

Strategi Litigasi Iklim Melawan Korporasi: Pelajaran dari Beberapa Putusan di Berbagai Negara = Climate Litigation Strategy against Corporations: Lessons from Several Rulings across Nations

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Abstrak

Perubahan iklim dirunut menjadi penyebab bagi para pihak atas kerugian yang mereka hadapi. Meningkatnya emisi karbon dioksida, melelehnya es glasial, munculnya banjir, dan banyak efek dari perubahan iklim lainnya diklaim sebagai penyebab rusaknya properti pribadi para pihak, sehingga mereka tidak dapat menikmati hak mereka atas properti pribadi tersebut. Keadaan ini mendorong banyak pihak, baik pemerintah, individu, maupun kelompok, untuk menggugat korporasi atas kontribusi mereka terhadap perubahan iklim. Walaupun secara garis besar para penggugat meminta ganti rugi menggunakan hukum perdata, mereka mengklaim argumentasi yang berbeda-beda mengenai mengapa korporasi harus membayar ganti rugi pada mereka. Klaim yang paling banyak diajukan adalah klaim atas nuisance, negligence, producer liability, civil conspiracy, dan unjust enrichment. Di sisi lain, tidak semua gugatan perdata meminta ganti rugi. Beberapa di antaranya meminta injunction berupa perintah pengadilan agar korporasi mengurangi emisi gas rumah kaca mereka di masa depan untuk memenuhi target Paris Agreement. Dari sekian kasus litigasi iklim yang tersebar di berbagai negara, beberapa kasus menandai argumentasi-argumentasi yang menggarisbawahi bagaimana pengadilan di berbagai negara melihat perubahan iklim serta bagaimana korporasi berperan atau tidak berperan dalam menyebabkan kerugian penggugat. Penelitian akan membahas mengenai sejarah litigasi iklim dan masalah hukum yang muncul dalam gugatan iklim. Setelah itu, dibahas pula gambaran umum argumentasi populer dari penggugat serta contoh-contoh landmark cases yang diseleksi dengan beberapa pertimbangan. Penelitian akan menganalisis alasan ditolak dan dikabulkannya gugatan iklim, memberikan kontekstualisasi peranan majelis hakim terhadap putusan, dan aplikasi analisis tersebut terhadap gugatan iklim di Indonesia. Berdasarkan penelitian normatif yang dilakukan, ditemukan bahwa permintaan ganti rugi dan pembuktian kausalitas adalah dua rintangan utama bagi penggugat untuk memenangkan gugatan. Selain itu, Indonesia juga memiliki skema ganti rugi yang cukup unik dibandingkan dengan negara lain dalam kasus kebakaran hutan. Sebagai penutup, penelitian menyertakan saran bagi para pihak yang ingin mengajukan gugatan iklim.

.....Climate change is traced to be the cause for the losses that certain parties face. Increased carbon dioxide emissions, melting of glacial ice, the emergence of floods, and many other effects of climate change are claimed to be the cause of damage to the parties' private property, rendering them unable to enjoy their rights to their private property. This situation has prompted many parties, be it governments, individuals, or groups, to sue corporations for their contribution to climate change. Although in general the plaintiffs seek compensation using tort law, they claim different arguments as to why the corporation should pay compensation to them. The most frequently submitted claims are claims for nuisance, negligence, producer liability, civil conspiracy, and unjust enrichment. On the other hand, not all civil lawsuits seek compensation. Some of them asked for an injunction in the form of a court order for corporations to reduce their greenhouse gas emissions in the future to meet the Paris Agreement targets. Of the many climate litigation cases across various countries, several cases highlight arguments that underline how courts in

various countries view climate change and whether corporations play or do not play a role in causing the plaintiff's losses. The research will discuss the history of climate litigation and the legal issues that arise in climate lawsuits. After that, an overview of the popular arguments of the plaintiffs and examples of landmark cases, which were selected with several considerations, are also discussed. The study will analyze the reasons for the rejection and granting of climate lawsuits, provide contextualization of the role of the panel of judges in the decision, and the application of the analysis to climate lawsuits in Indonesia. Based on the normative research conducted, it was found that the request for compensation and the proof of causality were the two main obstacles for the plaintiff to win the lawsuit. In addition, Indonesia also has a compensation scheme that is quite unique compared to other countries in the case of forest fires. In closing, the research includes suggestions for parties wishing to file a climate lawsuit.