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**RE-EVALUATING THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS: VIS-
A-VIS DIGITAL, LEGAL CHALLENGES AND MODERN CONTEMPORARY
DIPLOMATIC PRACTICES**

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**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE
BACHELOR OF LAWS (LLB) DEGREE.**

2025

DECLARATION

DECLARATION

I declare that this dissertation entitled, **RE-EVALUATING THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS: VIS-A-VIS DIGITAL, LEGAL CHALLENGES AND MODERN CONTEMPORARY DIPLOMATIC PRACTICES** which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's Degree at the University of Lusaka is my own original work and it has not been previously submitted for the award of a degree at this university or any other tertiary institution. I understand what plagiarism entails and I'm aware of the University's policy in this regard. Thus, where other people's work is cited, I have duly acknowledged. The errors or omissions in this work are solely mine.

MOFYA KUNDA BANGWE



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right. Below the signature is a horizontal dotted line.

2025

RECOMMENDATION

RECOMMENDATION

I **INNOCENT NYAMBE** recommend that this dissertation prepared under my supervision by **MOFYA KUNDA BANGWE**, entitled **RE-EVALUATING THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS: VIS-A-VIS DIGITAL, LEGAL CHALLENGES AND MODERN CONTEMPORARY DIPLOMATIC PRACTICES** be accepted for examination. I have checked it carefully and I'm satisfied that it fulfills the requirement pertaining to the format laid down in the regulations governing directed research.



.....
INNOCENT NYAMBE

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DEDICATION

This dissertation is dedicated to my mother Ms Kizzitha Mwalula who has been a benevolent guiding grace and a constant source of strength throughout my academic journey. I also dedicate this work to my beloved parents, Mr. Kunda Bangwe and Mrs. Mwamba Kashinga Bangwe, and my siblings. Their unwavering support, love, and sacrifices have made it possible for me to successfully complete my program of study. I am eternally grateful to each of you and remain deeply indebted for your encouragement and sacrifices.

TABLE OF CONTENTS

DECLARATION	ii
RECOMMENDATION	iii
ACKNOWLEDGEMENT.....	iv
DEDICATION	v
TABLE OF CONTENTS.....	vi
ABSTRACT.....	ix
CHAPTER ONE	1
1.1 GENERAL INTRODUCTION.....	1
1.2 BACKGROUND OF STUDY.....	2
1.3 STATEMENT OF THE PROBLEM	3
1.4 STUDY OBJECTIVES.....	4
1.5 RESEARCH QUESTIONS.....	4
1.6 SCOPE OF THE STUDY.....	5
1.7 SIGNIFICANCE OF STUDY.....	5
1.8 LITERATURE REVIEW	6
1.9 RESEARCH METHODOLOGY	9
1.10 RESEARCH APPROACH	9
1.11 RESEARCH DESIGN	9
1.12 RESEARCH TYPE.....	10
1.13 DATA PRESENTATION.....	10
1.14 DATA COLLECTION TECHNIQUES	10
1.15 ETHICAL CONSIDERATION.....	10
1.16 CHAPTER OUTLINE	11
1.16.1 CHAPTER ONE: INTRODUCTION.....	11
1.16.2 CHAPTER TWO: LIMITATIONS OF THE VIENNA CONVENTION IN ADDRESSING MODERN DIPLOMATIC CHALLENGES.....	11
1.16.3 CHAPTER THREE: IMPACT OF DIGITAL TRANSFORMATION AND CYBERSECURITY ON DIPLOMATIC IMMUNITY	11
1.16.4 CHAPTER FOUR: LESSONS FROM GLOBAL PRACTICES IN MODERN DIPLOMATIC FRAMEWORKS 12	
1.16.5 CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS.....	12

CHAPTER TWO	13
LIMITATIONS OF THE VIENNA CONVENTION IN ADDRESSING MODERN DIPLOMATIC CHALLENGES.....	13
2.1 INTRODUCTION.....	13
2.2 HISTORICAL EVOLUTION AND ORIGINAL INTENT OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS.	14
2.3 ABSOLUTE IMMUNITY (ARTICLE 31) AND CONFLICTS WITH MODERN ACCOUNTABILITY.	16
2.4 INVIOABILITY PROVISIONS (ARTICLES 22 AND 29) AND THEIR EXPLOITATION.....	19
2.5 JURISDICTIONAL DISPUTES AND LACK OF RESOLUTION MECHANISMS	21
CHAPTER THREE.....	24
IMPACT OF DIGITAL TRANSFORMATION AND CYBERSECURITY ON DIPLOMATIC IMMUNITY.....	24
3.1 INTRODUCTION.....	24
3.2 DIGITAL TRANSFORMATION OF DIPLOMATIC COMMUNICATIONS AND ARTICLE 27'S INADEQUACIES	26
3.3 CYBER ESPIONAGE AND THE ABUSE OF DIPLOMATIC IMMUNITY (Article 31).....	27
3.4 DIGITAL TRANSFORMATION OF DIPLOMATIC COMMUNICATIONS AND ARTICLE 27'S INADEQUACIES.	31
3.5 OVERALL NEED FOR VCDR REFORMS IN THE DIGITAL AND CYBERSECURITY LANDSCAPE.....	32
CHAPTER FOUR	34
LESSONS FROM GLOBAL PRACTICES IN MODERN DIPLOMATIC FRAMEWORKS	34
4.1 INTRODUCTION.....	34
4.2 CASE STUDIES IN DIGITAL INTEGRATION AND NATIONAL FRAMEWORKS.....	35
4.3 COMPARATIVE LESSONS IN MANAGING VIRTUAL MISSIONS.....	36
4.4 DIPLOMATIC RESPONSES TO CYBERSECURITY AND INFORMATION THREATS	37
4.5 COUNTERING DISINFORMATION AND INFORMATION WEAPONIZATION.....	38
4.6 PROSPECTS AND CHALLENGES FOR VCDR AND CYBER-LEGAL REFORM	39
4.7 CONCLUSION.....	40
CHAPTER FIVE	41
PROTOCOLS AND STRATEGIES FOR MODERNIZING THE VIENNA CONVENTION IN THE DIGITAL AGE	41
5.1 GENERAL CONCLUSIONS.....	41
5.2 SUMMARY OF THE CHAPTERS	41
5.3 CHAPTER ONE SUMMARY	41
5.4 CHAPTER TWO SUMMARY	42
5.5 CHAPTER THREE SUMMARY.....	42
5.6 CHAPTER FOUR SUMMARY	42

5.7 RECOMMENDATIONS.....	42
5.8 FORMALIZING DIGITAL PRESENCE AND REVISING TERMINOLOGY	42
5.9 EXTENDING INVIOABILITY TO DIGITAL ASSETS AND COMMUNICATIONS	43
5.10 STRENGTHENING CYBERSECURITY AND DIGITAL CAPACITY	43
5.11 THE ENHANCEMENT OF DIGITAL CAPACITY AND DIPLOMATIC SKILL SET	44
5.12 PROPOSED IMPLEMENTATION STEPS AND STRUCTURE.	44
5.13 PROMOTING NORMS OF RESPONSIBLE STATE BEHAVIOUR (CBM's)	44
5.14 IMPLEMENTATION OF CONFIDENCE BUILDING MEASURE (CBMs)	45
5.15 CONCLUSION.....	45
BIBLIOGRAPHY	46

ABSTRACT

This thesis examined the need to re-evaluate the Vienna Convention on Diplomatic Relations (1961) vis-à-vis digital, legal challenges and modern diplomatic practices. The fundamental objective of this research was to identify the gaps in the conventions framework and structure that have been failing to address escalating threats from digital surveillance, cyber espionage and virtual diplomatic operations, which have been undermining traditional immunity privileges and reciprocity.

The objectives included: initially, a comprehensive analysis of the conventions pertinent provisions on immunity, inviolability and communication; secondly, an examination of emerging state practices and incidents in the modern world of diplomacy that have involved cyber-attacks on diplomatic missions; thirdly, a comparative review of adaptive frameworks in cyber diplomacy that have been adopted by states that are exceedingly doing well in the virtual diplomacy era

The methodology was qualitative, drawing information and data from, treaties, reports by states, United Nations reports and publications, renowned journals, case laws and cyber-incident databases.

The summation of this research unveiled the shortfalls of the Vienna convention on diplomatic relations while acknowledging the changes that can be put in place in order to steer its full equipment with modern day practice

CHAPTER ONE

1.1 GENERAL INTRODUCTION

The **Vienna convention on diplomatic relation (1961)**¹ has been and still is the cornerstone of diplomatic interaction for many generations, harnessing the full operation of international diplomatic relations between nations, it is one of the oldest and most accepted rules of international law dating many centuries back². Though it has had its notable successes, diplomatic practices among states have changed drastically to reflect the demands of the twenty-first century, this has highly brought this enduring instrument into heated questioning of its effectiveness as it faces significant challenges in addressing the complexities of contemporary diplomacy. Cases of great attention involving diplomatic immunity such as **Devyani Khobragade**³ and **Mohammed bin Salman Al-Saud**, expose unravelling tension of the international community demanding increased accountability and the complete protection afforded to diplomatic missions pursuant to article 31 of the convention.

Moreover, the conventions ambiguities as to jurisdiction embed in article 22 and 37 have fueled conflicts between diplomatic privilege and legal enforcement. With digital transformation and cyber security on the rise traditional means of diplomatic practices fail to adequately address these issues, a case in point is the Julian Assange case, where traditional diplomatic practices failed to handle contemporary issues. In modern day diplomatic practices fused with rapid technological advancements, the Vienna convention proves itself inadequate to address these issues, this necessitates a need to re-evaluate the conventions suitability for today's environment.

¹ Vienna convention on diplomatic relation (1961)

² See, Preamble to the Vienna Convention on Diplomatic Relations 1961, U.N. Doc. A/Conf.20/13:

"Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents"

³ J Burke and D Roberts, 2014 "Indian diplomat Devyani Khobragade leaves US under immunity", The Guardian 10th January available at: <https://www.theguardian.com/world/2014/jan/10/devyani-khobragade-to-leave-us-under-diplomatic-immunity> (accessed on 14th April, 2025)

The objective of this dissertation is to explore these difficulties and assess the need for the reformation of the Vienna convention. This will be achieved through the study of current and recent legal cases emanating from the convention, the effect of technological advancements, and set forth recommended potential positive updates which will ultimately play a significant role in addressing the modernization of international diplomatic laws. Bringing to light these lacunas will be of essence to ensure the convention stands the test of time in promoting accountability while ensuring the fundamental principles of diplomatic relation are preserved in a rapidly evolving global landscape.

1.2 BACKGROUND OF STUDY

The Vienna Convention On Diplomatic Relation is the cornerstone of diplomatic relations since its formulation in 1961, being the principle convention addressing international diplomatic laws with the aim of making available peaceful relations and harmonized progression of diplomatic missions. It is the foundation of diplomatic customs of immunity and inviolability of diplomatic premises, which are designed to protect diplomats and their work from interference by the nations that are hosting them. Despite the conventions ambitious objectives, the global landscape has been faced with significant shifts marked by technological advancements, legal reforms in international relations; on this account the very foundation of the Vienna remains questionable. With the primal interrogation being whether it is achieving its true intended purpose while realizing the demands of this modern age.

Recent high profile cases illustrate the reflective tension that arises in cases dealing with contentious criminal issues against diplomatic protection, these cases spark global debates on the suitability of absolute nature of diplomatic immunity. This debate leads its tentacles into the validity of the rule of law with provisions such as absolute immunity, the complexity of this situation unveils the need to reevaluate the balance set between the protection of diplomatic representatives and ensuring accountability to the justice system of host nations, more than ever this mandate arises now with public demand for accountability on peak.

Additionally, technological advancements have disclosed multifaceted layers proving that the Vienna convention on diplomatic relations was not vetted to address these contemporary concerns. With diplomatic communications occurring through digital channels, the present structure fails to adequately provide security for potential cyber threats that may compromise the work of diplomatic missions, precisely the shortfalls in article 27 and 31⁴.

This investigation endeavors to critically evaluate the limits of the Vienna convention on diplomatic relations, suggest important modifications and clearly feature a structure that will balance the values of diplomatic immunity with the ever growing demand for responsibility. In this effort, it intends to make the Vienna convention on diplomatic relations modernized within the realm of contemporary practices while still managing to fulfill its foundational objective.

1.3 STATEMENT OF THE PROBLEM

The Vienna convention on diplomatic relations (1961) faces significant difficulties that make its implementation ineffective to address legal and digital complexities that exist in the modern diplomacy. Article 31 relating to diplomatic immunity triggers tension in high selling criminal cases such as the Devyani Khobragade and Mohammed bin Salman Al-Saud which bring into question to what extent does the so called absolute immunity draw a line with the much need for accountability and transparency in handling diplomatic envoys. This immunity may be said to creates barriers against achieving justice.

The inviolability of diplomatic premises has been challenged in the hailing case of Julian Assange, furthermore the extended immunity to diplomatic families continues to be exploited. Instantaneously digital transformation has created gaps in the traditional practices of diplomacy, article 27 and 31 stand in question as to how effectively they address contemporary challenges.

As diplomatic relations evolve due to geopolitical rivalries, power struggles, shifts in alliances, trade imbalances and economic disparities, there is an urgent call to drive

⁴ Vienna convention on diplomatic relation (1961)

robust legal reforms that properly and adequately tackle each of the mischiefs inherent in the convention. The enforcement schemes in the convention has left host nations with limited redress for abuse of office by diplomatic missions. A comprehensive assessment of the convention is going to prove itself effective in ensuring the foundational core principles of the convention are not defeated and are safeguarded especially drawing provisions or protocols to address virtual diplomatic mission.

1.4 STUDY OBJECTIVES

- i. To assess the important provisions of the VCDR to address modern diplomatic issues
- ii. To assess the change in technology and the cyber security issues with the coming of virtual embassies and the digital misconduct of the diplomacy
- iii. To suggest strategies to make modern the convention, to establish protocols for virtual diplomatic missions while comparing them against global structures and make recommendations for changes.

1.5 RESEARCH QUESTIONS

- 1.1 What are the salient limitations of the Vienna convention on diplomatic relations (1961) in addressing modern-day diplomatic challenges, chiefly in relation to enforcement of legal norms and accountability?
- 2.1 How has the emergence of virtual embassies and digital revolution affected the application of diplomatic immunity as embed in the Vienna convention and how does this inevitably affect foundational diplomatic principles?
- 3.1 What strategies and protocols can be suggested to equip the Vienna convention to contemporary changes that effectively deal with the demands of digital diplomatic practices and ensure the conservation of foundational ethics of international diplomacy?

1.6 SCOPE OF THE STUDY

This research study critically evaluates the Vienna Convention on Diplomatic Relations (1961) to assess its relevance and efficacy in addressing contemporary challenges in international diplomacy.

By analysing recent high-profile cases, the study explores tensions between diplomatic immunity and the rule of law, questioning the suitability of absolute immunity in ensuring accountability to host nations' justice systems. It further examines the Convention's shortcomings in addressing modern issues, such as cyber threats to diplomatic communications and jurisdictional ambiguities, particularly in Articles 27 and 31. Through a comprehensive review of technological advancements and evolving global legal frameworks, the study proposes targeted reforms to modernize the Convention. These reforms aim to balance the foundational principles of diplomatic protection with the growing public demand for accountability, ensuring the Convention remains a robust framework for fostering peaceful and secure diplomatic relations in the 21st century.

1.7 SIGNIFICANCE OF STUDY

The importance of this study is in the understanding that it will address the salient gaps in the existing literature of international diplomatic law, primarily regarding the applicability and relevance of the Vienna convention on diplomatic relation (1961) amidst contemporary challenges. The legal framework that has been governing diplomacy is at a call for effectiveness amid the globalization of technological advancements and the hailing demand for public accountability.

This study will take a critical focus on questioning the limitations that will be highlighted herein present in the convention, providing valuable insights into the archaic legal provisions and how they hinder the effective demonstration of diplomatic missions. Furthermore, it will to unveil the limitations in addressing the implications of digital misconduct and cyber threats, in this attempt it will highlight the general objective the made necessary the creation of the Vienna convention. These findings will aid makers of policies on diplomatic relations on the global space with a nuanced yet contemporary

realistic view to the newly witnessed demands of modern day diplomacy, ultimately, advocating for a responsible and transparent global community.

1.8 LITERATURE REVIEW

The works of different scholars on the Vienna convention of diplomatic relations have served as the inspiration for this study, which is why what is to be explored in this research is the contemporary adequacy, limitations of the act and digital extensiveness of the exiting legal framework of diplomatic relations in modern day diplomacy.

Friedman, G's ⁵ "The New Frontier in International Relations" explores the transformative role of digital technologies and social media in modern diplomacy, emphasizing how platforms like Twitter, Facebook, and Instagram have become vital tools for statecraft. It highlights the shift from secretive, traditional diplomatic practices to transparent, real-time communication that engages global audiences, fosters cultural exchange, and promotes national interests, with specific reference to Ghana's potential to leverage its growing internet penetration. The article details benefits such as wider audience reach, rapid crisis response, and cost-effective engagement, while acknowledging challenges like misinformation and cybersecurity. It also provides case studies, including Ghana's cultural campaigns and the African Union's efforts to unify the continent digitally. In contrast, this research focus on the limitations of the Vienna Convention on Diplomatic Relations (1961) in addressing contemporary diplomatic challenges, particularly legal accountability, diplomatic immunity, and digital transformation. While the article celebrates the opportunities of digital diplomacy, the dissertation critically examines the Convention's inadequacies, such as its failure to address cyber threats and virtual embassies, and proposes legal reforms to modernize diplomatic practices. Thus, the article emphasizes practical applications and benefits of digital diplomacy, whereas the dissertation adopts a legal and critical perspective, questioning the relevance of traditional

⁵ Friedman, G. (2020). "Digital Diplomacy: The New Frontier in International Relations" 2024 . available at <https://thebftonline.com/2024/11/07/digital-diplomacy-the-new-frontier-in-international-relations/>

(accessed on 16th April 2025)

frameworks in the digital era and advocating for structural updates to ensure accountability and relevance.

Eileen Denza's⁶ authoritative commentary provides a detailed analysis of the Vienna Convention, emphasizing its role as a cooperative framework through immunity (Article 31) and inviolability (Article 22), using doctrinal analysis of cases like *Khobragade* and state practices. Denza defends the Convention's adaptability, noting its universal acceptance by 193 state parties, and suggests minor interpretive adjustments rather than structural reforms, briefly acknowledging digital diplomacy's rise. Her focus on cooperation aligns with the Convention's purpose but restrains accountability challenges, which the proposed dissertation critiques as a limitation, arguing that cases like *Assange* and *bin Salman* reveal public demand for justice over unchecked immunity. Unlike Denza's conservative approach, this dissertation proposes specific reforms to Articles 27 and 31 to address digital vulnerabilities and jurisdictional ambiguities (Articles 22, 37), asserting that the Convention's cooperative framework must evolve to incorporate accountability as a pillar to meet modern expectations, balancing diplomacy with justice.

Kai Bruns⁷ historical analysis of the Vienna Convention's 1961 negotiation, underscores its success in fostering cooperative diplomacy during the Cold War by codifying immunity and inviolability principles. Bruns' notes jurisdictional tensions but does not address modern accountability demands or digital diplomacy, focusing on the Convention's creation rather than its current limitations. The proposed dissertation critiques this cooperative focus as outdated, arguing that cases like *Khobragade* and *Assange* highlight the Convention's failure to address justice demands, which were secondary to cooperation in 1961 but are now critical. By integrating contemporary case studies and proposing reforms for virtual embassies and cyber-security, the dissertation diverges from

⁶ Eileen Denza, *Diplomatic Law: "Commentary on the Vienna Convention on Diplomatic Relations"* (4th edn, Oxford University Press 2016).

⁷ Kai Bruns' *A Cornerstone of Modern Diplomacy: Britain and the Negotiation of the 1961 Vienna Convention on Diplomatic Relations* (2014)

Bruns' retrospective lens, advocating for a framework that prioritizes both cooperation and accountability to align with 21st-century expectations.

Nwaokonko's⁸ article, "*Critical Analysis of 1961 Vienna Convention on Diplomatic Relations (2022)*", provides a valuable critique of the Convention's strengths and weaknesses, emphasizing its cooperative framework while highlighting abuses such as diplomats engaging in espionage, trafficking, or other crimes under the shield of immunity (Articles 27, 31). The study's realist view underscores state-centric interests, noting how selective interpretation undermines equal exchange, yet it overgeneralizes issues like diplomatic bag misuse without specific case studies, limiting its analytical depth. Its recommendations; merit-based diplomat selection, equitable enforcement, and periodic Convention appraisals, align with global peace goals but lack detailed mechanisms for implementation, particularly for digital diplomacy challenges. This dissertation shares Nwaokonko's intent to reform the Convention, supporting assertions for meritocratic appointments, decisive action against misconduct, and UN-led enforcement to deter abuses like espionage. However, it diverges by integrating specific cases (e.g., Assange, Khobragade) and digital transformation issues, proposing targeted reforms to Articles 22, 27, and 31 to balance cooperation with modern demands for justice and accountability, offering a more comprehensive and evidence-driven approach to modernizing diplomatic law.

Charity Simuli Wanyela's⁹ dissertation provides a thorough examination of the Vienna Convention's immunity provisions, arguing that vague clauses, such as those governing the diplomatic bag, family protections, and tax exemptions (Articles 27, 37, 34, 36), enable abuses like criminal activities or personal aggrandizement, undermining accountability amid growing human rights concerns. Employing the functional necessity theory and

⁸ Uchechukwu Nwaokonko, 'Critical Analysis of 1961 Vienna Convention on Diplomatic Relations' (2022) 7 Modern Journal of Social Sciences and Humanities 43 <https://mjsosh.academicjournal.io> (accessed 16 April 2025).

⁹ Charity Simuli Wanyela, 'Diplomatic Privileges and Immunities: A Critical Analysis of the Vienna Convention on Diplomatic Relations (1961)' (MA thesis, University of Nairobi 2014)

qualitative analysis of secondary data, it documents diplomatic violations and recommends regular appraisals to align the Convention with contemporary issues, while preserving immunities essential for diplomacy. However, its reliance on broad examples rather than specific cases and its neglect of digital diplomacy challenges, such as cybersecurity or virtual embassies, limit its scope in addressing modern complexities. The proposed dissertation supports the Nairobi study's call for re-evaluating the Convention to enhance accountability, endorsing its critique of weak provisions that allow abuse. Yet, it diverges by grounding its analysis in high-profile cases and integrating digital transformation issues, proposing targeted reforms to Articles 27 and 31 to ensure the Convention's relevance in a technologically advanced

1.9 RESEARCH METHODOLOGY

1.9.1 METHODOLOGY

This section outlines the research design, methods, and techniques employed to critically assess the Vienna Convention on Diplomatic Relations (1961) and propose reforms to align its principles with contemporary international demands.

1.10 RESEARCH APPROACH

The research adopts a qualitative approach, grounded in practical knowledge claims to evaluate the efficacy of the Vienna Convention in the modern era. This approach facilitates an in-depth exploration of the Convention's provisions, focusing on their relevance amidst technological advancements, evolving legal frameworks, and public demands for accountability.

1.11 RESEARCH DESIGN

The research design is narrative and case-study-oriented, centring on a critical examination of the Vienna Convention as a foundational piece of international legislation. The study draws on real-world cases highlighting tensions between diplomatic immunity and accountability, as well as jurisdictional and technological challenges. Data will be gathered through the analysis of legal texts, scholarly literature, and documented

diplomatic incidents, supplemented by observations of current practices in international relations.

1.12 RESEARCH TYPE

The research is exploratory, aiming to identify and analyse non-numerical data related to defects and ambiguities in the Vienna Convention, particularly in Articles 27 and 31, which address diplomatic communications and immunity. Thematic analysis will be employed to organize findings, grouping data into common themes such as diplomatic immunity, cybersecurity vulnerabilities, and jurisdictional enforcement challenges. This method enables a structured evaluation of how these themes impact the Convention's objectives.

1.13 DATA PRESENTATION

Data will be presented in alignment with the research objectives, which include assessing the Convention's shortcomings, proposing reforms, and developing a framework to balance diplomatic protections with accountability. All collected data, including legal analyses, case studies, and thematic insights, will directly address the research questions, ensuring a focused presentation that supports the modernization of the Vienna Convention while preserving its foundational goals.

1.14 DATA COLLECTION TECHNIQUES

The techniques to be used will include information obtained from statutes, international conventions any other written document by scholars which are in relation to the objectives of the study.

1.15 ETHICAL CONSIDERATION

The researcher pledges to respect, uphold and to respect all ethical standards. Statutes, case law, documents, international conventions, journal articles, and other online sources will all be consulted in the course of this study. Statutory law, international conventions, model laws, and case law will serve as the primary source of data and/or information, while books, journal articles, and other online sources will serve as secondary sources. As a result, the researcher will make sure to give proper consideration and acknowledgment to the sources of information used in obtaining this data.

1.16 CHAPTER OUTLINE

This dissertation comprises five chapters, structured to critically assess the Vienna Convention on Diplomatic Relations (1961) and propose reforms to address contemporary diplomatic challenges. The chapters are as follows:

1.16.1 CHAPTER ONE: INTRODUCTION

This chapter introduces the Vienna Convention on Diplomatic Relations (1961) as the cornerstone of international diplomatic law, highlighting its limitations in addressing modern challenges such as technological advancements, cybersecurity threats, and demands for accountability. It presents the statement of the problem, outlining the Convention's struggle to balance diplomatic immunity with legal enforcement in the digital age. The chapter provides an overview of the research objectives, research questions, and the significance of the study in modernizing the Convention while preserving its foundational principles.

1.16.2 CHAPTER TWO: LIMITATIONS OF THE VIENNA CONVENTION IN ADDRESSING MODERN DIPLOMATIC CHALLENGES

This chapter analyses the salient limitations of the Vienna Convention, focusing on its provisions related to diplomatic immunity, inviolability, and communication (notably Articles 27 and 31). It explores legal ambiguities and enforcement challenges, particularly in high-profile cases where absolute immunity conflicts with host nations' justice systems. The chapter also addresses the Convention's inadequacy in responding to public demands for accountability and its failure to provide clear mechanisms for resolving jurisdictional disputes in contemporary international relations.

1.16.3 CHAPTER THREE: IMPACT OF DIGITAL TRANSFORMATION AND CYBERSECURITY ON DIPLOMATIC IMMUNITY

This chapter examines the implications of digital transformation, including the rise of virtual embassies and digital diplomatic communications, on the application of diplomatic immunity as enshrined in the Vienna Convention. It evaluates cybersecurity vulnerabilities

that compromise diplomatic missions, such as cyber threats to digital channels, and assesses how these developments challenge the Convention's foundational principles. The chapter also explores the potential benefits and risks of integrating digital protocols into diplomatic practices.

1.16.4 CHAPTER FOUR: LESSONS FROM GLOBAL PRACTICES IN MODERN DIPLOMATIC FRAMEWORKS

This chapter investigates diplomatic frameworks and reforms in countries, which have adapted to digital diplomacy and accountability demands. It draws comparative lessons on managing virtual diplomatic missions, addressing cybersecurity, and balancing immunity with legal accountability. The chapter also discusses the prospects and challenges of implementing similar reforms within the Vienna Convention's framework, considering global diplomatic norms and practices.

1.16.5 CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

This chapter synthesizes the findings from the research, concluding on the critical need to modernize the Vienna Convention to address contemporary diplomatic challenges. It proposes precise strategies and protocols, including the establishment of guidelines for virtual diplomatic missions, enhanced cybersecurity measures, and mechanisms to ensure accountability while preserving diplomatic immunity. The recommendations aim to strengthen the Convention's relevance in the digital age, ensuring it upholds the core principles of international diplomacy

CHAPTER TWO

LIMITATIONS OF THE VIENNA CONVENTION IN ADDRESSING MODERN DIPLOMATIC CHALLENGES

2.1 INTRODUCTION

This chapter analyses the salient limitations of the Vienna Convention, focusing on its provisions related to diplomatic immunity, inviolability, and communication (notably Articles 27 and 31). It explores legal ambiguities and enforcement challenges, particularly in high-profile cases where absolute immunity conflicts with host nations' justice systems. The chapter also addresses the Convention's inadequacy in responding to public demands for accountability and its failure to provide clear mechanisms for resolving jurisdictional disputes in contemporary international relations.

In today's global community resembled by a highly sophisticated sense of connectivity in between different multifaceted sectors of life, one particular sector that is an indispensable pillar of the international community ensuring cross border and cross seas interconnectivity stands out as a testament to global efforts to have a world of unity and oneness. This pillar of international affairs has enabled nations to engage in dialogue, foster cooperation and navigate conflicts with a semblance of peace and order. The proliferation of cross border trade and interaction both in the commercial and geopolitical sphere between nations has been driven by multiple modern day advancements such as technological advancements, efficient modes of travel, trade advancements, global market expansions and scientific discoveries – these factors have fundamentally altered the function of diplomacy which ultimately has revealed challenging attempts to withhold the traditional frameworks of international diplomacy such as the “The Vienna Convention on Diplomatic Relations of 1961”¹⁰ (hereinafter referred to as the “VCDR”).

A primary concern lies in the lack of extensive efforts to update or make effective the objectives of why it was solely enacted and put into issue. The consequences of such an absence would be colossal such as hindering on what is deemed as international justice,

¹⁰ Vienna Convention on Diplomatic Relations of 1961

the protection and recognition of state sovereignty and generally, the loss of public trust in the global community as many nations have questioned the validity of the VCDR intentions. An examination of its creation proves that the VCDR was crafted in an era dominated by Cold War bipolarity, where diplomatic engagements were largely confined to state-to-state communications without the complexities of modern threats like cyber intrusions, transnational terrorism, or escalating calls for individual accountability in human rights violations, the Convention appears increasingly antiquated and unprepared for today's realities.¹¹

2.2 HISTORICAL EVOLUTION AND ORIGINAL INTENT OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS.

True discernment in fully understanding the accurate purpose of the convention can be drawn from the historical events that necessitated its creation, it is said to be a bi-polarity of the 1947 Cold War; a period that was marked by tension and rivalry between the United States (and its Western allies) and the Soviet Union (and its Eastern allies) after World War II. This was a war not fought with arms and weapons but by two superpowers who never fought each other directly in a big war, but they competed through things like spy games, arms build-ups (like nuclear weapons), space races, and supporting opposite sides in smaller wars (called proxy wars) around the world.¹²

These wars played a significant role in shaping the VCDR, with global super powers raging proxy wars against one another, Diplomats of the time were greatly subjected to harsh treatment and incarceration for acts they did not commit, they often faced

¹¹ Tiina Pajuste, "The Evolution of the Concept of Immunity of International Organisations" East-West Studies, 2018 available at <https://core.ac.uk/download/pdf/230910659.pdf> page 10- 11 (accessed on 17th August, 2025)

¹² Ian Birdwell "Consideration of Diplomatic Immunity" (Graduate Program in International Studies, Old Dominion University, 11 August 2020) available at: <https://www.odu.edu/sites/default/files/documents/6th-diplomatic-immunity.pdf>, (accessed on 16th August, 2025).

harassment, spying accusations, or restrictions in hostile countries which weakened the cross border relations. As the wars and tension progressed there came a greater recognition among states to harmonize standardized rules for diplomatic immunity, embassy functions, and state-to-state communications equally strengthening the states ties with one another through strengthened state-to-state channels.

This approach was well guided and founded in true protection of international relations and diplomatic principles, however, as advancements in multiple areas that once influenced the very creation of the VCDR change, it then puts to question the applicability of the foundational principles to a new frontier of Diplomatic practice.

The global landscape of diplomacy, has had a hailing rise on non-state actors dictating and greatly influencing diplomatic relations e.g. 'in an extreme case, on 4 November 1979, protestors attacked the U.S. embassy to Iran in Tehran, seized its records and equipment, and took the 52 American staff it found captive. They were imprisoned and tortured for 444 days before being released. The embassy seizure remains a source of official and nationalist pride in Iran¹³. The two countries have been without diplomatic relations to this day',¹⁴ this is a classic examples that demonstrates how factors that although not catered for in the VCDR affect greatly the course of its application.

To demonstrate from a more realistic perspective consider how families of victims in modern cases feel the weight of this outdated structure: a diplomat evading justice for a hit-and-run not only denies closure but erodes public trust in international law, perpetuating a sense of impunity rooted in 1960s geopolitics. In today's modern world such a situation is poised to draw international attention calling for observance of international human rights and clashing with diplomatic absolute immunity embed in

¹³ United States Diplomatic and Consular Staff in Tehran (United States of America v Iran) [1980] ICJ Rep 3

¹⁴ Ian Birdwell "Consideration of Diplomatic Immunity" (Graduate Program in International Studies, Old Dominion University, 11 August 2020) available at: <https://www.odu.edu/sites/default/files/documents/6th-diplomatic-immunity.pdf>, (accessed on 18th August, 2025).

Article 31, which was designed to prevent tit-for-tat retaliations during Cold War proxy conflicts but now appears overly rigid.

In conclusion, the intention of the VCDR is one that has been greatly embroiled in the pursuit for state-to-state engagements and ultimately this made necessary immunity for diplomats to ensure they fully and capably represent their states and fulfil their duties, this was made possible through the application of extraterritorial jurisdiction that has been observed in the spirit of administering the provision and foundational principles of the VCDR.

2.3 ABSOLUTE IMMUNITY (ARTICLE 31) AND CONFLICTS WITH MODERN ACCOUNTABILITY.

In addressing the nature and effect of the immunity that is accorded to diplomats as per the VCDR, it is vital to take note of its contents and ultimately weigh it against the principles have long influenced the application of these provisions, quoted below is article 31 of the VCDR of 1961 showing precisely the extent of immunity and circumstances of administration:

“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.”

This article strictly grants absolute immunity to diplomatic representatives with the only general exceptions being embed in ventures that involve a more personal than diplomatic duty exploits, these circumstances are enlisted under Article 31 (1)(a)(b)(c) and general exception extending to those in sub article 2, 3 and 4 of the VCDR.

Having noted the extent and confines to which immunity will be applied or not, it is equally important to detail the evolution of this immunity as embed in the VCDR 1961. Through time there has been three distinct stages in the development of the concept of immunity of international organizations can be discerned. In the first stage, the early international organizations were bestowed immunity derived from an augmented concept of neutrality. The second stage witnessed the granting of diplomatic privileges and immunities to certain organizations and their officials. The third stage involved the adoption of the concept of ‘functional immunity’ of international organizations¹⁵.

Immunities were granted on the practical basis of simple necessity, to guarantee independence from host states (as organizations did not, and do not, possess territory of their own, and have to function on the territory of a host state). The immunities evolved relatively quickly from the recognition of states that the common benefits achievable by organized cooperation would not be achievable if individual members were permitted to apply their laws at will to the functions and activities of international organizations¹⁶. Also,

¹⁵ Charity Simuli Wanyela, ‘Diplomatic Privileges and Immunities: A Critical Analysis of the Vienna Convention on Diplomatic Relations (1961)’ (MA thesis, University of Nairobi 2014)

¹⁶ Akani N, ‘A Critical Analysis of Diplomatic Immunity in International Relations: Myth or Reality?’ (2024) 4(3) The Journal of International Trade Law & Contemporary Issues 114

the host state would have more influence on an organization based on its territory, which would not be acceptable to the other member states¹⁷.

The general interest of this study will be focusing on the currently used approach in the understanding of immunity can be divided into functional immunity (*also known as immunity ratione materiae or subject-matter immunity*) and personal immunity (*also known as immunity ratione personae or procedural immunity*). Immunity *ratione materiae* relate to conduct carried out on behalf of a state.

To critically analyze this against an extract of the VCDR preamble statement detailed below:

“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”¹⁸

It then proves that the intention of the convention has not been purely on dealings that are founded in justice principles that reflect accountable diplomatic practices, it takes an extent to embrace functional immunity and personal immunity but has adopted a wider scope. It is right then to say that Article 31’s application, however, extends beyond functional immunity and personal immunity, granting near-absolute immunity from criminal jurisdiction, which often covers personal acts unrelated to official duties and will be deemed effective insofar as the person holds the office in question.¹⁹

Founded on these observations, diplomatic immunities have limited access to justice, diplomats can commit grave crimes such as domestic abuse, vehicle manslaughter, human trafficking etc. And still evade their obligation to be accountable for these acts.²⁰

¹⁷ Ibid

¹⁸ See, Preamble to the Vienna Convention on Diplomatic Relations 1961

¹⁹ Charity Simuli Wanyela, ‘Diplomatic Privileges and Immunities: A Critical Analysis of the Vienna Convention on Diplomatic Relations (1961)’ (MA thesis, University of Nairobi 2014)

²⁰ Butt J S, ‘The Abuse of Diplomatic Immunity: Examining Cases and Implications for International Relations - A Research’ (2024) 17(2) Acta Universitatis Danubius 42–79

An example of diplomatic conundrum is the attempt by Nigerian diplomats to abduct exiled politician Umaru Dikko in London, drugging him and placing him in a diplomatic crate for extradition and this act constituted London's anti-abduction laws, luckily the abduction failed as the crate was intercepted before flight. These diplomats were not prosecuted which strained the relation of the United Kingdom and Nigeria²¹.

Another example can be drawn from a case of Harry Dunn where a woman called Anne Sacoolas who was the wife of a diplomat killed a man in a road accident and fled the country based on grounds of immunity, of which the Dunn family grieved without being afforded criminal justice for the acts committed against their family.

These particular cases reflect a related and presentable argument: "imagine the family being in such a time of grief and only being aware that the perpetrator is inviolable because of a 1961 clause that has granted him/her immunity".

These scenarios underscore the importance of weighing diplomatic immunity against the justice principles and accountability. While diplomatic immunity was founded on forward thinking objectives, it has now become apparent that there is a call for necessary update of the applicability of immunity, this is seen and evidenced through the many cases we have witnessed that have demonstrated impunity towards observation of other equally or rather even more important foundation of our global community such as justice, human rights, rule of law principles and good governed.

2.4 INVIOABILITY PROVISIONS (ARTICLES 22 AND 29) AND THEIR EXPLOITATION.

Detailed below is an excerpt of article 22 and article 29 of the VCDR to elaborate the standard set out premises of inviolability.

Article 22

²¹ The Foiled Nigerian Kidnap Plot' (BBC News, 12 November 2012)

<https://www.bbc.com/news/magazine-20246829> accessed 19 August 2025

“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.”²²

And followed below is;

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.”²³*

Article 22 confirms the inviolability of mission premises – barring any right of entry by law enforcement officers of the receiving State and imposing on the receiving State a special duty to protect the premises against intrusion, damage, disturbance of the peace or infringement of dignity.

Personal inviolability of the diplomat under the Vienna Convention therefore is intended to facilitate the smooth conduct of diplomatic duties by the agent without threat of any legal harm, this primary immunity highlights the influence of the functional necessity theory in constituting this modern diplomatic law. As observed by the International Court of Justice in the case concerning United States Diplomatic and Consular Staff in Tehran, “the institution of diplomacy, with its associated privileges and immunities, has withstood the test of centuries and proved to be an effective instrument for co-operation in the international, and for enabling states to achieve mutual understanding and to resolve their

²² Vienna Convention on Diplomatic Relations 1961

²³ Ibid

differences by peaceful means²⁴. This case underscores the fact that diplomats need to be free from political persecution and act independently from the receiving state without any fear, however in today's community is taken advantage of and has been used in the commission of ruthless and inhumane crimes by diplomats, victims' families grapple with grief compounded by diplomatic barriers, fostering resentment toward international law perceived as shielding criminals.

The embassy is protected against entry by the receiving State and is the perfect instrument to harbor terrorists and criminal offenders. Diplomatic bags are one of the main areas of abuse. Since there is nothing in the Vienna Convention to regulate the use of diplomatic bags, diplomats smuggle anything, from drugs to people, in them.

An author in international relations that summarily re-echoes the sentiments of this research, McClanahan faults the Convention for failing to delimit the size and weight of the bag which exposes the provision to abuse by unscrupulous officials out to gain financially through importation of vehicles and other heavy machinery,²⁵ reforms suggest implied exceptions for egregious abuses, like terrorism, to prevent exploitation while preserving core protections.

2.5 JURISDICTIONAL DISPUTES AND LACK OF RESOLUTION MECHANISMS

The Vienna Convention on Diplomatic Relations of 1961 remains the bulwark of diplomacy, insulating diplomatic missions from local laws which might inhibit the ability of foreign states to maintain calm relationships. But diplomatic immunity also has mired consulates and embassies in controversy. Diplomatic immunity from legal detention, prosecution, persecution and interference is based on the principle of extraterritoriality, the doctrine that the legal representatives of sovereign states are not subject to the laws

²⁴ See Scharf, P., M., and Williams, P., (2010), *Shaping Foreign Policy Shaping Foreign Policy in Times of Crisis: The Role of International Law and The State Department Legal Adviser*, Cambridge University Press, New York, Pg. 75

²⁵ McClanahan G.V. ,(1989), *Diplomatic Immunity: Principles, Practices and Problems*, Hurst: London, pg 114.

of the host country, the country where they work²⁶. This principle has been the main stem from which disputes arise, this principle has created a legal island for consulates.

The disputes arising from diplomatic services has been prescribed for settlement according to the provisions of the ***Optional Protocol concerning the Compulsory Settlement of Disputes 1963***²⁷ - it lays the groundwork for submitting disputes to the International Court of Justice (hereinafter referred to as "ICJ") as an arbiter, although it primarily favors bilateral conciliation and negotiation.

This protocol has faced significant shortfalls due to the fact that it did not initially include specific provisions for compulsory arbitration for disputes which has led to lack of binding precedence which could guide the international court of justice in making decisions to enforce and cement clear stipulated ways of dealing with egregious atrocities that violate human life and justice.

The idea of compulsory arbitration has been suggested by some members of the International Law Commission (ILC) during the Vienna Convention draft preparations but was not included in the Convention or the Optional Protocol on Dispute Settlement. Although amendment of the Vienna Convention is a difficult task, arbitration offers a number of advantages to all states. First, it is impartial, final and binding. Second, procedure is flexible. Furthermore, arbitration allows for appointment of specialist in the disputed field, in this case experts on diplomatic law and human rights. Arbitration can also be effective where a large number of claims must be settled, preferably in a confidential manner²⁸.

Charney notes that the main weakness of the Vienna Convention is its failure to provide an adequate deterrent against violent conduct, as a result of the wide scope of immunity

²⁶ Ian Birdwell "Consideration of Diplomatic Immunity" (Graduate Program in International Studies, Old Dominion University, 11 August 2020) available at: <https://www.odu.edu/sites/default/files/documents/6th-diplomatic-immunity.pdf>, (accessed on 25th August, 2025).

²⁷ Optional Protocol concerning the Compulsory Settlement of Disputes 1963

²⁸ Charity Simuli Wanyela, 'Diplomatic Privileges and Immunities: A Critical Analysis of the Vienna Convention on Diplomatic Relations (1961)' (MA thesis, University of Nairobi 2014) page 67

given to diplomats and the erroneous application of the functional necessity theory²⁹. It is due to this fact that the very foundation of the weight of crimes is simply tallied against subjective views of a nation to be attached to the gravity of a crime, this in itself is a very disputable fact because there are no criteria that set out the uniform measure for the gravity of crimes committed by diplomatic consulates.

Reliance on Consent for ICJ Jurisdiction has become a primal hindrance to the address of issues that are committed by nations that do not subscribe to the protocol, which leaves cases of mass attention around the globe in a state of paralysis without due address to those who commit atrocities.

Lack of provisions for Amendment, the VCDR did not include specific provisions for amendment but as Zeidman argues, the Convention can be reshaped to suit current demands. She recommends two possible methods for amendment. The first proposal is for the Convention to be amended by using the mechanism provided for in the United Nations Charter. This would require a vote of two-thirds of the Convention signatories.³⁰ In summation of this chapter, it is notable that there are particularly many important provisions of the VCDR that have proven primary to temper with the foundation of its creation and we witness these parts of the continuously causing unending tribulation to many families and nations, the subjectivity in administration of justice, the doctrine of inviolability being used to unjustified extents and even more extensively the lack of a dispute settlement mechanism that has perpetuated the effects of the bitter vine rooted deep in the VCDR. It is on this account then that amendments must be made to VCDR, though as noted by Zeidman, the convention in itself equally lacks provisions that speak to the means of amendment and this is far much an embargo to the progression of this convention in administration of diplomatic principles and etiquette.

²⁹ Charney, J., I., "The Impact of the International Legal System of the Growth of International Courts and Tribunals" (1998-1999) *New York University Journal of International Law & Politics* 31,697.

³⁰ Zeidman, A., (1989), (The Abuse of the Diplomatic Bag): A Proposed Solution, UN Documents, New York

CHAPTER THREE.

IMPACT OF DIGITAL TRANSFORMATION AND CYBERSECURITY ON DIPLOMATIC IMMUNITY.

3.1 INTRODUCTION

This chapter examines the implications of digital transformation, including the rise of virtual embassies and digital diplomatic communications, on the application of diplomatic immunity as enshrined in the Vienna Convention. It evaluates cybersecurity vulnerabilities that compromise diplomatic missions, such as cyber threats to digital channels, and assesses how these developments challenge the Convention's foundational principles. The chapter also explores the potential benefits and risks of integrating digital protocols into diplomatic practices

Within the context of the convention, the factors of digital, technological transformation have come with a large shift bordering on AI advancements, online communication virtual diplomatic embassies, impact the diplomatic landscape significantly and reshaping diplomatic practices. While cyber threats like cyber espionage and deep fake pose to set unprecedented risks and threats to diplomatic immunity and inviolability.

Many states consider it necessary to conduct a direct dialogue with large technology corporations such as Google, Microsoft, Meta, Apple and many others. And this is not surprising, because more and more power, money and information are concentrated in the hands of these corporations. The legendary phrase of the British banker Nathan Mayer Rothschild "He who owns the information, owns the world" seems very relevant today, as these companies store an incredibly large amount of information on their servers. States are establishing ties with big tech companies in the Silicon Valley, because their influence has already gone far beyond that of ordinary private companies.

In fact, cooperation with technology companies has become a separate area of activity for foreign affairs ministries and, accordingly, a vector of diplomatic relations.³¹

This has become a concern that has been genuine not only to state actors but also to international organization that have been primary in administration of international relations and diplomacy, perhaps the rushed attempt by many corporations to partner and work with world class technology companies and digital cooperation is found on just intentions and for the benefit of these actor's respective people. However, the concern arises based on the fact that the Convention has not been so comprehensively detailed to encompass and cater for these technological, digital and cyber advancements which if not harnessed and contained, the very steps of expedience to make diplomacy seamless and integrated technological endeavors will defeat protocols of monitoring which will result into problems and will soon become uncontrollable and chaotic towards the very global citizens they intend to benefit.

Given the rise of AI, which has changed the nature of how diplomats engage in diplomacy, the applicability of the current international law framework must be put under revision. The legal sources which outline the privileges and immunities enjoyed by diplomats are twofold: The 1961 Vienna Convention on Diplomatic Relations (VCDR)³² and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (adopted 14 December 1973, entered into force 20 February 1977) 1035 UNTS 167³³(hereinafter referred to as the "CPPCAIPP"), Including Diplomatic Agents. This disparity has led to significant legal ambiguities, enforcement gaps, and increasing calls for accountability in the digital age.

³¹ Daryna A, "Diplomatic Relations, Artificial Intelligence and Cyber Threats" May 2025, available at <https://globalchallenges.ch/issue/17/diplomatic-relations-artificial-intelligence-and-cyber-threats/> (accessed on 7th September, 2025)

³² Vienna convention on diplomatic relation (1961)

³³ Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (adopted 14 December 1973, entered into force 20 February 1977) 1035 UNTS 167

In terms of digital diplomacy, the United Nations General Assembly has addressed this issue through its Third Committee. It adopted a resolution entitled "The Right to Privacy in the Digital Age", in which it affirmed that the right to privacy does not allow anyone to be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence. The resolution also affirms that the same rights enjoyed by persons outside the Internet must also be protected online, including in that right to privacy." The resolution further requires States to review their procedures and legislation relating to communications control and the collection of personal data in order to bring them into compliance with international human rights law³⁴.

3.2 DIGITAL TRANSFORMATION OF DIPLOMATIC COMMUNICATIONS AND ARTICLE 27'S INADEQUACIES

The digital transformation has greatly reshaped the diplomatic landscape of communication by introducing new modes and methods of communication that offer unprecedented opportunities for efficiency and outreach, but simultaneously brings to light the intricate vulnerabilities that have not significantly been addressed by existing international legal frameworks.

Through time diplomacy is a practice that has existed only through the physical exchange of communiques and documentation or literal in person interactions, this has been realized by the Vienna convention and since time in memorial reflected this reality be enshrining provisions such article 27, which have guaranteed the inviolability of official correspondence and the diplomatic bag.

However, the coming of modern digital tools of communication such as social media platforms (prominently twitter and Facebook), emails, video conferences and AI negotiation technologies have fundamentally altered how states communicate and

³⁴ Marwah Ayad A and Basheer Jumaah A "The application of rules of diplomatic law to digital diplomacy", Al-Iraqia University / College of Law and Political Science 22/11/2024

conduct foreign policy³⁵. Similar to previous technologies like the steam engine and transistor radio, which enabled governments to more easily communicate between one another and the general public, ICTs present novel opportunities within all Tracks of diplomacy³⁶. In the past years, such changes in the ways that actors engage in dialogue on foreign affairs have been given the title of ‘digital diplomacy’, leading to the emergence of a new field of academia focused on understanding the impact of such technologies on the future of diplomacy.

It is quite evident that such heavy reliance on digital tools has and will continue to highlight whether digital diplomacy can help facilitate states’ response to international security threats. Travel restrictions, economic insecurity and stay at home orders have closed embassies and prevented the traditional in-person practice of diplomacy from taking place. In addition to slowing down the business of embassies and limiting citizens’ access to public services like visa applications, the novel online working environment has highlighted the digital divide and limited certain actors’ access to diplomatic affairs.³⁷

The shift has extraordinarily increased global inter-connectivity in the digital space and has rendered the VCDR physical protections for example those of diplomatic bags and couriers, are largely archaic for safeguarding sensitive digital data flows.

3.3 CYBER ESPIONAGE AND THE ABUSE OF DIPLOMATIC IMMUNITY (Article 31)

Cyber espionage and the abuse of diplomatic immunity as embed is section 31 of the VCDR have become critical topics of discussion in this modern day and age, the intersection of traditional international law and modern digital landscape gains great significance due to the major advancements witnessed in work relations across the globe.

³⁵ Lucas Hibbeln “Digital Diplomacy: Global Trends, Opportunities and Challenges”, Invictus Corporation Ltd. March 3, 2021

³⁶ *ibid*

³⁷ *ibid*

The immunity provision is a corner stone of international law and has only the intention of protecting and safeguarding the pole bearers of interests of another nation. However, the rapid advancements in evolution of technology in particularly cyber espionage exposes the VCDR to limitations, this is because the creation of the convention is one based on state to state communications during the cold wars that did not have a consideration of today's modern technological advancement. The foundational mismatch that is echoed in a decades old legal framework and the realities of modern cyber diplomacy mean that while the core functions of diplomacy persist, the context, actors and issues have fundamentally shifted, creating an urgent need for re-evaluation and potential reform³⁸. Diplomacy is no longer an activity solely undertaken by a select group of men elegantly discussing and negotiating the main issues in international politics in cocktail parties and at official receptions. It is not even just about relations between states. It now has to take into account "wider relationships and dialogues, involving such entities as regional and international organisations – be they intergovernmental (IGOs) or non-governmental (NGOs) – multinational firms, sub-national actors, advocacy networks, and influential individuals³⁹.

One of the most essential and consistent challenges is embed in the lack of clear distinction of what "*official function*" and the scope of immunity, particularly under VCDR articles 3(1)(d) concerning information gathering and Article 31(1) (c) regarding commercial activities⁴⁰.

Cyber espionage that has been committed by an official diplomat on behalf of the state sending it him/her to collect intelligence, is often impliedly considered an "official function", this interpretation of this provision has effectively shielded diplomats from the host-state

³⁸ André Barrinha & Thomas Renard "Cyber-diplomacy: the making of an international society in the digital age" 28 Dec 2017, Global Affairs. Available on <https://doi.org/10.1080/23340460.2017.1414924> .

³⁹ Jönsson, C., & Langhorne, R. (2004). Editor's Introduction. In C. Jönsson & R. Langhorne (Eds.), *Diplomacy: Volume III. Problems and issues in contemporary diplomacy* (pp. vii–xiii).

⁴⁰ Vienna convention on diplomatic relation (1961)

prosecution even if such conduct or activities is actually illegal under their domestic laws. Article 31(1)(d) allows diplomats to obtain information by “all lawful means”.

Cyber espionage is the acquiring of non-public data from IT systems or networks that are located in the jurisdiction of another state, this usually is committed by the organ or agent that is acting on behalf of another country, or anything attributed to collection for another state⁴¹. This clandestine involves the activity of disguised or false pretenses and without the consent of the target entity or territorial state, it is more or less the same means of traditional espionage but has diversified to include internet anonymity and global reach.

It is on this premise that the duties that are envisaged under official duty have been wrongly and maliciously applied especially in relation with diplomatic officers who engage in cyber espionage while acting under their diplomatic duties and in essence are accorded protection under the provisions of immunity, the blurring line is reconciling what will constitute official function and actions that violate territorial sovereignty or engage in unlawful professional or commercial activities that might fall outside the skirts of official duties which might fall under the exception provided under article 31(1)(c) of the VCDR. This tension is central to the intricate problems diplomacy is currently facing.

The inviolability of mission premises (Article 22) also introduces an intricate dilemma in the digital age. If a diplomatic mission's IT system is used to launch a cyberattack or spread malware, the host state cannot enter the premises without consent, even if the mission itself is unaware of the activity⁴². This situation creates a certain state of a “cyber safe haven” within this host state that may emit repercussions that are unfavorable to the hosting nation, these may be the failure to immediately and effectively interrogate the possible cyber intrusion that may be through the embassies or institutions of diplomatic missions.

⁴¹ Katharina Ziolkowski (ed.), “Peacetime Regime for State Activities in Cyberspace. International Law, International Relations and Diplomacy”, NATO CCD COE Publication, Tallinn 2013

⁴² Nnamdi Kingsley Akani, “A Critical Analysis of Diplomatic Immunity In International Relations: Myth Or Reality?” May 2024, Research Gate available at <https://www.researchgate.net/publication/380632771>

The sprouting of non-state actors in the cyber space such as Hactivists, cybercriminals and private intelligence firms in the field of cyber operations further blurs the lines of responsibility and complicates the diplomatic responses in addressing major digital issues. this has been the cause of Cyber Diplomacy where the cyber space itself is a major arena of international relation and discourse compelling worldwide ministerial departments in the foreign affairs to integrate the issues and matters relating to cyber concerns which could equally be noticed by the necessity of introducing a new generation of “Cyber Diplomats”⁴³.

Addressing these multifaceted challenges requires a dynamic adaptation of international law. The VCDR, despite its enduring success, was simply not designed for the complexities of the digital age. One approach is the interpretive evolution of existing VCDR provisions to encompass internet-driven changes, alongside the potential development of new legal instruments or protocols to clarify rules in the digital arena. This could involve an "internet protocol" augmenting the VCDR to address issues like virtual representation and the immunity of digital diplomatic documents. States must also prioritize developing clear international norms and values for responsible state behavior in cyberspace, as there is currently an "incipient set of binding normative arrangements". Ultimately, diplomacy in the digital age requires a delicate balance between preserving the functional necessity of diplomatic immunity and ensuring accountability for actions that undermine international law and global stability. This necessitates continuous adaptation, robust international cooperation, and a willingness to sometimes embrace constructive ambiguity in diplomatic language, allowing for agreement while leaving room for later interpretation on complex matters, as even the UN Charter demonstrates with its undefined terms like "force" and "armed attack"⁴⁴.

⁴³ André Barrinha & Thomas Renard “Cyber-diplomacy: the making of an international society in the digital age” 28 Dec 2017, Global Affairs. Available at <https://doi.org/10.1080/23340460.2017.1414924>

⁴⁴ Publications Office of the European Union, 2024, “A Handbook for the Practice of Cyber Diplomacy”, Edited by Andrea Salvi, Heli Tiirmaa-Klaar, James Andrew Lewis, EU Institute for Security Studies, 2025.

3.4 DIGITAL TRANSFORMATION OF DIPLOMATIC COMMUNICATIONS AND ARTICLE 27'S INADEQUACIES.

The digital transformation that has occurred in the diplomatic communications has ushered a defined moment of international relations, which have subsequently brought to light profound shortcomings to the venerable VCDR. The primary focus of the convention designed to safeguard the unmonitored and unobstructed communication of diplomatic missions through tangible and physical assets like “diplomatic bags” couriers, the convention finds itself being unprepared and not equipped to address the complexities of a new world order represented by technological interconnectedness.

The world is currently a under a symbolic shift from many traditions of practice in both international relations and other sector and as such this possess the most dynamically compelling time to align the international standards of the VCDR to the modern practices of which will equally include the realization of the terms under the convention to meet the comprehensive standards of modern society in terms of aspect such defining “diplomatic bag”, which in this reality is more than just the traditional physical parcels but even digitally encompassed packaging.

Diplomatic functions such as representation, protection of nationals, informing gatherings and negotiation have greatly been influenced by digital shifts globally⁴⁵. Email has grown to become a primary means of communication supplemented by teleconferencing, social media and other media platforms that provide virtual conferencing, this in itself has provided a new arena for diplomatic activities.

The inference drawn from article 27 of the VCDR in respect of diplomatic bags may just be misapplied now taking into account that it has mainly been construed to involve all digital communication and data storing. Article 24 stating that "archives and documents of the mission shall be inviolable at any time and wherever they may be" is sufficient to establishment of protection to these documents, however, the convention has been short of addressing primarily what the confines of protection shall be.

⁴⁵ Katharina Ziolkowski (ed.), “Peacetime Regime for State Activities in Cyberspace. International Law, International Relations and Diplomacy”, NATO CCD COE Publication, Tallinn 2013, page 395

The role of the diplomacy in the cyberspace is not so prominent as in the media in concerns to cyber stories and incidents. A notable example can be seen in the 2015 cybersecurity deal that was reached between the united states of America and china, being noted as one of the most notable contentious issues that arose in bilateral relations. The two parties respective in this issue both accused and pointed out one another to infiltration and stealing of confidential information from multinational cooperation in both states and government agencies, the united states of America had accused the Chinese government of stealing and/or compromising s number of weapon systems such as the F-35 and the PAC3 missile⁴⁶. Such occurrences, either exposing diplomatic personnel data or other confidential information, compromise sensitive intelligence and intellectual property without actually violating the traditional VCDR provisions on physical mission's premises or diplomatic bags.

These manifestations present the pivotal points of gap enforcement of the law of diplomacy as embed in the Vienna convention that leaking into global threats. The hesitation to address such issues within due time will result in fatal repercussions which will ultimately strain bilateral and multilateral treaties across the world.

3.5 OVERALL NEED FOR VCDR REFORMS IN THE DIGITAL AND CYBERSECURITY LANDSCAPE

The accelerating pace of technological advancements have highly made necessary the review of major international instruments which include the VCDR in our case, these advancements have led to reflective inadequacies in the applicability of the genuinely enshrined provisions that may be misapplied. If steps of alignment are not taken, the VCDR risks becoming a futile convention with its core tenets that involve diplomatic inviolability and immunity embroiled in unjustified causes.

⁴⁶ Publications Office of the European Union, 2024, "A Handbook for the Practice of Cyber Diplomacy", Edited by Andrea Salvi, Heli Tiirmaa-Klaar, James Andrew Lewis, EU Institute for Security Studies, 2025, page 2

The very expediency that governments take in adopting and making use of new technologies necessitates frequent academic contribution such as this one to reassess the confines of justified and righteous advancements of the law not only at domestic levels but more importantly on a global scale.

For instance, cybercrime has become an alarmingly profitable form of organized crime, and malicious cyber tools, being an asymmetric means of power, are readily available to "super-empowered angry individuals" or politically unstable, militarily inferior states⁴⁷.

Ultimately these reforms are crucial to ensure the protection of diplomatic missions from human vulnerabilities in a world that is greatly being dominated by cyber threats that can devastate their careers and even affect their competence in delivering their roles. The preamble of the VCDR allows for continued application of international law in matters not explicitly addressed underscoring its inherent flexibility⁴⁸.

⁴⁷ Publications Office of the European Union, 2024, "A Handbook for the Practice of Cyber Diplomacy", Edited by Andrea Salvi, Heli Tiirmaa-Klaar, James Andrew Lewis, EU Institute for Security Studies, 2025, page 26.

⁴⁸ Marwah Ayad A and Basheer Jumaah A "The application of rules of diplomatic law to digital diplomacy", Al-Iraqia University / College of Law and Political Science 22/11/2024

CHAPTER FOUR

LESSONS FROM GLOBAL PRACTICES IN MODERN DIPLOMATIC FRAMEWORKS

4.1 INTRODUCTION

This chapter investigates diplomatic frameworks and reforms in countries, which have adapted to digital diplomacy and accountability demands. It draws comparative lessons on managing virtual diplomatic missions, addressing cybersecurity, and balancing immunity with legal accountability. The chapter also discusses the prospects and challenges of implementing similar reforms within the Vienna Convention's framework, considering global diplomatic norms and practices.

The framework of diplomatic transformation in the modern digital age.

The worldwide diplomatic scenery is experiencing profound and continuous transformation, primarily driven by digital disruption and the increasing global demand for accountability. The digital age has not been short of interconnectivity, and in the history of diplomacy this is the most symbiotic arena ever, the rise of new media has significantly transformed the way individuals and states interact communicate and even how they execute their diplomatic conduct, of significance to notice is the rise of a practice often termed as "digital diplomacy" or "e-diplomacy"⁴⁹. These difficulties have included pervasive cyber security threats and the critical need that has prompted the action of reconciling the traditional framework to modern day legal expectations especially in regards to diplomatic immunities. With the observation of comparative lessons, it can be noted of some robust threat responses adopted by nation, mission management programs and the adept legal reforms that have been implemented. The primary tenet of international relation itself has been diplomacy and its effective functioning has been embed on effective communication, as such it has become worth noting that the most pivotal medium of communication has changed in this new era and as such

⁴⁹ Janet Charles, "Rethinking Diplomacy: How Small States can Leverage New Media for the Conduct of Diplomacy in the Digital Age", January 2024. A dissertation presented to the Faculty of Arts in the University of Malta for the degree of Master in Contemporary Diplomacy.

communication protocols and procedures need to be revisited and equipped to meet the realistic demands of diplomacy.

4.2 CASE STUDIES IN DIGITAL INTEGRATION AND NATIONAL FRAMEWORKS

In nations and regions that have successfully put up schemes of adaptation it is noted that it has been through the utilization of digital platforms to project influence, enhance communication, or to establish niche expertise most especially to the benefit of small states that seek to overcome limitation imposed by size and resource constraints⁵⁰. The advent of new technology in communication provides an unprecedented classic opportunity for most nations regardless of their size to enhance their diplomatic reach and influence in the international arena, thereby successfully achieving objectives that the normal conventional practices of statecraft could not achieve⁵¹.

To illustrate the initial case example is the state of Estonia which has attained an alrecriable level of digital prowess and Niche Diplomacy, Estonia stands as an exceptional example, it has even recognized globally for pioneering E – governance initiatives and this is also displayed through its successful implantation of digital technologies in its multisector departments which primarily includes Diplomacy⁵².

Singapore has through its technology department been able to set up what is called the strategic and digital communication and crisis management, and this is a very small city state which has greatly leveraged communication technologies and social media to project diplomatic influence, to ensure regional security is upheld as a priority and to champion discussion on economic cooperation and partnership. These platforms set up by Singapore have been used to strategically communicate foreign policy narratives and shape global discourses effectively, this can more essentially be noted through its effective utilization of its technological department to demonstrate agile crisis response

⁵⁰ ibid

⁵¹ ibid

⁵² ibid

during the COVID -19 pandemic, utilizing digital platforms to provide 24/7 consular assistance⁵³.

Another unique example is the united states of America institutional evolution and policy focus, the federal state has pioneered structures such as the “21st century statecraft” framework which they successfully put in place in the year 2009, its purpose being the broadening of American public diplomacy into digital spaces across the globe⁵⁴. America’s approach has been focused on the utilization of social media to advance interests and projecting an economically responsible super power committed to diplomacy⁵⁵. It’s worth noting that more recently the united states have trained and equipped officers called “tech Diplomats” who have been a new dawn of technology diplomats charged with the duty of being up to date with technological advancements and prioritizing understanding its centrality in foreign policy, as opposed to focusing solely on technical engineering skills⁵⁶.

4.3 COMPARATIVE LESSONS IN MANAGING VIRTUAL MISSIONS

The overwhelmingly growing reliance on new media and virtual practices, made possible by information and communication technologies (ICT), has fundamentally shifted diplomatic practices, allowing nations across the globe to connect and communicate virtually to enhance diplomatic engagements.

The role of new media and virtual diplomatic practices new media, or digital media, has brought a revolutionized user access, enabling mass media consumption on a smaller, personalized scale, unrestricted by place, format and time. The shift to the use of virtual diplomatic frameworks involves conducting diplomatic activities either totally or partially

⁵³ ibid

⁵⁴ U.S. Department of State, ‘21st century statecraft’

https://www.youtube.com/watch?v=x6PFPCTEr3c&ab_channel=U.S.DepartmentofState.

⁵⁵ C Bjola and L Jiang, ‘*Social Media and public diplomacy: A comparative analysis of the digital diplomatic strategies of the EU, US and Japan In China*’, Digital diplomacy theory and practice (Routledge 2015)

⁵⁶ C Bjola and D Kļaviņš, ‘*The digital hybridization of ministries of foreign affairs: the case of the nordic and baltic states*’, The Oxford Handbook of Digital Diplomacy (2023) 291

online. These engagements have included virtual negotiations, virtual embassies and online diplomatic meetings. Precisely what can be noted is that for resources constrained small states, virtual diplomacy acts as a crucial levelling mechanism, allowing them to take part in processes that would become burdensome for them to rely on logistics and geographical landmarks make it challenging for these smaller states. for example, CARICOM (*which is an intergovernmental organization established in 1973 to promote economic integration and cooperation among its 15 member states and 6 associate members in the Americas and the Caribbean*) held a memorable and historical virtual conference to address COVID – 19, showcasing the viability of virtual diplomacy in global connectivity⁵⁷. These initiatives foster interconnectedness and unionism across the globe and provides a landscape that's properly equipped for international organizations such the united nations to fully address global problems challenges.

4.4 DIPLOMATIC RESPONSES TO CYBERSECURITY AND INFORMATION THREATS

Cybersecurity, that encompasses threats such as cyber-attacks, hacking, data breaches, and non-governmental cyber espionage, is now a core component of international security and foreign policy.

The nature of accountability for cyber espionage and cyber threats involves the use of information and communication technologies which are primarily for the collection of intel, from the internet, computers, networks or even communication systems, usually done by proxies or non-state actors. States have embarked on leveraging on cyber power which is basically the ability to utilize the cyber space for military and political objectives.⁵⁸ However, what has become a challenge in the utilization of the cyber space is the fact anonymity of the perpetrators of a cyber-attacks, this has remained a major hurdle for effective deterrence and legal response. Furthermore, to note is non-governmental actors

⁵⁷ Janet Charles, "Rethinking Diplomacy: "How Small States can Leverage New Media for the Conduct of Diplomacy in the Digital Age", January 2024. A dissertation presented to the Faculty of Arts in the University of Malta for the degree of Master in Contemporary Diplomacy.

⁵⁸ Czosseck C, 'State Actors and their Proxies in Cyberspace' in K Ziolkowski (ed), Peacetime Regime for State Activities in Cyberspace (NATO CCD COE Publication 2013)

that have engaged in cyber espionage significantly influences modern diplomacy and international treaties.⁵⁹

4.5 COUNTERING DISINFORMATION AND INFORMATION WEAPONIZATION

The proliferation of information in this era of modern communication presents a risk by generating and disseminating false or misleading information that can delegitimize narratives that have stood principle in the administration of international diplomacy. It is pertinent in the modern age that disinformation, misinformation and weaponization of information is traced within its earliest stages, this objective can only be achieved by an effective continuous reskilling of diplomats to move beyond mere adaptation to putting in place proactive adoption of digital diplomatic trends and practices to counter this threat.⁶⁰

Multilateral frameworks that have sole focus on cyber stability in the global diplomatic space concentrate their efforts on the establishment of 11 voluntary, non-binding norms of responsible State behaviour in the cyberspace, this has been achieved often by leveraging on international bodies such as the United Nations Group of Governmental experts (GGE) and organisations such as Open Ended Working Group (OEWG). These negotiations affirm that existing international law, including the UN Charter, is applicable to state activities in cyberspace⁶¹.

- I. Process and Norms: The United Nations Group of Governmental experts was initiated after the Russian proposal in 2004 with a particular focus of identifying potential and existing threats in information security. What is the key indicative beacon of success is the iterative drafting process, which is managed by a by a

⁵⁹ K Ziolkowski (ed), *Peacetime Regime for State Activities in Cyberspace: International Law, International Relations and Diplomacy* (NATO CCD COE Publication 2013)

⁶⁰ J Charles, *Rethinking Diplomacy: How Small States Can Leverage New Media for the Conduct of Diplomacy in the Digital Age* (Dissertation, University of Malta 2024).

⁶¹ United Nations General Assembly, Report of the Open-ended Working Group on developments in the field of information and telecommunications in the context of international security (A/AC.290/2021/CRP.2, 10 March 2021).

chairman to achieve consensus on politically sensitive issues⁶². This is the process successfully saw the introduction of concepts like voluntary norms and confidence-building measures (CBMs) into the cyber space discourse, and prominently noticing that it drew its precedents from international agreements such as Missile Technology Control Regime.⁶³

- II. Geopolitical Competition: the process has been notably marked by global competition between world powers such as Russia and the United States. Failure of the 2016 – 2017 GGE to come to consensus, the united nations general assembly moved the discussion to a more inclusive Open Ended Working Group (OEWG) format, despite this the US sponsored another GGE to work on the previous consensus reports and preserve the established framework. The OEWG consensus report of 2021 reflected and used the writing of the GGE, thereby establishing a framework of responsible behaviour that remains the foundation for future discussions⁶⁴. Many non-aligned nations follow China's lead, underscoring the significance of consensus among major global players.

4.6 PROSPECTS AND CHALLENGES FOR VCDR AND CYBER-LEGAL REFORM

The future of viable international diplomacy hinges on establishing clear legal parameters in the digital domain and ensuring greater accountability for diplomatic misconduct.

The reformation of diplomatic immunity for accountable practices

In order for this global world to meet the harmonic utilization of diplomatic practices there is need mitigate the misuse of diplomatic privileges that have far in time been used as scape paths for avoiding liability in a modern time that demands extreme accountability and the observance of justice. The key proposed limitation in administering immunity relate to the limitation of immunity to only apply when there are acts that are directly related to the functioning of the diplomatic missions, this approach is clearly elaborated and brought out in **chapter two** under the subtheme “**absolute immunity (article 31)**”

⁶² A Salvi, H Tiirmaa-Klaar, and JA Lewis (eds), A Handbook for the Practice of Cyber Diplomacy (EU Institute for Security Studies 2024).

⁶³ Ibid

⁶⁴ Ibid

and conflicts with modern accountability” where functional immunity is precisely explained to be;

“functional immunity (also known as immunity ratione materiae or subject-matter immunity)”

This measure would allow permits the states receiving diplomats to prosecute but yet ensure that due diligence is done in their protection as the stand trial of heinous crimes committed which fell outside of their official duties while preserving core diplomatic protection.

4.7 CONCLUSION

Besides the attribution being to immunity another recognizable stride is the diplomatic reskilling and adoption, this is a crucial cutting lesson and is an urgent need for foreign ministers to foster a culture of continuous learning and agility, taking a shift from simple adaptation of digital advancements to comprehensive adoption of mentality and value addition that fits the greater demand of today’s modern age. The investment in continuous professional development is undeniable for preparing capable diplomatic forces that are both adept and resilient to the challenges and opportunities presented by the ever evolving global landscape.

CHAPTER FIVE

PROTOCOLS AND STRATEGIES FOR MODERNIZING THE VIENNA CONVENTION IN THE DIGITAL AGE

5.1 GENERAL CONCLUSIONS

This chapter concludes the dissertation by integrating the key findings that have been discussed in the previous chapters. Furthermore, this section will provide for recommendations that are designed to aid in the resolution of the problems therein. The magnitude of shifts that have been witnessed in the global practice of diplomacy marked by digital diplomacy, characterized by the use of new media and emerging technologies like artificial intelligence (AI), makes the convention an archaic instrument that is equipped with traditional and physical understanding of diplomacy⁶⁵.

A step that will be more progressive is adoption of an “**Internet Protocol**” to supplementing the VCDR, which will clarify existing rules in the digital arena of modern diplomacy and provide regulations for new internet related issues⁶⁶.

5.2 SUMMARY OF THE CHAPTERS

5.3 CHAPTER ONE SUMMARY

This chapter introduces the Vienna Convention on Diplomatic Relations (1961) as the cornerstone of international diplomatic law, highlighting its limitations in addressing modern challenges such as technological advancements, cybersecurity threats, and demands for accountability. It presents the statement of the problem, outlining the Convention’s struggle to balance diplomatic immunity with legal enforcement in the digital age. The chapter provides an overview of the research objectives, research questions, and the significance of the study in modernizing the Convention while preserving its foundational principles.

⁶⁵ J Kurbalija, 'Is it time for a review of the Vienna Convention on Diplomatic Relations?' (DiploFoundation, 16 April 2012) accessed 7 July 2019

⁶⁶ J Johnstone, A Sukumar and J P Trachtman, Building cybersecurity through multistakeholder diplomacy: Politics, processes, and prospects (Edward Elgar 2023)

5.4 CHAPTER TWO SUMMARY

This chapter analyses the salient limitations of the Vienna Convention, focusing on its provisions related to diplomatic immunity, inviolability, and communication (notably Articles 27 and 31). It explores legal ambiguities and enforcement challenges, particularly in high-profile cases where absolute immunity conflicts with host nations' justice systems. The chapter also addresses the Convention's inadequacy in responding to public demands for accountability and its failure to provide clear mechanisms for resolving jurisdictional disputes in contemporary international relations.

5.5 CHAPTER THREE SUMMARY

This chapter examines the implications of digital transformation, including the rise of virtual embassies and digital diplomatic communications, on the application of diplomatic immunity as enshrined in the Vienna Convention. It evaluates cybersecurity vulnerabilities that compromise diplomatic missions, such as cyber threats to digital channels, and assesses how these developments challenge the Convention's foundational principles. The chapter also explores the potential benefits and risks of integrating digital protocols into diplomatic practices.

5.6 CHAPTER FOUR SUMMARY

This chapter investigates diplomatic frameworks and reforms in countries, which have adapted to digital diplomacy and accountability demands. It draws comparative lessons on managing virtual diplomatic missions, addressing cybersecurity, and balancing immunity with legal accountability. The chapter also discusses the prospects and challenges of implementing similar reforms within the Vienna Convention's framework, considering global diplomatic norms and practices.

5.7 RECOMMENDATIONS

5.8 FORMALIZING DIGITAL PRESENCE AND REVISING TERMINOLOGY

- I. The VCDR has been facing significant issues in its framework especially in addressing the modern day diplomatic practices such as virtual diplomatic engagement, where the traditional forms of communication bypasses physical

embassies and moves between capitals of states. To further strengthen the advent of this practice the blended diplomatic practices can be encouraged that combines the continuous low cost nature of digital tools with the personal rapport developed through time to time occasional physical contact.

5.9 EXTENDING INVIOABILITY TO DIGITAL ASSETS AND COMMUNICATIONS

- I. **Inviolability of Cloud Data**⁶⁷: Digital assets such as emails, databases, and electronic documentation should be given the absolute recognition that has been afforded to the traditionally protected and inviolable documents, this is especially important for documents and data stored on third party cloud servers (e.g. google servers)⁶⁸.
- II. **Need for Digital Identification and Responsibility**⁶⁹ the provisions of the VCDR has given far much immunity to a wide range of documents that are not specifically identified and as such to note and acknowledged the new era of digital growth, it is the essentially necessary that a marking system should be introduced for identification purposes of diplomatically inviolable documents. This step will necessitate the introduction of a new rule potentially through an augmenting protocol, one that will demand a certain marking and identification of documents as immune and privileged, applicable to all digital assets.

Additionally, the unified provision and structure will regulate in an integrated way the increasingly interlinked processes of digital communication and information management.

5.10 STRENGTHENING CYBERSECURITY AND DIGITAL CAPACITY

- I. The interconnectedness that is inherent in diplomatic practices especially in today's modern day of diplomacy, this arena is exposed to rising threats global

⁶⁷ ibid

⁶⁸ ibid

⁶⁹ibid

threats such as cyber espionage, cyber-attacks and disinformation campaigns from both state actors and non-state actors⁷⁰.

5.11 THE ENHANCEMENT OF DIGITAL CAPACITY AND DIPLOMATIC SKILL SET

- I. Governments must take charge during time and season to not only put in place adaptation schemes to the new system but equally adopt measure that will stand the test of time this will be crucially achieved through the reskilling of diplomats to the new tools, the diplomatic training programs should now reflect the greater need to enhance digital literacy, provide proficiency in data analytics and the incorporation of expertise in cybersecurity and crisis management in the virtual realm.

5.12 PROPOSED IMPLEMENTATION STEPS AND STRUCTURE.

- I. capacity building initiatives must be implemented to equip technical training, institutional building and policy capacity building. By nurturing digital knowledge and prowess across diplomatic missions, legal and regulatory areas, small state can take advantage of their cybersecurity resilience and ensure their ability to engage in meaningfully in the international cyber space⁷¹.

5.13 PROMOTING NORMS OF RESPONSIBLE STATE BEHAVIOUR (CBM's)

- I. Diplomatic efforts to ensuring tranquillity in the cyberspace should be championed by focusing on establishing and maintaining accountable responsible state behaviour. This principle relies heavily on the direct or the wilful recognition and participation of a state(s) in respecting and upholding internationally set standards that reinforce and guide well founded diplomatic practices, the successful implementation these can so dully be incorporated through structures such as the united nations framework which are globally recognized like Group of

⁷⁰ Charles J, 'Rethinking Diplomacy: How Small States Can Leverage New Media for The Conduct of Diplomacy in The Digital Age' (Master in Contemporary Diplomacy dissertation, University of Malta 2024)

⁷¹ Painter C, 'Prioritizing Capacity Building as a Foundation for Cybersecurity and Stability' in Klimburg A (ed), *New Conditions and Constellations in Cyber* (The Hague Centre for Strategic Studies 2021) 89

Governmental experts (GGE) and the other being Open Ended Working Group (OEWG)⁷².

5.14 IMPLEMENTATION OF CONFIDENCE BUILDING MEASURE (CBMs)

These are politically designed measures that ensure the strict compliance with regulation and policy to reduce the risk of conflict by misperception, to enhance stability and fostering cooperation⁷³. CBMS can be voluntarily implemented by states, and they include:

- I. **Transparency and information exchange:** states should ensure in the efforts of strengthening understanding in the digital age share their views and understanding of their contrasting cybersecurity policies and laws.
- II. **Establishing points of contact:** states can strategize to come up with national points of contact at the policy and diplomatic level, and also with regards to critical infrastructure development and protection.
- III. **Cooperative exercise:** states should engage in consultations, thematic discussions and workshop to practice CBMS and harmonize national approach to crisis management.

5.15 CONCLUSION

Ultimately, the changes that are demanded to the VCDR are challenging cause universally this document has been accepted, however, the adaptation of its provision through a modernized interpretation or augmenting with guiding protocols can prove significant to improve its efficacy in addressing profound digital issues, thereby, solidifying the relevance and essence of its applicability till date.

⁷² Meyer P, 'Norms of Responsible State Behaviour in Cyberspace' in Christen M et al (eds), *The Ethics of Cybersecurity* (2020) 347–360

⁷³ UN Open-ended Working Group on developments in the field of information and telecommunications in the context of international security, *Final Substantive Report (A/AC.290/2021/CRP.2*, 10 March 2021)

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SUPERVISOR: INNOCENT NYAMBE TOPIC: RE-EVALUATING THE VIENNA CONVENTIONS: VIS-A-VIS DIGITAL LEGAL

CHALLENGES AND MODERN CONTEMPORARY DIPLOMATIC PRACTICES.

Stage	Supervisor's Comments	Supervisor's Signature & Date	Student's Signature & Date
Research Proposal	Amended & proceed.	25 th July, 2025 	28 th July 2025
Chapter 1 – Introduction	amended Problems Statement.	28 th July 2025 	28 th July 2025
Chapter 2 –	Amended Proceed	14 th August 2025 	14 th August 2025
Chapter 3 –	Proceed	2 nd September 2025 	2 nd September 2025
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Chapter 5 – Conclusions & Recommendations	Amend Chapter 5 recommendations	25 th October, 2025	28 th October 2025
Abstract, Table of Contents, Bibliography and Appendices	OK	31 st October, 2025	31 st October 2025
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