

Prospek Pengaruh Advisory Opinion Mahkamah Internasional tentang Perubahan Iklim terhadap Tanggung Jawab Negara = Prospects for the Influence of the International Court of Justice's Climate Change Advisory Opinion on State Responsibility

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Abstrak

Penelitian ini membahas mengenai potensi pengaruh yang mungkin timbul dari dikeluarkannya Advisory Opinion tentang Kewajiban Negara Terkait Perubahan Iklim oleh Mahkamah Internasional. Tiga inti permasalahan yang akan diangkat dalam penelitian ini, yakni kewenangan Mahkamah Internasional dan peran advisory opinion-nya terhadap dinamika hukum internasional secara umum; status quo hukum perubahan iklim; serta prospek dampak yang mungkin timbul ketika Mahkamah Internasional menjawab pertanyaan dari Majelis Umum Perserikatan Bangsa-Bangsa sehubungan dengan tanggung jawab negara terkait perubahan iklim. Penelitian akan dilakukan secara doktrinal, dengan memaparkan berbagai instrumen hukum yang relevan secara sistematis, menganalisis kaitan masing-masing instrumen, serta mengidentifikasi implikasi hambatan dan potensi dari berbagai instrumen tersebut. Hasil dari penelitian ini mencatat tiga skenario respon Mahkamah Internasional dari pengajuan advisory opinion ini: 1) penolakan untuk menjawab inti pertanyaan; 2) afirmasi semata atas status quo hukum perubahan iklim; 3) diberikannya kontribusi progresif terhadap status quo hukum perubahan iklim. Terkait skenario terakhir, tulisan ini akan mencatat ekspektasi bentuk kontribusi tersebut. Terakhir, pengaruh bagi hubungan internasional dan hukum domestik juga ditelaah.

.....This research discusses the potential influences that may arise from the upcoming Advisory Opinion on State Obligations Regarding Climate Change issued by the International Court of Justice. The study focuses on three main issues: the authority and role of the Court's advisory opinions in the dynamics of international law in general; the status quo of climate change law; and the prospective impacts that may emerge when the Court responds to questions presented by the United Nations General Assembly in relation to States' climate change obligations. The research will be conducted doctrinally, meaning that it will systematically present various relevant legal instruments, analyze the relationship between each instrument, and identify the obstacles and potential implication of these various instruments. The findings of this research suggest three scenarios on which the Court may respond to the request: 1) refusal to clarify the "core" of the question; 2) mere affirmation of status quo climate change law; and 3) progressive contributions from status quo climate change law. With regards to the latter, this study will also suggest in what way can the Court make such progressive contributions. Lastly, influences towards international relations and domestic law will also be analyzed.