LAW AND SOCIETY : STRATEGY FOR POLICY CHOICE—2001 (1991). By Naorem Sanajaoba. Mittal Publications, New Delhi. Pp xxiii + 388. Price Rs. 310.

IN THE past three decades or so since the founding of the Law and Society Association in USA, a distinctive 'law and society' discourse has emerged at the global level. This discourse has now been institutionalised in an interdisciplinary scholarly international community, which has contributed to the production of a tremendous amount of new, systematic knowledge about how law operates in actual practice. As is known, law and society enterprise is concerned with analysis and explanation of legal norms in societal context, rather than their justification. It puts greater emphasis on institutional processes and not just on the rules produced and followed, to explain why it so happens. Further, it also seeks to understand the dynamics of law through a multi-disciplinary social enquiry.

To begin with Western law and society scholars, most of whom were Americans, viewed American law and legal institutions as exemplary and also, expectedly, as a flourishing export industry. They looked at American law as "not only a tool of development" but also "a carrier of democratic values."[1] Thus, much of the work of these early scholars could be described as "gaps" research, *i.e.*, discovering gaps between theory and practice. Since then, however, this branch of knowledge in the West has travelled a long distance. There, law and society research is now increasingly focusing on the social context of law, and also its impact on social groups and society as a whole. Speaking on the progress made by the discipline of law and society, Marc Galanter observes:

> We know immensely more about litigation—about aggregate patterns, about plea bargaining, about settlement, about litigants' strategies, about lawyers' maneuvers (*sic*). We know more about courts and judges—about their working routines, about their decision making, about their variability. We know more about the world of law practice—about the work of lawyers, about the organisation of law firms, about the structure of politics of the bar. We know more about the making of regulatory policy, about *the politics of implementation, about the impact of legal regulation.*[2]

Even as we in India have not yet been able to launch a "law and society association" to ensure more organised and systematised discussion and research[3]

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1. Marc Galanter, "The Legal Malaise: Or, Justice Observed", *L. & Soc'y Rev.* 537 at 538 (1985).
2. *Id.* at 547.
3. See, for example, among others, Upendra Baxi, *Crisis of the Indian Legal System* (1982); *Indian Supreme Court and Politics* (1978); Baxi (ed.), *Law and Poverty: Critical Essays* (1988); *Socio-Legal Research in India : Programschrift* (1975); "Sociology of Law", in ICSSR, *Survey of Research in Sociology and Social Anthropology* (1986) and *Marx, Law and Justice* (1993).

in this sphere, a monumental contribution on the working of Indian law has been made by Upendra Baxi. He has not only contributed rigorous research but has also singlehandedly guided and exhorted young law and even social science scholars to explore this field. Also, some very useful contributions on Indian law and society mostly at the level of explanation have come from distinguished scholars like Marc Galanter,[4] Rajeev Dhavan,[5] J.D.M. Derrett,[6] and some others.[7] Despite these contributions, law and society research in India, taken as a whole, is still a proverbial tip of the iceberg. Barring a few, there are not many law schools in the country offering courses in law and society at the master's level.

In the situation mentioned above, when a title like the one under review[8] is published it is bound to excite those having interest in the field. But even a cursory glance at this volume makes the reader's enthusiasm only shortlived. Neither it contains any comprehensive analysis of the issues discussed nor, as promised in the title, is discernible any strategy in it. The book contains 18 rather disparate essays nearly all of which the author had earlier published elsewhere or presented at some seminar during a period of eight years—1979 to 1987. Diverse themes have been handled without being appropriately related to the title of and the sub-titles in the book. Among others, the topics handled include: accountable judiciary, legal aid, collaborative legal research, historical covenants in human rights studies, star wars, law and politics in the Third World, uniform civil code, ethnic conflict in Sri Lanka, and rise and fall of federations.

The chapters have been divided in three parts: (*i*) judging and justicing; (*ii*) multi-disciplinary investigation; and (*iii*) contemporary socio-legal issues. Most of the six papers in Part III do not appear to be quite related to the law and society discourse. Commenting on this part, Justice K.N. Saikia, in his foreword to this book, observes:

> Part III...appears to be disconnected from the other two..The sources of information and the bases of the author's conclusions are not easily ascertainable. These appear to be political rather than purely legal, and the author has expressed his views on them. It may be difficult to agree with some of his views expressed in this part....[9]

It is not that law and society scholarship envisages segregation of the legal from the political and the social; rather they are often intertwined. But in most of the essays contained in Part III of this book it is difficult to locate even a semblance of thematic relevance. It appears that the author haphazardly decided

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4. Marc Galanter, *Law and Society in Modern India* (1989).

5. See, Rajeev Dhavan, "Introduction" in *ibid.* and *Litigation Explosion in India* (ILI 1986).

6. See, among others, J.D.M. Derrett, *The Death of a Marriage Law: An Epitaph for Rishis* (1978).

7. See, among others, for example, Vasudha Dhagamwar, *Law, Power and Justice: the Protection of Personal Rights in the Indian Penal Code* (1990); and Archana Parashar, *Women and Family Law Reform* (1992).

8. Naorem Sanajaoba, *Law and Society : Strategy for Policy Choice—2001* (1991).

9. *Id.* at xi.

not only to bend his pre-existing writings into the rubric of law and society but also to label them as a strategy, and that too for the year 2001 and beyond. Also, he could not make clear to the reader: strategy for what?

The reader feels disappointed to note that the author has not revised his papers as presented/published earlier so as to be in consonance with the title of and sub-titles in the book. This is glaringly evident from the fact, among others, that the introductory paragraphs of chapters one, two and three contain overlappings and repetitions on *locus standi* and public interest litigation. The author has also not written even a proper introduction to this collection of essays to explain as to why he is presenting the collection in the form of a book, and what is contained in them in terms of the themes envisaged. Out of seven pages of introduction, which the author has preferred to title *Dialektike Techne*, only in about half-a-page he talks about what is contained in the book. His narration in the remaining of these pages relates to assorted matters like futurology, and also reflects some fleeting references to terms like epistemology, ontology, *sankhya-yoga, perestroika*, future of the earth, and even the cosmos but hardly much related to the discipline of law and society. The reader finds himself quite confused about the author's intentions. In fact, he seems to be himself skeptical about the contents of his work. About a book, which has been titled *Law and Society : Strategy for Policy Choice—2001*, the author seems to feel somewhat apologetic when he observes in his *Dialektike Techne* as follows :

> The present exercise is not a dialectical exercise on socio-legal problem in the traditional style and *does not claim to offer comprehensive alternative approaches*. It could be charitable if the materials inside could be conceived as undogmatic, unconventional....There are a couple of developments and high profile occurrences here or elsewhere; how one can pick up the thread with a little bit of honest concern is the intention of the author (emphasis added).[10]

Some other points need to be mentioned in support of the assessment made in this review. The reader gropes in vain to locate the thread contemplated by the author. In fact, he finds a number of threads entangled, and difficulty in locating the bases of most of the formulations of the author; only four of his 18 chapters contain references and endnotes.[11] Also, much of his supposed law and society analysis appears to consist of sermons rather than an analysis or argument. And, in this book of nearly 400 pages, five of the 18 chapters are as sketchy or short as consisting of only three to seven printed pages each.[12]

Chapter six is titled "U.S. Supreme Court: John Marshall" and seven is titled "The Creativity of Earl Warren: The U.S. Supreme Court" where the author

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10. *Id.* at 4.

11. *Id.*, ch 10, 14. 17, 18.

12. *Id.*, ch. 5-9. For example, an important topic like Experimental People's Court, has been discussed in three printed pages only, and without any discussion of the existing knowledge on this topic. And much of it is platitudinous.

makes references to some of the decisions of these American judges. But the reader wonders how he wants to substantiate his title with the help of these chapters. Chapters eight to ten which are devoted to need for multidisciplinary research in law appear rather naive and platitudinous, especially when this topic has been handled more systematically and comprehensively nearly two decades ago by Baxi.[13] In fact, there is a need to explore newer methodological insights in the area of legal sociology, legal anthropology and socio-legal studies so as to encourage rigorous research in these areas. But Sanajaoba's observations in this regard appear quite simplistic. Also, the book contains a large number of mistakes of syntax. Citation of references too appear lackadaisical.

Furthermore, the Foreword to the book is a strange amalgam of a speech of Justice K.N. Saikia delivered at the Bar Council of Assam and his views on the contents of the book. This has been done at the insistence of the author. In fact, Justice Saikia himself allows this only hesitantly, which is clear from his following observation:

> Dr. Sanajaoba expressed that my speech delivered at...11th May 1987 would suit this book as part of its foreword, as that, according to him, contains something of sociological jurisprudence in the new perspective. Though I would not wholly agree; I reproduce its relevant parts in this foreword as desired by the author.[14]

Now, to be fair to the author, some of the good points in the book need to be mentioned, though this reviewer is unable to find many significant merits. Chapters one and three are well reasoned and appear interesting. Also chapter 12 on "Dignity for the Human Substance: UN Outlaws Torture" though not too related to the theme of the book and the sub-section concerned, is otherwise informative. The section on appendices contains material on five topics. Many of these do not appear to be relevant to the theme handled; but appendix IV is especially interesting, thought-provoking, and is of considerable socio-legal value. Also, the index has been comprehensively and painstakingly prepared.

Overall, however, the title *Law and Society : Strategy for Policy Choice—2001* is misleading. The book falls much below the expectation of law and society scholars. It does not contain even a student-friendly overview of issues in law and society. On the basis of what has been presented in this book, this reviewer is of the considered opinion that even the claims of the author that contents of the book "should be accepted as unconventional and undogmatic" in the sense of giving sociological insights into legal processes are unsubstantiated. Surely, however, the "organisation" of these diverse essays into a book is unconventional so much so that it does not even succeed in articulating a political agenda in the area of informal justice administration. Nor are any hints discernible in it towards any theoretical insight into issues concerning law and society except some glimpses of token theoretical sophistication. The treatment of issues is rather cursory.

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13. *Supra* note 3; also see, S.N. Jain, "Legal Research and Methodology", 14 *J.I.L.I.* (1972).
14. *Supra* note 8 at xi-xii.

Even on chapters on public interest litigation the reader is left with the feeling that the author has not succeeded in shedding new light on the hard problems of this thematic. A close reading of the book leads this reviewer to observe that it should have been titled: *Some Random Thoughts on Law and Other Matters.* But still, the essays would require considerable editing, referencing, re-organisation and updation.

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