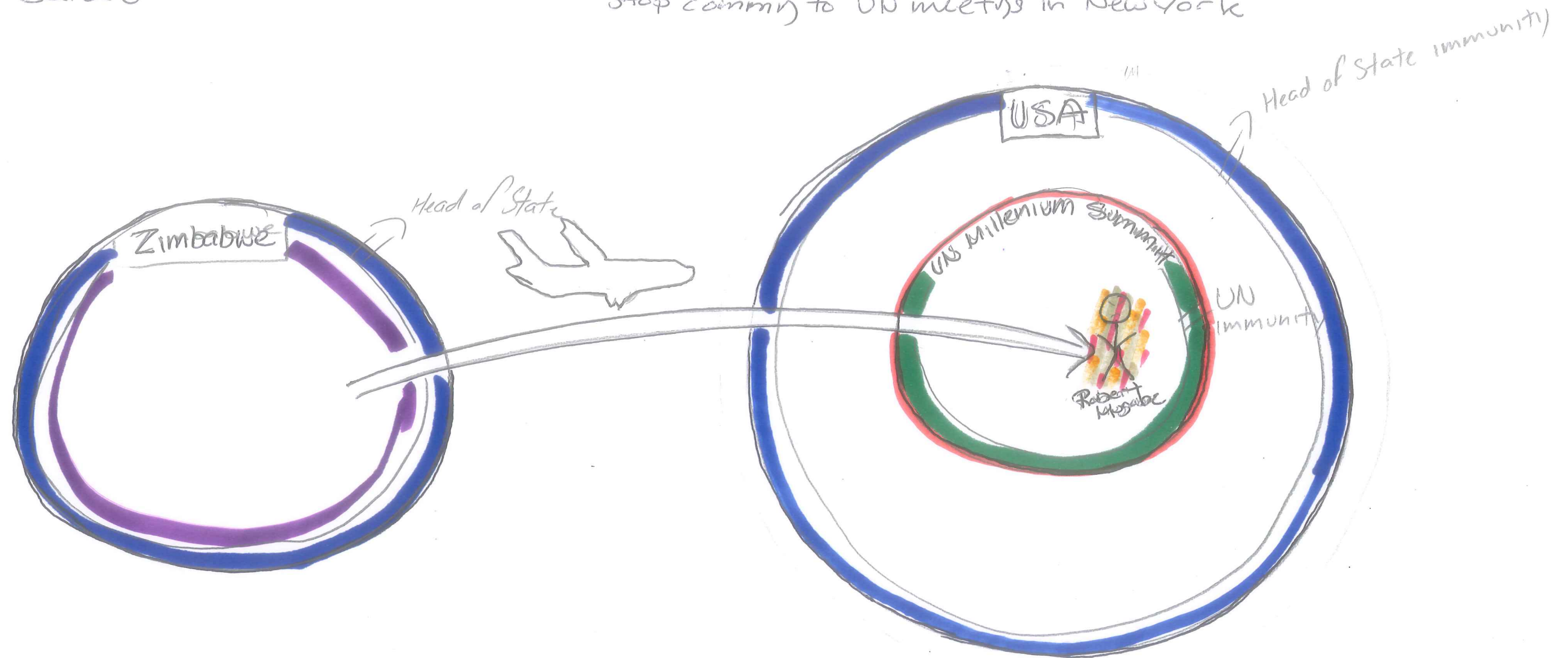


EZRA
~~Corinne~~ Corinne
 Sarah

US government argued against their own law because they were worried ~~against~~ ^{that} about head of States ~~evening~~ would stop coming to UN meets in New York

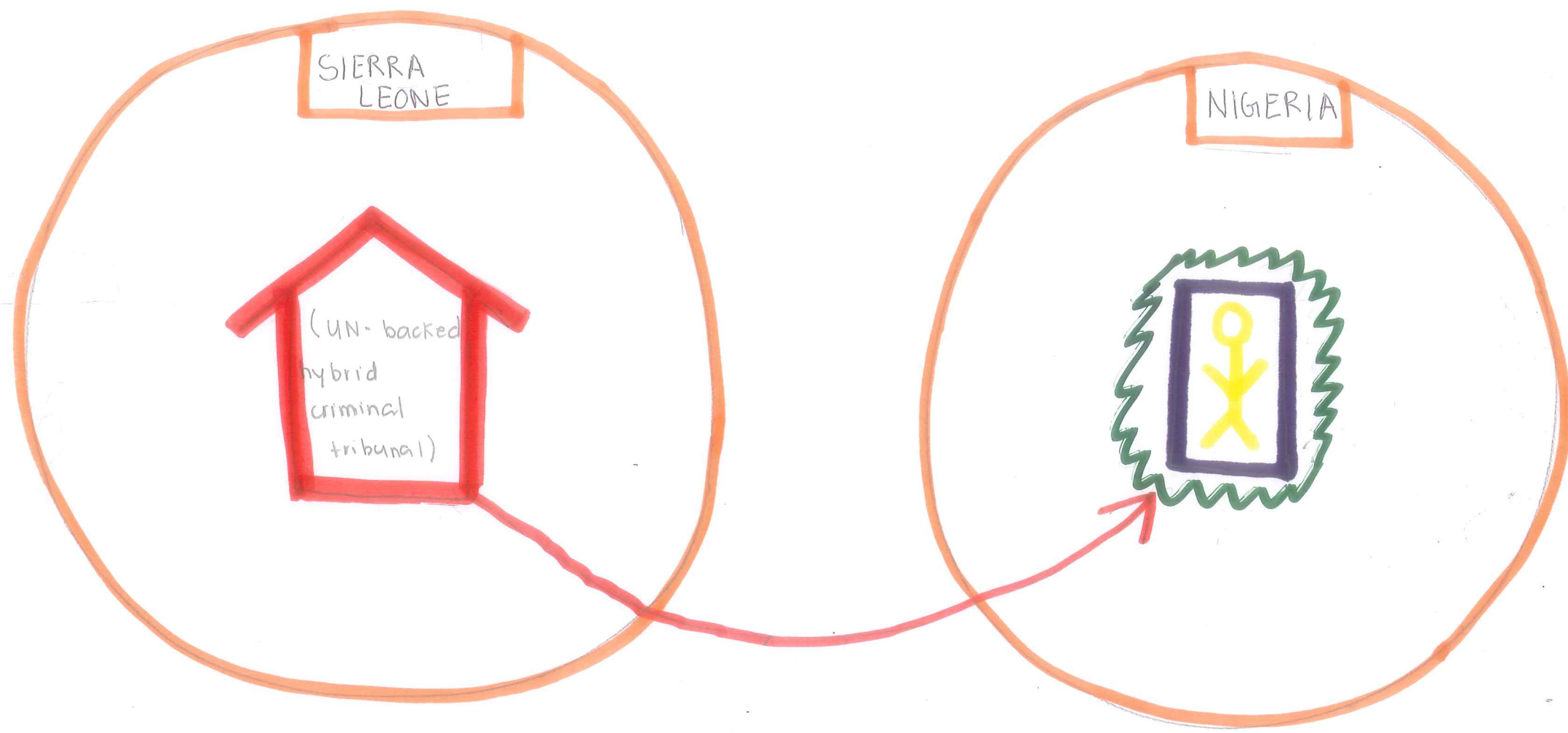
A



- ◆ Head of State Immunity
- ◆ UN Immunity
- ◆ FSIA (Foreign Sovereign Immunity Act)
- ◆ Art 22 Inviolability of premises
- ◆ Art 31 Immunity from criminal and civil jurisdiction
- ◆ Art 29 the person of a diplomatic agent inviolable
- ◆ Art 31 defined members of diplomatic staff

RATIO The head of State when going to another state is protected by many forms of immunity (UN immunity, Head of State immunity, FSIA) making the likelihood of being served with a case slim to none. Head of State immunity unless waived by the head of state is the strongest form of immunity.

This case raises the question of whether the leader of a political party can be protected by head of state immunity when committing human rights violations against their own people



LEGEND

- - Sovereign States
- - Art. 38 VCDR
- - Art. 6 (2) Court Statute
- Chapter 7 SC powers permitting criminal tribunals against Heads of State
- - Art. 29 VCDR
- Art. 31 VCDR
- * these statutes have been overruled by the Sierra Leone court
- Nigeria refused to exercise the arrest warrant (Convention of diplomatic asylum)
- Charles Taylor, Former president of Nigeria

RATIO

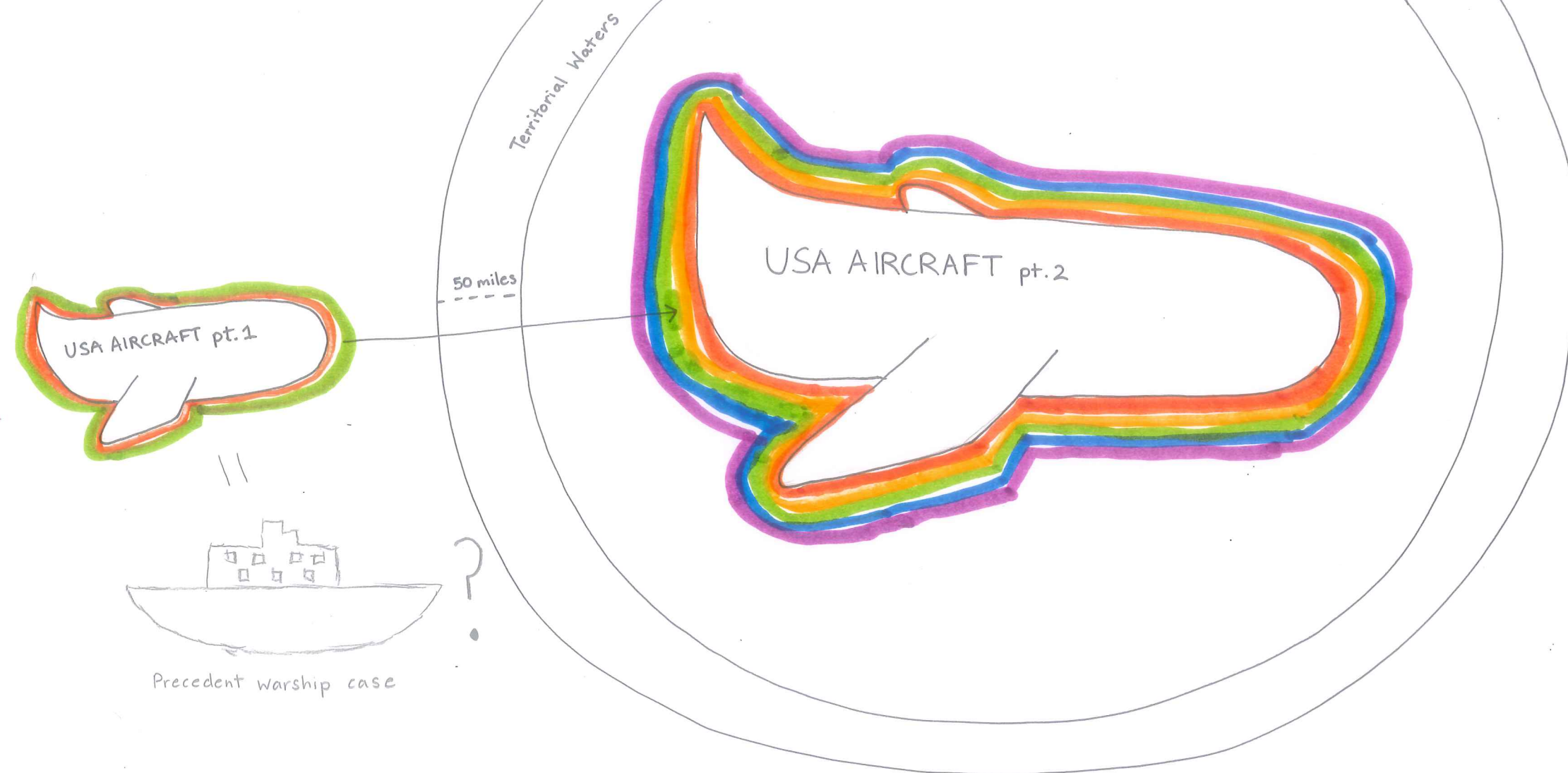
A UN-backed hybrid criminal tribunal can act as an international court and try incumbent heads of state, waiving their immunity. The precedent set by the Yerodia case does not apply to hybrid courts because they have jurisdiction

Facts Pattern

- U.S. Aircraft flies over 50 miles southwest of China's Hainan island, due to surveillance mission
- Chinese jet that was watching U.S. aircraft crashed into U.S. Aircraft
- U.S. Aircraft forced to land in Chinese territory
- Chinese raided the American plane
- Eleven days later, after the U.S. government said they were sorry for landing without verbal clearance and for the loss suffered by the Chinese pilots family, the crew was released

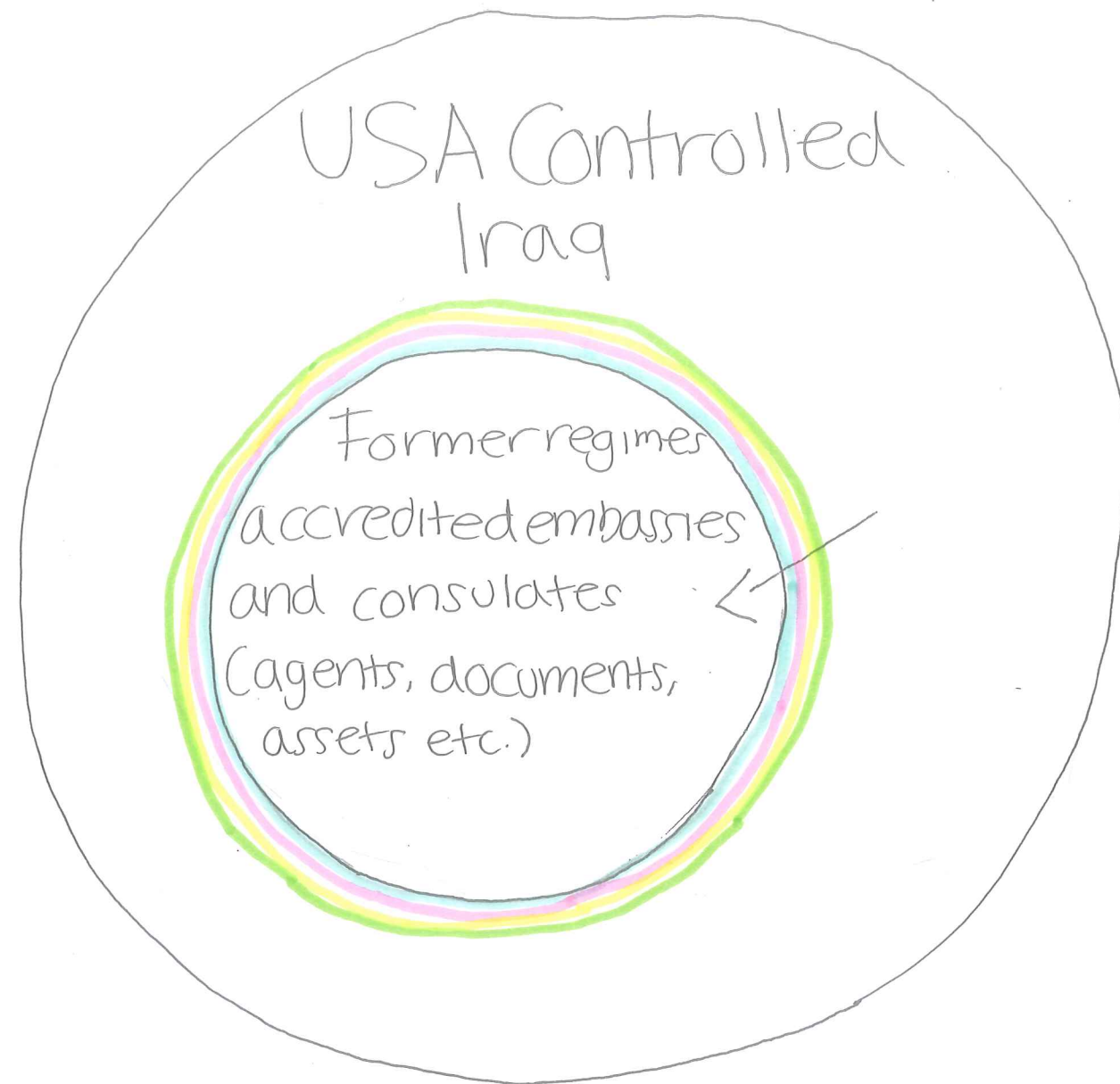
Legend

- Art. 22 = ●
- Art. 26 = ●
- Art. 27 = ●
- Art. 29 = ●
- Art. 31 = ●



RATIO

An aircraft on official duty, landing without verbal permission in distress, is entitled to diplomatic immunity in a foreign country under Articles 22, 26, 27, 29, 31 of VCDR.



Article 1



Article 22



Article 29

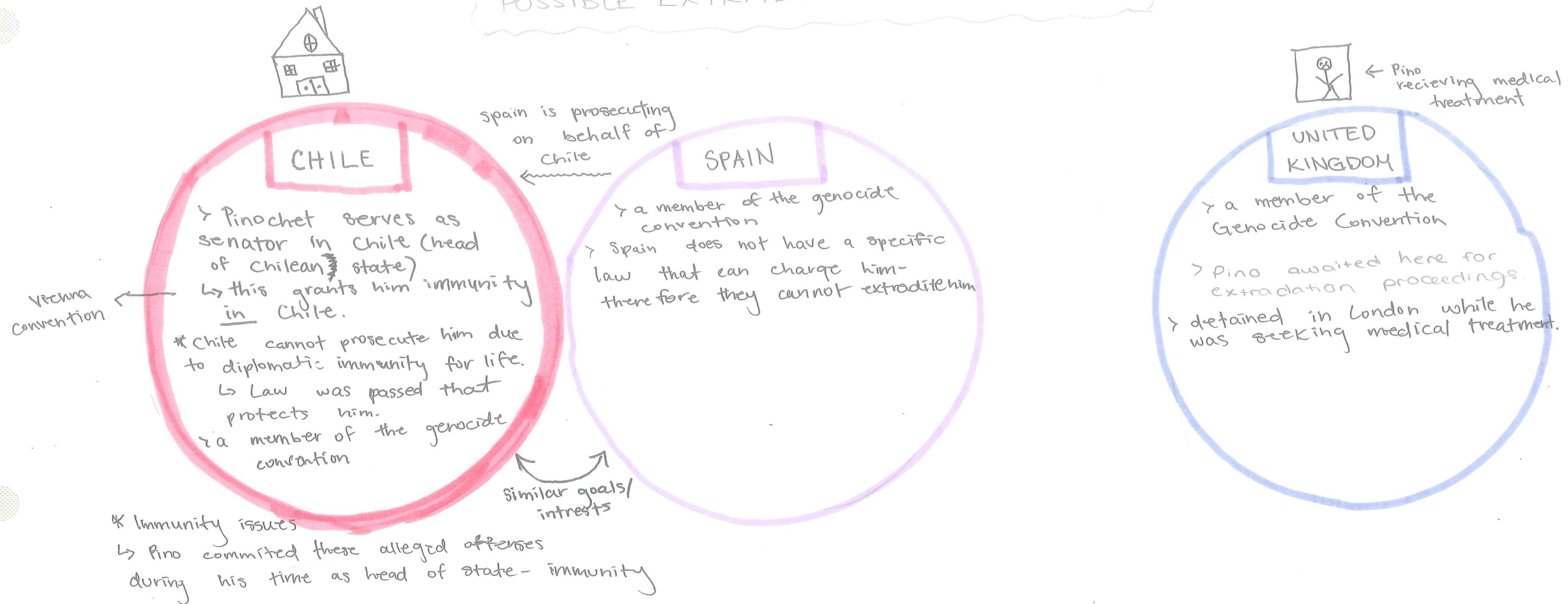


Article 45 : The receiving state must protect sending state's mission premises, even in the case of armed conflict

RATIO

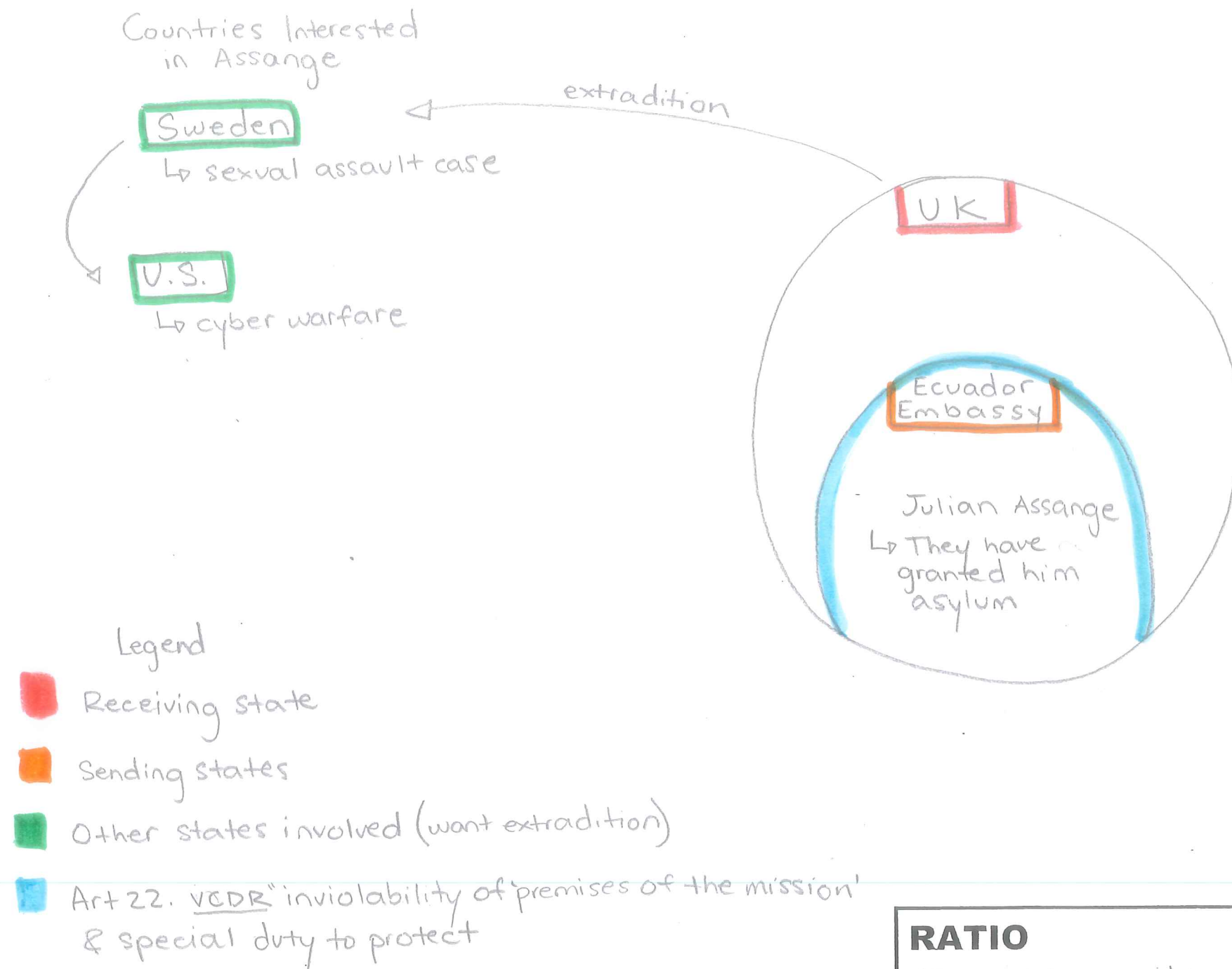
In the Diplomatic Immunities in Iraq case and in any other case with an occupying power (USA), the occupying state must fulfill the responsibilities of the regime such as accreditation, privileges and rights. The Tehran case is a precedent that clarifies that a regime change does not change the diplomatic accreditation, privileges and rights as neither the USA or Ayatollah Khomeini's appointed government ever questioned whether diplomatic accreditation or immunities would continue under the new regime.

THE PINOCHET ARREST & POSSIBLE EXTRADITION TO SPAIN



RATIO

Pinochet committed the alleged crimes against humanity while head of state in Chile - therefore this should grant him diplomatic immunity. Spain did not have a specific law that they can charge him with & genocide is not considered a political crime for extradition purposes. This case brings up the question: how do we hold our leaders accountable when we grant them with immunity? Pinochet abused his power & took advantage of his position & immunity.



Considered forms of leaving Embassy but have legal issues

- Art 27. free communication must be protected
↳ diplomatic bag
* Would be a breach of 27(4) "may contain only diplomatic documents"
- Art 31. Immunity from criminal and civil jurisdiction in receiving state
↳ appoint him as a diplomat
* By Ecuadorian law they cannot be a non-national
- Art IV(11) Immunity from arrest while a state rep is "exercising their functions and during their journey to and from the place of meeting"
↳ making him a representative of an intl org
* Only get immunity for acts performed "in their capacity as representatives"
* Possible for credentials to be rejected during process of approval

RATIO

From this case it is very clear that immunity is very limited for anyone who does not have diplomatic status. It is also important to acknowledge that the UK is under no obligation to recognize Ecuador's grant of asylum or facilitate Assange's passage out of the embassy. However, the UK must respect Art 22. After considering many possible options, it is evident that the dispute is more likely to be resolved through political negotiations rather than by legal principles.