

**Class: B.A.LL.B. 6<sup>th</sup> Semester**  
**Subject Name: Public International Law**  
**Subject Code: BL 6004**

**Topic: Diplomatic Agents: Privileges and Immunities**

**INTRODUCTION:**

During the Ramayana and Mahabharata period some aspects of International Law were in their developed stage. Examples of international law relating to diplomatic agents may be cited in this connection. The permanent appointment of diplomatic envoys began from the seventeenth century. The rights, duties, immunities and privileges etc., of the diplomatic in 18<sup>th</sup>. & 19<sup>th</sup>. Century was mostly in the form of customary rules. The first great landmark was the Congress of Vienna in 1815, wherein the customary law regarding diplomatic agents was clarified and codified. The contents of Vienna Convention were adopted finally in 1961. The Indian Parliament passed the Diplomatic Relations on the basis of **Vienna Convention-1972** to give effect to this convention. This law relating to the diplomatic and consular affairs remains the strongest section of International Law.

**DIFFERENT CLASSES OF DIPLOMATIC AGENTS:-**The diplomatic agents have been classified according to their status and functions. The first classification of diplomatic agent was made in the Congress of Vienna in- 1815 under which diplomatic agents were classified under the following categories:-

**1.Ambassadors and Legates:-**These are the first category of diplomatic agents and are the complete representatives of the sovereignty states. Their designation is Ambassadors or Permanent Representatives of their respective countries of U.N. They are appointed by POP.

**2.Ministers Pleni-potentiary and Envoys extraordinary:-** Are the diplomatic agents of second category and as compared to the diplomatic agents of the first category. They enjoy less privileges and immunities.

**3.Charge-d affairs:** - They are the diplomatic agents of the last category. The main reason for this is that they are not appointed by the head of State but are appointed by the Foreign Minister of the State. Their status is considered below the Minister Resident.

**4. Minister Resident:** - In the congress of **Aix-la-Chapelle-1818**, this category was added at category No.3, but it was again dropped by **1961 Convention**.

**PRIVIEGES & IMMUNITIES OF DIPLOMATIC AGENS:-**As observed by the International Court of Justice on 15.12.79 in a case of United States Diplomatic and Consular Staff in Tehran: For enabling states irrespective of their differing constitutional and social systems to achieve mutual understanding. One of the pillars of modern International Law is the diplomatic immunities of the Ambassadors. However the following are the immunities and privileges of the diplomatic agents:-

**1. Inviolability of the person as envoys:** - The diplomatic agents are extended personal safety and security. If an envoy is attacked it is deemed that attack was on the country to which the envoy is belonging.

**2. Immunity from criminal jurisdiction of the court:** - The courts of the state where the envoy is posted do not treat the envoys within its criminal jurisdiction. It ordinarily believed that envoys will not violate the laws of the host country. But there are certain circumstances when the envoys lose their immunity for example when they indulge in conspiracy against the host state.

**3. Immunity from civil jurisdiction:-** the envoys also enjoy the immunities of civil nature also no suit is filed in the civil court of the host state against envoys. As per Vienna convention three exceptions when immunity is not available: i) for any immovable property within the jurisdiction of host state he has. ii) in a matter of inheritance where

the envoy is a successor or executor in his personal capacity. iii) The commercial activities of the envoy in personal capacity.

**4. Immunity regarding residence:-**His premises are inviolable and no search is allowed in his residence. If any person intrudes the premises of envoy to avoid arrest, it is the duty of envoy to deliver such person to the host government to decide.

**5. Immunity from presence in a court as a witness:-** Any envoy cannot be compelled to give an evidence in any Court but he himself can waive this privilege and appear before a court.

**6. Immunity from Taxes:-**Vienna convention provides this immunity to envoys for payment of local taxes. But water, electricity, telephones etc. not included.

**a. Right to worship:-**Within the premises of their embassy, envoys are free to follow according to their choice the mode of worship.

**b. Right to exercise jurisdiction over the staff and family in the embassy:-** Envoys are free to exercise their jurisdiction over the subordinate staff & family in the Embassy to keep the embassy going on.

**c. Right to travel freely in the territory of receiving state:-**Vienna convention has provided a new right to envoys, they can travel freely within the territory of host state and go anywhere.

**d. Freedom of communication for official purposes:-** Vienna convention-1961 the envoys have freedom to communicate with his own state in context to their official work.

**e. Immunity from Military and other local obligations :-** Vienna convention granted the immunity to envoys from military and other local obligations of the host state.

## **BASIS OF IMMUNITIES AND PRIVILEGES OF DIPLOMATIC AGENTS:-**

**Theory of extra territoriality:** - According to Grotius diplomatic agents though physically present upon the soil of the country to which they are accredited. It is justified base when they are treated to remain for all purposes upon the soil of the country to which they represent.

**Functional Theory:** - the reasons for granting privileges and immunities to the diplomatic agents are that they perform special type of functions that is why they are called functional and in modern times this theory is accepted as correct.

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