

LEGAL EVALUATION OF THE ASSIMILATION AND CONDITIONAL LEAVE PROGRAM FROM THE PERSPECTIVE OF PUNISHMENT OBJECTIVES

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Abstract

Assimilation and conditional leave programs are two important instruments in the Indonesian correctional system, serving as a form of punishment outside of correctional institutions. This article evaluates the validity and effectiveness of these two programs from the perspective of modern sentencing objectives: retribution, deterrence, rehabilitation, and social reintegration. Using a normative juridical approach and policy analysis, this paper examines how assimilation and conditional leave are implemented and the extent to which they reflect the principles of justice and the effectiveness of criminal law. The study reveals that although normatively these programs support the goals of progressive sentencing, in practice, legal and administrative obstacles still exist that hinder the achievement of effectiveness and substantive justice.

Keywords: *Sentencing, Assimilation, Conditional Leave, Correctional Services, Legal Evaluation.*

INTRODUCTION

Punishment is a system that functions not only as a means of retribution (retributive), but also as a social instrument aimed at protecting society, preventing crime, and rehabilitating perpetrators. In modern doctrine, punishment no longer focuses solely on physical punishment and suffering, but also takes into account humanitarian values and social justice. Article 2 of Law Number 22 of 2022 concerning Corrections states that correctional services are the final component of the penal system, aiming to prepare inmates to reintegrate into society with improved attitudes and behavior. In this context, assimilation and conditional leave programs represent concrete examples of the implementation of a penal system oriented toward social recovery and the rehabilitation of offenders. Punishment in the criminal justice system extends beyond the sentencing process, but also involves the effective, humane, and just implementation of sentences. Assimilation and conditional release, as part of the Indonesian correctional system, provide concrete forms of punishment that are more rehabilitative and restorative. In practice, these two programs are expected to promote the social reintegration of inmates while simultaneously reducing the burden on overcrowded correctional institutions.

However, questions arise as to the extent to which the implementation of this program aligns with the objectives of sentencing, which are based on justice, expediency, and legal certainty. Therefore, this paper focuses on a legal evaluation of the assimilation and conditional leave programs and their relationship to the principles and objectives of sentencing. The penal system in Indonesian criminal law is not solely oriented toward punishment, but also includes dimensions of social development and rehabilitation. In this context, the existence of assimilation and conditional leave programs represents a paradigm shift from a retributive model of punishment to a more rehabilitative and restorative approach. These two instruments aim to provide prisoners with the opportunity to serve part of their sentences outside of correctional institutions, with continued supervision and guidance as an effort to reintegrate into society. The importance of this program is increasingly apparent amidst classic issues such as correctional overcrowding, budget constraints, and rising recidivism rates. However, the implementation of assimilation and conditional leave is not free from various normative and practical issues, ranging from inconsistencies in the application of the principle of proportionality to inequalities in the granting of rights to inmates

of various crimes. From a criminal law perspective, the fundamental question is to what extent this policy aligns with the ideal goals of punishment: to provide a deterrent effect, reform the perpetrator, protect society, and remedy social harm. This paper aims to conduct a legal evaluation of the assimilation and conditional leave programs, emphasizing their relevance to the principles of justice, expediency, and legal certainty in the implementation of criminal penalties in Indonesia. In maintaining harmony of life in society, it is necessary various kinds of rules as guidelines in maintaining and regulating the relationship between individual interests and the interests of the general public. Along with the progress in everything sector causes growing needs community in various fields. So that it becomes more also increased legislation that is expected to be able to balancing various needs and interests of each different people and even contradict each other. and on Ultimately, it can create security and peace in society. The law defines what must be done and/or what is permitted and prohibited. Assimilation is a process of prisoner development that involves gradually integrating prisoners into society before the end of their sentence, while remaining under supervision. Meanwhile, conditional leave is the opportunity for prisoners to be outside of correctional institutions for a certain period of time before the end of their sentence, as preparation for social integration.

Provisions regarding assimilation and conditional leave are regulated in:

- a) Law Number 22 of 2022 concerning Corrections;
- b) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2022 concerning the Requirements and Procedures for Granting Remission, Assimilation, Visiting Family Leave, Conditional Leave, and Conditional Release;
- c) Decree of the Minister of Law and Human Rights of the Republic of Indonesia No.M.HH-04.PK.01.04.04 of 2020 concerning the Release and Release of Prisoners and Children through Assimilation and Integration in the context of Preventing and Overcoming the Spread of COVID- 19.

Legally, the assimilation and conditional leave programs aim to implement more humane sentencing and promote social reintegration. However, in practice, they face various challenges that give rise to legal and social controversy, such as:

- a) Lack of supervision of prisoners undergoing assimilation or conditional leave, resulting in recidivism;
- b) The discrepancy between implementation in the field and the principles of justice and equality under the law, especially regarding alleged preferential treatment of prisoners in certain cases;
- c) The weak role of community mentors and supervisory officers in ensuring that this program runs effectively.

This indicates the need to strengthen regulations and control mechanisms for the implementation of this program so that it remains in line with the objectives of criminal punishment which include aspects of retributive, preventive, rehabilitative and restoration. The function of law in society means that law is beneficial to society. In general, Rusli Efendi views the function of law in two ways: First, law as control (social control). Here, the function of law is as social control. reflect efforts complete integration. The law functions so that irreconcilable conditions due to the conflict between the ideal and the actual, between norms and pragmatic, between What is should or should be resolved with what exists in reality, which generally occurs in a person's life. In order not to disrupt community life, the law is there to regulate society so that it does not commit actions that fall into the qualification of violating the law, whether it is public law or private law.

Second, the function of law is as a tool to change society (a device of social engineering). In society there is a the desire that to be achieved, then use the law as a tool to change the way local individuals behave. use for achieve goals the ideal. For example: the government states that population growth must be limited for the sake of the continuity of the country's financial development and progress in the future. Therefore, a guidelines or rule of law which govern regarding birth control. Therefore, it can be said that these guidelines are legitimate rules that are used as tools to change society in playing a role that important, especially in change ideal or legal standards and definitions as well as ways to enforce them that apply to implementers and seekers of justice. In order for the law to carry out the two functions above optimally, conditions are required. Certain factors support it. Such as the supporting community, the implementing community, the climate, and so on. The level of public compliance with the law will support the law's ability to fulfill its function within society. Therefore, positive public behavior enables the law to function within society. From the perspective of the theory of the purpose of punishment, assimilation and conditional leave programs can be examined through the following approaches:

1. Rehabilitative Theory: This program supports the process of coaching prisoners to improve themselves and readjust to society.

2. Preventive Theory: By providing selective programs, prisoners will be encouraged to behave well while serving their sentence so that they can obtain the right to social integration.
3. Restorative Theory: Through the reintegration process, this program has the potential to restore social relationships damaged by criminal acts.

However, the realization of these goals is highly dependent on the state's commitment to providing adequate development facilities and an accountable monitoring system, as well as community participation in supporting the reintegration process.

RESULTS AND DISCUSSION

1. The Concept of Assimilation and Conditional Leave in Correctional Law. Based on Articles 10 and 14 of Law Number 22 of 2022 concerning Corrections, inmates are entitled to assimilation and conditional leave as a form of social integration. Assimilation is a process of supervised development of inmates outside of prison aimed at preparing them for their return to society. Meanwhile, conditional leave is granted prior to the release of inmates who have met administrative and substantive requirements.

In Indonesia's correctional system, assimilation and conditional leave are part of the social integration mechanism for prisoners, guaranteed as a legal right. This right is affirmed in Articles 10 and 14 of Law Number 22 of 2022 concerning Corrections, which clearly stipulate that prisoners have the right to guidance and social integration in the form of assimilation and conditional leave.

Article 10 letters a and b state that every prisoner has the right to:

- a. Assimilation, namely a development process that allows prisoners to carry out activities outside the correctional institution under the supervision of officers, as part of efforts to prepare them to return to community life gradually.
- b. Conditional Leave, which is a form of further guidance given to prisoners who have fulfilled the administrative and substantive requirements, in the form of permission to be outside the prison before the end of the sentence, with ongoing supervision and evaluation.

Furthermore, Article 14 paragraph (1) emphasizes that the granting of social integration rights, including assimilation and conditional leave, is given as part of the implementation of the prisoner development program with the aim of developing prisoner awareness and responsibility towards community life, as well as encouraging the achievement of the final goal of correctional services, namely social rehabilitation.

Principles and Objectives

The granting of assimilation and conditional leave is not absolute, but rather is given selectively based on certain criteria and evaluations, which are further regulated in implementing technical regulations, such as Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2022. The main objectives of this policy are:

- a. Preparing prisoners to return to society through gradual social adaptation;
 - b. Reduce stress levels and mental pressure due to prison terms;
 - c. Providing opportunities for prisoners to rebuild their social, economic and family functions before the end of their sentence;
 - d. Supporting rehabilitative and restorative approaches to sentencing.
2. The Purpose of Punishment from a Modern Perspective The purposes of punishment are classically divided into three: retributive, deterrent, and rehabilitative. In the modern context, the purpose of punishment is increasingly directed toward protecting society and the social reintegration of prisoners. Therefore, humanistic and reintegrative approaches have become more prominent. In classical criminal law theory, the purposes of punishment are divided into three main categories:
 - a. Retribution (retribution) – punishment given as an appropriate response to a crime committed;
 - b. Deterrent (prevention) – punishment aims to prevent perpetrators and the general public from committing crimes;
 - c. Rehabilitation (improvement) – punishment is aimed at improving the perpetrator's behavior so that he can be accepted back into society.

These three objectives form the basis of the conventional penal system, which focuses on retributive justice and deterrence. However, in modern developments, the paradigm of penal objectives has undergone a transformation toward a more humanistic and integrative approach, taking into account human rights and the need for social

reintegration of criminals. Therefore we need enforcement the law that aims to ensuring that the law is obeyed . Law enforcement can be carried out in at least two ways, namely: first, grow legal awareness and second, by means of threats or coercion. In law enforcement, there are three elements that must always be considered, namely legal certainty , benefit and justice. In law enforcement there must be an agreement between these three elements. These three elements must receive balanced attention. However, in in practice it is not always easy to do it. Normatively, this transformation is reflected in various legal provisions, including in Indonesia. Law Number 22 of 2022 concerning Corrections shifts the orientation of criminal justice from solely punishment to a process of social development and rehabilitation. Article 2 of the law states that the correctional system aims to:

- a. Preparing inmates to be aware of mistakes,
- b. Improve oneself,
- c. And not repeat the crime,
- d. So that they can be accepted back into society,
- e. And play an active role in development.

This approach is known as the modern goal of sentencing, which emphasizes:

- a. Sustainable community protection;
- b. Restoration of social relations disturbed by criminal acts;
- c. Social reintegration of prisoners as part of the development process;
- d. Reducing the risk of recidivism through social and psychological rehabilitation.

This thinking is also reinforced in the concept of restorative justice, which has become mainstream in today's criminal justice policy. Restorative justice places victims, perpetrators, and the community on equal footing to collectively and constructively address the impact of crime. Therefore, a modern approach to punishment focuses not only on the perpetrator but also prioritizes the interests of victims and social stability. This requires a legal system that is not merely repressive but also transformative, where prisoners are treated as subjects of development and rehabilitation, not merely objects of punishment.

3. The Alignment of the Assimilation and Conditional Leave Programs with the Purpose of Sentencing: Assimilation and conditional leave support the principles of rehabilitation and reintegration, as they provide prisoners with the opportunity to gradually reintegrate into society. This aligns with the rehabilitative approach to sentencing, where prisoners are not merely punished as retribution but also given the opportunity to change and develop. Furthermore, these programs help alleviate the burden of prison overcrowding.

However, from a preventive and retributive perspective, this policy has often been criticized for being too lenient toward perpetrators of serious crimes. In practice, prisoners convicted of corruption or drug offenses often receive faster assimilation than those convicted of minor crimes, creating an imbalance in justice.

4. Legal Evaluation of Program Implementation: Normatively, this program already has a strong legal basis. However, its implementation has faced many challenges, including:
 - a. Lack of transparency in granting assimilation and conditional leave.
 - b. Lack of supervision while prisoners undergo assimilation outside prison.
 - c. Imbalance in the application of policies between certain types of crimes.
 - d. Low community participation in the prisoner reintegration process.

In addition, several cases of recidivism among prisoners who received assimilation have damaged public confidence in the effectiveness of this program. Conclusion: The assimilation and conditional release programs are important manifestations of the goals of modern and humanistic sentencing. Judicial evaluations indicate that conceptually, these programs align with the principles of justice and reintegration. However, their implementation in the field still requires fundamental improvements, particularly regarding the principles of transparency, proportionality, and ongoing oversight. Policy reform and civil society engagement are key to realizing just and effective correctional systems.

CONCLUSION

Assimilation and conditional leave programs are concrete manifestations of the implementation of humane and rehabilitative sentencing goals. However, to achieve effectiveness and conformity to the principles of justice, a comprehensive legal evaluation of the regulations and their implementation is necessary, particularly regarding oversight, recipient selection, and the resulting social impact.

The assimilation and conditional release programs represent a concrete manifestation of the shift in the sentencing paradigm, which no longer emphasizes retribution alone but prioritizes a humanistic and rehabilitative approach. Within the framework of modern correctional law, as stipulated in Law Number 22 of 2022 concerning Corrections, these two programs are designed to provide prisoners with the opportunity to gradually reintegrate into social life in a dignified and responsible manner.

The main objectives of implementing this program are to:

- a. Helping prisoners adjust to societal norms;
- b. Reducing psychological stress due to prolonged confinement;
- c. Encourage positive and productive behavior during the coaching period;
- d. Reducing recidivism rates by strengthening social and family relationships.

However, the success of the assimilation and conditional leave programs depends heavily on the effectiveness of the regulations and their implementation in practice. In practice, a number of serious issues have emerged that require a comprehensive legal evaluation, including:

1. Weaknesses in the monitoring system, both in terms of human resources and control mechanisms, which cause prisoners who receive assimilation or conditional leave to be prone to committing violations or even repeating crimes;
2. Inequality and ambiguity in the selection process for program recipients, which gives the impression of discrimination and opens up space for abuse of authority;
3. Lack of involvement of the community and guidance institutions in the social reintegration process, which has an impact on the failure of prisoners to adjust after leaving correctional institutions;
4. The social impacts that arise, such as the emergence of a sense of injustice among the community, especially when program recipients are proven to have committed crimes again.

Therefore, there is a need for policy updates and strengthening of implementation through several strategic steps, such as:

- a. Tightening of administrative and substantive criteria for program recipients;
- b. Increasing the capacity of supervision by community counselors and law enforcement officers;
- c. Active community involvement in supporting the reintegration process;
- d. Public oversight and transparency in the integrative rights granting process.

In conclusion, assimilation and conditional leave programs truly reflect the values of justice, humanity, and rehabilitation in modern criminal law. However, without ongoing regulatory evaluation, accountability of implementers, and community participation, the ideal goals of the correctional system will be difficult to achieve optimally. Therefore, comprehensive reform is essential for realizing just, effective sentencing, and oriented towards sustainable social recovery.

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