



## GUARANTEED ASSIMILATION OF CHILDREN'S CONSTITUTIONAL RIGHTS DURING THE COVID-19 PANDEMIC

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**Abstract:** The Special Child Development Institute is also engaged in an endeavor to stop the spread of COVID-19 (LPKA). The assimilation program provided to juvenile detainees is an attempt to stop the COVID-19 virus from spreading among inmates. In many circles, the advantages and negatives of the policy are about equal. On the one hand, the treatment is welcomed since it will stop COVID-19 from spreading. However, the policy is seen to compromise public safety. Further research is thus required to determine how to protect foster children's constitutional rights to get remission during the COVID-19 pandemic and how to grant Lampung Province's request for remission for foster children during the COVID-19 pandemic. Through an examination of normative provisions based on legal doctrines, ideas, and conceptions, this study employs prescriptive legal research, namely the kind of normative-doctrinal research. The central government responded to this situation by releasing a number of laws to safeguard the constitutional rights of foster children to achieve integration during the epidemic. These regulations include the Decree of the Ministry of Law and Human Rights Number M.HH-19.PK/01.04.04 and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020. The assimilation strategy for foster children has been implemented for 83 foster children in Lampung Province in order to safeguard the constitutional rights of children.

**Index Terms - Fostered Children, Covid-19, Constitutional Rights.**

### I. INTRODUCTION

The Covid-19 epidemic is posing many issues for the globe, but as children are one of the most susceptible populations, the hazards to their safety and wellbeing are significantly greater and worsen during a health emergency [1]. While public health concerns continue to be one of the major threats to children, other child protection problems might be made worse by the crisis, and any action taken by the government could possibly make things worse for kids. Statistics and results from other nations, like China, the United States, Australia, and Brazil, reflect the worries of child safety professionals and point out a few issues that Indonesian children need major attention in.

Currently, the Indonesian government is attempting to stop the spread of COVID-19. The Special Child Development Institute is also engaged in an endeavor to stop the spread of COVID-19 (LPKA). The assimilation program provided to juvenile detainees is an attempt to stop the COVID-19 virus from spreading among inmates. It is important to remember that the decision to release a prisoner is based on philosophical, legal, and social considerations. The government's philosophical base produced a number of laws pertaining to human rights.

In the meantime, the Minister of Law and Human Rights officially released a regulation titled "Release and Release of Prisoners and Children Through Assimilation and Integration in the Framework of Prevention and Control of the Spread of Covid-19" with Ministry of Law and Human Rights Number M.HH-19.PK/01.04.04. The social underpinnings are evident in the state of Indonesia's jails and LPKAs, which have extremely high occupancy rates and are thus cruel since they are very susceptible to the development and transmission of COVID-19. Beginning in May 2020, information from the Directorate General of Correctional Services revealed that there were 76.01% of prisoners who were overcrowded. The Correctional Institution can house 132,330 people, but 232,526 individuals now reside there. Being physically or socially distant is difficult due to the overcrowding within the institution. There aren't many cleaning instruments available, including those for washing hands with soap and hand sanitizer.

Indonesia is dedicated to upholding human rights, which includes adopting children, and has ratified the International Covenant on Economic, Social, and Cultural Rights [2]. The Indonesian government, via the Indonesian Ministry of Law and Human Rights, has developed a policy to safeguard children under the supervision of correctional facilities during the COVID-19 epidemic due to humanitarian concerns and the protection of human rights. The government also intends to release a total of 50,000 convicts in light of the compassion and humanity shown by the Ministry of Law and Human Rights, which has already freed more than 2,259 young prisoners as part of the COVID-19 assimilation and integration program [3]. The advantages and drawbacks of the policy are widely discussed in many groups. On the one hand, the treatment is welcomed since it will stop COVID-19 from spreading. However, the procedure is seen to compromise public safety [4]. As a result, further research is required to determine how to uphold the constitutional rights of foster children to get remission during the covid-19 epidemic and to satisfy Lampung Province's request for remission for foster children during the pandemic.

## II. RESEARCH METHODOLOGY

Through an examination of normative provisions based on legal doctrines, ideas, and conceptions, this study employs prescriptive legal research, namely the kind of normative-doctrinal research. Furthermore, in light of the present Covid-19 issue, this article at least aims to uphold the government's legal standards and guidelines for foster children's right to assimilation. Every legal phenomena is initially observed in this research using empirical data before being examined using theoretical justifications and statutory requirements.

## III. RESULTS AND DISCUSSION

The government, in this instance the Ministry of Law and Human Rights, has the power to order the release of inmates in Indonesia in order to stop the spread of Covid 19. It was motivated by the government's worry about the coronavirus spreading in jails, as revealed by Kaca Dwikarya. Prison overcrowding or capacity issues demonstrate that this issue is serious [5]. There are 528 prisons and detention facilities in Indonesia, housing 130,512 inmates. While there were 269,846 convicts, there was a 107% overpopulation of the prisons [6]. Indonesia, along with Afghanistan, Bangladesh, Cambodia, Iran, Nepal, Pakistan, and the Philippines, is one of 8 nations facing high overpopulation when compared to the occupancy rate of 23 Asian nations between 2014 and 2017.

The Regulation of the Minister of Law and Human Rights (Permenkum HAM) Number 10 of 2020 concerning Conditions for Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Control of the Spread of Covid-19 was signed by Minister Yasonna on March 30, 2020. The Minister of Law and Human Rights' Decree 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 Framework of Prevention and Control of the Spread of Covid-19 regulates its execution. The assimilation of the process of fostering convicts and children, which is carried out by integrating them into society for those who have served half their jail sentences, was regulated on the 13th page of the Decree of the Minister of Law and Human Rights [7]. Children who have committed a crime for at least three months are subject to it. Assimilation of prisoners takes place at home under supervision and with direction [8]. Inmates who qualify for assimilation must demonstrate excellent conduct by not receiving disciplinary action in the previous 6 (six) months, actively participate in the coaching program, and have completed (one-half) of the sentence. The following papers are annexed to demonstrate the requirements for granting assimilation:

1. photocopy of the excerpt of the judge's decision and the minutes of execution of the court's decision;
2. Evidence of having paid the fine and replacement money in full by the court's decision or implementing a subsidiary substitute for the penalty carried out at home under supervision by the Prosecutor's Office and Correctional Center;
3. development progress report signed by the head of the prison;
4. a copy of register F from the head of the prison;
5. a copy of the list of changes from the Head of the Prison; and
6. a statement from the prisoner not to run away and not to commit any unlawful act.

Furthermore, parole and leave before release can be given to prisoners who have met the following requirements:

1. Has served a minimum sentence of 2/3 (two-thirds), provided that 2/3 (two-thirds) of the criminal period is at least 9 (nine) months;
2. good behavior while serving a criminal period of at least the last 9 (nine) months calculated before the 2/3 (two-thirds) of the illegal period;
3. have followed the coaching program well, diligently, and enthusiastically; and
4. the community can accept the prisoner coaching program.

Provision of Conditional Leave can be given to prisoners who have met the following conditions:

1. Has served a minimum sentence of 2/3 (two-thirds), provided that 2/3 (two-thirds) of the criminal period is at least 6 (six) months;
2. good behavior while serving a criminal period of at least the last 6 (six) months calculated before the 2/3 (two-thirds) of the illegal period;
3. have followed the coaching program well, diligently, and enthusiastically; and
4. the community can accept the prisoner coaching program.

Conditional release can be given to children who are serving a prison sentence at LPKA who have met the following requirements:

1. has served a criminal period of at least 1/2 (one-half) of the illegal period; and
2. good behavior while serving a criminal period of at least the last 3 (three) months calculated before the 1/2 (one half) day of the illegal period.

Conditions for granting parole, leave before release, and conditional leave are proven by the completeness of the following documents:

1. photocopy of the excerpt of the judge's decision and the minutes of execution of the court's decision;
2. development progress report signed by the Head of Prison/LPKA;
3. a copy of register F from the Head of Prison/LPKA;
4. a copy of the list of changes from the prison/LPKA; and
5. statement letter from the Convict/Child not to commit any unlawful act.

The assimilation and reintegration program is well-known, yet it has been in place before Indonesia's Covid-19 crisis for a very long time. We can see that the conditions for granting assimilation are similar to those in Permenkumham Number 10 of 2020 concerning Terms of Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Overcoming the Spread of Covid-1 in Permenkumham 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. The implementation of the assimilation program based on Permenkumham Number 10 of 2020 is the sole significant difference. Assimilation programs are implemented at home in accordance with the government's objective of enforcing social segregation. In addition, the Community Counselor, who is tasked with leading and mentoring, oversees the execution of the integration program.

The integration program's ultimate goal—that each prisoner can interact with the society and have skills—will not be impacted by this regulation [9]. Even then, there are instances in which inmates who participate in an integration program at home commit fresh offenses or recurrences of previous offenses [10]. Only a few offenders participated in the program out of the thousands who were given it, therefore it was impossible to say if Permenkumham Number 10 of 2020 needed to be improved or failed. Many believe that Permenkumham Number 10 of 2020 was solely published to address the issues that have been a source of contention at the Correctional Center about overcapacity by exploiting the Covid-19 issue. As of April 9, 2020, there were 237,983 inmates and detainees listed in the Correctional Database System, despite Indonesia's jail and detention facilities only having room for 132,107 people. According to this data, there are 174,080 prisoners, and as of April 8, 2020, 35,676 of them have participated in the assimilation and reintegration program.

Considering the evidence, it is impossible to claim that this strategy was created only to address the issue of overcapacity. When discussing jail overcrowding issues, the need for justice must be prioritized while identifying the cause of the issue [11]. Because prisons are the system's ultimate component, we may see this in Indonesia's criminal justice system in terms of both regulations, law enforcement personnel, and community support. The crime of incarceration is still a serious one under the Criminal Code (KUHP). This makes adult criminal conduct that are governed by the Criminal Code more likely to result in a jail term. Even while certain specific regulations provide additional alternative penalties, this does not help to solve the overcapacity issue. While alternative basic penalties have been used in the draft of the Criminal Code, which has not yet been adopted, jail is still the final choice [12].

The police, prosecutors, judges, and correctional personnel are among the law enforcement officials who play specific responsibilities in Indonesia's criminal justice system. beginning with the inquiry, inquiry, prosecution, and judgment to remedial. According to Article 1 Point 1 of In-Law Number 12 of 1995 Concerning Corrections, "Correctional Facilities" are defined as "activities to lead individuals based on the system, institutions, and techniques of coaching," which are the ultimate component of the criminal justice system. The legal need that prisons mark the conclusion of the criminal process means that the issue of overcrowding cannot simply be attributed to prisons; rather, it is a problem that results from Indonesia's criminal justice system. Correctional duties only involve coaching and mentoring in the hopes that prisoners will become fully human, realize their errors, improve, and refrain from repeating crimes. This will allow them to be accepted by the community once more, be actively involved in its growth, and, in most cases, live as good and responsible citizens. Investigations, prosecutions, and sentencing are not handled by corrections.

By establishing a policy through the Minister of Law and Human Rights' Decree No. M.HH-19.PK.01.04.04 of 2020 regarding the release and release of prisoners and children through assimilation and halting the spread of Covid-19, the Minister of Law and Human Rights also made public policy in the correctional sector. Since the beginning of 2020, this problem has evolved into this policy [13]. One attempt to stop and rescue inmates and children in prisons and detention facilities from contracting COVID-19 is the Minister of Law and Human Rights' Decree [14]. All convicts in Indonesia are provided with this spending under particular terms and restrictions. As a follow-up to Kepmenkumham Number M.HH 19.PK.01.04.04 of 2020 concerning the Release and Release of Prisoners and Children Through Internal Assimilation and Integration and Permenkumham No. 10 of 2020 concerning Conditions for Granting Assimilation and Integration Rights for Convicts and Children in the Context of Prevention and Control of the Spread of COVID-19 Up to 183 convicts and kids were once again freed in order to prevent and control the spread of COVID-19. In the purpose of preventing and limiting the spread of COVID-19, all convicts and children were freed via assimilation and integration. The following steps are being taken to implement assimilation and integration for prisoners and kids in the Lapas/Rutan/LPKA Lampung region:

No	Agency	Amount (person)
1.	Metro Correctional Institution	11
2.	Kalianda Correctional Institution	20
3.	Kotabumi Correctional Institution	51
4.	Way Kanan Correctional Institution	2
5.	Bandar Lampung Women's Correctional Institution	22
6.	Gunung Sugih Correctional Institution	7
7.	Bandar Lampung Correctional Institution	19
8.	Class 1 detention house Bandar Lampung	37
9.	Class 1 detention house Kota Agung	1
10.	Class 1 detention house Sukadana	1
11.	Class 1 detention house Krui	6
12.	Class 1 detention house Menggala	6
<b>TOTAL</b>		<b>183</b>

So that the full implementation of Assimilation and Integration for Prisoners and Children in Lapas/Rutan/LPKA Lampung Region from April 1 to 7, 2020, is 1,614 people, with details:

1. Male = 1491 people
2. Female = 40 people
3. Children = 83 people

Nofli, the director of the Ministry of Law and Human Rights' regional office in Lampung, emphasized that the inmates' release had followed the procedures outlined in Permenkumham No. 10 of 2020 concerning Conditions for Providing Assimilation and Integration Rights for Prisoners and Children in the Context of Preventing and Combating the Spread of COVID-19. They include

those who are in good standing, have completed their criminal sentences, have no outstanding warrants for their arrest as of December 31, 2020, and have not committed any crimes related to terrorism, drugs, or corruption (PP 99 of 2012). For the sake of integration, excellent conduct has served the majority of the unlawful time, not corruption, terrorism, drugs, or outsiders (PP 99 of 2012). In the framework of preventing and limiting the spread of COVID-19, no criminal acts of crime, terrorist activities, or drug traffickers (PP 99 of 2012) have been issued and released under the Assimilation and Integration Rights Granting Program for Prisoners and Children.

#### IV. CONCLUSION

The central government responded to this situation by releasing a number of laws to safeguard the constitutional rights of foster children to achieve integration during the epidemic. These regulations include the Decree of the Ministry of Law and Human Rights Number M.HH-19. PK/01.04.04 concerning the Release and Release of Convicts and Children through Assimilation and Integration in the Frame of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020 concerning Conditions for Granting Assimilation and Integration Rights for Prisoners and Children in the Frame of Prevention and Control of the Spread of Covid-19 83 individuals in the province of Lampung have been subjected to this assimilation strategy for foster children. The adopted children have followed the procedures outlined in Permenkumham Number 10 of 2020, are well-behaved, have completed half of their jail time and two-thirds of their time spent in detention as of December 31, 2020, and are not involved in any crimes involving corruption, terrorism, drugs, or foreign nationals.

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