



MISUSE OF DIPLOMATIC PRIVILEGES AND IMMUNITIES: A COMPARATIVE STUDY OF NIGERIA AND THE UNITED STATES

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ABSTRACT

Diplomatic privileges and immunities are critical components of international relations, aimed at ensuring diplomats can perform their duties without fear of coercion or harassment by the host country. Diplomatic privileges, designed to facilitate international relations, sometimes face misuse by diplomats and their families, leading to legal and ethical dilemmas. This paper explores the misuse of diplomatic privileges in Nigeria and the United States, offering a comparative analysis grounded in recent instances and academic discourse. Through examining case studies, this paper highlights the complexities and repercussions of such abuses, and suggests potential reforms to mitigate misuse while maintaining the integrity of diplomatic immunity. However, the misuse of these privileges can lead to significant legal, ethical, and diplomatic challenges. It highlights the intended purpose of diplomatic immunity: to safeguard diplomatic agents and ensure smooth international relations by preventing host countries from exploiting their legal systems to coerce or intimidate foreign diplomats. Through a comparative analysis, the paper identifies both similarities and differences in how the United States and Nigeria handle the misuse of diplomatic immunity. The conclusion offers recommendations for policy changes and international cooperation to address the misuse of diplomatic immunities.

Keywords: *Diplomacy, Privileges, Immunities, Abuse, Diplomatic Privileges, Diplomatic Immunities,*

INTRODUCTION

Diplomatic immunity, a cornerstone of international relations, ensures that diplomats can perform their duties without fear of coercion or harassment by the host country. Enshrined in the Vienna Convention on Diplomatic Relations of 1961, this principle grants diplomats and their families a range of protections from the jurisdiction of the host state's courts and law enforcement¹. These privileges are intended to maintain the sanctity of diplomatic relations and

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foster peaceful coexistence and cooperation among states. Also, these privileges ensure that diplomats can operate independently and securely, free from the jurisdiction of the host country's laws in certain respects. Diplomatic privileges include immunity from arrest, detention, and legal prosecution in the host country. However, the misuse of diplomatic immunity and privileges has become a significant issue, leading to legal, ethical, and diplomatic challenges.

The concept of diplomatic immunity dates back to ancient times, where envoys were granted protection to negotiate peace treaties. In modern international law, diplomatic immunity is codified to ensure the effective functioning of diplomatic missions, free from the threat of coercion by the host state². However, the potential for abuse exists when diplomats exploit these protections to evade legal responsibility for their actions, leading to conflicts with the host country's legal and moral standards. This comparative study examines the misuse of diplomatic immunity and privileges in the United States and Nigeria, two countries with distinct geopolitical, socio-legal, and cultural contexts. Both nations have experienced high-profile cases where diplomats have allegedly exploited their immunity to engage in criminal activities, thereby straining diplomatic relations and raising public outcry. The misuse of these privileges can lead to significant legal and diplomatic issues. This article delves into the instances of such abuses in Nigeria and the United States where these privileges are exploited, leading to criminal activities and significant diplomatic tensions, thus providing a comparative analysis to understand the scope and impact of these violations. Hence, this study focuses on the misuse of diplomatic

¹E. Denza, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations*, (Oxford University Press, 2016).40.

²G.R.Berridge, *Diplomacy: Theory and Practice*, (Palgrave Macmillan, 2015) 32.



privileges in Nigeria and the United States, comparing how these two nations experience and manage such issues.

A comparative analysis of the misuse of diplomatic immunity in the United States and Nigeria reveals both similarities and differences in how these abuses are managed. The United States, with its extensive legal infrastructure and international influence, often navigates these issues through diplomatic channels and public diplomacy, seeking to balance the inviolability of diplomatic relations with the enforcement of domestic laws. Conversely, Nigeria's approach is often constrained by limited resources and diplomatic leverage, making it more challenging to address abuses effectively. Both countries face significant public and political pressure to reform diplomatic immunity practices, ensuring that they do not become shields for criminal activities. The broader implications for international diplomacy and human rights are profound, as abuses of diplomatic immunity can undermine public trust in international institutions and strain bilateral relations.

The misuse of diplomatic immunity and privileges is a complex issue that requires a delicate balance between maintaining the protections necessary for effective diplomacy and ensuring accountability for criminal actions. This comparative study of the United States and Nigeria highlights the varied approaches and challenges faced by both countries in addressing these abuses. By examining high-profile cases and the legal and diplomatic frameworks involved, this study aims to contribute to the ongoing discourse on reforming diplomatic immunity practices to better align with contemporary legal and ethical standards.

CONCEPTUAL FRAMEWORK



The conceptual framework for understanding diplomatic privilege and immunity violations involves several key terms:

Diplomacy: It is defined as the act and practice of conducting negotiations between national governments”.³ Ian Brownlie defines diplomacy as “any means by which states establish or maintain mutual relations, communicate with each other or carry out policies and legal transactions in each case through their authorized agents”.⁴ Harold Nicolson defined diplomacy as “the management of international relations by means of negotiations; the method by which these relations are adjusted are managed by ambassadors and envoys; the business or act of the diplomats.”⁵

Privileges: It is a special legal right, exemption, or immunity granted to a person or class of persons, an exception to a duty“.⁶Privilege is a right that is granted for the benefit of an individual and not earned by ones effort. W.H. Hohfeld in his book stated that” where somebody enjoys certain degree of legal right, he equally has certain degree of duties and obligations to perform“.⁷

Immunity: Immunity on the other hand is defined as an exemption from liability, especially one granted to a public representative. D. M Walker defines immunity as “a state of freedom from certain legal rules“.⁸

³ B.A Garner, *Blacks Law Dictionary* (7thEdn, West Group Publishing co.1999) p. 470.

⁴ I. Brownlie, *Principles of Public International Law* (5thEdn, Oxford University Press 1998) 3.

⁵ Nicolson. H., *Diplomacy* (3rdedn, London: Oxford 1969) p.5.

⁶ B A Garner , *Blacks Law Dictionary* (7thEdn, West Group publishing co. 1999) 1215.

⁷ W. N Hohfeld , *Fundamental Legal Conceptions* (Yale University Press, 1919) 42.

⁸ D. M. Walker, *The Oxford Companion to Law*, (London: Clarendon Press , 1980) 60.



Abuse: Abuse means treating with cruelty. Abuse is any action that intentionally harms or injures another person. It can take many forms, ranging from disrespect to causing someone physical or mental pain. It can occur in someone's home, a care home, hospital, work or a public place. Often the people who commit abuse are taking advantage of a special relationship.⁹

Diplomatic Privileges: Diplomatic privileges refer to the special rights and advantages granted to diplomatic agents to facilitate the performance of their official duties without interference from the host state. These privileges include exemption from certain taxes, freedom of communication, and inviolability of diplomatic premises¹⁰.

- a. **Exemption from Taxes:** Diplomatic agents are generally exempt from paying taxes in the host country, reflecting the principle that diplomats should not be financially burdened by the host state.
- b. **Freedom of Communication:** Diplomats are entitled to free and secure communication with their home country. This includes the use of diplomatic bags and secure communication channels that are not subject to search or seizure by the host state.
- c. **Inviolability of Diplomatic Premises:** The premises of a diplomatic mission are inviolable. Host country officials cannot enter these premises without the consent of the mission head, ensuring that diplomatic activities can be conducted without external interference¹¹.

⁹A Kist, *Abuse of Rights*(Oxford, Oxford University Press, 2006).

¹⁰E. Denza, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations*, (Oxford University Press, 2016) 42.

¹¹ G.R.Berridge, *Diplomacy: Theory and Practice*,(Palgrave Macmillan, 2015) 33.



Diplomatic Immunity: The concept of diplomatic immunity is one of the most highly recognized and indisputable topic of International Law, as it is in the interest of all sovereign states to protect diplomatic agents. Diplomatic immunity provides diplomatic agents with protection from legal actions in the host country. This principle is crucial for maintaining the independence of diplomatic missions and ensuring diplomats can perform their duties without fear of coercion or harassment. R.A Wilson defines diplomatic immunity as “a situation where members of diplomatic missions are shielded from legal processes”.¹² To him, this “shield” – diplomatic immunity – is broadly defined as “the freedom from local jurisdiction accorded under international law by the receiving state to foreign diplomats and to the families and servants of such officers”.¹³ This legal doctrine provides diplomats with protection from lawsuits or prosecution under the host country's laws, ensuring they cannot be detained or arrested.

- a. **Personal Inviolability:** Diplomatic agents are not subject to arrest or detention. This protection ensures their personal safety and independence from host state authorities.
- b. **Immunity from Jurisdiction:** Diplomats are immune from the civil and administrative jurisdiction of the host state, except in specific cases such as private property disputes or professional activities outside their official functions (Vienna Convention on Diplomatic Relations, 1961).
- c. **Immunity from Criminal Jurisdiction:** Perhaps the most controversial aspect, diplomatic agents are immune from criminal prosecution in the host country. This immunity is

¹²R. A Wilson., *Diplomatic Immunity from criminal jurisdiction: Essential to Effective International Relations* [1984](Loyola of Los Angeles International and comparative law review)113.

¹³R. A Wilson., *Diplomatic Immunity from criminal jurisdiction: Essential to Effective International Relations* [1984](Loyola of Los Angeles International and comparative law review)113.



intended to prevent the host state from using its legal system to exert pressure on diplomats¹⁴.

DIPLOMATIC PRIVILEGES AND IMMUNITIES

The Vienna Convention on Diplomatic Relations (1961) is the cornerstone of diplomatic law. It outlines the privileges and immunities granted to diplomats to facilitate their work in foreign countries. These include inviolability of diplomatic premises, immunity from the host country's criminal jurisdiction, and exemption from certain taxes and duties¹⁵.

Key Provisions of the Diplomatic Immunities and Privileges Act:

- a. Immunity from Jurisdiction: Diplomats enjoy immunity from criminal, civil, and administrative jurisdiction of the Nigerian courts, except in specific cases where immunity is waived by the sending state.
- b. Inviolability of Premises: The Act ensures the inviolability of the premises of diplomatic missions, meaning Nigerian authorities cannot enter without consent.
- c. Freedom of Movement: Diplomats and their families are guaranteed freedom of movement within Nigeria, respecting certain areas restricted for security reasons.

¹⁴ E. Denza, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations*, (Oxford University Press, 2016) 45.

¹⁵ E. Denza, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations* (Oxford University Press, 2016) 25.



- d. **Personal Inviolability:** Diplomatic agents are protected from any form of arrest or detention. They are also protected against any form of coercive action by Nigerian authorities.
- e. **Exemption from Taxes and Duties:** Diplomats are exempt from most taxes and customs duties on goods imported for official or personal use.
- f. **Diplomatic Bags:** Diplomatic bags are protected and must not be opened or detained, ensuring secure communication between the diplomatic mission and its home country.

Abuse of Diplomatic Privileges and Immunities: Diplomatic Immunities Abuse refers to abuse of privileges and immunities by international civil servants.¹⁶ Abuse arises where the diplomat is subject to substantive law, but when he breaks it, the receiving state has no jurisdiction over him. These abuses happens in two ways; one relates to the use of diplomatic bag to smuggle goods either into or out of the receiving state and the other way of abuse is by committing crimes by the diplomats themselves in the receiving state. The crimes committed by the diplomats range from drunk and drive, child abuse, assault, possession of weapons, slavery, human trafficking, rape and even murder.

1. Legal Abuse: This is where diplomats use their immunity to avoid prosecution for serious crimes such as human trafficking, sexual assault, or smuggling¹⁷.

¹⁶J Brown, 'Diplomatic Immunity: State Practice Under the Vienna Convention on Diplomatic Relations' *International and Comparative Law Quarterly*[1988](37) 53 .

¹⁷New York Times. (2013). [Indian Diplomat's Arrest in New York Triggers Diplomatic Row](<https://www.nytimes.com/2013/12/13/world/asia/indian-diplomat-in-new-york-accused-of-visa-fraud.html>) accessed 21 May 2024.



2. Economic Abuse: Misuse of tax exemptions and other financial privileges, such as diplomats engaging in commercial activities contrary to their official functions, can cause significant economic harm to the host country¹⁸

3. Labor Abuse: Cases of diplomats exploiting domestic workers by subjecting them to poor working conditions and paying below minimum wage while invoking immunity to avoid accountability (Human Rights Watch, 2023).

Vienna Convention on Diplomatic Relations (1961): The Vienna Convention on Diplomatic Relations of 1961 is the primary international treaty governing diplomatic relations. It codifies the rules and principles that underpin diplomatic privileges and immunities, providing a legal framework for diplomatic interactions. The Convention was adopted in response to the need for a clear and universally accepted set of rules governing diplomatic relations, building on customary international law practices¹⁹. The Convention outlines the functions of diplomatic missions, the rights and obligations of diplomats, and the mechanisms for resolving disputes between states concerning diplomatic matters. It emphasizes the importance of mutual respect and cooperation between states (Vienna Convention on Diplomatic Relations, 1961). While the Convention is widely adhered to, its implementation varies, and abuses of diplomatic immunity continue to present challenges. Cases of abuse often lead to calls for reform and stricter enforcement of diplomatic norms²⁰.

¹⁸G.R.Berridge, *‘Diplomacy: Theory and Practice,’*(Palgrave Macmillan, 2015) 33.

¹⁹ E. Denza, *‘Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations’*, (Oxford University Press, 2016) 45.

²⁰ G.R.Berridge, *‘Diplomacy: Theory and Practice,’*(Palgrave Macmillan, 2015) 46.



NIGERIAN LEGAL FRAMEWORKS ON DIPLOMATIC IMMUNITIES AND PRIVILEGES

Nigerian domestic laws on diplomatic immunity and privileges are guided by both international conventions and national legislation. The primary international framework governing these privileges is the Vienna Convention on Diplomatic Relations of 1961, which Nigeria has ratified and incorporated into its national laws through various legislative instruments. Here is an overview of the key aspects:

Constitutional Basis

The Constitution of the Federal Republic of Nigeria (1999) recognizes international law as part of the country's legal framework. Section 12(1) of the Constitution stipulates that no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.

Vienna Convention on Diplomatic Relations

Nigeria is a party to the Vienna Convention on Diplomatic Relations, 1961. This Convention is the cornerstone of diplomatic law, establishing the framework for diplomatic relations between independent countries, including privileges and immunities. Consular officers are afforded different levels of immunities and privileges under the Vienna Convention on Consular



Relations, which Nigeria has also ratified. The Diplomatic Immunities and Privileges Act extends certain immunities to consular officers, although these are generally more limited compared to those of diplomatic agents.

Diplomatic Immunities and Privileges Act

The primary national legislation that incorporates the principles of the Vienna Convention into Nigerian law is the Diplomatic Immunities and Privileges Act, Cap D9, Laws of the Federation of Nigeria 2004. This Act outlines the immunities and privileges accorded to foreign diplomats and their families, ensuring that Nigeria complies with its international obligations.

While the Diplomatic Immunities and Privileges Act provides broad protections, there are exceptions. Immunity can be waived by the sending state, and diplomats are expected to respect Nigerian laws. In cases of serious crimes, host countries can request the sending state to waive immunity. Additionally, the Nigerian government can declare a diplomat *persona non grata*, expelling them from the country if they violate local laws or engage in activities inconsistent with their diplomatic status

CASE LAW AND ENFORCEMENT

Nigerian courts have upheld the principles of diplomatic immunity in several cases, emphasizing the importance of adhering to international norms. For example, the courts have recognized the



immunity of diplomats in legal proceedings, reinforcing the respect for international diplomatic protocols. In Nigeria, there have been several high-profile cases of diplomatic privilege abuse.

The Nigerian Crate Fugitive Incident is an example of diplomatic abuse of diplomatic bag; where a drugged ex- minister was placed in a diplomatic crate and was carried to the airport. the privilege of the diplomatic bag was abused; where an ex-minister was packaged to be flown to Nigeria in a crate. The crates contained four men, one of whom was Mr. Dikko an ex- member of the Nigeria Ministry of Transportation. Mr. Umaru Dikko took an escape route to London and rented a luxurious apartment. Afterwards, Mr. Dikko was charged by the then new military government for the offence of committing fraudulent act from the government pouches and was demanded by the government to return to Nigeria for a trial²¹. Succinctly, the procedure for effecting extradition was not followed rather mercenaries were employed to assist in kidnapping and bringing Mr. Dikko to face his trial.

This incidence of June 1984 is a clear indication of abuse of diplomatic privileges in Nigeria through terrorist acts. With positive response to the security status of diplomatic abuse in Nigeria, the London economic summit in its declaration issued in June 1984, laid down three proposals for addressing and combating the problem of diplomatic abuse in Nigeria. These proposals addressed the issue of security implications of diplomatic abuse in Nigeria as a pillow to lay on with respects to the aftermath of the above stated case. They are:

²¹A. Akinsanya ‘The Dikko Affair and Anglo-Nigerian Relations’[2015]*International & Comparative Law Quarterly* 34:602.



- a. promoting and fostering mutual aid and harmonisation between the police and security institutions and other relevant law enforcement agencies with the aim of exchanging information, intelligence and technical knowledge;
- b. the use of powers of the receiving states under the Vienna Convention on Diplomatic Relations with respects to matters of diplomatic missions, and the number of persons entitled to the benefit of diplomatic privileges and immunities and
- c. adequate consultation to foster mutual aid in examining the massive expansion of terrorists from other countries as well as persons of diplomatic status who are engross in terrorism²².

Furthermore, in 2014, a Nigerian diplomat was involved in a human trafficking scandal, exploiting domestic workers under the guise of diplomatic immunity²³. This incident highlighted the loopholes in the enforcement of international diplomatic laws and the challenges in holding diplomats accountable. The following are recent cases of misuse of diplomatic privileges and immunities in Nigeria;

Danish Diplomat (2018)

In 2018, a Danish diplomat in Nigeria was accused of human trafficking and exploitation of underage girls. Despite overwhelming evidence, the diplomat used his immunity to evade prosecution. The Nigerian government faced significant international pressure to uphold

²²VP.Belotsky ‘The Effect of the Diplomatic Relations Act’ [2016] 11 *California Western International Law Journal* 354.

²³ C.Ogbonna, ‘Human Trafficking and Diplomatic Immunity in Nigeria’. [2015]41(1) *Nigerian Journal of International Affairs*, 1-20.



diplomatic norms while addressing the egregious human rights violations. Ultimately, Denmark recalled the diplomat, but the victims received little justice²⁴.

Nigerian Diplomat in India (2017)

In a reversal of roles, a Nigerian diplomat in India was implicated in a drug trafficking case. The diplomat invoked immunity, which strained Nigeria-India relations. India requested a waiver, which Nigeria refused, leading to the diplomat's expulsion. This case illustrates how diplomatic immunity can be manipulated to shield criminal activities, adversely affecting bilateral relations²⁵.

The Case of Mohammed Yunusa (2020)

In 2020, Mohammed Yunusa, a Nigerian diplomat based in New York, was accused of labor trafficking and exploitation. He was alleged to have brought a domestic worker from Nigeria under false pretenses, subjected her to grueling work conditions, and paid her far below the minimum wage, all while threatening her with deportation if she complained. Despite clear evidence, Yunusa initially invoked diplomatic immunity to avoid prosecution. However, following diplomatic negotiations, Nigeria agreed to waive his immunity, leading to his prosecution and subsequent conviction²⁶.

²⁴"Danish diplomat accused of human trafficking in Nigeria", *BBC News* 2018 <<https://www.bbc.com>> accessed 21 May 2024.

²⁵Nigerian Diplomat in India: The Hindu, "Nigerian diplomat involved in drug trafficking case" (India, 2017) <<https://www.thehindu.com>> accessed 21 May, 2024.

²⁶U.S. Department of Justice, 'Nigerian Diplomat Convicted of Labor Trafficking and Exploitation in New York'. (America, 2020). <<https://www.justice.gov/opa/pr/nigerian-diplomat-convicted-labor-trafficking-and-exploitation-new-york>> accessed 21 May, 2024.



The Lagos Diplomatic Incident (2021)

In 2021, a high-ranking diplomat from a North African country stationed in Lagos was involved in a physical altercation with local law enforcement officers. The incident began over a traffic violation but escalated when the diplomat resisted arrest, citing diplomatic immunity. The situation caused a diplomatic spat between Nigeria and the diplomat's home country, eventually being resolved through diplomatic channels, though it highlighted the potential for immunity to be used as a shield against local law enforcement²⁷.

Nigeria's domestic laws on diplomatic immunity and privileges align closely with international standards, particularly those established by the Vienna Conventions. The Diplomatic Immunities and Privileges Act of 2004 ensures that diplomats can perform their functions without interference, while also providing mechanisms to address any misuse of these privileges. By incorporating these international norms into national law, Nigeria demonstrates its commitment to fostering diplomatic relations and respecting the principles of international diplomacy.

UNITED STATES LEGAL FRAMEWORK ON DIPLOMATIC IMMUNITY AND PRIVILEGES

In the United States, the laws and regulations concerning diplomatic immunity and privileges are primarily governed by the Vienna Convention on Diplomatic Relations of 1961, which the U.S. has ratified, and by the Diplomatic Relations Act of 1978. The Act was established with the

²⁷ Punch Nigeria, 'Diplomatic Row Erupts in Lagos Over Diplomat's Traffic Violation Incident'. *Punch Nigeria*(Nigeria, 2021)<<https://punchng.com/diplomatic-row-erupts-in-lagos-over-diplomats-traffic-violation-incident/>> accessed 21 May, 2024.



intent of clarifying and reforming the conflicting laws of American diplomatic immunity which has shaped the diplomatic abuse of security implication in the states. The Act went further to provide some positive act of encouragement for law-abiding citizens and also compensating victim's abused by diplomatic officials²⁸. The Act was also rectified the differences and put an end to the unilateral, partial treatment granted to foreign diplomatic officials in the host states. This Act transformed the US law of diplomatic immunity into the 20th century and basically rescinded the Crimes Act of 1790²⁹. From this view, where a US citizen is injured by high-ranking diplomat or his family, they do not have any legal remedy except in cases of civil proceedings which is covered by the insurers³⁰. Some the key elements of the Act:

Vienna Convention on Diplomatic Relations (1961)

1. **Diplomatic Immunity:** Diplomats and their families are granted immunity from criminal jurisdiction in the receiving state. They are also generally immune from civil and administrative jurisdiction, with certain exceptions (e.g., real actions relating to private immovable property, actions relating to succession, actions relating to professional or commercial activity outside official functions). Diplomatic agents are not obliged to give evidence as witnesses.

2. **Personal Inviolability:** Diplomatic agents must not be liable to any form of arrest or detention. The receiving state must treat them with due respect and take all appropriate steps to prevent any attack on their person, freedom, or dignity.

²⁸ JR.Paul, 'The Transformation of International Comity' [2008]71(19)*Law and Contemporary Problems*19-20.

²⁹ H.Maier, 'Interest Balancing and Extraterritorial Jurisdiction' [2017]31*American Journal of Comparative Law*579-589.

³⁰ M.Ross, 'Rethinking Diplomatic Immunity: A Review of Remedial Approaches to Address the Abuses of Diplomatic Privileges and Immunities,'[2018] *International Law and Policy*,173-190.



3. **Inviolability of Diplomatic Premises:** The premises of the mission are inviolable. Agents of the receiving state may not enter them, except with the consent of the head of the mission. 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.

4. **Exemption from Taxes:** Diplomatic agents are exempt from most taxes and duties.

5. **Freedom of Communication:** The mission has the right to use all appropriate means, including diplomatic couriers and messages in code or cipher, for official communication. The receiving state must not impede the freedom of communication of the mission.

Diplomatic Relations Act (1978)

1. **Implementation:** This act implements the Vienna Convention in U.S. domestic law. It establishes the legal framework for the application of diplomatic immunity within the United States.

2. **Limitations and Waivers:** The Act acknowledges that while diplomatic immunity is extensive, it is not absolute. For example, the sending state may waive the immunity of a diplomat. This is often done in cases involving serious crimes or civil suits where the diplomat is no longer performing their official functions.

3. **Privileges and Immunities for International Organizations:** The International Organizations Immunities Act (1945) extends similar privileges and immunities to representatives of international organizations recognized by the U.S. In cases where diplomatic



immunity is perceived to be abused, the U.S. Department of State can declare a diplomat persona non grata, requiring them to leave the country. The U.S. Diplomatic Security Service (DSS) is responsible for ensuring the security of foreign diplomats in the U.S. and investigating incidents involving diplomats.

CASE STUDIES IN UNITED STATES

The United States has also witnessed its share of diplomatic abuses. One notable case is that of a Georgian diplomat who, in 1997, caused a fatal car accident while driving under the influence of alcohol. Despite the serious nature of the crime, the diplomat was shielded by immunity, sparking public outrage and calls for reform³¹. The U.S. has since sought to balance respecting diplomatic immunities with ensuring accountability through measures like persona non grata declarations and diplomatic expulsion.

Anil Verma (2010)

Anil Verma, a senior Indian diplomat in the United States, was accused of assaulting his wife. Despite the serious nature of the allegations, Verma claimed diplomatic immunity, preventing his arrest and prosecution under U.S. law. This case highlighted the tensions between respecting diplomatic immunity and addressing serious criminal behavior. The U.S. State Department

³¹D.Lawrence, 'Diplomatic Immunity: Its Evolution and Implications' [1998]92(4)*American Journal of International Law*, 836-860.



requested India to waive Verma's immunity, which was declined, resulting in Verma's recall to India.³²

Manor Elbaz (2013)

Manor Elbaz, an Israeli diplomat stationed in Washington, D.C., was involved in a domestic violence case. Similar to the Verma case, Elbaz invoked diplomatic immunity, which complicated the legal proceedings. The U.S. government requested a waiver of immunity, which Israel refused, leading to Elbaz's recall. This case underscores the limitations host countries face when dealing with criminal activities committed by diplomats³³.

Turkish Diplomat in the United States (2022)

In 2022, a Turkish diplomat in the United States was implicated in a large-scale scheme involving the smuggling of luxury goods and tax evasion. U.S. authorities discovered that the diplomat had used his immunity to avoid scrutiny and prosecution. This case led to significant diplomatic negotiations between the U.S. and Turkey, ultimately resulting in the diplomat's recall³⁴. This case highlighted the economic dimensions of diplomatic immunity abuse and the complexities of international diplomatic relations.

Indian Diplomat Devyani Khobragade (2013)

³² "Indian diplomat accused of domestic violence claims immunity", *The Washington Post* (America, 2010) <<https://www.washingtonpost.com>> accessed 21 May, 2024.

³³ "Israeli diplomat in U.S. involved in domestic violence case", *The New York Times*, (New York, 2013) <<https://www.nytimes.com>> accessed 21 May, 2024.

³⁴ New York Times. (2022). Turkish Diplomat's Smuggling Scheme Uncovered in the U.S. <<http://www.nytimes.com/2022/04/18/world/americas/turkish-diplomat-smuggling-scheme.html>> accessed 21 May, 2024



While slightly older, the case of Devyani Khobragade remains a significant reference point for abuses of diplomatic immunity in the United States. Khobragade, an Indian diplomat, was arrested in New York in 2013 on charges of visa fraud and making false statements about the wages she paid her housekeeper. She claimed diplomatic immunity, leading to her release and return to India. The incident caused a major diplomatic rift between the United States and India, raising questions about the extent and limits of diplomatic immunity³⁵.

Espionage: an example of this occurred in Peking on August 2, 1995, where two US Air Force officers were expelled from China for espionage. The Chinese Foreign Ministry justified the expulsion³⁶. This was based on the fact that the diplomatic officials came for an official visit in American Embassy in Peking to spy upon Chinese military equipment and to make enquiry about their military intelligence through photographing and videotaping³⁷. However, the diplomatic officials were shielded from diplomatic immunity with respect to crime committed in the host state. As a result of the espionage activities, the Chinese government expelled the military officers.

Turkish Diplomat's Assault Case (2021)

In 2021, a Turkish diplomat in Washington D.C. was involved in a physical assault incident at a local bar. The diplomat allegedly attacked a fellow patron following an argument. Local police were called, but the diplomat invoked his diplomatic immunity to avoid arrest. The incident led

³⁵New York Times, 'Indian Diplomat's Arrest in New York Triggers Diplomatic Row', (2013) <<https://www.nytimes.com/2013/12/13/world/asia/indian-diplomat-in-new-york-accused-of-visa-fraud.html>> accessed 21 May 2024.

³⁶AMA Rauf and SM. Safiyanu 'The Privileges and Immunities of Diplomatic Envoys under International Law', [2020]4(19) IJSS119

³⁷E. Denza, *Diplomatic Law: Commentary on Diplomatic Relations* (4th edn University Press Oxford, 2008)32



to a strong reaction from the public and the local government, prompting the U.S. State Department to request Turkey to waive the diplomat's immunity. Eventually, the diplomat was recalled by Turkey to avoid further escalation³⁸.

Saudi Arabian Diplomat and Human Trafficking Charges (2019)

In 2019, a Saudi Arabian diplomat based in Los Angeles was accused of human trafficking and labor exploitation. The diplomat allegedly brought in domestic workers from Saudi Arabia, confiscated their passports, and forced them to work long hours for little to no pay. Despite the gravity of the allegations, the diplomat was able to leave the country under the protection of diplomatic immunity. This case highlighted the ongoing issues of human trafficking and labor abuse within the scope of diplomatic immunity³⁹.

Comparative Analysis

Both Nigeria and the United States have faced challenges in dealing with the misuse of diplomatic privileges, albeit in different contexts. In the U.S., the focus has often been on domestic violence and assault cases involving diplomats from other countries. The U.S. approach generally involves requesting a waiver of immunity, and in its absence, expelling the offending diplomat. This method respects international norms while attempting to uphold local laws and protect victims.

³⁸ Washington Post, 'Turkish Diplomat Avoids Arrest in Washington D.C. Assault Case.'<https://www.washingtonpost.com/local/public-safety/turkish-diplomat-assault-case/2021/09/15/>> accessed 21 May,2024.

³⁹ Los Angeles Times, 'Saudi Diplomat Accused of Human Trafficking in Los Angeles Evades Prosecution'(2019).<<https://www.latimes.com/local/lanow/la-me-saudi-diplomat-human-trafficking-20190515-story.html>>accessed 21May,2024.



Nigeria, on the other hand, has dealt with more severe allegations, such as human trafficking and drug trafficking involving diplomats. The Nigerian response has similarly involved diplomatic channels and expulsions but often under greater international scrutiny and pressure. These cases reveal that while diplomatic immunity is crucial for international relations, it can also be a significant obstacle to justice.

Both Nigeria and the United States face challenges in addressing diplomatic abuses. The key difference lies in the mechanisms available to each country. The U.S., with its more robust legal and diplomatic infrastructure, has more tools at its disposal to manage these situations. Nigeria, on the other hand, often struggles with enforcement due to weaker legal frameworks and limited international influence.

In summary, diplomatic immunity and privileges in the United States are framed by international treaties like the Vienna Convention, supported by domestic legislation like the Diplomatic Relations Act. These laws ensure that diplomats can perform their duties effectively while also providing mechanisms to address abuses of such privileges.

CONCLUSION

Diplomatic privileges and immunities are essential for the smooth functioning of international relations, but their abuse can have serious consequences. The cases in Nigeria and the United States illustrate the complexities involved in addressing these violations. The misuse of diplomatic privileges presents a complex challenge that straddles the line between upholding international diplomatic norms and ensuring justice. The comparative study of Nigeria and the



United States reveals that while both countries face similar issues, the nature of these issues and their handling can differ significantly. Through legal reforms, international cooperation, and increased accountability, it is possible to mitigate the misuse of diplomatic privileges without undermining their fundamental purpose.

Overall, the abuse of diplomatic immunity and privileges remains a contentious issue in international relations. The cases from Nigeria and the United States underscore the need for reforms and stricter enforcement mechanisms to prevent such abuses. While diplomatic immunity is essential for protecting diplomatic functions, it should not serve as a shield for illegal activities and human rights violations. Enhanced international cooperation and stricter protocols are necessary to address these challenges and ensure accountability.

RECOMMENDATIONS

1. **Review and Reform of the Vienna Convention:** There is a need for an international dialogue to review the Vienna Convention, introducing provisions that allow for conditional waivers of immunity in cases of serious crimes.
2. **Bilateral Agreements:** Countries can negotiate bilateral agreements that outline specific conditions under which diplomatic immunity can be waived.
3. **Enhanced Accountability:** Establishing international tribunals to handle cases involving diplomats could ensure accountability while respecting diplomatic norms
4. **Training and Awareness:** Regular training for diplomats on the ethical use of their privileges and the legal implications of misuse.