

From Overcrowded Prisons to Balanced Justice: Restorative Approaches in Criminal Law Reform

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Abstract

Prison overcrowding has become a persistent challenge that undermines the legitimacy of criminal justice and generates widespread human rights violations. This paper examines the phenomenon as a structural crisis within criminal law rather than a mere administrative failure. Drawing on a normative juridical approach combined with comparative analysis, the study investigates how over-incarceration—particularly in Indonesia—reflects the limitations of retributive paradigms and explores restorative justice as a pathway toward balanced justice. Data from national and international sources, including the Directorate General of Corrections and the World Prison Brief, confirm that occupancy rates often exceed official capacity by 115–130 percent, resulting in conditions inconsistent with the International Covenant on Civil and Political Rights and the Nelson Mandela Rules. Comparative findings from New Zealand, Canada, and South Africa demonstrate that restorative justice can effectively reduce recidivism, alleviate overcrowding, and strengthen community trust. The results indicate that restorative justice not only provides alternatives to custodial sanctions but also aligns with human rights principles of dignity, fairness, and proportionality. The novelty of this research lies in reframing overcrowding as evidence of structural imbalance in criminal law and offering restorative mechanisms as a normative and practical solution. The study concludes that embedding restorative justice within criminal law reform is essential for achieving justice that is both effective and humane, with implications for Indonesia's ongoing implementation of the 2023 Criminal Code.

Keywords: Prison Overcrowding, Restorative Justice, Human Rights, Criminal Law Reform.

Abstrak

Kelebihan kapasitas penjara telah menjadi persoalan berulang yang melemahkan legitimasi sistem peradilan pidana dan menimbulkan pelanggaran hak asasi manusia secara luas. Artikel ini menganalisis fenomena tersebut sebagai krisis struktural dalam hukum pidana, bukan sekadar kegagalan administratif. Dengan menggunakan pendekatan yuridis normatif yang dipadukan dengan analisis komparatif, penelitian ini menelaah bagaimana overkapasitas khususnya di Indonesia mencerminkan keterbatasan paradigma retributif serta mengeksplorasi keadilan restoratif sebagai jalur menuju keadilan yang seimbang. Data dari sumber nasional dan internasional, termasuk Direktorat Jenderal Pemasyarakatan dan World Prison Brief, menunjukkan bahwa tingkat hunian penjara kerap melampaui kapasitas resmi sebesar 115–130 persen, menghasilkan kondisi yang tidak sejalan dengan Kovenan Internasional Hak Sipil dan Politik serta Nelson Mandela Rules. Temuan komparatif dari Selandia Baru, Kanada, dan Afrika Selatan menunjukkan bahwa keadilan restoratif efektif menurunkan residivisme, mengurangi overcrowding, serta memperkuat kepercayaan masyarakat. Hasil penelitian menegaskan bahwa keadilan restoratif bukan hanya menyediakan alternatif terhadap pidana penjara, tetapi juga selaras dengan prinsip hak asasi manusia berupa martabat, keadilan, dan proporsionalitas. Kebaruan penelitian ini terletak pada upaya merekonstruksi overcrowding sebagai bukti ketidakseimbangan struktural dalam hukum pidana dan menawarkan mekanisme restoratif sebagai solusi normatif sekaligus praktis. Artikel ini menyimpulkan bahwa integrasi keadilan restoratif dalam reformasi hukum pidana merupakan kebutuhan mendesak untuk mewujudkan keadilan yang efektif dan humanis, dengan implikasi nyata bagi implementasi KUHP 2023 di Indonesia.

Kata Kunci: Overkapasitas Penjara, Keadilan Restoratif, Hak Asasi Manusia, Reformasi Hukum Pidana

Introduction

Prison overcrowding has become an entrenched feature of contemporary criminal justice and a potent driver of human rights risks. Across many jurisdictions, occupancy levels routinely exceed official capacity, straining health care, sanitation, safety, and rehabilitation, and eroding the minimum standards owed to persons deprived of liberty. Indonesia mirrors these global pressures, with persistent overcapacity documented in recent government and policy analyses. Framed in human rights terms, chronic congestion threatens human dignity, the right to health, and effective access to justice, shifting “overcrowding” from a logistical concern to a normative crisis demanding principled legal reform.¹²³

A concise body of prior research has mapped the drivers and harms of over-incarceration. International guidance consolidates evidence that punitive default sentencing, criminalization of low-level conduct, slow case processing, and limited non-custodial options fuel congestion; empirical work details downstream harms for mental health, safety, and reintegration outcomes. Human-rights instruments especially the Nelson Mandela Rules underscore that incarceration cannot extinguish inherent dignity and must be administered consistently with minimum standards. Yet, despite the breadth of descriptive work and normative exhortation, many jurisdictions still struggle to translate principles into durable reductions in custodial reliance.⁴⁵

The main limitation in the literature is a relative scarcity of solution-oriented, system-level models that demonstrably reduce prison use while safeguarding victims’ interests and community safety. Evaluations of restorative and diversionary programs show promise but are uneven across contexts and sometimes methodologically constrained, leaving policymakers with fragmented evidence on when, how, and for whom restorative mechanisms are most effective. This paper addresses that gap by critically examining restorative justice as a rights-oriented pathway for criminal law **reform** aimed at sustainably alleviating overcrowding. It seeks to integrate comparative empirical findings with normative benchmarks to articulate conditions under which restorative approaches can both reduce custodial dependence and enhance rights protection.⁶⁷

¹ World Prison Brief, “Highest to Lowest Occupancy Level (Latest Available Data),” Institute for Crime & Justice Policy Research, accessed August 25, 2025, <https://www.prisonstudies.org>

² Direktorat Jenderral Pemasyarakatan, *Laporan Kinerja Pemasyarakatan 2023* (Jakarta: Kemenkumham RI, 2023)

³ Manfred Nowak, *UN Global Study on Children Deprived of Liberty* (New York: United Nations, 2019)

⁴ United Nations Office on Drugs and Crime (UNODC), *Handbook on Strategies to Reduce Overcrowding in Prisons* (Vienna: United Nations, 2021)

⁵ United Nations, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* (New York: UN, 2015)

⁶ Emma J. Williams et al., “Restorative Justice Conferencing for Reducing Recidivism in Young Offenders,” *Cochrane Database of Systematic Reviews* (2020), open-access summary

⁷ Robert M. Parker et al., *Can Restorative Justice Conferencing Reduce Recidivism? Evidence from the Make-It-Right Program* (California Policy Lab, 2024)

The scientific merit (novelty) of this study lies in reframing overcrowding not as a correctional management failure but as evidence of structural imbalance in criminal law that undermines human rights, and in proposing a restorative justice reform template that aligns legal design with human-rights obligations and measurable reductions in incarceration. The paper's objectives are: (1) to demonstrate, through a rights analysis, how persistent overcrowding signals a systemic departure from minimum standards and proportionality; and (2) to develop a policy-ready framework grounded in comparative practice and UN guidance for embedding restorative mechanisms within criminal law to achieve balanced justice, i.e., effective accountability, victim reparation, community safety, and compliance with human-rights norms.⁸⁹

Problem Formulation

Prison overcrowding raises critical questions about the adequacy of criminal law systems in fulfilling their fundamental obligation to protect human rights. The persistence of overcapacity, despite repeated reforms and international guidance, reflects not merely administrative shortcomings but deep-rooted structural imbalances in legal frameworks. The central issue to be addressed in this study is how the over-reliance on custodial sanctions particularly for non-violent or minor offenses—reveals a systemic failure of criminal law to uphold proportionality, dignity, and fairness. This failure is not only visible in Indonesia but resonates across jurisdictions where punitive orientations dominate penal policy.¹⁰

The research problem therefore centers on the relationship between overcrowding and human rights violations: to what extent does chronic congestion undermine rights protected under both international and domestic law, and what does this reveal about the limits of current punitive paradigms? A secondary, yet interconnected, question is whether restorative justice can serve as a credible and sustainable alternative within criminal law reform. By reframing accountability away from retribution toward restoration, restorative justice may offer a model capable of reducing incarceration rates while strengthening human rights protections. This study thus formulates its inquiry around two interrelated questions: How does prison overcrowding reflect the failure of criminal law systems to uphold human rights, and can restorative justice provide a viable solution to address both over-incarceration and the need for balanced justice?¹¹

Methodology

This study adopts a normative juridical approach as its principal methodology. Such an approach is particularly appropriate because the research is concerned not only with describing the reality of prison overcrowding but with evaluating the legal norms that underlie it and their compatibility with higher standards of human rights protection. Normative legal research focuses on written laws, doctrines, and international human rights instruments, thereby

⁸ United Nations System, *Common Position on Incarceration* (n.p.,2021),

⁹ UNODC, *Handbook on Strategies to Reduce Overcrowding in Prisons*.

¹⁰ Dirk van Zyl Smit and Sonja Snacken, *Principles of European Prison Law and Policy: Penology and Human Rights*(Oxford: Oxford University Press, 2016).

¹¹ United Nations Office on Drugs and Crime (UNODC), *Handbook on Strategies to Reduce Overcrowding in Prisons* (Vienna: United Nations, 2021).

allowing the study to assess whether the penal system, in its current design and operation, fulfills the obligations of justice and proportionality.¹² Within this framework, the Indonesian Criminal Code (KUHP 2023) is taken as the primary statutory source, supplemented by international conventions such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture, alongside soft-law instruments including the Nelson Mandela Rules. These materials provide the normative benchmarks against which the Indonesian legal system is evaluated.

In addition to normative analysis, this research also incorporates a conceptual dimension, clarifying the foundational principles of restorative justice—accountability, restitution, reintegration—and examining their doctrinal consistency with human rights obligations. Conceptual legal research is crucial here, as restorative justice is not merely a set of practices but a legal philosophy that redefines the purpose of criminal law. This dimension permits the study to critically explore whether restorative approaches align with principles of dignity, fairness, and proportionality, and whether they can provide an effective counterbalance to the overuse of retributive sanctions.¹³

A further methodological layer is comparative analysis. This study examines selected jurisdictions—most notably New Zealand, Canada, and South Africa—that have institutionalized restorative justice to varying extents. Comparative legal research allows identification of best practices in implementing restorative mechanisms, as well as an assessment of their transferability to the Indonesian context.¹⁴ By analyzing these jurisdictions, the study can illuminate how restorative models have been adapted within different legal cultures, and how contextual factors such as political commitment, community participation, and judicial discretion influence the success or limitations of these models. This comparative approach ensures that the recommendations are not only theoretically grounded but also practically feasible, taking into account the socio-legal conditions unique to Indonesia.¹⁵

Finally, this research integrates a policy analysis perspective in order to evaluate the feasibility of translating restorative justice into actionable reforms. This dimension involves engaging with reports from the United Nations Office on Drugs and Crime (UNODC), the World Health Organization, and regional monitoring bodies such as the European Committee for the Prevention of Torture (CPT), which provide evidence-based strategies for reducing overcrowding and embedding rights protections in penal policy.¹⁶ Policy analysis in this context allows for a systematic appraisal of institutional readiness, legislative frameworks, and the resources required for successful implementation of restorative mechanisms. By combining

¹² Peter Mahmud Marzuki, *Legal Research*, rev. ed. (Jakarta: Prenadamedia Group, 2017)

¹³ Nicola Lacey, "The Rule of Law and Criminal Law: International Perspectives," *Journal of International Criminal Justice* 19, no. 2 (2021): 345–364

¹⁴ Tali Gal and Benedikt Fischer, "Restorative Justice in Comparative Perspective: Lessons for Criminal Law Reform," *International Journal of Comparative and Applied Criminal Justice* 42, no. 4 (2020): 257–274.

¹⁵ Hennessey Hayes, "Restorative Justice in Youth Justice Systems: International Models and Lessons," *Youth Justice* 22, no. 3 (2022): 221–237

¹⁶ United Nations Office on Drugs and Crime (UNODC), *Handbook on Restorative Justice Programmes*, 2nd ed. (Vienna: United Nations, 2020)

normative, conceptual, comparative, and policy perspectives, this study ensures both theoretical rigor and practical relevance, allowing its findings to contribute meaningfully to the discourse on criminal law reform and the advancement of human rights.¹⁷

Discussion and Result

Prison Overcrowding as a Human Rights Crisis

Prison overcrowding must be understood not as an isolated administrative difficulty but as a structural condition that erodes the normative foundations of human rights. Empirical reports show that more than sixty percent of countries operate facilities beyond official capacity, with many exceeding twice their intended population.¹⁸ Such conditions result in inadequate living space, insufficient access to sanitation, healthcare, and rehabilitation, and an increased risk of violence and disease transmission. The cumulative effect is the systematic denial of rights enshrined in the International Covenant on Civil and Political Rights, particularly the rights to dignity and humane treatment.¹⁹ In Indonesia, persistent congestion driven largely by narcotics-related convictions has reached levels that international observers identify as inconsistent with minimum standards of detention.²⁰ The evidence demonstrates that overcapacity produces not only physical hardships but also symbolic harm: the criminal justice system loses legitimacy when punishment itself becomes disproportionate and degrading.

To illustrate the magnitude of the problem in Indonesia, Table 1 presents the official capacity and actual occupancy of correctional institutions across regions as of 2023. The data show that overcrowding is particularly acute in Java-Bali, where prisons operate at more than double their intended capacity.

Table 1.
Prison Capacity and Occupancy in Indonesia (2023)

No	Region	Capacity	Inmates	Occupancy (%)
1	Java-Bali	70.000	160.000	229%
2	Sumatra	30.000	60.000	200%
3	Kalimantan	15.000	28.000	187%
4	Sulawesi & Maluku	10.000	17.000	170%
5	Papua	5.000	7.000	140%

¹⁷ Council of Europe, Committee for the Prevention of Torture (CPT), *Report on Prison Overcrowding and Criminal Justice Reform* (Strasbourg: Council of Europe, 2024)

¹⁸ World Prison Brief, "World Prison Brief (database)," Institute for Crime & Justice Policy Research, accessed August 27, 2025

¹⁹ United Nations, *International Covenant on Civil and Political Rights* (New York: United Nations, 1966)

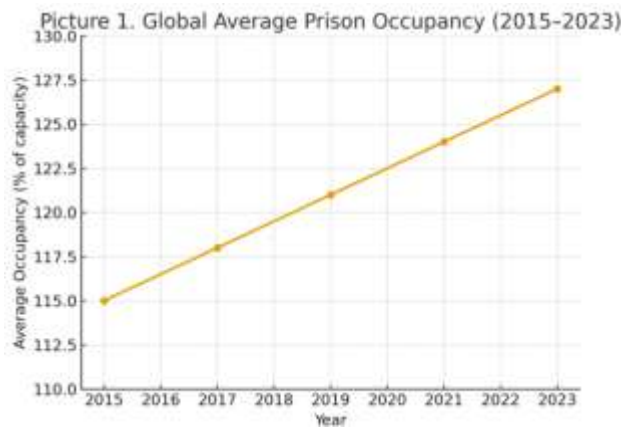
²⁰ Pusat Penelitian Badan Keahlian DPR RI, "Efforts to Address Overcapacity in Correctional Institutions" (Info Singkat XVI, no. 21, November 2024)

Total Indonesia	130.000	272.000	209%
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Source: Directorate General of Corrections (Ditjen PAS), 2023

The Indonesian case reflects a broader international trend. As shown in Picture 1, the global average occupancy level has steadily increased over the last decade, with estimates ranging between 115 and 130 percent of official capacity by 2023. This indicates that the problem is not confined to a single jurisdiction but represents a systemic failure of punitive penal policies worldwide.

Picture 1.
Global Average Prison Occupancy (2015-2023)



Source: World Prison Brief, Institute for Crime & Justice Policy Research; compiled from UNODC, *Handbook on Strategies to Reduce Overcrowding in Prisons* (2021)

The evidence demonstrates that overcapacity produces not only physical hardships but also symbolic harm: the criminal justice system loses legitimacy when punishment itself becomes disproportionate and degrading. This makes prison overcrowding a human rights crisis that requires not only administrative intervention but systemic reform of the criminal law framework. Recent global synthesis confirms that prison population growth has outpaced capacity in many regions, with UNODC's 2024 brief reporting sustained upward pressure on occupancy and wide cross-regional variation that correlates with punitive charging and sentencing practices.²¹ Health evidence is equally stark: WHO's 2023 status report for the European Region links overcrowding to elevated risks of suicide, infectious disease, and constrained access to care inside places of detention.²² These findings reinforce that chronic congestion is not just a management shortfall but a structural rights problem embedded in penal policy design.

²¹ United Nations Office on Drugs and Crime. *Prison Matters: Global Prison Population and Trends* (Brief, 2024). Vienna: UNODC, 2024

²² World Health Organization, Regional Office for Europe. *Status Report on Prison Health in the WHO European Region*. Copenhagen: WHO/Europe, 2023

Peer-reviewed studies since 2023 strengthen the causal chain between overcrowding and adverse outcomes. A 2025 systematic review in *BMC Public Health* finds independent associations between crowding and tuberculosis, COVID-19, self-harm, depression, violence-related injuries, and overall mortality.²³ Complementary analyses in *The Lancet Public Health* observe tuberculosis dynamics tightly linked to carceral expansion in the Americas and Europe.²⁴ Legal-health scholarship also documents how congestion degrades minimum standards under human rights law, compounding risks where budgets, staffing, and space per person are already constrained.²⁵

Criminal Law Reform: From Retribution to Restoration

The dominance of retributive paradigms in criminal law has perpetuated custodial over-reliance. Retribution, by prioritizing proportional punishment, fosters a culture of incarceration where prison becomes the default sanction for a wide range of offenses, including minor, non-violent crimes. Scholars argue that this model exacerbates rather than resolves social harm, as it fails to address the underlying causes of crime and instead reinforces cycles of stigma and recidivism.²⁶ Comparative research demonstrates that legal systems oriented primarily around retribution tend to exhibit higher incarceration rates without corresponding reductions in crime.²⁷ In contrast, jurisdictions that integrate rehabilitative and restorative principles show more balanced outcomes, including reduced prison populations and improved reintegration of offenders. Indonesia's recent Criminal Code reform represents a tentative but significant step toward rebalancing the system. The recognition of restorative justice in the KUHP 2023 provides a normative foothold for shifting criminal law away from punitive excess, though its effective implementation remains contingent on political will, institutional readiness, and public acceptance.²⁸

International policy has converged on the view that over-incarceration is a system failure requiring structural remedies. The UN System Common Position on Incarceration (2021) urges states to reduce prison use through proportionality, decriminalization of minor offences, and scaled non-custodial measures.²⁹ European monitoring by the Committee for the Prevention of Torture (CPT) in its 2024–2025 cycle echoes these priorities, calling for decisive

²³ Muhammad Aon et al., "The Association between Health and Prison Overcrowding: A Systematic Review," *BMC Public Health* (2025)

²⁴ An Zheng et al., "Tuberculosis Notifications in Prisons during the COVID-19 Pandemic: A Time-Series Analysis," *The Lancet Public Health* (2025)

²⁵ Hannah Nudd et al., "Overcrowding in Prisons: Health and Legal Implications," *Torture Journal* 34, no. 3 (2024): 41–53

²⁶ Dirk van Zyl Smit and Sonja Snacken, *Principles of European Prison Law and Policy: Penology and Human Rights* (Oxford: Oxford University Press, 2016)

²⁷ Vivien Stern, *A Sin Against the Future: Imprisonment in the World* (London: Routledge, 2016)

²⁸ Kholil, "Restorative Justice dalam RKUHP 2023: Paradigma Baru Hukum Pidana Indonesia," *Jurnal Hukum Ius Quia Iustum* 30, no. 2 (2023): 215–233

²⁹ United Nations System. *Common Position on Incarceration*. New York: United Nations, 2021

action against chronic overcrowding and the informal hierarchies it fosters.³⁰ These alignments clarify that sustainable relief cannot be delivered by prison construction alone but by re-engineering criminal law inputs charging, bail, sentencing, and release – toward rights-consistent restraint.

Restorative Justice as a Path to Balanced Justice

Restorative justice offers a model capable of simultaneously addressing overcrowding and advancing human rights protections. By emphasizing accountability, restitution, and reintegration, restorative mechanisms reduce the need for custodial sentences while empowering victims and communities in the justice process. Empirical studies from New Zealand and Canada confirm that restorative conferencing can reduce recidivism, enhance victim satisfaction, and alleviate pressure on correctional institutions.³¹ In South Africa, restorative programs have also been linked to community reconciliation and the mitigation of systemic inequalities in the justice system.³² In the Indonesian context, pilot programs and selective application of restorative mechanisms have shown promise in diverting cases away from prison, particularly in juvenile justice and minor offenses.³³ The broader implication is that restorative justice is not merely an alternative but a corrective framework that restores balance to criminal law by aligning state responses with human rights standards. Its adoption could transform overcrowding from a chronic crisis into an opportunity for systemic reform that integrates accountability with dignity.

Evidence since 2018 shows restorative justice can reduce reoffending and improve victim satisfaction when delivered with quality safeguards. New Zealand’s Ministry of Justice synthesizes evaluations indicating positive effects on accountability and victim experience.³⁴ Canadian reviews in 2023 show restorative pathways can be integrated within mainstream systems, with victim–offender mediation and conferencing associated with durable reductions in subsequent justice contact.³⁵ A 2023 meta-analysis reports small but significant reductions in general recidivism across programs, highlighting that dosage, practice fidelity, and case selection matter.³⁶ UNODC’s second-edition *Handbook on Restorative Justice*

³⁰ Council of Europe, Committee for the Prevention of Torture. “The CPT Calls for Action to Combat Prison Overcrowding and Informal Hierarchies in Prisons,” Press Release and General Report 2024/2025, Strasbourg: Council of Europe, 2025.

³¹ Gabrielle Maxwell and Hennessey Hayes, “Restorative Justice Developments in New Zealand and Australia,” *Contemporary Justice Review* 20, no. 1 (2017): 28–46

³² John Braithwaite, “Restorative Justice and Responsive Regulation,” *Restorative Justice* 5, no. 3 (2017): 301–321

³³ Siti Rohmah, “Challenges of Implementing Restorative Justice in Indonesia’s Criminal Law Reform,” *Indonesian Journal of Legal Studies* 7, no. 1 (2025): 55–72

³⁴ New Zealand Ministry of Justice. “Evidence Brief: Restorative Justice.” Wellington: Ministry of Justice, 2021

³⁵ Department of Justice Canada. *The Use of Restorative Justice to Address Criminal Offending in Canada*. Ottawa: Government of Canada, 2023

³⁶ Correctional Service Canada. *Restorative Opportunities: Victim–Offender Mediation Report 2022–2024*. Ottawa: Government of Canada, 2025

Programmes (2020) codifies implementation standards—screening, voluntariness, preparation, facilitator training—that help translate principle into practice.³⁷

Policy Implications and Future Directions

The preceding analysis underscores that addressing prison overcrowding through restorative justice is not merely a theoretical proposition but a pressing policy priority. The implications extend across legislative, judicial, and administrative domains. Legislatively, governments must revise penal codes to systematically expand the use of diversion, mediation, and community-based sanctions. Indonesia's inclusion of restorative provisions in the 2023 Criminal Code represents a positive development, yet their limited scope highlights the necessity of further amendments to ensure broader applicability, particularly for non-violent and drug-related offenses that constitute the bulk of prison populations.³⁸ Judicial practice also requires recalibration, as judges and prosecutors must be empowered and trained to apply restorative measures consistently, ensuring that they are not perceived as lenient exceptions but as integral components of justice.³⁹

From an administrative perspective, correctional authorities should reorient institutional priorities from custodial expansion to community reintegration. International experience demonstrates that building more prisons does not solve overcrowding; rather, it perpetuates the cycle of incarceration. By contrast, investment in restorative infrastructure—such as mediation centers, victim-offender conferencing programs, and community rehabilitation schemes—yields measurable reductions in recidivism and relieves pressure on prison systems.⁴⁰ This requires not only funding but also institutional partnerships with civil society organizations, local governments, and victim support services.

To scale restorative approaches system-wide, justice institutions should become people-centred and data-driven. Recent OECD guidance (2024) sets out governance standards for justice data,⁴¹ while its framework for people-centred justice (2021) details how to measure barriers and outcomes.⁴² Coupled with UNODC and CPT guidance, these tools can support Indonesian reforms by embedding restorative options in caseflow (charging, diversion, plea), equipping judges and prosecutors with decision frameworks, and tracking results—victim satisfaction, offender accountability, and decongestion—over time. Health sector partners (WHO) should be integrated to monitor rights-critical outcomes as occupancy declines.

³⁷ United Nations Office on Drugs and Crime. *Handbook on Restorative Justice Programmes*, 2nd ed. Vienna: UNODC, 2020.

³⁸ Kholil, "Restorative Justice dalam RKUHP 2023: Paradigma Baru Hukum Pidana Indonesia," *Jurnal Hukum Ius Quia Iustum* 30, no. 2 (2023): 215–233.

³⁹ Siti Rohmah, "Challenges of Implementing Restorative Justice in Indonesia's Criminal Law Reform," *Indonesian Journal of Legal Studies* 7, no. 1 (2025): 55–72.

⁴⁰ UNODC, *Handbook on Strategies to Reduce Overcrowding in Prisons* (Vienna: United Nations, 2021).

⁴¹ Organisation for Economic Co-operation and Development. *Towards Effective Governance of Justice Data* (Policy Paper, 2024). Paris: OECD, 2024.

⁴² Organisation for Economic Co-operation and Development. *Framework and Good Practice Principles for People-Centred Justice*. Paris: OECD, 2021.

Looking ahead, future directions must integrate restorative justice into a broader agenda of criminal law reform aligned with human rights obligations. This involves harmonizing national legislation with international standards, particularly the Nelson Mandela Rules and the Bangkok Rules on women prisoners, to ensure that reform addresses both systemic and intersectional vulnerabilities.⁴³ Policymakers should also embrace evidence-based evaluation of restorative programs, establishing monitoring frameworks that measure outcomes such as victim satisfaction, offender accountability, and community trust. Comparative evidence from jurisdictions like New Zealand and South Africa suggests that such evaluation is critical to scaling restorative approaches sustainably.⁴⁴

Finally, the future of restorative justice depends on societal acceptance. Public opinion often equates justice with severity, which can undermine support for non-custodial measures. Governments and academics alike bear responsibility for reframing public discourse by emphasizing that restorative justice is not leniency but a balanced model that upholds accountability while safeguarding rights. Through education, outreach, and transparent implementation, restorative justice can shift from being perceived as an alternative to becoming the normative foundation of a humane and effective criminal justice system.

Conclusion

This study has demonstrated that prison overcrowding is not merely a logistical or administrative issue but a structural failure of criminal law that systematically undermines human rights. By examining international and Indonesian contexts, it is evident that over-incarceration erodes dignity, health, and access to justice, producing conditions inconsistent with the standards mandated by international human rights law. The analysis further shows that reliance on retributive paradigms perpetuates this crisis, as punitive legal frameworks normalize custodial sanctions as the default response even for minor offenses.

Restorative justice emerges as both a corrective and preventive pathway to address this imbalance. By prioritizing accountability, restitution, and reintegration, restorative approaches reduce custodial dependence while enhancing compliance with human rights obligations. The implication is that embedding restorative justice within criminal law reform is not simply an alternative model but a normative necessity for balancing justice with human rights in the twenty-first century. For Indonesia, the recognition of restorative mechanisms in the 2023 Criminal Code provides a foundation upon which to build. Future reforms must prioritize the systematic integration of restorative practices, backed by political will, institutional training, and community participation, in order to translate principles into meaningful reductions in overcrowding and measurable improvements in rights protection.

⁴³ United Nations, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* (New York: UN, 2010).

⁴⁴ Gabrielle Maxwell and Hennessey Hayes, "Restorative Justice Developments in New Zealand and Australia," *Contemporary Justice Review* 20, no. 1 (2017): 28–46.

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