

DISERTASI

PELESTARIAN FUNGSI HUTAN MELALUI PRINSIP *COMMON HERITAGE OF MANKIND* DALAM MEWUJUDKAN KEADILAN LINGKUNGAN DAN KEHUTANAN BERKELANJUTAN



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ABSTRAK

Pelestarian Fungsi Hutan Melalui Prinsip *Common Heritage Of Mankind* Guna
Mewujudkan Keadilan Lingkungan Dan Kehutanan Berkelanjutan
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Pemanfaatan yang luas dan eksploitasi berlebihan terhadap sumber daya alam telah menyebabkan kemampuan sumber daya alam dalam mendukung kehidupan menurun dan semua pihak ikut terdampak. Konvensi Warisan Dunia tahun 1972 menyatakan sebagian dari warisan alam sangatlah luar biasa penting dan oleh karena itu perlu dilestarikan sebagai bagian dari warisan bersama umat manusia. Pada Pembukaan *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) 1973 dinyatakan bahwa flora dan fauna liar sebagai sesuatu bagian yang tak tergantikan dari sistem alam bumi yang harus dilindungi untuk masa kini dan generasi mendatang. Hutan memiliki fungsi publik yang menyangkut hajat hidup seluruh umat manusia. Meski keberadaannya terbatas dalam wilayah kedaulatan negara (*state sovereignty*), namun kelestariannya harus dipertahankan dalam bentuk tanggungjawab bersama seluruh umat manusia. Hukum internasional menghadirkan prinsip *common heritage of mankind* untuk dapat diterapkan pada objek-objek yang berfungsi publik, salah satunya hutan. Metodologi yang digunakan dalam penelitian ini yaitu kualitatif dengan metode penelitian hukum normatif. Pengumpulan data melalui analisis instrumen-instrumen hukum dan kajian kepustakaan. Berdasarkan analisis dan pembahasan terhadap hasil penelitian dapat disimpulkan, pertama, perkembangan prinsip *common heritage of mankind* dalam hukum internasional telah diawali sebelum keluarnya *Convention on Bio Diversity* 1992. Bahkan prinsip ini telah dimuat dalam konferensi pertama PBB tentang Hukum Laut (UNCLOS 1958), Perjanjian Antartika 1959, Perjanjian Luar Angkasa 1958 dan Bagian XI Pasal 136 UNCLOS III 1982. Instrumen hukum tertinggi dalam bidang lingkungan hidup Deklarasi Stockholm 1972 juga mengakomodir prinsip *common heritage of mankind* ke dalam prinsip-prinsip yang tertuang dalam deklarasi ini. Kemudian dilanjutkan oleh Deklarasi Rio 1992 yang juga memuat prinsip *common heritage of mankind* dalam pengaturannya. Hingga saat ini telah banyak upaya untuk juga menyatakan berbagai sumber daya lingkungan sebagai warisan bersama umat manusia seperti berbagai jenis spesies langka, sumber daya genetik, hutan hujan tropis, berbagai sumber daya pangan, sumber daya hayati laut, dan warisan-warisan budaya. Kedua, prinsip *Common heritage of mankind* bisa menjadi landasan hukum yang dapat diterima untuk mewujudkan transformasi hukum melalui kewajiban moral dalam bentuk keadilan lingkungan terhadap generasi sekarang dan mendatang. Ketiga, Upaya pelestarian hutan secara global melalui prinsip *common heritage of mankind* menawarkan cara yang signifikan untuk meningkatkan kondisi lingkungan, sosial, dan ekonomi sebagai upaya dalam mewujudkan kehutanan berkelanjutan.

Kata kunci: Pelestarian, Fungsi Hutan, *Common Heritage of Mankind*, Keadilan lingkungan dan kehutanan berkelanjutan

ABSTRACT

Preserving Forest Functions Through the Principles of Common Heritage of Mankind to Realize Environmental Justice and Sustainable Forestry
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Extensive use and over-exploitation of natural resources has caused the ability of natural resources to support life to decline and all parties are affected. The World Heritage Convention of 1972 stated that parts of the natural heritage are of extraordinary importance and therefore need to be preserved as part of the common heritage of humanity. At the opening of the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), it was stated that wild flora and fauna are an irreplaceable part of the earth's natural system that must be protected for the present and future generations. Forests have a public function that concerns the livelihoods of all mankind. Even though its existence is limited within the territory of state sovereignty, its preservation must be maintained in the form of a shared responsibility for all mankind. International law presents the principle of common heritage of mankind to be applied to objects that have a public function, one of which is forests. The methodology used in this research is qualitative with normative legal research methods. Data collection through analysis of legal instruments and literature review. Based on the analysis and discussion of the research results, it can be concluded, firstly, that the development of the principle of common heritage of mankind in international law began before the 1992 Convention on Bio Diversity was issued. In fact, this principle was included in the first UN conference on the Law of the Sea (UNCLOS 1958), the 1959 Antarctic Treaty, the 1979 Outer Space Treaty 1958 and Part into the principles set out in this declaration. The highest legal instrument in the environmental field of the 1972 Stockholm Declaration also accommodates the principle of common heritage of mankind into the principles contained in this declaration. This was followed by the 1992 Rio Declaration which also included the principle of common heritage of mankind in its regulations. To date, there have been many efforts to declare various environmental resources as the common heritage of mankind, such as various types of rare species, genetic resources, tropical rain forests, various food resources, marine biological resources and cultural heritage. Second, the principle of Common Heritage of Mankind can be an acceptable legal basis for realizing legal transformation through moral obligations in the form of environmental justice towards present and future generations. Third, global forest conservation efforts through the principle of common heritage of mankind offer a significant way to improve environmental, social and economic conditions as an effort to realize sustainable forestry.

Keywords: *Conservation, Forest Function, Common Heritage of Mankind, Environmental Justice and Sustainable Forestry*

