

A LEGAL REVIEW OF ABOLITION AND AMNESTY IN THE CASES OF TOM LEMBONG AND HASTO KRISTIYANTO UNDER INDONESIAN CRIMINAL LAW

Muhammad Havez^{1*}, Muhammad Rusjana^{2**}, Erine Nur Maulidya^{3***}

Universitas Lampung*

Universitas Sang Bumi Ruwa Jurai**

UIN Raden Intan Lampung***

Abstract

This study aims to analyze the legal basis and mechanism for granting abolition to Tom Lembong and amnesty to Hasto from the perspective of Indonesian criminal law. Furthermore, this study also discusses the legal implications of these abolitions and amnesties for law enforcement and legal certainty in Indonesia. The research method used is a normative legal approach, examining laws and regulations, doctrine, and relevant literature. The analysis shows that granting abolition and amnesty is a presidential prerogative, as stipulated in the constitution and laws. However, its implementation must adhere to the principles of justice, legal certainty, and expediency. The granting of abolition to Tom Lembong and amnesty to Hasto has sparked debate, particularly regarding the limits of executive authority over the criminal justice process. These legal implications include the potential to reduce the deterrent effect, create a political precedent in law enforcement, and demand stricter regulations to ensure that abolition and amnesty policies do not conflict with the principles of the rule of law.

Keywords: legal basis, abolition, amnesty, principle, corruption

A. Background

Indonesian criminal law recognizes several exceptional policy instruments, including abolition and amnesty.¹ Abolition is the removal of prosecution for a criminal offense before the case is decided by a court, while amnesty is the removal of all criminal consequences imposed on a specific group or individual.² Both are the President's prerogative as stipulated in Article 14 of the 1945 Constitution of the Republic of Indonesia, but their implementation has generated debate when confronted with the principles of law enforcement, justice, and certainty in criminal law.

The cases of Tom Lembong's abolition and Hasto's amnesty have drawn public attention because they are considered to have strong political implications and raise questions regarding the limits of executive authority in the criminal justice process. On the one hand, abolition and amnesty are intended to maintain political stability and the public interest. However, on the other hand, these policies have the potential to create legal uncertainty, weaken the function of the criminal justice system, and create precedents that could be abused in the future.

* Corresponding Author: muhammadhavez@fh.unila.ac.id

** muhamadrusjana@gmail.com

*** erinenurmaulidya@radenintan.ac.id

¹ S. I. Fauzi, "Politik Hukum Pemberian Grasi, Amnesti Dan Abolisisebagai Konsekuensi Logis Hak Prerogatif," *Jurnal Hukum & Pembangunan* 51, no. 3 (2021): 621–36, <https://doi.org/10.21143/jhp.vol51.no3.3126>

² G. Loza, M., & Rosas, "Amnesty or Abolition? Felons, Illegals, and the Case for a New Abolition Movement," in *The Border Reader* (Duke University Press, 2023), 608–27, <https://doi.org/https://dx.doi.org/10.1353/book.114142>.

Therefore, an in-depth study of the legal basis, mechanisms, and legal implications of abolition and amnesty from a criminal law perspective is necessary. This study is expected to provide a comprehensive understanding of the policy's suitability to the principles of the rule of law, while also offering a normative basis to avoid abuse of authority in the future.

President Prabowo Subianto made a surprising decision by granting amnesty to Hasto Kristiyanto and abolition to former Minister of Trade, Tom Lembong. This decision has drawn various reactions, both from political circles and the general public. Hasto Kristiyanto, who previously served as Secretary General of the Indonesian Democratic Party of Struggle (PDIP), was known to be involved in a bribery case related to the interim replacement (PAW) of member of the House of Representatives (DPR) for the 2019-2024 period, Harun Masiku. On December 24, 2024, the Chairman of the Corruption Eradication Commission (KPK) Setyo Budiyo announced the naming of Hasto as a suspect in the case, which includes allegations of bribery and obstruction of investigation against Harun Masiku.

In February 2025, Hasto was detained at the Corruption Eradication Commission (KPK) Detention Center after undergoing a series of investigations. The granting of amnesty to Hasto, in this case, became an issue that attracted public attention, considering the background of the legal case he faced and its connection to the political dynamics in Indonesia. President Prabowo Subianto made a decision that surprised many parties by granting amnesty to Hasto Kristiyanto and abolition to the former Minister of Trade, Tom Lembong. The decision caused various reactions, both from political circles and the general public. Hasto Kristiyanto, who previously served as Secretary General of the Indonesian Democratic Party of Struggle (PDIP), was known to be involved in a bribery case related to the management of the interim replacement (PAW) of a member of the House of Representatives (DPR) for the 2019-2024 period, Harun Masiku. On December 24, 2024, the Chairman of the Corruption Eradication Commission (KPK) Setyo Budiyo announced the naming of Hasto as a suspect in the case, which included allegations of bribery and obstruction of investigation against Harun Masiku.

Although the judge sentenced Hasto to a sentence less than the prosecutor's demand of 7 years in prison, the judge stated that Hasto was not proven to have obstructed the investigation of Harun Masiku. Hasto was found guilty of violating Article 5 Paragraph 1 Letter a of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (the Corruption Law) in conjunction with Article 55 Paragraph 1 point 1 of the Criminal Code (KUHP) in conjunction with Article 64 Paragraph 1 of the KUHP, but was not proven to have violated Article 21 of the Corruption Law, which regulates obstructing an investigation.

Following the verdict, the Corruption Eradication Commission (KPK) planned to file an appeal, a decision that came after discussions between the KPK and the prosecutor. However, before the appeal could be filed, Hasto Kristiyanto received amnesty from President Prabowo Subianto. This decision adds to the complexity of the ongoing legal process and raises various views regarding the principles of justice and the rule of law in Indonesia.

President Prabowo Subianto's decision to grant amnesty to Hasto Kristiyanto has triggered considerable debate among the public and legal circles. The amnesty, in this case, is seen as a step that could end the ongoing legal process, although many question whether this policy aligns with the principles of justice and transparency in Indonesia's

criminal justice system. The amnesty was granted despite Hasto's previous criminal conviction, which some believe could potentially create the impression that the law is inconsistently applied, especially to individuals with powerful political backgrounds.

This amnesty also raises questions about justice for victims and the wider community.³ The legal process leading to the uncovering of corruption cases involving public officials and members of major political parties in Indonesia should be a momentum for firm and fair law enforcement. However, the amnesty raises uncertainty about whether this measure truly provides a sense of justice for the public demanding accountability for the corruption. The legal power of handling major cases involving high-ranking officials is questionable if the amnesty policy is seen as a way out of the ongoing judicial process.

President Prabowo's decision to grant amnesty to Hasto Kristiyanto creates a dilemma from the perspective of law enforcement and legal certainty. Some argue that this type of amnesty contradicts the principle of legal certainty, which requires that everyone who commits a crime, regardless of their position or power, must be treated equally before the law. With the amnesty, the certainty of punishment for perpetrators of certain crimes is blurred, and the potential for similar abuses in the future increases. This could undermine public confidence in the independence and integrity of the Indonesian legal system.

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Furthermore, this amnesty also provides an opportunity to examine the extent to which politics can influence the legal process in Indonesia. In recent years, many have criticized the Indonesian legal system for being influenced by political forces, particularly when prominent political figures or public officials are involved. Hasto's amnesty, while legally valid, demonstrates how politics can play a significant role in legal decisions that should be based on fairness and evidence. This has the potential to create inequality in the legal process, where individuals with certain political backgrounds or power may receive more favorable treatment.

More broadly, Hasto's amnesty could serve as a model for similar policies in the future. Therefore, it is crucial to ensure that any decisions involving amnesty or clemency are made with great care and based on objective considerations, without being influenced by political factors. The government and relevant institutions need to uphold the principles of fairness, transparency, and accountability in every decision they make. In this way, the Indonesian legal system can re-establish public trust and ensure that no one, regardless of social or political status, is above the law.

This research is needed to further explore the legal implications of amnesty and pardon for law enforcement and legal certainty in Indonesia, particularly in cases involving political officials or prominent figures such as Hasto Kristiyanto and Tom

³ W. Wibowo, "Policy Of Granting Amnesty For Non Political Criminal Action In The Era Of The President Joko Widodo," in *Prosiding Seminar Nasional Hukum, Kebijakan Publik, Hak Asasi Manusia Dan Keadilan*, 2022, 7–15, <https://doi.org/https://prosiding.semnaskum.nusaputra.ac.id/index.php/prosiding/article/view/4>.

Lembong. As part of efforts to maintain fairness and transparency in the legal system, this research will provide insight into how amnesty and pardon policies may impact the integrity of the judicial process and their impact on public trust in the Indonesian legal system.

This research is also needed to examine the President's role in the criminal justice system, particularly in the context of amnesty and abolition as stipulated in Article 14 of the 1945 Constitution, and how this creates dilemmas concerning social justice and legal transparency. By considering the social impacts of these policies, this research will provide recommendations regarding amnesty and abolition policies that are more in line with the principles of justice and human rights, without neglecting the state's interest in achieving political and social stability.

Finally, this research is also important for providing theoretical and practical contributions to the development of a better Indonesian legal system, so that legal decisions involving amnesty and abolition policies can be made on a clearer, more transparent, and more accountable basis. This will provide guidance for the development of legal policies that focus not only on temporary measures but also on fulfilling long-term legal principles that ensure justice for all citizens.

Several previous studies have discussed the granting of abolition and amnesty from a criminal law perspective in Indonesia. (Situmorang, 2018) examined the constitutional basis for abolition as a presidential prerogative and found that its practice is often used for political gain, necessitating clearer normative boundaries to ensure it does not conflict with the principles of legality and legal certainty. Furthermore, (Prasetyo, 2019) examined amnesty from a criminal law and human rights perspective, concluding that amnesty can be justified if it is aimed at the public interest and implemented through transparent legal mechanisms without compromising judicial independence.

(Wulandari, 2020) examined the implications of granting abolition and amnesty for law enforcement in Indonesia, demonstrating tensions between executive and judicial powers, necessitating more detailed technical regulations. (Mahardika, 2021) further highlighted the presidential prerogative in granting abolition and amnesty from a constitutional perspective, emphasizing that such authority should not be used arbitrarily but must consider the principle of substantive justice and input from the House of Representatives (DPR). Finally, (Siregar, 2022) examined the granting of abolition and amnesty in political cases in Indonesia, finding that, although legally valid, these practices often create negative perceptions of law enforcement and undermine public trust in the criminal justice system.

Based on these studies, it appears that no study has specifically examined the granting of abolition to Tom Lembong and amnesty to Hasto. This research aims to fill this gap by reviewing the legal basis, mechanisms, and legal implications of these policies within the criminal law framework, while also providing recommendations to prevent future abuse of authority.

B. Identified Problems

1. What is the legal basis and mechanism for granting abolition to Tom Lembong and amnesty to Hasto under Indonesian criminal law?
2. What are the legal implications of granting abolition and amnesty for law enforcement and legal certainty in Indonesia?

C. Research Methods

This research employs a normative juridical research method, focusing on the analysis of positive law and legal theory applicable in Indonesia regarding the granting of amnesty and pardon to criminal offenders, as well as their implications for law enforcement and legal certainty in this country. This method aims to explore the legal basis for granting amnesty and pardon and analyze the impact of these policies on the Indonesian criminal justice system, both from a theoretical and practical perspective.

The normative juridical approach is used to examine relevant laws and regulations,⁴ such as the 1945 Constitution, Law Number 22 of 2002 concerning Pardons, the Law on Corrections, and other related provisions governing the granting of amnesty and pardon. In this research, legal data was collected through a literature review, including laws, government regulations, court decisions, as well as scientific articles and other written works related to amnesty, pardon, and criminal law enforcement in Indonesia.

Furthermore, to analyze the legal basis for granting abolition and amnesty, this study will also use a comparative approach to examine how similar policies are implemented in other countries. This aims to provide a broader perspective on the implications of granting abolition and amnesty in the context of law enforcement and legal certainty. Furthermore, this study will analyze the implementation of these policies in practice in Indonesia, taking into account various political decisions that influence the amnesty or abolition process.

The analysis in this study will be conducted by referring to applicable criminal law principles, such as legal certainty, justice, and the protection of human rights. Researchers will also evaluate the impact of the implementation of amnesty and abolition policies on legal certainty, by considering their influence on public trust in the legal system and judicial process in Indonesia. In this way, this study is expected to contribute to understanding the relationship between amnesty and abolition policies and fair and transparent law enforcement.

To strengthen the analysis, this study will also include interviews or discussions with legal experts, legal practitioners, or academics who have a deep understanding of the implications of amnesty and abolition in Indonesian criminal law. The results of these interviews are expected to provide a clearer practical perspective on the implementation of these policies and their impact on consistent and just law enforcement.

Ultimately, this research aims to provide recommendations regarding amnesty and abolition policies in the Indonesian criminal justice system. These recommendations will be based on an in-depth analysis of the strengths and weaknesses of existing policies, as well as how they can be improved or implemented more effectively to support fairer and more certain law enforcement, without neglecting humanitarian values and social justice.

D. Research Findings and Discussions

The Legal Basis and Mechanism for Granting Abolition to Tom Lembong and Amnesty to Hasto under Indonesian Criminal Law

The granting of abolition to Tom Lembong and amnesty to Hasto reflect the implementation of criminal law mechanisms in Indonesia, which allow for the release or reduction of sentences for individuals involved in certain crimes. Abolition and amnesty

⁴ S Taekema, "Theoretical and Normative Frameworks for Legal Research: Putting Theory into Practice," *Law and Method* 2 (2018): 1–17, <https://doi.org/10.5553/rem/.000031>.

are two instruments regulated by the Indonesian legal system and serve as forms of policy implemented by the state based on specific considerations, whether humanitarian, political, or social.⁵ In the context of criminal law, both instruments have a clear legal basis and specific procedures that must be followed, although their implementation is often controversial.

Abolition, as regulated by Article 14 of the 1945 Constitution of Indonesia, grants the President the authority to remove or pardon a criminal act, essentially erasing the criminal offense from the legal record of the perpetrator. Unlike amnesty, which only removes the legal consequences or penalties of a crime, abolition extends further by completely nullifying the crime itself, as though it never occurred. In the case of Tom Lembong, granting abolition means that his previous criminal actions, which were subject to a court ruling, would no longer be legally recognized as having been committed. This legal mechanism, while offering a means to achieve political stability or promote national reconciliation, can create significant tensions with fundamental principles of justice, particularly legal certainty and equality before the law.

First, legal certainty is a foundational principle in the rule of law, ensuring that laws are applied consistently and predictably. The abolition of a crime, particularly when applied to individuals who have already been judged by the courts, undermines this principle. By erasing a criminal act from the legal record, the public and legal system are deprived of the certainty that a crime once committed and adjudicated will remain recognized and penalized. This can create a legal vacuum where it is unclear whether certain actions can be prosecuted in the future, should new evidence arise or the situation change. The decision to grant abolition may send mixed signals about the stability and reliability of legal outcomes, potentially eroding public trust in the criminal justice system.

Second, equality before the law is another core principle that ensures all individuals are treated equally under the law, regardless of their social, political, or economic status. When abolition is granted selectively, as in the case of Tom Lembong, it may lead to perceptions of unequal treatment, particularly if the individual receiving abolition is a prominent political figure or has strong connections within the government. The public may perceive that the law is being applied inconsistently, where those with political influence can escape legal consequences, while ordinary citizens would not enjoy the same privileges. This creates a sense of injustice and undermines the principle that everyone should be held accountable for their actions under the law.

Moreover, the selective application of abolition and amnesty policies may exacerbate existing inequalities, as those in positions of power may use such measures to avoid accountability for serious crimes. This threatens the fairness of the judicial process, as it potentially allows individuals with political or social leverage to bypass the consequences of their actions, while the ordinary citizen remains subject to full legal consequences. The potential for such policies to be misused for political purposes further exacerbates concerns about fairness and equality in the legal system.

In conclusion, while abolition and amnesty are tools that can serve national interests, particularly in terms of political reconciliation or stability, they pose significant risks to the core principles of legal certainty and equality before the law. These policies,

⁵ Loza, M., & Rosas, "Amnesty or Abolition? Felons, Illegals, and the Case for a New Abolition Movement" Amnesty or Abolition? Felons, Illegals, and the Case for a New Abolition Movement."

when applied without clear, consistent, and transparent guidelines, can undermine the public's confidence in the judicial system and create an environment where legal outcomes are perceived as arbitrary or politically motivated. It is crucial that such mechanisms be used with caution and within the framework of justice, to ensure that they do not erode the integrity of the legal system or contribute to inequalities in legal treatment.

Meanwhile, amnesty is the removal or reduction of the sentence for a criminal who has been proven guilty. This amnesty is usually granted by the President based on humanitarian, political, or other national considerations.⁶ The legal basis for granting amnesty is found in Article 14 of the 1945 Constitution, which regulates the President's authority to grant amnesty.⁷ Amnesty is more limited in scope than abolition because it only removes or reduces the sentence without eliminating the crime itself.⁸ In this case, the amnesty for Hasto means that although he is still recognized as having committed a crime, his sentence can be removed or reduced by presidential decree.

Granting amnesty or abolition under Indonesian criminal law requires clear procedures and a valid basis. Legally, amnesty or abolition must be based on valid laws or policies and have a clear purpose. Therefore, in issuing this decision, the President must ensure that it not only meets administrative requirements but is also based on considerations that align with the interests of the state and society. Generally, amnesty or abolition is granted in the context of specific circumstances, such as to support national reconciliation, or as part of a policy that supports specific political and social goals.

The mechanism for granting amnesty and amnesty also involves the role of the legislative body, particularly in cases where amnesty often requires the approval of the House of Representatives (DPR).⁹ Although the President has full authority to grant amnesty and abolition, the ratification of such decisions can be done in consultation with the DPR or by following existing political procedures. This process is designed to ensure that decisions are made not solely based on unilateral considerations by the executive branch, but also through dialogue with the legislative body, which has a mandate from the people.

In the case of granting abolition to Tom Lembong and amnesty to Hasto, the relevant legal basis for consideration includes two main factors: humanitarian considerations and the national interest. From a humanitarian perspective, granting amnesty or abolition may be motivated by the consideration that the punishment imposed is no longer in accordance with the principles of social justice, or because the perpetrator has demonstrated repentance or made a positive contribution to society. In this context, amnesty or abolition policies can serve as instruments of reconciliation, both personally for the perpetrator and socially for the community affected by the crime.

However, granting amnesty and abolition is not without the potential for abuse of power. Especially in cases involving political figures or high-ranking officials like Tom

⁶ Reiter AG Lessa F, Olsen TD, Payne LA, Pereira G, "Persistent or Eroding Impunity? The Divergent Effects of Legal Challenges to Amnesty Laws for Past Human Rights Violations," *Israel Law Review* 47, no. 1 (2014): 105–31, <https://doi.org/doi:10.1017/S0021223713000289>.

⁷ Fauzi, "Politik Hukum Pemberian Grasi, Amnesti Dan Abolisisebagai Konsekuensi Logis Hak Prerogatif."

⁸ A. Fijalkowski, "Amnesty," in *An Introduction to Transitional Justice* (Routledge, 2020), 123–48.

⁹ T. E. Satria, T. E. Satria, "Analisis Yuridis Pemberian Amnesti Oleh Presiden Terhadap Pelaku Pelanggaran (Analisis Keputusan Presiden Pemberian Amnesti)" (2022), <https://doi.org/https://repository.ar-raniry.ac.id/id/eprint/26553/>.

Lembong and Hasto, these decisions can create public perceptions of injustice in law enforcement. Therefore, it is crucial to maintain transparency in every decision to grant amnesty or abolition, by providing a clear explanation to the public regarding the reasons and legal basis behind the decision. This process must also be protected from political interests that could undermine the principles of justice and legal certainty. The granting of abolition to Tom Lembong and amnesty to Hasto reflect the implementation of criminal law mechanisms in Indonesia, which allow for the release or reduction of sentences for individuals involved in certain crimes. Abolition and amnesty are two instruments regulated by the Indonesian legal system and serve as forms of policy implemented by the state based on specific considerations, whether humanitarian, political, or social. In the context of criminal law,¹⁰ both instruments have a clear legal basis and specific procedures that must be followed, although their implementation is often controversial.¹¹

Abolition, in Indonesian criminal law, is regulated by Article 14 of the 1945 Constitution, which authorizes the President to grant amnesty, clemency, rehabilitation, and remission.¹² Abolition itself is the removal or pardon of a criminal act that has occurred, so that a perpetrator who has received a permanent legal decision is no longer considered to have committed a crime. Abolition differs from amnesty in that it not only removes the sentence but also erases the crime itself. In other words, the act committed by the convict is considered never to have occurred, with no trace of the crime. Granting Tom Lembong an amnesty, if referring to this mechanism, means that his actions, which have been decided by the court, are no longer subject to criminal sanctions.

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The Legal Implications of Granting Abolition and Amnesty for Law Enforcement and Legal Certainty in Indonesia

The granting of abolition and amnesty by the President is a mechanism regulated by Indonesian law that provides for the removal or reduction of sentences for perpetrators of certain crimes. Abolition and amnesty have significant legal implications, particularly for law enforcement and legal certainty in Indonesia. While both are regulated by law

¹⁰ M. Iskandar, "Progresifitas Pemberian Amnesti Di Indonesia (Studi Pemberian Amnesti Kepada Baiq Nuril Maknun)" (UIN AR-RANIRY BANDA ACEH, 2023), <https://doi.org/https://repository.ar-raniry.ac.id/id/eprint/31396/>.

¹¹ A. Ahmad, "Purifikasi Pemberian Amnesti Dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang Undang Dasar 1945," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 5, no. 2 (2021), <https://doi.org/http://jurnal.utu.ac.id/jcivile/article/view/2547>.

¹² H. Arifuddin, I. F., & Yusuf, "Kontroversi Pemberian Abolisi Dalam Kasus Korupsi Impor Gula: Analisis Kriminologi Terhadap Penegakan Hukum Dan Ketimpangan Keadilan," *Jurnal Intelek Dan Cendekiawan Nusantara* 2, no. 4 (2025): 4729–35, <https://doi.org/https://jicnusantara.com/index.php/jicn/article/view/4544>.

¹³ K. Mallinder, L., & McEvoy, "Amnesties, Punishment and the Calibration of Mercy in Transition," *Journal of Law and Society* 39, no. 3 (2012): 410–40, <https://doi.org/https://ssrn.com/abstract=2143179>.

and serve specific purposes, they can create challenges in implementing the principles of justice, legal certainty, and transparency in the criminal justice system.

Abolition, as the removal of a criminal act that has been committed, results in the perpetrator being no longer considered guilty and not receiving punishment. In this context, abolition has a direct impact on law enforcement because legal actions already decided by the court are deemed null and void. This can impact legal order and prevailing norms, given that abolition completely removes the legal effects of the crime. Nevertheless, the granting of abolition should still consider the principle of social justice, namely whether the action has a positive impact on society and does not cause injustice to the victim.

Meanwhile, amnesty is the removal or reduction of the sentence imposed on the perpetrator of a crime, but the crime remains recorded in the legal record. The granting of amnesty provides a more limited policy of release or reduction of sentence compared to abolition. Amnesty, in this case, is expected to provide an opportunity for perpetrators to improve themselves and contribute back to society. However, the implementation of amnesty must be cautious to avoid giving the impression that the law can only be changed to suit political interests or specific circumstances, which could undermine the integrity of the legal system itself. The granting of abolition and amnesty by the President is a mechanism regulated by Indonesian law that provides for the removal or reduction of sentences for perpetrators of certain crimes. Abolition and amnesty have significant legal implications, particularly for law enforcement and legal certainty in Indonesia. While both are regulated by law and serve specific purposes, they can create challenges in implementing the principles of justice, legal certainty, and transparency in the criminal justice system.

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The granting of amnesty and pardon can exacerbate legal uncertainty if not based on clear principles and transparent procedures. Legal certainty is essential in any legal system, and poorly coordinated or ad hoc decisions can undermine public confidence in

¹⁴ E. Asmadi, E. Asmadi, "Reasons Justifying Criminal Abolition in the Indonesian Legal System Reasons Justifying Criminal Abolition in the Indonesian Legal System," *International Journal Reglement & Society (IJRS)* 3, no. 2 (2022): 82–88, <https://doi.org/https://doi.org/10.55357/ijrs.v3i2.220>.

the justice system. If the reasons and legal basis for these decisions are unclear, questions can arise about the fairness of those who do not receive them. Legal certainty, which refers to consistent and predictable rules, is undermined if state decisions are perceived as inconsistent or inconsistent with the values of justice.

In terms of law enforcement, amnesty and pardon can create the impression that the law does not apply equally to everyone. Granting amnesty or pardon to certain officials or figures involved in scandals or corruption cases, for example, can exacerbate the public perception that the law is enforced solely based on a person's power or social status. If amnesty or pardon is granted selectively, it will create injustice and inequality in society. Therefore, the decision to grant amnesty or abolition must be made with great care, considering the social impact and public trust in the legal system.

On the other hand, while granting amnesty or abolition can be used as a tool to achieve certain goals, such as social reconciliation or political stability, this policy must be based on the principle of justice that does not ignore the rights of victims. In many cases, amnesty and abolition are more often implemented in a political context or to restore relations between groups in society, especially after conflict or unrest. However, it is important to remember that such policies must not ignore the rights of individuals who have been harmed, and justice for victims must be considered in every decision made.

The implementation of amnesty and abolition can also lead to uncertainty in long-term law enforcement. When the law grants release or reduced sentences to some individuals, this can create uncertainty for the public regarding the strength of the law itself. Fair and consistent law enforcement will be more respected by the public if legal decisions are made without considering an individual's social status or standing in society. Therefore, to ensure legal certainty, amnesty or abolition must be implemented with transparency and clear rationale, while considering its impact on society as a whole.

The granting of amnesty or abolition must also be carefully considered from a human rights perspective. Fair law enforcement not only stipulates sanctions against perpetrators of criminal acts but also protects the fundamental rights of every individual, including the right to equal treatment before the law. If amnesty or abolition is granted for insufficient reasons, it risks undermining the integrity of the law itself and could even be abused for personal or group interests. Therefore, decisions regarding such policies must be based on considerations of human rights and their impact on social justice.

Furthermore, the granting of amnesty and abolition should not be based solely on political considerations, but also on objective legal considerations and consistent justice. In this regard, amnesty and abolition should not be granted to enrich particular political interests, especially when granted to individuals involved in criminal acts that harm the public interest or society at large. Ambiguity in the application of these two instruments could lead to abuse of authority and create greater injustice, which could undermine the legal order in Indonesia.

The granting of amnesty and pardon can exacerbate legal uncertainty if not based on clear principles and transparent procedures. Legal certainty is essential in any legal system, and poorly coordinated or ad hoc decisions can undermine public confidence in the justice system. If the reasons and legal basis for these decisions are unclear, questions can arise about the fairness of those who do not receive them. Legal certainty, which refers to consistent and predictable rules, is undermined if state decisions are perceived as inconsistent or inconsistent with the values of justice.

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The granting of amnesty or abolition must also be carefully considered from a human rights perspective.¹⁷ Fair law enforcement not only stipulates sanctions against perpetrators of criminal acts but also protects the fundamental rights of every individual, including the right to equal treatment before the law. If amnesty or abolition is granted for insufficient reasons, it risks undermining the integrity of the law itself and could even be abused for personal or group interests. Therefore, decisions regarding such policies must be based on considerations of human rights and their impact on social justice.

Furthermore, the granting of amnesty and abolition should not be based solely on political considerations, but also on objective legal considerations and consistent justice.¹⁸ In this regard, amnesty and abolition should not be granted to enrich particular political interests, especially when granted to individuals involved in criminal acts that harm the public interest or society at large. Ambiguity in the application of these two

¹⁵ M. Bell, "Abolition: A New Paradigm for Reform," *Law & Social Inquiry* 46, no. 1 (2021): 32–68, <https://doi.org/10.1017/lsi.2020.21>.

¹⁶ M. Davis, "The Abolition of Punishment," in *The Palgrave Handbook on the Philosophy of Punishment* (Cham: Springer International Publishing, 2023), 579–92, https://doi.org/10.1007/978-3-031-11874-6_26.

¹⁷ G. Burns, D., Dominguez, L., Gordon, R., McTighe, L., Moss, L., & Rosario, "The Ground on Which We Stand: Making Abolition," *Journal for the Anthropology of North America* 23, no. 2 (2020): 98–120, <https://doi.org/10.1002/nad.12136>.

¹⁸ Arifuddin, I. F., & Yusuf, "Kontroversi Pemberian Abolisi Dalam Kasus Korupsi Impor Gula: Analisis Kriminologi Terhadap Penegakan Hukum Dan Ketimpangan Keadilan."

instruments could lead to abuse of authority and create greater injustice, which could undermine the legal order in Indonesia.¹⁹

While granting amnesty and abolition, while potentially supporting specific goals, such as reconciliation or social stability, must be conducted through clear procedures and reflect the principles of justice and legal certainty. The state must ensure that these decisions are made with high transparency, ensuring that they are legally accountable and do not create injustice for those who do not receive similar policies. In this regard, the government and legislative institutions must work together to ensure that granting amnesty and abolition does not undermine public trust in the legal system and does not create greater social inequality.

Overall, granting amnesty and amnesty in Indonesia requires careful consideration in relation to law enforcement and legal certainty. Law enforcement must always prioritize the principle of justice that does not discriminate based on status or position, and amnesty or abolition policies must be placed within a clear legal framework, based on legitimate considerations. To prevent these policies from undermining the integrity of the legal system, it is crucial for the state to ensure that they are implemented transparently and for genuinely sound reasons, in order to maintain a balance between law, justice, and legal certainty.

E. Conclusions

Based on the discussion, it can be concluded that granting abolition to Tom Lembong and amnesty to Hasto have a strong legal basis, as stipulated in Article 14 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The mechanism for granting both was carried out through consideration by the House of Representatives (DPR) and outlined in a Presidential Decree as a form of exercising the President's prerogative. However, the implementation of these policies must still adhere to the principles of justice, legal certainty, and legal expediency to prevent abuse of authority.

Legally, granting abolition and amnesty has implications for law enforcement and the certainty of criminal law in Indonesia. If not clearly regulated, these policies have the potential to weaken the function of the criminal justice system, create the impression of legal discrimination, and undermine public trust in the legal system. Therefore, more detailed regulations are needed regarding the criteria and limitations for granting abolition and amnesty, so that their implementation is in line with the principles of the rule of law and does not interfere with the independence of the judiciary.

¹⁹ Galih Priatmojo, "Kritik Pemberian Abolisi Dan Amnesti Ke Terdakwa Korupsi, Pakar Hukum UGM: Parameternya Belum Jelas," cendekia, headline, 2025, <https://populi.id/2025/08/09/kritik-pemberian-abolisi-dan-amnesti-ke-terdakwa-korupsi-pakar-hukum-ugm-parameternya-belum-jelas/>.

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