Assimilation Program Planning By The Ministry Of Law And Human Rights In Overcoming The Spread Of Covid-19 At The Corporate Institution

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Abstract.
The purpose of this study was to determine the assimilation program launched by the Ministry of Law and Human Rights in order to overcome the spread of Covid-19 in prisons so that it does not over capacity. The type of research method used is normative juridical. Based on the results of the study, it is known that if assimilation and integration continue to apply, there are at least two additional requirements, namely; The provision of assimilation and integration must involve supervisory judges and observers for their consideration and risk assessment. Furthermore, for the long term, in anticipating overcapacity in correctional institutions, immediately ratify the Draft Criminal Code which has the concept of Criminal Individualization and Criminalization which is expected to be able to provide protection and welfare for the community and still pay attention to the interests of criminal acts.

Keywords: *Assimilation; Covid-19 ; Over capacity*

I. INTRODUCTION

The problem with prisons as institutions to carry out coaching for prisoners is that there is always an increase in excess capacity. Based on data collected in June 2021, the number of inmates in prisons in Indonesia is 230,310 people, consisting of 50,276 prisoners and 180,084 inmates. This shows that correctional institutions in Indonesia are experiencing overcapacity which reaches 74% on a national scale. Of the 33 Regional Offices in Indonesia, there are only 10 Regional Offices that do not experience excess capacity, namely the Yogyakarta Special Region Regional Office, Gorontalo Regional Office, Maluku Regional Office, North Maluku Regional Office, East Nusa Tenggara Regional Office, Papua Regional Office, West Papua Regional Office, West Sulawesi Regional Office, Regional Office of West Nusa Tenggara. Southeast Sulawesi and North Sulawesi Regional Offices.In response to these conditions, the government has taken several policies, such as building repairs or rehabilitation to the construction of new buildings to increase capacity. This condition is a serious problem that must be resolved immediately. The government through the Ministry of Law and Human Rights in carrying out efforts to prevent the spread of Covid-19 in Correctional Institutions has issued "Permenkumham No. 10 of 2020 concerning Conditions for Granting Assimilation and Integration Rights for Prisoners in the Context of Prevention and Overcoming the Spread of Covid-19, and the Decree of the Minister of Law and Human Rights. HAM No. 19.PK.01.04 of 2020 concerning the Release and Release of Child Prisoners through Assimilation and Integration in the Context of Prevention and Control of the Spread of Covid-19".[1]According to Yunaedi as the Director of Prisoners' Guidance and Production Job Training at the Directorate General of Corrections at the Ministry of Law and Human Rights, the issuance of this policy can save the state budget for the needs of correctional inmates (WBP) up to Rp. 341 billion.

This calculation is the result of a calculation of 270 days, starting from April to December 2020 which is multiplied by the cost of living for each prisoner per day, including food, health and coaching of Rp. 32,269,-.[2]The density of inmates makes correctional institutions a very vulnerable place for the rapid transmission of the Covid-19 virus, if one of the prison occupants is exposed to the virus. Considering that correctional officers do not live inside the prison, but outside the prison complex, which of course interacts

with the surrounding community. In addition, the government has issued a policy to implement physical distancing. On this basis, it is very urgent to take preventive measures and prevent the spread of Covid-19 in correctional institutions.Various policies have been issued by the government to prevent the spread of Covid-19 in prisons, but these policies still need to be evaluated in their implementation. Considering that prisoners released through assimilation and integration until early 2021, there are at least 106 prisoners who have returned to their actions with the most distribution in Central Java, West Java and North Sumatra. For this reason, it is important to discuss the Strategy for Anticipating Over Capacity in Prisons Reflecting on Policies for Preventing the Spread of Covid-19. With the hope of being able to prevent the occurrence of Over Capacity in Correctional Institutions in the future.

II. PROBLEMS

Based on the background above, the authors formulate a problem that will be a reference in this study, namely, How is the assimilation program launched by the Ministry of Law and Human Rights in order to overcome the spread of Covid-19 in prisons so that it does not over capacity?

III. RESEARCH METHODS

The research method used is normative juridical research, namely legal research that bases its analysis on applicable laws and regulations and is relevant to the legal issues under study.[3]This research will analyze and examine legal materials and issues related to the assimilation program launched by the Ministry of Law and Human Rights in order to overcome the spread of Covid-19 in prisons so that it does not over capacity. The approach used in this research is the “statutory approach” accompanied by a conceptual approach, carried out by reviewing the law related to the strategy to anticipate overcapacity in prisons in relation to preventing the spread of Covid-19.

IV. DISCUSSION

The Government through the Ministry of Law and Human Rights (KEMENKUMHAM) On March 30, 2020, Stipulated "Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-19.Pk.01. 04.04 of 2020 concerning the Release and Release of Prisoners and Children Through Assimilation and Integration in the Context of Prevention and Control of the Spread of Covid-19", hereinafter referred to as "Policy on Prevention of the Spread of Covid-19 in Prisons". This ministerial decision is a government policy taken in the context of "rescuing Detainees and Prisoners in Correctional Institutions, Children's Special Guidance Institutions, and State Detention Centers". The government's considerations in issuing this policy are mainly due to the conditions of prisons, Special Child Development Institutions, and State Detention Centers.The policy for preventing the spread of COVID-19 in prisons is aimed at convicts and children who are perpetrators of general crimes. This means that this policy is not for convicts who commit special crimes, so that criminal acts of corruption, terrorism, drugs, and other special crimes cannot be issued using this policy. In essence, the policy to prevent the spread of Covid-19 in prisons will release and release prisoners and children through assimilation and integration programs as an effort to prevent and rescue/antize prisoners and children from the spread of Covid-19 in Correctional Institutions, Special Child Development Institutions, and State Detention Center as regulated in the first part, the a quo policy. The release and release of prisoners and children is carried out in 2 (two) ways. The first way is through assimilation.

The provision for a prisoner to get assimilation is "2/3 (two thirds) of his criminal period falls until December 31, 2020. For children, (half) of his criminal period falls until December 31, 2020. Convicts and children who are not related to PP 99 of 2012, who are not undergoing subsidiary and not foreign citizens, assimilation is carried out at home, assimilation decisions are issued by the Head of Prison, Head of LPKA, and Head of Detention Center”.The second way is through integration. The provisions for convicts to obtain

integration are "having served 2/3 of the criminal period, for children who have served 1/2 of the criminal period, convicts and children who are not related to PP number 99 of 2012, who are not undergoing subsidies and are not foreign citizens. The proposal is made through the correctional database system (SDP), an integration decision letter is issued by the Director General of Corrections". Through these two ways, as stipulated in the Policy for Preventing the Spread of Covid-19 in Prisons, an inmate and child can be released and released but still receive guidance and supervision of assimilation and integration carried out by the Penitentiary. It is also regulated that the guidance and supervision reports are conducted online.[4]The Head of the Criminal Investigation Agency (Kabareskrim) of the National Police said, "Of the 39,273 assimilated prisoners who were released, there were 106 people who acted again or around 0.27%. Criminal statistics submitted by Kabareskrim are recorded and reported data. If we refer to the criminal statistics, 80-90% of the results of records carried out by law enforcement officers (especially the police) are dominated by reports from victims and members of the public. However, what was conveyed by the Head of the Criminal Investigation Unit were only cases that were reported and registered with the police. It is still possible for criminal acts committed by prisoners who were released but not reported and not recorded.

The release of prisoners through assimilation and integration programs creates unrest in the community because there have been criminal acts committed by convicts, criminal acts of theft to criminal acts of sexual harassment. In order to provide a sense of security to the community, if the government (in this case the Ministry of Law and Human Rights) implements a policy of releasing prisoners and children through assimilation and integration programs, it must be pursued by tightening conditions so that it is expected that prisoners who leave and mingle in society are people who have admitted and do not repeat themselves. back to what he did. Additional conditions that must be applied to prisoners if at other times they want to implement assimilation and integration programs in the context of preventing the spread of pandemics such as Covid-19,The two requirements stated above are inspired by the spirit of progressive law put forward by Prof. Satjipto Rahardjo. He said that "law is for humans, not humans for law", so that when it is brought in the context of adding two conditions for the release of prisoners and children, namely the provision of assimilation and integration, supervisory judges and observers must be asked for their considerations and risk assessment. This is so that when prisoners and children return to society, they will not repeat the crimes they have committed, will not commit crimes again, and the general public will not feel afraid. So that in the end, the policy will be beneficial to people's lives in general.Prevention of Over Capacity in Correctional Institutions, in criminal law reform needs to be done in order to anticipate the increase in inmates who continue to increase.

The Draft Criminal Code has accommodated steps that are expected to be able to prevent overcapacity in Correctional Institutions through reorientation of sentencing objectives and the concept of criminal individualization.The concept of criminal individualization which will later be brought up by the Criminal Code Bill has several characteristics, among others, such as: "Accountability (criminal) is personal/individual (personal principle); Criminals are only given to guilty people (culpability principle: no crime without guilt); and Criminals must be adapted to the characteristics and conditions of the perpetrators. This means that there must be leeway/flexibility for judges in choosing criminal sanctions (type and severity of sanctions) and there must be the possibility of criminal modifications (changes/adjustments) in their implementation. So it contains the principle of flexibility and the principle of criminal modification".[5] Criminal sanctions imposed and imposed on perpetrators of criminal acts must actually create a balance between the community and the perpetrators of the crime. In Indonesian criminal law, the purpose of sentencing has undergone complex changes and developments so that it is expected to be able to contribute to the sentencing process. The condition of prisons in Indonesia is overcrowded, where the ratio of the number of inmates of prisons and the capacity of prisons is not comparable in number. Density of prisoners in correctional institutions occurs by several factors. However, there are factors that need special attention,

the cause of overcrowding in prisons is the criminal system.[6] By looking at the views of criminal law experts as well as formulators of the RKUHP, it can be concluded that the success of the concept of criminal individualization in overcoming excess capacity in correctional institutions depends on the judge who makes decisions in court on the perpetrators of criminal acts.

Bearing in mind that the concept of criminal individualization is only as a guideline for judges in imposing a criminal with dignity and in accordance with humanist principles without losing the sense of justice for victims of criminal acts. So that with the concept of criminal individualization, it is expected to avoid the imposition of criminal sanctions which can result in increasing overcapacity in correctional institutions.Justice is actually a relative concept.[7]On the other hand, justice is the result of the interaction between expectations and existing realities, the formulation of which can be a guide in the lives of individuals and groups. From the etymological aspect of language, the word "fair" comes from the Arabic "adala" which means middle or middle. From this meaning, the word "adala" is then synonymous with wasth which derives the word wasith, which means a mediator or person standing in the middle which implies a fair attitude.[8]From this understanding, the word fair is synonymous with inshaf which means aware, because a just person is someone who is able to stand in the middle without taking sides. Such a person is a person who is always aware of the problem at hand in its comprehensive context, so that the attitude or decision taken regarding the issue becomes appropriate and correct.[9]Actually fair or justice is difficult to describe in words, but closer to be felt. It is easier for people to feel the existence of justice or injustice than to say what and how justice is. It feels very abstract and relative, moreover, the goals of fairness or justice are varied, depending on where they want to be taken.Justice will be felt when the relevant systems in the basic structures of society are well organized, political, economic and social institutions are satisfactory in relation to the concepts of stability and balance. We can also find a sense of community justice in the implementation of law enforcement through judges' decisions.

Justice is generally defined as a fair act or treatment. While fair is impartial, impartial and side with the right. Justice according to philosophical studies is when two principles are fulfilled, namely not harming a person and treating each human being what is their right. If these two can be met then it is said to be fair. In justice there must be a comparable certainty, which if combined from the combined results will be justice.In practice, the meaning of modern justice in handling legal problems is still debatable. Many parties feel and consider that the judiciary has been unfair because it is too procedural, formalistic, rigid, and slow in giving a decision on a case. It seems that these factors cannot be separated from the judge's perspective on the law which is very rigid and normative-procedural in carrying out legal concretization. Ideally, judges must be able to become living interpreters who are able to capture the spirit of justice in society and are not shackled by the normative-procedural rigidity that exists in a statutory regulation, no longer just as la bouche de la loi (the mouthpiece of the law).Furthermore, in interpreting and realizing justice, Natural Law Theory since Socrates to Francois Geny still maintains justice as the crown of law. Natural Law Theory prioritizes "the search for justice".[10]There are various theories about justice and a just society. These theories concern rights and freedoms, opportunities for power, income and prosperity.The Pancasila state is a national state with social justice, which means that the state as the incarnation of humans as creatures of God Almighty, the nature of individuals and social beings aims to realize a justice in living together (Social Justice). Social justice is based on and inspired by the nature of human justice as a civilized being (second principle). Humans are essentially just and civilized, which means humans must be fair to themselves, fair to God, fair to others and society and fair to their natural environment.[11]In relation to social justice, the view of justice in law literally means that what is in accordance with the law is considered fair, while those who violate the law are considered unfair.

If there is a violation of the law, it must be done by the court to restore justice. In the event of a criminal offense or what in everyday language is called a "crime" then a court must be carried out which will restore justice by imposing punishment on the person who committed the criminal offense or crime.The view of justice in national law is based on the basis of the state. Pancasila as the basis of the state or state philosophy (fiolosofische grondslag) is still maintained and is still considered important for the Indonesian state. Axiologically, the Indonesian people are supporters of Pancasila values (subscribers of Pancasila values). The Indonesian nation is a godly, humane, unified, populist, and socially just nation.As a supporter of values, it is the Indonesian people who respect, recognize, and accept Pancasila as a value. The recognition, appreciation, and acceptance of Pancasila as something of value will appear to reflect in the attitudes, behavior, and actions of the Indonesian people. If the acknowledgment, acceptance, or appreciation is reflected in the attitudes, behavior, and actions of the Indonesian people and the nation, in this case, they are the bearers in the attitudes, behavior, and actions of Indonesian people. Therefore, Pancasila as a source of the highest law nationally and as a rationality is a source of national law for the Indonesian nation.The view of justice in the national law of the Indonesian nation is focused on the basis of the state, namely Pancasila, whose fifth precept reads: "Social justice for all Indonesian people". The problem now is what is called fair according to the conception of national law which is based on Pancasila.

To further elaborate on justice in the perspective of national law, there is an important discourse on justice and social justice. Fair and justice are recognition and balanced treatment between rights and obligations.Such a conception when connected with the second precept of Pancasila as the source of the national law of the Indonesian nation, essentially instructs to always carry out harmonious relations between individual humans and other groups of individuals so as to create a just and civilized relationship.Furthermore, it is also formulated that the development of such a national law, in the field of criminal procedural law, is for the community to live up to its obligations and to improve the development of the attitude of implementing law enforcement in accordance with their respective functions and authorities towards the enforcement of laws and regulations, justice and protection. to human dignity, order and legal certainty for the sake of the implementation of the rule of law in accordance with the 1945 Constitution of the Republic of Indonesia.Such formulation is also based on the consideration that the Unitary State of the Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia which upholds human rights and guarantees that all citizens are equal before the law and government and are obliged to uphold the law and government. without exception or distinction.The consideration of making a new criminal procedure law for the Indonesian people is that the criminal procedure law as contained in the Het Herzine Inlandsch Reglemen (Staatsblad of 1941 Number 44) is linked to and Law Number 1 Drt. 1951 (State Gazette of 1951 Number 9, Supplement to the State Gazette Number 81) as well as all implementing regulations and provisions regulated in other laws insofar as they relate to criminal procedural law, need to be revoked, because they are not in accordance with the ideals of national law.

Here we see the clearest practical dimensions of the theory of dignified justice.In this regard, in the explanation of the Criminal Procedure Code it is formulated that even though Law Number 1 Drt. The year 1951 has stipulated that there is only one criminal procedure law that applies to all of Indonesia, namely the Renewed Indonesian Regulation (RIB), but the provisions contained therein have not yet provided guarantees and protections for human rights, protection of human dignity and value. as naturally owned by a country of law. An example of the absence of proper protection in a state of law but not in the RIB, according to the makers of the Criminal Procedure Code, is for example regarding legal assistance in examinations by investigators or legal prosecutors, as well as regarding the provisions governing the provision of compensation.In this regard, it is also formulated that the reasons, among others; '...because it is not in accordance with the ideals of national law', is also the basis for the need to promulgate a new law on criminal procedural law to carry out trials for courts within the general judiciary and The Supreme Court regulates the rights and obligations of those in criminal proceedings, so that the main basis of the rule of law can be enforced.With regard to the reason '...because it is not in accordance with the ideals of national law', it is formulated in the explanation of the Criminal Procedure Code. For example, because it regulates the

national criminal procedural law, it must be based on the philosophy/view of life of the nation and the basis of the state.So it should be in the provisions of the article or paragraph material not only reflect the protection of human rights and the obligations of citizens. However, it is also reflected in the principles governing the protection of the nobility of human dignity and dignity. Here, too, is clearly seen the basic dimensions of the theory of dignified justice.

The principles include, among others, equal treatment of everyone before the law by not making any difference in treatment. Furthermore, it is also determined that arrests, detentions, searches and seizures are only carried out based on a written order by an official authorized by law and only in cases and ways regulated by law.Meanwhile, rebuttals also need to be raised against the view that multiple substantive law describes or is the main reference for the nature of colonial law. It is true that the substance of colonial law shows a plurality, because it is a fact. It's just that pluralism does not always mean colonial. The existence of pluralism in national law is not the only feature.This is because national law also recognizes the principle of Bhineka Tunggal Ika as a manifestation of the principle rooted in the precepts of Pancasila, namely the Unity of Indonesia. However, it is well recognized that how it is applied in the legal field is not a simple matter. To go in that direction requires adequate study and experience.All this time it was not a dream, as stated above. Things like that are real daily work that has been going on for a long time, can still be found in the daily lives of individuals and Indonesian society and will continue in the future. In relation to this issue, Kusumaatmadja contributed valuable thoughts, and expressed his opinion as follows. Prof.'s view. Mochtar Kusumaatmadja was also not rejected by other legal theorists in Indonesia, namely Prof. Satjipto Raharjo. The guideline that can be used in developing national law is to strive for unity which may allow diversity if circumstances so require, but nevertheless prioritize certainty (unity whenever possible, diversity where desired, but above all certificates). Meanwhile, the theory of dignified justice does not question the distinction or dichotomy or antinomy between justice, benefit and legal certainty, but views justice as the main thing which systemically includes benefits and legal certainty.

In relation to the legal system built on the basis of Pancasila, Prof. Kusumaatmadja argues that the principle of unity and unity does not mean that cultural diversity does not need to be considered. Because, if Pancasila is the basic value, then national law can be viewed as a device that contains instrumental values that develop dynamically.The following is a further exploration of the nature of the theory of dignified justice. The following search is also expected to strengthen a conclusion that this dignified justice theory can also be called a legal system theory based on Pancasila.As a theory, it should be understood with full awareness or rationalized to its roots; namely that each theory is actually a "tool". Theory is a tool, meaning that every theory that is built is always oriented to the value of benefit for humans and society. Likewise with the theory of dignified justice. As a theory, in essence the theory of dignified justice is also a "tool". Generally, in this era of progress and development of science and technology, people equate "tools" with technology. The theory of dignified justice is a "tool", a creation or invention and creation, the result of a design made by humans, to humanize humans.The "tools" are made by humans so that humans themselves or other humans who are interested can use the "tools". The purpose of using the "tool" called the theory is, among others, as a justification, or at least to give a name (identity) to something. Giving identity is also intended to distinguish something from something else. Something in this paper is the positive legal system that applies in Indonesia. The theory of dignified justice is the finding and the subject of study in this book. This needs to be stated considering that in general people understand that theory is the result of someone's thinking or work; theory belongs to someone.

A theory is the result of the discovery of the work or the result of the construction of thinking belonging to someone who pursues a particular scientific field.As a "tool" created or the result of thought, it is certain that the creator knows and wants that "tool" to be useful. This is also another feature of theory. Likewise, another characteristic of the theory of dignified justice. As is generally understood, the benefit or use is a material value or material value. Value is the quality of something. Likewise with the theory of dignified justice.The theory of dignified justice is valuable, like the value that Notonagoro meant, because at least the theory has quality, it can be used by a large nation and its population, stretching from Sabang to Merauke and from Talaud to Rote Island. Meant by quality, also among other things that for a good cause;

become a unifying tool, understand, undergo and maintain the system form of a great nation.Notonagoro divides values into three groups, namely the material value of everything that is useful for the human body, vital (useful for humans to carry out activities) and spirituality (useful for human spirituality). Spiritual values can be divided into the truth value of reality that comes from the element of human ratio (reason), the value of beauty that comes from the element of human taste (aesthetics), the value of goodness that comes from human belief accompanied by appreciation through reason and conscience.[12].So far, the theory of dignified justice has been used, both by the inventors themselves and by other parties who use the theory of dignified justice. In this book, a number of evidences of the use of the theory of dignified justice are deliberately shown, for example in the formation of laws and regulations, judges' decisions and legal doctrines that have been developed in Indonesia's positive legal system so far. So that the "tool" can be used not only by the inventor himself, but also by other people, the creator of the "tool" seeks this by "promoting" (publication) that the "tool" he has created is the best.

Rather than "tools" created or found by other parties.As stated earlier, the theory of justice has the characteristics of philosophy, loves wisdom and is responsible. In that context, the theory of dignified justice rejects arrogance, but encourages self-confidence and self-confidence in a legal system, in this case a legal system based on Pancasila. There is a principal difference between arrogance and self-confidence. The first is an attitude that is not good and even not good, but the second is an attitude, especially a scientific attitude that is recommended, in a responsible manner. Those who study philosophy always strive to be broad-minded and open. They, philosophers, in this case legal philosophers are invited to respect the thoughts, opinions and stances of others, and not to impose the truth they believe in (indoctrination) on other people or parties.As a theory, the result of philosophical thinking, the theory of dignified justice also has an approach method in studying and explaining or describing and explaining the object of the study of the theory. In this case, the object of study from the theory of dignified justice is all the rules and principles of the law that apply.The most distinctive approach in the theory of justice is dignified to the object of study so that this theory can be identified as having a dignified nature, namely that the rules and principles of law are seen as a system. In other words, the dignified justice theory works in a system, the approach can also be called systemic or, as stated earlier, the philosophical approach. That is why, in the theory of dignified justice, the rules and principles of Indonesian law are also seen as existing and part of a structured legal system that applies in a positive system.

In relation to the concept of positive law mentioned above, it needs to be reaffirmed here that when people talk about the law, what must always be in the mind of that party is the law at this time or the law that is here and made by the competent authorities at this time. and in this place too (ius constitutum). Such law is given the name positive law or some call it the applicable law (positive recht, gelden recht, or stelling recht).[13].It should be stated here that, systemic comes from the word system. The word system which is understood in the theory of dignified justice contains the notion of a unity and a number of interrelated elements according to the order/sequence or structure/arrangement of arrangements to achieve a purpose or fulfill a certain role or task. In presenting an answer to a problem, the system approach uses an opinion or argument which is a philosophical description that relates regularly, is related to one another and contains a specific purpose or goal.

V. CONCLUSION

The government's policy in order to save prisoners and inmates in prisons is by issuing 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, and Decree of the Minister of Law and Human Rights No. 19. PK.01.04 of 2020 concerning the Release and Release of Child Prisoners through Assimilation and Integration in the Framework of Prevention and Control of the Spread of COVID-19. This policy only applies to prisoners who commit general crimes.

However, the Assimilation and Integration Policy issued caused unrest in the community because there were prisoners who committed criminal acts after being released from prison. On that basis, in order to provide a sense of security to the community, if implementing assimilation and integration policies, the conditions must be tightened. There are at least two conditions that must be added, namely in providing assimilation and integration, supervisory judges and observers must be involved for their consideration, and Risk Assessment.

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