

Penerapan yurisdiksi ekstrateritorial dalam Konvensi Eropa tentang hak asasi manusia : studi kasus Al-Skeini and others v. UK = Application of extraterritorial jurisdiction in European Convention on human rights : case study Al-Skeini and others v. UK

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Abstrak

This research explains the definition of jurisdiction, development of the extraterritorial jurisdiction and its regulation in international law which includes its principle and also boundaries. This research then analyzes cases before Al- Skeini and others v. UK case regarding the application of jurisdiction mentioned in Article 1 of the European Convention on Human Rights (ECHR) by European Court of Human Rights (ECtHR). Furthermore, this research analyzes the applications of Article 1 ECHR in United Kingdom's House of Lords decision and ECtHR decision in Al-Skeini. In its decision ECtHR stated that the existence of Public Power in Al-Skeini causes an extraterritorial jurisdiction in that case. The judgement cater to the human rights protection but on the other hand it still leaves a confusion in determining the requirement of extraterritorial jurisdiction in the ECHR.

<hr>Skripsi ini pertama menjelaskan pengertian yurisdiksi serta penjelasan perkembangan dan pengaturan yurisdiksi ekstrateritorial dalam hukum internasional yang mencakup prinsip-prinsip munculnya yurisdiksi ekstrateritorial juga batasan terhadapnya. Skripsi ini kemudian menganalisa kasus-kasus sebelum kasus Al-Skeini and others v. UK berkaitan dengan penerapan yurisdiksi yang dimaksud di dalam Pasal 1 European Convention on Human Rights (ECHR) oleh European Court of Human Rights (ECtHR). Skripsi ini selanjutnya menganalisa penerapan Pasal 1 ECHR dalam putusan House of Lords Inggris serta putusan ECtHR dalam kasus Al-Skeini. Putusan ECtHR menyatakan keberadaan Public Power dalam kasus Al-Sekini menimbulkan yurisdiksi ekstrateritorial atas kasus tersebut. Putusan tersebut berpihak kepada perlindungan Hak Asasi Manusia tetapi di lain sisi tetap meninggalkan kebingungan mengenai syarat jelas timbulnya yurisdiksi ekstrateritorialitas dalam ECHR.