




Study of Islamic Law on Veto Rights as an Inhibiting International Law Enforcement of Palestinian Hospital attacks

Taufiq Hidayat¹ , Shahibul Khairat² , Muhammad Febri Eka Saputra³ , Agus wahyudi⁴ 

¹²³⁴ State Islamic University Sjech M. Djamil Djambek, Bukittinggi, Indonesia

Abstract. Hospital attacks in the Palestinian territory are crimes based on international humanitarian law and no one has been tried for this crime and a war for 76 years has become uncontrolled, resulting in war victims for civilians and Palestinian children. The purpose of this study was focused on finding out why the UN Security Council did not enforce international law by adjudicating those who were responsible for the hospital attack in Palestine. And to find out the role of international law in the Palestinian-Israeli War, the normative juridical method is a method to find out the problems in this study with a case approach and legal history approach. This study concluded that the study of Islamic law on the Veto right of the UN Security Council should be reconsidered as a major condition for ICC to prosecute war and humanity crimes committed in Palestinian and Israeli conflicts proven through scientific science.

Keywords: Islamic law, Palestine, Veto, International Law

1. Introduction

The war between Israel and Palestine has been going on for 76 years and is increasingly out of control. The actions between the Hamas military used buildings and public and Israeli infrastructure that did not apply the principle of humanity, resulting in the number of victims of civil society on the Palestinian part of the international humanitarian law. International humanitarian law is a law formed to regulate the subject of international law when there is a view by applying the provisions of relevant human rights law and protection of civil society. Resolution 2286 or Protection Resolution of Civilians is a resolution that has been adopted by the UN Security Council, the resolution regulates the prohibition of all actions of attack on health facilities, health care workers and sick people. Prohibition of attacks on civilians and enemies who have placed weapons or it is not possible to divide to be regulated in Article 35 of the additional protocol of the Janjewa Convention in 1949. (Abtahi, H., & Dawson, G. 2016).

Hamas Civil and Military Consumers who are victims of war will be carried out in hospitals in Palestine, hospitals is a place that serves to provide health services to the community through prevention, treatment or rehabilitation. Crimes and violations of Israeli and Palestinian war did not get a significant response by several permanent UN Security Member countries in upholding international and humanitarian humanitarian laws, these countries namely the United States, France, and Britain. In contrast to the big war between Russia and Ukraine in 2022 where the United States gave a strong response to alleged violations of war committed by Russia on the attack on medical facilities in Ukraine. There are many world research organizations that protect Ukraine researchers to maintain the development of the contract and science in Ukraine by making an internship program. Different things were obtained by Palestinian scientists, Sufyan Tayeh as an influence of an influential scientist being killed by Israeli soldiers. (Ahmed lamin 2021).

The United States and NATO countries impose sanctions by boycotting Russian currencies and products, for the actions of the invasion committed by Russia in Ukraine. The United States also collects data on alleged human rights violations that occurred in Indonesia and published on the Department of State's U.S website. But the data collection of violations of alleged human rights committed by Israel was never carried out by the United States, the Dutch state which was the location of the International Courts also did not apply sanctions on violations of international humanitarian law committed by Israel (Wahyudi et al., 2023). The party responsible for the humanitarian crime and human rights experienced by the Palestinian civilian community until now has not been treated by the ICC or there has not been an international law enforcement carried out to achieve the goals of international law which basically created peace, even though the nature of international law is based on theory Natural Law is binding to each of its legal subjects and recognized by humanity, thus international law enforcement on hospital attacks in Palestine can be carried out by the ICC. (Akande, D., & Tzanakopoulos, A. 2018).

The problem in this study is why did the UN Security Council not conduct an Islamic law enforcement of international law on hospital attacks in Palestine? The purpose of this study was focused on finding out why the UN Security Council did not enforce international law by prosecuting the party responsible for the hospital attack in Palestine, and to find out the study of Islamic law on the role of international law in the Palestinian and Israeli war. This research must be carried out to find out those who should be tried because the war that occurred between Palestine and Israel is getting worse and uncontrolled until the attack on the hospital as a place for civil service providers as victims of war in Gaza and provide recommendations for international law enforcement in the Palestinian War and Israel to show the nature of binding international law. (Al Uraidy, A., Istri, T., Widyantari, D., & Dewi, P. 2021).

The difference between this research and the previous research conducted by Jordan Gunawan et al in 2022 with the title War During The Covid-19 Pandemic: Case Between Israel and Palestine, namely in the problem of the problem, in the previous study of humanitarian problems regarding the health that occurred in the Palestinian and Israeli War at the time Covid-19 who did not apply the health protocol, while in this study reviewed the hospital attack in Palestine in an international legal perspective (Marni et al., 2023). While the difference in this research is carried out by Safaa Sadi Jaber and Ilias Banekas in 2023 with the title The Status of Gaza As Occupied Territory Under International Law which states that Israel makes it possible to conduct an effective occupation of Gaza, while this research will be denied the previous research on occupation Effectively carried out by Israel in Gaza. (Alexander, A. 2023).

2. Methods

This research uses legal research design, legal research is a study to study an issue aimed at obtaining a truth based on law, in this study using the type of normative juridical legal research by reviewing international humanitarian law and resolution 2286 as an international legal norm, while the research approach uses Case Approach and Legal History Approach, a case approach is an approach that uses a comparison of a legal case, while the legal history approach is an approach taken to examine a method of legal development. Legal materials applied in this study include secondary data sources that include primary legal material, namely international law, secondary legal material, namely published scientific articles, and tertiary legal materials which are legal dictionaries. Data collection techniques in this study were conducted with literature studies with 3 stages, namely data collection including secondary data sources that multiply with this research, after data collection was

carried out a research approach with legal historical methods and case approaches, and finally cleaning data and withdrawals Conclusion, while to conduct analysis carried out through constructive theological analysis methods.

3. Results and Discussion

Study of Islamic Law on Veto Rights in Enforcement of International Law by the UN Security Council on the Palestinian Hospital attack.

Indonesian Hospital in Palestine is a health facility made by the humanity of the Indonesian people through various fundraising of private institutions and governmental institutions, this hospital is expected Human Rights and Put on the Indonesian State Constitution. The Indonesian Hospital in Palestine has operated for 2 years, has provided assistance to civil society and war victims. The Indonesian Hospital as a civilized facility in November 2023 has experienced an attack by Israel which caused the paralysis of the operation of the Indonesian Hospital in Palestine as an act of violation of international humanitarian law. The law used at the time of war is international humanitarian law which is primarily sourced in 2 sources of primary law, namely the law of the haag and janjewa law, in the provisions of the law of deen hag which includes 3 conventions and 3 declarations, the law with the Hague is generally referred to as the convention of peace I. (Alviana, M., Kaimuddin, A., & Zamzami, A. 2016).

In the provisions of Article 18 Jantewa's law is prosecuted: "Civil hospitals are held to provide treatment to people who are injured and sick, weak people and people who give birth, under any circumstances may not be targeted by attacks, But it must always be respected and protected by the warring parties. Whereas in the provisions of Article 19, namely: "Protection which is the right of civil hospitals will not stop unless the hospital is used to do, outside of its humanitarian task, actions that endanger the enemy. But protection can stop only after the warning is given, by mentioning, in all appropriate cases, reasonable time limits, and after the warning is not heeded. (Greenman, K. 2020).

The fact that members of the Armed Forces who were sick or injured were treated in the hospital, or the presence of minor weapons and ammunition taken from the combatant but had not been submitted to the proper service, should not be considered an action that harmed the enemy state ". Violations committed by Israel are regulated in Article 52 paragraph (2) of the Tamabahan I protocol on general protection for civilian objects as a source of international humanitarian law, namely: "attacks must be firmly limited to military targets, so far regarding Objects, military targets are only limited to objects that are in nature, the location of its place, its purpose, or its use gives an effective contribution to military action which if destroyed thoroughly or in part, is captured or neutralized, in an applicable circumstances at the time That, provides a definite military advantage ". Israel as a country that has carried out the attack on the Indonesian Hospital in Palestine is the party responsible for the damage and loss experienced by the Palestinian Civil society.(Liolos, J. J. 2012).

Violations committed by Israel are violations of international humanitarian law, in the regulation of the law enforcement of the court of court that can prosecute the cases of international law violations prioritized to the court in the country(Hizbullah et al., 2023). Prime Minister Benyamin Netanyahu must be tried to the ICC as the Head of Israel who knows the Israeli military war strategy. The Israeli and Palestinian War caused both parties to not inhabit the war violations that occurred in the attack of the Indonesian Hospital in Palestine or could not apply a 2467 resolution on the CRSV adopted by the UN Security Council provided a regulation of the State obligation to end the liberation of responsibilities and prosecute those who committed violations Humanity, violations of international

humanitarian law and genocide and prevent sexual violence in conflict and post -conflict. (Mahwati, T., & Nanda, A. R. 2022)

4. Conclusions

International humanitarian law enforcement is hindered by the Veto Rights of the UN Security Council, those that should be tried cannot be tried by the ICC if the Security Council does not use veto rights so that the crime (seventy -six years) caused by the division of Palestinian territories and the inability of international law enforcement to Israel which results in war uncontrollable should be a basic consideration to provide other conditions for ICC in order to prosecute perpetrators of crime. In the study of Islamic law, it is obliged to enforce international law and be clearly seen through resolution, institutions, humanitarian programs and efforts to stop conflicts between Palestine and Israel, the resolution issued by the UN Security Council does not have a significant impact on the reflection of the Palestinian and Israeli War, The Veto Rights of the UN Security Council, namely the United States Veto Rights, canceled the planned resolution of permanent weapons between Palestine and Israel which resulted in the achievement of a peace between Palestine and Israel, the UN Security Council must be aware of humanity beyond the differences in race, religion, nationality, political relations to social level(Liza et al., 2023).

Acknowledgements

The Veto Rights of the UN Security Council must be reconsidered as the main requirement for the enforcement of international humanitarian law to the perpetrators of state war crimes who do not ratify the Rome Statute or who are not members of the United Nations to create humanitarian, justice and sustainable peace in Palestine and Israel, the main requirements for law enforcement International humanitarian can be given other options or permanently replaced by proof through scientific science. Through the scientific scientific science it is expected that the enforcement of international humanitarian law will not be hampered by the political interests of the United Nations Security Council State and the implementation of international legal objectives, namely peace.

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