



**Inaugural Address of
The President of India at
The Post Centenary Silver Jubilee
Celebrations of The Allahabad High Court
December 1, 1991**

Friends,

It gives me great pleasure to join this august gathering on the auspicious occasion of the Post Centenary Silver Jubilee Celebrations of this prestigious temple of justice. May I at the outset extend my cordial felicitations to the Chief Justice of the Allahabad High Court and to his distinguished colleagues on the Bench. May I also take this opportunity to convey my greetings to all those who are privileged to belong to the Allahabad Bar. This doubtless constitutes a proud moment for all of you and I fully share your sense of joy.

The Allahabad High Court has carved for itself a place of distinction, not just in the annals of judicial history but in Indian public life as well. While making singular contributions to our jurisprudence, it has enriched our nation's social, educational and political domains through its judges and lawyers who have given of their best to the moulding of our great nation.

No visitor to Allahabad can but recall the legends as well as the recorded history of this city situated at the sacred Sangam, the confluence of the three holy rivers—the Ganges, the Yamuna and the Invisible Saraswati. This has been, for centuries, a home and hermitage of the sages of India. This region fascinated grand monarchs like Asoka-Vardhana and, centuries later, Akbar the Great. Captivated by the serenity of this hallowed land, Akbar appropriately named it Allahabad, the abode of the Almighty. A fine blend of Vedic and Islamic cultures, of tradition and resilience, of conservatism and liberal thought has taken shape here, vindicating its location on the confluence—the Sangam—of rivers.

As you are all aware, after consolidating its territories around Calcutta, the East India Company, gradually spread its sway over the north-western belt of India. This area soon thereafter came to be referred to as the North-Western Frontier and was officially renamed the North-Western Frontier Province, most of which is now in Pakistan. Prior to the setting up of the Allahabad High Court in

1866 the then North-Western Frontier area was under the jurisdiction of the Calcutta High Court. But the new High Court of Allahabad took no time to equal the reputation of the parent Court. Lawyers from far and near came here to observe and profit from the performance of Allahabad's legal luminaries. Sir T. Muthusai Ayyar, the first Indian Judge and himself a great Judge, journeyed to Allahabad to meet a great Judge of this High Court Justice Syed Mahmood.

The Allahabad High Court grew up in importance as years rolled by. Great Judges like Mahmood, Morgan, Stanley, Lindsay, Sulaiman, PC Banerjee and Lal Gopal Mukharjee presided over the Benches of the High Court and raised its stature to great heights. Simultaneously, lawyers with great ability and leadership like Ajudhia Nath, Sir Sunder Lal, Pandit Motilal Nehru, Sir Tej Bahadur Sapru, Pandit Madan Mohan Malaviya, Purshottam Das Tandan, Dr. Kailash Nath Katju and Gopal Swarup Pathak led the Bar at the different points of time. Allahabad also gained national eminence through its contribution to the national struggle for freedom.

In the famous 'Chauri Chaura' case a large number of persons were accused of murder of police Officers of a Thana in Gorakhpur district. The appeal was argued in this Court by late Pandit Madan Mohan Malaviya, who succeeded in securing the acquittal of a large number of persons. In the 'Meerut conspiracy' case also a large number of persons were indicted for professing the communist philosophy but this Court delivered a memorable judgment upholding the concept of liberty. This Court is also known for its precedents and pronouncements in the areas of personal laws and of Constitutional issues.

True to its ancient heritage and modern accomplishments, present day Allahabad has continued to be a centre of intellectual eminence and a distinguished seat of justice and juristic thought. Today, as we celebrate the Court's 125th year, our freedom is a well established fact : mature, poised and self-assured. The Rule of Law is part of our system, a way of life, as is the Administration of Justice, an intrinsic part of our national life. As I said in my address to mark the Post Centenary Silver Jubilee celebrations of the Madras High Court, we borrowed the brick and mortar for our temple of Justice from England, but its presiding deity today is our own Awakened Conscience. Our legal system

today is equal to any other in the world and our lawyers rank among the eminent jurists of the world.

In the transition from serfdom to self government the legal community of India has played a major role. Rousseau once said that feeling comes before thought. Likewise, the sense of Justice has preceded Law. Sensitive lawyers and jurists have known that the concept of justice is older than that of law. Justice is both the cause and effect, the origin and the legitimate end of law.

“Peace” and “security” had long been regarded as Law's goals. But outstanding legal minds in the country soon realized that 'peace' and 'security' were empty concepts in a system where social, political and economic justice was denied to the people. They therefore decided that political freedom must be achieved as a condition precedent for ensuring justice.

Likewise, those at the helm of our renaissance saw that political justice in its widest and truest sense must encompass social and economic justice, that rules of law, equity and good conscience, must interlock with the rhythms and aspirations of the Indian people. Consequently, the Bar all over India identified itself with freedom struggle. The legal profession contributed stalwarts like Mahatma Gandhi, Motilal and Jawaharlal Nehru, Vallabhbhai Patel, Rajendra Prasad, C.R. Das, Rajaji, Prakasam, Satyamurti—to name only a few—who used their legal training and skills to further the cause of freedom. Major movements were planned and pioneered from 'Swaraj Bhawan' and 'Anand Bhawan' in Allahabad from where Motilal Nehru and Jawaharlal Nehru dedicated themselves to the service of the Indian people, initially through the medium of law. Many lawyers at Allahabad as elsewhere joined the freedom struggle at considerable sacrifice. Their names shall ever remain imprinted on the memory of future generations and their voices shall reverberate in the halls of this Court. Those personalities were, in the words of a poet:

*Grand old masters,
the bards sublime
whose distant foot-steps echo
through the corridors of time.*

The Founding Fathers of our Constitution lost no time in codifying the impulses that had actuated the national struggle.

Dr. Rajendra Prasad in his address in the Constituent Assembly on 25th November, 1949 said :

If the people who are elected are capable and men of character and integrity, they would be able to make the best even of a defective Constitution. If they are lacking in these qualities the constitution cannot help the country. India needs today nothing more than a set of honest men who will have the interest of the country before them.

(Unquote)

The Preamble to our Constitution declared that the people of India have given unto themselves a sovereign democratic Constitution to secure to all its citizens, among other things, social economic and political justice and equality of opportunity.

Political justice ensures to every citizen the right to participate in the governance of the country without discrimination, let or hindrance. Articles 14, 15 and 16 of the Constitution which guarantee equality before law and equal protection of law, non-discrimination in employment and equality of opportunity to every person are part and parcel of the concept of political justice enshrined in our preamble to the Constitution. Any attempt to deny the citizen of his right to free choice of his representatives by the nefarious practices of intimidation, violence, booth capturing or other is a violation of the constitutional guarantees and a crime against the fellow citizen. It has thus become the sacred duty of the Bench and the Bar to ensure that this assurance of political justice is not eroded.

Social justice comprises a number of concepts like abolition of untouchability, promotion of the welfare of Scheduled Castes, Scheduled Tribes and other weaker sections of society, education, health, protection of the environment, free legal aid etc. While some of the above rights are enforceable and some only directive principles they constitute the “conscience” of our Constitution. Together they form the core of the Constitution. The judiciary and the

Bar therefore become the custodians of these basic principles and they will have to safeguard them.

Conflict between individual rights and the social good is unavoidable. A society which does not render the greatest good for the largest number may either decay or go in for revolution. The machinery of law has to effect social changes in order to achieve the greatest good for the largest number of people. All this has brought in its wake altogether new types of litigation. Our people are sensitive to their rights guaranteed by the Constitution and seek the aid and intervention of the Court whenever their rights are threatened or infringed. No wonder litigation has swelled beyond all calculations.

Laws enacted for the purpose of securing to the citizen JUSTICE, LIBERTY, and EQUALITY are called in question in courts, by the parties whose individual interests are affected. The responsibility of courts has, thus, increased both in volume and measure. Unless courts inspire confidence in the common man that his aspirations are fulfilled, he will lose faith in the system.

Dr. S. Radhakrishnan, our sagacious former President in his address at your centenary celebrations said (and I quote):

If people lose respect for law and respect for the courts which administer law, it will be a bad day for us. It is essential for the country to respect law, for the Government of the country to respect law and for the courts to maintain the sanctity and purity of legal administration and dispensation of justice. That is absolutely necessary, if the rule of law has to be continued in this country as it has to be continued.

(Unquote)

Myriad problem confront us. As a Socialist-Democratic Republic, the State is called upon to endeavour to raise the standard of living of the masses, reduce the disparity between classes and ensure equality of opportunity to all groups, especially the weaker sections like women, scheduled castes and tribes. There is too little available and too many to share the available goods and services in the

country. The process of ensuring an equitable distribution among the people has flooded the courts with cases. The resultant delay in their disposal pose omit a daunting challenge. Justice is neither perceived as being readily available nor meted out expeditiously. The congestion in courts, mounting arrears and dilatoriness which characterise the routine trials in our courts are well known facts of contemporary life.

Law's delay are causing grave concern to the people. This is reflected in the number of interpellations put in the Parliament regarding the arrears in courts. This has also led to a search for alternative procedures for quicker disposal of cases. There is no gainsaying that with the enactment of large number of laws of the enforceable fundamental rights, the volume of work in courts has increased enormously. People have become more and more aware of their rights and are no longer willing to submit to arbitrariness any where.

The resort to writ jurisdiction has overburdened the entire judiciary. Oftentimes the established hierarchy for redress of grievances is bypassed and approach to the highest courts is resorted to under Articles 32, 226 and 227 of the Constitution. The recourse to Article 226 for the issue of writs not only for the enforcement of fundamental rights, but also for "any other purpose" has really opened the flood gates of litigation.

I am not suggesting any curtailment of this power; but it is worth considering whether it would not ease the burden of the highest courts if they are slow or selective in entertaining cases for which administrative or other remedies are available. The tendency to clutch at jurisdiction and expand the scope of judicial review has to be resisted by the judiciary itself. The United Nations Administrative Tribunal, of which I was the President for over a decade, observed a salutary rule that in administrative matters it will not substitute its judgment for that of the executive but would interfere only in cases where the decision of the executive was vitiated by prejudice, extraneous considerations or fundamental errors of procedure.

It is also a matter for consideration by the Bar whether efforts should not be made to reduce the length of hearings consistent with the needs of each case. I

would omit particularly urge lawyers to present their cases concisely. Oral presentations before the highest courts have been limited to a few hours in other countries. We may not go to that extent but we must realize that prolixity does not add to wisdom. I am making these suggestions, so that more drastic changes in procedure may not be contemplated. The legacy of British legal system has stood the test of time and any violent changes in them may cause harm to the administration of justice. We should not throw away the baby with the bath-water.

Justice Hidayatullah in one of his lecture quoted the eminent American jurist Dean Roscoe Pound who detailed the causes for dissatisfaction with the administration of justice. The learned Dean said inter alia:

“Our legal administration is archaic”;
 Our procedure is behind all times”;
 Our laws are crude”.

These observations appear to be universal and eternal, applicable to all countries and for all time. One of the reasons for delay between filing of claims and their final redressal arises from multiplicity of appeals in a hierarchy of courts. Litigants' tendency to gamble should not be encouraged by providing the force. There is no litigant who would not have appealed from the Supreme Court to Heaven itself, if there was a way of doing it. Nor do a large number of appellate courts ensure justice. Requirements of natural justice envisage that no one single person's decision should be final however wise or eminent that person may be; but not a succession of appeals.

Today much of the litigation arises from poor drafting of laws. Since social legislation has to cover new areas for which there are no precedents, a measure of imprecision has crept into the laws. Lack of adequate examination of the bills or examination by Select Committees of legislatures have necessitated greater judicial scrutiny. Parliamentary procedure provide for circulating Bills of national importance for eliciting public opinion. This would enable jurists and public workers to contribute to the framing of laws free from ambiguity and also reduce conflicting interpretations by a hierarchy of courts.

It is time that the Bench and the Bar put their heads together to find a solution to laws' delays. The institution of Lok Adalats which has done a commendable job in recent times may be further strengthened and more widely resorted to for speedy justice. Pre-trial compromises will shorten and reduce litigation and the judiciary may help in effecting them. I am afraid merely enlarging the strength of courts without making some structural changes in the current procedures and practices, will not help in reducing the mounting arrears in courts.

The Allahabad High Court has discharged its responsibilities in the last 125 years with distinction. The judges have displayed great wisdom, stout independence and strict impartiality in performing their duties. The Allahabad Bar has also maintained its high reputation for legal acumen and professional standards.

The Bench and the Bar have cooperated in achieving socio-economic reforms and upholding social justice. In a free society like ours, the judiciary plays a crucial balancing role. Society for its own temper depends upon an independent judiciary, a sagacious Bar and enlightened public opinion.

This Court has the proud distinction of having contributed as many as four Chief Justice of India—Mr. Justice K.N. Wanchoo, Mr. Justice M.H. Beg, Mr. Justice R.S. Pathak and the present Chief Justice Mr. Justice K.N. Singh.

Friends, the tasks of our national renaissance are as yet incomplete. We are yet to reach our goals of social justice. In this, Judges and lawyers bear a heavy responsibility. The traditions of this High Court and this city will. I am sure, inspire all of us to redouble our efforts in that direction.