

Penerapan hukum humaniter internasional dalam insurgency operation dan counter-insurgency operation

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Abstrak

Certain tactics of war used by the insurgent sometimes puts the armed forces in the difficult situation to apply the international humanitarian law (IHL). As IHL purposed to minimise the victims of armed conflict and protect persons not participating in the hostilities, the IHL principle of distinction is one of the important principles. Some current insurgency operations indicate that the insurgents tend to conduct guerilla and urban warfare so that it is not easy for the soldiers to distinguish civilians and combatants. In fact, a number of IHL rules provide some restrictions of means and method of warfare but do not omit the right of the soldiers to carry out their military operation and if necessary some measures relating to security and legal enforcement against civilians being accused of participating in the enemy military operation. Moreover, the willingness of applying IHL would be useful for the soldiers to avoid the indictment of any legal violation and at the end to obtain the support from the people.