

**NORMA RESPONSIBILITY TO PROTECT DALAM HUKUM  
INTERNASIONAL DAN HUKUM INDONESIA**  
(Kajian atas Nilai, Hukum dan Praktek)

**INTISARI**

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Permasalahan yang dikaji dalam disertasi ini, yaitu: 1) mengapa RtoP seharusnya diterima sebagai norma hukum internasional yang mengikat masyarakat internasional?; 2) bagaimana institusionalisasi RtoP dalam masyarakat internasional, khususnya oleh organisasi internasional? 3) bagaimanakah penerimaan Indonesia atas RoP?.

Penelitian ini merupakan penelitian hukum internasional yang obyek utamanya adalah sumber hukum formal dan material hukum internasional. Berdasarkan datanya, penelitian ini merupakan penelitian normatif yang mengkaji data sekunder baik berupa bahan hukum primer maupun sekunder. Data dikumpulkan dengan inventarisasi dan dokumentasi bahan hukum serta wawancara dengan narasumber. Data yang terkumpul kemudian dianalisis melalui kegiatan klarifikasi, sistematisasi dan interpretasi.

Hasil penelitian dan pembahasan menunjukkan bahwa RtoP merupakan norma *soft law* dalam hukum internasional berdasarkan kekuatan mengikatnya. RtoP seharusnya diterima sebagai norma hukum internasional karena tiga hal. Pertama, RtoP berakar kuat pada perjanjian-perjanjian internasional tentang HAM, hukum humaniter dan pidana internasional. Selanjutnya, tanggung jawab untuk mencegah dan menghentikan kejahatan Internasional yang merupakan pilar pertama RtoP cenderung diterima masyarakat internasional sebagai kewajiban *erga omnes* sebagaimana diperkuat dalam yurisprudensi pengadilan internasional. Ketiga, RtoP memiliki karakter normatif dimana RtoP dilandasi oleh nilai-nilai universal yang secara moral hukum mengikat masyarakat internasional untuk melaksanakannya yaitu nilai kemanusiaan dan martabat manusia. RtoP telah diterima, diinstitusionalisasikan dan dipraktekkan oleh masyarakat internasional, terutama melalui sistem PBB. Pada konteks nasional Indonesia, melalui pernyataan-pernyataan resmi diforum PBB Indonesia mendukung dan menerima RtoP, dengan penekanan bahwa pilar I RtoP yaitu pencegahan adalah yang terpenting. Namun demikian, pada tataran nasional, Indonesia secara eksplisit belum mengimplementasikan RtoP baik melalui kebijakannya, perangkat hukum maupun kelembagaan yang mendukung. Dalam rangka melindungi populasinya dari ancaman kekejian kejahatan massal, seharusnya Indonesia mengimplementasikan RtoP dengan membangun sistem pencegahan atas kejahatan dibawah lingkup RtoP. Kata kunci: *responsibility to protect*, intervensi kemanusiaan, hukum internasional, nilai, norma, pelembagaan, *Indonesia*.

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**RESPONSIBILITY TO PROTECT NORM IN INTERNATIONAL LAW  
AND INDONESIAN LAW**  
(Study based on value, law and practice)

**ABSTRACT**

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*There are three points examined in this dissertation, which are as follows: 1.) Why RtoP should be accepted as a binding norm for international community?; 2.) How is the institutionalization of RtoP in international community, especially in international organizations?; 3.) How is Indonesian's acceptance towards RtoP?*

*This research is a research on international law, in which the main object is the international law's formal and material law resource. Based on the kind of data used in this research, this study belongs to a normative study which analyzes secondary data, both in the form of primary and secondary law resources. Data are gathered by making inventory and documentation of law resources, as well as conducting interviews with sources. The data successfully collected are then analyzed through clarification, sistematization, and interpretation.*

*The research and discussion results show that RtoP is still the soft law norm in international law based on its legally binding force. RtoP should be accepted as a norm in international law upon three considerations. First, RtoP is deeply rooted in the existing international treaties on international human rights law, humanitarian law and international crimes. Furthermore, the responsibility to prevent and to stop international crimes, as the first pillar of RtoP, tend to be accepted by international community as erga omnes obligation, as reinforced in the international court jurisprudence. Third, RtoP has a normative character in which RtoP is based on universal values, such as common good and basic consideration of humanity, that are morally law binding for the international community to achieve. RtoP has been accepted, institutionalized, and practiced by international community, especially under the UN's sistem. In the context of Indonesia, based on its official statements in UN forum, Indonesia supports and accepts RtoP, emphasizing that the first pillar of RtoP, which is prevention, is the most important. However, on its national dimension, Indonesia has not explicitly implemented RtoP on its policies, its legal instruments, as well as its supporting institutions. To protect its population from the threat of egregious mass crimes, it is imperative that Indonesia implement RtoP by developing a prevention sistem for the crimes under the scope of RtoP.*

*Keyword: responsibility to protect, humanitarian intervention, international law, value, norm, institutionalisation, Indonesia.*

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