

# Art of Diplomacy- Its history and modern practices

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## Introduction:

Robert H. Ferrell, in his book American Diplomacy says “Diplomacy is the game of angels and devils”. Jules Cameon said “Unlike the military, the diplomat is not the spoilt child of historians.” The art of diplomacy is as old as man that the initial diplomats may have been the angels who served as angel or messengers between the paradise and earth. The Preamble of the Vienna Convention states “Recalling that people of all nations from ancient times have recognized the status of diplomatic agents...”

Constructing on this declaration diplomatic immunity has been a part of diplomatic relations for innumerable years, and is regarded as one of the oldest branches of global law. With the notice of States in geographical vicinity dealings between States become inevitable, specifically with the lifestyles of a common language, tradition or faith.<sup>1</sup>

Ambassador William Macomber once described diplomacy as “the angle’s game”. Ambrose Bierce defined diplomacy in his Devil’s Dictionary (1906) as “the patriotic area of laying for one’s country.” Diplomacy is a totally old profession and its beginning can be traced lower back to the dawn of history. The muse of established international relations can be traced to the era of the city-states of historic Greece, though prior to that took a rudimentary kind of international relations existed.<sup>2</sup>

Man is a social being, led from the very begin via his network instincts. It's miles authentic that the approach of savages in the direction of strangers and odd tribes is characterised by means of doubt, however even most of the most punitive peoples there pop out certain complexes of commonplace pursuits which are condition of the agreement. Our ancient thinkers constantly dedicated their time and attention to the development and boom of those relationships and attempted to put those on a valid foothold. In the historical past Kutilaya, Plato, in addition to Aristotle, discussed international relations insignificant info. They've no longer only discussed the goals of diplomacy but additionally responsibilities and duties of diplomats.

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<sup>1</sup> Parkhill ‘Diplomacy in the Modern World: A Reconsideration of the Bases for Diplomatic Immunity in the Era of High-Tech Communication’, Hastings International & Comparative Law Review, (1997/1998) p.568

<sup>2</sup> Elgavish, ‘Did Diplomatic Immunity Exist in the Ancient Near East?’, Journal of the History of International Law, 2000, p.73

## HISTORY:-

The word diplomacy can be new, the component itself has been in life for the reason that graduation of the civilization or even earlier than to that of civilization. The art of diplomacy got here into the photograph when one faction of men wished to return to some agreement with every other group that allows you to avoid the usage of pressure, a negotiation befell, but crude or inept the way of it. Babylon the nationalities and mixture of languages helped to create a much broader viewpoint on questions associated with them. It's miles probably the oldest e-book of the law inside the world that of a king of Hammurabi of Babylon approximately 1700 B.C. The Acadian period which preceded the Babylonian country, we listen about the treaty with a vassal state drawn up inside the Elamite language which Niram-Sin, grandson to King Sargon, made with princes in Avan approximately 2500 years B.C. The earliest historic treaty of which we have any exact report is one for the agreement of boundary disputes among the city-states of Lagash and Unna on the one aspect and of Sha-el-Hai in Babylon on the opposite about 2850 B.C.<sup>3</sup>

The Montesquieu maxim 'la voix de la nature qui reclame ses droits' i.e. these family members are the final results of spontaneous feeling on the a part of businesses worried of self-insufficient and of a consequent choice to sell intercourse. So the forming of big agencies than single households and which fashioned as neighbourhood tribes, clans, hordes or international locations, there turn up, now not handiest exogamous marriages however also certain extra tremendous family members among those corporations. The earliest characters of the relationship of those businesses were transient, for a span of time, it became extra regular and regulated system. The improvement of intertribal family members among these companies of humans caused the formation of worldwide relations many of the states which can be certainly regulated with the aid of unwritten legal guidelines and customs.

Indian records has contributed loads to the improvement of international law and mainly for a better global members of the family. The modern-day concepts in exercise and manner inside the discipline of diplomacy seems to have originated pretty earlier according to the history of ancient India. The Vedas, Samritis and Sadachars represent the principal sources of ancient Hindu regulation. Four Rishis (ascetics) revel in authorship of Dhramashastras like Manu, Yajnavlkya, Narada, Parasara. Manu in his manusmriti that is one of the oldest books of Dhramashastras writes on diplomatic envoys states "let the king appoint an ambassador; the army depends on its commander, control of subjects (depend) on the army; the government of the kingdom on the king; peace and war on the ambassador."<sup>4</sup>

<sup>3</sup> Ragnar Numelin, Beginning of Diplomacy, (1st (Ed), Oxford University Press, London), 1950, p.134

<sup>4</sup> Mazumdar R.C., The Vedic Age, (Vol I, 1st (Ed)), 1952, p. 34

The proof of using diplomatic envoys is likewise to be had inside the celebrated Hindu Epics like Ramayana and Mahabharata. In Ramayana, there are two instances in which Dutas i.e., (the diplomatic marketers) had been hired in negotiations among the Rama, the Arya King, and Ravana, the Demon King. Hunuman, the monkey minister who visited the court of Ravana on a selected diplomatic project and when Ravana attempted sentence Hanuman on adjustments of destructions public belongings, Vibhishana, the brother of the Demon King, cautioned that a diplomat have to now not be killed despite the fact that he turned into responsible of an offense. There is another instance in Ramayana in which Angada, every other monkey king, became sent to Ravana's courtroom with the aid of Rama entrusted with a diplomatic undertaking before making the concluding assertion of war on Ravana and his forces.<sup>5</sup>

Ancient Indian scholars have advised the conqueror or vijigishu to follow six cardinal principles of foreign policy which every state was supposed to follow vis-à-vis other states depending on circumstances and need of the state. These principles are:

1. Sandhi (Peace)
2. Vighra (War)
3. Yan (Neutrality)
4. Asan (Marching)
5. Sanshrya (Shelter)
6. Dwadhibhav (Dual policy)

Explaining the in-intensity that means of each precept Kautilya says stepping into treaty or Sandhi is peace, offensive operation is vighra or conflict, indifference is yan or neutrality; augmentation of electricity in cold conflict; seeking protection of any other country is Sanshrya or shelter, making peace with me and conflict with every other is dwaydhibhav or dual policy<sup>6</sup>.

Kautilya advises that any authority decrease to every other need to sue for peace, any strength better in strength to another need to start into warfare, any power which fears, no external attack and which has no power to wage conflict have to continue to be impartial, any electricity with high conflict capability should take pleasure in invasion; any weaken strength must be looking for new alliances; any strength which attempts to play for time in mounting offensive have to bask in bi-formal strategy of making battle with another. He further says that a country needs to observe handiest such coverage as will help make more potent its defence capability. Increase infrastructure and take advantage of natural sources while on the equal time preventing the opponent kingdom from

<sup>5</sup> Valmeke Ramayana, yudhakanda, part 8, p.1599

<sup>6</sup> Arthshastra, chapter VII part 1 shloka 1 Shadgundasya Prakritimandalam yonih

doing these functions. He says that a kingdom can increase its assets via staring at non violent records with an enemy.<sup>7</sup> Those prescriptions are directly connected to foreign coverage behaviour and diplomatic exercise.<sup>8</sup>

Besides six principles of foreign policy Kautilya recommends four main instruments of diplomacy namely:

1. Sam (Conciliation),
2. Dam (Gift),
3. Bheda (Dissension) and
4. Danda (Force)<sup>9</sup>

to be used while implementing foreign policy.

Now it is apparent from the sooner discussion of diplomacy and inter-state relationship that practicality characterised the theory and exercise of historical Indian diplomatic patterns. 'Arthshastra' of Kautilya is without a doubt an in-depth treatise and manual of statecraft and international relations and his imaginative and prescient as regards to diplomacy and statecraft appear pretty sensible and they're appropriate in present instances as well. The earliest Indian students offer grading of rank and varieties of diplomats. The distinction in fame varies with the degree of liability entrusted to the diplomatic sellers. It's miles authentic even in modern times as states depute specific category of personnel for discharging diplomatic capabilities. Like Kautilya, Manu too had superior concepts like befriending the enemy of a adverse neighbour, neutrality, mediation etc. Those strategies are universally prevalent as units of international relations even in the 21st century. In fact, a deep and a long way-accomplishing investigation of the Indian practice of international relations shows that diplomacy and interstate courting had been based on realistic principles and their effect can be seen at the conceptualization and practice of the practical framework of well known global relations discourses in the period of globalization.

A peep into the records of diplomatic practices shows that it is one of the worlds' most ancient arts. Proof of crude practices of diplomacy is available in historical China, India, Egypt, and Australia. These practices intended for delivering the message and warning the opponents, the pleading of reasons and switch of presents or tributes. The basic practices of international relations got delicate throughout historical Greek and Rome. Diplomats who earlier acted as messengers now became negotiators additionally.<sup>10</sup>

<sup>7</sup> Arthshastra, chapter 7 para 1 shloka 6 to 12

<sup>8</sup> Arthshastra, chapter 7 para 1 shloka 14 to 16 and 18 also see chapter 7 part 1 shloka 9

<sup>9</sup> Arthshastra, chapter 7 para 10 shloka 47

<sup>10</sup> John Watson Foister, The Practice of Diplomacy as illustrated in the Foreign Relations of the United States, Boston Houghton Mifflin, 1906.

Ambassador William Macomber as soon as described diplomacy as “the angles’ game”. Ambrose Bierce defined diplomacy in his *Satan’s Dictionary* (1906) as “the patriotic art of laying for one’s country.” Diplomacy is a totally vintage career and its starting place may be traced lower back to the dawn of records. The start of prepared diplomacy may be traced to the times of the town-states of historical Greece, even though prior to that too a rudimentary type of diplomacy existed.<sup>11</sup>

The earliest report of prepared diplomatic immunity lies in ancient Greece. Diplomatic missions, till the fifteenth century, had been established strictly on an ad hoc foundation and a diplomatic engagement and immunity ended as soon as the diplomat had fulfilled his obligations within the overseas state and again home. The Greek city-states and eventually all societies diagnosed that the exercise of shielding overseas diplomatic personnel benefited all involved. Diplomats have been accorded absolute exemption. Reciprocity persevered all through the long time and is defined higher as “do unto their representatives as you would have them do unto yours”.<sup>12</sup>

#### **VIENNA CONVENTION ON DIPLOMATIC RELATION 1961:-**

The development of diplomatic immunity over time left to the Vienna convention which became a common convention and its provisions sincerely marked evolution of custom into settled regulation and resolved areas of contention where practices conflicted. The Vienna in 1815 became the primary web page of a assembly for diplomatic retailers. The primary global try to codify the regulations of diplomatic protection was in 1895 with the Draft conference of the Institute of global law. This statement stipulated that diplomats loved extra-territoriality. This more-territoriality became curtailed in 1929. This is the foundation of the Vienna conference, in 1927, the League of countries Committee of professionals for the innovative Codification of global regulation drew up a file that analysed the prevailing standard law of diplomatic rights and immunities. The Havana convention on Diplomatic officials in 1928 added the Latin American States together. The report was meant as a provisional device till a extra comprehensive codification will be executed. The preamble of the Havana convention states that diplomats need to not claim immunities which aren't necessary in performing legit functions. This brought about the growing reputation of the functionalist approach. Every other crucial record was the Harvard research Draft convention on Diplomatic Privileges and Immunities in 1932 (“the Harvard convention”).<sup>13</sup>

<sup>11</sup> Elgavish, ‘Did Diplomatic Immunity Exist in the Ancient Near East?’, *Journal of the History of International Law*, 2000, p.73

<sup>12</sup> L S Frey and M L Frey, *The History of Diplomatic Immunity*, (Ohio State University Press: Columbus), 1999, p.4

<sup>13</sup> The Harvard Draft “the theory of extraterritoriality has not been used in formulating this present draft Convention”

McClanahan states that had Harvard been an worldwide enterprise in place of a prestigious college, it would have deeply impacted on mind of diplomatic immunity. However, thanks to its instructional nature, this document has influential fee best and now not many States carried out the provisions in national regulation. The Harvard conference was one of the first files that tried to make a clear difference among authentic and non-reliable acts. Developing this division aided in identifying while immunity might be relied upon. But, this handiest applies to lower group of workers, seeing that diplomats have absolute immunity towards crook prosecution.<sup>14</sup> None of the sooner tries managed to cope with the sector inadequate detail. In 1957, following the overall meeting resolution 685, the ILC everyday the assignment of preparing a draft convention on Diplomatic relations. A E F Sandstrom become appointed special Rapporteur and become answerable for drafting the file which might be later reviewed by using the ILC. The ILC later requested information and remarks from all governments in an effort to receive input and draft an green file. In 1961 the Vienna convention, attended via 81 States and numerous global agencies making use of the envoy structure, changed into held to discuss this draft report. Those States had been able to reach consensus on many problems. The Vienna convention was considered to be a fulfilment in that with the aid of 1985, a hundred forty five member States had acceded to it; ten years after that this wide variety had accelerated to 174 participants States. The formulation of the Vienna conference became a response to absolutely the immunity granted to diplomats at some stage in the a long time. Similarly, it sought to standardize the exercise of diplomatic officers and missions in the receiving state. Further, the preamble of the Vienna convention states that one of the functions of immunities and privileges is “not to promote the people however to make sure the nicely-organized overall performance of the capabilities of diplomatic missions as representing States”.

Furthermore, the preamble recognizes the theory of functional necessity as the dominant theory. Thus, the focus shifts from the person of the diplomat to his function in the mission. A question that can be raised is whether diplomatic representatives adhere to this concept, especially when there are other Articles in the Vienna Convention that counter this. Although the Vienna Convention reflects a shift from the theory of personal representation to functional necessity, the latter cannot exist in isolation.

The preamble complements both these theories. Further, the Vienna conference indicates the denial of the more-territoriality principle and states that this concept turned into an “unlucky expression” that might have brought about many errors and to prison consequences that might be “simply inadmissible”. The Vienna convention clarifies that envoys are exempt from jurisdiction of the neighbourhood courts handiest for the duration of their assignment, but are not exempt from the law of the nation.

<sup>14</sup> Article 31 of the Vienna Convention diplomatic relations 1961

It further presents many monetary privileges, but also restrained customs exemptions which many envoys abuse and use as a way to growth their salaries. Different countries at the same time denoted that custom exemption is based totally on global comity as opposed to regulation.

The Vienna convention is plainly declaratory of existing regulations and practices with respect to diplomatic immunities and privileges, which can be reciprocally accorded by means of the States without bias. Special privileges for diplomatic personnel grew up partially on account of sovereign immunity, independence and equality of states and partly as an critical requirement of the global machine. The prime purpose in the back of extending immunities and privileges by means of States to their diplomatic representatives is to make certain independence inside the performance of their official capabilities. As a consequence, the adoption of The Vienna convention on Diplomatic relations in 1961 marked the codification and modern growth from historical practices, customs and treaties governing diplomatic regulation. The conference defines for the reason of implementation diplomats as a "diplomatic agent" is the top of the undertaking or a member of the diplomatic team of workers of the mission. The convention has additionally handled the established order of diplomatic members of the family between States, and of permanent diplomatic missions, takes region by using mutual consent.<sup>15</sup> The conference additionally creates duty at the sending kingdom that it must ensure that the agreement of the receiving nation has been given for the individual it proposes to accredit as head of the venture to that kingdom, and additionally "receiving kingdom isn't always obliged to provide motives to the sending country for a refusal of settlement."<sup>16</sup> As soon as the receiving country accepts the man or woman as diplomatic agent of the sending kingdom the receiving nation is obligated to supply all such immunities and privileges to the person received.<sup>17</sup>

**Article 6** states that "Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State". The receiving state has every right to reject accredit granted by the two sending states to one individual on any grounds which it thinks is going to affect the political relations between the other states in international community.

**Article 8** of the Convention further does not allow the sending states to appoint statesmen of the receiving state in diplomatic missionary of the sending state, the sending can do so only when with the prior permission of the receiving state, which the receiving state may wave at any point of time without assigning any reasons. The sending state subject to the provisions of Articles 5, 8, 9 and 11, of the Convention 1961 on diplomatic relation; "the sending State may freely appoint the members of the staff of the mission. In the case

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<sup>15</sup> Article 1 Vienna Convention on Diplomatic Relations, 1961.

<sup>16</sup> Article 2

<sup>17</sup> Article 4

of military, naval or air attaches, the receiving State may require their names to be submitted beforehand, for its approval.”

The convention puts restriction on the sending kingdom not to rent the ones individuals who've dual nationality or the person having different nationality than that of the sending state. The receiving nation ‘can also at any time and without having to provide an explanation for its selection’ notify the sending nation that any diplomatic agent of the permanent project is persona non grata and has to depart country. The convention not handiest obligates the receiving country to shield the rights of the sending states hobby in diplomatic relations, however also offers rights to the sending states to reject or send back the diplomat.

The diplomatic safety and privileges that very a whole lot accorded to the diplomats from centaury were very much protected under the conference 1961. The missionary has included “proper to apply the flag and logo of the sending nation at the premises of the undertaking, consisting of the residence of the pinnacle of the task, and on his method of delivery”.<sup>18</sup> The receiving nation shall not make any legal guidelines or use pressure in such a way that the proper to sending country is affected. The premises of the missionary are seen as the premises of the sending state although it bodily exists in the receiving country.

**Article 14** was formulated to help classify envoys and personnel. The motive of this Article was that before the First World War only powerful States sent and received ambassadors who enjoyed greater status than other envoys. By the time of the Second World War the number of ambassadors rose, while the number of envoys declined. The Vienna Convention confirmed that heads of missions would take precedence. The Convention obligates the receiving state to facilitate the acquisition on its territory, in accordance with its laws to the sending state missionary.<sup>19</sup> The Convention in large puts duty upon the receiving state to protect the right of the missionary of the sending state, as much status accorded to the head of the state. The belongings of the task shall be inviolable, to all sports which can also had been carried in the premises of missionary a crime of the receiving state. Missionary is exemption from all type of taxes imposed within the receiving nation. All the “archives and files of the undertaking shall be inviolable”. Missionary can not be compelled to provide any documents or any archives which can be in there posses produced earlier than the receiving country court as evidence against them or others. Article 22 offers with the inviolability of task premises. The conference does no longer truly country the ambit of inviolability of missions, however the implications of inviolability and provision of emergency or abuse may justify the receiving country’s entry onto the premises. Article 27 offers with the safety of all varieties of diplomatic communication.

<sup>18</sup> Article 20

<sup>19</sup> Article 21(Vienna Convention 1961)



Examples are using wireless transmissions and the truth that diplomatic bags are not searched by means of the receiving kingdom.

**Article 31** looks at settled exemptions to civil jurisdiction in order to ensure the minimizing of abuse by diplomats.

**Article 34** looks into the basic principle of exemption from domestic taxes in all cases with some exceptions to taxes on private income and property arising in the receiving State, indirect taxes and charges levied for services rendered.

**Article 37** proved the most difficult to resolve in view of great diversity of approach by the parties to the Convention, this Article deals with the treatment of subordinate staff of diplomatic missions and families. It limits civil jurisdiction while allowing full protection from criminal jurisdiction.

**Article 38** deals with debarring nationals and permanent residents of the receiving State from all privileges and immunities. The Convention has overviewed the aspect which has impacted for the growth of protection of diplomats from time immemorial. The Convention obligates “the receiving State shall accord full facilities for the performance of the functions of the mission”. The missionary shall also accord freedom of movement throughout the territory of the receiving state, but it can only restrict the missionary in the interest of national security.<sup>20</sup>

In addition the diplomatic immunity as accorded within the early instances has been thoroughly protected below the existing conference which protects the right of the diplomats to freely communicate together with his authorities and consulates. Further grantees safety to diplomatic correspondence immunity from detention of bag of the diplomats the convention also assure immunity to the individuals carrying diplomatic messages those immunities involves seize as soon as the sending state mission may additionally designate diplomatic couriers ad hoc. Inside the path in their official duty the missionary shall be exempted from all personal or real, countrywide, nearby or municipal taxes. The conference exempts from leaving of price in addition to costs at the missionary. The convention has given general immunity to the missionary on the subject of civil instances that could provoke in opposition to them inside the receiving states. This allows the diplomats to make there paintings with out fear in receiving nation and additionally in favour of his home state, but the receiving nation under certain conditions can make diplomats accountable for civil cases. This may be performed handiest against the private person property owned by way of the diplomats in the receiving state no longer for the motive of his function in the direction of his nation.<sup>21</sup>

<sup>20</sup> Article 25 and 26

<sup>21</sup> Article 28, 31 and 34

The diplomatic missionaries have not handiest been exempted civil legal guidelines of the nation but they're definitely exempted from all criminal laws of the receiving nation. The conference obligates the receiving nation does now not make any arrest or detention in any count the diplomatic agents. This has been in many instances misused by using the dealers in the beyond and present.<sup>22</sup> The immunity shall now not simplest be blanketed at the time of peace however it ought to also be protected in the course of the time of armed warfare. The convention has established itself as a keystone of cutting-edge international relations. In spite of the want for implementing countrywide regulation in a number of States, it got here into force. The convention has proved resilient to assault its essential ideas. This got here at some stage in the 1980s from the ones alarmed at the opportunities it furnished for abuse as proven specifically when following the homicide of a policewoman by way of capturing from the premises of the Libyan diplomatic undertaking in London the United Kingdom broke diplomatic relations and all the ones within the challenge left England under the protect of immunity.

Despite the fact that the Vienna convention efficiently codified numerous practices, now not everybody got what they desired. For instance, the USA argued unsuccessfully for keeping many diplomatic privileges whilst other States like Italy and Argentina desired confined immunity. Colombia proposed the preserving out of diplomatic employees from conducting industrial hobby, which became supported by means of the Latin American international locations and other countries like Egypt, India, Norway, Poland, Switzerland and South Africa. Regardless of such help the proposal was now not protected into the Vienna Convention. Debates consisting of those had been essential to restrict immunity; otherwise diplomatic personnel would experience absolute immunity in all their moves. A motive for the Vienna convention's fulfilment is that it defined and advanced the vast normal practices. The Vienna conference appears to assure performance and safety via which States conduct diplomacy. Importantly, it focuses most effective on everlasting envoys and did no longer address ad hoc envoys and worldwide agencies, which can be dealt with with the aid of other Conventions. It in addition avoids arguable problems that could have started out by no means-finishing debates.

Similarly, its use of the restrictive and practical necessity approach allows restrict privileges and decrease the quantity of those who loved them. The conference consists of 53 Articles that govern the behaviour of diplomats, 13 of which cope with the issue of immunity. Nevertheless, the Vienna convention as an entire can't be left out, and bears testimony to the top notch efforts of the original eighty one States to attain agreement for the common properly. An in depth dialogue is made

<sup>22</sup> London in 1984, policewoman Yvonne Fletcher was killed on the street by a person shooting from inside the Libyan embassy.

in bankruptcy four of this thesis relating to abuse of immunity and different aspects of immunity below the chapter heading diplomatic immunity and privileges.

### CONCLUSION:-

Diplomacy has existed for the reason that time while States, empires or other centres of electricity handled each different on an respectable basis. Numerous diplomatic documents have been observed in Egypt courting lower back to the 13th century BC. Permanent diplomatic missions, this is, representations installation with the aid of one United States of America inside the territory of every other, date back to the Renaissance within the 15th century. Multilateral international relations within the context of worldwide agencies commenced to advantage significance after the first global struggle and specifically following the second global struggle. In the second half of 21st century the variety of sovereign States in the world grew very speedy, especially inside the wake of decolonization, and with this the complexity of relations among them. In addition, the wide variety and variety of tasks taken on by way of the international community have improved at an exponential fee.

