

## Session on **JUSTICE AND SOCIETY**

**30 SEPTEMBER 2005: NEW DELHI**

The Aspen Institute India held its second public session on the topic of ‘Justice and Society’ on 30 September 2005. The panelists were Mr N K Singh, former member of the Planning Commission of India, Mr Goolam Vahanvati, Solicitor General of India, Mr Ashok Desai, former Attorney General of India, and Mr Shekhar Gupta, Editor-in-Chief of the national newspaper, *Indian Express*. The session was attended by over fifty people representing industry, media, civil society, and other sections of society.

The key point that emerged during the two-

hour debate was that India had a sound and strong Constitution that protected the fundamental rights of the people and was effective in sustaining democratic institutions. However, the procedures and laws for litigation needed to be updated in the context of rapid development in order that access to justice for citizens and the delivery of justice did not compromise the faith of the people in the judicial system.

Mr Jamshyd Godrej, Chairman, The Aspen Institute India opened the session by introducing The Aspen Institute India and the panelists. He said that democracy and development in India



N K Singh, Former Member, Planning Commission, India, addressing. Also seen (L-R): Goolam Vahanvati, Solicitor General of India, Jamshyd Godrej, Chairman, The Aspen Institute India, Ashok Desai, Former Attorney General of India and Ambassador Kuldip Sahdev, Executive Trustee, The Aspen Institute India



Goolam Vahanvati addressing the participants



Ashok Desai addressing the session

were currently attracting the attention of the world. In India, the rule of law and democracy were an aspect of development, and indeed, its strong point. He particularly lauded the role of the judiciary in India in furthering the cause of environment.

Mr N K Singh delivered the keynote address and put the topic in perspective. Within the context of society, a question arose about the rights of the individual vis-a-vis the rights of

society. He stated that while some rights of individuals were inalienable, such as the right to learn, aggregate social good might overcome other rights. Mr Singh said that in the Indian context, there were five dimensions to the question of justice.

The first was the question of distributive justice and how it was approached. The second was the functioning of the judicial system and access to justice, and its impact on the economic

development potential of India. As Government was the principal litigant, it must allow courts to move fast and smoothen the delivery of the ingredients of justice. The third aspect was whether the Indian judiciary was able to keep pace with rapid globalization and integration of the world. A fourth dimension was regarding the traditional approach to family, village and society, and how migration and urbanization would affect them. The last point referred to by Mr Singh was the judicial system for global good.

Solicitor-General Mr Vahanvati expressed his views about the administration of the system of

justice. According to him, the system in India was more about litigation management rather than justice administration. Lack of modernization of Indian codes, lack of discipline among lawyers, and low level of accountability was hampering efficient administration of justice. The approach of the Government to refer matters indiscriminately to the courts was also proving a stumbling block.

Mr Vahanvati agreed that incredible work had been done by the special benches of the Supreme Court in environment protection through continuous monitoring. On the other hand, he stated that the low success of prosecution in the



Shekhar Gupta, Editor-in-Chief, Indian Express addressing



(L-R) Goolam Vahanvati, N K Singh, Ashok Desai and Jamshyd Godrej



Goolam Vahanvati and  
Tarun Das, President,  
Aspen Institute India

criminal justice system was affecting the faith of society in redressal. Mr Vahanvati concluded his talk by saying that India was one of the few countries in Asia to have a functioning and independent rule of law, and that it was possible to find a solution for these problems.

Mr Ashok Desai, former Attorney General of India, said in his address that the attitude of law and of justice in India was of concern. In India, laws were enacted but not enforced. In the matter of Fundamental Rights, the courts were aggressive and active. Public Interest Litigation (PIL) had proved useful in developing subsidiary rights under Article 21 of the Constitution.

However, according to Mr Desai, ordinary litigation did not pass the triple test of fairness, affordability and speed. He suggested that existing instruments of law should be more widely used. Narrating anecdotes and case studies, he also mentioned the low cost of litigation, dilatory tactics of lawyers, and lack of use of perjury as clogs in the judicial process of

India. Citing the case of Cogentrix, he stressed that there was a cost of delay in terms of investment in the country.

Mr Shekhar Gupta of the Indian Express said that in a functioning democracy such as India, the judicial system was necessary for protection and that India's judicial system elicited great respect. Rule of law and good laws existed in India. However, he gave personal experiences to show that the cumbersome procedures were of concern. He said that administrative procedures needed to be modernized, as justice delivery affected all aspects of society. The passing of laws such as the Rural Employment Guarantee Bill raised the hopes of society, but if these were not enforced, there would be a lack of faith in the system.

Members of the audience participated by asking for clarifications. Ambassador Kuldip Sahdev, Executive Trustee of The Aspen Institute India, thanked the panelists and summed up the discussion in his concluding remarks.

