

"Potensi *ITLOS Advisory Opinion on Climate Change* terhadap Upaya *Law-making* Mengatasi Dampak Perubahan Iklim di Lingkungan Laut"

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INTISARI

Fatwa pengadilan dan tribunal internasional terbukti memiliki peran tersendiri dalam *international law-making*. Meskipun tidak memiliki kekuatan mengikat, Fatwa dapat memengaruhi lanskap hukum internasional melalui terciptanya ekspektasi normatif para aktor-aktor internasional dalam memahami, menafsirkan dan mempraktikkan norma hukum internasional. Penelitian ini berfokus untuk menggali potensi *law-making* dari *ITLOS Climate Change Advisory Opinion* dalam mencegah pencemaran GRK di lingkungan laut. Untuk menilai seberapa potensial dampak fatwa terhadap *international law-making*, penelitian ini akan menggunakan indikator prosedural dan indikator substansial. Penelitian ini merupakan penelitian normatif yang menggunakan pendekatan konseptual dan pendekatan kasus. Data riset ini adalah data sekunder yang terdiri dari sumber hukum primer, sumber hukum sekunder, dan sumber hukum tersier. Penelitian ini menemukan bahwa *ITLOS Advisory Opinion on Climate Change* memiliki hambatan secara prosedural sehingga dapat mengurangi legitimasinya. Namun, secara substansial fatwa tersebut dapat berpotensi menghasilkan dampak *law-making* dengan cara-cara yang lebih halus bagi perkembangan hukum laut-iklim. Dampak tersebut antara lain; mengklarifikasi standar *due diligence* dalam konteks mitigasi perubahan iklim, memperluas konsep *marine pollution* hingga mencakup emisi GRK, mengintegrasikan *UNCLOS* dengan rezim *UNFCCC-Paris Agreement*, serta berpotensi menjadi titik rujukan berbagai pengadilan internasional dan memperkuat litigasi iklim di masa depan.

Kata Kunci: *advisory opinion*, perubahan iklim, *international law-making*, ITLOS

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“The Potential of ITLOS Climate Change Advisory Opinion for Law-making Efforts to Address the Impact of Climate Change on the Marine Environment”

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ABSTRACT

Advisory Opinion issued by international courts and tribunals have proven to have a unique role in international law-making. Although they are not legally binding, Advisory Opinion can influence the international legal landscape by creating normative expectations among international actors in understanding, interpreting, and practicing international legal norms. This study focuses on exploring the law-making potential of the ITLOS Climate Change Advisory Opinion in preventing GHG pollution in the marine environment. To assess the potential impact of fatwas on international law-making, this study will use procedural and substantial indicators. This study is a normative study. As a normative study, it uses a conceptual approach and a case approach. The research data is secondary data consisting of primary legal sources, secondary legal sources, and tertiary legal sources. This study finds that the ITLOS Advisory Opinion on Climate Change has procedural obstacles that can reduce its legitimacy. However, substantively, this advisory opinion has the potential to produce law-making impacts in more subtle ways for the development of climate maritime law. These impacts include clarifying due diligence standards in the context of climate change mitigation, expanding the concept of marine pollution to include GHG emissions, integrating UNCLOS with the UNFCCC-Paris Agreement regime, and potentially becoming a point of reference for various international courts and strengthening climate litigation in the future.

Keywords: *advisory opinion, climate change, international law-making, ITLOS*

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