



CAMPAIGN FOR JUDICIAL ACCOUNTABILITY AND REFORMS (CJAR)

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PRESS RELEASE

The 47th report of the Standing Committee, on Judicial Standards & Accountability Bill 2010 has completely exposed the duplicity of the UPA Government. Absence of any provision that covers investigation of criminal acts relating to corruption against the members of higher judiciary either in the bill or Standing Committee report shows that the Government had misled the people by telling that judiciary should be kept out of the purview of Jan Lokpal as Judicial Standards and Accountability Bill will cover it.

Though the Standing Committee acknowledged that “it was a common feeling among the Members of the Committee that the present system of appointment of judges was **opaque and ineffective** and thus has taken away the faith of the people in the institution of judiciary.”, it has ended up recommending half measures which to the contrary serve to promote opacity and shut out public scrutiny. Both the Bill and the Standing Committee Report violate and seriously undermine the basic Constitutional principle of judicial independence from the executive and legislature by suggesting inclusion of two members of Parliament and Attorney General for India in the National Judicial Oversight Committee.

Recommendation in the report to the effect that the “The Committee insists that all the three organs of the Government namely executive, judiciary and legislature have to be represented in that Committee.”, has grave implications for judicial independence.

The core concerns emanating from the Report seem to be focused on insulating “legislature, specific individuals, and senior leaders” from “such unwarranted

remarks (that) create tremendous problems”, than to promote judicial accountability to ensure a fair and just judicial system for the people. Moreover, in no judicial system in the world there is a legislative gag proposed on how judges should conduct proceedings in the courts, which is a serious encroachment on judicial independence and violation of principle of separation of powers.

CJAR felt that while the recent revelations and active debate in the media served to purge the judiciary of certain bad elements, the provision in the Bill to make the proceedings confidential, which the Committee wants to strengthen by prohibiting media scrutiny, is a retrograde step that seeks to shut out the sun light of public scrutiny and relegates the entire process to the dungeons of confidentiality.

As an alternative, the CJAR has suggested a five member judicial conduct commission which is independent of the judiciary as well as the executive, constituted in the following manner:

Chairman selected by all the judges of the Supreme Court

Second member by all the chief justices of the High Courts

Third member by the Union Cabinet

Fourth member by committee consisting of Vice President and leaders of opposition of both Houses of Parliament.

Fifth member by full bench of the Lokpal

The aforesaid body should be full time and not ex-officio as the Bill proposes; to be able to devote adequate time for examining complaints against errant judges. Furthermore, Judicial Conduct Commission must also be empowered to recommend removal of judges found guilty of misconduct, besides being able to investigate and prosecute them for corruption.

Merely putting in place a Judicial Oversight Committee to initiate the process of removal of judge, instead of the present system of hundred/fifty MPs of Lok/Rajya Sabha doing it, still entails the onerous impeachment process which is amenable to politicization, as seen in Justice Ramaswamy’s failed impeachment.

Hence, the said bill under consideration, deserves to be scrapped and a new Bill taking into account all the above concerns needs to be introduced immediately.

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