

JUSTICE VERSUS JUSTICE (1994). By Ashok A. Desai. Taxmann Allied Services Pvt. Ltd., New Delhi. Pp. 1-7+147. Price Rs. 200.

THE AUTHOR of the book under review¹ was inspired by the writings of Justice V.R. Krishna Iyer on the question of Social Justice and his mission for it. In his book titled "In Search of Justice", Justice V.R. Krishna Iyer castigates judges as opponents of the justice. The book in fact seeks to answer Justice Krishna Iyer's severe criticism of the judiciary in general and of judges in particular. In this endeavour, the author, Justice Desai has examined the following questions:

- (i) "Whether" Justice" bears numerous brands or patents such as 'Colonial', 'Imperial', 'Legal', 'Distributive', 'Social', etc.?
- (ii) What is the constitutional sanction to the propogated social justice?
- (iii) What is then the role under the constitutional scheme assigned to the Judiciary?
- (iv) Could "Justice-Social" a mission of the Republic, be a judicial mission under the banner of "Social-Justice".²

To find out the answer to these questions certain topics have been dealt with in successive chapters. The author at the outset expresses agreement with Justice Iyer as regards the statutory problems and shortcomings prevalent in the Indian judicial system. But then this is applicable to all human systems. Further, is it possible to dismiss the entire system by labelling it as 'Colonial' 'Imperial' etc. The author points out in chapter 12, "Epilogue" that justice is colourless like water but acquires the "colour as poured by law".³

"Inferno around Judiciary" is dealt with in chapter 1. Chapter 2 is titled "Jurisprudential theory of Social Justice Explored". Chapter 3 discusses "Theories of Justice : V.R. Krishna Iyer on Social Justice". Chapter 4 deals with "the Preamble" and chapter 5 with the "Directive Principles of State Policy."

Chapter 6 is devoted to Judicial Activism. This is not expected to intrude into the area which statute occupies. Justice V.R. Krishna Iyer had observed, "We want Judicial architect and not legal mason". In his view by judicial activism one has to achieve interaction between rule of law and rule of life. The author has expressed his disagreement with the views of Justice Krishna Iyer in whose view the court has to conceive justice as being above and beside the law. In chapter 7 on "Judicial Restraint" the author emphatically states:⁴

Interpretation merely delivers what is pregnant in the Enactment. It excavates what is in a concealed state, might be due to ambiguity or vagueness.... In a judicial discharge, it cannot look beyond law.

1. Ashok A. Desai, *Justice Versus Justice* (1994).
2. *Id.* prologue, 1-6.
3. *Id.* at 124.
4. *Id.* at 57.

Further, in chapter 10 on “Judiciary and its Role” the author points out:⁵

There is no absolute freedom to the judges to decide the matter as per social thinking... . The judiciary cannot declare what law ought to be.

Chapter 11 has highlighted the “Rule of Law”. The author has very aptly pointed out that the rule of law must articulate the democratic life and be able to find a solution to the problems of the community

Other topics dealt with include “On Reform of Judicial System” in chapter 8 and “Law and its Role” in chapter 9.

The book dealing with the subject in 12 chapters makes interesting reading. The author has aptly dealt with the question and criticisms put forth by Justice Iyer. The inclusion of views of legal luminaries of the world together with relevant quotations enhance its value. Scholars, advocates and also judges, may find the book useful.

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5. *Id.* at 98-9.

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