

STATE RESPONSIBILITY AND INVIOABILITY OF DIPLOMATIC PREMISES UNDER INTERNATIONAL LAW: THE CASE OF THE ATTACK ON THE NIGERIAN HIGH COMMISSION IN ACCRA, GHANA

S. AYOOLUWA ST. EMMANUEL *

Abstract

Diplomatic relations/intercourse between countries is one of the longest positive attributes of international law. Nowadays, commonwealth countries maintain permanent diplomatic ties with at least one other commonwealth country. Recognised norms which originated from the British Empire era are still operational amongst member countries. Ghana and Nigeria are not exceptions in this regard. A fundamental principle of international law and an important concept in diplomatic relations between states is immunity for States, their representatives and missions. Where a State fails to apply this principle in apposite cases, it will be responsible under international law. While reflecting on Ghana and Nigeria diplomatic relations, this paper examines the inviolability of the Nigerian High Commission in Accra, Ghana and the attack on it of 19 June, 2020. The attack on the Nigerian High Commission raises severe interrogation about the prospect of the inviolability of diplomatic premises, whether by allowing the attack on the Nigerian High Commission, Ghana had failed in its duty under Article 22(2) of the Vienna Convention on Diplomatic Relations, 1961. This will be examined in the paper. In addition, the paper also examines Ghana's liability under state responsibility vis-à-vis the attribution of acts and omissions of state and non-state actors.

Keywords: Diplomatic Relations, Ghana, Inviolability, Nigeria, State Responsibility, Vienna Convention on Diplomatic Relations

1. Introduction

After the creation of the United Nations (UN) in 1945, decolonisation and emergence of independent States was on the rise. Two of such independent states are Ghana and Nigeria, who attained independence from Great Britain on 6 March, 1957 and 1 October, 1960 respectively, after series of political and constitutional conferences. Due to the attainment of independence, both countries possess the capacity to enter into relations with each other,¹ though there is no right to diplomatic relations under international law but they exist by mutual consent.² The rules regulating the various aspects of diplomatic relations constitute one of the earliest expressions of international law³ and the custom by which one state sends an individual to represent its interest

* LL.B (Akungba-Akoko, Nigeria), LL.M (Ibadan, Nigeria), B.L (Kano, Nigeria), PhD (Akungba-Akoko, Nigeria); Sub-Dean, Faculty of Law, Adekunle Ajasin University, Akungba-Akoko, Ondo State, Nigeria; Email: simon.stemmanuel@aaau.edu.ng OR ayostemmanuel@gmail.com; Telephone: 07030166377; Postal Address: Faculty of Law, Adekunle Ajasin University, P.M.B 001, Akungba-Akoko, Ondo State, Nigeria.

¹ See Montevideo Convention on the Rights and Duties of States 1933, Article 1(d).

² Vienna Convention on Diplomatic Relations (VCDR) 1961, Article 2.

³ Malcolm N. Shaw, International Law (8th edn, Cambridge University Press 2017) 567.

in another State is one of the oldest practices in international society.⁴ In an era without telegraph or telephone communications, a representative was the most practical option for the ruler who wished to communicate with a ruler of another state.⁵ In enabling the smooth operation of diplomatic activities, diplomatic relations are conducted by Ambassadors who represent the sending state in the receiving state and act as Head of Mission. Ambassadors are assisted by other junior staff and operates from an embassy building in the capital.⁶ Diplomatic intercourse have traditionally been conducted through the medium of ambassadors and their staff, however, due to increase in commerce and trade, the office of consular was established and expanded.⁷

It is pertinent to mention at this point that a diplomatic mission is called diverse names in different locales. Diplomatic missions between Commonwealth member countries are styled as High Commissions and their heads are referred to as High Commissioners.⁸ Hence, why the head of Nigerian diplomatic mission to Ghana is addressed as High Commissioner and vice versa. Other common colonial inheritance by both countries under study include English language as common lingua franca and similar educational systems. In addition, both countries are members of the Economic Community of West African States (ECOWAS) regional bloc and the African Union (AU). However, rivalry between both countries,⁹ has been the cause of constraints and strains between both countries. Having introduced the work, diplomatic relations between Ghana and Nigeria will now be discussed next.

2. Diplomatic Relations/Intercourse between Ghana and Nigeria

Relationship between both countries have a volatile history. According to July, “in many ways, Ghana and Nkrumah were the catalysts of African independence, offering inspiration and

⁴ John O’Brien, *International Law* (Cavendish Publishing Limited 2002) 297.

⁵ *Ibid.*

⁶ *Ibid.* for the powers of ambassadors, see *First Fidelity Bank NA v Government of Antigua and Barbuda Permanent Mission* [1989] 877 F2d 189; 99 ILR, 125.

⁷ Shaw (n3) 567-568. Consular privileges and immunities are guaranteed by the Vienna Convention on Consular Relations 1963.

⁸ Commonwealth Network, ‘Embassies’ <<http://www.commonwealthofnations.org/sectors/government/embassies/>> accessed 21 August 2020. Due to the fact that members of the Commonwealth have or had a common Head of State, they do not exchange ambassadors, instead they have High Commissioners, who represent the government, rather than the Head of State. In diplomatic parlance, the High Commissioner is considered an equivalent in rank and role to an Ambassador. Despite the differences in terminology, since 1948, Commonwealth High Commissioners have enjoyed the same diplomatic rank and precedence as ambassadors of foreign Heads of State. See Draft CPA Address: What does the work of a High Commissioner involve? (14 March 2011) 2. <<http://www.cpaq.org/cpaq/cpadocs/cpa%20address%20140311.pdf>> accessed 21 August 2020.

⁹ Which at times could be healthy, especially in the areas of music and soccer.

example to others who were to follow.¹⁰ This is premised on the fact that Ghana was the first country to attain independence in sub-Saharan Africa. There has been influence rivalry between Ghana and Nigeria, who attained independence three years later. For example, the foreign interest policy of both countries have been in conflict. In support of this statement, Fawole states that ‘Over the decades since their independence, Nigeria-Ghana political and diplomatic relations have been fraught with difficulties, ideological disagreements, personality differences, geopolitical conflicts, rivalries over continental leadership, etc.’¹¹ He further states thus:

Since Ghana became independent in 1957 and Nkrumah effectively began his campaigns for African political unification by the hosting of a series of Africa-wide conferences of political parties, trade unions, political leaders, culminating in the first Conference of Independent African States in Accra in 1958, relations with Nigeria have been tenuous. First was the difference in personalities and ideological orientations of Kwame Nkrumah and Alhaji Sir Abubakar Tafawa Balewa, further compounded by accusations of Ghana’s meddling in Nigeria’s internal politics in furtherance of Nkrumah’s grand plan for African integration, an idea that Sir Abubakar derided, retorting that Nigeria is big enough and does not need to join others...if others wish to join Nigeria, their position will be made clear to them in such a union.¹²

Divergence in opinions between Nkrumah and Balewa is as a result of different school of thoughts that they belong to. According to Akinterinwa, the Casablanca school of thought, championed by Ghana advocated a political approach to the making of the Organisation of African Unity (OAU) in the early 1960s.¹³ Nkrumah contended that there should be political unity first, that is, United States of Africa and all other things shall follow.¹⁴ In opposition, the Nigeria-led functionalist school, which is also known as the Monrovia school, accentuated the prerequisite of laying the foundations for political unity by African leaders, but considered that many African countries had just gained their independence, therefore needed time to, initially,

¹⁰ Robert W. July, ‘Toward Cultural Independence in Africa: Some Illustrations from Nigeria and Ghana’ [1983] (26)(3/4) *African Studies Review*, 119-131 at 122.

¹¹ Alade Fawole, ‘On the Nigeria-Ghana diplomatic row’ *The Nation Newspaper* (Lagos, 7 July 2020) <<https://thenationonlineng.net/on-the-nigeria-ghana-diplomatic-row/>> accessed 25 August 2020.

¹² *Ibid.*

¹³ Bola A. Akinterinwa, ‘Demolition of Nigeria’s High Commission in Ghana: Diplomatic Obligation versus Diplomatic Rascality’ *Thisday Newspaper* (Lagos, 28 June 2020) <<https://www.thisdaylive.com/index.php/2020/06/28/demolition-of-nigerias-high-commission-in-ghana-diplomatic-obligation-versus-diplomatic-rascality/>> accessed 29 August 2020.

¹⁴ *Ibid.*

stabilise before anything else.¹⁵ The Monrovia school eventually prevailed, however, the underlying acrimony between Nigeria and Ghana has not easily gone down the drain of history.¹⁶ It is pertinent to mention that these schools of thought emerged as a result of leadership tussle between both countries upon the creation of the OAU, which became an epicenter for the power war during its first five years.¹⁷

Diplomats of both countries were also not left out of the supremacy scrimmage between both countries. For example, at the second conference of independent African states in Addis Ababa, Ethiopia, the then Nigerian Minister for Mines and power, Maitama Sule, obliquely referring to Ghana and Nkrumah, cautioned that the two dangers of pan-Africanism were the internal policies of some states which Nigeria could not tolerate and the attitude of someone who ‘thinks he is Messiah with a mission to lead Africa.’¹⁸

This period (1960-1966) was described as the era of mutual suspicion and jealousy by Otoghile and Obakhedo.¹⁹ This is because the forthrightness of Ghana on the welfare of African states attracted jealousy from Nigeria, while the prominence that welcomed Nigeria to the league of independent nations attracted jealousy and suspicion from Ghana in terms of which country would take on the dominant role of leading Africa.²⁰ Otoghile and Obakhedo also termed the period between 1966-1975 as the era from temporary cooperation to discord and back to cooperation.²¹ During this period, the relationship between Nigeria and Ghana was unpredictable because the coups that changed the governments of both countries led to a short-lived co-operation before the second coup, which led to the civil war, occurred in Nigeria.²² Tensions resurfaced between both countries because Ghana was sympathetic to the Biafran cause and this was heightened with the election of Dr. K.A. Busia as the president of Ghana. Busia came up with the infamous and disgraceful Aliens Compliance Order which saw the brutal and

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ Aiguosatile Otoghile and Neville Onebamhoi Obakhedo, ‘Nigeria-Ghana Relations from 1960 to 2010: Roots of Convergence and Points of Departure’ [2011] (5)(6)(23) *African Research Review*, 131-145 at 135.

¹⁸ A. B. Akinyemi, *Foreign Policy and Federalism: The Nigerian Experience*, (Ibadan University Press 1974) 84.

¹⁹ Otoghile and Obakhedo (n17) 134.

²⁰ *Ibid.*

²¹ *Ibid* at 135.

²² *Ibid.*

compulsory expulsion of ‘aliens’ mostly from Nigeria in 1971.²³ This was followed by a more brutal retaliation on the part of Nigeria. Hundreds of Ghanaians were burnt alive in an attempt to flush them out as aliens during the *Ghana must go* era during the regime of Alhaji Shehu Shagari as the president of Nigeria the early 1980s.²⁴ With the overthrow of Busia in 1972 by General Kutu Acheampong, relations between the both countries moved from that of discord to co-operation.²⁵ Mutual co-operation continued between both countries until 1979, when Jerry John Rawlings seized power in Ghana. The Olusegun Obasanjo administration had already committed itself to a transition programme and did not want any internal or external factor to interrupt same.²⁶ The Obasanjo administration was of the view that the Rawlings' coup may have a contagious effect on Nigeria and was thus unacceptable.²⁷ Consequently, Obasanjo's regime refused to recognise the Rawlings' administration, and took some punitive economic measures against the administration such as stopping the flow of oil from Nigeria.²⁸ Rawlings administration later enjoyed good relations with Nigeria under the regimes of Generals Ibrahim Babangida and Sanni Abacha, with both countries playing leadership roles to end the civil wars and to restore democratic governance in Liberia (1990-1997), Sierra Leone (1996-1999) and Guinea Bissau (1998-1999) through the ECOWAS Monitoring Group (ECOMOG).²⁹

The transition to civil rule in Nigeria returned Chief Olusegun Obasanjo as President in 1999. This was also the period, the opposition under President John Kufuor came to power in Ghana. This era witnessed new heights of co-operation between both countries. Kufuor's economic diplomacy with Nigeria, generated significant beneficial favours and financial munificence for Ghana from Obasanjo. In the first month of his regime, Kufuor negotiated a 90 day credit facility with Nigeria to economically cushion the administration from excess debts inherited, also, Obasanjo granted Ghana a loan facility of \$13 million for the acquisition of automobiles for the

²³ Simon-Peter Ayooluwa St.Emmanuel, ‘Xenophobia: A Crime Against Humanity and its Attendant Implications on Human Rights’ [2015] (6) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 128-139 at 129.

²⁴ *Ibid.*

²⁵ Otoghile and Obakhedo (n17) at 136.

²⁶ *Ibid* at 137.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ Omo-Ogbebor O. Dennis and Hajj Ahmed Sanusi, ‘Asymmetry of ECOWAS Integration Process: Contribution of Regional Hegemon and Small Country’ [2017] (17)(1) *Vestnik RUDN. International Relations*, 59-73 at 62, 64.

Ghana Police Service.³⁰ In addition, Obasanjo granted another soft loan of \$40 million to pay for Ghana's share of the overall cost of the West African Gas Pipeline.³¹ Furthermore, this cordial relationship resulted in: oil supplies at concessionary rates and terms, heightened international co-operation for the promotion of bilateral interests and constant participation at all G-8 Summits for both presidents.³² Due to the good relationship, many Nigerians established businesses in Ghana and also created employment opportunities for Ghanaians. However, relations between both countries deteriorated with the inception of the administration of late President John Atta Mills in Ghana in 2009. Nigerian businessmen complained of discrimination under the Ghana Investment Promotion Act (GIPA) that raised the amount of money in registering businesses owned by foreigners in Ghana (mostly Nigerians) to \$200,000 and bars them from selling in areas designated as markets.³³ In addition, during this period the Nigerian telecommunication giant, Globalcom, despite investing in Ghana's premier league, was frustrated from undertaking business in Ghana by the Atta Mills' administration.³⁴ It faced obstacles to its entry into the market and threatened to leave Ghana in May 2010 because its nationwide launch plans were sabotaged due to obstacles in getting approval for the swift deployment of its base stations, encroachment on the frequencies it was awarded and repeated defacement of its advertising billboards.³⁵ Consequently, a top level Nigerian delegation led by the Minister of Foreign Affairs and Minister of State for Commerce and Industry arrived in Ghana on Monday, 24 May 2010 to work out an amicable solution, however, their efforts was futile.³⁶

It is pertinent to mention that the GIPA as it affects Nigerian traders is one of the extant and recurring conflict between both countries. The Act was been amended twice, increasing the

³⁰ Bossman E. Asare and Emmanuel Siaw, 'Understanding the Dynamics of Good Neighbourliness under Rawlings and Kufuor' [2018] (25)(2) *South African Journal of International Affairs*, 199-217 at 212.

³¹ *Ibid.*

³² Calus Von Brazi, 'Controversy Unlimited: The Nigerian "Re-invasion" Of Ghana' (GhanaWeb, Opinions of Sunday, 13 September 2009) <<https://www.ghanaweb.com/GhanaHomePage/features/Controversy-Unlimited-The-Nigerian-Re-invasion-Of-Ghana-168530>> accessed 4 September 2020.

³³ Otoghile and Obakhedo (n17) 142.

³⁴ Kow A. Essuman, 'The Mills Administration is not committed to the greater interest of Ghana' (Modern Ghana, 31.05.2010) <<https://www.modernghana.com/news/278003/the-mills-administration-is-not-committed-to-the.html>> accessed 1 September 2020.

³⁵ Comms Update, 'Ghana's Globacom sets 17 November launch date' (4 Nov 2011) <<https://www.commsupdate.com/articles/2011/11/04/ghanas-globacom-sets-17-november-launch-date/>> accessed 6 September 2020.

³⁶ Essuman (n34).

minimum capital base registering businesses owned by foreigners to \$1,000,000.³⁷ This led to closure of Nigerian-owned shops and harassment of Nigerians by Ghanaian authorities.³⁸

Consequently, both countries through their ministers of information have traded invectives and accusations over the alleged mistreatment of Nigerians in Ghana.³⁹ It also necessitated the Speaker of the Nigerian Federal House of Representative to embark on what he termed as 'legislative diplomacy' to meet with the speaker of the Ghanaian Parliament to resolve the issue of Nigerian traders and diplomatic conflicts between both countries.⁴⁰ Having discussed the good and bad sides of diplomatic intercourse between both countries, diplomatic immunity and inviolability of diplomatic premises will be discussed.

3. Diplomatic Immunity and Inviolability of Diplomatic Premises

Entities with international legal personality enjoy pertinent rights and privileges under international and municipal laws. A significant right in this context is the immunity from the legal process enjoyed by states and their representatives in the courts of other states. According to Dixon, McCorquodale and Williams, this immunity can be appropriately divided into State (sovereign) immunity, and diplomatic and consular immunities.⁴¹ While the former concerns foreign states and their heads, the latter deals with the personal immunities enjoyed by the representatives of those States, and are granted by treaty.⁴² Given the focus of this article, emphasis will be on the latter. It is pertinent to mention that immunities enjoyed by these

³⁷ Ghana Investment Promotion Centre (GIPC) Act 2013 (Act 865) s28. See also William Ukpe, 'Ghanaian govt defends \$1million trader's levy, faults Nigerian borders' closure' (Nairametrics, 30 August 2020) <<https://nairametrics.com/2020/08/30/ghanaian-govt-defends-1million-traders-levy-faults-nigerian-borders-closure/>> accessed 7 September 2020.

³⁸ Vanguard Newspaper, 'Assist Nigerian traders in Ghana, NANTs begs FG, ECOWAS' *The Vanguard Newspaper* (Lagos, 16 August 2020) <<https://www.vanguardngr.com/2020/08/rescue-our-brothers-in-ghana-nants-begs-fg-ecowas/>> accessed 7 September 2020.

³⁹ David Ochieng Mbewa, 'Nigeria accuses Ghana of acts of hostility, harassment of citizens' *CGTN Africa* (28 August 2020) <<https://africa.cgtn.com/2020/08/28/nigeria-accuses-ghana-of-acts-of-hostility-harassment-of-citizens/>> accessed 7 September 2020; See also Alfred Olufemi, 'Nigeria: Ghana's Response to 10 Allegations by Nigeria (Full Text)' *Premium Times* (Abuja, 30 August 2020) <<https://www.premiumtimesng.com/news/top-news/411650-ghanas-response-to-10-allegations-by-nigeria-full-text.html>> accessed 7 September 2020.

⁴⁰ Kayla Megwa, 'Gbajabiamila to Visit Ghana On 'Legislative Diplomacy' Over Maltreatment of Nigerians' (Channels TV, 1 September 2020) <<https://www.channelstv.com/2020/09/01/gbajabiamila-to-visit-ghana-on-legislative-diplomacy-over-maltreatment-of-nigerians/>> accessed 7 September 2020.

⁴¹ Martin Dixon, Robert McCorquodale and Sarah Williams, *Cases and Materials on International Law* (6th edn, Oxford University Press Inc. 2016) 311.

⁴² *Ibid.*

representatives are only functional, because they exist to ensure these representatives and the organisations they work for, operate effectively within States.

The law of diplomatic privileges and immunities is as old as the system of international law itself. According to Shaw ‘the special privileges and immunities related to diplomatic personnel of various kinds grew up partly as a consequence of sovereign immunity and the independence and equality of states, and partly as an essential requirement of an international system.’⁴³

Diplomatic privileges and immunities exist because of the identity of a particular person, being the diplomat or consular representative of a foreign sovereign state, thereby making them immunities *ratione personae*.⁴⁴ Although these immunities from the jurisdiction of the host State benefits a person individually, however, this is not the main reason because they exist in order to allow the representative execute his or functions efficiently and without intrusion. The major extant international legal instrument on the protection and inviolability of diplomatic premises is the Vienna Convention on Diplomatic Relations (VCDR) 1961.⁴⁵ This instrument provides a legal framework for diplomatic relations between countries and forms the basis of diplomatic immunity. It guarantees the privileges of a diplomatic mission, which allow diplomats to perform their function without fear of coercion or harassment by the host country. This Convention is of great importance because it continues to apply during a state of armed conflict between concerned parties or where diplomatic relations are broken off between states.⁴⁶ According to Ishiekwene, the Convention is the cornerstone of modern diplomacy, and dates back to when Yugoslavia desperately cried out for protection against representatives of the Nazi regime and sleuths in the Soviet Union, who were violating diplomacy’s unwritten rules that were partly agreed upon during the Congress of Vienna in 1815.⁴⁷

⁴³ Shaw (n3) 567.

⁴⁴ Dixon *et al* (n41) 346.

⁴⁵ This Convention was adopted by the UN Conference on Diplomatic Intercourse and Immunities on 18 April 1961 in Vienna and came into force on 24 April 1964, in accordance with Article 51 of the Convention. In respect of Consular posts, the Vienna Convention on Consular Relations 1963, regulates consular privileges and immunities. For example, in Article 31, it guarantees the inviolability of consular premises and their protection against intrusion or impairment of dignity.

⁴⁶ See Article 45(a) of the Convention. This principle was confirmed by the International Court of Justice (ICJ) in the *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* [2005] ICJ Rep 168, 274.

⁴⁷ Azu Ishiekwene, ‘Food, President and Things We Don't Like About Ghana’ *IDN-In Depth News* (3 September 2020) <<https://www.indepthnews.net/index.php/opinion/3820-food-president-and-things-we-don-t-like-about-ghana>> accessed 7 September 2020.

It is worthy to note that both Ghana and Nigeria are parties to this Convention. While Ghana signed and ratified the Convention on 18 April, 1961 and 28 June, 1962 respectively, Nigeria signed same on 31 March, 1960 and subsequently ratified it on 19 June, 1967.⁴⁸ As regards the focus of this work, the Convention provides *inter alia* for: functions of a diplomatic mission;⁴⁹ use of the flag of the sending State and its emblem;⁵⁰ the inviolability of diplomatic premises⁵¹ and private residence of diplomats.⁵² In balancing the conceptual review of diplomatic privileges and immunities, it is pertinent to mention that this significant Convention also provides for the protection of official correspondence, thus diplomatic bags cannot be opened or detained.⁵³ A

⁴⁸ United Nations Treaty Collection, 'Vienna Convention on Diplomatic Relations' <https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iii-3&chapter=3&lang=en> accessed 21 August, 2020.

⁴⁹ Article 3 provides that: (1) The functions of a diplomatic mission consist, *inter alia*, in: (a) Representing the sending State in the receiving State; (b) Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law; (c) Negotiating with the Government of the receiving State; (d) Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State; (e) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations: (2) Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

⁵⁰ Article 20 provides that: The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

⁵¹ Article 22 provides that: (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.

⁵² Article 30 extends the provisions of Article 22 further by providing that: (1) The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission; (2) His papers, correspondence and, except as provided in paragraph 3 of article 31, his property, shall likewise enjoy inviolability.

⁵³ Article 27 provides that: (1) The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State; (2) The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions; (3) The diplomatic bag shall not be opened or detained; (4) The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use; (5) The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy person inviolability and shall not be liable to any form of arrest or detention; (6) The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge; (7) A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

situation that comes to mind in respect of this particular diplomatic immunity and its abuse by Nigeria is the Umaru Dikko's kidnap case. The facts of this case are that on Thursday, 5 July, 1984, Umaru Dikko, a former Minister of Transport and Aviation during President Shehu Shagari's Administration in the second republic, was kidnapped outside his house in London. It is pertinent to state that Dikko had fled Nigeria after a military coup by General Muhammadu Buhari and was accused of stealing \$1bn of government money, a charge he had always denied.⁵⁴ According to Odoma, the kidnapping was allegedly planned and executed by a joint Nigerian and Israeli team, believed to be the handiwork of the then military junta of General Muhammadu Buhari, who was bent on fighting corrupt politicians he ousted.⁵⁵ The bizarre plan was to kidnap Dikko, drug him, stick him into a specially made crate and put him on a plane back to Nigeria alive. According to Last, on the said day, Dikko walked out of his front door in an upmarket neighbourhood of Bayswater in London and was grabbed by two men and shoved into the back of a transit van within seconds.⁵⁶ The kidnapers were reported to have switched vehicles in a car park by London Zoo and thereafter headed towards Stansted airport, where a Nigerian Airways plane was waiting.⁵⁷ Dikko was injected with anesthesia by an Israeli Doctor, Lev-Arie Shapiro and laid unconscious in a crate, next to Shapiro in order to ensure that he did not die en route to Lagos.⁵⁸ While two other Israelis on the team, Alexander Barak and Felix Abitbol got into another crate.⁵⁹

Meanwhile, at the cargo terminal of Stansted Airport, a Nigerian diplomat identified as Edet was anxiously waiting for the crates and on their arrival, he did not want the crates, which were due on board the Nigerian Airways 707, manifested because they were diplomatic bags.⁶⁰ However, the plot was foiled by a young British customs officer, Charles David Morrow.⁶¹ This was premised on an All Ports Bulletin from Scotland Yard stating that a Nigerian had been kidnapped and it was suspected he would be smuggled out of the country.⁶² The police had been alerted by

⁵⁴ Alex Last, 'The foiled Nigerian kidnap plot' *BBC World Service* (12 November 2012) <<https://www.bbc.com/news/magazine-20211380>> accessed 25 July 2021.

⁵⁵ Odoma Samuel, 'Organised Crime, Kidnapping and Nigerian National Security' [2019] (6)(06) *International Journal of Social Sciences and Humanities Invention* 5472-5475 at 5476.

⁵⁶ Last (n54).

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

Mr Dikko's secretary, who had had glanced out of her window just in time to see her boss being bundled into the van outside his house.⁶³

It is pertinent to state that for the cargoes to meet the requirements as diplomatic bags, they had to be clearly marked as 'Diplomatic Bag'⁶⁴ and also accompanied by an accredited courier with the appropriate documentation.⁶⁵ It was reported that the crates were marked as diplomatic baggage and addressed to the Nigerian Ministry of External Affairs in the then capital city, Lagos.⁶⁶ In addition, it could be inferred that Edet was also there as an accredited courier because he identified himself with his diplomatic passport, which can be submitted as a means of appropriate documentation. The order of the British government to customs officials at airports, ports and border crossings to be vigilant when inspecting Nigeria-bound vessels necessitated the opening of the crates and bodies including that of an unconscious Dikko were found in both.⁶⁷

This incident led to the break-down of diplomatic relations between Britain and Nigeria, thereby leading to one of the worst-ever diplomatic crises between both countries. Britain instantaneously detained airliners bound for Nigeria and vice versa.⁶⁸ The Nigerian High Commissioner was declared persona non grata in London, and the head of Nigeria Airways narrowly escaped being arrested by British police.⁶⁹ The controversy also weakened Nigeria's war on corruption, as Britain rejected a subsequent formal request from Nigeria to extradite Dikko and other Nigerian politicians in the UK who were wanted in Nigeria on charges of corruption.⁷⁰ Diplomatic relations between Nigeria and Britain were suspended and was only fully restored two years later.⁷¹

Coming back to the focus of this work, it is submitted that despite the provisions of this significant Convention that both countries understudy are parties to, a serious breakdown in the

⁶³ Max Siollun, 'Umaru Dikko, the man who was nearly spirited away in a diplomatic bag' *Independent* (London, 20 August 2012) <<https://www.independent.co.uk/news/world/politics/umaru-dikko-the-man-who-was-nearly-spirited-away-in-a-diplomatic-bag-8061664.html>> accessed 9 August 2021.

⁶⁴ VCDR, Article 27(4).

⁶⁵ VCDR, Article 27(5).

⁶⁶ Siollun (n63).

⁶⁷ *Ibid.*

⁶⁸ Bruce Weber, 'Umaru Dikko, Ex-Nigerian Official Who Was Almost Kidnapped, Dies' *The New York Times* (New York, 8 July 2014) <<https://www.nytimes.com/2014/07/08/world/africa/umaru-dikko-ex-nigerian-official-who-was-almost-kidnapped-dies.html>> accessed 9 August 2021.

⁶⁹ Siollun (n63).

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

operation of diplomatic relations between both countries is the attack on the premises of the Nigerian High Commission in Ghana. It is against this backdrop that the attack, its implications and inviolability of the Nigerian High Commission will be discussed in subsequent parts of this work.

4. Appraisal and Implications of the Attack on the Nigerian High Commission in Ghana

On Friday 19 June 2020 at about 10.45pm, the fence surrounding the official residence of Nigeria's High Commissioner to Ghana was demolished by armed men, in order for the perpetrators to gain further access to the land behind it and to destroy a set of new residential buildings under construction by the Nigeria High Commission. Although under construction, the buildings are still within the residential diplomatic premises of Nigeria's High Commissioner⁷² and meant to serve as residential quarters for the High Commission's staff and visiting diplomats. However, they were demolished by bulldozers based on the Osu Traditional Stool claim of ownership of the land and the entire Osu Mantse layout.⁷³

According to Babatunde, the armed men who said they had the support of the Ghanaian National Security, forcibly turned away staff who were present at the scene, and thereafter demolished the building.⁷⁴ The High Commission claimed it did not receive the expected protection from the Ghanaian police under the Vienna Convention on Diplomatic Relations (1961)⁷⁵ because there were more than a dozen police personnel present at the scene, who supervised the act of aggression and watched without intervening.⁷⁶ According to the head of security at the Commission, Emmanuel Kabutey 'When the police came, they did not come to us or any other person but rather went straight to the man (the leader of the armed men) they had a friendly chat, exchanged numbers with him and allowed him to go.'⁷⁷ In addition, Kabutey also stated that the leader of the demolition squad told him and his colleagues that their mission had the approval of

⁷² Akinterinwa (n13).

⁷³ Aishat Babatunde, 'Demolished Property: Nigerian High Commission trespassed on our land - Ghanaian Monarch' *Premium Times* (Abuja, 22 June 2020) <<https://www.premiumtimesng.com/news/top-news/398960-demolished-property-nigerian-high-commission-trespassed-on-our-land-ghanaian-monarch.html>> accessed 29 August 2020.

⁷⁴ *Ibid.*

⁷⁵ Fawole (n11).

⁷⁶ Punch Newspaper, 'Editorial' *The Punch Newspaper* (Lagos, 30 June 2020) <<https://punchng.com/ghanas-demolition-of-nigeria-high-commission-buildings/>> accessed 29 August 2020.

⁷⁷ Babatunde (n73).

the country's National Security and threatened 'If any of us tries (to obstruct the illegal operation) he will clear us off.'⁷⁸ It was also reported that the acting High Commissioner, who was present during the occurrence, went into hiding after being terrified.⁷⁹ It is submitted that this is a violation of the right to dignity of the Nigerian High Commissioner and a breach of article 29 of the VCDR, which guarantees that the person of a diplomatic agent is inviolable.⁸⁰ It is pertinent to mention that this principle is the most fundamental of diplomatic law and its oldest established rule because States recognise that the protection of diplomats is a common interest initiated on functional requirements and reciprocity. It is further submitted that it is a breach of the Convention on the Protection and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973, which Ghana acceded to on 25 April 1975.⁸¹

This attack generated anger and outrage by Nigerians, who generally regard it as a slap on the country's national integrity and called for discontinuation of the Afrocentric principle that has buttressed Nigeria's foreign relations since 1960.⁸² In addition, the Nigerian Federal House of Representatives also called on the authorities to invoke the principle of reciprocity.⁸³ In support, Nigerian publisher, Dele Momodu was reported to have said that President Buhari's foreign policy is the weakest that he knows and that he should be tougher on Ghana because diplomacy is not about nice words but about reciprocity.⁸⁴

Before concluding this section, it is pertinent to mention that the Nigerian High Commission was granted allocation and right of entry for a four-acre parcel of land, which forms part of the land on which the demolished building was constructed, vide letter referenced SCR/LCS 74/VOL.2/95 dated 7th August, 2000, and payment was made by Bankers Draft payable to the

⁷⁸ Punch Newspaper (n76).

⁷⁹ Babatunde (n73).

⁸⁰ For example, the United Nations General Assembly in Resolutions 42/154 and 53/97 of December 1987 and January 1999 respectively, condemned the acts of violence against diplomatic and consular missions and representatives. In addition, the UN Security Council issued a presidential statement condemning the murder of nine Iranian diplomats in Afghanistan.

⁸¹ Article 2 of this Convention obligates Ghana to make the assault upon the person of the Nigerian High Commissioner, a crime under her domestic law. In addition, the Convention under Article 3 also obligate Ghana to assume jurisdiction over such crime when the offender is a national or where the crime has been committed against an internationally protected person, as it is in this instant case.

⁸² Fawole (n11).

⁸³ Punch Newspaper (n76).

⁸⁴ Tunde Ajaja, 'Buhari's foreign policy weak, he should be tougher on Ghana, others – Dele Momodu' *The Punch Newspaper* (Lagos, 6 September 2020) <https://punchng.com/buharis-foreign-policy-weak-he-should-be-tougher-on-ghana-others-dele-momodu/?utm_source=Smartech&utm_medium=web-push-notification&utm_campaign=Buhari%20foreign%20policy%20weak&__sta=%7CJVIIH&__stm_medium=bpn&__stm_source=smartech> accessed 29 September 2020.

Executive Secretary of the Ghana's Lands Commission.⁸⁵ However, land title certificate was not issued to the High Commission.⁸⁶ In June 2019, the Osu Stool requested the Greater Accra Regional Lands Commission to grant a lease in respect of a part of the said land to a third party, a Ghanaian businessman and the Lands Commission went ahead and issued a land title certificate covering the said parcel of land to the third party.⁸⁷

5. Legal Issues: Inviolability of the Nigerian High Commission and Ghana's Obligation to Protect under International Law and Diplomatic Law

The international legal system gives significant benefits to a State. These benefits include recognition of its sovereignty to protect its territorial integrity. Apart from these benefits, a State's consent to the process and procedure of the international legal system ensures that it must accept ensuing legal responsibilities, such as its acts and omissions that have consequences on other international legal persons and the global community. This was the position of Judge Huber in the *Spanish Zone of Morocco Claims Case*,⁸⁸ where he stated that 'responsibility is the necessary corollary of a right. All rights of an international character involve international responsibility.' Consequently, Ghana has a vital responsibility to ensure the acquisition of necessary properties for the citing of the premises of the mission of Nigeria. This responsibility also extends to finding suitable accommodation for the members of the Nigerian mission.⁸⁹

However, this responsibility does not stop here, because the premises of the mission must be inviolable in order to enable the smooth operation of normal diplomatic activities. The inviolability of the premises of the Nigerian High Commission is guaranteed by Article 22(1) of the VCDR, 1961. Although the VCDR did not define the term 'inviolable', the United States Court of Appeals (Second Circuit) described it in *Tachiona v US*,⁹⁰ described it as 'advisedly categorical' and 'strong.' Thus, members of the Ghanaian police are not to enter without the

⁸⁵ Adedayo Akinwale, 'Ghana Promises to Restore Demolished Nigerian Diplomatic Building to its Original State' *Thisday Newspaper* (Lagos, 25 June 2020) <<https://www.thisdaylive.com/index.php/2020/06/25/ghana-promises-to-restore-demolished-nigerian-diplomatic-house-to-original-state/>> accessed 29 August 2020.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ (1925) 2 RIAA 615.

⁸⁹ Article 21 provides that: (1) The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way; (2) It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

⁹⁰ [2004] 386 F3d 205 (2d Cir) 221.

consent of the head of the Nigerian mission. This is trite and an absolute rule in international law.⁹¹ In addition, under Article 22(2), Ghana has a special obligation to protect the Nigerian High Commission premises from intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity. The International Court of Justice (ICJ) has propounded on the inviolability of diplomatic premises and the obligations of a receiving state in protecting diplomatic premises in its territory. A significant case in this regard is *The Iranian Hostages Case*.⁹² The facts of this case are that on 4 November, 1979, the United States (US) Embassy in Tehran and a number of consulates in outlying cities such as Tabriz and Shiraz were seized by several Iranian students demonstrators. The Iranian authorities failed to protect the Embassy. Archives and documents were seized, and over 50 US citizens, who were mostly diplomatic and consular staff were held hostage for 444 days. The US sought a declaration that Iran had violated the two Vienna conventions before the ICJ. The court declared *inter alia* that under both the 1961 Convention and 1963 Convention, ‘Iran was placed under the most categorical obligations, as a receiving state, to take appropriate steps to ensure the protection of the United States Embassy and Consulates, their staffs, their archives, their means of communication and the free movement of members of their staffs.’

This position was also adopted by the ICJ in *Congo v Uganda*,⁹³ where the court held that the attacks on the Ugandan Embassy in Kinshasa, Congo, and on persons within the premises by the Congolese armed forces amount to a violation of Article 22 of the VCDR. The court also stated that the VCDR does not only prohibits the infringements of the inviolability of mission by the receiving state itself but puts a duty on the receiving state to prevent others, such as armed militia groups from doing so.⁹⁴ The Eritrea-Ethiopia Claims Commission⁹⁵ also condemned the entry, ransacking and seizure of the Eritrean Embassy residence, vehicles and other property by

⁹¹ In the case of *767 Third Ave. Associates v Permanent Mission of the Republic of Zaire to the United Nations* [1993] 988 F2d 295 (2d Cir) 297, the United States Court of Appeals, Second Circuit, per Cardamone, Circuit Judge held *inter alia* that ‘the inviolability of a United Nations mission under international and U.S. law precludes the forcible eviction of the Mission. Applicable treaties, binding upon federal courts to the same extent as domestic statutes, . . . establish that Zaire's Permanent Mission is inviolable. The district court erred in misinterpreting the applicable treaties and in carving out a judicial exception to the broad principle of mission inviolability incorporated in those agreements.’

⁹² *US Diplomatic and Consular Staff in Tehran Case (United States v Iran)* [1980] ICJ Reports 3, 30-1; 61 ILR, 556.

⁹³ *Ibid* 337-338, 340.

⁹⁴ *Ibid* (Para 342).

⁹⁵ A specially constituted commission pursuant to bilateral agreement between the two countries.

Ethiopian security agents, without Eritrea's consent.⁹⁶ According to Dixon *et al*, the commission adopted a functional approach to diplomatic immunity, such that acts would constitute a violation of diplomatic immunity if they interfered with the ability of the diplomatic mission to and its staff to fulfil its functions.⁹⁷

Municipal courts have also adopted this approach. Borrowing from the American jurisprudence, an important case in this regard is that of *Boos v Barry*,⁹⁸ where the United States Supreme Court in making reference to Article 22 of the VCDR, stated that 'the need to protect diplomats is grounded in our Nation's important interest in international relations . . . Diplomatic Personnel are essential to conduct the international affairs so crucial to the well-being of this Nation.' The Supreme Court also upheld a District of Colombia legislation which prohibits assembling within 500 feet of diplomatic premises and refusing to disband after orders to disperse from the police and stated that 'the prohibited quantum of disturbance is whether normal embassy activities have been or are about to be disrupted.' These cases reveal that Ghana as a receiving state is obligated to protect the diplomatic premises of the Nigerian High Commission in Accra. In addition, the duty to protect the premises of the Nigerian High Commission is provided for in the municipal law of Ghana.⁹⁹ Consequent upon the foregoing, it is submitted that Ghana is in breach of the VCDR by its actions and inactions.

6. Ghana's Liability under Responsibility of States for Internationally Wrongful Acts (State Responsibility)

State responsibility is a major principle of international law, arising out of the nature of the international legal system and the doctrines of state sovereignty and equality of states.¹⁰⁰ It

⁹⁶ Partial Award, Diplomatic Claim, Eritrea's Claim 20, para 46.

⁹⁷ Dixon *et al* (n41) 353.

⁹⁸ [1998] 99 L Ed 2d 333, 345-6; 121 ILR 151.

⁹⁹ Section 1 of the Diplomatic Immunities Act 1962 (Act 148) of Ghana, provides that: 'Articles 22, 23, 24, and 27 to 40 of the Vienna Convention (which regulate the immunities and privileges, including exemption from taxation, freedom of communication, inviolability of premises and immunity from civil and criminal jurisdiction, to be conferred upon diplomatic agents) shall have the force of law and references therein to the receiving State shall, for this purpose, be construed as references to the Republic.'

¹⁰⁰ Shaw (n3) 589.

ensures that whenever a state commits an internationally unlawful act against another state, international responsibility is established between the two.¹⁰¹

Given the indispensable features of state responsibility, which are: existence of an international legal obligation in force between Ghana and Nigeria by virtue of the VCDR; occurrence of an act or omission which violates this obligation and is imputable to Ghana, which in the instant case is the attack on the Nigerian High Commission; and damage resulting from the act and omission (demolition of the building), encapsulates Ghana's liability.

It is trite that under the law of state responsibility, before a state can be held responsible for any action, there is the need to prove a causal connection between the injury and an official act or omission attributable to the state. Consequently, it is pertinent to mention that political governance in the African continent cares less about public complaints because public complaints always fall on the deaf ears of public servants and public service is only efficient when instructions are given from above.¹⁰² According to Akinterinwa, the Ghanaian government cannot truly claim not to know about the construction and existence of the mission house, likewise the complaints by the Ghanaian businessman.¹⁰³ Due to no response from his government, the complainant resorted to self-help, without recourse to the courts and took the law into his hand by taking a bulldozer to the Nigerian Mission in desperate anger and in violation of the diplomatic obligations prohibiting the violation of any diplomatic premise in whatever circumstance.¹⁰⁴ Relying on the International Law Commission (ILC) Draft Articles on Responsibility of States for Internationally Wrongful Acts (State Responsibility), it is submitted that the conduct of the businessman which was carried out due to official inaction is attributable to the Ghanaian government.¹⁰⁵ Furthermore, the involvement of Ghana's security operatives whether of low or high status in the diplomatic assault also emphasises the fact that that Ghana

¹⁰¹ *Ibid.*

¹⁰² Akinterinwa (n13).

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ United Nations, 'Responsibility of States for Internationally Wrongful Acts, 2001' <https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf> accessed 7 October 2020. In the context of this paper, Article 2 provides that: 'There is an internationally wrongful act of a State when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State.' In the same vein, Article 9 provides that 'The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority.'

failed to perform her obligations under international law and diplomatic law. Consequently, the misconduct of Ghanaian police personnel is also imputable to Ghana.¹⁰⁶

7. Recommendations and Conclusion

By virtue of the preamble to the United Nations Charter, member states solemnly declare to practice tolerance and live together in peace with one another as good neighbours. Conflict between Nigeria and Ghana is not only an impediment to their respective socio-economic development but to the ECOWAS sub-region as well. Nigeria and Ghana are the largest and second-largest economies in West Africa respectively, and are also the two main oil producers in the region, although the difference in output between the two is immense, therefore, good diplomatic relationship between both countries is vital for not only the sub-region but the continent as well because it is when there are good relations between both countries that regional development and continental integration can be achieved.¹⁰⁷ In addition, there is the need for both countries to orientate their citizens on the need for cordial relations.

It is trite that there is no right to diplomatic relations or diplomatic intercourse under international law, however such relations exist as a result of mutual consent between states,¹⁰⁸ and diplomatic immunity is one of the most accepted and undisputed topics of international law because it is in the interest of all states to preserve a uniform tenor of diplomatic relations.¹⁰⁹ The consequence of establishing a mission is the protection of the premises from external interference, and as revealed from the preceding parts of this work, attacks on diplomatic premises are not new.

Ghana is fully responsible for the protection of diplomatic premises of the Nigerian High Commission and the actions of its nationals. Although, the Ghanaian government condemned the attack, apologised to Nigeria and promised to prosecute and bring the perpetrators to justice, it is yet to do so as at the time of writing. The failure to prosecute and bring to justice, the

¹⁰⁶ See the *Massy Claim* (1927) 4 RIAA 155, where Commissioner Nielsen stated that 'I believe that it is undoubtedly a sound general principle, that whenever misconduct on the part of (persons in the service of the state), whatever maybe their particular status or rank under domestic law, results in the failure of a nation to perform its obligations under international law, the nation must bear the responsibility for the wrongful acts of its servants.'

¹⁰⁷ Oxford Business Group, 'Mutual benefits: The relationship with Ghana remains crucial, despite a recent dispute' <<https://oxfordbusinessgroup.com/analysis/mutual-benefits-relationship-ghana-remains-crucial-despite-recent-dispute>> accessed 7 September 2020.

¹⁰⁸ VCDR Article 2.

¹⁰⁹ Shaw (n3) 568.

perpetrators of the attack on the diplomatic premises of the Nigerian High Commission amounts to continuous breaches of the VCDR and this is more serious than the country's failure to prevent the attacks on the inviolability of the Nigerian mission. In addition, the Ghanaian President, Nana Akufo-Addo, who had initially adopted a peacemaking attitude, guaranteed the reconstruction of the damaged premises, however, the building is yet to be rebuilt too. The change in attitude may be as a result of the upcoming Ghanaian elections, which will hold on 7 December, 2020 and the government will want to give a strong impression on its foreign policy.

Accordingly, it is suggested that Nigeria as an injured state is entitled to invoke Ghana's responsibility by taking formal measures such as presenting a claim against Ghana or commencing proceedings before the ICJ or ECOWAS Community Court of Justice. However, it may validly waive its claim or considered to have done so by its conduct but such waiver must be clear and unequivocal.¹¹⁰ In addition, Ghana as a responsible state can also remedy this violation through reparation. It is pertinent to state that this obligation to make reparation is governed by international law, irrespective of any municipal law provisions. Reparation should be by compensation. Consequently, Ghana is liable to and should pay adequate compensation to Nigeria because it is the custom under diplomatic relations for receiving States to compensate sending states for the violation of diplomatic premises within their territories,¹¹¹ whether by state or non-state actors. It is pertinent to mention that Nigeria has also been requested to and has also paid such compensations in the past.¹¹² All these are because Ghana as the host state bears

¹¹⁰ See the *Nauru (Preliminary Objection) case* [1992] ICJ Reports 240, 247; 97 ILR, 1.

¹¹¹ W.A. Fawole, *Nigeria's External Relations and Foreign Policy under Military Rule (1966 – 1999)* (OAU Press 2003) 118.

¹¹² For example, during the failed coup of Lt.Col Buka Suka Dimka, which resulted in the assassination of the then Head of State, General Murtala Muhammed on 13 February, 1976, a mob of protesting Nigerian students attacked and damaged the premises of the British High Commission, and also burn the Union Jack on the building. This attack and Nigeria's ostensible failure or reluctance to protect the diplomatic compound, obligated the British High Commissioner, Sir Martin Le Quesne to claim adequate compensation for the damage done to the mission. This attack was premised on the fact that Dimka was at the British High Commission on the said day and requested the High Commission to contact overthrown Nigerian leader, General Yakubu Gowon, who was on exile in London to travel to Togo and await further instructions. According to Ariye 'though concrete evidence could not be advanced to ascertain British complicity in the coup by way of assisting Dimka in his quest to contact General Gowon in London on the part of the Nigerian government and public opinion, the mere fact of Dimka's contact with the High Commission was interpreted to indicate that the British were privy to the coup plot and refrained from alerting the Nigerian government, an act that was regarded generally as unfriendly by the Nigerian government and public.' See Ekpotuatin Charles Ariye, 'An Appraisal of the Diplomatic Face-Off between Nigeria and the United Kingdom in 1976' [2020] (11)(1) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 56-66 at 63. See further, J. Garba, *Diplomatic Soldiering Nigerian Foreign Policy, 1975 – 1979* (Spectrum Books 1987) 170. In addition, on 26 August 2011, a car bomb explosion orchestrated by the Boko Haram sect, rocked and damaged the United Nations (UN) building in Abuja. Despite Boko Haram not been a state actor but a non-state actor, Nigeria in

responsibility for the protection for and inviolability of diplomatic facilities in its capital, and is thus liable to pay adequate compensations to Nigeria, unless Nigeria does not want it.

line with her obligations under international law and diplomatic relations, approved \$15 million for the reconstruction of the UN house in 2012, rebuilt same and handed it over to the UN in October 2019. See Abdulkareem Haruna, 'UN reopens Abuja building eight years after Boko Haram bombing' *Premium Times* (Abuja, 25 October, 2019) <<https://www.premiumtimesng.com/news/top-news/359431-un-reopens-abuja-building-eight-years-after-boko-haram-bombing.html>> accessed 6 October 2020. See also Timothy Obiezu, 'UN House in Nigeria Reopens Eight Years After Suicide Bomb Attack' *Voice of America* (24 October 2019) <<https://www.voanews.com/africa/un-house-nigeria-reopens-eight-years-after-suicide-bomb-attack>> accessed 6 October 2020.