Contents

Ta	l'ables	X1X
Ab	Abbreviations	xxi
	Table of Cases	xxix
In	International Instruments	XXXV
	PART I. INTRODUCTIO	N
1.	1. Historical Evolution	3
	1. Early History	3
	2. Extraterritoriality	7
	3. Modern Developments	16
	4. Vienna Convention on Consular Relations	21
2	2. Definitions	26
L .		20
	1. Consular Officers	26
	2. Members of Family	28
3.	3. Classification	32
	1. General	32
	2. Classification of Consuls by Rank	32
	3. Classification of Consular Posts and Districts	34
	4. Classification of Consular Sections of Diplomati	ic Missions 34
	5. Consular Agents	35
	6. Consular Employees	37
	PART II. CONSULAR RELATIONS	IN GENERAL
4.	4. Consular Relations and Consular Posts	41
	1. General	41
	2. Consular Relations between Commonwealth Co	ountries 42
	3. Criteria for Establishing Consular Posts	43
	4. The Principle of Parity	47
	5. Size of the Staff	53
	6. Where Sending State is also Receiving State	54
	7. Consuls for more than One Country	55
	8. Absence of Diplomatic Relations	64
	9. Non-Recognition	67

	10. Consular Status in Third States	72
	11. Respect for Local Laws and Non-Interference	74
5.	Acquisition of Consular Status	78
	1. General	78
	2. Vienna Convention on Consular Relations	82
6.	Termination of Consular Status	84
	1. General	84
	2. Notification of Termination by the Sending State	85
	3. Withdrawal of Consent by the Receiving State	86
	4. Death of Consuls	92
	5. Extinction of State	92
	6. Unrecognised Government	94
	7. War, Severance of Diplomatic or Consular Relations, and	
	Closing of Consular Posts	100
	8. Termination of Consular Status and Termination of Consular	
	Privileges and Immunities	103
	PART III. CONSULAR FUNCTIONS	
7.	Consular Functions	107
	1. General	107
	2. Vienna Convention on Consular Relations	107
	3. European Convention on Consular Functions	112
	4. Consular Training	114
8.	Protection of Nationals	116
	1. General	110
	2. Group Protection	118
	3. Death of a National	122
	4. Sending State's Entitlement to Provide Protection	124
	5. Protection of Dual Nationals	125
	6. Sending State's Duty to Provide Protection	13
	7. Standards for Receiving State's Obligations	137
9.	Nationals Charged with Criminal Offences	139
	1. General	139
	2. Consular Access before the Vienna Convention	140
	3. Consular Access at the Vienna Conference	143

Contents	v
COTTOCTOS	Λ

	4. Automatic Notification	146
	5. Role of Consuls in Assisting Nationals	147
	6. Privacy of Communication	150
	7. Arrest, Custody, Detention	151
	8. Timing of Consular Access	152
	9. Complaints by States and by Nationals	159
	10. Consular Access as a Right of the Detained National	162
	11. Availability of a Judicial Remedy	167
	12. Due Process Implications of Consular Access	170
	13. Standard for a Judicial Remedy	173
	14. Conflict with Domestic Law	177
	15. Irregular Detention	179
	16. Prisoner Visits and Transfer	181
10.	Child Abduction	186
11.	Refugees	191
	1. General	191
	2. Vienna Convention on Consular Relations	192
	3. European Arrangements	195
	4. UN High Commissioner for Refugees	197
	5. Facilitating International Movement of Refugees	199
*	6. Compensation to Refugees	199
12.	Protection of Other Non-Nationals	202
	1. General	202
	2. Stateless Persons	202
	3. Permanent Residents	203
	4. Nationals of Designated Third States	204
	5. Persons of Humanitarian Concern (Including Nationals	
	of the Receiving State)	204
13.	Passport and Visa	210
	1. Passport	210
	2. Types of Passport	211
	3. Visa	214
	4. Types of Visa	216
	5. Reviewability of Visa Denials	219
	6. Revocability of Visa	221

/
Contents

	7. Simplification of Travel Formalities	222
	8. Travel Documents of Unrecognised Regimes	226
14.	Notarial and Registration Services	228
	1. Notarial	228
	2. Unrecognised Regimes	233
	3. Proof of Nationality	234
	4. Registration	235
	5. Adoption and Declaration of Parenthood	240
	6. Identity Documents	242
	7. Vienna Convention on Consular Relations and Other Treaties	243
15.	Marriage and Divorce	246
	1. Marriage of Nationals	246
	2. Divorce of Nationals	253
	3. Marriage and Other Relationships of Consuls	256
16.	Estate Functions	258
	1. General	258
	2. Basis for Consular Intervention	260
	3. Intervention in the Absence of a Treaty	261
	4. Intervention under a Treaty	262
	5. National Laws and Regulations	270
	6. Treaty Provisions	272
	7. Impossibility of Remittance	275
	8. Consular Suit for Wrongful Death	276
17.	Extradition and Civil Procedure	277
	1. General	277
	2. Extradition	278
	3. Service of Process	281
	4. Depositions	283
	5. Court Proceedings or Records	287
18.	Informational, Cultural, Scientific, and Tourist Functions	288
	1. Pre-Vienna Developments	288
	2. Vienna Convention on Consular Relations	290
	3. Scientific	292
	4. Touristic	293

Contents	xiii
	AIII
19. Shipping and Aviation	295
1. General	295
2. Consular Role in Shipping	295
3. Ships' Papers	300
4. Inspection of Vessels	301
5. Wrecked, Lost, or Stranded Vessels	303
6. Assistance and Protection of Seafarers	307
7. Desertion by Seafarers	312
8. Settlement of Disputes	318
9. Criminal Cases	321
10. Civil Cases	327
11. Shipping Inquiries	329
12. Civil Aviation	330
20. Promotion and Protection of Trade	334
PART IV. PRIVILEGES AND IMMUNITIE	S
21. Privileges and Immunities	341
1. Distinction between 'Privilege' and 'Immunity'	341
2. The Bases for Privileges and Immunities	341
22. Facilities	343
23. Inviolability of Consular Premises	353
1. General	353
2. Conditional Immunity	355
3. Vienna Convention on Consular Relations	356
4. Consular Residences	360
5. Requisition or Expropriation	361
6. Search, Attachment, or Seizure	363
7. Asylum	363
8. Violence against Consular Premises	366
9. Protection against Picketing	373
10. Exceptional Circumstances	379
11. Honorary Consulates	379
12. Beginning and End of Inviolability	380
24. Writs of Process	385

•

xiv

25.	Co	nsular Archives and Documents	389
	1.	Pre-Vienna Protection of Consular Archives	389
	2.	Separation of Official from Other Papers	390
	3.	Consular Archives in Time of War	391
1	4.	Vienna Convention on Consular Relations	391
26.	Fre	edom of Movement	394
27.	Co	nsular Communications	398
	1.	General	398
	2.	With Nationals of Sending State	398
	3.	With Other Private Persons or Bodies	399
	4.	With Officials of Sending State: Peacetime	400
	5.	With Officials of Sending State: In Time of War or Emergency	403
	6.	With Officials of Receiving State	405
	7.	Language of Official Communications	406
	8.	Vienna Convention and the Consular Bag	406
	9.	ILC Draft on the Diplomatic Courier and Bag	409
	10.	Personal Search and Electronic Screening	410
28.	Pro	tection and Inviolability of Consuls	414
	1.	General	414
	2.	Protection of Consuls pre-Vienna	414
	3.	Protection of Consuls under the Vienna Convention	417
	4.	Tehran Hostages Case	419
	5.	Attacks Not Facilitated by Receiving State	421
	6.	Treaties to Prevent Attacks on Consuls	423
	7.	Firearms	426
	8.	Armed Guards at Consulates	431
	9.	Immunity from Arrest, Prosecution, or Imprisonment	433
	10.	Immunity of Consuls upon Death	438
29.	Im	munity from Local Jurisdiction: The Functional Approach	44(
	1.	General	440
	2.	Functional Approach	440
		Vienna Convention on Consular Relations	445
		Determination of Official Functions	448
		Criteria	451
	6	In Re Rissmann	454

Contents	XV
7. State of Indiana v. Per L. Ström	457
8. Focus on Particular Consular Functions	459
9. Waiver of Immunity	461
30. Immunity from Local Jurisdiction: The Diplomatic Approach	463
1. Absolute Immunity	463
2. The Most-Favoured-Nation Clause	464
3. Immunity through Termination of Consular Functions	466
4. Abuse of Immunity	467
31. Immunity from Local Jurisdiction: Road Traffic Matters	470
1. Traffic Offences and Accidents	470
2. Civil Action	470
3. Criminal Proceedings	472
4. Parking Violations	476
32. Liability to Give Evidence	481
1. General	481
2. Matters Relating to Official Functions	483
3. Disputes Concerning 'Official' Source of Information	485
4. Laws of Sending State	485
5. Honorary Consuls	486
6. Vienna Convention on Consular Relations	487
33. Social Legislation and Civic Service	490
34. Exemption from Taxation	494
1. General	494
2. Income and Property Taxes	495
3. Sales and Gasoline Taxes	502
4. Import Duties	504
5. Export Duties	509
6. Customs Inspection	510
PART V. HONORARY CONSULS	
35. Honorary Consuls	515
1. General	515
2. Distinction from Career Consuls	518

•	
XV1	Contents
AVI	COTTUCTUS

	3. Criteria for Establishing Honorary Consular Posts	521
	4. Appointment	522
	5. Functions	527
	6. Privileges and Immunities	528
	PART VI. CONSULS, DIPLOMATS, AND THE	
	UNITED NATIONS	
3	6. Consuls as Diplomats	541
	1. General	541
	2. Consideration at the Vienna Conference	542
	3. Hazards of a Political Role	543
	4. Consuls as Negotiators	544
	5. Relations in Absence of Recognition	545
	6. Political Significance of Consular Activity	547
2	87. Diplomats as Consuls	549
3	8. Consuls and the United Nations	553
	1. Consuls as Representatives to the United Nations	553
	 Consular Premises and Missions to the United Nations Performance of Consular Functions by Missions 	556
	to the United Nations	556
	4. Performance of Consular Functions by the United Nations	559
3	9. Performance of Consular Functions by Other Officials	562
	PART VII. CONCLUSIONS	
4	0. Relation between the Vienna Convention on Consular	
	Relations and Other Treaties	567
4	1. Settlement of Disputes	574
4	2. Signature and Accession	582
4	3. Conclusions	585

-

Contents	xvii
Appendices	590
1. Selected Consular Treaties	590
2. The United Nations Conference on Consular Relations	602
3. Vienna Convention on Diplomatic Relations	633
4. European Convention on Consular Functions	645
Index	665

1

ii ii