

14. The Watershed Committees, the Water Users Associations shall ensure optimum use of surface and ground water.
15. The Authority may notify water bodies like lakes, village ponds, minor irrigation tanks as heritage bodies and conservation areas and prevent conversion of their intended use.
16. The Authority may prescribe ceiling on use of water per unit of production by industrial units.
17. The Authority may frame guidelines for sand mining from water bodies.

#### *Trees*

18. The Local Authority shall insist on compulsory plantation of trees while according approval of building plans.
19. No felling of trees or branches shall be permitted without the prior permission of designated Officer. When a tree is to be felled, two seedling should be planted and when such planting is not possible, cost of raising seedling shall be recovered from the concerned for raising plantations in public places.

20. All Government Departments shall ensure plantation in open areas in their Institutions. The cost of plantation may be included in the cost of formation of roads.

21. All agricultural landowners except wet lands shall plant trees upto 5% of their total land holding.

The other provisions in the Act deal with budget, penalties, compounding of offences *etc.*

#### **VII. Conclusion**

The awareness created by the various public interest litigations before the Apex Court in the environmental matters should be sustained. The very survival of mankind depends on the conservation of the natural resources. The natural resources are the “Common Heritage” and they must be passed on to future generations, in a sustainable manner. The Executive and Judiciary may have to combine their efforts towards this end. The observations of the Courts should be implemented by the Executive scrupulously. Apart from the above a unified law, a single statute may be thought of to encompass all the natural resources, as it will enable the common man and legal expert to deal with violations more effectively.

#### **SPEECH DELIVERED AT ANNUAL DAY FUNCTION OF NELLORE DISTRICT BAR ASSOCIATION, NELLORE ON 17TH AUGUST, 2007**

*By*

**—Justice P.S. NARAYANA**

1. I am happy to be in the midst of you this fine evening at this illustrious place Simhapuri on the banks of the Holy Penna at the pious feet of Lord Ranganatha, a neighbouring district of mine, on the eve of

this Annual Day Function of District Bar Association, Nellore.

2. The Annual Day Function predominantly would be a merry-making one. Subject oriented lengthy speeches may not be

to the taste of many, though may be invited by a few orthodox, traditional conservative sect of the Bar. Apart from the Bar and the Bench, to some extent other concerned public also would be involved in this function.

3. Knowledge is divine. It is an ocean – unlimited and endless, knows no limits or barriers. “The more knowledge you have the more wealth you can create”, said *Swami Ranganadbananda* in Universal Message of Bhagavad Gita. Nature given by the Almighty is divine. Human creation can never override Divine’s creation. Computer can never override human brain. Selfless givings of the nature to be understood by the humanity in proper perspective.

4. The field of Law may have different facets though the prominent facet is, may be the Bar and the Bench, concerned with Justice Delivery System. The province of the independence of the working of the judicial system needs no emphasis, the same being well-known. Legal Education is the foundation of this system. Hence, standard of Legal Education would have a lot of impact on the efficient administration of Justice Delivery System.

5. Legal Education though falls under Social Sciences, this branch is having several unique features, separable from other Social Sciences and hence, instead of running the Law Departments or the Law Faculties or Law Colleges, as the case may be, under different Universities, it would be desirable to have separate Universities concerned with the field of Law and Law alone so that those concerned with the management of such University may be able to guide properly, the administration, staff, the researchers, the professionals and so many others concerned with Law. The needs in relation to the maintenance of better standards of such education may be well within the better knowledge of such experts heading such educational institutions. There is a general feeling that the “Academic Law” would be

something different from or slightly different from the “Professional Law”. There cannot be any such dichotomy. It is true that the Judges may not be inclined to hear lengthy academic lectures as arguments in Courts of Law, mainly for want of time. It is pertinent to note that the fundamental jurisprudential concepts cannot be ignored in the decision making and this would be the common ground or uniform ground relating to the Bar and the Bench, the Professors, Lecturers, Jurists, Academicians and all other concerned with the transaction of the judicial functions like the quasi-judicial authorities or the like. Hence, the close co-ordination between Legal Education and Judicial Wing may be essential. It is true that the learned Judges may not be able to spare much time equally the top experts and academicians also may not be able to spare time, but however, the wider gap between these wings be reduced and purposeful, meaningful, useful suggestions to be taken by mutual co-ordination by maintaining the balance. The guidelines or the modalities in this regard may have to be worked out at the national level and the Judiciary must have a say and an active role as well in relation to the Legal Education by having appropriate bodies either at the national level or at least at the respective level of the concerned State.

6. In public administration there are several quasi-judicial authorities who are expected to discharge judicial functions and quite often we see that such authorities would be without any qualifications in law or at least some training in relation thereto. It may be that these authorities may be discharging their quasi-judicial functions on the basis of their experience or guidance, otherwise. It is desirable to suitably amend the concerned service rules and prescribe the minimum qualifications in law to such posts even at the time of recruitment and further care to be taken while making promotions to such posts. The policy makers may have to give a serious thought to this problem.

7. Maintenance of Law Libraries is yet another problem with which both the academic institutions and the judicial wing as well are suffering. The clinical Legal Education training programmes, imparting of methods of implementation of skills of advocacy, elementary knowledge in different new facets of law be that by virtue of domestic legislations or by virtue of certain international compulsions, elementary knowledge in mediation and conciliation, Lok Adalats and understanding of the arbitration concept, conducting of moot Courts making the students to understand and to train them properly keeping in view the overall needs and further making them to understand the fundamentals of the interpretation of the Constitution, the interpretation of statutes and how to appreciate or follow the precedent law governing the field and further to train them in drafting of the proper pleadings and also the conveyancing, may be certain aspects which may be referred to in this context.

8. The legal professionals of the present day may have to compete not only with the legal professionals of this country, but also the legal professionals of the foreign countries as well, especially in certain fields like the field of arbitration *etc.*, and hence, he is expected to be better equipped and better qualified as well.

9. The sphere of public policy and the interference of Courts and the scope and ambit thereof, these aspects quite often would be in controversy though the Courts always have been diligent and vigilant in interfering with such matters very rarely especially exercising the power of *judicial review* within the clear defined limits as well reflected from the decided cases and the principles which had been laid down in such cases. In the field of Public Law, quite often we come across several directions and several orders which are being passed in the interest of the public, the clear defined classes of society, may be in the context of the

personal liberty of citizens, of women, of children, of Scheduled Caste, of Scheduled Tribe, of down-trodden, environmental problems, problems relating to education, problems relating to poverty, problems relating to political rights, problems relating to several human rights and this list is only just illustrative and can never be exhaustive. The Apex Court in several cases had issued suitable directions in this regard like in *Visaka's* case, in public interest till regular suitable Legislations are thought of either by the competent State Legislature or the Parliament, as the case may be. The Courts always have been vigilant in taking into consideration several of the social problems which are being resulted due to several changes in the international sphere and the Courts always have been raising to the occasion in trying to find out certain solutions even by harmoniously construing the domestic law in the context of the international covenants and treaties. In the process of the modernization or globalization of the present day world, the Judiciary is being confronted with several novel problems like Cyber crimes, Territorial concepts, Cyber Jurisdictional problems and what can be called the Cyber Jurisprudence problems and the Courts are expected to find an answer to all these problems and the world community quite often has been looking at the Judicial Institutions for the purpose of delivering suitable answers to such complicated questions. With the changing scenario, the duty of both the Bar and the Bench also became onerous and in the light of the expansion of this field by leaps and bounds the problems became complicated and the task on the part of the Courts also became more and more responsible and this tendency is likely to grow further and further in the coming days and the Judiciary in the country and the Judicial Institutions in general throughout the world may have to face these challenges keeping in view the social needs and also the social changes as well. Just conservative approach on the part of Judiciary being a mere

spectator or onlooker may not be approved even by the general public. The Bar and the Bench of the whole world may have to keep this in mind and may have to rise on to the occasion to meet the growing challenges. Let not those disinterested, attack these institutions on the ground of the so-called *judicial activism*. It is true that the Judiciary may have to observe some self-restraint and too much of activism or too much of passivism may not be in the interest of the public and also in the interest of these institutions.

10. Quite often Courts are being criticized on the ground of over-stepping the limits in several of the sensitive issues may be political questions, religious problems, problems pertaining to the Scheduled Caste, Scheduled Tribe, Backward Classes, the downtrodden or the other pressure groups. Courts are expected to decide such matters quite often, not only sensitive but also delicate matters. Courts are unconcerned with the personalities involved and the Courts are concerned with the facts involved in a particular case and the legal position governing the field. It is true that the Courts always cannot close their eyes to the actual realities in the society. The serious problems in the public life which would be brought before this Courts as controversial issues cannot be always brushed aside on the ground that those are just political questions when other serious questions concerned with *judicial review* also are involved.

11. Society continues to have faith in Judiciary. It is for the Bar and the Bench to protect this mighty Institution from internal contradictions and external threats as well. In International sphere too, the ground of delay in disposal of matters is being pointed out predominantly. Corruption is yet another unending problem in every walk of life inclusive of this wing.

12. The role played by the Pleaders, Advocates, whatever may be the nomenclature, in protecting the rights of the citizens, always has been noteworthy. The Indian Bar had

risen to the occasion whenever such rights were put into peril or jeopardy. The role played by the stalwarts during pre-independence days is unforgettable. The role continued by the successive generations from 1950's till day also is appreciable. If we, both the Bar and the Bench, won't maintain the same, it would be an unpardonable wrong or mistake on our part.

13. The Judicial journey of this Nation had witnessed several great Judges, outstanding Judges, brave Judges, mild Judges – Judges of all kinds. The mighty Institution always is being well protected by the efficient Bar, the stalwarts, the leaders of this profession. The unpardonable historical mistakes committed on a couple of occasions are black spots on the working of the system and the generations to come may remember the same definitely not in good spirit. Such unpardonable mistakes committed by the Judiciary had been rectified subsequent thereto by setting right the precedent law putting the same on right track. The might of this great Institution to be protected. The wrongs of the human agencies manning the Institution not to be grave so as to undermine the majesty, integrity or dignity of the Institution. The safeguards to be better administered by the internal machinery instead of any external agency in relation to both the Bar and the Bench. The essentiality of the same need not be over emphasized.

14. Ours is a developing country. Population is not only a gift but also a problem. Predominantly we are poor, but equally we are traditional. We have our own way of life – Indian way of life. In the whole of the World, we can be proud to be claimed to be Indians. This is more an emotional concept, concerned with Nationalism. Patriotism is more an essential concept to be thought of especially in the light of the present day threat of migration of youth to several other countries. We can neither forget mother nor the motherland.

15. Onerous Judicial accountability and Advocates responsibility always to be considered more as self-imposed restraints and discipline and external deterrent methods of disciplinary actions may have only minimal impact. Judicial power and exercise thereof never to be tainted by any extraneous considerations and the self-imposed checks may have to be moulded effectively for protecting the system from the outer attacks. The working of this system, by and large, had proved well as revealed by the Judicial history of about a century.

16. In the light of the change of scenario, both in the light of the internal developments within the Nation and the International compulsions as well, the duties and obligations of the present Professional, inclusive of the Legal Professional became very burdensome in view of the expanding horizon. There is no comparison between a Professional of 1900's and a Professional of 2000. Hence the present Professional is expected to be better equipped to be suitable to the competitive Profession in the present day context. The details in relation thereto need not be enumerated further since the audience are well aware of the same.

17. To keep this Institution live to the expectation of the common man, all concerned to maintain and observe restraints so that this mighty Institution may better achieve the cherished and expected objects in the coming times as well. We belong to judicial family. Family may face so many internal problems. Let not external elements encroach upon our rights under the guise of rectifying our internal problems. Let not the aggression of the other wings touch the pride of the Indian Judiciary. Let not this wing commit such mistakes inviting criticism from other quarters. Let not the healthy traditions followed by the Indian Bar and the Bench for generations be destroyed by a few unruly within. Let not the judicial discipline be disturbed at any costs. Let the soul of the great Judges who contributed a lot to this mighty Institution rest in peace. Those would be disturbed if the coming generations do not keep up the same upto the minimum social expectations at least.

18. I conclude by thanking the audience for giving a patient hearing on this Annual Day Celebration.

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## DOMESTIC VIOLENCE ACT – IMPLEMENTATION AND ITS DIFFICULTIES

*By*

**—G. KABARDHI, B.Com., B.L.,  
II Metropolitan Magistrate,  
L.B. Nagar, Cyberabad**

The protection of women from Domestic Violence Act came into force from 26-10-2006. It is the intendment of the Legislature in enacting this Act as to give more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family. The Print and electronic media have focused on this Act into the public and the public rather sufferers/victims under the

domestic violence had a lot of hope that their sufferance will come to an end after the implementation of this Act. A lot of coverage was also given by the electronic media about the awareness of this Act among womenfolk as well as legal services authorities also took more pains in focusing this Act among the public by conducting various literacy camps by the judicial officers. In my sincere opinion this Act was hurriedly drafted without looking