

Distinguished Members of the *Adhivakta Parishad*, and all the members of the legal fraternity present here,

*Namaskar!*

I am touched and humbled by the opportunity given by the *Adhivakta Parishad Delhi* today to address this esteemed gathering on the eve of National Youth Day.

Dear friends,

When I first came to study law at Delhi University in the 1990s, little did I know that Delhi would become my *Karma-bhoomi*. Right after being enrolled as an advocate in 1994, I have been amidst you all in Delhi, practising in the Supreme Court, Delhi High Court, Trial Courts, Tribunals and Commissions.

I had the privilege to hold responsibilities at the Bar, both at the SCBA and SCAORA. In 2017, after being elevated to the Bench, I joined office at the Allahabad High Court. Since then until October 2021, I had been briefly away from you all. Now, I am back again in a different capacity, on the Bench to work amidst you all. In that sense, it is a “home-coming” for me.

Today, I must congratulate the ABAP, Delhi not just for organising the seminar but also for choosing such a theme to celebrate the National Youth Day.

Dear friends,

Swami Vivekananda was born into a family of legal professionals. His great grandfather, Rammohan Datta was a ‘managing clerk and associate of an English solicitor’.

His grandfather Durgaprasad became a partner of his father [Rammohan Datta] in his legal profession. Swami ji’s father Vishwanath Datta was an attorney in partnership with Ashutosh Dhar, under the firm name of “Dhar and Datta”.

After some time he settled in the legal profession independently and was enrolled as an attorney-at-law in the High Court of Calcutta’. Swami Vivekananda, as Narendranath, entered the firm of Nimaichandra Basu, attorney-at-law, as an articled clerk, in order to qualify himself as an

attorney. He had pursued the three-year Law course in the erstwhile Metropolitan Institution, and went on to become a qualified advocate.

Dear friends,

Swami ji has widely inspired not only the Freedom Movement but also inspired the founding fathers of our Constitution. He has been widely quoted in the Constituent Assembly Debates, few of which I shall be quoting today.

In the discussion on the Resolution regarding the National Flag, on 22nd July 1947, the words of Swami Vivekananda were invoked. It was stated that:

*“In the words of Swami Vivekananda, we have never dipped our hands in the neighbour's blood, our embattled cohorts have never marched into other lands for conquest, and we have always been the harbingers of peace and the makers of peace in this war-torn, war-weary world.”*

On 29th November 1948, while discussing the abolition of Untouchability, Swamiji was hailed as a great social & spiritual reformer whose ideas transformed Indian society and removed its ills.

During another discussion on 6th December 1948, on the freedom to practise and profess religion in Article 19, Lakshmi Kanta Maitra stated:

*“The great Swami Vivekananda used to say that India is respected and revered all over the world because of her rich spiritual heritage. The western world, strong with all the strength of a materialistic civilization, rich with the acquisitions of science, having a dominating position in the world, is poor today because of its utter lack of spiritual treasure. And here does India step in.*

*India has to import this rich spiritual treasure, this message of hers to the west. If we are to do that, if we are to educate the world, if we are to remove the doubts and misconceptions and the colossal ignorance that prevails in the world about India's culture and heritage, this right must be inherent,—the right to profess and propagate her religious faith must be conceded.”*

During the 3rd reading of the Draft Constitution on 19th November 1949, H. V. Kamath invoked Swami ji often. At one instance, he said:

*“Swami Vivekananda exhorted India to rise and chanted the Vedantic Mantram. Uttishthata jagrata prapya varan nibodhata = Awake, Arise*

*and Stop Not Till the Goal is Reached. We have reached our goal. Yet we have got to reach a higher goal, and let us address ourselves to that task and bend our energies to the attainment of that goal, so that in this ancient land of ours the common man, after all a Constitution is only for the good of the common man that is its touch stone - the ordinary man may have his life and have it more abundantly.”*

He further stated:

*“True to the Indian genius, our struggle, our awakening, began with a spiritual renaissance which was pioneered by Ramakrishna Paramahansa, Swami Vivekananda and Swami Dayananda. In the wake of those spiritual leaders came the political renaissance and the cultural renaissance of which the torchbearers, the leaders, the guides were Lokamanya Tilak, Aurobindo and Mahatma Gandhi and, last but not the least, Netaji Subhash Chandra Bose.”*

He went on to say -

*“... we the people of India, will not forget our spiritual genius and our ancient traditions. It was Swami Vivekananda who said that the day India forgets God, the day she discards spirituality, that day she will die, that day she will cease to be a force in the world.”*

Dear friends,

This influence of law on Swamiji, apart from him using it at times during his talks and lectures, has amazingly influenced the judiciary as well.

Swami Vivekananda is quoted profusely in the judgements of many Indian courts, notably the Supreme Court of India.

Justice Indu Malhotra in her dissenting opinion in the *Sabrimala case*, observed that :

*“In the case of temple entry, social reform preceded the statutory reform, and not the other way about. The social reform was spearheaded by great religious as well as national leaders like Swami Vivekananda and Mahatma Gandhi. The Reforms were based upon societal morality, much before Constitutional Morality came into place.”*

In the case of legality of National Curriculum Framework for School Education, the SC lauded the *gurukula* system of education and quoted Swami ji in the following words:

*“Education is not the amount of information that is put in your brain and runs riot there, undigested, all your life. We must have life-building, Man-making, character-making, assimilation of ideas. If education is identical with information, libraries are the greatest sages of the world and encyclopaedias are rishis.”*

In another case stressing the quality of education needed the court quoted Swami ji as:

*“We want that education by which character is formed, strength of mind is increased, the intellect is expanded, and by which one can stand on one’s own feet... The end of all education, all training, should be man-making. The end and aim of all training is to make the man grow. The training by which the current and expression of will are brought under control and become fruitful is called education.”*

Talking about enlightened citizenship in the course of judgement the court invoked Swami Vivekananda as under:

*“ The problem of life is becoming deeper and broader every day as the world moves on. The watchword and the essence have been preached in the days of yore when the Vedantic truth was first discovered, the solidarity of all life. One atom in the universe cannot move without dragging the whole world along with it. There cannot be any progress without the whole world following in the wake, and it is becoming every day clearer that the solution of any problem can never be attained on racial, or national, or narrow grounds. Every idea has to become broad till it covers the whole of this world, every aspiration must go on increasing till it has engulfed the whole of humanity, nay the whole of life, within its scope. This will explain why our country for the last two centuries has not been what she was in the past. We find that one of the causes which led to this degeneration was the narrowing of our view, narrowing the scope of our actions.”*

Even in the case regarding the demolition of Babri Masjid in Ayodhya the court relied on Swami Vivekananda’s definition of religion and stated as under:

*‘Swami Vivekananda said: “Religion is not in doctrines, in dogmas, nor in intellectual argumentation; it is being and becoming, it is realisation.”*

While explaining Hinduism and its practice in a case against the state of Andhra Pradesh the court said:

*“Swami Vivekananda had stated that: ‘Each soul is potentially divine. The goal is to manifest this Divinity within by controlling nature, external and internal. Do this either by work, or worship, or psychic control, or philosophy—by one, or more, or all of these—and be free. This is the whole of religion. Doctrines, or dogmas, or rituals, or books, or temples, or forms, are but secondary details.’”*

In a case relating to the petition of forfeiture of a book on the grounds that it may hurt the feelings of Hindus, the court opined:

*“What offends a primitive people may be laughable for progressive communities. What is outrageous heresy for one religion or sect or country or time may be untouchably holy for another. Some primitive people may still be outraged by the admonition of Swami Vivekananda: ‘Our religion is in the kitchen, our God is the cooking pot, and our religion is don’t touch me, I am holy.’”*

Regarding the prohibition of the state on a person’s going abroad, the Court noted as under:

*“Swami Vivekananda, that saintly revolutionary who spanned East and West, exhorted, dwelling on the nation’s fall of the last century: ‘My idea as to the keynote of our national downfall is that we do not mix with other nations—that is the one and sole cause. We never had the opportunity to compare notes. We were Kupa Mandukas (frogs in a well).*

*One of the great causes of India’s misery and downfall has been that she narrowed herself, went into her shell, as the oyster does, and refused to give her jewels and her treasures to the other races of mankind, refused to give the lifegiving truths to thirsting nations outside the Aryan fold. That has been the one great cause; that we did not go out, that we did not compare notes with other nations—that has been the one great cause of our downfall...”*

In *S R Bommai v. Union of India*, the court noted:

*“Swami Vivekanand explaining the Vedantic ideas of God and religion in comparison with western thoughts stated that the religious attitude is always to seek the dignity inside of his own self as a natural characteristic of Hindu religion and religious attitude is always presented by making the subject close his eyes looking inward. ...*

*Swami Vivekanand stated that right of religious ideals is the same morality; one thing is only preached: Myself say 'Om'; others says 'Johova', another 'Allaha ho Mohammad', another cries 'Jesus'. ... Swami Vivekanand, and Mahatma Gandhi, though greatest Hinduist, their teachings and examples of lives give us the message of the blend of religion and the secularism for the good of all the men."*

Dear friends,

Swami Vivekananda was interested not only in religion but in everything that concerned man—science, art, literature, history, politics. He gave much thought to alleviating India's problems such as poverty, illiteracy, casteism, exploitation, etc.

On 14th Feb 1897, Swamiji exhorted Indians: 'For the next fifty years this alone shall be our keynote—this, our great Mother India.' His words were prophetic: fifty years later, India became free. Today he is guiding us as 'a voice without a form' with his mantra of "Be & make".

Our Constitution is a living document that has stood the tests of time, coming to the rescue of the citizens routinely as well as in trying times. The Constitutional Courts by way of their interpretations and the members of the legal fraternity have helped ensure that the letter and spirit of the provisions are brought into effect - in the best interests of the citizenry and the society at large. For the nation to prosper, the executive, parliament, and judiciary should function smoothly and in the interest of the nation.

Dear friends,

We, as a nation, have made marvellous strides in our journey in various arenas and are pacing rapidly towards achieving our position as a *vishwa-guru*. However, there are several areas where a lot of work remains to be undertaken.

As a people-centric welfare state, the Indian democracy needs to follow the Chankya's dictum - *prajasukhe sukham ragyah, prajanam tu hite hitam* (meaning thereby, in the well-being of the people, lies the welfare of the state and the happiness of the people is the prosperity of the state). The Indian polity must remain rooted in this fundamental doctrine and work for increasing ease of living and manifesting the aspirations and capabilities of the Indian population.

Dear friends,

Having dealt with the enormous contribution of the ideas of Swamiji to the legal system in India, it is now pertinent to reflect on the work of *Akhil Bharatiya Adhivakta Parishad* and what should be the future course of Action.

The motto of Adhivakta Parishad is न्यायः मम धर्मः - meaning thereby - Justice is my *dharma*. Ensuring justice to the last person in the society is the motto of the organisation.

ABAP's work is wide-encompassing, aiming to touch every person in the society and ensuring that justice is served to the needy. Now the next step that needs to be taken by the Parishad is reaching out to law schools and students, guiding the young generation into litigation, and encouraging them to also take up Legal Aid & Literacy parallelly with their studies.

Dear friends,

The condition of legal education including the status of infrastructure in law colleges is worrying. There are law colleges where you do not have sufficient faculty, no classrooms, no library, etc. It is unfortunate that we as judges are being constrained to remark that there are law colleges where you have to just go and pay the fees, the rest is taken care of. It is surprising to state that how can the legal profession or how can we as stakeholders of legal education tolerate this kind of situation. It is a great responsibility cast upon the Bar Council of India to shut down such institutions.

The "Rules on Standards of Legal Education and Recognition of Degrees in Law" were approved and adopted by the BCI on September 14, 2008. Howsoever noble the provisions of these Rules might be, its implementation is under question. The Bar Council of India as the regulator of Legal Education in India has the power and duty to carry out inspection in law colleges across India.

It has time and again been observed by the Hon'ble Supreme Court that the BCI should monitor law colleges in a stringent manner to ensure that they are maintaining the parameters set by Council. It is high time that all the stakeholders led by the BCI, including Senior Advocates, Academicians and even former Judges of Supreme Court/High Courts may be requested to take upon themselves the task of reforming the status of Legal Education in India.

Commercialization of education is another bane that the sector in India is suffering from. Educational activity is essentially charitable in nature and that commercialization or profiteering is impermissible. Therefore, any attempts at commercialisation of education especially that of legal education while imperilling the qualitative imparting of education must be derided and frowned upon.

One such manifestation of profiteering in this noble profession is in the form of enrolling additional students in each coming batch without upgrading the existing infrastructure. While deciding a case related to admission of students in a law college, all these aspects caught my attention.

Accordingly, *I directed that* the BCI should constitute special expert teams to conduct surprise visits of the colleges that lack minimum infrastructure and adequate facilities. The inspection reports of the colleges teaching law on its website should be uploaded within one month of such inspection.

If any colleges upon such inspection were found to be lacking minimum infrastructural facilities, then the BCI must take immediate steps to close such colleges. This is a *much-needed therapy* that ought to be introduced to *cure the maladies that legal education is suffering from.*

Dear Friends,

While dealing with another matter regarding admission of Students of weaker sections, I saw that the implementation of the provisions of the RTE Act was in tatters and the fiasco warranted the intervention of the Court. And at that point, I realized that it was high time that the judiciary reaches the people and not wait for the people to reach out to the judiciary, as the poor kids are being forced in the instant set of petitions to knock the doors of the Court for availing their Fundamental Right to Education.

In view to alleviate the miserable state of affairs as prevalent in the Capital *qua* implementation of the RTE Act at elementary education level, I found it pertinent to exercise the powers of this Court under Article 226 of the Constitution *to issue directions to the Directorate of Education for ensuring admission to the poor children belonging to weaker sections.*

I found it quite relevant to quote Swami Vivekananda as to what is our duty towards the poor masses of the country:

*“The one thing that is at the root of all evils in India is the condition of the poor... The only service to be done for our lower classes is to give them education, to develop their lost individuality...They are to be given*



*ideas; their eyes are to be opened to what is going on in the world around them; and then they will work out their own salvation... If the poor boy cannot come to education, education must go to him. Through education comes faith in one's own Self, and through faith in one's own Self the inherent Brahman is waking up in them, while the Brahman in us is gradually becoming dormant."*

Dear friends,

Organisations like *Adhivakta Parishad* have a vital role to play in Indian democracy - *As a fellow to the Bench, as a guardian of the Bar, and as a facilitator of quality legal education - ensuring that Justice is made accessible to every citizen.*

The Bar and the Bench are a family and together they serve the society in the pursuit of justice. The Preamble of the Constitution of India guarantees Access to Justice in all its dimensions - social, economic and political. As members of the legal fraternity, it is our solemn duty to ensure that justice or *nyaya* is made available, accessible and affordable for all.

*If we as officers of law and the Court, in our day-to-day actions, consciously perform our duties while keeping in mind the needs and aspirations of the last person in the society - the poor, downtrodden, deprived human beings - that they are made aware of their rights and remedies, that they can avail justice easily and timely - this will ensure that they get a dignified life as embodied and guaranteed under Article 21 of the Constitution. An empowered citizen will contribute towards an empowered and vibrant democracy. Thus, legal aid and legal literacy are two schemes of paramount importance that must reach the doorsteps of the underprivileged.*

Dear friends,

While ignorance of Law is no excuse - however, are our citizens aware of their rights and duties in democracy? Are these laws comprehensible to the common man?

*Legal Literacy is an important facet of empowerment for an ordinary citizen.* Government programmes alone, however well intentioned, may not be able to break the barriers built over the centuries during the colonial period. For major social reformation, efforts are required to bring about a change in the society. Increase in legal literacy ultimately develops into a transparent and accountable Government and upholds the rule of Law.

Legal Aid is another important facet of Access to Justice. Engaging law teachers and students, the bar and the bench, would play a pivotal role in further improvising the country's legal aid movement. Our collective knowledge and expertise can be harnessed as a national resource to achieve the constitutional goal of equal justice for all. Legal aid is thus a national necessity and a constitutional imperative in India, where law schools can increasingly participate.

Dear friends,

Advocates have also been instrumental in protecting the integrity and image of the judiciary. Judges speak through their judgments. At times, unfortunately unwarranted and scathing remarks are made against the judicial officers making imputations and allegations that ultimately undermine the Office and authority while at the same time, damaging the trust reposed by the citizenry in the Institution of Judiciary.

The Bar serves as the conscience-keeper as well as the protector of the institution. A lawyer should abstain from commenting on the case on which he has argued. He should always voice out his concern against an order or judgement in appeal, revision or review before the concerned forum and not otherwise in public.

Independence of Judiciary is an important pillar of Indian democracy. We as members of the legal fraternity have a dominant role in ensuring that the justice delivery system functions free from fear or favour, and the faith of the public in institutions is protected.

The lawyer has a tripartite relation i.e., one with the public, another with the court, and the third with his client. All the three are interrelated and the advocate as an officer of the court must ensure that they do not conceal anything from the court and must represent the facts and law as they are, thus serving as a key factor in ensuring the wheels of justice roll on smoothly.

Dear friends,

Holding various rosters now, *I have come across a number of cases, where due to the pendency of appeals, applications, poor litigants and even senior citizens remain deprived of their rights for decades awaiting justice. I have asked the registry to list these regular matters on a daily basis to dispense justice to these underprivileged people.* I also call upon the members of the

bar to cooperate with the Court and help in ensuring timely and speedy disposal of these cases.

Apart from this, the members of Bar, the Bench and the legislative bodies must collectively work towards *making the administration of justice more affordable and accessible to the ordinary citizens by simplifying the justice delivery system as well as simplification of the legalese and the legal language*, so that a common citizen can understand and avail of the same.

Talking about the role of the Bar Council/Associations like that of *Adhivakta Parishad* qua the members of Bar, it has been and can be more instrumental in *conducting regular training sessions, workshops, symposiums and seminars for the advocates to contribute to their knowledge enhancement and honing of relevant skill sets*.

This will help in further raising the standards of legal practice, from drafting to argumentation in Courts in India. *Adhivakta Parishad* again has an instrumental role to play in ensuring that the *requisite infrastructure is available for the development and upgradation of library, IT resources, chambers, and amenities for the advocates*.

Dear friends,

One unique concept that I would like to discuss with you today is that of Judicial Impact Assessment. While the introduction of Environmental Impact Assessment has paved the way towards a greater level of consciousness about justice towards the environment. We also similarly require a Judicial Impact Assessment for our laws. Judicial Impact Assessment simply means analysing the likely cost of implementing a legislation through the courts and helping deliver timely justice to litigants.

Litigation demand depends on a variety of factors most of which are not factored in the making of laws. This results in the court system being left with little or no extra resources to cope with additional cases generated by new laws. This is the main reason why despite increased disposals every year, courts are still crowded with mounting arrears of cases. With “One institute, One law” - engaging our bright young law students in these projects to audit these legislations will be a brilliant initiative, with each law school taking up one major legislation to study.

Dear friends,

Before summing up, I must address you all on a point that is very close to my heart.

The principles of interpretation that are applied in our Courts today are that of the Western jurists like Maxwell and Craies. However, in our country we had developed from very early times a scientific system of interpretation known as the *Mimansa Principles* and these were regularly followed by our renowned jurists like *Vijnaneshwara* (author of *Mitakshara*), and *Jimutavahana* (author of *Dayabhag*). Most of these principles are rational and scientific and can very well be applied even today.

Knowledge of Mimansa Principles enables us to creatively develop the law. *Unfortunately, there has not been much effort to explain these principles.* The advent of Anglo-Saxon Law and the colonisation is responsible for this lack of study.

No doubt these principles of interpretation were initially evolved to resolve conflicts in connection with the meaning of rules governing performance of the *Yagya*, but gradually these principles came to be accepted for interpreting legal texts as well. It was therefore natural that our great commentators like *Vijnaneshwara*, and *Jimutavahana* had utilised these Mimansa principles whenever faced with any ambiguity or conflict in the various Shastras.

*The Mimansa principles are in two respects superior to Maxwell's principles of interpretation, viz.:*

(1) They can be utilised not only for interpreting statutes but also judgments, whereas Maxwell's principles can only be used for interpreting statutory law,

(2) They are more detailed and systematic.

Therefore, in my view, *we should not blindly ape the Western Jurists* and go on discarding our own ancient and traditional ideas if they are useful and relevant.

Today, dear friends, is a momentous occasion when India is celebrating its 75<sup>th</sup> year of Indian Independence – *Azaadi ka Amrit Mahotsav*, where we as Indians have steadfastly resolved to become a developed nation and to shun all the relics of colonialism.

Decolonisation of the Indian Legal System is an important pillar for achieving this milestone. Therefore, let us as judges and lawyers resolve that we shall make all efforts to Indianise our legal system. One step that can be undertaken by each one of us today is by studying our Indian schools of interpretation and applying them in our pleading, arguments and judgments.

Dear friends,

Before parting away, let me take the liberty to quote Swami ji - “So long as the millions live in hunger and ignorance, I hold every man a traitor who, having been educated at their expense, pays not the least heed to them!”

Since nationalism and patriotism are one of the essential tenets of the work of *Adhivakta Parishad*, let me once reiterate the three steps of Patriotism laid down by Swami Vivekananda and I quote: -

=> First, feel from the heart. What is in the intellect or reason? It goes a few steps and there it stops. But through the heart comes inspiration. Love opens the most impossible gates; love is the gate to all the secrets of the universe. Feel, therefore, my would-be reformers, my would-be patriots! Do you feel? Do you feel that millions and millions of the descendants of gods and of sages have become next-door neighbours to brutes? Do you feel that millions are starving today, and millions have been starving for ages? Do you feel that ignorance has come over the land as a dark cloud? Does it make you restless? Does it make you sleepless? Has it gone into your blood, coursing through your veins, becoming consonant with your heartbeats? Has it made you almost mad? Are you seized with that one idea of the misery of ruin, and have you forgotten all about your name, your fame, your wives, your children, your property, even your own bodies? Have you done that? That is the first step to become a patriot, the very first step.

The second step Swamiji says:

=> *You may feel, then; but instead of spending your energies in frothy talk, have you found any way out, any practical solution, some help instead of condemnation, some sweet words to soothe their miseries, to bring them out of this living death?*

And the final step, Swamiji says:

=> *Yet that is not all. Have you got the will to surmount mountain-high obstructions? If the whole world stands against you sword in hand, would you still dare to do what you think is right? If your wives and children are against you, if all your money goes, your name dies, your wealth vanishes, would you still stick to it? Would you still pursue it and go on steadily towards your own goal? As the great King Bhartrihari says, “Let the sages blame or let them praise; let the goddess of fortune come or let her go wherever she likes; let death come today, or let it come in hundreds of years; he indeed is the steady man who does not move one inch from the way of truth.” Have you got that steadfastness? If you have these three things, each one of you will work miracles.*

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With these words, I once again express my sincere thanks to the Adhivakta Parishad, Delhi for inviting me to address this young and brilliant audience of members of the legal fraternity. *Interacting with the members of Bar and Bench is always a humbling and learning experience for me.*

I sincerely wish and pray that we may continue relentlessly in the spirit of “चरैवेति चरैवेति” – in the pursuit of justice and to serve the *Bharatiya* society.

*Jai Hind!*