



**PEMBERHENTIAN HAKIM KONSTITUSI ATAS USUL  
DEWAN PERWAKILAN RAKYAT DALAM MASA JABATAN**



**TESIS**

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# **PEMBERHENTIAN HAKIM KONSTITUSI ATAS USUL DEWAN PERWAKILAN RAKYAT DALAM MASA JABATAN**

(Ade Saputra, 2220112016, Program Studi Magister Hukum,  
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## **ABSTRAK**

Penelitian ini dilatarbelakangi oleh pemberhentian hakim konstitusi atas usul Dewan Perwakilan Rakyat di tengah masa jabatannya yang masih sah menjabat sebagai hakim konstitusi yang dituangkan dalam Keputusan Presiden. Semestinya, pemberhentian hakim konstitusi dilakukan melalui mekanisme internal Mahkamah Konstitusi sesuai dengan amanat Pasal 23 UU 7/2020. Namun dewasa ini, Dewan Perwakilan Rakyat mengusulkan untuk menarik kembali salah satu hakim konstitusi yang diajukan oleh DPR yaitu Aswanto tanpa didasari dengan alasan hukum seperti yang diamanatkan Pasal 23 UU 7/2020. Untuk menjawab persoalan tersebut maka diambil beberapa rumusan masalah sebagai berikut: 1) Bagaimanakah mekanisme pemberhentian hakim konstitusi atas usul Dewan Perwakilan Rakyat dalam masa jabatan? 2) Bagaimanakah keabsahan pemberhentian hakim konstitusi atas usul Dewan Perwakilan Rakyat dalam masa jabatannya? Metode penelitian yang digunakan yaitu penelitian hukum normatif dengan pendekatan perundang-undangan (*statute approach*), pendekatan kasus (*case approach*), pendekatan perbandingan (*comparative approach*), dan pendekatan konseptual (*conceptual approach*). Hasil penelitian menunjukkan bahwa pemberhentian hakim konstitusi dengan mekanisme *recall* atas usul Dewan Perwakilan Rakyat tanpa didasari dengan alasan hukum tidak sesuai dengan prinsip independensi kekuasaan kehakiman dan konsep *checks and balances* dalam sistem ketatanegaraan Indonesia. Kemudian, pemberhentian hakim konstitusi atas usul Dewan Perwakilan Rakyat di tengah masa jabatannya tidak sah karena dari segi kewenangan, alasan dan prosedur pemberhentian tidak dilakukan berdasarkan ketentuan peraturan perundang-undangan khususnya Pasal 23 UU 7/2020.

Kata Kunci: pemberhentian, hakim konstitusi, independensi, perbandingan, keabsahan

# **DISMISSAL OF CONSTITUTIONAL JUDGES ON THE PROPOSAL OF THE HOUSE OF REPRESENTATIVES DURING THE TERM OF OFFICE**

(Ade Saputra, 2220112016, Master of Law Study Program,  
Faculty of Law, Andalas University, 142 Page, 2024)

## **ABSTRACT**

*This research is motivated by the dismissal of constitutional judges on the proposal of the House of Representatives in the middle of their term of office who are still legally serving as constitutional judges as outlined in the Presidential Decree. The dismissal of constitutional judges should be carried out through the internal mechanism of the Constitutional Court in accordance with the mandate of Article 23 of Law 7/2020. However, today, the House of Representatives proposes to recall one of the constitutional judges proposed by the DPR, namely Aswanto, without being based on legal reasons as mandated by Article 23 of Law 7/2020. To answer this problem, several problem formulations are taken as follows: 1) How is the mechanism for the dismissal of constitutional judges on the proposal of the House of Representatives during the term of office? 2) How is the validity of the dismissal of constitutional judges on the proposal of the House of Representatives in the term of office? The research method used is normative legal research with a statute approach, case approach, comparative approach, and conceptual approach. The results showed that the dismissal of constitutional judges with a recall mechanism on the proposal of the House of Representatives without being based on legal reasons is not in accordance with the principle of independence of judicial power and the concept of checks and balances in the Indonesian constitutional system. Then, the dismissal of constitutional judges on the proposal of the House of Representatives in the middle of their term of office is invalid because in terms of authority, reasons and procedures for dismissal are not carried out based on statutory provisions, especially Article 23 of Law 7/2020.*

*Keywords: dismissal, constitutional judge, independence, comparative, validity*