



CHIEF JUSTICE GAJENDRAGADKAR. By Vidya Dhar Mahajan.  
Delhi : S. Chand & Co. 1966. Pp. 350+iv+ii. Rs. 20/-.

THE TRADITION OF judicial biography is practically absent in this country. In the United States not only is such a tradition recorded but is being replaced on the one hand by the quantitative analyses of Glendon Schubert<sup>1</sup> and Ulmer,<sup>2</sup> and on the other by personality and leadership studies like those of Walter Murphy<sup>3</sup> and Danelski.<sup>4</sup> The problem of scientifically understanding the complex phenomena of judicial attitudes and approaches which may reasonably be expected to function as determinants of judicial process has been engaging the attention of scholars for some time in the United States.<sup>5</sup>

In India, perhaps, it is too early to expect studies dealing with the behavioural or role analysis of judges. Indeed, even a tradition of effective biographical writing has yet to emerge. Purposeful biographies, insofar as they review the contribution of a judge, go a long way in providing the readers an insight into his value motivations and thought-processes. Inasmuch as Mr. Vidya Dhar Mahajan's work *Chief Justice Gajendragadkar* reminds legal educators and lawyers of the need to undertake such studies, his attempt is a welcome one. But beyond that, to praise Mr. Mahajan uncritically would be to undermine the stature of the great Judge, who has hardly received any assessment commensurate with his rich contribution. One cannot escape feeling that Mr. Mahajan has been lured more by his exaggerated anxiety to make the publication synchronize with the retirement of the great Judge than to present a truly evaluative picture of the many significant contributions of Mr. Justice Gajendragadkar towards understanding the role of law and lawyer in Indian society.

The first part of the book is a brief narrative sketch of the life of the Chief Justice,<sup>6</sup> at times overlapping with the material to follow. The second section seeks to present a trend analysis of his thoughts as disclosed through his judgments and out-of-court pronouncements.<sup>7</sup> Lastly, there appears a selective reproduction of his papers and addresses dealing with the various problems of law and society in India.<sup>8</sup>

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1. Schubert, *Quantitative Analysis of Judicial Behavior* (1959); *Judicial Decision-Making* (Schubert ed. 1963); *The Judicial Mind* (1965); *Judicial Policy-Making* (1965).

2. Ulmer, "The Analysis of Behavior Patterns in the United States Supreme Court," 22 *J. of Politics* 629-53 (1960); Ulmer, "Scaling Judicial Cases," 4 *Am. Behavioral Scientist* 33-34 (1961).

3. Murphy, *Elements of Judicial Strategy* (1964).

4. Danelski, "The Influence of the Chief Justice in the Decisional Process," in *Courts, Judges, and Politics* 497 (Murphy & Pritchett eds. 1961).

5. That every Supreme Court Judge is to some degree policy-oriented would be clear to anyone who is familiar with the decisions of the Supreme Court.

6. Mahajan, *Chief Justice Gajendragadkar* 1-30 (1966).

7. *Id.* at 33-67.

8. *Id.* at 71-347. Some of the subjects are : Law, liberty, social justice; lawyers and judges; law and justice in the Indian Constitution; Hindu Code Bill; secularism; legal education in India.



During his period of about eight years in the Supreme Court, Mr. Justice Gajendragadkar decided cases relating to practically every branch of the law; his contributions were particularly rich in the development of constitutional law and the law relating to industrial disputes. Mr. Justice Gajendragadkar has treated the Constitution not as a detached document inviting scholastic dialectics, but as a means of ordering society, so that it does not become an unsurmountable barrier to the accomplishment of valid and essential national goals. This obligation can be fulfilled, in Mr. Justice Gajendragadkar's view, only if the Court discloses a continuing awareness of the great social and economic issues of the day and does not blur the distinction between interstitial law-making and brute politicking. His classic exposition in the controversy over the wide privileges of the legislature vis-a-vis the ample powers of judiciary will remain a landmark in the evolution of constitutional law.<sup>9</sup> Under his leadership, the Supreme Court has tried to evolve "a progressive, constructive and forward-looking philosophy" of constitutional law, designed to assist the forces working for the socio-economic regeneration of the country.

Mr. Justice Gajendragadkar found in industrial adjudication perhaps the best field for expression of his pragmatism to secure economic justice to workers. To him, the problem of wage structure appeared, in the ultimate analysis, a problem of ethics and social considerations. The very enlargement of the concept of "living wage" to include provisions for optimum diet, clothing and residence, requirements for education, recreation and ample scope for self-development, goes to show his zeal for the growth of industrial jurisprudence on healthy principles of social justice. The complex problems of bonus, strike and industrial adjudication (the penumbral region where law and policy blend) have received a progressive connotation in his judgments.

Judicial decision-making was seen by Mr. Justice Gajendragadkar as an opportunity to perform a creative role in shaping law to fulfil the felt necessities of a changing social order and to adjust the periodic crises of human affairs. According to him, a court which ventures to read forever into the law any social philosophy, which slavishly adheres to obsolete and outworn precedents under changing conditions, cannot be a socially useful court.

No problem disturbed the Chief Justice more deeply than that of Indian legal education and its present inadequacy to meet the needs of our modern society. He has often lamented that, while India has produced great legal luminaries, it has failed to produce legal thinkers and jurists.<sup>10</sup> Against the background of basic requirements of the

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9. *In re, Under Art. 143, Constitution of India*, A.I.R. 1965 S.C. 745.

10. See, e.g., his inaugural address to the All-India Seminar on Legal Education, organized by the University of Rajasthan at Kasauli in 1964, reprinted in Mahajan, *op. cit. supra* note 6, at 208.



country, the system of legal education, hitherto largely practice-oriented, must be renovated to produce judges, jurists, legislators and lawyers who view law as an instrument of ensuring rationality in social organization and of furthering basic social values. Legal institutions can be better appraised against the background of the totality of social institutions and their value structure by infusing the study also of other disciplines of human knowledge. This new perspective, Mr. Justice Gajendragadkar believes, can be achieved only when law is taught not merely as a training for profession but as a branch of humanities, a crucial element in society for the rapprochement between social sciences and humanities. The direction of Indian legal philosophy, according to him, must be shifted to sociological relativism to produce a new type of lawyer who not only helps in evolving new norms of his society but is continuously engaged in disseminating and implementing them.

Such an outstanding judge whose contribution has been significant in the task of making law an effective instrument of social control and social change needs to be studied from the point of view of the impact and efficacy of his ideas and decisions. But one looks in vain for such an assessment of Mr. Justice Gajendragadkar in Mr. Mahajan's book, where the penchant for poorly developed generalizations offers little evidence of an analysis in depth either of his decisions or of any other works. Mr. Mahajan's study could have been a valuable one had the driving force been more a matter of scholarship and less an obsession with limitations of time.

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