

Commonwealth Law Conference

Chief Justice Calls for a 'Just Social Order'

By AJIT JAIN

TORONTO — Chief Justice A.M. Ahmadi of the Supreme Court has appealed for a just social order to bring the different communities in India together.

Speaking on human rights, diversity and community at the 11th Commonwealth Law Conference in Calgary recently, Ahmadi suggested that efforts be made to foster the "spirit of fraternity by the ideologies of humanism and acknowledgment of the rights of fellow citizens."

search for truth."

Sorabjee maintained that court critics overlooked that it was "the notorious tardiness of legislatures and the callous inertia of the executives in redressing violations of fundamental rights which provide the occasion for judicial intervention."

Speaking on the Indian experience in "litigating in the public interest for protecting and promoting human rights," he declared that in cases where the executive refused to carry out the legislative will, or ignored or thwarted it, "it is surely legitimate for

Photo right, at the recent Commonwealth Law Conference in Calgary, from left, former Solicitor-General of India Soli Sorabjee, Calgary based lawyer Shirish P. Chotalia, who was one of the panelists at the conference, Chief Justice A.M. Ahmadi, and Mrs. Ahmadi. Photo below, from left, Chotalia, Justice Richard Goldstone of South Africa and former Canadian Prime Minister Kim Campbell at the conference.



He considers those factors important, he said, "to remove the feeling of deprivation from the minds of the people" and to unite communities. He called that "overwhelmingly a matter of emotional bond between communities."

The role of the media, educational institutions and social reformers in this area "cannot be exaggerated," he added.

Keynoting the conference was Michael Ignatieff from London. Panel speakers included former Canadian Prime Minister Kim Campbell and Shirish P. Chotalia, a lawyer based in Calgary.

Chotalia made a detailed presentation on "law, justice, truth and reconciliation" from a lawyer's perspective, saying: "Law should correct inequity and result in fairness." In the presence of such legal luminaries like Ahmadi and former Indian Solicitor General Soli J. Sorabjee, she emphasized:

"Courts have the magnanimous task of deciphering the objective truth, which is often difficult to do within the confines of an adversarial system. Indeed, courts must divest themselves as far as possible from evaluating issues of provincial morality at the expense of fairness and justice."

The ethical duties of Canadian lawyers is "to be first and foremost officers of the court," she said, adding, "This is the quintessence of our role within the justice system, as we aid courts in their

courts to step in and insure compliance with the legislative mandate."

"Especially when the court is apprised of and is satisfied about a gross violation of basic human rights," he added, "it cannot fold its hands in despair and look the other way."

"It must readily respond by adopting certain operational principles within parameters of the constitution, and pass appropriate directions which are ancillary to its jurisdiction of the enforcement of fundamental rights in order to render full and effective relief."

Ahmadi conceded that the existence of "backward classes within the majority Hindu community" was an important aspect of "inequality in Indian society." "Affirmative action, in the form of reservations in admission to educational institutions and government jobs, has accordingly come about," he noted.

Chotalia largely deals with human rights cases. She recently handled the case involving the right of Sikh officers in the Royal Canadian Mounted Police to wear turbans.

"Whether we are negotiating corporate contracts, litigating custody rights or addressing charter arguments, our ethical conduct serves and protects the interests of a justice system operating within a secular society," she asserted.