



Nyay Disha

A house journal of
FORUM FOR  FAST JUSTICE

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A Quarterly Journal

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SAVE JUDICIARY - SAVE NATION



Group photo of students who took part in the seminar on "Judicial Reforms" after awarding them certificate at Rajori, Jammu & Kashmir jointly organized by Rajori Society for Fast Justice May 29, 2015



A secondary student of one of the 12 schools, presenting her paper on Judicial Reforms at Rajori –J & K. May 29, 2015



Dahanu Society for Fast Justice officials with Sri Godindacharya, who also blessed our movement and appreciated our work.



Gulshan Pahuja and others with placards in front of district court at New Delhi demanding video recording of court proceedings and accountability of Justice delivery system



From L to R. 1. K.N. Bhattacharya, Senior Advocate at Tripura High Court; 2. Sri Gopal Das, former minister and social activist and 3. Krishna Keshab Ray, Advocate expressing their views as Guest Speakers at the workshop organized to promote Agartalla Society for Fast Justice , at Red Cross Bhawan, Agartala, Tripura on June 10, 2015

Nyay Disha

Justice In Time - Justice For All

A Quarterly Journal | July 2015

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INVITATION TO SOCIETIES TO SEND PICTORIAL ACTIVITY REPORTS

We give priority to the activities of our Societies For Fast Justice in publishing their reports over articles on judicial reforms.

We wish you to carry out various activities in your cities in lieu of Forum's Aims & Objects and go on sending reports to us on fastjustice@gmail.com with the relevant pictures for publication in October 2015 issue of NYAY DISHA.

With regards.

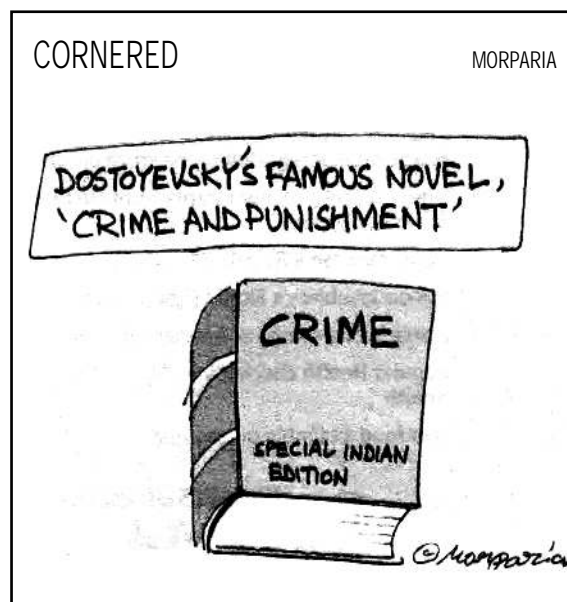
(Prakash Khatiwala)
Editor.

Disclaimer: All views expressed in this journal are by individuals in their own capacity and are not necessarily shared by the Forum for Fast Justice and the editors of this magazine.

FROM THE EDITOR'S DESK

- PRAKASH KHATIWALA

During 2015 a few judgments both delivered by High courts have been highly controversial to put it mildly. To indict a person of crime, it takes a herculean effort which starts with a FIR at a police station followed by investigations, collections and critical analyses of evidence, finding and recording deposition of witness, arrests, preparations by prosecutors, filing the case in a trial court, long line of proceedings in the trial court of course subject to huge delay a typical feature of Indian judiciary. After all these bridges are crossed, a judgment is delivered, a no small feat for a judge given the plethora of papers which the trial court judge has to sift through, weigh in evidence presented before him, cross examinations of witnesses, etc. . All these happen at a huge cost to the taxpayers, investment of energy and time of several of law enforcement agencies and

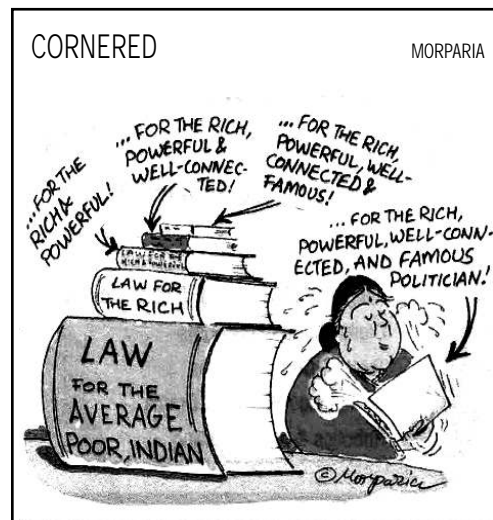


witnesses and the accused is convicted and sentenced according to the law of the land. But what happens is thereafter is the travesty on the part of the judiciary. Several of the articles contributed by the various people in this issue of Naya Disha are based on the defective judicial delivery system. Also there is an article on National Judicial Appointments Commission-NJAC questioning the efficacy of existing Collegiums system with a resounding example. The cartoons depicted here give vent to the pain and frustration of the ordinary citizens like me and you. Strangely, no court of law has objected to them as in my humble opinion they have certainly committed the contempt of court if one goes by the

standards of Indian judiciary. We the members of FORUM FOR FAST JUSTICE are not waiting for 'achhe din' to come on their own as that can not happen but are working painstakingly to bring them.

The issue for July September 2015 covers the activities carried out by various society chapters and a few inspirational articles contributed by eminent personalities.

I wish to place on record the assistance rendered by Chairman of the forum Shri Bhagvanji Raayani, Jt. Editor Shree Chetan Roy, and National convener Shree Pravin Patel in bringing out this issue.



Cartoon Courtesy: Mumbai Mirror

FROM THE CHAIRMAN'S DESK PEOPLE, THE 4TH PILLAR OF THE DEMOCRACY

- **BHAGVANJI RAIYANI**

Chairman and Managing Trustee,
Forum For Fast Justice

It is universally believed that Judiciary, Executive and Legislature are the three pillars of the democracy. I add 'People' as the 4th pillar of the democracy.

Edifice of democracy can not stand on 3 pillars. Any building needs at least 4 columns.

JUDICIARY, THE 1ST PILLAR: Eminent judges say that the judiciary is in the brink of the collapse.

EXECUTIVE, THE 2ND PILLAR: Majority public and (the opposition parties) are convinced that there is no good governance.

LEGISLATURE, THE 3RD PILLAR: 30% elected representatives are facing corruption and criminal charges in the courts. Attendance in Parliament and Assemblies? Less said is better. Big noises, walkouts, abuses, allegations & counter allegations, scams, scandals but little work.

PEOPLE: THE 4TH PILLAR: As if made of reinforcement (steel bar) and concrete. Bars eroding and concrete peeling off, means their moral fibre, humanitarian sensibility and courage to fight against injustice are diminished to their lowest ebb. The result?

The other three pillars became unaccountable and irresponsible towards their masters i.e. PEOPLE OF INDIA.

The consequences are dangerous. Our Forum is mandated to follow the Gandhian principle of nonviolence in fighting for fair and fast justice delivery system. We at Forum may be compelled to resort to nonco-operation and nonobedience as had been practised by Mahatma Gandhi. With these arms we will launch our nationwide satyagraha by middle of 2016.

3RD MARCH 2014: A special audience was granted to me by the then Hon'ble Chief Justice of India to discuss judicial reforms. The Lordship very well knew about Forum's crusade as our brochures (and now NYAY DISHA) are reaching regularly every 3-6 months to all judges of the High Courts and the Supreme Court, members of Parliament and Bar Council members across the country.

He told me that it was not the fault of the judiciary that the backlog of cases reached to the alarming proportion (of 3.30 crore cases) due to the lack of the government co-operation. [I had mildly retort to him that we have that blame game since decades.](#) I reminded him about the Supreme Court Judgement of March 2002 in favour of All India Judges Association directing Union Government and the states to increase the judges strength from 10.5 judges per million population to 50 judges per million population within 5 years, filling 30% vacancies of the judges within 1 year with commensurate increase in staff and infrastructure. I was blunt in telling him that though the Supreme Court had inherent power to enforce the said judgement armed with the Suo moto contempt proceedings for nonimplementation of the directions by the Central and the State Governments but it has been slumbering over its own judgement and the country continues to suffer endlessly.

Our Forum is an anathema to the Judiciary and the Government as we are used to tell the truth and nothing but the truth which they are not used to digest. They have no courage to sit down with us and discuss judicial reforms.

"Power will go to the hands of rascals, rogues, freebooters;
all Indian leaders will be of low calibre & men of straw.
They will have sweet tongues & silly hearts.

They will fight amongst themselves for power & India will be lost in political squabbles.
A day would come when even air & water would Be taxed in India."

..... **Sir Winston Churchill**
UK's Former PM

We are incredible;
We have worked very hard and we proved him right....

SAVE JUDICIARY - SAVE NATION IS THE CRYING NEED

- Pravin Patel

National Convener, Forum for Fast Justice.

India became a Republic on 26th January, 1950 with the formal adoption of the Constitution of India. The preamble to the Constitution, amongst other things, aims at securing social, political and economic justice for all its citizens. Almost seven decades later, the crawling wheels of the judiciary defy this spirit. The inefficiency of the present law makers demeans the noble ideals that provided the foundation for the Constitution. The law makers of today seem like pygmies before the original framers of the constitution.

The Constitution provides three pillars – Legislative, Executive and Judiciary – for a robust democracy. The former two have failed abysmally. Despite an abundance of laws, a new scam is unearthed every day. Society is growing lawless by the day as dysfunctional courts make a mockery of the rule of law. On an average, it takes 20 years (for criminal cases) and 30 years (for civil cases) to be brought to justice in the lower courts. That is just the beginning of a long gruelling battle from court to court. Dates are easy to get, but timely justice remains elusive.

Two recent events have prompted the question: Are all citizens equal before the law? A film star's case takes 13 years in the lower court where he is convicted for jail, only to be released on bail by the High Court in a matter of minutes. It takes 18 years to convict a powerful politician in the lower court, and the High Court rejects all the charges just in few days.

Arguments in a PIL in the Supreme Court opposing the formation of the National Judicial Appointments Commission (NJAC) to replace the old Collegium system of appointing judges indicate clearly that all is not well with judiciary too. Senior advocate Fali S. Nariman slammed the old collegium system as being far from transparent in the appointment of judges over the past twenty years. Senior advocate Dushyant Dave, arguing for the Supreme Court Bar Association, said "My lords should wear a burqa and roam in the court corridors to hear the way lawyers talk about the judges of this court. You will get first-hand account of

the rotting justice delivery system. The kind of lawyers who are being appointed as judges is a disgrace."

Attorney General Mukul Rohtogi referred to the truancy of a former Supreme Court judge who generated headlines for lack of punctuality and could hold hearings only in the afternoons. He also submitted eight examples of what he called "bad appointments and selection" by the old Collegium. Referring to a recent case of a Madras High Court judge, he said "Havoc is created in the country due to appointment of such judges" who abuse the Chief Justice of the High Court and yet the Chief Justice of India does not take any action. Senior Advocate Ram Jethmalani who opposed NJAC, when asked about the solution, he said if you throw one politician in a well, it is resolution and if you throw all politicians in to the well, it is the solution.

The third pillar of our democratic framework is crumbling rapidly. The Judiciary must be rescued from its own shackles in order to protect the country from becoming a banana republic. It is time to uphold the ideals of our Constitution and save it from becoming just text book syllabus. We must all come together in order to become a fourth pillar to strengthen our democratic framework.

The Forum for Fast Justice, under its Chairman Shri Bhagvanjibhai Raiyani, is a great source of inspiration for all of us. The task seems daunting but is not impossible if we persevere. We also have the blessings of Sardar Jagmohan Singh, the nephew of Shaheed Bhagat Singh, who will be with us at NyayYatra. We currently have 58 district level societies spread across 18 states of India. Our aim is to reach out across all 29 states with more than 100 such societies over the next few months. It is the time for action **"SAVE JUDICIARY – SAVE NATION"**.

IMPACT OF SLOW JUDICIAL PROCESS IN INDIA

- Ameet N. Patel

Past President Bombay Chartered Accountant Society

Historically, India has placed a lot of importance on the blind-folded lady with the balancing scales. The “black coat” has always been looked at with respect and awe. The authors of our Constitution separated the Executive and the Judiciary so that the train of Constitution runs at ease on these two tracks. But over the years, the institution symbolized by the blind-folded lady has turned a blind eye to its own slow pace in dispensing justice. The legal maxim of “justice delayed is justice denied” seems to have been ignored by the Indian judiciary. India has one of the highest back-log of cases in the world and the famous phrase “tareekh pe tareekh” has naturally found relevance to the Indian judiciary and resonates well amongst the common people. An article in the Times of India in 2014 estimated that it would take 320 years to clear the backlog of 31.28 million cases pending in various courts across the country!

Negative Impact of Slow Judiciary: This has severely hampered not only the quality of justice but also other areas like business, investment etc. Lack of fear of punishment due to slow judicial processes has led to rampant corruption. Common individuals consider the judiciary as unapproachable due to delays and legal costs involved. It is viewed as a luxury. Even a simple landlord-tenant dispute takes years to be decided and these years sometimes exceed the lifetime of the tenant or the landlord. Hence means to sidestep the judicial system are always welcomed. If negotiations fail, hiring of anti-social elements to scare the tenant is not unheard of. Failure of an authorized judicial system to dispense justice has led to the rise of an anti-social judicial system. An extended adverse effect is the circulation of black money in the real estate sector in spite of existing laws due to the poor implementation.

Judicial Ambiguity puts off foreign Investments: The Indian judicial system also puts foreign investors on the guard. Disposal of a matter relating to taxation laws by a High Court typically takes about 8 to 12 years if one goes through the prescribed judicial process (and not a writ petition). Also, the instances of inconsistent rulings given by various courts create an atmosphere of ambiguity. Some judicial precedents are not referred to by various counsels due to inadequate preparation leading to further doubt. The business scenario suffers due to the ambiguity of

legal position.

In the context of FDI and other foreign inflows, the ambiguity in the legislative language is a major concern. The Qualified Foreign Investor (QFI) regime could not kick start for several months after the SEBI approval due to the ambiguity in taxation laws. The stands taken by various Executive agencies like the CBDT, FIPB also differ from time to time. The current controversy of MAT on FPIs in India is an example of uncertainties in applicability and stands of various government agencies on legal positions. To aggravate the situation, various High Courts in India are known to take contradictory views in significant matters creating further uncertainty.

Revamping of the Law of contract –a paramount need: The law of contract in India, though considered well drafted is believed to be inadequate for the current business scenario. Other corporate laws have been revamped to be in sync with the current business needs e.g. The Companies Act, SEBI Regulations etc. However, the Contract law has lacked a similar attention.

A need to re-look at the Indian Contract Act is also paramount especially to provide for digital contracts. Though digital contracts are covered by the Information Technology Act, 2000, some insecurities regarding its absence in the contract law exist.

Section 27 of the Indian Contract Act, prohibits restraint of trade which conflicts considerably with many non-compete clauses in agreements. Though a view exists that reasonable non-compete clauses are valid, an absence of an express provision stating the same makes many jittery. These inadequacies make foreign investors nervous about the legal position in case of breach of contracts. This coupled with a slow judicial process makes the risk of a stagnant project and corresponding escalation of costs significant.

Indian Contract law is silent about provisions relating to unfairness of contracts. Most developed jurisdictions have evolved ways to deal with unfairness in contracts, and recognise the possibility of 'procedural' and 'substantive' unfairness. Courts should also be vested with the power to raise an issue of unfairness even if the parties have not raised such a plea.

Criminal Delay in Criminal Courts: The state of judicial backlog and delays in criminal cases is worse than that in civil cases. Many believe the system is on a brink of collapse. Providing adjournments on frivolous grounds has become a habit in the judicial system. These adjournments range from 6 months to 2 years. Dejected and frustrated people affected by such delays feel that most laws are framed favouring the accused. To add to the misery caused by adjournments, there is a shortage of judges creating a serious backlog. As per the impact assessment report of the law ministry, there are 26% vacancies in judicial positions in various High Courts of the country. This results in delayed dates for trials. In fact most prisoners in various jails are not convicted but await trials. Instances of the time spent in jail awaiting the trial exceeding the likely sentence are not unheard of. This system of delayed justice especially affects the cases pertaining to serious crimes like rape, murder etc where emotions run rampant, and give rise to the mafia system of justice.

Arbitration Route – a failure of a Solution: Arbitration is becoming popular in India due to the delays in the judicial process. However, even in arbitration cases, delays hamper the efficient dispensation of dispute resolution. Though the legislation confers greater autonomy on arbitrators and insulates them from judicial interference, it does not fix any time period for completion of proceedings. The time frame for completion of the arbitration proceedings was done away with, on the presumption that the root cause of delays in arbitration is judicial interference, and that granting greater autonomy to the arbitrators would solve the problem. However, the reality is quite different. Arbitrators, who are mostly retired judges, usually treat the arbitration proceedings in the same manner as traditional litigation, and are willing to give long and frequent adjournments, as and when sought by the parties

Arbitration is generally considered cheaper over traditional litigation, and is one of the reasons for parties to resort to it. However, the ground realities

show that arbitration in India, particularly ad hoc arbitration, is becoming quite expensive vis-à-vis traditional litigation.

These practical difficulties make the arbitration process almost irrelevant in the Indian context and companies are increasingly seeking other countries like Singapore as their arbitration jurisdictions..

Revamping of the judiciary – the need of the Hour:

A need to revamp the judicial system is felt by many and has been expressed by many legal experts, political figures and the law ministry itself. However the implementation has been slow. The Budget 2015 has allocated about Rs 806 crores to the judiciary. How the said allocation translates into judicial reform remains to be seen.

As elucidated by the Law Ministry in one of its papers, the Parliament should bear in mind the burden a new legislation or an amendment, whether procedural or substantive creates on the judiciary.

U. K. Example: Another system which is underway in the UK is charging the cost of trial, especially in criminal cases to the accused depending upon the severity of the charge. This reduces the drainage of the taxpayer's money on account of delays due to adjournments demanded by the accused. Many suggest that the same can prove useful in the Indian context as well.

Traditionally, Indians have attached a lot of importance to judiciary. However the reality of its declining state cannot be ignored. Weakness of the judicial system in dispensing speedy justice is said to be one of the root causes of the rise of corruption, mafia gangs and general agitation due to an almost inaccessible judiciary. Laws to combat these issues plaguing India have been enacted. However, their implementation is in a sorry state. A major reason is the non-existence of fear of judicial punishment for violation of the law enacted. A combined effort of the Ministry, a professional and expert support and a general overhaul are the need of the hour.

**If in the last few years, you have not discarded a major opinion
or acquired a new one,
check your pulse. You may be dead.**

- Gelett Burgess

ARE INDIAN JUDGES NOW UNDER TRIAL ?

- N. S. VENKATARAMAN

In recent times, several judgements delivered by Supreme Court and High Courts have surprised and shocked common men. While even the judges in USA have often come under severe criticism, the conditions in India appear to be no better. So far, common men have believed that the judges would be the ultimate conscience keeper of the country and this belief is certainly getting eroded fast now.

While several judgements have raised lot of suspicions in the past, it has now reached a climax when a High court judge acquitted a Chief Minister in a corruption case based on wrong arithmetic calculation and a rich actor was given bail in a few hours after being convicted. These are all very disturbing signals which the country can ignore only at its peril. If the judges would not command faith amongst the people, the inevitable consequence will be that people would tend to believe that there would be no alternative other than resorting to violence to protect probity in public life. It is not clear yet whether the judges have realised the consequences of delivering judgements which cause blatant suspicions and misgivings amongst the people.

Of course, it is true that the judges function in stressful conditions with high expectations of standards from the people., who may not understand many intricacies of the law and the facts. When a judgement is delivered, it inevitably happen that one party would suffer and another party would triumph. There can also be genuine differences in interpretation of law while providing judgements. While these factors are understandable, when judgements cause serious doubts amongst the people as to whether the judges have been impartial, it would be a tragic situation. Unfortunately, this appears to be what is happening in India today.

One cannot miss the fact that even retired judges of the High courts and Supreme courts have levelled corruption charges against sitting judges in recent times. While some say that this could be a situation similar to pot calling kettle black, nevertheless such accusations are extremely disturbing. There have been senior judges against whom molestation charges and land grabbing charges have been levelled and common men believe that most of these charges appear to be true and genuine. In all such cases, the Supreme Court have not scrutinised the cases thoroughly but have allowed the judges to go scot free with judges rarely being punished.

On the other hand, several senior judges have no hesitation in accepting posts such as Governor etc., which make people wonder as to whether these judges have been rewarded by the government for any reason after their retirement. Why these judges place themselves in such suspicious circumstances by accepting such post retirement positions?

It is now high time that the judges have to redeem their fair name amongst the people of India. Many believe that the Government of India's move to appoint judges by setting up judicial commission is appropriate, as in the past, several judges have been appointed due to political reasons at the behest of politicians. Further, it is now seen that the judges have no qualm about sharing platform in meetings with business men and politicians, some of whom face charges in the court.

Before the public suspicion become worse, the judges should immediately atleast evolve a code of conduct for themselves and develop a mechanism where the code of conduct could be scrutinised.

The judges have no time to lose as the country men appear to be becoming impatient and developing a sense of frustration, which make them say **YOU TOO JUDGES.**

ACCOUNTABILITY OF JUDGES

S. L. CHOWDHARY

Main reason for this is that there is no accountability of judges from lowest level to highest level.

1. When CPC bars more than 3 adjournments, judges give umpteen adjournments to oblige this or that advocate. And when
2. When CrPC bars that witness should be examined on the same day, long adjournments are given at the whims of advocates.

When you approach the high court, high court simply bind the lower court for 6 month, 1 year. No reprimand of the court concerned.

Even such orders are ignored by courts just to oblige this or that advocate.

Courts have become tools to victimise honest people.

Take an example:

1. A working partner cheats the capital contributing partner.
2. It takes more than one year to get the arbitrator appointed.
3. Arbitrator takes 5 years and awards half of the amount claimed by the claimant with simple interest.
4. Non-claimant goes to dist court u/s 34. The court takes four years to reject the application of non claimant.
5. Non-claimant goes to High court u/s 37. The court stays the execution on non-claimant paying half the amount with simple interest.

And it continues...

Now in the mean time the non-claimant has earns compound interest at least 3 times of what he will be paying to claimant.

Forget about the time and money claimant has spent and spending.

Long live the Judiciary.

NYAY YATRA - A MARCH FOR JUSTICE

- PRAKASH KHATIWALA

Who would have imagined of a Yatra for Nyay–March for Justice in an independent India–the dream idea of Bapu? But then that is the bitter ground reality of the modern independent state of India. The Yatra reminds one with that of The Great Dandi March of Bapu.

For last over two years, we at Forum have been discussing and debating NYAY YATRA (a march for justice). We went on announcing the proposed event in our workshops, seminars and conventions. We continued to publish the historical event in all our publications. Our Societies registered and under registration are gearing up for making the program a landmark success.

The aim of YATRA is to prepare the citizenry to fight for fair, fast and affordable justice from the courts, governments and institutions–private and public who have denied this basic paramount need from the time of independence and also sound a warning bell to

these perpetrators of the injustice–the executive, the legislature and the judiciary, all acting in cahoots.

How this mammoth Yatra will be conducted? Two teams will move across the country in separate cavalcades in different directions from Kashmir to Kanyakumari and Kutch to Kolkata passing through hundreds of villages, towns and cities covering about 14000 kms of the travel. There will be hoardings, posters, banners and distribution of fliers along the entire route almost encircling the country. The whole exercise will be complimented by songs and speeches resonating with the demand for justice all across the country–an echo of Prabhat Feri of Gandhi age. And the most interesting part of the 35 days Yatra commencing on 30th January 2016 is its venue – Bapu's Samadhi, the Raj Ghat, at Delhi and will finally terminate at Jantar Mantar on 4th March 2015 just before Forum's 5th convention during 5th and 6th March 2016.

A BRIEF HISTORY OF FORUM

The concept of SAVE JUDICIARY–SAVE NATION was conceived way back during 2001–2002 by Janhit Manch and others and the first joint demonstration was held on 30th January 2002 at Azad Maidan. But the campaign couldn't be sustained due to paucity of manpower and material resources. It was revived in a small scale by Janhit Manch by holding a seminar in 2006 on Judicial Reforms.

Janhit Manch co-hosted a two day convention on the subject at Delhi with campaign for judicial accountability and reforms in March 2007 where its members attended as delegates in large number.

Janhit Manch hosted a two days convention in December 2007 in Mumbai which was attended by delegates and speakers from Mumbai and other cities.

Subsequently it was decided to form a separate organisation to pursue the movement nationwide. Accordingly Janhit Manch submitted an application before the Charity Commission for registration of the trust under the name of SAVE JUDICIARY–SAVE NATION but the name was not approved.

The alternative name of Forum For Fast Justice which was approved and registered in March 2008.

Thereafter The Forum wrote thousands of letters and

e-mails throughout the country for awareness among the masses on the need of judicial reforms.

The Forum has conducted during last seven years over hundred workshops in various cities for setting up Societies For Fast Justice and goes on holding seminars, conclaves and conventions. It regularly interacts with the ministers and high officials of the Dept. of Law & Justice.

After Forum coming on the scene, two spectacular changes in perception and expansion are visible.

Forum's no nonsense observation and critical analysis of the functioning of the judiciary has emboldened masses and media in criticising the lapses of the system without fear of contempt of court.

The other achievement is that, though Forum is pushing for increasing the number of judges strength almost five times commensurate with increase of staff and infrastructure in light of Supreme Court's March 2002 Judgement in favour of All India Judges Association, so far the governments at the Center and States have not implemented the order but decided to increase judges strength to double of existing strength.

Forum will not rest till its goals are achieved.

NATIONAL JUDICIAL APPOINTMENTS COMMISSION

– Utkarsh Anand

Indian Express, New Delhi : June 18, 2015

A senior advocate arguing in favour of the National Judicial Appointments Commission (NJAC) Wednesday told the Supreme Court that its judges should walk in the court corridors wearing a burqa to get a sense of increasing frustration among lawyers over bad appointments and the deteriorating justice delivery system.

"My Lords should wear a burqa and roam in the court corridors to hear the way lawyers talk about the judges of this court. You will get first-hand account of the rotting justice delivery system. The kind of lawyers who are being appointed as judges is a disgrace," senior advocate Dushyant Dave, arguing for the Supreme Court Bar Association (SCBA), told a Constitution Bench led by Justice J S Khehar.

Dave, who is also president of the SCBA, said the top court has used the Collegium's power to appoint judges as a "giant", and has turned its duty to protect human rights into a "sham".

"Be it the 1984 antisikh riots or the 2002 Gujarat riots, none of these cases have rendered justice, and if you were to see how wrong appointments have been made, you would know the reason. It is a shame how every court is going an extra mile to protect politicians and film stars, and ordinary citizens are deprived of justice," said Dave.

"Acting chief justice of a high court decides to sit in a single bench, gets the roster for criminal cases, has the case transferred to his bench from another bench and quashes the FIR only because the person involved happens to be a top film star. Which driver gets bail within hours of conviction unless he happens to be a top film star? Which person will get bail by this court on the first day of the bail plea and without a notice to the other side it is not a big politician? it is a shame," he added.

Dave also claimed that while every accused in the Sohrabuddin Sheikh fake encounter case and the Gujarat riots case, including life term convict Maya Kodnani, had got bail from the apex court, Teesta Setalvad, who fought for the riot victims, had to run

from pillar to post for protection from arrest.

The bench, also comprising Justices J Chelameswar, Madan B Lokur, Kurian Joseph and Adarsh K Goel, retorted that it was not the system, but some individuals who may have been in the wrong. It also said that some of the judges being criticised had been lawyers earlier.

Dave replied, "The institution does not have a system to correct it. I am very sorry to say it but you don't listen to anyone, my lord... You have used your powers as a giant. Even the Parliament cannot correct it. The majority of the appointments are impeccable but it is the minority that is giving this institution a bad name and you don't entertain even the smallest of suggestions."

"Once they are appointed as judges, there is no scrutiny and some of them have brought down the reputation of constitutional posts. Oath as a judge has become a joke and I doubt many of them even remember it anymore," he added.

Asking the judges to introspect, Dave said it had been "very difficult to digest" the way the Collegium had been functioning, and said the NJAC would be a perfectly constitutional mechanism to appoint judges in the higher judiciary.

The Bench said, "You talk about a few judges but you don't talk about hundreds of others who work tirelessly day in and day out for this system. You crush them under the weight of others."

Although he stood with it to defend the NJAC, Dave also hit out at the government, saying that it wanted to appoint "pliable and weak judges" since they could be easily manipulated.

Asking Dave to suggest ways to remedy the situation, the Bench said it was in favour of improving the existing system. "If we quash the NJAC, the new system may be somewhere in between the old system (Collegium) and the NJAC. Give us suggestions on how to do it," it said. The arguments in the case will continue on Thursday.

'50% HC judges related to senior judicial members'

'Judges appointments core of judicial independence'

– Solibam Rocky Singh

Hindustan Times June19th, 2015

NEW DELHI: Around 50% of the judges of high courts and 33% judges in the Supreme Court are family members of those in "higher echelons of judiciary", claims a research done by a Mumbai-based lawyer.

Advocate Mathews J Nedumpara, who is a petitioner-in-person, submitted the report to a five-judge constitutional bench hearing petitions challenging the NJAC Act. The situation was a result of the collegium system under which judges appointed other judges, Nedumpara told HT.

He said the Supreme Court's verdicts in the 1990s resulted in the setting up of a collegium system that "monopolised" appointments to the higher judiciary, where kith and kin, and "former and sitting judges

of the Supreme Court and high courts, Governors, chief ministers, law ministers, celebrated lawyers, the elite" are favoured.

According to the report, the Supreme Court has a sanctioned strength of 31 judges, out of which six judges were sons of former judges. The report mentioned appointments of over 88 judges from 13 high courts who were either born to a family of lawyers, judges, or worked under some legal luminaries.

WHAT THE REPORT SAYS:

- ❖ Submitted by advocate Mathews Nedumpara, the study claims 50% HC judges, and 33% SC judges are related to 'higher echelons of the judiciary'
- ❖ He said the SuC verdicts in the 1990s resulted in the setting up of a collegium 'system' that "monopolised" appointments to the higher judiciary, where the kin senior judicial members were favoured.

Nedumpara claimed that the source of his information was the empirical data collected from the official website of Supreme Court and 13 high courts in the months of September and October 2014. He said for other high courts, comparable data were not available.

He alleged that the collegium system functioned under complete secrecy where vacancies in the office of the higher judiciary were neither notified nor advertised.

Appearing for Supreme Court Bar Association, senior counsel Dushyant Dave had on Wednesday attacked the collegium system for ignoring merit and appointing judges who failed the common man and gave relief to only the "high and mighty".

ON NATIONAL JUDICIAL APPOINTMENTS COMMISSION

HT Correspondent: June19th, 2015

NEW DELHI: Noted jurist and senior advocate Fali S Nariman on Thursday attacked the National Judicial Appointments Commission (NJAC) for "taking away" judicial independence, asserting the judiciary's right to insist on appointing judges was a "vital" part of basic structure of the Constitution.

Appearing for Supreme Court Advocates-on-Record Association before a five-judge Constitution Bench headed by Justice Khehar, Nariman insisted the right to have its say in judicial appointments was the "core" of the independence of the judiciary. Attorney General Mukul Rohatgi had submitted that judges, who will form a major block in the six-member NJAC, will

have the primacy if any as they can always block a bad appointment. Only the right to insist on appointments had been taken away which did not infringe the basic structure of the Constitution.

Seeking to quash the constitutional amendment and the law which set up the NJAC, he said that material alteration has been affected in the Constitutional

scheme by allowing two of the six NJAC members to veto an appointment. "It jeopardizes the entire law," he said.

The bench also asked him to counter the Centres submission that "laypersons" were part of judicial appointment panels in various countries and why it can't be done here.

DNA
03.06.2015

HCS FACING SHORTFALL OF 366 JUDGES

Even as the system for appointments to the higher judiciary was mired in uncertainty, the high courts were faced with a shortfall of 366 judges, according to latest data collated by the law ministry

24

The number of high courts in the country

1017

The approved strength of judges for high courts

651

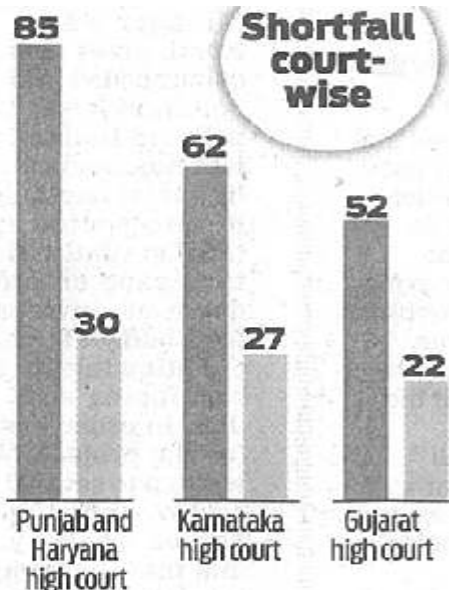
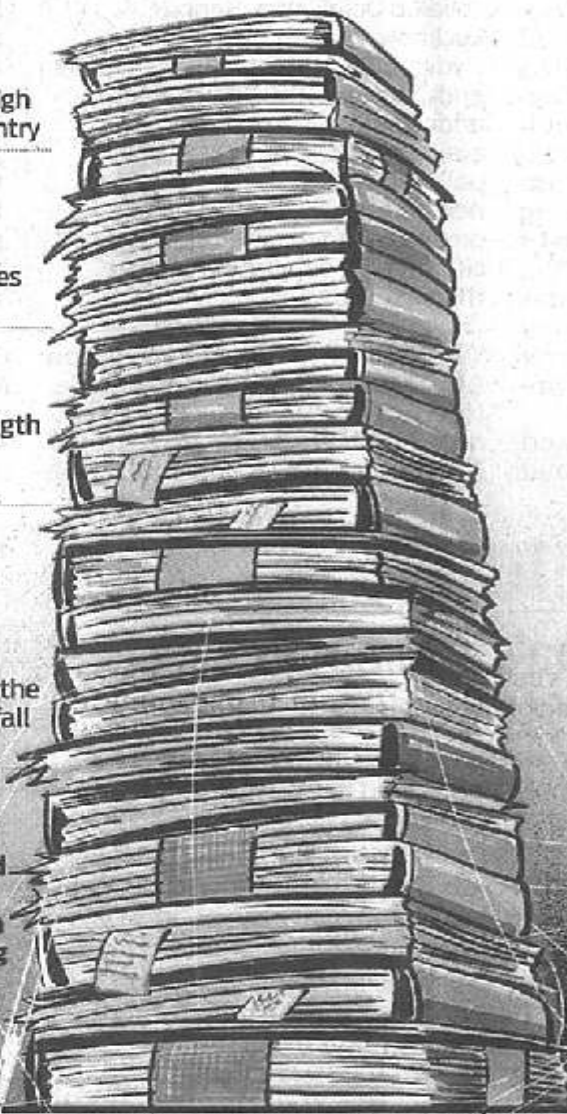
The actual strength of judges as of May 1, 2015

80

The number of vacancies in Allahabad high court, which has the maximum shortfall among HCs.

160

The sanctioned strength of Allahabad high court, including its Lucknow bench

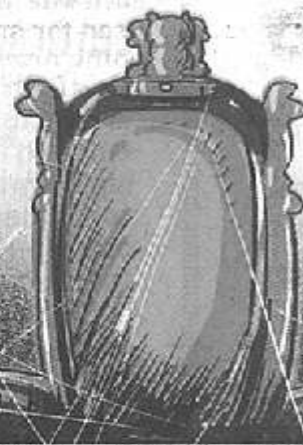


● Sanctioned strength ● Shortfall

NJAC awaited

While the collegium system of judges appointing judges has been done away with by a new law, the National Judicial Appointment Commission has still to begin its work.

The Supreme Court is right now hearing a petition challenging the validity of NJAC and the Chief Justice of India has refused to take part in a meeting of the selection committee of the panel under the new law, thus leaving the new system in a limbo.



No shortage Four high courts — Kerala, Meghalaya, Sikkim and Tripura — have no shortage of judges

NYAY DISHA CAPSULES

1. DISTRICT LEVEL SOCIETIES FOR FAST JUSTICE

Forum works at district level through Society for Fast Justice with name of the district or major town. As on April 2015, 52 Societies for Fast Justice have been established all over India, including in all four metro cities of New Delhi, Mumbai, Kolkata & Chennai are registered and functional. District level Societies for Fast Justice can address local issues and problems such as deficiency in services by municipalities, Govt. depts., police, consumer needs from traders, railways, public transport, airlines, banking, insurance, education, hospitals and so on. Forum can provide guidance, technical & financial support to organize seminars, workshops etc. Societies can also work with Forum for Fast Justice to address national issues. Activities of the Societies for Fast Justice also gets national exposure in NYAY DISHA, a quarterly inhouse journal of the Forum which goes to President, Vice-President and Prime Minister of India, Union Law Minister, all the Members of Parliament, all Judges of the Supreme Court as well as High Courts. Besides this is also mailed to all state Govts, prominent jurists and citizens across the country.

2. FORUM'S BHUBANESHWAR ANNUAL NATIONAL CONVENTION: NATCON-2015

The event held during 14-15 March 2015 was attended by 170 delegates drawn from Forum's 52 registered Society For Fast Justice spread across the country. A dozen eminent speakers also attended which included Justice M.Papanna (Rtd), Dr.Madhav Menon, Founder of National Law Schools, Kamalkant Jaswal, Director, Common Cause, Somjibhai Damor, former MP and former Minister in Gujarat, Bhagvanji Raiyani, Chairman and Managing Trustee, Forum For Fast Justice, O.P.Monga, & Ramesh Kanakia, trustee, Forum For Fast Justice, Pravin Patel, Forum's National Convener and other prominent citizens and activists.

O.P.Monga Annual Award of Rs. One Lakh was awarded to Shri Yudhishtir Moharana, President, Society For Fast Justice, Odisha, for outstanding services in Judicial Reforms. The convention was jointly hosted by Society For Fast Justice, Bhubaneshwar and Society For Fast Justice, Odisha.

The delegates' participation with zeal and enthusiasm was unprecedented, in all three different sessions reserved for Forum's Societies.

The First Session was moderated by Mr.Raj kachroo, President of Guargaon Society For Fast Justice (Haryana). In this session various speakers such as Dr.Ruplal Chauhan, Raigarh, (Chhattisgarh), Bhaskar Sur, (Kolkatta, W.B.), Santosh Shetty, (Dahanu, Maharashtra), Capt. S.C.Tripathy, (Kanpur, UP), Gulshan Pahuja, (New Delhi), M.A. Balasubramanian (Chennai, T.N.) and Rajubhai Thakkar, (Mumbai), expressed their views and suggested steps that can be taken by the authorities.

The Second Session was moderated by Anmol Tembhurne, President, Nagpur Society For Fast Justice.

This session was addressed by: Narendra Patel, (Dahanu, Maharashtra), Mrs.Anjali Chakravorty, Agartala (Tripura), Ram

Lakhan Yadav, Ranchi, (Jharkhand), Jayant Das, Puri (Odisha), Rakesh Choubey, (Raipur, CG), Shri Mukhtar Ahmed, (North 24 Pargana, W.B.) and Naguthang, Churachandrapur, (Manipur) expressed their difficulties, views and suggested steps that can be taken to strengthen the movement by working together on common issues.

The Second Session was moderated by by S.Mukhtar Ahmed of North 24 Pargana (W. Bengal).

In this session Shri.K.V.Pratap, Adilabad (Telengana), Inderjeet Chabra, (Raipur, CG), Akhter Hussain (Rajouri, J & K), Dr.Kamle (Chandrapur, Maharashtra), Sultana Begum, (Bhubaneshwar, odisha), Velvine Khammam, (Telengana), Raman, (Chennai,T.N.), Ramesh Kanakia, (Mumbai), Sushil Lakta, (Rajgangpur, Odisha), Ravi Bhushan, Ranchi, (Jharkahand) took active part.

3. LAW COMMISSION OF INDIA ON LOWEST JUDGES PER MILLION POPULATION.

Law Commission of India in its Report No. 245 of July 2014, titled as "Arrears and Backlog: Creating Additional Judicial manpower" also confirms that denial of 'timely justice' amounts to denial of justice itself. Two are integral to each other. Timely disposal of cases is essential for maintaining the rule of law and providing access to justice which is a guaranteed fundamental right. The report also says that the judicial system is unable to deliver timely justice because of huge backlog of cases for which the current judge's strength is completely inadequate. Further, in addition to the already backlogged cases, the system is not being able to keep pace with the new cases being instituted, and is not being able to dispose of a comparable number of cases. The already severe problem of backlog is, therefore, getting exacerbated by the day, leading to a dilution of the Constitutional Guarantee of access to timely justice and erosion of the rule of law.

What matters is not just the timely disposal of his/her case at the trial Court level, but at all levels of the judiciary. Therefore, judicial reform targeted at delay reduction is required not only in the trial Court, but throughout the judicial system. If the number of judges in the trial Courts increases significantly the number of cases being disposed of by the trial Courts will rise sharply. The total number of cases being appealed to the High Courts will also increase. The case load of High Courts will, therefore increase. If a corresponding increase is not made in the judge strength at the High Court level, the system as a whole is likely to remain backlogged.

India has just 10.5 judges per million populations as against 41 in Australia, 51 in UK, 75 in Canada and 107 in USA. In All India Judges Assn. Vs Union of India (2002) 4 SCC247, Supreme Court of India directed the Union of India and the States in March 2002, to increase the judges strength from 10.5 to 50 judges per million population by March 2007. However, the order remains on paper till date, even after 13 years of SC's directive.

Forum has been repeatedly raising this issue for the past 10 years for Appointment of judges on a priority basis which is the

need of the hour: As this data indicates, the situation is grim, and is getting worse by the moment. There is a significant backlog of cases in all the courts across the country.

4. MORE BENCHES OF SUPREME COURT NEEDED

Poor litigant from Agartalla or Kanyakumari reaches New Delhi at the Supreme Court after about 40 hours of arduous train journey.

Even Pakistan has one more bench of Supreme Court, Australia and USA have circuit courts at every High Court with the power of the Supreme court.

Forum has been in the forefront in raising this issue with the Supreme Court, to set up its benches at Kolkata, Mumbai, Chennai, Bhopal, Nagpur, Hyderabad, Bangalore, etc. or set up circuit courts at every High Court vesting them with Supreme Court powers.

"If you want to Save the Nation, the Democracy with lofty ideals, the Judiciary must be Saved"

Justice R.C.Lahoti, former Chief Justice of India, Mumbai December 2007

5. DO WE ALLOCATE REQUIRED FUNDS TO JUDICIARY?

An internal study conducted by court management system reveals that as many as 18 states in India are not even spending 1% of their budgets for judiciary. The Supreme Court also held that the meager budgetary provisions by the Centre and States impeded setting up additional courts and infrastructure needed to speed up the justice delivery system. In this connection the Supreme Court observed: "No government wants strong judiciary". It is only on the paper. Look at the budgetary allocation, the bench remarked while pointing out that the judiciary is overloaded and a large number of courts need to be set up across the country for speedy justice delivery. Justice Sathasivam, former Chief Justice of India in his farewell speech had said "Budget allocation for judiciary is a serious concern. In so far as the Supreme Court is concerned, the government is not providing sufficient budget and, time and again, the Chief Justice has to intervene to seek sufficient allocation of Budget."

Former Chief Justice of India R.M. Lodha said, "the negligible budgetary allocation being witnessed since the past few decades is grossly inadequate to meet the requirements of the judiciary such as setting up of new courts and to improve infrastructure to bring down the pendency from a staggering 3.3 crore cases." "Budget allocation is not even one per cent. It is just 0.4 per cent. How do we construct more courts and improve infrastructure for speedy dispensation of justice? We are already overburdened," he said, referring to the budgetary allocation in the 2013-14.

Budgetary allocation to Judiciary in Singapore 1.2%, UK 1.4% and USA it is 4.3%

On the other side, there is a report published in Times of India, Ahmedabad Dt: 12-01-2015, with headline "80% OF FUNDS FOR DEVELOPING JUDICIAL INFRA UNSPENT", carries the news that reads as "Judiciary and the State Governments have failed to utilize upto 80% of the funds allocated for the development of judicial infrastructure and new courtrooms in the last five

years across the country. A large part of the funds meant for running special morning and evening courts also reportedly remained unused. Most of the High Courts failed to avail of the funds meant for running of special courts including fast tract courts."

6. OUR LAMEDUCK JUDICIARY

- (i) 'Scrap court holidays for speedy justice, (TOI) dated 15-11-2001.
- (ii) 25 years more for Bhopal Gas disaster Case: Supreme Court, Gujrat Samachar dated 7-8-2012.
- (iii) US media slams India's criminal justice system, DNA dated 24-12-2012.
- (iv) Vindictive govt hindering judiciary functioning: SC 'Provides No Infra, Didn't Even Clear 500 Bill Of NGT Chief', (TOI) dated 9-2-2013.
- (v) 'Govts look at judiciary as a non-productive organ of state'. Hindustan Times dated 19-5-2014.
- (vi) War widow may get land after 43 yrs. DNA dated 25-7-2014.
- (vii) Gwalior additional judge says she was sexually harassed by HC judge, quits. (TOI) dated 4-8-2014.
- (viii) No action taken against lawyers for misconduct in 10 yrs: Bar council. (TOI) dated 18-8-2014.
- (ix) In MP, wait 60 years for RTI reply; it takes 17 years in Bengal. (TOI) dated 11-10-2014.

7. WHO BENEFITS FROM THE SLOW JUSTICE DELIVERY SYSTEM?

The slow justice delivery system suits the most to the Corrupt and Criminals. 32% of our Members of Parliament who are law makers are law breakers too but facing criminal cases as per their own affidavits filed before the Election Commission of India. 52% of MLAs in Maharashtra Assembly have also criminal background. Criminals are more comfortable with slow justice delivery system.

8. DR. MADHAV MENON, FOUNDER, NATIONAL LAW SCHOOLS at BHUBANESHWAR NATCON-2015 CONVENTION

Excuse of no more resources nor manpower can be claimed by any government but that is not the fact. We are fairly comfortable with resources. How come we take 20 years in a civil matter, perhaps five ten years in a criminal case? To get a decision from our judiciary it takes years and years. This is affecting the development of the country. This is making the poor suffer a great deal as to why a democratic government, is not able to settle their disputes. Forum is in the process to make this a strong national movement in true Gandhian Style by reaching to each and every 682 districts of the country within five years with formation of districtwise Societies for Fast Justice. Against target of 100 such societies in the year 2015, already 52 Societies For Fast Justice are formed. This movement is nothing less than the second freedom movement. How can we remain silent when the dreams and vision of our freedom fighters and also framers of the Constitution of India lies shattered in front of our eyes? It is time to act and act now. Let us all join hands

together for a better future of our next generation.

“Our Justice delivery system is bursting at the seams and may collapse unless immediate remedial measures are adopted not only by the judiciary but also by the legislature and the executive. People had lost faith in the other two wings of the State much earlier. Unfortunately, the faith of a common man in the judiciary is also being eroded”.

Justice S.B.Sinha, (Rtd) Supreme Court of India

9. THE GRAMNYAYALAYA ACT, 2008: STILL ON PAPER

Gazetted on 7th January 2009, the implementation is almost NIL. It was supposed to be set up in all Talukas, numbering about 5000 across the nation. The Act has a very noble concept of taking justice delivery to the doorstep of the poor villagers through the periodical visits to the villages by the Gramnyayalaya Judges (Nyayadhikaris) accompanied by the staff in a special vehicle.

See some of the provisions of the Act:

1. An Act to provide for the establishment of Gram Nyayalayas at the grassroot level for the purposes of providing access to justice to the citizens at their doorsteps and to ensure that opportunity for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.
2. The Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct trial or proceedings at any place which he considers is in close proximity to the place where the parties ordinarily reside or where the whole or part of the cause of action had arisen.
3. The State Legal Services Authority, constituted under section 6 of the Legal Services Authorities Act, 1987, shall prepare a panel of advocates and assign at least two of them to be attached to each Gram Nyayalaya so that their services may be provided by the Gram Nyayalaya to the accused unable to engage an advocate.
4. Notwithstanding anything contained in any other law for the time being in force, every suit, claim or dispute under this Act shall be instituted by making an application to the Gram Nyayalaya in such form, in such manner, and accompanied by such fee, not exceeding rupees one hundred, as may be prescribed by the High Court, from time to time, in consultation with the State Government.
5. For the purposes of section 26, the District Court shall, in consultation with the District Magistrate, prepare a panel consisting of the names of social workers at the village level having integrity for appointment as Conciliators who possess such qualifications and experience as may be prescribed by the High Court.
6. An appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of such appeal.

Forum will take up this issue of Gram Nyayalaya with the Government and the Supreme Court.

10. “NYAY YATRA” --- 'A PILGRIMAGE FOR JUSTICE'

Forum's most ambitious and pathbreaking project is its NYAY YATRA, scheduled to be commenced from 30th January 2016, the death anniversary of Mahatma Gandhi, the greatest apostle of justice to all and ending on 4th March 2016 at Jantar Mantar, New Delhi for dharna and peaceful protests for judicial reforms.

Two teams in motorcades will travel simultaneously (Covering N to S and E to W): (i) from Kashmir to Kanyakumari and (ii) from Kutch to Kolkata. By that time we will have hundred plus 'Society For Fast Justice' spread over all states of the country which will take the 35 days yatra through hundreds of villages, towns and cities covering thousands of kms crisscrossing the whole country.

The yatra is meant to connect the masses in the Forum's movement of SAVE JUDICIARY-SAVE NATION. Lakhs of litigants and other well meaning people will join this campaign for judicial reforms.

11. ARE JUDGES THEMSELVES LAW ABIDING?

Are judges following the provisions of laws while hearing the cases like limiting 3 adjournments to each party and that too against payment of costs to court and to the opponent parties, limiting the time for arguments, imposing costs on parties resorting to dilatory tactics, levying fine and sending to jail the parties filing false and fabricating evidences and affidavits on oath and losing party paying damages to the winning parties in appropriate cases?

If these laws are strictly practiced by the judges and there are many more remedies for expeditious disposal if taken seriously, the fraudsters will get out of courts and with the same current strength of judges, we can reach to zero backlog of cases pending in Indian Courts within next 10 years.

12. FORUM'S NEXT CONVENTION AT DELHI : NATCON - 2016. PLAN FOR ACTION

Immediately after termination of NYAY YATRA at Jantar Mantar, Delhi on Friday 4th March 2016 National Convention (NATCON-2016) will be held in the national capital during **Sat.-Sun. 5-6 March 2016**. It will be restricted only to the members of Forum's hundred odd Societies in the country.

An aggressive plan of action, if the situation is not improved by that time, will be planned to be enforced through Gandhian principles of nonviolence, non co-operation and disobedience. The resolution to that effect will be circulated among the delegates, which will be widely debated and passed with or without modifications if any. The copies of the resolution will be mailed to the Chief Justice of India and all High Courts, Union and all State Governments for implementation. If they don't see the reason, a nationwide Satyagraha will be launched which will include Protest Rallies, Dharnas, Fasts, Roadshows, Rail Roko and Jail Bhara.

This is absolutely necessary to achieve fair and fast justice delivery system for protecting our democracy from mafias, criminals and fraudsters in the society and politics and above all to safeguard the interests of the middle class and poor people and Democracy.

THE NJAC CASE - CAN CITIZEN BE THE STAKEHOLDER ?

- MINAKSHI MAHESHWARI

The argument in the **National Judicial Appointments Commission (NJAC)** case before the Supreme Court grabbed the Nation's interest. So what does it mean for the common man ?

The Collegium: The collegium system came into being in the 1990s when the Supreme Court decided in two cases that Judges will appoint themselves.

The NJAC Proposal: The Government proposed the NJAC by amending the Constitution of India through the Constitution (Ninety-Ninth Amendment) Act, 2014 which was passed by the Parliament in August 2014. The NJAC Act and the Constitutional Amendment Act came into force in April 2015.

A new article, Article 124A has been inserted to provide for the composition of the Commission to include :

- ❖ Chief Justice of India;
- ❖ Two other senior judges of the Supreme Court;
- ❖ The Union Minister of Law and Justice;
- ❖ Two eminent persons (to be nominated by a committee consisting of the Chief Justice of India, Prime Minister of India and the Leader of opposition in the Lok Sabha).

The functions of NJAC include the following:

- ❖ Recommending persons for appointment as Chief Justice of India, Judges of the Supreme Court; Chief Justices of High Courts and other Judges of High Courts;
- ❖ Recommending transfer of Chief Justices and other Judges of High Courts;
- ❖ Ensuring that the persons recommended are of ability, merit and per other specified criteria.

NJAC under challenge by the bar : The validity of the Constitutional Amendment Act and the NJAC Act has been challenged by certain lawyers and lawyer's association in the Supreme Court of India. The outcome is pending.

Lack of Transparency in the Collegium : In 2013, the collegium rejected the elevation of three High Court Chief Justices. They were CJ of Bombay High Court (Mr. Mohit Shah), CJ of Gujarat High Court (Mr. Bhaskar Bhattacharya) and CJ of Uttarakhand High Court (Mr. Barin Ghosh). The Chief Justice of India stated that

"The collegium has unanimously taken the view that they are not suitable to hold the office of Supreme Court Judge and their elevation as such would prove to be counter-productive and not conducive to administration of justice."

<http://www.hindustantimes.com/newdelhi/panel-finds-3-top-judges-unfit-for-sc/article1-1027632.aspx>

Former CJI VN Khare commented that *"My experience has been that reasons for elevation or otherwise are not communicated in writing."*

Mr. Bhaskar Bhattacharya had expressed that real

reason for non- elevation was that he had raised serious objections against the elevation of Smt Shukla Kabir Sinha, (CJI Altamas Kabir's younger sister) as a member of the collegium of Calcutta High Court.

<http://www.livelaw.in/justice-b-bhattacharya-not-elevated-to-sc-for-opposing-elevation-of-cji-kabirs-sister-to-cal-hc/>

In 2014, Mr. Bhaskar Bhattacharya and Mr. Barin Ghosh retired as CJ of Gujarat and Uttarakhand, respectively.

In 2015, the collegium's move to elevate Justice Mohit Shah yet again met with serious objection from senior advocate, Mr. Dushyant Dave – President of the Supreme Court Bar Association. The open letters addressed to the Chief Justice of India from Mr. Dushyant Dave are available on

<http://www.caravanmagazine.in/vantage/why-dushyant-dave-does-not-want-chief-justice-mohit-shah-supreme-court>

<http://www.caravanmagazine.in/vantage/why-dushyant-dave-does-not-want-chief-justice-mohit-shah-supreme-court#sthash.SUf783yC.dpuf>

Mr. Dave, after stating that Mr. Mohit Shah had been earlier considered and rejected for elevation, cites the 1993 Constitutional Bench judgment that established the collegium and adds that *"reconsideration of the Chief Justice Mr Mohit Shah case would not only be contrary to the Constitutional Bench judgment, which binds you but would be grossly improper and will seriously impact the reputation of the Hon'ble Supreme Court of India."*

Mr. Mohit Shah has held the position of Chief Justice of Bombay High Court since 2010 till date and is retiring in September 2015.

Criticism of the Collegium by retired judges: In 2010, retired Judge Ruma Pal in a hard hitting lecture in Delhi listed seven sins which plague the higher judiciary and stated that public confidence is the bedrock of judicial independence and judicial independence cannot exist without accountability.

<http://www.newindianexpress.com/columns/article242672.ece>

The citizens are keen to know:

1. What is the existing process and criteria used by the collegium for evaluating a Judge of a High Court such that the Judge is not counter- productive and obstruction to the justice dispensation ? Is there a mechanism to deal with complaints against judicial officer and redressal ?
2. Who is the collegium accountable to ? Is there a process to regularly review the quality of functioning of the collegium?

The final outcome of NJAC case will demonstrate the willingness of the collegium to change in favour of more transparency and accountability and recognition of the citizen as a stakeholder, too.

BLUERPRINT FOR REFORMS IN INDIA

JUNE 7TH, 2015

- A. R. JUMABHOY

A Leading Businessman in Singapore

PHARMACEUTICALS: India can play a major role in providing cheap health care access to the world's poor. This is possible if Made-in-India modern or western medicines are provided worldwide. India has low-cost production facilities which can help manufacture high quality medicines for export, which will go a long way in making healthcare affordable to middle class and poor households globally. Foreign investment in Indian pharmaceuticals should aim at developing, producing and distributing medicines at a relatively lower cost as compared to the prices charged by the large pharmaceutical companies around the world.

GOODS & SERVICES TAX: GST is tax on consumption. For tourists who export and do not consume including household shopping and take-home purchases, there needs to be a refund of GST. We have already introduced it in some Asian countries.

SMART CITIES: There is an urgent need to build new towns. These must not only be built scientifically with specific master plans but should also have in place regulations to educate citizens ranging from school-goers to adults. Singapore is a shining example of how townplanning can be put into practice.

LITTERING: This is related to town planning. Since early days after Singapore gained independence, there are fines and punishments for those who spit on the street, cross the road haphazardly without waiting for the traffic light signals, smoke in public places and spread litter. Harsh deterrent punishments include a S\$19,800 fine for throwing cigarette butts to the ground from units in high-rise apartments.

JUDICIAL REFORMS: Recommendations of the **Bhagvanji Raiyani, Chairman of Forum For Fast Justice** should be implemented with a sense of urgency. Fast track courts, setting up of new courts, sanctioning of new positions for judges and the number of lawyers and filling up existing vacancies are some of the initiatives to act upon immediately.

BANKING SYSTEM: Expansion of international banking and finance system to attract foreign investment and build trust among various stakeholders.

MICRO FINANCE: Current structure of micro-finance has several anomalies, is limited in scope and requires expansion. The structure should be built on the lines of programs devised by Mohammed Yunus for the poor in Bangladesh where the borrowers also become shareholders. Instead of being used as high interest rate extracting mechanisms, micro finance units should be partners to stimulate entrepreneurship and growth.

SMALL & MEDIUM ENTERPRISES: India's SMEs currently need to modernize and help their workers to upgrade skills. This can be done through education, in particular, by introducing programs for change in work ethics. In Singapore, we had a particular area developed for small and medium industries which are still functioning with one floor on top for the family housing. It is part of the Housing Development Board plan.

INFORMATION TECHNOLOGY: Innovation is the need of the hour. There are numerous examples in Israel, China and US of start-ups funded by venture capitalists who have made it big by encouraging creativity to drive the technology boom. New companies have become immensely successful globally, while existing behemoths such as Microsoft, Nokia, Blackberry, Apple and Samsung have hit a plateau, even facing the mid-life crisis. The lesson to be learnt from their experiences is that innovation is a continuous game, or a perennial exercise.

WATER: Singapore's New Water system should be emulated. Under this program, contaminated water which at times even includes human waste, undergoes a process of reverse osmosis to become purified drinking water. Desalination should also be considered. One enterprise working in this sector in India is Hylfux. Hundreds of such companies are needed as India has a long coastline to make salinated ocean and sea water fit for drinking. Cleaning and interlinking of rivers is a related project which is yet to take off even though the Indian government's Ganga cleaning mission is three decades old. The cleaning of small Singapore river was a priority of Singapore's then Prime Minister, Mr Lee Kuan Yew which took 10 years to complete.

....cont. on next page

सुप्रीम कोर्ट का महत्वपूर्ण आदेश ‘अब गरीब जमानत राशि न देने के कारण जेलों में नहीं रहेंगे’

- न्यायिक ज्वाला, जयपुरके पृष्ठोंसे

नई दिल्ली । भारत की जेलों में बंद ऐसे गरीब कैदी जो अपनी जमानत करवाने में अक्षम हैं, अब उन्हें जेल में अपना जीवन दुःख में व्यतीत नहीं करना पड़ेगा । उच्चतम न्यायालय ने एक महीने के अंदर देश के प्रत्येक जिले में ऐसा तंत्र विकसित करने का आदेश दिया है, जो ऐसे असहाय कैदियों की मदद कर सके ।

यह आदेश जस्टिस मदन बी. लोकुल और यू. यू. ललित की सामाजिक न्याय खण्डपीठ द्वारा लाया गया । उन्होंने बताया कि देश की जेलों में बंद कैदियों में से ६७ प्रतिशत कैदी ऐसे हैं जिनका केस विचाराधीन है । लेकिन वे अत्यन्त गरीबी के कारण अपनी जमानत करवाने में सक्षम नहीं हैं ।

नेशनल लीगल सर्विसेज अथॉरिटी को निर्देश दिये गए हैं ऐसे विचाराधीन असहाय कैदियों की मदद के लिए वह गृह मंत्रालय के साथ समन्वय स्थापित करे । खण्डपीठ ने आदेश दिए हैं कि प्रत्येक जिले में अण्डर ट्रायल रिव्यू कमेटी गठित की जाये, जिसकी पहली मीटिंग ३० जून को आयोजित की जाये तथा इसमें ऐसे सभी मुकदमों की समीक्षा की जाये । गृह मंत्रालय द्वारा १७ जनवरी २०१३ को सभी राज्यों को एक सुझाव के मार्फत यह आदेश दे दिया गया था कि वे ऐसी कमेटियां गठित करें । लेकिन इसका

क्रियान्वयन बहुत धीमा रहा, कि उच्चतम न्यायालय को एक महीने में कमेटी गठित करने के आदेश देने पड़े । सर्वोच्च न्यायालय ने कहा, हमें यह जानकारी है कि जेलों में बड़ी संख्या में ऐसे कैदी मौजूद हैं जिन्हें अपनी गरीबी के कारण लम्बे समय से हिरासत में रहना पड़ रहा है । कानून का अभिप्राय निश्चित ही यह नहीं है और गरीबी किसी भी व्यक्ति को जेल में बंद रखने का आधार नहीं हो सकती ।

दण्ड प्रक्रिया संहिता की धारा ४३६ ए के अनुसार, एक विचाराधीन कैदी को निजी इकरारनामे के तहत जमानत पर छोड़ा जा सकता है अगर उसके द्वारा किए गए अपराध में दी जाने वाली सजा की अधिकतम अवधि में से आधी अवधि वह जेल में काट चुका हो ।

सर्वोच्च न्यायालय ने गृह मंत्रालय से कहा है कि वह तिहाड जेल द्वारा तैयार सॉफ्टवेयर एप्लीकेशन का अध्ययन करे, जिसके द्वारा ऐसे विचाराधीन कैदी जिन्होंने अपनी अधिकतम सजा की आधी सजा जेल में काट ली है, का पता लगाया जा सकता है ।

साथ ही राज्यों को भी इसकी कॉपी वितरित करने की सलाह दी है, जिससे देश की सभी जेलों में बंद ऐसे कैदियों का रिकॉर्ड देखा जा सके ।

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ANNUAL BUDGET: Financial reforms should be unveiled to the world without any further delay with particular focus on foreign investment that is sorely needed to fund India's development agenda. Taxation regime should be made very simple and user friendly.

POLLUTION: Reforms and development should not be arbitrary and haphazard and must be balanced with environmental conservation and pollution control. Lessons should be learnt from China's rapid industrialization and urbanization which have also made it one of the world's most polluted and filthy country with smog becoming an integral part of the daily life of many of its citizens.

FOOD STORAGE: Billions of dollars worth of food rots or goes waste due to conspicuous consumption but more importantly lack of proper storage and

processing. A complete overhaul of transport and storage logistics is needed including building of state-of-the-art grain silos and cold storage facilities on a war scale.

TRANSPORT: Reforms in road and rail sector need to be dovetailed with expansion and building of new shipping ports in order to synchronize and bring the entire transport infrastructure on the same wavelength.

CORRUPTION: Tendering system for government contracts needs to be made transparent. Automation with online auctions will be crucial to achieve this aim.

*Mr Jumabhoy is a veteran businessman with a wide range of interests in India.

Courtesy: <http://www.fii-news.com>

हमारी न्याय व्यवस्था

- न्यायिक ज्वाला, जयपुरके पृष्ठोंसे

एक जंगल में गाय भागती हुई जा रही थी। हाथी ने उसे रोक कर उससे भागने का कारण पूछा। गाय ने कहा, “सरकार ने जंगल के सारे बैलों को पकड़ने का आदेश दिया है।” हाथी ने कहा, “पर तुम क्यों भाग रही हो, तु तो गाय हो।” गाय ने कहा, “मैं गाय तो हूँ लेकिन अगर मुझे पकड़ लिया, तो २० साल मुझे यह साबित करने में लग जाएंगे, कि मैं बैल नहीं गाय हूँ।” हाथी भी गाय के साथ भागने लगा।....

जनहित याचिकाओं के जरिए जन मुद्दों को लगातार उठाने की आवश्यकता : प्रशांत भूषण

नई दिल्ली। स्वराज संवाद अभियान तीन अहम मुद्दों को लेकर देशभर में मुहिम शुरू करेगा। इनमें किसानों के मसले पर जय किसान अभियान, भ्रष्टाचार पर जनहित याचिका के जरिए अंकुश लगाने का आंदोलन करने के साथ सामाजिक सौहार्द के लिए व्यापक जागरूकता कार्यक्रम शामिल होगा। इसके बाद संसद के आगामी सत्र के दौरान संसद मार्च किया जाएगा। इसकी व्यापक रूपरेखा अभियान के राष्ट्रीय कार्यकारिणी की बैठक में तय की जाएगी। ये बातें आम आदमी पार्टी के संस्थापक सदस्य रहे प्रशांत भूषण ने अपने व्याख्यान के दौरान बताई। उनका आप से निकाले जाने के बाद दिल्ली वापसी पर नागरिक समाज संगठनों की ओर से अभिनंदन किया गया।

इस मौके पर प्रशांत ने कहा कि जनहित याचिकाओं के जरिए जन सरोकारों के मसले उठाने को एक मुहिम में तब्दील करने की दरकार है। ऐसे वकीलों की जमात खड़ी करनी होगी जो जनहित के मसले में याचिका दायर कर समाज के वंचित व हाशिए के लोगों के हितों की लड़ाई लड़े। प्रशांत ने कहा कि यह बेहद दुखद भी है कि जहाँ न्यायपालिका को व्यापक अधिकार मिले हैं, वहीं इसमें निरंकुशता भी देखने को मिलती है। जनहित के ऐसे मामले जहाँ किसी बड़े पूंजीपति के हित प्रभावित होते हैं वहाँ अदालतें अक्सर चुपी साध लेती हैं। मसलन रिज वाले मामले में झुगियां हटाने के लिए तो अदालत ने फौरन आदेश कर दिया लेकिन जब उसी रिज में बाद में माल बनने लगे तब अदालत ने कहा कि वे बन सकते हैं। इसी तरह कई बार अदालतें आदेश तो अच्छे दे देती हैं पर उन पर अमल करवाने में कुछ खास नहीं कर पातीं।

प्रशांत भूषण ने अदालतों के गलत फैसलों पर आवाज बुलन्द करने की वकालत करते हुए कहा कि कई बार वकील गलत को गलत कहने से डरते हैं कि जज उनके मामलों में उल्टा फैसला दे देंगे या नाराज होकर मामला लटका देंगे जबकि हमेशा ऐसा नहीं होता है कई बार गलत का विरोध होने से गलत करने वाले जज डरते भी हैं। वे गलत फैसला देने से बचते हैं। उन्होंने बताया कि सरदार सरोवर बांध का मसला हो या फिर कोई दूसरी लड़ाई, जनहित के मामले में लम्बी लड़ाई में हर बार जीत नहीं होती। उन्होंने कहा कि सभी वकीलों को चाहिए कि वे अपनी आजीविका के लिए जरूरी अर्जन के साथ कुछ मामले जनहित के भी उठाएँ। आज जनहित के मामलों का दायरा बढ़ा है।

उन्होंने बताया कि स्वराज संवाद अभियान के राष्ट्रीय संयोजक प्रो. आनंद कुमार ने बताया कि अभियान के तीन अहम मुद्दों पर देश भर में अलख जगाने का फैसला किया है। अभियान की २९ सदस्यों वाली राष्ट्रीय कार्यकारिणी की बैठक में जय किसान अभियान की व्यापक रूपरेखा तय की जाएगी। इसमें दो महीने में करीब छह हफ्ते गांव-गांव तक जाकर किसानों की मुश्किलों, खेती की चुनौतियों और समाधान के उपायों पर बात की जाएगी। साथ ही अमन समिति के जरिए सांप्रदायिक सद्भाव के लिए काम किया जाएगा। उन्होंने कहा कि वैकल्पिक राजनीति के लिए जोखिम उठाने वाले अच्छे लोगों का महामंच बनाया जाएगा।

तीसरी बार भूमि अधिग्रहण अध्यादेश जारी किए जाने के केन्द्र सरकार के फैसले को संवैधानिक ढांचे की खुली अवहेलना करार देते हुए संवाद अभियान के प्रमुख योगेन्द्र यादव ने कहा कि अध्यादेश किसी आपातकाल जैसी सूरत में लाया जाता है। वह भी जब कि दो सत्रों के बीच कोई अहम फैसला होना हो तब। यह तो मोदी सरकार की मनमानी है कि चुनी हुई संसद की इतनी बड़ी अनदेखी की जा रही है। अगर अध्यादेश के चाबुक से ही देश को हांकना है तो फिर लोकतांत्रिक ढांचे की क्या दरकार है। इस मौके पर आप विधायक पंकज पुष्कर, विजय प्रताप, सुनीलम, प्रो. हरीश खन्ना, जयवीर पवार, राजवीर, प्रो. अनिल मौजूद थे। कार्यक्रम की अगुआई डूटा अध्यक्ष नंदिता नारायण ने की।

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AIMS & OBJECTS OF FORUM FOR FAST JUSTICE

- | | |
|---|--|
| <ul style="list-style-type: none"> (i) Educating people, politicians, lawyers, judges and legislators on the importance of efficient and transparent judiciary. (ii) Free legal aid provided by the state to the poor and needy be made competent enough to match the legal expertise of their opponents. (iii) Allocation of sufficiently higher fund by the state for hiring senior lawyers for the defence of the poor. (iv) Proceedings in all the courts be conducted optionally in litigants' languages with the aid of translators and interpreters. (v) A system of monitoring of judges' assets, accountability and productivity to be evolved under special legislations. (vi) To accelerate the wheels of judiciary so as to prevent social and political criminalization. (vii) To work towards limiting the no. of adjournments and the time for arguments as well as providing law graduate assistants to the judges for preparing the extract of cases for faster adjudication of cases. (viii) To introduce double shifts in courts, setting up more fast tract courts & strengthening the system of Alternative Disputes Resolution (ADR). (ix) To invoke Article 224 & 224-A of the Constitution for the appointments of the additional, acting and the retired judges at the sittings of the High Courts. | <ul style="list-style-type: none"> (x) To increase the women judges and the judges from the backward classes without compromising the quality. (xi) Aiming at fivefold increase in the number of judges and the courts for bringing down crores of pending cases to zero backlog level. (xii) To create permanent corpus of over Rs.1 crore in The TRUST. (xiii) To make the judicial administration financially independent, accountable and autonomous. (xiv) To amend, overhaul or repeal the decades and century old statutes commensurate with the time. (xv) Imparting quality education in the institutions of laws with their ambitious expansions, commensurate with the increase of courts, staff and judges. (xvi) Offering attractive remuneration and incentives for attracting best and non corrupt legal talents to the judiciary. (xvii) To make judiciary, a people friendly and democratic institution. (xviii) Resorting to the Gandhian means such as Satyagrah, fast, disobedience, non co-operation, dharnas, Jail Bhara and such other routes to reach to the goal of the total judicial reforms. (ixi) To set up service centers or SOCIETY FOR FAST JUSTICE in the major cities of the country. |
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18. MANIPUR				
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Total in 18 states 59 Societies have been registered so far. About 25 more societies are expected to join in the above list in near future from the states Manipur, Maharashtra, Himachal Pradesh, Uttarkhand, Punjab, Jammu & Kashmir, Tripura, Meghalaya and Andhra Pradesh. Making our presence in 24 states out of 29 states of India +1 NCT Delhi



View of the audience



Mr. S. S. Kaushal, Gen-Secretary, Himachal Society for Fast Justice addressing the Seminar on Judicial Reforms at Rotary Hall, Shimla on 16th May, 2015. Sitting on dais from L to R : Chief Guest Mr. George, Retd. Sessions Judge, Er. G.K. Nag, President, Himachal SFFJ and Pravin Patel, National Convener, FFFJ



Mr. Pravin Patel, National Convener, FFFJ, addressing the seminar as Chief Speaker



View of the Audience. Sitting from L to R: Mr. S.S.Kaushal, Gen-Sec, Himachal SFFJ, Mr. Dev Pandi, Chief Editor, Himachal Tribune and Dr. Ratola



Workshop At Nadiad, Gujarat



Workshop At Nadiad, Gujarat

Down memory Lane.....
NATCON2011 National Convention on Judicial Reforms January 2011 Mumbai.



Sitting on dias: L to R Venkatraman Murlidhar, Director NATCON, Justice Venkatchalliah Former Chief Justice of India, Veerappa Moily, Minister: Law & Justice, O. P. Monga, Jt. Director NATCON



Veerappa Moily,
Minister: Law & Justice,



Justice Venkatchalliah
Former Chief Justice of India



Bhavanji Raiyani
Chairman & Managing Trustee
Forum for Fast Justice.

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