

## Strategies To Overcome Corporate Institutions Overcrowded

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**ABSTRACT:** Government Regulation Number 99 of 2012 concerning the Second Amendment to Government Regulation Number 32 of 1999 has provided requirements and procedures for fulfilling the rights of prisoners. Operationally, Regulation of the Minister of Law and Human Rights Number 11 of 2017 and Regulation of the Minister of Law and Human Rights Number 24 of 2021 concerning Amendments to Regulation of the Minister of Law and Human Rights Number 32 of 2020 regulates assimilation policies to reduce overcrowded prisons, especially in the context of prevention and control of the spread of Covid-19, by providing assimilation of 38,882 prisoners. Empirically, the policy has no significant effect on overcrowded prisons, so it is necessary to find the basic causes and strategies to overcome overcrowded prisons. Based on the results of research with a juridical-normative approach and the use of secondary data and qualitative analysis, it is proven that the basic factor of overcrowded prisons lies in criminal and punishment in abstract and in concreto which are repressive and punitive. There is also a strategy in resolving overcrowded prisons on a micro basis through criminal law reform, namely the need for a sustainable and expanded assimilation policy, and especially the application (in concreto) of crime and sentencing by using a restorative justice approach, which is more oriented towards recovery and rehabilitation. The macro solution is to develop social welfare and social protection policies based on the values of Pancasila. that the basic factor of overcrowded prisons lies in criminal and sentencing in abstract and in concreto which is repressive and punitive. There is also a strategy in resolving overcrowded prisons on a micro basis through criminal law reform, namely the need for a sustainable and expanded assimilation policy, and especially the application (in concreto) of crime and sentencing by using a restorative justice approach, which is more oriented towards recovery and rehabilitation. The macro solution is to develop social welfare and social protection policies based on the values of Pancasila. that the basic factor of overcrowded prisons lies in criminal and sentencing in abstract and in concreto which is repressive and punitive. There is also a strategy in resolving overcrowded prisons on a micro basis through criminal law reform, namely the need for a sustainable and expanded assimilation policy, and especially the application (in concreto) of crime and sentencing by using a restorative justice approach, which is more oriented towards recovery and rehabilitation. The macro solution is to develop social welfare and social protection policies based on the values of Pancasila. There is also a strategy in resolving overcrowded prisons on a micro basis through criminal law reform, namely the need for a sustainable and expanded assimilation policy, and especially the application (in concreto) of crime and sentencing by using a restorative justice approach, which is more oriented towards recovery and rehabilitation. The macro solution is to develop social welfare and social protection policies based on the values of Pancasila. There is also a strategy in resolving overcrowded prisons on a micro basis through criminal law reform, namely the need for a sustainable and expanded assimilation policy, and especially the application (in concreto) of crime and sentencing by using a restorative justice approach, which is more oriented towards recovery and rehabilitation. The macro solution is to develop social welfare and social protection policies based on the values of Pancasila.

**KEYWORDS** - Correctional Institution, Overcrowded, Correctional.

### I. INTRODUCTION

Law Number 12 of 1995 concerning Corrections, Article 1 Paragraph (3) explains, that the Correctional Institution is a place for fostering correctional inmates in Indonesia. In the construction of the criminal justice system, prisons are one of the main elements or devices in spurring the achievement of the main

objectives of the criminal justice system (Fadhil, 2020). Penitentiary is a place for lawbreakers to serve their criminal period. These lawbreakers are nurtured and guided by correctional officers so that they become good human beings and do not repeat unlawful acts and can also cause riots in prisons that threaten the security and comfort of prison officers and the community (Dion Yoas Sitorus, 2021).

Based on statistical data, the crime rate in Indonesia is relatively high, recording 4,650 cases in the first week of 2021 and an increase of 4,886 cases in the second week. This means that there is an increase of about 5% every week. High crime can affect the occupancy of the correctional institution. Indonesian prisons are classified as overcrowded. The Director-General of Corrections, Reinhard Silitonga, stated that on average all prisons in Indonesia were overcrowded by 102% or exceeding the capacity of the maximum quota. In Indonesia, there are 527 prisons and the capacity is 132,000 people, but now the number of inmates in prisons is almost 270,000 people (Jonathan Simanjuntak, 2021). This overcrowded condition causes the rights of prisoners who are residents of correctional institutions cannot be fulfilled properly so that there is the potential for human rights violations against prisoners of correctional institutions. Correctional institutions that are overcrowded will not only have an impact on the low fulfilment of prisoners' rights but will also have other impacts in the management of prisons, such as wardens who are overwhelmed in carrying out their duties because their workload exceeds their capacity. In addition, overcrowding causes the state budget for management costs and the budget for food for prisoners, with an average daily food cost of IDR 1.79 trillion for IDR 20,000 / inmate (Marfuatul Latifah, 2019). The Tangerang Class 1 Penitentiary fire tragedy is a dark record for the condition of Indonesian prisons. When the fire occurred, the Penitentiary was inhabited by 2,072 inmates, most of whom were convicted of drug cases (Dimas Jarot Bayu, 2021). The ideal capacity is 600 people, meaning the number of prisoners is 3.5 times the ideal capacity. The evacuation was overcrowded and many prisoners fell victim to the prison fire. Some other impacts of overcrowded prisons are as follows:

1. It is difficult for inmates to rest comfortably and do not get the right to health checks by the correctional medical team. Prisoners get the right to check 1 (one) time in 1 (one) month, but this right cannot be fulfilled.
2. Complaints of prisoners cannot be responded to properly because of the large number of prisoners and the limited number of correctional officers.
3. The availability of clean water and other sanitation facilities cannot be fulfilled properly (Dion Yoas Sitorus, 2021)

One of the efforts to deal with overcrowded is the Assimilation and Integration program in the context of preventing and overcoming the spread of Covid-19. However, this program can only be carried out during the pandemic. This program is considered very good in dealing with overcrowded prisons in Indonesia, but the program has not been able to complete overcrowded prisons.

Based on the gap above the author is compelled to make research entitled, "Strategies to Overcome Overcrowded Correctional Institutions". In this paper, the authors formulate problems that can be used as a basis for research to achieve the intended target. The problems to be researched include:

1. What are the factors that cause overcrowded prisons?
2. What is the strategy to deal with overcrowded prisons?

## **II. RESEARCH METHODS**

Research is a scientific activity related to analysis and construction which is carried out methodologically, systematically, and consistently. Methodological means according to a certain method or method, systematic means based on a system, while consistent means the absence of contradictory things in a framework (SOERJONO SOEKANTO, 1986). The approach method used in this research is normative legal research, with descriptive research specifications. This study uses secondary data sources with library data collection techniques in the form of laws and regulations, which will then be analyzed qualitatively.

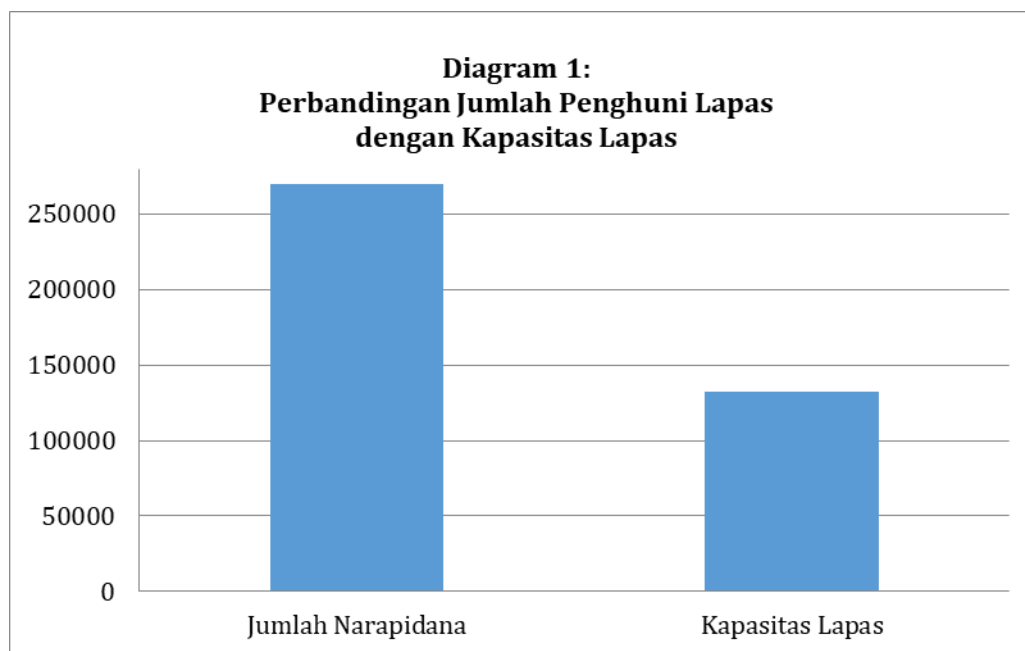
### III. DISCUSSION

Correctional institutions with the aim of resocializing prisoners or inmates contain basic problems of development, both in terms of regulation, human resources, development programs and activities, facilities and infrastructure, as well as community participation. Therefore, there needs to be an assessment related to the causes and strategies for solving overcrowded prisons.

#### 1. Factors That Cause Overcrowded Correctional Institutions

Law Number 12 of 1995 concerning Corrections, Article 1 paragraph (2) explains that what is meant by the Correctional System is an order regarding the direction and boundaries and methods of fostering Correctional Inmates based on Pancasila which is carried out in an integrated manner between the coaches, those who are fostered, the community to improve the quality of prisoners and children under the guidance of Correctional Institutions so that they are aware of their mistakes, improve themselves and do not repeat criminal acts so that they can be accepted again by the community, can play an active role in the development and can live normally as good and responsible citizens. While the correctional facility itself has the meaning of activities to carry out the guidance of Correctional Inmates based on the system, institutional,

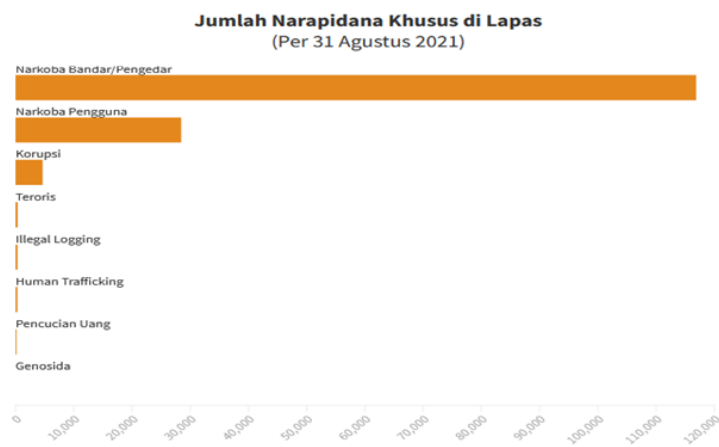
Overcrowded Correctional institutions almost occur in all regions in Indonesia, but there are several areas, such as Yogyakarta, Gorontalo and North Maluku that do not experience overcrowded, and even then only in a few prisons. According to the Directorate General of Corrections, the average density level of prisons in Indonesia reaches 102%, even Class II B Sanana Prison is overcrowded by 172%.



**Source: Directorate General of Corrections**

The cause of overcrowded prisons is that drug convicts are still subject to criminal law, not rehabilitation. According to research, 54.6% of the total inmates of prisons are drug convicts.

Diagram 2:



Source: [katadata.co.id/beban-lapas-indonesia](http://katadata.co.id/beban-lapas-indonesia)

The existence of a regulation of Government Regulation Number 99 of 2012 which is the second amendment to Government Regulation Number 32 of 1999 concerning Terms and Procedures for the Implementation of the Rights of Correctional Inmates which contains provisions regarding tightening the granting of rights to prisoners for certain crimes such as terrorism crimes, narcotics with a criminal period above 5 (five) years and corruption is also one of the causes for the creation of overcrowded conditions and is the reason that the purpose of implementing the correctional system is not optimally (Penny NaluriaUtami, 2017)

in Indonesia, there are still quite a lot of "rubber" articles that have an impact on overcriminalization. Finally, this overcriminalization became one of the causes of overcrowding in detention centres and correctional institutions, for example in the use of Article 27 paragraph (3) of Law Number 11 of 2008 as amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 2008 concerning Information and Electronic Transactions. There is a tendency to use Article 27 paragraph (3) as a tool for revenge because it is easy to detain someone by relying on that provision. Moreover, several cases show an unequal power relationship between the reporter and the person being reported. Reporters are generally those who have political power (regional heads, bureaucrats), economics (businessmen) or have a strong social influence. Meanwhile, the majority of those reported are from the weak, making it difficult to obtain adequate access to justice(Ringkasan Hasil Kajian ELSAM, n.d.)

Regulation of the Minister of Law and Human Rights Number 11 of 2017 concerning the Grand Design for Handling Overcrowded in State Detention Centers and Correctional Institutions explains that the factor in the occurrence of overcrowded detention centres and correctional institutions, due to the high crime rate, regulations for the punishment of criminal acts that prioritize the application of crime imprisonment rather than the application of the ultimumremedium, and the pattern of relations between law enforcers that leads to disharmony to sectoral egos that can hinder the success of crime prevention.

Based on the explanation above, it shows that the basic problem factor in the occurrence of overcrowded correctional institutions lies in the criminal justice system which is more oriented towards a repressive and punitive approach with the application of imprisonment as retaliation for every crime. The restorative justice approach policy that developed in 2020 in criminal justice institutions has not been able to solve the problem of overcrowded prisons. For example, the Indonesian National Police issued a Circular Letter of the Chief of Police Number: SE/8/VII/2018 concerning the Application of Restorative Justice in the settlement of criminal cases. The Prosecutor's Office of the Republic of Indonesia ratified the Regulation of the

Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.

The addition of the construction of correctional institutions cannot solve the problem of overcrowded prisons as long as the criminal justice system still applies a repressive and punitive approach. On the other hand, the construction of new prisons will increase the budget for infrastructure development, facilities and infrastructure, as well as human resources, so that it will burden the state budget for revenues and expenditures. Therefore, a strategy is needed to overcome overcrowded prisons.

## 2. Strategies to Overcome Overcrowded Corrections

This overcrowding situation itself does not only occur in Indonesia, many other countries then have the same problem, this common problem becomes the subject of joint discussion and then involves many countries being encouraged to participate in finding solutions together. This condition is also the background for countries in the African continent to hold the International Seminar on Prison Conditions in Africa on 19-21 September 1996 in Kampala, Uganda. The seminar resulted in the Kampala Declaration on Prison Conditions in Africa which was annexed by UN Economic and Social Council Resolution 1997/36(Novian, n.d.).

The declaration on the agenda of the Remand Prisoners recommends a more selective effort in determining pretrial detention and tighter control over the determination and implementation of the period of detention. In addition, the declaration also encourages law enforcement as a whole to think about the impact of problems caused by overcrowded and appeals to every element of criminal justice to jointly find solutions to reduce the overcrowded (GRAND DESIGN PENANGANAN OVERCROWDED RUMAH TAHANAN NEGARA DAN LEMBAGA PEMASYARAKATAN, n.d.). Here are some efforts from various countries in the world to reduce overcrowded prisons (Novian, n.d.).

EFFORT	COUNTRY	DESCRIPTION	RESULTS
	United States of America	Prison Privatization	
		Prison Litigation Reform Act 1995	In 2011 the Supreme Court of the United States in <i>Brown v Plata</i> ordered the State of California to reduce the number of detainees by 137.5% of its capacity, or about 38,000 to 46,000 people. The Supreme Court held that overcrowding in a California prison violated an individual's right not to be cruelly punished as enshrined in the VIII Amendment to the United States Constitution.
	India		The Delhi High Court ordered the Tihar prison authorities to release 600 minor crimes inmates to reduce overcrowding.
Decriminalization, Depenalization and Diversion	Thailand	Decriminalization of drug users	In 2003, the prison population exceeded 260 million people, two-thirds of whom were drug convicts. After the decriminalization of users, the prison population dropped significantly to 160,000 in 2007
	German	Depenalization of minor violations that are punishable by	Germany succeeded in reducing the number of imprisonment sentences from 136,519 in 1969 to

		imprisonment, becomes an administrative offence with administrative sanctions in the form of fines	36,874 in 1996. Even in 1996, imprisonment was only 5% of the total sentences imposed.
Alternative to Prison	Finland	The use of fines and conditional penalties replaces imprisonment	Since 1990, two out of three crimes have been sentenced to parole. Fines are imposed on more than 60% of crimes. As a result, Finland was able to reduce its prison population from 11,538 in 1992, to 7,102 in 2007.
	Kazakhstan	Requires judges to provide special reasons for imposing imprisonment, if the criminal offence charged is formulated in an alternative way: imprisonment or alternative punishment.	Reducing the number of prison sentences from 51.3% in 2000 to 41.8% in 2002.

Source: Strategy Book for Overcrowding in Indonesia:

Causes, Effects and Solutions

Indonesia is also trying to overcome overcrowded prisons or detention centres through the Regulation of the Minister of Law and Human Rights Number 11 of 2017 concerning the Grand Design of Overcrowded handling in state detention centres and correctional facilities, at least it must be done by looking at four aspects, namely:

- a. Regulatory Arrangement  
 The number of laws and regulations which regulate criminal provisions is mostly threatened with imprisonment or imprisonment which in its implementation use prison facilities. Regulation is expected to be a method used to:
  1. Limiting the placement of people in prisons/detention centres;
  2. Diverting the placement of people in prisons/detention centres;
  3. Accelerate the placement of people in prisons/detention centres; and
  4. Creating prisons/detention centres as facilities for placing people.
- b. Institutional Strengthening  
 Institutional strengthening in the context of handling overcrowded in prisons or detention centres needs to be improved using a hybrid approach, namely an approach to reforming organizational structures and work procedures that are not yet properly functional and appropriate in size as well as the formation of a new organization that is compatible with the needs of overcrowded handling.
- c. Fulfilment of Infrastructure  
 Fulfilment of correctional needs can be met through systematic planning to meet the needs of facilities and infrastructure which is prepared based on an analytical study and preparation of a master plan containing the mapping of facilities and infrastructure needs within a certain period.
- d. HR Empowerment.  
 Improving quality and quantity by empowering human resources through good and appropriate management. Human Resource Management is the policy and practice of defining the “human” or human resource aspects of a management position, including recruiting, screening, training, rewarding and appraising. The specific target of management in the field of HR is the realization of competent, professional, high-performing, service-oriented and prosperous staff.

During the pandemic period, Indonesia has reduced the number of inmates of prisons with an assimilation policy, as formulated in the Regulation of the Minister of Law and Human Rights Number 24 of

2021 concerning Amendments to the Regulation of the Minister of Law and Human Rights Number 32 of 2020 concerning Terms and Procedures for Granting Assimilation, Conditional Release, Leave Before Release, and Conditional Leave for Convicts and Children in the Context of Prevention and Control of the Spread of Covid-19.

Article 11 of the Regulation of the Minister of Law and Human Rights determines the granting of assimilation to prisoners, except for prisoners who commit crimes:

- a. narcotics, narcotic precursors, and psychotropic substances which are sentenced to imprisonment for more than 5 (five) years;
- b. terrorism;
- c. corruption;
- d. crimes against state security;
- e. serious human rights crimes;
- f. other transnational organized crimes.
- g. Convicts/Children who commit criminal acts:
  - 1) murder as referred to in Article 339 and Article 340 of the Criminal Code;
  - 2) theft with violence as referred to in Article 365 of the Criminal Code;
  - 3) decency as referred to in Article 285 to Article 290 of the Criminal Code; or
  - 4) morality towards Children as victims as referred to in Article 81 and Article 82 of Law Number 23 of 2002 concerning Child Protection as last amended by Law Number 17 of 2016 concerning Stipulation of Government Regulation instead of Law Number 1 of 2016 concerning Second Amendment on Law Number 23 of 2002 concerning Child Protection into Law.
- h. Convicts/Children who repeat a crime, as well as criminal acts committed previously, have been sentenced and have obtained permanent legal force.

During the pandemic period, the assimilation policy was given to 38,882 (thirty-eight thousand eight hundred eighty-two) prisoners. Assimilation prisoners were only 0.12 percent who committed repeated crimes (Sania Mashabi, 2020). The empirical data does not have a significant effect in overcoming overcrowded prisons, and even creates new crimes.

The basic problem of overcrowded prisons lies in criminal law which in its formulation (in the abstract) and its application (in concreto) is more punitive, not rehabilitative. The formula for the solution to this problem, on a micro basis by reforming criminal law, especially in criminal and sentencing which should use a restorative justice approach, an out-of-court settlement that is oriented towards restoring the situation (perpetrators, victims, communities, the state) which has been damaged from their existence. a crime. On the other hand, in the short term, there is a need for a sustainable and expanded assimilation policy (without the exception of criminal acts) by paying attention to post-assimilation guidance and supervision.

#### **IV. CONCLUSION**

1. Factors that cause prisons to be overcrowded can be due to high crime rates, the application of imprisonment and the limited capacity of prisons, but the basic factors that affect the overcrowded correctional institutions lie in criminal law which is abstract and in concreto is more punitive, rather than rehabilitative.
2. Strategies in overcoming overcrowded correctional facilities through criminal law reform, especially criminal and criminal justice that is restorative, both from the in abstract and in concreto aspects, sustainable assimilation policies, as well as through welfare and community protection policies that are guided by the values of Pancasila.

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