

CAMPAIGN FOR JUDICIAL ACCOUNTABILITY AND REFORMS

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CAMPAIGN STATEMENT ISSUED BY THE PEOPLE'S CONVENTION ON JUDICIAL ACCOUNTABILITY AND REFORMS

(Held at ISI, New Delhi on 10th and 11th March 2007)

The judicial system of the country, far from being an instrument for protecting the rights of the weak and oppressed, has become an instrument of harassment of the common people of the country. In fact it has become the leading edge of the ruling establishment for pushing through neo liberal policies by which the resources such as land, water and public spaces left with the poor are being increasingly appropriated by the rich and the powerful. While the system remains dysfunctional for the weak and the poor when it comes to protecting their rights, it functions with great speed and alacrity when invoked by the rich and powerful, especially when it is for appropriating the land and public spaces from the poor. The courts are increasingly displaying their elitist bias and it appears that they have seceded from the principles of the Constitution which set up a republic of the people who were guaranteed "Justice- social, economic and political".

The problems with the judicial system begin with the lack of access to the system for the weak and the poor, partly because of the procedurally complex nature of the system, which can only be accessed through lawyers who are unaffordable to the common people. On top of this is the delays and lethargy of the system, which makes justice a distant dream even for people who can afford access to the system.

Compounding this further is the problem of corruption in the system exacerbated by a total lack of accountability of the higher judiciary. The layers of protection from accountability afforded to judges include the lack of any effective disciplinary mechanism, the self acquired protection from even being investigated for criminal offences, the virtual immunity from public criticism due to the law of contempt, and finally by the immunity from public scrutiny by another judicially created insulation from the Right to Information Act.

The most serious problem has however been created by the elitist and anti poor bias of the judiciary. It has essentially become an instrument for protecting and furthering the interests of the rich and powerful, both Indian and foreign. Thus judges who have taken the Oath to defend the Constitutional principles of Justice-Social, economic and political have ordered the bulldozing of the homes of lakhs of jhuggi dwellers, leaving them homeless on the streets. They have ordered the removal of lakhs of street vendors and rickshaw pullers from the streets of Delhi and Bombay, thus effectively depriving them of their livelihood. By their "creative reinterpretation" of labour laws they have effectively deprived citizens of the

protection afforded by the laws. They have thus accomplished the corporate friendly “labour reforms” which successive governments have not had the political mandate to do.

It is clear that the judicial system needs to be reclaimed and reinvented by the people of the country, so that it can come to function in accordance with the philosophy of the Constitution. The system will need to be cleared of procedural complexities and cobwebs so that it can be accessed by the common citizens without professional lawyers, who have become a part of the exploitative judicial system. It will need to be strengthened to deliver justice quickly, efficiently and honestly. Whatever, additional financial allocation or additional judges are required for this must be done. For this, the various layers of protection created to shield the judges from accountability would have to be peeled away. To begin with, the clause relating to scandalizing the judiciary would have to be deleted from the Contempt of Courts Act.

The system of appointments of judges would have to be made transparent and such that the proposed appointees can also be scrutinized from the point of view of their sensitivity to the ideals of the Constitution. An independent Judicial Commission would be needed to examine complaints against judges and hold them accountable. The immunity from criminal investigation would need to be withdrawn. The Right to Information Act would need to be strictly enforced particularly for the judiciary. In fact, every court room judicial proceeding must be video-taped and its record made accessible to the people

None of these changes would however be made by the ruling establishment of the country without sustained public pressure from below. Both the executive and the judiciary are obviously happy with the existing state of affairs. The judiciary enjoys enormous power without accountability and the government is happy with a judiciary which enthusiastically promotes its neo liberal policies. The only judicial reforms that the government appears to be interested in is market oriented reforms such as increasing arbitration which is a form of privatized system of justice for the wealthy.

The judiciary has long been regarded as a holy cow that was considered out of bounds for people outside the select circle of lawyers, judges and government Commissions. It is increasingly clear that it would be suicidal for the common people to ignore it any longer. That is why several organisations, which work with common people came together to organize this convention. We hope and expect that this convention will kick start a people’s campaign and movement on this important issue. The contours and strategies of this campaign will be worked out, but one element would definitely be a concerted effort to keep a close watch on the actions and judgments of judges particularly from the point of view of class and communal bias, arrogance, corruption and non-adherence to Constitutional principles. The threat of contempt must be ignored and mass contempt will have be committed if any attempt is made by the judiciary to use the contempt law to discourage this scrutiny.

This convention resolves to encourage people’s organizations all over the county to initiate a sustained public campaign to reclaim the judiciary for “We the people” of this republic.