

Original Article

# Implementation of Control System For Assimilation And Integration Policy During The Covid-19 Pandemic

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**Abstract** – The article analyzes the implementation of the control system for prisoners who receive assimilation and integration policies during the COVID-19 pandemic. This legal research is normative legal research conducted by literature study. This legal research uses a statutory approach and a conceptual approach. This legal research uses primary legal materials and secondary legal materials. Based on the results of this legal research, the implementation of the control system for assimilation and integration of prisoners uses several indicators, including statutory regulations, implementation of the duties and roles of community guidance, parties related to the control system of assimilation and integration as well as the implementation process.

**Keywords** — COVID-19 Pandemic, Control System, Prisoners, Assimilation, Integration.

## I. INTRODUCTION

In December 2019, there is a new disease that came out in Wuhan and China emerged, which was identified as "unexplained pneumonia".<sup>[1]</sup> The new disease became known as COVID-19. COVID-19 is caused by the SARS-CoV-2 virus; in contrast to the MERS-CoV and SARS-CoV viruses, this virus is the seventh derivative of the coronavirus in the coronavirus family that infects humans.<sup>[2]</sup> The SARS-CoV-2 virus is a new type of virus that infects humans. The clinical symptoms of patients exposed to the SARS-Cov-2 virus are high fever, cough, flu, and accompanied by other clinical symptoms depending on the patient's body condition. COVID-19 has become a terrible scourge for all countries in the world. The massivespread caused by the very latent SARS-CoV-2 virus in the form of human-to-human transmission through droplets cannot be controlled, resulting in a large number of fatalities.

Indonesia is one of the countries affected by the COVID-19 pandemic. The uncontrolled spread of COVID-19 requires the Government of Indonesia to adapt and regulate the new order in people's lives. One of the new arrangements in dealing with the spread of the COVID-19

disease issued by the government is under the auspices of the Ministry of Law and Human Rights of the Republic of Indonesia. The Government of Indonesia, in order to overcome the spread of COVID-19, issued a policy, namely 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 for Prisoners and Children in the Context of Prevention and Control of the Spread of COVID-19 and Ministerial Decree Number M. HH-19-PK.01.04.04 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. Assimilation and integration is a legal effort in the midst of an emergency caused by COVID-19.

The conditional release policy for inmates or prisoners arises because the Human Rights Commission is pushing to issue a policy to deal with the COVID-19 pandemic. There are lot several countries in the world that have also issued parole policies for prisoners in their countries to control the spread of the COVID-19 disease. One of the cities in the state of the United States of America, California, has paroled more than 1800 people in the Orange Country penitentiary.<sup>[3]</sup> Iran also did not escape the policy of releasing prisons for its prisoners. Iran has released up to 85,000 prisoners as a form of policy to contain the spread of COVID-19.<sup>[4]</sup> The United Nations provides directives that countries must issue policies related to the parole of prisoners based on risk factors that are vulnerable to the spread of COVID-19.<sup>[5]</sup> The main reasons for consideration for countries of the world to perform parole due to overcrowding conditions that occur in detention are exacerbated by poor ventilation, inadequate sanitation, and health care that does not run optimally. Of course, these conditions have the potential to become a breeding ground for uncontrolled viruses.<sup>[6]</sup>

Through the 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 for Prisoners and Children in the Context of Prevention and Control of the Spread of



COVID-19 and Ministerial Decree Number M.HH-19-PK.01.04.04 concerning Expenditures and the Release of Prisoners and Children through Assimilation and Integration in the context of preventing and controlling the spread of COVID-19, the number of prisoners who have been released from the assimilation and integration program in the midst of the COVID-19 pandemic has reached 39, 876 people.<sup>[7]</sup> This policy is aimed at controlling and preventing the spread of COVID-19. This is because a number of correctional institutions do not have adequate capacity, and actually, there is overcrowding (excess capacity). The condition of overcrowding in Indonesia is at an alarming stage.<sup>[8]</sup> The capacity of prisons in Indonesia can only accommodate 160 thousand people, but in fact, the population of prisons has reached 270 thousand people. This condition, of course, hampers the recommendations from the World Health Organization and the Indonesian Government to implement health protocols in the form of social distancing and physical distancing.<sup>[9]</sup>

The overcrowding condition certainly has the potential to facilitate the spread of COVID-19 disease in the prison environment that accommodates inmates.<sup>[10]</sup> The prison is a unique cause of the spread of the virus. This is because the intensity of the density between prisoners in prison is not accompanied by adequate facilities. However, the emergence of assimilation and integration policies issued by the Government of Indonesia through the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020 and Ministerial Decree Number M.HH-19-PK.01.04.04 caused polemics in the community both in the form of pros and cons. People are worried that the policy of assimilation and integration in the midst of a pandemic is not in accordance with the conditions at hand. Not without reason, the public have the view that it is better and safer for inmates to stay in the prison facility in terms of carrying out physical distancing and social distancing programs with full control mechanisms from prison officials.<sup>[11]</sup> In addition, the community is restless and worried that prisoners who get assimilation and integration policies will repeat their crimes in the community. Conditions in society that are biased regarding assimilation and integration policies require real direction and steps from the government to minimize the worst possibility of the assimilation and integration policies issued.

The Government of Indonesia in issuing assimilation and integration policies in the midst of a pandemic situation through various considerations. The main sociological basis for the release of prisoners in Indonesia is seen from the condition of Prison and Children's Special Guidance Institute, which have high occupancy rates and are very vulnerable to the transmission of the spread of the virus. Seeing the urgent need that needs to be done to prevent the transmission of the spread of the virus as well as accommodate the interests and answer the concerns of the community, a control

system or surveillance system is needed for prisoners who get assimilation and integration. The control system or supervision and guidance system for assimilated prisoners has not run optimally. Conditions are not much different in Depok; prisoners of the Depok Prison assimilation program were caught red-handed by residents when they were about to commit theft of a motorbike on Jalan Raya Bogor, East Jakarta.

The author, in providing an overview of overcrowding conditions in Indonesia, takes an example from the Prison and Jail in Surakarta City. The author found an interesting fact that this assimilation and interaction program was long before the existence of Covid-19. However, the public's concern with the mindset that arises if the implementation of the assimilation and integration program is carried out without systematic and concrete rules will actually have implications for massive liberation. The prison in implementing Assimilation and integration programs play a role in supervising correctional clients to carry out integrated and consistent supervision and guidance which ensures all clients can undergo assimilation at home in accordance with applicable regulations.

The Minister of Law and Human Rights of the Republic of Indonesia, Yasonna Laoly, said that of the 39 876 who were assimilated in the context of preventing the COVID-19 pandemic, only 0.12 percent of inmates repeated their actions. In addressing the policy of assimilation and integration, carried out must be accompanied by efforts to monitor and develop. The control system or the assimilation and integration supervision system is carried out by the Correctional Center with a supervisory officer called the Community Counselor. The control system is carried out with the aim of preventing and tackling the spread of the COVID-19 virus and so that prisoners do not violate the law again. Supervision is carried out by observing and assessing the implementation of service programs, coaching, and mentoring of inmates who are carried out virtually. However, in reality, the supervision process carried out found many obstacles in the field. This condition has an impact on assimilation supervision that does not run optimally, which has the potential to result in further violations of the law by assimilation and integration prisoners. Control System is needed as an effort for law enforcement and legal protection for the community for assimilation and integration policies. Based on the background compiled by the author, the article with the title "IMPLEMENTATION OF CONTROL SYSTEM FOR ASSIMILATION AND INTEGRATION POLICY DURING THE COVID-19 PANDEMIC."

## **II. RESEARCH METHOD**

Legal research compiled by the author is normative or doctrinal legal research. Doctrinal research is used to examine the application of rules or norms in positive law.<sup>[12]</sup> Doctrinal legal research is a process to find

the rule of law, legal principles, and legal doctrine to overcome the legal problems encountered by examining library materials that focus on the analysis process and studying primary and secondary legal materials accompanied by interviews. as a support for the results of the research discussion. So that legal research will produce theoretical arguments or new concepts as an effort to solve legal problems.<sup>[13]</sup> The legal research conducted by the author uses a statutory approach and a conceptual approach. The legal research compiled by the author examines the implementation of the control system for prisoners who get assimilation and integration as an effort to overcome the transmission of the spread of COVID-19.

### **III. RESEARCH RESULT**

The problem of overcoming crime in society, of course, cannot be separated from the context of the discussion on penal policies. The penal policy is a rational effort to tackle crime by using the means of criminal law.<sup>[14]</sup> Rational efforts to control or overcome crime do use not only penal means (criminal law) but also use non-penal means.<sup>[15]</sup> Penal crime prevention efforts are carried out through the formulation of criminal law norms, which contain substantive, structural, and cultural elements of society. Crime prevention efforts through penal facilities are operationally carried out through a criminal justice system in which it moves harmoniously from supporting sub-systems such as the Police, the Prosecutor's Office, the Corruption Eradication Commission, Courts, Prisons, and Advocates.

In essence, the penal policy is not only about the technique of statutory regulations that can be carried out in a normative and systematic juridical manner but also through a factual juridical approach which can be in the form of a sociological, historical, and comparative approach. In addition, the penal policy also requires a comprehensive approach from various social disciplines and an integral approach that is in line with social policies or national development policies.<sup>[14]</sup> The most important part of the criminal system is to apply for a sanction. Sanctions in a criminal act play a role in enforcing a norm.<sup>[16]</sup>

In the context of preventing and controlling the spread of COVID-19, the Government of Indonesia, through the Ministry of Law and Human Rights, issued an assimilation and integration policy. The policy is in the form of parole for around 30,000 more inmates or inmates. This policy is a form of legitimacy carried out by the Indonesian government by issuing Minister of Law and Human Rights Regulation Number 10 of 2020 and Ministerial Decree Number M.HH-19- PK.01.04.04. In this regulation, the government recognizes that the Prison, the Children's Special Guidance Institute, and the Jail are closed places with high occupancy rates, so they are vulnerable to the spread of COVID-19.<sup>[17]</sup>

The steps taken by the government are expected

to be one of the solutions to adapt to the pandemic conditions. Historically, assimilation is stated in the Regulation of the Minister of Law and Human Rights Number 03 of 2018, where assimilation is a process between lawbreakers and social groups so that individuals can fuse and adjust the culture of the social group. The assimilation process is carried out by perpetrators of lawbreakers into their family members at home so that lawbreakers can readjust and interact better socially with existing family rules and do not cause legal problems again.<sup>[18]</sup>

The condition of overcrowding in Indonesia is at an alarming stage.<sup>[19]</sup> The capacity of prisons in Indonesia can only accommodate 160 thousand people, but in fact, the population of prisons has reached 270 thousand people.<sup>[20]</sup> This condition, of course, hampers the recommendations from the World Health Organization and the Indonesian Government to implement health protocols in the form of social distancing and physical distancing.<sup>[21]</sup> A policy is needed to minimize the transmission of the spread of COVID-19. The intended policy is related to the parole policy for prisoners based on risk factors that are vulnerable to the spread of COVID-19.

Normatively, assimilation according to Article 1 point 3 of the 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 for Prisoners and Children in the Context of Prevention of COVID-19 is "a process of fostering prisoners and children carried out with assimilating prisoners and children in public life." In this case, assimilation is a social process between lawbreakers and certain social groups with the aim that individually, they can fuse and adapt to the culture of their group. The social process is carried out by merging culture, identification, acceptance of attitudes, and acceptance of behavior so that lawbreakers do not display behavior that is different from existing rules or norms.

The Surakarta 1<sup>st</sup> Class of Jail is one of the institutions that also pay attention to preventing the transmission of COVID-19 by following government program policies, namely the assimilation and integration program. The prison, through the SiBARATA application or The Prison of Surakarta Quick Service System, carries out guidance and supervision to correctional clients both online for reintegration and assimilation. Since 2020, the implementation of online surveillance with the SiBARATA application has been inaugurated by the Head of the Regional Office at the Surakarta 1<sup>st</sup> Class of Jail.<sup>[22]</sup> The author attaches data regarding the number of correctional clients at the Surakarta Class 1 Penitentiary as follows:

**Number of Correctional Clients Assimilation and**

**Integration Policy 2020-2021 Class I Correctional Institution Surakarta**

Number of Clients Assimilation and Integration Class I Correctional Institution Surakarta					
Category	Assimilat ion 2020	Integrati on 2020	Assimilat ion 2021	Integrati on 2021	Total
Prisoners Mature	397	222	67	49	735

Source: Data from the Surakarta 1<sup>st</sup> Class of Jail

Regarding the implementation of the assimilation and integration program issued by the Ministry of Law and Human Rights from 2020 to 2021, there are data on correctional clients that have been issued by the Prison to the Surakarta 1<sup>st</sup> Class of Jail many as 735 inmates.

Regarding the implementation of the assimilation and integration program at the Surakarta 1st Class of Jail, there are several obstacles, namely:

1. High and low the number of correctional clients of the Surakarta 1st Class of Jail who received assimilation and integration policies greatly influenced the guidance and supervision carried out by the Community Superintendent. In this case, the correctional client received sudden and massive assimilation and integration policy which affected the client's readiness to be released with the community in the family environment; besides the correctional client's readiness in terms of looking for work, the client's mental readiness to the environment. new conditions and conditions around the place of residence, the client's readiness with the obligation to report to the Community Superintendent.
2. In the process of assimilation and integration related to the correctional client supervision system in the Covid-19 era with the online or online method, there were obstacles in the form of limited human resources in terms of supervision of clients. The limitations of human resources have an impact on the lack of optimal supervision by utilizing technology and information, which still has to be monitored by supervisors.
3. There are economic factors that affect the ability of correctional clients to have gadgets or communication aids to support innovation and technology-based supervision.
4. The lack of supporting data for correctional clients, such as the accuracy of telephone numbers that can be changed periodically by the client and the client's place of residence, in addition to reporting on coaching that cannot be received optimally by the Correctional Agency.<sup>[23]</sup>

Supervision needs to be carried out on the implementation of assimilation and integration policies. The essence of the assimilation and integration policy is that every prison inmate can mingle and socialize with the community and have skills that are then expanded to

prevent the spread of the virus, especially during the COVID- 19 emergency. However, the goal of tackling the transmission of the spread of COVID-19 through assimilation and integration policies raises pros and cons among the public. People have concerns that prisoners of assimilation and reintegration commit violations and even crimes in society. This is not solely based on public concerns unilaterally. On May 12, 2020, The head of the General Information Section of the National Police, Ahmad Ramadhan, said that 160 assimilation and reintegration convicts committed criminal acts spread across. Seeing these conditions, then we will look at the control system (supervision and guidance) in responding to assimilation and integration policies in order to cope with COVID- 19.

Supervision action is a series of activities that assess and compare an activity process by assessing the elements of assessment, comparison elements, elements of the program that have been determined, elements of improvement and correction. Control system or efforts to supervise and guide prisoners who get assimilation and integration in the COVID-19 pandemic situation, by going through:

1. The laws and regulations stated it. Speaking of laws and regulations,

There is Law Number 12 of 1995 concerning Corrections. In this law, there is a control system function or supervision carried out on children. Correctional centers carry out supervision of foster parents or social agencies and parents or guardians who are entrusted with children so that their obligations as caregivers can be fulfilled and strengthen the development of children being cared for. Regarding child supervision, it is also regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Article 1 paragraph (23) reads, "Child clients are children who are in the service, guidance, supervision, and assistance of community counselors."

Based on the Regulation of Government Number 32 of 1999 as has been made the second amendment with the Regulation of Government Number 99 of 2012 concerning the Terms and Procedures for the Implementation of the Rights of Correctional Inmates. In this regulation, the assimilation of prisoners and children is carried out by guidance from the Supervisory Center as well as guidance and supervision of integration (parole, leave to visit family, leave before being released, also carried out by the Supervisory Center both individually and in groups on a regular and continuous basis.

The definition of supervision carried out by the Supervisory Board is still combined with the notion of guidance, namely the provision of guidance to improve the quality of devotion to God Almighty, intellectual, attitude and behavior, professional, physical, and spiritual health of

correctional clients. Furthermore, in Article 36 of the Regulation of Government Number 31 of 1999 concerning Guidance, it is stated that the guidance and supervision of clients is carried out by the Community Advisor at the Supervisory Center as well as supervision of Foster parents or social agencies and parents or guardians to fulfill child care obligations.

Regarding the regulation of assimilation and integration after the pandemic, it is regulated in the Minister of Law and Human Rights Regulation Number 10 of 2020. This regulation is stipulated in connection with the conditions of prisons/detention centers that are vulnerable to the transmission of the spread and transmission of COVID-19. Based on these conditions, a policy is needed to overcome the spread of the virus in the form of providing assimilation and integration of prisoners other than those stipulated in Government Regulation Number 99 of 2012. Based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2020, expenditure through assimilation is carried out with the following provisions :

- a) For convicts who have 2/3 of their criminal term and for children whose of their sentence has fallen until December 31, 2020.
- b) For prisoners and children who are not bound by Government Regulation Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Inmates who are not undergoing subsidiary services and are not foreign citizens.
- c) Assimilation is carried out at home.
- d) The assimilation decree is issued by the Head of Prison, Head of Children's Special Guidance Institute, and Head of Jail.

Release through integration (parole, conditional leave, and leave before release) is carried out with the following conditions:

- a) For convicts who have served 2/3 of their criminal period and for children who have served their sentence.
- b) Prisoners and children who are not related to Government Regulation Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Inmates who are not undergoing subsidiary services and are not foreign citizens.
- c) Proposals are made through the correctional database system.
- d) The integration decision letter is issued by the Director-General of Corrections.

There is also a Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-19.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. Based on these regulations, the guidance and supervision of assimilation and integration are carried out by the Correctional Center, with reports of guidance and supervision carried out online. Implementation of the duties and roles of community guidance.

## 2. Implementation of the Duties and Roles of Community Guidance

Associated with the implementation of the duties and roles given to the functional official of the Community Guidance to carry out activities in the field of community guidance. This is as stated in the Regulation of Government Number 41 of 2017. Normatively, the definition of Community Guidance is regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System as stated in Article 1 number 13, namely "functional law enforcement officials who carry out community research, guidance, supervision, and assistance to children inside and outside the criminal justice process." The implementation of the policy of assimilation and integration of prisoners and children in response to COVID-19 requires Community Counselors who will provide online guidance and supervision.

## 3. Parties related to the assimilation and integration control system

In terms of the implementation of the control system or supervision system for prisoners who get assimilation and integration policies, the parties involved include:

- a) Client's Family
- b) Prison officers, Children's Special Guidance Institute, and Jailor Guardian/Caregiver.
- c) Community groups around the place of residence.
- d) Local civil servant.
- e) Local government.
- f) Relevant law enforcement officers.

## 4. Implementation of the assimilation and integration control system for prisoners during the COVID-19 pandemic.

In carrying out the control system or supervision and guidance on assimilation and integration of prisoners, there is a guideline. Guidelines for the implementation of supervision issued by the Directorate General of Corrections are made together with the implementation of community research, mentoring, mentoring, all of which are carried out online. The process of supervision is closely related to the need for guidance to prisoners of assimilation and integration. Supervision and guidance are carried out by the Community Advisor. Systematically, the supervision of prisoners of assimilation and integration can be explained as follows:<sup>[24]</sup>

- a) Supervision activities are carried out by making a

monitoring plan which includes a directed and integrated supervision program. The directed and integrated supervision program includes guidance plans, guidance strategies, and methods, as well as planning for the involvement of related parties

- b) Supervision of assimilation and integration prisoners by optimizing information technology-based facilities by contacting using telephone/messages/Whatsapp/video calls according to schedule to deliver guidance materials as well as to conduct supervision. This form of online supervision is intended to ensure activities carried out while at home or guidance programs are implemented.
- c) If there is a violation of assimilation and integration, the prisoners and children who get the policy will have their decision on assimilation and integration revoked. Violations that may result in the revocation of this program include:
  - 1) There is a violation of general requirements, namely violations of the law committed by assimilation and integration clients who are designated as suspects/convicts.
  - 2) There is a violation of special requirements, namely having caused unrest in the community, not carrying out the obligation to report to the Correctional Center three times in a row, not reporting changes in address or residence to the Prison that guides, and not following the mentoring program set by the Correctional Agency.
- d) After a violation occurs, action will be taken. Enforcement is carried out in the form of increasing the guidance program, revoking the assimilation and integration program according to the Circular Letter of the Director-General of Corrections Number PAS- 19.516.PK.01.04.06 of 2020, with the following mechanism:
  - (1) Temporary revocation of the implementation of the assimilation program is carried out by the Head of the prison, and this is based on the submission or recommendation at the TPP session (part of the evaluation of the coaching stage, namely the initial stage and advanced stage) on the reporting from the Correctional Supervisor as the supervisor of the correctional client.
  - (2) Reporting and proposing the determination of the revocation of the assimilation program to the Head of the Correctional Institution, which is carried out by the Head of the Correctional Institution, by attaching supporting data regarding client offenders as well as a decision letter on the

temporary revocation of the assimilation and integration program.

Determining and submitting a decision letter regarding the revocation of the assimilation program is carried out by the Head of the Correctional Institution or The Head of the Detention Center.

- (3) Then coordinate with the police and the prosecutor's office, which is carried out by the Head of the Prison regarding the return of correctional clients back to the Prisons or the Jails.

- e) The revocation of the assimilation program is carried out with a mechanism according to the Regulation of the Minister of Law of the Republic of Indonesia Number 18 of 2019 on the Regulation of the Minister of Law and Human Rights Number 03 of 2018 concerning the Terms and Procedures for Granting Remission, Assimilation, CMK, PB, CMB, and CB.
- f) The imposition of sanctions on assimilation and integration clients is carried out by returning to the nearest the Prison, the Jail, and Children's Special Guidance Institute coordinating with the police, undergoing silent closure (*strafsel*), except for children, Placing the inmates and children in special cells to avoid the spread of COVID-19 from outside in accordance with the COVID-19 Handling Guidelines, the period of undergoing assimilation or integration does not count as serving a criminal period unless the child restricts the granting of the rights of remission, assimilation, and integration.

- (4) In this assimilation and integration supervision, each client will be guided and supervised by their respective Community Counselor. Intensive interaction during the assimilation guidance period, which is carried out once a week and for integration is carried out once a month between the client and the Community Counselor, will lead to closeness and increase the client's trust in the Community Counselor. Community counselors in guiding and supervising clients online must be equipped with various skills and approaches, including observation, interviewing, relationship building, acceptance, non-judgmental, motivating, and encouraging clients to be directed in accordance with the guidance and supervision plan program in the release of prisoners. And child.

#### IV. CONCLUSIONS

Overcrowding conditions that occur in Correctional Institutions cause the spread of COVID-19 disease susceptibility. In responding to this situation, the Indonesian government issued an assimilation and integration policy for prisoners to cope with the transmission of the spread of COVID-19. One example of the implementation of the assimilation and integration policy was implemented at the Surakarta 1st Class of Jail. The implementation of assimilation and integration policies is implemented at the Surakarta 1st Class of Jail through innovation by issuing products in the form of applications to conduct online surveillance. However, it is undeniable that the supervision carried out still finds obstacles in the form of limited human resources. According to these conditions, control system efforts are needed in line with the assimilation and integration policies in order to determine the conditions of benefit from the existence of these government policies. Implementation of the control system for prisoners' assimilation and integration is carried out with indicators of legislation, implementation of duties and roles of community guidance, parties related to the control system of assimilation and integration, as well as the implementation process.

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