

The Concept of Diplomatic Immunity under Conventional Law and Islamic Law: A Comparison

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Abstract

This paper examines diplomatic immunity under both conventional law and Islamic law and identifies similarities and differences between the two systems. The paper is based on a qualitative methodology in which data is extracted from journals, books, websites, etc. In analyzing the data obtained from the sources, a content analysis was conducted. It is found that the principles of diplomatic immunity such as personal inviolability, immunity from the jurisdiction of domestic courts, freedom of religion, freedom of movement, protection of diplomatic baggage and couriers, freedom of communication, Inviolability of mission archives and inviolability of mission premises and private residence, as contained and codified in the VDR of 1961 and the VCCR of 1963, which today form the basis of international law, are very similar to the Islamic principle of diplomatic immunity, which has been firmly established since the seventh century. However, a key difference between these two systems is that immunity in Islamic law has largely emerged from the constitution of Islamic law and is consequently based on a distinct legal philosophy, whereas in conventional law it has essentially been developed out of political considerations and accepted by states as a binding rule for their international relations. In other words, it can be said that while both conventional and Islamic law recognize diplomatic immunity, there are crucial differences in its theoretical foundations and practical application. Conventional law, which is rooted in secular principles, focuses on international agreements such as the Vienna Conventions, while Islamic law, which is derived from the Qur'an and Sunnah, emphasizes divine revelation and the importance of respecting treaties and ensuring the safety of envoys.

Keywords: Diplomatic immunity, Vienna Conventions, Islamic law, diplomats, envoys.

Introduction

Diplomatic immunity is a principle of international law under which certain foreign government officials are recognized as legally immune from the jurisdiction of another country. It allows diplomats safe passage and freedom of travel in a host country and provides almost complete protection from local legal proceedings and criminal prosecution. Diplomatic immunity is one of the oldest and most widespread practices in international relations; most civilizations have granted some special status to foreign envoys and messengers since ancient times. It is intended to facilitate relations between states by allowing the respective representatives to carry out their duties freely and safely, even in times of political tension and armed conflict. Furthermore, such protection is generally considered to be reciprocal and therefore mutually beneficial (Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities, 2018).

On the other hand, Islamic law contains many references to the protection of diplomats, who are also referred to as emissaries, envoys, deputations, delegations and embassies in the writings of other scholars. Various sources of Islamic law indicate that diplomats are entitled to immunity from persecution, freedom

from arbitrary arrest and detention, and appropriate care and treatment. Furthermore, nothing in these sources precludes other additional immunities or privileges that may be granted to a diplomat under a treaty as long as they do not violate the letter and spirit of Islamic law. Modern Islamic legal scholars have argued that Islamic law contains provisions on diplomatic immunity equivalent to those of the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963 (Ismail, 2013). The duties of a diplomat under Islamic law are very similar to those of today, except for the differences brought about by modern technology (Bassiouni, 1980). This similarity is evidenced by the Prophet's frequent practice of sending diplomatic delegations to different parts of the world during his ten-year reign as leader of the Muslims. His instructions to his emissaries were to work patiently, avoid harshness towards others, bring good news to other people and not to stir up animosity against themselves or their mission (Istanbuli, 2001). This paper examines the concept of diplomatic immunity under both conventional law and Islamic law and highlights the similarities and differences between the two.

Concept of Diplomatic Immunity

(i) Overview

Diplomatic immunity is a principle of international law under which certain foreign government officials are recognized as legally immune from the jurisdiction of another country. It allows diplomats safe passage and freedom of travel in a host country and provides almost complete protection from local legal proceedings and criminal prosecution. Diplomatic immunity is one of the oldest and most widespread practices in international relations; most civilizations have granted some special status to foreign envoys and messengers since ancient times. It is intended to facilitate relations between states by allowing the respective representatives to carry out their duties freely and safely, even in times of political tension and armed conflict. Furthermore, such protection is generally seen as reciprocal and therefore mutually beneficial (Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities, 2018). Ross (1989) defines diplomatic immunity as a situation in which members of diplomatic missions are shielded from legal proceedings. According to Wilson (1984), this "shield" - diplomatic immunity - is generally defined as the freedom from local jurisdiction granted by the receiving state to foreign diplomats and the families and servants of these officials under international law.

Diplomatic immunity, a long-standing and nearly universal concept, has long been considered customary law; however, it has traditionally been granted on an ad hoc bilateral basis, resulting in varying and sometimes contradictory standards of protection. The modern practice of diplomatic immunity largely corresponds to the 1961 Vienna Convention on Diplomatic Relations, which formally codified the legal and political status of diplomats and has been ratified by the vast majority of sovereign states.

Diplomats can be declared *persona non grata* and expelled from the country but not prosecuted. The home country of a foreign official can waive immunity and allow prosecution if the official has been involved in a serious crime unrelated to their diplomatic function (as opposed to, for example, espionage charges). However, many countries refuse to waive immunity as a matter of principle, and diplomats have no power to waive their own immunity (except perhaps in the case of defection) (Subramanian, 2017). Alternatively, the home country may prosecute the diplomat on its own initiative or at the behest of the host country (Longley, 2019).

The practice of granting diplomatic immunity is thousands of years old (Morris, 2007). Historians recognize that the practice of immunity was common in antiquity in a variety of states, from classical Greece and Rome to the Near and Far East, including the ancient Babylonians, Egyptians, Israelites, Indians, and Chinese (David 2001). Kurizaki (2011) traces the development of diplomacy throughout history, from Amarna diplomacy in the ancient Near East to Greek, Roman, Byzantine and French diplomacy in the 17th and 18th centuries.

Various theories have been put forward to explain the concept of diplomatic immunity. The best known of these theories are theories of personal representation, extraterritoriality and functional necessity (Abba & Safiyanu, 2020).

The theory of personal representation is based on the idea that the diplomat is a representative of the sovereign of a state and that, as a representative, he is entitled to the same privileges as the sovereign (Groff,

2000). According to this theory, the diplomat is seen as the personification of the head of the sending state (Safiyanu, 2021).

The theory of extraterritoriality states that the diplomat's property and person are to be treated as if they were on the territory of the sending state (McClanahan 1989). This means that since the diplomat is considered to be living in the sending state, he remains protected from the criminal and civil jurisdiction of the receiving state (Wright 1897).

The theory of functional necessity states that diplomatic envoys must be guaranteed all necessary privileges and immunities in the country to which they are accredited so that they can perform their duties efficiently and without interference, intimidation and fear of civil or criminal prosecution. This is the essence of the theory of functional necessity, which became widely popular among legal scholars at the beginning of the twentieth century (Ismail, 2013). The popularity of this theory is reflected in the preamble to the 1961 VCDR, which states 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 representatives of States". Proponents of this theory argue that it is dynamic and contains safeguards that prevent the unnecessary extension of privileges and immunities (Farhangi 1985-86 and Wilson 1984).

(ii) History

The concept of diplomatic immunity is found in ancient Indian epics such as the *Ramayana* and the *Mahabharata*, in which messengers and diplomats were granted immunity from the death penalty. In the *Ramayana*, when the demon king Ravana ordered the killing of Hanuman, Ravana's younger brother Vibhishana pointed out that messengers or diplomats should not be killed as per ancient practices (Aravamudan, 2014).

In the course of the development of international law, many wars were regarded as rebellions or as unlawful by one or more of the belligerents. In such cases, the servants of the "criminal" ruler were often regarded as accomplices and disgraced in their persons. In other cases, harbingers of petty demands were killed as a declaration of war. Herodotus reports that heralds of the Persian king Xerxes who demanded "earth and water" (i.e. symbols of submission) from Greek cities were thrown into a pit by the Athenians and into a well by the Spartans to suggest that they would find both earth and water at the bottom, which was often mentioned by the messengers as a threat of siege. But even for Herodotus, this mistreatment of envoys is a crime. He tells a story of the divine vengeance that befalls Sparta for this act (Herodotus, 1996).

Gregory of Tours reports that Frankish envoys sent by King Childebert II to the Byzantine Emperor Maurice were killed in Carthage by the city's prefect after one of the Franks had murdered a merchant. After Emperor Maurice learned of this, he had several Carthaginians arrested and sent to Childebert for sentencing because of what had happened to his envoys (Gregory of Tours, 1916).

The arrest and mistreatment of the envoy of Raja Raja Chola by the king of the Kulasekhara dynasty (Second Cheras), now part of modern India, led to the Kandalur Sea War in 994 AD (Churchman, 2013).

(iii) Vienna Convention

In the 19th century, the Congress of Vienna reaffirmed the rights of diplomats, which have since been widely respected as the European model has spread throughout the world. Currently, diplomatic relations, including diplomatic immunity, are governed internationally by the Vienna Convention on Diplomatic Relations of 1961, which has been ratified by almost every country in the world.

In modern times, diplomatic immunity remains an albeit imperfect means of protecting diplomatic personnel from hostilities that might arise between nations. As one article puts it: "So why do we agree to a system in which we are dependent on the whim of a foreign country before we can prosecute a criminal within our own borders? The practical answer is: because we depend on other countries to respect the immunity of our own diplomats as scrupulously as we respect theirs" (Raza, 2011).

In the United States, the Diplomatic Relations Act of 1978 (22 U.S.C. § 254a et seq.) follows the principles established by the Vienna Conventions. The United States tends to grant diplomatic immunity generously to visiting diplomats because a large number of U.S. diplomats work in host countries that are less protective of individual rights. If the United States were to penalise a visiting diplomat without sufficient cause, U.S.

representatives in other countries could be treated even more harshly. If a person enjoying immunity is accused of committing a crime or faces a civil lawsuit, the State Department asks the home country to waive the immunity of the alleged offender so that the case can be brought to court. If the immunity is not waived, the prosecution cannot proceed. However, the Ministry of Foreign Affairs still has the right to expel the diplomat. In many cases, the diplomat's visa will be revoked and he and his family may be barred from returning to the United States. Crimes committed by a diplomat's family members may also result in dismissal (Diplomatic Relations Act, 1978).

Concept of Diplomatic Immunity under Islamic Law

(i) Overview

Prophet Muhammad (peace be upon him) sent and received messengers and strictly forbade harming them. This practice was continued by the Rashidun caliphs, who exchanged diplomats with the Ethiopians and the Byzantines. This diplomatic exchange continued during the Arab–Byzantine wars (Fadl, 2009).

Classical Sharia demanded hospitality to anyone who was granted *amān* (or the right of safe passage). *Amān* was readily granted to any emissary carrying a letter or other sealed document. The duration of the *amān* was usually one year. Envoys with this right of passage were granted immunity for their person and property. They were exempt from tax as long as they did not engage in trade (Fadl, 2009).

According to Safiyanu (2021), diplomatic relations in Islam actually began in the early days of Islam, as evidenced in Qur'an 49:13:

O mankind, indeed, we have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted.

According to Ismail (2013), the theory of functional necessity seems to be the predominant legal justification for the practice of diplomatic immunity in Islamic international law. In Re: Islamization of Laws Public Notice No. 3 of 1983, the Federal Shariat Court of Pakistan quoted a Hanafī jurist, Sarakhshi, as saying, “If someone claims to be an envoy and has the necessary credentials, he is granted immunity until the completion of his ambassadorial duties and until his return.” Zawati (2001) argues that diplomatic representatives must enjoy full personal immunity under Islamic international law in order to carry out their duties and functions.

However, some elements of the theory of personal representation cannot be completely ruled out in Islamic law. Ibn Ali (2002, p. 99) states that “whatever treatment is accorded to an ambassador, whether good or bad, it is as if it were accorded to the king who sent him, and kings have always shown each other the greatest respect”. This means that diplomatic envoys must enjoy diplomatic immunity as representatives of their rulers.

The sanctity of emissaries is a universal concept from pre-modern times, albeit with varying degrees of recognition (Ismail, 2013). Bassiouni (1980) notes that before the advent of Prophet Muhammad (peace be upon him), the inviolability of envoys was not recognized in the Arabian Peninsula. With the advent of Islam, not only was the scope of diplomatic intercourse extended, but full personal inviolability was granted to diplomatic personnel and their families (Istanbuli, 2001). This means that diplomats must not be killed or mistreated, but should always be respected (Safiyanu, 2021).

The doctrine of personal sanctity was demonstrated by the Prophet (peace be upon him) when Musailima bin Habib, a notorious liar nicknamed *al-Kadhab* (the Liar), sent two emissaries - Ibn Al-Nawwaaha and Ibn Aathaal – with the message that he, Musailima, and not the Prophet Muhammad (peace be upon him) was the true Prophet of God. The Prophet (peace be upon him) asked the emissaries if they agreed with the content. They replied in the affirmative, to which the Prophet (s.a.s.) replied: By God, if it were not for the fact that envoys must not be killed, I would have beheaded you both (Iqbal, 1975). In the case of Wahshi, the Abyssinian ambassador who had previously killed an uncle of the Prophet (peace be upon him), the Prophet (peace be upon him) also adhered to this practice. When Wahshi presented his credentials, the Prophet

(PBUH) stated that non-Muslims would judge Islam by the way it treated foreign envoys, and therefore foreign envoys should be treated the same as Muslim envoys (Bassiouni, 1980).

In another instance, this principle was applied by the Prophet (peace be upon him) in his reception and treatment of envoys from Ta'if in 631 CE. In previous times, the Prophet (peace be upon him) had been treated badly by the people of Ta'if, but his courteous treatment of their delegation reaffirmed that envoys should be received according to their privileged status. Regardless of the sending country or its previous relations with its people, envoys remained inviolable (Istanbuli, 2001). The inviolability of diplomatic envoys was considered so important that their violation, whether by arrest or detention, could lead to a *casus belli* (Ismail, 2013). Tabari (1989) reports that envoys may only be arrested or detained in exceptional circumstances. One such case is the imprisonment of the envoys of Mecca by the Prophet (peace be upon him) during the negotiation of the Treaty of Hudaibiyah, but without physical harm because the Meccans had detained his envoys. Bassiouni (1980) says that he did this only to obtain the release of the detained emissaries, and when they were released, the Meccans were also free (Safiyanu, 2021).

The envoys also enjoyed religious freedom. One of the most important and significant principles of Islamic international law is that it prohibits any kind of coercion in the international relations of states. The Qur'an has particularly emphasized that there is no compulsion in religion (Qur'an 2:256). This simply means that the Qur'an forbids imposing Islam on anyone. In fact, one of the conditions for accepting the Islamic religion is freedom of will. The person who accepts Islam must not be forced or threatened in any way or be afraid of being threatened. Therefore, Islamic law has granted non-Muslim Messengers the freedom to pray and participate in other religious practices. This was also demonstrated by the Prophet (peace be upon him) when he allowed a delegation of Christians from Najran to worship directly in his mosque (Istanbuli, 2001).

The doctrine of immunity from the jurisdiction of local courts was also maintained in Islamic law (Ismail, 2016). In other words, a diplomat does not have to answer to the court of his host for an offence committed while acting as an ambassador. The case of the two envoys sent by Musailima is instructive on this point. Their response after being asked if they agreed with their message could be taken as direct contempt of the Prophet Muhammad (peace be upon him). However, the Prophet did not charge them with contempt or put them on trial, as they are only recognised as a means of diplomatic communication (Safiyanu, 2021).

Finally, Islamic law recognizes other principles of diplomatic immunity and guarantees them when necessary for the effective conduct of diplomatic affairs. This is based on the jurisprudential principle of Islamic law that nothing is considered forbidden unless it is categorically mentioned as such by Allah in a clear and explicit nass (i.e. a clear Quranic verse or an authentic hadith of the Prophet (PBUH)) (Al-Qaradawi, 2001). Moreover, the Qur'an emphasizes the sanctity of treaties and agreements concluded by Muslim states. Since most Muslim states today have signed various international treaties such as the VCDR 1961 and the VCCR 1963, other principles of diplomatic immunity such as freedom of movement, freedom of communication, protection of diplomatic baggage and couriers, tax exemption and inviolability of diplomatic mission and archives are also guaranteed under Islamic law (Safiyanu, 2021).

(ii) *Authority of Diplomatic Immunity under Islamic Law*

The principles of diplomatic immunity derive their legal authority from the Qur'an and the Sunnah, as well as from the constant practice of Muslim heads of state who have clearly established the privileges and immunities of diplomats in Islamic law and practice. A detailed discussion follows:

a. The Quran

The Qur'an contains several references to the concept of diplomatic immunity. In Suratul Naml (27:23-44), the Qur'an describes the exchange of envoys between the Prophet Sulaiman (992-952 BCE) and Bilqis, the Queen of Sheba. It is described that Bilqis sent a delegation with gifts to Sulaiman, who considered this an insult (an attempt to bribe him). Sulaiman rejected the gifts and sent the delegation back. In the same Surat it says (of Bilqis):

But I will certainly send him a gift and see what response my envoys will return with.
When the chief-envoy came to him, Solomon said, "Do you offer me wealth? What

Allah has granted me is far greater than what He has granted you. No! It is you who rejoice in receiving gifts. Go back to them, for we will certainly mobilize against them forces which they can never resist, and we will drive them out from there in disgrace, fully humbled (27:35-37).

According to Bassiouni (1980), these verses clearly indicate that envoys were considered the usual means of diplomatic communication between Muslim and non-Muslim heads of state and that the envoys were immune from the wrath of the host state and were not responsible for the actions or messages of their heads of state. Even if Sulaiman was offended, he took no action against the envoys but sent them back to where they came from.

Diplomatic agreements, as we know, are generally also based on the effectiveness of treaties deliberately concluded by different states. It is extremely important that the terms of these treaties are honoured at all times (Ismail, 2013). The Quran, categorically provides in the following verses: O you who have believed, fulfill [all] contracts (5:1), Honour Allah's covenant when you make a pledge, and do not break your oaths after confirming them... (16:91), As for the polytheists who have honoured every term of their treaty with you and have not supported an enemy against you, honour your treaty with them until the end of its term... (9:4), ... So, as long as they are true to you, be true to them (9:7). Thus, under Islamic law, the obligation to fulfil all treaties when entered into is unequivocal as highlighted in the verses above (Safiyanu, 2021). According to Bassiouni (1980), treaties take precedence over all laws except the Quran and Sunnah.

In practice, there are no sources of international law that are fully comparable to the attitudes of the Qur'an. This is due to the fact that it is self-derived. This means that its rules, principles and obligations do not require authorization and are automatically applied in the appropriate situations by those who are faithful to its inspiration. He possesses the virtues of self-guidance, adaptation, self-affirmation, self-applicability and also self-enforceability (Safiyanu, 2021).

b. The Sunnah

The Sunnah is the behaviour, the collection of sayings and rulings of the Prophet of Islam (peace be upon him) on various situations (Malekian, 2011). There are several verses in the Quran that obligate all Muslims to follow the behaviours, manners and rulings of the Prophet (PBUH). For example: O you who believe, obey Allah and obey the Messenger and those who have authority with you. And if you disagree about something, then turn to Allah and the Messenger if you truly believe in Allah and the Last Day. That is the best way and the best result. (4:59), ...and obey Allah and His Messenger if you are true believers. (8:1), O you who believe, obey Allah and the Messenger when he calls you to that which gives you life (8:24), etc. All these and many other statements emphasise the importance of the Sunnah as the source of Islamic international law (Safiyanu, 2021).

Moreover, this source of Islamic law contributed to the practical development of the principles of the religion during the early revelation of Islam and consequently to the enforcement of the principles of the Qur'an between different Arab clans and groups (Guillaume, 1924). The practices of diplomatic relations, including immunity, are thus interpreted, regulated and applied on the basis of the Sunnah. According to historical records, Prophet Muhammad (peace be upon him) sent various envoys to different places for religious or political reasons, including Mecca, Byzantium, Egypt, Persia and Ethiopia. He also warmly received delegations and diplomatic envoys in his mosque at a place called *Ustuwanaat al-Wufuud* (the Pillar of Embassies) (Zawati, 2001).

Malekian (2011) argues that the Sunnah in Islamic international law can be compared to customary international law. This is because the Sunnah is a custom and the habits of the Prophet Muhammad (peace be upon him). Similarly, customs in international law are habits that have been practised by the subjects of international law for a long time and have not been objected to as a rule within the system. They are both the result of repetition. However, a major difference between these two customary systems is that the first has largely emerged from the constitution of Islamic law and is consequently based on a legal philosophy of its own, while the second has essentially been developed out of political considerations and has been accepted by states as a binding rule in their international relations.

c. Consistent Practice of Muslim Heads of State

Based on the two main sources, most Muslim heads of state (the caliphs, sultans and the current heads of Muslim countries) also recognise diplomatic protection and immunity in their international transactions. The clear instruction of Abu-Bakr (632-634 CE), the first caliph after the Prophet Muhammad (peace be upon him), to Yazid ibn Abi Sufyan: "When envoys of the enemy come to you, treat them with hospitality", shows the extent to which the Prophet's companions understood diplomatic privileges (Arjoun, 1981). The era of the first four caliphs, also known as the Rightly Guided Caliphs (632-661 CE), witnessed a tremendous exchange of envoys between the Muslims and non-Muslim states. In 651 CE, for example, a Muslim legation led by Sa'd ibn Abi Waqqas was sent to the Chinese emperor Gaozong of Tang, under the overall leadership of Uthman ibn 'Affan (579-656 CE), the third caliph (Lipman, 1998). Both the Umayyad and Abbasid dynasties reached a peak of sophistication in their diplomatic relations with neighbouring kingdoms. Muawiyah Ibn Abi Sufyan (602-680 CE), an Umayyad caliph, was known for his penchant for diplomatic methods, which has been considered a reason for the longevity of his reign (Istanbuli, 2001).

Today, the entirety of Muslim states have joined together in the Organization of Islamic Cooperation (OIC) (formerly the Organization of the Islamic Conference), which currently has 57 member states, to recognize the immunity of the diplomatic personnel of the individual states in accordance with the 1976 Convention on the Immunities and Privileges of the OIC. This is in addition to the member states that have signed the VCDR of 1961 and the VCCR of 1963 (Safiyanu, 2021).

Similarities and Differences

The principles of diplomatic immunity, such as personal inviolability, immunity from the jurisdiction of domestic courts and freedom of religion, which are contained and codified in the 1961 VDR and the 1963 VCCR and which form the basis of international law today, are very similar to the Islamic principle of diplomatic immunity, which has been firmly established since the 7th century. In addition, other protective rights/privileges such as freedom of movement, protection of diplomatic baggage and couriers, freedom of communication, inviolability of the archives of missions and inviolability of the premises of missions and the private home, although not explicitly mentioned in the primary sources of Islamic law, are covered by the maxim of Islamic law that whatever is not explicitly prohibited in either the Qur'an or the Sunnah is considered permissible. Moreover, Islamic law has emphasized the importance of fulfilling obligations under a contract (whether with a Muslim or a non-Muslim country) as long as the terms of such a contract do not deviate from the spirit of Shariah. Thus, it can be said that Islamic law has formulated solid foundations and rules to protect diplomats from any kind of harm, killing or damage to their property; instead, they must be granted privileges and protocols to fulfill their duties as diplomats in host countries without fear. However, a major difference between these two systems is that immunity in Islamic law largely emerges from the constitution of Islamic law and is consequently based on its own legal philosophy, whereas in conventional law it was essentially developed out of political considerations and accepted by states as a binding rule in their international relations (Safiyanu, 2021).

In other words, it can be said that although both conventional and Islamic law recognize diplomatic immunity, there are crucial differences in their theoretical foundations and practical application. Conventional law, which is rooted in secular principles, focuses on international agreements such as the Vienna Conventions, while Islamic law, which is derived from the Qur'an and Sunnah, emphasizes divine revelation and the importance of respecting treaties and ensuring the safety of envoys.

Conclusion

The paper shows that diplomatic immunity is a principle of international law that grants certain foreign government officials legal immunity from the jurisdiction of another country. It allows diplomats safe passage and freedom of travel in a host country and provides almost complete protection from local legal proceedings and criminal prosecution. Diplomatic immunity is one of the oldest and most widespread practices in international relations; most civilizations have granted some special status to foreign envoys and messengers since ancient times. It is intended to facilitate relations between states by allowing the respective representatives to carry out their duties freely and safely, even in times of political tension and armed conflict. Furthermore, this protection is generally considered reciprocal and therefore mutually beneficial.

On the other hand, Islamic law contains many references to the protection of diplomats, who are also referred to as emissaries, envoys, deputations, delegations and embassies in the writings of other scholars. Various sources of Islamic law indicate that diplomats are entitled to immunity from persecution, freedom from arbitrary arrest and detention, and appropriate care and treatment. Furthermore, nothing in these sources precludes other additional immunities or privileges that may be granted to a diplomat under a treaty as long as they do not violate the letter and spirit of Islamic law.

A major difference between these two systems, however, is that immunity in Islamic law arises largely from the constitution of Islamic law and is consequently based on a legal philosophy of its own, whereas in conventional law it was essentially developed out of political considerations and accepted by states as a binding rule in their international relations. In other words, it can be said that while both conventional and Islamic law recognize diplomatic immunity, there are crucial differences in its theoretical foundations and practical application. Conventional law, which is rooted in secular principles, focuses on international agreements such as the Vienna Conventions, while Islamic law, which is derived from the Qur'an and Sunnah, emphasizes divine revelation and the importance of respecting treaties and ensuring the safety of envoys.

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