

US INDIAN NEWS

UC Justice and Law Seminar Evokes Heated Exchanges

By ASHFAQUE SWAPAN
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BERKELEY, Calif. — Sparks flew as activists glared at an Indian state police chief in a tense standoff at a conference here on the state of the rule of law in India: Irate human rights activists pointed an accusing finger at Vishva Ranjan, the visiting police chief of Chhattisgarh, over what they say are egregious human rights violations, with the state backing Salwa Judum, a vigilante militia, to take on a decades-old radical Maoist insurgency.

It took the considerable diplomatic skill of Raka Ray, chair of the Center for South Asia Studies at UC Berkeley, to calm activists after scores of them filled the lecture room with placards, underscoring the fact that sponsors Foundation for Democratic Reforms in India had chosen a topic with powerful, contemporary relevance.



“Justice and the Law,” a two-day seminar held last month, was hosted by the Foundation for Democratic Reforms in India in association with the Center for South Asia Studies and the Boalt School of Law at the University of California at Berkeley. Like the previous year’s conference, this conference gathered a stellar panel of academics, activists, journalists and jurists from India to reflect on the challenges that India faces in terms of the rule of law. Nationally known Indian activists like Supreme Court advocate Rajiv Dhawan, Madhu Kishwar, Flavia Agnes and Colin Gonsalves joined UC Berkeley development economist Pranab Bardhan, Bangalore-based National Law School founder director N.R. Madhava Menon, Delhi-based Center for Policy Research director Pratap Bhanu Mehta, and UC Berkeley political scientist Pradeep Chibber and The Hindu deputy editor Siddharth Varadarajan for two days of multifaceted reflection on the challenges India faces. Former Supreme Court Justice B.N. Srikrishna delivered the keynote address.

“Democracy has never been easy. As we look around us, we see that all around the world, democracies slip and fall, emerge and are vanquished, and yet the desire for some form or other of democratic governance constantly reemerges,” Ray said at the opening session.

Ranjan, the Chhattisgarh police chief, defended Chhattisgarh’s record as well as his own, despite the fact that a Human Rights Watch report in 2008 said it found “overwhelming evidence of direct state involvement in Salwa Judum and the group’s involvement in numerous violent abuses.”

His chilling remark that Maoist insurgents, whose abuses the HRW report also recognizes, have forfeited any right to a proper judiciary process echoed the dangerous reasoning that, outside India, has led to abuses in places like Abu Ghraib and Guantanamo Bay.

Anirvan Chatterjee, on behalf of the activists, handed a petition by academics to Ranjan that condemned “the ongoing violations of the human and civil rights of its citizens by the state of Chhattisgarh . . . These violations include the arbitrary arrest and indefinite detention of hundreds of people, including Dr. Binayak Sen, an internationally respected provider of medical services . . . and most egregious of all, the growing depredations of the state-sponsored violent militia known as the Salwa Judum.”

Over a two-day period, various speakers drew out the contours of a judiciary and law enforcement system that is woefully adequate. Speakers did not mince words.

“India is a country of Maya or illusion,” lawyer activist Colin Gonsalves said in an impassioned presentation. “Torture is a principal forensic tool.” He called for a “radical reform of police,” which he called the “largest

body of organized crime." The legal system, he said, is part of the problem. "We've gone past that stage where you can tinker with the system."

The Hindu deputy editor Varadarajan said the Indian police suffers from "a crisis of authority" as it is hamstrung by "political expediency."

The police, he said, is more interested in public relations than actual forensic investigation. He gave the example of the killing of 35 Sikhs in Kashmir in March 2000. The police wilted under enormous pressure and claimed to have solved the case in 72 hours, and pointed the finger at Islamists, whose bodies were burned following an "encounter." A few years later, after exhumation of the bodies and DNA testing, it was revealed that these were random villagers who had been rounded up and killed.

Activist Flavia Agnes criticized "substandard lawyering" and called for a system of non-commercial lawyering, arguing that the current legal system was "beyond the reach of a large part of the population."

In the opening session, Prof. Pranab Bardhan drew a bleak picture. "There is a big gulf between the laws on the books and the actual enforcement of the laws," lamented Bardhan. Many of India's 3,000 central statutes and 25,000 laws at the state level were "often inconsistent, outdated and dysfunctional."

Moreover, "it is at the enforcement stage that the law fails particularly egregiously," he added.

The numbers alone are staggering. The number of cases pending in Indian lower courts exceeds 25 million. At the current rate of disposal, it will take 350 years to dispose of these cases if no other cases are added.

Then there was corruption. According to a study by the Center for Media Studies in 2005, Rs. 6.3 billion per year is spent in lower court in bribes.

Many under trial are in jail because they can't afford bail, and often they are there for a period that exceeds the maximum sentence of the crimes they are accused of.

As economic contracts become more complex, judicial efficiency in commercial law becomes critical, but India is still struggling to develop efficient and responsible regulatory bodies, Bardhan said.

The challenges were herculean, he added.

"Of course, all these problems cannot be solved overnight, but awareness and clear understanding of the various ways the system fails is the first step to organizing social movement towards redressing them."