

SUPERVISI ASIMETRIS HAKIM DALAM KEKUASAAN YUDIKATIF INDONESIA (PERSPEKTIF HUKUM KELEMBAGAAN NEGARA)

Dwi Wahyudi

Fakultas Hukum, Universitas Pembangunan Nasional “Veteran” Jakarta

Jl. R.S Fatmawati No.1, Jakarta Selatan 12450

E-mail : wahyudidwi744@gmail.com

Abstrak

Supervisi atau pengawasan terhadap hakim merupakan hal yang penting guna memastikan fungsi peradilan berjalan dengan baik dan efisien. Setiap hakim pada hakikatnya memiliki porsi yang sama atas pengawasan. Namun demikian, pada praktiknya saat ini supervisi terhadap hakim konstitusi hanya dilaksanakan secara internal oleh Dewan Etik Hakim Konstitusi dan oleh Majelis Kehormatan Mahkamah Konstitusi sebagai unsur lanjutannya, sedangkan supervisi terhadap hakim lainnya diselenggarakan secara berlapis, yakni secara internal oleh Mahkamah Agung (MA) dan eksternal oleh Komisi Yudisial (KY). Pengawasan yang berpola asimetris antara hakim konstitusi dengan hakim lainnya tersebut merupakan keadaan hukum yang cukup menjadi sorotan. Hadirnya paradigma pragmatis masyarakat bahwa status kedudukan MK lebih tinggi dari MA merupakan salah satu residu yang timbul dari dilaksanakannya supervisi asimetris tersebut. Untuk itu, penelitian ini dihadirkan sebagai upaya pengkajian untuk mendalami fenomena supervisi asimetris hakim ditinjau dari perspektif hukum kelembagaan negara. Peneliti dalam penulisan ini memilih jenis penelitian yuridis normatif, yang kemudian dipadukan dengan tiga pendekatan, yakni *statute approach*, *conceptual approach*, dan *historical approach*. Dari hasil penelitian didapati bahwa penyelenggaraan supervisi asimetris hakim bukanlah didasari atas perbedaan status kedudukan antara hakim konstitusi dengan hakim lainnya, melainkan hadir karena keadaan hukum dan pertimbangan hukum yang kompleks sehingga pengawasan terhadap seluruh hakim belum dapat diselenggarakan dengan seragam. Didapati pula bahwa MA secara ketatalembagaan negara memiliki derajat kedudukan yang sama dengan MK, hal yang membedakan hanyalah kompetensi peradilannya.

Kata Kunci: Hakim, Supervisi, *Auxiliary State's Organ*.

Asymmetrical Supervision of Judge in Indonesia's Judicative Powers (State Institutional Law Perspective)

Dwi Wahyudi

Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jakarta
Jl. R.S Fatmawati No.1, Jakarta Selatan 12450
E-mail : wahyudidwi744@gmail.com

Abstract

Supervision of judges is important to ensure the functioning of the judiciary runs well and efficiently. Each judge essentially has the same portion of supervision. However in practice currently, supervision of the constitutional judges is only carried out internally by the Ethics Council of the Constitutional Judges and by the Honorary Council of the Constitutional Court as the advanced element, while the supervision of other judges is carried out in layers, it is carried out by Supreme Court (as internal supervisin) and the Judicial Commission (as external supervision). The asymmetrical pattern of supervision between the constitutional judges and other judges constitutes a legal situation which is being spotlight. The presence of the pragmatic paradigm of society that the status of the Constitutional Court is higher than the Supreme Court is a residue that arises from the implementation of this asymmetric supervision. For this reason, this research is presented as an assessment effort to explore the phenomenon of asymmetric supervision of judges from the perspective of state institutional law. Researchers in this paper chose the type of normative juridical research, which was then combined with three approaches, those were the statute approach, the conceptual approach, and the historical approach. From the results of this research, it was found that the implementation of asymmetric supervision of judges was not based on differences in status between constitutional judges and other judges, but it was present due to legal conditions and complex legal considerations, so that the supervision of all judges could not been carried out uniformly yet. It was also found that the Supreme Court institutionally has an equivalent position as the Constitutional Court, the only thing that distinguishes the two is the judicial competence.

Keywords: Judge, Supervision, Auxiliary State`s Organ.