

Integration Of Policy for The Prevention of The Transmission of Covid-19 To the Children of Indonesian Corporate Institutions

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Abstract

The Covid-19 pandemic has taught Indonesia a valuable lesson to accommodate the safety of children who are undergoing training. However, the policy of preventing the transmission of Covid-19 to fostered children still has the potential to cause vertical conflicts. Policies between law enforcement agencies are still running independently, and do not take into account integrated law enforcement. Therefore, the problem studied in this article is how is the condition of the children being fostered by correctional institutions during the Covid-19 pandemic? and how is the integration of the policy to prevent the transmission of Covid-19 to children assisted by correctional institutions? The writing of this article uses normative legal research/doctrinal research methods. The data used in this research is secondary data, which is based on its legally binding power. Based on the results of the study, the Indonesian government has issued a policy to reduce prisoners and inmates, but empirical facts show that during the Covid-19 pandemic, inmates in prisons are still quite crowded, thereby increasing the risk of Covid-19 transmission. In addition, inter-agency policies seem to only pay attention to their respective interests, so that there is still the potential to increase the number of children in prison in prisons. Thus, an integrated policy is needed to optimize the prevention of the transmission of Covid-19 to children fostered by correctional institutions. The integration of these policies can be carried out through the issuance of joint policies between law enforcement agencies related to preventing the transmission of Covid-19 to children assisted by correctional institutions.

Keywords: Covid-19, fostered children, policy integration

Introduction

The beginning of 2020 began with an outbreak of the deadly corona virus disease that hit most countries in the world. In January 2020 the World Health Organization (WHO) declared China the first country to experience a COVID-19 emergency. WHO identified the outbreak in a novel corona virus named "2019 Novel Corona Virus" or better known as Covid-19. In March 2020 WHO finally declared Covid-19 a pandemic, due to the speed and large scale of transmission. The virus that initially only resided in one city in China, namely Wuhan, eventually spread to most countries in the world. Most countries in the world are busy with the spread of this deadly virus and there is no cure or vaccine yet. Therefore, a short time the Covid-19 pandemic hit most countries in the world. All State Leaders are confused for overcome this virus, the world is not ready to face the massive spread of this virus. Every day the victims fell en masse, making hospitals overwhelmed. Along with the increase in the number of Covid-19 cases, countries around the world are taking more aggressive preventive measures. A number of unusual policies continue to be taken by a number of heads of state in the world, such as closing schools, houses of worship, tourist

7
places, and other public facilities, but still this virus cannot be stopped from spreading. Some countries are even forced to adopt policies to enforce social/physical distancing (social/physical restrictions), to reduce the risk of Covid-19 transmission. Even more extreme, some countries such as China, Italy, and the United State closed their territory, or what is called a lock down. In Indonesia itself, the government has set a policy of prohibiting going home and large-scale social restrictions in several areas.

25
The Covid-19 pandemic does not only have a negative impact on activities in the economic sector and social life. The Covid-19 pandemic also has a negative impact on the mental and physical health of humans, especially children who are undergoing the process of coaching in correctional institutions. The United Nations Children's Fund (UNICEF) stated that detention conditions around the world are also a high risk for children contracting Covid-19. As a country that has a dense population, Indonesia is expected to be affected by the Covid-19 pandemic in a relatively longer period of time. The Covid-19 pandemic has taught Indonesia a valuable lesson to accommodate the safety of children who are undergoing the coaching process in correctional institutions. Through the Commissioner for Human Rights, the United Nations (UN) has urged countries in the world to issue policies related to preventing the transmission of Covid-19 in prisons. In response to this UN instruction, the Indonesian government issued several policies, namely the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020 concerning Conditions for Granting Assimilation and Rights Integration for Prisoners and Children in the Context of Prevention and Control of the Spread of Covid-19, and Letter of the Minister of Law and Human Rights Number: M.HH.PK.01.01.01-04 concerning the Temporary Delay of Sending Detainees to Detention Centers / Prisons within the Ministry of Law and Human Rights Humans as an Effort to Prevent the Spread of Covid-19.

In the context of the policy of preventing the transmission of Covid-19 to children assisted by correctional institution, there are still policies that have the potential to cause vertical conflicts. For example, the Minister of Law and Human Rights issued a letter numbered M.HH.PK.01.01.01-04 dated March 24. In the letter, the Minister of Law and Human Rights asked not to release and accept prisoners during the epidemic. The problem is, the detention of suspects by law enforcement is limited by the provisions of the Criminal Procedure Code (KUHAP), and maintaining legal certainty remains important during the current difficult time of the Covid-19 outbreak. In addition, policies between law enforcement agencies are still running independently, and have not taken into account the integrated law enforcement between law enforcement agencies. For example, the Minister of Law and Human Rights has issued Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020 concerning Conditions for Providing Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Control of the Spread of Covid-19. But on the other hand, although the number of children assisted by correctional institutions is reduced based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020, there is still the potential to increase because court decisions against juvenile offenders during the Covid-19 pandemic are still dominated by imprisonment. .

In order to optimize efforts to prevent the transmission of Covid-19 to children assisted by correctional institutions, policies between law enforcement agencies, especially the Police, Prosecutors, Courts, and the Ministry of Law and Human Rights must be integrated. This integrated policy is important in order to provide legal certainty, benefit, and justice for fostered children. Therefore, the problem studied in this article is how is the condition of the children being fostered by correctional institutions during the Covid-19 pandemic? and how is the integration of the policy to prevent the transmission of Covid-19 to children

assisted by correctional institutions? The writing of this article aims to encourage the government to immediately carry out the policy integration process and encourage law enforcement institutions to issue joint policies related to preventing the transmission of Covid-19 to children under the guidance of correctional institutions.

Research methodology

This type of research is a normative legal research/doctrinal research. The approaches used in this research are the statutory approach, the analytical approach, the conceptual approach, and the case approach. The data used in this study is secondary data sourced from theories, norms, rules, court decisions, and legal expert opinions (doctrine) related to the legal system of child protection in conflict with the law. Data collection in this study was carried out by inventing and analyzing documents through literature studies in the form of books, journal articles, laws and regulations, and court decisions that were relevant to the issues discussed. Furthermore, the data obtained were analyzed descriptively analytic.

Results and Discussion

1. Conditions of Children Assisted by Correctional Institutions during the Covid-19 Pandemic

Before being hit by the Covid-19 pandemic, Indonesian correctional facilities as a place for fostering adult and child prisoners have been faced with various problems. Overload or excess occupants is one of the unresolved problems in correctional institutions. This condition is caused by law enforcement policies that prioritize imprisonment rather than restorative justice. As of June 2020, Indonesian prisons are inhabited by 230,310 inmates. This condition shows that Indonesian prisons are currently experiencing an overload of 74%. Before the Covid-19 pandemic, disease transmission in correctional facilities was relatively high. According to WHO, prisoners in correctional institutions, especially inmates, have a high risk of contracting HIV and hepatitis.

Apart from the loss of human life, the Covid-19 pandemic has had a significant impact on various sectors, including children under the guidance of correctional institutions. Currently, various studies have not provided comprehensive answers regarding the prevention of Covid-19 in correctional facilities. However, based on research results, inadequate prison facilities make children in prison more vulnerable to contracting Covid-19. This is one of the motivating factors for the Ministry of Law and Human Rights to issue Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. Year 2020 concerning the Granting of Assimilation and Integration Rights for Prisoners and Children in the Context of Preventing and Overcoming the Spread of Covid-19. However, the prison conditions during this pandemic are still experiencing an overload. Based on the records of the Directorate General of Corrections, since March 7, 2020, prisons have been overloaded reached 104%. Furthermore, in August 2020, Indonesian prisons were inhabited by 232,585 people while the capacity was 132,347 people. The dense population of correctional institutions makes it difficult to carry out physical distancing which is the most effective means to control the transmission of Covid-19.

In addition, during this pandemic, there are still quite a lot of children assisted by correctional institutions. Imprisonment is still the main choice for judges in deciding child cases. Based on data from the Directorate General of Corrections, from March to November 2020, there were 11,478 children assisted in prisons spread across 33 Regional Offices of the Ministry of Law and Human Rights. Children who are

sentenced to prison are placed in the Special Child Development Institute (LPKA). Placement of fostered children in LPKA is carried out by considering several things, namely age, gender, quantity of punishment, and type of crime. During the Covid-19 pandemic, from March to September there were 5180 fostered children in LPKA.

Table 1. Children assisted by correctional institutions for the period March-September 2020

No	Office Building	LPKA	Number of Children
1.	Aceh	Lembaga Pembinaan Khusus Anak Kelas II Banda Aceh	107
2.	Bali	Lembaga Pembinaan Khusus Anak Kelas II Karangasem	80
3.	Bangka Belitung	Lembaga Pembinaan Khusus Anak Kelas II Pangkalpinang	104
4.	Banten	Lembaga Pembinaan Khusus Anak Kelas I Tangerang	430
5.	Bengkulu	Lembaga Pembinaan Khusus Anak Kelas II Bengkulu	271
6.	D.I. Yogyakarta	Lembaga Pembinaan Khusus Anak Kelas II Yogyakarta	55
7.	DKI. Jakarta	Lembaga Pembinaan Khusus Anak Kelas II Jakarta	259
8.	Gorontalo	Lembaga Pembinaan Khusus Anak Kelas II Gorontalo	20
9.	Jambi	Lembaga Pembinaan Khusus Anak Kelas II Muara Bulian	77
10.	Jawa Barat	Lembaga Pembinaan Khusus Anak Kelas II Bandung	235
11.	Jawa Tengah	Lembaga Pembinaan Khusus Anak Kelas I Kutoarjo	243
12.	Jawa Timur	Lembaga Pembinaan Khusus Anak Kelas I Blitar	222
13.	Kalimantan Barat	Lembaga Pembinaan Khusus Anak Kelas II Sungai Raya	83
14.	Kalimantan Selatan	Lembaga Pembinaan Khusus Anak Kelas I Martapura	253
15.	Kalimantan Tengah	Lembaga Pembinaan Khusus Anak Kelas II Palangkaraya	72
16.	Kalimantan Timur	Lembaga Pembinaan Khusus Anak Kelas II Samarinda	156
17.	Kepulauan Riau	Lembaga Pembinaan Khusus Anak Kelas II Batam	100
18.	Lampung	Lembaga Pembinaan Khusus Anak Kelas II Bandar Lampung	444

19.	Maluku	Lembaga Pembinaan Khusus Anak Kelas II Ambon	183
20.	Maluku Utara	Lembaga Pembinaan Khusus Anak Kelas II Ternate	30
21.	Nusa Tenggara Barat	Lembaga Pembinaan Khusus Anak Kelas II Lombok Tengah	46
22.	Nusa Tenggara Timur	Lembaga Pembinaan Khusus Anak Kelas I Kupang	102
23.	Papua	Lembaga Pembinaan Khusus Anak Kelas II Jayapura	38
24.	Papua Barat	Lembaga Pembinaan Khusus Anak Kelas II Manokwari	18
25.	Riau	Lembaga Pembinaan Khusus Anak Kelas II Pekanbaru	320
26.	Sulawesi Barat	Lembaga Pembinaan Khusus Anak Kelas II Mamuju	42
27.	Sulawesi Selatan	Lembaga Pembinaan Khusus Anak Kelas II Maros	106
28.	Sulawesi Tengah	Lembaga Pembinaan Khusus Anak Kelas II Palu	182
29.	Sulawesi Tenggara	Lembaga Pembinaan Khusus Anak Kelas II Kendari	150
30.	Sulawesi Utara	Lembaga Pembinaan Khusus Anak Kelas II Tomohon	74
31.	Sumatera Barat	Lembaga Pembinaan Khusus Anak Kelas II Tanjung Pati	208
32.	Sumatera Selatan	Lembaga Pembinaan Khusus Anak Kelas I Palembang	426
33.	Sumatera Utara	Lembaga Pembinaan Khusus Anak Kelas I Medan	44

Source: Correctional database system

So far, there is only one LPKA in each Regional Office of the Ministry of Law and Human Rights. During the Covid-19 pandemic, LPKA Class II Bandar Lampung was recorded to have the most fostered children, namely 444 people. Meanwhile, LPKA Class II Gorontalo has at least 20 fostered children. The limited number of adult penitentiaries and LPKA causes the placement of adult inmates to mix with the assisted children. In addition, the explosion of adult and child prisoners has caused several LPKAs in 33 Regional Offices of the Ministry of Law and Human Rights to still experience overloads during this pandemic, one of which is Class II LPKA Maros, South Sulawesi, as shown in the following table:

Table 2. Occupants of Class II Maros LPKA for the period March-September 2020

Adult Prisoner	:	18496
Child Prisoner	:	173
Number of Prisoners	:	18669

Adult NAPI	:	49277
Fostered Children	:	2790
Number of prisoners and assisted children	:	52067
Total number	:	70736
Capacity	:	43228
Overload (%)	:	13612

Source: Correctional database system

It is not impossible for LPKA to become a mass grave due to the Covid-19 outbreak. The conditions of prisons that are overloaded make inmates very vulnerable to being infected with Covid-19. Moreover, the residential space that is not feasible and narrow causes the fostered children to squeeze together. In addition, the lack of correctional facilities affects the coaching process. Correctional officers concentrate more on safeguarding than ensuring the health of children. So that several correctional facilities have become epicenters of Covid-19 transmission. The overloaded condition of prisons also burdens the state budget. From April to December 2020, the cost of living for prisoners reaches Rp. 32,269 Billion. During the Covid-19 pandemic, the economy is in a slump, so the cost of living for the inmates will further exacerbate the economic downturn. Therefore, every policy becomes very important to be integrated in order to reduce the crime of depriving children of liberty.

2. Integration of Policies on Prevention of Covid-19 Transmission in Children's Special Guidance Institutions

From in the womb until the age of 18, every child has basic rights that must be respected, upheld, fulfilled, and protected. Children's rights are based on the principles of the best interests of the child for life and survival, the right to grow and develop naturally, to receive equal treatment (non-discrimination), and to respect the opinion of the child. The Convention on the Rights of the Child is the most comprehensive international human rights legal instrument and is a legal instrument to promote and protect children's rights. The Convention on Rights of the Child applies to all children and in all aspects, including the Covid-19 emergency. Article 24 of the Convention on the Rights of the Child provides that every child has the right to the highest attainable standard of health. Furthermore, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (hereinafter referred to as the Child Protection Law) stipulates that the government, local governments, and other state institutions are obliged and responsible for providing special protection to children. Special protection for these children includes child protection in emergency situations.

Even though everyone has the potential to be infected with Covid-19, children who are in the process of fostering at LPKA are more susceptible to being infected with Covid-19 because prisons have a high prevalence of infection, unhealthy facilities, and restrictions on freedom that make it difficult to implement self-isolation. In addition, children who are in the process of fostering in correctional institutions have poorer health conditions, experience health, psychological, and physical problems so that they are more susceptible to contracting Covid-19. In response to this, the Minister of Law and Human Rights has issued Regulation of the Minister of Law and Human Rights of the Republic of Indonesia 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, and the Letter of the Minister of Law and Human Rights. Number M.HH.PK.01.01.01-04 concerning the

Temporary Delay of Sending Detainees to Detention Centers / Prisons in the Ministry of Law and Human Rights as an Effort to Prevent the Spread of Covid-19. However, so far the policy to prevent the spread of Covid-19 at LPKA has not been fully harmonious and integrated. Therefore, harmonization and integration efforts are needed to optimize the prevention of Covid-19 transmission to LPKA foster children, and prevent overlapping regulations.

Letter of the Minister of Law and Human Rights Number M.HH.PK.01.01.01-04 requires vertical harmonization because it is not fully in line with the provisions of the Criminal Procedure Code. Vertical harmonization is an effort to harmonize laws and regulations in different hierarchies. The letter, which was addressed to the Supreme Court, Attorney General's Office, Police, and Correctional Institutions asked not to release and accept detainees during the outbreak, starting from Wednesday 18 March 2020. Meanwhile, the detention of suspects by law enforcers is limited by the provisions of the Criminal Procedure Code. According to the Criminal Procedure Code, detention is the placement of a suspect or defendant in a certain place by an investigator or public prosecutor or judge with his determination in terms of fiber according to the method regulated in this law. Reasons for detention include subjective reasons and objective reasons. Included in the subjective reasons are:

- 1) A suspect or defendant who is strongly suspected of committing a crime based on sufficient evidence;
- 2) In the event of a situation that raises concerns that the suspect or defendant will flee; or
- 3) Damaging or eliminating evidence and or repeating a crime.

The objective reason for detention can only be imposed on a suspect or defendant who has committed a criminal act and or attempted or provided assistance in the said crime in the event that the crime is punishable by imprisonment of five years or more, and the crime as referred to in Article 282 paragraph (3), Article 296, Article 335 paragraph (1), Article 351 paragraph (1), Article 353 paragraph (1), Article 372, Article 378, Article 379 a, Article 453, Article 454, Article 455, Article 459, Article 480 and Article 506 of the Criminal Code.

Based on these provisions, the Criminal Procedure Code has not regulated the detention process in a pandemic situation. This is certainly natural considering that philosophically humans are ephemeral in nature, limited in their range of views and thoughts logically. Reason and reason cannot penetrate the darkness of the horizon of the future that lies against them. No matter how smart humans are, it is impossible to create and formulate a legislative product that is able to cover concrete things in the future, including the Covid-19 disease outbreak. Based on this philosophical view, at the time the KUHAP was drafted, many concrete issues that arise now have not been accommodated in it that need to be bridged. Given that legal certainty still needed in the Covid-19 pandemic situation, as a lower level regulation, the Letter of the Minister of Law and Human Rights Number M.HH.PK.01.01.01-04 must be adjusted to the provisions of the Criminal Procedure Code as a higher regulation. As stipulated in the principle of *lex superior derogate legi inferiori*, higher laws and regulations override lower laws and regulations.

So far, law enforcement in Indonesia is still positivistic or only prioritizes written policies. During the Covid-19 pandemic, there should be an integrative policy that specifically regulates the mechanism for preventing the transmission of Covid-19 in LPKA. But so far law enforcement agencies tend to work alone. The Minister of Law and Human Rights has issued Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020 concerning Conditions for Providing

Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Control of the Spread of Covid-19. The existence of this regulation is because in the context of preventing and controlling the spread of Covid-19, it is a progressive step by the Ministry of Law and Human Rights in an effort to overcome and minimize the impact of the spread of Covid-19 in prisons / LPKA / detention centers. In addition, this regulation of the Ministry of Law and Human Rights is also intended to reduce overload and save the state budget as well as the ineffective implementation of Social Distancing and Physical Distancing in correctional institutions. But on the other hand, although the number of fostered children is reduced based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020, there is still the potential to increase because court decisions against children in conflict with the law during the Covid-19 pandemic are still dominated by imprisonment. This is caused by The Supreme Court as not issued a special policy regarding the settlement of cases of children in conflict with the law during the Covid-19 pandemic. Based on the records of the Supreme Court, since WHO declared Covid-19 as a pandemic in March 2020 until this article was written, there were 6 (six) cases of children in conflict with the law which were decided with imprisonment as shown in the following table:

Table 3. Decisions on Child Cases in Conflict with the Law During the Covid-19 Pandemic

No	Case Number	Judicial Institution	Decision	Date of Decision
1.	22/Pid.Sus-anak/2020/PN.Srg	PengadilanNegeriSerang	Sentencing the Child Perpetrator therefore with imprisonment for 1 (one) year and 4 (four) months	24 Juni 2020
2.	7/Pid.Sus-Anak/2020/PN Btg	PengadilanNegeriBatang	Sentencing the child with imprisonment at LPKA Kutoarjo for 1 (one) year and job training for 3 (three) months at the Batang Regency Social Service	16 Juli 2020
3.	6/Pid.Sus-Anak/2020/PN Tte	PengadilanNegeri Ternate	Sentencing the child, therefore, with imprisonment for 2 (two) years at the Class II Ternate Child Special Development Institute (LPKA) and Job Training at the UPT Work Training Center, West Halmahera Regency, which is located on Jalan Trans Halmahera, Goal Village, East Sahu District. West Halmahera Regency, North Maluku	22 Juni 2020

			Province for 3 (three) months	
4.	5/Pid.Sus-Anak/2020/PN Btg	PengadilanNegeriBatang	Sentencing child I. FIKI HIDAYAT alias ITIS Bin SYERI RHEJO with imprisonment for 1 (one) year and additional punishment in the form of Job Training at the BLK (Job Training Center) Social Service, Manpower and Transmigration (DINSOSNAKERTRANS) Batang Regency for 6 (six)) months while for Child II. TRI ATMOJO Bin ABDUL LATIF (late) with imprisonment for 1 (one) year and 6 (six) months as well as additional crime in the form of Job Training at the BLK (Job Training Center) Social Service, Manpower and Transmigration (DINSOSNAKERTRANS) Batang Regency for 6 (six months	14 Juli 2020
5.	1/PID.SUS-ANAK/2020/PT DPS.	Pengadilan Denpasar Tinggi	Strengthening the Semarapura District Court Decision Number 3 / Pid.Sus-Child / 2020 / PN.Srp. April 15, 2020 which imposes a criminal sentence on a child, therefore with a prison sentence of 2 (two) months	Mei 2020
6.	6/Pid.Sus-Anak/2020/PN Mam	PengadilanNegeriMamuju	Sentencing a child in the form of imprisonment for 1 (one) year and 8 (eight) months	2 April 2020

Source: Edited by the author from the Directory of the Supreme Court of the Republic of Indonesia

Table 1 above, at least, is sufficient to illustrate that the policy of preventing the transmission of Covid-19 to children assisted by correctional institutions has so far not taken into account integrated law enforcement policies between law enforcement agencies. This non-integrated policy certainly has an impact on the fulfillment of the rights of fostered children who should receive protection during this Covid-19 pandemic. In addition, this inconsistent policy will make it difficult for other law enforcement agencies, especially in terms of detaining and fostering children in correctional institutions. The Ministry of Law and Human Rights seeks to reduce child prisoners in prisons as an effort to guarantee children's rights to obtain health, while court institutions continue to impose imprisonment on children, so that the government's efforts to reduce inmates in prisons are in vain. As a developing country, Covid-19 is not an easy problem for Indonesia. Therefore, every policy issued must be integrated, in order to prevent negative public perceptions of the government in preventing the transmission of Covid-19.

Conclusion

The condition of children under the guidance of Indonesian correctional institutions is not much different from before the Covid-19 pandemic. Although the Indonesian government has issued a policy to reduce prisoners and inmates, empirical facts show that inmates in prisons are still quite dense. Such conditions cause correctional institutions to experience overload. This condition is further exacerbated by the lack of facilities, cramped and slum rooms, as well as the difficulty of self-isolation, so that children under the guidance of correctional institutions have the potential to be infected with Covid-19. In addition, the policy of reducing inmates and inmates seems to be in vain because the policies are not integrated. The inter-agency policies seem to only pay attention to their respective interests, so that they still have the potential to increase the number of children being fostered in correctional institutions. Based on these conditions, an integrated policy is needed to optimize the prevention of Covid-19 transmission to children under the guidance of correctional institutions. The integration of these policies can be carried out through the issuance of joint policies between law enforcement agencies related to preventing the transmission of Covid-19 to children assisted by correctional institutions.

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