



EFFORTS TO HANDLE INTERNATIONAL DISPUTES THROUGH SUBJECTS INTERNATIONAL LAW

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Abstract

This article aims to (1) find out clearly what is meant by international law, (2) find out how the development of international law, and (3) to know what kinds of subjects of international law in dispute resolution itself. The data collection technique used is by quoting from several book sources as well as from journals and papers that have been read before. The results of the discussion of this journal show that (1) International Law is a positive law. Where the purpose of the law itself is to create and realize justice in international. (2) The development of international law is important because in essence as a law that introduces the concept of an archipelagic state, a means of intervention to a means of suppressing developing countries, which of course in this development for the Indonesian people to strengthen cooperation in the fields of economy, politics, security, and education. (3) There are several ways to resolve disputes under international law, namely, through peaceful settlement of disputes contained in the United Nations Charter, namely Article 2 paragraph (3) of The Charter of the United Nations (UN Charter). And it can also be done in terms of kinship or peace, namely negotiation, investigation, mediation, conciliation and arbitration.

Kata kunci:

*Perkembangan, Subjek
Hukum Internasional,
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Abstrak

Artikel ini bertujuan untuk (1) mengetahui secara jelas mengenai apa yang dimaksud dengan Hukum Internasional, (2) mengetahui bagaimana perkembangan Hukum Internasional, serta untuk (3) mengetahui apa saja macam-macam subjek Hukum Internasional dalam penyelesaian sengketa itu sendiri. Teknik pengumpulan data yang digunakan adalah dengan cara mengutip dari beberapa sumber buku maupun dari jurnal dan makalah yang sudah di baca sebelumnya. Hasil pembahasan dari jurnal ini menunjukkan bahwa (1) Hukum Internasional merupakan suatu hukum yang bersifat positif. Dimana tujuan daripada hukum itu sendiri adalah untuk menciptakan serta mewujudkan keadilan dalam hubungan internasional. (2) Perkembangan hukum internasional ini penting karena pada hakikatnya sebagai hukum yang mengenalkan konsep Negara kepulauan, sarana intervensi hingga alat penekan Negara berkembang, yang tentunya dalam perkembangan ini bagi bangsa Indonesia untuk memperkuat jalinan kerjasama dibidang ekonomi, politik, keamanan, serta pendidikan. (3) Penyelesaian sengketa dalam Hukum Internasional ini ada beberapa cara yaitu, melalui menyelesaikan sengketa secara damai yang terdapat pada Piagam Perserikatan Bangsa-Bangsa (Piagam PBB), yakni Pasal 2 ayat (3) The Charter of the United Nations (UN Charter). Dan juga dapat dilakukan dari segi kekeluargaan atau perdamaian yakni negosiasi, investigasi, mediasi, konsiliasi dan arbitrase.

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INTRODUCTION

World developments are characterized by rapid progress in science and technology, increasing the intensity of relations and interdependence between countries. One of them is in International Law, in line with improving relations, as well as increasing international cooperation in various fields and forms of international agreements in the defense sector. So that Indonesia's involvement in international defense cooperation is an embodiment of the objectives of the Government of the Republic of Indonesia as stated in Part IV of the Preamble to the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia), namely to protect the entire Indonesian nation and all spill the blood of Indonesia and to advance general welfare, educate the life of the nation, and

participate in implementing world order based on independence, eternal peace and social justice.

In international law, states are considered the main legal subjects. International law is also defined as a set of rules and regulations that bind and regulate relations between states and other legal subjects in the life of the international community. This international law regulates the rights and obligations of international law citizens. Subjects of international law are holders or defenders of rights and obligations based on international law and every holder or supporter of the rights and obligations of citizens within the scope of international law applicable in each country.

According to international law, the subject of international law also studies the benefits of international law for Indonesia and introduces new concepts of national interest, for example the concept of an archipelagic state so that it can be seen that Indonesia as an archipelagic state must comply with the provisions of international law. Apart from that, the benefit of international law for Indonesia is that it can be used to resolve cases such as the Sipadan-Ligitan case, the GAM case, Timor Leste and so on. International law has a big influence on member countries such as Indonesia. Both in terms of positive and negative influence. This international law plays a very important role, especially in realizing an international agreement which gives birth to binding provisions for the parties by making the international agreement in addition to the existence of international customs that arise in the implementation of the concept of the association of countries which is accepted as law in the association. they. General principles of law are also the basis for state relations in international relations.

The object of study of International Law itself refers to the legal system which is generally not limited to positive law in certain countries, but the object of study in International Law can be said to be positive law which is in relations between countries. The material discussed in International Law is of course very broad, and the material and discussions vary. These include issues regarding the development of international law, definition, scope, essence, sources of law, jurisdiction, sovereignty, and various types of international law, as well as resolving disputes between countries and so on.

Based on this, several problem formulations can be formulated that will be answered in this article, regarding International Law, including: (1) Understanding International Law. (2) Subjects of International Law. (3) Settlement of International Legal Disputes.

RESEARCH METHODS

This research is normative legal research. In this research, three types of approaches are used, namely, the Statute Approach, The legal materials used in this research, namely primary and secondary legal materials obtained from library/literature studies, were then studied and analyzed for their relationships and interrelationships in helping and explaining the concepts and theories used in this research.

RESULTS AND DISCUSSION

Subjects of International Law

In general, legal subjects are defined as owners or supporters of obligations according to law, as well as bodies or institutions that have the ability to control rights and carry out obligations in international law. Where these rights and obligations are regulated by material international law and formal international law. What is seen as a subject of international law is:

Individuals or individuals are natural and social as legal subjects. This means that one has the same degree as one another before the law regardless of background, religion, race, gender or ethnicity. Those who have human rights because of their nature as individuals. Then the legal entity (Legal person *rechtsperson*) is a body or institution created with a specific purpose as a legal subject and carries legal rights and obligations independently. And it can be said to be a juridical construction that can appear in various shapes and forms appropriate to its field. For example, companies, legal entities or legal systems exist in villages or communities. 5 Meanwhile, in the form of public law, namely the central government, regional government or departments. As well as at the international level such as interstate or government organizations.

Within the scope of the subject of international law, it regulates everything from states to individuals as objects, namely, among other things, found in 6

1. The state is the main subject in international law which is defined as a sovereign state and has its own government that does not depend on other countries.
2. International organizations, namely taking part in resolving violations of international law. International organizations that are subject to international law are organizations that have global members with general objectives, for example the UN. Global member organizations with special purposes such as the IMF. Regional membership organizations with global goals, for example ASEAN. And regional membership organizations with specific goals such as NAFTA.
3. International Red Cross, namely as a subject of international law within a limited scope. Its position was strengthened by the existence of the Red Cross Convention. And the mission of the International Red Cross is for humanity. Therefore, this organization is independent and cannot interfere with any country.
4. The Holy See, Vatican, has been the subject of international law since the signing of the Lateran Pact in 1929. The Lateran Pact itself is an agreement between the Kingdom of Italy and the Holy See of the Vatican. Where, the Vatican is under the leadership of the pope who is a diplomatic representative who has a position equal to that of other countries.

5. Rebels and parties to the conflict, according to the laws of war, this group can become an organized subject of international law, in obeying the laws of war, controlling territory, having the ability to establish relations with other countries, being able to determine its own destiny, and controlling and managing natural resources in the areas they control, so they can choose their own system (economic, political and social).
6. Individuals, as explained in Mochtar Kusumaatmadja's quote in the Versailles Treaty of 1919, are mentioned in several articles which allow individuals to bring cases internationally to the International Arbitration Court. Thus, individuals are also part of international law and can be parties to international justice.

International Legal Dispute Resolution

In Law Number 24 of 2000 concerning International Agreements (UU 24/2000) it is stated that an international agreement is an agreement in its form and name which has been regulated by international law, and is stated in writing to give rise to rights and obligations in the field of public law. In an international agreement, the parties are free to determine how the agreement is made and who is involved in it, which can give rise to international disputes because

There will be many interpretations arising from various parties and there may also be disputes regarding the implementation of the agreements that have been made.

In resolving international disputes peacefully, this is the implementation of the United Nations Charter (UN Charter), namely Article 2 paragraph (3) of The Charter of the United Nations (UN Charter). There are several principles in resolving disputes, namely using the principle of good faith, this principle requires the parties to have good intentions in resolving their disputes which can be realized in various ways, such as preventing disputes from arising. The principle of freedom of choice, based on this principle, the parties to a dispute are free to determine how they will resolve their dispute peacefully in accordance with the provisions of Article 2 (3) jo. Article 33 (1) (UN) of the United Nations Charter, whether provided by the UN or by other peaceful means agreed to by the parties, and avoids settling disputes by force or the use of weapons. There are also principles of agreement between the parties (consensus), quoted by Huala Adolf in the International Dispute Resolution Law Book p. 17, The principle of consensus states that the parties to a dispute are free to choose the method of resolving the dispute and are free to choose the law that will be applied if a dispute arises based on an agreement or agreement. Up to the principle of freedom to choose the law that will be applied, if an international dispute is ultimately resolved through justice, the parties are free to choose which law will be applied, as Article 38 (2) of the Statute of the International Court of Justice states: "This provision is without prejudice to the jurisdiction of the court to

decide cases *ex aequo et bono*, if the parties express their agreement”, meaning that the parties are free to choose in terms of fairness and/or feasibility.

Apart from that, dispute resolution within the scope of International Law also has the form of settlement in terms of family or peace⁷, namely:

Negotiation is the method most often used in resolving international disputes, which is of course carried out by discussing with interested parties to agree on the problem without the role of a third person, and can be carried out bilaterally, multilaterally, formally or informally. Settlement through negotiation is also considered the main way. The main reason is that this way the parties can monitor the dispute resolution procedure. Each settlement is based on agreement or consensus of the parties. And if the parties agree to resolve the dispute, then this will be stated in the agreement between the parties to the dispute.

- 1) Fact Finding (Investigation), International disputes can arise due to differences of opinion or interpretation of facts that determine the rights and obligations of the parties. This fact-finding will involve a third person because the fact-finding itself will form an official commission of inquiry or investigation by a reputable observer.
- 2) Mediation, is a form of dispute resolution that also involves a third party who is also called a mediator. The mediator can be a state, international organization, legal expert or other party who does not take sides or is neutral. In resolving disputes through mediation, a third party also participates in the dispute resolution negotiation process, but the decision to resolve the dispute rests with the disputing party.
- 3) Conciliation, is a dispute resolution process involving a third party or what is usually called a conciliation commission, both institutional and temporary. Conciliation begins with submitting a dispute to the conciliation commission until finally the conciliation commission makes a report with a proposal for resolving the dispute and submits it to the parties to the dispute and returns it to the parties to the dispute, whether the proposal from the conciliation committee is accepted or not. In the case of conciliation, a third party is a party who is asked to become a people's commissioner, whose task is to explain the facts related to the resolution of the dispute and make a report, the contents of which include proposals for settlement that are acceptable for consideration, even though the proposals are not binding. .
- 4) Arbitration, in this case the parties appoint someone to act in resolving the dispute and deciding on its resolution. Dispute resolution through arbitration can be carried out with institutional arbitrators which are sometimes called pre-determined procedural law. In this arbitration arrangement, the parties are free to choose a judge who they consider neutral and/or an expert regarding the subject matter of the dispute they are facing.

Arbitration awards are also relatively more enforceable in other countries compared to disputes resolved through court.

So, efforts to resolve disputes through the subject of international law in this legal subject are very necessary. This subject of international law acts as a mediator in a dispute case which of course requires resolution by agreement between the parties involved. Due to the relationship between the subject of international law and dispute resolution, it has an important role in ending and deciding peacefully on disputes that occur in cases between the parties. Where, the subject of international law refers to individuals and legal entities who play a direct role in resolving disputes. In this case too, legal subjects have several scopes in the settlement system, namely the scope of the State, international organizations, the international Red Cross, the Holy See of the Vatican, rebel parties and disputants up to individuals. In this way, legal subjects such as individuals and legal entities can reduce and resolve existing disputes by means of discussion and communication and reach agreements in a peaceful or family manner. So that disputes can be minimized between both parties. Apart from that, resolving this dispute can be done in several ways in terms of family or peace, namely through negotiation, fact finding, mediation, conciliation and arbitration. However, this does not rule out the possibility of resolving this dispute can also be guided by existing legal sources in order to resolve cases fairly and according to statutory law. This can be implemented properly in accordance with legal steps with the agreement of the various parties concerned, but if there is a disagreement between the two parties then legal steps can be taken that support and can change the two parties who disagree to agree through fair and legal channels.

Handling disputes through the subject of international law is of course connected to legal sources to resolve cases such as disputes. With this, legal subjects who are seen as legal subjects, both individuals and legal entities, in resolving a problem can work together well, in terms of discussion, communication and agreement in agreements as joint decisions in peace and kinship without violence as regulated in statutory law. existing laws. In this way, the parties concerned can choose a legal route that is in accordance with mutual agreement through international law which can also be seen from the perspective of its legal subject. This legal subject can sort out the types of problems that occur between the two parties. So that this can facilitate the resolution of disputes both within the country and abroad as well as between other countries concerned. And with this, it can create a fair country in upholding justice in accordance with legal procedures that are carried out officially and in accordance with the laws that apply in each country. So that the legal rules that apply in each country can be a direction for each individual party in which a problem arises in a dispute and can be used as a guideline

in resolving existing dispute cases with the subject of international law in accordance with legal settlement procedures with the parties concerned.

CLOSING

Conclusion

Based on the results and discussions that have been discussed, the following conclusions can be drawn:

Based on the explanation above, it can be concluded that International Law is positive law. Where, this law contains a collection of legal provisions that apply and regulate relations between countries. In this case, international relations certainly covers several aspects of life such as politics, social and economics. International law also has binding legal sources, namely formal legal sources and material legal sources. In connection with dispute issues through the subject of international law, the subject of international law acts as the holder of all rights and obligations in resolving dispute cases between the parties involved. In the subject of international law, of course, there is an entangled relationship between States and their citizens. Disputes are a legal subject for the provisions contained in an agreement that have been recognized by international law. Besides that, dispute resolution is practical in nature which can sometimes present risks of undesirable things. And in principle, this effort ensures that relations between countries are well established without any disputes.

Recommendation

The recommendations expected from this research are:

Students must be able to study and understand International Law material well considering that International Law is a mandatory second semester course which describes relations between countries and is international in nature. Students must be able to understand and study each sub-chapter in the material or discussion of International Law, so that if they find this kind of material next semester, students will have no difficulty.

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