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The Controversy Of The Over Granting Remissions Against Narcotics Abused During The Covid-19 Pandemic

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Abstract

The Covid-19 pandemic has a serious impact on many countries in the world, one is Indonesia. The misuse and distribution of narcotics in Indonesia has become a serious and worrying problem. Narcotics are a real threat and the eradication still requires serious handling, especially during the current Covid-19 pandemic. The implementation of massive remissions during a pandemic era like today has a lot of controversy. The legal issues that will be discussed in this paper are the controversy over granting remissions during the Covid-19 pandemic and how is the implementation of remissions to narcotics criminals during the pandemic? The research method used normative juridical research method which related to the provisions of normative law that apply in society. The results of this study show that the provision of large-scale remissions during the COVID-19 pandemic as today is controversy. This is because remission has an impact on perpetrators of abusing narcotics again. However, if remissions are not given to the prisoners, the inhabited prison will be overcapacity. This overcapacity will have an impact on ineffective services and empowerment in its implementation. This is part of a form of community-based punishment or social reintegration, namely the return of prisoners to the community, because for prisoners who get remission, it does not mean that they get a reduced sentence, but they serve the rest of their sentence outside prison.

Keywords: *Narchotics; Pandemic Covid-19; Prisoner; Remission*

INTRODUCTION

The government's policy to release thousands prisoners in several Indonesia prisons is a dilemmatic.¹ To guarantee the rights of prisoners is not easy during a pandemic like now. In socio-economic conditions, prisoners will have various consequences when they rejoin society. The global pandemic has caused a disease called coronavirus disease

¹ Dimas Dharma Setiawan, 'Menilik Kebijakan Asimilasi Narapidana Di Masa Pandemi COVID-19', *Ditjenpas.Go.Id*, 2020.

(Covid).² This disease is caused by *virus Systemic Acute Respiratory Syndrome (SARS) Coronavirus 2 (SARSCOV2)*.³ The COVID-19 pandemic has not only provided fresh air for Indonesian prisoners, but it is also disturbed the public. This is because the Attorney General's Office and the Minister of Human Rights have released thousands of prisoners into prison while the police are trying to catch PSBB (Mass Social Restrictions) violators.⁴ The dangerous virus was rises in Wuhan, China occurred in early 2020,⁵ that dangerous virus runs rampant and causes many deaths.⁶ One of the known viruses is Covid-19 which not waiting long.⁷

The virus has also spread in various countries even Indonesia cannot be separated from the virus.⁸ As a result of the rapid spread of this virus and the high mortality rate, the World Health Organization or WHO has declared a global risk emergency for the Covid-19 corona virus outbreak.⁹ This is very surprising and makes the medical care area anxious and afraid of the world community. The policies that emerged due to the corona virus situation were closing, restricting traffic, limiting operating hours, within a certain time. The application of this method has consequences that are very detrimental to the community, such as closing the economy of the area that enforces the policy. The enactment of this policy will open the possibility to inspire social conflict. Viruses that come from these animals are contagious, either in direct or indirect contact. Therefore the spread of this virus is very fast to all corners of the world, so that medical personnel are overwhelmed in dealing with the Covid-19 virus. The spread of the Covid-19 virus which spread very quickly in Indonesia shortly after many countries were exposed to the virus and Indonesia was also briefly exposed to population who were positively infected with Covid-19.

² Mirawati D, 'Hak-Hak Narapidana Wanita Di Lembaga Pemasyarakatan Kelas II A Watampone Perspektif Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan', *Jurnal Al-Dustur : Journal of Politic and Islamic Law*, 2.1 (2019) <<https://doi.org/10.30863/jad.v2i1.357>>.

³ Lvliang Lu and others, 'A Comparison of Mortality-Related Risk Factors of COVID-19, SARS, and MERS: A Systematic Review and Meta-Analysis', *Journal of Infection*, 2020 <<https://doi.org/10.1016/j.jinf.2020.07.002>>.

⁴ Appludnopsanji Appludnopsanji and Hari Sutra Disemadi, 'Problematika Kebijakan Pembebasan Narapidana Sebagai Upaya Penanggulangan COVID-19 Di Indonesia', *Jurnal Wawasan Yuridika*, 4.2 (2020) <<https://doi.org/10.25072/jwy.v4i2.369>>.

⁵ Muh Barid Nizarudin Wajdi and others, 'Education Policy Overcome Coronavirus, A Study of Indonesians', *EDUTECH: Journal of Education And Technology*, 3.2 (2020) <<https://doi.org/10.29062/edu.v3i2.42>>.

⁶ Wajdi and others.

⁷ WHO, 'World Health Organization. Coronavirus Disease 2019 (COVID-19) Situation Report 70', 2020.

⁸ Lu and others.

⁹ Maria Nicola and others, 'The Socio-Economic Implications of the Coronavirus Pandemic (COVID-19): A Review', *International Journal of Surgery*, 2020 <<https://doi.org/10.1016/j.ijisu.2020.04.018>>.

As a result, the population quickly contracted the virus, the government has made various efforts to prevent, control, mitigates the spread and transmission of Covid 19 in Indonesia through the regulation of Law 16/2018 by conducting regional quarantine based on statutory orders. Prevention of the spread of infectious diseases in Indonesia is very necessary to break the chain of the spread of the virus. This relates to the duties and authorities of the government to regulate Indonesian law order. The 1945 Constitution states that citizens have the right to health protection and insurance by the state. The policies implemented by the government to anticipate and reduce the number of corona virus sufferers are carried out through the provision of policies to limit activities outside the home, school activities are suspended, work from home, even worship activities are also suspended. This has become a government policy based on considerations that have been full analyzed of course.

The government's policy of granting remissions to narcotics prisoners in around Indonesia is an effort and purpose to curb the acceleration of the Covid-19 transmission process in prisons. The potential for Covid-19 radio waves is very vulnerable, especially by security officers which interacting with drug prisoners and other visiting people. In addition, there is no guarantee that prisoners can obtain or use soapy water, hand sanitizers, and masks as tools to prevent the transmission of Covid-19. In accordance with existing policies, such as maintaining physical distance, for the public interest to ensure a safe distance and to prevent the transmission of Corona 19. The government grants pardons to drug prisoners to support the prevention and control of COVID-19 through large-scale implementation.¹⁰

The government hopes that prisoners do not infected Covid-19 with crowded and overcrowded conditions prisons, so it makes easy the virus to spread to one another. As we known, the problem with correctional institutions as institutions to carry out coaching for prisoners and children is always increasing improsement or overcapacity. Based on data collected in June 2020, the number of prison residents is 230,310 people. This shows that prisons in Indonesia are over capacity which reaches 74% on a national scale.¹¹

This has an impact on the limited space for the Prisoners to move when carrying out their daily activities in the Correctional Institution and State Detention Center. Narrow cells and the granting of rights that do not match the needs should be. This can be a medium to further accelerate the process of transmitting Covid-19. So that the Indonesian

¹⁰ Risyah Hardiyanto Hidayat, 'Implementasi Pemberian Remisi Narapidana Narkotika Dan Mekanisme Pelaksanaanya Menurut Peraturan Pemerintah No 99 / 2012', *Widya Yuridika*, 3.2 (2020) <<https://doi.org/10.31328/wy.v3i2.1645>>.

¹¹ Samuel Arsheldon, Supriardoyo Simanjuntak, and Kornelius Benuf, 'Strategi Antisipasi Over Kapasitas Lapas Suatu Refleksi Atas Kebijakan Pencegahan Penyebaran Covid-19', *ADLIYA: Jurnal Hukum Dan Kemanusiaan*, 14.1 (2020), 1-26 <<https://doi.org/10.15575/adliya.v14i1.8553>>.

government issued a remission policy for prisoners to reduce the transmission of covid 19.¹² Although government considered for safety and the implementation of physical distancing, the issuance of this regulation has sparked a polemic in the community. The granting of massive remissions in its implementation has controversy.

METHOD

This research uses a normative legal research method, which is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced which produce new arguments, theories and concepts as prescriptions in solving the problems faced.¹³ By using a research approach, namely the legal approach (statute approach), conceptual approach, case approach. While the sources of legal materials used primary and secondary legal materials (library studies), with prescriptive analysis.

RESULT AND DISCUSSION

Indonesia is a country based on law as stipulated in Article 1 paragraph (3) of the 1945 Constitution and as a law state, to run a country and protect human rights must be based on law. This condition causes laws and regulations to play a very strategic role as the basis and strategy of the state to achieve the goals that have been determined. In terms of determining a prohibited act or criminal act in a statutory regulation, so it used a criminal law policy. The states law in its development is always linked to the state constitution, especially in terms of regulating and affirming the limitation of state power to guarantee the independence and basic rights of citizens and their protection.¹⁴

Even though a prisoner has lost his freedom in a correctional institution, their still has rights as a citizen and these rights have been guaranteed by the state as enshrined in the 1945 Constitution of the Republic of Indonesia Article 28G paragraph (1) which states: "Everyone has the right to personal protection, family, honor, dignity and property under their control, and has the right of security and protection from the threat of fear to do or not do something as human right."¹⁵ Human rights can be understood as a means to ensure the integrity of every human being in social structures where traditional protections are no longer effective.¹⁶ It is means that the application of human rights is

¹² Aziz Wibowo Padmono Sani Khaidir, 'Strategi Pencegahan Penanganan Dan Pemulihan COVID-19 Di Lembaga Masyarakat Kelas I Cipinang', *JUSTITIA : Jurnal Ilmu Hukum Dan Humaniora*, 8.1 (2021), 204-15 <<https://doi.org/10.31604/justitia.v8i1.204-215>>.

¹³ Peter Mahmud Marzuki, 'Penelitian Hukum' (Jakarta: Kencana Group, 2005), p. 35.

¹⁴ Penny Naluria Utami, 'Keadilan Bagi Narapidana Di Lembaga Masyarakat', *Jurnal Penelitian Hukum De Jure*, 17.3 (2017), 381 <<https://doi.org/10.30641/dejure.2017.v17.381-394>>.

¹⁵ Jupri Jupri, 'Pemberian Hak Remisi Bagi Narapidana Narkotika Berstatus Justice Collaborator', *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 5.1 (2020) <<https://doi.org/10.35673/ajmpi.v5i1.611>>.

¹⁶ T. Fovet and others, 'Mental Health Care in French Correctional Facilities during the Covid-19 Pandemic', *Encephale*, 46.3 (2020) <<https://doi.org/10.1016/j.encep.2020.05.002>>.

universal and absolute, every denial of them within the framework of the modern social structure is an insult and oppression to humans. Therefore, human rights are not entirely relative or absolute, because human rights can be developed and changed, but only "in the future". The term "forward" means that the formulation can be improved, sharpened, balanced by other rights, but in essence what is meant cannot be erased again.

The definition of human rights referred to here is human rights in the meaning of universal or human rights that are considered applicable to all nations. It starts from the basic definition, namely rights that are given directly by God or also known as basic natural rights. Correctional Institutions are part of the criminal justice system that leads to the goal of resocialization, as regulated in Article 3 of Law Number 12 of 1995 concerning Corrections. The correctional system has the functions to prepare Correctional Prisoners to be able to integrate in a healthy manner with the community, so that they can play their role again as free and responsible members of society.

The correctional system and regulations for minimum standards of treatment for prisoners adhere to a philosophy of punishment that is characterized by a rehabilitative approach, which is an approach that considers perpetrators of law violators to be prisoners.¹⁷ Therefore, it must be cured because the essence of correctional facilities is in accordance with the modern sentencing philosophy, namely treatment. Treatment is more profitable for healing criminals, so the purpose of sanctions is not to punish, but to treat or guide criminals.

The Correctional System is basically a concept for the application of the concept of "Treatment of Offenders" and can be considered to replace the prison system.¹⁸ Placement of prisoners as subjects of guidance is a reflection of the rights of prisoners who are protected by the state. This guidance is carried out through a system as known the correctional system.¹⁹ Implementation of the correctional system, the prisoners is known as the inmate.²⁰ The guidance carried out in correctional institutions is a tools to prevent prisoners from repeating their actions after leaving prison. Through coaching programs, inmates are expected to be accepted by their social environment again.

¹⁷ Sri Wulandari, 'Peran Lembaga Masyarakat Dalam Pemberian Remisi Bagi Narapidana', *Spektrum Hukum*, 14.1 (2019) <<https://doi.org/10.35973/sh.v14i1.1103>>.

¹⁸ H. R. Abdussalam, *Sistem Peradilan Pidana* (Jakarta: Restu Agung, 2007).

¹⁹ Chepi Ali Firman Zakaria, 'Kebijakan Formulasi Pemberian Remisi Yang Berorientasi Pada Kepentingan Narapidana Kasus Korupsi Dalam Sistem Peradilan Pidana Di Indonesia Dalam Rangka Pemenuhan Hak-Hak Narapidana', *Aktualita (Jurnal Hukum)*, 1.1 (2018) <<https://doi.org/10.29313/aktualita.v1i1.3711>>.

²⁰ Ivany Ningtyas Seily Rohmah, 'Pemberian Remisi Kepada Pelaku Tindak Pidana Narkotika Perspektif Hukum Pidana Islam', *Al-Jinayah: Jurnal Hukum Pidana Islam*, 3.1 (2018) <<https://doi.org/10.15642/aj.2017.3.1.164-191>>.

1. Conditional Remission for Narcotics Prisoners During the Covid-19 Pandemic in Terms of Criminal Law

The pressure point of the assimilation process, remission, leave before release and conditional leave is an assimilation of prisoners with the surrounding community.²¹ Then in a situation like this, how is the training of prisoners carried out. The Coronavirus Disease 2019 (Covid-19) pandemic is a dangerous disease. So that the President of Indonesia, Joko Widodo has issued Presidential Decree of the Republic of Indonesia Number 7 of 2020 concerning the Task Force for the Acceleration of Handling the Corona Virus Disease 2019 (COVID-19) dated March 13, 2020 and Presidential Decree of the Republic of Indonesia Number 9 of 2020 concerning Amendments to Presidential Decree Number 7 Year 2020 regarding the Task Force for the Acceleration of Handling the Corona virus disease 2019 (COVID-19).²² Where the substance of this presidential decree regulates the formation of the Task Force for the Acceleration of Handling Corona Virus Disease (COVID-19) which is under and responsible to the president. 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,²³ Yasonna Laoly, also followed up by taking legal policy steps by issuing the Minister of Law and Human Rights Regulation Number 10 of 2020 concerning Conditions for Providing Assimilation and Integration Rights for Prisoners and Children in the Context of Preventing and Overcoming the Spread of COVID-19 on March 30, 2020.

Based on the data obtained, prisons and detention centers in all around Indonesia are overcrowded (excess load). As of April 1, 2020, the number of prisoners and detainees was 270.095 people while the capacity was only able to accommodate as many as 135.675 people. This shows overcrowded in prison is 99%.²⁴ The policy of releasing narcotics prisoners through the process of granting large remissions has drawn controversy. Not only the release of general prisoners, but the discourse of the release special prisoners has also become controversial. Some argue that this decision is the right step to respect human rights in the criminal justice system. On the other hand, not a few actually regretted the decision for various reasons, especially concerns about the impact of social and security aspects of vulnerability after the prisoners move freely in society.

²¹ Sujasmin, 'Pemberian Remisi Bagi Narapidana Dan Anak Pidana Narkoba Di Lembaga Pemasyarakatan Menurut UU No. 12 Tahun 1995, Dan Peraturan Pelaksanaannya', *Jurnal Wawasan Yuridika*, 2.2 (2018).

²² Asri Agustiwi and Reky Nurviana, 'Kajian Kritis Terhadap Pembebasan Narapidana Dimasa Pandemi Covid-19', *Vol. 5 No. 1, Oktober 2020*, 2020, 46-59.

²³ Joshua Gilbert Bawono, 'Upaya Lembaga Pemasyarakatan Dalam Penanggulangan Penyalahgunaan Narkotika Oleh Narapidana Ditinjau Dari Undang-Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan', *Lex Et Societatis*, 8.4 (2020) <<https://doi.org/10.35796/les.v8i4.30921>>.

²⁴ Kompas, 'Pembebasan 30.000 Narapidana Akibat Wabah Virus Corona', *Kompas.Com* (Jakarta., April 2020), p. 1.

The public has doubts the effort to release prisoners is the right step in preventing the spread and transmission of COVID-19.²⁵ The regulation policy of the Minister of Law and Human Rights is *mutatis mutandis* with a policy against narcotics prisoners who are rumored to get remission.²⁶ This refusal was very heavy because so far the Correctional Institutions designated for narcotics prisoners have become overcrowded or overcapacity, as in other general criminal offenses in prisons.²⁷ In order to consider the huge potential for COVID-19 transmission in an overcrowding condition, the government has taken several policies, which can generally be grouped into 3 categories, namely as follows:

- a. Taking preventive action against the entry of new prisoners.
- b. Tighten prevention protocols in prisons and detention centers.
- c. Reducing potential transmission by reducing the number of prisoners through accelerated prisoners release.²⁸

The news and social media are busy discussing the prisoners release due to the policy of granting remissions causes prisoners to re-abuse or re-distribute narcotics. This should also be a record for the Government (especially the Ministry of Law and Human Rights of the Republic of Indonesia) to conduct a special evaluation related to the massive remission policy which the policies made must also be based on records of risk assessments for narcotics prisoners and other prisoners. It is necessary to minimize the risk of ex-prisoners or inmates in repeating wrong actions in the community. The release of narcotics prisoners to reduce the spread of Covid-19 in the midst of crowded prisons is an inappropriate solution and it is just for awhile.

The main reason of disease transmission in overcapacity detainees is the government's policy which still prioritizes imprisonment in law enforcement to provide a deterrent effect for someone involved in a legal case. The large percentage of the use of prisons in laws and the imposition of criminal charges is not balanced with adequate infrastructure. As long as the government does not change law enforcement policies in the form of detention and imprisonment, prisons and detention centers will always be overcrowded and at risk of spreading the virus.

²⁵ Vijay Raghavan, 'Prisons and the Pandemic: The Panopticon Plays Out', *Journal of Social and Economic Development*, 2020 <<https://doi.org/10.1007/s40847-020-00127-9>>.

²⁶ BNN, 'Press Realease Akhir Tahun 2020 "Sikap Tegas BNN, Wujudkan Indonesia Bebas D Ari Narkoba.', *Badan Narkotika Nasional Republik Indonesia*. (Jakarta, 2020).

²⁷ Novi Novitasari and Nur Rochaeti, 'Proses Penegakan Hukum Terhadap Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anak', *Jurnal Pembangunan Hukum Indonesia*, 3.1 (2021), 96-108 <<https://doi.org/10.14710/JPHI.V3I1.96-108>>.

²⁸ Said Afrizal, 'Pemberian Remisi Kepada Narapidana Sesuai Dengan Peraturan Pemerintah Nomor 99 Tahun 2012 Di Rutan Batam', *Journal Of Law And Policy Transformation*, 2.2 (2017), 125-49.

The issue of recidivism carried out by narcotics prisoners in the remission program during the COVID-19 pandemic demands improvements to the existing legal process. One of them is related to the approach to punishment that no longer needs to be based on a revenge perspective. The problem faced by prisons today is the systemic impact of legislation and the criminal law system in Indonesia, because not all criminal acts are effectively carried out by imprisonment. Therefore, the government through a restorative justice approach needs to be applied as a solution. The current condition of the Covid-19 pandemic should be a momentum to encourage changes in the criminal law enforcement system. The existence of recidivist actually proves that certain crimes, punishment or imprisonment is not effective therefore restorative justice needs to be applied.

From the impact that has arisen, the release of narcotics prisoners should not only be focused on preventing Covid-19, but must also pay attention to aspects of justice and the deterrent effect as the goal of sentencing. This is in accordance with the relative punishment theory put forward by Muladi, where punishment is not a revenge for the perpetrator's mistakes but a means to achieve a useful goal. The purpose of punishment is to improve the perpetrator so that he becomes good and does not repeat his crime again.

2. The Urgency of Prisoners Release during the Covid-19 Pandemic

This policy of the narcotics prisoners release is very urgent and important because it is based on the state's anxiety about the virus transmission that has hit the whole world, including the Indonesian in detention centers or prisons, which are worried about spreading the corona virus or covid 19 to others prisoners, because it is related to human rights, so in various countries around the world this policy is made. Moreover for elderly prisoners who are categorized as vulnerable to Covid-19. Based on the consideration of Yasona Laoly as Minister of Law and Human Rights, this exemption policy is carried out to reduce the risk of transmission of Covid-19.²⁹ The condition of prisoners in Indonesia is become general knowledge, which the prisoners in Indonesia is mostly overcapacity, so the possibility of touching or physical contact between prisoners is very possible which as an impact on the Covid-19 transmission. Despite the prison's steps to limit/close access from outside visitor, it cannot be denied that prison guards who have traffic in prisons will have the potential to spread Covid-19.

One person, both officers and prisoners is infected, so their can spread the virus to many people inside prison. The steps to reduce prisoners by minimize physical contact can be done. There are a total of 190,402 (one hundred ninety thousand four hundred and

²⁹ anasarach Dea Delinda, 'Peran Lembaga Pemasarakatan Dalam Rehabilitasi Terhadap Narapidana Narkotika (Studi Di Lembaga Pemasarakatan Narkotika Klas Iia Jakarta)', *Jurnal Poenale*, 2017.

two) prisoners. The number of prisons and detention centers are 52 with a capacity of 130,512 (one hundred thirty thousand five hundred and twelve) prisoners.³⁰ From these data, it can be seen that the capacity of Detention Centers and Prisons is less than the number of prisoners, so the result is overcapacity. Overcapacity conditions will lead to a lack of health services for prisoners in prisons, even though the provisions regarding health services for prisoners have been guaranteed in "Article 14 paragraph (1) Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Prisoners, namely every prisoners and correctional students have the right to get proper health services".

Every prison is provided with a facilities polyclinic and provided at least one doctor and another health worker, then Article 20 (1) states that prisoners and correctional students who are sick, pregnant, or breastfeeding have the right to get additional food according to the doctor's instructions." The government responded to the Covid-19 pandemic that was spreading in Indonesia, namely by issuing the Minister of Law and Human Rights (Permenkumham) Regulation Number 10 of 2020 concerning the conditions for granting assimilation and integration rights for prisoners and children in the context of preventing and overcoming the spread of Covid-19, which has been promulgated in March 2020.

In the consideration, there are 4 points which more or less state that the Correctional Institution, Special Child Development Institution, and the State Detention Center are closed institutions that have high occupancy rates so they are very vulnerable to the spread and transmission of Covid-19. Quick steps are needed as an effort to save prisoners and correctional inmates who are in prisons, Special Child Development Institutions, and State Detention Centers, considering that Covid-19 has been declared a non-natural national disaster. In addition, to make efforts to save prisoners and children in prisons, Special Child Development Institutions, and State Detention Centers is necessary to release the prisoners through assimilation and integration as steps to prevent and control the spread of Covid-19.

Based on Article 1 paragraph (1) is explained that prisoners are losing their freedom in prison. Meanwhile, Article 34 PP.99/2012 concerning Conditions and Procedures for the Implementation of the Rights of Correctional Prisoners is a respect for the rights that have been attached to prisoners through granting remissions to prisoners who meet the criteria requirements. As stated in Article 34 PP.99/2012, namely good behavior and has served a criminal period of more than 6 months. The inhibiting factors for law enforcement in terms of implementing Article 34 PP.99/2012 include legal factors, law

³⁰ Harun Sulianto, 'Hak Narapidana Tindak Pidana Narkotika Untuk Memperoleh Pembebasan Bersyarat', *Jurnal Rechtsens*, 7.1 (2019).

enforcement factors, community factors. Indeed, the purpose of sentencing is for prisoners and criminal children realize and regret their actions, and make them as a good citizen, obey the law and uphold moral, social and religious values, so as to achieve a social safety and peaceful.

Therefore, every prisoner who has been released from the Correctional Institution is expected to reflect themselves and stop committing crimes again. Basically, granting remissions to narcotics prisoners during the COVID-19 pandemic is part of a form of community-based punishment or social reintegration, namely the return of prisoners to the community. Because to prisoners who get remission, it does not mean that they get a reduced sentence, but instead they serve the rest of their sentence outside the prison. From the information gathered, there will be as many as 30.000 (thirty thousand) prisoners and children who will release as an effort to prevent the spread of COVID-19 in prisons/LPKAs.³¹ But in reality not all prisoners who are returned to society are able to be good and not repeat their crimes again. For example, denial by narcotics prisoners who received remission during the Covid-19 pandemic are did:

a) The Prisoners still did the Crimes

Narcotics prisoners who received acquittals through remission during the Covid-19 pandemic, not all of them really returned to society as a good person, instead they committed crimes again. It is undeniable that in the pandemic conditions some of the newly released prisoners have difficulties economic which trigger them to commit crimes again. In addition, the bad perception of society towards prisoners making them difficult to be accepted back into society. For prisoners who have been assimilated or integrated back into committing crimes, the Ministry of Law and Human Rights has worked around this by carrying out risk management in the form of implementing a strait cell.

When the prisoners from outside then re-enters the prison, there is a possibility that their may have brought the virus from outside into the prison. If prisoners are exposed, it is certain that they will be isolated in a special room, but the building area will not be sufficient if they have to accommodate large numbers. So the prisoners who were exposed had to be hospitalized. However, the problem re-emerged because based on the provisions in Government Regulation Number 58 of 1999 concerning Conditions and Procedures for the Implementation of the Authorities, Duties, and Responsibilities of Prisoners' Care, it is stated that every prisoner who is treated outside the Correctional Institution is obliged to be escorted by officers. In fact, the average number of prisoners

³¹ Margie G. Sopacua and others, 'The Effectiveness of Parole for Prisoners during the Covid-19 Pandemic', *Journal of Advances in Education and Philosophy*, 4.11 (2020) <<https://doi.org/10.36348/jaep.2020.v04i11.008>>.

in one prison can reach thousands, while the officers only range from 100 to 200 people. This makes it impossible for officers to escort if many prisoners are exposed to Covid-19.

b) Weak Supervision

The supervision is means that carried out both when prisoners are released before and also when prisoners have returned to the community. At the stage of correctional officers who record the conditions for prisoners who will receive assimilation or integration, the possibility of illegal levies may arise. Meanwhile, the lack of supervision when prisoners have been returned to the community commit violations such as doing their actions again so that it can disturb people, and/or violate the provisions regarding remission. Whereas before being given assimilation or integration, the Correctional Center was given the task of supervising special conditions relating to the behavior of prisoners during their probationary period. In addition, providing assistance through guidance in the form of education or skills is useful for prisoners when they are later released. The Technical Implementing Unit in the correctional system which plays an important role in the integration process of released prisoners into the community is basically a monitoring mechanism for prisoners who are proposed to be remission with the aim of preventing prisoners from repeating crimes and returning prisoners to the community.

CONCLUSION

The government responded to the Covid-19 pandemic condition in Indonesia by releasing prisoners through a remission program during the COVID-19 pandemic caused many polemics. Drug abuse and trafficking in Indonesia has become a serious and worrying problem. Narcotics are a real threat and the eradication still requires serious handling, especially during the current Covid-19 pandemic. Basically, the granting of remission is part of a form of community punishment or social reintegration, namely the return of prisoners to the community. It is because for prisoners who get remission does not mean that they get a reduced sentence, but they serve the rest of their sentence outside prison. However, the granting of remission through remission during the pandemic is controversy. This is because the release will have an impact on the perpetrators of abusing narcotics again. But if there is no remission for the prisoner, in prison will over capacity. The over capacity will has an impact in the ineffective on services and empowerment.

The recommendation from this research is the remission policy is a strategy to reduce the spread of Covid-19 in correctional facilities. It requires the government not to immediately abandon the rules that have been made after prisoners are released. The government must be able to make further actions or steps for security and comfort for the

community and prisoners. So that there will be no problems and repetition of crimes during this pandemic. There is a need for coordination and supervision between the Correctional Institutions and related parties to prisoners who receiving remission and must also be equipped with good administration of prisoners who were released as well as a post-Covid-19 remission database. So that coordination can run well. In addition to evaluating and improve supervision of prisoners who are released through assimilation in order to reduce the number of prisoners who return to committing crimes after receiving a remission program.

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