

CHAPTER 1 INTRODUCTION

1.1 BACKGROUND

On 13 February 2017, a North Korean citizen initially identified as Kim Chol was assassinated at the Kuala Lumpur International Airport, Sepang (KLIA).¹ The deceased was later identified as 46 years old Kim Jong Nam; the estranged half-brother of the North Korean Supreme Leader Kim Jong Un.² The post mortem report confirmed that the deceased was murdered when VX Nerve Agent was smeared on the deceased's face by one of his assailants.³ The VX Nerve Agent is classified as a Weapon of Mass Destruction (WMD)⁴ by the United Nations Security Council Resolution 687 and has been outlawed by virtue of the Chemical Weapons Convention 1993 of which Malaysia is a State Party.⁵ Later, on 4 March 2017, Malaysian government had to expel Kang Chol, the former North Korean ambassador and he was declared as *Persona non Grata* after a series of unwarranted statements made by him against the government relating to the murder.⁶ His statements were portraying the Malaysian law enforcement authorities as inept and bereft of integrity in conducting the investigation and the prosecution at Court.⁷ In contrast to his statements, the Malaysian authorities had been careful in conducting the high-profile murder case by not making any pre-emptive statements.⁸

¹ Reynolds, C. (2020) *Global Health Security & Weapons of Mass Destruction Chapter, Global Health Security: Recognising Vulnerabilities, Creating Opportunities*, Springer, Springer Nature Switzerland AG, Cham, Switzerland at page 188

² Ma, A. (2018) *Kim Jong Un's Half-Brother was Assassinated with Nerve Poison One Year Ago — Here's How It Went Down and the Remaining Unsolved Mysteries*, Business Insider Malaysia, Kuala Lumpur, Malaysia (MAS) dated 13.02.2018. Source: <https://www.businessinsider.my/kim-jong-nam-assassination-one-year-anniversary-facts-and-theories-2018-2/?r=US&IR=T>

³ Mackenzie, D. (2017) *Was Kim Jong Nam Killed by VX Nerve Gas? Doesn't Look Like It*, Health, New Scientist, New Scientist Limited, London, United Kingdom (UK) dated 24.02.2017. Source:

<https://www.newscientist.com/article/2122587-was-kim-jong-nam-killed-by-vx-nerve-gas-doesnt-look-like-it/#:~:text=Malaysian%20police%20have%20said%20two,airport%20medical%20station%20for%20help>.

⁴ Cashman, J.R. (2008) *Emergency Response Handbook for Chemical & Biological Agents & Weapons, 2nd Edition*, CRC Press, Taylor & Francis Group, Boca Raton, Florida, United States of America (USA) at page 275

⁵ (2017) *Annex on Chemicals, Schedule 1*, Organization for the Prohibition of Chemical Weapons (OPCW), The Hague, The Netherlands (NED) dated 15.04.2017. Source:

<https://www.opcw.org/chemical-weapons-convention/annexes/annex-on-chemicals/schedule-1/>

⁶ Paddock, R.C. (2017) *North Korean Ambassador Leaves Malaysia*, The New York Times, The New York Times Company, New York, United States of America (USA) dated 06.03.2017. Source:

<https://www.nytimes.com/2017/03/06/world/asia/vx-north-korea-kim-jong-nam.html>

⁷ Ishan Jan, M.N. (2017) *Envoys Must Respect Local Laws*, News, New Straits Times (NST), New Straits Times (M) Berhad, Media Prima Group, Kuala Lumpur, Malaysia (MAS) dated 09.03.2017. Source:

<https://www.nst.com.my/news/2017/03/218920/envoys-must-respect-local-laws>

⁸ Han & Ho (2017) *Kim Jong Nam's Death: What It Means to Malaysia*, RSIS Commentary, S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University (NTU), Nanyang Avenue, Singapore (SIN) at page 2. Source:

Moreover, the former ambassador had also accused Malaysia of conspiring with hostile forces to damage his country's reputation whilst publicly denounced the outcome of the post-mortem, insisting that it was a violation of human rights.⁹ Malaysia thereafter declared the former ambassador as *Persona non Grata* under Article 9, Vienna Convention of Diplomatic Relations 1961 (VCDR 1961) as his baseless allegations were deemed as an abuse of his diplomatic immunity and a clear violation of Article 41 (1).¹⁰ Since then, the diplomatic relations between Malaysia and North Korea was temporarily suspended.¹¹ However, as of November 2019, Malaysia planned to rekindle her diplomatic relations with North Korea,¹² befitting her status as a peaceful country that is friendly to all nations.¹³

On 1 March 2017, an Indonesian accused Siti Aisyah and a Vietnamese accused Doan Thi Huong; both are believed to be the assailants of the deceased and four (4) unnamed suspects who are still at large were charged at Sepang Magistrate's Court under Sections 302 and 34 Penal Code for the offence of murder and *Common Intention*.¹⁴ It is widely believed that the masterminds behind the murder plot had escaped from the investigation and the chances of bringing them to face prosecution are probably slim.¹⁵ The outcome of the trial

http://www.rsis.edu.sg/rsis-publication/rsis/co17067_kim-jong-nams-death-what-it-means-for-malaysia/#.WRTeGTq6Tv9

⁹ Kumar, M. (2017) *North Korea Accuses Malaysia of Working with Its Enemies*, The Jakarta Post, PT Niskala Media Tenggara, Jakarta, Indonesia (INA) dated 18.02.2017. Source:

<https://www.thejakartapost.com/news/2017/02/18/north-korea-accuses-malaysia-of-working-with-its-enemies.html>

¹⁰ Johnson, Q. (2017) *The Case of Kim Jong Nam & Questions of International Law*, Yale Journal of International Law, Yale University, New Haven, Connecticut, United States of America (USA) dated 17.08.2017. Source:

<https://www.yjil.yale.edu/the-case-of-kim-jong-nam-and-questions-of-international-law/>

¹¹ (2017) *Malaysia Planning to Shut Embassy in North Korea in Latest Sign of Frayed Relations*, Southeast Asia, South China Morning Post (SCMP), Hong Kong (HK) dated 14.10.2017.

Source: <https://www.scmp.com/news/asia/southeast-asia/article/2115369/malaysia-planning-shut-embassy-north-korea-latest-sign>

¹² (2019) *Time to Resume Normal Relations with North Korea, says Dr.M*, FMT News, Free Malaysia Tiday (FMT), FMT Media Sdn. Bhd., Petaling Jaya, Selangor Darul Ehsan, Malaysia (MAS) dated 26.11.2019. Source:

<https://www.freemalaysiatoday.com/category/nation/2019/11/26/time-to-resume-normal-relations-with-north-korea-says-dr-m/>

¹³ (2019) *Malaysia's Mahathir Hints at a Thaw in Ties with North Korea*, Asia, Southeast Asia, South China Morning Post (SCMP), Hong Kong (HK) dated 26.11.2019. Source:

<https://www.scmp.com/news/asia/southeast-asia/article/3039384/malysias-mahathir-mohamad-plans-rekindle-once-close-north>

¹⁴ (2017) *Malaysian Court Charges Two Women with Kim Jong Nam Murder*, America, World, Deccan Chronicle, Deccan Chronicle Holdings Limited, Telangana, India (IND) dated 01.03.2017. Source:

<https://www.deccanchronicle.com/world/america/010317/malaysian-court-charges-two-women-with-kim-jong-nam-murder.html>

¹⁵ Leong, T. (2017) *Both Accused are Scapegoats, Say Lawyers*, Asia, The Strait Times, SPH Digital News, Singapore Press Holdings Limited, Singapore (SIN) dated 14.04.2017. Source:

<http://www.straittimes.com/asia/both-accused-are-scapegoats-say-lawyers>

shall have far-reaching diplomatic and socio-economic consequences to Malaysia's neighbours, namely Indonesia and Vietnam.¹⁶ Notwithstanding the existence of the Criminal Procedure Code (CPC) which prescribes the procedural aspects on criminal investigation and prosecution in Malaysia and the VCDR 1961 that regulates the affairs of the diplomatic mission in the Receiving States, the antics of recalcitrant diplomatic agents seemed to be beyond the reach of the law itself; often under the guise of diplomatic immunity.¹⁷

The outcome of the diplomatic rift between Putrajaya and Pyongyang shall serve as a guideline to chart the future of Malaysia's foreign policy with other probable recalcitrant diplomats and countries.¹⁸ Sustaining a harmonious diplomatic relations is of paramount importance for Malaysia and such aspiration can only be fulfilled should Putrajaya traverse the ever-changing tide of international relations with care and caution (i.e. *Foreign Policy Hedging*).¹⁹ Furthermore, the diplomatic crisis provides the opportunity to analyse on the effective ways to protect and preserve Malaysia's role as a neutral country in Southeast Asia. The neutral and cautious stand that is the hallmark of Malaysia's dynamic foreign policy is better demonstrated by Putrajaya's continuous efforts to engage with Pyongyang in a conciliatory manner.²⁰ Putrajaya has wisely relied on her special relations with China – a neutral party – and to entrust China in exerting leverage on North Korea. It was reported that China played its part as the mediator to broker the release of nine (9) Malaysian citizens who were stranded in Pyongyang in exchange of the remaining suspects implicated in the murder

¹⁶ Ibid No. 8 at pages 2-3

¹⁷ (1977) *Diplomatic Privileges & Immunities, Hearings and Markup Before the Sub-Committee on International Operations of the Committee on International Relations, House of Representatives, 95th Congress, First Session, May 17th, 2nd, 9th & 16th 1977*, U.S. Government Printing Office, Washington D.C., United States of America (USA) at page 181. See also Yeakey, C.C. et. al. (Editors) (2014) *Urban Ills: Twenty-First-Century Complexities of Urban Living in Global Contexts*, Lexington Books, Lanham, Maryland, United States of America (USA) at page 393

¹⁸ (2018) *Mahathir: Malaysia to Reopen Embassy in North Korea*, News, North Korea, Radio Free Asia, Washington D.C., United States of America (USA) dated 12.06.2018.

Source: <https://www.rfa.org/english/news/korea/malaysia-embassy-06122018181846.html>

¹⁹ O' Carroll, C. (2017) *Malaysia, North Korea Sign MOU on Culture Exchange*, NK News, Seoul, Republic of Korea (ROK) dated 10.02.2017. Source: <https://www.nknews.org/2017/02/malaysia-n-korea-sign-mou-on-cultural-exchange/>. See also (2012) *Malaysia Stands Firm and Consistent on Nuclear Issues*, The Star, Star Media Group Berhad, Petaling Jaya, Selangor Darul Ehsan, Malaysia (MAS) dated 27.03.2012. Source: <https://www.thestar.com.my/news/nation/2012/03/27/malaysia-stands-firm-and-consistent-on-nuclear-issues/>

²⁰ (2019) *Ministry: Malaysia Upholds Foreign Policy of Non-Interference*, Malay Mail, Malay Mail Sdn. Bhd., Petaling Jaya, Selangor Darul Ehsan, Malaysia (MAS) dated 23.07.2019. Source: -

<https://www.malaymail.com/news/malaysia/2019/07/23/ministry-malaysia-upholds-foreign-policy-of-non-interference/1774186> .See also: *Malaysia's Foreign Policy*, Ministry of Foreign Affairs Malaysia, Wisma Putra, Putrajaya, Malaysia, MAS. Source: <http://www.kln.gov.my/web/guest/foreign-policy>.

of Kim Jong Nam and the body of the deceased.²¹ This tactful decision should have been emulated by the Western countries especially the United States that was so obsessed in sanctions and other offensive measures against the reclusive State.²²

Since the time it was revived during the *Renaissance* until the advent of globalisation, the doctrine of diplomatic immunity has its own fair share of success in fostering lasting diplomatic relations and causing controversies which lead to prolonged regional conflicts.²³

It has always been Malaysia's ambition to be the front-runner in economic diversity while maintaining its designation as a *Neutral State* in diplomatic relations.²⁴ As amongst the founding members of the Association of Southeast Asian Nations (ASEAN), the task of preserving regional safety and bolstering economic longevity are top on Putrajaya's priority list.²⁵ These endeavours are meaningless should a similar diplomatic furore reoccurs in the near future. In order to prevent history from repeating itself, a transparent law governing the affairs and ethics of diplomatic mission in the Receiving State such as the VCDR 1961 needs to be enforced objectively.²⁶

1.2 OBJECTIVES OF THE RESEARCH

Democratic People's Republic of Korea (DPRK) or North Korea is probably the only country in the world that still practises *Isolationism*. Being economically and socially isolated, North Korea chooses to maintain diplomatic relations with only selected countries and Malaysia is one of those countries. Driven by her nationalistic vigour of absolute independence, North Korea often takes provocative approach in defending her national security. The threats of nuclear weapons and other types of Weapons of Mass Destruction

²¹ Beng, P.K. (2017) *How North Korea Got Away With Murder in Malaysia*, This Week in Asia, Geopolitics, South China Morning Post (SCMP), Hong Kong (HK) dated 31.03.2017. Source:

<http://www.scmp.com/week-asia/geopolitics/article/2083846/how-north-korea-got-away-murder-malaysia>.

²² Fifield, A. (2017) *Italy Becomes the Fifth Country to Expel North Korean Ambassador*, Europe, World, The Washington Post, Washington D.C., United States of America (USA) dated 01.10.2017. Source:

https://www.washingtonpost.com/world/europe/italy-becomes-fifth-country-to-expel-north-korean-ambassador/2017/10/01/98785c14-a6ad-11e7-8ed2-c7114e6ac460_story.html

²³ Denza, E. (2009) *Vienna Convention on Diplomatic Relations – Historical Context*, United Nations Audiovisual Library of International Law, Codification Division, Office of Legal Affairs, United Nations (UN), United Nations Headquarters, New York, United States of America (USA) at page 01. Retrieved on 05 May 2017. Source: http://legal.un.org/avl/pdf/ha/vcdr/vcdr_e.pdf

²⁴ Saravanamuttu, J. (2010) *Malaysia's Foreign Policy: The First Fifty Years – Alignment, Neutralism & Islamism*, Yusof Ishak Institute of Southeast Asian Studies (ISEAS), Singapore (SIN) at page 151

²⁵ (2012) *The Report: Malaysia 2012*, Oxford Business Group, London, United Kingdom (UK) at page 18

²⁶ A. Ismail, M.B. (2016) *Islamic Law & Transnational Diplomatic Law: A Quest for Complementarity in Divergent Legal Theories*, Palgrave Macmillan, Macmillan Publishers Limited, England, United Kingdom (UK) at page 68

(WMD) are consistently used as leverages and such threats are increasing under the 3rd generation of Kim's dynasty – Kim Jong Un. Diplomatic relations between Malaysia and North Korea, although obscured from public scrutiny, is strategic. Nevertheless, the recent diplomatic disputes between these countries that emanated from the murder of Kim Jong Nam had drawn global attention. Hence, the primary objective of this study is to analyse the historical background and the evolution of diplomatic relations between Malaysia and North Korea within the context of the Vienna Convention on Diplomatic Relations 1961. The research showed that the reason behind the prolonged and recurring altercation between North Korea and the rest of the world is the failure to understand the historical backdrop of North Korea, especially after the conclusion of World War II. The study also showed that in spite of the difference of ideology, in reality, Malaysia and North Korea have many agendas in common. These similarities are the elements that forged a strong bond of bilateral relations for both countries for the past 48 years. The research aims to contextualise the bilateral relations between both nation *vis-a-vis* relevant provisions in the VCDR 1961 especially with regards to the events leading up to the suspension in 2017 and the eventual severance of their diplomatic relations in 2021.

Not only the diplomatic rift between Malaysia and North Korea has a serious impact on national security but it has also affected the economic sustainability in the Southeast Asian region as well. The expulsion of the former North Korean ambassador from Malaysia as *Persona non Grata* has underlined several weaknesses in the VCDR 1961 that are prone to be abused by rogue diplomats thus, justifying a holistic review. Hence, the second objective of this research is to show in spite of the existence of international law (i.e. VCDR 1961) and Domestic Law [i.e. Diplomatic Privileges (Vienna Convention) Act 1966 (Act 636)] to govern the affairs of diplomatic mission, these legislations seem powerless to prevent any abuse of diplomatic immunity by members of the diplomatic mission. For instance, the act of interfering in a criminal investigation by the police which was a clear sign of challenging Malaysia's sovereignty that is strictly prohibited by the VCDR 1961.²⁷ With the *lacunea* in regulating diplomatic immunity, the strength of the VCDR 1961 suffers from indecisiveness which results in its lacklustre enforcement and ultimately, lack of respect. As such, certain

²⁷ Article 41 (1) Vienna Convention on Diplomatic Relations 1961: - “Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Receiving State. They also have a duty not to interfere in the internal affairs of that State.”

provisions in the VCDR 1961 desperately require a review to better suit the modern style of diplomatic relations.

A further objective of this research is to provide suggestions on effective ways in mending the suspended diplomatic relations between Malaysia and North Korea. The study explained on the wisdom of sustaining the bilateral relations with Pyongyang. This can be achieved by exploring and manipulating several *Tracks of Diplomacy* especially *Track 1.5 Diplomacy (Track One and A Half Diplomacy)* in the form of *Sports Diplomacy* to accommodate the unique characters and indigenous needs of both countries. The study also showed the successful rate of *Track 1.5 Diplomacy* in addressing and resolving domestic, regional and international conflicts. Evidently, engaging North Korea in a conciliatory mode instead of imposing sanctions is the best way forward for the future of diplomatic relations between Malaysia and North Korea. Another option is perhaps, to amend the relevant provisions in the VCDR 1961 to provide more authority to the Sending State to scrutinise the background of each diplomats in order to ensure that only the best candidate (i.e. no criminal records, disciplinary records) is chosen to represent the Sending State. This research underlines that despite the gravity of diplomatic disputes with a recalcitrant country like North Korea, Malaysia is a peaceful country that will never resort to provocation or violence in addressing any diplomatic disputes, especially against the offending State. Diplomacy, *Neutrality* and *Non-Alignment* are the formulae towards sustainable diplomatic relations. Furthermore, Malaysia remains steadfast in championing regional peace and fully committed in defending justice for all individuals regardless of their nationality.

1.3 RESEARCH METHODOLOGY

The research focuses on library study i.e. document analysis. The library study involved Literature Review of academic writings, case law, official government reports and other related documents, international conventions, case studies and conference papers. References were also made to relevant internet sources. Figures, data and any related information were gathered from relevant government bodies such as the Malaysian Ministry of Foreign Affairs (Wisma Putra) and the Malaysian Institute of Diplomacy and Foreign Relations (IDFR) during the course of the research.

The approach applied in this research involved an analysis of the existing domestic laws and international laws, international conventions and regulations on diplomatic relations

between Malaysia and North Korea. It included an examination of, *inter alia*, the relevant provisions in the VCDR 1961, case study from prominent cases involving *Persona non Grata* and the reported abuses of diplomatic immunity involving North Koreans diplomats in other countries.

1.4 SIGNIFICANCE OF THE THESIS

The assassination of Kim Jong Nam at the KLIA drew shock and suspicions. The public were shocked by the devious execution of the murder. They were also suspicious of the motive behind the murder. The place and time when the assassination occurred – an airport; an open public space where it was unlikely for any crimes to be committed in broad day light – raised more questions than answers. Malaysia is known as amongst the pioneering country in a full-scale campaign against transboundary crimes and terrorism.²⁸ In 2013, the Eastern Sabah Security Command (ESSCOM) was founded with the goal of strengthening the maritime security. This was done following continuous attacks from pirates on several tourist hotspots in Sabah. North Korea on the other hand, is a reclusive State notorious for human rights violations and illegal development of nuclear weapons. The fact that a high-profile murder took place in Malaysian soil despite the modern security system is disturbing and yet, intriguing. Malaysia and North Korea are worlds apart in many ways but to maintain an enduring diplomatic relations in the midst of endless geopolitics tribulation demands complete understanding and dedication from both countries. The bilateral relations between Malaysia and North Korea are dynamic but through changes come along disagreement and inevitable disputes. The unbecoming behaviour of former North Korean ambassador, Kang Chol, prior to his expulsion was unbecoming of an accredited diplomat. The Malaysian authorities which are beholden to the VCDR 1961 remained objective until the pronouncement of *Persona non Grata*. The current legal structure of which governs the diplomatic mission is seen as weak to control foreign interference of ongoing criminal investigation and to thwart conducts of a rogue diplomat.

Without clear and firm laws to regulate the diplomatic mission, it is probable that similar or even worse diplomatic crisis will recur. Therefore, there is a compelling need to conduct a study on this particular issue. This thesis is significant as it seeks to contribute

²⁸ Banlaoi, R.C. (2010) *Philippine Security in the Age of Terror: National, Regional & Global Challenges in the Post 9/11 World*, CRC Press, Taylor & Francis Group, Boca Raton, Florida, United States of America (USA) at page 314

towards the future of Malaysia's foreign policy on diplomatic relations. The study is crucial as it provides an insight into the weaknesses that affect the effectiveness of the VCDR 1961. It also analyses on the possibility of exploring other diplomatic avenues such as *Track 1.5 Diplomacy* in the form of *Sports Diplomacy* to address and resolve the diplomatic disputes.

In addition, the study aims to supplement the current research and literature on the subject of diplomatic relations, diplomatic immunity and *Tracks of Diplomacy* by sharing new ideas and providing practical solutions in diplomatic issues. Ultimately, this thesis is significant in accomplishing Malaysia's ambitions of becoming a truly moderate country (i.e. *Neutrality* and Non-Aligned) by protecting regional economic prosperity and defending justice and equality.

1.5 THESIS STRUCTURE

This Thesis is organised into four (4) Chapters, starting with Chapter 1 as the Introduction. It introduces the main features of the thesis, namely background of the study, research questions, research objectives, significance of the thesis, thesis structure and research methodology. Chapter 2 outlines the historical development of Malaysia's diplomatic relations starting from the inception of the *Kerajaan Melayu Tua* in the Malay Peninsula to the foundation of the Malay Melaka Sultanate until the independence of the Federation of Malaya in 1957. Afterwards, Chapter 2 discusses the ingenuity (*Kebitaraan*) of the Malay people especially the Malay Sultanates in the art of diplomacy on sustaining their thriving diplomatic relations with world superpowers such as the Chinese Empire. The source of the Malays' wealth and political power in the Malay World (*Alam Nusantara*) was attributed to their dominance in international maritime commerce. Thus, Chapter 2 proves that the flair in managing dynamism in diplomatic relations had benefitted the Malay Sultanates for centuries. Chapter 2 also captures the lifeblood of Malay's diplomacy – a fusion of *Neutrality* and Islamic virtues – which are still relevant today despite the advancement in geopolitics, science and technology. Further, Chapter 2 explains the stand taken by Malaysia in diplomatic relations as a newly independent nation after the Colonial era. As a temporary measure in international relations, Chapter 2 clarifies the reason why Malaysia initially chose to ally herself with her former Colonial Master – the British – before shifting her foreign policy towards *Neutralisation* and *Non-Alignment*. Finally, Chapter 2 recounts the evolution of diplomacy, diplomatic relations and diplomatic immunity from the ancient times until the dawn of globalisation.

Chapter 2.5.1 discusses in detail on the historical background of diplomatic relations between Malaysia and North Korea, especially the moments and efforts leading up to the formation of their official relations (i.e. *Sports Diplomacy*). The nature of strategic relations between Pyongyang and Putrajaya is further examined in Chapter 2.5.2 that includes joint ventures in agriculture, education, high-skilled labours and in arts and cultures. It also illustrates the benefits for both countries of sustaining a harmonious bilateral relations into the future.

Before delving on the issue of the abuse of diplomatic immunity, Chapter 2.5.3 narrates on the murder plot of Kim Jong Nam, the suspects, the progress of the murder trial in Shah Alam High Court and its conclusion.

Chapter 2.5.4 further examines on the core issues that triggered the diplomatic rift and severance of bilateral relations between Malaysia and North Korea – the abuse of diplomatic immunity and *Persona non Grata*. Thus, it underscores on the relevant provisions in the VCDR 1961 *vis-a-vis* diplomatic immunity and *Persona non Grata*. A couple of identical cases overseas involving the aforementioned issues are highlighted particularly the one which involved a Malaysia diplomat in New Zealand. A comparison is deduced on how the Malaysian government via Wisma Putra managed these issues when a Malaysian diplomat was involved. In order to prove that rogue North Korean diplomats are a global issue, the incidents involving the abuse of diplomatic immunity and the ensuing *Persona non Grata* are illustrated in several case studies in other jurisdictions. Chapter 2.5 and 2.6 show that Malaysia is not alone in facing the issue of abuse of diplomatic immunity committed by North Korean diplomats/diplomatic mission.

Chapter 3 unfolds with the introduction of *Tracks of Diplomacy* and its variants (i.e. *Track One Diplomacy*, *Track Two Diplomacy*, *Track 1.5. Diplomacy*, *Multi Track Diplomacy*). The viability of resolving legal and diplomatic disputes beyond the conventional legal framework is elucidated via the concept of *Tracks of Diplomacy*. Chapter 3 further explains the variants in *Tracks of Diplomacy* as the options/alternative to compliment the established rules of international law in addressing and resolving conflicts in diplomatic relations. It justifies the need for Malaysia and North Korea to explore and pursue *Tracks of Diplomacy* as a wholesome approach for sustainable solutions in diplomatic issues. Chapter 4 also pays special attention to *Sports Diplomacy* as the alternative to address the diplomatic rift between Malaysia and North Korea. Historical records showed that *Sports Diplomacy*

was employed during the initial stage of bilateral relations between both countries. Finally, the promising future of diplomatic relations between Malaysia and North Korea is further discussed in Chapter 3.6.

Chapter 4 concludes the Thesis by eliciting on the magnitude of an in depth study on the Law of Diplomacy, diplomatic relations, diplomatic immunity and *Tracks of Diplomacy* towards the progression of harmonious bilateral relations between Malaysia and the Diplomatic People's Republic of Korea (DPRK/North Korea).

1.6 RESEARCH QUESTIONS

On matters relating to the diplomatic relations between Malaysia and North Korea, it was proposed that the research would be conducted based on the following question:-

What is the historical development of diplomatic relations between Malaysia and North Korea?

This question would be answered by recounting the historical development and evolution of bilateral relations between Malaysia and North Korea. Historical analysis would reveal that despite the differences in political ideologies, Malaysia and North Korea have several similarities such as the inspiration to be politically and economically independent that prompted both countries to form diplomatic relations.

On matters pertaining to Vienna Convention in Diplomatic Relations 1961, it was proposed that the research would be conducted based on the following question:-

How effective is VCDR 1961 in preventing the abuse of diplomatic immunity amongst diplomats in the Receiving State?

This question would be answered by analysing relevant legal provisions in the VCDR 1961 such as Articles 9 and 41. By examining how these legal provisions are interpreted and enforced in real life situations via case studies in other countries, the study would show that the lack of respect amongst diplomats and the impotent enforcement of the aforementioned provisions are the primary reasons leading to the abuse of diplomatic immunity by irresponsible diplomats.

On matters pertaining to the efforts to rejuvenate the severed diplomatic relations between Malaysia and North Korea, it was proposed that the research would be conducted based on the following question:-

Why is the alternative to mend the diplomatic relations between Malaysia and North beyond the legal framework of VCDR 1961?

Research would be conducted on the conception of *Tracks of Diplomacy* especially in the form of *Sports Diplomacy*. The study would reveal that the first step towards the establishment of formal diplomatic relations between Putrajaya and Pyongyang was initiated via *Sports Diplomacy* i.e. *Ping Pong Diplomacy* between the national table tennis teams from both countries. The study would suggest that since sports in general are popular social activities in both countries and also popular methods in dispute resolutions worldwide, friendly sports tournament could be utilised to facilitate efforts to rekindle the trust and rebuilt the diplomatic relations between Malaysia and North Korea.

1.7 CONCLUSION

While there is no perfect legal system exists in the world, the regime of diplomatic immunity has been going through several changes; the ultimate aim of which is to assist diplomats in performing their official functions with necessary freedom without hindrance from irrelevant laws of the Receiving State. Nevertheless, as ulterior motives are always hidden by geopolitical clout, the inviolability of the diplomatic mission is often abused. With the reported cases of abuse recurring despite clear provisions in the VCDR 1961, the effectiveness of its enforcement is questioned. Admittedly, the dearth of strict supervision on how diplomatic immunity is practised in real life has resulted in the abuse of such privilege.

The best way to resolve any international discord is still through an engagement in a peaceful and respected manner between the affected countries. Constructive engagement will eventually provide rooms for both parties to reconcile and mend their impaired diplomatic relations. Therefore, it is critical for Putrajaya to assemble all of its sources and rally all of its vigour for an amicable reconciliation. Peaceful consultation is the perfect way to reflect Malaysia's stance of moderation, *Neutrality* and *Non-Alignment* in geopolitics. With the volume of bilateral trade between Malaysia and North Korea steadily increasing annually and the prospect of never-ending embargoes/sanctions looming over the North Korea's economy, peace talks with the objective of repairing the damaged diplomatic relations is the only

sustainable options for both countries. After all, both countries are still members of the Non-Aligned Movement (NAM).

The following Chapter 2 discusses on the essence of Malaysia's philosophy on diplomatic relations, namely *Neutrality* and *Non-Alignment*. Chapter 2 also recounts the historical development of diplomatic relations in Malaysia post-Colonial era, during the period of *Cold War* (1947-1991) and up until present time. The evolution of diplomatic inviolability – which is amongst the focus of this Thesis – is also discussed with further attention is afforded to the formation and the effects of the Vienna Convention of Diplomatic Relations 1961 (VCDR 1961) on the realms of diplomatic relations.

