

**PERTANGGUNGJAWABAN NEGARA DAN
PIMPINAN *PRIVATE MILITARY COMPANY*
TERHADAP PELANGGARAN HAK ASASI MANUSIA
DALAM KONFLIK BERSENJATA BERDASARKAN
HUKUM HUMANITER INTERNASIONAL**

**(Studi Kasus *United States Bilateral Immunity Agreements
On International Criminal Court and Blackwater
Company*)**

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Abstrak

Penelitian ini bertujuan untuk membahas tentang pertanggungjawaban negara dan pimpinan PMC terhadap pelanggaran Hak Asasi Manusia dengan mengkaji bagaimana regulasi mengenai PMC dalam Hukum Humaniter Internasional serta hambatan dan tantangan dalam penegakannya. Metode penelitian yang digunakan yakni penelitian yuridis normatif dengan pendekatan deskriptif. Bahan hukum yang dipergunakan dalam penelitian ini mencakup sumber hukum primer, sekunder, serta tersier, diakumulasikan melalui studi kepustakaan. Hasil analisis dalam penelitian ini menunjukkan bahwasanya bentuk pertanggungjawaban negara terdapat dalam Pasal 3 Konvensi Den Haag No. IV, Pasal 91 Protokol I 1977, *International Criminal Tribunal of the former Yugoslavia* (ICTY) dan *International Criminal Tribunal of Rwanda* (ICTR) pada *Article 7*, dan Pasal 30 & 31 Resolusi Majelis Umum Perserikatan Bangsa-Bangsa No. 56/83 tahun 2001 (56/83). Pertanggungjawaban tersebut meliputi penguatan penegakan hukum terhadap negara dan pimpinan PMC serta memberikan kompensasi terhadap pihak yang dirugikan selama operasi militer tersebut. Adapun hambatan yang dihadapi meliputi AS tidak meratifikasi Statuta Roma 1998, menciptakan BIA, norma kosong terhadap negara penyewa PMC, Presiden dan *founder* PMC yang menjabat pada periode tersebut belum mendapat sanksi pidana.

Kata Kunci : Pertanggungjawaban Negara, *Private Military Company*, Konflik Bersenjata, Hukum Hak Asasi Manusia, *International Criminal Court*.

**STATE RESPONSIBILITY AND THE LEADER OF A
PRIVATE MILITARY COMPANY FOR HUMAN
RIGHTS VIOLATIONS IN ARMED CONFLICTS
ACCORDING TO INTERNATIONAL HUMANITARIAN
LAW**

***(Case Study Of United States Bilateral Immunity
Agreements On International Criminal Court And
Blackwater Company)***

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Abstract

This research aims to discuss the responsibility of the state and PMC leaders for human rights violations by examining how regulations regarding PMCs in International Humanitarian Law as well as obstacles and challenges in their enforcement. The research method used is normative juridical research with a descriptive approach. Legal materials used in this research include primary, secondary, and tertiary legal sources, accumulated through literature studies. The results of the analysis in this study show that the form of state responsibility is contained in Article 3 of The Hague Convention No. IV, Article 91 of Protocol I 1977, the International Criminal Tribunal of the former Yugoslavia (ICTY) and the International Criminal Tribunal of Rwanda (ICTR) in Article 7, and Articles 30 & 31 of United Nations General Assembly Resolution No. 56/83 of 2001 (56/83). The accountability includes strengthening law enforcement against the state and PMC leaders and compensating those harmed during the military operation. The obstacles faced include the US not ratifying the 1998 Rome Statute, creating the BIA, empty norms against PMC tenant countries, the President and founder of the PMC who served in that period have not received criminal sanctions.

Keywords: *State Responsibility, Private Military Company, Armed Conflict, International Humanitarian Law, Human Rights, International Criminal Court.*