of doing various efforts to enforce or enable legal norms in real terms as a code of conduct. In this

⁷Dokumentasi Rutan Kelas IIB Ponorogo

case, law enforcement officials are permitted to use coercion if necessary⁸. Theoretically, the systematics of law enforcement and justice state that law enforcement is said to be effective when the 5 pillars of law work well. The five pillars of law are law enforcement instruments, law enforcement apparatus, equipment, society, and bureaucracy⁹.

Law enforcement is basically a normative legal gap (*dassellen*) and sociological legal gap (*dassein*). In other words, this is a gap between legal behaviors in society. Rouscoe Pound calls this distinction as a “law of the book and a law in action”. This distinction includes several things, some of them are: law is formed based on the regulation that has been enacted; law describes the existing pattern of social behavior at any given time, the decision made in the court must be in accordance with what is done, and lastly, the legal objectives required by the regulation must be as strict as the effect of the regulation itself. However, in reality, law at the level of “law in the book” has not been much impacted to the community because it has not been fully implemented and functioned as promised. The benefits and the impact of law will be obtained once it is upheld in the community strictly.¹⁰ The factors coming from outside the legal system that give effect to law enforcement are: law awareness of the community, the development of the society, culture, and political interests of the state authorities. Moreover, Soerjono Soekanto said that the factors influencing law enforcement include the law itself, law enforcement officers, facilities, society, and culture.¹¹

Lawrence M. Friedman described that the effectiveness and success of law enforcement depends on three elements of the legal system, namely the structure of law, the substance of the law and the legal culture. The legal structure concerns about the law enforcement officers, the substance of law concerns about the

⁸ Jimly Asshiddiqie, . 2013*Hukum Tata Negara dan Adminstrasi Negara*. Gramedia.

⁹ Anton Tabah, 1994. *Polri dan Penegakan Hukum di Indonesia*, Majalah Unisisa No. 22 Tahun XIV . hal 26

¹⁰ Satjipto Raharjo, 1988. *Hukum dan Perubahann Sosial*. Angkasa, Bandung,. Hal 39

¹¹ Soerjono Soekanto, 1983. *Faktor - faktor yang Mempengaruhi Penegakan Hukum*. Rajawali, Jakarta, hal 4-5

legislation, while the legal culture concerns about the living law that is adopted in a society¹².

Legal structure consists of currently existing legal institutions. It is intended to ensure that the existing legal instruments can be ruled properly. Legal structure is a pattern that shows how law is executed according to its formal provisions. This structure also shows how courts, lawmakers and legal entities as well as legal proceedings are operated. For example, the legal structure of the legal system in Indonesia consists of law enforcement institutions such as police officers, prosecutors and courts¹³.

Law as a tool to change the society or social engineering is nothing but the ideas the law seeks to realize. To ensure the achievement of law functioned as the society engineering to a better direction, it requires not only the availability of law in the sense of regulations, but also the guarantee of realization of legal norms into legal practice. In other words, there must be a guarantee of good law enforcement¹⁴.

The rule of a law is inseparable from its law enforcement elements, namely police officers, judges, prosecutors, and prison officers. In the early stages of this research, researchers only desire to know to what extent women prisoners understand the law enforcement process they are involved in, started from apprehension process until the judicial process in the court. At this stage, the interview activity has not been conducted. From the results obtained, it is known that many female prisoners who do not know about the process. Of the 9 women prisoners staying in the correctional institution, 2 of them have been declared free and have not interviewed by researchers. Thus, there are only 7 female prisoners as the interviewee. Of those 7 women prisoners, 5 of them have received a verdict from the Judge and are declared free, while 1 person has also received a verdict but has not been declared free yet. Meanwhile, another 1 person has not received a verdict and has not been declared free as well.

For example, Devi is imprisoned for the case of Destruction, Article 374 of the Criminal Code. She formerly worked as a cashier in a cellular store. However,

¹² Lawrence M. Friedman, 1984. *struktur penegak hukum*. Jakarta. Pustaka. . 5-6

¹³ Achmad Ali, 2002 . *Struktur Institusi-Institusi Penegakan Hukum*. Jakarta. Pustaka.: hal 8

¹⁴ Munir Fuady, 2003 *Penegakan Hukum (Law Enforcement) Yang Baik*: hal 40

she did not put some of the money in software sales, and kept the money for herself. At that time, she embedded 2 million rupiah. For this case, she went through trial for 3 months. The verdict stated that Devi was sentenced 4 months of imprisonment. After deducted by the trial process, she should have been sentenced to one month of imprisonment. However, Devi is declared free after 2 weeks of imprisonment due to the family guarantees. Another case is Ikha (22 years). She was arrested for committing 100 copies of drugs. Prosecutors charged her 8 months of imprisonment, but the verdict stated she was only sentenced for 6 months in prison. She went through trial processes or detention period for 5 months 2 weeks. After deducted by detention period, she should have spent the rest of her imprisonment for two weeks. In fact, however, Ikha has already declared free after a week of imprisonment. Another case is the case of Mrs. Nuke Yuliani (50 years old). In 2011, she borrowed and mortgaged a motorcycle of her friend for 1 million rupiah for school fees her child. She was arrested in January 2017. In this case, the trial process took about 5 months, and she was sentenced for 9 months in jail. Mrs. Nuke was supposed to undergo the remaining 3 months of detention, but she spent five months and a week in prison.

Following is the chronology of the case of a 52-year old female, Mrs. Insriani. She lives in Beton, Siman, Ponorogo. She is considered wrong for the case of car embezzlement. One day, she rent a car, yet that car was sold to Mrs. Winda Sumaandayani. As for her, the case is in the stage of waiting for the verdict announcement. It took more than two months to process the investigation and the trial. In addition, Marni, 44 years old, is another person who helped Mrs. Insriani embezzles the car. At that time, Mrs. Insriani took the car and brought it to Nganjuk, where Mrs. Marni's house is located. She intended to sell it to Mrs. Marni. However, since she did not have the money, she asks for some money from Mrs. Winda.

Mrs. Insriani claimed that the car is her, but actually it is not. She was supposed to get two million and a half from the rent as an intermediary. On January 28, 2017, Mrs Windah Sumandayani received a call from Mrs. Insriani and she was asked to help lending some money to Mrs. Insriani. Mrs. Insriani told her that she want to borrow the money by using the car. She got the letter of

vehicle registration, but not the Book vehicle owners. She claimed that she only borrowed the money for 10 days. Simply, it was revealed later that the car was a rent, and Mrs. Marni and Mrs. Insriani were committed in crime. In this case, it took 3 months for processing the investigation and the trial. Those three persons are committed in crime altogether yet they divide their role. Mrs. Winda is sentenced 5 months and a half of imprisonment, while Mrs. Insriani is sentenced 8 months of imprisonment.

It is different from the case of Lya, a 19-year-old girl living in Madiun. She was caught in a case of narcotics. She was arrested at a hotel because Lya worked as a prostitute. At first, she was invited by a guest to a hotel. However, apparently, she was invited to try drugs when she arrived at the hotel. Lya initially refused, but because the guest promised her to give her 5 million, she finally agreed with forced. Lya used the drug by sucking it 4 times. Finally, the guest left the hotel room to pick a powerbank in his car. After 10 minutes, the police suddenly came and took Lya to Polres Ponorogo. Unfortunately, the guest managed to escape. In this case, Lya has not received a verdict from the judge and she is still undergoing the trial process.

A law as a social control means that it has a legal certainty. In other words, the law must be really implemented by the authorities and law enforcement officers. With the occurrence of changes to the above factors, the law must be executed in such way so that conflicts and lameness that may occur will not disturb the order and productivity in society. In addition, law is also a social engineering, in which law is functioned in the conservative sense. These functions are needed in every society, including in developing and uphealing society. In this sense, the law encompasses all the forces that create and maintain a social bond that embraces the imperative theory of the function of law¹⁵.

Reflecting on the prisoner who has received the verdict by the Judge, and according to what is stated in the theory of legal sociology, Roscoe Pound reveals that law is a concept that can be developed in such a way as to be a social engineering tool. This is because the law can not be applied fairly according to the

¹⁵ <http://www.word.press.com/blog.staat.lawcommunity./Sosiologi Hukum/> diakses tanggal 20 April 2017.

judge's verdict, so in reality, the prisoner does not serve the remaining period of detention that has been decided by the judge. Of the three cases above, female prisoners should undergo the remaining 1-3 months, but all can be free with family guarantees. Benjamin Cardozo states that law is a principle whose development depends heavily on its outer components. Law enforcement must involve various components, namely the police, prosecutors, judges, and the prison officer. Problems arise when the police, prosecutors and judges have applied the penalties fairly but prison officers can still break through the gap to free the prisoner. Conversely, when the prison officer complies with the judge's decision rules, then when the proceedings (from the process of arrest to the trial process) should the police, prosecutors and judges give the legal verdict as fair as the Criminal Code and its deeds.

Anzilotti's statement started from the field of sociology that discusses the relationship between the life phenomena of a society and the law. In the other hand, Durkheim says that the new law works in the event of injustice in the relationship. Either based on Anzilotti or Durkheim, existing criminal cases can be processed in court if there is a complaint offense from the community and there are people who feel harmed. Despite the crime but no reports from the public to the police, it is considered not a crime.

This is in accordance with what was proposed by Nonet and Selznick in which they divided the law in society into three types: a) Repressive law, ie the law that serves or is subject to repressive social power and order. b) Autonomous law, the law used to control or limit the repressive power and protect its integrity. This law is supported by the apparatus performing its duties free of political and economic power by upholding procedural justice. c) Responsive law, which is the law that serves the needs and the social interests of the people (law as facilitator), the legislator reflects the things happening in society, and promotes substantial justice (integrating jurisprudence and social science). The goal is to create order and legitimacy¹⁶.

¹⁶ Dewi iriani, Pengetahuan Ilmu Hukum dan Pengenalan Tentang Hukum di Indonesia. 2017

2. Legal Understanding Of Female Prisoners While Being Imprisoned

Separately, legal awareness is defined as “consciousness” which means to know and understand. Meanwhile overall, legal awareness is defined as knowing and understanding the law. Ewick and Silbey say that “Law Awareness” is a condition where people understand law and legal institutions. These are understandings that give meaning to peoples’ experience and actions.¹⁷ According to Ewick and Silbey, “legal consciousness” is formed through action, and as such, it is a matter of practice to be studied empirically. In other words, legal consciousness is a matter of “law as behaviour”, and not “law as a rule of norm or principle”.¹⁸ The importance of awareness to build a society that is aware of the law is expected, so that it can support and make the community uphold the institution / rule as the fulfillment of needs. The goal is to create obedience and legal order. The role and function of law in building legal awareness in society is generally attached to the institution as a complement to society. This can be seen from: 1) Stability, 2) Provision of social framework to the needs in society, 3) as well as the provision of institutional social framework in the form of norms. In addition, several factors that make people unaware of the importance of law are: the existence of legal uncertainty; static regulations; as well as the inefficiency of the ways in which communities maintain the prevailing regulations¹⁹.

In conclusion, it can be concluded that the first indicator of a person's legal knowledge is to understand that certain behaviors are governed by law. The legal regulations referred to herein are both written and unwritten laws. The second indicator is related to the legal understanding of certain rules. The third indicator is the legal attitude of a person who has a tendency to make certain judgments against the law. The fourth indicator is legal behavior, ie where a person complies with applicable rules²⁰.

Almost all the detainees that researchers encounter are confused and have no knowledge of the law. However, at least, they have begun to know when they

¹⁷ Ali Achmad, 2009, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence)*. Termasuk Interpretasi Undang-undang (*legisprudence*, Kencana, hal 510.

¹⁸ *Ibid*, hal. 511

¹⁹ Rahardjo Satjipto, 1991, *Ilmu Hukum*, Citra aditya Bakti, Bandung, Edisi Revisi, hal.112

²⁰ Soekanto, . 2006; *Tingkat Kesadaran Hukum*. Jakarta. Pustaka. Hal 11-12

are undergoing trial process and through legal teaching which the researchers give to the prisoners. They have begun to analyze the law, from the process of apprehension, trial, and verdict announcement, until the time of detention.

Ikha commits her crime yet she promises not to repeat the wrongdoing. After self-introspection, she awares that this incident is very harmful for herself and her family. On the other hand, Devi Ita P. feels unfamiliar with the law. According to Ita, law in Indonesia can be said to be inconsistent. Nevertheless, she promised not to repeat the wrongdoing since it would harm herself and others. For the case of Mrs. Nuke Yuliani, she underwent trial process for 4 months. Although the prosecutor charges her for 1 year in prison, the verdict stated that she is sentenced nine months in prison. According to Mrs. Nuke, law is not fair. She was imprisoned only for mortgage of 1 million rupiah, while there are other prisoners who stole worth 350 million rupiah but they are sentenced with the same penalty. Mrs. Nuke feels that she is wasting her time, losing everything, and feeling bad about being away from her family and children.

For Lya, she began to understand the law since she went to jail. Previously she only get a lesson about law while in school, but only limited to theory. She feels sorry for her wrongdoing, but she tries to take wisdom on her mistakes. On the other hand, Mrs. Windah Sumandayani intended to help her friends, but it turned out that the car she bought from her friend was illegal since it was rented car. She deeply regretted the incident that happened to her because she realized that she had defamed her own family. For Mrs. Insriani, she feels sorry for all her mistakes. She realized that her actions were already harming herself. Meanwhile, Ms. Marni realized that everyone should be careful in doing something, even if it concerns on our own friends. Initially, she intended to help, but instead, she was dropped in a crime as a person who commit in fraud.

According to Suryono, the effectiveness of law can be identified from several things, one of them is that law must be distinguished sociologically (law must be accepted by society), juridically (the whole written law governing certain legal areas must be synchronized), and philosophically. In addition, the legal awareness requirements of the society should also be fulfilled. Concerning it, the requirements are: having law awareness, legal attitude, law acquaintance, and

lawful obedience. Thus, there are several factors that make society obey the law. They are²¹:

- 1 Compliance is something based on the expectation of rewards and efforts to avoid the punishment that may be imposed if someone disobies the law. Given the tight supervision toward the rule of law, the nine prisoners who committed criminal offenses finally realized and regretted the unlawful acts they committed. However, one of the prisoners, Mrs. Nuke, has committed the same crime twice. It means that she only has the legal awareness while she is being imprisoned.
- 2 *Identification*, Identification occurs when adherence to the rule of law is not only because of its intrinsic value, but in order to group membership to be maintained and there is a good relationship with those who are empowered to apply the rule of law rules. This can be interpreted that a legal act can be identified as a justification or incentive to commit a crime. Female prisoners in prison ponorogo do criminal acts due to economic factors. In fact, stolen goods, drug sales, drug dealing, and embezzlement are no more than 5 million. The same thing happened to Devi. She stole money of 2 million rupiah. Meanwhile, Mrs. Nuke embezzled 1 million rupiah. Similarly, embezzlement committed by Mrs. Insriani who borrowed money to Mrs. Winda for one and a half million rupiah with a car as a guarantee. Since Mrs. Winda has no money with her, she asks Mrs. Marni to lend her the money. Unfortunately, the real owner of the car reported this case to the police officer. Although the car has been returned, the legal process remains in place. Another case is Ikha who sells drugs with total sales of less than one million rupiah. On the other hand, there is Iya who only tasted a kind of drug for 4 times of suctions. She did it since her date forced her to do so in return of 5 million rupiah. The worst thing is that she never received the promised money until now, while her date managed to escape the police raid.

²¹<http://www.word.press.com/blog.staat.lawcommunity./Peran Sosiologi Hukum/> diakses tanggal 20 April 2017

- 3 Internalization. It is a state in which a person obeys the rules of law because, intrinsically, that obedience will result in rewards. The content corresponds to the certain personal value. It is explained that internally, law enforcement officers play a role to form the legal awareness for people violating it. In this case, law must be enforced in accordance with that contained in the Criminal Code. In reality, however, the law that is applied does not accomplish the punishment stated in the Criminal Code. Concerning this situation, judge may interpret the punishment for the defendant according to the applicable law. The judge may interpret the appropriate imprisonment for the prisoners if the crime they committed is not more than 5 million rupiah, even less than 3 million rupiah.
- 4 Citizens' interests that are guaranteed by the legal establishment. In this situation, stakeholders may be indicated misuse the law, even though it cannot be justified by law. In this correctional institution, female prisoners who have received verdict from the judge are: Devi, Ikha, and Mrs. Nuke. Ikha was sentenced 6 months in jail, yet it was deducted for 5 months and 2 weeks of imprisonment. Supposedly, Ikha should spend the remaining 2 weeks of imprisonment. But in fact, she was declared free after 1 week. Meanwhile, Mrs. Nuke Yuliani was sentenced to 9 months imprisonment, yet it was deducted by 5 months. Thus, she should have spent the remaining three months of imprisonment. However, what happens in reality is different. She was declared free after two weeks. As for Devi, who has 4 remaining months of imprisonment, she was declared free after 2 weeks. From these three cases, it can be seen that female prisoners are not serving the sentenced imprisonment time as what the verdict said. They may be declared free faster than the estimated time by using family guarantees.\

3. The Stage Of Counselling Process Given By The Prison Officers To The Female Prisoners In Correctional Institution Of Ponorogo

According to Article 5 of Law No. 12/1995 on Corrections, the correctional principles are mentioned as follows: protection, equality of treatment and service, education, counseling, respect for human dignity and prestige, the belief that loss

of independence is the only suffering, and the ensurance concerning the right to remain in contact with certain families and persons.

The correctional system implemented under Law Number 12 of 1995 on Corrections puts the prisoners as a human being who commits a mistake yet need to be nurtured so that they can be better person. It is indicated by the change of the term prisoners into penitentiary prisoners who received guidance while they are in correctional institution.

The process of counselling is given to penitentiary prisoners from the first day they come. This is conducted from the stage of physical examination up to the registration. For the next stage, the female prisoners are placed in a special house as they need to follow an environmental introduction (MAPENALING) process for 7 days (a week).

After attending the environmental introduction processs, the female prisoners will be enroled in such prison homestay to receive the counselling program. This program is divided into several stages. They are, first, counselling stage that is implemented on one third up to half of the imprisonment. At this stage, maximum security is tightly applied. Second, assimilation stage, that is conducted from half up to two third of imprisonment period. At this stage, the counselling program is conducted whether inside or outside the prison. Moreover, medium security is applid. Third, integration stage, that is conducted after the female prisoners spend at least two third up of the imprisonment until they are declared free. At this stage, only minimum security is applied²².

This observation is conducted during the prison's visit hour. That is from Monday until Saturday. Except for Friday and Sunday, the visit hours is from 9 a.m. until 12 p.m. The visiting hour is limited to 1 hour; however, if the family members want to apply for additional visiting hour, it will be chatged Rp 20.000/hour. Moreover, the prison is highly secured. The visitors are not allowed to bring cellular phones, weapons, and even scissors and nail cutter. The prisoners may use the provided phone to communicate with the family at home. Even they

²²<http://www.google.com/> Ni Made Destriana Alviani. Prof. Dr. I Ketut Mertha,SH.,M.Hum Made Tjatrayasa,SH.,MH /Program Kekhususan Hukum Pidana, Fakultas Hukum, Universitas Udayana/ Efektivitas Lembaga Pemasyarakatan Dalam Pembinaan Narapidana di Lembaga Pemasyarakatan Klas IIA Denpasar//pdf. Diakses 25 april 2017

could not bring any medicine except what the prison staffs provided to that when they are sick. Besides, the prison staffs have provided a small shop inside the correctional institution that sells all stuffs the prisons might need, such as: napkin diapers, soap, tooth brush and tooth paste, and many more. Nevertheless, the prisoners stated that the price is three times higher than the normal price.

When visiting a prisoner, the family members have to wear a provided id card and the prisoners have to wear the orange uniform to easily distinguish them. The officers always check the personal things the family brought for the prisoners. If it is categorized dangerous, it will be taken away. As for the money given for the prisoners, it must be given through the cooperation. The female prisoners can take their money whenever they need it.

It is different from the case of Lya, a 19-year-old girl living in Madiun. She was caught in a case of narcotics. She was arrested at a hotel because Lya worked as a prostitute. At first, she was invited by a guest to a hotel. However, apparently, she was invited to try drugs when she arrived at the hotel. Lya initially refused, but because the guest promised her to give her 5 million, she finally agreed with forced. Lya used the drug by sucking it 4 times. Finally, the guest left the hotel room to pick a powerbank in his car. After 10 minutes, the police suddenly came and took Lya to Polres Ponorogo. Unfortunately, the guest managed to escape. In this case, Lya has not received a verdict from the judge and she is still undergoing the trial process.

At 6 a.m., the door of the prisoners' room will be opened so that the prisoner can do the activities properly. The room is a small terrace and there is a bathroom for bathing, running water and washing clothes. At certain times, the doors of the block will be opened to conduct activities such as clean up the prison environment and carry out coaching activities in prisons, as well as receive hours of visits from families who will visit prisoners in prisons. Upon completion of the apparatus at 1 p.m., the prisoner returns to their rooms. Both the room and the block door are locked.

The coaching programs conducted in prisons, according to Mr. Taufiq H. Amd, IP., SH., MH., are in the form of recitation, skill training, job training, and studies general material, legal, social, and others. Monday is designed for

religious activity, Tuesday until Thursday is for skills training, while Friday is used for gymnastics and health checks. As for Saturday, it is used to conduct review for general material, legal, social, and others. In this case, the researcher is involved in teaching activity for legal material every Saturday at 09-12 a.m.

According to Sahardjo, known as a renewalist in the world of imprisonment, stated that he has put forward the idea of prison for the convicted. The reasons are: 1) everyone is a social being; 2) no one living outside the community; 3) then prisoners are only sentenced to lost freedom of movement, so it is necessary to work in order to still have a livelihood. Judging from the third point of Sahardjo's thoughts above, there is something to be considered by the coaches and the government that is how the coaches are able to prepare the prisoners to work after being released.²³ Moreover, the female prisoners have some rights during imprisonments. They are:

a. Clemency

Clemency is in the form of change, mitigation, abolition or limation of criminal practice to the convicted person given by the President. Legal basis; Law of the Republic of Indonesia number 22 of 2002 on the constitutional law No. 35/1999 on the Basic Provisions of Judicial Power. Scope of Pardon; Against a court decision that has obtained permanent legal force, the convicted person may apply for a presidential pardon; The verdict of filings to be petitioned for clemency as referred to in paragraph (1) shall be capital punishment, life imprisonment, imprisonment of at least 2 (two) years.

- 1) Clemency application as what is mentioned in paragraph 1 can be only be applied once for certain conditions, such as:
- 2) Prisoners whose the clemency application had been rejected for more than two years since the rejection date; or
- 3) Prisoners whose clemency is granted from sentenced death into lifetime in prison with more than two years of clemency approval date.
- 4) The clemency processes will not infere the process of deciding verdict except for death penalty.

²³ Petrus Irwan Panjaitan dan Pandapotan Simorangkir, 1995, *Lembaga Pemasyarakatan dalam Perspektif Sistem Peradilan Pidana*, Pustaka Sinar Harapan, Jakarta,. 13

5) A prisoner may apply the clemency to the president of the Republic of Indonesia once the received a legal decision.

b. Remission

1) Remission is the reduction time for prisoners to stay in prison and those who behave well while in the prison (ministerial decree of law and the legislation of the republic of Indonesia number M.09.HN.02.01 of 1999. According to this law, there are two types of remission. They are general remission and specific remission. General remission is remission given during the celebrartion of the Independence Day of the Republic of Indonesia that is on August 17. The length of remission given may be varying, starting from a month until six months. Even, there is a possibility to achieve more than six-month remission.

2) Meanwhile, specific remission is a remission given during the celebrartion of certain religious holiday in accordance with certain religion the prisoners have in faith. In case a religion has more than one religious holiday, then the most sacred one is chosen. Furthermore, additional remission is a remission given to prisoners who serve with excellent service to the prison itself, to the country, or act as a priest in prison. Their remission might be added since it is added from one-third of six months imprisonment. Last, Ten-year annual remission is the remission given once in ten year, that is during the celebrartion of the of the Independence Day of the Republic of Indonesia.

c. Assimilation

1) Assimilation is the counselling process for the female prisoners by blending them in the society. Those who receive assimilation are: prisoners, child prisoners, and child of the State. Meanwhile, those who cannot receive assimilation are those who do not meet the substantive and administrative requirements, prisoners who undergo a discipline punishment, prisoners and child prisoners whose the assimilation has been rejected twice, child of the state whose the assimilation has been rejected once, prisoners and child prisoners who are predicted redo their wrongdoing, prisoners and child prisoners who are in danger, and prisoners who are sentenced death penalty.

- 2) There are provisions in implementing assimilation during the counselling activity for the prisoners. They are first, the activities are carried out for education, skills training, social activities, and other coaching activities outside the prisons or detention; second, the activities are carried out by Prison Officers; and third, the activities are carried out for the benefit of work on third parties, self-employment, and placement in the prison.

d. Conditional Leave

- 1) Conditional leave is a part of counselling program conducted outside the prison. This part is designed for prisoners and child prisoners sentenced less than a year who had serviced two-third of imprisonment. The legal basis are: Criminal Code article 15a, 15b, and 16, Act Number 12 of 1995 on Correctional; Act Number 3 of 1997 on juvenile court; Government regulation Number 32 of 1999 on Terms and Procedures for the Implementation of Rights of Correctional Residents; Decree of the Minister of Justice Number M.01.PK.04.10 of 1990 on Counselling Pattern for prisoner; Decree of the Minister of Justice Number M.01.PK04-10 of 1999 on Assimilation, Conditional Leave, and Leave Toward Free; Decision of the Director General of Corrections Number E.06-PK.04-10 of 1992 on Implementation Guidance on Conditional Exemption and Free toward; and Regulation of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.2.PK.04-10 of 2007 on Terms and Conditions for the implementation of assimilation, conditional leave, and free toward leave.
- 2) Conditional leave is granted for several objectives. They are: to generate motivation of prisoners to achieve the coaching goals; allow the prisoners to access education and skills to prepare themselves for independent living in the community after being released; and to encourage the community to play an active role in the administration of correctional institutions.

e. Leave toward Free

- 1) prisoner and child prisoner can be granted leave of absence to visit family; Article 42 Paragraph (1): “Family Visit Leave may be informed to Prisoners in the form of a chance to gather with their families in their residence”; Paragraph (2) “The leave referred to in paragraph (1) shall be given at the

maximum of 2 (two) days or 2 x 24 (two times twenty four) hours”; Paragraph (3): “The leave of absence to visit the family is provided by the Head of Correctional Institution and shall be notified to the Head of the local prison Free leave is a process of guidance outside of Correctional Institution for prisoners who undergo a criminal or a short criminal term. The legal basis is Act Number 12 of 1995 on Correction of Article 14 Paragraph (1) letter j which formulates that “Prisoners are entitled to the opportunity to assimilate including Family Visiting Leave”.

- 2) The legal bases are: Government Regulation Number 32 of 1999 on Terms and Procedures for the Implementation of Rights of Residents. This is as regulated in Article 41 Paragraph (1) letter a: “Every”. In addition, this is also regulated in the Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M-01.PK.03.02 of 2001 on Family Visiting Leave For Prisoners.

f. Family Visting Leave

Family Visiting Leave is a process of counselling for Prisoners that is conducted by letting the prisoner visiting their family. It is a routine activity that can be conducted every three months for prisoners who have 12 month of imprisonment. This activity aims to eliminate the stigma against prisoners as well as to prevent the community's rejection of ex-prisoners. The legal basis is the ActNumber 12 of 1995 on Correction of Article 14 Paragraph (1) letter j, which states that “Prisoners are entitled to assimilate opportunities including Family Visiting Leave”.

The additional legal bases are: Government Regulation Number 32 of 1999 on Terms and Procedures for the Implementation of Rights of Residents. This is as regulated in Article 41 Paragraph (1) letter a: “Every prisoner and chil prisoner can be granted leave of absence to visit family; Article 42 Paragraph (1): “Family Visit Leave may be informed to Prisoners in the form of a chance to gather with their families in their residence”; Paragraph (2) “The leave referred to in paragraph (1) shall be given at the maximum of 2 (two) days or 2 x 24 (two times twenty four) hours”; Paragraph (3): “The leave of absence to visit the family is

provided by the Head of Correctional Institution and shall be notified to the Head of the local prison". In addition, this is also regulated in the Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M-01.PK.03.02 of 2001 on Family Visiting Leave for Prisoners.

Information presented by the head of the ministry, Mr. Taufik, said that the right of prisoners in prison is in the form of remissions, conditional leave, and assimilation. Assimilation is only given to adult and child prisoners if they are deemed to be good and trustworthy. Assimilation of prisoners is given in the form of work to be assisted in prisons to be chefs, canteen attendants, presenter information through loudspeakers to announce who is visited and the arrival hour. Assimilation outside the prison is provided in the form of helping to arrange the parking area or become a parking attendant. The numbers of prisoners who get a general remission in 2017 are 30 people, namely 19 people get 1 month of remission, 5 prisoners get 2 months of remission, 4 prisoners get 3 months of remission, and 2 prisoners get 1 month of remission.

Information got from prison officers stated that there is no illegal levies in Ponorogo prison. The sentence given to female prisoners is in accordance with the judge's decision in the ponorogo state court. In the absence of illegal charges, it occurs before the Presidential Regulation stipulates illegal levies in various ministries. So is the case of the female prisoner Devi, Ikha, and Nuke. This is considered a punishment or ruling that is considered unsuitable between a judge's ruling and that held in prison. Punishment after cutting the prison term remains 1 month - 3 months of imprisonment to be sealed. This will not cause problems if officers apply conditional leave in the form of outside counseling processes for prisoners and protégés who are sentenced to 1 (one) year and below, or at least have undergone 2/3 (two thirds) of the criminal offense.

The legal basis are: Criminal Code article 15a, 15b, and 16, Act Number 12 of 1995 on Correctional; Act Number 3 of 1997 on juvenile court; Government regulation Number 32 of 1999 on Terms and Procedures for the Implementation of Rights of Correctional Residents; Decree of the Minister of Justice Number M.01.PK.04.10 of 1990 on Counselling Pattern for prisoner; Decree of the Minister of Justice Number M.01.PK04-10 of 1999 on Assimilation, Conditional

Leave, and Leave Toward Free; Decision of the Director General of Corrections Number E.06-PK.04-10 of 1992 on Implementation Guidance on Conditional Exemption and Free toward; and Regulation of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.2.PK.04-10 of 2007 on Terms and Conditions for the implementation of assimilation, conditional leave, and free toward leave.

Of the 7 prisoners interviewed, 6 people were declared free and only one person who has not received a judge's verdict yet. The following is the description of the female prisoner's entry dates and the release date of the female prisoners:

- 1) Mrs. Isriani went to prison on April 23, 2017 and she was released on December 23, 2017. She was sentenced to 8 months in prison. After a six month detention period, only 2 months of imprisonment remain.
- 2) Mrs. Winda went to prison on April 23, 2017 and was free on October 10, 2017. She was sentenced to 5 months and 18 days.
- 3) . Mrs. Marni was admitted on April 23, 2017 and released on 10 September 2017. She was sentenced to four months and 18 days. But she is free on 20 August 2017.
- 4) Devi entered prison on April 17, 2017 and was released on August 15, 2017. She was sentenced to 3 months 28 days. But she is free on August 1, 2017.
- 5) Mrs. Nuke went to prison on January 4, 2017 on September 10, 2017. She was sentenced to 9 months and 10 days. However, she is free on July 20, 2017. In this case, Mrs. Nuke got Conditional Leave.
- 6) Ikha entered prison on January 31, 2017 and was released on July 20, 2017. She was sentenced to 5 months 20 days. But she was free at the beginning of the month, ie on July 6, 2017.

Conditional leave is given to Mrs. Nuke, Devi, and Ikha. Mrs. Nuke received 9 months of imprisonment. At that time, she has served 5 months in jail during the trial. It means that, in less than 3 months, she can be declared free. However, in fact, only within 2 weeks of imprisonment, Mrs. Nuke has been declared free. So does for Devi. She is sentenced 4 months in prison. After being reduced by the trial process, she should have a month remaining sentence. Similar

to Mrs. Nuke, Devi is sentenced free after 2 weeks. Ikha was sentenced to 6 months in prison based on the verdict. After being cut in prison for 5 months 2 weeks, she has 2 weeks remaining. However, in fact, she was declared free within 1 week.

According to the rules, conditional leave may be granted if the convict has undergone two-thirds of the term. In this case, the three female prisoners were sentenced to less than 1 year in prison. Under this rule, prisoners who have undergone 2/3 of imprisonment period may be declared free unconditionally. What is not allowed is if they are free because they pay a certain amount of money to the court, the court or the prison officer. Based on the information that the authors get from the inmates who occupy a cell, Devi, Ikha, and Mrs. Nuke, there is the term *lemek* or money given to some law enforcement officers at the time of trial and before the demands/ verdicts in order to be declared free. But the authors have not found strong evidence of the admission of devi, ikha and nuke mother because all three are free before the author asks the truth, from the officers themselves have certainly given the information according to the punishment given by female prisoners with the judge's verdict and no extortion processed until the court decision as well as in the correctional institution.

C. CONCLUSION

The type of punishment given to female prisoners in Ponorogo Prison ranges from 3 to 9 months of confinement. However, after a period of detention, the sentence becomes 1 to 3 months imprisonment. Judges' rulings and punishments applied in Ponorogo prison should be applied in earnest in accordance with applicable law. In reality, however, there are some law enforcers consisting of judges, police, prosecutors and prison officers who ask for a certain amount of money to female prisoners. Of course this is not allowed as it violates the law. In this case, the inmates have a fairly good legal awareness while in prison. They claim they will not repeat their mistakes again. Related to this, the coaching program conducted in prisons is in the form of recitation, *ketermpilan*, job training, and legal studies. The process of coaching in Ponorogo prison has been running well, it's just that the coaching process has not reached the level of mentoring after the inmates out of prisons. This is so that the female

prisoners get their self-confidence so that they are able to entrepreneurship independently.

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