

**REPORT OF INTERNATIONAL CONFERENCE ON
CRIMINAL JUSTICE UNDER STRESS:
TRANSNATIONAL PERSPECTIVES
NOVEMBER 24 - 25, 2006**

As part of its Golden Jubilee Celebrations the Indian Law Institute organized an International Conference on "Criminal Justice Under Stress: Transnational Perspectives" on November 24 and 25, 2006 at Vigyan Bhawan, New Delhi. The Conference was inaugurated by His Excellency the President of India, Dr.A.P.J.Abdul Kalam on 24 November 2006.

In the Keynote address delivered by Hon'ble Mr.Justice Y.K.Sabharwal, Chief Justice of India and President of ILI, he highlighted the importance of this International Conference as it was aimed to focus not only on the challenges of terrorism to the criminal justice system but also sought to examine the possible shift from justice modal to crime control model.

His Excellency Dr.A.P.J. Abdul Kalam, President of India set the tone for the Conference when he suggested at his inaugural address the desirability of the legal community considering an innovative mechanism for preventing transnational crimes against India without following the beaten track and identifying a possible solution compatible to our social conditions.

The Technical Sessions had four different but inter-related topics: "Terrorism and the Criminal Justice System", "Criminal Justice System – Shift from Justice Modal to Crime Control Model," "International Criminal Court" and "Money Laundering – A Menace Uncontrolled."

At the session on "Terrorism and the Criminal Justice System" the Rt. Hon'ble Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales speaking on "Terrorism and Human Rights" focused attention on how terrorism is a threat to democratic values and the rule of law. Hon'ble Mr.Justice Iftikar Muhammad Chaudhry, Chief Justice of Pakistan. dealing with "Terrorism and Criminal Justice System" was of the view that there is a need for 'broader, more comprehensive measures to detect and prevent terrorism'. Mr.F.S.Nariman, Senior Advocate, Supreme Court, delineating on the topic "Terrorism and the Criminal Justice System" remarked that India was a victim of terrorism much before 9/11 and our government had put in place anti terrorist laws long before the events of 9/11/2006.

"Criminal Justice System - Shift from Justice Model", was the next topic for discussion. Hon'ble Mr.Justice Chan Sen Keong, Chief Justice of Singapore. Prof. Helen Fenwick, Durham University and Joint Director of the Durham Human Rights Centre and Aaron Baker, Senior Lecturer in Law, Durham University, in their paper on "Constructing the Terrorist Suspect: Proactive Counter – Terrorist Strategies in Conflict with Human Rights" presented the proactive interventions in the lives of terrorist suspects who may not have engaged in any terrorist activity, taking the UK as case study. They felt that in terms of both human rights and security, it is time for the focus of counter terrorism efforts to move from the use of suspicion to the use of proof. Professor Virender Kumar, UGC Emeritus Fellow and Former Chairman, Department of Laws, Punjab University, speaking on the theme "Criminal Justice System: Shift from Justice Model to Crime Control Model," remarked that the 'Crime Control Model' both in the figurative and metaphorical sense essentially involves two broad perspectives: Preventive and Curative. Both these perspectives are distinct, and yet closely related to each other.

Mr.Gopal Subramaniam, Additional Solicitor General of India and Member of Governing Council of ILI deliberating on the same theme stated that the time-honored presumption of innocence of persons accused of even heinous offences, cannot be relaxed but courts must guard against the presumption being used as convenient shibboleth to subvert the true course of justice.

The theme “International Criminal Court” session had Prof.K.N.Chandrasekharan Pillai, Director ILI. Speaking on “International Criminal Court: An Institution of Global Consensus” in his inaugural address. Mr. Ram Jethmalani, Senior Advocate, Supreme Court of India talking about “International Criminal Courts: Un-Principled Opposition” appealed to the Bar and Press to compel the Indian Government to change its course and confirm and ratify the ICC Statute. According to him this would enhance the prestige of Indian democracy. Mr. David M.Malone, High Commissioner for Canada in India presented a paper on “The Security Council’s Role in the Development of International Criminal Law and in the Struggle Against Terrorism: A Creative Interpretation of the UN Charter?” discussed the United Nations Security Council’s increasingly expansive interpretation of its own powers in the recent years. Mr.Avinash Sharma, a LL.M. student of ILI, presented his views on “International Criminal Council: Jurisdictional Issues”.

The fourth topic of the International Conference on “Money Laundering – A Menace Uncontrolled”. Dr.Kamal Hossain, Senior Advocate, Supreme Court of Bangladesh presented a paper on “Money Laundering: A Menace Uncontrolled”. He focused attention on how money laundering was being done, the existing legal framework to combat money laundering and the difficulties and loopholes that can be identified in that framework. Prof. (Dr.) Managay, Reddi, Faculty of Law, University of KwaZulu – Natal, Durban, South Africa, presenting her paper on “Corruption: A Comparison of the South African Prevention and Combating of Corrupt Activities Act, 2004, with the United Nations Convention against Corruption” expressed her profound gratitude to India and other states which helped South Africa to attain freedom, and requested all present to study the South African Prevention and Combating of Corrupt Activities Act, which is worthy of emulation by states looking to bring their legislations in line with the convention.