



## THE REAL SOLUTIONS TO THE IGNORED PRISON OVERCROWDING PROBLEM

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### ARTICLE INFO

#### **Keywords:**

Overcrowding Prison;  
Rehabilitation; Restoration;  
Solution.

#### **DOI :**

10.26532/jh.v41i2.43855

### ABSTRACT

*This study aims to analyze prison overcapacity for concrete and operational solutions. This study used a normative research approach. The author's research results recommend adaptive solutions to the problem of overcrowding, including measuring the improvement of the process of making prison policies and crime prevention in the form of various restorative and rehabilitative regulations such as rehabilitation programs for drug offenders, the application of monetary penalties in lieu of imprisonment, the implementation of open prisons, and the implementation of social control laws; evaluating various guidance efforts that have been carried out to reduce the number of recidivism as a major contributor to overcrowding in addition to prison policies and the judicial process; and deepening the understanding of restorative and rehabilitative efforts in the form of vocational, guidance, job coaching, reintegration in society, as well as public perceptions of prisoners as an implicit driving factor towards repeat crimes. The novelty of this study lies in its integrated perspective, which connects prison overcapacity with the broader need for systemic reform in correctional philosophy.*

## 1. Introduction

The discourse of overcrowding has paid a great interest among the policy makers, researchers, faculty members during the past decades.<sup>12</sup> During the three decades, the growing body of research has not provided a concrete and applicable solutions in terms of the need overcrowding issue.<sup>345</sup> To solve this

1 American Civil Liberties Union (ACLU)., Overcrowding and Overuse of Imprisonment in the United States. *Submission to the Office of the High Commissioner for Human Rights*, May 2015.

2 Savage v. Townsend et. al., Delaware Court of Common Pleas Decisions, *Justicia US Law*, 2003, page. 1-3

3 Clarke Jones and Raymund Narag., How Inmates Help Run Philippine Prisons, *Current History*, Vol.811 No.118, 2019, page. 298

problem, the governments of developed countries change their attention and focus from the prison management system to be a restorative system to overcome the crime issues. The implementation of restorative law is made as an effort or approach to create an improvement effect on the convicts.<sup>6</sup> Practically, some substitute programs of prisoning have been launched and giving a significant impact. Those programs include the implementation of monetary penalty, *community corrections*, restrictive housing,<sup>7</sup> and rehabilitation programs. These programs have different levels of success and various impacts on the prisoners' behavior changes on either improvement or reduced overcrowding perspectives. However, only a little research reviews the combination of various overcrowding preventive programs and it focuses only on one type of prevention.

To extend this scholarship, this paper review empirical contributions in terms of overcrowding issue which taken from the published article followed by the methodology and the limitation of the previous research. Furthermore, the discussion went to review basic conceptual of overcrowding and prison management, problems and challenges in managing the prisons related to the overcrowding, findings and solutions obtained from the previous research. To close the discussion about overcrowding, this paper then recommends an adaptive solution concerning with the prison management, criminal judiciary practices, and improvement of convicts' skills before facing the assimilation period, as an effort to overcome and the prison population and overcrowding issues so that this can be applied according to the faced situation and characteristics of guided community in the prisons in some parts of the world.

The initial step enacted by the author was to navigate the related topic of overcrowding prisoners which taken from four reputable international journal databases (as can be seen in Table 1) that are exclusively consisting of analytical, literature, and current situation reviews from some overcrowding cases in some prisons in the world. From the result of article anavigation, the author identifies 20 papers relevant to this research,<sup>891011</sup> that will be used as

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- 4 Hamja Hamja., Community-Based Correction (CBC): Efforts to Achieve a Balance Between Rehabilitation and Social Justice, *Jurnal Pembangunan Hukum Indonesia*, Vol.27 No.3, 2015, page. 445.
  - 5 H. Fajriando., The Evaluation of Community-Based Corrections in Rumbai Class 3 Open Correctional Facility. *Jurnal Ilmiah Kebijakan Hukum*, Vol.13 No.3, 2019, page. 323-338.
  - 6 Karen Ross dan Denise Muro., Possibilities of Prison-Based Restorative Justice: Transformation Beyond Recidivism, *Contemporary Justice Review*, Vol.23 No.4, 2020, page. 1-23
  - 7 David C. Pyrooz and Meghan Mitchell., The Use of Restrictive Housing on Gang and Non-Gang Affiliated Inmates in U.S. *Prisons: Findings from a National Survey of Correctional Agencies*, Vol.37 No.1, 2019, page. 1-45
  - 8 Lorana Bartels & Don Weatherburn., Building Community Confidence in Community Corrections. *Current Issues in Criminal Justice*, 2020.
  - 9 Hakki Fajriando., The Evaluation of Community-Based Corrections in Rumbai Class 3 Open Correctional Facility. *Jurnal Ilmiah Kebijakan Hukum*, Vol.13 No.3, 2019, page. 323-338.
  - 10 Clarke Jones and Raymund Narag., How Inmates Help Run Philippine Prisons. *Current History*, Vol.118 No.811, 2019, page. 298-303

the information source to support the discussion delivered by the author as well as the tool to sharpen the significance and important contribution of this research on the overcrowding prevention.

The initial reviews mainly focus on the specific perspective and descriptive predictions related to the overcrowding prevention. For instance, De Guzman<sup>12</sup> only focused his attention on the prevention of negative impact of overcrowding prisoners on elderly convicts while Shingler only focused on the impact of prison population on the mental health of long sentenced convicts,<sup>13</sup> and MacDonald emphasized a long term effect of overcrowding in prisons on convicts without giving them an applicative solution.<sup>14</sup> In addition, that research generally focused on one perspective and only few of it that gave a solution or concrete recommendation that was applicative and operative to solve overcrowding.

The other research only reported an overview about the impact of overcrowding on the prison population without giving a concrete solution to this issue. One of them is the research result conducted by Aduba that reported the prison condition in Nigeria<sup>15</sup> as well as the research conducted by Olaya.<sup>16</sup> There is another research result conducted by Limoncelli that focused on the main cause of overcrowding in Latin America and Caribbean.<sup>17</sup> Glazener & Nakamura as well as the research of Nkosi & Maweni only focused on the impact of overcrowding on the deviant behavior of convicts without giving a solution to this issue.<sup>18,19</sup> Meanwhile, based on two other articles, overcrowding was discussed based on the tendency perspective of Covid-19 transmission as written by Li & Liu and Heard.<sup>20,21</sup> Only two articles discussed a long-term

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- 11 Julio Ce'sar Maga'n Zevallos., Overcrowding in the Peruvian Prison System. *International Review of the Red Cross*, Vol.98 No.3, 2016, page. 851-858
  - 12 Asuncion De Guzman et. al., Contribution of Reef Gleaning To Nutrition Of Coastal Communities, *Journal of Environmental Science and Management*, Vol.5 No.1, 2020, page. 58-71
  - 13 Jo Shingler et. al., 'Their Life in Your Hands': The Experiences of Prison-Based Psychologists Conducting Risk Assessments with Indeterminate Sentenced Prison in the United Kingdom. *Psychology, Crime & Law*, Vol.26 No.4, 2019, page. 311-326.
  - 14 M. MacDonald., Overcrowding and Its Impact on Prison Conditions and Health. *International Journal of Prisoner Health*, Vol.14 No.2, 2018, page. 65-68.
  - 15 J. Nnamdi Aduba., "Overcrowding" in Nigerian Prisons: A Critical Appraisal. *Journal of Criminal Justice*, Vol.21, 2019, page. 185-191.
  - 16 Olaya et. al., Crime and Punishment as A Social System: The Case of Prison Overcrowding, *Kybernetes*, Vol.47 No.2, 2017, page. 369-391
  - 17 Katherine E. Limoncelli, et. al., Determinants of Intercountry Prison Incarceration Rates and Overcrowding in Latin America and the Caribbean. *International Criminal Justice Review*, Vol.30 No.1, 2019, page. 1-20.
  - 18 Emily Glazener and Kiminori Nakamura., Examining the Link Between Prison Crowding and Inmate Misconduct: Evidence from Prison-Level Panel Data, *Justice Quarterly*, Vol.37 No.1, 2020, page. 109-131
  - 19 Nozibusiso Nkosi and Vuyelwa Maweni., The Effects of Overcrowding on the Rehabilitation of Offenders: A Case Study of a Correctional Center, Durban (Westville), KwaZulu Natal. *The Oriental Anthropologist*, Vol.20 No.2, 2020, page. 332-346.
  - 20 Spencer D. Li and Tzu-Hsuan Liu., Correctional System's Response to the Coronavirus Pandemic and Its Implications for Prison Reform in China. *Victims & Offenders*, 2020, page. 1-12.

solution to overcome overcrowding that is research conducted by Favuzza and Di Vita that suggested a change of prisoning law system to decrease the input of prison population.<sup>2223</sup>

Although the previous research provided the overcrowding prisoners issue in many parts of the world, little of studies on exploring and offering the concrete and adaptive solutions to overcome overcrowding prisoners in a global context. Therefore, the focus of this review research is to examine the previous research including the nature of overcrowding prisoners, research implication and recommendation. The recommendation provides the aspect of regulation, management and alleviation of criminal cases.

## **2. Research Methods**

This research used a normative research approach. The author reviewed some articles discussing overcrowding that have been published in reputable and well-ranked journals in the fields of criminology and prison management. The article navigation was enacted from a myriad of issue which taken from the early period 2015 to October 2020. After obtaining the needed articles, the author reviewed all articles including the title appropriateness and discussion relevance of abstracts while confiscating articles irrelevant to this research, which is research about overcrowding and its preventive solution. From the 60 articles collected, an elimination process was conducted to exclude those that did not specifically address overcrowding and those discussing overcrowding without providing concrete preventive solutions, resulting in 20 articles considered most relevant to the focus of this study. Based on the initial review, this research focuses on the definition of overcrowding identified in these 20 articles, the key issues related to overcrowding, the main contributions of these publications to overcrowding prevention efforts, and the implications and recommendations of the research findings for correctional institutions, policymakers, scholars, and future research.

## **3. Research and Discussion**

### **3.1 The Overcrowding: Striving for a Definition Point of View**

The article navigation published in the period of 2015-2020, the majority has not presented the operative definition of overcrowding or overpopulation prisoners. However, the definition of overcrowding that is clearly written in their articles is still limited<sup>2425</sup>. Generally, the written articles only represented their

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- 21 Andrew Coyle, Catherine Heard and Helen Fair., Current Trends and Practices in The Use of Imprisonment. *International Review of the Red Cross*, Vol.98 No.903, 2016, page. 761-781.
  - 22 F. Favuzza., Torreggiani and Prison Overcrowding in Italy. *Human Rights Law Review*, Vol.17 2017, page. 53-173
  - 23 Giuseppe DiVita. Recent Legislative Measures to Reduce Overcrowding of Prisons in Italy: A Preliminary Assessment of Their Economic Impact. *European Journal of Law and Economics*, 2020, page. 1-23.
  - 24 Dae-Young Kim., Psychiatric Deinstitutionalization and Prison Population Growth: A Critical Literature Review and Its Implications. *Criminal Justice Policy Review*, Vol.27 No.1, 2016, page. 3-21.

basic thoughts about overcrowding partially and tended to be brief in their introductions or literature reviews; moreover, their thoughts are locally oriented and referring to a condition where their research was conducted.<sup>26</sup> The theoretical reviews or operative definitions that are discussed empirically about overcrowding or overpopulation prisoners are not found. The description of article outcome that does not give an operative definition is available.

Wolff,<sup>27</sup> Baggio,<sup>28</sup> van Ginneken<sup>29</sup> and Agboola<sup>30</sup> found that overcrowding has a strong implication mainly on the convicts' behaviors and psychological conditions in prisons. Furthermore, overcrowding also decreases the improvement potential, integrity, and education produced in prisons.<sup>31</sup> Based on that research, it is said that the higher the population of prisons, the higher the criminal rate and deviant behavior. However, this article is written as a basis of wider-scope research without giving a concrete solution to overcome overcrowding. Furthermore, in an article written by Grujić and Milić,<sup>32</sup> it is reported that overcrowding is the effect of bad prison management and criminal policy of a country as well as a description of ineffective judiciary and criminal policy in general. However, according to Pitts,<sup>33</sup> the improvement of judiciary system and criminal law will have a minimum effect if it is not conducted seriously.

de Farias reviews that overcrowding is not only a description of bad judiciary system but also an incapability or ineffectiveness of judicative group to run the restorative and rehabilitative regulation and law.<sup>34</sup> The limited judicative group in a country is definitely caused by the domination of executive and legislative

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25 Francesca Grazian., Prison Overcrowding in Italy: The Never-Ending Story?, *Romanian Journal of Sociological Studies*, Vol.1, 2018, page. 53-68.

26 D. Chiriță., Overcrowding-Current Issues in Romanian Detention Centers. Causes, Effects, and Remedies. *Challenges of the Knowledge Society*, Vol.13 No.1, 2019, page. 33-37.

27 Hans Wolff, et. al., Self-harm and Overcrowding Among Prisoners in Geneva, Switzerland. *International Journal of Prisoner Health*, Vol.12 No.1, 2016, page. 39-44

28 Stéphanie Baggio, et. al., Association of Overcrowding and Turnover With Self-Harm in A Swiss Pre-Trial Prison. *International Journal of Environmental Research and Public Health*, Vol. 15 No.4, 2018, page. 601.

29 Esther F J C van Ginneken, et. al., An ecological analysis of prison overcrowding and suicide rates in England and Wales, 2000–2014. *International Journal Of Law And Psychiatry*, Vol.50 2017, page. 76-82.

30 Caroline Agboola., Conditions in South African women's prisons. *SA Crime Quarterly*, Vol.56, 2016, page. 19-26.

31 Erika Csemáné Váradi., Harmful effects of imprisonment, overcrowding in prisons-facts, reasons, and the way forward. *Central European Journal of Comparative Law*, Vol.1 No.1, 2020, page. 27-50.

32 Z. Grujić, and I., Milić, Prison Overcrowding–Mitigating the Consequences. In D. Kolarić, Dani Arčibalda Rajsa "Archibald Reiss Days". *Thematic Conference Proceedings of International Significance*, Vol.1, 2016, page. 286-295

33 James Pitts et. al., Contemporary Prison Overcrowding: Short-Term Fixes to A Perpetual Problem. *Contemporary Justice Review*, Vol.17 No.1, 2015, page. 124-139.

34 Delmiro Ximenes de Farias., Prison Overcrowding in Brazil: What Can the Judiciary Do? *Panorama of Brazilian Law*, Vol.6 No.9-10, 2018, page. 124-139.

to make regulations and laws.<sup>35</sup> Different from this opinion, according to Lis-Gutierrez, a government of a country has an important role to increase the number of convicts in prisons. As written in his paper, overcrowding could increase significantly when a government puts the politics of judiciary system into priority. Overcrowding may create some fundamental problems besides the development of convicts' behaviors. Those problems include the transmission of diseases due to unhealthy environment, ineffective programs run in prisons (education, vocational system, basic religious guidance, etc.), riots in prisons, and difficulties of prisons to make classifications (based on ages, sex, and committed criminals).<sup>36</sup>

These studies, spread from 2015 to 2020 and published in various international scientific journals, show that there is no single definition of overcrowding. Instead, definitions vary depending on the geographical context, academic perspective, and methodological approach of each author. However, the common thread that can be drawn is that overcrowding always refers to the number of prisoners exceeding the normal capacity of the prison, which has a negative impact on physical, psychological conditions, and the correctional management system. Most authors define overcrowding quantitatively, for example through a direct comparison between the number of inmates and the capacity of the prison (as explained by Pitts, van Ginneken, Di Vita, and Marco & García-Guerrero). This approach emphasizes spatial inequality, where the available space is insufficient to guarantee basic rights of prisoners, including hygiene, health, and privacy. On the other hand, some researchers such as Ruderman,<sup>37</sup> Simon, dan Nkosi & Maweni raises the definition of overcrowding from the perspective of quality of life and social implications, highlighting the negative impact on prisoner safety, the integrity of the justice system, and the emergence of a human rights crisis in prisons.

Research from countries like Nigeria, Italia, Columbia,<sup>38</sup> and United State<sup>39</sup> shows that overcrowding is not only a technical or administrative problem, but also the result of repressive law enforcement policies and criminal systems, such as long-term prison sentences, criminalization of minor offenses, and a lack of alternative non-custodial sentences. In fact, several articles link

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35 R. F. Geamănu., Legislative Measures on The Issue of Prison Overcrowding and Improper Material Conditions of Detention, Following the ECTHR Pilot-Judgment REZMIVES And Others Against Romania. *Challenges of the Knowledge Society*, 2018, page. 83-96.

36 Rais Gul., Overcrowding and its Impacts on the Reintegration of Prisoners in Selected Jails of Khyber Pakhtunkhwa, Pakistan. *Dialogue*, Vol.13 No.1, 2018, page. 41-52

37 Michael A. Ruderman., Does Prison Crowding Predict Higher Rates of Substance Use Related Parole Violations? A Recurrent Events Multi-Level Survival Analysis. *PLoS ONE*, Vol.10 No.10, 2015, page. 1-19

38 Viloría Silva Amelec Jesus, et. al., Overcrowding in prisons of Colombia (1991-2016). *Journal of Engineering and Applied Sciences*, Vol.12 No.11, 2017, page. 2846-2849.

39 Peter Hanna., Human cattle: Prison Overpopulation and The Political Economy of Mass Incarceration. *Themis: Research Journal of Justice Studies and Forensic Science*, Vol.4 No.1, 2016, page. 41-63

overcrowding to the bail system.<sup>40</sup> and the failure of the rehabilitation program,<sup>41</sup> which leads to reimprisonment or recidivism. Interestingly, some authors also highlight overcrowding as a structural and multidimensional problem, requiring cross-sectoral solutions, not just the addition of physical facilities. Proposed solutions include changes in sentencing policies,<sup>42</sup> expansion of community-based sanctions, as well as more comprehensive integration of rehabilitation and risk evaluation systems.<sup>43</sup>

Overcrowding is a disproportion of the number of convicts with the availability of facilities caused by several factors like a prisoning policy, incapability of penitentiary to give guidance and reintegration, and high rate of recidivisms. overcrowding prisoners only takes place in a region or country with a high rate of crime and incarceration. The easier a country to send crimes into a jail or the lower selection of law applied by the judiciary system to the crimes, the faster the overcrowding level to increase.

As reviewed by Hanna,<sup>44</sup> a high rate of mass incarceration has a significant contribution to overcrowding prisoners in many parts of the world. The mass incarceration does not only give an improvement to the desired crimes but also creates other enormous problems. Therefore, a perspective change to overcome and understand crimes is necessary; not only as a deviance that should be pressed but also an improvement potential that must be faced with restorative and rehabilitative actions. This then becomes a basis of overcrowding definition as stated by the author above. Less optimum restorative and rehabilitative efforts make the function of penitentiary decreased as a shelter of criminals without giving a change impact on either behaviors or thoughts.

Based on the characteristics and causes that are the basis of overcrowding in many countries as reviewed in some articles above, and therefore, prison overcrowding or overpopulation can be defined as an overpopulation condition or a high-rate occupied prison that exceeds the possible capacities, has a close relationship with the management and law systems of a country including the vocational policy and convicts' guidance after they are released or their punishments end. Obviously, the overcrowding condition or case could not be solved through a decision making or policy of a single perspective. Strong

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40 Marian R. Williams., From Bail to Jail: The Effect of Jail Capacity on Bail Decisions. *American Journal of Criminal Justice: AJCJ*, Vol.41 No.3, 2016, page. 484-497.

41 Andrew Day., At A Crossroads? Offender Rehabilitation in Australian Prisons. *Psychiatry, Psychology, and Law*, Vol.27 No.6, 2020, page. 1-11.

42 Mihaela Tomiță., Are the Community Sanctions and Measures the Key for Reducing the Prison Overcrowding? *Conference: Specto 2017 - International Conference Multidisciplinary Perspectives In The Quasi-Coercive Treatment Of Offenders - The Sixth Edition 2017*, 2019, page. 1-24

43 Maria Garro and Federica Ciriemi., The ECHR condemns prison overcrowding in Italy: The total reorganization of the institution and the social reintegration of the prisoner. *Journal of Prison Education and Reentry*, Vol.4 No.1, 2017, page. 24-28.

44 Peter Hanna., Human cattle: Prison Overpopulation and The Political Economy of Mass Incarceration. *Themis: Research Journal of Justice Studies and Forensic Science*, Vol.4 No.1, 2016, page.484-497.

collaboration from stakeholders and individuals to improve the judiciary system and create a general solution is necessary.<sup>45</sup>

The key issue of overcrowding in most prisons in the world is a prisoning or imprisonment policy that refers to the criminal law system in those countries that is not contributing nor giving solutions while they are still punitive without giving convicts a chance to improve their life quality, limited convict guidance system that can reduce the number of recidivisms, and inadequate application of vocational policy in the form of specific work guidance for convicts to make sure they receive a chance to get a job after released. In addition, it should be understood that the prison management is entirely emphasizing on a punitive impact and not put the outcome of restorative and rehabilitative guidance forward.<sup>464748</sup>

### **3.2 The Improvement of Scientific Capacity: Contribution and Research Finding**

In this part, the authors mainly focus on the contribution and research findings in particular the scientific capacity of overcrowding prisoners issue. Findings revealed that overcrowding is significantly affected by (a) the prisoning or imprisonment policy;<sup>49</sup> (b) the convict guidance system that could reduce the number of recidivisms;<sup>50</sup> and (c) the implementation of specifically skill vocational policy for convicts to make sure they receive a chance to get a job after released.<sup>51</sup> Those four variables will be discussed comprehensively so that they could give a description related to issues caused by the implementation of those variables making the author easily draw a conclusion and operative solution that is adaptive related to the abolition of overcrowding in many prisons in the world

#### **3.2.1 Prisoning or Imprisonment Policy: A Contribution or Solution**

The empirical evidence showed that a government has an important role to determine the occupancy rate of prisons. For example, when a country or

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45 David Weisburd and Badi Hasisi., The Winding Road to Evidence-Based Policy in Corrections: A Case Study of the Israel Prison Service. *Israel Law Review*, Vol.51 No.1, 2018, page. 111-125.

46 Vincent Ballon., Overcrowding: Nobody's Fault? When Some Struggle to Survive Waiting for everyone to take Responsibility. *International Review of the Red Cross*, Vol.98 No.903, 2016, page. 831-843.

47 Jenny Paola Lis-Gutiérrez, et. al., Overcrowding in prisons of Colombia (1991-2016). *Journal of Engineering and Applied Sciences*, Vol.12 No.11, 2017, page. 2846-2849.

48 Angie Wootton., AB 109 and Its Impact on Prison Overcrowding and Recidivism: A Policy Analysis. *Themis: Research Journal of Justice Studies and Forensic Science*, Vol.4 No.1, 2016, page. 99-112.

49 Evelyn J. Patterson, The Strategies, Complexities, and Realities of Zero Prison Population Growth. *Social Sciences*, Vol.6 No.2, 2017, page. 60.

50 Jason Rydberg and Eric Grommon., A Multimethod Examination of the Dynamics of Recidivism During Reentry. *Corrections: Policy, Practice and Research*, Vol.1 No.1, 2016, page. 40-60

51 Ruthie G. Williams and Elsie W. Smalls., Exploring a Relationship between Parental Supervision and Recidivism among Juvenile Offenders at a Juvenile Detention Facility. *International Social Science Review*, Vol.90 No.2, 2015, page. 1-22



region applies a regulation aimed at implementing a punitive law, the level of overcrowding will be higher. A law should be made create a development function. It is not only a social development but also the perspective development to the criminals. Therefore, criminals should not always be seen as individuals with lower social values or positively contributive to the community but they should be seen to give a positive contribution to the community. A judiciary policy should be directed to the community service punishment, improvement of law capacity, and professionalism and prison management optimization.<sup>52</sup> As stated by Tomita,<sup>53</sup> a highly positive development in the prison management will take place when there are a constructive change in the prison management and a restorative change in the judiciary system. These changes give not only a positive impact on the prison management but also a decrease of judicial procedural costs and other costs caused by the punishment periods.

Dey Ravena reported that it is necessary to have a concrete and operative policy in the form of exaggerating prisoning policy while other options that should not be a jail punishment is possible since it will give a physical and psychological impact to the convicts. In addition, the other preventive efforts are needed like building new prison facilities with a more restorative and rehabilitative imprisonment system that could fulfil the convicts' needs entirely, reform the management system by improving the integrity of warders, improve the frequency and effectiveness of training systems, and optimize the welfare of staff.<sup>54</sup>

From the description about the imprisonment policy that is obtained from the collected findings, it could be said that it is necessary to have a strong effort of a government or other authorized stakeholders to make a regulation and law about the imprisonment and prison management leading to a revolution and huge breakthrough related to the imprisonment policy and criminal behaviors. an administrative solution and legislative practice taken based on a restorative and rehabilitative basis could be a significant asset to make corrections, revolutionary steps, and important breakthroughs. The Indonesian populace maintains a profound connection between the state and religion, anchored in the One Godhead, which constitutes the foremost principle of Pancasila,<sup>55</sup> implementation of imprisonment (correctional) is a systemic series that cannot be separated from the criminal law system as a manifestation and

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52 Edison Kwame Agbesi., Causes and Effects of Overcrowding at Prisons: A Study at the Ho Central Prison, Ghana. *Public Policy and Administration Research*, Vol.6 No.5, 2016, page. 1-11.

53 Mihaela Tomita, et. al., Are the Community Sanctions and Measures the Key for Reducing the Prison Overcrowding, *Multidisciplinary Perspectives in the Quasi-Coercive Treatment of Offenders. Mass Supervision*, Bologna: Filodiritto Editore-Proceedings, 2017, page. 94-100

54 Dey Ravena and Ade Mahmud., The Implications of Overcrowding for Fostering Prisoners in Prison: Management and Systems Problems. *Journal of Southwest Jiaotong University*, Vol.54 No.5, 2019, page. 1-9

55 Andri Winjaya Laksana, Hendro Widodo, & Dian Pramana., Critical Opinion Paradigm Regulation of Criminal Actions of Drug Abuse Through Religious Rehabilitation Based on the Legal System, *Media Iuris*, Vol.7 No.3, 2024, page.01-416.

implementation of faith in God almighty as a consequence of the establishment of Pancasila as the source of all sources of law and law enforcement that is oriented towards, for the sake of justice based on God almighty. implementation of criminal punishment with a correctional system is oriented towards improving the perpetrator which reaches the aspect of improving relationships with God, humans or fellow creatures, and with oneself which in the end can be a means of erasing guilt/sin and forming an attitude of repentance *nashuha*, namely an attitude of regret and having strong personality integrity to live a better social life.<sup>56</sup>

One of the concrete implementations of administrative solution in a judiciary system is the replacement of imprisonment punishment of a light crime to a financial penalty and social punishments (like monitored social work at governmental offices i.e. an orphanage, nursing home, social work as a cleaning service officer, and the court order to take a rehabilitation program for the drug criminals). In addition, the imprisonment punishment for the light crime with economic need could be replaced by a *mandatory upskilling* based on a court ruling so that those light criminals will not only stop their crimes but also have a capability to improve their economic and social independently. Therefore, besides giving a deterrent effect, the given punishment could give a positive effect to the institution where the social punishment is applied while it will reduce the number of convicts in the prisons. A wider perspective related to the criminals and options to applied punishments are needed. Chiriță says that the administrative solution to the criminals could give a positive impact to an effort to reduce the number of overcrowding prisoners.<sup>57</sup>

### 3.2.2 Recidivism: A Convict Guidance System To Reduce The Number Of Recidivisms

The empirical evidence indicated that, it could not be denied that recidivisms and convicts returning to prisons have given a significant load to overcrowding prisoners. The percentage of reintegrated convicts that are finally involved in their previous crimes or the new ones has reached a concern level. Generally, convicts that have completed their punishment period and are then released tend to break law and become recidivisms.<sup>5859</sup> Based on this research result, it could not be denied this current prison management possibly leads to recidivisms to take place.<sup>60</sup> A high rate of recidivisms indicates that prison management system still has some weaknesses and the reintegrated program

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56 Mudzakkir., Model Pemasyarakatan Yang Ideal, Konsep Pembinaan Narapidana Ideal, Kajian Komparasi Hukum Islam, *Jurnal Hukum*, Vol.2 No.4, 1995, page.31-44

57 D. Chiriță., Overcrowding-Current Issues in Romanian Detention Centers. Causes, Effects, and Remedies. Challenges of the Knowledge Society, Vol.13 No.1, 2019, page. 34-37.

58 Natalie Goulette, et. al., Exploring Judicial Discretion and Correctional Policy in the Practice of Violation of Probation Holds in One Unique County Facility in Northwest Florida. *Corrections: Policy, Practice and Research*, No.5, 2018, page. 333-350

59 Jordan Papp, et. al., Timing of Prison Programs and the Odds of Returning to Prison. *Corrections: Policy, Practice and Research*, Vol.6 No.2, 2019, page. 124-149

60 Lacey Schaefer., Correcting the "Correctional" Component of the Corrections Officer Role: How Offender Custodians Can Contribute to Rehabilitation and Reintegration. *Corrections: Policy, Practice and Research*, Vol.3 No.1, 2017, page. 38-55.

and guidance given to convicts do not give a positive impact to the behavior development of convicts. The number of recidivisms that takes place in the prison management is caused by a low capacity and initiative of prisons to give specific work guidance before the reintegration process is conducted.<sup>6162</sup>

In the recidivism case, the legislative party should become a contributor that affects the number of convicts in prisons. One of the crimes that need an improvement and management action is the drug crime. The drug criminals in general do not need to be imprisoned. They need a rehabilitation and optimum work opportunity. Meanwhile, the government generally sends the drug criminals into jails where they are one of the contributors of overcrowding. A high level of seriousness to make this restoration is essential so that the drug criminals will receive not only a punitive punishment but also rehabilitation. Graziani added that the number of drug users should be saved through a rehabilitation program, work opportunity, and social guidance so that they should not become individuals trapped in the recidivism circle since the prisoning policy will not lower their impulse to keep using drugs.<sup>63</sup>

The restorative law enforcement is not definitely the responsibility of legislative and executive as the policy and law makers as well as the judicative as the accomplisher. The contribution from the community is essential as the judiciary facilitator, crime victims and their families, criminals and their families, and the community as important part of the social correction process to reduce the number of recidivisms since they are the overcrowding contributor.<sup>64</sup> As a whole, the community plays an important role in the judiciary correction process, justice, security, welfare, and restorative and rehabilitative values in the community. The formulation of preventing recidivism can be implemented through punishment, known as prevention theory. This approach can be viewed from two perspectives: general prevention and specific prevention. By imposing criminal penalties, it is hoped that individuals with the potential to commit crimes will be influenced and restrained out of fear of the consequences. Meanwhile, specific prevention is aimed at the perpetrators themselves, preventing them from repeating their previous crimes. When linked to the concept of recidivism, increased punishment is expected to have a special

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61 Karin Beijersbergen, et. al., Procedural Justice, Anger, and Prisoners' Misconduct: A Longitudinal Studi. *Criminal Justice and Behavior*, Vol.42 No.2, 2014, page. 196-218.

62 Lisa M. Carter., "All They Do Is See the Charge": Reentry Barriers and Correctional Programming Needs of Women Returning to Society after Incarceration. *Corrections: Policy, Practice and Research*, Vol.4 No.4, 2017, page. 272-301.

63 F. Graziani., Prison Overcrowding in Italy: The Never-Ending Story? *Romanian Journal of Sociological Studies*, Vol.1, 2018, page. 53-68.

64 Macpherson Uchenna Nnam., Responding to The Problem of Prison Overcrowding in Nigeria Through Restorative Justice: A Challenge to The Traditional Criminal Justice System. *International Journal of Criminal Justice Sciences*, Vol.12 No.1, 2017, page. 177-186.

deterrent effect on convicts or former convicts, namely, deterring them from repeating crimes, as this would imply increased sentences.<sup>65</sup>

### 3.2.3 The Implementation of Vocational Policy: Specific Skill Guidance for Convicts to Ensure a Work Opportunity Post Detention

A prison should have a strong rehabilitative function besides its functions as the incarceration and correction institution of criminals and their behaviors.<sup>66</sup> To make that function work, convicts should be guaranteed to receive a good environmental condition that will not harm physically or mentally while ensuring they receive a structural condition guarantee and fulfilment of their basic needs. Overcrowding in prisons has decreased its function so that the effectiveness of rehabilitative and restorative functions could not be reached optimally.<sup>67</sup>

Hathazy found that current prisons did not only give a deterrent effect but another effect better than that like the social correction and welfare improvement of individuals in the community.<sup>68</sup> The efforts to reduce the prison population reaching below the overcrowding level are not only about decreasing the costs but improving the creation of humanity quality of convicts. Dünkel reported that the decreasing amount of prison population did not only lighten the government expenditure but also gave a humanitarian function by improving the life quality of convicts in prisons.<sup>69</sup>

To minimize the amount prisoners population, it is crucial to change not only the rehabilitative and restorative law but also the revision of vocational systems and prisoners guidance become an essential aspect to keep the number of prisoners at the desired point. Jolley emphasized that life skills (ability to socialize and get involved in an organization) and working skills (computer skills, crafting, carpentry, etc.) should appropriately receive a significant portion in the rehabilitation and vocational process of convicts before they are involved in the reintegration process.<sup>70</sup> However, the applied programs should be surely adjustable to the social dynamics outside the prisons so that the guidance can give a significant effect mainly to the guidance type and time run before the

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65 Busthomi Arifin, Rayhan Afief Arfarizky, Rusmilawati Windari., Perbandingan Konsep Recidive dalam Undang-Undang Nomor 1 Tahun 2023 dengan Criminal Act of South Korea, *Jurnal Kertha Patrika*, Vol.45 No.2, Agustus 2023, page. 185-200

66 A. Marco dan J. García-Guerrero., Prison Overcrowding and Over-Occupation: What We Are Talking about and The Situation In Spanish Prisons. *Sanidad Penitenciaria*, Vol.50 No.3, 2020, page. 1.

67 Jonathan Simon., Penal Monitoring In The United States: Lessons From The American Experience And Prospects For Change. *Crime, Law and Social Change*, Vol.70 No.1, 2018, page. 161-173.

68 Paul Hathazy., Remaking The Prisons Of The Market Democracies: New Experts, Old Guards And Politics In The Carceral Fields Of Argentina And Chile. *Crime, Law and Social Change*, Vol.65 No.3, 2016, page. 163-193.

69 Frieder Dünkel., European penology: The Rise and Fall Of Prison Population Rates in Europe in Times of Migrant Crises and Terrorism. *European Journal of Criminology*, Vol.14 No.6, 2017, page. 629-653.

70 Michelle Jolley., Rehabilitating Prisoners: The Place of Basic Life Skills Programmes. *Safer Communities*, Vol.17 No.1, 2018, page. 1-10.

integration process without creating a new issue to the prison management like a huge management cost.<sup>71</sup>

From the provided empirical data, the author found some important points that, besides the improvement of prison management, some correction and restorative programs are needed by convicts before the reintegration process to minimize the number of recidivisms. The other solution offered by the author is the system change of convict guidance and vocation to return to the community and give a positive contribution to the community too. Clearly, to make this change happen, the change of community mindset to receive convicts and its perspective to convicts and prison management system are significant.

### **3.3 Implication on the prison management as a whole and the potential of future research**

This systematic review result indicates that the difficulty of penitentiaries and their management (governments, privates, and public) to tackle overcrowding is caused by inability to define overcrowding itself. The unavailability of consensus related to the definition of overcrowding has made penitentiaries put the contributing causes of overcrowding away and they focused only one perspective of prevention. Therefore, a holistic overview that covers all perspective from contributors is needed so that solving this issue will not only create a partial solution that cannot be used again because of temporary characteristic.

From the available empirical evidence, it should be understood that not all articles provide recommendations for future research. Concerning with the importance of future research about overcrowding, the author recommends a field-based study to support data obtained from collected paper in this review research to understand the root problem of overcrowding in several prison facilities apart from the type of prisons and the population occupy them. One of the samples that can be a basis of future study is the paper written by Graziani, In his paper, it is said that overcrowding cases in some prison facilities in Italy are difficult to be solved and not having a solvable point.<sup>72</sup> In addition, he said that overcrowding did not only come from the weak rehabilitation system but also the weak initiative of legislative and executive to make corrections. This could be a basis to conduct research based on the perspective of policy making so that the regulation and system applied in the prison management will not only give a deterrent effect but also a restorative impact that cannot reduce the number of crimes but improve a potential of convicts to give good benefits socially and economically when they are entering the reintegration step.

Dunkel and Chirita D found a decreasing phenomenon of prison population that is still a mystery until now. It is difficult to determine whether this prison population decrease is caused by the policy enforcement or social change in the

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71 Stephanie A. Duriez, et. al., The Evolution of Correctional Program Assessment in the Age of Evidence-Based Practices. *Corrections: Policy, Practice and Research (Online)*, Vol.3 Issue.2, 2017, page. 119-136

72 F. Graziani., Prison Overcrowding in Italy: The Never-Ending Story? *Romanian Journal of Sociological Studies*, Vol.1, 2018, page.53-68

context of welfare improvement leading to a decrease of crime level. With the information weakness in this research, the future research referring to community social perspective or approach becomes important to understand the indicator of decreasing prison population. Therefore, the research about overcrowding and practical solution to the decrease of overcrowding becomes wider. The other perspectives are also needed to give a holistic description about the convict population in prisons.

However, there is some other research that gives a recommendation as a result of conducted field review. Marco & Garcia Guerrero expressed that apart from the unavailability of apparent consensus about a minimum room that should be provided to convicts leading to overcrowding, it was necessary to have a strong restorative effort to manage prisons so that convicts are not only involved in the punishment process but also receiving a mental and social development in prisons until they are returned to the community. One of the other research written by Kim also recommends several things, which are; (a) further research about the relations between mental health and imprisonment system; (b) collecting alternative data related to the imprisonment mainly about overcrowding in the world; and (c) the use of the analytical tool of cross sectional to make a comparison about gained overcrowding data in many prisons leading to an operative conclusion.

The findings of this research reveal that prison management continues to emphasize punitive measures rather than prioritizing restorative and rehabilitative approaches. Convicts are often perceived as a social burden that must be separated from the community, which reflects an outdated perspective on incarceration. Such an approach fails to deliver the expected outcomes of correctional facilities, namely behavioral transformation and personal development that contribute to broader social change.

Consequently, prison management systems must be redirected toward restorative and rehabilitative perspectives. This includes adopting approaches that focus on correcting convicts' behaviors through psychological guidance and equipping them with adaptive skills. Such strategies ensure that reintegration is not merely about transferring responsibility to the community but also about enabling convicts to add positive value to social development.

Based on these findings, recommendations for addressing the issue of overcrowding include correcting imprisonment policymaking processes and adopting crime control measures rooted in restorative and rehabilitative regulations. Examples include rehabilitation programs for drug offenders, alternative penalties to replace imprisonment, the implementation of open prisons, and social monitoring sanctions. Furthermore, efforts must be made to reduce recidivism rates, which significantly contribute to overcrowding, and to deepen understanding of rehabilitative and restorative measures such as vocational training, behavioral guidance, skills development, community reintegration, and improving societal perceptions of convicts as key factors influencing behavioral change.

The novelty of this research lies in its integrated perspective, which connects prison overcrowding with the broader need for systemic reform in correctional philosophy. Rather than focusing solely on structural capacity or legal procedures, this study emphasizes behavioral correction, adaptive capacity building, and community-based reintegration as central strategies. This unique approach positions overcrowding not only as a logistical issue but also as an opportunity to transform correctional systems into engines of social progress.

#### **4. Conclusion**

The results of this systematic review show that empirical evidence on the problem of prison overcrowding is still unable to provide concrete and operative solutions, because the definition is still general, flexible, and there is no strong consensus globally. This difference in understanding causes the resulting solution to be partial and does not touch the root of the problem as a whole. Previous studies have discussed more about the impacts of overcrowding such as sexual violence, health problems, and disease transmission without focusing directly on the root of the problem of overcrowding itself, which is actually also influenced by legal policies, availability of facilities, and the legal approach applied (punitive or restorative). A holistic understanding and sharp applicative definition are needed to form the basis for adaptive and consistent solutions. This study also recommends improving criminalization policies, strengthening rehabilitative and restorative approaches, and efforts to reduce recidivism. However, this study does not yet describe the current conditions in the field, so it is recommended that further research be based on the latest field perspective by making this study the initial foundation

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