

BOOK REVIEWS

HUMAN RIGHTS AND THE LAW (1984). By Justice V.R. Krishna Iyer. Vedpal Law House, 27, M.G. Road, Indore-452 007. Pp. xvi+362. Price Rs. 300 : \$ 70 :£ 50.

THE BOOK¹ under review is Justice V.R. Krishna Iyer's latest one. His twenty-first. Like his previous ones this too is a must for every person concerned with the increasing violation of democratic rights in our country. It is a must not only because it contains valuable information for both the legal activist and the ordinary citizen but also because it is a source of inspiration for all those who feel despondent in these difficult times.

In the sixteen lectures reproduced in this 362-page book, there is an underlying conviction in human reason born out of a deep faith in humanity. The topics covered range from women's rights, problems of gender justice, environmental pollution, the judiciary, to the Indian Ocean and tax structure. The appendices include important human rights declarations and a valuable bibliography.

Each problem is discussed from the human rights angle with a view to developing an Indian jurisprudence which will incorporate this perspective. The underlying assumption, in the author's words, is:

Everyone has the right in all circumstances to be treated with humanity and with respect for the inherent dignity of the human person. Thus, international law, in the field of human rights, is no longer the vanishing point of jurisprudence but is a catalyst for the free and full development of every individual in the fertile milieu of a just society.²

For Justice Krishna Iyer the right to human dignity is not a question of individuals fighting for their rights but a struggle of an entire people for a more just and humane society. He recognizes the right to dissent. He is not afraid to come to a logical conclusion from his postulates and he, at all times, tries to combine theory with practice. There is a call for action and some guidelines and programme which come through each lecture so that the reader can feel the intensity and seriousness of the speaker.

The author's philosophy comes out in the following passage in his lecture entitled "Dynamics of Dissent". He writes:

1. V.R. Krishna Iyer, *Human Rights and the Law* (1984).

2. *Id.* at 12.

Our goal is Social Justice underscored by the Preambular Pledge. Our task is to devise methods and modalities to redeem this constitutional trust even by dissent from the *corpus juris* and the barbarities of ubiquitous corruption in high public life, oblique conduct of law-makers and law-dispensers. When a System keeps millions in sub-human status and millionaires in super-human control, practises inglorious grandeur and unconscionable brutality, and jaundiced justice, When a nation becomes submissive or communal-feudal-medieval and kilkenny-cat political unmindful of the masses, and the classes chase pleasure, position and shameless wealth, silence is a sin and dissent a duty...The explosive syndrome or passivist pathology are grave risks to our Secular Socialist Republic. Then the therapeutic process of activist protest and functional dissent finds its finest hour of fulfilment. *The Day After* is too late. Now, Now.³

For those involved with public interest litigation this book is packed with new ideas, information and innovative interpretations of various laws and the Constitution. The author first gives the background of the problem and goes to its roots and then in each case gives concrete suggestions for a possible remedy. He does not spare any one—he makes his point in a direct and forceful manner. For instance, in his lecture on “Woman Unbound”, he writes:

The texture of the system is so prejudicial that whichever party rules, women suffer. Where there is no will there is no way. The marxists in power in Kerala dare not give equal share in inheritance to Christian daughters of ‘Travancore and Cochin.’ The Janata Government had a Prime Minister who made no bones about women’s gradation of obedience; feudal thinking, Constitution notwithstanding, is current coin among Indian politicians in office and in opposition, in Administration and in Legislatures, why even in Courts, speaking generally.⁴

Justice Krishna Iyer goes on to elaborate on how the rights to equality clauses can be used for widening the scope of fundamental rights for women.

In his essay on the rights of the pavement dweller entitled “From the Album of Antyodaya Jurisprudence” the author describes the plight of our people who are wallowing in slums and pavements of glittering cities. He states:

Long stretches of side walks have flimsy projections and paltry thatches, little privacy and no living comfort. When the rain

3. *Id.* at 331.

4. *Id.* at 38-39.

pours, it is all wet. When the wind blows, all belongings fly away. When the sun hots up, the place is a furnace. Ill-clad women, naked babes and sweating males huddle together not knowing where to get drinking water, where to look for light, where to get food, how to sleep, where to answer the calls of nature and rest one's bones—in short, how to survive in the Socialist Republic of India.⁵

The author goes on to argue that the right to human dignity includes the right to dignity of our poor. Article 21 of the Constitution guarantees the right to life and personal liberty and it must be interpreted in the light of the basic premises of the Constitution. In Justice Iyer's words:

To remove poverty is the penetrating purpose of Social Justice. To reduce disparity is the social goal of the Constitution. Therefore, it can never be reasonable, when weighed in the scales of constitutional values, if property unlimited is classified as one category and poverty unlimited is classified invidiously as another category. Classification on the basis of ownership of property in a country where the architects of the Constitution—"We, the People of India"—are the ancient and incessant victims of ever-expanding and die-hard propertylessness, is unreasonable, unjust, and contrary to the cultural texture of the Constitution itself, especially when the classification is prejudicial to the propertyless class.⁶

Justice Krishna Iyer's lecture "Environmental Pollution and Legislative Solution" is valuable for all those trying to develop this very new aspect of law. Although we do not have comprehensive laws dealing with this health hazard, the author argues:

Local Boards Acts if democratically implemented, Town Nuisance Acts and the Police Acts, if promptly and punitively used, the Criminal Procedure Code and the Indian Penal Code if socially activated and proscriptively popularised, almost all nuisances, widely defined to include pollution on land, contamination of water, noise aggression and noxious discharges into the atmosphere in short, biosphere molestation, could be interdicted.⁷

The author has gone on to quote specific provisions and precedents, both Indian and foreign. He goes on to analyse the reasons for the non-implementation of anti-pollution laws. He states:

5. *Id.* at 61.

6. *Id.* at 67-68.

7. *Id.* at 150.

The pathology of legal impotence in overcoming pollution is not so much that we have not enough law but that most laws with police powers bark but do not bite. The reason is four-fold. Environmental justice is entrusted to bureaucratic machinery which, dysfunctionally, has passion for files, not for people. Secondly, people's agencies, even associations of non-official experts, cannot directly take action and the Board is a bottleneck. Most importantly, the criminals have clout and so Board's bow, never beat. And, the law is genetically so clumsy that quick action is lawlessness.⁸

The author suggests that remedy lies in having more public interest litigation, freedom of information and special courts to deal with this growing problem.

It is not possible to compress all the ideas, thoughts and breadth of information in a short review. There is one thing that does come through the pages—it is the former judge's deep humanism. In the preface he writes: "You may disagree with my violent views; you may be allergic to my verbal bombast; you may dismiss my rambling writing as wasted reading."⁹ What he does not say is that his writings and lectures are not mere lectures or essays, they are words deeply felt by a human being who is intensely concerned with the well-being of other human beings, who is never cynical, never despondent, never pessimistic. There is always a hope that shines through Justice Krishna Iyer's words—and that is perhaps his greatest contribution.

*Nandita Haksar**

8. *Id* at 154.

9. *Id* at vii.

* Advocate, Supreme Court, New Delhi.