


# Artikel 1

## PROBLEMATICS OF RELEASE OF PRISONERS IN INDONESIA IN THE COVID-19 PANDEMIC

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# PROBLEMATICS OF RELEASE OF PRISONERS IN INDONESIA IN THE COVID-19 PANDEMIC

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## ABSTRACT

*This study aimed to find the effect of releases of prisoner during Covid-19 pandemic in Indonesia. The outbreak of the Covid-19 virus has become a major disaster for countries in the world, including Indonesia. One of the influential lives is living in a correctional facility. It becomes a big problem when the state is trying to find a solution to contain the virus but still must provide guidance in the correctional facilities for prisoners. With the concern that there will be a high chance of transmission in prisons, given the overcapacity conditions in prisons, thus the Minister of Law and Human Rights issued a policy through Regulation of the Minister of Law and Human Rights No. 10 of 2020, which contains the release of child prisoners and prisoners. This research uses normative juridical method to explain the effect of release of prisoner during Covid-19 pandemic in Indonesia. This study found that along with the release of these prisoners, it turns out that the increasing number of crimes that occurred during the Covid-19 pandemic. For reasons of economic pressure, in this case, crime in several areas in Indonesia is very disturbing to the community and mostly committed by ex-convicts who have just been released from Correctional Institutions. It becomes a problem for the country in this case to tackle the spread of the coronavirus but at the same time seek countermeasures against the rampant crime during the Covid-19 pandemic.*

**Key Words:** *Problematics, Release, Prisoners, Covid-19, Indonesia*

## I. Introduction

### 1.1 Research Background

The Covid-19 pandemic is a common problem with countries in the world, including Indonesia. Since March 2020, Indonesia has faced the process of spreading covid-19 and is trying to overcome it due to the dangers of this virus which can cause death. The impact of the spread of the Covid 19 virus has affected various sectors of human life, from education, economy, health, to an increase in crime in the community. One of the efforts made by the government, especially the ministry of law and human rights, is to carry out a parole process as an effort to minimize the spread of this virus.

The issue of prisoners' release is a common thing to do based on Article 14 of Law Number 12 of 1995. So that basically prisoners have several rights, and 2 (two) of them are the right to obtain assimilation and integration which is further regulated in Permenkumham No. M.HH-02.PK.05.06 of 2010 concerning Terms and Procedures for the Implementation of Assimilation, Parole, Leaving Towards Free and Conditional Leave. Therefore, a prisoner who is released must meet several conditions and conditions that are not against the public interest and the sense of justice in the community. In relation to the release of prisoners during the pandemic, the policy for the release of prisoners and child prisoners is stipulated in the Regulation of the

7 Minister of Law and Human Rights Number 10 of 2020. With the release of prisoners considering the vulnerability of spreading Covid-19 in prisons/remand centers / LPKA in Indonesia, experiencing overpopulation. With the release of prisoners and children in prisons and detention centers throughout Indonesia, it is hoped that it can prevent and overcome the spread of the coronavirus.

11 The birth of Permenkumham No. 10 of 2020 which was ratified by Yasonna H Laoly with the consideration that Penitentiaries, Special Development Institutions for Children, and State Detention Centers are closed institutions that have a high occupancy rate, are very vulnerable to the spread and transmission of Covid-19, this is stated in Permenkumham No. 10 of 2020 on the consideration of letter (a), which shows that the Assimilation Program is the most urgent thing that must be done in the context of preventing and overcoming Covid-19. <sup>1</sup> Assimilation is the process of fostering prisoners and correctional students carried out by blending prisoners and correctional students in community life.

14 One of the reasons for the release of prisoners during this pandemic is a recommendation from the United Nations. With the reason to protect the public from the spread of Covid-19, the United Nations provides recommendations for implementing the release policy. One of the countries in the world that have also implemented a policy of releasing prisoners during the Covid 19 period is Italy. The Italian government has issued a decree allowing the early release of prisoners with less than 18 months remaining in detention. This policy was taken last March after riots broke out in dozens of prisons triggered by a visit ban and fears of the corona. Dozens of prisoners died and more than 50 guards were injured as a result of the rioting.<sup>2</sup> Apart from Italy, several other countries have also implemented this policy, namely: the United States, California freed 3,500 prisoners, New York City released 900 prisoners, Haris Country 1,000 prisoners, Los Angeles 600 prisoners, and Federal 2,000 convicts. England & Wales released 4,000 prisoners, Iran released 85,000 prisoners and 10,000 political prisoners, Bahrain released 1,500 prisoners, Israel 500 prisoners, Greece 15,000 prisoners, Poland 10,000 prisoners, Brazil 34,000 prisoners, Afghanistan 10,000 prisoners, Tunisia 1,420 prisoners, Canada 1,000 prisoners, and France released more than 5,000 prisoners.<sup>3</sup>

18 Based on the legal concept, all actions, both government and society, must be based on law. These provisions are also used as the basis for making decisions in emergency situations. The emergency condition in question and which will be discussed in this paper is the Covid-19 emergency which has been declared a national emergency against the background of the statement of the status of Covid-19 as a pandemic by the World Health Organization (WHO) or called the World Health Organization on March 11, 2020. In Indonesia, the Covid-19 case was first confirmed on

3 <sup>1</sup> Fitri Ramadhani Siregar, *Pembebasan Narapidana Ditinjau dari Permenkumham RI Nomor 10 Tahun 2020 Sebagai Upaya Pencegahan Covid-19 di Indonesia*, Riau Law journal, Vol 4 No. 2, 2020 Hal. 202, <https://rlj.ejournal.unri.ac.id/index.php/RLJ/article/view/7844/6583> diakses pada 3 januari 2021

31 <sup>2</sup> <https://katadata.co.id/marthathertina/berita/5e9a41f57bfeb/kebijakan-penjara-penjara-dunia-di-tengah-pandemi-corona> diakses 3 Januari 2021

<sup>3</sup> <https://jatimtimes.com/baca/212929/20200417/122500/selain-indonesia-13-negara-ini-juga-bebaskan-napi-selama-pandemi-covid-19> diakses pada 3 Januari 2021

March 2, 2020. Starting about 4 months after the confirmation of the Covid-19 case, more precisely on July 24, 2020, there were 95,418 (ninety-five thousand four hundred and eighteen) people confirmed positive for Covid-19, with a cure rate of 53,945 (fifty-three thousand nine hundred and forty-five) people, and a death rate of up to 4,665 (four thousand six hundred sixty-five) people.<sup>4</sup>

In Indonesia, the Ministry of Law and Human Rights (Kemenkumham) issued a policy to house prisoners amid the Covid-19 pandemic is a big enough step to take. Therefore, no less than 36 thousand prisoners began to undergo a period of assimilation and integration during society. Unfortunately, there were several prisoners who returned to acting up by committing criminal acts.<sup>5</sup>

Kemenkumham policy to release prisoners amid the Covid-19 pandemic is quite problematic. On the one hand, this step is deemed necessary considering the conditions of prisons/detention centers, which according to the government are prone to being a place of spread and transmission of disease, including Covid-19. The main problem of correctional institutions/detention currently is the excess number of residents so that the capacity of correctional institutions/detention becomes *overcrowded*. In addition, inadequate sanitation facilities are another reason for the government's decision to make the release.

If there is a thought that once a prison/detention center is a place where access in and out is limited, that does not mean there can be a *lockdown* so that the understanding of prisoners is safe from the spread of the Covid-19 virus is not fully guaranteed. Employees in correctional institutions/detention are the subjects who create traffic every day. In addition, food delivery for the assisted residents is also carried out every morning. This fact certainly shows that the potential for COVID-19 to enter correctional institutions/detention is still there and will not be eliminated, it can only be minimized.<sup>6</sup>

The assimilation program and the right to integration program which were passed on March 30, 2020, have been carried out in all correctional institutions throughout Indonesia, and recently, many recent cases have been reported in various media, that there have been many criminal cases committed by convicts who just got expelled because of the assimilation program. It is known that the phenomenon of prisoners who have just been released but have started to act again in several locations. A man who was released on April 2. He was arrested again on April 7 for receiving a package of cannabis weighing 2 kilograms. Then in South Sulawesi, anonymous man had to go back to his assistant in prison for stealing at a resident's house. Furthermore, in Blitar, a man was arrested and battered by the mob after he was caught stealing a citizen's motorbike, he was released on April 3 and arrested three days later. This incident became a big question for all Indonesian people, whether the assimilation

<sup>4</sup> Asri Agustiwi, *Kajian Kritis Terhadap Pembebasan Narapidana Dimasa Pandemi Covid 19*, *Rechstaat Nieuw*, Vol 5 No.1, 2020, hal 47, <http://ejournal.unsa.ac.id/index.php/rechstaat-nieuw/article/view/509/310> diakses pada 5 Februari 2021

<sup>5</sup> <https://www.hukumonline.com/berita/baca/1f5e97fe863cf91/napi-asimilasi-kembali-berulah--bukti-pidana-pemenjaraan-tidak-efektif/> diakses pada 5 Februari 2021

<sup>6</sup> <https://www.suara.com/yoursay/2020/04/16/123140/panjang-nalar-pembebasan-narapidana-saat-pandemi-corona?page=all> diakses pada 3 januari 2021

program and the integration rights program were issued through Permenkumham No. 10 of 2020 has fulfilled the elements of legal objectives and is the right solution in tackling the spread of Covid19 or becomes an opportunity for political elites to take advantage of this situation to make policies that benefit special criminal convicts.<sup>7</sup>

Regarding the release of prisoners, there are pros and cons in the community. Some time ago, the community was troubled by a series of criminal cases committed by several prisoners who were recently released through assimilation rights. As it is known that the repetition of criminal or recidivist acts is not something new in the world of law. This becomes more worrying when in a situation like this, when the prisoner is released it does not necessarily guarantee that he will avoid difficulties in fulfilling his life's needs, one of which is because it is difficult to find a job so that there is great potential for ex-convicts to commit criminal acts again, while the crimes committed are varied, such as theft, violence to being a drug courier. However, even if the reason is to fulfill the necessities of life, this cannot be used as a justification for former prisoners who have committed the crime, especially if it has caused unrest in the community.<sup>8</sup>

## 1.2 Research Question

The policy of freeing prisoners with assimilation and parole processes is expected to cut the spread of Covid 19 but on the other hand, crimes that occur in society are unavoidable by ex-convicts who have just left prison. From this background, the author took the title of research on Problematics of Release of Criminals in Indonesia During the Covid -19 Pandemic

## 1.3 Aims and Purpose

Regarding the release of prisoners, there are pros and cons in the community, thus this paper aims and purposes to analyze those condition.

## 2. Research Method

Legal research is a scientific activity by conducting systematic, methodological and consistent analysis and construction of legal issues.<sup>9</sup> Based on the problems that the authors examine, the authors use normative legal research methods.<sup>10</sup> This

<sup>7</sup> Fitri Ramadhani Siregar, *Pembebasan Narapidana Ditinjau dari Permenkumham RI Nomor 10 Tahun 2020 Sebagai Upaya Pencegahan Covid-19 di Indonesia*, Riau Law journal, Vol 4 No. 2, 2020 Hal. 202, <https://rlj.ejournal.unri.ac.id/index.php/RLJ/article/view/7844/6583> diakses pada 3 januari 2021

<sup>8</sup> <http://fh.unpad.ac.id/program-asimilasi-di-tengah-pandemi-sebuah-jalan-keluar-yang-menjadi-bumerang/> diakses pada 3 Januari 2021

<sup>9</sup> Irwansyah, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*, ed. Ahsan Yunus (Yogyakarta: Mirra Buana Media, 2020).

<sup>10</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, Cetakan ke (Jakarta: Kencana, 2017), <https://books.google.co.id/books?id=CKZADwAAQBAJ&printsec=frontcover&dq=Marzuki,+Peter+Mahmud,+2014,+Penelitian+Hukum,+Cetakan+ke->

normative legal research is based on legal materials from several literatures which is a process of obtaining legal principles, the rule of law as well as doctrines in order to know the legal issues being faced. legislation, especially in the legal product on release of prisoner during Covid-19 pandemic. The technique that the author uses in the search for legal materials is in the form of library research. Literatures that are used as reference material in reviewing the problems that the author raises. The literature is either from books, journals and the internet that have been selected in advance, which later is expected to help become material for finding bright spots in dealing with the problems to be raised. Meanwhile, the analytical technique used in this paper uses prescriptive analysis to get new definition, concept or theory about the problems that the author raises.

### 3. Result and Discussion

The condition of the Covid 19 Pandemic Virus has made economic conditions a problem. Seeing the current situation, which is very difficult, causes various changes in human behavior. People who are not strong enough to survive in lawful ways take shortcuts that are against the law. When an emergency occurs due to this pandemic, the government also applies a large-scale social restriction policy which has a massive impact on all economic and social factors in Indonesia. the Indonesian government limits social activities which results in a slowdown in the economic cycle.<sup>11</sup> In the midst of this emergency period, the need for basic commodities is crucial, coupled with the PSBB (Large-Scale Social Restrictions/*Pembatasan Sosial Berskala Besar*) policy which has caused a drastic decline in economic activity in Indonesia, which lowers people's purchasing power. Many companies are unable to run production, causing the small to the medium class business sector to stop and this has an impact on mass layoffs of workers in various companies.<sup>12</sup>

The urge to make ends meet will encourage someone to commit crimes, such as "stealing, cheating, robbing and so on". Several types of crimes can occur during the COVID-19 pandemic, one of which is the type of crime committed only to meet the needs of daily life.<sup>13</sup> Because it cannot be denied that the existence of the PSBB (Large-Scale Social Restrictions/*Pembatasan Sosial Berskala Besar*) policy which aims to cut the spread of COVID-19, has an impact on the loss of people's livelihoods. Termination of employment due to Covid causes them to have difficulty fulfilling their daily needs, as a result of using shortcuts with committing theft, robbery, or other crimes. The threat of crime can also occur on a large scale. Heavy-stage criminal groups who want to take

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<sup>11</sup> Mohamad Syahrul RA, Yusuf Hamdika, and Sholahuddin Al-Fatih, "The Impact of COVID-19 Through the Lens of Islamic Law: An Indonesian Case," *Lentera Hukum* 7, no. 3 (2020): 267-78, <https://doi.org/https://doi.org/10.19184/ejlh.v7i3.18983>.

<sup>12</sup> Zahрати Fadhilah Taufiq, Covid 19 Dan Angka Kriminalitas Di Indonesia: Penerapan Teori-Teori Kriminologi, *JISIP*, Vol. 4 No. 4 2020, hal. 37 <http://ejournal.mandalanursa.org/index.php/JISIP/article/view/1402/1315> diakses pada 5 Februari 2021

<sup>13</sup> Sholahuddin Al-Fatih, Fachry Ahsany, and Ahmad Faiz Alamsyah, "Legal Protection of Labor Rights During the Coronavirus Disease 2019 (Covid-19) Pandemic," *Jurnal Pembaharuan Hukum* 7, no. 2 (2020): 100-115, <https://doi.org/10.26532/jph.v7i2.10975>.

advantage of the tightness of many people. Of course, we hope these things don't happen and should be prevented. As with the "Frustrated Aggression Theory, some people commit specific instrumental crimes, property crimes, to meet their needs. Thus, it makes sense for the public to feel anxious about potential criminal acts in the midst of the COVID-19 pandemic".<sup>14</sup>

The conditions of the Covid 19 pandemic have an impact on various sectors of life in the world, including life in prisons in various countries. Indonesia is one of the many countries that has made policies related to the release and assimilation of prisoners. The background of the release and assimilation policy is that due to the condition of prisons, which are classified as many residents, it is feared that there will be an increase in the number of people who are vulnerable to Covid 19. This policy to release prisoners is very urgent and important because it is based on the state's anxiety about the spread of the virus which is sweeping all over the world. The world, including the Indonesian state itself in detention centers or prisons, it is feared that the transmission of the Covid-19 will be transmitted to prisoners because it is related to human rights, such as right to live healthily so that in various countries the world makes this policy. This is even more so for elderly prisoners who are categorized as vulnerable to Covid-19. Based on the consideration of Yasona Laoly as Minister of Law and Human Rights, this release policy was carried out to reduce the risk of Covid-19 transmission.

This policy was taken not without careful consideration because previously it was widely reported on social media regarding the condition of prison cells that were overcrowded, narrow, and very inappropriate. In one cell there are dozens of people and their positions are closely aligned with one another. At the time of the Covid-19 pandemic, this became a frightening specter for inmates, because the opportunities for transmission between fellow prisoners became very easy and wilder. If previously the conditions of the detainees were not too glimpsed and the prison was considered a suitable place for those who were guilty to have a deterrent effect, but now this becomes a problem because the crowded conditions will of course make it very easy for inmates to become targets of a deadly virus. Moreover, many of them are over 60 years old and have served a sentence of more than 2/3 of their prison terms.<sup>15</sup>

If examined, basically the policy through the Decree of the Minister of Law and Human Rights no M.HH-19.PK.01.04.04 of 2020 concerning the release and release of prisoners and children through assimilation and overcoming the spread of COVID-19 has a positive impact, namely in the Decree of the minister of law and human rights. it is one of prevention and rescue prisoners and children who are in penitentiary and Prison in the prevention of COVID-19. This expenditure is carried out and given to all prisoners throughout Indonesia with certain criteria and conditions. Conditional release and release through assimilation are carried out simultaneously through

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<sup>14</sup> Izzah Aliyatul Millah, Penanggulangan Kejahatan Di Masa Pandemic Covid 19 ( Dalam Perspektif Kriminologi dan Victimologi), *Jurnal Komunikasi Hukum*, Vol 6 No. 2 , 2020, Hal. 500, <https://ejournal.undiksha.ac.id/index.php/jkh/article/view/28099/15906> diakses pada 5 februari 2021

<sup>15</sup> Nur Rohim yunus , Kebijakan Covid-19, Bebaskan Narapidana dan Pidanakan Pelanggar PSBB, *ADALAH Buletin Hukum Dan Keadilan* , Vol.4 No.1 , 2020, hal. 3. <http://journal.uinjkt.ac.id/index.php/adalah/article/view/15262/7096> diakses pada 5 februari 2021

19 Permenkumham No.10 of 2020 concerning the conditions for granting assimilation and integration rights for prisoners and children in the context of preventing and overcoming the spread of COVID-19. The ministerial decree explains that there are a number of provisions for prisoners and children who are released through assimilation. First, inmates whose terms of sentence two-thirds fall until December 31, 2020, and children whose half of the sentence falls until December 31, 2020.<sup>16</sup> Seeing the issuance of this policy, also indirectly reduces the number of prisoners currently occupying prisons in Indonesia.

34  
15 In the situation after the issuance 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 2020, and also Permenkumham No. 10/2020, at least have a positive impact on the sustainability of correctional activities held at various Correctional UPT. The decline in the number of overcrowded in Indonesia, which is a breath of fresh air for the implementation of the correctional system, furthermore, it was also found that the State managed to save billions of state money because prisoners were expelled and released, and from this policy also the opportunity to maximize the development of prisoners to be more productive. because the flexibility that occurs in prisons can also be done by generating various benefits in it and seeing from these situations and conditions.

The Government, in this case, the Ministry of Law and Human Rights, is deemed to have done the right thing to assist the central government in dealing with and overcoming the Covid-19 pandemic. that is happening in Indonesia today. The decrease in the number of Overcapacity in correctional institutions and detention centers in Indonesia seems to be an endless problem, this problem also seems to have yet to find a way out which can be used as a step for his harassment, the number of criminal offenders who enter prisons is increasing every year, especially in prisoners with drug cases, which always increases every year. The correctional facilities are sometimes also unable to accommodate the movement of prisoners carried out by the detention center because of the relatively large number of residents who live in the prison to be targeted, and this makes the detention center a technical implementation unit that carries out dual tasks, namely the duty to care for prisoners and also as a prisoner. convict coaching. The issue of overcrowding has always been a priority that has been prioritized by the Directorate General of Corrections, various methods have also been implemented, this is intended to create a safe and humane atmosphere for inmates who are serving their sentences in prisons, so that they can provide guidance and service to inmates properly, with a comfortable situation and conditions for inmates and officers to carry out the duties of the correctional system.

37 Assimilation and parole are one of the rights of prisoners as regulated in article 14 of Law No. 12 of 1995 concerning Correctionan Law. Assimilation and parole are the rights of prisoners who are part of the development program in the prison system, where this program provides opportunities for prisoners to integrate with their communities more quickly. Assimilation is regulated in "Article 36 of the Correctional

12 <sup>16</sup> Bayu risky, Dampak Positif Kebijakan Asimilasi Dan Integrasi bagi Narapidana Dalam Pencegahan Dan Penanggulangan Covid 19, *Justicia; Jurnal Ilmu Hukum dan Humaniora* , Vol. 7 No. 3 Tahun 2020 <https://core.ac.uk/download/pdf/327184900.pdf> diakses pada 5 Februari 2021

23 Law, that assimilation is given to prisoners and children who are convicted (children  
7 who, based on a court decision, are serving a sentence at the Juvenile Prison for a  
7 maximum of 18 (eighteen) years) if they meet the following requirements: good  
20 behavior; actively participate in coaching programs well, and have served 1/2 (one  
7 half) of the criminal period. For State Children (children who based on a court decision  
36 submitted to the state to be educated and placed in the Children's Prison up to the age  
of 18 (eighteen) years old) and Civil Children (children who at the request of their  
parents or guardians receive a court order to be educated at the Children's Prison no  
later than 18 (eighteen) years of age), assimilation is given after undergoing education  
at the Children's Prison for the first 6 (six) months. Prisoners who are convicted of  
crimes against state security and serious crimes against human rights, and other  
transnational organized crimes, are given assimilation if they meet the following  
requirements: of good character; actively participate in coaching programs well; and  
has served 2/3 (two thirds) of the sentence. Assimilation can be revoked if the prisoner  
or correctional protégé violates the provisions of assimilation. Article 38A Assimilation  
for Prisoners who are convicted of committing a crime as referred to in Article 34A  
paragraph (1), is given in the form of social work at a social institution.

11 According to the Minister of Law and Human Rights, the release will go  
through a strong selection. First, narcotics convicts with a sentence of 5-10 years and  
have served 2/3 of their sentence will be given assimilation at home, from the data it is  
estimated that there are 15,442 per day and this will continue to increase. Corruption  
convicts over the age of 60 who have served 2/3 of their criminal terms are around 300  
people. There are 1,457 convicts who have chronic illnesses who have been declared  
directly by the government hospital and have served 2/3 of their sentence. And there  
are about 53 foreign prisoners.<sup>17</sup> The efforts to release prisoners in the midst of the  
Covid-19 pandemic by the Minister of Law and Human Rights have raised concerns in  
the community. Many parties disagree and have drawn criticism regarding the  
proposed policy, one of which is the release of corrupt convicts.<sup>18</sup>

But presumably, the policy of release and assimilation of prisoners turns out to  
be quite unsettling for the community. This pandemic condition affects the economic  
life of the community, not a few people have lost their jobs because entrepreneurs also  
feel the impact of this pandemic,<sup>19</sup> this is due to the issuance of the Large-Scale Social  
Restrictions (PSBB) policy. With the existence of the PSBB, the people's economy was

25 <sup>17</sup>Putri Octavia , Melina Nurul Khofifah, Pro Kontra Wacana Pembebasan Narapidana  
21 Korupsi di Tengah Pandemi Covid-19, *Vox Populi*, Vol. 3 No. 1.2020,Hlm. 47.  
1 <http://103.55.216.56/index.php/voxpathuli/article/view/14367/8611> diakses pada 5 Februari  
2021

<sup>18</sup> Ema Yusniar, Maya retnasary, Analisis Framing Pemberitaan Menkumham Yasonna  
Laoly Tentang Kebijakan Pembebasan Narapidana Ditengah Wabah Covid-19 (Media Online  
detik.com dan kompas.com), *Jurnal Politikom dan Indonesiana* ,Vol 5 No. 2, 2020,  
<https://journal.unsika.ac.id/index.php/politikomindonesiana/article/view/3855> hal. 15  
diakses pada 5 Februari 2021

<sup>19</sup> Najella Zubaidi, Gusti Pratamab, and Sholahuddin Al-Fatih, "Legal Perspective on  
Effectiveness of Pre-Work Cards for Indonesian People," *Jurnal Bestuur* 8, no. 1 (2020),  
<https://doi.org/10.20961/bestuur.42722>.

disrupted because people were required to do activities at home so that the trade economy sector experienced many losses because of this.<sup>20</sup>

5 These conditions resulted in the crime rate during the implementation of the PSBB status because the Covid-19 virus pandemic in the country had increased, this figure reached 11 percent.<sup>21</sup> Ironically, the criminal phenomenon during the PSBB conditions, the perpetrators were mostly ex-convicts from the assimilation program issued by the government through the Ministry of Law and Human Rights. However, it is sad because the reason the former convicts who returned to commit the crime were forced to commit the crime again because of the economic pressure amid the PSBB conditions.<sup>22</sup>

5 Thus, the release of these prisoners has become unrest in the community, where today the public is seeing a series of crimes committed again by several prisoners who have just been granted freedom through this policy. This policy actually has the potential to cause new problems because when the prisoners are released, they will find it difficult to find work to make ends meet in the midst of the coronavirus or Covid-19 pandemic, which of course has an impact on social, economic, and security aspects.<sup>23</sup> It is a dilemma for the government with these conditions, on the other hand, the government is trying to find a solution to the spread of the Covid 19 virus which is increasingly causing more victims, on the other hand, the assimilation liberation policy has an impact on the increase in the crime rate during the Covid 19 pandemic.

It can be said that the implementation of the policy for the release of prisoners during the COVID-19 pandemic is not entirely correct. This assessment is based on facts, where this policy triggers and raises new problems, which in fact threatens the true purpose of the policy itself. The fact is that the community has been troubled by a series of criminal cases committed by 315 prisoners who received parole through assimilation and integration rights programs. Although it is known that the repetition of criminal acts or recidivists is not something new in the world of law. In which the repetition of a criminal act is considered a continuation of malicious intent or the occurrence of an illegal act by the perpetrator who, in fact, was a convict.

This becomes more worrying when it occurs in the current state of the COVID-19 pandemic. Prisoners who are released do not automatically guarantee that they will avoid difficulties in fulfilling their daily needs, one of which is due to the difficulty of

22 <sup>20</sup> Aprista Ristiyawati, "Efektifitas Kebijakan Pembatasan Sosial Berskala Besar Dalam Masa Pandemi Corona Virus 2019 Oleh Pemerintah Sesuai Amanat UUD NRI Tahun 1945," *Administrative Law and Governance Journal* 3, no. 2 (2020): 240-49, <https://doi.org/10.14710/alj.v3i2.240-249>.

1 <sup>21</sup> Trias Palupi Kumianingrum, "KONTROVERSI PEMBEBASAN NARAPIDANA DI TENGAH PANDEMI COVID-19," *Info Singkat: KAJIAN SINGKAT TERHADAP ISU AKTUAL DAN STRATEGIS* 12, no. 8 (2020).

24 <sup>22</sup> Muhamad Anwar, Asimilasi dan Peningkatan Kriminalitas di Tengah Pembatasan Sosialisasi Berskala Besar Pandemi Corona, ADALAH Buletin Hukuk dan Keadilan, Vol. 4 Nomor 1. 2020, hal 102 <http://103.229.202.71/index.php/adalah/article/view/15504/7263>. Diakses pada 5 Februari 2021

<sup>23</sup> Asri Agustiwi and Reky Nurviana, "KAJIAN KRITIS TERHADAP PEMBEBASAN NARAPIDANA DIMASA PANDEMI COVID-19," *Redistaat Nieuw* 5, no. 1 (2020): 22-29, <http://ejournal.unsa.ac.id/index.php/rechtaat-nieuw/article/view/509/310>.

4 finding work so that there is great potential for ex-convicts to commit criminal acts again. Even if the reason is to fulfill 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. 4 Apart from fulfilling the necessities of life, another factor that encourages the occurrence of recidivists is the ineffective function of supervision by the Correctional Center (BAPAS), is due to the limited human resources in this institution and it is known that BAPAS does not provide guidance in the usual way, currently only rely on existing technology, so that it cannot provide optimal service. 24

#### 4. Conclusion

the policy of parole and assimilation to inmates and child prisoners in prisons during the Covid 19 pandemic provides important problems for immediate action. On the other hand, the release and assimilation help prevent the spread of the covid virus, especially in correctional institutions as well as reduce the number of prisoners in prison, but on the other hand, the release and assimilation given to prisoners have an impact on the increasing number of crimes during the pandemic period due to economic stress factors during the pandemic period. resulting in a criminal act committed by the former convict.

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<sup>24</sup> Muhar Jaya, Kebijakan Hukum Pidana terhadap Kedaruratan di Situasi Pandemi COVID-19 Sebagai Alasan Pembebasan Bersyarat, *Halu Oleo Legal Research*, Vol 3 No. 2, 2020, <http://ojs.uho.ac.id/index.php/holresch/article/view/15482/10489> diakses pada tanggal 5 Februari 2021

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### PROBLEMATICS OF RELEASE OF PRISONERS IN INDONESIA IN THE COVID-19 PANDEMIC

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#### ABSTRACT

*This study aimed to find the effect of release of prisoner during Covid-19 pandemic in Indonesia. The outbreak of the Covid-19 virus has become a major disaster for countries in the world, including Indonesia. One of the influential lives is living in a correctional facility. It becomes a big problem when the state is trying to find a solution to contain the virus but still must provide guidance in the correctional facilities for prisoners. With the concern that there will be a high chance of transmission in prisons, given the overcrowding conditions in prisons, thus the Minister of Law and Human Rights issued a policy through Regulation of the Minister of Law and Human Rights No. 10 of 2020, which contains the release of child prisoners and prisoners. This research uses normative juridical method to explain the effect of release of prisoner during Covid-19 pandemic in Indonesia. This study found that along with the release of these prisoners, it turns out that the increasing number of crimes that occurred during the Covid-19 pandemic. For reasons of economic pressure, in this case, crime in several areas in Indonesia is very disturbing to the community and mostly committed by ex-convicts who have just been released from Correctional Institutions. It becomes a problem for the country in this case to tackle the spread of the coronavirus but at the same time seek countermeasures against the rampant crime during the Covid-19 pandemic.*

**Key Words:** *Problematics, Release, Prisoners, Covid-19, Indonesia*

#### 1. Introduction

##### 1.1 Research Background

The Covid-19 pandemic is a common problem with countries in the world, including Indonesia. Since March 2020, Indonesia has faced the process of spreading covid-19 and is trying to overcome it due to the dangers of this virus which can cause death. The impact of the spread of the Covid 19 virus has affected various sectors of human life, from education, economy, health, to an increase in crime in the community. One of the efforts made by the government, especially the ministry of law and human rights, is to carry out a parole process as an effort to minimize the spread of this virus.

The issue of prisoners' release is a common thing to do based on Article 14 of Law Number 12 of 1995. So that basically prisoners have several rights, and 2 (two) of them are the right to obtain assimilation and integration which is further regulated in Permenkumham No. M.1.H1-02.PK.05.06 of 2010 concerning Terms and Procedures for the Implementation of Assimilation, Parole Leaving Towards Free and Conditional Leave. Therefore, a prisoner who is released must meet several conditions and conditions that are not against the public interest and the sense of justice in the community. In relation to the release of prisoners during the pandemic, the policy for the release of prisoners and child prisoners is stipulated in the Regulation of the