

Judicial pardon (Rechterlijk Pardon) in the judicial system

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Abstract

The development of criminal law in Indonesia has undergone significant reform with the enactment of Law Number 1 of 2023 concerning the Criminal Code (KUHP), which introduced the concept of judicial pardon (rechterlijk pardon). This provision is normatively regulated in Article 54 paragraph (2) of the Criminal Code, which grants judges the authority to withhold punishment or take any action against a defendant found guilty, taking into account the minor nature of the offense, the perpetrator's personal circumstances, and the circumstances during and after the crime, while taking into account the values of justice and humanity. The presence of this concept reflects a shift in the paradigm of criminal justice from a retributive approach to a more humanistic and restorative approach. The implementation of the judicial pardon concept still faces normative obstacles because, to date, there are no further technical regulations regarding its form, format, and application requirements, potentially leading to inconsistent criminal justice practices.

Keywords: Judicial Pardon (Rechterlijk Pardon), Justice System

Introduction

A significant dynamic has occurred in Indonesia in the development of criminal law, namely the enactment of Law No. 1 of 2023 concerning the Criminal Code (KUHP), which introduced a concept in criminal judges' decisions: the concept of judicial pardon (rechterlijk pardon). This concept empowers judges adjudicating cases to grant forgiveness under certain circumstances.^[1] The introduction of rechterlijk pardon reflects a shift in the paradigm of criminal law, from a retributive orientation to an approach that places greater emphasis on the principles of restorative justice. In its application, judges have the discretion to consider various aspects before issuing a verdict, including the social and psychological background of the defendant, as well as the broader implications of the decision for justice.^[2]

Judicial pardon is a common institution in traditional civil law systems, particularly those influenced by Dutch law. This concept is rooted in the reform of the Wetboek van Strafrecht (KUHP), particularly through Article 9a, which authorizes judges adjudicating cases not to impose a sentence on a perpetrator of a particular crime even if the guilt of the accused has been legally and convincingly proven. Within this framework, judges are given discretion to consider aspects of substantive justice, proportionality, and the specific circumstances of the perpetrator and their actions. Similar practices have been adopted in several other countries that adhere to civil law systems, such as Greece, Portugal, and Uzbekistan, which essentially position judicial pardon as a corrective mechanism in sentencing to ensure a balance between justice and legal certainty.^[3]

From an international legal perspective, the concept of legal pardon has been implemented in various countries as part of efforts to reform the criminal justice system. For example, in France, this concept is known as *dispense de peine*, which authorizes judges to release defendants from punishment if there are legally justifiable and socially acceptable reasons. The experience of implementing this concept in various

countries can serve as a reference for Indonesia in implementing legal pardon into its national criminal justice system, including the Criminal Procedure Code (KUHAP), which was amended with the enactment of the KUHP.^[4] The criminal justice system prioritizes or requires coordination, synchronization, and cooperation between institutions.^[5] Thus, it can be understood that the main objective of regulating rechterlijk pardon in Indonesia is to provide solutions to a number of problems still faced in national criminal justice practices.

Along with the dynamics and developments in legal and judicial thought, this has also impacted legal thought in Indonesia, which is experiencing developments in criminal law. With the enactment of the KUHP on January 2, 2026, the context of synchronizing and harmonizing material criminal provisions with formal criminal provisions, namely Law No.20 of 2025 concerning the KUHAP, becomes relevant. Therefore, the KUHP and the KUHAP are aligned and not contradictory.

In Indonesian criminal law, judicial forgiveness (Rechtelijk Pardon) is a new concept that broadens the scope of^[6] the exemption from punishment for defendants who have committed a crime. This regulation allows judges to refrain from imposing a sentence on defendants who have committed a crime, for specific reasons. Criminal procedure law needs to regulate the types of decisions where a defendant is found guilty of a crime but does not impose a penalty.^[7]

Previously, the old KUHAP had three types of judicial decisions: conviction, acquittal, and acquittal. None of these three types of decisions align with the concept of judicial forgiveness (rechtelijk pardon). However, since the implementation of the Indonesian Criminal Procedure Code (KUHAP) on January 2, 2026, there have been legal updates, including the types of judge's decisions, namely criminal or action, acquittal, acquittal, and most recently, the judge's pardon. However, what is important to note is the technical regulations regarding how to implement the

judge's pardon decision, including what types of decisions the judge's pardon can be applied to, whether the decision can be appealed and cassated, and so on.^[8]

Article 1 (19) KUHAP states "A Judge's Pardon Decision is a Judge's statement made in an open court session stating that the defendant is proven guilty, but due to the lightness of the act, the perpetrator's personal circumstances, or the circumstances at the time the crime was committed and what happened subsequently, the Judge does not impose a sentence or action by considering aspects of justice and humanity. Then Article 246 (1) KUHAP states, among other things; "If a defendant is proven guilty based on examination in court, the judge can or has the authority not to sentence the person concerned by considering several things such as the light nature of the act, the defendant's personality and the circumstances (situation or consequences) after the crime occurred and also the circumstances at that time (when the trial was taking place). This decision according to Article 246 (2) KUHAP is called a judge's pardon. Furthermore, the form, format and conditions of a Judge's Pardon as a Judge's Decision will be regulated by the Supreme Court Regulation (PERMA) (Article 246 (4) KUHAP).

In essence, judicial pardon cannot be viewed as a form of legal remedy as generally recognized in criminal procedure law. The application of judicial pardon is intended to eliminate the penalty for the purpose of realizing justice while providing legal protection.^[9] The principle of judicial pardon grants the judge the authority to refrain from imposing a penalty, even if the defendant is proven guilty of committing a crime. Similarly, Soerjono Soekanto defines law enforcement as a process of harmonizing the values enshrined in norms, manifested in attitudes and actions, in order to create, maintain, and safeguard a peaceful and orderly life.^[10]

This phenomenon presents a unique irony, because while several countries have integrated humanitarian principles into their penal systems, Indonesia has yet to fully implement them. Criminal law reform should not be carried out in a partial or ad hoc manner, but rather in a fundamental, comprehensive, and systematic manner. This reform should include regulations regarding unlawful acts (criminal acts), criminal responsibility, corporate crimes, and the types of sanctions and appropriate measures to be applied. In this context, a legal pardon can be understood as a statement of guilt without the imposition of a sentence, but rather as a pardon granted by a judge's authority. Several countries have adopted this concept, although it is not exactly the same as the concept in the Indonesian KUHP, but it essentially shares the same meaning: allowing a judge to pardon a defendant found guilty under certain conditions.^[11]

The principle of judicial pardon stems from a desire to avoid absolutism in sentencing and to consider realities, such as overcrowding in correctional facilities. Nico Keijzer and Schaffmeister argue that this principle arose because there are cases where the defendant has been proven guilty, but the imposition of a sentence would actually create injustice, resulting in a conflict between legal certainty and justice.^[12] Thus, *rechterlijk* pardon can be seen as an emergency door (*nooddeur*) to overcome criminal law which has been considered too rigid as a consequence of the implementation of the principle of legality.

Criminal law has often been considered too rigid and formalistic, as if it serves only as a means of retribution. This is evident in the dominance of imprisonment as stipulated in Article 10 of the old KUHP or before the enactment of the new KUHP, which in practice is often used as the primary instrument of punishment. This perspective has led law enforcement officials to classify every act that meets the provisions of the article as a crime and resolve it through criminal channels, ultimately resulting in the imposition of imprisonment. In fact, criminal law should not only focus on the act (*daadstrafrecht*), but also consider the humanitarian aspect, so as not to simply emphasize the aspect of retaliation.

In line with this view, Barda Nawawi Arief advocates for legal reform based on pragmatic values.^[13] This penal reform is built on several core principles, including victim protection, legal harmonization, and efforts to address the rigidity and formality inherent in the existing legal system. The primary objective of this initiative is to minimize the negative impacts of the conventional criminal justice system, one of which is through the development of alternative sentencing options outside of prison (alternatives to imprisonment). From a pragmatic perspective, this reform is also aimed at reducing the caseload in courts, simplifying the judicial process, and meeting other practical objectives.

Within this framework, the concept of legal pardon essentially provides room for judges to avoid excessive criminalization. However, this concept will only be effective if accompanied by harmonization of procedural law provisions, particularly as a Supreme Court Regulation has not yet been issued regarding the form, format, and requirements for judicial pardon decisions. Therefore, the validity of legal pardon has the potential to face normative obstacles in its practical application.

Furthermore, Article 54 (2) KUHP states, "The minor nature of the act, the personal circumstances of the perpetrator, or the circumstances at the time of the crime and subsequent events may be used as a basis for considering whether to impose a sentence or to impose a penalty, taking into account aspects of justice and humanity." The provision in this paragraph is known as the principle of *rechterlijke* pardon or judicial pardon, which authorizes a judge to pardon someone guilty of a minor crime. This pardon is included in the judge's decision and must still state that the defendant has been proven guilty of the crime charged.

This concept authorizes a judge to withhold punishment from a defendant found guilty, taking into account aspects of justice and humanity. Furthermore, judicial pardon is an innovation in the Indonesian criminal law system, reflecting a more flexible and humane approach.

Reference to the limitations in minor cases can be found in PERMA No.2 of 2012 concerning Adjustments to the Limits for Minor Crimes and the Amount of Fines in the KUHP. The PERMA explains that a case is considered minor if the losses incurred do not exceed Rp 2,500,000.00. Losses below this nominal amount, the presiding judge will immediately appoint a judge to examine and try it in the form of a Single Judge. Meanwhile, the case is examined and tried through a Speedy Examination Procedure.^[15]

The introduction of Judicial Pardon in Indonesia is expected to resolve minor criminal cases with nominal losses as stipulated in Perma No.2 of 2012, providing the judge with a legal basis for such decisions. Based on the provisions of the KUHAP, there are three types of decisions that can be

issued by a judge: a criminal conviction, an acquittal (*vrijspraak*), and a dismissal from all charges (*onslagh van rechtvervolging*).^[16]

The concept of Judicial Pardon (*Rechterlijk Pardon*) is a new concept incorporated into the National KUHP. Through this concept, judges are granted broader discretion in determining decisions. The provisions regarding judicial pardon are expressly stated in Article 54 (2) KUHP. This provision marks a reform, as the concept was previously unknown in the old KUHP. The application of judicial pardon can also be understood as an effort to modify the legal certainty that tends to be rigid, as the current criminal justice system still focuses solely on the crime and the perpetrator's culpability.^[17]

The Ungaran District Court, through Decision No.1/Pid.Sus-Anak/2026/PN Unr dated February 25, 2026, issued a judicial pardon for the first time in a juvenile case. In this case, a 17-year-old was found legally and convincingly proven to have committed motorcycle theft. Although the elements of culpability were met, the panel of judges did not impose a sentence, considering the relatively minor nature of the act, the influence of alcohol consumption at the time of the incident, and the reconciliation and forgiveness of the victim. These considerations reflect a restorative justice orientation that prioritizes the recovery and best interests of children in the juvenile criminal justice system.

The Balige District Court, through Decision No.171/Pid.B/2025/PN Blg dated February 24, 2026, also implemented the *rechterlijk pardon* mechanism in general criminal cases. The decision was based on the achievement of reconciliation between the defendant and the victim, which the judge considered a significant factor in assessing the proportionality of punishment. These two decisions demonstrate the concrete implementation of the judge's pardon authority in judicial practice, while still basing considerations on the specific circumstances of the case, the level of culpability, and the desired value of justice.

The decision in question cannot be deemed inconsistent with the new KUHP as long as its application is based on and complies with the provisions formulated therein. In this regulation, the concept of judicial forgiveness (*rechterlijk pardon*) is affirmed as part of the sentencing policy, granting judges the authority to withhold punishment even if the defendant's guilt is legally proven. This authority is exercised by considering certain dimensions, such as the severity of the act, the perpetrator's personal circumstances, and the values of justice and humanity prevailing in society. Conceptually, this regulation reflects a shift in orientation in national criminal law, from a model focused on rigid normative certainty to an approach that places greater emphasis on substantive justice and proportionality. Therefore, as long as the decisions of the Ungaran District Court and the Balige District Court are based on rational and relevant considerations such as reconciliation with the victim, the non-serious nature of the act, or protection of the child's best interests, and are expounded argumentatively in their legal reasoning, they are in line with the normative framework of the new KUHP.

Research Methods

This legal research adopts the Normative Juridical Method, a type of research that focuses on the application of norms or rules in applicable positive law. Normative juridical research is conducted by analyzing various formal legal

regulations, such as statutory regulation, and referring to theoretical concepts that are then linked to the issues that are the main focus of discussion.^[18]

The results of doctrinal or normative legal research are recommendations regarding the importance of developing and establishing law in a broader sense. This includes law as an ideal value system, law as a good system of norms, law within a scientific conceptual framework, and law within a systematically and synchronously structured positive legal system, both vertically and horizontally (*Law in Books*). Furthermore, this research can also yield the discovery of new legal principles and innovative legal theories.^[19]

The approach used in this research includes a statute approach, a method that emphasizes the analysis of the structure of legal norms based on the order or hierarchy of statutory regulations. In its application, this approach requires attention to the nature of the contained norms, whether they are specific or general, and to consider their origins in older and more recent regulations.^[20]

Furthermore, this research also employs a conceptual approach, which functions to examine the problem from a legal conceptual perspective. This approach is aimed at understanding the conceptual basis for the birth of a regulation and assessing the norms contained therein by referring to relevant legal theories or concepts.^[21]

Data collection techniques in this research were implemented through library research methods. Finally, the analysis of legal materials was conducted using a qualitative approach. This approach is based on the assumption that social realities or phenomena are unique and complex, where, despite the existence of certain patterns or regulations, they still contain diverse variations.^[22]

Result and Discussion

The Existence of Judge Forgiveness (*Rechterlijk Pardon*)

1. The concept of judge's forgiveness (*Rechterlijk Pardon*)

The concept of legal pardon is based on progressive legal thinking that does not solely emphasize adherence to written norms, as espoused by legal positivism. From a natural law perspective, justice is not always synonymous with the rigid application of rules, but must consider moral values, a sense of justice, and broader social interests. This view is related to the restorative justice approach, rather than solely imposing criminal sanctions.^[23]

Historically, the practice of judicial pardon has been known since the 19th century in Europe, particularly in the Netherlands, as a response to a legal system considered too formalistic and mechanical. In some minor cases, such as petty theft driven by poverty, judges used their discretion to waive imprisonment and instead imposed alternative forms of punishment, such as compensation or community service. Similar practices later developed in several other European countries, including Germany and Belgium, through the recognition of the principle of opportunity in the prosecution process.^[24]

In Indonesia, the concept of judicial pardon can be traced back to the colonial era, although it is not explicitly regulated in the Dutch-inherited Criminal Code. In practice, judges often grant leniency based on moral considerations and a sense of justice, but its application is not institutionalized, resulting in inconsistent decisions.

The emergence of the concept of *Rechterlijk Pardon* was also influenced by the limited effectiveness of short-term imprisonment in achieving sentencing objectives. Short sentences often do not provide adequate rehabilitation and instead lead to negative social impacts for offenders, such as loss of employment, weakened social ties, and difficulties in reintegrating into society. This situation is exacerbated by the problem of overcrowding in correctional institutions, which results in a less conducive correctional environment. As an alternative, the Legal Pardon shifts the orientation of sentencing from a retaliatory approach to a restorative one. Through this mechanism, judges are given the opportunity to consider the social, economic, and psychological aspects of the perpetrator, as well as the impact of the punishment on their future. Thus, sentencing is based not only on the act itself, but also on considerations of humanity and substantive justice.

The provisions regarding Legal Pardon in Indonesia gained a clearer normative basis after the enactment of the KUHP. This provision empowers judges to withhold punishment, taking into account the minor nature of the act, the perpetrator's personal circumstances, the circumstances surrounding the crime, and considerations of justice and humanity. Furthermore, its application requires that the perpetrator be a non-recidivist and not currently on probation, and under certain circumstances, there must be reconciliation with the victim.^[25]

Prior to the provisions in the new KUHP, the concept of judicial forgiveness was already recognized in the juvenile justice system through Law No.11 of 2012 concerning the Juvenile Criminal Justice System, which allows judges to withhold punishment against children by considering their psychological condition, family background, and efforts to resolve the matter with the victim. This provision reflects an approach more oriented toward fostering and protecting the best interests of children.

The *Rechterlijk Pardon* is a significant reform in the criminal justice system that seeks to align the law with social realities. Its implementation requires a commitment from law enforcement to shift the paradigm of criminal justice from a punitive orientation to a more humanistic and restorative approach. If implemented consistently, this concept not only has the potential to reduce overcrowding in correctional institutions but also strengthen the law's role as a means of protecting human dignity.

2. The Authority of Judges in Applying the Concept of Judicial Forgiveness (*Rechterlijk Pardon*) Based on Article 54 paragraph (2) of the Criminal Code

Article 54 (2) KUHP introduces a concept known as judicial pardon. The criminal law paradigm, which previously tended to emphasize retributive justice, is shifting toward a more humanistic and contextual approach. The introduction of this norm marks a significant development in Indonesian criminal law, where the defendant is found guilty based on the court proceedings, yet the judge does not impose a criminal sanction upon them.^[26]

This paradigm shift reflects the influence of modern criminal law thinking, which places humans at the center of legal considerations. The goal of punishment is no longer simply to inflict suffering on the perpetrator. Modern criminal law is oriented toward protecting society, restoring social relationships, and fostering the perpetrator's ability to function in society. The concept of *Rechterlijk Pardon*

serves as a normative instrument that allows judges to consider humanitarian, social, and moral dimensions in the sentencing process.^[27]

Article 54 (2) KUHP contains several important phrases that form the basis of judges' considerations. These phrases include the seriousness of the act, the personal circumstances of the perpetrator, the circumstances at the time of the crime, and subsequent circumstances. Each phrase has its own legal meaning that must be understood comprehensively. The correct interpretation of these phrases is key in determining whether a case is worthy of a judge's forgiveness.

a. The Meaning of the Phrase "Lightness of the Act"

The phrase "lightness of the act" is an objective indicator related to the nature and severity of the crime committed. The assessment of this element is not solely based on the fulfillment of the elements of the offense as stipulated in the article. The judge's assessment also considers the level of harm caused and the social impact of the act. This approach emphasizes that criminal law does not function merely mechanically through the application of articles. Judges need to assess the gravity of the act substantively. A crime may formally fulfill the elements of a crime. This does not necessarily indicate a high degree of danger.

Article 70 (1) letters d and f KUHP provides indicators that judges can use to assess the severity of an act. The harm caused to the victim is a primary consideration. Relatively minor harm or the absence of serious suffering indicates that the level of danger of the act is low. The assessment can also be based on the perpetrator's level of awareness of the consequences of their actions. A perpetrator who is unaware that their actions could cause significant harm indicates that the element of culpability is not high in intensity. This situation indicates that the act is of a minor nature. Articles 71 and 75 KUHP provide normative limitations regarding the application of this concept. These provisions emphasize that judicial pardon mechanisms are generally intended for crimes punishable by imprisonment under five years. These limitations serve as a control mechanism to prevent excessive use of judicial discretion.

b. The Meaning of the Phrase "Personal Circumstances of the Offender"

The phrase "personal circumstances of the offender" emphasizes the subjective aspect in the judge's assessment. Analysis is no longer limited to the act committed. The identity and character of the offender are also objects of assessment in the criminal justice process. This approach is based on the view that each individual has a different background. Differences in social, economic, educational, and life experiences can influence a person's behavior. Understanding this background enables the judge to make a fairer decision.

Article 70 (1) letters a and b KUHP provides examples of elements related to the offender's personal circumstances. Age is an important factor. Offenders who are still juveniles or elderly offenders require a different approach in sentencing. Advanced age indicates a physical and psychological condition that is no longer the same as individuals of productive age. Imposing a prison sentence on an elderly offender can have a disproportionate impact. Humanitarian considerations are a strong reason for judges to use the forgiveness mechanism.

The offender's life history also plays a significant role in the assessment process. Article 54 (1) letter g KUHP provides judges with the opportunity to assess the defendant's track record. Individuals who have never committed a crime before exhibit a different character than recidivist offenders. Article 70 (1) letter c KUHP emphasizes that a first-time offender's status can be a mitigating factor. A good resume indicates that the crime committed was a temporary deviation.

Psychosocial aspects are also important in analyzing the offender's personal circumstances. Article 54 (1) letter h KUHP emphasizes the importance of considering the impact of criminal punishment on the offender's future. Sentencing someone with high rehabilitation potential to prison can have a greater social impact.^[28] A person's life can be seriously damaged by being labeled a convict. Opportunities for employment and acceptance in society can be limited. These considerations demonstrate that criminal punishment is not always the best solution in every criminal case.

c. The Meaning of the Phrase "Circumstances at the Time of the Crime"

This phrase relates to the situational context underlying the crime. Understanding the circumstances at the time the act was committed helps judges understand the motives and pressures faced by the perpetrator. Article 70 (1) letters g and h KUHP provides examples of circumstances that can influence a perpetrator's behavior. Provocation or incitement from another party can reduce the perpetrator's level of culpability. This situation indicates that the perpetrator did not act entirely independently.^[29]

Provocation from the victim can also be a relevant factor in criminal law analysis. The victim's actions that provoke emotions or conflict often trigger the crime. These circumstances do not eliminate the perpetrator's culpability. The perpetrator's level of culpability can be assessed as lower than an act committed entirely without external triggers. Article 70 (1) letter o KUHP pays special attention to crimes that occur due to negligence. Acts resulting from negligence have a different character than acts committed intentionally. The level of culpability in negligence is usually lower because there is no malice from the outset.

Incidental circumstances are also an important factor in this analysis. Article 70 (1) letter i KUHP emphasizes that acts occurring due to very special circumstances may be considered in the application of judicial forgiveness. These circumstances indicate that criminal acts do not reflect the permanent character of the perpetrator. A situational approach provides room for judges to understand the social reality underlying a criminal act. A comprehensive analysis of the context of the incident helps judges produce fairer and more proportional decisions.

d. Meaning of the Phrase "Subsequent Circumstances"

The phrase "subsequent circumstances" relates to the perpetrator's behavior after the crime has been committed. An assessment of the perpetrator's post-crime behavior provides insight into the perpetrator's level of remorse and potential for rehabilitation. Article 54 (1) letter j KUHP allows judges to consider forgiveness from the victim or the victim's family. The victim's willingness to forgive the perpetrator indicates that the conflict has undergone a social resolution process.^[30]

Article 70 (1) letter e KUHP also regulates the payment of compensation to the victim. This action demonstrates the perpetrator's moral responsibility. Recovering the victim's losses is an important goal of the restorative justice approach. The perpetrator's behavior during the trial is also an important indicator. Article 54 (1) letter f KUHP emphasizes the importance of assessing the defendant's behavior before the court. Honesty, cooperation, and an admission of guilt demonstrate the perpetrator's moral awareness.

Social reconciliation is also part of the judge's considerations. Article 70 (1) letter n KUHP focuses on crimes that occur within the family. Imprisonment in family conflicts often leads to greater damage to relationships. The judge's forgiving approach in such situations aims to maintain the integrity of the family as the smallest social unit in society. Conflict resolution through reconciliation is often seen as more beneficial than repressive criminal punishment.

Based on the above description, it can be explained that Article 54 (2) KUHP provides a new mechanism in the Indonesian criminal justice system. Judges are given the authority to declare a defendant guilty without imposing a sentence. This decision is based on considerations of humanity, justice, and proportionality. The relationship between Article 54 (2), Articles 70, 71, and 75 demonstrates that judicial pardons are not granted freely and without limits. This norm is accompanied by clear criteria and limitations.^[31]

Decisions applying this mechanism still declare the defendant legally guilty. This status of guilt retains legal significance. The absence of a criminal penalty reflects the consideration that imposing a sentence is not always the best solution. This paradigm shift demonstrates that judges are no longer positioned as mechanical enforcers of the law. Their role has evolved into legal interpreters who consider the dimensions of substantive justice.

Article 70 (2) KUHP provides important limitations on the application of judicial pardons. These provisions emphasize that this mechanism cannot be used for crimes punishable by five years or more in prison, crimes with specific minimum sentences, crimes that endanger the wider community, or crimes that cause financial losses to the state. These limitations demonstrate that the concept of judicial pardon remains within the framework of protecting the public interest. Judicial discretion is directed toward achieving justice that balances legal certainty, expediency, and humanitarian values.

Conclusion

The Legal Pardon provision in Article 54 (2) KUHP reflects a shift in the orientation of Indonesian criminal law toward a more humanistic approach. Its application emphasizes the importance of substantive justice through consideration of the nature of the act, the condition of perpetrator, and the circumstances in which the crime occurred. Judicial forgiveness serves as a corrective mechanism in sentencing to restore social balance and maintain human dignity.

The application of Legal Pardon, or judicial forgiveness, in the national criminal law system is not interpreted as a form of impunity for the perpetrator's. This concept is a legal mechanism that demands a balance between the interests of the perpetrator, the victim, and society. Based on the provisions of the KUHP and the KUHPA, the victim's

position is no longer merely that of the injured party but rather a crucial element in determining whether or not forgiveness is appropriate. Judicial forgiveness can only be applied if several conditions are met, including the relatively minor nature of the act, restitution of the victim's losses, and a forgiving attitude on the part of the victim. These provisions aim to ensure that the application of forgiveness remains in line with the principles of restorative justice without neglecting the interests and suffering of the victim.

Suggestions and Recommendations

It is recommended that the implementation of judicial pardons be supported by clear technical guidelines. Public outreach efforts also need to be increased to ensure that judicial pardons are understood as a mechanism for achieving more substantive justice, not as a form of impunity for perpetrators of criminal acts.

It is recommended that judges provide space for victims to provide information about the impact they have experienced and verify the perpetrator's restitution. This ensures that the implementation of judicial pardons has a uniform standard and ensures that victims' rights are effectively fulfilled.

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