

Legalitas permintaan pemerintah transisional Mali atas operation serval dalam konflik Mali Utara = Legality of Malian transitional authority's request of operation serval in Northern Mali conflict

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Abstrak

Skripsi ini membahas tentang consent sebagai pengecualian larangan intervensi bersenjata negara asing pada konflik non-internasional dalam kasus Permintaan Pemerintah Transisional Mali atas Operation Serval ke Perancis. Kodifikasi hukum internasional dalam Pasal 20 ILC Draft Articles on Responsibility of States for Internationally Wrongful Acts telah mengatur consent selaku prinsip yang dapat mengecualikan pelanggaran internasional, khususnya larangan penggunaan kekuatan bersenjata. Perkembangan kodifikasi hukum internasional yang dikumpulkan International Law Commission dan preseden kasus intervensi militer asing di Yunani (1946), Muscat & Oman (1957), Kongo (1964), Chad (1968 dan 1978), Zaire (1977 dan 1978), dan Liberia (1990) telah mengembangkan pengaturan pemberian consent maupun kriteria otoritas yang berlegitimasi memberikan consent. Penelitian ini menyimpulkan bahwa permintaan Pemerintah Transisional Mali atas Operation Serval adalah sah sebagai consent yang mengecualikan larangan intervensi bersenjata negara asing dalam konflik Mali utara. Pemerintah Transisional Mali merupakan otoritas yang berlegitimasi dalam memberikan consent.

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This study explains the application of consent as preclusion to the prohibition of foreign military intervention in non-international conflict on the case of Malian Transitional Authority's request of Operation Serval to France. The codification of international law under Article 20 of ILC Draft Articles on Responsibility of States for Internationally Wrongful Acts has invoked consent as a principle to preclude internationally wrongful acts, specifically, prohibition of use of force. The development of consent as had been compiled by International Law Commission and precedents of foreign military intervention in Greece (1946), Muscat & Oman (1957), Congo (1964), Chad (1968 and 1978), Zaire (1977 and 1978) and Liberia (1990) has shaped together the requirement of consent which needs to be fulfilled and the criteria for the legitimate authority to provide consent. Hence, the study concludes that the formal request from Malian Transitional Authority is accepted as a valid consent to preclude the prohibition of foreign military intervention in northern Mali conflict and Malian Transitional Authority as legitimate authority to provide such consent.