

Traces of Diplomatic Relations between Nepal and the USA and The Vienna Convention

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1. Education opportunities in USA Prior to Diplomatic Relation with Nepal

Before hundred years of diplomatic relation with the USA, it is (found) wondering to know that Mr. Padam Sundar Malla set roots in America as the first Nepalese student from Bhaktapur in the quest for knowledge and higher education in the early 1910s. Mr. Jaya Bahadur Singh (strove for the peace and humanity) attended the Second World Conference of Religions in Chicago as the second person to visit the USA in 1933. The first person to settle down permanently in America was Mr. Sudhir Narsingh Rana married an American lady. Before the 1960s Mr. Ganga Bdr. Malli and hundreds of Nepalese came to the USA for higher study. He was very active to establishing and running the Florida Nepali Society. In 1991, Mr. Ram Malakar and Mr. Veda Bhakta came to USA and founded Nepa Pasa Pucha America in Washington DC and Mr. Malakar run as a founder president for many years side by side with their academic life. The official relation between Nepal and the USA started/began in 1945 with the visit of General Singha Shumshere, Nepalese Minister based in London and call on Mr. President Truman in the White House.

A special diplomatic mission led by Mr. Joseph Satterwaite as the representative of the US President visited Kathmandu in 1947 and exchanged notes on Friendship and Commerce between Nepal and the USA with Maharaj Padma Shumshere, former Prime Minister of Nepal. In 1948, relations were established at legation level between two countries.

2. Starting of Diplomatic and Educational Relationship.

Diplomatic relations between Nepal and the United States were established on February 16.

1948, when Nepal established a Legation to the United States with Commanding General Kaiser ShumShere Jung BahadurRana, as Envoy Extraordinary and Minister Plenipotentiary based in London. The Minister also was Ambassador to Great Britain, and the entire Legation staff resided at the Nepalese Embassy in London. An Agreement of Commerce and Friendship was signed in Kathmandu between the United States and Nepal, April 25, 1947.

In 1951, a Technical Cooperation Agreement was signed between two Governments and established the American Library and the US Operation Mission in Kathmandu. The diplomatic relation was upgraded to Ambassador Level in 1953. The government of Nepal opened/established Nepali Embassy in Washington DC in 1958 and Residential American Embassy was opened / established in Kathmandu Nepal in 1959, 06 August.

The US Education Foundation was established in Kathmandu in 1961 and the Peace Corps Office in 1962. These were better Opportunities of the important contact between the people of Nepal and America than ever before for education and other purposes. Then onward, it is found that there were more than 30,000 people of Nepalese origin settled in the USA. The latest Nepalese population is around 140,000 in different walks and development sectors of America

3. Ambassadors of Nepal to the United States.

To date, it is found that eighteen Ambassadors are assigned for the USA. They are: General Singha Shumshere, Nepalese Minister based in London; General Kaiser ShumShere Nepalese Minister based in London; Professor Rishikesh Shaha in Washington DC; Former Prime Minister Matrika Prasad Koirala; General Padma Bahadur Khatri; Mr. Kulshreshtha Sharma; Professor Yadu NathKhamal; Dr. Bhekh Bahadur Thapa; Dr. Mohan Man Sainju; Mr. Yog Prasad Upadhyay; Mr. Basudev Dhungana; Mr. Damodar Gautam; Mr. Jai Pratap Rana; Dr. Suresh Chalise; Dr. Shanker Sharma ; Dr. Arjun Kumar Karki; Mr. Ubaraj Khatiwada and Mr. Shridhar Khatri (18) Dr. Arjun Kumar Karki is Ambassador Extraordinary and Plenipotentiary of the Government of Nepal to the United States of America. Dr. Karki is also Ambassador-Designate to Columbia, Costa Rica, Guatemala, Honduras, Nicaragua, Mexico, and Guyana.Nicaragua, Mexico, and Guyana.

4. US Ambassadors to Nepal

Six Ambassadors from the USA were found assigned to look after Nepal from the New Delhi

American Embassy from 1948-59. They were: Henry Grady; Loy Henderson; Chester Bowles; George Allen; John Cooper; Ellsworth Bunker. Eighteen Ambassadors were found assigned to American Embassy in Nepal from/ since 1959-2016. They are: Henry Stebbins (Embassy in Kathmandu opened, 06 Aug 1959); Carol Laise; William Cargo; Marquita Maytag ; Douglas Heck; Philip Trimble; Carlton Coon; Leon Weil; Milton Frank; Julia Chang; Michael Malinowski (Interim) ; Sandra Vogelgesang; Ralph Frank; Michael Malinowski; James Moriarty; Nancy Powell; Scott DeLisi; Peter Bodde; and Special Envoy Alaina B. Teplitz.

5. The Vienna Convention

The Vienna ConventionThe Vienna Convention on Diplomatic Relations of 1961 is an international treaty that defines a framework for diplomatic relations between independent countries. It specifies the privileges of a diplomatic mission that enable diplomats to perform their function without fear of coercion or harassment by the host country. This forms the legal basis for diplomatic immunity. Its articles are considered a cornerstone of modern international relations. As of October 2018, it has been ratified by 192 states.

Throughout the history of sovereign states, diplomats have enjoyed a special status. Their function to negotiate agreements between states demands certain special privileges. An envoy from another nation is traditionally treated as a guest; their communications with their home nation treated as confidential, and their freedom from coercion and subjugation by the host nation treated as essential.

The first attempt to codify diplomatic immunity into diplomatic law occurred with the Congress of Vienna in 1815. This was followed much later by the Convention regarding Diplomatic Officers (Havana, 1928).

The present treaty on the treatment of diplomats was the outcome of a draft by the International Law Commission. The treaty was adopted on 18 April 1961, by the United Nations Conference on Diplomatic Intercourse and Immunities held in Vienna, Austria, and first implemented on 24 April 1964. The same Conference also adopted the Optional Protocol concerning Acquisition of Nationality, the Optional Protocol concerning the Compulsory Settlement of Disputes, the Final Act and four resolutions annexed to that Act.

Two years later, the United Nations adopted a closely related treaty, the Vienna Convention on Consular Relations.

6. Ambassador, highest rank of diplomatic representative sent by one national government to another.

At the Congress of Vienna in 1815, ambassadors were one of the four classes of diplomatic agents who were formally defined and recognized. Ambassadors were deemed to represent the person and dignity of the sovereign (or head of state) and were entitled to personal access to the sovereign to whom they were accredited. The Vienna Convention on Diplomatic Relations (1961) reduced to three the categories of diplomatic representatives, which are: (1) ambassadors and other heads of mission of equivalent rank who are accredited to the host heads of state; (2) envoys extraordinary, ministers plenipotentiary, and other representatives who are accredited to the host heads of state; and (3) chargés d'affaires, who are accredited to the foreign minister of the host country. The category of ministers-resident was omitted.

Ambassadors were originally exchanged only between the principal monarchies, with envoys or chargés d'affaires suffusing for the conduct of relations with less powerful states. Ambassadors were later also sent to republics regarded as being of equal rank. The United States appointed its first ambassadors in 1893. In 1914 there was a general exchange of ambassadors among the great powers—Austria-Hungary, France, Germany, Great Britain, Italy, Japan, Russia, and the United States—along with Spain and Turkey. Between 1919 and 1939 Belgium, China, Poland, and Portugal were raised to ambassadorial status, and since 1945, in accordance with the doctrine of the formal, legal equality of all states, most governments have sent representatives of ambassadorial rank to all countries to which they have extended diplomatic recognition.

Prior to the development of modern communications, ambassadors were frequently entrusted with extensive, even plenary, powers. They have since tended, however, to become spokesmen of their foreign offices, and rarely does an ambassador enjoy extensive discretion. An ambassador's personality and prestige, on the other hand, may play an important part in making the views of his government understood, and his firsthand knowledge of the country to which he is accredited may enable him to influence his government's policy decisively.

Summary of provisions

The treaty is an extensive document, containing 53 articles. The following is a basic overview of its key provisions.

Article 9. The host nation at any time and for any reason can declare a particular member of the diplomatic staff to be persona non grata. The sending state must recall this person within a reasonable period of time, or otherwise this person may lose their diplomatic immunity.

Article 22. The premises of a diplomatic mission, such as an embassy, are inviolable and must not be entered by the host country except by permission of the head of the mission. Furthermore, the host country must protect the mission from intrusion or damage. The host country must never search the premises, nor seize its documents or property.

Article 30 extends this provision to the private residence of the diplomats. Article 24 establishes that the archives and documents of a diplomatic mission are inviolable. The receiving country shall not seize or open such documents.

Article 27. The host country must permit and protect free communication between the diplomats of the mission and their home country. A diplomatic bag must never be opened even on suspicion of abuse. A diplomatic courier must never be arrested or detained.

Article 29. Diplomats must not be liable to any form of arrest or detention. They are immune from civil or criminal prosecution, though the sending country may waive this right under Article 32.

Article 31.1c Actions not covered by diplomatic immunity: professional activity outside diplomat's official functions.

Article 34 speaks about tax exemption of diplomatic agents while Article 36 establishes that diplomatic agents are exempted from customs duties. Article 37. The family members of diplomats that are living in the host country enjoy most of the same protections as the diplomats themselves.

7. Some Observations.

It is found that even former prime minister / ministers are fighting to be an ambassador in Nepal . Why? Newspapers in Kathmandu are full of stories related to the delay in appointment and possible names for various posts from time to time. The most talked about names are for the ambassadorial positions. It seems the parties, Nepali Congress, CPN UML and Nepali Congress Democratic are going through tough bargains for the diplomatic posts. But the threat of CPN Maoist (Don't appoint anyone before we join the interim government) seems to have worked as well. It's obvious that Maoist would also like to see some of their comrades holding the diplomatic positions and clarifying the world that what they did in the past 10 years was all for the poor and oppressed people of Nepal. Even the big names of Nepali politics are being floated as the possible candidates for the ambassadorial positions. Shailaja Acharya, former deputy Prime Min-

Smash And Grab

By Sunanda Datta Ray

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External affairs ministry officials say this was the high point in Indo-Sikkimese cordiality. Chinese bellicosity as well as stirring within the kingdom had underlined the need to ensure that the Sikkimese were not too dissatisfied. Mrs Gandhi was inclined to be indulgent -to the Chogyal; though Hope did not evoke anything like the same warmth, her husband could have had anything he asked for. But Indian officials really meant personal privileges by way of money or facilities. The Chogyal did not want such favours; he wanted only recognition of Sikkim's rights and that the prime minister was not prepared to concede. Afterwards, the Sikkimese complained that she arrived in Gangtok empty-handed and went away laden with gifts.

The memory of these conflicts, the uncertain outcome of continuing negotiations, and disappointment over India's unresponsive attitude on all matters of substance clouded the air as the Chogyal walked through the pavilions, acknowledging the greetings of his guests. Elderly kavis doffed their brocade hats to measure the ground with their richly bobbed bodies, years of practice ensuring that ankles, knees, waist, arms and head moved in a single flowing sweep of unbroken grace. More restrained, in their obeisance, Nepalese officials bowed low, hands folded in a respectful namaskar. India House wives, anxiously clutching ceremonial scarves, received a smile and a kindly word. For his own blood, the Chogyal reserved a special courtesy. As nephews, nieces and cousins dropped in prostrated ration they were gently helped up and heads gravely touched in token of kinship.

There were special visitors too. Bajpai was lolling on a sofa. Beaming genially next to him sat K.C. Pant, Indian minister of state for home affairs, who had travelled from New Delhi as Mrs Gandhi's special emissary. A Brazilian count, who was convinced that he had been a Himalayan Buddhist in another incarnation and had journeyed all the way from Rio de Janeiro in search of his spiritual ancestry, doggedly kept trying to lay his curly ginger head on "His Majesty's sacred lotus feet." George Griffin, political officer in the American consulate in Calcutta and suspected by Indians of being in the intelligence, had also invited himself with his wife Chrissie: the two made a consciously handsome pair. "Present them to me," Kazini ordered one of the ADCs, "and don't forget that I am Her Excellency the Kazini Sahiba of Chakung". She acknowledged the introduction with a cool bow and shot off across the lawn to proclaim, "Watch out, the CIA's here!"

Most of the time, however, her masked stare was hungrily fixed on Bajpai and Pant in the special enclosure where even she did not dare venture. They carefully avoided her gaze, not wishing to provoke comment with public confabulations, but Kazini was not to be deterred. Her moment came in the buffet tent where protocol barriers were lowered as guests pushed and jostled each other to pile their plates high with rice, noodles, pork, beef, prawns, mushroom, and bamboo shoot. Pouncing on Pant while the embarrassed minister grappled with knife and fork, she dragged him into a far corner with whispered urgency. "Shhh! They're listening," she cried. "The secret police are watching us!" The penetrating warning drew all eyes to the huddled pair. Gangtok convinced that Mrs. Gandhi had sent a politician not in honour of the Kagyet dances, but to plan tactics with the durbar's avowed enemy.

A resplendent symbol of Kanchenjunga-kanchen dzonga or fortress of gold-watched the manoeuvre from a special throne in an enclosure facing the Tsuk-la-khang. Fabled home of the abominable snowman, the brooding mountain's worshipped in Sikkim. It is the house of the five treasures (mineral, salt, Buddhism's sacred books, food grain, and wealth), an all-powerful monarch glistening under a sparkling mantle of snow lacquered by the rising and setting sun. The sublimity of the world's second highest peak towers over the kingdom even as its representation guards the festival.

Sir Tashi was not at all happy when a British expedition asked to climb the mountain in 1955. He eventually gave permission, but only on the condition that appropriate proprietary ceremonies were first performed. The team was provided with sacred banners to plant on the heights and was strictly forbidden to set foot on the sanctuary of the ultimate peak. "He's even claiming Kanchenjunga now!" exclaimed an irate Indian diplomat. When the Chogyal heard this, he retorted: "I don't claim it. Kanchenjunga has always been ours."

The worship of the snowy range, Phanglabsol, is a separate festival in early September, the rites laid down 270 years ago by the third Chogyal, Chadr Namgyal, who also invented the Sikkimese script, basing it on Tibetan, which was an adaptation of Devanagri. The dance is a stirring spectacle of martial resonance with the mountain god in flaming brocade robes, wearing a fed mask mounted with replicas of human skulls, and flanked by snarling snow lions, ministers, and armed retainers. contd....

ister and SahanaPradhan, senior leader of CPN UML, are reportedly being considered for the Nepali missions in India and Russia respectively. Last year's 21 ambassadorial positions were vacant for several years and a wonderful political drama.

Why do people try hard to be appointed as ambassadors? It is said that the post offers prestige, good lifestyle, salary and other benefits, and foreign trips etc. The ambassadorial positions have become such a job that there is no bar for anyone. We have seen former prime minister, former ministers, former chiefs of army staff, and secretaries are found working as ambassadors in the past. The ambassadorial appointments have been used as prize for loyal from Panchayat era and the tradition continued to some extent in democracy days. The king revived it strongly and now, some reports say, parties are doing the same. Those who can manipulate decisions and influence decision makers can always secure a position. Recent decision to withdraw the list of 21 newly appointed ambassadors to different countries decided in the last cabinet is an evidence of the new cabinet and Federal Republic of Democratic Government of Nepal. It is to be noted that in Bangladesh professorship is the first criteria to be an Ambassador of any political party or civil society of different walks of life.

