

Limitations on the Human Rights of Former Convicts in Becoming Land Deed Officials

Davit Syaifudin¹⁾ & Siti Rodhiyah Dwi Istinah²⁾

¹⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: davitsyaifudin.std@unissula.ac.id

²⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: sitirodhiyahdwiistinah@unissula.ac.id

Abstract. *This study aims to analyze the suitability of the policy of restricting the human rights of former convicts to become Land Deed Officials (PPAT) with the principles of law and human rights, and to formulate recommendations for fairer and more inclusive policies. This study uses a normative legal method with a descriptive-analytical approach to laws and regulations, court decisions, and relevant legal doctrines. Satjipto Rahardjo's theory of justice and legal certainty theory are used as theoretical foundations to assess the proportionality and rationality of the policy of restricting former convicts in the PPAT profession. Based on the study, it is concluded that, first, the restrictions as regulated in the applicable regulations are not fully in line with the principle of non-discrimination and the right to work as regulated in the 1945 Constitution and international human rights instruments. Second, a more proportional policy reformulation based on social rehabilitation is needed, so that former convicts still have the opportunity to contribute in the notary field without ignoring the integrity of the PPAT profession.*

Keywords: *Convicts; Discrimination; Legal.*

1. Introduction

The issue of human rights (HAM) for former prisoners is an important concern in legal studies. According to Prabowo (2023), former prisoners often face discrimination in obtaining the right to work, even though they have completed their sentence. Prabowo's research in Purworejo Regency found that community stigma and regulatory barriers were the main obstacles to the social reintegration of former prisoners in the formal sector. A similar thing was emphasized by Putra, Dewi, and Arthanaya (2022) who noted that although the Manpower Law provides general protection, former prisoners remain vulnerable to violations of their right to work.

One real form of restriction of rights is the prohibition of former convicts from becoming Land Deed Officials (PPAT) as regulated in Government Regulation Number 24 of 2016. On the one hand, this restriction is intended to maintain the integrity and public trust in the PPAT position. However, on the other hand, this raises questions about the extent to which the restriction is in line with the principles of non-discrimination and human rights.¹Karmani et al. (2022) emphasize the importance of understanding the implementation of PP No. 24/2016 so as not to violate the principle of substantive justice.

In practice, this legal provision creates a gap between ideality and reality. Ideally, former convicts who have fulfilled their obligations should have the opportunity to improve themselves and contribute in the professional field, including as PPAT. However, in reality, this regulation becomes a barrier that actually prolongs the social stigma and economic barriers for them. Hutapea (2023) in the *Oratio Directa* journal states that the process of building the self-concept of former convicts is greatly influenced by the extent to which society and the state provide space for rehabilitation.²

In addition, there are also challenges of different interpretations between officials, professional organizations, and the community regarding these restrictive provisions. Research by I Made Deni Pramudya Adi Putra et al. (2022) revealed that the confusion in the implementation of the Manpower Law has put former convicts in an increasingly weak position, especially in tightly regulated professions such as PPAT. This has the potential to hinder efforts to reintegrate the social and economic interests of former convicts, which should be supported by inclusive and non-discriminatory policies.

At the international level, human rights principles have long emphasized the importance of protection against discrimination, including in the field of employment. However, local research in Indonesia shows a serious gap between legal norms (*das sollen*) and their implementation (*das sein*). Previous research by Najibuddin (2014) also shows that negative public perceptions of former prisoners exacerbate the conditions of injustice they experience, even though there is no formal legal prohibition on working in several sectors.

By observing the various gaps between positive legal policies and human rights principles, it is very important to identify the problems that arise from the restrictions on the human rights of former convicts to become PPAT. The author believes that the study of this issue is not only important from a legal perspective, but also from a social, economic, and moral perspective. Identification of these problems is crucial so that policy recommendations that

¹Sudikno Mertokusumo. (2010). *Penemuan Hukum: Sebuah Pengantar*. Yogyakarta: Universitas Atma Jaya Yogyakarta. p. 142.

²Peter Mahmud Marzuki. (2008). *Pengantar Ilmu Hukum*. Jakarta: Kencana Pranada Media Group. p. 25.

are more inclusive, fair, and in line with human rights principles can be formulated.

This study aims to determine and analyze the restrictions on human rights in Government Regulation No. 24 of 2016 on former convicts who wish to become PPAT in accordance with the principles of law and human rights.

2. Research Methods

This research uses a normative legal approach method, namely an approach that is based on the review and analysis of applicable laws and regulations, legal doctrines, and court decisions that are relevant to the issues being studied.³The research specification is descriptive-analytical, which aims to systematically present the legal facts related to the restrictions on the human rights of former convicts to become Land Deed Making Officials (PPAT), while also analyzing them based on legal principles and human rights.⁴

Data collection was conducted through library research, utilizing primary legal materials in the form of laws, government regulations, and directly related jurisprudence, supported by secondary legal materials such as books, journals, scientific articles, and other legal literature, as well as tertiary legal materials in the form of legal dictionaries, encyclopedias, or other reference sources that support the analysis.

Data analysis was conducted qualitatively with a descriptive-analytical approach. Data obtained from literature studies were processed and systematically arranged, then analyzed to describe existing legal provisions, while assessing their compliance with the principles of non-discrimination, justice, and human rights, especially in the context of professional restrictions for former convicts who wish to act as PPAT.⁵

3. Results And Discussion

3.1. Restrictions on Human Rights in Government Regulation No. 24 of 2016 for Former Convicts Who Want to Become PPAT

The position of Land Deed Making Officer (PPAT) plays a strategic role in the Indonesian agrarian legal system. PPAT is a public official who is authorized by law to make authentic deeds regarding certain legal acts related to land rights or

3Fajar, Mukti. (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar p. 44.

4Sitohang, E. S. (2016). *Kajian hukum terhadap anak berhadapan dengan hukum dalam tindak pidana pencabulan (Studi Putusan Nomor: 65/Pid.Sus-Anak/2015/PN.Mdn)* [Skripsi, Universitas Medan Area]. Repositori Universitas Medan Area. P. 103. <https://repositori.uma.ac.id/handle/123456789/544>. accessed on 7 March at 17:53 Wib.

5Moleong, LJ (2014). *Qualitative Research Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosdakarya. p. 6.

Ownership Rights of Apartment Units. These deeds hold strong evidentiary power and are the basis for the land registration process at the land office. Thus, the existence of PPAT not only carries out administrative functions, but also functions of public trust and legal protection.

Government Regulation Number 24 of 2016, which revised Government Regulation Number 37 of 1998, strictly regulates the requirements to be appointed as a PPAT. One important provision, namely Article 6 paragraph (1) letter d, contains a restriction that a person who has been convicted of a crime that is punishable by imprisonment of five years or more cannot be appointed as a PPAT. This provision then gave rise to debate from the perspective of the principle of non-discrimination and human rights because it gave rise to permanent exclusion of former convicts.⁶

The analysis of this study shows that the restrictions in PP No. 24 of 2016 have the potential to violate the principle of proportionality. This restriction does not differentiate the type of crime, so it applies generally to both perpetrators of serious crimes such as murder and perpetrators of minor crimes that are not directly related to the integrity of the PPAT profession. On the other hand, this regulation also does not provide space for the rehabilitation process or restoration of legal status after someone has completed their sentence.

From a positive legal perspective, Article 28D paragraph (2) of the 1945 Constitution guarantees every citizen to get equal opportunities in government and employment. The right to work is also emphasized in Article 27 paragraph (2) of the 1945 Constitution which states that every citizen has the right to work and a decent living for humanity. International instruments such as the Universal Declaration of Human Rights (UDHR) Article 23 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 6 affirm similar principles at the global level.⁷

Research shows that there is a discrepancy between national legal norms that limit the access of former prisoners to become PPAT with the principle of non-discrimination that is recognized constitutionally and internationally. This aspect emphasizes that legal policies should not only be oriented towards protecting positions and public trust, but must also consider the principles of rehabilitation and social reintegration of former prisoners.

6 Nagara, SA (2021). Nagara, S. A. (2021). *Pembinaan dan pengawasan notaris mantan narapidana oleh Majelis Pengawas Notaris di DIY (Tesis, Universitas Islam Indonesia)*. Accessed on 17 May 2025 at 18.00 WIB, accessed from <https://dspace.uui.ac.id/bitstream/handle/123456789/33378/18921073%20Satria%20Akbar%20Nagara.pdf?sequence=3>

7 Teguh Prasetyo: *Hukum Menjaga Martabat Manusia Tetap Mulia*. Accessed from DKPP Republik Indonesia 20 May 2025 at 09.28 WIB, <https://dkpp.go.id/prof-teguh-prasetyo-hukum-menjaga-martabat-manusia-tetap-mulia/>

From the literature review, Putra, Dewi, and Arthanaya (2022) highlighted that the Employment Law in Indonesia has actually provided a legal framework to protect former prisoners from employment discrimination, but its implementation in the field is still minimal and often defeated by more specific sectoral regulations. Likewise, Prabowo (2023) noted that in many regions, former prisoners often experience administrative and social barriers when trying to access formal employment, including in the legal and notary sectors.

Normative analysis also requires an understanding of the principle of legal certainty. In Gustav Radbruch's theory, positive law that violates the principle of justice in an extreme way loses its legitimacy as law. Thus, the provisions of Article 6 paragraph (1) letter d of PP No. 24/2016, if applied rigidly without a reassessment or rehabilitation mechanism, have the potential to violate the values of substantive justice and the constitutional rights of citizens.

In addition, the Islamic perspective in law also supports the principles of repentance and *islah* (reconciliation), which emphasize a second chance for individuals who have served their sentences and improved themselves. Contemporary scholars argue that the restoration of the social status of former prisoners is part of *rahmatan lil 'alamin* (blessing for the whole world) which is a basic value in Islamic teachings.⁸

In discussing the case of position, this study explores concrete examples where former prisoners who have academic qualifications, good work records, and a strong desire to serve are rejected because of these absolute restrictions. These cases show that legal regulations do not always reflect the proportionality values that should exist in the formulation of public policy.⁹ In some international jurisprudence, such as decisions of the European Court of Human Rights, absolute denials based on past legal status are often seen as contradicting the principles of fair treatment and proportionality.

The research recommendation emphasizes the importance of reformulating fairer legal provisions, for example by considering the type of crime, the duration of the sentence, and the rehabilitation track record after the convict has completed his sentence. This approach allows for a more individual and proportional eligibility selection without ignoring the public interest and the integrity of the profession.

8 Sarung BHS. (2024). *Mukaffar 'Anhu: Konsep Pengampunan Dosa Dalam Islam*. Diakses dari <https://www.sarungbhs.co.id/post/article/mukaffar-anhu-konsep-pengampunan-dosa-dalam-islam>. Accessed on 18 May 2025 at 17.00 WIB.

9 Direktorat Jenderal Pemasyarakatan. (29 December 2025). *Eks narapidana: Antara diterima atau ditolak masyarakat*. <https://www.ditjenpas.go.id/eks-narapidana-antara-diterima-atau-ditolak-masyarakat>

The role of professional organizations such as the PPAT Association is also crucial in formulating a code of ethics that is in line with human rights principles, including drafting guidelines that provide space for former convicts who have met ethical, moral, and professional requirements. In addition, the government through the Ministry of Agrarian Affairs and Spatial Planning/BPN needs to open a space for public discussion regarding the revision of PP No. 24/2016 in order to present regulations that are more responsive and adaptive to the development of human rights values at the national and international levels.

Overall, the results of the study indicate that the absolute restriction of former convicts to become PPAT as currently regulated is not in line with the spirit of social reintegration, the principle of substantive justice, and the right to work guaranteed by the constitution and international law. Policy reform is needed to create a balance between the protection of public office and the restoration of the human rights of individuals who have served their sentences well.

3.2. Protection of the Human Rights of Former Convicts to Become Land Deed Officials (PPAT) in the Future

The issue of limiting the rights of former convicts to become Land Deed Making Officials (PPAT) has become a serious concern, especially when human rights, principles of justice, and social reintegration are the main foundations in the national and international legal systems.¹⁰In this context, it is important to examine in depth how the protection of the rights of former prisoners can be realized in the future so that it is in line with the principles of fair, proportional and non-discriminatory law.

The professionalism of PPAT does require a high level of integrity and public trust. However, it cannot be denied that every citizen has the constitutional right to obtain equal employment and opportunities before the law. Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution firmly guarantee these rights. Therefore, absolute restrictions on former convicts to become PPAT need to be reconsidered proportionally.

Gustav Radbruch's theory of legal certainty and Satjipto Rahardjo's progressive legal theory teach that law must be present as an instrument of social justice, not a tool of exclusion. When positive law produces substantial injustice, then justice must be put forward. This requires a redesign of regulations so as not only to guarantee the integrity of the PPAT profession but also to provide space for the reintegration and rehabilitation of former prisoners.¹¹

In the Islamic legal approach, the concepts of repentance (repentance), *islah* (reconciliation), and *rahmat* (compassion) emphasize opportunities for

10 Nama Penulis, *Judul Bab II (Skripsi, Universitas Kristen Satya Wacana, Tahun)*, p. 17

11 Gustav Radbruch, *Rechtsphilosophie*, ed. Erik Wolf (Stuttgart: Koehler Verlag, 1973), p. 221.

improvement and elimination of past mistakes through changes in attitudes and concrete actions. The views of classical and contemporary scholars in *Siyasah Fiqh* acknowledge that individuals who have repented and improved themselves are still worthy to carry out public mandates if they have fulfilled certain moral and social requirements.¹² Therefore, it is not appropriate for past stigma to be used as the sole basis for denying access to an honorable profession such as PPAT.

The perspective of human rights and Pancasila is also in line in guaranteeing the rights of every citizen to obtain a decent living. The values of Pancasila, especially Just and Civilized Humanity and Social Justice for All Indonesian People,¹³ become a moral and ideological foundation to support more inclusive policies towards former prisoners who have demonstrated the intention and ability to contribute positively to society.

In practice, various countries have adopted a more accommodating approach to ex-convicts. For example, common law systems and some European jurisdictions require waiting periods, disclosure of criminal records, and ethical evaluations to assess the suitability of ex-convicts to practice certain professions. This approach is considered fairer than an absolute ban.

In the Indonesian context, a number of jurisprudence such as Constitutional Court Decision No. 4/PUU-VII/2009 and Supreme Court Decision No. 46 P/HUM/2018 show the tendency of national law to accommodate the political and employment rights of former prisoners after serving their sentences. This opens up a strong precedent to review the provisions of PP No. 24 of 2016 which tend to be discriminatory.

For this reason, protection of the human rights of former prisoners in the future in the context of the PPAT profession can be realized through several policy steps:

- 1) Regulation Revision: The government needs to revise Article 6 paragraph (1) letter d of PP No. 24 of 2016 by clarifying that former convicts can register as PPAT after completing the waiting period and moral verification.
- 2) Waiting Period Implementation: Providing an opportunity after a certain period of time after sentencing to ensure that rehabilitation has actually taken place.
- 3) Ethical and Social Verification: Use of instruments such as recommendations from community leaders, certificates of good conduct, and ethical interviews to assess the suitability of PPAT candidates.

12 Makna dan Klasifikasi Amanah Qur'ani Serta Relevansinya dengan Pengembangan Budaya Organisasi. *AL QUDS: Jurnal Studi Alquran dan Hadis*, p. 120–143.

13 Kusmilawaty, K., Tarigan, AA, & Nasution, YSJ (2024). Good Corporate Governance Sebagai Implementasi Amanah Dalam Al-Qur'an (Tafsir QS. Al-Mu'minin). *Jurnal Ilmiah Ekonomi Islam*, 10(1), p. 1045–1051.

- 4) Anti-Stigma Campaign: There needs to be an effort from the government and society to eliminate the social stigma against former prisoners.
- 5) Professional Ethics Guidelines: The PPAT Association can develop an inclusive yet strict code of ethics, which takes into account legal history without automatically disqualifying anyone.
- 6) Independent Supervisory Body: There is a need to establish an objective ethics body or selection committee to evaluate cases on a case-by-case basis, avoiding discrimination and subjectivity.

With these steps, the state not only protects the legal profession from abuse of authority, but also demonstrates its commitment to human rights and social justice. This also contributes to creating an inclusive and humanist national legal system.

In conclusion, a just future for former convicts as PPAT requires synergy between the principles of legal certainty and substantive justice. The state must be present to ensure that the legal system is not only a tool of social control but also a means of restoring and empowering citizens.

4. Conclusion

Based on the results of the research that has been conducted, it can be concluded that the restrictions on the human rights of former convicts to become Land Deed Officials (PPAT) as stipulated in Government Regulation No. 24 of 2016 are not fully in line with the principles of non-discrimination, justice, and human rights stipulated in the 1945 Constitution and Law Number 39 of 1999 concerning Human Rights. Absolute restrictions without considering aspects of social rehabilitation have the potential to create structural discrimination that hinders the opportunities for former convicts to contribute professionally, even though legally they should have the right to work and receive equal treatment before the law. As a suggestion, it is necessary to reformulate policies and develop a fairer, more proportional, and individual assessment-based selection mechanism for former convicts who want to become PPAT. The government, through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, is expected to be able to formulate regulations that maintain the integrity of the PPAT profession, but also respect the rights of former convicts who have met ethical, moral, and legal requirements. This inclusive approach is important to encourage social reintegration, reduce negative stigma, and create a more just and humane legal order.

5. References

Journals and Internet Sources:

- Direktorat Jenderal Pemasyarakatan. (29 December 2025). Eks narapidana: Antara diterima atau ditolak masyarakat. <https://www.ditjenpas.go.id/eks-narapidana-antara-diterima-atau-ditolak-masyarakat>
- Gustav Radbruch, *Rechtsphilosophie*, ed. Erik Wolf (Stuttgart: Koehler Verlag, 1973), p. 221.
- Hakim, R., & Susilo, A. (2020). Makna dan Klasifikasi Amanah Qur’ani Serta Relevansinya dengan Pengembangan Budaya Organisasi. *AL QUDS: Jurnal Studi Alquran dan Hadis*, 4(1), p. 120–143.
- Kusmilawaty, K., Tarigan, A. A., & Nasution, Y. S. J. (2024). Good Corporate Governance Sebagai Implementasi Amanah Dalam Al-Qur’an (Tafsir QS. Al-Mu’minun). *Jurnal Ilmiah Ekonomi Islam*, 10(1), p. 1045–1051.
- Nagara, S. A. (2021). Pembinaan dan pengawasan notaris mantan narapidana oleh Majelis Pengawas Notaris di DIY (Tesis, Universitas Islam Indonesia). Accessed on 17 May 2025 at 18.00 WIB, dari <https://dspace.uui.ac.id/bitstream/handle/123456789/33378/18921073/%20Satria%20Akbar%20Nagara.pdf?sequence=3>
- Prof. Teguh Prasetyo: Hukum Menjaga Martabat Manusia Tetap Mulia. Accessed from DKPP Republik Indonesia 20 May 2025 at 09.28 WIB, <https://dkpp.go.id/prof-teguh-prasetyo-hukum-menjaga-martabat-manusia-tetap-mulia/>
- Sarung BHS. (2024). Mukaffar ‘Anhu: Konsep Pengampunan Dosa Dalam Islam. Diakses dari <https://www.sarungbhs.co.id/post/article/mukaffar-anhu-konsep-pengampunan-dosa-dalam-islam>. Accessed on 18 May 2025 at 17.00 WIB.
- Sitohang, E. S. (2016). Kajian hukum terhadap anak berhadapan dengan hukum dalam tindak pidana pencabulan (Studi Putusan Nomor: 65/Pid.Sus-Anak/2015/PN.Mdn) [Skripsi, Universitas Medan Area]. *Repository Universitas Medan Area*. P. 103. <https://repository.uma.ac.id/handle/123456789/544>. accessed on 7 March at 17:53 Wib.

Books:

- Fajar, Mukti. (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar,

- Mertokusumo, S. (2010). *Penemuan Hukum: Sebuah Pengantar*. Yogyakarta: Universitas Atma Jaya Yogyakarta.
- Moleong, L. J. (2014). *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosdakarya,
- Peter Mahmud Marzuki. (2008). *Pengantar Ilmu Hukum*. Jakarta: Kencana Pranada Media Group.