

LEGAL PAPERS AND THE PRACTICE OF PROTECTING THE INTERNATIONAL PEACE MISSION PERSONNEL IN INDONESIA

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Abstract

The Helsinki Memorandum of Understanding (MoU) signed in 2005 and facilitated by Finland former President Martti Ahtisaari with support from the European Union has brought peace to Aceh after 30 years armed conflict between the Government of Indonesia and the Free Aceh Movement. The EU involves both in short and long term monitoring programs. During the mission in Aceh, several serious incidents involving the use of light weapons and directed toward the EU peace mission were recorded. Indonesian domestic law acknowledges the protection must be delivered to the internationally protected person based on Vienna Convention 1961 on Diplomatic Protection and other related conventions. Would the ratification of Vienna Convention satisfy the protection for the EU peace mission? An Act on Foreign Relation enacted as legal basis for international relation including with the EU and its missions argue would be able to answer the question. On the other side, EU enacted Protocol on the Privileges and Immunities of the European Union (the Protocol) to secure its mission overseas. The protocol is a specific legal instrument within the EU legal regime that was enacted to fulfill the needs of an international legal instrument on EU's legal personality particularly the privileges and immunities aspects. The Protocol answers a main concern on legal relation between a State and EU mission including EU peace missions. However, as a non-member State and as a matter of law, Indonesia does not ratify the Protocol consequently Indonesia does not bind with the Protocol. The Indonesia Act on Foreign Relation is considered very basic for the current condition. Consequently, different interpretation between related State organs occurred. As a result, ineffective protection for the protected person such mandated by the international law remain measured. This condition does not suppose to happen since although remain debatable, an international cooperation, an influential external power nowadays is playing very important role including in a peace process. Moreover, as Indonesia is strengthening its position within the international community, some improvements crucial to be supported.

Keywords: Helsinki Memorandum, peace mission personnel, the Indonesia Act on Foreign Relation

I. INTRODUCTION: THE INVOLVEMENT OF THE EU IN ACEH'S PEACE PROCESS

The involvement of the EU in the Aceh's peace process was not started through a direct formal communication; however it was initiated by a personnel communication between Farid Husain and Juha Christensen.¹ Farid Husain was a member of team that was formed by Vice

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President Jusuf Kala to end a long armed conflict in Aceh; while Juha Christensen is a Finnish businessman. After the failure of Cessation of Hostilities (COHA) that was facilitated by Hendry Dunant Center (HDC), communication between the two remain maintained even during the declaration of State in Emergency for the whole province of Aceh by President Megawati at that time. Soon after Susilo Bambang Yudhoyono and Jusuf Kala sworn for President and Vice President, the effort to end the conflict entered a new phase since both are supporters of the peace process such being conducted by Farid and Juha instead of military approach in solving the arm conflict. Realized a support of a NGO such as HDC is insufficient Juha Christensen approached President Marti Ahtisaari, the former Finland president who had played a prominent role representing the EU in the negotiation process with Serbia's President Slobodan Milosevic that has ended a long armed conflict in Kosovo in 1999.² Had a long and distinguished career as a diplomat at the UN including playing role in the peace process in Bosnia, Northern Island and Namibia had lead him to establish the Crisis Management Initiative (CMI) upon retirement. Although CMI is not an international organization however, Marti brought a greater degree of authority to the task of mediation than the HDC.³ Although less data available to portray the process of EU's direct involvement at this stage however, without a doubt Marti's figure able to bring in the UN Secretary General and Javier Solana the EU High Representative for Foreign and Security Policy to contribute in the peace process.⁴ In conclusion Marti's profile and access to high-level authorities are considered as the crucial things to gain support from the EU in the peace process.

The peace spirit developed under the European Union (EU) context has widely spread out across the region and the process itself cannot be separated from the EU community particularly and also the international community commitment generally as promulgated in

¹ Damien Kingsbury in Edward Aspinall, *The Helsinki Agreement: A More Promising Basis for Peace in Aceh?* 'Policy Studies 20', East West Center Washington, 2005.

² Edward Aspinall, *The Helsinki Agreement: A More Promising Basis for Peace in Aceh?* 'Policy Studies 20', East West Center Washington, 2005.

³ *Ibid.*

⁴ *Ibid.*

the United Nations Charter.⁵ The right to peace nowadays develops and has been defined not just as it was defined when the right to peace introduced during the early stage of the EU when it was defined as the collection of rights to be guaranteed to the citizens of the European Federation.⁶ And it has now been transformed into rights that guaranteed to each of ‘world citizen’.

The involvement of an international organization in a peace process is actively played by the UN; although it is described as complicated process including full of political interests. The UN flag in order to maintain peace and security, a traditional idea of peacekeeping was introduced as an unarmed and lightly armed forces that assigned in a particular place to monitor an existing peace agreement in accordance with chapter VI and VII of the Charter.⁷ Furthermore, In order to create and maintain peace, the UN has three principles activities of peace operations that consist of conflict prevention and peacemaking, peacebuilding and peacekeeping. The activities of conflict prevention deal with the “structural sources of conflict” and have a purpose to “build a solid foundation for peace”. Peacemaking addresses conflicts in progress and has a purpose to stop conflict by using diplomacy and mediation as its tools. Peacebuilding refers to UN activities to “establish the foundations of peace” and “provide technical assistance for democratic development and promoting conflict resolution and reconciliation techniques”.⁸

The UN has defined peacekeeping as ‘an operation involving military personnel, but without enforcement powers, undertaken by the United Nations to help maintain or restore international peace and security in areas of conflict. These operations are voluntary and are

⁵ Objective of the United Nations, see UN Charter Art 1 Para 1 ‘to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means. . . .

⁶ Lucio Levi, “The Charter of Rights and the European Constitutions”, *Journal of European Studies Universitas Indonesia*, Vol III No.2 (2007).

⁷ Donald K. Anton, Mathew and Morgan, *International Law: Cases and Materials* (2005), 602. Chapter VI is about Pacific Settlement of Disputes and Chapter VII is about Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression.

⁸ *Ibid*, p. 488.

based on consent and co-operation. While they involve the use of military personnel, they achieve their objectives not by force of arms, thus contrasting them with the 'enforcement action' of the United Nations.⁹

In the context of the EU, the EU has also played significant role in maintaining the world peace. The involvement of the EU apart from its commitment under the UN flag also marked under its own flag through a program called ESDP (the European Security and Defense Policy). ESDP is a program that was launched by the EU Council in 1999 in regard to provide immediate response by the EU under a voluntary basis toward crises that exist in a third country by providing autonomous and effective crisis management operation.¹⁰ A significant number of peace commitment recorded during 2003 to 2007 where the EU has assigned 18 crisis management operations in 11 third countries.¹¹ To provide legal protection for the operations, the EU signed a Status of Forces Agreement (SOFA) and Status of Mission Agreements (SOMA) with the third states and defines the privileges and immunities of the missions and the personnel.¹² By signing the agreement, it benefits the EU by providing opportunity to present its presence at the international level. Moreover it also gives chance to revise and implement a negotiating strategy for concluding status agreement with the third states under the ESDP.¹³

SOFAs and SOMA has been widely imposed by the EU¹⁴ however, there are some factors that prevented it emerges into a single legal instrument compared to diplomatic area such as the Vienna Convention 1961 on Diplomatic Protection.¹⁵ Firstly, states send their military and civilian personnel abroad for different non-hostile purposes, including exercises, technical and advisory missions, and large-scale peacekeep-

⁹ McCoubrey and White, above n 5, 19, as it cited from *The Blue Helmets: A Review of United Nations Peacekeeping*, (2nd Ed, UN Publication) (1990) 4.

¹⁰ Aurel Sari, "Status of Forces and Status of Mission Agreements Under the ESDP: the EU's Evolving Practice", the *European Journal of International Law*, Vol. 19 No. 1. 2008.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ R. J. Stanger in Aurel Sari, above.

¹⁵ E. Denza in Aurel Sari, above.

ing operations.¹⁶ Secondly, the operational circumstances surrounding the deployment of foreign personnel differ drastically from one case to another. Legal arrangements devised for a stable and secure operational environment will almost certainly be unsuitable and inappropriate in post-conflict situations or cases where effective governmental authority is lacking in the host state.¹⁷ Thirdly, great powers tend to rely on their dominant position to secure more favorable conditions of stay for their forces abroad than they are prepared to grant to foreign forces present in their own territory.¹⁸ The combined effect of the diverse objectives pursued by foreign personnel, different considerations of military and operational necessity, and the political disparities between sending states and host states means that SOFAs and SOMAs differ widely in their terms.¹⁹

In regard to the involvement of EU peace mission in Aceh-Indonesia, a SOMA provides a legal basis for Aceh Monitoring Mission (AMM) to operate in Indonesia. The AMM was a civilian monitoring mission formed by the EU²⁰ to perform several tasks; monitor the demobilization of Free Aceh Movement (*Gerakan Aceh Merdeka/GAM*) and monitor and assist with the decommissioning and destruction of its weapons, ammunition and explosives;(b) monitor the re-location of non-organic military forces and non-organic police troops; (c) monitor the reintegration of active Free Aceh Movement members; (d) monitor the human rights situation and provide assistance in this field in the context of the tasks set out in points (a), (b) and (c) above; (e) monitor the process of legislation change; (f) rule on disputed amnesty cases; (g) investigate and rule on complaints and alleged violations of the Helsinki MoU; (h) establish and maintain liaison and good cooperation with the parties.²¹

Moreover, the AMM was acknowledged to have unrestricted freedom of movement in Aceh during and to succeed the mission. The In-

¹⁶ Aurel Sari, above.

¹⁷ Cf. M.J. Kelly, in Aurel Sari, above.

¹⁸ Prugh in Aurel Sari, above.

¹⁹ Aurel Sari, above.

²⁰ Council Joint Action 2005/643/CFSP, 9 September 2005.

²¹ Mandate of Aceh Monitoring Mission, see Art 2 Council Joint Action 2005/643/CFSP, 9 September 2005.

Indonesian government and the Free Aceh Movement do not have authority to 'veto' or to control the operation without concern from the AMM. Furthermore if necessary the Head of AMM could decide on an exceptional basis that a patrol will not be escorted by the Government of Indonesia.²² Without a technical legal instrument however, these points cannot be implemented; therefore, a technical legal instrument is needed and a SOMA then signed between the EU and the Government of Indonesia.

II. INTERNATIONAL LEGAL PROTECTION FOR INTERNATIONAL ORGANIZATION STAFFS

An international organization must meet three requirements: it must be established by an international agreement; have its own organ, separated organs and established under international law.²³ Despite from the three requirements described, a 'hybrid form' of international organization such as the International Committee of the Red Cross (ICRC) also widely been recognized as an international organization although it has not met the three requirements however, in practice it has been widely accepted as an international organization within the international community.²⁴ Recognized as an international organization it would then automatically exercise legal personality under the international law. Looking at the requirements, without a doubt the European Union as an international organization entitled with legal personality that is confirmed by Treaty of Lisbon.²⁵

In the context of the EU-Indonesia relation, Indonesia neither member of the EU nor the host state for the EU itself. However, legal relation between Indonesia and the EU has been established under the international law. The legal relation between the two international law subjects exists based on legal personality character bear by the EU. As a matter of law, an international organization such as the EU,

²² See the Helsinki MoU; First legal basis for the operation of AMM can be found at the Helsinki MoU.

²³ A.S Muller, *International Law and their Host States; Aspects of their Legal Relation*, Kluwer Law International, 1995, p. 4.

²⁴ *Ibid*, p. 5.

²⁵ See Art 47 Treaty of Lisbon 2007.

etc has two levels of legal personality: at the international level and at the level of legal order of the host state.²⁶ Therefore, an international organization legally can perform negotiation and conclude a host agreement with a State. Furthermore, it also can lodge claims toward rights that have been awarded under the agreement under the host state legal procedure. International Court of Justice (ICJ) on Reparations for the Injuries Suffered in the Service of the United Nations case Advisory Opinion 1949 argued that the organization (the UN) is an international person and entitle to legal personality, hold rights and duties similar to the States and its capacity to maintain its rights by bringing international claims is recognized.²⁷ The ICJ affirmed that the UN is having legal personality therefore it has ability to accord protection to its agents in a manner similar to the rights of states to offer diplomatic protection to their nationals and the organization also has ability to bring claims against the states.²⁸

Privileges and immunities granted to an international organization directly related to legal personality status. Scholars argue that without the privileges and immunities an international organization could find difficulties in performing its function properly; for instance where the host state determines whether a person invited by the organization permitted to enter the host state territory or not.²⁹ Difficulties encountered by an international organization such depicted before would significantly affect the institution in achieving its objectives. Therefore, privileges and immunities granted for international organizations justified under functional necessity basis; the privileges and immunities are necessary for independent exercise of its functions by an international organization and it is not granted for benefitting a particular person in question.³⁰ The privileges and immunities can be promulgated in the host agreement between an international organization and a state or specified in a separated legal instrument.

²⁶ A.S. Muller, *see* note 23, p. 69.

²⁷ ICJ Report 1949: Advisory Opinion for Reparation for Injuries in the Service of the United Nations Case.

²⁸ Simon Chesterman, Thomas M. Franck, David M. Malone, *Law and Practice of the United Nations; Documents and Commentary*, New York University Press, 2008 p. 85.

²⁹ Henry G. Schermers and Niels M. Blokker, *International Institutional Law*; 3rd ed, Unity within Diversity, Martinus Nijhoff, 1995, p. 324.

³⁰ *Ibid.*

Different from diplomatic privileges and immunities where the basis for granting the special status is based on representative theory or extra territory theory, personnel of an international organization also receives similar legal protection. When we look back to the development of its legal status it could not be separated from the need for jurisdictional immunities for the international organizations such as expressed persuasively by C.W. Jenks in 1961³¹ and has developed until widely accepted by the international community as today practice. For the protection of the personnel of the international organizations it is widely divided into several groups; staffs,³² individual experts,³³ delegates of members,³⁴ delegates of non-members,³⁵ delegates of other public international organizations,³⁶ and delegates of private international organizations and individual.³⁷

In the international law studies, privileges and immunities of an international organization personnel specified within a legal instrument; the General Convention on the Privileges and Immunities of the United Nations,³⁸ the Convention on Privileges and Immunities of the UN Specialized Agencies,³⁹ are two examples of international legal instruments on this matter. Under the EU framework, two prominent legal instruments to deal with this issue have been enacted. And those protocols are the General Agreement on the Privileges and Immunities of the Council of Europe⁴⁰ and the Protocol on the Privileges and Immunities of the European Communities.⁴¹ Apart from these two protocols there are also other legal instruments concern in this issue such as the Protocol on the Privileges and Immunities of the European Space Research Organization.⁴² This shows the implementa-

³¹ A. S. Muller, *see* note 23, p.151.

³² Henry G. Schermers and Niels M. Blokker, *see* note 29, p.236.

³³ *Ibid*, p. 237.

³⁴ *Ibid*, p. 238.

³⁵ *Ibid*, p. 240.

³⁶ *Ibid*, p. 241.

³⁷ *Ibid*, p. 241.

³⁸ Adopted in 1945.

³⁹ Adopted in 1947.

⁴⁰ Adopted in 1949.

⁴¹ Adopted in 1965.

⁴² Adopted in 1963.

tion of legal personality including the privileges and immunities of an international organization including its personnel is really crucial to achieve the objective of the organizations. In the area of diplomatic law, two legal instruments have been resulted by the international society in order to rule the privileges and immunities; the Vienna Convention on Diplomatic Relation 1961 and the Vienna Convention on Consular Relations 1963.

Comparing the two methods; host agreement and separated legal instruments, multilateral conventions or other names play an important role⁴³ and it even widely practiced by international organizations. The host agreement usually has only brief regulation related to aspects of privileges and immunities. The EU for instance, it host agreement only regulates specific matters concerning the seat.⁴⁴ Therefore, multilateral legal instruments without a doubt is needed however, the next question is what about non- member states (un-ratified the convention/protocol)?

III.INDONESIAN LAW ON THE PROTECTION FOR THE INTERNATIONALLY PROTECTED PERSONS

Legal personality of the EU such confirms by Treaty of Lisbon provides legal basis for the EU to enter into an agreement with a third state including Indonesia in this respect. The entry into force of the Lisbon Treaty has replaced the European Community by the European Union. The involvement of the EU during Aceh's peace process through establishing the Aceh Monitoring Mission (AMM) was mandated by the peace agreement between the Government of Indonesia and the Free Aceh Movement under Helsinki Memorandum of Understanding (MoU). Following the signing of the peace agreement, the Government of Indonesia invited the EU and the ASEAN countries; Brunei, Malaysia, Philippines, Singapore and Thailand to participate in AMM. The decision to involve in the peace process considered as a step forward in the EU's engagement with Indonesia. It reflects the EU's commitment to promoting a lasting peaceful settlement to the conflict in Aceh and to increase stability throughout South-East Asia.⁴⁵ This opinion

⁴³ A.S. Muller, *see* note 23, p. 39.

⁴⁴ *Ibid.*

⁴⁵ Draft Council Joint Action on the European Union Monitoring Mission in Aceh (In-

represents the 11 October 2004 commitment of the EU toward Indonesia as described as to a united, democratic, stable and prosperous Indonesia and reiterated the EU's respect for the territorial integrity of the Republic of Indonesia.⁴⁶ Moreover the involvement also considers as the first EU monitoring mission of its kind and the first in Asia. An effective peace accord will allow post Tsunami reconstruction work to take place in conditions of security.⁴⁷

Recognition of an international organization's legal personality is aimed to protect the objective of the organization. An example of the widely accepted claim as stated by the UN 'privileges and immunities of the United Nations as are necessary for the fulfillment of its purposes'.⁴⁸ Practice shows that functional approach bases the legal personality of an international organization that lead to recognition of privileges and immunities rather than representational basis.⁴⁹ Several cases related to the implementation of international organizations privileges and immunities had strengthened the legal position as argued by Shaw; *Mendaro v. World Bank*;⁵⁰ *Iran-US Claims Tribunal v. AS*⁵¹; *FAO v. INPDAI*⁵²; *Mukuro v. European Bank for Reconstruction and Development*.⁵³

donesia) and draft Agreement between the EU and the Government of Indonesia on the Status of the EU led Monitoring Mission in Indonesia, Available at: <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmeuleg/34-v/3442.html>.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ See Article 105 of the UN Charter.

⁴⁹ Malcom N. Shaw. *International Law*, 6th ed, Cambridge, 2008. p. 1320.

⁵⁰ The reason for granting the immunities to international organization as stated by the US Court of Appeals was to enable them to pursue their function effectively and in particular to permit them to operate free from unilateral control by a member state over their activities within its territory, further see Shaw *see* note 49.

⁵¹ The Dutch Supreme Court pointed that the interest of the international organization in having a guarantee that it will be able to perform its tasks independently and free from interferences under all circumstances and noted that an international organization is in principle not subject to the jurisdiction of the courts of the host state in respect of all disputes which are immediately connected with the performance of the tasks entrusted to the organization in question., further see Shaw, above.

⁵² The Italian Court of Cassation stated that immunities aimed to activities closely affecting the institutional purposes of the qualified international organizations., further see Shaw, above.

⁵³ The Employment Appeal Tribunal stated that immunity from suit and legal process was justified on the ground that it was necessary for the fulfillment of the purposes of

In Indonesian legal system, to response the need for a legal basis on international relation matters that is very crucial, Indonesia has enacted Act No 37/1999 on International Relation where prior to this enactment this aspects covered by some old regulation derived during Dutch colonial era. Furthermore, Indonesia had ratified the Vienna Convention on Diplomatic Relations and the Optional Protocol as well as ratified the Vienna Convention on Consular Relations and its optional Protocols in 1982 through Act No 1/1982. The spirit of the Act No 39/1999 is to provide a legal basis for the practice of international relation by the government, including the mechanism and the structure, and protection of the citizen.⁵⁴ The Act itself justifies the legal relation between the Indonesian Government and international organizations.⁵⁵

Government particularly the authoritarian governments ruling the state by extensively justifying the policies are based on sovereignty. Sovereignty in a 'narrow scope' of interpretation basis recorded has been deployed by the above mentioned type of government and lead to human rights abuses. Sovereignty claims by the governments to defend human rights abuses therefore, it is no longer acceptable.⁵⁶ Moreover, good practice in diplomatic relation both among the states and the intentional organizations is very important since states are dependent among each other.

Basically Indonesia in implementing the privileges and immunities follows such regulated by the Vienna Convention. However, several concerns showed as can be seen at Act no 1/1982. Several points underlined by the Indonesian Government such as in regard to privileges and immunities aspects. The privileges and immunities granted for internationally protected persons aimed to ensure the effectiveness of

the bank in question for the preservation of its independence and neutrality from control by or interference from the host state and for the effective and uninterrupted exercise of its multinational functions through its representatives, further see Shaw, above.

⁵⁴ See Act No 37/1999 on International Relation.

⁵⁵ Art 1 (2) Act No 37/1999 defines international politic as policy, attitude and the Government of Indonesia steps that taken in building relation with other states, international organizations and other international law subjects in dealing with international problems for achieving national objective.

⁵⁶ Beth A. Simmons, *Mobilizing for Human Rights*, International Law in Domestic Politics, Cambridge University Press, 2009.

diplomatic functions.⁵⁷ It is interesting to analyze the diplomatic practice in Indonesia particularly related to privileges and immunities of the international organization including the EU peace mission. Although Indonesia confirms to impose diplomatic immunity such regulated by the Vienna Convention 1961 and restated under Act No 37/1999 on International Relation however, restrictions were imposed. The restriction also imposed toward the international staffs; restriction during emergency status imposed by not releasing an entry permit for international organization staffs of the UN who are protected under the international law and granted privileges and immunities status. Some UN staff that protected under the international law and work in Aceh prior to military emergency status found difficulties with entry permit.⁵⁸

The legal basis to impose restriction is Act No 52/1960 on Emergency Law. Under the Emergency Law, president has authority to declare emergency condition in a particular place and for all part of the country if necessary.⁵⁹ The level of emergency itself divided into three statuses: civil emergency, military emergency and state of war. President authorized by the law as the highest authority for those three statuses and could form an emergency authority that would responsible for implementation of government policy to control and maintaining the emergency condition.⁶⁰ There are three conditions where lead to state of emergency declaration by president. The first condition is where domestic security and law and order is threatened by rebellion or a massive natural disaster and the authority who responsible no longer able to handle to condition. The second condition is where a threat to state is identified, considered endanger the state and could trigger a war. And the last condition is where state facing specific –high level threat that could endanger state sovereignty.⁶¹ Those conditions related to three statuses mentioned before. The first condition would lead to Civil

⁵⁷ See Act No 1/1982 on Ratification of the Vienna Convention.

⁵⁸ Muhammad Putra Iqbal, 'Emergency Statuses and Right to Health Care Under Indonesian Law', International Humanitarian Law in East and Southeast Asia Regional Meeting, ICRC, Beijing, 26-28 June 2013.

⁵⁹ Indonesia. Art 1 of *Government Regulation No 23/1959 on Emergency/Act No 52/1960 (Emergency Law)*. SG 1960/70.

⁶⁰ Hikmahanto Juwana, Human Rights in Indonesia in Randall Peerenboom and Carole J. Peterson (Eds), above, P. 367.

⁶¹ Indonesia, see note 59.

Emergency status, the second one would lead to Military Status and the third one would lead to State of War.⁶² During military emergency the military authority under the law can impose several restrictions such as restriction in communication access, exports, transportation, postal control, right to assembly including freedom of assembly and even can limit right to live in a part of a region.⁶³

On November 2009 an incident involving delegation of Germany Red Cross personnel was occurred. The head of delegation a German nationality was shot in his vehicle and severely wounded. Latter on an incident involving European Union representative also recorded. A gunmen release some fire directing to head of representative's resident. Unfortunately investigation result conducted by local police supported by national police was never release to public.⁶⁴

IV. CONCLUSION

Reparation for Injuries Case contributed significantly to the development of the international law particularly related to legal personality of an international organization aspect. International organizations as one of international law subjects receive legal protection by been granted privileges and immunities status under functional basis by multilateral conventions and host state agreement. Since a convention does not bind over a third state or non member state a further legal action should be imposed. A bilateral treaty between two states should be singed to provide legal protection for the peace mission personnel who currently serving in noble work which is to create peace in a conflict state/area. In the EU framework, apart from the conventions the EU also create a bilateral legal instrument to protect its personnel during a peace mission both SOFA and SOMA.

On the other side the role of national law is crucial to protect the internationally protected persons that protected both by the conventions and also a bilateral treaty such as SOFA or SOMA. Although Indonesia is not an EU member and does not bind by the EU legal regime such

⁶² Hikmahanto Juwana, *see* note 60.

⁶³ *Ibid.*

⁶⁴ Kontras Aceh Report *Polisi dan Harapan Semu Masyarakat*, March 2010.

as the Lisbon Treaty and in this regard particularly the Protocol on the Privileges and Immunities of the European Union, by signing a bilateral treaty (SOMA), legal obligations derived. Therefore, the protection shall be delivered since maintaining good relation with other states would positively contribute toward the development and also Indonesia's political position at the international level. Although Indonesian domestic law related to legal protection for international organization personnel to some extent can be described as 'very basic' however as a matter of law is compatible with the international standard that had developed under the Vienna Convention 1961 on Diplomatic Relation. Indonesia as a member of international community has contributed toward creating a peaceful world by participating in some peace building missions under the UN flag. In its domestic case, a long armed conflict in Aceh has come to an end by a very significant role of the EU through its peace mission as well as its individual contribution that approved and requested officially by the Indonesian Government. At this point, however a more serious legal enforcement should be showed by the government in order to achieve the national objective as stated in the preamble of the Indonesian 1945 Constitution.

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