



# *Consistency of Constitutional Court Decisions in Realizing Fair Legal Certainty*

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**Abstract**—The significance of decision consistency by the Constitutional Court in scrutinizing statutes is paramount for achieving legal certainty. Occasionally, however, the Court has invalidated the essence of a legal norm, whilst identical norms remain effective within other legislation. Addressing this issue, the researcher intends to utilize a descriptive-qualitative methodology to explore the Constitutional Court's reasoning in its judgements concerning the reviews of the Criminal Procedure Code (KUHP) and the Prosecutor's Law. It was ultimately deduced that, in safeguarding the constitution, maintaining decision consistency by the Constitutional Court is crucial to ensure judicial oversight, thereby preventing deviations from the constitution by state authorities, fostering legal order in society, and attaining equitable legal certainty as stipulated by the 1945 Constitution.

**Keywords**—Prosecutors are prohibited from judicial review; legal certainty in the Constitutional Court's decision.

## I. INTRODUCTION

The formulation of laws is structured through several defined stages under Law No. 12/2011 concerning the Formation of Legislation, as last revised by Law No. 13/2022 through the Second Amendment to Law No. 12/2011 (hereinafter referred to as Law 12/2011). This law outlines the procedural phases involved in creating regulations, encompassing the planning, drafting, deliberation, enactment or determination, and finally, the promulgation of laws.

Despite rigorous discussions and thorough considerations in the legislative process, it has been necessary to revise laws in accordance with the governing regulations of the Republic of Indonesia, specifically the 1945 Constitution (UUD 1945). In practice, the Constitutional Court (MK) has found certain provisions within laws to be inconsistent with the UUD 1945. From 2003 to 2023, the Constitutional Court adjudicated 1,739 judicial review cases concerning legislative enactments, granting 309 of these challenges either fully or in part.[1]

Article 47 of Law Number 24 of 2003 on the Constitutional Court, as amended most recently by Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 (MK Law), stipulates that decisions made by the Constitutional Court are binding and final once pronounced in a plenary session open to the public. This indicates that any law or portion thereof declared unconstitutional by the Constitutional Court becomes null and void immediately (self-executing). Nonetheless, this does not preclude the possibility that the same provisions found unconstitutional might still exist in other statutes.

Ideally, lawmakers should swiftly act to amend or create new legislation in response to decisions from the Constitutional Court that grant or partially grant judicial reviews. Yet, this process is far more complex than it seems.

Lawmakers are bound by certain protocols and procedures when it comes to implementing the Constitutional Court's decisions.

Harmonization, in this legal context, involves aligning the content of draft laws and regulations as well as the techniques used in drafting these documents so that they form a cohesive unit within the national legal system.[2] This process should incorporate the substance of the legal reasoning found in the Constitutional Court's decisions. Despite this, numerous laws continue to contain provisions similar to those previously deemed unconstitutional by the Constitutional Court, remaining in effect because they have not been directly challenged or declared unconstitutional by the court. This necessitates a "constitutional solution" to prevent legal conflicts within the community.

The consistency of the Constitutional Court's rulings is crucial. Inconsistencies in ruling on cases involving similar legal matters could confuse the public and create significant legal uncertainties, especially concerning law enforcement in Indonesia.

In light of this, the study focuses on the consistency of the Constitutional Court's decisions and their impact on legal certainty. It examines the legal reasoning behind the Constitutional Court's rulings in two different cases concerning laws with identical matters: Case Number 33/PUU-XIV/2016 and Case Number 20/PUU-XXI/2023. In the former, the court reviewed Article 263 paragraph (1) of the Criminal Procedure Code (KUHAP), which pertains to the prosecutor's authority to seek a judicial review (Peninjauan Kembali/PK) in criminal cases. The latter case involved a similar review of the Prosecutor's Office Law, focusing again on the constitutionality of the prosecutor's authority in the judicial review process.

## II. LITERATURE REVIEW

### A. *The Interpretation of Law*

The term "judicial review" refers to the power to examine and evaluate whether legislative regulations align with higher legal standards or contradict them, and whether a specific authority is entitled to enact a particular regulation.[3] This authority can be distributed among judges at all levels or centralized within higher judicial bodies such as the Supreme Court or the Constitutional Court. When judicial review powers are granted to ordinary court judges, their authority typically extends only to the ability to set aside the provisions of laws and regulations rather than to annul them or declare them devoid of binding legal force, which is a capacity reserved for the Supreme Court or Constitutional Court.[4] On the other hand, "constitutional review" specifically pertains to the evaluation of statutory provisions against the constitution, using the constitution itself as the highest legal standard. The review process is essential for ascertaining the constitutionality of statutes, thereby safeguarding against any transgressions or inconsistencies with the nation's fundamental legal framework.[4]

Judicial review, or jurisdictional control, involves the judiciary's oversight of the legislative and executive branches. Brewer-Carrias describes this as an inherent duty of the courts, ensuring that legislative and executive actions comply with the supreme law of the land.[5] This oversight is meant to uphold the constitution's integrity and prevent deviations by other government branches. Maurice Duverger highlights the importance of judicial control in preserving the foundational principles of fundamental law. According to Duverger, this institutional check ensures that laws and legislative actions remain within constitutional boundaries, thus preserving the law's sanctity and significance. Additionally, judicial review monitors the executive branch to ensure its actions are lawful and do not violate legal standards. This dual oversight function is essential for maintaining balanced and lawful governance.[6]

Inspired by concepts and practices from the United States,[7] Indonesia initially vested the authority of judicial review in the Supreme Court. Over time, this authority evolved significantly within the Indonesian legal framework, particularly after major amendments to the 1945 Constitution. This transformative period marked a critical shift from the previously dominant principle of parliamentary supremacy to the supremacy of law or the constitution. This change emphasized that every state issue in Indonesia must be resolved through the constitution, affirming its status as the highest law within the national legal system. The process of testing laws against the 1945 Constitution directly reflects this principle, reinforcing the constitution's role as the supreme law. These changes not only highlight the overarching authority of the constitution but also ensure that all legislative actions are evaluated in accordance with constitutional mandates, thereby upholding the rule of law and protecting fundamental rights.

In its capacity to uphold the Constitution, the Constitutional Court of Indonesia employs diverse interpretative methods to resolve cases of judicial review. A vital aspect of this process is legal discovery, enabling the court to delve into the deeper meanings and implications of the laws under examination. The approach to legal discovery significantly differs between Continental European and Anglo-Saxon legal traditions.

Typically, Continental European jurists draw a clear line between interpretation and construction. In this tradition, interpretation remains true to the text, seeking to reveal the explicit meaning within the legal language. This

method focuses on a textual analysis that adheres strictly to the written words, without extending beyond the clear limits set by the text.

Conversely, Anglo-Saxon legal thought does not always rigidly separate interpretation from construction. Often, Anglo-Saxon approaches permit a broader examination of the legal text, incorporating wider societal, historical, and contextual factors that might influence the law's interpretation. This method may involve a more expansive construction, where the law's application and implications are considered beyond the literal text, frequently adapting to new circumstances and evolving societal norms.

These differences highlight the variety of approaches the Constitutional Court can use in its judicial review process, reflecting a blend of legal traditions that enhance its interpretative capabilities. This blend enables the Court to effectively navigate complex legal landscapes and uphold the constitutional mandate with a nuanced understanding of both the letter and the spirit of the law.

In the construction method, more flexibility is provided to judges compared to strict textual interpretation. Logical reasoning allows judges to explore the law's text more deeply, potentially exceeding the boundaries of a static legal system. In this role, judges interpret and shape the law to meet broader legal principles and societal needs that might not be explicitly detailed in the text. The *Sens Clair* doctrine offers specific guidelines for when judicial discovery is necessary. According to its proponents, judicial discovery is warranted under two main conditions:

1. **Ambiguity in the Rules:** When the rules applicable to a case are unclear or open to interpretation, legal discovery is needed. This situation occurs when the law's language is vague, providing substantial room for judicial discretion in its application.
2. **Need for Elucidation:** Legal discovery is justified when there is a recognized need to clarify existing rules to address new situations or contexts that the original framers of the law might not have explicitly anticipated.

According to the *Sens Clair* doctrine, legal discovery by judges should only be conducted under specific conditions. These conditions occur when the rules pertinent to a case are ambiguous or when clarification of existing rules is necessary. Outside these situations, judges are expected to adhere strictly to the text of the law, thereby maintaining a narrower scope of judicial interpretation. This approach underscores the importance of judicial restraint, emphasizing respect for legislative intent unless clear ambiguity necessitates judicial intervention.

The second perspective on legal discovery posits that it is a continuous necessity in judicial proceedings. Achmad Ali contends that judges are always engaged in legal discovery due to the inherent limitations of language, which invariably requires interpretation. The nuanced nature of human thought means that language often fails to encompass the full spectrum of meanings, necessitating judicial interpretation to bridge these gaps. From this viewpoint, language is not merely a communication tool but a complex instrument that can both obscure and clarify. For example, the term "poor" can mean financially impoverished, morally deficient, or lacking in knowledge, depending on the context. Such ambiguity demands judicial intervention to determine the specific intent and applicable meaning within a legal context.

Achmad Ali highlights that language, whether spoken or written, serves as a medium for conveying thoughts to others. However, the interpretation of words can often diverge significantly from the author's original intent. This discrepancy underscores the importance of legal discovery, where judges must interpret and clarify the meanings behind the words in legal texts, ensuring their interpretations align with broader social, ethical, and legal frameworks. Consequently, legal discovery is seen not just as a tool but as an essential aspect of judicial responsibility, ensuring the law remains relevant and responsive to the complexities of human communication and societal values.[8]

Interpretation, as emphasized by Sudikno Mertokusumo, is an essential technique in judicial discovery based on the assumption that judicial work possesses a logical nature. According to Mertokusumo, when judges undertake interpretation, they are not merely clarifying the law but ensuring that this clarification is understandable and acceptable to the community. This notion highlights that interpretation extends beyond literal readings, requiring the law to be contextualized within the societal and practical realities it governs.

Such an approach to interpretation serves as a bridge, linking the abstract language of the law with its practical implementation in specific situations. The objective is not just to ascertain the meaning of statutory words but also to contemplate their broader societal implications. This requires a nuanced perspective, recognizing that laws are not rigid texts but dynamic documents that should be applied in harmony with current social values and conditions.

Therefore, interpretation acts as a crucial tool for judges, enabling them to render the law functional and relevant in real-world contexts. It necessitates a profound comprehension of both the literal and intended meanings of the law, along with an acute awareness of the social dynamics and requirements of the community. This method ensures that the enforcement of legal regulations remains pertinent, fair, and in line with the evolving standards and expectations of society.[9]

Achmad Ali's articulation of nine methods for legal interpretation showcases a broad approach that can be utilized by judges and courts to navigate the intricacies of legal texts, especially within constitutional law. Each method

provides a distinct perspective for examining the law, with certain methods emphasizing the text itself and others integrating wider considerations. Below is a concise summary of each method:[9]

1. **Subsumptive Method:** In this method, a general rule is applied to a specific case. The legal rule relevant to the case is identified by the judge, who then determines if the facts of the case fall within the rule's scope.
2. **Grammatical Interpretation:** Known also as literal interpretation, this method focuses on the text's language. Provisions are interpreted by judges based on the grammatical meaning of the words used.
3. **Historical Interpretation:** This approach examines the historical context of the law's drafting and enactment. By investigating the circumstances at the time of its creation, it seeks to uncover the text's original intent.
4. **Systematic Interpretation:** The law is considered within the broader context of the legal system as a whole. This method looks at how a particular provision fits with other related laws and the overall structure of the statute.
5. **Sociological or Teleological Interpretation:** This method interprets the law based on its purpose and the social functions it is meant to fulfill. It involves understanding the broader social goals and values the law is designed to support.
6. **Comparative Interpretation:** This method draws on how similar laws are interpreted in other jurisdictions. Judges use this to gain insights into different ways of understanding and applying the law.
7. **Futuristic Interpretation:** Considering the future implications of a legal decision, this method looks at the potential long-term effects on society and the legal system.
8. **Restrictive Interpretation:** This method limits the scope of a legal provision. It is often used to narrow down the application of broadly written laws, ensuring they do not extend beyond their intended purpose.
9. **Extensive Interpretation:** Contrary to restrictive interpretation, this method broadens the scope of a legal provision. It extends the reach of the law to cover cases or issues not explicitly mentioned but within the spirit of the law.

These diverse methods enable judges to tailor their interpretive approaches to the unique requirements of each case, the nature of the legal texts, and the wider societal consequences. They showcase the dynamic and multifaceted nature of legal interpretation, particularly within constitutional law, where the implications often concern fundamental governance principles and individual rights.

### *B. Legal Certainty in Various Perspectives*

Normative legal certainty is attained when a regulation is created and communicated clearly and logically, thereby removing any ambiguity or room for varied interpretations. Such precision is essential to ensure the regulation aligns smoothly with existing norms, avoiding any conflicts or contradictions. Legal certainty is marked by enforcement that is unambiguous, steadfast, consistent, and predictable, remaining uninfluenced by subjective conditions. Certainty and justice are not only moral imperatives but also intrinsic qualities of the law.[10]

The concept of legal certainty is heavily influenced by various philosophical schools, including the dogmatic-normative and legalistic-positivistic approaches, both rooted in "legal positivism." This viewpoint predominantly regards the law in terms of its form, focusing on "legal certainty" and viewing the law as an autonomous entity made up of rules, norms, and principles. For adherents of this school of thought, the primary aim of the law is to ensure "legal certainty," which they narrowly define as the predictability and stability of legal outcomes.[11]

Achmad Ali explains in his writings that legal certainty, or *rechtssicherheit*, *rechtszekerheid*, represents a modern concept that emerged alongside the codification, positivization, and publicization of law. Legal certainty encompasses the idea of "law Sicherheit durch das Recht," which classifies actions like theft and murder as crimes under the law. Additionally, it pertains to "Sicherheit des Rechts selbst" (certainty about the law itself). There are four key aspects related to the meaning of legal certainty:

1. **Positive Law:** Legal certainty is established through laws that are formally enacted and legislated.
2. **Fact-based:** The foundation of the law lies in factual situations, not in abstract judgments or moral values like "goodwill" or "decency."
3. **Clarity in Formulation:** It is essential that the facts upon which laws are based are articulated clearly and without ambiguity to prevent misinterpretation and ensure easy enforcement.
4. **Stability of Law:** To ensure consistency and predictability, laws should be stable and not subject to frequent amendments.

Gustav Radbruch, in his work "Einführung in Die Rechtswissenschaften" ("Introduction to Legal Science"), elaborated on the concept of legal certainty as one of the three fundamental values underpinning the law. According to Radbruch, these essential values are:

1. **Justice:** This pertains to the moral dimension of the law, emphasizing fairness and the equitable treatment of individuals.

2. Benefit: This value highlights the practical effectiveness of the law, ensuring that laws serve the welfare and interests of society.
3. Legal Certainty: This value stresses the need for laws to be clear, predictable, and stable, allowing individuals to plan their actions with confidence regarding the legal consequences.

Radbruch asserted that these values occasionally clash, posing a challenge for legal systems to balance them to achieve a harmonious and effective legal order. Legal certainty, in particular, is vital as it offers a dependable framework within which justice and benefit can be sought.[12]

Lon H. Fuller, known as a notable figure among natural law scholars of the previous generation, asserted that internal morality is essential for legal regulations. He emphasized that legal certainty is a crucial element of legal morality. According to Fuller, laws must be formulated clearly so that the general public can understand them, a concept often termed the pursuit of clarity. Furthermore, he highlighted that regulations should be free of contradictions. Friedrich von Hayek also recognized the importance of legal certainty, considering it a vital aspect of the rule of law. Hayek stated that legal certainty, along with generality and equality, is one of the core characteristics of the rule of law.[13]

Legal certainty requires that legal norms, processes, and sanctions are clear and measurable, ensuring their application with absolute certainty. Friedrich von Hayek emphasized that legal certainty entails the predictability of the law, which includes the element of foreseeability. This allows individuals to anticipate the rules governing their behavior, as well as the interpretation and application of these rules. This need for predictability and clarity is essential not only for laws regulating interactions between citizens but also for every governmental action. Such actions must be firmly based on established laws to prevent the misuse of power and ensure that these powers are exercised while respecting every citizen's rights.

To ensure that legal certainty is truly effective and beneficial for every citizen, it is crucial that norms intended to regulate or limit the actions of a nation's people are expressed with unequivocal clarity. The effectiveness of norm formulation can be gauged by how uniformly people understand a specific norm. Additionally, legal certainty allows individuals to understand the limits of the freedoms they can exercise. A lack of legal certainty in law formulation also results in a deficit of legal morality.[13] Enhancing public knowledge about the law is therefore essential for raising legal and constitutional awareness across all levels of society, fostering legal certainty that arises not only from strict rules but also from the public's understanding and respect for the law.[14]

According to Utrecht, legal certainty encompasses two fundamental concepts: the provision of general rules that inform individuals about permissible and impermissible actions, and the protection of individuals from arbitrary governmental actions through these general rules, which clarify the state's possible impositions on individuals.[15] Jan M. Otto's views, as presented by Heru Setiawan in "Digital Transformation in the Law Procedure for Law Testing at the Constitutional Court (Legal and Technological Analysis)" in his Dissertation Proposal at the Postgraduate Doctor of Law Program at the Faculty of Law, Sebelas Maret University, indicate that legal certainty under certain conditions relies on several factors:

- a. Clear, consistent, and accessible legal rules established by state authorities;
- b. Uniform application and adherence to these legal rules by governing agencies;
- c. Fundamental agreement with the rules' content by the majority of citizens, influencing their compliance;
- d. Consistent enforcement of these rules by independent and impartial judges in resolving legal disputes;
- e. Effective implementation of judicial decisions.

According to Sudikno Mertokusumo's perspective, legal certainty ensures the effective operation of the law. This principle entitles rights only to those recognized by legal decisions themselves. While emphasizing that legal certainty is intrinsically linked to justice, he noted the distinct concepts of law and justice. Law is characterized by its generality, obligatory nature that binds every individual, and impersonal approach. In contrast, justice is marked by its subjectivity, individualism, and lack of general application. This differentiation highlights the independent natures of justice and law. Consequently, legal certainty manifests through the faithful application of the law as written, enabling society to rely on the enforcement of existing statutes. To fully grasp the principles of legal certainty, one must acknowledge its deep connection with robust legal frameworks and the state's pivotal role in enforcing positive law.[16]

### III. METHOD

The study employs a qualitative analytical method, with data analysis carried out in both descriptive and qualitative manners. Initially, the verdict data is presented descriptively, providing detailed sentence descriptions of its content. Following this, a qualitative analysis is conducted, starting with the identification of a specific problem which is then examined using relevant theories and norms. This approach aims to clarify, explain, and describe the issue narratively, offering responses or solutions to the identified problem.[17] These responses may also include new

ideas generated through the research outcomes. Additionally, the study utilizes a case approach, focusing on the examination of the legal reasoning, or *ratio decidendi*, [18] used by constitutional judges when adjudicating cases involving the judicial review of laws against the 1945 Constitution. This approach not only dissects the judgments to understand the judicial process but also explores the underlying principles guiding these decisions.

#### IV. RESULT AND DISCUSSION

##### A. *Judicial Review as an Extraordinary Legal Remedy*

Judicial review (*Peninjauan Kembali*) is considered an extraordinary legal remedy in criminal law, aimed at seeking a reassessment of a court decision that has already attained permanent legal force. Historically, the procedure for a case review was initially regulated by Article 21 of Law Number 14 of 1970 concerning the Basic Provisions of Judicial Power (Law 14/1970). Over time, this law underwent several amendments, eventually incorporating judicial review provisions into the Judicial Power Law. This progression signifies the legal framework's adaptation to accommodate shifts in legal practice and theory, thereby ensuring that the mechanisms for judicial review stay pertinent and serve their intended function within the justice system.

Historically, the concept of judicial review is intrinsically linked to the infamous *Sengkon and Karta* case of 1977, where the state was criticized for its erroneous application of the law, having wrongfully punished an innocent individual. This case underscored a crucial reality in the judicial system: judges, being human, are susceptible to errors and cannot be entirely impartial. Consequently, it becomes essential to re-evaluate every judicial decision in pursuit of truth and justice, ensuring that any mistakes made can be rectified. Generally, legal remedies exist precisely for this purpose, serving as tools to prevent or correct errors in judicial decisions. [19] As judicial processes evolve, the use of digital evidence in the evidentiary process has become a notable advancement aimed at minimizing errors. [20] Digital forensics, in particular, has emerged as a significant method in the investigation process, playing a crucial role in substantiating facts and uncovering the realities of a case. This integration of technology in legal processes not only enhances the accuracy of judicial decisions but also helps in establishing a more reliable and efficient justice system. [21]

Supreme Court Regulation No. 1/1980 on Judicial Review of Decisions that have Obtained Permanent Legal Force (*Perma 1/1980*) was enacted by the Supreme Court to address the recurrence of certain errors. Under this regulation, particularly noted in Chapter II for Criminal Cases, Article 9, it is stipulated that requests for the judicial review of criminal decisions, which contain a conviction and have achieved permanent legal force, may be initiated by the Supreme Court. These reviews are permissible for the following reasons:

- a. Judicial reviews may be granted when differing decisions have established certain facts but these facts are contradictory.
- b. Judicial reviews are also permitted if there exist circumstances that would have likely led to the acquittal of the accused, the cessation of prosecution on grounds that the act is not punishable, a rejection of the Prosecutor's request to bring the case to trial, or the application of milder punitive measures, had these circumstances been known during the original trial.

Against the backdrop of the *Sengkon-Karta* case, Articles 263 to 269 of the Criminal Procedure Code stipulate the guidelines for judicial review. These articles clarify that judicial reviews can only be pursued against court decisions that have acquired permanent legal force, with the exception of acquittals or discharges from all legal charges. Moreover, only convicted individuals or their heirs are eligible to submit such reviews. This framework aligns with Soenarto Soerodibroto's perspective, which views "*Herziening*" as a review applicable solely to penalized decisions that are definitive, excluding those where the accused has been acquitted. Further reinforcing this framework, Andi Hamzah and Irdan Dahlan assert that judicial review grants convicts the opportunity to correct permanent court decisions that may have been flawed due to judicial errors or omissions. Additionally, the judicial review serves as an extraordinary legal remedy, aiming to deliver justice and is available to litigants in both criminal and civil cases. Notably, judicial review is a right afforded to convicts while they are serving time in correctional facilities. [22] Significant changes have also been introduced by Law Number 16 of 2004 regarding the Prosecutor's Office of the Republic of Indonesia. Notably, Article 30C letter h of the Prosecutor's Office Law states that Prosecutors/Public Prosecutors are authorized to submit judicial reviews, marking a pivotal development in the legal landscape.

##### B. *Ratio Decidendi of the Constitutional Court's Decision on Judicial Review by Prosecutors*

In the legal deliberations of its verdict, it was posited by the Constitutional Court that the system of criminal law established by the Criminal Procedure Code (*KUHAP*) affords both the convicted individual and the Prosecutor/Public Prosecutor, who represents state interests, the opportunity to pursue extraordinary legal remedies

against judgments that carry permanent legal force. In instances where the Prosecutor/Public Prosecutor deems that the acquittal, dismissal of all charges, or sentencing does not deliver justice to the community, they may initiate an appeal or cassation. Conversely, should the convict or their heirs find the sentencing unjust, they are entitled to seek a judicial review.

It was identified by the Court, within the provisions of Article 263 paragraph (1) of Law 8/1981, that there exist four fundamental principles that must remain inviolate:

1. Judicial review is applicable solely to decisions bearing permanent legal force.
2. It cannot be pursued against an acquittal or dismissal of all charges.
3. It must be initiated by the convicted individual or their heirs.
4. It is applicable exclusively to criminal judgments.

Designed to advantage the convict, judicial review stands as an extraordinary legal recourse that is exclusively accessible to the convict or their heirs. Moreover, the focus of a judicial review is a decision which finds the defendant guilty, coupled with a criminal penalty. Furthermore, considering judicial review as an extraordinary legal recourse underscores its role in protecting citizens' human rights, especially given that the convicted individual contends against substantial state power. Typically, the general public or ordinary citizens find themselves in a weaker position relative to the Prosecutor/Public Prosecutor, who institutionally embodies state authority.

In practice, the Supreme Court receives applications for judicial review from the Prosecutor/Public Prosecutor, regardless of the decision's outcome. A divergence of opinions has emerged among scholars and legal practitioners regarding the Prosecutor/Public Prosecutor's entitlement to request a judicial review following an acquittal or dismissal of all legal charges that carry permanent legal force. For the sake of legal clarity, the Constitutional Court has stressed that the prerogative to request a judicial review belongs to the convict or their heirs, not the Prosecutor. Should the Prosecutor be permitted to seek a judicial review after having previously pursued an extraordinary legal remedy through cassation for legal purposes but was declined, allowing this would undoubtedly engender legal uncertainties and perpetrate injustice. Consequently, the pertinent norm must be declared unconstitutional.

Additionally, in Case Number 20/PUU-XXI/2023, a judicial review request was filed by Hartono, a notary. In his petition, Hartono challenged the constitutionality of Article 30C letter h of the Prosecutor's Office Law and its Explanation. Principally, he contended that the authority to conduct a judicial review should not reside with the Prosecutor/Public Prosecutor, as previously determined in Decision 33/PUU-XIV/2016. In its legal rationale, the Constitutional Court argued that the Prosecutor's Law had augmented the powers of the prosecutor's office to request a judicial review. This extended authority not only generates legal uncertainty but also harbors potential for prosecutorial abuse, particularly in cases involving the review of acquittals or dismissals from all legal charges. Reflecting on past decisions, the Constitutional Court noted that legislators should recognize that allowing prosecutorial authority to seek judicial reviews could infringe upon justice and legal certainty as enshrined in the 1945 Constitution.

Substantively, the norms in the Prosecutor's Law that grant additional authority to the Prosecutor to request a judicial review do not align with the norms of Article 263 paragraph (1) of the KUHAP, as affirmed by a previous decision of the Constitutional Court, which clearly stated that the Prosecutor is not entitled to request a judicial review. Therefore, the provisions of Article 30C letter h and the Explanation of Article 30C letter h of the Prosecutor's Law have been demonstrably shown to conflict with the four conditions for filing a judicial review as constitutionally and conditionally interpreted by the Constitutional Court. Consequently, this not only poses the risk of causing legal dissonance and ambiguity but also results in violations of the right to recognition, guarantees, and protection of fair legal certainty as guaranteed in the 1945 Constitution.

### *C. Consistency of Constitutional Court Decisions in Realizing Legal Certainty*

Based on the legal considerations detailed, the Constitutional Court has aligned the substance of the law by consistently maintaining its decisions when evaluating different statutes that govern identical matters. In its rulings, the Court has unambiguously stated that only convicted individuals or their heirs are eligible to file for judicial review, and such reviews cannot be initiated against acquittals.

In its deliberations, the Court employed several legal interpretation methods: First, **restrictive interpretation** was utilized in Decision Number 33/PUU-XIV/2016, where the Constitutional Court clarified that Article 263 paragraph (1) of the KUHAP should be interpreted strictly according to the wording of the norm. This approach has effectively constrained the scope of interpretation of the article in question, thereby eliminating the possibility of multiple interpretations regarding the application of Article 263 paragraph (1) of KUHAP.

Second, systematic interpretation was applied in Decision Number 20/PUU-XXI/2023. This method considers the law within the context of the entire legislative framework. The Court's rationale reflects this by indicating efforts to prevent legal disharmony and ambiguity during the judicial review process. This approach seeks to synchronize the

substance across various laws within a complex and interlinked legislative system, ensuring no conflicts arise between them, including those laws previously interpreted by the Court.

In essence, the Constitutional Court recognizes that the consistency of its decisions in safeguarding the Constitution is paramount. This consistency ensures that all branches of state power, including law enforcement and judicial authorities like the Supreme Court and its subordinate judicial bodies, adhere to and implement the law in accordance with supreme legal principles. As Brewer-Carrias posits, it is the inherent duty of the courts to ensure that legislative and executive actions conform to the supreme law. This view is supported by Maurice Duverger, who emphasizes that judicial oversight is critical to prevent deviations from the Constitution, thereby preserving the integrity and significance of the fundamental law. Through such oversight, control over the actions of state organs is strengthened, fostering a legal order and ensuring the establishment of fair legal certainty within society.

## V. CONCLUSION

The Constitutional Court is empowered to employ various interpretative methods during constitutional reviews, ensuring it judiciously exercises its authority to foster a legal order that encapsulates fair legal certainty. Given that legislation constitutes an interconnected and comprehensive system, achieving a harmonious alignment between laws and maintaining the consistency of the Court's rulings are essential for preserving the continuity of the spirit and values enshrined in the Constitution. This alignment strengthens the supremacy of both the law and the constitution within Indonesia. Nevertheless, it is acknowledged that the Constitutional Court might revise its stance or legal perspectives in its decisions on similar subjects when examining different statutes (a practice known as overruling). Legal and constitutional frameworks evolve dynamically in response to the changing needs of society and the law. However, should such revisions become necessary, it is crucial for the Constitutional Court to articulate clear reasoning behind any changes in its views or attitudes. This transparency helps ensure that its decisions are comprehensible in their entirety and rooted in historical context, thus mitigating potential legal uncertainty and injustice as mandated by the 1945 Constitution. This approach not only aligns with legal precedents but also adapts judiciously to contemporary demands, reinforcing the judiciary's role in upholding constitutional integrity.

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