

Mencari "Negara Hukum": Analisis sosiolegal terhadap pertimbangan hakim dalam Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 = Inspecting "The Rule of Law": Sociolegal analysis of the judge's consideration in the ruling of The Constitutional Court Number 90/PUU-XXI/2023

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Abstrak

Penelitian ini menganalisis bagaimana prinsip-prinsip negara hukum diejawantahkan hakim konstitusi dalam Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023. Penelitian ini juga memeriksa bagaimana dampak Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 terhadap kondisi terkini negara hukum di Indonesia serta respons warga masyarakat terhadap hal itu. Putusan tersebut dianalisis berdasarkan tiga elemen negara hukum yang dikemukakan oleh Adriaan Bedner, yaitu elemen prosedural, substansial, dan mekanisme kontrol. Penelitian ini menggunakan pendekatan sosiolegal, yaitu dengan melihat law in action dengan metode penelitian doktrinal dan nondoktrinal. Penelitian ini mengumpulkan data dengan melakukan wawancara kepada informan serta melakukan analisis putusan, peraturan perundang-undangan, dan literatur terkait. Sayangnya, justru elemen negara hukum lebih banyak terlihat dalam dissenting opinion dibandingkan opinion of the court dan concurring opinion. Berdasarkan analisis dari wawancara informan, masyarakat menilai bahwa Putusan MK Nomor 90/PUU-XXI/2023 berdampak buruk bagi negara hukum, bahkan merobohkan negara hukum, terutama mengenai independensi kekuasaan kehakiman sebagai elemen penting dalam negara hukum. Fenomena yang terjadi Indonesia telah membuktikan bahwa justru melalui fasilitas-fasilitas negara hukum itu sendiri, negara hukum dirusak. Demokrasi sebagai penyangga negara hukum juga membunuh dirinya sendiri melalui cara-cara demokratis. Negara hukum di Indonesia berada di ujung tanduk.

.....This research examines the Constitutional Court Decision Number 90/PUU-XXI/2023 to determine how constitutional judges exemplify rule of law principles. The research further considers how the Constitutional Court Decision Number 90/PUU-XXI/2023 has affected the rule of law in Indonesia and its reception by the public. The decision is analyzed based on three elements of the rule of law as proposed by Adriaan Bedner, namely procedural, substantial, and control mechanism elements. In this regard, sociolegal research is utilised which looks at doctrinal and non-doctrinal approaches for studying law in action. Data were collected through interviews with informants and analysis of the decision, legislation, and relevant literature. Unfortunately, the elements of the rule of law are more evident in the dissenting opinion than in both opinion of the court and concurring opinion. According to informant interview analysis there is a general assesment among public that Constitutional Court Decision Number 90/PUU-XXI/2023 has negatively impacted on the rule of law in general, it even undermines particularly with reference to judicial independence as a crucial part of rule of law. The phenomenon occuring in Indonesia demonstrate that the rule of law is being undermined from within by the very institutions meant to uphold it. Democracy, as the pillar of the rule of law, is also eroding itself through democratic processes. The rule of law in Indonesia is teetering on the edge of collapse.