

INAUGURAL ADDRESS

*Dr. A.P.J. Abdul Kalam**

*“Fairness, nobility and righteousness
are hallmark of judicial system”*

I am delighted to participate in the inauguration of the International Seminar on “Criminal Justice System under Stress: Transnational Perspective”. My greetings to the organizers, members of Indian Law Institute, legal experts from India and abroad and distinguished guests. We are aware that Transnational Criminal Organizations have been expanding in different parts of the world and are making use of financial market and rapid technological developments. Terrorist networks are believed to be supporting themselves through traditional crime as a cover and have been linked to criminal organizations. Alliances between these groups amplify the threats to nations security. It is generally believed that transnational criminals engage themselves in crimes such as narcotics and arms smuggling, trafficking in persons, counterfeiting, and money laundering and other financial crimes. When India is in the process of transforming itself into a developed nation by 2020 and our economy is in the growth path, we must study in details the implications of cyber crimes in many fields which can take place anywhere in the world and affect the national economies.

Cyber Crimes

Economic prosperity by 2020 will also mean that many of the Indians from now on will be doing business in the digital world on the web. In this new era, crime, law and justice will be completely different from the present. In the present law, for example, the jurisdiction will correspond to the location where the crime is committed and where the damage occurs – very often both being the same location. Whereas in the digital world, the crime may originate from a strange place even outside our own shores and may damage organizational wealth, which will be in the digital form in multiple locations. In the 20th century, a nation’s business transactions and wealth creation were based on transfer of materials from one place to the other. In the 21st century wealth is created whenever information in the form of electrons is transferred across the networks in a borderless world. Our judicial system has to build its capacity to define jurisdictions in a way that any crime committed against India or her assets by anyone from anywhere shall be punishable by Indian law. It may be true for other countries also. The Government with judicial community should formulate progressive and innovative crime prevention methods for the digital economy which is one of the vital components of a developed nation. There is a need to train members of the judiciary and police system on cyber crimes so that they can be handled with adequate amount of professionalism. Participating countries may like to have a panel discussion on cyber crimes and share their experiences in dealing with cyber crimes.

Laws driven by National Priorities

Opportunities for rapid industrial and economic growth today co-exist with new problems arising out of trade competition and corporate mergers and take-over. Many tiny and small sectors of industries and even

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artisan goods will be facing the forces of modernization in the form of market forces, technologies and other forms of public information system including advertisements. There are major issues of protecting the local and global environment. Let us look at science and technology which has emerged as a strong force during the current period of human history. Basically science and technology is driven by human curiosity and reasoning and in its best sense aimed at spreading benefits to all people. They are basically universal in outlook. Similarly, laws are meant to protect people, their rights and make them feel secure in the society. I think this is the common meeting ground of Law, Science and Technology, People and Society. Legal instruments must maximize the benefits for our people and nation. Laws must protect the indigenous technologies and trade to the extent they impact peoples living and their welfare as well as ensure national interest.

All the more it is important now that the Indian corporate are transforming into multinationals. We need experts both in bar and judiciary who can effectively deal with the legal systems of multiple nations and protect the interest of our companies who are carrying out business and trade with these countries. Every nation has their own law to protect their wealth and knowledge. Now, I would like to talk about International Criminal Court (ICC).

International Criminal Court

ICC has been in existence since 2002. I understand that India has not become the member of this court since our request for considering the cases of terrorism and drug related crimes have not yet been included in the main agenda of this court which deals with crimes against humanity, genocide, aggression and war crimes. Also, I was studying the cases which are being dealt with by ICC during the last four years. I find that so far there have been only three cases which have been brought before this court. Also, only in one case a person has been arrested on the warrant issued by this court. Many countries in the globe have not become members of the ICC. There is a need for this seminar to discuss the cases which have been taken up by ICC and the benefits which have accrued to the countries who have reported the matter to ICC. It is essential to understand the overall functioning of the ICC and the reasons why many countries have not joined as members of this court yet. In addition, the seminar can also examine the other alternatives available for India for resolving serious violations of global concern.

While every nation is creating laws, protecting the wealth and intellectual property rights, with increasing international level of business, this International Seminar on "Criminal Justice System under Stress: Transnational Perspective" should establish the unique advantages derived from ICC in time, cost and national interest.

Crimes as Business

I understand that there are global efforts like the instruments on transnational organized crimes for facilitating eradication of major crimes like international terrorism, piracy, and counterfeit currency, illicit trade in small arms, drugs and illegal migrants. These instruments are facilitating reduction of major crimes. Recently, I came across an article about, certain criminal elements in one of our neighbouring countries are printing fake Indian currency notes mostly in the denomination of Rs. 100, Rs. 500 and Rs. 1000. The total quantum of the fake currency which is under circulation may be over Rs. 1000 Cr. There may be many more cases of this nature which has not come to our attention so far. There is an urgent need for taking up appropriate domestic legislation for dealing with such crimes. India does have some special statutes like Prevention of Corruption Act, Armed Forces Special Power Act, Narcotic Drug and Psychotropic Substances Act. We have to review these Acts periodically and make appropriate changes based on the technologies which are

being used by criminal agencies. While doing so, we should be clear that the enactment is made for taking pro-active action against criminals who are carrying out crime as a business and crime as a philosophy.

Now I would like to refer a case which has been reported in the media where an innocent person has been put into jail for 11 years with out being given an opportunity to defend himself. Later it has been found that he was falsely implicated to save some one else on the basis of instructions from the higher authorities. This case brings out an important message for all of us. With the existing powers, the police system has been able to punish an innocent person for no fault of his. Under these circumstances, we have to consider whether we can move over from justice model to crime control model in our country. The seminar may like to study number of cases which have been cited as examples of crime control model in different countries and determine whether they really succeeded in averting the crime. If not, it is also important to examine what harm the crime control model did to the society.

New Instruments

There are new innovative tools like Mutual Legal Assistance Treaty operating between countries. These tools, I understand, enable us to deal with preparation of data bank on international criminals, tracking of offenders, criminal investigation and extradition. By using these tools, we have to ensure that organized criminals do not defeat the law enforcement process by taking advantage of crossing national boundaries and evading prosecution. Shortcomings in the criminal justice system have persistently engaged the attention at the highest levels in our country. Several Committees and Commissions have been set up, from time to time, to examine the fundamental principles of criminal law and suggest pragmatic reforms so as to reaffirm the faith of our citizens in the criminal justice system and Rule of Law. I understand, however, that in many cases, the recommendations made by these empowered Commissions are yet to be taken up for informed discussion, leave apart their implementation. We must not be oblivious that legal system and legal procedures have to continuously grow and organically evolve with changing times and therefore the recommendations made by bodies of legal experts need to be acted upon in a timely manner before they lose their relevance. Legal reforms like witness protection, concealing identity of witnesses, compounding of offences and suitable protection to judges are worthwhile suggestions and should go a long way in reducing the stress on the criminal justice systems. One side, the crime rate is increasing, on the other we have these slow process of decision making in the cases. If we can adopt the principle of compounding of offences as settlement for certain cases, I am sure many petty cases will get resolved. Also, the witness protection will enable the witness to come forward without fear which will result in faster decision of the cases. For clearing the pendency as suggested by me the military model could be examined for adoption, where trial takes place on day-to-day basis and adjournments are usually disfavored. While this Conference is dealing with various models of crime control laws, I would like all of you to think of the problem in an integrated way. For effective control, we need the right type of detection machinery, control mechanisms, judicial systems and the law. We would like to have the views of the experts in this conference about how best to adopt purposeful recommendations made in the sphere of legal reforms with the right sense of urgency. In this context, I would like to share my thoughts on combating challenges to national interests.

Combating Challenges to National Interests

At the State level, greater and more effective coordinated decision-making ability is the most basic requirement. At the individual level, greater respect for traditional values and sense of social responsibility like

love and respect for one's family and teachers, service to the neighbourhood and community; tolerance for authority are now absolutely essential. Above all, we as people, individuals and especially institutions, require increased ability to cooperate with one another, improving thereby our work and personal relationships. While we have the basic structure in the form of law, police cadres, intelligence agencies and the judicial system, we need to reinforce them with required updates with a code of conduct. Every citizen, every group, every religion and every political and executive system should allow the law to function without interference. Now, I would like to talk about the intervention needed in strengthening our internal security forces.

Strengthen Internal Security Forces

One of the major impediments to our progress is terrorism. Terrorism and extremism have been newer forms of disruptive forces which have to be handled by the police. These forces work across many states and have links outside the shores of India. They also use latest technologies, particularly communication and computers very effectively. With such new forms of disruptions emanating, the demand on police is increasing day by day.

Our police force has a task of maintaining law and order. In order to contain terrorism, the police force will have to create a new cadre who are trained in low intensity warfare and are equipped with state of the art technologies. A very conscious police force using a combination of human intelligence and with connectivity across police forces in many states is the need of the hour. Such a modern police force can effectively contribute to the eradication of the terrorism and extremism so that the nation can pursue its cherished goal of a developed India in a more focused way. Origin of crime, crime detection and related actions, the role of judiciary and bar and the laws have to be seen in an integrated way through a model with validated parameters. The results of this crime dynamics model with experiences in court Judgements will lead to the formulation of essential reforms that are required for protecting the vital necessities of the society. There are no organized methodologies existing for reforming the persons convicted for criminal offence. When they are released from the prisons, after the tenure from the prison, whether the convicted persons have changed their way of life. I have come across one institution, it has done a systematic character building programme and building a value system that works. The programme is called Jeevan Vidhya, propounded by Baba Nagaraj and propagated by the directors from IIIT, Hyderabad and IIT Kanpur with their teams. I am impressed with the results of Jeevan Vidhya programme with the prisoners in Bilaspur District Jail. It is essential for this conference to debate how important it is for reforming a convicted person for societal well-being.

Crime Against Our Citizens Living Abroad

I have been getting e-mails and messages from our citizens who have gone to various countries for employment, business and trade. Due to a nexus between the agents who are facilitating the movement of the innocent personal from India to foreign countries and the prospective employer, innocent citizens are put to legal and financial harassment without being heard in any Court of Justice. The type of problems reported are: variance in the promised employment versus actual employment, variance in payment, and the most important aspect is the type of work given normally are highly manual, unsafe, degrading and implication in false fabricated cases in the foreign land. This seminar may like to discuss the methodology and suggest suitable regulatory control and monitoring mechanism which will enable safeguarding the interests of Indian citizens working in different parts of the world.

Conclusion

Global challenges and technological innovations are bringing out the necessity for self-introspection of our legal, law enforcement and the judicial system of the country which will enable us to promulgate suitable modifications for facilitating smooth progress towards the goal of developed India 2020. I would suggest the legal community assembled here to consider an innovative mechanism for preventing transnational crimes against India without following the beaten path and come out with a unique solution compatible to our societal conditions.

This seminar is an important move towards this direction and I would request the participants to deliberate on the issues which I have addressed and provide suitable recommendations for action by our Government. Since the Conference is attended by criminal law experts from many countries, I would suggest the constitution of a team of experts to discuss fifteen cases of importance in criminal justice unique in a particular country. This discussion will enable sharing of experiences by international experts leading to convergence in thinking.

With these words I inaugurate the International Seminar on “Criminal Justice System under stress: Transnational Perspective”. My greetings to all the members of Indian Law Institute who are celebrating their golden jubilee this year. My best wishes to all the participants of this seminar for success in their mission of promoting a world free from terrorism, money laundering, drug trafficking and other transnational crimes affecting the growth of our society. May God bless you.