

TESIS

**IMPLIKASI HUKUM PUTUSAN MAHKAMAH AGUNG NOMOR
50/P/HUM/2018 TERHADAP PROSES PENGANGKATAN NOTARIS DI
INDONESIA**

*Diajukan sebagai salah satu syarat untuk memperoleh gelar Magister
Kenotariatan pada Program Pascasarjana Universitas Andalas*



**PROGRAM STUDI MAGISTER KENOTARIATAN
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ABSTRAK

Alkausar Akbar: Implikasi Hukum Putusan Mahkamah Agung Nomor 50 / P / Hum / 2018 terhadap Proses Pengangkatan Notaris di Indonesia.

Latar belakang masalah dari penelitian ini adalah Putusan Mahkamah Agung Nomor: 50 / P / HUM / 2018 mencabut Pasal 2 ayat 2 huruf j PERMENKUMHAM (Peraturan Menteri Hukum dan Hak Asasi Manusia) Nomor 62 Tahun 2016 dan PERMENKUMHAM No. 25 Tahun 2017 sehingga kedua peraturan tersebut tidak mempunyai kekuatan hukum mengikat dan tidak berlaku umum. Menteri Hukum dan Hak Asasi Manusia Republik Indonesia melaksanakan perintah pada Putusan Mahkamah Agung tersebut, dan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia mengeluarkan PERMENKUMHAM No. 19 Tahun 2019 Tentang Tata Cara Pengangkatan Notaris, Syarat Pengangkatan Notaris, Perpindahan Notaris, Cuti Notaris, Pemberhentian Notaris, dan Perpanjangan Masa Jabatan Notaris yang berlaku saat ini. Pokok permasalahan pada Putusan Mahkamah Agung Nomor 50 / P / HUM / 2018 itu sendiri seperti dari segi Proses pengangkatan Notaris sebelum Putusan Mahkamah Agung tersebut dikeluarkan dan Implikasi Hukum Putusan Mahkamah Agung tersebut terhadap proses pengangkatan notaris. Metode penelitian antara lain meliputi: Metode pendekatan yang digunakan adalah *normatif*, Sifat penelitian bersifat *Deskriptif analitis*, Jenis Bahan Hukum yang dicumpulkan dalam penelitian ini adalah Bahan Hukum Primer, Bahan Hukum Sekunder dan Bahan Non hukum, Pengolahan Bahan Hukum diolah melalui proses *editing*, Analisis bahan hukum yang digunakan adalah pendekatan kualitatif. Berdasarkan hasil penelitian Proses pengangkatan Notaris sebelum dikeluarkannya Putusan Mahkamah Agung Nomor 50 / P / HUM / 2018 yaitu seorang calon Notaris dapat diangkat menjadi Notaris harus memenuhi persyaratan antara lain lulus Ujian Pengangkatan Notaris yang diselenggarakan oleh Direktorat Jenderal Administrasi Hukum Umum Kementerian Hukum dan Hak Asasi Manusia sebagaimana yang diatur dalam PERMENKUMHAM Nomor 62 Tahun 2016 dan PERMENKUMHAM Nomor 25 Tahun 2017. Implikasi Hukum Putusan Mahkamah Agung Nomor 50 / P / HUM / 2018 terhadap proses pengangkatan Notaris di Indonesia adalah Kementerian Hukum dan Hak Asasi Manusia mengangket atau tidak melaksanakan materi muatan putusan Mahkamah Agung Nomor 50 / P / HUM / 2018 yaitu dengan dikeluarkannya PERMENKUMHAM No. 19 Tahun 2019 tentang Syarat Pengangkatan Notaris serta Tata Cara Pengangkatan Notaris, Syarat Pengangkatan Notaris, Perpindahan Notaris, Cuti Notaris, Pemberhentian Notaris, dan Perpanjangan Masa Jabatan Notaris. Materi muatan yang ada di dalam PERMENKUMHAM Nomor 19 Tahun 2019 tersebut hampir sama dengan materi muatan PERMENKUMHAM yang dibatalkan oleh putusan Mahkamah Agung tersebut dan Kedudukan PERMENKUMHAM Nomor 19 Tahun 2019 yang diperintahkan Undang-Undang Jabatan Notaris tidak sejalan dengan Undang-Undang Dasar 1945.

Kata Kunci: Putusan Mahkamah Agung, Notaris, Peraturan Menteri.

ABSTRACT

Alkausar Akbar: Legal Implications of the Decision of the Supreme Court of the Republic of Indonesia Number 50 / P / HUM / 2018 on the Notary Appointment Process in Indonesia.

The background to the problem of this research is the decision of the Supreme Court of the Republic of Indonesia Number: 50 / P / HUM / 2018 to revoke Article 2 paragraph 2 letter j of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 62 of 2016 and the Regulation of the Minister of Law and Human Rights of the Republic Indonesia Number 25 of 2017 so that the two regulations have no binding legal force and do not apply generally. The Minister of Law and Human Rights of the Republic of Indonesia carried out the order in the Decision of the Supreme Court of the Republic of Indonesia and the Minister of Law and Human Rights of the Republic of Indonesia issued Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 19 of 2019 concerning Terms and Procedures for Appointment, Leave, Transfer, Termination, and Extension of the Office of the Notary in effect at this time. The main issues in the Decision of the Supreme Court of the Republic of Indonesia Number 50 / P / HUM / 2018 such as in terms of the Notary appointment process before the Supreme Court Decision of the Republic of Indonesia was issued and the Legal Implications of the Decision of the Supreme Court of the Republic of Indonesia on the notary appointment process. The research methods include: The approach method used is normative, the nature of the research is descriptive analytical, the types of legal materials collected in this study are primary legal materials, secondary legal materials and non-legal materials, legal material processing is processed through the editing process, legal material analysis used is a qualitative approach. Based on the research results of the Notary appointment process prior to the issuance of the Decision of the Supreme Court of the Republic of Indonesia Number 50 / P / HUM / 2018, namely that a prospective Notary Public can be appointed as a Notary Public must meet requirements, including passing the Notary Appointment Examination held by the Directorate General of General Law Administration of the Ministry of Law and Rights Human Rights of the Republic of Indonesia as regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 62 of 2016 and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 25 of 2017. Legal Implications of the Decision of the Supreme Court of the Republic of Indonesia Number 50 / P / HUM / 2018 regarding the process of appointing a Notary in Indonesia, the Ministry of Law and Human Rights of the Republic of Indonesia did not implement the content of the Supreme Court decision of the Republic of Indonesia Number 50 / P / HUM / 2018, namely by issuing a Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 19 of 2019 concerning Terms and Procedures for Appointment, Leave, Transfer, Dismissal, and Extension of Service Period of Notaries. The content contained in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 19 of 2019 is almost the same as the content of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia which was canceled by the decision of the Supreme Court of the Republic of Indonesia and the Position of the Regulation of the Minister of Law and Rights The Human Rights of the Republic of Indonesia Number 19 of 2019 which is ordered by the Law of the Republic of Indonesia concerning the Position of Notary Public is not in line with the 1945 Constitution of the Republic of Indonesia.

Keywords: Supreme Court Decision, Notary, Ministerial Regulation.

