

Analisis Use of Force pada Penegakan Hukum di Wilayah Yurisdiksi Negara Pantai = Analysis of the Use of Force in Maritime Law Enforcement in the Jurisdiction of the Coastal State

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Abstrak

Perbedaan antara penegakan hukum maritim dan use of force di wilayah yurisdiksi negara pantai sama rumitnya dalam hukum internasional dan juga mendasar dalam praktiknya. Putusan arbitrase kasus Guyana/Suriname serta putusan pengadilan kasus M/V Saiga (No. 2) dan M/V Virginia G menjadi sangat signifikan dalam hal ini karena pengadilan-pengadilan tersebut harus mempertimbangkan beberapa pertanyaan penting yang melibatkan kategorisasi tindakan paksa di laut. Penelitian skripsi ini akan menawarkan beberapa refleksi awal tentang apa yang dianggap sebagai aspek kunci dari perbedaan antara penegakan hukum maritim dan *use of force* di wilayah yurisdiksi negara serta bagaimana seharusnya implementasi penegakan hukum yang diatur di dalam 1982. Berdasarkan penelitian hukum normatif yang dilakukan, tindakan *use of force* pada penegakan hukum di wilayah yurisdiksi negara merupakan suatu hal yang tidak dilarang, namun harus sesuai dengan prinsip-prinsip *necessity*, *unavoidability*, dan *reasonableness*. *Use of force* dalam konteks ini juga harus dianggap sebagai kasus *lex specialis* dan tidak termasuk dalam lingkup larangan umum *use of force* di bawah pasal 2 (4) Piagam PBB.The distinction between maritime law enforcement and the use of force in the jurisdiction of a coastal state is as complex in international law as it is fundamental in practice. The Guyana/Suriname arbitration award and the judgments of the M/V Saiga (No. 2) and the M/V Virginia G cases have been significant in this regard since the tribunal had to consider several important questions involving the categorization of forcible action at sea. This thesis research will offer some initial reflections on what are considered the key aspects of the difference between maritime law enforcement and the use of force in the jurisdiction of a coastal state and how law enforcement should be implemented as regulated in the United Nations Convention on the Law of the Sea 1982. Based on normative legal research conducted, use of force in law enforcement in the jurisdiction of a coastal state is something that is not prohibited, but must comply with the principles of *necessity*, *unavoidability*, and *reasonableness*. The use of force in this context must be considered as a *lex specialis* case and does not fall within the scope of the general prohibition of use of force under article 2 (4) of the UN Charter.