

CHAPTER ONE

INTRODUCTION

A. Background of Research

The murder of Jamal Khashoggi shocked the world. It is not only because of the grisly details of his death but also because of where it took place: inside a consulate, which enjoys special protections under international law. The case has raised questions about the diplomatic immunity offered to diplomats and diplomatic premises, and the risk of abusing the system for unlawful activities and obstructing criminal investigations.¹

The Vienna convention on Consular Relations 1963 correspondingly clarify kinds of actions can occur inside consulate and embassy. Article 55 of the Convention stated: “shall not be used in any manner incompatible with the exercise of consular functions.”²

Diplomatic immunity is a privilege given to diplomats and consular representatives in international law. They include protection against criminal prosecution and being exempt from paying taxes in the host nation.³ This immunity regulates in two treaties: the Vienna Convention on Diplomatic Relations 1961 and the Vienna Convention on Consular Relations 1963.⁴

Jamal Khashoggi is a strong critic of foreign policy and guarantees of freedom of expression in Saudi Arabia. Khashoggi made harsh and profound criticisms of the government and the behavior of the family of the King of Saudi. Furthermore, Khashoggi

¹ Karl Ritter, 2018, “AP Explains: Diplomatic Immunity and the Khashoggi Case”, taken from <https://www.apnews.com> accessed on 20 December 2018 at 4:30 pm.

² Article 55 of the Vienna Convention on Consular Relations 1963.

³ Biswanath Sen, 1965, *A Diplomat's Handbook of International Law and Practice, Third Revised Edition*, Netherlands, Springer Netherlands, p. 135.

⁴ Ian Brownlie, 2012, *Principles of Public International Law*, Oxford, Clarendon Press, p. 170.

has criticized the step of reform carried out by the Crown Prince, Prince Mohammed bin Salman, which he believed was not serious and full of controversy.⁵

Saudi Arabia has declared Jamal Khashoggi was killed inside the consulate in the Turkish, Istanbul. Khashoggi is a writer. He possessed the United States' resident. As the Washington Post columnist, he had entered the building on October 2018 to obtain documentation certifying he had divorced his ex-wife so he could remarry.⁶

The death of Jamal Khashoggi, an opposition journalist from the Saudi Arabian government, is of international concern. Criticism from many parties immediately emerged and caused the position of King Salman's Government in Saudi Arabia to be politically cornered internationally. The death of Khashoggi also affected the world's attention to press freedom. International pressure and evidence by the Turkish government regarding the death of Khashoggi caused the Government of Saudi Arabia to be cornered and finally admitted the incident.⁷

As the international community remained unsatisfied by the announcement, calls to find out whether or not the Saudi administration is involved in this grievous case continued. The killing of Khashoggi has turned into an incident that will bear dramatic consequences both at regional and global levels. In the beginning, the incident was considered to create tension between Turkey and Saudi Arabia, but later on, it also escalated the tension between the Saudi and the U.S. administrations. Although it has been quite a while, international reaction grows as the case lingers and questions remain unanswered, putting Saudi Arabia

⁵ Sarah Deeb, 2019, "Missing Saudi Journalist Once a Voice of Reform in Kingdom", taken from www.washingtonpost.com, accessed on 19 December 2018 at 2 pm.

⁶ Anonymous, 2018, "News 2018: Jamal Khashoggi Case Latest Updates", taken from <https://www.aljazeera.com>, accessed on 3 January 2019 at 3 pm.

⁷ Ismail Numan Telci, 2018, "The Murder of Jamal Khashoggi and the Future of Middle East Politics", *SETA*, Vol. 47, Turkey, Turkuvaz Haberleşme ve Yayıncılık A.Ş., p. 12.

at the center of global pressure. The number one reason for this is that strong claims exist that the Riyadh administration is involved in the incident.

A recent report by the United Nations Agency for Education, Science and Culture (UNESCO) said that a journalist was killed every 4.5 days worldwide. UNESCO Director General's report, since a decade ago, 827 journalists were killed while on duty.⁸ Based on the report entitled *Journalists and the Danger of Impunity*, the most severe areas are Arab countries, including Syria, Yemen and Libya. Latin America is the second most severe continent.

Report in 2006-2017, 59 percent of the deaths of journalists since two years ago occurred in conflict areas. During that period, 78 of 213 reporters were killed (36.5 percent) in Arab countries. Most worrying is the increase in journalist deaths in Western Europe and North America from zero since 2014 to eleven last year. Most worrying is the increase in journalist deaths in Western Europe and North America from zero since 2014 to eleven last year.

Violence against journalism has emerged as a global human rights issue as the number of those killed in the profession has steadily risen in the new millennium.⁹ Antipress violence has emerged as a top threat to journalists' work around the world.

The threats to journalists have expanded to all the worlds and sometimes difficult to identify the actors¹⁰, including the global growth of oppressive governments, terror networks, militias, organized crime groups, gangs, cartels, and others that dominate regions

⁸ Anonymous, "UNESCO: Every 4.5 Days, 1 Journalist was Killed", taken from <https://dunia.tempo.com>, accessed on 10 October 2018 at 6:15 pm.

⁹ Jeannine E. Relly and Celeste Gonzalez de Bustamante, 2017, "Global and Domestic Networks Advancing Prospects for Institutional and Social Change: The Collective Action Response to Violence against Journalists", *Journalism & Communication Monographs*, Vol. 19 (2) 84 – 152, London, UK, SAGE Publications, p. 85.

¹⁰ Howard Tumber, 2006, "The Fear of Living Dangerously: Journalists who Report on Conflict", *International Relations Journal*, Vol. 20 (4), London, UK, SAGE Publications, p. 439-451.

inside countries or entire nations in crisis.¹¹ To achieve a fair, balanced and objective journalistic work article, the competence of a press is needed so that the press is clear in carrying out legal responsibility for its journalistic work. The growth and development of the media industry and the press also required the strength of the press building based on idealism, commercialism, and professionalism.¹²

According to Ali Moertopo, the freedom given to the press is indeed a manifestation of Human Rights, namely the freedom to express in writing¹³ In the Declaration of Human Rights issued by the United Nations (UN) on December 10, 1948 stated that: "Every person has the right to freedom to have and issue opinions; in this right includes the freedom to hold opinions without interference, and to seek, receive and convey information and ideas through any media and by not looking at boundaries (territories)"¹⁴ Based on the convention, it is clear that everyone has the right to seek and gather information even free to share information.

Based on The International Covenant on Civil and Political Rights (ICCPR) in article 19 also states that:

- a. Everyone has the right to argue without getting interference.
- b. Everyone has the right to freedom of expression. This right must include the freedom to seek, receive and provide information and all kinds of

¹¹ Hughes, S., & Márquez-Ramírez, M, 2017, "Examining the Practices that Mexican Journalists Employ to Reduce Risk in a Context of Violence", *International Journal of Communication*, Vol. 11, Los Angeles, USC Annenberg Press, p. 85.

¹² A.S. Haris Sumadiria, 2005, *Jurnalistik Indonesia, Menulis Berita dan Feature, Panduan Praktis Jurnalis Profesional*, Bandung, Remaja Rosdakarya, p. 27.

¹³ Samsul Wahidin, 2011, *Hukum Pers*, Yogyakarta, Pustaka Pelajar, p.14.

¹⁴ Universal Declaration of Human Rights.

thoughts regardless of restrictions, verbally, written or printed, in the form of works of art, or through other means of choice.¹⁵

B. Problem Formulation

Based on the background above, the author formulates a research problem: How International Law works for the Khashoggi Assassination Case?

C. Objective of Research

To know how International Law can be implemented in Khashoggi Assassination Case.

D. Benefits of Research

There are some benefits of this research, namely:

1. Theoretical Benefit

The research gives benefits to understand deeply about the Diplomatic Immunity and How International Law Works for the Khashoggi Assassination Case.

2. Practical Benefit

The research provides a better understanding of How International Law Works for the Khashoggi Assassination Case and Justice for Settlement Khashoggi Assassination Case. Such a better understanding is useful for the government, lecturers, students and other related parties.

E. Overview of the Chapter

The research consists of five chapters as follows. In Chapter One, the author elaborates general matters regarding the issue of the research such as Background, Problem

¹⁵ Adami Chazawi, 2015, *Tindak Pidana Pers*, Bandung, CV Mandar Maju, p. 259 – 300.

Formulation, Objective of Research, Benefits of Research, and Overview of the Chapter. The background provides the current condition of Khashoggi case and the ways to implement the human rights to Khashoggi case. The author also addresses the research problem.

Chapter two provides a Literature Review which discusses the related library reviews and theoretical framework. This chapter deals with Diplomatic Immunity, Journalist and Freedom of Expression, Sovereignty of States, Non-Intervention Principle, and Diplomatic & Consular Relations.

Chapter three elaborates the research method used in the research. The discussion is started from the type of research, legal materials, method of collecting data, and method of data analysis. The type of research is normative legal research. The research applies statute and case approaches. The data were collected from some literature consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Furthermore, the data were taken through library research and analyzed systematically by using a qualitative and descriptive method.

Chapter four provides Finding and Analysis. The chapter elaborates the found facts and discusses how international law works for the Khashoggi assassination case.

Chapter five contains a conclusion which the author summarizes the finding and analysis then concludes in the Khashoggi assassination murder, human rights must be firmly enforced. Unlike human rights that cannot be annulled by everyone, diplomatic immunity has different nature since it can be revoked. Turkish authority has a right to interfere and doing the investigations in the location of the massacre, the Consulate of

Saudi Arabia in Istanbul. The suggestion is the Convention of Diplomatic Immunity that provides the immunity for every single diplomatic mission should be reviewed when it *is Vis a Vis* with a case of human rights.