



BOOK REVIEWS

CONSTITUTIONAL AMENDMENTS IN INDIA (2006). By M.V. Pylee. Universal Law Publishing Company Pvt. Ltd., Delhi. Pages XVI + 1061. Price Rs. 875/-.

IN HIS classic work, *Ancient Law*, Sir Henry Maine observed: “Social necessities and social opinions are always more or less in advance of law. We may come indefinitely near to the closing of the gap between them, but it has a tendency to reopen. Law is static; the societies we are speaking of are progressive. The greater or lesser happiness of people depends on the degree of promptitude with which the gulf is narrowed.”

Law must, therefore, respond to social changes especially in contemporary conditions of articulate law making by legislature and others, if it is to fulfil function as a paramount instrument of social order.¹ It is this aspect that provides the basis, in fact, the very *raison d’etre* of the law. The same holds good for the Constitution of any country. No existing Constitution has reached its final form and shape and become, as it were a fixed thing incapable of further growth. The Constitution of a nation is the outward and visible manifestation of the life of the people and it must respond to the deep pulsation for change within. A Constitution is not an end in itself, rather a means for ordering the life of a nation. The generation of yesterday might not know the needs of today, and if yesterday is not to paralyse today’, it seems best to permit each generation to take care of itself.²

In view of the aforesaid, the reason for constitutional amendments, and for that matter, any legal amendment, is not far to seek. Societies are dynamic and as such, prone to continuing changes. Law on the other hand is static. Once made, it operates as it is unless amended, revised or, as the case may be, repealed. In order to keep pace with the social changes, law must necessarily have to be periodically reviewed and revised so that it can inculcate and nurture a vibrating and vivacious legal order. Such periodical legal amendments are inherent in any legal order. Over a period of time, when such amendments are multiplied and scattered amongst different sources/places, the task of keeping a

1. See W Friedman, *Law in Changing Society* (1959).

2. Per Mathew J., in *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 at 830 (para 1563).



track of them and their timely retrieval along with related cross-references in a given case may be quite onerous and daunting.

Although the title of the book is itself indicative of its contents, the author has not appended any prefatory note to the book, stating the objects for which he undertook this work. Instead, the book contains the publishers' note which serves this purpose. The book seeks to put together in a single volume all the amendment Acts and, as claimed by the publishers, almost everything pertaining to the Constitution of India from its very inception to the amendments made till date.

The Constitution is a framework of governmental powers to be exercised for public ends in future. It embodies fundamental supreme law and rules for setting up the machinery of government of a state and regulates the governance of that state. It lays down the structure of political system of the state and defines and determines the roles of different organs of the state, the scope and extent of their powers and operations as well as their inter-relations and also the rights and duties of the citizens and, particularly in modern times, the socio-economic goals to be achieved by the state.

It is the supreme law in a state. The Constitution being supreme, all the organs and bodies owe their existence to it. None can claim superiority over the other and each of them has to function within the four corners of the constitutional provisions. All the functionaries, be they legislators, members of the executive or the judiciary take oath of allegiance to the Constitution and derive their authority and jurisdiction from its provisions.

Despite the comprehensiveness of the Constitution it has undergone numerous amendments during the last 57 years of its existence. 94 amendments have been made to it, whereas the Constitution of the US, which is more than 150 years old, has been amended only 27 times so far. Presently, our Constitution has 444 articles divided in 29 parts and has 12 schedules.

From the title of the book it appears that it deals only with the constitutional amendments but it is not so. Its contents make it a comprehensive work on the Constitution of India.

It has been rightly stated in 'From Publishers Desk: "The book deals with almost everything pertaining to the Constitution right from its very inception to the amendments till date". It is an excellent work in the field of the constitutional development through amendments.

It is stated that the work is not only informative but is educative and enlightening also. Further, it is not just a compilation and yet not a detailed commentary either on the Constitution of India. However, the very first chapter of the book introduces the Constitution in its critical



aspects to its readers, including those who may not be having any specialized background in the subject. The 'Introduction' which is first chapter of book is divided into four parts. The first part is conceptual in nature and defines what is generally meant by the term 'Constitution' and its connotations in the Indian context. The outstanding services rendered by some of the members of the Constituent Assembly in the making of the present Constitution have been given special treatment and recognition in the next part of the Introduction. The third part deals with the basic principles enshrined in the Constitution in a very lucid manner. The last or the fourth part critically examines the philosophy of the Constitution, especially with reference to the impact of the national movement and Gandhian influence. Special emphasis has been laid on the Preamble of the Constitution to highlight the aims and objectives underlying it and the intended direction the country is to take in the contemplation of its framers. Undoubtedly, the introduction has added distinct utility to the book. Part VII of the book titled "Amendment provisions in framing of India's Constitution" has been edited by the renowned constitutional expert, Subhash Kashyap. There are detailed references to Select Documents insofar as these relate to the procedure for amending the Constitution. This could have been conveniently clubbed with the Introduction at appropriate places, either under the heading 'making of the Constitution' or under 'the basic principles'. There is no apparent reason for placing it under a separate part except that it has been edited by the constitutional expert.. But, in the process, it has lost its proximity with the relevant context in the Introduction and consequently it might escape the attention of the readers while perusing the historical perspective and the basic principles underlying the Constitution.

A separate chapter, as part X, deals with selected rulings of the Supreme Court on validity of the constitutional amendments. It appears that this chapter is not intended to be exhaustive and comprehensive on the subject. Nevertheless, this provides a broad view of judicial thinking indicative of the considerations that weigh with the apex court while dealing with the constitutionality of the amendments to the Constitution. All the 94-amendments to the Constitution have been chronologically listed in part II of the book. Besides the text of these constitutional amendments, each amendment is accompanied with the related statement of objects and reasons and also its legislative history. Similar treatment has been given in a separate chapter, namely, part V, to the amendments made to the sixth schedule to the Constitution. This helps in having better understanding and appreciation of these amendments in the right perspective.



In addition, the book contains in part III texts of allied amending Acts amending the Constitution of India. Generally, such amendments fail to get the attention, which they deserve. One can understand the difficulties in locating such amendments as all of them may not find mention in literature on constitutional amendments. The book under review presents a complete picture in this regard and tremendously adds to its referential utility.

The book, of course, contains upto date amended text of the Constitution in part IV. The treatment meted out to the Constitution of India has also been extended to the Constitution of Jammu and Kashmir and the amendments made therein.

Although the *Report of the National Commission to Review the Working of the Constitution of India*, does not strictly fall in the realm of constitutional amendments as these have still not been given effect to, yet it may be viewed as germane to the subject of constitutional amendments and its inclusion in the book under review certainly helps in presenting an integrated view on the subject. Part VI of the book, containing summary of recommendations of the National Commission may help in better understanding and appreciation of the working of the Constitution and provides necessary cross-references whenever needed. In the same vein, one may suggest that similar treatment could have been given to the Sarkaria Commission's recommendations that have been subject of consideration of the Inter-State Council. In any case, that would have certainly added to the extent and range of coverage of the book on the subject.

The most distinguishing feature of the book under review is the "Informative Charts" in part XI. These charts at a glance depict amendments to the Constitution on the one hand, and article-wise amendments on the other. These charts confer upon the book the status of a ready referencer, which can be usefully availed of by any busy constitutional practitioner. As stated above, the book is not merely a compilation of constitutional amendments but a comprehensive work on the Constitution of India and its developments over half a century. Of course, neither the author nor the publishers have claimed any creative or literary originality in its contents. Nonetheless, the book is endowed with distinct novelty and utility to justify its publication and commendation. The effervescent zeal of the publishers is amply justified as the book will certainly cater to the needs of different segments of its readers and all those concerned with the subject in more than one ways. For one thing, it is a compendium of all the amendments made to the Constitution of India in one single volume, which is quite convenient and handy. This provides easy accessibility and much needed



portability. To add to it, the book contains useful cross-references which will help in immediate retrieval of the required information on any amendment. The book is user friendly and is expected to be well received by all those for whom it is meant, that is to say, judges, lawyers, researchers, students, parliamentarians and all others concerned with the subject.

*Dharam Paul Sharma**

* Member-Secretary, Law Commission of India, New Delhi.