

# METaverse: CHALLENGES AND OPPORTUNITIES FOR DIPLOMACY AND INTERNATIONAL RELATIONS

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## I. INTRODUCTION

The recent announcement by Facebook's Chief Executive Officer Mark Zuckerberg regarding the transition of the company to Meta has brought the concept of metaverse back to light.<sup>1</sup> Metaverse is not a novel concept and has been around for years.<sup>2</sup> At the basic level, metaverse is intended as the internet's successor<sup>3</sup> and combines both digital and offline realities.<sup>4</sup> One can perform multiple tasks in the metaverse simultaneously while being able to smell, touch, and feel, due to the brain to computer interfaces.<sup>5</sup> Given its rising popularity, metaverse is slated to transform and transpose the present realities.<sup>6</sup>

This article analyzes the utilization and impact of metaverse in the arena of diplomacy and international relations. It questions the regulation of such diplomatic endeavors in metaverse under the Vienna Convention on Diplomatic Relations, 1961, (VCDR) and Vienna Convention on Consular Relations, 1963, (VCCR) and explores whether those conventions are capable of regulating such developments. Further, the

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1. Shirin Ghaffary, *Why You Should Care about Facebook's big push into the Metaverse*, VOX (Nov. 24, 2021), <https://www.vox.com/recode/22799665/facebook-metaverse-meta-zuckerberg-oculus-vr-ar>.

2. Cinthya Alaniz Salazar, *The Successor of the Internet: The Metaverse*, MEXICO BUSINESS NEWS (Aug. 20, 2021), <https://mexicobusiness.news/tech/news/successor-internet-metaverse>.

3. Randeep Sudan, *How Should Governments Prepare for the Metaverse?*, MEDIUM (July 29, 2021), <https://medium.com/digital-diplomacy/how-should-governments-prepare-for-the-metaverse-90fd03387a2a>.

4. HeadMind Partners, *Metaverse, Future of the Internet or Simply a Buzz?*, HEADMIND PARTNERS (July 8, 2022), <https://www.headmind.com/en/metaverse-future-of-the-internet-or-simply-a-buzz/>.

5. Stefan Brambilla Hall & Moritz Baier-Lentz, *3 Technologies That Will Shape the Future of the Metaverse – and the Human Experience*, WORLD ECONOMIC FORUM (Feb. 7, 2022), <https://www.weforum.org/agenda/2022/02/future-of-the-metaverse-vr-ar-and-brain-computer/>.

6. Saurabh Singh, *Metaverse: The Future of (Virtual) Reality*, FINANCIAL EXPRESS (Apr. 6, 2022), <https://www.financialexpress.com/industry/metaverse-the-future-of-virtual-reality/2483228/>.

article provides a list of advantages that can be derived from the integration of metaverse into diplomacy and international relations.

Part II focuses on understanding the nuances and features of metaverse. It traces the historical development, as well as the current state and components of metaverse. Part III reflects on the present utilization of metaverse space by certain States which have set-up diplomatic and consular posts in the said space. Part IV highlights the interaction of metaverse with the VCDR and the VCCR. Part V discusses the advantages metaverse can pose in the context of diplomatic and international relations. Part VI offers concluding remarks.

## II. UNDERSTANDING METAVERSE

### A. *History of Metaverse: A Brief Timeline*

Shortly after the birth of the Internet in 1991, writer Neal Stephenson phrased the term ‘metaverse’ in his 1992 fiction book *Snow Crash*.<sup>7</sup> Stephenson portrayed avatars of humans interacting in a virtual 3D platform, reflecting the real world.<sup>8</sup> The book came during a time of evolution in virtual reality (VR) technology.<sup>9</sup> VR technology enables humans to interconnect and link with a virtual 3D visual.<sup>10</sup> With further developments in VR technology, the concept of metaverse was finally integrated with VR through the introduction of the game *Second Life* in 2003. *Second Life* is a 3D immersive domain that helps in advanced communication and social networking through the exchange of information.<sup>11</sup> This game is opined as one of the first instances where a large-scale form of metaverse was implemented.<sup>12</sup>

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7. Thomas Frey, *The History of the Metaverse*, FUTURIST SPEAKER (Sept. 16, 2021), <https://futuristspeaker.com/future-trends/the-history-of-the-metaverse>.

8. *Id.*

9. Dom Barnard, *History of VR – Timeline of Events and Tech Development*, VIRTUAL SPEECH (Oct. 6, 2022), <https://virtualspeech.com/blog/history-of-vr> (noting that VR technology was first created in 1956 by Morton Heilig).

10. Henry E. Lowood, *Virtual Reality*, BRITANNICA, [https://www.britannica.com/technology/virtual-reality#:~:text=virtual%20reality%20\(VR\)%2C%20the,visual%20or%20other%20sensory%20environment](https://www.britannica.com/technology/virtual-reality#:~:text=virtual%20reality%20(VR)%2C%20the,visual%20or%20other%20sensory%20environment) (last visited Nov. 15, 2022).

11. See Chris Stokel-Walker, *Second Life's Strange Second Life*, THE VERGE (Sept. 24, 2013), <https://www.theverge.com/2013/9/24/4698382/second-lifes-strange-secondlife> (describing the history and current operation of *Second Life*).

12. Stephanie Glen, *History of the Metaverse in One Picture*, DATA SCIENCE CENTRAL (Mar. 14, 2022), <https://www.datasciencecentral.com/history-of-the-metaverse-in-one-picture/>.

These developments were followed by the evolution of blockchain technology, bitcoin, and non-fungible tokens over the next six years.<sup>13</sup> In 2014, Facebook acquired Oculus, a VR headset company intended to transform social interactions over digital platform as well as the world in general.<sup>14</sup> Two years later, Pokémon GO launched as the first platform that merged and combined the physical and the digital world—taking augmented reality (AR) to the mainstream.<sup>15</sup> More recently in October 2021, Facebook drew the attention of the world to the concept of metaverse by relaunching itself as Meta.<sup>16</sup> It proceeded to state that the company would invest over ten billion dollars and hire over ten thousand individuals in Europe to construct and set-up metaverse.<sup>17</sup> Soon thereafter, various sectors became involved in metaverse, including fashion brands such as Gucci, Tommy Hilfiger, and Adidas, all of which bought up space in the metaverse to set-up shops.<sup>18</sup> Thus, from its conception in 1992, metaverse today is a growing reality, one which will soon become an indispensable and ubiquitous part of our lives.

#### B. *Features of Metaverse*

To understand the concept of metaverse, it is important to note that the term does not refer to any particular kind of technology.<sup>19</sup> Instead, it connotes a significant shift from how one interacts with the technology. Reference to the term can include both VR and AR, though not exclusively.<sup>20</sup> Metaverse can also be accessed directly

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13. *Id.* at 12.

14. Shraddha Goled, *What Explains Facebook Oculus' Acquisition Spree?*, ANALYTICS INDIA MAGAZINE (June 15, 2021), <https://analyticsindiamag.com/what-explains-facebook-oculus-acquisition-spree/>.

15. David Hsu et al., *How "Pokemon Go" Took Augmented Reality Mainstream*, KNOWLEDGE AT WHARTON (July 21, 2016), <https://knowledge.wharton.upenn.edu/article/how-pokemon-go-took-augmented-reality-mainstream> (AR is an ungraded form of the actual physical world, that is made possible via the utilisation of digital visual components, touch, sound, and other sensory stimuli).

16. *Introducing Meta: A Social Technology Company*, META (Oct. 28, 2021), <https://about.fb.com/news/2021/10/facebook-company-is-now-meta/>.

17. Derin Cag, *Timeline: The Metaverse Generation Unfolds*, FINTECH MAGAZINE (Feb. 27, 2022), <https://fintechmagazine.com/crypto/timeline-the-metaverse-generation-unfolds>.

18. Andrea Murad & Will Smale, *The Retailers: Setting Up Shop in the Metaverse*, BBC (July 4, 2022), <https://www.bbc.com/news/business-61979150>.

19. Eric Ravenscraft, *What Is the Metaverse, Exactly?*, WIRED (Apr. 25, 2022), <https://www.wired.com/story/what-is-the-metaverse/>.

20. *Id.*

through personal computers, mobile devices, and other gaming consoles.<sup>21</sup>

It would be very challenging to deem a single unified space as metaverse.<sup>22</sup> Indeed, such a space would require companies to cooperate over the platform in a manner that would not render it desirable or profitable.<sup>23</sup> Instead, metaverse can have multiple components. For instance, Facebook plans to create virtual houses and villas where people can invite their friends to interact with them.<sup>24</sup> As such, metaverse can be viewed as an empty canvas, where entities can create structures and occupy spaces as per their requirements. As such, metaverse enables individuals to perform several tasks together over the virtual world, while still possessing the capability to touch, smell, feel, and experience the realities of the physical world.

### III. UTILISATION OF METAVERSE IN DIPLOMACY AND INTERNATIONAL RELATIONS BY STATES

The first Nation-state to initiate the practice of diplomacy and international relations over metaverse was Maldives. In 2007, the island state created the world's first virtual embassy on metaverse inside the platform of Second Life.<sup>25</sup> The Minister of State for Foreign Affairs of the Maldives inaugurated the virtual embassy and highlighted the role of information technology in enabling meaningful participation of small countries in international relations.<sup>26</sup> The embassy is constructed as per traditional Maldivian architecture.<sup>27</sup>

Similarly, other countries, such as Malta, Philippines, Estonia, Serbia, Sweden, Kazakhstan,<sup>28</sup> and South Korea have since set up virtual diplomatic and consular posts over metaverse for providing

21. Amy Kleppinger, *Is the Metaverse the Future of the Internet?*, MOBIQUITY (Feb. 9, 2022), <https://www.mobiquity.com/insights/future-of-the-internet>.

22. Chaim Gartenberg, *Intel Thinks the Metaverse will Need a Thousand-fold Increase in Computing Capability*, THE VERGE (Dec. 15, 2021), <https://www.theverge.com/2021/12/15/22836401/intel-metaverse-computing-capability-cpu-gpu-algorithms>.

23. Ravenscraft, *supra* note 19.

24. CNET, *Everything Facebook Revealed About Metaverse in 11 Minutes*, YOUTUBE (Oct. 29, 2021), <https://youtu.be/gElfIo6uw4g?t=191>.

25. DIPLO, *Metaverse Diplomacy*, <https://www.diplomacy.edu/topics/metaverse-diplomacy/#topicblogs> (last visited Nov. 15, 2022).

26. *Id.*

27. *Id.*

28. L. C. van Jaarsveldt & J. S. Wessels, *The Application of WEB 2.0 Technologies by the South African Government* 19 ADMINISTRATIO PUBLICA 63, 70-71 (2011).

administrative and consular services.<sup>29</sup> Most recently, in December 2021, Barbados set-up its virtual embassy in metaverse.<sup>30</sup> This came shortly after the small sovereign nation removed the then monarch Queen Elizabeth II as the Head of the State.<sup>31</sup> The Foreign Minister of Barbados stated:

This platform will be an important forum in which Barbados will work with its traditional partners to deepen its relationships in the diplomatic arena, as well as in investment, business, tourism, cultural industry, and people-to-people interactions. Barbados looks forward to welcoming the world to its metaverse embassies.<sup>32</sup>

The Barbadian government declared that the virtual Embassy would help in the assistance and delivery of consular services in metaverse.<sup>33</sup>

#### IV. INTERACTION OF METAVERSE WITH VCDR AND VCCR

As more and more states begin to utilize metaverse for diplomatic relations, regulation of such posts by the VCDR and the VCCR will come of increasing importance. It is important to consider whether the VCCR and the VCDR are capable of regulating the acts and missions established by the States in metaverse.

##### A. *Ambit of Diplomatic and Consular Missions*

Article 1(i) of the VCDR states that the premises of a mission includes the buildings, its parts, and any ancillary land that is utilized for the purposes of the mission, including the residence of the head of

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29. Rina Chandran, *Analysis: Seoul, Barbados Check into Metaverse as Governments Eye Virtual Presence*, REUTERS (Nov. 25, 2021), <https://www.reuters.com/markets/currencies/seoul-barbados-check-into-metaverse-governments-eye-virtual-presence-2021-11-25/>.

30. Jim Wyss, *Barbados is Opening a Diplomatic Embassy in the Metaverse*, BLOOMBERG (Dec. 14, 2021), <https://www.bloomberg.com/news/articles/2021-12-14/barbados-tries-digital-diplomacy-with-planned-metaverse-embassy>.

31. Nora McGreevy, *Barbados Breaks with Elizabeth II to Become the World's Newest Republic*, SMITHSONIAN (Dec. 2, 2021), <https://www.smithsonianmag.com/smart-news/barbados-elizabeth-british-empire-republic-180979147/>.

32. Morning Express, *Barbados Opens an Embassy in the Metaverse and Inaugurates the Career of Virtual Diplomacy* (Nov. 19, 2021), <https://morningexpress.in/barbados-opens-an-embassy-in-the-metaverse-and-inaugurates-the-career-of-virtual-diplomacy/>.

33. *Id.*

the mission.<sup>34</sup> VCCR under Article 1(j) provides a similar definition for the consular premises.<sup>35</sup> These articles do not mention virtual spaces or diplomatic and consular premises developed over virtual platforms. This makes sense, considering both treaties were drafted in the 1960s. It is possible, however, to argue for a progressive reading of the Preambles of both the VCDR and VCCR, both of which emphasize “*promoting friendly relations among nations*.” This would allow for the inclusion of virtual premises under the definitions.<sup>36</sup> However, such an interpretation has yet to be granted.

### B. Requirement of a Receiving State

If the issue of definition of the diplomatic and consular premises is tackled, the next major hurdles are the requirements regarding the presence of a receiving State under both the VCDR and the VCCR. It is important to highlight that bare readings of these treaties impose obligations concerning diplomatic and consular relations on both the sending and the receiving States. This raises the question of who constitutes the “receiving State” with respect to a diplomatic or consular post established in metaverse.

#### i. Obligations under the VCDR and the VCCR

The requirement of identifying a receiving State is essential in the context of both the VCDR and the VCCR. Under Article 3(1)(a) of the VCDR, a diplomatic mission is to represent the sending State “in the receiving State”.<sup>37</sup> The essence and importance of these requirements were famously highlighted by Palestine in the ongoing *Palestine v. USA* case before the International Court of Justice (ICJ).<sup>38</sup> Palestine challenged the move of the U.S. Embassy of Israel from Tel Aviv to Jerusalem. It contended that Jerusalem, under international law, is a disputed territory and, therefore, the move would breach Article 3(1)(a) of the VCDR due to the requirement of the mission to be located “in

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34. Vienna Convention on Diplomatic Relations, art. 1(j), *adopted on* Apr. 14, 1961, 23 U.S.T. 3227, 500 U.N.T.S. 95 (entered into force Apr. 24, 1964) [hereinafter VCDR].

35. Vienna Convention on Consular Relations, art. 1(j), *adopted on* Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261 (entered into force Mar. 19, 1967) [hereinafter VCCR].

36. *Id.* at art. 1(j); VCDR, *supra* note 34, at art. 1(j).

37. VCDR, *supra* note 34, at art. 3(1)(a).

38. Press Release, I.C.J., Press Release No. 2018/47 (Sept. 28, 2018).

the receiving State.”<sup>39</sup> Further, Palestine highlighted that the functions of protecting the interest of the sending State and ascertaining developments in the receiving State respectively are to be performed “in the receiving State.”<sup>40</sup> Therefore, Palestine, in its application, requested the ICJ to declare that the relocation violated VCDR and to order the U.S. to withdraw its diplomatic mission and conform with the treaty.<sup>41</sup>

Similarly, Article 4 of the VCCR, which deals with the establishment of a consular post, states that the consular post shall be established “in the territory of the receiving State.”<sup>42</sup> Under the VCCR, the functions of the consular post to protect the interests of the sending State and its nationals are to also be performed “in the receiving State.”<sup>43</sup> Therefore, the VCCR also contains provisions that require the consular posts to operate from the territory of the receiving State.

The mandate of “in the receiving State” is also present in twelve other provisions of the VCDR, including Article 31(c) which pertains to immunity.<sup>44</sup> This situation becomes more complex when viewed from the perspective of the obligations placed on the receiving State, such as the inviolability of the diplomatic premises under Article 22(1).<sup>45</sup> Likewise, the VCCR also contains the requirement of the existence of a receiving State in over seventeen provisions, namely Article 8 dealing with exercise of consular function on behalf of third States, and Article 31 dealing with inviolability of consular premises, amongst others.<sup>46</sup>

Further, under the VCDR, the proposition that the sending State is mandated to establish a diplomatic mission in the territory of the receiving State has been confirmed through Article 21(1), which states that the receiving State shall facilitate the acquisition “on its territory” of premises necessary for the sending State’s mission.<sup>47</sup> Moreover, Article 41(3) lays down that that premises of the mission should not be used in any manner that is incompatible with the functions of the

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39. Palestine v. U.S., Application Instituting Proceedings (Sept. 28, 2018), <https://www.un.org/unispal/document/application-instituting-proceedings-in-the-icj-state-of-palestine-v-us-icj-document/>, 38.

40. *Id.* at 39-40 (these functions are to be performed under Articles 3(1)(b) and (d)).

41. *Id.* at 51-52.

42. VCCR, *supra* note 35, at art. 4.

43. *Id.* at art. 5.

44. VCDR, *supra* note 34, at art. 31(c).

45. *Id.* at art. 22(1).

46. VCCR, *supra* note 35, at arts. 8, 31.

47. VCDR, *supra* note 34, at art. 21(1).

mission as laid down under the VCDR.<sup>48</sup> Thus, there are clear limitations on the establishment of the mission of a sending State under the VCDR.

In a similar vein, VCCR Article 30 requires that the receiving State facilitate the acquisition of premises for a consular post “on its territory.”<sup>49</sup> Therefore, similar to the VCDR, the VCCR contains limitations to the establishment of a consular mission.

ii. *Receiving State in Metaverse*

With the background of obligations under both the VCDR and the VCCR, it is possible to analyze the concept of receiving a State in metaverse. In metaverse, it is the digital platform upon which embassies and consular posts are located. This virtual space is distinct from reality and does not fall under the “territory” of any nation State. In this regard, there are two possible solutions to this question of receiving State, though both carry their distinct limitations.

First, the receiving State can be the one whose national enters and stops by the embassy or consular office in metaverse. This is based on the rationale that the treatment and safety of the national is of concern and interest to the State involved. However, this poses challenges in that certain obligations, such as protection through immunity and the provision of exemptions, are continuous in nature and cannot be based on individual visits of nationals from different States.<sup>50</sup> Thus, in the case where no individual is visiting an embassy or consular office at a point of time, no State would be categorized as a receiving State and be obligated to such continuous obligations. Moreover, the mere establishment of an embassy or consular office requires consent, authorization, and provision of area by the receiving State.<sup>51</sup> Therefore, subsequent visits by other nationals cannot remedy this situation.

Furthermore, nationals visiting consular offices and embassies can be from the sending State itself. Hence, deriving such a conclusion would render one State as the receiving and the sending State at the same time; an interpretation that is incoherent, impractical, and against the provisions of the VCCR and the VCDR.

The second interpretation stipulates the State which hosts the server of metaverse platform as the receiving State. Servers are physical data centers which store all of the information contained in metaverse,

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48. *Id.* at art. 41(3).

49. VCCR, *supra* note 35, at art. 30.

50. *Id.* at art. 39; VCDR, *supra* note 34, at art. 53.

51. VCDR, *supra* note 34, at arts. 2, 21; VCCR, *supra* note 35, at arts. 2, 30.

including that regarding their users such as pictures, videos, and other content shared over the platform.<sup>52</sup> For instance, Facebook currently has eighteen data servers in the United States, Sweden, Denmark, Ireland, and Singapore.<sup>53</sup> In the case of metaverse, the location of the concerned company's servers could be used to determine who the receiving State is. However, this interpretation also faces serious hurdles. There is the possibility of servers being located in multiple countries, which would create a conflict when seeking to determine the receiving State.

Another issue with this approach is that most of the giant technology and social media companies have their servers located in Western states. Six of the eight largest data centers in the world are located in the United States.<sup>54</sup> Northern America and Western Europe in total account for over 3,330 data centers, while Africa, Asia, and South America in total only account for 721.<sup>55</sup> Therefore, using this method to determine the receiving State for an embassy or consular office located in metaverse would deem Western countries more likely to be granted the position. This would result in the other states being subject to the internal laws and regulations of the Western nations wherever provided under the VCDR and the VCCR. Hence, such an interpretation could be detrimental to the interests of those states.

Accordingly, there is no fool-proof manner of determining who a receiving State should be in the context of embassies and consular posts established in metaverse. Neither the approach of the nationality of the individual nor the location of the server can provide effective means to determine the receiving State in this scenario.

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52. See *How Many Servers Does A Data Centre Have?*, RACK SOLUTIONS BLOG (Sept. 23, 2020), <https://www.racksolutions.com/news/blog/how-many-servers-does-a-data-center-have/> (describing data centers as an operational facility that organizations use to store, process and distribute data and applications).

53. Mary Zhang, *Facebook's 18 Data Centers: 20 Billion Investment, 40m Square Feet*, DGTI INFRA (Sept. 27, 2021), <https://dgtlinfra.com/facebook-18-data-centers-20bn-investment/>.

54. See *The 8 Largest Data Centers in the World in 2020*, ANALYTICS VIDHYA (Sept. 2, 2020), <https://www.analyticsvidhya.com/blog/2020/09/8-largest-data-centers-world-2020/> (providing locations for the largest data centers in the world).

55. See *Colocation Asia*, DATA CENTER MAP, <https://www.datacentermap.com/asia/> (last visited Apr. 23, 2022); *Colocation South America*, DATA CENTER MAP, <https://www.datacentermap.com/south-america/> (last visited Apr. 23, 2022); *Colocation Africa*, DATA CENTER MAP, <https://www.datacentermap.com/africa/> (last visited Apr 23, 2022) (mapping the distribution of the data centers across various continents).

### C. *Human Rights Abuse on Metaverse*

As discussed previously in Part II(B), metaverse can be a combination of both VR and AR and enables our sensory stimuli. In this regard, various organizations and scholars have highlighted how metaverse can be utilized as a new avenue for harassment and abuse.<sup>56</sup> Moreover, due to the highly penetrative nature of metaverse, it is bound to have enormous impact on the privacy rights of the individuals. For instance, AR glasses can be used by individuals to discreetly record and tape their surroundings.<sup>57</sup> Before viewing this from the point of diplomatic and consular law, it is important to consider the preliminary challenges to the issues of human rights in metaverse.

Firstly, there is the issue of whether certain acts can be constituted as crimes in metaverse. For instance, if an avatar of a person is killed in metaverse, it would not be possible to classify that act as traditional murder, because only the digital form of that person was subject to the act.<sup>58</sup> However, for harassment and abuse, the threshold might be lowered; in the online set-up, actual physical contact is irrelevant and the experience of the individual is taken into consideration.<sup>59</sup> Thus, such acts over metaverse can be argued as falling under the ambit of online harassment and abuse.

If we view the issue of human rights in metaverse from the point of diplomacy and consular law, certain common issues arise in this context. The first regards the immunity enjoyed by diplomats from the

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56. Yuntao Wang, 'A Survey on Metaverse: Fundamentals, Security, and Privacy' (2022), Cornell, at 23; Katitza Rodriguez, *Virtual Worlds, Real People: Human Rights in the Metaverse*, EFF (Dec. 9, 2021), <https://www.eff.org/deeplinks/2021/12/virtual-worlds-real-people-human-rights-metaverse>; Tiernan Ray, *The Metaverse is a Human Rights Dilemma*, ZD NET (Nov. 28, 2021), <https://www.zdnet.com/article/the-metaverse-is-a-human-rights-dilemma/>.

57. Daniel Leufer, *Why you Shouldn't buy Facebook Ray-Ban Smart Glasses*, ACCESS NOW (Sept 29, 2021), <https://www.accessnow.org/facebook-ray-ban-stories-smart-glasses-privacy-review/>.

58. *See, e.g.*, s.300, The Indian Penal Code, 1860 (defining murder as an act in which a death of a person is caused (*actus reus*) with the intention of causing death (*mens rea*). In metaverse, the killing of a digital avatar would not result in the death of a real human being. Hence, no *actus reus* will be fulfilled. Moreover, it can also be argued that the person killing a digital avatar cannot be said to have *mens rea* since the said person will be aware that no harm is being caused to a human being and therefore the person will not possess an intention to cause death).

59. *See, e.g.*, 18 U.S.C. s.2261A(2); *Is There a Federal Law Against Cyberstalking?*, BECKHAM SOLIS (Dec. 18, 2020), <https://www.duimiami-lawyer.com/blog/2020/12/is-there-a-federal-law-against-cyberstalking/> (analysing cyberstalking under s.2261A(2)).

criminal jurisdiction under Article 31 of the VCDR.<sup>60</sup> Herein, a clash arises between human rights protection and diplomatic immunity. As opined by the ICJ in the *Tehran Hostages* case,<sup>61</sup> even in instances of human rights violations, the only remedy available to the receiving State is declaring the perpetrator as *persona non grata* under Article 9 of the VCDR.<sup>62</sup> The court held that Article 9 formed part of a self-contained regime that foresaw possible abuse by members of the mission and specified the means to counter such abuse.<sup>63</sup> Since Iran had at no time declared any member of the diplomatic staff in Tehran as *persona non grata* for violating human rights obligations, it did not utilize the remedies at its disposal under diplomatic law.<sup>64</sup> Similarly, Article 41 of the VCCR provides immunity from arrest or detention except in cases of grave crimes, and only after a decision by a component judicial body.<sup>65</sup>

It is noticeable that, in both cases, to exercise the limited remedies available under the VCDR (Article 9) and VCCR (grave crimes exception and judicial order), there is a requirement to define the receiving State, which again raises the issue of determining who that State is in the context of metaverse diplomacy.<sup>66</sup> Without such a determination, a diplomat cannot be declared as *persona non grata* under Article 9 of the VCDR. As such, even the limited remedies available against human rights abuses by diplomats or consular officers are ineffective and cannot be exercised. Similarly, decisions by judicial bodies against consular officers cannot be made without ascertaining the identity of the receiving State.<sup>67</sup>

Finally, a case may be made for *jus cogens* crimes, where a State can proceed on the basis of universal jurisdiction due to an *erga omnes* violation. However, as opined by the ICJ in the *Jurisdictional Immunities case*,<sup>68</sup> alleged violations of *jus cogens* norms are concerned with

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60. VCDR, *supra* note 34, art. 31.

61. Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran) (Questions of Jurisdiction and/or Admissibility), 1980 I.C.J. Rep 3. (24 May).

62. *Id.*, ¶ 85.

63. *Id.*, ¶86-87.

64. *Id.*

65. VCCR, *supra* note 35, at art. 41.

66. *Id.*; VCDR, *supra* note 34, at art. 9.

67. VCCR, *supra* note 35, at art. 41.

68. Jurisdictional Immunities of the State (Ger. v. It: Greece Intervening), Judgment, 2012, I.C.J. Rep 99 (February 3).

substantive law, whereas grants of immunity are matters of procedure.<sup>69</sup> They went on to state that a *jus cogens* exception cannot be claimed to subvert the immunity granted under international law.<sup>70</sup> Hence, such an argument in the context of metaverse is also bound to fail. As such, there is a need to devise a mechanism to determine a receiving State in the context of metaverse. Without such a determination it will be impossible to exercise the limited remedies available under the VCDR and the VCCR.

#### IV. ADVANTAGES OF THE INTEGRATION OF METAVERSE WITH DIPLOMACY AND INTERNATIONAL RELATIONS

There are four noticeable advantages that can be derived from the integration of metaverse into diplomacy and international relations.

First, as highlighted by the Barbados Minister of Foreign Affairs, virtual embassies can help in the fulfilment of various functions such as issuing visas.<sup>71</sup> They would enable Barbados to establish and expand relations with more than 190 countries, as compared to the current eighteen countries.<sup>72</sup> The Barbados ambassador to the UAE also stated that the metaverse embassy could act as a tool in establishing allies at a low cost, engender relations throughout the world, and provide their services worldwide.<sup>73</sup>

Moreover, Taiwanese scholar Ray Song highlighted how such technological progress in metaverse can break limitations in diplomatic and international relations between sovereign countries.<sup>74</sup> In the instance of Taiwan, metaverse could help the nation circumvent Chinese suppression which has resisted and denied the participation of Taiwan in international meetings. Hence, diplomatic impediments can be tackled through the development of technologies for metaverse, boosting

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69. *Id.* at ¶ 93

70. *Id.* at ¶ 95

71. Juan Manuel Londono, *The Embassy in the Metaverse of Barbados is Useless*, LATIN AMERICAN POST (Dec. 9, 2021), <https://latinamericanpost.com/39255-opinion-the-embassy-in-the-metaverse-of-barbados-is-useless>.

72. *Id.*

73. Morning Express, *Barbados Opens an Embassy in the Metaverse and Inaugurates the Career of Virtual Diplomacy* (Nov. 19, 2021), <https://morningexpress.in/barbados-opens-an-embassy-in-the-metaverse-and-inaugurates-the-career-of-virtual-diplomacy/>.

74. Ray Song, *Metaverse poses diplomatic chance*, TAIPEI TIMES (Dec. 24, 2021), <https://www.taipeitimes.com/News/editorials/archives/2021/12/24/2003770094>.

Taiwan's presence and their right to be heard in international affairs.<sup>75</sup> Here, as explained earlier, metaverse is a combination of AR and VR and therefore provides a more immersive experience as compared to the traditional non-physical means of diplomatic communications such as video conferencing and telephone calls. Thus, the utilization of such diplomacy over the means of technology can be greatly beneficial for small countries with limited financial and other resources and, thereby, assist in developing international relations.

Second, the establishment of international relations over metaverse could be beneficial for dealing with epidemics and situations such as the COVID-19 pandemic. As is commonly known, during the pandemic, international conferences were all held virtually.<sup>76</sup> Most famously, the United Nations General Assembly's 76<sup>th</sup> session was held in a hybrid mode with a majority of the delegations providing pre-recorded statements over the virtual platform.<sup>77</sup> Metaverse could allow such meetings to be placed, though virtually, in a more "in-person" setting. This is because, as discussed in Part II(B), the interfaces between the brain and the computer in metaverse enable people to smell, touch, and operate other sense organs, and give a more realistic AR experience. Hence, metaverse would enable states to meet, discuss, and hold talks with one another, even during a global crisis, allowing states to more effectively tackle crises and develop diplomatic and international relations.

Third, there could be environmental advantages to international gatherings being held over metaverse. International conferences often require world leaders, officials, and private actors to travel from all parts of the world. This was famously noticed in the COP26 U.N. Climate Summit in 2021, where world leaders and businesspersons were criticized for arriving in over 400 private aircrafts and jets.<sup>78</sup> The Summit emitted over 103,000 tons of greenhouse gases with over 60%

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75. *Id.*

76. *See Events*, UNITED NATIONS, <https://www.un.org/events/97691> (providing a list of conferences and events in 2020 and 2021 which were held virtually in relation to food and health); *COVID-19: World Leaders to Stay at Home, in First 'Virtual' UN General Assembly*, UNITED NATIONS, <https://www.un.org/hi/desa/covid-19-world-leaders-stay-home-first-%E2%80%98virtual%E2%80%99-un-general-assembly> (discussing the first virtual UN General Assembly conference).

77. IISD, *76<sup>th</sup> Session of the UN General Assembly (UNGA 76)*, ISSD (Sept. 27, 2021), <https://sdg.iisd.org/events/76th-session-of-the-un-general-assembly-unga-76/>.

78. Callie Patteson, *World Leaders Slammed for Taking Private Planes to UN Climate Summit*, NEW YORK POST (Nov. 24, 2021), <https://nypost.com/2021/11/01/world-leaders-slammed-for-taking-private-planes-to-un-climate-summit/>.

coming solely from the airplanes.<sup>79</sup> Several international conferences of that nature take place every year. International gatherings over metaverse could act as a viable solution to the urgent actions needed to tackle climate change. Delegates from all over the world could attend in-person conferences without having to travel and contribute harmful emissions.

Fourth, metaverse could be useful for promoting and engaging in cultural diplomacy. Cultural diplomacy connotes the interchange of art, knowledge, ideas, as well as other elements of culture amongst both the State and their nationals, to foster mutual understanding and establish a direct relation between the State concerned and foreign nationals.<sup>80</sup> Further, cultural diplomacy is opined as an important element of exercising the soft power of a State.<sup>81</sup> For instance, metaverse could allow heritage institutions to create an immersive world for the audience to experience the rich culture of other nations. For example, one could have a real-life immersive experience of the Eiffel Tower in France while sitting at home, learning about the culture of the State. In this vein, the South Korean government has constructed an immersive environment wherein people can experience the country's pop culture.<sup>82</sup>

#### CONCLUSION

Metaverse poses challenges and opportunities for diplomacy and international relations. Challenges come with respect to the regulation of metaverse, diplomatic and consular premises by the VCDR and VCCR, human rights issues, and the ascertaining of a receiving State. The unique nature of metaverse only lends to the complexities of these challenges. The current diplomatic and consular posts of States, such

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79. Josh Layton, *More than 670 private flights make COP26 most carbon heavy summit*, METRO (Nov. 12, 2021), <https://metro.co.uk/2021/11/12/more-than-670-private-flights-helped-make-cop26-carbon-heavy-summit-15593309/>.

80. See David Clarke, *Cultural Diplomacy*, Oxford Research Encyclopedia of International Studies, Nov. 19 2020, <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-543> (describing the importance of cultural diplomacy as a policy field to mobilize a State's cultural resources to achieve foreign policy goals).

81. Pranay Kumar Shome, *Soft Power and Cultural Diplomacy in the Contemporary World*, DIPLOMACY & BEYOND (July 14, 2022), <https://diplomacybeyond.com/soft-power-and-cultural-diplomacy-in-the-contemporary-world/#:~:text=Cultural%20diplomacy%20is%20closely%20connected,among%20the%20comity%20of%20nations>.

82. Ilan Manor, *The Metaverse and its Impact on Diplomacy*, THE TIMES OF ISRAEL: BLOGS (Feb. 6, 2022) <https://blogs.timesofisrael.com/the-metaverse-and-its-impact-on-diplomacy/>.

as Barbados, are currently not encapsulated by the VCDR or the VCCR and, as a result, do not enjoy protection. As such, this paper calls for States to take suitable actions, from interpreting the VCDR and VCCR in a transformative manner, to constructing new, separate rules of international law for diplomatic and consular premises on metaverse.

In spite of these challenges, metaverse poses opportunities for diplomatic and consular relations, such as increasing the impact of cultural diplomacy; building new relations at a cheaper cost, a factor that would immensely benefit small states; and ease in convening international in-person meetings with minimal environmental impact. In this regard, it is argued that governments of the world should band together and utilize this newfound opportunity to strengthen diplomatic and international relations in metaverse.