

**SPEECH****KEYNOTE ADDRESS\***

C. Rangarajan

It gives me great pleasure to be in your midst this evening. It is a great honour to be associated with the birth centenary celebrations of Shri A. G. Rangachariar. Shri A. G. Rangachariar was a legal luminary who dominated the legal scene in this part of the country for several decades. He was a scholar in the true sense of the term. He not only accumulated knowledge but distilled the essence of it and presented it to others. It was no wonder that he was revered and respected by all — his clients, his colleagues in the bar and the judges before whom he appeared. There was another great quality about him. As you all know, the arrogance of knowledge can at times be worse than the arrogance of wealth. It was not so in the case of Shri Rangachariar, scholarship and humility went together. He wore his scholarship lightly and unobtrusively. When he died in 1951 he was at the peak of his career. It was a great loss to the legal profession. But he has left behind footprints on the sands of time for all of us to follow.

Economists talk of infrastructure development as the key to economic progress. The infrastructure is broadly conceived as being composed of social infrastructure which includes facilities in health and education and physical infrastructure which includes investment in power, transport and communications. The role of the State is perceived to be mainly in these areas. However, an important part of the infrastructure is the existence of a good legal system without which the modern society cannot function. A good legal system implies not only relevant laws but also a judicial delivery system which can settle issues speedily, efficiently and impartially. This country from the earliest times has regarded

dispensation of justice as an essential element of the social system and our legal value system is closely intertwined with our civilization.

Laws are man made. They cannot, therefore, remain static. They must respond to the changing circumstances. It was Earl Warren who said "Our system faces no theoretical dilemma but a single continuous problem; how to apply to ever-changing conditions the never-changing principles of freedom."

Earl Warren perhaps overstated the case. While it is true that some of the fundamental principles of jurisprudence may remain constant, the concept of justice itself undergoes change over time. This is particularly true in the area of social justice and laws have to change in tune with this.

There is a close relationship between law and economics. Many of our legislations have an economic base and many of our laws are also intended to facilitate economic and business activity. Without appropriate laws relating to contract and transfer of property, business and other related economic transactions will become impossible. The growth of the financial sector critically depends on the establishment of appropriate laws governing various aspects of transfer of claims which are the very essence of the financial sector. In many of the East European countries and Russia the major task of reconstruction experts has been to introduce an appropriate legal base to conform to the new thinking. Among the developing countries, the main advantage that India has, relates to the well-established legal system.

Much has been said these days about expediting the conclusions of legal processes in our country. One hears repeated references to the cliché 'Justice delayed is justice denied.' I think we need to address this issue squarely. There is no doubt

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that we have a judicial and legal system that is fair and just. We need to make it less time consuming.

We are in the process of putting through some far reaching changes in the financial sector. The Indian financial system has made considerable progress in the last 25 years. There has been a significant deepening and widening of the Indian financial system. Taking banking and other services to the largest cross section of the population has been a signal achievement of the banking system. However, there has been a growing concern over the viability of banks and other financial institutions. We are taking steps to improve the profitability and viability of banks. The external constraints on the banks in the form of CRR and SLR are being relaxed. We are also taking steps simultaneously to clean up the balance sheets of banks and to make them more transparent. We have issued instructions on income recognition, provisioning against bad and doubtful debts and capital adequacy. Even as we are strengthening the resource position of banks, there is one aspect which has been causing concern for quite some time. This relates to the delay in the recovery of dues to banks.

As on 31st March 1991, there were 7,70,000 suit filed accounts of public sector banks involving a sum of Rs. 3260 crores pending. Banks have to approach the civil courts for recovering the dues and one of the major causes of delay is the delay involved in the court procedure. This has been gone into by several committees including the Rajamannar Committee in 1977. A committee that was set up recently has recommended that as an immediate step Banking Tribunals may be set up to shorten the delay. However, if these tribunals are to prove effective, certain changes in the procedure applicable for dealing with the claims become necessary. When there is a

documentary evidence regarding the passing of consideration or the creation of assets from the loan proceeds or when a regularly maintained account is there between borrowers and the banks, it has been suggested, that the Banking Tribunals should proceed on the presumption that the documents are executed, the relationship of creditor and debtor exists and the debt is due. Legislation incorporating these changes is under preparation and perhaps may be submitted to the Parliament for consideration either in the current session or in the next session. Over the medium term we may also have to reconsider certain changes with respect to the law relating to mortgages.

I may cite another area in which legislative changes may be necessary. There are breath taking changes that are occurring in the electronics area. The paper based payment system is getting substituted by electronic transfer of funds. Interesting legal issues arise in this context. Recently, a Committee recommended the setting up of an Electronic Clearing Settlement and Depository System under which beneficial interest in the PSU bonds, Units etc. would stand transferred by a legal process but without involving physical transfer of securities and without endorsement on the instrument and without the execution of transfer deeds to give effect to the transfer of the securities. If such a system is to be implemented, we can clearly see that a number of changes in the Companies Act and Negotiable Instruments Act would become necessary.

In this fast changing world, nothing can remain static including the legal system. The strength of our legal system depends on how quickly we respond to changing situation. As philosopher Whitehead reminded us the 'art of progress is to preserve order amid change and to promote change amid order.'