

## OPEN TO DIFFERENT VOICES

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

It was an evening at the Indian Institute of Technology (Delhi) campus. Supreme Court judge, Justice D.Y. Chandrachud, was listening intently to a student's question. The query was both simple and tricky. Simple, if you are honest. Tricky, if you beat around the bush. The student wanted to know about judicial bias. Justice Chandrachud characteristically took the honest route. He said a judge has to first accept his or her own bias. This acceptance is the first step towards fairness on the Bench.

Justice Chandrachud's spirit of self-search and self-reproach, necessary for a man who has been summoned to interpret or very often shape the law, may be the product of years of study, introspection and, of course, a unique legacy.

The Chief Justice-designate of India has, as many view, enjoyed a head-start. His father, Justice Y.V. Chandrachud, was one of the longest serving Chief Justices of India. A young Chandrachud must have observed his father's work from very close quarters, especially during the tumultuous times of Emergency, shortly after which he became the 16th CJI.

Justice Chandrachud believes that isolation in the name of judicial independence could be a double-edged sword for judges. The secret was to strike a balance between solitude and a detached sociability.

He disclosed his habit of reading narratives which were not "mainstream discourse". "Reading across disciplines is one very important way that we (judges) don't lose touch with reality. A judge should open his mind to different voices, only then would the thought process get refined," he had said.

### Erosion of democracy

Justice Chandrachud sets great store in a judge's ability to foresee democratic erosion. He says the subversion of constitutional democracy does not happen with sweeping changes but through very small, incremental changes, which if left unguarded open up the danger of eventually and cumulatively affecting the democratic polity. "No case is too small... even if the case deals with the free speech of one individual". A judge, he said, should read a case not just through the eyes or the mind, but also through intuition and go beyond the legalese to spot the human problem lying hidden somewhere among the pages.

It is this ability to travel beyond the strict confines of law that led to Justice Chandrachud's judgment recognising privacy as a fundamental right and his historic dissent of the Aadhaar policy. While upholding the rights of activists in the Bhima Koregaon case, the Justice said persecution was not the answer to dissent. "Voices in opposition cannot be muzzled".

One of the prominent themes of Justice Chandrachud's judgments have been women's rights. He once said his views were forged by his early days on the Bench at Bombay High Court sitting with Justice Ranjana Prakash Desai and dinner discussions at home.

In the Hadiya case, the judge held that a person's right to choose a religion and marry as an intrinsic part of her meaningful existence. Justice Chandrachud broke the glass ceiling in a judgment decriminalising adultery by championing the sexual autonomy of women within

marriage. In his Sabarimala judgment, he held that women of menstrual age had the right to enter the temple while holding that customs which violate fundamental rights cannot claim immunity.

Recently, Justice Chandrachud declared that unmarried women with 20 to 24 weeks of pregnancy should get the same access to safe and legal abortion as married women.

An Economics (Honours) graduate from St. Stephen's College in New Delhi. Justice Chandrachud obtained his LLM degree and a Doctorate in Juridical Sciences (SJD) from Harvard Law School, U.S. He began his judicial career as a judge of the Bombay High Court and was later appointed Chief Justice of the Allahabad High Court. He was appointed judge of the Supreme Court on May 13, 2016.

Justice Chandrachud will take over as the top judge of the country on November 9.

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