

LANDMARKS IN INDIAN LEGAL & CONSTITUTIONAL HISTORY (Twelfth Edition, 2019). By V.D. Kulshrestha. Eastern Book Company, Lucknow. Pp. LXXXV+699. Price Rs. 645/-.

INDIAN LEGAL and constitutional history is of paramount significance for a variety of reasons. It offers a profound insight into the development of legal and political systems in India, tracing their origins to ancient times. This comprehensive exploration of legal traditions, from ancient texts such as *Manusmriti* to colonial-era codifications and the post-independence constitution, reveals the cultural, social, and political forces that have shaped the Indian legal landscape. This historical context is essential for understanding the foundational principles and values that underpin contemporary Indian law, as well as the transition from a collection of diverse princely states under British colonial rule to a united democratic nation with a federal structure. Furthermore, an understanding of Indian legal and constitutional history fosters a sense of continuity and pride in the nation's legal and constitutional heritage, emphasizing the importance of upholding the rule of law and the principles enshrined in the Constitution.

The book under review,<sup>1</sup> is a well-known source of literature for students and readers of Indian legal and constitutional history. With its first appearance in 1959, the book has been reprinted and revised several times, introducing readers to new dimensions of Indian legal history; under review is its 12<sup>th</sup> edition by Sumeet Malik. The book provides an overview of the origins of Indian law, the historical evolution of our legal and constitutional framework, the establishment of courts, the British-era justice administration, the adaptation of English law in India, post-Independence challenges, influential supreme court rulings, as well as the emerging legal dilemmas confronting the nation. The opening scheme of the book comes with a foreword penned by Justice J.C. Shah (former Judge, Supreme Court of India), and a preface by the editor Malik. The book goes on to make a voluminous five-part study spread across 632 pages, incorporating 25 chapters.

The first part of the book is titled 'Constitutional History of India' and contains 5 chapters covers the legal developments since ancient times and the constitutional development since 1600 A.D. In its first chapter 'Judicial System in India: Ancient and Medieval period' the book has made elaborate efforts to trace the historical roots of Indian judicial and legal system. In ancient India, legal principles were largely derived from sacred texts like the *Manusmriti* and *Dharmashastra*, which governed matters ranging from social conduct to property and contract law. The book has succinctly yet methodically dealt with all these issues with meticulous research inputs and references. While dealing with the developments during medieval period, the

---

1 Sumeet Malik's (ed.) *V.D. Kulshrestha's Landmarks in Indian Legal & Constitutional History* (Eastern Book Company, Lucknow, 12<sup>th</sup> edn.) (2019).

book takes note of contributions made by various dynasties and rulers in establishing their own legal codes, often drawing from religious and customary sources. The Mughal empire, for instance, instituted a sophisticated legal system with *Qazis* adjudicating Islamic law, while the Hindu legal traditions continued to thrive. The book is replete with necessary references and descriptive information which one needs to acquaint themselves with while studying the history of Indian legal and constitutional history.

The second and third chapters of the book focusses on 'English constitution' and the influence of English laws on India. While the term 'English Constitution' may be a misnomer due to its fluid and unwritten nature, the book compiles historical events that have contributed to the development and defining characteristics of the English constitution. In these chapters the impact of English law on India is highlighted, especially during the colonial period, which spanned nearly two centuries. The British introduced the common law system, parliamentary institutions, and a centralized legal structure in India, significantly affecting various areas of Indian jurisprudence, including property, contracts, criminal law, and judicial procedure. This enduring impact of English law not only contributed to the development of a robust legal framework in India but also played a vital role in shaping the principles of justice, equity, and the rule of law in the country. The book provides a comprehensive coverage of these aspects, citing significant developments, statutes, and common law rulings that have had a profound impact on the foundation of India's legal and constitutional framework. Notwithstanding the book's acknowledgment of the English legal system's influence on the Indian legal landscape, the book overlooks the impact of Roman law and other civil legal traditions on India. It would have been more comprehensive had the book documented these influences as well.

The core of the book lies in its exposition of legal and constitutional developments contributing to the emergence of three organs of the Government in India – Legislature, Executive and Judiciary. In this respect, the book is quite comprehensive, and its ubiquitous contents give a pool of information about the history and major events which have shaped the Indian legal governance pre- and post-independence. The book offers descriptive analysis of the historicity of Indian legal institutions, tracing most of these modern developments to British-induced measures of reforms. While deliberating over the evolution of legislature in India, the book has included the role played by English parliamentary institutions in shaping legislative authorities in India – Regulating Acts of 1773, 1781, and 1793, the Indian Councils Act of 1861, Charter Act of 1833 and subsequent codification efforts by different law commissions etc. The chapters on executive are rather a brief note on the transfer of power from company to crown in 1858, and the key officials of British India in Central, local, and civil administration of India. The book has dedicated 11 chapters on history of judiciary in India. The book has provided a wide-coverage to developments starting from Mayor's Court to present Supreme court in the Indian judicial landscape.

While narrating the constitutional history of India, the book runs a precipitous chronology of events and developments, without thoroughly examining the underlying forces. But the credit must be given to the editor for making a serious attempt to incorporate all major acts, rulings, historical contexts, and concepts which have influenced the making of India's legal and constitutional history. Furthermore, it's noteworthy that the book has included several Supreme Court judgements (upto 2019). By including supreme court rulings on cow vigilantism/lynching,<sup>2</sup> CJI as the Master of Roaster,<sup>3</sup> live streaming of supreme court proceedings,<sup>4</sup> or LGBTIQ+ rights<sup>5</sup> to name a few, the book engages with the contemporary socio-legal challenges and tensions which have surrounded our legal system for years. Although the book incorporates a majority of significant supreme court rulings, the discussion primarily maintains a descriptive nature, devoid of analytical depth. The absence of critical scrutiny of these verdicts poses challenges in assessing the extent of their significance within the annals of India's legal and constitutional history and their potential implications for the nation's future trajectory. Another instance where the book's lack of criticality is evident is with regard to its deliberations over the Kashmir Problem and Article 370. The book makes a cursory reference to the series of events with respect to Jammu and Kashmir and article 370 till 2019, and makes a passing reference to the abrogation of J&K's special status. It would have been better if the prevailing public discourse and key constitutional questions emerging from the abrogation could have been included in the book.

In addition to the book's discernible paucity in critical analysis, a review of its content reveals several factual inaccuracies. One instance, found on page 605 under the section titled "Secularism and Constitution Amendment Bill, 1993" posits that, following the Babri Masjid demolition, the Central Government decided to introduce a bill in Parliament aimed at 'delinking religion from politics.'<sup>6</sup> Regrettably, the book fails to buttress this assertion with requisite citations or references, rendering the passage somewhat vague. Moreover, it neglects to elucidate whether the proposed legislation was an ordinary bill or a Constitutional Amendment Bill. Furthermore, the narrative embarks on a generic discourse concerning 'secularism', inexplicably omitting reference to the seminal *S.R. Bommai* judgment,<sup>7</sup> which firmly established secularism as an indispensable facet of the constitution. Additionally, the book at certain junctures indulges in unwarranted pejorative language, particularly in its characterization of the proclamation of President's rule under Article 356 of the Constitution. For instance,

---

2 *Tehseen S. Poonawallab v. Union of India* (2018) 9 SCC 501.

3 *Shanti Bhushan v. Supreme Court of India* (2018) 8 SCC 396.

4 *Swapnil Tripathi v. Supreme Court of India* (2018) 10 SCC 639.

5 *Navej Singh Jobar v. Union of India* (2018) 10 SCC 1.

6 *Supra* note 1 at 605-606.

7 *S.R. Bommai v. Union of India* (1994) 3 SCC 1.

it brands the imposition of President's rule in M.P., H.P., U.P., and Rajasthan by the P.V. Narasimha Rao government as an 'abuse of power'.<sup>8</sup> While it is undeniable that these state governments were dismissed under Article 356, this decision was contextual, precipitated by the Babri Masjid demolition—a significant backdrop that the book conspicuously fails to acknowledge. Furthermore, the proclamations under article 356 by the Central Government were eventually upheld by the supreme court on the grounds of upholding secularism, as demonstrated in the *S.R. Bommai* case—an aspect curiously absent from the book.

In the last chapter titled 'The Odyssey of Justice and Gender', the compilation of statutes relating to social reforms is presented. The chapter's title initially hints at a potentially captivating narrative that could explore the challenges, advancements, and shifts in the pursuit of justice, particularly focusing on gender-related matters. However, upon closer examination of the chapter and its subheadings, it becomes evident that the content predominantly engages in a general discourse about a spectrum of laws pertaining to social reforms. The chapter offers a concise discussion of select statutes, providing a brief historical overview and highlighting their prominent features. It is noteworthy that within this discussion, racial discrimination and slavery laws are addressed alongside laws primarily centred on women's issues. The book's notable omission of other significant women-centric legislations, such as the Criminal Law (Amendment) Acts of 2013 and 2018 (pertaining to Anti-Rape laws) and The Hindu Succession (Amendment) Act of 2005, is somewhat surprising. Furthermore, the chapter neglects to address the ongoing discourse concerning gender justice in the context of anti-conversion laws enacted by various Indian states.

The book contains 4 appendices – the one on the Gentoo code (giving brief yet informative description about the code), second on the union territories (discussing about the administration of Union Territories in India), third on the table of Indian legal periodicals and law reports (a compendium of legal periodicals and law reports), and the last on the instrument of J&K accession to India (a verbatim reproduction of the accession instrument). As reviewers, we grapple with discerning the relevance of the other appendices in relation to the book's title, apart from the inclusion of the Gentoo code.

Despite the book's shortcomings in a few areas, it is noteworthy to recognize that the endeavour to encompass a diverse array of topics under a single thematic umbrella necessitates scrupulous editorial and academic exertion. The book embarks upon an extensive yet captivating exploration of India's constitutional history, and its all-encompassing character renders it a valuable resource for undergraduate law students seeking to gain a comprehensive understanding of India's legal and constitutional evolution. The book has a reasonably extensive bibliography which adds value to it.

---

8 *Supra* note 1 at 605.

Moreover, the book fittingly catalogues important and substantial topics in a well-drafted index at the end of the book, serving as a useful tool for readers to quickly locate topic of their immediate concern.

Essentially, this book serves as a comprehensive textbook, offering a fundamental grasp of Indian legal and constitutional history, covering its diverse aspects. The book's lucid presentation is both apposite and reader-friendly. The reviewers, acknowledging the editor's commitment to crafting an educational resource for undergraduate law students, anticipate that this book will be a useful addition to the existing academic resources on the subject and the cultivation of a foundational understanding of India's legal history.

*Abhishek Gupta\**

*Furqan Ahmad\*\**

---

\* Assistant Professor (Law), Hamdard Institute of Legal Studies & Research (HILSR), Jamia Hamdard (Deemed to be University, New Delhi). Email: [abhishekgupta@jamiahamdard.ac.in](mailto:abhishekgupta@jamiahamdard.ac.in)

\*\* Former Research Professor (Law), Indian Law Institute (Deemed to be University, New Delhi) and Legal Scholar on Environmental Law and Muslim Law. Email: [f2ahmadf2@gmail.com](mailto:f2ahmadf2@gmail.com)