

**PENERAPAN PRINSIP KEADILAN, KEPASTIAN HUKUM DAN
KEMANFAATAN DALAM PUTUSAN PENGUJIAN UNDANG-UNDANG
OLEH MAHKAMAH KONSTITUSI SERTA IMPLIKASINYA
TERHADAP DINAMISASI HUKUM DAN MASYARAKAT**

INTISARI

Oleh

Ratih Andrawinar¹ dan Andi Sandi Antonius²

Penelitian ini dilakukan dengan menggunakan pendekatan kualitatif, yakni dengan menganalisis beberapa putusan Mahkamah Konstitusi yang menguji undang-undang terhadap UUD Negara RI Tahun 1945 guna mengetahui bagaimana penerapan prinsip keadilan, kepastian hukum dan kemanfaatan serta implikasinya terhadap dinamisasi hukum dan masyarakat.

Mahkamah Konstitusi telah menerapkan prinsip keadilan, kepastian hukum dan kemanfaatan secara prioritas kasuistis dan proporsional dalam putusan pengujian undang-undang melalui penafsiran konstitusi dengan tetap memperhatikan dinamisasi hukum dan masyarakat sehingga penegakan hukum dan konstitusi oleh Mahkamah Konstitusi melalui mekanisme *constitutional review* mempunyai kecenderungan yang progresif.

Implikasi penerapan prinsip keadilan, kepastian hukum dan kemanfaatan dalam putusan pengujian undang-undang oleh Mahkamah Konstitusi terhadap dinamisasi hukum dan masyarakat pada tataran praktisnya tetap saja mempunyai potensi menimbulkan permasalahan namun hukum responsif hadir sebagai suatu alternatif untuk memfasilitasi tujuan yang tidak/belum terjangkau oleh putusan Mahkamah Konstitusi meskipun secara normatif tidak akan mengurangi sifat *final and binding* putusan Mahkamah Konstitusi.

Kata kunci : prinsip keadilan, kepastian hukum dan kemanfaatan, putusan Mahkamah Konstitusi, dinamisasi hukum dan masyarakat.

¹ Mahasiswa Magister Ilmu Hukum Universitas Gadjah Mada

² Dosen Fakultas Hukum Universitas Gadjah Mada

**IMPLEMENTATION OF JUSTICE, LEGAL CERTAINTY AND
EXPEDIENCE DECISION IN TESTING LAW BY THE
CONSTITUTIONAL COURT AND IMPLICATIONS OF LAW AND
PUBLIC DYNAMICIZATION**

ABSTRACT

by

Ratih Andrawinar¹ and Andi Sandi Antonius²

This research was conducted using qualitative approach by analyzing several decisions of the Constitutional Court to test the Act against RI State Constitution of 1945 in order to know how the application of the principles of justice, legal certainty and utility as their implications for the dynamics of law and society.

The Constitutional Court has applied the principles of justice, legal certainty and utility are priorities casuistry and proportionate in judicial decision through constitutional interpretation with regard to law and society dynamics so that the enforcement of law and the constitution by the Constitutional Court through a constitutional review mechanism has a progressive tendency.

Implications of the application of the principles of justice, legal certainty and utility in the decision of judicial review by the Constitutional Court against the dynamics of law and society on a practical level it still has the potential to cause problems but the responsive law present as an alternative to facilitate the goal of which is not/not yet covered by the Court's decision although normatively will not reduce the final and binding decision of the Constitutional Court .

Keywords : justice, legal certainty and utility principles, Constitutional Court decision, legal and society dynamics .

¹ Postgraduate Student Faculty of Law Universitas Gadjah Mada

² Lecturer at Faculty of Law Universitas Gadjah Mada