

LEGAL CERTAINTY AND JUSTICE OF FORMER PRISONERS ON THE RIGHT TO OBTAIN JOBS; STUDY OF SKCK REQUIREMENTS IN JOB RECRUITMENT

Asyif Faozi ^{a*)}, Siti Kunarti ^{a)}, Sugeng Santoso PN ^{a)}

^{a)} *Jenderal Soedirman University, Purwokerto, Indonesia*

^{*)} *Corresponding Author: asyif.faozi.@mhs.unsoed.ac.id*

Article history: received 19 May 2026; revised 26 June 2026; accepted 29 June 2026

DOI: <https://doi.org/10.33751/jhss.v10i01.17>

Abstract. This study examines legal certainty and justice for former inmates in obtaining the right to employment, especially related to the requirements of Police Record Certificates (SKCK) in the recruitment process. Using normative juridical methods with a legislative approach and legal doctrine, this study finds that normatively the state has provided guarantees of the right to employment through Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution and Article 5 of Law Number 13 of 2003 concerning Manpower which applies to all citizens without exception. However, the regulatory vacuum in Police Regulation Number 6 of 2023 that does not limit the use of SKCK proportionally opens up space for systemic discrimination in the job market. Reviewed through John Michael Otto's theory of Real Legal Certainty, only one of the five requirements of real legal certainty is partially met. Reviewed through John Rawls' theory of justice, the practice of refusing recruitment in absolute terms based on SKCK records violates the principles of *Equal Liberty* and Fair Equality of Opportunity, because the existing equality is only formal and does not reflect real substantive equality, so that former prisoners are structurally excluded from access to basic economic rights even after serving their sentences and this cannot be legally justified as also affirmed by the Constitutional Court Decision Number 35/PUU-XXII/2024.

Keywords : SKCK, Former Prisoners, Legal Certainty, Justice

I. INTRODUCTION

Former inmates are individuals who have served criminal sanctions for their unlawful acts, and have legally accounted for their actions before the state through a legitimate judicial process. After being released from prison, they should regain an equal status with other citizens in the eyes of the law. [1] The responsibility for self-recovery and positive life development lies with the former inmates themselves through active participation in rehabilitation programs. This aims to support their successful return to society and reduce recidivism. [2]

The difficulty of getting a job for ex-convicts is a direct consequence of negative public sentiments. This injustice arises because the public tends to view them only based on past mistakes, which ultimately hinders the process of recovering their lives. The right to work is a manifestation of fundamental human rights that are constitutionally protected for all citizens, including individuals who have completed their sentences.

Juridically, this guarantee is aimed at realizing social welfare and a dignified standard of living. However, in reality, ex-convicts are often hit by persistent negative stigmas and structural

barriers when trying to access the job market. This refusal is often justified through administrative requirements in the form of a Police Record Certificate (SKCK) that contains a criminal history, so that the document is the main determinant that hinders the process of economic reintegration into the structure of society. [3]

In the practice of labor recruitment, the majority of employers, both government agencies and private companies, still make SKCK a mandatory requirement. When a former inmate's SKCK includes his criminal history, this directly becomes a significant obstacle and the main concern for former inmates who want to apply for jobs. Furthermore, the issuance of SKCK that contains past criminal records is considered to provide hidden sanctions that are psychologically sustainable to former inmates, even though legally they have served punishment for their actions through a legitimate court process. [4]

Human rights as a basic right inherent to every individual from birth are a key element in the state of law. Wolhoff emphasized that these rights are rooted in the nature of humanity and cannot be revoked without eliminating the existence of humanity itself. Therefore, the inclusion of human rights

formulations in the 1945 Constitution is not only a form of respect for human dignity, but also as the main condition of the state of law. In the field of employment, the law must guarantee the right to decent work, freedom of choice, the right to fair working conditions, proportionate wages, and freedom of association without barriers. [5] The constitutional basis regarding the right to work is affirmed in Article 27 paragraph (2) of the 1945 Constitution, which guarantees the right of every citizen to a decent livelihood and work. [6] In line with that, Article 5 of Law No. 13 of 2003 on Manpower strengthens the principle of equality by ensuring that every individual, including former prisoners, has an equal opportunity to get a job without discriminatory treatment. [7]

In terms of police law, the issuance of SKCK has been regulated through the National Police Regulation of the Republic of Indonesia Number 6 of 2023 concerning the Issuance of Police Record Certificates. Based on Article 2 paragraph (1) of the regulation, SKCK is intended to be used as a document for the purposes of applying for jobs, continuing education, nomination of public officials, and various other administrative purposes. [8]

Previous research conducted by Putra, Dewi & Arthanaya (2022) entitled "Legal Protection of Former Prisoners in the Perspective of Manpower Law" examined the employment rights of former inmates based on Law No. 13 of 2003 and concluded that Articles 5 and 6 of Law Number 13 of 2003 concerning Employment guarantee equal employment opportunities without discrimination, but this study has fundamental limitations because it does not examine the requirements of SKCK juridically, does not discuss issues from the perspective of the principles of justice and legal certainty. [9] While Naidha & Saleh's (2025) research entitled "Implementation of the Social Reintegration Program of Prisoners in the Fulfillment of the Right to Obtain Employment" examines this issue from the perspective of correctional policy based on Law No. 22 of 2022 and recommends the elimination of administrative barriers in recruitment, this study does not examine the requirements of SKCK specifically, does not build an analytical framework based on the principles of justice and legal certainty. [10]

Thus, the two previous studies together left a significant research gap, namely the absence of a study that analyzed the protection of the employment rights of former inmates in the framework of Law No. 6 of 2023 concerning Job Creation as well as testing the suitability of SKCK requirements in recruitment with the principles of justice and legal certainty, which is the main focus of this research.

Based on the description of the above problem, it can be seen that there is a significant normative gap between the guarantee of the right to employment as guaranteed by the constitution and the Labor Law, but on the one hand, with the reality of the administrative obstacles experienced by former prisoners through the SKCK requirements in recruitment on the other hand. This research is important and urgent to be carried out in order to examine in depth two interrelated legal issues, namely: first, how the legal arrangement of the right to obtain a job for former inmates is actually in accordance with the requirements of

the SKCK and second, whether the provisions of the SKCK requirements in the recruitment process are in accordance with the principles of justice and legal certainty.

Social Reintegration

Referring to KBBI, reintegration is understood as a recovery process to reunite things that were once separated or cracked. [11] While social means everything related to society. [12] Therefore, social reintegration is an effort to reintegrate individuals or former inmates who have violated the law into the social order. This process is directed so that they are able to become productive individuals and obey the applicable social rules, with an emphasis on the active role of the community in guiding them to start a new chapter of life after completing their criminal term.

As an integral part of the integrated justice system in Indonesia with the correctional system through Law Number 22 of 2022 concerning Corrections, it has undergone a more complex and comprehensive strengthening of substance in overseeing the pre-adjudication to post-adjudication stages by emphasizing the paradigm shift from sentencing to social reintegration and restorative justice that focuses on the transformation of relationships, the protection of human rights for prisoners, children of inmates, victims and the community, as well as the restoration of the dignity of prisoners so that they can return to society. In addition, the role of the Community Center is strengthened from the beginning of the criminal justice process through the Community Guidance function which aims not only to restore dignity and foster the awareness of inmates so that they are ready to be accepted back by their social environment, but also to reduce the recidivism rate in the community. [13]

The duties and roles of Bapas through Community Counselors as a bridge for former inmates or correctional clients so that they can be re-accepted by the community through Community Research on Parole and Parole, Assistance for the diversion of children who are facing the law, guidance, and supervision which is a coaching program with the function of integrating Prisoners and Children into the life of the community. [14]

Counseling activities for correctional clients include aspects of personality and independence. Personality counseling focuses on psycho-spiritual aspects through dialogue with PK to restore the client's mental and legal awareness. In contrast, counseling for self-reliance focuses on practical aspects through job training, technical skills, and business simulations. Through this holistic approach, correctional services succeed in striking a balance between character reconstruction from within and providing real life skills, so that clients are ready to become good and independent individuals after release. [15]

John Michael Otto's Theory of Legal Certainty

Normatively, legal certainty is manifested through the formation and promulgation of regulations that are definite, general, and equally binding on every citizen. This universal characteristic places legal certainty in a realm that intersects with legal positivism where a school that reduces law to the Written Law and views that the judiciary is only a means of applying

articles to concrete events. [16] Nevertheless, John Michael Otto deconstructs this rigid view by making a firm distinction between juridical legal certainty and real legal certainty.

According to John Michael Otto, the existence of systematic and modern codification of law does not necessarily manifest into substantive legal certainty at the social level. He distinguishes this concept into two dimensions, namely juridical certainty that focuses on normative clarity, completeness of legal sources and logical coherence of the rule system as well as real legal certainty that is not absolute, but depends on the level of legal opportunity to be implemented effectively. In this case, Otto conceptualizes real legal certainty as a form of dynamic social probability, not just abstract legal certainty on paper. [17]

Based on this theory, John Michael Otto stated that found between legislation and reality we find a wide gap. In other words, there is little real legal certainty. (*Real Legal Certainty*). The lack of real legal certainty generally occurs in certain conditions, namely; [18]

- a. There are clear or clear, consistent and easily obtainable legal rules issued by the state power;
- b. That the governing agencies (government) apply these legal rules consistently and also submit and obey them;
- c. That the majority of citizens in principle agree with the content and therefore adjust their behavior to the rules;
- d. That independent and impartial judges apply the rule of law consistently as they resolve legal disputes;
- e. That judicial decisions are concretely implemented

John Rawls's Theory of Justice

Referring to the Great Dictionary of the Indonesian Language, justice is defined as an attitude that is not arbitrary, unbiased, and neutral. [19] The meaning of the value of justice has developed rapidly thanks to the influence of the thought of John Rawls, a famous American philosopher from the end of the 20th century. Through his main literary contributions such as *A Theory of Justice*, *Political Liberalism*, and *The Law of Peoples*, Rawls has a very strong and profound influence in mapping the direction of the discussion on justice. [20]

Rawls's conceptual framework, the subject of law in a hypothetical situation of the original position would adopt two main principles of justice as the structural basis of Society. Equal basic freedoms (*equal liberty*) occupies the first priority, where everyone's right to fundamental freedoms is guaranteed to the widest extent as long as it does not negate the freedom of others. Furthermore, the second principle conditions socio-economic inequalities to be regulated in such a way as to meet two objectives, the first is the principle of difference (*difference principle*) which demands the distribution of maximum benefits to the lowest strata of society; and second, the guarantee that all positions and public authorities are open to every citizen under equal opportunity paying. [21]

II. RESEARCH METHODS

This study uses a type of normative juridical research with a qualitative approach, which is focused on

analyzing the legal certainty and justice of ex-convicts towards the right to obtain a job after the enactment of Law Number 13 of 2003 concerning Manpower. The approach used includes historical, legislative, and legal doctrine approaches with data in the form of non-numerical information such as written documents, laws and regulations, and legal literature. The data source of this research only uses secondary data which is divided into three categories. First, primary legal materials that include the 1945 Constitution, Law Number 13 of 2003 concerning Manpower, as well as Indonesian Police Regulation Number 6 of 2023. Second, secondary legal materials in the form of books, scientific journals, articles, and online resources related to the Right to Obtain Jobs for Ex-Inmates, John Michael Otto's Theory of Legal Certainty, and John Rawls' Theory of Justice. Third, tertiary legal materials such as legal dictionaries, indexes, and bibliographies that function as complements and supports research.

III. RESULTS AND DISCUSSION

Legal Arrangement of the Right to Get Jobs of Former Prisoners Against the Requirements of SKCK

The Indonesian Constitution explicitly recognizes the right to work as a basic right of citizens. Article 27 paragraph (2) of the 1945 Constitution is the primary foundation that states that every citizen has the right to decent work and livelihood. Furthermore, Article 28D paragraph (2) of the 1945 Constitution strengthens this guarantee by stating that everyone has the right to work and to receive fair and decent remuneration and treatment in employment relationships.

The phrases "every citizen" and "every person" in both articles have a normative scope that is *erga omnes* applies to all citizens without exception based on criminal background. As stated by Rhona K.M. Smith, Human Rights contain two elements that must be fulfilled, namely equality and non-discrimination. Equality is defined as equal treatment where in different situations with little debate are treated differently such as equality before the law, equality of opportunity and others which are important in fulfilling human rights. While Non-discrimination is interpreted as meaning when everyone is treated or has unequal opportunities. [22]

From the perspective of social reintegration, the purpose of punishment is not solely punitive (retributive), but also the recovery of the perpetrator to return to society productively. This is in line with the purpose of punishment contained in Article 51 letter b of Law Number 1 of 2023 concerning the National Criminal Code which emphasizes that a goal of punishment in the modern legal system focuses on restoring the rights of a citizen who is intact where it no longer decides the future of a law violator but rehabilitates for the sake of humanity. [23]

Then in Article 52 of Law Number 1 of 2023 concerning the National Criminal Code, which is correlated with Article 28D of the 1945 Constitution, it descriptively describes that the guarantee of protection of human dignity is an absolute condition for the fulfillment of the Constitutional rights of a convicted

person or former prisoner, including his right to a decent job and livelihood. Thus, this consistent protection of dignity is the main foundation that allows former prisoners to remain confident and have a complete human capacity to access, fight, and receive the right to work and fair treatment in employment relationships as mandated by Article 28D paragraph (2) of the 1945 Constitution when they return to society. [24]

In the framework of labor law contained in Article 5 of Law 13 of 2003 concerning Manpower, every worker has the same opportunity without discrimination to get a job. [7] Thus, normatively, the Employment Law that a person's social or past status, including the status as a former prisoner whose track record is listed in the SKCK, should not be a legal reason for the job market to carry out systemic discrimination.

Referring to the Constitutional Court Decision Number 35/PUU-XXII/2024 concerning the testing of Law Number 13 of 2003 concerning Manpower, where in consideration the judge reaffirmed the legal limitations on discrimination based on the Human Rights Law and previous decisions which stated that discrimination only occurs if there is a difference in behavior without a reasonable reason based on aspects such as religion, ethnicity, race, social status, and gender. The Court emphasized that the elements of age, experience and education are not included in the category of discrimination, because treating different things religiously will actually create injustice. [25]

Meanwhile, in the context of the Police Record Certificate, it is an official document issued by the Police Intelligence function at the request of the Applicant (the Public) to meet certain administrative requirements. This document is issued based on the results of biodata verification and the applicant's legal track record registered with the Police. Article 17 of Police Regulation Number 6 of 2023 states that the SKCK is valid for up to 6 months from the date of issuance and can be extended again by the applicant if its validity period has expired and is still needed. [8] A former inmate still gets a Police Record Certificate, but the document will include their legal status factually from the Police data. Even if they do not have the status of suspects, the defendant, or those who have been sentenced by the court, will still find the track record written in the SKCK with the details of the violation. [26]

Thus, the element of discrimination actually does not originate from the legality of SKCK documents issued by the police, but appears in recruitment practices in the job market. However, there is an aspect of weakness in Perpol Number 6 of 2023, namely the absence of explicit restrictions regarding the urgency of using SKCK only for positions with high security risks such as state civil servants, law enforcement officials, or positions directly related to state assets. This regulatory gap has the potential to be exploited by the private sector to overimpose SKCK requirements, which triggers systemic discrimination in the job market. When companies reject ex-convicts absolutely, without testing the correlation between their criminal record and the required competencies, there is a direct violation of Article 5 of the Labor Law, which mandates the right to discrimination-free work for every citizen.

Analysis of SKCK Requirements for the Recruitment Process in the Principle of Legal Certainty and Justice *Legal Certainty Aspects*

Legal Certainty refers to written rules that are made and officially ratified to bind the community without selective felling. This approach makes the concept of legal certainty identical to the school of legal positivism which argues that the law is only a law and the duty of the judiciary is solely to apply the rule to concrete cases. [16] Nevertheless, Otto provides a realistic limit by dividing this concept emphatically into two dimensions, namely the certainty of juridical law over work and the certainty of real law in social reality.

On John Michael Otto's theory of *Real Legal Certainty* if it is linked to the Police Record Certificate (SKCK) as a requirement for job recruitment for former inmates, then in the first element that the availability of rules about SKCK is regulated in Police Regulation Number 6 of 2023 as analyzed above, even though the rule is a mere administration that presents police data, it can be an inhibiting tool for former inmates who want to find work because it is limited by their legal history status listed in the SKCK and does not explicitly provide an urgency limit on the use of SKCK only for positions with high security risks. [18] This dilemmatic condition clearly distorts the implementation of Article 35 paragraph (1) of the Manpower Law which regulates the mechanism for meeting labor needs, both carried out independently by employers and through labor placement implementers. [7] As a result of the absolute function of the SKCK as the main filter, the access of former inmates to the job placement system becomes closed. This not only negates the guarantee of equal employment in Article 5 of the Labor Law, but also harms the constitutional right of citizens to fair treatment before the law as guaranteed in Article 27 paragraph (2) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Then the second element of Otto wants all government agencies not only to issue legal rules, but also to apply them consistently in the practice of state administration and submit to those rules. [18] The Ministry of Manpower as an institution responsible for the protection of labor rights has not issued technical guidelines that expressly limit the use of SKCK in the recruitment process, especially in the private sector. In fact, the norm prohibiting discrimination in access to employment has been explicitly contained in Article 5 of Law Number 13 of 2003 concerning Manpower. Without operational technical guidelines, these norms only stop as declarative provisions and are difficult to enforce in real terms.

On the other hand, the Police as the SKCK issuing institution has also not provided clear regulatory limits regarding the context and type of position that proportionately requires the document as a recruitment requirement. Police Regulation Number 6 of 2023 only regulates the procedure for issuing SKCK, but does not regulate the limits of its use at all, so that this document can be freely enforced by anyone and for any purpose without adequate restrictions. Meanwhile, Correctional Institutions and Correctional Centers that run social reintegration

programs for former inmates operate separately without structured coordination with the two institutions. As a result, reintegration efforts that have been built through coaching programs within correctional institutions have no real guarantee of continuity when former inmates return to society and face structural obstacles in the job market.

Third, in the third condition Otto, it can be interpreted that the majority of citizens, in this case including business actors as part of the legal community, not only understand the content of a rule but also voluntarily adjust their behavior to the norms that have been set. [18] This requirement is considered to have not been fulfilled in the context of the use of SKCK in the recruitment process. The norm of equal employment opportunities contained in Article 5 of Law Number 13 of 2003 concerning Manpower expressly prohibits all forms of discrimination in access to employment. However, in reality, these norms have not been actually internalized in recruitment practices carried out by business actors. Many companies, especially in the private sector, make SKCK as an absolute selection instrument, meaning that the existence of a criminal record in the SKCK is immediately a reason for rejection without first testing whether the track record has relevance to the competencies or risks inherent in the position offered.

Such recruitment behavior reflects that most business actors have not adjusted their actions to the spirit of anti-discrimination norms that have been promulgated by the state. This can happen due to several interrelated reasons. First, the absence of technical guidelines from the government that explains operationally the limits of the use of SKCK causes business actors to not feel bound by the prohibition. Second, the absence of firm and consistent sanctions against SKCK-based discriminatory practices makes business actors not have sufficient encouragement to change their recruitment behavior. Third, the social stigma against former inmates who are still strong in society also influences the perspective of business actors in assessing the eligibility of prospective workers, so that rejection based on criminal records is considered a reasonable and justifiable action. [27] This condition shows that there is a significant gap between the norms written in laws and regulations and the real behavior of the community, especially the business community. As long as these gaps are not overcome through consistent law enforcement and adequate education, the norm of equal employment opportunities will continue to cease as a purely symbolic provision. This is the basis for the assessment that Otto's third condition has not been met in the context of this problem.

Fourth, Otto's fourth element requires independent and impartial judges or judicial institutions to apply the rule of law consistently in every dispute resolution. This requirement is considered only partially fulfilled in the context of the use of SKCK in the recruitment process. On the one hand, the existence of the Constitutional Court Decision Number 35/PUU-XXII/2024 reflects that the Indonesian judiciary is able to produce proportionate application of the law. In the decision, the Court reiterated that discrimination can only be said to occur if there is a difference in treatment without a reasonable reason, especially

based on aspects of religion, ethnicity, race, social status, and gender. However, the Court generalizes things that are inherently different will actually give birth to injustice. This statement implicitly supports the argument that the uniform application of the SKCK requirements for all types of positions without considering the relevance of the risk is a form of unfair treatment.

Finally, the fifth, This fifth element has not been adequately verified. There is no effective supervisory mechanism to ensure that judicial decisions related to employment discrimination are implemented by business actors.

Aspects of Justice

Principle *Equal Liberty* is the first principle of John Rawls's theory of justice which states that everyone, without exception, has the same right to basic freedoms. The basic freedoms that Rawls refers to can be interpreted as not only freedom of speech or religion, but also includes economic freedom, including the right to equal access to employment. [21] In the context of Indonesian law, this right has received constitutional recognition through Article 27 paragraph (2) of the 1945 Constitution which guarantees the right of every citizen to a decent job and livelihood, and Article 28D paragraph (2) of the 1945 Constitution which guarantees the right of everyone to work and receive fair treatment in employment relations.

When the state through a court decision states that a person has completed his or her sentence, then the state also legally states that the criminal affairs have been completed as contained in Article 46 of Law Number 22 of 2022 concerning Corrections [28]. As a logical consequence, ex-convicts should once again have all the constitutional rights inherent in them as citizens, including the right to equal employment. The state's declaration that the sentence has been served cannot be interpreted half-heartedly, i.e. free from prison but still bearing exclusivity in the job market for life.

However, in practice, the use of SKCK as a basis for absolute recruitment rejection without considering the relevance of the criminal record to the position applied for creates conditions that are contrary to the principle *equal liberty*. The absolute refusal means that no matter what type of crime has been committed, no matter what position is applied for, and no matter how much time has passed since the sentence has been served, former inmates are still rejected solely because of the records stated in the SKCK. There is no proportionate test as to whether the track record is really related to the risks or competency demands of the position in question. It is this condition that Rawls would categorize as a violation of the *equal liberty*, because it effectively creates what in this analysis is referred to as an inferior class of citizens.

The term describes a group of citizens whose independence is formally recognized by the state, but is structurally excluded from access to basic economic freedoms. They are no longer prisoners, but they are also not truly free in the substantive sense, because structural barriers in the job market continue to follow them even though the state itself has declared that their sentences have been fully served. This is the

fundamental paradox that makes the practice of excessive use of SKCK in recruitment contrary to Rawls' principle of justice.

Then the principle *Fair Equality of Opportunity* is part of the second principle of John Rawls's theory of justice, which requires that every position and position in society be open to all people on the condition that there is a truly fair equality of opportunity. What needs to be understood here is that Rawls is not just talking about formal equality, that is, equality that only exists on paper in the form of rules that textually do not discriminate against people. [21] Rawls wanted deeper equality, that is, substantive equality that means real opportunities that can be accessed in real and actual by each individual taking into account their actual conditions and positions in the social structure.

In the context of the use of SKCK in the recruitment process, this distinction between formal equality and substantive equality becomes very relevant. Formally, there is no rule that explicitly prohibits ex-convicts from applying for jobs, giving the impression that the opportunities are equal. However, substantively, when SKCK containing criminal records is used as an instrument of absolute selection by business actors, former inmates are systemically excluded from the arena of fair competition for positions not because they are incompetent, but solely because of past track records that have been legally resolved through a legitimate judicial process. In other words, they lose the competition even before the competition actually begins, because structural barriers in the form of SKCK records have already closed the door for them.

Constitutional Court Decision Number 35/PUU-XXII/2024 which is implicitly in line with Rawl's perspective. The Court affirms two interrelated things: first, that discrimination occurs when there is a difference in treatment without a reasonable reason, and second, that generalizing things that are essentially different actually gives birth to injustice. [25] If it is related to the context of SKCK, the application of the SKCK requirements identically and uniformly for all types of positions without considering whether the criminal track record listed in it is really relevant to the risks and demands of the position applied for is a form of equalization of things that are actually different. The position of a gardener, production operator, or administrative personnel clearly has a different risk profile from the position of the state civil apparatus or law enforcement. Treating the two with identical SKCK standards without rational distinction, both in the framework of Rawls and in the consideration of the Constitutional Court, is a manifest form of injustice and cannot be legally justified.

IV. CONCLUSION

Based on the discussion above, it can be concluded that normatively the state has provided guarantees of the right to work for all citizens without exception through Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution, Article 5 of the Manpower Law, as well as Article 51 letter b and Article 52 of Law Number 1 of 2023 concerning the National Criminal Code. However, the regulatory vacuum in Police Regulation

Number 6 of 2023 that does not limit the use of SKCK proportionally opens up space for systemic discrimination in the job market which directly contradicts the normative guarantee. The provisions of the SKCK requirements in the current recruitment process are not fully in accordance with the principles of legal certainty and the principle of justice.

From the perspective of Otto's theory, only one of the five requirements of real legal certainty is partially met, while the other four conditions suffer from a significant deficit. From the perspective of Rawls' theory, the practice of absolute rejection based on SKCK records without proportional testing violates the principle of *Equal Liberty* because it creates a group of citizens who have been formally declared free by the state but are structurally excluded from access to basic economic rights. Furthermore, the uniform application of the SKCK requirements for all types of positions without considering the relevance of the criminal track record to the risk profile of each position also violates the principle *Fair Equality of Opportunity*, because existing equality is only formal on paper and does not reflect real substantive equality. This condition is emphasized by the Constitutional Court Decision Number 35/PUU-XXII/2024 which emphasizes that generalizing different things actually gives birth to injustice, so that the use of SKCK as an instrument of absolute selection without rational distinction cannot be legally justified

REFERENCES

- [1] S. Widagdo, *Legal Dictionary*. Jakarta, Indonesia: Prestasi Pustaka, 2012, p. 352.
- [2] R. M. D. Pangestu and R. Rahaditya, "The urgency of social rehabilitation for addicted prisoners," *Unnes Law Review*, vol. 6, no. 2, pp. 5802–5808, 2023, doi: 10.31933/unesrev.v6i2.
- [3] K. M. Herawati, "Issuance of Police Record Certificate (SKCK) in the perspective of human rights protection," *Raad Kertha*, vol. 8, no. 2, 2026. [Online]. Available: <https://ejournal.universitasmahendradatta.ac.id>
- [4] M. Arif, "Juridical analysis of the existence of SKCK in relation to the purpose of criminalization," *Social Sciences*, vol. 12, no. 10, pp. 4183–4192, 2025. [Online]. Available: <http://jurnal.um-tapsel.ac.id/index.php/nusantara/index>
- [5] A. A. Setia, "Legal certainty and social justice in Indonesian labor law," *Review of Education and Teaching*, vol. 8, no. 2, pp. 5014–5018, 2025. [Online]. Available: <http://journal.universitaspahlawan.ac.id/index.php/jrpp>
- [6] People's Consultative Assembly of the Republic of Indonesia, *The 1945 Constitution of the Republic of Indonesia*, 2000. [Online]. Available: <https://www.mkri.id/index.php?page=web.RegulationsPIH&id=1&menu=6&status=1>
- [7] Republic of Indonesia, *Law of the Republic of Indonesia*

- Number 13 of 2003 concerning Manpower, 2003.
- [8] National Police of the Republic of Indonesia, Regulation of the National Police of the Republic of Indonesia Number 6 of 2023 concerning the Issuance of Police Record Certificates, 2023.
- [9] Faculty of Law, Warmadewa University, "Legal protection of ex-convicts in the perspective of employment law," *Law Profession*, vol. 3, no. 1, pp. 161–164, 2022, doi: 10.22225/jph.3.1.4677.161-164.
- [10] I. Naidha and M. Saleh, "The implementation of the social reintegration program of prisoners in the fulfillment of the right to obtain employment," *Indonesian Journal of Research and Community Service*, vol. 4, no. 2, pp. 2457–2466, 2025, doi: 10.57235/aurelia.v4i2.5698.
- [11] Great Dictionary of the Indonesian Language (KBBI), "Reintegration." [Online]. Available: <https://kbbi.web.id/reintegrasi>. [Accessed: May 31, 2026].
- [12] Great Dictionary of the Indonesian Language (KBBI), "Social." [Online]. Available: <https://kbbi.web.id/sosial>. [Accessed: May 31, 2026].
- [13] J. C. Poluan, D. T. Antow, and L. K. F. R. Gerungan, "Juridical analysis of social reintegration in the correctional system based on Law Number 22 of 2022 concerning Corrections," *Lex Privatum*, vol. 14, no. 2, 2022. [Online]. Available: <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/58210>
- [14] M. F. Zarkasi, *Community Advisor*, 1st ed. West Kalimantan, Indonesia: IDE Publishing, 2020, p. 83.
- [15] A. N. Aziza, U. Anwar, L. Afrika, A. Muhammad, and B. Priyatmono, "The role of community counselors in the process of social reintegration of clients in the Palembang Class I Correctional Center," *Al Zayn: Journal of Social and Legal Sciences*, vol. 3, no. 6, pp. 8471–8483, 2025, doi: 10.61104/alz.v3i5.2547.
- [16] K. N. Aulia, "Legal certainty and legal justice in the perspective of communication sciences," vol. 2, no. 1, pp. 713–724, 2024.
- [17] S. Irianto, S. Pompe, and A. W. Bedner, *Real Legal Certainty in Developing Countries*. Denpasar, Indonesia: Pustaka Larasan, 2012, p. 123.
- [18] R. P. Wardani and S. U. Firdaus, "Analysis of Job Creation Law in the coherence theory of law formation," *Democracy and National Resilience*, vol. 1, no. 4, pp. 724–733, 2022, doi: 10.13057/souvereignty.v1i4.120.
- [19] F. D. Pratama, R. Pebriansya, and M. A. Pratama, "The concept of justice in Aristotle's thought," *Applied Philosophy*, vol. 1, no. 2, pp. 1–23, 2024, doi: 10.11111/praxis.xxxxxxx.
- [20] A. K. Soleh, "Observing John Rawls's theory of social justice," *Ulul Albab*, vol. 5, no. 1, 2004, doi: 10.18860/ua.v5i1.6152.
- [21] P. M. Faiz, "John Rawls's theory of justice," *Konstitusi*, vol. 6, no. 1, p. 140, 1921, doi: 10.2139/ssrn.2847573.
- [22] E. Riyadi, *Human Rights Law from an International, Regional and National Perspective*, 4th ed. Yogyakarta, Indonesia: PT Raja Grafindo Persada, 2018, p. 28.
- [23] Republic of Indonesia, *Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code*, 2023.
- [24] E. O. S. Hiariej and T. Santoso, *Annotation of the National Criminal Code*, 6th ed. Depok, Indonesia: Raja Grafindo Persada, 2025, p. 66.
- [25] Constitutional Court of the Republic of Indonesia, *Decision Number 35/PUU-XXII/2024*, 2024.
- [26] M. Reza, "Legal consequences of the issuance of Police Record Certificates (SKCK) for former inmates," *Sulawesi Law Review*, vol. 6, no. 2, pp. 3489–3501, 2024. [Online]. Available: <https://jurnal-unsultra.ac.id/index.php/sulrev>
- [27] M. Rahmi, H. Tahir, and A. R. A. Sakka, "Community stigma against former prisoners (case study of Ganra District, Soppeng Regency)," *Phinisi Integration Review*, vol. 4, no. 2, 2021, doi: 10.26858/pir.v4i2.22102.
- [28] Republic of Indonesia, *Law Number 22 of 2022 concerning Corrections*, 2022.