

11.07.2020

To,

Prof. (Dr.) Ranbir Singh
Chairperson & Vice-Chancellor
Committee for Reforms in Criminal Laws
Centre for Criminology and Victimology
National Law University, Delhi

Dear Sir,

We have had the opportunity to peruse the public notice put out by the Committee for Reform in Criminal laws ostensibly in response to the representation by eminent judges and lawyers which raised some questions about transparency and process in the functioning of your committee.

We had also put forward a representation from a cross section of concerned citizens to the Committee which sought to raise some fundamental questions and these concerns were not in any manner addressed by the Committee in the form of the public notice. (See Annexure I) To recapitulate in synoptic form our concerns which have not been addressed by the public notice dated 8.07.2020.

- 1) The key institutions of democracy are in a state of suspended animation. Due to the nature of the pandemic, executive power is supreme, with parliamentary oversight being suspended and the judicial ability to exercise its powers being limited unlike in normal times. Other important aspects of a democracy be it civil society and political parties have been even more seriously hobbled and have been unable to play the watchdog role which is their role in a democracy. To engage in criminal justice reform at this point in time will mean that inputs required for genuine pro people reforms which requires consultations and meetings with marginalized groups and communities . In the absence of this the inputs will be restricted and the Committee will only be able to access the views of privileged castes and classes. Does this mean that the Committee is content to deliberate on reforms without the benefit of adequate consultation and without being informed about the concerns of the marginalized by the marginalized themselves ?
- 2) The Criminal law is not the first area sought to be reformed by this government taking advantage of the pandemic. In fact as was noted in the citizens representation, (See Annexure I) the government has diluted environmental norms, labour norms, land ownership laws, social welfare legislations etc. This

government has rushed through fundamental changes without taking people into confidence, and in fact, has used the absolute vulnerability of the populace to further disempower those at the margins. In such a context, does the Committee honestly believe that they will buck the trend of reform under the pandemic and deliver what its website declares to be, reform which '*prioritises the constitutional values of justice, dignity and the inherent worth of the individual.*' ?

- 3) Though the Committee may have an 'autonomous viewpoint', the Government viewpoint is clear. The UAPA amendments as well as the use of the UAPA in Delhi and UP against dissenters indicates its mindset with respect to criminal law. We believe that by agreeing to become members of the Committee set up by the Home Ministry, the members are entering a political space, with limited room to safeguard their academic integrity. What is eloquent in its silence in the public notice of the Committee is that does not substantively respond to the question posed in the representation by the fourteen eminent judges and senior advocates, asking for 'Details on whether the Committee will work independently of the MHA or any other ministry. Specifically, will the report of the Committee be finalized in consultation with, or after the approval of the MHA or any other ministry?'. The public notice merely concedes that in the 'structural part of it .e.g. composition-lies with the M.H.A.' but goes on to assert that 'for its functional part we are completely autonomous and willing to respect the suggestions.' This does not answer the key question of whether 'the report of the Committee be finalized in consultation with, or after the approval of the MHA. We inquire as to whether the Committee has any legal basis for this belief that it will be able to safeguard its functional autonomy and even go against what the Home Ministry wants?

We request members of the Committee to take note of these serious concerns endorsed by more than 500 persons from diverse backgrounds, such as journalists, activists, lawyers, academics/professors, students, film makers, artists, business persons etc. This includes K.Chandru, Retd.judge High Court Madras, Ramachandra Guha, writer and Gandhian scholar, Ayesha Kidwai, Professor, Jawaharlal Nehru University, Gautam Bhatia, Lawyer, Jhuma Sen, Legal Academic, Meena Saraswathi Seshu, Social activist ,Pratiksha Baxi, Associate Professor, CSLG JNU and Teesta Setalvad, Journalist Activist and Educationist amongst others.

Though the Committee has stated that registrations for the consultations are open to everyone irrespective of ideologies; views; preferences; sexual orientation; disabilities; race; ethnicity; class; caste; sex; gender; religion; place of residence; or, place of birth, the manner of consultative process totally negates such an assurance and renders such a statement valueless. It may also be pertinent to note that a 6 month period is totally insufficient to review and revise the criminal justice system, especially as it appears likely that the pandemic situation will continue at least this period.

Taking note of these serious concerns which can't be rectified through the measures suggested by the Committee in the public notice dated 8.07.2020, we request the members of the Committee to resign from the same.

A pandemic is not the time to be doing law reform.

Yours faithfully

Ramachandra Guha

Meena Seshu

Teesta Setalvad

Arvind Narrain

Avani Chokshi

Clifton D' Rozario

Maitreyi Krishnan