

# Becoming a Digital Discussion Resource Person, Beniharmoni Harefa, Lecturer at the UPNVJ Faculty of Law, Discusses "Polemic Assimilation of Prisoners during the Covid 19 Pandemic"

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HumasUPNVJ - The situation due to the Coronavirus Disease-2019 (Covid-19) pandemic, the government issued Prisoners (Prisoners) to prevent transmission of Covid-19. Various polemics also emerged in society. On this basis, the BEM of the UPNVJ Faculty of Law held a discussion via zoom to discuss this policy.

Last Thursday (30/4), the Department of Strategic Studies and Action (Kastrat) of the Student Executive Body (BEM) Faculty of Law UPN Veterans Jakarta (FHUPNVJ) held a Public Discussion (Duplik) which was conducted digitally with the theme "Polemic on Liberation of Prisoners. Prisoners Behaving Unsettled Society?â€". This time, Duplik presents three discussion starters, namely, Lecturer in Criminal Law FH UPNVJ, Beniharmoni Harefa, Lecturer in FHUPNVJ who is also Head of the Campaign and Network of the Indonesian Legal Aid Foundation (YLBHI), Arip Yogiawan, and Human Rights Researcher (HAM) Commission for Missing Persons And Victims of Violence (KontraS), Rivanlee Anandar. This time the Duplik was also moderated by Ghatfan Hanif, as the Head of Staff of the BEM FH UPNVJ.

Beniharmoni Harefa opened the discussion by explaining the reasons for the release of prisoners (inmates) amid the *Coronavirus Disease-2019* (Covid-19) pandemic. He explained that the *over-crowded* and *overcrowded* situation in prisons in Indonesia has led to the implementation of *physical distancing* in very crowded prisons, resulting in easy disease transmission.

"Examples of closed places that have contracted Covid-19 include educational institutions for prospective police officers and the Bethel hostel," explained Beni.

Furthermore, Beni also explained that in fact the new criminal law paradigm in Indonesia has abandoned retributive punishment and towards punishment that is more corrective, rehabilitative and restorative. For him, imprisonment leads to *ultimum remedium* or as a last remedy. According to him, punishment like this is ineffective and in the future requires revision of laws and regulations

According to him, the Minister of Law and Human Rights (Permenkumham) Policy Number 10 of 2020 concerning Requirements for Granting Assimilation and Integration Rights for Prisoners and Children in the Context of Prevention and Mitigation of the Spread of Covid-19 is in accordance with the paradigm of modern criminal law. Although he also admits there are still many weaknesses related to the regulation.

According to Beni, one of the weaknesses of this Permenkumham is related to the not optimal oversight function. These weaknesses, according to Beni, include policies issued and handed over to Correctional Centers (Bapas) which are responsible for released convicts listed in Article 19.

"The number of Bapas is 71, only 1,222 thousand social advisers. It should involve other stakeholders to monitor prisoners such as the Regent or Camat," said Beni during the discussion.

Beni also explained that prisoners who were released during the Covid-19 pandemic were categorized as general crimes. Meanwhile, special criminal prisoners such as terrorism, narcotics, crimes against state security, crimes against human rights and transnational crimes are not included in prisoners who are issued according to this Permenkumham.

Beni also questioned whether the release of the prisoner would cause unrest in the community. Because according to him, of the 38,822 convicts released, only around 27-30 people were responsible for returning.

"That's only about 0.07% of the amount released. Later we can conclude for ourselves whether this amount really causes unrest in the community?" said Beni.

In relation to convicts who misbehave, Beni also emphasized that the Minister of Law and Human Rights (Menkumham) has said that convicts who have been released and later relapse will be subject to more severe sanctions and punishments.

In line with Beni, Arip Yogiawan assessed that the release of convicts who were considered to be troubling to the community according to him was merely an issue and framing. According to him, the potential for crime can happen to anyone, not just focusing on prisoners.

Furthermore, according to Yogi, the current situation in society is the Covid-19 outbreak which is the first blow. The second blow is related to economic problems which will later have an impact on factors that give rise to crime due to loss of jobs, difficult businesses, difficult food ingredients.

"The potential for criminality can be anyone, not just focusing on prisoners," Yogi explained.

Yogi also explained that convicts who were released should have a guarantee to be accepted by society. He also advised not to be too quick to judge and framing related to criminal acts in the midst of the current pandemic.

Rivanlee Anandar also gave his views regarding the release of prisoners in the midst of the Covid-19 pandemic. According to him, data from KontraS states that there are 473 Correctional Institutions (Lapas). In 2013 – 2019 the capacity has increased significantly by 160 thousand – 260 thousand. Furthermore, according to Rivanlee, prior to the pandemic, the facilities in prison were not good. Contrasting data states that there are at least two diseases that cause inmates in prison, namely leptospirosis and *tuberculosis*.

According to Rivanlee, imprisonment is not always effective. According to him, if there is no violence and causes victims, should they be punished and need legal considerations? Apart from that, according to Rivanlee, there is also a spirit of *punishing people* from law enforcement officials in dealing with Indonesian criminal cases.

"This means that there was a light case and then he was jailed. For example, the criminalization of farmers because of the privatization of corporations. These things will become *overcrowded* in prisons," said Rivanlee.

Furthermore, Rivanlee said that the possibility of repeating the crime of Lagi when released would later be lower than the 0.07% data provided that *the risk assessment* must go well by the Ministry of Law and Human Rights. According to him, the Government must also prioritize anyone who must be given assimilation during the Covid-19 pandemic. Such as the group of convicts who are over 65 years old, have congenital diseases, are pregnant or have children, misdemeanor crimes, victimless crimes and violence.

"Has the prisoner release policy carried out a *risk assessment*, supervision, and coaching for convicts has been going well or even this policy has become a simalakama for the government," said Rivanlee.

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