

The Effectiveness of Providing Integration in Reducing Overcapacity at the Penitentiary

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Abstract -- *The government's policy of freeing prisoners in the midst of the Covid-19 pandemic caused controversy in the community. Some parties expressed objections to concerns about rising crime, while others actually supported the efforts to prevent and spread Covid-19. The formulation of the problem in this study are: 1) How is the effectiveness of granting integration rights to prisoners in reducing overcapacity in correctional institutions? 2) What are the obstacles in giving integration rights in reducing overcapacity in correctional institutions? The author in this study uses a sociological juridical approach. Related to the effectiveness of providing integration in reducing overcapacity in correctional institutions is reaping the spotlight. That is because there are factors that the community considers that the government's steps are not appropriate and thinks that prisoners are better placed in prison to undergo physical distancing under supervision than outside who are potentially exposed to the virus. Prisoner release policy is a temporary solution. The measure is considered insufficient to prevent the spread and transmission of Covid-19 in prison facilities because the main cause of transmission of disease in detention is government policy that still prioritizes prison sentences with law enforcement.*

Keywords: *Effectiveness; Integration; Overcapacity*

I. INTRODUCTION

Indonesia has at least 524 units of detention and prisons. Data from the correctional database system shows that most prisons and remand centers are overcapacity, some of which are even above 300% of their actual capacity. This condition makes the prison become a crime university for its residents. The government's move to provide assimilation and integration rights in the form of parole for more than 30,000 prisoners through Minister of Justice and Human Rights Ministerial Regulation Number 10 of 2020 concerning Terms of Granting Assimilation and Integration Rights for prisoners and children in the context of preventing and controlling the spread of Covid-19. The right of integration is the right of prisoners

to get a training program to integrate prisoners and children into the life of the community after fulfilling the specified requirements. Minister of Law and Human Rights Regulation No. 10 of 2020 has stipulated the conditions for granting assimilation and integration rights during Covid-19, for prisoners who have served 2/3 of their crimes and their children 1/2 their convictions until 31 December 2020.

II. PROBLEMS

Based on the description above, that in this case can be drawn a problem formulation that the author will examine, namely:

1. What is the effectiveness of giving integration rights to prisoners in reducing overcapacity in correctional institutions?
2. What are the obstacles in granting integration rights in reducing overcapacity in correctional institutions?

III. RESEARCH METHODS

The method that I use in this research is through a sociological juridical approach. The method used is descriptive using a qualitative approach. Data collection techniques use primary data and secondary data and data analysis techniques use qualitative methods, namely assessing applicable legal provisions and what happens in reality in society.[1]

IV. DISCUSSION

A. *Effectiveness of granting integration rights in reducing overcapacity in correctional institutions.*

The right of integration is the right of prisoners who get a training program to integrate prisoners and children into the life of the community after fulfilling the specified requirements. The right of integration is one of the rights that has been regulated by the Penal Act. The

right of integration in the form of granting parole, pre-parole leave and parole leave.[2]

Integration in the Big Indonesian Dictionary means renewal to become a unified whole or round. The right of integration in correctional services also has the same meaning, namely the granting of this right later is to re-integrate prisoners into society.

Integration granting program in the form of parole to prisoners has a relatively longer intensity of time to socialize themselves in the midst of society compared to granting other integration programs, this can provide even wider opportunities for individual prisoners concerned to prove themselves that the program coaching is obtained while undergoing community members in general.[3]

The granting of the right of integration in reducing overcapacity in correctional institutions is regulated in Minister of Law and Human Rights Regulation No. 10 of 2020 concerning the conditions for granting assimilation and integration rights during Covid-19. Indonesia has at least 524 detention and prison units. From the correctional database system data shows that most of the prisons and remand centers have overcapacity, which even reaches above 300% of the actual capacity.

The prisoner release policy in the midst of the Covid-19 pandemic is now one of the prisoners' rights in humanitarian terms. Not only Indonesia, Covid-19 affected countries had already taken steps to grant integration rights during this pandemic. You name it, the United States which freed nearly 2000 inmates from federal prisons to reduce transmission of the Covid-19 outbreak. There are also in Iran who released 95 thousand prisoners, Brazil as many as 34 thousand prisoners and many other countries that provide the right of integration of prisoners.[4]

Provision of assimilation and integration rights is proposed to prisoners, especially those who are in prison for 2/3 of the period of April 1, 2020 to December 31, 2020 and are not related to Government Regulation No. 99 of 2012 and are not foreign citizens. This means that prisoners who get these rights are indeed those who have met the

qualifications. To achieve the requirements of 2/3 as prisoners who will obtain parole must go through 3 (three) stages of the proposal process for trial by the Penitentiary Observation Team (TPP), namely the regional TPP session process stage, the regional TPP session process stage and the central TPP session process stage.[5]

The government through the Directorate General of Corrections still has the responsibility to supervise prisoners who are free through assimilation and the right of integration. Supervision and guidance is carried out by the Penitentiary, with the aim that prisoners who are free no longer commit criminal acts.[6]

Based on research results, related to effectiveness in granting integration rights in reducing overcapacity, the Minister of Justice and Human Rights decided to release tens of thousands of prisoners in order to prevent the transmission of Covid-19 in correctional institutions. Already more than 15,000 inmates have been released. This step is considered appropriate by some people as a step and an adaptive response to the conditions and situations in the middle of this pandemic. This exemption is one important thing to be able to avoid the risk of contracting the virus between fostered residents in the prison environment. However, for some others, the decision to release a number of prisoners is considered an unreasonable step. The policy to release prisoners in the midst of the Covid-19 pandemic is a false assumption. They think that prisoners are safer in prison because they do not make direct social contact with outside communities. This means that the release will increase the potential for prisoners to be infected with the Covid-19 virus.

B. Constraints in giving integration rights in reducing overcapacity in correctional institutions

The move of the Minister of Law and Human Rights to issue Regulation No. 10 of 2020 which regulates policies to free prisoners from the same basis. This is done by looking at the condition of prisons in Indonesia which are also problematic. Based on available data, Lapas capacity in Indonesia is only intended for 130,000 inmates, but

currently the population reaches more than 270,000 inmates. This overcapacity condition (overcapacity) is then considered to make prisons vulnerable to the spread of the virus.

Policy in an effort to reduce or cut the population in prisons that are already overcapacity, is not a new reality and has been a problem for the last few decades. Under normal circumstances, excessive overcrowding in prisons has long been a disaster for the health of prisoners. The risk of other infectious diseases is much higher than the risk of contracting the Covid-19 virus. In this context, linking the Covid-19 pandemic with overcapacity seems irrelevant.[7]

The problem of whether or not the policy is carried out as an emergency effort to prevent and save prisoners who are in prison from the spread of Covid-19 needs to be set aside. Because the polemic point that developed in the middle of the community lies precisely in the Ministerial Regulation and Ministerial Decree itself.

Laws and Human Rights Ministerial Regulations and Decrees have drawn a lot of criticism because they are considered problematic and have a hidden agenda to release convicts of corruption by using the momentum of the co-19 pandemic. The community considers that this release will apply to all prisoners without specifying certain categories. In fact, in substance, the intention is not so.

In general, the Ministerial Regulation and Decree regulates the release and release of prisoners through assimilation and integration with the parole, conditional leave and pre-term leave schemes. Where the granting of the right to assimilation and integration is carried out with a number of provisions while taking into account aspects and objectives of justice that are just. In other words, this right of assimilation and integration is not done without setting conditions. Prisoners who will get assimilation and integration rights are also limited by certain conditions which require them to remain at home, which is also followed by strict supervision and supervision carried out by the Penitentiary Office

(BPAS) and also the Prosecutors' Office.

Regarding the criteria or categories of prisoners who can get assimilation and integration rights, based on the provisions contained in the regulation, this exemption will not apply to prisoners related to Government Regulation (PP) Number 99 of 2012 concerning the Second Amendment to PP Number 32 of 1999 concerning the Terms and Procedures for the Implementation of Prisoners' Community Rights. Therefore, in accordance with applicable regulations, the right to assimilation and integration will not apply to all prisoners and will not be given to prisoners for specific criminal acts such as corruption, narcotics, terrorism and other crimes that fall into the category of extraordinary crimes (extra ordinary).

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 that they would increase cases of crimes committed by inmates. Based on the results of research in the field, a number of newly released inmates in a number of regions have returned to committing crimes, ranging from stealing, snatching up to becoming drug couriers.

In providing integrity rights in reducing overcapacity in correctional institutions, it still faces obstacles / obstacles, including:

1. The process of proposing to obtain parole for prisoners, has not yet been carried out in accordance with the policies channeled in the applicable laws and regulations.
2. The phasing policy in the process of granting parole in fact requires considerable time.
3. Obstacles in the process of granting parole is already very complex, the constraints faced are not only the human resource problems of Correctional Officers, but also are constrained by inconsistency in implementing existing policies, especially problems of technical and substantive mechanisms in granting parole.

4. Another obstacle that becomes an obstacle in the process of granting parole is the lack of concern from the relevant agencies which still emphasize their respective policies.

Release of prisoners to reduce the spread of Covid-19 in the midst of dense prisons is a temporary solution. The main cause of disease transmission in overcapacity prisoners is government policy that still prioritizes imprisonment in law enforcement to provide a deterrent effect for someone involved in a legal case. The large percentage of prison use in statutory regulations and criminal prosecution is not matched by adequate facilities and infrastructure. As long as the government does not change the law enforcement policies in the form of detention and imprisonment, prison and remand centers in Indonesia will always be dense and risky in spreading the virus.

The government needs to think of a restorative justice approach as an effort to reduce prison overcapacity. The concept of restorative justice is an approach that emphasizes the conditions for the creation of justice and balance for the perpetrators of crime and victims.

V. CONCLUSION

Prisoner release policy to prevent the transmission and spread of Covid-19 is not the right solution and is only temporary. The problem is not overcapacity prison and remand center, but rather on government policies that prioritize prison sentences in law enforcement. As long as the government does not change the policy, prison in Indonesia will remain overcapacity regardless of whether there is an outbreak of the Covid-19 virus or not. In addition, the release of prisoners will also have several impacts such as the vulnerability of prisoners exposed to Covid-19 in the community, prisoners find it difficult to find work, increased crime and so on.

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