



the global voice of
the legal profession®

His Excellency Shri Ram Nath Kovind
President of India
Rashtrapati Bhavan, President's Estate
New Delhi,
Delhi, 110004
India

11 March 2020

**Letter to His Excellency, Shri Ram Nath Kovind, President of India, from the
International Bar Association's Human Rights Institute**

Your Excellency,

We are writing to you on behalf of the International Bar Association's Human Rights Institute (IBAHRI) to express our concern over the transfer of Justice S Muralidhar from the Delhi High Court to the Punjab and Haryana High Court, seemingly in response to his expression of 'anguish' over the failure of the New Delhi police to counter violence between Muslims and Hindus.

The International Bar Association, established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 160 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

The IBAHRI has been informed that Justice Muralidhar was notified of his transfer on the very evening that followed his criticism of the Delhi Police. It has been reported that Justice Muralidhar asked that the Delhi Police ensure the safety of all those injured in the violence at a hearing at his residence on Tuesday 25 February. On 26 February, he expressed 'anguish' over the Delhi Police's failures to counter violence whilst hearing the case in court and to register 'First Information Reports' against political agitators spreading hate speech with the intent to fuel social unrest. In the immediate aftermath of this hearing and comments, Justice Muralidhar was issued a notification of transfer from the Government of India on the evening of 26 February.

It has also been reported to the IBAHRI that although Justice Muralidhar reportedly gave prior consent to this transfer on 12 February 2020, he was not given appropriate advance notice. This unusually prompt transfer of a senior judge critical of police intervention at a time of alarming social unrest, raises concerns of potential undermining of the independence of the judiciary in India. The right of the judiciary to hold the government to account is fundamental to the rule of law, and there should be no reprimand for a judge using his independent voice.

London

São Paulo

Seoul

The Hague

Washington DC

4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom Tel: +44 (0)20 7842 0090 Fax: +44 (0)20 7842 0091 www.ibanet.org



the global voice of
the legal profession®

Judicial independence is a vital component of democratic society and a foundational pillar of the rule of law. If it is established that the decision to hastily finalise the transfer of Justice Muralidhar was in fact influenced by improper motivations, this would provide evidence of transgressions of India's domestic and international law obligations. The IBAHRI respectfully wishes to draw your attention to said provisions.

The Preamble of the Universal Declaration of Human Rights states that 'it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.' Furthermore, Article 10 guarantees entitlement for all, in full equality, to a fair and public hearing by an independent and impartial tribunal in the determination of their rights and obligations, and of any criminal charge against them.

Article 2(3) of the International Covenant on Civil and Political Rights states that State parties should ensure that 'any person whose rights or freedoms, as herein recognised, are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.' Article 14(1) of the Covenant provides for equal entitlement by all to a fair and public hearing by a competent, independent and impartial tribunal, established by law in the determination of any criminal charges against them or of their rights and obligations in a suit at law.

Article 14 of the Constitution of India states that equality before the law and the equal protection of law within the territory of India shall not be denied to any person. Article 50 directs the state to 'take steps to separate the judiciary from the executive in the public services of the State.'

This year also marks the 30th anniversary of the United Nations' Basic Principles on the Independence of the Judiciary, which require judicial independence to be guaranteed by the State. Principle 4 dictates that there must be no inappropriate or unwarranted interference with the judicial process. In this important year of celebrating its anniversary, it is essential to consider the importance of these Principles for the protection of the judiciary.

In light of the above, the IBAHRI calls on your Excellency, as protector of the Constitution, to assess the impartiality of the decision to transfer Justice Muralidhar and ensure that no improper influence dictated the outcome of this process, and thus to guarantee the independence of the judiciary and the integrity of the Constitution. We also urge you to consider the resolution of the Delhi High Court Bar Association countering this transfer and consider their concerns about the impact this transfer will have on the fair delivery of justice.

London

São Paulo

Seoul

The Hague

Washington DC

4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom Tel: +44 (0)20 7842 0090 Fax: +44 (0)20 7842 0091 www.ibanet.org

International Bar Association is incorporated as a Not-for-Profit Corporation under the laws of the State of New York in the United States of America and is registered with the Department of State of the State of New York with registration number 071114000655 - and the liability of its members is limited. Its registered address in New York is c/o Capitol Services Inc, 1218 Central Avenue, Suite 100, Albany, New York 12205.

The London office of International Bar Association is registered in England and Wales as a branch with registration number FC028342.



the global voice of
the legal profession®

We would be grateful to receive your assurances that you have received our letter and that our concerns will be addressed as a matter of urgency.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Anne Ramberg". The signature is fluid and cursive, with the first name "Anne" being more prominent than the last name "Ramberg".

Anne Ramberg
IBAHRI Co-Chair

A handwritten signature in dark ink, appearing to read "Mark Stephens". The signature is more angular and less cursive than the one to its left, with a clear "M" and "S" being the most distinct parts.

Mark Stephens CBE
IBAHRI Vice-Chair

London

São Paulo

Seoul

The Hague

Washington DC

4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom Tel: +44 (0)20 7842 0090 Fax: +44 (0)20 7842 0091 www.ibanet.org

International Bar Association is incorporated as a Not-for-Profit Corporation under the laws of the State of New York in the United States of America and is registered with the Department of State of the State of New York with registration number 071114000655 - and the liability of its members is limited. Its registered address in New York is c/o Capitol Services Inc, 1218 Central Avenue, Suite 100, Albany, New York 12205.

The London office of International Bar Association is registered in England and Wales as a branch with registration number FC028342.