

Address at the National Seminar on  
**Delay in Administration of Criminal Justice**  
Indian Law Institute, New Delhi  
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**Dimensions of Criminal Justice Delivery System**

I am extremely happy to be with you all on the occasion of the National Seminar on 'Delay in Administration of Criminal Justice' marking the conclusion of the golden jubilee celebrations of the Indian Law Institute. I am particularly happy that the subject "Delay in Administration of Criminal Justice" has been chosen to be the topic of the seminar. The theme is so topical and I sincerely hope that the deliberations during the seminar would throw up practical solutions to the extremely serious problem of delay in administration of criminal justice that is plaguing our nation. I am reminded of what our great legal luminary Justice Shri V.R. Krishna Iyer once said, "Man lives in the short run, but litigation lives in the long run". How true! I would say that it literally crawls in the long run. Dispensation of justice becomes a mockery if it gets delayed and becomes long-drawn-out, making it patently unjust and unfair to all concerned.

I have visited all the states and union territories of our country. During the discussions with many citizens from various walks of life, they have expressed a very important point about criminal justice, which I would like to share with

you. “If real criminals in our society are left without punishment for many years, because of delay in criminal justice for various reasons, it will indeed result in multiplication of number of people taking to criminal act”. Now I would like to discuss on the topic “Dimensions of Criminal Justice Delivery system”.

### **Research-Teaching-Research**

Since this seminar is conducted as part of Golden Jubilee celebrations of Indian Law Institute, I would like to stress on the importance of research. Good teaching emanates from Research. The teachers’ love for research and their experience in research are vital for the growth of any institution. Any Institutions is judged by the level and extent of the research work it accomplishes. This sets in a regenerative cycle of excellence. Experience of research leads to quality teaching and quality teaching imparted to the young in turn enriches the research.

### **Suggestions for Research by Indian Law Institute**

The Indian Law institute can take up 20 criminal cases decided by Supreme Court, 40 cases decided by High Courts and 100 cases decided by district courts for research. They can go into the case from the time of the crime committed till

the final judgement and study with reference to following aspects.

- a. Identify the time of reporting of the crime from the site and the gaps if any between the occurrence and reporting.
- b. The time when the FIR was filed and delay in filing of FIR if any, with causes for the delay.
- c. Dynamics of witnesses with reference to time delay in court proceedings.
- d. Dynamics of advocates in obtaining adjournments and the impact of public interest litigations.
- e. Time delay in leading the witnesses and the arguments by the prosecution and defence.
- f. Time delay in judicial process leading to final delivery of judgements.

Research findings of these cases, I am sure will definitely provide an insight into multiple causes of delay and suggest methods for procedural and legal provisions needed to be modified in our criminal justice system. Now let me discuss how a crime gets manifested.

## **Manifestation of crime**

Firstly, historically conditioned political problems simmers for a long time and are remaining unresolved. At this stage, certain foreign elements are also enter into the fray and and encourage violence to take advantage of the situation. Over a period of time, many of these activities transform into various forms of crimes ranging from extortion, abduction, drug trafficking, arms trade and brutal killing and massive attack on innocent people. Second type starts with economic and socially conditioned crimes such as smuggling, illicit liquour, land grabbing which over a period of time becomes an organized activities by major groups. These powerful groups enter into various economic activities such as real estate, film and various other financial investments and business. Over a period of time, they are also able to obtain political patronage through their money power and muscle power. Thirdly, business rivalries between competitors also lead to obtaining the services of criminal elements. Over a period of time these activities develops a nexus between business world and criminal world. Fourthly, political competition for electoral or various other forms alliances to seek power uses the money power and criminal elements. They resort to financial and other forms of servicing by the criminal elements. Over the period, all the four elements develop various forms of linkages and societal unrest due to the invisible nexus between and

among them. In this process all forms of administrative machinery also drawn into these problems knowingly or unknowingly. It is against this complex background we need to address the subject of criminal justice in India today.

### **Suggested solution**

I have thought about it several times. Some people suggest that the solutions are in creating good governance. Many children asks me, when I can see a corruption free, peaceful and safe India? I have been telling them that they should transform themselves and to a certain extend attempt to transform their parents and families if they are deviant through their love and affection. But how long they can wait? Will the situation survive till they grow up? There fore I was thinking and thinking, I found what appear to be some basic facts:

- a. Those who are in power and are enjoying power in the above context, by themselves do not have any reason to change the system. They will even resist changes.
- b. Coming to ordinary powerless citizens by their very nature of lives, they cannot do much, because the very power system will punish them if they raise their voice. Therefore generally citizens are resigned to their fate. When occasionally few young whistle blowers who are keen to correct the system bring out the facts, the

powerful nexus of criminal elements systematically eliminates them. Therefore what is the solution?

Those who are in the powerful system and have power but think that it is wrongly used should now come out and be ready to face the wrath of others. They have to assert that the system has to be changed in the interest of one billion people of the nation. It is not enough to have one or two like this, we have to mobilize hundreds and thousands of them at various levels as genuine societal reformers. It has to come from political system, beauracracic system, judicial system, police system and various other government and non government agencies that wield power should be ready to expose the criminal process in power and ready to fight it and bring out a fundamental difference to the common man by effecting systemic changes at all levels. It may need lot of sacrifice and I am sure the people who sacrifice today will be remembered by the posterity for centuries to come. This is the new satyagraha which is required for the 21<sup>st</sup> century India for the sake of our youth, who rightly deserve a prosperous, peaceful and safe India well before 2020. I am sure we can definitely achieve this if all of us collectively work together. Now let me discuss some details of justice delivery process.

## **Justice delivery process**

When I think of justice delivery system following event comes to my mind. The criminal justice system has the following components - the affected person, the accused, police, witnesses, lawyers and multi-levels of judiciary apart from the influence of the society. Many times, the affected person himself or herself is the cause of the delay in reporting of the crime. If the reporting is with malafide intentions in the first place, the affected person cannot expect sympathy for not getting justice in time. However, in certain cases particularly in respect of women the reporting takes place much after the occurrence of the crime. This is probably due to the fear of defamation of the aggrieved party. In such cases, there is a need for sympathetic treatment and the complaint cannot be ignored because of the delay. It should be acted upon immediately even though accused might have taken many actions to destroy the evidence. In view of this, police may have to act faster to prevent further destruction of evidence. Let us discuss the crime situation prevalent in the country.

## **Dynamics of crime**

I would like to share with you some of the immediate concerns which I have been getting through the interaction with the people, e-mails and from other sources. The women in the country generally feel that they are not safe in certain

localities in certain States. In addition, there are a number of incidences of violence against women in many forms. Kidnapping, abduction and extortion have become a frequently occurring serious problem in certain States. Inter-state gangs launch themselves and conduct daylight robbery and mercenary action. Problem of alienation has led to terrorism, and naxalism has spread to certain regions. Several methods are found by individuals and groups to create large scale scam and frauds in different parts of the country. Even educational institutions and medical institutions are not spared like leakage of question papers. Every election witnesses episodes of criminal attacks on candidates, booth capturing, tampering with ballot boxes and methods to disturb the democratic election process. Of course, the situation is gradually improving. No one wants to be a witness due to the sense of insecurity and lack of confidence in the system. The jurisdiction issue many times results in not filing the FIR in time and gives the opportunity to the criminal to destroy all the evidence in the interim period. For ensuring timely filing of FIR and urgent action for apprehending the criminal, I would suggest the following action by the police.

### **Police Station is the place of action**

First of all every Station House Officer (SHO) of the police station should be instructed that he or she is bound to register the complaint immediately. Every police station should be

provided with a computer for registration of complaints and e-mail address of the SHO should be published. In case nobody is registering the complaint, the complainant should have the option to send the complaint by e-mail to the concerned officer endorsing a copy of the complaint to the higher authorities whose e-mail id should also be widely published. Every complainant should get a receipt for the complaint launched with intimation to higher authorities. Procedures for registering of complaints should be widely publicized in leading newspapers and electronic media. The higher authorities should be apprised of the progress of the case by entering the status report in the police network. It must be made mandatory to all the police officers charged with filing of complaints to give an action taken report periodically within ten days to the superior officers. All police officers should abstain from pressurizing the complainant to withdraw or compromise the complaint. If such circumstances are found, the higher authorities should listen to the complainant and take action against the erring police officers.

### **Technology for transparency**

Now, with the use of technology, we have to ensure that the investigation carried out by the police is fair and transparent. To ensure manipulation of evidence by some of the erring officials, it is necessary to bring all aspects of the crime as a visual data on a computer file so that continuous

traceability of the person involved in the investigation process is available, so that any abnormal action can be traced to an individual. This will act as a deterrent for biased individuals to take wrong action. Also, the police have to be given a clear time frame for filing of the charge sheet. In spite of all these actions, if it is detected that the police had colluded with the criminal and had attempted to manipulate the evidence against the accused, three pronged action is necessary to deal with the offence of the police. Firstly, there should be an impartial departmental enquiry with exemplary punishment if the manipulation is established. Secondly, there should be a parallel criminal court action against the erring officials and thirdly, the affected person who had suffered due to the collusion of the police should be compensated for inflicted additional suffering. Such exemplary actions against the erring individuals will be an important deterrent for other officials while dealing with similar situations. As an additional precaution and to create societal pressure, there should be a bar on the recruitment of even the relatives of the erring officials in the police force for a specific period.

### **Time bound justice delivery system**

Another element which contributes to the delay in criminal justice is the seeking of never ending adjournments by both side lawyers and courts acceding to such requests. To deliver speedy criminal justice, it is essential to have a time

bound mechanism for hearing, arguing, deciding including appeals of the cases. A law can be enacted prescribing an upper limit of time by which a criminal case has to be finally decided. This could be a maximum of six months or one year depending upon the complexity of the crime. All the stakeholders namely the accused, police, lawyers, witnesses, judges at various levels have all got to become accountable for finalizing the case before the prescribed time limit. Any deviation from the limit, they must assign reasons for non-compliance in writing.

### **Hostile witnesses**

One more issue which crops up frequently is the witnesses turning hostile. They declare the truth at the commencement of the case and later give opposite evidence in the court or they refuse to attend the court. This arises either due to the fear from the accused and the police or due to inducement of different types. A strict mechanism has to be evolved for preventing the witness turning hostile. Also, such action should attract exemplary punishment as a crime against society.

### **Protecting the rule of law**

The rule of law is protected only when there is a predictable legal system that is readily accessible and

responds to the needs and problems of the citizens in a fair and non-discriminatory manner. The police, the prosecution, the prisons department and the judiciary need to introspect and review their own processes to rectify ills in the system caused by their own malfunctioning. It would be a good idea to engage young law students to identify factors which impede efficient and effective administration of criminal justice. They could examine good practices of other countries and assess the feasibility, appropriateness and suitability of their application to Indian conditions. Use of modern technology to improve upon the efficiency of the investigative and prosecution wing needs to be given special attention. A competent team of prosecutors and specialized investigation can vastly improve the performance of our criminal justice machinery. Equally significant is the fact that there is little hope for justice when people who witness a crime do not cooperate with the investigation. Lawyers should also remember that while it is natural on their part to work towards winning their case, litigation should not be reduced to a mere trade at the cost of basic principles of ethics. This is an obligation that they owe to the society and they must live up to it.

### **Conclusion: Righteousness and Peace**

Now I would like to share with you a beautiful divine hymn about righteousness. It reads as follows:

Where there is righteousness in the heart,

There is beauty in the character.

When there is beauty in the character,

there is harmony in the home.

When there is harmony in the home,

There is order in the nation.

When there is order in the nation,

There is peace in the world.

It is a beautiful connectivity between heart, character, nation and the world. In a society we have to build righteousness among all its constituents. For the society as a whole to be righteous we need creation of righteousness in family, righteousness in education, righteousness in service, righteousness in career, righteousness in business & industry, righteousness in civil administration, righteousness in politics, righteousness in government, righteousness in law and order, righteousness in justice. A righteousness society will eventually become a crime free society. While we are working out several methods for administering speedy criminal justice, we have to eventually work for a crime free peaceful, harmonious and happy society.

With these words, I inaugurate the National Seminar on Delay in Administration of Criminal Justice and my best wishes to all the participants of this seminar success in their mission of reducing the delay in administration of criminal justice to the needy.

May God bless you.