



# Fulfillment of The Civil Rights of Prisoners Concerning Legal Cases Relating To Divorce

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Article Info	Abstract	
<p><b>Keywords:</b> Prisoners; Correctional Institutions; Civil Rights.</p>	<p><b>Introduction:</b> One type of human rights is civil rights. Correctional institutions are places to build relationships with civil rights concerns. However, in practice, when dealing with divorce cases, they cannot attend the divorce party and are not given a verstek decision.</p> <p><b>Purposes of the Research:</b> The purpose of this study is to analyze the implementation of Law No. 12 of 1995 concerning Corrections.</p> <p><b>Methods of the Research:</b> The research method is normative juridical. This study also uses a juridical basis and a theoretical basis. The juridical basis used is 1945 Constitution, Law Number 1 of 1974 concerning marriage, Law Number 12 of 1995 concerning Corrections and the theoretical basis used is theory of legal objectives according to Gustav Radbruch.</p> <p><b>Results of the Research:</b> Based on the results of the study, the law on corrections has not yet achieved its legal objectives. This is due to the weak structure, substance and culture of prisons. This causes whether or not the civil rights are fulfilled. Therefore, it is necessary to revise the correctional law by taking into account civil rights when dealing with divorce cases.</p>	

## 1. INTRODUCTION

Correctional Institutions (Lapas) are Technical Implementing Units under the Directorate General of Corrections at the Ministry of Law and Human Rights. the existence of prisons is regulated in Law Number 12 of 1995 concerning Corrections. According to the regulation, prison is a place or container created with the aim of providing guidance to and correctional students in Indonesia. Then in Article 2 of Law Number 12 of 1995 explains that "the correctional system is held in order to form correctional inmates so that they become fully human, realize mistakes, improve themselves, and do not repeat criminal acts so that they can be accepted again by the community, can play an active role. Play a role in development, and can live naturally as good and responsible citizens.

Correctional institutions are the spearhead of the implementation of the principle of protection which is the goal of correctional institutions by providing guidance, coaching through rehabilitation, education and integrity.<sup>1</sup> There are goals, duties and functions of the correctional institution. The purpose of the Correctional Institution is to form Correctional Prisoners so that they become fully human, realize their mistakes, improve themselves and

<sup>1</sup> Dwidja Priyatno, *Sistem Pelaksanaan Pidana Penjara Di Indonesia* (Refika Aditama, 2006). 103.

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do not repeat criminal acts so that they can be accepted again by the community. The main task of the correctional institution is to carry out the Correctional of Prisoners / Students in accordance with the applicable laws and regulations. Then the functions of the correctional institution are: a. carry out the construction of prisoners/students; b. provide guidance, prepare facilities and manage work results; c. conduct social and spiritual relationships with prisoners/students; d. perform maintenance of Security and Order; e. carry out administrative and household affairs.

Correctional also has a meaning, namely a series of activities carried out with the aim of providing guidance for the inmates of the prison who are usually referred to as prisoners. So in designing a series of activities that aim to provide such guidance, a correctional system is needed, namely a system that leads to a way or order in fostering inmates based on Pancasila which is carried out in an integrated manner with the aim of the inmates realizing their mistakes, being able to improve themselves and It is hoped that they will no longer commit criminal acts that have been committed, which can be accepted by the community.<sup>2</sup>

In its development, there are various forms of coaching designed for prisoners in a system, namely the guidance provided must be in the form of direct interaction that is familial, persuasive in nature with the aim of changing the behavior of prisoners, is planned and systematic, is personal in nature that pays attention to religious values, nationhood, state.<sup>3</sup> In the language of the Big Indonesian Dictionary (KBBI) the meaning of a prisoner is a person who is serving a sentence because he has committed a crime.<sup>4</sup> The main dictionary of scientific terms has the meaning of a person who is serving a sentence.<sup>5</sup> A convict or a convicted person is a person who has been sentenced for having committed a criminal act according to the law.<sup>6</sup>

Even though he is a prisoner, he still has rights as a human being that is attached to him. Government regulation no. 99 Year 2012 jo. Government Regulation No. 28 of 2006 jo. Government Regulation of the Republic of Indonesia Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Prisoners. Article 14 of Law Number 12 of 1995 is as follows: "(1) Prisoners have the right to worship according to their religion or belief, receive spiritual and physical treatment, receive education and teaching, receive health services and proper food, submit complaints, get reading materials and follow other mass media broadcasts that are not prohibited, get wages or premiums for the work done, receive family visits, legal counsel, or certain other people, get a reduction in the criminal period (remission), get the opportunity to assimilate including leave to visit family, get parole, get leave before being released, and get other rights by the applicable laws and regulations. (2) Provisions regarding the conditions and procedures for the implementation of the rights of prisoners as referred to in paragraph (1) shall be further regulated by a Government Regulation." Then it is also regulated in articles 51 and 52 of PP no. 32 of 1999 concerning Conditions and Procedures for the Implementation of the Rights of Correctional Inmates state that the rights inherent in prisoners are political, voting rights, and other civil rights. Civil rights as referred to in Article 52 include "correspondence with family and

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<sup>2</sup> Citra Anggraeni Puspitasari, "Tanggung Jawab Pemerintah Dalam Pelanggaran Hak Narapidana Dan Tahanan Pada Lembaga Pemasarakatan/Rumah Tahanan Negara," *Jurnal Panorama Hukum* 3, no. 1 (2018).

<sup>3</sup> Febriana Putri Kusuma, "Implikasi Hak-Hak Narapidana Dalam Upaya Pembinaan Narapidana Dalam Sistem Pemasarakatan," *Jurnal Recidive* 2, no. 2 (2013).

<sup>4</sup> "Kamus Besar Bahasa Indonesia," [Https://kbbi.web.id](https://kbbi.web.id), December 2017.

<sup>5</sup> M Y Al-Barry Dahlan, *Kamus Induk Istilah Ilmiah Seri Intelectua* (Target Press, 2003).

<sup>6</sup> Nurlely Darwis, "Perlindungan Dan Penghormatan Hak Narapidana Di Masa Pandemi COVID 19," *Jurnal Ilmiah Hukum Dirgantara-Fakultas Hukum Universitas Dirgantara* 11, no. 1 (2020): 28.

friends, permission to leave prison in extraordinary cases. The permit to leave the prison is given by the head of the prison.

In this study, we will discuss the civil rights of prisoners when convicts are dealing with civil cases that befell them, namely related to divorce cases. Most prisoners who are faced with divorce cases get a *verstek* decision from the court because the legal arrangement in Law Number 12 of 1995 confirms that a prisoner has lost his right to freedom so in this case attending the divorce process is also not allowed. This has become a legal vacuum where positive legal regulations have not accommodated the civil rights of prisoners when convicts are dealing with civil cases such as divorce cases. The following is an example of a case that occurred in Indonesia, which occurred in Cipinang Class I Prison. Prisoners in this prison who are sentenced to more than 5 (five) years in prison are often also faced with divorce cases with their partners. This was acknowledged by the Head of Cipinang I Prison who stated that the number of divorce cases experienced by prisoners was increasing.

There are cases of divorce experienced by prisoners, for example, inmates in Class I Cipinang Prison. The inmates in the Correctional Institution (Lapas) not only have to undergo punishment for their actions. The inmates, especially those who were sentenced to more than five years in prison, often have to face domestic problems, even to the point of being sued for divorce by their spouses. The high rate of inmate divorce was revealed by the Head of Class I Cipinang, Tony Nainggolan. Tony admitted that he often received letters from the Religious Courts regarding divorce claims from the inmates.<sup>7</sup> This study has the aim of analyzing the implementation of Law No. 12 of 1995 concerning Corrections. The novelty in this research is that there has been no previous research that specifically discusses the discovery of civil rights when dealing with divorce cases. Previous studies have only discussed in general terms related to invention rights.

## 2. METHOD

This research is normative legal research, where normative legal research is a process of finding law by looking for legal sources, legal rules or principles, and legal regulations to solve concrete legal problems.<sup>8</sup> The data used is secondary data, namely data obtained indirectly from the source or object of research in the form of primary, secondary, and tertiary legal materials. Data collection in solving this problem is carried out using a documentary study or library research, which is then analyzed qualitatively.<sup>9</sup>

## 3. RESULTS AND DISCUSSION

The state of Indonesia is a state based on the law as stated in Article 1 paragraph 3 of the 1945 Constitution. One of the elements of a state of the law is the protection of human rights and the guarantee and protection of these rights.<sup>10</sup> Human rights are something that is born from humans themselves and is intended for the interests of humans themselves. This means that every human being is expected to be able to enjoy the rights he has to the

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<sup>7</sup> "Angka Perceraian Narapidana Tinggi, Sepekan Kalapas Cipinang Terima 5 Surat Gugat Cerai Kamis," <https://www.beritasatu.com/Archive/776407/Angka-Perceraian-Narapidana-Tinggi-Sepekan-Kalapas-Cipinang-Terima-5-Surat-Gugat-Cerai>, n.d.

<sup>8</sup> Junaidy Maramis and Juneidi Coloay, "Implikasi Hukum Bagi Masyarakat Penolak Vaksinasi COVID-19 Sebagai Hak Pelayanan Kesehatan," *Journal of Judicial Review* 24, no. 1 (December 2022): 3.

<sup>9</sup> Hari Sutra Disemadi and Kholis Roisah, "Kebijakan Model Bisnis BANK Wakaf Mikro Sebagai Solusi Pemberdayaan Ekonomi Masyarakat," *Jurnal Law Reform* 15, no. 2 (2019): 182.

<sup>10</sup> Enju Juanda, "Eksistensi Hak Asasi Manusia Dan Alternatif Penyelesaian Atas Pelanggarannya Dalam Negara Hukum Republik Indonesia," *Jurnal Ilmiah Galuh Justisi* 8, no. 1 (2020): 99.

maximum so that the human being can become a complete human being with a complete identity in society.<sup>11</sup> The rights possessed by humans are protected by law, even the law gives them to humans. There are various types of rights protected by law, namely:<sup>12</sup>

- a) Human rights are rights that every human being has from birth.
- b) Material rights, namely the right to own an object, both movable and fixed in nature.
- c) Individual rights, namely everyone has the right to collect bills from a certain person.

Then in the 1945 Constitution in the fourth paragraph was emphasized that the purpose of the Indonesian state was to protect the entire nation. The word protect also includes the protection of civil rights. Protecting civil rights is a mandate contained in the constitution. Therefore, civil rights are regulated in the Civil Code, but some of the contents in the book have been revoked. Kansil thinks that civil rights are part of three groups of absolute rights, where absolute rights are rights to give authority to someone so that person can do something. Then Kansil also argues that civil rights consist of marital rights, namely the right of a husband to control the property of his wife and his wife, parental rights, and guardianship rights.

Kansil also argues that civil rights also have relative rights which the meaning of rights which give authority to a certain person and or several people in terms of demanding someone and or several people to surrender, do and not do something. Therefore, it can be concluded that civil rights consist of 2 (two) types, namely absolute rights consisting of personal rights, family rights, property rights, and rights regulated in book one of the civil law code. Then the relative rights have meaning, namely a right that arises because of an agreement regulated in the third book of the civil law code.

A convict is a convict who is serving his sentence so that the person loses his independence. The inmate resides in a correctional institution which is abbreviated as LAPAS.<sup>13</sup> There are several concepts of correctional institutions as emphasized by the Minister of Justice, Sahardjo, namely: 1) the purpose of prison is a correctional facility that protects the inmates from doing things that are against the law again, besides that they are also given life provisions, 2) imprisonment also aims to provide a sense of suffering to prisoners so that they lose their right to freedom of movement, to foster prisoners so that they can repent and educate them to become useful people.<sup>14</sup> The action in giving punishment is not to give suffering to the inmate, but the punishment is given to restore and/or change the life of the inmate and educating the inmate to be ready to re-enter social life with a good attitude in the hope that the inmate will no longer repeat the unlawful act.

Inmates who are serving their sentences in prison often face various life dilemmas, such as divorce cases in the prisoners' households. Marriage is threatened when one partner becomes a prisoner or is detained in prison. Marriage is a sacred bond between a man and

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<sup>11</sup> Eva Achjani Zulfa, "Menelaah Arti Hak Untuk Hidup Sebagai Hak Asasi Manusia," *Jurnal Lex Jurnalica* 3, no. 1 (2005): 11.

<sup>12</sup> Lia Nur Aini, "Perlindungan Hukum Hak Keperdataan Warga Masyarakat Di Atas Tanah Yang Berbeda Dalam Kawasan Hutan Berdasarkan SK Menteri Kehutanan RI No. SK. 463/MENHUT-II/2013 Di Kota Batam," *USU Law Jurnal* 2, no. 3 (2014): 101.

<sup>13</sup> Ahmat Rully Herliansyah, "Implementasi Pemberian Hak Pelayanan Kesehatan Dan Makanan Yang Layak Bagi Narapidana," *Jurnal Ilmu Pengetahuan Sosial* 7, no. 1 (2020): 213.

<sup>14</sup> Penny Naluria Utami, "Keadilan Bagi Narapidana Di Lembaga Pemasyarakatan," *Jurnal Penelitian Hukum De Jure* 17, no. 3 (2017): 382.

a woman in forming a strong, loving, happy, and eternal family.<sup>15</sup> The goal in forming a marriage is to create a happy family so that marriage is a sacred thing if there are actions that lead to division in marriage, it is something that God does not like.<sup>16</sup>

However, the sacred promise made in the marriage was also found to be broken by one of the couples who entered into the marriage or referred to as divorce. The word divorce appears in Article 38 of Law Number 1 of 1974 concerning Marriage. In this regulation, it is emphasized that divorce can occur as a fluctuating provision such as the death of a spouse which must be decided by the Court. Then Article 19 of Government Regulation Number 9 of 1975 confirms the various reasons for divorce or termination of marriage, namely adultery, leaving their partner for 2 (two) consecutive years without permission, the spouse getting a prison sentence of 5 (five) years, the spouse commits acts of abuse, the partner experiences a physical disability or illness that causes the partner to be unable to carry out his obligations, there is a continuous dispute between the spouses.

Divorce or the term "divorce" according to the Big Language Dictionary Indonesian means: a. Separate; b. Disconnect as husband and wife; then the word "divorce" contains the meaning of a noun (noun), namely separation /split. The word "divorced" contains the meaning of the verb (verb), not mixed (related, united) anymore, stop having men and wives.<sup>17</sup>

Prisoners are people who are under the guidance of a correctional institution. One of the lost rights of a prisoner is the right to freedom and the right to move. Prisoners are also often faced with divorce cases. Under marriage law, a couple may file for divorce if one of the spouses is serving a prison sentence of 5 (five) years. This case is experienced by prisoners. As an example, experienced inmates in Cipinang Class I Prison, according to information conveyed by the Head of the Prison, it was stated that the divorce rate for prisoners was high within a week of receiving 5 (five) divorce papers.

In addition, based on previous research, namely research conducted by Umm Mutoharoh entitled "Divorce of Prisoners in Class IIA Wirogunan and Women's Prison Class IIB Yogyakarta", stated that the facts obtained in the form of inmates' divorce proceedings were carried out in a *verstek* manner because it was by Law Number 12 the Year 1995 concerning Corrections which explained that prisoners are people who have lost their right to freedom so they are not allowed to attend the divorce trial.

The high number of lawsuits in Rokan Hulu Regency in 2019 is quite surprising given the high culture and religious nuances that exist in the Regency. A lawsuit is a divorce caused by a claim from one of the parties (the wife) to the court and the divorce occurs by a court decision. Many reasons encourage the wife to file for divorce, one of which is the lack of livelihood due to her husband going to prison, but not only that, there are also supporting reasons from both the respondent/plaintiff and the defendant. The judge's consideration in deciding on divorce cases is Article 116, one of which is in paragraph c which reads "One party gets a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place" and how does the husband fulfill his living status when he is a prisoner/ in jail.

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<sup>15</sup> Aisyah Ayu Musyafah, "Perkawinan Dalam Perspektif Filosofis Hukum Islam," *Jurnal Crepido* 2, no. 2 (2020): 111.

<sup>16</sup> Linda Azizah, "Analisis Perceraian Dalam Kompilasi Hukum Islam," *Jurnal Al-Adalah* 10, no. 4 (2012): 416.

<sup>17</sup> Tim penyusun Kamus Pusat Pembinaan dan Pengembangan Bahasa, *Kamus Besar Bahasa Indonesia Edisi Kedua* (Balai Pustaka, 1997).

Verstek decisions are part of the Civil Procedure Law in Indonesia. Verstek's decision cannot be separated from the relationship with the proceedings and the imposition of decisions on the disputed case which authorizes the judge to impose a decision without the presence of the Defendant. Verstek's decision is related to the provisions of Article 125 paragraph (1) HIR.<sup>18</sup> Verstek decided to state that the defendant was not present, even though according to procedural law he had to attend. Verstek can only be stated if the defendant is not present on the day of the first trial.<sup>19</sup>

The main purpose of the verstek system in procedural law is to encourage the parties to obey the procedural rules so that the process of examining the settlement of cases is avoided anarchy or arbitrariness.<sup>20</sup> Law Number 12 of 1995 concerning Corrections does not accommodate the civil rights of prisoners related to their presence in the divorce trial that afflicts the prisoners. This is because the concept of prison is binding and limiting the rights of prisoners, even though the concept of prison should be to provide a deterrent effect and foster prisoners to become better human beings and are expected not to repeat mistakes that are contrary to the legislation again.

Law Number 12 of 1995 concerning Corrections does not accommodate the civil rights of prisoners related to their presence in the divorce trial that afflicts the prisoners. This is because the concept of prison is binding and limiting the rights of prisoners, even though the concept of prison should be to provide a deterrent effect and foster prisoners to become better human beings and are expected not to repeat mistakes that are contrary to the legislation again.

This of course becomes a legal vacuum, even though the religious court can give a verstek decision. However, in this case, the inmate also has the civil right to be present, hear his opinion, and defend his rights during the divorce trial process. According to Positive Law, the legal vacuum (*rechstvaccum*) is more accurately described as a void in the Law or Legislation.<sup>21</sup>

If there is a legal vacuum, then the formation of law cannot achieve its full purpose. In realizing the legal objectives, Gustav Radbruch stated that it is necessary to use the priority principle of the three basic values which are the objectives of the law. This matter because in reality, legal justice often clashes with benefits and legal certainty and vice versa. Among the three values the basis of the purpose of the law, in the event of a conflict, there must be someone who sacrificed. For this reason, the principle of priority used by Gustav Radbruch must be carried out in order, namely Legal Justice, Legal Benefits, and Legal Certainty.<sup>22</sup>

If referring to the theory of legal objectives according to Gustav Radbruch, it can be analyzed as follows:

- a) Legal justice, namely the balance between rights and obligations that must be accepted and carried out by someone or can be said to be fair, is the granting of rights according to one's capacity.<sup>23</sup> In the case of a prisoner who is dealing with a divorce case, the prisoner should have civil rights, namely relative rights that arise from the agreement

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<sup>18</sup> M Yahya Harahap, *Hukum Acara Perdata* (Sinar Grafika, 2006).

<sup>19</sup> Harahap.

<sup>20</sup> Maswandi, "Putusan Verstek Dalam Hukum Acara Perdata," *Jurnal Mercatoria* 10, no. 2 (2017): 161.

<sup>21</sup> Hario Mahar Mitendra, "Fenomena Dalam Kekosongan Hukum," *Jurnal Rechtsvoinding*, n.d.

<sup>22</sup> Muhammad Erwin, *Filsafat Hukum* (Raja Grafindo, 2012).

<sup>23</sup> Supriyanto, "Terciptanya Rasa Keadilan, Kepastian Dan Kemanfaatan Dalam Kehidupan Masyarakat," *Jurnal Ilmiah Fenomena* 14, no. 2 (2016): 1567.

he made. In this case, the convict has the right to be present at the divorce trial on the marriage agreement made with his partner. Prisoners have the right to defend their marriage and defend their rights in the household. However, the law on corrections does not allow prisoners to be present in the divorce trial process because according to the law on corrections, the prisoner has lost his right to freedom so his space of movement is also limited. This is certainly not in line with the food from the correctional institution. Correctional institutions should function as a place to foster and or educate prisoners, not just confine and limit the space for prisoners to move.

- b) Legal certainty, namely the law is a guarantee that guarantees the implementation of the law, or it can be interpreted that legal certainty is the certainty of a rule of law. Article 5 of the law on corrections section (g) it states that one of the principles in correctional development is the guarantee of the right to keep in touch with certain families and people. This article shows the guarantee of civil rights for prisoners. However, Article 5 letter (f) explains that one of the principles in correctional development is that loss of independence is the only suffering. This principle has the meaning that Correctional Inmates must be in a prison for a certain period, so that the state has a full chance to fix it. While in prison, Prisoners still have their other rights like humans, in other words, their civil rights are protected, such as the right to health care, food, drink, clothing, bedding, skills training, sports, or recreation. However, in Article 5, it is necessary to expand the meaning of the civil rights of prisoners, especially in the case of prisoners dealing with divorce cases in their households.
- c) Legal benefits, namely a legal product can be said to be beneficial in terms of the good and bad impacts of the legal product. The good and bad of the law must be measured by the good and bad of the resulting consequences of the application of the law. A new legal provision can be considered good, if: the results resulting from its application are goodness, maximum happiness, and less suffering.<sup>24</sup> And vice versa is considered bad if its application produces unfair consequences, and losses, and only increases suffering. In this case, prisoners who are dealing with divorce cases do not find the good or good benefits of the legal product, namely the law on corrections because the law on prisons does not explicitly mention the civil rights that prisoners have to be able to attend the divorce trial. befall him. In fact, in some cases, it was found that divorce cases faced by inmates were decided *verstek* without the presence of the inmates.

This is also strengthened when analyzed using the Legal System Theory by Lawrence M. Friedman. According to his theory, Lawrence suggests that there are 3 systems in law, namely the legal structure, legal substance, and legal culture.

- a) Regarding the legal structure, Lawrence said that this is related to law enforcement agencies or it can be said that law enforcement officials such as judges, prosecutors, and the police enforce and or carry out the law.<sup>25</sup> In this case, the legal structure in fulfilling the civil rights of prisoners is the correctional institution which is tasked with fostering and protecting the prisoners. In this case, LAPAS should have a goal not to imprison inmates, but in that prison, they are fostered and equipped with things that can increase their potential and change their attitude to become better human beings, but in practice, it is found that the implementation of LAPAS This is not by the

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<sup>24</sup> Lili Rasjidi and I B Wyasa Putra, *Hukum Sebagai Suatu Sistem, Remaja Rosdakarya*, 1993.

<sup>25</sup> Yuliana, "Dampak Pelaksanaan Hukuman Mati Terhadap Kondisi Kejiwaan Terpidana Mati Di Indonesia," *Indonesian Journal of Criminal Law Studies* 1, no. 1 (2016): 45.

expected goals so that the civil rights of prisoners to be present in their divorce proceedings are still not allowed.

- b) Regarding legal substance, the substance is related to the content or substance of a legal product. Of course, the legal substance in question is not only related to the laws in the book, but also the substance of living law or the law that lives in society.<sup>26</sup> The legal substance, in this case, is Law Number 12 of 1995 concerning Corrections. Article 5 of the Penitentiary Law explains several principles in the implementation of the correctional system, namely eliminating the independence of prisoners but still paying attention to the civil rights of prisoners. However, this correctional law does not explain the civil rights of prisoners about being present at the divorce trial that befell him. In addition, Article 14 also explains a series of prisoners' rights but does not explain that prisoners have the right to be present in a trial that involves them. Then article 16 confirms that prisoners can be transferred to other LAPAS if they are carrying out the judicial process. Furthermore, Article 17 explains that prisoners who are required to be present in a series of investigation processes and/or trials in court must obtain permission from the Head of LAPAS if they want to be carried out outside LAPAS. Even the head of the prison has the right to refuse the application. This means that if the prisoner is dealing with a divorce case involving himself, the prisoner does not have the right to attend a divorce hearing that concerns himself because he must get permission from the head of the prison, even though this is part of the civil rights that should be accepted by the prisoner.

Regarding legal culture, legal culture is a vital thing in the legal system, namely a "demand", "request" or "need" that comes from the community or users of legal services. Relating to ideas, attitudes, beliefs, hopes, and opinions regarding the law. Therefore, the legal culture of a society can also be interpreted as the values and attitudes, and behavior of community members in legal life. The legal culture of the community is reflected by the behavior of officials (executive, legislative and judicial), but also the behavior of the community.<sup>27</sup> A Penitentiary is a place of guidance for prisoners who are considered perpetrators of crimes based on the correctional system with an effort to realize the return of prisoners to a good and useful community life unit and incorporated them into the social order as independent individuals.<sup>28</sup> However, the public's perception of the existence and function of the prison is contrary to the purpose of the prison and the public's perception of an inmate is also very bad. Imprisonment has an impact on psychological changes, although various efforts have been made in fostering inmates during their sentence, the psychological impact due to prison law is the most severe impact felt by every inmate.<sup>29</sup> This culture ultimately affects the fulfillment of prisoners' civil rights in terms of being present at the divorce trial because the perception is that a prisoner should not be able to leave prison freely, including attending his own divorce trial.

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<sup>26</sup> Slamet Tri Wahyudi, "Problematika Penerapan Pidana Mati Dalam Konteks Penegakan Hukum Di Indonesia," *Jurnal Hukum Dan Peradilan* 1, no. 2 (2012).

<sup>27</sup> Dardji Darmodihardjo and Shidarta, *Penjabaran Nilai-Nilai Pancasila Dalam Sistem Hukum Indonesia* (PT Raja Grafindo Persada, 1996).

<sup>28</sup> Romi Irawan, "Konsep Diri Warga Lembaga Pemasyarakatan," *Jurnal SCHOULID: Indonesian Journal of School Counseling* 3, no. 2 (2018): 43.

<sup>29</sup> Milda, Lekatompessy, and Touwe, "Persepsi Masyarakat Terhadap Mantan Narapidana (Suatu Kajian Fenomenologi Pada Masyarakat Latuhalat, Ambon, Maluku)," *Jurnal Ilmu Sosial Keagamaan* 1, no. 1 (2020): 3.



## 4. CONCLUSION

A convict is a person who is serving a sentence in a correctional institution (LAPAS) which is a place to protect and nurture inmates to become better people in the hope of not committing acts that are contrary to the laws and regulations. Prisons play an important role in fostering and protecting prisoners. Law Number 12 of 1995 concerning Corrections is a legal product that regulates the coaching system carried out by prisons. The problem is that although the inmates have limited space for movement because they have to be detained in prisons, prisoners still have their rights as human beings that must be protected, one of which is civil rights. This penal law, it does not explicitly regulate civil rights in terms of being present at the divorce trial against the inmate so that the divorce case against the inmate is decided *verstek*. Therefore, the legal objectives proposed by Gustav will not be achieved, namely to achieve justice, certainty, and legal benefits. This is also reinforced by the legal system theory by Lawrence M. Friedman that the law on correctional facilities has weaknesses in the structure, substance, and legal culture.

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