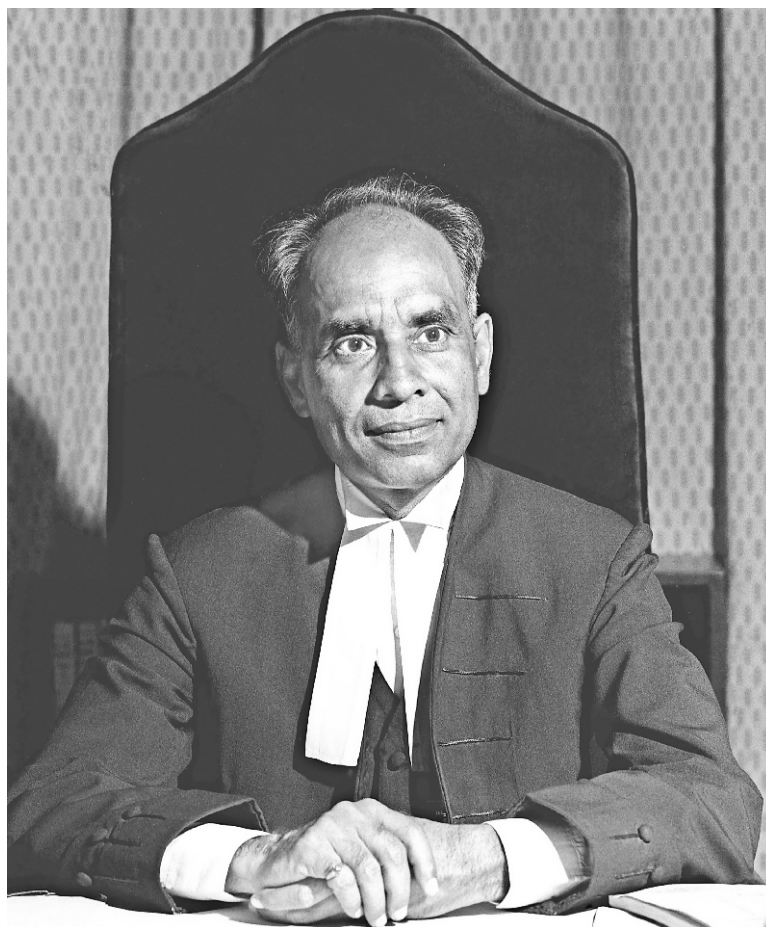


# 24 IN MEMORIAM-JUSTICE H.R. KHANNA



**MR. JUSTICE H.R. KHANNA**

*The whole course of human history may depend on a change of heart in one solitary and even humble individual - for it is in the solitary mind and soul of the individual that the battle between good and evil is waged and ultimately won or lost.*

*-M. Scott Peck*

If one were to name a judgment that would be etched in the pages of immortality, surely Justice H. R. Khanna's dissent in *ADM Jabalpur v. Shivkant Shukla*, (1976) 2 SCC 521, would stand out as the prime example. It is a beacon that shines through time, and inspires successive generations of judges, lawyers, scholars, law students and citizens alike. This dissent upheld the inalienable, non-derogable right of every person aggrieved against his unlawful detention to seek judicial redress, at all times. It has been compared with Lord Atkin's unforgettable dissent in *Liversidge v. Anderson*, [1942] AC 206.

Born on 03.07.1912, Hans Raj Khanna, studied at the Hindu and Khalsa College, Amritsar and graduated from the Lahore Law College. After Partition, he was appointed as

District and Sessions Judge, Amritsar in 1952. He held that position at other places such as Ferozepur and Ambala (in undivided Punjab). He was appointed as an Additional Judge of the Punjab High Court in 1962; he was later appointed as a Permanent Judge of that Court, with effect from 30.04.1964. Upon the formation of Delhi High Court, he was transferred as a Judge of the court, with effect from 31.10.1966. He was appointed as Chief Justice of Delhi High Court with effect from 01.08.1969. Justice Khanna was appointed as a Judge of the Supreme Court on 22.09.1971. He resigned from that position on 12.03.1977.

Apart from the sterling affirmation of rights of individuals in *ADM Jabalpur*, Justice Khanna contributed crucially to the interpretive process of the country's Constitution in *Keshavananda Bharati v. State of Kerala*, (1973) 4 SCC 225, where he joined the majority of judges (who held that there were implied limitations to the amending power under the Constitution) by propounding the “basic structure” doctrine. That formulation has withstood the test of time, and is now embedded in the constitutional discourse. He authored other important judgments, including the concurring opinion in *The Ahmedabad St. Xavier's College Society v. State Of Gujarat*, (1974) 1 SCC 717, where he spoke about the abundant catholicity of the guarantee in favour of minorities in our multicultural country and the need to balance that with general regulations, deemed as minimum standards prescribed by the community.

After ceasing to be a judge, Justice Khanna held positions as Chairman Press Council of India and Chairman, Law Commission of India. He was awarded the Padma Vibhushan in 1999. He passed away on 25.02.2008.

*"If the Indian Constitution is our heritage bequeathed to us by our founding fathers, no less are we, the people of India, the trustees and custodians of the values which pulsate within its provisions! A constitution is not a parchment of paper, it is a way of life and has to be lived up to. Eternal vigilance is the price of liberty and in the final analysis, its only keepers are the people. Imbecility of men, history teaches us, always invites the impudence of power."*

– Extract from Justice H.R. Khanna,  
*Making of India's Constitution (1981)*