PREFACE

The most significant provisions in the Republican Constitution of India that reflect the common law's partiality for judicial remedies are Articles 32 and 226 which empower the Supreme Court and the High Courts respectively to issue what may broadly be called the prerogative writs. With a list of Fundamental Rights and the rapid expansion of welfare activities undertaken by the state this new judicial power confronted problems of challenging magnitude and variety. Naturally, the exercise of judicial control, always a delicate one, evoked hopes and fears under the above circumstances. Some felt it to be too timid to be effective while others thought it to be too effective that administrative paralysis might result. Meanwhile the decisions necessarily increased.

One great advantage to the Indian student of these writs is that he has in the first decade of the Constitution more cases in variety and number to study and analyse than possibly in any other legal system in a comparable period. But this fact at the same time adds to his difficulties and in such a rapidly developing legal system as the Indian all conclusions have to be taken as tentative.

The object of this study is to state the generally accepted law on each point with a view to find out whether any basic change is necessary in the system of judicial review by writs. The study is based on statutes, case-law and statistical data supplied by the Supreme Court Registry and the Registry of the Allahabad High Court. The historical evolution of each writ and the existing English law are given in separate chapters to present the materials in their respective perspective. Wherever appropriate, comparable American law is also mentioned. An analysis of the writs as developed through case-law and suggestions as to possible lines of reform are attempted.

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