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THEORIES AND PRINCIPLES OF DIPLOMATIC IMMUNITY

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Abstract

Diplomatic immunity is a principle of International Law that provides foreign diplomats with protection from legal action in the country in which they work, so that they can perform their duties with freedom, independence, and security.

The rules on diplomatic privileges and immunities are set out in the 1961 Vienna Convention on Diplomatic Relations, and for consular personnel - in the 1963 Vienna Convention on Consular Relations. Under the Vienna Conventions, all persons entitled to immunity have the obligation to respect the laws and regulations of the host country. The purpose of these privileges and immunities is not to benefit individuals but to ensure the efficient and effective performance of their official missions on behalf of their governments.

When speaking of the legal basis of diplomatic immunity, three theories are usually mentioned: the “theory of representative character”; the “theory of extraterritoriality”; and the “theory of functional necessity”.

There are limits to diplomatic immunity. If a person with immunity commits a crime in the host country, that country may demand a waiver of the supposed offender’s immunity so that person could be tried by court. But if the immunity is not waived, the host country may order the exile of the offender from the country. A diplomat may be declared persona *non grata* by the receiving State. Declaring foreign officials non acceptable is the worst the host country can do.

The purpose of this paper is to explore the importance of diplomatic immunity, as well as to look into the extent to which these privileges can be invoked; the obligation of the diplomat who has transgressed the laws of the receiving State and any actions that should be taken by the diplomat’s country.

List of Abbreviations

VCDR – Vienna Convention on Diplomatic Relations

VCCR – Vienna Convention on Consular Relations

MFA – Ministry of Foreign Affairs

ILC – International Law Commission

ICJ – International Court of Justice

PNG – Persona Non Grata

Introduction

Diplomatic immunity is a principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities, so that they can perform their duties with freedom, independence, and security (J. Wood, J. Serres 1970). Diplomatic immunities were developed not to benefit individuals personally, but to ensure that foreign officials can do their jobs without harassment. Under the concept of reciprocity, diplomats assigned to any country in the world benefit equally in regard to the immunity offered by the host country (M. Roskin, N. Berry 1990).

The rules on diplomatic privileges and immunities are set out in the 1961 Vienna Convention on Diplomatic Relations (VCDR).¹ A more limited set of privileges and immunities are set out for consular personnel in the 1963 Vienna Convention on Consular Relations (VCCR).² These Conventions have formalized the customary rules and made their application more consistent. More than 160 countries are parties to each of these treaties. Under the Vienna Conventions, all persons entitled to immunity have the commitment and obligation to respect the laws and regulations of the host country (E. Denza 1998).

The persons with diplomatic immunity can not be arrested even if they have committed a crime. Foreign officials are immune from the criminal jurisdiction of the receiving State, and they are not obliged to give evidence as a witness. Only sending State can judge persons with diplomatic immunity (J. Wood, J. Serres 1970).

According to the VCDR the receiving State must protect the premises of the mission against any invasion or damage as well as to prevent any disturbance of the peace of the mission or impairment of its dignity:

¹ The Vienna Convention on Diplomatic Relations was signed at Vienna, April 18, 1961, and entered into force on 24 April 1964.

² The Vienna Convention on Consular Relations was signed at Vienna on 24 April 1963, and entered into force on 19 March 1967.

“The premises of the mission, their furnishing and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution” (Vienna Convention on Diplomatic Relations, article 22, 3).

The diplomatic bags can not be controlled as they are not allowed to be opened, searched or detained. Personal bags of a diplomatic agent are also exempt from inspection unless there are serious grounds for presuming that it contains goods forbidden in the host country. In accordance with VCDR:

“The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use” (Vienna Convention on Diplomatic Relations, article 27, 4).

A diplomatic person has immunity from taxation.

“The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes” (Vienna Convention on Diplomatic Relations, article 28).

Family members of diplomatic officers as well as the members of the diplomatic staffs are also entitled to the same immunities. Thus, consistent with Vienna Convention on Diplomatic Relations, “The members of the family of the diplomatic agent forming part of his household shall...enjoy the privileges and immunities specified in Articles 29 to 36” (Article 37, 1).

The diplomatic immunity is central because in different countries the judicial system is very different and might be less defensive of individual rights than in other countries. But in any case the persons entitled to immunity must respect the laws and regulations of the host country. Immunity is not a license to commit a crime (A. Matt 1997).

However, there are limits to diplomatic immunity imposed by other articles of the Vienna Convention and by the sending State. So, if a person with immunity commits a crime in the host country, that country may demand a waiver of the supposed offender’s immunity so that person could be tried by court. But if the immunity is not waived, the host country may

order the exile of the offender from the country. If a member of a diplomat's family commits a crime, the whole family may be barred (A. Matt 1997).

The Vienna Convention also provides for specific actions that can be taken by both the home and host countries in case of mistreatment or abuse of diplomatic privileges and immunities. The abuse of the privilege is considered to be the major problem regarding diplomatic immunity. Abuse of diplomatic privilege always has been a source of tension among countries. Some of the most common abuses of local laws by diplomats are traffic violations, driving under the influence of alcohol, smuggling of prohibited goods - from alcohol to antiques to weapons (L. S. Frey, M.L. Frey 1999).

A diplomat may be declared *persona non grata* by the receiving State, meaning he/she is no longer welcome in the country. Declaring foreign officials non acceptable is the worst the host country can do. So, as it is stated in the Vienna Convention on Diplomatic Relations,

“The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata*... In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State” (Article 9, 1).

The immunities of the diplomatic person, whatever they may be, continue after he has ceased to hold his office until he has had a reasonable time in which to leave the country (J.L. Brierly 1955).

Therefore, based on all above mentioned information the diplomatic immunities and privileges are imperative to contribute to the development of friendly relations among nations.

Theoretical Background

Diplomatic law is one of the oldest branches of international law. Over time, necessity enforced most states to provide envoys fundamental protections; otherwise no international political system could exist. If governments are to seek to power each other's policies and

actions through successful communication, they should suppose that their diplomatic agents abroad will not be found under such conditions that would prevent them from engaging without restraint in bargaining and persuasion. Envoys and messengers were usually regarded as sacred and enjoyed particular privileges and immunities when traveling in a foreign country. In this regard it would be appropriate to cite Julius Caesar, who wrote more than 2000 years ago: “The inviolability of ambassadors is sacred and acknowledged as such by all civilized peoples” (J. Shaw 2002). It is still the general rule of international law that “diplomats and embassies are to be treated as if they were on their native soil” (K. J. Holsti 1972, 139).

The oldest records detailing real diplomatic practice emerged in the Greek city-states over 2.000 years ago. The principle of diplomatic immunity sustained to expand and develop throughout the Roman and Byzantine Empires, the Middle Ages, and the Renaissance and Classical periods (V. L. Maginnis 2003). The Greek states, mainly in the classical age (750-350 B. C.) were all too fond of making war on each other and of forming temporary alliances to help themselves against their enemies. And ambassadors sent by the States to promote these alliances and to make peace were accorded immunity and were regarded as under the protection of Zeus. On the other hand, it is noteworthy to cite the Assyrian envoy of Sennacherib, who met King Hezekiah’s negotiators just outside the walls of Jerusalem about the year 700 B. C.,

“Kings, queens, generals and other dignitaries are portrayed as sending messengers to adversaries in the region, usually with such unwelcome tidings that they would need every ounce of immunity that they could get” (G. V. McClanahan 1989).

Consequently, much of diplomatic practice required codification and was documented in international treaties, which allowed States to rely on these agreements for the defense of their envoys. These efforts to codify diplomatic law culminated, as it was mentioned above, at the 1961 Vienna Conference (J. Barker 1996).

The creation of these laws is summarized by three theories - personal representation; extraterritoriality and functional necessity. The personal representation theory is based on the idea that the diplomat is a representative of a sovereign State, and as the representative he is entitled to the same privileges as the sovereign. Under this theory the diplomat is viewed as the representation of the head of the sending State (V. L. Maginnis 2003).

The theory of extraterritoriality suggests that the property of a diplomat and the diplomat himself should be treated as if they were on the territory of the sending State. As the diplomat is considered to be living in the sending State, he remains immune from the criminal and civil jurisdiction of the receiving State (J. Wood, J. Serres 1970).

Under the theory of functional necessity, which is regarded as the most dominant and accepted one for the justification of diplomatic immunity, privileges and immunities are essential to allow diplomatic and consular officials to execute their duties successfully (A. Cassese 2005). This justification is cited in the preambles to the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, according to which, “the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States” (Vienna Convention on Diplomatic Relations, Preamble). In the United Kingdom the House of Commons Foreign Affairs Committee has put the case this way:

“Diplomatic immunity is thus part of diplomatic law, and is an exception to the general international law rule of territorial jurisdiction. Its purpose is to allow diplomats to be able to carry out their functions within the framework of necessary security and confidentiality. It also acknowledges the representative character of a diplomatic mission. This does not grant diplomats freedom to flout local law. They are still required to obey it, but will in many cases be immune from local jurisdiction to enforce such laws. A mission is not “extra-territorial” in the sense that it is territory belonging to the sending state; but it is given the protection of inviolability within the receiving state. Both inviolability of premises and the diplomatic bag, and the privileges and immunities of diplomats, are all directed towards facilitating the performance of the diplomatic function” (UK House of Commons 1984, p.8).

Literature Review

The early history of the law relating to diplomatic privileges and immunities is a subject of a valuable research. The status of foreign envoys was formerly a topic of great practical importance, as is shown by the amount of literature and the number of international incidents to which it gave rise.

In the period since World War II, a number of international conventions have been concluded, two of which are the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963. These Conventions continue to be used as a point reference in the development of related areas of international law. The Vienna Convention on Diplomatic Relations contains fifty-three articles that govern the behavior of diplomats, thirteen of which address the issue of immunity. The most relevant article relating to immunity is Article 31:

“A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction” (Article 31, 1).

Pursuant to Article 31, the diplomat loses civil immunity in three situations: (1) when there is a dispute over “private immovable property” in the receiving State; (2) if the diplomat is acting as an administrator, executor, or inheritor in his capability as a private person; or (3) if the diplomat undertakes a commercial or professional activity which is not part of his official functions.

The preamble of the Vienna Convention states the view of the participating states on the theoretical basis of diplomatic privileges and immunities. It also states that the purpose of the Convention is “the development of friendly relations among nations, irrespective of their differing constitutional and social systems” (Vienna Convention on Diplomatic Relations, Preamble).

The second edition of a book Diplomatic Law by Eileen Denza (1998), which is a commentary on the Vienna Convention on Diplomatic Relations, is an essential source of

reference and learning for diplomatic immunity. This enlarged and fully updated edition places each provision of the 1961 VCDR in its historical context, provides prolonged exposure of the diplomatic practice, as well as it thoroughly examines problems in the field, not least the abuse of diplomatic immunity.

Antonio Cassese through his book International Law (2005) illustrates a concise background to the history of International Law. There is also a chapter where the author describes and presents the principles of immunities, particularly emphasizing:

“The principle of diplomatic immunity is set up in the interests of governments, not in that of diplomats; it cannot apply beyond the diplomatic mission...a contrary view would lead to creating to the benefit of diplomatic agents a sort of statute of limitations and an indefinite unaccountability” (A. Cassese 2005).

From the recent publications an article by V. L. Maginnis (2003) “Limiting Diplomatic Immunity: Lessons Learned from the 1946 Convention on the Privileges and Immunities of the United Nations” is a very useful one for the researchers on diplomatic immunity. This article provides background on diplomatic immunity; it focuses on the cases of abuse, as well as proposes methods for enforcing the functional theory of diplomatic immunity. It is a valuable publication that proposes limiting immunity to only those acts required for a diplomat to accomplish his official functions. Mainly the author mentions that “functional immunity should be applied to diplomats rather than absolute immunity” (V. L. Maginnis 2003). He also points out that main basis for providing diplomatic immunity is that “the individual must be allowed to perform his functions freely and independently without fearing political persecution by the receiving State” (V. L. Maginnis 2003).

Another important article on the work of diplomatic immunity is suggested by Rene Vark. His article “Personal Inviolability and Diplomatic Immunity in Respect of Serious Crimes” (2003) addresses such issues as personal inviolability and diplomatic immunity in case of serious crimes as well as examines possible remedies against abuses of diplomatic status.

Thus, this internship policy paper seeks to look into the extent to which these privileges can be invoked, and the obligation of the diplomat who has transgressed the laws of the receiving State and any action that should be taken by the diplomat's country. Taking into consideration all these information and realizing the importance of diplomatic immunity this policy paper tries to answer to the following research questions:

- What does diplomatic immunity mean and what are its main purposes?
- What is the concept of personal inviolability, and whether it is connected with diplomatic immunity?
- Shall the gravity of the crime affect status of diplomatic immunity?
- What are the limits to diplomatic immunity?
- What are the most common abuses of local laws by diplomats?
- What are the possible remedies against abuses of diplomatic status?

Methodology

The methodology for this Internship Policy Project paper is detailed investigation of official documents in the MFA. The content analysis of the relevant literature and other internet publications were also conducted for the purpose of this Internship Project. Besides, for collecting other necessary data, interviews were conducted with diplomats from the MFA's State Protocol Service Agency, Consular Department and American Department.

Personal Inviolability and Diplomatic Immunity

“The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity” (Vienna Convention on Diplomatic Relations, Article 29).

Peoples have recognized the special status of foreign representatives already since ancient times and consequently some of the primary principles regarding such representatives, for example, personal inviolability, are as old as the first civilizations (R. Vark 2003). Wherever among the States of an international community ambassadors were sent and received, custom or religion consistently accorded a particular protection to their persons. Among the city States of Ancient Greece, among the peoples of the Mediterranean before the establishment of the Roman Empire, among the States of India, the person of the herald in time of war and of the diplomatic envoy in time of peace were generally held sacrosanct (E. Denza 1998).

During the sixteenth century the guarantee of special protection to an envoy became more difficult as their numbers increased and they were exchanged between sovereigns of different faiths - Catholic, Protestant, and Muslim - in an age of religious intolerance and of legal penalties for the practice of an unfamiliar faith. Inviolability was, however, accepted in practice as vital if diplomatic relations were to develop at all. By the end of the sixteenth century, when the earliest treaties on diplomatic law were published the inviolability of the ambassador was decisively established as a rule of customary international law (E. Denza 1998).

The principle of personal inviolability, as the oldest established rule of diplomatic law is strongly related to diplomatic immunity, and there is no doubt that the principle of inviolability of a diplomatic agent is still the keystone of diplomatic law. Throughout its historical development, the extent of personal inviolability became absolute, regardless of the scope of concerned offences. The writers have long argued that the receiving State retains a

right of self-defense against a direct threat from a diplomat. While this must be correct as a matter of principle, it is significant that throughout a period when abuse of diplomatic immunity was as serious a problem as it became in the twentieth century there appears to be no instance where a receiving sovereign relied on self-defense to take measures stronger than expulsion against a diplomat concerned (R. Vark 2003). However, before the Vienna Conference for Diplomatic Intercourse and Immunities, which adopted Vienna Convention, the International Law Commission (ILC) stated:

“Being inviolable, the diplomatic agent is exempted from certain measures that would amount to direct coercion. This principle does not exclude either self-defense or, in exceptional circumstances, measures to prevent the diplomatic agent from committing crimes or offences” (ILC Yearbook 1957, 1958).

Article 29 of the Convention first confers “inviolability” and then defines in greater detail what is meant. The article mentions two important aspects of this principle. Firstly, diplomatic agents are free from any kind of arrest or detention by the authorities of the receiving State and secondly, the latter has a positive duty to treat the diplomatic agent with due respect and to protect him from physical interference by others with his person, freedom or dignity (E. Denza 1998). Thus, due to personal inviolability, a diplomatic agent may not be arrested or detained in any circumstances. However, the extent of the duty to protect diplomatic agents came into question at an early period as a result of the growth in the practice of taking diplomats as hostages to extort political or financial gain from the receiving State. One of such incidences occurred in Guatemala, where in 1970 the West German Ambassador to Guatemala was kidnapped, and the hostage takers demanded the release of prisoners as well as a ransom for his release. The Government of Guatemala took the position that Article 29 did not require them to violate their own constitution or put in danger national security by capitulating in this way. But the Ambassador was murdered, and the Government of the Federal Republic of Germany protested that Guatemala “was expected to do everything

to obtain the release” and had violated its obligations under the Vienna Convention. Germany practically broke diplomatic relations with Guatemala (E. Denza 1998).

The key provisions of the Convention require that persons alleged to have committed any one of specified offences of violence against a diplomatic agent should have their case submitted to the competent authorities for the purpose of prosecution. A sending State may offer to provide additional defense for its vulnerable diplomats and may do this if the receiving State agrees. But it must be recalled that the main liability to protect and to secure the enforcement of law is that of the receiving State and that any agents of the sending State protecting their own officials are bound to comply with local laws and regulations (E. Denza 1998). As it is stated in the Vienna Convention on Diplomatic Relations: “The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State” (VCDR, Article 31, 4).

Thus, personal inviolability is a physical privilege in nature and hence it is distinct from the diplomatic immunity from criminal jurisdiction.

Immunity from Jurisdiction

The immunity of a diplomatic representative from the criminal jurisdiction of the receiving State is regarded as indistinguishable from his personal inviolability. At the period when inviolability was first clearly established as a rule of customary international law it would have been unusual for criminal proceedings to take place without prior arrest and detention of the accused. Immunity from civil and administrative jurisdiction was the next to become established as a separate principle of diplomatic law (E. Denza 1998).

What does the immunity mean? In 1965 in the case of *Empson v. Smith* the judge pronounced: “it is elementary law that diplomatic immunity is not immunity from legal liability, but immunity from suit” (E. Denza 1998, p. 256). This means that diplomatic agents are not above the law; they are under an obligation “to respect the laws and regulations of the

receiving State” (VCDR, Article 41, 1); and if they violate the law they are still liable, however they cannot be sued in the receiving State unless they submit to the jurisdiction. Thus, while personal inviolability is a physical privilege, diplomatic immunity is a procedural obstacle.

The Convention does not spell out the legal consequences of diplomatic immunity from jurisdiction, but it is generally accepted that it is procedural in character and does not concern any basic substantive liability. The court must determine the issue of immunity on the facts at the date when this issue comes before it and not on the facts at the time when proceedings were begun. It follows that if the defendant becomes entitled to immunity he might raise it as a bar to proceedings connecting with previous events or to proceedings already instituted against him. The diplomat if still entitled to immunity could of course raise it as a bar to any form of enforcement of a conviction or judgment against him (R. Vark 2003).

Though all proceedings against the diplomat must be suspended during the period of entitlement to diplomatic immunity, it does not mean that these proceedings are “null and void” due to immunity. Moreover, the trial of the diplomatic agent after dismissal from his post and loss of his immunity does not violate the exclusion of retroactive application of criminal laws. The reasoning is that the effect of the loss of immunity is to remove the procedural obstacle and enable judicial authorities to prosecute a former diplomat for acts, which at the date of their supposed commission constituted crimes in accordance with local law (E. Denza 1998).

Immunity in case of grave crimes

Even though the Vienna Convention makes no attempt to distinguish crimes in accordance with their gravity, the distinction between crimes of different gravity should be made, as well as the corresponding degree of immunity should be discussed. It would be

argued that diplomatic agent should not certainly be concerned with proceedings with regard to minor offences compared to the necessity to ensure effective performance of diplomatic functions, but in case of serious offences the immunity of a diplomat should not become a base for his impunity. Most scholars assert, and the actual state practice shows that diplomatic agent can not be tried by local courts for committing a crime under any circumstances whatsoever. The International Court of Justice (ICJ) shared the latter view and strongly emphasized that diplomats are entitled to diplomatic immunity from any form of criminal jurisdiction under general international law. Though this may be in case of crimes which do not concern the general interest of the whole international community, one may still reassess the applicability of absolute immunity from criminal jurisdiction in cases of crimes against humanity, war crimes or other crimes of such gravity, that is, international crimes. In this regard it should be stated a provision of the 1975 Convention on Representation of States in International Organizations³, which reads as follows:

“In case of grave and manifest violation of the criminal law of the host State by a person enjoying immunity from jurisdiction, the sending State shall...recall him, terminate his functions with the mission, the delegation, the observer delegation, or secure his departure, as appropriate. The sending State shall take the same action in case of grave and manifest interference in the internal affairs of the host State” (Article 77, 2).

Indeed, the theory of functional necessity renders questionable the legitimacy of diplomatic immunity in such cases. It is difficult to argue that crimes against humanity and war crimes are consistent with the functions of a diplomat. Thus, an argument should be made that when diplomats act, for example, like war criminals, they must lose the benefits of those immunities they are generally entitled to (R. Vark 2003).

Although diplomatic immunity from criminal jurisdiction is unqualified and absolute, the sending State retains its full jurisdiction over its diplomatic agents and it would be under

³ Done at Vienna on 14 March 1975. Not yet in force.

international pressure to prosecute diplomats who have committed serious crimes affecting the interests of all States (S. E. Nahlik 1990). In this regard it is appropriate to mention that:

“A diplomatic agent shall be justifiable in the courts of the sending State. The competent tribunal shall be that of the seat of the Government of the sending State, unless some other is designated under the law of that State” (ILC Yearbook 1957, 1958).

In fact, not all acts performed by a diplomatic agent remain forever immune from the jurisdiction of the receiving State. After the function of a diplomatic agent comes to an end, he loses his diplomatic immunity and he may be sued for all his actions except for those performed in the exercise of his official functions. The diplomat concerned has reasonable time to leave the receiving State before he loses his immunity, but whenever he chooses to return to that country he may find himself faced with criminal procedure. Thus, one way of excluding diplomatic immunity in case of serious crimes is “to establish hierarchy between norms granting such immunity and norms protecting certain fundamental values such as human life and then show that the latter norms have priority over the former norms” (R. Vark 2003). And it should be agreed that norms granting or protecting fundamental human rights are important and should have priority compared to diplomatic immunity.

Hence, it should be concluded that the principles of personal inviolability and diplomatic immunity are functionality-based principles, and these two principles are strongly based on reciprocal compromise.

Limits on Immunity

Persons enjoying diplomatic privileges and immunities are, at least in a figurative sense, “above the law” of the receiving State. All States that enter into diplomatic relations with other States accept this intrusion on their sovereignty as a necessary cost of being a member of the world community. However, the immunity concept would never have endured if its application left the receiving State helpless to react to the commission of serious crimes

in its territory or without option when foreign diplomats abuse the civil law rights of its citizens. For this reason, the principle developed that all persons enjoying privileges and immunities also have the obligation and duty “to respect the laws and regulations of the receiving state”, which is expressly stated in the VCDR (Article 41, 1).

If a diplomat, or one of his/her family members, has ever committed a serious crime, the receiving State has the right to declare the offender *persona non grata* (PNG) at any time, meaning he or she is no longer welcome in the country.

Persona Non Grata

“The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State” (VCDR, Article 9, 1).

“If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this article, the receiving State may refuse to recognize the person concerned as a member of the mission” (VCDR, Article 9, 2).

The primary principle that the receiving State need not continue to suffer in a diplomatic capability an individual who had become unacceptable to it existed from the earliest period of diplomatic practice. In nearly all the early instances the behavior complained of consisted in political intrigue against the sending State. The authorities were agreed that the receiving State was completely entitled to “expel” the offending diplomat at short notice and the debate concerned only whether it had aptitude to try him for a criminal offence (E. Denza 1998).

Any government has the right of asking for the recall of a foreign diplomatic agent on the basis that his continuance at his post is not desired, and the government which has appointed him has an equal right of declining to remove him. If a sending State refuses to recall a member of a mission whose recall has been requested by the receiving State, the latter

may declare the functions of such person as a member of a mission to have been terminated (E. Denza 1998).

Article 9 has proved in practice to be a key provision which enables the receiving State to protect itself against various forms of intolerable activity by members of diplomatic missions and forms a significant counterweight to the immunities conferred elsewhere in the Convention. The declaration of *persona non grata* is frequently reserved for actions such as espionage, terrorism, or other subversive activity. In most of these cases the unacceptable activities would have been authorized by the sending State. And in these circumstances it is usual for sending Government whose diplomats are required to leave to plead their innocence, to claim that the requirement to withdraw them was unjustified, and to carry out reciprocal exclusion (E. Denza 1998). It is noteworthy that during the time of the Cold War it even happened that concurrently several members of the mission's staff were declared undesirable. In more severe cases, a foreign diplomat may be "expelled" even without asking the sending State for his recall. Besides, the State whose diplomat would be considered undesirable, would in most cases find some pretext to declare undesirable one or more members of the other side's mission. One can see how important a role in this field of international relations and international law the principle of reciprocity can play (S. E. Nahlik 1990).

Diplomats required to leave one receiving State in such circumstances, however, are not in general dismissed from the service of the sending State and they may be appointed to other States. However, in this regard it is noteworthy to state that in May 1984, in the wake of the shooting of a policewoman from the Libyan People's Bureau in London, the UK Secretary of State urged European Ministers of Justice to agree that diplomats expelled from any European States on grounds of involvement in terrorism should be regarded as unacceptable in any of the others. The Summit Seven States in Tokyo in May 1986 adopted a statement on International Terrorism directed against States involved in sustaining international terrorism

which included the following measure: “denial of entry to all persons, including diplomatic personnel, who have been expelled or excluded from one of our States on suspicion of involvement in international terrorism or who have been convicted of such a terrorist offence” (E. Denza 1998).

Article 9 also provides an important legal restraint on absolute immunity. However, because the diplomat can be recalled to the sending State, immunity is usually preserved. If the sending State chooses to terminate the functions of a diplomat in the receiving State, then the diplomat is no longer protected by immunity (V. L. Maginnis 2003). The efficiency of Article 9 may be deduced from the fact that there appear to be almost no cases where a receiving State has found it necessary to resort to its power under paragraph 2 of the Article⁴ to refuse to recognize the person concerned as a member of the mission. In many cases the person is withdrawn before the receiving State can make any official notification. Whether the request for withdrawal becomes public at all and the formality of the language in which it is described owe more to the circumstances and to the political pressures on the sending and the receiving States than to the nature of the behavior which has caused offence. It is not possible to come to firm conclusions on what is a “reasonable period” for the purposes of Article 9. The cases show that where a receiving State has imposed a deadline for removal it has been much shorter than is granted in the case of normal termination of functions. Forty-eight hours’ notice seems to be the shortest which could be justified as “reasonable”. Those declared *persona non grata* or not acceptable leave well within any deadline (E. Denza 1998). Thus, the PNG procedure is harsh and abrupt; however it is a convenient weapon by which receiving States may get rid of an undesirable diplomat. In this regard it would be interesting to bring the following incident: In October 1976 Denmark required the North Korean Ambassador and his entire diplomatic staff to leave on six days’ notice on the basis that they

⁴ “If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this article, the receiving State may refuse to recognize the person concerned as a member of the mission” (VCDR, Article 9, 2).

have used the embassy for the illegal import and sale of drugs, alcohol, and cigarettes. A few days later the Government of Finland declared *persona non grata* the North Korean Charge' d'Affaires and three other diplomats following the detection that Finland had been used as a staging post for drugs destined for other countries in Scandinavia. On the following day the North Korean Ambassador to Norway and Sweden was also declared *persona non grata* for similar reasons.

Abuse of Diplomatic Immunity

Diplomatic privileges and immunities have for long successfully protected diplomatic representatives and other foreign officials from intrusion with their freedom, which may be attendant upon penal proceeding, the objective of which is the limitation of financial or personal liberty in the interests of punishment or deterrence. However, everyday practice indicates that both States and diplomatic agents still have problems with interpreting the relevant provisions of the Vienna Convention on Diplomatic Immunity. Unfortunately, the diplomats are more likely those who rarely tend to misinterpret the extent of their privileges, abuse their inviolability and immunity (R. Vark 2003). The abuse of diplomatic privilege, which always has been a source of tension among countries, is considered to be the main problem regarding diplomatic immunity.

One of the widespread abuses of local laws by diplomats is traffic violations. However, it should be noted that offenders are often not “genuine diplomats”, but rather members of their families, especially “sons of the rich who would flout the law whether protected by diplomatic immunity or not” (Ch. W. Thayer 1959). More serious cases of accidents are caused by reckless driving. To this effect it would be noteworthy to cite a Japanese writer:

“The reason for the high accident ratio of foreign diplomats would seem to be the way they drive. The awareness that they are free from arrest, fine, or other judicial or

administrative sanction of the local authorities, even when they violate traffic regulations or cause accidents, is apt to lead to careless driving” (R. Hatano 1968).

Another offence, not infrequently perpetrated by diplomats, is smuggling of prohibited goods such as drugs, works of art, etc. In this connection it is interesting to mention an incident in which two high-ranking diplomats were involved simultaneously. In 1964, three drug smugglers were arrested in one of the New York hotels. Two of them proved to be ambassadors: one - of Mexico to Bolivia, another - of Uruguay to Moscow; both were considered as “diplomats in transit”. The drugs found with them amounted to 61 kilos of heroin. The sending Governments at once waived their immunity and the Mexican ambassador was dismissed from the diplomatic service of his country for “having left his post without due authorization”.

However, there are certain remedies that customary international law, the Vienna Convention, and other international instruments provide and receiving States can make use of to deal with cases where a person enjoying diplomatic immunity has seriously breached local or international law.

Remedies against abuses of diplomatic status

Waiver of immunity

“The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under article 37 may be waived by the sending State” (VCDR, Article 32,1).

“Waiver must always be express” (VCDR, Article 32, 2).

The response of the receiving State to offences committed by diplomats depends mainly on the gravity of the supposed offence. When more serious crimes are concerned and caution is not considered as a satisfactory punishment it is more likely that the receiving State will request the sending State to waive the immunity of the offending diplomat so that the latter could be tried in court. The waiver of immunity seems to be the most satisfying one as it gives the authorities of the receiving State to try and, if necessary, to punish the guilty

diplomat instantly where the offence is committed (S. E. Nahlik 1990). The waiver depends, however, usually on the goodwill of the sending State or of the diplomat concerned himself. In this connection, two separate questions arise: firstly, who is competent to waive the immunity and secondly, in what form such waiver should be expressed (E. Denza 1998).

In accordance with Article 32, 1, which answers the first of these two questions clearly, diplomatic immunity belongs to the sending State and not to the individual and may be waived by the sending State only. In this regard it is noteworthy that:

“The power to waiver must be exercised by the sending State itself through its sovereign organs and not by the official or agent himself... The Head of the State is in a position to decide “whether or not to waive the privilege of immunity after taking account of the nature of the alleged offence and all the circumstances of the case. Moreover, such a procedure avoids access and abuses of diplomatic assignments. Taking advantage of the protection afforded by immunity could otherwise lead to undeserved impunity in the receiving State” (E. Denza 1998).

As the second question, then it is not addressed by Article 32; this question is thus one to be determined under the national law of each receiving State. A State is entitled to presume that an ambassador is authorized to perform any act which he purports to perform in the name of his sending State.

The waiver must always be expressed and once given the waiver is irrevocable. Although the absence of a valid waiver may be raised at any stage of criminal or civil proceedings, the earlier cases tend to confirm that proceedings are to be regarded as a whole and that it is not possible for the sending State to revoke a waiver once it has been given with authority and with full knowledge of any entitlement. The ILC stated that:

“It goes without saying that proceedings, in whatever court or courts, are regarded as an indivisible whole, and that immunity cannot be invoked on appeal if an express or implied waiver was given in the court of first instance” (ILC Yearbook 1958).

History knows of very few cases when sending States have agreed to waive the immunity of their diplomatic agents. The sending State more likely prefers to recall the diplomat or dismiss him from its service in such cases. The request for waiver of immunity

frequently means that the offence in question is of such a degree that if the sending State does not waive the immunity, the receiving State is no longer ready to recognize the diplomat in issue as a diplomatic agent (R. Vark 2003). States, however, have waived the immunity of their diplomatic agents and one of such instances concerns a Georgian diplomat. The second-highest ranking diplomat of Georgia in the United States, Gueorgui Makharadze, was involved in a tragic automobile accident that resulted in the death of a sixteen-year-old girl, a Brazilian national in 1997 in Washington D. C. He was alleged to have been driving at a high speed and under the influence of alcohol. Finally, the U.S. government asked the Georgian government to waive his immunity, which they did and Makharadze was tried and convicted of manslaughter by the U.S. and sentenced to twenty-one years in prison.

The waiver of immunity, however, does not prevent committing of serious crimes, but can allow justice to take its course where such crimes had been committed. Even then there is no guarantee that States will waive the immunity of their diplomats and as a traditional rule, an undertaking by the State or its agent that immunity will be waived if dispute arises is of no legal effect (R. Vark 2003). However, neither the Vienna Convention nor the *travaux préparatoires* of Article 32 clearly resolve the question of the effect of a prior agreement by a diplomatic agent or a sending State to waive diplomatic immunity or to submit to the jurisdiction of the courts of the receiving State in regard to a particular category of potential dispute (E. Denza 1998). But as in the field of sovereign immunity it is now accepted that a State may agree in advance to submit a class of dispute to the jurisdiction of the court of another State and such agreement may constitute a valid waiver of immunity. Though prior waiver of immunity in respect of criminal offences is still very unlikely, receiving States should consider such steps in regard to such other States whose diplomats tend to gravely misbehave (E. Denza 1998).

Self-defense

Scholars who tend to challenge the absolute nature of diplomatic immunity from criminal jurisdiction regularly argue that the receiving State may appeal to self-defense as the basis for trial and punishment of offending diplomats.⁵ However, one should make a distinction between self-defense as a basis for trial and punishment and as a direct and proportionate reaction to a crime which can cause danger to the lives of other people. As a result, the receiving State may detain a diplomatic agent if he commits a crime to ensure both the security of the diplomat himself and the public. This kind of detention should not be interpreted as punishment or subjecting the diplomat to the criminal jurisdiction of the receiving State. Consequently, self-defense could be used as an abrupt measure of deterrence in the case of threat of irreparable damage to person or property regardless of whether the threat is directed against the State, its agents, or its nationals (R. Vark 2003).

Support for the principle of self-defense as a remedy against the crimes committed by diplomats can also be found in the commentary of the ILC on the article on personal inviolability. It states that being inviolable, the diplomatic agent is exempted from certain actions that would amount to direct coercion, but this does not exclude self-defense (ILC Yearbook 1957). In accordance with ILC, self-defense is a measure of immediate reaction and not as a ground for trial and punishment.

It is very rare, but States have still availed themselves to the principle of self-defense. One of such incidents happened in Paris in 1978, following a hostage-taking operation by a Palestinian inside the Embassy of Iraq. The ambassador, who acted as a mediator, managed to reach an agreement with the Palestinian and the latter finally left the mission premises escorted by two French policemen. But at the moment when the Palestinian was going to get into the police car, the diplomats started to fire at them from the mission premises, killing two and injuring others. The police returned fire immediately in self-defense and consequently

⁵ This was a popular view among writers in the 15th to 17th centuries.

killed one of the Iraqis. The response of the police was justified and proportional and constituted an immediate measure to eliminate danger of injuries to person.

In this regard it would be appropriate to quote a Legal Adviser to the Foreign and Commonwealth Office, who said before the Foreign Affairs Committee of the House of Commons that:

“The doctrine of self-defense in international law is a very restrictive one...we would take the view that the right resort to self-defense arises when there is a serious threat or actual danger, where there is no other means of averting it or bringing it to an end, and that the action taken in self-defense must be limited to what is necessary and what is proportionate” (S. E. Nahlik 1990).

The case of the Armenian Diplomat

During my Policy Internship, which has been conducted in the Ministry of Foreign Affairs, I had several interviews with different diplomats, the purpose of which was to find out whether Armenian diplomats abroad and foreign diplomatic agents in Armenia have ever abused their diplomatic privileges and immunities. In the long run of my interviews I succeeded in finding out several of such cases one of which is as follows: In Washington in 2002, the Armenian diplomat was stopped by a police because of exceeding speed limits. In this regard I discovered that the U.S. Department of State policy assigns “points” for driving infractions and suspends the license of foreign mission personnel who abuse the privilege of driving in the United States by repeatedly committing traffic violations and demonstrating unsafe driving practices. Moreover, stopping a mission member and issuing a traffic citation for a moving violation does not constitute arrest or detention and is permitted. However, the subject may not be obliged to sign the citation. If an individual invokes his/her privilege not to sign a citation, the officer writes the word, “refused,” across the face of the citation. So did the Armenian diplomat, that is, refused to sign the citation, because as a result of traffic violations having lots of such “points”, his license could be revoked if he signed the citation. A copy of the citation and any other documentation regarding the incident should be

forwarded to the State Department. Thus, in several days, Armenian Embassy in Washington received a letter from the State Department requesting an “express waiver of immunity” of the diplomat and his appearance personally before the court for protecting his rights. So, ultimately, the diplomat preferred to appear in court, where he was given the option of paying the fine, after which he could get his immunity back.

Conclusion

As can be appreciated from the different sections of this paper, diplomatic immunity is accorded not for the benefit of the individual, but for the benefit of the State in whose service he is, in order that he may fulfill his diplomatic duties with the necessary independence. A person who possesses diplomatic immunity only possesses immunity from legal process and is still subject to the operation of the law of the land, criminal, or civil. Diplomatic immunity should not permit any individual who is involved in a civil dispute with another member of the community to be in an advantageous position in that dispute so that he can avoid either discharging obligations which he has contracted or making compensation for torts which he has committed. After all, among basic functions of a diplomatic mission is to “promote friendly relations between the sending State and the receiving State...” (VCDR, Article 3, 1 e).

The main issues that have been found out in this paper are as follows: the purpose of diplomatic immunity, which provides foreign diplomats with protection from legal action in the country in which they work; the role of personal inviolability and its connection with diplomatic immunity. In the course of research it has been discovered that personal inviolability has two important aspects, by which diplomatic agents are free from any kind of arrest or detention by the authorities of the receiving State, and the latter has a positive duty to treat the diplomatic agent with due respect and to protect him from physical interference by

others with his person, freedom or dignity. Moreover, through the research it was exposed that the immunity of a diplomatic representative from the criminal jurisdiction of the receiving State was regarded as indistinguishable from his personal inviolability. Thus, I succeeded to find out that the principles of personal inviolability and diplomatic immunity are functionality-based principles, and they are strongly based on reciprocal compromise. In this policy paper the limits to diplomatic immunity were examined and analyzed, according to which the receiving State has the right to declare *persona non grata* a diplomat, if the latter has committed a serious crime. For this reason, in accordance with VCDR, all persons enjoying privileges and immunities have the obligation and duty “to respect the laws and regulations of the receiving state” (Article 41, 1). The paper drew attention also to the abuse of immunity as well as the possible remedies against abuses of diplomatic status. Among the most common abuses of local laws by diplomats, as it was mentioned above, are traffic violations, driving under the influence of alcohol, smuggling of prohibited goods. However, due to certain remedies – waiver of immunity, self-defense - receiving States can deal with cases where a person enjoying diplomatic immunity has broken local or international law. And it is the MFA of the receiving State that will apply pressure through the diplomatic mission for a waiver of diplomatic immunity where there is evidence of abuse. The policy paper brought also a statement on an Armenian diplomat who abused the diplomatic privilege while performing the functions of diplomatic missions in Washington.

Thus, based on the literature concerning diplomatic immunity as well as the information gathered through the Policy Internship, conducted while interning in the MFA, it should be concluded that diplomatic immunity is undisputable rule in international law. The diplomatic immunity is undisputable rule because every country in every situation, even in most critical (for example war, riots) should be sure that the diplomats they sent are safe, and their life is not in danger. These rules are made for the protection of diplomats. Of course if

person with diplomatic immunity commits a crime he/she is not left unpunished. As it was discussed above, if the crime is committed, the sending State can decide to waive the diplomatic immunity from the person committed that crime, or can decide to take its own actions against the offender.

Recommendations

As it was mentioned in this paper there are a lot of cases of abuse of privileges and immunities as well as cases of unofficial acts by diplomats and their family members while performing their official missions in foreign countries. There are also enough cases of abuse of local laws as by Armenian diplomats abroad as by foreign officials in Armenia. Hence Armenia, as a party to VCDR, may become the first country to suggest *the possibility of amendment to the Vienna Convention on Diplomatic Relations*. And the following recommendations may form a part of the amended version of the Convention:

- **Diplomatic immunity should be reformed for the diplomat only and not his family as well.**

As it was mentioned in the chapter concerning the abuse of diplomatic immunity, those who abuse local laws are often not “genuine diplomats”, but rather members of their families. This step will decrease the number of abuse of local laws; it will make the family members of diplomats to aware that immunities granted to diplomats are for effective performance of their official missions. Moreover, this will prevent diplomatic problems between countries.

- **Diplomatic agents should enjoy their diplomatic immunity only in connection with actions forming part of their official functions.**

It will give the sending State the assurance that its diplomats abroad will limit their activities to their official duties. Furthermore, it will assist the receiving State by removing difficult problems, and will increase the dignity of the diplomatic corps accredited to its

Government. In addition, any illegal acts, which are private acts in character or committed relating to private activities, should be under jurisdiction of the receiving State, which can adjudicate over the offending diplomat.

- **Diplomatic immunity should be reformed to fully incorporate the theory of functional necessity.**

If enough states perform such approach, the functional approach may, at some point, ripen into a rule of customary international law, by which all states would be obliged to respect functional immunity. In addition, this approach addresses the issue of reciprocity, that is, States who implement such agreements will be guaranteed the same treatment for their diplomats in the receiving State. Moreover, settlement funds should be established, so that if individuals are harmed by a diplomat performing official acts they may still recover for their injuries. If states put into practice these mechanisms, diplomats will be held liable for their actions. This objective can also be implemented by drafting an additional protocol to the Vienna Convention that permits States to execute bilateral agreements to limit the immunity of their diplomats to functional immunity.

REFERENCES

- A. Matt. (1997) "Diplomatic Immunity is one of the Most Undisputable Rules in International Law". Universal Press Syndicate
(Webpage:<http://hot.ee/alle/diplomat.htm>)
- A. Cassese. (2005) "International Law". Oxford University Press.
- Ch. W. Thayer. (1959) "Diplomat". New York.
- E. Denza. (1998) "Commentary on the Vienna Convention on Diplomatic Relations". Second Edition. Clarendon Press, Oxford.
- G. V. McClanahan. (1989). "Diplomatic Immunity: Principles, Practices, Problems". Hurst and Co. London.
- ILC Yearbook 1957 Vol. I pp. 209-10; Vol. II p. 138. United Nations, New York, 1957
(Webpage:[http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes\(e\)/ILC_1957_v1_e.pdf](http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes(e)/ILC_1957_v1_e.pdf))
- ILC Yearbook 1958 Vol. II p. 97. United Nations, New York, 1958
(Webpage:[http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes\(e\)/ILC_1958_v1_e.pdf](http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes(e)/ILC_1958_v1_e.pdf)).
- J. C. Barker. (1996) "The Abuse of Diplomatic Privileges and Immunities: A Necessary Evil?" Dartmouth Publishing Group, March.
- J. L. Brierly. (1995) "The Law of Nations". An Introduction to the International Law of Peace". Fifth Edition, Oxford at the Clarendon Press.
- John Shaw. (2002) "Privilege of Diplomatic Immunity Facing Challenges From All". The Washington Diplomat, Inc.
(Webpage: http://www.washdiplomat.com/02-03/a5_02_03.html).
- J. Wood, J. Serres. (1970) "Diplomatic Ceremonial and Protocol". Principles, Procedures and Practices. Columbia University Press, New York.
- K. J. Holsti. (1972) "International Politics: A Framework for Analysis". Revised Edition. Englewood-Cliffs: Prentice-Hall, Inc.
- L. S. Frey, M.L. Frey. (1999) "The History of Diplomatic Immunity". Ohio State University Press. February.
- M. Roskin, N. Berry. (1990) "IR: An Introduction to International Relations". Prentice Hall, Englewood Cliffs, New Jersey.
- M. W. Janis, J. E. Noyes. (1997) "Cases and Commentary on International Law". American Casebook Series.

- R. Hatano. (1968) "Traffic Accidents and Diplomatic Immunity". Japanese Annual of International Law, No. 12.
- Rene Vark. (2003) "Personal Inviolability and Diplomatic Immunity in Respect of Serious Crimes".
(Webpage:http://www.juridica.ee/get_doc.php?id=633).
- S. E. Nahlik. (1990) "Development of Diplomatic Law".
(Webpage: http://213.201.204.225/recueil/zwart/Mono/222/222_187-364.pdf).
- UK House of Commons, First Report from the Foreign Affairs Committee. (1984) "The Abuse of Diplomatic Immunities and Privileges".
(Webpage: <http://www.aph.gov.au/Library/pubs/bd/2004-05/05bd141.htm>).
- "Vienna Convention on Consular Relations" (1963) United Nations, *Treaty Series*, vol. 596.
(Webpage:http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf).
- "Vienna Convention on Diplomatic Relations" (1961) United Nations, *Treaty Series*, vol. 500.
(Webpage:http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf).
- "Vienna Convention on Representation of States in International Organizations" (1975) United Nations Publication, Sales No. E. 75.V.12
(Webpage:http://untreaty.un.org/ilc/texts/instruments/english/conventions/5_1_1975.pdf).
- V. L. Maginnis. (2003) "Limiting Diplomatic Immunity: Lessons Learned from the 1946 Convention on the Privileges and Immunities of the United Nations".
(Webpage: http://www.brooklaw.edu/students/journals/bjil/bjil28iii_maginnis.pdf).