

Juridical Analysis of Constitutional Court Decision Number 20/PUU-XXI/2023 Concerning Judicial Review by the Prosecutor's Office in Criminal Cases in Indonesia



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ABSTRACT: In the practice of criminal justice in Indonesia, judicial review efforts are an interesting problem to study because, in the development phase, there is a tug-of-war of interests between the defendant or his heirs and the public prosecutor. The presence of Constitutional Court Decision Number 20/PUU-XXI/2023 ends the debate and legal uncertainty for justice seekers. In this research, the author used a normative juridical approach. The approaches used were the Law approach, Case Approach, and Conceptual Approach. There are several problem formulations in this research: 1) what is the rationale for the decision of the Constitutional Court Number 20/PUU-XXI/2023?; 2) What are the arrangements for judicial review after the Constitutional Court decision Number 20/PUU-XXI/2023. Research Results of problem formulation number 1). According to the Court's consideration, requests for judicial review in criminal cases are the right of the defendant and his heirs, and the addition of the authority of the prosecutor to carry out judicial review efforts does not provide legal certainty and justice. Previously, the court in 2016 decided on a case regarding judicial review efforts, in which the court considered that the essence of a judicial review is the rights of the defendant and his heirs. 2) After the Constitutional Court Decision Number 20/PUU-XXI/2023, the public prosecutor cannot submit a judicial review effort in a criminal case; legally, when the prosecutor makes a judicial review effort in a criminal case, it is invalid/abash. With the decision of the Constitutional Court number 20/PUU-XXI/2023, it is reaffirmed that only the defendant and his heirs can submit a judicial review effort.

KEYWORDS: Decision, Constitutional Court, Judicial Review, Criminal, Prosecutor

I. INTRODUCTION

In the development of an increasingly complex and modern world, the law should follow suit so that the law is not left behind and rigid. As stated by Esmi Warasih in her work entitled Legal Institutions, if the law wants to be able to catch up to the development of society, then the law must be required to respond to all the ins and outs of life social surroundings,¹ we all need to know that Indonesia is a state of law. The question arises in our minds as to what is meant by a state of law because the 1945 constitution does not provide an explicit explanation regarding this definition. Therefore, experts are needed to define the concept of the state of the law. The proof that Indonesia is a rule-of-law state is contained in Article 1, paragraph (3): "Indonesia is a state of law." A state of law is a common type of state recognized by nations in the world today. The rule of law abandoned the type of state that ruled based on the will of the ruler. Since this change, the state is governed based on laws that have been made and provided previously, and the rulers are subject to these laws.² According to Julius Stahl, the concept of the rule of law, which he calls '*Rechtsstaat*,' includes four important elements, namely:³

1. Protection of human rights.
2. Division of power.
3. Government based on law.
4. State administrative court.

¹ [1] Waraasih, E. (2016). LEGAL INSTRUCTIONS, Semarang: Pustaka Magister. p.1

² Rahardjo, S. (2008). A rule of law is a state that makes its people happy. Yogyakarta: Genta Publishing. p2

³ Asshiddiqie, J. (2011). The Idea of the Indonesian Rule of Law, Jakarta: <http://www.jimly.com/>. p. 2. accessed Friday, 9 December 2022

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The consequence of having a state based on law is that all citizens must obey the law without exception. Historically, Indonesia adhered to *Rechtsstaate* before there was a constitutional amendment. However, after the amendment to the constitution, the formulator of the 1945 constitution removed "*rechtsate*" from the explanation of the basic law, so according to Mahfud MD, Indonesia is neither a *rechtstate* nor the rule of law but a prismatic rule of law, taking the best values from the *rechtstate* and the rule of law based on Pancasila. As a rule-of-law country, in fact, legal issues, law enforcement, judicial processes, and court institutions in Indonesia have a very important position and meaning.

The criminal justice system is a unique form of system because of its differences from other social systems. This difference lies in the awareness to produce everything that is unwelcome on a large scale in order to achieve welfare goals (rehabilitation of criminal offenders, P and suppression of criminal acts and social welfare).⁴

In the context of the criminal justice system, it is essentially identical to the law enforcement system because the criminal justice process is essentially a process of enforcing the law.⁵ The "law enforcement" system is basically a "system of power/authority to enforce the law."⁶ The objectives of the criminal justice system can be formulated as follows: (a) preventing people from becoming victims of crime; (b) resolving cases of crimes that have occurred so that society is satisfied that justice has been served and the guilty have been punished; and (c) ensure that those who have committed crimes do not repeat their crimes.⁷ Law enforcers or we work together with law enforcement officers in carrying out their duties and authorities referring to law number 8 of 1981 concerning criminal procedural law, in the development of this law, judicial review has been submitted several times to the constitutional court. The question that arises in our minds is why Law Number 8 of 1981 is often submitted to the Constitutional Court. Is this Law no longer relevant to various legal dynamics, or does this Law contain material that is contrary to the 1945 Constitution? Starting from 2003 to 2018, the Criminal Code itself was the law that received the most judicial reviews, namely 63 times (as of April 2019).⁸

On this occasion, the author will analyze the review efforts more specifically. In general, the regulations regarding judicial review are regulated in Law Number 8 of 1981 concerning Criminal Procedure Law Article 263. Meanwhile, specifically, the regulations regarding judicial review are regulated in Law 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia. As time goes by, the regulation regarding judicial review has become a tug-of-war of interests between the public prosecutor and the defendant or his heirs. So, in the end, there was a Constitutional Court decision Number 20/PUU-XXI/2023 submitted by Hartono, a 59-year-old Notary whose address was at Jalan Drupadi VI Number 8, Sungilang Sari RT 000/RW 000, Sumerta Kelod, East Denpasar, Denpasar City, Bali Province. The Petitioner submitted a request for material review of Article 30 C letter h of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

The complete article reads as follows:

"In addition to carrying out the duties and authority as intended in Article 30, Article 30A and Article 30B of the Prosecutor's Office:

...

...

h. submit a review;

Hartono submitted a request for judicial review to the Constitutional Court because the existence of this law had harmed his constitutional rights. Hartono was once a defendant in a criminal case, but at the final stage, Hartono was declared not guilty. The Prosecutor's Office, through the Public Prosecutor, made efforts to review the case under the pretext of using Article 30C letter H.

On Friday, 14 April 2023, the Constitutional Court read out decision number 20/PUU-XXI/2023, which, in essence, granted the applicant's petition in its entirety so that there was a change to the norm in article 30C letter H" Review by the Prosecutor's Office is a form of duty and responsibility of the Prosecutor's Office to represent the state in protecting the interests of justice for victims, including for the state, by placing the authority of the Prosecutor proportionally on the same and balanced position [equality of arms principle] with the right of the convict or his heirs to submit a review. The review submitted by the

⁴ Muladi. (1995). *Capita Selecta Criminal Justice System*. Semarang: Diponegoro University Publishing Agency. p. 21

⁵ Arief, BN (2017). *Judicial System Reform, Law Enforcement System in Indonesia*. Semarang: Diponegoro University Publishing Agency. p.2

⁶ Arief, B.N. (2022). *Capita Selecta Criminal Law Concerning the Integrated Criminal Justice System*. Semarang: Diponegoro University Publishing Agency. p. 2022

⁷ Atmasasmita, R. (2011). *Contemporary Criminal Justice Systems*. Jakarta: Prenada Media. p.3

⁸ Hidayat, R. "Reviewing the Criminal Procedure Code with Changes Due to the Constitutional Court's Decision", accessed from <https://www.Hukumonline.com/berita/baca/tf5cd153baa178a/mengulas-kuhap-disertaianggaran-akibat-bangunan-mk/>. Accessed March 22, 2024

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directorate is coordinated with the Prosecutor's Office. The prosecutor can carry out a judicial review if, in the decision, the act charged has been proven but has not been followed by a conviction."

By submitting a request for judicial review to the Constitutional Court, it has been decided in decision number 20/PUU-XXI/2023 that Article 30C letter h of Law Number 11 of 2021 concerning the Prosecutor's Office is declared to have no binding legal force and is contrary to the 1945 Constitution. The presence of this decision ends the problem in the process of applying for a judicial review, which only gives the defendant and his heirs the opportunity. At the same time, with the presence of this decision, the Constitutional Court reformed criminal law through its decision, which is final and binding.

From the background stated above, this research is entitled "Judicial Analysis of the Decision of the Constitutional Court Number 20/PUU-XXI/ 2023." The formulation of the problem to be studied is: *First*, how is the *Constitutional Court's decision of 20/PUU-XXI/ 2023 ratio decidendi*? *Second*, what are the implications of this decision in efforts to review criminal cases in Indonesia?

II. MATERIALS AND METHODS

In conducting this research, the author used a normative juridical research method, namely legal research carried out by examining library materials or secondary data as basic material for research by conducting searches on regulations and literature related to the problem being studied.⁹ Researchers use secondary data with legal materials in the form of primary legal materials, secondary legal materials, and tertiary legal materials.

This research uses a statutory approach that will explore the applicable regulations, namely Law Number 11 of 2021 concerning the Indonesian Prosecutor's Office, Law No. 8 of 1981 concerning Criminal Procedure Law, and Constitutional Court Decision Number 20/PUU-XXI/2023. Apart from that, the researcher used a conceptual approach, which is meant by a conceptual approach as Peter Mahmud Marzuki explains in his book, namely moving from views and doctrines that develop in legal science.¹⁰

The data collection method was carried out using library research to collect secondary data in order to obtain the theoretical basis and data needed by researchers to analyze research problems. This research technique uses qualitative data analysis techniques. The results of the research will be presented in the resulting scientific work regarding the juridical analysis of constitutional court decision number 20/PUU-XXI/2023 concerning judicial review by the prosecutor's office in criminal cases in Indonesia.

III. RESULTS AND DISCUSSION

A. *Ratio decidendi* of the Constitutional Court in Decision Number 20/PUU-XXI/2023 concerning Judicial Review by the Prosecutor's Office in criminal cases

The constitutional court is a judicial power and the Constitutional Court is one of the actors of judicial power, which was formed based on Article 24 C of the 1945 Constitution, Third Amendment. Its formation was confirmed in Law Number 23 of 2003 concerning the Constitutional Court. The Constitutional Court has the authority to adjudicate at the first and final instance, and its decisions are final and binding. What is a hot issue among both academics and practitioners is the process of requesting a judicial review, which was previously regulated generally in Law Number 8 of 1981 concerning Criminal Procedure Law and then specifically regulated again in Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia which provides the authority of the prosecutor's office to take legal action for reconsideration.

On 7 February 2023, there was a review of Law Number 11 of 2021 concerning the Prosecutor's Office in Article 30C letter H and the Elucidation of Article 30C letter h regarding the authority of the prosecutor to carry out judicial review efforts by Hartono as Notary (at that time the perpetrator had been a defendant but at this stage finally decided freely). According to the Constitutional Court, the applicant has legal standing as an applicant because the applicant's "constitutional rights and authority" have been impaired, because the applicant was harmed by the actions of the public prosecutor in carrying out a review effort to the Supreme Court of the Republic of Indonesia. According to Article 263, paragraph (1) of the Criminal Procedure Code:

- (1) Regarding court decisions that have obtained permanent legal force, except for decisions of acquittal or regardless of any legal demands, the convict or his heirs can submit a request for review back to the Supreme Court

In paragraph (1) above, it is stated that those who have the right to carry out judicial review efforts in criminal cases are the defendant or his heirs. However, there is a "*Lex Specialis*" Law that allows for judicial review efforts, namely those contained in Article 30C letter H of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia, which, in

⁹ Soerjono, S and Sri, M. (2001). Normative Legal Research (A Short Review). Jakarta: Rajawali Press. p. 13-14.

¹⁰ Marzuki, P, M. (2021). LEGAL RESEARCH. Jakarta: Prenada Media. p. 135

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essence, the prosecutor is given the authority to carry out judicial review efforts so that the existence of this legal basis becomes a legal umbrella for public prosecutors to carry out judicial review efforts in criminal cases in Indonesia.

Every application for a judicial review to the Constitutional Court certainly has a touchstone. The touchstones referred to in this case are the articles contained in the 1945 Constitution. Through their legal representatives, the applicant used the following touchstones:

1. Article 1, paragraph 3)
Indonesia is a country of law
2. Article 28D paragraph (1): Every person has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law
3. Article 28I paragraph (1): The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on any legal basis retroactively is a human right that cannot be reduced under any circumstances.

If we look at the parties who have proposed legal action for judicial review in criminal procedural law, there have been several parties who have submitted this. *First*, the defendant. *Second*, heirs. And *third*, the public prosecutor. However, normatively or as regulated in the Criminal Procedure Code, only the defendant and his heirs are in line with Article 263(1). The parties submitted documents to the Supreme Court of the Republic of Indonesia to submit legal action for judicial review. The special requirement for a judicial review is that the parties must prove the existence of novum or new evidence. In criminal cases, there are reasons to file a judicial review. These reasons are regulated in Article 263 Paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure Law. The sound of the article is as follows.

- (2) A request for reconsideration is made on the basis of:
 - a. If there is a new situation that gives rise to strong suspicion, that is if the situation is already there. It is known that while the trial is still in progress, the result will be an acquittal or acquittal the decision to be free from all legal demands or demands of the public prosecutor cannot be accepted, or in this case, lighter criminal provisions are applied;
 - b. If there is a statement in various decisions that something has been proven. However, the circumstances as the basis and reason for the decision were stated to have been proven. In fact, they have conflicted with one another;
 - c. If the decision clearly shows a judge's error or an error, the real one

Meanwhile, the public prosecutor's efforts to review the Criminal Procedure Law are not explicitly regulated; this matter has actually been submitted for review of norms to the Constitutional Court with decision Number 33/PUU-XIV/2016, which essentially prohibits public prosecutors from undertaking judicial review. The court's considerations are as follows:

"Review efforts are based on the philosophy of restoring the rights and justice of a person who believes them has received unfair treatment carried out by the state based on a judge's decision, therefore the positive law in force in Indonesia gives the convict or his heirs the right to submit extraordinary legal remedies that called Judicial Review. In other words, the Judicial Review institution is intended for the interests of the convict to carry out extraordinary legal measures, not the interests of the state or the interests of the victim, as extraordinary legal measures are carried out by the convict, then the subject entitled to submit a Judicial Review is only the convict or his heirs, whereas The object of the application for Judicial Review is a decision stating that the act charged is declared proven and sentenced to a crime, therefore as a concept of legal action for the interests of the convict who feels dissatisfied with the decision which has obtained permanent legal force, the decision is acquitted or released from all charges. the law is not included in the object of the application for Judicial Review, because the decision to be acquitted or released from all legal charges must be in favor of the convict; Judicial Review institutions are adopted solely for the benefit of the convict or his heirs and this is the essence of Judicial Review institutions. If this essence is removed, the Judicial Review institution will lose its meaning or become meaningless."

We need to know together. In essence, extraordinary legal measures (in this case, judicial review) were created by the drafters of the law aimed at the interests of the convict, not the interests of the state or victims. This provision is based on the philosophy that the state has wrongly convicted innocent people, and this can be corrected again with legal measures.¹¹ Apart from that, judicial review functions to restore justice and justice to convicts whom the state has illegally confiscated.¹²

¹¹ Rafsanjai, A.H. (2020). Juridical Analysis of Constitutional Court Decision Number 33/Puu-Xiv/2016 Regarding the Authority of Prosecutors to Request Judicial Review in Criminal Cases. Islamic University of Malang

¹² Kuffal, H.M.A (2010). Application of the Criminal Procedure Code in Legal Practice. Malang: UMM Press, p. 3-4

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However, as time passes, the public prosecutor is given the right to carry out further review efforts. The legal basis for granting this authority is Article 30C letter H of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia. So, it is from this legal basis that the public prosecutor dares to conduct reconsideration efforts in criminal cases in Indonesia.

On Monday, 3 April 2023, through a decision of the Constitutional Court, a decision was made regarding the interpretation of parties who may take extraordinary legal action, in this case, namely review. Only the defendant or his heirs may file a review effort. The Court's considerations are as follows:

"Considering that by referring to the description of the legal considerations in the Constitutional Court Decision Number 16/PUU-VI/2008 and the Constitutional Court Decision Number 33/PUU-XIV/2016 as described above and after also observing the excerpts of the legal considerations in the two decisions, the Court It is necessary to reiterate the four basic principles which must not be violated and interpreted other than what is expressly stated in Article 263 paragraph (1) of the Criminal Procedure Code, namely:

- 1) Judicial review can only be filed against decisions that have obtained permanent legal force (*inkracht van gewijsde zaak*);
- 2) Judicial review cannot be filed against a decision of acquittal or release from all legal demands;
- 3) Application for Judicial Review can only be submitted by the convict or his heirs;
- 4) Judicial review can only be submitted for a criminal decision."

Apart from that, the formulation of new norms regarding the prosecutor's authority to carry out judicial review efforts in criminal cases could lead to abuse of the prosecutor's authority and legal uncertainty. The Court's considerations are as follows:

"According to the Court, the insertion of Article 30C letter h and its explanation in Law 11/2021 means that it has increased the authority of the prosecutor's office, *In Casu*, the authority to submit a judicial review without being accompanied by a clear explanation of the substance of the granting of this authority. According to the Court, this additional authority will not only create legal uncertainty but will also have the potential to give rise to abuse of authority by prosecutors, especially in the case of filing a judicial review in cases that, in fact, have been declared free or free from all legal charges. Moreover, there is the fact that the issue of judicial review constitutionality has been considered by the Court in the Constitutional Court Decision Number 16/PUU-VI/2008, which was then confirmed in the Constitutional Court Decision Number 33/PUU-XIV/2016 as the Court has considered in the paragraph above.

"According to the Court, based on this decision, the legislators should have truly understood that by adding additional authority to the Prosecutor's Office to submit a judicial review, it would have the impact of violating justice and legal certainty as guaranteed in the 1945 Constitution."

B. Regulation of Judicial Review Authority After Constitutional Court Decision Number 20/PUU-XXI/2023

After we learn together about the *ratio decidendi*, the Constitutional Court decides on cases related to the authority for judicial review in criminal cases in Indonesia. The next discussion is the implications of the constitutional court's decision on the authority to carry out judicial review efforts in criminal procedural law because he saw that the constitutional court's decision was final and remembered that there were no further legal remedies to challenge the decision. We must appreciate the presence of this decision because it provides legal certainty to the parties involved in the case (in this case, it is a criminal case).

Prior to the decision of the Constitutional Court Number 20/PUU-XXI/2023, in practice, several parties submitted a review effort, in this case, namely the defendant or his heirs and the public prosecutor. It has happened in several cases that have occurred in cases involving Criminal cases in Indonesia, including decision number 55 PK/Pid/1996 and decision number 3 PK/Pid/2001, which formally recognize the right/authority of public prosecutors to submit requests for judicial review in criminal cases. The last is letter number W24 -U7/392/HK.01/02/2023 DATED 15 February 2023, which the Gianya District Court sent to the clerk of the Supreme Court of the Republic of Indonesia, which, in essence, the prosecutor submitted an attempt for reconsideration.

Looking at the dynamics of criminal justice that occurred in the country before the Constitutional Court decision Number 20/PUU-XXI/2023 and the Constitutional Court Decision Number 33/PUU-XIV/2016, there were differences in understanding regarding Article 263 Paragraph (1) of the Criminal Procedure Code according to the Supreme Court of the Republic of Indonesia There is no prohibition on public prosecutors from filing a request for review. The Supreme Court will make a uniform decision (consistency in court decisions).

The Constitutional Court Decision Number 20/PUU-XXI/2023 provides legal certainty regarding the parties who are allowed to submit a judicial review, namely the Defendant or his heirs. Philosophically, historically, and theoretically, the right to carry out a judicial review is the right of the defendant and his heirs, as stated by Andi Hamzah and Irdan Dahlan, that judicial review is the right of the convict to ask to correct a court decision that has become permanent, as a result of the judge's error or

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negligence in making his decision.¹³ Philosophically, judicial review efforts are based on restoring the rights and justice of a person who believes he or she has received unfair treatment by the state based on a judge's decision.¹⁴ Historically, the birth of an extraordinary legal effort, namely judicial review, cannot be separated from the Sengkon and Karta cases in 1977. In this case, the state miscarriage of justice, namely by convicting innocent people, so what happened was a misguided judicial process. (*rechterlijke dwaling*). Therefore, as an effort to overcome the state's mistakes in the Sengkon and Karta cases, the Supreme Court finally issued Supreme Court Rules Number 1 of 1980 concerning the Judicial Review of Decisions that Obtained Permanent Legal Force. The Sengkon and Karta cases also became the background for the birth of Chapter.¹⁵

From the explanation that the author has put forward, it is clear that both philosophically, juridically, and historically, the request for a judicial review is based on the interests of the victim or their heirs. The question arises as to what legal implications following the Constitutional Court's decision number 20/PUU-XXI/2023 will have on the prosecutor's authority to carry out legal proceedings for judicial review. If we analyze based on statutory regulations, there are two keywords in this case: validity and authority. Legitimacy cannot be separated from administrative law. It is necessary to first differentiate between authority and authority. To understand the difference between the two, you can learn from their definitions. The definition of power and authority is contained in Article 1, paragraphs (5) and (6) of Law Number 30 of 2014 concerning Government Administration:

(5) "Authority is the right possessed by Government Agencies, officials, or other state administrators to make decisions and/or take actions in administering government.

(6) Government Authority, from now on referred to as Authority, is the power of Government Agencies and/or Officials or other state administrators to act within the realm of public law."

So, it can be concluded that the prosecutor cannot carry out a review effort in a criminal case, so when the prosecutor carries out a review effort in a criminal case, it is not valid for the prosecutor to carry out a review effort after the decision of the constitutional court, so the prosecutor is betraying the constitution and the decision of the constitutional court.

CONCLUSIONS

In the practice of criminal justice that has occurred so far, there has been a tug-of-war of interests in seeking a review request between the defendant or his heirs and the public prosecutor. The decision of the Constitutional Court Number 20/PUU-XXI/2023 basically states that the parties authorized to carry out requests for judicial review in criminal cases in Indonesia are only the defendant and his heirs. With this decision, the formulation of norms in Article 30C letter H and the explanation of Article 30C letter H of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia do not have binding legal force and are contrary to the 1945 Constitution.

REFERENCES

Book

- 1) Waraasih, E., 2016, LEGAL INSTRUCTIONS, Semarang: Pustaka Magister
- 2) Rahardjo, S. (2008). A rule of law state that makes its people happy. Yogyakarta: Genta Publishing
- 3) Muladi. (1995). Capita Selecta Criminal Justice System. Semarang: Diponegoro University Publishing Agency
- 4) Arief, BN (2017). Judicial System Reform, Law Enforcement System in Indonesia. Semarang: Diponegoro University Publishing Agency
- 5) Arief, B.N. (2022). Capita Selecta Criminal Law Concerning the Integrated Criminal Justice System. Semarang: Diponegoro University Publishing Agency
- 6) Atmasasmita, R. (2011). Contemporary Criminal Justice Systems. Jakarta: Prenada Media.
- 7) Soerjono, S and Sri, M. (2001). Normative Legal Research (A Short Review). Jakarta: Rajawali Press.
- 8) Marzuki, P, M. (2021). LEGAL RESEARCH. Jakarta: Prenada Media
- 9) Kuffal, HMA (2010). Application of the Criminal Procedure Code in Legal Practice. Malang: UMM Press
- 10) Parman Soeparman, Regulation of the Right to File Legal Remedies in Criminal Cases for Crime Victims, Bandung: Refika Aditama, 2009.

Constitution

- 1) The 1945 Constitution of the Republic of Indonesia

¹³ Parman Soeparman, (2009) Regulation of the Right to File Legal Remedies in Criminal Cases for Crime Victims, Bandung: Refika Aditama, p. 17.

¹⁴ Constitutional Court Decision Number 33/PUU-XIV/2016

¹⁵ M. Lufi Chakim, Realizing Justice Through Legal Review of Post-Decisions of the Constitutional Court, *Junral Konsitutsi*, VOL 12. No. 2 June, 2015 p. 333

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- 2) Law Number 8 of 1981 concerning Criminal Procedure Law
- 3) Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia
- 4) Constitutional Court Decision Number No. 33/PUU-XIV/2016
- 5) Constitutional Court Decision Number No. 20/PUU-XXI/2023

Article

- 1) Rafsanjai, A.H. (2020). Juridical Analysis of Constitutional Court Decision Number 33/Puu-Xiv/2016 Regarding the Authority of Prosecutors to Request Judicial Review in Criminal Cases. Islamic University of Malang
- 2) M. Lufi Chakim, Realizing Justice Through Legal Review of Post-Decisions of the Constitutional Court, Jurnal Konsitutsi, VOL 12. No. June 2, 2015 p. 333

Internet

- 1) Asshiddiqie, J. (2011). The Idea of the Indonesian Rule of Law, Jakarta: <http://www.jimly.com/>. p. 2. accessed Friday 9 December 2022
- 2) Hidayat, R. "Reviewing the Criminal Procedure Code with Changes Due to the Constitutional Court's Decision", accessed from [https://www. Hukumonline.com/berita/baca/lt5cd153baa178a/mengulas-kuhap-disertaianggaran-akibat-bangunan-mk/](https://www.Hukumonline.com/berita/baca/lt5cd153baa178a/mengulas-kuhap-disertaianggaran-akibat-bangunan-mk/). Accessed March 22, 2024.



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