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## *Preface*

Justice J.C. Shah was a judge of the Bombay High Court from March, 1949 to October, 1959, and thereafter a judge of the Supreme Court of India until he retired in January, 1971, after having been the Chief Justice of India for just over one month.

He was on the bench of the Supreme Court during its formative years and was party to many of the judgments which shaped the Constitution in its early days, thus enabling democracy to take firm root at a time when many felt that a democratic form of government was not suited to this vast and diverse country. These pessimists even predicted that India would not survive as one country but would break into fragments because of that diversity and because of widespread poverty and illiteracy. Fortunately, the prophets of doom have been proved wrong. Today, India is, in spite of its many problems, the most stable country in the region and is progressing economically under a democratic form of government and the rule of law. The judiciary has ensured that the fundamental rights guaranteed by the Constitution are not merely ornamental and meaningless declarations, but are the means by which executive tyranny is held in check and the rights of the citizen are not trampled upon. Justice Shah as member of that judiciary played his part in making the rights of the citizen capable of being effectively enforced.

This Festschrift consists of essays and articles written by eminent lawyers and judges, many of whom knew him personally, or appeared before him. Others, like Justice Gopal Sri Ram of the Court of Appeal of Malaysia, have referred to his judgments while writing their own.

Apart from his judgments, the only other writings by Justice Shah consist of four enquiry reports (the Kerala Food Poisoning Enquiry Report, 1958; the Punjab Boundary Commission Report, 1966; the High Courts Arrears Enquiry Report, 1971; and the Shah Commission Report, 1977-78). After laying down office, he retired into private life, except for the period in 1977-78, when he was appointed to conduct an enquiry into

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the excesses committed during the internal emergency declared in June, 1975. He also edited one legal text book, but did not spend time in writing learned articles about what the state of the law should ideally be, or why any particular judgment of the Supreme Court was wrong. He delivered only one major series of lectures, the Dorab Tata Memorial Lectures under the heading “The Rule of Law and the Constitution”. The text of these lectures is reproduced in this Festschrift with the kind permission of the Trustees of the Sir Dorabji Tata Memorial Trust. He passed away in January, 1991.

In conclusion I must thank my wife Devi and daughters Sonal and Shivani for their encouragement and support when I suggested this venture. My son-in-law Elvis D’Silva used his considerable artistic talents to good effect in designing the dust jacket of this work. Thanks are also due to my brother Dr. Rohit Shah and my sisters Mrs. Rashmi Mehta and Mrs. Smita Dalal for their support.

I am grateful to my friend Dr. Venkat Iyer, Senior Lecturer in Law, University of Ulster at Jordanstown, for agreeing to be the editor. Thanks are also due to Wadhwa & Co. Pvt. Ltd., for the efficient publication of this work in a short time, and in particular to Mr. K.K. Wadhwa for the personal interest taken by him in the publication.

**Mumbai**  
**1st June, 2008**

**Satish J. Shah**

