

BOOK REVIEWS

of *Bird Watching* deserves attention. This book that was first published in Hindi in 1998 has an English edition published in 2002 by the Book Trust of India. Born in 1935, V. M. Tiwari retired as an Air Vice Marshall of the Indian Air Force!

Yet another commendable ornithological publication that is omitted is *Pakshi Prapancha*. This book published in 2006 by Asima Prathishthana (Bangalore) authored by Harish R. Bhat and Pramod Subbarao is the finest regional language (Kannada) guide to birds that I have seen. Harish R. Bhat is a botanist and Pramod Subbarao, in all probability, a software professional.

Next, even amongst the English language publications the listing is rather weak as there is a 'selective' absence of some of the significant contributions; the monographs published by Salim Ali Centre for Ornithology and Natural History (SACON), for instance. There is also a gross under-representation of the ornithological contributions made by the Zoological Survey of India. Further, on more detailed scrutiny, it seems as though the author has overrated some of the obscure literature that hardly merit treatment as publications. For example, Pittie has listed one title *Birds of Madurai* under my name. There is no such publication. What is intended is probably *Bird Life on the Tamil Nadu Agricultural University Campus, Madurai*. This is a manuscript that I had prepared in 1982 (while a student of agriculture) with the hope of publishing it as my first self-illustrated book on birds. However, as I did not have the means, it remained a handwritten draft along with the line drawings of all the species described in the text. It was in 1983 during my brief stint with Raghavendra Gadagkar at the Centre for Ecological Sciences that the manuscript got typed, photocopied and bound into five or ten copies. I have a copy with me and I remember having sent one to the Tamil Nadu Agricultural University library and another to Salim Ali. I have no clue as to where the others are and how such an obscure piece of work had caught Pittie's attention. Many other titles listed by the author as 'not seen' may well belong to this category of books.

The third major weakness is that the timeline of books and the introduction have failed to highlight the valuable contributions of Indian ornithologists, other than Salim Ali. Similarly, the section

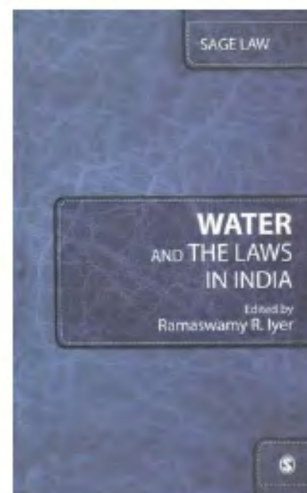
'Brief biographies of authors' (pp. 765–827), is merely an alphabetic listing of 'obituaries'. Even here, Ravi Sankaran, former Director of SACON, is not included, although authors who died later have found a place in the book. In fact, throughout the book, there is not one of this committed Indian ornithologist's contribution mentioned. Ravi Sankaran's monographs on the florican, edible-nest swiftlet, Nicobar Megapode, and others should have found a place in the bibliography, the main content of the book.

Finally, the index is totally useless as it serves no purpose the way it has been organized. There is no author index, whereas there is a 'co-author' and 'co-editor' index. If I had gone by the index, I would not have found my books listed in the bibliography. The index of 'new names' is actually misleading as the names are basically old synonyms and not recent changes and there is no index of all the scientific names found in the book. Elsewhere, gleaning the index that says 'acronyms', one cannot find any.

Despite the shortcomings, the book by Aasheesh Pittie is worth possessing and I will certainly recommend it to individuals and institutions focused on ornithological research. It is a reasonably priced book. The rather critical comments are meant to help the author and the publisher to see and rectify the flaws as they update and enlarge the text for future editions.

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Water and the Laws in India. Ramaswamy R. Iyer (ed.). SAGE Publications India Pvt. Ltd, B1/I-1 Mohan Cooperative Industrial Area, Mathura Road, New Delhi 110 044. 2009. 676 pp. Price: Rs 995.

Many people in this country equate law with litigation in courts rather than look at it as an instrument for good governance and sustainable development. Admittedly, there is over-judicialization in many areas of governance particularly in matters of common property resources like water and forests. Instead of seeking negotiated settlements based on technical data or legislative solutions through democratic processes, inter-state water disputes have been adjudicated *ad infinitum* accentuating the problem and turning the exercise into a 'nightmare' for all concerned! In this context, the volume under review analysing legal dimensions of water resources and its intelligent management is a welcome addition to the scarce literature now existing on the subject.

No law school in the country teaches water law as an independent subject in the curriculum partly because of lack of reading material and teaching expertise. An attempt was made to introduce the subject as an optional seminar course in the National University of Juridical Sciences (NUJS), Kolkata in 2001 which has resulted in the publication of a special issue of the NUJS journal on water law. Law relating to water is normally looked at in the course on environmental law, though in a very limited way. It is therefore ironical that water disputes have occupied disproportionately large space in litigation in the country and have pro-

duced numerous 'specialist' litigators in water law! In the process, water has become sparse and governance through law has become difficult and complicated leaving the field open to fresh policy options and more holistic approaches serving the common good. Some of these policies and strategies are discussed in several pieces in this informative book edited by bureaucrat-scholar Ramaswamy Iyer.

The book is divided into seven parts carrying 21 articles looking at different themes, problems and reform initiatives by people of varied backgrounds ranging from law, engineering, environmental activism, management and civil service. Naturally, the book does not canvas any single thesis or perspective; nor is there identity of views or perceptions on the issues analysed. In the introduction, Iyer clarifies that the volume is not about 'water laws' but about 'water and the laws' meaning thereby that the concern is about issues, problems and policies rather than commenting on existing legislations on the subject. That gives the freedom to the authors to wander beyond the realm of law and policy *inter-alia*, into issues of technology and management. It makes the book relevant to a wide range of readers drawn from different disciplines and occupations. However, the reviewer believes that the book has not given adequate attention to traditional knowledge prevailing in different parts of the country on customary practices and belief systems relating to water and its management. They are too numerous to be documented and too deeply integrated with cultural traditions difficult to fathom by academics looking for scientific solutions.

Did federalism act as an impediment in efficient management of water resources? Did the constitutional scheme relating to water and resolution of water disputes come in the way of evolving policies relevant for better management? The reader is no wiser after reading the articles discussing the topics. Does the problem mainly relate to allocation of rights and resolution of disputes or is it the appropriateness or otherwise of western concepts of property rights in the management of scarce common resources? The need for fresh thinking on foundational concepts and organizing principles is evident from the experience of the past and the perceived challenges of the future. Meanwhile, concern with floods

and pollution, equity and development have taken policymakers in different directions adding confusion and adhocism in governance. Environment and sustainable development assumed prominence in public discourses relating to water compelling law reformers to look at issues holistically and in a long term perspective. Some of the pieces in the book articulates these pressing problems giving a critique of existing legal framework and governance practices.

The most informative piece from the point of view of managers and reformers is Iyer's 'synoptic survey and thoughts on change', where he recapitulates the dominant thoughts in the Indian context suggesting possible courses of action to improve the situation. A people-centric approach is canvassed for reform for which the 'public trust' doctrine is found the most appropriate. On the constitutional scheme of division of responsibilities between the Centre and the states, Iyer would have liked the item placed in the Concurrent List. In the context of repeated failures to resolve inter-state water disputes through judicial intervention, the learned editor is of the view that the Supreme Court has ultimately made even the tribunal unable to function according to the Inter-State Water Disputes Act. Apparently, he is not supportive of Fali Nariman's argument in favour of repeal of the Act and restoring the matter under the exclusive jurisdiction of the Supreme Court. He would like the Act retained with an amendment to the effect that aggrieved parties may appeal to the Supreme Court against the decision of the tribunal. There are also other alternatives proposed so that the constitutional arrangement can be so organized so as to facilitate resolution of disputes without disturbing the federal structure.

The reports on involvement of people and civil society organizations in micro-managing water resources locally make interesting reading. There are legislative measures to support the initiatives. If they are aligned with decentralized governance under Panchayat Raj institutions, a number of problems relating to water rights, conservation, pollution and management can possibly be addressed satisfactorily. Several chapters of the book advert to this aspect which give an encouraging picture to an otherwise dismal scenario. For a variety of reasons, the case instituted by the village panchayat of Plachimada (Kerala) against Coca

Cola, when decided by the Supreme Court, may become a landmark on the question of ownership of water resources and the relative rights of people and the state. However, the rights-based approach in the use and control of water resources is not free from difficulties and they might aggravate as demands grow and supplies remain static. Many doctrines and practices now reigning in the field are likely to be questioned and new institutions may have to be put in place to respond to the emerging challenges. In other words, the subject of water resources may become a principal pre-occupation of governance in future at all three levels of the government.

Ramaswamy Iyer is one among those rare group of civil servants who, on retirement, endeavour to consolidate the knowledge and experience accumulated during service for the advantage of scholarship and law/policy reform. His reflections on water law reforms in the last chapter of the book can perhaps be the starting point for law reformers looking at water resources and rights. According to him, we need three different kinds of institutions: an administrative agency to manage water resources, a regulatory body to control and oversee and an adjudicatory authority to resolve disputes. However, the rights regime and the foundational principles setting the norms and standards ought to be based on good science and the concept of public trust. Iyer has a three-fold prescription for water law reform: a constitutional declaration on water in the form of Directive Principles and Fundamental Duties, a national water law unifying multiple state laws on basic issues of water use and management and a specific set of legal changes appreciating and accommodating federalism, inter-state river water disputes, ownership issues, public trust doctrine, riparianism, implications of big projects, different types of water bodies, water markets and pricing and related issues. He concludes with an emphatic statement; 'My three prescriptions together would amount to a transformation of the existing legal dispensation relating to water. I am firmly convinced that such a transformation is needed'. Coming from a man who has become some sort of an authority on the subject, his prescriptions warrant attention from the government.

Arguing his position before the Commission on Centre-State Relations of

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which the reviewer was a member, Iyer canvassed a bigger and decisive role for the Centre in the matter of water with or without a constitutional amendment. Water, he argued, is larger than rivers and lakes and in fact is a hydrological unit. It is a basic need for survival and a human right. It is part of culture and history and involves fundamental issues of environment, development and social justice. He felt that if these dimensions of water were clearly and sharply put to the mak-

ers of the Constitution, the constitutional scheme on water might have been different. In short, water is not just a rights issue for laws and policies but a fundamental issue of the country's governance for the Constitution itself to address and accommodate.

Water and the Laws in India is indeed a rich compendium of well-researched articles by knowledgeable persons critiquing the existing legal framework and proposing wide-ranging changes in it.

The production by SAGE Publications is impressive though the price (Rs 995) for the Indian market is a bit too high. Yet, no library or department dealing with water can afford not having a copy of this informative publication.

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