



Future Generations
CalsMUN 2022

Research Report

Forum: Sixth General Assembly

Issue: Diplomatic Immunity

Chairs: Miguel Buxó and Mats Dieleman



Personal Introduction

Miguel Buxó

Mats Dieleman



Hi everyone! I'm Mats Dieleman, and I'll be your co-chair this conference. I'm quite excited!

I'm seventeen years old and graduated from Cals College Nieuwegein last year. I'm currently studying history at Utrecht University. I've participated in a few MUNs, but this is my first time chairing.

In my free time I enjoy reading and drawing maps, and, as it happens, I also play the piano.

I'm looking forward to seeing your takes on space colonisation and diplomatic immunity at the conference! See you then!



Introduction

Diplomatic immunity is an internationally agreed-upon legal protection for diplomats which prevents them from being arrested or held in detention in the country where they are staying. Diplomatic immunity serves to prevent diplomats from being harassed or coerced by their host country for political reasons. The state that sent the diplomat can revoke their diplomatic immunity, usually in response to serious misconduct on behalf of the diplomat.

The concept of diplomatic immunity dates back thousands of years – most ancient civilisations had some kind of protection for envoys. For most of history, diplomatic immunity was typically customary: not written law, but a set of customs which governments almost always held to. The Vienna Convention of Diplomatic Relations of 1961 codified it into international law.

The specifics of diplomatic immunity are complex, and what exact protections are afforded to an individual depends on whether they are part of a diplomatic mission, a consulate, or an international organisation, their position within that organisation, and the laws of the host country. Generally, diplomatic immunity protects most people associated with diplomatic missions and consulates, as well as their family members.



Definition of Key Terms

Persona non grata

Under the Vienna Convention, a host country may declare a diplomat residing there as ‘persona non grata’, which obliges the country that sent the diplomat to return them within a reasonable amount of time.

Consular official

A consular official works for a consulate, which is a facility established in one country by another to aid citizens of the sending country who reside in the host country. Consular officials also enjoy a form of immunity, though it extends less far than a diplomat’s immunity.



General Overview

Diplomatic immunity is an integral part of modern international politics; the protections it grants to diplomats ensure that they may carry out their duties without being harassed or coerced by their host country. Nonetheless, and despite the Vienna Convention stating that “it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State”, diplomats occasionally abuse their diplomatic immunity. This usually leads to their diplomatic immunity being waived or to their being recalled and removed from their position; however, it can still have an adverse effect on international relations, as well as causing problems in the host country.

Firstly, diplomatic immunity sometimes allows diplomats to get away with crimes ranging from traffic violations to murder, especially when the sending country refuses to recall the diplomat. If the diplomat’s immunity is not revoked, they can essentially not be tried in the host country. For example, in 2014, a junior military official who was a member of the Malaysian diplomatic mission to New Zealand used his diplomatic immunity to return to Malaysia after being charged with burglary and assault with the intent to rape, preventing him from being tried in New Zealand, though the Malaysian authorities promised to take ‘stern action’ against the official.

Next to these crimes, diplomatic immunity can also provide a cover for criminal schemes of longer duration, such as money laundering, smuggling, or abusing workers. In 2007, the American Civil Liberties Union charged a Kuwaiti diplomat to the USA with trafficking three women from India to America to force them to work as domestic employees. The Kuwaiti government ultimately agreed to a confidential settlement with the woman in 2012, but they still worked under ‘slavery-like’ conditions for 6 months. The ACLU has warned that the abuse of domestic workers under the cover of diplomatic immunity is more widespread than this single instance.

There are still disputes over the way diplomatic immunity works. For example, in 2013, Italian ambassador Daniele Mancini was restricted from leaving India for breaching an undertaking given to an Indian port that two Italian marines would return to India for trial. The Indian Supreme Court was of the opinion that by making an undertaking, the ambassador submitted to the court’s jurisdiction, and therefore waived his own diplomatic immunity.



Major Parties Involved

Organisations

International Court of Justice

In countries that have ratified the optional protocol of the Vienna Convention concerning compulsory settlement of disputes, the International Court of Justice settles any disputes that may arise from differing interpretations of the Convention.

Countries

As every member state of the UN sends and receives diplomats regularly and all but two have ratified the Vienna Convention, they nearly all have equal stake in the matter.

Timeline of Key Events

Date	Description of Event
<i>18-4-1961</i>	The Vienna Convention on Diplomatic Relations is signed.
<i>24-4-1963</i>	The Vienna Convention on Consular Relations is signed.
<i>28-8-2019</i>	The USA claims diplomatic immunity after Anne Sacoolas, the wife of an American government employee in the UK is involved in a traffic accident which ultimately lead to the death of Harry Dunn. Though traffic accidents involving diplomatic immunity had occurred before, this case received a lot of media attention.



Previous Attempts to Resolve the Issue

The Vienna Convention on Diplomatic Relations codified modern diplomatic immunity. The convention has been signed and ratified by every UN member state except South Sudan and Palau. Most importantly, it forbids diplomats (and their family members) from being arrested or held in detention by their host country, and also obliges the host country to protect diplomats. Furthermore, it also protects the information security of diplomatic missions by forbidding host countries from opening or seizing the mission's documents and obliging them to allow free communication between the diplomat and their home country and to allow diplomatic couriers safe passage. Thirdly, it forbids the host country from entering or searching buildings used by the diplomatic mission, like the houses of diplomats, without permission. It gives countries one recourse to the abuse of diplomatic immunity: a host country may declare a diplomat *'persona non grata'*, in which case the diplomat must return to their home country or risk losing diplomatic immunity. The later Vienna Convention on Consular Relations gave most of the same protections to consular officials, though they generally only have immunity in respect of acts performed in their function as consular official.

Possible Solutions

The easiest way to prevent the abuse of diplomatic immunity would be to automatically waive it in certain situations – such as when the diplomat is implicated in a serious crime. However, this raises problems of its own; a state that wished to arrest a diplomat for political reasons could then simply claim they are implicated in a crime, which weakens the protections that diplomatic immunity is supposed to give. The American Civil Liberties Union has called for the implementation of 'watchdog mechanics' to monitor the conduct of diplomatic officials more closely in their host countries, which would allow abuse of diplomatic immunity to be identified more quickly.



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