

IMPLEMENTATION OF HUMAN RIGHTS COVENANTS WITH SPECIAL REFERENCE TO INDIA (1983). By H.O. Agarwal. Kitab Mahal, 15 Thornhill Road, Allahabad. Pp. xi+210. Price Rs. 50.

THE AUTHOR of the book under review is an experienced teacher in the field of international law. He has written some other books also, for example, *Kashmir Problem—Its Legal Aspects*, and *State Succession—A Study of Indian Cases*. The present book is his latest, which has been characterised as a “timely publication” by Justice P.N. Bhagwati in his foreword.

In international field human rights have been recognised through the Universal Declaration of Human Rights 1948. This declaration does not impose any legal obligations on the states to give effect to its provisions. It has been proclaimed as “a common standard of achievement for all people and all nations.” Therefore, to make these human rights effective and a reality two separate covenants were adopted in 1966—one on civil and political rights and the other on economic, social and cultural rights, which came into force in 1976. India ratified them on 27 March 1979.

These covenants provide for implementation machinery as well as procedure therefor. But in spite of all this, we frequently hear about the violation of human rights all over the world. The reports of Amnesty International also reveal this fact. In this context a critical study of existing implementation measures taken by international agencies as well as by states, made in this book, is of great significance.

The book has been divided mainly into six chapters. Chapter first gives an introduction of the Universal Declaration of Human Rights, Covenant on Civil and Political Rights, Covenant on Economic, Social and Cultural Rights and implementation system as given in these covenants. Chapter second deals with international implementation measures of the covenants like reporting procedure, inter-state communication system, conciliation procedure and individuals’ communication system, including judicial and non-judicial measures. In this chapter the author has suggested the establishment of a separate international court of human rights in view of the preoccupation of the International Court of Justice with a number of cases, and the appointment of a high commissioner for human rights. After discussing the relevant implementation procedure the author has correctly observed that in both the covenants it is not very effective because many of the systems have not been utilised as yet by those who were party to it.

In chapter third, regional measures—European, American, Asian and African conventions, including the European Social Charter for implementing human rights—have been discussed. In the fourth chapter, internal measures like ratifications of covenants, setting up of national human

rights commission and municipal legislation have been dealt with. Regarding the role of the government the author has aptly observed : "It is to be noticed that in the past the Government has not taken initiative in this regard." He has further suggested the establishment of a body of experts to take a fresh look at all the existing statutes with a view to bringing it fully in conformity with the two covenants. This suggestion is worth implementing.

In this connection, the role of various bodies like non-governmental organisations, municipal courts, police and jail authorities, the bar, jurists and journalists has also been discussed and harmonious construction by the municipal courts has been emphasised. Amongst the internal measures, creation of human rights departments and of public opinion are most important. To me, the creation of progressive public opinion can prove to be of immense use in this regard.

In chapter fifth, the author has made a comparative study of the provisions of the covenants and that of the Indian Constitution. Here amongst civil and political rights he has discussed various implicit rights like right to privacy, right to travel abroad and right to be tried without undue delay, subject to reasonable restrictions, and their position during emergency, by giving the relevant case law. In fact, this chapter unfolds a highly exciting story of creative development of human rights by the summit court in the land as observed by Justice Bhagwati.

Regarding economic, social and cultural rights, which are mainly covered under the directive principles of state policy in the Indian Constitution, the author has suggested that at least after the ratification of the relevant covenant, law should be enacted at appropriate time to give effect to these rights.

In the last chapter, it has been concluded that the existing implementation system as provided in the covenants is not likely to serve any useful purpose in the protection of human rights. The author is right in suggesting that a political climate shall have to be created in such a way as to minimise the existing gap between approaches and views of the two main blocs—capitalist and communist—as well as between developed and developing countries. In this regard, the Government of India has also been found by the author to be indifferent. This is not desirable because to wash out tears from the eyes of millions the government shall have to take necessary steps for the protection of basic human rights. However, it has been correctly observed that due to dynamic interpretation of fundamental rights by the Supreme Court of India and introduction of the public interest litigation system by it, it has been possible to protect many of the human rights.

The author has placed his views in very simple and lucid language, and by incorporating various appendices, index and table of about forty cases he has tried to enhance the value of the book. This book is thus useful for scholars, jurists and those interested in the study of human rights.

The setting up of an Asian commission on human rights, as suggested by Justice Bhagwati in his foreword, will certainly help protect human rights in this region. Moreover, the suggestion of setting up an international court of human rights, as given by the author, is significant and worth considering because healthy internationalism demands this in certain eventualities.

The author deserves congratulations for this work of vital importance as ultimately all the crucial problems of political and civic existence in human society today relate to the problems of the violation of human rights.

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BOOKS RECEIVED FOR REVIEW

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