

**BOOK REVIEW: THE CASES THAT INDIA FORGOT BY CHINTAN
CHANDRACHUD**

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INTRODUCTION

Published by Juggernaut Books, 'The Cases That India Forgot' (2019) reveals ten judicial pronouncements that were crucial in developing Indian law and society but have since been forgotten. The book has been very clearly divided into four parts dealing with Politics, Gender, Religion, and National Security. It is designed in such a manner to address a broader audience beyond legal professionals. All of the cases are explained in an accessible style with an interest in presenting complicated legal concepts to laypersons by Chintan Chandrachud — a barrister at Brick Court Chambers in the United Kingdom. He adopted this simple writing approach due to feedback he had received about his newspaper editorials being too legalistic for a non-lawyer audience.

In his engaging and captivating style, Chandrachud narrates the remarkable cases from the 1950s to the present times. The book reflects on some of the iconic figures from the Indian legal system and reveals an unconventional picture of the judiciary that courts do not always become the voice of historical or moral imperatives.

The research for the book covers a diverse set of sources such as court judgments, legal archives, books, academic articles, and newspaper reports to media coverage and interviews among other government records. This comprehensive approach offers valuable deep insights into the ten cases dealt with, giving a critical perspective of Indian institutions and characterizing the law–society interface in a non-theoretical mode.

POLITICS

In this part, three cases have been discussed in different chapters namely, The Keshav Singh Case, *Minerva Mills v Union of India*, and *Rameshwar Prasad v Union of India*.

Chandrachud's detailed examination of the Keshav Singh case¹ raised the issues at the

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¹ *Keshav Singh v Speaker, Legislative Assembly* AIR 1965 All 349.

intersection of state authority and individual rights. He points out that the case opened in 1964 when a public member Keshav Singh faced contempt charges due to his publication in the form of pamphlets criticizing the Uttar Pradesh Legislative Assembly. The author describes the profound impact that the pamphlets had on the workings of administration and the relationships between state institutions, as the case resulted in a constitutional crisis during the tenure of Prime Minister Nehru. Chandrachud vividly draws the intensification of the conflict surrounding the Assembly's legislative privileges and individual liberties, illustrating how easily constitutional institutions can become adversaries. Throughout the examination, Chandrachud frames the case as a lesson on brinkmanship rather than statesmanship in constitutional conflicts, suggesting how better judgment and more informed decisions could have reduced its impact².

In another case, the *Minerva Mills* judgment³ is studied in Chandrachud's book for its interpretation of the basic structure doctrine in the Indian Constitution. This case restricted the area of constitutional amendments and strengthened the position of fundamental rights. Therefore, it holds a crucial place in Indian constitutional law, and Chandrachud provides a thorough examination of the court's reasoning and the constitutional articles that were at the center of the case. Compared to *Kesavananda Bharati's* case⁴, it is meaningful in its reiteration of the basic structure doctrine and limitation of parliamentary sovereignty. Moreover, the author describes the internal affairs between Justices Bhagwati and Y.V. Chandrachud, explaining how their relationships influenced the judgment. This part of the book is crucial in showing the complexities of judicial work.

Chandrachud treads deftly and lucidly through the politically laden milieu of Bihar's 2005 hung assembly in *Rameshwar Prasad's* case⁵. It analyses in detail the governor's recommendation for imposition of presidential rule under Article 356⁶, driven by partisan interests and the subsequent Supreme Court judgment that redressed against such an unconstitutional dissolution of the Bihar Assembly. Chandrachud has penned a compelling tale animating the dense political and constitutional concerns, fraught with an understanding of what little termed as 'judicial scrutiny' in the wake of controversial acts by governors. The chapter considers the Supreme Court as an antidote to political maneuvering and examines

² Chintan Chandrachud, *The Cases That India Forgot* (Juggernaut Books 2019) 23.

³ *Minerva Mills v Union of India* (1980) 3 SCC 625.

⁴ *Kesavananda Bharti v State of Kerala* AIR 1973 SC 1461.

⁵ *Rameshwar Prasad v Union of India* AIR 2006 SC 980.

⁶ Constitution of India (1950) art 356, p 23.

the tensions between constitutional authority and political strategy. The author presents a skillful and engaging storyline to expose the judiciary playing catch up with political events and the impact of partisan motives on constitutional decisions.

GENDER

Chapters 4 and 5 discuss two key cases in the second part of the book, *Tukaram v State of Maharashtra* along with *R.D. Bajaj v K.P.S.Gill*.

In the chapter of *Tukaram v State of Maharashtra*⁷, Chintan Chandrachud reflects on the failure of our judiciary to be more protective towards women who are subjected to violations, drawing parallels with the *Nirbhaya* case. The author painstakingly untangles the Supreme Court's 1979 judgment that acquitted the accused policemen despite clear evidence of assault. The chapter slams systemic failure and the cold treatment of Mathura, a 14-year-old tribal girl raped in police custody. Chandrachud digs into the legal meanings of consent and submission, pointing out a blindspot lodged in the Supreme Court's understanding: Mathura conceded to her violation after being coerced. Chandrachud brings out the fact that other than being a landmark verdict, it was more important for triggering a huge women's movement and legal reforms as well by adding the response of academicians and later public outcry. In addition to the procedural failures and how badly the judicial system failed women, the author critically examines the implications on women's rights and legal protections. In his lucid and intrepid writing, Chandrachud leaves no stone unturned in showing how Mathura's case exposed deep flaws in the legal system to address long-standing cracks; while shedding light on areas of enactment that still beg vital reform.

The chapter on *Mrs. Rupan Deol Bajaj & Anr v Kanwar Pal Singh Gill & Anr*⁸ brilliantly tells the tale of over 17 years where several judgments were passed, bureaucratic maneuvers, and allegations made that almost anything could be considered as a state secret by some quarters in an apparent bid to keep information hidden from the public gaze. The author meticulously outlines the chronology of events, the key figures involved, including Mrs. Bajaj and Gill, and the broader societal implications of the case. The author delves into the specifics of the sexual harassment allegations and the legal provisions involved, such as

⁷ *Tukaram v State of Maharashtra*, (1979) 2 SCC 143.

⁸ *R. D. Bajaj v K.P.S. Gill* AIR 1996 SC 309.

Sections 354⁹ and 509¹⁰ of the Indian Penal Code, 1860— critiquing them as Victorian laws¹¹, questioning whether or not they can be applied to marginalized women. The chapter examines in detail the procedural hurdles and lasting implications of Bajaj's case, illustrating how her quest for justice set a precedent. Writing from an Indian standpoint, the author asks a crucial question about legal protections — are these available to women of lesser means?¹² And in so doing draws attention to how justice outcomes largely differ. The chapter closes with a thought-provoking reflection on the challenges faced by women at the intersection of law and social status, questioning the fairness and reach of legal remedies in India.

RELIGION

The third part of the book, "Religion" focuses on two important cases: the State of Madras v Champakam Dorairajan; and the State of Bombay v Narasu Appa Mali.

Chandrachud meticulously analyzes the case titled 'State of Madras v Champakam Dorairajan¹³', in which he elucidates the Supreme Court decision that declared unconstitutional a Communal Government Order passed by Madras state to reserve seats for various communities based on caste and religion in educational institutions. Quotes from newspaper articles and Constitutional paragraphs allow the author to briefly describe general socio-political conditions or climate. Chandrachud critiques the Supreme Court's decision, arguing that it misconstrued the constitutional framework by treating fundamental rights as barriers to the advancement of backward classes. He focuses on the events that occurred immediately after the ruling, from all of those protests to the constitutional amendment later that was in action. Chandrachud says this case emphasized the "reservation versus merit"¹⁴ narrative, which according to him has been detrimental to social progress.

The chapter on 'State of Bombay v Narasu Appa Mali'¹⁵ discusses in detail the judgment by the Bombay High Court upholding the validity of The Bombay Prevention of Hindu Bigamous Marriages Act of 1946 and holding that uncodified personal laws are not among fundamental rights. Chandrachud dissects the contradictions in the judgment, pointing out

⁹ Indian Penal Code 1860, s 354.

¹⁰ Indian Penal Code 1860, s 509.

¹¹ Chintan Chandrachud, *The Cases That India Forgot* (Juggernaut Books 2019) 107.

¹² Chintan Chandrachud, *The Cases That India Forgot* (Juggernaut Books 2019) 108.

¹³ State of Madras v Champakam Dorairajan AIR 1951 SC 226.

¹⁴ Chintan Chandrachud, *The Cases That India Forgot* (Juggernaut Books 2019) 126.

¹⁵ State of Bombay v Narasu Appa Mali AIR 1952 Bom 84.

that while the court supported a progressive law aimed at curbing bigamy among Hindus, it also created an opportunity for similar regressive religious practices to hide away from constitutional scrutiny. The author traces the legacy of this 1952 judgment in recent controversies such as those around the triple talaq and Sabarimala temple case, which sheds light on how that decision has shaped current legal discourses concerning personal laws in India. The Bombay High Court's judgment introduced a hierarchy of un-codified personal laws above democratically enacted legislation, Chandrachud argued, contradicting the basic design of a constitutional democracy.

The ability with which Chandrachud navigates the complex legal issues in these two chapters renders them more legible for a general audience. While revisiting these landmark cases, his analysis compellingly challenges the reader to reflect on how religion continues to interact with Indian law and constitutional rights.

NATIONAL SECURITY

In the fourth and last part of the book titled 'National Security', the author delves into the complexities of national security through the lens of three pivotal cases across three chapters (8, 9, and 10) — *Kartar Singh v State of Punjab*; *Naga People's Movement of Human Rights v Union of India*; and, *Nandini Sundar v State of Chhattisgarh*.

In the chapter *Kartar Singh v State of Punjab*¹⁶, Chandrachud mentions how national security claims are misused as an excuse by the governments to take actions falling under encroachment on fundamental rights. This way, the Supreme Court has turned a blind eye towards the most draconian legislation brought by the Indian state i.e. TADA (Terrorist and Disruptive Activities (Prevention Act) 1987, an anti-terror law undermining our constitution and committing the greatest human rights violations and with this no remedy for citizens to salvage their rights!! Chandrachud notes the divided responses from sections of society and dissatisfaction expressed by the National Human Rights Commission to point out that consequences extended even after the formal ending of TADA. Although the chapter lacks detailed case facts and specific legal representations, Chandrachud's reflection upon all that flows from the judgment is sharp. His satirical remark, "India forgot TADA, but some Indians did not"¹⁷, is the most compelling statement describing the lasting impact of such

¹⁶ *Kartar Singh v State of Punjab*, (1994) 3 SCC 569.

¹⁷ Chintan Chandrachud, *The Cases That India Forgot* (Juggernaut Books 2019) 164.

legislation on individual lives.

The author wrote very critically about the Armed Forces Special Powers Act (AFSPA) in the chapter of *Naga People's Movement of Human Rights v Union of India*¹⁸, Chandrachud powerfully characterizes this legal judgment of the Supreme Court as a case demonstrating how state claims in cases claiming to advance national security can undermine the fundamental rights. The Court has held the AFSPA to be something capable of being abused but upheld it and suggested only minor safeguards without acknowledging its harsh realities. The author highlights the Act's controversial provisions, such as unchecked powers to kill, search, and arrest, which continued to be endorsed by the Court's analysis. The narrative poignantly recounts the subsequent activism of individuals like Irom Sharmila and the tragic death of Thangjam Manorama, underscoring the Act's human cost. This frustration comes out in Chandrachud's criticism of the Supreme Court being too myopic and not daring to challenge state power enough. This chapter highlights the wider consequences of the court's decisions on human rights and expresses that justice is a lip-service response by the court in cases of systemic abuses.

In the last chapter of the book, the author elaborates on the scenario of state-encouraged violence in *Nandini Sundar v State of Chhattisgarh*¹⁹, which involves the controversial practice of arming Special Police Officers (SPOs). Chandrachud criticizes the Supreme Court judgment which held that SPO recruitment was unconstitutional but in the same breath regretted the lack of better implementation. According to the author, while on one hand, the apex Court asked the State Government for the disarmament of SPOs, however at the ground level state complied only substantively through political maneuverings followed by judicial reprieves. Chandrachud is angry that the Supreme Court has extremely limited coverage of core constitutional questions and there is scant media publicity or civil society response to any matters. His disheartened conclusion was not just that, but also how the court found it hard even after over a decade and many hearings to deal properly with the changing face of state-sanctioned violence. Chandrachud's interpretation highlights the limitations of judicial impact when faced with entrenched state practices and calls for better constitutional protection.

¹⁸ *Naga People's Movement of Human Rights v Union of India*, (1998) 2 SCC 109.

¹⁹ *Nandini Sundar v State of Chhattisgarh* AIR 2011 SC 2839.

CRITICAL EVALUATION

'The Cases That India Forgot' by Chintan Chandrachud is a well-researched book written in an engaging style. Chandrachud rather than just narrating each case, explained the legal principles involved and the broader implications of each judgment. The legal writing is clear and appealing, which would be attractive to both law professionals and general audiences.

The real strength of the book is its balanced approach. The author acknowledges the strengths and weaknesses of each judgment, offering a critical yet fair analysis. His expertise as a legal scholar is apparent through his nuanced command over Indian Constitutional Law and he often manages to beautifully weave the historical past with contemporary legal issues. The references to different legal doctrines, precedents, and comparative analysis with other jurisdictions add depth to the narrative.

The method of writing is both analytical and narrative, drawing from contemporary sources and newspaper reports to bring each case to life. This method not only contextualizes legal arguments but also demonstrates their real-world implications. Through going back over these long-forgotten cases, he asks readers to consider how legal decisions that might seem small at the time can shape society for years and decades afterwards.

The book also includes a critique of the failures of courts to safeguard fundamental rights and underscores the need for cooperation between different branches of government as well as society. This book presents a more nuanced view of legal reforms and judicial accountability that enhances its value as a significant addition to legal literature.

BROADER IMPLICATIONS

The book is more than a compendium of forgotten judgments it is one of the most important works on judicial decisions in contemporary times, and their implications on democracy. Taking us through an exhaustive analysis of these cases, Chandrachud demonstrates how judicial decisions can shape public policy, protect individual rights, and uphold the principles of justice and fairness.

But what makes this such an exceptional book is the attention awarded to judicial accountability and transparency. Chandrachud's nostalgic journey, into the cases that our collective conscience has forgotten, challenges us with a narrative of how superior courts

are supposed to operate in a democratic society. He stresses that continued vigilance and participation in the legal process are necessary to make justice real and the judiciary remains accountable to the public.

Chandrachud's approach to writing is unique as he tells about the cases not as a boring legal document, but in a story-telling fashion. Every case is seasoned with particulars from newspapers and other written sources of the times, making the legal arguments more accessible and relatable to a broader audience. In addition to providing the legal context of the cases, this style of storytelling demonstrates how these have real-world impact and significance.

The book also criticizes the Supreme Court for its occasional failures as well as provides a broader commentary on the interplay between judiciary, legislature, and executive. Chandrachud shows how political and institutional considerations occasionally intrude upon the judiciary's function, highlighting that it is a myth to believe courts always have the final say. This perspective encourages one to consider the dynamic nature of legal interpretation and the importance of collaboration amongst governmental departments.

The book also illustrates the importance of both well-established and transitory judgments. Through the reactivation of these forgotten cases, Chandrachud opens a wider window into legal discourse and offers nuanced views on judicial decision-making. As it stands, the book serves as a reminder of the judiciary's vital role in democracy and the need for public awareness to hold institutions accountable. In this writing, Chandrachud makes important academic contributions to legal literature by looking at complicated legal matters in a simple way which has implications for both the reader who is a legal professional as well as a non-legal professional.

The book stresses the judicial outcomes in shaping legal norms as well as social ones. Resurrecting these forgotten cases, Chandrachud invites readers to reflect on the dynamic nature of legal principles and the role of judges in shaping social realities. The book is also a cautionary tale — that vigilance and relentless engagement with the legal system are necessary to achieve justice and protect individual rights.

The author is commendable in trying to articulate legal discourse more understandable and relevant for laymen. Through this, the book not only informs its readers of important and often sidelined cases but also serves to ignite a conversation about where within society

these issues lie particularly with contemporary debates.

Divided into four parts— Politics, Gender, Religion, and National Security — Chintan Chandrachud's 'The Cases That India Forgot' deals with some of the most significant yet often overlooked legal cases, highlighting their profound impacts. The Politics section focuses on cases that have influenced constitutional and legislative frameworks. The Gender section looked at landmark cases on custodial rape and sexual harassment, focusing on issues such as what is the implication of these to women's rights in general. The Religion part explores issues surrounding caste-based reservations and the interaction of personal laws with fundamental rights. Lastly, the National Security part challenges national security laws in the harsh light of individual freedoms. Although the reason for this thematic partition has not been elaborated in the book by its author, as one reads on, it is clear that cases are logically grouped around related themes.

CONCLUSION

To sum up, 'The Cases that India Forgot' by Chintan Chandrachud is a remarkable contribution to the literature on Indian legal history. The detailed examination of ten forgotten cases in the book reveals valuable insights into how the Indian judicial system operates and affects society. Chandrachud has explained these different cases through his convincing narrative, judicious mind, balanced approach, and wide-ranging use of literature, which should not be missed by anyone who wants to get deep into the heart of Indian constitutional law. The book serves as a reminder of the lasting and significant impact of judicial decisions as well as their capacity to mold the legal and social matters of the nation.