

ABSTRAK

Organisasi internasional dalam menjalankan tugasnya melalui utusannya dilindungi oleh hak kekebalan dan keistimewaan yang diatur dalam Konvensi Wina 1975 dan *Convention on the privilege and immunities of the United Nations 1946*. Namun dalam praktiknya penerapan kekebalan dan keistimewaan belum dapat diterapkan secara maksimal. Sebagaimana yang terjadi dalam kasus penyerangan terhadap staf PBB (Perserikatan Bangsa-Bangsa) oleh Taliban di Afghanistan yang menewaskan diantaranya 2 (dua) delegasi PBB yaitu Lydia Wonwenne dan Jossie Esto yang sedang bertugas mengawal pemilihan presiden di Afghanistan. Untuk itu perlu diketahui mengenai perlindungan terhadap staf PBB menurut ketentuan hukum internasional dan pertanggungjawaban Afghanistan sebagai negara penerima dalam hal terjadi pelanggaran terhadap kekebalan dan keistimewaan staf PBB. Metode pendekatan yang digunakan dalam penelitian hukum ini adalah yuridis normatif dengan spesifikasi penelitian menggunakan deskriptif analitis. Data yang digunakan adalah data sekunder, yang kemudian dianalisis secara kualitatif. Pengaturan mengenai perlindungan terhadap staf PBB diatur dalam Pasal 58 Konvensi Wina 1975 dan Pasal 4 ayat (11) *Convention on the privilege and immunities of the United Nations 1946*. Afghanistan sebagai negara penerima dapat dikatakan melanggar Konvensi New York 1973 Pasal 1 ayat (1) huruf b yang mengatur mengenai orang-orang yang dilindungi secara internasional, Pasal 2 ayat (1) huruf a tentang tindakan yang termasuk dalam kategori kejahatan menurut konvensi ini, Pasal 4 huruf a tentang pencegahan yang harus dilakukan oleh negara penerima. Afghanistan sebagai negara penerima harus bertanggungjawab atas tewasnya 2 (dua) perwakilan PBB yang sedang bertugas dinegaranya dan mengusut tuntas kasus tersebut agar tidak terjadi lagi kasus seperti itu dikemudian hari.

Kata Kunci: Staf PBB, Hak Kekebalan dan Keistimewaan, Pertanggungjawaban Negara

ABSTRACT

International Organization as a subject of international law established based on many states interest for the purpose of achieve a common state interest. In carrying out its duties, international organizations through their envoys are protected by immunity and privileges as stipulated in the 1975 Vienna Convention and Convention on the privileged and immunities of the United Nations in 1946. However, in practice the application of immunity and privileges has not been optimally implemente. As happened in the case of an attack on staff of the United Nations (United Nations) by the Taliban in Afghanistan which killed 2 (two) UN delegates namely Lydia Wonwenne and Jossie Esto who were in charge of guarding the presidential election in Afghanistan. Therefore, it is important to know about the protection of UN staff according to the provisions of international law and the responsibility of Afghanistan as the recipient country in the event of a violation of the immunity and privileges of UN staff. The method of this legal research was juridicial normative with the research spesification used descriptive analytic. The data used to arranged is secondary data, which then analysed qualitatively. The rules regarding protection of UN staff are regulated in Article 58 of the 1975 Vienna Convention and Article 4 paragraph (11) of the Convention on the privileges and immunities of the United Nations in 1946. Afghanistan as a recipient country can be used as an agreement to support protection in New York 1973 Article 1 paragraph (1) letter b approved about people issued by international, Article 2 paragraph (1) letter a concerning actions included in the category of crime according to this convention, Article 4 letter a about opposing who must carried out by the recipient country. Afghanistan as the recipient country must be responsible for the death of 2 (two) UN representatives who were invited in their country and expelled them completely so that they did not happen again in the future.

Keyword: UN Staff, Immunity and privilege, State Responsibility