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THE CONCEPT AND PRINCIPLE OF PRECEDENCE IN DIPLOMATIC PRACTICE

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Abstract

This paper examines how the concept of precedence came about in diplomatic practice and how it has developed over time. Similarly, the paper x-rays the various principles and order of precedence within diplomatic practice. It would be stated that the concept of precedence will be looked at vis-à-vis protocol in order to shed more light on the discourse. In the end, the study suggests an equitable procedure in ensuring that each person receives the position and respect to which his office entitles him and which are recognised by other political and administrative authorities, and by the society at large. Thus, rules of precedence are not to be departed from because a deliberate departure from them will be that of injustice and distrust, as in the case of the French and Spanish ambassadors in 1616.

Keywords; Precedence, Diplomatic, Protocol, Ambassador

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INTRODUCTION

Man being what he is, a political and a prestigious entity, filled with the aura of adoration among God's creatures ranks number one in the order of precedence among other animals based on his rationality. However, because of his insatiable desire for power and prestige, man seeks amongst other things, to conquer his fellow being accruing for himself the prestige and superiority of a demi god. Thus, the idea of precedence has always been of concern to man right from antiquity, even in diplomatic practice. This has led to various lapses in foreign relations among various states or nations.

Man has been plagued by the concept of who comes first in rank or priority where various leaders or representatives of states are gathered .For example, where heads of diplomatic missions are gathered (e.g. USA, France, Nigeria, Togo e.t.c), who comes first? Who is to be addressed first since all of them want to be recognised first? Because ambassadors personally represent the heads of their governments, the relations among them within a country have always involved issues of prestige. Thus such details as where an ambassador rode in a procession or which ambassador entered a room first, assumed greater significance.

These are the kind of issues this paper seeks to address as they plagued the practice of diplomacy until they were resolved at the Congress of Vienna in 1815 and the Congress of Aix-la-Chappelle in 1818 and more recently, at the Vienna Convention on Diplomatic Relations in 1961.

Precedence enhances diplomatic relations which sustains and awakens relationships among states and other international bodies with a view to enhancing international co-operation for the achievement of cherished values or goals as the case may be.

In the course of this paper, we shall look at the meaning of the terms used seeing protocol alongside precedence, a brief summation of the history of precedence, and see how effective protocol practice or precedence is to diplomatic relations, and draw a conclusion.

CLARIFICATION OF TERMS

To ensure a better comprehension of the concept of precedence in diplomatic practice for the purpose of realizing a state's national interests ,it is paramount to know the basic words.

PROTOCOL

Etymologically, this term is derived from the Greek word “proto-koller” which means a piece of paper glued to the front of a national document thereby giving it authenticity. The word “protocol” in Byzantine diplomacy stood for the first part of the solemn written documents where the participants were emanated (Wood and Serres, 1970: 19). However, in the face of the contemporary state of internal affairs characterized by the complexity and changes in the numbers, status and roles of new entities on the international scene, the term protocol assumed a different meaning. Thus protocol is:

.....a form of hierarchical order, the expression of good manners among nations.....it is the set of rules of conduct for governments and their representatives on official and private occasions(Wood and Serres,1970:19).

This definition is quite encompassing as it concerns precedence which entails the hierarchical order of placement of envoys. The expression of good manners among nations is the essential ingredient of diplomacy.

According to Encyclopaedia Americana, Protocol means “the indication of the arrangement and etiquette of diplomatic conduct and ceremonial”(Encyclopedia Americana,1988:694).

The dictionary of international law defines protocol “as a code of behaviour and tradition observed by government institutions, diplomatic missions, diplomatic agents and other officials in the sphere of international intercourse”(Grant and Parry(ed.), 1986:205).

From the above definitions, we can therefore infer that protocol is concerned with the way and manner diplomatic agents are treated and the way they ought to conduct themselves. However, we shall be concerned with the first definition of protocol as a hierarchical order. It is important to note that protocol can also be seen from three main aspects: precedence (which is the aspect we are concerned about), etiquette and courtesy. In

order to do justice to the exposition of the word protocol, it is important that we look at the different aspects in passing. Thus:

a) PRECEDENCE: Precedence according to the Chambers Encyclopaedia is the order of priority accorded to the more eminent members of classes of community on state or public occasions and on formal social intercourse (Anderson and McGovern(ed.):192).

The black laws dictionary sees precedence solely as “the act of going before ,especially in the order of priority in place or time observed by or for persons of different statutes(such as political dignitaries) on the basis of ranking during ceremonial events”(Garner(ed.), 1995:921).

Given the above definitions, precedence can therefore be seen as an aspect of protocol that takes care of issues which border on hierarchical placements of individuals in an occasion of state or public functions. Precedence entails the right of a person to occupy the place of honour at a ceremony or on official meetings (Gasiokwu and Dakas, 2006: 196).

b) ETIQUETTE: Etiquette is a component of protocol that helps make life more pleasant and more attractive. Etiquette is the formal rules of correct and polite behaviour in society or among members of a given profession (Hornby and Cowie(ed.),1987:410).

Etiquette gives dignity and pleasant manner which draws forth what is pleasant in those we meet (Gasiokwu and Dakas, 2006: 196). It could also be understood as a set of mutually accepted conventions which govern relations among states, good manners that will ensure an offence free relationship among nation states.

c) COURTESY: Courtesy is concerned with acts of civility accorded to a person. Politeness of character or manner, which plays a vital role towards achieving respect and attention in attaining desired goals.

Having looked at the three areas or aspects of protocol, it suffices to say that there exists a nuance between them such that one cannot be applied irrespective of the other as they rest on each other and are equally vital for the smooth conduct of diplomatic relations among states.

DIPLOMATIC PRACTICE

Hans in Encarta Encyclopaedia sees diplomatic practice as a practice and institution by which nations conduct their relations with one another (<http://www.mtholyoke.edu....15/2/2009>). It has also been defined as “any means by which states establish or maintain mutual relations ,communicate with each other ,or carry out political or legal transactions in each case through their authorised agents”(Gasiokwu and Dakas,2006:202).

Diplomacy according to Earnest Satow, is the application of intelligence and tact to the conduct of official relations between the government of independent states extending sometimes also to their relations with vassal states; or more briefly still, the conduct of business between states by peaceful means(Booth (ed.), 1979:3).

In the Diplomatic Dictionary, diplomacy is seen as an official activity of a given state's organs of external relations in pursuing through peaceful means the objective and task of its foreign policy and in protecting its rights, its interest as well as those of its citizen's abroad(Diplomatic Dictionary.....Vol.11,1971:459).

Diplomacy, inferring from the given definitions, is an effective tool or instrument which nation states employ for the maintenance, promotion of peaceful relations on the international scene. Diplomacy in diplomatic practice thus, is a sine qua non for the management of peaceful and sometimes harsh relations among states for the interest of

individual states. Diplomacy is the means through which nations achieve their national interests.

HISTORY OF PROTOCOL VIS-À-VIS PRECEDENCE

Having understood the meaning of protocol cum precedence, it is important also to have the knowledge of how protocol or precedence came to be, the problems encountered through its dialectical transformation. It is by so doing that we will understand the principle of precedence in diplomatic practice.

Protocol practice dates back to antiquity, even to the time when ad hoc missions were carried out in old empires and city-states; ceremonies were observed at the reception of such ad hoc missions. The host empires made sure they addressed the special missions with guided respect. On the other hand, the visiting missions were mindful not to offend their host for fear of not achieving their mission or goal. As it was characteristic of diplomatic practice in those days, special mission made use of the tool of flattery in order to win the hearts of their hosts.

With the advent of permanent missions and the presence of more than one state representative in a particular territory, disputes began to erupt. Thus it became difficult for a mission to have the full attention of the host state at a function since there were many state representatives to attend to. Problems related to precedence i.e. who comes first in rank at courts or gatherings posed serious problems since all sovereigns were considered equal. As it is common with man, each state representative wants to assume the highest place of honour believing that the place at which they sit also reflect the position of their kings. But this brought serious quarrels among them since most envoys had orders from their home governments never to allow other representatives to precede them in any ceremonial procession, because it would reflect adversely on the prestige and honour of their own empires. Quarrels usually emanated from this state of affairs and negotiations among states

were sometimes affected .Pope Julius, in trying to respond to this problem prepared a table of precedence but was not enforced due to the decline in Papal authority at that time(Booth(ed.),1979:4-5).

This state of affairs in diplomatic relations took another dimension in 1616.In this instance there was a physical combat between the Spanish and French ambassadors at the court of Saint James (London)(Booth(ed.),1979:20).The dispute was with regards to who should take precedence over the other.This contributed to the breach of diplomatic relations between France and Spain at the time.A similar dispute occurred between the Russian and French ambassador.The French ambassador to London had had a prior instruction by his home authorities to maintain his diplomatic rank by all means and to concede precedence only to the Papal and Imperial ambassadors.On his part, the Russian ambassador was not particularly asked to claim precedence over the French ambassador,but he was not to concede to him.Thus, at a court ball in 1768, lack of precedence or the non-observance of protocol led to a physical combat that left the Russian ambassador wounded (Gasiokwu and Dakas,2006:198).These and such other disputes continued to dominate diplomatic relations in utter disregard to matters of courtesy and etiquette.

The premier at bringing sanity to the conduct of affairs between diplomatic envoys was made by Pombal, the then Prime Minister of Portugal in 1760.He circulated a notice to all foreign representatives at the court of Lisbon which stated that except the Papal Nuncio and Imperial Ambassadors, all other envoys would, when paying visits, rank according to the date of presentation of their credentials. This position was however met with negative opinion from the French Minister. He maintained that the powers of kings did not extend to assigning rank to other crowned heads without the king's sanction, as such Pombal's proposal was relegated to the background most especially because other countries also rejected it in congruence with the French envoy (Booth(ed.),1979:23).

However, there came a major breakthrough in these problems when at the Congress of Vienna in 1815, the system of anarchy and chaos in diplomatic relations was corrected and a classification of diplomatic ranks was adopted(Harris and Levy(ed.),1975:768).Thus, the Vienna Congress established four grades of diplomatic representatives which are; Ambassador,Papal Legate and Papal Nuncio,Minister Plenipotentiary and Envoy Extra-Ordinary, Minister and Charge d'affairs. The codification from the Congress of Vienna did not put to rest the problems of precedence until the 1818 Congress of Aix-la-Chappelle which stipulated that heads of missions in each class will take precedence based on the length of time they have served as ambassadors in one country (Harris and Levy (ed.), 1975: 768).

Under the auspices of the U.N. in 1961, nations came together and signed the Convention on Diplomatic Relations at Vienna. This convention provided the most explicit internationally recognised and accepted body of rules for regulating inter-state relations. The convention upholds both the 1815 ranking of the Vienna Congress and the 1818 order of precedence of Aix-la-Chappelle as found in its Article 14 and 16.

PRINCIPLES OR ORDER OF PRECEDENCE

Having given the history of protocol cum precedence succinctly, it then becomes important to highlight the order of precedence as found among diplomats for a better understanding of the subject matter.

A diplomat is thus concerned with four orders of precedence;

- a) Precedence between heads of diplomatic missions
- b) Individual precedence within a mission
- c) Individual precedence inter se of Diplomats at formal or Diplomatic functions
- d) Precedence of heads of missions within the national order of precedence.

A. PRECEDENCE BETWEEN HEADS OF DIPLOMATIC MISSIONS

This is based on the class into which a head of mission falls; Ambassador, High Commissioner or Apostolic Nuncio, Envoy Extraordinary and Minister Plenipotentiary or Inter-Nuncio, and Charge d'Affaires en titre (titular or en pied).

Within each of these classes, seniority is based on the date on which the head of mission assumed his duties. This is either the date on which he presented his credentials to the head of state, as it is done in Nigeria for example, or the date on which he notified his arrival to the minister of foreign affairs a copy of his credentials e.g. the U.K.

It is important to note that if two heads of mission present their credentials on the same day, precedence therefore may be determined either by the place in the alphabet of the first letter of the state (in French) of the representative concerned, or more commonly, by the relative times of the day they officially commenced their functions (Feltham, 1998:27).

In certain states the ambassador representative of the Holy See takes precedence over all the other heads of missions in the same category.

B. INDIVIDUAL PRECEDENCE WITHIN A MISSION

The individual precedence of members of the political staff below the head of mission are Minister Plenipotentiary, Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary and Attache.

The place of service of specialist attaches like military attaches is usually determined by individual missions. Sometimes they come before the First Secretary but rarely above the diplomat next senior to the head of mission. The precise order of precedence however is normally found in the diplomatic list which every state receiving diplomatic representative produces. It is the responsibility of the head of the mission therefore, to notify

the Ministry of Foreign Affairs of the precedence of the member of her mission (Feltham, 1998: 28).

C. INDIVIDUAL PRECEDENCE INTER SE OF DIPLOMATS AT FORMAL OR DIPLOMATIC FUNCTIONS

Precedence here is based on rank which is as follows: Apostolic Nuncio(in those countries where he is Dean or Doyen ex officio),Ambassador/High Commissioner, Envoy Extraordinary/Minister Plenipotentiary, Charge d' Affaires (en titre), Charge d' Affaires (ad interim),Minister Counselor, Counselor, First Secretary ,Second Secretary and Third Secretary. Here service and specialist attaches are usually placed immediately after Counselors, but practice varies.

D. PRECEDENCE OF HEADS OF MISSION WITHIN THE NATIONAL ORDER OF PRECEDENCE

Here heads of missions are placed according to traditional precedence and customs, but usually after members of the cabinet and the Presidents of the legislative assemblies. In the U.K., heads of missions of ambassadorial rank are placed after the very high dignitaries who rank immediately after the sovereign and close members of the royal family in the national order of precedence (Feltham,1998: 29).

In republics like Brazil and the United States for example, ambassadors mostly take third place and foreign ambassadors in both countries come immediately after the Vice President of the Republic (Do Nascimento e Silva, 1972:169). In Nigeria for example, the heads of missions are placed 17th, a Foreign Charge d'Affaires and acting High Commissioners are placed 30th (Gasiokwu and Dakas, 2006: 210).

THE RELEVANCE OF PRECEDENCE TO DIPLOMATIC RELATIONS

From the foregoing, it is an indubitable fact to say that protocol or precedence practice is an aggregate of variables that make for the pleasant atmosphere in which diplomatic discourse takes place. This obviously implies that precedence enhances diplomacy based on the very fact that when there is a pleasant political weather, then diplomats are in a better state of mind to transact business.

The earliest diplomatic representatives of state did not find it easy out of diplomatic soldering because in many spheres of their lives they became people of two worlds: the world of their own indigenous cultures and the world of widespread internationally accepted diplomatic cultures (Majen,1983:19).

CONCLUSION

In summary, it is obvious that precedence or the use of protocol is a sine qua non for diplomatic practice as evidenced in the relationship of states with one another. Recourse to the periods before the 1815 and 1818 congresses reminds one of the attendant problems that plagued the practice of diplomacy due to lack of protocol and precedence. Many nation states faced different problems relating to the issue of precedence either in their individual state function or in an international one; Nigeria too, as a state under international law, has never been an exception when it comes to the issue of organizing her protocol. The dilemma was in identifying those elements of protocol that it could live with but without necessarily altering its own way. Thus, the first step out of this dilemma was to establish or create a national list of precedence for the purpose of official ceremonies and outing which is appended in a document known presently as the 'National Order of Precedence in Government Notice 405'(Gasiokwu and Dakas,2006:205).

Given the problems of precedence in the past(the mighty trying to suppress the weak), the order of precedence as it has evolved on the international plane is a plus to protocol

practice because precedence is not based on prestige or power of home governments of diplomats but solely on the length of time such diplomats have served and on the date or time of the day they assumed their duties according to the Vienna Convention on Diplomatic Relations of 1961 Article 16(1) which states that “Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions....”(Vienna Convention.....1961:Article 16).

This makes it an equitable procedure ensuring that each person receives the position and respect to which his office entitles him and which are recognised by other political and administrative authorities, and by the society at large. Thus, rules of precedence are not to be departed from because a deliberate departure from them will be that of injustice and distrust, as in the case of the French and Spanish ambassadors in 1616.

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