

PREFACE

From the turn of this century, Indian courts have had to face the problem of dealing with an ever increasing list of pending cases. This problem has been termed the problem of 'arrears'. Very few adjudicating institutions in the world provide instant justice. It is inevitable that most courts leave for tomorrow cases which have already been filed. In this sense, most courts in the world have 'arrears'. If the court in question is able to clear its list of pending cases quickly, it does not face a real problem of arrears. Real problem of arrears arises when a litigant has to wait for a considerable period of time before his case is even heard by the court before which it has been filed. This delay itself perpetuates an in-built system of injustice. The problem of arrears is, therefore, linked with notions of justice. In our main chapters we have not distinguished between those pending cases which give rise to injustice and those which do not. Each case can be judged by its own standards. At the same time, we have suggested in the last chapter a notional yardstick of what acceptable notions of delay ought to be.

Our central argument is that the Supreme Court was given a much too wide jurisdiction. It cannot cope with its increasing workload. In this book we have examined why the Supreme Court was given such a wide jurisdiction and shown that the Supreme Court has itself made various attempts to reduce its jurisdiction by juristic interpretation (chapter I). We have analysed the workload of the court and shown that the Supreme Court had a large volume of arrears from its very inception. In 1951, the Supreme Court handed over to itself a large volume of pending cases. Although there have been some years when the court has been able to deal with the number of cases instituted before the court in that year owing to an increase in the number of judges, the general pattern has been one of carrying over into the next year a substantial number of cases. This process has gone on for a number of years and thus the Supreme Court's docket has contained cases which have been pending for a considerable time. Some civil appeals have been found to be pending for ten years. Having discussed all this in chapter II, we have taken an overview of the staffing and finance of the Supreme Court (chapter III). We have then considered various proposals made to deal with the problem of arrears in the past two and a half decades and suggested some solutions of our own (chapter IV).

In the long run, the problem of arrears is linked with the litigating problems of the Indian people as a whole. In the short run, however, we have argued that the jurisdiction and structure of the court have to be

radically altered if the Supreme Court is to continue as a viable adjudicatory institution.

This book is an exploratory exercise. It seeks to collect information about the Supreme Court which has not been readily available. It provides certain ideas for discussion while inviting an informed debate on the challenge of arrears. It often asks questions without providing answers.

We are greatly indebted to Mr. Justice Beg, former Chief Justice of India for authorising the supply of certain information to us. Most of the information used in this project was given to us on the instructions of Mr. Justice Chandrachud, Chief Justice of India. Mr. Justice Chandrachud not only authorised the registry of the court to give us all available information which was needed, but also gave us his valuable time. Mr. Justice V.R. Krishna Iyer and Mr. Justice P.N. Bhagwati, puisne judges of the Supreme Court of India discussed the project at length. Professor Alice Jacob discussed the ideas and Professor S.N. Jain offered some suggestions. Mrs. Lucinda Dhavan read the manuscript and made valuable suggestions. Shri M.P. Saxena, Registrar, Supreme Court, Shri R.L. Narasimham, Registrar, Supreme Court, Shri Mahesh Prashad, Deputy Registrar, Supreme Court, Shri Chandra Mowli, Assistant Registrar, Supreme Court, Mr. Ghosh, Section Officer, Supreme Court and Mr. Bhatnagar, Section Officer, Supreme Court gave us their time and facilitated the collection of some of the information. We also discussed this project with several lawyers and academics. The staff of the Indian Law Institute were particularly helpful. Special mention must be made of Shri Anil K. Jain who helped to compile appendix III, and Shri Parmod Singh who compiled some of the research material. Mr. Wadhwa, Mr. Satpal and Miss Sethi typed the manuscript from difficult drafts. We thank all these people for their cooperation. Needless to say we are responsible for the faults.

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