

The Paradox of Diplomatic Immunity: A Comparative Approach with Practices from Sri Lanka, South Africa and India

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There is the sharp distinction between the rationale for granting diplomatic status based on functional necessity and the practice of personal advantages sought and gained through diplomatic immunity. These practices of abuse are contrary with the uplifting of the said rationale. While many countries have both signed and ratified the Vienna Convention on Diplomatic Relations of 1961 (VCDR), which is seen as an incorporation of the customary international laws on the subject, there are some gray areas which have been continuously abusive. The immunity granted for the diplomatic mission and for the diplomatic bag has been the most abused in the contemporary practices. Using a comparative method by analysing the laws and practices of Sri Lanka, India and South Africa this research endeavours to find the paradox of the law and practices. While reforms from isolating abusive countries to creating funds to compensate the victims have been suggested, at the practical level none of these solutions have worked and some have not even been tried out. While there are instances of abuse, no country has ever doubted the importance of the VCDR on the subject and many attempt to reduce the instances of abuse of diplomatic immunities. The VCDR being a treaty based international legal instrument needs reform to remove the paradoxical phenomena created by state practices and creating of a separate insurance fund has been the most talked about reform in ceasing diplomatic abuse.

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