Correctional governance: an Indonesian experience

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Prologue

This work was written as a response to one of the specialist workshops in APPCA 2009, namely, engaging with other criminal justice system agencies to achieve consistency of goals. Its purpose is to give a preview of the Indonesian experience. Please note, that the Indonesian experience in the field of cooperation between correctional systems with other institutions is not limited to work synchronization with police, public prosecutors, courts, and politicians. But, it is still a main issue. Nowadays, this cooperation is expanding, especially after Indonesia’s political reformation in 1998, and including other non-Government stakeholders. This tendency is very strong when Indonesia’s Correctional System is compiling ‘The Reformation Blue Print’ and implementing the program to upgrade the capacity and accountability during 2007-2009. The compiling and substantial process of the Blue Print and other programs indicates the beginning of Indonesia’s Correctional Governance concept. The Governance Process by definition is a multi-stakeholder based policy process in order to achieve the accuracy and effectiveness of policy.

In the general relation between Correctional System and Criminal Justice System, the main issue is the weak work synchronization between the police, public prosecutors, courts and the correctional system. The strong sectional ego, the gap between vision and purpose between correctional system and criminal justice’s sub system, are still viewed as insurmountable. Thus, the relation between Indonesia’s correctional system and criminal justice system tends to be an inter-exclusive and un-integrated relationship; both are connected but have not the same purpose. This paper will give a preview on how the sectional ego arose, and how the work patterns of Criminal Justice System influence the Correctional System’s main problem of overcrowding. Included is how this impasse can be solved by the roles of other stakeholders, especially the non-governmental stakeholders.

The Correctional System’s Reformation Blue Print does give a recommendation on the need to compile a specific law on Integrated Criminal Justice Systems. But changes in this political nature will take a longer time. The need to achieve Correctional System’s social re-integration or rehabilitation purposes in the current weak work synchronization will need other stakeholders outside the criminal justice system. This other stakeholder will act as a bridge in integrating the works on criminal justice and correctional systems. On the other hand, it will act actively in the implementation of correctional systems function. I realize this paper may not be able to give a complete preview on the solution to the weak work synchronization problem.
Based on the research for compiling the Reformation of Indonesia’s Correctional System Blue Print for the period of 2007-2009, it is obvious that the criminal justice system (Courts, Police and prosecutors) is more dominant as the determination factor on the overcrowding problems in most detention centers and local prisons. This is demonstrated by the low rate of discretion from the police for petty crimes and diversion of child offenders; the lack of coordination with Correctional Systems (specifically the parole office) that could be initiated by the police regarding child arrest; and the high tendency and preference of prosecutors and judges to uphold prison sentences.

Another issue that I will try to elaborate on is the experience of Indonesia’s Correctional system in the new constellation of a more inclusive policy process (correctional governance). On how the policy makers in the correctional system are not limited to politicians in the legislative, bureaucrats in the Department of Justice and Human Rights, and its subordinate, the General Directorate of Correction, or other law enforcement agents in the criminal justice systems. The public is now beginning to have an active role in this matter, as represented by the academia and the non Governmental Organizations (NGOs).

This collaborative cooperation has resulted in facilitating programs to increase the warden capacity, implementing, monitoring and evaluating a 5-year strategic plan, a key part in the General Directorate of Correction bureaucratic reforms.

Inclusivity versus Exclusivity

The development toward the correctional governance is influenced by 3 factors. First, changes in Indonesia’s political constellation since 1998 reformation make possible of a wider involvement of stakeholders in many governmental aspects, including law enforcement and correctional systems. Before the 1998 reformation, most of governmental policy processes are very exclusive business, outside of external control from the public. In Correctional System context, the exclusivity of this policy making process is represented by the stakeholders who are involved in it. In the 1980s, several collaborative efforts in correctional systems to achieve treatment goals for prisoners involved government internal stakeholders (inter-department) only. In 1999, a year after the reformation, it began to be more inclusive. This effort was seen in the government regulation on the Treatment and Rehabilitation of Prisoners, which stated that the treatment of prisoners (and the achievement of rehabilitation and reintegration goals), the minister (through the General Directorate of Correction) can cooperate with related government department, NGOs or individuals. In the same year, there was a ministerial decree to create a Correctional Advisory Board as the ministerial advisor on Correctional issues, with members from the intergovernmental agency, experts and NGOs.

The second factor is the complexity of problems faced by Indonesia’s Correctional System, from the facilitative aspect (budgeting and human resources), to the
implementation technique of rehabilitation and reintegration function. One of the problems is the relation pattern with the criminal justice system. Lack of understanding between Correctional System and Criminal Justice System concerning the purpose of punishment creates overcrowding problems in detention centers and prisons. The criminal justice system prefers crime control pattern, resulting in the tendency to arrest and imprison as many offenders as possible.

For your information, Indonesia's correctional system is very different from other countries. Correctional system in Indonesia’s Criminal Justice System is not only involved in the conclusion of criminal matters but also has jurisdiction in the beginning of the system in the form of physically detain offender inside detention centre, and assistance and social research in the form of recommendation for the judicial process. The correctional system’s job descriptions are also wide-ranging, and include areas where other countries do not normally have a role as correctional services functions, such as the jurisdiction and influence on the Courts for implementing sentences for child offenders.

The wide scope of job and function of the Correctional Systems, plus the complexity of the problems faced by the correctional systems, forced it to be more inclusive and accept the broader stakeholder’s input to achieve the goals of correctional systems. The punishment goal according to the criminal justice system is crime control (revenge), while the punishment goal according to correctional system is social re-integration (non-revenge). Thus, the anticipatory effort for this condition is to have a third party as a mediator, actively supporting the rehabilitation process or actively facilitating the gap between the two systems. This will be explained later in the paper.

The third factor is the small initiatives at the technical unit level have emerged, in the form of cooperation in the prisoner treatment process with the local NGOs. Even though they are gradual, these tendencies are very important in creating correctional governance. Budget and the wardens capacity limitations are the underlying factors, thus cooperation with third party that has a bigger capacity is a must.

Judging by all three factors, progress to correctional governance is promoted by the internal conscience of the Correctional System rather than external drive. This is interesting, since changes to governance process by including non-governmental stakeholders, are usually responded negatively, from distrust to high resistance from the government. This is true in governmental institutions that have exclusive jurisdiction, i.e. law enforcement. But this phenomenon is absent in Indonesia’s Correctional System. Aspirations from non-governmental parties to promote changes in the implementation of correctional system, is in line with internal aspirations of the DGC. The philosophy of Indonesia’s Correctional System is also responsible in guiding this correctional governance. From the idea of social re-integration, Indonesia’s Correctional System views that crime is the conflict between offenders and the community. Thus, punishment is aimed to resolve that conflict, and the prisoner can be re-integrated in the community. It is very different from the Police, Prosecutor and Court point of view. To achieve the goal of social re-integration, the treatment and rehabilitation process needs an active role from the public, specifically when the punishment period enters re-integration stage. In this matter, the
definition of the public is very broad ranging, from the prisoner’s family, the prisoner’s community origin, to the NGOs.

Problems arise when the Correctional Philosophy is at odds with the Criminal Justice System philosophy. Indonesia’s experience reveals that the exclusivity of the Criminal Justice System is absolute. (important to note here that the Correctional System is yet to be seen as an integral part of the criminal justice system – as it is in other countries) The reason is to prevent anarchism when law is translated and practiced by parties outside the criminal justice system. But this is not supposed to happen if in the law enforcement practices; there are other institutions with equal jurisdiction, function and capability to insure law enforcement proceeds according to the punishment goals. Didin Sudirman (2007) explains that Indonesia’s Correctional System main job is to safeguard human rights. This is the main reason why Indonesia’s Correctional System is not only at the conclusion of the criminal justice system; but has involvement from the moment an individual is being held by the police.

The parole office is a part of the Correctional System. It has the jurisdiction to act from the moment an individual is being held by the police. The parole office role is to assist the client, and to prepare a social research that give comprehensive review on the reason for the client’s criminal action. This research will also be used as guidance for the judge to deliberate on the client’s case. This practice is clearly defined, specifically for child offenders. Thus, on every arrest, the police automatically have to inform and ask the parole office to carry out their job and jurisdiction.

This is also true for the detention center. In Indonesia’s Criminal Justice System, detention centers are part of the correctional system. The job and jurisdiction of this center is to perform physical detention of unconvicted offenders, while the judicial jurisdiction lies on the police or the prosecutor. The main reason why this process is part of the Correctional System is to protect the rights of prisoners. In this case, the detention center is a part of the Correctional System, detaching the judicial jurisdiction with physical detention, to prevent abuse of power and other deviation during the detention process. The fact remains that the police and the prosecutor tend to ignore the role of the Parole Office and Detention Center. In many cases, the police do the physical detention themselves. The police also have a low initiative to coordinate with Parole Office for assistance and preparation of a social research during detention. These illustrate the ongoing exclusivity of Indonesia’s Criminal Justice System to the function of the correctional system.

The work synchronization efforts between Criminal Justice System and Correctional System are still ongoing, but they are not institutionalized enough to create formal mechanisms. This creates discourse to define integrated criminal justice system in a specific regulation. One thing that makes the exclusivity of Criminal Justice system nowadays is because its job description and function are regulated by separate laws. The idea of an integrated criminal justice system is not discernible.

**Correctional Governance Model**

In response to the inter-exclusivity of Criminal Justice System and Correctional System, the concept of correctional governance is born from
internal initiative, specifically from the Correctional System for the last 10 years. In analysing this concept based on the stakeholders and their relations, the correctional governance model in Indonesia can be described in this diagram.

In this diagram, the center of governance process in Indonesia’s correctional system is non-governmental stakeholder, the public that are represented by NGOs and individuals with expertise, who want to engage actively in implementing the correctional function. This diagram also demonstrates the separation of function and goals between Criminal Justice System and Correctional System. This division exists, even though the Correctional Law states that the Correctional System is at the conclusion of Criminal Justice System. Thus, as mentioned above the philosophy of corrections is very inclusive, while the role of Criminal Justice System is very exclusive. Therefore, a solution to bridge the gap is needed, and the answer lies with the expanding role of NGOs.

Some will see doubt in this solution. How can an NGO become an important stakeholder in the Correctional System and the Criminal Justice System policy making processes? In theory, I will be hard put to answer this question. But in Indonesia, this is possible, as seen from the active roles that have been played by NGOs and academics in reforming Indonesia’s Criminal Justice System and the Correctional System. i.e. in the compilation of documents for Indonesia’s Supreme Court reform in 2003, Attorney General’s reform in 2005, and Correctional System reform in 2009. It is also noted that each part of the Criminal Justice System is openly accepting support from an international institution (i.e. the Asia Foundation) in the compilation of each document. This gives a strong indication to the concept of governance process in the Criminal Justice System.

In the broader context, the formation of correctional governance does not only evolve around work synchronization between Criminal Justice System and Correctional Governance, the Criminal Justice Systems, Non Governmental Stakeholders, Correctional Systems, and the Political Systems, but it also clears the way for several events. First, Indonesia’s experience has demonstrated that changes of institutionalization will affect the warden’s work ethics. For example the formulation of the prisoner complaint centre in the early 2008, a joint-program between NGOs and General
Directorate of Corrections. Based on evaluation, this center has improved the warden’s Human Rights knowledge and resulted in a change of attitude of some wardens. Secondly, experience also demonstrates that correctional governance has increasing control mechanism between the Correctional System and Criminal Justice System in the broader context. The presence of non-governmental stakeholders during Correctional System policy process has created balancing views. In some of the strategic policy making process, several non governmental stakeholders have been formally involved. The example is the pressure for the government to be more accommodating to the interest of children and other risk groups. This issue has not had enough attention before. Strategic planning is also encouraged in accordance with other bureaucratic reforms in the General Directorate of Corrections.

Bureaucratic reform in an effort to systematically and comprehensively change the system, structure, human resource management and business processes. Like so many other developing countries, bureaucracy often becomes an obstacle for the development of NGOs. But during 2008-2009, NGOs have been successful in encouraging General Directorate of Corrections in making bureaucracy reform which still continues today.

**Future Agenda**

Although the effectiveness of these changes are yet to be proven because there are no comprehensive studies about it, at one side, the correctional governance is very promising to sustain the positive changes which have been made to date. Nevertheless, there are a couple of things which need to be done in order to really create a positive collaboration between the Correctional System, the Criminal Justice System and society:

Firstly, to create the same vision and goals in punishment between Correctional System and Criminal Justice System, a special regulation is needed.

An integrated Criminal Justice System can be realized when they have the same vision, same goals and same working mechanism...

To achieve this, the philosophy of Criminal Justice System should be on the same path with the punishment philosophy. Based on the blue-print document the General Directorate of Corrections needs to formulate a recommendation proposal interrelated with the revision of regulations which will place all the law enforcement institutions in an integrated criminal justice system.

The concept and mission of the Correctional System is ideally included in the revision of criminal law. As well as this, another position or process, which handles the coordination between the Criminal Justice System and the Correctional System, should also be established. Secondly, with reference to the blue-print document of reformed Correctional System, in the future, non-governmental stakeholders ideally will still be part of the process of the Correctional System policy in special aspects. In other words, the non-governmental elements are not excluded in the policy process when the system is considered accountable. In this case Correctional Governance is a permanent process, although it is not formally institutionalized.

Thirdly, Correctional Governance should be immediately implemented as an internal policy in General Directorate of Corrections. Every Technical Unit (local prisons and parole...
office) creates the same mechanism in each territory.

This is important considering Indonesia is a country with various cultural and social systems. Because of that, contextual policies become very important. One of the governance process principals is contextualization. A policy is made based on the context of certain region.

**Conclusion Remarks**

Until now, Indonesian experience shows that although governance principles exist in the domain of Law Enforcement and Correctional System; they are applicable and can impact in positive ways. The uniqueness of the Indonesian experience is the important role non-governmental stakeholders in can have in the policy process in the Correctional and Criminal Justice System. The inclusiveness of the Correctional System which faces the exclusiveness of the main players in the Criminal Justice System could be bridged by this governance process. This might be considered as outside in the policy process however the progress illustrates that we can be optimistic that Correctional Governance would be able to solve the complexity of problems which occur in the Correctional System. In an Indonesian context, Correctional Governance can be considered a logical practice.

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