

इंडिया इंटरनेशनल सेंटर, लोधी एस्टेट, नई दिल्ली में 14 नवम्बर, 2016 को माननीय न्यायमूर्ति दीपक मिश्रा द्वारा "भारतीय न्याय प्रणाली: प्रगतिशील विचार हेतु विचारण " विषय पर पांचवें वार्षिक डा. एल.एम. सिंघवी स्मृति व्याख्यान के अवसर पर माननीय अध्यक्ष (मुख्य अतिथि के रूप में) का भाषण

माननीय न्यायमूर्ति दीपक मिश्रा द्वारा **"Indian Justice System: Thoughts for Progressive Orientation (भारतीय न्याय प्रणाली: प्रगतिशील विचार)"** विषय पर दिए गए वार्षिक डा. एल.एम. सिंघवी स्मृति व्याख्यान के अवसर पर आप सभी के बीच आना मेरे लिए सम्मान और गौरव की बात है। डा. अभिषेक मनु सिंघवी द्वारा अपने पिता डा. एल.एम. सिंघवी की स्मृति में पिछले अनेक वर्षों से आयोजित किए जा रहे इस प्रतिष्ठित स्मृति व्याख्यान में मुझे आमंत्रित करने के लिए मैं उन्हें धन्यवाद देती हूं।

मित्रो, आज इस अवसर पर इस सभा के समक्ष डा. एल.एम. सिंघवी के योगदानों को याद करना उचित होगा। जैसा कि हम सभी जानते हैं कि डा. एल.एम. सिंघवी एक असाधारण प्रतिभा के धनी विद्वान, विधिवेत्ता और प्रतिष्ठित कानूनविद् संविधान के विशेषज्ञ, राजनयिक, दार्शनिक और राजनेता थे। हमारे देश की विधिक प्रणाली को समृद्ध बनाने में उनका व्यापक योगदान रहा है और उन्हें चिरकाल तक याद रखा जाएगा। सहज कौशल वाले एक राजनयिक के रूप में उन्होंने 1991 से 1997 तक युनाइटेड किंगडम में भारत के उच्चायुक्त के रूप में कुशलतापूर्वक कार्य किया जिसके दौरान उन्होंने दोनों देशों के बीच संबंधों में सुधार लाने और उन्हें और मजबूत बनाने के लिए अनेक महत्वपूर्ण पहल की। इसके अतिरिक्त, डा. सिंघवी एक ऐसे उत्कृष्ट सांसद भी थे, जिन्होंने 1962 से 1967 के बीच हमारी संसद द्वारा संवैधानिक मामलों पर गठित सभी प्रवर समितियों में कार्य किया था। बहुमुखी व्यक्तित्व के धनी डा. सिंघवी एक कुशल लेखक, कवि, भाषाविद् और साहित्यकार भी थे, जिन्होंने हमारे राष्ट्रीय जीवन के विभिन्न क्षेत्रों में अपना उल्लेखनीय योगदान दिया।

मुझे यह जानकर हर्ष हो रहा है कि वार्षिक डा. एल.एम. सिंघवी स्मृति व्याख्यानों में, पिछले कुछ वर्षों से हमारी न्यायपालिका से संबंधित अति महत्वपूर्ण और संगत मुद्दों पर ध्यान दिया जा रहा है। प्रख्यात विधिवेत्ता माननीय न्यायमूर्ति दीपक मिश्रा द्वारा "भारतीय न्याय प्रणाली: प्रगतिशील विचार " विषय पर आज का ज्ञानवर्द्धक व्याख्यान, वार्षिक स्मारक व्याख्यानमाला में एक अन्य बहुमूल्य योगदान है, जिससे हमारी न्यायपालिका से संबंधित अनेक चुनौतीपूर्ण मुद्दों पर हमारा दृष्टिकोण व्यापक हुआ है और उन पर हमारा ध्यान केन्द्रित हुआ है।

Friends, in a vibrant democracy like ours, the Judiciary is an important pillar of the State, like the Legislature and the Executive are, with its distinctive role and functions. Our Judiciary, especially the higher judiciary, has been assigned a position of vital importance and bestowed with onerous responsibilities like upholding the constitutional principles, interpretation of the laws made by respective legislatures and more importantly in protecting the Fundamental Rights of our citizens.

The Supreme Court of India and the high courts act as the final arbiters of constitutional disputes, and can overrule not merely ordinary law enacted by a legislature that enjoys popular will, but, also constitutional amendments, which in the courts' view infract the "basic structure" of the constitution. With a proactive role based on the power of judicial review, the higher judiciary in India has attained an unprecedented significance. The institutional integrity of the judiciary, therefore, requires the courts to enjoy the confidence of the public; society needs to see judges as protectors of justice, who will stay independent to uphold the people's most fundamental rights.

A strong ambivalence clouds the public image of the Indian judiciary they are simultaneously fountains of justice and beyond the reach of poor.

Litigation is often regarded as infested with delay and not free from corruption. But courts, especially Higher Courts are among the most respected and trusted institutions. The judiciary has ensured that howsoever high you may otherwise be, the law is above you. On the other hand, symptoms of inefficiency haunt the courts as they do other state institutions. This mixed picture is reinforced by a recent assessment of a high ranking expert group including a former chief justice of the Indian Supreme Court. Widespread and profound backlog and delay currently undermine the fundamental priorities of a law-based society and it erodes public trust and confidence in legal institutions, and also acts as a significant barrier to India's chosen path to social justice and economic development. While it is acknowledged that trials are delayed throughout the world but nowhere, however, does backlog and delay appear to be more accentuated than in modern-day India'.

As we all know "Justice delayed is justice denied." Since all the organs of the Government are independent and at the same time there is a relationship between all the organs, it is the job and combined responsibility of the Parliament, the Executive and the Judiciary to address all these issues. And I would therefore like to emphasize that Judicial reforms are a must.

The calls for judicial reforms are of course in the anvil for quite some time now and a lot has been done in this regard. However, it cannot be denied that a lot still needs to be done. The Law Commission's recommendations concerning disposal method, appointment of judges, creation of special courts, need for system-wide reform, merits serious consideration and action. We have to remember that we are among the fastest growing economies and when efforts are made to fast track all aspects of Government functioning, the Judiciary cannot lag behind. It is important that justice delivery system has to

be fast tracked too. Among others, we could think in terms of instituting Alternate Dispute Redressal system (Lok Adalats), Specialized Courts, Mediators, etc. to ease or reduce the pressure on Courts. We have to think and act in terms of filling up the vacancies of posts for Judges in the Judiciary, which is one of the reasons for delay in dispensing justice. However, the increase in number of judges has to be calibrated carefully to ensure that quality does not get compromised in the process. We need to make optimum use of technology, systematic classification of cases, comprehensive tracking of ongoing proceedings, and similar measures. We also need to take steps to make careers in our Judiciary more attractive to attract the young talents in our country.

न्यायाधीशों की कमी को पूरा करने हेतु वर्तमान में प्रतिनियुक्ति पर भेजे गए न्यायाधीशों को वापस बुलाकर क्या न्यायपालिका की मुख्य धारा में लाया जा सकता है? न्यायाधीश न्याय प्रदान करने के लिए नियुक्त होते हैं। उनसे अन्य प्रशासनिक कार्य जैसे अकाउंट्स, मालखाना, नकल, दफ्तर आदि की देख-रेख का भार नहीं डाला जाना चाहिए। स्वतंत्र न्यायिक प्रशासन सेवा (Judicial Administrative Service) निर्मित कर इस काम में न्यायाधीशों की ऊर्जा का अपव्यय रोका जा सकता है। ऐसे सभी पदों पर, जिन पर कार्यरत न्यायाधीशों की नियुक्ति अनिवार्य नहीं है, कार्यरत न्यायाधीशों की नियुक्ति ना हो, इस पर चिंतन करना चाहिए – जैसे श्रम न्यायालय, परिवार न्यायालय, विधि सचिव, विधान सभा सचिव, शासन के अन्य विभागों में विधि सलाहकार इत्यादि। विधिक सहायता व लोक अदालत का कार्य भी सेवानिवृत्त न्यायाधीशों अथवा वरिष्ठ अभिभाषकों को दिए जाने पर विचार किया जा सकता है ताकि इस कार्य में कार्यरत न्यायाधीशों का समय तथा ऊर्जा क्षय ना हो।

The statement, “A lawyer is and must ever be the high priest at the shrine of justice” captures the essence of the role of an advocate in the administration of justice in the society. Lawyers in our country have historically contributed handsomely to each of these areas of justice - whether

it was the struggle for Independence, the framing of our Constitution or just governance. The role of lawyers extends to being an integral part of our system of administration of justice not just in the legal sense but justice that's social, economic and political as set out in the preamble of our Constitution. They are also expected to play their assigned role in realization of the lofty vision of speedy justice for all enshrined in our constitution. We must also discuss and debate whether the unrestricted entry in the Bar has led to deterioration in the quality and standard of lawyers and whether it is affecting the quality and standard of entire Judicial system.

I would also like to mention that the Parliament of India has also taken initiatives to address this challenge. Though the National Judicial Appointments Commission Act, 2014 has been struck down by the Honourable Supreme Court, let us hope that in the near future the issue will get resolved with the cooperation of all concerned and to the satisfaction of all.

Justice Krishna Iyer said and I quote : “Most crucial for justice social, economic, and political for the happiness, health and humanism of the people and their peaceful progress is the judiciary. We need a dynamic, people-oriented, progressive, legally literate and imaginative judicature with a swaraj vision. Otherwise, chaos will corrupt, confuse, and terrorise the Indian cosmos.”

I also feel that the best way to bring about the elimination of perceived shortcomings of any organ of our vibrant democracy, which are capable of being eliminated, is to have all our citizens informed as to how that system functions.

Friends, it is important for our country to have a fast justice delivery system so that the image of the Judiciary is enhanced and the people who

knock the door of justice feel that they are heard and justice is delivered. If these challenges are not addressed and if far reaching judicial reforms are not initiated with a great sense of urgency and devotion, the image of the judiciary may be eroded in the eyes of the public, thereby endangering the whole civil society and our democracy. In other words, timely disposal of cases is essential for maintaining the rule of law and providing access to justice which is a guaranteed Fundamental Right.

I would once again thank you for inviting me and I am sure the views expressed in this Lecture will go a long way in strengthening our democratic polity.

In the end I would like to end my speech with the lines penned by revered Shri Atal Bihari Vajpayee ji:

“बाधाएं आती हैं आएं, घिरें प्रलय की घोर घटाएं,
पांवों के नीचे अंगारे, सिर पर बरसे यदि ज्वालाएं,
निज हाथों में हंसते—हंसते, आग लगाकर जलना होगा,
कदम मिलाकर चलना होगा, कदम मिलाकर चलना होगा।”

We must all join hands together to take our nation forward on the path of peace, development and progress and also to realize the dreams of the founding fathers of our Constitution.

Thank you.
