

Tanggung Jawab North Atlantic Treaty Organization dan Negara Anggota dalam Pelaksanaan Operation Unified Protector di Libya Pada Tahun 2011 = Responsibility of North Atlantic Treaty Organization and Its Member States on the Operation Unified Protector in Libya 2011

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Abstrak

Pembahasan dalam skripsi ini didasarkan pada tiga pokok permasalahan sebagai berikut: (1) Bagaimanakah konsep tanggung jawab organisasi internasional di dalam hukum internasional?; (2) Bagaimanakah peran organisasi internasional dalam sistem keamanan kolektif (collective security system) Perserikatan Bangsa Bangsa?; (3) Bagaimanakah tanggung jawab negara anggota dan North Atlantic Treaty Organization (NATO) atas pelanggaran hukum dalam pelaksanaan Operation Unified Protector di Libya pada tahun 2011?.

Konsep tanggung jawab organisasi internasional merupakan konsep yang sedang berkembang dalam hukum internasional, yang diperlihatkan dengan adanya usaha dari International Law Commission dalam pembentukan Drafts Articles on the Responsibility of International Organization. Tanggung jawab organisasi internasional juga dapat dilihat memiliki kesamaan dengan tanggung jawab negara yang didasarkan kepada kemampuan suatu entitas sebagai subyek hukum yang memiliki personalitas hukum internasional. Sistem keamanan kolektif Perserikatan Bangsa Bangsa merupakan sistem yang dibentuk oleh negara negara anggota dalam upaya penjagaan keamanan dan perdamaian dunia. Dalam sistem tersebut dibentuk adanya kewenangan bagi negara untuk melaksanakan sanksi terhadap negara lain yang merusak keamanan dan perdamaian dunia.

Dua konsep tanggung jawab organisasi internasional dan sistem keamanan kolektif merupakan konsep yang sejajar berjalan secara berdampingan, namun dapat memiliki sisi temu dalam suatu pelaksanaan sistem keamanan kolektif oleh suatu organisasi internasional. NATO dalam Operation Unified Protector merupakan salah satu contoh upaya pelaksanaan sistem keamanan kolektif oleh organisasi internasional yang pula memperlihatkan adanya tanggung jawab organisasi internasional. Dalam operasi tersebut terlihat adanya international wrongful act yang terjadi akibat adanya (1) pelanggaran kewajiban internasional dan (2) dapatnya tindakan tersebut diatribusikan kepada NATO.

Maka dapat disimpulkan bahwa tanggung jawab organisasi internasional dapat terlihat dengan adanya international wrongful act yang dilakukan oleh organisasi internasional dengan dipenuhi unsur-unsur: (1) pelanggaran kewajiban internasional dan (2) atribusi tindakan kepada organisasi internasional. Dalam Operation Unified Protector, international wrongful act dari NATO dapat dilihat dengan (1) dilanggarnya kewajiban hukum humaniter internasional dan hukum laut internasional dan (2) dapat diatribusikannya tindakan tersebut kepada NATO sebagai pemegang effective command and control.

The point of discussion of this undergraduate thesis starts from the three basic questions, which are: (1) how is the concept of responsibility of international organization in international law? (2) how is the role of international organization in United Nations collective security system? (3) how is the responsibility of North Atlantic Treaty Organization (NATO) upon its wrongful acts on the Operation Unified Protector in Libya on 2011?

The concept of responsibility of international organization is a progressive development of international law, which is shown by the development of International Law Commission Drafts Articles on the Responsibility of International Organization. Responsibility of International Organization is similar to the responsibility of states which derives from the ability of such entities as subject of international law and possessed legal personality in international law. United Nations collective security system is such a system made by the member states in order to preserve the world's peace and security. In the collective security system there is a right of member states to take such measures upon other member states which endanger the peace and security.

The two concept, responsibility of international and collective security system are two parallel concept in which they collide when the operation of collective security measures carried by international organization. Operation Unified Protector by NATO in Libya on 2011 is one example of collective security measures carried by such international organization and there also an issue of responsibility of international organization. Where in the operations there is international wrongful act shown by (1) the breach of international obligation and (2) attribution of the acts to NATO.

In conclusions, responsibility of international organization is related to the international wrongful act carried by the organization itself. Such international wrongful act happened in the fulfillment of (1) the breach of international obligation and (2) attribution of conducts to the international organization. In the Operation Unified Protector, international wrongful act of NATO was shown by (1) the breach of international obligations, which are: humanitarian law and obligations under the law of the sea and (2) the attribution of conduct to NATO which possessed the effective command and control of the operation.