

Weighing Legal Considerations as the Basis for Decision Making in a Constitutional Court Law Testing Case Under Article 24 (C) Paragraph 1 of the 1945 Constitution

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Abstract. In addition to the 1945 Constitution and specific laws regulating the Constitutional Court (MK), the Criminal Code (KUHP) is crucial in law testing. Article 156a of the Criminal Code on blasphemy often undergoes constitutional review to ensure alignment with religious freedom in Article 28E (1) of the 1945 Constitution. This requires analyzing the proportional and non-discriminatory application of criminal provisions. The principle of legality in Article 1(1) of the Criminal Code mandates that punishable acts be based on pre-existing legislation, ensuring laws are not retroactive and respect legal certainty. The Constitutional Court's decisions must thus consider the 1945 Constitution, laws about the MK, Criminal Code provisions, and broader legal principles, ensuring comprehensive, constitutionally-based legal integrity. This normative research uses legal and conceptual methodologies, relying on secondary data and qualitative descriptive analysis, concluding deductively from general to specific. Findings emphasize the importance of legal considerations in the MK's decision-making. Article 24C paragraph (1) of the 1945 Constitution underscores the MK's role in ensuring laws do not contradict the constitution. Through in-depth legal analysis, the MK ensures Indonesian laws align with constitutional principles, protect human rights, and guarantee justice and legal certainty for all citizens.

Keywords: Legal Considerations, Decision Making in a Law Testing Case, Constitutional Court, Article 24 (C) Paragraph 1 of the 1945 Constitution

1 Introduction

The Constitutional Court (MK) in Indonesia's legal system is crucial in ensuring that laws adhere to the 1945 Constitution. The testing of regulations in the Established Court serves as a mechanism to ensure that every legislation in force does not conflict with the constitution. In making decisions on a law testing case, thorough and constitutionally-based legal considerations are the primary foundation. This is as per the arrangements of Article 24C section (1) of the 1945 Constitution, which specifies that the MK has the position to settle at the first and only levels, with its choices being conclusive, to test regulations against the Constitution[1].

Legal considerations in MK decisions must take into account the principles of law, the principles of a constitutional state, as well as the values of justice and humanity reflected in the

constitution. Regulation Number 24 of 2003 concerning the Protected Court, as changed by Regulation Number 8 of 2011, manages exhaustively the power and strategies for testing regulations. The MK has the authority to test laws that go against the 1945 Constitution, settle disputes over the authority of state institutions granted by the 1945 Constitution, decide on the dissolution of political parties, and settle disputes over the results of general elections, according to Article 10 paragraph 1 of the Law.[2].

In completing its capabilities, the Sacred Court (MK) acts as a watchman of the constitution as well as a defender of the established privileges of residents. Every law testing in the MK must take into account these constitutional rights, as regulated in Articles 28A to 28J of the 1945 Constitution regarding Human Rights. For example, if there is a law deemed to be contrary to the right to freedom of expression or the right to fair legal protection, the MK must comprehensively consider these aspects in its decision-making. MK decisions based on constitutional legal considerations not only result in the annulment of a law but also set precedents and provide guidance for the formation of future legislation. MK decisions often serve as important references for legislators in drafting laws that are in line with the constitution and do not violate the fundamental rights of citizens[2]. Thus, the MK plays a strategic role in maintaining the balance between state power and the constitutional rights of the people.

Overall, the legal considerations that form the basis for decision-making in cases of law testing in the Constitutional Court (MK) must be based on thorough and comprehensive analysis of the constitution, laws, and applicable legal principles. This is not only to ensure that every law in force complies with the 1945 Constitution, but also to ensure that every citizen receives fair legal protection and that their rights are respected. Thus, the MK can effectively fulfill its function as a guardian of the constitution and protector of human rights in Indonesia. Furthermore, Article 3 of the same law asserts that anyone who, with the point of helping themselves or others or a company, manhandles their power, opportunity, or means accessible to them because of their situation or status that could hurt the state funds or the public economy, will be rebuffed with detainment for at least 1 year and a limit of 20 years as well as a fine going from something like 50 million rupiahs to a limit of 1 billion rupiahs. The abuse of authority by individuals involved in this project clearly violates this provision, as they exploit their positions to enrich themselves at the expense of the welfare of the poor populace[3].

Decision-making in cases of law testing at the Constitutional Court (MK) requires mature legal considerations based on constitutional norms and applicable legal provisions. Article 24C paragraph (1) of the 1945 Constitution serves as the main foundation governing the authority of the MK to test laws against the Constitution. In performing this function, the MK also refers to the provisions in Law Number 8 of 2011 regulates Law Number 24 of 2003 regarding the Constitutional Court and its amendments. Article 10 passage (1) of Regulation No. 24 of 2003 unequivocally expresses that the MK is approved to test regulations against the constitution, choose arguments about the authority between state organizations, and mediate disagreements regarding the consequences of decisions[4].

The filing of civil lawsuits is considered a powerful weapon to directly target perpetrators of criminal acts in efforts to recover assets derived from corruption in addition to obtaining criminal sanctions. This should be pursued when assets mentioned in previous rulings are found to have other unidentified assets that have not been identified as proceeds of corruption. Civil lawsuits for asset forfeiture in the context of corruption have specific characteristics, namely they can only be pursued when criminal efforts are no longer feasible for use in recovering state

losses in state coffers[5]. Situations where criminal sanctions cannot be used anymore include not finding sufficient evidence; the death of the suspect, defendant, or convict; acquittal of the defendant; suspicion that there are corruption proceeds not yet confiscated for the state even though The court's decision is now binding on the state. With the arrangement of common claims for resource relinquishment in the Debasement Regulation. In completing its obligations, the Protected Court (MK) should guarantee that each regulation under audit doesn't abuse the sacred privileges of residents ensured by the 1945 Constitution. Human rights provisions in Articles 28A to 28J of the 1945 Constitution must be used as a reference when testing laws. For instance, in the event that there is a regulation considered to restrict opportunity of articulation, as managed in Article 28E section (3) of the 1945 Constitution, the MK must conduct a thorough analysis to ensure that such restrictions comply with the principles stipulated in the constitution.

In addition to the 1945 Constitution and laws specifically governing the Constitutional Court (MK), the Criminal Code (KUHP) also serves as an important reference in several cases of law testing. For example, Article 156a of the Criminal Code regarding blasphemy often becomes the subject of constitutional testing. The MK must consider whether this provision complies with the principle of freedom of religion guaranteed in Article 28E, paragraph (1) of the 1945 Constitution. This consideration requires a comprehensive analysis of how the criminal provisions are applied and whether their implementation is proportional and non-discriminatory. Constitutional testing of a criminal regulation must likewise consider the standards of criminal regulation that apply [1]. The standard of legitimacy specified in Article 1, section (1) of the Lawbreaker Code expresses that no demonstration can be rebuffed aside from in view of criminal arrangements in previous regulation. The MK should guarantee that each regulation administering criminal demonstrations isn't retroactive and regards the standard of legitimacy, to ensure lawful sureness and equity for residents.

Thus, the decisions made by the Constitutional Court (MK) in testing laws are not only based on the 1945 Constitution and laws concerning the MK but also must consider the provisions of the Criminal Code (KUHP) and broader legal principles. Comprehensive and constitutionally-based legal considerations are crucial to maintaining legal integrity in Indonesia, ensuring that all legislation complies with the constitution, and fairly and proportionally protects the constitutional rights of citizens. This ensures that the MK can effectively fulfill its role as guardian of the constitution and protector of human rights in Indonesia.

In carrying out its functions, the Constitutional Court (MK) also plays a role as guardian of constitutional supremacy and guardian of constitutional democracy in Indonesia. Therefore, the Constitutional Court must carefully consider various aspects in every review of a law, including the alignment of the law with democratic principles and human rights. In performing its functions, the Constitutional Court (MK) also serves as a guardian of constitutional supremacy and watchdog of constitutional democracy in Indonesia. Therefore, the MK must carefully consider various aspects in every law testing, including the alignment of laws with democratic principles and human rights. According to paragraph 1 of Article 27 of the 1945 Constitution, all citizens are equal before the law and the government and are obligated to uphold both without exception. This principle is a crucial foundation for the MK to ensure that laws are not discriminatory and apply fairly to all citizens. With regards to criminal regulation, testing regulations frequently include contemplations of individual opportunities and fair policing. Article 28D passage (1) of the 1945 Constitution ensures everybody's on the right track to acknowledgment, ensures, security, and legitimate sureness, as well as equivalent treatment

under the steady gaze of the law[6]. When the MK tests the constitutionality of articles in the Criminal Code, such as Article 281 paragraph (1) regarding indecent acts or Article 310 paragraph (1) regarding defamation, the MK must consider whether these provisions comply with the principles of justice, proportionality, and protection of human rights.

In addition, the Constitutional Court (MK) must also consider other legal principles, such as the principle of proportionality and the principle of legal certainty. The principle of proportionality requires that any limitation on human rights must be done proportionally, meaning it should be in line with the intended objective and not excessive. This principle is also reflected in Article 28J passage (2) of the 1945 Constitution, which expresses that in practicing their privileges and opportunities, everybody should comply to restrictions laid out by regulation exclusively to guarantee acknowledgment and regard for the privileges and opportunities of others and to fulfill fair needs as per moral contemplations, strict qualities, security, and public request in a majority rule society. The MK also uses Article 33 of the 1945 Constitution in cases involving economic, social, and cultural rights, which regulates the national economy and social welfare. For example, when testing the constitutionality of laws related to environmental protection or natural resources, the MK must ensure that the laws not only pursue economic growth alone but also consider environmental sustainability and the welfare of society, in accordance with the constitutional mandate[1].

Overall, the Constitutional Court's (MK) decisions in testing laws are based on a thorough and comprehensive analysis of the constitution, laws, and applicable legal principles. By considering various articles in the 1945 Constitution, related laws, and provisions in the Criminal Code, the MK strives to ensure that every law in Indonesia adheres to the principles of justice, democracy, and human rights protection. Through decisions grounded in comprehensive and constitutional legal considerations, the MK plays a crucial role in ensuring the integrity of the legal system and safeguarding the constitutional rights of citizens.

2 Method

This research is of a Normative type. The approach used includes the legislative approach (statute approach) and the conceptual approach. Secondary data sources are utilized. Data analysis is conducted descriptively qualitatively[7]. Conclusions are drawn through deductive methods, deriving conclusions from general principles to specific cases, especially related to the research topic of Assessing Legal Considerations as the Basis for Decision Making in Constitutional Court Cases Under Article 24 (C) Paragraph 1 of the 1945 Constitution. Qualitative data analysis is conducted when empirical data obtained consists of verbal descriptions rather than numerical data and cannot be categorized. Data can be collected through various methods such as observation, interviews, document analysis, and recordings. Typically, qualitative data is processed prior to use in research, including transcription of interviews, data reduction, analysis, interpretation, and triangulation[8].

3 Result And Discussion

3.1 The Urgency of Legal Considerations as the Basis for Decision Making in Constitutional Court Cases Under Article 24 (C) Paragraph 1 of the 1945 Constitution

In cases of law testing at the Constitutional Court (MK), the urgency of legal considerations as the basis for decision-making is crucial to maintaining Indonesia's constitutional supremacy and legal justice. According to Article 24C paragraph 1 of the 1945 Constitution, the MK is authorized to adjudicate at the first and final level, with its decisions being final in determining whether laws violate the Constitution. MK decisions based on constitutional legal considerations have a direct impact on the continuity and validity of the law applied in society.

Thorough and constitutionally-based legal considerations ensure that every decision of the MK is not only legally valid but also fair and accommodates the constitutional rights of citizens. MK decisions must be based on constitutional principles that protect human rights, democracy, and the rule of law, according to Article 24C paragraph 1 of the 1945 Constitution. These considerations are crucial to ensure that the laws under review do not contradict the fundamental rights outlined in Articles 28A to 28J of the 1945 Constitution[9].

The direness of legitimate contemplations in regulation testing is likewise connected with the job of the Protected Court (MK) as a gatekeeper of the overall influence among state organizations. By testing regulations against the 1945 Constitution, the MK ensures that the legislative branch does not exceed its authority and that legislative regulations do not violate basic constitutional principles. Article 24C paragraph (1) of the 1945 Constitution grants the MK the authority to adjudicate disputes over the authority of state institutions as provided by the constitution, making accurate legal considerations the basis for decision making extremely important.

Furthermore, legal considerations in MK decisions provide clear guidance for the legislative and executive branches in drafting and implementing laws that are in line with the constitution. Thus, every decision made by the MK based on Article 24C paragraph (1) of the 1945 Constitution not only resolves existing legal disputes but also strengthens the national legal framework by providing important precedents to follow. This ensures that all laws in Indonesia reflect the constitutional values and justice envisioned by the nation's founders[10].

Finally, the urgency of legal considerations as the basis for decision-making in law The protection of citizens' constitutional rights is also connected to testing at the Constitutional Court (MK). Everyone is guaranteed the right to recognition, guarantees, protection, fair legal certainty, and equal treatment before the law under Article 28D paragraph 1 of the 1945 Constitution. By ensuring that every law under scrutiny does not violate these rights, the MK serves as the last bastion in protecting human rights and maintaining a balance between state interests and individual rights. In-depth and constitutionally based legal considerations are key to achieving this goal and preserving the integrity of Indonesia's legal system.

The direness of legitimate contemplations in dynamic by the Established Court (MK) is likewise firmly connected with the standards of lawful conviction and equity. Article 24C passage (1) of the 1945 Constitution empowers the MK to test the constitutionality of laws, and the decisions made must provide legal certainty for society. Legal certainty is reflected in the final and binding decisions of the MK, so every legal consideration underlying these decisions

must be clear, consistent, and transparent. This is important to avoid legal uncertainty and confusion that can harm society and reduce public trust in the legal system[11].

Furthermore, legal considerations in MK's decisions must take into account the principles of proportionality and substantive justice. According to Article 28J paragraph 2 of the 1945 Constitution, in order to exercise their rights and freedoms, everyone must comply with legal restrictions solely in order to guarantee recognition and respect for others' rights and freedoms. The MK must ensure that the laws under scrutiny do not impose excessive or disproportionate restrictions on human rights. Thus, thorough legal considerations will ensure that any limitations set out in the law are lawful and balanced with the intended objectives.

Legal considerations also serve to maintain harmony between national laws and internationally recognized legal principles. Article 25A of the 1945 Constitution certifies that Indonesia is an archipelagic state described by the Nusantara with rights recognized by international law. The MK must ensure that the laws under scrutiny do not conflict with Indonesia's international obligations, including ratified international agreements. This underscores the importance of in-depth and broad-minded legal considerations in MK's decisions to uphold the integrity and consistency of the national legal system with international legal norms[12].

3.2 The Implications of Legal Considerations as the Basis for Decision Making in a Case of Testing Laws at the Constitutional Court in Article 24 (C) Paragraph 1 of the 1945 Constitution

The implications of legal considerations as the basis for decision-making in cases of testing laws at the Constitutional Court (MK) have significant impacts on the legal system what's more, the assurance of common liberties in Indonesia. Article 24C section (1) of the 1945 Constitution awards power to the MK to analyze regulations against the Constitution and to choose arguments about the power of state foundations as given by the 1945 Constitution. MK's decisions based on thorough legal considerations ensure that the laws in force do not contradict constitutional principles and uphold constitutional supremacy in Indonesia.

Legal considerations in decision-making by the MK influence various aspects of legal life, including the application of criminal law. For example, in the examination of laws related to criminal provisions in the Criminal Code (KUHP), the MK must consider whether these provisions comply with the principle of legality as stipulated in Article 1 paragraph (1) of the KUHP. The legality principle states that no act can be punishable except based on criminal provisions in pre-existing legislation. Thus, MK's decisions must ensure that criminal law is not applied retroactively and provide fair legal certainty for citizens[13].

Another implication is the protection of human rights regulated in Articles 28A to 28J of the 1945 Constitution. MK's legal considerations must ensure that the laws under examination do not violate these basic rights. For example, when the MK examines laws that restrict freedom of expression, such as the provisions in Article 310 of the Criminal Code regarding defamation, the MK must assess whether such restrictions are proportional and do not contradict the right to freedom of speech guaranteed by the 1945 Constitution. MK's decisions considering these aspects will provide stronger protection for human rights and prevent abuses of power.

Furthermore, MK's decisions also impact the economic and social regulations in Indonesia. Article 33 of the 1945 Constitution regulates national economic and social welfare, thus, the MK must ensure that laws governing the economic and social sectors do not contradict these principles. When the MK examines laws related to environmental protection or natural resource management, decisions based on appropriate legal considerations can ensure a balance

between economic development and environmental preservation, in line with the constitutional mandate.

The final implication is the enhancement of legislative quality in Indonesia. MK's decisions based on comprehensive legal considerations provide clear guidance for lawmakers to draft regulations in accordance with the constitution. This encourages a more careful legislative process based on in-depth legal analysis, thereby reducing the potential for unconstitutional laws[14]. Thus, through its legal considerations, the MK not only resolves constitutional disputes but also contributes to the formation of a fairer and more democratic legal system.

Overall, the implications of legal considerations as the basis for decision-making in the examination of laws by the MK are extensive and profound. By ensuring that every law under examination complies with the 1945 Constitution, the MK plays a crucial role in upholding constitutional supremacy, protecting human rights, and enhancing the quality of legislation and law enforcement in Indonesia. This not only impacts the national legal system but also the public's trust in the judicial institutions and constitutional democracy in Indonesia.

4 Conclusion

1. The importance of legal considerations as the basis for decision-making in the examination of laws by the Constitutional Court (MK) cannot be underestimated. Article 24C paragraph (1) of the 1945 Constitution emphasizes the central role of the MK in ensuring that existing laws do not contradict the constitution. Through decisions based on in-depth legal analysis, the MK can ensure that the law applied in Indonesia remains in line with constitutional principles, protecting human rights, and guaranteeing justice and legal certainty for all citizens.
2. The implications of mature legal considerations in MK's decisions are very broad, covering criminal, human rights, economic, social, and legislative aspects. For example, by considering the principle of legality in the Criminal Code (KUHP), the MK can prevent the application of retroactive and unfair laws. Similarly, by ensuring that laws do not violate the rights stipulated in Articles 28A to 28J of the 1945 Constitution, the MK serves as the last bastion in protecting citizens' fundamental rights. Additionally, MK decisions based on legal considerations provide guidance for lawmakers to draft constitutional regulations, thus improving the quality of legislation in Indonesia.
3. Overall, the Constitutional Court, through its legal considerations, not only resolves constitutional disputes but also contributes to the stability and integrity of the national legal system. By ensuring that every law complies with the 1945 Constitution, the MK ensures that justice and human rights are upheld in Indonesia. This enhances public trust in the legal system and judicial institutions, strengthening the foundation of constitutional democracy in Indonesia.

5 Suggestions

1. To strengthen the role of the Constitutional Court (MK) in the examination of laws, it is recommended that the MK continues to develop its capacity and competence in in-depth and comprehensive legal analysis. Continuous training for judges and MK staff on the latest developments in constitutional law, international law, and human rights will ensure that the legal considerations underlying each decision are increasingly accurate and relevant. Furthermore, collaboration with academics, legal experts, and legal research institutions can provide additional insights that enrich the legal analysis in each case.
2. Furthermore, transparency and accountability in the decision-making process need to be enhanced. Full and detailed publication of the legal considerations underlying each MK decision will increase public trust in the institution. Additionally, organizing public discussions or seminars on important decisions can help the public understand the legal rationale behind each decision, as well as increase legal awareness among the public. Active participation from the public and stakeholders in this process will also encourage the MK to continue maintaining standards of justice and integrity in carrying out its duties.
3. Lastly, it is recommended that the MK strengthens its role as a guardian of human rights and constitutional democracy by being more proactive in monitoring and evaluating the implementation of its decisions. Effective follow-up on MK decisions, including recommendations for changes in laws or policies, will ensure that the decisions are not only declarative but also have real impact. With these steps, the MK can further solidify its position as an institution that not only upholds constitutional supremacy but also guarantees the protection of basic rights and justice for all citizens.

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