

# Regulatory Framework and Implications of Sentence Remission for Inmates at Bangli State Detention Center

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DOI: <https://dx.doi.org/10.47772/IJRISS.2025.909000335>

Received: 04 September 2025; Accepted: 12 September 2025; Published: 10 October 2025

## ABSTRACT

The granting of remission to inmates is a legal mandate designed as an incentive to encourage behavioral reform in accordance with the objectives of the correctional system. Remission represents the right of inmates to receive a reduction in their sentence contingent upon good conduct during the rehabilitation period. This right may be further enhanced if inmates engage in activities beneficial to the state, humanity, or support the operations of correctional institutions. The remission process initiates with a recommendation from the Head of the Correctional Institution to the Regional Office of the Ministry of Law and Human Rights, based on inmate counseling evaluations. The final remission decision is issued by the Regional Office, relying on institutional reports. This study addresses the critical issue of remission implementation for inmates housed in detention centers, specifically the Bangli State Detention Center, which accommodates prisoners due to overcrowding in correctional facilities. Employing an empirical research methodology, this study analyzes the regulatory framework and practical implications of remission granting for inmates at Bangli Detention Center. The findings contribute to understanding how remission policies operate within detention settings and their impact on inmate rehabilitation and institutional management.

**Keywords:** remission, inmate, detention center, correctional system, rehabilitation

## INTRODUCTION

The current correctional system has undergone a change in its function. Previously serving as a deterrent for individuals convicted of a crime, it has now transformed into a process of development and social integration for inmates. It is hoped that after serving their sentence, the perpetrator will not only experience a deterrent effect from the treatment they received during their sentence, but will also realize the wrongdoing of their actions, enabling them to become useful members of society.

The correctional system for convicts is provided for those detained, as stipulated in the Criminal Code. There are three types of detention: State Detention Center, City Detention Center, and House Detention Center. Of these three types, the correctional system will be more optimal for those detained in State Detention Centers. The Minister establishes State Detention Centers in each district or municipal capital. Unless a detention center or correctional institution has not yet been established, detention will be carried out by the Indonesian National Police or the Prosecutor's Office as State Detention Centers. This is a form of obligation that the state has to protect its citizens. [1]

In addition, the state also has an obligation to uphold human rights and guarantee that its citizens receive their rights without exception as stated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, this does not exclude a citizen who is facing the law. If a citizen is suspected of committing an act that is suspected of being a criminal act, that person must also be protected by being treated as an innocent party until a decision that has permanent legal force (in kracht van gewijsde) states his guilt. This is in accordance with the legal principle of "Presumption of innocence", so that a proper process (denial of justice) is applied.

The presumption of innocence applies when a person is suspected of committing a crime and is subsequently arrested, supported by sufficient evidence for further investigation. Arrest is a temporary restriction of a suspect's freedom if there is sufficient evidence for the purposes of the investigation. The authority to detain a person strongly suspected of committing a crime rests with the investigator during the investigation, the public prosecutor for prosecution purposes, and the judge for trial purposes. [2] Based on the presumption of innocence, the Criminal Procedure Code (KUHAP) regulates the rights granted, including:

1. Rights of suspects and defendants (Articles 50-68 of the KUHAP)
2. Legal assistance at every stage of the examination (Articles 69-74 of the KUHAP)
3. Authority of the Pretrial Institution (Articles 77-83 of the KUHAP)
4. Compensation and Rehabilitation (Articles 95-97 of the KUHAP).

Of these four rights, the essential right for a person who is a prisoner is the right to receive a reduction in the prison term granted by the State, which is called remission.

A prisoner undergoing a period of loss of liberty still has certain rights as stipulated in Article 10 paragraph 1 of Law Number 22 of 2022 concerning Corrections, one of which is the right to receive remission. Remission or reduction of sentence while the prisoner is serving a criminal sentence also changes from time to time. The Prison System places remission as a reward. This means that remission is a gift from the Government to the prisoner. In the new prisoner development system, remission is positioned as motivation for prisoners to develop themselves. This is because remission is not a law as in the Correctional System, nor is it a gift as in the prison system, but rather a right and obligation of the prisoner. This means that if the prisoner truly carries out his obligations, he is entitled to receive remission, as long as the requirements have been met.[3]

Besides being a right granted to prisoners, remission is also seen as a way to address overcrowding. The phenomenon of overcrowding causes prisoners who should be serving their sentences in prison to be transferred or placed in detention centers, which should only accommodate detainees or suspects and defendants undergoing trial. Due to this phenomenon, the Bangli Detention Center, the object of this research, also fulfills its prison function: submitting remission requests to eligible inmates. The research questions in this article are as follows: How are remissions regulated for inmates in state detention centers?

## RESEARCH METHODOLOGY

This study employs an empirical qualitative research approach to analyze the regulatory framework and practical implications of remission granting for inmates at the Bangli State Detention Center. The research focuses on understanding how remission policies are implemented within detention centers that function under conditions of overcrowding, and how these policies affect inmate rights and institutional management.

### Data Collection

Primary data were collected through semi-structured interviews with key stakeholders, including correctional officers, administrative staff at the Bangli Detention Center, and selected inmates eligible for remission. These interviews aimed to capture firsthand insights into the remission process, challenges faced, and the perceptions of remission as both a legal right and a correctional incentive. Secondary data were obtained from official documents, including Indonesian laws and regulations related to corrections and remission (e.g., Law Number 22 of 2022 concerning Corrections, Criminal Procedure Code), institutional reports, and previous academic literature relevant to the correctional system and remission policies.

### Data Analysis

The collected data were analyzed using thematic content analysis to identify patterns and themes related to the regulation, implementation, and implications of remission in the detention center context. Legal texts were examined through normative legal analysis to interpret the statutory provisions governing remission rights and procedures. Triangulation of data sources was employed to enhance the validity and reliability of the findings.

## Research Scope and Limitations

The study is geographically limited to the Bangli State Detention Center, which serves as a representative case of detention centers experiencing overcrowding and dual functions as both detention and correctional facilities. While the findings provide valuable insights into remission practices in this context, they may not be fully generalizable to all detention centers across Indonesia.

## RESULTS AND DISCUSSION

### Regulations for granting remissions to Correctional Inmates (WBP) in State Detention Centers

Remission is a legal instrument that plays a crucial role for the state in realizing the goals of the correctional system. Remission is a reduction in the sentence given to individuals facing legal problems and already serving prison terms. Article 1 of Presidential Decree No. 174 of 1999 does not provide a definition of remission; it simply states: "Every prisoner and juvenile convict serving a temporary prison sentence or a suspended sentence may be granted remission if they demonstrate good behavior during their sentence." [4]

The granting of remission (a reduction in the sentence) represents a form of a convict's fulfillment of responsibility for their crimes. Remission is granted as a token of the government's trust in the perpetrator of the crime, believing that there is a good side in every human being that can lead to a correct path, even as a prisoner. [5] The urgency of granting remission in the prison sentence enforcement system, particularly in the correctional system, is crucial because it involves the guidance provided by prison officers. [6]

The granting of remission is not an expression of the government's mercy toward inmates. Remission is a reflection of the inmate's responsibility to himself, namely, as a form of accountability for the violations he has committed. Remission is a reflection of the inmate's good faith toward the officers. What is called remission is essentially a "self-imposed" reduction of a prison sentence that can be waived in whole or in part due to disorderly conduct.[7]

Before the enactment of Law Number 22 of 2022 concerning Corrections. The granting of remissions was regulated in Law Number 12 of 1995 concerning corrections, with its implementing regulations being Government Regulation Number 99 of 2012, the second amendment to Government Regulation Number 32 of 1999 concerning the Requirements and Procedures for the Implementation of the Rights of Correctional Inmates. Furthermore, Government Regulation Number 99 of 2012 concerning Corrections contradicted Human Rights because there were differences in the requirements for granting remissions between corruption convicts and other convicts, so that the regulation was later abolished [8]. Furthermore, because it was felt that the Law did not reflect the objectives of the correctional system and was considered to cause disharmony with the values of the 1945 Constitution of the Republic of Indonesia, specifically Article 28D, because the implementation of the granting of rights that should be given to prisoners in the form of conditional release and remission was considered to be inequitable, Law Number 22 of 2022 concerning Corrections was issued, which replaced Law Number 12 of 1995 and became the main legal umbrella in granting remissions.

Law Number 22 of 2022 concerning Corrections stipulates that the granting of remission, which is one of the rights of prisoners, must be given equally to every WBP without exception as long as they meet certain requirements and have undergone an assessment. In addition, the material in this Law is non-discriminatory and highly upholds equal treatment before the law in accordance with the principles adopted by Indonesian law, namely the principle of equality before the law. In addition, this Law is also in line with the values upheld by Law Number 39 of 1999 concerning Human Rights, which in Article 3 states that everyone has the right to equal recognition before the law and everyone has the right to protection of human rights and basic human freedoms, without discrimination so that the implementation of Human Rights in these two Laws runs in harmony.

The right of inmates to receive remission or a reduction in their sentence is regulated in Article 10 paragraph (1), which states that "in addition to the rights referred to in Article 9, inmates who have met certain requirements without exception are also entitled to:

- a. Remission;
- b. Assimilation;
- c. Leave to visit or receive visits from family;
- d. Conditional leave;
- e. Pre-release leave;
- f. Conditional release; and
- g. other rights in accordance with statutory provisions."

In this Correctional Law, there are no further regulations regarding the granting of remission rights to prisoners, but in the transitional provisions it is explained that the implementing regulations of this Law are Government Regulation Number 32 of 1999 concerning the requirements and procedures for implementing the rights of correctional inmates. In this regulation, the implementation of granting remission is also not regulated in detail, there is only a small part discussing remission, namely in the ninth part of Article 34 paragraphs (1), (2), and (3) based on the considerations of the contents of the article, it can be seen that remission is given to every prisoner who is categorized as good while in the correctional institution. This remission also applies to prisoners and juvenile convicts who are waiting for clemency while serving their sentence. Article 35 states that provisions regarding remission are further regulated by Presidential Decree.

Furthermore, it should be emphasized that remission or reduction in sentence cannot be granted to inmates serving the death penalty or life imprisonment, in accordance with Article 10 paragraph (4), which states, "The granting of rights as referred to in paragraph (1) does not apply to inmates sentenced to life imprisonment or death row." Furthermore, Presidential Decree No. 174 of 1999, specifically Article 7, states that "inmates who are not entitled to remission are inmates who:

- a. are sentenced to death or life imprisonment;
- b. have been sentenced to less than 6 months;
- c. are subject to disciplinary sanctions and are registered in the prison's disciplinary violations book within the time period calculated for granting remission;
- d. are on leave before release;
- e. are sentenced to imprisonment in lieu of a fine;
- f. are recidivists, namely former inmates who commit another crime within 2 (two) years of committing the crime they previously committed.

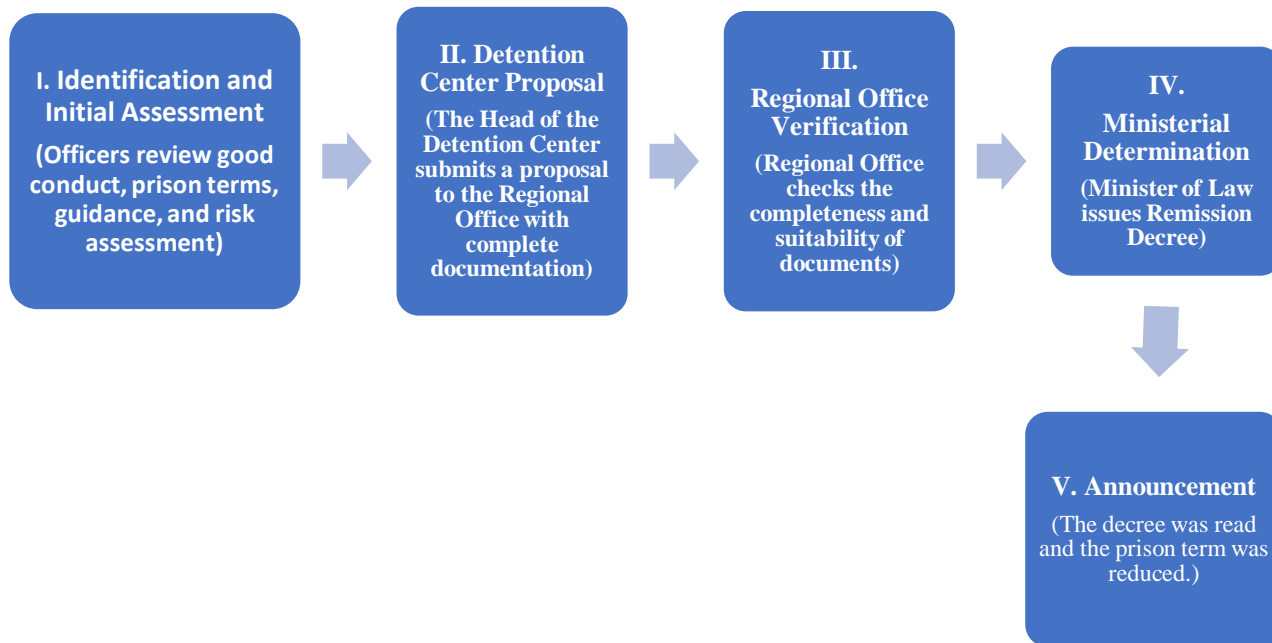
Especially for repeat offenders (recidivists) who have received remission, they will not be given remission again until they have completed the remainder of their sentence, the existence of limitations for whether or not prisoners can be given remission is a means of education that is applied in the correctional system in prisons, which must be accounted for to the state and society, conditions that are too easy to be given remission will certainly be criticized by the community receiving the prisoners again. and if it is too heavy it will also kill the rights of prisoners to receive education or guidance so that those who have a real desire to leave prison can be realized [9].

### **Implications of Granting Remissions to Prison Inmates (WBP) at Bangli State Detention Center**

It is generally understood that the function of the State Detention Center is to guarantee the protection of the human rights of state prisoners in order to expedite the investigation, prosecution, and trial processes, and to

support prisoner development activities. It protects the public against crime, provides a deterrent effect so that individuals do not commit crimes again by improving and educating prisoners, prevents and treats, and protects the human rights of perpetrators [10]. Despite these functions, in practice, detention centers are converted into correctional institutions to address the problem of overcapacity that occurs in correctional institutions, so that prisoners meeting certain criteria can be placed in the State Detention Center to serve their sentences.

According to an interview with Mr. Dedy Nugroho, SH, Head of the Class IIB Bangli State Detention Center, the Bangli Detention Center actively grants remissions to prisoners who have met the requirements and through assessment results. The procedure for granting remissions can be described by researchers as follows:



The procedure for granting remission is based on Articles 22 to 26 of Law Number 22 of 2022 concerning Corrections, which detail the stages of granting remission. Furthermore, before the assessment is carried out by the observation team, it must first be ensured that the inmate being proposed for remission has served at least six months of their sentence. It is also necessary to pay attention to the type of sentence the inmate is serving, as, as previously mentioned, death sentences and life sentences cannot be submitted for remission.

The types of remission that can be granted to inmates are in accordance with Articles 2 and 3 of Presidential Decree No. 174 of 1999, which states that there are four types of remission:

1. General remission, which is granted on the commemoration of the Proclamation of Independence of the Republic of Indonesia on August 17th.
2. Special remission, which is granted on religious holidays adhered to by the inmate or juvenile inmate concerned. If a religion has more than one religious holiday per year, the most revered religious holiday is granted.
3. Additional remission, which is granted based on Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.04-HN.02.01 of 2000 concerning additional remission for inmates and juvenile inmates who have rendered services to the state.
4. Decade remission, namely remission granted based on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.01-HN.02.01 of 2005 concerning the determination of a reduction in the sentence specifically for 60 (sixty) years of Indonesian Independence.

Bangli Detention Center has provided various types of remissions to every WBP who has passed the assessment and has been approved by the Ministry of Law, recently Bangli Detention Center provided special remissions for WBP in the framework of Nyepi Day and Eid al-Fitr which is part of the efforts to foster and respect the rights of WBP. According to the Head of Bangli Detention Center who received this special



remission were 84 WBP received special remission for Nyepi and 100 WBP received special remission for Eid al-Fitr, so that the total number of WBP who received remission was 184 people. According to the Head of Bangli Detention Center, the granting of remission is a real manifestation of the Ministry's commitment to fulfilling the rights of WBP in accordance with applicable provisions, not only a reduction in criminal terms but also a form of appreciation for WBP who have shown positive changes during their rehabilitation and it is also hoped that this will be an encouragement for them to continue to do good so that they can later return to society better prepared and better. In addition to the remissions that have been regulated in the laws and regulations, the Bangli Detention Center is also considering the remissions that have just been established this year, namely the decade remission which is given every 10 years on the Indonesian Independence Day with conditions other than the general conditions that have been determined, there are also special conditions, namely not committing any violations for the last 10 years and also the amount of remission given is a maximum of 3 months.

The granting of remissions that have been routinely given at the Class IIB Bangli State Detention Center has implications for both the Institution in this case the Bangli Detention Center and for WBP. The legal implication for the Bangli Detention Center is that granting remissions helps reduce overcapacity that also occurs in the Bangli Detention Center. By reducing the number of WBP by receiving a reduction in their sentence, it will provide space for the Bangli Detention Center to accept Detainees, which is actually the function of the Detention Center, namely as a temporary place for Detainees who are undergoing trial until they receive a final legal decision. In addition, granting remissions shows that the Detention Center has succeeded in providing guidance for WBP in accordance with the values and mandates of Law Number 12 of 2022 concerning Correctional Services. The correctional system is part of a legal system based on the philosophy of Pancasila according to the direction, limits, and methods of prisoner education, which is implemented to provide guidance to people who have committed deviant acts so that they realize that the actions they have committed are a violation of the law, and it is also hoped that after the guidance is carried out the perpetrators can improve themselves, be on the right path, and can socialize with other communities [11].

Furthermore, according to Mr. Dedy Nugroho, SH, the implications of granting remissions for inmates can be outlined as follows:

- a. **Motivation for Good Behavior.** Remissions encourage inmates to maintain good behavior while serving their sentences. With the incentive of reduced sentences, inmates are encouraged to comply with regulations, participate in correctional activities, and avoid violations.
- b. **Accelerated Social Reintegration Process.** Granting remissions expedites the inmates' return to society, allowing them to begin the social reintegration process earlier. This provides an opportunity for them to return to active roles in their families and communities.
- c. **Potential Security and Social Challenges.** While remissions have many benefits, they also pose challenges, such as the potential for society to be unprepared to accept certain inmates back into society. Therefore, remissions must be accompanied by an effective guidance program to ensure inmates are truly prepared to return to society.

Based on interviews conducted, researchers assessed that granting remission, which is a reduction in prison sentence for prisoners, has a noble purpose: to raise awareness of their unlawful actions. This reintegration process can also build strong character so that they can return to society. However, all of this must be accompanied by an integrated system and carried out with one goal: to shape the behavior of prisoners towards a better direction in accordance with the spirit of Correctional Services.

## CONCLUSION

The regulation regarding Remission has long been regulated in Indonesian legislation, Law Number 12 of 1995 concerning Corrections was amended by establishing Law Number 22 of 2022 concerning Corrections, until now the legal umbrella for granting remission is the latest law on corrections. This law has explained in detail the criteria and procedures for granting remission for WBP. Furthermore, granting this remission has implications for both Institutions and WBP. For Institutions, a very significant implication is an effort to avoid

overcapacity and for WBP the implications of granting remission include Motivation for Good Behavior, Acceleration of the Social Reintegration Process, Potential Security and Social Challenges.

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