

## AN APPRAISAL OF THE DIPLOMATIC FACE-OFF BETWEEN NIGERIA AND THE UNITED KINGDOM IN 1976\*

### Abstract

*This paper weighs in on the diplomatic wrangling between Nigeria and Britain in 1976 which necessitated the declaration of the then British High Commissioner in Lagos, Sir Martin le Quesne persona non grata and his subsequent sending out on March 4, 1976, by the then military regime of Nigeria. Employing a historical and correlational approach, it attempts to juxtapose the event against the provisions of the Vienna Convention on Diplomatic Relations with a view towards arriving at a systematic analysis, objective evaluation and proper synthesis of evidence in order to establish facts and draw conclusions about this episode. The emergent result is that both parties were right in their respective actions within the context of the provisions of the VCDR. However, it is observed that they could have avoided the degeneration of their differences if tempers had been better controlled and more dialogue and contact established. The recourse to emotions, frustrations, and posturing by both sides only resulted in truncating the traditionally good relations between these erstwhile good friends.*

**Keywords:** Diplomatic wrangling, Britain, Nigeria, persona non grata, Vienna Convention on Diplomatic Relations

### 1. Introduction

The 1961 Vienna Convention on Diplomatic Relations (here-in-after referred to as the VCDR) is the cornerstone regulatory framework for interstate relations.<sup>1</sup> To this day, it remains the main legal and political regime upon which states in the international arena design, guide, and regulate their relations. In effect, it can be said that the VCDR, a multilateral treaty signed by many states represents the ‘constitution’ which dictates the actions, inactions and idiosyncrasies’ of actors in the global turf of bilateral as well as multilateral diplomacy.<sup>2</sup> It is this understanding of the place of the VCDR in the conduct of diplomacy that informs this interrogation of the wrangling between Nigeria and Britain within the period under review.

On March 4, 1976, diplomatic relations between Nigeria and Britain were soured with the expulsion of the British High Commissioner, Sir Martin Le Quesne on grounds of persona non grata.<sup>3</sup> The action of Nigeria followed a request by the High Commissioner for just compensation for damage done to the British High Commission in Lagos by a mob earlier in February of 1976. This request by the High Commissioner did not go down well with the Nigerian authorities, who interpreted the High Commissioner’s actions as not only an effrontery, but an outright act of insensitivity on the part of the High Commissioner considering that Nigeria

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<sup>1</sup> K Bruns, *A Cornerstone of Modern Diplomacy Britain and the Negotiation of the Vienna Convention on Diplomatic Relations* (London: Bloomsbury, 2014).

<sup>2</sup> M Hendrapati, ‘Legal Regime of Persona Non-Grata and the Namru-2 Case’, *Journal of Law, Policy and Globalization*, Vol. 32, 2014.

<sup>3</sup> W. A Fawole, *Nigeria’s External Relations and Foreign Policy under Military Rule (1966 – 1999)*, (Ile-Ife: O.A.U. Press, 2003).

was at this time in a state of grief following the assassination of its Head of State, General Murtala Mohammed in an abortive coup on February 13, 1976, a coup that was masterminded by Colonel Buka Suka Dimka of the Nigerian Army.<sup>4</sup> London promptly complied with this personal unacceptability of its envoy by Nigeria and recalled him accordingly.<sup>1</sup> It must be noted that the significance of the application of the principle of *persona non grata* in States' relations within the VCDR set up is to effectively and efficiently control the excesses of diplomats who may abuse diplomatic privileges and immunities.<sup>5</sup> Indeed, in stressing this fact, Marcel Hendrapati has suggested that the principle of *persona non grata* aims to ensure justice not only for receiving states but also for sending states in the wake of diplomatic incidences between two states.<sup>5</sup> Thus, it is within the foregoing context that this paper examines Nigeria and Britain's wrangling of 1976. The intent here is to put forward the various dynamics of the issue and relate them to the provisions of the Vienna Convention on Diplomatic relations with a view towards ascertaining the justification of the actions and decisions of the High Commissioner on the one hand, and the Nigerian Government authorities on the other.

The paper's general scope is on Nigeria – Britain traditionally cordial bilateral relationship that was abruptly affected by a case of diplomatic inconvenience, occasioned by Nigerian xenophobia and precipitated by the military coup of February 13, 1976, which led to the death of Nigeria's head of state, General Murtala Mohammed. For ease of discussion and analysis, the paper is divided into five core sections outside the introduction and the conclusion. The introduction sets out the background to the study, highlighting the thesis statement, the scope as well as the justification of the study in relation to the Vienna Convention on Diplomatic Relations. Part I succinctly outlines the method and materials employed for the study. Part II examines the literature on instances of the expulsion of diplomats as a common practice in interstate relations. Part III provides a cursory analysis of Anglo-Nigerian relations from 1960 up to the time of the coup of 1976 with a view to providing a clearer understanding of the later actions of major players in this case. In part IV, the paper addresses a core aspect of the discourse. It highlights the issue of the coup and its aftermath as it affected the Nigerian and British sides. Part V, which is the nitty-gritty of the study discusses the diplomatic implications of all the actions taken on both the Nigerian and British sides. It provides interpretation of the events in relation to the provisions of the Vienna Convention on Diplomatic Relations with a view to ascertaining the wrongs and rights of the parties. The conclusion closes the study stating the findings and appropriate recommendations.

## **2. Method and Materials**

The approach adopted here is a historical, descriptive and analytical presentation of the case, correlating the events within the context of the provisions of the Vienna Convention on Diplomatic Relations in a bid to give a proper evaluation of the actions, inactions and decisions of the principal actors in the circumstances under review. To this end, combinations of primary

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<sup>4</sup> See J Herskovits, 'Nigeria Power and Democracy in Africa', *Foreign Policy Association Headline Series*, No. 257, Jan/Feb 1982.

<sup>1</sup> See, *West Africa*, March 15, 1976, p. 358

<sup>5</sup> E P Witiw, 'Persona Non Grata: Expelling Diplomats Who Abuse Their Privileges,' *N.Y.L. SCH. Journal of International and Comparative Law*, Vol. 9, No. 345, 1988.

<sup>5</sup> M Hendrapati, 'Legal Regime of Persona Non Grata and the Namru-2 Case,' in *Journal of Law, Policy and Globalization*, Vol. 32, 2014.

and secondary sources are employed for this study, including United Nations materials, as well as published journal papers and books related to the subject.

### 3. The Literature on Diplomatic Wrangling and Expulsions

This diplomatic episode between these erstwhile very friendly nations, Nigeria and Britain is not a novel occurrence in inter-state diplomatic relations and the general management of bilateral relations between and amongst states in the international arena. Neither is it an isolated and one-off incident. Indeed, evidence abounds of many receiving states having to grapple with diplomatic fall-outs occasioned by instances whereby diplomats from sending states abuse their immunities and privileges. In select instances examined here, highlight is given to diplomats that have been declared *persona non grata* involving cases in which such diplomats either have behaved badly in receiving states or otherwise, necessitating calls for their withdrawal by the receiving states. In the following paragraphs instances and cases of diplomats expelled on the basis of *persona non grata* are presented to attest to this development as a common occurrence in the practice of inter-state diplomacy. The incidents and examples cited here are by no means exhaustive; rather, they have been selected randomly to suffice for underscoring the point that receiving states often when convenient invoke aspects of the VCDRs to declare diplomats of sending states as *persona non grata*.

The recent (2018) celebrated incidence of the United Kingdom and Russia taking reciprocal actions to expel numbers of diplomats on both sides over suspected Russian attempts to poison a Russian former spy Sergei Skripal and his daughter Yulia at Salisbury, England with military grade nerve agent, perhaps represents the high point of the application of the principle of *persona non grata* which resonated around the world. In this instance, twenty six other countries – mostly European, in solidarity with the United Kingdom also expelled Russian Diplomats from their countries. In doing so, the United Kingdom and the other countries were sending a message to Russia on the costs and consequences of its behavior and actions in the global diplomatic arena.<sup>6</sup>

Over the years the diplomatic community has witnessed myriads of incidences and cases of expulsion of diplomats anchored on the principle of *persona non grata* by receiving states and bordering on one form of misdemeanor or the other by diplomatic agents. For instance the case of the United States expulsion of a Russian diplomat, Stanislav Borisovich Gusev, on December 8, 1999, for activities bordering on bugging of the United States of America's State Department premises, readily comes to mind. The Russian diplomat was asked to leave within ten days by the US government. In the same vein, the United States also, on February 26, 2000, declared a Cuban Vice Consul, Jose Imperatori, *persona non grata*, and ordered him to depart the US no later than 1:30 pm on that day. His charge was that he was acting as an intelligence contact for a United States Immigration and Naturalization Service (INS) official, Mariano Faget.<sup>2</sup> In January 2014, the United States expelled an Indian diplomat, Devyani Khobragada on grounds of falsifying the entry visa documents of her domestic servant.<sup>7</sup>

In the 1980s, the government of the Philippines under Ferdinand Marcos had reasons to expel Leo Lopulisa, the Indonesian Ambassador to Manila. The Ambassador was accused of

<sup>6</sup> See, 'Spy Poisoning: NATO expels Russian Diplomats,' <https://www.bbc.co.uk/news/world-asia-43550938>; 'Spy Poisoning: Russia expels more UK Diplomats,' <https://www.bbc.co.uk/news/world-europe-43604053>.

<sup>2</sup> Sean D. Murphy, *United States Practice in International Law: Volume 1, 1999 – 2001* (Cambridge University Press, 2003).

<sup>7</sup> See, AP/Reuters/AFP/LOK, 'Diplomat India Diusir dan Amerika Serikat,' *Daily Kompas*, 11, January, 2014, P. 8.

making utterances considered by the Philippine government to be inimical to good conduct and against the expectations of a diplomat representing his country in a receiving state. Sadly for Mr. Lopulisa, upon returning to Indonesia, his home government sacked him from his post as Ambassador.<sup>8</sup>

On April 17, 1984, the killing of woman Police Constable Yvonne Fletcher in St. James Square London, from gun shots fired from the windows of the Libyan People's Bureau on anti-Gaddafi demonstrators, strained diplomatic relations between London and Tripoli. In the event, the government of the United Kingdom discontinued diplomatic relations with Libya and expelled all Libyan diplomats from Great Britain, directing them to leave the United Kingdom within a week.<sup>9</sup> In the same vein, in 1989, the United Kingdom expelled three South African diplomats selected randomly from agents of the South African High Commission. The UK action was predicated on perceived affront by the South African government towards Britain. On the other hand, in 1999, a UK diplomat was expelled by the government of the Democratic Republic of Congo for reasons bordering on espionage.<sup>10</sup> Earlier in 1995, the United Kingdom expelled an Iraqi diplomat for similar reasons bordering on espionage.<sup>11</sup>

The United States government on May 13, 2003 notified the Cuban government of the expulsion of seven of its (Cuban diplomats) on the basis of inappropriate and unacceptable behavior and activities. The diplomats were given ten days within which to leave the United States.<sup>12</sup> Earlier in March 1986, US-Soviet diplomatic relations became strained when the United States expelled twenty-five Soviet diplomats suspected of engaging in espionage activities on US soil.<sup>13</sup> It must be emphasized that in all these cases highlighted so far the receiving states were all acting within the purview of Article 9(1) of the VCDR which provides for receiving states to without warning notify sending states that its diplomat is no longer acceptable, or has become persona non grata in the receiving state.<sup>14</sup>

Other cases of the application of the principle of persona non grata in inter-state and multilateral relations in contemporary times have witnessed the expulsion of Russian diplomats by receiving states and bodies on numerous occasions. For instance in November 2010, two Russian diplomats were expelled by Spain on espionage related charges in the process attracting reciprocal action from Russia which also asked high ranking diplomatic agents in the Spanish embassy to leave Russia as well. Also in December of 2010 amidst rows hinging on the involvement of intelligence services of both countries and allegations of spying and espionage the United Kingdom and Russia expelled diplomats from each other's country. Earlier in August of 2010 the government of Romania expelled the first secretary of the Russian embassy as a reciprocal step against Russia for accusing a Romanian diplomat as a NATO spy and his

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<sup>8</sup> Marcel Hendrapati, 'Prinsip-Prinsip Hukum International Mengenai Yurisdiksi dan Tanggungjawab Negara' (*International Law Principles on State Jurisdiction and Responsibility*), Makassar, Penerbit Pustaka Pena Press, 2014, Pp. 89-90.

<sup>9</sup> Rosalyn Higgins, 'UK Foreign Affairs Committee Report on the Abuse of Diplomatic Immunities and Privileges: Government Response and Report,' *The American Journal of International Law*, Vol. 80, No. 1, 1986, Pp. 135-140; See, *New York Times*, Aril 28, 1984.

<sup>10</sup> Jean d' Aspremont, 'Persona Non Grata,' in R. Wolfrum (Ed), *Max Planck Encyclopedia of International Law* (Oxford: University Press, 2009).

<sup>11</sup> See, *The Times Newspaper*, 16 October, 1995.

<sup>12</sup> S D. Murphy, 'Expulsion of Cuban Diplomats for Spying,' *The American Journal of International Law*, Vol. 97, No. 3, 2003.

<sup>13</sup> See, *New York Times*, 19 September, 1986.

<sup>14</sup> See, S D. Murphy, 'Expulsion of Cuban Diplomats for Spying,' 2003.

expulsion from Moscow. In August 2009 the Czech government declared two Russian diplomats persona non grata and expelled them for suspected espionage activities. In April of the same year, two Russian diplomats were de-accredited from NATO's permanent mission on grounds of spying. This prompted the Russian government to take reciprocal action against western European countries. Earlier in the same year, Latvia expelled a Russian diplomat considered complicit in a plot to murder the President of Georgia, Mikheil Saakashvili. In the same vein, Latvia also in 2008 expelled two Russian diplomats for acts bordering on espionage, while on the other hand Russia expelled a Finnish diplomat as a reciprocal act for an earlier expulsion of a Russian diplomat accused by the Finnish government of engaging in acts of bribery. In November 7, 2007, the government of Georgia had reason to expel three Russian diplomats accusing them of collaborating with local dissidents to plan and stage a coup in Georgia. Russia retaliated swiftly by also expelling three Georgian diplomats from Moscow the next day. In July 2007, the United Kingdom expelled four Russian diplomats as a result of the failure of Russia to agree to the extradition of a Russian businessman Andre Lugovoi to the UK to face trial for complicity in the murder of an ex-spy of the Russian FSB, Alexander Litvinenko, who had taken refuge in the UK. The Russians did not only refuse to surrender Lugovoi to the British, but equally took reciprocal action by expelling an equal number of British diplomats from Moscow.<sup>15</sup>

Interestingly, there have been earlier instances of expulsion of diplomats from receiving states which predates the 1976 Nigeria/British case examined in this paper. More interestingly, the defunct Soviet Union featured prominently around the diplomatic scene as numerous instances of expulsion of its diplomats were recorded in the decades of the 1970s and 1980s mainly for acts of espionage involving surreptitious or clandestine moves to acquire secret information in receiving states. From a report by the United States Department of State, a cursory look at instances of the expulsion of Soviet diplomats is given here covering the period 1971 to 1975.

In August 2, 1971, the government of the Sudan expelled Mikhail Orlov, a Counselor of the Soviet Embassy in Khartoum on charges of conspiracy to oust the Nimeiry government. Subsequently, up to 200 Soviet military advisers were further expelled from the Sudan. In October 1971, the Belgian government expelled nine Soviet military officers from Brussels for espionage. In September 23, 1973, two Soviet diplomats were pronounced persona non grata by the Tunisian government and expelled on charges of manipulations directed at Tunisia and a neighbouring country. Lastly, in January 1974, the Chinese government expelled Soviet diplomats on charges of espionage, while on 10, December 1976, Vladimir Vassiliev, an assistant air attache at the Soviet Embassy in Ottawa was expelled by the government of Canada for actions considered inimical to his status as a diplomat of a sending state.<sup>16</sup>

The emergent pattern in all these cases of declaration of persona non grata and expulsion of diplomats is that receiving states were simply following the provisions of the VCDR which, empowers them to declare any diplomat from the sending state persona non grata without stating or giving reasons for doing so. As has been said earlier, the right to pronounce diplomats of sending states as persona non grata by receiving states is one that is enshrined not only in article 9 of the 1961 VCDRs, but also under article 23 of the 1963 Vienna Convention on Consular

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<sup>15</sup> See, <https://sputniknews.com/politics/201612301049141573-russia-diplomats-expelled/>

<sup>16</sup> United States Department of State, 'Expulsion of Soviet Representatives from Foreign Countries, 1970 – 81,' in *Foreign Affairs Note*, February, 1982.

Relations. We now take this understanding of the significance of the provisions of the VCDR to first familiarize ourselves with Nigeria-British relations within the period under review and examine further developments and the dynamics of the bilateral relations between both countries with a view towards glean a better perspective on the events that emanated and played out in the run up to the coup and its fall-outs which precipitated the diplomatic wrangling thereafter.

#### **4. Nigeria and Britain's Relations in Context**

Before the events of the Dimka coup that took the life of General Murtala Mohammed and its fall-outs, Nigeria and Britain enjoyed cordial and flourished relations from 1960 when the former gained political independence from the latter. Because Nigeria, unlike some other former British colonies became independent of the British through peaceful constitutional means rather than armed struggle, Garba has suggested that this more than anything else ensured not only warm relations but a certain sentimental feeling among Nigerians towards Britain.<sup>17</sup>

Beginning from the time of the First Republic in 1960 through the short-lived Military regime of General Ironsi, up to Gowon's nine years reign, the British High Commissioner had unfettered access to the corridors of power in Nigeria to the extent that the British High Commissioner in Nigeria was considered as '*primus inter pares*' amongst diplomats stationed in Lagos. Despite the strains which emerged during the period of the Nigerian Civil War, when the Government of General Yakubu Gowon had to turn to the Soviet Union for arms as a result of the un-commitment of Britain and the United States to sell weapons to the federal government, relations between the two countries still continued in the tradition of mutual respect with negligible ripples. As a matter of fact, relations between Nigeria and Britain are said to have over-improved after the war. Again, Garba has offered that from this time, Nigerian businessmen and students flocked into British Institutions of higher learning. Those who could not get to study in Britain made sure that they went on the student-organized 'summer flights' and most of them stayed on and on, while on the British side, the recognition of Nigeria as a potential economic power and a vast market became evident, so that British businessmen invested heavily in the country.<sup>18</sup> During Gowon's regime, this traditional bond of Anglo-Nigerian friendship was so strong that Gowon was held in high esteem, and had a generally revered personal reputation in the eyes of the British.<sup>18</sup> It was on this basis such cordial relations between both countries that in 1973 General Gowon paid a state visit to Britain as a fitting climax and attestation to the strong Anglo-Nigerian relations. The Queen of England was scheduled to pay a return state visit to Nigeria in October of 1975 with arrangements for this far in advance before Gowon was overthrown in a coup in July 1975.<sup>19</sup>

The new military leadership headed by General Murtala Mohammed in Nigeria was not that sympathetic to the British cause in Lagos and on the international diplomatic front. With a firebrand approach to the anti-colonial struggle in Africa at the time, the regime made Africa and Africa's liberation its central concern, so that before long, it had its first disagreement with Britain over developments in Rhodesia and Angola.<sup>20</sup> Internally, the regime quickly took steps to deviate from the practice of its predecessors' close informal consultation of "Whitehall" on major international issues. This practice of consulting London under Gowon was pronounced

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<sup>17</sup> J Garba, *Diplomatic Soldiering Nigerian Foreign Policy, 1975 – 1979* (Ibadan: Spectrum Books, 1987).

<sup>18</sup> Joe Garba, P. 168.

<sup>18</sup> Olajide Aluko, *Essays on Nigerian Foreign Policy* (London: George Allen and Unwin, 1981), P. 58

<sup>19</sup> Aluko, P. 58.

<sup>20</sup> Garba, P. 168.

especially from 1973 to 1975 when the coup removed that regime.<sup>21</sup> Indeed, Garba, who was the External Affairs Commissioner (Minister) of the new Murtala military regime, has strongly suggested that prior to as well as under General Gowon's regime; British High Commissioners in Lagos had been used to conducting themselves like viceroys.<sup>22</sup> It is not out of place to suggest that this seeming loss of privilege under the new military regime, an unfettered privilege which was earlier enjoyed by British diplomats over the years in their relationship with Lagos, perhaps enraged the British High Commissioner Sir Martin Le Quesne to broke protocol and incur the wrath of the Nigerian authorities. This much has been offered by Garba that indeed, Sir Le Quesne suddenly found himself relegated to the background and therefore did not hesitate to express his dislike for the actions and direction of the Murtala regime. Giving an instance of the perception of the High Commissioner to the new regime, Garba has offered that:

*I remember meeting him one evening at a party in the house of the Chairman of the United African Company (UAC), Chief C.A. Abebe, where he was denouncing the new government and its policies. Our government (Murtala's Regime), had inherited a serious crisis in the massive congestion of seaports and had made decongestion a priority. Accordingly, the Commissioner for Transport, Shehu, Yar-Adua, had arranged for a delegation to visit several countries to look at how they had dealt with similar situations in the past and also to look at equipment which might help do this. When our host introduced us, Sir Martin turned to me, and in a voice filled with arrogance and patronizing undertones castigated the government for not coming to him in the first place to discuss this problem.*<sup>23</sup>

Such was the general picture of Anglo-Nigerian relations from 1960 up to the period of the events of the coup of 1976 which set in motion the diplomatic imbroglio between these two otherwise traditionally friendly nations. It was an event that tested the diplomatic character of both countries, but one that also reinforced the significance of international institutions, in this case, the VCDR in the conduct and maintenance of relations between states in the global arena.

## **5. The Issues (A Coup and its aftermath)**

On February 13, 1976, an abortive coup d'état led by Lieutenant Colonel Buka Suka Dimka resulted in the assassination of the then Nigerian Head of State General Murtala Mohammed in the early hours of that day in Lagos. This event engendered grief and threw up instantaneous reactions nationwide, but particularly in Lagos, it led to popular rage, and to what Herskovits has described as a time of profound national nervousness, fear and xenophobia, which found expression in attacks directed at both Britain and the United State,<sup>24</sup> following which a series of events unfolded that exacerbated the already tense scenario.

First, in a fit of frenzy, a mob of protesting Nigerian youths mostly students of tertiary institutions in Lagos, invaded and vandalized the premises of the British High Commission, and even went as far as burning the Union Jack atop the building. Secondly, this mob action and the Nigerian government's apparent inability or unwillingness to protect the diplomatic compound strongly influenced and compelled the British High Commissioner, Sir Martin Le Quesne to demand just compensation for damage done to the mission. Thirdly, this demand for just compensation infuriated the Nigeria authorities to the extent that the General Obasanjo regime

<sup>21</sup> Aluko, P. 58.

<sup>22</sup> Garba, P. 168.

<sup>23</sup> Garba, P. 168.

<sup>24</sup> Herskovits, *Nigeria Power and Democracy in Africa*, pp 35/58

which succeeded that of the late Mohammed immediately requested Britain to recall its High Commissioner.<sup>25</sup> These three related events following the coup and assassination of General Mohammed put to a severe test the traditionally cordial Anglo- Nigerian relations, as Britain was accused of complicity in the abortive coup d'état that took the life of Nigeria's beloved Head of State.<sup>26</sup>

However, it must be understood that the reason behind this accusation of British involvement is not unconnected with the fact that while the coup was still in progress in the morning of Friday 13<sup>th</sup> February 1976, the leader of the mutineers, Dimka, visited the British High Commission in Lagos. Fawole has informed that whilst there, Dimka requested for the assistance of the High Commission to contact ousted Nigerian leader, General Yakubu Gowon, who was at this time in political exile in London.<sup>27</sup> Recall that the Gowon regime was overthrown by Mohammed in a bloodless coup in July 1975. This development of Dimka's visit to the British High Commission led to some fallouts with direct bearing on the events under review.

In the first instance, even though concrete evidence could not be advanced to ascertain British complicity in the coup by way of assisting Dimka in his quest to contact General Gowon in London on the part of the Nigerian government and public opinion, the mere fact of Dimka's contact with the High Commission was interpreted to indicate that the British were privy to the coup plot and refrained from alerting the Nigerian government, an act that was regarded generally as unfriendly by the Nigerian government and public. Secondly, it was widely assumed by the public and in official quarters that the coup was an ethnically motivated one orchestrated to reinstate ousted General Gowon as head of state. This is not unconnected with the fact that some of the principal characters and leaders of the coup, such as Dimka, were kinsmen of General Gowon, thus, their actions were interpreted to mean a desire to ostensibly reinstate Gowon back to power.

## **6. Results, Discussions and Findings**

In all of these, what are the legal and diplomatic implications of the actions of the Nigerian and British diplomatic officials in relation to the Vienna Convention on Diplomatic Relations? Was the High Commissioner right in his demands from the Nigerian government? Conversely, were the Nigerian authorities right in their action of a quick dismissal of the High Commissioner from the country? The answers to these questions require an examination and understanding of the provisions of the VCDR.

### **6.1 The Functions of the High Commissioner and the Mission**

Within the provisions of the Vienna Convention on Diplomatic Relations, the head of the mission as encapsulated in Article 1 (a) is in this case under review, the British High Commissioner exemplified in the person of Sir Martin Le Quesne. In this capacity, he has the responsibility to act as the leading diplomat of the mission. Again, embedded within Article 3, paragraph 1 of the VCDR is the functions of a diplomatic mission, which inter alia, emphasizes in 1(b), one of the functions of a mission as:

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<sup>25</sup> See W. A Fawole, p 116

<sup>26</sup> See Africa Research Bulletin, 15 March 1976, Vol. 13, No. 2, Pp 30 -34

<sup>27</sup> See, W. Alade Fawole, p 117



*'protecting in the receiving State the interests of the Sending State and of its nationals, within the limits permitted by international law.'*

In the light of these express provisions of the VCDR, the British High Commissioner, Le Quesne, as head of mission had a responsibility to protect the interests of his country in the face of the mob attack on the High Commission. Furthermore, the VCDR under Article 22 (1) provides for the inviolability of a mission. According to this section, 'the premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission'. The preceding implies that individuals or groups within the receiving State lack any locus to enter the premises of the mission for any purpose without authorization by the head of the mission. Given that the mob action destroyed properties of the mission, and taking into cognisance the provisions of Article 22 (2) of the VCDR, the receiving State, in this case Nigeria, had a responsibility, – in the wordings of the VCDR, 'a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity'. Clearly in this light, the British High Commissioner, first having not given any permission for anyone to come into the premises of his mission, expected the Nigerian authorities as the receiving State to do all within its power to save the premises of his mission as one that enjoys an inviolable status as provided for in the VCDR.

Therefore, the impropriety of the attack on the British mission within the context of interstate relations is what must have prompted Sir Martin Le Quesne to ask for just compensation from the Nigerian government for damage done to the High Commission in Lagos irrespective of the prevailing circumstances of the time. But, this did not go down well with the Nigerian authorities as we see next.

### **6.2 Persona Non-Grata**

Nigerian authorities also relied on the provisions of the VCDR to ask Britain to recall its High Commissioner on grounds of unacceptability. Under Article 9 (1), the VCDR provides for concerning persona non grata as follows:

*'The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic Staff of the mission is persona non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person or terminate his functions with the mission. A person may be declared Non-Grata or not acceptable before arriving in the territory of the receiving State'*

Fawole has suggested that ordinarily, the High Commissioner's request for compensation was a normal diplomatic practice, given that the receiving State has a duty to protect diplomatic practices from attack,<sup>28</sup> but reasons for the Nigerian action on the person of the High Commissioner extends beyond the rights and wrongs of this case in relation to the VCDR.

### **6.3. Findings**

The incident of the Coup, the mob action and eventual sending off the British High Commissioner soured diplomatic relations between Nigeria and Britain. Relations remained tensed and unimproved throughout the tenure of General Olusegun Obasanjo, who took over

<sup>28</sup> See Fawole, p. 118.

from the assassinated General Murtala Mohammed from 1976 to 1979 when power was handed over to a civilian government. Again, Fawole has offered with regard to why the High Commissioner was sent off as the fact of the timing of his request for just compensation, which came at a time of national mourning officially declared by the government to honour the dastardly murder of its beloved head of state, General Murtala Mohammed. As such, the diplomatically correct request of the High Commissioner was regarded by Lagos as a most insensitive and unfriendly act.<sup>29</sup> A principal actor in this whole drama has offered insights on Sir Martin Le Quesne's disposition a day after the attack on the British mission. According to Joe Garba, Nigeria's External Affairs Minister of the time:

*'The following day, Sir Martin asked to see me (Joe Garba). He came charging into my office and proceeded for thirty minutes to talk to me insultingly about the demonstration in front of his High Commission and the damage that was caused to the premises. He then slammed on my table a **note verbale** in which the High Commissioner formally logged a claim "for the full reimbursement of the cost of the damage done to the building and contents of the High Commission Office".<sup>30</sup>*

Garba added that Sir Martin was so arrogant in his presentation and that his attitude and insensitivity of the timing of his complaint and the language he chose to employ so amazed him (Garba) that he was engendered to unleash an attack on the High Commissioner in the strongest language and subsequently asked him out of his office. The next day, Garba said, he formally requested the British Government to recall the High Commissioner.<sup>31</sup>

## **7. Conclusion**

The findings of this study support the view that the actions of both the British High Commissioner on the one hand and the Nigerian authorities, on the other hand, were well within the limits of the provisions of the Vienna Convention on Diplomatic Relations. It was a stalemated mixed bag of impulsive actions embarked upon by both sides to protect their respective state's interests. Before this time, Nigeria and Britain had very cordial relations to the extent that British High Commissioners over the years enjoyed positions of privilege on Nigerian affairs over other diplomats in Lagos. As a matter of fact, under the previous regime of General Gowon, British High Commissioners in Lagos had been used to conducting themselves as viceroys.<sup>32</sup>

However, it has also been observed that under the Murtala/Obasanjo regime, this pre-eminent position of the British was withdrawn as the new government made drastic revisions of her relations with the United Kingdom. In this vein, the Nigerian authorities first, abruptly postponed indefinitely a visit to Nigeria by, the Queen and the Duke of Edinburgh which had been earlier scheduled by the Gowon regime for October 1975. Secondly, the Nigerian authorities also refused entry to a team of seven BBC correspondents into Nigeria in August of 1975.<sup>33</sup>

In the light of the above, the study also indicates that the arrogant posture and attitude of the British High Commissioner to the events of the Coup, the mob attack and general disposition towards the Nigerian authorities, especially his outburst on the Nigerian External Affairs

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<sup>29</sup> Fawole, p. 118

<sup>30</sup> Joe Garba, *Diplomatic Soldiering Nigerian Foreign Policy, 1975 – 1979* (Ibadan: Spectrum Books, 1987), P. 170.

<sup>31</sup> Joe Garba, P. 170.

<sup>32</sup> J Garba, p. 168.

<sup>33</sup> O Aluko, *Essays on Nigerian Foreign Policy* (London: George Allen and Unwin, 1981), p.56.

Minister is not unconnected with his frustration in seeing his country's hold on Nigeria being eroded by the new Nigerian military regime. The plausibility of this is discernible from the fact that the Nigerian authorities were not ready to accord him any special privileges as the new regime was not ready to tolerate any patronizing attitude from a foreigner, to the extent that Sir Le Quesne had difficulty in even meeting frequently with the new Permanent Secretary of the Ministry of External Affairs.<sup>34</sup> No doubt, all these developments must have incensed and influenced the actions of the High Commissioner, but which the Nigerian authorities found unpalatable.

On the Nigerian side, Olajide Aluko has offered that even though Nigeria's actions towards Britain were justifiable as direct reactions to the insensitivity of Britain's High Commissioner, this was perhaps not enough for Nigeria's response, as caution was thrown to the wind probably due the fact that the new regime needed to take such steps to legitimise its hold on power, and that indeed, those gutsy reactions to Britain received popular acclaim at home even though they soured relations between traditionally friendly nations.<sup>35</sup>

On the level of international relations, particularly on bilateralism, the two states did not make efforts to exploit means to address their differences within the context of friendliness taking into cognizance their long and cordial relations. As Adam Watson has pointed out, in the dialogue between states, the rules, and codes of conduct which international societies observe give a pattern of conformity and a sense of predictability to the way in which states behave on the international scene.<sup>36</sup> In this light, both states ought to have known that their actions would inadvertently invoke the provisions of the VCDR, and that a continuous customary contact and dialogue, and a mutual willingness to engage in meaningful communication as suggested by Alan James,<sup>37</sup> would have assuaged ill feelings and prevented this episode from degenerating to the level that it got to.

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<sup>34</sup> Aluko, pp 76-77.

<sup>35</sup> Aluko, p. 119

<sup>36</sup> A Watson, *Diplomacy The Dialogue Between States* (New York: Routledge, 1982).

<sup>37</sup> A James, 'Diplomatic Relations and Contacts', in *The British Yearbook of International Law*, (Oxford: University Press, 1991), pp 347 – 387.