

Chapter 12

THE RIGHT OF LEGATION

THE EXERCISE OF THE RIGHT OF LEGATION is one of the most effective ways of facilitating and promoting intercourse among states. Through the active right of sending diplomatic representatives and the passive right of receiving them, states are able to deal more directly and closely with each other in the improvement of their mutual interests. Being purely consensual, the maintenance of diplomatic relations is not a demandable right on the part of either the sending or the receiving state. However, recognizing the many benefits available from contact with the family of nations, practically all states have availed themselves of and are now exercising the right of legation.

Agents of Diplomatic Intercourse

Diplomatic relations are normally conducted through the head of state, the foreign secretary or minister and the ~~members of the diplomatic service. Sometimes the head of state may also appoint special diplomatic agents charged with specific ceremonial or political duties. (Envoys ceremonial) are usually sent to attend state functions like a coronation or a jubilee while (envoys political) may be commissioned to negotiate with a particular state or to participate in an international conference or congress. In the latter case, there is no need to accredit them to the state where the sessions are being held¹ nor is it necessary that there be regular diplomatic relations between that state and their own.~~

¹ Oppenheim-Lauterpacht, 775-776.

The Head of State

The head of state, be he monarch or president, is regarded as the embodiment of or at least represents the sovereignty of his state. Accordingly, he is entitled to certain immunities and honors befitting his status. His person being regarded as sacrosanct, he has a right to special protection not only for his physical safety but for the preservation of his honor or reputation as well. His quarters, archives, property, and means of transportation are inviolate under the principle of extraterritoriality. He is also exempt from criminal jurisdiction and likewise from civil jurisdiction, except where he himself is the plaintiff, and is not subject to tax or to exchange or currency restrictions. Ceremonial amenities are also due him unless he is traveling incognito.²

In the case of *Mighell v. Sultan of Johore*,³ suit was brought for breach of a promise to marry allegedly made by the defendant who had represented himself as a private individual. The action was dismissed when he revealed his real identity as head of an independent state. By contrast, a civil claim for money due the plaintiffs was allowed by the French courts against former Queen Isabella of Spain, then living in Paris.⁴ Jurisdiction was assumed because she had already been deposed at the time and was no longer entitled to royal prerogatives.

The Foreign Secretary

It was common before for heads of state to personally undertake the function of diplomatic negotiations, but the practice has now largely fallen into disuse. Except on rare occasions when the matter under consideration is of such

² *Ibid.*

³ L.R. (1894), 1 Q.B. Div. 149.

⁴ Oppenheim-Lauterpacht, 761.

significance or delicacy as to warrant no less than what is known as a "summit meeting," the conduct of external affairs is now generally entrusted to the foreign secretary or minister.

Under the municipal law of most states, the foreign secretary is the immediate representative of the head of state and directly under his control. As such, he can make binding declarations on behalf of his state on any matter falling within his authority, such as questions relating to recognition of states or governments and the settlement of international claims against the state.⁵ The foreign secretary is also the head of the foreign office and has direction of all ambassadors and other diplomatic representatives of his government.

Diplomatic Envoys

The regular or day-to-day conduct of international affairs is entrusted to the members of the foreign service who are accredited by the sending state as its permanent envoys to represent it in the states with which it is maintaining diplomatic relations. The development of this service was the offshoot of the practice of establishing permanent legations which became general during the seventeenth century.

The heads of these diplomatic missions are classified as follows by the Convention on Diplomatic Relations, which was signed at Vienna in 1961:

- (1) Ambassadors or *nuncios* accredited to heads of state.
- (2) Envoys, ministers or *internuncios* accredited to heads of state.

⁵ Case concerning the Legal Status of Eastern Greenland, decided April 5, 1933, by the Permanent Court of International Justice, Oppenheim-Lauterpacht, 765-766.

(3) *Chargés d'affaires* accredited to ministers for foreign affairs.⁶

The classification of diplomatic representatives was considered significant before because direct communication with the head of state depended then on the rank of the diplomat and, moreover, only the powerful states were regarded as entitled to send envoys of the highest rank. At present, however, diplomatic matters are usually discussed not with the head of state but with the foreign secretary regardless of the diplomat's rank. Moreover, it has become the practice now for even the smallest and weakest states to send diplomatic representatives of the highest rank, even to the major powers.

It may be said, therefore, that the distinctions among the members of the diplomatic service are important only in connection with matters of protocol or the grant of special honors. In other respects, the various diplomatic agents enjoy substantially the same prerogatives regardless of rank.

The Diplomatic Corps

The diplomatic corps is a body consisting of the different diplomatic representatives who have been accredited to the same local or receiving state. It is headed by a *doyen du corps* who, by tradition, is the oldest member with the highest rank or, in Catholic countries, the Papal Nuncio. In the Diplomatic Convention, however, it is provided that "heads of missions shall take precedence in their respective classes in the order of the date and time of taking up their functions."⁷

Being a loose organization without any corporate character, the diplomatic corps does not possess any legal

⁶ Art. 14.

⁷ Art. 16.

powers or attributes. It is nonetheless important in watching over diplomatic privileges and honors and has at times acted officially in the protection of the rights of its members.

Appointment of Envoys

The Diplomatic Convention provides that the class to which the heads of their missions are to be assigned shall be agreed upon between the states concerned.⁸ Moreover, the sending state must make certain that the *agrément* of the receiving state has been given for the person it proposes to accredit as head of the mission to that state.⁹

The appointment of diplomats is not merely a matter of municipal law because the receiving state is not obliged to accept any representative who is *persona non grata* to it. Indeed, there have been cases when accredited representatives were rejected, resulting in strained relations between the sending and receiving states. For example, an American minister was not received in Italy for having previously protested in a speech the annexation of the Papal States by Italy; and when next accredited to Austria he was also rejected, this time because he was married in a civil ceremony to a Jewess. The United States government considered these reasons inadequate but could not, of course, insist on its appointment.

To avoid such awkward situations, most states now observe the practice of the *agrément*, by means of which informal inquiries are addressed to the receiving state regarding a proposed diplomatic representative of the sending state. It is only when the receiving state manifests its *agrément* or consent, also informally, that the diplomatic representative is appointed and formally accredited.

⁸ Art. 15.

⁹ Art. 4.

Article 4 of the Diplomatic Convention provides that "the receiving state is not obliged to give reasons for a refusal of *agrément*."

Under our Constitution, it is the President who is empowered to appoint ambassadors, other public ministers and consuls, subject to the consent of the Commission on Appointments. His discretion is exclusive when it comes to receiving ambassadors and other public ministers duly accredited to the government of the Philippines.¹⁰

Commencement of the Diplomatic Mission

The head of the mission is considered as having taken up his functions in the receiving state either when he has presented his credential or when he has notified his arrival and a true copy of his credentials has been presented to the foreign ministry of the receiving state.¹¹

The credentials of the diplomatic agent include chiefly the letter of credence, or *lettre de créance*, by means of which he is accredited to the receiving state with the request that full faith and credit be given to his official acts on behalf of the sending state. In addition to this document, the envoy usually also carries his diplomatic passport, his official instructions and a cipher or code book for use in sending secret communications to his government.

Although marked with solemnity and sometimes even pomp, the reception of the envoy is not a mere ceremony. Unless the receiving state had previously given its *agrément* to his appointment, the diplomatic representative cannot claim the usual privileges and immunities of his office until he is formally accepted. Oppenheim cites the case of one Vitianu, who was convicted of certain crimes in Switzerland despite his assertion that he had

¹⁰ Art. VII, Sec. 16.

¹¹ Diplomatic Convention, Art. 13.

been appointed economic counselor of the Romanian legation there. It was held that, since he had never been accepted as such by the Swiss government, he could not claim diplomatic immunity.¹²

Diplomatic Functions

The functions of a diplomatic mission consist *inter alia* in:

- (1) Representing the sending state in the receiving state.
- (2) Protecting in the receiving state the interests of the sending state and its nationals.
- (3) Negotiating with the government of the receiving state.
- (4) Ascertaining by all lawful means conditions and developments in the receiving state and reporting thereon to the government of the sending state.
- (5) Promoting friendly relations between the sending and receiving states and developing their economic, cultural and scientific relations.¹³

The diplomatic mission may also perform consular functions in the absence of a consular mission from the sending state. On request or by agreement, it may also represent friendly governments, as when the United States undertook the diplomatic representation of the Philippine Republic while we were still in the process of organizing our own foreign service.¹⁴

¹² Oppenheim-Lauterpacht, 784.

¹³ Diplomatic Convention, Art. 3.

¹⁴ RP-US Treaty on General Relations.

Conduct of Diplomatic Mission

In the performance of his functions, the diplomatic agent must exercise the utmost discretion and tact, taking care always to preserve the goodwill of the sending state and to avoid interference with its internal affairs. The envoy is not justified in pitting or aiding one political party against another, or publicly criticizing the policies or acts of the receiving state, or employing threatening or offensive language or methods in the protection of the interests of his state or its nationals. His mission is also under no circumstance to be used for espionage, the dissemination of propaganda against the receiving state, or subversion of its government.

The Philippine government ordered the closure of the Cuban embassy here when it was discovered to be engaged in subversive activities. Ambassador Hanihara was replaced in 1924 when he suggested in a letter to the U.S. State Department that the passage of a bill limiting Japanese immigration was likely to produce "grave consequences." Sending states have on occasion, voluntarily or on request, recalled their diplomatic representatives for improper discharge of their functions.

Diplomatic Immunities and Privileges

Diplomats enjoy a number of privileges and immunities some of which can be traced to as far back as the Greek and Roman eras. The reason originally given for the special treatment of the envoy was the fiction of extraterritoriality by which he was considered an extension of the state he was representing. But this view has yielded to the modern justification that his privileges and immunities are necessary to give the envoy the fullest freedom or latitude in the exercise of his official functions.

Based largely on international custom, most of the diplomatic privileges and immunities have been reaffirmed and are now expressly provided for in the Diplomatic Convention of 1961. Some of the more important of these are briefly discussed hereunder.

(a) Personal Inviolability

Like the head of state, the envoy is regarded as sacrosanct and is entitled to the special protection of his person, honor and liberty. An attack on any of these is deemed a serious offense and must be redressed with the most severe penalties by the receiving state.

The Diplomatic Convention provides: "The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving state shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity."¹⁵

But these rules are not without exception. The envoy cannot complain if he is injured because he himself caused the initial aggression and thereby provoked retaliation or unduly exposed himself to danger as by mixing with a disorderly assemblage.¹⁶ The local authorities may also, in exceptional cases, lay hands on him if he has committed an act of violence and it is necessary to place him in preventive restraint.

In the Philippines, R.A. No. 75 punishes, on the basis of reciprocity, "any person who assaults, strikes, wounds, imprisons or in any other manner offers violence to the person of an ambassador or public minister, in violation of the law nations" with imprisonment for not more than three years and a fine not exceeding two hundred pesos in

¹⁵ Art. 29.

¹⁶ Fenwick, 469.

addition to the penalties prescribed by the Revised Penal Code. It is to be noted, though, that the attack is confined to the person of the envoy and does not include his honor or reputation.

(b) Immunity from Jurisdiction

It is a generally accepted principle of international law that the diplomatic agent shall be immune from the civil, criminal and administrative jurisdiction of the receiving state except in a few specified cases. This does not mean that he can violate the local laws with impunity; on the contrary, he is expected to observe them meticulously as befits a person of his rank and prestige. If he does not, he may not be punished for his offense by the receiving state, but it can and usually will ask for his recall.

So strictly observed is this immunity that the envoy can escape the rigor of the local laws even if he commits the most serious offense in the receiving state. Thus, when in 1584 the Spanish ambassador to England plotted against the life of Queen Elizabeth I, he was merely ordered to leave the country, as so too was the French ambassador when he was involved in a conspiracy to kill Cromwell in 1654. Interestingly, however, when in 1587 the French ambassador committed a similar offense against the same Queen Elizabeth I, he was simply given a warning.¹⁷

The Diplomatic Convention provides: "A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving state. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of: (a) a real action relating to private immovable property situated in the territory of the receiving state, unless he holds it on behalf of the sending state for the purposes of

¹⁷ Oppenheim-Lauterpacht, 791.

the mission; (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending state; (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving state outside his official functions."¹⁸

Immunity from jurisdiction may be waived expressly by the sending state, or under its authority, by the head of mission. Waiver may also be made impliedly, as when the person entitled to the immunity commences proceedings in the local state and thereby opens himself to any counterclaim directly connected with the principal claim. However, waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.¹⁹

R.A. No. 75 provides that "any writ of process sued out or prosecuted by any person in any court of the Republic of the Philippines, or by any judge or justice, whereby the person of any ambassador or public minister of any foreign state, authorized and received as such by the President, or any domestic servant of any such ambassador or minister is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, shall be deemed void, and every person by whom the same is obtained or prosecuted, whether as party or as attorney, and every officer concerned in executing it, shall, upon conviction, be punished by imprisonment for not more than three years and a fine of not exceeding two hundred pesos in the discretion of the court."

In *World Health Organization v. Aquino*,^{19a} the respondent judge issued a warrant for the search and sei-

¹⁸ Art. 31.

¹⁹ Art. 32.

^{19a} 48 SCRA 242.

zure of certain goods alleged to have been brought into the country illegally by an official of the World Health Organization. The WHO and the official moved to quash the warrant on the ground of the latter's diplomatic immunity under the Host Agreement concluded between the Philippines and the WHO. The Secretary of Foreign Affairs joined them in this representation, as so too later did the Solicitor General. Nevertheless, the judge denied the motion, holding that there were "strong and positive indications of violations of local laws." In annulling the search warrant, the Supreme Court held as follows:

1. The executive branch of the Philippine Government has expressly recognized that petitioner Verstuyft is entitled to diplomatic immunity, pursuant to the provisions of the Host Agreement. The Department of Foreign Affairs formally advised respondent judge of the Philippine Government's official position that accordingly 'Dr. Verstuyft cannot be the subject of a Philippine court summons without violating an obligation in international law of the Philippine Government' and asked for the quashal of the search warrant, since his personal effects and baggage, after having been allowed free entry from all customs and duties and taxes, may not be baselessly claimed to have been 'unlawfully imported' in violation of the tariff and customs code as claimed by respondent COSAC officers. The Solicitor General, as principal law officer of the Government, likewise expressly affirmed said petitioner's right to diplomatic immunity and asked for the quashal of the search warrant.

It is a recognized principle of international law and under our system of separation of powers that diplomatic immunity is essentially a political question and courts should refuse to look beyond a determination by the executive branch of the government, and where the plea of diplomatic immunity is recognized and affirmed by the executive branch of the government as in the case at bar, it is then the duty of the courts to accept the claim of immunity upon appropriate suggestion by the principal law officer of the government, the Solicitor General in this case, or other officer acting under his direction. Hence, in adherence to the settled principle that courts may not so exercise their jurisdiction by seizure and detention of property, as to embarrass the executive arm of the government

in conducting foreign relations, it is accepted doctrine that 'in such cases the judicial department of (this) government follows the action of the political branch and will not embarrass the latter by assuming an antagonistic jurisdiction.'

2. The unfortunate fact that respondent judge chose to rely on the suspicion of respondents COSAC officers 'that the other remaining crates unopened contain contraband items' rather than on the categorical assurance of the Solicitor General than petitioner Verstuyft did not abuse his diplomatic immunity, which was based in turn on the official positions taken by the highest executive officials with competence and authority to act on the matter, namely, the Secretaries of Foreign Affairs and of Finance, could not justify respondent judge's denial of the quashal of the search warrant.

As already stated above, and brought to respondent court's attention, the Philippine Government is bound by the procedure laid down in Article VII of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations for consultations between the Host State and the United Nations agency concerned to determine, in the first instance the fact of occurrence of the abuse alleged, and if so, to ensure that no repetition occurs and for other recourses. This is a commitment voluntarily assumed by the Philippine Government and as such has the force and effect of law.

Hence, even assuming *arguendo* as against the categorical assurance of the executive branch of government that respondent judge had some ground to prefer respondent COSAC officers' suspicion that there had been an abuse of diplomatic immunity, the continuation of the search warrant proceedings before him was not the proper remedy. He should, nevertheless, in deference to the exclusive competence and jurisdiction of the executive branch of government to act on the matter, have acceded to the quashal of the search warrant, and forwarded his findings or grounds to believe that there had been such abuse of diplomatic immunity to the Department of Foreign Affairs for it to deal with, in accordance with the aforementioned Convention, if so warranted.

In the case of *The Holy See v. Rosario*,¹²⁶ the Supreme Court dismissed a civil complaint against the petitioner

¹²⁶ 238 SCRA 524.

after the Department of Foreign Affairs had "officially certified that the Embassy of the Holy See is a duly accredited diplomatic mission to the Republic of the Philippines exempt from local jurisdiction as entitled to all the rights, privileges and immunities of a diplomatic mission or embassy in this country." It was further affirmed that "the determination of the executive arm of the government that a state or instrumentality is entitled to sovereign or diplomatic immunity is a political question that is conclusive upon the courts. Where the plea of immunity is recognized and affirmed by the executive branch, it is the duty of the courts to accept this claim so as not to embarrass the executive arm of the government in conducting the country's foreign relations."

(c) Inviolability of Diplomatic Premises

The Diplomatic Convention provides: "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 mission."²⁰ It also places on the receiving state "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."²¹ Furthermore, "the premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution."²²

Originally derived from the principle of extritoriality but now generally justified on more pragmatic grounds, the so-called *franchise de l'hotel* extends immunity from the local law to the diplomatic premises. These include the

²⁰ Art. 22.

²¹ *Ibid.*

²² *Ibid.*

envoy's offices, his residence and out-buildings, his means of transportation, and the compound where these are found, which may not be entered by the local authorities without his permission.

But this rule is not absolute as it is allowed, in cases of clear and urgent necessity, for the local authorities to take forcible measures to arrest any person subject to their jurisdiction. The so-called right of diplomatic asylum has not received universal recognition except when it is extended for humanitarian reasons, as when the fugitive seeking sanctuary is in immediate danger of his life or safety. In other cases, asylum is granted only on the strength of local usage, particularly in favor of political refugees, or of treaty stipulations.

Of particular interest is the case of Sun Yat Sen, who was detained in 1895 in the Chinese legation in London in defiance of a writ of *habeas corpus*. When the British government threatened to use force to carry out the order of the court, the Chinese minister immediately ordered the prisoner's release.

(d) Inviolability of Archives

For quite obvious reasons, the receiving state has no right to pry into the official papers and records of a foreign diplomatic mission. Accordingly, the Diplomatic Convention simply provides that "the archives and documents of the mission shall be inviolable at any time and wherever they may be."²³ This is true even in case of armed conflict, during which the archives must remain sealed and may not be confiscated by the local state.

²³ Art. 24.

(e) Inviolability of Communication

Being essential to the proper discharge by the envoy of his official functions, the right to free communication is recognized and protected by international law. According to the Diplomatic Convention, "The receiving state shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the government and other missions and consulates of the sending state, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher."²⁴

Such communications are "inviolable" and the diplomatic bag containing it "shall not be opened or detained." Even the diplomatic courier carrying the diplomatic bag "shall be protected by the receiving state in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention."²⁵

(f) Exemption from Testimonial Duties

The Diplomatic Convention also provides that "a diplomatic agent is not obliged to give evidence as a witness."²⁶ Nevertheless, he is not prohibited by international law from doing so and may waive this privilege when authorized by his government. For example, the Venezuelan envoy testified at the trial of the assassin of President Garfield in 1881. On the other hand, the Dutch envoy to Washington invoked this right in 1856 when he rejected a request to testify in connection with a homicide committed in his presence and for the prosecution of which his testimony was necessary. The American government later asked for his recall.

²⁴ Art. 27.

²⁵ *Ibid.*

²⁶ Art. 31.

(g) Exemption from Taxation

The diplomatic envoy is also exempt from taxes, customs duties, and other dues, subject to the exception listed in the Diplomatic Convention,²⁷ and as well as from social security requirements under certain conditions.²⁸ His personal baggage is also free from inspection unless there are serious grounds for presuming that it contains articles not exempt from customs duties or not admissible into the receiving state.²⁹

(h) Other Privileges

Subject to its laws and regulations concerning zones, entry into which is prohibited or regulated for reasons of national security, the receiving state shall ensure to all members of the mission freedom of movement and travel in its territory.³⁰

The receiving state shall also exempt diplomatic agents from all personal services, from all public services of any kind whatever, and from military obligation such as those connected with requisitioning, military contributions and billeting.³¹

The mission and its head shall have the right to use the flag and emblem of the sending state on the premises of the mission, including the residence of the head of the mission, and on his means of transport.³²

²⁷ Arts. 34, 36.

²⁸ Art. 33.

²⁹ Art. 36.

³⁰ Art. 26.

³¹ Art. 35.

³² Art. 20.

The Diplomatic Suite or Retinue

The above-discussed immunities and privileges are available not only to the head of mission and his family but also to the other members of the diplomatic retinue, albeit not in the same degree. The diplomatic retinue consists of the diplomatic staff, the administrative and technical staff and the service staff. The administrative and technical staff enjoys the same rights as the diplomatic staff except that immunity from civil and administrative jurisdiction shall not extend to unofficial acts. On the other hand, the private servants of the official members of the mission, if they are not nationals or permanent residents of the receiving state, enjoy only exemption from dues and taxes on their income from the mission and such other immunities and privileges as may be granted by the receiving state.³³

Duration

Every person entitled to diplomatic privileges and immunities shall enjoy them from the moment he enters the territory of the receiving state on proceeding to take up his post or, if already there, from the moment his appointment is notified to the foreign ministry.³⁴

When his functions have to come to an end, his privileges and immunities shall normally cease from the moment he leaves the country or on expiry of a reasonable time in which to do so, but shall subsist until such time even in case of armed conflict. However, with respect to acts performed by him in the exercise of his official functions, immunity shall continue indefinitely as it is sup-

³³ Arts. 37, 38.

³⁴ Art. 39.

posed to have attached not to him personally but to the state he was representing.³⁵

These privileges and immunities are available to him and to his family not only *in situ* but as well *in transitu*, that is, when traveling through a third state on the way to or from the receiving state, so far as may be necessary to secure his transit or return.³⁶

Termination of Diplomatic Mission

A diplomatic mission may come to an end by any of the usual methods of terminating official relations, like death, resignation, removal, abolition of the office, etc. These are governed by municipal law. Under international law, the more important modes are recall and dismissal.

Recall may be demanded by the receiving state when the foreign diplomat becomes *persona non grata* to it for any reason. An example is the request made by the U.S.S.R. in 1953 for the recall of U.S. Ambassador Kennan for making derogatory statements against the Soviet Government. Where the demand is rejected by the receiving state, or even without making a request for recall, the receiving state may resort to the more drastic method of dismissal, by means of which the offending diplomat is simply asked to leave the country.

In October 1971, for instance, the British Government ordered no less than 105 Soviet diplomatic officials to leave Great Britain—the largest diplomatic expulsion in peacetime history—for espionage. The U.S.S.R. later retaliated by ousting 5 British diplomats and refusing to accept 13 others. In 1976, the North Korean ambassador and several members of his diplomatic mission were ex-

³⁵ *Ibid.*

³⁶ Art. 40

pelled by the Scandinavian states to which they were accredited, for alleged involvement in illicit drugs.

The outbreak of war between the sending and receiving states terminates their diplomatic relations, which are in fact usually severed even before the actual commencement of hostilities. Extinction of either state will also have the same effect. As for change of government, diplomatic relations are not disturbed if the change is peaceful but may be suspended where it is effected by means of violence and the new government has not yet been recognized by the receiving state. In either case, according to Oppenheim, there is a necessity for the diplomatic agent to be provided with a new letter of credence.³⁷

³⁷ Oppenheim-Lauterpacht, 818.