

## COMPARATIVE ANALYSIS OF CORRECTIONAL SYSTEMS IN THAILAND AND INDONESIA ADDRESSING PRISON OVERCROWDING

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**Abstract.** Overcrowding in correctional institutions significantly affects the effectiveness of inmate rehabilitation, human rights protection, and social reintegration, particularly in Indonesia and Thailand. This study aims to analyze the regulatory framework and implementation of correctional systems in both countries and conduct a comparative analysis to identify best practices. The research uses a normative juridical method with descriptive-comparative approaches (statute approach and comparative approach), utilizing primary, secondary, and tertiary legal materials as well as library research. The results indicate that Indonesia, through Law No. 22 of 2022 on Corrections and the new Criminal Code, regulates assimilation, integration, and community service as alternative punishments, yet implementation is limited due to overcrowded prisons and insufficient community involvement. Thailand, through the Probation Act B.E. 2522, Corrections Act B.E. 2560, and Narcotics Act B.E. 2522, effectively supports community-based corrections, open prisons, halfway houses, and official volunteer supervision. The effectiveness of correctional systems depends on the alignment of legal norms, institutional capacity, and community participation.

Keywords: Corrections, Overcrowding, Indonesia, Thailand, Community-Based Corrections.

### I. INTRODUCTION

The conception of the rule of law embraced by Indonesia, as reflected in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, positions law as the primary foundation in the administration of state affairs. In the realm of criminal law, punishment is no longer understood merely as an instrument for imposing sanctions on violations of legal norms, but has evolved into a means of protecting society, maintaining social stability, and serving an educational function for convicted persons in order to restore their sense of civic responsibility. Consequently, correctional institutions hold a strategic role as executors of criminal judgments oriented toward the guidance, rehabilitation, and social reintegration of inmates.[1]

The transformation of modern legal thought has shifted the orientation of punishment from a retributive model centered on retaliation toward a rehabilitative and reintegrative approach. Prisons are no longer viewed solely as spaces of isolation and penal sanction, but rather as laboratories of correction aimed at reweaving social ties between offenders and their communities. This paradigm emphasizes that the ultimate objective of the criminal justice process lies in the successful reintegration of former inmates into society, beyond the mere infliction of penal suffering.

The new Indonesian Criminal Procedure Code (KUHAP) under Law Number 20 of 2025 establishes a normative framework that prioritizes the protection of suspects and

defendants' rights, the principle of detention as a last resort, and the use of non-custodial or rehabilitative sanctions through community-based corrections. However, Indonesia continues to face severe prison overcrowding, with total inmates far exceeding official capacity—for example, as of mid-2025 the prison and detention population reached approximately 281,762 against an ideal capacity of around 146,260, reflecting over-capacity of about 93 %. This situation undermines rehabilitation and reintegration objectives, in contrast to Thailand's more structured corrections reforms and community-oriented programs.

Indonesia is currently facing an increasingly severe correctional capacity crisis, in which the number of inmates and detainees far exceeds the ideal capacity of existing facilities. This problem is largely driven by the dominance of imprisonment as the primary form of punishment, without adequate support for alternative sanctions and rehabilitative programs. As a result, the quality of inmate guidance declines and welfare conditions within prisons deteriorate. Although various policies such as assimilation, integration, parole, and restorative justice initiatives have been introduced, their limited implementation has meant that the overcrowding problem has not been significantly resolved.[2]

By way of comparison, Thailand has also faced persistent prison overcrowding, with the inmate population reaching 277,475 by the end of 2024 against an official capacity of 248,330 (approximately 12 % overcapacity), increasing to

around 280,790 inmates in early 2025, with the majority convicted of drug-related offenses. In response, Thailand has pursued correctional reform through the strengthening of a community-based corrections system under the Corrections Act B.E. 2560 (2017) and the Probation Act B.E. 2559 (2016), expanding non-custodial measures such as probation, open prisons, Volunteer Probation Officers, and halfway houses. This community-oriented approach has contributed to reducing custodial reliance while reinforcing rehabilitation and social reintegration, supported by active public participation in supervising low-risk offenders outside prison facilities.

This research aims to examine the regulation of the correctional system in Indonesia in addressing the issue of correctional facility overcrowding. In addition, it analyzes the regulatory framework and practical implementation of the correctional system in Thailand in dealing with similar challenges, which are subsequently assessed through a comparative approach. Through this analysis, the study is expected to contribute academically to the development of legal scholarship and to serve as a reference in the formulation of correctional policies oriented toward humanitarian values, legal certainty, and the objectives of rehabilitation and social reintegration..

## II. RESEACH METHODS

Research methodology can be understood as the means of identifying topics and titles within a study. Essentially, research methodology constitutes the science that governs the systematic conduct of legal research, providing guidance for researchers in examining, analyzing, and understanding the object of study. (Sihombing and Hadita, 2022) This research employs a normative legal research approach, focusing on literature and the examination of primary and secondary legal sources. The study positions law as a normative system by discussing doctrines and principles of legal science. Normative legal research emphasizes the inventory of positive law, legal principles and doctrines, legal discovery in concrete cases, legal systematics, the degree of legal synchronization, comparative law, and legal history. The data sources used in this study are secondary data derived from official documents, books, and research reports.[3]

## III.RESULTS AND DISCUSSION

### *Regulation and Implementation of the Correctional System in Indonesia.*

Indonesia is among the countries facing serious problems related to the overcrowding of correctional institutions. Correctional facilities (Lembaga Pemasyarakatan/Lapas) constitute an essential component of the correctional system and function as the primary medium through which correctional officers carry out inmate rehabilitation and guidance. The emergence of problems within correctional institutions is not solely attributable to errors or shortcomings on the part of correctional officers; rather, it arises from a complex interaction between the regulatory framework,

practical implementation, and various institutional limitations.[4]

The existence of Indonesia's correctional system is currently at a critical juncture due to the phenomenon of excessive inmate density that exceeds reasonable capacity limits, commonly referred to as overcrowding. According to the latest statistics released by the Directorate General of Corrections, in 2023, a total of 526 correctional facilities and detention centers across the country had an ideal capacity of only 140,424 individuals. However, the actual inmate population reached 265,897 persons, reflecting a population surplus of nearly 89%. This alarming trend continued into 2025, with the number of inmates increasing to approximately 275,760 individuals. Such conditions generate various negative implications, including reduced effectiveness of rehabilitation programs, heightened levels of stress and violence among inmates, and increased pressure on the state budget. Although Indonesia has implemented several rehabilitation programs such as assimilation, integration, and community service, these measures remain largely centered on a closed prison system, with relatively limited community involvement.

From a regulatory perspective, reforms in Indonesia's correctional law demonstrate a progressive orientation, although they have not been fully matched by effective implementation. Law Number 22 of 2022 on Corrections, which replaced Law Number 12 of 1995, affirms a paradigm shift toward restorative justice by positioning rehabilitation and social reintegration as the primary objectives of punishment. The strengthening of assimilation, integration, and parole mechanisms through the role of the Correctional Center (Balai Pemasyarakatan/Bapas) within the community corrections framework is normatively expected to reduce overcrowding pressures in correctional institutions.[5]

However, in practice, the optimization of these mechanisms continues to face structural constraints, including the limited number and capacity of probation officers, as well as resistance among law enforcement authorities to non-custodial approaches. This reform direction is further reinforced by the enactment of the National Criminal Code (Law Number 1 of 2023), which explicitly recognizes community service as a principal form of punishment under Article 64(f) and provides avenues to avoid short-term imprisonment through alternative sanctions for minor offenses. In addition, Articles 71 to 73 of the National Criminal Code establish sentencing guidelines that emphasize the principle of individualized punishment, requiring judges to consider the degree of culpability, motive, personal circumstances of the offender, and the impact of sentencing on the offender's future. Moreover, the new Criminal Procedure Code under Law Number 20 of 2025, particularly Articles 26, 27, and 270–283, affirms detention as a measure of last resort and regulates mechanisms for supervision and rehabilitation outside correctional facilities, thereby providing a normative foundation for the more systematic and equitable implementation of community-based corrections.

Furthermore, the optimization of the Correctional Center (Bapas) through Community Counselors (Pembimbing Kemasyarakatan) within the community corrections framework represents a form of non-custodial procedure

supported by Law Number 22 of 2022. In practice, however, the optimization of this mechanism continues to face structural challenges, including the limited number and capacity of community counselors, as well as resistance among law enforcement officials toward non-custodial approaches. This reform direction is further reinforced by the enactment of the National Criminal Code (Law Number 1 of 2023), which explicitly recognizes community service as one of the principal forms of punishment under Article 64 letter (f), and provides opportunities to avoid short-term imprisonment through alternative sanctions for minor offenses. Articles 71 to 73 of the National Criminal Code further establish sentencing guidelines emphasizing the principle of individualized punishment, requiring judges to consider factors such as the degree of culpability, motive, personal circumstances of the offender, and the impact of sentencing on the offender's future.[6]

Normatively, these provisions signal the need to reduce reliance on short-term imprisonment and encourage the use of alternative sanctions. However, the effectiveness of these principles in practice largely depends on technical readiness and institutional capacity at the execution stage of punishment, particularly under the authority of the Ministry of Law and Human Rights. At the implementation level, although Minister of Law and Human Rights Regulation Number 3 of 2018 provides detailed requirements and procedures for assimilation as an instrument of community corrections, its application remains largely administrative and has not been fully oriented toward the substantive goal of social reintegration. Limitations in the number and capacity of community counselors, weak coordination among subsystems of the criminal justice system, and the absence of continuous evaluation mechanisms have prevented assimilation policies from functioning optimally as tools for controlling inmate population levels. As a result, regulatory reforms intended to reduce the use of imprisonment have not yet made a significant contribution to alleviating overcrowding in correctional institutions.[7]

This condition is reflected in various policies adopted by the Indonesian government to address overcrowding, including assimilation, integration, parole, and the application of restorative justice in certain cases. Nevertheless, these policies have not produced a significant impact on reducing occupancy rates in correctional facilities. This is largely due to Indonesia's sentencing system, which remains dominated by an imprisonment-based and retributive paradigm, resulting in inmate populations that consistently exceed ideal capacity levels.

In this context, community-based alternative sentencing mechanisms such as community service, supervision outside correctional institutions, and community-based monitoring—have not yet developed systematically and remain largely confined to the scope of Correctional Centers. Consequently, inmate rehabilitation in Indonesia remains predominantly institution-centered rather than community-based, contrary to the spirit of social reintegration mandated by legislation. In fact, the reintegration of former inmates into society plays a strategic role in reducing social stigma and strengthening the rehabilitative function of the correctional system. Therefore, the development of community-based rehabilitation programs

has become an increasingly relevant approach to enhancing correctional effectiveness and reducing overcrowding pressures. This reality underscores the need for comparative studies of correctional practices in other countries as conceptual and policy references for reform and evaluation of Indonesia's national correctional system.

#### *Regulation and Implementation of the Correctional System in Thailand.*

Overcrowding in correctional institutions is a phenomenon also experienced by several other countries, albeit with varying degrees of severity and characteristics. Thailand, for instance, continues to face significant overcrowding pressures, although not as acute as those in Indonesia. Data from the Thai Department of Corrections as of early 2025 indicate that the inmate population stood at approximately 280,790 individuals, while the official capacity of correctional facilities was around 248,330, exceeding ideal capacity by roughly 13%. Moreover, approximately 71% of correctional institutions in Thailand operate above capacity, with the majority of inmates serving sentences related to narcotics offenses. This condition demonstrates that overcrowding is both structural and systemic. Nevertheless, Thailand has simultaneously developed rehabilitative policies as a mechanism to control prison population levels, particularly by diverting drug offenders to rehabilitation programs as an alternative to imprisonment. The *Thailand Annual Prison Report 2025* records that in 2024 approximately 152,116 individuals were diverted to drug rehabilitation through voluntary and community-based mechanisms. This diversion policy plays a significant role in reducing the inflow of new inmates and constitutes a key component of Thailand's strategy to alleviate prison overcrowding.[8]

In response, various countries have sought to transform their correctional systems by introducing more open, humane, community-based models that also leverage technological advancements. Thailand is regarded as one of the ASEAN countries that has been relatively successful in implementing such a model. Through the Corrections Act B.E. 2560 (2017) and the Probation Act B.E. 2559 (2016), Thailand has developed a community-based corrections system that explicitly regulates the application of open prisons—facilities without strict supervision that allow low-risk inmates to work outside correctional institutions. Additionally, Thailand has established a system of Volunteer Probation Officers (VPOs), community volunteers officially appointed to guide and supervise offenders serving probation or parole. Furthermore, Thailand has developed halfway houses as transitional residences for inmates recently released from prison, enabling them to prepare for full reintegration into society. These systems allow minor offenders to serve sentences outside prison through mechanisms such as probation, community service, restorative programs, and rehabilitation camps, with direct community involvement.[9]

The success of Thailand's community-based correctional system demonstrates that active community participation and non-custodial mechanisms can serve as strategic instruments in reducing overcrowding pressures. Community-based corrections programs, including the roles of Volunteer Probation Officers and halfway houses, enable offenders to undergo gradual and structured rehabilitation while

maintaining social ties. This approach emphasizes humanistic principles in punishment, focusing on rehabilitation and social reintegration. Nevertheless, despite its relative success, limitations in human resources, infrastructure, and program coverage mean that certain categories of offenders particularly those convicted of serious crimes or narcotics offenses must still undergo strict incarceration, leaving correctional capacity under continued structural pressure.

Overall, Thailand's experience illustrates that the implementation of community-based corrections has the potential to enhance correctional effectiveness by emphasizing rehabilitation, social reintegration, and community involvement, while simultaneously alleviating occupancy pressures in correctional institutions. However, the success of this model remains contingent upon institutional readiness, human resource capacity, and inter-agency coordination. These findings affirm that correctional reform is not solely a matter of legal regulation, but also of consistent technical implementation and active community engagement. By understanding both the strengths and limitations of Thailand's system, other countries facing overcrowding challenges may develop adaptive strategies to establish more humane, rehabilitative, and socially integrative correctional mechanisms.[10]

*A comparison of the protection of suspects' rights under Comparative Study of the Regulation and Implementation of Correctional Systems in Indonesia and Thailand.*

A comparison of the regulation and implementation of correctional systems in Indonesia and Thailand reveals not only normative differences but also underscores that the effectiveness of community-based corrections is strongly influenced by technical conditions and operational capacity within each country. In Indonesia, community-based corrections have been positioned as an important instrument for addressing overcrowding and maximizing social reintegration, as reflected in community-supervised rehabilitation models, employment opportunities for inmates, and minimal supervision for low-risk cases.[11]

First, in terms of legal regulation, Indonesia has established the legal basis for community-based correctional programs through Law Number 22 of 2022 on Corrections, the National Criminal Code (Law Number 1 of 2023), and Regulation of the Minister of Law and Human Rights Number 3 of 2018 on the requirements and procedures for granting assimilation, remission, leave, and parole. These provisions provide a foundation for the implementation of community-based corrections and affirm the rehabilitative and reintegrative objectives of punishment. Meanwhile, in Thailand, a comparable legal framework is found in the Corrections Act B.E. 2560 (2017) and the Probation Act B.E. 2559 (2016), which normatively legitimize the use of open prisons, supervision by Volunteer Probation Officers, halfway houses, and probation or other non-custodial sanctions. Both legal frameworks explicitly emphasize rehabilitation, social reintegration, and community involvement as core elements of correctional strategy, while providing a legal basis for reducing prison overcrowding.

The most significant differences emerge at the implementation stage. In Indonesia, despite a supportive legal

framework, community-based corrections remain limited to Correctional Centers and administrative programs such as assimilation, leave, and parole, constrained by a shortage of community counselors and weak evaluation mechanisms. Consequently, a predominantly retributive sentencing orientation continues to prevail, contributing to severe prison overcrowding: as of July 2025, prisons and detention centers operated at approximately 93 % overcapacity, housing more than 281,762 inmates against an official capacity of 146,260. This overcrowding is largely driven by drug-related (47.7 %) and theft offenses (20.3 %), indicating that many low-risk offenders who could be managed through non-custodial or community-based rehabilitation remain subject to imprisonment.

In contrast, Thailand implements community-based corrections in a more systematic and structured manner. Through the Corrections Act B.E. 2560 (2017) and the Probation Act B.E. 2559 (2016), Thailand formally legitimizes open prisons, halfway houses, and supervision by Volunteer Probation Officers. This mechanism allows low-risk offenders to undergo rehabilitation while remaining connected to the community, thereby reducing pressure on prison capacity. Official data show that drug-related offenses dominate Thailand's prison population, accounting for approximately (73–80 %) of inmates, while the remaining (20–27 %) consist of other offenses. This pattern confirms that narcotics cases are the primary driver of overcrowding, underscoring the critical importance of community-based correctional reforms in effectively alleviating prison capacity pressures.[12]

Beyond implementation differences, the legal frameworks of both countries exhibit distinct characteristics. Indonesia's regulatory regime emphasizes rehabilitation, reintegration, and reduced reliance on imprisonment through assimilation and conditional release mechanisms, while Thailand's framework provides broader legitimacy for non-custodial instruments such as open prisons, halfway houses, and volunteer-based supervision. Although both systems highlight rehabilitation and social reintegration, Thailand's monitoring mechanisms are more formalized and systematic, contributing to more consistent implementation.

Operationally, Indonesia continues to face limitations in human resources, budgetary support, and institutional capacity, restricting the reach of community-based supervision. Thailand, by contrast, has more effectively leveraged community involvement and sustained supervision, enabling non-custodial programs to function more efficiently. Nevertheless, both countries encounter similar challenges, including social acceptance of alternative sanctions, institutional readiness, and legal culture constraints.

Differences are also evident in the effectiveness of rehabilitation and social reintegration. Indonesia tends to focus more on administrative compliance and population control, whereas Thailand emphasizes offender participation in community service, vocational training, and direct community monitoring, thereby strengthening tangible social reintegration. This comparison illustrates that the success of community-based corrections depends not merely on regulatory design, but on how policies are technically implemented and socially embraced.[13]

Comparatively, the experiences of both countries highlight the need for a balanced approach integrating legal legitimacy, technical capacity, and community involvement. Correctional reform must account for structural, cultural, and social factors to ensure that rehabilitative programs operate effectively and reduce prison overcrowding without compromising inmate rights or public safety.[14]

Such a balanced approach underscores that the success of community-based corrections relies on a clear and supportive legal framework for non-custodial instruments, adequate technical and institutional capacity including human resources, funding, and inter-agency coordination and active community participation as supervisors and mentors, which is essential for successful social reintegration. This strategy must maintain equilibrium between offender rehabilitation, protection of rights, public safety, and effective population control, ensuring that rehabilitative programs deliver tangible and sustainable reductions in correctional overcrowding. By understanding both best practices and limitations in Indonesia and Thailand, policymakers can formulate adaptive strategies to develop a more humane, rehabilitative, and sustainable correctional system.

#### IV. CONCLUSIONS

Indonesia and Thailand both face challenges in managing prison populations, although the characteristics and effectiveness of their correctional policies differ. Indonesia has begun to adopt community-based corrections, but implementation remains limited and uneven across prisons and detention centers, with continued reliance on imprisonment constraining effective rehabilitation and social reintegration. In contrast, Thailand has been more successful in managing prison capacity despite a relatively large inmate population, due to the systematic application of community-based penal policies such as open prisons, halfway houses, probation, and supervision by Volunteer Probation Officers. These mechanisms allow low-risk offenders to undergo rehabilitation outside correctional facilities, thereby minimizing custodial burdens. In the Indonesian context, the implementation of the Criminal Procedure Code reinforces detention as a measure of last resort and creates opportunities for expanding community-based sanctions, including community service and community supervision. This comparison underscores that the effectiveness of correctional systems depends not merely on inmate numbers or offense types, but on the quality of penal policy, institutional readiness, and the consistent application of humane and rehabilitative non-custodial mechanisms.

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