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The diplomatic regime: A study in international cooperation

Meadows, Jeanne Terry, Ph.D.

Emory University, 1990

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THE DIPLOMATIC REGIME:
A STUDY IN INTERNATIONAL COOPERATION

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THE DIPLOMATIC REGIME:
A STUDY IN INTERNATIONAL COOPERATION

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An Abstract of
A Dissertation submitted to the Faculty of the Graduate
School of Emory University in partial fulfillment of
the requirements for the degree of
Doctor of Philosophy

Department of Political Science

1989

This study focuses on the diplomatic regime to test the structural and functional theories of regime development and transformation. The study describes the salient features of the diplomatic regime while attempting to discuss the factors which gave rise to the regime and the effect of the regime on the international system. Regimes are conceptualized in the realist image of international politics where autonomous political entities interact on the basis of their self interests in an anarchic environment.

The diplomatic regime had its origins in antiquity. It was created to protect the bearer of communications from one political entity to another. Gradually as societies grew more complex the protection of the messenger became so important that certain norms and expectations developed to sustain the practice. These norms and expectations became institutionalized as the international system evolved and the diplomatic regime emerged in the fifteenth century in Italy.

The study examines the interplay between the development of the diplomatic regime and changes in the interests of regime participants. The research suggests that the benefits of cooperation in a regime

situation increase the likelihood that states will go beyond realism and substitute immediate benefits from calculations of self interests for long range benefits.

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DEDICATION

This work is dedicated to
the loving memory of my brother,
William "Bill" Terry.

CHAPTER ONE INTRODUCTION

No more chasing shooting stars
No more looking for the rainbow's end
Life is ever more elusive
And dreams are made for fools

The verse above may reflect the feelings of those who choose to write about cooperation in international politics rather than conflict. Conflict among states is much more evident in international politics than cooperation. Yet cooperation too is present; like looking for shooting stars we have to know exactly where to look and even when we look in the right direction we may only catch a glimpse.

Many theorists have believed that although states are different they have common interests which would enable them to live together in peace. However, it has been noted that even in the modern era where interdependence is increasing and common interests may be considered a given, cooperation often fails (Keohane, 1985, p. 6). The literature in the area would benefit from a study which could predict the likelihood of success or failure of international cooperative arrangements. Unfortunately however, the theoretical framework for such a study is still in the

pre paradigmatic stage.

This study is an attempt to add to the existing knowledge in the area by focusing on the creation and development of international regimes. It is believed that the study of international regimes might increase understanding of both the incentives for cooperative behavior and the effects of cooperative behavior on the international system. The study attempts to achieve its goals by focusing on the origin, development and transformation of a specific international regime.

Regimes may consist of rules of international law, treaties, international organizations, as well as other discernible patterns of compliant behavior by states and other actors and expectations of the international actors and the people of the world that collectively regulate an area of international concern. Thus, they may range in membership from two or more states such as the wheat marketing regime to almost universal membership such as the United Nations.

With such a variety of manifestations it is important that a regime can be recognized when it exists. At an international conference in 1982 scholars interested in regime analysis agreed on a definition of international regimes. Accordingly,

regimes were defined as a set of implicit or explicit principles, norms, rules, and decision making procedures around which actors' expectations converge in a given issue area of international relations (Krasner, 1982). Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions for action. Decision making procedures are prevailing practices for making and implementing collective choice (Krasner, 1982; Keohane, 1985, p. 57; Young, 1982).

The principles of a regime are the beliefs which form the core of the regime. Some examples of principles include the respect for free markets under the food regime and free navigation under the regime for oceans. Norms prescribe orthodox and deviant behavior; they are the result of patterned behavior over time based upon the principle beliefs (Hopkins, 1982). Principles and norms may be deduced from behavior (Keohane, 1982; Krasner, 1982) or induced from evidence gleaned from the perceptions of observers as recorded in reflections and memoirs (Puchala and Hopkins, 1982). Rules are designed to put norms into effect by requiring or proscribing ways of behavior.

In general, rules are more specific than norms. Rules may have the status of law, of morality, of custom or etiquette, or they may simply serve as standard operating procedures or "rules of the game" (Bull, 1977, pp. 54-55).

Principles may shade off into norms and norms may be difficult to distinguish from rules (Haggard and Simmons, 1987). Indeed, Keohane acknowledges that rules and norms merge into one another at the margins (Keohane, 1985, p. 57). Although it is not difficult to distinguish among these concepts when applied to specific cases it does pose a problem when considering them in the abstract. However, in general, principles may be thought of as the common consensus about a desired outcome that brought the states together in the first place and norms are the beliefs about the specific actions or activities related to this consensus. The sense of common interests about outcomes does not provide guidance as to what behavior is consistent with these goals and what behavior is not. Rules provide this function. Therefore rules which have persisted over time become a part of the patterned behavior ascribed to norms. The principles, norms, and rules of a regime comprise the substantive

component of the regime.

The rules and norms of a regime therefore furnish the context for decision making by regime participants. Because sovereign states are not willing to give up their right to make calculations based on their self interests (Bull, 1977), rules and norms furnish guidelines for decision making rather than substitutes for calculations of self interest (Keohane, 1985).

The effectiveness of a regime is therefore dependent on the effectiveness of its rules. The effectiveness of rules does not depend on strict obedience at all times by all parties concerned however. Effective rules may be violated from time to time. However, to be effective rules must be obeyed to some degree and they must be reckoned as a factor in the calculations of those to whom they apply.

The decision making procedures of a regime refer to the manner in which decisions are made as well as to the willingness of political entities to accept or obey regime norms (Krasner, 1982). These are the procedural and implementation components of the regime, respectively. Decision making mechanisms make and secure adherence to rules. They also provide a way of reconciling problems when a consensus cannot be

achieved. The creation of adequate decision making mechanisms allows for the input of all relevant political entities and is therefore essential to the maintenance of a regime.

International regimes may be distinguished from other cooperative arrangements in that the cooperative arrangements must be more than short term. Since regimes encompass principles and norms, arrangements must involve some sense of general obligation. This sense of general obligation implies that regime participants are willing to uphold regime norms even when they are not consistent with immediate goals or interests. In this sense, regimes, unlike ad hoc arrangements, serve to constrain state behavior (Keohane, 1985). Then too, the notion of the conjunction of convergent expectations and patterns of behavior suggests that regimes are social institutions. In this sense regimes are "reponses to the problems of coordination among groups of human beings and products of regularities in human behavior" that have been institutionalized (Young, 1982).

International regimes are created to manage conflict in a setting of interdependence (Haas, 1982, Keohane, 1985). The conflict or problems that regimes

seek to manage are characterized by, as well as affected by, the conditions of interdependence. Under conditions of interdependence there is neither hierarchy nor anarchy and states cannot solve problems unilaterally (Haas, 1982; Keohane, and Nye, 1977). Thus, regimes come about when the desired outcome cannot be achieved by autonomous action.

Regimes are therefore created to serve the self-perceived objectives of states (Haas, 1982). They arise when it is in the mutual interests of states to forgo independent decision making in order to deal with common interests. Regimes are expected to shape the behavior of participants and allow expectations to converge, thus, solving the dilemmas of independent decision making (Stein, 1982).

Regimes may vary in the actor's adherence to rules, norms, and principles, in the coherence and pervasiveness of agreed procedures, and in the degree to which actor's share convergent expectations (Lipson, 1982). Regimes may be diffuse or specific. For example, the colonial regime required systemic acceptance of principles and norms in order to be effective. This requirement necessitated the creation of a coherent and pervasive regime with a high degree

of convergent expectations. the colonial regime was therefore a diffuse regime (Stein, 1982). On the hand the wheat marketing regime is dominated by two states, the United States and Canada, it is a specific regime that does not require the same degree of adherence to rules, coherence, and convergent expectations as the colonial regime (Puchala and Hopkins, 1982).

However, regardless of the type of regime the desired behavior from regime participants follows from adherence to principles, norms, and, rules (Puchala and Hopkins, 1982). Regimes must secure some degree of compliance in order to be effective. Rules must be obeyed to some degree but, not all rules must be obeyed to the same degree. Because regimes are interest based, compliance is constantly subject to calculations of self interest by state members. As states make costs/benefits assessments interests may change. As interests change participants may cease to obey regime rules.

An understanding of how regimes are created, maintained, and transformed involves some knowledge of how changes in interests affect the function of the regime. Changes in patterns of interests may be viewed as challenges to the principles, norms, and rules of

the regime. The regime may weaken, transform, or cease to exist in response to challenges.

A regime may be said to have weakened when there is inconsistency between regime norms/rules and related behavior (Keohane, 1982). A regime is said to have transformed when there are significant alterations in its structure of rights and rules as well as alterations in the character of its social choice mechanisms. Since some regime rules may be changed with little effect on the regime itself while changes in other rules may result in the destruction of the regime, whether the regime can survive may depend upon who challenges what rules.

Why states cease to obey regime rules however is related to why they agreed to them in the first place (Stein, 1982; Keohane, 1985). Regime development and transformation can therefore be explained in terms of the relationship between interest and power, according to the conventional argument (Keohane, 1985; Young; 1982; Krasner, 1982), where power is related to the capabilities of states and interest is related to the goals of states. However, scholars do not agree on the exact nature of this relationship. Thus, there is no easy answer to the questions: How do regimes develop?

and How do regimes change or transform?

Participants may cease to obey regime rules when there is a change in the factors that gave rise to the regime. This explanation of regime change is based on costs/benefits calculations; it undermines the importance of norms and rules in regime behavior. On the other hand there is evidence to show that regimes may persist despite changes in the factors that gave rise to them. Although regimes are conditioned by the patterns of power and the dictates of national self interest, "the norms and procedures of the regime may last beyond the immediate occasions for their establishment" (Rosecrance, 1981). For example, the colonial regime lasted long after regime participants were capable of enforcing its norms and rules. This fact suggests the importance of normative behavior in regime transformation.

If regime change is explained in terms of normative behavior it is necessary to separate technical obligations from rules that are political consequential (Ruggie, 1975, p. 570). The crucial question here is to what extent must regime rules be obeyed?

Two theoretical orientations may be useful in explaining regime development and transformation:

structural theory and functional theory. Structural theory asserts that regimes are created when a hegemonic power exists to enforce rules and norms. The hegemonic power may have a vested interest in order and therefore maintains the regime in the name of international order or the hegemonic power may create the regime in order to fulfill its own national aspirations. Regime transformation can then be explained in terms of the capabilities and interests of the dominant power (Gilpin, 1975; Haggard and Simmons, 1987). Under this framework the question of who challenges regime norms and how many challenge is relevant.

Functionalist theory, on the other hand, asserts that regimes are created by states with mutual interests. It further asserts that as states experience the benefits of cooperation, these benefits serve to reinforce the regime. Thus, regime development, stability, and transformation is explained in terms of participant satisfaction with regime benefits. Regimes would dissolve when they became dysfunctional (Keohane, 1985). An analysis of regime change in this framework would emphasize the degree of issue linkage or the scope of the regime.

These two orientations include the two basic components of regime development and transformation: power and interest. The structural orientation emphasizes power (Ruggie, 1982), while the functional orientation emphasizes interests (Keohane, 1982). Since scholars do not agree on the importance of one variable over the other or the manner in which they interact it would appear that by testing both theories some generalizations could be made about regime development and transformation.

If the structural theory applies we would expect regimes to be created by a hegemonic power. The interests of the hegemon would determine the norms and rules of the regime; the rules of the regime would be consistent with the national interests of the hegemon. Thus, the substantive component would be largely determined by the hegemon. We would expect that the regime would remain strong as long as the hegemon remained strong enough to enforce its norms and rules. Thus, the hegemon would form and control the regime's decision making component. Any sharing in the process of regime maintenance would result in a decline in rule adherence. We would also predict that changes in the international system which would redistribute power, such as major wars, would be followed by changes in the

regime (Kindleberger, 1973). Furthermore, the decline of the hegemonic power would lead to the collapse of the regime (Ruggie, 1982).

If the functionalist theory applies we would expect functionally specific international issues to give rise to regimes. We would expect the regime to develop both a substantive component and a viable decision making component gradually and to expand in proportion to the development of unintended consequences arising from the initial conception of the function. We would expect that as a result of participation in the regime states would come to realize that their best interests are served by a commitment to the regime and this realization would reinforce respect for regime norms. We would expect some regime change to occur as the patterns of interests which gave rise to the regime changed. Thus, this theory would focus on factors which are likely to cause changes in patterns of interests, such as changes in technology. Lastly, we would expect voluntary groups from regional settings to be the most likely candidates for the creation of regimes (Haas, 1982).

The writer has chosen to analyze the regime of diplomatic privileges and immunities, since this regime

is one of the oldest and most continuous international regime. This regime has been responsible for the creation of social conventions that have governed the behavior of participants for centuries. It has endured structural changes as well as changes in the patterns of interests. Therefore an analysis of the development and transformation of this regime should provide insight into the relationship of the variables associated with structural and functional theory.

Description of the Regime

The regime of diplomatic privileges and immunities is a diffuse regime that began as widespread practices to facilitate communication gave way to patterned behavior. Political entities from the earliest times have believed in the right to, or the necessity of, intergovernmental communication. Since antiquity leaders have delegated powers to agents and sent them to other lands to represent the interests of the tribe, the city state, the feudal manor, or the nation state. Thus, this belief is the principle which forms the core of the substantive component of this regime (Phillipson, 1911).

In antiquity where the communications process was facilitated by the sending of messengers, the only way

of ensuring the completion of the process was to make sure that nothing happened to the messenger. It was therefore incumbent upon the receiving state to protect the messenger. Thus, the principle of diplomatic immunity emerged. The personal inviolability of the envoy or message carrier then became the most important norm of the regime. Later, as resident embassies emerged, this norm was also extended to include the mission premises, the family members of the diplomat and some of the mission staff (Nicolson, 1954),

Today the basic norm of the regime still refers to the treatment accorded those persons who are selected as official messengers to facilitate the communications process. According to Sir Cecil Hurst, "diplomatic privileges as commonly recognized today are little more than the agreed consequences of the mutually accepted obligations incumbent upon states to treat foreign representatives as exempt from local jurisdiction" (Hurst, 1928). These obligations are designed to protect the diplomat from constraint while carrying out a diplomatic mission.

The rule associated with the norm of inviolability requires that no accredited envoy should be harmed or otherwise prevented from carrying out the functions

dictated by his position (Satow, 1979; Briggs, 1952).

A second norm of the regime growing out of the principle belief in the importance of communication and diplomatic immunity, is the right of legation or the right of states to send ambassadors. According to this norm each sovereign state has a right to send official representatives. In recent times this norm has also applied to international organizations. The rule associated with this norm asserts that while states may demonstrate sufficient cause for not receiving representatives from other states, if they do accept them they must give them the necessary help in establishing themselves (Satow, 1979; Briggs, 1952).

The final norm of the diplomatic regime is that of reciprocity. Since each political entity sends as well as receives diplomatic representatives, the general rule associated with this norm is that political entities should treat foreign representatives as they expect their own representatives to be treated. The norm of reciprocity therefore creates the necessity for rules which have biased the regime toward equity. The specific rules associated with this norm depend upon the national policies of each state (Denza, 1976; Wilson, 1967).

Viewed in another light, reciprocity is also the process by which regime participants determine the costs and benefits of regime compliance since states expect to receive benefits somewhat in proportion to their allegiance to the regime. Therefore this norm serves to reinforce the regime (Yearbook of the ILC, vol, I, 1958).

The specialized communicative functions of the regime that are served by these norms have varied through the time periods. In general, the diplomats' functions have been delivering messages, negotiating, and information gathering. The sending of messages began in antiquity. Negotiating and information gathering developed as societies became more complex. The importance attached to these functions at any one time period has determined the development of rules associated with these functions. Many of these rules have become norms. This process is discussed in the second chapter of this study.

Description of Research

The central research question underlying this study is: Has the diplomatic regime affected behavioral outcomes in the international system in the given issue area? In other words, has the regime made

a difference? Other general research questions include: What accounts for the development and transformation of the regime? How has the international system handled violations? What effect do violations have on the system? What effect do violations have on the regime?

The study attempts to answer the above questions by: 1) discussing the origin of the regime and examining the causal sources of regime change and continuity, 2) examining the regime's impact on state behavior, and 3) examining the effect of violations of regime norms on the international system and on the regime itself.

The study begins with an historical account of the evolution of the regime focusing on the development of regime principles, norms, and rules. The evolution is discussed in terms of the basic regime causal variables as elaborated by Oran Young (Young, 1982). These variables are: egoistic self interest, power, and diffuse principles and norms. The research questions discussed are: How did the regime come into existence? What conditions are necessary for the regime to work? Who participates? What interests dominate? What kinds of diplomatic activity prevail? What norms or rules

serve to protect the dominance in decision making?

The study uses two methods to discover some of the basic transformation rules of the regime. The first method is the investigation of the evolution of the norms and rules of the regime over time in order to discover the patterns of interests that gave rise to the regime. The research question here is what are the salient features of the regime? At the same time however, the study focuses on violations. The focus on violations is an indirect method of determining regime strength by examining degree of compliance. Both methods may ultimately provide information for assessing the strength of the regime at present, thereby permitting generalizations about the regime's impact on state behavior. The research questions include: What kind of violations occurred? What was the response of the international system? What effect did violations have on the regime? What effect did violations have on the international system?

In an attempt to explain the impact of violations of regime norms on the international system and on the regime three case studies involving violations to regime norms are discussed in the study. The first case study examines abuses to regime norms by the

Chinese during the Boxer Rebellion in the 1900 and during the Cultural Revolution which began in 1967. The second case study discusses the takeover of the American Embassy in Teheran in 1978 by Iranian "militants". The third case study discusses the shooting of a British policewoman by an unknown assailant from the window of the Libyan Embassy in London in 1984.

These three states are categorized as pariah states. Pariah states are states that attempt to isolate themselves from the rest of the world either because they feel threatened by regional enemies or because they are paranoid. In any case, they feel that they have nothing to lose by disobeying the rules of international civilization (Betts, 1977). Thus, they commonly feel the necessity to sponsor terrorist aggression toward the West (Moore, 1987).

The writer chose to analyze the behavior of pariah states as a part of the regime analysis for two reasons. First, these states were not a part of the historical development of the regime; therefore, the extent to which they accept or reject regime norms has relevance to any assessment of regime strength. Then too, the events themselves illustrate the relationship

between the patterns of interests in modern societies and the subsequent linkage (or lack of such) among the principles, norms, and rules of the regime.

The research questions which emerge from the case studies are summarized and discussed in the concluding chapter of this study. These questions are: Do abuses suggest rejection of regime norms? How has the modern international system responded to the challenges from pariah states? What is the overall effect of these challenges on the strength of the regime? What are we to conclude when regime norms are violated; do violations suggest an erosion of or a transformation of the regime? Can these violations be tolerated by the international system?

The concluding chapter also attempts to assess what has been added to the knowledge about the incentives for international cooperation by analyzing a particular regime. Specifically, the writer will attempt to determine which theory of regime development and transformation is more useful in explaining the incentives for international cooperation in this particular case. If it is found that the diplomatic regime was created and maintained by a hegemonic power and that violations discussed in the case studies

occurred when the hegemon was weak. We would conclude that structural theory provides the best explanation for regime transformation. On the other hand if the regime was not created by a hegemonic power and the violations discussed in the case studies occurred because of conflicting interests we would conclude that functional theory provides the best explanation for regime maintenance and transformation. The examination of the origin of the regime provides information relative to the circumstances under which the regime was created while the case studies furnish a context for examining conditions under which violations take place.

CHAPTER TWO

DEVELOPMENT OF THE DIPLOMATIC REGIME

This chapter examines the evolutionary track of the diplomatic regime. It seeks answers to the following questions: How did the regime come into existence? What conditions were necessary for the regime to work? Who participated? What interests dominated? What kind of activity prevailed? and What norms or rules served to protect the dominance in decision making? There are three main assumptions of this chapter. The first assumption is that the modern regime of diplomatic privileges and immunities developed from the customary practices in the issue area of diplomacy which began in antiquity. The second assumption is that the regime developed as a result of the interplay of power and interests. The third assumption is that the regime has been central to the development of the international system.

The chapter is divided into six time periods. Each time period includes a discussion of the following: The incentives for diplomatic activity; The characteristics of diplomatic activity as well as the functions of the diplomat; The interests and goal of actors, as inferred from behavior; The

characteristics of the international environment; and The nature of violations to regime norms. The chapter attempts to discover how interests and goals relate to the importance attached to diplomatic practices as well as the reasons for changes in the functions of the regime.

It is difficult to pinpoint the exact time of the emergence of norms and rules, therefore the developmental status of the regime is assessed at the end of each time period. This assessment describes the contribution to regime development by the actors during that particular time period. During pre regime periods an explanation for the absence of a fully developed regime is provided.

All governments at all times and in all parts of the world have used envoys in communicating with other governments or authorities (Phillipson, 1911, p. 328; Oppenheim, 1955; Watson, 1982; Hyde, 1947). The necessity for communication was an accepted principle in antiquity. Evidences of diplomatic practice in ancient times include: Sumerian clay tablets, now housed in the British Museum, which depict envoys with gifts for the receiving ruler in 2400 BC (Barber, 1979, p. 8); and the tablets of tel-el-Amarna which indicate

that diplomatic practices existed among the monarchies of the ancient world (Fenwick, 1947, p. 459). In addition, Nussbaum confirms the use of envoys by the Chinese as early as 1000 BC (Nussbaum, 1977).

In antiquity one also finds widespread acceptance for the principle of diplomatic immunity. The practice of assigning privileges to envoys grew out of the taboo against foreigners. Most all primitive societies viewed foreigners with suspicion. Nicolson reports that when Justin II sent envoys to negotiate with the Seljuk Turks they were first subjected to purification for the purpose of ridding them of all evil influences. Likewise envoys of the Tartar Khans were required to pass through fire to be sterilized before they were allowed to negotiate with native rulers (Nicolson, 1955, p. 18). In order to render these practices less harsh envoys were later invested with semi religious authority so that the gods could cleanse them. The significance of the cleansing process, regardless as to how it was carried out, was that the envoy, once cleansed, became a special person who was considered sacred and subject to special privileges which allowed him to carry out his mission (Oppenheim, 1955, p. 596; O'Connell, 1965).

Diplomacy was used during this era as a means of persuasion in an attempt to accommodate the interests of two or more political entities or to restrain the competition for scarce resources (Lauterpacht, 1966, p. 511). Communication can be seen as a public good and diplomacy as an informal means of dispensing the good. Thus, the substantive component of a diplomatic regime is apparent even during the primitive era.

The self interests of leaders mandated the sending of messages. Certain expectations converged around the sending of messages. As a result, societies used the one thing that they had in common, religion, to help sustain the expectations. Thus, the principles of the right to communication and diplomatic immunity were apparent in the customary practices of ancient societies. However, the lack of adequate communications facilities, prevented the development of decision making mechanisms as well as the dissemination of knowledge necessary to give a sense of permanence to the practices.

The Ancient Period

Isolated primitive societies engaged in the process of communication on a sporadic basis without regard to the institutionalization of the process itself. As

societies became more complex however, interaction increased. As a result of the increased interaction, a common sense of the value of the communications process itself emerged leading the societies to be concerned about how the interaction ought to be structured. The concern led in turn to the institutionalization of customary practices. As customary practices became institutionalized the rudiments of a substantive component of a diplomatic regime emerged over time.

The behavior of political entities during this era suggests that rules developed in response to the interests and organization of the political entity. However, certain common features existed. For example, all systems were characterized by ad hoc missions. Envoys were required to leave the foreign territory as soon as their business was done. Other common features include the immunity of envoys enabling them to come and go freely and the development of practices which allowed contacts and exchanges to continue even when relations between states were hostile.

The general features of a diplomatic regime can be illustrated in four different political systems in the ancient period. This period encompasses the years from

500 BC to AD 500. The four systems are the Greek, Roman, Northern Indian, and the Chinese systems. The discussion not only illustrates the evolution and use of these common features in these four systems, it also notes the contributions made to the strength of the customary practices by the four diverse political entities.

Comparisons are somewhat difficult because of the dissimilarity of the political units under scrutiny. It is apparent however, from the discussion that differences in political organization and political interest led to differences in the emphasis placed on diplomacy and the willingness of the political entities to support customary practices.

The Greek political system was a regional system from the sixth century BC to about AD 421. Most of the diplomatic activity took place within the confines of the Hellenic world which was comprised of city states that were primarily concerned with maintaining their independence (Phillipson, 1911, p. 29; Nussbaum, 1954). Territorial integrity could be maintained by diplomacy or war. The weaker states used diplomacy instead of war; the stronger states used diplomacy to facilitate war. Thus, there was a common interest in

developing organized diplomatic practices. The Greeks spoke a common language, worshipped the same gods, and took part in common games (Phillipsom, 1911, p. 30). Therefore they felt that they belonged to the same racial, cultural, lingual, and religious community (Von Glahn, 1986, p. 28). This belief facilitated the evolution of standardized practices.

The Indian diplomatic system was also a regional system. The states of northern India, like the Greek city states, were autonomous. However, the rulers of the era, unlike the rulers of the Greek city states, were interested in creating a regional empire (Stavrianos, 1975, p. 89; Mukherjee, 1976, p. 70). They were willing to grant local autonomy to states for practical reasons only (Aiyangar, 1980, p. 10; Woodcock, 1966, p. 52). Therefore, Indian states also had a common interest in developing diplomatic practices in order to maintain their independence. Although the peoples of the various states were not as homogeneous as the Greeks during the period mentioned above, they were conscious of belonging to the same cultural tradition, spelled out in the various epics and poems familiar to all (Aiyangar, 1980).

The Chinese had a regional system as well.

However, unlike the Greek and the Indian regional systems the peoples involved in this system were not similar in cultural or religious beliefs. Moreover, political entities did not relate to one another on the basis of equality. China was regarded as the head of the family of nations in the region (Duiker, 1978, p. 1; Hsu, 1960, p. 150). The "states" of the region were unified through conquests and made subordinate to the Chinese emperor (Toynbee, 1981, p. 3).

The Roman system of the period was, by contrast, an international system. Romans were interested in conquering other political entities within and outside the region and adding them to the empire (Nussbaum, 1954, p. 12; Phillipson, 1911, p. 68). Thus, the peoples of the Roman system were even more diverse than the peoples of the Chinese regional system.

The Greek city states and the Indian states had an acute need for diplomatic organization. They lacked the power to conquer neighboring political entities; therefore they found it more expedient to negotiate. The Chinese used diplomatic practices only when it was necessary to appease a stronger neighbor (Hsu, 1960). The Romans actually had no acute need for diplomatic organization; however, they found diplomatic practices

expedient in carrying on relations with allied states.

Although these four systems had different political interests, certain diplomatic practices were common to all. They all believed that the envoy was inviolable (Hyde, 1947, p. 707). For example, Herodotus tells of the remorse of the Spartans for mistreating envoys of the Persian King, Darius. The emissaries were sent to Athens and to Sparta to demand control over land and sea for Persia. The Athenians threw them into a pit, and the Spartans threw them into a well. As compensation for the act of violence to the emissaries, two Spartan nobles offered their lives to Persia. Darius' son Xerxes replied that he would not behave like the Spartans, who by mistreating the ambassador of a foreign power had broken the law which all the world held sacred (Swift, 1969, p. 417; Phillipson, 1911, p. 330; Herodotus, vi, p. 48).

Then too, Indians refused to punish ambassadors even when they were found to be guilty of the clandestine functions of bribery and spying (Viswanatha, 1925; Fenwick, 1948, p. 459). The Arthasastra, an Indian manual on statecraft, noted that ambassadors were inviolable because they were the "mouth piece of kings". According to some writers,

the theory of personal representation is said to have developed in India in support of the inviolability of the envoy. It was later accepted by the Greeks and Romans (Viswanatha, 1925, p. 29; Phillipson, 1911).

Although envoys sent to China were ranked and given privileges according to the relationship of their respective political community with the Chinese emperor, they too were considered inviolable (Hsu, 1960; Nussbaum, 1954, p. 4; Phillipson, 1911, p. 303).

In Rome Scipio's envoys were ill treated by the Carthagenians in the Second Punic War; but, the Romans did not harm Carthagenian ambassadors in return. Often the Romans refused to engage in reprisals against ambassadors, although reprisals were popular during the era. Romans punished those who committed crimes against ambassadors. There were few instances of violence to ambassadors recorded in Rome during this period (Phillipson, 1911, pp. 330-331; Swift, 1969, pp. 417-418).

Thus, the inviolability of the envoy was widely recognized (Satow, 1979, p. 120); the notion can therefore be considered a norm during this era. Certain rules, which are clearly recognizable in the

modern period, emanated from this norm which developed during the ancient period. For example, the idea of inviolability was instrumental in obtaining "safe conduct" in and out of warring territories for envoys (Phillipson, 1911, p. 313). Envoys were given written credentials which entitled them to immunity from the local laws of the foreign political entity (Phillipson, 1911, p. 322; Nicolson, 1954, p. 17; Satow, 1979, p.3). In addition, the right of legation was generally recognized for all "sovereign states" (Phillipson, 1911, p. 311; Livy, book iv, p. 58).

Finally, the widespread acceptance of inviolability and the subsequent development of the rules associated with the norm, made the envoy especially useful in carrying out the "international" duties of the state. The functions of envoys during this era were similar to those of the modern era. Envoys concluded treaties of friendship and alliances, appealed for help in times of war and delivered gifts in times of peace. In addition, they made burial arrangements, negotiated for the release of prisoners, and served to adjust other relationships arising out of war (Phillipson, 1911, p. 321; Livy, book xxi, pp. 62-63).

The differences in the relative importance of

diplomacy in the political entities resulted in different contributions to the development of the diplomatic practices which supported the norm and the rules. The motivation for diplomacy for the Greeks, for example, came from the desire of each city state to prevent alliances among themselves which would jeopardize the independence of all. Proximity made for ease of communication creating an "international society" with convergent expectations among the Greeks. Thus, the Greeks were able to develop a very sophisticated diplomatic organization (Hobbes, 1975; Nicolson, 1954, p. 3; Rourke, 1989, p. 308).

Initially, the principal diplomatic activity was sending messages as in ancient societies. Heralds discharged this duty by shouting messages and returning home. The only requirements for this duty were strong lung power and an accurate memory (Macomber, 1975, p. 14; Nicolson, 1955). Later, as issues became more complex, ambassadors were used by the Greeks to plead the cause of one city state before the assemblies of another city state. The expectation here was that the ambassador give a good speech (Nicolson, 1955, p. 20; Macomber, 1975, p. 15; Forgac, 1965, p. 7). The Greeks therefore began the practice of choosing their

ambassadors from the finest orators that the community could produce (Nicolson, 1955, p. 20).

As Greek civilization developed, the city states became closer and more competitive. Negotiation, not a good speech, became necessary (Nicolson, 1955, p. 20). The need for dialogue increased as interests in the "international society" became more and more interwoven. The Greeks therefore became skilled negotiators because diplomacy was essential to the survival of the city states. Thus, as interests changed the functions of envoys also changed.

Thus, in 220 BC, in Sparta, at a time of trouble between the Spartans and the Aetolians, an ambassador sent by the Aetolians was allowed to address a public assembly and in a long speech he urged the people to embrace the alliance with Aetolia. Upon his retirement there was a "long and animated debate" between those who supported the Aetolians and those who opposed them. It was decided that the alliance should be honored lest the Aetolians look to another city state for support. The ambassadors were summoned to return and learn of the decision (Hobbes, 1975, p. 58). In another incident, two Athenian ambassadors who were already in Lacedaemonia on other business, upon hearing that a

segment of the Athenian army had pillaged a segment of the Lacedaemonian army resulting in talk among the Lacedaemonians of declaring war on Athens, asked for and received an audience with the Lacedaemonians. After the Athenians spoke they departed, whereupon the Lacedaemonians consulted among themselves concerning the speech. Although the consensus was that the Athenians had done an injustice to them, the Lacedaemonian king, impressed by the speech of the Athenian ambassadors, urged that they send ambassadors to Athens to demand restitution rather than declare war (Hobbes, 1975, pp. 68-72).

The Romans, by contrast, during the later phase of the empire, were not driven to use diplomatic methods out of necessity. Therefore, they did not develop the special aptitude for negotiation of the Greeks. Roman diplomats were usually soldiers who came to conquer rather than to negotiate (Macomber, 1975, p. 15). Most, if not all, of their diplomatic practices were carried out in deference to allied states. A Roman law of 166 BC forbidding the kings of allied states to come in person to Rome operated as a great inducement to the establishment of diplomatic relations through the medium of ambassadors (Phillipson, 1911, p. 317). The

Romans therefore copied, and made organizational improvements on Greek practice (Rourke, 1989, p. 308).

The allied states were concerned about negotiation with Rome on such matters as the nomination of their subjects to high places, clerical privileges, and exemptions from taxation (Phillipson, 1911; Livy, 1965). These interests, unlike the topics under discussion in Greece were not reciprocal interests. Therefore, obtaining permission for an audience in Rome was apparently more difficult than in Greece. For example, ten Locrian envoys appeared before the consuls in 204 BC dressed in rags and carrying olive branches in true Greek suppliant fashion to beg for permission to plead their cause before the Senate (Livy, book xxx, p. 586).

Romans were also known to use diplomatic methods in regulating their relationships with neighboring states. When they wanted to cease friendly relationships with the Rhodians, for example, they simply refused to accept Rhodian envoys (Hobbes, 1975).

The Roman contribution to diplomatic practices was the development of law. The diversity of their "international system" mandated that they create a mechanism of social cohesion. Thus, in 242 BC they

expanded the civil law creating a praetor peregrinis to take care of transactions between Romans and foreigners because foreigners were not recognized by Roman civil law (Nussbaum, 1954, p. 13; Edwards, 1981, p. 72).

To facilitate relations in their expanding empire, the Romans developed a new body of law, jus gentium. Jus gentium was not public international law in the modern sense, but private law concerned with the relationships among individuals (Nussbaum, 1954, p. 13; Stavrianos, p. 84). The expansion of Roman law is significant when considering that by the end of the fourth century AD, the Roman Empire was almost coterminous with the world of ancient civilization. Therefore, even though the law was essentially private law it was applicable to so many different peoples that it has been considered by some to be quasi international law (Schwarzenberger, 1967; Corbett, 1959; Lawrence, 1906). With the expansion of Roman law, diplomatic immunity became more widely recognized.

The Indian diplomatic system was more akin to that of the Greeks. Indeed, because they shared essentially the same motivations for diplomatic activity, Indian diplomats adopted many of the diplomatic practices of the Greeks after they were introduced by Alexander the

Great in the fourth century BC (Woodcock, 1966, p. 45; Kautilya, 1923). Indians, however also employed special officials in addition to the usual heralds for any necessary relationships with enemy countries (Phillipson, 1911, p. 303).

The Chinese added ceremony to the diplomatic practices of the time. Embassies coming to China during this era from countries such as Ceylon, India, and the Malay peninsula were exposed to the court ceremonials of the Chinese (Latourette, 1946, p. 159). Some of these formalities were introduced into diplomatic practice many centuries later.

With the exception of the Chinese, religion appears to play a dominant role in the sanctioning of diplomatic practices during this era. The ancient Greeks, for example, like the civilizations before them, believed that heralds and ambassadors were sacrosanct in all matters having to do with public office; the God Hermes presumably served as their protector (Nicolson, 1955, p. 19; Macomber, 1975, p. 14). In Rome envoys were supposedly under the protection of Zeus (Phillipson, 1911, p. 306). In India diplomatic practices were sanctioned by the Hindu religion (Mukherjee, 1976, p. 5; Watson, 1982).

Nicolson suggests however, that the privileges and immunities granted diplomats in Greece were given in recognition of some implicit "natural law", that was above immediate national interests or momentary expedience (Nicolson, 1955, p. 20). Corbett also notes that the Greeks acted on the basis of "universally valid norms" backed by human sanction with the support of divine intervention (Corbett, 1959, p. 3). On the other hand Nussbaum states that the rules were sanctioned by religion only (Nussbaum, 1954, p. 9).

It appears that since the norms resulting from customary diplomatic practice were respected outside the world where the authority of the Greek and Roman gods did not prevail that perhaps they were buttressed by something more than religion. Some scholars see the rudiments of a "law of mankind" developing during this time (Oppenheim, 1955; Hershey, 1921, p. 286).

It can be discerned from this examination of the salient features of the diplomatic practices of this era that all of the features of the modern diplomatic regime were already present or "budding". Mutual interests appear to be at the base of the decision of political entities to engage in diplomatic activity. Although the power structure changes when the Greeks

are conquered by the Romans respect for the customary practices governing diplomatic activity did not change. Roman hegemony had little effect on the budding regime. Of the four political entities discussed, the Greeks had the most highly sophisticated diplomatic system. The Greek system more nearly resembles the modern diplomatic regime.

It is perhaps unwise to engage in the process of generalizing about the diplomatic activities of political entities during this early era using the theories of regime analysts since by most definitions a regime did not exist at this time. Instead, this era is characterized by several diplomatic systems which when taken separately exhibit some regime characteristics. A diplomatic regime does not exist at this time for three major reasons. First, difficulties in communication and travel preclude sustained diplomatic activities. Second, much of the diplomatic interaction is involuntary. Third, there is no recognizable compliance mechanism. The Greek diplomatic system is the only early system which comes close to meeting the three requirements mentioned. The Greeks did not develop compliance mechanisms, reciprocity worked well primarily because of the

compatibility of interests. However, using the data from this era, one can deduce that the variables necessary to the development of a diplomatic regime include: political equality, interest, power, and a decision making mechanism.

The Byzantine Era

After the fall of the Roman Empire the period of relative calm, which characterized the era, was replaced by the competitive wars of a number of barbarian nations which emerged in the East and the West (Nicolson, 1954, p. 24). There was very little opportunity for diplomatic activity in the West during this time.

The power vacuum left by the fallen Western Latin Empire was filled by its Eastern Greek division, the Byzantine Empire. By the ninth century AD Constantinople became a center for diplomatic activity. Unable, as the Western emperors had done, to conquer the hostile political entities which surrounded them, the Eastern emperors resorted to diplomatic manipulation (Nussbaum, 1954, p. 26).

The political environment of Byzantium during the period from the sixth century AD to the twelfth century AD was a rudimentary international system. The

"states" in the system, like the early Greek city states, related to one another on the basis of equality. Therefore, Byzantine emperors were required to negotiate agreements with neighboring rulers, especially the King of Persia, the Russian and Bulgarian princes the Italian city states, the caliphs of Baghdad and Egypt and minor Moslem rulers (Nussbaum, 1954, p. 47). The Byzantine emperors adhered to the diplomatic rules of the West, thus disseminating knowledge of the norms of the regime to diverse political entities.

Many of the salient features of the budding regime of the ancient period can be found in the Byzantium era. The envoy was considered inviolable, safe conducts were granted, and the right of legation was recognized. However, in the interest of maintaining territorial integrity in a hostile environment, Byzantine emperors supplemented their strength with a new diplomatic method. They played off one neighboring barbarian against another (Nicolson, 1955; Browning, 1980, p. 19).

Although the ad hoc mission continued to be the principle diplomatic method, ambassadors were instructed not merely to represent the interests of the

Empire at the courts of barbaric despots, but also to furnish full reports as to the internal situation and to the relations of the groups towards one another. For this task, the Emperors selected ambassadors who were trained in the powers of observation and sound judgment (Nicolson, 1955, p. 25). Thus, the Byzantine emperors introduced into diplomacy the idea of gaining influence by fair means or foul. Under the Byzantine emperors deceit and spying became the primary reasons for diplomatic practices (Macomber, 1975, p. 15; Rourke, 1989, p. 308, Forgas, 1965, p. 9).

Unlike the practices of the early Greeks and the Romans the ceremony associated with Byzantine diplomacy began in the formality of the Court¹. Byzantine emperors added a formal institutional structure devoted solely to the conduct of diplomatic affairs. The Empire had a department of state for foreign affairs staffed by a corps of professional negotiators with an official responsible for the reception of ambassadors (Barber, 1979, p.7; Browning, 1980, p. 11; Nicolson, 1954, p. 25). These new structures were buttressed by Roman law which was coded by the Emperor Justinian (Nussbaum, 1954, p. 47).

The implementation of Roman law in a diverse

political environment of equal "states" created a rudimentary procedural component for the budding diplomatic regime. Under the early Greeks no procedural component developed primarily because of the integrated political environment. Under the Western Empire the procedural component did not develop because political relationships were based on force rather than compliance. The Byzantines found however that their political environment required them to further develop the diplomatic methods and practices which their predecessors began.

Therefore the Byzantines contributed to the development of a substantive component of the regime through the emphasis placed on negotiation. The Byzantines adopted the negotiation skills of the early Greeks and improved upon them. Deceit and spying were probably incorporated into the process because of the diversity of the political environment. Unlike the situation among the city states, to be conquered during the Byzantine era was culturally as well as politically disastrous. By this time states were locked into a conflict somewhat similar to that of the modern international system.

The Byzantine emperors therefore found it necessary

to add a touch of professionalism to existing customary practices (Nicolson, 1954, p. 47). The notion of diplomatic immunity was written into the laws and formal structures were created to sustain diplomatic practices that were carried on in an "international setting" comprised of "equal" political entities. The barbarian wars that constantly changed the existing power distribution during this era precluded the creation of a diplomatic regime however.

Although a fully developed diplomatic regime developed in the West rather than in the East, according to some scholars it is the Byzantine conception of diplomacy, with its emphasis on negotiation, formal ceremony, and legal structures which has survived to the present day (Nicolson, 1954, p. 24; Satow, 1979; Mattingly, 1955).

The Byzantine era was therefore a transition era linking the customary practices of the ancient societies to medieval society. Knowledge of the norms and rules which supported diplomatic practices was widely disseminated as a result of the activities of Byzantine emperors. Therefore, the Byzantium Empire transmitted a strong substantive and legal base for a diplomatic regime to the West.

The Early Medieval Period

By the eleventh century the West had overcome much of the devastation caused by the fall of the Roman Empire. Although feudalism replaced the authority of states as the dominant political form during the era, the feudal system was never fully realized (Schwarzenberger, 1967, p.6; Queller, 1980, p. 68). Instead independent kingdoms, such as England, Scotland, France, and Denmark existed side by side with feudal princes, independent knights, and free cities such as the Italian city states. However, the enormous political space in Europe at the time precluded the establishment of an orderly or established system of international contacts. The eleventh and twelfth centuries were therefore characterized by sporadic negotiations and transactions between political entities (Nussbaum, 1977, p. 28-29).

During this era special missions performed by ad hoc appointees continued to be the dominant form of diplomatic activity (Cuttino, 1928, p. 131). Since feudalism often cut across "state" lines ambassadors were sent for pragmatic reasons, without regard to nationality (Queller, 1967, p. 7). They were expected to return home as soon as business was finished

(Lawrence, 1906, p. 258). Just as in previous periods ambassadors were required to obtain a "safe conduct" from the country to which they travelled (Cuttino, 1928, p. 133) and they were required to carry letters of credence. There was one significant innovation during this period however. Ambassadors often carried several documents with slightly varying versions. This was done in instances where he was requested to make ancillary stops on the way to his mission (Queller, 1967, p. 111).

These requirements suggests that the inviolability of the ambassador was respected as a norm during the eleventh and twelfth centuries. The authority of the Catholic Church provided unity for the politically diverse societies of this period (Von Glahn, 1986, p. 28; Edwards, 1981, p. 75; Stavrianos, 1975; Mattingly, 1955). In general, the Church was responsible for the widespread acceptance of this norm. All political entities were represented at the Curia at this time (Butler, 1928, p. 76; Queller, 1980, p. 197). While the monarchs of the period resisted the personal power of the Pope, they were willing to adapt church laws to their use (Mattingly, 1955, p. 22).

The comprehensive laws of the Catholic Church,

known as canon law, were based on Roman law (Nussbaum, 1954, p. 17). Roman law survived the Roman Empire in the West as well as in the East; it had been taught in the medieval law schools since the tenth century (Walker, 1899, p. 150). In view of the widespread acceptance of this law in the West the procedural component of the regime which began under the Byzantine Empire continued. On the question of ambassadorial immunity the law was fixed. The ambassador enjoyed immunity while on a mission. His goods and his suite were also subject to the same immunity. He was not immune from punishment however if his conduct was not becoming his office. In cases of misconduct he was free from the jurisdiction of the lower courts, but he was subject to the jurisdiction of the Prince's court. He did not have to be returned to his home country for punishment. Since every Prince administered Roman law, an envoy could simply be punished wherever the incident occurred (Mattingly, 195, p. 269; Gentili, 1964, p. 116).

There was no distinction between municipal law and international law at this time; Roman law was universal (Mattingly, 1955; Schwarzenberger, 1967; Nussbaum, 1954, p. 17). Church theorists did not

abandon the idea of an imperial power which could impose law over all with the fall of the Roman Empire in the West; they still clung to the idea of a Holy Roman Empire. Thus, the patterned behavior of the earlier period was maintained and diplomatic practices remained virtually the same.

During the thirteenth century however, European states began to develop diplomatic structures. For example, the treaty of Paris increased the incidence of diplomacy between England and the Continent. English kings had to develop a system of representation at the courts of foreign nations to oversee their feudal holdings. These departments were responsible for dispatching envoys, keeping them informed, reading and analyzing their correspondence and maintaining archives. The beginnings of a Foreign Service emerged.

The purpose of the English embassies, like those of France and Spain, ranged from the drawing up of treaties and truces to seeking alliances and pursuing suits of vassals in the French Parliament (Cuttino, 1971, p. 29). During this era envoys were also sent to apologize for or complain of wrongs, to mediate disputes, to arrange the final terms of agreements already established, as well as for private or

ceremonial purposes (Queller, 1980, p. 87).

The diplomatic activities of the eleventh and twelfth centuries in the West also provided for continuity in the principles, norms, rules of the developing diplomatic regime as refined by the Byzantines. However, no regime emerged in the West at this time either. European political entities did not feel the necessity to create cooperative institutions since the overlapping sovereignties, the common interests and values, and the adherence to a common set of binding rules convinced them that they belonged to one common political unit. Competition was virtually non-existent.

During the thirteenth century however five Italian city states stood outside the main feudal system of Europe. These city states had many of the same characteristics of the ancient Greek city states. They had a common set of interests based on cultural homogeneity, they were in close proximity, their independence rested on the precarious political environment which surrounded them, and they each had power but none was powerful enough to conquer the other. The impetus for organized diplomatic activity came from the desire on the part of each city state to

prevent alliances between or among them as well as to remain aloof from the larger political environment (Mattingly, 1955, p. 59; Nussbaum, 1977, p. 37). The city states were therefore competitive.

The mutual interests of the city states led them to developed voluntary, sustained, systematic diplomatic relationships based on the equality of each state with Roman law as the compliance mechanism. Thus, all of the necessary regime components, mutual interests, power, political equality, and a decision making component, were in place and modern diplomacy developed during the thirteenth and fourteenth centuries in Italy (Nicolson, 1955; Mattingly, 1955; Schwarzenberger, 1967).

The Byzantine conception of diplomacy was adopted by the city states. The Byzantines taught diplomacy to the Venetians.² The Venetians set the pattern for the other city states as well as for the rest of Europe (Nicolson, 1954, p. 24; Browning, 1980, p. 11).

Nicolson characterizes Byzantine diplomacy thusly:

"Instead of co-operation, you had disintegration; instead of unity, disruption; instead of reason; you had astuteness; in place of moral principles; you had ingenuity" (Nicolson, 1939, p. 43). Thus, initially,

the standards governing diplomatic activities as they developed in Europe were not high standards. Ambassadors were sent primarily for the purpose of the aggrandizement of the "state". Rulers were careful to send only their most trustworthy nationals (Queller, 1980). Despite the fact that they combined the motives and methods of earlier periods, the Italians were responsible for fundamental changes in the nature of the diplomatic regime.

The Italian city states soon found that special missions were not sufficient to maintain adequate diplomatic relations. They began to keep representatives stationed in order to better facilitate the diplomatic process. The idea of continuing negotiations and permanent missions began to flourish during the fifteenth century (Schwarzenberger, 1967, p. 97; Macomber, p. 15; Mattingly, 1955; Nicolson, 1955; Lawrence, 1906, p. 29). There was a need for constant information because of the general political insecurities which characterized the relationships among the city states (Barber, 1979, p. 11; Mattingly, 1955, p. 57). Like the Byzantine Emperor, the Italian ruler had to be especially watchful against threats to his power (Watson, 1982, p. 96). The system of

special missions did not work well in a system where each state's right to survival was not accepted by the rest and where crises were permanent rather than intermittent.

Although there is some disagreement as to whether Milan or Venice was the first city state to establish permanent missions, it is agreed that resident embassies began on the Italian peninsula (Mattingly, 1955; Nicolson, 1955, p. 30; Lauterpacht, 1966). The resident ambassador established residence in the host country for a specified period of time. For example, Venetian ambassadors were sent for a period of two years. The duty of the ambassador was to provide his home country with a constant flow of information relative to the political situation in the receiving country. Reports from Venetian ambassadors were preserved in offices in Venice especially designed for that purpose (Jones, 1983, p. 4).

Thus, the gathering of information became the most important diplomatic function; negotiation was secondary. As a result of the emphasis on information gathering ambassadors began to take on more of the characteristics of professional spies. The distinction between gathering information and spying

was often blurred. This fact was a source of problems for the city states.

The Venetians attempted to limit the acquisition of information by ambassadors by passing a law in 1451 prohibiting all persons with governmental positions from any contact with foreigners (Queller, 1967, p. 92). Although they attempted to limit the ability of adversaries in the information gathering process, they reprimanded their own ambassadors when they did not make secret inquiries into the political affairs of their host governments (Queller, 1967, p. 93).

The opportunities for information gathering were excellent for the resident ambassador; but his knowledge of the state of affairs at home and the current wishes of his principal were less current than that of the ad hoc envoy. This fact further increased the emphasis on information gathering rather than negotiation by the resident ambassador. Often special representatives from the home country had to be sent for purposes of negotiation (Queller, 1967; Lachs, 1965).

As the gathering of information increased in importance ambassadors dealt with more and more secret information, the revelation of which would be harmful

to the state and to the lives of informers. Precautions had to be taken to make sure that this information did not fall into the wrong hands. Protection of ambassadorial correspondence became a primary concern of principals and ambassadors alike. Often information was coded to maintain secrecy (Lachs, 1965). This fact increased the need for immunity for envoys and called for the development of new rules relating to immunity of correspondence. These rules did develop quickly however.

As the political space in Europe began to fill, the political insecurities of the Italian city states were mirrored in the rest of Europe. Although other European rulers feared the possibility of espionage, they reluctantly established permanent missions (Schwarzenberger, 1967, p. 99). The Italian pattern was copied first in France. (Macomber, 1975, p. 15). Spain was next to establish continuous representation at leading political centers followed by England (Butler, 1928, p. 77; Cuttino, 1971, p. 141). The advent of resident embassies marks the beginning of the modern regime of diplomatic privileges and immunities.

The changes in the regime from ad hoc to resident

embassies and the emphasis on information gathering as opposed to negotiation also created the need for new rules of the regime. Regime participants began to look to the procedural component for guidance. The creation of new rules was a slow process. Respect for the norms of the regime however served to keep the regime in tact despite the problems caused by the derangement of theory and practice. The widespread acceptance of regime norms, particularly the norm of reciprocity, restrained the behavior of kings and princes in the realm of diplomacy in a era characterized by atrocious wars and the rude methods of reprisals (Walker, 1899, p. 187). Roman law was reformulated to serve as a means of reinforcing the restraints imposed by regime norms.

The Renaissance Era

In the fifteenth century as the modern regime emerged, Roman law was still accepted by the rulers as adequate to the needs of a secular government. This law, formulated by the Church canonists of the period, relied heavily on the literature of the Church as well as on the decisions of contemporary dynasties as they constantly reformulated Roman law to meet the needs of Europe (Corbett, 1959, p. 22; (Brierly, 1963, p. 19:

Queller, 1967, p. 6). Thus, the laws were a blend of feudal customs, Christian laws and Roman juristic thinking. Once these three factors converged in one body of law they formed a kind of international law (Mattingly, 1955, p. 24) or supranational law (Nussbaum, 1954, p. 17). It was clearly stated in Roman law that if anyone harmed an envoy, even one sent by an enemy, that he had violated the law of nations (Przetacznik, 1983, p. 49).

The revival of learning and the impetus given to commerce during the Renaissance era by the discovery of the New World increased diplomatic activity (Butler, 1906, p. 258; Lawrence, 1906, p. 259). Ambassadors of the Renaissance era apparently took their tasks seriously. They were often unscrupulous in their methods of helping their principals to wage war by diplomatic means (Mattingly, 1955; Nicolson, 1954). In addition, Renaissance ambassadors, especially those in Venice, had a reputation for assassinations (Queller, 1967, p. 93).

The inviolability of the ambassador made him a useful tool. Ambassadors were often instructed to join the opposition in cases where governments were unfriendly or likely to become so. In some instances

they were instructed to engage in espionage for the purpose of undermining the host government. Louis XI is said to have adopted resident embassies because he wanted to have a "chartered spy" at the court of each of his powerful neighbors (Lawrence, 1906, p. 259). In general, diplomacy took on a negative character.

Regime participants respected regime norms even in instances where they ran contrary to interests. For example, in instances where ambassadors abused their privileges the misdeeds were tolerated. Resident diplomats who were simply banished from the kingdom for their exploits against the host government include: John Lesley, ambassador of the deposed Mary, Queen of Scots, who was a participant in a plot which resulted in the execution of the Duke of Norfolk in 1571 (Walker, 1899, p.176; Corbett, 1959, p. 22). and Mendoza, the Spanish ambassador to London, who in 1571 conspired to overthrow Queen Elizabeth (Mattingly, 1955, p. 177; Hyde, 1947, p. 747; Adair, 1929, p. 48-49). The French ambassador, d'Aubespine, who in 1587 was also suspected of plotting to overthrow Queen Elizabeth, continued to act as ambassador even though his recall had been requested (Satow, 1979, p. 294).

Often, however, the inviolability of the diplomat

did not protect him. Though excused from execution when accused of misdeeds once in the foreign courts, diplomats were in danger of being abused in transit. The most famous violation of the norm of inviolability of the ambassador in transit occurred in Pavia, in 1541. Antonio Rincon, French envoy to the Sublime Port and Caesare Fregoso accredited to Venice were ambushed and murdered (Mattingly, 1955, p. 270). It is believed that they were attacked so that their secret papers could be read (Walker, 1899, p. 184). In another incident Inigo de Mendoza, Charles V's ambassador was captured as he was going to his post. Frontier guards claimed they mistook him for a spy. In each of these cases of flagrant violations of a time-honored regime norm, the violators involved disavowed responsibility and offered excuses as well as apologies for the deeds. They never claimed that the ambassadors were not entitled to immunity (Mattingly, 1955, p. 270-271; Butler, 1928, p. 81; Walker, 1899).

In addition to the problems relating to espionage, how to regard foreigners residing in the host territories became problematic as resident embassies became more prevalent. In an attempt to reconcile theory with practice, the notion of

extritoriality emerged to serve as a rationale for granting immunities to diplomats. Extritoriality explained in a theoretical manner the relationship of the diplomat to the host country. Accordingly, the diplomat was to be treated as if he still resided in his home country. He was not to be subject to the local laws of the host country (Wilson, 1967).

The theory of extritoriality originally proposed by Pierre Ayrault, a French lawyer, although contrary to medieval laws, was a pragmatic approach (Barber, 19. p. 32). In practice however, it afforded many opportunities for abuse. Therefore, it never gained widespread acceptance as a norm of the regime. In the sixteenth century, for example, the idea of a "franchise du quartier" prevailed in some countries. The entire section of the city where the embassies were located was considered to be foreign territory. Local law enforcement authorities were not allowed to enter the area. Embassies in the countries where extritoriality was recognized were often used as havens for fugitives. Initially, many states recognized the "right of asylum", as the harboring of fugitives came to be called (Ogdon, 1936, p. 82; Hyde, 1947). Spain, for example, gained notoriety for

sheltering criminals (Lachs, 1965, p. 131).

There were other problems as well growing out of the advent of resident embassies. Since the ambassador represented his principal in the host country, he was expected to convey the worth and status of his principal by the size of his retinue, his dress, as well as his house and household furnishings. The salaries paid to ambassadors at this time by their respective principals were low and sometimes they were not paid at all. Thus, as ambassadors tried to live up to their expected status, they were often in debt (Queller, 1967, p. 208).

A final problem concerned the right of legation, as the right to send ambassadors was called. By the fifteenth century the right to send ambassadors was thought by most to belong only to sovereign powers. However, during this time non sovereign lords continued to send representatives. In 1569, for example, Queen Elizabeth had the emissary of the Duke of Alva arrested and sent back to Flanders on the grounds that the Duke was not a ruling prince and therefore had no right of legation (Corbett, 1959, p. 21).

Although heralds were still being used to declare war (Walker, 1899, p. 189), by the seventeenth century

resident embassies had become the normal method by which international relations between the major European states was conducted (Jones, 1983, p. 4; Lawrence, 1906, p. 259). Despite the fact that many rules were yet to be made. A diplomatic regime was present with both a substantive and an a procedural component. Publicists and jurists alike were active in this century expanding the scope of the regime and adding to its rules.

Alberico Gentili, who taught international law at Oxford University, was asked by Queen Elizabeth to consult on the Mendoza case mentioned earlier. Gentili advised that Mendoza not be punished because punishment would constitute an assault on the customary laws of the regime. This advice was accepted by the Queen despite the opinions of many influential nobles in the kingdom, some of whom wanted Mendoza beheaded (Walker, 1899, p. 180; Corbett, 1959, p. 18). In 1548, however, the German Conrad Brunn published a work which recognized the freedom from coercion for the well behaved envoy only. Later in the century, Pierre Ayrault advocated in his writings complete extraterritoriality regardless of behavior (Corbett, 1959, p. 23). This lack of consensus suggested that the procedural component of the regime needed further

development.

There were political forces underway in the seventeenth century which were destined to change the political environment of Europe as well as provide some basis for further development of the procedural as well as the substantive component of the new diplomatic regime.

In 1648 the Peace of Westphalia was signed. This treaty secured the independence and autonomy of the European states. The signing of the treaty is significant for two reasons. First, it allowed the right of legation to emerge as a norm of the diplomatic regime belonging only to sovereign states. Second, the Peace of Westphalia along with the Reformation, were responsible for the disintegration of the hierarchical structure of the Middle Ages dominated by the Catholic Church.

The diplomatic regime, at its inception, was the beneficiary of a well defined international society (Mattingly, 1955). As a result, the regime was not obliged to create a separate decision making mechanism. Initially, the unity of Latin Christendom furnished the institutions that served as a legal base for the regime. Once the international society transformed

into an international system, the regime still relied on the mechanism of the larger society for maintaining order, international law, to achieve its goals.

It was soon realized that if the states were independent they must also be regarded as equal before the law; and that it was necessary to formulate a doctrine of the fundamental rights and duties of states (Hershey, 1921, p. 59). Thus, the disintegration of Christian Europe stimulated the development of international law (Schwarzenberger, 1967, p. 7). The growth of international law in turn stimulated the growth of the concept of the secular, sovereign state and undermined the notion of a common sovereign over all, which had persisted as an ideal of the Holy Roman Empire (Gentili, 1964; Brierly, 1963, p. 6). The strengthening of the concept of sovereignty in turn reinforced the right of legation as a norm.

Buttressed by international law the modern state system undermined the tradition of unity of Christendom and eventually gave rise to the sentiments of exclusion and nationalism prevalent today (Hall, 1924, pp. 59-60). Diplomatic envoys were representatives of their states and of their dignity (Oppenheim, 1955, p. 615). Diplomatic immunity became the right of the envoy's

home state and not of the envoy himself. Therefore, the norms and rules of the regime belonged to the realm of international law (Regala, 1959, p. 25; Wright, 1959, p. 57). International law became the basis for the procedural component of the diplomatic regime.

In an effort to formulate rules to meet the requirements of the diplomatic regime theoretical writers in the seventeenth century devoted much time to the process of separating the legal from the theological and ethical and the domestic from the international on such questions as the immunities of ambassadors (Brierly, 1963, p. 25). This process began in the sixteenth century when the revival of learning created an emphasis on Roman law. As cases arose, a considerable amount of legal material was developed to lay down rules based on Roman law to guide rulers and diplomats (Corbett, 1959, pp. 20-23). Gradually, as a result of this process the public law of Europe evolved into an international law (Schwarzenberger, 1967, p. 29; Forsyth, p. 37).

For the most part, the early publicists applied the law of nature to the intercourse of states in an effort to fill the gap left by the disappearance of the conception of a universal sovereign. Some gave greater

prominence to the law of nations while others considered the consent of nations; but few can be found who dealt with one element to the exclusion of the other (Lawrence, 1906, p. 41). The rules which they formulated gradually became norms of the diplomatic regime (Dembinski, 1988, p. 3).

The role of jurists and publicists who believed in the supremacy of the law of nations was influential in the development of the procedural component of the diplomatic regime. After Gentili advised Queen Elizabeth on the Mendoza case, for example, he wrote a treatise, which appeared the following year, to incorporate his ideas (Lachs, 1965, p. 118). Gentili believed that ambassadors were only inviolable amongst the people to whom they were sent, although they should be courteously treated everywhere. He argued further in his treatise that ambassadors sent for the purpose of espionage may be refused by the potential receiving state. Gentili apparently believed that the regime could depend on reciprocity for the kind treatment of ambassadors. He states that the sovereign who violates the laws pertaining to ambassadors must look for retaliation upon his own ministers (Gentili, 1964). Jean Hotman, a French international lawyer, who also

advised Queen Elizabeth on the Mendoza case, wrote a treatise setting forth ideas very similar to those of Gentili (Lachs, 1965, p. 119).

Hugo Grotius, perhaps the most influential lawyer of the era to advocate a law of nations approach (Wright, 1950, p. 58; Hershey, 1921, p. 57), worked out in detail many of the rules and principles that others had addressed only in a fragmentary way (Lawrence, 1906, p. 52). He was the first international lawyer to advocate unqualified diplomatic immunity. In Book II of *De jure belli ac pacis*, he examined questions of whether ambassadors should be punished for any crime. He concluded that the ambassador should not be punished because the security of ambassadors as a class was more important than the punishment of an individual ambassador (Grotius, 1901).

Grotius further assumed that the state as a corporate community could be brought under the rule of law (Edwards, 1981, p. 113). Accordingly, he also assumed that the law of nations accords to ambassadors the right to admission and immunity from violence. Grotius felt that ambassadors could only be refused admission for good cause, although good cause could be found in the person of the sender, the person of the

envoy, or the subject of the mission (Grotius, 1901).

By the late seventeenth century diplomats became aware of themselves as members of a distinct profession (Nicolson, 1955). Buttressed by international law and the pronouncements of jurists like Grotius they plotted together and exchanged information in the courts of Europe as they carefully honed their diplomatic techniques (Corbett, 1959, p. 9) The professional diplomat and the permanent diplomatic mission became one of the common features of the modern state system. They contributed to the shaping of the homogeneous international society of the nineteenth century (Dembinski, 1988, p. 4). Most of the diplomatic privileges that exist today were in existence by that time (Barber, 1967, p. 26).

The Modern Period

Although the purposes of the regime did not change during the late eighteenth and early nineteenth centuries they became larger in scope and somewhat more sophisticated. One diplomatic privilege, the practice of granting asylum, fell into disuse in the nineteenth century however (Fenwick, 1984, p. 117-119). The lack of respect for this concept coincided with the development of a stronger sense of international law

and a stronger sense of sovereignty. Governments began to deny the literal meaning of the term exterritoriality. In the Nikitschenkoff case of 1865, for example, Nikitschenkoff was arrested after he entered the Russian Embassy in Paris and assaulted the First Secretary and several others. At the request of the First Secretary the police entered the Embassy. The Russians demanded that Nikitschenkoff be delivered to them because the French government had no jurisdiction on the "exterritorial" premises of the Russian Embassy. The French government refused. A later comment on the case in the Journal du Palais in 1866 noted that "the fiction of exterritoriality had no other object than to assure to the foreign envoy the independence which is essential for the accomplishment of his mission" (Moore, 1906, p. 77³)

The fiction of exterritoriality had influenced the development of existing regime norms. It is interesting that the norms were not rejected even though they grew up under the influence of an untenable doctrine (Preuss, 1932). A number of jurists believe that the concept of exterritoriality is a useful metaphor under which the rights of ambassadors may be grouped. Most however regard it as too misleading, if

not dangerous, to be taken as a principle of international law (Hall, 1924, pp. 165-166; Lawrence, 1906 p. 120; Moore, 1906, p. 630; Westlake, 1925, p. 263; Oppenheim, 1955, p. 389; Wheaton, 1866, p. 224; Phillipson, 1911, p.104).

In the absence of the theory of extraterritoriality, the state regained its prescriptive power over diplomats. It was clear that diplomats were expected to obey the laws of the receiving state. They had no right to do whatever they liked (Oppenheim, 1955, p. 615). In general, each state was both a sending state and a receiving state by the end of the eighteenth century. The norms and rules of the regime were therefore based on the principle of reciprocity. Thus states were furnished with additional assurance that diplomats would obey state laws (Briggs, p. 771).

In general, the customary practices and generally accepted principles from the Middle Ages formed the core of the diplomatic regime and gave it legitimacy (Mattingly, 1955, p. 21). The norms and rules of the regime were widely respected primarily because of the cultural and ideological homogeneity of the European states and the ability of these states to disseminate knowledge among themselves due to the technological

advances in communications during the nineteenth century.

The structure of the modern state system created the necessity for reformulating the theoretical basis of diplomatic immunity. Perhaps the most significant change in the regime after 1648 was that diplomats represented states rather than sovereigns, as mentioned earlier. The theory of personal representation that earlier served to explain immunity was expanded to include the sovereign state by suggesting that the diplomat's privileges were equal to those of his sovereign (Preuss, 1932; Ogdon, 1936, p. 127; Lauterpacht, 1966). However, because immunity belonged to the state and not to the diplomat himself, his inviolability became intertwined with his function. Immunity depended upon the nature of the acts performed; it did not include private acts (Preuss, 1932). As a result, it was necessary for each state to reconcile theory and practice through municipal law based on generally accepted principles of international law and reciprocity (Dembinski, 1988, p. 3). For example, in Great Britain, the Act of Anne passed in 1708 when the Russian envoy was arrested for non payment of debts (a practice common at the time) added

reciprocity as a basis for granting immunity (Wilson, 1967). Many of the rules of the regime were created initially as domestic legislation and later accepted widely due to the norm of reciprocity.

When the European states met in Vienna in 1815 to reorganize international society after the Napoleonic wars they also standardized some of the rules of the diplomatic regime. They agreed on the classification of diplomatic ranks, which had been a source of confusion for some time (Nussbaum, 1954, p. 178). They also agreed that diplomats as representatives of sovereign states were on equal footing with one another. They stopped short of codifying the norms and rules of inviolability and the right of legation. In general, they believed that it was possible to apply the traditional ideas and practices which characterized the conduct of internal affairs to external affairs (Nicolson, 1954). Indeed this belief had credibility for the eight European states that were adhering to the regime at this time were relatively homogeneous.

By the twentieth century however Western international law and resident diplomacy had come to extend throughout the world (Gong, 1984, p. 19). Membership to the community of states had been offered

to Turkey, China, Japan, Siam, and Persia (Parry, 1968; Gong, 1984). These states used their embassies to convince European governments of their desire to be equal participants in the international system (Gong, 1984, p. 19). The addition of culturally dissimilar states created the need for codification of regime norms and rules.

In 1927 the League of Nations Committee of Experts for the Progressive Codification of International Law responded to the task of codifying regime norms and rules. The Committee of Experts was a group of international lawyers with a mandate from the League to prepare lists of subjects in international law which were in need of regulation. Accordingly, they drew up resolutions pertaining to the regime of diplomatic privileges and immunities. They attempted to clarify some of the theory as well as to recognize certain "time honored" traditions of the regime. Although these resolutions were rejected by the League Council, they sparked more productive attempts at codification (American Journal of International Law, 1932).

Codification was also attempted by private bodies such as the Institute of International Law and the Harvard Law School.

The Institute of International Law, an organization comprised of international legal experts, issued draft resolutions on diplomatic privileges and immunities. In 1927 the faculty of Harvard Law School organized a research group comprised of international lawyers to study diplomatic privileges and immunities. The Harvard Draft, as their research paper was called, was significant in its contribution toward restating the law to fit the times (The American Journal of International Law, supplement 26, 1932). The Harvard Draft served as the basis for further development of regime norms. It was referred to during the Sixth International Conference of American States held in Havana, Cuba in 1928.

The Havana Conference on Diplomatic Agents was adopted by fourteen Latin American republics (Dembinski, 1988, p. 8). Its provisions included the prohibition on intervention in the internal affairs of the receiving state by diplomats and the stipulation that diplomats should communicate regularly with the sending state. Participants also adopted several resolutions concerning the representative status of envoys. The resolutions included the statement that diplomats should represent their respective states and

should not claim immunities which are not essential to the discharge of their official duties as well as statements asserting the complete inviolability of the diplomatic agent, the entire personnel of the diplomatic mission, family members living in the same household, as well as the papers, archives and correspondence of the mission (Cahier, 1964, p. 33). All of the resolutions adopted were stipulated in the Harvard Draft.

The International Law Commission, a United Nations body, also participated in codifying diplomatic law. Commission scholars based their work on extensive research as well as on input from member countries of the United Nations. The drafts therefore bear the thoughts and insights of representatives from many different countries (Yearbook of the International Law Commission, 1958). For this reason the International Law Commission prepared the draft for a major international conference called in 1961 to help clarify regime laws in the post modern period.

The Post Modern Period

International developments after 1945 produced fundamental changes in diplomatic practice. The changes were in kind as well as in magnitude (Plischke,

1961, p. 61). The consequences for world diplomacy of these changes have no historical equal (Dembinski, 1988, p. 5). The sheer expansion of diplomatic missions, the diversity of these missions, and the technological advancements which characterized the era posed challenges to regime norms.

Since 1945 the number of states had more than trebled. The main increases were from four to over fifty in Africa and from nine to over forty in Asia. Although these states had a basic acceptance of international law, they had not been participants in its development. As a result their support of the diplomatic regime was tenuous. Hundreds of diplomats were directly involved in abuses to regime norms during this period that brought their immunities into question (Wilson, 1967, p. 272).

The diversity of the diplomatic missions after 1945 meant that a large number of diplomats could find themselves in a completely new cultural and political environment, where the perceptions of the status and functions of diplomats and of diplomatic missions were different (Dembinski, 1988, p. 5). Then too, a diplomat from an industrialized state posted in a developing country might find that he was dealing with

many issues that were non political, such as aid and technical assistance.

Technological advancements changed the nature of diplomatic communications. The use of electronic devices made it easier and faster for diplomats to communicate with their home governments while aiding them significantly in obtaining information from the host government. The political environment during this, the Cold War era made countries feel less secure. These insecurities were increased by the fear of nuclear weapons. The greater emphasis on national security and increased chances for breaches of a host country's security on the part of diplomats, served to expand diplomatic activity.

These challenges were met in part by a reformulation of diplomatic law at an international conference in Vienna, Austria in 1961 on Diplomatic Privileges and Immunities. This Vienna Conference was significantly different from the conference of the previous century in that it was attended by eighty one states with different cultural backgrounds.

The International Law Commission drafted the set of amendments that were considered at the conference. The Commission divided the subject under three kinds of

immunities: 1) those relating to the premises of the mission and its archives, 2) those concerning the work of the mission, and 3) the personal immunities and privileges of the diplomat. The revision and restatement of regime norms which resulted from the Conference responded to some of the recent challenges to the regime.

The Commission pursued a pragmatic approach in the draft. They felt that it was better to reach agreement on practical points rather than on history (Ramcharan, 1977, p. 134). The Vienna Convention, the document which resulted from the international conference, was therefore a comprehensive reformulation of diplomatic law. Convention provisions represent in some measure a codification of the law of diplomatic relations as it has evolved in various countries and in part it also established new law (Dembinski, 1988, p.9; Denza, 1976, p. 3). The eighty one countries that participated in the conference had the benefit of reading the three hundred fifty amendments of the Commission before the conference. They discussed the draft with the appropriate personnel in their respective countries and reported comments and suggestions to the United Nations legal committee (Kerley, 1962). According to Denza the

legal functions of the document are two fold: It states the views of the participating states on the theoretical basis of diplomatic immunities and it makes the relationship between the Convention and customary international law explicit (Denza, 1976, p. 7).

The theory of "functional necessity" is mentioned in the document as perhaps the modern reason for granting immunities to diplomats. This theory is consistent with the pragmatic development of diplomatic privileges and immunities. It justifies privileges and immunities as being necessary to enable the mission to perform its functions. The Convention recognized this theory along with the representation theory as most applicable in modern times.

There was much debate on the role of extraterritoriality and the granting of asylum as acceptable regime norms. The prevailing belief seemed to be that under certain conditions the granting of asylum should be recognized, but because participating states could not agree on the specified conditions the matter was not reconciled in the document (Denza, 1976, p. 79). The Convention also added the function of "representation", as suggested in the International Law Commission Draft, to the list of traditional functions

of diplomats. According to the Commission draft, this function includes all the others but, goes beyond them (Yearbook of the I.L.C. 1957, vol. I, p. 200).

The most important contribution of the Convention was perhaps its contribution to solving modern problems. In Article Twenty Two of the Convention, for example, the inviolability of the diplomatic bag was firmly stipulated with the exception that all scientific methods of discerning its contents without actually opening it were appropriate. In another reference to modern technology the Convention noted that while some surveillance equipment might be employed by Embassies in gathering information, some methods were clearly lawful and some were not. The Convention also added renewed emphasis on the absolute inviolability of the person of the diplomat as well as on the duty of the state to use all "appropriate" means to ensure the protection of the ambassador.

One hundred and thirty seven states ratified the Vienna Convention (Denza, 1976, appendix I, pp. 306-310). This represents a significant vote of confidence from the international community. It suggests that the principles, norms, and rules of the regime continue to have widespread acceptance despite the fact that the

international system has changed significantly since the inception of the regime. It also suggests that credible formulation of international law can result from an international conference of very diverse states (Kerley, 1962), creating a mechanism whereby the procedural component can adapt to the requirements of the international system.

Summary and Conclusions

This chapter has examined the salient features of diplomatic practices from ancient times to the present in an attempt to answer the questions identified in the beginning of the chapter. The chapter suggests that during antiquity adherence to customary practices in diplomacy fostered an environment conducive to the sending of messages, negotiating, and conducting relations among political entities even during times of hostility. During the Byzantine era adherence to customary diplomatic practices provided the structure necessary to the preservation of the "states" of the era. Adherence to customary practices not only furnished the restraints necessary to preserve the communicative function but, the "pre regime" served as a tool to manipulate enemies. The importance of the customary norms and rules are most apparent during the

Byzantine era because of the cultural diversity of regime participants and the frequency of wars.

During the Middle Ages the regime is fully developed in Europe. The conditions under which the regime develops at this time are almost ideal. Widespread acceptance of regime norms and rules has been achieved in previous periods. The states of Europe are culturally similar. They have common interests, common values, and a common legal heritage.

Although some regime participants used the regime to facilitate war, for the most part the regime provided participants with an alternative to war by structuring negotiation. For example, the immunity of the diplomat tended to separate him from the dynastic and religious wars of the Middle Ages making him a useful tool for negotiation.

During the modern period the decision making component of the regime was refined. International law was redefined and it loosened its bonds to natural law in order to conform to the new conception of the state. The regime influenced the development of the international system by providing a mechanism for expansion. The regime expanded to include non European participants who were instructed in the dictates of

international law. Codification of regime norms and rules became necessary in order to justify and explain customary practices.

Further regime expansion occurred during the post modern period. Newly independent states in Asia and Africa were added to the regime creating the need for additional codification of regime norms and rules.

During the modern period and the post modern period the diplomatic regime not only standardized practices making it easier for states to communicate effectively but, it also contributed to the development of reciprocal interests among states. Reciprocal interests developed as diplomats exchanged information and as states had the opportunity to address the courts and governments of other countries (Gong, 1984, p. 18).

This chapter suggests the beginnings of a formula for the creation of a regime situation or the conditions under which customary practices can lead to the creation of a viable international regime. The first condition is the existence of an international system comprised of autonomous political entities. Although the political entities from antiquity on engaged in diplomatic practices, these practices did not reach regime status until the existence of a

recognized community of autonomous political entities. The second condition suggested is the existence of common interests as opposed to complementary interests. It can be noted that the regime did not emerge until the European states recognized themselves as distinct entities. When they interacted as one common entity, they had no need for a regime.

Violations to diplomatic immunity are apparent throughout the time periods. It is noted in the literature that the post modern period is characterized by substantially more violations than earlier periods (Plischke, 1961; Wilson, 1967; Dembinski, 1988; Scott, 1982; Jenks, 1961). Although there is no actual count of violations within this chapter, the chapter does note that there were many violations during the Renaissance era. Although explanations are premature at this point, there are striking similarities between the Renaissance era and the post modern period. Both periods are characterized by a war system, (although in the case of the post modern period it is a Cold War) and both periods are periods of low consensus in terms of respect for regime norms. There is low consensus during the Renaissance era because of changed diplomatic practice (resident embassies)

without a corresponding change in rules. Rules had not been developed to justify actual practice. There is low consensus during the post modern period because of the addition of new states which had not officially consented to regime norms and changed diplomatic practices which had not been justified or explained by rule changes.

It was not until the Vienna Convention that the states that were added to the regime after 1945 got a chance to formally declare their adherence to the diplomatic regime. The Vienna Convention was a comprehensive reformulation of diplomatic law in that it justified and standardized many of the practices that were already in existence as well as addressed the problems resulting from changes in the political environment.

The Convention reiterated the importance of the inviolability of the diplomat as well as the inviolability of the mission premise under all conditions and circumstances. This suggests that the international political events of the post modern era should not alter adherence to these time honored norms.

The Convention is not exhaustive; it provides that the rules of customary law shall continue to govern

questions that are not regulated by the Convention. There have been serious violations to regime norms since the Convention however. Why regime violations occur is of principle concern. Regime violations are the subject of the next three chapters.

CHAPTER THREE

REGIME VIOLATIONS--THE CASE OF CHINA

The diplomatic regime developed in a society of states with common interests and values as well as commonly binding rules. They formed an international society (Bull, 1979). As a result, the public law of Europe was largely redefined to become the "standard of civilization" by the turn of the twentieth century (Gong, 1984). This standard was used to measure the civilized status of countries outside of Europe.

With the exception of the United States and later Japan, at the turn of the century all non European states were regarded as uncivilized (Westlake, 1925; Oppenheim, 1955). These uncivilized states were called upon to begin the process of becoming civilized by conforming to the standards of international law. Participation in the diplomatic regime was considered to be one of the requirements for civilized status (Gong, 1984).

The introduction of the diplomatic regime into China resulted in flagrant violations of the inviolability of the diplomat and the inviolability of the mission premises. This chapter seeks to explain

why the Chinese violated these two very important norms as well as to discuss the effect of the violations on the regime and the international system.

The first flagrant violation to the two regime norms in China took place in 1901. It may be assumed that a principal reason for this early violation was the lack of understanding on the part of the Chinese of regime expectations. However, a second instance of flagrant violations to the same regime norms took place in 1967. Obviously, the abovementioned assumption does not apply at this time.

The chapter therefore focuses on the national policies of the Chinese during these two periods in order to provide insight into the effects of these policies on regime compliance. Lastly, in the section on summary and conclusions the chapter compares the two instances of violations in an effort to explain the effects of the political environment on regime compliance.

China's Introduction to the Diplomatic Regime

As mentioned earlier, China's experiences with this regime predate the advent of international law. Before the third century B.C. training in the art of diplomacy was part of the regular curriculum for all

Chinese students. The ability to fulfill foreign missions for one's prince was considered a higher quality than piety to parents, or sincerity in speech (Hsu, 1960, p. 149). After this period however the states of the region were unified through conquests.

The unification process resulted in the disappearance of rival states. This gradually brought an end to the necessity for carrying on diplomatic relations. As China came to be regarded as the recognized head of the family of nations in the region, diplomacy was identified with the investiture of tributary kings when China was strong and with attempts to appease invading barbarians when she was weak (Hsu, 1960, p. 150). Chinese civilization flourished during these periods. For almost two thousand years, the centrally located Middle Kingdom, maintained unquestioned influence in East Asia (Duiker, 1978, p. 1). The Chinese came to believe that they were superior to other peoples of the world; they were convinced that all foreigners were barbarians (Hsu, 1960).

As the states of the West began to industrialize and expand, China continued to be agricultural, self sufficient, and non expansive. The Chinese adhered to

the doctrines of Confucius, who never urged people to go abroad as missionaries to convert others. The Chinese believed that those who wanted civilization should come to China. Efforts to attract diplomats to go to foreign places were unsuccessful. Foreign assignments were considered a form of banishment (Hsu, 1960, p. 150). As late as the eighteenth century the Chinese had sent only two missions to the West, in 1721 and in 1729. Both these missions were sent to Russia (Gong, 1984). The general feeling in China, even during this era, from the recognized sources of public opinion there was that China had nothing to ask of foreigners and therefore there was no reason to conduct international relations by diplomacy (Hsu, 1960). The lack of diplomatic contact between China and the West prevented the dissemination of knowledge concerning regime rules and norms to China.

Therefore when the number of foreigners coming to China increased after 1858, the Chinese did not relate to them on the basis of international law. In the nineteenth century the Chinese government still regarded foreign missions in the traditional light of tribute and homage (Hsu, 1960, p. 151).

Western nations could not accept the Chinese

tributary system for they were accustomed to diplomatic intercourse based on international law. The Chinese empire could not accept the Western idea of equality of states without changing its traditional thinking about foreign relations. Western nations, in search of raw materials and markets, began earnestly to attract the Chinese to their way of thinking. A clash of cultures ensued. Western states used their advanced military power to threaten the Chinese to see things in Western terms. As the direct result of treaties beginning in 1842 with the treaty of Nanking, China was forced to accept diplomats from Western countries.

For many years the problem of receiving diplomats from foreign countries remained troublesome. The treaties of 1858 required that diplomats be received in residence in Peking, rather than in local areas as the Chinese preferred. The treaties also stipulated that China treat all nations represented as equals. These two requirements were especially difficult for the Chinese to carry out for they meant that diplomats, once in the capital, would be allowed to come before the emperor on an equal footing. Since Chinese tradition held that the emperor was superior to all, diplomats were usually granted an audience with the

emperor only after long hesitation. Once the ceremonies were underway they were always carried out with the subtle suggestion that the Empire thought of itself as outranking other nations (Latourette, 1946, p. 366).

The Chinese had to set up a new department of government, the Tungshih Yamen, to administer diplomatic activities. In addition, they were forced to sign a treaty which forbade them to refer to foreigners as "barbarians" in documents (Harris, 1967).

However, the Tungshih Yamen was not organized to promote better international understanding. It was kept idle except when a matter was brought to its attention by foreign representatives. The ministers held concurrent positions in the government which often kept them from attending the meetings of the Yamen. In addition, members were distrusted by foreign representatives and regarded with hostility by the Chinese people, many of whom saw the Tungshih Yamen as the means by which foreigners were infiltrating the country (Meng, 1962, p. 73-75).

After the Convention in Peking in 1860 China was urged to send missions abroad. For a government which was still trying to get accustomed to the idea of

receiving foreigners in the domicile of the emperor this request was a disturbing one. The Chinese were told that it was mandatory that they reciprocate by sending missions abroad and that a lack of reciprocation might be interpreted negatively. The Chinese were skeptical about this information (Hsu, 1960, p. 158). However, they made steps to comply.

What is apparent at this time is that the Chinese did not fully understand Western law even though they indicated their acceptance of it by the signing of treaties. Ministers in the Tsungli Yamen know practically nothing of Western politics and Western modes of thought. Foreigners were popularly referred to by the Chinese as "devils" and Western learning was "devil's learning" (Meng, 1962, pp. 75-76). A popular name for foreigners used by the Chinese was "yang gwei(dz)" which translates literally as "the devil that came out of the sea".

The Chinese lack of understanding of international law is revealed in their ambiguity toward the norms of diplomatic privileges and immunities. Their actual espousal, their interpretation, and their application of these norms all differed (Shao and Chiu, 1972, p. 1). The evidence suggests that the Chinese never

fully expected to have to be encumbered by the presence of foreigners in the capital for a long period of time. As in earlier eras, they still felt that they had nothing to gain from diplomatic contacts. In addition, they could not be expected to relinquish the feelings of superiority that they had harbored for centuries. These feelings did not go away because they had to allow foreigners into their courts and what was agreed to in a treaty did not become part of the Chinese consciousness. A scholarly Chinese official's thoughts confirm this point. Feng Kueifen (1809-1874) wrote: "The most unparalleled anger which has ever existed since the creation of Heaven and Earth is exciting all who are conscious in their minds and have spirit in their blood, their hats are raised by their hair standing on end. The largest country in the globe today is yet controlled by small barbarians" (The Times, August 31, 1967). Despite what the Chinese thought of themselves, Westerners regarded them as uncivilized. They did not meet the requirements of civilization as prescribed by Europeans (Gong, 1984). In an effort to help the Chinese to understand their obligations under international law, Robert Hart of the Chinese Maritime Customs, translated twenty essays from

Wheaton's Elements of International Law into Chinese in 1862 (Gong, 1984, p. 126; Hsu, 1960, p. 153).

Westerners continued to try to help the Chinese move forward by constantly encouraging them to send missions abroad. The success of a temporary mission sent in 1862 by a reluctant Chinese Prince Kung paved the way for the first permanent mission sent by the Chinese to the West. This mission sent in 1875 was headed by the retiring American ambassador, Anson Burlingame. Burlingame was accompanied by two Chinese officials. He is said to have suggested to the Prince that he become China's ambassador (Wright, 1957, p. 277).

It is difficult to ascertain the motives of the Prince in appointing Burlingame. It is quite possible that he considered the mission only a ploy to placate the incessant pleadings of the diplomats in Peking and therefore he gave no serious thought to the selection of the ambassador. It is also possible that he believed Burlingame's sincerity when he stated that he would look after China's interests abroad. And it is equally likely that he was astute enough to expect that it would be easier for one barbarian to check on another.

The Burlingame mission was a success. This fact

probably aided in the decision of the Manchu dynasty to send other missions abroad. It took fifteen years for the court to decide to send diplomatic missions abroad after they were established in Peking. However, the Chinese still were not inclined to accept diplomacy as a normal function of state. They had not yet undergone the psychological transformation which would have enabled them to completely accept the Western regime. Chinese public opinion continued to be "anti foreign" (Hsu, 1960, p.202). The exact views of Chinese leaders at this time are unclear. Although there appeared to be open espousal of the value of diplomacy, this view was obviously not unanimous as the examination of the Boxer Rebellion illustrates.

The Boxer Rebellion

During the latter decade of the nineteenth century China experienced a rapid disintegration of internal power. This disintegration encouraged the attempts of the Western powers to acquire control of the country. Diplomats in Peking were especially useful in facilitating the "land grabs" that were common during this period. As a result, diplomats also became the targets for the venom which the Chinese unleashed on foreigners in retaliation. Diplomats were viewed with

suspicion from the outset; now these suspicions were confirmed as they became more numerous and as they cooperated with their home countries to seek control of the resources of the Chinese Mainland (Davids, 1981).

Strong anti foreign sentiment permeated not only the court under the Empress Dowager, but the scholars, the officials, the gentry, and the people at large in China (Hsu, 1983, p. 387). An increase in foreign activity in Peking resulted in militancy. Some writers believe that this militancy might have abated had it not been for the bad weather of 1898 that seriously affected the grain harvest in some provinces and the floods that left many homeless in others. The peasants were convinced that their misfortunes were due to the presence of foreigners with "evil spirits". A popular rumor, which predicted that the problems would be solved if the Chinese cut off the heads of the foreign devils, circulated. Thus, an "anti foreign" movement sprang up in late 1899. This movement came to be called the Boxer Rebellion. "Boxers" was the name given by foreigners to a Chinese secret society called the "I-ho ch'uan", or the "Righteous and Harmonious Fists", since the members practiced old style calisthenics (Hsu, 1983, p. 390). The Boxers claimed

to have mystical powers that made them immune to the guns and other weapons of foreigners. They provided the atmosphere, if not the impetus, for abuse to the privileges and immunities of diplomats in China (Hsu, 1983, p. 393; Clements, 1915). News reached the legations daily of Boxer riots and the deaths and damage to the property of foreigners at the hands of the Boxers in the outlying provinces.

It was therefore understandable that when the Assistant Secretary of the British legation was assaulted by a group of troops, who had ostensibly come to Peking to be reviewed, there was concern that Boxer hostility had come to Peking. The British ambassador protested to the Tsungli Yamen. He demanded the removal of the troops to a safe distance and insisted that the offenders be punished. Initially, the Tsungli Yamen seemed apologetic and agreed to take care of the matter (Clements, 1915 p. 90-91). The matter was not resolved to the satisfaction of the diplomats. Moreover, it was just the start of the difficulties that were to occur between the Yamen and the diplomats which resulted in the complete disregard for all diplomatic privileges and immunities.

A series of notes exchanged between the diplomatic

community in Peking and the Tsungli Yamen convinced the diplomats that they were in need of protection from their home governments (Davids, 1981; Foreign Relations of the U.S., 1895, p. 199). Although the Tsungli Yamen stated that there were no provisions in treaties with foreign powers permitting legations to have a military guard for protection, the foreign diplomats insisted on the presence of these troops. Mr. MacDonald, the British minister, was reportedly begged by Prince Ching of China to reconsider the decision. MacDonald is said to have told the Prince to "accept the inevitable, and to accept it gracefully". The Chinese obeyed and foreign troops arrived via trains provided by the government (Clements, 1915, p. 94).

While foreign troops were present in Peking there was no violence from Boxers either in the city or in nearby provinces. Thus, in the spring of 1900 the foreign troops departed Peking. It is ironic that precisely during this time Boxer activity in China increased and conditions for all foreigners worsened (Steiger, 1967, pp. 173-175).

By winter it became apparent to the diplomats that the Manchu court was sending contradictory messages to

the Chinese people and to the diplomatic community. Initially, the Empress Dowager was thought to have condemned the Boxers. The diplomats later learned however that the Empress expressed to the governors, viceroys, and provincial commanders that China was ready to fight to rid herself of the "ruthless foreign invaders" (Davids, 1981).

In January, the American, French, British, and German ministers met to compose a joint note to the Yamen. The note called attention to the possible bad effects of the government's apparent encouragement of Boxer activity (Steiger, 1967, p. 188). The Yamen's response to the note came several weeks later and was characteristically vague.

Thus, on the evening of May 28, 1900 after receiving a report that the Boxers had attacked several major railways the diplomats decided that once again they needed to ask for protection from their home governments (Tan, 1967, p. 63). Before help could come however the legations were informed by the Yamen that they should leave the country immediately because the government could no longer protect them. The diplomats decided that they could not comply with an immediate request to leave. In a joint meeting they decided to

ask for an audience with the Yamen leaders (Davids, 1981, pp. 83-84). However, before the audience was granted there were several attacks on the small detachment of legation guards and on June 20, Boxers murdered Mr. von Ketteler, the German minister (Anderson, 1978, p. 181).

Boxer troops then sieged the legation headquarters in June. It was the obvious connivance of Chinese leaders with the xenophobic forces that made the Boxer rebellion so diplomatically explosive (Wakefield, 1975, p. 155; Fishel, 1974, p. 26). For forty five days, the imperial forces in Peking and 200,000 Boxers besieged the foreign legations. During the siege Chinese officials were allowed to invite foreign diplomats and their families to move to the Yamen for safety. They also offered to send foreign ministers to Tientsin under military escort. The diplomats were suspicious however; they preferred to wait in the legation quarters for relief. During a twelve day period of conciliation attacks on the legation were suspended. At this time the Yamen twice sent cartloads of vegetables, watermelons, rice, and flour to the legations (Hsu, 1983, pp. 396-397).

Foreign armies arrived in China in August and

quickly defeated the Chinese. They killed indiscriminately, without regard for who was Boxer and who was not (Archer, 1974, p. 3). They looted warehouses filled with furs and silks; they even took gold pins out of the hair of women (Martin, 1968, p. 147). Journalist Thomas Millard reported that "every town, every village, every peasant hut in the path of the troops was first looted and then burned (Archer, 1974, p. 3). The Armies perpetrated atrocities against the Chinese people (Duiker, 1978). The Boxer rebellion was crushed.

Summary and Conclusions

What seems clear from the Boxer Rebellion when one examines the actions of the government is that the Court, while initially ambivalent toward the Boxers, came to regard them in later months as a way of ridding China of foreigners. The attack on the legations was made with full knowledge and support of the Dowager (Hsu, 1983, p. 395). While the Empress had no particular antipathy against the West she was forced to ally herself with the reactionaries in order to crush her rivals in the government. Her activities against the Emperor and his associates resulted from her personal motives; she wanted to remain in power

(Clements, 1915, p. 100).

Therefore the Court pursued two contradictory policies at the same time toward the Boxers. The southern provincial governors wanted peace and the suppression of the Boxers. When they indicated their desires to the government the Empress indicated in her decrees that she was in sympathy with them; but, she was also in sympathy with those around her who wanted war (Martin, 1968, p. 152). Therefore, she did not adopt any anti foreign measures at first. In fact the Court held to policies of protecting foreigners. When Mr. Brooks, a British missionary was killed in one of the provinces the Court issued an edict ordering the capture and punishment of the offenders (Tan, 1967, pp. 57-60). It appears however, that in the view of the Court, it was one thing to protect foreigners and quite another to suppress the Boxers.

The Boxers, for their part, believed that they were carrying out the will of the government. They interpreted the decrees from the Court as customary Chinese deceit designed to mislead foreigners (Martin, 1968; Clements, 1915; Steiger, 1967). It appears that the Chinese people understood clearly what was happening for they were reading between the lines of

the decrees (Duiker, 1978, p. 50). The diplomats, on the other hand, were not as knowledgeable. The fast pace at which the Boxers were able to amass followers in the countryside and later in the cities (Duiker, 1978) suggests that the people were not in sympathy with the government in its dealings with the West.

The Boxers gradually became national in character and increased their numbers substantially; they reached a point where the government could not subdue them. Perhaps this fact accounted for the government's decision to organized them into a militia, finance them, and place ministers in command of them (Foreign Relations of the U.S. 1900, p. 190). The government then led the Boxers in a war against the foreign invaders (Clements, 1915).

Thus, it appears that the Chinese had not voluntarily subscribed to the regime at this time. They had been forced into acceptance in the face of the superior military power of the West. The government appears to have felt some obligation to protect diplomats initially but, this sense of obligation seems to have faltered in the wake of a belief that China might finally rid herself of them entirely. It is

ironic however that because there was no consensus in the Court on this view the diplomats were not killed during the siege of the legations. It was primarily because of the dominance of one of the moderate factions of the Court that the diplomats went unharmed during the summer of 1900. The Empress had ordered the diplomats killed, however one minister substituted the word "protect" for "kill" in an outgoing telegram (Latourette, 1951, p. 436).

The European states and the United States of America regarded the Boxer Rebellion as a threat to the norms of civilized society (Gong, 1984). Their response to the incident came in the form of the Boxer Protocol. The harsh terms of the Boxer Protocol suggests that these states were not willing to tolerate such a threat (Fishel, 1974, p. 26). Article seven provided for the stationing of foreign troops in the legation quarter (MacMurray, 1921, p. 308). Foreign ministers in Peking now organized themselves into a powerful diplomatic corps, functioning above the Manchu Court as a sort of super government (Hsu, 1983, p. 405), infringing upon the sovereignty of China. Finally, the Tsungli Yamen was altered and organized along lines similar to Western Foreign Ministries

(Foreign Relations of the U.S., 1901 p.901).

The Cultural Revolution

Western influence came to an end in China in 1949 when the government became Communist. Once again, Western states experienced hostility from the Chinese during the Cultural Revolution. Sixty seven years after the Boxer Rebellion the Chinese began a series of abuses to the norms of the diplomatic regime. Chinese actions during this period are difficult to analyze however, because one must view them against the background of Chinese diplomatic history as well as in terms of the theory and objectives of communism. What seems clear from the events of the Cultural Revolution in regard to abuses to diplomatic privileges and immunities is that the abuses were not due to a lack of recognition of the norms of the regime or to a lack of respect for these norms (Ardant, 1972, p. 108). Rather, it appears that the Chinese used the norms of the regime to distinguish between the ideological positions of the Chinese and all other powers. Thus, some of their actions appear to be based on past history, while some appear to be based on the doctrines of communism, and some appear to combine both Chinese and doctrinaire communist factors.

From 1911 on when the imperialist system in China was finally toppled and China went through a revolutionary phase which finally ended in a stable government, the traditional feelings of superiority remained in the minds of many Chinese people. Many Chinese harbored resentment for the insults China suffered in the early twentieth century (New York Times, August, 31, 1967). The government did little to win the hearts of the people (Duiker, 1978, p. 206). Unlike the ambivalence of the Dowager Court, the emphasis at this time was clearly on collaboration and cooperation with Western powers, specifically the United States.

The revolution of 1949 was therefore labeled a people's revolution. Although diplomatic relations were carried on after this time, embassies did not function in the traditional manner. Most embassies were collectors of the revolutionary followers of the methods of Chairman Mao (New York Times, August 31, 1967). Chinese diplomacy during this period is difficult to understand in terms of the norms and customs currently accepted in international society. Diplomats in China did not receive the kind of treatment to which they were accustomed. They were

restricted in their travel through the country and they were forced to live on the outskirts of Peking. Then too, Chinese diplomats abroad were different from other diplomats. They were often found trying to win converts to the communist revolution and they generally seemed deliberately trying to breach what Ardant calls the "reserve generally characteristic of embassies" (Ardant, 1972, p. 87).

The Chinese government seemed willing however to abide by the precepts of the Vienna Convention of 1961. Two cases illustrate this point. On April 29, 1966, a Chinese youth broke into the Peking Friendship Store and wounded the wife of the First Secretary of the Embassy of the German Democratic Republic. A three judge tribunal tried the youth and labeled him a "counter revolutionary" who intended to "provoke an international dispute" and to "spoil China's international reputation." The youth was sentenced to death (SCMP, June 17, 1966, pp. 1-3).

The second case involved the raiding of the Chinese Embassy in Djakarta. During the raid, which occurred on April 15, 1966, the Indonesians injured Chinese diplomats and shot a staff member. The Chinese lodged a protest calling the incident a "fascist outrage"

which "openly tramps upon the most rudimentary principles of international law and diplomatic immunity" (The New York Times, April 16, 1966).

The cases above indicate, to some extent, the actions and thoughts of the Chinese vis a vis the norms of the diplomatic regime. Their views were not consistent during this period however. Chinese leaders insisted that Chinese diplomats be accorded due respect for and protection of their personal freedom and dignity while they deliberately restricted the privileges and immunities of diplomats in Peking. The Chinese never openly declared that they did not consider the rules of diplomatic practice binding upon them (Ardant, 1972, p. 89). As in the case of their actions during the Boxer Rebellion however, again their espousal, their interpretation, and their application of these laws differed.

In 1955, for example, the Chinese government held the British responsible for the explosion of an Indian plane that stopped off in Hong Kong on its way to the Bandung Conference. Diplomats from China were on the plane. The Chinese argued that according to international law, diplomats were entitled to special protection and that the British in Hong Kong failed to

exercise "due diligence" to avoid the "sabotage" of the plane (Shao and Chiu, 1972, p. 180).

However, despite the sensitivity of the Chinese toward the treatment of their diplomats abroad and despite their open pronouncement of the prescriptions of international law concerning diplomatic immunity, incredible incidents occurred during the height of the Cultural Revolution. During the summer of 1967 the treatment of diplomats in Peking took a turn for the worse. The Chinese also stepped up their revolutionary activities in other countries during this time.

In June of 1967 an automobile crash in East Germany in which four Chinese diplomats were killed sparked a major dispute between the two countries. The East Germans were called "nazis, murderers, and modern revisionists." (New York Times, July 1, 1967, p. 2). Also in June, M.K. Raghunath of the Indian mission in Peking was charged with espionage for taking photographs in an unauthorized location. The Chinese ordered him deported immediately. He was harassed and beaten severely on his way to the airport. Other Indian diplomats who came to see him off were also beaten (New York Times June 14, 1967).

Foreign embassies in Peking became ideal places for

the Chinese people to reaffirm their hatred of foreigners. In 1967 the embassies of France, the Soviet Union, Yugoslavia, Mongolia, Bulgaria, Indonesia, India, Great Britain, and Kenya were all targets of massive demonstrations by the Chinese people. The demonstrations seemed to follow a similar pattern. Thousands of people would march past the embassy building in an orderly manner for days or weeks at a time. The area targeted for demonstrations was equipped with first aid stations, water, and toilets beforehand. The activities of the demonstrators included shouting slogans, burning effigies of high level foreign leaders, breaking embassy windows, defacing embassy buildings, breaking into embassies and setting fire to inventories, and setting fire to cars outside embassies (Ardant, 1972, p. 109; New York Times, August 19, 1967). The British diplomats reported during this time that it had become the order of the day that Chinese terrorists humiliate foreign diplomats (The Times, August, 23, 1967).

The crisis reached an even higher level of violence in late August when the extreme left wing of the government took over the Ministry for Foreign Affairs. Prior to the takeover, complaints from embassy

personnel of mistreatment and abuse to the Foreign Embassy had been countered with the remark that "one can do nothing against the legitimate anger of the masses". Apparently, this statement meant that the Red Guards were in direct control. During this time serious incidents involving Chinese residents and members of Chinese diplomatic missions occurred in Burma, Cambodia, and Indonesia (Guillermaz, 1976, p. 439). The British mission was the scene of the most violent incident. On August 22, Red Guards set fire to the United Kingdom mission and completely gutted it. The charge d'affaires and several of his staff were beaten as they rushed out of the building (Gurtov, 1971, p. 351).

As mentioned earlier several explanations seem plausible when an analysis of Chinese diplomatic practice during this era is attempted. During an audience at the Ministry of Foreign Affairs in February, 1967, the Mongolian ambassador in Peking heard it said that diplomatic immunities were of bourgeois origin and that they had no place in a socialist society (Ardant, 1972, p. 94). One could therefore argue that the requirements of the socialist state precluded the obedience of the Chinese to regime

norms. This argument appears to have some validity in that China considered its diplomats "red fighters on the diplomatic front". They were often called back to Peking from their various assignments because they were living according to bourgeois standards. They were supposed to be exemplars of socialist standards (Ronning, 1974).

A second factor which lends credence to the above argument is that the Chinese idea of reciprocity was geographical and not bilateral. The Chinese expected that their own diplomats should be treated as all other diplomats in the countries to which they were accredited. It was not the case however that foreign diplomats in Peking should expect the same treatment. The Chinese government wanted to become a center for world revolution (Ardant, 1972, p. 87). Chinese diplomats used diplomacy to facilitate this goal; their objectives were therefore incompatible with those of other diplomats. Therefore they could not obey the same rules as the West.

Chinese diplomacy in this regard would appear to be a substitute model for the diplomatic rules of the Vienna Convention of 1961. This appears to be the

rationale behind the editorial in a Chinese newspaper: "the status of the foreign diplomat in China offers few guarantees of his well being. From day to day, he is subject to distrust depending on the evolution of relations between China and the state he represents. In this sense the most important diplomatic immunities do not exist in China since they disappear in time of crisis, that is when they are most needed" (Ardant, 1972, pp. 87-88). The tenets of the socialist state caused the Chinese officials to differentiate between the treatment accorded diplomats in Peking and to simultaneously expect that Chinese diplomats abroad should be treated in terms of the prevailing norms of the regime. The same tenets also required that the Chinese use their embassies abroad in an evangelical manner.

A second explanation for the actions of the Chinese during this period attempts to connect the activities to a desire on the part of the Chinese to attain retribution for past historical treatment. An analysis of Chinese diplomatic notes reveals that Chinese authorities were still affected by memories of the late nineteenth century period of Western imperialism. Familiarity with the diplomatic notes prepared by

Western embassies and a knowledge of the attention, the meticulousness, and the prudence with which the Chinese drafted their notes is indicative of this fact. The Chinese said things in very blunt terms with no room for compromise. They used every opportunity to confirm that they would not permit themselves to be mistreated and that they would not allow their homeland to be offended. They never seemed to request; instead they demanded or stated that they would not tolerate disregard. In an incident involving the Soviet Union, for example, the Chinese demanded in a note of protest to the Soviets that they present a public apology (American Foreign Policy: Current Documents, 1967, pp. 745-747).

Chinese authorities were said to have deliberately assumed an air of superiority toward foreign missions which obviously does not conform to the attitude that should govern relations between equal sovereigns. For example, ministers were made to come for appointments at inconvenient times and were informed on very short notice when they requested an appointment with a Chinese official. In addition, officials engaged in the most juvenile acts of name calling. On one occasion the Mongolian Minister of Foreign Affairs was

called a "mongol fox" by a spokesman for the Chinese Ministry. A Burmese representative was called a "clown", and the Soviet Defense Minister was called a "liar". In February of 1967 the diplomatic missions in Ceylon received an open letter from the Chinese charge d'affaires to the Soviet ambassador referring to Brezhnev and Kosygin as "pigs". Any encounter between a Chinese functionary and a foreign diplomat was deliberately planned so that the foreign diplomat would look inept, incompetent, or inferior to the Chinese functionary (American Foreign Policy: Current Documents, 1967, pp. 801-805). The long suppressed feelings of superiority on the part of the Chinese seemed to be resurging (New York Times, August 31, 1967).

A third explanation combines both the communist ideology with the revenge for past historical treatment explanation. This view suggests that the Chinese were undergoing what may have seemed to them to be major international setbacks. These setbacks were occurring in countries that had initially either shown sympathy with the cause of the Chinese or were socialist countries themselves. An analysis of these events appears to indicate that while the Chinese could not

endure second class treatment again, they also could not endure their failure to gather inroads for socialism in the world. By 1966, the People's Republic of China had friendly diplomatic relations and/or trade exchanges with at least twenty seven countries, including the Soviet Union and Japan (Chiu, 1981). The Chinese had not completely recovered from the loss of international integrity which occurred when China was denied membership in the United Nations. Blows which seemed equally as serious to her international integrity occurred after 1965.

The Chinese were unable to persuade the Afro-Asians to accept her agenda for the Second Bandung Conference, which included beginning the meeting by openly denouncing United States imperialism (American Foreign Policy: Current Documents, 1965, p. 636). Another disappointment took place during the travels of Chou En Lai, Chinese Premier, the first week of June, 1965. On his way to Tanzania, Mr. Chou made brief stops at Karachi, Baghdad, Cairo, and Khartoum. In his speeches he reiterated his statement from the previous year that the African continent was ripe for revolution. This statement resulted in criticism from some African countries, particularly Kenya (New York Times, June 13

and 28, 1965). During this same year Chinese diplomatic missions were expelled from Burundi, Dahomey, and the Central African Republic. Chinese technicians were also expelled from Ghana (American Foreign Policy: Current Documents, 1965, p. 635).

The Chinese were also disappointed by the agreement between India and Pakistan signed at Tashkent, on June 10, 1966. The Chinese were desirous of using the disagreement between the two countries as a bargaining chip to secure Chinese rights on the Tibetan border (American Foreign Policy: Current Documents, 1965, p.681). In addition the Chinese suffered major setbacks in Indonesia. These setbacks resulted in the decimation of the Indonesian Communist Party.

The statement issued by Fidel Castro, Prime Minister of Cuba in February of 1966 dealt another serious blow to the socialist mission of the Chinese government as well as to its international integrity. Castro accused China of increasing shipment and mass distribution of propaganda both directly from China and through its diplomatic representatives. Castro asserted that Chinese diplomatic representatives often tried to make direct contact with Cuban officers to

gain information. He warned the Chinese that he would not tolerate such meddling into the internal affairs of Cuba for it undermined the sovereignty of the state (New York Times, February 6, 1966). Chinese/Cuban relations sank to a low level after this protest.

These international setbacks gave rise to internal problems in China. The Foreign Ministry was weakened. This weakness at the center resulted in control of embassies by lesser officials. In some places, like Burma, Red Guard types were allowed to function by these lesser officials. The Foreign Ministry was too preoccupied with its own problems to counter the abuses which occurred during this period.

It appears that many of the more serious abuses to diplomatic privileges and immunities occurred without the permission of the government. For example, the Chinese leaders, after warning the British of "serious consequences" if they did not comply with the Chinese ultimatum on the Hong Kong situation, decided to use the Red Guards to carry out the threat. It was the decision of the Red Guards to burn the embassy however, a decision which the government regarded as going beyond reasonable bounds (Gurtov, 1971, p. 355). Moreover, in an interview with Edgar Snow, an American

writer on China, Chairman Mao admitted that he was not in control of the Foreign Ministry in 1967 and 1968 (Hsiung, 1972, p. 169).

It is also the belief of other "China watchers" that the Chinese government lacked control of the Red Guards and other officials who openly abused the privileges and immunities of diplomats during this time (Gurtov, 1971. p. 366; Saich, 1981, p. 49; Keesings Research Report, 1967). The movement simply became unruly. The government took measures to curb violent activities; but, it was not until September 1, 1967 when Chou En Lai ordered the Red Guards to return to schools and various educational institutions were reopened that the violence came to an end (Hsu, 1983, p. 705).

Summary and Conclusions

This chapter has provided answers to the following questions as they relate to the Chinese violations discussed: What kind of violations occurred? Why did they occur? What effect did the violations have on the regime? and What effect did the violations have on the international system?

A comparison of the abuses during the Cultural Revolution and the Boxer Rebellion suggests that while

the Empress Dowager, the power behind the Manchu government, used the Boxers to get even with Western powers (Hsiung, 1972, p. 169), the major abuses of the Cultural were not sanctioned by the government.

Another point of comparison is that while the abuses to the immunities and privileges of diplomats during the Boxer Rebellion had brought about swift and complete retaliation from Western powers, this time no military actions were taken. The Chinese were recognizably weak at the turn of the century, the China of 1967 was different. By this time the Chinese were developing nuclear weapons and putting disproportionately large shares of their industrial and scientific effort into military areas. They also had one of the largest armies in the world (Department of State Bulletin, 1966, pp. 682-695). Although Western nations may have wanted to deal with the violations of regime norms through military action, they were reluctant to do so.

It must also be remembered that the number of nations had increased by this time. Collective steps may have been taken by the international community against the Chinese had it not been for the presence of Third World states. The Third World states, who make

up a majority of the diplomatic corps, could not be counted on to join the Western states in a concerted effort against the Chinese.

The final points of the analysis concern why the abuses occurred and the effect of the abuses on the strength of the diplomatic regime. Again, it is important to note that even during the Boxer Rebellion the Chinese never questioned the validity of regime norms, although they flagrantly violated them. The abuses during the early 1900's probably occurred primarily because of the lack of reciprocity. The Chinese government allowed the masses to vent their xenophobia on the legations because they believed that they had nothing to lose.

During the Cultural Revolution however, Chinese law books declared that the Chinese extension of diplomatic privileges and immunities was "based on the principle of reciprocity and international comity". In addition, unlike the earlier era, many of the domestic laws or regulations indicated respect for the immunities and privileges of foreign diplomats (Hsiung, 1972, p. 156). It is unlikely therefore that the abuses were the result of an attempt by the Chinese government to undermine the strength of the diplomatic regime;

therefore no action from the international community may have been necessary.

Although the most highly valued and widely respected norms of the regime, the inviolability of the person of the diplomat and the inviolability of the mission premises were among the norms violated, the international community was left with the assurance after the Cultural Revolution that these norms were respected by the Chinese government. It was revealed in 1971 that a "revolutionary group" had virtually taken over the government during the latter phase of the Cultural Revolution (Hsiung, 1972, p. 169). Thus, while China was considered a pariah state during the mid 1960's, as of this writing the description is no longer applicable.

CHAPTER FOUR

REGIME VIOLATIONS: THE CASE OF IRAN

Iran, like China did not participate in the development of the diplomatic regime. She too, was regarded as uncivilized at the turn of the century. However, Iran had demonstrated her acceptance of international law by the signing of multilateral and bilateral treaties with Western powers as well as through her participation in the diplomatic regime. Nevertheless, the Iranian government showed marked disrespect for the same two norms discussed in the previous chapter, the inviolability of the diplomat and the inviolability of the mission premises.

The Iranian violations took the Chinese violations further in that diplomats were held hostage for over four hundred days. Although hostage taking is common in the Iranian culture (Ramazani, 1982), diplomats were obviously supposed to be immune.

This chapter discusses the Iranian violation in a further effort to examine regime compliance. The chapter seeks to explain why the violation occurred and the effect of the violation on the regime and on the international system. Iran's return to customary ways during its Islamic Revolution may suggest that the

country adopted the norms and rules of the diplomatic regime superficially. This chapter explores that suggestion as it attempts to link the national policies of the country to regime compliance.

Since this violation was more harsh in its effects on the international system, primarily because of its lengthy duration, this chapter includes a discussion of the provisions of the Vienna Convention that are applicable. Then too, since the response of the international system to this violation came through its procedural component, the chapter includes a discussion of the role of the United Nations and the International Court of Justice in solving the crisis.

The two vital norms of the diplomatic regime mentioned above were violated when Iranian militants stormed the American Embassy in November of 1979 and took American consular and diplomatic personnel hostage. The unwillingness of the Iranian government to give adequate protection to the embassy personnel and the embassy premises resulted in total disregard for the inviolability of the person of the diplomats as well as the inviolability of the mission premises (Terry, 1982). Although the government may not have initiated the encounter, its complicity afterwards

makes the hostage taking incident an act of state supported terrorism and a serious abuse to the norms of the diplomatic regime. Upon seizure of the hostages Iran became an instant pariah in the world (Sick, 1985, p. 255).

Much has been written about the event and the factors leading up to the event by some of its leading participants. This case study is not intended however to be a decision-making analysis. Discussions involving decision making are included only as they are relevant to the diplomatic mechanisms for handling the abuse. The effect of the event itself on regime norms is under scrutiny; judgments regarding the capabilities or motives of the principle decision makers are beyond the scope of this study. Since most of the information was written from an individual perspective, it was often inconsistent. Many of the contradictions were reconciled in an interview with President Jimmy Carter.

In addition to the violation of time honored regime norms, the seizure of the American Embassy in Teheran and the kidnapping of American diplomatic and consular staff involved a number of legal and political questions. However, this case study will focus on the abuse itself and its effect upon the international

system and the regime mechanisms for handling violations. In an attempt to discuss and analyze this event in a decisive manner the study begins by examining the relationship of the United States and Iran in its recent historical context.

United States/Iranian Relations: An Overview

American diplomats, and political leaders experienced their first sustained encounter with Iran during World War II (Sick, 1985, p. 5). During World War II Iran looked to the United States to help rid her of the occupation of the British and Soviets, who believed that Reza Shah Pahlavi then ruler of Iran, was a Nazi sympathizer and forced him into exile in Johannesburg, South Africa in 1941 (Rafizadeh, 1987, p. 309). Under pressure from the United States these two governments signed a treaty, the Teheran Declaration, which guaranteed the territorial independence of Iran. In the belief that Iran would fall without strong support from the United States government, the United States expanded its diplomatic and intelligence presence there in order to oversee the respect for the Teheran Declaration (Taheri, 1988, p. 15; Sick, 1985, pp. 6-8).

As a part of the obligation to keep Iran

independent the United States participated in a plan to oust the Iranian prime minister Mossadegh, who with the aid of the Soviet Union, threatened the power of Mohammed Reza Pahlavi the young son of the exiled Iranian ruler, (Sick, 1985, p. 7). The overthrow of Mossadegh, which was perceived in Iran as an American coup (Ramazani, 1982, p. 76), had a traumatic and enduring impact on Iranian public opinion (Ioannides, 1984, p. 98). This event marked the beginning of anti American sentiment in Iran (Taheri, 1988, p. 39).

From 1953 on the United States government took an active role in Iranian internal affairs (Ledeen, 1980, p. 17). The United States placed Mohammed Reza Pahlavi securely on the throne and created an intelligence organization in Iran known as SAVAK and instructed its members in modern intelligence methods (Ramazani, 1982, p. 73). The Shah used SAVAK as a means of political repression as he sought to consolidate his power and crush the opposition from religious leaders, political and intellectual dissidents and other segments of the Iranian population. He conducted unlimited warfare among dissidents (Sick, 1985, p. 26). As a result of his repressive measures the Shah eventually alienated 98 to 99% of the Iranian

population (Falk, 1981). In addition, the use of SAVAK for political repression added to the anti American sentiment in Iran (Ramazani, 1982, p. 73; Taheri, 1988, p. 44).

The Shah's political problems were internal (Terry, 1982; Taheri, 1988, p. 39-40). He had opposition from major segments of Iranian society, the most important of which was the clergy. Since he was linked to the ancient traditions of the country rather than the Islamic pattern, which was more recent, he was in conflict with the religious forces in Iran (Ledeen, 1980, p. 6). In his attempts to modernize the country the policies of the Shah were often in conflict with those of the mullahs, the religious leaders.

The bazaar merchants who made up a traditional merchant class in Iran were also opposed to the Shah because of his modernization programs. The introduction of the Western banking system deprived them of their money lending operations while the plans for the construction of new commercial and shopping areas would physically remove them altogether (Ledeen, 1980, p. 31). In addition, the Shah had political opposition from those who disliked his close

association with a foreign power.

The United States' role in Iranian affairs also included influencing some of the decisions of the Shah, clearly linking the United States to the Shah's repressive policies (Ledeen, 1980, p. 17). Then too, the presence of a large American community ranging from embassy personnel to peace corps volunteers and journalists acted as an irritant to the Iranian community because of stark differences in lifestyles. The large American community in Iran also provided further indication that the shah was influenced by the United States (Ledeen, 1980, p. 31-32. The United States government did nothing to abate the bitter feelings that developed among the Iranian people toward the country.

Tensions between the United States government and Iran surfaced for the first time during the Kennedy administration over the issue of arms and economic and social reforms (Ramazani, 1982, p. 74). The Kennedy administration was concerned about the number of weapons that the Shah was requesting (Ledeen, 1980, p. 17; Terry, 1982). As the result of a warning from Khrushchev at a summit meeting in 1961 that the Shah was heading for a fall because of his excessive

military expenditures and lack of attention to the problems of the masses. Kennedy requested the State Department to write new guidelines on United States policy toward Iran. The new policy demanded that the Shah cut his military expenditures and devote more resources to economic development. The Shah responded by appointing a new Prime Minister who had spent some time as Ambassador in Washington to comply with the State Department policy (Taheri, 1988, p. 51).

Eventually however, in the belief that reforms would be destabilizing, United States' policy reverted to its former status. A stable Iranian government was seen by the United States government as necessary to secure its interests in the Persian gulf (Alexander, 1980, p. 318; Sick, 1985). The effect of the attempted policy change had lasting ramifications however. The Shah never forgot the chill in Iran/United States relations during the 1961-1962 period and he was careful to avoid a future recurrence (Taheri, 1988, p. 52). In addition, the Shah's Prime Minister, Amini was viewed as "Washington's man" (Sick, 1985, p. 11). Although this view was more myth than fact, it served to create further resentment toward the United States by Iranians (Taheri, 1988).

The Shah dismissed Amini and introduced his own reform program which he called the "White Revolution". (Sick, 1985, p. 11). This modernization program resulted in massive demonstrations throughout the country, led by Ayatollah Ruhollah Khomeini and other members of the clergy in June, 1963. The Shah's troops responded with force, Khomeini was arrested, theological schools were invaded by the military and thousands of demonstrators were shot (Sick, 1985, p. 61).

Khomeini objected to three specific moves on the part of the Shah: the distribution of land among the peasants, the granting of electoral rights to women and the provision of limited immunity rights to some of the United States service men attached to the military aid missions in Iran. It was this last measure however, which was a standard clause that the United States included in all its military cooperation agreements, which became the subject of most of Khomeini's speeches. Khomeini and his supporters saw the granting of immunity to United States citizens as capitulation to the wishes of the United States (Taheri, 1988, p. 52) as well as a challenge to Iranian independence (Ramazani, 1982, p. 76). Then too, Khomeini charged

the United States with responsibility for Iran's misfortunes in general (Ramazani, 1986, p. 78).

One week after he delivered one of his anti American speeches Khomeini was exiled to Turkey. His exile was believed to have been ordered by the United States for in this particular speech he called on the Shah to admit that the United States government was "occupying" Iran or throw Iranians out of the country. When on November 4, 1964 Khomeini was exiled the conclusion was that the allegations in his speech were true (Ioannides, 1984, p. 98).

The political significance of Khomeini's exile was not realized at the time. The exile was later interpreted as the direct result of his opposition to the granting of special rights and privileges to Americans in Iran (Sick, 1985, p. 11-13). Again, this was grist for the mill of those who were opposed to the influence of the United States in Iran.

The exile of Khoemini marks the beginning of the Shah's road to absolute power. By 1972, he was at the peak of his personal power. In that year the United States agreed to substantially increase the number of uniformed United States advisers and technicians living and working in Iran as well as to provide the Shah with

sophisticated non nuclear technology. In return the Shah agreed to protect Western interests in the Persian gulf region (Sick, 1985, pp. 14-15). Although this policy was in keeping with the Nixon/Kissinger doctrine of buttressing regional forces, it was considered unwise by many segments of the American government, including the Department of Defense. The Shah took full advantage of this policy which allowed him to purchase all of the non nuclear weapons that he desired from the United States (Sick, 1985, p. 87; Taheri, 1988).

Unfortunately, many of his weapons purchases were used against Iranian citizens as he attempted to gain support for his modernization policies which became increasingly unpopular. Because the weapons came from the United States, the United States was implicated in the acts of violence which took place. In retaliation, violence against United States citizens began in Iran. In addition to isolated incidents of bombings earlier, three bombs were exploded in Teheran during President Nixon's visit in May, 1972. It appeared that neither the United States government nor officials in Iran tried to understand the motivations for these acts of violence (Ramazani, 1982, pp. 89-90).

In the meantime in the face of mounting domestic opposition (Ramazani, 1982, p. 93), the Shah announced his "liberalization" policies in 1976. He opened universities to women, removed the requirement that women wear the chador(veil), released some political prisoners, took land from some of the religious leaders as public domain, and established groups and commissions to hear the complaints of the people ((Ledeen, 1980, p.7; Bill, 1988, pp. 221-222). The Shah stressed liberalization and the need for a strong regime with his own role predominant (Bill, 1988, p. 225). The measures relieved some of the tensions that had been building in the country however, they further weakened the power of the mullahs (Ledeen, 1980).

By 1977 the American strategy of relying on Iran as a blanket of protection in the Persian gulf, the Shah's liberalization program and the pattern of demonstrations and other acts of violence against the American government was already established in Iran. This was the situation that Jimmy Carter inherited when he took over the American presidency in that year.

By 1977 the pattern of opposition in Iran changed. Whereas the 1970-1976 period witnessed opposition primarily through sporadic acts of violence, by 1977

opposition was organized. In May and June of 1977 declarations protesting judicial changes and calling for an end to censorship were signed by Iranian lawyers and dissidents and distributed. A copy of one of these declarations was sent to Ambassador Sullivan and others at the American Embassy. Also at this time student leaders began to intensify their opposition at various Iranian universities, colleges, and other institutions of higher learning (Ramazani, 1982, p. 92). Thousands of young Iranians looked to the Islamic movement, which began in the 1970's, as a force of liberation from the oppression of the shah's regime (Bill, 1988, p. 216).

The anti Shah revolt became more and more anti American. President Carter could say or do nothing to convince Iranians that the Shah was not "Washington's man" and that the United States was not directly responsible for acts of violence against dissidents (Sick; 1985, p. 61). The older generation of Iranian intellectuals opposed to the Shah resented the United States for its role in the overthrow of Mossadegh and the exile of Khomeini. The younger generation also disliked the United States for what it perceived as United States support for corrupt and dictatorial regimes in the Third World. The United States was

especially disliked for its role in Vietnam (Taheri, 1988, p. 73). Then too, the younger generation considered the United States Embassy in Teheran to be a "den of spies" (Ioannides, 1984, p. 99).

Numerous riots ushered in the Iranian Revolution of 1978-1979 which was destined to eliminate the Shah's regime and the influence of the United States in Iran (Taheri, 1988, p. 96). However, few people understood what was actually happening (Ramazani, 1982, p. 125). Ambassador Sullivan wrote to Secretary of State Vance at this time that religious forces were "stirring". He indicated that measures should be undertaken to counteract these forces (Sullivan, 1977).

The American Embassy in Teheran did not appear to take the Islamic Revolution seriously (Taheri, 1988, p. 96). There are probably at least three reasons for the lack of attention to the Islamic Revolution on the part of the American Embassy. First, the United States seemed to believe that all it needed in Iran was the Shah's friendship (Taheri, 1988, p. 74; Sick, 1985). During the thirty seven years that the Shah had been in power he had survived crises which seemed no less severe than the riots of 1978 (Sick, 1985, p. 48). Therefore, despite repeated attempts by the

revolutionary mullahs to open up a channel of communication with Washington, from the summer of 1978 onwards, the embassy showed no signs of cooperation. Diplomats did not spend much time with people who could offer insight into what the mullahs really wanted from their revolution (Taheri, 1988, p. 98).

The second reason relates to embassy capability. Unlike other foreign embassies in Iran which had more than trebled in staff since 1965, the American Embassy was understaffed and therefore unable to handle the complex situation (Taheri, 1988, p. 81). Since most of the contacts with opposition groups had been lost over the years there was no way to check the veracity of reports coming from SAVAK and other government organs regarding the impending revolution (Taheri, 1988, p. 93; Rafizadeh, 1987, p. 313).⁴ The American intelligence community was not active during this time due to the scandals of the mid-seventies in the United States (Ledeen, 1980, p. 131). Third, no Iranians stepped forward soon enough to warn the United States of the impending revolution because they felt that they would get into trouble with SAVAK (Rafizadeh, 1987, p. 312). The Shah saw contacts between the Embassy and his opponents as a sign of American intrigue against

him (Taheri, 1988, p. 95).

On November 2, 1978, the United States Ambassador William Sullivan stated in a telegram sent to the White House, that he had detected the first signs that the shah might be considering abdication (Sick, 1985, p. 3). Thus, the situation in Teheran appeared to have become more serious. However, there is a breakdown in consensus in the United States foreign policy establishment on U.S./Iran policy at this time (Ledeen, 1980, p. 35; Sick, 1985). Although the State Department accepted the veracity of Embassy reports, members of the National Security Council often had perceptual differences. The diverse perceptions within the Bureaucracy was reflected in the instructions or lack of instructions sent to the Embassy, according to the ambassador (Sullivan 1980).

Two views on U.S./Iran policy were dominant. The State Department view was that the Shah's liberalization policies should continue. The National Security Adviser on the other hand believed that the U.S. should adopt a two pronged policy of crushing opponents and giving full concessions to those who only wanted to share power (Taheri, 1988, p. 97).

The Shah appeared to believe that his

liberalization policies would save him as well as please the American government. He offered concessions to more and more groups rather than assert his own authority (Ledeen, 1980, p. 33). In actuality his liberalization policies amounted to placing former officials in prison while allowing more scope for agitation from opponents (Taheri, 1988, p. 95). Ultimately, therefore the policies served to increase opposition. Rioting and general political unrest became more widespread in Iran.

Although he was losing ground the Shah refused to consider the institution of a military government despite the advice from Washington (Carter, 1982, p. 439). It is difficult to reconstruct the views of the Shah at the time. It is now known that he had serious health problems in addition to his political problems. According to some reports the Shah found himself dealing with increasing domestic opposition and a perceived lack of concern on the part of the United States (Ramazani, 1982, p. 92) and according to others leaders in the United States government did everything in their power to assure him of their support (Carter, 1982).

U.S./Iranian Relations After the Islamic Revolution

On January 16, 1979 however, after appointing a new civilian government, the Shah left Iran for a "visit" to Egypt. His physical absence was a signal to the revolutionary leaders to take control. On January 31, 1979, Ayotollah Khomeini returned to Iran. The Iranian people were offered a choice between a monarch and an undefined Islamic Republic, they chose the Islamic Republic (Rafizadeh, 1987).

From the beginning the United States expressed its support for the new Islamic Republic and its leaders appeared willing to maintain a friendly working relationship (Carter Interview, April, 1988). In February 1978, when the United States Embassy was attacked and about a hundred Americans were held hostage by revolutionary demonstrators, the government forces moved in quickly and took control of the situation (McFadden, 1981, p. 254). The Iranian government promised to take extra steps to protect the Embassy (Rafizadeh, 1987, p. 314). The United States apparently had faith in the words of the Iranian government for sensitive documents apparently remained in the Embassy.

The Iranian government was not cohesive however. What was said by one official was often contradicted by

another. There were secular as well as religious leaders who were adhering to differing sets of principles and mandates within the government (FBIS LD081743 Teheran Keyhan in Persian 0925 GMT 6 February 1980, p. 12 LD; Alexander 1980, p. 466; Vance, 1983, pp. 375-376). Khomeini demanded, among other things, that the United States extradite the Shah and return his assets to the Iranian people.

There were younger and more radical members of the Iranian government. Through a series of acts of intrigue they obtained classified papers from the State Department indicating United States plans vis a vis the Shah. These papers supposedly contained information that created the fear that the events of 1953 would be repeated. It was felt that the United States was planning to restore the Shah to the throne in Iran (Ioannides, 1984, p. 93).

On October 22, 1979, the Shah was admitted to the United States for medical treatment. The day before the United States requested and received assurances from the Iranian government that the Embassy would be protected (Vance, 1983, p. 372). However, on November 4, 1979, Iranian "students" stormed the American Embassy in Teheran took the diplomatic and consular

staff hostage and vowed to stay there until the Shah was returned to Iran to stand trial. The Iranian government did not respond to the repeated calls for help from Embassy occupants as the siege was taking place (Alexander, 1980. Taheri, 1988).

It was perhaps more than just coincidence that the day of the Embassy takeover marked the fifteenth anniversary of Khomeini's exile to Turkey. Although clerical leaders such as Dr. Beheshti and Dr. Bahonar, who seemed to have had major decision making roles in the Islamic Government, were conscious that the taking of diplomats hostage violated a fundamental principle of international law and that it was also against Islamic law and custom,⁵ they condoned the act of the revolutionary "students" (Ioannides, 1984, pp. 96-97; McFadden, 1981, p. 258; Terry, 1982). However, the Prime Minister, Barzagan, resigned in protest (New York Times, November 6, 1979; McFadden, 1981).

The "students" vowed to kill the hostages if the United States attempted to rescue them. The hostages were also threatened with criminal trials. Although the Embassy staff tried desperately to destroy sensitive documents, the "students" obtained documents which they said fully proved United States intervention in Iranian

internal affairs (FBIS LD052133 Teheran Domestic Service in Persian, 1720 GMT, 5 Feb. 80 LD). Through its acts of commission and omission the Islamic Republic of Iran violated four fundamental and longstanding treaties with Iran. This study is concerned with only one of these treaties, the Vienna Convention on Diplomatic Relations of 1961.

When the Islamic Republic of Iran refused to protect American diplomatic agents and premises in 1979 the government ignored legal obligations imposed by the diplomatic conventions to which Iran was signatory. Pursuant to Article 29 of the 1961 Vienna Convention, Iran was legally obligated to treat each American diplomat with "due respect" and to take "all appropriate steps to prevent any attack on his person, freedom, or dignity", "and to ensure that diplomatic personnel were not subjected to any form of arrest or detention". Article 37 of this Convention extended these same privileges to family members and members of the administrative and technical staff.

When the regime threatened the hostages with criminal trials, the provisions of Article 31 apply. This article exempts diplomatic personnel from the criminal jurisdiction of a host state and frees them of

any obligation to appear as witnesses. The government failed to ensure the protection of archives and documents as required by Article 24.

A special duty to protect diplomatic agents and the mission premises is imposed by Article 22 of the Vienna Convention 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". Ironically, at the Vienna Convention Iran had been particularly vigorous in insisting that the special duty of protection not be qualified in any way, even under exceptional circumstances (Denza, 1976).

Despite the multiple violations of the Vienna Convention with respect to the United States, the government of Iran continued to respect diplomatic law in its relationship to other countries (Terry, 1982; Watson, 1982, p. 140). This fact, which may shed light on the intensity of Khomeini's anti American feelings, makes it difficult to translate the incident into a legal context. Khomeini apparently was not renouncing the norms of the diplomatic regime. From his perspective it was American interference in the overthrow of Mossadegh that delayed the Islamic

Revolution for nearly thirty years (Terry, 1982).

Therefore throughout the conflict both countries attempted to invoke the norms of international law as justification for their respective claims and actions. The United States appealed to the United Nations through the Security Council on November 9, 1979. The Security Council responded with the passage of a resolution calling for the release of American nationals in Iran and the return of the American Embassy. The Iranian government ignored this resolution. A second resolution reiterating the same request was also ignored by Iran. In a letter to the Security Council, UN Secretary General Kurt Waldheim, called the holding of the U.S. nationals "a grave situation " posing "a serious threat to international peace and security (UN Doc, S/13646, 1979).

Concurrently the United States appealed to the International Court of Justice. The United States requested that the Court order the Iranian government to release all United States nationals in Iran, restore control of the Embassy and Consulates to the United States, refrain from placing any consular and diplomatic personnel on trial or before an international commission and to ensure that no action

be taken which might prejudice the right of the United States pending a final judgment (International Court of Justice Report, 1982).

Although the Iranian government chose not to be represented before the Court, the Iranian Minister for Foreign Affairs, Sadegh Ghotbzadeh, sent a telegram to the Court. The telegram stated that the issue of United States nationals in Iran was only a "marginal and secondary aspect of an overall problem". He charged the United States with more than twenty five years of interference in the internal affairs of Iran and of "shameless exploitation of the country". Ghotbzadeh stated further that it was a matter within the national sovereignty of Iran. He raised two objections to the United States request outlined above. First, he stated that the request implied that the Court should judge the merits of the United States case only. Second, since provisional measures are intended to protect the interests of all parties to a dispute, they cannot be applied unilaterally as the United States requested.

The Court however rejected the Iranian claim that the matter was internal rather than international. The justices drew a distinction between the claims of Iran

that the point at hand was the interference of the United States in the internal affairs of Iran and the duty to preserve the norms of the diplomatic regime. The Court ordered that United States personnel be afforded all the "privileges and immunities to which they are entitled under the treaties in force between the two states, and under general international law (International Court of Justice Report, 1982).

However, the Islamic Republic chose to ignore the pronouncements of the decision making component of the regime. Apparently for them, international law was a two way street. It was American diplomats whom they perceived as having violated international law by conspiring against the revolutionary regime which had the support of the Iranian people (Ioannides, 1984, p. 97). Thus, the Islamic Republic claimed that its behavior toward the diplomatic regime should be excused.

Although there are scholars who agree with the Iranian claim that international law is a two way street (Falk, 1981), the United States claims were clearly on the side of international law. The primary reason for the holding of the hostages as given by the "student" captors as well as by Khomeini was the United States refusal to extradite the Shah (FBIS D040046

Teheran Domestic Service in Persian, 2112 GMT, 3 Feb. 80 LD; FBIS NC041012 Doha QNA in Arabic, 0925 GMT, 4 Feb. 80 NC). Since there was no extradition treaty between the United States and Iran the United States could not have legally extradited the Shah. Then too, the Shah was accused of "political crimes" which do not generally come under the purview of extradition treaties.

Summary and Conclusions

This chapter has examined the causes of the Iranian violation. It has also assessed the effect of the violation on the regime and on the international system.

This abuse is unique in that negotiations could not always be described as "government to government", despite the indications in the foregoing discussion to that effect. It was often difficult to determine who was really in authority in Iran. The abuse was apparently planned and carried out by the younger, more radical Iranians (Carter Interview, 1988), mentioned in this discussion. Their exact relationship to the government is unclear, despite the pronouncements of Bani-Sadr, President of Iran in 1980, that the student followers of Khomeini had created a "government within

a government" (FBIS LD08 081743 Teheran, Keyhan in Persian, 6 Feb. 80, p. 12 LD).

The response of the international community to the abuse came in the form of the unequivocal defense of diplomatic immunity by the United Nations and the International Court of Justice as a core principle of the international legal order. Most members of the international community were critical of the Khomeini government and sympathetic to the United States (Falk, 1980, Terry, 1982; Carter Interview, 1988). Although the international community did not respond to the requests from the United States to economically isolate Iran (Sick, 1985, pp. 283 and 291), it was perhaps the political isolation that finally convinced the Iranians to release the hostages (Christopher, 1985, p. 95; Carter Interview, 1988).

It is significant that this abuse was settled by diplomatic means. In general, the abuse may be considered to have been more damaging to Iran than to the diplomatic regime. Iran suffered political isolation which may have been a factor in the subsequent attack on that country by Iraq. The regime, on the other hand, received renewed support from the international community through its procedural

component.

This chapter suggests that the international community regards the norms of the inviolability of the diplomat and the inviolability of the mission premise as valid under all circumstances and that it is willing to enforce compliance. The Iranian charge that the violations could be justified as retaliation for the interference of the United States in Iranian domestic affairs was not considered by the International Court of Justice. This is an indication that the Court upholds the strong reiteration of these norms as set forth by the Vienna Convention of 1961. The action of the United Nations Security Council and the statements of the Secretary General are further indication that the international community is unwilling to tolerate regime violations.

Lastly, this incident should not be taken as an indication that regime norms are weak. The Iranians respected regime norms in their relationships with other countries throughout the ordeal. This chapter suggests therefore that this violation should be viewed as an instance in which a weak political actor used the only means available to it to punish a powerful international actor for perceived wrong doings.

CHAPTER FIVE

REGIME VIOLATIONS: THE CASE OF LIBYA

This chapter seeks to examine the causes of the Libyan violation. In addition, it attempts to assess this violation in terms of its effect on the regime and on the international system.

Libya, like China and Iran did not participate in the development of the diplomatic regime. In fact, Libya was not a participant in the regime until after the Second World War when she achieved independence through the actions of the United Nations. As a member of the United Nations, Libya was expected to uphold the tenets of international law. In 1984 however, a London police woman was killed when a shot was fired from the Libyan Embassy in London. The Libyan government refused to accept responsibility for the act.

The state supported act called into question assumptions about the degree of immunity that should be accorded diplomats (Goldberg, 1984). The British identified three major abuses to regime norms by the Libyans from February, 1979 to the killing at St. James Square, the cite of the Libyan Embassy. First, the Libyans failed to provide the British with a diplomatic list as required by the Vienna Convention of 1961.

Second, Libyans used the Embassy for non diplomatic activity. Third, Libyans misused the diplomatic bag. The second and third abuses are expressly prohibited by the Convention.

This chapter traces the events leading up to the Embassy shooting and discusses the manner in which each of the above mentioned violations occurred. It then discusses the negotiations which followed the shooting in an effort to explain national policy in Libya and its effect on regime compliance. The chapter also discusses the options available to the British under diplomatic law in an effort to examine regime mechanisms for handling non compliance. Lastly, the chapter examines the response of the international system to the violations and discusses the effect of the violations on regime norms as well as on the international system.

British/Libyan Relations: An Overview

Prior to the 1984 violation The United Kingdom and Libya had a long history of friendly relations based primarily on trade (Simon, 1987, p. 7; Villard, 1956). From 1551 to 1911 Libya formed part of the Ottoman Empire. Her remoteness from Constantinople, the capital city, allowed her some degree of local autonomy

however (Simon, 1987, p. 1; Bearman, 1986, p. 10).

In 1908 Italian merchants gained limited support among some disaffected merchant families in Libya who opposed the Young Turk revolution of that year (Bearman, 1986, p, 11). In 1911 the Italian military succeeded in colonizing Libya. During the period of colonization British and French expansion in Northern Africa increased. Even though the British helped Italy consolidate its rule over Libya in order to prevent a French advance into the country, the native Libyan leadership at that time maintained friendly relations with British authorities.

During the inter war period Libyan and British authorities held frequent meetings, coordinated by the British Embassy in Egypt. These meetings dealt mainly with regional issues (Simon, 1987, pp. 255-256). The second world war devastated Libya. The British army occupied a large part of the country (Bearman, 1986, p. 16). The British however, pledged to help Libya gain independence. The British attempts to honor the pledge contributed to the restoration of full sovereignty to the country rather than placement under the United Nations Trusteeship System, which would have been in keeping with its development status (Villard, 1954, p. 33).

From the time that the United Kingdom of Libya was proclaimed on December 24, 1951 by the United Nations, Great Britain was viewed by most Libyans as an ideal cultural and trading partner. English was the second language taught in Libyan schools. By 1983 about 8,000 Libyan students were studying in Britain. As they returned home they looked to Britain for technical assistance in developing their country (Blundy and Lycett, 1987, p. 160).

The relations between the two countries began to deteriorate in 1979. In that year Libyan embassies in Great Britain and in eight other European capitals were taken over by revolutionary committees and renamed "People's Bureaus". This tactic was in keeping with Libyan leader Muammar al Qaddafi's pronouncement of Libya as a "Jamahiriyah", a term he invented which means a state without a government or "peopledom" (Anderson, 1985). The Jamahiriyah has been described as adopting a new principle in international relations. The principle is that relations are between people and not governments. Libyan diplomatic missions abroad were therefore cancelled and replaced by bureaus whose members came directly from the Libyan people (FBIS Tripoli Domestic Services in Arabic, LD231535 1325 GMT

23 April 1984). The British had little knowledge about the personnel of the Libyan's People's Bureau. A series of "self styled" revolutionary committees appeared to be in authority. After negotiations with the Libyan government however, the British decided in June, 1980 to recognize one official in the Bureau as equivalent to a Head of Mission and to treat the People's Bureau as a diplomatic mission (British Yearbook of International Law, 1985, p. 460). Mr. Adem Kiwiri, the secretary general of the London committee, was the recognized official (The Economist April 28, 1984). The Libyans however did not seek agreement for an ambassador in London nor did they submit a diplomatic list.

Qaddafi's Policies and the Diplomatic Regime

Qaddafi's foreign policies made him a pariah to the West and destroyed much of Libya's credibility in the West as well as in many parts of the third world (Anderson, 1985; Sicker, 1987, p. 31). For example, Anwar Sadat, the late President of Egypt, openly denounced the destabilizing policies and terrorist tactics of the Qaddafi regime (Sicker, 1987; Cooley, 1969). It soon became apparent that his interests were in implementing a foreign policy that would not only

exonerate perceived past injustices to the Arab world⁶ but, also eliminate those who opposed him (Harris, 1986, p. 84; Sicker, 1987, p. 32). The implementation of his policies involved the use of force or terrorist tactics which ran counter to the principles of international law in general and to the laws of the diplomatic regime in particular. In 1979, during the early days of the hostage crisis in Iran, the United States Embassy in Tripoli was stormed by sympathetic Libyan students. Qaddafi did little to protect the Embassy during this time of crisis. As a result the Embassy was sacked and burned (Harris, 1986; St. John 1986).

Qaddafi's activities ranged from destabilizing neighboring countries, such as Chad and Niger (Sicker, 1987, pp. 98-99), to funding radical groups such as the Irish Republic Army and the Palestinian Liberation Organization (Zartman, 1983). Central to his foreign policy was his perception of Libya as victim and Europe and the United States as villains. He used diplomatic facilities as a basis for subversion and as front organizations for campaigns against nationalist leaders who opposed him as well as to provide safe haven for international outlaws (Harris, 1986, p. 85).

Qaddafi created revolutionary committees which became an elite corps of three to four thousand young people who were responsible for spying on Libyans overseas. In a conference in Benghazi he authorized the revolutionary committees to "physically liquidate" political opponents. During this period there were a number of assassinations and attempted killings of Libyans abroad (Bearman, 1986, pp. 46-49). This practice contributed to Libya's reputation for terrorism (Anderson, 1985). As a result of his practice of using force to promote social and political change thirteen states in Africa and the Middle East as well as the United States broke diplomatic relations with Libya or expelled Libyan diplomatic personnel. Diplomatic relations with eight other countries worsened (St. John, 1986). In addition, many prominent Libyans defected including diplomats such as Mansour Kekhia, Libya's long standing ambassador to the United Nations and the Libyan ambassador to India.

The National Front for the Salvation of Libya was formally organized in October of 1981. This organization emerged as the most prominent group of Libyan dissidents. Its goals encompassed active armed resistance to Qaddafi. The membership included

exiled former diplomats as well as Libyan businessmen and merchants whose property was expropriated by the revolutionary leadership (Bearman, 1986, p. 247). Although some of the funding for the group came from the Libyan exiles themselves, according to Martin Sicker, Saudi Arabia was its most important sponsor. The Saudi's were especially concerned about Qaddafi's destabilizing policies in the region (Sicker, 1987, p. 37).

On February 18, 1984, a group of men calling themselves the Libyan Revolutionary Students' Force marched on the People's Bureau in London and took control (Bearman, 1986, p. 249). This event was in keeping with Qaddafi's intent, revealed in a speech a year earlier, to replace professional diplomats with popular committees to handle diplomatic relations (Jamihiriya International Report, May 14, 1983). Two days later the Foreign Office in Tripoli confirmed to the British ambassador, Oliver Miles, that the People's Bureau Secretary in London was dismissed and succeeded by a student-dominated people's committee whose spokesman was Dr. Omar Sodani (Bearman, 1986, p. 249).

Britons later learned that there was a four man student committee which was technically in charge of

the embassy. The names of the students was not revealed and they were not told what had become of the former official, Mr. Kiwiri. The students did not have diplomatic immunity since they had not been accepted as accredited diplomats. Two months passed before the students indicated that Muftah Fitouri, a diplomat already in the Bureau was acting secretary (The Economist, April, 28, 1984).

The revolutionary student committee frequently communicated their activities or asked for instructions from Qaddafi using the diplomatic pouch. The British intercepted one communication that told Qaddafi that the obstacles in the way of their activity were the Libyans who opposed him and their collaboration in London (Blundy and Lycett, 1987, p. 173). The British therefore had knowledge of the mission of the revolutionary committee. The Foreign Office warned Libyan dissidents in London to be on their guard (The Times, April 18, 1984).

In September of 1983 The National Front for the Salvation of Libya held its first demonstration in London marching past the Houses of Parliament to the Libyan Embassy. The revolutionary committee, led by Dr. Sodani, responded with a demonstration of its own

(Blundy and Lycett, 1987, p. 167). This was to be a dangerous precedent.

The student committee stepped up its assault in March of 1984, when a series of bomb attacks on the homes of Libyan students known to be anti Qaddafi took place at five different locations in one night. The police arrested two young Libyans who, after military training, had come to Britain to study in 1982. One of the men arrested claimed diplomatic immunity (Blundy and Lycett, 1987, p. 172).

However, the Foreign Office failed to take action over the link between the People's Bureau and the revolutionary committee (Blundy and Lycett, 1987). Since the reputation of Qaddafi in international relations was well known and the deeds of the revolutionary committee were well known to them, it is surprising that the British did not take precautions to deal with the incompatibility of interests between the United Kingdom and the Libyan Republic.

Apparently unknown to the British until days later, two students were hanged in Libya on April 15, 1984. The hangings were reported through the anti Qaddafi network in Europe (Washington Post, April, 23, 1984; Blundy and Lycett, 1987, p. 174). The National Front

for the Salvation of Libya, working closely with The General Union of Libyan Students, decided to stage a demonstration in front of the People's Bureau on St. James Square in protest (Bearman, 1986, p. 249). They asked for camera crews to cover the event (The Times, April, 19, 1984).

As camera crews and newsmen set up on the afternoon of April 16, the personnel inside the Bureau became aware of the demonstration. They immediately sent a series of telexes to Tripoli for instructions. Two sets of replies were received.

One for the accredited diplomats that they should protest to the Foreign Office, the other for the revolutionary committee that they should resist the demonstration by any means, including force. These messages, although intercepted at the time of their transmittal by the British General Communications Headquarters, went unread in Britain until many hours later. (Blundy and Lycett, 1987, p. 174).

Two different accounts of the events immediately following the reception of the information in Tripoli have been offered. If the words of the Libyan Foreign Minister can be believed, the British Foreign Office was sternly warned that the demonstrations would result

in violence and advised to cancel them immediately (Washington Post, April 23, 1984; The Times, April 19, 1984). Another account states that two senior diplomats in the Bureau were concerned that the demonstrations might result in violence. They telephoned the duty clerk at the Foreign Office and told him that the Libyan Opposition demonstration should be cancelled. The duty clerk reports having transmitted the message through the appropriate chain of command but, the Scotland Yard officer in charge of controlling demonstrations denied ever receiving the information.

Scotland Yard did decide to erect a barrier. When the worker instructed to erect the barrier came to the Bureau he was told by Dr. Sodani that they did not want the barrier erected. Seeing an argument developing the police intervened and arrested Sodani and another Libyan with him at the time (Bearman, 1986, p. 250).

At this stage the revolutionary committee was forced to revise its response to the demonstration. Supporters were ordered to stay away from the front of the Bureau. Apparently these instructions were given because they had decided to use force against the demonstrators (New York Times, April, 20, 1984, p.

A3).⁷

The two senior diplomats, perhaps with knowledge of the instructions of the revolutionary committee, made frantic attempts to get the demonstration cancelled. While they were still at the Foreign Office making their plea, the marchers had reached St. James Square carrying anti Qaddafi placards and chanting "Qaddafi hangs students". British constables were in place in front of the Bureau. One marcher recalled that a counter demonstration was taking place well to the side of the Bureau. As the demonstrators reached the front of the Bureau slogans and insults were exchanged. Suddenly, a burst of machine gun fire from the first floor window of the Bureau fatally wounded Yvonne Fletcher, a twenty five year old police woman (Blundy and Lycett, 1987, p. 176; FBIS LD171742 London Press Association in Eng 1722 GMT 17 April 1984).

British authorities initially requested the surrender of those responsible. In the meantime, British police, reinforced by specialists from the anti terrorist and diplomatic protection branches, surrounded the Bureau and sealed it off. (FBIS CD171428 London Press Association in Eng 1409 GMT 17 April 1984).

According to Home Secretary, Mr. Leon Brittan, they

wished to get everyone out of the Bureau so that police could go in and search for weapons and explosives (The Times, 18 April 1984; LD 171742 London Press Assn in Eng. 1722 GMT 17 April 1984). The police had spoken by telephone with senior accredited diplomats who indicated that they would help (The Times, 18 April 1984).

The British made immediate contact with Tripoli and asked for clarification of the status of the personnel in the Bureau (FBIS MC 171029 Paris AFP in ENG 1023 GMT 17 April 1984). There appears to be no indication that the Foreign Office granted this request.

Meanwhile Libyan soldiers surrounded the British Embassy in Tripoli (New York Times, April 19, 1984, p. 19). The People's Committee of the People's Bureau for Foreign Liaison officially notified the United Nations' Secretary General of the incident. According to their report, the British imposition of a siege on the Bureau in London and the arrest of some of its members was a violation and a breach of the Vienna Convention (FBIS LD181949 Tripoli JANA in Arabic 1855 GMT 18 April 1984). In addition, Libyans staged a demonstration of front of the British Embassy in Tripoli. A note was delivered to the Ambassador

demanding that the siege on the Bureau in London be lifted. It stated further that an attempt to storm the Bureau would result in "grave consequences" (FBIS LD191308 Tripoli Domestic Service in Arabic 1235 GMT 19 April 1984).

The reported responses from the Libyan government ranged from a denial that the shots had come from the People's Bureau (FBIS NC 191520 Cairo MENA in Arabic 1450 GMT 19 April 1984) to a persistent reiteration that the shooting had been done in self defence (Bearman, 1986, p. 250; FBIS JANA Reports Al Qaddafi NBC Interview CD 201653 Tripoli JANA in Eng 1500 GMT 20 April 1984). Further news reports revealed that what the British regarded as an abuse to the norms of the diplomatic regime (The Times April, 18, 1984, p. 3) was regarded by the Libyan government as an "ignoble armed attack" (FBIS LD 181856 Tripoli JANA in Arabic 1530 GMT 18 April, 1984).

A consideration of British nationals in Libya as well as the constraints of the Vienna Convention of 1961 combined to determine the British course of action. There were nineteen diplomats and eight thousand other Britons residing in Libya at the time (The Economist, April 21, 1984). It was reported that

three Britons were being detained by the Libyans. This act was interpreted in Britain as further warning that any hostile action against the People's Bureau would be met by counter action against the British community in Libya (FBIS LD 180907 London Press Assn in Eng 0854 GMT 18 April 1984).

However, an alternative option was available to the British according to the Vienna Convention of 1961. Since the status of the Bureau was never clarified, the British never actually accepted the personnel as accredited diplomats. Therefore, one could make the case that those inside were not entitled to diplomatic immunity (Goldberg, 1984).

Then too, The Convention grants immunity to embassies for the purpose of carrying on diplomatic activities. Article 41, section 3 of the Convention states that "the premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the Convention or by other rules of international law". The activities of the People's Bureau did not qualify as diplomatic activity. Therefore, using this reasoning, Article 22 of the Convention declaring the mission inviolable is not relevant here.

Lastly, article 27, section 2 states that diplomatic bags may not be opened or detained, but section 4 states that a diplomatic bag may contain only diplomatic documents. Although British officials had not routinely scrutinized the bags of Libyans as they entered the country (The Economist, April 21, 1984), the British had reason to suspect that there were weapons inside the Bureau. Article 27 states that the diplomatic bag may not be opened; this mandate does not preclude the use of electronic devices to determine the contents of the bag.

Using the reasoning outlined above the British had two options: First, they could have legally entered the People's Bureau and searched for weapons and arrested those who were responsible for the shooting. Second, they could have declared the personnel within the embassy persona non grata and scanned baggage as they left the country.

However, the British chose not to accept the option of denying the inviolability of the diplomats and the People's Bureau. Sir Geoffrey Howe, British Foreign Minister, revealed in the House of Commons debates which followed the shooting that the British interpretation of the Convention, included the

assessment that since the United Kingdom decided to treat the People's Bureau as a diplomatic entity, the Bureau premises were inviolable. He was less clear on the inviolability of the Bureau personnel. It was also revealed in the Parliamentary debates that the British took a very conservative view regarding the use of scanning devices to determine the contents of the diplomatic bag. The British view was that the intent of the Article 27 is that the contents of the bag are inviolable. Any method used to discern the contents would then be considered unlawful (The British Yearbook of International Law, 1985, p. 472).

The British chose therefore to negotiate with the Libyans as if all the requirements for diplomatic protection were in place (FBIS LD 171952 London Press Assn in Eng 1912 GMT 17 April 1984; FBIS NC191520 Cairo MENA in Arabic 1450 GMT 19 April 1984).

According to Mr Richard Luce, Minister for Foreign Affairs for the Middle East in Britain, an apology from the Libyan government was the only concrete result of the negotiations after four days (FBIS LD180828 London Press Assn in Eng 0748 GMT 18 April 1984). The Libyan government wanted Britain to make the first move by ending the siege on the People's Bureau (Washington

Post, April, 20, 1984, p. 1).

On the fifth day after the incident, a note was sent to Britain by Qaddafi. The note stated that he was willing to send an investigative committee to the Peoples's Bureau in London. He further declared that "if we find that there is a person who deserves to stand trial and be questioned, then the Libyan popular authorities will submit them for trial" (FBIS LD221804 Tripoli JANA in Arabic 1539 GMT 22 April 1984).

What the Libyan government spokesmen said in high levels was apparently contradicted in public interviews. According to the British Home Secretary, Leon Brittan, the Libyan Foreign Minister, Ali Trieki, had earlier expressed confidence that an agreement could be worked out (FBIS LD19247 London Press Association in Eng 2130 GMT 19 April 1984). The British however found Qaddafi's proposal for a Libyan commission of inquiry a "wholly inadequate response to a flagrant abuse of diplomatic immunity" (The Times, April 23, 1984; FBIS LD221733 London Press Assn in Eng 1729 GMT 22 April 1984).

In the belief that the Libyan government was unwilling to act responsibly, the British government broke diplomatic ties with Libya and expelled Libyan

diplomatic personnel. April 29-30 was given as the deadline for departure (The Times, April 23, 1984; LD 221733 London Press Assn in Eng 1729 GMT 22 April 1984). The British assumption was that the People's Bureau would cease to be an inviolable mission premise after the passing of the departure date (British Journal of International Law, 1985, p. 472;).

The Libyan Foreign Minister reportedly expressed "surprise and indignation" upon receiving the news of the British decision. He added however that the Libyan government would continue to protect British subjects in Libyan (Washington Post April 23, 1984, p. 22). In a broadcast the next day, a spokesman for the Libyan government reiterated the surprise of the decision and stated that Libya would exercise reciprocity both over the return of the Embassy staff and respect for the Embassy grounds (FBIS NC 241053 Paris AFP in Eng 1033 GMT 24 April 1984).

The occupants of the Libyan People's Bureau departed on schedule. They were not subject to search upon leaving the country. A few of them were questioned by British police at the British airport; however, no new information was obtained (Goldberg, 1984). British diplomats also left Tripoli as

scheduled (FBIS NC 27 1828 Paris AFP in Eng 1823 GMT 27 April 1984).

A police search of the Bureau revealed an array of arms and ammunitions equipment indicating the remnants of an extensive arsenal which apparently vanished in diplomatic bags. Forensic scientists also found that a weapon had recently been fired from a window on the first floor in the building (The Times, April 30, 1984).

Many British citizens felt that the laws of the diplomatic regime were wholly responsible for the restraint with which the British handled the situation. Some advocated attaching the laws of the Vienna Convention of 1961 to the jurisdiction of the International Court of Justice (The Times, April 28, 1984). Others called for a complete revision of the document (The Economist, April 28, 1984; The Times, April 30, 1984).

The British government instituted a full review of the Vienna Convention of 1961 as the document related to the shooting at St. James Square and published it in a White Paper. The Paper concluded that even though the flagrant abuse of the Convention took place, amending the Convention was not the solution to the

problem. The review indicated that there were several ways within the confines of the existing document that Britain could prevent a similar situation: 1) British authorities could become more strict in requiring a diplomatic list before an embassy is allowed to operate in the country. 2) The size of missions could be limited to eliminate those with no clear diplomatic function. And 3) The diplomatic bag could be scrutinized electronically in cases where it is suspect (American Journal of International Law, 1986, pp. 135-140).

Summary and Conclusions

This chapter has provided answers to the questions posed in its beginning paragraphs. The chapter suggests that the foreign policy of Qaddafi was responsible for the Libyan abuse. A careful scrutiny of the communications from Libya generated by the event indicates that those involved in the deed itself as well as those involved in the negotiations which followed were not deliberate abusers of regime norms. Although it is sometimes difficult to discern the source of all the communications pertinent to this abuse and even more difficult to separate information from misinformation, it seems apparent that there are

two lines of thinking evident in the communications themselves.

Communications from the Foreign Office, for example, appear to suggest that the traditional diplomats in the country were primarily interested in restoring normal diplomatic relations with Britain. The Foreign Minister continually reiterated that the diplomatic immunity of the Embassy personnel in Tripoli would be observed. Communications coming directly from Qaddafi, on the other hand, seem laden with propaganda. Although he may not have anticipated the outcome of the event in St. James Square, he appeared to be interested in making the situation work to his advantage. He used the incident to portray Britain as the villain and Libya as the helpless victim in an attempt to gain sympathy for his policies in Libya.

In the People's Bureau, as well, it seems that there are differing interests. The Bureau appears to be operated by traditional diplomats as well as members of the student revolutionary committee. If the reports in the London Times are accurate it appears that the former were not in agreement with the activities of the Bureau. Reports indicate also that most of the students were forced into political activity (The

Times, May 21, 1984). The revolutionary committee actually consisted of only a small cadre of Qaddafi supporters (Blundy and Lycett, 1987).

The chapter further suggests that regime norms were not weakened by this incident even though the constraints of the Vienna Convention were called into question. The scrutiny under which the Convention was subjected as a result of the abuse actually resulted in its reaffirmation. The conclusions of the British White Paper, mentioned earlier, were consistent with the view of the International Law Commission. The Commission concluded in May, 1984, that the twin aims of promoting smooth relations between states and avoiding abuse of norms were best served by the Convention as it presently stands (Yearbook of the International Law Commission, 1984). Then too, legal experts such as Lord Denning, in Britain, and Arthur Goldberg, in the United States, concluded that the Convention is adequate in protecting legitimate diplomats (Goldberg, 1984).

Lastly, Qaddafi himself indicated his recognition of the regime as a legitimate institution when he reported his interpretation of the abuse to the United Nations, a recognized regime compliance mechanism, and

appealed for help under the stipulations of Articles twenty two and twenty seven of the Vienna Convention of 1961.

The effect of this violation on the international system was minimal. In general, as indicated by the remarks of the British Foreign Minister mentioned in the discussion, it seemed to have been regarded as an isolated abuse which did not require a concerted international response.

However, the incident may have served to put other countries on the alert regarding the diplomatic activities of the People's Bureaus. Since the abuse in London at least two other countries have expelled Libyan diplomats for engaging in activities of a non diplomatic nature. In Italy the number of diplomats has dropped from 8,000 to 2,000 in the last few months of 1986 (New York Times, May 24, 1986). In Spain four diplomats were expelled from December of 1985 to May of 1986 (The Atlanta Constitution, May 10, 1986, p. 12A).

CHAPTER SIX

CONCLUSION

THE DIPLOMATIC REGIME AND INTERNATIONAL ORDER

The purpose of this chapter is twofold. It seeks to determine the most useful theoretical explanation for the development and transformation of the diplomatic regime and it seeks to examine the strength of the diplomatic regime at present. It appears that both tasks are necessary if indeed generalizations from a study of this regime are to provide useful information concerning regime success. The information gleaned from the study serves as the basis for the discussion in this chapter.

The chapter seeks answers to the following questions: What has accounted for the development and transformation of the diplomatic regime? Do abuses suggest rejection of regime norms? What is the overall effect of challenges on the strength of the regime? Can the international system tolerate abuses by pariah states or to what extent must regime rules be obeyed?

The diplomatic regime emerged from the patterned behavior that existed long before the modern international system. Because the existence of a regime presupposes the existence of an international

system (Bull, 1979), the cooperative arrangements cannot be considered a regime. However, if it is the convergence of expectations that comes from patterned behavior that is the most important characteristic of a regime (Keohane, 1985; Young, 1982), then this study suggests that the regime was actually created in antiquity. When the international environment consisted of politically autonomous states with mutual interests the regime was said to exist. It developed among competitive city states; it was not created by a hegemonic power.

If the existence of a hegemonic power was responsible for the development and transformation of the diplomatic regime we would expect that the regime would change and perhaps dissolve as the power of the hegemon weakened. Obviously, this was not the case with the diplomatic regime. When the Greeks were conquered by the Romans the Romans maintained the diplomatic regime. When the Roman Empire fell the regime mantle was taken up by the Byzantines. When the Byzantine Empire fell the regime was maintained in Western Europe. The chapter suggests that the respect for the norms which had given rise to the patterned behavior governing diplomatic practices showed

remarkable continuity through the ages irrespective of the structure of the international environment. Thus, even during the pre regime period the regime did not wax and wane with the power capabilities of the political entities.

The functionalist view may afford some explanation for the patterned behavior and convergent expectations in communications that governed the behavior of political entities during the pre regime era. Since this issue area is interdependent by its very nature, we may hypothesize that political entities were cognizant of the interconnectedness of their welfare and the ability to communicate. We may speculate further that it was this realization that prompted them to develop customary practices in the issue area. This study notes that political entities in antiquity used religion to justify their practices. This is an indication that they were aware of the significance of these practices to their well being and that they consciously attempted to institutionalize them.

The study notes that rules were created in response to changes in the political environment during the pre regime period. This would appear to indicate that the success of the regime served as a reinforcing mechanism

during that time. However, the customary practices are not considered to have reached regime status until the Middle Ages. The study indicates that the variables which were added to the developmental process of the regime at this time were an environment conducive to sustained interaction and a set of common values buttressed by a common legal code. The addition of these variables served to add legitimacy to the customary practices that existed prior to the regime itself.

This study suggests that the regime was formed from existing customary practices which had endured since antiquity despite changes in the power distribution of the international system, it appears that the diplomatic regime was created from non power incentives. If this is true, the functionalist theory is more useful in explaining regime creation and development.

We could then offer a functionalist interpretation to the further development of the diplomatic regime. Once the regime developed it generated self perpetuating mechanisms. The common values and common legal heritage of the participants helped to facilitate regime maintenance. Then too, reciprocity or the fear

of retaliation added to the ability of the participants to maintain the regime. The study suggests that by the end of the Middle Ages the regime itself was influencing the interests of participants. It was at this time that resident embassies were introduced. A second indication that the regime was influencing the interests of participants is the acceptance of regime norms during the sixteenth century despite the many abuses of sovereigns. The regime was used to foster national interests at this time. Abuses were tolerated because the regime was being used to further war strategies as well as to obtain information in an era characterized by intermittent wars.

Thus, it appears that since the Renaissance era states have obeyed regime conventions without making calculations on a case by case basis concerning the merits of compliance and non compliance. From the legal advice of Gentili and Grotius to the admonitions of the International Court of Justice the procedural component of the regime has stressed unqualified allegiance to regime norms.

The same factors that explain regime formation and development may also explain regime change (Stein, 1982). Using the functionalist theory we can assume

that changes in the interests of participants resulted in changes in the regime. The study suggests that the primary changes of the diplomatic regime have been changes within the regime and that these changes have generally occurred as responses to the changing interests of participants. In most cases changes in interests resulted in the emergence of new norms. For example, the emergence of resident embassies changed the primary function of the diplomat. One of the rules that emerged to govern the activities of diplomats as a result of this change in function was the rule of non interference in domestic affairs. The many abuses discussed in this chapter during the Renaissance era indicate that this rule developed very slowly. It was not until the beginning of the twentieth century that it was first mentioned as a norm by the legal experts writing the Harvard Draft.

A second change in the regime occurred in 1648 with the signing of the Treaty of Westphalia. At that time the creation of sovereign states changed the status of diplomats from representatives of sovereigns to representatives of states. The regime became a negotiated order, relying primarily on rules derived from international conferences as well as domestic laws

to add legitimacy to customary practices. The diplomat's immunity became intertwined with his function making reciprocity the primary reinforcing norm of the regime. It was at this time that the right of legation emerged as a regime norm.

The need for codification resulted from the introduction of cultural diversity to the regime. By this time adherence to regime norms can no longer be taken for granted because of the cultural homogeneity of participants. Therefore participants become more aware of the need to justify and explain regime norms and rules. It is at this point that legal experts began to standardize regime norms and rules.

While the functionalist theory can be used to explain regime changes as changes in the interests of participants it does not furnish us with an explanation of why participant interests change. This study suggests that changes in the interests of participants corresponded to changes in the international system. This however, is a realist assumption; as such it appears to contradict the functionalist view.

According to Keohane, when the international system changes so will incentives and behavior. He does not believe that this is necessarily a realist argument

(Keohane, 1985, p. 26). This study suggests that power is important as it affects national policy. Regimes are supposed to coexist with the ability of the state to calculate its self interests. In general, it is expected that regime participants will accept regime norms and rules as consistent with their self interests, although this may mean that they must consider long term as opposed to short term interests. When a state calculates that adherence to regime norms is not in its interests it will violate these norms. This fact suggests a relationship between interests and power.

The conclusions from the violations discussed in this study provide insight on the relationship between power and interests calculations as well as insight on the effects of violations on the regime and on the international system. We can assume that states will violate regime norms either because they do not accept them or because they want to use them to achieve some national goal.

The states that violated regime norms in the case studies had not participated in the development of the regime. One might assume therefore that the violations occurred because they had not accepted regime norms or

that they had accepted them superficially. The study suggests however that this is not true. Chinese abuse in the early twentieth century might appear to have occurred because the Chinese were unfamiliar with international law and therefore had not accepted regime norms. However, when one examines the behavior of the Tungshli Yamen toward diplomats during the Boxer Rebellion it is apparent that they considered the norms of the regime to be valid.

In some respects however, the diplomatic regime as it operated in China at the time was an enforced order. The Chinese were required to accept the diplomatic regime before their interests were compatible with the regime. The relationship was characterized by a lack of reciprocal interests and therefore subject to abuse by the disaffected side. The Chinese may therefore be considered as objects rather than subjects of international law at this time. Thus, the Chinese may have had reason to refuse to accept regime norms but, the study does not indicate non acceptance. The Chinese government denied all responsibility for diplomatic abuses during the Cultural Revolution and reaffirmed their loyalty to the diplomatic regime.

The study also does not indicate lack of acceptance

of regime norms on the part of the Iranian government since, as mentioned earlier, the Iranians carried on normal diplomatic relations with other regime participants even as they held American diplomats hostage. The Libyan government also carried on normal diplomatic relations with other countries even as they violated diplomatic norms in London.

If the violations did not occur because of lack of acceptance of regime norms we are left to conclude that norms were violated to achieve national ends. The study suggests that there may be reason to believe that this is true. The Chinese twice used the regime for this purpose. The first time the regime was used to rid the country of foreigners; the second time it was used for the dual purpose of promoting communist ideology and improving the Chinese national image after the punishments inflicted after the Boxer Rebellion.

The Iranians, as mentioned earlier, used the regime in retaliation for the perceived wrong doings of a stronger country. Qaddafi, on the other hand, violated regime norms as he used the regime to promote his domestic agenda in an effort to increase support for his policies.

Use of the regime to further national goals is

nothing new. For example, although there has been no absolute count of abuses, a reliance on the reporting of scholars like Harold Nicolson and Garrett Mattingly, suggests that there were a large number of abuses during the Renaissance era (Mattingly, 1955; Nicolson, 1954). The number of abuses also increased significantly during the Cold War era. In both these periods the abuses served the national interests of the states.

Thus, as mentioned by regime analysts, the regime does not substitute for the calculations of self interests on the part of states. The regime changes the context out of which the calculations are made (Keohane, 1985). Therefore changes in the power distribution may result in changes in the interests matrix of regime participants. This point provides some insight into the relationship between power and interests.

Finally, this study suggests the following conclusions: First while the functional theory is relevant to the creation, maintenance, and transformation of the diplomatic regime, analysis at the systemic as well as the unit level will make it more useful. Second, violations of the norms of the

diplomatic regime have not diminished its strength. Third, the diplomatic regime has increased the ability of states to sort out their interests in a mutually beneficial way. Thus, the regime has affected political outcomes. The benefits of the regime appear to outweigh any costs to the international system of violations. Both because the regime has contributed to international order and because it has withstood the tests of time, lessons learned from it may be used to provide new information about cooperation in international politics.

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INTERVIEW

Interview with President Jimmy Carter, April 5. 1988.

ENDNOTES

1. This practice was the result of the influence of Oriental political entities such as China.
2. Venice had been a constituent state of the Byzantine Empire
3. Hyde suggests that the granting of asylum was merely the abuse of a custom of very early origin (Hyde, 1947). The English, for example, claimed the privilege of protecting political refugees. It was clear that all states did not agree with this claim when Ripperda was taken from the English Embassy in Madrid in 1726 and Springer was taken from the English Embassy in Stockholm in 1747 by local officials (Satow, 1979, p. 302; Adair, 1929, pp. 223-225). After a number of incidents of abuse of this privilege even some of its earlier adherents became critical of its implications. Vattel, writing in 1750, supported the practice of entering the Embassies and arresting fugitives (Walker, 1899)
4. In an agreement between the Shah and the CIA in 1962, the CIA agreed not to spy on Iranians nor have any contact with opposition groups. If they wanted to know anything about Iranians, they should ask him (Rafizadeh, 1987, p. 310).
5. The Koran contains several references to the concept of Aman, or safe conduct, which is the basis of diplomatic immunity. The diplomat is the beneficiary of Aman, a legally binding privilege that obligates the state to protect the beneficiary until his departure from the territory (Khadduri, 1966, pp. 13-14).
6. Libya was colonized by the Italians during which time Western influence penetrated the culture and Western states including Britain and France took unfair trade advantage (Simon, 1987; Wright, 1981).
7. An ABC news report indicated that an American satellite had intercepted a message from Tripoli ordering the use of force at the People's Bureau (New York Times, April 20, 1984).