

CHAPTER ONE

INTRODUCTION

A. Background of Research

The conflicts and military capabilities have changed dramatically over the last several decades as a result of technological advancements.¹ One of the most well-known examples is Unmanned Aerial Vehicles (UAVs or drones). As happened on July 29, 2021, the petroleum products tanker *Mercer Street* that managed by Israeli-owned Zodiac Maritime, was attacked by two one-way drones while transiting on the high seas of Oman.

According to a U.S. Central Command (CENTCOM) investigation, there was a third drones follow-up attack resulting in the deaths of the captain (a Romanian) and a security officer (a British national) on July 30.² As a result of the investigation, it is a targeted attack and Iran has been actively involved in such an attack. In addition, based on all evidence available, the foreign ministers of the Group of Seven (G7) pointed to Iran as responsible for the attack on *MV Mercer Street*. However, Iran has rejected any responsibility for such an attack.

As a result, no one has claimed responsibility for the attack. In this case, the question is whether CENTCOM evidence is strong enough to prove under international law that Iran should be responsible for the *Mercer Street* attack.

¹ Rain Liivoja, "Technological Change and the Evolution of the Law of War", *International Review of the Red Cross*, Vol. 97, No. 900, (2015), p. 1158.

² CENTCOM, 2021, *U.S. Central Command Statement on the Investigation into the Attack on the Motor Tanker Mercer Street*, published on: <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View>, (Accessed on: October 15th, 2021 at 9:45 p.m.)

In comparison, the issue is a clear violation of international law. In such a situation, international peace and security are threatened, so the State's responsibility is necessary to prevent any possibility of internationally wrongful acts by States in the future.³

An internationally wrongful act exists when an act or omission by the State is attributable to the State under international law.⁴ The primary instrument of public international law is a State's responsibility until now. A State that has been affected might claim compensation from the State that has caused it damage under international law, and it has been regulated in Article 31 Draft Article on Responsibility of State for Internationally Wrongful Act (ARSIWA), which explains that reparation includes compensation, restitution, and satisfaction.⁵

As mentioned above, Israel is affected by the strike, but several other States that have lost civilians in such cases and the freedom of navigation are harmed. The US Secretary of State Anthony Blinken's Statement supports that the Mercer Street strike endangers navigation along the essential waterway (Sea of Oman). In addition, international trade and shipping, as well as the lives of people aboard the vessels involved.⁶ Due to the collapse of the

³ Schachter Oscar, 1991, *International Law in Theory and Practice*, Netherland, Brill Nijhoff, p. 235.

⁴ Alan Tan, "The 'Haze' Crisis in Southeast Asia: Assessing Singapore's Transboundary Haze Pollution Act 2014", *CALS Working Paper Series*, Vol. 02, No. 15, (2015), p. 100.

⁵ Article 31 of the Draft Article on State Responsibility for Wrongfully Act.

⁶ U.S. Department of State, 2021, *Attack on Mercer Street Vessel*, published on: <https://www.state.gov/attack-on-mercero-street-vessel/>. (Accessed on: October 15th, 2021 at 8:22 p.m.)

Iran nuclear deal in 2018, attacks on commercial vessels have increased in the Sea of Oman. Such incident threatens freedom of navigation through the high seas. The incident has also further stoked international tension, and it is concerned that escalating tensions would increase maritime insecurity in the Sea of Oman.

The freedom of navigation is one of the most venerated freedoms of the high seas under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Based on Article 90 of the UNCLOS 1982, “*Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas*”.⁷ However, as a general rule, only the flag State may exercise jurisdiction over a ship on the high seas. In such a case, Liberia as a flag State of Mercer Street tanker has reported the attack to UN Security Council along with Romania and Britain to demand that Iran be sanctioned as a result of the assault.⁸

Therefore, the topic is important to be discussed to give an understanding to the readers regarding the State responsibility under the international law perspective in the use of war weapons in a non-military context. Practically, when such action constitutes an unlawful act under international law, it will be entailing the responsibility of the State. Furthermore, the issue still becomes a hot topic among the State, especially when Iran has deliberately rejected responsible for such actions. If there is no

⁷ Article 90 on the United Nations Convention on the Law of the Sea 1982.

⁸ Michelle Nichols, 2021, *Britain tells UN ‘highly likely’ Iran behind deadly tanker attack*, published on <https://www.reuters.com/world/middle-east/britain-tells-un-highly-likely-iran-behind-deadly-tanker-attack-2021-08-03/>, (Accessed on October 14th, 2021 at 10:41 a.m.)

legal action, especially State responsibility, Iran will likely conclude there is no resolve to challenge them. Other attacks of this type are expected to become increasingly widespread in such a situation.

There is nothing particularly new about the incident, but the technology of drones utilized is making it the first fatal strike on the high seas in many years. Also, using the armed drone in such a way can expand the battlefield beyond the usual naval weapons worldwide. The use of armed drones must be examined under the International Human Rights Law (IHRL) and the International Humanitarian Law (IHL), also known as *jus in bello*, which governs the use of force.⁹ Drones are not specified as weapons treaties or other international legal instruments.¹⁰ Nevertheless, any weapon system, including armed drones, is subject to International Humanitarian Law in armed conflict circumstances.

The expansion of armed drones and the lack of transparency concerning their use constitute a substantial threat to world peace and security.¹¹ The absence of specific legal rules governing the use of drones can open up possibilities for violations of international law when a drone is operated.¹²

Therefore, a question arises about whether it is necessary to expand the scope

⁹ Lawrence Hill-Cawthorne, "Rights under International Humanitarian Law", *European Journal of International Law*, Vol. 28, No. 4, (2017), p. 1214.

¹⁰ ICRC, 2013, *The use of Armed Drones Must Comply with Laws*, published on <https://www.icrc.org/en/doc/resources/documents/interview/2013/05-10-drone-weapons-ihl.htm>, (Accessed on October 16th, 2021, at 8:41 a.m.)

¹¹ Ankit Kumar, "Drone Proliferation and Security Threats", *Indian Journal of Asian Affairs*, Vol. 33, No. 1, (2020), p. 43.

¹² Rosa Brooks, "Drones and the International Rule of Law", *Ethics and International Affairs*, Vol. 28, No. 1, (2014), p. 97.

of international law on the issue related to the use of armed drones. In addition, determining the legality of the use of armed drones is also necessary. But it does not provide answers to future cases, so it is also necessary to conduct a deeper analysis of what is the legal consequences of Iran being responsible for drones attack according to the international law in order to give a new international law perspective for future cases, especially for State responsibility.

B. Problem Formulation

Based on the background already explained, the author formulates a research problem, namely, how is the responsibility of Iran on the MV Mercer Street in International Law perspective?

C. Objective of Research

There are some objectives of the research, as follow:

1. To understand the concept of State responsibility in international law on the use of armed forces to other States.
2. To analyze the responsibility of Iran on the MV Mercer Street in International Law perspective.

D. Benefits of Research

There are some benefits of this research, as follow:

1. Theoretical Aspect

The research will provide benefits to a better understanding of the international law perspective on the use of armed drones in the MV Mercer Street attack.

2. Practical Aspect

The research will give a contribution to the development of international State responsibility.