

ABSTRAK

Konflik bersenjata yang berkepanjangan antara Israel dan Palestina, khususnya pasca eskalasi Oktober 2023, telah menimbulkan krisis kemanusiaan yang masif akibat serangkaian serangan militer Israel ke Jalur Gaza yang menargetkan fasilitas dan masyarakat sipil. Berangkat dari urgensi penegakan hukum internasional, penelitian ini bertujuan untuk menguji dan menganalisis legalitas yurisdiksi *International Criminal Court* (ICC) dalam menerbitkan surat perintah penangkapan terhadap Benjamin Netanyahu, di tengah status Israel sebagai negara non-pihak Statuta Roma 1998. Penelitian doktrinal ini menggunakan pendekatan perundang-undangan, dan pendekatan kasus, melalui studi kepustakaan atas dokumen hukum internasional dan putusan mahkamah. Hasil penelitian menunjukkan bahwa ICC memiliki landasan yuridis yang sah berdasarkan yurisdiksi teritorial dan yurisdiksi personal melalui doktrin pertanggungjawaban komando. Netanyahu tidak dapat berlindung di balik imunitas jabatan karena Statuta Roma 1998 secara tegas mengesampingkan kekebalan pejabat. Tindakan ICC merupakan langkah krusial dalam melawan impunitas, dan seluruh masyarakat internasional, baik negara pihak maupun non-pihak, terikat oleh kewajiban *jus cogens* serta *obligation erga omnes* untuk mengeksekusi penangkapan tersebut guna memastikan tegaknya keadilan global.

Kata Kunci: International Criminal Court, Kejahatan HAM Berat, Statuta Roma 1998.

Abstract

The prolonged armed conflict between Israel and Palestine, particularly following the October 2023 escalation, has triggered a massive humanitarian crisis due to a series of Israeli military attacks on the Gaza Strip targeting civilians and public facilities. Driven by the urgency of enforcing international law, this research aims to examine and analyze the legality of the International Criminal Courts (ICC) jurisdiction in issuing an arrest warrant against Benjamin Netanyahu, despite Israel's status as a non-party to the Rome Statute. This doctrinal research employs statutory and case approaches through a literature review of international legal documents and court rulings. The findings indicate that the ICC possesses a valid legal basis grounded in territorial jurisdiction (Palestine as a State Party) and personal jurisdiction through the doctrine of command responsibility. Netanyahu cannot shield himself behind official immunity, as Article 27 of the Rome Statute explicitly overrides the immunity of state officials. The ICC's action represents a crucial step in combating impunity, and the entire international community, encompassing both State Parties and non-parties, is bound by jus cogens norms and obligatio erga omnes to execute the arrest to ensure the enforcement of global justice.

Keywords: International Criminal Court, Gross Violation of Human Rights, Rome Statute 1998.