

Humour and the robe

THE BENCH, THE BAR
AND THE BIZARRE: THE
UNFAMILIAR, THE
CURIOUS, AND THE
EXTRAORDINARY IN LAW
By Tushar Mehta,
Rupa, ₹995



Tushar Mehta is India's second-longest-serving solicitor-general. In this new age of online streaming of judicial proceedings, particularly those of our constitutional courts, he is also the government's most visible lawyer. His book is thus bound to attract attention.

Two preliminary observations. Firstly, dry, academic legal tomes abound; mercifully this is not an addition to that library and nor, by the author's own admission, is it meant to be. Secondly, there are already a number of books about "the unfamiliar, the curious, and the extraordinary in law" that draw upon cases from the United States of America and England to illustrate their central theses. I picked up this book looking forward to reading anecdotes from courts nearer home. Alas, this expectation was dashed by the book's Preface in which the author freely admits that as a practicing lawyer, he did not wish to invite the wrath of judges and lawyers alike. Though understandable, this is a lost opportunity, one that Mehta should consider availing of in the future.

This disappointment aside, there is much to commend the book, which takes the form of seven essays. Two deal with eternal themes: the first, on how judges occasionally suffer from "The Divinity Virus", is extremely funny and the second, on the importance and the role of dissenting judgments, is the book's most thought-provoking. The other chapters deal with more contemporary issues, such as the role of mobile phones, social media and Artificial Intelligence in the administration of justice. Each essay is well-structured, erudite and eminently readable.

The real value of this book, however, is not in the numerous, humorous, illustrative cases from American courts that Mehta has industriously gleaned from many volumes of Law Reports, but in his observation of various universal truths. In the chapter titled "The Divinity

Virus", the author observes: "When a judge becomes arrogant, abusive, interruptive, or intolerant during arguments, it is not a contest between equals. The lawyer's options are few and unpalatable. To reciprocate in kind is to risk one's client's interests — and, in essence, one's own professional survival — through disciplinary or contempt proceedings." The essay on dissenting judgments concludes thus: "In time, today's dissent may become tomorrow's law. The dissenter, in the end, is the court's conscience — the nonconformist who lays down principles for future generations of lawyers to argue and for future generations of judges to follow." The hallowed place held in contemporary jurisprudence by Justice H.R. Khanna's lone dissent in the *ADM Jabalpur* case illustrates this observation only too well. Elsewhere, in "The Tiny Tyrant", a chapter subtitled "Mobile Phones, Social Media, and the Judiciary", it is noted — "social media has emerged as a serious menace to the functioning of judicial institutions across jurisdictions. Lawyers, judges, and jurists now grapple with its corrosive effects on judicial decision-making." Mehta does not comment on the judiciary, the legal profession and the media's failure to educate society as to the true role of law, or how, on occasion, the pronouncement of populist sentiments from the Bench has added fuel to the fire of trial by popular opinion, but that is likely beyond the scope of this book.

At its core, this book uses legal humour to illuminate human limitations and compulsions amongst those who are either engaged with or impacted by the law. In this endeavour, it succeeds in considerable measure.

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