

**SPEECH OF SHRI D.V. SADANANDA GOWDA,**  
**HON'BLE MINISTER OF LAW AND JUSTICE**  
**ON THE LAW DAY, 26<sup>TH</sup> NOVEMBER, 2014.**

“Law is a pledge that the citizens of a state will do justice to  
one another”  
(-Lycophron, 3<sup>rd</sup>-Century B.C. Greek Poet and Scholar)

**INTRODUCTION:**

Hon'ble Mr. Chief Justice H.L. Dattu, Hon'ble Supreme Court Judges, Shri. Pravin H. Parekh, President, Supreme Court Bar association, Members of the Supreme Court Bar, other invitees and dignitaries, ladies and gentlemen,

it is my immense pleasure and privilege for being with you on the occasion of Law Day function and I am thankful to the organizers for giving me this opportunity to say few words on this auspicious occasion. November 26, 1949 is a red letter day in the history of our Constitution. It is the day on which we adopted our Constitution, which came into force on 26<sup>th</sup> January, 1950. It is in memory of that day since 1979 we are celebrating 'Law Day' on 26<sup>th</sup> November every year.

**PURPOSE OF LAW DAY:**

The real purpose of celebrating Law Day is to rededicate ourselves to the cardinal principles of (i) Rule of Law, (ii) Independence of the Judiciary and (iii) Independence of legal profession which form the solid foundation on which our Constitution is erected.

**AFFIRMING CONSTITUTIONAL OBJECTIVES:**

According to Bentham, laws should endeavor to promote the happiness of the greatest number. In order to achieve this object, there has to be a balancing of individual interests with the social welfare. Therefore, it is our fundamental duty to safeguard this belief of people.

### **CONCEPT OF JUSTICE UNDER the CONSTITUTION:**

Under our Constitution, Justice sets the ultimate goal for all of us to serve our nation. It is a mixture of natural and social justice as evident from the Preamble and Part IV of our Constitution. The concept of Justice being so important is used only twice in our Indian Constitution, i.e. in the Preamble and in Article 39 A. In the Preamble, it sets out as - to secure to all its citizens Justice - Social, economic and political and Article 39 A states that the State is to secure equal justice and free legal aid for the citizens. Articles 14 and 22(1) also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all. Legal aid strives to ensure that constitutional pledge is fulfilled in its letter and spirit and equal justice is made available to the poor, downtrodden and weaker sections of the society.

### **LEGAL PROFESSION IS DIFFERENT FROM OTHER PROFESSIONS:**

The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilized society. A lawyer has to conduct himself as a model for others, both in his professional and in his private and public life.

### **LEGAL SYSTEM IN INDIA IS THE NATURAL OUTCOME OF ITS DEEPER ROOTS IN TRADITION:**

Legal system in India is the natural outcome of its deeper roots in ancient Indian traditions. It has existed in India from the dawn of Aryan civilization. There is also sufficient evidence to prove that legal profession in India existed even when the first British Court was established in

Bombay in 1672. It existed during the Vedic period and the law has been recognized in our Vedas as 'Dharma'.

### **LEGAL PROFESSION – A NOBLE PROFESSION:**

The legal profession is known as a noble profession having high traditions and has been catering to the needs of the society for a very long time. Thus the members of this profession are expected to uphold those traditions and serve the society with sincerity and honesty. If such are the expectations from a noble profession, its members must conduct themselves in a way which may be worthy of emulation. (L.C. Goyal v. Suresh Joshi, (1999) 3 SCC 376 at page 383)

### **SENIOR ADVOCATES CARRY GREATER RESPONSIBILITIES:**

By virtue of the pre-eminence which senior counsel enjoy in the profession, they not only carry greater responsibilities but they also act as a model to the junior members of the profession. (T.V. Choudhary, In re, (1987) 3 SCC 258 at page 264).

### **ROLE OF ADVOCATES IN PROTECTING RULE OF LAW:**

You all are well aware that the legal profession in India is treated as an independent profession and is mainly regulated by the Advocates Act, 1961. In order to make our laws more effective to wipe out the tears from each and every crying eye, the 'bench' and the 'bar' has to work together with an intuition to work for the objectives of our Constitution. It is our turn to protect the values of our Constitution to make it more meaningful.

Justice delivery or administration of justice is one of the paramount functions of the State. We cannot be said to fulfill our social obligations unless we are able to promote justice on the basis of equal opportunity and provide free legal aid. A criminal trial cannot be said to be a free trial if the accused is not represented by a lawyer. We have our legal aid schemes and programmes. I urge members of the Bar to actively involve themselves in legal aid programmes.

### **ROLE OF JUDICIARY IN THE POST-INDEPENDENCE INDIA:**

In a democratic country like India, judiciary plays a vital role in governing a welfare society. As the custodians of the fundamental rights and freedoms of our citizens, our judiciary has been performing its role excellently.

I have no hesitation in stating that the judiciary has played an important role in upholding the rule of law and maintaining the fine balance of powers between the three organs of State. It goes to the credit of our judiciary that basic features of the Constitution have been defined and being protected fervently by the judiciary. This has really brought stability in the functioning of democracy. Judiciary has also been active in empowering citizens for enforcing their rights through public interest litigation. One must recognize and appreciate the role played by judiciary in protecting the environment in various occasions, including the setting up of Green Bench.

At the same time, the pendency of cases in the courts continues to be a cause of concern. We have to find ways to reduce the pendency. The initiative has to come from both the Government as well as the judiciary for the same. Urgent steps need to be taken to bring down the pendency of cases. Conventional methods may not yield much result. Hence we need to come out with alternative solutions to bring down pendency. In order to remove this hurdle. Apart from the initiatives taken by the Government, advocates have to play a pre-dominant role. On this occasion I appeal the bar at large to play a proactive role in mitigating the pendency of litigation.

The Government is very actively considering various steps in this direction in tandem with judiciary to reduce arrears of cases, like the alternative dispute resolution mechanism. These steps will aim at bringing down the number of cases which are being filed in courts as well as to resolve the pending cases. Courts also must encourage alternative dispute resolution mechanism as an effective instrument of resolving disputes. Apart from this, Government is also contemplating amendments to few Acts like the Negotiable Instruments Act, the Motor Vehicles Act and the Arbitration and Conciliation Act, so that there will be considerable reduction in the number of cases being filed every day in the subordinate courts.

Access to the justice delivery system still remains much to be desired both because of lack of adequate legal awareness and their rights among citizens as well as because of the cumbersome procedures adopted in conducting litigations.

It is high time that steps need to be taken to improve legal awareness as well as to simplify the processes and procedures so that

even an illiterate citizen, who becomes litigant because of unfortunate circumstances, should also be able to understand and sail through the legal processes. This is basic foundation for improving the access of justice delivery system in the country. This again can happen only when the Government and the judiciary take steps together and I am hopeful that same will be taken up actively.

Most of the fields of governance are catching up quite fast with the technological advances. We are also taking steps to modernize our courts for which E-courts project has been taken up. Phase I of this project has been successfully completed. Phase II of E-courts which aims at automation of entire process of litigation right from filing of cases to final judgment stage is a critical one. I am hopeful that phase II of E-courts will also be implemented successfully as was done in the case of phase I of E-courts with the active co-operation of judiciary so that the fruits of automation and technological advancement reach the common public.

The thrust of this Government is creating enabling environment. The Government is pushing forward the concept of "Make in India" and converting our country as a major player in the world market for which we need to come out with enabling business friendly environment. Also we need to come out with major changes in the Arbitration Act and promote arbitration and conciliation process so as to make our country as a major International Arbitration Hub. This again requires active participation of both the Government as well as the judiciary and this has been actively pursued by the Government in close coordination with the judiciary.

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**ENTRY OF A NEW ERA - NEED TO EVOLVE NEW TECHNIQUES:**

In the last four decades, national and international legal policies and rules concerning trade and investments have repeatedly changed, the investment and its varieties have also undergone substantial transformation in its magnitude and content. In the national laws and policies, the trends towards liberalization and simplification have gathered strength and the controls and restriction have been relaxed in many fields. Non-discriminatory treatment after admission of investment either by way of FDI or portfolio is becoming the rule rather than an exception. As new situations arise the law has to be evolved in order to meet the challenges of such new situations. Law cannot afford to remain static. We have to evolve new principles and lay down new norms, which would adequately deal with the new problems so as to create enabling and business friendly environment.

### **CONCLUSION:**

On this occasion my appeal to the young legal brethren is to realize the importance of the legal learning and cultivate the habit of continuous learning to prove themselves competent to handle the ever growing legal challenges and also to maintain the dignity, decency and decorum of this pro-bono publico service professed by Mahatma Gandhi, Lenin, Lincoln and other Galaxy of great men. I hope and wish the Supreme Court Bar Association will highlight the pros and cons of the subject and will stimulate innovative ideas not only to boost morale of the advocates but also to play a pivotal role as a 'social engineer' to safeguards the values enshrined under the Constitution. With these words I conclude and once again thank the organizers and everyone of you for giving me this opportunity.