

CURRENT COMMENTARY

CONTROVERSY OVER CORRUPTION INMATE RELEASE IN THE MIDST OF THE COVID-19 PANDEMIC

Natalia Sihotang

Faculty of Law Universitas Negeri Semarang, Indonesia

Email: nataliasihotangsh@gmail.com

Discourse on the release of prisoners in order to reduce the rate of transmission of the corona virus (Covid-19) is still a polemic. The policy is considered by some to be able to cause new problems, namely increasing crime rates. One such policy is to accelerate the release of prisoners and children through the crash of the integration rights program that has been running since last year. The basis is indeed stipulated in the Regulation of the Minister of Law and Human Rights No. 10 of 2020, Decree of the Minister of Law and Human Rights No.M.HH- 19 PK.01.04.04 Year 2020, and Director General of Corrections Circular Letter Number: PAS-497.PK.01.04.04 Year 2020.

Keywords: *Corruption Inmate Release, Controversy, Covid-19*

I. INTRODUCTION

The news of the release of prisoners in order to reduce the rate of transmission of the corona virus (Covid-19) is still a polemic. This policy is considered by some to be able to cause new problems, namely the increase in crime rates. One of these policies is to accelerate the release of prisoners and children through the crash program of integration rights

The Indonesian Journal of International Clinical Legal Education

DOI: <https://doi.org/10.15294/ijicle.v2i3.38332>

Submitted: April 16, 2020 Revised: May 22, 2020 Accepted: July 11, 2020

Available online at <https://journal.unnes.ac.id/sju/index.php/iccle>

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that has been running since last year.¹ The basis has indeed been regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020, Decree of the Minister of Law and Human Rights of the Republic of Indonesia No. M.HH- 19 PK.01.04.04 of 2020, and Circular Letter of the Director General of Corrections Number: PAS-497.PK.01.04.04 of 2020.

Based on the news contained in the Indonesian National media, it was stated that Yasonna Laoli would release prisoners considering the vulnerability of the spread of Covid-19 in prisons / detention centers / LPKA in Indonesia, which incidentally experienced overcrowding. With the release of prisoners and children in prisons and remand centers throughout Indonesia, it is hoped that it can prevent and overcome the spread of the corona virus. However, other legal consequences can occur if the scenario for releasing the prisoner does not go well. Prisoners are people who are undergoing confinement or other sanctions. Thus the definition of a prisoner is a person who commits a crime and has undergone a trial, has been sentenced to a criminal sentence and is placed in a building called a prison.²

The purpose of imprisonment is correctional which implies that it is not only the people who are protected against the repetition of evil deeds by the convict, but also the convicts themselves as people who have gone astray. They must be protected so that they will become useful human beings in Indonesian society.³ Thus, the imposition of imprisonment is no longer impressed with imprisonment accompanied by violence by treating prisoners as they wish but turns to humane treatment of those who have been sentenced to a crime and aims to re-socialize the inmates to mingle together and return to the community.⁴

¹ Agustiwi, A., & Nurviana, R. (2020). Kajian Kritis Terhadap Pembebasan Narapidana di Masa Pandemi Covid-19. *RECHTSTAAT NIEUW*, 5(1); Tantar, F., Toule, E. R. M., & Ubwarin, E. (2021). Kajian Sosio-Yuridis Pembebasan Bersyarat dan Pemberian Asimilasi Bagi Narapidana pada Masa Pandemi Covid-19 Ditinjau Dari Perspektif Tujuan Pemidanaan. *SANISA: Jurnal Kreativitas Mahasiswa Hukum*, 1(1), 34-41; Marthaningtyas, S. (2020). Implementasi Kebijakan Asimilasi Narapidana di Tengah Pandemi Covid-19. *SUPREMASI: Jurnal Hukum*, 3(1), 51-65.

² Millah, I. A. (2020). Penanggulangan Kejahatan Di Masa Pandemi Covid-19 (Dalam Perspektif Kriminologi Dan Viktimologi). *Jurnal Komunikasi Hukum (JKH)*, 6(2), 497-513; Situmeang, S. M. T. (2020). Pembebasan Narapidana dalam Perspektif Konsep Asimilasi di Masa Pandemi Covid 19. *JURNAL LITIGASI (e-Journal)*, 21(2), 220-237.

³ Christian Kamagi, T. (2019). Kajian Yuridis Tentang Pidana Penjara di Indonesia. *LEX CRIMEN*, 8(6).

⁴ Please see Moran, D., Jewkes, Y., & Lorne, C. (2019). Designing for imprisonment: Architectural ethics and prison design. *Architecture Philosophy*, 4(1), 67-81; Zaidan, M. A. (2019). Sociological Approach to Eradication Corruption in Indonesia (Alternative to Imprisonment). *The Indonesian Journal of International Clinical Legal Education*, 1(1), 3-18.

Granting parole in its implementation, not all prisoners can get it. In the past week, news has circulated that the Ministry of Law and Human Rights will also release corruption convicts in Indonesia. But how does this relate to efforts to eradicate corruption?

Eradication of corruption is a top priority in order to improve the welfare of the people and the strength of the Unitary State of the Republic of Indonesia and in the context of achieving national goals. Therefore, the policy of optimizing corruption eradication must be followed up with a comprehensive, integral, and holistic strategy in order to actually achieve the expected results.⁵ Observing the causes of corruption, it can be concluded that related to human aspects, regulations, bureaucracy, political will, commitment, and consistency of law enforcement and community culture.

For this reason, in general, the strategy implemented includes the following aspects:

- a. Increasing the Integrity and Ethics of State Administrators;
- b. Consolidation and Acceleration of Bureaucratic Reform;
- c. Strengthening Society's Anti-Corruption Culture; and
- d. Firm, Consistent, and Integrated Law Enforcement.

II. IMPROVING THE INTEGRITY AND ETHICS OF STATE ADMINISTRATORS IN THE CONTEXT OF REALIZING PROFESSIONAL AND INTEGRITY STATE APPARATUSES

The weak integrity and ethics of state administrators or apparatus are the main causes of irregularities and abuse of authority or power. The state apparatus is the main factor in the success of the government in realizing good governance, clean, and free of corruption, collusion, nepotism (KKN). However, the development of the integrity and ethics of the state apparatus cannot be carried out in a short time only through a mere bureaucratic reform program.⁶ The development of the integrity and ethics of the state apparatus must be carried out simultaneously, from school to official education. Therefore, there needs to be a reorientation of the formal education curriculum and official education by incorporating the noble values of the Indonesian nation, both those

⁵ Butt, S. (2011). Anti-corruption reform in Indonesia: an obituary?. *Bulletin of Indonesian Economic Studies*, 47(3), 381-394; Hidayat, S. N., Karjoko, L., & Hermawan, S. (2020). Discourse on Legal Expression in Arrangements of Corruption Eradication in Indonesia. *JILS (Journal of Indonesian Legal Studies)*, 5(2), 391-418.

⁶ Ridwan, R. (2012). Membangun Integritas Penegak Hukum Bagi Terciptanya Penegakan Hukum Pidana Yang Berwibawa. *Jurnal Media Hukum*, 19(1).

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originating from religion, culture and the nation's ideology, namely Pancasila.⁷

These noble values must be actualized in every activity of state administration so that efforts to build the integrity and ethics of the state apparatus can be realized concretely in everyday life, so that in the end they can form a professional and highly disciplined state apparatus. State apparatus with integrity and ethics is one of the requirements for the realization of good governance, clean and free of KKN. In many countries strengthening the integrity and ethics of public officials is one effective way to build attitudes and awareness in eradicating or at least reducing corruption effectively. Furthermore, the existence of such integrity and ethics can provide support for the realization of good governance. Thus, strengthening integrity and ethics is a must so that efforts to eradicate corruption can run well.

III. CONSOLIDATION AND ACCELERATION OF BUREAUCRATIC REFORMS IN THE CONTEXT OF REALIZING GOOD, CLEAN, AND FREE OF KKN GOVERNANCE

Bureaucratic reform is an effort to rearrange the government bureaucracy so that it is able to provide excellent service to the community. Bureaucratic reform initially covered 3 (three) main aspects, namely: Institutional (organization); Management (business process); and human resources (apparatus). a) Institutional Aspects Reforms in the institutional sector are needed to reorganize the organizational structure in order to form an organization that has the right function and size (right sizing) so as to create a modern organization that is able to support the implementation of tasks and functions in an effective, efficient, transparent and accountable manner and prioritize services to society. b) Management Aspects Reforms in the field of governance are needed so that in every task and function implementation, both juridical and administrative in nature, there are clear guidelines so that the results can be clearly measured. c) Aspects of Human Resources (HR) Reforms in the field of HR, include 3 (three) things, namely: changes in mindset, changes in work culture (culture set), and changes in behavior.

⁷ Komariah, M. (2016). Integritas Penegak Hukum (Kepolisian, Kejaksaan, KPK) dalam Tindak Pidana Korupsi. *Jurnal Ilmiah Galuh Justisi*, 4(1), 76-91; Masyhudi, M. (2019). Membangun Sistem Integritas Untuk Pemberantasan Korupsi Dalam Sistem Peradilan Pidana Indonesia. *Jurnal Hukum Ius Quia Iustum*, 26(1), 44-66.

- 1) Changes in mindset. Changes in mindset must be carried out by all state apparatus starting from the top leadership to the lowest employees. The mindset as a ruler who tends to want to be served must be changed into public service, because basically the state apparatus is a servant of the community so that it must prioritize service to the community. With the change in mindset, it is hoped that the state apparatus will have a sense of belonging, a sense of responsibility, and a sense of crisis in carrying out their main tasks, functions and authorities.
- 2) Changes in work culture (culture set). Changes in work culture (culture set) are closely related to a sense of responsibility (sense of responsibility), especially in carrying out daily tasks, especially in terms of time, budget, equipment and so on. The state apparatus is expected to always try to increase their knowledge and improve their professional capabilities by not procrastinating their work and trying their best to complete the work on time and use the budget as efficiently and accurately as possible.
- 3) Changes in behavior. As a servant of the state/community, every state apparatus must have commendable behavior, especially when carrying out its duties and functions. The state apparatus must be able to provide an example to the community, especially in terms of obedience and compliance with applicable legal norms. Do not let the state apparatus actually violate the law. Moreover, if the state apparatus is a law enforcement apparatus. The acceleration of bureaucratic reform includes 9 (nine) programs starting from the structuring of the bureaucracy, selection of CPNS acceptance, public services to the efficient use of facilities, facilities and infrastructure for civil servants. Through bureaucratic reform, it is hoped that the profile and behavior of the apparatus with high integrity, high productivity, and responsibility can be built, as well as prioritizing public services in order to create a clean, effective, efficient, transparent and accountable bureaucracy. With the reform of the bureaucracy, it is hoped that a modern government organization that prioritizes public services can be realized.

IV. DEVELOPMENT OF A COMMUNITY ANTI-CORRUPTION CULTURE IN ORDER TO BUILD AN ANTI-CORRUPTION COMMUNITY ATTITUDE AND MENTALITY AS AN EFFORT TO REALIZE GOOD, CLEAN, AND FREE GOVERNANCE OF CORRUPTION

In essence, it cannot only be carried out by state apparatus or government agencies. Because in essence, there are 3 (three) stakeholders in good, clean and free governance, namely: the state, the private sector, and the community. State or government, the concept of government is basically a state activity, but further than that it also involves the private sector and community institutions; private sector, private sector actors include private companies that are active in interactions in the market system, such as: trade processing industry, banking, and cooperatives, including informal sector activities; and society, in the context of the state, community groups are basically in the middle or between the government and individuals, which include both individuals and community groups who interact socially, politically, and economically. State administration also greatly determines efforts to realize good, clean, and free of KKN governance.

So far, society's values only respect a person from the material aspect, so that the attitude of the community tolerates corrupt behavior a lot. Especially if the proceeds of corruption are partly donated to the community for social and religious activities. It is as if this has blotted out the sins of the perpetrators of corruption. Therefore, it is necessary to straighten the values of society like this because it tends to encourage corrupt practices. Efforts to straighten values in society can be done through legal counseling, anti-corruption education that has been started early in school, the formation of an anti-corruption community, exemplary, and anti-corruption campaigns carried out in various media, especially the mass media.⁸ With a massive anti-corruption campaign movement and instilling anti-corruption values from an early age, it is hoped that it will increase public understanding of how dangerous

⁸ Komalasari, K., & Saripudin, D. (2015). Integration of anti-corruption education in school's activities. *American Journal of Applied Sciences*, 12(6), 445; Swanda, I. M., & Nadiroh, U. (2018). The importance of anti corruption education teaching materials for the young generation. In *Journal of Physics: Conference Series* (Vol. 953, No. 1, p. 012167). IOP Publishing.

corruption is for the life of the nation and state.⁹ In addition, the perpetrators must realize that the benefits obtained from corruption are not proportional to the suffering they will receive (regret up to seven generations).

V. FIRM, CONSISTENT, AND INTEGRATED LAW ENFORCEMENT IN THE FRAMEWORK OF REALIZING JUSTICE, LEGAL CERTAINTY, AND BENEFIT, NAMELY THE EMERGENCE OF A DETERRENT EFFECT FOR CORRUPTORS AND PREVENTING POTENTIAL CORRUPTORS

Consistent and integrated law enforcement is very important for the realization of the pillars of justice and legal certainty. The pillars of justice and legal certainty are the main foundations of the democratization process. Democratization is one of the principles of good governance, because democratization opens up space for the public to participate in the administration of the state. In addition, legal certainty is also very necessary for businesses in investing in a country. Because without legal certainty, the risk of doing business cannot be predicted so that it can reduce the investment climate. The small number of investments will reduce new jobs for the community, so that there will be a lot of unemployment which has the potential to pose a threat and disturbance to security. Furthermore, consistent and integrated law enforcement will also bring benefits to the community, namely the emergence of a deterrent effect, so that it can prevent someone who wants to commit corruption.

Another benefit is the growth of public trust in law enforcement efforts and law enforcement officials, so that public support for law enforcement agencies will be strengthened. On the other hand, if there is inconsistency and incoherence in law enforcement, the public will judge that in the law enforcement process there is a tug of war of interest, so that trust in law enforcement will weaken. The implication is that this will weaken the legal culture and compliance with the law by the community. Thus, the eradication of corruption should not only be concentrated in one institution.

⁹ Davidson, J. S. (2007). Politics-as-usual on trial: regional anti-corruption campaigns in Indonesia. *The Pacific Review*, 20(1), 75-99.

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- 1) The scope of the collective agreement includes:
- 2) Prevention of corruption;
- 3) Handling cases of criminal acts of corruption;
- 4) Refund of state losses in cases of corruption;
- 5) Legal protection for whistle-blowers and witnesses of perpetrators who cooperate (whistle blower or justice collaborator) in disclosing criminal acts of corruption;
- 6) Personnel assistance in handling corruption cases; and
- 7) Joint education/training in handling corruption cases;

However, in this case, all the efforts that have been made by the government in dealing with criminal acts of corruption in Indonesia seem to have no power in the midst of the policies being taken by the Minister of Law and Human Rights. The solution I gave was that the government did not issue a policy to release corruption convicts, because in my opinion the government's goal of reducing corruption was never achieved. Although releasing prisoners is a form of respect for human rights in the criminal justice system, for corruption convicts this cannot be tolerated, because the Crime of Corruption is an extraordinary crime.

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Conflicting Interest Statement

All authors declared that there is no potential conflict of interest on publishing this article.

Funding

None

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

Cite this article as:

Sihotang, N. (2020). Controversy over Corruption Inmate Release in the Midst of the Covid-19 Pandemic. *The Indonesian Journal of International Clinical Legal Education*, 2(3), 235-244. <https://doi.org/10.15294/ijicle.v2i3.38332>