

INTERNATIONAL SEMINAR ON RECENT TRENDS IN JUDICIAL REFORMS:  
A GLOBAL PERSPECTIVE

12 January 2012

Respected Rashtrapati ji , Hon'ble Justice Dr. Dalveer Bhandari ji, Hon'ble Justice Vikramjit Sen, judges of the SC and the High Court, Shri B. Sen, Vice President of the India International Law Foundation, distinguished members of the bar, ladies and gentlemen,

It is indeed a pleasure for me to be here this morning and to address the august gathering. The Seminar is being held at a time when we are in the midst of an intense public debate as to the adequacy of our laws and justice delivery system to meet the challenges of the day. Transformational changes in society have once again brought to the fore, the perennial debate on the relationship between law, public morality and social change. Tragic events in the recent past that have shaken national sensitivities have hastened the process of introspection. Public outrage after the Delhi tragedy is not only against the depravity of a few but is also against the perceived inadequacies in the way we administer procedural laws so that law is perceived as impotent in the face of grave injustice, leading to an unacceptable erosion of peoples' faith in the justice delivery system and the rule of law itself. In a country of 1.2 billion people, judicial institutions have a formidable and unenviable task of delivering expeditious and affordable justice consistent with the non-negotiable principles of fair trial. We need, therefore, to work towards strengthening our judicial system which is seen to be efficient and geared to ensuring justice for all in the finest traditions of our liberal democracy based on respect for the rule of law. Judicial reforms have indeed acquired an urgency in view of the imperative of coping with challenges of a transformed world defined by technology globalization and insatiable aspirations of our people.

- (1) Clearly our judicial system is under strain , Addressing the backlog and pendency of cases is a key to restoring popular faith in the legal architecture of this country. **The Vision Statement and Action Plan adopted by the Chief Justice's Conference in October 2009 clearly recognises that**

*“Ultimately, an efficient legal and judicial system which delivers quick and quality justice reinforces the confidence of people in the rule of law, facilitates investment and production of wealth, enables better*

*distributive justice, promotes basic human rights and enhances accountability and democratic governance.”*

In the literature of the law, ‘judicial reform’ has often been associated with more generic and broader ideas about the role of law in development and access to justice based on equality and non-discrimination. Judicial reforms must address and encompass a range of issues including the establishment of judicial infrastructure, just procedures, nurturing of a legal profession devoted to the ethic of law and a robust judiciary, for ever on guard against aberrations that pollute the stream of justice. Let me quote an eloquent passage from David Pannick’s book on ‘Judges’, and I quote :

“The lawyer of yesterday is elevated to be the judge of today and spirals up the seniority or otherwise to summit. If Lawyers are polluted and judges contaminated, the institution will collapse. So it is necessary as part of the grammar of justice, justice and justicing that there should be a machinery to maintain the morality and morale of justice and the high mores of the fraternity.”

Indeed, as Justice Krishna Iyer reminds us - “The Bench and the Bar are sappers and miners of constitutional justice beyond legal barricades”. In this context , I may state that the Government proposes to bring the amended Judicial Accountability Bill for discussion in Parliament during the forthcoming Budget Session. Government is also working on the **Judicial Appointments Commission Bill**.

The efficacy of any judicial system depends eventually upon the legal empowerment of people and their ability to access justice. For instance, creating special courts for domestic violence and sensitising judges may not be enough if women are not aware of their rights, or are afraid of approaching the police or courts. Legal empowerment is a central force in any reform process. It involves States delivering on their duty to respect, protect and fulfil human rights and the disadvantaged realizing more and more of their rights, and reaping the opportunities that flow from them, through their own efforts as well as through those of their supporters.

Judicial reforms are required to be anchored in an eco-system that is conducive to respect for the rule of law and such that leads people to having faith in the State’s Legal architecture as guarantee of a just society. Rule of law in a democracy must, therefore, secure rights of citizens participation in the processes of governance. It must devise protection against the abuse of both power. Reforms in the law and the judicial system must secure citizens against administrative arbitrariness and oppressive enforcement of archaic legal

processes. Justice must be seen as “fulfilment of the full potential of even the humblest.

We have in the recent past taken several steps in the direction of structural reforms and are contemplating many more, for advancing the cause of quality and expeditious justice. One of the important initiatives is the setting up of **Gram Nyayalayas numbering about 5000**. These will be set up at the grassroots level with the objective of taking justice to the doorsteps of the people. Our Government is providing full funding for this purpose.

Government is also working to address issues of delivery of justice at the level of subordinate judiciary by assisting State Governments financially for development of infrastructural facilities, which include court buildings and residences for the subordinate judiciary as well as setting up of mediation centres at the district level. **The Central Government is providing full financial support to make subordinate courts ICT enabled. Rs. 935 crores have been sanctioned for this purpose and 11560 of the 14,249 courts have already been made ICT enabled. This has improved the quality of citizen centric services which can be accessed online. Judicial Service Centres (JSC) have been established in Courts for filing plaints through a single window.** This will be improved and taken to the next level in which filing would be online.

The proposal to create **an All India Judicial Service is** at an advanced stage of consideration. This will hopefully improve the quality of judges at the subordinate level.

With a view to reducing delays in judicial decision making, several amendments have been made in the past to the Codes of Criminal and Civil Procedure. A system of plea bargaining has been introduced in the Code of Criminal Procedure to encourage the accused to plead guilty in appropriate cases and save the court time in conducting a long trial. ADR systems have also been introduced to check pendency of cases and help the citizens in resolving cases quickly and amicably. Permanent Lok Adalats are being set up for expeditious resolution of disputes relating to public utilities.

**The National Mission for Justice Delivery and Legal Reforms** is looking at reengineering of procedures and court processes jointly with the judiciary. The Supreme Court has taken the first step by setting up the **National Court Management System (NCMS)** for addressing issues of case management, court management, setting measurable standards for performance of the courts and the National System of Judicial Statistics in the country. **There is also a proposal to establish Model Courts during the under the 12<sup>th</sup> Five Year Plan.** A pilot project on **Model Courts** has been initiated. Under the Model Courts scheme, we will be creating the courts of tomorrow, which have optimally

designed infrastructure, both hard and soft, improved court and case management, and connectivity with police and prisons for expeditious dispensation of justice in a manner that would infuse confidence in the public about the quality and efficiency of the Indian judicial system.

Clearly, these ongoing structural and procedural reforms require monitoring and feedback with respect to their efficacy and impact. A **National Judicial Data Grid** is being set up, which will enable real time monitoring of progress of cases in the courts so that remedial action can be taken to ensure speedy dispensation of justice.

In conclusion, let me state that the ongoing structural and procedural changes are meant to ensure a credible, responsive, citizen friendly judicial process so that our people may have full faith in the country's justice delivery system. It must be our collective endeavour to ensure that law works for everyone and that the vast multitude of the disadvantages are not deprived of the equalizing force and the protective shelter of the law. While measuring the efficacy of our judicial system we need to ask ourselves questions similar to those, posed by Jonathan Sachs in relation to globalization and its discontents. We must ask ourselves whether our judicial system enhances human dignity ? Does it encourage creativity ? Does it create self respect ? Does it sustain a climate of equal regard for the poor and the rich ? Does it protect the vulnerable and help those in need to escape the trap of need ? As long as these questions stare us in the face without a satisfactory answer, our task would not be accomplished. I have no doubt that we are on the right path but have miles to go before we can sleep.

I look forward to receiving the conclusions and recommendations emerging from this very important and timely conference.

Thank you.

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