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Constitutional Rights in India: An Assessment of Judgments of Justice P. N. Bhagwati

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Abstract

The fundamental rights of the citizens are enshrined in Indian Constitution. The Supreme Court of India and the High Courts during the last seven decades have rendered hundreds of judgments in perfecting the rights of the citizens and thereby contributing immensely to the Rights Jurisprudence. Some of the judges were active enough in securing the rights for the citizenry which sometimes dubbed as judicial activism. Justice P.N. Bhagwati is one of them. Justice Bhagwati the 17th Chief Justice of India, proved to be a harbinger of Fundamental Rights of citizens through his judgments. He introduced Post Card Petition culture in the Indian Judicial System. He was in the forefront for the cause of free legal aid to the poor; labourers' rights; rights of prisoners and inmates; etc. The remarkable judgements rendered by the Supreme Court with Justice P.N. Bhagwati on the Bench are Maneka Gandhi vs Union of India; Bachan Singh Vs State of Punjab; Bandhua Mukti Morcha Vs Union of India; Hussainara Khatoon Vs State of Bihar; Dr. Upendra Baxi Vs State Of Uttar Pradesh; S.P. Gupta Vs President Of India; Bihar Legal Support Society Vs Chief Justice of India; Kadra Pehadiya vs State Of Bihar; Munna Vs State of Uttar Pradesh; Sheela Barse Vs. Union of India; Additional District Magistrate, Vs. S. S. Shukla; Waman Rao Vs Union of India; Peoples Union for Democratic Rights Vs Union of India; etc. This article will attempt to analyse his judgements which circumvent the Fundamental Rights. The year 2021 happens to be his birth centenary. This Article is an attempt to pay tribute to this eminent judge.

Keywords: Rights, Post card petition, fee legal aid, public interest litigation, social action litigation, judicial activism

INTRODUCTION

Fundamental Rights are the cluster of all those basic rights that are indispensable for the citizens to live with dignity. The Constitution of India recognised these rights for its citizens as Fundamental Rights. The Supreme Court of India and the High Courts in India during the last seven decades have rendered hundreds of judgements in perfecting the rights of the citizens. Some of the judges were active enough in securing the rights for the citizenry which sometimes dubbed as judicial activism. Justice P.N. Bhagwati is one of them. During the decades of 1980s and 1990s the Indian Judiciary was at its innovative best by creative and doctrinal interpretation of the Constitution more particularly the Rights of the common man.

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Justice P. N. Bhagwati, the 17th Chief Justice of India, is considered a pioneer of Public Interest Litigation movement in India, a torch bearer of Human Rights, an exponent of Free Legal Aid and a judge par excellence.

Mr. Prafulchandra Natwarlal Bhagwati was born on 21st December 1921 in a family of legal luminaries at Ahmadabad. His father Mr. N. H. Bhagwati was one of the eminent judges of the Supreme Court of India. Mr. P.N. Bhagwati

attended Government Law College, Bombay and was awarded Law Degree by University of Bombay in the year1945. During his student days he was associated with freedom movement and participated in Quit India movement in 1942. He started his practice as an advocate in the High Court of Bombay in the year 1946. He was appointed Additional Judge of Gujarat High Court at a very young age of 38 in July 1960 and worked there for 13 years. Thereafter he served as Chief Justice of Gujarat High Court.

On 16th September 1967 he was appointed as the Judge of the Supreme Court of India. He retired as 17th Chief Justice of India on 21st December 1986. Apart from his judicial career he was interested in academics. He was a Member of the Boards of Studies of University of Bombay, Baroda University, Gujarat University, etc. He was Chancellor of Sanskrit Vidyapeeth. He was Member of United Nations Human Rights Committee. He was also actively associated with the Judicial Reforms in India. During his tenure as Chief Justice of Gujarat he served as Acting Governor of Gujarat. After having an illustrious career Justice P.N. Bhagwati passed away on 16th June 2017 at the age of 96. *Lord Harry Woolf [1]* the Chief Justice of England (2000-2005) described Justice Bhagwati as '*He has undoubtedly been one of the greatest jurists of his time and made an immense contribution to the development and observance of the rule of law in India and around the globe'.*

The remarkable judgements rendered by the Supreme Court with Justice P.N. Bhagwti on the Bench are *Maneka Gandhi vs Union of India*; *Bachan Singh vs State of Punjab; Bandhua Mukti Morcha vs Union of India; Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar; Dr. Upendra Baxi vs State Of Uttar Pradesh; S.P. Gupta vs President Of India; Bihar Legal Support Society Vs Chief Justice of India; Kadra Pehadiya vs State Of Bihar; Munna & Others vs State of Uttar Pradesh; Sheela Barse vs. Union of India; Additional District Magistrate, vs. S. S. Shukla; Waman Rao Vs. Union of India; Peoples Union for Democratic Rights v. Union of India;* etc.

The evolution of rights jurisprudence in India has been mainly through the judicial review and interpretation of Articles 14, 19, 21 of the Constitution. The judgements rendered by the Supreme Court wherein Justice P.N. Bhagwati was on the bench have left an indelible imprint in the journey of Indian judiciary. *Justice A.K. Sikri*, [2] former Judge, Supreme Court of India, describes the role played by Justice Bhagwati in the following words:

"Justice Bhagwati realised this role of the judiciary too well and gave a number of landmark judgements. In fact, the era of justice Bhagwati, along with stalwarts of equal calibre and vision such as Justice Y.V. Chandrachud, Justice Krishna Iyer, Justice O. Chinnappa Reddy and Justice D.A. Desai can be considered the golden era of the Indian Judiciary, when the judicial process worked towards the social transformation of the Nation."

Justice Bhagwati expounded and propounded the judicial concepts such as Public Interest Litigation, Social Action Litigation, Legal Aid to the poor and Social Justice. He transformed the justice delivery system in India. His judgments encompass Citizens Rights, Legal Aid, Public Interest Litigation, and Social Action Litigation.

The actions of the state cannot be arbitrary and unreasonable. It must be in the interest and welfare of the citizens, lest it is prone to invite judicial review. Justice Bhagwati through his judgements developed a normative regime which he admits in his autobiography and he states that '*developed a new normative regime of rights, which require that the state cannot act arbitrarily and every action of the state must be informed with reason and be in the public interest and if it is not it would be liable to be invalidated by judicial intervention' [3]. A.S. Chandhiok*, [4] former Additional Solicitor General of India sums up justice Bhagwati's efforts to approach citizen's rights in the following words:

"The unrelenting endeavours of Justice Bhagwati set up the dawn of a new social revolution. In the Fertilizer Kamgar case [5] Justice Bhagwati bravely relaxed the principle of locus standi. From admitting letters to his court to personally deciding over matters of public interest Justice Bhagwati

made PIL or social justice or legal activism a philosophical prerogative. He made activism acutely judge-based. He gave birth to epistolary [6] jurisprudence and opened the court doors prisoners [7], inmates [8] women's groups [9] tribals [10] underage labourers [11] and peasants [12] alike. He defiantly fought for the social purpose [13] of the Constitution. He extended the right to live with dignity [14]. He justified and reiterated a citizen's right to enforce his/her Fundamental Right [15] and brought out the benign side of justice".

Judicial activism has sometimes been portrayed as over enthusiasm of the Judges. A distinguished scholar of law *Prof. Mool Chand Sharma, [16]* who has been Vice Chancellor of Central University of Haryana and National Law University Bhopal, sums up judicial activism professed by Justice P.N. Bhagwati in these words:

"In this light what assumes importance is not that Justice P.N. Bhagwati was a firm believer in judicial activism as an integral component of the judicial function of his philosophy, but what "kind" and for what purpose he adopts the root of "activism" in discharge of his judicial functions is a question that assumes greater importance."

Dr. Shashi Tharoor, [17] Indian Parliamentarian and former minister in the Indian Government has these beautiful words for *Justice P.N. Bhagwati-*

*"Justice P.N. Bhagwati has often been seen as the '*Lou Henkin' *of India, a reference to the legendary jurist who is referred to as the "father of human rights law". Justice Bhagwati's international acclaim accords him the same stature as Lord Denning of the United Kingdom and Chief Justice Marshal of the United States."*

The activism demonstrated by Justice Bhagwati made it possible for Supreme Court of India and other High Courts to intervene and take corrective measures to put citizens' rights in place, which the state machinery failed in its actions to execute.

CULTURE OF POST CARD PETITION

Justice Bhagwati was a judge par excellence and emerged as a prominent figure in judicial activism in India. In the legal circles he was considered as an activist judge. He was in the forefront for the cause of judicial reforms, free legal aid, public interest litigations and social action litigation.

He introduced post card petition culture to the Indian judiciary to hear the grievances of the voiceless citizens. This Post Card Petition culture has helped the poor who cannot afford an advocate or approach the court. He felt that justice should reach the poor. He was aware that the poor cannot afford an advocate and reach the court for justice, hence their voices are choked and their rights are muscled. He took cognizance of the post cards/letters written to him and treated them as writ petitions which is known as epistolary jurisprudence.

The poor can be emancipated when their grievances are redressed and their voices are heard in the courts. The poor can be legally empowered when justice is delivered at their doorsteps. He was a staunch votary of post card petitions. Whenever a poor expressed his/her grievances on a post card, he treated it as a writ petition and issued notices to the respondents concerned. He was of the view, that it would be detrimental to the society if justice remained the privilege of the rich. It is true that the citizens can be politically empowered when they are legally empowered. He believed that if a poor citizen cannot afford to approach the court for the redressal of his/her grievances, justice shall be delivered at his/her door steps. When such post card petitions are received against the government authorities he treated such post card as petition and designated an eminent lawyer as *amicus curie* and issued notices to the authorities concerned.

In *Miss Veena Sethi v. State of Bihar*, [18] the honourable Supreme Court of India court treated a letter addressed to a judge of the court by the *Free Legal Aid Committee, Hazaribagh, Bihar State* as a

writ petition. In *Citizens for Democracy v. State of Assam [19]*, the letter written by *Shri Kuldip Nayar* a renowned and respected journalist, and *President of Citizens for Democracy,* to a judge of the Supreme Court of India, alleging human-rights violations of persons arrested under Terrorist and Disruptive Activities (Prevention) (TADA) Act which was treated as a Writ Petition under Article 32 of the Constitution of India.

Similarly the Supreme Court of India considered as Writ Petition, a letter from two professors at the University of Delhi seeking enforcement of the constitutional and fundamental right of inmates at Agra Protective Home for women in U.P., who were living in merciless conditions. *Justice Bhagwati [20]* states in his autobiography that:

"any member of the public or social action group espouses the cause of the poor and downtrodden he/it should be able to move the court even by just writing a letter because it would not be right or fair to expect a person or social action group acting pro bono publico to incur expenses from his/its own pocket in order to brief a lawyer and prepare a regular written petition to be filed in court for enforcement of the fundamental rights. Therefore, in such case a letter addressed by him/it to the court can legitimately be regarded as an appropriate proceeding within the meaning of article 32 and 226 of the constitution."

When *Mr. Mahboob Batcha* a Social Worker in Tamil Nadu State wrote a letter to Justice Bhagwati describing the appalling and miserable living condition of the *Periyar Tribals*, he treated this letter as a writ petition and constituted a committee to inquire into the matter and submit a report. While accepting the inquiry report justice Bhagwati ordered for the rehabilitation of these Tribals.

This Post Card Petition culture enunciated by Justice Bhagwati kindled a ray of hope for the underprivileged sections of the society. A distinguished professor of Constitutional Jurisprudence *Dr. Upender Baxi* [21] underscores the jurisprudence developed by Justice Bhagwati as under:

"For too long the Apex Constitutional Court had become "an arena of legal quibbling for men for long purses". Now increasingly, the court is being identified by justices as well as people as the last resort for the oppressed and bewildered. The transition from traditional captive agency with low social visibility into the liberated agency with high socio-political visibility is a remarkable development in the career of Indian Appellate Judiciary..... The court is augmenting its support base and moral authority in the nation at a time when other institutions of governance are facing a ligitimation crisis."

In this background the concept of Legal Aid to the Poor gains importance. The Government of Gujarat had a right choice when it appointed him as the Chairman of Legal Aid Committee. Later the Government of Gujarat appointed him Chairman of the Gujarat Judicial Reforms Committee.

Legal Aid to the Poor and the Deserving

There have been a number of persons including women and children languishing in the prisons without trial for years. Some of them had been in prisons for more than the period had they been punished for their offence if any, under the law, as they cannot afford an advocate to represent their case before the court. In a famous and foremost case in the history of Indian Judiciary known as *Hussainara Khatoon (I) v. Home Secretary, State of Bihar* [22] a Bench of the Supreme Court headed by Justice P.N. Bhagwati passed the landmark judgment on 9th March 1979, regarding free legal aid. The Subject of Free Legal Aid to the poor and the needy was close to his heart and he observed in this judgement that:

"In the case of, a shocking state of affairs in regard to the administration of justice came forward. An alarmingly large number of men and women, including children are behind prison bars for years awaiting trial in the court of law. The offences with which some of them were charged were trivial, which, even if proved would not warrant punishment for more than a few months, perhaps a year or two, and yet these unfortunate forgotten specimens of humanity were in jail, deprived of their

freedom, for periods ranging from three to ten years without as much as their trial having commenced".

The Hon'ble Supreme Court further held that:
"What faith can these lost souls have in the judicial system which denies them a bare trial for so many years and keeps them behind the bars not because they are guilty; but because they are too poor to afford bail and the courts have no time to try them. One reason why our legal and judicial system continually denies justice to the poor by keeping them for long years in pre-trial detention is our highly unsatisfactory bail system".

"This system of bail operates very harshly against the poor and it is only the non-poor who are able to take advantage of it by getting them released on bail. The poor find it difficult to furnish bail even without sureties because very often the amount of bail fixed by the courts is so unrealistically excessive that in a majority of cases the poor are unable to satisfy the police or the magistrate about their solvency for the amount of the bail and where the bail is with sureties as is usually the case, it becomes an almost impossible task for the poor to find persons sufficiently solvent to stand as sureties."

There was another case which came up for judgement on 19th December, 1980 known as Bhagalpur Blinding Case. In this case of *Khatri and others vs. State of Bihar [23]* Justice Bhagwati observed that 'The right to free legal services is an essential ingredient of reasonable, fair and just procedure for a person accused of an offence and it must be held implicit in the guarantee of Article 21 and the state is under the constitutional mandate to provide a lawyer to an accused person if the circumstances of the case and the needs of justice so require'.

Around the same time another case in *Kadra Pehadiya and Ors. Vs. State Of Bihar [24]* on 17 December, 1980 came up for hearing before the Supreme Court bench of Justices A. Sen and Bhagwati, wherein it was held that Legal aid in criminal case is a fundamental right implicit in Article 21 of the Constitution.

In the case of *Munna & Others vs. State of Uttar Pradesh [25]* on 19 January, 1982 the Supreme Court Bench of Justice Bhagwati directed the State Legal Services Authority to provide legal aid to the undertrials.

When Justice Bhagwati was the Chief Justice of India, another case *Suk Das & vs. Union Territory of Arunachal Pradesh [26]* came up for judgement on 10th March, 1986 before his bench, wherein it was reiterated that free legal aid is the fundamental right of the accused.

The decade of 1970s witnessed the development of mechanism for free aid to the poor and the needy. The Indian Government appointed a Committee in the year 1973 under the Chairmanship of *Justice Krishna Iyer* to prepare a scheme under a federal structure to provide legal aid to the poor and the underprivileged. *Professor N.R. Madhava Menon, [27]* founder Director of National Law School of India, Bangaluru, says 'It is no surprise that Justice Bhagwati and Justice Krishna Iyer joined together soon after to give the blue print of what later became the Legal Services Authority Act, 1986.'

Rights of Prisoners and Inmates

According to Justice Bhagwati, right to life not simply protection of body and limb, it surpasses beyond protection of body and includes right to live with dignity with all bare necessities required for life. He was of the opinion that there shall be humane treatment of prisoners. All basic necessities including timely medical treatment shall be provided to the prisoners. Women prisoners shall be

lodged in separate barracks under the watchful eye of women constables and officials. In the case of *Francis Coralie Mullin v. U.T. of Delhi, [28]* he observed that:

"We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as, adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and missing and coming along with fellow human beings."

In the case of *Sheela Barse vs. Union of India [29]* the plight of the women prisoners were brought to the notice of the Supreme Court bench headed Chief Justice Bhagwati. The court issued directions to the Director of the College of Social Work, Bombay to conduct interviews with the women prisoners of Bombay Central Jail, and submit report. Based on the report the Supreme Court on 13 August 1986, ruled that women prisoners should be detained in separate block designated for female prisoners and guarded by women constables and that the accused women detainees should be interrogated only in the presence of a female police official. A notice should be put up in the lock-up for the information of the arrested persons of their rights. A judicial officer should periodically visit the police lock-up.

Justice Bhagwati has been a critic of Capital Punishment. On 9th May, 1980 when the case of Bachan Singh vs. State of Punjab *[30]*, came up for judgement, he observed that '*Criminals do not die at the hands of the law, (but) they die at the hands of other men*'. He often quotes great scholars in his judgements to drive a point. He resorted to George Bernard Shaw's statement '*murder and capital punishment are not opposites that cancel one another, but similar that breeds their kind*' to condemn capital punishment.

Right to speedy justice emerged as a basic fundamental right as ruled in the case Hussainara Khatoon (III) v. State of Bihar *[31]* which had been denied to the prisoners. Justice Bhagwati says:

"The State cannot avoid its constitutional obligation to provide speedy trial to the accused by pleading financial or administrative inability. The State is under a constitutional mandate to ensure speedy trial and whatever is necessary for this purpose has to be done by the State. It is also the constitutional obligation of this Court as the guardian of the fundamental rights of the people, as a sentinel on the qui vive, to enforce the fundamental right of the accused to speedy trial by issuing necessary directions to the State which may include taking of positive action, such as augmenting and strengthening the investigative machinery, setting up new courts, building new court houses, providing more staff and equipment to the courts, appointment of additional judges and other measures calculated to ensure speedy trial."

Speedy trial became a fundamental right of the prisoners and the same set pattern was adopted in subsequent cases.

A foreigner Francis Coralie Mullin arrested under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act 1974, (COFEPOSA) Act, approached the Supreme Court in the case of *Francis Coralie Mullin vs The Administrator, Union Territory of Delhi [32]* the Bench headed by Justice P.N. Bhagwati on 13 January, 1981 highlighted the right to life in the following words:

"But the question which arises is whether the right to life is limited only to protection of limb or faculty or does it go further and embrace something more. We think that the right to life includes the right to live with human dignity and all that goes along with it, viz. the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and mingling with fellow human beings. Of course, the magnitude and the content of the components of this right would depend upon the extent of the economic development of the country, but it must in any view of the matter, include right to the basic necessities of life and also the right to carry on such functions, and activities as constitute the bare minimum expression of the human self."

Justice Bhagwati had concern for the miseries of the people. On 31 July, 1981 when the case of Dr. Upendra Baxi vs State Of Uttar Pradesh *[33]* came up for judgement, Justice Bhagwati directed the authorities to ensure that the inmates of the Protective Home at Agra do not continue to live in inhuman conditions and that the right to live with dignity enshrined in Article 21 of the Constitution is made real and meaningful for them.

CITIZENS' RIGHTS

Article 32 and 226 of the Indian Constitution empowers the Supreme Court and the High Court respectively to issue writs for the enforcement of rights of the citizens. The adjudications by Justice Bhagwati reflect the spirit of the Constitution in protection of rights of citizens and availing social justice to the deserving and the deprived. As a judge of the Apex Court and the Chief Justice of the Supreme Court of India he became the voice of the voiceless and an advocate of the Human Rights. The following are some of the adjudications on human rights rendered by Justice Bhagwati.

In Maneka Gandhi vs Union of India *[34]* the fundamental rights enshrined under Article 14 and 21 invoked before the Supreme Court of India. Justice P.N. Bhagwati while delivering the judgement on 25 January, 1978 ruled that, "*Life means not only physical existence; it means the use of every limb or faculty through which life is enjoyed.* He further added that right to life includes the right to a healthy environment. He observed that the correct way of interpreting the provisions of Part III of the constitution is to expand the reach and ambit of the fundamental rights, rather than to attenuate their meaning and ambit. He is of the opinion that the right to life and personal liberty under procedure established by law embodied in Article 21 of the Indian Constitution has been converted *defacto and dejure* into a procedural due process clause, contrary to the intention of the makers of the Indian Constitution [35]. This judgement rendered by the Constitutional Bench, headed by Chief Justice M. Hameedullah Baig became a landmark judgement in the history of Indian jurisprudence which held that Section 10(3) (c) of The Passport Act violative of Article 14 of the Constitution. *Pr. Faizan Mustafa,* [36] Vice Chancellor of NALSAR, Hyderabad justifies the innovative approach of Justice Bhagwati in dealing with the rights of common people in these words:

"(The Case of) Maneka Gandhi represented the beginning of the 'redemptive' or 'atoning' phase of the Indian Judiciary. Followiong Maneka Gandhi would be a series of judgements that would expand the scope of Article 21 to include various un-enumerated rights diluting locus standi requirements and innovating the use of mandamus. However, more significantly, Justice Bhagwati allowed for the real considerations of real people to factor into how one must interpret the Constitution."

The constitutional jurisprudence has benn developed in India due to several contributing factors. Justice *D.Y. Chandrachud,* [37] Judge of the Supreme Court of Indian says that '*some of these developments have been enriched by contributions to our constitutional jurisprudence by Justice P.N. Bhagwati. Through his judgements Justice Bhagwati opened the doors of the Supreme Court for the most neglected sections of our society. He rewrote the role that judges must play in a constitutional democracy.*'

During the emergency days on 28th April, 1976 a critical case came up before a bench of Supreme Court for hearing in which Justice Bhagwati was also on the bench. The Supreme Court rendered a controversial judgement while a Habeas Corpus Case in *Additional District Magistrate, vs. S. S. Shukla [38],* where in the apex court bench headed by Chief Justice A.N. Ray, Justices M.H. Beg, Y.V. Chandrachud, Justice Khanna and P.N. Bhagwati were on the bench. Except Justice Khanna the majority ruled as under:

"In view of the Presidential Order dated 27th June 1975 no person has any locus to move any writ petition under Art. 226 before a High Court for habeas corpus or any other writ or order or direction to challenge the legality of an order of detention on the ground that the order is not under or in compliance with the Act or is illegal or is vitiated by mala fides factual or legal or is based on extraneous considerations."

But *Justice Khanna*, was the only judge with a dissenting view and concluded his judgement as under:

"As observed by Chief Justice Huges, Judges are not there simply to decide cases, but to decide them as they think they should be decided, and while it may be regrettable that they cannot always agree, it is better that their independence should be maintained and recognized than that unanimity should be secured through its sacrifice. A dissent in a Court of last resort, to use his words, is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting Judge believes the court to have been betrayed."

Justice Khanna paid a heavy price for his dissenting judgement since he was not appointed Chief Justice of India as per seniority. He resigned from service when his junior, Justice M.H. Beg, superseded him. ADM Jabalpur case upheld the constitutional validity of the draconian Maintenance of Internal Security Act (MISA) and declared that even the right to habeas corpus would not survive during the Emergency. Justice Bhagwati was rightly criticised for this judgement. The dissenting judgement of Justice H.R. Khanna was noteworthy. But Justice Khanna's dissenting judgement was held to be correct in August 2017 by a nine Judge Constitutional Bench headed by Chief Justice Khehar which criticised the judgments rendered by four judges constituting the majority in ADM Jabalpur as seriously flawed and observed that life and personal liberty are inalienable to human existence. Justice Rohinton Fali Nariman, in his separate judgment, described Justice Khanna's dissent as one of the "three great dissents" in the history of Supreme Court of India. But it may also be noted that Justice P.N. Bhagwati had apologised for his view in the ADM Jabalpur case after 35 years.

Social Justice

The concept of social justice has been enshrined in Part VI of the Indian Constitution of India under Articles 36 to 51 as Directive Principles of State Policy which the state shall endeavour to ensure welfare of the citizens. These directive principles envisage that the aim of governance is just not *laissez faire*, but to attain a welfare state. The rulings of Justice Bhagwati have cast far reaching effect to ensure social justice. *Justice A.M. Ahmadi [39]* the former Chief Justice of India highlights the Constitutional philosophy of Social Justice in the judgements of Justice Bhagwati and argues that:

"Justice Bhagwati was a leading advocate of the constitutional philosophy of social justice, which can be gathered from his judgements. It must be accepted that the theme of social justice has occupied a high moral ground in the philosophical discussions ever since the beginning of political philosophy, yet in terms of democracy and popular politics, its exact meaning and implications have been nebulous, one of the reasons being the fact that justice in reality is a meeting ground of many ideas, situations, concepts, expectations, mechanisms and practices."

The Constitution Bench headed by the then Chief justice Y.V. Chandrachud, and Justices P.N. Bhagwati, A.C. Gupta, N.L. Untwalia, P.S. Kailasam, on the bench, considered the question whether the Constitution 42nd Amendment Act 1976 damage the basic structure of the Constitution in the case of Minerva Mills Ltd. & Ors vs. Union Of India [40]. This Bench of Supreme Court on 31st July, 1980 by a majority view observed that the constitution is a precious heritage; therefore its identity cannot be destroyed. The majority of the Bench conceded to the right of Parliament to make alterations in the constitution so long as they are within its basic frame work. Justice Bhagwati in his dissenting judgement expressed that:

"If the exclusion of Fundamental Rights embodied in articles 14 and 19 could be legitimately made for giving effect to the Directive Principles set out in clauses (b) (C) of Article 39 without affecting the basic structure, I fail to see why these fundamental rights cannot be excluded for giving effect to the other Directive principles if the constitutional obligation in regard to the other Directive Principles which stand on the same footings."

"I find it difficult to understand how it can at all be said that the basic structure of the constitution is effected when for evolving a modus Vivendi for resolving a possible remote conflict between two

constitutional mandates of equally fundamental character, Parliament decides by the way of amendment of Article 31-C that in case of such conflict the constitutional mandate in regard to Directive Principles shall prevail over the constitutional mandate in regard to the Fundamental Rights under Article 14 and 19."

With regard to section 4 of the 42nd Constitutional Amendment Act 1976 Justice Bhagwati supporting the move of the parliament for the cause of social justice held that:

"On the interpretation placed on the amended Article 31-C by me it does not damage or destroy the basic structure of the constitution and is within amending power of Parliament and I would therefore declare the amended Article 31-C of the constitution as valid."

Justice Bhagwati expressed similar views in the case of *Waman Rao Vs. Union of India* [41] on 13 November, 1980 which was being dealt by the Constitutional Bench headed by the Chief Justice Y.V. Chandrachud.

An NGO Bandhua Mukti Morcha presented the plight of the bonded labour before the Supreme Court for its intervention. The bench of the Supreme Court headed by Justice P.N. Bhagwati while delivering the judgement in this case of *Bandhua Mukti Morcha vs Union of India & Others [42]* on 16 December, 1983 observed that:

"When the Directive Principles of State Policy have obligated the Central and the State governments to take steps and adopt measures for the purpose of ensuring social justice to the have-nots and the handicapped, it is not right on the part of the concerned governments to shut their eyes to the inhuman exploitation to which the bonded labourers are subjected. It is not uncommon to find that the administration in some States is not willing to admit the existence of bonded labour, even though it exists in their territory and there is incontrovertible evidence that it does so exist. We fail to see why the administration should feel shy in admitting the existence of bonded labour, because it is not the existence of bonded labour that is a slur on the administration but its failure to take note of it and to take all necessary steps for the purpose of putting an end to the bonded labour system by quickly identifying, releasing and permanently rehabilitating bonded labourers. What is needed is determination, dynamism and a sense of social commitment on the part of the administration to free these bonded labourers."

"The State is under Constitutional obligation to see that there is no violation of any person, particularly when he belongs to the weaker sections of the community and is unable to wage a legal battle against a strong and powerful opponent who is exploiting him. The Central and State Governments are bound to ensure observance of various social welfare and labour laws enacted by the Parliament for securing the workmen a life of basic human dignity in compliance with the Directive Principles of State Policy enshrined under Part-1V of the Indian Constitution."

Taking cue of the far-sightedness of Justice Bhagwati's above judgement the former Attorney General of India, *Mr. Soli Sorabjee [43]* describes his contribution thus:

"One of his great contributions was liberation of the rule of locus standi. Post his judgement, any person acting bona fide could approach the court for protection of the fundamental rights of the downtrodden sections of the society. The far-sighted approach was evident in the Bandhua Mukti Morcha [44] case where by his orders ad directions, the onerous liabilities on 'serfs' were liquidated and furthermore, they were rehabilitated through the allocation of some piece of land that they could cultivate and maintain themselves."

In Peoples Union for Democratic Rights v. Union of India [45] the bench of the Supreme Court headed by Justice Bhagwati on 18th September, 1982 ruled to ensure that the labour should get living and equal wages. During his tenure as the Chief Justice of India, Justice Bhagwati became the voice of the voiceless. His judgements articulated the constitutional provisions to ensure that the

fundamental rights enshrined in the constitution are equally availed and enjoyed by the underprivileged sections of the society. The former Chief Justice of India Justice *M.N. Venkatachaliah* [46] rightly explains that:

"Justice Bhagwati was an outstanding man of law and a social philosopher who recognised judicial power as an invitation, an instrument and an inspiration for social change. Judges have become the trustees of the new conceptions of limited government. At the same time, judges came to be the trustees of an "enlarged government", enlarged, i.e., to fulfil the new goals of the social state."

The father of Nation *Mahatma Gandhi*, [47] an advocate of non-violence opined during the days of freedom struggle that:

"The contrast between the palaces of New Delhi and the miserable hovels of the poor labouring class nearby, cannot last one day in a free India in which the poor will enjoy the same power as the richest in the land. A violent and bloody revolution is a certainty one day, unless there is voluntary abdication of the riches and the power that riches give and sharing them for the common good."

It may be appropriate to say that when the Executive abdicates from its responsibility the judiciary takes on the mantle.

Public Interest Litigation/Social Action Litigation and Judicial Activism

'Public interest Litigation', means litigation for consideration before a competent court of law, for the protection of *Public Interest* such as environment protection, child labour, road safety, etc. The redressal of an injury caused to the collective rights of the public through a judicial remedy is called Public Interest Litigation. On the other hand when a judicial remedy is sought for the rights of a section of the society or class of people, it is called Social Action Litigation. Article 32 and 226 of the Indian Constitution are the instruments through which the Supreme Court or the High Court respectively can exercise jurisdiction, adjudicate and render appropriate orders. The principle of *locus standi* is replaced with the principle of *sufficient interest* under these petitions. *Mr. K.K. Venugopal [48]* the Attorney General of India observes that '*immediately after the emergency, when that government was swept out of power a resurgent Supreme Court became wildly super-active. They created new jurisprudence permitting strangers to a cause of action to file public interest litigations (PILs). This was an innovation by two of the greatest jurists that we have had, namely, Justice P.N. Bhagwati and Justice V.R. Krishna Iyer*'. Post emergency, in the early years of 1980s the judiciary was getting sensitive towards the rights of the citizen. In the decade the 1980 judicial activism emerged on the horizon of the Indian Judiciary. Be it the right the prisoners, rights of the labourers, rights of the tribals, sufferings of the downtrodden, child rights, women's rights, preservation of nature and environment or the fundamental rights and dignity of the common citizens, the Indian Judiciary was always willing to take up the cause of fundamental rights, to issue directives for corrective measures. This decade also witnessed the rise of movements for the rights of women.

Public Interest Litigation is not defined in the Statute or in any Act legislated by the Indian Parliament. It is said to have been borrowed from American jurisprudence. However Article 32 of the Indian Constitution embodies the mechanism through which the public can approach the Supreme Court of India through public interest litigation. This Article is described as the heart and soul of the Constitution by Dr. B.R. Ambedkar who drafted the Indian Constitution. Public interest litigation is the power given to the public by courts through judicial activism, where the *locus standi* of the petitioner is relaxed. *Dr. Shashi Tharoor, [49]* Parliamentarian and former minister in the Indian Government articulates Justice Bhagwati's quest for enforcing fundamental rights for all, in the following words:

"While one may have questioned the locus standi of the party to approach the Court, as none of its rights were being affected in the case, justice Bhagwati in his quintessential style reasoned that any member of the public can approach to seek the enforcement of fundamental rights under articles 32 and 226 of the Constitution of India, on behalf of those who cannot approach the courts directly."

The concept of Public Interest Litigation (PIL) is in consonance with the principles enshrined in Article 39A of the Indian Constitution. The court can itself take cognizance of the matter and precede *suo motu* or cases can be instituted on the petition filed by any public spirited citizen. The genesis of the Public Interest Litigation in Indian jurisprudence can be traced in the judgement of Supreme Court of India in Mumbai *Kamagar Sabha vs. Abdul Bhai [50]* rendered by the Bench of Justice Krishna Iyer. However it is considered that the first noticed Public Interest Litigation in India was the case before the Supreme Court of India in *Hussainara Khatoon vs. State of Bihar [51]* delivered by Justice P.N. Bhagawati that focused on the inhuman conditions of prisons and under trial prisoners that led to the release of more than 40,000 under trial prisoners. Parliamentarian *Dr. Shashi Tharoor [52]* argues about this judgement thus:

"While deciding on a case regarding a huge number of people, including women and children, who had been imprisoned in Bihar, for years without trial, Justice Bhagwati strongly argued that the state cannot deny its citizens the rights to a fair and speedy trial, as guaranteed by the Constitution, on the grounds that it lacks financial resources. The judgement was unambiguous in stating that the state had an unconditional constitutional obligation to provide legal aid to those who could not afford to engage a lawyer."

Justice *P.N. Bhagawati* became the harbinger of the Public Interest Litigation movement when he rendered the judgement in the case of S.P. Gupta vs. Union of India. This movement changed the outlook of the Indian judiciary. The rule of *locus standi* is an exception in Public Interest Litigations as it is based on the principle of *Universal* or *General Standi*. The concept of *nebulous standi* reiterated in his judgement in S.P. Gupta vs. Union of India when he observed that any member of the public or social action group acting 'bonafide' can invoke the Writ Jurisdiction of the High Courts or the Supreme Court seeking redressal against violation of legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court. By this judgment Public Interest Litigation became a potent weapon for the enforcement of *state duties.*

The doctrine of Public Interest Litigation was expounded by Justice Bhagwati, while authoring and rendering the judgement on 30th December, 1981 in *S.P. Gupta vs. President of India and Others* [53]. The other judges on the Bench were Justices A. Gupta, D. Desai, E. Venkataramiah, R. Pathak, S.M. Ali and V. Tulzapurkar. In this case Justice Bhagwati reiterated that:

"Where a legal wrong or a legal injury is 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 by reasons 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 case any breach of fundamental rights of such persons or determinate class of persons, in this court under Article 32 seeking judicial redress for the legal wrong or legal injury caused to such person or determinate class of persons."

Justice Bhagawati through his judgements proved to be a harbinger of Fundamental Rights through his judgements in Public Interest Litigations. He ruled that "any member of the public or social action group acting bonafide" can invoke the Writ Jurisdiction of the High Courts or the Supreme Court of India. His judgements have articulated a mechanism in enforcing public duties. He portrays this in his Biography that '*The Supreme Court through Public Interest Litigation found a new historical basis for the litigation of judicial activism and has acquired new credibility with the people. This development has been the result of intense juristic activism on the part of a few justices of the Supreme Court of India led by me' [54]*. He further describes the hurdles in taking justice to the ordinary people and articulated that [55]:

"Sitting as the judge of the Supreme Court I realised that the main obstacle which deprived the disadvantaged of effective access to justice was the traditional rule of locus standi or standing which

insists that only a person who has suffered a specific legal injury by reason of actual or threatened violation of his legal or constitutional rights and legally or constitutionally protected interest can bring an action for judicial redress. It is only the holder of the rights who can sue for actual or threatened violation of such rights and no other person can file an action to vindicate such rights. The rule of locus standi was obviously evolved to deal with the right-duty patterned which to be found only in private law litigation. But it effectively barred the doors of the courts to large mass of people who on account of poverty and ignorance are unable to avail of the judicial process."

In another important case of *People's Union for Democratic Rights v. Union of India [56]*, which came up for judgement before a Supreme Court Bench headed by Justice Bhagwati on 18th September, 1982, wherein it was held that:

"Public Interest Litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two parties, one making a claim or seeing relief against the other and that other opposing such claim or relief. Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and un-redressed."

In this case of People's Union for Democratic Rights vs. Union of India *[57]* a writ petition came up before the Supreme Court of India in the nature of public interest litigation. Justice Bhagwati held that '*accepting less than minimum wages due to the economic compulsion amounts to forced labour'*. Justice *Bhagwati* also explained the nature of PIL in the following words in the very same case:

"There is a misconception in the minds of some lawyers, journalists and men in public life that public interest litigation is unnecessarily cluttering up the files of the Court and adding to the already staggering arrears of cases which are pending for long years and it should not therefore be encourage by the court. This is to our mind, a totally perverse view smacking of elitist and status quoits approach. Those who are decrying public interest litigation do not seem to realise that courts are not meant only for the rich and the well-to-do, for the landlord and the gentry, for the business magnate and the industrial tycoon, but they exist also for the poor and the downtrodden the have-nots and the handicapped and the half-hungry millions of our countrymen. So far the courts have been used only for the purpose of vindicating the rights of the wealthy and the affluent. It is only these privileged classes which have been able to approach the courts for protecting their vested interests. .....Millions of persons belonging to the deprived and vulnerable sections of humanity are looking to the courts for improving their life conditions and making basic human rights meaningful for them. They have been crying for justice but their cries have so far been in the wilderness. They have been suffering injustice silently with the patience of a rock, without the strength even to shed any tears."

"With all the emphasis at our command that public interest litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public Interest Litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and un redressed."

In the same case he clarified the issue of *locus standi* and observed that:

"Peoples Union for Democratic Rights had "locus standi" to file a petition for enforcement of various labour laws intended for the benefit of the workers and the court rejected the argument that entertaining of such PIL would create arrears of cases."

In a unique case of *Bihar Legal Support Society Vs Chief Justice of India and anr [58]* on 19th November, 1986, Justice Bhagwati unfolded the scheme of Public Interest Litigation evolved by the Supreme Court of India to take justice to the door step of the poor and the underprivileged sections of the society.

Justice Bhagwati clarified about the Public Interest Litigation while rendering the judgement in *Bandhua Mukti Morcha vs Union Of India [59]* on 16th December, 1983 and articulated that, Public Interest Litigation does not mean Adversary Litigation but it is an opportunity to the public authorities to understand the rights of the citizens in a proper perspective and to ensure social and economic justice which is the constitutional objective.

The Public Interest Litigation and Social Action Litigation if exercised aggressively under the garb of social justice may lead to undue judicial activism or judicial populism. Judicial populism may create a rift between the state and judiciary. Justice P.N. Bhagwati has maintained a balance through his judgements to uphold the decorum of the judiciary and dignity of the democratic institutions. Prof. *Upender Baxi, [60]* lists the skills of Justice Bhagwati in crafting the Social Action Litigation as follows:

"First, he enunciated and to some measures obtained the interruption of law by justice. Second, he led a constitutional war to approve the denial of justice by reclaiming the vision of just political and social action. Third, this war normatively entailed the liberation of "imprisoned meanings" (to deploy a phrase by Jacques Lacin). Fourth, Justice Bhagwati articulated and organised the judicial negation of unconstitutional action by the state against rightless people, and fifth, he instilled a new sense of constitutional hope and anticipation in judicial social action."

Some unscrupulous and indiligent litigants started exploiting the very concept of Public Interest Litigation for their ends. *Dr. Abhishek Singhvi [61]* former Indian Minister and Chairman Parliamentary Committee on Law says that "*later distortions of PIL exploited not by such groups but by opportunistic or motivated litigants or handled by inept and non-dexterous judges, cannot be the basis for faulting the faultless jurisprudential edifice set up by the fine intellect of Justice P.N. Bhagwati*." Justice *Bhagwati [62]* was conscious of this situation and he describes it in the following words:

"The scope of judicial activism varies with the width of the power conferred on the courts and the perception or the nature of the judicial functions by the judges. Where the courts have the power of the judicial review, there is a greater scope for judicial activism and this scope increases considerably where the power of judicial review extends not only over executive action, as in the United Kingdom, but also over legislative action, as in the United States, and even over constitutional amendments as in India."

Social Action Litigation may pave a way for judicial populism. The judiciary takes the mantle of custodian of Parliamentary morality. The Public Interest Litigation and Social Action Litigation gained prominence through his judgements.

CONCLUSION

The legal principles exercised by Justice Bhagwati in his adjudications have reiterated the objectives of the Fundamental Rights and the Directive Principles of State Policy. In his own words as mentioned in his biography '*a Judge is a creative artist, he cannot and should not blindly, interpret the constitution or law.'*

The concepts of judicial activism and judicial populism gained prominence during his tenure as Chief Justice of India. Justice Krishna Iyer described him as 'Justice Bhagwati is not only a legal luminary but also a social activist spreading the glorious cultural heritage of our country'. *Dr. Abhishek Manu Singhvi, [63]* a legal luminary and parliamentarian describes the Juristic craftsmanship of justice Bhagwati in the following words:

"It is safe to say that no judge …….has been as innovative, creative, trail-blazing, bold, social-cause oriented, sure-footed and skilled in fashioning new doctrines and remedial structures, energetic, indefatigable, productive even in sheer quantity, and committed to what he set out to do amidst many resisting doubting thermoses as Justice P.N. Bhagwati. Whatever he touched he embellished. Whatever he created, he crafted with the skill of a world-class architect, painter, sculpture combined. Whatever he wrote, he based on principle and precepts. It is not as if he was the inventor of everything. Many of his creations have roots and predecessors in earlier judgements of others. But he alone put them at the centre stage. He alone gave them flesh, blood, a beating heart, a searching soul and a dynamic momentum."

The judgements rendered by Justice Bhagwati echoes his respect for human rights and concern for the rights of the underprivileged sections of the society. The splendid efforts of Justice P N Bhagwati and Justice V R Krishna Iyer were instrumental in juristic revolution to convert the Apex Court of India into a Court for one and all. Justice A.M. Ahmadi the former Chief Justice of India says '*Justice Bhagwati through his judgements endeavoured to implement in the true spirit of the Constitution. How far Justice Bhagwati's philosophy has been advanced since he left the Apex Court is for the next generation to judge' [64]*. However *Mr. K.K. Venugopal* the Attorney General of India opines that '*today, the legal edifices constructed by Justice Bhagwati, continue to endure and the people of this country continue to seek shelter and receive benefit from them [65].*'

His adjudications prominently find place in the judgements of the High Courts and the Supreme Court of India. He was the 17th Chief Justice of India and rightly considered as a pioneer of Public Interest Litigation movement in India, a torch bearer of Rights of Citizens, an exponent of Free Legal Aid and a judge par excellence. The judgements rendered by him and his bench have richly contributed to the human rights jurisprudence. He had a prudent brain, a judicious mind and a bleeding heart for the rights of the underprivileged.

REFERENCES

1. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.xi
2. Justice A.K. Sikri, Art. Social Transformation through Judicial Process, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019, p.17
3. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.66.
4. A.S. Chndhiok, Art, Social Justice Activism to Collective Actvism: PIL, the Legacy of P.N.Bhagwati, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p. 228.
5. Fertilizer Corporation Kamgar v. Union of India, AIR 1981 SC (2) 344
6. Peoples's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473.
7. Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1369
8. Veena Sethi v. State of Bihar, AIR 1983 SC 339
9. Open Letter 1 SCC (Journal) 17 (1979)
10. Kadra Pahadia v. State of Bihar, WP No. 5943 of 1980.
11. Peoples's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473.
12. Sanjit Roy V. State of Rajasthan, AIR 1983 SC 378; Saudan Sing v. NDMC (1992) 2 SCC 458.
13. Peoples's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473.
14. Francis Coralie Mullin v. administration, AIR 1981 SC 746; 1981 SCR (2) 516.
15. The Indian Constitution, Article 32 (1).

16. Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019, p. xlii
17. Dr. Shashi Tharoor, Art. Justice P.N. Bhagwati – A Pioneer in the Access to Justice, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.168,169.
18. 1982 (2) SCC 583 : 1982 SCC (Cri) 511 : AIR 1983 SC 339
19. AIR 1996 SC 2193; 1995 KHC 486; 1995 (3) SCC 743; 1995 (2) KLT SN 74
20. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.77.
21. Baxi Upendra, Taking suffering seriously: Social Action Litigation in the Supreme Court of India, Delhi Law Review 91, 1985, p.8.9.
22. 1979 AIR 1369, 1979 SCR (3) 532
23. 1981 SCR (2) 408, 1981 SCC (1) 627
24. AIR 1981 SC 939 b, 1981 (29) BLJR 300, 1981 CriLJ 481, (1981) 3 SCC 671
25. 1982 AIR 806, 1982 SCR (3) 47
26. 1986 AIR 991, 1986 SCR (1) 590
27. N.R. Madhava Menon, Art. A Visionary Activist Judge, who fought for access to justice for all, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.133.
28. 1981 AIR 746, 1981 SCR (2) 516,
29. JT 1986 136, 1986 SCALE (2)230, (1986) 3 SCC 596
30. AIR 1980 SC 898, 1980 CriLJ 636, 1982 (1) SCALE 713, (1980) 2 SCC 684, 1983 1 SCR 145
31. 1979 AIR 1369, 1979 SCR (3) 532
32. 1981 AIR 746, 1981 SCR (2) 516,
33. 1982 (1) SCALE 502 a, (1983) 2 SCC 308
34. AIR 1978 SC 597, 1978 SCR (2) 621
35. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.65.
36. Pr. Faizan Mustafa, Art. Finding Justice Bhagwati's Judicial Legacies, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.186.
37. Justice D.Y. Chandrachud, Art. Social Justice and Horizontal Rights: A reflection on the Constitutional Vision, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.32.
38. 1976 AIR 1207, 1976 SCR 172
39. Justice A.M. Ahmadi, Art. For the Festschrift, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019, p.67.
40. 1980 AIR 1789, 1981 SCR (1) 206
41. (1981) 2 SCC 362, 1981 2 SCR 1
42. 1984 AIR 802, 1984 SCR (2) 67
43. Soli Sorabjee, Art. Festschrift for Justice Bhagwati, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.106-107.
44. (1984) 3 SCC 161
45. 1982 AIR 1473, 1983 SCR (1) 456
46. Justice M.N. Venkatachaliah, Art. Legal Control of Government: Justice Bhagwati and his "Bylanes of Justice", Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.61
47. Young India, 15th November, 1928.
48. K.K. Venugopal, Art. Scope of Judicial Powers: Judicial Activism, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019, p.94.
49. Dr. Shashi Tharoor, Art. Justice P.N. Bhagwati – A Pioneer in the Access to Justice, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.170.

50. 1976 AIR 1455, 1976 SCR (3) 591
51. 1979 AIR 1369, 1979 SCR (3) 532
52. Dr. Shashi Tharoor, Art. Justice P.N. Bhagwati – A Pioneer in the Access to Justice, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.169.
53. AIR 1982 SC 149, 1981 Supp (1) SCC 87, 1982 2 SCR 365
54. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.67.
55. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.76.
56. 1982 AIR 1473, 1983 SCR (1) 456
57. 1982 AIR 1473, 1983 SCR (1) 456
58. 1987 AIR 38, 1987 SCR (1) 295
59. 1984 AIR 802, 1984 SCR (2) 67
60. Porf. Upender Baxi, Art. Uprooting Injustice, Organising Negation: The Enduring Contribution of Justice P.N. Bhagwati, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.114.
61. Dr. Abhishek Singhvi, Art. Justice P.N. Bhagwati: Pathfinder, Savant and Creator Par Excellence, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.163.
62. P.N. Bhagwati, My Tryst with Justice Universal Lexis Nexis, Delhi, 2013 reprint 2019, p.56
63. Dr. Abhishek Singhiv Art., Justice P.N. Bhagwati: Pathfinder, Savant and Creator Par Excellence, Sharma Mool Chand. Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.160,161.
64. Justice A.M. Ahmadi, Art. For the Festschrift Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge, Gurugram, India, 2019 p.67.
65. K.K. Venugopal, Art. Full Court Reference in Memory of Prafullachandra Natwarlal Bhagwati, Sharma Mool Chand, Ed. Law Justice and Judicial Power, Justice P.N. Bhagwati's Approach, Oakbridge. Gurugram, India, 2019, p.101.

