



## **India's judicial system is robust and has survived the test of time : Shri Mukul Rohatgi**

Wednesday 23<sup>rd</sup> December 2015

"India's judicial system is robust, independent and has survived the test of time. A system is good or bad depending on the people who man it. Under the constitution, the President shall appoint a judge of the Supreme Court, in consultation with the chief justice. This means that the right to appoint a judge is that of the government and in this context there always occurs a dispute between the parliament, on one end and judiciary, on the other. A judge should be a person of integrity, knowledge, vision and one who does not have any dogma; be it religious or any other. To get a good person as a judge, we need a good selection body and the same should include experts from diverse fields to be on the task; and this will certainly lead to a further more robust and efficient system" exclaimed Attorney General for India, Shri Mukul Rohatgi during a lecture on 'India's Judicial System' delivered recently at The International Centre Goa, Dona Paula. The lecture was part of the National Lecture Series (NLS) on the State of Affairs in India for 2015, initiated by The International Centre Goa (ICG). The lecture was chaired by Adv. A N S Nadkarni, Advocate General of Goa. In the beginning Mr. Yatin G. Kakodkar, President, The International Centre Goa welcomed the speaker and guests who included ICG trustees, eminent citizens, judges, advocates, law students and general public.

Named Leading Senior Counsel by Legal 500, Shri Rohatgi further added, "but what severely ails the system today, is the delay and backlog of cases; there are 3 crore cases pending; more than 50 lakhs in high courts and 75,000 in the supreme court. It is of urgent importance to tackle this situation or it will lead to a collapse of the whole system". He suggested, "in this view, multi pronged measures need to be taken. Firstly, there needs to be more judges; as ratio with respect to population is miserable. It is about 1/3rd than it is in the western world. Besides, there needs to be a reduction in number of appeals; there are too many in this country and precious time is lost deciding on the same. There also needs to be a radical alteration of procedural laws. The criminal procedure code & civil procedure code were framed by the British. We have to remove all archaic laws, bring in new laws as we need to be bear in mind a population of 1 billion and that we do not have the luxury that we had 100 to 150 years ago".

Shri Rohatgi, enlisted in Times of India's list of India's Top 10 Lawyers in 2010, implied further "another danger that the system is faced with nowadays is the millions of public interest litigations that have become a regular feature in the last 15 - 20 years. Many a time, these matters are media centric and the press needs to show restraint and report news based only on written court orders, and not on tentative exchange of views between the judge & an advocate. There is a great misuse made in the name of public interest and it is urgently necessary to relook into whether we have to continue this in an age when we do not have luxury of time".

Shri Rohatgi, recipient of National Law Day Award for 2008 by the Hon'ble Prime Minister of India, explained "the supreme court established after independence, sits on top of the pyramidal structure. The basic idea was that apex court would decide constitutional issues that relate to the nation. The

Supreme Court in India, when compared to any other court in the world, has the broadest jurisdiction, it even has the right to annul any law made by the parliament or the state legislature. The Supreme Court was meant to be a constitutional court, but in recent times it has lost its way and has become a general appellant court over all high courts. The concept under the constitution was that the high court shall be final as it is the highest court in the state, and only some matters of constitutional importance shall go to the apex court. But contrary to that our Supreme Court decides 80,000 cases a year as compared to 80 cases decided by its US counterpart. Petty matters like property cases, landlord-tenant, commercial disputes, cheque bounce, one year sentence, are routinely entertained; just because Supreme Court has opened its doors.

Shri Rohatgi, Attorney General for India since June 2014 concluded," there should be well defined rules that the Supreme Court will broadly decide only certain cases, while high courts should be the final authority on certain other cases. The pristine position, which the high court enjoyed in the 1950's and 60's should be reinstated. The court must come back to its constitutional form".

**Ends**

For further information about ICG programmes, log onto: [www.internationalcentregoa.com](http://www.internationalcentregoa.com)