

Fulfillment of the Right to Reduction of Prison Sentence for Drug Convicts

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Informasi Artikel	Abstract
E-ISSN : 3026-6874 Vol: 3 No: 9 September 2025 Page : 69-81	<i>This study examines the fulfillment of remission rights for drug offenders in Indonesia following the enactment of Government Regulation No. 99 of 2012, which introduced restrictive provisions inconsistent with the rehabilitative vision of Law No. 12 of 1995. The research problem lies in the normative contradiction between correctional laws oriented toward behavioural reform and derivative regulations that prioritise punitive measures. The study aims to evaluate the implementation of remission regulations and their alignment with principles of justice and human rights. Employing a normative legal research design, it analyses statutes, judicial decisions, doctrines, and comparative law. Findings reveal that remission has shifted from a universal right to a conditional privilege, disproportionately affecting low-level drug offenders, exacerbating prison overcrowding, and weakening legal certainty. The study concludes that policy reform is necessary through individualised assessments, restorative justice integration, independent oversight, and regulatory harmonisation to restore fairness and uphold human rights.</i>
Keywords: Remission, Drug Offenders, Human Rights, Justice, Legal Reform.	

Abstrak

Studi ini mengkaji pemenuhan hak remisi bagi narapidana kasus narkoba di Indonesia pasca diberlakukannya Peraturan Pemerintah Nomor 99 Tahun 2012, yang memperkenalkan ketentuan-ketentuan pembatasan yang bertentangan dengan visi rehabilitatif Undang-Undang Nomor 12 Tahun 1995. Masalah penelitian terletak pada kontradiksi normatif antara undang-undang pemasyarakatan yang berorientasi pada reformasi perilaku dan peraturan turunannya yang memprioritaskan tindakan hukuman. Penelitian ini bertujuan untuk mengevaluasi implementasi peraturan remisi dan kesesuaiannya dengan prinsip keadilan dan hak asasi manusia. Dengan menggunakan desain penelitian hukum normatif, penelitian ini menganalisis undang-undang, putusan pengadilan, doktrin, dan hukum perbandingan. Temuan menunjukkan bahwa remisi telah berubah dari hak universal menjadi hak istimewa yang bersyarat, yang secara tidak proporsional mempengaruhi narapidana narkoba tingkat rendah, memperburuk overcrowding di penjara, dan melemahkan kepastian hukum. Studi ini menyimpulkan bahwa reformasi kebijakan diperlukan melalui penilaian individual, integrasi keadilan restoratif, pengawasan independen, dan harmonisasi regulasi untuk memulihkan keadilan dan menjaga hak asasi manusia.

Kata Kunci : Remisi, Pelanggar Narkoba, Hak Asasi Manusia, Keadilan, Reformasi Hukum.

INTRODUCTION

Remission, or the reduction of prison sentences, constitutes a legal mechanism that affirms the fulfillment of prisoners' rights within the Indonesian legal framework. Judges possess broad discretionary power to grant sentence reductions based on various considerations, including an inmate's personal circumstances and behavioral history. Judicial strategies to minimize sentence durations often involve circumventing mandatory minimum penalties and applying "safety valve" provisions, as illustrated by data indicating that over 60% of federal sentences fall below the prescribed minimum guidelines (Hamilton, 2021). Moreover, the socio-economic context surrounding criminal offenses significantly influences sentencing outcomes. Courts, for instance, exhibit a lower propensity to impose incarceration on probation violators compared to equivalent offenders who do not breach probationary terms (Gazal-Ayal & Emmanuel, 2022).

The rationale for sentence reduction aligns with broader policy objectives, particularly in enhancing rehabilitation prospects and alleviating prison overcrowding. Empirical research challenges the deterrence-based rationale of harsh sentencing by revealing the absence of a consistent link between longer incarceration and reduced recidivism rates (Bhuller et al., 2020). Furthermore, correctional environments that uphold human rights standards bolster the proposition that rehabilitative penal frameworks can justify meaningful sentence reductions. Such approaches promote public safety while fostering conditions conducive to the successful reintegration of prisoners into society (Niełaczna & Dawidziuk, 2023).

Law No. 12 of 1995 concerning Correctional Institutions, along with Government Regulation No. 32 of 1999 regarding the Conditions and Procedures for the Implementation of Inmates' Rights (as amended by Government Regulation No. 99 of 2012), stipulates that remission serves as a reward for inmates who demonstrate good behaviour and actively engage in rehabilitation programmes (Peraturan Pemerintah Republik Indonesia Nomor 99 Tahun 2012, 2012). Nevertheless, the introduction of Government Regulation No. 99 of 2012 has significantly curtailed access to remission for individuals convicted of specific offences, particularly drug-related crimes. This regulatory shift has generated a conflict between the rehabilitative and humanistic orientation of the correctional system and the increasingly punitive stance taken towards extraordinary crimes.

John Rawls' theory of justice offers a critical philosophical lens through which to examine such tensions. As a foundational framework for evaluating fairness within societal structures, Rawls' theory rests on two core principles. The first guarantees equal entitlement to basic liberties for all individuals, while the second addresses social and economic inequalities. These inequalities are only justifiable if they yield the greatest benefit to society's least advantaged members and arise from positions accessible to all under conditions of fair equality of opportunity (Sari, 2020).

The theory of human rights protection comprises a dynamic and multifaceted set of interpretations and applications, shaped by current global challenges such as inequality, climate change, and public health emergencies. Fundamentally, this theory recognizes that human rights extend beyond mere legal entitlements, functioning as essential guarantees for securing dignified living conditions particularly for individuals within marginalised populations. Griffiths (2023) underscores the growing imperative to incorporate economic justice and environmental sustainability into the human rights framework. This development reflects a shifting paradigm that demands a multidimensional and contextually responsive approach to human rights one that transcends conventional boundaries separating economic and social rights from civil and political rights.

A critical dimension of legal equilibrium involves reconciling economic objectives with environmental policy imperatives. Government public communication plays a pivotal role in this response, as it shapes public understanding, influences societal norms, and informs regulatory frameworks (Sufa et al., 2025). Hidayah et al. (2024) emphasize the persistent tension within climate change governance, wherein economic interests particularly those tied to natural resource exploitation frequently conflict with the imperatives of environmental protection. Addressing this tension necessitates a nuanced balance between promoting economic development and advancing environmental justice, especially in light of the long-term implications associated with climate policy decisions.

Government Regulation No. 99 of 2012 imposes particularly stringent additional requirements on inmates convicted of drug-related offences in order to qualify for sentence remission. These requirements include, among others, the necessity to serve as a justice collaborator or to exhibit demonstrable and substantial remorse. Consequently, many drug offenders despite maintaining good conduct during incarceration face systemic barriers in accessing remission equitably and proportionately. This regulatory framework not only undermines the principle of substantive justice but also fosters unequal legal treatment and raises serious concerns regarding potential violations of human rights, as enshrined in the Indonesian

Constitution and various international legal instruments ratified by the state (Arevadze, 2021; Griffiths, 2023).

Previous studies have identified notable gaps, particularly the limited presence of normative legal research that critically evaluates the remission policy following the enactment of Government Regulation No. 99 of 2012 through the lens of human rights and justice theory. Furthermore, existing justifications for excluding remission eligibility for specific categories of crime remain philosophically and juridically weak (Sulistiyatna, 2021; Syah et al., 2025). This study seeks to address these gaps by investigating two principal research questions: (1) How are national regulations concerning the fulfilment of remission rights for drug offenders implemented in the post-Government Regulation No. 99 of 2012 era? and (2) To what extent does the restriction on remission for drug offenders align with the principles of justice and human rights protection as articulated in both national and international legal frameworks?

This study investigates the fulfilment of remission rights for inmates convicted of narcotics offences within the framework of Indonesian positive law. It critically analyses the existing legal instruments and policy frameworks governing the granting of remission, with particular emphasis on Government Regulation No. 99 of 2012. Additionally, the study evaluates the extent to which these remission policies align with the principles of human rights and restorative justice.

The research is expected to yield both theoretical and practical contributions. On a theoretical level, it advances legal discourse on justice in the correctional system by exploring the fulfilment of inmates' rights, especially concerning the limitations imposed on remission based on the nature of the offence. This theoretical enrichment addresses the paucity of normative-critical analyses of Government Regulation No. 99 of 2012, particularly from the standpoint of distributive and procedural justice as conceptualised by Rawls (Sari, 2020; Schnaudt et al., 2021). On a practical level, the study aims to offer policy recommendations for legislators and correctional authorities in designing or reforming remission policies that uphold human rights standards and ensure equitable treatment for all inmates, including those convicted of drug-related crimes.

METHOD

This study utilises a normative legal research design (doctrinal research), focusing on analysing legal norms within Indonesia's legal system rather than empirical social phenomena. It examines authoritative legal sources including legislation, judicial decisions, legal doctrines, and scholarly literature to critique and recommend improvements to the legal norms regulating remission rights for narcotics offenders, particularly under Government Regulation No. 99 of 2012.

A combination of normative approaches supports the study's depth and comprehensiveness. The statute approach analyses the coherence and enforceability of key laws such as Law No. 12 of 1995 on Corrections, Law No. 35 of 2009 on Narcotics, and Government Regulation No. 99 of 2012. The conceptual approach examines foundational legal ideas like justice, human rights, and restorative justice, referencing legal theories from scholars like Rawls and Griffiths (2023), and Sari (2020). The case approach studies judicial interpretations, particularly Constitutional Court rulings, to understand how remission laws are applied. The comparative law approach assesses remission policies in countries like Norway, Portugal, and the Netherlands, providing insights into potentially more humane and effective alternatives (Bhuller et al., 2020; Niełaczná & Dawidziuk, 2023).

Three categories of legal materials are utilised. Primary materials include binding legal texts and Constitutional Court decisions related to narcotics remission and human rights. Secondary materials consist of academic analyses offering critical interpretation, while tertiary materials like legal dictionaries and encyclopaedias support terminological and structural understanding. Together, these sources facilitate a normative analysis of whether remission restrictions align with justice and human rights principles.

The research employs descriptive qualitative analysis, focusing on systematic interpretation of legal norms within the broader legal framework and argumentative

interpretation that builds reasoned, theory-based legal arguments. This allows for an assessment of the legal and philosophical legitimacy of remission restrictions, including any normative contradictions and implications for human rights and correctional policy. As a doctrinal study, it does not involve empirical population sampling. Instead, it analyses legal texts and selected cases such as Constitutional Court Decision No. 28/PUU-XV/2017 and relevant regulatory practices by the Ministry of Law and Human Rights, using them as representative legal objects consistent with normative legal methodology.

RESULTS AND DISCUSSION

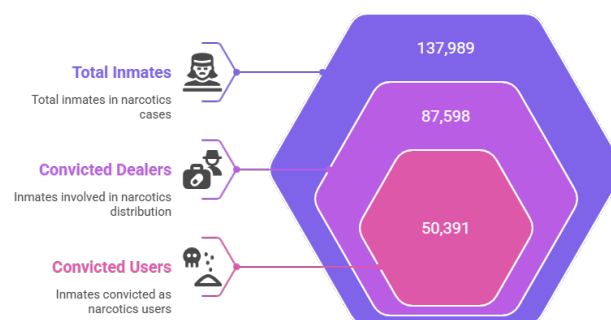
Before the enactment of Government Regulation No. 99 of 2012, Indonesia's correctional system, regulated by Law No. 12 of 1995 and Government Regulation No. 32 of 1999, recognized remission as a fundamental right granted to all prisoners who demonstrated good behaviour and actively engaged in rehabilitation programs. The remission policy functioned not only as a reward mechanism but also as an instrument of rehabilitation designed to encourage behavioural change and support the reintegration of inmates into society. Following the regulatory shift in 2012, however, a new paradigm emerged that substantially restricted remission eligibility for certain categories of offenders, particularly those convicted of extraordinary crimes such as drug trafficking, corruption, and terrorism.

Government Regulation No. 99 of 2012 establishes additional requirements for prisoners seeking remission, including the obligation to act as justice collaborators and to demonstrate profound remorse. These provisions transform remission from an unconditional entitlement into a conditional right that is contingent upon meeting criteria that are often unattainable for many inmates. For instance, numerous individuals convicted of narcotics offences, particularly those at lower levels or serving merely as couriers, lack the critical information necessary to qualify as justice collaborators. As a result, they remain ineligible for remission despite exhibiting good conduct during incarceration (Arevadze, 2021). This selective framework produces a dichotomy within the correctional system by differentiating prisoners based on the nature of their crimes rather than the degree of their personal rehabilitation.

Practical Challenges in Implementing Remission Based on Government Regulation No. 99 of 2012

In practice, the enforcement of Government Regulation No. 99 of 2012 generates significant administrative and ethical challenges. Correctional officers encounter difficulties in consistently applying the stricter remission standards, largely due to the absence of precise guidelines for evaluating "deep remorse" or determining the extent of inmate cooperation. Such ambiguities create inconsistencies in remission decisions, thereby weakening legal certainty and procedural justice. Moreover, the regulation exacerbates prison overcrowding in Indonesia, a condition already intensified by punitive policies on drug-related offences. Data from the Directorate General of Corrections (2022) reveal that more than half of the prison population consists of individuals convicted of narcotics-related crimes, many of whom are first-time offenders or low-level couriers (Direktorat Jenderal Pemasyarakatan, 2022).

Figure 1. Narcotics Cases in Indonesia Prisons 2022



Statistical data on corrections for the first quarter of 2022 from the Directorate General of Corrections recorded 137,989 inmates and detainees in narcotics-related cases, comprising 21,990 detainees and 115,999 prisoners. This figure demonstrates that more than half of the total population in correctional institutions across Indonesia is incarcerated for narcotics offences. Regarding the composition of roles, approximately 63.49 percent of inmates were identified as dealers, distributors, receivers, or producers, while 36.51 percent were users. These proportions underscore that the narcotics issue in Indonesia extends beyond consumption and reflects the strength of illegal distribution networks involving actors at multiple levels.

In terms of educational background, most inmates convicted of drug-related crimes had a high school or equivalent education (39.86 percent), followed by junior high school or equivalent (24.87 percent) and elementary school or equivalent (20 percent). This pattern suggests that drug-related crimes predominantly affect individuals with relatively low levels of formal education.

Age distribution data further reveal that narcotics crimes are dominated by the productive age group. The cohorts aged 24–28 years (20.20 percent), 29–33 years (19.40 percent), and 34–38 years (18.7 percent) represent the largest proportions of offenders, while those aged 18 years or younger account for only 0.30 percent. These findings confirm that narcotics offences significantly contribute to prison overcrowding in Indonesia and reinforce the country's position as being in a state of narcotics emergency.

The case of RZ, a 23-year-old woman arrested for carrying a small quantity of crystal methamphetamine under coercion from a drug dealer, illustrates the disproportionate consequences of the regulation. Although she exhibited good behaviour and successfully completed several rehabilitation programmes, she remained ineligible for remission due to her inability to serve as a justice collaborator. This situation underscores the structural injustice embedded in the remission system, where subjective requirements take precedence over measurable rehabilitation progress (Sulistiyatna, 2021). The evident misalignment between demonstrated behavioural improvement and access to remission directly contradicts the fundamental purpose of Indonesia's correctional law, which prioritises rehabilitation and social reintegration.

Theoretical Interpretation of Justice and Human Rights in Remission Policy

Rawls' theory of justice, particularly the notion of "justice as fairness," offers a philosophical foundation for critiquing Indonesia's remission framework. Rawls argues that social and legal institutions must uphold equal basic liberties and permit inequalities only when they serve the interests of the least advantaged members of society (Sari, 2020). Historically, dehumanization has played a critical role in justifying social exclusion, discrimination, and violence (Brumadyadisty et al., 2025). Denying remission to drug offenders who have demonstrated genuine behavioral improvement contravenes this principle, as it disadvantages a specific group without clear evidence that such harm produces broader societal benefits.

Furthermore, the policy deepens social inequality, given that most drug offenders originate from economically marginalized backgrounds. Moreover, the selective application of remission based on the nature of the offense contradicts the principles of equality before the law and procedural justice. From Rawls' standpoint, every individual must receive equal access to institutional benefits through fair and impartial procedures. Accordingly, the existing remission policy not only erodes substantive justice but also perpetuates discriminatory legal practices.

Figure 2. Steps to Reform Remission System

An alternative policy formulation for reforming Indonesia's remission system should emphasize the elimination of selective mechanisms based on the type of crime. Remission should no longer depend on the categorization of offenses but rather on the behaviour and rehabilitation progress of prisoners. Such an approach would eradicate legal discrimination and reinforce the principle of equality before the law. The system must incorporate standardized behavioural and rehabilitation indicators, including measurable aspects such as compliance with institutional regulations, participation in rehabilitation programmes, and demonstrated rehabilitation outcomes. These assessments should be conducted objectively through transparent and reliable evaluation instruments.

The implementation of remission should follow a transparent and accountable process, supported by an independent body responsible for evaluating eligibility. This body should include external representatives, such as academics, legal practitioners, and non-governmental organizations, to minimize the risk of conflicts of interest. In addition, remission policies must be grounded in human rights principles and theories of justice. Rather than serving as an instrument of retribution, remission should function as a means of rehabilitation and social reintegration. Consistent with Rawls' concept of justice as fairness, every individual deserves equal access to institutional benefits.

Furthermore, remission can be designed as an incentive for prisoners who actively engage in educational activities, vocational training, and rehabilitative counselling, thereby encouraging substantive behavioural change and preparing them for successful reintegration into society. To ensure accountability, the system should incorporate regular monitoring and evaluation through established audit mechanisms. The adoption of digital platforms would enhance transparency by enabling public access to information regarding remission procedures and eligibility criteria. This step not only strengthens substantive justice, but also builds a more inclusive and humane legal legitimacy, while promoting the effectiveness of rehabilitation and social reintegration for prisoners.

Inconsistency between Remission Policy and Rehabilitative Objectives of the Correctional System

The policy stipulated in Government Regulation No. 99 of 2012 diverges from the rehabilitative vision mandated by Law No. 12 of 1995 on Corrections, which prioritises behavioural reform and social reintegration (Republik Indonesia, 1995). According to Government Regulation No. 99 of 2012, remission may be granted to prisoners and juvenile offenders who demonstrate good behaviour, evidenced by the absence of disciplinary violations for six consecutive months, and who actively participate in correctional programmes with positive outcomes (Peraturan Pemerintah Republik Indonesia Nomor 99 Tahun 2012, 2012). This framework places emphasis on behavioural change rather than punishment alone. Furthermore, the regulation requires prisoners to engage in educational, vocational, and counselling programmes. For certain categories of crime, such as narcotics, terrorism, corruption, and gross human rights violations, additional conditions are imposed, including cooperation with law

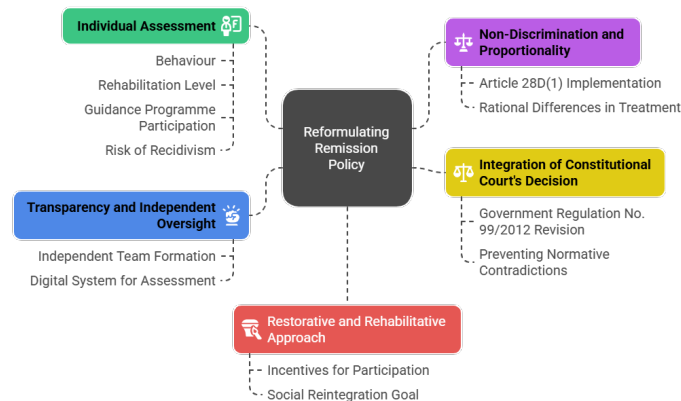
enforcement as justice collaborators, participation in deradicalisation initiatives for terrorist convicts, and the payment of fines or restitution for corruption-related offenders. The stated aim of these requirements is to ensure genuine rehabilitation prior to reintegration into society.

The regulation also provides mechanisms for social reintegration. Assimilation may be granted to prisoners who have served part of their sentence and demonstrated progress in their rehabilitation, while conditional release is available to those who have completed two-thirds of their sentence, behaved well, participated in rehabilitation, and been deemed acceptable for reintegration by society. Assimilation may include social work activities in community institutions, reflecting the importance of productive reintegration. Despite the stricter provisions regarding remission for extraordinary crimes, the regulation formally retains the correctional ethos of rehabilitation and social reintegration, underscoring that the ultimate objective of punishment in Indonesia is not mere retribution but the restoration of inmates as productive members of society.

Law No. 12 of 1995, in contrast, firmly establishes rehabilitation and reintegration as the foundation of the correctional system. Enacted to replace the colonial prison system rooted in deterrence and retribution, the law conceptualises prisoners not as passive objects of punishment but as subjects capable of reform. Article 2 stipulates that the correctional system seeks to guide prisoners toward recognising their mistakes, improving themselves, avoiding recidivism, and reintegrating as responsible citizens who contribute positively to society. Article 3 further highlights that the correctional system functions to prepare inmates for healthy reintegration into social life. Article 5 outlines fundamental principles, including protection of society through rehabilitation, equality of treatment, education and guidance, respect for human dignity, the restriction of liberty as the sole form of punishment, and the preservation of family ties. Article 14 explicitly guarantees prisoners' rights to worship, education, health services, adequate sustenance, and care, as well as rights to complaint, access to information, remission, assimilation, parole, and other legal entitlements (Peraturan Pemerintah Republik Indonesia Nomor 99 Tahun 2012, 2012). These provisions are designed as instruments to foster behavioural change and facilitate reintegration. Additionally, the law underscores the vital role of correctional institutions and the wider community in supporting rehabilitation, with Community Rehabilitation Centres (BAPAS) entrusted to guide and supervise released clients, while encouraging collaboration with social institutions and community actors.

Nevertheless, in practice, the implementation of Government Regulation No. 99 of 2012 reflects a punitive orientation, particularly towards drug offenders, thereby undermining the rehabilitative mandate of the correctional system. This illustrates a normative contradiction within Indonesia's criminal justice framework, where the overarching rehabilitative and integrative goals of the correctional law are diminished by derivative regulations that impose exclusionary and retributive measures.

This restrictive remission policy also generates constitutional concerns. Article 28D (1) of the 1945 Constitution affirms the right to equal treatment before the law, a principle reinforced by Constitutional Court Decision No. 28/PUU-XV/2017, which questioned the rationality and proportionality of limiting remission rights (Peraturan Pemerintah Republik Indonesia Nomor 99 Tahun 2012, 2012). Although the Court upheld the validity of the regulation, it emphasised the necessity of individualised assessments to prevent systemic discrimination. In practice, however, the policy continues to operate on the basis of categorical exclusion tied to the nature of the offence, thereby undermining the principles of individual justice and proportionality in sentencing.

Figure 3. Reformulating Remission Policy: Key Strategies and Principles

Solutions for reformulating remission policy should prioritise the implementation of individual assessments, whereby prisoners are evaluated based on their behaviour, level of rehabilitation, participation in correctional programmes, and risk of recidivism rather than solely on the category of crime committed. Such assessments should employ standardised and measurable instruments to ensure objectivity and accountability. The principles of non-discrimination and proportionality must also be reinforced to guarantee the full application of Article 28D(1) of the 1945 Constitution, thereby securing remission rights for prisoners who demonstrate genuine rehabilitation. Differential treatment should only be applied when it is rational and proportionate, such as in cases involving the protection of public safety, and not simply on the basis of offence classification.

Furthermore, the Constitutional Court's rulings must be integrated into derivative regulations through revisions or amendments to Government Regulation No. 99/2012, thereby institutionalising individual-based assessments and preventing normative inconsistencies between the rehabilitative orientation of the Correctional Law and the restrictive approach of the regulation. Transparency and accountability can be enhanced by establishing an independent supervisory body composed of external actors, including academics, legal practitioners, and human rights organisations. The use of digital systems to document and publish assessment processes would further ensure public access to remission procedures and decision-making rationales. Finally, remission should adopt a restorative and rehabilitative approach, serving as an incentive for prisoners who engage actively in education, vocational training, social work, and counselling programmes. Such measures would not only facilitate personal recovery but also reinforce the broader objective of social reintegration, in accordance with the mandate of the 1995 Correctional Law.

Legal Consequences of Procedural Disparities in the Granting of Remission

Procedural inequalities within the current remission framework affect both prisoners and the integrity of the legal system. The requirement to act as a justice collaborator, for example, introduces external factors that are unrelated to the rehabilitative objectives of correctional practice. These conditions extend beyond the scope of correctional guidance and raise ethical concerns, as they may compel prisoners to confess or provide information without sufficient legal safeguards.

Moreover, the disproportionate denial of remission to specific groups intensifies systemic prison overcrowding, which undermines the quality of life for all inmates and imposes additional burdens on state resources. This policy also restricts the application of restorative justice, which prioritises repairing harm and facilitating the reintegration of offenders rather than perpetuating their exclusion. The negative consequences are further compounded by administrative inconsistencies, particularly divergent interpretations of concepts such as "good behaviour" and "remorse," leading to unequal outcomes across correctional institutions.

Figure 4. Reforming Remission Policy

Reformulating remission policy requires the implementation of a standardised assessment system for behaviour and remorse through nationally applicable instruments that are measurable and grounded in objective indicators, such as disciplinary records, participation in programmes, psychological evaluations, and levels of compliance. This approach prevents inconsistent interpretations of “good behaviour” and “remorse” across correctional institutions, thereby producing more uniform and equitable outcomes.

The integration of restorative justice principles is also essential, positioning remission as a rehabilitative incentive for prisoners who actively engage in education, vocational training, counselling, or social work programmes. Such measures allow prisoners to contribute to the recovery of victims or the wider community, transforming remission into a mechanism of social reintegration rather than merely a reduction in sentence length.

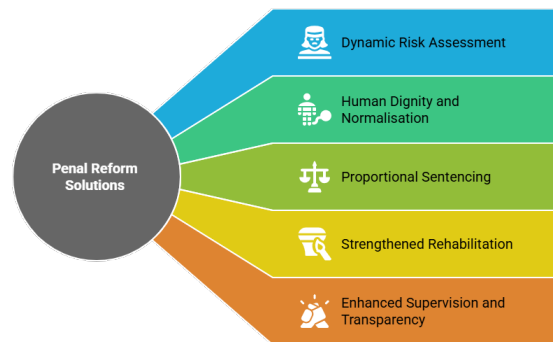
Addressing systemic overcrowding requires the adoption of a proportional remission mechanism that is based on demonstrable progress in rehabilitation rather than the type of offence committed. This reform would not only mitigate excessive prison populations but also reduce the state’s operational burden.

To ensure fairness and transparency, an independent oversight mechanism should be established, comprising academics, legal practitioners, psychologists, and human rights organisations. The use of digital systems to document and publish remission-related data would further strengthen accountability by enabling public scrutiny.

Finally, derivative regulations, particularly Government Regulation No. 99 of 2012, must be revised to align with the rehabilitative and reintegrative vision of Law No. 12 of 1995. Such synchronisation would guarantee that remission policies prioritise individual justice while eliminating discriminatory practices against particular groups.

Comparative Legal Reform as a Pathway for Policy Transformation

Indonesia could significantly benefit from examining and adopting aspects of international correctional systems that emphasise rehabilitation and the principle of proportionality in sentencing. The Netherlands, for instance, incorporates a dynamic risk assessment model into its sentencing and parole frameworks, allowing for more flexible and responsive correctional strategies that consider individual progress. Similarly, Norway employs a correctional approach grounded in human dignity and normalisation, which has demonstrated effectiveness in reducing recidivism while maintaining public safety (Niełaczna & Dawidziuk, 2023).

Figure 5. Transforming Indonesia's Penal System

Solutions for penal reform in Indonesia should prioritise the development of a dynamic risk assessment system capable of regularly evaluating the level of danger, rehabilitative needs, and potential progress of individual prisoners. Such assessments would provide a sound basis for granting remission, assimilation, or parole, thereby making correctional policies more flexible and responsive to behavioural change.

The adoption of a human dignity and normalisation approach is equally important, emphasising that the loss of liberty constitutes the sole punishment while safeguarding prisoners' fundamental rights. Normalisation requires that prison life mirror conditions in society as closely as possible, ensuring access to education, health care, employment, and social interaction to facilitate successful reintegration.

Sentencing practices should also integrate the principle of proportionality by calibrating penalties in line with the seriousness of the offence, the risk of recidivism, and the individual's rehabilitative progress, rather than relying solely on offence categories. This approach would uphold individual justice and prevent structural discrimination.

Furthermore, rehabilitation must be strengthened through multidimensional programmes that encompass formal education, vocational training, psychological counselling, and social reintegration initiatives. Remission and assimilation should function as incentives for active participation, providing prisoners with clear motivation to engage in the rehabilitative process.

Finally, supervision and transparency in the correctional system should be enhanced by establishing independent oversight bodies composed of academics, legal practitioners, psychologists, and human rights organisations. The use of digital platforms to track and publish rehabilitation outcomes would further reinforce accountability and foster public trust in the system.

By adopting best practices from other jurisdictions, Indonesia could address prison overcrowding, enhance the rehabilitation of prisoners, and fulfil its legal responsibilities at both national and international levels. Such comparative legal reform does not necessitate wholesale adoption but rather the careful adaptation of fundamental values, including justice, human rights, and social reintegration. Achieving this objective requires strong political will, coherent legislative frameworks, and effective institutional collaboration among correctional authorities, the judiciary, and the legislature. Meaningful reform of remission policy can only be realised through sustained cross-sectoral commitment.

DISCUSSION

The findings of this study demonstrate that the implementation of Government Regulation No. 99 of 2012 has shifted the orientation of correctional institutions from the rehabilitative focus mandated by Law No. 12 of 1995 toward a more restrictive and punitive model. This transformation has generated conceptual, practical, and constitutional challenges that undermine the integrity of Indonesia's criminal justice system.

A significant paradigm shift is evident in the remission policy, which has moved from being a universal right to a conditional entitlement. Before the enactment of Government Regulation No.

99 of 2012, remission was regarded as a fundamental right granted to prisoners who demonstrated good behaviour and actively participated in rehabilitation programmes. Remission functioned as an instrument of rehabilitation designed to foster behavioural change and prepare inmates for social reintegration. The new regulation, however, redefines remission as a conditional privilege, particularly for those convicted of extraordinary crimes such as narcotics, corruption, and terrorism. Additional requirements, including the obligation to serve as a justice collaborator or to demonstrate “deep remorse,” have made remission inaccessible for many, even those occupying minor roles such as drug couriers. This selective approach introduces discriminatory differentiation, as behavioural improvement and rehabilitation are no longer the primary criteria.

The practical implications of this regulation include heightened legal uncertainty and worsening prison overcrowding. The absence of clear evaluative parameters for concepts such as “deep remorse” or the sufficiency of cooperation with law enforcement has created administrative inconsistencies across correctional institutions, thereby eroding legal certainty and procedural fairness. Moreover, the restrictive nature of the regulation exacerbates overcrowding, with data indicating that more than half of Indonesia’s prison population is incarcerated for narcotics-related offences. Many of these inmates are of productive age and have low levels of formal education. The lack of access to remission perpetuates rising prison occupancy, diminishing the quality of life within correctional facilities and imposing heavier financial burdens on the state.

The inconsistency between Government Regulation No. 99 of 2012 and Law No. 12 of 1995’s rehabilitative orientation can be critiqued through Rawls’ Theory of Justice, which emphasizes fairness and equality for the least advantaged (Sari, 2020). The regulation’s restrictive remission policy disproportionately impacts low-level drug offenders from marginalized backgrounds, violating principles of distributive and procedural justice by favoring offense type over individual behavior and rehabilitation (Schnaudt et al., 2021).

From a human rights perspective, limiting remission worsens prison conditions and infringes on the right to adequate living standards Griffiths (2023), especially for vulnerable groups (Shadmi et al., 2020). The RZ case exemplifies how punitive policies disproportionately affect disadvantaged individuals lacking access to rehabilitative support Sulistyana (2021), reinforcing Arevadze’s (2021) argument that exclusionary laws undermine human rights and the rule of law. Reform demands a comprehensive human rights framework that upholds social justice, equality, and human dignity.

Legal Balance Theory further highlights the need for harmony between laws, enforcement, and social norms (Hidayah et al., 2024). Discrepancies between Law No. 12 of 1995 and Government Regulation No. 99 of 2012 create normative instability, while varied interpretations of “good behaviour” and “remorse” reveal procedural inconsistencies (Shutenko, 2020). Legal Balance Theory thus calls for regulatory revision to align with rehabilitative principles, human rights obligations, and societal stability.

CONCLUSIONS

This study demonstrates that the enactment of Government Regulation No. 99 of 2012 has transformed the paradigm of Indonesia’s correctional system from its original rehabilitative orientation, as mandated by Law No. 12 of 1995, into a more restrictive and punitive framework. This transformation has generated conceptual, practical, and constitutional challenges, particularly with regard to the fulfilment of remission rights for drug offenders.

Empirical evidence indicates that the policy has intensified prison overcrowding, weakened legal certainty due to ambiguous standards such as the notion of “deep remorse,” and produced discriminatory outcomes by prioritising the type of offence over individual rehabilitative progress. Cases such as RZ illustrate structural injustice in which inmates who have demonstrated genuine behavioural improvement remain excluded from remission solely because they do not meet the requirements of a justice collaborator.

From a theoretical standpoint, the policy is inconsistent with Rawls’ Theory of Justice, which underscores justice as fairness for the least advantaged members of society Sari (2020),

and with the principle of human rights protection, as it exacerbates prison living conditions and neglects vulnerable groups (Griffiths, 2023; Shadmi et al., 2020). Moreover, the discrepancy between the rehabilitative intent of the Correctional Law and the restrictive provisions of Government Regulation No. 99 of 2012 reflects a deficiency in maintaining legal balance within the criminal justice system, as highlighted by Legal Balance Theory (Hidayah et al., 2024).

Accordingly, reform of the remission framework is imperative. Such reform should include the application of individualised assessments based on objective behavioural and rehabilitative indicators, the integration of restorative justice principles so that remission operates as a rehabilitative incentive, the establishment of independent oversight mechanisms with public transparency, and regulatory harmonisation to ensure alignment with the rehabilitative mandate of Law No. 12 of 1995. By drawing on international practices such as those implemented in the Netherlands and Norway, Indonesia can strengthen its correctional system to become more just, humane, and constitutionally grounded, while safeguarding public security.

SUGGESTIONS

Selective revisions to PP 99 of 2012 should be undertaken in alignment with Law 12 of 1995 to ensure that the determination of remission prioritises individual assessments rather than categorical classifications of crime. Such assessments must focus on behavioural indicators, participation in rehabilitation programmes, and the likelihood of recidivism. The requirement of justice collaborators in minor narcotics cases should be removed or significantly limited, as most couriers lack access to strategic information and this condition risks creating systemic exclusion even when prisoners have demonstrated positive behavioural change.

The establishment of an independent supervisory body at the national level is essential to strengthen accountability in the remission process. This body should include academics, legal professionals, forensic psychologists, and human rights organisations, with the authority to set standards, conduct audits, and issue annual reports. Comparative international practices that emphasise rehabilitation and proportionality should also be adopted, drawing on models of normalisation and risk-needs assessments as the foundation for remission, assimilation, and parole.

From a legal and human rights perspective, the practice of granting remission must align with Rawlsian principles of justice, ensuring the greatest benefit for the most disadvantaged groups, such as prisoners with limited education or disadvantaged economic backgrounds. Incorporating a restorative justice approach is equally necessary, so that remission is linked to tangible contributions by prisoners to their personal recovery, their families, victims, and communities, with the resulting social impact systematically documented as an integral part of the evaluation process.

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