

## **POLITIK HUKUM KEKUASAAN PRESIDEN DI BIDANG NON EKSEKUTIF DALAM KAITANNYA DENGAN KONSEP *CHECKS AND BALANCES***

### **INTISARI**

**Akbar Sayudi<sup>1</sup> dan Aminoto<sup>2</sup>**

Penelitian ini bertujuan untuk menganalisis politik hukum kekuasaan Presiden di bidang non eksekutif dalam kaitannya dengan konsep *checks and balances*, serta implikasi kekuasaan Presiden tersebut terhadap cabang kekuasaan legislatif dan yudikatif dalam upaya pelaksanaan konsep *checks and balances*.

Penelitian ini merupakan jenis penelitian hukum normatif. Data yang digunakan adalah data sekunder yang terdiri dari bahan hukum primer, sekunder dan tersier. Pengumpulan data dilakukan dengan cara dokumentasi bahan-bahan hukum primer, sekunder dan tersier yang dilanjutkan dengan studi dokumen. Proses analisis data menggunakan metode kualitatif, dengan menganalisis data-data berupa dokumen, peraturan-peraturan dan teori-teori terkait yang menghasilkan data deskriptif-analitis.

Politik hukum kekuasaan Presiden di bidang non eksekutif merupakan upaya untuk menghindari dominasi cabang kekuasaan legislatif dan yudikatif dalam melaksanakan fungsinya agar terdapat mekanisme *checks and balances* terhadap pelaksanaan fungsi tiap-tiap cabang kekuasaan tersebut. Implikasi kekuasaan Presiden di bidang non eksekutif terhadap cabang kekuasaan legislatif dan yudikatif yaitu: *Pertama*, kewenangan membentuk undang-undang, dapat membantu pelaksanaan fungsi DPR. Namun, dapat juga menghambat bahkan mereduksi fungsi legislasi DPR; *Kedua*, kewenangan menetapkan Perpu, dapat membantu mengantisipasi hal ihwal kegentingan yang memaksa, akan tetapi di sisi lain, dapat mereduksi fungsi legislasi DPR, karena Perpu dapat mementahkan undang-undang; *Ketiga*, kewenangan mengajukan dan membahas RUU APBN yang berimplikasi pada adanya kerjasama antara Presiden dan DPR serta DPD dalam penyusunan anggaran; *Keempat*, kewenangan Presiden memberikan grasi, rehabilitasi, amnesti dan abolisi dapat merubah putusan pengadilan, bahkan dapat menghentikan proses peradilan. Kedudukan MA dalam hal ini lemah.

**Kata Kunci:** Politik Hukum, Kekuasaan Presiden di Bidang Non Eksekutif, *Checks and Balances*.

---

<sup>1</sup> Mahasiswa Fakultas Hukum Universitas Gadjah Mada Yogyakarta

<sup>2</sup> Dosen Fakultas Hukum Universitas Gadjah Mada Yogyakarta

## POLITIC OF LAW IN PRESIDENTIAL POWER IN THE FIELD OF NON EXECUTIVE IN RELATION TO THE CONCEPT OF CHECKS AND BALANCES

### ABSTRACT

Akbar Sayudi<sup>3</sup> dan Aminoto<sup>4</sup>

This research intends to analyze the politic of law in Presidential power in the field of non executive in relation to the concept of checks and balances, as well as the implications of the president's powers to the legislative and judicial branches of power in the efforts to implement the concept of checks and balances.

This research is a normative legal research. The data used are secondary data consists of primary legal materials, secondary and tertiary. Data collection was done by way of documentation of primary legal materials, secondary and tertiary followed by studies document. The process of data analysis using qualitative methods, by analyzing data in the form of documents, laws and theories related that produces data descriptive-analytic.

Politic of law in Presidential power in the field of non executive is an attempt to avoid the domination of legislative and judicial branches of power in carrying out its functions so there is a mechanism of checks and balances on the implementation of the functions of each branch of power. The implications of the president's powers in the field of non-executive againts the legislative and judicial branches of power, namely: *First*, the authority to establish laws, can help the implementation of the functions of Parliament. However, it can also hamper the legislative function and even reduce the Parliament; *Second*, the authority set a government regulation in lieu of law, can help anticipate happenings crisis that forced, but on the other hand, can reduce the legislative function of the Parliament, because it can countered the laws; *Third*, authority to propose and discuss the state budget draft which implies the existence of cooperation between the President and Parliament; *Fourth*, the authority of the President grant pardon, rehabilitation, amnesty and abolition can change a court decision, it can even block the judicial process. The position of the Supreme Court in this case is weak.

**Keywords:** Politic of Law, The President's Powers in The Field of Non-Executive, Checks and Balances

---

<sup>3</sup> Student of the Faculty of Law, Gadjah Mada University, Yogyakarta.

<sup>4</sup> Lecturer of the Faculty of Law, Gadjah Mada University, Yogyakarta.