

## BOOK REVIEWS

AN APPRAISAL OF ENVIRONMENTAL LAW EVOLUTION AND DEVELOPMENT (2021)\* By Furquan Ahmad and Priya Singh. Satyam Law International, New Delhi. Pp 405. Price Rs. 1194/-.

ENVIRONMENTAL CONCERN has been considered as an integral part of Indian culture and civilization. *Rignada* says the universe has three members in its family: sky, earth and even space, and any imbalance would cause sufferings to the universe. In the *Guru Kul*, disciples were taught for promoting its care. Way back 1977 in India, environmental education awareness was considered as a nascent baby<sup>1</sup> but today it has grown up into a *Vata Vraksha*.<sup>2</sup> The present *Book* is one more addition to the existing environment law literature. It is a short encyclopedia on the subject which will cater to the needs of the multi-disciplinary consumers of environmental law. The title is added with a new dimension in the existing literature, 'An Appraisal,' wherein it is supposed that the writers will assess the value and utility of the Indian Environmental Law.

Starting with the history of the ancient Indian Environmental Law, *Furquan* traces the history from 'two million year ago'.<sup>3</sup> In the first chapter, he tries to dispel the belief that environment was patronized by one religion only but in order to support this philosophy, the *Book* deals in very brief with the Hindu, Jain, Buddhist, Islamic, Sikh and Christian religious philosophies showing their concern for the environment. The authors deserve praise for such a treatment. *Furquan* also exposes as to how the Constitution of India toed the lines of these philosophies. The writers in the second Chapter narrate in brief, select International 'Legal' and 'Non-legal Binding' Instruments so as to apprise the readers with the developments world over.

In chapter three and four, *Furquan* immediately jumps into the discussion on the 'Civil Law Remedies' and the Criminal Law Remedies'. In the case of first, the writers confine the discussion to 'Nuisance' and 'Negligence' and have also shown the transformation from 'Strict Liability' to 'Absolute Liability', an important development. In the case of second, the relevant provisions of the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 are briefly narrated. Wherever they talk of the offences of environmental pollution, immediately our attention is drawn to section 277 and 278 of IPC which, it must be said, did not attract water or atmospheric pollution cases rather the cases thereto reveal a different story.

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\* Hereinafter referred as *Furquan*.

- 1 The Banaras Law School, BHU was the first to introduce teaching of Environmental Law in 1977 - See 70 *Commonwealth Legal Education*, 1993, 38.
- 2 Its scope has widen from the forewalls of the law schools to IITs, medical colleges, agricultural education institutions and many disciplines in social sciences and humanities, *etc.*
- 3 *Furquan*, 7.

Chapter five deals with the 'Constitutional Parameters', which should have been given a priority treatment in the *Book*. The writers rightly pointed out that the Constitution of 1950 was blind towards the environment; however it may be said that it was not totally blind as one will find traces of environmental federalism in the 1950 and also 1993 Constitution. The *Book* gives credit to the Constitution of India as amended in 1976 and the judicial decisions what we may call, a *Triveni Sangam* of environment, making the Constitution of India stand tall among the world constitutions. In order to justify this transformation, the *Book* deliberates briefly on constitutional provisions relating to the States' obligations, citizen's duties and the right to environment, opening new avenues for the researchers the beauty of the appraisal could have been augmented by examining their output as well.

The heart of the *Book* finds a place in chapters six, seven and eight dealing with the 'Specific Legislative Journey'. It includes the three major Acts dealing with the water pollution (1974), air pollution (1981) and the environment protection (1986). It tries to deliberate on their objects and how the relevant provisions have been attaining these objects.

*Furquan's* expertise in the legal control of hazardous substance and waste<sup>4</sup> reflects in chapter seven where the authors narrate the legal control of hazardous substance and the wastes of different kinds. This chapter has important discussion on what may be called, a non- functional legislation passed way back, 30 years ago: the Public Liability Insurance Act; and the second one which brings credit to this *Book* on the inclusion of: 'the Occupation Safety Health and Working Conditions Code, 2020'.<sup>5</sup> This, according to the authors, will control materialistic approach of the capitalists in dealing with their workers and provide environment-friendly treatment to them, a constitutional duty.

The 'forests and wildlife', an eco-centric environmental law literature comes in chapter eight wherein the current burning problem, particularly of the conservation of tigers, has been discussed in detail particularly at a time when the tigers are slowly becoming an extinct species. In the forest protection law of 1927, the authors point out certain shortcomings for future reforms. In the discussion on the Forest Conservation Act, *Furquan* tries to support the positive approach of the court in protecting forests. However, the question still remains: have we really saved the forests in the greed of development?

In the literature on the environmental law, the government's environmental policies do not generally find a place whereas the present *Book* gives a place to this novel discussion in short in chapter nine. The authors deserve further praise for highlighting

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4. Furquan Ahmad, *Legal Regulation of Hazardous Substances*, 2009.

5. *Furquan*, 153

the concept of corporate criminal and social environmental liability and responsibility. The discussion on their implementation and outcome would have added beauty to the work and the researchers will find important deliberations on an area which is not much pondered over.

'Adjudicatory Mechanism' is another area which finds a place in the 'Appraisal of Environmental Law.' Here a researcher can further examine the inroads made and outputs in handling environment justice. Further this is one of the books which deliberate on the National Green Tribunal (NGT). However, the readers would further like to know the contribution of such separate redressal mechanism over the existing judicial mechanism.

Another attractive feature of the *Book* is a novel attempt in the text books on environmental law highlighting of the 'People's Movements' for the conservation of environment. It deals with select Movements and each one is divided into: the 'goal', 'action', 'role of law' and 'assessment'. This will allow democratic participation to the pre-environmental legislation, a healthy development in environmental jurisprudence. It also opens a new chapter to investigate as to how these 'Movements' have helped in the development of Indian Environmental Law.

The *Book* closes with 'Epilogue' wherein the authors have projected some prominent findings which include, for example, how the ancient environmental religious ethos play an important role in safeguarding the 'Paryavaran'. The British Indian environmental laws aiming directly or indirectly in protecting the environment gave no priority to this area. However it may be said that the people are also to be blamed for not trying to claim benefit of the then existing legal controls. The developments in international environmental law gave impetus to the domestic environmental law. A need of maximum punishments to act as a lesson for the future offenders. However it is a pity that in the expanding graph of criminal sanction in India, the criminal responsibility has yet to be adequately activated: The policy of the government has been 'industry-friendly and not eco-friendly'. A need is felt for a specific Environmental Impact Assessment Law. The judicial decisions could have been included in chapter ten rather than in the 'Epilogue'; however, an interesting conclusion drawn is that the 'high courts have been more active than the Supreme Court'. The readers would like to be educated with the directions of environmental justice.

Finally, the *Book* ends with certain final submissions which the environmental authorities must take note of.

So finally what comes out? The present *Book*, a short-encyclopedia is an important addition to the environmental law literature. It will cater to the needs of not only of the environmental law consumers but also multi-disciplinarians. At places it opens new avenues for the researchers, a good combination of education and research. The *Book* also deserves praise for following the protocol of a Text Book - the

bibliography, cases index, and subject index. The eminent scholar, Professor Upendra Baxi has already given the certificate, '(T)he book bristles with - *embarrassment de riches*<sup>6</sup> so nothing is left except that the authors deserve congratulation for the present work. Satyam Law International also deserves credit for the attractive getup and flawless setting which they have been known for.<sup>7</sup>

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6. One can see Vind Shankar Mishra, *Water Pollution and the Supreme Court of India* (Satyam Law International, 2020).

7. See the *Introduction* to *Furquan*, XVII.

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