



PROTECTION OF HUMAN RIGHTS IN CRIMINAL JUSTICE ADMINISTRATION: A STUDY OF THE RIGHTS OF THE ACCUSED IN INDIAN AND SOVIET LEGAL SYSTEMS (1989). By Manjula Batra. Deep and Deep Publications, New Delhi. Pp. 250. Price Rs. 225.

THE BOOK¹ under review, as the title indicates discusses the provisions relating to the protection of human rights of the accused in criminal cases in the context of Universal Declaration of Human Rights as well as of the International Covenant on Civil and Political Rights, 1966. The author has endeavoured to make a comparative study under the Indian and Soviet legal systems in regard to the protection of human rights of the accused at the pretrial stage in criminal justice administration. The study is important in view of the fact that the author has made an attempt to examine the two diagrammatically opposite systems—one governed by the common law system and the other ruled by socialist concept of law. The study becomes interesting particularly since the two systems have different economic and political structure.

The book is divided into six chapters, viz., (i) Right to freedom from unwanted arrest, (ii) Right to reasonable investigation, interrogation, search and seizure etc., (iii) Right to legal defence, (iv) Right to a fair pre-trial detention, (v) Right to a public and speedy trial and (vi) Conclusions and findings including four appendices.

Though the book runs into 250 pages, the operative part of the book, which discusses the right of the accused is limited to 150 pages only. The appendices include extracts of the Constitution of USSR, Fundamentals of Criminal Procedure of the USSR and Union Republics, Criminal Procedure Code of RSFSR and the Criminal Code of RSFSR. It would have been better to give only relevant sections of the pertinent statutory provisions and a cross reference of the Indian statutory provisions on the subject. This would have given a clear and comparative picture to a reader of the provisions of the law on the subject in India and USSR.

The very heading of the first chapter “Right to freedom from unwanted arrest” appears to be misleading. A person is entitled to constitutional safeguards and protection from arrest irrespective of whether it is wanted or unwanted. This is clear from article 21 of the Constitution of India, which states, that ‘No person shall be deprived of his life or liberty except according to procedure established by law.’ Even in case of preventive detention the Constitution provides certain safeguards. This is further

1. Manjula Batra, *Protection of Human Rights in Criminal Justice Administration A Study of the Rights of the Accused in Indian and Soviet Legal Systems* (1989).



strengthened by article 20 and article 22 which provide certain basic rights to a person arrested to safeguard his interest. Thus the deprivation of liberty whether by wanted or unwanted arrest is unconstitutional unless approved by law. The comparison of such provisions in the Soviet and Indian legal systems should have been done. This could have enhanced the utility of the book.

The author has altogether omitted discussion on a very important aspect of arrest of an individual by the state under the garb of preventive detention laws. In a book like this the provisions relating to preventive detention and the right of the detainee should have been discussed at length and the cases decided by the Supreme Court of India and USSR, if any should have been discussed and critically examined.

Chapter II, of the book discusses at length the rights of the accused, while he is subjected to investigation, interrogation, search and seizure. Similar provisions under the Soviet legal system have been properly examined and analysed. The statutory provisions and important judicial pronouncements have been adequately discussed at the appropriate places. Right to silence, right against self-incrimination as provided under article 20(3) have been thoroughly examined and discussed and provisions relating to the safeguards of the individual's interest from unlawful search and seizure as provided in Indian and Soviet legal systems have also been elaborately examined.

Chapter III, is devoted to the right to legal defence available to an accused charged of a crime. The author has in brief discussed the provisions contained in the Criminal Procedure Code, 1973 and provisions contained in articles 14, 21 and 39A of the Constitution of India. It should have been appropriate to examine in brief the Legal Service Authorization Act, 1986 passed by the Central legislature for providing legal aid in criminal as well as civil cases. A discussion of *lok adalat* which is similar to the peoples' court functioning in USSR especially in view of the fact that it is at an experimental stage in India should have been appropriate. The question of the accused's right to get a lawyer by the court and his insistence to get a lawyer of his choice has been examined in both Soviet and Indian legal systems.

Chapter IV is devoted to the pre-trial detention issues and provisions. In this chapter the author has discussed a number of recent Supreme Court cases in which under trial prisoners found to have been languishing in jails for years were set free through the court's intervention. Constitutional obligation to a fair and speedy trial in USSR and India have been compared and adequately dealt with. The plight of juvenile undertrials lodged in jails have been properly explained.

The author has compared the Soviet and Indian systems and has explained that juvenile prisoners are kept separately in USSR from other convicted prisoners, whereas it is not strictly followed in India. Right



to live with human dignity has been well affirmed by the Constitution of India in a number of cases, such as *Frances Mullins*, *Sunil Batra etc.* These cases have been adequately discussed.

Chapter V deals with the provisions relating to right to a public hearing and speedy trial. In both India and USSR principle of open and speedy court trial has been constitutionally recognised. However, trial in camera may also take place in some cases, where it is deemed necessary in public interest and in the interest of the administration of justice.

At the end of the study the author has given some suggestions which could be taken care of by the law makers and administrators to strengthen criminal judicial system.

The utility of the book could have been enhanced, if the author would have discussed the right of the accused during and after trial when the accused is sent to jail. However, the book being the first attempt of the author is a welcome addition on the subject.

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