

# POLICY ANALYSIS

Analysis of Prisoner  
Assimilation and  
Integration Policy during  
the COVID-19 Pandemic

Author: Hisyam Ikhtiar

Hisyam Ikhtiar | Desember 2020

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Enumerator: Fina Rahmawati, Aisyah Sharifa

Editor: Albert Wirya

Cover and Infographic Designer: Tengku Raka

Translator: Miki Salman

Published by Lembaga Bantuan Hukum Masyarakat  
Tebet Timur Dalam VI E No. 3, Tebet  
Jakarta Selatan, 12820  
Indonesia

This project is supported by International Drug Policy Consortium (IDPC).  
The information and views set out in this report are those of the authors and  
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## BACKGROUND

Since it was first identified in late 2019 in Wuhan, China, the novel coronavirus disease, which was later named COVID-19, has spread globally infecting more than 25 million people and causing more than one million deaths across 215 countries as of the time of this writing.<sup>1</sup> The rapid spread of the virus and the high mortality rate have prompted countries to take measures that have impacted the lives of many, including lockdowns that force people to stay home, limiting social and economic activities, and suspending regional and international travel.

COVID-19 is highly infectious airborne disease. The SARS-CoV-2 virus that caused the disease can be transmitted between people by virtue of proximity, being in the same room, inhaling the same air for an extended duration with an infected person. The risk of transmission is therefore very high in closed, unventilated and densely populated quarters.<sup>2</sup> One such highly hazardous environment are prisons and detention facilities, and the already very high risk is compounded when such facilities are overcrowded, unventilated, and unsanitary. In the Indonesian context, where prison overpopulation is chronic and health precautions and service for the prison population is lacking, the risk of infection is extreme.

WHO, UNODC, UNAIDS and OHCHR have issued a joint recommendation on the handling of COVID-19 in prisons and other enclosed facilities. All agree that prison populations are highly vulnerable to contracting COVID-19, and their main recommendation to governments around the world is to reduce overpopulation in prisons and other places of detention. Prison health management measures alone, such as ensuring the habit of washing hands, are never going to be effective because the main issue in preventing and

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<sup>1</sup> Dadax, Worldmeters, <[https://www.worldometers.info/coronavirus/?utm\\_campaign=homeAdvegas1?>](https://www.worldometers.info/coronavirus/?utm_campaign=homeAdvegas1?>) [accessed 02 September 2020]

<sup>2</sup> United Nation, World Health Organization (WHO), <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-coronaviruses>> [2 September 2020]

controlling the spread of COVID-19 in prisons is, foremost, the large prison population.<sup>3</sup>

In response to this situation, the Government of Indonesia, through the Ministry of Law and Human Rights, issued Minister of Law and Human Rights Regulation Number 10 of 2020 concerning the Terms for Granting Assimilation and Integration Rights for Inmates and Children<sup>4</sup> in the Context of Preventing and Combating the Spread of COVID-19 (hereinafter referred to as the Assimilation Policy). In this regulation, the government recognizes that Correctional Institutions (Lapas), Special Development Institutions for Children (LPKA), and State Detention Centers (Rutan) are enclosed facilities with high occupancy rates making them vulnerable to the spread of COVID-19.<sup>5</sup>

The assimilation policy related to the COVID-19 pandemic has the potential to affect the public at large. Thus, as a civil society organization, LBHM seeks to analyze this policy by collecting data on the implementation of the assimilation and integration policy, and how it impacts the public.

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<sup>3</sup> WHO, UNODC, UNAIDS, dan OHCHR, WHO, UNODC, UNAIDS, and OHCHR Joint Statement on COVID-19 in Prison and Other Closed Settings, <<https://www.who.int/news-room/detail/13-05-2020-unodc-who-un aids-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings>> [accessed on 3 September 2020 Pukul 11:00]

<sup>4</sup> Children refers to the definition of children in conflict with the law in Law Number 11 of 2012 concerning the Child Criminal Justice System (SPPA) as someone who is older than 12 years old but less than 18 years old who is in conflict with the law.

<sup>5</sup> Ministry of Law and Human Rights of the Republic of Indonesia, Regulation of the Minister of Law and Human Rights Number 10 of 2020 concerning Requirements for Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Preventing and Mitigating the Spread of COVID-19, (Jakarta: Ministry of Law and Human Rights, 2020) onsideration letter a.

## METHODOLOGY

As part of its monitoring and evaluation effort, LBHM collected data and conducted a quick analysis of the impact of the assimilation policy of inmates and detainees during the COVID-19 pandemic. This research aims to answer the following questions:

1. How is the implementation of the Assimilation of Prisoners and Detainees during the COVID-19 pandemic in Indonesia?
2. How has this policy affected the handling of the COVID-19 pandemic (especially in correction/detention facilities)?
3. What are the impacts of the policy?

Before conducting the analysis, LBHM did a literature study related to COVID-19 pandemic situation and its relationship with prison institutions, including national regulations, local regulations, as well as statements and guidelines from international organizations related to the COVID-19 pandemic and prison facilities. These selected literature can provide an understanding of how COVID-19 should be handled, especially in closed institutions such as prisons.

In addition to the literature study, LBHM also collected data on official statements regarding the assimilation and integration policies of inmates and detainees during the COVID-19 pandemic and the impact of these policies from news published on online media, both at the national and local (regional) levels. Other news collected for this report include news about recidivism (repetition of offenses) by inmates and detainees who have been granted assimilation and integration rights during the COVID-19 pandemic. This effort is part of LBHM's ongoing media monitoring.<sup>6</sup>

LBHM also reviewed the official Directorate General of Corrections site at [www.smslap.ditjenpas.go.id](http://www.smslap.ditjenpas.go.id) regarding the number of inmates and detainees released from prisons or detention centers to verify the government's

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<sup>6</sup> William J Comcowich, *Media Monitoring: The Complete Guide*, (CyberAlert: 2010), p. 3.

statements about assimilation policies against statements reported in the media. We collected data on the number of inmates and detainees in the adult, female and child categories who have been released from prison since the assimilation and integration policy was enacted in April 2020 to August 2020.

We processed data obtained from media and government websites using Microsoft Excel and Statistical Package for the Social Science (SPSS) applications. The data on released inmates and detainees was useful for reviewing the implementation of the assimilation policy during the COVID-19 pandemic. In addition, the reporting on recidivism was useful for examining the impact of the assimilation and integration policies.

The methods we chose for conducting this analysis have several limitations. First, our data, which is sourced from official government channels, is highly dependent on how this data has been logged into the official channels of the Directorate General of Corrections (DGC). Second, the data on the implementation of the assimilation and integration policies and their impacts are very limited temporally and is highly dependent on the media covering it. In addition, the up and downtrends of media coverage of the policy may not accurately reflect the real numbers in the field. While mindful of these limitations, we still consider it important to monitor government performance, especially in handling the COVID-19 pandemic in correctional institutions and detention facilities.

## ANALYSIS

Correctional Institutions (Lapas) are state-run institutions that is tasked with providing guidance and security for Prisoners and Children.<sup>7</sup> Meanwhile, State Detention Centers (Rutan) functions as a place for holding suspects and defendants, or people who have not been sentenced with final legal force.<sup>8</sup> Due to their nature that limits individual freedom, the two institutions accommodate many people in one space, making them high risk locations for the spread of COVID-19.

In addition to their enclosed nature, prisons and detention centers in Indonesia are noted for their overcrowded populations. In December 2019, prisons and detention centers in Indonesia were running at 100% capacity on average.<sup>9</sup> Twenty eight of the 33 DGC Regional Offices that run prisons and detention centers throughout Indonesia reported overcrowding.<sup>10</sup>

This overcrowding is of particular concern in the context of COVID-19 because the SARS-CoV-2 virus is airborne, spreading largely through aerosolized droplets and infecting individuals via nosocomial passages. Confined overcrowded spaces with inadequate ventilation, which can

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<sup>7</sup> Ministry of Law and Human Rights of the Republic of Indonesia, Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-05.OT.01.01 of 2011 concerning Amendments to the Decree of the Minister of Justice Number M.01-PR.07.03 of 1985 concerning Organization and Working Procedures of Correctional Institutions (Jakarta: Ministry of Law and Human Rights, 2011), consideration (1)

<sup>8</sup> Ministry of Justice of the Republic of Indonesia, Decree of the Minister of Justice Number M.04-PR.07.03 of 1985 concerning Organization and Working Procedures of State Detention Centers (Rutan) and State Confiscated Objects Storage, (Jakarta: Ministry of Justice), Article 2

<sup>9</sup> Directorate General of Corrections, Corrections Database System <<http://smslap.ditjenpas.go.id/public/grl/current/monthly/year/2019/month/12>> [accessed 21 September 2020]

<sup>10</sup> *Ibid.* Corrections Database System.

describe most prisons and detention facilities in Indonesia, are, therefore, highly dangerous.<sup>11</sup>

The normal preventative measures as recommended by WHO — distancing, mask wearing, washing hands regularly<sup>12</sup> — are difficult, if not impossible, to implement in overcrowded prisons and detention centers. Facilities and provisions such as masks and clean water are often not available. As such, the most effective measure to prevent the spread of COVID-19 in prisons and detention centers is to reduce the prison population.

In response, the government through the Ministry of Law and Human Rights issued Ministerial Regulation Number 10 of 2020 concerning Terms of Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Preventing and Combating the Spread of COVID-19, hereinafter referred to as the Assimilation Policy. This policy aims to mitigate the spread of COVID-19 by reducing the prison population, and sets out the criteria and conditions for granting assimilation and integration rights to inmates and detainees.

The conditions are: 1) maintaining good behavior with no disciplinary action in the last 6 months; 2) actively participating in the development program with good results; 3) has served half of the sentence.<sup>13</sup> Meanwhile, for Children, the provisions differ only in terms of the period of review (last three months) and having served a minimum of three months of the sentence.<sup>14</sup>

The assimilation policy is implemented based on supporting evidence in the form of photocopies of the judge's decision and minutes of implementing court decisions; proof of payment of fines; development progress report signed by the Head of Correction Institution; copy of register F; a copy of the list of changes from the Head of Correction Institution; and the prisoner's

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<sup>11</sup> WHO, Questions and Answers on COVID-19, <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-how-is-covid-19-transmitted>> [accessed 21 September 2020 at 10:00]

<sup>12</sup> *Ibid*, WHO, Questions and Answers on COVID-19

<sup>13</sup> Ministry of Law and Human Rights, Permenkumham No. 10 of 2020 Article 2 Ayat (2)

<sup>14</sup> *Ibid*, Article 3

promissory statement of not escaping and not breaking the law.<sup>15</sup> In addition, inmates must be recommended by correctional officers to be eligible for this program.<sup>16</sup>

## **A. Lack of Health Considerations**

The Assimilation Program excludes several groups of inmates based on the crime they have committed, and one such exempted category is narcotics crime.<sup>17</sup> This is affirmed in the Decree of the Minister of Law and Human Rights which limits the procedures for releasing prisoners only to those who are not related to Government Regulation 99/2012.<sup>18</sup> Under this Government Regulation, inmates convicted of narcotics crimes sentenced to more than five years must be willing to cooperate with law enforcement to help uncover cases, or become a Justice Collaborator (JC).<sup>19</sup>

This is unfortunate, considering that drug offenders make up 52% of the total number of inmates and detainees.<sup>20</sup> According to DG of Corrections data, in December 2019, the number of drug-related convicts, including dealers and users, was 138,927, representing 95% of special crime convicts.<sup>21</sup>

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<sup>15</sup> *Ibid*, Article 4

<sup>16</sup> *Ibid*, Article 6

<sup>17</sup> *Ibid*, Bab II

<sup>18</sup> 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 Release and Discharge of Convicts and Children through Assimilation and Integration in the Context of Prevention and Mitigation of COVID-19 Spread

<sup>19</sup> Government Regulation Number 99 Year 2012, Article 34A, Article 43A

<sup>20</sup> Referring to the comparison of the number of convicted narcotics dealers and users displayed on the site <http://smslap.ditjenpas.go.id/public/krl/current/monthly/year/2019/month/12> and the total number of inmates and detainees in December 2019 on the site <http://smslap.ditjenpas.go.id/public/grl/current/monthly>

<sup>21</sup> The Special Crime in question is the crime of narcotics, corruption, terrorism, human trafficking, illegal logging, genocide, money laundering as stated on the Directorate General of Corrections website on the website <http://smslap.ditjenpas.go.id/public/krl/current/monthly/year/2019/month/12>

This exclusion of narcotics offenders from the assimilation policy—by far the highest proportion of inmates—indicates that the government is, at best, ambivalent and, at worst, not serious in implementing its own policy, especially considering that the large majority of these convicts are non-violent users who by law should have been sentenced to rehabilitation<sup>22</sup>.

This exemption of narcotics offenders, and the conditions cited above, show that assimilation rights during the pandemic is granted based on disciplinary considerations and time served, not based on health risk factors.

In fact, the conditions for assimilation in this regulation (Number 10 of 2020) adopt—if not outright copy—the same conditions stipulated in Regulation of the Minister of Law and Human Rights Number 21 of 2013 concerning Terms and Procedures for Granting Remissions, Assimilation, Family Visiting Leave, Parole, Leaving Towards Free, and Conditional Leave, specifically articles 21-29, except for the part of providing assimilation for foreign nationals.<sup>23</sup>

The sole consideration of disciplinary factors in this assimilation policy also shows inconsistency. Although the regulation explicitly states as its consideration the extraordinary COVID-19 pandemic situation as a non-natural disaster,<sup>24</sup> the contents of this regulation do not seem to reflect this consideration as they entirely disregard health as a factor in the conditions for prisoners.

WHO, UNAIDS, UNODC and OHCHR issued a joint statement on the mechanisms for releasing prisoners, with particular consideration for those who are more susceptible to contracting COVID-19, such as the elderly and

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<sup>22</sup> President of the Republic of Indonesia, Law Number 35 of 2009 concerning Narcotics (Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia, 2009), Article 54

<sup>23</sup> Minister of Law and Human Rights of the Republic of Indonesia, Regulation of the Minister of Law and Human Rights Number 21 of 2013 concerning Requirements and Procedures for Granting Remissions, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave (Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia, 2013)

<sup>24</sup> Ministry of Law and Human Rights of the Republic of Indonesia, Regulation of the Minister of Law and Human Rights Number No. 10 of 2020, Consideration letter b

people with comorbidities.<sup>25</sup> In the same statement, they also specifically suggested to consider prisoners convicted for minor and non-violent crimes to be given priority for release as an effort to maintain public security.<sup>26</sup> Children and women in particular should be given special consideration. The European Committee for the Prevention of Torture and Degrading or Inhuman Punishment also echoed this stance, stating that handling COVID-19 in prisons must consider the protection of the health and safety of prisoners, especially those who are vulnerable, such as the elderly and prisoners with comorbidities.<sup>27</sup>

As narcotics crimes can be categorized as non-violent crimes, more of the offenders should be released. Unfortunately, the narcotics penal code in Indonesia still penalizes people for possessing, keeping, and controlling narcotics.<sup>28</sup> This provision overlaps with the penalties against people who sell, give, act as intermediary, offer, and receive narcotics.<sup>29</sup> As a result, law enforcers are unable to distinguish between drug users and dealers/dealers. Logically, it is impossible for someone to use narcotics without “controlling” the narcotic first. More than that, because narcotics is a commodity, it is almost certain that all possession of narcotics comes from buying and selling transactions. With the logic of this rule, a user can be likened to a seller/dealer if proven to have bought narcotics. This overlapping provision makes narcotics users who are supposed to be ‘victims’<sup>30</sup> subject to being charged as ‘perpetrators of crime’.

In addition, some narcotics users may have certain medical conditions that require special treatment. Although it is yet to be scientifically determined

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<sup>25</sup> WHO, UNAIDS, UNODC, dan OHCHR, Joint Statement on COVID-19 in Prison, *Reduce Overcrowding* section.

<sup>26</sup> *Ibid*

<sup>27</sup> European Committee on the Prevention of Torture and Inhuman or Degrading Punishment, Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic (Eropa: Dewan Eropa, 2020), principle 1 and 6.

<sup>28</sup> President of the Republic of Indonesia, Law Number 35 of 2009 concerning Narcotics (Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia), Article 112

<sup>29</sup> *Ibid*, Article 114

<sup>30</sup> *Ibid*, Article 1 number 13.

how drug users are susceptible to COVID-19, the use of certain types of narcotics can have serious effects on the body. The use of opioids, for example, can cause reduced levels of blood oxygen, brain damage, or death<sup>31</sup>. Some types of narcotics that are inhaled like cigarettes can also cause lung disease. Therefore, there is the possibility that COVID-19 transmission among drug users with certain medical conditions can lead to chronic conditions. Unfortunately, the 47,928 drug users who are imprisoned are exempted from this assimilation policy.<sup>32</sup>

In responding to the pandemic, other countries have handled COVID-19 in prisons with great attention to health factors. The UK, for example, applies three rules, namely, 1) tightening distance control; 2) protecting vulnerable groups, and 3) increasing separate spaces<sup>33</sup>. They also explained how they conducted research related to the policy showing an overall decline in COVID-19 transmission in prisons, although a small number of cases still appear.<sup>34</sup>

The COVID-19 pandemic response should be first and foremost a public health emergency response,<sup>35</sup> and health considerations should be central in the formulation of policies for the release of prisoners. Drug users who find themselves in conflict the law only due to an ambiguity in the narcotics law should at the very least not face an increased risk to their health and safety in prisons, and shall fully be entitled to living a useful and healthy life outside of prison.

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<sup>31</sup> Centers for Disease Control and Prevention, <<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/other-at-risk-populations/people-who-use-drugs/QA.html#people-who-use-drugs>> [accessed 23 September 2020]

<sup>32</sup> Directorate General of Corrections, data on special inmates <http://smslap.ditjenpas.go.id/public/krl/current/monthly/year/2020/month/3> [accessed 23 September 2020]

<sup>33</sup> Eamon O'moore, Briefing paper- interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England, (United Kingdom: Public Health of England, 2020), p. 2

<sup>34</sup> *Ibid*, p. 3

<sup>35</sup> President of the Republic of Indonesia, Law Number 6 of 2018 concerning Health Quarantine (Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia, 2018), Article 1 nomor 2.

## B. Lack of Data Transparency

Apart from lacking health considerations, this assimilation policy also has issues with data transparency. We could not find any official government channel with data on the implementation of this assimilation policy. Until this report was written, we were only able to compile government statements regarding the number of assimilated prisoners from the media. We checked these statements against data available on the DGC website regarding the number of prisoners who have been released leave each month from April to August 2020.

According to a government statement, as cited by online media (Kompas, Kumparan, Okezone, Republika, Tempo, Pikiran-Rakyat), in April, 38,822 inmates and children have been granted release under assimilation and integration program to prevent the spread of COVID-19 in prisons and detention facilities.<sup>36</sup> However, the official website of the Directorate General of Corrections reports a total of only 17,013 inmates who have been released, which includes prisons and detention centers for children and women.

The disparity in numbers as above continued in the following months. In May, the government again issued a claim that the number of inmates, detainees and children that have been released under assimilation and integration programs had increased to a total of 39,876<sup>37</sup>. However, the data we obtained from the DGC website showed a total of only 23,664 inmates, detainees and children who were released during the period of 1 April - 31 May 2020.

By August, the disparity in the above numbers shrank. The online media sidaknews.com reported on August 17 that 40,504 inmates, detainees and

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<sup>36</sup> Ardito Ramadan, 'Hingga Senin Ini, 38.822 Napi Telah Bebas lewat Asimilasi COVID-19', Kompas, 20 April 2020, <<https://nasional.kompas.com/read/2020/04/20/10120611/hingga-senin-ini-38822-napi-telah-bebas-lewat-asimilasi-covid-19?page=all>> [accessed 23 September 2020]

<sup>37</sup> Merdeka, 'Sudah 39.876 Narapidana Dewasa dan Anak Dibebaskan Melalui Program Asimilasi COVID-19', Merdeka.com, 27 May 2020, <<https://www.merdeka.com/peristiwa/sudah-39876-narapidana-dewasa-dan-anak-dibebaskan-melalui-program-asimilasi-covid-19.html>> [accessed 23 September 2020]

children were released under the assimilation and integration program<sup>38</sup>. This number is close to our data, namely 40,388 inmates, children, and detainees that have been released from prisons and detention centers in the period of April - August 2020.

The gap between our findings and the government's claims can be attributed to a couple of possibilities, including: (1) government claims do not match the truth on the ground; or (2) the data published on [smslap.ditjenpas.go.id](https://smslap.ditjenpas.go.id) website does not accurately represent the implementation of the Ministerial Regulation Number 10 of 2020.

By law, the government has the responsibility of disclosing information to the public, and this obligation should not be taken lightly<sup>39</sup>. If the data on the release of inmates and detainees is doubtful, what is at stake is the government's own integrity as well as the legal certainty itself.

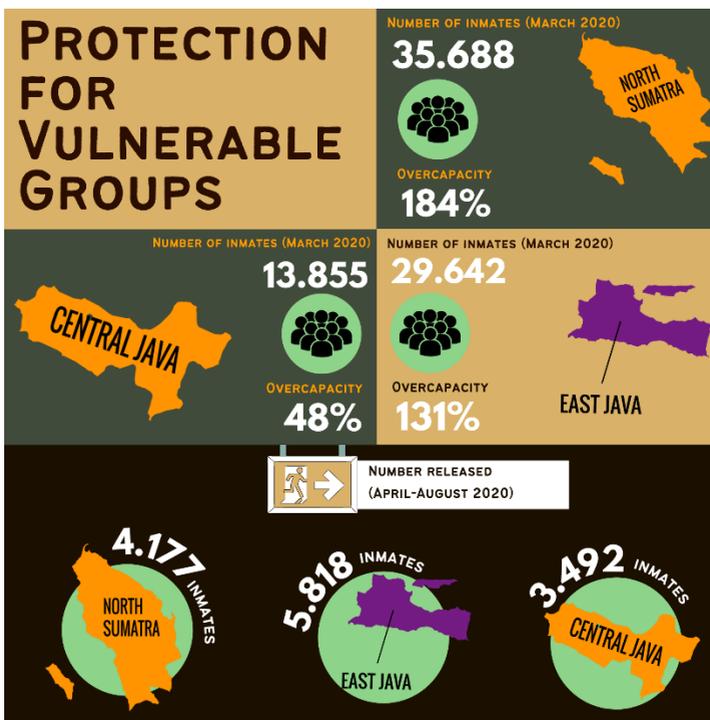
### **C. Protection for Vulnerable Groups**

Based on our findings, the East Java Regional Office oversaw the highest number of inmates and detainees released in the April-August 2020 period with a total of 5,818 people, including 117 children and 202 women. Given that prisons under the Regional Office of East Java is overcrowded by 131% (see Infographic 1), this release of inmates is not disproportionate.

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<sup>38</sup> Redaksi, '569 Warga Binaan Lapas Sekayu Dapat Remisi Bupati Muba DRA: Kembali ke Masyarakat Untuk Berbuat Baik', Sidaknews, 17 August 2020, <<https://sidaknews.com/detailpost/569-warga-binaan-lapas-sekayu-dapat-remisi-bupati-muba-dra-kembali-ke-masyarakat-untuk-berbuat-baik>> [accessed 24 September 2020]

<sup>39</sup> President of the Republic of Indonesia, Law Number 14 of 2008 concerning Public Information Transparency, (Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia, 2008), Article 1 Number 2

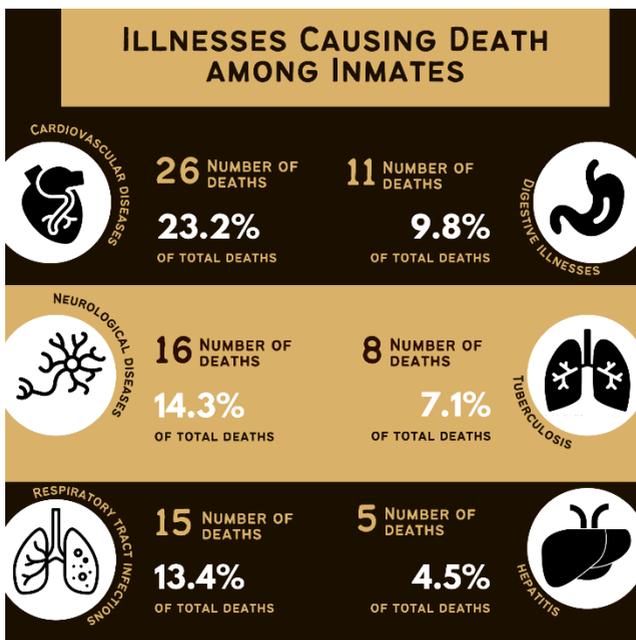


COVID-19 management and control programs in prisons should also consider vulnerable groups. For this reason, this analysis also strives to see whether this policy protects three vulnerable categories, namely people with certain diseases/medical conditions, women and children.

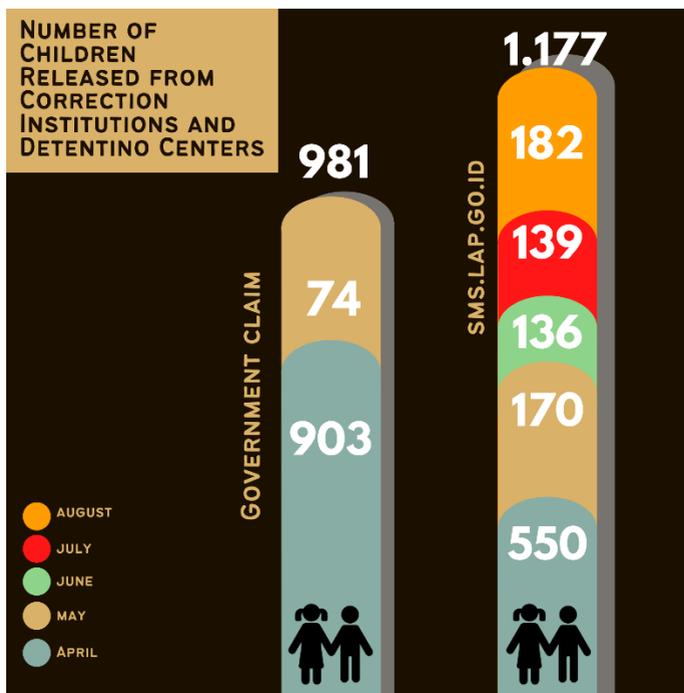
Some comorbidities, such as respiratory problems, can aggravate the health of people who contract COVID-19.<sup>40</sup> In February 2020, for example, there were 21.4% sick inmates,<sup>41</sup> and 13.4% of deaths in prisons can be attributed to respiratory infections (see Infographic 2). Therefore, the Assimilation Policy should take the inmates' medical conditions as a major consideration.

<sup>40</sup> Sanyaonlu Adekule, et. Al., 'Comorbidity and Its Impact on Patients with COVID-19', SN Comprehensive Clinical Medicine 2 (2020), 1069-1076, <<https://doi.org/10.1007/s42399-020-00363-4>> p. 170

<sup>41</sup> Sulhin, Iqram, *COVID-19, Pemenjaraan Berlebihan, dan Potensi Bencana Kemanusiaan*, (Depok: Jurnal Hukum dan Pembangunan Fakultas Hukum Universitas Indonesia, 2020), p. 407



The media reported that the government claimed 903 children have participated in the program in April 2020, increasing to 977 children in May 2020. However, there is no further development of this news to date. The DGC website shows that by August 2020 there have been 1,177 children freed from prisons and detention centers, comprising 965 child convicts and 212 child detainees as shown in Infographic 3 below.



In the period April-August 2020, 50.45% of the total number of children in March 2020 were released from correctional facilities and detention centers.<sup>42</sup> Even though a large number of children was released, we estimate that at least 357 children have been newly admitted to detention or prison. This figure was obtained from subtracting the difference between the total occupants in April and August with the total released children as recorded in Infographic 3 (Number of Children = (Number of Children in April 2020 - Number of Children in August 2020) - Number of Children Released).

There are eight Regional Offices (West Java, Lampung, Papua, West Papua, North Sulawesi, West Sumatra, and South Sumatra) that have not released any children at all. In fact, the Lampung and South Sumatra Regional Offices

<sup>42</sup> Directorate General of Corrections Ministry of Law and Human Rights of the Republic of Indonesia, 'Sistem Database Pemasarakatan', <<http://smslap.ditjenpas.go.id/public/arl/current/monthly/year/2020/month/3>> [accessed 15 Oktober 2020]

were ranked second and third among regions with the highest number of child inmates in March 2020.<sup>43</sup> This fact raises the question of whether the length of punishment and discipline arguments is sufficient to protect child inmates. Apart from releasing child inmates through the Assimilation Policy, it is also necessary to rescind or at least reduce child imprisonment during a pandemic.<sup>44</sup>

In addition to the ongoing criminalization of children, gender considerations have also been lacking. There were reportedly 1,736 female prisoners released from prison during March-August 2020. There is no comparative data from the government which specifically states the number of female inmates and detainees who benefited from the assimilation program during that period.

According to records, seven regional offices have not released female inmates and detainees at all. The seven regional offices are Bali, Bengkulu, Central Java, Central Kalimantan, West Nusa Tenggara, West Sulawesi and West Sumatra. Five regions recorded overcrowding, namely special prisons for women in the regional offices of Bali, Central Java, Central Kalimantan and West Sumatra, as of August 2020.<sup>45</sup>

The government's new Assimilation Policy does not prescribe any gender considerations, despite the fact that WHO, UNAIDS, UNODC, and OHCHR have specifically highlighted the need to make special considerations for

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<sup>43</sup> Directorate General of Corrections Ministry of Law and Human Rights of the Republic of Indonesia, 'Sistem Database Pemasarakatan', <<http://smlap.ditjenpas.go.id/public/arl/current/monthly/year/2020/month/3>> [accessed 15 Oktober 2020]

<sup>44</sup> The Sentencing Project, Youth Justice Under the Coronavirus: Linking Public Health Protection with the Movement for Youth Decarceration, (Washington, D.C: The Sentencing Project Research and Advocacy for Reform, 2020) p. 5

<sup>45</sup> Directorate General of Corrections Ministry of Law and Human Rights of the Republic of Indonesia, 'Sistem Database Pemasarakatan', <<http://smlap.ditjenpas.go.id/public/grl/current/monthly/kanwil/db6c61e0-6bd1-1bd1-9455-313134333039/year/2020/month/8>> [accessed 15 Oktober 2020]

women and children in their joint statement for member states in handling COVID-19 in prisons and detention centers.<sup>46</sup>

Women should become a priority group for release from prisons during the COVID-19 pandemic considering that most are imprisoned for non-violent offenses, and are usually non-recidivists to pose any danger to society.<sup>47</sup> Detention also makes it hard for them to see their families. Absence of contact with families, especially with their children, has a more adverse effect on the mental health of female prisoners than it is for men.<sup>48</sup> The same argument also applies to children who have an inherent right to learn and develop outside of prison.

#### **D. Impact of Assimilation and Integration Policy on Society**

When the Minister of Law and Human Rights announced the initiative to release prisoners as a measure to contain the spread of COVID-19, several society groups rejected this idea. The Mega Bintang Indonesia Foundation 1997, the Independent Anti Injustice Society Association, and the Indonesian Law Enforcement Supervisory and Monitoring Agency, for example, filed a lawsuit because they thought the policy would cause unrest in society.<sup>49</sup>

This phenomenon has its origins in the prevailing stigma against inmates or ex-convicts that sees them as inherently bad or immoral and cannot be rehabilitated and contribute to society.

To find out whether or not there was a spike in the crime rate after the assimilation policy was enacted, we conducted media monitoring. Since the

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<sup>46</sup> WHO, UNODC, UNAIDS, OHCHR, Joint Statement on COVID in Prison

<sup>47</sup> Olivia Rope, "Coronavirus and women in detention: A gender-specific approach missing," [penalreform.org](https://www.penalreform.org), 4 Juni 2020, diakses di <https://www.penalreform.org/blog/coronavirus-and-women-in-detention-a-gender-specific/>

<sup>48</sup> *Ibid.*

<sup>49</sup> Mjo, 'Napi Dilepas Bikin Resah, Kebijakan Asimilasi Yasonna Digugat', CNN Indonesia, 26 April 2020, <<https://www.cnnindonesia.com/nasional/20200426173911-12-497429/napi-dilepas-bikin-resah-kebijakan-asimilasi-yasonna-digugat>> [accessed 1 November 2020]

start of the assimilation program until June 2020, the government claimed 222 Assimilation Prisoners returned to commit crimes.<sup>50</sup> Online media reported a total of 72 convicts from the assimilation program who returned to committing crimes during April - August 2020. Theft was the most frequent crime committed by assimilation program inmates with a total of 46 suspects, followed by aggravated theft with a total of 10 suspects (see infographic below).



<sup>50</sup> Ratna Puspita, 'Menkumham: 222 Orang Napi Asimilasi dan Integrasi Berubah', Republika, 22 Juni 2020, <<https://republika.co.id/berita/qcbwa5428/menkumham-222-orang-napi-asimilasi-dan-integrasi-berubah>> [accessed 1 November 2020]

The rise of economic crime indicates factors that were overlooked when the Directorate General of Corrections implemented the assimilation program. The Assimilation Policy is not integrated with other social safety net policies to address the pressing economic needs of assimilation recipients. Of the 60 perpetrators of economic crimes, 13 were motivated by the need to fulfill their daily needs, such as paying boarding fees, providing for their parents, or for living expenses. Inmates released through assimilation are more prone to economic hardship because after months or years of imprisonment, their access to employment has been cut off.

The recidivism phenomenon in the times of COVID-19 also shows that criminal behavior does not merely occur because perpetrators simply ignore laws that protect the interests of others.<sup>51</sup> Assimilated inmates certainly understand the legal consequences. The fact that they are repeating a crime is not simply because they “ignored the law”, but because their needs outweigh the risks of acting “against the law” (i.e. for survival).<sup>52</sup> Therefore, reviewing the assimilation policy in light of the recidivism phenomenon alone does not address the current complex social realities.

Every inmate should benefit from programs that enable them to return to society and contribute to development, in other words, to undergo social reintegration.<sup>53</sup> When the Ministry of Law and Human Rights issues an assimilation policy in the context of COVID-19, other government institutions, such as the Ministry of Social Affairs and the Ministry of Labor, should also complement and support the reintegration of these inmates by devising economic, vocational education and health policy responses.

## **E. COVID-19 Still Pervades Prisons**

Assimilation Policy aside, DGC still has the obligation to carry out measures in response to COVID-19 in prisons and detention centers. Reducing prison

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<sup>51</sup> Alexander Larry, et. al., *Crime and Culpability, A Theory of Criminal Law*, (New York: Cambridge University Press, 2009), p. 24

<sup>52</sup> *Ibid*, p. 26

<sup>53</sup> Ministry of Law and Human Rights, Law Number 12 of 1995 regarding Corrections (Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia, 1995)

overcrowding should be done in parallel with tightening health protocols in correctional institutions and detention centers.

If health protocols in correctional institutions and detention center are implemented well, there will not be incidents such as the eleven inmates at the Garut Prison<sup>54</sup> and 24 inmates in Pondok Bambu Prison<sup>55</sup> testing positive for COVID-19. Additionally, the COVID-19 response in prisons and detention centers must also provide protection for medical workers. And personnel. Yet, cases of infection were still found, such as two Cibinong Prison<sup>56</sup> officers and a doctor at Salemba Prison<sup>57</sup>.

The above phenomenon indicates that the COVID-19 response that disregards health factors fails to address the problems thoroughly. Policies should be centered on health considerations because COVID-19 is a public health emergency, pursuant to provisions of Law Number 6 of 2018 concerning Health Quarantine.

The Health Quarantine Law does not specify the application of emergency health conditions in closed facilities such as prisons. However, Article 3 of the Law states that the purpose of the regulation is to protect the public from diseases and/or public health risk that have the potential to cause public health emergencies.<sup>58</sup> Prisoners remain part of society and will return to

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<sup>54</sup> Dony Indra Ramadhan, '11 Napi di Lapas Garut Positif Corona, Penghuni Baru Tetap Diterima', Detiknews, 30 September 2020, <<https://news.detik.com/berita-jawa-barat/d-5193890/11-napi-di-lapas-garut-positif-corona-penghuni-baru-tetap-diterima>> [accessed 19 October 2020]

<sup>55</sup> CNN Indonesia, '24 Warga Binaan Rutan Pondok Bambu Terindikasi Positif Corona', CNN Indonesia, 12 May 2020, <<https://www.cnnindonesia.com/nasional/20200512115111-20-502416/24-warga-binaan-rutan-pondok-bambu-terindikasi-positif-corona>> [accessed 19 October 2020]

<sup>56</sup> Tim PRMN, '2 Petugas Lapas di Cibinong Dinyatakan Positif COVID-19, Narapidana Terancam', Pikiran-Rakyatcom, 25 April 2020, <<https://www.pikiran-rakyat.com/nasional/pr-01371490/2-petugas-lapas-di-cibinong-dinyatakan-positif-covid-19-narapidana-terancam>>, [accessed 19 October 2020]

<sup>57</sup> Dani Prabowo, 'Dokter di Lapas Salemba Disebut Positif COVID-19', Kompas, 15 April 2020, <<https://nasional.kompas.com/read/2020/04/15/11011851/dokter-di-lapas-salemba-disebut-positif-covid-19>>, [accessed 19 October 2020]

<sup>58</sup> President of the Republic of Indonesia, Law on Health Quarantine, (Jakarta: Ministry of Law and Human Rights, 2018), Article 3 (a)

society. As such, their conditions and special circumstances should also be considered in determining public policy during this health emergency.



## CLOSING

The assimilation policy will have a systemic effect on the prison system in Indonesia. COVID-19 response measures can not only have an impact on prisoners, but also management of officers, visitors, and surrounding communities. From its analysis of this policy, LBHM summarizes the following:

- DGC website data states that as many as 40,388 inmates and detainees have been released from correctional institutions/detention, while the government states that 40,504 inmates and detainees received the assimilation program in April-August 2020. Thus, there is data disparity between government statements about assimilation and integration with data posted on the Directorate General of Corrections website.
- The region that released the highest number of prisoners is the East Java Regional Office with a total of 5,818 inmates.
- East Java Regional Office also released the highest number of female prisoners, namely 202 people.
- Total number of children who were assimilated was 1,077 children, with the Regional Office of South Sulawesi having the highest number of child released at 270.
- The Assimilation Policy does not stipulate any considerations of health factors and only contains disciplinary considerations, as previously contained in the Regulation of the Minister of Law and Human Rights number 21 of 2013.
- Even though the government has released women from prisons, there are still regional offices that have not released female prisoners at all.
- At least 72 Assimilated Prisoners returned to commit crimes, 46 of which were theft.
- There are indications that most of the recidivism are motivated by fulfilling the necessities of life.
- Government data transparency is lacking, and no information regarding assimilation policies is available other than statements made to the media.

Based on the findings above, we propose several recommendations for the government in the context of COVID-19 pandemic response in prisons, as follows:

- The government should continue to update detailed data regarding the implementation of assimilation policies during the COVID-19 pandemic.
- The Ministry of Law and Human Rights should prioritize the release of inmates and detainees from prisons and detention centers with overcrowded conditions, giving priority for perpetrators of non-violent crimes, women and children.
- The Ministry of Law and Human Rights should expand the Assimilation Policy by taking into account health factors such as age, medical conditions and comorbidities, as well as the gender of inmates/detainees.
- Ministry of Law and Human Rights, Ministry of Health, Ministry of Social Affairs, and other state institutions to improve integration of assimilation policies with other social services during the pandemic to ensure the survival of inmates and detainees after imprisonment.

## BIBLIOGRAPHY

- Alexander, Larry, and Kimberly Kessler Ferzan. 2009. *Cambridge Introductions to Philosophy and Law: Crime and Culpability: A Theory of Criminal Law* (Cambridge, England: Cambridge University Press)
- CDC. 2020. "Coronavirus Disease 2019 (COVID-19)," *Cdc.Gov* <<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/other-at-risk-populations/people-who-use-drugs/QA.html>> [accessed 23 September 2020]
- CNN Indonesia. 2020a. "24 Warga Binaan Rutan Pondok Bambu Terindikasi Positif Corona," *Cnnindonesia.Com* <<https://www.cnnindonesia.com/nasional/20200512115111-20-502416/24-warga-binaan-rutan-pondok-bambu-terindikasi-positif-corona>> [accessed 19 October 2020]
- . 2020b. "Napi Dilepas Bikin Resah, Kebijakan Asimilasi Yasonna Digugat," *Cnnindonesia.Com* <<https://www.cnnindonesia.com/nasional/20200426173911-12-497429/napi-dilepas-bikin-resah-kebijakan-asimilasi-yasonna-digugat>> [accessed 1 November 2020]
- Comcowich, William J. 2010. *Media Monitoring: The Complete Guide* (CyberAlert)
- "Coronavirus and Women in Detention: A Gender-Specific Approach Missing." 2020. *Penalreform.Org* <<https://www.penalreform.org/blog/coronavirus-and-women-in-detention-a-gender-specific/>> [accessed 2 September 2020]
- "Coronavirus Disease (COVID-19)." [n.d.]. *Who.Int* <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-coronaviruses>> [accessed 2 September 2020]
- "Coronavirus Disease (COVID-19): How Is It Transmitted?" [n.d.]. *Who.Int* <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-how-is-covid-19-transmitted>> [accessed 3 October 2020]

- "Coronavirus Update (Live): 51,820,341 Cases and 1,279,693 Deaths from COVID-19 Virus Pandemic - Worldometer." [n.d.]. *Worldometers.Info* <[https://www.worldometers.info/coronavirus/?utm\\_campaign=homeAdvegas1?](https://www.worldometers.info/coronavirus/?utm_campaign=homeAdvegas1?)> [accessed 2 September 2020]
- "Data Terakhir Jumlah Penghuni Perkanwil." [n.d.]. *Ditjenpas.Go.Id* <<http://smslap.ditjenpas.go.id/public/grl/current/monthly/year/2019/month/12>> [accessed 2 September 2020]
- Kementerian Hukum dan HAM of the Republic of Indonesia. 31 Maret 2020. *Peraturan Menteri Hukum Dan HAM Nomor 10 Tahun 2020*
- . 2009. *Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika*
- . 2013. *Peraturan Menteri Hukum Dan HAM Nomor 21 Tahun 2013 Tentang Syarat Dan Tata Cara Pemberian Remisi, Asimilasi, Cuti Mengunjungi Keluarga, Pembebasan Bersyarat, Cuti Menjelang Bebas, Dan Cuti Bersyarat*
- Kementerian Kehakiman Republik Indonesia. 1985. *Keputusan Menteri Kehakiman Nomor M.04-PR.07.03 Tahun 1985 Tentang Organisasi Dan Tata Kerja Rumah Tahanan Negara (Rutan) Dan Rumah Penyimpanan Benda Sitaan Negara*
- . 1995. *Undang Undang Nomor 12 Tahun 1995 Tentang Pemasarakatan*
- Komite Eropa untuk Pencegahan Penyiksaan dan Hukuman yang Tidak Manusiawi atau Merendahkan. 2020. *Statement of Principles Relating to the Treatment of Persons Deprived of Their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic*
- Kuwado, Fabian Januarius. 2020. "Dokter Di Lapas Salemba Disebut Positif COVID-19," *Kompas* (Kompas.com) <<https://nasional.kompas.com/read/2020/04/15/11011851/dokter-di-lapas-salemba-disebut-positif-covid-19>> [accessed 19 October 2020]
- Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor M.HH-05.OT.01.01 Tahun 2011 Tentang Perubahan Atas Keputusan Menteri Kehakiman Nomor M.01-PR.07.03 Tahun 1985 Tentang Organisasi Dan Tata Kerja Lembaga Pemasarakatan*. 2011.
- Prmn, Tim. 2020. "2 Petugas Lapas Di Cibinong Dinyatakan Positif COVID-19, Narapidana Terancam," *Https://Assets.Pikiran-Rakyat.Com/Www/2019/Desktop/Images/Prcom.Png* <<https://www.pikiran-rakyat.com/nasional/pr-01371490/2-petugas-lapas-di-cibinong->

- dinyatakan-positif-covid-19-narapidana-terancam> [accessed 19 October 2020]
- Puspita, Ratna. 2020. "Menkumham: 222 Orang Napi Asimilasi Dan Integrasi Berubah," *Republika Online* <<https://republika.co.id/berita/qcbwa5428/menkumham-222-orang-napi-asimilasi-dan-integrasi-berubah>> [accessed 1 November 2020]
- Ramadhan, Dony Indra. 2020. "11 Napi Di Lapas Garut Positif Corona, Penghuni Baru Tetap Diterima," *Detikcom* <<https://news.detik.com/berita-jawa-barat/d-5193890/11-napi-di-lapas-garut-positif-corona-penghuni-baru-tetap-diterima>> [accessed 19 October 2020]
- "Status Pelaporan Klasifikasi Anak Perkanwil." [n.d.]. *Ditjenpas.Go.Id* <<http://smlap.ditjenpas.go.id/public/arl/current/monthly/year/2020/month/3>> [accessed 15 October 2020]
- The Sentencing Project. 2020. *Youth Justice Under the Coronavirus: Linking Public Health Protection with the Movement for Youth Decarceration* (Washington, D.C: The Sentencing Project Research and Advocacy for Reform)
- "UNODC, WHO, UNAIDS and OHCHR Joint Statement on COVID-19 in Prisons and Other Closed Settings." [n.d.]. *Who.Int* <<https://www.who.int/news/item/13-05-2020-unodc-who-unaid-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings>> [accessed 3 September 2020]