

Philosophical Analysis of Restorative Justice: (Amnesty-Abolition) of President Prabowo Against Tom Lembong and Hasto Kristiyanto

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ABSTRAK

Penelitian ini menyajikan analisis filosofis tentang persinggungan antara keadilan restoratif dan hukum pidana dalam konteks pemberian amnesti dan abolisi oleh Presiden Prabowo Subianto kepada Tom Lembong dan Hasto Kristiyanto. Fokus utama penelitian ini adalah mengevaluasi apakah kebijakan ini dapat dibenarkan di bawah kerangka restoratif, dengan mempertimbangkan prinsip akuntabilitas, pengakuan, dan rekonsiliasi. Dengan menggunakan metode penelitian hukum normatif dan pendekatan filosofis, artikel ini berargumen bahwa meskipun amnesti dan abolisi adalah instrumen sah untuk mencapai stabilitas politik, penerapannya berisiko mengikis akuntabilitas jika tidak transparan. Temuan utamanya menunjukkan bahwa tindakan ini tidak sepenuhnya restoratif karena bersifat top-down dan menghentikan proses akuntabilitas. Namun, ia dapat sejalan dengan prinsip restoratif jika disertai proses yang jelas, akuntabel, dan berorientasi pada pemulihan. Kesimpulan dari studi ini adalah bahwa keberhasilan pendekatan restoratif terletak pada prosesnya, yang menuntut pengakuan publik, partisipasi pihak terdampak, dan komitmen tulus untuk perbaikan.

Kata kunci: Keadilan Restoratif, Amnesti, Abolisi, Keadilan Pidana, Kebijakan Prabowo

ABSTRACT

This study presents a philosophical analysis of the intersection between restorative justice and criminal law in the context of granting amnesty and abolition by President Prabowo Subianto to Tom Lembong and Hasto Kristiyanto. The primary focus of this study is to evaluate whether these policies are justifiable under a restorative framework, taking into account the principles of accountability, recognition, and reconciliation. Using normative legal research methods and philosophical approaches, this article argues that although amnesty and abolition are legitimate instruments for achieving political stability, their implementation risks eroding accountability if it is not transparent. Its main findings suggest that these actions are not completely restorative because they are top-down and stop the accountability process. However, it can align with restorative principles if a transparent, accountable, and recovery-oriented process accompanies it. This study concludes that the success of the restorative approach lies in the process, which demands public recognition, the participation of affected parties, and a sincere commitment to improvement.

Keywords: Restorative Justice, Amnesty, Abolition, Criminal Justice, Prabowo's Policy



INTRODUCTION

The discourse on criminal justice reform in Indonesia increasingly emphasizes the importance of restorative justice as an alternative to the conventional system. This approach focuses on repairing the losses suffered by victims and community involvement in problem-solving, beyond simply imposing punishments, as explained by Flora (2018). However, an essential legal and political phenomenon emerged with President Prabowo Subianto's decision to grant amnesty and abolition to Tom Lembong and Hasto Kristiyanto.

Thomas Trikasih Lembong is a public figure widely known as the former Minister of Trade and Head of the Investment Coordinating Board (BKPM). His name has emerged in legal issues related to alleged abuse of authority in import policies that potentially harm the country and local farmers, who are economically and politically sensitive. Meanwhile, Hasto Kristiyanto, Secretary General of PDIP, became the subject of an investigation for alleged defamation in the context of heated political competition. Although the cases are different, they represent figures closely related to sharp political dynamics, so legal action against them is often seen as a criminal issue and part of a political feud.

President Prabowo's actions, while allowed by the constitution, raise profound philosophical questions about the intersection between state power, criminal justice, and restorative principles. Amnesty and abolition, traditionally understood as acts of executive clemency to halt or overturn legal proceedings, demand deeper analysis when applied in politically sensitive contexts. This issue becomes relevant given the public's demand for accountability and justice. This action highlights the potential friction between the state's power to pardon and the public's right to see justice upheld through established legal procedures.

This research departs from using presidential prerogatives to grant amnesty and abolition in Indonesia, especially in cases involving political figures. This legal instrument often triggers public debate, especially when it intersects with criminal acts that should be resolved through criminal justice channels, such as the case involving Tom Lembong and Hasto Kristiyanto. To understand this complexity, this study seeks to integrate two main conceptual frameworks: restorative justice and the concept of amnesty-abolition.

Previous research on restorative justice has explored its theoretical underpinnings and practical applications, often highlighting its implementation challenges in legal frameworks dominated by the retributive paradigm. A study by Zulfa focuses on the systemic barriers that prevent restorative approaches from taking root in the Indonesian legal system (Zulfa, 2009). In addition, more recent research has attempted to apply the concept of restorative justice to complex cases such as corruption cases (Azis et al., 2022). Some use this concept specifically

to corruption cases, where he critically labels its implementation as "utopia", highlighting the difficulty of identifying clear victims and the risk of avoiding severe punishment (Andini et al., 2023).

Correspondingly, the concepts of amnesty and abolition have also been analyzed, although often separately from the discourse of restorative justice. Kelly Lytle Hernandez makes an important distinction, arguing that amnesty is essentially an instrument of state power that is a tool to maintain order or grant pardon from above, whereas abolition is a more radical and fundamental challenge to the entire criminal system (Hernández, 2023). From a legal and political perspective, Bosniak explores the ethical and legal complexities of amnesty, examining how these acts of clemency operate within a democratic framework (Bosniak, 2013).

Similar practices have occurred in different parts of the world with diverse motivations and impacts. The most famous example is the Truth and Reconciliation Commission (TRC) in post-apartheid South Africa (Gibson, 2002). The TRC granted amnesty to the perpetrators of apartheid-era crimes who were willing to admit their actions in public, to uncover the truth and start a process of national healing. This approach is a manifestation of large-scale restorative justice, in which the disclosure of truth is considered more important than criminal punishment. It is different from the "Pact of Forgetting" in Spain, which authorized a general amnesty for political criminals after the death of General Franco, to avoid confrontation and achieve stability. In Colombia, amnesty was granted to FARC members as part of a peace agreement to end a protracted internal conflict. These cases highlight how amnesty is often a strategic tool to end conflict, not just an instrument of forgiveness (Rapoport, 2022). When referring to various cases abroad, there are several examples of the application of restorative justice in political and economic transitions.

First, the post-Rwandan Genocide amnesty: After the 1994 genocide, Rwanda used a customary court system called Gacaca to prosecute hundreds of thousands of perpetrators. Despite its criticism, the system allows offenders to confess their crimes and reintegrate into society, rather than burdening an already collapsed prison system. This is an extreme example of the application of restorative principles in the midst of massive social trauma (Sarkin, 2001). Second, national amnesty in Uruguay (Ley de Caducidad): In 1986, the newly elected civilian government granted amnesty to the military that had violated human rights during the dictatorship. The goal is to ensure a peaceful democratic transition, although this policy has sparked strong protests from victims' groups and a lengthy legal debate (Sharnak, 2023).

Third, the case of the "Asian Economic Crisis" in South Korea: In the late 1990s, several conglomerates (chaebol) involved in financial crimes and bribery were granted amnesty by the president (Han et al., 2023). The argument is to "create economic stability" and prevent corporate collapses that could exacerbate the crisis. This is an example of the use of amnesty that focuses on economic recovery, not justice.

El Salvador's post-Civil War amnesty: The peace treaty granted a general amnesty to the parties involved to end the brutal civil war. Although it succeeded in ending the conflict, this policy was strongly criticized because it was considered to create impunity for serious war criminals (Ansorg & Kurtenbach, 2023). The relationship between these concepts is further explored in the work of Ruggiero and Sayers. They linked restorative justice to the larger abolitionist movement (Ruggiero, 2011). Arguing that restorative justice should not only be a complement, but a tool for dismantling the existing penal system (Sayers, 2020).

Although the existing literature is rich in separate analyses of restorative justice, amnesty, and abolition, there is no cohesive framework for analyzing how presidential amnesty and abolition actions in Indonesia, often framed through political reconciliation, can be philosophically reconciled with restorative justice principles. This research aims to fill this gap by exploring how presidential prerogative in Indonesia is used in cases that combine political and criminal elements and its implications for a more restorative and humane vision of justice.

This research fills a significant gap by presenting a new philosophical analysis that bridges the concepts of restorative justice, criminal law, and the power of political clemency. Its novelty lies in its focus on contemporary cases involving amnesty and abolition by President Prabowo Subianto, a context that has not been explored in the literature. There are two contributions to this research. First, it offers a theoretical framework for evaluating presidential clemency from a restorative lens, challenging the conventional view that the act is purely political. Second, he contributes to the practical discourse of criminal justice in Indonesia by providing a philosophical foundation on how executive action can align with or deviate from social reconciliation and justice goals. Using this specific case, this study offers a real example to test the limits and possibilities of restorative justice principles at the highest power levels.

This research will answer a key question: are President Prabowo's actions in granting amnesty and dismissal philosophically and ethically justified within the restorative justice framework? The study uses a philosophical framework that synthesizes the principles of restorative justice with ethical and legal theories surrounding amnesty and removal. Its primary theoretical lens is a restorative justice perspective focusing on harm remediation.

ANALYTICAL FRAMEWORK

This study will focus on the philosophy of restorative justice as the primary lens for understanding and evaluating President Prabowo's decisions. The basis of this understanding is that crime is seen as a violation of interpersonal relationships and a rift in the social order, not just a violation of the state's laws. Thus, the emphasis shifts from simply punishing the perpetrator to repairing the harm suffered by the victim and restoring damaged relationships. The following discussion will explore how the implementation of restorative justice seeks to integrate its three main pillars, namely, meeting the needs of victims, accountability of perpetrators, and community involvement, as well as its challenges and successes in achieving the goals of reconciliation and sustainable social peace. Restorative Justice Theory focuses on repairing relationships damaged by crime or offense. The main goal is not to punish the perpetrator, but to repair the losses suffered by the victim, rebuild community relationships, and reintegrate the perpetrator into society. This theory views crime as an offense against people and relationships, not just against the state. Restorative justice involves the active participation of victims, perpetrators, and communities in the conflict resolution (Asa, et al., 2025). To analyze the morality and politics of this policy, this research is reinforced with three main philosophical theories. John Rawls' Theory of Justice offers the concept of justice as fairness to evaluate the substantive justice of a policy (Rawls, 1971). This lens tests whether amnesty and abolition can be considered fair if applied universally, regardless of political status. Furthermore, Deontological Ethics, based on the thoughts of Immanuel Kant, emphasizes moral obligations and universal rules, irrespective of the consequences (Kant, 1998). This approach analyzes whether the exercise of presidential prerogative is consistent with an ethical obligation to enforce the law equally and fairly. Utilitarianism, on the other hand, judges the morality of an action by its consequences, where the right action is the one that produces the greatest happiness for the greatest number of people (Mill, 1969). This theory evaluates the government's claim that these policies aim to create "stability" and "national unity."

This combination of frameworks is very relevant. The lens of restorative justice allows us to evaluate the President's actions from the perspective of social restoration. Despite focusing on relationship improvement, Restorative Justice often lacks a strong normative foundation, so John Rawls's Theory of Justice can significantly strengthen it. Rawls's theory of "justice as fairness" provides a philosophical framework that ensures that the restorative process operates fairly and equally for all parties, guaranteeing participants' fundamental rights

and freedoms regardless of their status. In addition, Rawls's principles of distributive justice highlight how structural inequities can affect individual participation in restorative processes, encouraging us to consider and address socio-economic inequality to realize more comprehensive justice. Thus, merging these two concepts redresses individual disadvantages and contributes to creating a more just and equal society overall.

Deontological ethics became a tool for monitoring whether the implementation of amnesty and abolition was in accordance with the principles of equal treatment and moral obligation. At the same time, utilitarianism helped test the validity of the pragmatic claims behind the policy. This unified framework allows for multi-layered analysis that goes beyond simple legalistic interpretations. In addition, deontological ethics became a tool for monitoring whether the implementation of amnesty and abolition was in accordance with the principles of equal treatment and moral obligation. At the same time, utilitarianism helped to test the validity of the pragmatic claims behind such policies. This unified framework allows for multi-layered analysis that goes beyond simple legalistic interpretations.

This framework will be operationalized by defining the core principles of restorative justice—i.e., accountability, victim engagement, and community reconciliation—and establishing them as normative standards for evaluation. Next, the legal and political definitions of amnesty and abolition will be examined, using the work of Hernández and Bosniak to understand their nature as tools of state power. The specific case of Tom Lembong and Hasto Kristiyanto will then be analyzed against these principles. This study will ask the following questions: (1) Does the process leading to amnesty and abolition guarantee public accountability of the individuals involved? (2) Are there any efforts to remedy the harm caused to the public? (3) Are the results considered fair and correct by the community, or do they risk undermining public confidence in the rule of law? This operationalization allows for a systematic and critical evaluation of the President's actions from a deep philosophical point of view.

RESEARCH METHODS

This research uses normative legal research methods with philosophical and conceptual approaches. This study focuses on legal norms and principles surrounding criminal law, restorative justice, and presidential clemency as applied in Indonesia. Data collection was primarily done through a literature research approach, which involved a comprehensive analysis of relevant legal documents (such as the Indonesian Constitution and applicable laws), academic articles, and philosophical texts. Sources cited, including from (Flora, 2018), (Zulfa,

2009), (Andini et al., 2023), and (Hernández, 2023), form the core of the literature review. The analysis technique used is *content analysis*, in which legal and philosophical texts are critically examined to identify key concepts, arguments, and relationships. The research procedure involves four main steps: (1) a comprehensive literature review to build a theoretical foundation; (2) a conceptual analysis of restorative justice, amnesty, and abolition; (3) the application of these concepts to specific cases; and (4) synthesis of findings to formulate conclusions that answer research problems. The methods used are aligned with the framework of analysis, allowing for an in-depth philosophical investigation of contemporary legal and political issues.

RESULTS AND DISCUSSION

This discussion presents an in-depth philosophical analysis of President Prabowo Subianto's amnesty and abolition, evaluated through the lens of restorative justice. This analysis not only tests the legality of the action but also weighs its pragmatic advantages and substantial shortcomings, to find a common ground between political pragmatism and the principle of justice.

The Philosophical Foundations of Restorative Justice and the Nature of Amnesty and Abolition as Instruments of State Power

Restorative justice is not just an alternative method, but a philosophy that fundamentally challenges the retributive logic that dominates the conventional criminal justice system. Its philosophical foundation is rooted in the understanding that crime is not only a violation of state law but also a violation of human relations and a rift in the social order. The emphasis shifted from "appropriate punishment" to "how do we repair losses and restore damaged relationships?" Provides a solid foundation for this understanding. He argues that the restorative approach focuses on repairing the losses suffered by the victim, not just on the perpetrator and his punishment (Flora, 2018). The goal is to restore the balance and harmony lost to evil. In this view, the victim is no longer just a passive witness in the legal process, but an active participant whose physical, emotional, or material needs are prioritized. On the other hand, the perpetrator must take direct responsibility for his actions by participating in the reparation process, instead of simply serving an isolated sentence. Community involvement is also an important pillar, where the community is given a role to support the settlement process

and re-admit perpetrators who have undergone an accountability process. Thus, restorative justice offers more humane and practical solutions in achieving sustainable social peace.

This view is reinforced by the study of (Asa et al., 2025) affirms that restorative justice is a progressive breakthrough in resolving criminal law problems. Their study criticizes a criminal law paradigm still rooted in the retribution system, which often ignores the needs and rights of victims. They found that restorative justice already has a legal basis in Indonesia, such as in Law No. 11 of 2012 concerning the Child Criminal Justice System, and is integrated in the Criminal Code Bill.

However, this philosophical idealism directly confronts the reality of the existing legal system, (Zulfa, 2009) Highlights the significant challenges in implementing restorative justice in Indonesia, a country whose criminal law system is still very retribution-oriented. The article emphasizes that implementing restorative principles requires a profound paradigm shift, not only at the legislative level but also in the mindset of law enforcement officials. Zulfa argues that without the willingness of the police, prosecutors, and judges to see crime as a social conflict that requires a holistic solution, not just a legal case that requires punishment, restorative justice will remain a beautiful concept in theory but difficult to realize in practice (Zulfa, 2009). The study by (Asa et al., 2025) also identified similar challenges, namely the retributive nature of the legal system, limited understanding among law enforcement officials, and public concerns about punishments that are considered too light.

This challenge becomes much more complex when restorative justice is attempted to be applied to cases of white-collar crimes, such as corruption. (Azis et al., 2022) Explore this possibility, but they also honestly consider the obstacles. They face a crucial problem: who are the obvious victims in corruption cases? The impact of corruption is felt on society, damaging the economy and public trust. Still, it is difficult to identify individuals who can sit face-to-face with perpetrators in restorative forums. Additionally, they highlight the challenges of ensuring full accountability and return of stolen assets, which often involve complex networks. In this context, restorative justice risks becoming ineffective if it cannot address these fundamental issues.

This critique of idealism reaches its peak in the article, (Andini et al., 2023) which explicitly labels the application of restorative justice in corruption cases in Indonesia as "utopia." They argue that the idealism of restorative theory has too large a gap with the reality of corrupt law enforcement practices. Corrupt perpetrators are often influential figures with political influence, so there is a risk that this approach will be manipulated to avoid severe punishment. As a result, instead of restoring public trust, this action can permanently damage

it. This argument warns that restorative justice is not a "panacea" for all evil, and its application must consider the existing socio-political context. The study (Asa et al., 2025) concluded that the effectiveness of restorative justice is highly dependent on the strong commitment of all stakeholders and alignment with Indonesia's socio-cultural and moral context.

Some scholars view restorative justice from a more radical perspective outside pragmatism, i.e., as part of the abolitionist movement. (Ruggiero, 2011) It argues that restorative justice should be seen as a complement to the existing criminal system and as a fundamental tool to dismantle the system, especially the prison system. In his view, restorative justice is a way to build a society that no longer needs prisons, but instead focuses on resolving conflicts at the community level. This perspective is reinforced by (Sayers, 2020), who links restorative justice to decolonization and resistance, especially in the context of the injustices experienced by indigenous women as a result of the colonial criminal justice system. Sayers advocates restorative justice as a tool to address the root causes of injustice and build a more just system (Sayers, 2020).

Meanwhile, amnesty and abolition are two instruments of state power that uniquely blend law and politics (Childress, 1973). Neither is the result of ordinary judicial processes, but executive actions that directly affect or end criminal proceedings. This dualistic nature places amnesty and abolition at a tricky intersection, where legal considerations interact with political and moral goals.

Legally, amnesty (pardon or removal of sentences that have been imposed) and abolition (removal of charges) are the prerogative of the president as stipulated in the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia), especially Article 14 paragraph (1) which reads, "The President grants clemency and rehabilitation by taking into account the considerations of the Supreme Court" and Article 14 paragraph (2) which states, "The President grants amnesty and abolition by taking into account the consideration of the Council People's Representatives." This quote from the 1945 Constitution of the Republic of Indonesia expressly provides a juridical basis that the President has the authority to grant amnesty and abolition, but on the condition that he must pay attention to the consideration of the House of Representatives (DPR). Although legally regulated, its implementation is a powerful political act, demonstrating the state's supreme authority to grant pardons and influence the direction of the judiciary.

However, the philosophical nature of amnesty and abolition is more complex. Bosniak analyzes the various arguments in favor of amnesty from a legal and political point of view

(Bosniak, 2013). He found that justifications for amnesty were often rooted in considerations of political pragmatism, humanity, or the need to achieve peace. In this view, amnesty is an act that goes beyond individual retributive justice and aims to achieve the greater social good. However, Bosniak also warned of the ethical and legal challenges that arise, especially when these pardons are granted to specific groups, which can give rise to perceptions of favoritism and injustice in the eyes of the public.

This philosophical tension becomes more pronounced in the international context, as discussed by (Freeman & Pensky, 2012). They reviewed the debate over whether amnesty granted by states for serious crimes such as war crimes or crimes against humanity could be recognized by international law. This article highlights the conflict between the state's sovereignty to grant amnesty and international obligations to guarantee accountability for gross human rights violations. This suggests that although a state has the right to grant amnesty, it is not absolute and must be subject to broader moral and ethical norms.

More than just legal instruments, amnesty and abolition can also be seen as part of a larger debate about judicial reform, (Hernández, 2023) for example, distinguishes amnesty and abolition by arguing that amnesty is still an instrument of state power, while abolition fundamentally challenges the system that created the category of punishment. This view is in line with the abolitionist framework for reform put forward by (Stahly-Butts & Akbar, 2022). They argue that conventional criminal justice reform often only strengthens the existing system, not fundamentally challenges it. Thus, amnesty and abolition are not just a neutral legal process. They are instruments of state power, full of political and philosophical meanings. Its nature can be justified for pragmatic purposes such as reconciliation and peace, but its use must also consider ethical challenges related to accountability, equality, and substantive justice.

Evaluation of President Prabowo Subianto's Actions in Granting Amnesty and Abolition to Tom Lembong and Hasto Kristiyanto

Evaluating President Prabowo Subianto's actions in granting amnesty and abolition to Tom Lembong and Hasto Kristiyanto requires careful analysis, weighing their advantages and disadvantages.

Case Narrative: Tom Lembong and Hasto Kristiyanto

Based on various sources, the case that ensnared Thomas Trikasih Lembong, or Tom Lembong, began in October 2023 when the Attorney General's Office (KEJAGUNG) started an investigation into alleged corruption in raw crystal sugar imports. This legal process

continued until Tom was named a suspect on October 29, 2024 (Kompas, 2025). In the trial, the panel of judges sentenced him on July 18, 2025, with a sentence of 4 years and 6 months in prison and a fine of IDR 750 million. The judge considered Tom's actions unlawful because he was supposed to prioritize the capitalist economy (Prasetyo, 2025). However, the case ended after President Prabowo Subianto proposed the abolition of the position to Tom Lembong, which the House of Representatives later approved. This abolition, which is different from the amnesty, is given to create unity ahead of Independence Day on August 17, 2025 (Prasetyo, 2025). Thanks to this decision, Tom Lembong was officially released on August 1, 2025, after nine months of detention. (Kompas, 2025).

Meanwhile, the case that ensnared Hasto Kristiyanto was the development of the KPK's *sting operation (OTT)* on January 8, 2020, against former KPU Commissioner, Wahyu Setiawan, related to alleged bribery to smooth the way for Harun Masiku to become a member of the House of Representatives. In this case, Harun Masiku was then designated as a fugitive (Kompas Team, 2025). Hasto Kristiyanto then underwent his first trial at the Jakarta Corruption Court on March 14, 2025, on bribery charges and obstructing the investigation. Based on the court's decision, Hasto was sentenced to 3.5 years in prison for being found guilty in a bribery case, even though the charges of obstructing the investigation were not proven (Wahyuni, 2025). However, this case finally ended after Hasto Kristiyanto received an amnesty from the president. According to the Minister of Law and Human Rights Supratman Andi Agtas, this amnesty was given as part of a joint effort ahead of the commemoration of Indonesian Independence Day on August 17, 2025. With this amnesty, all criminal law consequences that ensnared Hasto are considered abolished (Prasetyo, 2025).

Policy Excellence: Stability, Reconciliation, and Purpose-Oriented Philosophy

One of the strongest arguments in favor of this policy is its goal of achieving national reconciliation after sharp political polarization. The Minister of Law, Supratman Andi Agtas (KemenkumRI, 2025). Explicitly stated that this decision is not just a personal or political matter. He emphasized, "I know this is a legal decision, but it has political implications... But, once again, the President's view goes beyond just political affairs. This is for the sake of the Unitary State of the Republic of Indonesia," He added that the President's primary consideration is for the "integrity of the nation and state" because "we have too many problems today that we have to overcome together with all political forces."

This statement is particularly relevant to the philosophical framework of utilitarianism (Mill, 1969) which justifies an action based on its consequences in creating the greatest happiness or well-being for the greatest number of people. In this context, political stability and national unity are seen as the "greatest good" that outweighs the disadvantages of non-judicial proceedings against specific individuals. By ending the cycle of political feuds, the government can be more effective in carrying out its programs without being burdened by prolonged internal conflicts.

Philosophically, this view is also in line with the concept of goal-oriented legal philosophy (*purposive approach*), as proposed by (Gunarto, 2012). Here, the primary goal of legal action does not always have to be retribution or punishment, but can also be in the form of reconciliation or improvement of social conditions. By quoting the president's statement delivered by the Minister of Law and Human Rights, we can argue that this amnesty and abolition manifest that goal: facilitating reconciliation and creating stability, which is a more beneficial outcome for the nation.

Another advantage of this policy is its ability to end the cycle of mutual demands between political elites. The granting of amnesty and abolition ended this political drama, allowing the government to effectively carry out its programs without being burdened by prolonged internal conflicts. This policy also reaffirms the role of the president as the head of state who has the *prerogative rights* to act in the broader public interest. The Minister of Law and Human Rights emphasizes that the constitution protects this prerogative. It is exercised with the approval of the House of Representatives, which indicates that this action is within the legal corridor. This action is an expression of the higher power of the state, which can take extraordinary decisions for extraordinary purposes, according to Hernández (2023), who states that amnesty is an instrument of state power.

Policy Shortcomings: Threats to Accountability, Justice, and the Rule of Law

Although the government's official statement highlights the noble purpose of this policy, the sharpest criticism comes when it is tested within the philosophical framework of restorative justice. Restorative justice demands substantive accountability, not just formal. Granting amnesty and abolition from the top, without a transparent process involving confession, directly ignores this principle.

The statement of the Minister of Law and Human Rights that this is for the sake of "the integrity of the nation" and to "address common problems" does not explain how the accountability of the individuals involved (Tom Lembong and Hasto Kristiyanto) is fulfilled.

This shortcoming is that amnesty ends the accountability process, not completes it. The legal process was stopped so the public could not see full accountability. This risks sending the message that individuals with political power can avoid legal consequences, which is directly contrary to (Rawls, 1971) the principle of justice is equality before the law.

In addition, this policy also misses the crucial recognition stage in the restorative process. The perpetrator's acknowledgment of the harm caused is the first step towards healing. Without official recognition, the public has no clarity on whether the accusations against Lembong and Hasto are true or false. This creates the impression that the cases are politically "eliminated", rather than resolved fairly. Ironically, although the goal is reconciliation, true reconciliation cannot happen without the affected parties' recognition, accountability, and participation. Without these elements, as expressed by (Freeman & Pensky, 2012) In international law, a pardon granted without accountability can be considered morally invalid.

Case Chronology and Relation to the Principle of Restorative Justice

To provide a sharper analysis, let's relate the chronology of the case to the core principles of restorative justice: accountability, recognition, and reconciliation.

Accountability

The legal process against Tom Lembong (alleged abuse of authority) and Hasto Kristiyanto (alleged defamation) is a formal channel to enforce accountability. The public waits for the court to prove the allegations and impose legal consequences. Restorative justice demands accountability that goes beyond punishment. It is about the perpetrator voluntarily taking responsibility for the losses caused. However, the granting of amnesty and abolition by President Prabowo stopped this process. This decision eliminates the opportunity for both individuals to demonstrate accountability publicly through court proceedings or restorative forums. With the suspension of legal proceedings, the public cannot see substantive accountability for the existing allegations.

Recognition

The accusations against Tom Lembong and Hasto Kristiyanto caused public harm, both in the form of state losses (Lembong's case) and erosion of trust in political integrity (Hasto's case). Legal processes are supposed to serve as a mechanism to acknowledge wrongdoing (if any) and validate the harm suffered by society. The principle of recognition in restorative

justice is crucial. This is the first step towards healing. President Prabowo's amnesty and abolition missed this stage of recognition. The decision was political, not the result of public recognition by the individuals concerned. Without official recognition, the public has no clarity on whether the allegations are true or false. This can create the perception that the cases are "eliminated" unilaterally, rather than resolved fairly.

Reconciliation

These cases come amid intense political polarization. Of course, presidential clemency aims to achieve national reconciliation and stability. In a restorative framework, true reconciliation is a participatory process in which all affected parties (perpetrators, victims, and communities) are involved in restoring damaged relationships. Although President Prabowo's policies may have achieved reconciliation at the level of the political elite, he has failed to achieve true reconciliation from a restorative perspective. This *top-down* reconciliation does not involve the community at large. No public forum or dialogue allows the public to understand and heal the existing divisions. As a result, instead of rebuilding trust, this action could erode it.

Balance and Implications for the Future

The debate in the cases of Tom Lembong and Hasto Kristiyanto reflects the enduring tension between political pragmatism and the principle of substantive justice. The common point between these two views lies in the process behind the policy. Inherently political and pragmatic actions can be directed toward restorative and just goals if and only if they are implemented with transparency, accountability, and participation. This is where Nonet and Selznick's concept of Responsive Law becomes particularly relevant. According to (Asa et al., 2021) Responsive law is a law that creatively adapts to increasingly complex social realities. These laws are not as rigid as dogmatic autonomous laws, but they constantly serve the dynamics of culture and the needs of society.

The amnesty and abolition granted by President Prabowo to Tom Lembong and Hasto Kristiyanto are classic examples of such tensions. These actions are legally legitimate and politically justifiable from a utilitarian point of view because they have the potential to create stability and reduce polarization. However, this action is philosophically problematic from the lens of restorative justice. It is a *top-down* process that stops accountability, fails to engage the affected public, and risks undermining trust in the rule of law.

As an instrument, amnesty has the potential to serve restorative purposes, but only if applied differently. For an amnesty to be truly restorative and bridge the gap between political pragmatism and justice, it must meet conditions focusing on recognition, compensation, and participation.

First, amnesty must be based on recognition. The perpetrator must admit their mistakes publicly. If the legal process is stopped, public accountability must still be enforced by publicly recognizing the forgiven party for wrongdoing. This acknowledgment must be accompanied by an apology and a real commitment to repair the losses incurred through financial restitution or symbolic actions. Thus, despite no prison sentence, a moral responsibility is met. This aligns with the philosophy of restorative justice, which prioritizes relationship restoration.

Furthermore, this policy must be accompanied by compensation and systematic reforms. There must be efforts to repair the losses that have occurred, both through financial restitution and symbolic actions. In addition, these policies should be framed as part of systematic reforms. If amnesty is seen as a way to overcome political divisions, the next step is to ensure that similar divisions do not recur. This can be achieved through institutional reforms that strengthen the independence of law enforcement and prevent the law from being used as a political tool. This embodies a broader abolitionist approach, as discussed by Stahly-Butts & Akbar (2022), where reform strengthens existing systems, challenges them, and improves them.

Finally, the use of clemency must involve public participation. The process should involve transparent public involvement through a hearing forum or a reconciliation commission. While the final decision is in the hands of the president, the decision-making process can be made more transparent by involving a public forum, where the victim or affected party can be heard. This participation will reduce the perception that amnesty is a unilateral decision that only serves the interests of the elite and make reconciliation a sincere and collective process.

Ultimately, the value of an amnesty and abolition policy is not a good or evil act, but rather a matter of how it is implemented and communicated to the public. Suppose these policies are used strategically to achieve stability without neglecting the principles of accountability and become a driving force for greater reform. In that case, they can successfully bridge the gap between political pragmatism and substantive justice. Of course, in this case, Pancasila is the orientation of the highest source of legal order. According to (Asa and Syamsuddin, 2025), the entire process of law formation and implementation in Indonesia must

reflect the fundamental values of Pancasila which include Piety, Humanity, Unity, People, and Justice. When such values are consistently internalized into the legal structure, national law becomes a formal tool for regulating society and a means of moral actualization, spirituality, and substantive justice. Without these elements, an amnesty risks becoming nothing more than a convenient political decision, rather than an instrument of justice.

CONCLUSION

An in-depth analysis of President Prabowo Subianto's decision to grant amnesty and abolition to Tom Lembong and Hasto Kristiyanto reveals a tension between political pragmatism and substantive justice. Although these actions have a legal basis and can be justified utilitarianly to achieve national stability and reconciliation, this approach is problematic when viewed from the restorative justice framework. Instead of restoring social harmony through a transparent, accountable, and participatory process, this decision effectively halted the legal process. This could undermine public trust in law enforcement and put equality in a vulnerable position before the law. Thus, this policy shows that even the most powerful state privilege can be a double-edged sword: a powerful instrument for political ends. Still, it can also erode the foundations of true justice that should be upheld.

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