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The Dialectics of Judicial Pardon as a Safety Valve in the Offense of Murder: A Substantive Justice Analysis under Law Number 1 of 2023

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ABSTRACT

*The fundamental transformation of national criminal law through the promulgation of the New Penal Code promotes a paradigm of substantive justice that triggers a normative dialectic regarding the existence of the formal legality principle of colonial legacy. This study aims to critically analyze the position of judicial pardon as an exceptional *veilighedsklep* instrument to accommodate legal facts in specific murder offenses, while simultaneously assessing its effectiveness in maintaining the balance between legal certainty and human rights protection. The research method employed is normative legal research with statute, conceptual, and comparative approaches analyzed qualitatively using deductive logic and the legal dialectic method. The results indicate that the limitative restrictions of judicial pardon in Article 70 section (2) of the New Penal Code clash diametrically with the mandate of Article 53 section (2) of the Law, which obligates judges to prioritize substantive justice over formal legal certainty. These findings affirm that judicial pardon functions as a final filter post-operationalization of the primary filter, in the form of conventional grounds for excluding punishment, such as *weer-exces* and *overmacht*. Through the analysis of Decision Number 4/Pid.B/2024/PN Jnp, it is proven that exceptional judicial pardon in murder offenses with a low degree of culpability constitutes a judicial necessity to realize the objectives of restorative justice and the decolonization of national criminal law. The conclusion of this study emphasizes that judicial pardon is an instrument for salvaging human dignity and requires the support of accountable sentencing guidelines. Therefore, the Supreme Court is advised to immediately establish a Regulation regulating qualitative parameters for the application of pardon in grave offenses to avoid sentencing disparities and ensure the moral legitimacy of the law in the future Indonesian criminal justice system.*

Keywords: Judicial Pardon; Murder; New Penal Code; Substantive Justice; *Veilighedsklep*.

INTRODUCTION

The fundamental transformation of the Indonesian criminal law system is marked by the promulgation of Law Number 1 of 2023 on the Penal Code (hereinafter, the New Penal Code), which entered into force on January 2, 2026. This amendment represents the decolonization of criminal law, shifting from a retributive-colonial paradigm toward a national legal system grounded in *Pancasila* values that prioritizes restorative and rehabilitative justice (Setyawan & Kurniawan, 2023; Bahri, 2024; Rivanie & Ashar, 2025). The primary focus of this reform shifts from the mere imposition of sanctions as a form of retaliation to the restoration of legal balance, integrally involving the interests of the offender, the victim, and society (Akbar, 2022; Ningtias & Shofa, 2024; Fathan et al., 2025). The characteristics of this new national criminal law require a reinterpretation of classical doctrines to align with the sociological and philosophical dynamics of the Indonesian nation (Irwan et al., 2025).

The dialectics between the principle of formal legality and substantive justice have become a central issue in national criminal law enforcement under the New Penal Code. Although the principle of legality is maintained to ensure legal certainty, there is a recognition that the law must not be enforced blindly without considering the sense of justice living within society (Hasibuan, 2021; Rezah & Muzakkir, 2021; Wicaksono et al., 2025). Article 53 section (2) of the New Penal Code explicitly mandates judges to prioritize substantive justice should a conflict arise with formal legal certainty. This

shift positions the judge strategically as an agent of judicial correction, where the enforcement of statutory norms must be synchronized with dynamic humanitarian values (Firmansyah et al., 2025).

One of the most significant doctrinal innovations in the New Penal Code is the introduction of the concept of judicial pardon or *rechterlijk pardon*. Under Article 54 section (2) of the Law, this instrument grants judges the discretion not to impose a penalty even though the defendant's guilt has been legally and convincingly proven. The granting of this pardon is based on considerations regarding the lightness of the act, the offender's personal circumstances, and factors of justice and humanity surrounding the offense. This concept emerges to address criticisms of the criminal justice system's rigidity, which often leads to sentencing disparities and substantive injustice in cases involving low culpability (Manafe & Sumanto, 2024; Nazara et al., 2025).

The offense of murder, as a *mala in se* crime threatening the highest value of human life, is traditionally viewed as a grave crime that precludes the possibility of a pardon (Saman et al., 2023; Rizal et al., 2024). Legal norms in Articles 338 to 340 of Law Number 1 of 1946 on the Penal Code Regulations (hereinafter referred to as the Old Penal Code) and Articles 458 to 462 of the New Penal Code establish extremely high penalties as a form of legal protection for life. However, judicial reality demonstrates a variation in moral gradation within each murder case, particularly those committed under extreme psychological pressure or inner compulsion (Agista & Adhari, 2022). This creates a legal problem when absolute penal threats collide with the offender's subjective conditions that morally warrant leniency or pardon (Kaudis, 2021).

The existence of conventional grounds for excluding punishment, such as *weer* and *weer-exces*, has long served as the primary filter for releasing a person from criminal liability (Arisandy et al., 2024; Baihaqi et al., 2024). Article 43 of the New Penal Code acknowledges that severe mental agitation resulting from an immediate attack can eliminate the unlawfulness of the act or the perpetrator's culpability. However, these formal instruments possess rigid parameters and often fail to reach the nuances of justice in cases that do not technically meet the requirements of *weer-exces* yet substantively possess a minimal degree of culpability (Jatmiko, 2022). Therefore, an exceptional *veiligheidsklep* mechanism is required to ensure the law retains a proportional humanitarian dimension (Sukma & Cumbhadrika, 2023).

Global studies on judicial pardon have long been practiced across various legal systems, both civil law and common law, under diverse terminology, such as *dispense de peine* in France and absolute discharge in England (Estiningtyas et al., 2024; Suhartanto & Febrianty, 2024). In Nigeria, the concepts of discharge and recognizance are used as non-custodial release mechanisms aimed at minimizing the destructive impact of imprisonment on offenders with specific profiles (Filani & Aina, 2022). These

comparisons indicate that judicial discretion to waive punishment is a universal tool necessary for maintaining the efficiency of criminal justice administration (Farikhah, 2018b). In Indonesia, the philosophy of judicial pardon also finds its roots in Adat law, which prioritizes the restoration of harmony through forgiveness rather than mere retribution (Farikhah, 2018a; Laia, 2024).

Previous research on *rechterlijk pardon* has predominantly focused on its application in minor offenses, corruption, traffic accidents, and tax offenses (Hakim et al., 2022; Jatmiko, 2022; Manafe & Sumanto, 2024). This focus is based on the limitation in Article 70 section (2) of the New Penal Code, which textually restricts judicial pardon only to offenses carrying a penalty of imprisonment of less than five years. Conversely, in-depth studies regarding the application of judicial pardon in grave offenses such as murder remain scarce as they are considered contrary to the principle of legal certainty. This gap in the literature serves as the primary basis for this study, which explores the possibility of using *rechterlijk pardon* as an exceptional instrument in *mala in se* offenses to salvage substantive justice hindered by formal legality (Wicaksono et al., 2025).

The urgency of this research is reinforced by legal facts in the Jeneponto District Court Decision Number 4/Pid.B/2024/PN Jnp (hereinafter referred to as Decision Number 4/Pid.B/2024/PN Jnp), where a murder defendant was released from liability due to grounds of *weer-exces*. The case highlights practical challenges in the evidentiary process and witness credibility when judges must determine the thin line between crime and lawful self-defense (Eugenia et al., 2024). This fact serves as a dialectical trigger to examine whether, in the future, the instrument of *rechterlijk pardon* can provide a stronger legal foundation than merely stretching the doctrine of self-defense to achieve substantive justice. Without clear implementation guidelines, judicial discretion is feared to cause judicial inconsistency or even impunity.

Based on this background, this study aims to critically analyze the dialectics between the principle of formal legality limiting judicial discretion in Article 70 section (2) of the New Penal Code and the demands for substantive justice guaranteed in Article 53 section (2) of the New Penal Code. Furthermore, this study seeks to construct the position of judicial pardon as an exceptional *veiligheidsklep* instrument to accommodate legal facts in specific murder offenses, and to assess its effectiveness in maintaining the balance between legal certainty and the protection of human rights. The practical benefit of this research is the provision of an academic foundation for the Supreme Court in formulating more humanist sentencing guidelines, while simultaneously contributing theoretically to the development of national criminal law doctrine following the recent entry into force of the New Penal Code.

METHOD

This study constitutes normative legal research focusing on the examination of legal principles, the vertical and horizontal synchronization of statutory regulations (Qamar & Rezah, 2020), and the systematics of national criminal law. The primary focus is on the analysis of the internal consistency of norms in the New Penal Code and their coherence with the doctrine of *rechterlijk pardon* as an instrument of judicial discretion. Through the normative method, this study seeks to discover coherent truth by testing whether the normative restrictions on judicial pardon in grave offenses align with the principles of substantive justice mandated by the constitution and the philosophy of national criminal law.

The research approaches employed include the statutory, conceptual, and comparative approaches. The statute approach is applied to examine Article 53, Article 54, and Article 70 of the New Penal Code in depth to identify the normative boundaries of judicial pardon application. A conceptual approach is used to construct a fundamental understanding of the doctrine of *rechterlijk pardon* and *veiligheidsklep*, based on the views of criminal law experts. Meanwhile, the comparative approach is conducted by analyzing the implementation of judicial pardon in civil law countries such as the Netherlands and France, as well as in common law systems such as England and Nigeria, to identify exceptional parameters adaptable to Indonesian criminal law.

The legal materials used in this study are classified into primary legal materials and secondary legal materials (Sampara & Husen, 2016). Primary legal materials consist of the New Penal Code, the Old Penal Code, and Decision Number 4/Pid.B/2024/PN Jnp. Secondary legal materials include various reputable scientific journal articles, criminal law textbooks, and other legal documents relevant to the topics of judicial pardon and *weer-exces*. Legal material collection techniques were conducted through a documentary study with procedures of inventory, categorization, and critical review of all systematically collected legal materials.

The applied data analysis technique is juridical-qualitative analysis using deductive reasoning. The analysis begins by establishing a major premise in the form of positive legal norms and the doctrine of substantive justice, which is then confronted with a minor premise in the form of legal facts or limitative restrictions on the application of judicial pardon in murder cases. This process aims to produce a prescriptive conclusion regarding the most appropriate legal interpretation to realize a balance between legal certainty and substantive justice. The analysis is conducted in depth across every component of the norm to ensure there are no discrepancies between the objectives of sentencing and the practice of verdict imposition.

To address the research objectives comprehensively, this study specifically employs the legal dialectic method (*Hegelian Dialectic*), comprising the thesis, antithesis, and synthesis stages. The thesis stage represents the formal legal certainty

limiting judicial discretion, while the antithesis stage represents the demands for substantive justice in exceptional cases. Through this method, the research produces a legal synthesis in the form of an ideal construction of the position of judicial pardon as a *veiligheidsklep* in the offense of murder, which remains aligned with the principle of legality. This analysis technique is crucial to dissecting the complexity of facts in Decision Number 4/Pid.B/2024/PN Jnp, allowing for the deduction of its relevance to the future implementation of judicial pardon.

The results of the legal material analysis are then presented descriptively-analytically to provide a clear overview of the proposed legal construction (Irwansyah, 2020). The use of this analysis technique ensures that every argument in the discussion section has a strong methodological basis and is academically accountable. The entire analysis process adheres to the principle of legal objectivity by avoiding subjective or emotional interpretation. Thus, this method ensures a comprehensive answer to the dialectics of judicial pardon as an instrument for salvaging justice in the new Indonesian criminal justice system.

RESULTS AND DISCUSSION

A. Normative Dialectics: Limitative Boundaries vs. Imperatives of Justice

The existence of *rechterlijk pardon* in the national criminal law system following the promulgation of the New Penal Code places judges in a dialectical position between formal legal certainty and substantive justice. Normatively, Article 70 section (2) of the New Penal Code establishes limitative boundaries stating that provisions regarding judicial pardon should generally not be applied if the offense committed carries a penalty of imprisonment of five years or more, is an offense punishable by death, or is an offense detrimental to the public interest. This boundary represents the thesis of formal legality, aimed at maintaining the integrity of legal certainty so that judicial discretion does not devolve into an instrument of impunity, particularly in offenses with a high degree of culpability, such as murder (Saman et al., 2023; Hardicky et al., 2024).

However, this legal construction stands opposed to the antithesis contained in Article 53 section (2) of the New Penal Code, which affirms that in the event of a conflict between legal certainty and justice, judges are obligated to prioritize substantive justice. This legal obligation demands that judges not merely act as textual executors of the statute, but as balancers performing sentencing individualization based on conscience and sociological reality. This dialectic becomes crucial when applied to the offense of murder, which is formally punishable by over five years imprisonment as stipulated in Article 458 of the New Penal Code, yet it materially possesses strong excuse grounds that fail to reach the rigid requirements of conventional grounds for penalty exclusion.

In-depth analysis of Article 54 section (1) and section (2) of the New Penal Code indicates that the parameters of judicial pardon are based on three main variables: the lightness of the act, the personal circumstances of the offender, and the circumstances at the time the offense was committed and what occurred thereafter. The interpretation of the phrase “lightness of the act” in murder cases is often hindered by retributive views emphasizing the loss of the victim’s life as an absolute loss. Whereas, in the perspective of substantive justice, the lightness of an act is measured not only by the physical object of the act (*actus reus*) but also by the degree of culpability of the perpetrator’s inner attitude (*mens rea*) as well as the causality context underlying the occurrence of the offense (Paulina & Zulfa, 2024).

In the framework of criminal law decolonization, *rechterlijk pardon* is positioned as a manifestation of *Pancasila* values prioritizing just and civilized humanity over colonial legal rigidity (Setyawan & Kurniawan, 2023). The shift from the *daadstrafrecht* (act-oriented criminal law) paradigm toward *daad-dader strafrecht* (act-and-offender-oriented criminal law) in the New Penal Code requires synchronization between the objectives of sentencing and the concrete conditions of the offender. If sentencing in specific murder cases actually injures the sense of humanity and no longer provides benefits for the restoration of social conflict, then the limitative boundary of Article 70 section (2) must be viewed as a norm that can be deviated from to fulfill a higher legal objective, namely, substantive justice.

The synthesis of this normative dialectic produces a construction in which judicial pardon functions as an instrument of judicial discretion, exceptional or as a *veiligheidsklep*. As a *veiligheidsklep*, *rechterlijk pardon* does not operate as a general rule, but as a final filter to prevent an explosion of injustice caused by rigid legal application (Jatmiko, 2022). In murder cases committed in truly extraordinary situations, judges are obligated to utilize their authority based on Article 53 section (2) of the New Penal Code to pierce the limitations of Article 70 section (2) of the Law. The application of judicial pardon in grave offenses is not a form of weakening legal certainty, but rather an effort to strengthen the moral legitimacy of the law itself in the eyes of society (Bahri, 2024; Manafe & Sumanto, 2024).

Systematically, the integration of Article 53, Article 54, and Article 70 of the New Penal Code mandates a balance between legal accountability and human empathy in every court decision. The inability of written law to anticipate the entire complexity of human behavior makes judicial discretion a judicial necessity that must be supported by accountable sentencing guidelines. Thus, this normative dialectic affirms that judicial pardon in murder cases is theoretically possible insofar as it is aimed at achieving proportional substantive justice, while

simultaneously maintaining that the criminal justice system retains a human face amidst the demands of absolute legality.

B. The Primary Filter and *Veiligheidsklep*: The Doctrine of *Weer-Exces* within the Construction of Judicial Pardon

The criminal liability system in the New Penal Code establishes a mechanism for eliminating penalties through a tiered filter initiated by conventional grounds for excluding punishment. Article 34 of the Law regulates *weer* as a justification ground that eliminates the unlawfulness of an act, while Article 42 of the Law regulates *overmacht* as an excuse ground. These two instruments constitute the primary filter for verifying whether an act of taking another person's life was committed in a state of emergency, which legally justifies or excuses the offender (Kaudis, 2021; Agista & Adhari, 2022).

The analysis of the primary filter becomes more complex when it touches upon the realm of *weer-exces* as stipulated in Article 43 of the New Penal Code. This norm establishes that a person who commits a criminal offense due to exceeding the limits of necessary defense shall not be punished, provided that such action was directly triggered by severe mental agitation resulting from an immediate attack (Baihaqi et al., 2024). In murder cases, this doctrine frequently becomes the main reliance for legal counsel to secure the offender's release from prosecution, considering the existence of psychological factors such as fear or extreme panic that eliminate the ability to think clearly (Rizal et al., 2024).

Nevertheless, the primary filter in Articles 34 through 43 of the New Penal Code is rigid, requiring evidence of an immediate, distinct, and unlawful attack. A legal problem arises when an act of murder is committed in the context of morally acceptable self-defense, yet fails to meet the technical standards of proportionality and subsidiarity within the primary filter. The failure to meet the formal requirements in the primary filter often forces judges to impose lengthy prison sentences, even though the offender's degree of inner culpability is assessed as extremely low (Saman et al., 2023; Arisandy et al., 2024).

This is where the urgency of *rechterlijk pardon* as an exceptional *veiligheidsklep* begins to operate as the final filter. Unlike Article 43 of the New Penal Code, which automatically eliminates punishment if psychological conditions are met, Article 54 section (2) of the Law grants discretion to judges to consider broader variables, such as the offender's personal circumstances and events occurring after the offense was committed. Judicial pardon is no longer limited to mental agitation caused by an immediate attack but touches upon more comprehensive aspects of substantive justice (Paulina & Zulfa, 2024; Wicaksono et al., 2025).

The relationship between the primary filter and *veiligheidsklep* in murder cases represents a form of judicial compartmentalization aimed at achieving proportional justice. If the primary filters in Article 34, Article 42, and Article 43 of the New Penal Code are used to assess the legality of the defensive act, then the *veiligheidsklep* in Article 54 of the Law is used to assess the appropriateness of punishing the legal subject. This construction allows judges to formally declare the offender guilty of the offense of murder, yet pardon the offender by not imposing a penal sanction, in order to restore social harmony (Akbar, 2022; Manafe & Sumanto, 2024).

Theoretically, judicial pardon in Article 54 of the New Penal Code complements the limitations of the *weer-exces* doctrine, which focuses solely on the moment the crime occurred. Parameters in judicial pardon encompass post-incident evaluations, such as reconciliation or forgiveness from the victim's family, which are not accommodated by conventional grounds for excluding punishment (Ningtias & Shofa, 2024). This reinforces that judicial pardon is a mechanism for salvaging substantive justice when the primary filter is no longer capable of providing adequate legal protection for offenders who are morally unworthy of punishment (Sukma & Cumbhadrika, 2023).

In synthesis, the synergy between grounds for penalty exclusion in Articles 34 through 43 of the New Penal Code and judicial pardon in Article 54 of the Law creates a more humane and adaptive judicial system. The use of judicial pardon in murder cases must remain exceptional to avoid the degradation of the value of human life, yet it must remain available as an instrument of final correction against legal rigidity. By positioning *rechterlijk pardon* as the ultimate *veiligheidsklep*, the New Penal Code successfully realizes the vision of restorative justice, balancing the protection of human rights and the certainty of criminal law enforcement (Putra, 2025).

C. Comparative Study and Exceptional Parameters: Global Implementation and Relevance of *Pancasila* Values

The implementation of the judicial pardon doctrine in the global legal system provides a significant comparative foundation for strengthening judicial authority in Indonesia through the New Penal Code. In the civil law tradition, France has adopted the *dispense de peine*, which grants courts the authority not to impose penal sanctions even when the defendant's guilt has been proven (Farikhah, 2018b). Similarly, in the Netherlands, Article 9a of the *Wetboek van Strafrecht* grants judges discretion to set aside the imposition of punishment based on considerations regarding the lightness of the offense, the character of the offender, and the circumstances accompanying the occurrence of the offense (Estiningtyas et al., 2024). Practices in these countries demonstrate that judicial

pardon is a universal instrument necessary to ensure legal flexibility amid the rigidity of written criminal codification (Suhartanto & Febrianty, 2024).

Comparisons with the common law legal system reinforce the existence of similar mechanisms, including the concepts of absolute discharge in England and discharge and recognizance in Nigeria. In England, absolute discharge is granted when the judge considers that imposing a formal punishment is unwise or unnecessary, given the nature of the offense and the defendant's personal character (Suhartanto & Febrianty, 2024). Meanwhile, the law in Nigeria emphasizes the use of discharge as a non-custodial sanction to avoid the criminogenic impact of correctional institutions on offenders with low culpability (Filani & Aina, 2022). The primary characteristic of these legal systems is the emphasis on legal expediency and the rehabilitation of legal subjects rather than mere retributive vengeance (Akbar, 2022).

Theoretically, exceptional parameters in international judicial pardons focus on the balance between public accountability and the protection of individual dignity. Countries such as Portugal, through the instrument of *dispense de peine*, require a minimal level of guilt and the restoration of the victim's loss as the main prerequisites for granting a pardon (Farikhah, 2018b). In Indonesia, these parameters are adapted more dynamically through Article 54 section (1) and section (2) of the New Penal Code, which integrates the factor of forgiveness from the victim or the victim's family as a crucial element. This indicates that judicial pardon has a strong restorative dimension, with the ultimate goal of resolving conflicts and restoring balance within society (Ningtias & Shofa, 2024).

The relevance of judicial pardon in Indonesia finds its philosophical anchor in *Pancasila* values, specifically the Second Precept (*Sila*) regarding just and civilized humanity. The incorporation of *rechterlijk pardon* into national criminal law represents an effort to decolonize the law, replacing the colonial retributive spirit with a more humanist, Indonesia-centric legal paradigm (Setyawan & Kurniawan, 2023). Forgiveness is an intrinsic value in the culture of Indonesian Adat communities, which prioritizes social harmony over physical punishment (Farikhah, 2018a). Therefore, the application of judicial pardon should not be viewed as a weakening of the rule of law, but as a manifestation of divine and humane justice aspired to by the nation's founders (Hasibuan, 2021; Bahri, 2024).

This comparative synthesis affirms that the use of judicial pardon as a *veiligheidsklep* instrument in grave offenses such as murder retains a solid academic justification foundation. Although normatively there are restrictions on offenses carrying a penalty of under five years, global practice demonstrates that judicial discretion can still be activated in exceptional cases to avoid tangible injustice (Nazara et al., 2025). This exceptional justification aligns with the mandate of Article 53 section (2) of the New Penal Code, which obligates the enforcement of

substantive justice as the highest legal objective. Thus, the parameters of judicial pardon in Indonesia become richer by combining the judicial efficiency of the Western system with the depth of *Pancasila* morality and Adat law (Paulina & Zulfa, 2024).

From a comparative and philosophical perspective, this study argues that judicial pardon in specific murder cases can be granted if it meets the criteria of minimal culpability and if conflict resolution has been achieved at the sociological level. The transformation of national criminal law demands that judges possess intellectual courage in applying the *rechterlijk pardon* as a last-resort solution to salvage substantive justice marginalized by formal legality. With the support of global literature and local values, this construction of judicial pardon is expected to serve as a guideline for the future of criminal law enforcement that is more proportional, authoritative, and upholding of human rights.

D. Analysis of Decision Number 4/Pid.B/2024/PN Jnp and Synthesis of Substantive Justice: Judicial Pardon as the Ultimate Instrument

The juridical constellation in Decision Number 4/Pid.B/2024/PN Jnp presents crucial legal facts for testing the effectiveness of judicial pardon as an instrument for salvaging justice in the offense of murder. In that case, the defendant charged with murdering as stipulated in Article 338 of the Old Penal Code—which is substantially equivalent to Article 458 section (1) of the New Penal Code—was declared proven to have committed the act, yet was not punished. The Panel of Judges utilized the *weer-exces* doctrine as an excuse ground to release the defendant from all legal prosecution. This phenomenon underscores the need for judges to exercise judicial correction against the rigidity of criminal norms when faced with situations in which the imposition of punishment is considered to injure the sense of humanity (Agista & Adhari, 2022).

Critical analysis of the judge's consideration indicates that although the defendant's act resulted in the loss of human life, there was a significant reduction in culpability due to the initial attack from the victim (Baihaqi et al., 2024). The fact that the defendant was trapped in an enclosed space and received consecutive attacks with a sharp weapon created a condition of severe mental agitation, which technically triggered the activation of the primary filter in Article 43 of the New Penal Code. However, the evidentiary process in this case also revealed practical challenges regarding witness credibility and evidence validity, demanding high meticulousness from judges to achieve substantive conviction. Justice achieved through the gateway of *weer-exces* in this decision actually demonstrates the potential of using *rechterlijk pardon* as a more honest legal instrument to accommodate humanitarian aspects (Eugenia et al., 2024).

From the perspective of legal dialectics, had this case been decided under the New Penal Code, the instrument of judicial pardon under Article 54section (2)

could be seen as a synthesis of the deadlock of formal legality. Although Article 70 section (2) of the New Penal Code limits pardon for offenses carrying a penalty of over five years, legal facts in the Jeneponto case indicate that the criterion of “lightness of the act” can qualitatively be fulfilled through an assessment of lawful self-protection motives (Jatmiko, 2022). Furthermore, the variable “personal circumstances of the offender” being cooperative, as evidenced by voluntary surrender to police authorities post-incident, is a manifestation of an inner attitude showing no dangerous criminogenic tendency. This strengthens the justification for using *rechterlijk pardon* as the final *veiligheidsklep* to set aside retributive-formalistic punishment (Alfianda et al., 2024).

The exceptional application of judicial pardon in this case for murder also aligns with efforts to achieve the objectives of restorative justice and the restoration of social balance. Through judicial pardon, the state acknowledges that there is a different moral gradation between premeditated murder driven by *malice* and murder born from life-threatening urgency (Saman et al., 2023). Human Rights balance is achieved when judges can protect the defendant’s right not to be punished disproportionately, while simultaneously maintaining the victim’s dignity through a legal declaration that the act was proven but pardoned. This approach avoids the destructive impact of prison stigmatization, irrelevant to correctional needs for offenders who have been morally pardoned by the situation (Filani & Aina, 2022).

This critical synthesis affirms that judicial pardon is a mandatory instrument that must be available for judges to pierce the limitations of Article 70 section (2) of the New Penal Code through the imperative gateway of justice in Article 53 section (2) of the Law. The dialectic between the five-year penal threat boundary and the obligation to prioritize substantive justice is resolved by positioning *rechterlijk pardon* as the “final filter” working synergistically with the primary filter of *weer-exces* (Hasibuan, 2021). Judicial courage in applying the judicial pardon in murder cases involving low culpability is a manifestation of the transformation of authoritative national criminal law into a human face. This aligns with *Pancasila* values, which demand that every court decision be capable of providing tangible benefits for restoring peace within society (Setyawan & Kurniawan, 2023).

Furthermore, the use of judicial pardon in the context of grave offenses such as murder requires rigid sentencing guidelines to avoid abuse of authority or the emergence of impunity (Paulina & Zulfa, 2024). The Jeneponto case provides a valuable lesson: the integration of psychological facts, material evidence, and judicial conscience must be managed in a manner that is accountable through clear legal instruments. By positioning *rechterlijk pardon* as an exceptional instrument, the New Penal Code provides the criminal justice system with space to remain responsive to injustices arising from the rigid application of legal rules.

This step is a form of genuine legal decolonization, in which justice is no longer held hostage merely by statutory text but is celebrated as a realization of human dignity (Hardicky et al., 2024).

Overall, the analysis of Decision Number 4/Pid.B/2024/PN Jnp provides material justification for the proposition that judicial pardon can and must function as a *veiligheidsklep* in specific murder offenses committed within a constellation of facts that demand judicial empathy. Substantive justice analysis based on the New Penal Code demands synchronization between the primary filter and *veiligheidsklep* to ensure no individual is punished unfairly amidst the decolonization process of national criminal law. Through this mechanism, the objective of sentencing to resocialize convicts and resolve conflicts can be achieved effectively without sacrificing the integrity of the criminal justice system. Thus, this synthesis of substantive justice affirms the position of judicial pardon as the ultimate instrument for upholding material truth and humanity in every breath of future judicial decisions.

CONCLUSIONS AND SUGGESTIONS

Based on the dialectical analysis of the national criminal law transformation, this study concludes that the concept of *rechterlijk pardon* in the New Penal Code constitutes an imperative instrument of judicial discretion to bridge the dichotomy between formal legal certainty and substantive justice. Although Article 70 section (2) of the Law establishes limitations on the application of pardon for offenses carrying a penalty of over five years, the existence of Article 53 section (2) of the Law provides a superior mandate to judges to prioritize substantive justice should a conflict arise with legal certainty. The synthesis of this normative dialectic affirms that judicial pardon can still be applied exceptionally in specific murder offenses that possess a minimal degree of inner culpability, as a manifestation of the sovereignty of judicial conscience in performing proportional individualized sentencing.

This study also concludes that judicial pardon functions as a judicial *veiligheidsklep* instrument acting as a final filter post-operationalization of the primary filter in the form of conventional grounds for the exclusion of punishment. The doctrines of *weer* and *weer-exces* as stipulated in Article 34 and Article 43 of the New Penal Code possess rigid technical boundaries, thereby often failing to reach the nuances of justice in complex legal facts. The position of judicial pardon as a final filter enables the criminal justice system to remain responsive to the offender's subjective conditions that are morally unworthy of punishment, yet technically difficult to meet the rigid requirements of formal excuse grounds. This strengthens the national criminal law paradigm, which is no longer merely retributive but is oriented toward the restoration of a humanist legal balance.

The analysis of Decision Number 4/Pid.B/2024/PN Jnp provides material justification that, in murder cases triggered by situations of extreme urgency, substantive justice is more effectively achieved through the acknowledgment that the act is pardoned rather than merely forcing imprisonment. Global comparative studies and fundamental *Pancasila* values provide theoretical legitimacy for the discretion not to impose a penalty as a universal instrument necessary in the decolonization of Indonesian criminal law. The use of judicial pardon for grave offenses is not a form of impunity, but rather an effort to strengthen the moral legitimacy of the law by recognizing human dignity and divine justice, thereby realizing true peace in society following the enforcement of the New Penal Code in the future.

As an academic recommendation, a reconstruction of the legal education curriculum is required to emphasize the philosophy of substantive justice and equip legal practitioners with the ability to engage in dialectical reasoning that transcends formal legality. The Supreme Court is advised to immediately formulate Sentencing Guidelines in the form of a Regulation that explicitly regulates parameters for the application of *rechterlijk pardon* in exceptional, grave offenses. Such guidelines must include qualitative criteria for “lightness of the act” and “psychic compulsion” to ensure judicial accountability and prevent sentencing disparities that undermine legal certainty. Finally, judges are advised to possess the intellectual courage to apply judicial pardon as the ultimate instrument for salvaging justice, ensuring that the essence of every judicial decision is always in harmony with just and civilized humanitarian values.

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