

REVIEW ARTICLE

RELEASING THE CRIMINALS: POLEMICS ON THE PROVISION OF ASSIMILATION PRISONERS IN THE COVID-19 PANDEMIC CASE

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COVID-19 is a contagious disease in humans caused by a new type of coronavirus found in December 2019. The method of transmission is relatively easy to do to prevent COVID-19 transmission, one that uses social and physical distance orders. In the jails, the capacity has exceeded the specified limit. Therefore, the existence of policies regarding social and physical distancing also causes the government to provide assimilation to prisoners in order to prevent the spread of COVID-19 and on humanitarian grounds. The provision of assimilation is specifically for prisoners with special crimes and is excluded for terrorism prisoners, narcotics inmates and corruption prisoners.

Keywords: Covid-19; Social and Physical Distancing; Prisoners; Assimilation

I. INTRODUCTION

Coronavirus is a group of viruses that can cause disease in animals and humans. Several types of corona virus are known to cause respiratory infections in humans ranging from cold coughs to more serious ones such as Middle East Respiratory (MERS) and Severe Acute Respiratory

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Syndrome (SARS). A new type of Coronavirus has been found to cause COVID-19. COVID-19 is an infectious disease caused by a newly discovered type of coronavirus. This is a new virus and disease that were not known before the outbreak in Wuhan, China, in December 2019. How to transmit COVID-19 is considered very easy, COVID-19 can spread from person to person through sparks from the nose or mouth that comes out when people who are infected with COVID-19 cough or exhale. These sparks then fall on nearby objects and surfaces. People who touch the object or surface and then touch their eyes, nose or mouth, can be infected with COVID-19. Transmission of COVID-19 can also occur if people inhale a spark that comes out of cough or breath of a person infected with COVID-19. Therefore, it is important for us to keep more than 1 meter from people who are sick.¹

Therefore, the government made several policies related to the handling of the spread of COVID-19. The action focuses on the field of public health and social action. including individual and environmental actions, detecting and isolating cases, contact tracing and quarantine, social and physical distance measures including mass meetings, international travel measures, and vaccines and treatments. Other public and social health measures play an important role in reducing the number of infections and saving lives. Of the several policies taken by the government in dealing with the spread of COVID-19, social and physical distribution is believed to have a major influence on the reduced level of transmission COVID-19. The policy is realized in Government Regulation No. 21 of 2020 Concerning Large-scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (COVID 19). This government regulation explains that the community is required to restrict certain activities that involve many people.

As explained in the WHO article (World Health Organization) that Social and physical distancing measures aim to slow the spread of diseases by stopping chains of transmissions of COVID-19 and preventing new ones from appearing. These measure secures social and physical distance between people. And reduce contact with contaminated surface, while encouraging and sustaining virtual social connection within families and communities. Measure for the general public include introducing flexible work arrangements such as teleworking, distance learning, reducing and avoiding crowding, closure of non – essential facilities and services, shielding and protection for vulnerable groups, local or nationals movement restrictions and staying at home measures, and coordinated reorganization of health care and social services networks to protect hospitals. The measures are used in conjunction with

¹ World Health Organization (WHO), <https://www.who.int/indonesia/news/novel-coronavirus/qa-for-public>

individual protective measures against COVID-19 such as frequent hand washing and chough etiquette.²

Looking at social policies and physical distancing taken by the government, it seems that Indonesia will need even more serious action, because the State of Indonesia is a densely populated country. In Indonesian, the population level is relatively high, as evidenced by World meters data, Indonesian currently has a population of 269 million people or 3.49% of the total world population. Indonesia is ranked as the fourth most populous country in the world after China (1.42 billion people), India (1.37 billion people), and the United States (328 million people).³

With the government policy related to large-scale social restrictions, in a virtual working meeting with the DPR's legal commission, it discussed the provision of assimilation to around 30 public prisoners and children to reduce the risk of exposure to the corona virus.⁴ This is based on prison residents who are over capacity up to 836 percent.⁵ The Minister of Law and Human Rights, Yasonna Laoly, then took part in proposing the assimilation of corrupt prisoners, but in this case it raised pros and cons.⁶ Over prison capacity does indeed trigger the spread of COVID-19, therefore assimilation can indeed be an effort to reduce that risk. In the government regulation number 99 of 2012 regarding the second amendment to the government regulation on government regulation number 32 of 1999 concerning the requirements and procedures for the implementation of the rights of citizens fostered in prison also stipulated the existence of assimilation. In addition, the provision of assimilation is a form of humanity for the application of the precepts of the two Pancasila precepts. The provision of assimilation for prisoners regulated in government regulation number 99 of 2012 only applies to general prisoners and children and excludes prisoners of terrorism, narcotics and corruption cases to get assimilation. Giving

² World Health Organization (WHO), *Coronavirus Diseases 19 (COVID-19) Situation Report* – 72, (<https://apps.who.int/iris/bitstream/handle/10665/331685/nCoVsitrep01Apr2020-eng.pdf> diakses pada 1 April 2020, 10.00 a.m.)

³ Dwi Hadya Jayani, *Jumlah Penduduk di Indonesia 269 Juta Jiwa Terbesar Keempat di Dunia*, (<https://databoks.katadata.co.id/datapublish/2019/04/29/jumlah-penduduk-indonesia-269-juta-jiwa-terbesar-keempat-dunia> diakses pada 29 April 2019, 10.37 a.m.)

⁴ Deden Gunawan – Detiknews, *Yasonna Laoly Bicara Mengenai Pembebasan Narapidana Koruptor Hingga Baasyir*, (<https://news.detik.com/berita/d-4971983/yasonna-laoly-bicara-pembebasan-napi-koruptor-hingga-baasyir>, diakses pada 10 April 2020 06.30 a.m.)

⁵ Andi Saputra – DetikNews, *5 Fakta Mengejutkan Lapas di Indonesia*, (<https://news.detik.com/berita/d-4365019/5-fakta-mengejutkan-lapas-di-indonesia> diakses pada 31 Desember 2018 08.44 a.m.)

⁶ Yusniar, Erna, and Maya Retnasary. "Analisis Framing Pemberitaan Menkumham Yasonna Laoly Tentang Kebijakan Pembebasan Narapidana Ditengah Wabah Covid-19 (Media Online detik. com dan Kompas. com)." *J. Polit. Indones* 5.2 (2020): 1-17.

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assimilation with the exception is considered discriminatory so that the minister of law and human rights is trying to revise the government regulation number 99 of 2012, but many parties are still pros and cons regarding the proposal. in a CNN quote, President of the Republic of Indonesia, Joko Widodo stated that the release agreement was only for prisoners in general criminal cases. President Jokowi also stated that he had never discussed the release of corrupt prisoners in a meeting amid the efforts to prevent the spread of Covid - 19. In connection with PP number 99 of 2012 relating to the release of prisoners, Jokowi firmly stated that there was no revision to that.⁷

This paper is intended to analyze the effectiveness of the efforts to provide assimilation of prisoners with general criminal cases in order to prevent the spread of COVID-19, and also analyze the considerations regarding the revision of government regulation number 99 of 2012 and the provision of assimilation of corrupt prisoners in the midst of pandemic COVID-19

II. THE EFFECTIVENESS OF THE EFFORTS TO PROVIDE ASSIMILATION OF PRISONERS WITH GENERAL CRIMINAL CASES IN ORDER TO PREVENT THE SPREAD OF COVID-19

In addressing the issue regarding the distribution of COVID-19, the government seeks to provide conditional release and assimilation for certain prisoners. This policy is based on the overcapacity capacity of prisons which makes them vulnerable to the spread of disease. The granting of parole and assimilation is regulated in a series of laws, government regulations and ministerial regulations.

Parole is the remission or reduction of the sentence given to a person who was sentenced to a criminal sentence and a right for inmates as stipulated in Law No. 12 of 1995 Concerning Corrections. Conditional release is given to all prisoners of good behavior in accordance with applicable regulations. Conditional release in Indonesia is regulated in Minister of Law and Human Rights Regulation No. 12 of 2013 and No. 21 of 2016 concerning the conditions and procedures for remission, assimilation, family visit leave, parole, pre-term leave, and conditional

⁷ CNN Indonesia, *Jokowi : Pembebasan Narapidana Koruptor Tak Pernah di Bahas dalam Rapat*, (<https://www.cnnindonesia.com/nasional/20200406095618-12-490649/jokowi-pembebasan-napi-koruptor-tak-pernah-dibahas-di-rapat>, diakses pada 6 April 2020, 06.17 a.m.)

leave. With the release of parole, the decision of a judge who has legal force will continue to change. Because in the end the convict does not have to undergo the full sentence handed down to him after fulfilling the conditions, and the procedure for obtaining parole.

Assimilation is the process of fostering Prisoners and Children which is carried out by blending Prisoners and Children into community life. Basically, all prisoners can be given assimilation, except for prisoners who are threatened with life or who are serving life imprisonment. Provision of assimilation and parole for certain prisoners raises the pros and cons for certain groups or communities. The granting of parole and assimilation is only done for prisoners with general criminal offenses and convicted children. Therefore, it is considered discriminatory because for prisoners special criminal acts such as terrorism, corruptors, and narcotics are not provided with these facilities. however, President Jokowi underlined, the release agreement was only for prisoners in general criminal cases. Jokowi said this step is similar to what other countries have done in dealing with the corona virus outbreak. based on Article 44 paragraph (1) Permenkumham 3/2018, Prisoners who can be given Assimilation must meet the following requirements:

- a. good behavior is proven by not serving disciplinary action within the last 6 (six) months;
- b. actively participate in the coaching program well; and
- c. has served 1/2 (one half) of the criminal period.⁸

Actually, in Permenkumham article 3 of 2018 there is a provision for the provision of assimilation for prisoners who commit certain criminal acts as information, for prisoners convicted of committing acts of terrorism, narcotics and narcotics precursors, psychotropics, corruption, crimes against state security and human rights crimes severe, as well as other transnational organized crime, the requirements for granting assimilation differ from the requirements for granting assimilation in general. The requirements are as follows:⁹

- a. good behavior is proven by not serving disciplinary action within the last 9 (nine) months;
- b. actively participate in the coaching program well; and
- c. has served 2/3 (two thirds) of the criminal period with a minimum of 9 (nine) months.

In addition, the provision of assimilation for prisoners is also regulated in several articles in Law number 99 of 2012 Concerning Second Amendment to Government Regulation Number 32 Year 1999 Concerning Terms and Procedures for Implementing The Rights of Community Development, namely: Article 36 paragraph (1) Every Prisoner and Correctional Students are entitled to Assimilation.

⁸ Regulation Of The Minister Of Law And Human Right no. 3 of 2018

⁹ *Ibid.*

Then in paragraph (2) it is stated that there are requirements for convicted prisoners, convicts and convicted children who have fulfilled the requirements:

1. good behavior;
2. actively participate in the coaching program well; and
3. has served 1/2 (one half) of the criminal period.¹⁰

In a meeting conducted by the House of Representatives Commission III, it was discussed that the release of corrupt prisoners with certain terms and conditions, but this raises the pros and cons coupled with the proposal of the Minister who mentioned opinions about the revision of government regulation number 99 of 2012. The revision of the Government Regulation Number 99 Year 2012 concerning the Terms and Procedures for the Implementation of the Rights of Penitentiary Guides was canceled. Of course the proposal was not approved by a group of people.

The reason for providing assimilation to public prisoners is purely due to the prevention of the spread of COVID-19. the release of prisoners is carried out because of the conditions of a number of prisoners who are already over capacity. The situation, of course, can increase the impact of the spread of COVID-19. In a limited meeting regarding the report of the COVID-19 task force team via video conference at the Presidential Palace, Bogor West Java on 6 April 2020, President Jokowi said that: "Regarding parole prisoners this is also associated with Covid-19. As in other countries I see Iran freeing 95,000 inmates, in Brazil 34,000 inmates, in other countries also do the same. We also agreed last week that there would also be a release of prisoners because our prisons are over capacity, so it is very risky to accelerate the spread of Covid-19 in our prisons.

But we are not free just like that, of course there are conditions. And there is supervision, I want to say that we have never talked about corrupt prisoners in our meetings so regarding PP 99/2012 I need to say there is no revision for this. Exemption for prisoners is only for general criminal inmates."¹¹

Therefore, the release of prisoners with general criminal offenses and convicted children has been approved by President Jokowi and this has been carried out. On the first day the policy was implemented, the Ministry of Law and Human Rights released 13,430 prisoners and children through assimilation and integration programs.

¹⁰ Law number 99 of 2012 Concerning Second Amendment To Government Regulation Number 32 Of 1999 Concerning Terms And Procedures For Implementing The Rights Of Citizenship.

¹¹ Candra gian asmara cnbc Indonesia, *pernyataan lengkap jokowi setuju bebaskan narapidana koruptor*, <https://www.cnbcindonesia.com/nes/20200406100906-4-149956/pernyataan-lengkap-jokowi-setuju-bebaskan-napi-bukan-koruptor> diakses pada 6 april 2020 10.17 a.m.

The move was an attempt to anticipate the spread of Covid-19 in Penitentiary and Detention Houses whose capacity had exploded. The government will release and release 30,000 fostered citizens through the assimilation and integration program and is targeted to be completed within seven days according to the direction of the ministry of law and human rights.¹²

The assimilation was carried out at home and the assimilation decree was issued by the Head of Prison and the guidance and supervision of assimilation and integration was carried out by the Penitentiary. Fostered citizens are also encouraged to carry out their assimilation obligations at home as well as possible, carry out appeals from the government related to the prevention of the spread of covid-19, by carrying out independent isolation in their respective homes, and maintaining the trust that has been given, by not doing unlawful acts . In addition, medical staff are also continuing to monitor the health of current corporate citizenship amid the global pandemic COVID-19. To avoid transmission COVID-19 people who return to their homes are required to quarantine independently and isolate themselves at home. This assimilation was given to prisoners with an appeal that prisoners must remain at home and not utilize the program for negative actions.

The policy is a form of humanitarian principle, because everyone has the right to have physical and spiritual independence. However, it is still misused by people who are not responsible. In addition, the prisoners who are currently released and sent back to their homes have the potential to spread the virus in other words, maybe they will interact with many people and when they go home they can even become their careers.

In addition, the release of prisoners from prison in the midst of the COVID-19 pandemic by the Ministry of Justice and Human Rights caused public concern. Although the prisoners were released through an assimilation and integration program, the community was worried about the increasing number of crimes committed by the former inmates. Certainly not without reason if in the end the Ministry of Law and Human Rights adopted the policy. The high number of prisoners who are languishing in cells is one of the factors, because it is feared that it will become a time bomb for COVID-19 transmission. This is proven by data from the Ministry of Law and Human Rights that there have been prisoners infected with COVID-19, the Ministry of Law and Human Rights noted that there were already 10 people who were declared as symptomatic (OTG) and 3 people in monitoring (ODP) COVID-19. This happened after they previously interacted with a number of people

¹² CNN Indonesia, *13.430 tahanan dan narapidana anak dibebaskan guna cegah corona* <https://www.cnnindonesia.com/nasional/20200401181016-12-489297/13430-tahanan-dan-napi-anak-dibebaskan-cegah-corona> diakses pada 1 April 2020 08.40 p.m.

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suspected of being exposed to COVID-19, both directly and indirectly. Now, the 13 people have been isolated and separated from other prisoners.¹³

Not only that, the fear of repeated cases is also felt by the government and some people. They were worried that the ex-convicts who were freed would return to acting up. Of the 36,708 people who have been released, Kemenkumham noted that there were at least 13 people who returned to commit criminal acts or become recidivists. The economic crush is thought to be the reason for the ex-convicts to return to crime. Because, in the current pandemic conditions, jobs will be difficult to find.¹⁴

As an example of the case quoted from the *kompas.com* page - Abdul Rahman Saleh alias Aman (26), a prisoner in Penitentiary (Lapas) Class II A Ternate who was free through the assimilation program of the Ministry of Justice and Human Rights was arrested again for theft. Safely released in an assimilation program to prevent the spread of the new corona virus or Covid-19 on 2 April 2020. After only three days free, Aman returned acting up and stole a cellphone. The theft victim reported Aman on April 5, 2020. Ternate Police arrested Aman on April 12, 2020. During the arrest, Ternate Police confiscated evidence in the form of an Oppo A3S brand cellphone that was allegedly stolen. When it was confirmed to the victim, the perpetrator also had a chance to point a knife while doing the action. For his actions, Aman was named as a suspect and subject to Article 363 of the Criminal Code with a penalty of 7 years in prison. Aman, who was previously imprisoned due to immoral cases, is currently in detention at the Ternate Police Precinct for further investigation. With this action, the North Maluku Kemenkumham Regional Office has ordered the Ternate Supervision Center to revoke the Decree on Safe Exemption. Aman, is still under the supervision of the Ternate Bawas. In addition to revoking the decree on release, Aman must serve the remaining sentence in a previous case before serving a new criminal theft. According to the North Maluku Kemenkumham Regional Office, prisoners who get assimilation programs must comply with a number of conditions that have been set, such as not being able to commit a crime, complying with legal norms, and other norms that apply in society. "So if there is a prisoner who wanders outside and is troubling citizens like drunkenness and so on, please report it and we will revoke

¹³ Dani Prabowo, *Kompas.com, Narasi Menakutkan Usai Napi Bebas akibat Covid-19 dan Upaya Cegah Kejahatan Berulang*, <https://nasional.kompas.com/read/2020/04/16/11053401/narasi-menakutkan-usai-napi-bebas-akibat-covid-19-dan-upaya-cegah-kejahatan?page=4>. 16 April 2020 11.04 a.m.

¹⁴ *Ibid*

the decree. Because this assimilation requirement is in the context of preventing Covid-19 from staying at home,”¹⁵

Basically prisoners who are given assimilation should not be carelessly left the house, they are assimilated inside the house to prevent transmission of COVID-19. But for integration, you may leave the house, but in the current conditions you must pay attention to the direction of the government. Assimilation inmates who are known to leave the house will immediately be sanctioned for revocation. They also still get guidance and supervision conducted by the Community Guidance Correctional Institution with mandatory reporting, which is done online through video calls and the like. The Directorate General of Corrections had recorded the home addresses and telephone numbers of the prisoners before they were released from prison.

They have also carried out strict assessments so that they can be released from prison. The inmates have also followed a coaching program, both personal fostering and fostering independence and have never committed disciplinary violations while serving a crime. So inmates and children who are assimilated at home have gone through behavioral assessments and are judged to be ready to return to society, live as good citizens.

Efforts to provide assimilation of prisoners with cases of general murder and child convicts to prevent the spread of COVID-19 disease are indeed agreed to not be fully effective. Because there are still many things that are completed and completed in the implementation. Prisoners who are given assimilation facilities because COVID-19 does not support positively, instead regulate what has been agreed but many still abuse. Not a few inmates who do recidivists. Actually, the factors that cause prisoners to conduct recidivists are the first internal factors or causative factors originating from the prisoners' desires themselves, namely age and level of education. Then the second is External factors or causal factors originating from outside Prisoners, namely economic conditions, environment and community stigmatization.¹⁶

The existence of abuse and violation of prisoners is allegedly because the implementation of the process of providing assimilation to prisoners is not carried out openly and honestly. This is evidenced by news published by the Indonesian vice page that says there are extortion in the provision of assimilation of prisoners because of COVID-19. According to news from the Indonesian Vice, the Chronology of

¹⁵ Fatimah Yamin, Kompas.com, *Baru Bebas berkat Asimilasi Corona, Napi Ini Ditangkap karena Mencuri*, <https://regional.kompas.com/read/2020/04/14/05550471/baru-bebas-berkat-asimilasi-corona-napi-ini-ditangkap-karena-mencuri?page=2>. 14 April 2020. 05.55 a.m.

¹⁶ Sri Adyanti Pratiwi dan I Nyoman Lemes, *Pelaksanaan Pembinaan Narapidana Sebagai Upaya Mengatasi Timbulnya Residivis di Lembaga Pemasyarakatan Kelas IIB Singaraja*, Kertha Widya Jurnal Hukum Volume 6 Nomer 1, 1 Agustus 2018.

exemption from extortion style seems systematic. Prisoners included in the program's criteria are asked to find other prisoners who are interested in being free too. After having a friend, the prisoner registers the program while depositing money with one of the prisoners who is given responsibility by a prison guard. From there, the prisoners were called one by one. A prisoner of drug case with the initials R in Lapas Lampung also claimed to be asked to pay Rp10 million in order to participate in the assimilation. "Yesterday, when I joined the assimilation program, I paid Rp. 10 million. Well, what else can I do, I want to leave. It is recorded with the name of deposit. When this was recorded while being told to prepare Rp.5 million to Rp.10 million, "After being recorded, R and other prisoners were called by the warden to give money because R's assimilation request had been accredited from Jakarta. R also said that the first batch assimilation was more expensive. compared to the next batch of assimilation, the first batch could be 10 million while the next batch of assimilation is estimated to be around 5 million. R's recognition was denied by the Ministry of Law and Human Affairs Lampung. whether or not there are charges in prisons or detention centers, we did not find them, and indeed they were not proven, "said the Head of Penitentiary Division at the Lampung Kemenkumham Office Edi Kurniadi. Kalin Cipinang Hendra Eka Putra also denied the accusation. He believes this fraud did not occur in his prison because it was impossible to do. Hendra's reason was that whoever had the right to assimilate had already been determined by a data bank from the Directorate General of Corrections (Ditjen PAS) which was used as a reference for prison management. In addition, there was an announcement from the start if the assimilation was free, which was installed in rooms in prisons. Therefore, the Acting Director General of PAS, Nugroho, has received reports that prisoners have been asked to pay to be free. He then formed a special team that had been deployed in a number of Kemenkumham Regional Offices to examine this case. In a separate statement, Menkumham Yasonna Laoly promised to take seriously the officers who committed extortion, if the investigation of his subordinates was proven. "My instructions are clear. Proof of extortion I fired," he said through a written statement, on April 16, 2020. The PDI-P politician also invited the public to send evidence or information on extortion by prison officers through social media. "To be easy, please pass on messages on my Instagram and Facebook fan pages."¹⁷

Before the Assimilation of the COVID-19 Program was implemented, Yasonna had given five instructions relating to the expenditure of fostered citizens undergoing assimilation and integration. First, he prohibits extortion. Secondly, the process of spending

¹⁷ Vice Indonesia, *Bebas Asal Bayar : Narapidana Program Asimilasi Corona Mengaku Kena Pungli Hingga Rp. 10 Juta*, <https://kurio.id/app/articles/22250663> 16 April 2020.

assimilated and integrated fostered citizens should not be complicated. Those who undergo this program, said Yasonna, are fostered citizens who have served 2/3 sentences, not undergoing subsidiary, not prisoners of corruption or drug traffickers, nor prisoners of terrorism. The third instruction is to ensure that the target people have a clear assimilation house to make it easier for the observer and the program to run well. Fourth, all fostered citizens who undergo assimilation and integration are continuously fostered and monitored regularly. Supervision is carried out with the coordination of the police and prosecutors. Inmates must be educated by correctional officers to avoid COVID-19. Then finally, the release of prisoners and through assimilation and integration is done to prevent the transmission of the corona virus in prisons or detention centers. At present, said Yasonna, it has already exceeded the capacity so it is difficult to implement the corona prevention protocol.¹⁸

Political and public policy analyst at the Syech Yusuf Islamic University Tangerang Miftahul Adib assessed that the assimilationist policy in the midst of the outbreak had been problematic from the start. For example the logic of releasing prisoners so as not to get plague, even though the virus is rampant outside prison. Indonesian Police Watch warns, criminality that has increased the last two weeks will be more frequent with the release of prisoners. In reality, of the 36 thousand prisoners who were freed faster during the corona pandemic, up to April 16 as many as 12 people were thrown back in prison because of acting again. Adib also said that the KPK and the police needed to investigate the issuance of the Permenkumham. There must be no hidden agenda in this policy which then benefits certain parties.¹⁹

Therefore, it seems that the government needs to review the policies taken in order to reduce the problems that occur in the State of Indonesia. Before enacting a policy, it is better to consider the positive and negative percentages and consider the future impact of a policy that is implemented so that it is more precise and orderly, so as not to cause new problems.

¹⁸ CNN Indonesia, Yasonna Bakal Pecat Oknum Pungli Pembebasan Narapidana Saat Corona, <https://www.cnnindonesia.com/nasional/20200416131738-12-494119/yasonna-bakal-pecat-oknum-pungli-pembebasan-napi-saat-corona> , 16 April 2020 01.40 p.m.

¹⁹ Vice Indonesia, *Bebas Asal Bayar : Narapidana Program Asimilasi Corona Mengaku Kena Pungli Hingga Rp. 10 Juta*, <https://kurio.id/app/articles/22250663> 16 April 2020.

III. CONSIDERATION OF THE REVISION OF GOVERNMENT REGULATION NUMBER 99 OF 2012 AND THE PROVISION OF ASSIMILATION OF CORRUPT PRISONERS IN THE MIDST OF PANDEMIC COVID-19

The desire of a number of DPR members to ask the government to revoke or revise Government Regulation Number 99 Year 2012, especially in relation to tightening the provision of sentence cuts, parole, and other rights for prisoners of corruption, narcotics, and terrorism, will certainly receive a lot of criticism from various parties. Moreover, the existence of these proposals with the aim of providing assimilation to corrupt prisoners, this reaps many issues that there are certain interests that benefit individuals or groups by utilizing the COVID-19 pandemic. Yasonna said there were 15,482 convicted convicted narcotics cases with a sentence of 5-10 years that had served two-thirds of the detention period. In addition, there are 300 corruption convicts over the age of 60 who have served two-thirds of their terms. There are also 1,457 special criminal convicts who suffer from chronic pain who have served two-thirds of the detention period and 53 foreign prisoners. He hopes that the prisoners can be expelled through the assimilation program at home so that discrimination does not occur.²⁰

Actually it is very unfortunate if there is a proposal for granting assimilation to prisoners with a corruption case. Because the number of corrupt convicts is actually not comparable with drug users. Drug users should be released. The desire to free corruptors is tantamount to weakening corruption eradication. Because there really is no urgency to free corruptors. Because, the cells inhabited by the corruptors are different from most prisoners. One room is occupied by one inmate, such as the one in LP Sukamiskin, Bandung, West Java. According to Indonesian Corruption Watch (ICW) researcher Kurnia Ramadhana Corruption is an extraordinary crime that must be taken into account in reducing the sentence with strict conditions. Not even on the basis of age already more than 60 years and serving two-thirds of imprisonment.²¹

²⁰ Prayogi Dwi Sulisty, Kompas.com, Upaya Merevisi PP No. 99 Tahun 2012 untuk Bebaskan Koruptor Disorot, <https://bebas.kompas.id/baca/polhuk/2020/04/02/pembebasan-narapidana-masih-terbentur-peraturan-pemerintah/>, 2 April 2020

²¹ Prayogi Dwi Sulisty, Kompas.com, Upaya Merevisi PP No. 99 Tahun 2012 untuk Bebaskan Koruptor Disorot, <https://bebas.kompas.id/baca/polhuk/2020/04/02/pembebasan-narapidana-masih-terbentur-peraturan-pemerintah/>, 2 April 2020

The release of perpetrators of crimes so far can only be done through clemency and amnesty from the President so that it is not appropriate to use PP. The release of corruptors is also in conflict with efforts to provide a deterrent effect to corruptors. Therefore, it would be far better if the government prioritized this matter for prisoners of general crimes which in quantity are far more numerous than specific criminal crimes, such as corruption. Acting KPK Spokesman Ali Fikri added, the change in a rule should be studied thoroughly and systematically first. "The KPK through the law firm was never asked for an opinion on the substance of the material to be included in the amendment to the PP. if the focus on reducing the number of prisoners is to reduce the Covid-19 outbreak related to corruption cases, then the Ministry of Law and Human Rights should need to publicly disclose what in fact prisoners are in excess of capacity in prisons today.²²

Even if the PP has to be revised, it is hoped that it will not make it easier for corrupt prisoners because of the impact and danger of corruption which is very detrimental to the state and society. With this proposal, President Jokowi firmly said that there would be no revision related to Government Regulation No. 99/2012, and even in a joint meeting with the President through Video Conference he never discussed the proposal.

Discussing the provision of assimilation, in fact all prisoners and children who have committed general crimes and those who have committed special crimes can be given assimilation. Which is excluded according to Article 65 jo. Article 2 paragraph (1) Permenkumham Number 3 Year 2018, namely those who are threatened with life or who are serving life imprisonment.²³ the requirements for granting assimilation for prisoners with specific criminal offenses are certainly different from the requirements for granting assimilation for prisoners with general criminal offenses, the requirements include:

- a. good behavior is proven by not serving disciplinary action within the last 9 (nine) months;
- b. actively participate in the coaching program well; and
- c. has served 2/3 (two thirds) of the criminal period with a minimum of 9 (nine) months.²⁴

For prisoners who commit criminal acts of corruption in addition to having to complete the assimilation requirements document, they must also complete a certificate of payment of fines and / or compensation money in accordance with the court's decision.²⁵

Provision of assimilation for corrupt prisoners when the COVID-19 pandemic is assessed is only looking for opportunities with the aim of a

²² *Ibid*

²³ Article 65 jo. Article 2 paragraph (1) Permenkumham Number 3 of 2018.

²⁴ Article 45 paragraph (1) Permenkumham 3/2018

²⁵ Article 46 paragraph (3) Permenkumham 3/2018

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special interest. So it is considered inappropriate for the current conditions. The purpose of the provision of assimilation for prisoners with general criminal offenses, purely because it avoids the spread of COVID-19 because it is indeed inadequate prison capacity. As for prison prisoners, the prison prisoners are not over capacity because for one room only has one person, so there is very little possibility that there is no possibility of spreading the COVID-19. Corruption is a serious action so that the handling and granting of deterrent effects to the perpetrators is not just done.

Then related to the revision of PP No. 99 of 2012 will also never be held, with the consideration that if the revision of PP No. 99 of 2012 is carried out and focuses on reducing the provision of assimilation to corrupt prisoners, it will only weaken the KPK as an independent institution that specializes in handling problems corruption. Therefore the government will not revise PP No. 99 of 2012.

IV. CONCLUSION

COVID-19 is a disease caused by one type of Corona Virus with a high transmission rate. How to transmit COVID-19 can be done only by contacting or direct contact with sufferers of COVID-19 and can be through objects that have previously been touched by people with COVID-19. With an easy way of transmission, the government provides policies related to the provision of assimilation to some prisoners who meet the established requirements. The policy of assimilation for prisoners aims to prevent transmission of COVID-19, this is done because the prison occupancy capacity has exceeded the specified standard or quota. The effectiveness of providing assimilation for prisoners with general criminal offenses and child convicts which have been carried out since the beginning of April 2020 raises many pros and cons. As seen from the release of prisoners and being returned to their homes, the crime rate in Indonesia has increased, there are prisoners who have been released and then committed recidivation or repetition of criminal acts. There are other different criminal acts. In addition, the provision of assimilation to inmates is also used as a venue for extortion (illegal payments) by some elements. Prisoners are asked to pay a sum of money so they can be free. Indeed the actual implementation of the assimilation was not immediately released by the guiding institution, the prisoners remained under the guidance and supervision of the guiding institution, the guidance was carried out through social media in the form of video conferencing and others. However, in practice it is not as expected. Provision of Assimilation for prisoners is considered ineffective, that in fact prisoners who only stay in prison are very low chance of contracting it, so it is possible that there will be no victims from COVID-19. The existence of this policy makes other officials argue that

all prisoners including corrupt prisoners are also proposed to be given assimilation, so that the opinion will be held related to revision PP No. 99 of 2012. But in this case the government by rejecting the proposal as well as rejecting the proposed revision of PP No. 99 2012. With the reason that prison inmates for corruption inmates are not over capacity and have adequate facilities, besides the revision raises a statement that there are personal interests and elements to weaken the KPK, therefore not approved.

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