

Judicial Pardon: Repositioning Restorative Justice from the Perspective of the National Criminal Code

Hajairin^{1*}, Syamsuddin², Aman Ma'arij³

¹²³ Law Study Program, Muhammadiyah University of Bima

e-mail: hajairin@umbima.ac.id, syamsuddin@umbima.ac.id, aman@umbima.ac.id

*Corresponding Author: hajairin@umbima.ac.id

ABSTRACT

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Judicial pardon in Article 54 paragraph (2) of the National Criminal Code still has an ambiguous nature and raises concerns about inconsistencies in legal interpretation. This research aims to clarify the principle of insignificance of judicial pardon in the National Criminal Code. The research method is normative legal research focused on examining the application of rules or norms in positive law. The results of this research indicate that, first, there has been a paradigm shift in sentencing post-enactment of the National Criminal Code, moving from imprisonment to restorative justice. Second, it emphasizes the principle of insignificance of Judicial Pardon as a repositioning of Restorative Justice within the perspective of the National Criminal Code by integrating a systematic approach to maintain the coherence of the National Criminal Code, contextual to meet social facts and dynamics, philosophical in the study of Judicial Pardon rooted in restorative justice, and practical guidelines for judges in applying Judicial Pardon. Some judicial pardon decisions post-enactment of the National Criminal Code and National Criminal Procedure Code include the Banjarnegara District Court Decision No. 97/Pid.Sus/2025/PN Bnr in early 2026 regarding Burhani Hasan in a gambling case, the Singaraja District Court Decision No. 1/Pid.C/2026/PN Sgl regarding Rahmat Riandy for petty theft, and the Mempawah District Court Decision No. 512/Pid.B/2025/PN Mpw regarding Hendrikus Bujang in February 2026 for negligence. Third, the synchronization of Judicial Pardon in the Judge's Procedural Guidelines, namely, the judge's pardon needs to consider the provisions of Article 54 paragraphs (1) and (2) of the National Criminal Code Jo. Article 1 number 19 and Article 246 of Law/20/2025/Criminal Procedure Code as well as SEMA/1/2026/Implementation Guidelines for the 2023 Criminal Code and 2025 Criminal Procedure Code are very necessary to provide formal procedural legitimacy for judges in accommodating justice and humanity.



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Introduction

Reconstructing the criminal justice system toward a more contemporary and fair criminal justice system is a reform of criminal law thru Law No. 1 of 2023 on the National Criminal Code, which upholds and recognizes the concept of the insignificance of Judicial Pardon. This idea transforms the retributive approach into substantive and restorative justice and reduces the excessive criminalization of minor offenses. In addition to having a strong philosophical foundation in distributive and restorative justice, the idea of judicial clemency has great potential to promote a more inclusive and humanistic legal system. The principle of insignificance is a principle that asserts that criminal law should not be applied to violations whose impacts are very minor or insignificant to individuals or society at large. Criminal law, as an instrument of the state, should only be used in response to actions that have a serious impact on individual

freedom and truly require state intervention. Thus, the concept of judicial pardon can play an important role in criminal law reform by promoting lasting social harmony and helping to develop a justice system that is sensitive to humanitarian values (Bahri, 2024).

Paradigm shift in the use of judicial pardon and restorative justice. Nevertheless, there is a difference between the approach of judicial pardon and restorative justice in terms of punishment. Pardon and restorative justice must be in line with the new Criminal Procedure Code (Annisyah & Sanna, 2025). A number of requirements for the application of judicial pardon are outlined in Article 54 paragraph (2) of the New Criminal Code. The balance between justice and legal certainty is maintained by considering several factors, including the level of crime, the personal circumstances of the perpetrator, the conditions at the time the crime was committed, and subsequent events. But does the concept of judicial pardon in the new Penal Code hold the same legal standing as the current decision in the Criminal Procedure Code, which explicitly addresses judicial pardon (Frans, 2023).

Because restorative justice and judicial pardon both focus on achieving substantive justice, rehabilitating offenders, and restoring social relationships, they are interrelated concepts. In line with humanitarian ideals and the goals of contemporary criminal law reform, judicial clemency can be a tool that promotes a more responsive and inclusive criminal justice system. However, there are still several issues in the application of the Principle of Judicial Clemency because the legal framework guiding its interpretation is still inadequate, especially since our current judges are still concerning, particularly regarding the human resources of the judiciary.

The principle of insignificance supports the implementation of restorative justice by shifting the focus from formal punishment to more humane and dialogical resolutions. This principle allows for the cessation of formal legal processes, enabling conflicts to be resolved thru more flexible and effective alternative mechanisms. Judicial Pardon has become an instrument of significant change, as it provides judges with the space to grant pardons or reduce sentences based on certain considerations, such as the circumstances of the offender, the social impact of the verdict, and the principle of legal utility. The presence of Judicial Pardon demonstrates the National Criminal Code's commitment to creating a more just and responsive criminal justice system that aligns with the moral values and social dynamics of Indonesian society.

By reducing the burden on the legal system and placing more emphasis on non-punitive solutions, the application of the insignificance principle in the National Criminal Code also promotes restorative justice. To create a more effective, compassionate, and just criminal justice system, this idea allows for the resolution of minor offenses thru alternative channels (Khumairoh et al., 2025). From a conceptual standpoint, judicial pardon is a type of discretionary power of the judge that serves two purposes: as a substitute for short prison sentences and as a correction by the judge to the principle of legality. Judges are granted the authority to pardon guilty individuals in the exercise of judicial power, a practice known as judicial pardon, despite significant concerns that this power may ultimately be abused by judges.

The shift in punishment from retributive to restorative, efforts are still being made to enhance the integrity of the law in society. Therefore, to achieve justice, there must be a compromise between the goals of punishment and the current legal changes that are adapted to various developments in global law (Fadjar Sukma, 2023). In addition, judicial pardon should be integrated into the draft of the Criminal Procedure Code (KUHAP) to provide formal procedural legitimacy for judges (Anwar et al., 2025).

Although the National Criminal Code has regulated the concept of judicial pardon, and the National Criminal Procedure Code currently explicitly regulates legal amnesty. Several court rulings on Judicial Pardon after the enactment of the National Criminal Code (KUHP) and the National Criminal Procedure Code (KUHAP) include the Banjarnegara District Court Decision in case Number 97/Pid.Sus/2025/PN Bnr on 25/2/2026 in the name of Defendant Burhani Hasan, who was convicted of gambling. The judge considered the lightness of the act, the personal circumstances of the perpetrator, or the circumstances at the time of the crime. Additionally, in criminal case Number 1/Pid.C/2026/PN Sgl, the Single Judge

granted a Judicial Clemency Decision to the Defendant Rahmat Riandy for having been proven legally and convincingly guilty of committing the minor theft of palm oil. In the PN Mempawah Decision on criminal case number: 512/Pid.B/2025/PN Mpw on behalf of Defendant Hendrikus Bujang on 02/02/2026, in the criminal case "due to his negligence causing the death of another person" as regulated and threatened under Article 474 paragraph (3) of Law Number 1 of 2023 concerning the Criminal Code. In the decision, the Panel of Judges stated that Defendant Hendrikus Bujang was legally and convincingly proven guilty of committing the crime "due to his negligence causing the death of another person," and the Judge declared forgiveness to the Defendant.

Overall, in several of the above-mentioned judges' decisions, the provisions of Article 54 paragraphs (1) and (2) of the New Penal Code in conjunction with Article 1 number 19 and Article 246 of the Republic of Indonesia Law Number 20 of 2025 concerning the New Criminal Procedure Code (KUHP) and the Supreme Court Circular Number 1 of 2026 (SEMA) regarding the Guidelines for the Implementation of the 2023 Penal Code and the 2025 Criminal Procedure Code were considered. Some examples of Judicial Clemency Decisions are a type of decision where the judge chooses not to impose a penalty or take action against the Defendant. The judge's authority in issuing a Judicial Clemency Decision is regulated in Article 54 paragraph (2) of Law Number 1 of 2023 concerning the Criminal Code in conjunction with Article 246 paragraph (1) of Law Number 20 of 2025 concerning the Criminal Procedure Code.

The concept of Legal Forgiveness was introduced in Article 54 paragraph (2) of the New Criminal Code, but it does not specify what is meant by the lightness of the act, the characteristics of the perpetrator, or the circumstances surrounding the act. This ambiguity raises concerns about legal uncertainty and inconsistency in legal interpretation. Judicial clemency must be explicitly regulated thru clear interpretative guidelines to ensure its application does not contradict the principles of justice and legal certainty. Therefore, the concept of judicial clemency can be integrated to provide formal procedural legitimacy for judges in accommodating justice, humanity, and proportionality. Therefore, the concept of judicial clemency can be integrated to provide formal procedural legitimacy for judges in accommodating justice, humanity, and proportionality?.

Method

This research uses the normative legal research method to inventory positive law, discover legal principles and doctrines, synchronize existing regulations, and conduct research by reviewing and examining various existing literature (Irwansyah, 2021a). With a legislative approach to understanding the hierarchy and fundamentals within legal regulations (Marzuki, 2017). The Conceptual Approach is carried out by examining concepts, theories, and expert opinions related to the object being studied (Irwansyah, 2021b). The comparative approach is a method of comparing to understand criminal law from the perspective of the old Penal Code with the National Penal Code on the Principle of Insignificance in Judicial Pardon as a Repositioning of Restorative Justice in the Perspective of the National Penal Code. Primary legal materials are relevant legal policies, and secondary data includes all publications about the law, such as textbooks, legal dictionaries, legal journals, and commentaries on court decisions (Marzuki, 2017). The data collection used in this research was conducted thru library research. Data analysis is conducted by analyzing the principles, concepts, views, and legal doctrines related to the issue being studied, namely the Principle of Insignificance in Judicial Pardon as a Repositioning of Restorative Justice in the Perspective of the National Criminal Code.

Results and Discussion

Shift in the Paradigm of Punishment Post-Enactment of the National Criminal Code

Conceptually, the formulation of the National Criminal Code regarding the design of single and alternative penalties for crimes makes sentencing guidelines an important requirement to achieve the goals of sentencing. As stated in Article 57 of the National Criminal Code, the application of sanctions with a single formulation does not yet align with the principles of the criminal justice system as it should (Musa et al., 2024). Moreover, the increasing public understanding of human rights cannot be separated from the paradigm shift in Indonesian criminal law (Septiawan, 2024). The National Criminal Code regulates punishments with the aim of preventing criminal activities, rehabilitating offenders, resolving conflicts, and encouraging remorse. Because the law continues to evolve along with societal developments, it requires legal changes. Criminal justice can function well if criminal acts are adjudicated by considering the situation of the perpetrator and others; therefore, judges must choose appropriate penalties for the perpetrators as part of the paradigm shift in sentencing within the new criminal law.

Revenge punishment has been replaced by a more utilitarian and restorative approach with the enactment of the National Criminal Code. This change is a global trend in criminal law reform, not just a local occurrence. Thus, it is hoped that by providing a system that is more responsive to the demands of contemporary society, this system will be able to address various concerns. In addition to introducing the concept of restorative justice as an alternative to prison sentences, this reform gives judges more flexibility to consider the interests of victims, rehabilitation, and reconciliation.

This paradigm shift is clearly evident in Article 51 of the National Criminal Code, which formulates the purposes of punishment in a multifaceted manner, encompassing four main dimensions: preventing criminal acts thru the enforcement of legal norms for the protection of society (preventive purpose), rehabilitating and guiding convicts to reintegrate as good members of society (corrective or rehabilitative purpose), resolving conflicts and restoring social balance to create a sense of safety and peace (restorative purpose), and fostering remorse and alleviating guilt in the convict (educative or resocialization purpose). This formulation is reinforced by Article 52, which emphasizes that punishment is not intended to degrade human dignity, forming the ethical basis that punishment in the National Criminal Code must be humane and civilized. Therefore, it is hoped that this reform will result in a more just, compassionate, and responsive criminal justice system to the demands of Indonesian society (Padang & Siregar, 2024).

Among the many important changes made by the National Criminal Code are the introduction of restorative justice, the recognition of customary law, and lighter sentencing criteria. However, there are several obstacles in the implementation of these reforms, including opposition from established legal cultures, inadequate legal systems, and a lack of expertise and capacity among law enforcement officers to adopt new concepts.

Judicial Pardon as a Repositioning of Restorative Justice in the Perspective of National Criminal Code

The concept of judicial pardon is one of the interesting aspects of the current national Criminal Code. Under certain conditions, judges are authorized to grant pardon to the defendant and take no action against them, even tho the crime and wrongdoing have been proven. Examining Judicial Clemency in the National Criminal Code is important because, fundamentally, the regulations regarding Judicial Clemency represent a step forward in advancing several concepts of restorative justice. In the context of criminal law, progressive law seeks to explore ideas that support the dignity of Indonesian society and depict the role of the state and its institutions in a more humane manner. However, the national Criminal Code needs to be identified with the criminal procedural law to support this requirement (Ningtias & Shofa, 2024).

The principle of insignificance is starting to gain attention, especially in the revision of the National Criminal Code, with the recognition of this principle expected to reduce the phenomenon of over-criminalization, which has been one of the weaknesses of the criminal justice system. Although the principle of insignificance can bring significant benefits to law enforcement in Indonesia, its application requires clear regulations and consistency in interpretation. Without clear guidelines, the risk of judicial power abuse can

occur. In this case, judges can use the absence of material unlawfulness as a justification for not imposing a penalty. The principle of insignificance, recognized in the National Criminal Code, is one of the innovations in the national criminal law reform aimed at limiting the use of criminal law only to cases that have a significant impact on the victim or society as part of efforts to achieve restorative justice.

The implementation of Judicial Pardon, which can be used by judges as a repositioning of restorative justice, can be seen in Article 54 paragraph (4) of the National Criminal Code, which states that "the lightness of the act, the personal circumstances of the perpetrator, or the circumstances at the time the crime was committed and those that occurred afterward can be used as a basis for consideration to not impose a penalty or not take action, considering the aspects of justice and humanity." However, based on the explanation, Judicial Pardon grants the judge the authority to forgive someone who has committed a minor crime. This forgiveness is included in the judge's decision and it must still be stated that the defendant is proven to have committed the alleged crime.

This authority requires a clear and systematic interpretive framework so that judges can apply it consistently, objectively, and in accordance with the principles of restorative justice. Therefore, it is important to formulate an interpretive framework that encompasses normative, philosophical, and practical approaches to guide judges in implementing the concept of judicial pardon. The concept of Judicial Pardon can be implemented by integrating several theoretical approaches, including:

1. Systematic Approach as an Effort to Maintain the Coherence of the National Criminal Code

Criminal law has always undergone changes throughout its history, both in essence and substance (Pebrianto et al., 2024). The systematic approach places Article 54 paragraph (4) of the National Criminal Code with the aim of ensuring that Judicial Pardon does not stand alone, but becomes an integral part of other legal principles regulated in the New Criminal Code as an effort to uphold the principles of legality, restorative justice, and the purposes of punishment. A systematic approach helps to view the law as an interrelated part, so that each norm plays a role in supporting overall justice. The systematic approach requires judges to understand the relationship between the concept of judicial pardon and other minor offenses, such as alternative sanctions or the principle of proportionality in sentencing. When considering clemency, judges need to conduct a systematic contextual interpretation according to the specific needs of each case, without sacrificing the general principles applicable in criminal law and sentencing. With a focus on prevention, rehabilitation, and social reintegration, the National Criminal Code represents a shift from a retributive model to a restorative-corrective model (Arafat, 2025).

2. Contextual Approach to Facts and Social Dynamics

In delivering a judge's pardon decision, a contextual approach is needed by providing space for the judge to consider the social, cultural, and economic realities that led to the commission of the crime. This approach encourages judges to view cases not only from a formal legal perspective but also from the standpoint of the conditions of the perpetrator, the victim, and the community. The contextual approach must be used synergistically to produce comprehensive and fair judicial pardon decisions. The difference with the systematic approach is that it can be interpreted to provide a normative framework that maintains the consistency of legal application with legal principles, while the contextual approach ensures that the application of Judicial Pardon is relevant to the factual conditions and social dynamics of each case.

When interpreting the Principle of Judicial Pardon, a methodical and contextual approach offers two advantages. Both strategies ensure that the application of these rules is consistent with the broader concept of law from a normative perspective. In practice, these methods enable judges to achieve substantive justice by considering social and humanitarian aspects when making decisions. The principle of judicial clemency serves as a tool for forgiveness as well as a means to strengthen the legitimacy of the criminal justice system, which is sufficiently humane and flexible to meet the demands of contemporary society when both

strategies are used simultaneously. Therefore, the National Criminal Code is expected to realize a criminal justice system that is more just, humane, and responsive to the socio-cultural values of the Indonesian nation (Beta & Gizella, 2025).

3. Philosophical Approaches in the Study of Substantive and Restorative Justice

In understanding the Principle of Judicial Clemency, the substantive justice approach is based on the idea that law is a means to achieve true justice for individuals and society, not just a collection of formal rules. In the context of the Judicial Pardon Principle, the judge's duty to consider a number of non-legal factors that influence the case, such as the socio-economic background of the perpetrator, the reasons behind the act, and its impact on the victim and society, reflects the principle of substantive justice. The approaches of substantive and restorative justice are not mutually exclusive; rather, they complement each other in the application of Judicial Pardon. Substantive justice provides a normative framework for judges to ensure that decisions reflect humanitarian values, while restorative justice offers a perspective focused on recovery and social reintegration.

In ensuring that pardon not only helps the perpetrator but also restores the victim's losses and promotes social harmony, this synergy builds a solid philosophical foundation. For example, a judge may use substantive justice to decide that a prison sentence would worsen the perpetrator's situation without providing significant benefits to society in cases of petty theft by people from low-income families. However, restorative justice can also promote other options, such as apologizing to the victim or performing community service, which would allow the criminal to take responsibility while still making a positive contribution to society. Restorative justice-based criminal law is a reparative approach that is humanistic and personalistic, leading to a more inclusive form of punishment that respects the fundamental principles of criminal justice (Monte & From, 2025).

4. Practical Guidelines Approach for Judges in Applying Judicial Pardon

By providing specific guidelines to judges on how to interpret and apply the Principle of Judicial Clemency, this concept ensures that decisions are impartial, consistent, and in accordance with substantive justice norms. Article 54 paragraph (4) of the New Penal Code regarding judicial clemency has the potential to produce humanistic and contextual conclusions, but it also carries the risk of subjectivity or inconsistent decisions if not based on proper rules. The idea of proportional sentencing guidelines is expected to assist judges in determining the appropriate length and severity of sentences (Hajairin, Ilham, 2024).

The concept of judicial pardon in the New Criminal Code must be explicitly regulated thru clear interpretive guidelines to ensure its application does not contradict the principles of justice and legal certainty. Therefore, the concept of judicial pardon should be integrated into the Sentencing Guidelines to provide formal procedural legitimacy for judges in accommodating justice, humanity, and proportionality in judicial pardon decisions, so that judges can have sentencing guidelines in applying Judicial Pardon as part of the paradigm shift in sentencing in Indonesia. Although there have been several court rulings on Judicial Pardon after the enactment of the National Criminal Code and Criminal Procedure Code, namely the Judicial Pardon ruling in case Number 97/Pid.Sus/2025/PN Bnr against the defendant Burhani Hasan for the gambling offense committed by the defendant. The judge considered the lightness of the act, the personal circumstances of the perpetrator, or the circumstances at the time the crime was committed and what happened afterward, which can be used as a basis for not imposing a sentence or not taking action, with consideration of justice and humanity. Additionally, the defendant is not a recidivist, and the defendant is 73 years old, so the judge agreed to grant a Judicial Pardon. Furthermore, in criminal case Number 1/Pid.C/2026/PN Sgl, the single judge granted a Judicial Pardon to the defendant Rahmat Riandy because he was proven to have committed the crime of petty theft of palm oil. The judge considered the personal

circumstances or motives/purposes of the defendant, who committed the criminal act solely to meet their urgent basic needs because the defendant was unemployed and had never been convicted before.

Meanwhile, the Mempawah District Court (PN) issued a judicial pardon in a criminal case with register number: 512/Pid.B/2025/PN Mpw in the name of the Defendant Hendrikus Bujang, in the case of a crime "due to his negligence resulting in the death of another person" as regulated and punished under Article 474 paragraph (3) of Law Number 1 of 2023 concerning Criminal Law Regulations. In the verdict, the Panel of Judges stated that Defendant Hendrikus Bujang was proven legally and convincingly guilty of committing the crime "due to his negligence resulting in the death of another person." The Judge declared a pardon to the Defendant, stated that the Defendant was not sentenced or subjected to any action, and ordered the immediate release of the Defendant from detention.

A Judge's Pardon is a type of verdict where the judge chooses not to impose a penalty or take action against the Defendant. The authority of judges to issue a Judge's Pardon Decision is a new provision in the new Criminal Code and Criminal Procedure Code, specifically regulated in Article 54 paragraph (2) of Law Number 1 of 2023 concerning the Criminal Code in conjunction with Article 246 paragraph (1) of Law Number 20 of 2025 concerning the Criminal Procedure Code. The judge, based on a sense of justice and humanity and considering the goals and guidelines of sentencing, believes it is necessary to issue a Judge's Clemency Verdict for several Defendants as explained in the above decision. This Judge's Pardon Decision has become an important milestone in law enforcement in Indonesia, which is gradually shifting and no longer solely focused on imposing prison sentences or fines. Now judges, with their authority, can choose to impose decisions that are considered more dignified and more in line with a sense of justice and humanity.

Synchronization of Judicial Pardon in Judicial Procedural Guidelines

Article 54 paragraph (2) of the National Criminal Code explains the uniformity and importance of judicial pardon. Legal certainty is the greatest foundation of the old Penal Code, which upholds the idea of legality and does not include the concept of judicial pardon. As a result, judges have no other legal options when making decisions. When it starts operating in the future, the basic formulation of Judicial Clemency in the National Criminal Code is very good because it offers many benefits to society, victims, and perpetrators. However, the National Criminal Code formulation lacks clear boundaries or standards for judicial pardon, which can lead to judges applying the concept differently (Kusuma et al., 2025).

Although the idea of the right to pardon has been gradually incorporated into criminal law, its formal aspect, namely criminal procedural law, does not provide detailed explanations (Amalina et al., 2024). Because the concept of judicial pardon in the National Criminal Code must be explicitly regulated thru clear interpretive guidelines to ensure its application does not contradict the principles of justice and legal certainty. Therefore, the concept of judicial pardon must be integrated to provide formal procedural legitimacy for judges in accommodating justice, humanity, and proportionality in judicial pardon decisions as an implementation of the insignificance principle of Judicial Pardon in the National Criminal Code to realize Restorative Justice. The judge's pardon in the above ruling considers the provisions of Article 54 paragraphs (1) and (2) of the New Penal Code Jo. Article 1 number 19 and Article 246 of the Republic of Indonesia Law Number 20 of 2025 on the New Criminal Procedure Code or the New KUHAP, as well as the Supreme Court Circular Number 1 of 2026 (SEMA) on the Guidelines for the Implementation of the 2023 Penal Code and the 2025 KUHAP. After being examined with the legal facts revealed in the trial, the judge's decision for clemency can be granted due to the minor nature of the act, the personal circumstances of the perpetrator, or the conditions at the time the crime was committed, and all of these have been fulfilled.

By focusing on restorative justice, the protection of human rights, and judicial authority in formulating more adaptive punishments, the National Criminal Code establishes a paradigm of more proportional

sentencing. Indonesia has a great opportunity to implement a more just, compassionate, and consistent criminal justice system with democratic legal ideals thanks to the new Criminal Code (Nissa et al., 2025). The application of judicial clemency in criminal law reform is based on the legal certainty that clemency must consider several factors, including the severity of the crime, the personal circumstances of the perpetrator, the context of the act at the time or thereafter, as well as aspects of justice and humanity (Jelindo & Laksana, 2025). Considering that the Criminal Procedure Code (KUHP) currently allows judges to make decisions on judicial clemency, it is very important that judicial clemency is analyzed as a decision expected to provide humanitarian justice as the main factor in the judge's pardon decision, taking into account the interests of the victim by calculating compensation for the losses caused by the perpetrator (Sutrisno et al., 2024).

Conclusion

Based on the research results above, it can be concluded that, first, there has been a shift in the paradigm of punishment post-enactment of the National Criminal Code from retributive punishment to a more utilitarian and restorative approach. This shift is responsive to the demands of contemporary society. Secondly, it emphasizes the principle of insignificance of Judicial Pardon as a Repositioning of Restorative Justice in the Perspective of the National Criminal Code by integrating several approaches, such as the systematic approach as an effort to maintain the coherence of the National Criminal Code to ensure that Judicial Pardon is integral to the principles of humanitarian law. The contextual approach as a fulfillment of social facts and dynamics, judges can consider social, cultural, and economic realities in delivering pardon decisions. The philosophical approach in the study of substantive and restorative justice is that Judicial Pardon is rooted in the idea that the law aims to achieve substantive and restorative justice. The practical guideline approach for judges in applying Judicial Pardon ensures that the decisions made are consistent, objective, and reflect the principles of restorative justice. In this context, there have already been several judicial pardon decisions post-enactment of the National Criminal Code (KUHP) and the National Criminal Procedure Code (KUHP), such as the Banjarnegara District Court Decision in case Number 97/Pid.Sus/2025/PN Bnr in early 2026 in the name of Defendant Burhani Hasan for gambling offenses. Additionally, in the criminal case Number 1/Pid.C/2026/PN Sgl, the Single Judge granted a Judicial Pardon to Defendant Rahmat Riandy for committing a minor theft of palm oil, and the Mempawah District Court Decision in criminal case number: 512/Pid.B/2025/PN Mpw in the name of Defendant Hendrikus Bujang in February 2026 for an offense due to negligence. The synchronization of Judicial Pardon in the Judge's Procedural Guidelines requires that the judge's pardon consider the provisions of Article 54 paragraphs (1) and (2) of the National Criminal Code (KUHP) in conjunction with Article 1 number 19 and Article 246 of Law/20/2025/KUHP, as well as the Supreme Court Circular Number 1 of 2026 (SEMA) regarding the Implementation Guidelines for the 2023 Criminal Code (KUHP) and the 2025 Criminal Procedure Code (KUHP), which are essential to provide formal procedural legitimacy for judges in accommodating justice, humanity, and proportionality.

References

- Amalina, N., Adytia, P., Zakaria, S., Wachdin, S., & Affan, M. (2024). The Rechtdelijk Pardon Concept in Reforming the Penal System to Realize Restorative Justice in Indonesia. *Indonesia Law Reform Journal*, 4(1), 91–101. <https://doi.org/https://doi.org/10.22219/ilrej.v4i1.33101>
- Annisyah, A., & Sanna, T. (2025). Tantangan dan Peluang: Paradigma Pemidanaan Mengenai Restorative Justice Sebagai Rechtderlijke Pardon Dalam KUHP Nasional Pendahuluan. *Jurnal Interpretasi Hukum*, 6(1), 61–76. <https://doi.org/https://doi.org/10.22225/juinhum.6.1.11975.61-76>

- Anwar, A., Suhartono, S., Mangesti, Y. A., & Setyorini, E. H. (2025). The Concept of Judge's Forgiveness (Rechterlijk Pardon) in The National Criminal Law Code. *DiH: Jurnal Ilmu Hukum*, 21(2), 183–208. <https://doi.org/10.30996/dih.v0i0.12674>
- Arafat, M. (2025). Paradigma Pemidanaan Baru dalam KUHP 2023: Alternatif Sanksi dan Transformasi Sistem Peradilan Pidana Indonesia. *JIH: Jurnal Ilmu Hukum*, 2(1), 33–46. <https://doi.org/10.58540/jih.v2i1.1047>
- Bahri, R. A. (2024). Penafsiran Asas Judicial Pardon Dalam Kitab Undang-Undang Hukum Pidana Baru. *JILPers: Journal of Interdisciplinary Legal Perspectives*, 1(1). <https://doi.org/https://doi.org/10.70837/m6wxns71>
- Beta, B., & Gizella, A. (2025). Menuju Sistem Pemidanaan Berkeadilan untuk Mewujudkan Keseimbangan antara Kepastian Hukum dan Kemanusiaan dalam Pembaharuan KUHP. *Al-Balad: Journal of Constitutional Law*, 7(2). <https://urj.uin-malang.ac.id/index.php/albalad/article/view/16152>
- Fadjar Sukma, & C. C. (2023). Urgensi Penerapan Rechterlijk Pardon Sebagai Pembaharuan Hukum Pidana Dalam Perspektif Keadilan Restoratif. *Gorontalo Law Review*, 6(1), 46–61. <https://doi.org/https://doi.org/10.32662/golrev.v6i1.2678>
- Frans, A. dan M. P. (2023). Konsep Putusan Pemaaf Oleh Hakim (Rechterlijk Pardon) Sebagai Jenis Putusan Baru Dalam KUHAP. *Krtha Bhayangkara*, 17(3), 587–600. <https://doi.org/https://doi.org/10.31599/krtha.v17i3.2968>
- Hajairin, Ilham, A. M. & G. S. (2024). Pedoman Pemidanaan Hakim Perspektif Kebebasan Hakim dalam Peradilan Pidana Terintegrasi. *Fundamental: Jurnal Ilmiah Hukum*, 13, 222–235. <https://doi.org/https://doi.org/10.34304/jf.v13i1.265>
- Irwansyah. (2021a). *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.
- Irwansyah. (2021b). *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.
- Jelindo, R., & Laksana, A. W. (2025). Implementation of Judicial Pardon in the Reformation of the Criminal Justice System Based on Legal Certainty. *Jurnal Hukum Khaira Ummah*, 20(2), 1330–1356.
- Khumairoh, S., Arum, K., & Maulidah, K. (2025). Criminal Law Reform Through the Application of the Principle of Insignificance : A Study in the New Indonesian Criminal Code. *Jurnal Hukum Ekualitas*, 1(1). <https://doi.org/https://doi.org/10.56607/jhe>
- Kusuma, J. D., Lestari, B. F. K., & Dewi, J. P. (2025). Analisis yuridis perbandingan judicial pardon dalam undang-undang no . 1 tahun 1946 tentang peraturan tentang hukum pidana dengan undang- undang no . 1 tahun 2023 tentang kitab undang-undang hukum pidana. *Ganec Suara*, 19(1), 461–469. <https://doi.org/https://doi.org/10.59896/gara.v19i1.238>
- Marzuki, P. M. (2017). *Penelitian Hukum: Edisi Revisi*. Prenada Media.
- Monte, M. F., & From. (2025). From Restorative Justice to Inclusive Criminal Justice : Reparation and Agreement as Foundations. *JusGov Research Paper Series*, 16. <https://doi.org/http://dx.doi.org/10.2139/ssrn.5063197>
- Musa, M., Zulhuda, S., Susanti, H., & Rinaldi, K. (2024). Guidelines for Implementing Imprisonment Sentences with Single Formulation (A Critique of Book I of the National Criminal Code). *Law Reform*, 20(1), 106–134.
- Ningtias, A. D., & Shofa, A. F. (2024). Sinkronasi Konsep Pemaafan Hakim Sebagai Wujud Asas Restorative Justice Dalam Hukum Acara Pidana. *Risalah Hukum*, 20, 33–40. <https://doi.org/https://doi.org/10.30872/risalah.v20i1.1372>
- Nissa, K., Fathonah, R., & Shafira, M. (2025). Rekonstruksi Keadilan dalam Hukum Pidana : Tinjauan Filosofis terhadap Politik Hukum dalam KUHP Baru dan Dampaknya pada Sistem Pemidanaan. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3(4), 5085–5092. <https://doi.org/https://doi.org/10.61104/alz.v3i4.2087>
- Padang, M. A., & Siregar, B. J. (2024). Keberpihakan Pemidanaan Dalam Undang-Undang Nomor 1 Tahun

2023. *Locus: Jurnal Konsep Ilmu Hukum*, 4(September).
<https://doi.org/https://doi.org/10.56128/jkih.v4i2.348>
- Pebrianto, R., Panji, M., & Dharma, P. (2024). Pemaafan Pelaku Tindak Pidana Pembunuhan Dalam Hukum Islam dan Relevansinya Dengan UU No . 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana. *Journal of Contemporary Law Studies Volume*, 1, 227–236.
<https://doi.org/https://doi.org/10.47134/lawstudies.v2i3.2614> Pemaafan
- Septiawan, A. (2024). Kajian Filsafat Hukum terhadap Perubahan Paradigma Hukum Pidana di Indonesia : Dari Pembalasan ke Pemulihan. *Indonesian Journal of Law and Justice*, 1(4), 1–8.
<https://doi.org/https://doi.org/10.47134/ijlj.v1i4.2719>
- Sutrisno, U. W., Irawan, A., Fajri, A., Pradana, K., Hukum, F., & Surakarta, U. (2024). Revitalisasi judicial pardon dalam pembaruan hukum. *Al hukmu: Journal of Islamic Law and Economics*, 3(2), 138–146.
<https://doi.org/https://doi.org/10.54090/hukmu.560>