

## Juridical Analysis of the Process of Implementation of Crimination Related to Remedies for Clemency

**Agus Sugiarto**

Faculty of Law, Universitas Nahdlatul Ulama, Cirebon, West, Indonesia

[Javaagus-sugiarto@unucirebon.ac.id](mailto:Javaagus-sugiarto@unucirebon.ac.id)

### Abstract

*The Unitary State of the Republic of Indonesia is a state of law. The 1945 Constitution stipulates that the Unitary State of the Republic of Indonesia is a legal state (rech stat), as evidenced by the provisions in the preamble, content, and explanation of the 1945 Constitution. This study aims to understand and analyze the president's authority to provide commutation of sentences based on positive law, as well as understand and analyze the purpose of granting leniency as a legal effort to oppose the implementation of the sentencing process. This research uses normative legal research, namely studying legal rules to determine legal principles, understanding vertical/horizontal synchronization, understanding all aspects of legal history, and understanding comparisons between legal systems. Based on the results of the research, the president has the right to accept and reject applications for leniency from death row, life imprisonment, and life imprisonment who have received fixed sentences from courts at all levels. The existence of leniency as a form of legal effort in the process of implementing decisions, both approval and rejection, must be based on the purpose of punishment, not administrative intervention, or presidential intervention in the judiciary, but the president grants clemency and leniency. Privileges have nothing to do with evaluating the judge's decision and cannot eliminate the perpetrator's crime.*

### Keywords

juridical analysis; crime; implementation



## I. Introduction

The Unitary State of the Republic of Indonesia is a state based on law. The 1945 Constitution stipulates that the Republic of Indonesia is a state of law (rech stat) as evidenced by the provisions in the Preamble, Body, and Elucidation of the 1945 Constitution. The idea of a rule of law, in relation to the concept of the rule of law developed by AV Dicey. There are three important characteristics in a state of law which he also calls the rule of law by AV Dicey, namely supremacy of law; equality before the law; and due process of law.

In the Amendment to the 1945 Constitution, the theory of equality before the law is contained in Article 27 paragraph (1) which states "All citizens have the same position in law and government and are obliged to uphold the law and government without exception". The theory and concept of equality before the law as espoused by Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is the basis for protection for citizens to be treated equally before the law. The existence of the government is closely related to the function of public service (Karyono, 2019). The government of the Republic of Indonesia based on the 1945 Constitution is often said to adhere to a presidential system, but its nature is not pure, because it is mixed with elements of the parliamentary system. However, with the first four amendments to the 1945 Constitution, in particular with the adoption of a direct

presidential election system, and structural and functional changes to the MPR institution, the government system became increasingly firm into a purely presidential government system. In a pure presidential system, there is no need to question the distinction or separation between the functions of the head of state and the head of government, because in a pure presidential government it is sufficient to have a president and a vice president without questioning when he serves as head of state and when as head of government.

Furthermore, that clemency is one of the five rights possessed by the head of state in the judicial sector guaranteed by the constitution and legislation. In accordance with article 14 paragraph (1) amendments to the 1945 Constitution and Law no. 22 of 2002 juncto Law No. 05 of 2010 concerning clemency. Gasi according to the Clemency law article 1 paragraph 1 is a pardon in the form of changes, reductions, reductions or abolition of the execution of a crime to a convict by the President. According to the explanation of Law No. 5 of 2010 juncto Law no. 22 of 2002 granting clemency is not a technical juridical issue and is not related to the judge's decision evaluation. The granting of clemency is not an intervention of the President in the judicial field, but the prerogative of the President to grant pardons.

Regarding the President's authority in granting clemency, it is called the judicial authority of the president, or also known as the presidential power by consultation. Power with consultancy is power which in its implementation requires proposals or advice from institutions related to the matter of power in this case, namely the Supreme Court. In addition to clemency, rehabilitation, amnesty and abolition are also included in the presidential powers by consultation. As stated in Article 14 paragraph (2) Amendment to the 1945 Constitution, "The President grants amnesty and abolition by taking into account the considerations of the DPR."

The President's authority to grant clemency is related to criminal law in a subjective sense. Subjective criminal law discusses the right of the state to impose and carry out crimes. This kind of state right is a great state right, so it is necessary to find a basis for it through the theory of punishment. Therefore, the President in granting clemency must be based on the theory of punishment. With the enactment of Law No. 05 of 2010 juncto Law no. 22 of 2002, the opportunity to obtain pardon from the President or clemency is limited, the limitations are the length of sentence and the death penalty. Article 2 paragraph 2 of the clemency law states that criminal decisions that can be applied for clemency are capital punishment, life imprisonment and imprisonment for a minimum of 2 years. With this it appears that those who are entitled to clemency are serious crimes, which in practice actually hinder the execution, especially for those sentenced to death, many death convicts are hanging on to their fate just waiting for clemency from the President.

Clemency is recognized in all legal systems around the world. As is known, clemency is granted by the President in his position as Head of State. So even though there is advice or consideration from the Supreme Court, the President's clemency is basically not a legal action, but a non-legal action based on the prerogative rights of a Head of State. Thus, clemency is a pardon in the form of reducing the crime (*starfverminderend*) or reducing the crime or eliminating the implementation of a crime that has been decided by the Supreme Court. So clemency is etymologically derived from the Dutch language meaning grace or grace and in legal terminology it means leniency given by the Head of State to the convicted person after receiving a judge's decision or individual pardon. In Latin it is called *Gratia*, which is a kind of gift (in Belgium it is called "*Genade*") from the Head of State in order to relieve or acquit the convicted person. However, the clemency can also be rejected by the President.

## **II. Research Methods**

The legal research of this thesis uses normative legal research, namely research on the articles of the rule of law to determine legal principles, knowing vertical/horizontal synchronization, knowing aspects of legal history and knowing comparisons between legal systems. The approach methods used in this study are several methods contained in normative legal research, including: an analytical and conceptual approach, a historical approach and a comparative or comparative approach. This approach will be combined with the approach commonly used in criminal law which is called the policy approach. The policy approach includes an interrelated understanding between a goal-oriented approaches, a value-oriented approach.

The method of collecting legal materials in this study is to use a combined method of snowball (snowball method) with a systematic method (systematic method). The snowball method is by using legal books (text books) related to the title of this thesis, which is then followed by the continuous rolling ball method which refers to the sources of books in the bibliography and laws and regulations relating to crime. Actions against children in conflict with the law and then systematically arranged to find the relationship between a legal concept or legal proposition between equal or unequal laws and regulations.

## **III. Discussion**

### **3.1 The President's Authority in Granting Clemency According to Positive Law**

In essence, clemency is the granting of pardon by the head of state to perpetrators of criminal acts with limitations as described in the clemency law article 2 paragraph (2), namely, the death penalty, life imprisonment, and imprisonment minimum of 2 (two) years. If forgiveness is given to someone individually, it is called pardon; if it is given to a group of convicts or to all of them, it is called amnesty; and if it is given by eliminating the claim or stopping the investigation of the case by law enforcement officers, it is called abolition.

Executive power in a country has so much authority to carry out government programs and ensure the achievement of state goals. So with this reality, the executive power needs supervision/control over the executive power related to programs, policies, or the authority possessed by the executive so that it runs properly in accordance with the constitution and the values contained therein.

Granting pardons is not a form of presidential intervention in judicial affairs, but the right of the president to grant pardons. Although the granting of clemency can change, alleviate, reduce, or abolish the obligation to serve a criminal sentence imposed by the court, it does not mean eliminating the guilt and also does not constitute rehabilitation of the convict. Granting pardons is not a form of presidential intervention in judicial affairs, but the right of the president to grant pardons. Although the granting of clemency can change, alleviate, reduce, or abolish the obligation to serve a criminal sentence imposed by the court, it does not mean eliminating the guilt and also does not constitute rehabilitation of the convict.

The Head of State or the President is considered to be authorized in terms of granting clemency, abolition and amnesty in the interest of restoring justice to the impact of suffering caused by court decisions on criminal acts that have been legally proven in previous judicial proceedings. However, in a presidential system there is no distinction between the two types of positions, the authority is considered to be with the President who is the Head of State and at the same time the Head of Government. However, to limit the use of this authority, before the President decides whether to grant pardons, amnesty and abolition, the President must first obtain consideration from the Supreme Court and the People's Advisory Council.

One of the guarantees for the court is the provision that in order to administer justice, the court must be free from all forms of interference from any party. Article 103 of the Provisional Constitution of the Republic of Indonesia states: "Any interference in court affairs by equipment that is not court equipment is prohibited unless permitted by law." This is so that judges can exercise justice freely and objectively. The exception to this prohibition is the right to grant clemency for the head of state to abolish, reduce or eliminate demands or penalties imposed by court decisions. The 1945 Constitution article 14 paragraph one states: "The President grants clemency and rehabilitation by taking into account the considerations of the Supreme Court."

Historically, the act of forgiveness was based on the generosity of those in power. Because the ruler is seen as a source of justice and the right to court is fully in his hands, the act of forgiveness is solely based on the desire to forgive sinners. In subsequent developments the notion of clemency shifted to the assumption that the rights of these institutions should be seen as an act of the court or more precisely as an act of justice to abolish or reduce injustice in treating the law.

Law Number 22 of 2002 concerning Clemency, consists of 6 (six) chapters and 17 articles, beginning with the General Provisions Chapter and ending with the Closing Provisions Chapter. The general provisions explain the definition of clemency and the convict. Clemency is a pardon in the form of changes, reductions, reductions or abolition of criminal executions given by the President, while the convict is someone who is convicted based on a court decision that has obtained legal force.

Unlike in the previous clemency law, which did not limit the type of punishment, in this law there are limitations or requirements for clemency requests. It is stated that the punishment for which clemency can be applied is a court decision that has permanent legal force which consists of three elements, namely the death penalty, life imprisonment and imprisonment for a minimum of 2 (years). This is the first difference with the previous law, and clarifies the certainty of the types of punishments that can be applied for clemency and prevents the convict's fraudulent practice to avoid the execution of his sentence. The word "can" means that the convict is given the freedom to use or not to use his right to apply for clemency in accordance with this Law.

Then regarding the convict's opportunity to apply for clemency. Previously, it was not regulated in the law regarding the number of opportunities that convicts had to apply for clemency. Now, convicts can only apply for clemency once. And the application for clemency can be made by the convict or his legal representative, and the convict's family with their consent, except in the case of a death penalty decision, the application can be submitted by the convict's family without their consent.

In addition to the convict, his attorney, or his family, there is another party who has the right to apply for clemency, namely the Minister of Law and Human Rights, whose submission is based on humanity and justice.

Furthermore, Law Number 5 of 2010 is an amendment to Law Number 22 of 2002 concerning Clemency. The reason for the amendment is, based on the urgency of solving problems including, there are still requests for clemency that the Government has not been able to resolve within the period as stipulated in Article 15 of the law, which is 2 (two) years since the clemency law was enacted which ends on dated October 22, 2004, but in fact, with the expiration of that period, there are still 2106 (two thousand one hundred and six) cases of clemency that have not been resolved. The arrears in the clemency application are the legacy of the clemency application filed under Law No. 3 of 1950. Therefore, to avoid a legal vacuum for the completion of the granting of clemency, it is necessary to extend the time until October 22, 2012.

The most highlighted in the analysis of the grant this clemency is about the reason for granting clemency. Clemency is an authority possessed by the President in his position as Head of State (prerogative). In dealing with a request for clemency from a convict, the President will make a decision with his own considerations and discretion in an alternative way, namely granting or rejecting the request for clemency. This decision is also absolute, which means that the President's actions in relation to granting or refusing clemency cannot be controlled or judged by the court.

There is no explicit or implied information in the 1945 Constitution of the Republic of Indonesia or other laws and regulations regarding how a request for clemency can be granted or rejected by the President. Article 14 of the 1945 Constitution gives the President the right to grant clemency, amnesty, abolition, and rehabilitation without any conditions or criteria for granting it, so that the president's rights are absolute.

The statutory provisions regarding clemency do not explicitly state the reasons used so that a person can be granted clemency. In the considerations of letters b and c of Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Clemency, it is stated that clemency can be granted by the President to obtain pardons and/or to enforce essential justice and the enforcement of human rights against decisions. a court that has permanent legal force, that the clemency granted to the convict must reflect justice, protection of human rights, and legal certainty based on Pancasila and the 1945 Constitution. According to Utrecht, there are 4 (four) reasons for granting clemency, namely as follows:

1. The interests of the family of the convict.
2. The convict has served the community.
3. The convict suffers from an incurable disease.
4. The convict behaves well while in the correctional facility.

Utrecht underlies the reasons for granting clemency based on internal factors contained in the convict's personality. According to JE Sahetapy, the reasons that allow the President to grant clemency are as follows:

1. When a convicted person suddenly suffers from a serious incurable disease.
2. The judge is a human being who may err or there are developments that have not been considered by the judge when trying the defendant.
3. Changes in state administration or social changes such as when Suharto was overthrown by the Reform forces, the need for clemency suddenly felt urgent, apart from the Abolition and Amnesty cases.
4. When there is injustice so glaring example after a revolution or war

According to Pompe, there are certain circumstances that can be used as a reason to grant clemency, namely:

1. There are drawbacks in legislation, which is in a court because the judge was forced to impose a specific criminal, which if the judge has been given greater freedom, it will cause a person to be released or not to be tried by the court or to be sentenced to a lighter sentence.
2. There are circumstances that have not been taken into account by the judge at the time of imposing a sentence, which actually need to be taken into account to alleviate or eliminate the sentence he has imposed. In this regard, Pompe has cited several examples, for example the condition of the convict being sick or the convict being unable to pay the sentence imposed by the judge.
3. The convict has just been released from prison by Pompe it has been said that article 15 of the decision on clemency in force in the Netherlands has always pointed to this.
4. The granting of clemency after the convict has completed a probationary period, which causes the convict to be seen as deserving of pardon.

Still according to Pompe, regarding the granting of clemency which is associated with a historic big day. Clemency like this can make the convict always remember the historical day in question and can assist the government in achieving its goals if such clemency is granted to convicts who have committed political crimes.

According to the author, from some of the opinions above, it can be concluded that the basic reasons that can be used as pardons are several factors, both justice factors and humanitarian factors. The justice factor is that if it turns out that due to certain reasons the judge in the judiciary has handed down a sentence that is considered unfair, then clemency can be granted as a breakthrough in realizing justice itself. While the humanitarian factor can be seen from the convict's own personal circumstances, for example if the convict is sickly and cannot be cured.

### **3.2 The Existence of Clemency as a Form of Legal Effort against the Process of Implementing Sentencing**

The law does not explicitly regulate the reasons for granting clemency. Jan Remmelink stated the reasons for granting clemency as follows:

1. If after the verdict has legal force, the convict must face a special situation that is very unfavorable to him. For example, the convict suffers from an incurable disease or his family is threatened with being torn apart;
2. After the verdict has definite legal force, it turns out that the judge improperly has not paid attention to the situation, which if he had known beforehand, would have resulted in a much lower sentence. It should be noted that this is not a reason to request a reconsideration. There are also a number of other judges' mistakes that did not open up the opportunity for a request for reconsideration;
3. If since the decision has become legally binding, it turns out that the social situation has completely changed, for example a declaration regarding a civil emergency situation due to lack of food has been revoked or the political views that used to be in force have undergone a fundamental change;
4. If it turns out that there has been a big legal error. Imagine here the court decisions against war crimes perpetrators, who were examined and tried after the war was over. Through clemency, decisions that are clearly very unfair can still be straightened out. Meanwhile, Utrecht mentions 4 reasons for granting clemency briefly, namely: the
  1. Interests of the convict's family;
  2. The convict has served the community;
  3. The convict suffers from an incurable disease;
  4. The convict behaves well while in the correctional facility and shows conviction of his guilt.

Clemency in legal efforts against the implementation of a sentence, is not only about pardoning or reducing the sentence of the judge's decision. Clemency needs to be seen from the other side, to find out about the existence of clemency in the perspective of criminal law. The other sides, namely clemency as a citizen's right, clemency overcoming legal limitations (recovery system), clemency as the basis for the abolition of the state's right to carry out a crime, and clemency associated with the purpose of punishment.

#### **a. Clemency as a Citizen's Right**

As explained earlier, granting clemency is a revocation or an effort to relieve sanctions imposed through a criminal court decision. Long ago, the ruler moved from his absolute power to grant clemency as a form of virtue in his heart. Now, there is no longer any recognition of clemency in this form, especially since the prerogative rights have been



handed over to the government and its implementation is the responsibility of the Head of State or in a presidential system of government it is in the hands of the president.

In the previous description, it has also been explained about the change in the system of government adopted by the Republic of Indonesia, namely to become a pure presidential. In a pure presidential system of government, although there is no distinction between the Head of State and the Head of Government, the duties and authorities of the president as the top leadership of the state, there are still duties and authorities that are within the scope of government or executive and authorities that are outside that scope. Although this is not clearly distinguished, as appears in the parliamentary system of government.

The powers of the president are outside the scope of the executive, for example the authority in the judicial field. This authority includes remedies related to court decisions, namely to reduce sentences, grant pardons, or eliminate claims that are closely related to the court's authority.

Regarding the granting of pardon or clemency, it is necessary to know the concept that the convict who applies for clemency is not a convict, but as a citizen. As a citizen, one has the right to ask forgiveness from the president as the leader of the country. Article 28 D paragraph (1) Amendments to the 1945 Constitution in the sub-section concerning Human Rights, stipulates that "Everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law". This is the basis for every citizen regardless of the status he or she is carrying, to obtain legal certainty.

Granting clemency is not an issue of legal certainty, but a reflection of the level of legal wisdom of the president and the community. With the consideration of the Supreme Court, and various social factors and responses from certain groups, the granting of clemency reflects the legal wisdom of the president. Perhaps forgetting that the granting of clemency is also a place where to give a place for the conscience of humanity.

For applicants who are sentenced to death, clemency is a matter of life and death. Through the granting of clemency, it is possible that someone who is sentenced to death can be sentenced to life imprisonment or imprisonment for a certain time. Things like this will feel wiser. Because the convict will have the opportunity to improve himself. In contrast to the death penalty, which does not provide an opportunity for the convict to correct his mistakes.

An applicant who applies for clemency has one of the following two reasons why he is applying for clemency:

- a. a person who has admitted his guilt and asked forgiveness for his guilt, but the sentence imposed on him is deemed too severe. So he applied for clemency in the hope of obtaining criminal leniency (punishment);
- b. a person who feels himself completely innocent, intends to seek justice for himself. By applying for clemency, he hopes that the president can correct the mistakes of the previous court, so that justice can be served.

According to Adami Chazawi, by applying for clemency means that from a legal point of view the applicant has been found guilty, and by applying for pardon, it means that he has admitted his guilt.

### **b. Clemency Overcoming Legal Limitations (Recovery System)**

Limitations and weaknesses in the legal system can occur anywhere and at any level of society. Developed countries such as America, although the crime rate and control over law enforcement officials is very high, people are still aware of the possibility of errors in the subject of people and the application of the law. More than that, there is also an understanding that up to a certain point the law has internal limitations (the limit of law).

Such as about the weaknesses in the information collection system in the criminal justice environment that can damage a person's life or future.

The burden of pursuing case targets often pushes the police to use unfair methods to trap the accused. Defendant witnesses who serve as witnesses get facilities such as reduced sentences or free from lawsuits. This practice is common among criminal investigators in the Police.

Judges in Indonesia, in accordance with the active judicial system, have an active role in the trial. This active role is often not carried out according to the standards of the justice profession. Many factors influence, including the relatively low salary, and the level of legal education that is only S1. It is conceivable that someone who has just finished from the undergraduate program, is then accepted as a judge and takes a 12-month course for prospective judges, then does an internship for 6 months, then begins to handle cases.

Judges' decisions and legal analysis are not open to the public. So that the public cannot know the weight of the judge's legal analysis. On the one hand, this does not educate judges, because there is no means of sharpening the judge's legal analysis, as a result, a decision can be biased or errored.

All the limitations and weaknesses of the legal system require disclosure of the principles of legal decision-making. The legal fields themselves have provided institutions or means to enable correcting the "legal error", such as the existence of a review institution (*herziening*) that can be used by convicts. Outside the realm of law, the recovery agency for that error is pardoned. Clemency can be a means of correcting errors in the administration of law. Therefore, this institution does not happen to be outside the judicial system. Here, the president can actually make corrections by showing his legal wisdom. Legal wisdom is needed to fill the holes in the administration of the legal system and the judiciary in particular.

### **c. The Abolition of the State's Right to Execute a Crime**

Jan Remmelink included clemency as one of the three reasons for the loss of the authority to execute a crime. Adami Chazawi also mentioned the same thing, but he called it the abolition of the state's right to carry out crimes. The basis for the abolition of the state's right to carry out the crime specified in the Criminal Code, are:

- 1) Death of the convict (Article 83),
- 2) Expiration of execution (Article 84),

While the basis for the abolition of the state's right to carry out crimes outside the Criminal Code is clemency granted by the president with due regard to the Court's considerations. Agung (Amendment to the 1945 Constitution Article 14 Junto. Law No. 22 of 2002).

The basic principle of granting clemency is that it is given to people who have been convicted with a decision that has permanent legal force. The nature of granting clemency is merely to correct the sentence imposed, not to correct the substance of the main considerations of the case. This nature can be seen from three things that the president can decide in a clemency application, namely: to

1. eliminate the execution of all crimes that have been imposed in court decisions;
2. Carry out only part of the crime committed in the decision;
3. Changing the type of crime (commutation) the type of crime that has been imposed in the decision into a lighter sentence as stated in Article 10 of the Criminal Code.

The three things mentioned above, the basis for the abolition of the state's right to carry out a crime is point no. While points no. 2 and 3 do not abolish the right of the state to carry out a crime, but only lighten the implementation of the crime.



#### **d. Relationship**

Clemency with the purpose of punishment Apart from the things mentioned above, regarding granting clemency must be based on the purpose of punishment, the president either grants or rejects the request for clemency submitted, must be based on the purpose of punishment. According to the literature on the Criminal Code (Law No. 1 of 1946) by looking at the system and composition that has not changed from the main legal material (WvS Ned.) It can be said that it has the goal of punishment with a compromise flow or combined theory, covering all aspects of it.

So, in this request for clemency, the president must consider the issue of retaliation and also not forget to consider the issue of protecting the legal order of the community, either granting or rejecting the clemency request from the petition. In this case, input from the Supreme Court is very much needed by the president as a competent body for that, in making decisions by the president.

### **V. Conclusion**

Based on the description of the analysis and discussion, in response to the problems that have been identified, the following conclusions are put forward:

- 1) The authority of the President according to positive law is that the President has the right to accept and reject applications for clemency against prisoners who have obtained permanent decisions from courts at all levels with the qualifications of the death penalty. , life imprisonment, and a minimum sentence of two years in prison as regulated in Law No. 05 of 2010 juncto Law No. 22 of 2002 concerning clemency, the President in making his decision, whether to accept or reject the application for clemency, is not regulated by law. The reasons are clear, so that the right of the president is absolute.
- 2) The existence of clemency as a form of legal remedy for the process of implementing punishment, whether granted or rejected, must be based on the purpose of punishment, not an executive intervention, and not an intervention by the President in the judiciary, but the President's prerogative to grant pardon, clemency is not related to judgment against the judge's decision and cannot eliminate the guilt of the convict.

### **References**

- Andi Hamzah. (1987). Legal Dictionary, Ghalia Indonesia, Jakarta.
- Asa Mandiri Editor. (2007). Three Constitutions of the Republic of Indonesia; the 1945 Constitution of the Republic of Indonesia as a result of the Amendment; 1950 RIS Constitution; Provisional Constitution of the Republic of Indonesia 1950, Asa Mandiri, Jakarta.
- Bambang Waluyo, Principles of Criminal Law, Ghalia Indonesia, Jakarta,
- Barda Arief Nawawi. (1996). Legislative Policy in Combating Crimes with Imprisonment, Diponegoro University Publisher, Semarang.
- Barda Nawawi Arief. (2010). Criminal Law Policy "Development of Drafting the New Criminal Code Concept", Kencana Prenada, Jakarta.
- Burhan Ashshofa. (2001). Legal Research Methods Third Printing, PT Rineka Cipta, Jakarta.
- Chazawi's, A. (2002). Lessons on Criminal Law Part II, Raja Grafindo Persada, Jakarta.
- Dictionary-Paper-Jurnal-Internet-Ahmad Rajafi's "Clemency in Indonesia" [http //ahmadrajafi. Wordpress.com/2011/02/02/grasidiindeonsia/](http://ahmadrajafi.Wordpress.com/2011/02/02/grasidiindeonsia/) accessed on 19 December 2019.

- Editor of Sinar Graphic. (2007). the 1945 Constitution Amendment Results and Complete Amendment Process of the 1945 Constitution; First 1999-Fourth 2002, Sinar Graphic, Jakarta.
- Libra Eva Achjani Zulfa. (2017). Development of the Criminal System and Correctional System, Rajawali Pers, Depok.
- Ministry of National Education "Big Indonesian Dictionary", Jakarta, Balai, 3rd Edition, 2003.
- Ismail Suny. (1981). The Mechanism of Pancasila Democracy, New Script, Jakarta.
- Jimly Ashiddiqe. (2006). Constitution and Constitutionalism, Secretary General and Registrar of the Indonesian Constitutional Court, Jakarta.
- Jimly Asshiddiqe. (2011). Fundamentals of Indonesian Constitutional Law, PT Bhuana Ilmu Popular, Jakarta.
- Jimly Asshiddiqe. (2010). Indonesian Constitution and Constitutionalism, Sinar Graphic, Jakarta.
- Karyono, O., and Agustina, K. (2019). Determining the Priority Strategy in the Implementation of E-Government through Swot Analysis Model. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 2 (2): 66-74.
- Muhammad Ridhwan Indra and Satya Arinanto. (1998). The Power of the President in the 1945 Constitution is very large, CV Trisula, Jakarta,
- Muladi. (1985). Conditional Criminal Institution, Alumni, Bandung.
- Muhari Agus Santoso. (2002). New Paradigm of Criminal Law, Averroes Press, Malang.
- Rommelink, Jan. (2003), Criminal Law: Commentary on the Most Important Articles of the Dutch Penal Code and their Equivalents in the Indonesian Criminal Code, Gramedia Pustaka Utama, Jakarta.
- Salmi, Akhiar. (1985). The Existence of the Death Penalty, Persada Script, Jakarta.
- Sholeh Soeadi. (2002). Perpu 1/2002 Terrorism decreed by President Megawati, Durat Bahagia, Jakarta.
- Simorangkir, JCT., Rudy T. Erwin and JT. Prasetyo. (1995). Legal Dictionary, Earth Literacy, Jakarta.
- Soerjono Soekanto. (1985). Normative Legal Research, Rajawali Publishers, Jakarta.
- Sumali. (2003). Reduction of Executive Power in the Field of Regulations in Lieu of Law (Perpu), UMM Press, Malang.
- Suwoto Mulyosudarmo. (1997). Transfer of Power, Theoretical and Juridical Studies of Nawaksara's Speech, Gramedia Pustaka Utama, Jakarta.
- Triana Putrie Vinansari, Juridical Review Regarding Granting Clemency to Convicts in Indonesia, Journal of Criminal Law, Faculty of Law, University of North Sumatra, Medan 2013.
- Utrecht. (1987). Summary of Sari Hukum Lectures on Criminal Law II, Pustaka Tinta Mas, Surabaya.
- Sahetapy, JE, Mechanism for Oversight of President's Rights, in <http://Hukum.blogspot.com/2007/06/mechanism-supervision-over-hak-hak.html>, accessed April 17, 2020.
- Tony Prayogo, R.. (2012). Competence of the State Administrative Court in Judging Clemency Granting Cases, Indonesian Legislation Journal, Vol. 9 No. 3 – October 2012, Directorate General of Legislation, Ministry of Law and Human Rights RI, Jakarta.
- The 1945 Constitution.
- The Criminal Code (KUHP).
- Law Number 8 of 1981 concerning the Criminal Procedure Code.
- Law Number 5 of 2010 Junto Law Number 22 of 2002 concerning Clemency.

Law Number 39 of 1999 concerning Human Rights.

The 2019 Indonesian Criminal Code Bill.

“Amnesty and pardon Terminology and Etymology” see

<http://law.jrank.org/pages/505/Amnesty-Pardon-Terminology-etymology.html>.

accessed on 19 December 2019.

<http://en.wikipedia.org/wiki/Pardons>, accessed 12 August 2019.wawasan