

ABSTRACT

Legal Observations of Robust Mandates and the Responsibility of United Nations' Force in Multidimensional Peace-keeping Operations

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This present thesis elaborates about the necessity of robust mandates in the light of the evolution of conflicts into multidimensional ones, and how it is legitimately acceptable—though it is not without problem as robust mandates is contrary to the traditional principles of peace-keeping (consent, impartiality and use of force only in self-defense). The existence of robust mandates is also connected to the application international humanitarian law and international human rights law in peace-keeping operations and the responsibility (of troop-contributing countries, international organizations and the alleged individual), so the parties don't shield behind the robustness of mandates, and to ensure that the parties respect the laws applicable in peace-keeping operations.

Based on that, there are three problems presented in this research. First, the legal observations of robust mandates, taking into account the effects of such mandate for the evolving peace-keeping operation. Second, regarding the application of international humanitarian law and international human rights law in peace-keeping operation considering United Nations' position in the international plane. Third, concerning the allocation of responsibility for misconducts happened throughout the operation between troop-contributing states and United Nations, and how to deal with it. This research is conducted with normative-approach through library research.

There are three results of this research: First, that robust mandates is indeed legit and needed, not only for the mission to be succeed, but most importantly for the sake of the protection for everyone involved in peace-keeping operations. Second, that both international humanitarian law and international human rights law are applicable to United Nations' peace-keeping operations. And as for the third problem, before dealing with misconduct, the allocation of responsibility has to be determined by examining under whose authority such misconduct is done.

Keywords: *Peace-keeping, United Nations, robust mandates, international humanitarian law, international human rights law, international responsibility, attribution, due diligence, extra-territorial application of human rights treaties*

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INTISARI

Tinjauan Hukum Pemberian *Robust Mandates* dan Pertanggungjawaban Tindakan Pasukan Perserikatan Bangsa-Bangsa (PBB) dalam Operasi *Peace-keeping* Multidimensi

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Tesis ini menjabarkan mengenai pentingnya *robust mandates* mengingat evolusi konflik menjadi multidimensional, dan mandat ini dapat diterima secara hukum— meskipun tidak tanpa masalah, karena *robust mandates* bertentangan dengan prinsip *peace-keeping* tradisional (persetujuan, ketidakberpihakan dan penggunaan kekerasan hanya untuk membela diri). *Robust mandate* juga terkait dengan keberlakuan hukum humaniter internasional dan hukum hak asasi manusia internasional dalam operasi *peace-keeping* dan tanggung jawab (dari negara kontributor pasukan, organisasi internasional dan individu), sehingga para pihak tidak berlindung di balik mandat ini, dan menjamin penghormatan pada hukum-hukum yang berlaku dalam operasi *peace-keeping*.

Berdasarkan hal tersebut, ada tiga permasalahan yang dibahas dalam penelitian ini. Pertama, tinjauan hukum pemberian *robust mandates*, dengan mempertimbangkan dampak dari mandat ini terhadap operasi *peace-keeping* yang berevolusi. Kedua, mengenai aplikasi hukum humaniter internasional dan hukum hak asasi manusia internasional bagi operasi *peace-keeping*, dengan membahas posisi PBB dalam ranah internasional. Ketiga, mengenai alokasi tanggung jawab pelanggaran yang terjadi selama operasi antara negara kontributor pasukan dan PBB, serta mekanisme untuk menangani pelanggaran tersebut. Penelitian ini menggunakan pendekatan normatif melalui studi kepustakaan.

Tiga hasil penelitian yang didapat, yakni: Pertama, bahwa *robust mandates* sah dan diperlukan, tidak hanya untuk keberhasilan misi, tetapi yang paling penting adalah demi terlindunginya semua pihak yang terlibat dalam operasi *peace-keeping*. Kedua, bahwa hukum humaniter internasional dan hukum hak asasi manusia internasional dapat berlaku dalam operasi *peace-keeping* PBB. Ketiga, sebelum menangani tindakan pelanggaran, harus ditentukan terlebih dahulu alokasi tanggung jawab dengan memeriksa di bawah otoritas siapa tindakan tersebut dilakukan.

Kata Kunci: *Peace-keeping*, PBB, *robust mandates*, hukum humaniter internasional, hukum hak asasi manusia internasional, tanggung jawab internasional, atribusi, *due diligence*, *extra-territorial application of human rights treaties*

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