

BAB III

PENUTUP

A. Kesimpulan

Berdasarkan penelitian yang sudah dilakukan, serta melalui fakta-fakta yang tertuang dalam kasus Desa Motyzhyn, dapat ditentukan bahwa:

1. Berdasarkan Hukum Humaniter Internasional, terutama dalam ketentuan-ketentuan Konvensi Jenewa 1949, dan Protokol Tambahan I dan II, tidak ada aturan yang secara spesifik melarang suatu negara yang terlibat dalam konflik bersenjata untuk menggunakan prajurit bayaran. Berdasarkan ketentuan-ketentuan Hukum Humaniter Internasional, maka Rusia berhak menggunakan jasa PMC Wagner Group dalam invasi mereka terhadap Ukraina. Berdasarkan ketentuan-ketentuan yang dituangkan dalam Konvensi Jenewa 1949 dan Protokol Tambahan I dan II, meski prajurit PMC Wagner Group tidak berhak atas hak-hak atas Tawanan Perang selayaknya prajurit negara pada umumnya, namun mereka tetap berhak atas perlakuan yang manusiawi, serta memiliki hak untuk diadili dalam pengadilan, selayaknya prajurit negara pada umumnya. Berdasarkan kasus yang terjadi di Desa Motyzhyn, serta berdasarkan fakta-fakta yang dituangkan oleh tim penuntut Ukraina atas kasus yang terjadi di Motyzhyn, tindakan-tindakan yang dilakukan oleh pasukan PMC Wagner Group di Desa Motyzhyn merupakan suatu kejahatan perang, dan berdasarkan ketentuan-ketentuan mengenai 'state

responsibility’, Rusia bertanggungjawab penuh atas tindakan-tindakan yang dilakukan oleh prajurit-prajurit PMC Wagner Group di Motyzhyn, sebab mereka bertindak sebagai organ negara Rusia sesuai dengan status yang diberikan oleh pemerintahan Rusia kepada PMC Wagner Group dan prajurit-prajuritnya.

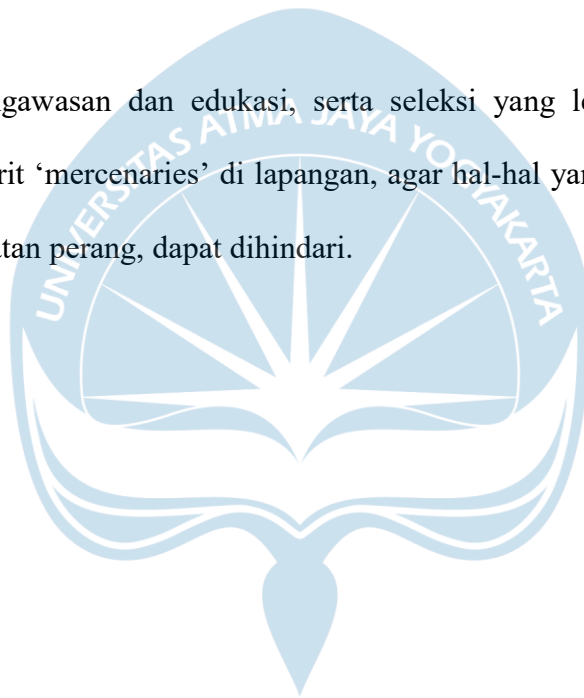
2. Prinsip ‘state responsibility’ dapat tetap ditegakkan, sebab meskipun Rusia dan Ukraina bukan merupakan bagian dari ICC maupun ICJ, mereka merupakan anggota dari ECHR, dan tindakan kejahatan perang yang terjadi di Motzhyn terhadap warga sipil di sana, dapat diajukan kepada ECHR. Selain itu, karena prinsip ‘state responsibility’ telah diadopsi sebagai hukum kebiasaan internasional atau ‘customary international law’, maka prinsip tersebut mengikat ke seluruh pihak secara hukum.

B. Saran

Saran terkait dari hal-hal yang ditemukan dalam penelitian ini diharapkan adanya;

1. Aturan-aturan ataupun konvensi yang lebih ketat mengenai penggunaan ‘mercenaries’ dalam lingkup Hukum Humaniter Internasional, dikarenakan kurangnya aturan-aturan yang secara spesifik mengatur hal tersebut.

2. Pengawasan dan edukasi, serta seleksi yang lebih ketat terhadap prajurit-prajurit ‘mercenaries’ di lapangan, agar hal-hal yang tidak diinginkan, seperti kejahatan perang, dapat dihindari.



DAFTAR PUSTAKA

A. Buku

- Buergenthal, Thomas, and Harold G. Maier. *Public International Law*. West Publishing Company, 1990.
- Bungin, B. 2006, Metode penelitian kualitatif. Rajawali Pub, Depok.
- Crawford, Emily, and Alison Pert. *International humanitarian law*. Cambridge University Press, 2024
- Crawford, James. *State responsibility: the general part*. No. 100. Cambridge University Press, 2013
- Dodenhoff, George H. "A HISTORICAL PERSPECTIVE OF MERCENARIES." *Naval War College Review*, vol. 21, no. 7, 1969.
- Evans, Malcolm David, ed. *International law*. Oxford University Press, USA, 2014.
- Gasser, Hans-Peter. "International humanitarian law an introduction." *International Review of the Red Cross* (1961-1997) 34.298 (1994): 88-88.
- Jonaedi Efendi, Johnny Ibrahim ,2018, Metode Penelitian Hukum: Normatif dan Empiris. Prenada Media.
- Kusumaatmadja, Mochtar. *Konvensi-Konvensi Palang Merah Tahun 1949*, Bandung: Bina Cipta, 1986.
- Putri, Ria Wierma. *Hukum Humaniter Internasional*, Bandar Lampung: Universitas Lampung, 2011
- Starke, Joseph G., and Ivan Anthony Shearer. *Starke's International Law*. Butterworths, 2005
- Syarifudin, A, 2003, Metode Penelitian, Pustaka Belajar, Yogyakarta
- Sujatmoko, Andrey, *Hukum HAM dan Hukum Humaniter* (Jakarta: Rajawali Pers, 2015)

B. Peraturan dan Perundang-undangan

- Konvensi Jenewa 1949
- Protokol Tambahan I 1977
- Protokol Tambahan II 1977
- Draft Articles Responsibility of States for Internationally Wrongful Acts* (2001)

C. Jurnal

- Andrew S. Bowen (23 March 2023). *Russia's Wagner Private Military Company (PMC) (Report)*. Congressional Research Service.
- Arcari, Maurizio. "The Future of the Articles on State Responsibility: A Matter of Form or of Substance?" *QIL QDI*, 1 July 2022, www.qil-qdi.org/the-future-of-the-articles-on-state-responsibility-a-matter-of-form-or-of-substance/#:~:text=One%20of%20the%20strongest%20arguments,used%20in%20international%20case%2Dlaw.
- Dodenhoff, George H. "A HISTORICAL PERSPECTIVE OF MERCENARIES." *Naval War College Review*, vol. 21, no. 7, 1969,

pp. 91–109. JSTOR, <http://www.jstor.org/stable/44641084>. Accessed 3 June 2024.

“The Practical Guide to Humanitarian Law.” Doctors without Borders | *The Practical Guide to Humanitarian Law, Doctors without Borders*, guide-humanitarian-law.org/content/article/3/mercenaries/. Accessed 28 June 2024.

Mzikenge, Danwood Chirwa. “*THE DOCTRINE OF STATE RESPONSIBILITY AS A POTENTIAL MEANS OF HOLDING PRIVATE ACTORS ACCOUNTABLE FOR HUMAN RIGHTS.*” *State Responsibility, Private Actors, and Human Rights*, vol. 5.

Periani, Aniek, and Iskatrinah Iskatrinah. “Pemberian Sanksi terhadap Tentara Bayaran (mercenary) Yang Ikut serta Dalam Sengketa Bersenjata Ditinjau dari Hukum Humaniter Internasional.” *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma*, vol. 25, no. 1, 10 Mar. 2023, pp. 10–16, <https://doi.org/10.51921/chk.v25i1.223>

Sturma, Pavel. “*State Responsibility and the European Convention on Human Rights.*” *The Issues of State Responsibility before the ECHR*, <https://rm.coe.int/the-issues-of-state-responsibility-before-the-ecthr/1680a05736#:~:text=particular%2C%20that%20which%20was%20achieved,considered%20codified%20customary%20international%20law>.

D. Skripsi

Basara, Mettio Hario. “*The Legality on Wagner Group Direct Participation in Hostilities as a Private Military Company in the 2022 Russia-Ukraine Armed Conflict*”. (Skripsi Fakultas Hukum Universitas Gadjah Mada), 2022.

Passar, Yoseph Reinaldo Gloria. “PENEGAKAN HUKUM TERHADAP NEGARA PENGGUNA JASA TENTARA BAYARAN DALAM PERTIKAIAN BERSENJATA BERDASARKAN HUKUM HUMANITER INTERNASIONAL”. (Skripsi Fakultas Hukum Universitas Atma Jaya Yogyakarta), 2018

Sunaryo, Kevin Adhitama. “Kejahatan Terhadap Kemanusiaan Dalam Invasi Rusia Ke Ukraina”. (Skripsi Fakultas Hukum Universitas Semarang), 2018

E. Internet

“2024 Russia Military Strength.” Global Firepower - World Military Strength, www.globalfirepower.com/country-military-strength-detail.php?country_id=russia. Accessed 10 May 2024.

Auli, Renata Christha. “*State and Individual Responsibility for International Crimes.*” *Hukumonline.com*, 20 Oct. 2023, www.hukumonline.com/klinik/a/state-and-individual-responsibility-for-international-crimes-lt65327a6219a76/. Accessed 24 July 2024.

- “*Alleged Wagner Group Fighters Accused of Murdering Civilians in Ukraine.*” The Guardian, Guardian News and Media, 25 May 2022, www.theguardian.com/world/2022/may/25/wagner-group-fighters-accused-murdering-civilians-ukraine-war-crimes-belarus. Accessed 27 May 2024.
- Beale, Jonathan. “*Russia-Supporting Wagner Group Mercenary Numbers Soar.*” BBC News, BBC, 22 Dec. 2022, www.bbc.com/news/world-europe-64050719. Accessed 22 July 2024
- Camut, Nicolas. “*Ex-Wagner Officer Says Kremlin Ordered ‘atrocities’ in Ukraine.*” POLITICO, POLITICO, 19 Dec. 2023, www.politico.eu/article/ex-russia-wagner-officer-russia-atrocities-ukraine-war-crimes-igor-salikov/. Accessed 2 August 2024
- Copp, Tara, and Patrick Tucker. “*Five Reasons Why Russian Forces Are Struggling in Ukraine.*” Defense One, Defense One, 2 Mar. 2022, www.defenseone.com/threats/2022/03/five-reasons-why-russia-struggling-ukraine/362636/. Accessed 28 June 2024.
- Daza, Felip, and Nora Miralles. “*The Disturbing Rise of the Corporate Mercenaries.*” openDemocracy, 6 Aug. 2021, www.opendemocracy.net/en/disturbing-rise-corporate-mercenaries/. Accessed 10 June 2024.
- Djurica, Marko. “*Ukrainian Village Leader and Family Found Buried in Shallow Grave.*” Reuters, Reuters, 22 Apr. 2022, www.reuters.com/world/europe/village-leader-family-found-buried-shallow-grave-outside-ukrainian-capital-2022-04-04/. Accessed 2 August 2024
- Farber, Gabrielle Tetrault, and Tom Bamlforth. “*Russia Demands NATO Roll Back from East Europe and Stay out of Ukraine | Reuters.*” Reuters, www.reuters.com/world/russia-unveils-security-guarantees-says-western-response-not-encouraging-2021-12-17/. Accessed 27 May 2024
- Hukumonline, Tim. “*Pengertian Hukum Internasional Dan 6 Subjek Hukumnya.*” Hukumonline.Com, www.hukumonline.com/berita/a/pengertian-hukum-internasional-lt61d81300c3a56?page=2. Accessed 25 Apr. 2024.
- “*International Law.*” Legal Information Institute, Legal Information Institute, www.law.cornell.edu/wex/international_law. Accessed 25 Apr. 2024.
- Landale, James, and James Gregory. “*NATO Summit: Allies Refuse to Give Ukraine Timeframe on Joining.*” BBC News, BBC, 11 July 2023, www.bbc.com/news/world-europe-66167616. Accessed 23 May 2024
- NORDSTROM, Louise. “*Wagner Group’s Bloody Year in Ukraine: From Murder Squad to Cannon Fodder.*” France 24, FRANCE 24, 22 Feb. 2023, www.france24.com/en/europe/20230222-wagner-group-s-bloody-year-in-ukraine-from-murder-squad-to-cannon-fodder. Accessed 2 August 2024
- “*Pace Calls for the Setting up of an Ad Hoc International Criminal Tribunal to Hold to Account Perpetrators of the Crime of Aggression*

- against Ukraine.*” Parliamentary Assembly | Assemblée Parlementaire , Parliamentary Assembly of the Council of Europe, pace.coe.int/en/news/8699/pace-calls-for-the-setting-up-of-an-ad-hoc-international-criminal-tribunal-to-hold-to-account-perpetrators-of-the-crime-of-aggression-against-ukraine. Accessed 29 Aug. 2024.
- Rainsford, Sarah, and Kathryn Armstrong. “*Wagner Mutiny: Group Fully Funded by Russia, Says Putin.*” BBC News, BBC, 27 June 2023, www.bbc.com/news/world-europe-66029382. Accessed 28 June 2024.
- Rzheutka, Lilia. “*Ukrainian Pows Say Wagner Group Violated Laws .*” Dw.Com, Deutsche Welle, 30 Oct. 2023, www.dw.com/en/ukrainian-pows-say-wagner-group-violated-war-laws/a-67223859#:~:text=Torture%20and%20extrajudicial%20executions%20of,Group%20is%20accused%20of%20committing. Accessed 2 August 2024
- “*Russian Troops Tortured and Executed a Village Mayor and Her Family, Ukrainian Officials Say.*” CBS News, CBS Interactive, 4 Apr. 2022, www.cbsnews.com/news/olga-sukhenko-ukraine-mayor-russia-accused-killing-torture/. Accessed 2 August 2024
- “*What Is Russia’s Wagner Group, and What Has Happened to Its Leader?*” BBC News, BBC, 6 Sept. 2023, www.bbc.com/news/world-60947877. Accessed 27 May 2024.

