



Review of the legal status of criminal law following the constitutional court decision: A critical analysis of the supreme court decision

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Abstract

This article analyzes the legal status and force of Article 15 of Law Number 1 of 1946 concerning Criminal Law Regulations after its annulment by the Constitutional Court through Decision Number 78/PUU-XXI/2023, as well as its implications for Supreme Court Decision Number 575 K/Pid/2024. The annulment occurred because the norms regarding "riot" and "fake news" were deemed vague and contradicted the principles of legality and legal certainty in the 1945 Constitution. Using Hans Kelsen's theory of norm hierarchy, this study demonstrates that Article 15 has lost its normative validity and can no longer be used as a basis for criminal prosecution. The Supreme Court's decision then implemented this constitutional correction by annulling criminal prosecutions based on unconstitutional norms, while simultaneously emphasizing the obligation of constitutional obedience and the principle of *lex mitior* in criminal law. These findings underscore fundamental changes in the structure of Indonesian criminal law and the need for legislators to formulate new, clearer offenses that align with the principles of a modern rule of law.

Keywords: Decision, principle of legality, hierarchy of norms

Introduction

Latar Belakang

Law Number 1 of 1946 concerning Criminal Law Regulations is a legal document that emerged in the early days of Indonesian independence. At that time, the legal system in force was still a legacy of the Dutch colonial government, including the Criminal Code (*Wetboek van Strafrecht voor Nederlandsch-Indië*), or *WvS*, which had been enforced since 1918. In 1946, Indonesia experienced a widespread dissemination of fake news, political provocation, and social agitation, which often occurred in both major cities and rural areas (Kamalludin & Arief, 2019)^[10]. This situation led to social unrest and the potential for disintegration, which could threaten the existence of the newly established nation. The provisions of Articles 14 and 15 of Law No. 1 of 1946 then became a manifestation of this need. These two articles were intended as legal instruments to maintain social stability and public order during the revolution. Specifically, Article 15 stipulates: "Anyone who disseminates uncertain or exaggerated or incomplete news, while he understands or at least reasonably suspects that such news will or could easily cause unrest among the people, shall be punished with a maximum prison sentence of two years."

Articles 14 and 15 of Law No. 1 of 1946 are among the provisions most frequently cited in various criminal cases, particularly in cases involving the dissemination of fake news or hoaxes (Marbun, & Ariani, 2022)^[11]. However, in the modern era, these articles are often used in conjunction with the provisions of Law Number 11 of 2008 concerning Electronic Information and Transactions and its amendments. In practice, these two regulations are often used in conjunction to prosecute individuals who disseminate information deemed to cause public unrest.

The use of these articles in a social and political context different from the conditions under which the law was enacted raises numerous issues. In today's digital age and open information, the line between freedom of expression

and the spread of fake news is becoming increasingly thin. The terms "riot" and "fake news" contained in Article 15 lack clear legal definitions, thus creating the potential for subjective interpretation by law enforcement officials (Nasir, 2017)^[13]. This condition not only creates legal uncertainty but also opens up opportunities for the misuse of articles to suppress freedom of expression.

This situation demonstrates that, although Law No. 1 of 1946 holds historical value and plays a significant role in the history of Indonesian criminal law, its provisions, in terms of substance, are no longer relevant to constitutional principles and current societal developments. The shifting paradigm in criminal law, which emphasizes the protection of individual rights and the principle of legal certainty, demands a review of vague and open-to-interpretation criminal norms.

As in the case of the Supreme Court of the Republic of Indonesia Decision Number 575 K/Pid/2024, it is a concrete example of the application of the Constitutional Court Decision Number 78/PUU-XXI/2023 in criminal justice practice. This case originated from a case in Banyuwangi involving the defendant Untung, a Hamlet Head in Pakel Village, who was sentenced to six years in prison by the Banyuwangi District Court based on Article 14 paragraph (1) of Law Number 1 of 1946. One of the key issues that arose following the Constitutional Court Decision Number 78/PUU-XXI/2023 is the application of the non-retroactive principle in criminal law. This principle states that a criminal provision cannot be applied retroactively to acts committed before the law was enacted. This principle is contained in Article 1, paragraph (1) of the Criminal Code (KUHP) and is one of the basic principles of the rule of law. Based on the description above, this article examines and analyzes the legal status and force of Article 15 of Law Number 1 of 1946 concerning Criminal Law Regulations after the Constitutional Court Decision Number 78/PUU-XXI/2023 and its legal implications.

Method

This research uses a normative legal research method that focuses on the study of positive legal norms and decisions of relevant judicial institutions (Paradias & Suponyono, 2022) ^[15]. The approach used includes a statute approach to examine Law Number 1 of 1946, the 1945 Constitution, the Constitutional Court Law, and other provisions related to the formation and revocation of criminal norms. In addition, the study also uses a case approach through an analysis of Constitutional Court Decision Number 78/PUU-XXI/2023 and Supreme Court Decision Number 575 K/Pid/2024 to understand the constitutional and legal implications of the revocation of Article 15 of Law 1/1946 in judicial practice. The analytical framework is supported by Hans Kelsen's theory of norm hierarchy (Stufenbau Theory) and the doctrine of constitutional supremacy, which forms the basis for interpreting the relationship between Constitutional Court decisions and their implementation by the Supreme Court.

Results and Discussion

1. Legal Status and Applicability of Article 15 of Law Number 1 of 1946 concerning Criminal Law Regulations Following Constitutional Court Decision Number 78/PUU-XXI/2023

Prior to Constitutional Court Decision No. 78/PUU-XXI/2023, Article 15 of Law No. 1 of 1946 concerning Criminal Law was a key provision frequently used by law enforcement officials to prosecute those involved in the dissemination of fake news that could potentially cause public unrest. However, with the development of modern society and advances in information technology, this article has often been questioned because its formulation is considered too broad and open to excessive interpretation. Terms such as "riot" and "fake news" are not explicitly defined, allowing for various interpretations by law enforcement officials and judges in Court. As a result, the view has emerged that the application of this article has the potential to threaten citizens' freedom of opinion and expression, which the Constitution guarantees (Juliswara, 2017) ^[9].

This problem then became the basis for submitting a constitutional review of Article 14, paragraphs (1) and (2), and Article 15 of Law Number 1 of 1946 to the Constitutional Court. In the case registered as Number 78/PUU-XXI/2023, the applicants argued that the provisions were contrary to the principles of legal certainty and freedom of expression, as guaranteed in the 1945 Constitution of the Republic of Indonesia. The applicants considered that the formulation of the article, which used the terms "unrest" and "fake news," lacked a clear legal definition and could lead to arbitrary law enforcement.

In its deliberations, the Constitutional Court stated that Article 15 of Law Number 1 of 1946 did not meet these requirements because it did not provide clear definitions regarding the elements of "disturbing" and "fake news." This lack of clarity renders the article ineligible under the principles of legality and legal certainty, which are fundamental to the constitutional rights of every citizen. The Court also considered that restrictions on freedom of expression must be implemented proportionally and must not eliminate citizens' right to express their opinions freely. Based on these considerations, the Constitutional Court then decided that Article 14, paragraphs (1) and (2), and Article

15 of Law Number 1 of 1946 were contrary to the 1945 Constitution and had no binding legal force. This ruling had direct consequences for the validity of the norm. Since the ruling was pronounced, the provisions of Article 15 lost their legal validity and can no longer be used as a basis for criminal punishment in any criminal case. The Constitutional Court's decision is final and generally binding, so that all state institutions, including the Supreme Court and other judicial institutions, are obligated to adjust their application of the law in accordance with the results of this decision.

One concrete example of the application of this Constitutional Court Decision can be found in Supreme Court Decision Number 575 K/Pid/2024. This case concerns a defendant named Untung, who served as the hamlet head in Pakel Village, Banyuwangi Regency. He was accused of spreading false information regarding land ownership, which he claimed was based on the "Deed of Appointment of His Majesty the Queen of 1929" (Court Decision File Number 208/Pid.B/2023/PN Byw). The broadcast of this news led to land occupations and clashes between residents and security forces, and as a result, the defendant was deemed to have broadcast news that caused unrest. The Banyuwangi District Court sentenced the defendant to six years in prison based on Article 14 paragraph (1) of Law Number 1 of 1946. The Surabaya High Court later confirmed this decision.

However, when the case was appealed to the Supreme Court, the panel of judges considered that the legal basis used in the sentencing had lost its binding force following the issuance of Constitutional Court Decision Number 78/PUU-XXI/2023. The law arising from it was rendered invalid. In its deliberations, the Court emphasized that Constitutional Court Decisions are binding on all judicial institutions and must be complied with without exception.

The Supreme Court also applies the legal principle that states that if there is a change in regulations that is more favorable to the accused after an act has been committed, then the lighter provisions must be applied (Ardiansyah, 2020) ^[2]. Therefore, the Supreme Court overturned the Court's decision at first instance and appeal, and stated that the defendant was not legally and convincingly proven to have committed the crime as charged against him.

This Supreme Court decision confirms that every judicial institution must comply with the principle of the hierarchy of legal norms, where the 1945 Constitution is in the highest position in the national legal system (Tanjung *et al.*, 2019) ^[20]. Thus, when the Constitutional Court declares a statutory provision unconstitutional, the norm loses its validity and can no longer be used. Supreme Court Decision No. 575 K/Pid/2024 is concrete evidence that Indonesia's legal structure is capable of adapting to constitutional principles and maintaining harmony between criminal law and constitutional law.

In addition to impacting specific cases, the revocation of Article 15 also impacted the law enforcement system as a whole. Since the Constitutional Court's ruling, law enforcement officials no longer have a legal basis to use the article in investigations and prosecutions. Instead, they have begun using other, more relevant provisions, such as those contained in the Electronic Transactions Act. However, the provisions in this law focus more on information technology aspects, rather than the substance of broadcasting fake news

that can cause public unrest, as stipulated in Article 15 of Law Number 1 of 1946.

This situation creates a potential legal vacuum regarding the crime of spreading false news, which has widespread impacts on society. In some cases, law enforcement officials have struggled to prosecute perpetrators because there are no new criminal provisions that can replace Article 15. Therefore, many argue that lawmakers need to immediately reformulate new provisions that are clearer, more proportional, and in accordance with modern criminal law principles.

Overall, the research findings indicate that the revocation of Article 15 of Law Number 1 of 1946, as confirmed by Constitutional Court Decision Number 78/PUU-XXI/2023 and implemented in Supreme Court Decision Number 575 K/Pid/2024, marks a fundamental change in the Indonesian criminal law system. This norm no longer has binding legal force, and its application has been adjusted to reflect the constitutional principle that the 1945 Constitution is the highest source of law. Therefore, it can be concluded that the Indonesian legal system has demonstrated its ability to adapt to changing norms through constitutional justice mechanisms, while simultaneously strengthening the principle of a state based on the rule of law that guarantees certainty, justice, and the protection of human rights for every citizen.

The annulment of Article 15 of Law Number 1 of 1946 by the Constitutional Court through Decision Number 78/PUU-XXI/2023 can be analyzed in depth through the framework of the Theory of Binding Force of Legal Norms (Stufenbau Theory) introduced by Hans Kelsen in his main work *Reine Rechtslehre* or *Pure Theory of Law*. Kelsen argues that the legal system is a layered structure that is arranged hierarchically, where each lower norm obtains validity from a higher norm (Widiarto, 2019) ^[21]. At the top of this structure is the Grundnorm, or basic norm, which serves as the source of legitimacy for the entire legal system. In the Indonesian context, the 1945 Constitution of the Republic of Indonesia functions as a Grundnorm (Ahmad & Nggilu, 2020) ^[1]. Therefore, all legal norms, including laws, government regulations, and regional regulations, must be derived from and not conflict with the Constitution. If a statutory norm conflicts with the 1945 Constitution, it automatically loses its binding legal force because it is severed from the chain of normative validity that underpins its validity (Asshiddiqie, 2022) ^[2]. As the executor of constitutional review authority, the Constitutional Court plays a crucial role in maintaining the harmony of the hierarchy of legal norms. As stated by Peter Mahmud Marzuki, in a legal system that upholds constitutional supremacy, the judicial institution has a corrective function against regulations that no longer reflect constitutional values (Marzuki & Mahmud, 2023) ^[9]. The Constitutional Court Decision Number 78/PUU-XXI/2023, which annulled Article 14 paragraph (1), paragraph (2), and Article 15 of Law No. 1 of 1946, is a manifestation of this corrective function. This norm is deemed not to fulfill the principles of legal certainty and legality as stipulated in Article 28D paragraph (1) of the 1945 Constitution and Article 1 paragraph (1) of the Criminal Code.

According to the Court, the elements of "disturbing" and "fake news" in Article 15 lack clear legal boundaries. This ambiguity creates legal uncertainty, as law enforcement officials can subjectively interpret the norm in accordance

with specific social and political conditions. This contradicts the principle of *nullum crimen sine lege certa*, a key pillar of the principle of legality. In the context of Kelsen's theory, norms inconsistent with the basic principles of the legal system, namely basic constitutional norms, lose their validity. Therefore, the annulment of Article 15 is a logical consequence of the violation of the hierarchy of legal norms within the national legal system.

Constitutional Court Decision Number 78/PUU-XXI/2023 illustrates the practical application of Kelsen's theory in the context of Indonesian law. When the Court declared Article 15 inconsistent with the 1945 Constitution and not legally binding, the norm was invalidated from the legal system. This means the norm no longer has validity or efficacy. As Kelsen explained, the legal system does not recognize independent norms of law. When the link between a lower and a higher norm is severed, the norm is automatically inapplicable.

The impact of applying this theory can be seen in judicial practice, as exemplified by Supreme Court Decision Number 575 K/Pid/2024. In this case, the Supreme Court annulled the first instance and appeal court decisions against the defendant, who was sentenced based on Article 14 paragraph (1) of Law Number 1 of 1946. The Supreme Court emphasized that, since the Constitutional Court had annulled the provisions of the article, the norm could no longer serve as a basis for criminal punishment. In its consideration, the Supreme Court stated that the Constitutional Court's decision is final and generally binding (*erga omnes*), and all judicial institutions are obliged to comply with the decision.

This approach reflects the application of the principle of constitutional obedience, namely, compliance with the Constitution as the highest norm (Likadja, 2015) ^[7]. This principle also demonstrates the integration of judicial power exercised by the Constitutional Court and the Supreme Court. As Sulaiman explains, the effectiveness of constitutional decisions can only be achieved if the Supreme Court adapts its judicial practices to the results of the Constitutional Court's judicial review. The relationship between the two institutions reflects the descending validity and ascending control mechanisms in Kelsen's theory: lower norms derive their validity from higher norms. In comparison, higher norms have the authority to correct violations committed by lower norms (Sulaiman, 2023) ^[19].

In addition, the revocation of Article 15 of Law Number 1 of 1946 can also be linked to the principle of *rechtsstaat* or a state based on law, as regulated in Article 1 paragraph (3) of the 1945 Constitution. In a state governed by law, all actions of the government and state institutions must be based on valid laws and in accordance with constitutional principles (Radbruch, 2020) ^[16]. Therefore, norms that violate the principles of legality and legal certainty contradict the concept of the rule of law itself.

Kelsen's theory provides a conceptual basis for understanding that the revocation of norms is not merely a technical measure, but also part of a mechanism to maintain the purity of the legal system. However, on the other hand, the revocation of Article 15 also creates a new challenge in the form of a legal vacuum (*rechtvacuum*) in law enforcement efforts to combat the spread of widespread fake news. This has been recognized by many legal academics, who argue for a more transparent and more proportionate reformulation of criminal norms. Reformulation of criminal

articles inherited from the colonial era is necessary to align them with democratic values and the principles of a modern rule of law. The newly formulated norms must contain objective boundaries and avoid multiple interpretations, thereby avoiding the ambiguity that occurred in Article 15 (Nugroho, 2023)^[14].

From a legal theory perspective, Constitutional Court Decision No. 78/PUU-XXI/2023 and Supreme Court Decision No. 575 K/Pid/2024 demonstrate that the Indonesian legal system operates in accordance with the principle of the hierarchy of legal norms, a key characteristic of the *Stufenbau des Recht* (the principle of legal hierarchy). Norms that conflict with the Constitution automatically lose their validity, and the judiciary is obliged to adjust their application accordingly. This confirms that constitutional supremacy is not merely a theoretical concept, but a living principle that binds all state institutions within the national legal system.

Following the Constitutional Court Decision No. 78/PUU-XXI/2023, Article 15 of Law No. 1 of 1946 is no longer a legal norm with binding legal force. Its legal force has been revoked, and its validity within the Indonesian legal system has ceased to exist. Consequently, all legal actions based on this article have lost their legal basis. In contrast, the national legal system needs to adapt by establishing new norms that are clearer, more proportional, and in accordance with constitutional principles.

2. Legal implications of Constitutional Court Decision Number 78/PUU-XXI/2023 on Supreme Court Decision of the Republic of Indonesia Number 575 K/Pid/2024

The Constitutional Court's decision has significant legal consequences, both for ongoing cases and for decisions that have become legally binding. Theoretically, when the Constitutional Court declares a statutory norm to be unconstitutional and not legally binding, the norm is deemed to have never existed (*ex tunc*), or at least can no longer be used as a legal basis for criminal punishment after the date the decision was pronounced. This is in accordance with the principle of norm hierarchy in Hans Kelsen's *Stufenbau Theory*, where a norm that contradicts a higher norm automatically loses its validity. In other words, following the Constitutional Court Decision 78/2023, Article 15 of Law No. 1 of 1946 was invalidated from the Indonesian legal system because it contravened the 1945 Constitution, which serves as the basic norm (*Grundnorm*).

The concrete impact of the decision is evident in the Supreme Court of the Republic of Indonesia's Decision Number 575 K/Pid/2024. In this case, the defendant, Untung, a Hamlet Head in Pakel Village, Banyuwangi Regency, was initially found guilty by the Banyuwangi District Court for allegedly spreading false news about land ownership based on the "Deed of Appointment of Sri Baginda Ratu" dated 1929. The news triggered mass action in the form of land occupation and clashes with the plantation company PT. Bumi Sari.

This Supreme Court ruling establishes a significant precedent in the history of criminal justice in Indonesia. First, because it is the first time the Supreme Court has explicitly applied the results of the Constitutional Court's constitutional review to correct criminal decisions already rendered by lower courts. Second, because the Supreme Court affirmed the principle of constitutional obedience,

namely the obligation of all state institutions to comply with and adapt to the Constitutional Court's decisions, which are final and binding. Third, because the Supreme Court indirectly affirmed the principle of *lex mitior* in criminal law, namely that if a change in the law occurs after an act is committed and the change favors the defendant, then the less stringent rule must be applied.

In addition to its impact on the judicial aspect, the revocation of Article 15 of Law No. 1 of 1946 also has broad legislative implications. The government and the House of Representatives, as lawmakers, must adjust national criminal policy to continue to regulate the spread of false information without violating citizens' constitutional rights. In this context, the Constitutional Court's decision serves as a constitutional signal for lawmakers to improve the formulation of crimes by taking into account the principles of legality (*lex certa*) and proportionality (Rohim, 2014)^[17].

In practical terms, research findings indicate that following the revocation of the norm, law enforcement officials (the Prosecutor's Office, the Police, and the Courts) began adjusting their work guidelines and indictments to no longer use Articles 14 and 15 of Law No. 1 of 1946 as the legal basis for investigations or prosecutions. Instead, cases of spreading fake news are now more frequently prosecuted under articles in the Electronic Information and Transactions Law (UU ITE) or the new Criminal Code, which has gradually come into effect. This shift demonstrates that positive legal mechanisms are responding to constitutional corrections by restructuring the basis for their law enforcement.

In terms of substance, the annulment of Article 15 of Law No. 1 of 1946 by the Constitutional Court is a form of application of the principle of constitutional supremacy within Kelsen's theoretical framework. The Constitutional Court plays a crucial role in maintaining the consistency of the normative system, ensuring that there is no contradiction between lower norms (laws) and higher norms (the Constitution). The Constitutional Court's authority to declare an article contrary to the 1945 Constitution is a direct manifestation of the vertical control function in the legal hierarchy, as explained by Kelsen: "Each legal norm derives its validity from a higher norm, until the chain reaches the basic norm." In the Indonesian legal system, this function is operationalized through the judicial review mechanism by the Constitutional Court, which is also a concrete manifestation of the rule of law (*Rechtsstaat*) as regulated in Article 1 paragraph (3) of the 1945 Constitution.

From the perspective of the principle of legality (*nullum crimen sine lege certa*), the revocation of Article 15 also strengthens the principle that there should be no criminalization without a clear law. Eddy O.S. Hiariej emphasized that the principle of legality guarantees protection for citizens from arbitrary state actions (Simamora, 2014)^[18]. A criminal norm must fulfill three elements: *lex scripta* (written in law), *lex certa* (clearly formulated), and *lex stricta* (cannot be interpreted broadly) (Hiariej, 2022)^[4]. When a norm, such as Article 15 of Law No. 1 of 1946, fails to provide clarity regarding the elements of the crime, it creates legal uncertainty. It has the potential to violate human rights as guaranteed in Article 28D, paragraph (1), of the 1945 Constitution. Therefore, the cancellation of this article can be understood not as the

elimination of the substance of public order protection, but rather as a correction of the violation of the principle of legal certainty.

Further analysis shows that the relationship between Constitutional Court and Supreme Court decisions in this context reflects the operation of a coherent and hierarchical system of norms. The Constitutional Court acts as the guardian of the validity of norms, while the Supreme Court plays a role in the legitimate application of norms in concrete cases. When the Constitutional Court declares a statutory norm to be legally ineffective, the Supreme Court is obligated to adjust its application to be consistent with the revised normative structure. Supreme Court Decision No. 575 K/Pid/2024 is clear evidence of the application of this principle, where the Supreme Court overturned a first-instance court decision that based criminal penalties on articles that had been declared unconstitutional. This step is not merely formal obedience, but a realization of the principle of constitutional obedience, namely the recognition that the supremacy of the Constitution is above the authority of any institution.

Theoretically, the Supreme Court's action reflects the efficacy dimension of Kelsen's theory. Kelsen distinguished between the validity (or legality) and effectiveness (or factual applicability) of legal norms. A norm is said to be valid if it is in accordance with a higher norm, but the norm is only effective if it is actually implemented and obeyed by state organs. In this case, the validity of the Constitutional Court's annulment of Article 15 becomes effective when the Supreme Court adjusts its judicial practice in accordance with the ruling. Thus, the Indonesian legal structure demonstrates a balance between the normative dimension (validity) and the empirical dimension (effectiveness), two key elements in the construction of a Kelsenian legal system.

Analysis from the perspective of the principle of legal certainty also demonstrates a logical consistency between theory and practice. The repeal of vague norms is a constitutional means of maintaining predictability, rationality, and fairness in the law. Legal certainty requires explicit norms that can be applied uniformly by law enforcement officials. When the Constitutional Court abolishes unclear norms, criminal law moves toward a more constitutional direction. This aligns with Gustav Radbruch's view that legal certainty is one of the main pillars of justice, because without it, justice loses its form. Constitutional Court Decision No. 78/PUU-XXI/2023 and Supreme Court Decision No. 575 K/Pid/2024 thus form a jurisprudential chain that reinforces the principle of substantive legal certainty.

In addition to affirming the principles of legality and legal certainty, these two decisions also reinforce the Constitutional Court's corrective function over the legislative body. According to Ni'matul Huda, the mechanism for testing laws against the Constitution is a manifestation of the modern division of powers, in which legislative power is not absolute but subject to judicial oversight (Huda, 2020) ^[5]. In the context of Kelsen's theory, this correction constitutes a form of ascending control, a mechanism by which higher norms monitor and correct lower norms to maintain consistency within the legal system. This corrective function ensures that there are no "legal anomalies" within the normative order of the rule of law.

Another important implication of this analysis is the need to fill the legal vacuum (*rechtvacuum*) created after the annulment of the criminal law. The government and the House of Representatives, as lawmakers, have a constitutional obligation to align the criminal law system with the ruling of the Constitutional Court. This obligation aligns with Jimly Asshiddiqie's view, which emphasizes that constitutional review by the Constitutional Court not only abolishes but also provides direction for the formation of new laws that are more in line with constitutional values. Therefore, the results of this study indicate that the annulment of Article 15 does not mean the loss of legal protection against the spread of fake news, but rather the re-establishment of a more proportional, just, and specific criminal law mechanism.

Overall, this analysis confirms that following Constitutional Court Decision No. 78/PUU-XXI/2023, Article 15 of Law No. 1 of 1946 has lost its binding legal force, both formally and materially. Based on Kelsen's theory, this norm no longer has validity because it contradicts the basic norms of the Constitution. Supreme Court Decision No. 575 K/Pid/2024 reinforces this position by demonstrating that the judiciary has consistently implemented the outcomes of constitutional corrections, thereby creating harmony between legal theory and practice. The relationship between these two decisions reflects the dynamic hierarchy of legal norms in the Indonesian legal system, where the Constitution serves as the pinnacle of legitimacy and the Constitutional Court is its guardian.

Based on the theoretical description, research results, and analysis that have been carried out, it can be concluded that the legal position and force of Article 15 of Law Number 1 of 1946 concerning Criminal Law Regulations underwent fundamental changes after the issuance of Constitutional Court Decision Number 78/PUU-XXI/2023. Prior to this decision, Article 15 served as the legal basis for criminalizing any act of spreading false news or uncertain news that was deemed to cause unrest among the public. However, this provision caused serious problems because it contained vague formulations, especially in the terms "unrest" and "fake news," so that it had the potential to violate the principle of legality and the principle of legal certainty guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Systematically, it can be concluded that the status of Article 15 of Law No. 1 of 1946, following the Constitutional Court Decision No. 78/PUU-XXI/2023, is a norm that has lost its binding legal force (non-binding norm). Hierarchically, this norm no longer holds validity because it contradicts the 1945 Constitution, which is the highest norm. Functionally, this norm can no longer serve as a basis for criminal punishment by law enforcement officials. Constitutionally, its validity has been superseded by new principles that require the formulation of criminal norms that are clearer, more certain, and in line with the protection of human rights.

The implications of this change are two-way: first, for the national criminal law system, where legislators need to immediately reformulate similar offenses that are more in line with the *lex certa* principle; second, for judicial practice, where the Supreme Court and other judicial institutions must use the Constitutional Court's decisions as binding legal guidelines in deciding cases. This condition demonstrates that the Indonesian legal system has

implemented a self-corrective mechanism, as explained in Kelsen's theory of a legal system that can adjust itself internally when a contradiction arises between norms and the Constitution.

Conclusion

The status of Article 15 of Law Number 1 of 1946 underwent a significant change following the Constitutional Court's Decision Number 78/PUU-XXI/2023. Since being declared contrary to the 1945 Constitution and having lost its binding legal force, the norm no longer possesses either formal or material legitimacy within the national legal system. From the perspective of Hans Kelsen's theory of norm hierarchy (Stufenbau), a provision inconsistent with the highest norm is automatically relegated from the legal order. Thus, Article 15 can no longer be used as a basis for establishing offenses, a basis for sentencing, or an interpretative reference in the criminal justice process. Its legal status at this stage is constitutionally null and void. The legal implications of this annulment are evident in Supreme Court Decision Number 575 K/Pid/2024, in which the Supreme Court annulled a criminal conviction based on an article that had been declared unconstitutional. This action not only demonstrates consistency with the principle of constitutional supremacy but also affirms the obligation of constitutional obedience for all judicial institutions. Furthermore, the application of the *lex mitior* principle demonstrates that the Constitutional Court's decisions have direct implications for the protection of defendants' rights in criminal law. Thus, the relationship between the Constitutional Court and the Supreme Court in this context represents an effective corrective mechanism for maintaining the integrity of the legal system, ensuring that all law enforcement norms and practices remain within the highest constitutional framework.

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