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Judicial Pardon as a Humanizing Approach to Criminal Sentencing: Reconstructing Judicial Decisions under the New Indonesian Criminal Code

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Abstract

The reform of Indonesia's criminal law through Law Number 1 of 2023 marks a major shift in the nation's sentencing philosophy, most notably through the introduction of judicial pardon (rechterlijk pardon). This mechanism authorizes judges to declare a defendant guilty while refraining from imposing punishment when strong humanitarian grounds and proportionality considerations justify such an outcome. This article examines the normative foundations, theoretical frameworks, and implications of this concept for the reconstruction of criminal judgments in Indonesia. Using a

normative juridical research method with statutory, conceptual, and comparative approaches, the study analyzes how Articles 51–54 of the new Criminal Code reorient punishment away from a purely retributive model toward a more restorative and humanistic paradigm. The findings demonstrate that judicial pardon addresses a long-standing procedural gap that previously limited judges' ability to avoid disproportionate punishment, particularly in minor cases involving vulnerable offenders. This article also proposes a structured model for judicial pardon decisions to ensure consistent, transparent, and harmonized application with the forthcoming Criminal Procedure Code. Overall, the study argues that judicial pardon is not merely an additional judicial discretion but a key component of a broader paradigmatic shift toward a more just, contextual, and socially responsive sentencing system.

Keywords

Criminal Law Reform; Indonesian Criminal Code (KUHP); Judicial Pardon; Rechterlijk Pardon; Sentencing Reconstruction.

I. Introduction

The enactment of Law Number 1 of 2023 on the Indonesian Criminal Code (KUHP) marks a new chapter in the country's criminal law system. This codification is not merely a technical revision of the colonial-era Wetboek van Strafrecht, but a fundamental paradigm shift in the orientation of punishment. The New Criminal Code affirms that punishment is no longer to be understood solely as retribution against the offender, but as an effort to restore social and moral balance within

society.[1] This shift reflects a national criminal law orientation that places greater emphasis on humanistic values, substantive justice, and social rehabilitation.[2] The reform also embodies the constitutional spirit that the law must protect human dignity rather than diminish it.[3] Accordingly, the New Criminal Code stands not only as a legal product, but as an ideological manifestation aimed at building a punishment system that is just and aligned with the values embraced by the Indonesian nation.

One of the most significant reforms introduced in the New Criminal Code is the recognition of judicial authority to refrain from imposing punishment through the mechanism of judicial pardon, as provided in Article 54 paragraph (2). This provision allows judges to declare a defendant guilty, yet, due to the minor nature of the offense, the personal circumstances of the offender, or humanitarian considerations, the judge may choose not to impose any sentence. This reform reflects a shift within Indonesia's criminal justice system toward greater emphasis on moral and humanitarian considerations rather than purely legal-formal reasoning.[4] Accordingly, judicial pardon functions as

[1] Parningotan Malau, "Tinjauan Kitab Undang-Undang Hukum Pidana (KUHP) Baru 2023," *AL-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 837–844, https://doi.org/https://dx.doi.org/10.37680/almanhaj.v5i1.2815.

[2] Bagus Satrio Utomo Prawiraharjo, "Implementasi Ide Keseimbangan Monodualistik Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana," *Jurnal Hukum Progresif* 11, no. 2 (2023): 159–71, https://doi.org/https://doi.org/10.14710/jhp.11.2.159-171.

[3] Christian Immanuel Situmorang et al., "Pentingnya Hukum Yang Tegas Dalam Mempertahankan Hak Asasi Manusia: Perspektif Konstitusi," *Journal Customary Law* 1, no. 2 (2024): 1–13, https://doi.org/https://doi.org/10.47134/jcl.v1i2.2427.

[4] Marcus Priyo Gunarto, "Asas Keseimbangan Dalam Konsep Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana," *Jurnal Mimbar Hukum* 24, no. 1 (2012), https://doi.org/https://dx.doi.org/10.22146/jmh.16143.

a bridge between substantive justice and legal certainty, enabling the future Indonesian criminal justice system to become more integrated, flexible, humane, and nationally rooted.[5] The concept also broadens the meaning of justice in judicial decisions—from justice understood as punishment to justice understood as restoration.

Although progressive, the recognition of judicial pardon also generates several normative and theoretical dilemmas within the criminal justice system. On the one hand, this mechanism strengthens substantive justice by allowing judges to incorporate humanitarian considerations and proportionality when deciding a case. On the other hand, the broad scope of judicial discretion risks creating legal uncertainty and divergent interpretations among judges handling similar matters. Such conditions raise concerns regarding the principle of equality before the law, which constitutes a fundamental pillar of a constitutional state. Therefore, the central challenge lies in operationalizing judicial pardon in a measurable and standardized manner so that its implementation does not undermine the principles of legality and legal certainty.

Academic discussions on the New Criminal Code (KUHP Baru) have thus far largely focused on its philosophical foundations and national values, while studies examining rechterlijk pardon as a reconstruction of criminal verdicts remain relatively limited. Several works have addressed this concept, but each situates its analysis within different thematic scopes, leaving conceptual gaps that have yet to be filled. First, the study by Setyawan and Kurniawan (2023) analyzes judicial pardon through the lens of Pancasila values and the broader agenda of "Indonesianizing" criminal law.[6] Although it offers an

[5] A.Barlian, Aristo Evandy, and Barda Nawawi Arief, "Formulasi Ide Permaafan Hakim (Rechterlijk Pardon) Dalam Pembaharuan Sistem Pemidanaan Di Indonesia," *Law Reform* 13, no. 1 (2017), https://doi.org/https://dx.doi.org/10.14710/lr.v13i1.15949.

[6] Vincent Patria Setyawan and Itok Dwi Kurniawan, "Permaafan Hakim Dalam Pembaruan Hukum Pidana Indonesia," *Jurnal Dunia Ilmu Hukum*

important philosophical contribution, the study does not explore the normative consequences of Article 54 paragraph (2) of the New Criminal Code on the structure of criminal judgments. Second, the research conducted by Syakir and Sujarwo (2023) in Syariati: Jurnal Studi Al-Qur'an dan Hukum highlights the regulatory disharmony between the judicial pardon provision introduced in the New Criminal Code and the absence of a corresponding mechanism in the Criminal Procedure Code (KUHAP).[7] However, its focus on regulatory disharmony does not extend to the need for reconstructing a model judgment for judicial pardon in judicial practice. Third, Hasibuan (2021) in Jurnal Hukum Progresif examines the historical roots of rechterlijke pardon in the Portuguese and Dutch legal systems and its relevance to the principles of insignificance and restorative justice.[8] Nevertheless, the analysis remains conceptual and does not address how these theoretical foundations should be integrated into the design of criminal judgments under the framework of the New Criminal Code.

From these three studies, it becomes evident that no research has yet provided a comprehensive analysis of the normative implications of Article 54 paragraph (2) of the New Criminal Code (KUHP Baru) for the reconstruction of criminal judgments, particularly in relation to the integration between the KUHP and the KUHAP as well as the strengthening of a humanistic sentencing paradigm. Moreover, there is still no study that integratively links modern theories of punishment—

(JURDIKUM) 1, no. 1 (2023): 20–24, https://doi.org/https://dx.doi.org/10.59435/jurdikum.v1i1.97.

[7] Yusuf Syakir and Hermawan Sujarwo, "Kebijakan Pemaafan Hakim (Rechterlijk Pardon) Dalam KUHP Baru," *Syariati: Jurnal Studi Al-Qur'an Dan Hukum* 9, no. 1 (2023): 109–18, https://doi.org/https://dx.doi.org/10.32699/syariati.v9i1.4655.

[8] Sahat Marisi Hasibuan, "Kebijakan Formulasi Rechterlijke Pardon Dalam Pembaharuan Hukum Pidana," *Jurnal Hukum Progresif* 9, no. 2 (2021): 111–22, https://doi.org/https://dx.doi.org/10.14710/jhp.9.2.111-122.

such as restorative justice, social reintegration, and daad–dader strafrecht—with the operationalization of judicial pardon as a distinct type of judgment in judicial practice. In fact, this regulatory development has the potential to transform the way judges reason, assess, and draft criminal judgments, thereby necessitating an in-depth analysis of the structure and logic of this new form of decision. The absence of jurisprudential guidance or technical regulations governing its implementation also raises concerns regarding the future consistency and accountability of judgments based on judicial pardon.

The novelty of this study lies in its approach, which not only explains the concept of judicial pardon normatively but also proposes a reconstructed model of criminal judgment that aligns with the humanistic sentencing paradigm introduced in the New Criminal Code. This analysis integrates Article 54 paragraph (2), modern theories of punishment, and the technical needs of the judicial system to produce a judgment framework that is both applicable and accountable. Thus, this research fills a gap left unaddressed by previous studies, namely the integration of normative provisions, theoretical foundations, and procedural techniques into a unified analysis that explains the transformation of sentencing based on humanistic values.

This article aims to analyze judicial pardon as a manifestation of humanizing punishment and its implications for reconstructing criminal judgments under the New Criminal Code. This study addresses several key questions: how the principle of humanity shapes the orientation of punishment; how judicial pardon embodies substantive justice; and how the concept influences the structure and reasoning of judicial decisions at the operational level. Academically, this research enriches the discourse on humanistic sentencing and the scope of judicial discretion in the Indonesian legal system. Practically, it provides input for lawmakers and judicial institutions in formulating consistent and accountable guidelines for the application of judicial pardon. Philosophically, this study affirms

the transformation of the judge's role from merely an implementer of the law (rechtstoepasser) to a seeker of justice (rechtsvinder) who animates human values within the law. Thus, judicial pardon is not only a normative innovation but also a concrete step toward a more just, moral, and human-centered judiciary.

II. Method

This study employs normative juridical research with a qualitative approach. This method is chosen because the issue involves the interpretation of legal norms, particularly the concept of judicial pardon in the New Criminal Code as the basis for reconstructing a just and humane sentencing framework. Data were collected through library research using primary, secondary, and tertiary legal materials, including the New Criminal Code, the Draft Criminal Procedure Code, academic literature, and relevant court decisions. Data analysis was conducted qualitatively through interpretive and deductive reasoning. The interpretive approach was used to explore the substantive meaning of Article 54, while the deductive approach was applied to draw conclusions based on justice and humanity principles. The validity of this study was ensured through source triangulation and theoretical testing using progressive law and restorative justice frameworks. Therefore, the findings are expected to contribute both theoretically and practically to the development of Indonesia's criminal law system.

III. The Concept of Judicial Pardon in the New Indonesian Criminal Code as a Paradigm of Humanistic Sentencing

The concept of judicial pardon (rechterlijk pardon) as regulated in the New Criminal Code (KUHP) represents one of the most significant reforms in Indonesia's sentencing system. Through this provision, judges are granted the authority to declare a defendant legally and convincingly guilty, yet decide not to impose a sentence when there are strong and justifiable humanitarian or proportionality-based reasons. This mechanism reflects a shift in penal orientation away from a purely retributive approach and toward one that places human dignity and substantive justice at its core.[9] The presence of this concept simultaneously reinforces the judge's role as a guardian of balance between legal certainty, justice, and utility within criminal adjudication.[10]

Normatively, the foundation for judicial pardon is explicitly provided in Article 54 paragraph (2) of the New Criminal Code (KUHP), which allows judges to refrain from imposing a sentence by taking into account the minor nature of the act, the personal circumstances of the offender, and the conditions existing at the time the offense was committed as well as those occurring thereafter. This provision is closely aligned with the purposes of punishment set out in

[9] Muhammad Arafat, "Paradigma Pemidanaan Baru Dalam KUHP 2023: Alternatif Sanksi Dan Transformasi Sistem Peradilan Pidana Indonesia," *Jurnal Ilmu Hukum* 2, no. 1 (2025): 33–46, https://doi.org/https://doi.org/10.58540/jih.v2i1.1047.

[10] Uni Sabadina, "Peranan Hakim Dalam Penegakan Hukum Di Indonesia (Suatu Telaah Teoritis Dan Normatif)," *Desiderata Law Review* 2, no. 1 (2025): 14–25, https://doi.org/https://doi.org/10.25299/dlr.2025.23917.

Article 51, which emphasize the protection of society, the restoration of balance, and the rehabilitation of the offender, as well as Article 52 which underscores that punishment must not degrade human dignity. Thus, judicial pardon is not merely a progressive policy but one that rests on a solid legal foundation within the national sentencing system.

To provide a more concise overview of the normative framework governing judicial pardon in the New Criminal Code, the following summary may serve as a reference:

Table 1. Normative Framework of Judicial Pardon in the New Indonesian Criminal Code (KUHP)

Article (New KUHP)	Key Provisions	Relevance to Judicial Pardon
Article 51	Sentencing objectives: preventing crime, restoring balance, rehabilitating the offender, and fostering social peace.	Affirms that punishment is not mandatory when sentencing objectives can be achieved without imposing a penalty.
Article 52	Sentencing must not degrade human dignity.	Provides a humanistic foundation for the judge's decision not to impose punishment in certain cases.
Article 53 (1)-(2)	Judges must prioritize justice when it conflicts with legal certainty.	Legitimizes judicial pardon as a means to achieve substantive justice.
Article 54 (1)	Sentencing guidelines: degree of culpability, motive, impact of the act, personal	Serves as an objective basis for the judge's

	circumstances, victim's forgiveness, community values of justice, etc.	considerations before granting judicial pardon.
Article 54 (2)	Judges may refrain from imposing punishment due to the minor nature of the act, personal circumstances, or situations at the time of or after the offense.	Direct normative basis for the judicial pardon mechanism (rechterlijk pardon).
Explanation of Article 54 (2)	Judicial pardon still requires a finding of guilt but without the imposition of punishment.	Clarifies the unique nature of judicial pardon: guilt is established, but no penalty is imposed.

Source: Law No. 1 of 2023 concerning the Criminal Code

From the table, it is evident that the New Criminal Code not only provides a legal basis for judges to grant pardon but also offers an ethical and philosophical framework that strengthens its application. The aims of punishment, which emphasize restoration, the protection of society, and the rehabilitation of offenders, indicate that a decision rendered without imposing a sentence still falls within the legitimate trajectory of criminal justice.[11] The principle of respecting human dignity further clarifies that punishment is not the sole means of achieving justice.[12] Meanwhile, the sentencing guidelines in Articles 53 and 54 assist judges in evaluating proportionality in a more contextual manner. Thus,

[11] Lisa Forsberg and Thomas Douglas, "What Is Criminal Rehabilitation? Criminal Law and Philosophy," *Criminal Law and Philosophy* 16, no. 1 (2020): 103–26, https://doi.org/https://doi.org/10.1007/s11572-020-09547-4.

[12] Rahmansyah Fadlul Al Karim Rambe, Muhammad Aufa Abdillah Sihombing, and Nurhoneyda Winata P, "Implikasi Perlindungan Hak Asasi Manusia Dalam Hukum Pidana," *Jurnal Ilmiah Penegakan Hukum* 11, no. 1 (2024): 24–31, https://doi.org/10.31289/jiph.v11i1.11182.

judicial pardon stands as a legitimate and well-directed instrument within Indonesia's modern criminal justice system.

The emergence of this concept cannot be separated from the need to correct sentencing practices that have long been dominated by a retributive approach.[13] Imprisonment, which has been routinely applied even in minor cases, has long been regarded as providing little benefit for offenders, victims, or society.[14] Cases such as the theft of a watermelon in Kediri committed by Cholil and Basar, the theft of kapok worth 12,000 rupiah, the theft of a pair of sandals, and the theft of cocoa beans—cases that once attracted significant public attention—illustrate that judges often face a moral dilemma: the act indeed meets the elements of a criminal offense, yet imposing imprisonment feels unjust.[15] In such circumstances, the idea of judicial pardon gains its relevance: providing judges with the space to declare the defendant guilty without imposing a sentence when punishment would clearly offer no benefit to anyone.

In addition to domestic factors, the development of this norm is also influenced by international trends that increasingly emphasize the importance of proportionality and the effectiveness of sentencing. Several other countries have implemented similar mechanisms to ensure

[13] Ayu Agustin and Achmad Sulchan, "Dualisme Keadilan Retributif Dan Restoratif Dalam Sistem Peradilan Pidana Indonesia," *Jurnal Sosial Teknologi* 5, no. 10 (2025): 3988–3994, https://doi.org/https://doi.org/10.59188/jurnalsostech.v5i10.32448.

[14] Siti Khumairoh Kusuma Arum and Khilmatin Maulidah, "Pembaruan Hukum Pidana Melalui Penerapan Prinsip Insignifikansi: Kajian Dalam KUHP Baru Indonesia," *Jurnal Hukum Ekualitas* 1, no. 1 (2025): 57–69, https://doi.org/https://doi.org/10.56607/73krj443.

[15] Elma Fitria, Mispansyah, and Ifrani, "Formulasi Asas Permaafan Hakim Dalam Tindak Pidana Ringan Dalam Perspektif Keadilan," *Ensiklopedia Education Review* 5, no. 1 (2023): 91–100.

that punishment is not imposed excessively.[16] Indonesia's decision to adopt this idea indicates that the revision of the Criminal Code seeks to align the national sentencing framework with modern standards while remaining consistent with the values of the Indonesian nation, which prioritize tangible benefits for society.

Ultimately, the presence of judicial pardon brings significant changes to the way the criminal justice system operates. This mechanism expands the range of options available to judges in responding to cases, so that punishment is no longer viewed as the only possible outcome. Judges can assess whether imposing a sentence is truly necessary or whether it would instead be counterproductive. Such an approach creates space for decisions that are more proportional, more humane, and more sensitive to the social and individual context of the offender.

The conceptual justification for judicial pardon in the new Criminal Code is rooted in various modern theories of punishment, particularly restorative justice, social reintegration, the daad–dader strafrecht or the idea of balanced culpability, as well as the purposes of punishment. Restorative justice emphasizes that a criminal act is fundamentally a disruption of social relations that must be repaired through dialogue and proportional accountability, rather than through mere retribution.[17] This framework aligns with the judge's authority not to impose punishment when restoration has already occurred and when

[16] Fadjar Sukma and Chitto Cumbhadrika, "Urgensi Penerapan Rechterlijk Pardon Sebagai Pembaharuan Hukum Pidana Dalam Perspektif Keadilan Restoratif," *Gorontalo Law Review* 6, no. 1 (2023), https://doi.org/https://doi.org/10.32662/golrev.v6i1.2678.

[17] Muhammad Alvin Nashir, Nabila Maharani, and Aisyah Zafira, "Urgensi Pembentukan Undang-Undang Restorative Justice Dalam Rangka Reformasi Keadilan Dan Kepastian Hukum Di Indonesia," *Sapientia Et Virtus* 9, no. 1 (2024): 344–57, https://doi.org/https://doi.org/10.37477/sev.v9i1.501.

punishment would no longer bring any meaningful benefit to the victim or society.

In the Indonesian context, the transformation of the correctional system toward a rehabilitative and restorative paradigm further reinforces the principle that punishment should not be imposed if it would in fact hinder the offender's social reintegration.[18] This perspective aligns with the daad–dader strafrecht concept, which requires a balanced assessment between the act committed and the individual characteristics of the offender, ensuring that punishment does not focus solely on formal guilt.[19] All of these conceptual frameworks intersect with the theory of sentencing purposes in the new Criminal Code, which places community protection, the restoration of social balance, and the rehabilitation of the offender as an integrated whole. Accordingly, the application of judicial pardon is no longer understood merely as moral discretion, but as a concrete expression of a humanistic sentencing paradigm—one that avoids unnecessary punishment and ensures that the criminal justice process continues to provide meaningful benefits for the future of both the offender and society.

The concept of daad–dader strafrecht provides a theoretical framework that balances the assessment of the criminal act with the personal circumstances of the offender. In addition, the idea of equilibrium reflected in the new Criminal Code (KUHP) explains that a person may remain unpunished even when both the elements of the

[18] Didik Purnomo, "Kontradiksi Dan Transformasi Hukum Pada Pergeseran Sistem Pemasyarakatan Dari Retributif Ke Reintegrasi Sosial Di Indonesia," *Yustisia Tirtayasa* 5, no. 2 (2025): 139–61, https://doi.org/http://dx.doi.org/10.51825/yta.v5i2.32432.

[19] Firmansyah and Riska Amalia Armin, "Sanksi /Pidana Kerja Sosial, Telaah Double Track System (Mono-Dualistik/Daad-Daader Strarftrecht)," *Madani Legal Review* 5, no. 2 (2021): 53–74, https://doi.org/https://doi.org/10.31850/malrev.v5i2.1436.

criminal act (strafbaar feit) and the elements of criminal responsibility have been fulfilled, if imposing a punishment would not serve the purposes of sentencing. In such cases, punishment cannot be imposed. This paradigm holds that sentencing should not focus solely on the offender's formal guilt, but must also consider the broader context that shaped the conduct.

The New KUHP supports this approach through its formulation of sentencing objectives, which emphasize the restoration of social balance, the rehabilitation of the offender, and the protection of society.[20] On this basis, judicial pardon is understood as the direct implementation of a humanistic sentencing philosophy. Judges are granted the authority to determine whether punishment is genuinely necessary to achieve sentencing goals, or whether it would in fact undermine them. This approach reinforces the principle that sentencing must always account for utility, substantive justice, and individual circumstances. Thus, the application of judicial pardon reflects a modern sentencing model oriented toward balance among the act, the offender, and societal needs.

IV. Reconstructing Judicial Pardon Decisions within Indonesia's Criminal Justice System

The reconstruction of judicial pardon decisions has become an urgent necessity following the enactment of the new Criminal Code (KUHP), which provides a clear normative basis through Article 54 paragraph (2). The provision allows judges to declare a defendant guilty

[20] Allison Dara Dharmawan and Nadira Karisma Ramadanti, "Pidana Alternatif Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana Dan Kaitannya Dengan Tujuan Pemidanaan," *Presidensial : Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 1, no. 4 (2024): 85–92, https://doi.org/https://doi.org/10.62383/presidensial.v1i4.197.

while refraining from imposing a sentence when justified by humanitarian considerations and defensible notions of justice. However, the Indonesian criminal justice system has yet to provide a decision structure specifically designed to accommodate this non-punitive mechanism.[21] Therefore, reconstruction is required to ensure that the judicial pardon authority can be applied in a measurable, accountable, and consistent manner in practice.

At the substantive level, judicial pardon cannot be understood merely as the removal of punishment, but rather as a differentiated judicial response that takes into account the nature of the act, the personal circumstances of the offender, and developments occurring after the incident. The regulation of rechterlijk pardon in Article 54 paragraph (2) of the new Criminal Code (KUHP) underscores the need to incorporate judicial pardon as a distinct category of judgment within the Criminal Procedure Code (KUHAP), so that material and procedural criminal law remain aligned and the justice system can function in a more equitable, humane, and socially responsive manner.[22] The current judgment format—designed around three primary categories (conviction, acquittal, and release from all legal charges)—is not fully compatible with a decision that declares the defendant guilty yet imposes no sentence. The absence of a structural space to articulate humanitarian considerations and substantive justice risks creating ambiguity in judicial reasoning when judicial pardon is applied. For this

[21] Alfret and Mardian Putra Frans., "Konsep Putusan Pemaaf Oleh Hakim (Rechterlijk Pardon) Sebagai Jenis Putusan Baru Dalam KUHAP," *KRTHA BHAYANGKARA* 17, no. 3 (2023): 587–600, https://doi.org/https://dx.doi.org/10.31599/krtha.v17i3.2968.

[22] Bunga Kharisma Octafiana and Frans Simangunsong, "Urgensi Penambahan Putusan Permaafan Hakim (Rechterlijk Pardon) Dalam Pasal 191 KUHAP," *IURIS STUDIA: Jurnal Kajian Hukum* 5, no. 3 (2024): 655–66, https://doi.org/https://doi.org/10.55357/is.v5i3.672.

reason, a reconstructed judgment format is necessary to ensure that elements of proof, the grounds for granting pardon, and humanitarian arguments can be presented systematically and subjected to meaningful review.

The need for reconstruction becomes even more relevant with the emergence of provisions in the Draft Criminal Procedure Code (RKUHAP), which has formally recognized judicial pardon as a distinct type of judgment. Article 1 point 15 of the new Criminal Procedure Code states that court judgments include judicial pardon, while Article 1 point 16 defines it as a declaration by the court that the defendant has been proven guilty but is not subjected to punishment or measures due to the minor nature of the act, the personal circumstances of the offender, or conditions surrounding or following the commission of the offense. By designating judicial pardon as a separate category of judgment, the RKUHAP underscores the necessity of developing a judgment format that differs from conventional sentencing decisions. Furthermore, Article 232 of the RKUHAP regulates the legal consequences of judicial pardon with respect to evidence, treating it similarly to acquittal or release cases, including the court's obligation to return seized items to the rightful party. These provisions demonstrate that the mechanism of judicial pardon has been prepared not only materially (through the KUHP) but also procedurally (through the RKUHAP), making the reconstruction of judgment structure increasingly urgent.

The reconstruction of judicial pardon judgments also has significant implications for the overall effectiveness of the criminal justice system. Proper implementation of judicial pardon can reduce the burden on correctional institutions, which have long struggled with chronic

overcrowding.[23] Moreover, minor offenses that do not require penal intervention can be resolved more efficiently without diminishing the sense of justice for victims and society. A reconstructed judgment format will ensure that this mechanism can be operated without compromising judicial accountability.

To guarantee the effective application of judicial pardon, technical guidelines or a Supreme Court Circular (SEMA) are needed to regulate the structure and essential components of pardon judgments. Such guidelines should include a model of legal reasoning, normative limitations, indicators of minor wrongdoing, and parameters for assessing the relevant personal circumstances of the offender. In addition, harmonization between the new KUHP and the RKUHAP must be immediately pursued so that material and procedural laws can support each other. Training for judges and law enforcement officials is also necessary to ensure uniform understanding and application. Thus, reconstructing judicial pardon judgments represents a strategic step in criminal justice reform aimed at achieving a more proportional and humanistic system of justice.

V. Conclusion

The reform of the Indonesian Criminal Code (KUHP) through the regulation of judicial pardon marks a significant shift in the nation's sentencing orientation—from a predominantly retributive approach toward a more humanistic and restorative paradigm. The authority granted to judges to refrain from imposing punishment despite a proven conviction creates space for a legal response that is more proportional, contextual, and aligned with humanitarian values. The analysis of

[23] Ramdhan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Straftrecht)," *Jambura Law Review* 2, no. 1 (2020), https://doi.org/https://doi.org/10.33756/jalrev.v2i1.2402.

Articles 51–54 of the new KUHP demonstrates that this mechanism is not merely the insertion of a new provision, but rather part of a broader transformation in penal philosophy that prioritizes the restoration of social balance, the protection of society, and the rehabilitation of offenders. However, the introduction of this authority also creates an urgent need to reconstruct the format of judicial pardon judgments within the criminal justice system.

The absence of technical guidelines risks producing disparities between judgments, multiple interpretations, and disharmony between the KUHP and the draft KUHAP, which already recognizes judicial pardon as a distinct category of judgment. Therefore, the formulation of judgment guidelines, the harmonization of substantive and procedural norms, and the strengthening of institutional capacity among law enforcement actors are essential prerequisites for ensuring that judicial pardon is applied consistently, accountably, and without undermining legal certainty. In this regard, the study affirms that judicial pardon is not merely a normative innovation but a strategic instrument to reinforce a more humane and just sentencing system. This mechanism holds significant potential to reduce unnecessary punishment, prevent penal overreach, and improve the overall quality of criminal judgments. To fully realize this potential, a clear and measurable implementation framework is required so that judicial pardon can function effectively as a bridge between substantive justice and responsible judicial practice.

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