

Correctional Institution Policy (prison) In Assimilating Covid Virus 19 (Corona)

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Abstract--The Covid-19 pandemic has become a national disaster for Indonesia, in this case the Indonesian Ministry of Law and Human Rights issued a policy to assimilate prisoners to prevent them from spreading Covid-19. This research uses descriptive qualitative research methods with a literature study approach from various sources of books and news. This study aims to see what the reasons for the government in providing policies for prisoners in the midst of Covid-19 and how to implement the policy of releasing prisoners in the midst of Covid-19. The results of this study are the issuance of government policies in the form of policies by the Minister of Law and Human Rights in the form of Decree of the Minister of Law and Human Rights No. M.HH-19.PK.01.04.04 Year 2020 and also Permenkumham No. 10 of 2020 is the right thing and has a positive impact on the sustainability of the prison system. From reducing prisoners in prisons through assimilation and integration to preventing Covid-19 for inmates, the success in reducing overcrowded prison numbers, saving substantial amounts of state money and increasing the productivity of prisoners in prisons.

Keywords : *Assimilation; Policy; Prison*

I. INTRODUCTION

Prisoner release policy in an effort to reduce the rate of spread of the corona virus is the authority of the Government of Indonesia through the Ministry of Law and Human Rights. This is based on government concerns about the spread of the corona virus in prison. Overcrowded or overcapacity in prison shows that concern is not a joke.

In making prisoner release policy related to the corona outbreak, the government established it through an assimilation program and the right of integrity. Assimilation program is the process of guiding prisoners and children carried out by mixing prisoners and children in the community. Furthermore, the right of integrity is granting parole, clear leave and conditional leave for prisoners who commit criminal offenses other than criminal acts of terrorism, narcotics and precursor psychotropic narcotics, corruption, crimes against organized or foreign nationals. This policy is implemented based on Minister of Law and Human Rights Regulation Number 10 of 2020 and Minister of Law and Human Rights Decree Number M.HH-19.PK.01.04.04 of 2020 concerning Expenditures and Exemptions of

Prisoners and Children through Assimilation and Integrity in the Context of Prevention and Countermeasure of Spread Corona.

II. PROBLEMS

From the description above, the formulation of the problem in this study is related to what the government's reasons for providing policies towards prisoners in the midst of covid 19 and how the implementation of prisoner release policies in the midst of Covid-19.

III. RESEARCH METHOD

The type of research used is the literature using normative juridical methods, with a statute approach. Data collection techniques in this study use normative legal materials or literature. Analysis of legal materials in this study uses qualitative methods, namely by parsing quality legal materials based on logic and statutory regulations, which have the quality as required legal materials and / or legal materials. which one is unnecessary or has nothing to do with the research material [1].

IV. DISCUSSION

A. The Government's Rationale in providing Policy towards Prisoners in the Middle of Covid-19.

The corona virus outbreak (COVID-19) has a tremendous impact on humanity. This is indicated by the number of policies issued by various countries in order to be able to cut off the spread of this virus, such as in European countries, in this case Russia, France, the Netherlands, Germany and Italy. These five countries issued a lockdown policy in their respective countries in order to be able to emphasize the positive case of COVID-19 in their country.

In Indonesia, there are several policies issued by the government in dealing with the corona virus pandemic, such as the existence of Large Scale Social Restrictions (PSBB) policies that have been implemented in

various regions, providing food aid to marginal communities, prohibiting going home, and enforcing Work From Home activities (WFH). However, there is a policy issued by the government, in this case the Ministry of Law and Human Rights (Kemenkumham) which the author values will cause new problems in the community. The policy is an assimilation process for prisoners (inmates).

Assimilation is a government program which expels prisoners in prison. This program is one of the efforts made by the government to reduce the number of positive cases of the corona virus in Indonesia. The assimilation policy stated in PERMENKUMHAM number 10 year 2020 concerning the provision of assimilation and integration. During the response to the prevention of the corona virus in Indonesia, it was stated that the Ministry of Law and Human Rights (Kemenkumham) had sent home around 36 thousand more prisoners. This figure is a number that is not small, which must be carried out strict supervision in its implementation.

In its implementation, this program has caused controversy in the community. This controversy is not baseless, but there is some concrete evidence that underlies the emergence of cons in society. One concrete proof is the existence of criminal cases committed by as many as 27 people assimilation prisoners. The crimes committed by these inmates vary, such as theft by violent acts, sexual harassment, and motor vehicle abuse. Crimes committed by the prisoners of the assimilation program are spread in various regions, such as Surabaya, Semarang, East Kalimantan, and Bali.

In the author's view, that the assimilation program is a blunder undertaken by the government in suppressing the spread of the corona virus in Indonesia. In addition, the authors consider that the assimilation program issued by the Ministry of Law and Human Rights (Kemenkumham) is a funny thing, where prisoners who are in prison are expelled, but people who are outside the prison are threatened with imprisonment, namely by pretext of violating PSBB. Referring to Law number 6 Year 2018 on Health Quarantine, precisely in article 93 it is stated that anyone who intentionally violates the rules or obstructs health quarantine will be subject to sanctions of 1 year imprisonment and a maximum fine of Rp. 100,000,000,000.00. In addition, there was a statement from the Minister of Justice and Human Rights Yasonna Laoly who

considered that a person could be said to be humane if they supported the prisoner's assimilation program. The existence of this prisoner assimilation program shows the government seems to want to play around with law enforcement in Indonesia. This program also has the potential to disturb the security and peace of the community, which inmates have a great opportunity to commit criminal acts.

Therefore, the authors conclude that the assimilation program issued by the Ministry of Law and Human Rights is not necessary and the government should immediately revoke this assimilation policy. This is done so that people's lives can be safe.

B. Application of Prisoner Relief Policy in the Middle of Covid-19

The issuance of Permenkumham Number 10 of 2020 concerning the provision of assimilation and integration rights for prisoners and children in the context of preventing and controlling the spread of covid-19, Kemenkumham Number M.HH-19.PK.01.04.04 of 2020 concerning the release and release of prisoners and children through assimilation and integration in the context of preventing and overcoming the spread of covid-19, and the Directorate General of Circular Letter No. PAS-497.PK.01.04.04 about the same thing, then as of 1 May 2020 almost 40,000 prisoners were returned to their families and communities through the policy.

The policy is a common policy, because as stipulated in Article 14 of Law Number 12 of 1995, inmates basically have several rights and 2 (two) of them constitute the right to obtain assimilation and integration stipulated further in Permenkumham Number M.HH - 19.PK.01.04.04 of 2020 concerning the conditions and procedures for the implementation of assimilation, parole, parental leave and parole leave. Therefore, prisoners are certainly not merely freed, but must fulfill several conditions (substantive and administrative) as well as provisions that do not conflict with the public interest and sense of community justice.

The policy is a policy that is always implemented every year. What's more, in this year's scheme there are 55,000 inmates who are indeed entitled to obtain parole. However, with the Covid-19 pandemic, the release was carried out at the same time. This has subsequently become the public spotlight, namely the government is considered to be too hasty in making decisions to release the prisoners which

results in increased crime rates in such situations.

This policy is also motivated by recommendations from the World Health Organization (WHO), the United Nations Office on Drugs and Crime (UNODC) and several other institutions, where the recommendations are not only addressed to Indonesia, but to all countries in the world.

WHO has identified that overcrowding that occurs in prisons or other places of detention can actually be one of the media to spread Covid-19. Therefore, to prevent outbreaks in prison, the government inevitably needs to consider these recommendations and the only option that can be implemented at this time is freeing prisoners.

The implementation of prisoner release policy in the midst of the Covid-19 pandemic in Indonesia can be said to be not yet fully accurate, because it is feared that it will cause new problems, which will threaten the true purpose of the policy itself. Some time ago, the community was troubled by a series of criminal cases committed by several prisoners who had just been released through assimilation rights. As it is known that repetition of criminal acts or recidivists is not a new thing in the world of law. Which repetition of the crime is considered as a continuation of evil intentions. This becomes even more worrying when in a situation like today, where when a prisoner is released does not necessarily guarantee to avoid difficulties in fulfilling his life's needs, one of which is due to the difficulty of finding work so there is great potential for ex-convicts to commit a criminal offense again, while the acts crimes committed vary such as criminal acts of theft, violence to become a drug courier. However, even with the excuse of fulfilling the necessities of life, it cannot be used as a justification for ex-convicts who have committed the crime, especially if it has caused unrest in the community.

Apart from fulfilling the necessities of life, another factor that drives recidivists is the ineffectiveness of the supervisory function by the Correctional Institution (Bapas), this is due to the still limited human resources in Bapas itself and it is also known that Bapas does not provide guidance in the usual manner, when it only relies on existing technology, so it cannot provide optimal service.

The policy to release Prisoners in the middle of Covid-19 is an inaccurate step and is only a temporary solution. Normatively, assimilation is contained in Article 1

Paragraph (7) of Law Number 12 Year 1995 concerning Corrections, which is a process of fostering prisoners and correctional students carried out by mixing prisoners and correctional students in public life [2].

Assimilation as a social process that is characterized by efforts to reduce the differences that exist between individuals or human groups and also includes efforts to enhance the unity of actions, attitudes and mental processes by paying attention to interests, goals -common goals. If someone gets assimilation into a group of people then he no longer distinguishes himself with that group of people [3].

This is in line with the function of the penitentiary system in Article 2 of Law Number 12 of 1995, namely the correctional system functions to prepare prisoners in order to be able to integrate healthily with the community, so that they can play the role of a free and responsible member of society again. However, carrying out assimilation in the conditions of the Covid-19 pandemic is not an appropriate policy, it is based on social and economic conditions that are not stable to support the implementation of it. Then is this a state alibi to save expenses? Because as long as prisoners are still citizens of the state, it should be the state's obligation to fulfill prisoners' rights as stipulated in Article 14 of Law Number 12 Year 1995. Which in the first paragraph contains several state obligations to fulfill health and physical and spiritual care services. for fostered residents; contained in points (b) and (d). What the state cannot guarantee if its fostered citizens are assimilated in the midst of this pandemic [4].

Aside from being in the realm of health, assimilated prisoners also do not have a clear mechanism other than coaching from prison regarding how he starts his business, even though he is faced with a difficult situation to find work in the midst of this pandemic. Especially in the pre-employment assistance policy package scheme that has been rolled out by the government, it does not mention pre-employment assistance for ex-convicts who have been released. This condition is not impossible, instead it becomes a boomerang for the government, this is indicated by the occurrence of criminal cases that have been carried out again by the assimilated prisoners because of the demands of fulfilling the necessities of life.

Furthermore, prisoner release policy is based on the prisoner's capacity that exceeds the capacity of detention centers is basically an upstream problem. The overcapacity of prisons that occurred was motivated by

government policies that still prioritized prison sentences as an effort to provide a deterrent effect in law enforcement. This is exacerbated by the large percentage of the use of imprisonment in the statutory provisions of the invitation by means of infrastructure available that is not balanced. As long as there is no policy change in law enforcement other than criminal punishment, prisons and remand centers will always experience excess capacity [5].

To solve this problem the government should implement other systematics in law enforcement, especially for cases classified as mild, the restorative justice system can be considered as an effort to resolve this excess capacity problem. The concept of restorative justice is an approach that focuses more on the conditions for creating justice and balance for the perpetrators of crime and victims.

Criminal procedures and procedures that focus on criminal justice are transformed into a process of dialogue and mediation to create agreement on a more equitable and balanced settlement of criminal cases for victims and perpetrators. Alternative non-imprisonment penalties that can be carried out such as supervision and community service are seen as more efficient than imprisonment because they can achieve the goal of fostering or rehabilitating prisoners before they can finally be free and return to life in the community. This is in accordance with the theory of relative criminalization put forward by Muladi, where punishment is not in retaliation for the wrongdoing of the offender but a means of achieving a useful goal [4].

V. CONCLUSION

The issuance of Government policies in the form of policies by the Minister of Law and Human Rights in the form of Decree of the Minister of Law and Human Rights No. M.HH-19.PK..01.04.04 Year 2020 and also Permenkumham No. 10 of 2020 is the right thing and has a positive impact on the sustainability of the prison system. From reducing prisoners in prisons through assimilation and integration to preventing Covid-19 for inmates, the success in reducing overcrowded prison numbers, saving substantial amounts of state money and increasing the productivity of prisoners in prisons.

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