

Implikasi Penerapan Foreseeability of Harm Principles dalam Perjanjian Regional dan Multilateral serta Sengketa Lingkungan Internasional = Implications of the Application of Foreseeability of Harm Principles in Regional and Multilateral Agreements and International Environmental Disputes

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Abstrak

Penelitian ini akan menganalisis penerapan prinsip foreseeability of harm dalam perjanjian internasional dan sengketa lingkungan internasional. Berangkat dari konsep necessity, prinsip foreseeability of harm memerlukan keseimbangan antara memprediksi kemungkinan kerugian dan mengambil langkah-langkah yang wajar untuk mencegahnya, memastikan bahwa negara bertindak secara bertanggung jawab tanpa terbebani secara tidak adil oleh konsekuensi yang tidak dapat diperkirakan. Namun, dalam perkembangannya sering kali ditemukan tantangan dan hambatan dalam penerapannya yang berkeadilan, bahkan menjadi perdebatan antara hakim-hakim yang meutus suatu perkara. Ditulis menggunakan metode penelitian doktrinal dan peninjauan pustaka, tujuan utama dari penelitian ini adalah melihat perbedaan terhadap penerapan prinsip ini dari setiap perjanjian internasional dan dalam setiap sengketa berkaitan dengan lingkungan. Selain itu, penelitian ini juga melihat secara spesifik metode yang digunakan oleh setiap perjanjian internasional dan penyelesaian kasus oleh pengadilan internasional, seperti kewajiban melakukan pengkajian dampak lingkungan sebelum melakukan suatu proyek, dan lain-lain. Akhir dari penelitian ini akan memberikan kesimpulan terhadap setiap pertanyaan yang diajukan dan saran untuk penerapannya di kemudian hari.

.....This research will identify the application of the principle of foreseeability of harm in international agreements and international environmental disputes. Departing from the concept of necessity, the principle of foreseeability of harm requires a balance between predicting possible harm and taking reasonable steps to prevent it, ensuring that states act responsibly without being unfairly burdened by unforeseen consequences. However, in its development, challenges and obstacles are often found in its fair implementation, and it even becomes a debate between the judges who decide on a case. Written using doctrinal research methods and conducting a literature review, the main aim of this research is to see the differences in the application of this principle in every international agreement and in every dispute related to the environment. Apart from that, this research also looks specifically at the methods used by each international agreement and the resolution of cases by international courts, such as the obligation to carry out environmental impact assessments before carrying out a project, and so on. The end of this research will provide conclusions on each question asked and suggestions for future implementation. This research will identify the application of the principle of foreseeability of harm in international agreements and international environmental disputes. Departing from the concept of necessity, the principle of foreseeability of harm requires a balance between predicting possible harm and taking reasonable steps to prevent it, ensuring that states act responsibly without being unfairly burdened by unforeseen consequences. However, in its development, challenges and obstacles are often found in its fair implementation, and it even becomes a debate between the judges who decide on a case. Written using doctrinal research methods and conducting a literature review, the main aim

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