

National Summit organised by the
Foundation for Restoration of National Values
(November 18, 2008 – India Habitat Centre, New Delhi)

Keynote address by Justice K.G. Balakrishnan, Chief Justice of India

Respected Swami Bhoomananda Tirtha, Shri Somnath Chatterjee, Dr. E. Sreedharan, distinguished guests and all those participating in this summit –

I would like to thank the Foundation for Restoration of National Values (FRNV) for inviting me to speak here today. When I was thinking about the theme for this summit, i.e. the restoration of national values – I asked myself several questions. The first question was whether a discussion on abstract ideas will serve any constructive purpose. However, after going through the programme schedule and the writings of Swami Bhoomanda Tirtha, these doubts were quickly dispelled. There is a clear focus on evolving specific measures for instilling values in public as well as private life and the impressive list of speakers consists of those who have led by personal example in their respective fields.

The second question that I asked myself was whether I can bring in some new ideas to this discussion. Admittedly, what I am about to say is obviously shaped by my personal experiences not only as a member of the bar and subsequently the judiciary, but also as a concerned citizen of India. Hence, I would like to briefly dwell on

two issues pertaining to public life – firstly, corruption in public institutions and secondly, the means used for conflict-resolution in our society. I choose these two themes in particular since they have a direct bearing on the common understanding of citizenship and morality.

Corruption is identified with any person or institution who misuses the power and discretion conferred on the same. Ordinary citizens face unnecessary problems in their routine interactions with governmental agencies. Practices such as the acceptance of favours or misappropriation of public funds have actually come to be described as ‘perks’ of holding public office and employment. Admittedly, the extent of corruption may have a link with the increasing disparity between the pay-scales offered in the public and private sectors. However, the pervasive culture of graft provokes pessimism about the quality of governance. In the words of former UN Secretary-General Kofi Annan:

*“Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organised crime, terrorism and other threats to human security to flourish.”*¹

In the discourse of International law, the prevalence of corruption is now considered to be a violation of basic human rights.

¹ Cited from: “Secretary-General Lauds Adoption by General Assembly of United Nations Convention Against Corruption”, SG/SM/8977, GA/10200, SOC/CP/271 (November 3, 2003)

This means that the act of demanding or accepting bribes in lieu of performing routine governmental functions is being equated with unjust restraints on personal liberty - such as suppression of civil liberties and arbitrary detention. If this understanding is adopted in India, then there will be a case for the judiciary to grant constitutional remedies in respect of instances of corruption, over and above the statutory remedies envisaged under the Prevention of Corruption Act.

In recent months, there has been considerable anxiety on account of allegations of corruption in the higher judiciary. The judiciary is the watchdog of the rights of citizens and these instances have once again raised the question of 'who will watch the watchdogs'.

Legal and judicial measures for deterring corruption are only a part of the solution. The long-term solution lies in the realm of education at all levels – whereby the importance of personal integrity and the spirit of public service will be imbibed in our citizens. Such an education has to take place not only in classrooms but in a variety of social settings – namely, the family, the workplace and the public discourse shaped by the mass media. Just as some of the distinguished persons gathered here have transformed the lives of people around them by setting strong personal examples, we need to re-build a culture where examples of integrity, personal sacrifice and innovation are given due recognition.

The second issue that I would like to touch on is that of the means being used for conflict-resolution in our country. In a pluralist society such as ours, there are bound to be perpetual differences as well as conflicts among the interests of various sections. However, the test for building an inclusive nation is one that pertains to the means used to resolve these differences. With the maturing of our democracy, one would expect that social, economic and political differences are increasingly being resolved through means such as rational and constructive dialogue between groups with competing interests. Our liberal constitutional philosophy privileges methods such as reasoned persuasion through public institutions – such as the legislature and the judiciary. In fact the advent of Public Interest Litigation (PIL) over the last three decades has clearly widened the role of the higher judiciary in resolving conflicts that have a wider social dimension.

However, it is quite distressing to note that differences based on caste, religion, gender, class and regionalism continue to be the root causes behind organised and often institutionalised violence. Especially in the last few months, one can recount several instances of senseless violence and disruption of routine life in different parts of the country. In many instances, such extreme measures are clearly a strategy to polarise the electorate. Agitations are resorted to on the flimsiest of reasons and public order is threatened even in circumstances where an inclusive dialogue is the best solution. Such a regressive brand of political action is threatening to undo the very foundations on which our constitutional order has been built, namely

those of respect for 'rule of law', 'equal treatment before the law' and 'due process'. One of the key characteristics of a society that respects 'rule of law' is that the state is given a monopoly over the use of violence in the form of the military, police powers and the criminal justice system. This means that all other group interests in society – whether they are in the form of political parties, caste groups, linguistic groups or business concerns, must respect the legitimacy of the state. That is a pre-condition for ensuring a climate where constitutionally guaranteed rights are respected and promoted. Even if there is a strong polarisation of views among certain groups, the 'methods of persuasion' need to be preferred as opposed to 'methods of confrontation'. As US President-elect Barack Obama has repeatedly urged during his campaign, it is when we learn to reason with those who disagree with us, that we actually learn more about ourselves.

With these thoughts, I would like to once again thank everyone present here.

JAI HIND!