

DIPLOMATIC LAWS IN CONTEMPORARY INTERNATIONAL RELATIONS (1986). By Arun Chaturvedi. Panchsheel Prakashan, Jaipur. Pp. vi + 199. Price Rs. 100.

IN THIS small monograph,¹ the author has dealt with the question of privileges and immunities of diplomats with special reference to India. The subject of the book is very important, for, many times the receiving state has certain obligations not only to foreign diplomats but also towards its own citizens. It is placed in a considerable predicament when a citizen has grievances against accredited diplomats or diplomatic missions.

In a recent case,² an Indian citizen, H.S. Dhall, sought permission from the Central Government under section 86 of the Code of Civil Procedure to sue the Algerian Embassy for recovery of certain payments, but this was refused on two grounds—political and non-existence of a *prima facie* case. Dhall received a communication from the Ministry of External Affairs to the following effect:

After due consideration, the Government of India regrets that permission to sue the State of Algeria cannot be given on political grounds.³

Later, when the matter came up before the Supreme Court, the government appears to have stated in the counter-affidavit that it found no *prima facie* ground and that the claim was outside the provisions of the said section of the code. The court, however, observed:

One should have thought that the political relationship between the two countries would be better served and the image of a foreign State be better established if citizens' grievances are judicially investigated. This would also be in consonance with human rights.⁴

As such, the court directed the government to reconsider the matter and to pass "reasoned order in accordance with the principle of natural justice and keeping in view the trend and the development of the international law..."⁵ Also it asked the government to explore the possibilities of mutual settlement with the Algerian authorities either by arbitration or by other accepted legal norms.

The above case emphasises the need for carefully balancing the immunities and privileges of missions with rights of the citizens whenever conflict arises.

1. Arun Chaturvedi, *Diplomatic Laws in Contemporary Industrial Relations* (1986).

2. *Harbhajan Singh Dhalla v. Union of India*, A.I.R. 1987 S.C. 9.

3. *Id.* at 10.

4. *Id.* at 14.

5. *Id.* at 15.

Diplomatic privileges and immunities are presently governed by the Vienna Convention on Diplomatic Relations 1961, the text of which is given as an appendix at the end of the book.⁶ The author, after discussion of debates in the International Law Commission and Vienna Conference, has noted the shift in the trend which is now in favour of strengthening the position of the host/receiving states. Accordingly, there is a tendency to restrict immunities and privileges of diplomatic agents. He also refers to a draft prepared by the Asian African Legal Consultative Committee (AALCC) which represented a strong bias in favour of host states.

In writing the present monograph, the author has made extensive use of UN documents and debates in the Indian Parliament. The Indian practice and instances relating to recall of diplomats or their declaration as *persona non grata* by the sending or the receiving state, permission to open cultural centres, closure of missions on foreign policy considerations, have been given in the book. All these aspects form the subject matter of a chapter⁷ on "Diplomatic Laws and Indian State Practice." In chapter IV⁸ which deals with "India's Contribution towards Diplomatic Laws in Various International Fora", the author has highlighted the views of the then Indian member on the International Law Commission, Radha Binod Pal and the contribution of Indian representatives including K. Krishna Rao in the Vienna Conference on Diplomatic Relations and in deliberations of the AALCC. At the Colombo session of AALCC held in 1960, India was represented by M.C. Setalvad. Thus, India effectively participated in these fora and "tried to strengthen the position of the receiving state."⁹

The author has included two chapters¹⁰ in the book to deal with situations of conflict or war between India and China as also India and Pakistan when the rules of behaviour towards diplomatic personnel were put to severe test. A separate chapter¹¹ has been devoted to India's policy of asylum.

All in all, the book is a useful addition to the literature on the international law relating to diplomatic agents and is particularly valuable for understanding Indian practice in this field.

Bibliography has been given at the end of the book¹² but it would have been useful if a subject index was also included.

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6. *Supra* note 1, ch. XII, pp. 175-191.

7. *Id.*, ch. III, pp. 61-88.

8. *Id.* at 89-112.

9. *Id.* at 109.

10. *Id.*, chs. V, VI.

11. *Id.*, ch VII.

12. *Id.*, ch. XII, pp. 192-195.

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