

International Legal Challenges in Addressing Diplomatic Defection Involving a Third State: A Normative Study of the Ri Il Kyu Case

Marcello Ardra P. S¹; Dhiana Puspitawati²; Adi Kusumaningrum³

¹²³Fakultas Hukum Universitas Brawijaya Jl. MT. Haryono 169 Malang

Email: marcelloardra@student.ub.ac.id

ABSTRACT

Diplomatic relations remain one of the oldest and most institutionalised mechanisms through which states communicate, negotiate, protect national interests and maintain peaceful cooperation. The Vienna Convention on Diplomatic Relations 1961 (VCDR) codifies the core rules governing the establishment of diplomatic relations, the functions of diplomatic missions, diplomatic privileges and immunities, and remedial measures such as *persona non grata*. Yet the Convention does not expressly regulate the situation in which a diplomatic agent abandons his or her post in the receiving state and seeks protection or permanent relocation in a third state. Using a normative juridical method with statutory, conceptual and case approaches, this article examines the reported defection of Ri Il Kyu, a North Korean diplomat posted in Cuba who defected with his family to South Korea in November 2023. The article argues that the problem should not be described as a complete legal vacuum, because several applicable regimes already exist, including the VCDR, treaty law, human rights law, refugee law and peaceful dispute settlement under the United Nations Charter. However, these regimes are fragmented and do not provide an integrated procedure for allocating rights and obligations among the sending state, the receiving state and the third state. The article therefore proposes a specialised multilateral protocol or soft-law guideline on diplomatic defection, built upon good faith, proportionality, sovereign equality, non-intervention, non-refoulement, protection of family members, confidentiality of official materials and peaceful dispute settlement.

Keywords:

diplomatic defection; Vienna Convention on Diplomatic Relations; *persona non grata*; third state; non-refoulement; international dispute settlement.

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INTRODUCTION

Diplomatic relations are an indispensable legal and institutional framework for relations among states. They provide an authorised channel for communication, negotiation, representation, protection of nationals, crisis management and the development of economic, cultural and scientific relations. For that reason, the law of diplomatic relations is not merely technical law on privileges and immunities; it is part of the normative architecture that enables states to coexist and cooperate peacefully.

The central treaty in this field is the Vienna Convention on Diplomatic Relations 1961. The Convention provides that the establishment of diplomatic relations and permanent diplomatic missions takes place by mutual consent (Vienna Convention on Diplomatic Relations [VCDR], 1961, art. 2). It further defines the functions of diplomatic missions, including representing the sending state, protecting its interests and nationals, negotiating with the government of the receiving state, reporting by lawful means, and promoting friendly relations (VCDR, 1961, art. 3). These functions show that the diplomat is not an independent political actor, but an institutional representative of the sending state operating within an agreed legal framework.

The VCDR also regulates the hierarchy of heads of mission. Article 14 classifies heads of mission into three classes: ambassadors or nuncios accredited to heads of state and other heads of equivalent rank; envoys, ministers and internuncios accredited to heads of state; and charges d'affaires accredited to ministers for foreign affairs (VCDR, 1961, art. 14). This classification underlines the formal and representative character of diplomatic office. Once a diplomatic agent is accepted by the receiving state, the agent enjoys privileges and immunities not as personal benefits but to ensure the efficient performance of the functions of the mission, as expressly stated in the preamble of the Convention.

A difficult legal question arises when a diplomatic agent refuses to continue performing that representative function and defects to another state. Diplomatic defection may be driven by political disagreement, fear of persecution, internal conflict within the sending state, family safety, medical concerns, or dissatisfaction with the treatment received within the diplomatic service. In such circumstances, the diplomat is simultaneously an official representative of a state, an individual potentially seeking protection, and a person who may hold official information, documents or property. The legal problem becomes even more complex when the diplomat does not remain in the receiving state but moves to a third state.

The reported case of Ri Il Kyu illustrates this difficulty. In July 2024, Reuters reported that Ri Il Kyu, a North Korean counsellor posted at the North Korean embassy in Cuba, had defected with his wife and child to South Korea in November 2023. The report also stated that Ri had served in the embassy in Cuba and that his work had included efforts related to Cuba-South Korea diplomatic relations, which were later established in February 2024 (Lee & Park, 2024). The case therefore involved at least three states: North Korea as the sending state, Cuba as the receiving state, and South Korea as the state of destination or protection.

The original legal concern in this article is that the VCDR is primarily structured around a bilateral relationship between the sending and receiving states. It contains important mechanisms such as agrément, persona non grata, termination of diplomatic functions and residual immunity. Nevertheless, it does not expressly provide a procedure for a diplomatic defection involving a third state. This article refines that concern by arguing that the problem is better described as regulatory fragmentation rather than an absolute legal vacuum. The relevant rules exist, but they operate in separate legal regimes and do not clearly answer questions of inter-state notification, status, transit, asylum, non-return, family protection, official documents, confidentiality and dispute settlement in a single coherent framework.

This article addresses three research questions. First, how does existing international law regulate the status and functions of a diplomatic agent in situations relevant to defection? Second, why is persona non grata insufficient to resolve a diplomatic defection involving a third state? Third, what principles and institutional mechanisms should inform a more comprehensive legal framework for future cases of diplomatic defection? The article contributes to the literature by connecting diplomatic law, treaty law, human rights law, refugee law and peaceful dispute settlement into a single normative analysis of diplomatic defection.

METHOD

This study uses a normative juridical method. The research object is not statistical behaviour but the legal structure governing diplomatic defection under international law. The study therefore analyses primary legal materials, including the VCDR, the Vienna Convention on the Law of Treaties 1969 (VCLT), the United Nations Charter, the Convention Relating to the Status of Refugees 1951, the International Covenant on Civil and Political Rights 1966 (ICCPR), the Universal Declaration of Human Rights 1948 (UDHR), and relevant international jurisprudence. Secondary materials include doctrinal writings on diplomatic law, treaty law and general international law, as well as selected Indonesian legal scholarship used in the original draft.

Three approaches are employed. The statutory approach examines the applicable treaty provisions, especially VCDR Articles 2, 3, 9, 14, 39, 40, 41 and 43. The conceptual approach examines the legal concepts of diplomatic function, diplomatic immunity, *persona non grata*, third-state obligations, good faith, proportionality and legal certainty. The case approach uses the reported *Ri II Kyu* defection as an illustrative case, not as a judicially established factual record. Because the case has not generated a published international judgment, the article treats media reports cautiously and uses them only to frame the legal problem.

The legal reasoning applied in this study is interpretive and dialectical. It first identifies the rule contained in the existing treaty framework. It then confronts that rule with a fact pattern involving three states. Finally, it evaluates whether the existing rule can resolve the problem or whether additional normative development is necessary. This method preserves the substance of the original argument while making the claim more precise: the problem is not the absence of all law, but the absence of an integrated legal mechanism designed specifically for diplomatic defection involving a third state.

RESULTS AND DISCUSSION

1. Mutual consent, reciprocity and the representative character of diplomacy

The VCDR begins from the premise that diplomatic relations are consensual. Article 2 states that diplomatic relations and permanent diplomatic missions are established by mutual consent. This provision reflects both sovereign equality and reciprocity. A state cannot impose a diplomatic mission upon another state. The receiving state must agree to the establishment of diplomatic relations and to the accreditation of diplomatic agents. The requirement of *agrément* for a proposed head of mission further reflects this consensual structure (VCDR, 1961, art. 4).

The principle of reciprocity is also central to diplomatic relations. Although reciprocity is not expressed in a single general clause of the VCDR, the Convention is built upon reciprocal expectations among states. States grant diplomatic privileges and immunities to foreign missions because they expect similar treatment for their own missions abroad. Indonesian scholarship has also emphasised that diplomatic relations are based on balanced and mutually beneficial relations between sending and receiving states (Rahim et al., 2022). In doctrinal terms, reciprocity supports the stability of diplomatic law but also creates vulnerability when a highly political incident such as defection occurs.

A diplomat's legal position is therefore dual in form but limited in function. The diplomat is an individual human being with personal rights, family relationships and potential protection needs. At the same time, the diplomat is an agent of the sending state whose official acts are attributed to the diplomatic mission. This duality is often manageable in ordinary circumstances. It becomes difficult when the individual breaks politically or physically from the sending state while still being associated with a diplomatic mission.

2. Functions of diplomatic missions under Article 3 of the VCDR

Article 3 of the VCDR is the functional core of diplomatic law. It identifies the main functions of a mission: representing the sending state; protecting the interests of the sending state and its nationals within the limits permitted by international law; negotiating with the receiving state; ascertaining and reporting conditions by lawful means; and promoting friendly relations between the sending and receiving states (VCDR, 1961, art. 3). The list is not exhaustive, but it shows that the purpose of diplomatic status is functional rather than personal.

This functional rationale is important for defection cases. If privileges and immunities exist to ensure the performance of diplomatic functions, a diplomat who abandons the mission is no longer performing the purpose for which the sending state accredited the diplomat and the receiving state accepted the diplomat. However, the cessation of function is not always automatic in legal terms. Under Article 43, a diplomatic agent's function comes to an end when the sending state notifies the receiving state that the function has ended, or when the receiving state refuses to recognise the person as a member of the mission under Article 9(2) (VCDR, 1961, art. 43). Defection may be a factual rupture before it is a legally regularised termination.

The same point can be linked to the distinction between the mission and the individual diplomat. The International Law Commission's commentary on diplomatic intercourse and immunities emphasised that privileges and immunities are granted for the mission's functions, not for the private advantage of individuals (International Law Commission [ILC], 1958). Denza similarly describes the VCDR as a functional compromise between the need for diplomatic independence and the sovereign interests of receiving states (Denza, 2016). A defection case tests this compromise because the diplomat may no longer serve the mission but may still physically carry diplomatic status, information or travel documents.

3. Persona non grata and its limits

Persona non grata is the best-known remedial mechanism in diplomatic law. Under Article 9(1) of the VCDR, the receiving state may at any time, and without having to explain its decision, notify the sending state that the head of mission or any member of the diplomatic staff is persona non grata. In such a case, the sending state must either recall the person concerned or terminate that person's functions with the mission. If the sending state refuses or fails within a reasonable period to do so, the receiving state may refuse to recognise the person as a member of the mission (VCDR, 1961, art. 9).

The original draft correctly identifies persona non grata as a mechanism available in diplomatic disputes. However, its legal function must be stated more precisely. Persona non grata is not a general criminal or disciplinary sanction. It is an institutional tool by which the receiving state rejects the continued presence or recognition of a diplomatic agent. It is unilateral, discretionary and bilateral in design.

It operates between the receiving state and the sending state, and its direct effect is recall, termination of functions, or non-recognition within the receiving state.

This creates a doctrinal limitation in defection cases involving a third state. If the diplomat has already left the receiving state and seeks protection in a third state, *persona non grata* no longer answers the central questions. It does not determine whether the third state may grant asylum or residence. It does not require the third state to return the diplomat. It does not allocate custody of family members, personal belongings, official documents or digital information. It does not establish procedures for inter-state consultation among the sending, receiving and third states. Therefore, the mechanism is relevant but insufficient.

4. Termination of functions, residual immunity and third-state transit

Two further VCDR provisions are particularly important. Article 39 provides that privileges and immunities normally cease when the functions of the person enjoying them come to an end and the person leaves the country, or upon expiry of a reasonable period to do so. However, immunity continues to subsist for acts performed in the exercise of functions as a member of the mission (VCDR, 1961, art. 39). This residual immunity is important because it protects official acts even after a diplomat's functions end. It does not, however, create a personal right to diplomatic protection by a third state or an obligation of the third state to accept the individual.

Article 40 deals with third states, but only in a limited way. It requires a third state to accord inviolability and such immunities as may be required to ensure transit or return when a diplomatic agent passes through or is in the territory of the third state while proceeding to take up or return to a post, or when returning to his or her own country (VCDR, 1961, art. 40). This rule is significant because it proves that the VCDR is not wholly silent about third states. Yet Article 40 is directed primarily at transit for diplomatic service or return, not defection to a third state. It therefore does not resolve the legal status of a diplomat who seeks protection from the third state rather than transit through it.

The result is a fragmented framework. Article 9 may allow the receiving state to reject a diplomat. Article 39 clarifies the temporal scope of immunity. Article 40 regulates transit through third states. Article 43 provides the modes by which diplomatic functions end. However, none of these provisions provides a complete procedure for defection involving the sending state, the receiving state, and a third state of destination.

5. The Ri Il Kyu Case as an Illustrative Case

The reported defection of Ri Il Kyu provides a concrete basis for analysing the limits of the existing law. Reuters reported that Ri Il Kyu, a senior North Korean diplomat based in Cuba, defected with his wife and child to South Korea in November 2023. According to the same report, Ri had been a counsellor at the North Korean embassy in Cuba and his work was connected with preventing Cuba and South Korea from forging diplomatic relations, which were eventually established in February 2024 (Lee & Park, 2024). The case was publicly reported in July 2024, after the alleged defection had already taken place.

The case is legally significant because it is tripartite. North Korea was the sending state. Cuba was the receiving state in which the diplomatic mission was located. South Korea was the destination state. The case therefore cannot be adequately conceptualised as a simple dispute between the sending and receiving

states. It also implicates the legal authority of the third state to admit, protect or refuse return of the defector. In addition, the involvement of family members broadens the issue beyond diplomatic service into human rights, family unity and protection from possible reprisals.

The facts available in public sources are limited. There is no published judgment, arbitral award or official trilateral agreement addressing the legal consequences of the defection. For that reason, this article does not claim that any of the states violated international law. Instead, the case is used as a legal stress test. It shows that the VCDR provides a sophisticated bilateral framework for diplomatic relations but lacks a tailored process for dealing with diplomatic defection that moves beyond the territory and legal relationship of the receiving state.

6. Legal Challenges Created by Diplomatic Defection Involving a Third State

a. Defection as a status problem, not merely diplomatic misconduct

A common weakness in discussing diplomatic defection is to treat it simply as misconduct or deviation from diplomatic duties. That description captures only part of the issue. Defection may indeed mean that the diplomat no longer performs the functions of representing the sending state. It may also involve breach of internal employment, secrecy or loyalty obligations under the sending state's domestic law. However, international law must also ask a different question: what is the person's status after the factual break from the mission?

This status problem has several layers. First, there is the diplomatic status between the sending and receiving states. Has the sending state terminated the diplomat's functions? Has the receiving state been notified of the final departure or termination? Has the receiving state declared the person *persona non grata* or refused recognition? Second, there is the status of the person in the third state. Is the individual a visitor, asylum seeker, refugee, protected person, permanent resident, or merely a foreign national present under domestic immigration law? Third, there is the continuing effect of official-act immunity under Article 39 of the VCDR. These questions require coordination across different legal regimes, but the VCDR does not provide a coordinating mechanism.

b. The inadequacy of a purely bilateral remedy

Persona non grata is structurally bilateral. The receiving state addresses the sending state and asks for recall or termination. In a defection case, however, the critical decision may be made by the third state. If the defector reaches South Korea, for example, the legal dispute is no longer limited to Cuba's acceptance or rejection of a North Korean diplomat on Cuban territory. South Korea's domestic law, international human rights obligations and political relations with North Korea become relevant.

This creates a mismatch between legal tool and legal problem. The VCDR can terminate or clarify the diplomatic relationship in the receiving state, but it cannot by itself decide whether the third state may grant protection. It also cannot compel the third state to return the individual to the sending state, especially where return would expose the person to persecution, torture or other serious harm. The bilateral design of the VCDR therefore becomes inadequate when the legal consequences of defection are externalised into a third state's territory.

c. Human rights, asylum and non-refoulement

A defector who fears persecution is not only a former diplomatic agent; he or she may also be a person seeking international protection. The UDHR recognises that

everyone has the right to seek and enjoy asylum from persecution (Universal Declaration of Human Rights [UDHR], 1948, art. 14). The Refugee Convention prohibits a contracting state from expelling or returning a refugee to territories where life or freedom would be threatened on specified grounds (Convention Relating to the Status of Refugees, 1951, art. 33). The ICCPR protects the right to life and prohibits torture or cruel, inhuman or degrading treatment or punishment (International Covenant on Civil and Political Rights [ICCPR], 1966, arts. 6-7).

These norms do not automatically convert every diplomat who defects into a refugee. Nor do they erase the sending state's legitimate interests in protecting confidential information and mission property. However, they mean that diplomatic inconvenience cannot be the sole legal consideration. If return would expose the defector or family members to persecution, torture, arbitrary detention or other serious harm, the third state must consider non-refoulement and other human rights obligations. This is the point at which diplomatic law and human rights law intersect.

International jurisprudence on diplomatic asylum also advises caution. In the Asylum Case, the International Court of Justice held that a state cannot unilaterally impose its qualification of an offence on another state absent a binding treaty or established regional custom (Asylum (Colombia v. Peru), 1950). Although that case concerned diplomatic asylum in an embassy and not defection to a third state, it reinforces a broader point: asylum-related claims in diplomatic contexts require a clear legal basis and careful attention to the rights and obligations of other states.

d. Confidentiality, official property and mission documents

A distinctive feature of diplomatic defection is that the individual may possess official information, documents, communication devices or knowledge acquired through the mission. The VCDR protects mission premises, archives and documents, and official communications. It also requires persons enjoying privileges and immunities to respect the laws and regulations of the receiving state and not to interfere in its internal affairs (VCDR, 1961, art. 41). Yet the Convention does not expressly regulate the handling of official materials carried by a defecting diplomat to a third state.

This is a serious gap. The sending state has a legitimate interest in the integrity of mission archives and official property. The receiving state has an interest in avoiding misuse of its territory for political operations inconsistent with diplomatic functions. The third state has an interest in protecting the individual, complying with its own domestic law, and maintaining international relations. Without agreed procedures, disputes may arise regarding whether materials must be returned, preserved, sealed, examined, or protected as evidence. A future protocol should therefore include rules on the identification, preservation and return of official materials, while preventing forced disclosure that could endanger the defector or family members.

e. Family members and derivative protection

The *Ri Il Kyu* case reportedly involved the diplomat's wife and child. Family involvement complicates the legal analysis because family members may enjoy privileges and immunities only by association with the diplomatic agent and only within the applicable limits of the VCDR. They may also have independent human rights claims. For example, family members may fear collective punishment, coercion or retaliatory measures in the sending state. A legal framework that considers only the diplomat's status would therefore be incomplete.

A comprehensive approach should recognise family unity and individual risk assessment. It should prevent the use of family members as diplomatic bargaining tools. It should also ensure that the receiving or third state does not disclose sensitive information in a manner that exposes relatives to retaliation. This does not require ignoring the sending state's interests. It requires balancing those interests against basic protections owed to individuals.

f. Customary international law and the risk of inconsistent state practice

Where treaty law is incomplete, states may develop practice that contributes to customary international law. Article 38(1)(b) of the Statute of the International Court of Justice recognises international custom as evidence of a general practice accepted as law. However, custom requires more than repeated behaviour; it requires general practice and *opinio juris*. Defection cases are relatively rare, politically sensitive and often handled confidentially. As a result, state practice may be inconsistent and difficult to verify.

If states respond to diplomatic defection without an agreed framework, future practice may become fragmented. Some states may treat defectors primarily as intelligence assets, some as asylum seekers, some as criminals, and others as diplomatic bargaining instruments. Such inconsistency would undermine legal certainty and could increase diplomatic escalation. A multilateral framework would not only regulate individual cases but also guide the emergence of consistent state practice.

7. Towards a Comprehensive Legal Framework

a. Form: treaty protocol, soft-law guideline or model rules

The most ambitious solution would be a multilateral protocol supplementing the VCDR. Such a protocol could define diplomatic defection, identify the obligations of the sending, receiving and third states, and set out procedures for notification, protection, official materials and dispute settlement. A binding protocol would provide the strongest legal certainty but may be politically difficult because states may be reluctant to regulate an area connected with intelligence, security and political dissent.

A more realistic first step would be soft-law guidelines adopted by the International Law Commission, the United Nations General Assembly, or a group of states through a diplomatic conference. Soft law would not be legally binding in the same way as a treaty, but it could guide state practice and later contribute to customary law or treaty development. A model protocol could also be prepared for states that wish to incorporate such procedures into bilateral or regional agreements.

b. Substantive principles

Any new framework should be grounded in the following principles:

Good faith and *pacta sunt servanda*: States should perform existing treaty obligations in good faith. Article 26 of the VCLT provides that every treaty in force is binding upon the parties and must be performed in good faith (Vienna Convention on the Law of Treaties [VCLT], 1969, art. 26).

Sovereign equality and non-intervention: The framework should respect the sovereign equality of the sending, receiving and third states. It should not allow the sending state to impose extraterritorial demands automatically, nor allow the third state to disregard legitimate diplomatic interests.

Human rights and non-refoulement: No framework should permit forced return where there is a real risk of persecution, torture or serious harm. Individual risk assessment should be required for the diplomat and each family member.

Proportionality: Measures taken by any state should be proportionate to the legitimate aim pursued. A state may protect diplomatic confidentiality and mission property, but it should not use those concerns to justify coercion, collective punishment or denial of basic protection.

Legal certainty: The framework should provide clear procedures on status, notification, documents, safe transit, family protection, confidentiality and dispute settlement.

Confidentiality and protection of official materials: Official documents, archives, codes, digital devices and communications should be preserved and handled through agreed channels, while preventing the exposure of the defector or family members to serious harm.

Peaceful dispute settlement: Disputes should be resolved through negotiation, good offices, mediation, arbitration, the International Court of Justice or another agreed mechanism, consistent with Article 2(3) of the United Nations Charter.

c. Proposed procedural architecture

A practical protocol or guideline should contain at least seven procedural elements. First, it should require immediate but confidential notification among the relevant states once a diplomatic defection has been confirmed, subject to protection needs. Second, it should provide a temporary status mechanism so that the diplomat and family members are not placed in legal limbo while asylum, immigration or protection claims are assessed. Third, it should clarify the termination of diplomatic functions and residual immunity without prejudicing official-act immunity under Article 39 of the VCDR.

Fourth, it should regulate the treatment of official materials. If the defector possesses mission documents, codes, diplomatic bags, archives or official devices, the third state should preserve them and prevent unauthorised dissemination. However, return of materials should be arranged in a way that does not reveal the defector's location, identity details beyond what is necessary, or protection claim. Fifth, it should ensure independent assessment of protection claims, including non-refoulement, asylum and human rights risks. Sixth, it should provide for family unity and separate assessment of family members. Seventh, it should provide a menu of peaceful dispute settlement options.

Such a framework would not eliminate political tension. Diplomatic defection is inherently political. Nevertheless, law can reduce escalation by clarifying what states may and may not do. The aim is not to reward defection or weaken diplomatic discipline. The aim is to prevent uncertainty from becoming a source of international conflict and to ensure that the rights of individuals are not lost within inter-state rivalry.

d. Why a flexible framework is preferable to a rigid rule

A future framework should not be excessively rigid. Diplomatic defection cases differ significantly. Some may involve genuine fear of persecution; others may involve criminal conduct, espionage allegations or disputes over confidential materials. Some may involve family members, while others may not. Some may occur in states with diplomatic relations among all parties, while others may occur among states that do not recognise each other or have hostile relations.

A rigid rule requiring automatic return, automatic asylum, or automatic public notification would be inappropriate. The better approach is a structured discretion model. States should have discretion, but that discretion should be guided by agreed principles and procedures. This approach preserves state sovereignty while preventing arbitrary or coercive responses. It also reflects the original diplomatic-law objective of maintaining stable relations while respecting the legal position of the individual.

8. Doctrinal Refinement of the Original Argument

The central thesis of the original draft is persuasive: diplomatic defection involving a third state reveals a serious weakness in the current international legal framework. However, for publication in a reputable international journal, the argument must be framed with greater doctrinal precision. It is too broad to state that the VCDR creates a total legal vacuum. The VCDR contains relevant rules on *persona non grata*, termination of function, residual immunity, duties of diplomats and third-state transit. The more defensible claim is that the VCDR lacks an integrated mechanism for tripartite diplomatic defection.

The original reliance on *persona non grata* also requires clarification. *Persona non grata* is a receiving-state remedy, not a complete solution for defection to a third state. It can regularise the end of diplomatic recognition in the receiving state, but it cannot determine the third state's asylum or human rights obligations. Similarly, the original references to *pacta sunt servanda*, proportionality and good faith are retained, but the revised article anchors them more directly in the VCLT, the United Nations Charter, human rights law and general international law.

Finally, the revised article adds the human rights dimension. A diplomat who defects does not cease to be a rights-bearing person. Where there is a credible risk of persecution or serious harm, non-refoulement and human rights obligations must be considered. This addition does not remove the importance of diplomatic stability. Rather, it creates the necessary balance between the institutional interests of states and the protection of individuals and families.

CONCLUSION

The *Ri Il Kyu* case illustrates the international legal challenges of diplomatic defection involving a third state. The VCDR provides the foundation for diplomatic relations, including mutual consent, mission functions, diplomatic status, *persona non grata*, termination of functions, residual immunity and third-state transit. However, the Convention is primarily bilateral in structure and does not provide an integrated mechanism for a situation in which a diplomatic agent leaves the receiving state and seeks protection in a third state.

The central legal problem is therefore not the complete absence of law, but the fragmentation of applicable regimes. Diplomatic law, treaty law, human rights law, refugee law, customary international law and peaceful dispute settlement each provide partial answers. None of them alone provides a complete procedure for allocating rights and obligations among the sending state, the receiving state and the third state in a diplomatic defection case.

For that reason, a comprehensive framework is needed. The most coherent solution would be a multilateral protocol or, as an initial step, soft-law guidelines addressing diplomatic defection. Such a framework should be based on good faith,

proportionality, sovereign equality, non-intervention, legal certainty, protection of official materials, family protection, human rights, non-refoulement and peaceful dispute settlement. It should preserve diplomatic stability while ensuring that individual rights are not sacrificed to diplomatic rivalry. By developing such a framework, the international community would strengthen the law of diplomacy and adapt it to the realities of modern political defection.

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