

JUDICIAL ACADEMY: A PLACE TO SHARPEN THE TOOLS OF JUDICIARY*

I feel honoured and privileged for having been associated this day, with

the inauguration of the Uttarakhand Judicial and Legal Academy and foundation stone laying ceremony of the Academy at Bhowali (Nainital). Today is the day – if I may say so – of revolution in Uttarakhand judiciary. The Academy is not only being born but is also going to have its permanent habitat. An effective and object-oriented functioning of the Academy, under the guidance of the illustrious Chief Justice and judges of this High Court is sure to set an upward trend on the graph of judicial performance and achievements of the judicial officers in the State of Uttarakhand.

Role of Judicial Academy in shaping judiciary

It is said that India is free but Indians are yet to achieve freedom. We have got rid of the foreign rule but we are yet to free ourselves from the shackles of ignorance, injustice and inequalities. We, the people of India, referred to in the Preamble to the Constitution, cannot be said to have achieved freedom unless we have achieved the goal of justice – social, economic and political for every person in the country. The framers of the Constitution have assigned a place of distinction for judiciary and entrusted it with a special role. Judiciary is the custodian of our Constitution and constitutional values. It is the trustee of people's confidence in democratic values. The protectors of democracy are the independent, bold, pro-active and well-equipped legal professionals, whether at the Bar or as members of the judiciary. The trends of globalisation and liberalisation call for the judiciary to shed its traditional style of living in ivory towers and acting only as an adjudicator between two warring litigants. A modern judge not only interprets the law, but in that process he also creates the law. He has to play the role of a social reformer and contribute in shaping and strengthening social and economic policies of the nation. All this needs a professionally well-equipped judiciary. Such equipment can be provided by the process of continuing education, getting acquainted with modern concepts and methodologies of justice dispensation, research-based learning, orientation programmes and refresher courses. This is possible only by interacting with academicians which the judges, in the very nature of their office which they hold, can afford to do only in the campus of the judicial academy.

A call for updating and modernisation in judiciary is by no means a ruse for departing from the traditional concepts of ethics and morality. To be strong from within, the lessons in ethics and morality have to be learnt and revised again and again to guard against human weaknesses. A judge is entrusted with the divine task of justice dispensation, and therefore, must at all times observe high standards of integrity, objectivity and probity. The best place for learning these lessons is a judicial academy.

I am very confident that the good intentions with which the Uttarakhand Judicial Academy has been established would translate into the activities which shall be carried out in this academy.

The training imparted at the judicial academy performs three main functions¹:—

- (1) to prepare newly appointed judges for their duties;

- (2) to guarantee greater uniformity and predictability of decisions by ensuring adequate command of laws and procedures in the judges to carry out their jobs; and
- (3) to up-date judges in new methods, laws and related areas of knowledge, required in their work.

These functions are of immense utility to the judges not only at the commencement of their judicial career but also all along the career ahead, as they climb the ladder and assume higher responsibilities.

In connection with reform programmes, the judicial academy serves additional purposes²:—

- (i) to build a reform coalition within the judiciary to overcome resistance to reform;
- (ii) To introduce new skills and practices – even without a separate training component;
- (iii) To introduce new values, attitudes, and perspectives;
- (iv) To identify problems to be resolved by other reform interventions (in classroom discussions, judges may reveal problems, common practices, or impediments which might not be uncovered in other ways);
- (v) To identify additional problems to be addressed by training and help develop their solutions;
- (vi) To build institutional solidarity and a sense of common purpose.

I would suggest the State Academy to maintain a close link and work in close co-ordination with the National Judicial Academy at Bhopal. The National Academy is gearing up to develop on international standards so as to achieve the level of such excellence as the best of judicial academies or training centers in the world can aspire to achieve. The National Academy would be of immense help and service to the State academies inasmuch as the National Academy would train the trainers and also make available standard curricula and study material to the State academies. The State academies can think of exchanging faculties with the National Academy and thereby contributing to mutual development.

I hope the Uttaranchal Judicial and Legal Academy would be successful in creating, propagating and popularizing judicialism in State judiciary. Judicialism is the practical instrument by which constitutional government is made an active idea, and is the best guarantee of the rule of law and therefore of liberty³. The principles which underlie rules of judicial conduct are four in number. These are: (i) the principle of independence of the judiciary (ii) the principle of impartiality of adjudication (3) the principle of fairness of trial and (4) the principle of the integrity of the adjudicator⁴. If the judicial academy has achieved the objective of creating judicialism, then I am confident that the academy has succeeded in fulfilling the expectations of the Constitution and of the people, from the judiciary of Uttaranchal.

I expect this Academy to transform the subordinate judiciary of Uttaranchal into 'the judges of the future'. According to the Judge's Book published by the American National Judicial College, the emerging features of the judge of the future have been so described – "Although speculations about the judge of the future bring visions of robotic truth assessing machines, law dispensing computers, and chemical-test-determined dispositions, human beings, rather than mechanical marvels, will continue to exercise the fine art of judgment for any foreseeable future". A judge of the future shall have to have a national and an international perception⁵. Science and technology cannot substitute a machine-judge for a human-judge. But a judge should be ready to transform himself into a judge of future-preparing for and looking forward to a foreseeable future.

Legal Profession

I am happy to see a good number of lawyers present this morning in this function. I would like to avail this opportunity for sharing a few thoughts with my lawyer friends.

We are standing at a turning point in the history of time and the history of our nation. While the memories of the just gone-by millennium are as fresh in our minds as the events of yesterday, we are faced with the challenges of a new millennium.

The parting gifts given to us by the preceding millennium are sweet and sour – both. Let us take stock of these gifts so as to find out for ourselves, how the role of the legal profession is going to be different in the new millennium as compared with the preceding one.

In the preceding millennium, the world has shrunk into one unit. Globalisation of society is catching up, rendering natural and man-made frontiers meaningless. Mountains, oceans and rivers and drastic changes in climatic conditions are no more barriers to our movement across the World. Man has struck Moon and Mars. At one time, it was considered progressive to think of national integrity and brotherhood. Today, it is not only legitimate but a compulsion to think in terms of universal brotherhood. The World has to swim or sink as one. The Explosion of information technology, especially computers, have revolutionized our thinking pattern and working style, both. Video conferencing enables ten people sitting in ten countries to communicate with each other simultaneously, as if they were sitting around one conference table. You can talk to your friend or relation and also see each other with the help of a web camera across any length and at almost nil cost. The day is not far off when we will have wireless fittings, paperless offices and bookless libraries. While these are the things of which man can legitimately feel proud, they have not come without a heavy price. The unwelcome gift of the previous century to us, is the victory of materialism over spiritualism in our attitude towards life, resulting in complexity of life and crisis of character. There is unprecedented explosion of population. In spite of modern equipment and gadgets and time saving devices being available today, everyone is short of time. Time and intellect have become commodities which are sold across the counter like saleable goods. For browsing through internet and websites you have to pay for the time spent. You have to pay for your conversation on telephone in terms of money per minute. Time and intellect can be stolen. Now we have Intellectual Property Rights such as Trade Marks, Copyrights, Patent, Designs and so on. The GATT and the WTO aim at converting the world into one market, with the unrestricted movement of goods from one part of the world to the other.

Confining the impact of these phenomena to the legal profession, it can be seen that there is a population explosion in the profession also. Introduction of five-year courses in studies of law and the advent of national law schools is shaping such young lawyers who are better equipped and are fit to enter the profession from day one.

Every human activity is subject to law's scrutiny. Laws have not only multiplied in number but have also grown in complexity. At one time, the legal profession in its sweep embraced only lawyers and judges. The width of definition has widened. In the new millennium when we speak of the legal profession, we include therein not only the lawyers and judges but also law teachers and non-practicing legal professionals. The practicing lawyers' profession needs to evaluate itself by a comparison of pre-1961 and post-1961 scenarios, the year 1961 being the one in which Advocates Act 1961 was enacted. As to judges, the society and especially our legislators and parliamentarians demand the issue to be discussed by compartmentalising into pre-1993 and post-1993 situations.

Globalisation has raised the controversial issue of the entry of foreign lawyers in the legal profession in India. A materialistic approach towards life has resulted in an occasional confrontation between the Bench and the Bar. The principle of economics – bad currency drives good out of circulation – has started showing its ugly face in the legal profession as well. While lawyers were considered at one time the leaders of the society, they have slowly and slowly

withdrawn themselves from politics and social service, now confining themselves to riches – how to earn more and more.

I would like to dwell upon a few topics of common interest to Judges and lawyers both. The new millennium has opened up new fields of litigation hitherto unknown. Look at the sample of subjects which are being discussed in law conferences – International Monetary Law, Space Law, Diplomatic Protection of Persons and Property, Feminism and Gender Justice, Water Resources Law, International Commercial Arbitration, Refugee Procedures, Sustainable Development, Outer Continental Shelf, Cultural Heritage Law, Environmental Law and so on.

Laws on subjects like money laundering, cyber laws, terrorism etc. are being enacted. These are new subjects – the creation of the meeting point of the two millenniums. Every law professional shall have to study and get ready on these topics or be prepared to be discarded as outdated. An easier solution, for learning and updating oneself on these topics, is to interact with academicians. Judges and lawyers ought to evolve such avenues where they can freely meet and interact with academicians who have otherwise nothing to do with law courts. Being masters of their subjects, having done intensive study and research in these areas, they would be in a position to pass on the relevant knowledge to you in capsules-easy to swallow and easy to digest. Such interaction with academicians will save our time and would not cause any embarrassment to us. We can afford to be free, while discussing such topics, within the four walls of our chosen venue.

Find time for social service. That will build up your image in the society and at the same time give you a touch of humanity.

Set apart a definite percentage of your income, may be 5 to 10 per cent (or even less) for charity.

We must meet periodically, may be once in a month or three months. At such meetings, problems of common interest and issues relating to how we can better serve our society, should be taken up for discussion. We must periodically introspect; freely discuss our shortcomings and find for ourselves where we have failed. We must think of how best we can discipline ourselves and make ourselves more useful to the society which we are meant to serve. We should endeavour to bid how best can we devise, define and develop our aims and goals. Remember, our profession has suffered a dent in the previous millennium and the new millennium has inherited the dent. You must have seen household utensils. There are two methods of removing a dent – either set it right from within, or, if we are not able to repair the dent from within then somebody would strike a hammer from outside to repair the dent; then do not complain, should something like that happen.

To young Lawyers

You have chosen to enter a profession where you need sharp intellect and quick wits. A lawyer to be successful, must learn the art of maintaining a calm and cool temperament and handling the most difficult situation by sheer presence of mind. Delicate and dignified humour adds luster to the art of advocacy. I may give two good examples available on record⁶.

Mr. G. Ramaswami, the former Attorney General of India (now unfortunately no more) was known for his wits. While trying to make a difficult point in an unreceptive court he was, after some time, greeted with a furious remark: “Mr. Ramaswami – do you take us for fools?” Undaunted, with practised defeat, writ large on his face came Ramaswami’s gentle but tired reply. Addressing the presiding Judge who had made the remark he said: “My Lord, you have put me on the horns of dilemma. If I tell the truth, I will be guilty of contempt; if I lie – guilty of perjury.” The Court smiled. The heat of the moment melted away and arguments continued as if nothing had happened.

Mr. Soli J. Sorabjee, the former Attorney General of India, is also known for his ready wit and quicksilver tongue. An Hon'ble Judge of the Supreme Court, known for his volatile temper (which resulted in many eminent counsel having decided not to appear in his court) would occasionally succumb to Sorabjee's wit and humour. Soli was trying to persuade the court to post the matter for final disposal on a miscellaneous day so that it could be disposed of early, in view of the urgency involved for Soli's client. The presiding Judge asked: "How much time would the matter take?" Replied Sorabjee: "It is a very short matter My Lord, it may take 3 hours on the outside." The presiding Judge was visibly annoyed. He observed – "But you said it was a short matter." Quickly came the reply from Soli – "Fifteen minutes for me – fifteen minutes for my learned friend – and two and half hours for My Lord." The Annoyance of the presiding Judge, instantaneously turned into a smile and the matter was posted for hearing on a Friday.

Serious business is transacted in the court room. Occasional ready wits or a well intentioned but witty repartee enlivens the atmosphere in the court room and is never unwelcome.

A lawyer to be successful, must be clean hearted and must develop an attitude of detachment. He should never involve himself personally into the cause handled by him. This attitude develops by reading philosophy and listening to poetry and music. Mr. Justice M.N. Venkatachaliah, the former Chief Justice of India, told me once that next to the study of religion and philosophy if there is anything worth studying under the Sun then it is the law. Law is an unfathomable sea; the more you dive deep, the more you strike the treasure of precious stones and the beauty of life.

Tacitus says: 'What can be more safe than to practise that profession, whereby being always armed, you will be able to afford protection to your friends, assistance to strangers, and safety to those who are in peril; and, on the other hand, spread terror and alarm amongst your enemies and the malevolent while you yourself are meanwhile secure, and invested, as it were, with the panoply of power ?'

Always aim high. Remember the crowd is at the bottom but there is always room available at the top. If you aim high, you need not be disheartened by those who have already occupied the field in the profession because mostly they are at the bottom. H.E., A.P.J. Abdul Kalam, the President of India, says, "small aim is a crime. By aiming small you are wasting the potential and capability which God has gracefully showered on you." You can make optimum use of your faculties and the potential within you by aiming high.



* Speech delivered at the inauguration and foundation laying ceremony of the Uttaranchal Judicial and Legal Academy at Bhowali (Nainital), on 19th December, 2004.

1. Linen Hammergren, *Judicial Training and Justice Reform* (Aug. 1998) p. 8.
2. *Ibid.*, pp. 8-9.
3. Cyprus Das and K. Chandra, *Judges and Judicial Accountability*, p. 2.
4. *Ibid.*, pp. 3-4.
5. *Ibid.*, p. 33.
6. K.K. Lahiri, Advocate, Supreme Court - 'Whither Thou – Advocacy?' (Supreme Court Bar Association Journal, Vol. 1, May 1988, p. 88).
7. Rao Bahadur K.V. Krishnaswami Aiyer - *Professional Conduct and Advocacy*, (1885) p. 192.