

Exploring the Justice Paradox in Clemency for Narcotics Convicts: A Case Study of Banyuasin Class IIB Prison

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Article History:

Submitted:

08-03-2025

Received:

30-04-2025

Accepted:

10-08-2025

Keywords:

clemency; narcotics;
retributive justice;
restorative justice

Abstract

The granting of clemency as a presidential prerogative within the Indonesian legal system has sparked considerable debate, particularly when applied to narcotics offenders classified as perpetrators of hard crimes. This study examines the case of Muhammad Aldin Purwanto, a narcotics convict who was granted clemency in the form of sentence reduction, despite having previously been sentenced to seven years' imprisonment for acting as an intermediary in the sale of a Schedule I narcotic substance. Clemency was granted on the grounds of good behavior and his role as the primary breadwinner for his family. This research aims to analyze the granting of clemency within the framework of justice, employing a normative juridical method with both conceptual and case study approaches. The study reveals a tension between the principle of retributive justice, which demands proportionate punishment for criminal acts, and the restorative justice approach, which emphasizes offender rehabilitation. The clemency granted in this case presents both a moral and legal dilemma, as it may be interpreted as a denial of retributive justice and a dilution of the meaning of criminal responsibility. The findings suggest that the absence of clear parameters for granting clemency creates vulnerabilities to policy deviation, potentially undermining the legitimacy of the criminal justice system itself. Therefore, a reformulation of clemency policy is necessary through clearer legal regulation, grounded in justice-based principles. Clemency should be guided by rational, objective, and balanced legal considerations that weigh both the rights of the convict and the public sense of justice.

1. Introduction

The phenomenon of narcotics-related crimes in Indonesia has reached an alarming level, not only in terms of the quantity of cases but also in the complexity, organization, and cross-sectoral involvement of the perpetrators. Narcotics crimes have inflicted destructive impacts on the younger generation, the social structure, and the integrity of the national criminal justice system.¹ The state holds a constitutional mandate to protect its citizens from such systemic threats through firm legal instruments that uphold the principles of justice.²

One of the instruments that has sparked debate in the enforcement of criminal law is the granting of clemency, which constitutes a prerogative right of the President as stipulated in Article 14, paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Although

¹ Maulana Fuad Nugraha and Robert Antonio, "Drug Abuse in the Young Generation: Law Enforcement Challenges (Comparative Study of Indonesia and Australia)," *Journal of Creativity Student* 7, no. 1 (January 30, 2022): 19–34, <https://doi.org/10.15294/jcs.v7i1.36177>; Andi Lulu Isvany et al., "Peninjauan Hukum Pidana Narkotika Di Indonesia: Tantangan, Dampak, Dan Upaya Melindungi Generasi Muda," *Indonesian Journal of Legality of Law* 7, no. 1 (December 30, 2024): 109–14, <https://doi.org/10.35965/ijlf.v7i1.5463>.

² Jerimas Pelokilla, "UUD 1945 Sebagai Landasan Konstitusional Terhadap Perlindungan Hak Warga Negara Indonesia," *JOCER: Journal of Civic Education Research* 1, no. 1 (June 30, 2023): 24–28, <https://doi.org/10.60153/jocer.v1i1.11>.

clemency represents an expression of executive sovereignty, it inherently carries ethical, moral, and philosophical dimensions that cannot be separated from the demands of legal objectivity and the public sense of justice.³ Controversy arises when clemency is granted to narcotics offenders, who, from a legal perspective, are classified as perpetrators of extraordinary crimes, and whose pardoning generates social unrest and public frustration with the criminal justice system.

Table 1. Number of Narcotics Convicts Granted Clemency, 2022–2024 Period

No	Year	Number of Convicts Drugs	Granted Clemency
1	2022	12	7
2	2023	20	12
3	2024	9	8
Amount		41	27

Table 1 demonstrates that nearly 50 percent, or even more, of convicted individuals have been granted clemency. This situation has naturally sparked public debate, generating widespread controversy and divided opinions within society. The controversy is particularly pronounced in cases where high-profile international narcotics traffickers, initially sentenced to 15 years' imprisonment, have had their sentences reduced by three years through clemency, resulting in a remaining term of only 12 years. Such reductions are often based solely on considerations of good behavior during imprisonment. Consequently, the public perceives this as unreasonable, arguing that the granting of clemency undermines the deterrent effect intended by criminal sentencing.

In this regard, reference may be made to the case of the Palembang District Court Decision Number 885/Pid.Sus/2024/PN Plg, which adjudicated Muhammad Aldin Purwanto alias Bulek bin Dartok Hadiyanto. In this decision, the defendant was found legally and convincingly guilty of committing the criminal act of "unlawfully and without right acting as an intermediary in the sale and purchase of Category I narcotics" and was sentenced to seven years' imprisonment and a fine of one billion rupiah. The decision became final and binding (*inkracht van gewijsde*) and was executed under the applicable criminal procedural law. Nevertheless, the defendant subsequently obtained clemency from the President in the form of a one-year reduction of his prison term on the grounds of good behavior and his role as the primary breadwinner for his family.

The granting of clemency in this context refers to Law Number 5 of 2010 concerning the Amendment to Law Number 22 of 2002 on Clemency, under which Article 2, paragraph (1) confers the right upon any convicted individual whose judgment has attained final and binding force to submit an application for clemency to the President. The law does not impose explicit limitations on the types of criminal offenses eligible for clemency nor stipulate specific criteria for the granting or denial of such requests⁴, thereby normatively allowing clemency to

³ Samuel T. Morison, "The Politics of Grace: On the Moral Justification of Executive Clemency," *Buffalo Criminal Law Review* 9, no. 1 (April 1, 2005): 1–138, <https://doi.org/10.1525/nclr.2005.9.1.1>.

⁴ Wijayanti Puspita Dewi, "Penjatuan Pidana Penjara Atas Tindak Pidana Narkotika Oleh Hakim Di Bawah Ketentuan Minimum Ditinjau Dari Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika," *Jurnal Hukum Magnum Opus* 2, no. 1 (February 1, 2019): 55, <https://doi.org/10.30996/jhmo.v2i2.2181>.

be granted to any convict, including perpetrators of narcotics offenses. Nevertheless, from philosophical and sociological perspectives, this policy presents a justice dilemma. Can the granting of clemency to individuals convicted of serious narcotics crimes be morally and legally justified? Does such action not undermine the deterrent effect of the penal system and convey a permissive signal toward systemic narcotics-related crimes? Conversely, from a restorative justice standpoint, can clemency not also be interpreted as an effort to humanize the law and to offer individuals a second chance for social rehabilitation?

Against this background, this article seeks to examine the granting of clemency to Muhammad Aldin Purwanto as a case study to explore the tension between the theory of retributive justice, which emphasizes proportional punishment for offenders, and the theory of restorative justice, which focuses on recovery and social reintegration. This study aims to critically analyze whether, and to what extent, the principles of substantive justice are fulfilled in the practice of granting clemency to perpetrators of narcotics-related crimes. The formulation of the research problems in this study is as follows: the considerations underlying the granting of clemency in the case of Muhammad Aldin Purwanto can be analyzed through the theoretical approaches of retributive justice and restorative justice. Furthermore, the study seeks to determine whether the granting of clemency to perpetrators of narcotics-related crimes reflects the realization of substantive justice or is, conversely, counterproductive to the objectives of criminal punishment.

2. Methods

This study employs a normative juridical method, namely a legal research method based on the examination of positive legal norms as embodied in legislation, court decisions, and relevant legal doctrines.⁵ The normative juridical approach is used to analyze the legality, legitimacy, and rationality of granting clemency to narcotics convicts within the Indonesian legal system, with particular reference to the Palembang District Court Decision Number 885/Pid.Sus/2024/PN Plg, which serves as the basis of the case study. The research adopts a conceptual approach aimed at examining and deconstructing legal concepts in criminal law and theories of justice, such as retributive justice and restorative justice, in relation to the practice of granting clemency. Furthermore, a case approach is employed to conduct an in-depth analysis of the specific instance of clemency granted to Muhammad Aldin Purwanto at the Banyuasin Class IIB Correctional Facility. This case is analyzed as a practical representation of the tension between positive legal norms and the values of justice. Through this approach, the study examines court decisions, legal facts, and clemency considerations as evaluative materials to assess whether the policy aligns with the principles of justice within criminal law.

⁵ Ahamad Rosidi, Muhammad Zainuddin, and Ismi Arifiana, "Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research)," *Journal Law and Government* 2, no. 1 (February 27, 2024), <https://doi.org/10.31764/jlag.v2i1.21606>.

3. Results and Discussion

3.1. Granting of Clemency in the Indonesian Legal System: Function, Procedure, and Purpose

Clemency constitutes a unique legal institution within Indonesia's constitutional framework⁶, as it lies at the intersection of judicial and executive authority, and normatively manifests as the prerogative right of the President as enshrined in Article 14, paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Clemency is not merely an administrative act; rather, it represents an expression of state power that is moral-political and inherently carries a corrective dimension toward judicial decisions that have acquired final and binding force. Within the structure of the criminal justice system, the granting of clemency illustrates the tension between the finality of court decisions and the necessity for a corrective mechanism to address potential rigidity or errors within the judicial process. Clemency functions as an extra-judicial corrective instrument that is discretionary⁷, yet still requires moral legitimacy and considerations of justice that are publicly and ethically accountable⁸. Its existence provides a space for reconciling the principle of legal certainty with the principle of humanity within the penal system.

As a product of the modern legal system that nevertheless preserves traces of classical thought concerning clemency vested in the authority of kings or sovereigns, clemency is not intended to negate the judicial function, but rather to accommodate a space for moral and humanistic correction within the penal system⁹. Accordingly, the granting of clemency inevitably generates epistemic tension between legal positivism, which emphasizes the finality of judicial decisions, and the philosophy of legal humanism, which opens the possibility of pardon within the context of individual rehabilitation. Clemency serves as an instrument that permits deviation from established legal norms by taking into account extra-normative factors such as good behavior during incarceration, social circumstances, and humanitarian considerations, including the inmate's role within the family.¹⁰ Nevertheless, the moral dimension of clemency frequently clashes with the principles of retributive justice, which focuses on ensuring that punishment is proportionate to the severity of the offense committed. In cases involving serious crimes, such as narcotics offenses, this tension becomes even more pronounced, as such crimes not only harm individuals but also inflict broader damage on society. Consequently, it becomes debatable whether the policy of granting clemency aligns with the objectives of criminal punishment, particularly the aim of deterrence and the protection of society from ongoing harm.

⁶ Ahmad Harun Arrosyid and Ahmad Hidayatullah Zaarkasyi, "Kekuasaan Presiden Dalam Pemberian Grasi Menurut Hukum Positif Indonesia," *Ijtihad : Jurnal Hukum Dan Ekonomi Islam* 12, no. 2 (September 10, 2018): 141–51, <https://doi.org/10.21111/ijtihad.v12i2.3022>.

⁷ A.Rachmat Wirawan and Avelyn Pingkan Komuna, "Pengampunan Pidana Dalam Mewujudkan Keadilan, Kepastian, Dan Kemanfaatan," *Jurnal Humaya: Jurnal Hukum, Humaniora, Masyarakat, Dan Budaya* 1, no. 1 (June 30, 2021): 10–15, <https://doi.org/10.33830/humaya.v1i1.1863.2021>.

⁸ Morison, "The Politics of Grace: On the Moral Justification of Executive Clemency."

⁹ Putri Sari Nilam Cayo, "Upaya Hukum Grasi Di Dalam Pelaksanaan Pemidanaan Di Indonesia," *Lex Librum : Jurnal Ilmu Hukum* 10, no. 1 (June 20, 2017), <https://doi.org/10.46839/ljih.v10i1.847>.

¹⁰ Michael Heise, "Mercy by the Numbers: An Empirical Analysis of Clemency and Its Structure," *Virginia Law Review* 89, no. 2 (April 2003): 239, <https://doi.org/10.2307/3202434>.

Clemency is regulated under Law No. 22 of 2002 concerning Clemency, which was amended by Law No. 5 of 2010. This regulation emphasizes that clemency may only be granted to a convict who has received a final and binding judgment (*inkracht van gewijsde*), and the request for clemency may only be submitted by the convict, their family, or their legal representative. The emphasis on the final status of the criminal judgment indicates that clemency is not part of the legal recourse within the criminal justice system¹¹, but rather constitutes a constitutional intervention that is extra-judicial, yet remains legally valid. The purpose of clemency is to provide an opportunity for the convict to receive a pardon or sentence reduction based on humanitarian, moral, or specific circumstances, such as the convict's role within the family or their good behavior during incarceration.¹² However, clemency is not intended to alter the essence of the court's decision but rather to provide space for a more humane form of correction.

The function of clemency in Indonesia's criminal justice system can be interpreted within three main frameworks: first, as a mechanism for correcting possible errors or miscarriage of justice that can no longer be rectified through judicial channels. Clemency provides an opportunity for the convicted individual to receive a more humane form of justice, especially in light of any mistakes or injustices that may have occurred during the judicial process. Second, clemency serves as a legal-political instrument to balance legal rigor with human values, particularly in the context of rehabilitation and social reintegration. It becomes a means of offering inmates, especially those exhibiting good behavior, the chance to reintegrate into society. Third, clemency represents the ethical values of the state in delivering substantive justice that may not always be reflected in procedural justice. Here, clemency prioritizes human values and second chances, which sometimes take precedence over formal, strict justice.

Conceptually, clemency differs fundamentally from abolition, amnesty, and remission.¹³ Abolition is the act of terminating legal proceedings in a case before a final court judgment, to end the matter without further judicial involvement.¹⁴ Amnesty is granted to a group of individuals for specific political crimes, is collective, and is often used for purposes of national reconciliation.¹⁵ Remission, on the other hand, refers to a reduction in the prison sentence granted administratively by the Minister of Law and Human Rights, based on criteria such as

¹¹ Aryo Wibowo, Zahra Syahlahaifa, and Asmak Hosnah, "Penerapan Grasi Dalam Perspektif Hukum Pidana Bagi Terdakwa," *Jurnal Hukum Pelita* 5, no. 1 (May 31, 2024): 43–51, <https://doi.org/10.37366/jh.v5i1.3242>.

¹² Rachel E. Barkow and Mark Osler, "Clemency," *Annual Review of Criminology* 7, no. 1 (January 26, 2024): 311–27, <https://doi.org/10.1146/annurev-criminol-022222-040514>.

¹³ Asih Puspo Sari, "Pemberian Grasi Dan Maaf Dalam Bingkai Kajian Teoritik Tindak Pidana Pembunuhan (Studi Komparatif Hukum Positif Dan Hukum Islam)," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 5, no. 1 (September 30, 2020): 73–90, <https://doi.org/10.22515/al-ahkam.v5i1.2474>.

¹⁴ Sujatmiko Sujatmiko and Willy Wibowo, "Urgensi Pembentukan Regulasi Grasi, Amnesti, Abolisi Dan Rehabilitasi," *Jurnal Penelitian Hukum De Jure* 21, no. 1 (February 22, 2021): 91, <https://doi.org/10.30641/dejure.2021.V21.91-108>.

¹⁵ Dwi Tania Wista Yuliantari, Amiruddin Amiruddin, and Ufran Ufran, "Pemberian Amnesti Dalam Kasus Pidana ITE Oleh Presiden Melalui Keputusan Presiden (Keppres)," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 4 (April 5, 2022): 861, <https://doi.org/10.24843/KS.2022.v10.i04.p12>; Sujatmiko and Wibowo, "Urgensi Pembentukan Regulasi Grasi, Amnesti, Abolisi Dan Rehabilitasi."

good behavior and the duration of the sentence served.¹⁶ Clemency, distinct from all of these, is personal and exclusive, with the application being made by the convicted individual or their representative, who then submits the request to the Supreme Court for evaluation before it is considered by the President.¹⁷ Unlike remission, which is subject to administrative quantification principles, clemency demands a more profound philosophical, legal, and moral consideration in rendering decisions based on humanity and substantive justice.

In other words, clemency is not merely a form of leniency towards the law, but an expression of discretionary power rooted in the principle of legal morality. Clemency reflects the understanding that justice is not only achieved through the strict application of legal norms but also an evaluation of the humanity and circumstances of the convicted individual. It implies an acknowledgment that legal justice is not a rigid and mechanical entity, but one that must remain open to correction and the human dimension. Clemency fills a transcendental space within positive law¹⁸, which is not only bound by formal procedures but also touches upon deeper ethical values. By providing room for intervention in criminal decisions, clemency becomes a means of balancing the harsh application of law with the principles of compassion and forgiveness, aiming to bring individuals closer to their potential for self-rehabilitation and social reintegration. However, the presence of clemency in cases of severe criminal offenses, such as drug-related crimes, must be carefully examined. This is due to the inherent tension between the corrective function of clemency and the systemic need to maintain deterrence, public trust in the judicial system, and the consistency of the state's stance in the fight against extraordinary crimes. Therefore, every decision to grant clemency, while legal, always demands a strong moral and philosophical justification, especially in drug-related cases, which have structurally become a threat to the sustainability of civil society.

3.2. Case Study: Clemency for Muhammad Aldin Purwanto

The case involving Muhammad Aldin Purwanto, a mediator in the sale of Class I narcotics who was sentenced to seven years in prison and a fine of one billion rupiahs by the Palembang District Court through Decision No. 885/Pid.Sus/2024/PN Plg serves as a test of the existence and ethics of clemency within Indonesia's legal system. In this case, the convicted individual received clemency in the form of a one-year sentence reduction based on his good behavior during detention and his role as the primary breadwinner for his family. Although

¹⁶ Armando Wijaya Nasution, Yamin Lubis, and Mukidi Mukidi, "Aspek Yuridis Program Pemberian Remisi Terhadap Narapidana Narkotika Dan Psikotropika Pada Lembaga Pemasyarakatan Kelas Ii B Tebing Tinggi," *Jurnal Meta Hukum* 2, no. 3 (November 30, 2023): 103-14, <https://doi.org/10.47652/jmh.v2i3.451>; Al Hijrin et al., "Formulasi Kebijakan Pemberian Remisi Terhadap Narapidana Ditinjau Dari Aspek Politik Hukum," *Journal Kompilasi Hukum* 6, no. 2 (December 15, 2021), <https://doi.org/10.29303/jkh.v6i2.77>; Eki Fitri and Dheny Wahyudhi, "Mekanisme Pemberian Remisi Narapidana Koruptor Berdasarkan Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasyarakatan," *PAMPAS: Journal of Criminal Law* 4, no. 2 (July 31, 2023): 201-12, <https://doi.org/10.22437/pampas.v4i2.26990>.

¹⁷ Arrosyid and Zaarkasyi, "Kekuasaan Presiden Dalam Pemberian Grasi Menurut Hukum Positif Indonesia."

¹⁸ Imdadurrouf Imdadurrouf, "Grasi Dalam Perspektif Hukum Islam Dan Hukum Positif Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 4, no. 1 (June 22, 2010): 23-39, <https://doi.org/10.24090/mnh.v4i1.3663>.

these reasons may appear humanitarian, they prompt a deeper reflection on the nature of justice that the state seeks to uphold in the fight against narcotics-related crimes.

The granting of clemency is not limited by the type of criminal offense or specific objective conditions¹⁹, as affirmed in Articles 2 and 3 of Law No. 5 of 2010. However, this legal flexibility does not imply a moral void or nihilism in judgment. On the contrary, the looser the normative criteria, the greater the argumentative, ethical, and philosophical burden the President must bear when deciding whether to grant clemency. This raises profound questions regarding the appropriateness of granting clemency in the context of narcotics offenses. Is good behavior during incarceration sufficient grounds for reducing a sentence, given the wide-ranging impact of narcotics-related crimes on society and the state? Within the framework of justice that prioritizes the protection of the public, this argument is often questioned. While humanitarian values may serve as a basis for sentence reduction, granting clemency in narcotics cases must also consider the aspects of deterrence and retribution for destructive crimes.

Clemency should not devolve into a medium of procedural triviality that replaces the space for normative contemplation.²⁰ Good behavior is an administrative prerequisite for remission, not a substantial rationale for clemency.²¹ Clemency demands proof that there is an injustice or error in sentencing, or at the very least, the presence of extraordinary humanitarian reasons.²² In this case, there is no indication of judicial error, nor are there extraordinary circumstances such as terminal illness, insanity, or arbitrary treatment of the convicted individual. Thus, the critical question that arises is: can the status of being the head of a household, demographically common among most inmates, be constructed as a rational basis for granting clemency? If so, justice would be reduced to a commodity of selective empathy, prone to misuse. Furthermore, from a sociological perspective, granting clemency to perpetrators of narcotics offenses may have counterproductive effects on systemic efforts to combat narcotics. In this case, the state is not dealing with individual delinquency but with organized crime that operates across regions and generations. Therefore, each grant of clemency to a narcotics offender must be viewed not only as an individual policy decision but as a symbolic message from the state to society.²³ When clemency is granted without a strict moral selection framework, the message sent to the public is not one of state benevolence but rather the fragility of the state's determination in combating the narcotics epidemic. This not only undermines the deterrence effect but also sets a harmful precedent that could reduce the legitimacy of the criminal justice system.

The granting of clemency in narcotics cases touches upon the paradoxical realm between compassion and justice. Can the state's compassion toward an individual perpetrator of a crime be justified if it risks inflicting collective suffering upon a society that is systematically

¹⁹ Cayo, "Upaya Hukum Grasi Di Dalam Pelaksanaan Pemidanaan Di Indonesia."

²⁰ Barkow and Osler, "Clemency."

²¹ Fathur Rachman, "Pemberian Remisi Dan Manfaat Bagi Perbaikan Perilaku Terpidana," *Justicia Sains: Jurnal Ilmu Hukum* 3, no. 1 (June 18, 2018), <https://doi.org/10.24967/jcs.v3i1.357>.

²² Barkow and Osler, "Clemency."

²³ Sarah Angelina Setiahata Lumban Tobing, "Pemberian Grasi Terhadap Terpidana Mati Pengedar Narkotika," *Jurnal Global Ilmiah* 1, no. 2 (November 28, 2023): 101-7, <https://doi.org/10.55324/jgi.v1i2.14>.

victimized by narcotics trafficking? Aristotle's conception of distributive justice teaches that justice consists in giving each person what is due according to their rights and contributions.²⁴ Within this framework, society, obedient to the law and vulnerable to the dangers posed by narcotics, deserves maximal protection, not to be overshadowed by a lenient narrative of forgiveness. The granting of clemency, particularly when based on the good behavior of the convicted individual as a reason for sentence reduction, risks obscuring the rights of the victims.²⁵ It may give rise to a new form of injustice, namely injustice by leniency, where compassion toward the offender constitutes a betrayal of the invisible rights of the victims. From this perspective, clemency granted to narcotics offenders may be seen as a disregard for a greater principle of justice.

It compels a fundamental reconsideration: should the state's conception of justice be formulated solely from the perspective of the offender, or should it be sublimated from a consciousness of the state's responsibility toward the collective suffering of society? In the case of Muhammad Aldin Purwanto, the state appears to have anchored its decision within the realm of individual empathy, while neglecting the imperatives of public morality, which demand consistency and resoluteness in the fight against narcotics-related crimes.

3.3. Theoretical Analysis: The Dialectic of Retributive Justice and Restorative Justice

Justice does not exist in a vacuum but operates within a dialectic between the principle of retribution and the ideal of reconciliation. Retributive justice emphasizes the imposition of proportionate punishment for wrongdoing, whereas restorative justice prioritizes the restoration of social relationships and the humanization of the offender.²⁶ Particularly in narcotics-related cases such as that of Muhammad Aldin Purwanto, these two paradigms converge. Retributive justice demands a sanction commensurate with the gravity of the offense, while restorative justice opens a space for considering rehabilitation and social reintegration. The granting of clemency in such cases generates epistemological tension, as it risks diminishing the punitive weight of the sentence without adequately accounting for broader societal impacts. Therefore, the decision to grant clemency must be assessed not merely as recognition of an individual's behavioral improvement, but also within the broader framework of societal protection and justice for the wider community of victims.

Retribution, as a principle of criminal justice, demands that the punishment imposed upon an offender must bear a clear proportionality to the harm or loss caused by the offender's conduct.²⁷ In the context of narcotics offenses, the perpetrator is not an isolated entity but part of a larger network that dismantles social structures, undermines public health, and threatens the future of the nation's generations. Narcotics crimes, with their far-reaching consequences, create systemic harm that encompasses both direct and indirect victims, entrapping

²⁴ Manuel Andreas Knoll, "The Meaning of Distributive Justice for Aristotle's Theory of Constitutions," *ΠΗΓΗ/FONS* 1 (February 26, 2016): 57-97, <https://doi.org/10.20318/fons.2016.2529>.

²⁵ Imdadurrouf, "Grasi Dalam Perspektif Hukum Islam Dan Hukum Positif Indonesia."

²⁶ Tyler G. Okimoto, Michael Wenzel, and N. T. Feather, "Retribution and Restoration as General Orientations towards Justice," *European Journal of Personality* 26, no. 3 (May 1, 2012): 255-75, <https://doi.org/10.1002/per.831>; Lucy Allais, "Social Justice and Retributive Justice," *Social Dynamics* 34, no. 2 (September 2008): 128-39, <https://doi.org/10.1080/02533950802278497>.

²⁷ Jesper Ryberg, "Retributivism and the (Lack of) Justification of Proportionality," *Criminal Law and Philosophy* 15, no. 3 (October 11, 2021): 447-62, <https://doi.org/10.1007/s11572-021-09579-4>.

individuals, families, and the state within a web of social devastation. Therefore, from the perspective of retributive justice, the granting of clemency to offenders of narcotics crimes disregards the proportionality of punishment that ought to be maintained, favoring compassion toward the individual offender without due consideration of the broader societal impact. Viewed through the lens of retributive justice, clemency for narcotics offenders does not represent an act of state restoration but rather a delegitimization of the collective suffering endured by society as a result of narcotics abuse. In such circumstances, the state appears to abdicate its ethical responsibility toward the unseen victims, those who live amidst the collapse of social norms brought about by narcotics proliferation. From this standpoint, retributive justice demands that the state not only punish offenders firmly but also uphold the principle of justice that safeguards the public interest. By granting clemency to narcotics offenders, the state risks becoming entangled in a narrative that neglects the rights of victims and undermines substantive justice, which should prioritize the protection of society and future generations from the continuing threat posed by narcotics.

Restorative justice demands a more humanistic approach, one that acknowledges the potential for change within the offender and emphasizes the importance of rehabilitation as well as the restoration of relationships among the offender, the victim, and the broader community.²⁸ In the context of narcotics offenses, particularly those involving distribution networks, restorative justice should ideally offer solutions aimed at rehabilitating offenders and reintegrating them into society with full moral accountability.²⁹ However, this approach faces significant challenges in cases of narcotics crimes, given their systemic nature and widespread societal impact, where victims are often not individually identifiable but are instead represented by society at large. In such circumstances, restorative justice seeks to address the social wounds inflicted by the crime by encouraging the offender to accept responsibility through dialogue with victims and the community. Yet, in narcotics cases, where the harm is diffuse and individual victims are difficult to identify, the space for meaningful dialogue is severely constrained. The granting of clemency in this context risks producing injustice for the broader community, which suffers as the indirect victim of narcotics proliferation, because a restorative narrative applied without sufficient caution may foster the impression that such crimes are tolerable or forgivable, irrespective of their wider social impact.³⁰ Therefore, although restorative justice prioritizes rehabilitation and reconciliation, its application in the context of narcotics offenses must be approached with particular caution. Without a clear acknowledgment of wrongdoing by the offender and without the active involvement of the community as victims in the restoration process, restorative justice risks becoming a mere instrument of exoneration for those engaged in the narcotics trade, rather than a genuine means of comprehensive social healing.

²⁸ Simon A. Moss et al., "When Do People Value Rehabilitation and Restorative Justice Over the Punishment of Offenders?," *Victims & Offenders* 14, no. 1 (January 2, 2019): 32-51, <https://doi.org/10.1080/15564886.2018.1539688>.

²⁹ Yusmita Sari, Yusuf Saefudin, and Farhani Nabihah Binti Mohd Yazid, "Restorative Justice in Drug Abuse Cases: An Effort to Effective Social Rehabilitation," *Jurnal Hukum Sasana* 9, no. 2 (March 29, 2024): 413-24, <https://doi.org/10.31599/k0wj5z78>.

³⁰ Sari, Saefudin, and Mohd Yazid.

The granting of clemency to narcotics offenders creates a chasm between two paradigms of justice that should ideally complement and balance each other: retributive and restorative justice. On one hand, retributive justice demands proportionality in sentencing, where the suffering imposed on the offender must correspond to the destructive impact of their actions. Narcotics-related crimes are not merely individual offenses but constitute systemic threats to social order and public health. In this respect, the granting of clemency represents a measure that not only disregards justice for the invisible victims but also risks undermining the legitimacy of the penal process itself. On the other hand, while restorative justice offers pathways for offender rehabilitation and social reintegration, it also encounters intrinsic limitations in the context of narcotics offenses.³¹ When the social harm caused by such crimes is collective and more abstract, clemency granted on grounds such as “good behavior” or the offender’s status as a “family breadwinner” becomes difficult to justify as a legitimate moral foundation. This approach threatens not only the structure of social justice but also promotes a narrative that reduces complex societal issues into mere administrative concerns. Clemency in the context of narcotics offenses, when perceived more as an administrative measure rather than one grounded in profound principles of justice, generates uncertainty and its own form of confusion. If retributive justice demands fair imbalance in punishment and restorative justice seeks social restoration, clemency granted without a robust moral foundation merely becomes a “game” that obscures both values. This situation gives rise to an epistemological crisis within the law, wherein such policies appear to lack coherent direction. Thus, the granting of clemency in narcotics cases amounts to a hasty initiative, one not anchored in substantive principles of justice, and ultimately risks exacerbating social injustice.

A fundamental issue arises when clemency is exploited as a mere political instrument rather than upheld as a legitimate and substantive mechanism of justice. Clemency, originally conceived as a corrective measure to address imperfections in judicial decisions³², has increasingly been transformed into a means of placating the conscience of the state, granted without thorough normative or moral evaluation. In many instances, particularly in narcotics cases, the granting of clemency degenerates into a political performance, a gesture of humanitarian concern that appears sincere but is, in essence, hollow and fraught with ambiguity. Clemency should not be reduced to a policy determined by pragmatic calculations or narrow administrative considerations³³, such as good behavior during incarceration or the offender’s social role as the family’s primary provider. Such justifications only exacerbate existing injustices without offering any real remedy to victims or the broader community impacted by the crime. Within the framework of legal philosophy, it must be acknowledged that clemency in the context of narcotics offenses risks becoming a form of faux justice³⁴, a false justice that undermines the fundamental principle of retributive justice, which demands a fair

³¹ Sari, Saefudin, and Mohd Yazi.

³² Barkow and Osler, “Clemency.”

³³ Barkow and Osler.

³⁴ Shafa Athaya, Belliana Herlina, and Mochamad Habibii, “Implementasi Filsafat Hukum Dalam Keadilan Restoratif: Strategi Inovatif Untuk Penanganan Kasus Narkotika,” *MOTEKAR: Jurnal Multidisiplin Teknologi Dan Arsitektur* 2, no. 1 (May 1, 2024): 343–50, <https://doi.org/10.57235/motekar.v2i1.2323>.

disproportionality between punishment and crime³⁵. In this light, the granting of clemency not only disregards the rights of invisible victims but also betrays the very essence of the penal purpose, namely the protection of society from the threats posed by narcotics-related crimes. Clemency granted without clear evaluative standards serves only to further erode the legitimacy of the judicial system.³⁶

Clemency, when granted without a moral foundation and substantive evaluation, risks becoming a policy reduced to mere administrative routine. It loses its significance as a mechanism of justice intended to remedy systemic injustices, instead transforming into a legalized form of normative emptiness. When clemency is employed merely as an instrument to placate bureaucratic or political conscience, without regard for its impact on victims and society at large, justice itself becomes distorted. This constitutes not merely a betrayal of the true concept of justice but also a degradation of the law, reducing it to a tool for manipulating public opinion, detached from the deeper rights of individuals and fundamental moral values.

4. Conclusions

The granting of clemency to narcotics offenders, as exemplified by the case of Muhammad Aldin Purwanto, reflects an epistemological tension between the values of retributive justice, which demands proportional punishment, and the discourse of restorative justice, which emphasizes rehabilitation and social reintegration. In practice, clemency, as a constitutional instrument exercised under the President's prerogative, lacks a well-established evaluative framework, thereby posing the risk of arbitrary application divorced from the principles of substantive justice. Clemency in the context of narcotics crimes, which are systemic, destructive to generations, and inflict widespread social harm, cannot be equated with clemency in cases of ordinary criminal offenses. When clemency is granted solely on administrative grounds, such as "good behavior" or the status of being a "family breadwinner," it injures the community's sense of justice, undermines the meaning of criminal accountability, and erodes public trust in the legal system. From a philosophical legal perspective, such acts may be classified as pseudo-justice: justice that appears ethical on the surface but is substantively fragile in its moral dimension. Accordingly, the granting of clemency to narcotics offenders must be guided by strict, transparent, and academically and publicly verifiable normative parameters. The State must not sacrifice justice in pursuit of a superficial image of humanitarianism. Clemency must be directed not merely toward the interests of individual inmates but must also embody the State's commitment to protecting society from the threat posed by narcotics. Thus, clemency must not serve as a mere manifestation of prerogative power, but rather as the embodiment of legal wisdom grounded in true justice—justice that is not only procedural but also moral and substantive.

³⁵ Gregorius Widiartana, "Paradigma Keadilan Restoratif Dalam Penanggulangan Kejahatan Dengan Menggunakan Hukum Pidana," *Justitia et Pax* 33, no. 1 (November 30, 2017), <https://doi.org/10.24002/jep.v33i1.1418>; Henny Saida Flora, "Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia," *University of Bengkulu Law Journal* 3, no. 2 (October 25, 2018): 142–58, <https://doi.org/10.33369/ubelaj.3.2.142-158>.

³⁶ Barkow and Osler, "Clemency."

5. Acknowledgments

We extend our sincere gratitude to all parties who contributed to the completion of this article. In particular, we express our deepest appreciation to the Postgraduate Program of the Faculty of Law, Universitas Muhammadiyah Palembang, for providing an academic space for learning and dialectical exchange, which ultimately culminated in the production of this journal article.

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