

**PELANGGARAN HAK KEKEBALAN TERHADAP GEDUNG
PERWAKILAN KONSULER MENURUT KONVENSI WINA 1963 (STUDI
KASUS INSIDEN BENDERA BINTANG KEJORA DI KJRI MELBOURNE
AUSTRALIA)**

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Abstrak

Penelitian ini dilakukan untuk menganalisis pelanggaran hak kekebalan terhadap gedung perwakilan konsuler atas kasus pengibaran bendera bintang kejora di KJRI Melbourne Australia ditinjau dari Konvensi Wina 1963 tentang Hubungan Konsuler dan menganalisis bentuk tanggung jawab Australia sebagai negara penerima terhadap insiden bendera bintang kejora yang telah terjadi kedua kalinya di KJRI Melbourne. Dalam penelitian ini digunakan jenis penelitian hukum normatif dengan pendekatan perundang-undangan (*statute approach*) dan pendekatan kasus (*case approach*). Sumber data yang digunakan adalah data sekunder yang diperoleh melalui studi kepustakaan. Data disajikan secara kualitatif dan dianalisis secara deskriptif sehingga rumusan yang telah ditentukan dapat terselesaikan sesuai pandangan hukum. Berdasarkan hasil penelitian ini, penulis menyimpulkan bahwa terdapat pelanggaran hak kekebalan terhadap gedung perwakilan konsuler atas kasus *trespassing* dan pengibaran bendera bintang kejora di KJRI Melbourne oleh penerobos dan negara penerima, sebagaimana diatur Pasal 31 Konvensi Wina 1963 tentang kekebalan gedung perwakilan konsuler dan Pasal 59 Konvensi Wina 1963 mengatur kewajiban negara penerima untuk melindungi gedung konsuler dari segala gangguan perdamaian. Pelanggaran Australia sebagai negara penerima dalam menjalankan Pasal 31 dan 59 Konvensi Wina 1963 pada insiden pengibaran bendera bintang kejora kedua, melahirkan kewajiban pertanggungjawaban negara, berdasarkan *Draft Article on Responsibility of States for International Wrongful Acts 2001* (ILC) dengan memberikan permintaan maaf secara resmi serta jaminan tidak melakukan tindakan serupa.

Kata kunci: Pelanggaran hak kekebalan gedung konsuler, tanggung jawab negara, Konvensi Wina 1963

**VIOLATION OF THE RIGHT OF IMMUNITY AGAINST CONSULAR
PREMISES ACCORDING TO THE 1963 VIENNA CONVENTION (CASE
STUDY OF THE MORNING STAR FLAG INCIDENT AT THE
INDONESIAN CONSULATE GENERAL IN MELBOURNE AUSTRALLIA)**

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Abstract

This study aims to analyze the violation of immunity rights against consular premises in the case of raising the Morning Star flag at the Indonesian Consulate General in Melbourne Australia according to the 1963 Vienna Convention on Consular Relations and to analyze the form of responsibility of Australia as receiving State for the Morning Star Flag incident that has occurred for the second time at the Indonesia Consulate General in Melbourne Australia. In this study, normative legal research was used with a statute approach and a case approach. Sources of data used are secondary data obtained through library research. Data is analyzed qualitatively so that the problem formulation can be solved according to a legal point of view. Based on this result of this study, the author concludes that there is a violation of the right of immunity to the consular premises in the case of trespassing and raising the Morning Star flag at the Consulate General of Indonesia in Melbourne by the trespasser and the receiving State, as regulated in Article 31 of the 1963 Vienna Convention on consular premises and Article 59 of the 1963 Vienna Convention which regulates the obligation of receiving State to protect the consular premises from any disturbance of peace. Australia's violation act in carrying out Articles 31 and 59 of the 1963 Vienna Convention on the second incident of the Morning Star flag-raising gives the obligation of state responsibility based on Draft Article on Responsibility of States for International Wrongful Acts 2001 (ILC) by providing an official apology also guarantees not to commit similar actions.

Keywords: *Violation of consular immunity, state responsibility, 1963 Vienna Convention*