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Remarks by the Honorable Jonathan Lippman

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ACCESS TO JUSTICE CONFERENCE SEPTEMBER 11, 2001

*Jonathan Lippman,
Chief Administrative Judge
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In the midst of all the substantive discussions about access issues today, I want to do something a little different. I want to focus on the foundation, the underpinning, the “why” of access to justice and its relationship to the moral code that binds us, as individuals, in our daily conduct toward one another.

I think about how lucky we are to live in a democratic society, how important the law is in our lives, how far we have come in trying to establish a just society, and how far we have to go. The foundation of that just society is based on a Judeo-Christian culture that goes as far back as the giving of the Ten Commandments, from which our subsequent law and jurisprudence can be traced.

How truly remarkable that, if we strip away the specifics of our countless rules and statutes, which cover issues unimaginable to previous generations, we can distill our moral code of behavior back to the Commandments and Biblical exhortations. Furthermore, these basic tenets are found in other cultures throughout the world. So much of what we do in the courts today, and of what I talk and write about as chief administrative judge, is related to the fundamental precepts upon which our culture and society are based.

The Bible emphasizes justice in the many chapters that lay out the administration of law. I am particularly envious of the simple judicial system it describes. It even includes appellate review. In one chapter, the justice system is summed up neatly in three sentences:

You shall appoint magistrates and officials for your tribes, . . . ,
and they shall govern the people with due justice. You shall not
judge unfairly: you shall show no partiality, you shall not take
bribes. Justice, justice shall you pursue, that you may thrive
. . . .¹

There is, captured in these few phrases, a supreme emphasis on the equitable application of the laws, a repeated admonition to

1. *Deuteronomy* 16:20.

hear the rich and poor, high and low, alike. This emphasis on equal justice has a particular resonance for me, for I believe it is embodied in the paramount theme of the court system today.

I'm referring to what we call "access to justice." Too many of our citizens never feel that justice is available to them, the same justice that most of us take for granted as our "God-given" right. How can we fulfill the injunction to "pursue justice," just as necessary today as from time immemorial, when a significant segment of our population feels excluded from its dispensation?

One explanation of the text that I cited to you earlier says that the word "justice" is repeated in the final verse because in matters of justice one may never stand still. Notwithstanding the gains we have made in the courts, this urgency has informed our recent efforts to focus the legal profession, the judiciary, and the public on the growing need to ensure that everyone in our society has equal access to justice.

The focus of these efforts is to provide legal representation for those who cannot afford it. You are well aware of our drive to increase rates for 18-B attorneys² so that suitably qualified lawyers are available to represent, in both criminal and family matters, individuals who do not have the means to retain a lawyer. Our efforts in this regard are complemented by an ongoing commitment to civil legal services for the poor, services that have faced great difficulties at a time when our society's most vulnerable can least afford it.

I hope you are equally familiar with the efforts we have made to increase awareness of the need for attorneys to perform pro bono work and to thereby increase the number of attorneys who actually do so. This can be done in so many ways, individually or through bar associations, providing not only sorely-needed legal services to those who cannot afford them but also a tremendous sense of satisfaction to the volunteer attorney, who may now also earn CLE credits through the performance of pro bono work.

We are also currently engaged in a project at the local level around the State to better educate the public about how the justice system works and, in particular, how the different courts work, so that those most in need, perhaps with home or family at stake, are not deterred from pursuing their rights by daunting rules and procedures written in an unfamiliar language. We have also established offices to assist self-represented litigants, so they can better

2. N.Y. COUNTY LAW ART. § 18-B (McKinney 1991) (authorizing assigned counsel for indigent criminal and family court litigants).

navigate a system that requires a road map for the uninitiated—a system that can and must be simplified and restructured if we are to truly serve all of our citizenry.

All of these efforts have been jump-started by the historic step that the New York State Courts took in 1999 of publicly committing the judiciary's leadership and resources to expanding access to justice with the appointment of a deputy chief administrative judge for justice initiatives, Juanita Bing Newton. As you know, Judge Newton was made responsible for working with the legal services community to strengthen the delivery of legal services to poor and moderate income New Yorkers; address the needs of self-represented litigants; increase the availability of pro bono services; and expand community education and outreach to every corner of the State.

I can honestly say that there is no better decision that the chief judge and I have made than to appoint Judge Newton to this task. There is no other state judiciary in the country that has taken the step of creating a statewide office at the highest level dedicated exclusively to promoting access to justice, and there is no other judiciary in the country that has a Judge Newton pushing the agenda forward day-in and day-out.

In these and other ways, I believe that the court system is on the path to “doing justice”—and by no means standing still—by helping to ensure that the “poor” and “low” are, in fact, heard. We are all, especially as lawyers and judges, obligated to pursue this goal. An ancient sage once said, “The sword comes into the world because of justice delayed and justice perverted.”³ What more extreme or more basic example of justice “delayed” or justice “perverted” than when an aggrieved party does not have access to justice in the first place? This conference is a fitting opportunity to renew our dedication to answering this need. “Justice, justice,” we must all continue to pursue, for rich and poor, high and low alike, as we practice our professions and live our daily lives, bound by a moral code laid down long ago and still relevant today.

3. Mishna, Pirkei Avot (Ethics of our Fathers) 5:11.

