

**ADDRESS BY HON'BLE MINISTER OF LAW AND JUSTICE  
AT THE "LAWYERS' MEET 2015" ORGANISED BY THE  
BAR COUNCIL OF INDIA ON "PUBLIC LITIGATION  
POLICY AND ACCESS TO JUSTICE"  
ON 25<sup>th</sup> JULY, 2015 AT CHENNAI.**

-----

It is my immense pleasure and privilege for being with you on the occasion of Lawyer's Meet, 2015 organised by the Bar Council of India on "Public Litigation Policy and Access to Justice". I extend my greetings and good wishes to all members and officers of the Bar Council of India present here today. You are all key players in our ongoing determination to provide legal aid and access to justice to all our citizens.

Access to justice should not be understood to be reaching out in geographical terms. Access to justice means fair adjudication of disputes arising in the society both through formal and alternate methods of justice dispensation. Though the formal systems of justice like courts, tribunals etc. are available to a person when he is in need of fair resolution to a dispute or an issue, equally important are the traditional but fair systems of adjudication, which can either be peer groups, settlement of disputes by village elders, resolving the disputes at the village panchayats or any other form of alternative dispute resolution, including mediation, conciliation and arbitration etc.

I am very clear in my mind that the formal systems of justice dispensation consisting of courts, judges and lawyers will never be able to meet growing demands of justice dispensation in this vast country populated by twelve hundred million of people. What is important is creating a society which has less of disputes, a society which can resolve disputes through its own local mechanisms in a fair manner. If not possible, provide alternative dispute resolution mechanisms in a formal or

informal manner which costs less and provides quick resolution of the disputes. The point which I would like to make very strongly is that by talking about access to justice if we mean that we are going to establish a court and provide a Magistrate in each and every village, I think it is a wrong idea and not practically achievable and it is not affordable also.

Access to justice has another angle too, that is affordability. One may have plenty of something around him which he needs badly but it is of no use if it is not affordable for him. This is the story of access to justice in our country. As large sections of our population are not economically well off, their capacity to access the justice dispensation system becomes limited. As a result, though a citizen of India is free to engage the best lawyer in the country to secure a favourable but a genuine result, he may not be, in reality, able to achieve that due to the cost factor.

This is not a hypothetical situation but a finding brought out by a study conducted by National Law University students which brings out that three-fourths of those given harsh punishment like death penalty belong to economically and socially backward and weaker sections of society. Though our justice dispensation system, in principle, is not a class based system, the data brought out by the study hits very harshly at our face that in practice due to various factors, especially the cost factor, our system may have become a class based one. Now it is our duty to stand up and correct this anomaly failing which it may result in miscarriage of justice.

One of the fundamental factors brought out by this study is that of affordability. We all know that engaging of best lawyer. either at High Court level or at the Supreme Court level, is a very costly proposition even for an upper middle class person. If that is the case, what will be the fate of 60% of lower middle class and poorer sections of society. I am of

the opinion that at the subordinate courts also if the system is not affordable for 60% to 70% of the population, can we say that we have achieved access to justice for all. Now my brothers and sisters, tell me where do we stand and where are we headed to. I would also like to stress one thing very clearly that this issue of affordability can never be tackled by the Government as this responsibility primarily depends upon all of you. Hence I would only request all of you that if as a responsible citizen of this country you want to ensure the access to justice to all our fellow citizens, you all need to think about this cost factor and how to do something about it.

The better course of action would be to adopt three pronged strategy to reduce the high level of litigation: (i) avoid litigation; (ii) adopt alternate dispute resolution mechanism; and (iii) adjudicate quickly. Litigation can be avoided if all of you advise the clients to avoid litigation. Resorting to arbitration as an alternative dispute resolution mechanism needs to be encouraged at every level. The alternative dispute resolution mechanisms are not only quicker in disposing of the disputes but also bring down the pendency in the courts as well as the cost of litigation. If the Bar and its members advise the clients to opt for alternative dispute resolution mechanisms, I am sure in the days to come, this will become popular.

There are about 2.6 crore cases pending in various courts of our country. We are struggling to draw up plan to clear the pendency. The Code of Civil Procedure was amended with a single point agenda to speed up disposal of cases. Have we achieved it? If we have not achieved it, have we thought about why we have not? Where have we gone wrong? As the intention behind the amendment is noble and very close to the hearts of people, we need to reflect on these issues and come up with solutions for the obstacles in speeding up the disposal. Failure, in my opinion, to achieve

the desired objective, is because the stakeholders, you all, have not owned it up.

We have envisaged a National Litigation Policy 2015 to contain frivolous or unwarranted litigation by and against the Government. This will address the problem of increasing load on the judicial system. The policy outlines mechanism to reduce filing of cases by or against the Government. It aims at avoiding unwarranted litigation and making the Government as an efficient and responsible litigant by having recourse, inter alia, to alternative dispute resolution mechanism.

So, my dear friends, better access to justice, avoiding litigation and promoting alternate, cost effective and quicker justice dispensation are the challenges that the legal profession must face in order to better the delivery of justice. As officers of the Court, legal professionals are critical stakeholders in the justice delivery system and shoulder great responsibility in the functioning of a vibrant democracy such as our country. In whatever steps are taken to further this ongoing effort of providing access to justice, particularly to those who need it the most, you have the continued support and commitment of the Government.

I would welcome any suggestions from all my advocate brothers to make the justice delivery system accessible to the common man.

With these words I conclude and once again thank the organizers and everyone of you for giving me this opportunity.

\*\*\*\*\*