

SKRIPSI

PENERAPAN MEKANISME *FIT AND PROPER TEST* DAN PERSETUJUAN DEWAN PERWAKILAN RAKYAT DALAM PROSES PENGISIAN JABATAN JAKSA AGUNG

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JAKSA AGUNG**

***THE APPLICATION OF THE FIT AND PROPER TEST MECHANISM AND HOUSE
OF REPRESENTATIVES APPROVAL IN THE PROCESS OF APPOINTING THE
ATTORNEY GENERAL***

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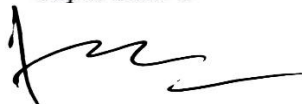
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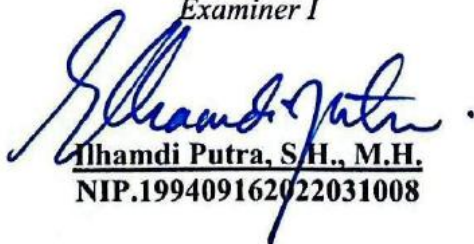
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PENERAPAN MEKANISME *FIT AND PROPER TEST* DAN PERSETUJUAN DEWAN PERWAKILAN RAKYAT DALAM PROSES PENGISIAN JABATAN JAKSA AGUNG

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ABSTRAK

Jaksa Agung sebagai pimpinan tertinggi Kejaksaan memiliki kewenangan upaya paksa yang bersentuhan langsung dengan hak asasi warga negara, namun pengisian jabatannya dilakukan sepenuhnya oleh Presiden tanpa mekanisme *fit and proper test* dan persetujuan DPR. Kondisi tersebut menciptakan inkonsistensi dalam sistem ketatanegaraan Indonesia sebagai negara hukum. Sebab, dalam negara hukum setiap tindakan yang berimplikasi pada pembatasan hak asasi manusia harus memiliki dasar hukum berupa undang-undang yang dibentuk melalui partisipasi rakyat melalui DPR, sekaligus berfungsi mencegah terjadinya tindakan yang sewenang-wenang. Berangkat dari logika konstitusional yang sama, pejabat yang diberi kewenangan untuk menjalankan tindakan yang berimplikasi pada pembatasan hak asasi manusia semestinya juga memperoleh legitimasi melalui mekanisme verifikasi oleh DPR dengan prinsip *checks and balances* dalam operasionalisasinya. Rumusan masalah dalam penelitian ini adalah: (1) bagaimana pengaturan pengisian jabatan Jaksa Agung dalam konsep negara hukum dan (2) bagaimana mekanisme ideal pengisian jabatan Jaksa Agung berdasarkan perspektif *checks and balances*. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, sejarah, konseptual, dan perbandingan. Hasil penelitian ini menunjukkan bahwa pengaturan pengisian jabatan Jaksa Agung yang berlaku saat ini bertentangan dengan prinsip negara hukum, khususnya prinsip perlindungan HAM, dan pemisahan kekuasaan dengan *checks and balances* dalam operasionalisasinya, karena pejabat yang berwenang membatasi HAM warga negara tidak memperoleh legitimasi demokratis dari DPR sebagai representasi rakyat. Mekanisme ideal pengisian jabatan Jaksa Agung dalam perspektif *checks and balances* mensyaratkan adanya *fit and proper test* dan persetujuan DPR atas nominasi Presiden, dan dengan demikian, Indonesia akan konsisten dengan semangat reformasi konstitusional sebagai negara hukum.

Kata Kunci: Negara Hukum, Jaksa Agung, Persetujuan DPR, Hak Asasi Manusia, *Checks and Balances*.

THE APPLICATION OF THE FIT AND PROPER TEST MECHANISM AND HOUSE OF REPRESENTATIVES APPROVAL IN THE PROCESS OF APPOINTING THE ATTORNEY GENERAL

Hafiz Haromain Simbolon, 2210112099, *Constitutional Law (PK V)*, Faculty of Law, Andalas University, 112 pages, 2026.

ABSTRACT

The Attorney General, as the highest-ranking official of the Public Prosecution Service, exercises coercive powers that directly affect the constitutional rights and freedoms of citizens. Nevertheless, the Attorney General is appointed exclusively by the President without undergoing a fit and proper test or obtaining the approval of the House of Representatives (DPR). This arrangement creates an inconsistency within Indonesia's constitutional order as a state governed by the rule of law. Under the rule of law, any measure resulting in the restriction of human rights must be grounded in legislation enacted through a democratic legislative process involving the DPR as the representative of the people's sovereignty, thereby preventing arbitrary exercises of governmental power. By the same constitutional logic, officials entrusted with powers that may restrict human rights should likewise derive democratic legitimacy through a verification mechanism conducted by the DPR as an institutional manifestation of the principle of checks and balances. This study addresses two research questions: (1) how is the appointment of the Attorney General regulated from the perspective of the rule of law, and (2) what constitutes an ideal appointment mechanism for the Attorney General based on the principle of checks and balances? This research employs normative legal research using statutory, historical, conceptual, and comparative approaches. The findings demonstrate that the current mechanism for appointing the Attorney General is inconsistent with the principles of the rule of law, particularly the protection of human rights, as well as the doctrine of separation of powers and its operationalization through checks and balances. This inconsistency arises because an official vested with authority to impose restrictions on citizens' human rights does not obtain democratic legitimacy through parliamentary verification by the DPR as the representative institution of the people. Accordingly, an ideal appointment mechanism for the Attorney General should require a presidential nomination followed by a fit and proper test and parliamentary approval by the DPR. Such a model would strengthen democratic accountability and ensure greater consistency with the constitutional ideals of Indonesia as a state governed by the rule of law.

Keywords: Rule of Law; Attorney General; Parliamentary Confirmation; Human Rights; Checks and Balances.