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CRITICISM OF THE JUDICIARY AND ITS IMPACT UPON THE RULE OF LAW

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ABSTRACT

Maintenance of the dignity of the Courts is one of the cardinal principles of the rule of law in a free democratic country. Judicial independence is a pre-requisite to the rule of law. The mere criticism of the judiciary and judicial independence could make people disbelieve the principles of rule of law. If the independence of the judiciary comes under suspicion, it directly impacts upon the public confidence in it. If the public confidence in the judiciary is eroded, law and order which is sacrosanct could collapse unleashing a chain of distressing events. All those who have the welfare and the interest of justice should be sensitive to this issue and contribute to strengthen and uphold the public confidence in the judiciary in every possible avenue.

KEYWORDS: *Judiciary, Public Confidence, Contempt of Court, Rule of Law, Public Scrutiny, Fair Criticism, Scandalising the Court*

INTRODUCTION

The strength of the judiciary lies in the command that it has over the hearts and minds of men.¹ According to the view of Justice Kenny, part of the Courts' authority rests upon public confidence in the judiciary.² In a democracy, the enforcement of judicial decrees and orders ultimately depends on public co-operation³ which in turn, based on a

widely held perception that the judges decide cases impartially.⁴ Therefore, public confidence in the judiciary highly depends upon the independence of it being associated with judicial ethics.

For instance, nearly four thousand years ago, the Code of Hammurabi provided that a judge who altered a written judgment should pay twelve-fold the penalty ordered in the judgment and should be publicly expelled from the bench.⁵ The principle of the independence of the judiciary requires the judiciary to ensure that judicial proceedings are

¹ Vishnu Parshad and Vishnu Prasad, 'Independence of Judiciary in India' (1964) 25 (3/4) *The Indian Journal of Political Science* 307.; and Justice Dr. A.R.B. Amerasinghe, *Judicial Conduct Ethics & Responsibilities* (2nd edn, Opro 2014) 169; as quoted speech of Justice William O' Douglas (Supreme Court of USA) 1954.

² Justice Susan Kenny, *Maintaining Public Confidence in the Judiciary: A Precarious Equilibrium* [1999] (FCA) Fed J Schol 1.

³ Steven Lubet, 'Judicial Ethics and Private Lives' (1984-1985) 79 *North Western University Law Review* 983, 986.

⁴ *ibid* as cited in; Rifkind, 'The Public Concern in a Judge's Private Life' 19 (University of Chicago law School Conference, 1964, Chicago) 25; and; Wright, Comment [on Judicial Ethics 19 (University of Chicago law School Conference. 1964, Chicago) 39.

⁵ Justice Prof. C.G. Weeramantry, *Law: The Threatened Peripheries* (1st edn, Lake House 1984) 25.

conducted fairly and that the rights of the parties are respected.⁶

THE CONSTANT PUBLIC SCRUTINY

Justice must not merely be done, but must also be seen to be done.⁷ A judge shall avoid impropriety and the appearance of impropriety⁸ For instance, *In the matter of John Chiovero*,⁹ it was held that, when a jurist is offered a gift by a litigant, he must be aware of the possible appearance of an impropriety. Judges should regulate their conduct both in and out of Court as to further increase public confidence in them.¹⁰

Every judge must at all time be conscious that he or she is under public gaze and there should be no act or omission by him or her which is unbecoming of the high office he or she occupies and the public esteem in which that office is held.¹¹ There would be a destruction of public confidence if the public is aware of any corruption or other serious wrongdoings of the existing judges.¹² According to Sydney Smith, "Nations fall where judges are unjust".¹³

As held in *Amard v. Attorney-General for Trinidad and Tobago*,¹⁴ "Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, though outspoken, comments of ordinary men; no wrong is committed by any member of the public who exercises the ordinary right of criticising, in good faith, in private or in public, the public act done in the seat of justice". In a democratic society, certain level of criticism of the judiciary is inevitable and is also

desirable. No judge is above the law he is sworn to administer.¹⁵

Generally, Court proceedings should be conducted publicly and in open view.¹⁶ Therefore, the proceedings of every Court are fully exposed to the public and professional scrutiny and criticism without which abuses may flourish undetected.¹⁷ There is no disagreement that public criticism of judges and their work is not permissible, but it is also desirable and necessary to ensure that judges would continue to retain public confidence in the judiciary by performing their functions in accordance with their constitutional duties and professional responsibilities.¹⁸

THE RIGHT OF CRITICISM IN RESPECT OF JUDICIARY

Article 19 of the Universal Declaration of Human Rights 1948 (UDHR) says that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".¹⁹ The Article 14 (1) (a) of the Sri Lankan Constitution says, "Every citizen is entitled to the freedom of speech and expression including publication".²⁰

However, exercise and operation of this right is subject to restrictions as may be prescribed by law in relation to contempt of Court and defamation.²¹ Therefore, criticisms against the judiciary should be fair; otherwise it could amount to the offence of contempt of Court. In other words, obstruct or interference in course of justice or the due administration of justice by the Court would constitute a contempt of Court. For instance, if a publication tends to interfere and prejudice with the fair trial of the charge, such publication does constitute a contempt of Court.²²

On the other hand, 'committal for contempt of Court is a weapon to be used sparingly, and always with reference to the interests of the administration of justice. Hence, when a trial has

⁶ UN Basic Principles on the Independence of the Judiciary 1985, principle No. 6.

⁷ The Bangalore Principles of Judicial Conduct 2002, Principle No. 3.2.

⁸ The Bangalore Principles of Judicial Conduct 2002, Principle No. 4.1; and American Bar Association Code of Judicial Conduct 1990 (as amended in 2010), Canon 1; and The Code of Conduct for United States Judges 1973 (as amended in 2014), Canon 2.

⁹ (1990) 524 Pa. 181; 570 A.2d 57.

¹⁰ Justice Dr. A.R.B. Amerasinghe, *Judicial Conduct Ethics & Responsibilities* (2nd edn, Opro 2014) 184; as cited in Justice Dr. A.R.B Amerasinghe, *The Supreme Court of Sri Lanka-The First 185 Years*. (1986) at p 105.

¹¹ 'Restatement of Values of Judicial Life'-Code of Judicial Ethics 1997 of India, Canon 16.

¹² Sir Harry Gibbs, 'The Appointment and Removal of Judges' (1987) 17 Federal Law Review 141,146.

¹³ Rev. Sydney Smith, *The works of the Rev. Sydney Smith in three volumes: 'The Judge that Smites Contrary to the Law'* (Vol. III, Longman 1839) 208.

¹⁴ [1936] AC 322, 335 (Lord Atkin J).

¹⁵ *In re Joseph W. Esworthy, New York Commission on Judicial Conduct* (1990) 20.; 77 N.Y. 2d 280; 568 N.E. 2d 1195; 567 N.Y.S. 2d 390 (391).

¹⁶ *Scott v. Scott* (1913) AC 417, 441 (Earl of Halsbury) as cited in (Sollom Emlyn (ed), *The State Trials and Proceedings* (2nd edition 1730) vol 6, preface, at p. iv.).

¹⁷ *Russell v. Russell*(1976) 134 CLR 495; [1976] HCA 23, para [8] (Gibbs J).

¹⁸ Justice Dr. A.R.B. Amerasinghe, *Judicial Conduct Ethics & Responsibilities* (2nd edn, Opro 2014).

¹⁹ Universal Declaration of Human Rights 1948, art 19.

²⁰ The 1978 Constitution of Sri Lanka (as amended in 2015), art 14 (1) (a).

²¹ *ibid* art 15 (2).

²² *The King v. Davies* [1906] 1 K.B. 32, 35 (Wills J).

taken place and the case is over, the judge or the jury are given over to criticism'.²³

Proceedings for contempt of Court must not be in diminution of free speech.²⁴ There would be no contempt if the questioned statement could not be said to be of a character calculated at interfering with the administration of justice or to undermine public confidence.²⁵ For instance, even Presidents such as Abraham Lincoln, Franklin D Roosevelt and Thomas Jefferson have rebuked judges during their times.²⁶

In *Attorney-General v. Butler*,²⁷ it was held that Courts of Justice should be subject to the freedom of criticism which is a necessary accompaniment of the freedom of speech which is the right of all free men. In *Nationwide News Pty Ltd v. Wills*,²⁸ it was held that the judiciary should be open to criticism; if the defendant exercised his ordinary right to criticise the judiciary in good faith, then there was no contempt.

SCANDALISING THE COURT

Contempt of Court sometimes has been worded as scandalising the Court. Contempt could be committed by publishing material scandalising the Courts or judges by abusing them in scurrilous terms, alleging they are corrupt or lack integrity, or that they have bowed to outside influences in reaching their decisions.²⁹ Unfair criticism of Court decisions could break down the respect for the judiciary, in the minds of people.

In Contempt of Court, there must be the involvement of some "act done, or writing published calculated to bring a Court or a judge of the Court into contempt or to lower his or her authority or something calculated to obstruct or interfere with

the due course of justice or the lawful process of the Courts".³⁰ For instance, in *In re S.A. Wickremasinghe*,³¹ at a public meeting the respondent criticised Judges in Courts in the city of Galle. Court held that it is no less an offence of contempt of Court to scandalise the judiciary generally than to scandalise the judge or judges of a particular Court.

A well-regulated law of a civilised community could not be sustained without sanctions being imposed for contempt of Court. It is important to maintain the respect and dignity of the Court and its officers, because without such respect, public faith in the administration of justice would be undermined and the law itself would fall into disrepute.³² Court in *Attorney-General v. Times Newspapers Ltd*,³³ held that the contempt of Court consists of conduct calculated at prejudicing the requirements of the due administration of justice or to undermine the public confidence in it.

Both contempt in the presence and absence of the Court are considered offences. According to Article 105 (3) of the Constitution of Sri Lanka, the Supreme Court and the Court of Appeal could punish for contempt of itself, whether committed in the Court itself or elsewhere, with imprisonment or fine or both as the Court may deem fit. The power of the Court of Appeal shall include the power to punish for contempt of any other Court, Tribunal or Institution, whether committed in the presence of such Court or elsewhere.³⁴

Every High Court, District Court and Magistrates' Court shall have jurisdiction to punish the offence of contempt of Court committed in the presence of the Court itself and all offences which are committed in the course of any act or proceedings in the said Courts respectively and which are declared by any law for the time being in force to be punishable as contempt of Court.³⁵

In *A.M.E. Fernando v. The Attorney-General 2003*,³⁶ it was held that where a person is found guilty of gross misbehaviour in Court and disturbs the proceedings, it constitutes contempt in the face of Court for which he or she is liable to be summarily judged and punished, without a formal

²³ *McLeod v St. Aubyn* [1899] A.C. 549, 561 (Lord Morris J).

²⁴ *Anissa Pty Ltd v. Simon Harry Parsons* on application of the Prothonotary of the Supreme Court of Victoria [1999] VSC 430. <www.austlii.edu.au/cgi-bin/disp.pl/au/cases/vic/VSC/1999/430.html> accessed 24 June 2018.

²⁵ *Mills & Ors v. Townsville City Council & Anor* (No. 2) [2003] QPEC 18 <www.austlii.edu.au/au/cases/qld/QPEC/2003/18.html> accessed 24 June 2018.

²⁶ American Bar Association Commission on Separation of Powers and Judicial Independence, *An Independent Judiciary* (ABA 1997) vi.

²⁷ [1953] NZLR 944 (SC).

²⁸ (1992) 177 CLR 1.

²⁹ Mark Pearson, 'Scandalising media freedom: resurrection of an ancient contempt' (Journalism Education Association of New Zealand Annual Conference Wellington 2007, December 10). <http://epublications.bond.edu.au/hss_pubs/240> accessed 17 July 2018.

³⁰ *Reginald Perera v. The King* (1951) 52 NLR 293, 296 (Lord Radcliffe) as cited in *Reg. v Gray* [1900] 2 Q.B. 36, 40 (Lord Russell C.J).

³¹ *Re S.A. Wickremasinghe* 55 NLR 511, 513 (Gunasekara J).

³² *Croos v. Dabrera* [1999]1 Sri L.R. 205, 209 (Tilakawardena J.).

³³ [1973] 3 W.L.R. 298; [1974] A.C. 273, 309 (Lord Diplock J).

³⁴ The 1978 Constitution of Sri Lanka (as amended in 2015), art 105 (3).

³⁵ Judicature Act No. 02 of 1978 (as amended in 2017), ss 18 and 55 (1).

³⁶ [2003] 2 Sri. L.R. 52 (Sarath N Silva CJ).

charge. In *In the matter of John Ferguson*,³⁷ Court held that the Supreme Court of Ceylon has all the powers for punishing for contempt, wherever committed in this Island.³⁸ The Court in *Regent International Hotels Ltd. v. Cyril Gardiner and Others 1980*,³⁹ held that the Court of Appeal has all the powers under Article 105 (3) of the Constitution of punishing for contempt whether committed ‘*in facie curae*’ or ‘*ex facie curiae*’.

TAKING THE JUDICIARY TO TASK OF BY POLITICAL AND MEDIA ELEMENTS

In certain situations, politicians and the media play a role in irresponsibly fabricating stories to demonstrate that public confidence in the judiciary has eroded by highlighting certain lapses of the judiciary out of proportion to their importance. For instance, web sites operating from abroad might fabricate and publish false criticisms about our judiciary in order to achieve their personal agendas. If a publication by a politician or media has been made recklessly, it would create a bad impression of the judiciary in the minds of the ordinary person.

Justice Michael Kirby has mentioned that, ‘Many attacks on judges are now made by politicians who see mileage in that course. The current level of political and personal attacks on the judiciary is unacceptable. It has gone too far...the judicial institution will be damaged and judicial integrity undermined’.⁴⁰

According to Justice Dr. A.R.B. Amarasinghe’s view, the media has sometimes reported allegations of misconducts such as rape, immorality, fraud and corruption on the part of individual judges and criticisms such as delay in justice, inefficiencies and injustices.⁴¹ Mass media report the bare facts of what courts do, and what others say about judges without analysing and explicating their role accurately.⁴²

In *DPP v. Francis 2006*, a broadcaster who made a statement “oh, smash the judge’s face”, was convicted of contempt of Court.⁴³ In *In the matter of Armand De Souza 1914*, the defendant wrote in a newspaper “The Police Magistrate of Nuwara Eliya having been himself at one stage in his career in the Ceylon Police-Force is partial to the police view;...who is there to say what happens in his chambers”. Court held that the defendant's language, as interpreted in the innuendoes, amounted to contempt of Court.⁴⁴ In *In the matter of D.M.S.B. Dissanayake*,⁴⁵ the respondent was convicted for contempt of Court punishable under Article 105 (3) of the Constitution and sentenced to a term of two years rigorous imprisonment for making statements which were interpreted as being an attempt to undermine the public confidence in the judiciary and to adversely impact upon the due administration of justice.⁴⁶

In the matter of *Attorney-General v. Vaikunthavasan*,⁴⁷ the respondent published an article containing a matter which was calculated at prejudicing a fair trial of a case that was then pending before a Magistrate's Court. The Court held that an offender found guilty of contempt of Court should not be permitted to go unpunished merely because he acknowledges his offence and expresses regret.⁴⁸ In the case of, *In the matter of Hulugalle 1936*,⁴⁹ the respondent was charged with contempt of Court in respect of certain passages appearing in a leading article, published in the newspaper. The article entitled “Justice on holiday”. Court held that the article imputed a serious breach of duty to the Judges of the Supreme Court and further held that the article was calculated at bringing the Supreme Court into contempt and to lower its authority.⁵⁰

GROUNDLESS CRITICISM OF JUDICIARY AND ITS IMPACT UPON THE RULE OF LAW

Judicial independence is a pre-requisite to the rule of law.⁵¹ According to principles of the rule

³⁷ In the Matter of the Application of John Ferguson for a Writ of Prohibition against the District Judge of Colombo [1874] 1 NLR 181.

³⁸ [1874] 1 NLR 181, 190 (Morgan ACJ).

³⁹ [1978-79-80]1 Sri. L.R. 278 (Samarakoon CJ).

⁴⁰ Justice Michael Kirby, ‘Attacks on Judges: A Universal Phenomenon’ (American Bar Association, Section of Litigation, Winter Leadership Meeting, Maui, Hawaii 5 January 1998) <http://www.hcourt.gov.au/assets/publications/speeches/former-justices/kirbyj/kirbyj_maui.htm> accessed 07 August 2018.

⁴¹ Justice Dr. A.R.B. Amerasinghe, *Judicial Conduct Ethics & Responsibilities* (2nd edn, Opro 2014). 179

⁴² Arthur Selwyn Miller, ‘Public Confidence in the Judiciary: Some notes and reflections’ (1970) 35 (1) Law and Contemporary Problems 69, 92.

⁴³ *Director of Public Prosecutions v. Francis and Anor* (No 2) [2006] SASC 261 as cited in (Duncan Kerr, ‘News as entertainment and celebrity: The judge in an era of familiarity (Confidence in the Courts Conference, Canberra, February 2007).

⁴⁴ In the matter of *Armand de Souza Editor of the Ceylon Morning Leader* (1914) 18 NLR 33.

⁴⁵ [S.C. Rule 1/2004].

⁴⁶ *ibid* Rule 1

⁴⁷ (1951) 53 NLR 558.

⁴⁸ *ibid* 565 (Basnayake J).

⁴⁹ *In the matter of a Rule under Section 51 of the Courts Ordinance on H.A.J. Hulugalle, Editor, “Ceylon Daily News”*(1936) 39 NLR 294.

⁵⁰ *ibid* 305 (Abrahams CJ).

⁵¹ The Bangalore Principles of Judicial Conduct 2002, Principle No. 1.; and Justice Dr. Shirani A. Bandaranayake, ‘The Rule of Law and Public

of law, no one could be lawfully restrained or punished except for a violation of the law and everyone is governed equally by the law. Ensuring equality of treatment to all before the Courts is essential to the due performance of the judicial office.⁵² The mere criticism of the judiciary and judicial independence could make people disbelieve the aforesaid principles of rule of law. In *The State v. Pt. Ram Chander Sharma*,⁵³ it was held that the maintenance of the dignity of the Courts is one of the cardinal principles of the rule of law in a free democratic country and when the criticism which may, otherwise be couched in language that appears to be mere criticism results in undermining the dignity of Courts and the course of justice in the land, it must be held repugnant and punished.⁵⁴ The Court in *In re Arundhati Roy*,⁵⁵ held that "Rule of Law is the basic rule of governance of any civilised democratic policy;...it is only through the Courts that the rule of law unfolds its contents and establishes its concept;...for the judiciary to perform its duties and functions effectively and true to the spirit with which it is sacredly entrusted, the dignity and authority of the Courts have to be respected and protected at all costs;...the confidence in the Courts of justice, which the people possess, cannot, in any way, be allowed to be tarnished, diminished or wiped out by contumacious behaviour of any person..."⁵⁶

The Sovereignty of Sri Lanka is vested in the people.⁵⁷ It is a combination of legislative, executive, judicial bodies, fundamental rights and franchise. The judicial powers of the people shall be exercised by Parliament through Courts, Tribunals and Institutions.⁵⁸ Hence, an unfair criticism of the judiciary is a criticism of the judicial powers of the people which is an undeniable component of the sovereignty of Sri Lanka. In *Hewamanne v. De Silva*,⁵⁹ it was held that the powers vested in the judges to safeguard the welfare and the security of the people is a delegated part of the sovereignty of the people.⁶⁰ Contempt against the judges is therefore an insult offered to the authority of the people and their Constitution.

On many occasions, people merely criticize the judiciary due to its delay in justice without properly analysing whether there were factors beyond the control of the judge. According to Miller, delay in justice is not necessarily attributable to the judges alone; there are instances where judges may be unable to reach prompt decisions after the trial, possibly because the issues and evidence are so complex.⁶¹ The remedy to avoid delays in justice is to expedite the process.⁶² For instance, in order to avoid delays in criminal justice, judges were informed to ensure that indictments be served as early as possible after they are received.⁶³

In the *Attorney-General v. Butler*,⁶⁴ Court held that any publication which are calculated, or have a tendency to impair confidence in the rule of law,...constitute contempt of Court unless they are made...to a proper respect for Courts as institutions established to administer the law in the interests of order, and the good government of the country.⁶⁵ Court in *Gallagher v. Durack*,⁶⁶ held that the authority of the law rests upon public confidence, and it is important to the stability of society that the confidence of the public should not be shaken by baseless attacks on the integrity or impartiality of Courts or judges.

As held in *Sacher v. United States*,⁶⁷ judges in certain occasions exhibit vanity, irascibility, narrowness, arrogance and other weaknesses to which the human flesh is heir. Court in *In re Johnson*,⁶⁸ held that judges would make mistakes as they are human beings and not robots woven from steel mesh. Even if the judge knows the parties in person that would not be harmful to the justice as long as he performs his duty honestly. The mere fact that a party or a material witness being known to the judge is not a reason for the presiding judge to disqualify himself from hearing the case.⁶⁹

In *Chandradasa Nanayakkara v. Liyanage Cyril*,⁷⁰ the accused had addressed the Magistrate in a rude manner, abused and threatened him. It was held by Court that the outrageous nature of the acts committed by the respondent constitutes not only an affront to the dignity and authority of

Confidence in the Judiciary' (2010) V02 Judges Journal 11, 17.

⁵² The Bangalore Principles of Judicial Conduct 2002, Principle No. 5.

⁵³ AIR 1959 P H 41; 1959 CriLJ 81 (Punjab-Haryana High Court).

⁵⁴ *ibid* para [6] (Khosla J).

⁵⁵ [2002] 3 SCC 343; [2002] Contempt Petition (cr.) 10 of 2001 (Supreme Court of India).

⁵⁶ *ibid* (Sethi J).

⁵⁷ The Constitution of Sri Lanka, art 3.

⁵⁸ *ibid* art 4 (c).

⁵⁹ [1983] 1 Sri. L.R. 1.

⁶⁰ *ibid* 109 (Wanasundera J).

⁶¹ Arthur Selwyn Miller, 'Public Confidence in the Judiciary: Some notes and reflections' (1970) 35 (1) Law and Contemporary Problems 69, 82.

⁶² *ibid* 82.

⁶³ Judicial Service Commission (JSC) Circular No.272 of 2002.

⁶⁴ [1953] NZLR 944 (SC).-

⁶⁵ *ibid* at 946 (Fair J).

⁶⁶ (1983) HCA 2; and (1983) 152 CLR 238, 243 para [4] (Gibbs CJ., Mason, Wilson and Brennan JJ).

⁶⁷ *Sacher v. United States* (1952) 343 U.S. 1.

⁶⁸ *In re Johnson* (1978) 483 Pa. 227, 395 A.2d 1319.

⁶⁹ Judicial Service Commission (JSC) Circular No.287 of 2004.

⁷⁰ [1984] 2 Sri. L.R 193.

Court, but also a direct challenge to the fundamental supremacy of the law itself and therefore it amounted to contempt of Court.⁷¹ According to Justice Michael Kirby, attacks on judges by inaccurate generalisations, panders to public prejudice. It reinforces stereotypes concerning the judiciary. Such conduct is unworthy of countries that claim to uphold fundamental rights and the rule of law.⁷² For instance, if the ‘web mafia’ continue to attack upon the judiciary, ‘the people would lose the trust they have in the judiciary and take up arms to settle their scores; they would no longer go to Court’.⁷³

DEALING WITH UNFAIR CRITICISM

If proper responses have not been taken against mere scandalising the Court, it would definitely affect law and order. In view of Justice Kirby, “It seems now to be an accepted obligation of Chief Justices and other senior Judges to respond, on behalf of their Courts, to attack on the Courts, their judgments, their personnel or the administration of justice itself. It is also a responsibility of the Bar to defend the judiciary, to correct blatant misinformation and to remind politicians, the media and others of the precious heritage of judicial neutrality and independence”.⁷⁴ The Lordship has further held, “Leaders of the legal profession, whatever their own general political persuasion, should speak up where judges are unfairly criticised by politicians and others for doing their independent duty. The Attorney-General, as the traditional leader of the legal profession, should do so in appropriate cases”.⁷⁵

In the view of Justice Dr. A.R.B. Amarasinghe, ‘the bold spirits on the bench should be mindful of their duty to safeguard public

confidence in the judiciary’.⁷⁶ It is the duty of each generation of judges to ensure that public confidence in the judiciary is maintained.⁷⁷ Judges should not engage in conduct incompatible with the diligent discharge of judicial duties.⁷⁸ Judicial discretion must be exercised according to law and not humour.⁷⁹

Furthermore, the political leaders should defend the judicial institution and individual judges when they come under improper personal and political criticism for performing their duty. No political interference from any quarter should be tolerated by the judiciary. The judiciary should decide matters before them impartially without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.⁸⁰

CONCLUSION

Despite every ignoble criticism, judges should mete out justice come hell or high water. In the view of Lord Francis Bacon, the place of justice is a hallowed place. Members of judiciary are supposed to perform a function that is truly divine.⁸¹ If the independence of the judiciary comes under suspicion, it directly impacts upon the public confidence in it.

The mere criticism of the judiciary and judicial independence could make public disbelieve the principles of rule of law. People should not make sweeping statements based on prejudices against such a holy institution like the judiciary. If the public confidence in the judiciary is eroded, law and order which is sacrosanct could collapse unleashing a chain of distressing events. Therefore, all those who have the welfare and the interest of justice should be sensitive to this issue and contribute to strengthen and uphold the public confidence in the judiciary in every possible avenue.

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⁷⁵ *ibid* p1.

⁷⁶ Justice Dr. A.R.B. Amarasinghe, *Judicial Conduct Ethics & Responsibilities* (2nd edn, Opro 2014) 441.

⁷⁷ *ibid* 182; as cited in Commentary to Canon I, American Bar Association Model Code 1990, National Judicial College, Modern Judicial Ethics, p 28.

⁷⁸ The Bangalore Principles of Judicial Conduct 2002, Principle No. 6.7.

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