

Chairman`s visit to Malaysia- Note to the Press

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The Chairman, Law Commission of India and the Law Commissioner of Canada were requested by the Malaysia Bar Council and its Law Reform and New Legislation Committee to participate in the “Forum for creation of a Law Commission in Malaysia”. The Forum conducted the meeting on March 7, 2002 at Kuala Lumpur.

The Forum was declared open by Datuk Seri Utama Dr Rais Yatim, Minister in the Malaysia Cabinet connected with law and he gave the Keynote address. The Chairman of the Law Commission of India, Sri Justice M. Jagannadha Rao and the Law Commissioner of Canada, Mr. Alan Buchanan referred to the experience of Law Commissions in the respective countries. Dr. Cyrus Das, Advocate and President of the Commonwealth Law Association and Prof. Dato’ Seri Visw Sinnadurai, Former Judge High Court, Malaysia participated. Ms. Salmah bte Abdu Rahman, the present Law Revision Commissioner in the Chambers of the Attorney General, Malaysia presented the broad outlines of proposals to the effect that the Law Commission for Malaysia will take up for law reform and law revision such subjects as may be referred to it by the Attorney General and will be guided by an Advisory Council representing the Bar, Bench, NGOs and others. The Bar Council of Malaysia presented a draft Bill for the constitution of a Law Commission for Malaysia, for consideration by the Legislature.

Justice M. Jagannadha Rao, Chairman of the Law Commission of India after referring to the fact that in most countries the Commissions are constituted by statutes, pointed out that in India the First Law Commission was established in 1835 under the British Charter Act of 1833 of which Lord Macaulay was its Chairman and that the said Commission drafted the Indian Penal code, 1860. The Second Law Commission was constituted by the Charter Act of 1853. The Third Law Commission which was constituted in 1861 resigned in 1870 as Government wanted to modify the drafts prepared by the Commission. The Fourth Law Commission was constituted in 1879. The Indian Penal Code, 1860, drafted by Lord Macaulay, the Indian Contract Act, 1872 and the Indian Evidence Act, 1872 drafted by Sir James Stephen were bodily copied into the laws of Malaysia,

Singapore and Sri Lanka. After independence, the First Law Commission was constituted in India in 1955, headed by our first Attorney General, Sir M.C. Setalvad. It was pointed out by Justice Rao that the Indian Law Commission which is reconstituted every three years, has so far submitted 179 Reports to the Government of India, of which 96 have been implemented, 45 are under consideration, 4 have to be tabled in Parliament, while 34 were not accepted. Justice Rao emphasized that, whether a Law Commission was statutory or otherwise, it must be independent and be able to take up law reform suo motu also, apart from reference by Government and that it should express its views in an independent manner, leaving it to the Government whether to accept the Report fully or partly or not to accept them. Secondly, before making recommendations, the Commission must consult all sections of the public and NGOs, receive responses and take them into account.

The Bar Council of Malaysia and the Law Commissioner, Malaysia (in the Attorney General's office) thanked the Indian Law Commission and the Law Commission of Canada for presenting their experience, and for their valuable suggestions.

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