

BAB V

KESIMPULAN

5.1 Kesimpulan

Dari penelitian yang sudah penulis paparkan pada bab-bab sebelumnya, dapat ditarik beberapa poin kesimpulan, yaitu:

Advisory Opinion merupakan pandangan yang diberikan bukan hanya yang dapat menciptakan suatu sumber hukum internasional yang baru. Pandangan hukum ini tentu saja merupakan pandangan yang mewakili sistem hukum nasional dari masing-masing hakim secara universal. Pandangan hukum yang diberikan tersebut diyakini dan diterima sebagai suatu penegasan kaidah hukum internasional yang adil bagi masyarakat internasional.

Kemunculan *advisory opinion* ini dapat dikatakan sebagai suatu sumber hukum sekunder yang tidak boleh diabaikan keberadaannya dalam pengembangan hukum internasional. Secara teoritis apabila dilihat pengertian dari sumber hukum sekunder merupakan sumber yang tidak dapat secara langsung membentuk hukum internasional. *Advisory Opinion* merupakan sumber hukum sekunder yang terlebih dahulu harus mengidentifikasi, memodifikasi maupun menafsirkan substansi daripada sumber hukum primer.

Oleh karena itu *advisory opinion* dapat diyakini sebagai sumber hukum sekunder yang penting untuk berkontribusi dalam pengembangan hukum internasional. Substansi dalam *advisory opinion* tersebut akan membentuk kaidah hukum internasional yang baru dan akan diyakini sebagai suatu kaidah hukum yang mengikat secara umum.

5.2. Saran

Berdasarkan kesimpulan yang dijelaskan diatas membuktikan bahwa peran dari substansi *advisory opinion* penting untuk merumuskan kaidah hukum yang paling tepat dalam menyelesaikan permasalahan internasional. Ketika masyarakat

internasional membutuhkan kaidah hukum yang relevan maka *advisory opinion* yang dapat digunakan.

DAFTAR PUSTAKA

BUKU:

- Bryan A.Garner, *Black's Law Dictionary*, Thomson West, hlm.519.
- Dharma Pratap, *The Advisory Jurisdiction of the International Court*, Oxford at the Clarendon Press, 1972, hlm.260.
- D.P. O'Connell, *International Law*, Stevens & Son, London, Volume 1, 1970, hlm.36.
- D.W Bowett, *The Law of International Institutions*, The London Institute of World Affairs, London, 1982, hlm.336
- G.J.H Van Hoof, *Rethinking the Sources of International Law*, Kluwer Law and Taxation Publishers, Netherlands, 1983. Hlm.1.
- Huala Adolf, *Hukum Penyelesaian Sengketa Internasional*, Sinar Grafika, Jakarta, 2004, hlm.58.
- Ian Brownlie, *Principles of Public International Law*, Oxford University Press, New York, 1979, hlm.120.
- I Wayan Parthiana, *Pengantar Hukum Internasional*, Mandar Maju, Bandung, 1990, hlm.239.
- I Wayan Parthiana, *Perjanjian Internasional Bagian I*, Mandar Maju, Bandung, 1990, hlm.1.
- J.G Merrils, Achmad Fauzan, *Penyelesaian Sengketa Internasional*, Tarsito, Bandung, 1986, hlm 99
- J.G Starke, *An Introduciton to Internationa Law 8th Edition*, Butterworths Heinemann, London, 1977, hlm.42.
- Malcolm D.Evans, *International Law 7th edition*, Oxford University Press, 2003, hlm.124.
- Malcolm N.Shaw *International Law*, Cambridge University Press, New York, 2003, hlm.960

- Martin Dixon, *International Law*, Oxford University Press, London, hlm.27.
- Mark E.Villiger, *Customary International Law and Treaties*, Martinus Nijhoff Publishers, 1985. Boston, hlm.29.
- Mochtar Kusumaatmadja dan Etty R. Agoes, *Pengantar Hukum Internasional*, 2003, Bandung, PT. Alumni, hlm. 114-115.
- Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, 2010, hlm.35
- R.C Hingorani, *Modern International Law*, Mohan Pramlani for Oxford & Ibh Publishing Co, 1982, hlm.22.
- Sir Hersch Lauterpacht, *The Development of International Law by The International Court*, Grotius Publication Limited, Cambridge, 1982, hlm.178.
- Soerjono Soekanto dan Sri Mamudji, “Penelitian Hukum Normatif Suatu Tinjauan Singkat”, PT. Raja Grafindo Persada, Jakarta, 2001
- Sri Setianingsih Suwardi, *Inti Sari Hukum Internasional Publik*, Alumni, Bandung, 1950, hlm.24.
- Valerie Epps and Lorie Graham, *International Law 2nd edition*, Wolters Kluwer, New York, 1943, hlm.25.

JURNAL dan KARYA ILMIAH

- F. Amerasinghe, Chittharanjan. *Judges of the International Court of Justice- Election and Qualification*, Leiden Journal of International Law, Vol.14, No.2, 2001, hlm.336.
- Cardenas Castaneda, Fabian Augusto. *A Call for Rethinking the Sources of International Law: Soft Law and the Other Side of the Coin*, Volume 13, 2013, hlm.39.
- Sloan, F. Blaine. *Advisory Jurisdiction of The International Court of Justice*, California Law Review, 38 Calif L. Rev. 830,850 (1950)
- Klabbers, Jan. *The Redundancy of Soft Law*, Nordic Journal of International Law, Vol.65, 1196, hlm.167

Klabbers, Jan. *The undersirabilty of Soft Law*, Nordic Journal of International Law, Vol.67, 1198, hlm.389.

Malanczuk, P. *Space Law As a Branch of International Law*, Vol.25, 1994, hlm.161.

Sivakumaran, Sandesh. *The Influence of Teaching of Publicist On the Development Of International Law*, Vol.66, 2016, hlm.9.

SITUS WEB

History of the United Nations, 24 October 1945 || The United Nations officially comes into existence, diakses dari

<http://www.un.org/en/sections/history/history-united-nations/index.html>

Jewish Virtual Library A Project Of Aise“Modern History of Israel: The Assasination of Count Bernadotte” diakses dari

<http://www.jewishvirtuallibrary.org/the-assassination-of-count-bernadotte>

John Burroughs, “Looking Back the 1996 Advisory Opinion of the International Court of Justice”, diakses dari

https://www.armscontrol.org/ACT/2016_07/Features/Looking-Back-The-1996-Advisory-Opinion-of-the-International-Court-of-Justice

Karen Gevorgyan “Concept of State Sovereignty:Modern Attitudes”, diakses dari http://ysu.am/files/Karen_Gevorgyan.pdf

Mrinal Verma “A Brief Analysis Of The ICJ’s Advisory Opinion In the Reparations For Injuries Case”, diakses dari

<https://poseidon01.ssrn.com/delivery.php?>, pada tanggal 1 May 2018 pukul 11.00

LAIN LAIN

Universal Declaration of Human Rights

International Court of Justice “*Advisory Opinion of 11 July 1950 International Status of South West Africa*”

Statuta Mahkamah Internasional

Statuta Roma Mahkamah Pidana Internasional

Reparation for Injuries Suffered In the Services of the United Nations,
Advisory Opinion, I.C.J. Report. 1949.

Treaty of Peace with Hungary

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania,
Advisory Opinion, I.C.J. Report. 1950.

International Court of Justice “Advisory Opinion of 11 July 1950 International
Status of South West Africa”

International Court of Justice “Request for Advisory Opinion transmitted to the
Court under the United Nations General Assembly Resolution 49/75 K of 15
December 1994 Legality of the Threat or Use of Nuclear Weapons

Treaty between United States and Great Britain

United Nation General Assembly. 15 December 1946 A/RES/65(I) *Future
Statuts of South West Africa*

United Nation General Assembly. 22 October 1949 32 A/RES/294 (IV)
*Observance in Bulgaria, Hungary and Romania of Human Rights and
Fundamental Freedoms*

United Nation General Assembly, 14 December 1946 A/RES/65(I) *Future
Status of South West Africa*

United Nation General Assembly. 26 November 1948 A/RES/227 (III)
Question of South Africa

United Nation General Assembly. 24 November 1961 A/RES/1653 (IXVI)

*Declaration on the Prohibition of the Use of Nuclear and Thermo Nuclear
Weapons*

United Nation General Assembly. 15 December 1994 A/Res/49/75 *General
and Complete Disarmament Prohibition of the dumping of radioactive
wastes*

United Nation General Assembly. 12 December 1974 3281 (XXIX) Resolution
Adopted by the General Assembly *Charter of Economic Rights and Duties of
States*

WHO Constitution

Forty-Sixth World Health Assembly Geneva, 3-14 May 1993 Resolutions and
Decisions