

SOCIAL JUSTICE under INDIAN CONSTITUTION

**Second Y.V. Chandrachud Memorial Lecture
delivered by
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Introductory

I deem it a matter of great honour and privilege having been called upon to deliver the Second Justice Y.V. Chandrachud Memorial Lecture to commemorate the contribution made by this legend of legal profession and one of the great and finest judges which the Indian Judiciary ever had.

Late Justice Y.V. Chandrachud was a multi-dimensional personality. He was an invincible lawyer, a knowledgeable teacher who knew how to impart instructions and ignite fire in his pupils for acquiring ever growing skills of learning, a judge with erudition and ceaseless urge for dispensing justice and who made invaluable contribution to the cause of charity and welfare of society by associating with several like minded people and institutions. He lived 88 years of active life. For him the work was worship. Not only he served his contemporary society but also made his sustainable contribution for which the posterity would ever remain indebted to him. His contribution to constitutional jurisprudence and legal literature has been so rich that the fruits thereof would continue to multiply and be enjoyed by generations to come. He has so shaped the coming generation of '*Chandrachuds*' and blessed them with such strength that they would undoubtedly add to and multiply the inheritance. Justice Y.V. Chandrachud was such a proponent of social justice and the cause of social justice was so dear to his heart that the subject 'Social Justice under Indian Constitution' as the theme of Second Memorial Lecture is a befitting tribute to his memory.

Necessity, it is said, is the mother of invention. I may say that an inner urge for dispensing Justice gives birth to innovation. To make effective contribution to development of social justice jurisprudence one needs originality of thinking. All good things which exist are the fruit of originality.¹ Francis Bacon had said – 'he that will not apply new remedies

¹ John Stuart Mill, *On Liberty*

must expect new evils; for time is the greatest innovator.² How apt are Emerson's words – 'if a man write a better book, preach a better sermon, or make a better mousetrap than his neighbour though he build his house in the woods the world will make a beaten path to his door'. Justice Y.V. Chandrachud is remembered for his originality of thinking and innovating new remedies potent enough to remove the obstructions in the smooth flow of social justice.

I propose to deal with the subject by dividing it in two parts; one, notable contributions made by Justice Y.V. Chandrachud; and secondly, the Supreme Court generally.

PART – I

Forty minutes is not a time enough to recount and evaluate the innovations made and trend setting decisions delivered by Justice Y.V. Chandrachud some of which have proved to be turning points for the best and in societal interest in the development of Constitutional Jurisprudence. For 11 years as Judge of the High Court and 13 years as Judge of the Supreme Court of India he delivered land mark judgments paving the path of social justice. He adorned the office of Chief Justice of India for more than 7 years, a rare event indeed. His contribution to social-justice-jurisprudence has been immense. I propose to quickly touch only a few highlights.

Social justice is the soul and conscience of our Constitution. It is a dynamic concept with comprehensive sweep. Its basic ideal is to achieve socio-economic equality by removing all disparities and inequalities from socio-economic sphere. The Preamble to the Constitution of India has built four pillars for social justice to rest. They are justice, liberty, equality and fraternity. The term 'justice' is not used in its narrow sense i.e. a mere just resolution of disputes. Justice is a philosophical concept embracing within its sweep - social justice, economic justice and political justice. The true strength and stability of our polity is society's credibility in social justice, not perfect legalese.³

Let us (for today) confine ourselves to social justice. The Indian Constitution abolishes all sorts of discrimination which originate from

² Francis Bacon, *Of Innovations*

³ *Somprakash v. Union of India*, AIR 1981 SC 212, 234

wealth, race, caste, religion or title which are the root sources of exploitation of one class of society by another class of society. The Constitution of India by its preamble and making extensive provisions for fundamental rights , fundamental duties , and directive principles of state policy proposes to so harmonize the rival claims and interests of different classes of society that the *Gandhian* dream of an ideal welfare State may be fulfilled.

Part IV of the Constitution deals with Directive Principles of State Policy. Article 38 requires the State to promote the welfare of the by securing and protecting, as effectively as it may, a social order in which justice – social, economic and political – shall inform all the institutions of national life. In particular, the state is required to minimize the inequalities of income and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also among groups of people residing in different areas or engaged in different vocations. Article 39 of the Constitution lays down that the State shall , in particular, direct its policy towards securing : (a) that the citizens, men and women equally, have the rights to equal means of livelihood;(b) that the ownership and control of the material sources of the community are so distributed as best to subserve the common good;(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;(d) that there is equal pay for equal work for both men and women;(e) that the health and strength of workers , men and women , and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that child and youth are protected against exploitation and against moral and material abandonment. Article 41 enjoins the state to secure the right to work, to education, and to public assistance in cases of unemployment, old age, sickness, disablement, and undeserved want. Articles 42 and 43 direct the state to make provision for securing just and humane conditions of work, for maternity relief, a living wage ensuring a decent standard of living for all workers. Article 43-A directs the state to take steps toward securing the participation of workers in the management of industries. Articles 45 and 46 deal with provision of compulsory education for children and promotion of educational and economic interests of the weaker sections of people. Article 47 provides for the raising of the level of nutrition and standard of living of the people and the improvement of public health.

Justice O.Chinnappa Reddy in his recently published book –‘The Court and the Constitution of India-Summits and Shallows’(a ‘must read’ for every one associated with legal profession), after summarizing the provisions of Directive Principles (as above) observes-“ If these several articles of the Constitution are read in conjunction with the equality clauses and the ‘rights to freedom’, and the right to life clauses of the Fundamental Rights, all the basic tenets of socialism (humanist socialism) may be considered satisfied.”⁴ “After all what is the essence of Socialism ? Socialism is no more than humanism or at any rate the essential step towards humanism. The central problem of socialism (that is, humanism) is the problem of man , and its most essential aspect is that of creating conditions for man’s happiness and full development.”⁵

Though Article 37 of the Constitution provides that directive principles of State policy shall not be enforceable by any Court Justice Chandrachud gave a hitherto unknown height to the need, necessity and significance of directive principles in the case of *Keshavananda Bharati*⁶. He said that these principles are so fundamental in governance of society that they can not be allowed to become 'a mere rope of sand'. "If the State fails to create condition in which the fundamental freedom could be enjoyed by all, the freedom of the few will be at the mercy of many and then all freedom will vanish." To preserve the freedom of all, he ruled that the privileged few must part with a portion of it in favour of those who are deprived.

In *Minerva Mills*⁷, he carried the thought further by cementing it. Delicate questions of power of Parliament to amend the Constitution and the obligation of State to ensure social justice to its people arose. He said “....The theme song of the majority decision in *Kesavananda Bharati* is: ‘Amend as you may even the solemn document which the founding fathers have committed for your care, for you know best the needs of your generation. But the Constitution is a precious heritage; therefore, you can not destroy its identity’”; and, he continued and said.... “Parts III and IV together constitute the core of the commitment to social revolution and they together are the conscience of the constitution. In other words, the Indian constitution is founded on the bedrock of the balance between Parts III and IV. To give absolute primacy to one over the other is to disturb the harmony of the constitution. This harmony and balance between

⁴ At p.140

⁵ At p.139

⁶ *Kesavananda Bharati etc.etc. v. State of Kerala etc. etc.* (1973 [4] SCC 225)

⁷ *Minerva Mills Ltd. and Others Vs. Union of India and Others* (1980 [3] SCC 625)

fundamental rights and directive principles is an essential feature of the basic structure of the Constitution. This is not mere semantics. The edifice of our Constitution is built upon the concepts crystallized in the preamble. We resolved to constitute ourselves into a Social State, which carried with it the obligation to secure to our people justice – social, economical and political.”

I can say it with confidence that in laying down the law as abovesaid Justice Chandrachud was only fulfilling the wishes of the Founding Fathers by reading the Constitution between the lines. Dr. Ambedkar, Chairman Drafting Committee, explaining the underlying object of Directive Principles, had stated *inter alia* that the parliamentary form of government instituted by the Constitution was not without any direction as to our economic deal or as to what our social order ought to be. One of the objects, he had said, was “...to lay down that our ideal is economic democracy and also to prescribe that every government whoever in power, shall strive to bring about economic democracy...”. Moving the Constitution (First) Amendment Bill, Pt Jawaharal Nehru had said about the Directive Principles – “After long discussion we agreed ...that they point out the way we have to travel. Fundamental Rights and Directive Principles – both are important. Directive Principles represent a dynamic move towards a certain objective. The Fundamental Rights represent the same thing static, to preserve certain right which exist. Both are important.”

In *Olga Tellis*⁸ Justice Chandrachud gave an unprecedented sweep to the right to life conferred by Article 21. He said, “if the right to livelihood is not treated as a part of the constitutional right to life the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation.” It was a case of pavement and slum dwellers. His heart was bleeding for the poor and he was almost poetic in his expression when he said – “These writ petitions portray the plight of lakhs of persons who live on pavements and in slums in the city...Those who have made pavements their homes exist in the midst of filth and squalor, which has to be seen to be believed. Rabid dogs in search of stinking meat and cats in search of hungry rats keep their company. They cook and sleep where they ease for no conveniences are available to them...Menfolk, without occupation, snatch chains with the connivance of the defenders of law and order; when caught, if at all, they say: “Who doesn’t commit crimes in this city?”

⁸ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180

He held that the Government was under an obligation to provide alternative accommodation to slum dwellers living in the slums which have existed for a long time.

In *Bangalore Water Supply*⁹ he opened a vast vista of horizon for poor workers by defining 'industry' in widest possible terms. He held, "that a systematic activity, which is organized or arranged in a manner in which trade or business is generally organized or arranged, would be an industry, despite the fact that it proceeds from charitable motives". He held that it is the *nature of the activity* which was important and *who conducts* the activities is irrelevant for determining whether the activity is an industry or not.

In *Sankalchand Himatlal Sheth*¹⁰ he came to the rescue of the Judges who wield a powerful pen but who are literally voiceless. He declared in no uncertain terms that the executive can not in the guise of exercising power of transfer of the High Court Judge 'punish a Judge who does not toe the line of the executive or who for some reason or the other has fallen from the grace of the executive.'

In *Patnaik vs. State of A.P.*¹¹, I guess, his eyes must have been filled with tears when he was visualizing the prisoners hidden behind high prison walls and cut off from the society when he said that convicts are not by reason of their conviction denuded of all fundamental rights which they otherwise possess as a human being.

Maneka Gandhi's case¹² is a long leap in the field of Administrative Law wherein he ruled that any and every procedure or a semblance of procedure can not be a substitute for 'procedure prescribed by law' within the mandate of Article 21; the procedure prescribed by law has to be fair, just and reasonable, not fanciful oppressive or arbitrary.

*Rudul Sah*¹³ is again a milestone on path to social justice giving weightage to the sanctity of fundamental rights. He held that a constitutional court can direct the victim to be compensated in terms of money by the State if his fundamental right to life and liberty has been grossly violated.

⁹ *Bangalore Water Supply & Sewerage Board etc. etc. v. A. Rajappa & Ors. etc. etc.* (1978 [2] SCC 213)

¹⁰ *Union of India v. Sankalchand Himatlal Sheth & Anr.* (1977 [4] SCC 193)

¹¹ *Patnaik v. State of AP*, AIR 1974 SC 2092

¹² *Maneka Gandhi v. Union of India* (1978), 1 SCC 248

¹³ *Rudul Shah v. State of Bihar*, (1983) 4 SCC 141

In *Shah Bano's*¹⁴ case he came to the rescue of financially deprived Muslim women. He harmonized the apparently conflicting provisions of Section 125 of Cr PC and the Muslim Personal law by holding that 'a Muslim husband's obligation to provide maintenance for a divorced wife who is unable to maintain herself can never come to an end.'

PART II

Justice Chinnappa Reddy in his Book¹⁵, of which I have spoken to a little before, given the same title to two different chapters : 'socialism' and 'federalism'. The common title is – 'Each for All and All for Each'. I think that the shortest definition of a big concept like 'Social Justice' is this – 'Each for all and all for each'.

Social Justice, equality and dignity of person are cornerstones of social democracy. The concept of "Social Justice", as engrafted in the Constitution of India, consists of diverse principles essential for the orderly growth and development of personality of every citizen. Social Justice is a dynamic device to mitigate the sufferings of the disadvantaged and deprived section of the society, and to elevate them to the level of equality to live a life with dignity. The objective of social justice is to attain substantial degree of social, economic and political equality, which is the legitimate expectation of people and goal of constitution. It embeds equality to flavour and enliven the meaningful content of life. Social justice and equality are complementary to each other so that both should maintain their vitality. Rule of law, therefore, is a potent instrument of social justice to bring about equality in results.¹⁶

Preamble to our Constitution incorporates "Justice – social, economic and political". Administration of justice can no longer be merely *protector* of legal rights but must also be *dispenser* of social justice.¹⁷ It is pertinent to note that in administering justice, social or legal or economic, jurisprudence has shifted away from fine-spun technicalities and abstract rules to recognition of human beings as human beings and human needs as human needs, thereby recognizing Human Rights. Not limited to classical individual liberties, the concept of Human Rights covers within its ambit social, economic and cultural rights which would, for effective

¹⁴ *Mohd. Ahd. Khan v. Shah Bano Begum*, 1985 (1) SCALE 767

¹⁵ *The Court and the Constitution of India – Summits and Shallows*

¹⁶ *Air India Statutory Corpn. v. United Labour Union*, (1997) 9 SCC 377

¹⁷ *Saduram Bansa.l v. Pulin Behari Sarkar*, (1984) 3 SCC 410; AIR 1984 SC 1471

actualization, require affirmative action at the level of individuals and collective activities at national, regional and international level. The Supreme Court of India has not lagged behind but has put to use the full potential of the constitutional provisions to widen the horizon of human rights and endorse the cause of social justice in India.

Broadly speaking, there are two strategies employed by the Supreme Court in expanding and effectuating the cause of social justice. By a series of pronouncements the Supreme Court has given life and shape to the soul of social justice as contained in the Constitution. The substantive law of social justice has been given dimensions. The Supreme Court has also devised road rollers for crushing any and every speed breaker on the road of social justice reaching the lowest and the remotest, the hapless and the helpless.

The Supreme Court has brought bonded labour lunatics, child labour, women, working women, prisoners, physically challenged, mentally challenged, visually challenged and so on (the list is lengthy and defies enumeration) under its protective umbrella. The Supreme Court has taken care of not only today but also of generations yet to come while developing the jurisprudence of sustainable development. Similarly, the Supreme Court has been mindful not only of living human beings but also of dead, of animals, of flora and fauna and environment. I propose to give only a few illustrations.

Prison Reforms: Since early 1980s, an increasing consciousness about the desirability of prison reforms has emerged. A reformatory philosophy and a rehabilitative strategy must form a part of prison justice is now well recognised. The role of the Supreme Court in introducing jail reforms has been creditable.

In *Sunil Batra's* case¹⁸, the Supreme Court held that the writ of Habeas Corpus would be available to any prisoner against any action of jail authorities which is not commensurate with his sentence or does not satisfy the test of Articles 14, 19 and 21. In *Rudul Sah's* case¹⁹, the Apex Court unprecedentedly awarded compensation for the illegal detention of the petitioner under Article 32 of the Constitution without affecting his right to sue for damages.

¹⁸ *Sunil Batra (II) v. Delhi Admn.*, (1980) 3 SCC 488

¹⁹ *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141

To foster the principle of “*Justice delayed is Justice Denied*”, The Supreme Court in another landmark judgment held that speedy trial is implicit in the broad sweep and content of Article 21 of the Constitution. Speedy trial is the essence of criminal justice and delay in trial by itself constitutes denial of justice. While holding bail system as prevalent to be oppressive and discriminatory against the poor, the Supreme Court observed that:

“It is a travesty of justice that the poor, because the bail procedure is beyond their meagre means, have to suffer long years in pre-trial detention... to eliminate the evil effects of poverty and assure fair and just treatment to the poor in the administration of justice, it is imperative that the bail system should be thoroughly reformed so that it should be possible for the poor, as easily as the rich, to obtain pre-trial release without jeopardising the interests of justice.”²⁰

In *Kartar Singh*’s case, the Supreme Court held that third degree method adopted by police to extort confession is violative of human rights and exemplary compensation can be awarded to the victims in appropriate cases. No one should be subjected to physical violence of the person as well as to torture as these undermine the peoples’ faith in the efficacy of criminal justice system.

In another landmark judgement in the case of *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*²¹, the Supreme Court explained the ingredients of personal liberty under Article 21. The case arose out of the rights of a detainee under COFEPOSA to have an interview with his family members and lawyers. The meeting with family members was restricted to once in a month and the lawyer could be met only in the presence of an officer of the Customs/Central Excise/Enforcement department. The Supreme Court ruled that the right to life and liberty included his right to live with human dignity and therefore a detainee would be entitled to have interviews with family members, friends and lawyers without these severe restrictions.

Environment Protection: The Environment and natural resources stand threatened with depletion. Environment can be sustained by protecting the environment²². A conscientious society can endeavour to render a valuable

²⁰ *Hussainara Khatoon (I) v. Home Secy., State of Bihar*, (1980) 1 SCC 81

²¹ (1981) 1 SCC 608

²² *Dobson, Andrew, Justice and the Environment*, pp. 33-61 (Oxford University Press, 1998)

contribution for the protection and improvement of the environment. A duty-based approach is reflected under Articles 48A and 51A(g) of the Constitution which provide for the obligation of the State and the fundamental duty of citizens in regard to protection and improvement of the environment respectively. Right to environment gained much recognition and elaboration in *Rural Litigation and Entitlement Kendra v. State of UP*²³, where the Court acknowledged it to be *the first case of its kind in the country*. It was held that the right of people to live in a healthy environment with minimal disturbance of the ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural land and undue affliction of air, water and environment. It was in *M. C. Mehta v. Union of India*²⁴, the Supreme Court infused the essence of Article 21 in to right to environment and placed the right to clean water of *present and future generations* on better footing so as to be *an imperative goal for mankind*.

Sustainable Development: Concepts of development and ecology may appear to be contradictory to each other. The Supreme Court has found an acceptable solution by adopting the *Doctrine of Sustainable Development*. This doctrine means “the development that meets the needs of the present without compromising the ability of the future generations to meet their own needs.”²⁵ It is accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. The Supreme Court, by adopting this doctrine in *Vellore Citizens’ case*²⁶, has not only preserved the rights of the current generation but also saved the rights of the future generation. Based on Sustainable development doctrine, Supreme Court has coined “Precautionary Principle²⁷” and “the Polluter Pays Principle²⁸”.

Other Landmarks: *Vishakha*²⁹ is a celebrated case where the Court recognised that sexual harassment of working women in their work place is

²³ AIR 1985 SC 652

²⁴ AIR 1988 SC 1037

²⁵ As defined in Brundtland Report

²⁶ *Vellore Citizens’ Welfare Forum v. Union of India*, (1996) 5 SCC 647

²⁷ The Precautionary Principle, in the national context, means (i) Environmental measure – by the State Government and the statutory authorities – must anticipate, prevent and attack the causes of environmental degradation, (ii) where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. (iii) The “onus of proof” is on the actor or the developer / industrialist to show that his action is environmentally benign.

²⁸ The Polluter Pays Principle means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation.

²⁹ *Vishakha v. State of Rajasthan*, (1997) 6 SCC 241

a clear violation of Articles 14 - (sexual non-discrimination), 19(1)(g) - (pursuance of an occupation), 21 - (life and liberty) and 42 - (just and humane working condition) of the Constitution. It was recognised that existing law did not adequately protect women from sexual harassment at workplace, the Court issued guidelines on the prevention of sexual harassment at workplace and they included the definition of sexual harassment, outlined the duty of employers to prevent, punish and remedy such harassment. It was made clear that these guidelines would be judicially enforceable until an expressed legislation is promulgated by the Parliament / State Legislatures.

In a widely publicized case of *Re Noise Pollution*³⁰ the Supreme Court has held the right to freedom from noise pollution a fundamental right. The Court further observed that nobody can claim a fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. Supreme Court held that the right to speech implies right to silence as well. It implies a freedom and a right not to listen and not to be forced to listen. Elaborate directions in this case assisted in attaining social justice.

The above illustrations belong to the domain of substantive jurisprudence. Now , I shift to the domain of procedural jurisprudence. How the Supreme Court has overridden all obstacles in free access to justice ? Justice to be social justice has to be accessible to all specially to the poor, down trodden, ignorant and illiterate, the common man who is far away from the doors of justice.

Public Interest Litigation: All the social and human rights are futile without a remedy. Such rights though conferred by the Constitution or by law on the deprived or disadvantaged section of society remain illusory for want of effective judicial mechanism. To strengthen this feeble area in the judicial process, a much celebrated achievement has been accomplished by the Higher Judiciary by entertaining ‘Public Interest Litigation’ under Articles 32 and 226 of the Constitution. According to Justice Bhagwati, in the well-known *Asiad* case³¹, PIL is a strategic arm of the legal aid movement which brings justice within the reach of poor masses. It is totally different from the traditional litigation which is adversary in character. The purpose of PIL is “to promote and vindicate public interest which demands

³⁰ *Re Noise Pollution (V)*, (2005) 5 SCC 733

³¹ *Peoples Union for Democratic Rights v UOI*, AIR 1982 SC 1473

that violation of constitutional or legal rights of large number of people who are poor, ignorant, or in socially or economically disadvantaged position should not go unnoticed and unredressed.” However the Supreme Court has sounded note of caution. Public Interest litigation is a potent weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. It should be aimed at redressal of genuine public wrong or public injury. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the judicious balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good.³² It can safely be said that PIL has come to stay as an instrument to further the objective of social justice.

Post-Emergency era saw a new public-oriented profile of the Indian judiciary. The Supreme Court assumed to itself the role of ‘the last resort of the oppressed and bewildered.’³³ Socially and *pro bono publico* motivated citizens, human rights activists and mass media volunteered their wholehearted and unprecedented support to the Court for the cause of social justice.

Dilution Of Principle Of Locus Standi: To further the cause of social justice and strengthening human rights Supreme Court in *S.P. Gupta’s case* diluted the strict principle of *Locus Standi*. The Court shifted from ‘right based’ to ‘duty based’ dimension of *Locus Standi*. The Court observed that “where there is a legal wrong or a legal injury caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of *poverty, helplessness or disability or socially or economically disadvantaged position*, unable to approach the Court for relief, any member of public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in the case of any breach of any fundamental right of such person or determinate class of persons, in this Court under Article 32 seeking judicial

³² *Dr. B. Singh v. Union of India*, (2004), 3 SCC 363

³³ *State of Rajasthan v. Union of India*, (1979) 3 SCC 634, 670

redress for the legal wrong or injury caused to such person or determinate class of persons... so that the fundamental rights may become meaningful not only for the rich and the well-to-do who have the means to approach the court but also for the large masses of the people who are living a life of want and destitution and who are by reason of lack of awareness, assertiveness and resources unable to seek judicial redress.”

Therefore, any enlightened member of the public having sufficient interest but acting bonafide can maintain an action for judicial recourse for any public injury arising from breach of public duty or from violation of Constitutional or legal provisions and seek enforcement of such public duty and observance of such provisions of law.

Relaxation in Filing Procedure : Procedural fairness and transparency are desirable qualities that judicial system must ensure. The filing procedure for Public Interest Litigation has been relaxed. Since PIL is not an adversarial litigation, the Court takes cognizance of governmental or administrative actions or inactions affecting the present or future rights of the citizens in many different manners. Not only has the Court taken cognizance of matters concerning public interest through petitions filed by public spirited persons or organizations by diluting the doctrine of *locus standi*, the Court has also entertained writ petitions through other modes of communication. In *Hussainara Khatoon*, Supreme Court took cognizance of a newspaper report regarding the position of prisons and the plight of under-trials in Bihar.

Matters have also been entertained in situations where letters have been written to Chief Justice of India thereby pioneering the era of *Epistolary Jurisdiction of the Higher Judiciary*. In *Bandhua Mukti Morcha v. Union of India*³⁴, the Supreme Court came to the rescue of bonded labourers. In *Nav Kiran Singh v. State of Punjab*³⁵, letters were sent to the Chief Justice of India and others judges of the Supreme Court in connection with the kidnappings and killing of advocates in Punjab. After scrutiny, it was found that the letters were fit to be treated as PILs.

³⁴ (1984) 3 SCC 161

³⁵ (1995) 4 SCC 591

PART - III

EPILOGUE

Milestones have been set, path to social justice has been trodden, Justice Chandrachud and his likes have held the beacon lights illuminating the path, yet it has to be said that the end goal of social justice is still far off. As an illustrious lawyer and as a notable jurist Justice Chandrachud has played his role well and bid us a good-bye handing over the lamp to his contemporaries and the man of mettle yet to come forewarning them to keep the lamp lighted. No wonder Prof. Upendra Baxi³⁶ paid his compliments to Justice Y.V. Chandrachud when he was demitting his office in these golden words:-

‘Yashwant Vishnu Chandrachud, who retires on July 12, 1985 after serving India with unusual distinction as her sixteenth Chief Justice, for an unprecedented tenure of seven years in that capacity, will be remembered with affection and pride as a gentleman judge who strove to uphold dignity of discourse amidst the disintegration of a whole tradition of lawyering and judging.’

‘In many ways, Chief Justice Chandrachud represented the best traditions of the Indian Bar. In this sense, he will always be recalled, with high esteem, as a lawyer, as a judge. Unfailingly polite, urbane to a fault, widely read not wearing his learning on the sleeve, insistent on justice according to the law and solicitous of language and diction, Yashwant Chandrachud cherished the dignity of discourse as the principal reassurance for doing justice.

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³⁶ *The Fair Name of Justice: The Memorable Voyage of Chief Justice Chandrachud*