



School of Social Science, Humanities and Art
Department of International and European Studies
MA in International Public Administration



TERMINATION OF DIPLOMATIC RELATIONS

Historical, Legal and Political Perspectives

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The undersigned hereby declares that this thesis is entirely my own work and it has been submitted to the Department of International and European Studies in partial fulfillment of the requirements for the degree of Master of Arts in International Public Administration. I declare that I respected the Academic Integrity and Research Ethics and I avoided any action that constitutes plagiarism. I know that plagiarism can be punished with revocation of my master's degree.

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List of Abbreviations

AD	Anno Domini
ACP	African, Caribbean, and Pacific group
ASEAN	Association of Southeast Asian Nations
BCE	Before Common Era
CE	Common Era
Comecon	Council for Mutual Economic Assistance
COREPER	Committee of Permanent Representatives
CSO	Civil Society Organizations
ECSC	European Coal and Steel Community
EEC	European Economic Community
ERP	European Recovery Program
Euratom	European Atomic Energy Community
GATT	General Agreement on Tariffs and Trade
G7, G8	Group of Seven, Group of Eight
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development
ICJ	International Court of Justice
ICT	Information and Communications Technology
IGO	Intergovernmental Organizations

IL	International Law
IMF	International Monetary Fund
MEI	Multilateral Economic Institutions
MERCOSUR	Mercado Comun del Sur
MFA	Ministry of Foreign Affairs
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NGO	Non - Governmental Organization
NIEO	New International Economic Order
NSEE	Non-State Economic Entity
OAS	Organisation of American States
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OEEC	Organization for European Economic Cooperation
R2P	Responsibility to Protect
SAS	Special Air Service
TNC	Transnational Corporation
UNCTAD	United Nations Conference on Trade and Development
UNGA	General Assembly of the United Nations
UN	United Nations

VCCR	Vienna Convention on Consular Relations
VCDR	Vienna Convention on Diplomatic Relations
VCLTIO	Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations
WEF	World Economic Forum
WTO	World Trade Organization
WWII	World War Two

Abstract

This dissertation analyzes the importance of diplomacy and the possible causes that can lead to the termination of diplomatic relations among states. The purpose of it is to present these reasons of termination as well as to prove that there are also other means of communication and cooperation even without diplomatic ties. Diplomacy is the oldest means of communication, mediation as well as a way for resolving conflicts among states. Throughout this thesis, the origins, the legal basis, the conventions, the political perspectives and the necessity of the diplomacy, either directly or indirectly used, are analyzed in detail, following the qualitative methodology. This paper tries to reply to research questions about the reasons that lead to breach of diplomatic relations, the consequences that are caused, the ways through which communication is eventually achieved and finally what is the real importance of diplomacy.

The first part of this thesis presents the historical part of diplomacy, proving its existence even in primitive societies. After that, the creation of the first resident embassies and the topic of immunities, as well as the evolution of diplomacy which led to the development of the foreign ministries, are being discussed. A reference is made upon the term of conference diplomacy which was transformed after the outbreak of wars and contributed in the establishment of the first intergovernmental organisation known as League of Nations. That was the beginning for a series of international conventions and the evolution of multiple international organizations that gave birth to multilateral diplomacy. Public diplomacy, humanitarian diplomacy, environmental diplomacy are new concepts that appeared after the expansion of diplomacy.

During the second part, the legal framework is introduced and examined. The International Law Commission, under UN's orders, codified and greatly contributed to the substance of the Vienna Conventions on Diplomatic and Consular Relations (adopted in 1961 and 1963). In this chapter, the difference among diplomatic and consular functions, immunities, duties and personnel is examined. After this detailed examination, an attempt is made to analyze the diplomatic law nowadays, as well as to discuss the future of the Vienna Convention and the obligations of a diplomat under this.

In the next chapter the issue of the termination of diplomatic relations is explained. A severance in diplomatic relations among states has both legal and political perspectives. Declaring an ambassador *persona non grata*, temporary recall of ambassadors, revolutionary changes of the status quo, termination by agreement, outbreak of war, non-recognition between two states and attacks on embassies or diplomats can lead to deterioration or end diplomatic relations.

However, diplomacy cannot disappear entirely and the same happens with the cooperation and communication of states, even if this communication is taking place in its slightest form. Consequently, disguised embassies, interests sections, consulates, representative offices, front missions, special missions, joint commissions and mediation are some useful ways to maintain some contact among states that severed their relations.

Finally, there are certain study cases that explain how states can be led to terminate their diplomatic relations, how did they manage to communicate or rebuild

their ties as well as what happens in cases where no solution is found. There are examples like USA-Iran, UK-Iran, Algeria-Morocco and the Qatar diplomatic crisis.

Keywords: multilateral diplomacy, diplomatic law, termination, diplomatic relation, immunities, embassies, consuls, breach.

Introduction

Diplomacy is the application of intelligence and tact to the conduct of official relations between governments of independent states, sometimes extending to their relations with vassal states; or, more succinctly, the peaceful conduct of business between states. The *Oxford English Dictionary* is more precise. Harold Nicolson terms it 'precise although wide.'¹ Diplomacy, the Dictionary says, is (i) the management of international relations by negotiation; (ii) the method by which these relations are adjusted and managed by ambassadors and envoys; (iii) the business or art of the diplomatist; (iv) skill or address in the conduct of international intercourse and negotiations. Diplomacy is in fact, as the Duc de Broglie remarked, the best means devised by civilisation for preventing international relations from being governed by force alone. Its operating field is somewhere between power politics and civilised usage, and its methods have changed with the political conventions of each era. There is no lack of evidence that sending emissaries to open negotiations was a common practice among primitive peoples, and that their reception and treatment were often regulated, albeit in a rudimentary way, by custom or taboo.

Diplomacy, the peaceful conduct of relations between political entities, their principals, and accredited agents, has never been without its detractors or supporters. The frenetic pace of contemporary diplomatic activity demonstrates the need for organized dialogue in an era when the relative certainty of a bipolar states system has recently given way to a disorderly, confused multipolarity. The fall of long-established hegemonies and the re-emergence of deep animosities have put a priority on the work of those skilled in mediation, negotiation, and representation. Meanwhile, efforts to restructure and revitalize existing international institutions have tended to center public attention on the execution as well as the administration of foreign policy. More than thirty years ago, Lord Strang, a former British diplomat, remarked: 'In a world where war is everybody's tragedy and everybody's nightmare, diplomacy is everybody's business.'

In order to contextualize the intellectual and practical pillars upon which this international institution is built, an evolutionary perspective on diplomacy is required. Even the most primitive and ancient societies required credible means of communicating and dealing with their neighbors. The process was deemed worthy of a general agreement that the safety of diplomatic messengers be guaranteed by divine sanction.

¹ *Diplomacy* (London, 1939).

Taking into consideration the most recent cases of Afghanistan, Turkey or even France, it is noticeable that the diplomacy and its severance is always topical and significant. To begin with, when Taliban came into power, US embassy withdrew its ambassador and diplomatic personnel. The US government established an embassy to Doha from where they try to exercise the act of diplomacy in the area. Moving on, after the announcement of the new security pact, named AUKUS, among US, UK and Australia, France decided to recall its ambassadors for consultation, a sign of protest towards this agreement that clearly alienated and disdained the French government. Finally, the most recent example of severance of diplomatic relations is Turkey. President Recep Tayyip Erdogan has ordered the ambassadors of ten states to be declared as “persona non grata”. The ambassadors of US, Germany, France, Canada, Denmark, New Zealand, Norway and Sweden made a joint statement about the release of jailed Turkish businessman and philanthropist Osman Kavala. According to the President Erdogan, the ambassadors should leave the country since they do not understand Turkey.

Consequently, it is obvious that diplomacy was, is and will be the most significant means of resolution of a crisis or creation of one, in order a state to achieve its greater goals.

1. History and Origins of Diplomacy.

1.1 The beginning: Pre-modern Diplomacy

Diplomacy is widely thought to have existed since the dawn of time. Indeed, wherever human societies converged around the world, human instinct created a need for secure communication among and on behalf of such diverse societies.

Prehistory and the roots of Diplomacy

Africa, as the "cradle of humankind," most likely witnessed the first expressions of diplomacy. Don Nanjira² explained how the movement from nomadism to permanent settlements prompted the development of governance and government in permanently settled areas as well as the establishment of contacts and relations across borders. A cuneiform tablet sent around 2500 BCE from the Kingdom of Ebla (in ancient Mesopotamia, in what is now Syria) to the Kingdom of Hamazi (in ancient Sumeria, located in contemporary Iraq) was the earliest recorded diplomatic interaction. This communication indicated precise practical traditions linked with diplomacy practice, such as the preservation of archives, reciprocal gift-giving via envoys, and elaborate ceremonial planning—practices that required at least elementary domestic policy organization toward 'other' groups. Geoff Berridge and Alan James³ refer to the inter-kingdom diplomacy of the Near East between 2500 and 500 BCE as 'cuneiform diplomacy,' noting that the system was based on common law, protocol, and even a common diplomatic language. Diplomatic immunity was an emerging legal principle recognized not only among early civilisations but also among primitive tribes all over the world. Such diplomatic norms can be found in many treaties written during antiquity by societies such as the Babylonians, Egyptians, and Assyrians. The Judeo-Christian tradition is based on numerous cases of Hebrew diplomacy documented in various Old Testament books, including 1 Kings 5⁴.

The ancient Near East

Recent historical studies⁵ and translations of the earliest known manuscripts and epistolary exchanges have revealed that diplomatic practice, as we know it, dates back to the mid-third millennium BC in the ancient Near East.⁶

These letters (originally written on clay tablets) provide valuable insight into the interstate relations that existed among these political entities. We have diplomatic stories about trade route⁷ competition and control, strategic military cooperation and

² Don Nanjira, 2010

³ Berridge, Lloyd and Berridge, 2012

⁴ <https://totallyhistory.com/1-kings-chapter-5/>

⁵ Hamilton, K., & Langhorne, R. (1995). *The practice of diplomacy: Its evolution, theory and administration*. London: Routledge. pp. 7-11

⁶ See the earliest known diplomatic letter in Piotr Michalowski, *Letters from Early Mesopotamia*, ed. Erica Reiner (Atlanta, GA, 1993), p. 11.

⁷ Ellen Churchill Semple, 'The Ancient Piedmont Route of Northern Mesopotamia', *Geographical Review*, VIII, 3 (September 1919), 153–79, see 167–69.

counter-alliances, treaty negotiations and ratification, extradition of political fugitives and deserters, emissary orders and dynastic marriages, and the exchange of political, artistic, and 'luxuriously crafted' gifts from them.⁸ They also include terms and expressions that describe the offer of friendship, as well as the formation and acceptance of alliances. These documents also reveal the gestures and rituals used by diplomats to conclude or reject treaties and alliances.

Ambassadors were picked from among top administration officials who displayed a thorough understanding of state affairs and policies. Their primary responsibilities included coordinating their sovereigns' military, commercial, and diplomatic efforts. Ambassadors were assigned to specific missions and given precise orders. The use of plenipotentiary powers was uncommon; it only operated between political institutions with equal authority and influence.

The ancient Near Eastern political order was based on divine principles, with the pantheon's heads serving as state proprietors and ultimate rulers. Treaties were oaths taken before the gods, who were there to witness their swearing. This theory has been proposed as an explanation for why contracting parties performed the throat-touching ritual to seal an agreement.

Ancient China-(656–221 BC) and beyond.

China's state formation was characterized by 'countervailing mechanisms of balance of power'⁹. In other words, Chinese foreign policy was a "game of fleeting alliances with no permanent friends and enemies." Great power rivalry was dominated by ruthless strategies and warfare rather than negotiations. Prior to 656 BC, diplomacy was bilateral and mission-based, involving shifting manoeuvres, bribery, and secret alliances¹⁰. When the Qin Dynasty established a "coercive universal empire" in 221 BC, that logic of dominance proved useful. They clarified the empire's laws and established appropriate rewards and punishments. That self-reliance included psychological training for its citizens to "defend" the empire to the "point of death."¹¹

Diplomacy was widely used to maintain harmonious relations between the central government and the (quasi-autonomous) constituent parts of the Empire during the first two millennia BCE. Shaw¹² explained that the ruling Chinese classes were instilled with ethical values through their education, which included strict limits on violence against innocent civilians. Envoys were sent not only to the immediate region, but also to Persia, Central Asia, and India during the second century BCE.

⁸ Marian H. Feldman, (2006)., pp. 15–17.

⁹ See Victoria Tin-bor Hui, *War and State Formation in Ancient China and Early Europe* (Cambridge, 2005) p. 101. Hui's work provides a thorough discussion on the entry and exit periods of the great powers of China.

¹⁰ Hui commented that Chinese diplomatic activities before 656 BC were 'bilateral and regional rather than systemic in scope'. 'In the multistate era [beginning from 656 BC], guo waged wars against one another, made and broke alliances as they saw fit, and set up diplomatic offices to handle matters of war and peace.' For details, see Hui, *op. cit.*, p. 5 (fn. 20), pp. 54–67.

¹¹ Han Feizi, translated by Watson, p. 79.

¹² Shaw, M. N. (2008). *International law* (6th ed.). Cambridge: Cambridge University Press.

Ancient Greece

In ancient Greece, a collection of small city-states arose, separated by a sufficiently rugged topography to ensure their independence, but linked by sea routes and relatively short land journeys. Diplomacy was required to ensure coexistence and the formation of coalitions as part of an early type of 'balance of power' diplomacy. There were three types of representatives known to the Greeks: the angelos or presbys, the keryx and the proxenos¹³. The first, which meant messenger and elder, were envoys sent on brief and highly specific missions; the second, a herald with special rights of personal safety; and the third, a resident and informal figure similar to a consul.

Diplomatic missions between City-States were said to have become so common by the fifth century B.C. that something resembling our own system of regular diplomatic intercourse had been achieved. Homer's epic poem, the Iliad, which dramatizes the Trojan War, contains a thorough reference to Greek diplomacy at the start of the first millennium BCE. In 776 BCE, diplomatic discussions resulted in a 'Olympic Truce,' allowing competitors and spectators to freely travel to the first-ever interstate Olympic Games.

The Greek historian Thucydides speaks of diplomatic relations among the Greeks, stating that ambassadors were ceremoniously received and courteously treated in each other's territory even at that time. Thucydides is an excellent source of information about the later period¹⁴. Thucydides' narrative of the Peloponnesian War (431–404 BCE) between Greek city states provides an in-depth look at the time's diplomacy. According to Thucydides' description of an allied meeting in Sparta (432 BCE), representatives from city states with antagonistic relationships attended these multilateral conferences, where they were given the opportunity to answer to allegations made by opponents.

Diplomacy among Greek city-states developed a reputation for sophistication and stability in peace and conflict. The public chose their ambassadors based on their oratory talent and persuading skills, and they were a chosen, typically elderly, group. The Greek city states also offered the earliest evidence of diplomatic disputes in public fora (what would later be known as 'open diplomacy').

The steady flow of missions, the acknowledged immunities that kept them relatively safe, and the high level of public discourse paint a picture of remarkably sophisticated, though not always effective, diplomatic activity. While residing in his own state, a proxenos acted for another state. Proxenois were frequently granted citizenship of the state they represented beginning in the fourth century BC.

It has been claimed that the Greeks established the first forms of international organizations. These arguments are based on the premise that the Olympic Games and other such festivals, during which a general cease-fire was observed, marked a period

¹³ See D.J. Mosley, 'Diplomacy in Ancient Greece', *Phoenix*, XXV (1971), 4, 321 and 'Diplomacy in Classical Greece', *Ancient Society*, III (1972) for a more detailed treatment of the whole field.

¹⁴ See H.D. Westlake, 'Diplomacy in Thucydides', *Bulletin of the John Rylands Library*, LIII (1970–71), 227–46.50.

of carefully managed international relations during which cooperative arrangements could be established;

The Roman Empire

Diplomacy was an important institution in the Roman Empire, and much of it was based on Hellenic precedent. Processes comparable to those established in Greece were in use throughout the early days of the Roman Republic. The Roman Empire made little contribution to the evolution of diplomacy, and what did arise was essentially legal in nature. Rome lacked central institutions for the conduct of foreign policy and the upkeep of records.

Immediate problems with neighbors were usually resolved on the spot, with military authorities often being involved. Diplomacy was used as a functional tool by the Roman Empire to manage long-distance legal and commercial business within the empire and to consolidate its hegemony. As a result, the Pax Romana¹⁵, which lasted for the first two centuries of the Empire, achieved extraordinary peace and prosperity. Justinian's Code served as the first foundation for a simple diplomatic law. Foreign envoys were respected by the Romans, and they generally avoided interfering with the person or property of foreign ambassadors on special missions to Rome. Similarly, whenever the Fetiales¹⁶, Roman priests in charge of managing functions regarding Roman relations with other nations, performed diplomatic conversations in other countries, the Republic expected and received respect for their inviolability.

The legal heritage of Roman diplomacy, including its emphasis on a regulatory framework for state business, was its most significant contribution. The enduring notion of *pacta sunt servanda*¹⁷ praised respect to contracts, including treaties. Furthermore, the inviolability of envoys was considered essential enough to be included in *jus gentium*¹⁸. Despite being unilaterally enacted, *jus gentium* was regarded as having universal application because its principles were seen as the rationalist inheritance of all civilized peoples, as Shaw¹⁹ points out. Even among so-called barbarians, envoy abuse was considered unusual, and the murder, injury, or humiliation of an envoy could lead to war.

Byzantium

The Byzantine Empire entailed the entire oikoumene, or civilized world. All other rulers were thought to be in a natural inferior position to the ruler. In his comparison of the Emperor's power, in its rhythm and order, to the harmonious

¹⁵ Pax Romana, (Latin: "Roman Peace") a state of comparative tranquillity throughout the [Mediterranean](#) world from the reign of [Augustus](#) (27 BCE–14 CE) to the reign of [Marcus Aurelius](#) (161–180 CE).

¹⁶ For further details : <https://www.britannica.com/topic/fetial>

¹⁷ Pacta sunt servanda=agreements must be kept

¹⁸ Jus gentium= law of nations.

¹⁹ Shaw, M. N. (2008). *International law* (6th ed.). Cambridge: Cambridge University Press.

movement given to the Universe by its Creator²⁰, Constantine VII put this into theoretical form.

The Byzantine Empire's diplomacy could be patient since it thought in the broadest terms possible, and it could utilize flattery. Byzantine priests could be found spreading the faith, sometimes after conquests, but more often in front of military authority. The other major tactic used by Byzantine diplomacy was to divide foes and entangle them with one another in order to compel them to engage in fighting that the Empire desired to avoid.

Although the Byzantine Empire used diplomacy more frequently, used more of its methods, and used it to play a more significant part in imperial politics than any previous society, there was no institutional precedent for these advancements. Perhaps because the Empire relied so much on information gathering and diplomatic attempts made by its border officers, no forerunner of the resident ambassador existed. The logothete was in charge of the imperial post, the supervision of imperial diplomatic officers across the Empire, the arrival of foreign envoys and their formal presentation to the Emperor and his court, as well as the Empire's internal security. The collection and management of information was probably the most essential activity of the logothete's offices. They knew the imperial neighbors' weaknesses and strengths, their internal political landscapes, the likes and dislikes of influential families, and what and whose interests could be most effectively cultivated in the process of making the clever combinations that could save the Empire from the costs of war.²¹

Diplomacy regained some of the prestige it had enjoyed during classical antiquity as the Middle Ages progressed. Diplomacy, in particular, was utilized by the Byzantine Empire to secure its survival by negotiating security along its broad, fragile frontiers. As Raymond Cohen²² said, Byzantium employed "supple diplomacy instead of costly combat" with great strategic effect.

The Arab world

Diplomacy in the Islamic world began in AD 622 with the establishment of the first Islamic state. The Prophet Muhammad drafted the Medina Constitution, or Charter of Medina, as a means of resolving intertribal dispute. Muhammad hosted a delegation of Christians from Najran in Medina in the year 631. The Treaty of Najran arose from this meeting, and it became the main foundation for diplomatic relations between Islamic and non-Islamic nations²³.

²⁰ D. Obolensky, 'The Principles and Methods of Byzantine Diplomacy', *Congrès Internationale d'Études Byzantines*, 1961, Vol. 1 (1963), p. 53.

²¹ Hamilton, K., & Langhorne, R. (1995). *The practice of diplomacy: Its evolution, theory and administration*. London: Routledge.p.25

²² Cohen, R. (1999). Reflections on the new global diplomacy: Statecraft 2500 BC to 2000 AD. In J. Melissen (Ed.), *Innovation in diplomatic practice*. Basingstoke: Macmillan.

²³ Frederick M. Denny, 'Ummah in the Constitution of Medina', *Journal of Near Eastern Studies*, XXXVI, 1 (January 1977), 39–47.

Diplomacy was necessary because progress toward the Abode of Islam, or dar al-Islam²⁴, as given by Islam, was slower than envisaged and eventually postponed permanently. Diplomacy's contribution to the constant conflict was the proclamation of battles, the exchange of prisoners, and the negotiation of truces. Special missions were dispatched and received with the aim of accomplishing short-term goals. The aman, or safe-conduct, was an important mechanism in Islamic diplomacy at levels lower than missions from foreign monarchs.

From the time of the Prophet Muhammed, emissaries were sent abroad for religious or political objectives. The Prophet is said to have dispatched envoys to Byzantium, Egypt, Persia, and Ethiopia. Later, under the reign of the Abbasid Caliphs, a policy of peaceful and amicable ties between Islamic kingdoms began to emerge. Diplomacy inevitably grew in importance, particularly in areas of international trade. The Fatimid and Mamluk kings dispatched and received diplomatic missions to and from Central and East Asian countries, as well as Europe, and their envoys negotiated treaties of friendship and commerce²⁵.

Ancient India

One of the earliest diplomatic systems, dating back to the Vedic period, was found in ancient Indian state-societies. The Vedic tribes used espionage, adopted diplomatic tactics to resolve intertribal conflicts, negotiated over contested fields, and forged alliances against their foes. By 600 BC, the Indian political scene included a substantial number of well-defined diplomatic and foreign policy terminology and expressions in Sanskrit. For example : sandhi stands for 'peace'; virgraha 'is war'; sama (negotiation), da-na (persuasion), bheda (conciliation) and danda (threat of war)²⁶. Indian diplomacy was influenced by the 'Laws of Manu,' an ancient Hindu scripture that established comprehensive prescriptions and norms for social behaviour, including interactions with foreigners and envoys²⁷. Kautilya, an Indian philosopher and statesman, elaborated on this extensively. Arthashastra, his work on statecraft and diplomacy. Kautilya defined this system in his Arthashastra. Kautilya's²⁸ Arthas'ā - stra ('The Science of Material Gain') was the first document to explain in detail ancient Indian diplomatic objectives and norms. Kautilya was the epitome of a political realist. His Arthas'ā - stra was intended to teach a king how to conquer, defend, and maintain his empire. Artha refers to all of the tangible items that humanity needs for the "virtuous fulfilment of life's obligations." The suffix s'ā - stra, on the other hand, implies "a

²⁴ It is the area of the world under the rule of Islam, literally, "the home of Islam."

²⁵ B. Sen (1965). *A Diplomat's Handbook of International Law and Practice*. Netherlands : Springer. P.5

²⁶ Hamilton, K., & Langhorne, R. (1995). *The practice of diplomacy: Its evolution, theory and administration*. London: Routledge. p.28

²⁷ Calvet de Magalhães, J. (1988). *The pure concept of diplomacy* (B. F. Pereira, Trans.). New York: Greenwood.

²⁸ Indian philosopher and statesman

means of acquiring and guarding the earth," or "a means of possessing all of the tangible things that are required for the realization of life's obligation."²⁹

Virgraha (war), which Kautilya believed best defined interstate relations, is the central subject in his theory of the state. A country's foreign policy is composed of six elements: "entering into a treaty is peace. Doing injury is war. Remaining indifferent is staying quiet. Augmentation of (powers) is marching. Submitting to another is seeking shelter. Resorting to peace and war is dual policy."

Diplomatic relations between ancient Indian states and their neighbors were rather common. Under Emperor Ashoka, envoy exchanges with other kingdoms became more common. Many Indian historians considered him as "one of the finest kings in history." His Dutas (ambassadors) are supposed to have been dispatched to distant places including as Syria, Egypt, Macedonia, Epirus, and Cyrene³⁰. Asoka used Buddhism and nonviolence as a tool for both domestic and foreign strategy. Asoka believed in dharmavijaya, or "conquest by piety," rather than "conquest by force." Actually, Asoka maintained peaceful diplomatic relations with a number of countries.³¹ Also, in the seventh century A.D., Harshavardhana, the Emperor of North India, had diplomatic connections with China.

European states.

Diplomacy may be claimed to have originated in Europe at the same time as the Roman Empire disintegrated. Since the Roman Empire had effectively consumed the whole civilised world known in Europe, there was no place or necessity for the creation of international law or diplomatic relations until that time. However, after the Empire was divided into eastern and western halves in 395 A.D., kings in the eastern half of the Empire were allowed to send envoys to foreign courts for observation and reporting on the political situation, which proved valuable in maneuvering against possible competitors. With the dissolution of the Empire and the weight of numerous influences gaining ground in Europe, feudal rulers began exchanging envoys among themselves.

The Jews

The Hebrew Kings exclusively maintained diplomatic relations with some friendly kingdoms of their choosing among the Jews. They refused to establish any sort of relationship with the majority of their neighbors, whom they regarded as either uncivilized or hostile. Nonetheless, the Jews accepted the ambassadors of friendly governments with whom they maintained relations, and they honored treaty relations.

²⁹ Hamilton, K., & Langhorne, R. (1995). *The practice of diplomacy: Its evolution, theory and administration*. London: Routledge. p.28

³⁰ B. Sen (1965). *A Diplomat's Handbook of International Law and Practice*. Netherlands : Springer. p.4

³¹ Hamilton, K., & Langhorne, R. (1995). *The practice of diplomacy: Its evolution, theory and administration*. London: Routledge. p.31

The medieval world

For several centuries after the fall of Rome, the West's diplomatic connections were generally uncommon, inherently slow, and subject to little progress. There were wars, doctrinal conflicts, the Great Schism, the separation between Pope and Emperor, and outbreaks of class conflict, but through it all, there was a belief in the actual unity of Christendom, which 'was a fundamental condition of all medieval political thought and activity' – the *respublica christiana*. Nonetheless, a system of universally accepted law developed as a result of the combination of Roman law, feudal law, and canon law: two of them had universalist traditions or applications, which gave them a responsibility in controlling diplomatic relations, and the third, feudal law, had a clear element of 'international' law about it due to its concern with rules for the courteous treatment of heralds, prisoners, and non-combatants, as well as the appropriate frameworks for observing truces and treaties.

Medieval diplomacy can be divided into different periods until the introduction of the resident ambassador in the fifteenth century, which began a great upheaval. The earliest period was characterized by the utilization of the *nuncius* and associated with the period's least advanced international civilization. The *nuncius* was defined as a "living letter," and his powers were constrained.

1.2 Renaissance diplomacy and resident embassy

The growth in diplomatic activity among the various Italian political units led to the development of the resident ambassador in the fifteenth century, and spread to the rest of northern and western Europe in the following hundred years, building on a trend³² that began throughout the Middle Ages. This development was a result of political and structural developments that led to the gradual establishment of the sovereign state in place of the medieval system, considerably increasing the number of entities that required to communicate diplomatically with one another.

Diplomacy's history can be divided into two distinct periods, as Fauchille correctly points out. The Italian Republics, particularly Venice, were the first to recognize the benefits of maintaining diplomatic missions. Northern Italy had Europe's first Renaissance blooming without being influenced or ruled by an outside authority. The city-states of northern Italy were able to organize the first efficient governmental systems of the modern world. The city-states of northern Italy were able to organize the first efficient governmental systems of the modern world achieved by none. The result was a multipolar international system in miniature. Intercommunication was both necessary and extraordinarily easy in Renaissance Italy due to the relatively short distances between centers of power, as well as the shared language and historical context. The Peace of Lodi³³ in 1454 was the natural consequence of this situation.

The emergence of the permanent resident ambassador can without a doubt be traced back to the representation of rulers to one another. In the fifteenth century, rulers

³² Milan was the first to establish permanent embassies in other Italian city states and soon extended the practice outside of Italy as well. However, as Cohen (1999: 4) pointed out, the first resident ambassadors in recorded history, at the court of Hammurabi, predated the Renaissance by 3000 years.

³³ Peace of Lodi, (April 9, 1454): a treaty between Venice and Milan ending the war of succession to the Milanese duchy in favour of Francesco Sforza.

needed educated, involved representatives on the ground with fairly secure channels of communication in order to gather information about their neighbors. In Italy, it became common practice to provide the resident with an official salaried and accredited secretary. The resident embassy gradually spread throughout Europe, and by the second half of the seventeenth century, it had become nearly universal. The resident ambassador's status as the "sole international extrusion of his ruler's power and policy"³⁴ was confirmed as the Westphalian system spread around the world. The foreign diplomats in a host capital formed a unique identity as a distinct 'diplomatic corps,' literally a body of diplomats, as a group.

Diplomacy had firmly established itself as the primary pillar of security by the time it succeeded war in 1454. The agitation of the Renaissance, Reformation, and Industrial Revolution changed the shape of the present European world. With the emergence of new Asian and African nations, diplomatic relations between states have become universally applicable. By that time, the practice of accrediting envoys had become so usual that Grotius³⁵ asserted, "There are two maxims in the law of nations relating to ambassadors which are generally accepted as established rules: the first is that ambassadors must be received, and the second is that they must suffer no harm." Diplomacy found fertile ground for development in the aftermath of the disintegration of the Holy Roman Empire. Throughout the 17th and 18th centuries, trade and commerce brought European nations into contact with nations from all over the world.

1.2.1 Immunities

In the late Middle Ages and early modern world, diplomatic immunities came from three sources: religious, legal, and practical. 'The business of an ambassador is peace. An ambassador labours for the public good,' said Bernard du Rosier. The jurists unanimously agreed that "an ambassador is a public official," and by "public," they did not mean a state, but the entire society of Christian Europe.³⁶

Ambassadors were not prosecuted for their own civil or criminal offenses. They were allowed to practice their religion privately. An ambassador was excluded from all local taxes, tolls, and customs fees. It was considered that because an ambassador's immunities were granted by civil law, he was also subject to it. Grotius argued that ambassador security was essential to the system, regardless of what the law mentioned. Practice in the seventeenth century, especially after it was accepted that embassy chapels could follow the religion of their principals, conformed more and more to the principle of extraterritoriality. The spread of the resident ambassador created uncertainty about his immunity from criminal prosecution, which created a greater difficulty.

³⁴ Langhorne, R. (1998). History and the evolution of diplomacy. In J. Kurbalija (Ed.), *Modern diplomacy*. Malta: Mediterranean Academy of Diplomatic Studies, University of Malta.

³⁵ Grotius, *De Jure Belli ac Pacis*, Book II, Chapter XVIII.

³⁶ Hamilton, K., & Langhorne, R. (1995). *The practice of diplomacy: Its evolution, theory and administration*. London: Routledge. p. 48

During the sixteenth century, as the practice of maintaining permanent resident embassies abroad spread across Europe, views toward ambassadorial immunity started to change.

1.3 The evolution of diplomacy

The literature was divided into two sections: one concerned with the qualities an ambassador should have or acquire, and the other concerned with the legal issues around his position, rights, and privileges. Mattingly's stricture derived from discussions about the desirable qualities and skills in an ambassador.

Diplomacy was transformed in the 17th Century by Abraham de Callières, who argued that international relations were a distinct political activity and that diplomacy was the mechanism by which that activity was carried out. The *droit des gens* was distinguished by Wicquefort from the law of nature and civil law. He appeared to accept both the permanence of conflicts and their inevitability, and to consider it as the primary function of diplomacy to manage them effectively.

According to Antoine Pecquet³⁷, a French diplomat, the body of diplomats in every capital or court constitutes a body - a *corps diplomatique*. This body, he claimed, had its own existence, with members executing the same task and treating one other respectfully even when their principals were at war. They shared the same rights and would defend any of their number whose rights had been violated. De Callières' world had grown into a unique political activity, and the terms of his existence had been governed and delineated. As he had realized, he and the foreign ministries that had developed to instruct him were responsible for the functioning of the international political system.

1.4 The development of foreign ministries

“It is vital to negotiate continuously, openly, everywhere, even if one will make no present gain or even anticipate one in the future” according to Richelieu's *Testament Politique*, written privately in 1638 for the guidance of Louis XIII. The resulting addition to diplomatic theory was the belief that continual foreign relations demanded continuous negotiation. Richelieu also proposed a European equilibrium as the guiding principle of international relations.

According to Harold Nicolson³⁸, the Byzantine Empire established the first actual government department dedicated to foreign affairs. In 1626, foreign policy was identified as an autonomous branch of the French government. As a result, a foreign ministry with both political and administrative functions was established.

Until 1626, French foreign affairs were divided among the secretaries of state, with responsibility delegated geographically. The need to maintain complete control

³⁷ Antoine Pecquet (1737). *Discours Sur L'art de Négociier*.

³⁸ Nicolson, H. G. (1954). *The evolution of diplomatic method: Being the Chichele lectures delivered at the University of Oxford in November 1953*. London: Constable.

over these ongoing relationships and communicate with resident ambassadors prompted the establishment of the first foreign ministry in 1626. The French near-hegemony of the late seventeenth century clearly brought expansion to the foreign ministry based on a generally clear division of duties. There was a political department, separated into two sections, dealing with various groups of foreign states, and an efficient system for responding and registering correspondence.

Diplomacy was established in the various European civil services by the nineteenth century, with regulation of recruitment, education, remuneration, promotion, retirement, and pensions. The United States, on the other hand, took much longer to focus on the development of a professional diplomatic service.

1.5 Old Diplomacy

After the Napoleonic Wars, Europe developed a system of international interaction that was remarkable in diplomatic history. Most European states had specialized departments and ministries for the management of foreign policy by the end of the eighteenth century. Diplomacy remained a function of the state it served, but its form and processes were influenced in part by statesmen's willingness to adhere to notion of a concert of Europe.

1.5.1 The European concert: using conferences in peacetime

Like conference diplomacy in the early 1920s, congress diplomacy arose from a wartime coalition and developed to rely heavily on the individuals involved and their relationships with one another. It was a strategy that suited Metternich, an accomplished diplomat who could generally leverage his relations with other monarchs and statesmen to Austria's benefit. 'The tongue loosens, the heart opens, and the need to make oneself understood sometimes outweighs the dictates of a cold hard calculation,'³⁹ Metternich observed in ministerial meetings. Despite the gap that appeared at times to exist between the conservative autocracies of Austria, Prussia, and Russia and the constitutional, and increasingly liberal, kingdoms of Britain and France after 1830, the major powers remained committed to the concept of a European concert. Instead of ministerial congresses, ambassadorial conferences became the instrument by which they sought to both govern the affairs of their smaller and weaker neighbors and face the problems that national revolutions caused to the territorial status quo.

Conference diplomacy could reduce local tensions when the big nations were willing to cooperate. It may also serve as the foundation for multilateral regulation of global economic and social issues. Castlereagh considered developing mechanisms for enforcing and monitoring traffic suppression by establishing what he called a "sort of permanent European Congress" comprised of committees of representatives of the powers and a secretariat to monitor the application of laws toward the trade and

³⁹ G. de Berthier de Sauvigny, *Metternich and His Times*, trans. P. Ryde (London, 1962), p. 119.

"enquire into the progress made and the extent of the evil remaining."⁴⁰ The courts, which were essentially a form of judicial diplomacy, were a legal novelty and are now regarded as one of the earliest attempts to apply international human rights law.

1.5.2 The expansion of diplomacy

The emergence of new states in the Balkans and Latin America, as well as the establishment of formal and regular contacts between European governments and some of Africa's and Asia's ancient monarchies, meant that the international network of diplomatic relations continued to expand throughout the nineteenth century. Chiefs and high-ranking officials were occasionally appointed to look after the interests of foreign communities; messengers and other emissaries involved in negotiation; the principles of immunity and protection from arbitrary arrest were widely accepted; and etiquette and protocol played an important role in mission reception. The pattern of such exchanges included gift-giving as well.

Permanent European missions in West Africa were either consular, and hence predominantly commercial, or administrative, as in the case of colonial governors. However, special envoys were periodically deployed to resolve specific issues. Failure on the part of Asian or African rulers to match European norms in the conduct of foreign relations resulted in the imposition of severe retaliation. The siege of the foreign legations in Beijing in 1900 was one of the most well-known assaults on European ideals of diplomatic conduct.

1.5.3 Consuls and service attachés

Foreign ministries' and diplomats' responses to business necessities, as well as the strategies they used to utilize their economic resources, differed per country. Tariff and trade agreements were often negotiated by ministries of commerce and other domestic authorities, with private individuals playing a significant role in some cases. Consuls and consular agents were primarily responsible for acquiring economic intelligence and assisting merchants. Since they were originally brought under official patronage in the seventeenth century, their responsibilities have constantly increased.

The French government established a corps of commercial attachés in 1906, which was later linked to the rank of first-class consuls. Commercial attachés were appointed during a period of growing economic rivalry among the main industrial and industrializing nations. At the same time, modern technology was changing the art of war, emphasizing the importance of national defense having up-to-date information.

The essential usefulness of service attachés rested in their ability to keep their governments informed on military and strategic developments overseas. When friendly and ally powers wanted to coordinate their military preparations during a crisis, they could communicate with admiralties, war ministries, and general staffs.

⁴⁰ Keith Hamilton and Patrick Salmon (eds), *Slavery, Diplomacy and Empire: Britain and the Suppression of the Slave Trade, 1807–1975* (Brighton, 2009), pp. 5–6.

1.5.4. Diplomacy in transition

The onset of the First World War signaled the end of a forty-three-year period of peace between Europe's great powers. Periodic crises, colonial wars, and warfare in the Balkans and the Far East had ruined the European peace, which looked to rely increasingly on the maintenance of the balance between rival military alliances, whose exact conditions were kept hidden from the wider public. There were also many who argued that the state system and the ways in which governments interacted with one another needed to be changed. Diplomacy, rather than being reborn, was reformed.

1.6 The 'new diplomacy'

1.6.1 The impact of war

In 1905, Jules Cambon said that "modern diplomacy" had been overthrown by improved communications, the press, and democratic indiscretion. He would also note, a quarter-century later, that talking about new and old diplomacy was "making a contrast without a difference". Two themes may be observed in the writings of would-be reformers that had a direct influence on relations among nations.

Diplomats were ill-equipped to deal with the growing importance of war in international relations because they had become accustomed to a long period of peace. The need to make instant choices during conflict led political leaders to try their luck at personal diplomacy, posing a new challenge to diplomats' authority. Other reformers placed a greater focus on the development of new mechanisms for the regulation of international politics.

The onset of World War Two increased diplomatic efforts to urge non-belligerent states to join the Allied fight or maintain benevolent neutrality. Cabinet diplomacy was conducted with the manners, but not the openness, of a market-place, as allies competed for the services of their friends and enemies. In the meantime, propaganda came to the fore. The greater engagement of foreign ministries and diplomats in propaganda reflected the increased importance of public opinion in international affairs. The war necessitated the mobilization of national resources, especially manpower, on an unprecedented scale, and just as it was helpful to destroy the enemy's morale and win friends abroad, it was critical to sustain public support at home.

'Diplomacy by Conference' refers to the practice of managing inter-governmental interactions through direct and frequent consultations between the principal Ministers concerned. It was a perfectly natural development in wartime, when allied governments needed to make decisions quickly, and when, in Hankey's words, "the problems presenting themselves to the Allies were too numerous, too varied, too technical, and too urgent to be dealt with solely through the normal diplomatic channels."⁴¹

⁴¹ Lord Hankey, *Diplomacy by Conference: Studies in Public Affairs, 1920–1946* (London, 1946), pp. 12–15.

1.6.2 The League of Nations

As a result of another conference achievement, the creation of the League of Nations Covenant (1920), which comprised the first element of each of the five post-war treaties, many more amateur diplomats were destined to get active in the process of international negotiation.

The principle of collective security, as embodied by the League of Nations, was straightforward when it came to the maintenance of peace. Its members were required to settle their differences amicably and not to go to war with one another until they had exhausted the arbitration and conciliation procedures outlined in the covenant. Those that ignored or violated these norms and went to war would be deemed to have committed an act of war against all other member states, and they would be subjected to automatic economic sanctions as well as threats from the rest of the membership's overwhelming military force.

The unique structure of the League of Nations lay in its attempt to widen and universalize the types of commitments that governments had previously entered into through treaties of alliance and arbitration. There was no evident precedence, however, for either the Assembly, in which all member nations were to be represented with equal voting rights, or the Secretariat, which was to serve the League's other two institutions. In theory, the League stood in stark contrast to secret diplomacy. The number of resident delegations expanded steadily, and by 1937, there were forty-six of them, organized into a corps diplomatique with an elected doyen. More than half of them were autonomous and solely accredited to the League. Others, despite having offices in Geneva, were nothing more than consulates that served as permanent delegations. They differed in composition, terminology, and power. Others, despite having offices in Geneva, were included in, or reliant on, their countries' missions elsewhere.

The League of Nations was formed in response to the desire of peoples and governments for a more orderly conduct of international relations, and it supported the use of judicial procedures in the resolution of conflicts. The Permanent Court of International Justice was able to provide advisory opinions on international legal issues.

1.6.3 Conference diplomacy

Ambassadors' conferences and ad hoc gatherings of international leaders were also held during the first three years of peace. The former was the outcome of a resolution made by the allies in July 1919 to establish a permanent committee of representatives to interpret the peace treaties. The latter was formally established on January 26, 1920.

Conference diplomacy saw ambassadors' responsibilities reduced to addressing low-level and routine concerns, preparing for future meetings, and putting ministerial decisions into action. The continuance of conference diplomacy not only hindered the League's ability to act, but also hampered the return to more traditional patterns of diplomatic engagement among European powers. Conservative critics had long

supported that foreign relations were a complex business requiring a mastery of specific negotiating skills few politicians possessed.

There was an increase in the pace and tempo of ministerial diplomacy throughout the interwar years. The crisis-laden atmosphere of the late 1930s prompted British and French statesmen to take initiatives that would otherwise have been left to diplomatic agents. Another characteristic of diplomacy in the 1930s was the reintroduction of unofficial and non-diplomatic intermediaries by states. Their employment, however, seemed to inevitably enrage career diplomats, who complained bitterly about how ministers and their private agents had stolen their work.

1.7 Total diplomacy

Summitry became commonplace in diplomatic practice as multilateral diplomacy expanded at both the global and regional levels. Several multilateral treaties were signed during the nineteenth century (including the 1815 Congress of Vienna). International law as it relates to warfare was one sector that profited directly from the rise of multilateralism. The development of weapons of mass destruction increased tensions of diplomatic negotiations to unprecedented levels.

Diplomacy, like warfare in the twentieth century, became complete in its goals and subject matter. A growing number of industrial, social, and technological issues were deemed to have an international dimension. The Second World War undermined the assumption that any intergovernmental organization short of universal membership could contain state rivalry. The United Nations became an extraordinary center of global diplomacy and international institution-building.

1.7.1 The United Nations

Between 1939 and 1945, significantly less was said about the flaws of secret diplomacy than during World War I. Roosevelt envisioned an organization in which executive power would be shared by the United Kingdom, the United States, the Soviet Union, and China for many years to come. The term "United Nations" was first used in January 1942 to denote what was effectively an anti-Axis alliance. The charter was eventually ratified by representatives from fifty states at the San Francisco Conference

After the Second World War, diplomats were trained to defend their governments before audiences and in front of cameras. The importance of these innovations for diplomacy is questionable. The Assembly has long appeared to be a talking shop where delegates indulge in hollow rhetoric. Delegates used procedures associated with legislative tactics rather than diplomatic engagement.

The Group of 77 (G77), which is comprised of more than 130 developing countries. Its support for the concept of a new international economic order (NIEO) is intriguing in terms of the history of diplomatic practice. It used ministerial meetings, regional conferences, and discussions and cooperation among ambassadors from member countries in foreign capitals to formulate and propose detailed policy programs. It also contributed to what Gidon Gottlieb referred to as "parity diplomacy,"

in which groups of governments, rather than individual sovereign states, negotiated with each other on equal terms with the objective of reaching an agreement by consensus. Indeed, the development of group diplomacy in the 1960s and 1970s matched a tendency toward geographical classification of Assembly members and entities such as UNCTAD.

Multilateral (or parliamentary) diplomacy at the United Nations necessitates a detailed understanding of debate procedures and rules. Permanent delegations are similar in size and composition to other diplomatic missions, but their duty is far more public. They defend not only their country's national interests, but also its national image. Another issue with multilateral diplomacy within the framework of the U.N. has been the politicization of some of the organization's technical agencies.

Consequently, the United Nations provides a framework for modern multilateral diplomacy and establishes standards of international behavior in a culturally and ideologically varied world.

1.7.2 Multilateralism and the diplomatic specialist

Following World War II, large-scale endemic poverty introduced the concept of development into the realm of international relations for the first time. Therefore, the establishment of an Economic and Social Council at the UN was entirely natural. Bretton Woods established the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD). The Marshall Plan (European Recovery Programme (ERP)), as it is more commonly known, provided significant financial support to Europe's suffering economies. It also provided new opportunities for a new breed of professional diplomats. The Organization for European Economic Cooperation (OEEC) was established in 1948 with the explicit goal of aiding in the distribution of American aid. This was a revolutionary initiative in peacetime diplomacy that served as a model for other international organizations.

The establishment of the North Atlantic Treaty Organization (NATO), a military alliance that linked the United States and Canada to a ring of European states ranging from the Arctic to Anatolia, was followed by a rash of new diplomatic postings. Its delegates were subsequently replaced by permanent representatives selected by allied nations. The OEEC's transformation into the Organization for Economic Cooperation and Development (OECD) in 1960–61 represented this trend of mutual interest. It serves as a venue for senior civil servants to consult rather than negotiate. The evolution of European communities was accompanied by a corresponding expansion of specialist diplomacy. The earliest of them was the European Coal and Steel Community (ECSC), founded in 1951. The same governments signed the Treaty of Rome, establishing the European Economic Community and the European Atomic Energy Community (Euratom). A Committee of Permanent Representatives (COREPER) was also formed to prepare work for the Council and to carry out tasks assigned by ministers.

One of the more perplexing aspects of the nomination of permanent representatives to international organizations is their position in the diplomatic

hierarchy. Problems of precedence and etiquette evolved, which in some circumstances mirrored those of Renaissance Europe's courts. There was nothing in the European Community that could be compared to a diplomatic service. Nonetheless, the EEC has negotiated and signed commercial treaties with non-member countries since its establishment. It also engaged in 'associative diplomacy' with other trading blocs and regional groupings, such as the African, Caribbean, and Pacific group (ACP) and the Association of Southeast Asian Nations (ASEAN), as well as the Council for Mutual Economic Assistance (Comecon), which linked the economies of Soviet-dominated Eastern Europe. Its delegates attended OECD, UNCTAD, and the General Agreement on Tariffs and Trade (GATT) conferences and negotiations.

The OECD's Development Assistance Committee (DAC) invented the term "official development assistance" (ODA) in 1969. The 1970s were a particularly trying decade for the developing world. The Cold War's polarization influenced the aid debate as well. The abrupt escalation of the Latin American debt crisis in mid-1982, and its vast domino effect, presented the international community with unprecedented management challenges. The passage of the Declaration on the Right to Development by the United Nations General Assembly in 1986, which identified development as a "inalienable human right," was a defining moment.

1.7.3 New-state diplomacy

The emergence of the Developing World has been a multidimensional, complicated process, with distinct variables affecting various geographical regions. Diplomatic presence remains one of the most visible demonstrations of state sovereignty, and governments were sometimes all too willing to indulge in diplomatic trappings. Visible participation of their leaders in high-level multilateralism and summitry symbolized their countries' "coming of age" in global diplomacy. The tendency to be more aggressive and activist manifested in a diplomatic method that prioritized group dynamics, which Bahgat Korany⁴² refers to as 'Third Worldism.' Visible participation of their leaders in high-level multilateralism and summitry symbolized their countries' "coming of age" in global diplomacy.

The Third World's absence of professional diplomatic services was largely owing to a lack of financial and legal skills, which modern diplomacy frequently necessitates. Another issue, caused by inexperience and low staffing levels, was ineffective liaison between foreign ministries and missions abroad. Presidents and prime ministers of states large and small occasionally sought to improve their domestic reputation by proving their diplomatic skills overseas.

The disintegration of the Soviet Union and Yugoslavia, as well as the establishment of twenty-one states, stretched Western foreign ministries' finances and pushed them to consider sharing mission facilities with like-minded countries. Diplomatic inflation also weakened the intimacy that previously distinguished the corps diplomatiques of Europe's great capitals.

⁴² Korany, B. (1986). *How foreign policy decisions are made in the Third World: A comparative analysis*. Boulder: Westview Press.

1.8 Diplomacy dispersed

Advances in communications technology may have contributed to the spread of diplomacy. Satellite and digital networking have facilitated and enabled quick communication between groups and individuals, regardless of location or borders. The tendency toward a more scattered diplomacy, on the other hand, predates the development of the computer.

1.8.1 Transformational diplomacy

Diplomatic ingenuity was more visible after the fall of the Berlin Wall. Career diplomats were recruited to find prospective funding schemes, as well as to seek out and negotiate contracts with consultants. Specialised advisers were added to embassy staffs to assure project completion.. Climate change, drug trafficking, political and religious fanaticism, and terrorism posed greater challenges to international stability, internal security, and human well-being than traditional intergovernmental diplomacy. Condoleezza Rice spoke of America's need for "transformational diplomacy," or "diplomacy that not only reports on the world as it is, but seeks to alter the world itself," in a speech delivered on January 18, 2006 at Georgetown University.

1.8.2 Public diplomacy in transition

Foreign ministries have traditionally worked to sway domestic and international public opinion. The most recent communications revolution has given diplomats far more sophisticated instruments for influencing, exploiting, and responding to public concerns. It has also provided NGOs with the means to raise their public visibility and consolidate and expand their responsibilities as global players. According to Brian Hocking, "public diplomacy is now part of the fabric of world politics".

Similarly, as shown in the evolution of transformational diplomacy, the emphasis has been on shaping and fostering partnerships between societies rather than between sovereign states. In the meantime, states have had to accept a world in which NGOs and CSOs wield power over which they have no direct control. Now that this is a globalized force, it can generate an image that is not always correct, which may necessitate public diplomacy to bring influence to bear before it goes badly on a specific country, or to act as a counterweight when it does. In the case of institutions such as the World Economic Forum (WEF), a very new type of platform on which public diplomacy as well as the more traditional variety may be required to speak is visible⁴³.

1.8.3 Non-governmental diplomacy

Diplomacy's participants have necessarily evolved throughout time. IGOs and transnational corporations (TNCs) are two groups that have long existed but have

⁴³ G.A Pigman, *World Economic Forum: A Multi-Stakeholder Approach to Global Governance* (London 2007).

recently moved from the periphery to the center stage. In response to the growing sense of economic inequality in the world, the Bretton Woods IGOs have begun to act more as if they were de facto global economic directors. This has given them a more prominent diplomatic position and expanded the variety of other characters with whom they must conduct business.

The shift from internationally operating companies with home bases in specific countries to globally operating businesses has resulted in a corresponding shift in behavior for TNCs. Because of the public's interest in the local effects of the globalized economy, issues such as workers' rights, environmental protection, and demonstrating social responsibility all have diplomatic implications. Finally, the most significant diplomatic weapon is the threat that they will withdraw activity and investment from a certain country or refuse to come unless favorable conditions are created locally.

1.8.4 Multilateral economic institutions and diplomacy

In the fifty years following WWII, a trio of multilateral economic institutions (MEIs) dominated the field now known as non-state economic entity (NSEE) activity: the IMF, the World Bank, and GATT (and its successor, the WTO). Other, more specialized institutions have developed as well. Regional development banks and United Nations specialized economic agencies these agencies established their own policies, institutional identity, and sense of mission, as well as decision-making systems and diplomatic channels.

The vast majority of professional staffs in many organizations serve as diplomats, either formally or informally, at least in terms of information gathering and communication. Intensive lobbying, public relations efforts, and protest activities have compelled MEIs to reexamine policies and adjust actual diplomatic procedures. As certain MEIs have reformed, their representation to governments has also evolved.

1.8.5 Trade, finance and diplomacy

Trade diplomacy is one of the oldest diplomatic activities, and it has never lost its importance. The task of constantly checking the global system's operation generates diplomatic activity across government agencies. Peaks of activity occur during specific rounds of potentially liberalizing discussions, such as the late-twentieth-century 'Uruguay Round' and the early-2000s 'Doha Round'. Some wealthier countries maintain permanent representations to the World Trade Organization (WTO) headquarters in Geneva. Embassies and consulates around the world have trade experts on their staff. Regional organizations such as MERCOSUR, NAFTA, and ASEAN provide an additional layer of trade diplomacy.

As previously stated, the demands of public diplomacy involve a significant component of trade and inward investment promotion. Shifts in international and transnational investment patterns have frequently been accompanied by currency market upheavals, necessitating diplomatic involvement. The stresses of regulating

floating exchange rates increased the necessity for swift international cooperation among countries and central bankers.

The new economic environment of the 1970s resulted in annual meetings of finance ministers, which were later institutionalized as the G7, and then the G8. Because of these volumes, as well as the market's sensitivity to the floods of information released by the internet, diplomacy between governments, bankers, and transnational private actors has had to reflect the increased frequency of meetings, the heterogeneous nature of the participants, and the urgent need to work very closely together.

1.8.6 Global environmental and humanitarian diplomacy

Negotiators often recognize the benefits of involving non-governmental organizations as representatives of key stakeholders in such discussions. NGO engagement can contribute to the most effective international response to a specific environmental threat and promote a more transparent intergovernmental process. Despite their shared goal for a "better regime," they are not self-sacrificing altruists. They utilize their bargaining power to advance specific interests and to steer discussions toward desirable outcomes. They represent specific entities in the most effective way possible through diplomacy. Along with the growth of major worldwide impact exercised by environmental CSOs, there exist the less well-known humanitarian CSOs.

The growing involvement of private actors in human rights – beyond those whose business they are – necessitates the development of a new sort of diplomacy: public pressure on governments and corporations. There is little doubt that private actors have taken on new roles in contemporary humanitarian crises; they have developed a new relationship with the crises as well as all other parties engaged.

Conclusion

Despite a multilateralism crisis in the 1980s, an expanding number of international organizations and ad hoc world summits sought to address common global issues. As the twentieth century was over, and in the face of many new challenges posed by changing geopolitics, scientific invention, a growing global population, and potential environmental disasters, the main trend in diplomatic practice appeared to be geared toward cooperative management of humanity's problems, whether at the subnational, transnational, regional, or global levels. Global issues may necessitate global solutions, but in a world of more than 190 sovereign governments and a plethora of non-governmental and transnational organizations, diplomacy has yet to establish procedures capable of achieving global consensus. The necessity for diplomatic adaptation and innovation is not new.

2. The Law of Diplomacy

Diplomacy as a means of communication among multiple parties, including discussions between recognized agents, is an ancient institution. One of the earliest expressions of international law is the rules governing multiple aspects of diplomatic relations. Diplomatic relations were previously conducted through the channel of ambassadors and their staffs, but with the expansion of commerce and economic interactions, the position of consul was founded and expanded.

International law (IL), as suggested by the Latin term *Jus Inter Gentes*, is the set of norms that govern relations between states. This body of law is one of the most important institutions of international society, and it has traditionally been intimately tied to diplomatic studies, given how much diplomacy relies on consensus on international engagement rules. The field of international law can be broadly separated into 'public international law' and 'private international law,' with the latter dealing with international cases when municipal laws⁴⁵ contradict. A third subfield of international law is supranational law, which refers to laws enacted by entities (such as the European Union) to which governments have delegated some of their jurisdiction.

The number of specialized domains within IL has considerably increased. Diplomatic law is one such area of expertise. There can be no assurances that individual governments will not violate the international rules that govern diplomatic law. However, most states are afraid of fines and isolation if they do so. This is significant because diplomatic law, in reality, suffers from the same restrictions as its parent body of international law: there is no supranational authority to enforce⁴⁶ it.

The International Law Commission

The opinion of leading authorities is an essential source of diplomatic law, as well as international law in general. The General Assembly adopted Resolution 174(II) on November 21, 1947, advocating for the establishment of an International Law Commission (ILC). The 15 members of the Commission would be nominated by UN member states and elected by the General Assembly, although they would serve in their individual capacity as "persons of recognized competence in international law" (ILC 2018). The Commission worked closely with the International Court of Justice (ICJ), the UN's judicial organ, to serve the wider UN community. The General Assembly decided in 1981 to expand the Commission's membership and structure it along geographic lines. The Commission would include a total of 34 members, 21 of whom would be nationals of Afro-Asian and Latin American countries (UNGA Resolution A/RES/36/39 of November 18, 1981). The ILC's combined legal expertise has made a substantial contribution to the formulation and explanation of growing diplomatic law over its 70-year history. The Commission's work on the substance of the Vienna Conventions has been the most significant contribution to date.

⁴⁵ Municipal law is the set of domestic laws of a particular state.

⁴⁶ Notwithstanding the role of the UN Security Council, which under international law and in terms of the UN Charter is entitled to commission the use of force if international peace and security is threatened? Coercive action by the UNSC is very rare, and almost invariably contentious—witness the intervention in Libya during 2011.

2.1 Sources of Diplomatic Law

2.1.1 Codification of Diplomatic Custom

Its codification, on the other hand, is relatively new, having begun during the 1815 Congress of Vienna. The legal deliberation on precedence (an agreed ranking order) and official rank in diplomatic practice was characteristic of a larger expansion of international law during the nineteenth century, but as Malcolm Shaw⁴⁷ pointed out, this body of law was 'founded upon Eurocentrism and imbued with the values of Christian, urbanised, and expanding Europe.'

The League of Nations formed a Committee of Experts for the Progressive Codification of International Law in 1924 to evaluate revisions to the 1815 and 1818 classifications of diplomatic agents, as well as their diplomatic prerogatives and immunities. By the end of the war, international law had progressed to the point where the legitimacy of violence as a tool of foreign policy had been undermined, clearing the way for the UN Charter to condemn it. This historic event restored diplomacy's theoretical monopoly and signaled several decades of intensive diplomatic law development.

2.1.2 The United Nations Charter

All signatories, i.e. all member nations, are legally bound by the Charter, which, under Article 103, surpasses any other conflicting international agreement. The United Nations' universal membership allows it to function as a permanent diplomatic conference, with its many resolutions setting precedents and defining the developing legal boundaries of diplomacy⁴⁸. The General Assembly (Chapter IV), the Security Council (Chapters V and VII), the Economic and Social Council (Chapter X), the Secretariat (Chapter XV), the International Court of Justice (ICJ) (Chapter XIV), and the Trusteeship Council are the six primary organizations of the United Nations (Chapter VIII).

2.1.3 The Vienna Conventions

The UN, which had inherited the League of Nations' mandate to codify customary diplomatic law, formally requested the ILC "to undertake, as soon as it considered it possible, the codification of the topic "Diplomatic intercourse and immunities" and to treat it as a priority topic" on December 5, 1952. (UNGA Resolution 685, VII). The Vienna Convention on Diplomatic Relations (VCDR) was adopted at the 1961 UN Conference on Diplomatic Intercourse and Immunities. It was followed by the Vienna Convention on Consular Relations, which was adopted in 1963. (VCCR).

⁴⁷ Shaw, M. N. (2008). *International law* (6th ed.). Cambridge: Cambridge University Press. p.39

⁴⁸ Berridge, G. R. (1995). *Diplomacy: Theory and practice*. London: Prentice Hall. p.1

The Vienna Convention on Diplomatic Relations, entered into force in 1964⁴⁹, emphasized the functional importance of diplomatic privileges and immunities for the successful conduct of international affairs while also referring to the diplomatic mission's status as representing its state. It codified existing laws while also enacting new ones.

Diplomatic relations are based on mutual consent. As a result, the Convention stipulates in article 4 that the sending state shall ensure that the receiving state's consent (or agreement) for the proposed head of its mission has been obtained, with no need to provide reasons for any refusal of consent. Similarly, under article 9, the receiving state can proclaim any member of the diplomatic mission *persona non grata* at any moment without having to justify its decision, resulting in that person's deportation.

Article 3 outlines the fundamental objectives of a diplomatic mission, which include representing and protecting the interests and nationals of the sending state, as well as promoting information and cordial relations. Article 41(1) further emphasizes the obligation of all persons enjoying privileges and immunities to follow the receiving state's laws and regulations, as well as the need not to interfere in that state's internal affairs. On presentation of credentials, the head of the mission is assumed to have taken up his functions in the receiving state, according to Article 13.

Their importance is functional as well as political, since they established a *de facto* legal system within the older states' system. The consensus that permitted the conventions to be adopted ensured that states who were previously outside the European tradition followed the rules of diplomacy. The VCDR is 'generally regarded as indicative of what is now customary law—which means that it binds even those few states that have not formally adhered to it,' as Alan James pointed out.

The International Court of Justice (ICJ) confirmed⁵⁰ in 2005 that the Vienna Conventions continue to apply in state-to-state relations even when there is an armed conflict between the parties. It's worth noting at this point that, under international law, a state has no right or obligation to establish diplomatic relations with any other state(s): relations are only maintained by mutual consent. However, if the UN Security Council determines that diplomatic relations are creating a threat to international peace and security, the opposite may be required.

2.1.4 Evolving Legal Doctrine and Diplomatic Practice

There is a growing emphasis on nations adhering to legal commitments in their domestic affairs as well as in their transnational and international relations, raising the specter of 'conditional' sovereignty. The traditional (Westphalian) cornerstones of international law, sovereignty and non-intervention, were reaffirmed in the 1945 UN Charter by Article 2(7): 'Nothing contained in the present Charter shall authorize the

⁴⁹ The importance of the Convention was stressed in the *Iranian Hostages* case, ICJ Reports, 1980, pp. 330–430; 61 ILR, p. 556. Many of its provisions are incorporated into English law by the Diplomatic Privileges Act 1964.

⁵⁰ As emphasised by the ICJ in its ruling of 19 December 2005 in the case of *Democratic Republic of the Congo v. Uganda*. ICJ Reports, 2005: 168, 274.

United Nations to intervene in matters essentially within the domestic jurisdiction of any state.'

As diplomatic efforts to resolve humanitarian disasters failed, the doctrine of Responsibility to Protect (R2P) emerged as a result of this failure. The 2005 World Summit Outcome Document effectively made R2P international law, but its implementation has been fraught with controversy. The intervention in Libya in 2011 sparked commotion in terms of diplomatic law. As the intervention unfolded, Libyan diplomats around the world found themselves in a legal void.

2.2 Diplomatic Versus Consular Functions

2.2.1 Diplomatic Functions

Until the fifteenth century, most diplomatic missions constituted temporary visits to foreign countries to complete a specified task. Article 3 of the 1961 Vienna Convention on Diplomatic Relations established the tasks of a diplomatic mission in a host state. The de facto (as seen by practice) scope of diplomatic activities has grown, manifested itself in ways other than bilateral diplomacy, most notably multilateral diplomacy.

2.2.2 Consular Work: An Extension of Public Service

Notary and civil registry services, such as passport and visa providing, birth and electoral registration, are provided by consular offices. Consular offices may also foster commercial, economic, cultural, and scientific relations between their home country and the host country. As a result, they must be cognizant of existing and emerging international law, as codified in treaties and other instruments.

Consuls represent their country in a variety of administrative capacities, such as issuing visas and passports and generally promoting their country's business interests. They are based not only in the recipient states' capitals, but also in the most important provincial cities. However, their political activities are limited, and as a result, they are not granted the same level of immunity from jurisdiction as diplomatic agents. Consuls must have a commission from the sending state as well as a receiving state's authorisation (exequatur)⁵¹. They are entitled to the same tax and duty exemptions as diplomats.

Article 31 emphasizes that consular facilities are sacred and may not be visited without the authorization of the receiving state's authorities. Article 35 guarantees freedom of communication by emphasizing the inviolability of the consular post's official correspondence and stating that the consular bag shall not be opened or detained. If the bag includes anything other than official letters, documents, or articles, they may request that it be opened; if this is refused, the bag will be returned to its original location. Consular personnel are free to contact with and have access to citizens of the sending state, according to Article 36(1a), while nationals enjoy the same freedom of communication with and access to consular officers. Article 41 states that consular officers may not be arrested or detained unless they commit a serious offense

⁵¹ Articles 10, 11 and 12.

and the competent judicial authority orders it. If criminal charges are brought against a consul, he must appear before the appropriate authorities. The processes must be conducted in a way that respects his official status while minimizing the disruption to the exercise of consular activities. According to article 43, their immunity from prosecution in both criminal and civil matters is limited to acts performed in the official exercise of consular activities.

Consular protection enables a state to defend the rights of its citizens or legal entities when they are outside of its territorial jurisdiction. The phrase is sometimes misinterpreted, particularly when associated with diplomatic protection. A state can insist on compliance with its own (municipal) law and claim compensation for a violation of international law.

Maaïke Okano-Heijmans⁵² argues that the VCCR emphasizes that the severance of diplomatic relations does not imply the severance of consular relations as well. As she points out, this allows states to retain or commence consular relations without first agreeing on the formation of diplomatic relations.

2.4 Privileges and Immunities of Diplomats

Simply put, immunity denotes the condition in which a state is not permitted to exercise its sovereign jurisdiction. Diplomatic privileges, on the other hand, are special facilities, prerogatives, and tax exemptions provided to diplomats rather than immunities.

2.4.1 Rights Tempered by Obligations and Context

Diplomatic immunity is a fundamental concept of diplomatic law, and as the UN Secretariat observed in the 1950s:

“The rules relating to diplomatic immunities ... originate in the conviction that the absolute independence of the diplomatic agent in his dealings with the sovereign to whom he is accredited is an indispensable condition for the accomplishment of his mission. It is from this principle that the various immunities enjoyed by the diplomatic representatives of States derive.”⁵³

The underlying principle of reciprocity ensures that all states comply with these conditions since their own diplomats abroad require the same level of security. (As a result, as Article 31(4) of the VCDR reminds us, diplomats are subject to the legal authority of their sending states.)

Importantly, diplomatic privileges and immunities are dependent on a receiving state's ethical commitments. Article 41 of the VCDR (and Article 55 of the VCCR) states that diplomats must follow the laws and regulations of the host country and are

⁵² Okano-Heijmans, M. (2013). Consular affairs. In A. F. Cooper, J. Heine, & R. Thakur (Eds.), *The Oxford handbook of modern diplomacy*. Oxford: Oxford University Press. p.476

⁵³ United Nations Secretariat. (1956). Memorandum prepared on *Codification of the International Law Relating to Diplomatic Intercourse and Immunities* (A/CN.4/98). In *Yearbook of the International Law Commission, 1956* (Vol. II, 129–172). p.134

not permitted to exploit their special status to interfere in the host's domestic affairs. Article 41 is thus an implied code of behavior for diplomats, indicating that diplomats must be aware of the legal framework that regulates the functional and ethical parameters of their work. If they violate the rules, the state that hosts them may demand on their immediate removal, and they have no "right" to remain.

Bilateral agreements between states, states and organizations, or between organizations may also include additional or conditional privileges and immunities.

2.4.2 Inviolability of the Premises

The premises of a diplomatic mission are inviolable, according to Article 22 of the VCDR. This means that local authorities, i.e. agents of the receiving state, may only visit diplomatic premises with the head of mission's specific consent. A diplomatic crisis frequently develops when consent is not sought.

To enable normal diplomatic operations, article 22 of the Convention expressly states that the premises of the mission are inviolable and that agents of the receiving state are not to access them without the mission's approval. The receiving state has a specific obligation to protect the mission premises from intrusion, damage, or "impairment of its dignity." Several hundred demonstrators took over the US Embassy in Tehran, Iran, in 1979. Documents and archives were stolen, and fifty diplomatic and consular personnel were kept prisoner. The Court emphasized the gravity of Iran's behavior and the clash between its actions and its duty under "the whole corpus of the international rules of which diplomatic and consular law is comprised, rules the fundamental character of which the Court must here again strongly affirm."⁵⁴ Deliberate destruction of embassy premises has become a major international issue since the 1970s. Following a chorus of worldwide outrage, the International Court of Justice (ICJ) concluded in 1980 that it was Iran's unequivocal obligation to safeguard the US Embassy.

Unfortunately, intentional attacks on diplomatic facilities have become all more regular. It is, in some ways, a symptom of the emerging profile of international conflict, which is characterized by major non-state-centric, asymmetrical violence. In many cases, the attacks are a manifestation of public discontent with the behavior of a foreign power. Such acts are absolutely prohibited under the Vienna Conventions, although it should be noted that Article 41 of the VCDR prohibits diplomatic facilities from being utilized in a way that is incompatible with the functions of a diplomatic mission, as specified in Article 3. Terrorists, weapons stockpiles, drug smuggling, and other such activities violate the diplomatic code of conduct and undermine the critical good faith that supports a state's accommodation of foreign missions.

However, the inviolability of diplomatic premises should not be confused with extraterritoriality. Such premises do not form part of the sending state's territory. It is debatable whether a right to diplomatic asylum exists under general international law,

⁵⁴ The *Iranian Hostages* case, ICJ Reports, 1980, p. 42; 61 ILR, p. 568. The Court particularly instanced articles 22, 25, 26 and 27 and analogous provisions in the 1963 Consular Relations Convention,

and in the lack of treaty or customary regulations to the contrary, refugees are to be returned to the authorities of the receiving state. While diplomats from the sending state may determine whether a refugee meets any condition for the grant of asylum under an applicable treaty, this does not bind the receiving state because “the principles of international law do not recognize any rule of unilateral and definitive qualification by the state granting asylum⁵⁵.”

2.4.3 The Diplomatic Bag

The containers used to transport official communication material, such as documents and literature, are known colloquially as the "diplomatic bag." This is in accordance with VCDR Article 27. This means that, as stated clearly in Article 27(3), the bag "shall not be opened or detained."

Since the early 1960s, when the Vienna Conventions were adopted, technological advances have made it easier to check containers such as diplomatic bags, even without the courier's awareness. A diplomatic bag must 'bear visible external marks' and 'may contain only documents or articles intended for official use,' according to Article 27(4). This warning emphasizes the crucial implication, which is prevalent in diplomatic law, that privileges and immunities are dependent on mutual consent and reciprocal behavior. When this fragile trust is broken, a crisis is unavoidable.

The diplomatic bag is inviolable wherever it is, according to Article 28 of the Draft Articles on the Diplomatic Courier and the Diplomatic Bag, as agreed by the International Law Commission in 1989. It cannot be opened or detained and “shall be exempt from examination directly or through electronic or other technical device.” However, in the case of the consular bag, the competent authorities of the receiving or transit state may request that the bag be opened in their presence by an authorized representative of the sending state if they have serious reason to believe that the bag contains something other than official correspondence, documents, or articles intended exclusively for official use. If the sending state's authorities decline this request, the bag must be returned to its original location.

In the case of a diplomatic courier, that is, someone who travels with a diplomatic bag, the Draft Articles establish a privileges, immunities, and inviolability system similar to that which governs diplomats. In general, his privileges and immunities endure from the time he enters the receiving or transit state's territory until he departs (draft article 21).

2.4.4 Diplomatic Property Immunity

Article 23 stipulates that mission facilities are normally exempt from national, regional, or municipal dues and taxes, with the exception of dues that are payment for services done or as indicated in the contract. The concept is that a host state should facilitate, not block, a diplomatic mission's ability to carry out its diplomatic functions on its territory.

⁵⁵ Shaw, M. N. (2008). *International law* (6th ed.). Cambridge: Cambridge University Press. p.759

According to article 22 of the Vienna Convention, the mission's premises are inviolable⁵⁶ and, along with their furniture and other property, as well as the means of transportation, are immune from search, requisition, attachment, or execution. Article 23 proposes a broad exemption from revenue in respect of mission premises. It should be highlighted that, according to article 24 of the Vienna Convention, the mission's archives and records are inviolable at all times and in any location. Lord Bridge interpreted the expression “archives and documents of the mission” in article 24 to mean archives and documents “belonging to or held by the mission.” Such protection was not limited to executive or judicial action by the host state, but would also cover situations in which records were circulated illegally, such as through theft or other unethical means.

Bank accounts are protected as part of operational property, but only if utilized for day-to-day running expenses to meet formal tasks. Similarly, embassy vehicles may not be searched. Documents and archives of a diplomatic mission, like the diplomatic bag, are inviolable ‘at any time and wherever they may be’ (Article 24, VCDR). The drafters of the Vienna Conventions had no indication that improvements in information and communications technology (ICT) would soon revolutionize access to and storage of official data, which is now done electronically around the world. Hacking of government databases and subsequent mass publishing of secret diplomatic cables has become a new instrument for embarrassing governments and influencing domestic or international policy.

2.4.5 Personal Inviolability

Several incidences of ambassadors being attacked, kidnapped, or killed have horrified the UN community since the ratification of the Vienna Conventions. This led the General Assembly to adopt the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, in December 1973⁵⁷. The Convention's term "internationally protected people" refers to heads of state and government, foreign ministers, ambassadors, diplomats, and their accompanying families.

Personal inviolability means that a diplomat may not be arrested or detained in any way. Furthermore, he/she is completely immune from criminal prosecution in the host state's courts. Diplomats are not required to testify in judicial proceedings in a host country since they are immune from the legal system of the receiving state. Their personal belongings are likewise not subject to scrutiny. If severe grounds for concern are given, Article 36(2) permits for inspection in the presence of the diplomat or an authorized representative. According to Article 30(1) of the VCDR, diplomatic agents' private residences have the same level of inviolability as mission premises. Diplomats are also immune from civil and administrative jurisdiction, and they are exempt from a host country's taxes (albeit not indirect taxes) and social security duties. Article 31(1),

⁵⁶ By article 30(1) of the Convention, the private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

⁵⁷ *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons*. (1973). Annexed to Resolution 3166 (XVIII). Adopted by the United Nations General Assembly on 14 December 1973.

on the other hand, qualifies civil and administrative immunity in cases involving a diplomat's private immovable property, participation in succession issues, and unofficial or commercial conduct.

However, under extraordinary circumstances, a diplomat may be arrested or held for self-defense or to preserve human life. In terms of criminal jurisdiction, diplomatic agents are completely immune from the legal system of the receiving state, but they are not immune from the jurisdiction of the sending state⁵⁸. This clause, as mentioned in article 31(1), represents the acknowledged stance in customary law.

According to Article 10 of the VCDR, the foreign ministry of a receiving state should be notified of the appointment of all new members of a diplomatic mission, including information regarding family members and private servants. The host state must also be notified of the diplomats' final departure or cessation of duty at the mission. Immunity expires when a diplomat's posting is completed and he or she departs the receiving state.

Similarly, and in accordance with Article 9, the receiving state may proclaim any member of a foreign mission on its territory *persona non grata*. This signifies that the host state has determined that an individual is no longer acceptable and wishes for him or her to be recalled by the sending state. If the sending state fails to act, the person may be expelled by the host state. Nonetheless, under most circumstances, particularly for the sake of ongoing bilateral relations and public diplomacy, a state will articulate a reason for doing so. For example, South Africa expelled seven Rwandan ambassadors in March 2014, citing evidence that the diplomats were involved in cases of murder and attempted murder on South African soil. When a diplomat is designated *persona non grata* because he or she violated the law in a host country, the sending nation has the option of recalling the ambassador or having him or her face prosecution in the host country. It is vital to emphasize that only the authorities of a diplomat's sending state have the authority to waive immunity; he or she cannot do so in private, and neither can the host state. Waiver must be express, in other words, in writing, according to the VCDR.

Consular, administrative, and technical employees (and their families) have less personal immunity because they are not in charge of political interactions. As a result, their immunity is only tied to activities performed in the course of carrying out official duties.

2.4.6 Ad Hoc (Special) Missions

Most states use special missions on an ad hoc basis to deal with a specific issue or area of ties with countries where they may or may not already have permanent missions. While the VCDR and VCCR give extensive immunity and privileges for resident missions, the particular circumstances pertaining to diplomats on ad hoc or special missions were not addressed. This spurred the United Nations General Assembly to pass the Convention on Special Missions on December 8, 1969. It also

⁵⁸ Article 31(4).

permits such missions to take place with mutual agreement even in the absence of official diplomatic or consular relations.

According to article 8, the sending state must notify the host state of the mission's size and composition, and according to article 17, the mission must be based in a location agreed upon by the parties involved or in the Foreign Ministry of the receiving state. Article 27 allows only the freedom of movement and travel required for the accomplishment of the special mission's functions.

2.5 State Immunity and Diplomatic Protection

The sovereign state has the right to protect its interests and nationals, to a certain extent, even when they are outside its territorial sphere and on the territory of another state. This is referred to “confusingly” as diplomatic protection.

2.5.1 Diplomatic Protection as a Right of States

Under international law, all states are required to treat foreign residents with a minimum level of justice. When an unjustified act that violates international law injures a foreign state's people or property, it is formally recognized as an injury to the state itself. If this is the case, the affected state may seek diplomatic protection, which is described as “international law's oldest mechanism for the protection of aliens abroad⁵⁹.” However, it should be noted that, while diplomatic protection is a privilege of states rather than individuals, there is no corresponding legal requirement on governments to take diplomatic protection measures: it is a discretionary choice under public international law. If, on the other hand, a state chooses to exercise its right to diplomatic protection, its actions must be consistent with its own law and practice, i.e. it cannot demand treatment for its people that exceeds what they are entitled to in their home country. Furthermore, diplomatic protection can only be granted to a state's own nationals under international law, and such protection should only be considered after the national has exhausted all local remedies (legal and practical options) in his/her attempt to gain redress for the unfair action. It is worth noting that diplomatic protection has never been codified in a diplomatic convention (treaty), despite the fact that the practice is a recognized aspect of customary international law.

2.5.2 Extraterritoriality and Diplomatic Asylum

On occasion, a national of the host country (or a third country) takes refuge on the diplomatic facilities of a foreign state. Such a refugee(s) will frequently seek political asylum in the host country. All of these cases are politically problematic since seeking refuge suggests that the host state is unable or unwilling to offer the required protection or judicial process to that person. There is no consensus on the right to ‘diplomatic asylum’ under customary international law, but the idea has been defined in regional treaties, especially the 1954 OAS Convention on Diplomatic Asylum.

⁵⁹ Dugard, J. (2013). *Articles on diplomatic protection*. United Nations: Audiovisual Library of International Law. <http://legal.un.org/avl/ha/adp/adp.html> p.2

Shaw highlighted that offering asylum to a person wanted by the host state through an embassy could be viewed as interfering with the host state's sovereign affairs. In general, refugees are to be returned to the authorities of the receiving state unless there are treaties or customary regulations to the contrary. The Vienna Conventions make no mention of 'diplomatic asylum,' hence cases that occur outside the scope of regional or bilateral treaties are basically political rather than a subject of diplomatic law.

2.6 Diplomatic Law and Multilateral Diplomacy

Throughout the twentieth century, global diplomacy offered the chance and legitimacy for significant codification of diplomatic law. The rising worldwide legal presence of IGOs also motivated the International Law Commission to propose an extension of the 1969 Vienna Convention on the Law of Treaties, which resulted in the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organisations (VCLTIO).

Also, the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character is a treaty that governs state representation in any international organization of a universal character, regardless of whether diplomatic relations exist between the sending and receiving states. This Convention and the Vienna Convention of 1961 share numerous similarities. Diplomatic personnel, for example, are completely immune from criminal prosecution and are immune from civil and administrative prosecution in all circumstances under Article 30. Administrative, technical, and support personnel are in the same position as they were under the previous treaty (article 36). The mission's premises are inviolable and tax-free in the host country, as are its archives, documents, and correspondence.

2.6.1 Diplomatic Law in a New Millennium

The Convention on the Protection of Diplomatic and Consular Rights (CPPR) protects the rights of diplomats, especially in countries with totalitarian governments and those where democracy has not fully developed. Without the Convention, ambassadors might and would be pressured to act in ways that benefit local governments but are not always consistent with their roles or commitments to their home nations.

Some of the Vienna Convention's safeguards are essential necessary even in the luxurious capitals of the democratic West. Most countries, most of the time, choose to respect the Convention's provisions, for fear of exposing their own diplomats serving abroad to the risk of retaliation. In some ways, the entire Convention is predicated on the idea of reciprocity.

Article 41 of the Vienna Convention provides that diplomats enjoying diplomatic privileges and immunities must respect the laws and regulations of the receiving State and "not interfere in the internal affairs of that State". This complicates

interpretation in circumstances where the diplomat's government and the host nation have a hostile or combative relationship. Sometimes diplomats in hostile or authoritarian countries get involved in encouraging or even aiding opposition movements, sometimes illegal ones like Solidarity. They frequently do this under the guise of advancing human rights around the world.

There is an essential distinction between diplomatic conduct that could be perceived as intervention in a country's internal affairs on the one hand, and blatant espionage on the other. Most espionage involves breaking the law of the host country in order to obtain information through clandestine means, and under Article 41 of the Convention, all diplomats with immunity have a duty to “respect the laws and regulations of the receiving State,” even if they are immune from arrest and trial if they fail to do so.

2.7 Why the Vienna Convention on Diplomatic Relations Remains Important Today

The VCDR is widely regarded as one of the most successful international treaties in history. There are currently 190 States Parties to the Convention, which means that just about five or so countries globally are not parties. The growths of a globalized economy, as well as the rapid advancement of technology, have weakened the traditional role of diplomats. The establishment of new governmental and non-governmental institutions has resulted in the emergence of new diplomatic processes. Concepts like collaborative, public, and cultural diplomacy are questioning long-held assumptions about the nature and function of traditional diplomacy.

Article 41 of the Vienna Convention, which imposes a duty on all persons enjoying privileges and immunities to respect the laws and regulations of the receiving State, frames the provisions that provide a counterbalance to the privileges and immunities and thus facilitate the Convention's self-contained nature. This responsibility is supported by what has previously referred to as ‘administrative measures’ in Articles 4–11 of the Convention, as well as ‘punitive/deterrent measures’ in Articles 9, 31(4), 32, and 39 of the Convention (2)⁶⁰.

2.7.1 Administrative measures

They are a set of measures accessible to every receiving State for limiting the size of missions and controlling the number and, to some extent, the identity of personnel entitled to diplomatic privileges and immunities on their territory. These provisions, when implemented correctly, have the potential to be quite successful.

Article 4 requires the sending State to get the receiving State's approval before appointing a Head of Mission⁶¹. This allows the receiving State to refuse the nomination of a specific Head of Mission without having to justify its choice⁶². Other members of diplomatic missions, including diplomatic agents, are free to be appointed by the

⁶⁰ Behrens Paul (2017). *Diplomatic Law in a New Millennium*. Oxford University Press. p.24

⁶¹ VCDR art 4(1).

⁶² VCDR art 4(2).

sending State, according to Article 7 of the Convention. Only in the case of military, naval, and air attachés can the receiving State demand that names be provided in advance⁶³. Article 9 states that a receiving State may proclaim a diplomat *persona non grata*, and it is one of the main sections of the Convention dealing with the issue of misuse. However, because the receiving State can activate Article 9 "at any time and without having to explain its decision," it is evident that the mechanism can be used to limit the granting of diplomatic privileges and immunities to individuals considered unsuitable by the receiving State. It could be claimed that this undermines the stated power of the sending State in Article 7 to freely nominate members of their mission, but in this situation, the balance has been moved in favor of the receiving State. Articles 10 and 11 of the Convention impose additional constraints on the freedom to appoint diplomatic representatives. Article 10 of the Convention requires the receiving State's Ministry of Foreign Affairs to be notified of the arrival and final departure of members of a diplomatic mission, as well as family members of such personnel. Article 11 states that "[i]n the absence of specific agreement on the size of the mission, the receiving State may require that the size of the mission be kept within limits considered by it to be reasonable and normal."

None of these administrative actions impose direct penalties for violations of diplomatic privileges and immunities. It is worth emphasizing once more that if a State chooses not to implement Articles 4–11 as severely as they are otherwise entitled, the receiving State's right to complain about abuse is limited.

2.7.2 Punitive/ deterrent measures

Articles 9, 31(4), 32, and 39(2) of the Vienna Convention outline the steps that a state can take in response to an allegation of immunities abuse by a diplomat. The ability to declare an individual *persona non grata* under Article 9 of the Convention is the most urgent available action for a State confronted with abuse. According to Article 31(4) of the Convention, "a diplomatic agent's immunity from the jurisdiction of the receiving State does not exclude him from the jurisdiction of the sending State." The issue of jurisdiction, especially criminal jurisdiction, is complicated. The sheer availability of jurisdiction to the sending State does not imply that the sending State, or anyone else for that matter, will be able to exercise that jurisdiction. Nonetheless, the mere existence of the provision, in addition to the guarantee of immunity included earlier in Article 31(1), should give diplomatic agents pause for thought in terms of avoiding abuse of their privileged position.

Article 39(2) of the Vienna Convention is similarly restricted as a sanction, not by its provisions, but by the chances for it to be effectively enforced. Article 39(2) states that a diplomatic agent's protection ends when he or she departs the receiving State, except for acts undertaken in the performance of official functions, which continue to be immune. However, the implementation of Article 39(2) is severely constrained by the requirement that the individual be granted a "reasonable period in which to leave the receiving State."

⁶³ VCDR art 7.

Article 32 of the Convention, which addresses the question of waiver of immunity, is arguably the single most important deterrent against abuse. Article 32 expressly states that states are under no obligation to surrender diplomatic immunity under any circumstances. It enunciates a privilege that a State may exercise according to its own discretion. As a result, even the oldest drafts of the relevant article mention the notion that a State 'may' renounce immunity. Such a waiver must be expressly stated. A waiver of immunity from jurisdiction in civil or administrative procedures does not entail a waiver of immunity from execution of the judgment, which requires a separate waiver. Waiver of immunity has been uncommon in general, particularly in criminal trials. In a memorandum titled Department of State Guidance for Law Enforcement Officers With Regard Personal Rights and Immunities of Foreign Diplomatic and Consular Personnel, it is stated that waiver of immunity does not 'belong' to the individual involved, but rather for the advantage of the sending state. While waiver of immunity in the face of criminal charges is uncommon, it is 'routinely sought and occasionally granted.'

The Vienna Convention provides adequate means for balancing the interests of both transmitting and receiving States, and is reinforced by the bilateralism that is at the heart of every diplomatic relationship. The self-contained nature of the Convention allows States to prevent disagreements by thoroughly training and advising their delegates and, where problems do arise, to resolve them by recognizing the mutually beneficial impact of obeying the Convention entirely.

2.8 The future of the Vienna Convention in a transforming world

Individuals and groups can play a substantial role in influencing the conduct of foreign relations, according to the concept of public diplomacy. Public diplomacy is more concerned with influencing domestic and foreign public opinion than with listening to it. Public diplomacy is a worldwide interaction and discussion process that can have a positive impact on international relations.

Globalization has been one of the most significant trends in international relations since the 1960s. Globalization has had a substantial impact on diplomacy in at least two ways. First, there is arguably a greater need for diplomatic and consular cooperation between states to guarantee that the interests of nationals living abroad are effectively protected. Second, the participation of individuals, societies, and the diaspora has compelled states to evaluate the influence of their international relations on those living abroad. This altered the focus of diplomacy to more precisely commercial and cultural considerations, forcing politicians to examine the status of their own nationals in foreign countries when considering attacks of any kind on those countries in which their nationals live.

There is also a need to reassess the Convention in order to address issues such as human rights violations by diplomatic staff and the development of a trend toward the appointment of what can be referred to as "resident diplomats." States, in particular, should begin to implement the existing Convention provisions more severely to crack down on misuse and reduce the possibility for exploitation.

2.8.1 The balance between the immunities and human rights and the priorities of the Vienna Convention

The framework for analyzing the relationship between immunities from jurisdiction and human rights is largely influenced by the so-called fragmentation of international law detailed by the ILC in its 2006 Report of the same name.⁶⁴ The Report suggested that international law was fragmenting into several subsystems. The remedy to such fragmentation may be found in technical legal analysis, which draws on concepts such as *lex specialis*⁶⁵, *lex posterior*⁶⁶, normative hierarchy, and self-contained regimes⁶⁷. After establishing that diplomatic law is a self-contained regime, one might be satisfied to accept that diplomatic law exists apart from other subsystems of international law and can thus function independently of them. In recent years, there has been much debate over the link between immunity from jurisdiction and human rights law.

Diplomatic law is critical to the effective and efficient operation of the international diplomatic process. In many ways, the unique character of diplomatic law in facilitating and protecting the diplomatic process permits it to take precedence over local, civil, and criminal law. The Vienna Convention's special importance lies in its provision of a framework for the protection of diplomatic personnel.

In the case of allegations of human rights violations that meet the *jus cogens* level, one would hope that receiving states would perform their due diligence and refuse to accredit someone who is the subject of such claims in the first place. On the other hand, it is critical to realize the impact that detaining such a person could have on the international security of diplomatic officials.

2.9 The Obligations of Diplomats as Conceived in the VCDR

In comparison to the numerous obligations of receiving states, the Convention provides less detailed guidance on the duties of individual diplomats and sending states. The diplomatic duties are addressed in two rather general articles of the VCDR: Article 41 of the VCDR is made up of three paragraphs and four obligations; Article 42 adds a fifth duty.

The obligation to respect the laws and regulations of the receiving State

The first sentence of Article 41(1) VCDR states that diplomats are required to follow local laws and regulations. The first clause of Article 41(1) is typically viewed diplomats' obligation to follow the rules of the receiving State. The need to follow local regulations extends to both official and private actions. Contract law, labor law, penal law, human rights law, and transportation rules and regulations can all create obligations. In addition to these substantive requirements, Article 41(1) includes an implied requirement for diplomats to be familiar with local laws and regulations.

⁶⁴ UN Doc A/ CN 4/ L 682.

⁶⁵ a law governing a specific subject matter

⁶⁶ in the event that there are inconsistencies between domestic statutes, treaties, or customary international laws, the most recently enacted will govern.

⁶⁷ 'independent of external means or relations' (JA Simpson [ed] The Oxford English Dictionary [2nd ed Clarendon Oxford 1989])

A number of additional VCDR provisions mention the obligation to follow local laws. Firstly, despite the members of the mission's freedom of movement and travel, the receiving State has the authority to impose limits on personal or official visits to zones where entry is restricted for national security reasons. This could apply to sections of the country that are governed by particular rules by definition, such as military zones or nuclear power facilities⁶⁹. Second, Article 36 of the VCDR has a similar reference to the duty to comply with local legislation, which covers the guaranteed entry into the territory of goods for official or personal use. The provision allows receiving countries to restrict the import of drugs, weapons, and other items that constitute a significant threat to public order. What is less generally known is that it also allows states to enact administrative restrictions authorizing the import of specific items within quota limits⁷⁰. Diplomatic missions may bring products into the country duty-free in quantities deemed "required for official purposes." The term "official purposes" refers to actions taken in the course of carrying out certain diplomatic tasks. States set quotas based on reciprocity or make purchases subject to prior approval by local authorities. Third, the Vienna Convention is more ambiguous in stating that local rules and regulations apply on other instances. When diplomatic representatives conduct consular services, which are permitted under Article 3(2) of the VCDR, it is assumed that they must adhere to local laws⁷¹.

The obligation to not interfere in the internal affairs of the receiving State

The second obligation under Article 41(1) is more political in nature. The provision's final sentence refers to the duty of those possessing immunity not to "interfere in the internal affairs" of the receiving State. The prohibition on participating in political campaigns is one example given in the 1958 ILC Commentary⁷². It is recommended that missions only issue neutral statements in the aftermath of elections. It is also widely understood that an embassy can send a message of congratulations on behalf of the country's Head of State or government.

The obligation to abstain from professional and commercial activities

Diplomats are not permitted to engage in professional or commercial activities for personal gain in the host country, according to Article 42 of the VCDR. Article 42 concerns the diplomatic agent as opposed to "all persons enjoying privileges and immunities." The meaning of Article 42, which is directed at the diplomat rather than the sending State, does not preclude the diplomat from doing activities for the benefit of that State. Such activities may give the diplomat immunity from civil and administrative jurisdiction, as well as immunity from the State. However, the two regimes should not be confounded. State immunity is significantly more limited,

⁶⁹ Frédéric Dopagne, Sanderijn Duquet, and Bertold Theeuwes, *Diplomatiek recht toegepast in België* (Maklu, Antwerp 2014) 146.

⁷⁰ The obligation even allows agents of a receiving State to inspect the personal baggage of a diplomatic agent in his or her presence when there are serious grounds for presuming that it contains articles that violate such local rules (Art 36(2) VCDR). Such inspection cannot be conducted in the case of a diplomatic bag (Art 27(3) VCDR).

⁷¹ Article 3 of the VCCR spells out that "[consular functions are] exercised by diplomatic missions in accordance with the provisions of the present Convention". Article 5 VCCR subjects the performance of a number of consular functions to the laws and regulations of the receiving State; Roberts (n 3) 151.

⁷² ILC (n 4) 104.

distinguishing between governmental or public activities (*jure imperii*) and non-sovereign acts (*jure gestionis*) that lie outside the scope of immunity from jurisdiction.

Obligations relating to how the mission conducts official Business

Official business between a mission and the government of a receiving State must be done with or through that State's Ministry of Foreign Affairs "or such other ministry as may be agreed," according to Article 41(2) of the VCDR. The commitment provides the receiving State's MFA with a monopoly for conducting commerce. The Vienna Convention does not preclude diplomatic missions from contacting other government actors, but it does require prior permission, whether express or implied. Three recent factors have contributed to a less strict interpretation of Article 41(2) VCDR: increased mission specialization, decentralization processes in receiving States, and the growing interdependence of diplomatic and consular responsibilities.

It has been noticed that, in modern practice, Article 41(2) is no longer interpreted as requiring the explicit prior authorization of the Ministry of Foreign Affairs every time a diplomatic mission wishes to collaborate with other government actors. The obligation for diplomatic missions under Article 41(2) should be interpreted as the duty to always refer topics of the utmost importance to the MFA and, second, to keep this Ministry generally updated about exchanges with other government actors at the central and local levels.

Obligations relating to the use of the premises of the mission

Article 41(3) of the Vienna Convention contains a fifth obligation. According to this provision, a mission's premises may not be used in any way that is incompatible with the diplomatic functions of the mission as defined by the VCDR, general international law, or special agreements in force between the sending and receiving States. While other international agreements are important, the Vienna Convention remains the primary source for determining guidelines for appropriate use of the premises. The definition of "diplomatic functions" is important in this exercise, according to Article 41(3). The provision is based on the assumption that diplomats understand their roles and the appropriate behavior.

The "premises of the mission," according to Article 1(i) VCDR, are "the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission, including the residence of the head of the mission." The qualification as "premises of the mission" is based on the activities carried out on those premises, which must fall within the functions of a diplomatic mission in accordance with Article 3 VCDR.

2.9.1 The Consequences of a Breach of Diplomatic Obligations

In general, a diplomatic agent's failure to fulfill his obligations does not exonerate the receiving State from its duty to respect the agent's immunity.

The assessment of who actually has obligations under diplomatic law is a subject that has remained unanswered till now⁷³. A diplomat attends a ceremony as the representative of his or her country; however the VCDR occasionally addresses diplomats directly: Article 41(1) refers to "all people possessing such privileges and immunities." Diplomats, according to Grotius, are "not simply the limb of the sending state, but persons with their own rights, the right of embassy⁷⁴."

Retaliatory actions performed by a host country against individual diplomats are illegal, even if they are intended as retaliation for (perceived) wrongdoings by the sending country, because such actions would jeopardize the institution of diplomacy⁷⁵. Diplomats, on the other hand, may be held personally responsible for failures to perform their obligations in a number of instances. Rather than the individual diplomat, the mission as a whole is responsible for adhering to these rules.

When an offense occurs, the receiving State must use the defense mechanisms and sanctions outlined in diplomatic law. Only diplomatic reprisals are acceptable.

The actions that are considered permissible in the Vienna Convention's "system" range from mild to severe. Minor offenses may be brought to the notice of the head of mission or the foreign government in the first instance. If the former decides so, he or she can take necessary action against the diplomat in question (e.g., disciplinary sanctions). Without lifting immunity, a receiving State may urge the agent to voluntarily repair any damage he or she has caused or, if appropriate, to voluntarily pay a fine. The receiving State can likewise ask the sending State to waive its agent's immunity, as previously stated (Art 32 VCDR).

In a second step, serious violations of diplomatic obligations or a recurrence of (small) offenses may prompt more harsh responses. Certain privileges enjoyed by the mission can be removed by the receiving state. Across the diplomatic spectrum, this so-called "restrictive reading of the Convention" can arise. Numerous applications have been made in practice, including a request to reduce the mission's size (Art 11 VCDR), a limitation on the use of radio communication equipment (Art 27(1) VCDR), and the establishment of quotas on the mission's import of particular products (Art 36(1) VCDR). The Convention allows for such "restrictive applications" of the VCDR.

Finally, the receiving State may request that the diplomat in question be removed from the country. A request to the sending State to recall the agent usually comes before a declaration of *persona non grata*, though the two are frequently confused. In practice, a third theory is that the sending State withdraws the diplomatic agent because the receiving State declares that it will no longer respect his or her diplomatic status in a specific case. The outcome is the same: the diplomat will return

⁷³ In its 'Draft Articles on State Responsibility', *ILC Yearbook* 2001, vol II, the ILC mainly focuses on the responsibilities of receiving States.

⁷⁴ Geoff Berridge, 'Grotius' in Geoff Berridge, HMA Keens-Soper, and Thomas G Otte, *Diplomatic Theory from Machiavelli to Kissinger* (Palgrave Macmillan, Basingstoke 2001) p.60.

⁷⁵ James Crawford, *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentaries* (CUP, Cambridge 2002) p. 292.

to the sending country or, at the at least, his assignment will be terminated (Art 9 VCDR)⁷⁶.

Lastly, when diplomatic relations between sending and receiving countries are strained, such as in cases of alleged interference, a variety of further steps may be taken. The most serious is the severance or termination of diplomatic (and occasionally consular) relations, which occurs only under extraordinary circumstances. Venezuela's 2014 break and restoration of diplomatic ties with Panama (on the basis of involvement in domestic affairs) is a recent example⁷⁷. In 2012, Canada closed its embassy in Tehran and expelled Iranian diplomats; during the suspension of diplomatic relations, Italy represented Iranian interests in Canada, while Oman represented Iranian interests in Italy⁷⁸.

2.10 Diplomatic Law Today

The concept of the diplomatic agent's "family" serves as an example in the field. Even under customary international law, it was clear that diplomatic immunity must extend beyond its primary beneficiaries, diplomats themselves. At the same time, extending immunity to a diplomatic agent's family significantly broadens the circle of people who can move freely within the receiving state without fear of being prosecuted, even for serious crimes; and it means that immunity is extended to people who cannot be assumed to have received training on the nature and limits of the diplomatic office.

The VCDR, on the other hand, simply states that "members of the family of a diplomatic agent forming part of his household" should enjoy his privileges and immunities as long as they are not nationals of the receiving State⁷⁹.

Another issue that has great relevance in modern diplomatic relations, but whose emergence was perfectly predictable at the time of the convention's formulation, is the provision of asylum on mission premises. The VCDR, as previously stated, does not provide an answer to the underlying legal matter. The provision of the VCDR that comes closest to a regulation of asylum is Article 41(3), which prohibits the use of the mission's premises "in any manner incompatible with the functions of the mission" as defined in the VCDR or "by other rules of general international law or by any special agreements" between sending and receiving State. According to the ILC statement, such agreements would include "certain treaties governing the right to grant asylum in mission premises which are valid as between the parties to them"⁸⁰.

⁷⁶ Jean d'Aspremont, 'Persona Non Grata' in Rüdiger Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law* vol VIII (OUP, Oxford 2012); Denza (n 1) 61–73; Salmon (n 42) 348; Roberts (n 3) 206–15.

⁷⁷ The countries did not have diplomatic relations between 5 March and 2 July 2014, 'Venezuela Restores Ties with Panama as New President Sworn In' *France 24* (Paris, 2 July 2014) <https://www.france24.com/en/20140702-venezuela-maduro-ties-panama-new-president>

⁷⁸ Government of Canada, 'Canada-Iran Relations' <https://www.canadainternational.gc.ca/iran/index.aspx?lang=eng>

⁷⁹ VCDR art 37.

⁸⁰ *ILC Yearbook* 1958 vol II, 104.

There appears to be some truth to the United States' 1958 observation that the language of the draft remained unclear and ambiguous at times; and all too often, this appears to have been a purposeful approach. Language may be a major cause for its widespread acceptance: the truth is that an instrument whose text avoids some of the most controversial topics in the field receives faster ratification than a treaty whose drafters are willing to march bravely into the lion's den.

Conclusion

The Vienna Convention's success is continuous. It is determined by a number of important elements. The Convention is bilateral and, to a considerable extent, symmetric. States are not required to maintain diplomatic relations with one another, and some choose not to, but the vast majority does, and they rely on the Vienna Convention to enable the fulfillment of diplomatic functions and to safeguard their representatives. Occasionally, those with diplomatic privileges and immunities will take advantage of their position and abuse those rights. When this occurs, the self-contained character of the Vienna Convention has already established the remedies that should be used. Prevention, on the other hand, is preferable to treatment. Following the shooting of Yvonne Fletcher, the UK reviewed diplomatic privileges and immunities and found a number of methods to improve the Convention's application, primarily through administrative measures.

The VCDR has faced its share of difficulties, and fifty years later, it is reasonable to wonder whether it has lived up to the expectations that were attached to it in the first place: namely, the need for clarity and precision that prompted the decision to codify diplomatic law in the first place.

The identification of a common set of values and principles covering the entire field of diplomatic law must be regarded as the most significant contribution made by its drafters to an international law purpose. Even in Grotius' period, the challenge of reconciling the conflict between diplomatic immunity and the right to self-defense persisted.

Finally, the Vienna Convention is indeed the best and most universally acknowledged legal regime for regulating diplomatic relations today. It is only up to States to implement it with more prudence and less political zeal, even if doing so may result in some short-term challenges.

3. Termination of diplomatic relations - Legal and political perspectives

3.1 Steps towards establishment of diplomatic relations

When a state wishes to create diplomatic relations with another, the first step is to contact that state for agreement to establish its mission.

Such occasions may arise in the case of two existing states that had not previously opened diplomatic relations but now find it necessary or possible to do so, either due to an increase in the interests that must be protected, or the availability of personnel or funds that had previously prevented the establishment of such relations. Occasions for the creation of diplomatic relations may happen more frequently when a new state is recognized as a fully independent state to the community of nations. In rare circumstances, a revolutionary change in the government of an existing state may necessitate the formation of new diplomatic ties. In all such circumstances, the government of the country wishing to establish diplomatic ties must initiate contact. In the case of newly independent states, the request should typically be made directly on a government-to-government level; in other circumstances, the approach may be direct or preceded by informal soundings through the intermediary of another state's diplomatic representative.

When a request for the establishment of diplomatic relations is made, it is normally reviewed by the Foreign Office. When considering such a request, the Foreign Office will naturally consider whether it would be able to establish its own mission in the country that has requested the establishment of diplomatic relations, because the reciprocal establishment of missions by each other is the most effective method of conducting relations between nations. It should be noted, however, that nothing prevents two governments from agreeing on alternative methods of establishing diplomatic ties, such as through missions in a third country. The extent of its interest that needs to be cared after in the other state is the next major aspect that is typically taken into account. Previously, the amount of such interest was decided by the number of nations.

3.2 Legal perspectives

Article 43 demonstrates the effects of the pressure under which the Vienna Conference was working in its final stages; its scope and purpose are unclear, and the rules it establishes are insufficient. The Conference was aware of this, but there was insufficient time to clarify the text. The Article should specify not only the various methods by which a diplomatic agent's functions may be terminated, but also the time at which this occurs. Article 13 specifies how to determine when the head of mission is considered to have assumed his functions, and Article 43 should be its counterpart, specifying when a diplomatic agent is considered to have completed his functions in the receiving State.

Article 43 does lay down a clear rule for the time of termination in the most common case, where the sending state notifies the mission of the termination of functions (as it is required to do under Article 10.1 (a)), as well as in the case of a declaration of a *persona non grata*, where the receiving State exercises its power unconstrained in the absence of a recall or termination of functions by the sending state.

When armed conflict breaks out, diplomatic relations may or may not be breached. It is becoming more common for diplomatic missions to stay in place even during violent conflict if the sending states believe the physical safety of the mission members can be reasonably assured. When safety is a major concern, it is common practice for the sending state to withdraw mission personnel, if not the entire mission, while the two countries maintain diplomatic relations. Under Article 10, the sending state may notify the termination of functions of those staff who are withdrawn permanently, but others may not be notified in the hope that they will return when conditions improve, and in those circumstances they may be considered to be continuing to exercise their functions. When diplomatic relations are breached, given that their maintenance, like their establishment under Article 2, is dependent on mutual consent, diplomatic functions are terminated upon notification by the State initiating the break in diplomatic relations.

The rule outlined in Article 44 is firmly rooted in a nearly universally observed custom of international law. The duty to provide departure facilities had no special significance in ordinary circumstances, though it was interpreted as conferring exemption from exit visa requirements in some states. However, in the event of deterioration in relations between the sending and receiving states, and particularly in the event of a breach of relations or the outbreak of war or armed conflict, the right to safe departure became extremely important. Envoys became hostages in the receiving State, but each State's interest in securing the return of its own diplomats was normally strong enough to ensure its observance of the duty to allow the safe departure of enemy diplomats from its own territory.

In the *Hostages Case* in 1980, the International Court of Justice emphasized the guaranteed right to leave while outlining the remedies available to the receiving State under diplomatic law, under which a diplomat deemed unacceptable would be compelled to leave immediately. They stated that “the fundamental character of the principle of inviolability is, moreover, strongly underlined by the provisions of Articles 44 and 45 of the 1961 Convention.” The ICJ's decision, in addition to unanimously stating that Iran must immediately end the unlawful detention of the diplomatic hostages, required Iran to “ensure that all of the said persons have the necessary means of leaving Iranian territory, including means of transportation.”

When missions are withdrawn as a result of a rupture in relations, the timing may be synchronized to emphasize the reciprocal nature of the guarantees. For example, when the United Kingdom severed ties with Libya following the shooting of a policewoman from the Libyan mission in London in 1984, the evacuation of the two embassies occurred concurrently, and the aircraft carrying returning members of the two missions took off from London to Tripoli at the same time.

The case of Abdul Salam Zaeef, the Taliban Government's Ambassador to Pakistan, has been raised in the context of Article 40 and the US Government's treatment of him in Afghanistan before transporting him to Guantanamo Bay. The Government of Pakistan, on the other hand, had a clear obligation under Article 44 to make arrangements for the ambassador's departure following the termination of diplomatic relations with the Taliban. Arresting him and transporting him to the Afghan border, where he is handed over to pro-US Afghan forces, does not meet the requirements of the Vienna Convention.

Article 45 deals with the legal framework for safeguarding interests in the event that diplomatic ties have been stopped or terminated, but the sending and receiving states continue to exist as sovereign states with mutual recognition. Article 45 contained rules that were obviously founded on long-standing customary law and practice. Articles 45(a) and (b), which appeared in the Special Rapporteur's original draft articles, were based on Harvard Research. The International Law Commission introduced Article 45 (c), which reflected firmly established custom⁸¹. On the other hand, the practice outlined in Article 46 was a very recent development⁸².

The International Law Commission adopted the terms 'acceptable to' rather than 'accepted by' in paragraphs (b) and (c) of Article 45 to emphasize that prior acceptance by the receiving State of a particular protecting power was not required. Informal consultation would be the norm, and a receiving State could object to a specific proposed protecting State. In response to a question about the government's right to refuse to accept arrangements for the protection of interests following a breach of relations, a UK Minister stated: "Her Majesty's Government as the receiving State will consider the nomination by the sending State of a third State to assume the role of a protecting power. It is for her Majesty's Government alone to decide whether or not the nomination is acceptable⁸³." What would never be possible amongst Convention Parties would be a refusal to enable any protection of the interests of a State with whose relations had been severed. Indonesia made a similar refusal in 1961, when, following a breach of diplomatic relations with the Netherlands, it refused to allow Dutch interests to be protected by the United Kingdom or any other State, a decision that was criticized at the time as unprecedented and contrary to international practice⁸⁴.

Article 46, on the other hand, requires the prior approval of the receiving State before a sending State may undertake the protection of a third State's interests. Article 46 is currently frequently employed by small or new states that cannot justify having permanent diplomatic missions in a large number of states but seek some limited or sharing representation under Article 6. Luxemburg, for example, turns to the Netherlands or Belgium to protect its interests in other countries, whereas San Marino looks to Italy and Liechtenstein to Switzerland⁸⁵. Following reunification, Germany employed Article 46 as an interim method of retaining the German Democratic Republic's existing contacts with North Korea and Cambodia⁸⁶. It is likely unusual in

⁸¹ ILC *Yearbook* 1957 vol I pp71-3, 223; 1958 vol I pp 182-4; vol II pp 104-5.

⁸² UN Docs A/Conf.20/C 1/L 103 (Colombian Proposal)

⁸³ Hansard HC Debs 15 February 1991 WA cols 607-8.

⁸⁴ Cahier (1962) p.138; Lecaros (1984) p.101

⁸⁵ James (1991) at p.362; Newsom (1990); Salmon (1994) paras 177, 178.

⁸⁶ Richtseig (1994) p.105

this circumstance to require the receiving State's prior approval before committing its interests there to a third State. The difference may be explained by the fact that the Article 46 procedure is viewed as a temporary measure to the creation of diplomatic relations—or, where they already exist—a permanent mission by the third State, which would require mutual approval under Article 2 of the Convention. It could also be because the method in Article 46 was relatively new, at least in 1961, and the safeguard of consent was deemed required to defend the receiving State's position.

The mission of a diplomatic agent may be terminated in any of the following ways: 1. the expiration of the period for which he was appointed, or the completion of the task for which he was sent; 2. the return or arrival of the permanent head of mission, which terminates the appointment of a charge d'affaires ad interim; 3. the termination of the appointment of the head or a member of a mission.

A diplomatic agent may be recalled for the purpose of being appointed elsewhere, retiring from his own service, or resigning from his own government. The head of mission should specify the exact date of his departure and appoint a chargé d'affaires ad interim in advance.

However, a diplomatic agent's assignment might end in a variety of ways and under a variety of conditions. In the event of a diplomatic agent who is not the head of a mission, the termination occurs simply when he renounces his post due to transfer or retirement and notifies the receiving state's Foreign Office. When it comes to the head of a mission, the procedure is much more formal. His mission begins with the presentation of his Letters of Credence and ends only when the formal Letters of Recall are received from the sending state; and the new head of the mission cannot take up his duties until such Letters are presented to the government of the receiving state.

3.3 Political perspectives

Temporary recall of a mission

The temporary recall of a diplomatic mission is a more common procedure than it was previously, owing to the improved ease of travel and better knowledge of the physical and financial difficulties that would have to be overcome in order to re-establish them. It may be used to suggest a sharp cooling in relations, where neither party wishes to move to a formal breach of relations and each expects that difficulties or displeasure will be temporary. Following a conflict that began with the arrest of an Iranian consular worker in Manchester on allegations of shoplifting and escalated with the detention of a UK diplomat in Tehran in 1987, the United Kingdom and Iran removed some mission staff from the two capitals. Between 1980 and 1988, the United Kingdom withdrew its embassy from Tehran and operated through a British Interests Section in the Swedish Embassy, but it still considered itself to have full diplomatic ties with Iran at the time. Following Ayatollah Khomeini's fatwa (decree) of death issued against British author Salman Rushdie in February 1989, the United Kingdom closed its embassy in Tehran and urged the Iranian government to withdraw its charge d'affaires and one other remaining diplomat from London. In this occasion, though, Iran

replied by terminating diplomatic relations with the United Kingdom a few days later⁸⁷. Sudan recalled its ambassador from Khartoum following the United Kingdom's support for US air assaults on a Sudanese plant claimed to have been used in terrorism in 1998. The UK Embassy remained open, however all diplomatic personnel were evacuated for several months⁸⁸.

Revolutionary changes in government.

When the government of the sending or receiving state undergoes revolutionary change, new credentials must be presented, and the diplomat's current mission is said to come to an end. The same would be applicable if the form of government were to change, such as when a monarchy became a republic or when a republic became a kingdom when the monarchy was restored. On the other hand, the replacement of a president or other elected or appointed head of state in either state, whether due to death, resignation, or the expiration of his term of office, has never been regarded as necessitating new credentials. In the case of a revolutionary change in administration, it is no longer usual to issue new credentials. Even when the diplomat's mission is over, diplomatic relations between his country and the receiving country continue in all of these circumstances. When a new government is established through a coup, revolt, or revolution, it is customary to send a circular Note to the heads of the diplomatic missions remaining in the capital, informing them of the new government's establishment and expressing the wish that diplomatic relations between that state and the states that have accredited the ambassadors. The acceptance of a Note of this type is now the most common method of recognizing a new government and confirming the intention to maintain diplomatic relations.

When the receiving state's government changes, other states may withdraw their ambassadors in protest of the new regime, or they may refuse to recognize the new state or government that has taken control of the capital. The new government may not wish to maintain diplomatic relations with all of the countries that previously sent ambassadors to it, or it may wish to make new appointments simply to express its dislike for people who did business with its predecessor.

Extinguishment of sending or the receiving state.

Extinguishment of the sending or receiving state might likewise bring a diplomat's mission to an end. In such circumstances, the diplomatic relations between the two countries are terminated, and the diplomatic agent's assignment is also terminated. The existence of two independent sovereign states is required for diplomatic ties to be maintained. If one of the sovereign states loses its identity as a result of being conquered or merged with a larger state, or by forming a union with another state, diplomatic relations with that state must automatically be terminated, and

⁸⁷ *The Times*, 30 May 1987, 1 and 5 June 1987, and November 1988, and 23 March 1989. Hansard HC Debs 8 March 1989 cols 895-8. Lowe (1990)

⁸⁸ *The Times*, 25 and 28 August 1998, 25 June 1999.

the mission of that state's diplomats in other countries, as well as the mission of the diplomats accredited to that state, must be brought to an end too. It is more common that diplomatic appointments are not confirmed when the head of state of a sending or receiving state changes as a result of a violent revolution or armed conflict. A new government will want to replace former ambassadors with new ones who share their political views. If the sending state merges with or is absorbed by another state, it will no longer be able to send or receive ambassadors.

Termination of diplomatic relations by agreement.

Diplomatic relations between two countries can also be terminated amicably through an agreement. It has been observed that, while every sovereign independent state has the right of legation, that is, the rights to establish diplomatic relations with all other sovereign states, such relations are established by agreement; and, given the large number of independent countries in the world today, having missions in all capitals may not be easy or practical. After establishing a diplomatic mission in a particular country, a state may later decide that maintaining it is unnecessary or unprofitable due to the little amount of interest that needs to be preserved. In such scenarios, the states concerned may agree to terminate their diplomatic missions, and the missions of diplomatic agents of the countries concerned would be terminated automatically.

Outbreak of war.

Diplomatic relations almost always come to an end when a war breaks out, and more often before actual hostilities begin, because relations must have deteriorated to the point that maintaining them serves no meaningful purpose. It should be noted that diplomatic ties end when a formal state of war is declared, which begins with a declaration of war and ends with the signing of a peace treaty. It should be mentioned that maintaining diplomatic relations is critical for world peace and international relations, as it is difficult to maintain any points of contact without them.

Termination by death of the envoy.

A diplomat's mission may be terminated by his own death. If he dies at his position while still enjoying his immunities and privileges, the receiving state is responsible for arranging a full-fledged funeral and allowing his body to be transported back to his home state if his family or government desires it. The receiving state must also provide complete facilities for the removal of his personal belongings and make the departure of his family members as simple as possible. The family members would preserve their immunities and privileges for a fair period of time pending their departure, despite the fact that the diplomatic agent who provided them with immunity had died at his post.

Persona non grata

The process of removing an ambassador or other diplomatic agent who is personally unacceptable to the receiving government has been known under various names over time – expulsion, request for recall of the diplomat, dismissal, refusal to receive or continue to receive the diplomat, and 'sending the diplomat his passports.' Where the problem is not with the diplomat personally, but with the sending state's policies or behavior, the correct course of action is to break diplomatic relations, or, in a less serious case, recall the ambassador for consultations. The Vienna Convention rules are meant to ensure that if a diplomat becomes personally unacceptable to the receiving state, the situation is handled in a way that causes him the least personal embarrassment and is least likely to result in a protracted and unprofitable dispute between the sending and receiving states. The majority of times, both the sending and receiving states are aware of the reasons for the recall, but they are not discussed in diplomatic correspondence or in public.

The diplomat may have evidence of a serious criminal offense, such as espionage or fraud, or he may have done something that the receiving state regards as interference in its internal affairs, or he may simply have offended the receiving state through his personal manner, attitudes, or conduct. If both states agree, the matter can be handled in such a way that the fact that the diplomat in question has left before his normal tour of duty is not made public.

Declaring a diplomat *persona non grata* is a drastic measure, and in most cases, bilateral efforts will be made to resolve the issue before making such a declaration, for example, by having a delinquent diplomat voluntarily withdraw from the sending state. In other cases, an expulsion may be unrelated to the diplomat's actions, i.e., he or she may be a pawn in a political dispute between the two countries. This happens quite frequently, sometimes as a result of a state's diplomats being expelled from another country.

3.4 Breach of diplomatic relations

Non-relationship

There have always been independent states that did not maintain representation in each other's capitals due to distance or a lack of mutual interest. However, the lack of mutual representation in such cases did not imply that there was any formal impediment to official contact.

Non recognition

States may have no diplomatic relations due to nonrecognition or a formal breach of relations. Many aspiring republics have emerged throughout the history of the modern state-system, most recently in the aftermath of the Soviet Union's dissolution. If one of these aspirants is denied recognition, whether by one or more existing nations or through a denial of UN membership⁸⁹, it indicates a refusal to deal

⁸⁹ J. Dugard, *Recognition and the United Nations* (Cambridge: Grotius Publications, 1987)

with it as a member of the association of states, regardless of the nature or internal popularity of its government. Following the Montevideo Convention of 1933, the traditional view in international law is that an aspirant state can only be recognized if it can demonstrate that it has a permanent population, a defined territory, and a government “capable of maintaining effective control over its territory and conducting international relations with other states⁹⁰.” What about a formal termination of ties? This occurs when one party to a bilateral agreement announces that it no longer wishes to conduct normal diplomatic contacts with the other through formally accredited missions. As a result, it withdraws its own mission from the receiving state and demands that the latter recall its own ambassadors.

Nonrecognition, unlike a simple breach of relations, creates obstacles to unconventional as well as conventional contacts between states and aspiring nations or administrations, especially if it is accompanied by a refusal of UN membership. Firstly, where there are competing claimants, a protecting power, with or without an interests section, cannot be used since it will be argued that the aspiring state's or government's interests are already protected by another government. Similarly, the British government could not conduct relations with the Turkish Republic of North Cyprus (TRNC) through a TRNC interests section under the protection of the Turkish embassy in London, because this would clearly imply acceptance of the view that the Greek Cypriot administration of the “Republic of Cyprus” had no right to represent residents of both the north and the south. Second, and for the same reason, consulates cannot be used for diplomatic purposes. Third, if aspirant countries are denied admission to the United Nations, they will be denied membership in a diplomatic corps that has proven to be an extremely useful means of discreet contact between hostile states, as well as membership in the diplomatic corps of many other important international organizations. Fourth, widespread nonrecognition will eliminate numerous opportunities for careful communication at diplomatically significant ceremonial occasions, such as working funerals.

Severance of diplomatic relations

Diplomatic missions are also terminated when diplomatic relations between the two countries are broken. This occurs when a country decides to sever diplomatic ties and withdraw its diplomatic representation in protest of the other government's policies. There have been numerous instances of this type of behavior. One example is India's decision to terminate diplomatic relations with Portugal. In 1954, India severed diplomatic ties with Portugal in protest over the Portuguese government's policy in Goa, and the Portuguese Minister in Delhi was ordered to leave.

States have been known to terminate diplomatic relations with countries that interfere with or act hostilely toward them. However, diplomatic contacts have been terminated as a sign of protest against a particular state's policies, even if such policies may not directly harm the interests of the state cutting off the relations.

⁹⁰ M. Akehurst, *A Modern Introduction to International Law*, 6th ed. (London: Allen & Unwin, 1987), p. 53.

This act, which is usually decided and announced unilaterally, expresses a government's strong opposition to the language or actions of another government or governments. There have been several instances of formal diplomatic relations being broken off without the intention of going to war since World War II. For instance, Saudi Arabia broke diplomatic relations with the United Kingdom and France on November 6, 1956, exactly one day before the cease-fire that brought the Suez incident to an end. The Saudi government found it impossible to reverse this decision immediately, so relations were not reopened until September 19, 1962, in the case of France, and June 16, 1962, in the case of the United Kingdom.

Relations can also be broken as a protest against the other state's policy on a matter of global concern. Seven African states, for example, cut ties with the United Kingdom in 1965, owing to dissatisfaction with the UK's handling of Rhodesia's unilateral and illegal declaration of independence.

It is also worth noting that the severing of bilateral ties cannot be as complete as it could have been before the establishment of international organizations. Even if the states do not speak to each other, it is likely that both sides will accept 'passive acceptance of representation in multilateral bodies,' as defined by the US State Department. By implication, such coexistence modifies the completeness of the diplomatic relations breach. It also provides an opportunity for representatives from both sides to meet in private. Such contacts can also occur between representatives from a third country, though this method is more likely to draw premature attention and thus jeopardize success.

When a request for the withdrawal of a mission's head is made, the affected government may attempt to negotiate; however, once the matter has become public, this course is unlikely to yield much benefit. In any case, a mission leader who refused to leave after being asked to do so would find himself in an embarrassing and, indeed, impossible situation. There is rarely any benefit in retaliating in kind, unless the 'opposite number' of the expelled head of mission happens to be on the verge of being declared *persona non grata* himself.

Because the existence of diplomatic relations is dependent on agreement between the two states involved, the functions of the diplomatic agents involved end upon notification by the state that initiates the breach. Furthermore, the receiving state is obligated to allow diplomatic agents to leave the country, and Article 45 of the Vienna Convention requires the receiving state to respect and protect the mission's premises, as well as its property and archives. Articles 44 and 45 of the Vienna Convention emphasize that a break in diplomatic relations, whether or not it is followed by hostilities, has no effect on the diplomat's status or the obligations of the receiving state.

Diplomacy in the century before 1914 was largely dominated by Great Powers acting directly or on behalf of client states. This meant that a collapse in diplomatic relations was a serious matter that could, and often did, lead to war. The years following WWII saw a significant increase in the number of small independent states. It is possible that a world like this would have been even more dangerous than the world before 1914. That this was not the case was due, at least in part, to the realization that

as atomic capability spread, a local conflict could be the first step in drawing the greater powers into a nuclear war, rather than a conventional war.

Attacks on embassies

Attacks on diplomatic and consular missions are attacks on institutions that, under international law, have broad immunity, and there can be no a priori definition of procedure to be followed if such attacks occur. The only way to get any guidance on diplomatic practice is to look at examples and deduce as much general guidance as possible from them.

Such attacks imply an upset public, possibly agitated by the receiving government, as well as a degree of political instability. These incidents should not occur in a stable situation; if they are likely to occur, police protection should be available and sufficient, in accordance with international law and practice.

In an unstable political situation, an alert and well-informed mission should be able to detect when disorder and possibly violence are to be expected, even without specific foreknowledge. In such a case, requesting special protection from the government of the receiving state in advance is a wise precaution in and of itself, and will strengthen the position of the mission and the sending government in any subsequent restitution argument. If there is a prolonged disturbance or civil conflict, it may be prudent for the mission to request special assistance from its own government.

In any case, it is wise diplomacy to make an official request to the host government on behalf of the victim government immediately following the attack to ensure effective protection for both the victim country's official representation and its local community. The right to compensation should also be asserted right away. This type of diplomatic action can and should be taken immediately (i.e. without waiting for instructions) by the affected mission.

Experience has shown that good working relationships between missions from countries that are friendly to each other in the larger context are extremely valuable in such cases. These would logically include fellow members of political organizations with similar policies, such as NATO, the European Community, or the Warsaw Pact. Each country will naturally be wary of becoming politically involved in the causes that lead to violent attacks. However, where the threat is not directed solely at one mission, collective representations may be more effective than representations by a single ambassador. In such circumstances, a certain diplomatic camaraderie can emerge, which can be extremely beneficial in a situation that can, remember, become extremely frightening and dangerous.

Kidnapping of diplomats

Individual diplomat kidnappings had far more calculated and cold-blooded motives. The goal was almost always to extract a specific concession from a government, with the threat that if the concession was not granted, a human life would

be lost, and the government refusing the concession would be held responsible, both generally and in the eyes of the country that the victim represented. Kidnappings of this nature were always meticulously planned, and security forces could hardly be expected to protect every single senior diplomat, whether at home or on his or her travels.

The primary goal of kidnapping and holding as hostages people with diplomatic status could only be to put pressure on the receiving state, which is responsible for his protection, to 'purchase' his release. The purchase price can be very precise, for example, the release of certain people held in prison by the receiving state, people who are probably of no direct interest to the 'victim' state at all. However, it is important to remember that a kidnapping operation could also be the manifestation of something more fundamental, a violation of the law in pursuit of a doctrinal 'war of nerves,' as described by the Brazilian terrorist Carlos Marighela in the following words: "The object of the war of nerves is to misinform, spreading lies among the authorities - thus creating an air of nervousness, discredit, insecurity, uncertainty and concern on the part of the Government."

The victim government will, in fact, use the diplomatic channel to urge a government whose territory a diplomatic kidnapping occurs to intensify its search for kidnappers and kidnapped, as well as to provide better protection in the future. Any 'negotiation' must, however, take place between the territorial government and the kidnappers. If the diplomat's sending state engages in direct negotiations with the kidnappers, the territorial government may view this as an intervention in an issue that is solely its responsibility.

The fundamental political and ethical question underlying the governmental decisions in these cases was whether the paramount consideration was to preserve the life of a human being or to discourage recurring kidnapping by refusing to accede to the kidnappers' demands. A refusal to pay the demanded price would inevitably endanger a life. The problem for diplomatic and security personnel is exacerbated when non-indigenous terrorists break into and take hostages in an embassy in a third country that has nothing to do with the case, in order to put pressure on their own government or the government represented by the embassy attacked. This, it should be noted, is a generalized description of the August 1975 attack on the American Embassy in Malaysia by Japanese terrorists in order to put pressure on the US government to put pressure on the Japanese government.

3.5 Collective security

Collective security replaces the concept of military alliances between states, which existed until World War II, to assure a state's collective defense by its allies in the event of an assault by another state. The term "collective security" refers to a system established by the United Nations Charter in 1945. Other collective security measures exist at the regional level.

This system establishes international procedures for the peaceful resolution of disputes between states. If this system fails, or if there is a threat to international peace and security as a result of the behavior of one or more states, the United Nations

Security Council has the authority to deploy international armed force to address the threat. In contrast to this process, the Charter forbids unilateral use of force in interstate affairs. The Charter's lone exception is for circumstances of self-defense (Art. 51 of the Charter). The concept of "collective security" stems from the necessity to safeguard worldwide public order. The UN Security Council has consistently interpreted this concept, which is partially incorporated in the UN Charter.

One of the UN's core goals is to "maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats... or breaches of the peace" (Art. 1 of the UN Charter). In light of this, the UN system of collective security includes methods for pacific conflict resolution (through arbitration and conciliation), as well as possibilities for international peacekeeping or peacemaking operations.

Sanctions are one of the most common and contentious tools of international diplomacy. Although they have been in use for decades, pressing the penalty button has become a routine response to international crises in recent years. According to their supporters, Sanctions are a non-violent manner of putting pressure on governments that violate international norms.

It is nothing new to bring world trade and diplomacy to a standstill. Such measures, however, were traditionally part of a declaration of war.

Sanctions were not only utilized to wage war in various ways, but they were also an integral aspect of the battle itself. Sanctions had to be divorced from warfare in order to serve as diplomatic tools. Beginning in the early twentieth century, this began to happen. However, the target countries do not observe a significant difference in practice. Sanctions are frequently used as a precursor to war. As a result, even when used on a daily basis, they are treated with extreme caution. Sanctions are typical responses to an ever-expanding list of actions or policies that nations are unwilling to go to war for but insist the target state reverse, including:

Terrorism and support for terrorism

- Nuclear proliferation activities
- Crimes against humanity
- Human rights violations
- Illegal annexation of foreign territory
- Deliberate destabilization of a sovereign country

Diplomatic Sanctions

One of the specific measures stated in Article 41 of the UN Charter is the "severance of diplomatic ties." Diplomatic sanctions are the earliest type of sanctions, dating back to 1917. These options include suspending diplomatic relations with the targeted country or recalling diplomatic representatives. Many countries responded to Russia's Bolshevik (Communist) Revolution in 1917 by withholding diplomatic recognition and withdrawing their diplomats from the country. As part of its

nonrecognition policy, the United States had no diplomatic representatives in Russia (the Soviet Union) for more than two decades.

Reducing diplomatic ties, such as asking the recall of some or all diplomats, or even closing embassies, is a manner of expressing strong opposition to the recipient country's policies. Diplomatic sanctions are political measures used to communicate dissatisfaction or unhappiness with a specific action through diplomatic and political means rather than damaging economic or military connections. Measures include restricting or canceling high-level government visits, as well as expelling or withdrawing diplomatic missions or personnel.

Article 41 of the UN Charter clearly mentions 'severance of diplomatic ties' as a possible approach. Historically, diplomatic sanctions were one of the most commonly used types of sanctions, and were previously used by the entire international community against countries such as Iraq, Libya, Southern Rhodesia, Libya, Sudan, Yugoslavia, Angola, and Afghanistan during the Taliban's rule from 1994 to 2001.

Diplomatic sanctions are most effective when carried out in accordance with a UN Security Council resolution. Otherwise, they are unilateral or autonomous policies of certain countries, making them less universal and effective.⁹¹

⁹¹ <https://www.odu.edu/content/dam/odu/offices/mun/docs/ib-4th-sanctions-in-diplomacy.pdf>

4. Diplomacy after the breach of diplomatic relations

Unconventional diplomacy is diplomacy that is carried out in the absence of 'diplomatic relations,' that is, the willingness of at least one party to a bilateral relationship to communicate directly through standard, or conventional, channels, such as those of the permanent embassy.

Ordinary communications – including those normally maintained by ordinary embassies – cannot be used in some bilateral relationships because the parties are not in diplomatic relations. This could be because one party is not recognized as a state by the other, or because it has declared independence from another in a way that has serious implications for international norms and the integrity of other states, or because good relations with its abandoned state are prioritized. Among those who have been denied recognition of statehood to varying degrees are Abkhazia, Kosovo, Nagorno-Karabakh, South Ossetia, Transnistria, and the Turkish Republic of Northern Cyprus (TRNC). Diplomatic relations may also be absent because one party is not recognized by the other as the government of the state over which it claims to rule, despite the fact that the state itself is widely recognized. Finally, diplomatic relations may cease to exist because one party, while continuing to recognize the other as a state and not denying the legitimacy of its government, has simply severed those relations, whether in protest of some policy, as a more general expression of aversion for its regime, or as a result of a outburst of fighting.

When diplomatic relations are suspended but the parties still want to communicate with each other, they can do so through a variety of channels, some of which have already been mentioned: telecommunications, contacts in the diplomatic corps of third-country embassies in which both parties have embassies, and meetings in the wings of international organizations in which both parties are members. Other, more important methods include disguised embassies, special missions, and mediation by various types of third parties. The last two of these methods are sometimes used to address difficult issues in diplomatic relations between states, but they are most desperately needed, most severely tested, and thus most worthy of consideration in dangerous cases where the states in question do not have such a formal link.

4.1 Disguised 'Embassies'

In the absence of diplomatic relations, regular, flag-flying resident embassies cannot be used, but diplomatic functions may still be performed by irregular resident missions, some of which are more heavily disguised than others. To begin, it is important to note that disguised embassies are not to be confused with so-called 'shadow embassies,' which are embassies that have been partially reassembled at home to provide policy advice on the states from which they have been either forcibly or voluntarily removed⁹². These are likely to have a short life span and, in any case, appear to be scarce. Neither do disguised embassies include 'listening posts' – resident embassies or consulates in states neighboring to the hostile country – despite the fact that these are more common and more valuable than shadow embassies. During Saddam Hussein's rule, the British Embassy in Amman, Jordan, was used to keep an eye on Iraq,

⁹² Smith 2009: 851–2

and the Americans still use their massive consulate general in Dubai, UAE, to keep an eye on Iran. The true disguised 'embassies' are thus those that are actually located within the state with which there are no diplomatic relations. They include interests sections, consulates, representative offices, and front missions, which are analogous to 'front organizations,' that are typically businesses of some kind that are used to disguise espionage activities.

4.2 Interests sections

The interests section evolved from the old institution of the protecting power, which began in the sixteenth century with the successful assertion by Christian rulers of the right to protect co-religionists of any nationality in 'heathen' lands like the Ottoman Empire. Aside from religious and racial solidarity, any state that could demonstrate its power by taking on this responsibility gained prestige. Those with neutralist traditions, such as Switzerland and Sweden, became particularly active as protecting powers, though others played a significant role as well. The Vienna Convention on Diplomatic Relations codified this practice⁹³. Until the mid-1960s, it had been customary for at least a century for a state with interests in another state in which it had no mission (for whatever reason) to entrust the protection of those interests to the mission of a third state (or a body such as the International Committee of the Red Cross) that did. This was arranged through trilateral agreement, which was reached between the protected power, the protecting power, and the local power.

The disadvantages of relying on a third state, as well as the risk of having to pay a political price for taking on what may turn out to be a sensitive, if not dangerous, role, accompanied the use of a protecting power.

The practice of formally closing embassies but arranging for a handful of diplomats to be left behind and attached to the embassy of a protecting power quickly developed. The elegance of the modified practice was that it allowed resident diplomacy to remain in the same hands while claiming that relations with a distasteful government had been "severed." With rare exceptions, an interests section is a group of resident diplomats from one state working under the flag of another on the territory of a third. The first ones were established in Cairo by West Germany and Bonn by Egypt in May 1965, when the Egyptians severed diplomatic relations with the Germans in retaliation for the latter's decision to open them with Israel. As the benefits of the interests section became clear, it spread quickly.

An 'interests section,' then, is made up of diplomats from the protected power working under the legal auspices of the protective power, whether physically within the latter's embassy or in their own 'embassy,' supposedly closed due to a breach in diplomatic ties. The arrangement still demands trilateral agreement. Thus, in order to establish its interests section, the protected power generally negotiates a formal agreement, but this can be with either the protective power or the local authority, with the approval of the third only granted informally or tacitly.

⁹³ Article 45-46, VCDR (1961)

Interest sections were created as a reaction to a break in diplomatic relations, but they have since been used as a provisional first step toward their restoration. Interests sections are typically small. But it is not because interests sections are small and thus extremely limited in what they can do; after all, they are mini-embassies. Instead, it is because, despite being legally part of the embassy of the protecting power, they usually operate under formal or implicit agreements that not only harshly interpret the VCDR but also fail to observe some of its key provisions. It is one thing for these agreements to impose strict limits on overall staff size and severely restrict their freedom of movement. Such restrictions are harsh, but they are not illegal. It is quite another to insist that the interests section's work be limited to consular affairs, effectively prohibiting the continuation of other sections; to deny an interests section any access to the receiving state's foreign ministry; and to require prior approval of all appointments to the interests section rather than simply that of the head of mission, as appears to be standard practice. Such restrictions on a real embassy would be prohibited by the Vienna Convention on Diplomatic Relations (1961). It is true, however, that interests sections established in more innocuous circumstances, such as a thaw in previously frozen relations or the aftermath of a purely symbolic break, are more likely to resemble a regular embassy.

The United Kingdom pioneered a new means of safeguarding its interests in such circumstances following Rhodesia's unilateral proclamation of independence in 1965, when nine African states terminated diplomatic relations, and this method is now frequently used. After the break in relations, it became customary to agree with the protecting State and the receiving State that a number of British diplomatic and support staff should remain in the receiving State, and that the break in relations should form a 'British Interests Section' of the protecting State's embassy. These British personnel are then advised that they are now members of the protecting state's mission, and the former British Embassy becomes part of the mission's premises in law. On this basis, it retains not just the right to respect and protection under Article 45, but also the right to inviolability. The British Interests Section's staff would continue to report on a regular basis and may have low-level engagement with the recipient State's authorities on consular, commercial, and cultural topics. Only if it is desired to make representations at a senior political level may the protecting State become engaged.

4.3 Consulates

There is a long tradition of using consulates to conduct resident diplomacy in the absence of diplomatic relations⁹⁴. This method does, in fact, have a number of advantages:

1. It avoids the disadvantages of the interests section's reliance on a third party, such as debt, potential misunderstandings, and the difficulty of keeping secrets from it.
2. It typically receives little public attention.
3. For states with more resources, consular posts may be numerous; scattered around an important receiving state, they are better placed

⁹⁴ Articles 2 & 17 (VCCR 1963).

- than the interests section to perform responsibilities like as information gathering.
4. Nowadays, consular personnel are expected to have prior diplomatic experience.
 5. Finally, it is worth noting that consular representation may be a convenient manner of conducting limited interactions in the particular circumstance of unrecognized governments, which were formed from provinces of larger ones where external powers already had consulates. This is allowed due to the international norm, though unstable and perforce carefully phrased in the fifth edition of Satow's *Guide to Diplomatic Practice*, that “neither the retaining nor the replacing of consular officials necessarily constitutes recognition⁹⁵.”

Consulates are posts created abroad to supplement the work of embassies in areas far from the capital. As a result, they are typically found in ports and regional centers of industry and commerce. Consular work, on the other hand, has long been considered distinct from diplomatic activity due to its nature as well as its generally provincial location⁹⁶.

One clear advantage of employing the older system of consular relations rather than an interests section covered by a protecting power is that it avoids the basic problems of relying on a third party: debt, potential misunderstandings, the need to reveal secrets, and so on. Another advantage of utilizing consulates rather than interests sections is that their unique duties are generally seen differently. Thus, consulates may involve direct, flag-flying representation - but they are simply consulates and, at least when their existence predates any new state or administration, do not imply recognition (if no exequatur for a new consul is necessary).

More complicated arrangements will be required if consular functions are to be performed. In other circumstances, additional arrangements for consular functions may not be required since consular relations remain between two states that have broken diplomatic relations or are restarted ahead of diplomatic relations. After the United Kingdom severed diplomatic relations with Argentina during the invasion of the Falkland Islands in 1982, the two countries resumed consular contacts a year later, until full diplomatic relations were restored in 1990. Guatemala's consular relations with the United Kingdom remained in place for many years following the breakup of diplomatic relations with the United Kingdom in 1963, and were restarted in 1986, a few months before full diplomatic relations were restored.

4.4 Representative offices

Interest sections cannot be used in some circumstances of diplomatic difficulty when business-like connections are still desired, and consular posts are problematic. In such cases, a representative office, often known as a ‘liaison office,’ has become an

⁹⁵ Gore-Booth 1979: 213; see also Roberts 2009: 252

⁹⁶ James, 'Diplomatic relations and contacts', pp. 354-5.

increasingly popular option. This is a mission that appears and functions similarly to an embassy, with the only distinction being its informality.

For the same reason, no country currently recognising the Republic of Cyprus, which claims authority over the entire island, could admit an interests section of the 'Turkish Republic of North Cyprus' (TRNC), because doing so would contradict the assumption upon which recognition of the Republic of Cyprus is based. In such cases, resident diplomacy can only function through an informal mission, which lacks the legal status and, thus, the protections and immunities of an accredited diplomatic mission. These informal missions function much like embassies when relations between the parties are relatively excellent or a rapprochement is well underway, and there is no significant embarrassment about admitting communication in any scenario.

Representative offices are thus a valuable strategy where nonrecognition prevents an interests section from being formed but if ties with the 'pariah' are vital enough—and possibly producing proof of substantial improvement—to risk offending its more acceptable opponent. They do not have the drawbacks of relying on a third party, as consular offices do.

4.5 Front missions

Front missions, as the name suggests, are the most highly disguised of the irregular resident missions: on the appearance, completely devoid of diplomatic purpose – but, beneath the surface, zealously continuing their political work. Front missions come in a variety of forms and sizes. Trade missions or commercial offices are a tested tactic for a trading state. Information or tourist offices, travel agencies, scientific missions, and cultural affairs offices are also popular places for diplomats to hide their activities. Front missions are most valuable in situations where visible relations between enemy powers could cause severe embarrassment on one or both sides. However, because they must maintain their cover by pursuing work that is ordinarily essential in and of itself, their time and resources available for diplomatic engagement may be limited. Their personnel must be unusually cautious in their actions. Their access to local officials may likewise be restricted, necessitating the use of mediators. Diplomatic fronts take many forms, but one thing they all have in common is a sense of legitimacy derived from a stated aim that is arguably either 'above' politics, 'below' politics, or rooted in some other strong interest shared by other hostile governments.

4.6 Special Missions

Special missions are missions sent abroad to exercise diplomacy for a specific purpose and typically for a limited period of time. They are a non-permanent, *ad hoc* mission. Their use, led by special envoys, was the standard method of handling international affairs until resident diplomacy took hold in the late fifteenth century. Special missions are common in regular diplomatic interactions, but they are especially beneficial in hostile state diplomacy, at least in melting the ice between them. The creation of a specific special mission is the result of an ad hoc declaration of mutual

consent by the sending and receiving countries. A special diplomatic mission represents the sending State in the same way as a permanent diplomatic mission does. It represents the sending State on an external, international level, in one or more elements of its international relations.

The first diplomatic missions in Asia, Africa, and Europe were often temporary diplomatic missions dispatched for a specific purpose. It was not until the sixteenth century that Europe's major powers began to establish regular diplomatic representation abroad. Permanent diplomatic missions gradually became the norm. Special missions were generally utilized only at the highest levels and for ceremonial purposes. However, during the twentieth century, the sending and receiving of emissaries on short-term missions resumed. Business interactions between government employees at the ordinary diplomatic and technical levels are progressively rising. Because of the speed of travel, it is easier to send an expert in a specific field for negotiations. Because of the complexities of much intergovernmental business, it is preferable to send that specialist rather than the diplomatic mission, which does not have the expertise to handle complex instructions confidently. Because the sending and receiving states do not have permanent missions in each other's capitals, a special mission is required for certain specific activity.

A “special mission,” according to Article I of the New York Convention, is a “temporary mission, representing the State, sent by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or performing in relation to it a specific task.” The term “temporary” distinguishes between special missions and permanent diplomatic missions. The objective of a particular mission is defined by “specific questions” or “a specific assignment.” Article 2 states that “A State may send a special mission to another State with the consent of the latter, previously obtained through the diplomatic or another agreed or mutually acceptable channel.”

Two provisions stand out as having no analogue in the Vienna Convention and exemplify the applicability of the special mission mechanism. Article 6 stipulates that two or more states may each send a special mission to another state at the same time, with the approval of that state, to deal with a question of mutual interest to all of them. Article 18 states that special missions from two or more states may meet in the territory of a third state only with the express approval of the third state, which may withdraw its consent at any time, impose conditions, and limit the extent to which it undertakes receiving state obligations.

When a head of state leads a special mission, he "shall enjoy in the receiving State or in a third State the facilities, privileges, and immunities accorded by international law to Heads of State on an official visit," according to Article 2 I. The same article also states that “The Head of the Government, the Minister of Foreign Affairs and other persons of high rank, when they take part in a special mission of the sending State, shall enjoy in the receiving State, or in a third State, in addition to what is granted by the present Convention, the facilities, privileges and immunities accorded by international law.”

Article 24 regulates tax exemption for special mission premises to “the extent compatible with the nature and duration of the functions performed by the special mission”; this permits the receiving state to assert that a mission that overstays its welcome loses its tax exemption status. Article 25 provides inviolability to the premises of special missions, but takes into account the fact that such premises are frequently in hotels by granting the power to assume the head of mission's consent to entry where there is a fire or other disaster and he cannot be contacted - a power that permanent embassies do not have. Article 27 limits the right to freedom of movement to what is “necessary for the performance of the functions of the special mission.” Article 28 guarantees free communication rights comparable to those granted to permanent missions, but adds that “where practicable, the special mission shall use the means of communication, including the bag and the courier, of the permanent diplomatic mission of the sending State.”

Members of a special mission are granted less personal immunity than diplomats. Immunities and privileges are extended to subordinate staff as well as nationals and permanent residents of the receiving state to the same extent as under the Vienna Convention, but members of families receive Vienna-level privileges and immunities only if they accompany members of the special mission.

4.6.1 The advantages of special missions

Special missions may be established to supplement work by disguised embassies or to fill a bigger role in their absence. Their duty is equal to that of a diplomatic courier, but their higher rank emphasizes the importance of the message to the sending state and increases the possibility that it will command respect. The procedures of special missions, as well as the privileges and immunities of their members, were clarified and marginally enhanced in the second part of the twentieth century by what is usually known as the “New York Convention.” Many states were concerned because customary international law had “essentially” limited special missions' privileges and immunities to “immunity from criminal jurisdiction and inviolability of the person.⁹⁷” In other words, it had not treated them as generously as resident embassies. Customary law also has the advantage of broadening the class of those entitled to immunity beyond the narrow formula of the New York Convention, namely, specialized permanent missions sent by one state to another, such as assistance or military missions, as well as special missions to and from an authority which is not a state.

4.6.2 Secret or open missions

When special missions are used in diplomacy between enemies, they are frequently dispatched in secret.

The first reason for preferring hidden emissaries is to avoid sabotage. The idea that a special mission to a hostile state is being planned, especially if it is a high-level

⁹⁷ Wood, 2012

one rumored to be pursuing rapprochement, is likely to cause concern among factions at home and allied governments abroad whose interests are linked to the status quo. The second reason for sending a special envoy in secret is to avoid damaging one's reputation by looking to the world as a supplicant at the seat of the rival's power, especially if the mission offers no substantial gain. If confidentiality is impossible or undesirable for other reasons, special envoys from both countries can meet on neutral ground to reduce the danger of losing prestige. Special missions are occasionally revealed in advance because, while secrecy is desirable, there is no trust in the other side's determination or capacity to keep it. In such cases, it is usually desirable to have one's own explanation for the mission made public as soon as possible, especially to one's friends.

Special missions take several forms and are governed by a flexible legal framework. Personal envoys are likely the most suited among unofficial envoys for emphasizing a leader's personal interest in a policy, however high-level official envoys can do so without the same risk of making mistakes and causing bureaucratic dissatisfaction as the former; this is why they are more prevalent. Low-level envoys, whether private or official, are generally discreet, making them ideal for the most sensitive first meetings. Private envoys of this type are the easiest to disown if detected, whilst lowly official envoys are the easiest to govern and conceal.

4.7 Mediation

In the history of diplomacy, mediation has a lengthy and largely honorable record of success. It is especially important in long, acrimonious disputes if the parties are unable to reach an agreement without damaging their leaders' domestic positions. It is especially important when the parties have a deep suspicion of one other's motives, when cultural differences provide an additional barrier to communication, and when at least one of the parties refuses to acknowledge the other. Mediation is a type of negotiation that aims to manage and, at the at least, support the resolution of a conflict; however, what constitutes "success" in such endeavors is necessarily debatable. A third party, that is, someone who is not directly involved in the disagreement plays a unique function in this negotiation. In the disagreement, it must be essentially impartial. In terms of its role, in mediation, the third party actively seeks a resolution and, as a result, is frequently referred to as a "full partner" in the negotiations. In order to foster agreement, this usually entails creating an agenda, organizing and chairing negotiation meetings, suggesting solutions, and using threats and promises. In a nutshell, mediation is an unbiased third party's active quest for a negotiated settlement to an international or intrastate issue.

Providing good offices is less active than mediation, yet it is sometimes the first step. Technically, good offices entail a third party attempting to persuade opposing parties to join into negotiations, whereas mediation implies the third party actively participating in the negotiating process. In reality, the dividing line between the two techniques is often difficult to maintain because they tend to flow into one another depending on the circumstances. Through the employment of his good offices, the UN

Secretary-General can sometimes play an essential role⁹⁸. The Secretary-General may also perform good offices in collaboration with regional organization officeholders⁹⁹. It was provided that treaty signatories had the right to give good offices or mediation even during wars, and that exercising that right was never to be considered as an unfriendly act by either of the opposing sides¹⁰⁰. It was also stated that such procedures were not legally binding. The Conventions imposed a duty on parties to a severe dispute or conflict to use good offices or mediation, if possible, before resorting to arms.

In an ideal world, the third party will also aid with message interpretation. It should also reassure each party that the other means what it says and is genuinely interested in reaching an agreement. The parties to a conflict may determine that there is a basis for negotiation between them based on the messages they have exchanged through the facilitator. In this case, the third party can help by arranging for a neutral location for the discussions. After bringing the parties together, the third party's role relies on a number of factors. These factors include its own motivations, influence, diplomatic skill, and reputation in the parties, as well as whether or not the latter have been brought to a point where they can endure the fact that they are speaking face to face with their opponents.

A third party may lack significant influence with the competitors and discover that, in any event, they are soon willing to talk directly. This was the situation in the early 1970s Sino-American reconciliation, when Pakistan emerged as the most important source of good offices and then receded to the wings. In contrast, the third party's influence may be significant, especially if it has the support of other prominent players. Furthermore, the disputing parties may not only find it impossible to meet without the face-saving presence of a third party, but they may also require constant strengthening of their determination to keep talking.

The mediator can make a last contribution to one or both of the combatants' face-saving by consenting to an agreement that implies, by its packaging, that the concessions it contains have been granted to the mediator rather than the opponent.

4.7.1 Multiparty mediation

The use of more than one mediator is now so frequent that it is almost certainly the norm. Multiparty mediation can take place simultaneously or sequentially, and can be coordinated or uncoordinated. When two or more parties attempt to facilitate or mediate the resolution of a disagreement simultaneously but make no attempt to coordinate their operations, it is usually because they are in competition: rival brokers striving for the sole contract. However, mediators may perceive multiple benefits in

⁹⁸ See the statement by the Secretary-General of the functions of good offices cited in UN Handbook, pp. 35–6. See also B. G. Ramcharan, 'The Good Offices of the United Nations Secretary-General in the Field of Human Rights', 76 AJIL, 1982, p. 130.

⁹⁹ For example with the Chairman of the Organisation of African Unity with regard to the Western Sahara and Mayotte situations, UN Handbook, p. 39, and with the Secretary-General of the Organisation of American States with regard to Central America.

¹⁰⁰ Article 3 of Hague Convention No. I, 1899 and Convention No. I, 1907

coordinating their actions and, for this purpose, accept the assistance of a self-selected group of “friends.” When there are only two mediators, the term “joint mediation” is more commonly used. Sequential multiparty mediation is based on the idea that disputes have life cycles with rising and falling levels of violence, and that particular types of mediators are better suited to one stage of this cycle than another. Only one mediator is active in the conflict at any given time, and he or she makes a deliberate “handover” to one thought that is better appropriate to the new stage considered impending¹⁰¹.

4.8 The Working Funeral

Foreign dignitaries are usually featured on guest lists for ceremonial occasions of outstanding national significance. As a result, they are frequently crucial diplomatic events that affect both enemies and friends. Imperial coronations, royal coronations, presidential inaugurations, papal investitures, royal weddings, Independence Day celebrations, and revolution anniversaries are all examples of this type of event. Funeral diplomacy dates back at least to the Feast of the Dead held by the Algonkians of Canada's Upper Great Lakes in the seventeenth century, and maybe much further. Nonetheless, it appears that it was not until the 1960s that it truly began to establish itself as a key institution of the global diplomatic system.

A working funeral is the funeral of a notable political figure who dies while still in office or in retirement. It is attended by a large number of high-level delegations from foreign countries, who use the opportunity to do diplomatic business, as will be visible. Leading figures among the politically bereaved deliver eulogies over the body on the day of burial or cremation, and visiting foreign delegations pay their last respects. The dispatch of the corpse is then followed by a state reception for the attendees, which is then hotly followed by the secret conduct of diplomatic business. As stated above, this entails dialogues between the hosts and their visitors, as well as between the visitors themselves. However, it should not be forgotten that funeral summits are often as crucial for allies seeking comfort as they are for foes seeking a way out of a deadlock.

4.9 The Joint Commissions

These bodies are standing committees made up of members from the opposing parties as well as 'observers' from states or other institutions participating in conflict mediation. The commissions normally have a formal focus limited to the problems on which agreement in principle has been reached, but they are occasionally used for dialogue on other topics of mutual interest as well. However, in the case of divided countries, it appears that joint commissions are designed to serve somewhat different purposes: to symbolize commitment to reunification for the benefit of domestic opinion; to represent commitment to peaceful settlement of their differences for the

¹⁰¹ Crocker et al.: 10.

sake of international opinion; and to promote practices of cooperation in relatively 'nonpolitical' areas.

4.10 Groups of Friends and other mechanisms

Friends—defined as informal groups of states formed to support the United Nations' peacemaking capacity—have evolved from the emergence of Friends of the Secretary-General on El Salvador in 1990, at a time of post-Cold War optimism about the UN's peacemaking capacity, to the more complex (and crowded) environment for conflict resolution in the mid-2000s. Friends of the Secretary-General, Friends of a country, Contact groups, and Implementation and/or monitoring groups are the four types of groups involved with the UN in conflict resolution.

The group illustrated the practical benefits that may be derived by the involvement of a group of Friends, which were initially identified in the mid-1990s by the work of Michael Doyle and others. It gave the Secretary-General and his representatives power over the parties to the conflict; legitimacy to the Friends' privileged involvement in the peace process; a measure of equilibrium to the parties; and coordination, resources, and informal guarantees to the process as a whole. The implicit and explicit understanding that accepting the Secretary-General's invitation to be a "Friend" barred unilateral initiatives also insured that potential rival mediators were channeled into the United Nations' endeavor.

Friends of the Secretary-General are informal groups of states created to help the Secretary-General or his representatives in their efforts to achieve peace. They are often small (4-6 individuals) and have the ability to function in many places, most commonly a combination of New York, the field, and capitals. This acknowledgment of the Friends as a group distinguishes the process from traditional diplomatic procedure, in which a senior UN official consults with representatives of the states most directly concerned on a regular basis. A group of Friends may be involved throughout a peace process, albeit it will perform diverse roles throughout peacemaking and in assisting with the implementation of any subsequent agreement. The Secretary-General or, more usually, his representative or ambassador will be its interlocutor. It is also likely to play a role in coordinating Security Council and/or General Assembly action on the crisis at hand.

Friends of a country are typically kept at a distance from the Secretary-General and his representatives, and hence from the operational process. They, like the Friends of the Secretary-General, were created on the initiative of both the Secretariat and the member states themselves. They are, however, larger and focus their efforts in New York. Their goals have ranged from information exchange in circumstances at the top of the international agenda to briefing and attempts to mobilize attention and resources in disputes that are further removed from "high politics." Friends of a number of African countries, including Angola, the Central African Republic, and Guinea-Bissau, have raised attention to conflicts that would otherwise go unnoticed, but their impact has been less than expected. A related occurrence in recent years has been the establishment of Ad Hoc Advisory Groups on nations emerging from conflict by ECOSOC (Haiti, Burundi and Guinea-Bissau).

Contact groups, like Friends groups, have taken various shapes, but often represent a more distant relationship with the United Nations. They have served as vehicles for member states' direct diplomacy, based on communication between capitals and unmediated by the Secretary-General's "friendship." General's Contact Group first appeared in Namibia, when a Western Contact Group worked outside of the Security Council—while keeping the Secretary-General abreast of its efforts—to design the plan that became the basis for the Namibian settlement. The Contact Group on the Former Yugoslavia was established in 1994, in part to avoid the United Nations, and has subsequently allowed for differences inside the Security Council to be ironed out between the states with the most obvious interests in regional security. Different are the Contact groups that have come and gone in Africa, particularly in West Africa. The UN has traditionally been a member of these larger, more sporadically assembled groupings. They have brought together regional actors, Security Council permanent representatives, and other donor governments for the goals of information sharing, coordination, and, on occasion, fundraising.

Conclusion

The specific reasons why governments need to conduct diplomacy in the absence of diplomatic ties vary primarily with the causes of the initial breach, the nature of their following conflict and its different consequences, the regional and global setting, and the stage of the conflict. A severe struggle with ideological implications that degenerates into war may appear to be the most unsuitable setting for diplomacy. Even in such a conflict, a need for communication may be accepted in order to limit the use of particularly cruel weapons, prohibit strikes on population centers, and minimize mutual ill-treatment of prisoners of war. When diplomacy is deemed required in the absence of diplomatic relations, whether to manage a long-standing breach, get closer to restoring 'full relations,' or mitigate the effects of a sudden rupture, a range of communication strategies are available for use.

5. Study Cases

USA-IRAN

The first formal act of diplomatic engagement and recognition between the United States and the Kingdom of Persia (Iran), both long established states, took place on June 28, 1850, when U.S. Secretary of State John Middleton Clayton authorized George P. Marsh, the American Minister Resident at Constantinople, to negotiate a treaty of friendship and commerce with the Persian Chargé d'Affaires there. In April 1850, the Persian Chargé met Marsh and promised to seek permission from his government to sign a treaty of this nature. The treaty, which was signed in November 1851, did not take effect because the Persian government did not act on a “most-favored-nation” trade clause included to the treaty by the United States Senate in its ratification resolution. On June 11, 1883, Chargé d'Affaires S.G.W. Benjamin presented his credentials to the Shah of Persia, establishing diplomatic ties and the American Legation in Tehran.

In 1979 the Iranian Revolution started, endorsed by a number of leftist and Islamist organizations as well as student movements. Following months of protests and strikes against his authority by secular and religious opponents, Iran's US-backed Shah, Mohammed Reza Pahlevi, was forced to flee the nation on January 16th. Ayatollah Khomeini, the Islamic religious leader, returned from exile two weeks later. On April 1, the Islamic Republic of Iran was declared after a referendum.

Protesters seized the US embassy in Tehran in November 1979, and American hostages were held inside for 444 days. The final 52 hostages were released in January 1981, on the inauguration day of US President Ronald Reagan. Another six Americans who escaped from the embassy were transported out of Iran by a group acting as film-makers.

On April 7, 1980, the United States broke diplomatic ties with Iran. This step was taken in response to the seizure of the American Embassy in Tehran and its workers by student militants on November 4, 1979, and the subsequent inability of the Iranian authorities to obtain their return. The hostages were subsequently released on January 20, 1981; nonetheless, diplomatic ties remain severed, and Switzerland presently functions as the protecting power for US interests in Iran.

A protecting power acts as a go-between for two governments that have severed ties. That role has evolved throughout time. At the moment, it means trying to de-escalate a difficult situation between Washington and Tehran quietly, a task that Switzerland was aided in by other, unauthorized backchannels.

QATAR DIPLOMATIC CRISIS

Qatar had traditionally pursued an ambitious foreign policy with interests that differ from those of its neighbors, but there were two major concerns that have irritated them in recent years. One example is Qatar's sponsorship for Islamist organizations.

Qatar admitted to assisting some organisations, such as the Muslim Brotherhood, but denies assisting extremist groups related to al-Qaeda or the so-called Islamic State (IS). Another critical concern was Qatar's relationship with Iran, with whom it shares the world's largest gas field. The Shia Muslim power is the principal regional adversary to Sunni Muslim-ruled Saudi Arabia.

On June 5, 2017, Saudi Arabia, the United Arab Emirates (UAE), and Bahrain broke ties with Qatar. They also gave Qatari people 14 days to leave the country and prohibited their own citizens from visiting or residing in Qatar. Egypt likewise severed diplomatic ties, but did not impose restrictions on its 180,000 Qatari citizens. Later that month, an ultimatum with 13 requests was issued, with Qatar given 10 days to respond. These included: cutting ties with Iran and terrorist organizations, shutting down Al Jazeera and its affiliates, ending Turkish military presence in Qatar, handing over wanted terrorists, stopping interference in the internal affairs of its neighbors, paying reparations for damage caused by its policies, and permitting its neighbors to monitor it for compliance. Qatar declined to comply with an original list of 13 requests, claiming that any actions that harmed its sovereignty or breached international law would be unacceptable.

Saudi Arabia's central bank warned Saudi banks not to conduct business with Qatari banks with Qatari riyals. The three Gulf states shut down all transportation ties to the country, giving residents and visitors two weeks to depart. Qatari jets were prohibited from landing and from crossing the airspace in Saudi Arabia, Bahrain, and Egypt. White sugar deliveries to Qatar have been halted by the UAE and Saudi Arabia. Some Qataris began storing food and supplies.

Following years of division, Kuwait's foreign minister declared on January 5, 2021, that Saudi Arabia intends to reopen its land, air, and sea borders to Qatar. Kuwait has been a successful mediator in efforts to bring Doha, Abu Dhabi, and Cairo together; its work has been nearly nonstop, dealing with extremely complex and contentious relationships. Kuwait's Sabah has assigned Foreign Minister Sabah al-Khalid Al Sabah and Minister of State for Ministerial Affairs Mohammed Abdullah Al Sabah with mediating. He also spoke with Saudi King Salman bin Abdulaziz and Egyptian President Abdel-Fattah el-Sisi. Kuwait's efforts were reinforced at various points by parallel efforts by then-US Secretary of State Rex Tillerson. Tillerson signed a memorandum of understanding with Qatar in July. In addition, he appointed retired General Anthony Zinni and Deputy Assistant Secretary of State for Arabian Gulf Affairs Timothy Lenderking as emissaries to help resolve the dispute.

The statement was made the day before the GCC conference in AIUla, Saudi Arabia. Qatar's Emir, Sheikh Tamim bin Hamad al-Thani, arrived in Saudi Arabia for the occasion and was welcomed by Crown Prince Mohammed bin Salman.

UK-IRAN

Following the Islamic revolution, Britain closed its embassy in Tehran in 1979. Iranian gunmen took over Iran's embassy in London in 1980, kidnapping 26 individuals including diplomatic workers, guests, and a police officer. Six days into the siege, the

gunmen killed one of the captives and threw his body out a window of the embassy, forcing the SAS to attack the building, killing five of the six terrorists and rescue all but one of the surviving hostages. The British embassy in Tehran reopened in 1988.

In February 1989, Iran's supreme leader, Ayatollah Ruhollah Khomeini, issued a fatwa demanding Muslims to kill Salman Rushdie for his blasphemous novel *Satanic Verses*. The author went into hiding, and diplomatic relations with the United Kingdom were severed. Three Iranians, including two embassy workers, were deported from the United Kingdom in 1992 after an alleged conspiracy to kill Rushdie was discovered. In 1998, Tehran changed its stance on Rushdie, stating that it no longer supported the fatwa and would not urge others to do so. Diplomatic contacts have been reestablished to some extent. For the first time since the 1979 revolution, the United Kingdom and Iran exchanged ambassadors in 1999.

Moving on, Cabinet Minister Mo Mowlam visited Iran in February 2001 and assured UK aid in Iran's war against narco-trafficking from Afghanistan, which supplies 90% of the heroin supplied in the UK. On September 21, 2001, Jack Straw became the United Kingdom's first foreign secretary to visit Iran since the Islamic revolution. It was part of a larger effort to form a coalition to combat the Afghan Taliban. However, Iran rejected David Reddaway as the UK's ambassador to Tehran in February 2002, declaring him a spy.

In September 2003, the International Atomic Energy Agency (IAEA) issued its first report on Iran's 18-year nuclear program. Iran says it is purely for civilian purposes, but some members of the international community, particularly the United States and the United Kingdom, fear Iran is planning to construct a nuclear weapon. In November 2003, Tehran agreed to allow the IAEA to conduct more extensive inspections of its nuclear sites. Tensions between the countries rose in 2004, with Iran dissatisfied with US and UK forces fighting near Shia holy cities in Iraq. In May, Iranians demonstrated outside the UK embassy in Tehran. Iran detained eight British sailors for three days in June after their vessel allegedly went into Iranian waters. In the same month, the UK, along with Germany and France, adopted a resolution strongly condemning Tehran's refusal to cooperate with International Atomic Energy Agency (IAEA) inspectors investigating Iran's nuclear program. Later on, in March 2007 Iran detained once again 15 British navy officers patrolling the Shatt al-Arab canal that separates Iran and Iraq. According to Tehran, the boat entered Iranian seas. A diplomatic dispute developed then, and they were eventually freed on April 4th.

This troublesome relationship continued when President Mahmoud Ahmadinejad was re-elected in June 2009. The opposition accused the government of electoral fraud, and there were widespread protests throughout Iran. The country's supreme leader, Ayatollah Ali Khamenei, blamed the turmoil on "arrogant powers" in the west, naming Britain as the "most evil of those powers."

Following an IAEA assessment on Iran's nuclear program in November 2011, the United Kingdom imposed sanctions on the country and severed ties with its banks. On November 27, the Iranian parliament voted to expel the British ambassador from the country. Protesters attacked the UK embassy in Tehran two days later. The UK government called the incident, in which buildings was set on fire, petrol bombs and

stones were thrown, and offices were plundered, "outrageous," and asserted that the demonstrators had the Iranian government's support. The British government had ordered all Iranian diplomats to leave the country within 48 hours.

After years of negotiations and sanctions, Iran reached an agreement with the United States, United Kingdom, France, Germany, Russia, and China on its nuclear capacity on July 14, 2015. In exchange for the lifting of sanctions, Iran offers to demolish a significant portion of its nuclear facilities. The agreement reached in Vienna was facilitated by Hassan Rouhani's election in June 2013, who was believed to be a more moderate president than Ahmadinejad. Following Rouhani's victory, then-UK Foreign Secretary William Hague stated that the moment had come to reopen the British embassy in Tehran.

In August of 2015, the British embassy in Tehran was reopened, and Foreign Secretary Philip Hammond, along with a delegation of UK business leaders, paid a visit.

ALGERIA –MOROCCO

Rabat severed diplomatic relations with Algeria in 1976 when Algiers recognized the Polisario Front's declaration of the Sahrawi Arab Democratic Republic (SADR). With multiple border clashes, the two nations had conducted a "Sand War" since 1963, and ties deteriorated after the "Green March" of 350,000 Moroccans to the border in 1975.

In 1983, Moroccan King Hassan II and Algerian President Chadli Bendjedid met at the border. Free transit between the two countries had been restored, and air and train services had reopened. Algeria and Morocco declared the restoration of diplomatic relations in 1988, and their separate borders were officially opened. Hassan II visited Algiers for the first time in 15 years for an Arab conference. Bendjedid visited Ifrane in Morocco in 1989, marking the first visit by an Algerian head of state since 1972. An agreement had been reached on a pipeline project that would connect Algeria to Europe via Morocco. Rabat ratified a 20-year-old treaty that resolved the boundary issues at the heart of the "Sand War" in 1992.

However, Algeria's 1,600-kilometer (1,000-mile) border with Morocco was closed. Algerian President Abdelaziz Bouteflika attended Hassan II's funeral in Rabat in July 1999, but that gesture of peace was short-lived after a massacre in Algeria's southwest killed 29 people the following month. Bouteflika accused Morocco of facilitating the infiltration of Islamist Extremists.

Meetings on the sidelines of an Arab summit in Algiers in 2005 between Bouteflika and Morocco's new King Mohammed VI signaled a potential improvement in relations. In 2011, the monarch called for the reopening of land borders and the normalization of relations, and few months later, Bouteflika said he was eager to work to strengthen relations. In a statement of congratulations to incoming Algerian President Abdelmadjid Tebboune in 2019, Mohammed VI called for the creation of a "new page" in ties.

Last year, former US President Donald Trump recognized Moroccan sovereignty over the land of Western Sahara in exchange for Morocco normalizing

relations with Israel. Algeria claimed that the US judgment has "no legal effect." On July 18, Algeria recalled its ambassador to Morocco for consultations, igniting a new diplomatic conflict. This comes after Morocco's UN representative expressed support for Algeria's traditionally restive Kabylie area, a stronghold of the Amazigh (Berber) minority. This is a red line for Algiers, which rejects any regional independence aspirations. When forest fires raged over northern Algeria earlier this month, killing at least 90 people, officials quickly blamed the primarily Berber region's independence movement – and accused Morocco of supporting it. After accusing Rabat of participation in the catastrophic forest fires, Algiers announced a reassessment of relations and border security procedures on August 18. Six days later, Algeria's Foreign Minister Ramtane Lamamra announced the termination of bilateral relations with Rabat as a result of Rabat's "hostile actions." Algeria claimed lethal wildfires were the work of two terrorist organizations, including the MAK group, which demanded independence for the Kabylie region and is sponsored by Morocco, without providing evidence.

As a result, Algeria cut diplomatic relations with Morocco on August 24, 2021. Morocco closed its embassy in Algiers, Algeria, on August 27, 2021. Furthermore, Algeria's Supreme Security Council decided on September 22, 2021, to block its airspace to all Moroccan commercial and military aircraft. In terms of economics, Algeria's energy minister indicated in late August that the contract for the Maghreb-Europe gas pipeline (MEG), which passes via Morocco, will not be renewed after it expires on October 31, 2021. The decision has now been made official. The pipeline runs from northwest Algeria to the Mediterranean Sea. Instead, Algeria will use the MEDGAZ pipeline to transport natural gas to Spain and Portugal.

SAUDI ARABIA - LEBANON

It is worth noting that relations between Lebanon and Saudi Arabia have been strained since President Michel Aoun was elected in 2016, owing in part to his ties to Hezbollah. Last month, Saudi Arabia's foreign minister stated that the kingdom's decision to cut ties was motivated by Iran-backed Hezbollah's expanding hold on Lebanon, and that working with Lebanon's Hezbollah-backed government is "not productive and not beneficial."

The issue erupted following an interview aired in October in which Lebanon's Information Minister, George Kordahi, appeared to accuse Saudi Arabia and the United Arab Emirates of being aggressors in Yemen's war. A Saudi-led military coalition of predominantly Sunni Muslim Arab states has been fighting the Houthi Shia Muslim rebel movement in Yemen for the past seven years.

International condemnation has been leveled at both Saudi Arabia and the rebels in Yemen for alleged atrocities. Mr Kordahi, speaking before becoming a minister in August, described the conflict as "futile" and claimed the Houthis were acting in "self-defense." Mr Kordahi's words did not reflect the attitude of the Lebanese government, although relations between the two countries have deteriorated in recent years. Hezbollah, an Iranian-backed militant group that also supports Houthi rebels in Yemen, has risen in strength in Lebanon.

Saudi Arabia has ordered Lebanon's ambassador to leave after the insulting remarks made by the Lebanese minister. In addition, all imports from Lebanon have been banned by the Gulf nation. Within hours following Saudi Arabia's declaration, Bahrain dismissed its Lebanese ambassador, followed by Kuwait and the United Arab Emirates. Saudi Arabia has tight ties with all three countries. The UAE's foreign ministry declared that ambassadors would be recalled "in solidarity" and that citizens would be barred from entering the country.

This diplomatic issue might cost Lebanon dearly, as the country is heavily reliant on oil from the Gulf states, particularly Saudi Arabia. Lebanon also relies on remittances from its diaspora more than ever before, and the vast majority of Lebanese expatriates earn money in the Gulf monarchies; almost 550,000 in total, with roughly 350,000 in Saudi Arabia. Lebanon desperately needs the remittances, given the cessation of international subsidies and bank limitations on dollar withdrawals. Saudi Arabia's prohibition on Lebanese imports is also a major blow; the country could lose \$300 million in revenue each year. It is not an exporting country, but 10% of what it does export goes to Saudi Arabia. As a result, by striking at Lebanon's budget, Saudi Arabia is warning the country that its complacency with Hezbollah might cost it dearly. Relations are deteriorating at a time when Lebanon is dealing with a severe economic crisis and political infighting. Fuel shortages have resulted in blackouts, and fast inflation has left much of the population in poverty, unable to afford basic necessities. Lebanon's prime minister has expressed disappointment over the Saudi decision and voiced hope that it will be reconsidered.

George Kordahi, Lebanon's media minister, resigned on Friday, expressing a decision to put national interest ahead of personal interest in an effort to defuse a diplomatic conflict with Saudi Arabia prompted by statements he made about the Yemen conflict. Kordahi said he quit before of President Emmanuel Macron's visit to Riyadh, believing that Macron would assist settle the conflict with Lebanon. According to the sources, Kordahi's departure was intended to pave the way for Macron to negotiate a resolution to the disagreement during a scheduled visit to Saudi Arabia this weekend.

Thus, a third party involves in order to settle this dispute and act as a mediator to this crisis. Visiting French President Emmanuel Macron said Saturday that France and Saudi Arabia have agreed to completely cooperate in resolving a diplomatic row between the Gulf states and Lebanon. His announcement came following a meeting with Saudi Arabia's de facto ruler, Crown Prince Mohammed bin Salman, in the Red Sea city of Jeddah. Macron and Prince Mohammed spoke over the phone with Lebanese Prime Minister Najib Mikati in an effort to resolve the situation that erupted in October between Beirut and several Gulf states, most notably Saudi Arabia, which had banned imports. The French president has led international attempts to help Lebanon recover from its economic depression, while the country's fragile government has struggled to attract foreign assistance, notably from wealthier Arab states.

"With Saudi Arabia, we have made commitments towards Lebanon: to work together, to support reforms, to enable the country to emerge from the crisis and preserve its sovereignty," Macron posted on Twitter.

TAIWAN – SOLOMON ISLANDS AND KIRIBATI

Taiwan, officially the Republic of China (ROC), is an East Asian country. Taiwan's political status is debatable. After UN members agreed in 1971 to recognize the PRC instead of the ROC, the ROC no longer represents China as a member of the United Nations. Meanwhile, the ROC kept its claim to be the rightful representative of China and its territory, though this has been decreased since the country's democratization in the 1990s. Taiwan is claimed by the People's Republic of China, which denies diplomatic relations with countries that recognize the Republic of China. Taiwan maintains official diplomatic relations with 14 of the United Nations' 193 member nations and the Holy See, but many more maintain unofficial diplomatic links with Taiwan through representative offices and institutions that function as de facto embassies and consulates. International organizations in which the PRC participates either refuse to admit Taiwan as a member or allow it exclusively as a non-state participant under different names.

For decades, China and Taiwan have competed for diplomatic recognition in the South Pacific, with some island nations changing alliances for financial benefit. Taiwan's diplomatic stronghold has been the South Pacific, where formal ties with six of the 16 island nations account for more than a third of its total alliances. After four decades of independence and a long-term cooperation with Taiwan, Solomons politician Peter Shanel Agovaka told a parliamentary committee that it was time for a change.

"We cannot sit for the next 40 years with our friends in Taiwan. It's time for us to make new friends and move on with our lives," Agovaka remarked. "Our new relationship will deal with a One China policy; a One China policy that recognizes only Beijing as the official government administration," he stated.

China has offered to cover a development fund for the Solomon Islands in order to help the island nation shift away from Taiwan, which now contributes \$8.5 million to the island nation. On September, 2019, John Moffat Fugui, a Solomons MP and the leader of the task force examining diplomatic ties, claimed that Beijing would contribute to a fund despite preferring "grants, concessionary loans, and sometimes gifts." "But for you, we will provide you a [Rural Constituency Development Fund] for a set amount of time," Fugui stated, referring to recent talks with Beijing authorities.

President Tsai, in announcing the decision to end relations with the Solomon Islands, blasted Beijing's financial promises. "Taiwan will not participate in dollar diplomacy with China to fulfill unreasonable demands," she said to reporters. "This is not how Taiwan approaches diplomacy, not to mention that China's offers of financial help frequently fall through," she noted. Taiwan's foreign minister, Joseph Wu, announced that the country's embassy in the Solomon Islands would be closed immediately and all diplomats would be recalled.

The Solomon Islands' decision to switch allegiance followed the suggestion of a taskforce commissioned by the Solomon Islands' government to evaluate the merits of switching connections to the country. According to the study, the government should shift ties with China and encourage it to establish a diplomatic mission in Honiara, the capital of the island of Guadalcanal.

However, this transition didn't go smoothly, as in November 2021, riots have broken out in the capital of Solomon Islands. After Sogavare took power in 2019, his administration decided to establish diplomatic relations with Beijing. However, the country's island of Malaita, where the majority of the rioters are said to be from, has maintained ties with the island of Taiwan. Manasseh Sogavare, Prime Minister of the Solomon Islands, blamed foreign influence for encouraging anti-government riots over his government's decision to terminate "diplomatic ties" with Taiwan and establish diplomatic ties with the Chinese mainland. He didn't mention who was among the "other powers" who instigated the violence. Sogavare stressed that the decision to establish diplomatic ties with Beijing is consistent with current developments and international law.

Australia, the United States, or Taiwan officials have not admitted to being responsible for the "foreign intervention" denounced by Sogavare. Australian Prime Minister Scott Morrison stated that Australia's "presence there does not imply any position on the Solomon Islands' internal affairs." Canberra even claimed the action was prompted by a request from Sogavare.

Any attempt to sever bilateral ties between China and the Solomon Islands, according to China's embassy in the Solomons, would fail. According to the statement of the Chinese embassy, China-Solomon Islands ties will overcome all obstacles. However, Malaita's premier, Daniel Suidani, has prohibited Chinese enterprises from doing business in the region and has accepted US help.

The same situation was involved in Kiribati, another Taiwanese ally, that decided to shift its diplomatic recognition to China. In less than a week after Solomon Islands announced the termination of diplomatic relation with Taiwan, the Taiwanese foreign minister Joseph Wu stated that the government was severing diplomatic ties with Kiribati and the embassy would be closed there immediately. Taiwan made the public statement before Kiribati's government formally announced its plan to cut ties with Taiwan as a pre-emptive move. According to Mr Wu, there was information that the Chinese Government has already committed to provide full money for the purchase of multiple airplanes and commercial ferries, encouraging Kiribati to transfer diplomatic relations.

England Iuta, a Kirabati Opposition MP, said there were many rumors regarding how much money China was paying in exchange for switching. He called it "chequebook diplomacy" and expressed concern about China making massive, unsustainable loans to countries, a practice known as "debt-trap diplomacy."

CHINA – LITHUANIA

China downgraded diplomatic relations with Lithuania to the level of charge d'affaires on November 2021, according to a statement from China's state-owned

television CCTV. China has renamed its diplomatic mission in Lithuania the Office of the Chargé d'Affaires and requested that Lithuania also rename its diplomatic mission in China. China announced that it adopted the retaliatory measure after self-ruled Taiwan established a de facto embassy in Lithuania. On November 18, Lithuania, despite China's strong protests and repeated representations, permitted Taiwan island to establish a "representative office" in the name of Taiwan rather than Taipei, thus violating the one-China principle.

Taiwan has been encouraged by increased worldwide support for it in the face of Chinese military and diplomatic pressure, particularly from the US and some of its allies. Washington has given Vilnius assistance in dealing with Chinese pressure, and Lithuania will sign a \$600 million export credit agreement with the United States Export-Import Bank this week. Lithuania's action is an exception among Central and Eastern European countries, but it may seek sympathy and backing from other regional countries.

The Chinese Embassy in Lithuania announced one day before the Foreign Ministry's statement that consular services will be terminated beginning on that Thursday. China's move to change the diplomatic mission demonstrates the country's strong determination, and it would not compromise on the issue.

Lithuania's foreign minister has requested the EU to intervene on its behalf as China increases political and economic pressure on the Baltic country in a diplomatic conflict over Taiwan relations. Lithuanian enterprises in the pharmaceutical, electronics, and food industries have recently had shipments essentially blocked from entering the Chinese market, according to Lithuanian Foreign Minister Gabrielius Landsbergis in a letter to the EU Commission and foreign service on Monday (6 December). The EU Commission, for its part, supported Vilnius' Taiwan-office move on the same day. The EU does not believe the Taiwan representative office, which is not an embassy or a consulate, should be a source of concern, an EU spokeswoman said. The EU has been drawn into a diplomatic tangle with China over Lithuania.

Lithuania recently left the Beijing-led 17+1 grouping, a diplomatic forum in which China interacts with countries in Central and Eastern Europe. The whole situation is still evolving, with EU diplomats trying to solve this crisis.

UN DIPLOMATIC SANCTIONS

Sanctions adversely affect all the structures of the state and society, and render difficult, if not impossible, the normal operation of services, including the Foreign Service. There was a number of challenges faced by the Yugoslav diplomatic service when the country was under sanction.

Sanctions not only destroy the economy of a country but also threaten the existence of its population. They adversely affect all the structures of the state and society and render difficult, if not impossible, the normal operation of services, including the Foreign Service.

In the case of Yugoslavia, the situation that arose following the imposition of sanctions was made particularly complicated by two additional negative factors: (a) the secession of four of the former Yugoslav Republics and the disintegration of the Federal State, including its Foreign Service, and (b) the fact that Security Council Resolution 757 of 30 May 1992 contained provisions directly related to Yugoslav diplomatic and consular missions.

As the four former Yugoslav republics seceded, a large number of officials and personnel from these countries left the Federal Secretariat of Foreign Affairs and the diplomatic and consular posts. The Yugoslav system had ensured equitable representation of the republics; thus, it should be emphasized that over 70% of Yugoslavia's diplomats were from these four seceding countries. Because the republics seceded prior to the application of sanctions, the Ministry of Foreign Affairs and many of its diplomatic and consular offices were understaffed when the sanctions were imposed. Furthermore, the ministry was in a precarious situation, which was first evident when some heads of diplomatic and consular missions did not follow orders from headquarters. Instead, they disrupted the operations of the missions, fleeing to join the Foreign Services of newly constituted governments. It took a long time for Yugoslav diplomacy to rebuild and prepare for the challenges that awaited it in a new, transformed environment.

Aside from economic and transportation measures, paragraph 8 of the Security Council Resolution imposing sanctions on Yugoslavia also stated that all governments shall:

- lower the amount of employees in the Federal Republic of Yugoslavia's diplomatic missions and consular offices in Serbia and Montenegro;
- take the appropriate actions to restrict persons or organisations representing the Federal Republic of Yugoslavia (Serbia and Montenegro) from participating in athletic events on their territory;
- suspend scientific and technological cooperation, cultural exchanges, and visits involving individuals or organisations officially sponsored or representing the Federal Republic of Yugoslavia (Serbia and Montenegro)."

Individual countries applied varied interpretations and enforcement to paragraph 8(a). Many of them summoned their Yugoslav diplomats and demanded that Yugoslavia do the same. Several countries did not recall their embassies and did not ask Yugoslavia to do so. Yugoslavia had no heads of missions with the rank of ambassador during the sanctions, both as a result of the enforced constraints on the decrease of staff in the missions and, more importantly, because ambassadors from the republics that had declared independence had left Yugoslavia.

In the case of Libya, the United Nations sanctions regime began in 1992 and did not legally cease until 2003, but sanctions were suspended in 1999. The Lockerbie incident was added to the Security Council's agenda on December 30, 1988, when the Council President issued a statement denouncing the bombing of Pan Am Flight 103. By 1990, Western intelligence had identified two Libyan agents as being centrally involved in the bomb's detonation, and the United States and the United Kingdom launched a campaign to bring the two, and possibly others, to justice. To put pressure

on Libya to comply, the UN Security Council passed two resolutions putting sanctions on the country, the first in March 1992 (Resolution 748) and the second in November 1993 (Resolution 883). The sanctions imposed by Resolution 748 restricted air travel to and from Libya and arms sales to Libya and requested that foreign governments and IOs limit the size of Libyan diplomatic representations.

In case of Sudan, the Security Council had ordered that Sudan take prompt steps to guarantee the extradition to Ethiopia of three suspects who had been hiding in Sudan and were wanted in connection with the murder attempt on Egyptian President Hosni Mubarak in June 1995. It further urged that Sudan stop helping, supporting, and facilitating terrorist actions, as well as providing shelter and sanctuary to terrorist elements. The Council passed Resolution 1054 under Chapter VII of the Charter (1996). According to the text, the Council further demanded that Sudan conduct its relations with its neighbors and others in accordance with the Charters of the United Nations and the Organization of African Unity (OAU). The demands expressed today were initially included in Council Resolution 1044 of January 31, 1996. The Council agreed that all States must severely limit the number and level of staff at Sudanese diplomatic missions and consular posts, as well as restrict or regulate the movement of all remaining workers within their territory. Furthermore, all States must prohibit the entry and transit of officials and personnel of the Sudanese Government and its armed forces via their territory. These sanctions would stay in effect until the Council determined that Sudan had met its demands. In support of its action, the Council urged all states to act firmly in accordance with the sanctions, regardless of any rights or obligations imposed by any international agreements, contracts, licenses, or permits taken into prior to the provisions' coming into force.¹⁰²

¹⁰² <https://www.un.org/press/en/1996/19960426.sc6214.html>

6. Conclusions

States can terminate diplomatic relations and even refuse to recognize one other's existence. Even if they start disputing, they usually recognize, either immediately or shortly after, that they have a common interest in communicating with each other, both verbally and nonverbally. Actually, such is the power of the perception that diplomacy is unavoidable that in the modern era, states have been known to resist terminating diplomatic connections while engaged in open belligerence. This becomes clearer when it is understood that diplomacy entails more than just dialogue; it also entails acquiring information, clarifying goals, and, among other things, caring after citizens in need abroad. The particular reasons why governments need to conduct diplomacy in the absence of diplomatic relations vary primarily with the causes of the initial rupture, the nature of their following conflict and its different consequences, the regional and global setting, and the stage of the conflict. Even during an armed conflict, the need for communication may be recognized in the interests of minimizing the use of particularly cruel weapons, preventing attacks on populated areas, and avoiding mutual ill-treatment of prisoners of war.

Communication may be acknowledged as a means of negotiating a ceasefire and, eventually, a political solution if and when it becomes clear to both parties that a deadlock has been reached and, at the very least, advantage is seen in achieving a breathing space. Where diplomacy is considered to be required in the absence of diplomatic ties, whether to manage a long-standing rupture, get closer to restoring "full relations," or reduce the damage of a recent rupture, a range of communication strategies are available for use. Each of them has advantages and drawbacks, and is thus more appropriate in some situations than others.

Through the section of study cases, it is obvious that especially nowadays digital diplomacy can play an important role in diplomacy and international relations. Social media, particularly Twitter, can be a useful tool for state leaders and diplomats. Social media can either affect governments or the public opinion as well as control or influence a state. Moreover, in this way two states can communicate with each other. Video communication can also be used as a way to negotiate, or contact, among states that either do not have any ties or that are in a conflict and their relations became cold. Their meetings can be occurred secretly as they do not take place under the spotlight.

The total termination of diplomatic relations is a path that every state should avoid. Nowadays, there are plenty of treaties, either bilateral or multilateral, upon trade, immigration, economic or strategic cooperation that bind states and force them to preserve at least the minimum form of communication. The majority of states are also part of the UN, so co-existence is unavoidable for each one of them. Through this technological development states will discover new ways of exercising diplomacy and communicating during a breach of diplomatic relations.

Diplomacy has a long and glorious history. It was bold and compassionate, and it achieved excellent outcomes. Diplomacy will demonstrate to the worldwide public that it believes in its functions and is determined to solve its collective difficulties by challenging its operations. It has made a significant contribution to human



development. Thus, diplomacy must be improved now that the power of many has surpassed the power of few and keep this world united.

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Annex

Vienna Convention on Diplomatic Relations, 1961

The States Parties to the present Convention,
Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents,
Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,
Believing that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,
Realizing that 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,
Affirming that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,
Have agreed as follows:

Article 1

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) the “head of the mission” is the person charged by the sending State with the duty of acting in that capacity;
- (b) the “members of the mission” are the head of the mission and the members of the staff of the mission;
- (c) the “members of the staff of the mission” are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the “members of the diplomatic staff” are the members of the staff of the mission having diplomatic rank;
- (e) a “diplomatic agent” is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the “members of the administrative and technical staff” are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) the “members of the service staff” are the members of the staff of the mission in the domestic service of the mission;
- (h) a “private servant” is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the “premises of the mission” are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

Article 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

Article 3

1. The functions of a diplomatic mission consist, inter alia, in:
 - (a) representing the sending State in the receiving State;
 - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
 - (c) negotiating with the Government of the receiving State;
 - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
 - (e) promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations
2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

Article 4

1. The sending State must make certain that the agreement of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.
2. The receiving State is not obliged to give reasons to the sending State for a refusal of agreement.

Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.
2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a charge d'affaires ad interim in each State where the head of mission has not his permanent seat.
3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

Article 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attaches, the receiving State may require their names to be submitted beforehand, for its approval.

Article 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.

2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 9

1. 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.

2. 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.

Article 10

1. The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of:

(a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;

(b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;

(c) the arrival and final departure of private servants in the employ of persons referred to in subparagraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;

(d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.

2. Where possible, prior notification of arrival and final departure shall also be given.

Article 11

1. In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.

2. The receiving State may equally, within similar bounds and on a nondiscriminatory basis, refuse to accept officials of a particular category.

Article 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

Article 13

1. The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.
2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

Article 14

1. Heads of mission are divided into three classes, namely:
 - (a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;
 - (b) that of envoys, ministers and internuncios accredited to Heads of State;
 - (c) that of charges d'affaires accredited to Ministers for Foreign Affairs.
2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

Article 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

Article 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.
2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.
3. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

Article 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

Article 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

Article 19

1. If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a charge d'affaires ad interim shall act provisionally as head of the mission. The name of the charge d'affaires ad interim shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.
2. In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the

consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

Article 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

Article 21

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.
2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

Article 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.
3. The diplomatic bag shall not be opened or detained.
4. 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.
5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
6. The sending State or the mission may designate diplomatic couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.
7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

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.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.
2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

Article 31

1. 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, except in the case of:

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under subparagraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the mission;
- (b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the

emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall

accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to force majeure.

Article 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State.

Article 42

A diplomatic agent shall not in the receiving State practise for personal profit any professional or commercial activity.

Article 43

The function of a diplomatic agent comes to an end, inter alia:

(a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;

(b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognize the diplomatic agent as a member of the mission.

Article 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of

need, place at their disposal the necessary means of transport for themselves and their property.

Article 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

- (a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
- (b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;
- (c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

Article 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

Article 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

- (a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;
- (b) where by custom or agreement States extend to each other more favorable treatment than is required by the provisions of the present Convention.

Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twentysecond instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 48:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;

(b) of the date on which the present Convention will enter into force, in accordance with Article 51.

Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the SecretaryGeneral of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this eighteenth day of April one thousand nine hundred and sixty-one.