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# The Battle of Surabaya November 1945 in Humaniter Law Perspective

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# Abstract

The Battle of Surabaya in November 1945 which lasted for 3 weeks was the most intense battle during the Revolutionary Independence of the Republic of Indonesia in 1945 – 1949. The Battle of Surabaya those involved from the Indonesian side are regular soldiers and fighters consisting of volunteers or militias who are members of several groups of fighters. These fighters considered that the arrival of British troops accompanied by the Netherland Indies Civil Administration/NICA army as an effort to take the Independence of the Republic of Indonesia which had been proclaimed on August 17, 1945. Therefore, They needed to defend Surabaya from the occupation by the Dutch and The Battle of Surabaya became an inspiration for all Indonesian people to maintain Indonesian independence. This paper will discuss how the distinction principles that distinguish between combatants and non-combatants and the concept of direct participation in the Battle of Surabaya in November 1945 and discuss whether the spontaneity of the people of Surabaya as levée en masse.

# Keywords

combatants or non-combatants; direct participation in hostilities; levée en masse



# I. Introduction

Revolution(Ricklefs, 2007, p.428) which became a tool for achieving independence is not a central story in Indonesian history, but is a strong element in the Indonesian people's perception of themselves. All of this was achieved in order to find a new identity for the Indonesian people in the face of foreign powers, and for a more just social order that was fought for in the post-World War II period. For the first time in the lives of the Indonesian people, all the coercion from foreign powers suddenly disappeared. Similarly, what happened in Surabaya, the effort to get an identity as an independent nation had been embedded in the people of Surabaya at that time. After Indonesian Independence, on August 29, 1945 Vice President Drs. M. Hatta delivered a radio speech which read "Japan has lit the torch of Greater East Asia's independence. We will continue with the extermination of white imperialism. We accept the direction that Japan has prepared for the independence of the homeland of Indonesia...."(Silas, 2018, p.15). This speech is widely believed to have been able to sacrifice the spirit of independence, which is getting brighter and more real, like the events in Surabaya in the future.

The events of the Battle of Surabaya in November 1945 which lasted up to 3 weeks were inseparable from the presence of the Allies in Asia during World War II. On 24 October, Brigade 49 under the command of Brigadier Aulbertin Walter Sothern Mallaby, who was 42 years old, arrived at Tanjung Perak Harbor and on 25 October 1945 began landing in Surabaya. The entire 49th Brigade personnel numbered 5,000 people, mostly Nepalese Gurkhas. It should have been assigned to East Java Division 5/Fifth British Indian Division, but due to delays it was still stuck in Malaya (Malaysia). Brigade 49 is part of Division 23 assigned to West Java and Central Java (Hutagalung, 2018, p. 135).

British troops came to Indonesia who were members of AFNEI (Allied Forces Netherland East Indies) with the task of disarming the Japanese troops, freed prisoners of war held by Japan, and returned Japanese soldiers to their country. The troops also took a ride with the Netherland Indies Civil Administration/NICA soldiers. This triggered the turmoil of the Indonesian people and gave rise to the Indonesian people's resistance movement (Abdurakhman, p.39).

The climax of the movement in Surabaya occurred in the incident of the tearing of the Dutch flag at the Yamato Hotel or the Orange Hotel on September 18, 1945. After the incident at the Yamato Hotel, on October 27, 1945 the first battle erupted between the Indonesians and the British troops. Armed clashes in Surabaya culminated in the assassination of General Mallaby (leader of the British army for East Java) on 30 October 1945. After the assassination of Brigadier General Mallaby, his successor Major General Robert Mansergh issued an ultimatum stating that all armed Indonesian leaders and people must report and put down his weapon in the designated place and surrender himself with his hands raised above. The deadline for the ultimatum was 06.00 am on November 10, 1945.

Rickels (2007, p. 437) mentions that what happened in Surabaya was the most intense battle arena during the Revolution, thus becoming a symbol of national resistance. Discussing battle or war, it cannot be separated from what was conveyed by Clause Witz (Howard and Paret, 1984) which states that war is an act of violence to force our enemies to do what we want. Wattimena (2008, p.2) mentions that war is the dark history of mankind. Millions of people have been killed in wars across history. Property that was built as an expression of culture was destroyed in the face of war. In the 20th century, the world witnessed two world wars involving all parts of the world. Kusumaatmadja (2002, p.12) mentions that the history of war is as old as the history of mankind. It is a sad fact that during the 3,400 years of written history, mankind has only known 250 years of peace. The phrase (Ambarwati, 2009, p.2) that peace to be merely a response between wars shows that war and peace situations continue to alternate in human interaction.

The battle in Surabaya in November 1945 was a war that occurred before the 1949 Geneva Conventions were enacted. But overall the Battle in Surabaya could not be separated from the D War.unia II which has killed more than 60 million people and various forms of destruction and atrocities (Bakry, 2019, p.1 - 2). International humanitarian law (International Humanitarian Law/IHL), also known as the law of war and the law of armed conflict (LOAC), which is part of international public law that regulates armed conflicts, both international and non-international. As the law governing international and non-international Humanitarian Law consists of the rules that apply during a conflict (in time of war) or regulate the conduct of conflict (jus in bello). The rules in International Humanitarian Law also apply to situations of occupation. This writing will look at the application of humanitarian law in the November 1945 Battle of Surabaya, limited to the side of the Surabaya fighters and not discussing the side of the British troops who landed in Surabaya. This is because the author does not want to create an assumption or polemic that one of the parties in the November 1945 Battle of Surabaya did not comply with International Humanitarian Law.

Based on the description above, two problems are proposed to be discussed in this paper. First, what was the status of the fighters in the November 1945 Battle of Surabaya and how did humanitarian law see the participation of the fighters in the November 1945 Battle of Surabaya; and second, whether the November 1945 Battle of Surabaya could be categorized as levee en masse.

#### **II. Research Method**

The method used in this paper is the Historical research method, which is a research method that examines something that happened in the past. In its application, this method can be carried out with a comparative-historical, juridical, and bibliographical form of study. Historical research aims to find generalizations and make reconstructions of the past, by collecting, evaluating, verifying and synthesizing evidence to establish facts and evidence in order to obtain strong conclusions (Suryana, 2010). The data sources used are written sources which include books, documents, and journals related to the events of the 1945 Surabaya battle. The data collection technique used is literature study technique. According to Zed (2004, p. 3) library research is needed to answer research problems. Because the library is a very rich gold mine for scientific research. Information or empirical data that has been collected by other people, either in the form of research reports or official reports, books stored in libraries can still be used by library researchers.

# **III. Results and Discussion**

The State's right to independence (Suryokusumo, 2007, p.60), essentially concerns the state's right to national existence. This means that an independent state is free from the supervision of any other state in regulating its domestic problems or in making decisions with the state.with which the country has relations. The Proclamation of Indonesian Independence was carried out on August 17, 1945 which was read by Soekarno accompanied by Mohammad Hatta in a house grant from Faradj Martak on Jalan Pegangsaan Timur No. 56, Central Jakarta. According to Soekarno (Hamidi, 2006, p.71), independence is "politieke onafhankelijkheid, political independence, nothing but one bridge, one golden bridge. Thus, independence in the political sense stated by Soekarno above, the spirit of independence must always be fought for. The process of independence never ends, it must continue to be filled, interpreted or if necessary given a new meaning from time to time, and continue to be fought for. So the spirit of independence is dynamic, progressive, innovative, and transformative. De jure, Indonesia (Adryamarthanino, 2021) became independent on August 18, 1945, after the 1945 Constitution was ratified, the President and Vice President were elected, and the inauguration of a legislative body (Central Indonesian National Committee/KNIP). The first country to recognize independence was Egypt, which recognized the sovereignty of the Republic of Indonesia de jure on June 10, 1947, by appointing HM Rasjidi as the representative of the Republic of Indonesia, and opening an embassy in Cairo. Then on July 29, 1947, de jure recognition was also given to the Unitary State of the Republic of Indonesia by Lebanon. Meanwhile, the de jure acknowledgment of Indonesia's independence from the Netherlands was only given on December 27, 1949, and the United Nations on September 28, 1950. With the de jure acknowledgment, a country will get its rights and obligations as an international community. Indonesia's independence was recognized by the United Nations through United Nations Security Council Resolution Number 86 of 1950, which was set on September 26, 1950. So that the British troops entered Indonesia accompanied by NICA, in order to carry out colonialism again against their colonies that had been "independent" or had become other countries. So that the Indonesian people, including the people of Surabaya, are committed to maintaining independence on August 17, 1945.

The Battle of Surabaya, which took place for 3 weeks in November 1945, took place before the publication of the 1949 Geneva Convention. The battle had not yet been regulated by the 1949 Geneva Convention and Indonesia itself ratified the 1945 Geneva

Convention through Law Number 59 of 1958 concerning Participation. The Republic of Indonesia in the entire Geneva Conference on August 12, 1949. If we try to look at the Battle of Surabaya in 1945 in terms of Humanitarian Law, the question arises whether this battle is an International Armed Conflict or a Non International Armed Conflict. Based on the Geneva Conventions I – IV in article 2 (common article) it states that the International Armed Conflictstated "to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them." The Battle of Surabaya did occur before the 1949 Geneva Conventions were published, but the author took the definition in common article 2 which regulates the definition of the International Armed Conflict. Kusumaatmadja (2002, p. 25) states that the provision in paragraph 2 of Article 2 which reads: "This Convention shall also apply to all incidents of partial or complete occupation of the territory of the High Contracting Party, even if such occupation does not meet resistance." Addition " .... Even if the occupation met no resistance" it is important as an extension. Occupation by foreign war forces after armed resistance is a natural consequence of a war or armed conflict between two countries. In this case, the provisions for the protection of war victims of the 1949 Convention automatically apply. So in the context of the Battle of Surabaya in November 1945, if the British were of the opinion that Indonesia was still not recognized as a country, and Indonesia was a territory that had declared its independence, then this Convention would still apply at that time. Haryomataram (2005, p. 57) stated that the importance of paragraph 2 compared to the provisions contained in the Geneva Prisoners of War Convention 1929. The important thing to note here is the clause "even if the occupation did not meet resistance". Why is this addition important? in a war it is common that after holding a resistance, the defending party is forced to retreat so that part of the territory is occupied by the opposing party. In such case, the provisions concerning the protection of war victims of the 1949 Convention will apply. However, what if the occupation of part or all of the territory by the opposing party occurs without any resistance? according to the Geneva Prisoners of War Convention 1929, those who are entitled to be required as prisoners of war are combatants held by the enemy, or all persons belonging to the Armed Forces of a belligerent who are held by the enemy "in the course of operations". Thus, if the occupation is not preceded by a battle/resistance, members of the Armed Forces who are held captive by the enemy do not have the right to be treated as prisoners of war. The 1949 Geneva Conventions expressly stipulates that these conventions also apply to all occupations, including non-resistance occupations.

Surabaya (Abdurakhman, p.39) as an occupied territory beyond the estimates of the British at that time estimated that the resistance could be conquered in a short time of 3 days, in fact the British estimate was wrong. Large-scale fighting took up to 3 weeks, before the entire city finally fell to the British. At that time, it was estimated that the number of fighters who died was between 6,000 and 16,000 people and there were 200,000 civilians who had fled from Surabaya. On December 2, 1945 (Silas, 2018, p.57), the combatants formed a new line of defense that was outside the borders of Surabaya towards Mojokerto. Thus history records that The Battle of Surabaya can be said to be over, but counterattacks in various forms such as hit and run are still being carried out.

Are the fighters in the battle of Surabaya in 1945 a combatant or?non-combatants. Based on the Hague Convention IV 1907 Concerning the Law and Customs of War on Land in Annex I Article 1 stipulates that the Law, rights and duties of war apply not only to soldiers, but also to militias and volunteer groups who meet the following requirements: :

- a. ledby a commander in charge of his subordinates;
- b. havea special distinguishing symbol that can be recognized remotely;
- c. bringweapons openly; and
- d. To dooperations in accordance with the rules and customs of war.

The application of humanitarian law that does not only apply to the Regular Army, but also to militias or volunteer groups that meet the four requirements of the Hague Convention above, the Fighters of the Battle of Surabaya in 1945 can be categorized in the category of these militias. Haryomataram (2005, p. 76 - 77) mentions that Article 1 and Article 2 of the Hague Convention IV 1907 Concerning the Law and Customs of War on Land as part of the regulation of the Distinction principle. The distinction principle (Danial, 2016, p.201) is basically to provide restrictions to combatants who are involved in armed conflict and protection for the civilian population. The Principle of Distinction began to be regulated in the 1907 Hague Convention but not yet explicitly. However, it can be found implicitly in Article 1 Chapter 1 of the convention which states that: the laws, rights and obligations of war do not only apply to soldiers but also to militias and volunteer corps that qualify as combatants. The parties that fought in the Battle of Surabaya included (Silas, 2018): People's Security Army (TKR), Youth of the Republic of Indonesia (PRI) Barisan Pemberontak Rakyat Indonesia (BPRI), Kaum Santri, and young people who voluntarily supported the Battle of Surabaya November 1945. The People's Security Army (TKR) is a regular army formed on October 5, 1945, while the Youth of the Republic of Indonesia (PRI), Barisan Pemberontak Rakyat Indonesia (BPRI), and Kaum Santri are militias or volunteer groups. They are the parties who take part in the battle or the combatants are the legitimate parties to become victims. However, based on humanitarian law, they must still receive protection humanely, so that if someone is injured, sick and detained by the enemy, they are not made objects of violence or tortured or killed.

The Hague Convention IV 1907 Concerning the Laws and Customs of War on Ground in Annex I Article 1 is also regulated in the Geneva Convention I of 1949 concerning the Improvement of the Condition of Wounded and Sick Members of the Armed Forces in the Field of Ground Combat in Article 13 paragraph (2) related to the requirements for members of the armed forces. militia members and members of other voluntary ranks including organized resistance movements, which belong to a Party to the conflict and operate within or outside their territory. While for the Additional Protocols to the Geneva Conventions of 12 August 1949, and those relating to the protection of victims of international armed disputes (Protocol I), in situations of international armed conflict, civilians are defined negatively.

The participation of the Youth of the Republic of Indonesia (PRI), Barisan Pemberontak Rakyat Indonesia (BPRI), Kaum Santri and other youths who voluntarily supported the Battle of Surabaya in November 1945 was a direct participation in the battle. To see direct participation, you must meet the following criteria (Melzer, 2009, p.46):

 The action taken must be likely to have an adverse effect on the military operations or military capacity of one of the parties to the conflict, with the possibility of causing death, injury or destruction to persons or objects protected against direct attack (threshold of harm). In the 1945 battle of Surabaya, according to Woodburn's estimate as quoted by Matanasi (2106) before the battle of 10 November 1945, a high-ranking officer, 15 officers and 217 British-Indian soldiers were killed. By the end of the fighting on November 10, there were 600 casualties on the Anglo-Indian side. there were 6 thousand victims on the Indonesian side.

- 2. There must be a direct causative relationship between the act and the possible harm arising from the act itself or from a coordinated military operation in which the action is an integral part (direct causation). Interpretation of direct causation means that the adverse impact is caused in a causative step. For example, in the Battle of Surabaya in November 1945,Ricklefs (2007, p. 437) stated that although the Republican side had a lot of manpower and weapons in the Surabaya battle, the sacrifices of the Surabaya fighters' struggles had created a symbol and cry of unity for the Revolution. The Battle of Surabaya was also a turning point for the Dutch, because it had shocked most of them in the face of the fact that the Surabaya fighters supported the people. Rebellion Radio (Silas, 2018) officially broadcast Bung Tomo (Soetomo) propaganda for the first time in addition to broadcasting regular news. He started and ended the broadcast with a three-time takbir call, Allahu Akbar, Allahu Akbar, Allahu Akbar, this received the support of the many santri in Surabaya, even the Lakarsantri village and the like.
- 3. The action must be an Action specifically designed to directly create the threshold of harm necessary to favor one party to the conflict and harm the other (nexus of war). To qualify for a nexus of war, an Act must be specifically designed to directly cause the desired threshold of harm to one party to an armed conflict at the expense of the other party. In the Battle of Surabaya in November 1945, the nexus of war was seen as stated by Silas (2018, p.47) who stated on November 10, 1945 that efforts to hinder the progress of the allied troops had made all kinds of defenses in many places (including bed barricades, etc.). One of them is in the vicinity of the Sampoerna cigarette factory near the Kalifigur prison with a strength of about 100 people. With air attack cannons the fighters managed to shoot down a fighter plane carrying Artiteli Battalion Commander Brigadier (general) Robert Loder-Symons and killed two British Brigadiers (General) in Surabaya. This kind of thing never happens anywhere in an urban warfare (urban warfare). Meanwhile, from 19 to 21 November 1945, during this period street and village fighting took place everywhere. There was also a group of Dare to Die Troops who joined the existing fighters. They dared to carry out a suicide attack. David Wehl said: "...there was no fighting in the Republic rank to compare with Sourabaya, either in courage or intensity....

Seeing the spontaneity of the Surabaya people's resistance in the November 1945 Battle of Surabaya, was the incident of the November 1945 Battle of Surabaya a levée en masse? The arrangement of levée en masse is regulated in The Hague Convention IV 1907 Concerning the Law and Customs of War on Land Article 2 states that: "The inhabitants of unoccupied territory, who when the enemy is about to attack, who spontaneously take up arms to provide resistance without having time to organize themselves. they themselves, pursuant to Article 1, must be considered Belijeren if they openly take up arms and if they obey the laws and customs of war." Whereas in Geneva Convention III 1949 concerning the Treatment of Prisoners of War Article 4 point 6) states that: "Residents of nonoccupied territory who, when the enemy approaches, The participants in the levee en masse were the only armed actors excluded from the civilian population, even though they operated spontaneously and lacked sufficient organization and command to qualify as members of the Armed Forces. Organization must have a goal to be achieved by the organizational members (Niati et al., 2021).

From the arrangements in The Hague Convention IV 1907, Geneva Convention III 1949 and Melzer, the elements of levée en masse are as follows:

- a) refers to non-occupied territories;
- b) the enemy approached in no time;

- c) the only armed actors excluded from the civilian population, even though they operate spontaneously and do not have sufficient organization and command to qualify as members of the Armed Forces; and
- d) respect the laws and customs of war.

From these elements, the writer is of the opinion that the Battle of Surabaya in November 1945 was not a battle known as levée en masse, because Surabaya at that time was not a non-occupied territory but was part of the territory of the Republic of Indonesia. And at the time of the Battle of Surabaya in November 1945, the People's Security Army (TKR) was a regular army formed on October 5, 1945, which was supported by the Youth of the Republic of Indonesia (PRI), the Indonesian People's Rebel Front (BPRI), and the Santri. The concept of levée en masse (Crawford, 2011, p.1) a concept dating back to the French Revolution of 1789, this concept accommodates the spontaneous resistance of the civilian population against an attacking force and the concept of levée en masse has long been part of the modern law of armed conflict in relation to determining who can legally participate in armed conflict. The concept originated during the French Revolution, and was internationalized with its inclusion in the rules of armed conflict adopted by The Union Army during the American Civil War. The concept of levée en masse was later included in the Hague Convention IV 1907 and the Geneva Conventions. The inclusion of levée en masse is part of a step towards recognizing the presence of irregular fighters in modern international conflicts.

# **IV. Conclusion**

The Battle of Surabaya in November 1945 as the International Armed Conflict was the most intense battle during the revolutionary period of the Republic of Indonesia's Independence in 1945 - 1949, so that it became a symbol of national resistance. The Battle of Surabaya in November 1945 was recognized by the British as the greatest urban battle at that time because they had to face the fighters directly on the streets of Surabaya. The Battle of Surabaya was also a signal to the Dutch that the Republic of Indonesia had great power to defend its independence. The fighters in the Battle of Surabaya were combatants as regulated in the Hague Convention IV 1907 concerning the Laws and Customs of War on the Ground. The Battle of Surabaya in November 1945 was not yet covered by the 1949 Geneva Conventions.

The participation of the Youth of the Republic of Indonesia (PRI), the Indonesian People's Rebel Front (BPRI), the Santri and young people who voluntarily supported the Battle of Surabaya in November 1945 were direct participation in the battle, this is because what these fighters did caused losses from In England, there is a causative relationship between the actions taken by the Surabaya fighters and the losses suffered by the British, as well as fulfilling the requirements of the nexus of war. The spontaneous resistance of the people of Surabaya in the Battle of Surabaya cannot be categorized as levée en masse because at the time of the Battle of Surabaya in 1945 there were regular soldiers in this case the People's Security Army (TKR) involved in the incident and Surabaya is not a non-residential area but is part of the territory of the State. Unity of the Republic of Indonesia.

#### Suggestion

The Battle of Surabaya in November 1945 for the Indonesian people can be used as an inspiration to increase the spirit of State Defense for all Indonesian people. Because State Defense is the right and obligation of the Indonesian people in the National Defense and Security efforts. Therefore, it is necessary to make efforts to instill a spirit of struggle and heroism in the nation's young generation to fulfill independence and care for the sovereignty of the country.

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