

Abuse of Diplomatic Privileges and the Balance between Immunities and the Duty to Respect the Local Laws and Regulations under the Vienna Conventions: The Recent Indian Experience

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Abstract

The successful adoption of the Vienna Convention on Diplomatic Relations is hailed as the ‘landmark of the highest significance in the codification of international law’. It represented the first significant codification of any international instrument since the United Nations was established. However, despite the codification of the above rules, which is largely based on the pre-existing customary international law, the scope of diplomatic protection was not free from issues and controversies. In recent times, unfortunately, there is a growing tendency amongst the diplomats to abuse their diplomatic status to commit acts prohibited by law and still claim immunity from legal process. The States-parties also aggravate this situation by selectively interpreting the rules in their favor, ignoring the fact that reciprocity is the basis for the successful functioning of the diplomatic protection. In this connection, this paper addresses the problem of abuse of immunities and privileges and its adverse implications on the balance between immunities and the duty to respect the local laws and regulations, especially with special reference to the recent Indian experience. It explores the two recent Indian diplomatic confrontations, namely, the arrest of Devyani Khobragade and the travel ban on Daniele Mancini. Based on the study, it highlights the need for a well-balanced and equitable enforcement of the Vienna Conventions in the interest of maintenance of cordial diplomatic relations in the international community.

* I thank Mr. A. Saravanan for his assistance with the initial draft of this paper.

The Abuse Of Diplomatic Privileges And Immunities A Necessary Evil

SJ Ball



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The Abuse of Diplomatic Privileges and Immunities J. Craig Barker, 1996 Draws together many of the arguments for and against a reduction in diplomatic privileges and immunities to determine whether such privileges and immunities are a necessary evil It focuses on the problem of abuse and gives an explanation of the rationale of diplomatic privileges and immunities The State Immunity Controversy in International Law Ernest K. Bankas, 2005-06-30 The author shows through

a careful analysis of the law that restrictive immunity does not have vox populi in developing countries and that it lacks usus He also argues that forum law i.e. the lex fori is a creature of sovereignty and between equals before the law only what is understood and acknowledged as law among states must be applied in as much as the international legal system is horizontal

The Protection of Diplomatic Personnel J. Craig Barker, 2016-02-24 The recent emergence of many new states and the creation of a large number of international institutions have resulted in considerable growth in the number of persons having diplomatic status However an unfortunate side effect of this growth has been a corresponding increase in the number of attacks on diplomatic personnel as symbolic figures diplomats are targets for all types of political violence This book provides an in depth examination of the legal and non legal regimes directed towards the protection of diplomatic personnel around the world It examines the theoretical and practical justifications for the granting of special protection to such personnel and also particular recent developments in international law relating to the prevention of terrorism and the development of international criminal law including the International Criminal Court Diplomatic Law in a New Millennium Paul

Behrens, 2017-08-04 The granting of diplomatic asylum to Julian Assange the dangers faced by diplomats in trouble spots around the world WikiLeaks and the publication of thousands of embassy cable situations like these place diplomatic agents and diplomatic law at the very centre of contemporary debate on current affairs Diplomatic Law in a New Millennium brings together 20 experts to provide insight into some of the most controversial and important matters which characterise modern diplomatic law They include diplomatic asylum the treatment and rights of domestic staff of diplomatic agents the inviolability of correspondence of the diplomatic bag and of the diplomatic mission the immunity to be given to members of the diplomatic family diplomatic duties including the duty of non interference but also the rise of diplomatic actors which are not sent by States including members of the EU diplomatic service This book explores these matters in a critical yet accessible manner and is therefore an invaluable resource for practitioners scholars and students with an interest in diplomatic relations The authors of the book include some of the leading authorities on diplomatic law including a delegate to the 1961 conference which codified modern diplomatic law as well as serving and former members of the diplomatic corps

International Law and International Relations J. Craig Barker, 2000-01-01 This text examines key concepts in international law in order to illuminate them in the context of international relations The first part of the book covers theoretical issues The second part examines international law in context including case study material and the Pinochet

litigation **Islamic State Practices, International Law and the Threat from Terrorism** Javaid Rehman, 2005-06-07 In this original and incisive study the author investigates the relationship between Islamic law States practices and International terrorism **International Peacekeeping** Boris Kondoch, 2017-05-15 Peacekeeping has been the technique most frequently used by and associated with the United Nations to end conflicts and to preserve peace In addition international and regional organizations have also performed peacekeeping functions Since the establishment of the first UN peacekeeping mission UNEF I in 1956 international lawyers have raised questions about the legal aspects of these operations Traditionally they analyzed the constitutional basis for peacekeeping and tried to allocate the authority under the UN Charter for peacekeeping among the Security Council the General Assembly and the Secretary General They discussed the use of force by peacekeepers the applicability of international humanitarian law as well as the responsibilities and liabilities of peacekeepers Since the end of the cold war peacekeeping operations have become more complex In the first forty years peacekeepers functioned mainly as buffer zones between warring parties and monitored cease fires Nowadays they are increasingly engaged in internal rather than international conflicts and perform a multitude of tasks Among others they act as civilian administrators oversee elections and monitor human rights These changes have raised new legal problems Which human rights obligations exist for peacekeepers Do peacekeepers have to intervene if they witness war crimes and acts of genocide How are they protected under international law What is the legal framework of UN administrations like in Kosovo and East Timor In order to enhance a better understanding of these legal issues arising from peacekeeping operations a collection of articles written by the leading experts in the field have been compiled in the volume *International Peacekeeping* **An Introduction to International Criminal Law and Procedure** Robert Cryer, 2010-05-27 This market leading textbook gives an authoritative account of international criminal law and the investigation and prosecution of crime and guides the reader through controversies with an accessible and sophisticated approach Now covers developments in the ICC victims rights alternatives to international criminal justice and has extended coverage of terrorism *International Law and Diplomacy* Charles Chatterjee, 2013-10-31 In this work the author explores the subjects of sovereignty diplomacy and the function of diplomats diplomatic missions protocol ethics in diplomacy the role of Ministries of Foreign Affairs intergovernmental conferences and the United Nations It includes a useful glossary of over sixty essential terms such as Calvo Doctrine Extradition Rapporteur and Uti Possidetis Juris clearly relates the conduct of diplomacy to the principles of international law This volume will appeal to graduate and undergraduate students studying diplomacy public administration and international relations courses as well as practising diplomats international organization and foreign ministry officials and those who have regular dealings with them *Research Handbook on Jurisdiction and Immunities in International Law* Alexander Orakhelashvili, 2025-06-09 This updated Research Handbook presents a comprehensive analysis of the international law of jurisdiction and immunities examining the mutual interdependence between the two as well as shedding

light on the implications Featuring diverse contributions from leading experts emerging scholars and practitioners it provides an impartial perspective on the applicable international law **The Human Rights Challenge to Immunity in International Law** Selman Özdan,2022-02-12 This book focuses on the tension between the protection of human rights recognised as jus cogens peremptory norms on the one hand and the bestowal of immunity on the state and its representatives on the other to ascertain how these immunities can be eroded if not fully abolished to maintain full protection of jus cogens human rights under international law The book argues that immunity should not equate to impunity when violations of jus cogens human rights are committed by States Heads of State or diplomatic agents To make the case the organic structures of the concepts of sovereignty and fundamental human rights are examined Then the human rights based challenge to immunity is presented with respect to State Head of State and diplomatic immunity and the transition from a state centric system to a human centric system is explored Jus cogens norms are at the centre of the impunity versus immunity debate **Hierarchy in International Law** Erika De Wet,Jure Vidmar,2012-03 The existence of a hierarchy between the different international legal rules is increasingly being debated This volume will identify the extent to which judicial bodies and domestic courts contribute to an emerging normative hierarchy within international law based on the primacy of human rights **Russia and Courtly Europe** Jan Hennings,2016-10-27 In this book on early modern diplomacy Jan Hennings explores the relationship between European powers and Russia beyond the conventional East West divide from the Peace of Westphalia to the reign of Peter the Great He examines how at a moment of new departure in both Europe and Russia the norms shaping diplomatic practice emerged from the complex relations and direct encounters within the world of princely courts rather than from incompatible political cultures He makes clear the connections between dynastic representation politics and foreign relations and shows that Russia despite its perceived isolation and cultural distinctiveness participated in the developments and transformations that were taking place more broadly in diplomacy The central themes of this study are the interlocking manifestations of social hierarchy monarchical honour and sovereign status in both text and ritual Related issues of diplomatic customs institutional structures personnel negotiation practice international law and the question of cultural transfer also figure prominently **Complicity and the Law of State Responsibility** Helmut Philipp Aust,2011-09-01 This systematic analysis of State complicity in international law focuses on the rules of State responsibility Combining a theoretical perspective on complicity based on the concept of the international rule of law with a thorough analysis of international practice Helmut Philipp Aust establishes what forms of support for wrongful conduct entail responsibility of complicit States and sheds light on the consequences of complicity in terms of reparation and implementation Furthermore he highlights how international law provides for varying degrees of responsibility in cases of complicity depending on whether peremptory norms have been violated or special subject areas such as the law of collective security are involved The book shows that the concept of State complicity is firmly grounded in international law and that the international rule of law

may serve as a conceptual paradigm for today's international legal order The Historical Foundations of World Order
 Douglas M. Johnston, 2008 In *The Historical Foundations of World Order the Tower and the Arena* Douglas M Johnston has drawn on a 45 year career as one of the world's most prolific academics in the development of international law and public policy and 5 years of exhaustive research to produce a comprehensive and highly nuanced examination of the historical precursors intellectual developments and philosophical frameworks that have guided the progress of world order through recorded history and across the globe from pre classical antiquity to the present day By illuminating the personalities and identifying the controversies behind the great advancements in international legal thought and weaving this into the context of more conventionally known history Johnston presents a unique understanding of how peoples and nations have sought regularity justice and order across the ages This book will appeal to a wide spectrum of readers from lawyers interested in the historical background of familiar concepts to curriculum developers for law schools and history faculties to general interest readers wanting a wider perspective on the history of civilization Winner 2009 ASIL Certificate of Merit for a Preeminent Contribution to Creative Scholarship *Parry and Grant Encyclopaedic Dictionary of International Law* John P Grant, J. Craig Barker, 2009-10-02 For nearly thirty five years the international legal community has relied on one ambitious yet humble volume as a starting point for legal questions This classic red volume is a one of a kind reference tool that brings together both terminology and pertinent descriptive information on international law This book will also be available online as an e reference on the Oxford University Press Digital Reference Shelf Now in its third edition The Parry and Grant Encyclopaedic Dictionary of International Law is completely updated and expanded to include increased coverage in growing areas of international law including diplomatic law criminal law human rights and more Over 2 500 entries over a 20% increase in content from the previous edition provides the reader with copious references for further research including cases treaties journal articles and websites Its alphabetically arranged entries allow the reader to form a deeper understanding than a mere definition could supply and offer concise but substantial information on such essentials of international law as Legal terms as used in international law Significant doctrines Prominent cases decisions and arbitration Important incidents Judicial and literary figures Treaties and conventions Organizations and institutions Acronyms

Diplomatic Asylum Laura Hughes-Gerber, 2021-05-12 Following the vexed codification attempts of the International Law Commission and the relevant jurisprudence of the International Court of Justice this book addresses the permissibility of the practice of diplomatic asylum under general international law In the light of a wealth of recent practice most prominently the case of Julian Assange the main objective of this book is to ascertain whether or not the practice of granting asylum within the premises of the diplomatic mission finds foundation under general international law In doing so it explores the legal framework of the Vienna Convention on Diplomatic Relations 1961 the regional treaty framework of Latin America customary international law and a possible legal basis for the practice on the basis of humanitarian considerations In cases

where the practice takes place without a legal basis this book aims to contribute to bridging the legal lacuna created by the rigid nature of international diplomatic law with the absolute nature of the inviolability of the mission premises facilitating the continuation of the practice of diplomatic asylum even where it is without legal foundation. It does so by proposing solutions to the problem of diplomatic asylum. This book also aims to establish the extent to which international law relating to diplomatic asylum may presently find itself within a period of transformation indicative of both a change in the nature of the practice as well as exploring whether recent notions of humanity are superseding the traditional fundamentals of the international legal system in this regard.

The boundaries of international law Hilary Charlesworth, Christine Chinkin, 2022-04-19. In the first book length treatment of the application of feminist theories of international law, Charlesworth and Chinkin argue that the absence of women in the development of international law has produced a narrow and inadequate jurisprudence that has legitimated the unequal position of women worldwide rather than confronting it. The boundaries of international law provides a feminist perspective on the structure processes and substance of international law, shedding new light on treaty law, the concept of statehood and the right of self determination, the role of international institutions and the law of human rights. Concluding with a consideration of whether the inclusion of women in the jurisdiction of international war crimes tribunals represents a significant shift in the boundaries of international law, the book encourages a dramatic rethinking of the discipline of international law. With a new introduction that reflects on the profound changes in international law since the book's first publication in 2000, this provocative volume is essential reading for scholars, practitioners and students alike.

Islamic Law and Transnational Diplomatic Law Muhammad-Basheer A. Ismail, 2016-04-12. This book, in its effort to formulate compatibility between Islamic law and the principles of international diplomatic law, argues that the need to harmonize the two legal systems and have a thorough cross cultural understanding amongst nations generally, with a view to enhancing unfettered diplomatic cooperation, should be of paramount priority.

Encyclopedia of the United Nations and International Agreements: G to M Edmund Jan Osmańczyk, 2003. This thoroughly revised and updated edition is the most comprehensive and detailed reference ever published on the United Nations. The book demystifies the complex workings of the world's most important and influential international body.

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