

# **THE CONSTITUTION OF INDIA**

## **- A FLOURISHING BANYAN TREE**

1. I regard it as a singular honour to be invited by the Government of India to deliver the Keynote Address to commemorate India's Constitution Day. I wish to thank the High Commission of India to Malaysia for hosting this most auspicious event on this historic day, when the Constituent Assembly "*adopted, enacted and gave to ourselves this Constitution*" 72 years ago. I am indebted to His Excellency, Shri B.N. Reddy, the High Commissioner of India for the generous invitation to share my thoughts on this most important of political covenants.

### **Constitutional Antecedents**

2. Mahatma Gandhi declared in 1922 that "*Swaraj*" – independence from the British and self-realisation – required Indians to shape their own destiny; that only in the hands of Indians could India become herself. Swaraj would not, the Mahatma said, be the gift of the British Parliament but must spring from "*the wishes of the people of India as expressed through their freely chosen representatives*".<sup>1</sup> The desire for a "*home-*

*made* constitution, instead of one drafted in the Colonial Office in London and passed by Westminster, was very much in the minds of the architects of India's Independence. Thus, they did not wish the retreating British to be involved. Rather, the Constituent Assembly was tasked with the grave responsibility of writing the Constitution.

3. The Constituent Assembly, indirectly elected by the people in 1946, held its first session on 9<sup>th</sup> December 1946. Although the Constituent Assembly was in effect a one-party assembly dominated by the Congress Party, it was representative of India. More fundamentally, its internal decision-making processes were democratic and fair. The leaders of Congress, who led India to independence in August 1947 and then governed it, were also the most influential members of the Assembly. The Provinces, the Princely States and the 3 Communal groups: Muslims, Sikhs and General (Hindus and all other communities) were also represented. As the Constituent Assembly deliberated, the Indian Independence Act, passed by the British Parliament, came into effect on 15<sup>th</sup> August 1947 and India assumed her rightful place amongst the free nations of the world. This Act further conferred legality to the Constituent Assembly, elevating it to the legislative branch in the newly independent Union as the Dominion Parliament.

4. Rajendra Prasad was elected President of the Constituent Assembly. The appointment of Bhimrao Ambedkar, as Chairman of the key Drafting Committee, turned out to be a singular success. Not only was Ambedkar not a member of Congress, he had public disagreements with Congress, and with Gandhi for over 2 decades. This was not held against Ambedkar. He was personally invited by Nehru to serve.<sup>2</sup> Mention must also be made of B.N. Rau. As Constitutional Adviser, Rau's advice was often accepted in the Assembly's inner councils, although he was not a member. As a pre-eminent jurist, student of comparative constitutional history and skilled draftsman, Rau played an important role behind the scenes in the creation of the Constitution.

5. In drafting the Constitution, the Constituent Assembly had to grapple with the huge religious, ethnic, linguistic, economic and social diversity that defines Indian society. Caste was a greater affliction than class at the time. Before Partition, 20% were Muslim, whilst other religious minorities included Buddhists, Jains and Parsis (together comprising about 2.5%), Christians (2.5%) and Sikhs (almost 2%). After Partition, the Muslim population had reduced to 12%; yet, India's Muslims in 1947 constituted the world's 3<sup>rd</sup> largest Muslim community (after Indonesia and Pakistan). India is home to over 20 major languages, each

spoken by millions. In addition to this vast religious, cultural and linguistic mosaic, the Constituent Assembly faced the challenge of incorporating 562 Princely States, which for the most part had no democratic tendencies.<sup>3</sup>

### **Adoption of the Constitution.**

*"A Constitution is framed for ages to come, and is designed to approach immortality as nearly as human institutions can approach it. Its course cannot always be tranquil."*<sup>4</sup>

*Chief Justice John Marshall*

6. The Constitution was adopted by the Constituent Assembly on this day – in 1949, and came into force on Republic Day – 26<sup>th</sup> January 1950.

7. The Indian Constitution's indigenous nature and origin has been a major reason for its enduring success. That the same men responsible for drafting the Constitution were also responsible for governing the country, gave the Assembly an immediate understanding of the issues required to be dealt with in constitution-making.<sup>5</sup> The Big Four in

Congress: Jawaharlal Nehru, Vallabhbhai Patel, Maulana Azad and Rajendra Prasad, brought their immense prestige as Founding Fathers, along with their knowledge and working experience of the day-to-day affairs and problems of government. Idealism was tempered by pragmatic realism.

8. If the United States had Washington, Jefferson and Madison as its Founding Fathers, India had its own array of distinguished greats. Indeed, no other people gaining independence after World War II were so blessed with leaders of such experience, talent, love for democracy and personal character.

9. The Indian Constitution provided fidelity to the universal principles of liberty, equality and fraternity: the French influence. It happily adopted Madison's Bill of Rights from the United States. From the common law of England, it accepted constitutional conventions and fundamentals like separation of powers, rule of law, independence of the judiciary, and in part Dicey's principles. The Directive Principles of State Policy were derived from the Irish Constitution. No wonder that this eclectic approach to constitution making (adopting the best practises

regardless of their origin) led scholars to describe it as a “*cosmopolitan constitution*”.<sup>6</sup>

10. According to the leading scholar on the making of the Indian Constitution, Granville Austin<sup>7</sup>, the philosophy of the Constitution can be found in 3 strands: protecting and enhancing national unity and integrity; establishing institutions to promote the spirit of democracy and fostering a social revolution to better the lot of the mass of Indians. A lofty ideal.

Austin elaborated:

*“The framers believed, and Indians today agree, that the three strands are mutually dependent and inextricably intertwined. Social revolution could not be sought or gained at the expense of democracy. Nor could India be truly democratic unless the social revolution had established a just society. Without national unity, democracy would be endangered and there could be little progress toward social and economic reform. And without democracy and reform, the nation would not hold together. With these three strands, the framers had spun a seamless web. Undue strain on, or slackness in, any one strand would distort the web and risk its destruction and, with it, the destruction of the nation. Maintaining harmony between the strands predictably would present those who later would work the Constitution with great difficulties. The framers had undertaken an ambitious and noble enterprise. Their product pleased nearly everyone.”<sup>8</sup>*

And may I add: they succeeded admirably.

11. The Constitution has a Preamble, 395 Sections (many of which have been repealed) and 12 Schedules. Thus, it runs to over 300 pages, making it one of the longest written constitutions in the world. However, prophetic and far-sighted the draftsmen were, they were neither perfect nor infallible. Amendments followed in a great flourish. More than 100 amendments have so far been enacted. In comparison, the Constitution of the United States was the product of the Constitutional Convention held in Philadelphia in 1787, and adopted in 1789. It is short, consisting of just 7 Articles. In 230 years, it has only been amended 27 times. Its entire text runs to less than 8000 words. Hence, the vital features of the US Constitution are its longevity, brevity and near-inalterability. Quite a contrast to the Indian model.

## **The Establishment of the Supreme Court of India**

12. The Supreme Court of India, the apex court, was established, under the Constitution, on 26<sup>th</sup> January 1950. All appeals to the Privy Council ceased thereafter. At the inaugural sitting of the Supreme Court in New Delhi on 28<sup>th</sup> January 1950, the first Attorney General of India, Motilal Setalvad, in welcoming its establishment, concluded as follows:-

*"....we hope and trust that this Court will play a great and singular role and establish itself in the consciousness of the Indian people. 'Like all human institutions, the Supreme Court,' we hope, 'will earn reverence through truth.'<sup>9</sup>*

Responding, the first Chief Justice, Harilal Kania, declared:-

*"The duty of interpreting that Constitution with an enlightened liberality falls on the Supreme Court. The Supreme Court will declare and interpret the law of the land, and, with the high traditions behind the judiciary of this country, we are convinced that the work will be done in no spirit of formal or barren legalism. It will be our endeavour to interpret the Constitution, not as a rigid body, but, as a*



*living organism, having within itself the force and power of self-government. We trust, that, in doing so, we shall allow the constitutional usages and conventions recognised in all civilised independent countries to be respected.”<sup>10</sup>*

13. The primary source of strength of the Supreme Court is public confidence. Its judges have, over seven decades, interpreted the Constitution to keep pace with societal changes, thereby retaining and building upon its relevance. Public opinion is such that by the 21<sup>st</sup> century, the Supreme Court occupied a position of pre-eminence among the 3 branches of government. Because the Supreme Court has repeatedly come to the rescue of vulnerable sections of society; particularly, through its encouragement of public interest litigation, its independent judiciary is a national asset, and the envy of people across the globe.

14. Let me quote constitutional commentator, Venkat Iyer: <sup>11</sup>

*“Few apex courts in the developing world can match the formidable reputation which the Supreme Court of India has built up in at least two significant respects over the 50-odd years that it has been in existence. Not only has the Supreme Court ‘played a central role in sustaining democratic institutions and the rule of law for almost a quarter of the world’s population, but it has*

*displayed a remarkable capacity for creativity, resilience and ingenuity in meeting the myriad challenges thrown up by a society that is characterised, on the one hand, by deep religious, linguistic and other divisions, rampant maladministration, endemic corruption, acute economic underdevelopment, and widespread poverty, and, on the other hand, by a political system in which adherence to constitutionalism and rule of law has been far from steady. Unsurprisingly, the court's functioning has been informed by a high degree of judicial activism, which has drawn acclaim and criticism in equal measure."*<sup>12</sup>

15. A foreign observer can wax lyrical about the ways and means by which judges of the Supreme Court of India have creatively pushed the boundaries of constitutional law to its outer limits: further, than any other court in the world. Time constraints however do not permit, on this occasion, to do justice to the development of judge-made law. Rather, I shall briefly highlight 3 areas of public law that present challenges to every society, regardless of any claim to political maturity: constitutional amendment, public interest litigation and the facilitation of fundamental liberties, where Indian jurisprudence thrives.

## Constitutional Amendments

16. The designers of the Indian Constitution did not foresee the Congress domination of Parliament in the Nehru days which meant that constitutional amendments were easily secured. The two-third's majority posed no obstacles. The rush to constitutional amendments continued unabated during his daughter Indira Gandhi's Prime Ministership, including endeavouring to rein in judicial independence. The stage was set for a confrontation between the executive and the judiciary. In Kesavananda Bharati v. Kerala,<sup>13</sup> lands belonging to a religious endowment were expropriated through legislation which was rendered unchallengeable in court by a recent constitutional amendment. The Supreme Court was invited by the nation's leading constitutional lawyers to revisit the validity of the constitutional amendments. A special bench of 13 judges sat for some 70 days. The 11 judgments exceeded 800 pages in the law reports. The majority enunciated a completely new constitutional doctrine: while Parliament's power of constitutional amendment was extensive, it was not absolute; and any use of that power to alter "*the basic structure*" of the Constitution would be impermissible.

17. Without an implied limitation, Parliament could abolish general elections. Perhaps even the entire Constitution. Put simply, the legislative branch, itself being a creature of the Constitution, cannot increase its own constituent power nor can it arrogate to itself the power to radically alter or destroy the Constitution or its essential features, like the power of the judicial branch: a co-equal branch, in the guise of a constitutional amendment. Thus, Parliament operates under inherent and implied limits. Parliament is without power to make wholesale changes or a total review which render the constitution a wholly different document from its original version.

18. Kesavananda represents the high-watermark of constitutional interpretation, not just in India, but the entire common law world. As one would expect, the majority in Kesavananda did not identify what constituted "*the basic structure*" of the Constitution. Subsequent decisions did. Thus, secularism<sup>14</sup>; independence of the judiciary<sup>15</sup>; judicial review powers of the High Courts and the Supreme Court<sup>16</sup>; freedom of speech within parliament<sup>17</sup>; free elections and the rule of law<sup>18</sup>, have been accepted as part of the basic structure of India's Constitution.

19. Let Austin have the final word on the lasting effects of

Kesavananda:

*"The Kesavananda case embodied two issues critical in parliamentary, democratic governance, one substantive, one institutional. Substantively, the view that the Constitution had given Parliament unlimited constituent power – that is, unlimited power to amend the Constitution – confronted the view that the judiciary, with the Supreme Court at its head, was the Constitution" ultimate interpreter – and therefore protector. Institutionally, perforce, the confrontation took place, as in the past, between the Court and Parliament – and, because Mrs Gandhi led the Parliament at this time, the confrontation boiled down to one between Mrs Gandhi and the Court. In Kesavananda, the Court emerged victorious, in both confrontations, asserting its institutional role vis-a-vis Parliament in constitutional matters and strengthening its power of judicial review through the basic structure doctrine. Thereby the Court rescued the democracy strand of the seamless web from those who would have sacrificed it to genuine or pretended social revolutionary intentions." <sup>19</sup>*

### **Public Interest Litigation**

20. Public interest litigation ("PIL") involves a court relaxing the strict requirements of traditional adversarial style litigation in a common law

system, in limited circumstances, to allow indigent persons or disadvantaged groups access to justice. Justice Bhagwati, one of the pioneers of this innovation observed:-

*"The changed rule was formulate as follows by one of the leaders of the PIL revolution: '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 their constitutional or legal rights, and such person or determinate class of persons is by reason of poverty or disability in a socially or economically disadvantaged position and unable to approach the Court for relief, any member of the public or social action group acting bona fide can maintain an application in a High Court or the Supreme Court...'*<sup>20</sup>

21. The most critical relaxation was the widening the test for standing to sue. If the person who has the requisite locus standi is too poor to sue, anyone else acting in good faith can move a petition on his behalf. The Supreme Court's expansionary approach included acting on letters written to it, thus, bypassing the courts below, and giving the apex court, original jurisdiction. In order to do practical justice, judges of the Supreme Court are empowered to investigate the matter before them in

order to secure the facts and other data that would be necessary for a decision or determination to be made by the Court thereafter.

22. The extent and range of cases undertaken through PIL in 4 decades is truly remarkable. What began as complaints about prisoners and gross human right abuses has moved to bonded labour, tribes affected by developmental projects, environmental protection, public health and sanitation, conservation of wildlife and public education. PIL has thus demonstrably increased access to the courts for the poor and ostracised members of society and provided benchmarks for proper conduct for bureaucracies. Such court intervention by the judicial branch has not gone without criticism. Thus, Upendra Baxi, a leading commentator, observed:

*".....the Supreme Court since 1980 has become the third chamber of Parliament."* <sup>21</sup>

### **Fundamental Liberties**

23. Fundamental liberties are enshrined in Part III of the Indian Constitution. In some 15 Articles, free speech, freedom of religion,

equality and the like are given hallowed status. For present purposes, I wish to focus on Article 21 which states that "*no person shall be deprived of his life or personal liberty*". "Life" has been recognised as the most precious right and means much more than "*mere animal existence*". Right to life was expanded to mean to live with human dignity and includes the "*finer graces of civilization*". The right to a fair trial and a fair procedure entailed the right to free legal aid services.

24. "*Personal Liberty*" has been interpreted by the courts to include the right to education, right to health, right to livelihood, right to food, right to a clean environment, privacy, sexual harassment, telephone tapping and even the concept of sustainability. Given the sheer breadth and width of rights being read into Article 21, concern has been expressed whether a hierarchy of rights ought to be tabulated. The dangers outweigh the incremental development on a case by case basis. Ultimately, personal liberty is very much the judges reasoned view of space allotted to an individual by a democratic and open society. Article 21 has thus developed into a repository of manifold human rights by the Courts giving substantial content and flesh to the dry words "*life*" and "*liberty*".



## **The Indian Influence on Malaysia's Constitution**

25. India's independence on 15<sup>th</sup> August 1947 and establishment as a Republic under a supreme Constitution on 20<sup>th</sup> January 1950 inspired our Founding Father, Tunku Abdul Rahman, who was legally trained in England, and comfortable with the Westminster system of government and the primacy of the common law. Hence, it was Tunku, Malaya's first popularly elected Chief Minister, and subsequently first Prime Minister, who insisted on a Commission of experts from the Commonwealth to study and advise on a written constitution for independent Malaya.

26. The Constitutional Commission established in 1956 under Lord Reid comprised 5 distinguished jurists, including B. Malik, a former Chief Justice of the Allahabad High Court. Reid's Commission borrowed heavily from the Indian Constitution, including the Chapter on Fundamental Liberties. The supremacy of the Constitution is also recognised. Other similarities include federalism and judicial review. Justice Malek's influence was thus substantial. It therefore comes as no surprise that from the first constitutional case to come before our Courts in the late 1950's to the present, Malaysian counsel invariably refer to cases decided

by the Supreme Court of India and our judges often quote and rely on these cases. I can personally vouch for this aspect of Malaysian constitutionalism; in nearly every case that I have appeared, I have referred to Indian case law. Some concepts and doctrines have been accepted, and form part of Malaysian law. Regrettably, some have not been accepted: PIL comes to mind as an area our Courts have scrupulously avoided.

27. In February 1980, Lord President Tun Suffian was given the high honour of delivering the V. V. Chitale Memorial Lectures in Bombay and Nagpur. The prestige of this lecture series is marked by the international calibre of the distinguished speakers. The previous Speaker had been Lord Denning, one of the greatest judges of the 20<sup>th</sup> Century. Tun Suffian, who undoubtedly ranks among Malaysia's most cerebral judges, published his talks into a book entitled "*Malaysia and India-Shared Experiences in the Law*". Tun Suffian reminded readers that the Indian influence had accompanied British rule over the Straits Settlements in the 1850's. The Criminal Procedure Code, Penal Code and Evidence Act were borrowed from India. Likewise, the Contracts Act, the Specific Relief Act and the Land Acquisition Act. Tun Suffian also paid tribute to the contribution of Justice Malek in modelling our Constitution on India's.

## Accomplishments

28. Seven decades provide an appropriate time frame to assess the actual working of the Indian Constitution, and to inquire whether aspirations of the Constituent Assembly in adopting their home-made constitution have been met. Save for the 20-month Indira Gandhi Emergency from July 1975 to March 1977, the clear, unambiguous and unequivocal objective answer would be that the Constitution has served the nation and its people remarkably well. The Indian Constitution is the longest surviving constitution in the post-colonial world. It has been the model for numerous Commonwealth countries which freely and voluntarily opted for Westminster style parliamentary democracy. I refer to just one of countless adulatory descriptions. According to scholar Rohit De:

*".....India has a visibly vibrant constitutional culture. The Indian Supreme Court has been frequently described as the most powerful constitutional court in the world, exercising wide powers of judicial review. A constitutional court is the final authority on interpreting the Constitution and is tasked with ensuring that its limits are not transgressed. Aided by a robust bar, supported by the state, and enjoying tremendous public support, the courts have come to play an all-pervasive role in public life, so much so that scholars argue that 'there is not a*

*single important issue of political life in India that has not, by accident or design, been profoundly shaped by the Supreme Court's interventions'. The state is frequently taken to task, and governmental decisions that violate the constitutional limits are challenged and overturned. More significantly, self-imaginings, interests, identities, rights and injuries of citizens have become saturated with the constitutional language, and even radical social and political movements are constrained to engage with law and constitutional structures. Marginalised groups, including Dalits and tribals, have transformed the constitution into a public resource through the construction of monumental public statuary commemorating the constitutional promise of equality or through installing stone slabs in villages outlining the constitutional safeguards to tribal areas. Class struggles increasingly morph into class-action cases."*<sup>22</sup>

29. A constitution, no matter how well conceived and how comprehensively drafted, can only establish institutions, confer rights and impose obligations on paper. Breathing life into it is entirely dependent on thousands of individuals, starting with members of the 3 branches of government. The Prime Minister, the Cabinet, Parliamentarians and Judges of the Superior Courts have their respective constitutional duties to discharge. The Bar has a vital role among members of civic society. So has the media and academia. Finally, the people, who are the ultimate

beneficiaries of Constitutional protections. Hence, the actions of a whole host of human actors make it work. It is in this sphere that the Indian experience has been praiseworthy. If Gandhi represented the soul and spirit of democracy, Nehru manifested in the first 17 years of the nation's life as an independent nation the democratic actions of an accountable chief executive while Ambedkar laid the constitutional foundation for a successful parliamentary democracy, constrained by the Constitution of India.

30. The Indian Constitution has provided a durable framework and foundational structure for institutions to work during challenging times; domestically, in dealing with political, economic and social changes; internationally, in coping with Pakistan from Partition and Kashmir, as leader of the non-aligned movement in the 1950's and 1960's during the Cold War Era and as a nuclear power in more recent times. Unlike its neighbours in the sub-continent, and many in the Third World, the military stayed in their barracks. Never was there a concern about military coups, with the armed forces accepting civil dominance.

31. A social revolution was brought about in India through the blossoming of civil liberties and human rights in the aftermath of

oppressive British colonial rule. Central to it are the Fundamental Rights, Directive Principles, universal adult suffrage and general elections held every five years, all rooted in the Constitution.

32. The Constitution, above all, has been the source of the country's stability and its open society. State and national elections are regularly held. Even when Indira Gandhi had supreme power during Emergency, she yearned for democratic credibility, and called for general elections resulting in her humiliating defeat in March 1977. A Constitution is worked by humans whose conduct shapes and moulds the former. The politics for working the Constitution resulted in a consensus, give and take approach that never threatened the body politic of the Republic.

33. In the final analysis, any objective audit after 7 decades would conclude that the Constitution has satisfied the aspirations of its makers. Many of the nations' achievements in varied areas can be attributed to the underlying Constitution – its brooding omnipresence. The Executive branch, prompted often by the judiciary, has shown itself to be far more flexible than even the most optimistic members of the Constituent Assembly may have expected.

## The Living Tree

*"The British North America Act planted in Canada a living tree capable of growth and expansion within its natural limits".<sup>23</sup>*

Lord Sankey LC

34. The best compliment that a student of constitutional law can pay to any nation's written constitution is that it is a living, breathing document. Hence, vitality and growth are essential; in contrast to interpreting, say, a will. Save for short interludes, as during the Emergency in the mid-70's, those working the Indian Constitution have made it the heart and soul of her democracy – the world's largest. It has served as a brake against military coups, encouraged secularism, overcome some of the injustices caused by the Emergency, inspired lawyers and judges outside its shores and produced the most powerful court in the world, a court which protects the rights of some 1.4 billion people.

35. In my respectful opinion, the most deserving epithet is the Banyan tree, which incidentally is also India's national tree. The Banyan offers massive shade and protection; its aerial prop roots provide greater

stability than the normal single trunk of most trees. It is synonymous with longevity. Long may India's Constitution and its banyan trees flourish.

Tommy Thomas

26<sup>th</sup> November 2021



## EndNotes

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- <sup>1</sup> Cited in "*The Indian Constitution – Cornerstone of a Nation*" by Granville Austin [1966] at Page 1.
  - <sup>2</sup> See Austin op cited at Page 19.
  - <sup>3</sup> I have found helpful the Essays in the magisterial volume collected in the "*Oxford Handbook of the Indian Constitution*", edited by Choudhry, Khosla and Mehta [2016]. These statistics are derived from the contribution by Hanna Lerner in Chapter 4 "*The Indian Founding: A Comparative Perspective*". Page 55.
  - <sup>4</sup> [1821] Cohens v. Virginia.
  - <sup>5</sup> I presented a paper on 10<sup>th</sup> January 2018 at the Symposium on Constitutional Law organized jointly by the Commonwealth Lawyers' Association and the Bar Council at Malaysia wherein the advantages of a home grown written constitution were contrasted to an imported version.
  - <sup>6</sup> See the Editors of Oxford Handbook – op cit, in Chapter 1 – "*Locating Indian Constitutionalism*" at Page 4-5.
  - <sup>7</sup> Granville Austin, an American expert on modern Indian history studied the making and working of the Indian Constitution, and wrote 2 seminal books; "*The Indian Constitution – Cornerstone of a Nation*" [1966] and "*Working a Democratic Constitution – The Indian Experience*" [1999].
  - <sup>8</sup> See Austin at Page 6.
  - <sup>9</sup> Reproduced in "My Life: Law and other things" by Motilal Setalvad [1970]. Page 149.
  - <sup>10</sup> op. cited at Page 150.

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- <sup>11</sup> Writing in "*Judicial Activism in Common Law Supreme Courts*", edited by Brice Dickson [2007] which analyses the extent to which the apex courts in 9 common law jurisdictions have been "*judicially active*".
- <sup>12</sup> AIR 1973 SC 1461.
- <sup>14</sup> *Bommai v. Union of India*. AIR [1994] SC 1918.
- <sup>15</sup> *Supreme Court Advocates-on-Record Assn v. Union of India*. AIR [1994] SC 268.
- <sup>16</sup> *Chandra Kumar v. Union of India* [1997] 3 SCC 261.
- <sup>17</sup> *Narasimha Rao v. The State CBI/SPE* [1998] 4 SCC 626.
- <sup>18</sup> *Indira Nehru Gandhi v. Raj Narain* [1975] Supp SCC 1.
- <sup>19</sup> Austin at Page 258.
- <sup>20</sup> "*Judicial Activism and Public Litigation*' [1984-85] 23 Colum Transnat I L 561, 571" and cited in Dickson at Page 141.
- <sup>21</sup> "*Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India*". [1985] Third World Legal Studies 107.
- <sup>22</sup> Cited in "*A People's Constitution – The Everyday Life of Law in the Indian Republic*" by Rohit De [2018] at Page 3.
- <sup>23</sup> *Edwards v. AG Canada* [1930] AC 124,136 [PC]. That Act was then Canada's Constitution

