

PRISONER RELEASE POLICY DURING COVID-19 FROM SADD AL-ŽARĪ'AH'S PERSPECTIVE

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Abstract

The policy of the Minister of Law and Human Rights regarding granting prisoner release at the beginning of 2020 has caused a stir among the public because this policy was issued in the midst of the country being hit by the COVID-19 pandemic, a symptom of a deadly disease. On this basis, the researcher wanted to find out how to grant prisoner release based on the policy of the Minister of Law and Human Rights in the midst of the Covid-19 pandemic?, and what is Sadd al-žarī'ah's study of prisoner release based on the policy of the Minister of Law and Human Rights during Covid-19? This qualitative research used a normative method and a statute approach. Meanwhile, the types of data used were secondary data and primary data. The results of this research showed that the granting of prisoner release was carried out by Correctional Institutions with an integrated Correctional Database System (CDS) for prisoners who had fulfilled the substantive and administrative requirements by going through the procedures process. The policies were reviewed through sadd al-žarī'ah, which was a method of carrying out the law. In this case, seeing the intermediary of the action could lead to *maslahah* or *mafsadat*. The greater benefit arising from this policy is protecting lives by preventing the transmission of COVID-19, which could be deadly in Correctional Institutions as closed housing and over capacity. However, there are also consequences in the form of repetition of criminal acts (*recidivism*) by prisoners.

Keywords: Covid-19; Sadd al-Žarī'ah; Legal Changes; Muhammadiyah

INTRODUCTION

Many people misunderstand the government policy issued by the Minister of Law and Human Rights regarding the release of prisoners in 2020. This is related to the enactment of Regulation of the Minister of Law and Human Rights Number 10 of 2020

concerning Conditions for Providing Assimilation and Integration Rights of Prisoners and Children in the Context of Preventing and Controlling the Spread of COVID-19. This policy appears based on the situation and conditions currently being experienced by the world, especially Indonesia, in facing the disaster of a deadly disease, which can attack citizens by spreading through the air or physical contact and can cause disruption of the respiratory system, affecting the lungs.¹ This disease is called Corona Virus Disease-19, which is abbreviated as COVID-19,² so the government designated this disaster as a non-natural disaster through Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disasters COVID-19.

Responding to the Presidential Decree, the Minister of Law and Human Rights has adopted a policy to provide release in the form of assimilation and integration rights for prisoners and children. The policy of releasing prisoners is not something new in Indonesia. Previously, the government, through the Minister of Law and Human Rights, had also issued Regulation of the Minister of Law and Human Rights policy Number 3 of 2018, Juncto Number 18 of 2019, concerning Requirements and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Conditional Release, Leave for Freedom, and Conditional Leave. However, herein lies the difference between the two regulations, which are born from two different conditions.

The first condition, the birth of a policy based on the Regulation of the Minister of Law and Human Rights Number 18 of 2019, means that the country is in a normal situation. The second condition, the birth of a policy based on the Regulation of the Minister of Law and Human Rights Number 10 of 2020, means that the country is experiencing the COVID-19 pandemic. This concern stems from rumors circulating about the release of corruption prisoners³ to recidivism or repetition of the convict's crimes.⁴

¹Asri Agustiwi dan Reki Nurviana, "Kajian Kritis Terhadap Pembebasan Narapidana Di Masa Pandemi Covid-19," *Rechstaat Nieuw* 5, no. 1 (2020): 46-59.

²Thea Fathanah Arbar, "Ini Beda Nama Baru Corona, COVID-19 & SARS-Cov-2," *CNBCIndonesia.com*, 2020, <https://www.cnbcindonesia.com/news/20200212172729-4-137412/ini-beda-nama-baru-corona-covid-19-sars-cov-2>.

³Najwa Shihab, "Koruptor Dibebaskan Gara-Gara Corona? Nanti Dulu," 2020, <https://www.youtube.com/watch?v=dCv9BBbiJn0&t=23s>.

⁴Appludnopsanji dan Hari Sutra Disemadi, "Problematika Kebijakan Pembebasan Narapidana Sebagai Upaya Penanggulangan Covid-19 Di Indonesia," *Wawasan Yuridika* 4, no. 2 (2020): 131-48, <https://doi.org/10.25072/jwy.v4i2.369>.

Therefore, as an institution that has the authority to issue policies, the government has acted through the Minister of Law and Human Rights by issuing the Regulation of the Minister of Law and Human Rights Number 10 of 2020 concerning Conditions for Providing Assimilation and Integration Rights of Prisoners and Children in the Context of Preventing and Controlling the Spread of Covid-19. It also addresses community concerns as contained in Chapter II of the Minister of Law and Human Rights Regulation regarding release through assimilation and integration rights given to prisoners "Apart from those convicted of Terrorism, Narcotics and Narcotics Precursors, Psychotropic, Corruption, Crimes against State Security and Serious Human Rights Crimes, as well as Crime Organized Transnational, Foreign Nationals."⁵ This policy is in order to fulfil the rights and prevent and control the health of correctional inmates⁶ who are in correctional institutions with the highest occupancy or overload, which is the government's reason.⁷ The policy is a plan that will be implemented regarding a goal, whether by the government, political parties or others.⁸

The enactment of a policy will definitely have an impact on the public because policy and the public cannot be separated. As the definition states, public policy is a principle used by the government in managing the country, which is related to public affairs and is binding on the entire community.⁹ In simple terms, it can be understood that public policy is every action of the government, which has power and authority in a country, as an effort to overcome every problem faced by citizens.

Based on the explanation and description above, the researcher is interested in studying the release of prisoners through the Minister of Law and Human Rights policy, which is then examined based on the concept in the fiqh proposal, namely *sadd al-žarī'ah*. The word *sadd al-žarī'ah* is a combination of two words, namely *sadd*, which means

⁵Hukum dan Hak Asasi Manusia Menteri, "Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 10 Tahun 2020," *Berita Negara Republik Indonesia* (Jakarta, 2020).

⁶Menteri, hlm. 1.

⁷Edward Omar Sharif Hiariej, "Alasan Asimilasi Dan Integrasi Narapidana Di Tengah Wabah COVID-19," *HukumOnline.com*, 2020, <https://www.hukumonline.com/klinik/a/alasan-asimilasi-dan-integrasi-narapidana-di-tengah-wabah-covid-19-lt5ef9af3f9bfde>.

⁸Karmanis, Karjono, and M P Hamidulloh Ibda, *Studi Analisis Kebijakan Publik* (CV. Pilar Nusantara, 2020), hlm. 6, <https://books.google.co.id/books?id=OZcqEAAAQBAJ>.

⁹H Suaib et al., *Pengantar Kebijakan Publik* (Humanities Genius, 2022), hlm. 10-16 <https://books.google.co.id/books?id=h7pvEAAAQBAJ>.

closing, barrier, and restraint.¹⁰ Meanwhile, *adz-zari'ah* means the way, means (wasilah) or cause of something happening.¹¹ The combination of the two words *sadd* and *adz-zari'ah*, in terms according to Ibn Qayyim's opinion, is a way of intercession for something that is permitted or prohibited.¹²

Therefore, this research wants to know how to grant prisoner release based on the policy of the Minister of Law and Human Rights in the midst of the Covid-19 pandemic and what is *Sadd al-žari'ah*'s study of prisoner release based on the policy of the Minister of Law and Human Rights during Covid-19. This research aims to determine the granting of prisoner release through the policy of the Minister of Law and Human Rights in the midst of the COVID-19 pandemic that has hit the world, especially Indonesia. The researcher also wants to know about Islamic studies regarding the policy decisions of the Minister of Law and Human Rights in releasing prisoners during the COVID-19 pandemic.

METHOD

This research used a qualitative type, a scientific procedure carried out to find descriptive data in the form of written notes or words and observed behavior.¹³ The method was normative descriptive^{14,15} with a statute approach (legislation).¹⁶ This research will examine the Minister of Law and Human Rights Regulation Number 10 of 2020 as a policy for granting release to prisoners during the COVID-19 period. The data used in this research was primary data, namely Minister of Law and Human Rights Regulation Number 10 of 2020. Meanwhile, secondary data was in the form of books,

¹⁰Ismail Jalili, *Eksistensi Sadd Adz-Zar'iyah Dalam Ushul Fiqh: Kajian Pemikiran Ibnu Qayyim Al-Jauziyah*, ed. Andriyanto (Klaten: Lakeisha, 2020), hlm.13.

¹¹Amrullah Hayatuddin, *Ushul Fiqh: Jalan Tengah Memahami Hukum Islam*, ed. Budiyadi (Jakarta: Amzah (Bumi Aksara), 2019), hlm. 106.

¹²Hayatuddin, hlm. 107.

¹³Jhon W. Creswell, *Research Design: Pendekatan Kualitatif, Kuantitatif, Dan Mixed*, 4th ed. (Yogyakarta: Pustaka Pelajar, 2016), hlm. 258-290.

¹⁴Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif Dan Empiris* (Prenada Media, 2018), hlm. 124. <https://books.google.co.id/books?id=5OZeDwAAQBAJ>.

¹⁵Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), hlm. 45.

¹⁶Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005), hlm. 136.

articles, interview results and others that supported this research.^{17,18} As a sample and to strengthen this article, the researcher also visited and interviewed one of the staff/officers at the Correctional Institution Class II in Blang Pidie, Southwest Aceh.

RESULT AND DISCUSSION

1. The Granting Prisoner Release through the Policy of the Minister of Law and Human Rights

The government's policy towards releasing prisoners is not something new. However, the liberation policy issued by the government is currently drawing various criticisms, pros and cons. This is because this policy is issued when Indonesia is experiencing a non-natural disaster, namely the COVID-19 pandemic, an infectious disease that attacks the respiratory tract and can cause death.¹⁹ Therefore, based on several considerations and the government's quick movements in tackling the spread of the virus, the government took a policy step towards prisoners.²⁰

Referring to the definition of policy or public policy, it is an action carried out by an individual, group or government. James E. Anderson defined policy as a series of actions with a specific goal followed by a person or group of actors to solve a particular problem. Meanwhile, M. Irfan Islamy explained that policy is a series of actions to determine and implement or not implement something with a specific aim in order to achieve an interest that has an impact on society.²¹

Policy and the public are a series that cannot be separated because policy and the public are interconnected. If a country ignores public policy, it is the same as perpetuating tyranny by allowing life to be regulated by a person or group who only wants to satisfy

¹⁷Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 2010), hlm 52.

¹⁸Agus Sardjono, *Riset Hukum: Sebuah Novel Tentang Penelitian Hukum*, ed. Yayat Srihayati (Depok: raja Grafindo Persada, 2019), hlm. 171-190.

¹⁹Ririn Noviyanti Putri, "Indonesia Dalam Menghadapi Pandemi Covid-19," *Jurnal Ilmiah Universitas Batang Hari Jambi* 2, no. 20 (2020): 705-8, <https://doi.org/10.33087/jiubj.v20i2.1010>.

²⁰Sri Marthaningtyas, "Implementasi Kebijakan Asimilasi Narapidana Ditengah Pandemi Covid-19," *Supremasi Jurnal Hukum* 3, no. 2 (2020): 51-65.

²¹Karmanis, Karjono, and Hamidulloh Ibda, *Studi Analisis Kebijakan Publik*, hlm. 6.

their own or group's interests.²² According to Thomas R. Dye in Sahya Anggara's book, public policy is whatever the government does in choosing to do or not do something. If the government chooses to do or not do it, of course, there is a purpose for every action taken by the government, which is public policy.²³

According to William N. Dunn, public policy is a complex pattern consisting of mutually dependent collective choices, including decisions to act or not to act taken by government agencies or institutions.²⁴ Meanwhile, Leo Agustino believed that public policy is an activity or action proposed by a person, group or government in a particular environment to overcome obstacles or difficulties in achieving goals and objectives.²⁵

Based on the definitions above, it can be concluded that public policy is a decision taken by the government or group/institution in a series of actions to achieve a desired and aspired goal with an impact on society. Thus, it feels appropriate to act and not harm any party.

Therefore, the policies issued by public government organs are the government's efforts to deal with a problem currently being faced by the country, an effort to prevent and control a dangerous disease by providing assimilation and integration rights to convicts in correctional institutions as the highest housing, which is over capacity.

For this reason, the government issued a policy, namely Minister of Law and Human Rights Regulation Number 10 of 2020, concerning Conditions for Providing Assimilation and Integration Rights of Prisoners and Children in the Context of Preventing and Controlling the Spread of Covid-19. Based on this regulation, provisions for the release of prisoners and children are regulated. However, not all prisoners and children can be released.

As contained in the provisions of Chapter II of the Regulation of the Minister of Law and Human Rights Number 10 of 2020, release through assimilation and integration rights is given to prisoners "Apart from those convicted of Terrorism, Narcotics and Narcotics Precursors, Psychotropic, Corruption, Crimes against State Security and

²²Eko Handoyo, "Kebijakan Publik," *Kebijakan Publik Deliberatif*, 2012, hlm. 9.

²³Sahya Anggara, *Kebijakan Publik* (Bandung: Pustaka Setia, 2014), hlm. 35.

²⁴William N. Dunn, *Analisis Kebijakan Publik* (Yogyakarta: Gajah Mada University Press, 2003), hlm. 132.

²⁵Leo Agustino, *Dasar-Dasar Kebijakan Publik* (Bandung: Alfabeta, 2008), hlm. 7.

Serious Human Rights Crimes, as well as Crime Organized Transnational, Foreign Nationals.”

However, the granting of release is classified by the government towards prisoners who will receive it through both forms of assimilation and integration rights. However, prisoners must fulfil the requirements and go through the stages of the procedural flow as stipulated in the Regulation of the Minister of Law and Human Rights Number 10 of 2020, both substantive and administrative requirements. The requirements are as follows:²⁶

The substantive requirements for assimilation recipients are:

- a. For every prisoner who has good behavior by proving that he/she has not been serving a disciplinary sentence within the last 6 (six) months;
- b. Inmates are always active in participating in well-organized programs; and
- c. The convict has also completed or served ½ of his/her sentence.

The administrative requirements are:

- a. Attaching a photocopy of the judge's decision and minutes of the court decision;
- b. Attaching proof of having paid the fine and replacement money in accordance with the decision of the court or carried out a subsidiary replacement for the fine, which is carried out at home under supervision by the prosecutor's office and correctional center;
- c. Attaching a report on development progress signed by the Head of the Correctional Institutions/LPKA;
- d. Attaching a copy of register F from the Head of the Correctional Institutions/LPKA;
- e. Attaching a copy of the list of changes from the Head of Correctional Institutions/LPKA; And
- f. Attaching a statement letter from the prisoner that he/she does not run away or break the law while undergoing release.

The substantive requirements for receiving integration rights are:

- a. The convict has served 2/3 (two-thirds) of his/her sentence with the stipulation that the 2/3 is a minimum of 9 (nine) months;

²⁶Menteri, “Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 10 Tahun 2020.”

- b. During his/her sentence for the last 9 (nine) months starting before 2/3, the prisoner has good behavior;
- c. The inmates have also participated in the coaching program well, diligently and enthusiastically. While serving his/her criminal term; and
- d. The community can accept activity programs for prisoners.

The substantive requirements are:

- a. Attaching a photocopy of the judge's decision and court minutes;
- b. Attaching a report on the progress of prisoners signed by the Head of the Correctional Institutions/LPKA;
- c. Attaching a copy of register F from the Head of the Correctional Institutions/LPKA; also
- d. Attaching a list of changes from the Head of Correctional Institutions/LPKA; And
- e. Attaching a statement and agreement from the prisoner not to commit unlawful acts.

After the prisoner fulfils the requirements mentioned above, prison officers will verify the prisoner to obtain release through assimilation and integration rights through the integrated Correctional Database System (CDS) from the Correctional Institutions such as the Correctional Technical Implementation Unit, Regional Office and Directorate General. Therefore, this release can be carried out and given to prisoners after going through the process as described below:²⁷

- a. In order to release prisoners through the assimilation and integration rights program, Correctional Institution officers must first register prisoners by looking at the conditions for fulfilling the requirements mentioned above. Then, the Correctional Observer Team recommends the names of prisoners who meet the requirements as proposals for release to the Head of the Correctional Institution through the integrated Correctional Database System (CDS).
- b. After the proposal is received and approved by the Head of the Correctional Institution, forward the recommendation for the names of the prisoners to the Director General of Corrections with a copy to the relevant Regional Office.

²⁷Ani Yunarti, "Laporan Wawancara Staff Lembaga Pemasarakatan" (Aceh Barat Daya-Aceh, 8 Agustus 2021).

- c. Before forwarding it to the Director General of Corrections, the Head of the Regional Office must first verify the fulfilment and completeness of the requirements for the prisoner's release proposal; if the verification has passed, the Head of the Regional Office forwards the results to the Director General of Corrections.
- d. After the Director General of Corrections receives the recommendation, within 3 (three) working days must be approved by the Director General. In the event of approval of the names recommended for release through the assimilation and integration rights program, the Director General, on behalf of the Minister of Law and Human Rights, determines the decision to grant release to prisoners, which is submitted to the Head of the Correctional Institution and the Head of the Regional Office to be known and implemented.

These are the requirements that must be met by prisoners to obtain release during the COVID-19 pandemic as a form of prevention and management, and the procedures for granting it carried out by Correctional Institutions as Correctional Implementation Unit Institutions in implementing government policies contained in the Regulation of the Minister of Law and Human Rights Number 10 of 2020.

Interestingly, the release policy for prisoners is implemented at home after the prisoner obtains release through an assimilation or integration rights program. Housing prisoners as a form of home training program is useful for preventing and dealing with the infection of the deadly virus, namely COVID-19, in correctional institutions as closed housing with the highest number of overloads. This is also supervised by the Prosecutor's Office and the Correctional Center, while continuing to comply and carry out guidance as a coaching program at home.

Therefore, the government's policy regarding the release of prisoners through the Regulation of the Minister of Law and Human Rights is provided in the form of a program of assimilation and integration rights. In implementing this policy, data collection for prisoners is first carried out for those who have met the requirements and are submitted through the Correctional Database System (CDS) to be able to obtain release through the assimilation or integration rights program.

2. Sadd Al-Zarī'ah's Study on the Policy of Minister of Law and Human Rights

As a rule of law, all actions of both the government and society must be based on law. Likewise, in dealing with the spread and response to COVID-19 in correctional institutions through the policy of the Minister of Law and Human Rights in releasing prisoners as a form of prevention, this is considered a solution to prevent the spread of COVID-19 in a closed institution with the highest occupancy.²⁸ The Correctional Institution has exceeded its capacity, which basically can only accommodate 130,512 people, while the inmates number 269,846 people.²⁹

The government's policy in granting release to prisoners refers to the Regulation of the Minister of Law and Human Rights Number 10 of 2020. This is the fulfilment of the rights protected by the Constitution as stated in article 28 H paragraph 1 that "Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care."³⁰

As a form of fulfilling the rights of prisoners, this release is not without reason. The spread of COVID-19 that hit Indonesia makes it very urgent and important for the government to act quickly and precisely based on the interests of the state and the health of its citizens.³¹ In fact, the Minister of Law and Human Rights also plans to release prisoners who receive exceptions in the Regulation of the Minister of Law and Human Rights Number 10 of 2020. As stated by the Minister of Law and Human Rights, Mr. Yasonna Laoly, in a joint meeting with Commission III of The House of Representatives of the Republic of Indonesia, which was held via teleconference. However, it received criticism from the public and rejection from several institutions.³²

²⁸Fitria Ramadhani Siregar, "Pembebasan Narapidana Ditinjau Dari Permenkumham RI Nomor 10 Tahun 2020 Sebagai Upaya Pencegahan Covid-19 Di Indonesia," *Riau Law Journal* 4, no. 2 (2020): 200–218.

²⁹M. Zuhri, "Covid 19: Asimilasi Dan Integrasi, Tata Laksana Permenkumham No 10 Tahun 2020," *Penyuluhan Hukum Kantor Wilayah Lampung*, 2020, <https://lampung.kemenkumham.go.id/pusat-informasi/penyuluhan-hukum/2884-covid-19-asimilasi-dan-integrasi-tata-laksana-permenkumham-no-10-tahun-2020>.

³⁰Nurul Aulia Khoirunnisa, "Dampak Pembebasan Narapidana Pada Lingkungan Masyarakat Di Tengah Wabah Virus Covid-19," *Jurnal Dinamika Penelitian: Media Komunikasi Sosial Keagamaan* 20, no. 1 (2020): 112–129.

³¹Nurviana, "Kajian Kritis Terhadap Pembebasan Narapidana Di Masa Pandemi Covid-19." Hlm. 47.

³²Putri Octavia dan Melina Nurul Khofifah, "Pro Kontra Wacana Pembebasan Narapidana Korupsi Di Tengah Pandemi Covid-19," *Vox Populi* 3, no. 1 (2020): 44–52.

By looking at the policy of the Minister of Law and Human Rights Number 10 of 2020 concerning Conditions for Providing Assimilation and Integration Rights of Prisoners and Children in the Context of Preventing and Controlling the Spread of COVID-19, which is examined in the *sadd al-zarī'ah* study as one of the concepts in Ushul Fiqh. *Sadd al-zarī'ah* is a method of determining a legal policy; the word *sadd al-zarī'ah* is a combination of two words, namely *sadd*, which means closing, barrier, and restraint, and *adz-zarī'ah* which means path, means (*wasilah*) or cause of something happening.

The combination of the two words *sadd al-zarī'ah*, in terms of al-Qarafi's opinion, defines *sadd al-zarī'ah* as cutting the path of damage or mafsadah, which is aimed at avoiding damage.³³ In contrast to Ibn Qayyim opinion, *sadd al-zarī'ah* is a way or intercession for something permitted or prohibited.³⁴

According to Wahbah Zuhaili, *sadd al-zarī'ah* is a *wasilah* that conveys something.³⁵ Meanwhile, according to Abdul Wahhab kallaf, *sadd al-zarī'ah* is blocking (restraining) everything that can convey something that causes danger or damage.³⁶ From the several definitions above, it can be understood that *sadd al-zarī'ah* is a method of determining a law regarding an action permitted or prohibited for a reason because of the harm it causes.

In looking at the consequences, whether big or small the mafsadat of an action, Ibn Qayyim divides it into four types, namely:³⁷

- a. *Wasilah* or means that lead directly to damage;
- b. *Wasilah* or means that are permitted but aim at destruction;
- c. *Wasilah* or means that are basically permissible, although not aimed at causing damage, the results of the action can cause damage; and
- d. *Wasilah* or these means are permissible, but sometimes they can cause damage.

However, this damage is small compared to the greater benefits.

³³Hayatuddin, *Ushul Fiqh: Jalan Tengah Memahami Hukum Islam*.

³⁴Muchtin Humaidi, *Pengantar Ilmu Ushul Fiqh: Periodisasi, Sumber, Dan Metode Istinbath Hukum*, ed. Moh. Nasrudin (Pekalongan: PT. Nasya Expanding Management, 2021), hlm 170..

³⁵Hayatuddin, *Ushul Fiqh: Jalan Tengah Memahami Hukum Islam*.

³⁶Agus Miswanto, *Ushul Fiqh: Metode Ijtihad Hukum Islam* (Yogyakarta: Unimma Press, 2019), hlm. 185.

³⁷Miswanto, hlm. 195.

Therefore, as the definition has been explained, *sadd al-ẓarī'ah* is a method of performing *istinbat*, which looks at the intermediary aspect in carrying out an action by classifying the harm that arises.³⁸ Thus, *sadd al-ẓarī'ah* also aims at *maqasid*, namely the target or intention behind a legal provision. This is because, basically, everything is oriented towards *maqasid al-khamsah* (protecting religion, protecting the soul, protecting the mind, protecting property, and protecting offspring).³⁹

Even though the public's concern about prisoner recidivism is the reason for the pros and cons of the Minister of Law and Human Rights policy, there are only 424 prisoners who have accumulated crimes involving theft, drugs, disturbing the public and embezzlement.⁴⁰ Meanwhile, the number of prisoners who have been released was 35,676 people in April 2020. Therefore, it can be seen that avoiding harm is more important, which in this case is "contamination of correctional inmates with COVID-19 can result in death" rather than achieving deep goodness. In this case, "not releasing inmates from the Correctional Institution as the highest residence is already overloaded".

Accordingly, it can be seen from the number of prisoners released since the enactment of Minister of Law and Human Rights policy Number 10 of 2020, which continues to undergo changes to Number 43 of 2021, whose release period has been extended until December 31, 2022, based on CDS data, there are 258,414 people.⁴¹ Meanwhile, prisoners who received home release are in the numbers as shown in the table below.⁴²

Table 1. Number of Prisoners Who Received Release during Covid-19

Adult Prisoners	Child Prisoners
94.047 people	2.026 people

³⁸Jasser Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah* (Bandung: PT Mizan Pustaka, 2015), hlm. 32-33.

³⁹Rizka dan Arova Bakhtiar, "Apakah *Sadd Adz-Dzari'ah* Menjadi Metode Paling Tepat Dalam Beristinbat Di Masa Pandemi," *Prosiding Urecol*, 2021:132-138.

⁴⁰Teguh Rizkiawan dan Dey Ravena, "Pembebasan Narapidana Pada Masa Pandemi Covid 19 Berdasarkan Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 10 Tahun 2020 Tentang Syarat Pemberian Asimilasi Dan Hak Integrasi," *Prosiding Ilmu Hukum* 7, no. 2 (2021): 820-23.

⁴¹Ditjen PAS, "Total Integrasi Dan Asimilasi," Sistem Database Pemasarakatan, 2020, <http://sdppublik.ditjenpas.go.id/dashboard/integrasi>.

⁴²Raka Dwi Novianto, Kemenkumham: 115.798 Narapidana Dirumahkan Selama Pandemi, yang diakses pada <https://nasional.sindonews.com/read/644469/13/kemenkumham-115798-narapidana-dirumahkan-selama-pandemi-1640952761> diakses 09/08/2022

The number of Assimilation and Integration prisoners sent home: 115,798 people.

Based on the explanation above, the government's policy through the Minister of Law and Human Rights regarding the release of prisoners during the Covid-19 pandemic is reviewed using one of the legal *istinbat* methods, namely *sadd al-žarī'ah*. This policy can be seen from the impact it has on poverty.⁴³ This means referring to Ibn Qayyim al-Jauziyah's perspective in distinguishing *sadd al-žarī'ah* in the fourth group, namely "a means of something permissible (in this case the release of prisoners), which can sometimes bring damage (crimes of theft, drugs, disturbing society, and embezzlement). However, the benefits are greater (avoiding deaths caused by COVID-19) when compared to the damage (prisoner recidivism) resulting from the release of prisoners."

Thus, it can be concluded that the government's efforts to carry out the state's mandate and fulfil the benefit of correctional inmates are one of the *maqasid al-khamsah* (with the aim of safeguarding the benefit of the soul) in the *hifzl ummah* (protecting the people) by the state through the authorized government with preventive efforts and countering the spread of Covid-19.

CONCLUSION

The policy of the Minister of Law and Human Rights regarding the release of prisoners during the COVID-19 era is contained in the Regulation of the Minister of Law and Human Rights Number 10 of 2020. Granting release is carried out with reference to the conditions that must be fulfilled by prisoners and the procedures carried out by Correctional Institution officers in registering and applying for release through the Correctional Database System (CDS). Release during the Covid era is carried out in the form of placing prisoners at home. However, release for prisoners is excluded for prisoners with serious criminal cases. *Sadd al-žarī'ah's* study of prisoner release policies (mubah/permitted or permissible) can be categorized as preventing deaths (maslahat) caused by the transmission of the COVID-19 virus in Correctional Institutions which are

⁴³Intan Arafah, "Pendekatan Sadd Adz-Dzari'ah Dalam Studi Islam," *Al-Muamalat: Jurnal Hukum & Ekonomi Syariah* 5, no. 1 (2021): 68-86, <https://doi.org/10.32505/muamala.v5i1.1443>.

overcapacity as closed housing and very vulnerable to contracting the Covid-19 disease. Thus, this is a form of response by the government as an institution that has the authority to protect the people (*hifdz ummah*) in fulfilling *maqasid al-khamsah*, one of which is protecting the soul (*hifdz nafs*).

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