

**SPEECH OF HON'BLE MINISTER OF LAW AND JUSTICE
AT THE INAUGURATION OF SEMINAR-CUM-TRAINING
PROGRAMME FOR YOUNG LAWYERS & STUDENTS
ORGANISED BY THE BAR COUNCIL OF INDIA
AT DEHRADUN ON 4TH JUNE, 2016.**

It is a matter of great pleasure that Bar Council of India is organizing a Seminar-cum-Training Programme for young lawyers and students. It is a privilege for me to participate in this function with the galaxy of leaders from the legal fraternity, the judiciary, the Bar and the field of legal education.

In 1927, Felix Frankfurter wrote:

"In the last analysis, the law is what the lawyers are. And the law and lawyers are what the law schools make them."

As we all know, the Bar Council of India is a statutory body that regulates and represents the Indian Bar. The Bar Council prescribes standards of professional conduct and etiquette and exercises disciplinary jurisdiction. It sets standards for legal education and grants recognition to Universities whose degree in law will serve as a qualification for students to enroll themselves as advocates after graduation.

In our freedom movement, the prominent freedom fighters like Dadabhai Naoroji, Surendranath Banerjee, Madan Mohan Malviya and Motilal Nehru, were all lawyers by profession. The eminent lawyers used their legal knowledge to save many nationalists and revolutionaries from the clutches of the British. The father of the Nation, Mahatma Gandhi, our first Prime Minister Pt. Jawharlal

Nehru, our first President and the Chairman of the Constituent Assembly, Dr. Rajendra Prasad, the First Governor General, Shri C. Rajgopalachary, and the Chairman of the Drafting Committee of the Constituent Assembly Dr. B.R. Ambedkar were also eminent lawyers. Perhaps it is the understanding of law and its relation to society that prompted the founding fathers to devote the energy required to evolve our Constitution of unprecedented magnitude in both scope and length.

An Advocate is an integral part for the administration of justice. From the ancient times, the legal obligation of the Advocates to conduct the case of a poor litigant without reward, when so required by the Court, has been recognized not only in our country but also in other Countries. To ensure justice to poor and marginalized sections of the society, an Advocate is required to provide them legal assistance even when they are not in position either to adequately pay him for his services or pay him at all. Legal profession has to ensure that the rule of law is maintained and preserved.

Democracy is our heart and soul. We have resolved to secure to all citizens justice – social, economic and political; liberty and equality. These are inalienable facets of our Constitution and cannot be amended even by the Parliament. Legal profession has to take the lead by learning lessons from great freedom fighters, Constitution makers, Parliamentarians and others belonging to legal profession who have built the nation and its institutions brick by brick. All their efforts and sacrifices will go waste if the legal profession does not take the lead which, I am sure, it will as in the past. What is needed is the genuine efforts which never go waste.

The need is of wholehearted devotion and commitment. A lawyer has obligations towards society as well as courts.

Our society expects the Bar to render professional services in the nature of legal aid, advice and advocacy, in a free and fearless manner, so as to bring about peace, prosperity and development for one and all. The judiciary can discharge its obligations in the administration of justice only with the total commitment and participation of its main component, the Bar. It would be safe to conclude that the efficiency of judicial administration largely depends on the competence of the Bar.

We are all aware that young law graduates now have a range of opportunities to choose. They can start their career by joining Bar and start practicing in Courts or join Law firms. With increasing opportunities to study and work in foreign countries, qualified lawyers can also look forward to careers in international institutions and multinational corporations. They can go for further study and become law professors. Joining the judiciary is also a good option. I do understand that many graduates would like to join corporate sector in order to ensure financial security for their families. My request to all these bright young lawyers is that once you have secured the means to live comfortably, you should consider moving towards careers in mainstream litigation i.e. practicing in Court, the judiciary and law-teaching.

So far as continuous legal education is concerned; it is the function of Bar Council of India and the State Bar Councils to impart proper training and learning to the young and working advocates. I find that the Bar Council of India has been undertaking such training

programs under its continuous legal education scheme, almost every month. And it has now proposed an amendment in the Act to make such trainings for the young lawyers compulsory.

Even the All India Bar Examination conducted by the Bar Council of India is doing very well. The Government is seriously thinking to amend the Act properly for introducing the concept of the All India Bar Examination for the improvement of standard of legal profession of the country.

It is a known fact that there is huge pendency in our Courts and other adjudicatory bodies. Because of honest and sincere efforts of our courts and of the Government, the pendency has declined to a large extent i.e. from 42.49 lakh to 38.70 lakh in different High Courts. Similarly, in Subordinate Courts, the pendency was about 2.7 crore which has come down to a large extent.

So far as the question of filling up of the vacancies in the Supreme Court, High Courts and Subordinate Courts is concerned, soon after the delivery of judgment relating to NJAC, the Government has started clearing recommendations made by the Supreme Court collegium. It has already cleared several recommendations for different High Courts and the Supreme Court and in the near future, the pending recommendations are also likely to be cleared. The Government has clearly stated that till the MoP is finalized, it will accept the recommendations of the collegiums as per the old and existing practice.

The Government has taken up the E-courts Mission Mode Project for universal computerisation of District & Subordinate Courts. Phase I has been completed and Phase II has been

approved with a total cost of Rs. 1670 crores. It includes installation of touch screen based kiosks, use of e-filing, e-payment and mobile applications and composite set of services through Judicial Service Centres. Case status information of over 6.11 crore decided and pending cases and 2.4 crore orders/judgments pending in District & Subordinate Courts are available on line. Over 4000 court officials and 14000 judicial officers are trained in computerisation. 14309 Laptops have been provided to judicial officers.

Development of infrastructure has geared up. More court halls are available than the working strength. 16513 court halls are available and 2447 are under construction. 14420 residential units for Judges are available and 1868 are under construction.

Under the activities of State Legal Services Authorities, 300 Para Legal Volunteers of Odisha, 400 Para Legal Volunteers of North Eastern States and 187 Para Legal Volunteers of J&K have been trained. Legal literacy has been incorporated into National Literacy Mission Authority (NLMA). Activities have started in States - 62 Districts of Uttar Pradesh and 31 Districts of Rajasthan. 46 Legal Aid Clinics were established in two most backward districts of Nagaland.

One of the possible ways to reduce pendency is to encourage litigants to opt for Alternative Dispute Resolutions methods like settlement through Lok Adalat, arbitration, mediation and conciliation. Even in criminal matters, where the plea bargaining and compounding of offence is permissible under the Criminal Procedure Code, parties may be persuaded to settle through these

mechanisms. Young and fresh law graduates may take lead in encouraging people at large for settlement through these methods.

In the 21st century, there is move towards globalization. Now boundaries of nations have become insignificant in the professions, trade and business. You all are aware that with the changes made by our Government in respect of Ease of Doing Business, a large number of foreign investors would be attracted towards India and invest funds in many sectors, may it be Information Technology, insurance, banking infrastructure, and even in retail sectors too. It is all because we have created a better environment and made our laws and policies investment friendly. These trans-boundary economic activities give rise to litigation also.

I must share with all of you that a new legislation namely, the Commercial Courts, Commercial Division and Commercial Appellate Division in High Courts Act 2015 has been enacted recently. The Act provides for establishment of Commercial Courts at the District level, Commercial Division and Commercial Appellate Division in High Courts for adjudication of 'commercial disputes of high value of Rs. one crore or more. Provisions of the Code of Civil Procedure, 1908 have also been amended by this Act so that time bound dispute resolution mechanism may be adhered to in disposal of such commercial cases.

Apart from this, we have also enacted the Arbitration and Conciliation (Amendment) Act, 2015 by which the Arbitration Act of 1996 has been amended. The amendments in the Arbitration law will help in making India a hub of International Arbitration. In the light of

these developments, perhaps there is a need to tune our Advocates Act with the changes taking place across the world.

It is common knowledge that globalization is transforming virtually every sector of world's economy and India is no exception. As globalization increases the flow of people and information across borders, it inevitably leads to inter-change of knowledge traditions. This process has important implications for law and its affiliated institutions and practitioners. Indian lawyers must keep pace with emerging trends of globalization and require innovative programmes of inter-disciplinary legal learning, as well as expertise in areas such as comparative law, intellectual property, corporate governance, human rights, international trade and investment and alternative dispute resolution.

With the advancement of technology, role of paper-based documents is slowly decreasing and instead documents in the electronic forms are more and more in use. In view of the enactment of Information Technology Act and consequential changes made in the Evidence Act, these documents in the electronic forms are no doubt admissible in the court, however, the genuineness and correctness of these electronic documents requires different kind of examination. Form of money transactions, whether in the daily household activities or in business, is also changing. Payment through plastic money is now more popular instead of cash. Online transactions are becoming popular. However, at the same time, cases of frauds and cheating in these transactions are also coming into light. Handling of these kinds of cases requires understanding, knowledge and experience of the technology involved in such

transactions. Therefore, our lawyers need to be better equipped with such knowledge.

Further, recently some new kinds of cases are reaching in courts for adjudication. Concept of surrogate motherhood, internet related issues are also coming to light. The rights and obligations of biological parents vis-a-vis surrogate mother and the custody of child in such cases are the issues emerging in the present time.

The Government, under the changed global scenario, thought it proper to allow entry of foreign lawyers and law firms. This is the need of the hour for the development, not only of the legal profession and the lawyers of the country, but also for the development of the country. The factum of reciprocity in such matters is to be examined by the Bar Council of India and therefore, I asked the Bar Council to examine this aspect and frame the relevant rules for this purpose. The Government has now received the draft rules from the Chairman, Bar Council of India and we hope to finalize the same very soon. We shall discuss the issue with Bar Council of India and do the needful in this regard.

I am confident that the Bar Council of India will ensure that legal profession becomes a beacon light of our society and polity, and provides a helping hand to the poor and needy. With these words, I thank the organisers for inviting me to this function.

Jai Hind
