

BOOK REVIEW

BIRDS, WETLANDS AND THE LAW: INDIAN AND INTERNATIONAL PERSPECTIVES (2019). By Partha Pratim Mitra. Thomson Reuters South Asia Private Limited, 10th Floor, Building Number 9B, DLF Cyber City, Gurgaon-122002, India. Pp. xix + 267. Price Rs. 650/.

THE VALUE of the wetlands are increasingly receiving due attention as they contribute to a healthy environment in many ways. They retain water during dry periods, thus keeping the water table high and relatively stable. During periods of flooding, they mitigate flood and to trap suspended solids and attached nutrients. The removal of wetland systems because of urbanization or other factors typically causes substantial decline of wetland resources. Wetlands do support thousands of species and subspecies of birds. In addition, wetlands are important feeding and breeding areas for wildlife and provides for a natural stopping place and refuge for many other species of migratory birds. But losses in habitat have threatened the diversity of these ecosystems.

There is obviously much ground to be covered in the conservation efforts of wetlands. This would demand importing 'conservation ethics' into picture. This shift is necessary and perhaps mandatory due to the very nature of resource being conserved and protected. Wetlands are a common property resource; their protection demands involvement of the principal stakeholders. In this background it is noteworthy that countries much smaller to India have designated large number of wetlands as Ramsar sites,¹ whereas India being a mega-diversity country, manages to delineate only few sites till date.

In this background the present ingenious book² demonstrates how dramatic decline of birds and their natural habitat has resulted in the establishment of international cooperation for wild migratory birds. A careful discussion on such developments is therefore topical, and the monograph rightly covers an important debate that should constantly examine the status of conservation programmes and response of governments towards the protection of wild and migratory birds and their natural habitat. The book under review is third in the trilogy of animal law jurisprudence in India by Partha Pratim Mitra.³ Perhaps, these scholarly works presents an answer to our take on 'Animal Rights Law'—an area that is in the nascent stage in India.

1 India has only 27 Ramsar Sites whereas United Kingdom alone has 175 Ramsar Sites, *Available at* :<https://www.ramsar.org/sites/default/files/documents/library/sitelist.pdf> (last visited on Aug. 6. 2019).

2 Partha Pratim Mitra, *Birds, Wetlands and the Law: Indian and International Perspectives* (Thomson Reuters, Gurgaon, 2019).

3 Partha Pratim Mitra, *Wild Animal Protection Laws in India* (LexisNexis, Gurgaon, 2016) and *An Introduction to Animal Laws in India* (Thomson Reuters, Gurgaon, 2019).

The author tries to organise the structure of the book according to the theme of the book; giving more or less emphasis on a particular issue. The six dedicated chapters of the book ruminates around convoluted web of law and policy analysis pertaining to protection of birds and conservation of their habitat. In the Preface, Mitra outlines that the Indian perspective towards protection of environment is largely centred on 'ecosystem approach', meaning thereby, a greater emphasis is given on the wholesome protection of wild species. However, if we compare our situation with other jurisdictions like United Kingdom, United States of America the emphasis is on particular legislation that focuses on the protection of small to smallest species of the earth.⁴

The *first* chapter lays the foundation of the book. Author while examining the nature of wetlands (especially calling wetlands as nature's bounty),⁵ argues that the international environmental issues did not come into their own until the late 1960s. While explaining the worth of Rachel Carson's path-breaking publication *Silent Spring* and thereafter the realisation efforts of international community to protect preserve environment, the author presented a case for preservation of wetlands in India. A reference is made to the High Court of Calcutta in *People United for Better Living in Calcutta-Public v. State of West Bengal*,⁶ which is termed as a bible in the field of conservation of wetlands. The *second* chapter aims to provide the status of birds in human life particularly the religious significance of birds. The chapter thereafter reveals major threats to birds in India and the impact of sophisticated and modern lifestyle for loss of natural habitat for wildlife.

The *third, fourth* and *fifth* chapters remain the main nub of the book and cover the legal framework for protection of birds and wetlands. The author rightfully argues at one place that though "man has separated natural resources on the basis of political demarcation",⁷ the wild animals and birds have not understood such demarcations. Here lies the need and relevance for development of international environment law. The author discussed at length the status of numerous international, regional and bilateral treaties, conventions, declarations and agreements pertaining to the protection of birds (India is party to almost all major international legal framework), and there afterwards on the role of international organisations, committees and foundations that review implementation of international law on birds and wetlands.

The author argues that there are possibly eight scenarios wherein the domestic courts have taken refuge of international environment jurisprudence.⁸ In so doing, the Indian

4 In United States there are specific legislations to protect national bird, see the Bald Eagle Protection Act, 1940, the Golden Eagle Protection Act, 1962. In United Kingdom particular legislation on salmon fish is made, see the Salmon Fishery Act, 1861, the Salmon and Freshwater Fisheries Act, 1975.

5 *Supra* note 3 at 4.

6 AIR 1993 Cal 215.

7 *Supra* note 3 at 29.

8 *Id* at. 30.

judiciary has also applied the doctrine of *parens patriae* in matters pertaining to the recognition and protection of environment.⁹ He further opines that with the development of concept like ‘ecocentric environmentalism’ rather than ‘anthropocentric environmentalism’, the Indian judiciary has presented a compassionate identity towards protection of natural habitat.¹⁰

The book is balanced geographically, though Indian perspective receives greater attention than other regions, however, Mitra decorously draws examples from across the globe.¹¹ Perhaps, as Dean Roscoe Pound once opined, “we can get much more from comparisons of technique and from comparisons of received ideas.”¹² The author too has rightfully succeeded in working of judicial opinion on wetland birds from a comparative context.

In the *sixth* chapter the author rightfully argues that “saving wildlife should remain the core responsibility of mankind”.¹³ Further, the mandates of international laws, particularly the Ramsar Convention, 1971, Convention on Migratory Species of Wild Animals, 1979, and Convention on Biological Diversity, 1992 demands framing of comprehensive policies that not just protect wetlands but also look after for the surrounding eco-sensitive areas.

This book covers an impressive array of topics on an area that appears complete immune to legal fraternity in India. Apart from etching out explicitly global concerns, the book succeeded in narrowing down the intricate world of ecology in general and wetlands in particular. It demonstrates how conservation programmes must be worked out holistically i.e. from the perspective of science, politics, society, law and policy. On the whole, the author uses simple language and is at pains to define/explain technical terms used in statutory laws, judicial pronouncements, environmental doctrines, international conventions and policies. The layout of the book is handsome with crisp line drawings and detailed examination of bilateral treaties, conventions, directives, memorandum of understandings and measures for conservation of birds of particular area. My criticisms for this volume are few, particularly in terms of its unfinished feel. The disjointed writing style, sketchy coverage (at times), lack of in depth discussions and several minor errors gave the impression that the book had not gone through a final stage of preparation.¹⁴ On a whole the book appears to be a ready reckoner and

9 *Id.* at 153.

10 *Id.* at 156.

11 Herein the author has referred to the laws prevailing in United States of America, United Kingdom, Australia, Japan, China and South Korea, *Id.* at 87-100.

12 Roscoe Pound, “What May We Expect from Comparative Law?” 22(1) *American Bar Association Journal* 60 (1936).

13 *Supra* note 3 at 258.

14 *Id.* at 30-31, 179-182 and chapter five.

contains a wealth of vital information useful to research scholars, judges, lawyers, law students, law schools or anyone working on 'birds and wetland' and their 'conservation'. It would be worth to quote here that the book is enriched with long list of bibliographical references that would not just help, but will support further research in the area which appears largely neglected and reserved in India. Supplemented with good printing and an attractive cover page, the price of the book seems to be reasonably priced.

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