

## The Assimilation and Integration Rights for Prisoners as Over Capacity Prevention Effort in the Covid-19 Pandemic

Saharuddin<sup>\*)</sup>, Mawardi De La Cruz<sup>\*\*)</sup>, Haritsah<sup>\*\*\*)</sup>, Rahmawati<sup>\*\*\*\*)</sup>, & Rommi Y Hiola<sup>\*\*\*\*\*)</sup>

<sup>\*)</sup> Universitas Ichsan Gorontalo, Indonesia, E-mail: [saharuddin40.sd@gmail.com](mailto:saharuddin40.sd@gmail.com)

<sup>\*\*)</sup> Universitas Ichsan Gorontalo, Indonesia, E-mail: [mawardidelacruz@unissula.ac.id](mailto:mawardidelacruz@unissula.ac.id)

<sup>\*\*\*)</sup> Universitas Ichsan Gorontalo, Indonesia, E-mail: [haritsah@unissula.ac.id](mailto:haritsah@unissula.ac.id)

<sup>\*\*\*\*)</sup> Universitas Ichsan Gorontalo, Indonesia, E-mail: [rahmawati@unissula.ac.id](mailto:rahmawati@unissula.ac.id)

<sup>\*\*\*\*\*)</sup> Universitas Ichsan Gorontalo, Indonesia, E-mail: [rommi@unissula.ac.id](mailto:rommi@unissula.ac.id)

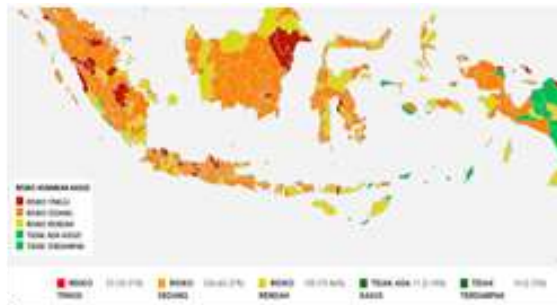
Article	Abstract.
<p>Keywords: Assimilation; Covid-19; Integration; Prisoners; Rights.</p> <p>Article History Received: 2022-07-24; Reviewed: 2022-09-01; Accepted: 2022-10-16; Published: 2022-10-17.</p> <p>DOI: 10.30659/jdh.v5i3.2303 2</p>	<p><i>Overcapacity Prisons in Indonesia are currently at an alarming stage, including the Class II A Gorontalo Prison, data shows that the prison population is 475 inmates while the prison can only accommodate 330 inmates. Such conditions are worrying in the midst of the COVID-19 pandemic, considering that the process of spreading this virus is so fast and can be transmitted to anyone. So that in the context of preventing and dealing with Covid-19, it is impossible to implement social restrictions in prisons, for example the application of social distancing. Various efforts have been made by the government to break the chain of the spread of this virus, with the issuance of Minister of Law and Human Rights No. 10 of 2020 and Kepmenkumham No. 19 of 2020 to ensure the safety of prisoners in prisons, but in reality, it has drawn criticism and caused its own unrest in the community. The specific purpose of this research is to find out and analyze the implementation of granting assimilation and integration rights for prisoners and to find out the form of anticipating strategies for overcapacity of Class II A Gorontalo prisons during the Covid-19 pandemic. The type of research used is empirical research, namely research with field data as the main data source, such as the results of interviews and observations. The results of this study indicate that (1) the implementation of granting assimilation and integration rights for prisoners is based on the regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 10 of 2020 and the Decree of the Minister of Law and Human Rights of the Republic of Indonesia No. M.HH-19 PK.01.04.04 of 2020. (2) The strategy to anticipate over capacity by the Class II A Gorontalo Penitentiary During the Covid 19 Pandemic was taken in several stages: a) Orientation Admission, b) Orientation Assimilation, c) Orientation Integration, and d) Assimilation.</i></p>

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## 1. Introduction

The phenomenon of the Corona Disease Virus (Covid-19) pandemic as a new virus that has never been previously identified has an impact on all aspects of human life, its spread is so fast, it is confirmed that 216 countries have experienced this condition. Indonesia is no exception, since the government declared it a non-natural national disaster, various steps have been taken by the government as an option to overcome and break the chain of the spread of the corona virus.

As of October 17, 2020, there were at least 357,762 confirmed cases of the corona virus, and 12,431 cases of death were recorded. The increasing spread of Covid-19 is still a real threat to human life. Meanwhile, the distribution of COVID-19 cases in Indonesia can be seen on the risk zoning map released by the Covid-19 Handling Task Force as follows:



*Sources: Laman Web Satgas Covid-19*

From the situation above, it can be seen that the transmission of Covid-19 in Indonesia is increasing day by day, this fact is certainly a priority for the Government and the community to work together in breaking the chain of the virus. For example, the Ministry of Law and Human Rights quickly issued a policy of assimilation and integration rights for inmates. The government's move is very appropriate considering that Covid-19 can spread and infiltrate anywhere, including behind bars.

Prison is a closed institution that has a high occupancy rate that is vulnerable to the spread and transmission of Covid-19, coupled with the problem of over capacity that is almost natural in all prisons and detention centers in Indonesia. This is also the case for Gorontalo Class II A Prisons, making it vulnerable to the spread of COVID-19. The latest data dated October 17, 2020, Class II A prison occupants recorded a total of 571 while the capacity of the prison was only 330 prisoners. This condition is certainly a new problem in the midst of a pandemic that requires following health protocols, such as social distancing, which is impossible to do.

Permenkumham No. 10 of 2020 and Kepmenkumham No. 19 of 2020 as a means of reducing the number of prisoners during the pandemic while suppressing over capacity in correctional institutions only regulates the provision of assimilation requirements and integration rights for prisoners who commit crimes other than criminal acts, terrorism, narcotics and Precursor to Narcotics, Psychotropics, corruption, crimes against state security, serious human rights crimes, transnational organized crimes and foreigners. So that by optimizing the provision of assimilation and integration rights for inmates, it can save inmates from the threat of the spread of the corona virus as well as an effort to prevent overcapacity in the Class IIA prison in Gorontalo.

Assimilation is based on the regulation of the Minister of Law and Human Rights of the Republic of Indonesia number 03 of 2018 that assimilation is the process of fostering prisoners and children carried out by assembling prisoners and children in community life. In this case assimilation is a social process between prisoners or people convicted of violating the law with certain social groups with the aim that individually they can interact again and adjust to the culture of their group<sup>1</sup>

The policy to prevent the spread of Covid-19 in prisons is aimed at convicts and children, perpetrators of general crimes. This means that this policy is not for special prisoners, so that criminal acts of corruption, terrorism, drugs and other special crimes cannot be issued using this policy<sup>2</sup>

To answer the challenge of overcapacity during the Covid-19 Pandemic, it is necessary to optimize the provision of assimilation and integration rights for prisoners as an implementation of Permenkumham No. 10 of 2020 and Kepmenkumham No. 19 of 2020, so that in giving it does not reap new problems and with research This at the same time answers the negative assumptions of society towards granting assimilation and integration rights for prisoners. This research will also explain the strategy for anticipating the overcapacity problem during the COVID-19 pandemic at the Class II A Gorontalo Prison.

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<sup>1</sup> Umronah, E. (2020). Juridical Analysis of Assimilation and Integration Supervision for Prisoners and Children During the Covid-19 Pandemic (Study at Class I Penitentiary Malang). *Journal of Legal Spirit*, 4(1).

<sup>2</sup> Samuel Arsheldon; et al. (2020). The Strategy for Anticipating Over Capacity in Prisons is a Reflection on Policies for Preventing the Spread of Covid-19. *Adliya Journal of Law and Humanity*, 14(1).

## 2. Research Methods

The type of research used is empirical research, namely research with field data as the main data source. Empirical research is used to analyze the law which is seen as patterned community behavior in people's lives who always interact and relate to social aspects. So this research approach uses a qualitative approach, namely an analysis of research results that produces analytical descriptive data, namely data that is stated in writing or verbally as well as real behavior, which is researched and studied as a whole.<sup>3</sup>

## 3. Results and Discussion

### 3.1. Implementation of Granting Assimilation and Integration Rights for Convicts in the Context of Prevention and Management of Covid-19

On April 13, 2020, President Joko Widodo has declared the Covid-19 pandemic to be a national disaster through Presidential Decree No. 12 of 2020 concerning the Determination of Non-Natural Disasters Spreading Covid-19 as a National Disaster. This means that Indonesia has faced an emergency condition. The very fast spread of Covid-19 is inversely proportional to the overcapacity of prisons in Indonesia. This excess capacity condition encourages the state to release convicts because after all the state must still guarantee the right to life of each of its citizens in the midst of this Covid-19 pandemic.

Basically the assimilation and integration rights program is not something new, but a program that has been running for a long time before the Covid-19 problem occurred in Indonesia. It can be seen together in the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning the Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, parole, Leave Before being released, and Conditional Leave regarding the conditions for granting assimilation not different from those in the Regulation of the Minister of Law and Human Rights Number 10 of 2020 concerning Conditions for Providing Assimilation and Integration Rights for Prisoners and Children in the Context of Preventing and Overcoming the Spread of Covid-19.

The basic difference is actually only in the implementation of the assimilation program which is based on the Regulation of the Minister of Law and Human Rights Number 10 of 2020 the assimilation program is carried out at home. This is in line with the government's policy to implement social distancing. Not only that, the

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<sup>3</sup> N. Qomar. (2017). Legal Research Methods. (Abd. Kahar Muzakkir, Ed.). Makassar: CV. Social Politic Genius (SIGN).

implementation of the assimilation program is also supervised by the Community Advisor, as a functional law enforcement official who carries out public research, guidance, supervision, and assistance to children inside and outside the criminal justice process.<sup>4</sup>

In the midst of the corona pandemic, prisons are a risky place. The problem is that many prisons are unfit for habitation due to overcapacity. It is impossible to implement a social distancing policy. (Trisnawati, 2020)

As an effort to prevent and save prisoners who are in the Class IIA Gorontalo correctional institution from the spread of Covid-19, expulsion and release are carried out through assimilation and integration rights. Expenditures through Assimilation shall be carried out with due observance of the following provisions:

- For prisoners whose 2/3 of their sentences fall until December 31, 2021;
- For prisoners who are not related to government regulation number 99 of 2012 concerning the second amendment to government regulation number 32 of 1999 concerning the requirements and procedures for implementing the Rights of Correctional Inmates (PP 99/2012) who do not undergo subsidiary and are not foreigners;
- Assimilation is carried out at home
- The Assimilation Decree is issued by the Head of Prison

In the assimilation stage, prisoners are given the opportunity to interact with the community. This assimilation activity is intended to learn and familiarize prisoners when they return to society. Assimilation activities for prisoners and children can be in the form of educational activities; skills training; social work activities; and other coaching in the community<sup>5</sup>

Meanwhile, release through integration rights (conditional release, conditional leave and leave before being released) is carried out by referring to the following provisions:

- For prisoners who have served 2/3 of their sentences
- Prisoners who are not related to PP 99/2012 Who are not undergoing a subsidiary and are not foreign citizens
- Proposals are made through the correctional database system
- Integration Decree issued by the director general of prisons

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<sup>4</sup> Nasir Djamil. (2015). Children are not to be punished. Jakarta: Sinar Graphic.

<sup>5</sup> Haryono. (2018). Optimizing the Implementation of Duties and Functions of Open Prisons in the Convict Assimilation Process. Scientific Journal of Legal Policy, 12(3).

Assimilation for prisoners carried out at home under the guidance and supervision of the Correctional Center. Prisoners assimilation can be carried out if they meet the following requirements:

- Good behavior is proven by not serving a disciplinary sentence within the last 6 months'
- Actively participate in the coaching program well, and
- Has served of the sentence.

The documents attached to obtain assimilation are:

- Photocopy of the excerpt of the judge's decision and the minutes of the execution of the court's decision.
- Evidence of having paid the fine and replacement money in accordance with the court's decision or implementing a subsidiary substitute for the fine is carried out at home under supervision by the prosecutor's office and the correctional center.
- Development progress report signed by the head of the prison
- Copy of register F from the Head of Prison
- A copy of the change list from the head of the prison. And
- A statement that the prisoner will not run away and will not commit any unlawful acts

It is different with parole and leave before being released to prisoners on the condition that:

- Has served a minimum criminal period of 2/3 provided that 2/3 of the criminal period is at least 9 (nine) months;
- Behave well while serving a criminal period of at least the last 9 (nine) months calculated before the 2/3rd of the criminal period
- Have attended the coaching program well, diligently, and enthusiastically and
- The community can accept the prisoner coaching activity program

Meanwhile, in granting conditional leave granted to prisoners, they must meet the following conditions:

- Has served a minimum criminal period of 2/3 provided that 2/3 of the criminal period is at least 6 (six) months
- Good behavior while serving a criminal period of at least the last 6 (six) months counted before the 2/3rd of the criminal period
- Have followed the coaching program well, diligently and enthusiastically.

- The community can receive prisoner coaching activities programs

Documents that are attached to obtain integration rights are a) photocopy of the excerpt of the judge's decision, and the minutes of the execution of the judge's decision; b) development progress report signed by the head of the prison; c) a copy of the change list from the prison, and a statement from the prisoner that he will not commit any unlawful act.

For prisoners convicted of narcotics crimes and narcotics precursors, psychotropic only applies to prisoners sentenced to imprisonment for less than 5 (five) years.

### **3.2. Over Capacity Anticipation Strategy by Class II A Correctional Institution Gorontalo During the Covid 19 Pandemic**

The issue of Over Capacity and Anticipating its Negative Impact amidst the COVID-19 Outbreak is an important concern for the government for at least two reasons. First, it must be understood that the overcapacity of prisons in Indonesia is currently at an alarming stage. Currently, prisons in Indonesia can only accommodate 160 thousand people. But in fact, the prison population has now reached 270 thousand people. So that in the context of preventing and dealing with COVID-19, it is impossible to implement social restrictions in prisons. Likewise, what happened to the Gorontalo Prison where the number of inmates experienced over capacity in Class II A prisons which was recorded at 571 while the capacity of the prison was only 330 prisoners.

Second, it must also be understood that approximately 32 thousand prisoners who received the assimilation and integration rights were not immediately released, but were sent home. The convicts in question consist of those who have met the requirements as mentioned above. Inmates with parole status who have met the requirements do not cause problems. In a sense, no legal provisions are violated.

It should be underlined, parole, leave before release, and conditional leave are coaching programs to integrate prisoners and children into community life after meeting the predetermined requirements.

This is different from prisoners undergoing assimilation. Supposedly, referring to the provisions in the Regulation of the Minister of Law and Human Rights Number 03 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Family Visiting Leave, Leave Before Release and Conditional Leave, prisoners who carry out assimilation during the day are outside the prison for do social work and return to prison in the afternoon

Guidance at LAPAS is carried out with two approaches, namely intramural or

coaching within the Correctional Institution and Extramural or coaching outside the correctional institution. One of the extramural coaching is by assimilation and integration rights where the coaching process for fostered citizens who have met certain requirements by assimilation into society into people's lives.

However, in this extramural coaching, in order not to create polemics in the community and rejection in the community, it is necessary to go through several stages so that its implementation can run optimally and as expected. There are several stages that must be met, namely as follows:

- **Admission Orientation (Introduction)**

At this stage, prisoners are first given or introduced to basic knowledge of correctional institutions, explanations of rights and obligations, order and independence. This stage is carried out within 0 to of the sentence, with a maximum rate of

- **Assimilation Orientation (Introduction to Society)**

This stage is a continuation of the first stage and at this stage prisoners are introduced to community life outside the correctional institution. This activity can be done in two ways, namely:

- Entry of outside parties to correctional institutions, for example: visits from non-governmental organizations (NGOs), foundations, KKL and so on. This stage is carried out within a period of 1/3 to of the sentence with a medium security level;
- Prisoners who are brought out to be involved in local community activities, such as sports, community service, religious activities and others

- **Orientation Integration (Unification with Society)**

At this stage prisoners are given the opportunity to be able to work outside with supervision, for example: work internships, participate in building project activities and others.

- **Assimilation (preparation to integrate or return to society)**

At this stage the coaching is taken over by the correctional center which functions as guidance in preparation for returning to the community after the sentence ends (pure release) or to obtain parole. This was done by BAPAS after BAPAS obtained approval from the Correctional Observer Team. This stage is carried out within a



period of 2/3 until the prisoner is released.

#### 4. Conclusion

Permenkumham No. 10 of 2020 and Kepmenkumham No. 19 of 2020 as a means of reducing the number of prisoners during the pandemic while suppressing over capacity in correctional institutions only regulates the provision of assimilation requirements and integration rights for prisoners who commit crimes other than criminal acts, terrorism, narcotics and Precursor to Narcotics, Psychotropics, corruption, crimes against state security, serious human rights crimes, transnational organized crimes and foreigners. However, in the implementation process to obtain assimilation and integration rights, there are still problems from the administration side so that the efforts made to suppress over capacity are not optimal. Meanwhile, the steps taken to maximize the assimilation and integration rights program so as not to become a new problem in the community at least pay attention to 4 important stages, namely Orientation Admission, Orientation Assimilation, Orientation Integration, and Assimilation.

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