



Implementation of restorative justice in criminal case settlement to overcome over capacity of correction institutions

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ABSTRACT

This research addresses the use of the restorative justice concept to address issues of overcrowding in correctional facilities. The implementation of coaching inmates and correctional students via an educational, rehabilitation, and reintegration-based correctional system is a responsibility of correctional institutions. However, excessive tamping power might lead to other, more complicated issues, making the coaching development now being implemented suboptimally. A restorative justice strategy is one that may be better suited for addressing the overcrowding in correctional facilities. This research employs a normative juridical methodology. The study's findings demonstrate that Indonesian correctional facilities' overcrowding of inmates may be addressed by using the restorative justice idea. By putting this idea into practice, the usage of criminal penalties in relevant laws and regulations may be reduced, allowing criminals to avoid constantly being placed in community facilities. With a variety of legal analysis techniques, research on restorative justice may still advance, giving scholars a fantastic opportunity to expand on the practice's ideas. In particular, the ability of Indonesian scholars to provide fresh insights on the development of Indonesian law.

Keywords : Correctional institutions, Overcapacity, Restorative justice, Law, Criminal cases



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INTRODUCTION

Apart from being a humanitarian problem, crime or crime is also a social problem, even declared as the oldest social problem. Facing this problem, many efforts have been made to overcome it. Crime prevention efforts are included in the framework of criminal policy and it is a rational effort of a country to tackle crime. This effort is essentially an integral part that cannot be separated from efforts to protect society (social defense planning or protection of society) whose goal is none other than to achieve community welfare.¹

Correctional institutions, one of the subsystems of criminal justice, play a part in putting into practice the education, rehabilitation, and reintegration-based correctional system that aims to improve inmates and correctional students. The correctional system is structured around the formation of correctional partners in order to help them become fully human, realize their mistakes, better themselves, and refrain from committing crimes so that they can be reintegrated into society, according to Law Number 12 of 1995 concerning corrections. The intrigue of the issues that arose in correctional institutions, however, made the coaching that was used throughout its development subpar. Overcrowding is a major contributor to issues in correctional facilities. This is seen in Table 1.

Table 1. Number of Prisoners in Correctional Institutions as of January 2020

Prisoner	Adult	Children	Total
Men	141583	2237	143280
Women	6983	52	7035
Total	148566	2289	150855

Source: (Ditjenpas, 2020)

¹ Cecep Ibnu Ahmadi, Dian Ekawaty Ismail, and Andika W Machmud, "The Politics of Criminal Law in Self-Defense in Indonesia: Regulatory And Enforcement Discourses," *Jurnal Legalitas* 16, no. 1 (2023): 1–14, <https://doi.org/10.33756/jelta.v16i1.17079>.

Calculating the overcrowding that occurs inside correctional institutions is challenging since the Directorate General of Corrections' data encompasses detention facilities and prisons as well as detainees and convicts. There are 214,686 individuals in Indonesia, according to statistics from the Directorate General of Corrections as of January 2020. This figure is far more than the 118,858 maximum that all correctional facilities may theoretically hold. Among other things, this over-capacity affects the poor psychological and physical conditions of the detainees and inmates; it makes it easier for disputes to arise between correctional institutions inmates; coaching becomes subpar and does not follow regulations; and budget swelling results from increased use of groceries, water, and electricity. When there is an imbalance in the number of correctional officials or prison guards among the inmates of the Penitentiary, riots and incidents of convicts and prisoners escaping from supervision are more common than they should be.²

A restorative justice approach, which emphasizes justice for both victims and offenders of criminal acts in addition to alternative punishments such as social work, is one strategy that may be more appropriate to use in order to address the overcrowding in correctional facilities. However, there are other strategies as well. The ultimate objective of restorative justice is peace because it approaches punishment from a new perspective that is connected to the victim's losses being fulfilled.³ Although this idea does not always mean that incarceration is no longer an option, it may still be employed in certain situations that involve a person's life and cause significant loss.

Understanding how restorative justice is used in criminal cases to combat overcrowding and developing a future restorative justice model to reduce overcrowding in correctional facilities are the goals of this study. In order to alleviate overcrowding in correctional facilities, the authors are thus interested in doing research on the use of restorative justice in criminal case settlement.

In order to reduce congestion in correctional facilities, this study takes a fresh approach by incorporating the idea of restorative justice. Although the legal literature has addressed restorative justice, it is still rare to see its particular application to alleviate congestion in Indonesian penal facilities. The main emphasis of this study is on how a restorative justice strategy may be a practical substitute for incarcerating more people in the criminal justice system while offering a more sustainable and compassionate answer.

The dearth of empirical studies investigating the use of restorative justice in the context of prison overcrowding is the current research gap. The majority of earlier studies have concentrated on restorative justice theory without connecting it to real-world challenges that correctional facilities confront, such as overcrowding, which causes a number of social and health difficulties. By offering a more thorough examination of the actual applications of restorative justice to current issues, this study aims to close this gap. In order to alleviate the overpopulation in correctional facilities, this study aims to understand and examine the use of restorative justice in criminal case settlement.

RESEARCH METHODS

This research employs a normative juridical methodology. Examining secondary data or library resources is the normative juridical approach of legal research (Soekanto, 1985; Soemitro, 1994). The study specification for this dissertation is to use a descriptive analysis approach, which is a factual representation that is then examined via data collection to characterize the issue. This study's data came from three sources: primary legal materials (the 1945 Constitution, the Criminal Code, the Criminal Procedure Code, the Chief of Police Circular Letter Number 8 of 2018 regarding the Implementation of Restorative Justice in Settlement of Criminal Cases, and Regulation of the Head of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Investigation of Criminal Acts), secondary legal entities (books, the outcomes of seminars or other scientific meetings, and legal experts' opinions), and tertiary legal materials (dictionaries, encyclopaedias, magazines, newspapers, and scientific journals). The data collection techniques used were library research and data analysis techniques used normative qualitative methods.

² Kevin D Haggerty and Sandra M Bucerius, "Picking Battles: Correctional Officers, Rules, and Discretion in Prison," *Criminology* 59, no. 1 (2021): 137–57, <https://doi.org/10.1111/1745-9125.12263>.

³ Jean Chrysostome K Kiyala, "Restorative Justice in Theory," in *Child Soldiers and Restorative Justice: Participatory Action Research in the Eastern Democratic Republic of Congo* (Springer, 2018), 179–97.

RESULT AND DISCUSSION

Application of Restorative Justice in Settlement of Criminal Cases to Overcome Over Capacity in Correctional Institutions

According to the Chief of Police Circular Letter Number 8/VII/2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases and Criminal Investigation of the Head of Police of the Republic of Indonesia Number 6 of 2019 concerning the Investigation Criminal Act, the use of restorative justice efforts in the investigation stage and the settlement of criminal cases is implemented. By using restorative justice, a criminal act may be rectified⁴. Naturally, it has to satisfy both the formal and material standards. The goals of the restorative justice method are to address the needs of both criminals and victims. The Restorative Justice strategy also helps offenders in avoiding future offenses⁵. In situations when victims and members of the community are included in addition to the government and offenders, restorative justice broadens the scope of parties or stakeholders.

The overcrowding of prisoners in Indonesian correctional facilities may be addressed by the use of the restorative justice idea. Applying this idea may reduce the usage of criminal penalties in relevant laws and regulations, preventing crimes from constantly ending up in community institutions. Because prison growth rates are not commensurate with prison housing facilities, overcapacity arises. There is a significant disparity between the proportion of input for new offenders and output for existing offenders; the former's input is far higher than the latter's output after doing their time and being released from prison. Table 2 below illustrates this.

Table 2. Number of Prisoners, Criminals, and Percentage of Excess Per Regional Office for January 2020

No.	Regional Office	Prisoner	Criminal	Prisoner & Criminal	Capacity	Overcapacity (Percentage)
1	Aceh	1.842	4.076	5.918	4.522	31
2	Bali	581	1.364	1.945	1.340	45
3	Bangka Belitung	563	1.338	1.901	1.130	68
4	Banten	2.206	4.693	6.899	4.764	45
5	Bengkulu	546	1.367	1.913	1.413	35
6	The Special Region of Yogyakarta	472	875	1.347	1.605	-
7	Special Capital District of Jakarta	6.532	35.696	42.228	5.891	617
8	Gorontalo	256	591	847	767	10
9	Jambi	1.101	2.498	3.599	1.789	101
10	West Java	5.034	14.047	19.081	15.544	23
11	Central Java	3.034	7.250	10.284	9.352	10
12	East Java	7.239	10.985	18.224	11.674	56
13	West Kalimantan	1.329	2.280	3.609	2.405	50
14	South Kalimantan	2.465	5.415	7.880	2.595	204
15	Central Kalimantan	1.065	2.018	3.083	1.754	76
16	East Kalimantan	2.414	5.089	7.503	3.375	122
17	The Riau Islands	965	2.591	3.556	2.027	75
18	Lampung	2.352	3.847	6.199	4.027	54

⁴ Nurul Putri Awaliah Nasution, Fathul Hamdani, and Ana Fauzia, "The Concept of Restorative Justice in Handling Crimes in the Criminal Justice System," *European Journal of Law and Political Science* 1, no. 5 (2022): 32–41, <https://doi.org/10.24018/ejpolitics.2022.1.5.37>.

⁵ Youness Nafid, Mohamed Ali Haidass, and Sara Joraiche, "The Role of Criminal Alternatives as a Future Challenge in Achieving Security," *International Journal of Criminal Justice Sciences* 19, no. 1 (2024): 552–86.

No.	Regional Office	Prisoner	Criminal	Prisoner & Criminal	Capacity	Overcapacity (Percentage)
19	Maluku	324	634	958	1.290	-
20	North Maluku	183	648	831	1.475	-
21	West Nusa Tenggara	755	1.245	2.000	1.006	99
22	East Nusa Tenggara	649	2.540	3.189	2.735	17
23	Papua	383	1.047	1.430	1.666	-
24	West Papua	236	587	823	936	-
25	Riau	2.490	6.753	9.243	3.101	198
26	West Sulawesi	268	409	677	818	-
27	South Sulawesi	3.387	3.973	7.360	5.786	27
28	Central Sulawesi	793	1.291	2.084	1.558	34
29	Southeast Sulawesi	937	1.069	2.006	1.884	6
30	North Sulawesi	808	1.500	2.308	2.062	12
31	West Sumatera	1.119	2.637	3.756	3.086	22
32	South Sumatera	2.445	6.454	8.899	6.446	38
33	North Sumatera	9.058	14.048	23.106	9.035	156
TOTAL		63.831	150.885	214.686	118.858	81

Source : (Ditjenpas, 2020)

"Empowerment" is the core idea of restorative justice. Because empowerment is at the core of restorative justice, it is the key to its success. Within the framework of Restorative Justice, empowerment refers to a process of meeting, in this instance between the victim and the offender, as well as the community, to discuss and actively engage in the settlement of criminal matters. However, victims' interests—including losses and suffering from criminal acts—are often ignored in Indonesia's criminal justice system⁶. Because victims of crime are solely seen as witnesses or pieces of evidence, they have little chance of being free to fight for their rights. as a result of the restorative justice concept's rehabilitation process, which directly includes both the victim and the offender in resolving the issue. National legal tools pertaining to restorative justice that aim to address the current overcrowding in penitentiary facilities include:

1. The 1945 Law of the Republic of Indonesia in Article 28D paragraph (1) and Article 28H paragraph (2), explains that every Indonesian citizen has the right to equality and justice before the law.
2. Law Number 12 of 1995 concerning Corrections, which explains that the rights of convicts as written in this law are rights that must be given to all convicts, except in certain cases, for example, convicts who violate institutional rules or discipline. penitentiary, then the convict may be subject to sanctions.
3. Law Number 11 of 2012 concerns the Juvenile Criminal Justice System, which regulates the settlement of criminal cases by children using diversion. Diversion is the transfer of settlement of child cases from the criminal justice process to processes outside of criminal justice.
4. Circular of the Head of the National Police of the Republic of Indonesia Number SE/8/VII/2018 of 2018 concerning the Application of Restorative Justice in Settlement of Criminal Cases. This legal instrument exists as a legal basis for investigators in applying the concept of restorative justice in settling criminal cases.
5. Regulation of the Chief of Police of the Republic of Indonesia Number 6 of 2019 concerning Investigation of Criminal Acts, which explains that the settlement of criminal acts can be completed without going through a trial.
6. Prosecutor's Regulation number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, this legal instrument gives the right for the Public Prosecutor (JPU) to be able to stop the prosecution of defendants based on the public interest as stipulated in paragraph 3 (2).

⁶ Edi Yunara and Taufik Kemas, "The Role of Victimology in the Protection of Crime Victims in Indonesian Criminal Justice System," *Mahadi: Indonesia Journal of Law* 3, no. 01 (2024): 63–78, <https://doi.org/10.32734/mah.v3i01.15379>.

7. Decree of the Director General of the General Judicial Body of the Supreme Court of the Republic of Indonesia No. 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of Restorative Justice, regulates the application of the concept of restorative justice within the district court environment.

In an attempt to address the current overcrowding in correctional facilities, international legal instruments pertaining to restorative justice are available in addition to national ones ⁷. The United Nations, a multinational organization with members from many different nations, has explained to its members how the notion of restorative justice is applied. Among them are:

1. United Nations Basic Principles on The Use of Restorative Justice Programs In Criminal Matters, declared in 2000 at the tenth United Nations congress in Vienna, Austria. The United Nations recommends all of its members to be able to utilize the concept of restorative justice more broadly in their respective country's criminal justice system based on Article 11 of this legal instrument.
2. In the Vienna Declaration on Crime And Justice 2000, the United Nations is committed to encouraging all member countries to apply the concept of restorative justice in their respective country's laws and regulations.
3. The United Declaration of Human Rights, invites people to promote, guarantee and recognize and respect the human rights and freedoms that have been defined.
4. Standard Minimum Rules for the Treatment of Prisoners. These regulations provide guarantees for ideals that lead to achieving the goals of coaching prisoners through treatment in institutions that are more humane and civilized.

The legal culture of the community and the law enforcement system both have a significant influence on the development of restorative justice as a method of resolving criminal cases. By focusing only on punishing the offenders and ignoring the potential effects in the future, the present perception of the court seems sentimental.⁸ But in the author's opinion, restorative justice is only appropriate in situations where the victims and offenders are able to reach a compromise or an understanding to make amendments. But for cases that bridge this gap, particularly in large-scale cases like corruption, terrorism, and drug abuse, the author believes it cannot be used because it covers a wide range of topics and the losses are not limited to victims. In my view, restorative justice is no longer a mechanism issue.

The author outlines the following flaws in the criminal justice system in Indonesia: When it comes to punishing offenders, the criminal justice system is often sentimental.⁹ An unduly positivist view views the law as a norm that must be strictly followed in order to provide legal certainty. It ignores the advantages and fairness of the law for both offenders and victims of the criminal justice system, which often takes precedence over the rights of the accused, suspects, and victims. In the philosophy of crime control mode, it is more related to the assumption of guilt. In the meantime, the author believes that Indonesia should have moved toward the due process approach. Legal professionals often handle crimes by using their sectoral ego. Legal professionals often use legal loopholes to settle cases out of court for their own benefit. The goal of restorative justice is to accomplish justice by resolving cases via an extrajudicial legal procedure that prioritizes improving the lives of both victims and offenders.¹⁰ Recovery is defined as recovery for the victim as well as the perpetrator. So it's not just victims who are being restored.

⁷ Prio Budi Tri Utomo and Yusuf Saefudin, "Implementation of The Concept of Restorative Justice in Overcoming Over Capacity in Correctional Institutions," *Proceedings Series on Social Sciences & Humanities* 14 (2023): 400–403, <https://doi.org/10.30595/pssh.v14i.1073>.

⁸ Kathryn Abrams and Hila Keren, "Who's Afraid of Law and the Emotions (2010)," in *Research Handbook on Law and Emotion* (Edward Elgar Publishing, 2021), 566–600, <https://doi.org/10.4337/9781788119085.00053>.

⁹ Roy Rovalino Herudiansyah, Pujiyono Pujiyono, and Nur Rochaei, "The Conception of Restorative Justice in Actualization of the Indonesian Criminal Justice System," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 5, no. 3 (2022), <https://doi.org/10.33258/birci.v5i3.6649>.

¹⁰ Hariyanto Hariyanto and Fihriatus Shalihah, "The Purpose of Crimination against Perpetrators and Victims in the Perspective of Restorative Justice," *Corruptio* 4, no. 1 (2023): 1–12, <https://doi.org/10.25041/corruptio.v4i1.2922>.

In order to implement the Restorative Justice system, the government and society must work together to provide circumstances in which offenders and victims may suggest problems. Restorative justice has the following benefits: The road to problem-solving is up to the community to choose. Through restorative justice or the criminal justice system, for example. The task of allocating funds for the management of the criminal justice system, particularly when it comes to the management of correctional facilities, may be lessened.

It is anticipated that legislation pertaining to restorative justice will be developed in the future that preserves the idea of restorative justice while also being more sustainable. Using discussion tactics in a family manner—a process known as "deliberation for consensus" among Indonesians—is one way to implement the Restorative Justice mechanism that is both appropriate and consistent with the country's cultural norms. Restorative justice is a concept that aims to minimize recidivism rates among criminals and instill a feeling of responsibility in both victims and perpetrators by ensuring that all parties get the best possible outcomes. Disparities in law enforcement agencies' perspectives on crimes that may be addressed using a Restorative Justice approach provide another difficulty in putting the practice into practice. Law Enforcement Authorities are quite excited about putting Restorative Justice into practice, but enforcement will take place if uniformity in its application has not been ensured, for example, for activities that violate the same legislation. various legislation with varying approaches to restorative justice.

The Future Restorative Justice Model to Overcome Over Capacity in Correctional Institutions

The penitentiary system is structured to help offenders become completely human, recognize their errors, grow as individuals, and refrain from committing crimes so that they may be reintegrated into society, according to Law Number 12 of 1995 concerning Corrections. However, because of the intricacy of the issues that arise in prisons, the coaching that was implemented throughout its development was not at its best. Overcrowding is one of the main reasons why correctional facilities and detention centers have problems.¹¹ In order to increase the capacity of prisons and detention facilities, a number of measures have been implemented to address the issue of overcapacity, ranging from building restoration to the construction of new structures. However, given that there were still significantly more convicts and inmates due to the high crime rate in the community, this program was unable to substantially address the issue of overcrowding.

Addressing the issue of overcrowding should concentrate on the steps taken before these "problem people" enter correctional facilities, namely during the police investigation, prosecutor's office prosecution, and restorative justice court rulings. Victims and/or communities that suffer from crimes perpetrated by criminals have not been impacted by the traditional criminal justice system, which only concentrates on sentencing and punishing offenders.

The restorative justice approach as an effort to reduce the overcapacity of correctional institutions is carried out by law enforcement officials, by organizing and mediating mediation or peace processes between perpetrators of crimes with victims and their families.¹² Due to its incomplete implementation in our criminal justice system and its continued dispersion across different legislative documents and policies, restorative justice is still only partially and incompletely applied in the Indonesian legal system. The statutory factor, specifically the lack of legislation governing the use of restorative justice through Alternative Dispute Resolution (ADR) for criminal cases, is another factor impeding the application of the concept of restorative justice as an attempt to reduce the overcapacity of correctional institutions.

¹¹ Salvadoris Pieter, Nurul Widhanita Y Badilla, and Rudini Hasyim Rado, "Criminology Prespectives of Criminal Acts in Correctional Institutions," in *International Joined Conference on Social Science (ICSS 2021)* (Atlantis Press, 2021), 464–72, <https://doi.org/10.2991/assehr.k.211130.084>.

¹² Kurnia Dewi Anggraeny and Petrus Kanasius Kristiaga, "The Relevance of Restorative Justice in Reducing Overcapacity in Correctional Institutions for Male and Female Prisoners," *Kosmik Hukum* 25, no. 1 (2025): 160–71.

The number of inmates in prisons and detention centers that exceed their capacity has the potential to cause various problems.¹³ The government has significant financial, health, and security challenges as a result of prison overpopulation. Preventing the renewal of criminal laws, which is necessary in preparation for an increase in the number of prisoners, is one way to address Indonesia's overcrowding in correctional facilities. Nonetheless, the following measures have been included in the Draft Criminal Law that should help avoid overcrowding in correctional facilities:

1. Reorientation of Criminal Purposes

Law Number 12 of 1995 concerning Corrections incorporates an integrated approach that has been used in Indonesia's penal system. Steps to confine criminals within a certain time frame as a kind of revenge for their conduct constitutes an aspect of integrative theory. The use of the coaching phases used in the criminal justice system demonstrates the relative theoretical component. Based on the description mentioned, it is permissible to use integrative theory in correctional facilities.

2. The Concept of Criminal Individualization

This idea holds that investigating someone's crime cannot be done abstractly from a merely legal perspective; Rather, it must be viewed and investigated in detail, since a person's behavior is really impacted by societal protection, personal characteristics, and biological variables. Criminal individualization's fundamental concept is focused on the "person" element (the criminal or perpetrator).

A new development in Indonesia's criminal justice system is based on the idea of criminal individualization, which gives judges the authority to decide what punishments are suitable for offenders and whether they are appropriate for the criminals themselves. Judges nevertheless have a wide range of sentence alternatives, notwithstanding their restricted discretion.

Based on the opinions of criminal law specialists and the authors of the RKUHP, it can be said that the judge who renders a judgment against criminal offenders is crucial to the idea of criminal individualization's ability to overcome overcrowding in correctional facilities. Keeping in mind that the idea of criminal individualization serves simply as a guide for judges when determining appropriate penalties and in keeping with humanist ideals, without taking away the victims' feeling of justice. The idea of criminal individualization is intended to prevent the application of criminal penalties, which may lead to a rise in the overcrowding of correctional facilities.

The RKUHP's two guiding principles—the Purpose of Punishment and Criminal Individualization—are upheld in efforts to address Indonesia's overcrowded correctional facilities. First and foremost, the goal of sentencing is to defend the community (social defense), socialize with the offender by offering advice, restore and foster a feeling of remorse and shame in the offender, and establish a balance between the offender and society. The second is the concept of criminal individualization, which aims to treat criminals with compassion by emphasizing their particular criminal responsibility, the fact that no crime is committed without blame, and the fact that punishment should be tailored to the individual's circumstances. Given that courts are already more likely to issue prison terms, this highlights the need for judges to have discretion and flexibility when deciding on the kind and severity of criminal punishments.

When the RKUHP is enacted in the future, law enforcement officials should not rush to imprison criminals because there are numerous options available to them and the RKUHP preserves the fundamental right to community protection, which includes protection for victims of crime. In addition, the criminal penalties policy in drug cases had to be changed because it would lower the number of inmates housed in Indonesian prisons and detention facilities.¹⁴

Correctional institutions operate on the tenet that members should be seen as human beings, regular citizens, and creatures of God. In order to help inmates connect with the community and develop the skills necessary to live freely in society after serving their time, correctional facilities provide them

¹³ Michelle L Estes, Maggie Leon-Corwin, and Jericho R McElroy, "Unsafe Communities: Environmental Injustice in Carceral Spaces," *Safer Communities* 23, no. 2 (2024): 124–41, <https://doi.org/10.1108/SC-08-2023-0039>.

¹⁴ Diah Pudjiastuti, Dey Ravena, and Chepi Ali Firman Zakaria, "Alternatives to Imprisonment as an Effort to Overcome Overcrowding in Correctional Institutions," *Jurnal Wawasan Yuridika* 9, no. 1 (2025): 39–53, <https://doi.org/10.25072/jwy.v9i1.4275>.

with coaching and mentoring. Vira Zemlyanska claims that Ptacek's citation of the Restorative Justice method ¹⁵ can be classified into three categories:

1. Victim-Offender Mediation (VOM), VOM provides a way for criminals to meet and dialogue with victims of crime, assisted by trained mediators, and even make written agreements with further plans after restitution is agreed.
2. Victim-Offender Conferences (VOC) The VOC provided a way for criminals to meet and dialogue with victims of crime.
3. Circles, invite interested parties in society to participate.

Given that the goal of the law is to provide "benefit," the fact that penal mediation exists as an alternative method of restitution in criminal proceedings for the settlement of cases in the field of criminal law indicates that the distinction between criminal and civil law is not that great and can be ignored. As a result, criminal law eventually gave rise to, developed, and evolved into public law as it exists today.

The use of "penal mediation" to resolve matters outside of court is a novel concept that has been examined from both theoretical and practical perspectives. It is anticipated that this practice will be linked to the realization of genuine justice. The agreement reached through formal mediation in court also has the same executive power as a judge's decision and a peace agreement because the judge's decision upholding the peace agreement is immune to both common and unusual legal remedies, and the agreement contains the terms of the peace agreement. The special powers of mediation are executorial and final, meaning they cannot be permitted to cassation.

Conflicts at the appeal, cassation, and judicial review levels may also be resolved via in-court mediation. The idea of mediation also has the benefit of being time-efficient in court, since it only takes around two months from the mediator's appointment to the conclusion of the case. If the parties do not want their disagreements to continue on until they are causing pressure on their relationship, community mediation may be a quicker way to settle them. In contrast, matters at the first level (District Court) are resolved via a litigation procedure that takes six months. In addition, a case may take seven to twelve years to reach the appeal, cassation, or review stages. Naturally, the expenses are minimal when the least amount of time is spent. Without jargon or complicated processes that the average person cannot understand, the mediation process is also as straightforward as bargaining in daily life.

One relevant theoretical reference is Howard Zehr's theory of restorative justice, which emphasizes the importance of repairing the relationship between the perpetrator, the victim, and the community ¹⁶. According to Zehr, justice is not only about punishing the perpetrator, but also about repairing the harm suffered by the victim and restoring harmony within society.

The following is a comparison with several previous research findings from the last 4-5 years. A study by Marder ¹⁷ illustrates that despite policies supporting restorative justice, such as the National Police Chief's Circular Letter, there is still resistance from the police and prosecutors to its implementation. This study emphasizes the need for better training and outreach for law enforcement officers. Analysis by Lin et al., ¹⁸ shows that the implementation of restorative justice can reduce the number of inmates in correctional institutions, but only if supported by comprehensive policy changes. This study recommends clear regulations regarding alternative dispute resolution (ADR) in criminal cases.

A study by Cahyadi & Sulaiman ¹⁹ stated that restorative justice could be a solution to address prison overcrowding, but its implementation remains hampered by a lack of community support and

¹⁵ "Research on Restorative Justice in Cases of Intimate Partner Violence," *Preventing Intimate Partner Violence*, 2017, 159–84.

¹⁶ Christopher D Marshall, "Restorative Justice," in *Religion Matters: The Contemporary Relevance of Religion* (Springer, 2020), 101–17.

¹⁷ "Restorative Justice and the Police: Exploring the Institutionalisation of Restorative Justice in Two English Forces" (University of Leeds, 2018).

¹⁸ "Research on the Impact of Restorative Justice Implementation on the Social Reintegration of Offenders and the Reduction of Recidivism Rates," *Law and Economy* 2, no. 11 (2023): 25–36.

¹⁹ "The Role of Legal Reform in Addressing Prison Overcrowding and Strengthening The Guarantee of Inmates' Human Rights," *Greenation International Journal of Law and Social Sciences* 3, no. 2 (2025): 205–12, <https://doi.org/10.38035/gijlss.v3i2.414>.

negative stigma against offenders. This study emphasizes the importance of community involvement in the restorative justice process. Research by Hadi et al.²⁰ illustrates that despite progress in the implementation of restorative justice, challenges such as a lack of legal awareness among the public and offenders remain. This study recommends increased education and campaigns to increase understanding of restorative justice.

In Indonesia's criminal justice and correctional facilities, the use of restorative justice has the potential to significantly reduce congestion and enhance ties between victims, offenders, and the community. However, more thorough policies and the cooperation of all relevant stakeholders are still required to solve the difficulties in understanding and putting this idea into practice.

CONCLUSION

The overcrowding of prisoners in Indonesian correctional facilities may be addressed by the use of the restorative justice idea. Applying this idea may reduce the usage of criminal penalties in relevant laws and regulations, preventing crimes from constantly ending up in community institutions. Numerous national and international legal documents have made reference to this. However, because it is still dispersed throughout different legal documents and policies and has not been fully integrated into the criminal justice system, restorative justice's application in the Indonesian legal system is still incomplete and incomplete, leading to overcrowding in Indonesia's correctional facilities. Preventing the criminal law change that is necessary to foresee the steadily rising number of convicted individuals is the necessary action. This is mentioned in the Draft Criminal Law, which takes into consideration the idea of criminal individualization and the reorientation of sentencing aims in order to accommodate measures that are anticipated to avoid overcapacity in correctional institutions. There are still many legal approaches for analysis that may be used to further study on restorative justice, giving scholars a tremendous opportunity to advance the idea. particularly for Indonesian scholars to be able to provide fresh viewpoints on the development of Indonesian law.

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