

Legalitas penggunaan unmanned aerial vehicles (UAV) dalam operasi militer targeted killing dalam konflik bersenjata = Legality of the application of unmanned aerial vehicles (UAV) in targeted killing military operation in armed conflict

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Abstrak

Aplikasi *drone* di dalam konflik bersenjata merupakan hasil dari perkembangan teknologi militer modern, sekaligus perwujudan dari keinginan untuk menghindari korban jiwa kombatan maupun penduduk sipil. Secara fungsinya, *drone* tampil sebagai platform pengintaian dan platform serang. Legalitas dari penggunaan *drone* di medan pertempuran tersebut dapat ditelaah menggunakan Teori Perang Adil dan prinsip-prinsip dalam hukum humaniter internasional, baik dari keputusan untuk menggunakan *drone* sebagai alat militer maupun dari unsur-unsur yang ada pada diri *drone*. Aspek hukum *drone* juga dibahas dari sudut pandang praktik negara Amerika Serikat sebagai pihak utama yang mengembangkan teknologi *drone* militer dan mengoperasikan *drone* di dalam konflik bersenjata modern. Salah satu aplikasi *drone* di medan pertempuran dilakukan dalam bentuk operasi *targeted killing*, dimana *drone* secara aktif dioperasikan untuk memburu dan membunuh individu tertentu di medan pertempuran. Setidaknya sejak tahun 2002 Amerika Serikat, baik melalui angkatan bersenjata maupun lembaga intelijen CIA, telah mempraktikkan *targeted killing* dalam operasi kontraterorisme dalam kerangka "Perang Melawan Teror" di berbagai wilayah negara asing di Timur Tengah terhadap sejumlah aktor bukan negara seperti al-Qaeda, Taliban, dan ISIS. Israel juga diketahui telah mempraktikkan *targeted killing* dalam konteks kontraterorisme di wilayah Palestina terhadap teroris Hamas, utamanya di wilayah Jalur Gaza. Kedua negara menghadapi sejumlah persoalan hukum dalam menangani penggunaan *drone* dalam operasi *targeted killing*, baik hukum internasional maupun hukum domestik masing-masing.

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The application of drones in armed conflict are the result of the advancement of modern military technology, as well as manifestation of the need to avoid casualties of both combatants as well as civilians on the battlefield. Function-wise, drones are used as intelligence, surveillance, and reconnaissance platform and as a more offensive-oriented, weapon platform. The lawfulness of drones on the battlefield can be studied through Just War Theory and the principles of international humanitarian law. State practice also play a role in deciding their lawfulness, for American practice in developing military drone technology and applying them in the battlefield. One of their application involved targeted killing, in which particular individuals were to be hunted down and killed. At least since 2002, American armed forces as well as the Central Intelligence Agency engaged in targeted killing operation against non-state actors in various states in the Middle East, i.e. al-Qaeda, Taliban, and ISIS. Meanwhile, Israeli forces are also known to use targeted killing as counterterrorism method against Hamas and other Palestinian terrorists in Palestinian territory. Both states faced legal issues regarding the decision to employ drone in targeted killing operation, both in international law as well as their respective domestic law.