



MODERN DIPLOMATIC LAW. By Michael Hardy. Manchester University Press. U.S.A. Oceana Publications Inc. 1968. Pp. ix+150.

THIS MONOGRAPH consists of a series of lectures by Michael Hardy, an international civil servant on the staff of the Office of Legal Affairs of the United Nations, delivered at the Manchester University.

The monograph is divided into five chapters. The first deals with establishment and functions of diplomatic missions, the second with staff and facilities of diplomatic missions, appointment and termination of their functions, the third with inviolability and jurisdictional immunity, the fourth with questions like exemption from taxation, customs duties, social security provisions *etc.*, special missions and lastly, the fifth with the problem of representation at international organizations. The text of the Vienna Convention on Diplomatic Relations, 1961, is also appended in the end.

The author starts by neatly defining the scope of his work in these words: "My inquiry goes to the rules and pieces of the game and not to the players and their contests."<sup>1</sup> He is not concerned with 'diplomacy' as an instrument of foreign policy, but with the body of legal rules governing the status and conduct of agents and organs representing the concerned states. Regarding codification of these rules, he appears to dismiss the distinction between "pure" codification and "new" codification as "unreal." In the process of codification, according to him, whatever new is added is not a matter of "innovations" but "of resolution of long-standing points of difference." In view of this reviewer this is not wholly correct. Although the Vienna Convention on Diplomatic Relations reaffirms existing legal rules, it also fills certain gaps in customary law and thus introduces innovations. For example, article 4 which provides that the receiving state is not obliged to give reasons for a refusal of agreement; article 11 which provides that the receiving state may limit the size of a mission staff and refuse entry to a certain category of officials; article 33 under which the convention gives the standing of judicial norms to unclear practices by defining privileged status of administrative and technical personnel, and article 19 which provides that a staff member of the latter category can fulfil some of the functions of a Charge' d' affairs *ad interim*. Moreover, many states have made reservations to some provisions of the Convention *e.g.* the U.S.S.R., Ukrainian SSR, Byelorussia SSR *etc.* to article 11(1), Cambodia and the U.A.R. to article 37(2) and Venezuela to article 38. It is possibly indicative of the fact that these matters are not covered by the customary

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1. Michael Hardy, *Modern Diplomatic Law* 1 (1968).



international law otherwise they would have found it difficult to make reservations.

Vienna Convention makes no mention of the right of asylum and the author does not refer to this omission. One does not find any account of objections raised by the developing countries to some provisions of the Convention which tend to be disadvantageous to them. For instance, it is felt that the developing countries are losing considerable sums which would accrue to them from import duties *etc.*, because of exemption enjoyed by the staff of diplomatic missions. It is because the wealthier countries maintain larger missions in developing countries than *vice versa*.<sup>2</sup>

From the point of view of comparison with the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, section in the monograph on "special missions" nowhere points out that the terms "permanent mission" and "consular post" are not defined in the conventions. International Law Commission's desire to closely follow these two Conventions may be one of the reasons for its reluctance to define "special missions". Moreover, the United States' proposal that a "special mission" by definition should always be headed by a person of cabinet rank or its equivalent, would have restricted the International Law Commission's field of research and the scope of the proposed convention.

It goes without saying that a number of works already exist on this subject<sup>3</sup> but it was essential to bring the "diplomatic law" up-to-date after the Vienna Convention referred to above. In his undoubtedly useful work, Hardy does not give us any adequate analysis of advancement made in the new areas. Diplomatic practices of the states have differed in the past and much depended on conventional rules. Therefore, one would have wished to see more of the "progressive development of international law" (as envisaged in articles 15 and 13 of the Statute of International Law Commission and Charter of the United Nations respectively) brought about by the Vienna Convention on the lines suggested above.

Of course, the merit of the book lies in its lucid style as well as brief and handy account of outcomes of the Vienna Convention. The reader can witness (particularly in chapter five) considerable practical knowledge which the book contains. Moreover, looking to the obviously limited purpose of the lectures, the author may be said to have done his task quite well.

*Subhash C. Jain\**

2. See Haastруп, "Diplomatic Relations and Reciprocity," 5 *Ind. J. of Int'l. L.* 194 at 197 (1965).

3. *E.g.*, Sen, *A Diplomat's Handbook of International Law and Practice* (1965); Jenks, *International Immunities* (1961); Kuljit Ahluwalia, *The Legal Status, Privileges and Immunities of the Specialized Agencies of the United Nations and Certain other International Organisations* (1964) and one could broadly include Lee, *Consular Law and Practice* (1961).

\*LL.M (Bombay), Research Associate, The Indian Law Institute, New Delhi.