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Law of Diplomacy: Stating the Example of Iraq Crisis

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ABSTRACT

Diplomacy is widely recognized as the pillar or the heart of international affairs. A country expresses its interests, desires, priorities, and ambitions to other nations specifically through diplomacy, and it is again through diplomatic negotiations that it aims to secure these goals. Indeed, the establishment of diplomatic ties is the first important step towards developing relations between the two countries, and diplomacy is the key link in the bilateral and multilateral relations process. In observing that diplomacy is a factor of national strength, national interest, and international policy, there is no exaggeration. Diplomacy exists within the limits of law and politics, and between the state's internal needs or desires, and its clarification in an external language. In the language of foreign law, it translates state policy and needs. Therefore, it is profoundly linked to the notion of rule-following, and the art of diplomacy is shaped by the diplomatic appeal invested in the principle of obedience. Diplomacy was introduced in the 19th century as both the primary tool of State policies and the main institution for foreign affairs and diplomacy, when, in the aftermath of the profound change in the international structure of 1914-1945, the greatest diplomacy died along with the Balance of Power System.

Keywords: law of diplomacy, diplomats, Vienna convention, Iraq crisis, United Nations

I. INTRODUCTION

Diplomacy, with the aid of intermediaries jointly acknowledged by the respective parties, is a tool of foreign policy in the establishment and evolution of friendly relations between countries. The relationship between States is based on the political ideology of the different States about each other. From the Treaty of Westphalia in 1615, the multinational state system presently in effect developed. This system is structured so that:

(1) Each sovereign state must-have in the structure the same stature and role as any other

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sovereign state; and.

(2) No-body can enforce control on the structure superior to the States.

As a result, each State has been and strives to be committed to ensuring its well-being and sustainability, and must focus primarily on its efforts in doing so. Traditionally, thus, states have combined their capital to expand their influence concerning other states. Diplomats have a vital role to play in this sense in today's world since they are those that are primarily representative of the most significant aspect of state power. For decades, it has been recognized that the basic practices of international diplomacy have been established and that there has been little shift of status.⁵

The rise of non-Western countries with diverse legal structures, religions, and principles has raised the question of how long the current system will endure. To grasp world politics, diplomacy and foreign policy are important. The international system's framework includes continuous diplomatic dialogue and negotiation. Diplomacy is the traditional language used by states to communicate globally, in addition to warfare. Diplomacy has been around since the days when, on a structured basis, nations, empires, or other centers of influence interacted with one another.

Several diplomatic documents were discovered in Egypt throughout the 13th century. In the 15th century, permanent dignitaries, meaning delegates, were sent from one state to other states during the Renaissance era.

It was the Ministry of Foreign Affairs that used countries and international organizations to handle relations. During the 1980s, Iraq's relations with foreign countries, and in particular with the few western countries such as France and Germany from which unorthodox ammunition was supplied to Iraq, were influenced by the numerous contested decisions taken by Saddam Hussein in foreign policy.

Even with the United States, Iraq had formed strained ties that supported Iraq in its war with Iran. After Iraq invades Kuwait, Iraq's relations with Arab countries and Western countries were seriously affected. Kuwait has been sponsored by countries such as Syria, Saudi Arabia, Egypt, and the United States, among others.

The democratic government was established in 2003, after the end of Saddam Hussein's reign, and the newly founded government tried to build ties with the countries of the world. Mutual and cooperative links have existed between India and Iraq in the past. Since 1800 BC,

⁵Scott Burchill, Andrew Linklater, Richard Devetak, Jack Donnelly, Matthew Paterson, Christian Reus-Smit, Jacqui True, *Theories of International Relations*, Palgrave MacMillan, 2005

there has been an exchange of commerce and culture between Ancient India and Mesopotamia. It helped to develop and foster cordial ties when India and Iraq signed the Treaty of Friendship in 1952. Iraq and India formed extremely close ties during the 1970s.⁶

II. LAWS IN REGARD TO DIPLOMACY

The control of relations between the representatives of a state is administered by diplomatic law. The reasoning behind this is to foster public diplomacy and to protect the national interests of the state party is closely connected to foreign policy, taking into account the territorial integrity of the host country.

Diplomacy exists within the limits of law and politics, and between the state's internal needs or desires, and its clarification in an external language. In the language of foreign law, it translates state policy and needs. Therefore, it is profoundly linked to the notion of rule-following, and the art of diplomacy is shaped by the diplomatic appeal invested in the principle of obedience.

Diplomacy entails having rules-following reasons for the state's decisions. At other times and locations, when the primary benefit included reconciling state needs to, say, fairness or natural law or sustainability or some other positive, one might consider other normative schedules for diplomacy. Law is diplomacy have the dominant characteristic.

One of the least contentious precepts of international law has been the inviolability of diplomatic missions, including staff and correspondence. Early efforts to formalize this norm include the Vienna Congress (1815) and the Diplomatic Officers Convention (Havana, 1928). It was the 1961 Vienna Convention⁷ on International Affairs, adopted by 187 countries, and is considered a new declaration. There are unambiguous articles 22, 27, and 29.

Article 22:

1. The premises shall be inviolable and the agent shall not be allowed to access the premises until the agent of the receiver state secures approval from the Head of Mission.
2. To avoid an obstacle in securing the purpose of the mission or its value, the receiving State is responsible for any attempt to secure the mission premises.
3. The mission premises' facilities and property and other means of travel are open and cannot be inspected and excluded from asking, relating, or carrying out.

⁶Idowu Johnson, *International Law and Diplomacy*, https://www.researchgate.net/publication/323703479_International_Law_and_Diplomacy (Last visited on 5th Jan, 2021)

⁷ United Nation, *Vienna Convention on Diplomatic Relations 1961*, Done at Vienna on 18 April 1961. Entered into force on 24 April 1964. United Nations, Treaty Series, vol. 500, p. 95., https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

The purpose of such security has been representative of the international structure of the state itself since then. For the proverbial ties among States, diplomats are a tool, an agent. Diplomacy, with its complementary rights and security, has proven to be an important form of successful cooperation among the world countries to achieve a common understanding and to settle conflicts using diplomatic means. Diplomacy leads to preserving reciprocal ties between countries despite diverse constitutional and social structures.⁸

International law regulating permanent and temporary diplomatic missions is diplomatic law. One of the key components is diplomatic immunity: attack or trespass, i.e. the sanctity of the mission/embassy, diplomatic communications, and diplomatic bag protection should safeguard the diplomatic mission and its grounds. It's an international conventional law source. It is accepted by countries because of its practicality and is adopted by national states because it is focused on reciprocity.

An official is inviolable as a diplomatic agent, i.e. agents are given diplomatic immunity that omits the fundamental law of territorial sovereignty. It fulfils its duties within the requisite security and confidentiality framework. This does not however mean diplomats can or should violate local rules but must instead conform with the hosting State's local laws, thus adding to the balance of interests. The diplomats cannot be arrested or detained because, although there is no protection from the issuing state, they are entirely liberated from criminal prosecutions in the receiving state.⁹

When a diplomat performs a crime, it will be considered *persona non grata* by the host State and thus must leave the host State. The receiving state must call the person back or, at the same time, diplomatic Immunity shall be relieved by the diplomat concerned within an appropriate duration.

However, diplomatic immunity law is generally valued because it is visible and built upon the concept of reciprocity that would not be mutual if not upheld. This is to mean that, if the diplomat does not obey the local rule, the host state's removal in the sending state would cause him/her to be expelled and reciprocal. In the region of the sending State, each State hosting a diplomatic service has its embassy. Any State requires the sending State to offer immunity under international law against its diplomats stationed in a foreign country, its diplomatic luggage, embassy, and records.

⁸AneekChaterjee, , *International Relations Today: Concepts and Applications*, Pearson Education, 2012

⁹Christian Reus-Smit, *the Moral Purpose of the State: Culture, Social Identity, and Institutional Rationality in International Relations* (Princeton: Princeton University Press, 1999).

Article 31:¹⁰

The Convention shall exclude foreign officers, except for situations where an agent is diplomatic, from the legal and criminal jurisdictions of the host States:

- (1) Is involved in a dispute over personal real property,
- (2) Has an action involving private estate matters or
- (3) Is in a dispute arising from commercial or professional business outside the scope of official functions.

III. EVOLUTION OF DIPLOMATIC LAW

The common approach to handle talks was diplomacy. It's one of the oldest arts in the world. It is documented in the history of Greece and Rome. Diplomatic activity originally included the provision of messages and warnings, the protection of charities, and the handing over of contributions or tributes. These primitive diplomatic practices have been streamlined and institutionalized considerably. But during this age, there was no arrangement of permanent embassies. In the Middle ages, the systemic use of envoys began to decline and resident embassies only arrived on the scene in the 14th century.

This process was aided by the growth of metropolitan states in Italy. Diplomatic practices have evolved since then in relations between nations as a core activity. Diplomacy was regulated in the 15th, 16th, and 17th centuries solely by national political dictates and by skill, manipulation, and duplicity which was pompously employed, as Machiavelli in 'The Prince' portrayed practically.

A Code of Diplomatic Protocols, which resulted in a misunderstanding about the precedents and Protocol, was established towards the end of the seventeenth century. It was in the 18th century that reforms to institutionalize diplomatic protocol and precedent had contributed to popular interest in maintaining international balance. In the second decade of the 19th century, though, the true success emerged.

At the Vienna Congress (1815) and Aix-la-Chapelle Congress (1818), significant attempts were made to simplify the classification and formalization of diplomatic officers. The foundational principles for the conduct and handling of ambassadors were laid down by the Vienna Congress in 1815 while acting as delegates of his State abroad. Over the years there has been no improvement in its basic practices and procedures developed and applied. The

¹⁰United Nation, *Vienna Convention on Diplomatic Relations 1961*, Done at Vienna on 18 April 1961. Entered into force on 24 April 1964. United Nations, Treaty Series, vol. 500, p. 95., https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

Congress of Vienna was recognized as the first of several congresses that have never been branded as the "Congress System."

To maintain stability, the diplomats thought it was important to 'cling together.' That was a verbal understanding between the gentlemen and the constitution; it was agreed to hold a congress and speak about it first when and when a disagreement could lead to world war.

Diplomacy was introduced in the 19th century as both the primary tool of State policies and the main institution for foreign affairs and diplomacy, when, in the aftermath of the profound change in the international structure of 1914-1945, the greatest diplomacy died along with the Balance of Power System.

The transition of the global order led to great improvements in diplomatic character, extent, and styles. Again, these improvements were important to admit. A detailed agreement covering almost every element of diplomatic action was negotiated at the Vienna Conference on diplomatic interaction and immunity (1961).

Diplomacy, however, is currently commonly recognized as a diplomatic tool for the country and as a medium for foreign relations. Diplomacy is considered one of the defining features of a state right from the outset of city-states. Diplomats were only sent to the States for basic negotiations and returned for the reasons for which they were sent.

Generally, the representatives have the responsibility to negotiate with the other State, either from among the families of the royal family or from the higher strata of society. The result of the meeting, and in particular of the Vienna Convention on Foreign Relations, can be seen to have a substantial effect on modern State relations. Even if no new, ground-breaking legislation was stated in the Convention, it only explained the mist of customary diplomatic law and set a legal basis for diplomatic relations.

In a very crucial moment of the Cold War, the Articles of the Vienna Convention helped preserve the international community. The state could rely on simple laws, which were unquestionably helpful in times of tension, concerning diplomatic immune systems and rights. The popularity of the Vienna Conference and its Convention has led to the International Law Commission being enhanced in the years that followed, which was asked to create the legal framework for other multilateral international law conferences.

Furthermore, the Convention has directed the art of diplomacy not only to new States and their negotiators but has also established a way of ensuring equality between all nations. This specifically indicates that the same rights and immunities were accorded to those States and their ambassadors as those countries which were deemed to be strong in international

relations, and thus equality was the principal purpose of this Convention.

Until the 1950s, the laws of the mission were regulated by customary laws. After concluding the Vienna Convention on Foreign Affairs, confirmed customary laws and ratified them by the great powers in 1961. The Protocol Son widely agreed on diplomatic activities related to the Vienna Diplomatic Relations Convention of 1961. The underlying principle of the system's bilateral diplomatic relations remained largely unchanged. However, the international Group of States and other non-bilateral modes of international diplomacy have evolved significantly and composed themselves.¹¹

IV. OBJECTIVES OF FOREIGN POLICY

Diplomacy is a public interest tool. The aims of protecting national security as established by the foreign policy are still the driving principle. It is a part of both the national and foreign policy. It's a weapon of goodwill. The preservation of stability is one of diplomacy's ultimate goals. It is implicit in its position as a medium to foster national interest by peaceful means.

In general terms, diplomacy attempts to ensure that the country serves two kinds of primary targets: (i) political goals (ii) non-political aims. Diplomacy, as Morgenthau puts it, has four objectives to accomplish these basic aims, and these are diplomatic goals.

- (i) Power to the objective: in terms of the power required to accomplish these goals, diplomacy must assess its objectives. The war danger in foreign affairs can be faced by a country that has ambitions that are not supported by ample and necessary national force. It can invite war risk through undue indulgence. Therefore, diplomacy ought to weigh the priorities against the real and future influence available before undertaking to ensure these aims.
- (ii) Evaluation of targets with other countries: diplomacy must assess how consistent the multiple goals are between them. A country pursuing an informed and friendly foreign policy cannot, for its compatibility, cease to equate its aims with the goals of other nations. If the priorities are conflicting, diplomacy must work aggressively and successfully to defend the interests of the country.
- (iii) Relating means to targets: diplomacy needs to use the means necessary to achieve its goals. Of the three means available, it is the diplomacy that determines, at which point, what means can be used about which country and how to use it.

¹¹Scott Burchill, Andrew Linklater, Richard Devetak, Jack Donnelly, Matthew Paterson, Christian Reus-Smit, Jacqui True, *Theories of International Relations*, Palgrave MacMillan, 2005

Morgenthau writes that the art of diplomacy is to make each of these three means accessible for the right embassies at any time. In foreign affairs, diplomacy plays a vital role. Much of the nations attempt to settle their differences or find consensus about different international issues and problems through diplomatic talks. In foreign affairs, it is an instrument of conflict management. The nation's commitment to using nations to handle its external affairs is one of the main instruments of national interest.¹²

V. CRIMINAL OFFENSES AND PERSONAL IMMUNITIES

The diplomatic officer is inviolable and cannot be imprisoned or prosecuted. In a variety of particular situations, criminal, constitutional, and administrative integrity of the receiving state shall not extend to a diplomatic representative. It is additionally excluded from municipal taxation. Even now, in international diplomatic law, personal inviolability and diplomatic immunity from criminal authority remain the most controversial problems.

Since the past, these rights had been aiding diplomatic mission members and other Foreign Service officials in maintaining freedom from penal prosecution, which was due to the free action of diplomats and the absence of penal desires. Thus, it should be noted that ordinary procedure between states and diplomats is still not exhaustive of the applicable clauses of the Diplomatic Immunity Convention of Vienna.

Diplomats may misunderstand their rights and the jurisdiction of their offices and often they cannot follow a policy. Where the situation affected is a small offense or crime to ensure that diplomatic roles are exercised smoothly, the receiving state recognizes certain elements of these violations. But does the international community or the government involved recognize personal inviolability and diplomatic immunity in serious offenses such as kidnapping, conspiracy, war crimes, and crimes against humanity?

In the old period, the value of the representative of foreigners was recognized, and hence, as the first civilization, the basic concept of those representatives is the personal inviolability of diplomacy. Diplomatic rules are continuously being established and main concepts have been assured for that growth. Diplomatic laws are now accepted in different ways as a single feature of international public law. These laws are applied to the maintaining of ties since diplomatic relations are established among the different countries of the world. Looking at existing situations within the international community, the fact that there are nations that follow these diplomatic rules applied between countries is very surprising.

¹² Anderson Walter, *Recent Trends in Indian Foreign Policy* Asian Survey, Vol.41 ,No 5,September/October 2001,pp.765-776

Why is it? This raises concern. Many explanations remain, including the continued and stable diplomatic rules, which were codified before the Vienna Convention. The reciprocity policy is known as an escort toward the nation's breach of diplomatic rules.

The mutual principle is based on shared state values and guarantees that international rules and obedience are applied soundly. However, this concept also prohibits the requisite changes and additions to the diplomatic liberty of criminal jurisdiction. States cannot adopt new customary international rules to promote innovations.

In no conditions do diplomats breach diplomatic rules and regulations of the states in question and diplomats are bound by diplomatic laws. However, there are several occasions where diplomats become privileged, such as in the event of intoxicated or vehicle injuries, for example. These cases led to a dismissive view on the part of the public of diplomatic immunity and inviolability. Therefore, the States concerned would take the requisite action for different purposes without taking into account the gravity of the situation.

States retain diplomats abroad and States do not wish to establish issues in numerous and not always stable states for their diplomats. Any expatriates from the receiving states may be present in the sending states, which is why they have the right to respond to the violation of diplomatic status because the refugees are considered at risk. In the case of the Lebanese People's Bureau, for example, Britain was not taking tough measures against Libya, because Britain wanted to ensure the welfare and well-being of its 8,000 Libyan citizens.¹³

In conventional times too, the heads of states and the government did not enjoy personal inviolability and diplomatic immunity. There were individuals who, as presidents of their states and negotiators, committed serious offenses. Personal inviolability We have to recognize the concept of personal inviolability before discussing diplomatic immunity, which is seen as one of the most ancient and permanent rules of diplomatic law on diplomatic rights. Also now the principle of the inviolability of a diplomatic official remains the cornerstone of the diplomatic rule.

The diplomat's inviolability is paramount and free from harsh punishment by the State concerned. The evolution of the principle revealed that even though the diplomats committed serious offenses, the area of personal inviolability was absolute. However, the International Law Committee had already suggested before the Vienna Convention on Diplomacy was introduced at the Vienna Conference that personal inviolability should not neglect any self-determination or, in extraordinary circumstances, any other way to prohibit a diplomat from

¹³Boquerat Gilles, *Indian response to the Gulf crisis of 1990-91*, *International studies*, 38, 4 (2001), pp. 427-440.

committing a crime or an offense.

Due care was not given to personal inviolability at the Vienna Conference and Article 29 lays down steps for the freedom and integrity of diplomats. As mentioned in the paper, the definition or degree of inviolability does not take precedence. Two basic aspects of this theory are not stated in the articles.

The diplomatic representatives are not arrested by the recipient state or by jurisdiction, and the diplomat should be secured by the receiving state. The phenomenal authority of a diplomat is personal inviolability. In the event of an emergency, the action shall not be postponed if the mission premises are inviolable. For instance, an intoxicated ambassador has a concealed pistol in a public location. Since ancient times, the importance of external delegates has been recognized in advance, and personal inviolability is one of the universal laws that is considered as old as the first civilization.¹⁴

At present, diplomatic regulations have been a central feature of international law in the public domain. States apply their diplomatic agenda to maintain their ties with other countries to maintain foreign relations. It is recognized that when states apply diplomatic legislation to establish relations with another state, it is bound by international law or by international law. So even a question emerges as to why? The explanations are as follows: the laws of diplomatic law were stable and defined before the Vienna Convention.

The rules have been translated into a treaty that is one of the effective protection against countries' breach of diplomatic law. Both States which have diplomatic relations with each other take action against the diplomat who offended. The concept of reciprocal security between States thus allows diplomatic rules to be enforced and complied with.

On the other side, it would become a barrier or could not lead to developing appropriate reforms or changes to shield ambassadors from criminal law, as States were reluctant to take a measure to implement a new law to resolve new trends. Since diplomatic immunity is not allowed and no local officials may practice diplomacy, it has created a variety of social difficulties.

There is an overarching opinion that the diplomats must obey and be bound by diplomatic laws because of their position and must not breach the rules and regulations of the state of which they have been named. Occasional violence such as drunkenness and drive or car crash destroys their respected public status. The person with special status has a pessimistic

¹⁴Marie Lall, *Indo-Myanmar Relations in the Era of Pipeline Diplomacy*, Contemporary Southeast Asia Vol. 28, No. 3 (2006), pp. 424-46

attitude.

States have, however, also prohibited from taking serious action against crimes committed for several purposes under the protection of diplomatic immunity. Next, states do not want their ambassadors to be found secure in other states in identical and menacing situations. Secondly, it may be that there is some shelter from the sending country in the receiving country that is contingent on the acceptance of the refugee group in the receiving state for the diplomatic position of the sender agent in the receiving State.

The British did not take any stringent action because, as a result of a significant Libyan People's Bureau incident, they were more concerned with the welfare and well-being of their 8000 civilians living in Libya. The conventional grants of personal violation and diplomatic immunity to cabinet officials and heads of state. They committed serious offenses because of the immunities given to them.¹⁵

VI. DIPLOMATIC IMMUNITY FROM CRIMINAL JURISDICTION

- Concept of Diplomatic Immunity

In conventional days, a diplomat was deemed to be indistinguishable in personal inviolability and independence. But in time, a new concept of international law was adopted in the form of diplomatic immunity from criminal law, previously not the detention or arrest of individuals. A small number of officials working in foreign relations is removed from local or other jurisdictions as a result of the diagnosis of diplomatic immunity, which is one of the main components of international law. For the creation of the principle of immunity, the ancient tribes were responsible.

For a seamless flow of knowledge without apprehension and despair, messengers moved from one tribe to another. They were safe even though they had bad news. Today immunity grants ambassadors freedom and defends them from the local expertise for the smooth working of their duties to guarantee the smooth working of diplomacy. It has provided diplomatic immunity to ensure the successful operation of foreign officials.

Diplomatic immunity helps diplomat with personal gains. Diplomats have diplomatic immunity anywhere in the world due to the concept of reciprocity. Most agree in such a need and they don't take care of any reasons and a few reject or authorize these immunities.

There are several of other hypotheses that give diplomatic immunity the legal justification.

¹⁵Pernilla M. Neal, *Diplomacy and Power: In Transition from "High" To "Low" Politics*, thesis submitted to the Faculty of the Graduate School of the University of Colorado for the degree of Doctor of Philosophy Department of Political Science 1993

This is one of the old myths called extra-territoriality doctrine. A legal fiction was deemed to be considered as transmitting state territories for the receiving state, used by the ambassador or diplomat.

Representative's principle is often referred to in the 1961 Vienna Convention on Foreign Relations, whereby diplomats are embodied by the sending State and rights and freedom should be afforded to exercise their duty as provided for in the agreement concluded with the sending State.

The logical and conceptual foundation of the Viennese Convention is the principle of practical necessity. This study says the sanction of a diplomat's immunity should be based on a diplomat and diplomat's smooth working.

The preamble to the Vienna Convention reflects the legal foundation of immunities which explains that it is not for individuals to be advantageous, but to ensure the efficient functions of diplomatic missions as representative States, that the purpose of certain privileges and immunities is. This idea, inspired by the necessities of diplomats' functions, confers certain essential immunity without obstacles to the functioning of diplomacy. This leads to democracy and diplomatic duty being sanctioned and helps keep a watchful eye on where they struggle to do so.

Consequently, diplomatic immunity means that an ambassador from the recipient state may act difficultly for diplomatic officers for a certain variety of reasons, for example with the commencement of baseless criminal proceedings.

VII. RE-EVALUATION OF THE CONCEPT

- Excluding Immunity in Case of Grave Crimes

While there is no attempt in the Vienna Convention to identify crimes by severity but the reaction measures against immunity need to be gravitated and clarified. The abuse of the law or felony is quite difficult in connection with the ambassador and the discussion of the crimes of an anti-humanity diplomat and fighting.

If a diplomat behaves as a War Criminal, he is no longer a diplomat and cannot benefit from a diplomat's immunities and privileges. Rome Legislation, which gathers a wide spectrum of assistance between states and can be used as evidence of customary international law, of the International Criminal Court (ICC). States have various legal and crime-specific regulations and international instruments that provide a list of potentially serious international offenses

are recognized by states.¹⁶

Thus, the list of widely agreed major crimes by governments, which should not be removed from, may be specified. It has been shown that even ambassadors have been sentenced to death as war criminals. General Oshima, as a Japanese ambassador to Belgium, was convicted by a military tribunal in 1948, after the Second World War for crimes committed in war. Crimes such as kidnapping, suicide, or conspiracy are considered associated with a diplomat's office.

The issuing state has jurisdiction over its diplomatic officials and all other States are asked to prosecute a grave crime-causing diplomat in question. Although, also, it has been found that sending countries in other countries do not readily recognize crimes committed by diplomats. Some nations are not competent in some States to deal with crimes; this is another issue for certain countries. There are concerns such as the number of procedures for, for example, generating evidence in other states that cannot effectively defend their diplomat by the sending state in other nations.

But it never implies that the sending state neither punishes nor acknowledges the violation the diplomat committed when he returns home. For example, a diplomat from France was tried after he murdered a member of his party in Angola after a violent argument during his visit to another state. Likewise, the United States opened court charges against a colleague in Equatorial Guinea *chargé d'affaires pour homicide*.

- Limiting Immunity to Official Acts

It has been proposed that when a diplomatic agent takes office, he should be provided with security and rights. The reason being all improper actions deemed to be private activities or performed in conjunction with private activities fall under the control of the receiving State, and the receiving State may settle on the diplomat in question. It would be difficult, though, to determine if the act committed constitutes the private act or official duty, as provided for in Article 3.

The Court thought that Article 3 sets out the organizational basis of diplomacy and that it also encompasses all those by-products which cannot be segregated for the workings of the diplomacy mentioned in that Article. The International Court of Justice was pleased with the Portuguese Court and held that there is no distinction between public-life acts and private-life acts.

¹⁶R. Higgins. *The Abuse of Diplomatic Privileges and Immunities; Recent United Kingdom Experience*, AJIL Vol 79 (1985), p641 et seq:

The diplomat's steps can be recognized as an act that goes beyond the official status when it goes beyond the sending state orders. But the conflict between the diplomatic agent and the sending state would still relate to whether the violation was committed or not by an agent in the course of his official duties. Severe crimes such as shooting, rape, assaulting, and the battery may be considered as violence against a human, but not self-defense. However, the variety of official duties is essential.

The diplomatic agent, therefore, cannot indefinitely be free from the competence of the State in respect of all activities conducted by him. Once the diplomat's duties have expired, he has no claim to his protection and can be prosecuted in all his activities except his official functions. It's clear that the diplomatic agent has ample time to leave the receiving state, but any time he returns to the same country the criminal actions are to be taken.

The receiver state was reportedly willing to punish offenses, including shooting, robbery, acts of abuse, attack, and human rights abuses that were not treated as part of its official duties. The receiving state will also attempt to extract the former diplomat involved from the sending state or other states that exert sovereign control over it. In such situations, though, there is no choice of extradition, since the receiving state does not extradite its ambassador.

VIII. IMPORTANCE OF DIPLOMATS

Diplomacy is used by states to resolve conflicts, build alliances or organizations, compromise, compromise, exchange military ties, improve cultural or economic links, etc. Diplomacy is what tries to coordinate evolving rules, names, priorities, processes, and agreements. Diplomats perform a very critical role in their countries. About every country in existence has at least a few ambassadors who are sent to various other nations to discuss and mediate relations between the two nations.

There will be various views of conditions or circumstances due to the disparity in scale, history, values, etc. of the world comity, which stresses the importance of diplomats to smooth out interactions between states to prevent hostility and, in the worst-case cases, prevention of war. The willingness to offer potential solutions to issues in terms of helping all stakeholders to change their situation implies a good ability on the part of a diplomat not only to disseminate intelligence but also to collect and analyse it.¹⁷

Indeed, acknowledgment by politicians of the central role that diplomats will play in trying to monitor or manipulate other states' actions strengthens diplomats' *raison d'etre* in a changing environment where peaceful conflict resolution is respected.

¹⁷ibdi

The basic function of the diplomatic relations are representing the native country in the receiving country, fostering in the receiving country the interests of the home country and its people, compromising with the receiving country's leadership, supervising and commenting on the circumstances and trends of the receiving country's culture, science, trade, and commercial ties, and protecting good relations. Passport legitimizing, travel papers, and visas. Indeed, the terms of the Vienna Convention called for an equal balancing between the interests of the two nations, that is, the sending and receiving States, respectively. Yet it was thought in many of the world's big capitals that ambassadors were violating their privileged status. Diplomacy is not a simple task; there have been cases where, for example, the overrunning of the U.S. has not been enforced by international law. The 1979 Embassy in Tehran by Iranians and the resulting retention as prisoners of diplomatic staff. The taking of hostages represented a complete ignorance on the part of Iranians of the customary international diplomatic procedure.

IX. HURDLES IN DIPLOMATIC RELATIONS

It was found in the mid-1970s that guns were retained by some diplomatic missions against the rules of local law. It was suspected that the arms used in terrorism attacks in separate Western countries in recent years were supplied from diplomatic sources. It is suspected that there are a few countries that, through the intervention of their embassies in the countries involved, facilitate state terrorism against sectarian exiles. Since the so-called Revolutionary Committees had taken over the embassy (as in other Western capitals), they renamed the embassy the Libyan People's Bureau and declined to nominate an individual in charge of the mission, resulting in complicated diplomatic communications with the Libyan Embassy in London.

There were more internal upheavals at the Libyan People's Bureau in London in February 1980, which further heightened the diplomats' problems. Because the Bureau could not be admitted and those responsible could not be arrested since it was regulated by the international rule of diplomatic immunity, residents and law-makers became extremely irritated. It was proposed that a form of screening for diplomatic bags accused of carrying either narcotics or weapons should be identified. There was a general feeling that inviolability could not be given to premises that were the basis for criminal activities. It was argued in different directions that an effective interpretation of the Vienna Convention would support the belief that when ambassadors and missions violated their powers, security and inviolability fell away; but that if the Vienna Convention made this necessary inference

difficult, then the Convention would have to be altered or blamed.¹⁸

X. CONCLUSION

Diplomacy is widely recognized as the pillar or the heart of international affairs. A country expresses its interests, desires, priorities, and ambitions to other nations specifically through diplomacy, and it is again through diplomatic negotiations that it aims to secure these goals. Indeed, the establishment of diplomatic ties is the first important step towards developing relations between the two countries, and diplomacy is the key link in the bilateral and multilateral relations process. In observing that diplomacy is a factor of national strength, national interest, and international policy, there is no exaggeration.

If it is not in their interest, United Nations organizations provide countries with the space to compromise world affairs. Yet it is hardly effective for countries so because the body is vulnerable to abuse by the five permanent members of the Security Council who have the right to veto it. Even this room was seized by the United States of America after the end of the Cold-War to sub-serve its interest.

¹⁸Boquerat Gilles, *Indian response to the Gulf crisis of 1990-91*, *International studies*, 38, 4 (2001), pp. 427-440.