



The Relevance of Restorative Justice in Reducing Overcapacity in Correctional Institutions for Male and Female Prisoners

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Abstract

Correctional institutions in Indonesia are facing severe overcrowding, with the number of inmates far exceeding facility capacities. This issue is alarming as it leads to numerous negative consequences, including poor living conditions and difficulties in rehabilitation. One possible solution is adopting a restorative justice approach, which shifts the focus of the criminal justice system from punitive measures to reconciliation and rehabilitation, ensuring justice for both victims and offenders rather than relying solely on imprisonment. This study examines the factors contributing to overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary while also assessing the relevance of restorative justice in addressing this issue. Using an empirical normative methodology with a sociological juridical approach, the research incorporates statutory and structural analyses to understand the root causes of overcapacity. The findings reveal several key factors behind the overcrowding problem, including the large jurisdiction and high population of Sleman, rising crime rates, the absence of detention centers in Sleman and Wonosari, high recidivism rates, the exclusion of certain offences from restorative justice eligibility, transfers of inmates from other correctional units, and inmates choosing to serve prison sentences instead of paying fines. Restorative justice is highly relevant in addressing this issue as it provides an effective alternative to imprisonment. By focusing on conflict resolution, offender rehabilitation, and victim involvement, restorative justice aligns with the evolving priorities of Indonesia's legal system. Implementing this approach more effectively could significantly reduce overcrowding in correctional facilities while simultaneously ensuring justice for victims, offenders, and society as a whole.

Keywords: Relevance, Restorative Justice, Overcapacity, Correctional Institution

I. Introduction

Correctional institutions in Indonesia implement prison sentences in the correctional system. The Correctional System is very important for the development of the criminal law

system in the field of criminal execution. The correctional system carries out criminal law enforcement.¹

Criminal law in Indonesia, which should be used as the last step (*ultimum remedium*) in dealing with violations, has now changed to the main step (*primum remedium*). This change is inseparable from the practice of criminal law politics, which still focuses on retaliation and punishment, so it prioritizes penal policies, emphasizing imposing sanctions in the form of deprivation of liberty. Every law approved by the DPR and the government always contains criminal sanctions.²

Traditionally, Indonesian criminal law is based on a retributive justice paradigm, which views punishment as the primary means of achieving justice for victims and society. This approach results in an over-reliance on imprisonment, contributing to overcrowded correctional facilities. To address this issue, the legal system must transition toward a restorative justice framework emphasizing conflict resolution, victim-offender mediation, and social reintegration.³

The purpose of punishment in Indonesia has undergone a significant shift. In particular, the purpose of punishment is no longer solely retributive but also prioritizes the principle of restorative justice. This more progressive legal system targets the main purpose of punishment, which is to restore the harm caused by the lawbreaker and improve the relationship between the perpetrator, the victim, and society.⁴

The application of restorative justice and the purpose of sentencing means that the focus is not only on the punishment given to the perpetrator but also on the process of recovery and reconciliation. Through this approach, the perpetrator understands their actions' negative impact, apologizes, and repairs the harm caused. Restorative justice also pays greater attention to the needs of victims, both in terms of physical and psychological recovery, and allows them to participate actively in the justice process participate in the justice process actively.⁵

By adopting a more restorative justice-oriented sentencing objective, it is hoped that the Indonesian legal system can create a more harmonious and effective environment. This approach also aims to reduce crime rates by encouraging social recovery and reintegration, thereby creating a safer and more stable society.

Clifford Dorn, a renowned scholar in the restorative justice movement, defines restorative justice as a philosophy of justice that emphasizes the relationship between the perpetrator, victim, community, and government, in the criminal justice system. Restorative Justice is an approach that focuses on the recovery, reconciliation, and restoration of relationships damaged by criminal acts. This approach emphasizes efforts to address the psychological, social, and emotional problems and impacts caused by criminal acts for both the perpetrator and the victim and society as a whole.⁶

The relationship between punishment and corrections Sudarto sees the problem of punishment and corrections as an area of criminal policy that has not received enough attention.⁷ In short, criminal policy refers to the rational efforts of society to stop crime. This includes the

¹ Andi Marwan Eryansyah and A Md IP, *Hakikat Sistem Pemasyarakatan Sebagai Upaya Pemulihan Terhadap Warga Binaan Pemasyarakatan: Perspektif Hak Asasi Manusia-Jejak Pustaka* (Jejak Pustaka, 2021).

² Sheila Maulida Fitri, "Eksistensi Penerapan *Ultimum Remedium* Dalam Sistem Hukum Pidana Indonesia," *De Jure Jurnal Ilmiah Ilmu Hukum* 2, no. 1 (2020): 16–27.

³ Brilian Capera, "Paradigma Pemidanaan Di Indonesia (Kajian Keadilan Restoratif)," *Lex Renaissance* 6, no. 2 (2021): 225–34.

⁴ S H Tenriawaru et al., *Perbandingan Penerapan Sistem Hukum Progresif (Plea Bargain VS Restorative Justice)* (Penerbit Adab, 2022).

⁵ Henny Saida Flora, "Perbandingan Pendekatan Restorative Justice Dan Sistem Peradilan Konvensional Dalam Penanganan Kasus Pidana," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 1933–48.

⁶ Maksun Rangkuti, "No Title," Fakultas Hukum UMSU, 2023, <https://fahum.umsu.ac.id/restorative-justice-pengertian-dasar-hukum-syarat-dan-penerapan/>.

⁷ Ahmad Yurlis Hia, "Kajian Yuridis Atas Efektivitas Undang Undang Nomor 12 Tahun 1995 Tentang Pemasyarakatan Terhadap Dampak Kelebihan Warga Binaan (Studi Kasus Di Lapas Klas II B Tebing Tinggi)," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 22, no. 1 (2022): 137–61.

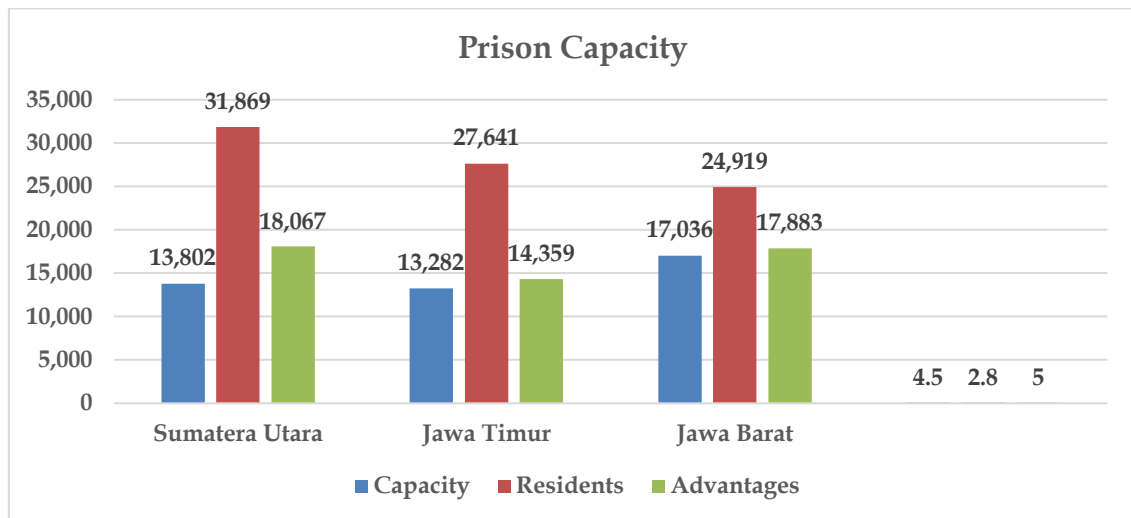
establishment of criminal laws, actions by the Police, Prosecutors, and Courts, as well as actions that do not use criminal laws.

Thinking about the relationship between punishment and corrections must be returned to rational thinking about the mechanisms used to combat crime. The correctional system's policy focuses on corrections and is also part of the effort to combat crime. Correctional institutions are currently experiencing problems. Overcrowding prisoners is one of the problems in several correctional institutions in Indonesia.⁸

Correctional institutions in Indonesia are experiencing overcrowding, with the number of inmates far exceeding the available capacity. Several factors cause this overcrowding of prisoners. The criminal justice system is one factor that must be given special attention. The increase in crime and the criminal justice system implemented cause overcrowding in Correctional Institutions.

The problem of overcrowding in Correctional Institutions (Lapas) has been going on for a long time. According to data from the Directorate General of Corrections (Ditjenpas) of the Ministry of Law and Human Rights as of Monday, January 22, 2024, the capacity of the Prisons in 33 Regional Offices (Kanwil) is for 137,137 people. Still, the number of inmates has reached 267,115 people. There is certainly an excess capacity of 129,978 prison inmates. There is the largest overcapacity in North Sumatra. The largest excess capacity was recorded, reaching 18,067 prison inmates, while the prison capacity is only 13,802 people. Thirty-one thousand eight hundred sixty-nine people inhabit the prison in that area. The prison with the largest inmates in East Java has an excess capacity of 14,359 inmates, while the capacity is only 13,282 people. Twenty-seven thousand six hundred forty-one people inhabit the prison in that area. Prison overcapacity also occurred in West Java prisons, which had an excess capacity of 17,883 inmates. The capacity of prisons in West Java is 17,036 people, but 24,919 people occupy them.⁹

Figure 1. Chart of Prison Capacity and Overcapacity



Source: Directorate General of Penitentiary, Ministry of Law and Human Rights

The Ministry of Law and Human Rights stated that only the prison in the North Maluku Regional Office did not have a larger capacity. A total of 1,272 people in the prison are detainees and convicts, with a prison capacity of 1,732. The Class I Tangerang Prison, Tangerang City,

⁸ Galih Puji Mulyono and Barda Nawawi Arief, "UPAYA MENGURANGI KEPADATAN NARAPIDANA DALAM LEMBAGA PEMASYARAKATAN DI INDONESIA," *Jurnal Law Reform Program Studi Magister Ilmu Hukum*, vol. 12, n.d., <http://www.menpan.go.id>.

⁹ Sistem Database Pemasyarakatan, "Jumlah Penghuni Lembaga Pemasyarakatan" (Jakarta, January 22, 2024).

caught fire on September 8, 2021, killing 46 people. The prison has burned down several times, and overcapacity is one of the causes of the many victims.¹⁰

Efforts to reduce the number of prisoners languishing in correctional institutions in Indonesia are by increasing the number of buildings or building new correctional institutions, as well as accelerating the process of reintegrating prisoners by granting them their rights.¹¹ Efforts to accelerate the reintegration of prisoners involve post-sentencing actions in the penal system, such as assimilation, pre-release leave, conditional leave, conditional release, and remission. These efforts aim to avoid long prison terms and their negative consequences.

The number of prisoners is still high despite progress in accelerating their rehabilitation. As stated by Dwidja Priyatno, efforts to expedite the process of rehabilitating prisoners are a measure of correctional institutions' strategic role in the rehabilitation process's success. Dwidja Priyatno suggested this method as the most effective alternative to reduce the impact of overcrowding in Correctional Institutions.¹²

Non-penal efforts to reduce the density of prisoners in correctional institutions can be done through a restorative justice approach. Restorative justice offers an alternative that involves victims, families, and other related parties in resolving problems. The focus is on restoring the losses experienced by victims, both physically and emotionally, and ensuring that justice is fulfilled for the perpetrators and the community, the goal is to instill a sense of shame so that the perpetrators do not repeat their actions while the community accepts this process.

Restorative justice also allows offenders to avoid prison if they have admitted their mistakes, repaired their harm, and apologized to the victim and the community. The combination of immediate reparation for the victim, internal motivation for the offender to change, and community acceptance of the restorative process is expected to decrease the number of prisoners in prisons.¹³ The implementation of restorative justice cannot be separated from the development of general concepts about the criminal justice system, which means that the correctional system is closely related to the implementation of prison sentences, which are based on the criminal justice system as a means of imposing punishment.¹⁴

The cause of the existence of a social condition that assumes that to obtain justice for a criminal act committed by a person, that person must go to prison so that the community can feel justice that this assumption gives rise to new problems at the level of law enforcement applications, one of which is the phenomenon of excess capacity of 97% in prisons spread across 33 Regional Offices.

Based on data from Class IIB Sleman Prison as of June 12, 2024, there was an overcapacity in Class IIB Sleman Prison of 60.89%, where the capacity of Class IIB Sleman Prison was only able to accommodate 225 people. Still, as of June 12, 2024, Class IIB Sleman Prison was filled with 362 prisoners and detainees. According to data from Class IIB Wonosari Prison, as of June 11, 2024, there was an overcapacity of 63.64%; where the capacity of Class IIB Wonosari Prison was only able to accommodate 110 prisoners and detainees, but as of June 11, 2024, it was filled with 180 prisoners and detainees. This condition also creates new social problems for inmates whose constitutional rights are neglected while in prison.

Research conducted by Elica Nasrotullah (2023) discusses the process of resolving criminal acts with restorative justice in overcoming overcapacity in Class I Surabaya Prison, and the results show that implementing restorative justice in prison is not optimal. In his thesis, Reza Andika (2023) explores criminal law policies to reduce overcrowding of correctional institution residents, with research results showing two types of policies: penal and non-penal. Research by Ikama

¹⁰ Ibid.

¹¹ Ibid, pg. 3"

¹² Wulan Dwi Yulianti, "Upaya Menanggulangi Over Kapasitas Pada Lembaga Pemasyarakatan Di Indonesia," *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 18, no. 2 (2020).

¹³ Muhammad Raka Edwira, "Pendekatan Restorative Justice Sebagai Upaya Mengurangi Over Kapasitas Lembaga Pemasyarakatan," 2018.

¹⁴ Dwidja Priyatno, *Sistem Pelaksanaan Pidana Penjara Di Indonesia* (Refika Aditama, 2013).

Dewi Setia Triana and Eti Mul Erowati (2022) in the journal *Pacta Sunt Servanda* examines solutions to overcome the overcapacity of prisons in Indonesia, with research results finding that restorative justice in Indonesia is regulated in various laws and regulations, such as the 1945 Constitution of the Republic of Indonesia and several other laws related to judicial power and the Supreme Court.

This study aims to determine the factors causing overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary. In addition, this study also aims to examine the relevance of restorative justice in reducing overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary.

II. Research Problems

Based on the explanation of the background, the next problem that will be discussed in this research is:

1. What are the factors causing overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary?
2. How is the relevance of restorative justice in reducing overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary?

III. Research Methods

This research uses a type of empirical normative research which is carried out systematically in the field,¹⁵ to reveal data on the relevance of restorative justice in reducing overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary; the subject of the research involved the two correctional institutions. In contrast, the object of the research was the relevance of the application of restorative justice. This research was conducted in Sleman Regency and Gunung Kidul Regency. Data sources consisted of primary data obtained directly from interviews with related parties and secondary data including primary, secondary, and tertiary legal materials, the research approach used was sociological juridical involving a legislative approach and a structural approach, and data collection was carried out through literature studies and field studies, the data obtained were analyzed qualitatively to obtain conclusions using the inductive method.

IV. Result And Discussion

1. Factors causing overcapacity in Class IIB Sleman Prison and Class IIB Wonosari Prison

Indonesia implements criminal sanctions of imprisonment as one of the main punishments according to Article 10 of the Criminal Code. Prison sentences were previously implemented with a prison system inherited from the Dutch colonial era. The prison system is not in accordance with the Indonesian people's outlook on life, so it was changed to a correctional system based on the principles of humanity, Pancasila, protection, and Tut Wuri Handayani. The change in the system also changed the implementing institution, namely from prison to Correctional Institution, commonly abbreviated as (Lapas). Prisons in Indonesia are partly over capacity.

Overcapacity of Correctional Institutions occurs in almost all prisons in Indonesia. Through the Ministry of Law and Human Rights, the government has made various efforts to resolve this problem, but the results have not been adequate. The number of prisoners entering prisons is greater than those leaving. Several factors causing overcapacity in prisons are the high number of criminal cases in society, such as general crimes, narcotics, corruption, and others. These factors are what then cause overcapacity in various prisons in Indonesia, including Class IIB Sleman Prison and Class IIB Wonosari Prison.

This overcapacity will certainly have a negative impact on the function of the Correctional Institution itself. Inmates have difficulty resting, the health of inmates will be disturbed, and it

¹⁵ Kartini Kartono, "Pengantar Metodologi Riset Sosial," 1990.

will trigger quarrels between inmates or correctional residents. Conflicts between inmates can arise due to excess occupancy in each room, which has the potential to cause new crimes.

Overcapacity in prisons occurs because the growth of residents is not comparable to the available housing facilities. The number of new prisoners is much greater than those who have completed their sentences and are released. Many criminal cases, especially those related to drugs, theft, and violence against children, have caused a sharp increase in the number of new prisoners in prisons.

The increase in criminal acts seems to be influenced by various other factors that cause overcapacity, including paradigms and legal factors. The laws in question include material and formal criminal law and the implementation of prison sentences. According to Patra M. Zein, the current criminal policy is not right so that everyone can easily be put in prison, causing overcapacity conditions in prisons.¹⁶

Factors Causing Overcapacity in Class IIB Sleman Penitentiary

Based on data from Class IIB Sleman Prison as of June 12, 2024, there was an overcapacity at Class IIB Sleman Prison of 60.89%. In contrast, the capacity of Class IIB Sleman Prison could only accommodate 225 people. Still, as of June 12, 2024, Class IIB Sleman Prison was filled with 362 prisoners and detainees. Based on the results of the interview with Mr. Ady Saputra, the Supervisor of Prisoners/Students and Work Activities (interview on June 12, 2024), here are some of the factors causing the overcapacity experienced by Class IIB Sleman Prison, namely the following:

1. Sleman's Extensive Legal Area and Large Population.

Sleman is one of the regencies in the Special Region of Yogyakarta, with an area of 57,482 Ha or around 18% of the Special Region of Yogyakarta province. The Sleman Regency area borders Boyolali Regency, Central Java to the north, Klaten Regency to the east, Kulon Progo Regency in the Special Region of Yogyakarta and Magelang Regency to the west. Yogyakarta City, Bantul Regency, and Gunung Kidul Regency to the south. Sleman Regency has 17 sub-districts with a population of 1,088,109 people.¹⁷

As has been explained, the jurisdiction of Sleman is very broad. The extent of the jurisdiction of Sleman is related to the number of crimes or criminal acts its residents commit. The wider the jurisdiction, the more residents there are, influencing the increasing number of criminal acts. Meanwhile, the jurisdiction of Sleman only has one prison, namely the Class IIB Sleman Prison, which acts as an implementing agency for court decisions on criminal acts.

2. Increasing Crime Rates.

Sleman Regency is an area in the province of the Special Region of Yogyakarta (DIY) which has the most criminal cases, according to data from the book of the Special Region of Yogyakarta in Figures 2023 published by the Central Statistics Agency (BPS). The types of crimes that often occur in Sleman Regency include aggravated theft, embezzlement, fraud, petty theft, and motor vehicle theft, followed by vandalism, gambling and rape. Theft is the most common crime in Sleman Regency. This crime occurred in 283 villages or sub-districts. Other crimes that most often occur in Sleman are assault, arson, rape, drug abuse, murder, and robbery.

3. There are no prisons in the Sleman jurisdiction.

Based on the provisions of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 33 of 2015 concerning Security in Correctional Institutions and Detention Centers in Chapter 1 Article 1 paragraph (2), State Detention Centers (Rutan) are places to detain suspects or defendants while investigations, prosecutions, and

¹⁶ Risang Achmad Putra Perkasa, "Optimalisasi Pembinaan Narapidana Dalam Upaya Mengurangi Overcapacity Lembaga Pemasyarakatan," *Wajah Hukum* 4, no. 1 (2020): 108-15.

¹⁷ BIRO TATA PEMERINTAHAN SETDA DIY, "No Title," Kependudukan DIY, 2021, <https://kependudukan.jogjapro.go.id/>.

examinations in court are ongoing. The overcapacity of the prison is due to the absence of a prison in the Sleman jurisdiction as a place to detain suspects or defendants while the process is ongoing. This also causes the Class IIB Sleman Prison to accommodate suspects and defendants in the trial process.

4. Recidive

Recidivist is the repetition of a criminal act by the same perpetrator after being sentenced to a sentence with permanent legal force within a certain period of time after the sentence has been carried out, abolished, or has not expired; in the Criminal Code, recidivists are not regulated in general, but specifically for certain crimes of the same type and similar groups, which are regulated in several articles in Book II and Book III of the Criminal Code, with 11 types of crimes which if repeated can be a reason for increasing the sentence; in Class IIB Sleman Prison on June 12, 2024, there were 75 recidivists.

Factors Causing Overcapacity in Class IIB Wonosari Penitentiary

According to data from Class IIB Wonosari Prison as of June 11, 2024, it experienced an overcapacity of 63.64%, where the capacity of Class IIB Wonosari Prison was only able to accommodate 110 prisoners and detainees, but as of June 11, 2024, it was filled with 180 prisoners and detainees. Based on the results of the interview with Mr. Endiyanto as Head of Binadik and Giatja (interview on June 11, 2024), the factors causing excess capacity at the Class IIB Wonosari Prison are:

1. Increasing Crime Rate

Gunungkidul Police Chief, AKBP Edy Bagus Sumantri, stated that in 2022 there were 307 recorded criminal incidents, higher than in 2021, which was only 198 cases, this increase occurred due to the relaxation in the Implementation of Community Activity Restrictions, which made community activities more flexible so that the crime rate increased, with 48 types of crimes recorded, fraud being the most with 77 cases, although there was an increase in cases, efforts to resolve them also increased from 171 cases in 2021 to 264 cases in 2022, the Playen Police Chief's area was the most vulnerable with 23 cases, while the safest area was the Girisubo Police which had no reported cases at all.¹⁸

2. Prisoners with Criminal Offenses that Cannot be Subject to Restorative Justice

Not all criminal acts can be resolved by resolving cases with restorative justice, which does not apply to criminal cases related to state security, the dignity of the President and Vice President, friendly countries and their heads of state and vice presidents, public order, and morality. Restorative justice is also not applied to criminal acts threatened with a minimum sentence of 5 years or more, narcotics crimes, environmental crimes, health crimes, and crimes committed by corporations.¹⁹

3. There are No Detention Centers in the Wonosari Area

The Wonosari area does not have a Detention Center due to the change in function from the Class IIB Wonosari State Detention Center to the Class IIB Wonosari Correctional Institution. The change in function is based on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.HH 10.OT.01.03 of 2020, dated December 7, 2020, concerning the Change in Status of the Class IIB State Detention Center to the Class IIB Correctional Institution. The absence of a Detention Center in Wonosari due to the change in status from a Detention Center to a Prison means that the Class IIB Wonosari Prison, in addition to accommodating prisoners, also accommodates prisoners during the investigation, prosecution, and examination process in court.

4. There are Shipments of Prisoners and Convicts from Other Task Implementation Units.

¹⁸ Bernadheta Dian Saraswati, "No Title," harian jogja, 2022, <https://jogjapolitan.harianjogja.com/read/2022/12/30/513/1121677/angka-kriminalitas-di-gunungkidul-naik-ternyata-ini-penyebabnya>.

¹⁹ Joan Imanuella Hanna Pangemanan, "No Title," Media Indonesia, 2023, <https://mediaindonesia.com/politik-dan-hukum/610482/pengertian-restorative-justice-dasar-hukum-syarat-dan-penerapannya>.

Based on the results of the interview with Mr. Endiyanto as Head of Binadik and Giatja (interview on June 11, 2024), he stated that one of the factors causing overcapacity in Class IIB Wonosari Prison was the transfer from several UPTs in DIY, such as Kota Detention Center, Bantul, Sleman Prison, and other UPTs. This is in accordance with the direction of the DIY Kemenkumham Regional Office by looking at the level of overcapacity, which is not too high in Wonosari Prison.

5. Prisoners Given Fines Prefer to Serve Their Sentences Rather Than Pay Fines.

Based on the results of the interview with Mr. Endiyanto as Head of Binadik and Giatja (interview on June 11, 2024), he stated that many of the prisoners should have been released because they had completed their sentences. However, the prisoners were unable to, and there were even some prisoners who preferred not to pay the fines that they should have paid, so this resulted in prisoners who should have been released being detained for a certain period of time to replace the fines that the Court had set.

6. Recidivist

According to Bambang Waluyo, a recidivist is a person who commits the same crime after previously being sentenced and, within five years of being released, commits another crime, a person is called a recidivist if he meets certain criteria, namely the same perpetrator, committing a repeat crime, has served his sentence, and the repetition occurs within a certain time, recidivists are divided into two, namely general recidivists who do not pay attention to the nature of the criminal act and special recidivists who pay attention to the nature of the same crime, in Class IIB Wonosari Prison on June 11, 2024 there were 43 recidivists.

2. The Relevance of Restorative Justice in Reducing Overcapacity in Class IIB Sleman Prison and Class IIB Wonosari Prison.

Restorative justice aims to provide justice to those directly affected by a crime, the person who committed the crime, their families, and the general public. The focus is on fixing the consequences of a crime. The consequences of awareness are used as a basis for improving social life, viewing justice from all perspectives, both for the good of the victim of the crime, the perpetrator of the crime, and the general public. It serves as a mechanism to repair the consequences of a crime.²⁰

The needs of victims and offenders are the main focus of restorative justice. Supportive equity capabilities aim to help criminals stop committing future offences. Restorative justice seeks to rethink needs not met by existing national legal procedures. Beneficial equity broadens the scope of interests of the meeting related to criminal events, bringing together government authorities, offenders, victims, and citizens.²¹

Restorative justice is an effort to examine the handling of conflict safely in a non-litigation scope. However, it is still complicated to implement because it has not been included in the overall law in Indonesia. One implementation of restorative justice in accordance with the cultural values of Indonesian society is the use of dialogue or mediation techniques, known as "*musyawarah*" (mediation). Restorative justice requires that perpetrators and victims receive the best possible benefits to reduce the level of recidivism of perpetrators and provide a sense of responsibility to both parties.²²

Regarding the appropriate type of punishment and enforcement of criminal acts, there has always been a debate about using criminal punishment as a tool for eradicating crime. The formulation of criminal law depends heavily on basic beliefs about crime and the techniques and

²⁰ Irvan Maulana and Mario Agusta, "Konsep Dan Implementasi Restorative Justice Di Indonesia," *Datin Law Jurnal* 2, no. 11 (2021): 46-70.

²¹ Septa Candra, "Restorative Justice: Suatu Tinjauan Terhadap Pembaharuan Hukum Pidana Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 2, no. 2 (2013): 263-77.

²² Khoirun Nisak, "Pengaruh Forgiveness Dan Fear of Crime Terhadap Penilaian Keadilan Restoratif Masyarakat Di Desa Dan Kota" (Universitas Islam Negeri Maulana Malik Ibrahim, 2015).

instruments used to deal with crime. Retributive criminal law is one of the tradition's most common and long-standing approaches.²³

The retributive principle contained in the current Indonesian criminal law does not place the restoration of victims of crime as a top priority. Victims directly experience suffering or loss due to criminal acts. Even though the victim's condition is harmed in the context of the crime, efforts to restore the victim's losses are often ignored and not considered significantly when resolving criminal cases. This situation does not follow the principle of justice, which should be the main basis for criminal law policy.²⁴

The retributive perspective differs from restorative justice, which views crime as a violation of more than just a violation of state law. Crime is seen as a conflict between the perpetrator and the victim, the victim's opinion is considered when resolving the case. This ensures that criminal punishment benefits the perpetrator and the public and serves as a treatment or recovery for the victim's suffering. Victims must be involved in resolving criminal cases from a restorative justice perspective.

Criminal justice policies in some countries often affect prison inmates. Courts are now more likely to sentence criminals to prison terms and give longer sentences than a few years ago. For example, in some countries, perpetrators of minor non-violent offences are more likely to be sentenced to prison rather than given warnings, fines, probation or restorative measures. Deprivation of liberty is often why non-custodial alternatives such as restorative justice are often rejected.²⁵

The restorative justice approach, which prioritizes justice for victims of crime and perpetrators of crime through changes to the criminal justice system, can be used as a solution to overcome prison overcrowding more effectively. This approach is considered appropriate to overcome prison overcapacity through social work, community service, and other alternative punishments. The principle of restorative justice encourages criminals, victims, and the community to work together to resolve crimes fairly as quickly as possible, creating a beneficial situation for both parties.

Table 1. Data at the Sleman District Attorney's Office and Wonosari District Attorney's Office in 2023

Attorney's Office Name	Number of cases & person
Sleman District Attorney's Office	11 cases 11 person
Wonosari District Attorney's Office	2 cases 3 person

Source: 1 Sleman District Attorney's Office and Wonosari Sleman District Attorney's Office

Based on the data and the results of interviews with Widha Sinulingga as Head of the Prosecution, Execution, and Examination Subsection of General Crimes at the Gunungkidul District Attorney's Office (interview on July 9, 2024) and Mrs. Rina Wisata as Head of the Pre-Prosecution Subsection of the Sleman District Attorney's Office (interview on July 16, 2024), the author obtained information stating that restorative justice is relevant in reducing overcapacity in the Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary. The restorative justice approach offers an alternative to imprisonment. Many cases, especially those involving minor or non-violent offences, allow perpetrators of criminal acts to be restored without serving long prison sentences. Restorative justice focuses on the rehabilitation of perpetrators and constructive conflict resolution. This approach supports the reintegration of perpetrators into society.

²³ Yong Ohoitmur, "Teori Etika Tentang Hukuman Legal," 1997.

²⁴ S H Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana* (Prenada Media, 2016).

²⁵ Safaruddin Harefa, "Kebijakan Kriminal Dalam Menanggulangi Kelebihan Kapasitas Lembaga Pemasyarakatan," *Jurnal Yuridis* 5, no. 2 (2018): 294-311.

Through the mediation process, restorative justice allows victims to participate in determining what form of compensation or reparation they deem fair. This approach helps victims feel more satisfied with the outcome and allows perpetrators to understand the impact of their actions in greater depth. This process can result in more personal and direct resolutions than traditional justice systems, which are often more formal and less attentive to the needs of the individuals involved, especially the victims of crime. By reducing the reliance on prison sentences, restorative justice can reduce the number of prisoners and inmates in prisons, ultimately reducing the problem of overcrowding.

The concept of restorative justice emerged as a response to criticism of the use of prisons in the criminal justice system, which is considered ineffective in solving social problems in the community and is the cause of overcapacity in prisons. The current concept of punishment only emphasizes prosecution and punishment, thus ignoring the needs of victims and society for crimes committed by perpetrators of criminal acts. Prisons can still be applied in certain cases that affect a person's life, and this mechanism does not eliminate imprisonment.²⁶

The emergence of "restorative justice" is a manifestation of criticism of implementing the criminal justice system with punishments considered ineffective in resolving various forms of social conflict. This ineffectiveness is caused by the parties involved in the conflict not being involved in resolving the conflict. As a result, the victim remains a victim, while the perpetrator who is imprisoned also creates new problems for the family and so on.²⁷

The number of crimes will not decrease with the settlement of criminal acts in the Criminal Court, which gives prison sentences. The more criminals are sentenced, the more full the prisons will be. This is due to the crime rate and the dominant Criminal Justice policy, which causes significant prison overcrowding.

Restorative justice offers a solution for law enforcement to reduce the density of prisoners in correctional institutions. This process allows perpetrators to fulfill their obligations and protect victims through the Police and Prosecutors. This approach provides a more humane and effective case resolution, thus reducing the number of perpetrators who have to serve prison sentences.

This kind of Restorative justice approach is very relevant to implementing the purpose of punishment in Article 51 of the National Criminal Code. Socializing prisoners by providing guidance and assistance to become superior and useful individuals and preventing the recurrence of criminal acts by upholding legal policies as protection for society.

Restorative justice that is optimally implemented by law enforcement agencies can significantly reduce the excess capacity of Correctional Institutions. High crime rates make prisons ineffective in accommodating criminals, so it is important to consider alternative punishments other than imprisonment. Prison should be the last option for perpetrators of serious crimes.

More intensive efforts are needed to resolve the problem of overcapacity in prisons, namely by enforcing the concept of restorative justice in the criminal justice mechanism. One is by implementing standard restorative justice in the form of norms such as the Criminal Code and other national regulations so that the Police, Prosecutors, Courts and all subsystems of the criminal justice system have a strong legal basis in their implementation.

The main goal of Restorative justice is to reduce the number of prisoners in prison, remove the stigma against prisoners, and return them as ordinary members of society. Criminals will learn from their mistakes and avoid similar mistakes in the future. This approach can also help ease the workload of law enforcement, such as the Prosecutor's Office, Courts, and Correctional Institutions. The restorative justice theory emphasizes the participation of crime victims and the community in changing the criminal justice system.

²⁶ Rohman Hakim, "Mediasi Penal Sebagai Alternatif Penyelesaian Tindak Pidana Lalu Lintas Yang Dilakukan Oleh Anak" (Universitas 17 Agustus Surabaya, 2021).

²⁷ Candlely Pastora Macawalang, "Penerapan Dan Pengaruh Keadilan Restoratif Sebagai Alternatif Penyelesaian Tindak Pidana Dalam Sistem Peradilan Pidana Di Indonesia," *Lex Crimen* 10, no. 5 (2021).

V. Conclusion

This study identifies the factors contributing to overcapacity in Class IIB Sleman Penitentiary and Class IIB Wonosari Penitentiary, while also evaluating the relevance of restorative justice as a solution. The findings indicate that overcapacity is driven by high crime rates, the broad jurisdiction of Sleman, the absence of detention centers, frequent prisoner transfers, and inmates opting to serve sentences instead of paying fines. These factors have led to a significant burden on correctional facilities, negatively impacting inmate welfare and rehabilitation efforts.

Restorative justice has been shown to be a highly relevant and effective approach in addressing this issue. By focusing on rehabilitation, reconciliation, and community-based resolutions, restorative justice offers alternative punishments that reduce reliance on incarceration. Implementing this approach more effectively could alleviate prison overcrowding while ensuring justice for victims, offenders, and society. Moving forward, a stronger commitment to restorative justice policies, enhanced legal frameworks, and multi-stakeholder cooperation is essential for sustainable prison reform. Further research is recommended to assess the effectiveness of restorative justice across different types of crimes and its long-term impact on Indonesia's correctional system.

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