INTRODUCTION

A Constitution or for that matter any law, will remain just a writing on a parchment unless it is put into action. Hamilton says:

"Laws are a dead letter without courts to expound and define their true meaning and operation."

What is law? Does it serve only the interest of those who control political power or economic power? Or does it bring justice and cater to the needs of the people? Is law made only to preserve, protect and promote the class interest of the privileged and the powerful minority? Has it to remain silent spectator of the sufferings of the masses, or has it to play an activist role in fighting the injustices the people bear in a given socio-economic environment?

Crime has become a part of life. The existing penalogy has completely failed to control and eradicate crime. Criminology needs a new jurisprudential treatment. In fact, the whole legal system needs a new jurisprudence a fresh legal thinking and a new orientation.

The malady that faces India faces the whole world. India is no exception. The world community is under the grip of legal chaos and jurisprudential failure. It needs not only the awareness of the problem but a concerted effort to find the solution.

The problem of integration is a continuous problem
before the nation, that is, how to satisfy the legitimate aspirations and redress the genuine grievances of religious, linguistic and ethnic minorities, without letting the centrifugal forces and parochial tendencies gain ascendency. It is satisfying that the general trend of decisions of the court has been in tune with the above national aim. The theme of the decisions in this area is very well expressed in the following observations made by Chief Justice S.R. Dass while delivering the majority opinion of the court on the Presidential reference in 1958 in re: The Kerala Education Bill:

"So long as the Constitution stands as it is and is not altered, it is, we conceive, the duty of this court to uphold the fundamental rights and thereby honour our sacred obligation to the minority communities who are of our own."

The theme has been found in the Supreme Court decisions in the Aligarh Muslim University case and the Cow Slaughter Case. In a case decided in 1962, Ayyangar J. in his concurring judgement said that the power to bring about social reform did not include the power to reform any religion. In the area of socio-economic justice, and especially in the latter the Supreme Court has made contributions. The Supreme Court has also scrutinised the property right which has been abolished as a fundamental right now. The onerous task of judicial review of amendments has been performed by the Apex Court from Shankari Prasad till now. Now the Supreme Court has actively adopted reformistic approach of socio-economic conditions, for example, concentrating on the need
of free legal aid to the needy. A movement has also been started for speedy trials which would be a relief for undertrials. Prisoner's poor condition has also come under the Supreme Court's observations. The Supreme Court has also interpreted the provisions relating to the Scheduled Castes and Scheduled tribes many a times.

Many judges have made contributions in these areas. The contribution of some of the judges cannot be forgotten even after their retirement. Krishna Iyer is one such Justice.

Justice V.R. Krishna Iyer, an amalgam of philosophy, humanism, justice and law, has made it his heartfelt mission to bring to the indigent millions of India social and economic justice throughout the instrumentality of law. With fiery and inspired determination he has introduced a new jurisprudence to help alleviate the suffering of mankind, and to enable every man, woman and child to live the full dignity of their birthright.

The modern trend in all spheres of life calls for a new approach to the problem of administration of justice, making it simple, speedy, substantial, effective and easily available to the common man, departing from the old cumbersome and dilatory manner developed in days of leisure and laissez-faire.

Justice Iyer has raised this call through his about 400 judgements numerous writing and still more numerous lectures and talks. In an article, K.M. Sharma has observed that
these attest to the eloquent constancy with which he has placed his imprimatur on the principles of individual liberty and political equality. He has frequently pointed out and publicly pilloried the follies and foibles, obduracy and observations of the existing legal system. In a case*, Krishna Iyer held such view:

"We just cannot force the twentieth century youth... man or woman, Brahmin or Catholic - to linger in the life style of the nineteenth and the statute must be interpreted in the light of the zeitgeist of the day."

Nothing is perfect in this world, because nobody has monopoly of perfection. There is no extent of extension. This work on the contributions of a versatile genius like Krishna Iyer is not exhaustive one. An effort has been made to cover his analysis of some areas of constitutional law. To cover his contributions in the entire ambit of Indian Constitution, it is difficult in one such study. Therefore, the work has been restricted only to fundamental rights and directive principles. These two parts of the Indian Constitution constitute the key to social and economic justice in India. It was thought appropriate to evaluate Justice Iyer's contributions in regard to both these areas.

This study has been divided into different chapters. Chapter I is general in nature. It has been devoted to Justice Iyer, covering his biographical details and his views

* (1971) KLT 663.
about certain general concepts which are relevant to study the growth of any constitutional system. Even the style of writing and the language of Justice Iyer has been a matter of controversy. Therefore, this background material was considered necessary in order to evaluate the contributions made by Justice Krishna Iyer.

Chapter II has been devoted to the relationship between the fundamental rights and the directive principles. These two parts of the Constitution are the most important parts and have played a significant role in moulding the independent India. In this regard there has always been a controversy regarding the actual relationship between the fundamental rights and the directive principles. In fact it would be wrong to say that this controversy has already been resolved. The position with regard to both these parts has been analysed in two parts, one covering the position before Justice Iyer came over to the Supreme Court and the other during Justice Iyer’s period. This has helped in evaluating the contributions made by the honourable judge.

Right to Equality is one of the fundamental rights guaranteed under the Indian Constitution. Chapter III covers the details pertaining to Articles 14, 15 and 16, which in short sum up the scope and ambit of the right to equality under the Indian Constitution. From the inception of the Constitution, the courts having countered a variety of problems in this area.
It is always a difficult task for any legal system to treat all equally. Justice Iyer has played a big role in handling issues particularly relating to scheduled caste, scheduled tribes and backward class of people. This area requires the balancing of different considerations. A good lot of effort has already been put into smoothen the various issues in this controversial area. Equally a good lot remains to be achieved. Therefore, a serious thought has been required to be given for the future in this context.

The Supreme Court of India in the late 70's and 80's has played a big role in developing the Indian Constitutional jurisprudence. The major attention in this context has been devoted to the right to life and personal liberty enshrined in Article 21 of the Constitution. These two rights form the basis of Chapter IV. It would not be wrong to say that a new meaning has been given to the different aspects covered under Article 21 by the Indian Apex Court. Justice Iyer has played a leading role in this area. Human rights had not been given the right meaning and the place in the constitutional interpretation before the advent of Justice Iyer on the Supreme Court. It is he who provided a new direction which helped in making the human rights vis-a-vis the accused, the under-trial and the prisoners a reality. It is in this area that the Court realised that the Constitution should be given meaning and interpretation keeping in view the situation and circumstances prevailing. This Chapter
covers important areas like capital punishment, torture of under-trials and prisoners, legal aid and speedy trial etc. These aspects have been protected under the Indian Constitution by giving a very constructive interpretation to "procedure established by law" provided under Article 21. 'Procedure established by law' has been interpreted to mean such procedure which is reasonable, just and fair and not fanciful and arbitrary.

Chapter V deals with very recent development in the Indian Constitutional growth. This is known as public interest litigation which was initiated by Justice Iyer and has been usefully carried forward by other Justices of the Supreme Court, particularly Chief Justice P.N. Bhagwati. This new tool given by Justice Iyer has been instrumental in providing social justice to a large number of people in this country. Earlier only those persons could come to the courts who could afford such a luxury. With the help of public interest litigation now even those who are poor and illiterate are able to get their rights enforced. It can rightly be said that the courts now belong to the people of India.

The directive principles have played a significant role in the social and economic development of India. The directives are in fact fundamental in the governance of the country. Justice Iyer has made frequent use of the directive principles both in his judicial and extra-judicial writings. Chapter VI
has been devoted to the contributions made by the honourable Judge in this important area. It is not practically possible to cover each and every directive principle. Therefore, the emphasis has been given only on those directives where Justice Iyer has particularly made his contributions. This does not mean that the other directive principles are only secondary in nature.

Finally, an appraisal overall has been made of the contributions made by Justice Krishna Iyer in the realm of fundamental rights and directive principles. It will not be wrong to say that much work has not been done on the contributions of individual Justices in India. Therefore, such a study has its own limitations. The main source has been the judgements and the writings of Justice Krishna Iyer. It goes without saying that in such a study one has to heavily rely upon various other sources like reports, debates, text-books and legal journals. It is hoped that this study will help in understanding Justice Iyer in a better perspective.