

INTRODUCTION

The purpose of this inquiry is to examine the circumstances under which the countries of Asia and Africa entered into the orbit of the law of nations and the legal institutions which effected or accompanied their entry. This inquiry is not carried out from the point of view of history, sociology or politics. It is an attempt to view the process of entry of the two continents into the Family of Nations from the point of view of international law only.

The first significant and at the same time controversial problem which arises in this examination is the date of such entry. The orthodox euro-centric view, expressed in most treatises or histories of international law, is that most of the Afro-Asian countries joined the Family of Nations as full and equal members only recently, anyhow, not before World War I. In this case few historical problems would arise. The present examination would be almost entirely a matter of contemporary concern. But if this view is critically examined, it is not free from doubt. In fact in the final analysis it tends to become untenable, particularly in relation to Asian countries.

A first attempt was made to carry out such a critical examination in 1960 when the lectures on "Treaty and Diplomatic Relations between European and South Asian Powers in the 17th and 18th centuries" were delivered at this Academy.¹ At that time the text of the decision of the International Court of Justice in the Indo-Portuguese dispute over the right of passage to the enclaves of Dadra and Nagar Aveli had not yet been generally available.² It was therefore not possible to take full advantage of the references contained in the decision relating to the status of Indian states in the Family of Nations prior to the 19th century. The full text of the decision throws significant light on the development of the Family of Nations in Asia or at any rate in the East Indies, i.e., in the countries surrounding the Indian Ocean, and now deserves to be analysed. This will help to

1. *Recueil des Cours* 1961/II.

2. Right of Passage over Indian Territory case (Portugal-India), *I.C.J. Reports* 1960, p. 6.

state a case against some of the orthodox views on the history of the law of nations with much more authority than was possible before.

In the present inquiry the subject of the entry of the world into the orbit of the law of nations is extended from Europe and Asia to Africa. It will be relevant to recall first some of the problems relating to Asian countries by drawing partly on the lectures delivered in 1960 and then to see to what extent these problems appeared later in relation to the entry of the African Continent into the orbit of the law of nations.

With these introductory considerations in mind we shall first try to examine briefly the orthodox version of the development of the Family of Nations and to offer a few critical remarks upon it.