

Pembatasan hak prerogatif presiden dalam pengangkatan pejabat publik
kajian tentang mekanisme pengangkatan kapoldi dan Panglima TNI =
Restrictions on the presidential prerogative in the appointment of public
officials a study of the mechanism of the appointment of chief of the
indonesian national police and commander of the Indonesian National
Armed Forces

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Abstrak

ABSTRAK

Tesis ini membahas tentang pembatasan hak prerogatif presiden dalam pengangkatan pejabat publik khususnya kepala kepolisian negara republik Indonesia dan Panglima TNI. Pembatasan tersebut berupa hak konfirmasi DPR dalam proses pengangkatan pejabat publik. Metode penelitian yang digunakan adalah metode penelitian normatif yuridis dengan pendekatan pendekatan undang-undang (statuta approach). Hasil penelitian ini menunjukkan bahwa meskipun intitusi Polri dan TNI merupakan institusi pelaksana fungsi pemerintahan di bidang pertahanan dan keamanan yang kedudukannya berada dalam ruang lingkup kekuasaan eksekutif yakni di bawah Presiden serta jabatan Kepala Polri dan Panglima TNI merupakan jabatan karir, namun karena kedua institusi tersebut merupakan alat negara bukan alat pemerintahan maka perlu adanya pengawasan dari DPR sebagai lembaga yang merepresentasikan kepentingan rakyat. Pada konteks ini jika semula pengangkatan Kapolri dan TNI merupakan kewenangan mandiri (hak prerogatif) seorang presiden, kini menjadi hak prerogatif dengan pembatasan. Di masa yang akan datang perlu pengaturan secara tegas oleh konstitusi tentang pembatasan hak prerogatif presiden dalam pengangkatan Kapolri dan Panglima TNI. Karena, pembatasan atas hak prerogatif presiden semestinya hanya dapat dilakukan jika secara tegas diatur oleh konstitusi itu sendiri.

ABSTRACT

This thesis focuses on the study of the restrictions on the Presidential Prerogative in the Appointment of Public Officials especially Chief of the Indonesian National Police and Commander of The Indonesian National Armed Forces. That Restrictions is the right of confirmation of the House of Representatives (DPR) in the process of appointment of public officials. This research is a normative research that use statuta approach. The results of this research is indicate that although the police and military institutions are the implementing agencies of government functions in the field of defense and security whose position is within the scope of executive power under the President, and the Chief of the Indonesian National Police and the Commander of The Indonesian National Armed Forces are career positions, but because these institutions are the state apparatus not government apparatus, so the supervision or control of the Parliament (DPR) as an institution that represents the interests of the people is needed. In this context, the appointment of Chief of the Indonesian National Police and the Commander of The Indonesian National Armed Forces is still prerogative of president but by the restrictions. The reseacher sugests that in the future, there should be regulation expressly by the constitution for the restriction of the presidential prerogative in the appointment of Chief of the Indonesian National Police and the Commander of The Indonesian National Armed Forces. Because, restriction on the prerogative of the president should only be performed if expressly provided by

the Constitution itself.</i>