

RESOLUTION OF THE SECOND ALL INDIA CONVENTION ON JUDICIAL
ACCOUNTABILITY HELD AT NEW DELHI ON 25.7.92

The convention notes with deep concern the rapid erosion in the credibility of the higher judiciary in India which is undoubtedly due in no small measure to the steeply declining standards of rectitude and integrity among judges of the higher judiciary. The convention is of the view that one of the important factors for this decline is the lack of an effective mechanism for holding judges of the higher judiciary accountable for their conduct.

The convention is further of the view that the system of impeachment provided in the constitution as the only means for holding judges accountable has failed to be of any practical use. The case of Justice V. Ramaswami being the only case where impeachment has been initiated has shown how cumbersome, lengthy and thus ineffective the whole process is.

One glaring defect in the system is the lack of a machinery by which complaints against judges can be investigated without first having an impeachment motion containing definite charges against the judges signed by more than hundred Lok Sabha M.Ps/50 Rajya Sabha M.Ps. Another defect in the present system is that even after a judge has been proved guilty of misbehaviour by a high powered enquiry committee of three judges, he can still continue to sit on the Bench unless and until a motion for his removal is passed by a 2/3 majority of both the Houses of Parliament. The convention is of the view that the present system of impeachment as the only means of holding judges accountable needs to be replaced by a system in which credible complaints against judges can be swiftly and effectively investigated and pronounced upon by a high powered body which is independent of the executive as well as of the judiciary whose conduct it will examine.

This convention, therefore, resolves to call upon Parliament to set in motion the process by which suitable amendments can be made in the Constitution and the laws so as to make the higher judiciary more effectively accountable to the people. The exact details of the changes necessary would need to be thrashed out but one of the essential ingredients of the new system would have to be the existence of a permanent high powered body which is independent of the executive and the judiciary which should be empowered to investigate any complaints against judges and pronounce upon them. This body must also be provided with an efficient investigative machinery at its disposal through which it can have these complaints investigated. In order to ensure that errant judges can be swiftly dealt with, judicial review over the findings of such a body must be excluded.

The convention further resolves that further sub-committees on judicial accountability be created in each State which can take up issues relating to judicial accountability in their areas.

The convention further resolves that the national sub-committee as well as the State sub-committees to be set up would take steps to mobilise public opinion for bringing about the changes and for working with other concerned citizens and organizations to formulate the exact contours of the changes in the constitution and the laws that must be made.

The convention further notes that the system of appointment of judges has been greatly perverted by the appointing authorities under the constitution, leading to a large number of undesirable appointments. One of the main reasons why the ^{perversion} ~~perception~~ has been made possible is the clandestine nature of the entire process of appointment. This has led to many appointments being made on totally extraneous considerations and even instances where the Chief Justice have engaged in a ~~war~~ ^{struggle} with the execution about the appointees.

The convention therefore resolves that the various sub Committees must take up the issue of the manner of Judicial appointments with the concerned persons and mobilise public opinion so as to bring about the necessary changes, particularly to make the appointment process more open to the public gaze.