

The Role of Diplomatic and Consular Relations in Handling the Siti Aisyah Case

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Article Information

Keywords :
 Diplomatic Role;
 Consular Role;
 Indonesia-Malaysia
 Relations; Indonesian
 government

Abstract

Indonesia and Malaysia are two neighboring countries that also have a relationship that always experiences ups and downs but also maintains a fairly strong brotherly relationship because it is influenced by several similarities such as culture, politics and ideology. But apart from that, Indonesia and Malaysia must also have experienced conflicts that made relations between the two countries tenuous. One of them is regarding the case of Indonesian citizens in Malaysia who were charged by the Malaysian government with killing Kim Jong Nam, who is the half brother of North Korean President, Kim Jong Un. So to overcome this problem, Indonesia needs to carry out diplomacy through diplomatic and consular relations with Malaysia, so that problems can be resolved properly based on mutual agreement. In this study, the authors aim to analyze the diplomatic and consular roles of Indonesia in handling the case. The methodology used in this study is a qualitative methodology through primary and secondary data collection. So that in the end, Siti Aisyah, who became the defendant, was acquitted because it was proven that she did not kill Kim Jong Nam.

INTRODUCTION

Indonesia and Malaysia are two allied countries that are neighbors and have a relationship that always experiences ups and downs. The history of these two countries was quite shocking in the world where at that time these two countries, namely Indonesia and Malaysia had just achieved independence in their respective countries. Indonesia which became independent in 1945 which was then led by President Soekarno, and Malaysia which became independent in 1956 which was also led by Prime Minister Tuanku Abdul Rahman. At that time, Indonesia was free from Japanese colonialism, while Malaysia was free from British colonialism. When it is 5 years after Malaysia's independence, Malaysia plans to carry out the formation of a Malaysian Federation state formed from the Malay Land Alliance, Singapore, Sarawak, Brunei and Sabah. But this plan was strongly opposed by

Soekarno as the president of Indonesia.[1] The plan to form a federated state of Malaysia was considered to be a threat to Indonesia's independence because Sukarno was of the opinion that Britain would only use Malaysia through this plan. Thus, Soekarno as president of Indonesia opposed the formation of the new state. Besides Indonesia, there are also other countries that oppose this plan, namely the Philippines. The Philippines opposed the formation of the state because the Philippines wanted to claim the territory of Sabah because Sabah has historical links with them through the Sultanate of Sulu. It was this conflict that made relations between Indonesia and Malaysia tenuous at that time. [5] Thus, from this conflict, a confrontation emerged between Malaysia and Indonesia.

The tenuous relations between Indonesia and Malaysia eventually led to tensions between the two countries. So,

through this event, Indonesia began pursuing various diplomacy with Malaysia to resolve this issue. Indonesia's diplomatic efforts are to meet directly with Malaysian Prime Minister Tuanku Abdul Rahman in Tokyo, Japan which then continues with a Foreign Ministerial Conference in Manila, Philippines. From diplomacy through the meeting, finally Indonesia and the Philippines agreed to the formation of the new country. [5] However, several months later, Malaysia felt that this formation would result in problems for their own country, so Malaysia signed the formation of a state with Britain on July 9, 1993 in London. This act of violation by Malaysia eventually led to anger towards Indonesia and resulted in Indonesia carrying out an attack on Malaysia. So in 1964, Indonesia decided to be hostile to Malaysia. In addition, Indonesia also decided to leave the United Nations because it saw that the actions taken by the United Nations could not resolve the conflict between Indonesia and Malaysia.

In 1965, Indonesia was hit by problems from within, namely political and economic problems which then culminated when the tragedy of the September 30th Movement occurred. From these problems, Soekarno was eventually replaced by Suharto which also resulted in the disappearance of resistance against Malaysia. [1] So the problem of the confrontation between Indonesia and Malaysia was declared over, as evidenced by the achievement of the Bangkok Agreement which was signed by the Foreign Ministers of Indonesia, Malaysia, the Philippines, Singapore and Thailand. After the confrontation ended, Indonesia officially became a member of the United Nations again. [4] As a follow-up, on 11 August 1966 a meeting was held in Jakarta which resulted in an Agreement on Restoring Relations between the Republic of Indonesia - Malaysia which eventually also signed the Joint Interpretation of Non-Military Issues in Kuala Lumpur on 14 September 1966 by Indonesia and Malaysia.

From the story of Indonesia and Malaysia, the role of diplomacy will be very

much needed because in the future it is possible that Indonesia may experience conflict with Malaysia through unexpected events. As is the case with the case of Siti Aisyah, who is an Indonesian citizen in Malaysia who allegedly killed Kim Jong Nam and was sentenced to sex in section 34 and section 302 of the Criminal Code. In this case, the role of diplomatic and consular representatives is needed to participate in resolving cases and disputes that affect their citizens in other countries.

METHODOLOGY

This study uses an explanatory or descriptive - explanative method written by analyzing how Indonesia's diplomatic and consular roles were in handling the case of Siti Aisyah who was charged with killing Kim Jong Nam. Then this research is also equipped with a qualitative approach. The qualitative data used in this paper comes from primary and secondary sources. Primary data sources include official institutional publications, while secondary data include books, journal articles, and analysis. The reason for choosing this approach is for ease of accessing data from various sources.

ANALYSIS

A. Diplomatic Role

Diplomacy is a word that comes from the Greek word *diploun* and means to fold. At that time, during the Roman Empire, all important documents such as passports and certificates were folded in a unique and special way. These official letters are called diplomas which are then interpreted as documents that can give privileges to the bearer. So whoever bears the letter, is a trusted person who can represent the leader who also gets rights that can be guaranteed while carrying out their duties and responsibilities.[9]

Diplomacy is interpreted differently by each opinion leader. For example, in the Big Indonesian Dictionary, diplomacy has many meanings as follows: (a) As a manager of

affairs and the implementation of official relations between a country and other countries; (b) As a manager of interests through intermediaries with intermediaries in other countries; (c) Acquire knowledge and skills regarding relations between countries; (d) Choosing the right words to achieve the benefits of both countries, such as negotiations, negotiations, and so on

In addition to the KBBI, the Indonesian National Encyclopedia also suggests that diplomacy can be interpreted as the art of implementing foreign policy together with other countries. [9] So it can be said that the art that is done is to carry out the practice of implementing foreign policy by someone who is a representative of his country who is also placed in another country to carry out his duties and responsibilities.

From this understanding, diplomacy can be associated with law which is then referred to as diplomatic law. In this way, diplomatic law can be said to be provisions and principles of international law that regulate diplomatic relations between countries whose foreign policy is carried out based on the results of a mutual agreement through the principles set forth in legal instruments as a result of modifications to customary international law and the development of progress in international law.

As stated in the Vienna Convention in 1961 that the nations of the world have long ago carried out diplomatic relations and recognized the status of diplomatic ambassadors, it can be said that diplomatic activities have indeed been carried out for a long time and become a habit. passed down from generation to generation until today.

Attempts to formalize the provisions regarding diplomatic relations began in 1927 within the framework of the League of Nations. Then in 1947, the International Law Commission established 14 discussions including the topic of diplomatic relations and immunity. However, these two efforts were not taken seriously until violations of the provisions began to occur. In addition, there

were frequent diplomatic incidents due to the cold war so that in 1952, the UN General Assembly finally gave priority to the codification of relations and diplomatic immunity.

In 1959, The United Nations Conference on Diplomatic Intercourse and Immunities was held in Vienna from March 2 to April 14, 1961, which resulted in the Vienna Convention on Diplomatic Relations which is the most important thing in diplomatic relations and this convention entered into force on April 24, 1964. Then , Indonesia ratified it with Law no. 11 of 1982 on January 25, 1982. In Indonesia, the law governing foreign relations is Law no. 37 of 1999 concerning Foreign Relations.

Based on Article 5 of the Vienna Convention in 1963, the duties and functions of diplomatic representatives are as follows

1. Represent the sending country in the receiving country
2. Protecting the interests of the sending country and the interests of the citizens of the receiving country within the limits permitted by international law
3. Obtain assurance by all lawful means about the situation and developments of the receiving country and report this to the government of the sending country
4. Enhance friendly relations between sending countries and receiving countries and develop economic, cultural and scientific relations
5. Conduct negotiations with the government of the receiving country

B. The Role of Consular Relations

Consular is an international relationship carried out by a country with other countries whose job is to regulate shipping, trade, and protect the interests of its citizens in the country of assignment and they still get privileges and immunities which are also regulated in national law . Consular relations are more directed to administrative

and commercial issues, in contrast to diplomatic relations which are political in nature.[9]

The consular institution grew earlier than the diplomatic representation system. This is because consular services are a product of trading and shipping activities since the 12th century.[8] Given that ancient times, people have started living by trade and shipping. Thus, it is very possible for consular representatives to grow earlier than diplomatic representatives.

After World War II, the International Law Commission, decided to modify the provisions and principles of international law regarding consular relations. After that, came the 1963 Vienna Convention which discussed Consular Relations. The Vienna Convention, supplemented by a convention on special missions, was adopted by the UN General Assembly on December 8, 1969.

Consular relations are carried out on the basis of mutually agreed agreements between the countries concerned through consular representatives such as diplomatic representatives who are public services of a country located in a foreign country. However, the activities of consular representatives do not contain politics, but only contain non-political matters. Besides that, consular representatives do not always have to exist in independent countries but also in areas that do not have self-government or are under foreign sovereignty.

Based on article 5 of the Vienna convention in 1963, consular representatives have the following duties and responsibilities:

1. Protecting the interests of sending countries and citizens in receiving countries, both individually and as business entities within the limits permitted by international law
2. Assist and assist citizens of sending countries who need assistance individually or as business entities
3. Protecting the interests of citizens, both individuals and legal entities of

the sending country in the event of a change of mortis causa (due to death) in the territory of the receiving country in accordance with the laws and regulations of the receiving country

4. Carry out other functions entrusted to the consular representative by the sending country which are not contrary to the laws and regulations of the receiving country and international agreements that apply between the sending country and the receiving country
5. Follow up on the development of trade, economic, cultural and scientific relations between the sending country and the receiving country and maintain friendly relations between them in accordance with the provisions of this conversion
6. Protect within the limits set by the laws and regulations of the receiving country, the interests of children and other persons, citizens of the sending country, who are not fully competent, especially where protection or representation is required for the persons concerned.

With the efforts to protect Indonesian Citizens contained in the 1945 Constitution, Paragraph IV and the Foreign Relations Law Number 37 of 1999, protection and legal assistance for the state and Indonesian Legal Entities (BHI) abroad, the Minister of Foreign Affairs, through a Ministerial Decree Foreign Affairs Number 053/OT/11/2002/01 Concerning the Organization and Working Procedures of the Ministry of Foreign Affairs part IV Article 943 has established a directorate. Thus, diplomatic and consular officials have the following functions and duties:

1. Provide protection, protection and legal assistance for Indonesian citizens, including Indonesian Migrant Workers and Indonesian Legal Entities
2. Dealing with complaints about problems currently being lived by TKI

with employers and/or the local government

3. Identification of problems faced by TKI and consulting services and consular issues
4. Provide some kind of advice and efforts to provide legal assistance in the event of a murder dispute between service users and TKI

C. Chronology of the Case of Siti Aisyah in Malaysia

The Siti Aisyah case is an Indonesian citizen case in Malaysia for being charged with the murder of Kim Jong Nam who is the half brother of Kim Jong Un, the leader of North Korea. The following is a chronology of events at that time.

On February 13, 2017, Kim Jong Nam, as Kim Jong Un's half-brother, was getting ready to enter the plane and was about to fly to Macau, which was the place of his exile in recent years. At that time, it was seen that the attackers sprayed poison directly in Kim Jong Nam's face, causing him to panic and lose control of himself. But at that time, the spraying that occurred was carried out under the guise of a reality show that was carrying out a prank for an event on a television station. This incident was recorded from the CCTV at the airport, and it can be seen that there were two women who were very close to Kim Jong Nam. The first is a woman wearing a shirt with the words "LOL" who is also suspected of being Siti Aisyah, and the second woman is Doan Thi Huong who is a Vietnamese citizen. [2]

While in the middle of the crowd, Kim Jong Nam was caught off guard and then immediately sprayed by the woman, and the woman immediately disappeared in the middle of the crowd. Feeling dizzy, Kim Jong Nam then walked to the airport bathroom, but he looked increasingly in pain and finally one of the AirAsia airline staff helped him to be taken to the clinic, because it was seen that his condition was getting worse. However, seeing that his condition was getting out of control, they decided to take him to the Putrajaya

Hospital. However, on the way, Kim Jong Nam was declared dead.

After analysis, the poison that was sprayed on Kim Jong Nam is suspected to be of the ricin or tetrodotoxin type or similar to cyanide, the deadliest killer poison, but 1200 times deadlier than cyanide. This poison is a VX poison which is also categorized as a weapon of mass murder by the United Nations and is prohibited for its use throughout the world.[3]

Two days after the incident, on February 15 2017 to be precise, the Malaysian Police arrested a woman who is a Vietnamese citizen, Doan Thi Huong. He was 28 years old when he was arrested by the police. Then, the next day, on 16 February 2017, around 02.00 Malaysian time, Siti Aisyah who is an Indonesian citizen was arrested by the Malaysian Police. They caught Siti Aisyah when she was hiding after escaping from Kuala Lumpur International Airport after the murder incident. He hid on the third floor of the Ampang hotel in Malaysia. So, Siti Aisyah was named a suspect in the murder case of Kim Jong Nam, the half brother of the North Korean leader, Kim Jong Un by the Deputy Chief of the Royal Malaysian Police, Inspector General Datuk Seri Noor Rashid Ibrahim.

When the police interrogated Siti Aisyah, she admitted that she was framed under the guise of being a guest on a reality show program for a television station. Siti Aisyah was invited to do a prank and was paid RM 400 or the equivalent of IDR 1.2 million to play her role. Siti Aisyah also thought that the liquid was baby oil, and she didn't know anything about the poison in the spray. Siti Aisyah and Doan Thi Huong were later charged under Article 302 of the Criminal Code on murder. If found guilty, they both face the death penalty.

Any actions by the Malaysian authorities that harm or influence the law on Siti must be taken seriously by the government of President Joko Widodo. This case was very controversial because the Malaysian authorities once let a key witness named James

or Ri Ji U return to North Korea. Even though James was the one who recruited Siti to become a star on a reality show for a television station.

After going through several trials and also going through postponement of the defense trial for up to 3 times, the last trial was held on March 11 2019. Siti Aisyah was very surprised when she heard that the prosecutor withdrew the charges against her. Then Siti Aisyah's attorney immediately rushed to return Siti Aisyah to Indonesia that very day.

D. Government Actions in Handling the Case of Siti Aisyah

Of the eight main international human rights instruments, only two have been ratified by the country, namely the Convention for the Elimination of All Forms of Discrimination against women and the Convention on the Rights of the Child. On November 18, 2012, ASEAN members ratified the ASEAN Human Rights Declaration which binds the commitment of its member countries to respect, protect and fulfill human rights. So, apart from using legal and political mechanisms, in its diplomacy the Indonesian government uses a human rights mechanism in handling the case of Siti Aisyah over the alleged murder of Kim Jong Nam. There are indications that the policies and actions of the Malaysian authorities have violated CEDAW and the ASEAN Human Rights Declaration. Article 2 letter c and d of CEDAW stipulates that state parties are obliged to protect women's rights, guarantee them through competent national courts, and protect them from acts of discrimination. There are allegations of violations and discrimination against Siti, need to be discussed in the session of the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children, as well as the ASEAN Intergovernmental Commission on Human Rights. [10]

Legal Protection from Consular Diplomacy for the case of Siti Aisyah who allegedly committed the murder of Kim Jong Nam, according to article 17 of Government Regulation No. 3 of 2013 Concerning the

Protection of Indonesian Migrant Workers Abroad are as follows:

1. Guidance and supervision

In this case, Indonesian citizens are given the right to receive guidance from the authorities and supervision is carried out within a certain time limit. This is done as a form of concern for the Indonesian people who live abroad as foreign citizens.

2. Consular assistance and protection

The assistance in question is that it can be in the form of guidance, or direction, because for some Indonesian citizens who become foreign citizens in other countries they definitely feel the need for assistance and need protection.

3. Provision of legal assistance

Legal aid is an obligation for a country because it is a form of defense for its citizens who live abroad. Thus, citizens can ask for help from diplomats and consulars from their home country

4. Defending the fulfillment of the rights of migrant workers

Fulfillment of the rights in question is that diplomatic and consular representatives will try their best to defend their citizens in accordance with the rights possessed by migrant workers who are working abroad.

5. Protection and other assistance in accordance with statutory provisions as well as international laws and customs

6. Diplomatic efforts

CONCLUSION

Based on the discussion and analysis that has been described previously, it can be concluded that from the case of Siti Aisyah, an Indonesian citizen who received a case with suspected murder, in which case, Siti Aisyah

allegedly killed Kim Jong Nam, half brother of North Korean leader, Kim Jong Un, get protection through diplomatic and consular representatives from Indonesia. As stipulated in government regulation Number 3 of 2013 Concerning the Protection of Indonesian Migrant Workers Overseas, in article 17. The suggestion that can be given is that the dispute between the Government of Malaysia and the Government of North Korea regarding the handling of the Kim Jong Nam assassination case can be resolved in a more efficient manner. communicative. Malaysia must also involve North Korea in the process of resolving the Kim Jong Nam murder case. And here it can be seen that North Korea can use Article 8 of the Montevideo Convention in dealing with this case.

Apart from that, it is hoped that this problem will not become a barrier for Indonesia, Malaysia and North Korea to carry out other diplomacy. But through these problems, the relationship between Indonesia, Malaysia and North Korea is further strengthened.

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