



Implementation Of The Policy Of The Minister Of Law and Human Rights Regulation Number 11 Of 2017

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Abstract. *Overcrowded condition is a condition where correctional institutions or State Detention Centers have too large a capacity because the increasing number of inmates is not comparable to the prison or detention center facilities. Permenkumham Number 11 of 2017 is used as a reference for implementing an action plan for handling overcrowded in Indonesia, which includes four main programs: regulatory arrangement, institutional strengthening, provision of infrastructure, and empowerment of human resources. This study aims to identify the methods used to handle overcrowded residents in Class II B Pemalang Detention Center and to find barriers that hinder the process. The researcher used a qualitative research method to determine the factors that hinder the implementation of handling overcrowded residents in Class II B Pemalang Detention Center. The results of the study indicate that handling overcrowded residents in Class II B Pemalang Detention Center has been going well because of remissions, solid internal institutions, good relationships with government institutions or organizations, and empowerment of correctional officers. In addition, handling overcrowded residents in Class II B Pemalang Detention Center faces several obstacles. One of them is the number of correctional officers which is too many compared to the number of prison inmates, as well as facilities and infrastructure which are not optimal.*

Keywords: *Detention Center, Overcrowded, Permenkumham No. 11 of 2017*

1. INTRODUCTION

In the 1945 Constitution of the Republic of Indonesia, Article 1, paragraph (3) states that "the state of Indonesia is a state of law, " which means that every citizen or state administrator must submit to and obey the laws in force in Indonesia. Currently, the protection of human rights has become a major concern in Indonesia, affecting the implementation of imprisonment. Initially, the prison system was implemented with harsh, inhumane punishments and was not in accordance with the philosophical values and ideology of independent Indonesia. Dr. Sahardjo proposed the concept of change towards a more rehabilitative correctional system in 1964. The process of rehabilitating prisoners began during the Dutch colonial era and included efforts to rehabilitate and reintegrate prisoners. Correctional Institutions (lapas) played an important role in this process.

Everyone can be a creature of God Almighty by freely developing themselves according to their own common sense. Human rights (HAM) are rights given to every human being since birth, and no one can use these rights to achieve health arbitrarily (Manusia, Smith, Asplund, & Marzuki, 2008). Article 14 (1) of Law No. 12 of 1995 explains the rights of prisoners, and point (d) regulates that prisoners have the right to receive health services that

concern all aspects of community life and occur in every individual, including those who are serving sentences in Correctional Institutions and State Detention Centers.

The increasing growth rate of the number of inmates in Correctional Institutions is experiencing overcapacity, some of which are too full (overcrowded). This is due to the fact that most criminal sanctions are imprisonment. Corporal punishment, commonly called imprisonment, is currently the main punishment, according to Article 10 of the Criminal Code. However, alternative punishments such as rehabilitation for drug convicts have not been used significantly and have not succeeded in reducing the problem of overcrowding. Overcrowding is not a new problem for Correctional Institutions, but it remains a complex problem to overcome. However, overcrowding is not a problem that can only be handled by corrections if no other criminal justice sub-enforcement is involved. The increase in the number of imprisonments in dealing with crime until now has been the main factor that cannot be avoided, which causes an increase in the capacity of residents in Prisons and Detention Centers (Novian et al., 2018).

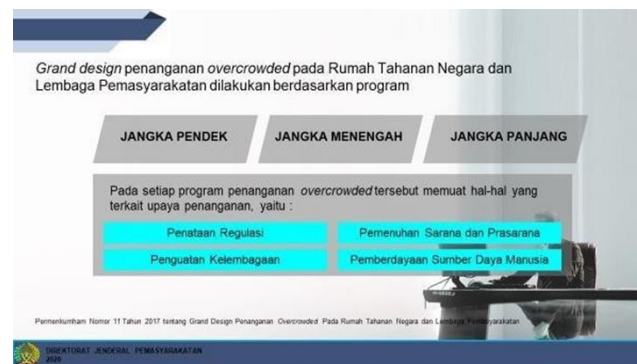
However, as the years go by and are influenced by changes in the times, crime has also begun to increase in quantity and quality. In addition, the modes of crime that occur in modern times are diverse. This causes the number of prisoners entering correctional institutions to undergo rehabilitation and imprisonment to continue to increase. However, the number of prisoners who leave the Correctional Institution or have completed their imprisonment and rehabilitation is not comparable to the number of prisoners who enter. As a result, the number of prisoners in the Correctional Institution continues to increase annually. For almost 25 years, the Ministry of Law and Human Rights (HAM), especially the Directorate General of Corrections, has faced the problem of overcrowding in prisons and detention centers. The increasing number and quality of crimes has an impact on the implementation of corrective duties. Now, behavior and criminality involve not only people with low education or a low economy.

According to Tarigan (2019), crimes involving perpetrators, bureaucrats, or even state officials with higher education backgrounds greatly affect the order of life in detention centers. The number of prisoners in prisons and detention centers in June 2023 was 269,263, exceeding the prison capacity of only 140,424, with an overcrowded percentage of 92 percent. Through the Directorate General of Corrections, the Ministry of Law and Human Rights has made various efforts to offset the increase in the number of prisoners in prisons and detention centers. These data can be accessed through the official website smlap.ditjenpas.go.id.

The Ministry of Law and Human Rights greatly disrupts the function of the criminal justice system in the post-adjudication stage due to overcrowding. In its capacity to supervise and implement laws in this area, the Ministry of Law and Human Rights found the following:

- a. First, the criminal policy factor is not in line with and focuses on imprisonment. Compared with other criminal threats, the number of criminal acts spread across all laws and regulations reached 91.34% between 1998 and 2015.
- b. Second, the number of human resources in prisons and detention centers is less than the number of prisoners, which continues to increase.
- c. Third, the availability of UPT is very low throughout Indonesia, which cannot accommodate a large number of inmates. Fourth, the management of prisons is regulated by the Director General of Corrections and the Secretary General and Regional Office of the Ministry of Law and Human Rights. This causes disharmony at this level law enforcement policy. Therefore, the Ministry of Law and Human Rights declared its full commitment to the criminal policy reform process in accordance with the following grand plan:

Figure 1. Grand Design for Overcrowded Handling



Source: Directorate General of Corrections, 2020.

Overcrowding in prisons causes many problems including limited capacity. Overcrowding can also have a negative impact on the quality of nutrition, inmate activities, health services, sanitation, and care of vulnerable groups. Owing to inadequate or under-resourced facilities, special treatment requirements for vulnerable groups or special needs are not uncommon. Worldwide, most prison systems and buildings are designed for male prisoners, making women's prisons expensive. In certain countries, female prisoners are housed in male prisons. This creates problems in terms of the protection, services, and security that women need, such as reproductive health (International Committee of the Red Cross

(ICRC), n.d.). Overcrowding is considered to be a direct result of increased crime rates in communities. According to the Director of the Finnish National Research Institute for Legal Policy, the lack of capacity is caused by the strict rule of law and the political inability to seek alternative legal decisions (United Nations Information Service, 2010).

2. RESEARCH METHODS

This study explored and understood the symptoms of the center through a qualitative research approach (Marecek et al., 2020). This study used a descriptive approach to provide a comprehensive and in-depth picture of the research subject. The aim of this applied research is to provide insight into the social phenomena that occur. In this case, the overcrowding phenomenon that occurs in Correctional Institutions, especially in the Class II B Pemalang Detention Center, is the subject of this study.

According to Maher and Dertadian (2018), the case study approach used in this study allows researchers to understand the complexity of the investigated case. Primary and secondary data were used in this study. Observations and interviews with respondents were the main data sources at the research location. Secondary data were obtained from documents related to this study, namely, books and scientific articles. Furthermore, the interpretation and analysis of data collected during the data collection process will be conducted to find answers to the research questions. Data collection, presentation, reduction, and drawing conclusions were the four steps used in the data analysis.

3. RESULTS AND DISCUSSION

Implementation of Permenkumham Number 11 of 2017 Concerning the Grand Design for Handling Overcrowding in Class II B Pemalang Prison

Based on the Regulation of the Minister of Law and Human Rights No. 11 of 2017 concerning the Grand Design for Handling Overcrowded in State Prisons and Correctional Institutions, it is stated that there are several solutions, stages, and steps in handling overcrowding, with several alternative steps, namely short-term alternatives (criminal resolution), medium-term alternatives (crime prevention), and long-term alternatives (community welfare). Alternatives for handling overcrowding are divided into several programs, as stated in Article 2 of the Regulation of the Minister of Law and Human Rights Number 11 of 2017, including regulatory arrangements, institutional strengthening, fulfillment of facilities and infrastructure, and empowerment of human resources.

Contrary to what is imagined, the problems that occur in prisons and detention centers cannot be solved simply by adding or building new prisons. Overcrowding causes other problems such as

1) There is an increased possibility of disturbances in the order and security.

Security and order are very important for maintenance in prisons and detention centers. Overcrowding increases the risk of disturbances to security and order, including riots, escape of prisoners, drug trafficking in prisons, and control of drug trafficking from within prisons. Almost every year, riots occur in prisons and detention centers. The cause of the riots is usually a minor problem such as drinking water or law enforcement, but because the number of prisoners and prisoners is too large, it is easy for them to be provoked to commit violence and riots, and the situation becomes difficult to control by security officers whose numbers are not comparable to the number of prisoners and prisoners.

2) Implementation of prisoners' rights is not optimal.

According to the correctional system, the only suffering experienced by inmates in prison is the loss of freedom. Therefore, prisoners must be given rights as human beings during the punishment process in prison. Article 14, paragraph (1) of Law No. 12 of 1995, regulates the rights of prisoners and states that prisoners have twelve rights. These rights are implemented by the state, prisons, and detention centers. The right to health, right to worship, right to education, and right to remission and parole are some of these rights. However, these rights are often not fulfilled because of several factors. One reason why some prisoners' rights are not properly fulfilled is that they are too full. Low human resources (correctional officers) and low costs were the main causes. The right to health is one of the rights that is often a problem and is not optimal. The availability of clean water, food, and health services is the biggest problem for fulfilling the right to health. This is because of the limited state budget for food and health services. Because the state budget is insufficient to meet these needs, the food provided to prisoners does not meet the nutritional standards set when overcrowded. Similar to health services, state budgets and health workers are limited. This results in ineffective healthcare. Overcrowding makes the prison environment unhealthy, allowing for the development of infectious diseases.

3) Suboptimal coaching and rehabilitation programs.

According to Article 1 number 1 of Law No. 12 of 1995, "Correction is the final part of the criminal system in the criminal justice system with the aim of providing guidance to

correctional inmates based on the system, institutions, and methods of guidance." Therefore, the implementation of guidance in prisons and detention centers is an important part of the correctional system.

According to Sarwonono (1992), overcrowding in prisons can cause various health problems such as respiratory disorders, abnormal physical growth, psychological disorders such as mental stress, and personality disorders. All these problems arise in a prison environment that is very limited in terms of location and facilities. The excessive number of prisoners in the Class II B Pemalang Detention Center can interfere with the fulfillment of the rights of prisoners and detainees, such as housing, sanitation, and health, as well as the lack of supervision of violence or torture that occurs in prison inmates (Ikhtias, 2019).

Table 1. Number of Inmates and Detainees at Class II B Pemalang Detention Center as of August 2023

STATUS	AMOUNT
Prisoner	202
Prisoner	44
Total	246
Capacity	120
Over Capacity	105%

As shown in Table 1, the overcrowding rate of Class II B Pemalang Prison was 105%. According to Permenmkumham No.11 of 2017, there must be at least four aspects analyzed regarding the implementation of the grand design in handling the overcrowded Class II B Pemalang Penitentiary, as follows:

1. Regulatory Arrangement

Regulation is a rule issued by an authority to control all things to ensure that they operate properly and smoothly, including the preparation, implementation or enforcement of orders and adjudication. The purpose of the regulation is to facilitate the creation of an order to create safe and peaceful conditions.

In the implementation of the Regulation of the Ministry of Law and Human Rights No. 11 of 2017 concerning the arrangement of regulations in the Class II B Pemalang Penitentiary, researchers found that remissions had been implemented, optimization of the function of the penitentiary had not been fulfilled, and the process of transferring prisoners had not been able to run optimally. Based on Article 1, Paragraph (3) of the Minister of Law and Human Rights Regulation Number 43 of 2021, Assimilation means "the process of fostering Prisoners and Children which is carried out by integrating Prisoners and Children in community life."

Furthermore, in Article 1, Paragraph (4), Conditional Release, Pre-Release Leave, and Conditional Leave are "fostering programs that aim to integrate Prisoners and Children into community life after meeting the applicable requirements. Meanwhile, the definition of remission in Article 1, paragraph (3) of the Minister of Law and Human Rights Regulation No. 7 of 2022 reads "remission is a reduction in the sentence given to Prisoners and Children who meet the requirements specified in the provisions of the legislation".

To deal with the excessive number of prisoners in prisons, Class A detention centers Pemalang has established regulations that make it easier for prisoners to undergo parole (PB) and receive remission. On August 17, 2023, 246 prisoners from Class II B Pemalang Prison achieved general remission. Prisoners who receive general remission meet administrative and substantive requirements. Of the 246 prisoners who received general remission, 158 of them received general remission category 1 and 2 others received general remission category II, which are prisoners who have completed their sentences. The number of prisoners receiving general remission increased compared with that in the previous year. Class II B Pemalang Prison also applies regulations, such as limiting the placement of prisoners in prisons and carrying out a regular prisoner and convict transfer program.

2. Institutional Strengthening

An organization's efforts to increase the capacity of institutions, systems, and individuals to improve overall organizational performance are known as institutional strengthening.

Institutional strengthening is one of the factors that can influence the solution of overcrowding problems in prisons/detention centers based on the suitability of the form and size of the institution. Prisons/detention centers with various classifications certainly have different institutional management based on the type of prison/detention center.

Based on the Decree of the Minister of Justice of the Republic of Indonesia Number M.04-PR.07.03 of 1985 concerning the Organization and Work Procedures of State Detention Centers and State Confiscated Goods Storage Houses in Part Four of the Organizational Structure of Class IIB Detention Centers, Article 20 states that Class IIB Detention Centers consist of 1) Detention Service Sub-Section, 2) Detention Center Management Sub-Section, 3) Detention Center Security Unit, and 4) Administrative Officers.

The institutional arrangement in this case, the organizational structure used in Class II B Pemalang Penitentiary, has been in accordance with the contents of Permenkumham No. 11 of 2017, in which the management sub-section with administrative officers is combined in

order to carry out facilitative functions in their entirety so that there is no duplication of functions in the organizational structure of Class II B Pemalang Penitentiary.

Other internal strengthening that Class II B Pemalang Penitentiary implements, such as security team shift rotation and officer placement according to educational background. Meanwhile, strengthening external institutions is the relationship between Class II B Pemalang Penitentiary and other Law Enforcement Officers, such as the prosecutor's office, courts, and police.

3. Provision of Infrastructure Facilities

Facilities are anything used to achieve meaning and purpose. However, infrastructure functions as the main support for process implementation. The implementation of the tasks and functions of Correctional UPT depends on the availability of facilities and infrastructure. In addition to the limited facilities and infrastructure faced by prisons/detention centers, overcrowding causes poor quality of service and inefficient implementation of guidance and security. Improvement and resolution. Overcrowded issues must consistently refer to the improvement and fulfillment of infrastructure in the Correctional UPT. The fulfillment of these facilities and infrastructure considers the needs of child, male, and female prisoners and detainees.

Based on Permenkumham No. 11 of 2017, one of the efforts that can be done as a long-term policy to overcome overcrowding is the construction of new residential buildings. This is because it is necessary to involve several parties and members of other public interests. In the Class II B Pemalang Penitentiary, there are several problems in the procurement of goods that cannot be resolved only by involving internal parties in the prison. However, the prison has been active in its efforts to submit goods procured through the RKBMN.

4. Human resource empowerment

The ratio between the number of officers and inmates in Class II B Pemalang Penitentiary was not balanced. Currently, there are 56 officers in Class II B of the Pemalang Penitentiary, with 246 inmates. Despite the limited number of officers, the Class II B Pemalang Penitentiary continues to carry out its duties to improve the function of vigilance against disturbances of security and order and be vigilant in handling inmates with various criminal cases. One of the main objectives of human resource management is to produce competent, high-performance, professional, service-oriented, and prosperous employees.

Human resource management in correctional institutions includes system improvements, such as recruitment, placement, performance appraisal, education and training, career development, welfare and personnel data, and dismissal. Class IIB Pemalang Penitentiary held fitness training for officers, which was attended by all officers. One of the objectives of this activity was to improve the staff of officers in carrying out correctional duties. The objective of human resource empowerment is to produce professional, qualified, task-oriented correctional officers.

The actions taken to address the number of overcrowded prisoners in Class II B Pemalang Prison show that granting conditional release (PB) and remission to prisoners can impact the number of prisoners who are overcrowded in prisons. However, this effort will not last long if the Indonesian criminal justice system continues to focus on imprisonment. Prison efforts to deal with overcrowded people are in vain if other criminal justice subsystems do not limit imprisonment decisions.

5. Obstacles faced in implementing the application of the Regulation of the Minister of Law and Human Rights Number 11 of 2017 concerning the Grand Design for Handling Overcrowding in Class IIB Pemalang Prison

Regulation of the Minister of Law and Human Rights Number 11 of 2017 concerning the Grand Design for Handling Overcrowded Areas provides the Class II B Pemalang Penitentiary with an additional legal basis to address existing overcrowded conditions. However, the transfer of prisoners with remissions was carried out well in Class II B Pemalang Penitentiary before the regulation was issued. With this ministerial regulation, the granting of revisions and transfers by prisoners becomes legal. On the other hand, Regulation Number 11 of 2017 requires a new system to handle criminal acts, especially minor crimes, so punishment does not always mean placing perpetrators of crimes in a Detention Center.

In Class II B Pemalang Penitentiary, there are several obstacles faced in implementing the Regulation of the Minister of Law and Human Rights Number 11 of 2017 concerning the Grand Handling of Overcrowded people, including:

a. Budget Constraints

As explained, the state budget is also affected by the conditions of correctional institutions and detention centers. The budget needed for detention centers and correctional institutions will be adjusted to overcrowded conditions. This occurs every year because of overcrowded conditions. The budget needed in 2016 was less than 1 billion, but from 2017 to 2018, it increased to more than 1 billion. This is because many inmates are coming in rather

than going out, so the budget needed is more than the government allocates each year. Owing to budget constraints, correctional institutions or state detention centers often need debt from third parties to meet their needs.

b. Human Resources

Regulation of the Minister of Law and Human Rights Number 11 of 2017 states that a delay in the acceptance of civil servants, especially in the Ministry of Law and Human Rights, is one of the obstacles in the recruitment and replacement of prisons. Police officers become less productive owing to their age and other factors. On the other hand, the existence of government regulations regarding the extension of the retirement age to 60 years is a factor in the need for the Ministry of Justice to address human rights issues to improve human resources (HR). However, routine training does not provide an effective and significant impact on the quality of existing human resources.

In Class II B Pemalang Prison, the shortage of manpower is also seen in a very small number of security personnel in each shift, especially in the night shift, where the ratio between guards and inmates is more than 1:20. This shortage of manpower can lead to fatal vulnerabilities and riots.

c. Facilities and infrastructure

One of the obstacles is the availability of facilities and infrastructure, such as detention rooms and complete security equipment. The expansion of detention rooms and security equipment has been hampered because there has been no increase in the budget allocated by the state in APBN and APBD.

In the Class II B Pemalang Penitentiary, the size of the detention room is not proportional to the number of inmates. For example, in a 6×6 m room, there are approximately 50 to 60 inmates, mainly men, but the conditions are better for women and children. The government still pays little attention to the maintenance of the necessary facilities and infrastructure. The budget is mainly allocated to food costs and other needs of inmates. Thus, the level of security required to guard the state detention center or correctional institution is reduced. To ensure the security of the State Detention Center or Correctional Institution, additional facilities and infrastructure are required. This includes maintaining security infrastructure and increasing the health budget for inmates and officers.

d. Coordination between law enforcement agencies

On the one hand, the problem of overcrowding is handled by moving inmates, remissions, and building new prisons. In addition to rehabilitation or other punishments, many crimes can be avoided. However, law enforcers believe that every perpetrator of a crime must be punished and put into prison. This perception led to more inmates in prisons and overcrowding.

e. Socio-Economic

With economic growth and regional development, the existence and development of Detention Centers will change to the middle of the settlements. It is undeniable that the status of prisoners or inmates has a social impact on inmates because the public's view of state prisoners or correctional institutions is that of those who commit cruel, evil, or similar crimes.

Because many community members are concerned about the negative impacts of the construction of Detention Centers in their environment, such as inmates escaping from state Detention Centers or correctional institutions, riots inside state detention centers or correctional institutions, and inmates taking over or controlling state detention centers or correctional institutions, the negative thoughts of the community towards inmates have an impact on plans to build new detention centers.

f. Land Availability

The lack of government attention to the limited capacity and number of existing state correctional institutions/prisons, as well as the lack of land to build new correctional institutions due to increasing regional development, new developments, and increasing land prices, is a major challenge in implementing the Regulation of the Minister of Law and Human Rights in 2017, especially in the medium and long term. New prisons cannot be built quickly.

4. CONCLUSION

1. The number of correctional officers is disproportionate to the number of inmates in Class II B Pemalang Detention Center.
2. Internal and external obstacles consist of obstacles hinder the implementation of the Regulation of the Minister of Law and Human Rights Number 11 of 2017 concerning the Grand Design for Handling Overcrowded in State Prisons and Correctional Institutions in Class II B Pemalang Prison

3. There are external obstacles such as increasing land prices, which make medium- and long-term grand designs difficult to carry out, especially for the construction of new prisons.
4. Socio-economic factors also exist, because urban growth and residential development make the location of the construction of prisons often in the middle of settlements, rather than on the outskirts or far from settlements.

SUGGESTION

1. To implement medium- and long-term plans, particularly in relation to the location of detention centers, cooperation is required with the local city or district government to ensure that the detention center development plan is in accordance with the city and land planning plans owned by the relevant city or district government.
2. To reduce disapproval in society, it is necessary to conduct outreach on members of society who are directly affected by the plan to build a detention center.
3. Given the existing problems, detention or placement in a detention center is not recommended for minor criminals and drug users. Minor criminals should be provided to the Social Service for training, and drug users should be placed in a rehabilitation center for treatment.

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