

# Assimilation Policy and Social Re-integration of Prisoners during the Covid 19 Pandemic in Indonesia

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**Abstract**—To see the reality of punishment during the covid 19 pandemic in Indonesia, there is a fundamental problem between achieving the purpose of punishment and carrying out punishment in a correctional institution until it is completed, while on the other hand there is protection of the right to life and health of prisoners. To prevent the impact of the spread of covid 19 in correctional institutions, the government issued a criminal policy through: Regulation of the Minister of Law and Human Rights Number 10 of 2020 and Decree of the Minister of Law and Human Rights Number M.HH-19.PK/01.04.04 concerning the Release and Release of Prisoners and Children Through Assimilation and Integration in the Context of Prevention and Control of the Spread of Covid-19. The government's efforts have an impact on the high number of recidivists after the release of prisoners from prisons.

**Keywords**—Criminal policy, convicts, covid 19, recidivists

## I. INTRODUCTION

Correctional institutions are the last subsystem or estuary of the criminal justice system, the implementation of guidance in correctional institutions aims to: so that the prisoners in prison are aware of their mistakes, improve themselves, and do not repeat criminal acts so that they can be accepted again by the community, can play an active role in development, and can live normally as good and responsible citizens.

In providing guidance to inmates, must reflect the principles as contained in Law Number 12 of 1995 concerning Corrections, consisting of: a. Protection, b. Equality of treatment and service; c. Education; d. Guidance; e. Respect for human dignity and worth; f. Losing freedom is the only suffering; and g. Guaranteed right to keep in touch with family and certain people.

The implementation of these principles at the implementation level is in the context of fulfilling the rights of the inmates of the correctional facility. Prisoners' rights in correctional institutions include: a. Performing worship according to their religion or belief; b. Receive treatment, both spiritual and physical care; c. Getting education and teaching; d. Get proper health care and food; e. Submit a complaint; f. Obtain reading materials and follow other mass media

broadcasts that are not prohibited; g. Get wages or premiums for the work done; h. Receive visits from family, legal counsel, or certain other persons; i. Get a reduction in the criminal period (remission); j. Get opportunities for assimilation including leave to visit family; k. Get parole; l. Get leave before being free; and m. Obtain other rights in accordance with applicable laws and regulations.

Emphasis on the rights of prisoners in the form of the right to get a reduced sentence (remission); the right to get the opportunity to assimilate including leave to visit family; and the right to get parole; as well as the right to get leave before being released, is a public concern during the COVID-19 pandemic, as well as being a debate among the public, related to the issuance of criminal policies in an effort to prevent the spread of covid 19 in correctional institutions. This is stated in the Regulation of the Minister of Law and Human Rights Number 10 of 2020 and the Decree of the Minister of Law and Human Rights Number M.HH-19.PK/01.04.04 concerning the Release and Release of Prisoners and Children Through Assimilation and Integration in the Context of Prevention and Control of the Spread of Covid-19.

Assimilation is the process of fostering prisoners and children which is carried out by blending prisoners and children in community life. Family Visiting Leave is a coaching program to provide opportunities for prisoners and children to assimilate into their families and society. Conditional Release, Leave Before Release, and Conditional Leave is a coaching program to integrate prisoners and children into community life after meeting the predetermined requirements.

Policy and Prevention, based on data on the spread of COVID-19, both those infected and those who died, the figures based on the COVID-19 handling task force in Indonesia are the highest in Asia. This needs policies to be carried out by the Government, especially in the State Detention Center (Rutan), Correctional Institutions (Lapas), and Special Child Correctional Institutions in Indonesia. This is motivated by the fact that almost all detention centers and prisons exist in all Regional Offices of Law and Human Rights in Indonesia. (data for 30 Regional Offices of Law and Human Rights throughout

Indonesia). This situation requires the government to issue a policy in the field of criminal law (criminal implementation) in the form of Regulation of the Minister of Law and Human Rights Number 10 of 2020 and Decree of the Minister of Law and Human Rights Number M.HH-19.PK/01.04.04 concerning the Release and Release of Prisoners and Children Through Assimilation. and Integration in the Framework of Prevention and Control of the Spread of Covid-19.

This policy, in addition to agreeing and disagreeing, on the other hand also received support from members of the House of Representatives (DPR). Members of the House of Representatives Commission III (Nasdem Party and Gerindra Party). Even further, the Corruption Eradication Commission and the Ombudsman agreed to revise Government Regulation No. 99 of 2012, but based on special circumstances for crimes that were considered extraordinary, based on public refusal, the revision was canceled. Therefore, from the main problems as stated above, the formulation of the problem in this research is focused in the form of: How are the government's efforts to prevent the spread of Covid 19 in correctional facilities and achieve the goal of punishment, and How is the negative impact of criminal policies in preventing the spread of Covid 19 in Correctional institutions?

## II. RESEARCH METHODS

The research process can be seen as a series of interrelated phases and cannot be separated from one another. Denzin and Lincoln in "Introduction: Entering the field of Qualitative Research" in the Handbook of Qualitative Research"(1994), as quoted by Agus Salim propose five phases which constitute a series of research processes [1].

### A. Stand Point

It is associated with traditions guiding researchers throughout the research process [2]. Traditions in research are classified into quantitative research and qualitative research. This research applied the tradition of qualitative research. Bogdan and Taylor define qualitative methodology as a research procedure that produces descriptive data in the form of written or oral words from people and observable behaviors [3].

### B. Paradigm

Etymologically, the word paradigm comes from *para*, which means next to, beside, on the side, side by side, or on the edge, and *deiknunai* or *deigma*, which means seeing or showing [2]. Guba and Lincoln, in the Handbook of Qualitative Research, define paradigm as a major philosophical system, a main part including certain ontology, epistemology and methodology that cannot be exchanged, representing a certain beliefs system which offers the way how the world is seen, understood, and studied. In other words, it links adherents with a particular worldview [4].

### C. Research Strategy

It is related to the term of normative legal research and empirical / sociological legal research. FX. Adji Samekto states that to determine whether the research is normative or empirical, it is seen based on the objectives to be achieved [5]. Soetandyo Wignyosoebroto calls the doctrinal method as a legal research method that relies on rules requiring compliance to be enforced by using state power (normative), acting in the world of necessities (*das sollen*), and its products are also curative [6].

### D. Methods of Data Collection and Analysis

The types of data required in this study were primary and secondary data. Secondary data applied the literature review while the primary data were obtained from the primary source directly in a purposive manner. Primary data sources included: Legislative members (DPRD) and Political Party cadres; executive (Public Health Service); Religious, traditional and community figures; Non-Governmental Organizations (NGOs); Private parties; Regional pers; Academics; College students; and the community. Primary data were collected through surveys and focus group discussions in Pekanbaru. Then, the data were interpreted according to the hermeneutic methodology in the constructivism paradigm.

Identify applicable funding agency here. If none, delete this text box.

## III. RESULTS AND DISCUSSION

### A. Criminal Policies Carried Out by the Government in Preventing the Spread of Covid 19 in Prisons

Coronaviruses are a group of viruses that can cause disease in animals or humans. Several types of coronavirus are known to cause respiratory tract infections in humans ranging from coughs and colds to more serious ones such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). A new type of coronavirus found to cause the disease COVID-19.

COVID-19 is an infectious disease caused by a newly discovered type of coronavirus. This new virus and the disease it causes were unknown before the outbreak began in Wuhan, China, in December 2019. COVID-19 is now a pandemic occurring in many countries around the world [7].

Based on data as of September 9, 2021 [8], Covid 19 cases in Indonesia are still relatively high, namely: Positive Covid 4,153,355, those who recovered 3,887,410, and those who died, 138,116, when compared to cases of the spread of covid in Indonesia on August 28, 2021 reached 4,066,404 people, since the announcement of the first case on March 2, 2020 [9].

This condition demands to immediately take urgent legal political policies, especially in the field of criminal law. The term penal policy has the same meaning as the terms criminal law policy and criminal law politics (*strafrechtspolitiek*). All three terms have the same meaning [10]. A rational effort to

control or overcome crime (criminal politics) of course does not only use the means of "penal" (criminal law), but can also use "non-penal" means [11].

Laws and regulations that have been issued by the government in an effort to contain the outbreak, in addition to the existing laws and regulations prior to the outbreak of COVID-19, are: Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Pandemic Virus Disease 2019 (Covid-19) and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability, which are enacted into law through Law Number 2 of 2020. And implementing regulations through various regulations below: Decree President of the Republic of Indonesia Number 11 of 2020 concerning the Determination of Public Health Emergency Corona Virus Disease 2019 (Covid-19). Decree of the President of the Republic of Indonesia Number 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid -19) as a National Disaster. Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07/Menkes/231/2020 concerning the Team for Determining Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19). Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2020 concerning Guidelines for Scaled Social Restrictions Big In Order to Accelerate Handling of Corona Virus Disease 2019 (Covid-19). Until recently, the legal policy was in the form of the Instruction of the Minister of Home Affairs Number 15 of 2021 concerning the Enforcement of Restrictions on Emergency Community Activities for Corona Virus Disease 2019 in the Java and Bali Regions. Then it was continued with the Instruction of the Minister of Home Affairs Number 17 of 2021 concerning the Extension of the Implementation of Restrictions on Emergency Community Activities for Corona Virus Disease 2019 (PPKM). And it has a direct impact on efforts to prevent the transmission of the COVID-19 virus in government prisons through the Minister of Law and Human Rights issuing legal policies in the form of: Regulation of the Minister of Law and Human Rights Number 10 of 2020 and Decree of the Minister of Law and Human Rights Number M.HH-19.PK /01.04.04 concerning the Release and Release of Prisoners and Children Through Assimilation and Integration in the Context of Prevention and Control of the Spread of Covid-19.

The number of inmates in special correctional institutions for Children and Adults who have been released through the social assimilation and reintegration program in order to prevent the spread of the Covid 19 Virus has amounted to February 2021, based on this policy, 61,633 inmates have been released and returned to their families. Released prisoners still have to report to the Parole Office until their sentence ends [12].

#### *B. The Negative Impact of Criminal Policies in Preventing the Spread of Covid 19 in Correctional Institutions is Related to the Purpose of Punishment*

Article 1 point 3 of the Regulation of the Minister of Law and Human Rights states, Assimilation is the process of fostering prisoners and children which is carried out by mixing prisoners and children in community life. And Article 1 number 5 concerning social reintegration states: Conditional Release, Leave Before Release, and Conditional Leave is a coaching program to integrate prisoners and children into people's lives after fulfilling the predetermined requirements.

The policy taken by the government is reflected in the considerations of the Correctional Institution, the Special Guidance for Children, and the State Detention Center which is a closed institution that has a high occupancy rate, is very vulnerable to the spread and transmission of Covid-19, to make efforts to rescue prisoners and children who are in the institution. Corrections, Special Child Development Institutions, and State Detention Centers need to be released and released through assimilation and integration to prevent and control the spread of Covid-19. This consideration is based on the fact that almost all prisons experience overcapacity, even for some prisons in big cities the overcrowding rate ranges from 300% to 600%.

However, the policy of releasing inmates and child prisoners from correctional institutions has its own impacts, in addition to the emergence of extortion opportunities, no less important is that prisoners who receive the assimilation program commit crimes again after being outside prison, there are 140 assimilated prisoners who return to committing crimes (criminal acts), "said the Head of the General Information Section (Kabag Penum) Polri Kombes (Pol) Ahmad Ramadhan [13]. Regulation of the Minister of Law and Human Rights (Permenkumham) Number 10 of 2020. has several weaknesses, which were later refined through Minister of Law and Human Rights Regulation (Permenkumham) Number 32 of 2020 which will take effect from January 2021 to July 2021, in Permenkumham Number 32 of 2020 there are several points improvement. Among them are related to the requirements and procedures for granting Assimilation and Integration Rights, restrictions on certain criminal acts, accommodating the granting of rights to Foreign Citizens, as well as online issuance of Decision Letters, which will be accommodated in the Correctional Database System.

However, the assimilation program and the social integration program resulted in the sentence not being served in full, this resulted in the purpose of the punishment, namely rehabilitation and deterrent effect, not being fully implemented. This has the potential to result in these prisoners not being ready to integrate and assimilate back into society. This unpreparedness can trigger the ex-convicts to commit crimes again for the sake of their survival. Seeing this, of course, this policy has a socio-juridical impact on prisoners and the community [14].

#### IV. CONCLUSIONS

The government's efforts to prevent the spread of Covid 19 in prisons by reducing the overcapacity condition of prisons in Indonesia, this is done by issuing policies in the form of Minister of Law and Human Rights Regulation Number 10 of 2020 and Decree of the Minister of Law and Human Rights Number M.HH-19.PK. /01.04.04 concerning the Release and Release of Convicts and Children Through Assimilation and Integration in the Context of Prevention and Control of the Spread of Covid-19, this is in order to achieve the goal of punishment not to cause a worse situation when inmates are fostered in an overcapacity correctional institution, Even though the pros and cons of this policy are caused by the negative impact of criminal policies in preventing the spread of covid 19 in prisons by accelerating the expenditure of inmates who have met the requirements an, although there is unrest in the community, that correctional inmates who receive social assimilation and integration again commit criminal acts after leaving the penitentiary.

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