



Address by

Hon'ble Justice S.A. Bobde

Hon'ble The Chief Justice of India

on the occasion of

North Zone-I, Regional Conference on

'Optimising Quality and Efficiency in Justice Delivery: Challenges and Opportunities'

1. I am reminded of an ancient saying which is a little harsh on those whose focus is. only money but it is worth considering. It comes from a conversation between the goddess of wealth Lakshmi and a wise man, it goes something like this:

पद्मे मूर्खजनेषु ददासि द्रविणं विद्वत्सु किं मत्सरः

नाहं मत्सरिणी न चापि चपला नैवास्ति मूर्खे रतिः ।

मूर्खेभ्यो द्रविणं ददामि नितरां तत्कारणं श्रूयतांः

विद्वान्सर्वजनेषु पूजिततनुः मूर्खस्य नान्या गतिः ॥

" Hey Lakshmi you bestow wealth on fools, are you jealous of learned people? I am not jealous; nor am I fickle, nor do I have affection for fools. I always bestow wealth on fools, but pray listen to the reason: A learned person is respected by everyone but a fool has no other recourse."

2. It gives me immense pleasure to be here with you all today. Such conferences are important because there are very few opportunities available for members from different levels of the judiciary to come together and brainstorm on matters of contemporary relevance. But brainstorming itself is not enough. Our job is to try and implement the solutions and in this context it's perhaps relevant to quote Abraham Lincoln, who said-"The best way to predict your future is to create it". We are all here to create an efficient Judicial future.
3. The idea of justice comes from the ancient concept of Dharma. It's perhaps the broader idea of Justice. But what does constitutional justice mean? The very first mention of the word "Justice", finds its place in the preamble of our constitution. It says 'we the people of India have solemnly resolved to secure to all its citizens : Justice, social, economic and political. Then comes the question, what does social, economic and political mean?
 - Social Justice means, everyone should be treated equally, irrespective of their cast, creed, religion or sex.
 - Economic justice means, no one shall be discriminated on the basis of economic footing.
 - Political Justice means, all the citizens of this nation, have equal political rights in terms of participation in the process of governance of the society.
4. What I have read out just now is merely the text but our duty as Judges is to realise the concept of justice, not merely by its text but by its spirit.
5. Constitution guarantees rights, acknowledges past inequalities, accommodates diversity, prescribes functions, and grants and limits state's (executive, legislature and Judiciary) powers. So, one way would be to merely see the Constitution as a list of what can and cannot be done, by instrumentalities created under the Constitution. Another way would be to see it as the voice of the people, a list of their expectations -an *aspirational* view, which includes higher values, like dignity, liberty, rule of law, etc., reflected especially in the silences in the Constitution.

6. To achieve the above mentioned aspiration, what we need and what we often like to discuss about is 'Independence of Judiciary'. Indeed it is needed but that's not enough. What we need today, along with an independent judiciary is an efficient Judiciary. As Thomal Sowell once said -" *Independence doesn't mean Judges independent of the laws they are sworn to protect*" and to protect the laws we're sworn to protect, we need an efficient Judiciary.
7. The foundation of the very existence of our Institution (Judiciary) is the belief in the Rule of Law. In India the historical foundations of rule of law far precede Greek or Roman prescriptions. In ancient India, the **Brihadaranyak-opanishad** quotes '*law is the king of kings, far more powerful than they are. Nothing can be mightier than the law by whose aid as that of the highest monarch, the weak may prevail over the strong.*'
8. Justice without adequate, affordable and effective access is merely an eyewash. Constitutional justice is achieved when the two views (functional and aspirational) are harmonised and quality access thereto is secured. Grand vision of justice, without adequate means of securing it and efficient means of delivering it would benefit none.
9. In my experience, I've learnt that the best way to address a concern is from its roots. In that context, Legal education is the nursery from which springs forth the harvest of our legal professionals and Judges as well. In several law schools, particularly the traditional models, the methodology is becoming obsolete with time. The teaching continues the pedagogic instead of androgogic formats.
10. It is now well established that passive learning method IS inappropriate for adult learning; and that participative, case studies, audio-visual and interactive methods alone contribute to deep learning and retention. The problem is compounded by the acute deficit of scholarly, well trained and inspirational faculty. The mushrooming of law schools has only aggravated the critical problem of ill-equipped law school finishers entering the professional stream.

11. This needs a radical and sustained reform, after a clinical but comprehensive and expeditious study of the etiology of this pathology. Since the quality of legal education directly impacts the profession and justice delivery, we can no longer afford to ignore the decline in the standards of legal education, nor can we be a distant spectator of this malady.
12. Most of the students from top law schools, prefer to practice before the Higher courts (High courts and the supreme court), less than a trickle move to the subordinate courts; the professional demography of legal professionals in the subordinate courts is predominantly from the sub-standard law schools. This is a matter of great concern because while constitutional courts may decide larger questions of law, the subordinate judiciary interacts at a much deeper level with the citizenry of the country. They decide the daily disputes of parties and reinforce the faith of the citizens in us, the judiciary.
13. Public faith in this institution is the ultimate guarantor for our vitality and longevity. This is possible only when our recruitment, performance and discipline protocols are specifically tailored and these are efficiently, neutrally and clinically administered, to the achievement of the deliverables expected from incumbents of this branch. Current recruitment protocols vary across geography, and almost all are not fine-tuned to the expected outcomes. It is pertinent to mention that most of the recruitment process of judges at subordinate level focus primarily on testing the knowledge of law sans testing the personality of the candidate. In this context, it is relevant to quote Naradasmriti - "*Let the king appoint, as members of the court of justice, honorable men of tried integrity (Sabhyas) who are able to bear the burden of the administration of justice.* "
14. At the law schools' level there appears the need to design curricula, specifically tailored to enable harvest of quality products to man judicial positions. One way to achieve this would be to engage Academics; experienced and well informed judges, serving or retired, in judicial education and training for law students. For example-The former director of the Federal Judicial centre, Washington, Judge Fogel is currently on sabbatical at the University

of Berkeley, engaged in judicial education and training of law students. Perhaps this is a model that could be considered.

15. Post the induction of Judicial officers, the evaluation of their performance is also an area of concern. Too disturbingly often, performance appraisal, recording of ACR's (Annual Confidential report) and consequent career progression is predicted on archaic, mechanical and often on deeply entrenched subjective predilections of Judges in the Higher levels of our hierarchy. There are unit systems, designed to ensure speedy and timely disposal but at times it is felt that Judicial officers have devised strategies to beat this system. Identifying cases which produce a healthy unit profile for oneself has become an established culture. Quality is resultantly a casualty.
16. Qualitative evaluation of the orders/judgments, assessed on the basis of carefully designed/identified parameters, such as knowledge of the law, analytical and drafting skills, language, non-exhibition of bias or vacuous rhetoric in the narrative, appreciation of evidence, principles of judicial precedents, robustness of reasons, and coherence of outcomes and allied areas could be designed and uniformly applied during performance appraisal.
17. Performers and non-performers are normally treated at par. We must address the distinction between dispensing justice and dispensing with justice, while we assess performance. Quality performance must receive due recognition and objectively reflect in career advancement.
18. *The judicial branch is the ICU of a constitutional democracy; and essentially a public service of a critical nature; not another public employment opportunity. There is no legitimacy or rationale for the existence of this branch if some of us are unable to deliver even the minimal quality of justice that is expected of this, sentinel on the qui vive.*
19. Judgeship must be made attractive in all respects. Currently the pay packages are quite satisfactory but the working conditions need a serious overhaul. Judges of the subordinate

judiciary are often seen to complain that even the weekends are not available for relaxation, reflection and family time. Several judges are seen to suffer stress, emotional distress and clinical depression. Judges are required to perform cognitive; not intuitive or mechanically repetitive functions. This requires emotional stability and cognitive equilibrium for optimal delivery. After all, emotional stability is a primary requirement for efficient delivery. And so, leisure time must form part of the calendar planning for our judges of subordinate judiciary.

20. A programme of this nature sets the stage for a collaborative effort to address contemporary challenges and concerns faced by the judiciary. I am confident that this programme would provide important learning points for all of you to take back home. Therefore, my expectation would be that you all engage in free and frank discussion to identify pressing concerns and possible solutions thereto. However, that must not be the end of it. You must remain engaged in continuing reflection on how administration of justice could be improved at the individual, local, regional and national level. In this I believe National Judicial Academy and State Judicial Academies have an important role to play. They must evolve beyond mere training institutions to becoming knowledge creators. They should also engage with each other to ensure continuing transmission of knowledge and best practices across all levels of the judiciary throughout the country. NJA and SJA must also undertake empirical studies to understand the bottlenecks in the access to justice. They should become Think-tanks for optimising quality and efficiency in justice delivery.

21. Let me conclude by acknowledging the efforts of Delhi High Court, National Judicial Academy and Delhi Judicial Academy for their efforts in putting together this programme.

Thank you, Jai Hind.