

ABSTRAK

Saat ini dapat dilihat banyaknya warga negara yang terjerat kasus hukum, menggunakan pintu pengujian undang-undang kepada Mahkamah Konstitusi sebagai wujud upaya hukum yang dapat dilakukan oleh warga negara ketika hak konstitusionalnya dilanggar. Hal demikian terjadi karena didalam Pasal 24C ayat (1) UUD NRI Tahun 1945 masih belum mewadahi suatu pengaturan mengenai pertanyaan konstitusional (*constitutional question*) yang dimiliki oleh Mahkamah Konstitusi.

Adapun tujuan dari penelitian ini adalah untuk menganalisis bagaimana bentuk pelaksanaan kewenangan Mahkamah Konstitusi dalam menjalankan fungsinya sebagai *The Protector of Citizen's Constitutional Rights* serta urgensi penerapan *Constitutional Question* di Indonesia, sementara yang kedua adalah mengenai bagaimana mekanisme Implementasi *Constitutional Question* dan prospek pengaturan yang tepat pada Mahkamah Konstitusi Republik Indonesia kedepan. Metode yang digunakan adalah yuridis normatif yaitu meneliti bahan pustaka atau data sekunder seperti peranturan perundang-undangan, hasil penelitian, hasil karya dari kalangan hukum, serta sumber bacaan yang berkaitan dengan masalah yang diteliti dengan menggunakan pendekatan perundang-undangan (*statute approach*), Pendekatan sejarah (*history approach*) dan Pendekatan perbandingan (*comparative approach*).

Dari hasil penelitian disimpulkan sebuah kewenangan Mahkamah Konstitusi Republik Indonesia untuk menerapkan mekanisme *Constitutional Question* secara legal formal, pengadopsian mekanisme tersebut dilakukan tanpa harus melalui Amandemen UUD NRI Tahun 1945, melainkan cukup dilakukan dengan cara mengubah UU MK, yakni dengan mengatur dan menambahkan mekanisme *constitutional question* ke dalam UU MK, dengan meletakkannya sebagai bagian dari kewenangan Mahkamah Konstitusi dalam menguji undang-undang terhadap UUD sebagaimana dimaksud oleh pasal 24C Ayat (1) UUD 1945.

Kata Kunci: *Constitutional Question, Mahkamah Konstitusi, Hak Konstitusional, The Protector of The Citizen's Constitutional Rights.*

ABSTRACT

At present, it can be seen that many citizens are caught in legal cases, using the door of law testing to the Constitutional Court as a form of legal action that can be carried out by citizens when their constitutional rights are violated. This happens because in Article 24C Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, concerning the Constitutional Court still not accommodating a regulation concerning constitutional questions owned by the Constitutional Court.

The purpose of this study is to analyze how the form of implementation of the Constitutional Court's authority in carrying out its functions as The Protector of Citizen Constitutional Rights and the urgency of applying Constitutional Question in Indonesia, while the second is about the mechanism of Implementation of Constitutional Questions and the prospect of proper regulation of the Constitutional Court The Republic of Indonesia in the future. The method used is normative juridical, namely examining library materials or secondary data such as legislation, research results, works from legal circles, as well as reading sources related to the problem under study using a statute approach, historical approach (history approach) and comparative approach.

From the results of the study, it was concluded that the Constitutional Court's authority to apply the legal formal Constitutional Question mechanism, the adoption of the mechanism was carried out without having to go through the 1945 Constitution of the Republic of Indonesia Amendment, but rather by changing the Constitutional Court Law by regulating and adding the constitutional question mechanism in the Constitutional Court Law, by placing it as part of the authority of the Constitutional Court in examining laws against the Constitution as referred to in article 24C Paragraph (1) of the 1945 Constitution.

Keywords: Constitutional Question, Constitutional Court, Constitutional Rights, The Protector of The Citizen's Constitutional Rights.