

JUDICIARY: FUMES, FLAMES & FIRE (1st ed. 1983). By Justice Gumanmal Lodha. Unique Traders, Chaura Rasta, Jaipur. Pp. xxii + 408 + 136. Price Rs. 125.

THE BOOK¹ is primarily an introspection by a judge into the judiciary, its role, its stresses and strains, and the difficulties under which the judges work, particularly the presiding officers of subordinate courts. It is rarely that one comes across someone speaking so frankly, even brutally, about one's profession, because by habit we have a tendency to eulogise the calling to which we belong. Two other features of the book are: It deals with a few other topics like juristic duties of tax practitioners, dowry deaths, marriage and divorce laws, and socio-economic revolution of scheduled castes and scheduled tribes, and it also collects a wide range of opinions of others, besides the author's own, on the judicial process and the problems and issues besetting the judiciary. Perhaps the former could have been omitted without disturbing the main theme of the work.

The book has three appendices containing, amongst others, the opinions of various scholars and jurists on judicial reforms and this includes the reports of the various committees of the Silver Jubilee Conference of the Indian Law Institute on the Reform of the Indian Legal System held in February 1983, and statistics pertaining to judicial arrears between 1950 and 1983. All this makes the book highly informative.

Let us examine some aspects of the insight of the judge. In a world full of executive arbitrariness and apathy, the author correctly states that the Indian judiciary has held its head high and has shown enough courage and independence to resist the onslaught of the executive power, which may not be said of many developing countries.

In part 1 "Home Delivery System of Justice", the author advocates an activist approach by the Supreme Court "if exploitation and oppression of the weaker sections of the society is to be put to an end."² In this context he is a votary of liberal rules of locus standi and public interest litigation.

In part 2 entitled "Harakiri by Indian Judiciary: Whether True?" he analyses whether the Indian Supreme Court has faltered in its duty to stand erect and independent. In this respect his conclusion is well summarized in the following sentence: "From Gopalan to Golak Nath and Keshavananda Bharti to Minerva Mills while interpreting directive principles and fundamental rights, the apex court of this country, by and large, has exhibited independence, impartiality, boldness and judicial

1. Gumanmal Lodha, *Judiciary: Fumes, Flames & Fire* (1st ed. 1983),

2. *Id.* at 3.

detachment.”³ He does not agree with the critics that the Supreme Court has not functioned independently or is decaying or losing its character. He makes the important point that the judiciary should be given financial autonomy so that even the indirect influence of the executive over the judiciary is eliminated.

Talking of judicial commitment, the author is of the firm conviction that the judiciary cannot be subservient to the political flag apart from the Constitution. Showing his great concern for the exploited, he says that the commitment of the judiciary has to be to social justice.

In two well documented parts “Wanted Evolution or Revolution in Judiciary”⁴ and “Judiciary at the Cross-Roads”⁵ the author discusses in depth the problem of litigation explosion and law’s delays and examines the suggestions and recommendations of the various commissions and committees. He gives a number of suggestions to tackle this grave situation. One may not agree with all his suggestions, particularly his suggestion to restrict the writ jurisdiction of the High Courts by introducing the rider of forty-second amendment, namely “substantial failure of justice.” This phrase itself will create judicial uncertainties leading to law’s delays. Further, the remedy is like killing the poor to remove poverty.

Part 5 of the book wherein the author discusses the lower judiciary is quite revealing. He has given concrete examples, and he feels anguished in describing the “plight and pitiable conditions of living” of judicial magistrates and the grossly inadequate and dilapidated conditions of court buildings in which these judicial officers function. Quite often there are no almirahs to keep the files and what is equally appalling is that even printed forms and receipts for judicial work are not available. Most of these judicial officers live and work in rented buildings. Poor salaries, quick transfers, lack of avenues for promotion and sometimes bullying by lawyers add to their woes. And according to the author, “it is the lowest in the ladder of the judiciary who is the real pillar, bedrock and foundation of an efficient and successful judicial system.”⁶

The book contains interesting ideas and is thought-provoking, though the writing lacks precision. It would have certainly benefited by a more careful editing and proof-reading.

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3. *Id.* at 26.

4. *Id.*, part 4.

5. *Id.*, part 9.

6. *Id.* at 115.

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