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Legal Reasoning of the Constitutional Court Verdict Number 25/PUU-XX/2022 on the State Capital Law According to Social Justice Value

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ABSTRACT

Purpose of the study:
This study analyzes the legal reasoning of the Constitutional Court judges in deciding the judicial review Number 25/PUU-XX/2022 against Law Number 3 of 2022 concerning the State Capital (Undang-Undang Ibu Kota Negara/State Capital Law), as well as analyzed based on social justice theory.

Methodology:
This study uses a juridical-normative method through a statute approach and case studies. The method of analysis is carried out qualitatively, while the method of collecting legal materials is through documentary research.

Results:
An analysis of the Constitutional Court verdict concluded that the panel of judges considered that the State Capital Law was declared constitutional to the Constitution and rejected the review of the State Capital Law. The plaintiffs also did not have strong legal standing in the process of forming the State Capital Law. The judges had the opinion that all processes for establishing the State Capital Law met the formal and material requirements. Unfortunately, the Constitutional Court verdict has not fully met the value of social justice for society.

Applications of this study:
This research is expected to provide a contribution to

constitutional law and provide scientific recommendations for the public in cases of judicial review at the Constitutional Court.

Novelty/Originality of this study:

The Constitutional Court's verdict is final and binding, whether it fulfills the value of social justice or not. However, the constitutional value should be directly proportional to the value of justice for society. The Constitutional Court verdicts should have an equal proportion of justice for society and the government.

Keywords: Constitutional Court Verdict; Constitutional; Legal Reasoning; Social Justice; State Capital Law.

ABSTRAK

Tujuan: *Kajian ini menganalisis pertimbangan hukum hakim konstitusi dalam memutus uji materil Nomor 25/PUU-XX/2022 terhadap Undang-Undang Nomor 3 Tahun 2022 tentang Ibu Kota Negara, serta dianalisis berdasarkan teori keadilan sosial.*

Metodologi: *Penelitian ini menggunakan metode yuridis-normatif melalui pendekatan undang-undang dan studi kasus. Metode analisis dilakukan secara kualitatif, sedangkan metode pengumpulan bahan hukum melalui penelitian dokumenter.*

Hasil: *Analisis putusan Mahkamah Konstitusi menyimpulkan bahwa majelis hakim menilai UU Ibukota Negara dinyatakan konstitusional terhadap UUD dan menolak pengujian UU Ibukota Negara. Para penggugat juga tidak memiliki legal standing yang kuat dalam proses pembentukan UU Ibukota Negara. Majelis hakim berpendapat bahwa semua proses pembentukan UU Ibukota Negara telah memenuhi syarat formil dan materil. Sayangnya, putusan MK belum sepenuhnya memenuhi nilai keadilan sosial bagi masyarakat.*

Aplikasi penelitian ini: *Penelitian ini diharapkan dapat memberikan kontribusi terhadap hukum tata negara dan memberikan rekomendasi ilmiah bagi masyarakat dalam perkara uji materil di Mahkamah Konstitusi.*

Kebaruan/Orisinalitas*: Putusan Mahkamah Konstitusi bersifat final dan mengikat, apakah memenuhi nilai keadilan sosial atau tidak. Namun, nilai konstitusi harus*

berbanding lurus dengan nilai keadilan bagi masyarakat. Putusan Mahkamah Konstitusi harus memiliki proporsi keadilan yang sama bagi masyarakat dan pemerintah.

Kata kunci: Putusan Mahkamah Konstitusi; Konstitusional; Penalaran Hukum; Keadilan sosial; Ibu kota Negara.

INTRODUCTION

The mega-plans to relocate the capital city of Indonesia, which was at first located in Jakarta, to Penajam Paser Utara Regency, East Kalimantan, were marked by the enactment of Law Number 3 of 2022 on the State Capital (S. K. Republik Indonesia, 2022). Unfortunately, this law sparked debate, and society felt it was unfair because they were not involved in its creation, so it was deemed formally and materially flawed in the process (Tresna A, 2022). Several elements of society, including former Corruption Eradication Commission (KPK) advisors Dr. Abdullah Hehamahua, MH, and politician Dr. Marwan Batubara, M.Sc. (Partai Keadilan Sejahtera, or PKS), and a lecturer, Prof. Ir. Daniel Mohammad Rosyid, Ph.D., submitted citizen lawsuits for judicial review to the Constitutional Court, as registered in Verdict Number 25/PUU-XX/2022. The plaintiffs claimed that the State Capital Law was unconstitutional because it was not established through a proper legislative process, including: 1. planning; 2. drafting; 3. discussing; 4. ratifying; and 5. enacting, according to the Law Number 12 of 2011 concerning the Establishment of Law. In addition, the discussions carried out in the establishment of the State Capital Law only took 42 days, whereas it normally takes at least five years in a "mid-term Prolegnas" (National Legislation Program), or one year in "Priority-level of Prolegnas" according to the House of Representatives Regulation No. 2 of 2020. The State Capital Law was considered too fast for a law-level regulation, as well as requiring less public participation or even no public hearings (Haryanti, Utaminingsih, & Pujilestari, 2022).

The Constitutional Court is a branch of judicial power, and its power is to examine laws against the 1945 Constitution (Siahaan, 2021, p. 731). According to Jimly Asshiddiqie, as cited by Widiastuti and Wibowo, constitutional review is classified into two categories: *first*, material review (*materiele toetsingrecht*); and *second*, formal review (*formele toetsingrecht*) (Widiastuti & Wibowo, 2022, p. 805). The formal review in the lawsuit is a procedural test in the establishment of the State Capital Law in accordance with the rules

stipulated in Law Number 12 of 2011, whereas the material review is a substantive review of the State Capital Law in accordance with the 1945 Constitution. However, in Verdict Number 25/PUU-XX/2022, the judge rejected the petition of the plaintiffs because the judge considered that there were no formal or material defects as alleged. The State Capital Law was declared constitutional by the Constitutional Court, but does this verdict fulfill the social justice value according to the Constitution?

Until this research was written, the State Capital Law had been sued nine times for judicial review by the Constitutional Court. In detail, three verdicts have gone through the trial process, with decisions being "rejected", and the six others being "unacceptable". In the "Rejected" decision, the legal considerations of the Constitutional Court are generally the same: the plaintiffs have weak legal standing. However, the "unacceptable" decision was made because, during the preliminary investigation stage, the files were incomplete or legally flawed. The table below contains the registration numbers and verdicts for cases of judicial review of the State Capital Law.

Table 1. The Judges' Verdict in Judicial Review of the State Capital Law

Verdict No.	Plaintiffs	Decisions
25/PUU-XX/2022	Abdullah Hehamahua, Ph.D. (lecturer) et al.	Rejected
34/PUU-XX/2022	Prof. Azyumardi Azra (civil apparatus) et al.	Rejected
39/PUU-XX/2022	Sugeng (civil apparatus)	Unacceptable
40/PUU-XX/2022	Herifuddin Daulay (honorary teacher)	Unacceptable
47/PUU-XX/2022	Ir. Mulak Sihotang (scholar)	Unacceptable
48/PUU-XX/2022	Damari Hari Lubis, SH., MH. (legal activist)	Unaccaptable
49/PUU-XX/2022	Ir. Phiodas Martias (State-Owned Enterprise employee)	Rejected
53/PUU-XX/2022	Ir. Mulak Sihotang (scholar)	Unacceptable
54/PUU-XX/2022	Busyro Muqoddas Ph.D. (lecturer) et al.	Unacceptable

Source: Secretariat General of the House of Representatives of the Republic of Indonesia (N. M. Hantoro, 2022)

The purpose of this study is to analyze the legal reasoning of the judges as to why the Constitutional Court rejected the petition of the plaintiffs, as well as to synchronize the elements contained in the State Capital Law with the Constitution, especially within Article 28H, Verse (2), whether it fulfills the value of social justice or not. This research is expected

to provide utility to legal science, especially in the field of constitutional law, and could be a reference in analyzing the problem of reviewing laws in Indonesia.

The following are some studies on the State Capital Law that have been conducted. *First*, from a legal political perspective (Haryanti et al., 2022), it discusses the compatibility of the establishment of the State Capital Law according to statutory regulations and the philosophical, juridical, and sociological fundamentals. *Second*, the form of governance in the future state capital (B. F. Hantoro, 2022) is said to be following Article 18B of the 1945 Constitution, which is a form of "special autonomy" for the region. *Third*, the President's authority in deciding to relocate the state capital (Hadi & Ristawati, 2020) confirms the statement that the President DOES NOT have the authority to relocate the state capital. However, research on the judicial review by the Constitutional Court against the State Capital Law has never been carried out.

RESEARCH METHOD

This research uses a juridical-normative method through a statute approach and documentary research. Normative legal research examines law as a construction of norms built from elements of legal philosophy, legal principles, laws and regulations, jurisprudence, agreements, and the doctrines of scholars (Fajar & Achmad, 2019). The primary legal materials are Law Number 3 of 2022 on the State Capital, Law Number 12 of 2011 on the Establishment of the Law, and Constitutional Court Verdict Number 25/PUU-XX/2022. Secondary legal materials from literature reviews and journal articles are used as reference materials, referring to the results of previous research related to the examination of laws related to the national capital. The legal materials are processed qualitatively, by systematizing written legal materials, then synchronizing these legal materials with each other to obtain an overview of the research results (Fajar & Achmad, 2019).

RESULTS & DISCUSSION

The legal reasoning of the Constitutional Court Judge

Initially, the plaintiffs claimed they had legal standing by using the 1945 Constitution, in particular, Article 28C Paragraph (2), Article 28D Paragraph (1), Article 28F, and Article 28H Verse (2) with the narrations as follows:

Article 28C Verse (2) states: "Every person has the right to advance himself in fighting for his rights collectively to develop his community, nation, and country."

Article 28D Verse (1) states: "Every person has the right to recognition, guarantees, protection, and legal certainty that is just and equality before the law."
Article 28F states: "Every person has the right to communicate and obtain information to develop his personality and social environment, and has the right to seek, obtain, possess, store, process, and convey information using all types of available channels."
Article 28H Verse (2) states: Every person has the right to get facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice.

The plaintiffs appeal to the panel of Constitutional Court judges to examine and decide on the formal review as follows: *First, declare that the petitioner's application is granted in its entirety; second, declare that the Law Number 3 of 2022 on the State Capital (Statute Book of the Republic of Indonesia Number 41 of 2022, Supplement to the State Draft of the Republic of Indonesia Number 6766) does not meet the provisions for the establishment of laws based on the Constitution of the Republic of Indonesia of 1945; and third, declare that the Law Number 3 of 2022 on the State Capital is contradictory to* the contradictory to the Constitution of the Republic of Indonesia of 1945, therefore has no binding legal force; and Fourth, order the posting of this verdict in the State Draft of the Republic of Indonesia as appropriate (M. K. Republik Indonesia, 2022).

As the institution that drafted the State Capital Law, the House of Representatives and the government put up a challenge to defend the law they had painstakingly drafted for 42 days (M. K. Republik Indonesia, 2022). The House of Representatives emphasized that the establishment of the State Capital Law has complied with procedures including: 1. planning; 2. drafting; 3. discussing; 4. ratifying; and 5. enacting (Republik Indonesia, 2011, p. Article 1 No. 1), as well as involving experts and the customary law community of East Kalimantan, so it does not violate the procedure for forming statutory regulations (DPR RI, 2022). The House of Representatives has also ensured that the decision to relocate the national capital has gone through a process of scientific research, site surveys, and hearings from traditional law community leaders as well as experts from multidisciplinary sciences, especially environmental science, law science, and government political science (Anditya et al., 2022). The House of Representatives stated that the National Legislation Program (Program Legislasi Nasional/Prolegnas) the draft of the State Capital Law had been formulated in 2019 and was included in the priority-level of Prolegnas in 2020 – 2024.

In terms of the principle of forming good legislation according to I.C. van der Vlies, it should meet the formal principles (clarity of purpose; the right organ or institution; the urgency of regulation; it can be implemented; and consensus) as well as the material principles (correct terminology; equal treatment in law; legal certainty; and implementation according to individual circumstances) (Hermanto, Aryani, & Astariyani, 2020). Likewise, Law Number 12 of 2011 on the Establishment of the Law, should carry out the principles of: 1. Clarity of Purpose; 2. Proper Forming Institutions or Officials; 3. Compatibility between types, hierarchies, and substantive materials; 4. Being Implementable; 5. Usability and Effectiveness; 6. Clarity of Formulation; and 7. Transparency (Republik Indonesia, 2011, p. Article 5). The House of Representatives uses a fast-track legislation scheme that includes the discussion stage of the State Capital Law after the planning and drafting stages (Aryanto, Harijanti, & Susanto, 2021). The fast-track legislation scheme should be applied to the Prolegnas or in urgent situations, for example, the ratification of a Governments Emergency Law (Peraturan Pemerintah Pengganti Undang-Undang/PERPPU) or the enforcement of a Constitutional Court verdict, not only at the discussion stage. In addition, it is necessary to formulate an amendment in Law Number 12 of 2011 on the Establishment of the Law, which regulates the mechanism of fast-track legislation (Chandranegara, 2021).

Based on the theory of separation of powers, the responsibility for forming laws rests with the legislature, executing laws is the executive's responsibility, and enforcing laws is the responsibility of the judiciary or judicial power (Omara, 2017). The judicial power institution was established so that every citizen can seek justice and law enforcement through the stages of the judicial process, and Pancasila can be repealed when a regulation from the authorities is strongly suspected of being contradictory to a higher law or even the constitution (Riswanto & Riswadi, 2022). The terms are called judicial review and constitutional review. In terms of judicial review, Indonesia applies a twin-roof system in which the Supreme Court has the authority to examine laws and regulations that are contrary to higher laws and regulations, while the Constitutional Court has the authority to review laws that violate the 1945 Constitution (Audha, 2021). Judicial review within the authority of the Constitutional Court can also be referred to as "constitutional review", which means examining the constitutionality or validity of the law against the principles in the constitution (Faiz, 2016).

In this verdict, the Constitutional Court's independence was tested so that they do not take sides with any institution (Busthami, 2018), especially the House of Representatives as

the legislator who is being challenged, as well as the government. Judicial power institutions should be independent of all kinds of intervention from all powers, be it legislative or executive (Fauzan, 2016). he Constitutional Court, as an independent institution, should have only followed the constitution, no matter how serious the threat was. This is because, when deciding a verdict on a case for reviewing a law, the Constitutional Court verdict has the value of erga omnes; this Latin principle means that it should be applied to all institutions and all citizens (Hastuti, 2019), which means that the verdict should be followed and obeyed by the other state institutions, including the Indonesian government and society (Prabowo & Wiryanto, 2022). The independence of judges should not be abused, in this case, the Constitutional Court has the authority to examine laws that violate the 1945 Constitution. The judges may look at the reasons or background of the law examination, but they have to prioritize the evidence and legal standing of the plaintiffs when examining the law. The judges should adhere to six principles of judicial power. *First*, the independence principle of judges; *second*, the principle of "for the sake of justice in the name of The God Almighty" (Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa), *third*, the principle of a simple, fast and low-cost trial; *fourth*, the principle of publicly opened court; *fifth*, the principle of the composition of the assembly court; and *sixth*, the principle of objectivity (Kadir, 2018).

The judges of the Constitutional Court looked at the facts at trial and considered the evidence presented by the plaintiffs and the information gathered from the House of Representatives. The panel of judges gave the opinion that the plaintiffs as part of society, have the right to provide suggestions for formatting the laws and regulations. However, in this case, it should have been done when the State Capital Law entered the Prolegnas stage, not in the discussion stage. The panel of judges looked at the evidence submitted by the House of Representatives that they had released the results of the discussion on the State Capital Law and conducted public hearings at six state universities. Those are Sam Ratulangi University (Manado/17-12-2021), University of Indonesia (Depok/21-12- 2021), UPN Veteran Jakarta (Jakarta/28-12-2021), Mulawarman University (Samarinda/11-01-2022), Hasanuddin University (Makassar/12-01-2022) (M. K. Republik Indonesia, 2022).

Based on this, the panel of judges concluded that it was not proven that there were things that were being covered up by the House of Representatives and the government in the process of forming the State Capital Law, as alleged by the plaintiffs. In addition, in the case of fast-track legislation, the panel of judges reasons that forming a law does not depend on

how long or fast the discussion takes, but establishing a law should obey the rules for the process of forming a law as stipulated in Law Number 12 of 2011 on the Establishment of Law, which includes processes in the stages of: 1. planning; 2. drafting; 3. discussing; 4. ratifying; and 5. enacting. The State Capital Law has confirmed that it has gone through these five stages, so in this case, the petition of the plaintiffs has no legal standing. Therefore, the Constitutional Court's verdict to reject the judicial review of the State Capital Law is appropriate and constitutional.

The social justice perspective on the Constitutional Court Verdict

The terminology of "justice" has a relative and extensive meaning, so it will not be fully explained in this study. However, concerning law in Indonesia, the most appropriate concept of justice is written in the fifth Pancasila precept and the 1945 Constitution. However, as comparative material in this study, several theories of justice are briefly described, including distributive justice, procedural justice, retributive justice, restorative justice, and social justice.

Distributive justice is the condition of whether or not the results received by an individual are fair or not according to their abilities (Kurniawan & Prasetyo, 2022). Distributive justice adheres to six principles in respecting an individual as a member of society or an organization. *First, appreciation for hard work and loyalty to the organization; second, the right to equal opportunities, whether for self-development or occupying a position with equal responsibility; third, sufficiency in terms of a decent living; fourth, compatibility between rights and responsibilities; fifth, the principle of efficiency; and sixth, rights based on norms or morals* (Burri, Lup, & Pepper, 2021).

Procedural justice has the meaning of justice according to the regulative or regulatory aspects of making a decision or policy. In procedural theory, this means giving every individual the opportunity to express their opinions, views, and preferences before a decision is made to accommodate aspirations and go through a fair process (Ganto, 2019). Theoretically, procedural justice is usually paired with distributive justice, especially because every individual has the same opportunity in terms of aspirations (Mentari & Ratmawati, 2020).

Retributive justice leads to negative forms of law enforcement, which means it subjectively imposes appropriate sanctions on individuals or groups who have violated rules,

laws, or humanity (Bakken, 2022). Thus, if an individual is deemed to have committed a mistake, violation, or deviant behavior, he may be subject to sanctions that inflict suffering on the perpetrator (in a broad sense, it can be in the form of material, physical, or psychological suffering) as a reaction to the mistakes he has made (Kelly, 2021).

Restorative justice is a model that can be used as a conceptual framework in criminal case resolution to address dissatisfaction with the current criminal justice system's performance (Syaufi, Haiti, & Mursidah, 2021). The main goal of restorative justice is restoration, and another goal is compensation. This concept can be interpreted as meaning that the process of law enforcement or handling of criminal acts through a restorative approach is the process of solving criminal acts, which includes compensation or restitution (compensation) for victims through certain methods agreed upon by the parties involved, between the suspect and the victim mediated by the law enforcers (Simbolon, Syahrin, Ablisar, & Marlina, 2022). It can be concluded that restorative justice is a form of resistance to retributive justice, so its relationship with distributive justice is contradictory to procedural justice.

In general, the definition of social justice has a similar relationship to the three principles of distributive justice: *equality*, *equity*, and *need* (Van Hootegem, Abts, & Meuleman, 2020). The figure who is famous for the theory of social justice is John Rawls (1921 – 2002). "Justice is the first virtue of social institutions, as truth is the system of thought," which is his motto on the first page of his book, *A Theory of Justice* (Sachweh, 2016). Rawls likely wants to convey the message that a good community means that it has been systematized according to the principles of justice. Justice has had a long and profound connection with the theory and research of moral development, beginning with the moral lives of people from their childhoods (Skitka, Bauman, & Mullen, 2016, p. 407).

The principle of justice is what the Indonesian people aspire to, as described in the second and fifth precepts of the Pancasila, called "just and civilized humanity" (Kemanusiaan yang adil dan beradab), and "social justice for all Indonesian people" (Keadilan sosial bagi seluruh rakyat Indonesia) (Triningsih & Agustine, 2020). Social justice implies that society has the right to participate in the government structure, including the drafting and implementation of laws (Yasir, Firzal, Sulistyani, & Yesicha, 2021). But in reality, it is not always successfully implemented. The institution of judicial power often hides behind the laws and symbols of the 1945 Constitution that overshadow it to produce valid verdicts, and

therefore judicial power is sometimes abused and it is difficult to meet the goals of social justice. The Constitutional Court frequently orders judicial review of laws enacted by responsible legislators (Walsh & Hemmens, 2016). There is debate among legal scholars about the independence of judicial power, with a constitutional construction that states judicial power should adhere to the content of the constitution but ignore the fundamental value of Pancasila, which is higher than the constitution.

In the context of the Republic of Indonesia, Hamid Attamimi in his dissertation (Attamimi, 1990) and Maria Farida in a public hearing of the House of Representatives of the Republic of Indonesia (Indrati, 2020), elaborated on the establishment of the laws and regulations theory by taking a typical approach to Indonesian norms both in *grundnorm* (basic norm) and *rechtsidee* (legal idea), including: *first*, the legal ideology, Pancasila in which the precepts of Pancasila apply as a 'guiding star' in the state; *second*, the fundamental norm of the state, Pancasila in which the precepts of Pancasila apply as the basic norm; *third*, the state's principles are based on the law and law implements law in itself as a regulatory instrument within the supremacy of law (*der Primat des Rechts*) that means, the law is the primary derivative of the constitution; and *fourth*, the principles of government based on the constitution system as known as constitutionalism governance which practices the law as the limit and basis of the government activities (Chandranegara, 2020). Thus, in establishing the laws, the House of Representatives should prioritize the principles of Pancasila as the legal standing for the philosophy of forming the law before using the 1945 Constitution as a source of law. According to the 1945 Constitution, the making of law should adhere to Article 28H Verse (2) which states, "Every person has the right to get facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice."

The principle of "for the sake of justice in the name of the Almighty God" is one of the judicial power principles that judges should uphold. When a judge rules in a case, he is acting on behalf of God Almighty, as witnessed by God Almighty. Thus, the task of the judge is very heavy when deciding a case and the judge should decide as fairly as possible. Because the law is formed by the norms and values of society, judges should be able to find the deepest meaning of justice in society (Faisal, 2016). ikewise, in the value of justice, society wants to live justly according to its proportions, so when it forms a rule, it wants the result of that rule to achieve distributive justice for each individual (Gordon & Newman, 2021). Naturally, justice is a basic spiritual need for everyone and links social, religious, national, and state

relations together. The judicial power based on the constitution is the primary pillar in law enforcement, justice, and a tribute to the nobility of human values, which are all considered necessary for the state's dignity and integrity to be maintained (Huda, Bawono, & Arifullah, 2022).

The Constitutional Court Verdict Number 25/PUU-XX/2022 illustrates that judges should adhere to the 1945 Constitution. The judges reasoned that because the State Capital Law was enacted through the proper legislative process, which is included in the Prolegnas Priority-Level in 2020, the process did not formally or materially conflict with the 1945 Constitution. While the fast-track legislation procedure, the judges considered that the House of Representatives has to make a clear explanation of the process so that it does not cause multiple interpretations about the enactment of the State Capital Law. The fast-track legislation procedure should not be applied to the State Capital Law, because it requires in-depth and sustainable research to establish a law-level regulation that affects the lives of many people; therefore, it should be regulated in the 1945 Constitution (Chandranegara, 2021).

The constitution is a symbol of consensus between society and the state. However, it is interpreted as if the judge's decision has not fulfilled the value of social justice. The judges appear to understand the law only textually, or as written in the 1945 Constitution, rather than contextually, that society requires justice in the establishment of the State Capital Law. The public did not reject the State Capital Law, but they asked that discussions on the law be carried out carefully. When the judge rejected all the lawsuits for judicial review, the verdict did not have any implications for the House of Representatives as the architect of the State Capital Law. The judge should not only adhere to the demands of the parties but may also give an opinion or even decide to go beyond the demands (*ultra petita*) to realize substantive justice, as long as it is still related to the main case and does not contradict the constitution (Rubaie, Nurjaya, Ridwan, & Istislam, 2016).

CONCLUSION

The Constitutional Court Verdict Number 25/PUU-XX/2022 has proven the constitutionality of the State Capital Law, which fulfills both formal and material requirements in its establishment. The Constitutional Court judges have properly exercised their authority according to the 1945 Constitution. The judges had reasons to believe that the establishment of the State Capital Law through fast-track legislation was not contrary to the 1945 Constitution. The establishment of a law does not depend on how long or how recently it

was made, but on an appropriate process according to Law Number 12 of 2011 concerning the Establishment of Law. According to the 1945 Constitution, the making of the State Capital Law is not contrary to Article 28H Verse (2) which states, "Every person has the right to get facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice." The judges make it mandatory for the House of Representatives to make a clear explanation about the enactment process of the law, which does not make it open to multiple interpretations. However, the judge's considerations only concerned formal and material issues in the State Capital Law. The judges do not make a breakthrough in interpreting the law, which is good for constitutionality but is bad from the perspective of the communities. The judges seem unable to create *ultra petita* decisions that have legal implications only for society, but on the contrary, the House of Representatives does not accept any legal implications for the State Capital Law.

Juridically, the Constitutional Court only has the authority to decide the cases as mandated by the 1945 Constitution. However, there is no single narration in the 1945 Constitution or in-laws that prohibits judges from giving conscience-based opinions outside the textual provisions of the law. A judge should be able to investigate the meaning of social justice for all Indonesians and apply the Constitution as the fundamental law that makes social justice the primary goal of law enforcement. At the very least, the Constitutional Court judge should issue an order to the House of Representatives to dissiminate the State Capital Law and the verdict through more frequent public hearings as a form of societal participation and responsibility, as well as the implementation of the social justice principle.

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