

**LEGAL PROTECTION OF DIPLOMATIC REPRESENTATIVE
BUILDING ASSESSED FROM THE PERSPECTIVE OF THE 1961
WINA CONVENTION**

**(Case Study: Suicide Bombing In Kabul Afghanistan Near United
States Embassy)**

Luh Ewik Lindasari

Ganesha University of Education Law Study Program

email : ewiklinda10@gmail.com

Dewa Gede Sudika Mangku

Ganesha University of Education Law Study Program

email : dewamangku.undiksha@gmail.com

Ni Putu Rai Yuliantini

Ganesha University of Education Law Study Program

email : raiyluliantini@gmail.com

Abstrak

Penelitian ini bertujuan untuk mengetahui dan menganalisis perlindungan hukum terhadap gedung perwakilan diplomatik Amerika Serikat ditinjau dari perspektif Konvensi Wina 1961 serta pertanggung jawaban negara penerima Kabul Afghanistan dalam kasus bom bunuh diri dekat Kedutaan Amerika Serikat. Penelitian ini menggunakan jenis penelitian hukum normatif melalui pendekatan konseptual, pendekatan perundang-undangan dan pendekatan sejarah yang kemudian dianalisis dengan menggunakan bahan hukum primer, sekunder, dan tersier. Hasil penelitian menunjukkan bahwa perlindungan hukum terhadap gedung perwakilan diplomatik diatur dalam pasal 25 konvensi Wina 1961 yang menjelaskan gedung perwakilan dan fasilitas didalamnya tidak dapat diganggu gugat negara penerima berkewajiban memberikan fasilitas guna menunjang kegiatan perwakilan diluar negeri dan bentuk pertanggung jawaban negara penerima Afghanistan terhadap gedung perwakilan diplomatik dengan mengganti segala bentuk kerugian baik kerusakan fisik maupun rasa ketidaknyamanan yang dialami oleh perwakilan diplomatik Amerika Serikat berdasarkan Konvensi Wina 1961, serta mengerahkan petugas keamanan untuk mengantisipasi serangan susulan yang dilakukan oleh pihak Taliban terhadap lingkungan gedung perwakilan diplomatik Amerika Serikat.

Kata Kunci : Kekebalan dan keistimewaan, Gedung perwakilan dan Pertanggung jawaban

Abstract

The study aims to identify and analyze the legal protections of diplomatic buildings of the United States are reviewed from the perspective of the Vienna Convention 1961 as well as the recipient state answer of Kabul Afghanistan in the case of suicide bombing near the U.S. embassy. The study uses a type of normative legal research through a conceptual approach, a statutory approach and a historical approach that is then analyzed by using primary, secondary, and tertiary legal substances. The results showed that the protection of the law against diplomatic buildings is governed in article 25 of the 1961 Vienna Convention

describing the building of representatives and facilities therein can not be contested by the recipient State obliged to provide facilities to support the activities of representatives outside the country and the form of liability of the recipient of Afghanistan to the diplomatic buildings by replacing any damages for both physical damage and discomfort experienced by 1961 United , as well as deploying security officers to anticipate follow-up attacks by the Taliban against the environment of United States diplomatic buildings.

Keywords: Immunity and privilege, representative building and accountability.

Introduction

According to Mochtar Kusumaatmadja, international (public) law is all legal principles and principles governing relations or problems that cross national boundaries (international relations) which are not civil in nature. From the understanding given by Mochtar Kusumaatmadja, it appears that international relations It is not limited to relations between countries, but can be carried out by countries with non-state subjects or non-state subjects or each other (Sefriani, 2017: 2).

Diplomatic law is a part of international law which has the same legal sources as international conventions, customary law, general legal principles and court decisions, including the teachings of well-known legal experts. There is also a limitation that diplomatic law is a branch of customary international law which consists of a set of rules and legal norms that determine the position and function of diplomats, including the organizational forms of diplomatic service. According to Dembinski, in its traditional meaning, the term "diplomatic law" is used to refer to international legal norms that regulate the position and function of diplomatic missions that are exchanged between countries by establishing diplomatic relations (Suryokusumo, 2013: 2).

The existence of granting immunity and privileges for diplomatic officials is essentially a result of the long history of diplomacy in which such gifts are considered an international custom. In accordance with customary rules in international law, diplomats representing foreign countries have strong immunity from the jurisdiction of sending countries. These immunities are often expressly granted in the laws and regulations of the host country, and are sometimes also granted more than those specified in international law.

In connection with the increasing violations of the provisions of international law, especially those concerning the protection rules for diplomats, it is now getting enough international attention. On Thursday, September 5, 2019, a suicide bomb by the Taliban exploded in Kabul Afghanistan, to be precise near the diplomatic complex which is the location of the United States Embassy (US Embassy) office. At least ten people, who became civilians, died as a result of the bomb explosion and caused damage to the building, namely the broken glass in the building of the United States diplomatic representative. Reporting from the Associated Press, this bomb explosion was the second attack in a week in Afghanistan, after an initial agreement was reached between the US and the Taliban to end the longest US war in Afghanistan. This bomb attack has been claimed by the Taliban (Associated Press, 05 September 2019). The Taliban or the Taliban Movement is a Pashtun nationalist Islamic Sunni movement that effectively controlled almost all of Afghanistan from 1996 to 2001. This group received diplomatic recognition from only three countries. namely the United Arab Emirates, Pakistan and Saudi Arabia and the government of the

Chechen Republic of Ichkeria which is not recognized by the world. This movement mainly originated from the Pashtun in Afghanistan, as well as the North-West Frontier Province (NWFP) in Pakistan and also includes many volunteers from Arabia, Eurasia and South Asia (Susilo, 2010: 391).

Afghanistan's Interior Ministry, Nasrat Rahini said about 42 other people were injured. About 12 vehicles were destroyed by the bomb blast. In his claim Taiban said they were targeting vehicles of "foreigners" when entering the heavily fortified Shasdarak area. In the same area there are also offices of the Afghan national security authority (Associated Press, 05 September 2019).

Based on the chronology of the case, there has been a violation of immunity and diplomatic council by the Taliban against the US Embassy. Where in the 1961 Vienna Convention Article 22 it has been explained that the right of inviolability is the right to carry out the function of foreign representatives appropriately. Such rights are granted to diplomats, their representative buildings, archives and other documents. The same rights also applied to the residence of the diplomats which became known as the I'hotel franchise including letters and correspondences. The receiving country must take steps to prevent any interference to foreign diplomats, both their liberty and their honor.

In essence, the inviolability of the foreign representative building of a country concerns two aspects. One of its aspects is the obligation of the receiving country to provide full protection as a foreign representative in the country from any disturbance (Sumaryo Suryokusumo, 2013: 148). So that the author is very interested in making legal research on "Legal Protection of Diplomatic Representative Buildings from the Perspective of the 1961 Vienna Convention (Case Study of Suicide Bombing in Kabul Afghanistan Near the United States Embassy)" with the aim of examining the legal protection of the United States diplomatic representative building, the consequences of the suicide bombing in Kabul Afghanistan and the responsibility of the recipient country to the United States diplomatic representative building from the perspective of the 1961 wina convention.

Research methods

In this research, the object of research is the United States diplomatic representative building. The method used is normative legal research. Normative legal research is research conducted by reviewing the laws and regulations that apply or are applied to a particular legal issue. Normative research is often referred to as doctrinal research, which is research whose object of study is legal documents and library materials (Soejono, 2003: 56). The type of approach used is a statutory approach (statue approach), a case approach (case approach) and a conceptual approach (conceptual approach). The statutory approach is carried out to examine and analyze provisions regarding legal protection of the diplomatic representative building from the perspective of the 1961 Wina convention. In addition to using a statute approach, this study uses a case approach which aims to determine the chronology, as well as the consequences of the case of the suicide bombing in Kabul Afghanistan near the United States embassy so that you can find out how legal protection related to the building and use a conceptual approach aims to understand the views / doctrines that develop in legal science, especially diplomatic law to build a legal argument.

The source of legal materials used to analyze in this research is primary legal materials which are legal materials that are authoritative in nature, meaning they have authority. In this

study, the authors examine provisions derived from international law, namely the 1961 Vienna Convention concerning legal protection for representative buildings and other provisions derived from international law. Secondary legal material, is defined as non-binding legal material but describes legal materials which include literature, legal journals, research results and legal articles related to the subject matter in thesis preparation. Tertiary legal materials or non-legal materials are materials that provide additional guidance or explanation for primary and secondary data sources, consisting of a Legal Dictionary, English Dictionary, Big Indonesian Dictionary (KBBI). The technique of collecting legal materials is by examining the provisions regarding legal protection arrangements for the diplomatic representative building then analyzing existing legal materials using analytical techniques and providing the researcher with arguments against the situation according to existing legal materials through argumentation techniques, namely evaluation because the assessment must be based on reasons - reasons that are legal reasoning.

Results and Discussion

Legal Protection of the United States Embassy after the suicide bombing in Afghanistan in Perspective of the 1961 Vienna Convention

The Taliban is an Islamic movement that ruled most of Afghanistan from 1996 to 2001, although it only received diplomatic accusations from three countries (United Arab Emirates, Pakistan and Saudi Arabia) Taliban means religious students in Pashto. The most influential experts, including Mullah Mohammed Omar, the leader of the movement, are ordinary village madrasa clerics. The Taliban controlled most of Afghanistan from 1996 to 2001. They have ambitions to establish an anti-democratic Islamic state. US military operations ousted the Taliban from power but they were not completely exhausted. This militant group regrouped and currently controls about 40 percent of Afghanistan. The US military estimates that there are between 20,000 and 40,000 active Taliban personnel. While the Afghan military and police number around 350 thousand (merdeka.com).

The current US-backed Afghan government is the worst ever. The United Nations says this year's first lung is the deadliest of the war with 1,692 civilians killed. And the Taliban militants now control more territory than when the war began in 2001. President George W. Bush launched his first missile strike in October 2001, a month after the September 11 attacks on New York and Washington. The aim of the US attack was to destroy the al Qaeda group and protect them. The US Taliban government also ensures Afghanistan does not become a terrorist hotbed. Seventeen later the Taliban became stronger than before and they fought the Afghan government and US forces. Even Al-Qaeda that was said to have been destroyed last year is now on the rise again. In 2014 the pentagon declared an end to US military operations in Afghanistan. But since then a small number of US troops have remained entrenched to train Afghan troops against militant groups like ISIS (Matamatapolitik.com)

The 2001 Afghanistan War was a war between the Al-Qaeda terrorist group against the United States. This war started in 2001 and is still happening today. The number of forces deployed in this role reaches 120,000 militants from the terrorist group against 100,000 Afghan troops and 130,000 NATO troops. This war has had a very crucial impact and claimed hundreds of thousands of civilian lives. Before the 2001 Afghan war, there was also a war between the Soviets and Afghanistan. Where at that time the Americans joined the war

and helped Afghanistan against the Soviets. This war was then considered a futile war for the Soviets and was the forerunner of the Soviet collapse in 1991. In this article, the topic to be discussed is the background of the 2001 Afghanistan war (matamatapolitik.com).

On September 11, 2001, the world was shocked by the terrorism attack that hijacked 4 passenger jets. The hijackers are Al-Qaeda's Islamic militant group. This is a suicide mission in which the hijackers deliberately crashed two planes into the WTC (World Trade Center) in New York City, the two towers then collapsed within two hours (matamatapolitik.com).

In this incident, the death toll reached 3,000 and was the most violent terrorist attack in world history. This incident also then shocked the Americans. After World War 1, 2 and the cold war ended, it turned out that they had to face unexpected attacks. This incident is also a serious blow to America as a superpower which turns out to be still able to be cheated by terrorism attacks that cannot even be predicted at all (matamatapolitik.com)

This attack was a crushing blow to the United States. September 11, 2011 was the darkest day for all Americans. That day, was the most busy and tense day. The WTC terror really has a big impact on all major countries to strengthen their domestic security. As planned this attack succeeded in rendering the United States powerless. Various speculations have emerged as to who was the main actor in this attack. The name Al Qaeda was later associated with this incident. After the September 11 attacks, it took nearly 2 years to restore the WTC building and its surroundings, a full year to restore the Pentagon. And it takes a lifetime for the survivors to release the trauma after the attack occurred (matamata.politik.com).

Moreover, based on data on victims of the September 11 attacks, terrorism has the potential for mass attacks that endanger human life. Many victims who are civilians are a blow to every country to increase protection of all colors of their country against terrorist attacks that may be increasingly rampant. This incident could be a trigger for the revival of terrorism organizations that will be more courageous and openly carry out terror in public. . Terrorism is an attitude and form of terror acts based on dissatisfaction with existing government policies. However, the implications of these acts of terror have prevented civilians from becoming terror targets and targets. After this incident, the forces of world terrorism are no longer underestimated and underestimated. Because after all the September 11 incident opened up opportunities for terrorist groups to be able to carry out bigger attacks with even greater impacts (matamatapolitik.com). Whatever war or chaos happened to Afghanistan, the Taliban and the US they must not disturb or create representatives feel uncomfortable at the uproar by the Taliban. Representatives who come to the receiving country only want to carry out their duties without having to do with other issues. If this occurs, the representative will use immunity and privileges as a diplomatic representative as regulated in Article 29 of the Vienna Convention.

Granting of these rights is based on the principle of reciprocity between countries and is absolutely necessary in order to develop problems between countries without considering their different constitutional systems and social systems. In addition, granting immunity and privileges is not for the benefit of individuals but to ensure the efficient implementation of the duties of diplomatic officials, especially the duties of the country they represent. The diplomatic representative of the United States was clearly very disturbed by the bomb explosion that occurred near the embassy building because he becomes uneasy in carrying out his duties and representatives may not dare or are not free to leave the house because the neighborhood is no longer safe due to attacks carried out by the Taliban. In the mid-18th

century customary rules of international law on immunity and diplomatic privileges had begun to be extended to the building, all its properties including free communication for diplomats. Buildings that are used by a representative, whether owned by the receiving country or rented from individuals, are usually considered inviolable by the authorities of the receiving country and are exempt from taxation, except for taxes in the form of special service fees such as water rates. Likewise, representative archives and the like are considered inviolable (Dembinski, 1988: 174).

According to the provisions of the 1961 Vienna Convention, such immunity and privileges are accorded not only to ambassadors but also to members of the diplomatic staff. In some cases it can even be given to members of administrative and technical staff, namely those who are employed as administrative and technical services as well as service staff members who carry out domestic services from the foreign representative including to personal helpers, namely someone who performs domestic services for representative members but not employees of the receiving country. The immunity granted to technical and administrative staff, service staff and personal assistants depends on whether they are citizens of the sending or receiving country. If nationals of the recipient country their immunity is severely restricted (Dembinski, 1988: 175).

Receiving State Responsibility for the United States Representative Office after the suicide bombing in Afghanistan

According to Andi Hamzah, State responsibility is responsibility which is a must for a person or the State to carry out properly what has been obliged to him. The responsibility of the State or the responsibility of the State contains two terms that must receive attention, namely responsibility and liability. These two terms are often used ambiguously or treated to denote the same meaning. According to Goldie, the difference between the two terms is that the term responsibility is used for duty. Or refers to the standard of fulfilling a social role determined by a certain legal system, while liability refers to the consensus of an error or failure to carry out an obligation or to meet a certain predetermined standard (Setyardi, 2001: 46).

International law distinguishes the terms responsibility or liability. Responsibility implies that it is in the form of what must be legally accountable to one party, while liability is the obligation to replace losses or repair the damage that has occurred. The definition of accountability does not always have to fall together with the understanding of the obligation to provide compensation and repair damage (Setyardi, 2010: 6).

In Article 1 of the Articles on the Responsibility of state for Internationally Wrongful Act 2001, states "Every internationally wrongful act a state entails the international responsibility of the state", it is emphasized that state responsibility is a principle in international law that regulates regarding the arising of the responsibility of one State to another State. So it can be said that the responsibility of the State is an obligation of the State in carrying out what the State should fulfill (Afghani, 2003: 5).

Shaw showed that the important characteristics of this State's responsibility depend on factors, namely the existence of an international legal obligation that applies between two countries, the existence of an act / negligence that violates international legal obligations that give birth to the State's responsibility; and the existence of damage / loss as a result of acts that violate the law or immunity (Afghani, 2003: 23).

The law of state responsibility is developed through customary law that arises from state practice, expert opinion, as well as court decisions. On the other hand, international legal experts admit that the state responsibility law is still in the process of being developed. Consequently, discussions of it today are still very confusing. In general, international legal experts only describe the characteristics of the emergence of state responsibility such as:

1. There is an international legal obligation that applies between two certain countries;
2. There is an act or negligence which violates the said international legal obligations which creates the state's responsibility;
3. There is damage or loss as a result of acts that violate the law or negligence (Sefriani, 2017: 255).

The existence of an international legal obligation between Afghanistan and the United States of America is due to the cooperative relationship between the two countries. The United States of America sends representatives to the country of Afghanistan to complete the missions of the sending country. The existence of a bond between the two countries then grows international legal obligations. There was an act or negligence that resulted in a loss in which the Afghan state was considered negligent in maintaining security around the United States embassy building complex which resulted in attacks reaching the representative building. In which the attack resulted in damage to one of the glass walls of the United States embassy building.

Violations committed by one country and detrimental to other countries, but not violating international legal obligations, will not create accountability for the country's answers. For example, the act of the state refusing the entry of a foreign citizen, even a foreign diplomat. This is because under international law a state has the right to refuse entry of a person into its territory, even without giving reasons (Istanto, 1998: 77).

A State can be held responsible if its activities are detrimental to another State. If the characteristics for the existence of State responsibility have been fulfilled, then the receiving State in this matter can be held accountable. The various responsibilities of the State (Adolf, 1991: 180).

Responsibility for acts against the law (delictual liability). This responsibility arises from any mistake or negligence committed by a State against foreigners within its territory or territory of another State. Liability for breach of agreement (contractual liability). This liability occurs when a State violates an agreement or contract it has entered into with the other State and the violation results in loss to the other State. Responsibility for concessions. Concession agreements between the State and citizens (foreign corporations) are known as the *alvo clause* which stipulates that the concessionaire relinquishes the protection of his government in disputes arising from the agreement and the dispute that arises must be submitted to the national court of the concession-giving State and subject to the international law of that State. Responsibility for expropriation, namely the revocation of individual property rights for the public interest accompanied by compensation. Responsibility for State debt. A State that does not pay foreign debts means that the State has not fulfilled its contractual obligations or debt agreements. Responsibility for international crimes. International crimes are all acts against the law internationally that originate from a violation of an international obligation which is important for the protection of international fundamental interests and the violation is recognized as a crime by the community.

Often actions taken by one state cause injury to, or humiliation for, the dignity or obligations of another state. International principles regarding the responsibility of the state regarding the conditions, and the principles by which, a state that has been injured is entitled to compensation for the losses it has suffered. The responsibility of the state has been stated expressly limited to "the responsibility of states for acts that are internationally illegitimate". This is the responsibility of the state in a strict sense, the source of the responsibility is an act or actions that violate international law. However, can the responsibility be imposed on states with respect to actions which constitute a violation of an international law rule, for example civil action regardless of whether the action is contrary to domestic law or not. The subject of this issue is currently being discussed by the International Law commission under the title "International responsibility for consequences arising from acts which are not prohibited by international law". It is almost *de lege ferende* in nature, that is, an area that has not been legally formulated, and is considered to be primarily related to the government's obligations to supervise activities that can lead to environmental damage across borders (Starke,2010:391).

Obviously the imposition of the obligations given to acts that are internationally illegitimate will depend on specific circumstances. Most commonly, the country that is injured will try to obtain satisfaction through diplomatic negotiations, and if it is only a matter of honor, generally it is sufficient with an official apology from the responsible state or a guarantee that the problem being challenged is not. will be over again. However compensation in the form of money, as distinguished from satisfaction, is sometimes necessary, especially in the event of material loss and in many instances issues of liability and the amount of indemnity must be brought before the international arbitration tribunal for a decision. Errors or losses that give rise to state responsibility may be of various kinds. Thus, a state is responsible for violating the treaties, relating to the non-performance of contractual obligations, due to losses to other citizens and so on. Violation of obligations can be in the form of an act or negligence (Starke, 2010: 392).

In the final analysis, the responsibility of the state is governed by international standards (although in particular violations an international standard may include a national standard), and this depends on international law as to whether and to what extent a particular country's acts or omissions are considered legitimate or not. legitimate. If the acts or omissions of a country measured by these standards are declared valid then the responsibility of the state will not arise. For example, because all countries are recognized as having full authority to refuse entry of foreigners into their territory, countries whose citizens are foreigners who have been rejected do not have the right to sue a state that has rejected these citizens. Likewise, if international law recognizes the jurisdiction of a country that carries out the action, then there is no violation of the obligations that creates the responsibility of that country (Starke, 2010: 392).

In the 1961 Vienna convention Article 1 "mission building" is a building or part of a building and land which supports it, regardless of its owner, is used for mission purposes including the residence of the head of mission. The United States diplomatic representative building which is under the acceptance of Afghanistan, which is the place for diplomatic representatives to carry out their duties, this representative building is the United States extraterritorial territory and remains part of the sovereignty of the United States. The protection of buildings is strictly regulated in Article 25 of the 1961 Vienna Convention

which states that buildings and facilities in them cannot be contested. “The receiving country is obliged to provide facilities to support the activities of representatives abroad.

The receiving country has the obligation to take the necessary steps to protect the diplomatic representative building. In this case, the recipient country, Afghanistan, takes steps to provide protection for the representatives of the United States who are carrying out their country duties in the receiving country. Although in this case the United States is also involved in the history of the war, still the representative building must be free from dangerous attacks.

Protection of the Consular and Diplomatic Representative Buildings, the receiving State has the duty to take the necessary steps to protect the consular representative building against attack or damage, and prevent any disturbance of order of the consular representative, its furniture, office items and means of transportation are immune from any form of inspection for general security purposes. If an expropriation is deemed necessary for security purposes then all necessary steps must be taken to avoid interference with the performance of the functions of the consular representative, and to compensate for losses. A diplomatic agent has Diplomatic Immunity, which is a right inviolability in carry out its duties as a representative of the sending country. Diplomatic immunity relating to cases of assault and breach which is regulated in the 1961 Vienna Convention, namely the first is personal immunity, regulated in Article 29 and Article 37 paragraph 1 The receiving country has the obligation to make regulations or take appropriate steps to protect the Foreign diplomats and secondarily immunity from representative offices and places of residence, are regulated in Article 22 and Article 30 paragraph 1 a diplomatic agent has the right to receive protection in order to maintain its security. So that there is no action that disturbs the peace of the foreign representative or acts that can harm the honor of the receiving country.

The 1963 Vienna Convention also provides for the immunity of representation contained in article 31, the protection of consulate buildings in the receiving country. Consular buildings or guest houses are not inviolable to the extent provided for in this article. The authorities of the receiving country are not allowed to enter the representative building which is used specifically for the purpose of carrying out the work of the consular representative, unless the permission of the head of the consular representative has been obtained, or the permission of the head of representative is deemed to have been granted in a dangerous situation requiring quick protective measures. foreign representatives provided in the recipient country can be done in two ways, namely:

1. Protection in the environment of the foreign representative building (*Interna Rationae*) The foreign representative building cannot be contested, even officials or local state officials cannot enter it without the permission of the head of representative. However, if the state has strong evidence or allegations that the function of the foreign representative is contrary to the provisions of the 1961 Vienna Convention and the 1963 Vienna Convention, the receiving country in such a situation can enter the representative building. In addition, in an extreme emergency, the representative building can be entered by local state officials or officials to take the necessary actions to ensure or save human lives that are threatened by natural disasters or other disasters.

2. Protection outside the foreign representative building environment (*Externa Rationae*). Matters relating to situations outside the foreign representative building environment where disturbances occur in places outside but around the representative building. Such as road

repairs, other constructions around the building (construction of an underground train), demonstrations or demonstrations and other activities such as placing placards and displaying banners etc. outside the foreign representative building, all it can reduce the dignity of foreign representatives in a country which in essence could contradict the meaning and meaning of Article 22 paragraph (2) of the 1961 Vienna Convention. When demonstrations occur, the Afghan government must have anticipated attacks and closely monitor the vicinity of the representative building. The United States by deploying more security forces than usual. On closer examination, Article 22 paragraph (2) results in a special level of protection in addition to the existing obligations to show seriousness in protecting foreign representatives in a country.

In accordance with Article 22 of the 1961 Vienna Convention and Article 31 of the 1963 Vienna Convention, the receiving country has an obligation not only to protect foreign representative buildings but also conditions in the environment outside the building. Therefore, in relation to the environment around the foreign representative building, the government of the receiving country must take the necessary steps to prevent disturbances or riots. However, foreign agencies cannot expect permanent police custody of the receiving country in the case of a suicide bombing near the US Embassy Building. There is a sense of fear felt by diplomatic representatives. Article 29 of the 1961 Convention which states "The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving state shall treat him with due respect and shall take all appropriate steps to prevent any attack on his persons, freedom or dignity. " This article clearly states that a diplomatic official has the right to receive protection from a receiving country.

By taking steps deemed necessary by the receiving country to prevent any attack on the honor, freedom and personal self of a diplomatic official, the inviolability of the foreign representative building of a country basically involves two aspects. The first aspect concerns the recipient country's obligation to provide full protection as a foreign representative in that country from any disturbance. Even in the event of extraordinary circumstances such as the breakdown of diplomatic relations or an armed conflict between the sending country and the receiving country, the obligation of the receiving country to protect the representative building, property and archives must be carried out. The second aspect is the position of the foreign representative himself who is declared immune from inspection, including his belongings and all the files therein. In relation to the responsibilities of the receiving country, diplomatic law recognizes the Ex Gratia principle, which is a principle used by the receiving country in resolving all problems related to damage to foreign representative buildings including cars and other property, namely by providing compensation in the form of replacement. or repair of damage or loss caused by the negligence of the recipient country in providing protection and prevention.

In essence, the inviolability of the foreign representative building of a country concerns two aspects. The first aspect concerns the recipient country's obligation to provide full protection as a foreign representative in that country from any disturbance. Even in the event of extraordinary circumstances such as the breakdown of diplomatic relations or an armed conflict between the sending country and the receiving country, the obligation of the receiving country to protect the representative building, property and archives must be carried out. The second aspect is the position of the foreign representative himself who is declared

immune from inspection, including his belongings and all the files therein (Mangku,2012:14).

Conclusion

Based on the explanation described in Chapter I to Chapter IV, the writer can draw the following conclusions:

The suicide bombing incident in Afghanistan near the United States embassy building resulted in damage to the United States representative building resulting in a violation which is clearly regulated in article 25 of the 1961 Women's Convention which states that the representative building and the facilities therein cannot be contested by the host country. provide facilities to support the activities of representatives abroad.

The responsibility of the receiving country, namely Afghanistan to the diplomatic representatives of the United States, is that the President of Afghanistan invites the Taliban to make peace to prevent a return attack against the Afghan state and replace all the damage caused by the bomb explosion.

Suggestion

The advice that the writer can give after an incident between the Taliban, Afghanistan and the United States should not involve linking foreign representatives whether it is an embassy or representative building in the receiving country because the protection of embassies is clearly regulated in the 1961 Wina Convention.

After the attack from the Taliban, the Afghan side as the receiving country should take steps to provide security and comfort for the representatives of the United States because representatives are sent to carry out state duties.

References

- Berlianto, *Bom Mobil Meledak Dekat Kedubes AS di Kabul*, di akses dari <http://internasional.sindonews.com/read/1436716/40/bom-mobil-mledak-dekat-kedubes--as-di-kabul--1567667929> pada Kamis 05 September 2019.
- Istanto, Sugeng. 1994. *Hukum Internasional*. Yogyakarta: Universitas Atma Jaya Yogyakarta.
- Konvensi Wina 1961 Mengenai Kekebalan dan Hak Keistimewaa Diplomatik
- Konvensi Wina 1961 Tentang Perlindungan Hukum Terhadap Gedung Perwakilan Diplomatik
- Kusumaatmadja, Mochtar.1982.*Pengantar Hukum Internasional*.Bima Cipta:Bandung.
- Liputan6.com, *3 orang tewas dalam Ledakan Bom Mobil di sekitar Kedubes AS di Afghanistan*, di akses dari <http://m.liputan6.com/global/read/405597/3-orang-tewas-dalam-ledakan-bom/mobil/di-sekitar--kedubes-as-di-afghanistan> pada 05 September 2019
- Mangku, Dewa Gede Sudika. 2012. *Pelanggaran Terhadap Hak Kekebalan Diplomatik*.Universitas Pendidikan Ganesha.Singaraja
- Novi Christiastuti, *Bom Taliban Meledak di Dekat Kedubes AS di Kabul 10 Orang Tewas*, di akses dari <https://internasional/d-4695121/bom-taliban-meledak-di-dekat-kedubes-as-di-kabul-10-Orang-tewas> pada jumat 13 September 2019.
- Sefriani. 2017. *Hukum Internasional Suatu Pengantar*. Pt Rajagrafindo Persada: Jakarta

- Soejono, H Abdurahman. 2003. *Metode Penelitian Hukum*. Jakarta: Rineke Cipta
- Soekanto, Soerjono dan Sri Mamuji. 2015. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers.
- Sunggono, Bambang. 1997. *Metode Penelitian Hukum*. Jakarta: Rajawali
- Surmaryo, Kusumo. 2013. *Hukum Diplomatik Dan Konsuler*. Pt. Tatanusa: Jakarta
- Widagdo, Setya. 2008. *Hukum Diplomatik Dan Konsuler*. Bayu Media Publishing: Malang.