

On Diplomacy in Lesotho: Comparison and Contrast Between Lesotho's Pre-Colonial and Post-Colonial Diplomatic Agents

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Abstract

The purpose of this article, which is based on Mothibe's (1997) paper on diplomatic agents in pre-colonial Lesotho, is to compare and contrast Lesotho's diplomats of today and those of King Moshoeshoe's time. Following the brief historical background of Lesotho, the author compares and contrasts the two diplomatic eras on the following points: eligibility criteria of diplomatic agents, functions and responsibilities of diplomats in pre-colonial and post-colonial times, privileges, immunities and inviolability of diplomatic agents. The paper concludes by indicating that diplomacy in Lesotho is as old as the state itself and that the diplomacy of Moshoeshoe's era basically followed the same principles and executed the same diplomatic functions as in post-colonial era. However, what is drastically different is that today the functions and principles are codified as part of the international law whereas in the pre-colonial epoch they were not. The codification and formalization of diplomatic laws and functions, it is argued, does affect execution of diplomatic business for the better.

Introduction

This article is premised on Mothibe's paper (1997): "Diplomats in pre-colonial Lesotho". Since Mothibe's article is limited to the past diplomatic experience, the present one goes further to compare and contrast Lesotho's pre-colonial and post-colonial diplomatic agents in many areas of the diplomatic service. Such a comparison will provide similarities and differences, and therefore give a more comprehensive picture of Lesotho's foreign service of the two eras in question. In this way the present paper touches on the past and present and thus becomes more informative and useful to prospective diplomatic agents and present and future generations. The comparison may further provide important lessons on diplomacy as currently practiced in Lesotho following the country's independence from the British colonial rule. In brief, the article thus, attempts to fill the existing knowledge gap.

Theoretical background /framework

Throughout the ages human beings, in different places and in different ways, have always struggled to improve their lives. For instance, they have always worked hard to protect themselves against the elements of the weather; they have worked incessantly to prevent and cure diseases; and they have always struggled to protect themselves and their political territories against invading

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powers through military or diplomatic means. The diplomatic relations they forged have, over the centuries, been of basically two types: permanent diplomatic missions and consular institutions, (e.g. consulates).

While diplomatic institutions currently chiefly address political and multilateral issues, consular systems concentrate mainly on commercial and social affairs of states. Although permanent diplomatic institutions do occupy the centre stage of world affairs, they have had a shorter history in international relations than consular systems that are alleged to have existed some centuries before the birth of Christ. However, permanent diplomatic institutions now appear to override the consular ones. Why is this the case?

While politics and economy are closely related entities, politics has a slant on highly sensational matters of governance. On the other hand commerce and trade as well as cultural affairs are generally viewed as day – to – day issues, some of which may not necessarily be so sensational. However, it must be noted that when in the sixteenth century the consular institutions came under the direct authority of the central governments, and were further charged with diplomatic functions, and received privileges and immunities similar to those of diplomats, there arose an overlap of functions and a confusion of roles. (Diplomatic Council Notes, pp.8-9). As expressed in the **Notes**, this overlap of functions and privileges "... resulted in a confusion over the exact status of and the distinction between consuls and diplomats – a confusion not fully clarified until the present century". Nonetheless, the relations between and among states, whether they are purely commercial and cultural, they are central to people's life.

The centrality of these relations appears to have been clear to every society from time immemorial. Seemingly, it has been clear to every community, every society and every nation that by its very nature politics or government or power thrives on political, economic and cultural interdependence of states or societies. Several leaders and peoples throughout the world must have held this view long before international relations or bilateral/multi-lateral diplomacy was formally organized and its rules officially codified as we see them today in the Vienna Convention on Diplomatic Relations, 1961. So, we can safely suggest that the art of diplomacy (skilful and peaceful management of international relations and problems) which is, according to Berridge (2002:1) intended, in the main, to "...enable states to secure the objectives of their foreign policies without resort to force, propaganda or law," has been practiced at different levels by different societies long before the modern diplomacy of the 19th, 20th and 21st centuries. (Berridge, 2002:1). As Berridge (2002:1) further states: diplomacy's "...remote origins are to be found in the relations between the 'great kings' of the Near East in the second or possibly even in the late fourth millennium BC..." Therefore, it can be convincingly asserted that

diplomacy is, indeed, an ancient political phenomenon. To this end, in his *A Dictionary of Diplomacy*, Berridge (2002:ix) contends that:

Peaceful contacts between independent groups have always, since the start of human time, required the kind of representational activity which has come to be known as diplomacy. In its modern form – that is, throughout the last half – millennium or so – diplomacy has retained a broadly constant character and given rise to a burgeoning diplomatic profession. Like all professions, it has spawned its own terminology and categories....

One way or the other all societies—modern and ancient, the world over, have been compelled by circumstances obtaining in their regions to relate to other nearby or far away societies in an attempt to improve their lives and protect their territories. Lesotho in pre-colonial and post-colonial times has been no exception to this situation.

In this article the aim is to compare and contrast Lesotho's pre-colonial and post-colonial diplomacy with the purpose of finding out what similarities and differences exist/existed during the two eras. The comparison will be from three points of view, namely: eligibility criteria of envoys or diplomatic agents, functions and duties of diplomatic agents, and privileges, immunities as well as inviolability of diplomatic service personnel. These factors form the hub of diplomatic service, and can thus presuppose quality of performance of a diplomat to a large extent.

Protocol and ceremonial as well as diplomatic professionalism, which have been addressed in Mothibe (1997), have not been discussed in this article. While these factors may be important in some ways, in this paper they are not considered central to diplomatic business in comparison with the other issues raised. For instance, protocol and ceremonial largely have to do with deportment, diplomatic traditions and the general formalities of behaviour. They basically serve preliminary and ceremonial functions such as paying courtesies and providing hospitality. That is, they may just form a prelude and an epilogue to more serious diplomatic business. Professionalism, which can be explained simply as a display of typical features of a profession, especially such features as competence and skill, is implied in the qualities and experiences required of both pre-colonial and post-colonial diplomatic agents discussed in this paper.

Lesotho- a brief historical background

Long before the nineteenth century when the Basotho nation was founded by King Moshoeshe I, there were several independent Sotho-speaking clans, tribes and chiefdoms that lived west of the Drakensberg Mountains and south of the Zambezi River. These people were under different chiefs and headmen. At about this time, Nguni-speaking tribes and clans such as the AmaZulu, AmaSwazi, AmaHlubi, AmaXhosa, etc inhabited the area east of

these mountain ranges (Ellenberger and MacGregor, 1969:20, Khati, 2001:169).

From one of the Sotho-speaking clans of the Bamokoteli branch of the Bakoena west of the Drakensberg range, was born a young man by the name of Lepoqo (Moshoeshoe), who later became the founder of the present Basotho nation in the current Kingdom of Lesotho. Born in about 1786, Moshoeshoe had always been eager to possess greater political power than his father who was a minor chief. As Mothibe (2002:16) puts it: "Moshoeshoe seems to have harboured an ambition for greatness and was determined to achieve this by means that included violence, instilling fear in others, intolerance and impatience with tardy execution of his orders." After having met Mohlomi, the doctor, traveller and sage, who taught him that in order to achieve his ambitions, he had to be humane, knowledgeable, clear-sighted, tolerant and learn the value of peaceful negotiations, Moshoeshoe then changed his attitude and behaviour drastically. Henceforth, in order to consolidate his power he used these diplomatic principles to lure to his chieftdom the destitute, displaced and fugitives of the Lifaqane wars.

It is during this period in the early 1820s that King Moshoeshoe found an opportunity to rise to power and to build his nation using some of the political tactics, diplomatic skills and administrative dexterity he had learned from Mohlomi. As Berridge (2002:1) again observes: "Diplomacy is an essentially political activity and well resourced and skilful, a major ingredient of power." King Moshoeshoe, accordingly used diplomacy as a political tool to ascend to power. Among his strategies in building and protecting his "nation" the following became the most prominent: co-option of individuals fleeing from their rulers and weaker chieftdoms into his own; military subjugation of other tribes and chieftdoms, and political alliances with the stronger chieftdoms such as that of the Zulus in order to guarantee safety of his own people and territory. Besides Shaka, Moshoeshoe made alliances with several other chiefs in the region. Moshoeshoe was aware that the major objective of diplomacy is friendly relations and security. Once more, Berridge (2002:2) notes in relation to the Italian city states of the fifteenth century pertaining to security, that it was the hyper-insecurity of the rich but poorly defended Italian city states that made perpetual diplomacy essential.

Even at the early stage in the development of his Basotho nation. Moshoeshoe was keenly aware of the significance of political alliances in order to secure and protect his people and territory from stronger and hostile invading powers. His political acumen and skill earned him the reputation and status unprecedented in the Mohokare (Caledon) valley at that time. In 1833 when the first European missionaries arrived in the region from Paris. France "...Moshoeshoe's chieftdom was the largest in the Mohokare valley.

and as early as 1834, Moshoeshoe was recognized by the British at the Cape as the ‘...sovereign ruler of his nation and a leader of remarkable talent.’” (Mothibe, 2002:22). Although at the time of his rise to power and fame in the 1820s, Moshoeshoe had not come across any white imperialists and explorers, not even the Afrikaners, his political and diplomatic outlook was basically not any different from the politics and diplomacy that the modern Lesotho had adopted during and after the British colonial regime, as will be outlined in this paper.

Eligibility criteria of envoys/ diplomatic agents in pre-colonial and post-colonial Lesotho

In this article the terms “envoy”, “diplomatic agents” and “foreign service officers” will be used interchangeably to denote diplomats of varying statuses. The reason for this loose usage of these expressions is simply that in pre-colonial Lesotho there were no permanent missions and instead the king used to send his envoys to his diplomatic partners from time to time depending on the social and political exigencies on the ground. What is essential for the purposes of this paper is that all of them, in different capacities, represent their head of state, their country and their people.

As in some countries of the world, the assignment of diplomatic agents in Lesotho is usually closely related to their political affiliation. However, this is never expressed explicitly. It is, as it were, more implied than stated. This appears logical as such persons are representatives expected to execute the foreign policies of the government of the day. Such a political qualification ensures loyalty, devotion and efficiency, so it is assumed. Logically, any such political appointee would wish to see his government and party succeed during their term in office. In pre-colonial days, King Moshoeshoe’s envoys were not only experienced and knowledgeable individuals, but more importantly, they were his close allies and people who shared his political convictions and aspirations about his rule. His representatives were, invariably, people who wanted to see him succeed in his political career. In modern times, Moshoeshoe’s envoys can be likened to members of a political party bent on a particular ideology and special policies and wishing their leader and his government the best of successes.

Enlightenment is one other important qualification for serving in international affairs. In this connection the governments of post-colonial Lesotho are very specific. In the Lesotho Ministry of Foreign Affairs’ document: “Job Description for Staff of Lesotho Diplomatic Missions”, it is explicitly expressed that from the rank of ambassador to the rank of first secretary, the incumbents should have a “Bachelor’s degree in International Relations or Law or Humanities or Social Science (and) Certificate in Diplomatic Training,” (p. 7). For a third secretary the document stipulates: “Bachelor’s degree or Chartered Accountant and Certificate in Diplomatic

Training," (p. 18). Further, such high ranking diplomatic agents should generally have the "knowledge of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations," (p. 15). These two conventions of 1961 and 1963, respectively, are crucial international laws in the world of diplomacy. From these references, it is clear that relevant formal education and training is currently indispensable in the field of diplomacy.

During the times of Moshoeshe's rule in the nineteenth century there were requirements in diplomacy somewhat comparable to the educational qualification outlined above. Generally, diplomats of the time had to be men of considerable knowledge and wisdom. It was imperative for an envoy to be thoroughly conversant with the physical terrain not only of his territory, but also that of other chiefdoms, as well as the enemy's military capabilities and political power. It is upon such wealth of knowledge that one would be able to make informed political decisions and accurate judgement. In this connection in his article: "Diplomats in Pre-colonial Lesotho," Mothibe (1997:3) observes as follows: "High in the order of criteria for the selection of an envoy were individual's skills and familiarity with and knowledge of the area being sent to." It was essential to have thorough knowledge of culture, custom, language and norms of the people Lesotho was in contact with.

Personality and conduct is another important quality required in today's Lesotho diplomacy. A diplomatic agent's deportment and demeanour should portray a positive image of himself and therefore, his mission and country. Any self-respecting country appoints its diplomats carefully lest it should appoint officers who do not merit the position. That is, officers who do not command enough respect of the people they come in contact with. The conduct of a diplomatic agent in the receiving state is expected to bring credit to the people and government of the sending state in all manner of ways including execution of his duties. This is why, for instance, the diplomatic agents, the world over, are accorded so many privileges and immunities. They should, in various ways be as comfortable as possible in order to execute their foreign service duties and responsibilities with maximum concentration and efficacy. Only a self-respecting and decent person, who merits respect of others, can and should be granted powers, privileges and inviolability always accorded diplomats in the hope that such powers and privileges will be used responsibly in the advancement of a diplomatic cause. In brief, the public and private behaviour of a diplomatic agent worth his salt should, all things being equal, be beyond reproach.

Although during the pre-colonial time there wasn't much explicitness and elaboration on the personality and conduct of diplomatic

envoys, presentability and demeanour of such an officer was still a requirement. For instance, such personalities were expected to be men of good “social standing and successful pre-diplomatic careers”, (Mothibe, 1997:3). On his part Casalis (1861:222), the French missionary who later became Moshoeshoe’s “foreign minister” observes as follows with reference to such envoys: “They are always men of consummate skill and prudence. They study to acquire *gentle and polished manners*. The observations they make during their journeys give them great advantage over their fellow-citizens...” (Author’s emphasis)

Since according to Gore-Booth (1979:3) diplomacy is referred to as “...the application of intelligence and tact to the conduct of official relations between the government of independent states...”, it is not at all surprising that one of the significant criteria considered in the appointment of diplomatic agents is experience and skill. The expression “tact”, which according to dictionary meaning refers to “skill at not offending people by saying or doing the right thing”, mainly derives from long experience.

Currently, as was in the past, foreign service officers, especially those of higher ranks, are required to possess appreciable amount of experience and skill in diplomatic and pre-diplomatic careers. In the Lesotho foreign service document on “Job descriptions for staff of Lesotho diplomatic missions”, the ambassador is expected to have a minimum of “four years experience in the Ministry of Foreign Affairs, two of those at the level of director”, (p. 7), while the counsellor is required to have at least “two years’ experience in the Ministry of Foreign Affairs at the level of first secretary”, (p. 11). Even in pre-colonial times experience and skill counted as a significant criterion for one to serve as a diplomat. Moshoeshoe himself required men with vast amounts of experience and skill to handle the sensitive issue of foreign relations. To this end Mothibe (1997:3) asserts as follows: “...the envoy’s previous experience and performance in positions of responsibility was an equally important consideration.” These are men who could have been in the service of the king, for example, as “councillors, counsellors and generals...” generally, men who could be entrusted with serious matters of state (Mothibe, 1997:3).

There should be no gainsaying that language and negotiation skills, to a large measure, form part of the package of criteria necessary in the selection of diplomatic personnel, especial senior ones. This requirement may be implied or explicit, considering the centrality of negotiation in diplomacy.

For several centuries negotiations have occupied the centre stage in diplomacy. In some sense, in the recent past negotiations were viewed as a *raison d’être* of diplomatic intercourse in modern societies. However, much as negotiations are still central to diplomacy today, there are several other

important functions performed by modern diplomatic agents. In indicating the centrality of negotiations in diplomacy, Gore-Booth (1979:3) points out that while one government or party may have real power to pressurize another, it is always better for such a government to keep the power in reserve in preference for negotiations. He further observes "...in normal circumstances it [government] will conduct its international intercourse by negotiation. This is diplomacy. Persuasive argument, if applied skilfully and sensitively at the right time, may achieve a better result than persuasion too obviously backed by the threat of force" (Gore-Booth, 1979). On his part Berridge (2002:3) points out the centrality of negotiation in these words: "...the art of negotiation [is] the most important activity undertaken in the world diplomatic system as a whole."

To the extent that negotiation is still considered as a very important art in diplomacy in the 21st century, that is, if what Berridge says in the preceding paragraph is anything to go by, it seems mandatory that diplomatic agents should, of necessity, possess skills and competencies relevant to negotiation. The pre-colonial and post-colonial rulers in Lesotho have always been aware of this requirement. To a large extent their senior diplomats are not only good speakers and writers, but also good listeners, analysts and presenters. These traits are essential because getting the right message across is a key tool of diplomacy.

The qualities of language and negotiation skills are however, not explicitly expressed in the post-colonial foreign service papers as is the case with the other criteria. Perhaps this is implied in the education and experience requirements discussed previously. Concerning, pre-colonial times, this requirement was one of the most important as well. This must have been the case because the oral tradition prevailed at the time; most important people around the king possessed the gift of the garb. For acquisition of these skills Mothibe (1997:4) indicates that normally men received their training at "khotla" (the men's meeting place) where local affairs were discussed, regulated and cases presented, listened to and settled. It is during such times that young men were exposed to oratory and eloquent presentation of cases.

Following the comparative overview of the qualities of diplomatic envoys during the two eras in question, it is essential to turn to discussion on functions and responsibilities of such officers during the periods under review. The question is: what are the duties and responsibilities of the Lesotho diplomats today? What were they in the 19th century?

Functions of diplomatic agents in pre-colonial and post-colonial Lesotho

After her independence from the United Kingdom in 1966, Lesotho became a member of the United Nations. As a member of the family of nations and a bonafide member of the international community, Lesotho follows the international laws formalized and codified in the Vienna Convention on Diplomatic Relations (VCDR) and the Vienna Convention on Consular Relations (VCCR) of 1961 and 1963, respectively. The functions of the country's diplomats are virtually those outlined in Article 3 paragraphs 1 and 2 of the VCDR.

The diplomatic functions outlined in the VCDR can be summed up as **representational, protection, negotiation, information and promotion** functions as well as execution of consular functions. These functions do appear in the formal and official documents of the Ministry of Foreign Affairs of Lesotho, and also in the Laws of Lesotho, 1969. On the other hand, since Moshoeshe reigned the Basotho nation at the time when the societies in Southern Africa were illiterate, diplomatic functions were not formally recorded and preserved. They were kept in the memories of specialized personnel serving as "vehicles for the maintenance of external relations" (Mothibe, 1997:1). These functions were passed from one generation to the next by word of mouth. To that extent they could be referred to as customary regional laws and practices. It should be noted that as Gore-Booth (1979:3) asserts: "...the sending of emissaries to open negotiations was common practice among quite primitive peoples and that in many cases their reception and treatment were regulated, even if only in a rudimentary way, by custom and taboo." The same obtained even during the pre-colonial time of King Moshoeshe. At that time the diplomatic functions included: representing the king and nation, negotiating, concluding treaties, offering and accepting security, seeking, offering and courting friendship or foreign states, (Mothibe, 1997:6).

Although these sets of functions during the two eras are basically similar in spirit and purpose, they are different in both form and manner of execution as will be shown below. Currently the functions are codified in the VCDR as formal international law on international relations. In this way they can be executed more systematically than was the case in the past. Furthermore, they can be broken into smaller sections convenient for annual plans. As such they can be monitored efficiently and performance on them evaluated systematically. In the past, as they were not written, it was possible to lose sight of certain details due to memory lapses. For this reason their execution was likely to be somewhat haphazard. There was no systematic way to keep track of each development in the performance of agents.

Furthermore, in post-colonial Lesotho there are permanent missions and consular posts to represent Lesotho and look after her interests in foreign countries. In the past the representational duty and protection of interest were done as and when the exigencies of the situation demanded so. It was an *ad hoc* diplomatic business. The envoys were usually dispatched if Moshoeshe felt threatened by some neighbours or felt he needed favours or assistance from someone stronger than him. However, in spite of these differences of form and manner of execution, the fundamental functions or representation and protection of interests of the state are virtually the same in the two periods under review.

Privileges, immunities and inviolability of diplomatic agents

The final part of this paper discusses privileges, immunities and inviolability of diplomats in post-colonial and pre-colonial Lesotho. In post-colonial times diplomatic privileges and immunities are codified in the VCDR from article 22 to article 39. Almost half of the 53 articles of the VCDR deal with immunities, privileges and inviolability of diplomats and their missions.

Inviolability means that diplomatic agents and their missions may not be interfered with without permission of the head of mission. The following are inviolable: premises of the mission, living quarters of diplomats, the person of the head of mission and his staff as well as their families, vehicles, records, archives, documents, diplomatic bag, and property, generally. All of these cannot be interfered with or entered into by the local authorities, that is, the receiving state. They are immune from search, requisition, attachment and execution.

The immunities generally refer to exemptions from criminal, civil and administrative jurisdiction of the receiving state. Privileges on the other hand are exemptions that are economic in nature, and these include exemptions from taxes and customs duties.

Generally, over the ages diplomatic agents have always enjoyed privileges and immunities as representatives of the head of any sending state. Both the customary and modern international laws accord maximum protection and comfort to diplomatic agents so that as representatives of a state they can carry out their duties effectively, being free from pressures, whether legal, physical or moral. (Feltham, 1998:38).

As Berridge (2002:113), notes the most important privilege is inviolability of the embassy and the person of the ambassador. In his compilation of notes, Värk (n.d.:118) corroborates this point that the principle of inviolability "which is the oldest established rule of the diplomatic law and is also closely connected with diplomatic immunity...is the cornerstone of the diplomatic law." This is so because originally an envoy used to be a direct representative of "the person of his sovereign and

therefore any insult to him would be an insult to the sovereign” (Berridge, 2002).

During King Moshoeshoe’s reign the envoys also used to enjoy privileges somewhat comparable to today’s privileges. However, as with the functions, they were neither codified nor systematized in any way. Everything was oral and traditional and depended largely on the exigencies of the situation at hand. These privileges and immunities included the following: protection of the person of any envoy and his property, provision of good reception and hospitality to envoys, respect and honour accorded to envoys and above all inviolability of envoys. With reference to these Casalis (1861:224) observed that in the laws of Basotho of the nineteenth century “...the person of a stranger be under the protection of his host.” On the same theme Mothibe (2002:9) also notes that at the time of Moshoeshoe the envoys enjoyed a number of privileges and that their persons were inviolable and “...their inviolability was according to the sources of sacred and sacrosanct character”. On inviolability Casalis (1861) says:

It will not be imagined that these laws are invariably respected, but the public voice always disapproves of their violation. We have ourselves seen, during the course of a desperate war, the messengers of both parties pass freely from one camp to the other. We have also seen a chief send back, without ransom, hundreds of women and children who he had taken captive.

The inviolability law ensured that no one on diplomatic service or those whose interests he was assigned to protect got hurt. This principle was based on functional necessity because unless it was in place peace meetings and accords between rivals would be virtually impossible, and sending envoys from one nation to the next would also be very difficult as such emissaries would be exposed to the obvious risk of being killed.

Although there are clear similarities of spirit and purpose in the privileges the differences in implementation are equally obvious. The implementation was *ad hoc* and success depended on the exigencies of the situation and mood of the receiving state. Since these depended on custom and good faith one can safely guess that the risk was always high. As there were no written laws and no international bodies and courts in the region to appeal to, there was no guarantee of safety. During the pre-colonial era envoys were sent out on missions at their own personal risk and also that of their head of state and nation. However, currently the principle of reciprocity appears to have guaranteed some measure of security. The rulers, even of pre-colonial societies, also seemed to have believed in the principle of one good turn deserving another, which in essence presupposes reciprocity.

Conclusion

This paper has briefly compared and contrasted some aspects of diplomacy in pre-colonial and post-colonial Lesotho. It has been indicated that although the basic principles and functions of diplomacy as we know them today, were practiced in Lesotho during the pre-colonial era, there were some differences in form and manner of performance. It has also been demonstrated in some measure that diplomacy in Lesotho is as old as the nation itself. It clearly started at the time the ruler and founder became keenly aware that for protection of his nation and territory he had to establish political relations, no matter how rudimentary, with adjacent chiefdoms and nations in the Southern African sub-region. In this way he has been able to protect and preserve the kingdom for posterity. As observed in the introductory sheet to *The Diplomatic History of Europe from 1815* "Power lies at the centre of relations among states."

Also, this article points out unambiguously that diplomacy in Lesotho is not a concept and practice imported from the West as it is likely to be assumed. The fact is that the Western civilization has only assisted in developing and modernizing the diplomatic theory and practice in the post-colonial Kingdom of Lesotho.

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