



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 24/PUU-XXI/2023

Concerning
Obligation to Take Care of People with Mental Disorders

Petitioners	: Risky Kurniawan and Michael Munthe
Type of Case	: Judicial Review of Law Number 1 of 1946 concerning Criminal Law Regulations (KUHP or Indonesian Criminal Code) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Judicial Review of Article 491 point 1 of the Indonesian Criminal Code against the 1945 Constitution
Verdict	: The Petition of the Petitioners is inadmissible
Date of Decision	: Friday, April 14, 2023
Overview of Decision	:

Whereas the Petitioners are individual Indonesian citizens with the status of law students who are harmed due to the enactment of Article 491 number 1 of Law Number 1 of 1946 concerning Criminal Law Regulations (referred to as Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*) or abbreviated as the KUHP).

Regarding the authority of the Court, since the Petitioners petition for Judicial Review of Indonesian Criminal Code against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the legal standing of the Petitioners, who believe that their constitutional rights have been harmed by the enactment of Article 491 point 1 of Indonesian Criminal Code due to the prevalence of people with mental disorders (*Orang Dengan Gangguan Jiwa* or ODGJ) roaming the area where the Petitioners live. As law students, the Petitioners have good intentions to conduct research related to ODGJ. However, the Petitioners are afraid of experiencing losses directly or indirectly, or at least potentially which according to reasonable reasoning could occur, due to having the feelings of being threatened, the feelings of fear, or lack of freedom to do something or not do something.

The Court is of the opinion that the Petitioners do not present any evidence that could show the large number of ODGJ roaming around their area of residence. Moreover, the Petitioners also are not able to show or prove that they have ever been harassed by ODGJ. In addition, the Petitioners only explain that they wish to conduct research on ODGJ, but the Petitioners do not explain the Petitioners' interests in the research in relation to ODGJ. The Petitioners also do not explain whether they have any family or relatives who suffer from mental disorders. On the other hand, the Petitioners only explain their concerns about being bothered by ODGJ and are worried about being threatened with criminal offense because they are accused of not taking care of ODGJ, but the Petitioners do not explain in detail how this matter specifically and actually or at least potentially may occur according to reasonable reasoning.

Whereas Article 491 point 1 of Indonesian Criminal Code is addressed to the parties who are obliged to look after ODGJ, according to *Staatsblad* 1897 number 54, the close families are required to take care of ODGJ as a moral obligation and not a legal obligation, whereas according to Article 80 of Law Number 18 of 2014 concerning Mental Health, the government and regional governments are responsible for taking care of ODGJ. Meanwhile, the Petitioners do not explain their relationship with ODGJ because they are not part of the party who was obliged to look after ODGJ. Therefore, the *a quo* norms are not addressed to the Petitioners, so that the Petitioners do not have any loss of constitutional right due to the enactment of such article. Thus, the Petitioners are unable to explain the loss or potential loss of constitutional rights experienced by the Petitioners due to the enactment of the norms of Article 491 number 1 of Indonesian Criminal Code, so that the Petitioners do not have the legal standing to file for the *a quo* petition.

Accordingly, the Court subsequently passes down a decision in which the verdict states that the petition of the Petitioners is inadmissible.