

Speech by Justice Ujjal Bhuyan on the occasion of Justice V.R. Krishna Iyer's birthday celebration at Constitutional Club of India at New Delhi.

November 16, 2025

A very good morning to all of you.

A couple of months back, I received a call from Justice A.K. Patnaik. Justice Patnaik and I go a long way back. He was a judge in my parent high court i.e. Gauhati High Court from 1994 till 2002. When he went there, I was a raw junior, just three years into my practice. By the time he left I had established myself as a lawyer of some standing in the Gauhati High Court. My father had also appeared in a large number of cases as Advocate General of the State before the Bench of Chief Justice V.K. Khanna and Justice A.K. Patnaik in the first court.

So when Justice Patnaik made the request, I readily agreed to participate in today's programme. More importantly, for me it is a great honour and privilege to

speak about the life and law of an all time giant Justice Krishna Iyer who had given a decisive direction to India's constitutional jurisprudence.

Therefore, I thank the organisers for inviting me to be part of this celebration.

Friends, while I was a judge in the Bombay High Court, the covid pandemic broke out and during the initial days, we were all confined to our homes. During that period, one student ambassador representing SCC OnLine sought for an online interaction with me. Since SCC is law related, I agreed. During the course of the conversation, a question was put to me as to whether there was any political or executive pressure on the judiciary. I said that I have never faced any such interference. But I also remember to have said that our judiciary has been built literally brick by brick by great men and women over a long period of time. Its foundations are strong. There may be aberrations here and there but judiciary has the inherent resilience to protect its independence which is non-negotiable.

Today, we celebrate the legacy of one such great man.

Vaidyanathapura Rama Krishna Iyer lived for hundred years. His life spanned across a whole spectrum: as a fiery political activist, a minister, a public spirited lawyer, then as one of India's most erudite and welfarist judges, who continued his public engagement post retirement into the final years of his life. In this long journey, the thinker and writer in him also found expression in myriad ways.

I am a human; I count nothing pertaining to humans alien to me.

So said Justice Krishna Iyer and this remained his moto throughout his life.

When he gave his consent to become a judge of the Kerala High Court, many of his contemporaries including friends and well-wishers were puzzled. Some were even scandalized, given his communist past and considering his incarceration in Kannur jail. To his friends and critics

alike he said and I quote: *if the tryst with destiny that our nation made long years ago is redeemed and I have had some patriotic role, some small contribution to make in that behalf, be it as an administrator, promoter of public cause, advocate or judge. Viewed in this humanist, nationalist perspective, there is no inconsistency or discontinuity in my wearing the judicial robes.*¹

It is not that Justice Krishna Iyer thinking was at odds with our constitutional principles. In fact, I would say that his political thought process was completely aligned with the philosophy of our constitution. Therefore, it would be a travesty to cite the example of Justice Iyer to justify appointment of people to the higher judiciary having political affiliations which may clearly be at odds with our core constitutional values.

Justice Krishna Iyer's appointment as a judge to the Supreme Court in 1973 marked a decisive phase not only in his life but also of the Supreme Court, and by extension of the judiciary and the nation. Today I am not

¹ Justice V.R Krishna Iyer: From the Bar to the Bench, 25 (Law and Justice Publishing Co. 2012)

going to speak about the numerous judgments authored by Justice Krishna Iyer but it is clear as daylight that his judgments expanded the horizons of constitutional law, emphasizing social justice, human rights and the dignity of the individual. A firm believer in humane justice, he played a pivotal role in interpreting Article 21, thus reinventing the concept of *right to life and personal liberty*. Known for his eloquent and compassionate style of writing, with full bodied prose, Justice Iyer often blended law with moral philosophy and social conscience. His judicial opinions continue to inspire generations of lawyers, judges and citizens even after almost five decades. It reinforces our belief in the transformative power of the constitution.

In 1973, an expert committee on legal aid was constituted which was headed by Justice V.R. Krishna Iyer. It submitted a detailed report on May 27, 1973 which formed the foundation for the national legal aid scheme in India. While he was of the firm opinion that since the judiciary is the guardian of justice, an efficient

system of legal aid must necessarily contain judicial presence to instil public confidence in the system, but he was mindful of the fact that judiciary should not be entrusted with the implementation of what is basically a social welfare project which calls for talent of a different kind. Therefore, he warned that top judicial officers should not be involved in the day to day functioning of legal aid programmes.

In 1977, another committee was constituted comprising of Justice P.N. Bhagwati and Justice Krishna Iyer. They submitted a report titled *National Judicare Equal Justice and Social Justice*. In this report, Justice Krishna Iyer stated and I quote:

If the State is to secure a just social order for the welfare of the people and if legal justice is the root of orderly progress, there can hardly be any doubt that poverty jurisprudence must be developed in our country so that human justice through human law may promote in the people, faith in the constitutional order.

This paved the way for insertion of Article 39A in the Constitution of India. This in turn led to the enactment of

the Legal Services Authorities Act, 1987, which set up the legal aid system in India as we know it today.²

Justice Iyer viewed legal aid not as a charity but as an essential element of the rule of law and social justice.

Bail jurisprudence was so close to his heart that he gave the clarion call: *bail is the rule and jail is the exception*. Noticing a retrograde trend in trial courts and High Courts denying bail in recent times, Supreme Court had to reiterate this golden rule.

In *Moti Ram Vs. State of Madhya Pradesh*³, Justice Krishna Iyer writing for himself and Justice Desai held that law, at the service of life, must respond interpretatively to raw realities and make for liberties. Writing for himself and Justices Gupta and Pathak in *Mantoo Majumdar Vs. State of Bihar*⁴, he declared that imprisonment of a person who is undergoing trial without investigation or filing of charge-sheet would be in violation of Article 21.

² Shruthi Naik, Manpower Malady: Managing Legal Aid Institutions, Daksh Inida.

³ (1978) 4 SCC 47

⁴ (1980) 2 SCC 406

His humane considerations and deep understanding of social realities, particularly that of the marginalized sections of the society, convinced him that capital punishment is barbarous and uncivilised. Further, it is highly debatable whether capital punishment has served as a deterrent. So convinced was he about the brutality and futility of death penalty that in *Ediga Annamma Vs. State of Andra Pradesh*⁵, Iyer directed the trial courts to limit death sentences using extenuating factors wherever possible. In his autobiography⁶ Justice Krishna Iyer has stated about the above thus:

Once after I had stopped the death sentence in Ediga Annamma's case Chief Justice A.N. Ray wondered whether I had done something unconstitutional. I explained to him that even if the death sentence was technically constitutional, it should be applied only in the rarest of rare cases a position which was upheld by a five judges bench later in *Bachan Singh Vs. Punjab*⁷. Indeed Long Scarman, the great judge of Great Britain after two big decisions against death sentence in the Privy Council case

⁵ (1974) 4 SCC 443

⁶ *Wandering in Many Worlds - Autobiography by Justice V.R. Krishana Iyer*, Dorling Kindersley (India) Pvt. Ltd, First Impression 2009.

⁷ (1980) 2 SCC 684

wrote a personal letter to me that he was deeply moved by my pronouncement on the point⁸

Therefore, it was quite but natural that Justice Iyer's attention would turn to prison reforms. When he had left Kannur jail, he was traumatized by the experience, and therefore, in one case after the other, he tried to make the prison system as humane as possible. *Prem Shankar Shukla vs Delhi Administration*⁹, *Lingala Vijay Kumar Vs. Prosecutor*¹⁰ and *Sunil Batra Vs. Delhi Administration*¹¹ are few of those cases where Justice Iyer's commitment for prison reforms and his concern for human dignity are clearly discernible.

Justice Krishna Iyer's concurring opinion in the landmark case of *Maneka Gandhi Vs. Union of India*¹² played a significant role in expanding the interpretation of fundamental rights, particularly Article 21 establishing that any procedure for depriving personal liberty must be just, fair and reasonable. He articulated that cardinal rights in an organic constitution which makes a man 'human' have a

⁸ P.B Sahasranaman, Speaking for the Bench, Selected Judgments of Justice V.R Krishna Iyer, II, 245, (Mohan Law House Publishing, 2024)

⁹ (1980) 3 SCC 526

¹⁰ (1978) 4 SCC 196

¹¹ (1978) 4 SCC 494

¹² AIR 1978 SC 597

synthesis, reinforcing the inter-connectedness between Articles 14, 19 and 21, often referred to as the golden triangle of the constitution. According to me, this judgment has opened the doors for a host of jurisprudence to flourish: public interest litigation, human rights, environmental law and electoral reforms, to name a few.

Last year around the same time, Mr. Kailash Satyarthi, nobel laureate and child rights activist, came to my residence. He said he was organising a round table conference here at the same Constitution Club to discuss having a compassion quotient in judicial decision making. Since I knew Satyarthi for a long time, I readily agreed to participate in the conference. In that conference, I said that the judiciary must introspect as to whether it could have done better in some cases or in some situations. Only if there is introspection, there can be course correction.

In a recent judgment of Justice Abhay S. Oka and myself, *Wikimedia Foundation Inc. Vs. Ani Media Private Limited & Ors.*¹³, we said that courts, as public and open institutions, must always remain open to public

¹³ 2025 SCC OnLine SC 1075

observations, debates and criticisms. Infact, courts should welcome debates and constructive criticism. Every important issue needs to be vigorously debated by the people and the press, even if the issue of debate is subjudice before a court. For the improvement of any system and that includes the judiciary, introspection is the key. That can happen only if there is a robust debate even on issues which are before the court. Both the judiciary and the media are the foundational pillars of democracy which is a basic feature of our constitution. For a liberal democracy to thrive, both must supplement each other.

But abusing the judiciary is not criticism. Friends, in recent times, we have witnessed many unfortunate incidents. I am asking myself, is the judiciary under attack? We must seriously introspect and address this issue. People who have no understanding of how the judiciary functions or how a judge works are making scurrilous comments, bordering on abuse, against the judiciary. I believe many of them have a vested interest. People occupying high office cannot speak against the judiciary. Many of my colleagues feel that we should ignore all such things. But I strongly disagree. I have

my own views. To the detractors, I would like to say: whether you like it or not, judiciary as an arm of the State, is here to stay. The constitution has assigned the task of judicial review upon the judiciary. Judiciary must remain true to the constitution.

The recent instance of a lawyer throwing shoes at the Chief Justice of India has shaken me. In my entire career, I have never seen or heard of such an incident. Throwing shoes at the Chief Justice of India, that too, by a lawyer is an unpardonable crime. It is an assault on the institution itself.

In *Prashant Bhushan and Anr., In Re*, ¹⁴a three-Judge Bench of the Supreme Court held Prashant Bhushan, a practicing lawyer of the Supreme Court, guilty of criminal contempt for posting a tweet on social media regarding the then Chief Justice of India riding a motorcycle without wearing a mask or a helmet at the time of lockdown during covid. In that context, Supreme Court speaking through Justice Arun Mishra declared:

¹⁴ 7 (2021) 1 SCC 745,

76. * * * *

the Indian judiciary is not only one of the pillars on which Indian democracy stands but is the central pillar. The Indian constitutional democracy stands on the bedrock of rule of law. The trust, faith and confidence of the citizens of the country in the judicial system is sine qua non for existence of rule of law. Any attempt to shake the very foundation of constitutional democracy has to be dealt with an iron hand.

However, I have reservation on the use of the expression 'iron hand'. This is an expression of subjugation and judiciary cannot endorse such a concept.

In *Wikimedia*, we referred to the profound words of Justice Krishna Iyer in *S. Mulgaokar, In re*¹⁵ and held that if the court considers the attack on a judge or judges scurrilous, offensive, intimidatory or malicious beyond condonable limits, the strong arm of the law must strike a blow. This is to uphold public interest and public justice.

¹⁵ (1978) 3 SCC 339

Toward the end of his life Justice Krishna Iyer started believing in the theory of re-birth. Though I believe in God, I have my own views on re-birth and re-incarnations. It is not necessary to spell out those today. But the point that I am trying to highlight is that if at all there has to be a re-birth, my earnest wish would be that Justice Krishna Iyer should again be re-born as a judge. I had said in Pune at a function to felicitate Justice Oka that we need bold and courageous judges. We need a Krishna Iyer today more than ever before.

Thank you very much and God bless.

(JUSTICE UJJAL BHUYAN)