



## Giving Assimilation for Prisoners in Gorontalo Penitentiary During the Covid-19 Pandemic

Rusli Usman<sup>1</sup>, Darmawati Darmawati<sup>2</sup>, Rafika Nur<sup>3</sup>.

### ARTICLE INFO

#### Keywords:

Assimilation, Prisoners, Covid-19, Gorontalo Penitentiary.

#### How to cite:

Usman, Rusli., Darmawati, Darmawati., and Nur, Rafika. (2023). Giving Assimilation for Prisoners in Gorontalo During the Covid-19 Pandemic. *Amsir Law Journal*, 4(2), 206-219.

#### DOI:

10.36746/alj.v4i2.204

### ABSTRACT

*The Covid-19 pandemic in early 2020 was a problem in Indonesia. To protect prisoners during a pandemic, it is necessary to make regulations related to assimilation programs for prisoners. This research combines normative and empirical research by studying norms relating to the terms and procedures for granting assimilation to inmates during a pandemic and looking directly at the implementation of assimilation during a pandemic in Class IIA Gorontalo Prison. The results of the study show that the assimilation program for prisoners is regulated in two ministerial regulations in the field of Law and Human Rights. It was found that 193 prisoners receiving the assimilation program in 2020, 100 people in 2021, and 77 people in 2022. Obstacles faced by Class IIA Gorontalo Prison in implementing the granting of assimilation and integration rights are internal constraints related to clients, human resources, social assistants and prison officers, as well as the implementation system. External barriers are related to the culture of the Gorontalo people who still tend to have a negative stigma against convicts and choose to give social punishment by staying away from convicts because they are considered dangerous people.*

Copyright © 2023 ALJ. All rights reserved.

## 1. Introduction

The Corona Virus Disease 2019 (Covid-19) pandemic at the beginning of 2020 became one of the legal problems in Indonesia. Corona pandemic created a new culture and new pathways for the penal and legal systems.<sup>4</sup> At the beginning of its appearance and identification results showing that Covid-19 was a dangerous disease. The President of Indonesia, Joko Widodo, issued a Presidential Decree of the Republic of Indonesia number 7 of 2020 concerning the Task Force for the Acceleration of Handling Covid-19 on March 13, 2020, and Presidential Decree of the Republic of Indonesia number 9 of 2020 concerning Amendment to Presidential Decree Number 7 of 2020 concerning the Task Force for the

<sup>1</sup> Law Masters Graduate School, Ihsan University of Gorontalo, Gorontalo, Indonesia. E-mail: [rusliusman5@gmail.com](mailto:rusliusman5@gmail.com).

<sup>2</sup> Law Masters Graduate School, Ihsan University of Gorontalo, Gorontalo, Indonesia.

<sup>3</sup> Law Masters Graduate School, Ihsan University of Gorontalo, Gorontalo, Indonesia.

<sup>4</sup> Napitupulu, R. A. (2020). *Tinjauan Yuridis Mengenai Pemberian Hak Asimilasi Terhadap Narapidana dalam Permenkumham Nomor 10 Tahun 2020 Tentang Syarat Pemberian Asimilasi dan Hak Integrasi Bagi Narapidana dan Anak dalam Rangka Pencegahan dan Penanggulangan Penyebaran Covid-19 dan Kaitannya dengan Hak Asasi Manusia*, Medan: Universitas Sumatera Utara, p. 1.

Acceleration of Handling Covid-19, where this presidential decree regulates the formation of the Task Force for the Acceleration of Handling Covid-19 which is under and responsible to the President.<sup>5</sup>

As a quick response to this, the Ministry of Law and Human Rights of the Republic of Indonesia through the Minister of Law and Human Rights, Yasonna Laoly, also followed up by taking legal policy steps by issuing a Regulation of the Minister of Law and Human Rights Number 10 of 2020 which was renewed in Regulation of the Minister of Law and Human Rights Number 32 of 2020 concerning Requirements for Granting Assimilation and Integration Rights for Prisoners and Internal Children Framework for the Prevention and Control of the Spread of Covid-19.

This policy step is none other than aimed at saving prisoners and correctional inmates who are in Correctional Institutions, Special Children Development Institutions, and State Detention Centers. Also followed up by taking legal policy steps by issuing Regulation of the Minister of Law and Human Rights Number 10 of 2020 which was renewed in Regulation of the Minister of Law and Human Rights Number 32 of 2020 concerning Requirements for Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Controlling the Spread of Covid-19.<sup>6</sup>

Assimilation is the process of fostering prisoners and correctional students which are carried out by mixing prisoners and correctional students into community life.<sup>7</sup> In order to follow up on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020 which was renewed in the Regulation of the Minister of Law and Human Rights Number 32 of 2020 concerning Terms and Procedures for Granting Assimilation, Parole, Leave Before Release and Conditional Leave for Prisoners and Children. In the context of prevention and control of the spread of Covid-19 in Class IIA Gorontalo Penitentiary, of course, the correctional institution carries out the mandate of this regulation by granting assimilation rights at home, considering that the housing conditions of convicts in Class IIA Gorontalo Penitentiary fall into the category of over-capacity between the number of occupants and the capacity of correctional institutions.

It is different in its application related to the assimilation program, where prior to Covid there were regulations in all prisons in Indonesia referring to the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave Visiting Family, Parole, Leave Before Free, and Leave Conditional. In this Regulation of the Minister of Law and Human Rights, the assimilation program is carried out by providing opportunities for inmates to work and increase their work skills outside prison. The fundamental difference is actually only in the implementation of the assimilation program, where based on the Regulation of the Minister of Law and Human Rights Number 10 of 2020 which was updated to become the Regulation of the Minister of Law and Human Rights Number 32 of 2020 the assimilation program is carried out at home, which views this as being in line with government policies to implement social distancing.<sup>8</sup>

---

<sup>5</sup> Surahmat, A., Dida, S., and Zubair, F. (2021). Analysis of the Government's Crisis Communication Strategy Discourse to Defend Covid-19. *Jurnal Komunikasi*, 13(1), 36-53.

<sup>6</sup> Poernomo, A. A. (2021). Disparitas Norma Pengaturan Pemberian Asimilasi, Pembebasan Bersyarat, Cuti Menjelang Bebas dan Cuti Bersyarat bagi Narapidana Tindak Pidana Narkotika pada Masa Pandemi Ditinjau dalam Perspektif Hierarki Peraturan Perundang-undangan. *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan* 8(1), 18-46.

<sup>7</sup> Jufri, E. A., and Anisariza, N. U. (2017). Pelaksanaan Asimilasi Narapidana di Lembaga Pemasyarakatan Terbuka Jakarta. *ADIL: Jurnal Hukum*, 8(1), 1-26.

<sup>8</sup> Koesnindary, S. D., Wahyudi, S., and Hendriana, R. (2021). Kebijakan Pembebasan Narapidana melalui Pemberian Asimilasi dalam Rangka Pencegahan Penyebaran Covid-19 di Lembaga Pemasyarakatan. *Soedirman Law Review*, 3(4), 646-663.

Based on these regulations, the following data can be displayed on the number of convicts' occupancy, the capacity of the Gorontalo Class IIA Penitentiary, and prisoners who are given the assimilation rights program as follows:

**Table 1.** Number of Prisoners Granted Assimilation Rights.

Year	Capacity	Amount Residential	Over-Capacity	Home Assimilate Convicts	Percent (%)
2020	330	618	46,6%	193	31,22 %
2021	330	471	29,9%	100	21,23 %
2022	330	544	39,3%	77	14,15 %

*Source: Class IIA Gorontalo Penitentiary, 2022.*

**Table 2.** Number of Prisoners During the Pandemic Covid-19.

Year	Number of Occupancy before Covid-19	Home Assimilate Convicts	Total Occupancy During Covid-19	Over-Capacity (%)
2020	618	193	425	28,7 %
2021	471	100	371	12,4 %
2022	544	77	467	41,5 %

*Source: Class IIA Gorontalo Penitentiary, 2022.*

Based on Table 1 and Table 2 above, it is illustrated that in 2020, during the early days of the Covid-19 pandemic, the Class IIA Gorontalo Penitentiary was in an over-capacity condition of 87,2 %, where the maximum capacity should have been 330 people, at that time it was filled with 618 people inmates/built residents. Even though 2020 the assimilation program at home was given to 193 people, the existence of Class IIA Gorontalo Penitentiary is still in a state of over-capacity of 28,7 %. Furthermore, in 2021 the Class IIA Gorontalo Penitentiary will still be over capacity by 42,7 %, where the maximum capacity should be 330 people, at that time it was filled with 417 people inmates. Even though in 2021 the assimilation program at home will be given to 100 people, the existence of the Class IIA Gorontalo Penitentiary is still in an over-capacity condition of 12,4 %. In 2022 Class IIA Gorontalo Penitentiary will still be in a state of over-capacity of 64,8 %, where the maximum capacity should be 330 people, at that time it was filled with 544 people prisoners/inmates. In 2022 the assimilation program at home will be given again to 77 people, but the existence of the Class IIA Gorontalo Penitentiary is still in an over-capacity condition of 41,5 %.

In its development, it cannot be denied that the granting of assimilation rights at home in order to reduce the rate of transmission of the Covid-19 virus is still causing controversy in society. There is a tendency that many people who still do not support this policy, because the stigma that has been built up in society is that the release of prisoners has the potential to create new crimes in society. Some believe that the Regulation of the Minister of Law and Human Rights regarding granting the right to assimilate at home is the right step to respect human rights in the criminal justice system. However, on the other hand, there are those who deplore this regulation for various reasons, particularly concerns about the impact of vulnerability on social and security aspects after the convicts move freely in society.

These concerns include First, in the midst of the Covid-19 pandemic, ex-convicts will be faced with a difficult situation to find work. Moreover, the pre-employment assistance policy package scheme that has been rolled out by the government, does not mention pre-employment assistance for ex-convicts who have been released. This is not without reason considering that the Covid-19 situation has caused many companies to "go out of business",

and stop operations, lay off employees, lay off workers, and others. This condition makes prisoners unprepared for assimilation at home because when they are assimilated at home they do not yet have a job to make a living for themselves and their families. Second, the “allegation” of the widespread practice of “buying and selling convict release tickets” in Correctional Institutions. The provision of assimilation at home has the “potential” to become a “land of transactions” for unscrupulous officers in granting assimilation. Third, criminal acts began to emerge. The riot at the Manado Correctional Institution due to social jealousy of not getting assimilation and the behavior of several inmates who were released is proof. According to data from the Directorate General of Corrections, it is proven that 12 (twelve) convicts have committed crimes again (Kompas, April 15, 2020).<sup>9</sup>

Therefore, based on the background above, the main problem in this research can be stated, namely what obstacles were faced by Class IIA Gorontalo Correctional Officers in terms of providing assimilation to inmates during the Covid-19 pandemic. The purpose of this study is to identify and analyze the obstacles faced by Class IIA Gorontalo Correctional Officers in terms of providing assimilation to inmates during the Covid-19 pandemic.

## **2. Method**

The research used in this study is a combination of normative and empirical legal research. In essence, normative legal research is usually also referred to as library research, because this research is only and solely oriented towards certain legal materials, namely written law or recorded law.<sup>10</sup> Empirical legal research is research that relates law to real human behavior so that the scope of empirical legal research is the degree of effectiveness of the law, meaning to what extent the law actually applies in social life.<sup>11</sup> With this method, the researcher wants to examine the norms related to the terms and procedures for granting assimilation to convicts during a pandemic and to directly observe the implementation of assimilation during a pandemic at Class IIA Gorontalo Penitentiary using a case approach.

## **3. Giving Assimilation for Prisoners in Gorontalo Penitentiary**

The pandemic Covid-19 has changed the color of correctional institutions in Indonesia. With the issuance of Regulation of the Minister of Law and Human Rights Number 10 of 2020 and Regulation of the Minister of Law and Human Rights Number 32 of 2020 concerning Requirements for Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Mitigation of the Spread of Covid-19 and also Decree of the Minister of Law and Human Rights No: M.HH-19.PK. 01.04.04 of 2020 which regulates the implementation of the release and release of convicts and children through assimilation and integration, so at this point the mentoring program is expected to be carried out by convicts who receive the assimilation and reintegration program after going through the established procedures.

In Regulation of the Minister of Law and Human Rights Number 32 of 2020, the granting of assimilation, parole, pre-release leave, and conditional leave for convicts and children in the context of preventing and controlling the spread of Covid-19 only reaches convicts who have  $\frac{2}{3}$  (two-thirds) of their criminal terms remaining and children who have the remaining  $\frac{1}{2}$  (one-half) of the criminal term until 30 June 2021. Several points of concern

---

<sup>9</sup> Kurnianingrum, T. P. (2020). Kontroversi Pembebasan Narapidana di Tengah Pandemi Covid-19, *Majalah Info Singkat*, 12(8), 1-6.

<sup>10</sup> Pasamai, S. (2013). *Metodologi Penelitian dan Penulisan Karya Ilmiah Hukum*. Makassar: Arus Timur, p. 128.

<sup>11</sup> Mukti Fajar, N. D., and Achmad, Y. (2010). *Dualisme Penelitian Hukum: Normatif & Empiris*. Yogyakarta: Pustaka Pelajar, p. 44.

in Regulation of the Minister of Law and Human Rights Number 32 of 2020 namely in article 11 and article 45, where in article 11 it reads:

- 1) Assimilation as referred to in Article 2 of Permenkumham No. 32 of 2020, it is not given to convicts who commit crimes:
  - a) Narcotics, narcotics precursors, and psychotropics;
  - b) Terrorism;
  - c) Corruption;
  - d) Crimes against state security;
  - e) Serious human rights crimes; and
  - f) Other transnational organized crime.
- 2) Prisoners who commit narcotics, narcotics precursors, and psychotropic crimes as referred to in Paragraph 1 Letter a, only apply to convicts who are sentenced to a minimum imprisonment of five years.
- 3) A part from the criminal acts referred to in Paragraph 1, assimilation is not given to prisoners/children who commit criminal acts:
  - a) Murder Article 339 and Article 340 of the Criminal Code;
  - b) Theft with violence article 365 of the Criminal Code;
  - c) Decency articles 285 to 290 of the Criminal Code; or
  - d) Decency towards children as victims Article 81 and Article 82 of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection.
- 4) In addition to the exception referred to in Paragraph 3, assimilation is not given to convicts/children who repeat a crime, where the crime committed previously has been sentenced to a criminal sentence and has permanent legal force.

Meanwhile, Article 45 of Regulation of the Minister of Law and Human Rights Number 32 of 2020 contains Periods for Granting Assimilation, Parole, Leave Before Release, and Conditional Leave for Convicts and Children who reach convicts who have the remaining  $\frac{2}{3}$  (two-thirds) of their criminal terms and children who have the remaining  $\frac{1}{2}$  (one-half) of their sentences until June 30, 2021.

The difference between the Regulation of the Minister of Law and Human Rights Number 10 of 2020 and the Regulation of the Minister of Law and Human Rights Number 32 of 2020 can be seen from several points of change,<sup>12</sup> including:

- 1) Change the title by breaking down the integration into parole, pre-release leave, and parole leave. This point provides clarity to the public and officials who use this Regulation of the Minister of Law and Human Rights regarding the granting of integration rights which include parole and conditional leave because integration rights are clearer.
- 2) Add substance of provision of assimilation for convicts/children of foreign citizens. This point is intended to accommodate the demands of society, avoid violations of the principle of non-discrimination, and the mechanism for appointing assimilation places for foreign nationals. So here it can reflect legal equality for anyone who is serving a crime in Indonesia.
- 3) Add reservation of the conditions for exclusion clauses for short crimes. This point accommodates imprisonment under six months for convicts and under three months for children.

---

<sup>12</sup> Tantar, F., Toule, E. R. M., and Ubwarin, E. (2021). Kajian Sosio-Yuridis Pembebasan Bersyarat dan Pemberian Asimilasi bagi Narapidana pada Masa Pandemi Covid-19 Ditinjau dari Perspektif Tujuan Pemidanaan. *SANISA: Jurnal Kreativitas Mahasiswa Hukum*, 1(1), 34-41.



- 4) Changes and additions to assimilation conditions. From this point, additional requirements are explained for convicts/children who will get the program, namely that it requires community research. In the Regulation of the Minister of Law and Human Rights Number 10 of 2020, it requires community research is not required. This also aims to speed up the Assimilation process referred to considering the emergency conditions due to Covid-19.
- 5) Add alternative criminal acts. This oin is an alternative formulation of substance that accommodates perpetrators of criminal acts of theft, murder, and immorality.
- 6) Alternative criminal acts that are not given assimilation. From this point it is explained that assimilation cannot be given to convicts who repeat criminal acts and criminal acts that attract the public's attention.

However, with the Regulation of the Minister of Law and Human Rights Number 10 of 2020 and Regulation of the Minister of Law and Human Rights Number 32 of 2020, inmates who have the right to assimilate at home do not receive direct supervision and guidance from Correctional Institution Employees, especially regarding the addition of skills in work so this has implications for the purpose of punishment, where the sentence period which is not served in full results in the objectives of the punishment, namely rehabilitation and deterrent effect, not being fully implemented either. This has the potential to result in these convicts not being ready to assimilate back into society. where a sentence that is not served in full results in the objective of the sentence, namely rehabilitation and a deterrent effect, not being fully implemented either. This has the potential to result in these convicts not being ready to assimilate back into society. where a sentence that is not served in full results in the objective of the sentence, namely rehabilitation and a deterrent effect, not being fully implemented either. This has the potential to result in these convicts not being ready to assimilate back into society.<sup>13</sup>

It has been explained that assimilation is the process of fostering convicts and children which is carried out by mixing convicts and children in community life. Prior to the pandemic Covid-19, the assimilation program for convicts could be carried out both inside and outside the prison/remand center by working with third parties as regulated in the Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Requirements and Procedures for Granting Remissions. Assimilation, Visiting Family Leave, Parole, Prior Release Leave, and Conditional Leave. Assimilation at home is not necessarily given to all convicts in prisons/remand centres, but is given to convicts who have fulfilled certain conditions. Implementation of assimilation at home does not make clients free and can do as they please, assimilation clients still have an obligation to be absent/mandatory to report to the Social Counselor once a week. This is different from reintegration program clients (eg conditional leave, conditional release and leave before release) which only have the obligation to be absent once a month.

Other provisions stipulated in Regulation of the Minister of Law and Human Rights Number 10 of 2020 and Regulation of the Minister of Law and Human Rights Number 32 of 2020 are for convicts who have been convicted of committing a crime of narcotics, narcotics precursors, and psychotropics can only be given to those whose prison sentences are under five years (Article 8). So, inmates who receive sentences of more than five years cannot be submitted to an assimilation program at home. Assimilation at home is also not given to convicts of corruption, terrorism, serious human rights crimes, and state security.

---

<sup>13</sup> Hermawan, R. A., Sapsudin, A., Tonni, M., and Kertawijaya, S. (2021). Analisis Hukum terhadap Asimilasi sebagai Hak Narapidana Ditinjau dari Undang-Undang Nomor 12 Tahun 1995 tentang Pemasyarakatan (Studi Kasus di Lembaga Pemasyarakatan Kelas IIB Banjar). *Case Law*, 2(2), 117–139.

Prisoners with cases like the above will carry out assimilation in prisons/detention centers and will be proposed for a parole reintegration program when they have served two-thirds of their sentence.

In the context of the theory of justice from John Rawls related to the terms and procedures for granting assimilation to convicts, where John Rawls emphasizes the importance of justice as the main virtue that must be upheld and at the same time becomes the basic spirit of various basic social institutions of a society.<sup>14</sup> Rawls wants to build a theory of justice that is capable of upholding social justice and at the same time can be accounted for objectively, especially from a democratic perspective. Justice as Fairness is the result of a mutual agreement of all parties that is free, rational and equal.<sup>15</sup> Treating justice means providing a fair and equal opportunity for everyone to develop and enjoy self-esteem and dignity as a human being, so the conditions and procedures for granting assimilation for convicts in the midst of the pandemic Covid-19 as stipulated in Regulation of the Minister of Law and Human Rights Number 32 of 2020 still very far from the principle of justice felt and obtained by convicts, especially related to the limitation of criminal cases that have the right of assimilation.

In the legal order in Indonesia, of course, it is mandatory to prioritize the principle of equality before the law which implies that every citizen has the same position before the law with no exceptions. This is closely related to Article 27 Paragraph 1 of the 1945 Constitution that “every citizen has the same position before law and government and is obliged to uphold that law and government without exception”. Then in the Law on Human Rights Article 3 Paragraph 2 reads “everyone has the right to recognition, guarantees, protection and fair legal treatment and to receive legal certainty and equal treatment before the law”. Therefore, the implementation of law enforcement, conditions and procedures for granting assimilation to prisoners in the midst of the pandemic Covid-19 as regulated in Regulation of the Minister of Law and Human Rights Number 32 of 2020 still does not prioritize the principles of justice as the theory of justice.

Furthermore, after leaving the prison/remand center, inmates who receive the assimilation program at home will be supervised and guided by the Correctional Hall Community Counselor as stated in Article 2 Paragraph 1 of the Regulation of the Minister of Law and Human Rights Number 10 of 2020. The Correctional Counselor will report every guidance activity for assimilation clients at home through notes. Results of Client Guidance that are known by the Head of the Correctional Hall on a regular basis. Correctional Hall also collaborates with related parties (such as the Police, Military, City Government, and Local Government Officials) to assist the process of supervising assimilate clients at home so that the rate of repetition of crimes by assimilate clients is low.

Assimilation at home is not just “releasing” convicts from prisons/remand centres, but assimilation at home is a policy stipulated in the Regulation of the Minister of Law and Human Rights where clients are still under constant supervision by the Correctional Hall. In the context of law enforcement, assimilation at home for convicts can be revoked, as stipulated in Article 12 of the Regulation of the Minister of Law and Human Rights Number 32 of 2020. Revocation of assimilation is carried out in the event that a convict/child violates:

- 1) General conditions, involved in violation of the law and designated as a suspect; and/or

---

<sup>14</sup> Mahmutarom HR, (2010). *Rekonstruksi Konsep Keadilan Studi tentang Perlindungan Korban Tindak Pidana dalam Hukum Positif, Hukum Islam, Konstruksi Masyarakat dan Instrumen Internasional*. Semarang: Badan Penerbit Universitas Diponegoro, p. 31.

<sup>15</sup> *Ibid.*, Hal. 44

- 2) Special conditions, which consist of:
  - a) Causing unrest in the community based on public complaints clarified by the Community Advisor;
  - b) Causing unrest in the community based on the results of supervision by the Social Advisors;
  - c) Does not implement health protocols in accordance with the provisions for preventing and controlling the spread of Covid-19;
  - d) Does not carry out the obligation to report to the supervising Correctional Hall a maximum of three times in a row; and/or
  - e) Do not report a change of address or place of residence to the guiding Correctional Hall.

For violations committed by these convicts/children, the Social Counselor conducts examinations of clients who commit violations. Furthermore, based on the results of the examination, they were taken to the Correctional Observer Session to revoke the assimilation right, and then recommended to the Correctional Institution for revocation. Furthermore, prisoners/children who have their assimilation rights revoked are categorized as committing serious violations, and based on Article 16 of the Regulation of the Minister of Law and Human Rights Number 32 of 2020 sanctions are given as a form of law enforcement in the form of:

- 1) Put in solitary confinement for six days and can be extended for two times six days;
- 2) Not getting remission right, leave to visit family, conditional leave, assimilation, leave before release, and parole within one current year and recorded in register;
- 3) Convicts who are revoked, the length of time they carry out assimilation does not count as serving their sentence.

Based on the results of data analysis at Class IIA Gorontalo Correctional Institutions and Class I Gorontalo Penitentiary, there are a number of prisoners who receive assimilation programs at home and prisoners who repeat their crimes. Even though the number is very small, this needs to be a concern for all legal instruments at the level of Correctional Institutions and Correctional Institutions to make improvements in law enforcement for the crimes they commit.

**Table 3.** Types of Crimes That Receive Assimilation.

Year	Number of Prisoners	Prisoners Who Received the Assimilation Program	Type of Crime	Amount	Percent (%)
2020	618	193	1) Child Protection	52	26,94 %
			2) Persecution	31	16,06 %
			3) Embezzlement	11	5,69 %
			4) Theft	19	9,84 %
			5) User Narcotics	17	8,80 %
			6) Traffic Accident	6	3,10 %
			7) Fraud	3	1,55 %
			8) Gambling	12	6,21 %
			9) Murder	2	1,03 %
			10) etc.	40	20,72 %



2021	471	100	1) Fiduciary	9	9 %
			2) Persecution	21	21 %
			3) Embezzlement	6	6 %
			4) Theft	13	13 %
			5) User Narcotics	29	29 %
			6) Traffic Accident	5	5 %
			7) Fraud	8	8 %
			8) Gambling	3	3 %
			9) Murder	4	4 %
			10) etc.	2	2 %
2022	544	77	1) Gambling	3	3,89 %
			2) Narcotics	5	6,49 %
			3) Persecution	11	14,28 %
			4) Embezzlement	8	10,38 %
			5) Traffic Accident	9	11,68 %
			6) Theft	11	14,28 %
			7) Health	9	11,68 %
			8) Child Protection	6	7,79 %
			9) Fiduciary	2	2,59 %
			10) etc.	13	16,88 %

*Source: Class IIA Gorontalo Penitentiary, 2022.*

**Table 4.** Number of Prisoners Who Get Assimilation Program.

Year	Number of Prisoners	Prisoners Who Received the Assimilation Program	Prisoners Who Repeat the Crime	Percent (%)	Criminal Act	Law Enforcement
2020	618	193	2	1,03 %	1) Theft 2) Robbery	Referring to Regulation of the Minister of Law and Human Rights Number 10 of 2020, Articles 12 and 16.
2021	471	100	1	1 %	Narcotics	Referring to Regulation of the Minister of Law and Human Rights Number 32 of 2020, Articles 12 and 16.
2022	544	77	0	0 %	-	Referring to Regulation of the Minister of Law and Human Rights Number 32 of 2020, Articles 12 and 16.

*Source: Class IIA Gorontalo Penitentiary, 2022.*

Based on the table above, then in context punishment theory or relative theory or purpose theory put forward by Herbert. Packer where the emphasis is on repairing or fostering the perpetrator of the crime and creating order in society.<sup>16</sup> The objective theory or relative theory was born as a result of the absolute theory. If the absolute theory emphasizes a criminal act committed by someone, in theory the aim of the emphasis is to improve or foster the perpetrator of the crime and create order in society. Relative theory explores the basis of criminal law in carrying out social order and the risks, the purpose of crime is to prevent crime. The criminal material is different, namely frightening, repairing, or destroying.<sup>17</sup> An important part of the penal system is applying a sanction. its existence will provide direction and consideration regarding what should be used as a sanction in a criminal act to enforce the enactment of norms.<sup>18</sup>

In the framework of law enforcement, revocation of assimilation at home for convicts can be revoked, as stipulated in Article 12 of the Regulation of the Minister of Law and Human Rights Number 32 of 2020. We recommend that revocation of assimilation rights as a form of punishment for convicts who commit violations is the last step, but social treatment can be carried out solely for repairing or fostering the perpetrators of these crimes and creating order in society, for example doing social work for convicts by increasing the oversight function in an integrated manner between Correctional Institutions, Correctional Hall, Village officials and other Law Enforcement Officials.

The relatively short passage of time-related to the implementation of the granting of assimilation and integration rights for these prisoners during this pandemic did not always go smoothly. This is very much felt by the Class IIA Gorontalo Penitentiary. Various obstacles adorn every step of administrative activity in this Class IIA Gorontalo Social Institution. The obstacles faced by Class IIA Gorontalo Social Institutions in implementing the granting of assimilation and integration rights for prisoners in the context of preventing and controlling the spread of Covid-19 can be grouped as follows:

- 1) Servant internal affairs at Class IIA Gorontalo Correctional Institutions and Gorontalo Penitentiary, including:
  - a) Correctional client. The amount of data a client who is expelled from prison/detention center through the assimilation program will affect the supervision carried out. In addition, it is necessary to identify and update data carried out by operators, which requires quite a bit of work time. With a system built digitally through the Correctional Database System, this large number of clients can at least be processed quickly online. However, the lack of information and the client's ability to utilize information technology also greatly affects the success of online mentoring and supervision. On the other hand, economic factors affect clients' ability to own gadgets or mobile phones, as well as the lack of related parties who can support online are things that can become inhibiting factors in online supervision.
  - b) Human resources community advisor. The large number of clients who receive assimilation programs and the tendency to overwork capacity overwhelms the Community Counselor and Correctional Institution officers in carrying out the oversight function. The ratio between the availability of Social Counselors and Assistant Social Counselors for the number of

---

<sup>16</sup> Nur, Rafika. (2020). *Sanksi Tindakan dalam SPPA*. Parepare: Sampan Institute, p. 18.

<sup>17</sup> Darmawati. (2021). *Dasar-Dasar Penologi dan Pemasyarakatan*. Yogyakarta: Deepublish, p. 20.

<sup>18</sup> Sholehuddin M. (2003), *Sistem Sanksi dalam Hukum Pidana*. Jakarta: Rajawali Press, p. 114.

Assimilation Program Correctional Clients in Class IIA Gorontalo Penitentiary can be shown in the following table:

**Table 5.** Ratio of the Number of Social Counselors and Assistant Social Counselors to the Assimilation Program Correctional Clients

Year	Social Counselors	Assistant Social Counselors	Number of People	Number of Assimilation Program Clients	Comparison Ratio
2020	25	4	29	193	1:7
2021	25	4	29	100	1:3
2022	26	4	30	77	1:2

*Source: Class IIA Gorontalo Penitentiary, 2022.*

Based on Table 5, it can be stated that in 2020 the ratio between the availability of Social Counselors and Assistant Social Counselors to the number of Assimilation Program Correctional Clients in Gorontalo Class IIA Correctional Institutions is 1:7, meaning one Counselor Social Affairs and Social Guiding Assistants must guide and supervise as many as seven correctional clients. Furthermore, in 2021 the ratio between the availability of Social Counselors (PK) and Assistant Social Counselors to the number of Correctional Clients of the Assimilation Program in Gorontalo Class IIA Correctional Institutions is 1:3, meaning one Social Counselor and Assistant Social Counselor must guide and supervise as many as three correctional clients. In 2022 the ratio between the availability of Social Counselors (PK) and Assistant Social Counselors to the number of Correctional Clients of the Assimilation Program in Class IIA Gorontalo Correctional Institutions is 1:2, meaning that one Social Counselor and Assistant Social Counselor must guide and supervising as many as two correctional clients. Based on the description of the data, the comparison between the number of Social Counselors and Assistant Social Counselors to the number of Correctional Clients of the Assimilation Program in Gorontalo Class IIA Correctional Institutions is still in the rational category and can be controlled by Social Counselors and Assistant Social Counselors available, but the scope Social Counselors and Assistant Social Counselors working areas which cover 5 throughout Gorontalo Province of course, the number of Social Counselors and Assistant Social Counselors availability is still lacking.

- c) Implementation theme in 2020 using 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 Prevention and Mitigation of the Spread of Covid-19. Prisoners' expenditure is not based on community research and recidivism risk assessment and criminogenic factors. This makes the guidance and supervision carried out by Social Counselors minimal data, and lack of closeness with clients, which results in the mentoring process not going well. In addition, administrative management such as client submissions is carried out online and client data support files are limited, causing clients not to be registered accurately.
- 2) Servant external strength regarding Gorontalo community culture. The cultural sector of the people of Gorontalo Province, which is dominated by the Gorontalo people, still tends to have a negative perception of convicts and chooses to give social punishment by staying away from convicts because they are dangerous. The

role of the community in the assimilation process is divided into two, namely the role of the community during the process of granting assimilation permits and during the implementation of assimilation. The role of the community in the process of granting assimilation permits is closely related to the role of families who are willing to provide guarantee letters for convicts as part of the administrative requirements. The family is the form of the smallest and closest community to the prisoner. By being willing to provide a letter of guarantee for convicts, the family has provided support for convicts to blend into the community around the penitentiary, thereby fostering convicts' confidence to socialize with the general public.

In addition, the guarantee letter contains the signature of the village head. This indicates that the local community where the convicts come from, represented by village officials, also provides support to these convicts. The role of the community when assimilation is carried out can be seen from the level of enthusiasm and participation of the surrounding community to socialize with prisoners while participating in the assimilation program at home. This assimilation is effective when it is indicated that convicts after being released from Correctional Institutions can be accepted by society, that is, these convicts are now living normally in the midst of society.

If this data is associated with the theory of the working of law in society, according to Robert B. Seidman, the working of the law, in this case, the law to achieve correctional goals, is influenced by the components, namely regulatory agencies, regulatory implementing agencies and role holders.<sup>19</sup> Seregardless of the objective of the regulatory agency making regulation and no matter how well the regulatory implementing agency (penitentiary) implements the regulation, correctional goals will not be achieved if there is no support from the role holders, in this case, the community and other relevant agencies. No matter how good the convict's behavior is in the penitentiary, if the community is not open to acceptance, then the efforts of the penitentiary to carry out statutory orders will be in vain. This is also supported by the theory of the legal system according to Lawrence M. Friedman that the dysfunctional components of society are influenced by the legal culture of society.<sup>20</sup>

The implementation of the rights of convicts is very important for the realization of the implementation of these rights. Society is one of the places to return convicts to social life through the process of assimilation. However, sometimes things don't live up to expectations because people are afraid and worried about the presence of convicts in the community. The concern is if the convict commits another crime or creates chaos in the community. This also has a psychological impact on prisoners because they feel pressured by society's views on them when trying to socialize so some prisoners do not want to assimilate.

#### **4. Conclusion**

In the period from 2020 to 2022, Class IIA Gorontalo Penitentiary will carry out an assimilation process for convicts with a description of 193 people in 2020, 100 people in 2021, and 77 people in 2022. Of course, there are the obstacles faced by the Gorontalo Class IIA Penitentiary in providing assimilation for convicts in the context of implementing integration to prevent and control the spread of Covid-19 are internal obstacles which include client limitations in using information technology, lack of community advisor human resources and an online implementation system that has weaknesses. In addition, there are

---

<sup>19</sup> Rahardjo, Satjipto. (1980). *Hukum dan Masyarakat*. Bandung: Angkasa, p. 28.

<sup>20</sup> *Ibid*.

also external obstacles that come from the community environment that is less able to accept these convicts.

## References

### *Books with an author:*

- Darmawati. (2021). *Dasar-Dasar Penologi dan Pemasyarakatan*. Yogyakarta: Deepublish.
- Mahmutarom HR, (2010). *Rekonstruksi Konsep Keadilan Studi tentang Perlindungan Korban Tindak Pidana dalam Hukum Positif, Hukum Islam, Konstruksi Masyarakat dan Instrumen Internasional*. Semarang: Badan Penerbit Universitas Diponegoro.
- Mukti Fajar, N. D., and Achmad, Y. (2010). *Dualisme Penelitian Hukum: Normatif & Empiris*. Yogyakarta: Pustaka Pelajar.
- Napitupulu, R. A. (2020). *Tinjauan Yuridis Mengenai Pemberian Hak Asimilasi Terhadap Narapidana dalam Permenkumham Nomor 10 Tahun 2020 Tentang Syarat Pemberian Asimilasi dan Hak Integrasi Bagi Narapidana dan Anak dalam Rangka Pencegahan dan Penanggulangan Penyebaran Covid-19 dan Kaitannya dengan Hak Asasi Manusia*, Medan: Universitas Sumatera Utara.
- Nur, Rafika. (2020). *Sanksi Tindakan dalam SPPA*. Parepare: Sampan Institute.
- Pasamai, S. (2013). *Metodologi Penelitian dan Penulisan Karya Ilmiah Hukum*. Makassar: Arus Timur.
- Rahardjo, Satjipto. (1980). *Hukum dan Masyarakat*. Bandung: Angkasa.
- Sholehuddin M. (2003), *Sistem Sanksi dalam Hukum Pidana*. Jakarta: Rajawali Press.

### *Article journal:*

- Hermawan, R. A., Sapsudin, A., Tonni, M., and Kertawijaya, S. (2021). Analisis Hukum terhadap Asimilasi sebagai Hak Narapidana Ditinjau dari Undang-Undang Nomor 12 Tahun 1995 tentang Pemasyarakatan (Studi Kasus di Lembaga Pemasyarakatan Kelas IIB Banjar). *Case Law*, 2(2), 117-139.
- Jufri, E. A., and Anisariza, N. U. (2017). Pelaksanaan Asimilasi Narapidana di Lembaga Pemasyarakatan Terbuka Jakarta. *ADIL: Jurnal Hukum*, 8(1), 1-26.
- Koesnindary, S. D., Wahyudi, S., and Hendriana, R. (2021). Kebijakan Pembebasan Narapidana melalui Pemberian Asimilasi dalam Rangka Pencegahan Penyebaran Covid-19 di Lembaga Pemasyarakatan. *Soedirman Law Review*, 3(4), 646-663.
- Kurnianingrum, T. P. (2020). Kontroversi Pembebasan Narapidana di Tengah Pandemi Covid-19, *Majalah Info Singkat*, 12(8), 1-6.
- Poernomo, A. A. (2021). Disparitas Norma Pengaturan Pemberian Asimilasi, Pembebasan Bersyarat, Cuti Menjelang Bebas dan Cuti Bersyarat bagi Narapidana Tindak Pidana Narkotika pada Masa Pandemi Ditinjau dalam Perspektif Hierarki Peraturan Perundang-undangan. *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan* 8(1), 18-46.



- Surahmat, A., Dida, S., and Zubair, F. (2021). Analysis of the Government's Crisis Communication Strategy Discourse to Defend Covid-19. *Jurnal Komunikasi*, 13(1), 36-53.
- Tantaru, F., Toule, E. R. M., and Ubwarin, E. (2021). Kajian Sosio-Yuridis Pembebasan Bersyarat dan Pemberian Asimilasi bagi Narapidana pada Masa Pandemi Covid-19 Ditinjau dari Perspektif Tujuan Pidanaan. *SANISA: Jurnal Kreativitas Mahasiswa Hukum*, 1(1), 34-41.

**Conflict of Interest Statement:**

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

*Copyright © 2023 ALJ. All rights reserved.*