

FOREWORD

The institution of bail stands prominently at the crossroads of liberty and security; and the mediation of variegated conflicting interests, ideals and ideologies is always a hazardous enterprise no matter how the legislature, the judiciary or the law enforcement institutions attempt the mediation. The present work also illustrates that if such mediation is a hazardous enterprise, the task of evaluating the mediators is no less hazardous. The hazards—of misjudgment, malcommunication or misunderstanding inhere in the enterprise. They can only be altered if people involved in decisions concerning bail administration, and those involved in evaluating their work, bring to their tasks a fearless constitutional integrity. On reading carefully the book in your hands, you will be able to say that this kind of integrity is writ large on it.

Thus, Professor Pande is constrained to acknowledge that all agencies in the enforcement administration of bail have been spendthrift of constitutional values and ideals. Their prodigality has resulted in a situation where neither liberty nor security appears, to be cardinal values protected by the law and administration concerning bail. One gets the uncomfortable feeling of overall juristic bankruptcy in the Indian Legal System. This biopsy of the Indian Legal System is accompanied by prescriptions for future therapy, informed by empirical study. Professor Pande makes an earnest plea for a national bail legislation preceded by a national dialogue on codification of the dimensions of Carter-Field, or one might even add Savigny-Thibault dimensions. The Indian Law Institute has already incorporated in its present programme of action the convening of a national dialogue, hopefully in collaboration with all the sectors of administration of criminal justice system and the Bar, and the “organic intellectuals” who articulate the voice of the victims of the system.

At many points of analysis, Professor Pandey has things to say which will evoke, at times impassioned, disagreements. As a prelude to the organisation of a national dialogue, the Institute will be happy to publish in its *Journal* critiques of this work from its readers. A work of this nature must at least contribute to a climate for law reform; it is with this expectation that I have pleasure in commending Professor Pande's thoughtful work to you.

Delhi
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