

BOOK REVIEWS

JUSTICE FOR WOMEN: CONCERNS AND EXPRESSIONS (2008).
By Chief Justice A.S. Anand. Compiled by Munisha Gandhi. Universal
Law Publishing Co.Pvt.Ltd, New Delhi. Pp. 346. Price Rs. 395/-.

GENDER JUSTICE, a facet of social justice, stands for the removal of all kinds of inequalities and demands preferential treatment for women who have been deprived of various rights for ages. Indeed, gender inequality is deep-rooted in several customs¹ and traditions within the society. Despite the existence of several national and international legal instruments and conventions devoted to rights of the women, egregiousness of gender-based violence is rampant across the globe due to the gap between legal principles and reality on the ground.

The Supreme Court of India, through several liberal judicial interpretations² granted remedies in favour of women, which paved way for various legislative enactments and amendments to enhance the rights of women.

The book under review is a compilation of several important case law along with selected judgments and speeches delivered by A.S. Anand, former Chief Justice of India, on women's rights. A.S. Anand has always shown special interest in the area of women's rights and is a known proponent of the rights of these under-privileged groups. This edition is a part of a series of compilation by the same compiler who had published two volumes of the book earlier.

The book contains three parts. Part one consists of the articles and speeches delivered by A.S. Anand on various occasions relating to gender justice. Several important issues on gender equality have been covered in this part such as the crimes against women, female foeticide, female infanticide, abandonment of girl child etc. Comparatively, this part of the

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1. J.N. Bhatt, "Gender Justice: Human Rights Perspective Triumph or Turmoil: Victor or Vanquished" XXIII *Gujrat Law Herald* 21-32 (2003).
 2. In *Vishaka v. State of Rajasthan*, (AIR 1997 SC 3011) the Supreme Court has emphasised the need for an effective legislation in India to curb sexual harassment of working women to remedy the legislative vacuum. Thereafter, the National Commission for Women drafted the Sexual Harassment of Women at their Workplace (Prevention) Bill which is still pending before Parliament.



book stands out as the articles and speeches included in this compilation brings out a comprehensive account of the vital issues related to gender justice.

Part II of the book provides the compilation of almost twenty landmark judgments delivered by A.S Anand during his tenure as the Chief Justice of India. These judgments are clear reflection of his concern over women's rights. This part of the book contains only the text of the judgments without any substantial analysis of the case law. The inclusion of an analytical summary of the case law would have been more fruitful rather than the mere reproduction of the judgments.

Although, women's rights have been recognised under various international human rights documents, discrimination becomes a matter of concern for many states.³ The National Human Rights Commission has shown significant interest in women's rights, which has taken up several issues of violence on women. Part three of the book consists of National Human Rights Commission's plan of action to prevent and end trafficking in women and children as well as the suggestions and recommendations made by Action Research Study. The inclusion of this research study on 'trafficking in Women and Children' is very useful as it contains valuable information about this social problem.

Although, the book is only a compilation of several articles and case law on the rights of women, it is a comprehensive reference work on the entire gamut of issues related to gender justice. Overall, the book is useful to the entire academic community particularly to teachers, students and as well as to the legal practitioners as 'gender studies' is emerging as an area of legal importance.

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3. N.S. Sreenivasulu, *Human Rights: Many Sides to a Coin* 41 (2008).

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MOTOR ACCIDENT CLAIMS LAW AND PROCEDURE (3rd ed. 2007).
By Janak Raj Jai. Universal Law Publishing Co. Pvt. Ltd., Delhi. Pp 347.
Price Rs 275/-.

THE ENORMOUS increase in the number of vehicles is one of the most important reason for the road accidents. These accidents lead to serious injuries including death or maiming of innocent and ignorant human beings, which has become a matter of grave concern. Remedy for victims are provided by the Motor Vehicles Act, 1988.

The book has been divided into 20 chapters. It consists of relevant provisions and forms under Motor Vehicles Act, Schedules, Rules, Regulations and landmark Supreme Court judgments. The book contains almost all the recent cases decided by the high courts and the Supreme Court. The author has also incorporated all the important sections of the Motor Vehicles Act, 1988 and the relevant rules framed under the Act have also been added.

The whole book has been written considering all the difficulties and hardships faced by the victims, and is written in a very simple language for the benefit of the general public. In the introductory para the author has given a brief picture about the history of the Motor Vehicles Law in India which was earlier passed during 1939 and the present Act of 1988 came replacing the previous one with changes suiting the present day scenario. Further the author also speaks about different kinds of accidents for which compensations have been claimed in courts. He also speaks as to how the injuries are claimed in America categorically under 11 heads. At the end of the first chapter the author says that the Act has undergone tremendous change but he claims that further improvements can be made in token of which the author also has given almost 49 suggestions for the improvement of this Act. Chapters 2 to 5 deal with definition of terms and expressions used in the Motor Vehicles Act, 1988, statistical analysis about the accidents and the victims and their legal rights to claim compensation.

Chapter 6 to 10 deals with the general principles followed while awarding compensation, where the claims should be made, compensation for hit and run victims, compensation by multiplier method, no fault



liability. In these chapters the author has tried to explain the laws relating to compensation and the liability of the insurance companies. The author also points out that the civil court does not have jurisdiction on any case if it's under the tribunal mentioned under section 175 of the Act. The author also mentions various provisions of the Constitution which provides rights to the victims of hit and run case and substantiates his point with the reports of the Law Commission. Further the author also gives a briefing about the method of compensation and especially about the Lord Wrights formula and the multiplier method through the schedule which gives the reader a detailed idea about the amount of compensation given to people in different age groups.

Chapters 11 to 15 explain the liability of the state, insurance of motor vehicles, negligence, award of interest and procedure of recording evidence. These chapters deal with principles of vicarious liability and sovereign immunity of the state. The author also deals with compulsory insurance to motor vehicles and the cases of negligence and and also as to how a court should deal with motor vehicles cases.

Chapters 16 to 20 deals with appeals, delay oriented procedure and the victims plight, who can claim free legal aid, lok adalats and the roads to expeditious settlement of cases and finally how to avoid accidents. The author has also attached relevant forms under the Central Motor Vehicles Rules, 1989, Rules of the Road Regulation, 1989, Solatium Scheme, 1989, the Central Road Fund Act, 2000 and the relevant bare provisions of the Motor Vehicles Act and all the mandatory signs under the act and finally few judgments of the Supreme Court guiding the bus owners/operators.

The treatment of every chapter is very much to the point and brief. There is much to commend the organization of the subject in the book which is properly presented, coherently linked chapters and cases.

However, the author has only provided basic laws regarding motor accidents but it would have been better if the author had clearly laid down the principle of law and the lacunae and how the judiciary is treating the same kind of cases differently. The author could also have done a comparative study with various other developed nations because the amount of damages given in other countries is much more than the compensation granted by the Indian courts. A comparative study of the



laws relating to motor accidents would have made his research better.

Overall the book is a ready reference to any person using it.

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INDIGENOUS PEOPLES AND HUMAN RIGHTS (2009). By Subhram Rajkhowa and Manik Chakraborty (ed.). R. Cambay & Co. Private Ltd., Kolkata, Price: Rs. 480/-.

OVER A very short period, the few decades since the early 1970s, “indigenous peoples” has been transformed from a prosaic description without much significance in international law and politics, into a concept with considerable power as a basis for group mobilization, international standard setting, transnational networks and programmatic activity of intergovernmental and nongovernmental organizations.¹ The national and international significance that the claims of indigenous peoples have assumed in preceding decade or so owes much to the human rights movement. Recently on September 13, 2007, the General Assembly adopted a declaration on Rights of the Indigenous Peoples which, *inter alia*, emphasizes such peoples’ right to full and effective enjoyment of all human rights and fundamental freedoms which have been recognized in the Charter of the United Nations. It is estimated that about 70 per cent of the worlds more than 250 million indigenous peoples live in Asia. The indigenous peoples are known by different names: ‘hill tribes’ in Thailand; ‘ethnic minorities’ in Vietnam; ‘minority nationalities’ in China; ‘scheduled tribes’ in India; and ‘cultural communities’ in the Philippines.²

The book under review is a collection of fifteen essays on various aspects of indigenous peoples’ rights, and myriad human rights questions that assume importance given the problems and predicaments that such people face, especially in the present globalised world. The inaugural chapter addresses the problem of ethnocide on indigenous peoples. It also analyses

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1. Benedict Kingsbury, “‘Indigenous Peoples’ in International Law: A Constructivist Approach to the Asian Controversy” 92 *Am J Int’l L* 414 (1998). “The development of “indigenous peoples” as a significant concept in international practice has not been accompanied by any general agreement as to its meaning, nor even by agreement on a process by which its meaning might be established. As the concept becomes increasingly important, international controversy as to its meaning and implications is acquiring greater legal and political significance.”
 2. See, Dev Nathan *et.al.* (ed), *Globalization and Indigenous Peoples in Asia Changing the Local–Global Interface* 16 (2004).



how the “indigenous environments are being increasingly appropriated for commercial purposes by others”.³ The author also raises a host of seminal questions that are “not merely academic or abstract question”.⁴

Other chapters discuss issues of traditional knowledge and cultural expressions of indigenous peoples,⁵ intellectual property rights of the indigenous people in India,⁶ rights of indigenous peoples over forest in India⁷ and human values in traditional societies.⁸ One of the key aspects of the book is that it also discusses and deliberates upon the problems of indigenous peoples in some of the selected countries. For instance, one of the chapters argues that “the parallel application of Customary in South Africa often leaves too much room for a violation of various constitutionally protected rights”⁹ given the fact that in South Africa indigenous peoples are subjected to a parallel system of civil law and indigenous law.¹⁰ Similarly, the condition of indigenous communities in Nepal¹¹ and Mariela Puga’s study of indigenous people *vis-à-vis* the constitution of Argentina¹² bring to fore some of the diverse aspects of indigenous peoples’ rights in two distant and vastly different societies. The book under review thus has a wide canvass covering wide range of topics. Some of the pertinent issues that assume due importance in this day and age have been dealt with in few of the essays while there are other chapters in the book that seem to be of general importance, discussing only the points that have been written about so many times before as well. However, it does not take away the credit the book deserves. It would be apposite to bring to fore some of the key issues that have been analyzed and critiqued in the book to have an idea of the issues touched upon.

3. Subhram Rajkhowa and Manik Chakraborty (ed), *Indigenous Peoples and Human Rights* 11-12 (2009).

4. *Id.* at 17.

5. *Id.*, ch. 2.

6. *Id.*, ch. 5.

7. *Id.*, ch. 12.

8. *Id.*, ch. 14.

9. *Id.* at 122.

10. *Ibid.*

11. *Id.*, ch. 8.

12. *Id.*, ch. 9.



The first chapter, “Building Intercultural Citizenship: A Challenge for Our Times”, raises few questions¹³ that need to be taken note of, especially in a country like India. It begins with how worldwide migration has resulted in multicultural societies the world over, “a reality that is to be respected and promoted rather than ignored or denied”¹⁴ However, “rather than simply preserving diversity and multiculturalism, the task before us is to build truly intercultural societies”,¹⁵ and this “ideal can be achieved through conscious building of intercultural citizenship”¹⁶ which will take us beyond “cultural diversity to cultural creative interculturality”¹⁷ The second chapter addresses the issue of TCE (Traditional Cultural Expressions). It is axiomatic that many of the TCEs become extinct passing from one generation to another because of “neglect, corruption or departure”.¹⁸ It has been therefore suggested that a comprehensive legal and cultural policy framework may include new methods for the promotion of cultural diversity, respect for cultural rights, promotion of artistic development and cultural exchange and also promotion of tradition-based creativity and innovation as ingredients of sustainable economic development.¹⁹ One of the contributing editors discusses at length the long drawn struggle that eventually culminated in the declaration on indigenous peoples, and that there has been a concerted effort by the indigenous peoples the world over to preserve their culture and to protect their rights. The present paper provides a general account of how the myriad forces have contributed towards the betterment of indigenous peoples’ life.

Intellectual property rights of the indigenous peoples *vis-à-vis* traditional medicinal knowledge is the focus of a “Socio-Legal Analysis under Human Rights Jurisprudence” in one of the chapters. The contributing author analyses at length the various problematic aspects, though there is a lack of expected analytical depth and coherence which is marred by thoughtless meandering. Another chapter deals with one of the sensitive and much debated topics, rights of indigenous peoples over forest in India. Though

13. E.g. How can economies function and how can governments do their jobs by drawing together all human values and cultural resources with destroying the unique values and cultural wealth they carry along?

14. *Supra* note 3 at 2.

15. *Id.* at 15.

16. *Ibid.*

17. *Id.* at 2.

18. *Id.* at 23.

19. *Ibid.*



contributing author endeavors to move from the rhetoric to reality, the effort falls short of the expected analytical and critical appreciation that the topic under discussion deserves. The effort ends up being more of a general account of rights of indigenous peoples over forest. There are other chapters that also deal with the various topics of importance as regards the rights of indigenous peoples. They can be referred for a general discussion.

The book under review therefore is an effort to deliberate and debate upon some of seminal questions concerning the rights of indigenous peoples and their struggle towards the protection and preservation of those rights. It will be good for teachers and students. The book, however, seems to be overly priced.

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BOOKS RECEIVED FOR REVIEW*

Dr. F.E. NORONHA, *Private International Law in India* (2010), Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs. 250/-

P.M. BAKSHI, *The Constitution of India* (2010), Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs.180/-

Dr. HARI DEV KOHLI, *Supreme Court on Hindu Law* (2010), Universal Law Publishing Co. Pvt. Ltd., (2010 Edn.), C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs.425/-

MAJ. GEN. NILENDRA KUMAR, *The Armed Forces Tribunal Law* (2010), Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs.395/-

VIJAY HASARIA AND P.I. JOSE, *Juvenile Justice System* (2010), Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs.295/-

JUSTICE HOSBET SURESH, *All Human Rights are Fundamental Rights* (2010), Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs.275/-

JUSTICE YATINDRA SINGH, *Cyber Law* (2010), Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Dilkhush Industrial Estate, (Near Azadpur Metro Station), G.T. Karnal Road, Delhi-110033, Rs.425/-.

P.V. JOIS, *Customs and Excise Laws and Administration of Justice* (2009) Oxford University Press.

K.D. GAUR, *Criminal Law: Cases and Materials* (2009), Lexis Nexis.

M.R. KHAPALI, *Fountain Head: Legal Wisdom of East and the West* (2009), Sathyajyothi Marks Publication.

* The Journal reserves the right to be selective in reviewing the books listed.