

Analysis Of The Effectiveness Of The Self Assimilation Program During The Covid-19 Pandemic (Review Of Permenkumham Number 43 Year 2021)

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ABSTRACT

The determination of the Public Health Emergency and the Covid-19 Pandemic Outbreak as a national disaster by the Government has an impact on Government policies that must be issued in order to maintain national stability. Minister of Law and Human Rights Regulation No. 10 of 2020 regulates the independent assimilation policy for prisoners considering prison overcapacity and is expected to be an alternative to the spread of Covid-19. The Permenkumham was even extended for two amendments, namely Permenkumham No.32 of 2020 and Permenkumham No.43 of 2021. The study aims to analyze the effectiveness of the assimilation program in several Indonesian prisons based on the stipulated Permenkumham. This research is a normative legal research with a sociological juridical approach related to actual problems related to the Effectiveness of the Independent Assimilation Program in the Covid-19 Pandemic Period. Some of the conclusions reached include: 1) Permenkumham No. 43 of 2021 does not provide assimilation rights to prisoners of terrorism, narcotics, corruptors, other serious crimes, and prisoners who repeat a crime; 2) that the implementation of the independent assimilation program in the midst of prison overcapacity is only a temporary solution, alternatives to non-prison punishment such as supervision and community service are seen as more efficient than prison law because they can achieve the goal of coaching ; 3) several obstacles in implementing the assimilation program during the COVID-19 pandemic,

ABSTRAK

Penetapan Keadaan Darurat Kesehatan Masyarakat dan Wabah Pandemi Covid-19 sebagai bencana nasional oleh Pemerintah berdampak pada kebijakan Pemerintah yang harus dikeluarkan dalam rangka menjaga stabilitas nasional. Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 10 Tahun 2020 mengatur kebijakan asimilasi mandiri bagi narapidana mengingat kelebihan kapasitas lapas dan diharapkan dapat menjadi alternatif penyebaran Covid-19. Permenkumham tersebut bahkan diperpanjang dua kali perubahan, yaitu Permenkumham No.32 Tahun 2020 dan Permenkumham No.43 Tahun 2021. Penelitian ini bertujuan untuk menganalisis efektivitas program asimilasi di beberapa Lapas di Indonesia berdasarkan Permenkumham yang telah ditetapkan. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan yuridis sosiologis terkait dengan permasalahan aktual terkait Efektivitas Program Asimilasi Mandiri di Masa Pandemi Covid-19. Beberapa kesimpulan yang dicapai antara lain: 1) Permenkumham Nomor 43 Tahun 2021 tidak memberikan hak asimilasi kepada narapidana terorisme, narkoba, koruptor, tindak pidana berat lainnya, dan narapidana yang mengulangi tindak pidana; 2) bahwa pelaksanaan program asimilasi mandiri di tengah kelebihan kapasitas lapas hanya merupakan solusi sementara, alternatif pidana non lapas seperti pengawasan dan pengabdian masyarakat dipandang lebih efisien daripada hukum lapas karena dapat mencapai tujuan pembinaan ; 3) beberapa kendala dalam pelaksanaan program asimilasi selama pandemi COVID-19,

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I. INTRODUCTION

The Ministry of Law and Human Rights (hereinafter abbreviated as Kemenkumham) is part of the Executive Agency under the President with one of its main duties, namely the formulation, determination, and implementation of policies in the correctional sector which also responds to the Determination of Emergency Status and the determination of the Covid-19 Pandemic outbreak. The Ministry of Law and Human Rights through the Directorate General of Corrections is the institution that commands the correctional system, a series of criminal law enforcement units in Indonesia whose implementation cannot be separated from the development of a general conception of punishment.(Priyatno, 2006).

Article 2 of Law Number 12 of 1995 concerning Corrections states that "the correctional system is organized in the context of prisoners realizing their mistakes, improving themselves, and no longer repeating crimes that have been committed". It can be understood that the correctional system aims to return prisoners to be good citizens, because basically every human being has a good conscience. The correctional system in Indonesia has facilities in an effort to fulfill the rights that prisoners can have as prisoners in the form of intramural coaching, namely rehabilitation programs and extramural coaching, namely social reintegration programs.(Laoly, 2019).

Every country has problems faced and resolved quickly and precisely. The government is required to maintain national security stability so that the system runs well. The Government experienced the same thing when the Covid-19 outbreak hit the whole world, including Indonesia. All aspects are affected by the outbreak, from social, economic, political, to legal. The government declared a Health Emergency Status through Presidential Decree no.11 of 2020 concerning the Determination of Public Health Emergency and stipulating the Covid-19 Pandemic outbreak as a national disaster since March 14, 2020(Zainab, 2022). This has an impact on other policies related to the Covid-19 Outbreak for one goal, namely the disappearance of Covid-19 in Indonesian territory.

The government issued a policy through the Regulation of the Minister of Law and Human Rights (hereinafter abbreviated as Permenkumham) No. 10 of 2020 concerning the Terms and Procedures for Providing Assimilation, Conditional Release, Leave Before Release, and Conditional Leave for Prisoners and Children in the context of Prevention and Overcoming the Spread of Covid -19. In this regulation, there is a new rule in providing assimilation for prisoners during the Covid-19 Pandemic outbreak, which is carried out in their respective homes with the reason that most of the correctional institutions experience overcapacity so that it is expected to be an alternative to minimize the spread of Covid-19 in Correctional Institutions. . Cause based on data *Center Detention Studi* together with the Directorate General of Corrections Team, the over capacity of prisons and detention centers in Indonesia reached 105 percent in the position in January 2022. This percentage of over capacity will continue to rise until 2025 if you refer to research results(Hajir, 2022). Another benefit of this assimilation program is also to save the state budget in terms of accommodation costs for prisoners in prisons.

The stigma of society that considers prisoners to be sinful criminals is also one of the reasons people find it difficult to accept ex-convicts back. Moreover, in some cases, there are indeed criminal acts committed by inmates who receive the assimilation program(ANM Subroto, 2022).

II. RESEARCH METHODS

This research uses normative legal research, which is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced.(Marzuki, 2010). The approach used is

a sociological juridical approach, namely an approach that is guided by legislation, legal literature, and reference books related to the actual problems that will be discussed in this study. (Suliantoro, 2020), in this case relating to the Effectiveness of the Home Assimilation Program in the Covid-19 Pandemic Period, it is reviewed according to the Minister of Law and Human Rights No. 43 of 2021 concerning Second Amendment to Permenkumham No. 24 of 2021 concerning Amendments to Permenkumham No. 32 of 2020 concerning Terms and Procedures for Granting Assimilation, Conditional Release, Leave Before Free, and Conditional Leave for Convicts and Children in the context of Prevention and Overcoming the Spread of Covid-19.

III. RESULTS AND DISCUSSION

1. Implementation of the Home Assimilation Program during the Covid-19 Pandemic based on Minister of Law and Human Rights No. 43 Year 2021

Law No. 12 of 1995 concerning Corrections is used as the basis for determining assimilation program policies with the aim of being able to return to being a full human being, realizing mistakes, improving positive individual qualities, not repeating criminal acts, so that they can return to being present in the midst of family and friends. community, live a normal life, and play an active role in development.

The provisions regarding the provision of assimilation for prisoners and children during the COVID-19 pandemic are slightly different from the provisions for granting assimilation in general. If in Permenkumham No. 03 of 2018 convicts of terrorism, narcotics, corruption, and crimes of state security as well as serious human rights crimes are still given the right of assimilation with stricter conditions, namely having good behavior for the last 9 months and having served 2/3 of the criminal period, then on Permenkumham No. 32 of 2020 the high-class inmates are not given the right of assimilation as regulated in more detail in Article 11 paragraph (1). Article 11 paragraph (4) also explains that prisoners and children who repeat a crime do not get the right of assimilation.

In its development, considering the massive spread of COVID-19 in Indonesia, the Home Assimilation Program regulated in Permenkumham No. 10 of 2020 was enforced until December 31, 2020 and again extended the assimilation program during the Covid-19 Pandemic to two times. The first extension is Permenkumham No. 32 of 2020, where the limit of the assimilation program is until May 31, 2021. While the second extension is Permenkumham No. 43 of 2021 with a program limit until June 30, 2022.

Prisoners who undergo the Assimilation Program in their respective homes remain the duties and responsibilities of the Correctional Center based on the Law of the Republic of Indonesia Number 12 of 1995 concerning Corrections. In Article 6 paragraph 1 it is stated that "Guidance for inmates is carried out in prisons and guidance for inmates is carried out by the Correctional Center". In this case, integrated and consistent supervision and guidance outside the institution will be directly guided by the Community Counselor to ensure that all prisoners who become Correctional Clients comply in carrying out assimilation programs during the Covid-19 Pandemic in their respective homes. Then a policy was issued that supervision and mentoring activities are carried out online to each correctional client via short messages, telephone, video calls, and various other technology-based communication instruments. This is based on the Circular of the Director General of Corrections Number PAS20.PR.01.01 of 2020 concerning Progressive Steps in Overcoming the Spread of Covid-19 at the Correctional UPT. (Pradana, 2022).

From the several explanations regarding the implementation of the Home Assimilation Program above, it can be concluded that the coaching program given to prisoners underwent a long process. Starting from inmates to inmates in prisons, then changing status to Correctional Clients under the supervision of the Correctional Center, after which prisoners get the right to parole to later become ex-convicts who are ready to return to be present in the midst of society to become a better person.

2. The Effectiveness of the Implementation of the Independent Assimilation Program during the Covid-19 Pandemic

Effectiveness is an effort to see the consistency of the rule of law and its implementation so that there will be a balance between law as theory and law as practice (Djaenab, 2018). Things that affect the effectiveness of a regulation include professionalism and optimization of the role and authority of law enforcement officers (Taryadi, 2020). Soerjono Soekanto even assessed that the benchmarks for effectiveness in law enforcement are five factors, namely law, law enforcement, facilities or supporters, law enforcement community, and culture. (Soekanto, 2009).

The Government's decision to grant assimilation rights for every prisoner who meets the requirements based on Permenkumham No. 43 of 2021 concerning Second Amendment to Permenkumham No. 24 of 2021 concerning Amendments to Permenkumham No. 32 of 2020 concerning Conditions and Procedures for Granting Assimilation, Conditional Release, Leave Before Free, and Conditional Leave for Prisoners and Children in the context of Prevention and Control of the actual spread of Covid-19 bring a variety of great impacts on society in general and the country in particular.

1. The capacity of prisons throughout Indonesia is starting to loosen. Based on the Correctional System data, there was a reduction in the number of prisoners by 43,923 for the period March 2020 to March 2022 (sdppublik.ditjenpas.go.id). This certainly has a positive impact on efforts to suppress the transmission of the Covid-19 virus in the prison environment.
2. Prison Operational Expenditure Budget is automatically reduced. With the reduction in the number of prisoners for the 2020-2022 period, the budget for accommodation and consumption of prisoners will also decrease, so that the state saves approximately 5 million rupiah per day. (ditjenpas.go.id).
3. Guidance of prisoners in prisons becomes more optimal, this is because there is a balance ratio between inmates and community mentors (Jazuli, 2021).

Several prisons have implemented the Independent Assimilation Program in their homes, some even claim that the policies issued by the Ministry of Law and Human Rights can be said to be effective. The Process of Providing Prisoners Assimilation during the Covid-19 Pandemic at the Class IIB Manna Bengkulu Selatan Rutan that an independent assimilation program during the COVID-19 pandemic has proven effective in reducing the high occupancy capacity of prisons and detention centers, so this has an impact on the effectiveness of reducing the spread of COVID-19 and government budget efficiency (ANM Subroto, 2022). Likewise, the independent assimilation program in their respective homes carried out by the prison and supervised by the Palembang Class 1 prison can be said to be effective. If this program does not run, the overcapacity will no longer be contained. Although there are still prisoners who repeat criminal acts, it does not reflect the failure of the overall policy (Pradana, 2022).

The process of coaching inmates at the Cipinang Class II Correctional Institution cannot be said to be successful because some of the skill instruments of the inmates are inadequate so that coaching is not running smoothly, plus the situation of overcapacity makes the prison atmosphere very unfavorable. Although the Independent Assimilation program was held in an effort to prevent the spread of Covid-19, it was not yet supported by good and maximum monitoring facilities. In addition, the impact of Covid-19 on the community's economy is also one of the factors that inmates undergo assimilation programs as if they are only a burden on the community for their presence. (Yuliandhari, 2020). Similarly, the guidance and supervision process carried out by the Makassar Class I Fathers for Correctional Clients undergoing the home assimilation program has not been fully effective. (Nirmala, 2021). Likewise, the implementation of Home Assimilation for Fostered Children during the Covid-19 Pandemic Period at the Class II Bandung Special Child Development Institute was declared ineffective, this is because the implementation not only had a positive impact, but also had a negative impact, namely due to a lack of proper control and supervision. It is more intensively given when they are in the Correctional Institution (Jamaludin, 2021).

based on the theory of effectiveness put forward by Soerjono Soekanto, the implementation of the prisoner assimilation program through the independent assimilation program that was put in place to reduce the spread of Covid-19 in the midst of prison overcapacity is a temporary solution. The government should use a restorative justice approach as an effort to reduce prison overcapacity. Non-prison punishment alternatives such as supervision and community service are seen as more efficient than prison laws because they can achieve the goal of fostering or guiding prisoners before finally being released and living in the community.

3. Barriers to the Implementation of the Independent Assimilation Program during the Covid-19 Pandemic

Based on the results of the study, there are several obstacles experienced by Correctional Institutions and Correctional Centers in carrying out assimilation programs during the COVID-19 pandemic:

1. The society's negative view that ex-convicts are still criminals, because many phenomena of ex-convicts repeating the same actions because of economic demands (Frengky Hartono, 2022). Negative views make ex-convicts feel insecure and feel that efforts to be a good person are in vain. This has spurred ex-convicts to repeat the crimes they have committed.
2. Pokmas support has not been maximized in supporting the Home Assimilation Program, even though community participation in supporting the success of the assimilation program is very much needed. The more working groups that accept the presence of prisoners, the higher the success rate of the independent assimilation program (Astuti, 2017).
3. Not all prisoners have a clear family background, this also results in work and economic conditions which also become unstable because there is no support from the closest family (YIIFM Subroto, 2022). This seems to have caused the failure of coaching that has been carried out by ex-convicts while at the Correctional Institution and Correctional Center.

There are several efforts made by several prisons in overcoming obstacles to the implementation of the Assimilation Program, including:

1. Conducting Cooperation with Pokmas, this is the task of the Correctional Center through the Community Counselor to optimize cooperation with external parties in an effort to streamline the assimilation program. Several Correctional Centers collaborate and assist in the self-help guidance process for correctional clients (Anwar, 2022), one of which is with community business groups in the form of entrepreneurship training. The follow-up of a collaboration in the assimilation program is needed to equip prisoners with entrepreneurial skills so that they can live independently and not repeat crimes on the basis of economic downturn.
2. Easing the Assimilation Submission Administration Process, considering the massive spread of Covid-19, the Ministry of Law and Human Rights through the Director General of Corrections provides convenience in managing the assimilation process, namely no Justice Collaboration Letter (JC) is needed anymore. (Frengky Hartono, 2022)
3. Increasing Public Literacy on the Contemporary Correctional System (Wibowo, 2021), this is very necessary to educate the general public that the criminal system in Indonesia has changed the concept from a retaliation-based prison system to a coaching-based correctional system.

IV. CONCLUSION

Some conclusions that need to be underlined are that Permenkumham No. 43 of 2021 does not provide assimilation rights to prisoners of terrorism, narcotics, corruptors, other serious crimes, as well as prisoners who repeat a crime. As for the implementation of Independent Assimilation, it is directly supervised by the Correctional Center through the Community Counselor who becomes the mentor for prisoners who switch status from inmates to correctional clients.

The Government's decision grants assimilation rights to every prisoner who meets the requirements have a great impact on society in general and the country in particular, including: The capacity of prisons throughout Indonesia is starting to loosen, the Prison Operational Budget is

automatically reduced, and the Guidance of Prisoners in Prisons is becoming more optimal. Although there are several obstacles in its implementation, including negative public views on ex-convicts, Pokmas support has not been maximized, and not all prisoners have a clear family background. However, there are several efforts that have been made by several prisons in overcoming obstacles to the implementation of the Assimilation Program, including Cooperation with Pokmas, Easing the Administrative Process of Submitting Assimilation, Increasing Public Literacy on the Contemporary Correctional System.

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