



THE POTENTIAL EFFECTIVENESS OF THE APPLICATION OF ALTERNATIVE CRIMINAL SANCTIONS AS A SOLUTION TO REDUCE OVERCROWDING IN INDONESIAN PENITENTIARY

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Penitentiary ; Criminal Sanctions of Imprisonment; Overcrowding; Alternative Criminal. One of the general criminal sanctions in Indonesia is imprisonment, implemented in penitentiary as a place of rehabilitation for convicts facing significant challenges in the form of overcrowding phenomenon. This article aims to discuss the effectiveness of the application of alternative criminal sanctions to reduce overcrowding in Indonesian penitentiary and the types of alternative criminal sanctions that can be applied in Indonesia. The research method used is normative juridical with a conceptual approach in the form of analysis of secondary data from legal literature and legislation, as well as descriptive-prescriptive data presentation techniques. The results show that overcrowding in Indonesian penitentiary is not balanced with the provision of adequate facilities and infrastructure, causing many problems such as fights between residents and less than optimal health services. The conclusion of this study is that overcrowding in Indonesian penitentiary is caused by a punishment policy that still prioritizes imprisonment and an imbalance between human resources and the dense inflow of convicts. To overcome this problem, it is recommended to apply alternative criminal sanctions that are more humanist, where convicts are responsible for their actions but are given the opportunity to improve themselves through constructive mechanisms such as social work, fines, coaching, or rehabilitation programs.

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A. Introduction

Over time, Indonesia has shown progressive development of social life. This certainly has its impact on population growth which continues to increase from year to year. Based on Statistics Indonesia 2025, a publication by the Central Statistics Agency which presents various types of data related to socio-demographic developments in Indonesia shows that the population in Indonesia in 2025 will reach 284.44 million

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people based on the results of the population projection of Indonesia from 2020 to 2025 from the results of the 2020 Population Census (Badan Pusat Statistik Indonesia, 2025). With the population in Indonesia continuing to increase, of course, there will be various problems that often arise in society, especially problems related to violations of applicable legal policies.

The phenomenon of violations of legal norms in society is a problem that has not been resolved, especially in the realm of criminal law. Based on data presented by the Indonesian National Police (Polri), the Polri has handled 325,150 criminal cases in Indonesia throughout 2024 (Public Relations Division of the National Police Headquarters, 2024). In practice, two paths of sanctions can be applied in resolving a criminal case as stated in Article 10 of the Criminal Code (KUHP), namely principal criminal sanctions and additional criminal sanctions. In general, principal criminal sanctions are sanctions that are often found in resolving a criminal case, one of which is imprisonment. According to P.A.F Lamintang, one of the authors of classic works on Indonesian criminal law such as *The Basics of Indonesian Criminal Law and Indonesian penitentiary Law*, imprisonment is defined as a punishment that limits the freedom of a convict by placing him in a correctional institution (Lamintang & Lamintang, 2012). Penitentiary sentences are often imposed on perpetrators of crimes in the criminal justice system compared to the other main types of punishment regulated in the Criminal Code, because they are considered as a punishment that allows for the provision of guidance for convicts compared to other principal punishments (Kania, 2014). According to Article 54 Paragraph (1), in general, criminal punishment is a form of rehabilitation for convicts to return to being useful people in society.

In Indonesia, the place where penitentiary sentences are carried out is called the Correctional Institution (Lapas). Article 1 Paragraph (3) of Law Number 12 of 1995 concerning Corrections stipulates that the definition of a penitentiary is a place to carry out guidance for convicts and correctional students. The purpose of this guidance is so that convicts realize their mistakes and can return to life as usual as good and responsible citizens. This is in line with the change in the concept of the purpose of the correctional system which focuses more on the concept of rehabilitation (improvement) than the concept of retribution (retribution) (Jamilah & Hari, 2020). However, in reality, the effectiveness of the role of imprisonment is questionable in law enforcement.

Many complex problems are often encountered in penitentiaries, one of which is the overcrowding phenomenon. According to the Institute for Criminal Justice Reform (ICJR), imprisonment is used 52 times more often by prosecutors and judges than other forms of punishment, resulting in a fairly dense inflow of convicts, most of which are narcotics cases with 139,088 convicts (Subagyo, 2021). This shows that imprisonment is often used as the main choice in the criminal justice system so the burden of problems tends to accumulate in penitentiaries. Of course, this problem is not ideal in realizing the objectives of the penitentiary itself, namely causing the implementation of minimum standards in the guidance, security, service, and safety of convicts not to run as they should. One of the impacts of this phenomenon can be seen from the conditions in the

Cirebon Class I penitentiary with the highest overcrowding of 683 inmates even though its capacity is only for 555 inmates. Many cases of fights between inmates and less-than-optimal health services were found. This overcrowded condition is what causes the spread of infectious diseases such as TB and HIV/AIDS among residents (Sholehudin & Wibowo, 2021).

So with the problem of overcrowding, the solution that can be applied is the implementation of alternative criminal policies, which do not prioritize the use of imprisonment as the only form of punishment. Alternative sanctions are other options that can be given to punishment, where some forms of alternative punishment are fines, supervision, and social work. So the implementation of alternative punishment, it can reduce the problem of excessive capacity in penitentiaries. However, in its implementation, alternative criminal sanctions still experience various obstacles, this is because the applicable legal policy still prioritizes the threat of imprisonment.

Based on the description above, the author is interested in discussing the Potential Effectiveness of the Implementation of Alternative Criminal Sanctions as a Solution to Reduce Overcrowding in Indonesian penitentiaries in depth. Several previous studies support the writing of this scientific article, entitled "Social Work: penitentiary Overcrowding Management Policy" in the IUS journal *Kajian Hukum dan Keadilan*. In addition, there is also a scientific article entitled "Overcrowding of penitentiaries (Lapas) in the Indonesian Criminal Penal System" in the *Paraguayang Law Journal*. This article will focus on the fact that imprisonment is not the only option to realize the concept of rehabilitation to restore convicts to being responsible members of society, but there are also alternative punishments that can also be an effort to realize this concept. So with this, the problem of overcrowding which continues to be a major problem in penitentiaries can be handled properly and effectively. Referring to the background that has been described, several problem formulations will be the main discussion in this article, including how the application of alternative criminal sanctions is effective in reducing overcrowding in Indonesian penitentiaries. In addition, what are the types of alternative criminal sanctions that can be applied in Indonesia?

B. Method

Writers for this paper will use the type juridical-normative. In the lingual, normative means in research method using a type of conceptual approach where the writer's Analysis about the problem of overcrowding based on principal and law doctrine that have relation to the problem that this paper talks about. The reason why the writers choose this type of research is to analyse the concept of the solution to break the problem with overcrowding. The technique to gather the data for this research purpose are using the technique to analyse the document like research report for the same problem, Notes, Books, Archive and even a thesis from another scholar.

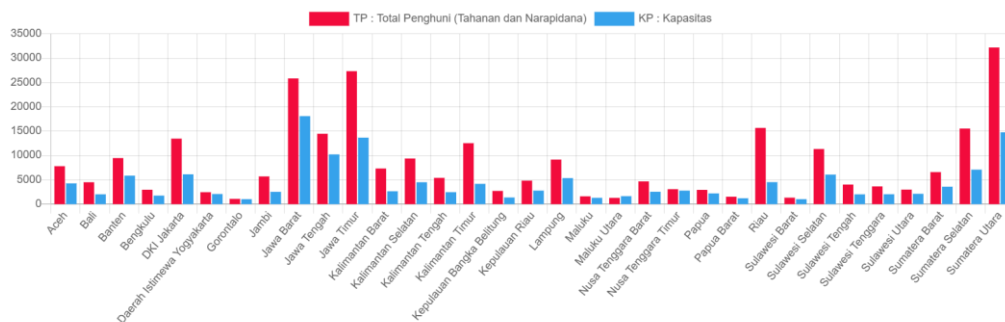
Document analyse often used for history research and/or used in research for policy review from the government.(zainudin & iba, 2023)

secondary data that the writers will use for this paper are two type of secunder data the first one is a prime law source like legislation of law or even criminal's code 1986 in indonesia (KUHP) the constitution number 12 1995 about socialization law, constitution number 35 2009 about drugs regulation, and the law about the child's criminal court regulation in the constitution number 11 2012 and second type of data secunder in the shape of journal study, books, and thesis from another scholar from the same study about criminal sanction alternative the technique for the data presentation with the shape of descriptif-perspectif, which is also support in the visual mean like bar chart that connects with the real cases about overcrowding in Indonesia.

C. Result & Discussion

1. Implementation of Alternative Criminal Sanctions Effectively to Reduce Overcrowding in Indonesian Penitentiary

Since the implementation of the correctional system in Indonesia, various problems have emerged in penitentiaries due to the high number of inmates. Currently, one of the main issues that have become a challenge in the penitentiary system is overcrowding in penitentiary. Penitentiary have a very important role in respecting the human rights of convicts through the implementation of coaching programs. The problem of overcrowding with such a large number of convicts, penitentiary officers cannot manage them effectively, which has an impact on the decline in the quality of services, as well as increasing the risk of security conflicts such as fights and violence (Annam & Rafli, 2023).



Sourcer: (Directorate General of Corrections, 2025)

The graph shows the overcrowding situation in penitentiaries in various provinces in Indonesia in 2025. The data, last updated on 16 March 2025, illustrates that the number of inmates and detainees (marked in red) significantly exceeds the available capacity (marked in blue) in almost all provinces. It can be seen that penitentiaries continue to experience overcrowding conditions with numbers trending upwards. Some areas such as West Java, Central Java, East Java, North Sumatra, and Riau experience very high levels of overcrowding, with the number of inmates reaching two to three times the capacity.

North Sumatra is the region with the most significant level of overcrowding, where the total number of occupants reached more than 35,000 people, while the available

capacity is only around 15,000 people, indicating more than double the excess capacity. Similar conditions also occur in West Java, with a total occupancy of around 25,000 people, while the capacity is only around 17,000 people. East Java is also experiencing the same problem with more than 27,000 residents, while the capacity is only around 15,000.

In addition, several other provinces such as Riau, South Sumatra, and South Sulawesi are also under great pressure due to overcrowding. In Riau, the total population reached around 15,000 people, far exceeding the capacity of only around 6,000 people. Meanwhile, in South Sulawesi, the number of residents is around 12,000 people, with an available capacity of no more than 6,000 people. Similar conditions occur in South Sumatra, where the number of residents reaches more than 10,000 people, while the capacity is only around 5,000 people. This data shows that overcrowding in Indonesian penitentiaries is still a major unresolved challenge, with numbers continuing to increase from year to year.

Overcrowding has attracted the attention of researchers who seek to identify the factors that cause it. For example, the Institute for Criminal Justice Reform (ICJR) identified several factors that contribute to the problem of overcapacity in Indonesian penitentiaries. These factors include a sentencing policy orientation that prioritizes imprisonment, disproportionate application of penalties for minor offenses, excessive pre-trial detention practices, bottlenecks in administrative processes, suboptimal reintegration programs, limited access to legal aid, as well as problems related to institutional and human resource constraints within the penitentiary system (Saputra & Isnawati, 2022).

The increase in the penitentiary population resulting in overcrowding is not matched by the addition of facilities and the provision of adequate facilities and infrastructure, this imbalance creates a gap between the need and availability of supporting infrastructure required to manage the increasing number of convicts (Pratama et al., 2024). This condition is contrary to the standards set out in the Standard Minimum Rules (SMR). One of the key provisions of the SMR states that every penitentiaryer is entitled to an individual cell, or at least adequate space for movement while resting (Widayati, 2012). The overcrowding situation that occurs in Indonesian penitentiary institutions makes this basic SMR requirement difficult to meet, resulting in a mismatch between factual conditions and internationally recognized standards for handling convicts.

Authorities in Indonesia have taken various steps to address the problem of overcapacity in penitentiaries (Manting, 2022). One of the efforts taken is the construction of a new penitentiary to increase the capacity of convicts. For example, in 2020, the government inaugurated a new penitentiary in Kedungpane, West Nusa Tenggara, with a capacity of around 500 people. In addition, the government also renovated and increased the capacity of several existing penitentiaries. For example, in 2019, the central government allocated a budget to expand and improve several penitentiaries in regions such as West Java, Central Java, and South Sulawesi. In addition,

in response to the COVID-19 pandemic in 2020, the government implemented a remission and assimilation policy for convicts who meet certain conditions. This measure aims to reduce penitentiary overcrowding and reduce the risk of spreading the virus in the penitentiary environment.

Although various efforts have been made, these measures are still considered insufficient to solve the problem of overcrowding in Indonesian penitentiaries. A more comprehensive and integrated approach is needed, such as the application of more effective alternative criminal sanctions and the improvement of the criminal justice system as a whole. Alternative Criminal Sanctions have the same purpose as criminal sanctions, namely three main ideas about the purpose of punishment, namely: a) Improving the character of the perpetrator of the crime. b) Making people deterred from committing the crime. c) Creating a sense of fear for certain criminals so that they are unable to commit other crimes (Ramadhan, 2023). However, punishment through imprisonment has proven to be ineffective with overcrowding which is still often an issue lately. The issue of the effectiveness of prisons because in Indonesia almost all criminal acts are punished with imprisonment.

In addition, imprisonment often causes a convict to lose his dignity as a human being, especially if the perpetrator is a "blue-collar crime" When released, the convict tends to receive a very negative stigma from society so that the goal of reintegrating the convict into society is difficult to achieve. So that alternative criminal sanctions are needed where convicts receive more humane treatment, alternative criminal sanctions have been implemented in many countries, by the mandate of the "International Conference on Prison Abolition" in Toronto in 1983, then at the Amsterdam conference in 1985 at the request of The First International Conference on Prison Abolition (ICOPA). ICOPA at its 12th congress has given instructions to countries in the world to include alternative criminal sanctions in their respective Criminal Codes so that the negative impacts of imprisonment can be reduced (Lommpo & Muhammad, 2023).

On March 26, 2024. The Director General of the General Court, H. Bambang Myanto, S.H., M.H. underwent a joint discussion regarding the plan for alternative sanction practice training together with the Deputy Chief Justice of the Republic of Indonesia for Judicial Affairs, Dr. H. Sunarto, S.H., M.H. where he discussed several alternative sanctions in the form of retribution, supervision, and community service. The imposition of these alternative sanctions is generally applied to minor crimes or to convicts who receive a penitentiary sentence of less than 1 year. However, imprisonment is generally still applied as the main sanction imposed in practice.

With the existence of alternative crimes who commit minor crimes or whose imprisonment is less than one year, overcrowding can be reduced because they do not need to enter the cell, both penitentiaries often change the bad minors into repeat offenders because prisons tend to become PTIK (Higher Education for Criminal Science), whether it is sharing advice with other criminals, or becoming sexual deviations, besides that penitentiaries are also places for drug trafficking. The last is to help the convicts to

reintegrate with the community, such as the alternative punishment of social work there, the criminal can interact directly with the community, depending on the skills possessed by the criminal, so that the community can see directly and the stigma is reduced, compared to imprisonment, coupled with the perpetrators who certainly tend to be embarrassed (Agung, 2024).

Of course, alternative punishment requires several supporting factors so that it can run without obstacles, for example government policy, has been regulated in the new Criminal Code Article 52 where punishment is not intended to degrade human dignity, then continued in Article 65 where punishment is more varied ranging from imprisonment, to social sanctions, this new Criminal Code regulation opens opportunities as an alternative punishment in Indonesia (Rizki, 2024). Then the improvement of infrastructure where convicts by Article 52 of the new Criminal Code imprisonment must also be addressed with improvements, such as expanding the place and ensuring security for convicts, where each convict is trained in their respective skills so that they can be integrated back into society. The last is the support of the community itself, often when a person goes to penitentiary, the stigma attached to him will be difficult to disappear, with the existence of alternative punishment, the community is expected to provide full support so that convicts can return to their normal lives (Rizki, 2024).

2. Types of Alternative Criminal Sanctions That Can Be Applied in Indonesia

Alternative criminal sanctions are a form of punishment that is applied as a substitute for imprisonment with the aim of not only providing a deterrent effect to the offender but also supporting the rehabilitation process without having to increase the burden on the correctional system which often experiences overcapacity. The application of this sanction aims to create a more humanist legal approach, where the perpetrators are still responsible for their actions, but are allowed to improve themselves through more constructive mechanisms, such as social work, fines, coaching, or certain rehabilitation programs.

In various countries, alternative criminal sanctions have become part of a modern justice system that is oriented towards recovery and restorative justice, which emphasizes resolving conflicts between offenders, victims, and society in a more fair and balanced manner. This approach is considered more effective in reducing recidivism rates compared to traditional penitentiary sentences which often do not provide long-term solutions to the problem of criminality and can worsen offender behavior due to interaction with the criminal environment in penitentiaries. One type of alternative criminal sanction that can be applied is fine, which is a form of punishment that requires offenders to pay a certain amount of money to the state as a form of legal responsibility for their actions and is often applied in minor crimes, such as traffic violations, environmental pollution, or economic crimes. In some countries such as Germany and the Netherlands, a progressive fine system is implemented to ensure fairness in its application, where the amount of the fine is adjusted to the income level of the offender so that the deterrent effect is still felt without creating social inequality.

In addition, social work sanctions require offenders to perform work that benefits the community without receiving wages, where the types of work provided generally include cleaning public facilities, repairing small infrastructure, or involvement in certain social programs (Lamsar, 2025). The United Kingdom and the United States have implemented a Community Service Orders (CSO) system that has proven effective in instilling a sense of responsibility in offenders and reducing recidivism rates because in addition to providing educational punishment, this sanction also provides opportunities for offenders to contribute positively to society while preventing them from committing repeat crimes (Sirait & Panjaitan, 2024).

Rehabilitation as a form of alternative criminal sanction is usually applied to perpetrators of certain crimes, such as drug abuse or crimes committed by individuals with mental disorders, with the main focus on individual recovery rather than mere punishment. One example of successful implementation of rehabilitative policies can be seen in Portugal, which since 2001 has implemented a rehabilitation program for drug users, successfully reducing the number of dependents and reducing the level of drug-related crimes (Hartono et al., 2023). Meanwhile, in the Indonesian context, rehabilitation for drug users has also been regulated in Law No. 35/2009 on Narcotics, indicating that this approach has received legal legitimacy as part of the state's efforts to address the problem of drug abuse in a way that is more oriented towards social recovery and public health.

Then, probation is a system of monitoring criminal offenders outside penitentiaries with certain obligations, such as mandatory reporting, participating in coaching programs, or undergoing restrictions on social activities, which are generally given to minor offenders or first-time offenders (Iftitah et al., 2023). In the United States, probation has become an important part of the criminal justice system, allowing many inmates to serve their sentences under supervision without being incarcerated, thereby reducing overcrowding.

Diversion is a mechanism for resolving children's cases outside the judicial system that aims to avoid the negative impact of the correctional system, where the process can be carried out through mediation, conciliation, or other forms of settlement that are more restorative by involving victims, perpetrators, families, and the community (Rahman, 2025). In Indonesia, this concept has been regulated in Law No. 11/2012 on the Juvenile Criminal Justice System, which emphasizes a restorative justice approach in handling cases involving children as perpetrators of criminal acts.

The implementation of alternative criminal sanctions in Indonesia faces various obstacles, such as limited regulations that have not fully accommodated social work or rehabilitation for minor offenders, lack of supporting infrastructure, and resistance from law enforcement officials who still adhere to the retributive approach. In addition, the public perception that punishment must be repressive and the lack of coordination between related institutions also hinder effective implementation. Therefore, legal reform, human resource capacity building, and public education are needed so that

alternative criminal sanctions can be accepted as part of a more just and humanist legal system. One of the main factors that hinder implementation is the supervision of convicts undergoing alternative criminal sanctions requires a well-structured system and adequate financial support, but unfortunately, the government's budget allocation for rehabilitation programs, supervision of convicts outside the penitentiary, and officer training is still limited, which has an impact on the lack of supporting facilities such as rehabilitation centers, job training programs for offenders, and the lack of competent supervisory personnel, thus becoming a major obstacle in the implementation of this policy.

The correctional system in Indonesia is still dominated by the imprisonment paradigm so alternative criminal sanctions have not fully found a place in the applicable legal system, coupled with the absence of an effective mechanism in penitentiaries to run non-imprisonment programs such as social work, rehabilitation, or community-based coaching, which should be part of a more humane approach in tackling crime and encouraging social reintegration for convicts so that policy reform and capacity building of penitentiaries are needed to accommodate the concept of restorative justice optimally (Saefudin et al, 2021).

Society still has a negative stigma towards ex-convicts, so the process of social reintegration through alternative sanctions often experiences obstacles, for example, offenders who undergo social work or rehabilitation sanctions are still seen as dangerous individuals, making it difficult for them to get support from the community. Restorative justice aims to provide opportunities for offenders to take responsibility for their actions without having to always serve imprisonment, which in many cases exacerbates stigma and hinders their recovery process (Hersyanda et al., 2024). Therefore, massive socialization is needed so that people understand the benefits of restorative justice and accept that not all offenders should be punished with imprisonment so that they can be allowed to return to positively being part of society.

From the regulatory aspect, not all criminal offenses have alternatives to imprisonment, as some laws are still oriented towards imprisonment as the main form of justice. In addition, sociocultural factors are also an obstacle, where some people still have the perception that the appropriate punishment for criminals is imprisonment, making it difficult for the concept of alternative criminal sanctions to be widely accepted (Akimenko, 2024). Therefore, it is necessary to update regulations that support various forms of alternative punishment and educate the public so that the paradigm regarding justice and punishment can develop, so that the concept of alternative criminal sanctions can be more widely accepted and applied.

D. Conclusion

The problem of overcrowding in Indonesian penitentiaries has become a serious issue that has an impact on various aspects, including the living conditions of convicts, the effectiveness of guidance, and the burden on state finances. Capacity that is not comparable to the number of inmates causes various problems, such as increased risk of

violence, the spread of disease, and limited access to rehabilitation programs. This overcrowding is largely caused by a criminal justice system that is still oriented towards imprisonment as the main punishment, even for minor crimes.

Various efforts have been made to overcome this problem, such as the construction of new penitentiaries and assimilation or remission programs. However, these steps have not been able to resolve the root of the problem because the legal system still tends to use imprisonment as the main instrument. Therefore, there needs to be a more fundamental policy reform, one of which is through the implementation of alternative criminal sanctions that are more effective in dealing with lawbreakers without exacerbating the problem of overcrowding.

Alternative criminal sanctions, such as community service, more proportional fines, or rehabilitation for certain criminals, have been implemented in various countries with positive results. This approach not only reduces pressure on penitentiaries but also provides benefits to society and allows for better rehabilitation for criminals. In addition, the implementation of a restorative justice system can be a fairer and more humane solution, especially for offenders who have not committed serious crimes.

However, the implementation of alternative criminal sanctions in Indonesia still faces challenges, such as the lack of clear regulations, minimal supporting infrastructure, and resistance from law enforcement officers who are accustomed to the imprisonment system. Therefore, commitment is needed from various parties, including the government, legislature, and society, to encourage changes in the legal system that are more adaptive to the modern punishment model. Policy reform must include the revision of laws and regulations, increasing the capacity of law enforcement officers, and educating the public about the effectiveness of alternative sanctions.

With the paradigm shift from imprisonment as the main solution to a more restorative and rehabilitation-based approach, it is hoped that Indonesia can overcome the problem of overcrowding more sustainably. This policy reform will not only improve the condition of penitentiaries but also create a fairer legal system that is oriented towards social recovery so that the true goals of corrections can be achieved.

E. Recommendation

To comprehensively address the problem of overcrowding in Indonesian penitentiaries, strategic steps are needed that involve comprehensive reforms in various aspects of the criminal justice system. One of the main keys is change at the legislative level by establishing strict, applicable, and structured regulations regarding the types of crimes that can be subject to alternative criminal sanctions, their implementation procedures, and effective monitoring mechanisms. Clear regulations will not only provide legal certainty for perpetrators and law enforcement officers, but also increase public trust in a more adaptive and humane justice system.

In addition to regulation, public education is also very important in changing the paradigm of society that tends to view alternative criminal sanctions as a form of

leniency. Intensive socialization of the objectives of this approach, namely rehabilitation and social reintegration, will emphasize that non-prison sanctions are not a "shortcut", but rather part of a strategy to prevent recidivism and rebuild perpetrators into productive individuals in society.

On the implementing side, increasing the capacity of human resources and infrastructure is an important foundation. Law enforcement officers need to receive intensive training to be able to understand, assess, and apply alternative criminal sanctions appropriately. In addition, the development of rehabilitation facilities and the application of technology for monitoring and evaluating programs are needed to ensure the effectiveness of this policy.

Synergy between institutions must be strengthened. Close coordination between the police, prosecutors, courts, and correctional institutions will ensure that the selection, implementation, and supervision of alternative criminal sanctions run consistently and efficiently. By combining regulatory reform, strengthening the capacity of implementers, community support, and coordination between institutions, Indonesia has a great opportunity to build a more just, humane, and sustainable criminal justice system.

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