

BOOK REVIEW -2

Vasudha Dhagamwar, *Role and Image of Law in India: The Tribal Experience*, Delhi, India Sage, 2006, pp. 414, ISBN 978-07-619-3394-6 (HB)

Law is one of the challenging issues to perceive and write upon, especially if we happen to write about it in context to how people and those convicted and victimized endure in the process to have 'justice'. The tough task of narrating, conceptualizing and problematising the legal systems in post-colonial India is what Dhagamwar took to while writing this book entitled 'Role and Image of Law in India: The Tribal Experience'. Indian legal system is one of the most criticized and scrutinized legal systems of the world. When it is seen with the point of view of subalternity and marginalized sections of the society i.e. Tribal, then its efficacy as a judicial systems become further prone to objective and critical analysis. Dhagamwar, therefore, analyses the evolution of legal systems in the Tribal regions of India from ancient to post-colonial times. She further envisages about how the legal system has created contesting notions of justice and abeyance in the post-colonial India. The author further highlights on image of the Law and the non-homogeneity of the actors involved in the entire of system of Law. The gap created by the justice within the haves and have-nots remains the quintessential element of the chapters. The arguments brought in terms of law and society largely debates on the formation of law in the history of growth of legal system in India which was meant to exploit and not to serve for justice in large. To further elaborate on the dynamics of growth of post-colonial legal system in India author vouches on the empirical findings from the three main dominant tribal communities legal histories in India, *per se*; Bhil, Pahadiya and Santhal. With the comprehensive study of these three communities, authors argues on the conflicting nature of law and justice in India

Written in 2006 with its first publication on the same year the book is collection of 12 articles which are well narrated and further classified in three broad categories of pre-colonial description of Tribal state in India. Then comes Part-I: which discussed colonial subjugation of the Bhil, Pahadiya and Santhal tribal regions. Lastly comes Part-II where in five different chapters discuss post-colonial state of affairs in the Tribal regions of India. Supported by conclusion, appendices, glossary, bibliography, index and write up about the author.

Book begins with an Acknowledgement and *Introduction* highlighting the UN Charter of Human Rights and (UNDHR) in 1948 and further extensive and intelligent growth of law and order in depriving and sometimes enabling Tribal communities in different parts of the world to combat injustice carried upon them in name of development and capital justice. The author in chapter of introduction also discuss about the image of law in India among the tribal communities. In Chapter I: 'Tribes in Ancient and Medieval India: Perceptions and Misconception'; authors elaborately discusses the history of tribal communities in India since the pre-historic times and how the concept of law evolved. Here the Tribal State Vs the Empire State in Indian history are also traced. Author emphasizes that, prior to colonial extradition, relation between civil society and tribal region was that of convenience and not of dominance.

In Part-II: *Tribes in British India*, Chapter 2, 3, 4 and 5 are primarily are primarily case studies of British relations with the regions of Tribal dominance with Saura Pahadiya and Bhil. In Chapter 2, 3 and 4 Dhagamwar tries to study the evolution of judiciary and legal systems other than those of the tribal origin

in the 'tribal state'. Under the new order land and its forest resources became commodities which were under jurisdiction of alien legal systems. In chapter 5 author discusses the conquest of Bhil areas of Khandesh by the British State. The Bhils who were the rulers of the region were now brought under the paternalistic rule of British legal systems of India and lands of Bhils were transferred under British Empire bringing an era of subjugation and exploitation through means of legal systems.

Part-II: *Tribes in Independent India*, constitutes of five more chapters Chapter 8, 9, 10, 11 and 12 discuss with various case studies about the changing nature of law and their impact on tribal societies in different parts of India. Chapter 8 titled; 'Tenancy and Public Interest Litigation in Akkalkua' author discusses about the judicial case to ensure land rights to tribal. Although ALT Act favored the tribal it was a long drawn battle to endure and get justice. Thus, Dhagamwar questions at the end of the chapter similar in lines to 'Justice delayed is justice denied.' In Chapter 9, 'Indefinitely under Trial: The Case of the Four Pahadiyas', Dhagamwar discusses the outcomes of legal awareness and manipulative ways which entrenched in tribal society. In Chapter 10, 'The Custom and Practice of *Bitlaha*', the clash between customary law and state law is discussed. The ambiguity and fear among Santhal community that customary law becomes obsolete when State law dominated is well explained through the case study in this chapter. Among hope and despair the three chapters stated above in Part-II discuss the image of Law among tribal people of India explicitly. In Chapter-11, 'Prisoner at the Bar, Are you Rich or Poor' with a series of cases as in the chapter's content, Dhagamwar highlights that dominance of affluent cases which maneuvers justice. Hence, guilty and not guilty becoming secondary question when justice is sought in legal institutions of Post-colonial India.

In Chapter-12; 'Behaviour, Attitudes and Perceptions: The Three Worlds of the Bhils, Santals and Pahadiyas', Dhagamwar discussed the rural societies of India and the local knowledge of the system and their understanding of their socio-legal environment which supersedes the visiting experts. The power relationship among people of the local areas often brings complexities within the situation of justice and legal equity. Through this chapter author discusses and reviews all the case studies discussed in the previous chapters in context to the local peripheries of justice and power equations. Wherein people as unit of the rural village first battle the local power thereafter to reach the web of justice which is hierarchical.

In Conclusion, Dhagamwar discusses on lines of the Introduction, the Indian scenario with the global history of legal systems for tribal/indigenous societies throughout the world. Author highlights the challenges within the judicial and social systems which often deprive justice and equity for tribals in India. Herein the entire approach of 'assimilation' and 'preservation' of tribal societies in India is also questioned. The book is a well crafted narrative and well documented and researched work which does an excellent work to bring out the intricacies of legal challenges for the tribal societies in India.

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