Eduvest – Journal of Universal Studies
Volume 6 Number 1, January, 2026
p- ISSN 2775-3735- e-ISSN 2775-3727

Criticize the Policy of Addressing Overcapacity in Correctional Institutions as Part of the Crime Prevention Policy

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ABSTRACT

The correctional system constitutes an important part of the criminal justice system in Indonesia. The Correctional Institution System is an institution within the criminal justice subsystem that serves as a rehabilitation center for inmates and juvenile offenders in Indonesia. This research aims to critically analyze current policies addressing prison overcapacity and to propose an integrated crime prevention strategy as a fundamental solution, thereby shifting from a retributive to a restorative and rehabilitative paradigm. This study employs a qualitative research method with a normative legal approach, presented descriptively. The normative legal approach entails legal research conducted by examining library materials or secondary data as the basis for analysis through a search of regulations and literature related to the issues under study. The results indicate that addressing overcrowding in prisons cannot rely solely on physical construction or the granting of remissions; rather, it requires a systemic transformation of perspectives, policies, and the national criminal legal system to render it more fair, integrative, and humane. Finally, addressing overcrowding is not solely the responsibility of the Ministry of Law and Human Rights but a cross-sectoral national agenda. All ministries and agencies must align their vision to recognize that criminal justice serves not merely as a tool for state retribution but to foster sustainable social order and justice. Therefore, a progressive, participatory, and systemic legal approach is necessary to prevent the overcrowding crisis from perpetuating a cycle of failed policies.

KEYWORDS *Correctional Institution , Mitigation, Overcrowding*

INTRODUCTION

Crime comes from the word *Straf* (Dutch) which is defined in the term "Punishment" or other definitions is a suffering that is deliberately inflicted or given by several countries to a person or several people who have violated the prohibition of criminal law. Pompe stated that Criminal Law is the entire set of legal provisions regarding punishable acts and criminal rules (Suryanto, 2018).

Criminal Acts are an act that violates the prohibition that has been imposed by the rule of law which is threatened with criminal sanctions. According to Simons, a criminal act is an act of unlawful conduct committed intentionally or unintentionally by someone who can be held accountable for his actions and which by law has been declared to be a punishable act (Chandra Yanuar Tofik, 2022).

Correctional Institutions have an important role in the criminal justice system in Indonesia. The Community Institution plays a role in the correctional of prisoners, children, and inmates through an education-based correctional system and rehabilitation programs, to prepare for reintegration into society. Correctional facilities are an inseparable component of the integrated criminal justice system, which is managed by the government and regulated in Law Number 22 of 2022 concerning Corrections. (Frans et al., 2024). By June 14, 2025 , June

14, 2025, according to data on the sdppublik.ditjenpas.go.id website, currently the Correctional Institution and Detention House (RUTAN) have an ideal occupancy capacity of 147,394. However, the number of existing inmates is currently recorded at around 278,202, which indicates the occurrence of overcrowding.

The Correctional System is one of the important parts in the development of the criminal justice system when it comes to law enforcement in Indonesia. According to Law Number 22 of 2022 concerning Correctional System, the correctional system is a system of directions and limits of how to Pancasila-based foster the inmates which is carried out in an integrated method by the wardens, the inmates, and community all together to improve the quality of the inmates for them to realize their mistakes, to be able to improve themselves, and to not redo the criminal act and for them to be able to reintegrated with the community. (Dwi Yulianti, 2021). Article 1 verse 18 of the same Law states that a Correctional Institution hereinafter referred to as is an institution or place that carries out the function of Fostering Institutional Assisted Citizens.

Criminality is an act that violates legal norms that can cause social stability in the community. For example, theft, robbery, narcotics abuse and murder. Which these acts can result in people being criminalized in accordance with legal demands. One of the penalties in Indonesia is imprisonment which is usually carried out in a detention house or in a correctional institution. The correctional system is one of the important parts in the development of the criminal law system in the field of criminal enforcement in Indonesia. The Correctional System is an institution of the criminal justice subsystem which is a place of coaching for inmates and correctional students in Indonesia (Netha, 2023, p. 7).

Currently, one of the policy efforts in Indonesia itself is by increasing the number of Correctional Institutions, but this policy is not effective to be a solution to the problem of overcapacity in Correctional Institutions because more and more people will be and crimes will also increase, so continuing to build Correctional Institutions is not a solution, preventive efforts need to be made for crimes. (Usman et al., 2020).

Indonesia is a country of law where all the actions of its citizens will be regulated by the law itself. Article 1 paragraph 3 of the Constitution of the Republic of Indonesia states that Indonesia is a state of law. This is certainly a reference to the Indonesian people that all actions will be regulated by law in their country. Even so, there are still many Indonesian people who do not care about this. The increasing number of crimes in Indonesia proves that many Indonesian citizens are still committing criminal acts, this is evidenced by the number of overcapacity in prisons in Indonesia.

Recent empirical studies underscore the urgency of addressing this overcapacity crisis. Research by Prasetyo and Barker (2023) demonstrates that overcrowded correctional facilities in Southeast Asian contexts experience 43% higher rates of recidivism compared to facilities operating within capacity limits. Similarly, comparative analysis by Zhang et al. (2023) of prison systems across 15 countries reveals that overcapacity above 150% correlates significantly with deteriorated rehabilitation outcomes and increased institutional violence. In the Indonesian context specifically, Wijaya and Santoso (2024) document that overcrowded facilities struggle to deliver constitutionally mandated rehabilitation programs, with only 32% of eligible inmates receiving adequate vocational training and counseling services. These findings collectively highlight a critical gap: while Indonesia's correctional infrastructure continues expanding through new construction projects, the fundamental policy framework

governing sentencing, pretrial detention, and alternative sanctions remains insufficiently reformed to address the root causes of prison population growth.

This research addresses this gap by critically examining the effectiveness of current overcapacity mitigation policies in Indonesia and proposing comprehensive crime prevention strategies as sustainable alternatives. Specifically, this study aims to: (1) systematically analyze existing policies designed to address overcrowding in correctional institutions, identifying their structural limitations and implementation challenges; and (2) develop evidence-based policy recommendations incorporating restorative justice principles, alternative sentencing mechanisms, and cross-sectoral coordination frameworks that can effectively reduce prison populations while maintaining public safety and supporting offender rehabilitation. By addressing these objectives, this research contributes to the policy reform discourse necessary for transforming Indonesia's correctional system from a punitive, capacity-strained model toward a more rehabilitative, sustainable, and humane approach to criminal justice.

Correctional institutions are places to provide guidance to inmates and correctional students in Indonesia. Before the term prison was known in Indonesia, the place was called the term prison. The community must certainly avoid an act that can make them enter the prison, because of the importance of implementing the Correctional System properly and correctly, because the meaning of the Correctional System itself is an order regarding the direction and limits as well as the way of fostering Correctional Assisted Citizens based on Pancasila which is carried out in an integrated manner between the coaches, those who are fostered, and the community to improve the quality of Correctional Assisted Citizens so that they are aware of mistakes, self-improvement, and not repeating criminal acts so that they can be accepted back by the community, as stated in Article 1 paragraph (2) of Law Number 12 of 1995 concerning Corrections. Correctional facilities have several facilities in them, all of which aim to deal with prisoners and inmates who are human beings who are misled / commit criminal acts. According to Article 10 of Law Number 22 of 2022 concerning Corrections, it is stated that the implementation of Correctional Services includes Correctional Institutions, State Prisons, Correctional Centers, and Rupbasan (Nethan et al., 2023).

By the end of 2024, it can be seen in the database of the director general of corrections that the number of prison inmates will reach 272,604 with a total capacity of 145,661 people. However, on Saturday, June 14, 2025, according to data from the Director General of Public Affairs, the number of prison inmates is increasing from the total prison inmate capacity to 147,394 with prison inmates reaching 278,202. The existence of this over capacity is certainly a serious matter because with this over capacity, the services in the prison will not be optimal.

The condition of correctional institutions in Indonesia is overcrowded where the ratio of the number of correctional inmates and the capacity of correctional institutions is not proportional. The overcrowding of inmates in correctional institutions occurs due to several causal factors. However, there is a factor that needs special attention, the cause of inmate overcrowding in correctional institutions is the penal system. The factors that cause inmate overcrowding in correctional institutions occur not only because of the increase in crime but also because of the penal system (Sutarto, 2021).

According to Dwidja Priyatno, efforts to accelerate the coaching process worsened the conditions in prisons, including: extreme prison density; excess occupants; poor prison conditions; riots among prisoners and others. (Hantoro & Septiningtyas, 2024)

Basically, of course, the overcapacity in this prison is due to its citizens who do not comply with the existing laws in Indonesia. The causes of prison overcapacity include legal factors and other non-legal factors. Legal factors include criminal law policies, both at the level of formation, application and execution stages. Meanwhile, non-legal factors include the high crime rate, and limited detention facilities. One of the problems of overcapacity is the detention of prisoners before the trial process is held. As Articles 20-31 of the Criminal Procedure Code regulate the authority of investigators, public prosecutors, district courts, High Courts, and Supreme Court which are part of the trial process. In addition, the overcapacity of prisons caused by the increase in the number of inmates is not directly proportional to the available prison facilities. (Yulianti, 2021)

There are 2 processes in the pre-trial stage, namely the investigation and prosecution stages. At the investigation stage, the detention order is given for up to 20 (twenty) days and can be extended for 40 (forty) days. After the file is submitted to the prosecutor's office, the detention can be extended again to 50 (fifty) days. Therefore, when combined, the pre-trial detention of prisoners can reach up to 110 (one hundred and ten) days (Yulianti, 2021).

Pre-trial can take a very long time because there are 2 factors, the first is the possibility of delays in processing cases through a system that holds judicial detainees for quite a long period. The second factor is the excessive pretrial detention of most of the detainees at this time This is the result of a legal framework that does not provide a viable alternative to pretrial services. International standards allow prisoners or those awaiting trial to reintegrate into society in accordance with applicable provisions, such as complying with applicable laws and attending court on a specified date. However, many countries do not comply with this regulation, causing overcapacity in detention camps (Study et al., 2022).

The discussion in this frame of thought is based on the provisions contained in Law Number 22 of 2022 concerning Society. In this case, the focus of the discussion refers to the overcapacity of prisons which causes the implementation of coaching for Community Assisted Citizens (WBP) to be not optimal. In addition, it will discuss the policies that regulate overcapacity in prisons (Soekanto, 2019).

Data shows that prison overcapacity conditions in several provinces still occur, with North Sumatra Province accommodating 32,492 inmates out of a capacity of 15,310, East Java 27,896 out of 13,661, West Java 26,419 out of 18,081, Riau 115,890 out of 4,583, and Central Java 15,346 out of 10,726. This overcapacity causes various problems, such as difficulties for inmates to rest and activities that interfere with their health rights. For example, the right to get a medical check-up once a month is often not fulfilled due to the disproportionate number of medical personnel to the residents. In addition, the right to submit complaints is also hampered due to the number of inmates who are too many compared to the number of officers. Other problems include the difficulty of getting clean water, which often triggers commotion. Mangun Sosiawan in his journal said that overcapacity can cause riots between inmates, weaknesses in prison security, lack of coaching, increasing infectious diseases, and a slum and disorderly environment. If left unchecked, this problem has the potential to cause new problems. Law Number 22 of 2022 concerning correctional services should be a reference to protect the rights of prisoners, such as carrying out worship, getting physical and spiritual care, education, health services, and the right to submit complaints. The state needs to find a solution to this problem; Although the construction of new prisons is often seen as a solution, it only

solves short-term problems and does not address problems that may arise in the future, including the entry of new prisoners.

One of the solutions to resolve criminal acts committed by criminal offenders and as an effort to prevent the occurrence of crime is the Restorative Justice policy. Settlement of criminal cases through Restorative Justice which emphasizes the recovery of losses between victims and perpetrators as well as the community affected by the criminal acts that have been committed. The Restorative Justice process is passed through deliberation so as to produce an agreement that benefits the victim and the perpetrator. In Indonesia, Restorative Justice can be used at every level of the judicial process, both from the level of investigation, prosecution, and court in a case. Restorative Justice is part of the criminal justice system that emphasizes the recovery of victims and is an implementation of the principle of speedy justice which emphasizes the aspects of effectiveness, efficiency, and affordability. Restorative Justice can only be carried out for minor crimes and only for criminal acts that cause losses of not more than 2.5 million as stated in Prosecutor's Regulation Number 15 of 2020. (Afdini & Sudiro, 2023)

Restorative Justice regulations in Indonesia are still not collected in one law but are spread across several law enforcement officials, for example in the police, listed as the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. The lack of a collection of Restorative Justice rules in Indonesia can be seen as a separate problem in the application of Restorative Justice as justice in the criminal case settlement process because based on the internal rules of each institution regarding Restorative Justice, there is a high possibility of differences of opinion related to Restorative Justice which will be applied to become a problem for law enforcement officials. (Koy & Dangeubun, 2023)

One of the countries that has consistently succeeded in implementing the Restorative Justice approach is the Netherlands. The Netherlands has a variety of alternative criminal practices and implementations, including involving the community and good coordination with law enforcement officials such as the public prosecutor who are responsible for encouraging the provision of information by the police about restorative justice mechanisms to perpetrators and victims as soon as possible. (Aulia, 2024)

After that, the court will consider the agreement of the parties in imposing the sentence. The rules of restorative justice in the Netherlands have been codified in the regulations of the Dutch Criminal Code and the Criminal Code. Restorative Justice in the Netherlands has been implemented by the local police by giving a probationary sentence and the case can be resolved in 1 day. Deputy chief public prosecutor public prosecutor public prosecutor. Monique Vinkestejin said that one of the ways of Restorative Justice carried out by the Netherlands is for example when someone steals from a store, then reported to the police, then the person is given a probation sentence and told to apologize and return the stolen goods. So that in this case there are no prosecutors and courts involved, which causes the case to be resolved much faster. In the Netherlands, the public prosecutor is responsible for encouraging the provision of information by the police about restorative justice mechanisms to perpetrators and victims in a timely manner. After that, the court will consider the agreement of the parties in imposing the sentence. (Rizaldi, 2020)

The Supreme Court delegation held a discussion about probation criminal services with the Netherlands Reclassering institution, Friday (16/6/12023), at the CILC (Center for International Legal Cooperation) Office, The Hague. A resource person from Reclassering Netherland explained how the legal system in the Netherlands applies non-imprisonment sentences to criminal offenders who are threatened with a sentence of less than 6 years. These punishments include social work punishments. This incarceration that does not rely on imprisonment has succeeded in reducing the occupancy rate of correctional institutions in the Netherlands. In fact, in some areas the occupancy of the Correctional Institution is only 70%. Reclassering Netherland is an independent institution financed by the Dutch Ministry of Justice and Security regulated in Reclassering Netherland (stb. 199 No.875). (Islamy et al., 2022)

The justice system in the Netherlands has alternative sanctions given to prisoners. According to Monique, the deputy attorney general of the Netherlands, there is a need for the role of the prosecutor's office in the implementation of alternative sanctions for prisoners. This aims to reduce the flow of cases to the court and can build trust between law enforcement institutions. (Afdini & Sudiro, 2023)

The concept of Restorative Justice in the Netherlands prioritizes the recovery of losses for victims due to criminal acts and the relationship between victims and perpetrators after the crime. In practice in various parts of the world, the application of Restorative Justice has begun to be encouraged, especially with the development of understanding of the philosophy of restorative justice in criminal law. The philosophy of restorative justice in criminal law emphasizes that modern criminal law is not only related to efforts to retaliate and provide nestapa (physical suffering) to the perpetrator. (Aulia et al., 2024)

The similarity of the legal system between the Netherlands and Indonesia which uses the civil law system and the existence of Restorative Justice regulations that have been implemented by the Netherlands consistently and have a good influence are considered appropriate when analyzing the application of Restorative Justice in the Netherlands and Indonesia which is expected to be a new innovation in the application of Restorative Justice in Indonesia by using several legal foundations such as the old Criminal Code and the National Criminal Code which will be applied in Indonesia. (Aulia et al., 2024)

The solution to over-capacity prisons in Indonesia can be reduced if the Indonesian state sees that the Dutch state uses a prison confinement policy for inmates, as mentioned above that the Dutch state applies non-imprisonment sentences to criminal offenders who are threatened with a sentence of less than 6 years, in contrast to the Indonesian state which applies imprisonment to convicts either in minor or serious crimes. Even though it is in the form of imprisonment, it can certainly cause overcapacity to occur considering the crime rate in Indonesia which is still high. In addition, preventive efforts are also needed because with these efforts criminal acts can be prevented so that a criminal act does not occur that can cause riots in the community and cause other problems, one of which is overcapacity that occurs in prisons due to the high crime rate. (Hermiyanty et al., 2017).

In this study, the theories used include the theory of legal objectives presented by Gustav Radbruch, which states that legal objectives consist of three elements, namely legal certainty, justice, and utility. Legal certainty is an important element because it reflects a commitment to justice, where law enforcement must be carried out without taking sides with the individual who commits the act. With legal certainty, everyone can predict the consequences of their legal

actions, thereby protecting people's rights, including land rights and preventing overlapping powers. Furthermore, justice is defined as a condition in which the same case is treated equally, which is closely related to conscience and daily life. Radbruch emphasized that the supreme justice is conscience, correcting his view that the ideal of law must reflect justice. Utility is the third element that shows that the law must provide benefits for the life of the nation and create order. The law aims to regulate human behavior so that interaction runs smoothly, in accordance with Jeremy Bentham's view that the law must guarantee the welfare of society. In this context, the law must also regulate the rights of indigenous peoples, in order to achieve the goal of well-being and happiness. In addition to the theory of legal purpose, there is also a theory of punishment used, namely the relative/utilitarian theory, which emphasizes the protection of society and the prevention of crime. Herbert L. Packer explains that this theory focuses on the positive impact of punishment on the perpetrator, the victim, and society, with criteria that lead to prevention and the expectation that the perpetrator will repent and not repeat the crime. Therefore, in this study, preventive efforts will refer to the relative/utilitarian theory of punishment, since the goal of punishment itself depends on the protection of the community and the prevention of crime.

METHOD

This study employed a qualitative research method with a normative juridical approach, presented descriptively. Secondary data were used, collected via literature study involving an inventory of regulations and scholarly materials relevant to overcapacity in correctional institutions and restorative justice alternatives.

The data collection process involved a systematic review of legal documents, regulatory frameworks, and scholarly literature. Primary sources included Law No. 22 of 2022 concerning Corrections, Law No. 12 of 1995 concerning Corrections, Law No. 35 of 2009 on Narcotics, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, PERMA No. 1 of 2024 concerning Guidelines for the Implementation of Restorative Justice, Prosecutor's Regulation No. 15 of 2020, National Police Regulation No. 8 of 2021, and relevant Criminal Procedure Code (KUHAP) provisions. Secondary sources comprised government reports and statistical databases from the Directorate General of Corrections (sdppublik.ditjenpas.go.id), Ministry of Law and Human Rights publications, Supreme Court annual reports, and National Narcotics Agency (BNN) policy documents (Soekanto, 2019).

Academic literature was gathered from databases including Google Scholar, JSTOR, and Indonesian legal repositories using terms such as "prison overcapacity Indonesia," "restorative justice implementation," "alternative sentencing," and "correctional policy reform" (in Indonesian and English). Peer-reviewed articles from 2020–2025 were prioritized, especially comparative studies from the Netherlands, Canada, and other civil law jurisdictions.

Case studies from Supreme Court and lower court decisions on alternative sentencing and restorative justice were reviewed to highlight gaps between legal provisions and judicial practice. Policy reports from the United Nations Office on Drugs and Crime (UNODC) and regional initiatives provided global context.

The normative legal framework operated across multiple dimensions. Statutory interpretation examined textual provisions, legislative intent, and hierarchies in correctional and criminal justice laws, revealing tensions between Law No. 22 of 2022's rehabilitative goals

and punitive practices. Conceptual analysis addressed definitions and conflicts in terms like socialization, rehabilitation, restorative justice, and alternative sanctions. Comparative analysis evaluated Dutch penal reforms for adaptable mechanisms. Gustav Radbruch's theory of legal objectives (certainty, justice, utility) and Herbert L. Packer's utilitarian punishment theory served as evaluative lenses.

Legal texts were systematically coded to identify: (a) provisions for alternative sanctions; (b) institutional responsibilities; (c) legislative-implementation gaps; (d) judicial discretion; and (e) rights violations from overcapacity. Document matrices mapped policy coherence and fragmentation.

Research limitations included reliance on secondary data and legal texts, excluding primary empirical insights from interviews or fieldwork. Published government data may overlook unreported conditions or regional variations. Comparative elements with the Netherlands faced cultural and administrative transferability limits. Future mixed-methods studies could explore practical barriers.

Research was conducted at:

1) Saleh Adiwinata Library, Faculty of Law, University of Pasundan, Jalan Lengkong Dalam No. 17, Lengkong District, Bandung City, West Java.
2) Bandung City Archives and Library Service (Disarpus), Jl. Seram No. 2, Citarum, Kecamatan Cicendo, Bandung.

RESULT AND DISCUSSION

A. Current Correctional Institution Overcapacity Measures Policy in Indonesia

The problem of overcapacity in Correctional Institutions is no longer just an administrative issue regarding limited space, but has become a systemic crisis that threatens the function of the criminal justice system itself. The condition of prisons in Indonesia that exceeds capacity by more than 100% is a form of the state's failure to formulate a just, proportionate, and social-rehabilitation-oriented penalization strategy. Based on official data from the Directorate General of Corrections as of March 2025, the number of prison and prison inmates in Indonesia reached 274,317 people, while the maximum capacity was only 145,829 people, This means that there is an excess capacity of up to 188%.

The problem of overcapacity in Correctional Institutions in Indonesia is a structural and multidimensional problem that reflects a crisis in the national penal system. This issue not only includes an imbalance between the number of inmates and the physical capacity of prisons, but also a reflection of the failure of criminal policies that have not prioritized justice, effectiveness, and a humanist approach.

If you look further, government policies so far tend to be patchy. One of the steps that has been taken so far is the construction of a new prison to accommodate the excess of inmates. However, the policy raises big questions about its effectiveness. Building new prisons does provide an instant solution to the current overcapacity, but it does not solve the root of the real problem, namely: why people are constantly sent to prisons, even for relatively minor crimes. The construction of prisons without reform of the penal system is tantamount to overcoming the symptoms, not the disease.

In addition to the construction of prisons, the state has also implemented a policy of parole, remission, and a leave program ahead of release. All three are regulated in Law Number

22 of 2022 concerning Corrections. Although normatively this policy aims to reduce the number of prison inmates, its implementation in the field is not running optimally. The slow administrative process, lack of socialization to the inmates, and resistance from the implementing apparatus are real obstacles. This can be seen from the fact that many inmates who should have been eligible for parole, but have not been processed due to technical and administrative barriers.

The problem of overcapacity also cannot be separated from the pretrial stage in the criminal justice system. The Criminal Code gives investigators the authority to conduct detention for 20 days and can be extended for 40 days, then continued by the prosecutor's office for 50 days. If added up, a person can be detained for 110 days before the court even decides whether to be guilty. This not only burdens prison with prisoners who are not necessarily guilty, but also contradicts the principle of the presumption of innocence. In many cases, pretrial detainees are not treated differently than convicted inmates, so they experience the same overcapacity: lack of clean water, lack of sleeping spaces, and limited access to health services.

Over capacity also creates consequences that are much more serious than just numbers. Prisons that are too full cause many violations of the basic rights of the inmates. For example, the right to health services that should be obtained at least once a month is often not exercised because there are not enough medical personnel. Likewise, access to clean water, proper food, and even adequate worship spaces. When the prison accommodates three to five times its original capacity, the living space becomes very narrow and inhumane. In these conditions, it is impossible for the implementation of social development and reintegration to be carried out optimally.

In addition, data from the Ministry of Law and Human Rights shows that in April 2025, the number of prison inmates will increase to 275,001 people, with a fixed capacity of 145,747. This condition shows that administrative efforts such as remission, assimilation, and the construction of new prisons are not enough to dampen the surge in the inmate population. On the contrary, this emphasizes the need for a fundamental evaluation of criminal policy, including disproportionate imprisonment arrangements and the lack of implementation of penal alternatives. (Sari, 2025)

One of the root problems lies in the disharmony of policies between ministries and law enforcement agencies. The Supreme Court, the Ministry of Law and Human Rights, the Attorney General's Office, and the BNN often carry out sectoral policies without thorough coordination. This is evidence of weak coordination that should be overseen by the Coordinating Ministry for Political, Legal and Security Affairs (Coordinating Ministry for Political, Legal, and Security Affairs) as stipulated in Law No. 29 of 2008 and Presidential Regulation No. 68 of 2019. The Coordinating Ministry for Political Affairs and Legal Affairs has a mandate to synchronize and control policies between ministries, including vetoing overlapping policies. However, in practice, this coordination right has not been optimally implemented in correctional policies.

This condition leads to the need for a new policy direction that is cross-sectoral and sustainable. The policy must be able to integrate the vision between law enforcement officials and social rehabilitation institutions and other technical ministries. For example, the policy of criminalizing narcotics users needs to actively involve the Ministry of Health to ensure that the rehabilitative approach is carried out optimally. Likewise, the courts, which need to refer to

criminal guidelines that take into account conditions of over capacity and the principles of restorative justice.

Penal policy in Indonesia has so far not made alternative punishment a priority. In fact, the existence of these alternatives has been regulated in various regulations, such as in Law Number 22 of 2022 concerning Corrections and in the latest draft of the Criminal Code (RKUHP). However, its implementation is still very limited and has not become a common practice within law enforcement agencies.

Indonesia's penal system is still dominated by the retributive paradigm, which views punishment as state revenge against the perpetrator. In fact, in the modern context, the goals of criminalization must include prevention, rehabilitation, and social reintegration. (Didik Purnomo, 2025)

Deputy Minister of Law and Human Rights Eddy Hiariej (December 2024) reported that 52% of prison inmates are narcotics cases, with 80% of them being users, not dealers. This suggests that penal policies against minor offenses and drug users still lead to prison sentences, although rehabilitative and non-penal approaches should be more appropriate. Based on the research, they suggested the importance of strengthening community-based rehabilitation and the development of restorative justice mechanisms for non-violence cases.

The condition of overcapacity also cannot be separated from the limitations of synergy between ministries and institutions in formulating the direction of criminal policy. This study uses a juridical-normative approach with an analysis of institutional coordination between agencies. Based on findings in the field, the insynchronization between the Ministry of Law and Human Rights, the Supreme Court, the Attorney General's Office, and the National Narcotics Agency (BNN) is the cause of the stagnation of criminal policy reform.

For example, the Supreme Court continues to use the old sentencing guidelines without paying attention to the capacity of prisons; The Attorney General's Office demands the maximum for the achievement of the verdict; while BNN often insists on bringing users to the criminal realm rather than rehabilitation. This disharmony creates an effect of overlapping policies and burdens correctional facilities. (Yulianti, 2021)

Many experts also underline that overcapacity should be seen as a consequence of risk management failures in prosecution and sentencing. This means that the judicial system does not have the instruments to assess whether an offender is really dangerous and deserves detention. All offenses, minor or severe, are handled by the same logic: arrest and imprisonment.

Furthermore, the existence of Law Number 22 of 2022 concerning Corrections should be a turning point in the arrangement of the national penal system. However, the legal substance in the law is still not accompanied by changes in technical regulations between agencies. This is reflected in the absence of an integrated mechanism between judges, prosecutors, and correctional officers in determining the feasibility of punishment rationally based on housing capacity. In practice, courts still impose sentences without considering the impact on the already critical correctional system. This shows that there is a gap between norms and implementation that needs to be seriously criticized as a form of stagnation of policy reform.

One of the legal solutions that is often proposed is the expansion of the application of alternative criminal justices, such as social work crimes, restrictions on parole, or guided rehabilitation. Unfortunately, although some of these concepts have been included in the draft

RKUHP, there has been no commitment between institutions to adopt them simultaneously. For example, one of the studies conducted by (Mulyono, 2023) states that the success of social work crimes in the Netherlands and Canada is largely determined by administrative support between government agencies and civil society. They emphasized that "the penal system that prioritizes coaching outside prison is actually more effective in reducing recidivism and overcapacity rates".

Coordination between ministries, in this context, is crucial. In terms of criminalizing narcotics users, for example, the Ministry of Health, BNN, and the Ministry of Law and Human Rights should have developed a joint protocol that places users as the subject of rehabilitation services, not criminals. However, in practice, BNN still runs its own rehabilitation program without involving the correctional system, and the Ministry of Health does not yet have a comprehensive and inclusive rehabilitation service roadmap for narcotics offenders. This insynergy creates overlap in policy implementation.

Furthermore, the absence of coordinated regulations between the Supreme Court and the Ministry of Law and Human Rights in the aspect of verdict management also worsens the condition. In an ideal criminal justice system, the Supreme Court should develop a technical sentencing guide that takes into account prison conditions, as is done in the UK through an integrated "Sentencing Guidelines" system. This supports the effectiveness of the correctional system and prevents a surge in the number of prisoners. In Indonesia, there is no such instrument, so criminalization is carried out without taking into account the systemic impact.

Judging from the budget aspect, overcapacity also causes fiscal waste. The cost of maintaining inmates continues to increase every year, while the coaching output is not worth it. They suggest a review of the irrational prison financing structure and direct it to a community-based coaching model with lower costs and higher reintegration outcomes.

In the context of the normative legal research methods used in this journal, the legislative approach and conceptual approach have been adequate to lay the foundation of the analysis. However, keep in mind that the effectiveness of a regulation is largely determined by the consistency between systems, not just the substance of the law itself. Therefore, there is a need for policy harmonization between institutions supported by an integrated information system and periodic evaluation between ministries.

By paying attention to all the previous descriptions, the problem of overcapacity of prisons is an accumulation of various weaknesses: ineffective regulations, insynchronization of policies between agencies, dominance of the retributive paradigm in the criminal law system, and weak political will in encouraging systemic reform. Therefore, legal analysis of overcapacity management policies must be directed at criticism of the legal framework and institutional structure that governs it. One of the main criticisms is the lack of a grand policy that regulates systemically and cross-sectoral how to handle excess capacity must be carried out collaboratively and continuously.

In terms of regulations, it is necessary to revise the Correctional Law, the Narcotics Law, and the integration of criminal substances in the Criminal Code and the Criminal Code, so that there are adjustments across the criminal law system. On the institutional side, a legal umbrella is needed that regulates technical and strategic coordination between the Supreme Court, the Ministry of Law and Human Rights, the Attorney General's Office, BNN, and the

Ministry of Health. This can be realized through the issuance of Presidential Regulations (Perpres) or Presidential Instruction that are binding across ministries and are coordinated.

Another solution that can be taken is the establishment of the Correctional and Penal System Reform Task Force, which consists of representatives of law enforcement agencies, academics, civil society, and related ministries. This task force can be a concrete cross-sectoral dialogue space to formulate integrated policy designs, implementation evaluations, and data-based and human rights policy recommendations.

In addition, it is necessary to strengthen the capacity of human resources in the correctional system itself. Correctional officers must have training on social resilience, psychology, conflict management, and community-based reintegration systems. This training is important to transform the coercive approach of supervision into a more humane and social-rehabilitation-oriented approach to coaching.

On the other hand, local governments can also be involved in the post-correctional reintegration process through a locally-based coaching and mentoring program scheme. For example, the district/city government can provide labor-intensive programs for former inmates who have been fostered so that they do not re-commit violations. This step can also prevent recidivism, which has been one of the contributors to prison density.

In a theoretical context, all these criticisms and solutions are based on Gustav Radbruch's legal theory, which states that the ideal legal system must meet the elements of legal certainty (*rechtssicherheit*), justice (*gerechtigkeit*), and utility (*zweckmäßigkeit*). In this case, our criminal law system places too much emphasis on formal certainty (e.g., imposing a sentence according to the article) but forgets the elements of substantive justice and social benefits. It also intersects with utilitarian criminal theory that places prevention and protection of society as the main goal of punishment.

In the context of national development, solving the problem of overcapacity must also be linked to the 8 Astacita—the government's eight priority agendas. One of the important agendas is the development of superior and characterful Indonesian people. This is relevant to the urgent need to increase the capacity of Human Resources (HR) in the correctional and criminal justice systems. Superior human resources are needed to support the implementation of an effective coaching system, restorative justice approaches, and the use of non-imprisonment punishment. Without human resource reform, existing policies will remain administrative and do not touch the root of the problem.

Regarding the restorative justice approach, this policy has begun to be formalized through PERMA No. 1 of 2024 which provides guidelines for judges in resolving cases through a non-litigation approach. This regulation is a step forward in integrating restorative justice into the formal justice system. However, its implementation is still limited to minor cases, and not all law enforcement officials understand or adopt it. This shows that PERMA No. 1 of 2024 needs to be expanded in scope and supported by other regulations from the Prosecutor's Office, the Police, and related ministries to really have an impact on reducing the burden on corrections.

Normatively, restorative justice can be part of the formulation and implementation of adaptive and contextual criminal law policies. In the RKUHP, restorative justice has begun to be accommodated as a criminal alternative. However, there needs to be political courage to place it as the main policy, especially in dealing with first offenders and non-violent crimes.

The implementation of criminal law policies oriented towards rehabilitation and social reintegration must become the new standard, not just an alternative option.

By paying attention to current data, regulations, and institutional dynamics, it can be concluded that the policy to overcome prison overcapacity in Indonesia is still sectoral, administrative, and has not been systemically integrated. Policy reform should be aimed at:

1) Strengthening cross-ministerial coordination using the veto power of the Coordinating Ministry for Political, Legal and Legal Affairs.
2) Revision and harmonization of regulations that touch the penal system, including the Correctional Law, the Narcotics Law, and PERMA No. 1 of 2024.
3) Comprehensive integration of restorative justice approaches the criminal justice system.
4) Improving the quality and capacity of human resources in correctional institutions and the judiciary.

Thus, it is not enough to overcome prison overcapacity only through physical development or remission, but through systemic transformation of national criminal law perspectives, policies, and structures that are more fair, integrative, and humane.

Finally, it needs to be emphasized that overcapacity is not only the task of the Ministry of Law and Human Rights, but is a cross-sectoral national agenda. All ministries and institutions must unite the vision that crime is not just a tool for state revenge, but a tool to create order and sustainable social justice. Therefore, a progressive, participatory, and systemic legal approach is needed so that the overcapacity crisis does not become a failed policy cycle.

B. Crime Prevention Policy or Strategy as a Solution to Over Capacity in Correctional Institutions

The problem of overcapacity of Correctional Institutions is a phenomenon that reflects not only chaos in the management of the correctional system, but also failures in the formulation of comprehensive crime prevention policies. The penal system in Indonesia has so far been dominated by a retributive paradigm that prioritizes imprisonment as the main instrument in solving crimes. In fact, imprisonment should be the ultimate remedy, not the only option. The dominant direction of punishment towards prison has created a system that is saturated, overcrowded, and ultimately does not meet the principles of effective, efficient, and humane justice. Therefore, a policy approach is needed that is not only administrative, but more comprehensive, with a strong legal basis and a cross-institutional strategy. In this context, a juridical-normative approach is used to examine the structure of regulations and legal institutions that play a role in the formulation, implementation, and evaluation of criminal policies. Crime prevention must be directed at progressive, adaptive, and solutive strategies to reduce the burden of the prison population systemically.

The focus of this research is to analyze the causes and solutions to the overcapacity of prisons. One of the main conclusions is that our penal system still ignores alternative instruments such as non-prison crime, restorative justice, diversion, and social rehabilitation. This has an impact on the swelling of inmates throughout Indonesia.

One of the fundamental problems in the correctional system is the systemic lack of connection between criminal decision-making institutions (i.e. courts under the Supreme Court) and criminal enforcement institutions (i.e. the Directorate General of Corrections under the Ministry of Law and Human Rights). The court decision was handed down without

considering the actual capacity of the penitentiary, while the executioner in the prison was obliged to accept inmates without the authority to refuse. As a result, correctional policies have become passive and reactive.

According to Law No. 12 of 1995 concerning Corrections, the function of corrections is not only a place of punishment, but also for coaching and social reintegration. However, in practice, this law has not been optimally translated into technical regulations that strengthen alternative punishment. In addition, although the Supreme Court has issued PERMA No. 1 of 2024 concerning Guidelines for the Implementation of Restorative Justice, its application is limited to minor cases and has not yet become a nationally integrated cross-institutional policy.

One of the strategic steps in tackling overcapacity is to transform the crime prevention paradigm from a retributive approach to a restorative and rehabilitative approach. A retributive approach that focuses on retribution through imprisonment not only creates a pseudo-deterrent effect, but also ignores the recovery aspect for both perpetrators and victims. Meanwhile, the restorative approach emphasizes dialogue, responsibility, and the restoration of social relations between perpetrators, victims, and society.

Restorative justice is an approach that aims to restore social balance due to the occurrence of criminal acts and recover losses suffered by victims. This approach has been accommodated in the Indonesian legal system through PERMA No. 1 of 2024 concerning Guidelines for the Implementation of Restorative Justice in Courts. However, the scope of its implementation is still limited to minor cases, and its implementation is highly dependent on the perception and internal policies of law enforcement officials (Zehr, 2023).

Affirmative steps are needed so that the restorative approach becomes part of the national criminal law policy. In this case, the RKUHP has begun to accommodate the mechanism of penal and conditional criminal mediation. However, regulatory synergy between institutions is needed: the Supreme Court, the Attorney General's Office, the Police, the Ministry of Law and Human Rights, and the National Assembly. This coordination can be overseen by the Coordinating Ministry for Political Affairs as stipulated in Presidential Regulation No. 68 of 2019, which has the function of integrating sectoral policies and preventing overlap between ministries.

In the context of children in conflict with the law, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) has proven that diversion is able to significantly reduce the incarceration rate. Diversion provides space for extrajudicial settlement of cases by considering the best interests of the child (Suhendar, 2023).

This diversion policy can be a model for the application of similar alternatives to adult offenders, especially for minor and non-violent crimes. In the Dutch legal system, for example, risk-based punishment has been applied effectively. Only high-risk offenders serve incarceration, while the rest serve parole, social work, or community rehabilitation. As a result, the Netherlands managed to close several prisons due to the lack of inmates. (Hasanah, 2024)

One of the main contributors to overcapacity is the punishment of narcotics users. More than 60% of prison inmates in Indonesia are offenders of narcotics crimes, especially users. Law No. 35 of 2009 on Narcotics has actually provided room for rehabilitation, but its implementation is weak because there is no integrated risk evaluation system since the investigation stage. This proves that law enforcement officials still dominantly use imprisonment against users. Research by Siregar & Purnomo (2022) states that the

rehabilitation system does not run optimally due to the lack of coordination between BNN, the Prosecutor's Office, and the Ministry of Health. Research by Siregar & Purnomo (2022) states that nearly 70% of incarcerated users relapse into narcotics abuse after release, suggesting that incarceration is not an effective solution. In contrast, rehabilitation-based public health approaches have the potential to reduce recidivism (Siregar, 2022).

The policy solutions offered are to encourage the active role of the Ministry of Health in providing rehabilitation services that are nationally standardized, as well as integrating with the BNN and Prosecutor's Office databases in assessing whether perpetrators deserve to be punished or rehabilitated.

Policy overlaps and inter-agency fragmentation are one of the main obstacles to the reform of the penal system. In many cases, the Supreme Court has its own guidelines, the Prosecutor's Office prosecutes to the maximum, while the Ministry of Law and Human Rights accepts an overflow of inmates without quantity control. In a situation like this, the active role of the Coordinating Ministry for Political Affairs and Legal Affairs is needed to use its coordinating function and veto power against policies that are not harmonious.

In accordance with Law No. 29 of 2008 concerning State Ministries, the Coordinating Ministry has the authority to coordinate and harmonize sectoral policies. Therefore, all strategic policies related to criminalization must go through cross-ministerial forums to be in line with capacity, rehabilitation goals, and principles of justice. To support more rational and effective policies, the government needs to develop an integrated risk assessment system. This system can be in the form of the development of AI-based modules that are used by judges and prosecutors in assessing whether a person deserves to be sentenced to prison or an alternative sentence. (Andrews, 2024)

Indonesia has an initial base system such as SIPAS within the Ministry of Law and Human Rights. However, this system has not been connected to the Prosecutor's Office, the Supreme Court, and the BNN. There needs to be an integrative policy that unifies these data systems in a single national risk assessment platform. (Asmarani, 2022) The development of a solution crime management system will not run without superior human resources. One of the items of the 8 (eight) Astacita is the development of quality and character Indonesian human beings. Therefore, continuous training for law enforcement officials on the principles of restorative justice, rehabilitative approaches, and human rights-based punishment need to be included in the national agenda for legal reform. (Wildan Fikarudin, 2025)

Based on the overall analysis, it can be concluded that the crime prevention strategy as a solution to the overcapacity of the Correctional Institution must start from the transformation of the penal paradigm from a retributive approach to a restorative and rehabilitative approach. This change needs to be supported by the expansion of the scope of PERMA No. 1 of 2024 as a legal umbrella for restorative justice at the court level, as well as strengthening synergy between law enforcement agencies such as the Police, the Prosecutor's Office, the Supreme Court, the Ministry of Law and Human Rights, BNN, and the Ministry of Health. Diversion and alternative criminal policies for adult offenders for minor and non-violent crimes must also be integrated into the national legal system. This can be a complement to the success of diversion in the SPPA Law.

The reformulation of the Narcotics Law is also crucial, by placing health-based rehabilitation as the main strategy in dealing with narcotics abusers, in order to avoid

unnecessary increase in the number of inmates. In addition, the coordinating role of the Coordinating Ministry for Political, Legal and Legal Affairs must be strengthened in order to be able to use the veto power optimally against sectoral policies that are not harmonious and cause a burden on correctional institutions.

The development of an integrated digital risk assessment system between institutions is also important to ensure that every legal decision considers the actual level of risk and capacity of prisons. Finally, increasing the capacity of legal human resources (HR) must be a priority, in line with the national development agenda in the 8 Astacita, especially strengthening the character and competence of law enforcement officials. By carrying out all of these strategies simultaneously, not only will the problem of overcapacity be solved, but also a fair, humane, and sustainable criminal justice system will be created.

CONCLUSION

Indonesia's correctional institutions and detention houses (*Rutan*) face severe overcapacity, with 278,202 inmates exceeding the ideal capacity of 147,394, driven by high crime rates and a penal system favoring imprisonment even for minor offenses. This crisis disrupts inmates' rights to health and living space, weakens rehabilitation due to staffing imbalances, and renders symptomatic fixes like new prisons and remission ineffective. The study, employing a juridical-normative approach grounded in Gustav Radbruch's legal objectives theory and Herbert L. Packer's utilitarian penal theory, advocates shifting from retributive to restorative justice—already regulated but underimplemented—via cross-ministerial coordination, regulatory reforms, restorative integration, and enhanced law enforcement capacity to foster a fair, sustainable, human rights-based criminal justice system. For future research, empirical studies incorporating interviews with inmates, officers, and judges could assess on-the-ground barriers to restorative justice implementation and measure recidivism reductions from pilot alternative sentencing programs.

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