

Analisis konsep yurisdiksi ekstrateritorial dalam perjanjian bilateral tentang status personel/status of forces agreement pada pembangunan pangkalan militer asing = An analysis on the concept of extrateritorial jurisdiction in bilateral agreement of status of forces status of forces agreement for establishment of foreign military bases

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Abstrak

ABSTRAK
Pada masa modern, pembangunan pangkalan militer di luar wilayah negaranya masih dilakukan oleh beberapa negara. Hal itu dilakukan sebagai bentuk perwujudan kerjasama pertahanan yang dilakukan antar negara ataupun organisasi internasional. Permasalahan yang kerap timbul ialah tentang penegakkan yurisdiksi kepada personel militer yang bertugas di pangkalan militer tersebut. Untuk mengatasi masalah tersebut, dibentuklah perjanjian bilateral antara negara pihak yang salah satunya berfungsi untuk menentukan yurisdiksi yang berlaku terhadap suatu pelanggaran hukum. Namun demikian, tidak setaranya posisi negara saat pembentukan perjanjian tersebut mempengaruhi proses pemberlakuan yurisdiksi. Hal ini terjadi karena tidak adanya kesepakatan internasional mengenai perjanjian bilateral yang harus mengatur yurisdiksi tersebut. Oleh karenanya, perlu dibentuk model perjanjian bilateral tentang status personel yang disepakati secara internasional untuk memastikan keadilan dan kesamarataan posisi antara negara-negara yang terlibat dalam pembangunan pangkalan militer asing di suatu negara.

ABSTRACT
In the modern era, the establishment of foreign military bases outside the of its teritory is still practiced by some states. The establishment itself is seen as a form of the embodiment of mutual defense that is being done between states or international organizations. The intermittent issue related to it is about the enforcement of jurisdiction toward the on duty military personnels in military bases. In order to cope with the issue, bilateral agreement between states is formed to determine the applicable jurisdiction when violation of the law happens. However, the unequal position between the states when the agreement is formed affects the practices of the enforcement of jurisdiction. The issue arises since there is no international apperception about which party that is able to assign the jurisdiction. Thereupon, the condition shows that it is required to form an internationally accepted model of bilateral agreement about the status of forces to ensure the equity and equality position between states involving in establishment of foreign military bases in one state.