

## ABSTRAK

Serangan Hamas pada 7 Oktober 2023 telah memperburuk kondisi antara Israel dan Palestina, memicu ketakutan, trauma, dan dorongan balas dendam yang kemudian dimanfaatkan Israel untuk meningkatkan tekanan terhadap Palestina. Salah satu bentuk represif Israel atas serangan tersebut adalah perlakuan terhadap tahanan di penjara. Laporan B'Tselem berjudul “*Welcome to Hell*” mendokumentasikan penyalahgunaan dan perlakuan tidak manusiawi terhadap tahanan Palestina di penjara Israel sejak 7 Oktober 2023. Penelitian ini mengkaji bagaimana hukum internasional mengatur perlindungan warga sipil sebagai tahanan perang dalam konflik bersenjata, mengidentifikasi bentuk-bentuk pelanggaran Israel terhadap tahanan perang berdasarkan hukum internasional, dan menganalisis pertanggungjawaban hukum atas pelanggaran tersebut.

Metode penelitian yang digunakan adalah deskriptif analitis dengan pendekatan yuridis normatif yang menggabungkan pendekatan perundang-undangan (*statute approach*). Teknik pengumpulan data yang digunakan, yaitu studi kepustakaan (*library research*) dan wawancara. Data dianalisis secara yuridis kualitatif dengan melakukan interpretasi terhadap norma hukum, doktrin, peraturan perundang-undangan, kebijakan, serta praktik hukum yang relevan.

Hasil penelitian menunjukkan bahwa Konvensi Jenewa IV Tahun 1949 memberikan perlindungan yang komprehensif bagi warga sipil dalam konflik bersenjata, termasuk bagi mereka yang ditahan. Tindakan Israel terhadap tahanan Palestina, seperti penahanan administratif sewenang-wenang, penyiksaan, perlakuan kejam, tidak manusiawi, merendahkan martabat, pelecehan seksual, serta penghilangan akses terhadap bantuan hukum dan layanan medis secara sistematis dan meluas merupakan pelanggaran HAM berat. Tindakan-tindakan ini memenuhi unsur kejahatan terhadap kemanusiaan dan kejahatan perang yang diatur dalam Statuta Roma 1998 dan Konvensi Jenewa IV 1949. Berdasarkan *Articles on the Responsibility of States for Internationally Wrongful Acts* (ARSIWA), Statuta Roma 1998, dan Konvensi Jenewa IV 1949, Israel memiliki kewajiban untuk menghentikan pelanggaran, memberikan reparasi penuh kepada korban, dan mengadili para pelaku. Selain itu, Itamar Ben Gvir dan Benjamin Netanyahu, sebagai atasan sipil dapat dimintai pertanggungjawaban pidana di *International Criminal Court* atas kebijakan sistematis yang melanggar hukum internasional.

Kata Kunci: HAM, Tahanan Palestina, Pertanggungjawaban Hukum.

## ABSTRACT

*The Hamas attack on October 7, 2023, has worsened the situation between Israel and Palestine, triggering fear, trauma, and a desire for revenge, which has been exploited by Israel to intensify pressure on Palestinians. One of the repressive responses by Israel to the attack is its treatment of prisoners in detention. A report by B'Tselem titled "Welcome to Hell" documents the abuse and inhumane treatment of Palestinian detainees in Israeli prisons since October 7, 2023. This research examines how international law regulates the protection of civilians as prisoners of war in armed conflict, identifies the forms of violations committed by Israel against prisoners of war under international law, and analyzes the legal accountability for such violations.*

*The research method used is descriptive-analytical with a normative juridical approach, incorporating the statute approach. Data collection techniques include library research and interviews. The data were analyzed juridically and qualitatively by interpreting legal norms, doctrines, legislation, policies, and relevant legal practices.*

*The research findings indicate that the Fourth Geneva Convention of 1949 provides comprehensive protection for civilians during armed conflict, including those in detention. Israel's actions toward Palestinian detainees, such as arbitrary administrative detention, torture, cruel, inhuman and degrading treatment, sexual harassment, and the systematic and widespread denial of access to legal aid and medical services constitute serious human rights violations. These actions fulfill the elements of crimes against humanity and war crimes as stipulated in the 1998 Rome Statute and the Fourth Geneva Convention of 1949. Based on the Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA), the 1998 Rome Statute, and the Fourth Geneva Convention of 1949, Israel has an obligation to cease the violations, provide full reparations to the victims, and prosecute the perpetrators. In addition, Itamar Ben Gvir and Benjamin Netanyahu, as civilian superiors, may be held criminally responsible before the International Criminal Court for systematic policies that violate international law.*

*Keywords: Human Rights, Palestinian Detainees, Responsibility.*