

**SPEECH OF HON'BLE MINISTER OF LAW AND JUSTICE  
AT THE SUPREME COURT JUDGES RETREAT  
AT NATIONAL JUDICIAL ACADEMY, BHOPAL  
ON 16<sup>TH</sup> APRIL, 2016.**

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Hon'ble President of India Shri Pranab Mukherjeeji, Hon'ble Governor of the State of Madhya Pradesh Shri Ram Naresh Yadavji, Hon'ble the Chief Justice of India Shri Justice T.S. Thakur ji; Hon'ble Chief Minister of Madhya Pradesh Shri Shivraj Chauhanji, Hon'ble *puisne* Judges of the Supreme Court of India; Shri Justice A.M. Khanwilkar, the Chief Justice of the Madhya Pradesh High Court; other respected dignitaries, ladies and gentlemen.

I am honoured to be invited to address the Judges of the Supreme Court of India on the occasion of their Retreat. Retreats are occasions for leisurely reflection of issues without the immediacy of purpose attached to our respective vocations. Hon'ble Judges are very busy in their courts when hearing matters, and still busy after court hours, in their chambers and even in their home offices, writing judgments and reading up jurisprudence. These activities are necessary for them to ensure both speed and quality of justice delivery they are responsible for, and set dates and deadlines to meet these responsibilities. Such deadline driven life does augur well for widening one's horizons on the general issues affecting the society we live in. This Retreat, even though it comes after

seven years of the last one, is a welcome occasion for such reflection.

Indian democracy is much more than the term 'largest democracy' may connote: it is not just a parliamentary democracy of over a billion people, but a constitutional democracy with an independent and proactive judiciary. Both the Government and the judiciary realise that a key barrier to access to justice for people is the delay in adjudication of cases. The Vision Statement and Action Plan adopted by the Chief Justices' Conference in October 2009 soon after the last Retreat 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."

The willingness of our citizens to use the formal court system for dispute resolution depends upon a variety of factors including the legal empowerment of people and their ability to access justice. To illustrate, creating special courts for domestic violence and sensitising judges will not be enough if women are not aware of their rights, or are afraid of approaching the police or the courts. Similarly, for the economy to grow at the ambitious pace India has set for itself, we need to improve the ease of doing business, for which entrepreneurs need to be

assured of speedy enforcement of their contracts. I am reminded of an interesting paper by Professor Katharina Pistor of the Columbia Law School reviewing the contract enforcement in Russia. She argued that many Russian businesses chose not to use the judicial system to resolve contractual disputes not because the courts were inefficient or the law enforcement was weak. The reason was the weak taxation system in the country which implied that many businesses were engaging in illegal activities, the details of which would have to be disclosed in a formal dispute before the courts. Therefore, they preferred getting disputes resolved through extra-legal mechanisms. Similarly, due to having better faith in customary judicial systems, many communities rely on such systems rather than formal adjudicatory mechanisms established by the State. Judicial reforms should lead people to having faith on the judicial system. In turn, Judges need to understand the wider perspectives in which litigants approach courts, rather than focusing just on the dispute at hand.

The “Make in India” campaign of the present Government, designed to facilitate investment, foster innovation, enhance skill development, protect intellectual property and build best-in-class manufacturing infrastructure is an initiative with promise of technological advancement. The 5Ps - Perspective, Profile, Policy, Projects, People - approach of our Hon’ble Prime Minister to boost manufacturing sector’s growth will help boost

the economy as a whole. A National IPR Strategy is being finalised to make the best use of innovation while at the same time ensuring that transfer and dissemination of technology for the benefit of the population remains the key objective of innovation. India has the most modern and WTO compliant IPR laws, and Indian courts have repeatedly lent their support in protecting the interests of the common man in the use of IPRs for the common good, including upholding of Section 3 (d) of the Indian Patents Act.

The Ministry of Law and Justice has worked in tandem with the judiciary to improve justice delivery. We have taken steps to remove hundreds of obsolete laws from the statute book. We are revising the National Litigation Policy in order that the Government discharges its role as a responsible litigant and to reduce unwarranted government litigation. We have taken up the amendments to Arbitration and Conciliation Act. We have passed the legislation setting up specialised Commercial Courts to resolve Commercial disputes expeditiously. All these measures reflect the Government's commitment in making India an ideal destination for foreign investment, a hub of arbitration and to choose a path where the growth and development go together to transform our country. However, these measures would remain insufficient unless Justice is available to the common man. Dispensation of Justice is also vital for maintaining law and order and peace in the society. It is

normally said, if you want to work for peace, work for Justice. In fact, the foundation of civilisation rests on a Just society. I am reminded of a saying by eminent British Statesman and philosopher, Edmund Burke, who said:

***“Justice is itself the great standing policy of civil society; and any eminent departure from it, under any circumstances, lies under the suspicion of being no policy at all.”***

In the field of infrastructure for Courts, a lot of Government's measures have yielded good results. We have reached a stage where there are more number of court halls in the country than the number of courts. Provision of funds to States for construction of court buildings and residential quarters for Judicial Officers has increased manyfold in the last few years. Rs.3691 crore has been released by Central Government to State Governments since 2011. State Governments have contributed Rs 5751 crore in the last three years alone. Rs.1947 crore was released under the Thirteenth Finance Commission award to State Governments for various activities, such as establishment of ADR Centres and Judicial Academies, conduct of Lok Adalats and Legal Aid services and training of Judicial Officers and public prosecutors. The Fourteenth Finance Commission has endorsed a proposal for expenditure of Rs 9749 crore during 2015-2019 by the State Governments on similar activities. More than Rs.600 crore have been spent by Government under Phase I of the eCourts

Project and another Rs 1670 crore has been sanctioned for Phase II due for completion by 2019. Most of the District and subordinate courts are now computerised and make available online case data, orders/judgments and cause lists to lawyers and litigants alike. If you look at the e-Taal website, you will see that the public is accessing court websites frequently.

In support of these initiatives, the Government is looking at the Judiciary and expecting it to continue working with equal enthusiasm to improve both the quality and speed of justice delivery in the country. Although the continuing growth of pending cases in courts has been stemmed in the last three years, the mountain of more than 3 crore pending cases still remains as a worrisome backlog. This worry is compounded by the fact that the long time taken in court proceedings in India creates an adverse perception in the minds of economic operators who want to invest and contribute to the Indian growth story. The delay of 7 years in passing a judgment in a High Court after concluding the hearing reported recently in the newspapers does not augur well for the faith of common man in the Justice system. Court and Case Management can be significantly improved to facilitate regular monitoring by the Inspecting Judges and District Judges in order to enable fast disposal of cases. The National Judicial Data Grid is a handy tool for them to get disaggregated data for each court being

monitored. The need for constant evaluation and monitoring is much larger than ever before.

Access to justice is as important as the number of cases disposed. The doors of Justice can never be opened by Golden keys alone. We must work in a direction where the poor and marginalised also have the equal access to justice. We must time and again, challenge ourselves to see if we have been able to fulfil the Constitutional mandate of providing equal access to justice to all. For this, our Legal Service Authorities have to gear up to work in mission mode to ensure that no one is denied justice only because he or she is poor or marginalised. Applications received for legal aid have to be regularly monitored to ensure that quality legal service is given by the panel lawyers. The Hon'ble Supreme Court has given landmark directions in the case *In Re Inhuman Conditions in 1382 Prisons* in September 2015 to the Legal Service Authorities to improve the situation of under-trials in prisons and ensure that their unnecessary incarceration is minimised. We must work together to improve access to legal aid, in addition to involvement of various other stake holders.

Hon'ble Judges of the Supreme Court undertake various administrative duties on issues like legal aid, improvement of justice delivery through the National Court Management Systems Committee, the eCommittee, the Supreme Court Legal Services Committee, Arrears Committees, Committee for

sensitisation of Family Court matters, Restatement of Indian Law Projects Committee and so on. The brainstorming in this Retreat will, no doubt, help in discharging their responsibilities in those Committees.

The subjects being discussed in the Retreat range from economics to national security and from climate change to human rights. Experts in each subject are available to help define the issues in each of these subjects that require consideration by Judges for upholding their constitutional duties. I am sure you will have a lively and constructive discussion and will return to your court rooms with deeper understanding of the broader canvas in which justice delivery is seen by the citizens of our great country and awareness of the challenges being faced in the context of current and emerging contexts.

I wish you all the best for a successful Retreat.

JAI HIND