

ABSTRAK

Mahkamah Konstitusi dibentuk dengan tujuan berfungsi sebagai lembaga yang berwenang dalam menafsirkan Undang Undang Dasar, menyelesaikan perselisihan antar lembaga negara yang sumber kewenangannya dari konstitusi dan memberikan putusan tentang pemberhentian Presiden dan atau Wakil Presiden. Bertitik tolak dari latar belakang yang penulis kemukakan di atas, maka penulis merumuskan beberapa rumusan permasalahan yang akan menjadi batasan dan pedoman dalam penulisan ini. (1) Bagaimana mekanisme rekrutmen Hakim Konstitusi Republik Indonesia yang berjalan pada saat ini? (2) Apakah independensi hakim konstitusi telah mencerminkan putusan yang berkeadilan? (3) Bagaimana rekonstruksi rekrutmen Hakim Mahkamah Konstitusi yang mencerminkan independensi Hakim Konstitusi? Penelitian ini termasuk tipe penelitian hukum normatif dengan menggunakan pendekatan perundang-undangan (*statute approach*), Pendekatan konseptual (*conceptual approach*), pendekatan historis (*historical approach*), pendekatan kasus (*case approach*) dan pendekatan perbandingan (*comparative approach*). Berdasarkan analisa dan penjabaran mengenai independensi Hakim Konstitusi di Indonesia maka kesimpulan dalam penelitian ini adalah sebagai berikut : Pertama, Prinsip rekrutmen tersebut menjadi tolok ukur dalam pemilihan calon hakim konstitusi yang dilakukan oleh masing-masing lembaga negara yang bersangkutan. Hal ini menyebabkan terjadinya ketidakindependensi Hakim Mahkamah Konstitusi dalam memegang amanah dan jabatannya dikarenakan sarat dengan kemungkinan politik. Kedua, Berdasarkan hasil penelitian maka peneliti mengambil kesimpulan bahwa saat ini diperlukan adanya rekonstruksi rekrutmen Hakim Mahkamah Konstitusi yang mencerminkan independensi Hakim Konstitusi di Indonesia hanya melalui Mahkamah Agung. Mahkamah Konstitusi adalah salah satu pelaku kekuasaan Kehakiman yang sejajar dengan Mahkamah Agung, dan sejajar pula dengan lembaga negara lain yang memegang kekuasaan eksekutif dan legislatif. Ketiga, adanya intervensi politik dalam MK terlihat dari adanya perbedaan pendapat atau pandangan dari hakim konstitusi terhadap suatu permasalahan. Perbedaan pandangan dari hakim konstitusi disebabkan karena masing-masing hakim ingin menunjukkan kontribusinya dalam setiap pembuatan keputusan dan karena pilihan politik yang berbeda.

Kata Kunci : Mahkamah Konstitusi, Rekrutmen Hakim, Independensi, Putusan Berkeadilan.

ABSTRACT

The Constitutional Court was formed with the aim of functioning as an institution that is authorized to interpret the Constitution, resolve disputes between state institutions whose source of authority is from the constitution and make decisions regarding the dismissal of the President and/or Vice President. Starting from the background that the writer put forward above, the writer formulates several problem formulations which will become the limitations and guidelines in this writing. (1) What is the current recruitment mechanism for Constitutional Justices of the Republic of Indonesia? (2) Has the independence of the constitutional judges reflected a just decision? (3) How is the reconstruction of the recruitment of Constitutional Court Judges reflecting the independence of Constitutional Justices? This research is a type of normative legal research using statutory approach, conceptual approach, historical approach, case approach and comparative approach. Based on the analysis and elaboration of the independence of Constitutional Justices in Indonesia, the conclusions in this study are as follows: First, the principle of recruitment becomes a benchmark in the selection of prospective constitutional judges conducted by each of the relevant state institutions. This causes the independence of the Constitutional Court Judges in holding their mandates and positions because they are loaded with political possibilities. Second, based on the results of the research, the researcher concludes that currently it is necessary to reconstruct the recruitment of Constitutional Court Judges which reflects the independence of Constitutional Justices in Indonesia only through the Supreme Court. The Constitutional Court is one of the perpetrators of Judicial power that is equal to the Supreme Court, and also parallel to other state institutions that hold executive and legislative powers. Third, the existence of political intervention in the Constitutional Court can be seen from the differences of opinion or views of constitutional judges on a problem. Differences in the views of constitutional judges are caused because each judge wants to show his contribution in every decision-making and because of different political choices.

Keywords: *Constitutional Court, Judge Recruitment of Judges, Independence, Equitable Decisions.*