

THESIS

**THE PERSONAL INVIOABILITY OF A DIPLOMATIC AGENT
UNDER THE 1961 VIENNA CONVENTION
ON DIPLOMATIC RELATIONS**

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ABSTRACT

Diplomacy is a communication process that has two main elements, negotiating and signaling. In order to do this action, every nation realized that they need an actor to represent their States. The "actor" who can represent the States is called Diplomatic Agent. Diplomatic Agent is clearly in a special condition. They enjoyed the privileges and immunities that has been given by both States; Sending State and Receiving States. Besides the privileges and immunities, Diplomatic Agent also needs a comprehensive formula in doing his functions in the Receiving States. The formula in accumulating these problems is the "personal inviolability". The convention that provide a regime for control the personal inviolability are the 1961 Vienna Convention on Diplomatic Relations and the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons. These two convention give a valuable contribution concerning the personal inviolability, especially for the both States. Subsequently, Sending States and Receiving States have an extraordinary duty and obligation to treat the Diplomatic Agent. No matter how the condition, Sending States and Receiving States have to protect the Diplomatic Agent in personal, freedom and dignity. At bottom, the aim of this process is to maintain the international peace and security among nations.

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CHAPTER I

INTRODUCTION

A. Background

The situation of this world nowadays, make the international community realized that they need something which can connect them directly. Since the connection become really important, the international community have been started to establish a conduct about the International Relations. The most frequent means of creating International Relations is the conclusion of Diplomatic. The terminology and the substance of 'diplomatic' is the same; the people of all nations from the ancient times have recognized the existence of Diplomatic Relations. It provides the universally accepted framework for diplomacy and also includes a thorough examination of topical issues in the field. A major feature of the Diplomatic Relations is to maintain international peace and security and to promote the friendly atmosphere among nations in the world.¹

Hence, the law of Diplomatic Relations is one of the classical disciplines of Public International Law.² Public International Law is the legal regime, which regulates the legal relations between subjects of International Law. Because of this fact, all nations realized that diplomatic is need to be established as a legal convention. The convention governing

¹ Article 1 the United Nations Charter

² J. Math Noortmann, *The Basics of Public International Law*, 2005 p. 7

Diplomatic Relations was the product of long-established state practice reflected in the legislative provisions and judicial decisions.

This Convention was finally brought by the Regulation of 1815, and it became the first multilateral agreement purporting to regulate any aspect of Diplomatic Relations. The affect of the agreement was to establish the diplomatic representatives. Furthermore, on 1895 and 1929 the Institute of international law adopted the Regulation of Cambridge. Because of this action, the first codification of Diplomatic Law was attempted. Finally, on 1932 the Draft Convention on Diplomatic Privileges and Immunities produced by Harvard School of Law, and practically this Draft Convention influenced the development of the law.

The climax of this procedure has emerged on 1961. All of the procedure has been codified to be a considerable extent in the 1961 Vienna Convention on Diplomatic Relations.³ As we know, the Vienna Convention has become a universal convention and its also continued to be used as a point of view and reference in the development of some related areas of International Law. To put it successfully, all nations agreed that they have to send a Diplomatic Agent as the head of the mission. Not only as the head of mission, but also as the member of the Diplomatic Staff of the mission.⁴

³ J. Craig Barker, *The Abuse of Diplomatic Privileges and Immunities*, Dartmouth Publishing Company Limited, England, 1996, p. 30

⁴ Article 1 the Vienna Convention on Diplomatic Relations

CHAPTER IV

CLOSING REMARKS

A. Summary

The purpose of this Chapter is briefly to conclude the statement of the problem with a view to identifying the problems of diplomatic relations and the personal inviolability. The particular attention will be paid to identifying the problems, which are applicable to this paper.

I. The Conclusion of the Vienna Convention on Diplomatic Relations

Vienna Convention on Diplomatic Relations has been growing since the earliest periods of civilization. It can be seen from the prehistory and antiquity era. In this era, the basics of diplomatic law have been established. Especially, when the Greeks and Rome established the principle about *diplomatic representative*. The Greeks and Rome make a great contribution to the development of Diplomatic Relations. But, however they are trying for it, they are still failed to establish a systematically framework for Diplomatic Relations.

Hence, the Byzantines era make a breakthrough in Diplomatic Relations. The Byzantines are really concerned about the art of negotiation, and they are like to negotiate better than war. Furthermore, in the Middle Ages, every nation from all over the world tries to produce an organized system of diplomacy. Not only

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