

Perbandingan Konsep Doktrin Unjust Enrichment dalam Sistem Hukum Amerika Serikat dan Indonesia = Comparison of the Unjust Enrichment Doctrine Concept According to United States and Indonesian Law

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Abstrak

Tulisan ini menganalisis mengenai bagaimana konsep doktrin unjust enrichment dalam sistem hukum Amerika Serikat dan peraturannya di Indonesia. Tulisan ini disusun dengan menggunakan metode penelitian doktrinal dan pendekatan komparatif. Doktrin unjust enrichment merupakan prinsip umum di mana seseorang tidak boleh diperkaya secara tidak adil dari kekayaan orang lain, sehingga harus mengembalikannya kepada orang yang berhak atas kekayaan tersebut. American Law Institute telah menerbitkan Restatement (Third) of Restitution and Unjust Enrichment yang berisikan prinsip umum, tanggung jawab ganti rugi, pemulihan hak, dan pembelaan terhadap unjust enrichment. Kitab Undang-Undang Hukum Perdata Indonesia sudah mengatur mengenai unjust enrichment, tetapi hanya sebatas pengayaan yang tidak adil berdasarkan pembayaran saja. Dalam praktiknya, konsep doktrin unjust enrichment telah ditemui pada beberapa putusan di Indonesia, tetapi dikategorikan sebagai tindak hukum lain. Maka dari itu, Indonesia perlu mengadakan pembaharuan terhadap hukum keperdataannya, terutama pengadaan peraturan terkait doktrin unjust enrichment agar tercipta kelengkapan dan kepastian hukum.

.....This paper analyzes the concept of the unjust enrichment doctrine in the United States legal system and its regulation in Indonesia. This paper is prepared by using a doctrinal research method and a comparative approach. The unjust enrichment doctrine is a general principle in which a person should not be unjustly enriched from the wealth of others, so that he must return it to the person who is entitled to the wealth. The American Law Institute has published the Restatement (Third) of Restitution and Unjust Enrichment which contains general principles, liability in restitution, remedies, and defenses to unjust enrichment. The Indonesian Civil Code already regulates unjust enrichment, but only to the extent of unjust enrichment based on payment. In practice, the concept of unjust enrichment doctrine has been found in several decisions in Indonesia, but it is categorized as another legal act. Therefore, Indonesia needs to reform its civil law, especially the provision of regulations related to unjust enrichment doctrine to create completeness and legal certainty.