

**Workshop on
'Law in the Struggle for Dignity and Justice'
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Keynote Address by Justice S. Muralidhar¹

**Organized by
Office of Law Reform Commission of Thailand
And
Asian Institute for Human Rights**



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Namaste and good afternoon. Greetings from India.

Madam Ms. Pitikan Sithidej Deputy Director General, Rights and Liberties Protection Department, Ministry of Justice, Mr. Homalor of the Law Reform Commission of Thailand, Mr. D.J. Ravindran and friends from the Asian Institute for Human Rights, it is an honor to be invited to address this distinguished gathering of lawyers, activists, representatives of legal aid and social organisations and human rights practitioners from countries across the South and Southeast Asian regions.

I am happy to be invited by the Law Reforms Commission of Thailand which is working to revise existing laws to bring them in tune with constitutional and international law norms. I am aware of the significance of your work having myself been associated as a part-time member of the Law Commission of India (LCI) for over four years before I was invited to become a judge of the High Court of Delhi in May 2006.

On a personal note I am happy to be back in the company of Somchai Homlaor and D. J. Ravindran whom I have been fortunate to know and to have shared many a platform with during my years as a lawyer practising in the Supreme Court of India. They continue to inspire several generations of human rights practitioners with their complete commitment to the practice and pedagogy of human rights and the training of lawyers and activists to embrace the struggle to uphold human rights everywhere.

I was delighted to receive a copy of Ravindran's book on 'Law in the Struggle for Dignity and Justice'.² It is yet another important contribution by Ravindran to the rich trove of human rights resource materials. I will be referring to some of the aspects that Ravindran has discussed in the book, which I believe is an invaluable resource for all of us.

Certain caveats require to be entered before I begin. I speak to you today as a person concerned about the struggles that are ongoing world over for protecting the basic rights of survival and dignity. I speak to you as a person seeking to make this place a better and safer place for all of us. I speak to share my experience in the practise and study of the law and human rights. What I say does not necessarily represent the view of the institution where I now serve.

I

We gather in the backdrop of increasing protests by people who experience a sense of frustration, powerlessness and widening economic and social inequalities. To cite a few examples, the Occupy movement which found resonance in several parts of the world,³ the Arab spring⁴, the

² D. J. Ravindran, *Law in the Struggle for Dignity and Justice*, Asian Institute for Human Rights (2015).

³ See generally Martha Davis, *Occupy Wall Street and International Human Rights*, 39 *FORDHAM URB. L.J.* 931 (2012).

protests in Tunisia, Spain, Hongkong, and the Climate March in September 2014 in New York.⁵ In India we witnessed a spontaneous slew of protests in urban centres in 2012 led by Anna Hazare demanding greater public accountability and transparency in government. Recently we witnessed protests by farmers who see the proposed new land acquisition law as a threat to their livelihood and survival.⁶

These protests are reminding us of failed states and institutions of government in several parts of the world. They challenge the assumptions that formed the basis of formation of Westphalian nation states. People are getting increasingly restless about being excluded from the processes of decision making that directly impact their rights to dignity and survival. The relevance of institutions designed to cater to a model of nation state based governmental structure is under serious interrogation.

Recently an interesting research undertaken to analyse world protests that took place between January 2006 and July 2013 in 84 countries covering 90% of the world population revealed that the leading causes of all protests is a cluster of grievances related to economic justice: demands to reduce or eliminate inequality, alleviate low living standards, enact land reform and ensure affordable food energy and housing. It was found that a single demand exceeded all others: lack of 'real' democracy.⁷ Even in so-called democratic nations which have constitutions that guarantee rule of law, people felt they were not 'represented'; that they did not actually have a say; that their government was no longer of the people, for the people or by the people.

Sociologist Saskia Sassen was asked if she was seeing the emergence of a new social order. She answered:⁸

"I don't know if a new world order is in the making but there is a new geography of privilege and disempowerment that cuts across the old divide of rich and poor countries, or North and South. In its relationship to citizens, modest enterprises (including small farmers), and to the state, the global corporate sector has committed a form of grand larceny. Privatisation of everything is one manifestation. Reduction of social benefits of all sorts is another. It is happening everywhere where you have this kind of state, which, of course can also be a military state such as Egypt insofar as it has developed a range of

⁴ Arnab Neil Sengupta, *The Fallen Leaves of the Arab Spring*, *Al Jazeera*, 15th March 2015 available at: <http://www.aljazeera.com/indepth/features/2015/03/fallen-leaves-arab-spring-150310060732982.html>

⁵ Stefanie Spear, 400,000 Demand Climate Action Now at Largest Climate March in World History, available at: <http://ecowatch.com/2014/09/21/peoples-climate-march-climate-change-action/>

⁶ Sudeep Chakravarti, *Land Law: The Audacity of Hype*, available at <http://www.livemint.com/Opinion/XA7OCdM2QnZpOf4BvbE9wO/Land-law-the-audacity-of-hype.html>.

⁷ Sara Burke, *What an Era of Global Protests says about the Effectiveness of Human Rights as a Language to achieve Social Change*, *Sur International Journal on Human Rights*, v. 11,n.20, 27 referring to the report by Oritz Isabel *et al*, *World Protest 2006-13*.

⁸ Interview in *The Hindu*, New Delhi, January 12, 2013 p. 11

state supports for a vast share of the population; public schools, public hospitals, housing, retirement benefits, etc."

Concerns over the growing inequalities in Indian society brought about by a model of development that excluded large sections of the population, have been voiced in judgments of its Supreme Court in the recent past. In one decision which reviewed the government's decision to give the right to explore off shore oil reserves to a private corporation it was observed:⁹

"The neo-liberal agenda has increasingly eviscerated the State of stature and power, bringing vast benefits to the few, modest benefits for some, while leaving everybody else, the majority, behind. As we cast a glance across the face of our land, the greater incidence of social unrest, and movements for greater self determination, seem to occur by and large in states and regions that have plenty of natural wealth and paradoxically suffer from low levels of human development."

In July of the same year another bench of the Court remarked:¹⁰

"It is very often the process of development that most starkly confirms the fears expressed by Dr. Ambedkar about our democracy. A blinkered vision of development, complete apathy towards those who are highly adversely affected by the development process and a cynical unconcern for the enforcement of the laws lead to a situation where the rights and benefits promised and guaranteed under the constitution hardly ever reach the most marginalized citizens."

The Court was referring to the speech made by Dr. Ambedkar, one of the chief architects of the Indian constitution in the Constituent Assembly in November 1949 even as he tabled the final draft. He reminded his audience that there was complete absence in Indian Society of equality and fraternity. He said:¹¹

"On the social plane, we have in India a society based on the principle of graded inequality which we have a society in which there are some who have immense wealth as against many who live in abject poverty."

In the now famous quote Dr Ambedkar exhorted:¹²

"On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure,

⁹ *Reliance Natural Resources v. Reliance Industries* (2010)7 SCC 1 (paras 139, 144)

¹⁰ *Mahanadi Coalfields Ltd. v. Mathias Oram* (2010)11 SCC 269

¹¹ Speech of Dr. Ambedkar on 25th November 1949 in the Constituent Assembly, available online at <http://parliamentofindia.nic.in/ls/debates/vol11p11.htm>

¹² *Ibid.*

continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril."

II

It is in this context that the use of law as a resource to advance the struggles for dignity and justice assumes relevance. Relentless battles have been waged, by peaceful means over the course of history and these continue with greater intensity now. There are ups and downs like in all struggles. And then, just as history repeats itself, the struggles against injustices too follow.

Ravi's book introduces us to a full spectrum of struggles, some successful and some not, over a range of countries and a variety of causes. It is always encouraging to know for a human rights defender that she is not alone in this globalised world of protests. There is much to learn from each other's experiences. SALIGAN in Philippines could make common cause with the groups in India working with the Bhopal gas victims, in their struggles to enforce accountability of multinational corporations. In strategising for the litigation in courts the Narmada Bachao Andolan and EnLaw in Thailand may have much to share with their different experiences. And then again it is not only about litigative strategies but non-court linked advocacy as well. The experience of the grass roots movement in Rajasthan, MKSS which Ravindran talks about, catalysed the enactment of the law on the right to information in India. Later it spearheaded the demand for (and succeeded in getting) legislations recognising the right to work and right to food. Mass movements like the NBA and MKSS are not only about the struggles for dignity and justice in the economic and social spheres. They remind us of the alternative way of doing politics. We would be missing the obvious if we did not acknowledge this. Justice Krishna Iyer flinched at the thought of a 'neutral' judge. He believed that in the Indian setting as described by Ambedkar the judge had to be on the side of the weak and the poor and those who have suffered and continue to suffer injustices. In other words, judges, and more so human rights practitioners, cannot afford to be apolitical.

It is not surprising therefore when we look back we find that the use of law as a resource in the struggle for justice is part of larger political strategy for assertion of the rights to freedom and dignity. And here, I would like to dwell a bit on the remarkable careers of two outstanding personalities of the 20th century who have by their lived experiences enriched our understanding of the fundamental notions of rights, dignity and justice. As you would have by now guessed the two I have in mind are Mahatma Gandhi and Nelson Mandela.

Gandhi as we know qualified as a barrister and began his law practice when he was just 19, briefly, in Bombay. In 1893 he moved to Durban (in Natal) in South Africa where he began his

professional law practice as an Advocate.¹³ He did remarkably well as the lone coloured lawyer in a Court of mainly European lawyers and judges and built up a good practice. His main work included mercantile and property law practice. However, he gravitated to taking up cases of indentured Indian labour. His personal experience of discrimination and racism in Courts there, which too were steeped in apartheid, made his political resolve firmer by the day. In the absence of a written Constitution and the avenue of judicial review of legislative action, Gandhi the lawyer very early on began petitioning the local administration and the Government in United Kingdom against laws that targeted Indians for discrimination, whether in terms of granting the right to vote or in the patently unjust conditions of business and residence. Despite facing several disappointments, he never swerved from his resolve to fight injustice. He also began to experiment with the notion of civil disobedience. In other words, asserting the right to disobey unjust laws. In 1903, realising that he had to take the fight against unjust laws to a different level, he made a strategic decision to shift his practice to Transvaal (Johannesburg) enrolling there as an Attorney.

At this juncture, I would like to refer to one instance, of several, where Gandhi saw early on the potential of using law as a resource to highlight injustice. A new electric tram system was introduced in Johannesburg in February 1906. The Town Council considered introducing a law that would prohibit Indians from riding tram cars except while accompanying European masters. Unable to forge a consensus, the Town Council decided to run separate cars for Europeans and coloured. There was another traffic by-law that forbade conductors from refusing to take passengers on board. Seeing an opportunity for a 'test case' Gandhi persuaded a wealthy Indian merchant Coovadia to attempt boarding a 'Europeans only' tram car in the company of a European MacIntyre. The conductor as expected barred Coovadia from boarding unless he was able to show that he was MacIntyre's servant. Gandhi made a case of this and forced the Crown prosecutor to act on Coovadia's criminal complaint against the conductor who had obviously violated the traffic by law. The conductor was found guilty but what Gandhi wanted to happen next did not happen. No appeal was filed. The filing of more cases saw the traffic by-law being repealed.

Nevertheless, Gandhi had demonstrated how the legal processes could be used to drive home the point about unjust laws and how they operate. This was when there was no written constitution and the Courts were yet to evolve principles of judicial review of legislative action. Gandhi was in effect using an 'unjust law' to seek justice. There would be numerous other instances whether civil disobedience was deployed to engage with the State in its own domain, the legal and judicial process. In engaging the State through test litigation in courts, which he used as an arena for struggles over political rights, Gandhi was perhaps a pioneer. These attempts may have failed

¹³ Although Gandhi himself did not write much about his professional career in South Africa which spanned two decades we are now fortunate to have a comprehensive and critical assessment of his life as a lawyer there in a remarkable book 'The Man Before the Mahatma: M.K.Gandhi, Attorney at Law' by Charles DiSalvo, Random House India, (2012) .

to overturn the 'invited' convictions but certainly gave visibility to the struggle in the media and in the public domain. There was also clarity of vision and purpose. While addressing a gathering of Indians at Johannesburg, Gandhi said:¹⁴

"The lesson that I have learned from our struggles is this: that unfranchised though we are, unrepresented though we are in the Transvaal, it is open to us to clothe ourselves with an undying franchise, and this consists in recognising our humanity in recognising that we are part and parcel of the great universal whole...I say that no matter what legislation is passed over our heads, if that legislation is in conflict with our conscience, if it is in conflict with our ideas of right and wrong, if it is in conflict with our religion then we can say we shall not submit to that legislation."

Gandhi's experience would be the torchbearer, five decades later, for the Civil Rights Movement in the USA of which Martin Luther King Jr. formed an important part. He too deployed civil disobedience as a major tool. What was immediately attractive was that it was a peaceful means of protest. King too viewed unjust laws as a resource for litigating discrimination in courts, and for highlighting injustice. The courting of mass arrests is one example. In a letter sent from the jail in Birmingham Alabama, King explained what he meant by 'just' and 'unjust' laws. He wrote:¹⁵

"One may well ask, 'How can you advocate breaking some laws and obeying others?' The answer is found in the fact that there are two types of laws: there are just laws, and there are unjust laws. I would agree with St. Augustine that 'An unjust law is no law at all.'

Now, what is the difference between the two? How does one determine when a law is just or unjust? A just law is a man-made code that squares with the moral law, or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas, an unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality ..."

Meanwhile in another continent another remarkable figure was emerging. He too would use law and courts as resources to wage a relentless battle against apartheid.

Nelson Mandela as a young attorney joined hands with Oliver Tambo to form the first firm of African lawyers in South Africa. In his autobiography 'Long Walk to Freedom', Mandela describes the significance of the law firm as being far beyond providing legal services:¹⁶

"..'Mandela and Tambo' read the brass plate on our office door in Chancellor House, a small building just across the street from the marble statues of Justice standing in front of the Magistrate's Court in central Johannesburg. Our building, owned by Indians, was one

¹⁴ *ibid*, p. 224. Gandhi had no illusions about how 'loaded' the legal system in apartheid driven South Africa was:

"Those who want to perpetuate their power do so through the courts."

¹⁵ Martin Luther King, *Letters from a Birmingham Jail*, 16th April, 1963. Available at: http://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html

¹⁶ Nelson Mandela, *Long Walk to Freedom*, Chapter IV, Part 16, Little Brown & Co., (1995)

of the few places where Africans could rent offices in the city. From the beginning, Mandela and Tambo were besieged with clients. We were not the only African lawyers in South Africa, but we were the only firm of African lawyers. For Africans, we were the firm of first choice and last resort. To reach our offices each morning, we had to move through a crowd of people in the hallways, on the stairs, and in our small waiting room."

In a country besieged by apartheid, where for Africans "it was a crime to walk through a Whites Only door, a crime to ride a Whites Only bus, a crime to use a Whites Only drinking fountain, a crime to walk on a Whites Only beach, a crime to be on the streets past eleven, a crime not to have a pass book and a crime to have the wrong signature in that book, a crime to be unemployed and a crime to be employed in the wrong place, a crime to live in certain places and a crime to have no place to live," the office firm of 'Mandela and Tambo' was a place "where they could come and find a sympathetic ear and a competent ally, a place where they would not be either turned away or cheated, a place where they might actually feel proud to be represented by men of their own skin color." Mandela recollected in his memoirs: "This was the reason I had become a lawyer in the first place, and my work often made me feel I had made the right decision."

The efforts of Mandela and Tambo could make space in the legal arena for the struggles of Africans for liberty and dignity. The courts functioned in an unjust apartheid ridden system, and the brazenly discriminatory laws they enforced provided Mandela a platform to showcase the political battle against apartheid.¹⁷

In India civil society groups constantly use law as a resource to push for both law reform and institutional reform. More than three decades after the leak of deadly MIC gas from the Union Carbide plant in Bhopal on the intervening night of 2nd/3rd December 1984, Bhopal victims are yet to get complete justice and their suffering continues amidst repeated attempts at seeking legal redress.¹⁸ The Narmada Bachao Andolan has been fighting for the rights of the several thousands displaced by the large dams on the Narmada river for well over two decades by petitioning the High Court and the Supreme Court of India.¹⁹ Not all of these court battles may have been successful. But they have undoubtedly helped mobilize collective action, give visibility to the cause in the public domain and catalyse creative legal energies in devising new litigative strategies to counter myriad forms of injustice.

This is evident in the class action litigation brought in the Supreme Court by the Safai Karamchari Andolan, a campaign for protection and enforcement of the fundamental right to dignity of the over 700,000 manual scavengers in the country. After ten years of perseverance,

¹⁷ One of the strategies employed by Mandela was to consciously establish a dominant presence in the courtroom, and use it as a tool to fight against the unjust system within which he had to work. He sought to say that, "Look, I am as equal with you as anybody else in this courtroom. We speak the same language; we are addressing the same issues. I am not inferior to you". See Luli Callinicos, *Oliver Tambo: Beyond the Engeli Mountain*, p. 178 New Africa Books (2004), cited in Justin Hansford, *Nelson Mandela and the Role of the Lawyer*, at p.13, NYLS Law Review, available online at: <http://www.nylslawreview.com/wp-content/uploads/sites/16/2014/11/Hansford.pdf>

¹⁸ See for instance, 'Thirty Years After Bhopal: Articles published in The Statesman (December 2014) available at www.ielrc.org/content/n1403.pdf. Also, S. Muralidhar, *Unsettling Truths, Untold Tales: The Bhopal Gas Disaster Victims' Twenty Years of Courtroom Struggles for Justice* available at www.ielrc.org/content/w0405.pdf.

¹⁹ For e.g., *Narmada Bachao Andolan v Union of India (2000) 10 SCC 664* [the Sardar Sarovar Project] and *Narmada Bachao Andolan v Union of India (2011) 7 SCC 639* (the Omkareshwar Dam)

the Supreme Court handed down a landmark judgment acknowledging the history of indignity and injustice they had been subject to.²⁰ This is a beginning of a new phase in their struggle. It is certainly not the end, but an important milestone in the course of their struggle which they have rightly taken control of. It has done something remarkable to their sense of self-worth and dignity.²¹

III

Now, to the last part of the talk. What are the challenges before us? There is today a changed thinking on what should be the agenda for the human rights movement. This is in the backdrop of the failure of the UN system which is viewed as having been captured by powerful political interests. There is a palpable reconfiguration of non-state actors and newer forms of extra-legal mechanisms, spurred by the hyperactive social media. Corporations, far more powerful than States, continue to evade answerability and accountability either to domestic or international law mechanisms. Corporations, and through them States, possess enormous amounts of data gathered through relentless electronic surveillance of peoples across the world. Instead of technology augmenting transparency of the State and corporations, people everywhere are becoming increasingly transparent to them. Growing numbers, world over, are sensing powerlessness and helplessness in their daily struggles for survival. At the same time, greater attention is being paid to growing inequalities and imbalances that expose the distortions brought about by models of development that enrich a small number at the cost of a vast under-represented majority.²²

If as some argue, the rule of law model of State control over peoples has facilitated this shift, then there is a need to revisit the notion of just and unjust laws.²³ Discriminatory laws and practices cannot foster respect for the rule of law. They can only make pervasive the brooding sense of injustice and with that resultant cynicism and frustration.

Even while we strive for a more egalitarian world, repressive regimes, professing to be democratic, are using law to shrink spaces for dissent and exacerbate the deprivations brought about by the disappearing welfare State. Institutions of representation purporting to symbolize democracy have belied the expectation of governments being for the people, by the people and of the people. This explains the growing demand in protest movements across the world for ‘real

²⁰ *Safai Karamchari Andolan v. Union of India (2014) 11 SCC 224*

²¹ See for e.g., ‘Maila Mukti Yatra’ a remarkable short video clip on how women manual scavengers decided to stop doing the indecent work of cleaning toilets: <http://www.youtube.com/watch?v=VfgKnH6kSjC>

²² Different tools of measurement of human progress have emerged. Human Development Index (HDI) is one of them. There is also the ‘social protection floor’ based on the idea that everyone should enjoy at least basic income security sufficient to live, guaranteed through transfers in cash or in kind, such as pensions for the elderly and persons with disabilities, child benefits, income support benefits and/or employment guarantees and services for the unemployed and working poor. The aim is to ensure that transfers, in cash and in kind, result in everyone having access to essential goods and services, including essential health services, primary education, housing, water and sanitation.

²³ Kumi Naidoo, a prominent human rights practitioner says: “The rule of law consolidated all the injustices in the world that existed before the rule of law: we need a nuanced more critical reading of exactly what the rule of law means in a context of extreme injustice in which the powerful in society are literally able to get away with murder, with regard to ensuring that the majority of the people aren’t denied justice.” Interview with Kumi Naidoo: *The Rule of Law has consolidated all the injustices that existed before it*, SUR-International Journal of Human Rights, v.11, n.20. Jun/Dec 2014, pp 97-102

democracy’, one variant of which is what which Professor Cass Sunstein characterizes as ‘deliberative democracy’. He states that it is a system in which “representatives would be accountable to the public at large. But there was also supposed to be a large degree of reflection, both within the citizenry and with government itself”.²⁴ Professor Roberto Gargarella in studying the work of judiciaries in different jurisdictions in the area of recognition and enforcement of social right sees courts as being the proper spaces for experimentation in deliberative democratic practices. Courts, he believes, can while adjudicating social rights foster dialogue between the State and the people. He states: “Judicial decisions in the area of social rights should contribute to integrate groups that were improperly marginalized by the political system; or by forcing political authorities to justify their decisions in a more solid way.”²⁵

Emerging democracies, in countries that have witnessed several decades of strife, are looking at newer forms of engaging with conflicting interests and demands. Legal scholar Professor Karl Klare talks of ‘transformative constitutionalism’ as being the guiding principle for ushering a more equal and equitable society. This he says involves “a long term project of constitutional enactment, interpretation, and enforcement committed (not in isolation, of course, but in a historical context of conducive political developments) to transforming a country’s political and social institutions and power relationships in a democratic, participatory, and egalitarian direction.”²⁶

Many of these concerns engage the constitutional courts with increasing frequency. There are increasing expectations of the judiciary in many democracies to find workable solutions to problems which have their origin in historic injustices as a result of not only unjust State action but societal and community-level practices that are impervious to constitutional values. The judiciary needs to evolve a more meaningful jurisprudence to guide its decisions- legal principles that reflect the newer ways of thinking. In studying a decade’s work of the South African Constitutional Court, Klare has this to say to the judges: “future generations will not judge the Constitutional Court by how closely it followed traditional strategies of analysis, but rather by the extent to which it contributed to the many issues of social and political transformation – equality, social justice, democracy, multiracialism and dignity.”²⁷

In some ways, the transformation is already taking place. I can speak from the experience of Indian society. Even a decade ago, one could not have imagined that there would be open public debate on the rights of the LGBT community. Judicial intervention in these areas has undoubtedly opened up the spaces for dialogue.²⁸ There is a churning. If our efforts are right then the good will float to the top.

²⁴ Cass Sunstein, Republic.com, Princeton University Press (2001), excerpt from The Little Magazine, Vol II, Issue 2, March-April 2001, available online at <http://www.littlemag.com/mar-apr01/cass.html>

²⁵ Roberto Gargarella, (2006), Should Deliberative Democrats Defend the Judicial Enforcement of Social Rights. In Besson, Marti (Ed.), *Deliberative Democracy and its Discontents*, Ch. XI,p.233, Ashgate Pub. Co.

²⁶ Karl Klare, Legal Culture and Transformative Constitutionalism, South African Journal of Human Rights (1998),p. 146

²⁷ Ibid. at p. 172

²⁸ See the judgment in *National Legal Services Authority v. Union of India (2014) 5 SCC 438*, recognizing and affirming the rights of transgendered persons. Also in the context of decriminalizing homosexuality, see *Naz Foundation v. Government of NCT 160 (2009) DLT 277*, overturned by the Supreme Court in *Suresh Kumar Koushal*

There is much to be done. We must be impatient in our response to injustice but patient in expecting measurable changes. There is no room either for despondency or complacency. We have to inspire the next generation to pick up cudgels against all forms of injustice.

The professional and political lives of Gandhi, King and Mandela remind us that struggles to reform law and legal institutions have to go hand in hand with the struggle to transform societies. The use of law as a resource is but one of the strategies in the struggle for preserving and enforcing human rights. It is the beacon of hope for those who are too weak, those who have to struggle for survival and for those who have encounter innumerable prejudices in their daily lives.

We have to make our institutions work for the people and with the people. We have to work to remove the dissonance between the language of law and the language of rights and the language of rights and the language of the people. We have to work assiduously to counter the cultural relativity debates in human rights that question their legitimacy. Our systems must be inclusive and should be relevant for the peoples' concerns.²⁹

I would like to end with a quote of Martin Luther King Jr., from his "I have a Dream" speech, which reminds us of the tasks that lay ahead, and how we must face the challenge:

"As we walk, we must make the pledge that we shall always march ahead. We cannot turn back. There are those who are asking the devotees of civil rights, "When will you be satisfied?" We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. We can never be satisfied, as long as our bodies, heavy with the fatigue of travel, cannot gain lodging in the motels of the highways and the hotels of the cities. We cannot be satisfied as long as the Negro's basic mobility is from a smaller ghetto to a larger one. We can never be satisfied as long as our children are stripped of their selfhood and robbed of their dignity by signs stating "For Whites Only". We cannot be satisfied as long as a Negro in Mississippi cannot vote and a Negro in New York believes he has nothing for which to vote. No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream."³⁰

v. *Naz Foundation* (2014) 1 SCC 1. However, a larger bench of the Supreme Court is to take a final call on the issue in a curative petition before it.

²⁹ César Garavito of Colombia calls for a human rights eco system that prioritizes collaboration and symbiosis with a much more varied range of actors and issues coupled with more de-centralised and network based forms of collaboration than that of previous decades. This approach seeks to "strengthen the collective capacity of the human rights movement by harnessing its diversity." César Rodrigues Garavito, *The Future of Human Rights: From Gatekeeping to Symbiosis*, SUR International Journal of Human Rights, v.11,n.20, Jun/Dec 2014.

³⁰ King, Martin L., Jr. "I Have a Dream." Speech, Lincoln Memorial, Washington, D. C. 28 Aug. 1963, American Rhetoric. Available online at <http://www.americanrhetoric.com/speeches/mlkhaveadream.htm>