



BOOK REVIEWS

THE PERILS TO JUSTICE (2001). By K.Veerawami. Eastern Law House, Calcutta Pp.13+420. Price Rs.400/- and WHITHER LAWS AND JUSTICE (2001). By K. Veerawami.Eastern Law House, Calcutta. Pp.11+212. Price Rs.250/-.

IT IS a coincidence that both the books came to be reviewed together but it has become really befitting in many respects. In fact, the books, from the standpoint of a law person, complement each other in details with regard to the issues connected with law and legal institutions in our country. In the *Perils to Justice* one gets the picture of rise and fall of a judge right from an obscure village in Tamil Nadu to the pinnacle of justice administration in the state. His importance lies not only in his becoming the Chief Justice of Tamil Nadu but also because, as he claims, he was responsible for the appointment of an array of judges who later came to adorn the chairs of Supreme Court judges.

Since he was an insider he has had a lot of inside information with regard to the appointment of judges and the political or other interferences with the administration of justice. One perhaps feels free and relieved to tell the truth and the truth alone only when one is retired. This is particularly so in the case of judges and bureaucrats. One may not find the usual gushing out of information in these books though the author gives his views – mostly impressionistic though – about everything connected with judicial administration under the sun.

While in the *Perils to Justice* it is 'I' and 'me', which are projected rather without any restraint, in *Whither Laws and Justice* the judiciary and the judicial administration system come for closer scrutiny - indeed with a censorious eye – and analysis.

In *Perils to Justice* one instance, which is of much interest to the reader, is the author's vision about a national law university and state law universities as branches or analogous institutions under it. The author's detailed discussion on the structure and course of study¹ gives very good reading. In these days of the states in India establishing state law universities apparently with the feeling that this step has the tacit approval and encouragement of the judiciary, the suggestions of the author deserves indepth consideration. He is, however, emphatic in denying any role in legal education to the judiciary. His conservative view on this and law clerks for judges are thus expressed:²

1 K Veerawami, *The Perils to Justice* 227-228(2001).

2 *Ibid*



It does not seem feasible for the Judiciary at any level to shoulder the responsibility for achieving higher standards in legal education. The courts are preoccupied with their work and would have little time for academic requirements.

The author is also against the institution of law clerking. He says: -³

Law clerks in U.S. Supreme Court not only assist the judges in finding the law, but they freely, among themselves, exchange ideas, and write draft of opinion for the judge to whom they are attached. Our system will not simply permit it.

The book is otherwise full of his views on a bundle of things in life including his faith in astrology, palmistry, planchette and what not. Apparently, he sets no limit for the topics and his anxiety to cover every aspect of his life has made him repeat certain details. For example, while dealing with appointment of judges he relates his experience with chief ministers and governors and the judges he recommended for elevation at pp - 141-142, again at pp-160-166 and then again at p-373.

The book *Whither Laws and Justice* contains again the views of the author on a long list of topics of current importance for lawyers and judges. But the reviewer feels that the treatment of these topics is not exhaustive or analytical but is impressionistic. Old is gold is the adage which the author harps on throughout the book. But he has a dig at the judicial administration system:⁴

Justice delayed is justice defeated, which becomes a laughing stock. The fact that so many corruption trials, politically sensitive, drag on and on and for so long in the country does not reflect well on the judiciary as a whole, and from top to bottom. Speedy trial, as a Fundamental Constitutional Right has been reduced to be a paper tiger. Has any High Court or the Supreme Court, which has a duty to enforce this Right, taken any step on it, a very important public interest matter? What is judicial activism for? The many vigorous judgements in the past on the matter are left in deep slumber in the Law Reports, None to awake them to vibrancy and make the Right a living, live and active one? Alas! How many are languishing in prisons in India without early trials? How many trials are pending, which are twenty-five years old? Are we living in a civilised society where basic human rights are a reality? Well, I need say no more.

The author's deep anguish reflected in this lamenting is understandable. The case against him is also yet to be finalized!

3. *Id* at 229.

4. K. Veeraswami, *Whither Laws and Justice* 157(2001).



Though an ardent supporter of the British system, the author is against precedent citation in court decisions. In fact his argument against precedents is obfuscating for a common law practitioner. He argues:⁵

In my opinion, precedents or the *ratio decidendi* of decisions on particular facts are not decisive even to similar facts of another case. Facts of a case can be seldom identical on all fours with those of another case seemingly similar. Each case should be decided only on its facts. Precedents may serve to educate but may not be decisive. When a statute or rule has to be interpreted, I always read its language or words applying my own mind and form my independent view on it without looking into precedents, which are, but secondary.

These precedents, sometimes, conflict with each other. Benches of similar strength express dissimilar views, and one comes across also a Bench of a larger number taking yet another view which may be bypassed by another Bench, Article 141 says that the law declared by the Supreme Court is binding on all the courts within the territory of India. That does not bind the Supreme Court itself. So, how to go about it in that state of differences in views. Such conflicts of views exist in the same High Courts and also among the other High Courts in India. It appears then satisfactory to go by the text of the law in its application to given facts.

The author's concept of the judicial work might be gleaned from his statement about punishment:⁶

Punishment should be tempered with mercy but should be in proportion, however, to the magnitude and circumstances of the offences committed. I do not in practice attach so much importance to the theories behind punishments as the proved facts in each case in assessing them.

About capital punishment he comments:⁷

I do not favour public execution. Nor do I believe in the theories of retribution, reformation, or rehabilitation etc. in connection with imposing deserving death penalty. No question of mercy should at all arise.

What do these statements signify? They smack of lack of knowledge of the author in criminal jurisprudence. Moreover, it reflects the

5 *Id* at 72

6 *Id* at 68

7 *Id* at 194



unwillingness of the judge in Veeraswami for rigorous thinking. It appears he followed his hunches and inclinations emanating from continuous judicial experience rather than any theory of criminal jurisprudence.

His language is simple. Narration is excellent. Presentation exceptional. Examination of issues is, however, superficial. Views are impressionistic. His suggestions for improvement are compelling though the arguments are not that attractive.

Regarding the usage of words perhaps instead of 'beneath the dignity' 'below dignity' could have been better at p-121 of the *Perils to Justice*. Likewise, 'hierarchy' has been spelled as 'higherarchy' at p-77 in *Whither Laws and Justice*.

The printing of both the books is exceptionally excellent. They are moderately priced. Though both give good reading, *Whither Laws and Justice* has an edge over the other so far as lawyers and judges are concerned.

*K.N. Chandrasekharan Pillai**

* B.Sc LL M (Del), LL.M, SJD (Michigan). Director, Indian Law Institute