Episode Book

EPISODE #5788

What Is a Consulate That Isn't a Consulate?

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SYNOPSIS

Israel ordered the British Consulate General in East Jerusalem closed after the UK banned imports from West Bank settlements. Twenty diplomats left, seven stayed, the plaque came down — and both governments are telling their publics they won. So what is the legal status of an office that is no longer an embassy, a consulate, or a consulate general? We walk through the 1961 and 1963 Vienna Conventions, the interests-section model invented during Rhodesia's 1965 UDI, and Israel's own decades-old practice of running functional-but-unofficial offices like its representation in Taipei. The honest answer: this building has no category in the treaties at all. Its rights are whatever was signed last night.

TRANSCRIPT



Corn

Nineteen thirty-eight. That's the first year anyone wrote down that Britain had a consulate in Jerusalem. One hundred and eighty-eight years of continuous presence. And this morning, a man with a screwdriver took the plaque off the wall.



Herman

And both governments are now telling their publics that they won.



Corn

Right, so Daniel sent us something on exactly that. The standoff between Israel and the UK over the British Consulate General in East Jerusalem, which ended today in a compromise. Israel ordered it closed after the UK passed legislation banning imports from West Bank settlements. Twenty diplomats leave, seven stay, the mission continues as a general representative office, and the plaque comes down. And Daniel's question is not about the politics of the sanctions. He wants to know what the legal and diplomatic status actually is of a government representation that isn't accredited as an embassy, a consulate, or a consulate general. What precedents exist for these things, in Israel and elsewhere. What rights and functions such an office loses. And then, from Israel's side, whether this was about optics or whether there's something more substantive underneath the shape of the deal.



Herman

The question underneath all of that is a good one. What is a diplomatic mission when it isn't a diplomatic mission?



Corn

That's the one.



Herman

So let's start with what actually happened today, because the facts themselves are contested. Gideon Sa'ar, the foreign minister, announced this morning, in Hebrew and in English, that the consulate, quote, is ending its operations today.



Corn

Ending its operations.



Herman

The sign came off. The plaque came off. Twenty of the twenty-seven staff, including the consul general, are ending their assignments and leaving the country. Seven remain in the same building. The building, for what it's worth, is British government property. It's still British government property after this morning. And those seven are now styled as a task force, in Sa'ar's words, with a very limited scope of activity.



Corn

What's the scope, exactly?



Herman

Sa'ar didn't fully specify. What he did say is that the building, in his framing, has, quote, ceased to be used as a consulate today. That's the Israeli version. Now the British version, from Ed Miliband, the foreign secretary. The building, quote, will not be closing. And the mission is, quote, independent, operational, and will continue to deliver vital services for the Palestinian people. And the name on the door, as far as London's concerned, is now the UK Mission, Jerusalem.



Corn

So Israel says the consulate is dead, Britain says the mission lives, and both of them are describing the same seven people in the same building.



Herman

Same seven people. Same building. Same flag over the door. The only thing that physically changed is the sign.



Corn

That is a magnificent piece of diplomacy. Two governments, one screwdriver.



Herman

It's the whole story in one object.



Corn

Alright. So to understand what this building is now, we have to understand what it was this morning. Which means going to Vienna.



Herman

Two Viennas, actually. Nineteen sixty-one and nineteen sixty-three.



Corn

Two Viennas.



Herman

The 1961 Vienna Convention on Diplomatic Relations is the one that governs embassies and ambassadors. It grants diplomats broad personal immunity. Not just immunity for what they do in the course of their official functions, but immunity from the host country's jurisdiction generally. Criminal jurisdiction absolutely, civil jurisdiction with a few narrow exceptions. That's the gold standard of diplomatic protection. The 1963 Vienna Convention on Consular Relations is a different instrument entirely. It governs consulates. It's been in force since 1967 and it has 182 parties. And crucially, it grants consular officers something weaker. Functional immunity.

Corn

Meaning?



Herman

Meaning they're immune from the host state's jurisdiction only for acts performed in the exercise of consular functions. Step outside your consular functions and you're exposed. A diplomat has the broader protection. A consular officer has the narrower one. Article 43 of the consular convention is the anchoring provision.



Corn

So a consulate is not a small embassy.



Herman

Not remotely. Different treaty, different immunity, different job.



Corn

And here's the detail I want to sit on for a second, Herman, because I think it reframes everything. Israel is a signatory to the consular convention. It has not ratified it.



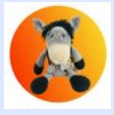
Herman

Correct. Along with a short list. The Central African Republic, Ivory Coast, Republic of Congo. Four states in that category. Israel signed the 1963 convention and never brought it into force domestically.



Corn

Which means the British could wave the consular convention at Israel and Israel can say, we're not party to it, we never ratified it, it doesn't bind us.



Herman

That's one reading. And it's not the only arrow in Israel's quiver. The UK's own argument has never really been about consular law. Miliband reaffirmed today that the UK view is that East Jerusalem is occupied territory. That's the frame London has used the whole way through. So you have two parties who don't actually agree on which legal regime applies to the building in the first place. Israel says it can act because the convention doesn't



Herman (continued)

bind it. Britain says Israel can't act because the territory isn't Israel's to legislate over. Both arguments are about the same plaque.



Corn

What does the consular convention actually say a consulate is for? Because I think listeners might assume it's just passports and visas.



Herman

Article 5 lists thirteen functions. Thirteen, and they're broader than people assume. Protecting the sending state's interests in the receiving state. Furthering the development of commercial, economic, cultural and scientific relations between the two. Issuing passports and travel documents. Notarial functions. Looking after the interests of the sending state's nationals, including in detention. Acting as a shipping and aviation authority in some cases. Thirteen functions, and I should say, this is where the British consulate's actual value lay. It handles UK relations with Palestinians in Jerusalem, the West Bank and Gaza. It's not a mission to the Israeli government. That's what the embassy in Tel Aviv does, and the embassy is open, staffed, business as usual.



Corn

The embassy runs Israel. The consulate runs the Palestinian file.



Herman

Two different bilateral relationships under one flag. And under Article 31, consular premises are inviolable. The host state can't enter them without consent. So this building, until this morning, sat in a legal wrapper. After this morning, that wrapper is unclear.



Corn

Which brings us to the interesting part, and the part Daniel was pointing at. What do you call an office like this? Because there is a formal category in international law that looks like it should fit, and it doesn't. The interests section.



Herman

That's right, and it's worth explaining why the interests section exists at all, because it was invented for a very specific kind of bad day.



Corn

Go on.



Herman

Nineteen sixty-five. Rhodesia's unilateral declaration of independence. Nine African states broke diplomatic relations with the United Kingdom over it. And here's the problem. When you break relations, the convention requires you to withdraw your diplomats. But the British still needed eyes and ears on the ground. So British diplomats stayed in the former embassy, but not as British diplomats. They stayed as members of the embassy of a third country, a protecting power, which took over the UK's interests in those capitals. They retained their diplomatic immunity because they were now formally part of that protecting power's mission. That's the template. It gets widely adopted after the Six-Day War in 1967. Arab states broke relations with the United States, and American diplomats stayed on as the US Interests Section of a protecting power. Israel, for its part, allowed Soviet diplomats to remain in Tel Aviv as the Soviet Interests Section of the Finnish embassy.



Corn

So the interests section is a real, formal, named thing. It has a category. It has a treaty basis. Protecting powers are formalized in the 1961 convention and in all four Geneva Conventions from 1949.



Herman

All four. And the ICRC can serve in that role under Protocol One. It's a fully worked-out institution. The problem is, it doesn't fit here.



Corn

Because there's no protecting power.



Herman

The UK and Israel have not severed relations. There's no third state holding Britain's interests in Jerusalem. There's no need for one. The embassy in Tel Aviv is operating. So the interests section model, the one closest analogue in the law, has nothing to grab onto. Which leaves the UK Mission, Jerusalem as an ad hoc, bilaterally agreed office with no named status under either Vienna Convention.



Corn

No named status.



Herman

None that I can find. And I looked. It's not an embassy. It's not a consulate. It's not a consulate general. It's not a protecting-power interests section. It is a building with a flag on it and an agreement behind it and no category in the treaties.



Corn

So the answer to Daniel's first question is, in effect, there is no status. It's a bilateral handshake in a building.



Herman

That's the honest answer. The category is the agreement between the two governments and nothing else. Which, in its own way, is interesting, because it means the rights of those seven people, and the inviolability of that building, are now defined by whatever was signed last night rather than by any published instrument.



Corn

Okay. Now, Daniel mentioned there's precedent in Israel for this kind of thing. Functional offices that aren't diplomatic missions.



Herman

This is the part I find underappreciated. Israel has been running offices like this for decades. The cleanest example is Taipei.



Corn

Taiwan.



Herman

Taiwan. Since 1993, Israel has operated the Israel Economic and Cultural Office in Taipei. And Taiwan operates the Taipei Economic and Cultural Office in Tel Aviv. Neither is an embassy. Neither is a consulate. They're official representations with a status lower than that of embassies or consulates. That's the language the Institute for National Security Studies uses.



Corn

And the reason they can't be embassies is Beijing.



Herman

It's Beijing. Israel recognizes the One China policy. A country with full diplomatic relations with Beijing cannot have full diplomatic relations with Taipei. So you get the office instead. And here's the thing. The office is not a shell. The Israel office in Taipei has consular functions. It has a public diplomacy and culture department. A political and academic department. An economic and trade department. It hosts the Israel Economic and Trade Mission, which is a branch of the Foreign Trade Administration out of the Ministry of Economy. Established 1993, still running. It does real work.



Corn

So the model exists. You take an office that can't be called an embassy and you give it a name that sounds like a community centre and you staff it with people who do embassy work.



Herman

That's the model. And it's not unique to Taiwan. Israel's Foreign Trade Administration runs over fifty economic and trade missions globally. Fifty. In financial centres around the world. So Israel has been comfortable for a long time with representations that are functional but not diplomatic. This is not new machinery for them. It's off-the-shelf.



Corn

Which raises the obvious question. If the machinery is off-the-shelf, why does this one feel so strange?



Herman

I think because the Taipei office exists to avoid a problem with a third party. China. The UK Mission in Jerusalem exists to resolve a dispute between the two parties themselves. That's a different thing. The Taipei model has a reason written into it. This one has a compromise written into it.



Corn

Alright. So we know what the legal categories are, and we know this arrangement doesn't fit any of them. The question is why both sides settled on something with no name. And that takes us to motive.



Herman

And motive here is contested, because the two governments are describing different buildings.



Corn

POLITICO had a source describing Israeli government thinking. Quote. The mission is basically an empty shell.



Herman

That source said the office can't issue visas, can't renew passports, can't liaise with the Palestinian Authority. And then the line that I think is the sharpest thing anyone said about this all day. The seven diplomats there, their work is basically to maintain the building and hold the Union Jack in place.



Corn

Hold the flag up.



Herman

That's Israel's preferred reading. And I'll note in fairness, as POLITICO did, that Britain doesn't tend to issue visas or passports in consulates anyway. That's centralised. So the "can't do visas" line is doing less work than it sounds like it's doing.



Corn

Miliband's version is the opposite. Independent, operational, delivering vital services.



Herman

Directly contested. The same seven people, and one government says they're holding up a flag and the other says they're delivering vital services to Palestinians. And here's the part I'd flag for Daniel's question, because I think it's the real gap. No source I can find states whether the seven remaining diplomats retain any diplomatic immunity. No source states whether the building retains inviolability. Nobody has said. It's the unanswered legal question sitting under the whole arrangement.



Corn

So we don't know if the seven have a status, a visa category, a title, anything.



Herman

We don't know. It's not in Sa'ar's statement. It's not in Miliband's. It's not in the coverage. Which is itself revealing. If the status were clear, somebody would have said it.



Corn

Let me make the Israeli case, because I think it's more coherent than the "empty shell" framing suggests. Sa'ar's line was, and I'm quoting, we established a clear principle. It is not possible to act against Israel without Israel taking appropriate measures in response. That's not a sentence about a building. That's a sentence about deterrence.



Herman

And the consulate closure was one of four measures. Not the measure. One of four.



Corn

Walk them through.



Herman

From his September 8 statement, all four implemented. One. Removal of British representatives from the International Gaza Support Center in Kiryat Gat. Two. Termination of British training of Palestinian Authority forces in Judea and Samaria. Three. Denial of entry to Israel to twelve British elected officials and other citizens. Four. Closure of the British Consulate in Jerusalem and removal of its sign. The closure is the fourth item on the list. It's the visible one. It's not the only one.



Corn

And the visible one is the one that fits in a headline.



Herman

It's the one that fits in a photograph. Which is why the plaque matters. Now, the countermeasures were triggered by the UK sanctions, which were announced jointly with France and Canada. And i24NEWS reported eleven countries were expected to join the



Herman (continued)

UK ban. So Israel's response was calibrated to one country, but the signal was aimed at all of them. Sa'ar essentially said so. And the UK side understood the game. A UK official told POLITICO, quote, the foreign secretary was very clear on our red lines. We're not reopening the sanctions package and we have to keep our presence in East Jerusalem.



Corn

Those are the two British red lines. Don't touch the sanctions. Don't lose the building.



Herman

And that tells you what Britain was actually defending. Miliband said today, quote, we do not accept that the Government of Israel has the legal right to close the British Consulate General in Jerusalem, which has been there for nearly two hundred years. So London is on record, today, the day of the deal, that it considers the closure illegal. And then it didn't retaliate.



Corn

It kept the option open though.



Herman

It did. The UK told Israel it's keeping the possibility of retaliation open. But it's not exercising it. And the reasoning is in Miliband's own language. Staff and families were temporarily withdrawn for safety, and quote, we will work in the coming months to build back up our presence, and we will not take reciprocal action while such discussions are underway and credible.



Corn

Temporarily. Discussions. Build back up.



Herman

It's an interim deal and both sides have said so, more or less. The elections here are on October 27. The UK's stated hope is to rebuild its presence after them. So this whole arrangement has a shelf life measured in weeks, potentially. What replaces it depends on who forms the next government.



Corn

Alright. So Daniel's question. Was this optics, or was there something more substantive?



Herman

I'd say both, and the mistake is to think it has to be one or the other. Israel got the symbolic closure. The plaque came off. Sa'ar can stand up and say the consulate ended its operations today. That's deterrence credibility for a domestic audience and for the other ten countries watching. The UK got the substantive presence. The building is still British, the flag is still up, seven people are still inside, the name on the mission still says UK. Miliband can stand up and say the building will not be closing.



Corn

And neither side needs the other's version to be true.



Herman

Neither does. Israel doesn't need the mission to be an empty shell for the deterrence to work. Britain doesn't need it to be fully operational for the presence to hold. The two framings don't have to reconcile, because they aren't describing the same thing. Israel is describing what the office can do. Britain is describing the fact that it exists. Both descriptions are accurate and they're pointed in different directions.



Corn

The plaque is the only object that had to change.



Herman

And it did.



Corn

There's one more thing about this story that keeps coming back to me. It's the plaque.



Hilbert

It's about four ounces.



Corn

...Sorry?



Hilbert

The plaque. Brass, that size, four ounces, sometimes five. Doesn't sound like much until you're up a ladder with a drill in one hand. And the screws are the part nobody talks about. Everyone argues about the sign. Nobody argues about the screws. They're either brass, and then they've seized to the wall inside a year, or they're stainless, and then they're fine and the plate comes off clean and you feel like you got away with something.



Herman

You've done this.



Hilbert

I did a job once where the whole thing was taking a brass plate off a wall and putting a different brass plate on. Same wall. Same four holes. It was the easiest money I ever made and it took two of us two days because the man on the other end kept changing his mind about the wording. So I'll say this. You two are right that the plaque coming down is the hinge of the whole story. You're just not saying it loud enough. A plaque isn't a sign. A sign tells you where you are. A plaque tells you what the building is. That's a different job. Take the building and put a sign up and it's still the building. Take the plaque down and it stops being the thing it was. I watched it happen on a street once. Plate came off a door



Hilbert (continued)

on a Tuesday morning, and by the end of the week nobody on that street was treating the place the way they'd treated it the week before. Same building. Same people going in and out. But the plate was gone, so nobody knew what it was, so it stopped being anything.



Corn

And that's exactly what happened here. The building didn't move. The people mostly didn't move. The plate moved.



Hilbert

The plate is the whole thing. I'll say one more thing about it. I still have one. Not from that job. From another one. It's in a drawer.



Herman

You kept a plaque.



Hilbert

It still looks official. That's all I'll say about it.



Corn

What was it a plaque for?



Hilbert

A cultural liaison office. It existed for eleven months. It shut down over a dispute about parking.



Corn

Of course it did.



Herman

Hang on, what kind of office?



Hilbert

Cultural liaison. We weren't attached to anything. It was me and a desk. And the plate said Deputy Director for Regional Engagement, because I had it made myself and I liked the sound of it. Brass. Twelve pounds, which was a lot then. Best twelve pounds I ever spent.



Herman

So you gave yourself the title.



Hilbert

Somebody had to. Nobody else was going to. Anyway. You're right about the plaque. You just buried it. Go and finish your show.



Corn

That's about as much as we're getting.



Herman

For what it's worth, there's one more piece of the paperwork I want on the record, because it didn't fit anywhere else. The Gaza Support Center at Kiryat Gat. That was a British presence inside Israel proper, not East Jerusalem, not the West Bank. Roof over it, British staff inside. Israel asked them to leave and they left. No negotiations over that one. No week of shuttle diplomacy. Just an instruction and a compliance. Which tells you the whole standoff wasn't about law or immunity at any stage. It was about which of the things Britain had on the ground Israel could actually reach.



Corn

And the one it could reach was the one with the plaque.



Herman

The one with the plaque.



Corn

So here's where we leave it. Does the UK Mission, Jerusalem have any legal status at all, or is it a bilateral understanding and nothing more? Do the seven retain immunity? Does the building retain inviolability? No source answers any of those. The UK has said it will rebuild its presence after October 27, so this may all be temporary. But the precedent is on the record now. A host country can degrade a nearly two-hundred-year-old consulate, take the plaque off the wall, and face no reciprocal action. That's the thing that goes in the file, whatever happens after the election.



Herman

The plaque is somewhere. In a box, or on a shelf, or in a drawer in a flat in a city where the title on it means nothing to anyone. The building's still standing. The flag's still flying. Nobody can say exactly what the place is.



Corn

That's the episode. Thanks to Hilbert Flumingtop for producing.



Herman

This has been My Weird Prompts.



Corn

Send us your own prompt on Telegram at t dot me slash MWP listener bot. We'll be back soon.

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