

**SPEECH BY THE PRESIDENT OF INDIA, SHRI PRANAB
MUKHERJEE, AT THE SESQUICENTENNIAL CELEBRATIONS OF
THE CALCUTTA HIGH COURT**

Kolkata, January 20, 2013

It gives me great pleasure to be in Kolkata today for the closing ceremony of the Sesquicentennial Celebrations of the High Court of Calcutta.

It should be recalled that unlike the other High Courts in the country or the Hon'ble Supreme Court, the three Presidency High Courts at Calcutta, and what were then Bombay and Madras were not brought into existence by the Constitution of India or even any Act of a legislature. The three Presidency High Courts including the High Court at Calcutta were brought into existence by Royal Charter, a Letters Patent, issued by the Queen under her sign manual and privy seal, as authorized by the High Courts Act, 1861, a colonial legislation. The Letters Patent gave the High Courts including the High Court at Calcutta the same power as the High Court in England had, at that time. It therefore could do equity and issue writs including those that we have become familiar with under Article 226 of the Constitution of India. There was only one limitation before 1950, that they could not extend to revenue matters. The High Court could even issue mandatory orders and preventive injunctions as specific reliefs in properly constituted suits against the government. It could and often did adjudicate between man and man and on concepts and on social ills that have had a wide-ranging impact.

Since independence and the coming into force of the Constitution of India, the Calcutta High Court has strived to secure for our citizens justice-social, economic and political-as enjoined in the preamble to our Constitution. The High Court, over the years, has earned fame as an institution of high standards with strong traditions and ideals. It's Bench, as well as Bar, have been well known for its intellectual erudition and legal acumen. Land mark decisions of this Court have contributed greatly to the strengthening of the legal and constitutional framework of

our country. Illustrious lawyers and Judges of this Court have contributed immensely to nation building and advancement of social justice.

In general, the Indian judiciary has played a glorious role in national development and in upholding the ideals of the Indian Constitution. As per the Indian Constitution, the State is enjoined with a duty to secure to its citizens a social order, in which the legal system of the nation promotes justice on the basis of equal opportunity. The State is also required to ensure that opportunities for securing justice are not denied to any citizen by reasons of caste, creed, sex or by reasons of economic or other disabilities.

Currently, we are a country with a population of nearly 1.2 billion. For a country of such a large population, the judicial institutions have the unenviable task of delivering timely, affordable and quality justice to all its citizens, regardless of whether they approach the courts for enforcing their civil rights or proving their innocence against charges of criminal misconduct. It has to ensure that those who are on the wrong side of the law are dealt with swiftly and effectively to maintain the social order if the confidence and faith of the people of India in the judiciary has to be maintained.

I have no hesitation in stating today that the Indian judiciary has truly lived up to the faith and confidence of the people by upholding the Rule of Law and enforcing the right to personal liberty and freedom at any cost. The judiciary deserves unequivocal recognition for this stellar achievement.

The independence of the Judiciary is the cornerstone of our democracy. Everything necessary needs to be done to preserve and protect the independence of our judiciary. But this needs to be done while maintaining the delicate balance of power enshrined in the Constitution. It is important that each organ of government operate

within its own sphere and none takes over functions assigned to the other.

While the exercise of powers of the legislature and executive are subject to judicial review, the only check on the judiciary's exercise of powers is the self-imposed discipline and self-restraint. Legislation which carefully balances the independence of the judiciary with the need to protect and preserve its credibility is a useful complement to the judiciary's own efforts. We must never forget that it is the Constitution which is supreme and not any one of its creations - the legislature, the executive or the judiciary.

Our judges, through innovation and judicial activism have contributed enormously to expanding the frontiers of justice and providing access to the poorest of the poor of our country. At the same time, the judiciary, as an important pillar of democracy, must also keep reinventing itself through a process of introspection and self-correction.

In a parliamentary democracy, the greatest challenge to good governance is to bridge the gap between the expectations of the people and the effectiveness of the delivery mechanisms. Effective governance requires effective institutions; and the effectiveness of the institutions – be it the Legislature, the Executive, or the Judiciary – depends on its delivery mechanisms and the framework of supportive rules, regulations and procedures, which need to continuously evolve in response to the changing times and emerging situations.

Though Indian judiciary has preserved its pre-eminent place in Indian democracy, one area where it has lagged behind is in not being able to fully meet the aspirations of the people and provide quick, speedy and accessible justice to those who knock at its doors.

Much has been done but that is not enough. Our courts need to be urgently strengthened with additional resources. The filling of vacancies in courts across the country must be taken up as a priority by all concerned. The process of selection and appointment of judges

should conform to the highest of standards and should be based on well established and transparent principles.

The judicial system in our country should not only be accessible but also affordable. In order to address time consuming and expensive litigation, alternative dispute resolution mechanisms such as mediation and arbitration should be encouraged. Further, there must be adequate provision for free legal aid. Greater efforts are also needed to spread legal literacy across the nation and improve the quality of legal education.

The Government in partnership with the judiciary is undertaking a number of initiatives for speedy delivery of justice. Under the eCourts Mission Mode Project more than 11,000 district/subordinate Courts have been computerized already. The Government hopes to reach the target of 14,000 ICT enabled Courts by March 2014. After the Project is complete, case management in the Courts would become automated. The Courts will be in a position to provide electronically more than forty services to litigants and other stakeholders. As a result, Courts will be in a position to dispense justice faster and quicker.

ICT enabled Courts will ultimately have to move to the next level and become full-fledged eCourts. As Courts of tomorrow, eCourts will have connectivity across police stations, prisons, forensic laboratories, hospitals and will record evidence online. The filing of cases will be online and so will be the payment of fees. The eCourt records will be all digitalized and judgments of the Courts will become available to the public on a website.

Another important judicial reform which is under way and being pursued together with judiciary is with regard to court procedures and court processes for speedy disposal of cases. The Supreme Court of India has recently notified a National Court Management System for addressing the issues of case management and court management, for setting up measurable standards for the performance of the Courts and for laying down a National System for Judiciary Statistics in the country.

All this will accelerate the speed of justice delivery and once in place, will facilitate the establishment of a National Arrears Grid (NAG). The NAG will in turn be a great tool for monitoring online pendency in each Court and for speedier disposal of old pending cases.

There are several other initiatives which are also under way to address the problem of pendency and improve the quality of justice. A Sub-Group under the Chairmanship of Law Commission has been set up for taking a closer look at reforms in Criminal Justice System. The National Mission for Justice Delivery and Legal Reforms, which has been set up by the Government in 2011, has already initiated a series of measures for fulfillment of the twin objective of increasing access to justice by reducing delays and arrears in the system for enhancing accountability through structural changes and by setting performance standards and capacities. The Mission will also be actively pursuing the measures listed in the Vision Statement 2009, which has the acceptance of the judiciary.

I am certain that all these measures which are in the pipeline or are at different stages of implementation, will improve the credibility of the justice system and will bring about greater speed and transparency in dispensation of justice to the people of the country.

The High Court at Kolkata today has 41 judges, against the sanctioned strength of 58 judges. There are 3.47 lakh cases pending in the Calcutta High Court as of 31st December 2011; more than 3 lakh of them being civil cases. The pendency in the subordinate courts under the Calcutta High Court is an estimated 26 lakh and more than 21 lakh of them are criminal cases. There is a need to speed up disposal of cases, as justice delayed is justice denied.

I am sure the Government of India and the State Government of West Bengal will extend all possible support to the Calcutta High Court in its endeavour to reduce this mountain of pendency. I am also certain that both Governments are committed to making sure funds will not be

a constraint in implementing initiatives to secure greater access to justice for our citizens.

The Government, judiciary and lawyers must work hand in hand to make our Constitution a living reality for the common man. In our Constitutional set-up, the Judiciary has been accorded a pre-eminent role. To quote Justice V.R. Krishna Iyer 'The Judiciary occupies, amongst the trinity, the highest place in people's conscience and confidence'.

I am certain that the Calcutta High Court will continue to uphold its glorious heritage of 150 years. It will enhance its contributions to the development of law, justice and jurisprudence. It will at the same time ensure that administration of justice continues to be carried on with dedication and commitment to the common man.

I congratulate the Hon'ble Judges, members of the Bar and the staff of the Calcutta High Court for their past achievements and wish them the very best in their future endeavours. Jai Hind!