



Alternatives to Imprisonment as an Effort to Overcome Overcrowding in Correctional Institutions

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Abstract

The high crime rate and overcapacity in correctional institutions underscore the necessity of examining the effectiveness of prison sentences and exploring fairer alternative sanctions. This research aims to analyze the effectiveness of prison sentences within the criminal justice system and identify ideal criminal sanctions to achieve justice. The study employs a normative juridical method with a descriptive approach. The findings reveal that prison sentences carry negative consequences, including stigmatization and challenges in social reintegration. To enhance the effectiveness of law enforcement and realize justice, the study recommends adopting restorative justice approaches, strengthening preventive measures, and integrating non-legal considerations into law enforcement. Thus, this research contributes to shaping criminal law policies that are not solely repressive but also preventive and rehabilitative. It advocates for the development of a legal system adaptable to the challenges of overcapacity in correctional institutions, promoting a balance between repression, prevention, and rehabilitation for a more equitable and sustainable justice framework.

Keywords:

Correctional Institution;
Imprisonment;
Overcrowding.

A. INTRODUCTION

Article 1, paragraph (3) of the 1945 Constitution establishes that the Republic of Indonesia is a state governed by law. According to Kaelan, the hallmarks of a state governed by law are the recognition and protection of human rights, a

judiciary that is free and uninfluenced by other parties, and legal certainty.¹ Therefore, all matters concerning citizens and their government must be based on the applicable law to achieve order in society.

¹ Sahat Maruli Tua Situmeang, "Kebijakan Kriminal Dalam Penegakan Hukum Untuk Mewujudkan Keadilan Dalam Perspektif Hak Asasi Manusia," *Res Nullius Law Journal* 1, No. 1 (2019): 26-36, <https://ojs.unikom.ac.id/index.php/law/article/view/2492/1696>, p. 27.

In line with this, the law has two main objectives: influencing behaviour (*gedragsbeïnvloeding*) and resolving conflicts (*conflict oplossing*). Conflict resolution may involve compensating for experienced losses, restoring damaged good relations, or rebuilding mutual trust among individuals.²

In a state governed by law, regulations are not only enforced fairly and impartially but must also embody the values of justice and humanity in the execution of criminal sanctions. This principle is reflected in the correctional system, which aims not merely to punish but also to reform and rehabilitate inmates.

In principle, the prison component of the correctional system focuses on protecting, rehabilitating, and improving inmates' eventual return to society. Correctional Institutions (hereinafter "Lapas") are intended not only to impose criminal sanctions but also to carry out those sanctions through guidance and education so that inmates can become good, law-abiding citizens after serving their sentences.

However, the Lapas inmate population surge has not been met with proportional improvements in facilities, amenities, or infrastructure.

Overcrowding plagues most institutions, severely limiting their capacity to deliver meaningful rehabilitation. Larger populations heighten the risks of conflict, forcing officers to prioritize security over rehabilitative programs. Moreover, a key factor driving Indonesia's high overcrowding rate is the state's persistent focus on imprisonment in every political process of lawmaking that includes criminal sanctions.

In this regard, one of the issues constantly challenged in criminal law is penal policy, particularly sanctions and their imposition. On the one hand, as John Kaplan has observed, penal policy (sanctions) in criminal law across many countries tends to be irrational. Moreover, according to J. P. Peter, there is a lack of clear criteria in penal policy, including the choice of penalty type (*strafsoort*), the severity (*strafmaat*), and execution methods (*strafmodus*).³

The implementation of custodial sentences in correctional institutions reveals glaring deficiencies: overcapacity leads to inhumane conditions and limited access to effective rehabilitation programs. Moreover, weak oversight within prisons enables ongoing criminal activities—such as narcotics trafficking, organized by internal mafia networks.

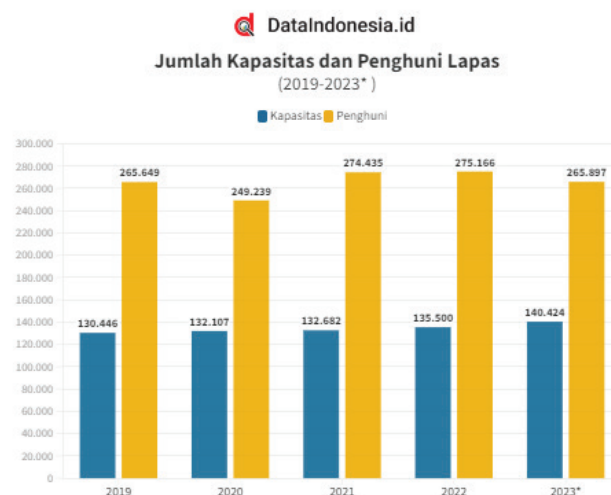
² Ahmad Bahiej, "Arah dan Tujuan Pemidanaan Dalam Hukum Pidana Nasional Indonesia," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 1, No. 2 (2012), <https://doi.org/10.14421/sh.v1i2.1920>, p. 398.

³ J. P. Peter in M. Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana: Ide Dasar Double Track System Dan Implementasinya* (Jakarta: Rajagrafindo Persada, 2003), p. 89.

This imbalance worsens inmates' prospects for rehabilitation, making them vulnerable to reoffending upon release, ultimately demonstrating the correctional system's failure to fulfill its primary function. Issues such as housing female inmates with infants and chronic overcrowding underscore the need for special accommodations for vulnerable groups. Allegations that certain convicts receive preferential treatment or

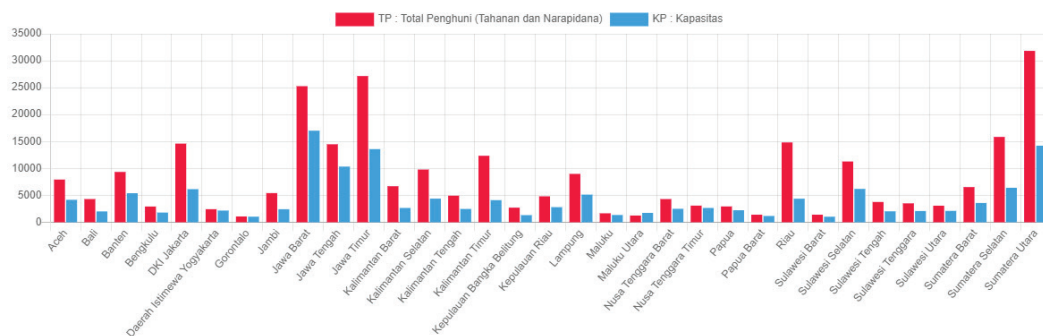
enhanced facilities within prison point to injustices in the criminal justice system. Suspicions that prisons can become environments where offenders deepen their criminal knowledge and skills further highlight the system's failure to achieve rehabilitative goals. As of March 24, 2023, prison overcapacity in Indonesia reached 89.35%, with 265,897 inmates housed, as shown in Figure 1 below:

Figure 1
Capacity and Inmate Population of Correctional Institutions



source: dataindonesia.id

Figure 2
Capacity of Correctional Institutions in 2024



source: <https://sdppublik.ditjenpas.go.id>

Furthermore, Figure 2 illustrates the imbalance between correctional institutions' capacity and inmate population. The data indicate that overcrowding in prisons is the inescapable logical consequence of judges' consistently imposing custodial sentences, which, when assessed from the standpoint of penal objectives, prove to be ineffective.

Imprisonment faces numerous challenges and problems within the criminal justice system, including the ineffectiveness of prisons as rehabilitative institutions and the adverse effects produced by incarceration (such as prisonization and stigmatization). This underscores that relying solely on custodial sanctions is insufficient to address the crime problem.

Starting from the notion that the imposition of custodial sentences has not delivered an optimal deterrent effect, the research problems addressed in this study are: (1) To what extent is the application

of custodial sanctions effective within Indonesia's criminal justice system? (2) What alternative criminal sanctions can be implemented to reduce overcapacity in correctional institutions and promote justice in Indonesia?

Restorative justice is an approach worth considering in this context. This approach emphasizes healing and reconciliation between the offender, the victim, and the community as a whole. Restorative justice offers a more holistic and constructive solution that not only addresses crime more humanely but also has the potential to reduce the burden of overcapacity in correctional institutions.

Numerous scholarly studies have explored the application and implications of imprisonment within diverse legal contexts, revealing critical gaps and opportunities for reform, including the work of Panji Adam in his research titled "The Existence of Imprisonment Sanctions in Jarimah Ta'zir." This study examines the existence of imprisonment

as an integral part of the Islamic legal system. According to Panji Adam, imprisonment sanctions align with the concept of *ta'zir*, which is fully within the discretion of the ruler (government), and are in accordance with the *maqashid al-syari'ah*—the objectives of Islamic law—aimed at preserving public welfare and preventing harm.⁴

Research conducted by Christine Juliana Sinaga titled “A Study on Imprisonment as a Subsidiary Sentence for the Additional Sentence of Compensation Payment in Corruption Crimes” examines the absence of a standardized pattern or guideline used by judges in determining the length of subsidiary imprisonment. This lack of regulation results in a significant degree of judicial subjectivity in sentencing decisions.⁵

Similarly, Fauziah Rusad's research, “The Conversion of the Death Penalty into Imprisonment Through Alternative Sentencing” examines the notion that a ten-year period of rehabilitation for death row inmates is considered sufficient to evaluate their transformation into better individuals. This transformation may

serve as a basis for death row inmates to request a temporary conversion of their death sentence into imprisonment.⁶

In another examination, Meli Indah Sari and Hafrida, in their study “*The Application of Imprisonment as a Substitute for Fines in Verdicts of Narcotics Crimes*” examines how imprisonment as a substitute for low-value fines tends to pragmatically benefit the convicted individuals.⁷

Further contributing to this discourse, Ni Made Kusuma Wardhani and I Gusti Ngurah Waicocana titled “*Legal Protection for Children Who Commit Crimes with a Prison Sentence of Seven Years or More*” explores the obligation of implementing diversion within the juvenile justice system. Diversion refers to the redirection of a child's case from the formal criminal justice process to an alternative resolution process at the stages of investigation, prosecution, and court proceedings. This approach involves all relevant parties to achieve reconciliation between the victim and the child, to prevent the deprivation of the child's liberty, and to encourage

⁴ Panji Adam, “Eksistensi Sanksi Pidana Penjara Dalam Jarimah Ta'Zir,” *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 2, No. 2 (2019): 39-66, <https://doi.org/10.29313/tahkim.v2i2.5114>, p. 63.

⁵ Christine Juliana Sinaga, “Kajian Terhadap Pidana Penjara Sebagai Subsidair Pidana Tambahan Pembayaran Uang Pengganti Dalam Tindak Pidana Korupsi,” *Jurnal Wawasan Yuridika* 1, No. 2 (2017): 191-208, <https://doi.org/10.25072/jwy.v1i2.134>, p. 205.

⁶ Fauziah Rasad, “Perubahan Pidana Mati Menjadi Pidana Penjara Melalui Pemidanaan Secara Alternatif (The Conversion Of The Death Penalty Into Imprisonment Through The Alternative Punishment),” *Jurnal HAM* 12, No. 1 (2021): 141-164, p. 160.

⁷ Meli Indah Sari dan Hafrida Hafrida, “Penerapan Pidana Penjara Sebagai Pengganti Pidana Denda Dalam Putusan Perkara Tindak Pidana Narkotika,” *PAMPAS: Journal of Criminal Law* 1, No. 1 (2020): 38-53, <https://doi.org/10.22437/pampas.v1i1.8260>, p. 52.

community participation in guiding and instilling a sense of responsibility in the child.⁸ Meanwhile, the research conducted by the author focuses on the effectiveness of the application of imprisonment sanctions within the criminal justice system and how to implement ideal criminal sanctions to achieve justice. Therefore, this study differs from previous research, as it emphasizes that the effectiveness of imprisonment sanctions can be improved by adopting a more holistic approach within the criminal justice system.

B. RESEARCH METHODS

The research method used in this study is normative juridical research with a descriptive research specification. Normative juridical research aims to analyze the effectiveness of the application of imprisonment sanctions within Indonesia's criminal justice system based on a review of existing laws and regulations as well as relevant legal literature. Through descriptive research, this study seeks to provide a comprehensive overview of prison overcapacity conditions and the negative impacts of imprisonment and to explore more equitable and effective alternative sanctions, such as restorative justice. Data

collection is carried out through library research by analyzing legal documents, court decisions, and previous studies on penal policy. The analysis focuses on examining the relevance of penal sanction concepts to the actual conditions in correctional facilities and identifying measures that can be taken to reduce overcapacity and enhance justice in law enforcement.

C. RESULTS AND DISCUSSIONS

1. The Effectiveness of the Application of Imprisonment Sanctions in the Criminal Justice System in Indonesia

The effectiveness of the application of criminal sanctions within Indonesia's criminal justice system is heavily influenced by how criminal procedural law is implemented by law enforcement officials, including the police, prosecutors, judges, and correctional officers. Although criminal procedural law provides guidelines for the execution of judicial processes, challenges remain in its implementation, particularly regarding how imprisonment sanctions can truly deter offenders and support the rehabilitation of inmates. Therefore, it is important to examine further the extent to which Indonesia's criminal justice

⁸ Ni Made Kusuma Wardhani dan I Gusti Ngurah Wairocana, "Perlindungan Hukum Bagi Anak Pelaku Tindak Pidana Dengan Ancaman Pidana Penjara Tujuh Tahun Atau Lebih," *Kertha Wicara: Journal Ilmu Hukum* 07, No. 03 (2018): 1-15, p. 13.

system can achieve the goals of effective and fair law enforcement through the application of imprisonment sanctions.⁹

In Indonesia's criminal justice system, correctional facilities (Lapas) occupy a pivotal position as the final stage of the punitive process, serving as a critical determinant in assessing the efficacy of imprisonment sanctions. While institutions such as the police, prosecutors, and courts fulfill distinct roles in the investigative, prosecutorial, and adjudicative phases leading to sentencing, the overarching effectiveness of custodial sentences hinges on the capacity of correctional facilities to execute their mandate. This encompasses inmate management, the provision of rehabilitative programs, and the facilitation of post-release societal reintegration. Only through the successful execution of these functions can Lapas ensure that imprisonment aligns with its dual objectives of punishment and reform, thereby closing the loop in the criminal justice continuum.¹⁰

The criminal justice system in Indonesia plays a crucial role in resolving conflicts arising from crimes; however, the effectiveness of the implementation

of prison sanctions in achieving these objectives still requires further examination. This research will assess the extent to which imprisonment sanctions successfully protect society, support the resocialization of inmates, and resolve the conflicts caused by criminal acts.¹¹

The criminal justice system serves as a legal instrument to address various forms of crime. Ironically, almost all crimes handled by Indonesia's criminal justice system end in prison sentences. Despite the existence of several regulations, such as the Chief of Police Circular Letter No. SE/8/VII/2018 of 2018 regarding the Implementation of Restorative Justice in the Settlement of Criminal Cases, the Indonesian National Police Regulation No. 8 of 2021 on Handling Criminal Acts Based on Restorative Justice, the Attorney General's Regulation No. 15 of 2020 on Termination of Prosecution Based on Restorative Justice, and the Decision of the Director-General of the General Court of the Supreme Court of the Republic of Indonesia No. 1691/DJU/SK/PS.00/12/2020 on the Application of Restorative Justice Guidelines, the public prosecutors' charges typically still demand imprisonment sanctions.

⁹ Kadri Husin dan Budi Rizki Husin, *Sistem Peradilan Pidana Di Indonesia* (Jakarta: Sinar Grafika, 2016), p. 10.

¹⁰ Fachrurrozy Akmal, "Penologi Pengayoman: Sebuah Tinjauan Pemidanaan Dalam Integrasi Ilmu Pengetahuan," *Khatulistiwa Law Review* 1, No. 1 (2020): 39-60, <http://e-journal.iainptk.ac.id/index.php/khalrev/article/view/36/24>, fostering treatment, as well as prisoner guidance which is carried out by the technical implementation unit (UPT), p. 40.

¹¹ Dey Ravena, "Implikasi Nilai Keadilan Pembinaan Narapidana Di Indonesia," *Scientica* 4, No. 1 (2017), p. 77.

Even judges, when delivering verdicts on criminal offenders, are still predominantly inclined to impose prison sentences.

This can be seen in the case of tracking and monitoring electronic communications. The Information and Electronic Transactions Law (UU ITE) imposes imprisonment and/or fines as penalties. However, the failure to reduce the crime rate, as shown in the Supreme Court Decision No. 574K/Pid.Sus/2016, in the case of Baiq Nuril Maknun, highlights the mistake of spreading electronic information that violated privacy. This case began with the recording of a phone conversation without the victim's consent and disseminating it, illustrating a violation of the UU ITE concerning privacy. It also raises difficulties in determining the boundaries of the right to record information and the protection of privacy.

Next, in the case of Haris Azhar and Fatia Maulidiyanti, they were acquitted of defamation charges against the Coordinating Minister for Maritime Affairs and Investment, Luhut Binsar Pandjaitan, by the East Jakarta District Court due to insufficient evidence. The case started with the release of a video on Haris Azhar's YouTube channel on August 20, 2021, where Fatia Maulidiyanti mentioned the involvement of several

companies and retired TNI generals, including Luhut Binsar Pandjaitan.

Based on these case examples show that imprisonment is prioritized in achieving justice, especially in law enforcement that emphasizes criminal sanctions. Although imprisonment is intended to reform the convicted and prevent them from committing crimes again, in practice, prisons create negative impacts. As noted by Barda Nawawi Arief, imprisonment not only deprives freedom but also causes other adverse effects. For instance, the deprivation of normal sexual life may lead to homosexual behavior and masturbation. Additionally, the loss of the freedom to work also has serious consequences on the social and economic life of the family. Imprisonment can also leave a lasting stigma, even after the convict is released. The prison experience may also diminish self-esteem and the dignity of individuals.¹² In addition, the correctional system in prisons has many negative impacts on prisoners, including:

a. Imprisonment results in the separation of prisoners from their families, especially if they are the head of the household responsible for providing financial support. As a result, their obligation to provide for their family is unfulfilled, and their biological needs are disrupted;

¹² Barda Nawawi Arief, *Kebijakan Legislatif Dengan Pidana Penjara* (Semarang: Badan Penerbit Undip, 1996), p. 44.

- b. In prison, the rehabilitation system is ineffective. There are groups that extort, act aggressively, and fight. Prison officers are often unfair, and prisons are often seen as places where criminal skills are learned, known as "schools of crime (SIK);"
- c. Sentencing with prison terms isolates prisoners from society and their families, which can lead to stress and mental health problems; and
- d. Society tends to reject former prisoners out of fear of potential reoffending. They are often labeled as criminals and find it difficult to secure employment after being released from prison, which can encourage them to re-offend (recidivism).¹³

Thus, although the paradigm of punishment has evolved significantly, its practical application still faces challenges and obstacles. Challenges in the criminal justice system, such as allegations of injustice, weaknesses in achieving rehabilitation goals, and deficiencies in prison security, highlight the need for more in-depth research on how to address these issues in order to improve the effectiveness of law enforcement in reducing crime rates.

From a criminological perspective, criminal behavior is influenced not only by

individual characteristics but also by the environment that shapes the individual. Crime occurs as a result of the interaction between the internal impulses of the offender and the influence of external environmental factors. The intention to commit a crime is influenced by various factors, including psychological conditions and environmental pressures, which ultimately shape the individual's behavior. A comprehensive understanding of these dynamics is essential for formulating evidence-based crime prevention strategies that address both individual rehabilitation and systemic reform, thereby bridging theoretical criminology with practical interventions.¹⁴

In addition to individual and environmental factors influencing the occurrence of crime, political policies regarding sentencing and criminal law in Indonesia also play a role in increasing overcrowding in prisons. The current system demonstrates a pronounced imbalance in sanction implementation, disproportionately emphasizing punitive measures while neglecting the rehabilitative and reintegration aspects crucial for sustainable justice outcomes. To effectively address overcrowding and enhance the justice

¹³ Dede Kania, "Pidana Penjara Dalam Pembaharuan Hukum Pidana Indonesia," *Yustisia Jurnal Hukum* 3, No. 2 (2014), p. 67.

¹⁴ Dara Manista Harwika, Amelia Puspitasari, Erli Kurnia Parmasari, dan Indra Silfiah, "Peran Kriminologi Sebagai Ilmu Bantu Hukum Pidana (Studi Kasus Pembunuhan Cakung)," *COURT REVIEW: Jurnal Penelitian Hukum* 1, No. 3 (2021): 1-15, <https://doi.org/10.69957/cr.v1i03.9>, p. 4.

system's efficacy, policymakers must adopt a multidimensional approach incorporating alternative dispute resolution mechanisms, including the implementation of alternative dispute resolution methods such as restorative justice.

The increase in overcrowding in Indonesian prisons is largely caused by sentencing policies that focus too much on imprisonment as the sole form of punishment without considering other, more effective alternatives to prevent recidivism. This policy tends to overlook the aspects of rehabilitation and reintegration, which should be an integral part of the sentencing process. As a result, prisoners who have served their sentences often return to society without significant behavioral changes, maintaining a high potential for reoffending. Furthermore, the massive and undifferentiated imposition of prison sentences, without proper distinctions based on the type and severity of the crime, contributes to the accumulation of prisoners in correctional facilities, which not only burdens the system but also diminishes the quality of rehabilitation within prisons. Therefore, there is a need for reform in criminal law policies by integrating a restorative justice approach that focuses more on the recovery of victims, offenders, and society while

reducing reliance on imprisonment as the sole solution to handling crime. This approach is expected to balance the need for law enforcement with the protection of human rights and better social reintegration.

2. Alternative Criminal Sanctions that Can Be Applied to Reduce Overcrowding in Prisons and Achieve Justice in Indonesia

According to ethical theory, the essence of law is justice. In Indonesia, justice is depicted in Pancasila as the foundation of the state, specifically as social justice for all Indonesian people. The fifth principle of Pancasila embodies values that reflect the goal of a just collective life. This justice is grounded in and inspired by the essence of human justice, which includes relationships between individuals with themselves, others, society, the nation, the state, and God. This concept aligns with Aristotle's idea of vindicative justice, which emphasizes the need to impose fair sanctions as a means of restoring the harm experienced by the aggrieved party, thereby maintaining harmony in human relationships and within society.¹⁵

Therefore, in the application of criminal sanctions, it is essential to consider non-legal factors in its enforcement. The severity of the imposed

¹⁵ M. Agus Santoso, *Hukum, Moral & Keadilan Sebuah Kajian Filsafat Hukum* (Jakarta: Kencana, 2015), p. 114.

sentence should be calculated rationally and have equivalence with the harm caused by the act, in line with Aristotle's principle of vindicative justice. This principle emphasizes that sanctions should reflect justice that aligns with the degree of fault and the harm that occurred. Thus, rational and fair sanctions will create a deterrent effect, where criminal acts become unprofitable and encourage compliance with the law.

Furthermore, as viewed by Pound, law is a dynamic system that is influenced by, and ultimately influences, social conditions and impacts society as a whole. With a penal system based on the value of economic harm, it is hoped that in the future, it will evolve into a criminal justice system that is more equitable, both for the victims and society, while also ensuring that the burden on those being punished is not excessive.¹⁶

In practice, the criminal justice system still has weaknesses because it focuses more on punishment for the perpetrator than on protection for the victim. It places too much emphasis on formal legal aspects and fails to adequately consider the principles of social justice and the benefits of administering punishment.¹⁷

The imposition of criminal penalties only requires the fulfillment of criminal acts, which include the objective and

cognitive elements of the offense. The Penal Code views a criminal act as inherently unlawful, and guilt is identified through the mental attitude (intentional or negligent). Therefore, anyone who commits a criminal act is considered guilty and punished based on the fulfillment of the elements of the offense.¹⁸

In relation to this, the development of the concept of criminal punishment is seen as not providing tangible benefits for the victims and society. From the victim's perspective, the state, as the victim in a crime, has the right to prosecute and punish the offender. However, the victim's experience of loss is often considered proportional to the punishment received by the offender, even though it does not always satisfy the victim's sense of justice.

When related to the correctional system, the imposition of criminal sanctions for every individual who commits a crime or offense must consider the following elements:

- a. Humanity, in the sense that the punishment upholds the dignity of the individual;
- b. Educational, in the sense that the punishment makes the individual fully aware of their actions and encourages them to adopt a positive

¹⁶ T. J. Gunawan, *Konsep Pemidanaan Berbasis Nilai Kerugian Ekonomi* (Jakarta: Kencana, 2018), p. 80.

¹⁷ Rendra Kurniawan Prasetya, "Diversi Dan Pelaku Kecelakaan Lalu Lintas," *Dih Jurnal Ilmu Hukum* 12, No. 24 (2016), p. 98.

¹⁸ M. Ainul Syamsu, *Penjatuhan Pidana & Dua Prinsip Dasar Hukum Pidana* (Jakarta: Prenadamedia, 2018), p. 9.

and constructive attitude towards crime prevention; and

- c. Justice, in the sense that the punishment is perceived as fair by the convicted person, the victim, and society.¹⁹

Therefore, criminal law should be considered as a last resort that inherently imposes suffering upon offenders. Given the severe consequences of criminal sanctions, their application must be reserved for circumstances where no less restrictive alternatives exist. The implementation of penal measures must be carefully balanced with fundamental principles of human dignity, respect for fundamental rights, and the protection of human life.²⁰ Thus, priority should be given to non-penal criminal policies to ensure justice and benefits for society. This approach aligns with Satjipto Rahardjo's view, which emphasizes that resolving cases through the judicial system with court verdicts is often slow.²¹ If the implementation of laws does not align with justice and morality, the regulations can be

considered as violating. Even if the legal process has been conducted properly, human rights must remain the primary consideration in decision-making.

Based on this, resolution through restorative justice involves the offender, the victim, their families, and the community. This approach can enhance justice and effectiveness in law enforcement due to the active involvement of all parties.²² Restorative justice emphasizes justice and balance for both the offender and the victim. It transforms the criminal justice process into a dialogue and mediation to achieve a fairer and more balanced resolution for both parties.²³ Nils Christine states that resolving disputes through informal processes can help in moral development, as through mediation, the parties work towards rectifying wrongs. Additionally, Minor and Marisson emphasize that the restorative justice approach is ideal for moral development, focusing on mutual communication, negotiation, compromise, and responsibility.²⁴

¹⁹ Dey Ravena, *loc. cit.*

²⁰ Budi Suhariyanto, *Tindak Pidana Teknologi Informasi (Cybercrime): Urgensi Pengaturan Dan Celah Hukumnya* (Jakarta: Rajagrafindo Persada, 2013), p. 32.

²¹ Satjipto Rahardjo, *Sisi-Sisi Lain Dari Hukum Di Indonesia* (Jakarta: Gramedia Pustaka Utama, 2003), p. 100.

²² Okwendi Joseph Solomon and Richard Nwankwoala, "The Role of Restorative Justice in Complementing the Justice System and Restoring Community Values in Nigeria," *Asian Journal of Humanities and Social Sciences* 2, No. 3 (2014): 126-37, p. 37.

²³ Azwad Rachmat Hambali, "Penegakan Hukum Melalui Pendekatan Restorative Justice Penyelesaian Perkara Tindak Pidana," *Kalabbirang Law Journal* 2, No. 1 (2020), p. 69.

²⁴ Dey Ravena, *Keadilan Restoratif (Restorative Justice) Tinjauan Perspektif Sejarah, Konsep Dan Teori, Asas Dan Prinsip, Model/Bentuk, Perbandingan Hukum Dan Pelaksanaannya Di Indonesia* (Bandung: Nuansa Indah Permata Bandung, 2024), p. 106.

From an axiological perspective, restorative justice embodies four fundamental principles. First, it maintains criminal law as a last resort principle, to be invoked only when alternative legal mechanisms prove inadequate. Second, the perpetrator's responsibility is directly to the victim. Third, victim protection. Fourth, restoring harmonious relationships between the victim and the perpetrator. This reflects the idea that building Indonesian law with Indonesian character, or Pancasila character, requires the application of noble ideas inherent in Indonesia, which contain virtues and justice that should serve as a reference for positive punishment.

D. CONCLUSIONS

The effectiveness of the application of prison sentences in Indonesia's criminal justice system still faces significant challenges, including the negative impacts of imprisonment, overcrowding, and the imbalance between law enforcement and rehabilitation. To achieve justice based on Aristotle's vindictory principle and the values of Pancasila, policy reforms are needed that prioritize a restorative justice approach. This approach allows for dialogue and mediation between the offender, the victim, and society, thus reducing reliance on prison sentences, minimizing their impact, and enhancing the effectiveness of rehabilitation and social reintegration for a fairer and more efficient justice system.

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