

Perlindungan terhadap benda budaya pada masa konflik bersenjata menurut hukum humaniter internasional : penerapannya oleh International Criminal Tribunal for the Former Yugoslavia dalam kasus-kasus Dubrovnik

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Abstrak

Ketentuan-ketentuan mengenai perlindungan benda budaya pada masa konflik bersenjata dapat ditemukan dalam Convention IV respecting the Laws and Customs of War on Land, Convention IV relative to the Protection of Civilian Persons in Time of War dan kedua protokol tambahannya, serta Convention for the Protection of Cultural Property in the Event of Armed Conflict dan kedua protokolnya. Ketiga perangkat instrumen hukum humaniter internasional di atas memuat kewajiban negara untuk menghormati benda budaya pada masa konflik bersenjata. Beberapa prinsip dasar di dalamnya diakui sebagai hukum kebiasaan internasional. Penerapan dari ketentuanketentuan hukum internasional terkait benda budaya dapat dilihat dengan menelaah praktik International Criminal Tribunal for the Former Yugoslavia. Dua kasusnya, yakni Prosecutor v. Miodrag Jokic dan Prosecutor v. Pavle Strugar, menunjukkan pelaksanaan proses peradilan terhadap pelaku dalam penghancuran Kota Tua Dubrovnik.

The rules on the protection of cultural property during armed conflicts can be found in Convention IV respecting the Laws and Customs of War on Land, Convention IV relative to the Protection of Civilian Persons in Time of War and its two additional protocols, as well as Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two protocols. These three sets of international treaties govern a state's obligations concerning respect towards cultural property in times of armed conflict. Several provisions contained therein are acknowledged as customary international law. The implementation of the rules in international humanitarian law concerning cultural property can be seen by inspecting the practice of the International Criminal Tribunal for the Former Yugoslavia. Its two cases, namely Prosecutor v. Miodrag Jokic and Prosecutor v. Pavle Strugar, illustrates the judicial process involved in convicting perpetrators responsible for the destruction of the Old City of Dubrovnik.