



BOOK REVIEW

Compulsory Jurisdiction of the International Court of Justice, by R. P. Anand, published under the auspices of the Indian School of International Studies, 1961, Asia Publishing House, Bombay, Price Rs. 18.

The book under review is the result of the research work carried on by the author at the Indian School of International Studies, New Delhi. The author was fortunate in having the benefit of receiving 'valuable suggestions' from such eminent writers on International Law as Professors Quincy Wright and Percy E. Corbett, who were the visiting professors at the School.

The book which has 342 pages, including a useful index, is divided into nine chapters, the first chapter being an elaborate introduction and the last is aptly entitled 'conclusion'.

Tracing out the history of coming into existence of the International Court of Justice in its present form, the author has given a well-documented meaning and development of the 'Compulsory Jurisdiction' of the Court. He rightly points out that such Jurisdiction is "conveniently, but not very accurately known as 'Compulsory Jurisdiction'" (p. 26). Distinguished jurists like Judge Hudson, Dr. Schwarzenberger and Judge Jessup also consider the word 'Compulsory' as 'misleading' or 'inaccurate'.

Like its predecessor, this 'principal judicial organ of the United Nations' is also called a 'Court', although its jurisdiction is based on the consent of the parties. May be that this is the only way to bring about the settlement of international disputes by judicial process. This consensual basis of its jurisdiction is also the greatest weakness of this organ. The author justifiably maintains that, although the convening states were quite enthusiastic for conferring the compulsory jurisdiction on the Court, the wide reservations made by the conferring States had a crippling effect and has left very little for the Court to adjudicate. He has very well analysed the limitation put on this judicial organ for the peaceful settlement of international disputes by the 'optional clause' contained in the conferment of compulsory jurisdiction.

In chapter IV the author has enumerated the reasons which have been given for not accepting the compulsory jurisdiction of the Court, and has made commendable effort to explain and find out the solution



for those objections, although he confesses, the 'valiant fight for the compulsory Jurisdictions was lost to a great extent due to the intransigent attitude of some of the big powers'. (p. 57.)

While discussing the fourth objection to the compulsory jurisdiction, the author has drawn attention to the categories under the optional clause [art. 36(2)] and has called them 'rather vague'. The reviewer agrees with him that these categories 'should be more precisely defined'. (p. 94).

In connection with the fifth objection to the compulsory jurisdiction, he has complaint about the absence of any machinery for the execution of the judgments of the Court. He has rightly pointed out that 'there must be more powerful way of enforcing its judgments, otherwise that [compulsory] jurisdiction will not be very useful' (p. 101). But he has not made any definite suggestion about the machinery which, in his view, will be the most effective. Similarly while discussing the next objection regarding the 'impartiality' of the Court, he has not suggested the basis on which the Judges should be elected in order that the court may inspire complete confidence among the contesting States.

The author has devoted some space to the attitude of India towards the Court. But it is difficult to agree with his thesis that 'from the very beginning of her independence, India has not shown much interest in arbitration and judicial settlement as peaceful methods of settling disputes' (p. 255). The author has not thought it fit to clarify or substantiate his remarks in this regard. Perhaps he has been influenced by the criticism of interested parties in connection with the Kashmir dispute. He complains that 'India has been very much criticized for not submitting her Kashmir dispute to arbitration or to adjudication,' although very soon after he concedes that 'rarely have such disputes, affecting such vital interests of the States, been submitted to any judicial procedure'. (p. 256)

The bibliography is imposing and the author has brought together the opinions of almost all the writers on the subject of International Law, with his own comments, in a proper sequence to give a complete picture. Though he has not suggested any changes either in the constitution or in the working of the International Court of Justice, and has also accepted the very limited role that this organ of the United Nations can play in maintaining peace and avoiding war, he has expressed the hope that 'it will play an ever more useful role when



the present world tension eases to some extent and States are more willing to entrust the solution of their differences to impartial judgment' (p. 292). How that state of things is going to be achieved is the crucial question of International polity.

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