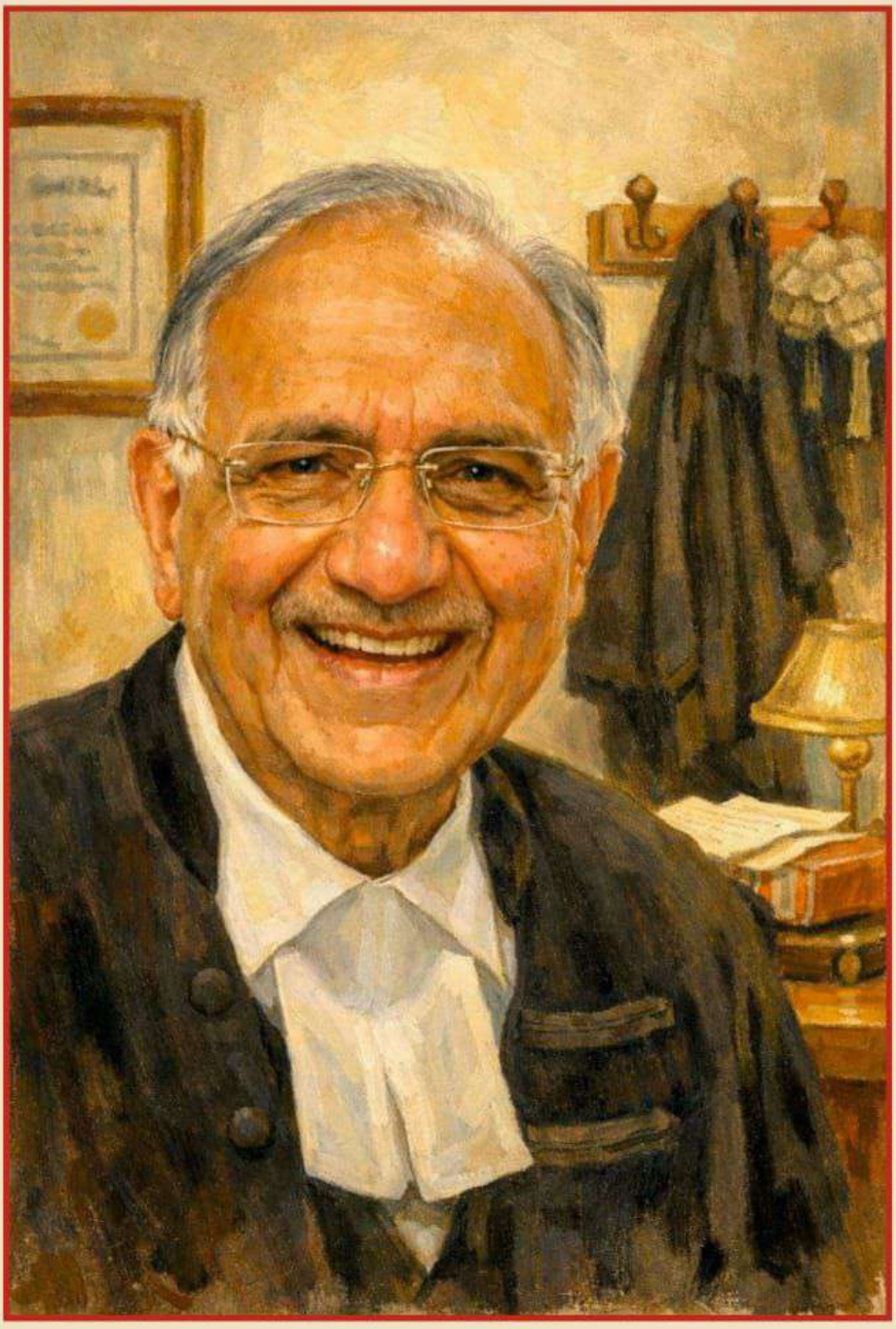
An Autobiography

DEATH OF MY MISTRESS

THE LAW

BIRTH OF MY LOVE

JUSTICE



Aruneshwar Gupta

Senior Advocate

50 years at Supreme Court - 01.08.1976 – 31.07.2026

LAW & JUSTICE PUBLISHING CO

An Autobiography

DEATH OF MY MISTRESS

THE LAW

BIRTH OF MY LOVE

JUSTICE

An Autobiography

DEATH OF MY MISTRESS

THE LAW

BIRTH OF MY LOVE

JUSTICE

Aruneshwar Gupta

Senior Advocate

50 years at Supreme Court - 01.08.1976 – 31.07.2026

Foreword by

Team Nivaaran

LAW & JUSTICE PUBLISHING CO

Edition 2026

© Aruneshwar Gupta

All rights reserved.
No part of this publication can be reproduced or transmitted in
any form or by any means, without prior permission of the publishers.

ISBN: 978-81-69453-21-9

Published by:

LAW & JUSTICE PUBLISHING CO

www.lawjusticepublishing.com
A-58, GT Karnal Road Industrial Area, Delhi-110033
Phones: 011-47082254 sales@lawjusticepublishing.com

C-27, Connaught Place, New Delhi-110001
edit@lawjusticepublishing.com

Distributors:
UNIVERSAL BOOK TRADERS
80 Gokhale Market, Opp. Tis Hazari Courts,
Delhi-110054
Phones: 011-23911966, 23961288
e-mail: sales@ubtlawbooks.com

Recommended Citation:
Aruneshwar Gupta: Death of My Mistress - The Law, Birth of My Love - Justice

2026 Edition (New Delhi: Law & Justice Publishing Co.)

The publication is being sold on the condition and understanding that the information, comments, and views it contains are merely for guidance and reference and must not be taken as having the authority of, or being binding in any way on, the authors, editors, publishers, and sellers, who do not owe any responsibility whatsoever for any loss, damage, or distress to any person, whether or not a purchaser of this publication,on account of any action taken or not taken on the basis of this publication. Despite all the care taken, errors or omissions may have crept inadvertently into this publication. The publishers shall be obliged if any such error or omission is brought to their notice for possible correction in a future edition. In the case of binding defect, misprint, missing pages, etc. the publishers' liability is limited to replacement of the defective copy within one month of its purchase by a copy of the same edition or reprint.
All disputes are subject to the jurisdiction of competent courts in Delhi.

Printed at Nice Printing Press, Ghaziabad

Dedicated to

Maa Gaayatri
My Parents
Padma
Shashwat, Pallavi, Vihika
Shitij, Reshika, Kanvikaa
Judges, Colleagues
And
Justice for All

"My friends, if incidentally you are remembering me,
You must only have good memories of me, as a friend.
And whenever you take a nice, joyous drink,
Remembering me, just empty the drink for me."

— Omar Khayyam Rubaaiyaan (75)

Contents

Foreword *ix*

The Perception – In the Grand Mosaic of Life *xiii*

Preface – One Window Closes, Another Opens and Finally the Door *xvii*

Prologue – After Everything – The Mistress Is Dead, and Love Is Born *xxiii*

1. 01.08.1976 – 31.03.1978: *The First Door Opens: Entering the Temple of Justice* 1

1 Apprenticeship at the Supreme Court of India 1
2 Seniors, Self-Reliance, and the Architecture of the Bar 33
3 Assisted, Associated and Other Judgments with Observations 64
4 Leaflets 89
5 Inspirational Thoughts 92
6 Afterword – Enamored by the divine figure 95

2. 01.04.1978 – 31.07.1982: *The Craftsman Is Forged in the Fire* 97

1 The years with Mr. P.R. Mridul and the Making of a Lawyer 97
2 Argued, Assisted, Associated and Other Judgments with Observations 120
3 Article 138
4 Inspirational Thoughts 140
5 Afterword – The Craftsman's Education 143

Interlude Before I Began to Speak Through Law (1975–1976) 144

3. 01.08.1982 – 16.06.1990: *Standing Alone: The Arena Widens* 149

1 Major Battles, International Steps, Corporate Law and Emergence of a Vision 149
2 Argued, Assisted, Associated and Other Judgments with Observations 157
3 Articles 173
4 The Supreme Court Canteen – The Young Lawyer's University 182
5 Supreme Court Bar Library – The Republic of Books and Minds 184
6 Inspirational Thoughts 186
7 Afterword – The Arena Widens: What the Years Taught 187

4. 16.06.1990 – 31.03.1999: *The Chessboard in Full Play* 189

1 Advocate on Record for Rajasthan, the SCBA and Institutional Life 189
2 Supreme Court Corridors during Elections 215
3 Argued, Assisted, Associated and other Judgments with Observations 217
4 Articles, Addresses and Presentations 254
5 Inspirational Thoughts 290
6 Afterword – A Reckoning with Nine Years 291

5. 01.04.1999 – 31.03.2004: *Beyond the Courtroom: The Lawman Sees the World* 294

1 Litigation Overseas, Technology, and the Search for a Larger Architecture of Justice 294
2 Argued, Assisted, Associated and Other Judgments with Observations 304
3 A Lawman Thinks Aloud: Articles, Addresses, and the Emerging Architecture of a New Age 308
4 Inspirational Thoughts 360
5 Afterword –The Lawman Thinks Aloud 361

6. 01.04.2004 – 31.01.2009: *The Additional Advocate General Years Law in the Service of the State* 363

1 Additional Advocate General, the Rajasthan Sports Act, and the Battle for Regulatory Vision 363
2 Argued, Assisted, Associated and Other Judgments with Observations 384
3 Articles, Publications, Addresses, Presentations and Blogs 395
4 Inspirational Thoughts 417
5 Afterword – The Architect Surveys the Temple 418

7. 01.02.2009 – 31.3.2019: *The Storm Within the Temple* 421

1 Resignation, Reflection, and the Slow Recognition of the Mistress's Decline 421
2 Argued, Assisted, Associated and Other Judgments with Observations 435
3 Articles, Publications, Addresses, Presentations and Blogs 445
4 Inspirational Thoughts 513
5 Afterword – The Storm Within the Temple 514

8. 01.04.2019 – 31.12.2024: *The Mistress in Decline – The Love in Ascent* 516

1 Designation, Neutral Citation, Peace Mediation and the Light of Legal Revolution 5.0 516
2 Moving into Web3 Space 523
3 Argued and Other Judgments with Observations 528
4 Artificial Intelligence (AI) and Legal Institutions 551
5 Inspirational Thoughts 614
6 Afterword – The Senior Advocate and the Deeper Mission 616

9. 01.01.2025 – 31.07.2026 619

1 Legal Revolution 5.0, Peace Mediation, Finance Revolution 5.0, PICS Economy, AI, and the Architecture of a Conflict-Free Society 619
2 Book Launch of Legal Revolution 5.0 – 70th Birthday 623
3 On Attained Fatherhood – A proud Father and a Blissful Grandfather 691
4 Inspirational Thoughts 698
5 Afterword – The Birth of My Love: The Final Chapter 699

Epilogue 702

Annexures

1 Annexure 1 - Our Mistress, The Law – Justice Oliver W. Holmes Jr. *709*
2 Annexure 2 - Letter from Justice E.S. Venkataramiah, CJI *711*



Foreword

There are journeys that belong to an individual, and there are journeys that belong to an institution, a profession, and ultimately to a civilisation. The journey recorded in this autobiography belongs to all three, and it is this rare convergence that gives the work its distinctive significance.

For the last fifty years, from 1976 to 2026, Aruneshwar Gupta has been in the corridors of the Supreme Court of India as advocate, witness, participant and observer during one of the most transformative periods in the history of Indian constitutional law. During these decades, the Court evolved from a traditional appellate institution into one of the world's most influential constitutional courts. Public Interest Litigation emerged, Article 21 expanded beyond imagination, economic liberalisation transformed commercial jurisprudence, technology reshaped legal practice, and new frontiers of law continuously challenged inherited assumptions. Few advocates have witnessed this transformation from so close a vantage point, and fewer still have chosen to place that experience on record.

Judgments recorded these transformations. Law reports preserved the outcomes. Yet much of what truly shaped those developments remained invisible. The arguments that preceded the judgments, the preparation that never appeared in transcripts, the evolving relationship between the Bench and the Bar, the intellectual struggles behind constitutional doctrines and legal issues, and the human experiences that shaped professional judgment often disappear with the generation that lived them. The Bench preserves its decisions; the Bar too often leaves behind only memories – and memories, unless recorded, seldom survive the generation that carries them.

This book seeks to preserve some of that disappearing history. It is not merely a chronicle of cases argued or positions held. It is a record of advocacy as a craft, of institutions in transition, and of the manner in which law evolves through the interaction between ideas, arguments, judges, lawyers and society itself. Yet the book reaches beyond institutional history into territory that few legal memoirs attempt to explore.

The title, *Death of My Mistress – The Law, Birth of My Love – Justice*, captures a transformation that many in the legal profession recognise but rarely articulate. Law demands discipline, precision, structure and certainty. Justice demands humanity, balance, healing and wisdom. Civilisation requires both. Law without



justice becomes mechanical; justice without law becomes arbitrary. The enduring challenge of the legal profession is not to choose between them, but to hold them in equilibrium.

The pages that follow reflect that gradual evolution – from law as profession to justice as purpose. Readers will encounter not only courts and constitutions, but also philosophy, spirituality, mediation, technology and ideas that look beyond conventional legal boundaries. The narrative moves from advocacy to institution-building, from dispute resolution to conflict prevention, and ultimately toward a broader inquiry into the invisible contributions that sustain society but often remain unrecognised by traditional economic systems.

The reader will also encounter a life lived alongside institutions larger than any individual. Behind the visible milestones of a legal career lie the books and mentors who shaped thought, colleagues who challenged assumptions, clients who entrusted their causes, and generations of judges and advocates who collectively contributed to the evolution of Indian jurisprudence. In preserving these encounters, the book preserves not merely personal memories but fragments of the living history of the Supreme Court Bar itself.

Running through these pages is another recurring theme – the conviction that ideas, pursued with persistence and integrity, can outlive the limitations of their age. Whether in the early advocacy of technological reform within courts, contributions to sports legislation, initiatives in legal information systems, the development of mediation institutions, or the recognition of invisible social contribution through the PICS framework, the narrative reflects a sustained search for systems that place human dignity and public service at their centre.

Perhaps that is what ultimately distinguishes this work from a conventional professional memoir. It is not written as a celebration of success, nor as an inventory of achievements, but as an exploration of purpose. Beneath the cases, institutions, reforms and ideas lies a single enduring question that accompanies every generation of lawyers and judges alike: whether the law exists merely to decide disputes, or whether it can also help societies become more just, more compassionate and more humane.

Some readers may agree with every conclusion reached in these pages; others may challenge many of them. That, too, is the nature of every meaningful intellectual journey. What remains undeniable, however, is the value of preserving experience accumulated across half a century of continuous engagement with the Supreme



Court of India and the institutions that surround it.

Autobiographies of advocates are rare. Autobiographies spanning fifty years before a single apex court are rarer still. Such records offer future generations not merely an account of what the law became, but an understanding of how it evolved and why it changed – knowledge no law report, however comprehensive, can fully supply.

For the younger members of the Bar who will read this book long after the events it describes have receded into history, its value may lie less in the outcomes it records than in the habits of thought it preserves. How a case was conceived before it was argued, how doubt was resolved before conviction was reached, how discipline and compassion were made to coexist within a single professional life – these are lessons no textbook teaches and no judgment can fully convey. In this sense, the book is not addressed only to those who knew the author or witnessed the years it describes; it speaks equally to those who are yet to enter these corridors and who will carry the profession forward long after the names in these pages have themselves become part of history.

It is perhaps for this reason that the themes explored in these pages resonate beyond the life of a single advocate or the experience of a single generation. The questions raised here – about conflict and resolution, rights and responsibilities, law and justice – are questions that every legal system must eventually confront as it evolves.

As members of Team Nivaaran, committed to the ideals of dialogue, mediation, reconciliation and peace-building, we find in this work a reflection of a larger transition taking place across legal systems throughout the world – a movement from adjudication alone toward a justice system that also values restoration, understanding and human relationships.

Courts will always remain indispensable guardians of rights and constitutional values. Yet societies that aspire to lasting peace must also build institutions capable of preserving relationships while resolving disputes. The future may belong not to the triumph of one model over another, but to the harmonious coexistence of law and justice, adjudication and mediation, rights and responsibilities.

This autobiography is therefore more than a personal narrative. It is a contribution to the constitutional and legal history of the Supreme Court of India, to the collective memory of the Indian Bar, and to the continuing conversation between law, justice and human civilisation. Every generation inherits institutions

built by those who came before it and bears responsibility for strengthening them for those who follow. In preserving one professional journey, this book preserves something larger than the life from which it emerged – a fragment of the continuing story of a profession, an institution and a civilisation, entrusted in every age to those who inherit it next.

Team Nivaaran



The Perception

In the grand mosaic of life, every individual thread is touched by personal beliefs, lived experiences, and the solemn influences that quietly cross one's path in the pursuit of purpose. My professional journey, chronicled within these pages, is no exception. It is not a tale of extraordinary feats, nor the narration of struggle against destiny, but the reflective journey of a life dedicated to a mistress as demanding as she was meant to be, just – the Law.

The spark that first ignited this devotion came from Oliver Wendell Holmes Jr. and his venerable address, Our Mistress, The Law, delivered on a cold evening of February 5, 1885 (Annexure 1). His metaphor of law as an exacting mistress resonated deeply within the chambers of my own young consciousness. It became the quiet force that guided a freshly initiated practitioner toward the path of law – not for wealth, recognition, or status, but for an unwavering commitment to justice, dignity, constitutionalism, and the larger architecture of nation-building.

As Holmes so eloquently suggested, law is the living reflection of human endeavour – an endless weave of society's morality, conflicts, aspirations, fears, wisdom, contradictions, and evolving consciousness. I, too, stepped upon this path with the conviction that, in its purest form, law was not merely a profession but a sacred field of disciplined action. It demanded not only intellect, but the total offering of body, mind, consciousness, and soul. At the deepest level of my being, I believed that law, in its pristine essence, deserved nothing less than a lifelong love affair.

That formation, however, had a deeper root than Holmes alone. Before law became my calling, the *Shrimad Bhagwad Gita* – given to me by my grandfather, inscribed in his hand – had already placed within me a frame of reference that no courtroom could exhaust and no institutional disappointment could dislodge. Swami Vivekananda, Sri Aurobindo, the eleven Upanishads I would later translate – these were not supplements to my legal education. They were its silent foundation. Holmes gave me the metaphor of the Mistress; the Gita gave me the understanding that beyond every mistress, however exacting and divine, stands the Absolute she is pointing toward. It was perhaps always inevitable that a life given to law would eventually arrive at justice – not as an institutional outcome, but as a state of being.

Over the decades, however, the seasons of life gradually revealed a deeper and

more layered understanding of justice itself. The courts, the Constitution, the profession, and the institutions of governance remained indispensable pillars of civilised society; yet it became increasingly clear to me that institutional law, however essential, could not by itself resolve every human conflict, restore every fractured relationship, heal every silent injustice, or create lasting social harmony. Law could regulate conduct, adjudicate rights, preserve constitutional order, and provide institutional stability; but the deeper search for justice often travelled beyond procedure into the realms of human dignity, trust, coexistence, peace, consciousness, and balance.

What disturbed me was never the existence of imperfection, for every human institution inevitably carries within it the limitations of time, personality, structure, and circumstance. Rather, it was the gradual distancing of law from its higher purpose – the seamless restoration of trust, dignity, liberty, social equilibrium, and civilisational harmony. At places, the visible institution and the invisible spirit behind it no longer appeared perfectly aligned. Procedure occasionally overshadowed purpose; perception sometimes overtook principle; structure at times became heavier than substance. Yet, even within those limitations, my faith in law as a civilisational necessity never diminished. What evolved instead was my understanding that law alone, without the larger spirit of justice, could never become complete.

This autobiography is therefore not the story of a man who set out to change the world, nor the expression of disenchantment with the institutions that shaped him. It is the introspection of a simple professional who spent fifty years participating in, observing, reflecting upon, and gradually expanding his understanding of justice through the lived realities of constitutional practice, institutional evolution, mediation, technological change, and human conduct itself.

My abiding faith in equality, equity, diversity, inclusiveness, dignity, and justice – values I had always believed to be the natural fragrance of my mistress – continually shaped the lens through which I observed the profession, the judiciary, governance structures, social conflict, and the nation itself. The narrative therefore travels through those lived constitutional experiences and institutional reflections that accompanied every stage of my professional journey, tracing the evolution of a consciousness that increasingly realised that justice was never confined merely to the visible structures of law.

It speaks of silent disciplines, constitutional engagements, institutional reflections, technological explorations, evolving philosophical thought, and the solitary reverence for that higher principle which I gradually came to understand was never merely law in its outward form, but justice itself – perhaps the finest manifestation of disciplined divine energy within civil society.

Within these pages – through diary entries, articles, speeches, seminar

reflections, constitutional engagements, technological experiments, institutional initiatives, and evolving jurisprudential thought – lies the journey of one who once believed that absolute fulfilment and eternal bliss could be found in the form of practicing law alone. Over time, however, a larger realisation slowly unfolded: law is the pathway, but justice is the destination; procedure is the instrument, but truth is the light; institutional order is essential, but social harmony remains the higher aspiration.

This work is therefore not merely a memoir of the past. Read in the light of the journeys that later unfolded through the jurisprudence of *Shrimad Bhagwad Gita*, the Legal Revolution 5.0 vision of peace mediation and online conflict resolution, the emergence of artificial intelligence, and the Finance Revolution 5.0 philosophy of conscious human value and pro bono economics, it becomes the seed narrative of a wider civilisational inquiry: how institutions must evolve from adversarial dialectics toward generative dialogue, from visible systems toward invisible ethics, from transactional structures toward conscious participation, and from law as an instrument of control toward justice as harmony and coexistence.

Whether you are a member of the legal fraternity, a seeker of justice, a believer in dignity, a student of constitutional evolution, or simply a fellow traveller in the journey of life, you may perhaps find reflections of your own questions and aspirations herein. This is not a narrative of extraordinariness, heroism, victimhood, conquest, or struggle. It is simply the reflective journey of an ordinary individual who participated in life and profession with sincerity, discipline, philosophical steadiness, and the quiet faith that every conscious action – however small – contributes to the architecture of a greater future for society, nation, and civilisation.

The title of this autobiography, Death of My Mistress – Birth of My Love, must therefore not be understood as a rejection of law, but as the gradual expansion of perception beyond law alone. The pages of this book arise from the conviction that law becomes truly alive only so long as it remains inseparably connected to justice. The moment law becomes detached from justice, it risks losing its living soul and degenerating into mere structure, procedure, and institutional form. That separation is subtle, gradual, and deeply civilisational in consequence.

This distancing did not emerge merely in courtrooms where advocates argue with passion, nor solely in judicial chambers where judges deliberate with conscience, nor only within registries burdened by millions of pending matters. Its roots are far deeper and more structural. Democracies carry their own compulsions. Politicians are consumed by electoral arithmetic and the urgency of political survival. Bureaucracies often become absorbed within administrative continuities and hierarchical structures. Institutions, too, become shaped by ambition, perception, security, advancement, and systemic inertia. In such an

environment, no individual alone becomes responsible, yet collectively the foundational architecture of justice often remains weaker than civilisation truly requires.

Seventy-five years is a sufficiently long period for a great nation to create a deeply rooted and enduring legal foundation capable not merely of deciding disputes, but of reducing conflict itself. The absence of such foundational transformation became one of the deepest reflections accompanying my journey through law, constitutionalism, mediation, technology, and institutional life.

Over time, I came to realise that my true love was never law in its outward form alone – vulnerable as every human institution inevitably is to changing personalities, motives, compulsions, and structures – but justice itself in its timeless sense: liberty anchored in responsibility, truth tempered with compassion, peace sustained through dialogue, dignity preserved through coexistence, and harmony emerging through conscious human participation.

Perhaps, in that fire and intensity within me – which impelled me to give myself wholly to my mistress, to every moment spent in her company, and which expressed itself through every case I argued, every institution I helped shape, every constitutional engagement I participated in, every technological exploration I undertook, and every endeavour I made for the growth of the nation – I gradually realised that my mistress was never the final destination. She was the doorway. Beyond her stood the larger universe of justice itself – liberty, truth, peace, dignity, mediation, conscious participation, coexistence, and ultimately the timeless aspiration for a more harmonious civilisation.

This is not the autobiography of a saint, reformer, laureate, billionaire, entertainer, or hero. It is simply the reflective journey of an ordinary man who lived an ordinary life, doing ordinary things in an ordinary manner as they crossed his path – yet always with the quiet conviction that every sincere action, however small, participates in the unfolding architecture of a greater future for society, nation, humanity, and civilisation.

Preface

One Window Closes, Another Opens — and Finally the Door

"I still remember Ashoke Kumar Sen, Senior Advocate, relishing lunch at our place in Jodhpur in the late 1960s, when you were briefing him and he was appearing in the Rajasthan High Court at Jodhpur. You had also referred to holding 6 a.m. conferences with Gopal Swarup Pathak, Senior Advocate, former Vice President of India and father of Justice R.S. Pathak, whom too you had briefed. What made you shift from a roaring and lucrative practice in Motor Vehicles to Service Law, Income Tax, and Company Law around 1968? And tell me something about your early years in the profession," I asked my father, Justice D.P. Gupta, then Chief Justice of the High Court of Rajasthan, as we sat over a cup of evening tea.

The family was spending a month's vacation in June 1986 at Mount Abu in Rajasthan. It was perhaps the last such vacation there for Chief Justice Gupta and his family, for he was due to retire on August 1, 1986, after having remained on the Bench for about 12 years, 10 months and 7 days, and as Chief Justice of Rajasthan for 3 months and 19 days – the shortest complete tenure of any Chief Justice of Rajasthan. The evening sky of Mount Abu had turned deep orange, the hills bathed in a silence that felt older than the institutions we were discussing.

"It is an interesting turn of events in one's career, though not always ideal for the institution," reflected Chief Justice Gupta, as he slowly went down memory lane. *"As you must be knowing, I was deeply passionate about the independence of India and had joined the RSS early in my school days. Your Babaji was very uncomfortable about it, as he had joined Jaipur State Judicial Service as Munsif on January 7, 1929. After completing my B.Sc. from Jaipur, I moved to Agra in 1944 for my LL.B., but primarily to help open RSS shaakhaas all over Uttar Pradesh. In 1945, I moved to Kanpur to carry that work further and completed my LL.B. Thereafter, I moved to Delhi and was assigned to look after RSS activities in South Delhi, which was then a major centre of ideological and organisational activity. I had the privilege of working with Eknath Ranade and Vasant Rao Oak.*

In 1947, we attained independence, and in 1948, after Gandhiji's assassination, warrants were issued against all RSS leaders, including me, though RSS had nothing to do with it – such were the compulsions and turbulence of national politics during those years. I remained underground, and your Babaji was deeply disturbed. He was then the seniormost District Judge in the erstwhile State of Jaipur, and had opted to

become the first Registrar of the Rajasthan High Court instead of a Judge of the High Court, to which he was fully entitled and which was duly offered to him. He believed that the Registrar, being the principal officer of the Court, exercised a deeper influence over the functioning and administration of the institution than a Judge.

On his insistence and firm decision, I joined the Bar in 1951, with him signing my registration. I joined C.L. Agarwal, the doyen of the Jaipur Bar and father of your senior, Justice Suresh Agrawal. Thereafter, in 1958, when Justice K.N. Wanchoo was Chief Justice of Rajasthan, the Jaipur Bench was abolished and we all shifted to Jodhpur. You were then about three and a half years old. In Jodhpur, I joined R.K. Rastogi, former Advocate General of Rajasthan. I started independent practice in 1961, and until about 1968, I was filing nearly 380 to 400 writ petitions in the High Court every year, mostly relating to the grant of motor vehicle permits on various routes and other matters arising under the Motor Vehicles Act. I also authored a book on the Motor Vehicles Act.

Then, a colleague at the Bar was elevated as a Judge of the Rajasthan High Court, and the filing of such writ petitions came down drastically. This Judge would dismiss almost every writ petition filed by me that came before his Court. He was assigned the roster of Single Bench Civil Writs by the Chief Justice, and the moment I rose to address the Court, he would simply order, 'Dismissed,' often without even hearing and looking at me. That led to my shifting to Service Law, Income Tax, and Company Law, before I was elevated as a Judge in 1973. One window closes, another opens, and finally the door opens," reflected and smiled Chief Justice Gupta.

It was a striking account – rich in institutional insight, professional memory, and lived experience. By temperament, with my natural inclination toward reading, contemplation, knowledge, and spiritual enquiry, I had little interest in active politics and had not even subscribed to newspapers until 1981. Yet this facet of the profession – the invisible equations that sometimes emerged between sections of the Bar and the Bench, particularly after elevation from the Bar – became an important institutional reality to observe and understand.

After about a decade at the Bar in the Supreme Court, I gradually realised that there existed visible and invisible divisions within the legal profession, and at times between segments of the Bar and the Bench, particularly at the High Court level. These divisions occasionally travelled downward toward the trial courts and, in subtler forms, even upward toward the higher constitutional courts and became precipitated during the bar elections. There appeared to operate, within parts of the system, networks of influence, preferences, loyalties, and alignments capable of affecting the larger institutional culture. Such tendencies often seemed to strengthen among those who, having reached the heights of professional achievement, ceased to evolve inwardly and instead became increasingly attached to structures of influence, proximity, and control. The conduct of some judges and

advocates inevitably affected the dignity of the profession and, ultimately, the confidence of the litigant.

The tendency to promote or prefer individuals merely because of caste, region, relationship, chamber lineage, familiarity, or invisible alignments appeared contrary to the finest traditions of the profession. Such tendencies gradually weakened the morale of diligent, conscientious, and self-respecting members of the Bar who had entered the profession with the sincere desire to serve justice while making an honourable living with dignity and integrity. Ultimately, however, the greatest sufferer in every such imbalance remained the litigant.

Over time, these patterns have potentially led to practices such as bench preference, unhealthy proximity, assured expectations, and institutional imbalance – conditions under which law itself risks drifting away from its higher purpose of delivering justice with objectivity, dignity, and fairness. It was perhaps partly for this reason that my father had encouraged me to begin my practice in Delhi, where the Supreme Court Bar, drawing advocates from across the country, carried a wider and more national character and certainly to keep me away from Rajasthan.

In a manner deeply resonant with the essence of the Bhagwad Gita and Ralph Waldo Emerson's essay on Self-Reliance, I gradually came to believe that every human being is given a field – his body, mind, intellect, aptitude, attitude, and character – through which he must act according to his own nature in the larger cosmic design as events continue to unfold. One must pass through events, institutions, opportunities, relationships, and responsibilities while striving to act to one's highest perfection, and while finding joy in the very act of participation itself. That, to me, was possible only so long as one remained committed to justice and did not get trapped in the merely transient, transactional, and ephemeral dimensions of existence.

As years passed, I observed that these institutional and social divisions manifested themselves in differing forms across the country. In Allahabad, it appeared at times as Agarwal v. Brahmin v. Kayasth; in Andhra Pradesh, Rao v. Reddy; in Bombay, Parsi v. Non-Parsi and Original Side v. Appellate Side; in Calcutta, Bar-at-Law v. Non-Bar-at-Law; in Madras and Karnataka, Brahmin v. Non-Brahmin; in Delhi, Punjabi v. Kayasth; in Rajasthan, Oswal v. Brahmin v. Agarwal – and so it continued across the nation in varying social and institutional forms. These tendencies reflected the larger social realities that inevitably entered institutions created and operated by human beings themselves. I continued to hope that, with institutional maturity and a larger constitutional vision rooted in national interest, the process of judicial appointments, professional growth, and judicial decision-making would continuously evolve toward greater objectivity, transparency, and justice.

Every decision, I believed, must be delivered on principle, with fidelity to reasoning and logic of the precedent, with the capacity to become a sound precedent itself, with the object of doing complete justice between the parties, and always in the larger interest of the institution – for institutions ultimately constitute the true strength of a nation. It is deeply unsettling when the destiny of a litigant appears dependent not upon legal principle, but upon invisible variables beyond his comprehension. The litigant often has no understanding why one matter succeeds while another collapses under apparently similar circumstances. Such reflections increasingly deepened my understanding of the complexity of law, institutions, and human behaviour itself.

The Supreme Court nevertheless appeared to me to be a far wider constitutional space, where advocates from all parts of the country had converged through a combination of aptitude, circumstance, opportunity, effort, and perhaps some invisible cosmic design. In the Supreme Court, there were Law Officers, Senior Advocates, panel advocates, corporate chambers, Advocates-on-Record, trade union lawyers, constitutional specialists, public cause litigators, and countless individual practitioners representing every conceivable stream of Indian society.

Over time, I came to describe this phenomenon as the principle of "slotting." Every advocate gradually finds himself placed within a certain location, field, category, structure, or stream of work – often for reasons far deeper than ordinary understanding. Some become identified with corporate litigation, some with constitutional law, some with taxation, some with labour and service, some with public causes, some with governments, some with industry, and some with individual litigants. Human beings often believe they independently create their journeys, yet many larger forces – aptitude, attitude, timing, circumstance, relationships, institutional need, and perhaps destiny itself – quietly participate in determining where each individual ultimately stands.

This phenomenon of slotting also reflected itself economically and institutionally. Certain sections of the profession acquired greater visibility, influence, and financial dominance than others. Interestingly, I often noticed that the deeper the inner insecurity within a human being, the greater became the outward need for validation, praise, proximity, superiority, influence, or dependence upon surrounding circles of support. In contrast, true self-reliance appeared to produce greater calmness, dignity, balance, and freedom from comparison.

What lay ahead, and what the future would unfold, remained to be seen. Yet the entire process was deeply stimulating, intellectually engaging, and philosophically enriching. Every chessboard contains sixty-four squares and thirty-two pieces, each with a defined colour and defined movement, producing almost infinite possibilities. Human life, however, is infinitely more complex, because

neither aptitude, attitude, character, nor action is fixed in absolute black and white. Human consciousness itself remains dynamic, layered, evolving, and unpredictable. It is therefore never merely about the game, but about the players, their awareness, their strategies, their evolution, and the larger purpose behind every move. In the complex world of law and justice, every litigation, every argument, every institutional decision, and every judgment becomes such a move – affecting not only the immediate parties, but often the larger social fabric itself.

Reflecting upon these dynamics, I increasingly understood how the legal profession, despite its profoundly noble purpose, could at times become entangled within human bias, ambition, insecurity, and invisible alignments. Yet, I also realised that institutions themselves are only reflections of the consciousness of the human beings who operate them. The continuous task of civilisation, therefore, lies not merely in criticising institutions, but in constantly evolving them toward greater justice, transparency, objectivity, dignity, and balance.

As I sat with my father in the fading light of Mount Abu, I quietly reflected upon the journey that lay ahead for me. The path was unknown, yet full of possibility. The legal profession, despite all its imperfections and complexities, remained one of the foundational pillars of constitutional democracy and civilised society. I knew that my own journey through law would become a journey of continuous learning, observation, participation, contemplation, and inner evolution.

With these thoughts, I looked at my father – a man who had navigated his own path with dignity, balance, and integrity in the service of justice. It was now time for me to step into the arena – armed with spirituality, guided by ethics, and anchored in a commitment to justice rooted in equality, equity, diversity, inclusiveness, constitutional morality, and human dignity.

The legal profession, much like chess, is complex, layered, and unpredictable; yet ultimately it is the consciousness, integrity, strategy, discipline, and inner evolution of the players that shape the larger outcome. And so, with a deep sense of purpose and quiet resolve, I embarked upon my own journey in the world of law — conscious of its complexities, inspired by its possibilities, aware of its shadows, yet always committed to its light; determined above all not merely to practice law, but to evolve continuously through it into a more complete human being.

Prologue

After Everything — The Mistress Is Dead, and Love Is Born

I met her on 01.08.1976, at 9 a.m., in 20-A, Lawyers' Chambers, at the Supreme Court of India, in the office of Ramamurti & Co., Advocates. Fifty years have passed in her presence, and I have cherished through them all the profound memories of a conscious existence that lived alongside her.

After making every sincere effort to win her divine favour by working late into the night, rising early, and spending countless hours reading judgements, pleadings, and documents; holding conferences; preparing lists of dates and events; searching for relevant statutes and precedents; analysing and interpreting them to understand not merely their textual meaning, but also the objects and reasons behind them, the limitations and vision of policymakers, and their impact upon social dynamics, constitutional growth, and national evolution in a changing political environment;

After drafting and finalising statements of case, petitions, counters, rejoinders, plaints, and submissions, striving in every matter to assist judges in laying one more brick in the edifice of justice – to compensate breaches of trust, redress wrongs, restore balance, and strengthen faith in constitutional order;

After standing on my feet before judges for hours and days on end, or spending long days in court watching other matters being argued while waiting for my own to be called;

After often skipping breakfast, missing lunch, or dining very late;

After taking only five days off when I got married, seven days when my father passed away, and four days when illness once briefly interrupted working life;

After appearing before 235 Judges of the Supreme Court of India, and before a similar number in the High Courts, trial courts, tribunals, commissions, and arbitrations across the country – and litigating overseas as well – with over 10,000 appearances at admission and final hearing stages, around 500 reported judgements, and tens of thousands of unreported judgements, orders and proceedings – each one a human life that entered the system in need and awaited the answer the system owed it;

After being associated with, assisting, briefing, and interacting personally

with nearly all the foremost senior advocates of the country – Mr. Lal Narain Sinha, Mr. V.M. Tarkunde, Mr. S.N. Kacker, Mr. Ashoke K. Sen, Dr. L.M. Singhvi, Mr. O.P. Malhotra, Mr. R.K. Garg, Mr. P.R. Mridul, Mr. F.S. Nariman, Mr. Soli J. Sorabjee, Mr. G.L. Sanghi, Mr. Rajinder Sachar, Mr. Ram Jethmalani, Mr. Shanti Bhushan, Mr. G. Ramaswamy, Mr. T.R. Andhyarujina, Mr. K. Parasaran, Mr. Ashok Desai, Mr. G.M. Vahanvati, Mr. Altaf Ahmed, Mr. P.P. Rao, and many others – and thereafter appearing against many of them as well;

I gradually came to realise that my relationship with law itself was undergoing a profound transformation. The devotion remained, the discipline remained, the reverence remained, yet my understanding of justice had begun expanding beyond the visible structures of law alone. The spark that had once appeared complete within institutional law gradually revealed itself to be part of something even larger – something deeper, wider, and more civilisational in nature.

Law, my mistress, had not died in the ordinary sense of destruction. Rather, I slowly realised that whenever law becomes separated from justice, even subtly, it begins losing its living soul. The danger is not always dramatic. Often it is gradual, silent, structural, and almost invisible.

During all these years, cases were argued at every stage – admission, interim, final disposal, and final hearing. Many matters were decided both in favour of and against my clients. Yet, in the truest sense, justice was achieved only in some. In others, especially where reasons appeared far removed from complete objectivity, I had begun noticing subtle abrasions within the very institution meant to heal the abrasions of society. Those small deviations, if left unattended, seemed capable over time of weakening institutional faith itself. Justice, once expected to flow naturally from legal principle, occasionally had begun appearing uncertain, inconsistent, or dependent upon invisible variables beyond the understanding of the litigant.

With the turn of the century, several developments and experiences increasingly drew my attention toward deeper structural concerns. The profession I had loved, cherished, and served in my own humble way appeared at places to be losing portions of its traditional dignity, restraint, and institutional balance. Vested interests, perceptions unsupported by larger constitutional philosophy, social prejudices, and invisible alignments sometimes appeared to influence outcomes in ways difficult either to establish or to correct through existing institutional mechanisms.

It felt deeply unfair that an advocate could occasionally become disabled from rendering genuine professional assistance to a client because of perceptions, predispositions, or invisible institutional undercurrents incapable by their very nature of proof. At times, one sensed that the visible reasons in an order were not

always the complete reasons operating beneath the surface. Yet the order remained final, binding, and institutionally unquestionable.

Increasingly, I had begun reflecting upon a painful reality: every order against an advocate is, in truth, an order affecting a litigant – a human being seeking justice, equality, dignity, liberty, and redress, often after spending the hard-earned resources, emotional strength, and hopes of an entire family. No individual willingly enters an advocate's office and a courtroom unless circumstances compel him to do so.

A litigant's confidence in an advocate is ultimately rooted in the advocate's confidence that justice shall indeed prevail. Over time, however, I found judgements increasingly falling into two silent categories within my own mind: "This is Justice," and "Is this Justice?" The painful realisation was not that injustice existed – for no human system can ever become absolutely perfect – but that the second category appeared gradually to be increasing.

To witness judgements and orders occasionally drifting away from the larger spirit of justice because of personal perceptions, invisible compulsions, intellectual rigidity, institutional politics, or vested interests – even if only in limited measure and by only a small segment of individuals – became one of the deepest constitutional and philosophical concerns of my professional life.

This gradually affected my inner conception of justice, dignity, and professional self-respect – values which had guided me throughout life. I had always believed that equity, equality, and justice – even when viewed through differing judicial philosophies – could still remain within the broad framework of constitutional legitimacy. Courts are, without doubt, instruments of social transformation and are entrusted with delivering social justice through open dialogue. Yet there were moments when I honestly felt silently privy to the continuation of injustice without possessing any institutional means to meaningfully address it. The judge's word and verdict remained final.

Over the years, I also had begun realising that the traditional dialectical process of courts – evolving from Socrates, Plato, and Aristotle as a means of eliminating error through structured debate – no longer by itself appeared sufficient for the future needs of justice. Dialectics had become deeply adversarial. The judge and advocate often appeared engaged in a contest to compel acceptance of competing viewpoints. The process, instead of always generating light, at times generated friction.

Some advocates travelled extraordinary distances – not always for justice alone, but sometimes for victory, visibility, professional advancement, political positioning, economic gain, or media attention. Yet even then, outcomes could emerge that appeared disconnected from the larger spirit of justice itself.

Gradually, my understanding began shifting toward what I later came to describe as jurisprudence of mediation – a process marked not by contention, but by sincere exploration; not by egoistic victory, but by collective movement toward truth; not by defeating another consciousness, but by allowing a larger understanding to emerge through disciplined participation. Errors by judges – who wield authority over human destinies – cannot be lightly dismissed merely because institutions are final.

A judge sitting in the temple of justice cannot permit himself the luxury of injustice, for behind every matter stands not merely a file, but a human life, a family, and society itself seeking fairness, dignity, and balance.

Courtrooms, I increasingly felt, must remain open – not only in doors and windows, but in mind, philosophy, and perception – to evolving social realities, technological transformations, and changing dimensions of human conflict. Justice cannot remain imprisoned within rigid structures alone. It must continuously evolve with civilisation itself.

It became deeply disheartening to observe petty judicial politics, invisible power structures, and vested institutional interests occasionally entering spaces that ought to have remained pure in spirit and constitutional purpose. The greater tragedy, however, was not institutional criticism itself, but the gradual erosion of public faith whenever litigants walked away exhausted – financially, emotionally, and psychologically – believing either that justice had not been done to them, or that even where justice may ultimately have prevailed, delay and circumstance had diminished its meaning, value, and human significance.

These developments stood in direct contrast to the values in which I had been raised – in a family that placed dignity, integrity, restraint, and service at the forefront of the legal profession. With the rise of social media and expanding public discourse, increasing criticism and public dissatisfaction had begun openly confronting institutions that had once enjoyed unquestioned reverence. Institutional dignity everywhere appeared under pressure.

Believe me, friends, there is no greater pain for a conscientious advocate than silently witnessing injustice and feeling unable to meaningfully correct it.

Believe me, friends, justice can never be permitted to become dependent upon personal whims, intolerance, hidden compulsions, prejudices, or invisible alignments.

Believe me, friends, advocates must remain warriors of constitutional and legal light and torchbearers of justice – never brokers of influence or traders in institutional proximity.

Believe me, friends, the common man must never suffer because invisible

structures silence one voice while amplifying another.

Believe me, friends, institutions of law were created to deliver justice to human beings. If law becomes detached from justice for any reason whatsoever, law itself risks becoming lifeless – but justice, in its timeless sense, shall nevertheless continue to exist.

Believe me, friends**,** liberty, equality, equity, dignity, and justice shall endure forever – here or hereafter – in the life of every litigant, advocate, legislator, judge, and human being.

Fifty years ago, when I first entered the halls of the Supreme Court, I carried a profound sense of purpose – to render the finest and most meaningful service possible to my fellow human beings, and to contribute, in my own humble way, to the growth of the institution and the nation. The constitutional mission, and that of every institution born under it, was never merely to create a casteless or classless society; it was to help humanity gradually move toward a harmony seeking society capable of consciously dissolving conflict and become conflict-free, where breaches of trust are consciously addressed, where dignity is protected, where accountability survives power, and where law serves not merely order, but harmony itself.

Yet I have remained, and continue to remain, a die-hard optimist. For I no longer see merely the possibility of another jurisprudential consciousness – I see the early emergence of one. With the advent of Legal Revolution 5.0, Online Conflict Resolution, Artificial Intelligence, Peace Mediation, Pro Bono Economics, conscious technology, and a renewed commitment to the Rule of Law, new doors and windows have already begun opening. The future of justice cannot remain confined merely within adversarial victory. It must increasingly evolve towards jurisprudence of peace mediation, timely redress, technological transparency, ethical accountability, conscious adjudication, and the healing of conflict before it hardens into litigation and even thereafter.

A new architecture of justice is slowly unfolding to emerge into visible form. I therefore continue my journey without bitterness and without baggage – remaining committed to law as my profession, while increasingly devoting myself to the larger spirit of justice itself. And now, upon the horizon, I no longer merely sense twilight. I can see, in living emergence, the Birth of My Love – Justice. That birth has already begun. It is tender, luminous, and filled with civilisational possibility.

It now falls upon all warriors of constitutional light to nurture it, strengthen it, and help it grow into its fuller radiance through Peace Mediation, the Rule of Law, conscious technology, ethical institutions, and a more compassionate and balanced social order.

For her, and with her, I shall continue to spend my blissful moments of togetherness.

CHAPTER 1

01.08.1976 – 31.03.1978
The First Door Opens: Entering the Temple of Justice

"If we are to speak of the law as our mistress, she is a mistress only to be wooed with sustained and lonely passion – only to be won by straining all the faculties by which man is likest to God."

– Justice Oliver Wendell Holmes Jr., Our Mistress, The Law, 1885

Apprenticeship at the Supreme Court of India
Reaching Supreme Court
01.08.1976 (Diary Entry)

On 31.07.1976, Hazari Ji, the driver, and Ramu Ji, the *jamaadaar* attached to my father, Justice D.P. Gupta, then a Judge of the High Court of Rajasthan, came to drop me at the Jodhpur Railway Station. I was a twenty-one-and-a-half-year-old law graduate from Jaswant College, University of Jodhpur. The Delhi Mail left Jodhpur at 2:10 p.m. and was scheduled to reach Delhi at 6:00 a.m. the next morning.

My father had earlier worked as a junior associate in Jaipur from 1951 to 1958 with Mr. C.L. Agrawal, Senior Advocate, one of the doyens of the Rajasthan High Court. His eldest son, Mr. S.C. Agrawal, having completed his Bar-at-Law from London, was then practising in the Supreme Court of India. About two weeks earlier, we had met Mr. S.C. Agrawal over lunch at Kwality Restaurant, Connaught Place, New Delhi, where my father requested him to take me under his wing in his office. Mr. Agrawal readily agreed. My father had also arranged for my temporary residence with Mr. N.K. Sanghi, Member of Parliament from Jodhpur and a close family friend, at Humayun Road, New Delhi.

On the morning of 01.08.1976, a Sunday, I reached the Old Delhi Railway Station at about 6:15 a.m., carrying a bedding roll and an attaché case. Inside the attaché, besides my clothes, white trousers, white shirts, and black coat, were a copy of the *Shrimat Bhagwad Gita* by Swami Chidbhavanand, autographed and gifted to me by my grandfather; the complete works of Swami Vivekananda in seven volumes; four books by Sri Aurobindo, including *Savitri*; essays by Ralph Waldo Emerson; and my two diaries (1974 and 1976) in which I noted down ideas whenever and wherever they arose, particularly from the books I read and also scribbled my thoughts.

I had always been naturally and deeply drawn to reading, impelled by an insatiable desire to learn, understand, analyse, and uncover the deeper principles governing life, and human conduct. Long before law emerged as my visible calling, books had become my silent companions. Beside them lived my love for drawing – for the subtle power of a pencil or brush to move with precision under the command of thought, much like books themselves, brought into being by the minds of great thinkers.

My grandfather was a habitual morning walker; a discipline I had adopted from him when I was in the fourth standard. He used to take my elder brother and me to a library located in the public park in Jodhpur. My reading journey evolved from *Phantom* and *Mandrake* comics in the early years to biographies of Bhagat Singh, Chandrashekhar Azad, Chanakya, Vikramaditya, Maharana Pratap, and abridged versions of Shakespeare's plays such as *Julius Caesar*, *Macbeth*, *The Merchant of Venice*, *The Tempest*, and many more. Every evening, from the age of five until about fourteen, he narrated to us stories from the *Bhagwat*, *Ramayan*, *Mahabharat*, *Puranas*, *Panchatantra*, and many other texts. In hindsight, I realise that before I entered the world of law, I had already entered the worlds of *dharm*, conflict, destiny, character, and consequences of *karm*. The imagination is often the first courtroom in which a human being begins to hear the arguments of life.

My mother subscribed to Hind Pocket Books, and 7 to 8 books would arrive every month by post. To me, that was like rain upon parched earth. By the time I reached Class VIII, I had read all 34 volumes of *Colonel Ranjit*, the works of Sharad Chandra Chattopadhyaye, including *Devdas*, and had even made a serious though unsuccessful effort to learn Bangla so that I could read him and Rabindranath Tagore in the original. I also read Bankim Chandra, Acharya Chatursen, Shivani, Amrita Pritam, Gulshan Nanda, Krishan Chander and many others. Gurudatt Ji, a close friend of my father, would often give us a large collection of books whenever we visited him in Delhi. I read his works extensively, including *Ganga Ki Dhara* in five volumes and *Khandar Bol Rahe Hain* in four volumes, and noted with interest his efforts to build bridges between the Hindu and Muslim communities after Partition.

By the time I reached class X in 1969 and thereafter, I had read James Hadley Chase – seventy-six of them, every one I could lay my hands on – Ian Fleming's James Bond series, eighteen of them, from *Goldfinger* to *The Man with the Golden Gun*, Alistair MacLean—twenty-eight of them, including The Guns of Navarone, Where Eagles Dare, and Circus – and Harold Robbins, including *Stiletto*, *79 Park Avenue*, and *The Pirates*. By the time I entered class XI and college, my reading had shifted towards the classics – Jane Austen, the Brontë sisters, Ernest Hemingway, and Erich Segal. During my law studies, I was deeply influenced by Swami

Chinmayananda Ji's discourses on the twelfth chapter of the *Shrimat Bhagwad Gita*, the *Prashna Upanishad*, and the *Narad Bhakti Sutra*, which opened the gates of inner freedom and spiritual understanding for me.

I read various interpretations of *Shrimat Bhagwad Gita* by Tilak, Vinoba, Gandhi, Radhakrishnan, and Swami Satyamitranand Ji, along with works of Swami Vivekananda, Sri Aurobindo, Ralph Waldo Emerson, and Bertrand Russell, including *History of Western Philosophy* and *Principles of Social Reconstruction*, besides biographies of great philosophers. Reading had ceased to be a habit; it had become a way of enlarging my inner sky all day long.

From the Old Delhi Railway Station, I took a three-wheeler to the flat of Mr. N.K. Sanghi, Member of Parliament on Humayun Road, which was to be my temporary residence until a more permanent arrangement could be made. The ground-floor flat was occupied by Mrs. N.K. Sanghi and Mr. Avinash Sanghi, his son, along with a servant and an old maid, as Parliament was not in session. Mr. N.K. Sanghi himself was in his constituency at Jodhpur, where he also had a flourishing business. I was given the guest room to stay for the time.

At about 8:30 a.m., I called Mr. S.C. Agrawal, who asked me to meet him at around 10:00 a.m. at 20-A, Lawyers' Chambers, Supreme Court of India, on Bhagwan Das Road. At about 9:15 a.m., I took a three-wheeler and headed towards the Supreme Court. I reached Bhagwan Das Road at around 9:30 a.m. and entered the Supreme Court premises through Gate No. D for the first time.

The sight of the grand building – with its balanced architecture, broad staircase, imposing pillars, and expansive green lawns – left a deep impression on me. I had visited the Supreme Court once before with my father in May 1964, when Justice Gajendragadkar was the Chief Justice, presiding in the Chief Justice's Court with four other Judges. That earlier glimpse had remained somewhere in memory; this time, however, I had come not as a visitor, but as one about to enter the arena. Some buildings are made of stone, some are built of history, destiny, and aspiration. To me, that morning, the Supreme Court was all four.

Turning right, I entered the Chambers Block through the porch and found myself standing before 20-A, Lawyers Chambers. The chambers were numbered in ascending order to the right up to 48, and in descending order to the left down to 1 with the odds and even facing each other on the bank of a long corridor. On the top right of the door was a dark brown signboard with white letters reading: "Ramamurti & Co.", and below it: "D.P. Singh and S.C. Agrawal."

And there I stood – inquisitive, watchful, inwardly confident – carrying little in material terms, yet already rich with books, with reading, with an analytical mind, with a disciplined structure of life, and with no thought at all of what lay

ahead. I had arrived at the Supreme Court. I did not then know how much of my life I was placing at the feet of that institution. Yet somewhere within, I knew that this was not merely the beginning of a profession; it was the commencement of a long inward and outward journey. When I entered the Supreme Court that morning, I thought I had come to practice law. In truth, I had come to encounter justice, destiny, and myself.

The chamber door was locked, and so I paced slowly along the corridor, acquainting myself with the surroundings and absorbing the atmosphere of a place where, though I did not yet realise it, I would spend many years of my life. After about ten minutes, a middle-aged man arrived and unlocked the chamber. I introduced myself as a law graduate from Jodhpur who had come to meet Mr. S.C. Agrawal and to begin work with him. The man, who introduced himself as Mr. Sikka, the senior clerk of the firm, gave me a curious smile – one whose meaning I could not then fathom – and walked into the chamber without saying another word.

The chamber was fairly large, with tables, chairs, books and files. Every inch of the space seemed to have been disciplined into utility. Two wooden executive chairs stood behind substantial tables laden with files, leaving only a narrow passage towards a side room. Four chairs were placed in front of them. To the left stood another large table, with two chairs behind it and three in front, one of them set before a typewriter. Between this table and the wall ran a long table stretching from the entrance to the far end of the room, piled with files and leaving barely enough room to reach the chairs behind it. At the end of the chamber, a door on the right opened into a smaller office equipped with two typewriters, a cyclostyling machine, and walls lined with files. Another door at the rear opened towards the parking area. Mr. Sikka, who had entered before me, stood there in silence, looking at me. We exchanged a quiet smile, and I returned to the main chamber.

I took my seat on one of the two chairs behind the large table immediately to the left of the entrance. Behind me, stretching across the wall, stood a complete set of the All-India Reporter from 1914 onwards. The sight instantly carried me back to my father's office, where every summer we would wrap each volume in brown paper and mark it carefully with running numbers, so that the books remained protected and no confusion would arise in court about ownership, when they got mixed with the law reports of other advocates. It was also easy to put them back in the right slot on return from the court. In front of me stood the Supreme Court Reports from 1950 onwards, followed by Supreme Court Cases from 1969, and a collection of Bare Acts. I looked around, wondering where the textbooks were. A law office reveals its true priorities not merely by who occupies the chairs, but by the books it chooses to keep within arm's reach.

Out of curiosity, I picked up the 1950 volume of the Supreme Court Reports and began turning its pages. The opening pages listed the Judges of the Court, including two ad hoc Judges – Justice R.S. Naik and Justice Khaliluzzaman. Their inclusion immediately aroused my curiosity. As I flipped further through the pages, I came across four judgements delivered by the Supreme Court at Hyderabad in which their names appeared. This suggested that, at some point in its early history, the Supreme Court had held sittings outside Delhi. The discovery stirred something deeper within me. I realised that to understand an institution truly, one must go beyond its visible structure and enter its history. Institutions reveal themselves not merely through their judgements, but also through their forgotten transitions, silent experiments and the memories embedded in their beginnings. Long before I began to understand the Court as a practitioner, I had unknowingly begun to understand it as a living institution – one carrying continuity, adapting to circumstance, yet quietly preserving its constitutional character.

I also discovered that although the Supreme Court came into existence on 26.01.1950 with the commencement of the Constitution, it was formally inaugurated on 28.01.1950, and its first reported judgment appeared on 14.03.1950 at 1950 INSC 15 in the same volume, I came upon the text of the proceedings of the inaugural sitting of the Supreme Court of India, held in the Court House, New Delhi, on 28.01.1950. It was fascinating reading and, on my very first day within its precincts, gave me a rare glimpse into the vision, promise and constitutional spirit with which the Court had been brought into being.

Present on that historic occasion were the Prime Minister and Deputy Prime Minister of India, Ministers, Ambassadors, members of the diplomatic corps and distinguished members of the Bar. Yet speeches were delivered only by Mr. M.C. Setalvad, Attorney General for India, and Justice H.J. Kania, the first Chief Justice of India. Reading those speeches decades later, one realises that the Court did not see itself merely as the final appellate authority, but as the constitutional conscience of a new Republic. Setalvad spoke of preserving the highest traditions of the Bar and reminded the Court that an independent judiciary could survive only with the assistance of a strong, intelligent and industrious Bar. Justice Kania, in turn, spoke of a Constitution not to be interpreted mechanically but as a living organic instrument, and observed that the Supreme Court would have to act as protector of fundamental rights, interpreter of constitutional boundaries and a stabilising force in a democratic nation under construction.

The last part of the proceedings was particularly interesting and read as follows:

> Mr. M. C. Setalvad (Attorney-General for India): *"My Lords, I now request that the names of all Advocates and Agents of the Federal Court may be directed by Your Lordships to be brought on*

to the rolls of the Supreme Court."

Kania C. J.I. – *"Mr. Attorney-General, the rules of the Supreme Court have been published; and you will notice that the necessary provision has been made for the purpose in Rule 1 of Order IV of the Rules. We direct that today's proceedings be recorded."*

This perhaps explains why these proceedings found their place in the Supreme Court Reports itself. But to me, the exchange symbolised something more profound. Before the Court delivered its first judgment, before doctrine and precedent had begun to shape Indian constitutional law, the institution first ensured continuity of the Bar and continuity of record. The rolls were carried forward, the Rules were already framed, and the proceedings were directed to be recorded. It was a quiet but powerful declaration – institutions endure because memory, process and people endure. Both the Attorney General and the Chief Justice, in their own way, expressed foundational thinking about what the Supreme Court of India was expected to become.

At around 10:00 a.m., Mr. S.C. Agrawal entered and took his seat in one of the two executive chairs at the far end of the room. I rose to greet him. He welcomed me warmly with a smile and motioned me to sit down again. Mr. Sikka promptly placed a few letters and files before him, which he signed and returned before immersing himself in work. Soon afterwards, another advocate, about forty-five years of age and resembling one of my father's associates, entered the chamber and took the chair next to mine. He opened a file and set himself to work without a moment's delay.

After a while, Mr. Agrawal looked up, exchanged a few words with the advocate seated beside me, and then turned to introduce us. "*Aruneshwar, meet Mr. Francis – Mr. V.J. Francis*," he said; then, turning to him, he added, "*Francis, Aruneshwar is a law graduate from Jodhpur and will be working here*." I rose and shook hands with Mr. Francis. He received me with a warm smile. His hands were dry and rough, as though marked by years of labour, struggle, and perseverance. I then asked him which chair I should properly take.

With a broad smile, Mr. Francis explained, "*The two chairs behind those tables are reserved for Mr. D.P. Singh, Senior Advocate and Member of Parliament in the Rajya Sabha from Bihar, and Mr. S.C. Agrawal, who is seated in his. I sit here, and the chair next to me is something of a 'musical chair' – you happen to be occupying it now. No one will ask you to rise, but if it is taken when you come, you cannot ask its occupant to vacate it either. For the time being, simply watch and observe. We have to prepare tomorrow's matters. You will begin to understand everything soon enough*." In every profession, before one is given a place, one must first learn the discipline – and the geography – of humility.

Meeting Mr. R.K. Garg

At about 11:00 a.m., the activity in the chamber suddenly quickened. Everyone seemed to move with a new sense of urgency. Mr. Sikka hurried out carrying a cause list and a bound pile of papers. I looked towards Mr. Francis with a silent question. He smiled knowingly and said, "*The boss has arrived*." Until that moment, I had not even realised that there was another 'boss.' A little later, Mr. S.C. Agrawal rose, picked up two files wrapped in brown paper folders, and motioned to me to follow him. By the time I stood up, however, he had already left the room and turned left down the corridor. When I stepped out a few moments later, he had disappeared from sight. Not wishing to ask anyone for directions, I moved cautiously along the corridor, peering through the glass doors of the chambers as I passed. When I came to Chamber No. 26, I caught sight of Mr. S.C. Agrawal seated inside, in discussion with another middle-aged gentleman. I entered quietly through the self-closing door, which shut softly enough not to announce my arrival.

Mr. S.C. Agrawal glanced at me and gestured that I should take a seat at the large black conference table, with its black base and glass top, placed to the left of the entrance. He continued with the conference and carried on with his briefing. The walls of the chamber were lined from end to end with books – textbooks on the right and English law reports on the left. For one with a voracious hunger for reading and learning, it felt almost like entering a sanctum. For a young lawyer in love with books, a well-stocked chamber is not merely an office; it is a lifeline.

As I sat and watched, I sensed a distinct aura about the gentleman seated across from Mr. Agrawal, one that strongly reminded me of my father's commanding presence. Both Mr. Agrawal and the gentleman were engrossed in thick brown folders, traditionally called "briefs," though there was very little brief about them; they were voluminous. Mr. Agrawal would narrate the facts of each matter with method and precision, while the gentleman would interrupt with searching questions and make notes on the first blank page of each brief. Whenever he referred to a judgment, Mr. Agrawal would, almost effortlessly, recall the citation from memory and supply such detail that the gentleman would immediately note it down. All four briefs were taken up in this manner. From the intensity of their exchange, it was evident that the matters were listed for hearing the following day. That morning, I witnessed for the first time the inner chemistry of advocacy: memory as armour, preparation as discipline, trust as partnership, and the art of reducing complexity into clarity.

As I continued to watch, I understood something without anyone needing to tell me, as I had also observed in my father: behind every brief moment in court

lay long, invisible hours of reading, reflection, and disciplined preparation. The law did not find its voice in the courtroom merely through words; it first found it through labour. That chamber, those books, those files, and those quiet, meaningful deliberations – taken together – became my first true lesson in the Supreme Court of India.

A courtroom may display the argument, but a chamber reveals how it is forged. After the conference concluded and Mr. S.C. Agrawal rose to leave, he looked at me, then turned to the gentleman and said, "*He is Aruneshwar from Jodhpur, son of Justice D.P. Gupta of Rajasthan, one of the thirteen judges in the MISA Case. Aruneshwar, meet Garg Sahib*." Mr. Garg received me with a smile. As Mr. S.C. Agrawal stepped out of the room, I remained seated, sensing that Mr. Garg might have something more to say. Before him lay a small pile of books, some in Urdu and some in English.

After a short while, Mr. Garg closed the brief he had been examining, looked directly at me, and said, "*So, young man, you are twenty-six years late to the profession*."

"But I was born that way, Sir," I replied, not fully grasping the weight of his remark.

Mr. Garg smiled and then explained: *"The Supreme Court came into existence in 1950, and you entered it in 1976, so you are twenty-six years late to the profession. How then do you expect to understand what this Court is doing? There is only one way, young man. If you are serious about this calling, begin reading from 1950 onwards and from 1976 backwards, making notes as you go. Once you have traversed ten years in each direction, while keeping pace with the current work of the Court, the architecture of this institution will begin to reveal itself to you. The Supreme Court lays down the law for the entire country. You must understand the law laid down by the Supreme Court, the foundation on which it stands, and the direction in which it is moving. If you do not understand the Court's thinking as it continues to unfold the law in the true spirit of the Constitution, how will you ever assist it in the discharge of its duty? The strength of the institution depends upon such understanding. Read. Write. Analyse. Discuss all that you see unfolding here."*

It was a masterclass delivered in a few breath-lengths – clarity, direction, and experience distilled without ornament. What he said that morning did not remain a passing piece of advice; it entered my being as an enduring discipline. I realised that to practice before the Supreme Court was not merely to file cases or make submissions. It was to enter an evolving stream of constitutional thought – to understand how a nation thinks through its laws, and how its highest court shapes the course of that thought. The Supreme Court was not merely deciding disputes;

it was, in the quietude of its chambers and the gravity of its judgements, writing the working philosophy of the Republic.

"I will do my best, Sir," I said, feeling both humbled and inspired by the challenge before me. I wished him a good day and stepped out, while he quietly returned to his reading. As I emerged, my eyes fell upon the nameplate outside the chamber – 'Mr. R.K. Garg' on one side and 'Ramamurti & Co.' on the other. Directly opposite Chamber No. 26 was Chamber No. 27, bearing the name 'M.K. Ramamurti.' I wondered who Mr. Ramamurti was, and how all these chambers, names, lawyers, and relationships were woven together. "*Someday, I shall understand all this*," I thought to myself as I walked back to 20-A, Lawyers' Chambers.

On the first day, one does not understand an institution; one merely comes within its orbit. Understanding comes much later – through time, continuous presence, learning by observation, analysis, and experience gained through application. When I returned to Chamber 20-A, I found that another advocate had taken the chair in which I had earlier been sitting and was speaking with a client. Mr. Francis looked at me and smiled knowingly, as though gently recalling his earlier remark about the 'musical chair.' I found an empty seat opposite him, picked up the 1950 volume of the Supreme Court Reports once again, and resumed reading. I accompanied Mr. V.J. Francis for lunch in the canteen located on the right side of the main building on the ground floor and, upon returning, occupied the chair again and spent the rest of the day there.

By about 6:30 p.m., the chamber began to grow quiet as the day's work gradually came to a close. I approached Mr. Sikka and asked whether I might stay late in the chamber, and whether it would be possible to have a duplicate key made. I told him that I intended to arrive by 9:00 a.m. the next morning and to work late into the evening, just as I had seen my father do for years in Jodhpur – often working until 2:00 a.m. throughout the period I had lived with him from 1958 to 1976. Mr. Sikka looked at me, his smile carrying a mixture of amusement and surprise, and said that he could arrange for a duplicate key the following day. He added that such a request from an advocate was unprecedented, and informed me that the Supreme Court chambers remained open until 9:00 p.m. The profession had not yet begun to test me, but I had already made up my mind that I would neither enter it casually nor allow it to pass casually through me. In truth, there was nothing casual about me. Whatever I did, I did with single-minded focus, committing the whole of myself to the work at hand – whether sports, painting, reading, or even scribbling.

Later, back at Humayun Road, I freshened up, had dinner, and went for a walk along Shahjahan Road towards India Gate, absorbing the air and rhythm of Delhi and acquainting myself with the geography of the area, particularly with

the next morning's walk-in mind. Akshay Sanghi mentioned that he was leaving for the Chelmsford Club to play squash, and pointed out Khan Market behind Humayun Road. I paid little attention. My mind was not on clubs, markets, or social distractions.

I had embarked upon this journey to pursue law as the calling of my life, resolved to live with dignity, discipline, and purpose, leaving little room for the trivial. I did not know what the future held, yet I felt no anxiety about it. Time has its own way of revealing the worth of hours surrendered to single-pointed action – like Arjuna's unwavering gaze upon the eye of the bird before the arrow was released – through reading, reflection, analysis and expression.

Armed with my grandfather's blessings, the discipline of my father, the nourishment of books, and the unseen strength of divine grace, I felt inwardly ready for whatever lay ahead. I had entered Delhi with a bedding roll and an attaché case; I did not then know that I had also arrived bearing questions that would take a lifetime to answer. My first day at the Supreme Court did not merely introduce me to a profession; it silently initiated me into a destiny.

First Day at Supreme Court

02.08.1976 (Diary Entry)

I reached 20-A Lawyers Chambers at 9:00 a.m. and found the door locked. Mr. Sikka arrived shortly thereafter and, on my request, agreed to arrange a duplicate key for me by the evening. Soon after, Mr. V.J. Francis came in, greeting me with his now familiar warm smile and firm handshake.

At about 10:00 a.m., Mr. S.C. Agrawal, Mr. R.K. Garg, Mr. D.P. Singh – the third member of Ramamurti & Co. and a designated Senior Advocate – along with several other advocates, arrived in full court dress, wearing white bands and black gowns, and then proceeded towards the Court. As I had not yet been enrolled as an advocate, I was not entitled to wear the white bands or the black gown. I therefore came dressed in a tie and black coat, which I had brought with me from Jodhpur.

Mr. V.J. Francis asked me to accompany him and led the way towards the main building of the Supreme Court on the first floor, carrying a list of law reports to be cited, prepared in duplicate, with the court number and item number written at the top of each slip, along with appearance slips bearing the court number, item number, and the names of the advocates appearing in the matter. Unlike my father, who in the High Court often carried books in a tray, here everyone carried briefs, but no books. That itself was an education.

Every court has its own grammar, and the first task of a young lawyer is to

learn how its language is lived before it is spoken. The Supreme Court of India had a majestic and imposing presence. From above, its structure resembled a balance, with the Chief Justice's Court placed in the centre under a large dome, and two wings extending outwards like the arms of a scale, ending in semi-circular formations. As I climbed the front steps, I was reminded of my earlier visit to the Supreme Court with my father in 1964, when we had entered the Chief Justice's Court. Justice P.B. Gajendragadkar was then the Chief Justice, presiding over a Constitution Bench. I remembered, as a child, wondering how someone would look in those long, flowing black gowns, which to my young imagination had resembled Batman from the comics.

The eight pillars in front, built of Dholpur stone, radiated strength, permanence, and gravity. When I touched them, I felt a deep and almost reverential connection with what stood before me – the highest temple of justice in the country. To me, in that moment, it felt like the culmination of the four *dhaams* established by *Adi Shankaracharya*: a place where the journey of law, thought, discipline, and destiny converged. Some structures are entered with the body; others are entered first with awe. That morning, I did not merely climb the steps of a building; I ascended into an institution that had already begun to shape my inner life.

Inside, there were five courts. Court No. 2 was to the right of the Chief Justice's Court, while Courts Nos. 3 and 4 were on the left. Court No. 5 stood at the far end of the corridor, next to Court No. 2. The arrangement puzzled me. Ordinarily, one would expect Court No. 4 to follow Court No. 2. In the Supreme Court, the senior-most judge sits to the right of the presiding judge, and the junior-most to the left, with the pattern continuing alternately. I surmised that Court No. 4, being closer to Court No. 3, must have been part of the original internal arrangement, and that Court No. 5 was likely added later as the number of judges increased. Perhaps Court No. 4 had also been placed closer to the Supreme Court Bar Association Library and the main entrance for the convenience of advocates and litigants, while Court No. 5 came into existence when the institution had expanded beyond its initial design. Buildings, like institutions, often reveal their history through their asymmetries.

The Supreme Court of India had begun with six judges against a sanctioned strength of eight: Justice H.J. Kania from Bombay, the first Chief Justice of India; Justice Saiyid Fazl Ali from Patna; Justice M. Patanjali Sastri from Madras; Justice Mehr Chand Mahajan from Punjab; Justice B.K. Mukherjea and Mr. S.R. Das from Calcutta. All of them had been sitting judges of the Federal Court of India on 26.01.1950. By 1956, the sanctioned strength had increased to eleven, and to fourteen in 1960. At the time of my joining, there were eleven sitting judges

against a sanctioned strength of fourteen.

The corridors were bustling with Senior Advocates, Advocates, Advocates-on-Record, and clients, all moving with visible purpose and concentration. Along with Mr. Francis, I visited the Supreme Court Bar Association Library, where we submitted one set of lists of books required for each matter in each court. On the basis of those lists, the library staff would send the books to the respective courts and retrieve them afterwards, unless the matter was part-heard and marked with a slip stating, "*Please don't remove the books."*

This was different from the practice in the Rajasthan High Court and made excellent sense. The library staff was efficient, cooperative, alert, and very respectful towards Mr. Francis. They greeted me warmly as I was introduced to them.

Thereafter, we visited each court where matters were listed. Mr. Francis handed one copy of the list of books to the Court Master and a list of appearances to the other Court Master. Everyone knew him well. He was greeted with smiles, handshakes, and warm "*Good Morning*" wishes.

I felt privileged to be present in such a vibrant and intensely professional environment. The Court functioned not merely through law, but through an invisible discipline of roles, relationships, memory, and movement.

Entering the Chief Justice's Court after eleven years, I was once again awestruck by its grandeur. But this time I was not merely a visitor; I had come to belong, even if only as a beginner. The atmosphere inside the courtroom was charged with energy—filled with hushed voices, quick exchanges, respectful greetings, and the rustle of papers. The Chief Justice's Court had a large white dome, evidently designed for acoustic control, and magnificent teak wood panelling rising nearly ten feet high. Portraits of Justice H.J. Kania, the first Chief Justice of India, and Justice Mehr Chand Mahajan, the third Chief Justice of India, adorned the walls of the Chief Justice's Court. Advocates were standing up to mention urgent matters, seek adjournments, or request some immediate indulgence. The courtroom was almost full, with advocates in formal attire, some wearing high-neck collars, which I had not seen in Rajasthan High Court except the judges of the High Court.

I found the first chair on the right was empty and on enquiry Mr. Francis told me that it was reserved for the Attorney General for India, Mr. Niren De at that time – a towering figure in every sense, not least because of the historic and controversial position he had taken in the MISA case, namely, that during the Emergency there was no fundamental right to life, and that the Union of India had the power even to take a life without judicial remedy. My father, in the High Court of Rajasthan, had delivered the judgment of the Court in the MISA matter, *inter alia*, holding that at least the right to establish the identity of the detained

person survived. That judgment was later overturned by the Supreme Court. I was certain that the Supreme Court had its reasoning, and I hoped that one day I would be able to understand both its logic and its limitations. A young lawyer inherits not only cases and precedents, but also the unresolved questions of his age.

Justice A.N. Ray presided as Chief Justice, alongside Justices M.H. Beg and Jaswant Singh in the Chief Justice's Court. In Court No. 2, Justice H.R. Khanna sat with Justice P.N. Bhagwati. In Court No. 3 sat Justice Y.V. Chandrachud with Justice P.N. Shinghal, the first judge elevated from the Rajasthan High Court to the Supreme Court. In Court No. 4 sat Justice A.C. Gupta with Justice S. Murtaza Fazal Ali. In Court No. 5, Justice P.K. Goswami sat with Justice N.L. Untwalia for miscellaneous matters.

After the miscellaneous matters concluded, the benches adjourned briefly and then reassembled for final hearing work in a different formation. The Chief Justice's Court sat with the Chief Justice and Justice M.H. Beg. Court No. 2 sat with Justice H.R. Khanna, Justice N.L. Untwalia, and Justice Jaswant Singh. Court No. 3 comprised Justice Y.V. Chandrachud, Justice P.K. Goswami, and Justice A.C. Gupta. Court No. 4 sat with Justice P.N. Bhagwati and Justice S. Murtaza Fazal Ali. No final hearing matters were listed before Court No. 5.

Interestingly, unlike the Rajasthan High Court, the cause list in the Supreme Court did not mention the names of the advocates appearing in the matters. I wondered how an advocate would identify his cases without having the names of counsel reflected against each listed matter. Yet it appeared that the advocates and their clerks were entirely at ease with this practice. It was another reminder that institutions develop their own habits of functioning, and those who live within them begin to move with instinctive ease through systems that appear opaque to outsiders.

As the matters proceeded, I observed advocates and senior advocates making their submissions and the judges passing orders. It was fascinating to see, in living form, several of the renowned legal luminaries whose names I had only heard until then. I noticed Mr. C.K. Daphtary, former Attorney General for India, moving slowly with a walking stick in the corridor. Mr. Niren De was the sitting Attorney General. Mr. S.V. Gupte was the Solicitor General, and Mr. Raman the Additional Solicitor General. Among the distinguished members of the Bar whom I saw were Mr. S.T. Desai, whose book on partnership law I knew by name; Mr. Lal Narain Sinha; Mr. Ashoke K. Sen, who had visited our home years earlier; Mr. G.B. Pai; and Mr. O.P. Malhotra, whose book on industrial law I had read during my college days.

To see them all in one place was like seeing printed names come alive and begin to move, speak, think, persuade, and command. The law, which until then

had often come to me through books, commentaries, and judgements, now stood before me as a living organism – breathing through personalities, preparation, courtcraft, memory, courage, and reputation. The first day in court teaches a young lawyer that the law is not merely written in books; it is also carried in voice, bearing, timing, and character.

As I moved through the corridors, the courts, and the library that day, I understood something more. The Supreme Court was not simply a building where appeals were heard; it was a national mind at work. Within those rooms, the law breathed, power was questioned, liberty was measured, and the language of justice was continuously being shaped. India was then in the thirteenth month of the Internal Emergency proclaimed by Prime Minister Indira Gandhi on 25.06.1975. The courts were not untouched by that shadow. I did not yet know where I would stand in that vast movement, or whether I would ever leave even the smallest mark upon it. But I felt, with quiet certainty, that I had come to the right place. A young man may enter the Supreme Court seeking a profession; if he stays long enough with sincerity, he begins to encounter a civilisation thinking aloud.

By the end of the day, I returned to chambers with a head full of images, names, systems, and impressions. Nothing outwardly dramatic had happened. No great event had marked the day. Yet inwardly, a foundation had been laid. The profession had begun to reveal its outer discipline and inner hierarchy. The Court had shown me its grandeur, but also its method. And I, in turn, had begun to understand that if I wished to serve here meaningfully, I would have to give myself to reading, observation, memory, humility, and relentless work. The law reveals itself slowly. On the first day, it does not embrace; it only allows one to stand at the threshold.

Settling of Cause List

05.08.1976 (Thursday) (Diary Entry)

The court proceedings concluded by about 4:00 p.m. At around 4:15 p.m., Mr. Sikka handed over a thick Tentative Cause List, topped by a cover sheet showing item numbers, to Mr. V.J. Francis. Mr. Francis asked me to accompany him to Court once again. My expression must have betrayed some confusion, for he immediately explained that it was Thursday – the day on which the following week's Cause List was settled in the Chief Justice's Court by Mr. C.M. Oberoi, Assistant Registrar. This session, he said, was not merely about Mentionings; it was also the place where an advocate often first learnt how to address the Court. That observation stayed with me.

The Chief Justice's Court was filled with Advocates-on-Record, each holding

a cause list with item numbers written on the front page. As matters were called out, advocates would rise to argue either for the listing of a case or against it. Some pressed for deferment, especially where notice had already been issued and stay orders were operating; others strongly urged early listing, pointing out that the subsisting stay was seriously prejudicing their clients.

One commonly heard ground for deferment was: *"Material instructions have not been received."* The phrase seemed so frequently invoked that it had become a mild source of amusement among the advocates themselves. Yet the atmosphere, though active and charged, remained dignified, cordial, and professional. Beneath the visible contest there was also a distinct sense of fellowship. Mr. Oberoi, for his part, consistently leaned towards listing remarking that the matter would have to be listed, as there was a need to move matters forward quickly.

Mr. Francis asked me to suggest two dates for listing our matters in the following week. When I voiced the dates, Mr. C.M. Oberoi curiously looked at me and took note of the new voice speaking on behalf of Ramamurti & Co. and accepted the suggestions without hesitation. Mr. Francis thereafter took over and dealt with the finer questions of whether a matter should or should not be listed. Matters meant to be listed beyond the immediately succeeding week would first find place in the tentative list of that week and would then be confirmed again before final listing on next Thursday. Since advocates were usually informed of the likely dates well in advance, enabling clients to travel from different parts of the country, it made practical sense not to mention the names of the Advocates-on-Record in the cause list itself. Once a matter was listed, neither unnecessary mentions were made for adjournments nor easy adjournments granted. The settlement of the cause list revealed that justice begins not only in judgment, but in orderly listing, disciplined preparedness, and respect for everyone's time both by the bench and the bar.

Ramamurti & Co. enjoyed a strong reputation, particularly in matters concerning employees and labour, many of them supported by trade unions. Mr. R.K. Garg, known for the force and clarity of his presentations, was associated with the Communist Party of India and was widely respected for his firm nationalist-socialist convictions. The firm handled a substantial volume of criminal matters from Bihar, Uttar Pradesh, Rajasthan and the South, apart from service, civil and rent control litigation. It was becoming increasingly clear to me that a chamber was not merely a professional address; it was also an intellectual location, shaped by the causes it chose to serve. A law firm is known not only by the cases it wins, but by the human constituency whose trust it carries. This Thursday exercise taught me something fundamental. Before a lawyer argues a matter, drafts a petition, or cites a precedent, he must first understand the discipline by which a

court regulates its own time. The settlement of the cause list was not a clerical ritual; it was the choreography of institutional order. It showed how justice, at the highest level, depends not only upon lofty principle but also upon method, movement, and quiet administrative wisdom. In great institutions, even procedure has a philosophy.

Friday Evening

06.08.1976 (Friday) (Diary Entry)

On Friday, as I was reading a brief at around 5:00 p.m., Mr. Garg entered 20-A Lawyers' Chambers accompanied by another advocate and two gentlemen who appeared to be leaders or office-bearers of the P&T Trade Unions.

In his brisk and characteristic manner, he said to Mr. S.C. Agrawal, "*OK, let's go*," and then, turning towards me, added, "*You also come*." Mr. Agrawal rose at once, and all of us followed them out of the chamber.

Mr. Agrawal took the driver's seat of a white Fiat, with Mr. Garg seated beside him, while the remaining four of us adjusted ourselves in the back seat. We drove towards a nearby market area known as Bengali Market, not far from the Supreme Court. On the way, I noticed the Triveni Art Gallery to the right, just beyond a large roundabout.

The atmosphere in the car was relaxed, but the conversation was not casual. It revolved entirely around politics as it existed in India in August 1976—the Emergency, the condition of institutions, trade union concerns, the shifting alignments of power, and the larger direction in which the country seemed to be moving.

I listened with close attention. I knew little then of ideological politics in any structured sense, but I was keen to understand the forces that shaped institutions, laws, and national life. The law may speak in statutes and judgements, but it often moves in the shadow of politics, power, and public events.

At the market, we had *samosas* and *chole bhature*. The discussion, however, remained serious and political, not social. It was less an outing than a continuation of chamber life in another setting.

Thereafter, we returned to the chamber. Soon everyone dispersed – Mr. R.K. Garg, Mr. S.C. Agrawal, Mr. V.J. Francis, and Mr. Sikka – who asked me to lock up, as by then I had begun opening and closing the chamber every day at 9:00 a.m. and 9:00 p.m. with the key entrusted to me.

It struck me that for advocates, Friday evening marked the only slight pause in an otherwise continuous legal routine. Their early mornings, days, evenings,

and late nights belonged almost entirely to the profession. The profession of law is not interrupted by weekends; it merely changes its setting.

I had no fixed plans for the evening. I first decided to call my grandfather and my mother to let them know that I was doing well. Their voices carried affection, blessing, and continuity. Thereafter, I informed some relatives in Delhi that I had arrived in the city. They invited me for dinner, and I accepted. I asked about the bus route and the nearest stop to their residence, and it was settled that I would visit them that evening and perhaps on a few subsequent Fridays as well.

There was a certain practical order in that arrangement. In a new city, within a great profession and before an institution of formidable scale, the availability of family contacts provided continuity with the world from which I had come. But I had not come to Delhi in search of social ease or domestic comfort. I had come to place myself in a field of learning, discipline, and meaningful contribution. Even then, I instinctively felt that the evolution of a professional, like the evolution of a human being, is a natural consequence of integrity, clarity of thought, and sustained inward growth. It does not depend upon drama, struggle, or social display. It depends upon remaining true to one's purpose. A profession flowers best not under the pressure of ambition, but under the quiet discipline of purpose.

My own inclination was not towards casual social interaction. I was drawn far more to reading, reflection, analysis, and the steady enlargement of understanding. The profession, to me, was not a theatre of networking; it was a field of preparation. If I had any companionship at the core of my life, it was with books, ideas, notes, and the silent sharpening of thought. My real conversation was not with society, but with knowledge.

Looking back, that first Friday evening was instructive in a more subtle way. It showed me that the legal profession, even in its most exacting rhythm, was inhabited by ordinary human beings who carried convictions, discussed national events, ate together, and returned again to files, courts, and deadlines. I could observe and value that human texture, but it was not central to my own manner of living.

My real refreshment came from solitude, reading, and the inward ordering of thought. Even then, I felt that any ordinary person, if guided by natural passion for self-growth, institutional dignity, and national purpose, could contribute meaningfully. Great contribution does not necessarily arise from extraordinary circumstances; it often arises from ordinary persons who remain inwardly disciplined and outwardly honest.

Every ordinary person like me who is able to think clearly, work honestly, and look beyond himself carries within him the power to contribute meaningfully to the institution and nation.

Meeting other colleagues

07.08.1976 (Diary Entry)

I attended a conference in the chamber of Mr. R.K. Garg, where two more advocates were present. After Mr. S.C. Agrawal left, Mr. Garg introduced me to them: Mr. R.K. Jain from Uttar Pradesh and Mr. R.P. Singh from Bihar, who had recently joined Mr. D.P. Singh. It was another small but significant widening of my world. I was beginning to see that the Supreme Court was a court in Delhi but it was a national crossroads where advocates from different States, temperaments, and traditions converged into a common constitutional stream. The Supreme Court was India in professional miniature – many regions, many idioms, one discipline.

By then, I had already begun closely examining the early volumes of the Supreme Court Reports. In its initial years, the Supreme Court of India had delivered 54 judgements in 1950 and 78 in 1951.

An interesting feature soon became apparent. Although the Supreme Court Reports (SCR) was the official series of law reports by virtue of the governing law, not all judgements of the Supreme Court were published in SCR. Only judgements marked 'reportable' by the judge delivering the judgment found place there. Yet, under Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within India.

As a result, many judgements not published in SCR found place in the All India Reporter (AIR), the long-standing private reporting series published from Nagpur since 1914. In the year 1950 itself, out of 54 judgements delivered by the Supreme Court, SCR published 40, while the others appeared in AIR and other law reports.

Each law report carried some judgements that were not published in the others. The unique selling proposition of each law report was the speed of publication and the value it added through selection, editorial inputs, indexing, headnotes, and accessibility. This eventually led to a mushroom growth of law reports.

A judgment does not become law because it is printed in a particular report; it becomes law because it is spoken by the Supreme Court. Reporting only determines how quickly the profession finds it. My father's library had a complete set of AIR from 1914 onwards. Every summer vacation, we used to clean the volumes meticulously and cover them in brown paper, much as I had once covered my schoolbooks. AIR published judgements from all the High Courts in India, besides other important decisions, and each volume was carefully numbered so that it remained in proper order on the racks and was not misplaced when taken to court. Looking back, that annual discipline of handling the books was itself a

training in legal reverence. The habit of respecting books often precedes the habit of respecting the law.

Ramamurti & Co. subscribed to a number of important legal periodicals and report series – Criminal Law Journal (Cr.L.J.), Labour Law Journal (LLJ), Service Law Reporter (SLR), and also the relatively new Supreme Court Cases (SCC), which had begun publication in 1969. In addition, there were cyclostyled copies of Supreme Court Judgments circulated weekly by the Supreme Court Bar Association. The chamber also possessed All England Reports (All ER), a private publication like AIR, and the Weekly Law Reports (WLR), which was the official reporting series there. There were further collections of the United States Law Reports Lawyers Edition, Australian Law Reports, Commonwealth Law Reports, and even the Harvard Law Review. A separate section was devoted to Bare Acts, arranged alphabetically, alongside the most recent loose volumes of current reports.

One notable practice of Mr. S.C. Agrawal was that before leaving for conferences or court, he would briefly go through the latest loose volumes and the cyclostyled copies of recent judgements. It soon became clear to me that a significant part of court craft lay in remaining updated. Judges frequently asked senior advocates about the latest decisions of the Supreme Court. To be unaware of a fresh judgment, or worse, to cite a decision that had just been reconsidered or diluted, could be distinctly uncomfortable and, at times, embarrassing. Since judgements were delivered almost daily and did not instantly find place in bound volumes unless circulated through the Bar Association or carried in a law report, keeping oneself updated was crucial. Reputation at the Bar depended not only on eloquence or memory, but also on the freshness of knowledge. In advocacy, memory gives confidence, but currency gives authority.

If a judgment was reported in SCR, the Court ordinarily insisted that it be cited from SCR alone. Mr. Gopi, the seasoned librarian of the Supreme Court Bar Association, had prepared and published a conversion table from AIR to SCR and vice versa, which was in great demand. When the Bar Association library received a list of judgements required in court, it would send the relevant SCR volumes, marked and flagged for immediate use. There also existed an encyclopedic index of Supreme Court Judgments by Mr. Gopalkrishnan arranged alphabetically by case name, enabling quick citation and retrieval. I began to realise that behind every polished argument in court stood an invisible army of librarians, clerks, indexes, conversion tables, and law reports. The elegance of a courtroom citation often rests upon the silent labour of those who never rise to address the Bench.

Another vital skill for a distinguished advocate was the ability to know the follow-up history of a judgment – whether it had been followed, distinguished,

referred to, doubted, or overruled. Mr. Ashoke K. Sen, Senior Advocate, who had a private library even more extensive than the Judges' Library of the Supreme Court, had meticulously marked his personal law reports with all such references, thereby creating for himself a ready and highly sophisticated reference system. He had also served as India's Law Minister from 1957 to 1966 in Jawaharlal Nehru's Cabinet. It struck me that true mastery in law lay not merely in finding a case, but in knowing what had happened to that case afterwards. A precedent is not a static monument; it is a living point in an ongoing conversation.

Mr. S.C. Agrawal possessed an extraordinary memory, constantly refreshed and updated with judgements not only from India but also from the United Kingdom, the United States, Australia, and Canada. That vast and ever-living memory formed one of the unmatched foundations and strengths of Ramamurti & Co. Many advocates would come to him seeking the latest judgements on particular issues, and he would, with his characteristic smile, provide them readily. It became increasingly clear to me that one of the central activities in any advocate's office was the search for precedent – not as a mechanical exercise, but as an intellectual effort to find principle, analogy, direction, and judicial thought suited to the case at hand.

Those days taught me that the profession was not held together merely by hearings and arguments. It was sustained by reading, indexing, memory, reporting, updating, and the disciplined pursuit of precedents.

A good advocate did not merely know the law; he knew where the law had travelled, how it had evolved, in what direction it might next move, and how to apply the law to the facts of the case at hand. To practice law seriously is to develop not only a voice for the courtroom, but also a map of the mind of the law.

In those early days, I was only watching, listening, and absorbing. But slowly I began to understand that if I wanted one day to stand with confidence before the Court, I would first have to build an inner architecture of references, relationships, principles, and disciplined habits. The formative years of the profession are not glamorous; they are foundational. It is in those unseen years that the future advocate, and perhaps even the future thinker, is silently made. The law does not reveal itself to the impatient. It opens only to those willing to build their foundations in silence.

Ramamurti & Co.

10.08.1976 (Diary Entry)

Ramamurti & Co., Advocates, was an intriguing firm. It seemed to be a stronghold of Marxist, Communist, or broadly Left-oriented thought and ideology – fields of thought about which I then knew very little, but which I was keen to understand as deeply as I could. I had come to the profession not with a fixed ideological frame, but with an openness to learn.

If the law was a meeting ground of human conflicts, it was also a meeting ground of conflicts of ideas. I felt that to understand the institution fully, I would have to understand not only statutes and precedents, but also the philosophies that shaped the minds of those who argued before it and the directions in which they wished the Supreme Court to evolve.

A lawyer who wishes to understand his age must study not only its laws, but also its ideas, ideologies, and intellectual movements. Courts do not function in isolation. Every generation carries into the courtroom its own understanding of liberty, equality, justice, power, property, labour, rights, and the role of the State. These currents may not always be visible in the text of a statute, but they often flow beneath the arguments, shaping the questions that are asked and, at times, the answers that emerge.

I therefore considered it necessary to understand different schools of thought, not to become captive to any one of them, but to appreciate the forces that influenced institutions, societies, and the law itself.

Mr. Francis told me something of the firm's origins, and the account itself was revealing. Among the important seniors once briefed by Mr. M.K. Ramamurti and Mr. D.P. Singh were Mr. V.K. Krishan Menon, Defence Minister in Pandit Jawaharlal Nehru's Cabinet; Mr. Mohan Kumaramangalam, who later served as a Union Minister in the Government of Indira Gandhi; and Mr. Syed Mahmood. It was through such professional associations, intellectual influences, and political currents that Ramamurti & Co. had come into being and eventually came to occupy Chambers Nos. 20-A, 25, and 26 in the Supreme Court.

After the untimely death of Mr. Mohan Kumaramangalam in an air crash, the firm appears to have undergone a significant internal reorganisation. Mr. M.K. Ramamurti retained Chamber No. 27 along with Ms. Shyamla Pappu. Chamber No. 20-A – which had originally served as a canteen and was the largest among the Lawyers' Chambers – together with Chamber No. 26, remained with Mr. D.P. Singh, Mr. R.K. Garg, and Mr. S.C. Agrawal. Once Mr. D.P. Singh was designated as a Senior Advocate, Ramamurti & Co. came to be functionally led by its two principal partners, Mr. R.K. Garg and Mr. S.C. Agrawal.

The chambers were open, active, and, in a sense, available for use by many advocates for keeping files, holding conferences, and meeting clients. They possessed a character quite distinct from that of a conventional law office. Over the years, numerous advocates had been associated with Ramamurti & Co., creating a professional environment in which ideas, files, clients, and conversations moved with remarkable freedom.

Among the regular and visible users of the chambers was Mr. Narayan Nettar, Advocate-on-Record for the State of Karnataka, who had been a classmate of Mr. S.C. Agrawal in London during their Bar-at-Law days. Another familiar presence was Mr. P.D. Sharma, Advocate – a quiet, reserved, yet warm-hearted gentleman who invariably greeted everyone with a smile and a handshake. The chamber attracted advocates of varied backgrounds, temperaments, and professional interests, and for a young entrant to the Supreme Court Bar, it provided a valuable opportunity to observe the profession not merely as a vocation, but as a living institution sustained by relationships, trust, and shared intellectual endeavour.

What interested me was not merely the personalities, but the texture of the place. Ramamurti & Co. did not seem like a narrowly enclosed office; it resembled a living professional ecosystem – part chamber, part meeting ground, part ideological nerve centre, and part practical workshop of litigation.

Files moved constantly from one table to another. The steno continued to cut stencils, the cyclostyling machine rolled out fresh copies, people came and went, clients arrived carrying anxieties and expectations, clerks moved with speed and familiarity, and advocates of different temperaments occupied the same physical and intellectual space. Discussions on law, politics, trade unions, constitutional issues, and current events flowed naturally into one another. Some chambers are merely workplaces; some evolve into institutions in miniature. Ramamurti & Co. appeared to be one of them.

In those early days, I was still learning the visible structure of the firm – who sat where, who led what, who came regularly, who carried influence, and who helped shape the ethos of the place. But another realisation was also slowly dawning upon me. A lawyer's chamber is not defined merely by ownership or a nameplate on the door. It is defined by the ideas it attracts, the causes it carries, the people it nurtures, and the discipline by which it earns trust.

Ramamurti & Co. seemed to possess all four. Beneath its apparent informality there existed a quiet order, an intellectual seriousness, and a shared commitment to professional excellence. For a young entrant to the Supreme Court Bar, it was not merely a place to sit and read files; it was a place from which one could begin to understand how institutions are built, how ideas acquire influence, and

how the practice of law extends far beyond the courtroom into the larger currents that shape society itself.

For me, this exposure was formative. Until then, I had largely seen law through the lenses of discipline, reading, spirituality, and my father's long working hours. Here, for the first time, I was seeing law closely linked with organised social thought, ideological conviction, labour movements, and larger national currents. Whether one agreed with a particular ideological position or not, one could not deny that ideas travelled into courtrooms through advocates, and through advocates into institutions.

Courts decide cases on facts, evidence, law, and constitutional principle, yet every generation inevitably brings into the courtroom its own understanding of liberty, equality, rights, duties, property, labour, governance, and social justice. The law as declared by the Court must remain impartial, but the arguments that seek to shape it often emerge from deeper currents of political, economic, and philosophical thought. Observing these interactions taught me an enduring lesson: a lawyer who wishes to understand an institution fully must strive to understand not only the law, but also the ideas that continually seek to influence its evolution.

I watched, listened, and absorbed. I was in no hurry to form conclusions. As Mr. Garg had reminded me, I was twenty-six years late in entering the profession. Yet I also knew that the legal profession unfolds differently for each person according to the requirements of time and circumstance. I was not yet twenty-two years old and therefore had an advantage over many who would enter after me. Some of them would undoubtedly go much farther and achieve much more than I ever would, but I was determined to fill my own place honourably – a strong brick in the great edifice of the institution to which I now belonged.

I also knew that I possessed an advantage over those who chose to spend their evenings largely in entertainment and social engagements. My task at that stage was not to seek visibility, but to understand the basics, the fundamentals, and the first principles of the profession.

The formative years of a legal career are often years of silent apprenticeship – not only in law, but in the many worlds that law touches. In such years, one gradually learns that institutions are built not merely by statutes and judgements, but also by personalities, philosophies, relationships, traditions, and struggles carried quietly across tables piled high with files.

Before a lawyer finds his own voice, he must first learn to hear the many voices that already inhabit the profession. Before he can contribute to an institution, he must understand the forces that shaped it. I was still at the stage of listening, observing, and learning, content to allow the institution to reveal itself one day at a time.

Meeting for First Residential Accommodation

13.08.1976 (Diary Entry)

Justice M.L. Jain, then a Judge of the Delhi High Court and a very close friend of my father, had been transferred to Delhi from Rajasthan – an event in which, as I later came to understand, judicial politics had also played its own role. One day he called me and asked me to meet Mr. Shrikrishanmal Modi, Member of Parliament from Neem Ka Thana, Rajasthan, at the Ashoka Hotel.

I went there and met Mr. Modi. He informed me that he had a flat at 60, South Avenue, with a barsati floor, which I could use as my residence. The offer came as a quiet but important turning point. Until then, I had been staying only on a temporary basis. The possibility of having a place of my own – even if modest and provisional – brought with it a sense of stability. I felt relieved and happy that I would now be able to organise my life around a fixed point and live according to my own discipline.

Looking back, I realise that such moments, though outwardly small, are often of great significance in the life of a young professional. Before one finds one's place in a profession, one must first find a place from where one can think, read, prepare, and return to oneself. Every meaningful professional journey requires, at some stage, a small physical space where thought can gather itself and aspirations can slowly take shape.

Delhi was new to me. The Supreme Court was vast, exacting, and filled with visible and invisible hierarchies. In that setting, the prospect of a residence at South Avenue, close to Parliament House and not far from the Supreme Court, carried a quiet significance of its own. It was the first place in Delhi that I could call my own.

One begins to understand, in retrospect, that life does not always move through dramatic breakthroughs. More often, it advances through timely acts of goodwill, personal relationships built over years, and opportunities extended by those who believe in you before you have had the chance to establish yourself.

Many important doors in life do not open with noise; they open quietly, through trust, affection, and grace.

Securing a Residence

15.08.1976 (Diary Entry)

I reached 60, South Avenue carrying my belongings – an attaché case, a bedding roll, and what, to me, were among my proudest possessions: a few carefully chosen books. Mr. Shri Krishanmal Modi, Member of Parliament from Neem Ka Thana,

Rajasthan, had already left instructions for me, and I made my way up to the barsati floor.

It was a modest one-room set with an attached washroom and an open terrace in front. Surrounded by greenery and situated directly opposite the Members of Parliament Canteen, the place had a calm and welcoming feel. The fresh air, the stillness, and the openness of the surroundings immediately appealed to me. There was nothing luxurious about it, but it possessed something far more valuable at that stage of my life – it offered privacy, simplicity, and a sense of permanence.

I felt content. The room was small, but it was enough. My needs were modest. What I required was a place where I could keep my books, write in my diaries, reflect, prepare for the next day, and return late in the evening without disturbance. The terrace in front seemed an added blessing. It opened the space outward, prevented the room from feeling confined, and provided a quiet corner where one could sit alone with one's thoughts.

As I arranged my few belongings, I felt a sense of settlement for the first time since arriving in Delhi. The uncertainty of temporary accommodation had ended. I now had an address, a key, and a place to which I could return after long days at the Supreme Court. It was the first space in Delhi that I could truly call my own.

For many, a residence is merely a place to stay. For me, it was becoming something more – a place for reading, preparation, solitude, and self-formation. I had come to Delhi not in search of comfort, but in search of a profession, an institution, and perhaps, in some deeper sense, myself. The simplicity of that barsati suited me perfectly. It carried no burden of display and imposed no distractions. It gave me exactly what I needed: a roof, a table, silence, and time.

Looking back, I realise that some of the most important foundations of life are laid in the simplest surroundings. A small room becomes large when it contains books, discipline, purpose, and hope. The barsati at 60, South Avenue gave me all four.

Being allotted a place in South Avenue had another significance as well. It brought me physically closer to the heart of political India. Members of Parliament lived all around, on both sides of the broad tree-lined avenues. The official residences, the constant movement of public life, and the proximity to Parliament House created a distinctive atmosphere. It was both a magnificent setting and, for me, a stable address.

Yet, even amidst that proximity to power, my instincts did not gravitate towards political glamour or social circulation. My impulse remained unchanged – to observe, to read, to think, and to prepare quietly for the long journey ahead. To be near power is one thing; to remain inwardly anchored is quite another.

That day, as I unpacked my few belongings, spread out my bedding, and

arranged my books on the study table, I felt that a small but necessary foundation had been laid. One more uncertainty had quietly resolved itself. The anxiety of finding accommodation in a new city had disappeared, allowing me to devote myself fully to the profession that lay before me.

In life, as in law, stability in small matters often makes larger journeys possible. Before destiny unfolds, it frequently begins by creating a corner of order from which one can move forward with confidence. The barsati at 60, South Avenue was such a place. It was modest in appearance, but for me it marked the beginning of an independent life in Delhi and the first settled chapter of my journey at the Supreme Court of India.

Establishing a Routine

16.08.1976 (Diary Entry)

My mornings began at 5:30 a.m. with a jog to Vijay Chowk, in front of Rashtrapati Bhavan, and back. That was followed by *yog, pranaayaam*, and meditation. After a bath, I would be ready by 8:00 a.m. Breakfast at the Members of Parliament Canteen generally consisted of two boiled eggs, four slices of bread, and a glass of milk. Thereafter, I would take a bus to Krishi Bhavan, change at Tilak Bridge, and walk to the Supreme Court, usually reaching the chamber between 9:00 and 9:15 a.m.

The routine settled naturally and quickly. It did not feel imposed; it felt appropriate. I was not attempting to create a life of pressure, but a life of order. Physical discipline in the morning seemed to prepare the mind for the intellectual exactitude that the day would demand. The body had to be alert, the mind clear, and the inner instrument steady.

A profession of thought requires a life lived in rhythm. The clearer the mind, the more accurately it can perceive facts, analyse issues, and understand human conduct. Over time, I came to believe that a lawyer functions at his best when he is free from emotional baggage, unknown fears, imagined insecurities, preconceived notions, and fixed perceptions. An open and disciplined mind is often the most valuable tool in the legal profession. The routine I adopted in those early days was not merely a matter of physical fitness; it was an effort to cultivate the balance and clarity that the profession of law silently demands.

My days at Ramamurti & Co. were filled with a variety of enriching activities – reading law reports, making notes, going through briefs, and accompanying seniors in conferences. Yet the most illuminating experiences came from the courtroom itself. When one was prepared with the facts of the case, the legal issues involved, the submissions to be advanced, and the supporting precedents, the

court became a living classroom. There, one could witness in real time the movement of legal thought, the testing of principles, and the formation of law through argument, response, and judicial reflection.

As the matters were argued, I observed a free flow of perspectives and propositions, which deepened my understanding of how legal principles are interpreted, distinguished, reconciled, and applied. It was fascinating to watch the law not as a fixed code, but as something continually developing through interaction. The process involved not only our submissions, but also the counter-arguments of the senior advocates appearing on the other side. The final judgment, taking into account the facts, rival contentions, previous authorities, and the Court's own evolving vision, would then add another dimension to the existing body of law. Law does not merely exist in books; it grows in the space between argument and judgment.

Each case brought with it a new set of litigants, a new set of facts, and a different set of conflicts which had crystallised into a dispute and travelled through the judicial hierarchy from the trial court to the Supreme Court. Two advocates would frame those facts and issues within a legal structure, each from his own perspective, and support them with carefully prepared lists of dates, events, propositions, and precedents. The judgment would then conclude the matter in favour of one party and against the other. Yet no case was merely a dispute between two individuals or entities.

Every case opened a fresh window into human conduct, breaches of trust and contract, institutional thinking, both individual and collective, and the underlying tensions of society – some arising from human attitudes, others created by social, economic, or political circumstances. That was what made the profession so inexhaustibly instructive. Every case is ultimately a human conflict seeking legal language, moral resolution, quantification of damages, and a declaration of rights, obligations, and liabilities.

Lunch was usually taken in the canteen. I generally remained in the chamber until about 9:00 p.m. The return journey involved walking to Tilak Bridge and taking a bus back to South Avenue. Dinner at the canteen was simple – four *tandoori chapatis*, half a plate of *aloo matar*, and half a plate of *gobhi*. I would usually be back in my room by 10:00 or 10:15 p.m., after which I spent some time reading. I never felt any particular need for newspapers. My interest lay less in daily headlines and more in ideas, history, principles, and the enduring currents that move beneath surface events.

Twice a week, after returning in the evening, I washed my own clothes and remained awake until about 12:30 or 1:00 a.m. Friday evenings were sometimes spent visiting relatives. On a few occasions, before leaving the chamber, I would

telephone my grandfather and my mother late in the evening. Gradually, this rhythm became firmly established in my life. It suited both my temperament and my purpose.

Looking back, I can see that this routine did more than regulate the day; it quietly helped shape the person who would inhabit the profession. The early years do not announce themselves as formative while one is living through them. Yet it is in such days – repeated steadily, without spectacle – that foundations are laid. A profession, like character, is not built in bursts of effort, but through disciplined continuity.

Great journeys are rarely shaped by dramatic moments alone; they are sustained by the quiet authority of daily order.

I had not come to Delhi in search of excitement, distraction, or social movement. I had come to place myself in an environment where learning could become a habit, discipline could become second nature, and thought could slowly mature into understanding. The routine I settled into was therefore not a burden; it was a source of freedom. It allowed my energies to move in a single direction. When purpose is clear, routine does not imprison; it liberates.

In later years, I would often realise that the profession of law rewards neither haste nor restlessness. It rewards consistency. The long hours spent reading, observing, reflecting, and preparing may appear uneventful at the time, but they accumulate quietly, almost invisibly, into knowledge, judgment, and confidence. The foundations of a lifetime are often laid in the ordinary disciplines of a single day.

Enrollment with Delhi Bar Council

03.09.1976 (Diary Entry)

Today marked an important milestone in my legal journey: I received my enrolment as an Advocate from the Bar Council of Delhi. With it, I became entitled to wear the white bands, black coat, and gown, and to appear regularly in Court alongside Mr. Francis and the other seniors in the chamber. It was a formal step, but inwardly it felt like something more – a visible initiation into a profession whose presence I had already begun to feel deeply.

The moment also carried with it the continuity of a family legacy. My grandfather had retired as the first Registrar of the Rajasthan High Court on 31.03. 1952, at the age of fifty-eight. My father had commenced practice in Jaipur in 1951 with Mr. C.L. Agrawal. After the Jaipur Bench of the Rajasthan High Court was abolished in 1958, our family shifted to Jodhpur, where my father established an independent practice in 1961 and was eventually elevated as a Judge of the Rajasthan High Court in 1973. Thus, by the time I received my enrolment, law

had already travelled through three generations of my family – first through court administration, then through practice and adjudication, and now once again through practice in a wider field. Some inherit wealth, some property; I had inherited a discipline, a library, a tradition, and a direction.

Because my father was then a sitting Judge of the Rajasthan High Court, with the real possibility of one day becoming its Chief Justice or even being elevated to the Supreme Court, it was considered appropriate that I should chart my professional course outside Rajasthan, so that no shadow of conflict, influence, or perceived impropriety might arise. For that reason, I did not enrol with the Bar Council of Rajasthan but chose instead to enrol with the Bar Council of Delhi. It was a prudent decision and, in retrospect, a valuable one. Sometimes distance is not a departure from legacy; it is the proper way of honouring it. Integrity often requires not merely purity of conduct, but also distance from avoidable appearances.

Mr. S.C. Agrawal had proposed my name. For the second recommendation on my application, he very kindly walked me to Mr. S.K. Mehta, Advocate, whose chamber was No. 43. Mr. Mehta graciously agreed to endorse the application, having observed me in Court. Today I received my certificate of enrolment from the Bar Council of Delhi and, with it, my journey as a practising advocate formally began.

A gown and bands may appear to be external symbols, but they are not insignificant. They do not merely dress the advocate; they remind him that he now belongs to a tradition larger than himself. The black coat, the white bands, and the gown do not confer wisdom, character, or skill, but they silently ask whether one is prepared to cultivate them. The robe does not make the advocate; it merely announces that the discipline must now begin in earnest.

As I held the enrolment certificate in my hand, I did not feel triumph so much as responsibility. A formal door had opened, but the real work still lay ahead – reading, preparation, observation, understanding, and the long inward shaping required to become worthy of the profession. The certificate granted me a right of audience; it did not grant me depth. That would have to be earned.

Enrolment gives entry into the profession; worth is built thereafter, page by page, case by case, appearance by appearance, thought by thought and judgment by judgment. The right to appear before a court is conferred in a moment; the capacity to assist the court in the cause of justice is acquired over a lifetime. As I stepped into the profession that day, I sensed that I was not merely beginning a career. I was entering a lifelong journey in search of law, equity, equality, justice, and, ultimately, a deeper understanding of myself.

Chief Justice of India's Instructions to mention a matter

20.09.1976 (Diary Entry)

We had Item No. 1 listed in the Chief Justice's Court, and I was seated next to my senior, Mr. S.C. Agrawal. As the court settled to hear the matters, Mrs. Sunanda Bhandare, an Advocate-on-Record, originally from Bombay and daughter of Mr. H.R. Gokhale, the then Union Law Minister of India, mentioned a matter before Justice A.N. Ray, Chief Justice of India, listed in the next day's cause list. She requested that the matter not be taken up, as she would be out of town. The Chief Justice suggested that she get it mentioned the following day. She respectfully reiterated that she would not be in a position to mention the matter the next day, as she would be out of station.

The Chief Justice then observed that some young advocate should mention the matter on her behalf the next day. As he scanned the courtroom, his eyes fell upon me, sitting in the front row, next to S.C. Agrawal. He looked straight at me and, addressing me directly, said: *"You, young man, mention the matter tomorrow."* The direction came without warning. I just rose and responded, "*Yes, My Lords."* Though I thought this was normal and natural, I could feel the attention of the courtroom, and particularly that of Mrs. Sunanda Bhandare, turn towards me. In court, a single sentence from the Bench suddenly converted me, as an observer, into a participant.

After our own matter was over and we stepped out of the courtroom, Mr. S.C. Agrawal asked me whether Chief Justice A.N. Ray knew me. I replied that he did as I was sitting next to him, not otherwise. I had seen him on his visit to Jodhpur, when he came to meet Justice P.N. Shinghal, Chief Justice of Rajasthan, to discuss the issue of review of *Kesavananda Bharati 1973 INSC 91*, but I don't think he would have picked me because of that.

Outside the court, Mrs. Sunanda Bhandare and Mr. Ajit Sharma, who was assisting her in the matter, came up to me. They seemed curious as to how the Chief Justice knew me and who I was. I told them, quite simply, that my father was a Judge of the High Court of Rajasthan, and I had recently moved to Delhi. I assured them that I would mention the matter the next day and requested for the brief, so that I might acquaint myself with the case and not stand before the Court in ignorance.

That small incident taught me something immediately. A court may be formal, hierarchical, and intimidating, but readiness is often expected without notice. One may enter the courtroom believing oneself to be merely present, and yet the institution may at any moment call upon one to act. The profession does not always announce when it is testing you; sometimes it simply looks in your direction.

First Mentioning before the Supreme Court
21.09.1976 (Diary Entry)

I reached the Chief Justice's Court at about 10:25 a.m. and found Mr. Ajit Sharma, Advocate, already present. He looked at me, smiled, and by that smile indicated that all was in order and that I should go ahead. Standing first in line for mentioning, I approached the bench and informed the Chief Justice that the matter had been mentioned the previous day by Ms. Sunanda Bhandare and that his Lordships had directed me to request an adjournment. The Chief Justice responded immediately, *"Adjourned for two weeks."* I bowed respectfully, stepped back, and came out of the Chief Justice's Court. Thereafter, I returned the brief to Mr. Ajit Sharma.

The entire exercise lasted only a few moments, yet for me it carried its own significance. It was my first mentioning before the Chief Justice of India. Nothing dramatic happened, no elaborate argument was involved, and no issue of substance was debated. Yet one does not measure formative moments only by their length or complexity. Sometimes a very brief appearance in court leaves a lasting inner impression, because it marks the first time one has stood up, spoken, and been heard in one's own voice. The first step in a profession is often outwardly small and inwardly unforgettable.

As we stood speaking thereafter, I learnt more about Mr. Ajit Sharma. He had been in practice for about a year. His father was ex-army personnel and was working with the Ministry of Law and Justice as ex-defence personnel. In the ministry, his father came in touch with Mr. Gokhale. He was a first-generation lawyer and after obtaining his law degree in Delhi, he had joined the chamber of Mr. M.C. Bhandare and was also assisting Mrs. Sunanda Bhandare in her matters. He also told me that Mr. H.R. Gokhale had two daughters – the elder married to Dr. Y.S. Chitale, Senior Advocate, and the younger to Mr. M.C. Bhandare, also a Senior Advocate.

These conversations opened yet another window into the profession. The Bar was not only a place of learning, labour, and argument; it was also a world of lineages, chambers, associations, and professional inheritances. Names carried histories, relationships carried context, and chambers often became centres from which one legal generation led into another. For a newcomer, all this was instructive. It showed that while the law is ultimately impersonal in principle, the profession through which it is practised is deeply human in its continuities and associations. Institutions are built by rules, but professions are also carried forward by people, relationships, and remembered trust.

For me, however, the more immediate lesson was simpler. I had stood before

the Chief Justice's Court, spoken when called upon, and completed the task entrusted to me. That was enough for the day. One does not enter the profession by giant leaps. One enters it through baby steps and many small moments of preparedness, acceptance, and execution. Confidence is not born of display, it is quietly built each time responsibility is accepted without evasion and execution with confidence.

Supreme Court Judges Library
01.10.1976

Despite the extensive library of textbooks and law reports at Ramamurti & Co. and the substantial collection maintained by the Supreme Court Bar Association, I felt a compelling need to broaden my knowledge about the legal institutions and key figures in law from India, the USA, the UK, and Australia. This quest for deeper understanding led me to the Supreme Court Judges' Library.

The moment I opened the door and stepped inside, I was immediately awestruck by the grandeur of the setup. The Judges Library, arguably one of the most impressive aspects of the Supreme Court, spans three floors in a semi-circular arrangement around the entrance of the building. It houses an amazing collection of textbooks, law reports, and law journals. Just below the Judges Library is another section where the bare acts from all the states are meticulously organised.

Whenever I encountered crowded chambers or couldn't find a seat, my alternative was this library. Nestled between the towering bookshelves were tables and chairs, providing the perfect quiet nook for sitting, reading, and making notes. This quickly became my preferred spot for deep, undistracted learning. I was particularly captivated by the American Constitutional Law section, offering a rich source of fascination and intellectual stimulation.

I approached the senior librarian and introduced myself as an associate of Mr. S.C. Agrawal and Mr. R.K. Garg. Expressing my eagerness to read and learn, I asked for permission to use the library. My request, somewhat unusual coming from an advocate, seemed to pleasantly surprise the librarian. He was extremely receptive to my interest and granted me the permission to utilise the library's resources.

Spending time in the Supreme Court Judges Library was not only peaceful but also incredibly productive. It allowed me to immerse myself in a serene environment for concentrated study and provided access to a wealth of legal knowledge, significantly contributing to my growing legal acumen and expertise.

Seniors, Self-Reliance, and the Architecture of the Bar

The Discipline of Observation at Ramamurti & Co.

It remains a remarkable feature of my initiation at Ramamurti & Co. that neither Mr. S.C. Agrawal, Mr. R.K. Garg, nor Mr. V.J. Francis ever explicitly instructed me to undertake specific tasks. I received no financial remuneration from them, despite spending my entire day in their orbit. My role was almost entirely observational: to arrive, watch, read, and absorb as much as I could through sheer proximity. No formal duties were assigned to me, save for assisting Mr. Francis on Thursdays with the settling of the cause list – a task I undertook entirely on my own initiative, for the list would have been settled by Mr. Francis regardless of my presence.

This immersive period of observation led me to a realisation that was as much personal as it was professional: I needed to find a meaningful way to contribute to the world, and that contribution had to carry the quiet dignity of earned income.

My father, with the gentle foresight that characterised everything he did, had provided me with several signed blank cheques – a safety net held open without condition or pressure, to be deposited as and when I saw fit. I chose not to use a single one of them. This was not an act of ingratitude; if anything, it was its deepest expression. He had given me the net so that I would not fear falling; I declined it so that I might learn to walk without one.

> *"Self-reliance is not merely a passive virtue; it is an active discipline that must be chosen daily against the ease of borrowed comfort."*

This conviction was not an abstract proposition. I had forged it in the practical realities of Agra during my LL.B. years between 1973 and 1976. After completing my B.Sc. at the age of eighteen, I moved to Agra to live and work with my maternal uncle while pursuing my law studies.

My uncle was a man shaped by a style of discipline I had never encountered at such close quarters. He had previously worked on a British tea estate in Assam—an environment where punctuality, methodical precision, and the rigorous accountability of a full working day were absolute requirements. In 1972, he established a Mico Bosch Authorised Service Centre in Agra. Without variation or complaint, he left the house at 7:45 a.m. and returned at 8:30 p.m., never betraying the slightest sense that this exhausting routine was a sacrifice. To him, it was simply the natural rhythm of a working life.

Working alongside him, I absorbed the most fundamental truth of professional existence: availability is itself a foundational service. A person who is consis-

tently present, reliable, and genuinely useful will never lack for work. Customers, as my uncle demonstrated through practice rather than instruction, do not seek out those who wait for them in comfort; they come to those who are at their post, day after day, performing the labour with quiet excellence.

From those years in Agra, I carried forward a conviction that has never left me: money is the natural byproduct of consistency, integrity, and genuine care for those one serve. It is neither the goal nor the ultimate measure of human worth, but simply the shadow that follows the form of well-executed work. A professional who remains in his place, dedicated to his craft from morning until evening, does not need to chase income. The income naturally follows the labour.

The Hand of the Architect: Drafting Petitions

Observing Mr. S.C. Agrawal at work was an enlightening masterclass in precision. He would meticulously read through an entire brief, cover to cover, making precise notes before drafting Special Leave Petitions (SLPs) entirely in his own handwriting. His script was remarkably small and tightly scribbled – a challenging hand that only one specific typist at the firm had the rare gift of deciphering.

This typist would translate those scribbled drafts into stencils for duplication. From these stencils, twelve copies were struck: the original and eleven duplicates. The original, along with seven copies, were filed with the Supreme Court Registry, while the remaining sets were distributed methodically – one each for Mr. Garg, Mr. Agrawal, Mr. Francis (which became my primary study text), and one for the client. This process, though seemingly procedural, was the bedrock of our appellate preparation. It taught me that the grand architecture of constitutional arguments is entirely dependent on an absolute, unyielding attention to clerical detail.

Midday Sanctuary: Lunch in the Chambers of Mr. B.P. Maheshwari

Neighbouring our workspace was the chamber of Mr. B.P. Maheshwari, Senior Advocate – a man of considerable standing who also shared a deep and longstanding professional connection with my family. Years earlier, during my father's days at the Bar, he had routinely filed his matters in the Supreme Court through Mr. Maheshwari, who then practised as an Advocate-on-Record. Known throughout the corridors for his warmth, affection, and deeply practical approach to life, Mr. Maheshwari was a highly respected and much-loved figure in the legal fraternity.

One day, in a civil appeal in which we appeared on the same side as respondents, and after the matter had concluded, he warmly invited me into his cham-

ber. After exchanging a few words about my father, he immediately began asking about my daily routine and lunch habits. When I mentioned that I generally survived on a heavy breakfast and dinner and usually had only fruits or a very light meal in the afternoon, he gently but firmly pointed out the hazards of satisfying sudden hunger with greasy canteen food such as samosas, chole bhature, or pakoras. Such habits, he said, quietly diminish a young lawyer's stamina.

With characteristic paternal concern, he told me that a local tiffin-walla delivered fresh homemade lunch every day – consisting of four chapatis, dal, rice, and one vegetable – for the modest sum of ₹ 1.75, with kheer served as a Friday special. He insisted that I adopt this healthier routine and suggested that from the following day onward I should take my lunch in his chamber. There was no formality in the offer; it carried the warmth and concern of someone treating me as he would his own son.

The arrangement soon became an anchor in my daily routine. The moment the Court rose for lunch at 1:00 p.m., I would walk across to his chamber. Lunch was usually taken in a smaller room adjoining the main chamber, where I joined his junior associate, Mr. Sethi, and a bright and intelligent young advocate, Ms. Rafat Hashmi, who later disappeared from the legal world after her marriage.

Interestingly, Mr. Maheshwari's own son, Mr. R.K. Maheshwari, was also an advocate but had moved to the United States. Out of youthful curiosity, I occasionally tried to ask about him. Each time, however, an unusual silence descended upon the room and Mr. Maheshwari would become visibly emotional. Respecting that silence, I stopped asking further questions. Yet the quietness surrounding the subject remained with me and often left me reflecting on the personal distances and unseen sacrifices that sometimes accompany professional lives.

Almost two decades later, a few days before his son was expected to return to India, Mr. Maheshwari was looking very happy and finally shared the reason. He told me that his son had been moved out of the country after interviewing someone lodged in Tihar Jail in connection with a highly politically sensitive matter, and he had felt that remaining in India might not be safe for him.

That revelation stayed with me.

It became another reminder that an advocate's life is rarely shaped only by arguments made in court or judgements reported in law reports. Sometimes an unexpected event, an assignment accepted in good faith, a brief taken at a particular moment, or an encounter arising in the ordinary course of professional duty can quietly alter the direction of an entire life.

The profession teaches law; life reveals its consequences.

Looking back now, I realise that what Mr. Maheshwari offered me was much

more than lunch. He offered care without display, mentorship without instruction, and concern without expectation. In the early years of the profession, nourishment often comes not only from books and courtrooms, but also from the quiet kindness of seniors who teach by conduct that institutions endure not merely through rules and judgements, but through human generosity.

The Evening Scholar at the Indian Law Institute
October 1976

In the quiet hours of the evening, I began frequenting the library of the Indian Law Institute (ILI), situated directly across the road from the Supreme Court on Bhagwan Das Road. The library housed an impressive collection of foreign law journals from universities across the world – Oxford, Cambridge, Yale, Stanford, Harvard, and many others. For a young lawyer beginning his professional life, it opened a new intellectual window and provided regular exposure to legal questions being debated and developed across jurisdictions.

The Institute also published a monthly law journal and an Annual Survey of Supreme Court decisions, both of which I found exceptionally informative and meaningful. I soon became a life member of the Indian Law Institute and continued receiving its publications for many years thereafter. They remained an important source of legal development and helped me maintain a broader perspective on the evolution of law.

During one of these visits, I noticed that the Institute offered specialised evening diploma courses in Administrative Law, Labour Law, and Company Law.

Since the work at Ramamurti & Co. was heavily weighted towards complex administrative, service, labour, and constitutional matters – along with several significant criminal cases – I resolved to enrol in the Diploma in Administrative Law for that academic year, keeping Labour Law for the following term.

The admission process was straightforward and the evening lecture schedule aligned seamlessly with my long chamber hours. One feature of the diploma carried a certain symbolic attraction – the final certificate bore the signature of the Chief Justice of India.

My decision to pursue this additional qualification was also guided by the practical wisdom of my grandfather. He observed that enrolling in the course would provide a dignified answer to the inevitable questions from relatives and acquaintances regarding my early professional earnings. I could simply say that my immediate focus was not income but learning – that I was investing my time in understanding the foundations of Administrative and Labour jurisprudence through one of the country's foremost legal institutions.

My grandfather was particularly happy when I informed him of my decision. In one of his letters to me, he wrote:

> *"Furthering one's education provides a shield of purpose; it reclassifies a period of low earnings not as financial stagnation, but as an active investment in intellectual capital."*

Those words stayed with me.

At that stage of life, they gave me confidence, reassurance, and a deeper sense of value in the path I had chosen. Looking back, I realise that the advice carried a wisdom extending far beyond professional life. The early years of any meaningful vocation are not years of accumulation; they are years of preparation. Income may come later, recognition later still – but the foundations of thought, discipline, and intellectual independence must be laid first.

The evenings spent at the Indian Law Institute quietly expanded my world. During the day I learned how law moved through files, briefs, and courtrooms; in the evenings I began to understand how law evolved through scholarship, comparative thought, and institutional reflection. One taught me how to practise the law; the other slowly taught me how to think about it.

Spiritual Horizons and the Discipline of *Yog*

November 1976

My foundational understanding of spirituality and philosophy was inherited almost entirely from my grandfather. From the age of five until I turned thirteen, he spent nearly every evening narrating the great epics to my elder brother and me, unfolding before us the vast worlds of the *Bhaagavat*, the *Mahaabhaarat*, and the *Raamaayan*. These nightly sessions were never merely stories; they became an early initiation into the cultural, philosophical, and ethical architecture of our civilisation.

Our early morning walks together to the public park cultivated another lifelong habit – care of the body and steadiness of the mind. It was there that I joined a morning Yoga class conducted by a remarkable instructor, Mr. Sanik – a man of extraordinarily lean build and exceptional stamina.

As we grew closer, Mr. Sanik shared fragments of his own life. He believed that he possessed the physical capacity to compete internationally in the 1,500-metre event and perhaps even contend at the highest level, but lacked the financial means necessary to sustain specialised training and nutritional support. He told me that much of his endurance had been developed through relentless practice in difficult conditions and through pushing himself beyond ordinary limits. Listening to him, I became aware, at a young age, of the gap that often existed between

talent and opportunity and of the structural challenges confronting Indian sports during that period – a sharp contrast to systems where athletes were nurtured with institutional support.

In 1973, I reached a small but meaningful milestone by receiving my first formal certification in Yoga from Mr. Sanik's institute. That marked the beginning of a daily discipline which, in one form or another, has continued with me ever since. His influence left me with a lasting appreciation of physical culture and a deeper understanding that individual excellence often requires social structures capable of recognising and supporting hidden potential.

Later, during my second year of law school, Mr. S.N. Bhargava – who subsequently retired as Chief Justice of the Sikkim High Court and was then an advocate and close professional colleague of my father – introduced me to an exceptional Swami who was temporarily staying at his residence. That meeting deepened my practice of *Yog*, *Pranaayaam*, and meditation and strengthened methods of inner discipline that I continue to follow to this day.

A more decisive spiritual turning point came in March 1976, during the final semester of law school, when Swami Chinmayananda visited Jodhpur to conduct his 364th *Gita Gyaan Yagya*. Accompanying my grandfather, I attended his morning discourses on the Thirteenth Chapter of the *Shrimat Bhagwad Gita* and returned in the evenings to hear his expositions on the Narada Bhakti Sutra and the Prasna Upanishad.

Around the same time, my grandfather presented me with a treasured gift – a copy of the *Shrimat Bhagwad Gita* authored by Swami Chidananda. I read it from cover to cover. Its extensive introductory essay, running over many pages, had a profound impact on me and quietly reordered my inner method of thinking. Philosophy ceased to be an abstract subject and became a daily space of reflection.

I copied the entire *Shrimat Bhagwad Gita* by hand into my 1976 diary – a practice that I return to whenever circumstances permit. Slowly, verse after verse and sutra after sutra, my understanding deepened. The text did not provide answers in a mechanical sense; rather, it opened new questions and brought greater clarity to my understanding of the Sanaatan vision of existence, duty, consciousness, and the interplay of forces that shape human life.

This search for deeper philosophical clarity eventually led me to the Chinmaya Mission in Delhi, where I regularly attended Friday evening and Sunday morning classes. Under the systematic guidance of Swami Yagya Chaitanya, a disciple of Swami Chinmayananda, I began formal study with the *Katho Upanishad*, followed by the *Kaivalya Upanishad*, and eventually traversed all eleven principal *Upanishads* over a sustained period of nearly five years leading up to my marriage in 1981.

Each session opened fresh perspectives and quietly enriched my inner life. Looking back, I realise that these studies did not take me away from the profession; they prepared me for it. The law trained the intellect to distinguish. Philosophy trained the mind to observe. *Yog* trained the self to remain steady. Together, they created an inner equilibrium that allowed professional ambition and inward inquiry to coexist.

Long before I began consciously searching for justice in institutions, I had begun searching for stillness within

The Turning Point: My First Professional Cheque

My workspace at Ramamurti & Co. was also frequented by Mr. Narayan Nettar, the respected Advocate-on-Record for the State of Karnataka. Over the months of sharing the same professional space, we developed a warm and cordial relationship. One afternoon, he extended an opportunity that would quietly become an important turning point in my professional journey.

He asked whether I would be willing to draft formal Statements of Case in matters where Special Leave had already been granted and the appellate paper books had been prepared for final hearing. He explained the financial arrangement with complete transparency. Under the taxation schedule contained in the Supreme Court Rules – which also broadly formed the basis for payment of Advocate-on-Record fees by many States – the prescribed fee for such work was ₹ 400 per case. He proposed that we divide it equally and offered me ₹ 200 for each draft prepared by me.

I accepted the work with enthusiasm and immersed myself fully in the assignment. Within a short time, I completed three Statements of Case. In return, Mr. Nettar handed me a cheque for ₹ 600. That cheque became far more than a payment.

For the first time in my life, I was sustaining myself in the national capital through the direct fruits of my own intellectual labour. My expenses at that stage of life were modest. Daily travel by DTC, at a single journey cost of ₹ 0.20. My meals consisted largely of breakfast, lunch, and dinner taken within a disciplined routine. Yet the amount itself was never the real significance. What mattered was the realisation that thought, preparation, reading, and legal work could now support one's existence.

There is a quiet dignity in earning one's first professional income. It is not measured by the amount received but by the knowledge that someone, somewhere, has found value in one's work and trusted one with responsibility. Buoyed by this newfound sense of independence, I immediately utilised the amount to

enrol as a formal member of the Supreme Court Bar Association (SCBA).

Looking back now, I realise that the decision carried symbolism beyond what I understood at the time. The money did not go into consumption; it went into belonging. Membership of the Bar Association was not merely an administrative formality – it represented entry into an institution and an affirmation that I intended to remain and grow within it. The first professional earnings rarely transform one's financial position. They transform one's relationship with oneself.

Until then, I had been preparing to become an advocate. That day, for the first time, I felt that the profession had begun accepting me in return.

The Shadow of Supersession

29.01.1977 (Diary Entry)

Today, a significant tremor passed through the architecture of the Indian judiciary. Justice M.H. Beg was sworn in as the 15th Chief Justice of India. The ceremony at Rashtrapati Bhavan was a restricted event. Mr. D.P. Singh, Mr. R.K. Garg, and Mr. S.C. Agrawal left our chambers early to attend the proceedings. I remained behind, but the discussions before and after the ceremony made it impossible to miss the significance of the moment. Behind the formality and constitutional ceremony lay what many within the legal fraternity regarded as an institutional tragedy.

Justice H.R. Khanna – already admired across the democratic world for his solitary and courageous dissent in the habeas corpus matter, *ADM Jabalpur v. Shivkant Shukla*, where he held that even during the Emergency the right to life and personal liberty could not be placed entirely beyond judicial scrutiny – had been superseded for appointment as Chief Justice of India and resigned immediately thereafter. Had the convention of seniority been followed, Justice Khanna would have become Chief Justice of India and would have held office for a brief but memorable tenure of approximately forty-three days until 12.03.1977.

This became only the second major instance of supersession in the history of the Supreme Court where the senior-most puisne judge was not elevated as Chief Justice. The first had occurred in 1973 following the landmark judgment in *Kesavananda Bharati 1973 INSC 91*, when Justice A.N. Ray was appointed Chief Justice, superseding three senior judges – Justice J.M. Shelat, Justice K.S. Hegde, and Justice A.N. Grover – all of whom resigned thereafter.

For a young entrant to the profession, these events opened a larger constitutional window. Until then, courts had appeared to me primarily as places where statutes were interpreted and disputes decided. These moments revealed something deeper – that institutions are not insulated from the tensions of their age.

Constitutional courts operate within history while simultaneously attempting to rise above it.

Judicial appointments, conventions, departures from conventions, and institutional responses often reflect a complex and delicate relationship between constitutional principle, public expectations, judicial independence, and executive power. The episode left a lasting impression upon me. I realised that constitutional law does not evolve in abstraction. It is continuously tested by historical moments and shaped by the strength of institutions and the character of those who occupy them.

Some judgements decide disputes. Some acts of silence, dissent, resignation, or supersession shape institutional memory for generations.

Scorpio Keys and Marxist Driving Lessons

08.02.1977 (Diary Entry)

Having learned to drive at an early age, I had spent several years driving my father and family on his extensive professional circuits between Jodhpur and Jaipur. That practical skill unexpectedly proved useful in the capital.

One evening after court hours, Mr. R.K. Garg asked me to accompany him to his residence so that we could review briefs for the following morning. As we approached his white Fiat, I noticed him fumbling with the keys and struggling for a few moments to unlock the driver's side door in the fading evening light. Almost instinctively, I asked him quietly, "*Sir, are you by any chance a Scorpio?*"

He paused, looked at me with surprise, smiled, and confirmed my guess. Curious, he immediately asked how being a Scorpio could possibly have anything to do with a stubborn car lock. Mr. Garg was a committed lifelong Marxist-Leninist. He had little patience for metaphysical explanations and viewed society primarily through the analytical framework of class, labour, economics, and structural transformation. He dedicated his formidable intellect and energy to causes that, in his understanding, strengthened the position of workers and the less privileged against concentrated social and economic power.

I smiled and explained that, in my personal experience, people born under Scorpio often appeared to be exceptional organisers, tireless workers, highly intelligent, efficient administrators, with strong convictions and pronounced likes and dislikes – but at times curiously impatient with simple mechanical inconveniences. I mentioned my observations from working with my maternal uncle in Agra, whom I associated with similar traits. I also added, half in jest, that even his own senior, Mr. M.C. Setalvad, former Attorney General for India, happened to belong to the same zodiac sign.

Amused and visibly entertained, Mr. Garg handed me the keys and surren-

dered the driver's seat. As I drove through Delhi traffic, he began speaking expansively about Marxist dialectics, social structures, economic power, and the movement of history. At that stage, my understanding of macroeconomics, political philosophy, and social theory was still too elementary to fully appreciate the depth of what he was saying. Yet I sensed instinctively that if one wished to understand law seriously—and eventually influence institutions – one had to understand not only statutes and judgements, but also the philosophies that moved societies.

Another realisation quietly formed in my mind that evening: some of the finest and most unguarded lessons from seniors are rarely delivered across a conference table. They emerge while travelling between places. During that drive, Mr. Garg made one observation that remained permanently etched in my memory:

> *"In its ultimate analysis, social change is a dynamic process. You must learn how to use the Supreme Court and the judiciary as instruments of social transformation, young man – never allow them to become impediments to it."*

At that stage I did not fully understand the depth of the statement. Years later, after watching constitutional litigation unfold across decades, I realised that the courtroom is not merely a place where disputes are resolved. It is also one of the places where society negotiates change, restrains excess, protects continuity, and occasionally reimagines itself.

That short drive and similar drives taught me something larger: one need not agree with every philosophy one encounters, but one must understand it before accepting or rejecting it.

Early 1977: Election Roads and Lessons in Political Arithmetic

The early years of my practice were anything but ordinary. I had entered the Supreme Court under the long shadow of the Internal Emergency – an era in which fundamental liberty, habeas corpus, executive power, and judicial independence had ceased to remain abstract subjects of constitutional study and had become urgent questions affecting the life of institutions and the nation itself. Every courtroom door, every judicial appointment, every constitutional argument, and at times even the silences in the corridors seemed to carry the weight of that historical moment. For a young lawyer, it was an unusual initiation into the realisation that law does not live outside history; it is forged within it.

In early 1977, Mr. R.K. Garg made the bold decision to contest the Legislative Assembly election from the Haridwar constituency in Uttar Pradesh. He invited me to accompany him on this political journey and entrusted me largely with driving during the campaign. For me, this became an unexpected opportunity – not merely to travel, but to observe Indian democracy at close quarters. The

political atmosphere across Uttar Pradesh was charged with anticipation. The Emergency had altered public mood, political alignments were shifting rapidly, and every gathering seemed to carry an undercurrent of expectation and uncertainty.

The ruling Congress Party announced candidates for eighty-four of the eighty-five Assembly constituencies, leaving Haridwar initially undecided. Mr. Garg had explored the possibility of an electoral understanding between the Congress and the Communist Party of India (CPI). However, when Congress eventually fielded its own candidate, he decided to contest independently, while CPI did not put forward a candidate.

Our campaign headquarters was established at the BHEL Guest House in Haridwar, where Mr. Garg enjoyed considerable institutional goodwill and support from sections of the BHEL trade unions. Yet it did not take long for me to notice something that would stay with me for years. Beneath the language of collective purpose and ideological commitment, there existed multiple layers of personal ambitions, competing loyalties, tactical positioning, and individual calculations among different groups and leaders. Politics, I realised, was not merely a contest of ideas; it was also a management of human expectations.

The campaign carried energy, conviction, emotion – and at times a distinct element of theatre. One quiet evening, after reviewing the ground realities and sensing the difficult arithmetic of the contest, I asked Mr. Garg what he genuinely expected from the election. His answer became one of my earliest lessons in political strategy. He said, with complete candour, that he did not expect to win. His participation, he explained, had a different objective.

At a historical moment when political loyalties were in flux, withdrawing from the contest would have dispersed his supporters across different camps and weakened the long-term cohesion of the movement and relationships built over years. Contesting the election was therefore necessary – not necessarily to secure immediate victory, but to preserve visibility, maintain organisational discipline, and keep the collective identity intact. He was fighting not merely for a seat, but for continuity.

That conversation remained with me. Until then, I had largely viewed politics through constitutional structures and legal institutions. That evening I understood another dimension: leadership sometimes requires participation even where success appears unlikely; some contests are entered not to win immediately, but to preserve ideas, maintain networks, and prepare for the future.

Law, politics, and social organisation appeared to me increasingly not as separate worlds, but as interconnected expressions of how societies negotiate power, continuity, change, and collective aspiration. Some journeys teach law. Some journeys

teach institutions. And some journeys, undertaken on ordinary roads, quietly reveal the arithmetic of history.

The Changing of the Guard

24.03.1977 (Diary Entry)

The Internal Emergency, declared by Prime Minister Indira Gandhi on 25.06.1975, came to an end after twenty-one historic months. The subsequent general elections of March 1977 completely reordered the political landscape of the Republic. In a resounding democratic correction, the newly formed Janata Alliance, led by Morarji Desai, secured a massive victory, winning 295 seats in the Lok Sabha, while the Indian National Congress was reduced to 154 seats. On 24.03.1977, Morarji Desai was sworn in as the fourth Prime Minister of India, driven by a powerful public mandate to restore constitutional equilibrium.

This seismic shift at the centre transformed the atmosphere within the Supreme Court overnight. Mr. Niren De, the embattled Attorney General who had defended the state's absolute powers during the Emergency, was replaced by Mr. S.V. Gupte – a Senior Advocate of immense legal erudition known for his suave, aristocratic, and thoroughly sophisticated demeanor. The Solicitor General, Mr. Lal Narain Sinha, was succeeded by Mr. S.N. Kacker, a distinguished Senior Advocate from the Allahabad Bar. Mr. Kacker, like my father, was a man of short, robust stature who suffered severely from chronic asthma, yet possessed an unyielding intellect.

Mr. Shanti Bhushan, the brilliant Senior Advocate from Allahabad who had achieved national fame for successfully challenging Indira Gandhi's election before the High Court, was appointed Law Minister, replacing Mr. H.R. Gokhale.

The Cauldron of the Bar Association

31.03.1977 (Diary Entry)

At 4:00 p.m. today, the Supreme Court Bar Association convened a General Body Meeting that quickly transformed into a charged arena of intense debate and visible emotion. The central agenda was a controversial resolution proposing the formal expulsion of Mr. H.R. Gokhale, the former Union Law Minister, from the membership of the SCBA as an institutional expression of disapproval for actions perceived by many members as inconsistent with the rule of law and judicial independence during the Emergency period.

Mr. Govind Mukhoty, Vice President of the Association, opened the pro-

ceedings by reading out the resolution. What followed was unlike any professional gathering I had witnessed until then. The atmosphere rapidly became divided between those demanding an immediate vote and those arguing strongly for postponement and further deliberation.

Amidst the growing noise, Mr. J.P. Goyal rose in support of the resolution and spoke sharply on what he viewed as systemic favouritism and institutional distortions within sections of the legal establishment. His remarks immediately provoked a spirited response from Mr. Shiv Pujan Singh, who argued that broad allegations of this nature unfairly cast a shadow over the integrity of the profession as a whole. Soon the meeting dissolved into overlapping voices.

Advocates across the hall attempted to speak simultaneously. Listening became difficult; expression became irresistible. What appeared on the surface to be a procedural debate gradually revealed itself to be something deeper – a release of accumulated institutional anxieties and political emotions following the end of the Emergency. Sensing that orderly debate had become impossible, the Vice President called for an immediate vote by show of hands. The initial count did not appear to cross the required threshold.

Supporters of one side expressed relief; the other demanded a recount. On the second count, the resolution was declared passed. The room instantly reflected the divided emotions of public life itself – some faces carried disappointment and disbelief, while others reflected satisfaction and triumph. As I observed the proceedings, I realised that institutions, however dignified, do not exist outside history. Professional communities too carry memories, convictions, loyalties, and disagreements. At moments of political transition, these emotions often surface with unusual intensity. For me, the meeting became an early lesson in institutional life.

The Bar is not merely an association of professionals; it is also a living constitutional space where questions of ethics, independence, accountability, and collective memory are debated – sometimes calmly, sometimes passionately.

I also learnt something more enduring. Strong institutions are not those in which disagreement disappears; they are those in which disagreement eventually returns to process. The events of that evening reminded me that professionals, even when shaped by history and ideology, must constantly return to the larger principles they are sworn to protect.

The Courtroom as the Living School

What struck me most deeply during those early months was the sight of scores of young advocates standing packed inside the courtrooms – standing, moreover, for hours on end without a moment's respite.

That position has not materially changed and exists even today, except that notebooks have gradually been replaced by iPads. Yet the underlying culture remains the same. It continues, in some sense, to be a severe discipline imposed in the name of learning – a quiet initiation into the profession through observation, patience, and endurance.

The Chief Justice's Court, where the important Constitutional Bench matters were argued, had four deep rows of benches with one central aisle and passages on either side, followed by chairs extending up to the wall. Once those seats were occupied, every remaining inch of available space was claimed by young lawyers standing quietly in the aisles and along the periphery, observing the proceedings. In the other courts, there was generally only one central aisle, but the atmosphere remained no less intense.

They stood in complete silence from 10:30 a.m. to 1:00 p.m., and again from 2:00 p.m. to 4:00 p.m., maintaining a stillness so profound that even the softest modulation in a Senior Advocate's submission or the slightest question from the Bench travelled effortlessly to the farthest corners of the courtroom.

Most of them had not climbed those stairs because they had matters listed before the Court. They came because they understood instinctively that the courtroom was the only real school of law. It offered an education that could be discovered neither in textbooks nor entirely within the structured walls of a university lecture hall.

I must record an uncomfortable truth here. Most law colleges in those days functioned at a level that could provide foundational exposure and facilitate formal enrolment, but they did not produce finished advocates. A fresh law graduate was ordinarily not equipped even to draft a simple application for condonation of delay without guidance. The distance between obtaining a law degree and developing the capacity to stand before a court and argue with clarity, poise, precision, and authority – that distance was the profession itself.

Colleges taught the text of law. They did not teach its music. That music – the true art of advocacy – could only be absorbed through sustained presence inside courtrooms and through repeated exposure to the invisible disciplines of the profession. One learned the art of selection by watching how a master of the craft isolated one decisive proposition from a dense thicket of facts and presented it to the Bench with such clarity that the Judge appeared to arrive at the conclusion independently.

One learned modulation of tone by observing how arguments were adjusted the moment judicial resistance emerged; how difficult questions were received without anxiety and answered without evasion; and how persuasion often depended less upon force and more upon calibration. One learned the meaning of living

authority by witnessing how precedents were introduced not as mechanical citations but as living principles illuminating the human and legal issue before the Court.

Through hours of silent observation, one gradually learned the vital distinction between an advocate who argued before the Court and one who argued with the Court – understanding that only the latter truly influenced the movement of judicial thought. Most days, I was fortunate. Because I was actively assisting in several matters, I was rarely confined to the standing crowd. I often found a place in the first or second row and maintained continuous notes. I recorded the opening line of submission, the Bench's immediate response, the strategic adjustment made by senior counsel upon sensing judicial resistance, and the precise moment when authorities were introduced.

This also brought me within the judges' field of observation. Judges continuously notice who is prepared, who is attentive, who is assisting, and who is merely present. Courtroom learning therefore extended beyond listening – it included being seen to learn. Weeks or months later, when the printed judgment became available, I would revisit my notes and trace the evolution of the final reasoning – identifying the exact moment when a particular legal formulation first emerged: whether from the submission of counsel, from an observation of the Bench, or from the quiet chemistry that arose in the dialogue between them.

It was a multi-dimensional education. The written judgment was merely the visible tip of an immense legal iceberg. Beneath the surface lay client conferences, drafting, research, preparation, reflection, perception, discipline, and the intense intellectual engagement through which law gradually revealed itself. Courtrooms do not merely decide cases. They quietly shape generations.

The Colonial Calendar and the Summer Recess

18.05.1977 (Diary Entry)

The operational calendar of the Supreme Court of India – with its structured division between working days and court recesses – is one of the institutional arrangements inherited from the colonial era. Among its most visible features was the long summer vacation, extending broadly from early May to mid-July.

The historical origins of this recess lay in the practical necessities of another age. During the British period, judges serving in India often travelled back to England during the hottest months of the year. Given that sea travel required considerable time in each direction, a substantial recess became institutionally necessary. What began as a practical accommodation gradually evolved into an accepted feature of judicial administration.

Independence arrived on 15.08.1947, but many institutional practices continued, carrying forward habits, structures, and rhythms inherited from earlier times. The judicial calendar was one such example of continuity. Institutions often outlive the circumstances that created them, and the court vacation system remained embedded within the functioning of the legal system long after its original rationale had disappeared.

Even during the summer recess, however, the Court never entirely ceased functioning. Vacation Benches continued to sit to hear matters of extraordinary urgency, preserving the principle that justice, though slowed, should never become inaccessible. The visible institution paused; the essential function continued. For the rest of the Bar, the recess was rarely a vacation in the ordinary sense. Chambers remained active. Briefs continued to be prepared, limitation periods continued to run, conferences continued, and by the time the Court reopened, an entire mountain of matters stood ready to be filed and moved. The rhythm of litigation merely changed form; it did not stop.

My father, who possessed a lifelong love for travel and exploration, often utilised the High Court vacation periods to plan detailed journeys for the family across India and, in later years, abroad. For him, travel was never merely recreation – it was education through movement. Every journey was an extension of learning, and every destination an opportunity to understand geography, people, history, and culture beyond the confines of books.

As my first Supreme Court summer recess approached, however, I found myself facing a more immediate and practical concern. I had to temporarily vacate my shared accommodation at 60, South Avenue and also decide how best to utilise the ten weeks ahead. For the first time since entering professional life, an unexpected stretch of unstructured time stood before me.

I sought guidance from my seniors, particularly Mr. S.C. Agrawal, on how I should use this period for meaningful professional growth. His advice became one of those quiet turning points that reveal their significance only much later. Mr. Agrawal observed that although I had entered the profession directly through the Supreme Court, I had bypassed one important layer of legal education – the foundational experience of trial work.

The Supreme Court sharpened principles. Trial courts taught facts. The Supreme Court refined propositions of law. Trial courts revealed how evidence, pleadings, witnesses, and procedure shaped outcomes. One dealt with legal architecture; the other exposed the living material from which that architecture was constructed. He suggested that instead of remaining in Delhi during the recess, I should spend the summer working under a leading trial lawyer and recommended that I approach Mr. B.P. Agarwal, a respected Senior Advocate in Jaipur.

The suggestion made me reflect. Until then, I had believed that beginning at the apex naturally meant beginning at the highest point. But I slowly realised that professional growth does not always move vertically. Sometimes one must deliberately move downward into foundations in order to rise meaningfully. I resolved to accept the detour. If the Supreme Court was teaching me how law is ultimately declared, perhaps the trial court would teach me how law first comes into existence. Roots and heights, I began to understand, belong to the same tree.

The Grounding Reality of the Jaipur Trial Court

15.06.1977 (Diary Entry)

Upon arriving in Jaipur, I sought out Mr. B.P. Agarwal, who had once been a chamber colleague of my father under the legendary Mr. C.L. Agarwal. Acting on his warm recommendation, I joined the busy trial court practice of Mr. H.M.K. Wali – an esteemed advocate known throughout the courts for his composed temperament, reflective intellect, and his ritual of procuring paan before every important court appearance.

Operating from his office at Wali Gardens, Mr. Wali conducted his practice with the assistance of two dedicated juniors, Mr. R.K. Yadav and Mr. Amar Singh. Watching Mr. Wali work in the trial courts became an education in professional poise. He was received by judges with visible respect and patient attention, not because of force of personality but because his submissions were measured, concise, and delivered with unusual clarity. His court craft was quiet rather than theatrical. His manners, discipline, and respect for the Bench were qualities that I deeply admired and silently wished to absorb.

One defining moment during my short apprenticeship came when Mr. Wali handed me a voluminous and factually complicated trial brief for analysis. After several days of study, I presented him with my understanding of the factual structure and legal issues involved. He responded not with praise but with questions – sharp, probing, and designed to test whether I had truly understood the case.

To my great satisfaction, he appeared pleased with the exercise and remarked that my conceptual approach reflected the influence of my early exposure to the Supreme Court. For me, however, the greater lesson was different. The experience introduced me to the mechanics of original litigation – the formation of facts, the structure of pleadings, the role of evidence, and the way in which records are actually built before questions of law ever reach higher courts.

I began to understand that appellate law rests upon foundations laid elsewhere.

The Eagle and the Crow
28.06.1977

Though my daily routine with Mr. Wali was immensely rewarding, one particular morning brought an unexpected and somewhat uncomfortable experience. As I entered a crowded courtroom with Mr. Wali and happened to make eye contact with the presiding judge, the learned Judge almost rose from his seat and greeted me warmly across the courtroom:

"Gupta Ji, what brings you here?"

A brief silence descended. Mr. Wali and his juniors exchanged quiet smiles.

Feeling slightly embarrassed, I explained respectfully that I was spending the recess reading in Mr. Wali's chambers in order to learn the fundamentals of trial practice. The matter was adjourned shortly thereafter. As we stepped back into the corridor, I could feel curious glances from members of the local Bar.

Their expressions appeared to carry a mixture of curiosity, surprise, and perhaps a degree of discomfort – the inevitable reaction that sometimes follows those perceived to arrive carrying an inherited association with the institution. Mr. Wali, however, remained entirely unperturbed. He seemed to understand such social undercurrents instinctively and moved past them without comment.

The following morning, by coincidence, my eyes fell upon a quotation printed in *The Times of India*:

"The eagle never lost more of its time than when it went to learn of the crow."

The line struck me immediately. I shared it with Mr. Wali later that day.

He laughed warmly and, with characteristic generosity, remarked that my brief exposure to trial courts had already served its purpose. He suggested that what I had come to learn had been learnt and that the remaining journey would unfold naturally in the Supreme Court over time. Deeply moved by his affection and encouragement, I thanked him sincerely and touched his feet as a mark of respect.

The following morning, I boarded a bus back to New Delhi. By 9:00 a.m., I had entered through Gate D and walked once again into the familiar surroundings of Chamber 20-A. A quiet sense of return came over me. Not because I had returned to a higher court, but because I had returned with a better understanding of what stood beneath it. The trial court had shown me where facts are born. The Supreme Court would teach me what ultimately becomes of them. Only then did I begin to understand that the temple of justice is built from both foundations and spires.

The Long DTC Commutes and a Dual Life
01.07.1977

Having surrendered my room at South Avenue before departing for Jaipur, I found myself temporarily without accommodation upon my return to Delhi. Through the kind intervention of Justice M.L. Jain of the Delhi High Court, I managed to secure a temporary room at the Indian Law Institute for the modest sum of ₹ 5 per day. Though the institutional policy strictly limited guest stays to thirty days, I was granted a rare extension up to ninety days as a special exception.

The stay turned out to be an unexpected gift. It provided an exceptional opportunity to interact directly with visiting legal academicians, researchers, and scholars who regularly came to the Institute for conferences and academic programs. I also found some of my own law professors visiting the Institute from time to time. Our evening conversations were stimulating and intellectually engaging. Yet, as I began sharing with them the practical realities of litigation unfolding every day across the road in the Supreme Court, I slowly became aware of something that troubled me.

Much of academic legal discourse seemed disconnected from the living movement of law. Many appeared unaware of the speed at which constitutional and legal principles were being interpreted, expanded, refined, and developed by the Supreme Court on a day-to-day basis. The discussion remained anchored largely in textbooks which themselves were often not updated with sufficient regularity.

The dominant framework appeared static, while the law itself was dynamic. There also seemed to exist a natural institutional resistance to modifying legal curricula and teaching methods in a manner that could prepare students more effectively for the realities of practice. That realisation remained with me for years. Law cannot remain confined to classrooms alone; it must constantly converse with the courts where it evolves.

When my ninety-day extension finally came to an end and I had still not secured permanent accommodation, I moved to my cousin sister's residence in Ashok Vihar, Phase I.

Her generosity and hospitality made the arrangement comfortable, but the location brought with it a demanding routine. The distance from Ashok Vihar to the Supreme Court was approximately sixteen kilometres and required daily travel through the unpredictable rhythms of the Delhi Transport Corporation buses, often taking more than an hour each way.

Those journeys, however, never felt wasted. During those long commutes, I invariably carried my diary with me. In it, I had carefully transcribed English translations of the *Shrimat Bhagwad Gita*, together with inspirational thoughts

gathered from wherever I found wisdom and my own reflections recorded over time. The bus became a moving study and meditation room. As long as I could remain within the precincts of the Supreme Court from nine in the morning until nine at night, the commute appeared insignificant.

Everything felt aligned. I remained deeply committed to my twin pursuits – jurisprudence and spiritual inquiry. Every Friday evening and Sunday morning, I continued attending lectures at the Bharatiya Vidya Bhavan. Gradually, I found myself immersed in two of the largest fields of human inquiry – law and spirituality.

One sought justice in the outer world; the other sought understanding in the inner world. With each passing day, I felt increasingly convinced that my path was unfolding through a sequence of timely arrangements rather than accident, guided quietly by discipline, relationships, and an unseen order larger than my own plans.

Receiving the Diploma and Rationalising the Journey

In June 1977, I successfully completed my evening studies and received my Graduate Diploma in Administrative Law from the Indian Law Institute, bearing the elegant and commanding signature of Justice Y.V. Chandrachud. Wishing to maintain my intellectual momentum, I immediately enrolled in the next specialised diploma course in Labour Law.

By this stage, despite possessing a formal law degree and having spent nearly a year within the precincts of the apex court, I had still not received a single rupee by way of regular financial compensation from my seniors at Ramamurti & Co. But then, I was not an employee in the modern corporate sense of the term. I had entered the profession through the older and quieter tradition of apprenticeship. No one handed me a syllabus. No one measured my daily output. No one fixed targets, conducted reviews, or offered a stipend. The expectation was simple: remain present, observe carefully, read deeply, assist sincerely, and absorb continuously.

Looking back, I realise that I was being compensated every single day – though not in currency. The compensation came in the form of raw exposure, rigorous chamber discipline, unrestricted access to legal materials, direct participation in conferences, proximity to unfolding litigation, and the rare privilege of sitting a few feet away from some of the finest legal minds shaping the jurisprudence of a young Republic. Such opportunities cannot easily be priced.

To explain my absence of independent income to relatives and well-wishers outside the profession, I comfortably presented my continuing enrolment in the

Indian Law Institute diploma programmes as a natural extension of my legal education and a necessary investment in building strong foundations for the years ahead. The explanation was practical, but it was also true. I was not postponing work; I was preparing myself for it.

In retrospect, those months taught me a lesson that remained with me throughout life: in the formative years of any profession, one must sometimes choose between immediate earnings and long-term depth. Income sustains existence; learning shapes value. The early years of practice are rarely years of accumulation – they are years of absorption. The returns often come later, but when they come, they carry the strength of foundations quietly built in silence.

Deemed Supersession at the High Court and the Ideological Rift over Justice D.A. Desai

30.09.1977 (Diary Entry)

An important institutional development took place this month as the sanctioned strength of the Supreme Court was increased from thirteen to seventeen judges, resulting in the elevation of Justices V.D. Tulzapurkar and D.A. Desai.

Justice Tulzapurkar came from the Bombay High Court, where he had been serving as the second senior-most judge, and joined his former colleague, Justice Y.V. Chandrachud, on the Supreme Court Bench.

The elevation of Justice D.A. Desai, however, generated considerable discussion and controversy within sections of the legal fraternity. Justice Desai had been fourth in seniority at the Gujarat High Court, and his elevation over judges senior to him – including, as was widely perceived at the time, more conventionally placed candidates – was viewed by many as reflecting a departure from the prevailing expectations of seniority in judicial appointments.

Among sections of the Bar and legal commentators, there existed a belief that his judicial outlook and perceived affinity with the emerging constitutional and socio-economic jurisprudence associated with Justice P.N. Bhagwati may have played a role in the appointment process. Justice Desai was widely regarded as sympathetic to socially progressive and welfare-oriented constitutional interpretation. Whether such perceptions were wholly correct or not, the event triggered a larger institutional debate: to what extent should seniority govern elevation, and to what extent should judicial philosophy, constitutional vision, and broader institutional requirements influence appointments?

The reaction from parts of the organised Bar was immediate. The Gujarat High Court Bar Association, followed by support from sections of the Supreme Court Bar, reportedly expressed strong reservations and passed resolutions criticising

the departure from established convention. Some members proposed boycotting the ceremonial proceedings connected with the elevation while extending support to Justice Tulzapurkar's appointment.

Yet, when the day of the ceremony arrived, institutional reality introduced its own complexity. Since the ceremonies for both judges were held consecutively in the same venue, members who attended to honour one appointment inevitably found themselves present for the other as well. It was an early reminder to me that institutional life rarely conforms completely to declared positions; practical realities often soften even the strongest public gestures.

Inside Ramamurti & Co., however, the atmosphere was entirely different. Justice Desai's elevation was received with visible satisfaction. His perceived orientation towards labour, social justice, and constitutional redistribution resonated strongly with the broad socio-legal thinking that influenced many within the chamber. To my seniors, his elevation represented not merely the appointment of an individual judge but the strengthening of a constitutional philosophy they believed was necessary for social transformation.

For me, the episode became an early lesson. Judicial appointments are never discussed only in terms of personalities. They often become sites of deeper debates – between convention and change, seniority and selection, continuity and reform, institutional stability and constitutional vision. As a young lawyer observing these developments, I did not yet have conclusions. But I had begun to understand that behind every judicial appointment there exists a larger conversation about what society expects the law to become.

A Glimpse of the Empress: Observing Smt. Indira Gandhi

During an evening gathering at the residence of Mr. D.P. Singh at 30 Canning Lane, I accompanied Mr. S.C. Agrawal and found myself, perhaps for the first time, amidst a gathering of the nation's political establishment.

Moving quietly through the gathering was former Prime Minister Smt. Indira Gandhi. Her presence carried a distinct aura of authority. She moved with a quick, elegant, and purposeful stride that naturally drew attention without any apparent effort. There was neither display nor unnecessary conversation; yet one sensed immediately that she occupied the centre of the room. Even within the relaxed environment of a private gathering, her remarkable attention to detail was visible. At one point she noticed a cluster of empty tea cups lying unattended near the base of a garden tree. She paused, called a waiter, and quietly instructed that they be removed. The gesture was small, but it reflected an instinct for order and attention to surroundings.

As the evening unfolded, I observed from a respectful distance. At one stage, her attention turned towards Mr. H.R. Gokhale, her former Law Minister, who was seated a few feet away and appeared unusually quiet in the aftermath of recent political developments. With a soft smile and evident familiarity, she remarked:

"Mr. Gokhale, I know exactly what you are thinking. Do not worry, Mr. Gokhale."

The comment dissolved the visible tension and drew warm laughter from those seated nearby. Watching her brought back powerful memories from my childhood. In 1971, during the Indo–Pakistan conflict, the atmosphere across the country had become charged with uncertainty. Rumours had spread that the United States Seventh Fleet was moving towards the region. I vividly remember sitting near the family radio in Jodhpur and listening to her calm and composed voice reassuring the nation that she had spoken to the leadership of the Soviet Union and that the people of India had no reason to fear.

That memory reached even further back. During the 1965 war, Jodhpur itself had experienced the realities of conflict. The city had come under attack and lived through the fear and disruption of wartime conditions. I still remembered the sound of air raid warnings and the sight of military aircraft crossing the sky. Standing only a few feet away from a person who had occupied the centre of such historic moments created an unusual feeling.

Whatever one's political views may later become, one cannot deny that positions of national leadership carry enormous burdens of decision and consequence. For me, that evening was less about politics and more about perspective. History, which until then had lived in newspapers, speeches, and radio broadcasts, suddenly appeared in human form – moving quietly through a garden gathering, noticing unattended tea cups, offering reassurance to a colleague, and carrying upon her shoulders the memory of an entire era.

My Surgical Initiation
State of Karnataka v. Ranganatha Reddy
1977 INSC 195

One evening, long after the seniors and clerks had departed and I was sitting alone in the quiet of the chamber, Mr. Narayan Nettar returned unexpectedly. There was an unusual urgency in his movement that immediately suggested something important had arisen.

Approaching my desk, he asked me a simple question – whether I was prepared to assist in a significant constitutional matter. I replied without hesitation that I was. He then took me aside into the corridor and explained the situation.

An important constitutional reference had been listed before a seven-judge Bench of the Supreme Court. The Advocate General for Karnataka had requested him to identify a diligent junior advocate who could take complete charge of the record and assist Mr. Lal Narain Sinha, the legendary Senior Advocate and former Solicitor General of India, in preparing and conducting the matter.

He asked whether I would accept the assignment. Having spent months observing Mr. S.C. Agrawal prepare briefs with remarkable discipline and precision for Mr. R.K. Garg, I accepted immediately. Mr. Nettar informed me that the State would pay me an appearance fee of ₹ 400 per day. At that stage of my life, it was a substantial amount – one that I knew would comfortably support my modest living expenses for several months. For a young advocate still in his formative years, it felt like an extraordinary opportunity and an unexpected recognition of trust.

The matter was *State of Karnataka v. Ranganatha Reddy (supra)*. The dispute concerned the constitutional validity of the Karnataka Contract Carriages (Acquisition) Act, 1976, through which the State sought to nationalise private contract carriage operations, including operating rights and associated assets. The legislation had been challenged as infringing constitutional protections relating to property and raising broader questions regarding the limits of State acquisition and economic regulation.

During our conferences, Mr. Lal Narain Sinha patiently unfolded before me the larger constitutional and economic architecture underlying the dispute. He explained how India's Industrial Policy Resolution of 1948 and the Directive Principles – particularly Articles 39(b) and 39(c) – reflected the constitutional aspiration that ownership and control of material resources should be organised in a manner that served the common good. At the same time, he emphasised that even while the Constitution created wide legislative space for socio-economic transformation, constitutional limitations continued to exist and had increasingly become the subject of judicial scrutiny following the emergence of the Basic Structure doctrine.

At that stage of my professional life, I struggled to fully comprehend the depth and sophistication of many of his constitutional formulations. But one realisation became immediately clear. If I wished to understand the Supreme Court meaningfully, reading statutes and judgments alone would never suffice. One had to understand constitutional philosophy, political history, economics, and the social ideas that move institutions. The Court was not merely deciding a transport dispute. It was engaging with a larger constitutional question – how a democratic society balances redistribution, public interest, and individual rights.

As part of the briefing team, I had the privilege of sitting directly behind and

beside Mr. Lal Narain Sinha during the arguments. My responsibility was simple in description but demanding in execution – to anticipate the movement of the argument and place before him the correct volume of law reports, constitutional materials, and authorities at precisely the moment they became necessary. Gradually, our coordination evolved into a seamless and silent rhythm. It reminded me closely of what I had earlier watched between Mr. Agrawal and Mr. Garg in court. To me, it resembled the relationship between a surgeon and the assisting nurse in a complex operation – where precision, timing, trust, and anticipation become as important as knowledge itself.

As a child, I had once imagined becoming a doctor, inspired by my maternal grandfather, an exceptional dentist in Agra who had dedicated his life to service. Destiny had taken me into law instead. Yet sitting at that counsel table, I suddenly realised that the two professions were not entirely different. Medicine studies the body. Law studies human conduct. The physician diagnoses injuries within the body; the lawyer identifies fractures in relationships, institutions, rights, and obligations. The organs of the human body remain structurally similar across individuals.

But no two legal disputes are ever identical. Every case presents its own anatomy of conflict. The advocate and the judge must identify the underlying rupture, understand its causes, and attempt repair. That endless variety—the fact that every brief contains a new human story and a new intellectual challenge—struck me then as one of the deepest beauties of the profession.

The Ganges Knows Its Course

28.02.1978 (Diary Entry)

Today, Justice Y.V. Chandrachud was sworn in as the 16th Chief Justice of India – a jurist of extraordinary intellectual range and possessed of a rare ability to frame complex legal propositions with clarity and elegance. As a judge, his method has always fascinated me. He listens to dense, sometimes disjointed arguments with remarkable calm, making concise and careful notes. Then, at the appropriate moment, he articulates a clear and distilled formulation that not only captures the essence of the advocate's submission but often reveals the central legal issue with greater precision than the argument itself.

Watching that process taught me something important: judging is not merely hearing arguments – it is the art of reducing complexity into principle. His judgment in *Kesavananda Bharati, 1973 INSC 91*, though expressing a view different from the majority on the scope of Parliament's amending power, remains a work of remarkable constitutional craftsmanship and reflected a strong faith in democratic

institutions and parliamentary legitimacy. Yet, when related constitutional issues arose later in *Indira Nehru Gandhi v. Raj Narain (supra)* he faithfully applied the law as declared by the majority in *Kesavananda Bharati (supra)*. That discipline left a deep impression on me.

There is a profound institutional virtue in accepting that once a principle becomes binding law, personal judicial preferences must yield to constitutional continuity. This approach appears different from traditions followed in some other jurisdictions, where judges may continue to express disagreement across subsequent cases while adhering to precedent. The literature on comparative constitutional practice often treats such judicial continuity as an expression of institutional character rather than inconsistency.

In our system, however, one of the highest qualities expected of an apex court judge is the ability to bring clarity, certainty, and predictability to the law so that High Courts, advocates, institutions, and citizens may regulate their affairs with confidence. It has been a privilege to appear before him. Whenever I later read his judgements, I found myself hearing his measured courtroom voice behind the written words, almost as though the reasoning had travelled directly from the Bench onto the page.

Institutional history had also unfolded in an unusual manner. Justice Chandrachud came to occupy the office of Chief Justice for what would become the longest tenure in the history of the Supreme Court of India. The circumstances leading to that tenure reflected how institutional timelines are often shaped by events beyond individual design. Justice A.K. Mukherjea, who stood senior in the line of succession and whose tenure might otherwise have altered that sequence, passed away in October 1973. Institutional history, like personal history, is often shaped as much by unforeseen events as by planned movement.

At the same time, another remarkable constitutional personality had already emerged on the Court. Justice P.N. Bhagwati had reached the Supreme Court only months after Justice Chandrachud and represented a different judicial style and constitutional temperament. Both would, in the years to come, leave a profound imprint on Indian constitutional jurisprudence. As a young advocate observing these developments from the first few rows of the courtroom, I had no settled conclusions.

But I had begun to understand that institutions do not evolve only through judgements. They evolve through the distinct minds that inhabit them – sometimes converging, sometimes differing, yet together carrying the river of law forward. And like the Ganges, institutions too seem to know their course, even when those standing on the banks cannot yet see where the river is headed.

A New Chapter with the Bombay Bar

23.03.1978 (Diary Entry)

While waiting for a matter to be called before the Delhi High Court, I was approached by a senior colleague who informed me that Mr. P.R. Mridul – the distinguished Senior Advocate and former Judge of the Bombay High Court – was looking for a junior advocate to assist him in his practice. The prospect immediately filled me with excitement. I had always held the Bombay Bar in the highest regard and regarded it as one of the finest nurseries of legal excellence in the country. Historically, many of the leading figures of the Supreme Court Bar had emerged from Bombay. Supported by the financial capital of the nation and shaped by a highly structured Solicitor system, Bombay lawyers enjoyed an institutional environment that allowed sustained attention to preparation, specialisation, and craftsmanship in advocacy.

When I met Mr. Mridul, he explained that he had recently shifted his professional base to Delhi and required a diligent junior advocate to assist with filing work and support his expanding practice. Someone had spoken to him about me. He offered me a formal monthly stipend of ₹ 1,000. For me, this was not merely a financial proposal; it marked an important threshold. By then, I had spent nearly twenty-one months at Ramamurti & Co. without any regular monetary compensation. Yet those months had given me something equally valuable – discipline, exposure, access to extraordinary minds, and immersion in the rhythms of the Supreme Court.

At the same time, Mr. S.C. Agrawal appeared likely to move toward judicial office in the near future, and I sensed that a natural transition was approaching. I felt deeply inclined to accept Mr. Mridul's offer, but I also believed that professional movement should take place with grace and gratitude. I informed Mr. Mridul that before making any commitment, I wished to speak with Mr. Agrawal and seek his blessings. Subject to his approval, I proposed to join from 01.04.1978. Mr. Mridul agreed warmly.

When I discussed the matter with Mr. Agrawal, he granted his approval immediately and with genuine affection. That response stayed with me. Good seniors do not seek to retain juniors indefinitely; they prepare them to move forward and feel satisfaction in seeing their juniors grow. Looking back, this transition marked more than a change of chambers. It was my first movement from pure apprenticeship toward professional independence and my first opportunity to observe another legal culture under a lawyer shaped by a different institutional tradition.

Professional life, I slowly understood, does not unfold in a straight line. It

grows through chambers, mentors, transitions, and timely opportunities. When one chapter is completed sincerely, another usually opens quietly. The doors of destiny seldom open with noise; they open through readiness.

The Heritage of Ramamurti & Co.

31.03.1978 (Diary Entry)

The institutional history of Ramamurti & Co. was closely interwoven with the development of an important stream of post-independence constitutional and social jurisprudence in India. The firm had originally come into existence through the partnership of Mr. D.P. Singh and Dr. Sayeed Mohamood. In due course, the partnership expanded and evolved with the inclusion of Mr. M.K. Ramamurti, Mr. R.K. Garg, and Mr. S.C. Agrawal, and the firm came to occupy Chambers 20A, 26, and 27 along one of the most active corridors of the Supreme Court. Around 1970, Mr. M.K. Ramamurti began practicing independently from Chamber 27, while the remaining partners continued together. Later, when Mr. D.P. Singh was designated as a Senior Advocate, the active operational leadership of the chambers came to rest primarily with Mr. R.K. Garg and Mr. S.C. Agrawal. Mr. Singh continued to share Chamber 20A with Mr. Agrawal, while Mr. Garg worked from the now legendary Chamber 26. By the time I entered this environment in 1976, the chambers had already developed a distinct institutional character of their own.

Mr. R.K. Garg was an extraordinary personality and a commanding courtroom presence. His understanding of constitutional law was deeply informed by a nationalist-socialist reading of the Constitution and a firm belief that legal institutions must remain responsive to those who stood outside structures of accumulated power. Labour rights, public accountability, social welfare, and constitutional transformation remained central to his intellectual framework. Sitting beside him in court and observing him prepare and argue cases was itself an education. He had the rare ability to simplify difficult constitutional propositions and explain how the constitutional structure could simultaneously preserve institutional stability while expanding social justice. Whether one agreed with every proposition or not, one could not fail to admire the seriousness of his engagement with the larger social purpose of law.

If Mr. Garg represented law as an instrument of social change, Mr. S.C. Agrawal represented law as an intellectual discipline of extraordinary depth and precision. Across the profession, he was widely regarded as a *"walking encyclopedia of judgements."* During the nearly twenty months that I spent under his guidance, I repeatedly watched him retrieve authorities from memory with remarkable ease

– not only from Indian courts but also from constitutional and common law jurisprudence emerging from the United States, the United Kingdom, Australia, and Canada. He treated legal research not as mechanical retrieval but as comparative reasoning. For him, no legal issue existed in isolation; every issue had roots, branches, and institutional consequences. Watching him work gave me an appreciation of the importance of disciplined reading and the necessity of understanding law beyond territorial boundaries.

The chambers therefore represented a unique institutional synthesis. One stream viewed law through the lens of social change and public policy; the other approached it through legal architecture, doctrine, and comparative jurisprudence. Those who passed through these chambers received exposure to both traditions simultaneously. It taught me early that law is neither pure ideology nor pure technique. Law survives because it creates a bridge between authority and liberty, governance and rights, institutions and individuals. When that balance is maintained, societies remain stable; when it is lost, conflict begins to dominate public life.

The list of advocates who had either trained in these chambers or remained closely associated with them over the years reflected the extraordinary institutional influence they had exercised on generations of lawyers. Many went on to build distinguished careers of their own and contributed meaningfully to the development of the profession.

Chamber Alumni & Direct Associates

- 1962 – Mr. Anil K. Gupta, Mrs. R. Hingorani
- 1963 – Mr. G.D. Gupta, Mr. S. Balakrishnan, Mr. M. Veerappa
- 1965 – Mr. Virendra Verma, Mr. K.R. Chopra
- 1966 – Mr. K.M.K. Nayer
- 1967 – Dr. N.M. Ghatate, Mr. S.P. Sinha
- 1968 – Mr. Uma Dutt, Col. Balakaran
- 1969 – Mr. Narayan Nettar, Mr. V.J. Francis, Ms. Sumitra Chakravarti, Mr. Tara Chand Sharma
- 1970 – Mr. Vimal Dave, Mr. R.K. Jain
- 1971 – Mr. R.P. Singh
- 1974 – Mr. P.D. Sharma, Mr. Rakesh Dwivedi, Mr. Talat Ansari
- 1975 – Mr. Khurshid Nazmi
- 1976 – Mr. M.K.D. Namboodiri, Mr. Aruneshwar Gupta
- 1977 – Mr. R.S. Sihota

Looking back, I realise that I did not merely enter a chamber; I entered an

ecosystem of ideas, personalities, discipline, and institutional memory. Some places train advocates. A few shape generations. Ramamurti & Co., in its own distinctive way, belonged to the latter category.

The Invisible Fellowship of the Corridors and Canteen

The Supreme Court of the late 1970s was far more than an appellate institution – it was a gathering place of destinies. From every corner of India, a remarkable generation of young advocates had arrived in the capital almost simultaneously, each carrying the expectations of families left behind in distant towns and cities, and each animated by an unspoken conviction that the practice of law was worthy of an entire lifetime. I met them gradually – in crowded libraries, in noisy canteens, outside courtrooms while waiting for matters to be called, and in the hurried exchanges around the morning cause lists. Slowly, I began to understand that the real Bar is not merely the one visible before the Bench; it is also an invisible fellowship formed among those who choose to serve the same demanding institution and commit themselves to the same exacting discipline.

It was, in many ways, an unusual institutional moment. A significant number of us had entered the Supreme Court directly after graduation, particularly after 1974, bypassing the traditional years of grounding in the trial courts and provincial High Courts – a path that any prudent senior would ordinarily advise against, and with good reason. The classical route into the profession had always been to begin at the trial level, master pleadings, understand evidence, develop familiarity with procedure, and gradually ascend through the judicial hierarchy. Most of the leading seniors of our generation had followed precisely that course. They first established themselves in their respective states and eventually arrived in Delhi through constitutional litigation, government briefs, or the Law Officers' establishment. Yet once they experienced the intellectual range and constitutional depth of apex court practice, few ever wished to leave.

But professional journeys are not always governed by conventional wisdom. History occasionally gathers people at one point and sends them in unexpected directions. Something seemed to have shifted in the life of the nation, bringing together young advocates from Orissa, Bihar, Punjab, Kerala, Bombay, Himachal Pradesh, Madras, Delhi, and many other parts of the country into the same stone corridors at precisely the same historical moment. We came from different languages, cultures, and traditions of practice, yet our days soon acquired a shared rhythm. Our interactions remained simple and entirely informal – a warm handshake in the corridor, a quick good morning before court assembled, tea shared in the canteen, exchange of notes, discussions on judgements, or an enthusiastic

"Happy Holi" shouted across the filing counters during the rush before vacations. Nothing formal bound us together, and yet over time those small exchanges became deeply meaningful. Law is internally a solitary profession; one reads alone, thinks alone, and often carries responsibility alone. It is these invisible bonds that quietly remind us that our solitude is shared.

Among those with whom I developed warmth and lasting affection during those years were: Arvind Minocha, Anil Singh & Arun Sinha (Delhi), P.N. Misra and Ashok Panda (Orissa), B.B. Singh and L.R. Singh (Bihar), Kailash Vasudev, Rajeev Dutta and Rupinder Singh Suri (Delhi), K.K. Mohan and P.N. Puri (Punjab), Ms. Malini Poduval (Kerala), Ms. Manik Tarkunde (Bombay), Naresh Sharma (Himachal Pradesh), Ram Kumar (Madras) and many more.

Without ever consciously intending to, this dispersed and energetic group became part of the invisible emotional architecture of our generation at the Bar. We witnessed each other's beginnings, celebrated each other's small successes, and quietly watched careers unfold over decades.

One particularly interesting figure among my peers was Mr. Anil Kumar Gupta from Lucknow, who had been among the earliest juniors to read in Mr. R.K. Garg's chambers. He possessed a fierce commitment to trade union causes and had already begun developing a substantial criminal and service law practice. He readily agreed to file all my Special Leave Petitions, subject only to one condition—that I would take complete responsibility for preparing and organising the petition. It was a practical arrangement, but also an expression of mutual trust.

Alongside him was Mr. Brij Bhushan Sharma, whom everyone affectionately knew as "*Bhushan Uncle,"* a figure respected and cherished by all who knew him. He joined Anil Kumar's practice in September 1977 after commuting daily from Ghaziabad. Having completed his law degree from M.M.H. College, Ghaziabad under Meerut University in 1974, he had spent nearly three years working as an account assistant before eventually surrendering to the pull of the profession. He possessed an extraordinary smile and had developed warm familiarity with almost every clerk across the Registry. In a profession often marked by stress and intensity, he brought ease, humour, and an invaluable human warmth into everyday practice.

Mr. Anil Kumar Gupta shared Chamber No. 128 in the Supreme Court complex with Mr. S.K. Dhingra. Other important anchors of our daily circle included Mr. K.B. Rohatgi and Mr. Shiv Pujan Singh. Rohatgi, in particular, possessed exceptional organisational ability and would later play an important role in bringing about a significant political shift within the Supreme Court Bar Association through his management of the election of Mr. A.K. Sen as President, bring-

ing to a close the long and historic influence of the legendary former Attorney General, Mr. M.C. Setalvad.

Looking back, I realise that what enriched those difficult years was not merely the work, the reading, or the court appearances. It was also the presence of these diverse, passionate, independent, and determined individuals who transformed an otherwise demanding routine into a deeply rewarding intellectual and human journey. We entered as young advocates trying to find our footing. Without knowing it, we also became fellow travellers in one another's professional lives.

Many friendships begin in celebration; some begin in struggle. The friendships of the Bar are often built in waiting rooms, libraries, canteens, and crowded court corridors – and for that reason, they endure.

Assisted, Associated and Other Judgments with Observations

The Law is Conceived, Nurtured, Tested and Delivered Here

There is a view, widely held and long taught, that Parliament makes the law, the executive implements it, and the court merely interprets it – that the judiciary is the weakest of the three arms of the State, possessing, as Alexander Hamilton observed, neither sword nor purse, but only judgment. During my early years at the Supreme Court, I gradually came to understand that this formulation, though elegant, is incomplete.

The law may be enacted by Parliament, but it is conceived, nurtured, tested, refined, and ultimately delivered in the courtroom. Parliament provides the text; the court gives it living content, operative meaning, constitutional boundaries, and practical reach into human life. It is the court that determines whether the words enacted become instruments of justice or vehicles of unintended consequence. The power of the pen – the power of judgment – is not inferior to the power of the sword or the power of the purse. History repeatedly demonstrates that all enduring political power eventually seeks legal legitimacy, and all durable legal legitimacy ultimately depends upon judicial thought.

The Emergency of 1975 was perhaps the most concentrated expression of political power that independent India had witnessed – a moment in which the sword and the purse moved together, and the pen, at least at the highest institutional level, was expected to follow. The decision in *ADM Jabalpur v. Shivkant Shukla* became, in constitutional memory, the lowest point of that period: the moment at which the Supreme Court, with one honourable dissent, permitted the suspension of judicial protection at a time when liberty required its greatest vigilance.

Among the judgements reversed in that constitutional moment was one de-

livered by my father in *Milapchand Kanungo v. State of Rajasthan*, 1975 SCC OnLine Raj 114, decided on 12.12.1975. In that judgment, he had held that where an order of detention under Section 3(1)(a) of MISA disclosed on its face that it had not been passed for the purposes contemplated by law, judicial review remained available – even while upholding the constitutional validity of the statutory framework itself. It was a measured and disciplined judgment. It neither rejected the constitutional amendments nor challenged the legislative structure frontally; it merely sought to preserve a narrow but meaningful avenue of protection for the individual. That avenue was closed by the Supreme Court in *ADM Jabalpur*. My father never spoke of it with bitterness. Yet even at that stage of my life, I understood something important: a judge must occasionally live with his conclusions being overtaken not by legal reasoning alone, but by the force of history.

Justice H.R. Khanna's solitary dissent in *ADM Jabalpur (supra)* remains one of the finest examples of judicial courage in constitutional history. His refusal to accept that the State could deprive a person of life and liberty without judicial remedy cost him the office of Chief Justice of India. But in preserving principle, he preserved something greater than office – he preserved the institution's capacity for recovery. Courts may falter in moments of pressure, but institutions survive because individuals occasionally refuse to surrender entirely. The institution remembers, even when it cannot immediately act.

That recovery had already begun when I entered the Supreme Court on 01.08.1976. The Emergency remained formally in force, but the constitutional climate had begun to change. In January 1977, restrictions started easing, elections were announced, and by March 1977 the political landscape had undergone a complete transformation. The Court too began, steadily and deliberately, to recover constitutional ground.

The foundation for that recovery had already been laid three years earlier in the thirteen-judge Bench decision of *Kesavananda Bharati v. State of Kerala (supra)* – a judgment that I gradually came to regard as perhaps the most consequential act of constitutional thought in the history of the Republic. Democracy may ultimately function by counting heads, but constitutionalism requires attention to what lies within them. The central proposition of *Kesavananda Bharati (supra)* – that Parliament may amend the Constitution but may not destroy its basic structure – was not merely a legal doctrine. It was a declaration of constitutional restraint and institutional independence. The Court asserted that there exist principles beyond transient majorities and beyond the reach of concentrated political power. Upon that foundation much of modern Indian constitutional law would later be built.

Its most immediate and powerful expression emerged in judgements such as

Maneka Gandhi v. Union of India (supra), Motilal Padampat Sugar Mills v. State of Uttar Pradesh (supra) and *R.D. Shetty v. International Airport Authority of India (supra)*. These decisions collectively expanded constitutional review and held that arbitrariness itself – whether substantive or procedural – offends the equality guarantee under Article 14. They also transformed the understanding of fundamental rights by insisting that Articles 14, 19, and 21 must be read together as an integrated constitutional framework rather than as isolated provisions. In doing so, *Maneka Gandhi (supra)* effectively moved constitutional jurisprudence beyond the narrow procedural approach of *A.K. Gopalan v. State of Madras* and opened the path toward a broader understanding of liberty and due process. The pen had begun to reclaim its authority.

I found myself associated, directly or indirectly, with many of the important judgements of this period. Sometimes my role was active – carrying briefs, preparing notes, locating citations, assisting seniors, and placing law reports at precisely the required moment. At other times, I was only an observer – taking detailed notes, tracking arguments, and watching judicial thought evolve from hearing to hearing until the final judgment emerged. The judgements listed in the pages that follow therefore are not a catalogue of cases. They form the constitutional weather of my apprenticeship and the living curriculum through which I came to understand how institutions think.

For this is what I understood, slowly and then with increasing certainty, during those twenty months of apprenticeship: law does not become real in the statute book. It becomes real in the courtroom. Not in gazette notifications or executive circulars, but in the exchange between advocate and judge; in the testing of principle against fact; in the search, conducted openly and through disciplined argument, for a proposition capable of becoming the law of the land.

Every judgment is the result of a living process: a human conflict; competing claims of right and power; arguments built from statutes, precedents, and principle; and a judicial mind shaped by learning, temperament, and what Justice Holmes described as the inarticulate major premise. From that interaction emerges a rule which thereafter governs not merely the parties before the Court but countless future situations across the life of the nation.

I watched during those years how the Supreme Court attempted, case by case, to restore constitutional confidence after the strains of the Emergency. I watched Article 21 evolve from narrow procedure toward substantive liberty. I watched the Court hold in careful tension individual rights, social justice, and constitutional directives. I watched judicial review strengthen and judicial independence emerge not merely as institutional privilege but as constitutional necessity.

Every judgment has three visible participants – the advocate for the peti-

tioner, the advocate for the respondent, and the judge. Yet behind them stand the litigants: the citizen who has exhausted savings and borrowed against hope; the government defending policy; the institution protecting its decisions; the business defending survival; and the individual whose liberty, property, dignity, or future depends upon the words eventually printed in the law reports. Ultimately, it is for them that the bells toll.

Those early years also taught me that the courtroom is not the theatre of confrontation that cinema imagines it to be. It is a place where difficult human problems are translated into legal questions; where issues are examined patiently and rigorously; where competing principles are tested in an atmosphere of dignity, restraint, and mutual respect; and where the destinies of individuals – and occasionally of nations – are quietly shaped.

The quality of preparation, the integrity of submission, the clarity of judicial vision, and the judge's perception together determine whether justice, in a given case, will truly be achieved, merely appear to have been achieved, or disappear into the accumulated technicalities of law and procedure.

That distinction troubled me faintly then. In the years that followed, it would trouble me deeply.

And somewhere in that distinction lies everything I have since come to understand about the difference between law and justice — between my Mistress, and my Love.

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	Lakhanlal	State of Orissa	1976 INSC 247	Tax Law - Indirect
2	Mayenghoan Ramohan Singh	Chief Commissioner	1976 INSC 273	Service Law
3	N.K.Chauhan	State of Gujarat	1976 INSC 275	Service Law
4	Prem Chand	District Judge, Dehradun	1976 INSC 297	Rent Control and Eviction Law
5	Chhotan Prasad	Hari Dusadh	1976 INSC 300	Practice and Procedure
6	Gyan Chand	K.B. Lal	1977 INSC 316	Rent Control and Eviction Law
7	Jaipur Mineral Dev.Syndicate	CIT	1978 INSC 335	Direct Tax
8	State of Maharashtra	Bhalchandra Khanderao	1977 INSC 43	Service Law
9	Prabhat Kiran Maithani	Union of India	AIR 1977 SC 1533	Service Law
10	Ram Lakhan Singh	State of U.P.	1977 INSC 145	Criminal Law
11	State of Karnataka	Ranganath Reddy	1977 INSC 196	Land Acquisition & Rehabilitation Law

12	Rameshwar Dayal	State of U.P.	1978 INSC 33	Criminal Law
13	Lalla Ram	Management DCM Chemical	1978 INSC 37	Labour & Industrial Law
14	Punjab Beverages Pvt.Ltd.	Suresh Chand	1978 INSC 48	Interpretation of statute
15	Madan Mohan Pathak	Union of India	1978 INSC 43	Constitutional Law
16	Bangalore Water Sup.and Sew.Bd.	A.Rajappa	1978 INSC 77	Labour & Industrial Law
17	Abdul Rehman	STAT	1978 INSC 453	Insurance Law
18	Badri Narain Prasad Choudhary	Nil Ratan Sarkar	1978 INSC 63	Family law
19	Ramanathan	State of T.N.	1978 INSC 87	Criminal Law
20	Bibi Siddiqi Fatima	Saiyed Mohammed Hasan	1978 INSC 101	Property law
21	Sher Singh	Jt. Director Consolidation	1978 INSC 110	Land Revenue and Tenancy Laws

N.K. Chauhan v. State of Gujarat
1976 INSC 275

Mr. K.K. Singhvi, Senior Advocate, from Bombay, came to lead the arguments for the Respondents. He was originally from Jodhpur, knew my father well and was related to a traditional legal family. I continued to sit through conferences, make notes, and remain in Court from 10:30 a.m. to 4:00 p.m., with a brief lunch recess from 1:00 p.m. to 2:00 p.m., watching and absorbing as much as I could. Mr. K.K. Singhvi, Senior Advocate from Bombay, and Mr. R.K. Garg appeared for the respondents along with Mr. M.C. Bhandare appearing for the State of Gujarat.

Watching them argue, I began to understand that while facts differed in every case, it was the principles of law laid down over the years in earlier judgements that formed the true foundation of law. The real wisdom of an advocate lay not merely in knowing the facts, but in understanding how enduring legal principles could be applied to different fact situations. The clarity of those principles, first evolved when similar issues arose before the Supreme Court for the first time, travelled thereafter through countless factual variations. Once the Judges understood the factual narratives, which were not disputed by the parties, and the conflicting legal propositions, they would apply those principles according to their own sense of justice, shaped inevitably by their understanding of fairness, governance, institutional balance and how the law should be carried forward to do complete justice.

The dispute arose in the newly formed State of Gujarat after the bifurcation of the old Bombay Presidency. The cadre of Deputy Collectors historically consisted partly of promotees rising through the revenue service and partly of direct recruits selected through competitive examination. By the Government Resolution of 1959, recruitment from the two sources was to be maintained in the ratio of 50:50, qualified by the expression "as far as practicable." Between 1960 and 1962, however, no direct recruitment could take place because the Public Service Commission process moved slowly through procedural and linguistic queries. The Government, faced with administrative necessity, filled vacancies through promotions. When direct recruits eventually entered service in 1963, they claimed that vacancies from earlier years ought to have been reserved for them and that the promotees who had occupied those posts should be pushed down in seniority. The Gujarat High Court accepted that contention. The promotees and the State carried the matter to the Supreme Court.

The Supreme Court, speaking through Justice V.R. Krishna Iyer, approached the matter not merely as a dispute of service seniority, but as a reflection on the functioning of administration itself. The judgment opened with an almost philosophical lament about government servants being trapped in prolonged litigation instead of serving the nation, and on how law and justice often moved too slowly to meet administrative realities.

The Court held that the expression "as far as practicable" was not an ornamental phrase but a genuine safety valve consciously built into the rule. The State was under an obligation to make serious and bona fide efforts to secure direct recruits. But if, despite honest effort, recruitment was delayed or became impracticable, the Government could not be expected to leave important posts vacant indefinitely. Administrative necessity permitted the vacancies to be filled through promotions. The Court further held that a quota did not automatically imply rota, though a year could not be taken as a unit. A quota system could exist without rotational seniority being read into it. Promotees who had been regularly appointed during the period 1960–1962 could not later be displaced merely because direct recruits arrived years afterwards. Seniority, the Court observed, ordinarily flowed from actual continuous officiation in service.

Mr. R.K. Garg's proposition was that once a quota of 50:50 between direct recruits and promotees was prescribed by law, rota necessarily followed, although the law did not expressly so provide. If vacancies at serial numbers 1, 3, 5, 7 and 9 were occupied by promotees, then vacancies at 2, 4, 6, 8 and 10 had necessarily to belong to direct recruits. According to him, quota and rota were inseparable. If the rota was not read into quota, the entire balance of the service structure of 50:50 would collapse and the rights given to direct recruits would become illusory. That,

according to them, was how law protected fairness within public service.

What struck me deeply was the invisible tension between legality and fairness that ran beneath the judgment. The promotees had served honestly, discharged public functions, and occupied substantive vacancies for years. To displace them retrospectively would have created human and administrative instability merely to preserve a mathematical symmetry contemplated by the rule. The Court chose continuity over abstraction, governance over rigid formula, and practical administration over theoretical exactitude.

Yet, at another level, the judgment also revealed how justice sometimes bends before the compulsions of the State. The direct recruits were not responsible for the Government's delay in conducting examinations or completing recruitment formalities. Their expectation arose from the very quota rule framed by the State itself. If the rule had been applied with uncompromising strictness, their claim carried considerable legal force. The vacancies originally meant for them had, in substance, disappeared by the passage of administrative time.

The Court ultimately preferred stability of administration over restoration of the lost expectation of the direct recruits. It accepted that governance could not be paralysed while waiting for procedural perfection. In doing so, the judgment quietly acknowledged a truth I would encounter repeatedly in later years – that law does not always move in the straight lines of logic. Sometimes it yields to necessity, sometimes to equity, and sometimes to the institutional fear of unsettling what has already crystallised over time.

This judgment did not merely interpret quota and rota. It revealed how courts, while speaking in the language of rules, often attempt to preserve the living structure beneath the rules. Another brick was added to service jurisprudence – not by perfecting the symmetry of law, but by recognising that justice within institutions sometimes lies in preventing the disruption of those who have already carried the burden of the system in good faith.

Prem Chand v. District Judge, Dehradun
1976 INSC 297

This matter concerned the service conditions of a judicial officer and raised questions about the security of tenure and the procedural safeguards available to members of the subordinate judiciary against summary removal or adverse action. The Court examined the constitutional protections available to judicial officers under Articles 233 to 235 – the provisions governing the relationship between the High Court and the subordinate judiciary – and the extent to which the executive could interfere with conditions of judicial service without the High Court's concurrence.

The case carried for me a particular resonance: it concerned the independence and dignity of those who serve in the institution of justice at its most accessible level – the courts in which the ordinary citizen first seeks redress. An independent subordinate judiciary is the foundation upon which the entire edifice of judicial independence rests; and when that foundation is insecure, the edifice above it is more precarious than it appears.

Chhotan Prasad v. *Hari Dusadh*
1976 INSC 299

This was a matter concerning civil rights and property – specifically, the rights of a weaker party in a dispute over land or tenancy, and the extent to which the court would look behind the formal legal relationship to protect the substantive interest of the person in actual possession and use of the property. The Court reaffirmed that possession, long continued and undisturbed, creates an interest worthy of legal protection, and that a technical defect in title does not automatically extinguish the rights of a person who has been in settled occupation.

In the landscape of Indian social reality, such judgements carried weight far beyond their legal technicality. Land is not merely property in India; it is livelihood, dignity, and the accumulated security of generations. A judgment that protects possession is, in the deepest sense, a judgment that protects the person.

Gyan Chand v. K.B. Lal & Others
1976 INSC 316

Every matter, however small it appeared from the outside, carried within it some deeper principle of law. I had begun to realise that the Supreme Court was not merely deciding disputes; it was constantly making law by drawing constitutional boundaries – defining where one jurisdiction ended and another began, where equity could travel and where statutory language stopped it.

The tenant had suffered an eviction decree under the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 from the lower court and the High Court and his appeal was pending in the Supreme Court. The tenant sought protection under a newly introduced Section 13A of the Rajasthan Act, intended to give relief against eviction where the tenant would deposit rent on the first date of hearing. The Section applied to all pending petitions and appeals. The issue was whether an appeal pending... under Article 136 when the Ordinance came into force would entitle the tenant to statutory protection.

The contention, wholly technical, carried serious consequences. If accepted,

the tenant would continue to enjoy protection against eviction. If rejected, the decree against him would stand. Watching the arguments unfold, I began to understand the delicate architecture of procedural law. The discussion was not emotional, nor dramatic in the ordinary sense. It turned on legal characterisation – on the distinction between an ordinary statutory appeal under the Act and the extraordinary constitutional jurisdiction of the Supreme Court under Article 136. Behind the technical expressions lay the future of a litigant's home and the understanding of the very jurisdiction of the Supreme Court under Article 136.

The Supreme Court held that an application for special leave under Article 136 was not an appeal as of right. It was an extraordinary discretionary remedy conferred by the Constitution itself. Until special leave was granted, there was no appeal before the Court in the ordinary legal sense. The statute spoke of suits, appeals and revisions within the ordinary judicial hierarchy contemplated under civil procedure. Had the Legislature intended to include proceedings under Article 136, it would have expressly done so. The Court therefore refused to enlarge the protection by implication or analogy. A Special Leave Petition could not be equated with a memorandum of appeal under the Civil Procedure Code. The judgment was intellectually precise. It respected the boundaries between constitutional jurisdiction and ordinary statutory remedies. The Court refused to blur distinctions merely because hardship existed in a given case. Procedure, I realised, was not treated in law as a mere technicality; it was part of the structural discipline through which judicial power itself functioned.

Observations: While listening to the matter, another thought quietly stayed with me. The tenant's claim was not wholly without fairness. He was before the highest Court of the land seeking continuation of protection against eviction and was ready and willing to pay the arrears of rent, and from a human perspective, the distinction between an appeal and a special leave petition appeared artificial. But the Supreme Court chose not to stretch the statute beyond its language. It preserved legal certainty over equitable expansion. This was one of my earliest lessons that courts often stand at the intersection of sympathy and structure. A judge may feel the hardship of a litigant and yet refuse relief because the integrity of legal categories itself becomes part of justice. If every constitutional remedy were casually absorbed into ordinary statutory language, the discipline of law would slowly dissolve into discretion.

The judgment did not expand rights, nor did it announce any grand constitutional doctrine. Yet it quietly reinforced something fundamental – that justice in a constitutional court also requires restraint. Law sometimes advances justice by expanding its reach; at other times, it preserves justice by refusing to travel beyond the limits consciously drawn by the Legislature.

Jaipur Mineral Development Syndicate v. Commissioner of Income Tax
1976 INSC 335

This matter concerned the taxation of income arising from mineral development activities and raised questions about the characterisation of receipts – whether they were capital or revenue in nature – and the applicable provisions of the Income Tax Act. The Court examined the distinction between a payment made as compensation for the sterilisation of a capital asset and a payment made in the ordinary course of business operations, holding that the nature of the receipt must be determined by reference to the purpose for which it was made and its effect upon the recipient's business structure.

Tax law, I was learning, is not merely a technical exercise in statutory interpretation. It is a field in which the court must understand the economic reality of a transaction before it can correctly characterise its legal nature. The advocate who brings only the statute to a tax case, without understanding the business behind it, is only half-prepared.

State of Maharashtra v. Bhalchandra Khanderao
1977 INSC 34

This matter concerned criminal law and the principles governing the appreciation of evidence in a case where the prosecution relied substantially on circumstantial evidence. The Court examined the standard of proof required for conviction on circumstantial evidence – that the circumstances must be consistent only with the guilt of the accused and inconsistent with any reasonable hypothesis of innocence – and applied that standard with care to the facts before it.

The criminal law, I was beginning to understand, is where the stakes of legal error are highest. A wrong civil judgment can be corrected through appeal and compensation; a wrong criminal conviction takes from a human being something that can never be restored. The court's scrupulousness in circumstantial evidence cases is not a mere technicality; it is the expression of a fundamental moral commitment to the presumption of innocence.

Fatehchand Himmatlal v. State of Maharashtra
1977 INSC 39

This was one of the landmark constitutional judgements of the period, delivered by a seven-judge bench, and among the most significant expressions of the court's post-Emergency philosophical recovery. The case concerned the validity of the Maharashtra Debt Relief Act, which sought to relieve agriculturists and small

debtors from oppressive debt obligations. The constitutional question was whether such legislation, which effectively extinguished existing debts without full compensation, was protected by Article 31C as being in furtherance of the directive principles under Articles 39(b) and (c).

Justice V.R. Krishna Iyer, writing for the majority, delivered a judgment of extraordinary philosophical reach – one that situated the legislation within the larger constitutional project of social and economic transformation, and affirmed that the court's role was to advance that project rather than to obstruct it in the name of property rights. He drew upon the Preamble, the directive principles, and the historical context of the Constitution's making to argue that debt relief for the poorest sections of society was not merely permissible under the Constitution – it was its very purpose.

I was not directly associated with this matter, but I read the judgment with great care and made detailed notes. What struck me most was the manner in which Justice Krishna Iyer wove together law, history, and social philosophy into a single coherent argument – demonstrating that constitutional adjudication, at its finest, is not a mechanical exercise but an act of moral imagination. The Constitution, in his hands, was not a constraint upon the legislature's social vision; it was its most powerful expression.

The seed planted here was the understanding that the greatest constitutional judges are not merely interpreters of text; they are, in the deepest sense, architects of the society that the Constitution promises. That promise, I would come to learn, is not always kept – but it was made, and it remains binding.

State of Karnataka & Anr. v. Shri Ranganatha Reddy & Anr.
1977 INSC 196

The Karnataka State Road Transport Corporation published, in 1974, a draft scheme for nationalisation of contract carriages under the Motor Vehicles Act. Objections were received, but before the hearing could be concluded, the State Government promulgated an Ordinance on 30.01.1976, under which all contract carriages operating in Karnataka, together with their permits and associated assets, vested in the State and were transferred to the Corporation. The Ordinance was replaced by the Karnataka Contract Carriages (Acquisition) Act, 1976, given retrospective effect from the date of the Ordinance. Three hundred and seventy-four writ petitions were filed by operators, financiers, and permit holders. The Karnataka High Court allowed all of them, struck down the Act as unconstitutional on the grounds that the acquisition lacked genuine public purpose, that the amount payable was wholly illusory, and that the acquisition of inter-State permits exceeded the State's

legislative competence. The State and the Corporation appealed to the Supreme Court.

I had the privilege of briefing Shri Lal Narain Sinha – Solicitor General of India, and before that Advocate General of Bihar for many years – and of sitting beside him and the Advocate General of Karnataka throughout the proceedings before the Constitution Bench, handing him books during his submissions and following every word of the exchange between Bench and Bar. It was another sustained encounter with constitutional advocacy at its highest level, and what it taught me could not have been learned anywhere else.

Listening to the submissions, the queries raised by the judges, and the answers given by the best legal minds who had been deeply involved in the independence movement and had helped shape the constitutional text for the common man, I began to understand, with real clarity, that great constitutional argument is neither intellectual acrobatics nor rhetoric. It is the serious exposition of the basic philosophy on which the Constitution was founded by its founding fathers, brought to bear upon the living facts of the present. Every word in issue – public purpose, material resources, common good, the federal structure, the right to property, fundamental rights, the directive principles – carried within it the history of what the framers had intended and the anxiety of what the nation still needed. That was music to my heart and stimulus to my intellect.

Shri Sinha commanded great respect from the Bench. He argued in plain language, without flourish, but with that quiet authority which comes from having lived through the development of the Constitution since 1950. He made the judges understand the Industrial Policy Resolutions of 1948 and 1956 – documents that preceded and shaped Articles 39(b) and (c) – as living instruments of a founding vision, not as historical curiosities. When he spoke of them, the Court listened not merely to a submission but to a man who carried within him the memory of the Constitution's founding purposes. On the question of the amount payable, he achieved something particularly fine: by a harmonious and purposive construction of Section 6(1) of the Act – reading the arbitrator's obligation to fix what appeared to him 'just and reasonable' as prevailing over the rigid Schedule, and treating 'having regard to' as a guide rather than a fetter – he persuaded both the Bench and, to a large extent, counsel on the other side that the compensation mechanism was not illusory. The Court gratefully adopted this construction.

The Supreme Court, by a majority, upheld the Act. On public purpose: the acquisition of contract carriages for transfer to a public corporation constituted a valid public purpose within Article 31(2); the State's obligation to serve the community is itself the purpose, and the availability of the property in the open mar-

ket does not negate it. On the amount: after the Twenty-Fifth Amendment substituting 'amount' for 'compensation' in Article 31(2), courts could not examine the adequacy of what was payable; review survived only where the amount was wholly arbitrary, illusory, or confiscatory in the sense of shocking the judicial conscience. The arbitrator was not bound to fix the amount as specified in the Schedule but was required to fix what appeared just and reasonable, keeping the Schedule primarily in view. On inter-State permits: permits countersigned by the authorities of other States were, in substance, separate permits authorising operation beyond Karnataka's territory and could not vest in the acquiring State – such acquisition would constitute extra-territorial legislation beyond the State's competence. The Act was read down accordingly. The Court further held, in the concurring judgment of Krishna Iyer, J., that Article 39(b) was broad enough to embrace nationalisation as a mode of distribution of material resources of the community – that 'distribute' comprehended allocation between the private and the public sector, and that private buses were 'material resources of the community' within the Article's reach.

Constitutional litigation at the Supreme Court carried an energy quite unlike the service disputes, criminal cases and rent control appeals that formed the staple of the early years. In Ranganatha Reddy, the Court was not resolving a grievance between persons; it was defining the economic soul of the Republic. What stayed with me was not any single proposition of law but the realisation – which this case brought home with full force for the first time – that the Constitution was conceived not merely during 1946–1950, but was also shaped by resolutions adopted during the independence movement concerning industrial labour, landless labour and the common man. It was framed with a socio-economic-political philosophy, not merely a legal one, and the judge's task, as Krishna Iyer, J., stated with characteristic force, was to feel that philosophy and share the foresight of the founding fathers, rather than merely consult the dictionary and alien precedents.

The acquisition was upheld. The permits and buses passed to the Corporation. I, however, found myself asking, even then, a question that has not left me across the decades since: whether the welfare State that the Constitution envisioned was in fact reaching the man in the street, or whether its material resources were being re-allocated in his name while his poverty remained untouched. The law had answered the constitutional question. The larger question waited.

State of Rajasthan v. Union of India
1977 INSC 143

On 25.06.1975, the Emergency had been proclaimed in India under Article 352 of the Constitution. It ended on 21.03.1977, whereupon elections to the Lok Sabha were declared. In the 1977 general elections, the Janata Alliance achieved an unprecedented victory and the Congress Party was virtually swept away. Following that result, the Home Minister wrote to the Chief Ministers of various States – including Rajasthan – recommending the dissolution of their State Legislatures and the holding of fresh elections. The State of Rajasthan, along with other affected States, filed original suits under Article 131 of the Constitution, challenging this directive as unconstitutional and illegal. The basic contention of the Union was that the suits were not maintainable and that the imposition of President's Rule under Article 356 was not subject to judicial review.

The Supreme Court dismissed the suits on merits, holding that a suit by a State Government under Article 131 to protect its legal rights was maintainable, but that the dissolution of the Assembly and the holding of fresh elections were legal. The Court asserted that, in the absence of a clear constitutional violation, it could not interfere with the Union's exercise of authority under Article 356 on grounds of political and administrative policy and wisdom. It emphasised that it could not question the President's satisfaction unless it was shown to be grossly perverse and unreasonable under Article 356(5). The proclamation was considered a protective measure against the failure of the State government.

I sat with Mr. R.K. Garg and Mr. S.C. Agrawal in court when their turn came to argue and followed the line of submissions with care. The hearing was a constitutional spectacle – not merely a dispute between two litigants, but a contest between two arms of the State, conducted in the open forum of the highest court in the land. What struck me most profoundly was not the outcome but the process. The Court's restraint in the face of what appeared to be a plainly political act – the dissolution of elected governments – was a reminder that law operates within self-imposed boundaries. Those boundaries are its dignity; but they are also, at times, its limitation. A court that will not see what it can see because it has chosen not to look is not serving justice; it is preserving procedure.

The seed planted here was disquiet – the recognition that judicial restraint, however constitutionally correct, can leave injustice standing unaddressed. That disquiet never entirely left me.

State of Karnataka v. Union of India
1977 INSC 214

This matter, arising in the same constitutional season as the State of Rajasthan case, raised a different but connected question: whether a State Government could challenge, in the Supreme Court under Article 131, the establishment of a Commission of Enquiry by the Union Government to investigate the conduct of a sitting Chief Minister. The constitutional issues included the separation of powers, the independence of State governments, and the limits of the Union's authority to initiate enquiries that might effectively destabilise an elected State government.

I recall sitting in the second row or, at times, standing all day, making notes as each senior advocate presented their State's case. What I observed was the extraordinary diversity of constitutional argument assembled in a single room – advocates from Rajasthan, Karnataka, Bengal, and Andhra, each rooted in the particular experience of their State, yet all speaking the same constitutional language, addressing the same constitutional document, and invoking the same constitutional values of federalism, democratic accountability, and the rule of law.

The seed planted here was an enduring conviction: that the Constitution is not merely a legal document but a living covenant between the people of India and the institutions they have created – and that its health depends upon the integrity of those who invoke it, in court and in governance alike.

Rameshwar Dayal & Others v. State of Uttar Pradesh
1978 INSC 3

Criminal matters carried a different intensity inside the courtroom. In constitutional and service matters, the arguments often revolved around policy, interpretation, institutional balance, or competing legal rights. But in criminal law, liberty itself stood before the Court. The atmosphere was heavier. Every omission in investigation, every contradiction in evidence, every procedural lapse acquired a different dimension because the consequence was not merely administrative inconvenience or financial liability, but imprisonment, conviction, and sometimes the irreversible burden of a criminal sentence.

The case arose from a long-standing rivalry between two factions in a village in Uttar Pradesh, ultimately culminating in the murder of one Babu Ram. The Sessions Court convicted the accused under Sections 302/149 IPC and allied provisions, and the High Court affirmed the conviction. During the appellate proceedings, however, controversy emerged regarding the recovery of four live cartridges allegedly found at the place of occurrence.

In an unusual course, the High Court invoked Section 540 of the old Criminal Procedure Code and examined the Sessions Judge himself, along with the Investigating Officer, to clarify certain aspects relating to the cartridges. The accused were not given an adequate opportunity to rebut or meet this additional material. What, therefore, travelled to the Supreme Court was not merely the question whether the accused were guilty, but whether the process adopted in affirming guilt had itself remained fair.

Watching the matter unfold, I slowly realised that criminal procedure was not a mere technical framework surrounding substantive law. Procedure itself was part of justice. The legitimacy of a conviction did not arise only from the correctness of the conclusion, but equally from the fairness of the path through which the conclusion was reached. The criminal court was not expected merely to punish; it was expected to punish justly.

The Supreme Court strongly disapproved of the course adopted by the High Court. It observed that examining a Sessions Judge as a witness was itself an undesirable procedure. More importantly, the introduction of additional evidence under Section 540 Cr.P.C. without affording the accused an opportunity to rebut it offended the principle of *audi alteram partem* – no person should be condemned unheard. The Court reaffirmed that fairness in criminal adjudication required that every adverse circumstance relied upon against an accused must remain open to challenge and explanation.

Yet the Court did not remand the matter for a fresh hearing. Instead, it undertook its own independent scrutiny of the admissible evidence already available on record, excluding the procedurally questionable material. Upon such examination, the Court found the eyewitness account reliable, supported by the prompt FIR, medical evidence, and surrounding circumstances. Even without reliance upon the disputed procedural exercise, the prosecution case remained substantially intact. The conviction was therefore sustained. The judgment stayed with me because it revealed the constant tension between procedural fairness and finality in criminal law. A purely technical approach may have required the entire matter to be reopened after years of litigation. But the Court appeared equally conscious that criminal justice cannot become endlessly captive to procedural imperfections where the larger evidentiary foundation remains reliable.

At another level, the case demonstrated that courts often attempt to preserve both institutional fairness and social certainty simultaneously. Procedure could not be ignored because arbitrary process corrodes justice from within. Yet procedure alone could also not be permitted to overshadow the substance of truth where guilt otherwise stood established through independent admissible evidence.

I realised that criminal law moves through uneasy balances. Too much rigid-

ity may allow truth to disappear behind technicality; too much flexibility may weaken the safeguards protecting liberty. The Court therefore walked a narrow path — condemning the procedural lapse but refusing to allow the entire adjudicatory process to collapse because of it. The judgment did not present justice as perfect. It reflected justice as a human institutional process – cautious, corrective, imperfect, yet constantly attempting to preserve fairness without losing sight of truth.

Bangalore Water Supply and Sewerage Board v. A. Rajappa
1978 INSC 77

This was yet another constitutional bench matter as a junior associate, working alongside Mr. R.K. Garg, Mr. S.C. Agrawal, and Mr. V.J. Francis. I had made copious notes of all the Australian and Indian judgements dealing with the definition of "industry," including every judgment referred to within those cases. The preparation was exhaustive – not merely mechanical, but devotional in its character. Each citation located, each proposition traced to its source, each distinction noted between the Australian constitutional framework and our own statutory scheme – all of this represented, for me, the discipline that the law demands of those who would serve it faithfully. It was, I came to understand, a form of apprenticeship not merely in technique but in the habit of the legal mind itself.

It was an absolute treat to listen to the arguments of luminaries – Mr. S.V. Gupte, Attorney General, Mr. A.K. Sen, Mr. G.B. Pai, Dr. L.M. Singhvi, Mr. V.M. Tarkunde, Mr. P.P. Rao, Mr. M.K. Ramamurti, and others. I attended the full proceedings from 10:30 a.m. to 4:00 p.m., sitting in the second row where a desk allowed me to take detailed notes of the submissions, the court's observations, and the citations deployed. When Mr. R.K. Garg made his submissions, I moved to the front row beside Mr. S.C. Agrawal and Mr. V.J. Francis, keeping all judgements in chronological order and watching Mr. S.C. Agrawal stand ready with the next law report before it was called for. The entire set of SCR from 1950 onwards was placed on the second table. Mr. Garg would call for any judgmen while making his submissions. Mr. Agrawal would give the citation from memory and I would locate the volume and place it in his hand – a choreography of preparation and precision that I came to regard as one of the finest expressions of professional discipline I ever witnessed. There is a kind of poetry in such moments – invisible to the gallery, visible only to those within the arena – the poetry of silent coordination in the service of an argument that may alter the course of many lives.

The case involved the Bangalore Water Supply and Sewerage Board, constituted by statute to provide water supply and sewerage services to Bangalore. Fol-

lowing the dismissal of certain employees, an industrial dispute was raised. The employees contended that the Board fell within the definition of "industry" under Section 2(j) of the Industrial Disputes Act, 1947. The Board argued that its primary function – providing essential public services – was not commercial in nature and therefore lay outside the Act's scope. The question, deceptively simple in its framing, carried within it the entire philosophical tension between the welfare state and the sovereign state – between the government as provider and the government as authority – a tension that the Republic had never satisfactorily resolved and which this bench of seven was now called upon to address with the finality that only a constitutional court can command.

The Court laid down what became known as the Triple Test: that any establishment satisfying three criteria falls within the definition of "industry" – systematic, organised activity; cooperation between employer and employee directed towards a common goal; and the production or distribution of goods or services to fulfil human wants and wishes, whether or not profit is the motive. The Court held further that only the sovereign functions of the State – law enforcement, justice delivery, and national defence – were excluded from this definition. The decision extended the Act's protection to hospitals, universities, public utilities, and a wide range of organisations previously considered outside its ambit. Millions of working people – men and women who had laboured in the shadow of legal uncertainty as to whether any protection attached to their toil – were, by this single pronouncement, brought within the sheltering canopy of the law. It was, in that respect, an act of constitutional generosity whose importance cannot be overstated.

Justice Krishna Iyer's judgment, for himself and Justices Bhagwati and Desai, was written in a register unlike anything I had yet encountered in the law reports. It was legal reasoning, certainly – but it was also a statement of social philosophy, a vision of the Constitution as an instrument of the working person's dignity. It drew upon Cardozo and Lord Denning, upon the International Labour Organisation and upon Mahatma Gandhi's dictum that work is worship. It ranged across continents and centuries to arrive at a conclusion rooted in the deepest aspirations of the Indian Republic. Reading it, I understood that a judgment can be a form of literature – that the language in which law is expressed is never merely technical; it carries within it a complete vision of the human being and the society to which that human being belongs. Justice Krishna Iyer wrote with the pen of a poet and the conscience of a prophet, and if one did not always agree with where that conscience led, one could never doubt the sincerity and the grandeur of the vision that animated it.

The carefully reasoned dissent of Justice Tulzapurkar offered a necessary coun-

terpoint: the reminder that every definition must have a boundary, and that a line without limit is no line at all. The tension between the expansive and the careful, between the prophetic and the prudent, seemed to me then – as it seems to me now – the essential creative tension of constitutional adjudication. A court that knows only how to expand will eventually expand itself into incoherence. A court that knows only how to restrain will eventually restrain itself into irrelevance. The genius of constitutional adjudication lies precisely in holding both impulses simultaneously – in being, at one and the same moment, faithful to the text and responsive to the times.

The part that I could not, and cannot, receive with equanimity and the most disturbing issue in this otherwise magnificent judgment was the holding that Advocates constitute an "industry" – and that even Education, that most sacred of human callings, falls within the same definitional net – overruling the earlier judgements that had long and wisely protected the learned professions from this characterisation. This led me, as a matter of conscience I could not suppress, to the issuing of cyclostyled leaflets. But before I speak of that response, let me speak of the wound itself – for it was a wound, and it has not fully healed in all the decades since.

There is a dignity – ancient, earned, and irreducible – in the profession of law. It is not the dignity of status, though the profession has enjoyed status. It is not the dignity of learning, though the profession demands learning. It is the dignity of *Dharm* – of a calling that carries within it a moral obligation that no client can override, no brief can modify, no fee can purchase or extinguish. When an Advocate stands before a court, he stands in a position unique in all of human society: he is the agent of his client and simultaneously the officer of the court; he owes duties that, in moments of conflict, must place the court's obligations above the client's instructions. The Bhagwad Gita teaches us that the highest form of action is *nishkaam karm* – action performed in the faithful discharge of one's *Dharm*, without attachment to the fruit. There is no more precise description of the Advocate's calling than this. He must bring the full force of his intellect, his learning, and his advocacy to the service of his client's cause – and then surrender the outcome to the forum of justice, accepting it without the ego's demand that the result validate the effort.

To hold that this calling is an "industry" – to say that the relationship between the Advocate and those who work alongside him in chambers is of the same legal order as the relationship between a factory owner and his workmen – is a category error that no amplitude of statutory language should be permitted to produce. I say this not because the employees of legal chambers do not deserve protection – they do, and there are other instruments of law by which that protec-

tion may be extended. I say it because the organising principle of the legal profession is so fundamentally different from the organising principle of trade or manufacture that to subsume one within the other is to falsify both.

A factory produces goods through the organised cooperation of labour. The success of the factory is precisely a collective achievement – the product emerges from the combined effort of many, and no single hand can claim it entirely as its own. The law chamber is organised on an entirely different principle. The argument that prevails in court, the legal proposition that changes the outcome, that illumines the judge's understanding, that rights an injustice – is the product of an individual legal conscience. It cannot be the fruit of collective cooperation in any sense that the law of industrial relations was designed to address. The junior associate who locates the citation, the clerk who carries the brief, the stenographer who transcribes the opinion – all are valued, all are necessary, but none of them is the co-author of the legal reasoning that gives the chamber its purpose and its identity. The Advocate's intellect, his training, his professional judgment, his fearless presentation before the bench – these are inalienable. They cannot be divided. They cannot be assigned. They are, in Emerson's language, the expression of a self-reliant soul answerable to no collective and to no Act of Parliament except the Act of its own conscience.

I clearly felt the overreach of the judgment of Justice Krishna Iyer, particularly in his characteristically eloquent dismissal of what he called the "mystique of professionalism." He wrote with force and wit of how professional associations are guilds in modern dress, of how the halo of the learned profession has been employed to shield comfortable men from the legitimate claims of those who serve them. There may be some truth in this. The legal profession has not always been above reproach in its treatment of those who work within its structures. But the answer to professional self-indulgence is not the erasure of professional character – it is the cultivation of professional responsibility. The solution to the Advocate who exploits his clerk is not to declare the relationship an industrial one; it is to insist, with greater rigour, upon the Advocate's duties of fidelity and fair dealing that the profession itself imposes.

Justice Holmes wrote that the law is a jealous mistress. I had given myself to her unreservedly, completely, from the day I entered this profession. To be informed, by the highest court of the Republic, that this mistress was, in the final analysis, merely an industry – that my life's vocation was governed by the same statutory machinery that governed the production of sewage – was not an affront to my vanity. It was an affront to my understanding of what the law is and what it was in danger of becoming, because a particular philosophy had proposed a class divide and resolved to give all to the have-nots. I was neither able to see that class

divide as the law's proper business, nor to consent to a formulation that treated those of different social contribution and value as though they were indistinguishable. The philosophy looked well on paper; it failed squarely in its application to ground realities.

It is also relevant that my grandfather was the first Registrar of the Rajasthan High Court and that my father, Justice D.P. Gupta, who retired as Chief Justice of the High Court of Rajasthan, gave his life to the judiciary. The law, in our family, was never a livelihood. It was a heritage, a trust, and a form of service for justice. To have that heritage characterised as an industrial undertaking was to feel, in some personal and intimate way, that something sacred had been declared merely useful – which is, in its own fashion, a form of desecration.

Madan Mohan Pathak v. Union of India & Ors.
1978 INSC 43

The Life Insurance Corporation of India and its Class III and Class IV employees had, over the course of many years, entered into successive settlements regulating the terms and conditions of their service. Under Clause 8(ii) of the settlement of January 24, 1974, arrived at after free and frank negotiations between the Corporation and four associations of employees, an annual cash bonus was to be paid to all Class III and Class IV employees at the rate of fifteen per cent of annual salary, effective from 1 April 1973 for a period of four years. The settlement was duly approved both by the Board of Directors of the Corporation and by the Central Government, and bonus was in fact paid for the years 1973-74 and 1974-75 without dispute.

In September 1975, Payment of Bonus Amendment Ordinance was promulgated and the Central Government directed the Corporation to make no further payment of bonus to its employees without specific governmental clearance. The Corporation accordingly withheld payment for the year 1975-76. When the All-India Insurance Employees' Association challenged this refusal before the Calcutta High Court, a single judge allowed the writ petition and issued a writ of Mandamus directing the Corporation to pay the bonus due under the settlement.

While the Letters Patent Appeal preferred by the Corporation was pending, Parliament enacted the Life Insurance Corporation (Modification of Settlement) Act, 1976. Section 3 of that Act declared, with retrospective effect from 1 April 1975, that the provisions of the settlement insofar as they related to the payment of annual cash bonus should have no force or effect and should be deemed never to have had any force or effect. The Corporation thereupon abandoned its appeal, and the Division Bench made no order upon it. The result was that the single

judge's writ of *mandamus* became final. The question arose whether the impugned Act had the effect of absolving the Corporation from obedience to that judgment in the writ petition.

The constitutional validity of the impugned Act was also challenged in independent Writ Petitions on two principal grounds: first, that the employees' right to annual cash bonus for the years 1975-76 and 1976-77 constituted property within the meaning of Article 31(2), and that the Act effected a compulsory acquisition of that property without payment of compensation; and second, that the Act imposed an unreasonable restriction upon their fundamental right to hold property under Article 19(1)(f), not saved by Article 19(6).

The Supreme Court allowed the writ petitions and struck down the impugned Act as unconstitutional. The Court spoke in several voices, each concurring in the outcome while reaching it by a somewhat different path. Justice Bhagwati, writing for himself and Justices Iyer and Desai, held that irrespective of the constitutional validity of the Act, the Corporation was bound to obey the writ of Mandamus issued by the Calcutta High Court. The right to annual cash bonus for 1975–76 had crystallised in that judgment; the employees were thereafter entitled to enforce the writ, not the underlying settlement. Since the impugned Act made no reference to the Calcutta judgment and contained no non-obstante clause directed at it, the judgment remained intact and the Corporation's obligation under it remained undiminished. The withdrawal of the Letters Patent Appeal, rendering the single judge's order final, made it impossible for the Corporation to claim absolution by reliance upon the Act.

On the constitutional validity question, Justice Bhagwati held that the bonus accrued day by day under the settlement and administrative instructions, and that on the expiry of the year 1975-76 it constituted a debt due and owing from the Corporation to each employee – a debt that was unambiguously property within the meaning of Article 31(2). The Act, by extinguishing that debt without compensation, effected a compulsory acquisition of the employees' property in favour of the Corporation, which was a creature owned by the State. The verbal device of framing the deprivation as extinguishment rather than transfer did not alter the constitutional reality: the beneficiary of the extinguishment was the State, and the verbal veil could not be permitted to conceal the true nature of the transaction.

Chief Justice Beg, concurring, held additionally that Section 3 of the Act was struck by Article 19(1)(f) and was not saved by Article 19(6). Parliament could not, through the instrument of legislation, do what even the Central Government would have been required to do through a quasi-judicial process — that is, hear the parties and apply its mind to the merits of the settlement. The rights that had

passed into the judgment of the Calcutta High Court, and become the basis of a mandamus, could not be taken away by indirect legislative means. Justices Chandrachud, Fazal Ali, and Shinghal concurred with the majority on the Article 31(2) ground. The Court accordingly declared the Act void and issued a writ of Mandamus directing the Union of India and the Corporation to pay annual cash bonus for both years in question in accordance with the terms of Clause 8(ii) of the settlement.

The judgment established and consolidated several principles of enduring constitutional significance. First, a writ of Mandamus, once issued by a court of competent jurisdiction and allowed to become final, binds the respondent absolutely. Parliament cannot, by legislation directed at the underlying cause of action, absolve a party from its obligation to obey an extant judicial command – unless that legislation expressly and constitutionally addresses the judgment itself. The remedy against an erroneous judgment is appeal or review; it is not legislative nullification.

Second, property within the meaning of Articles 19(1)(f) and 31(2) of the Constitution comprises every form of property, tangible or intangible, including debts and choses in action. Wages, pension, cash grants, accrued bonuses, and all other enforceable monetary claims against an employer constitute property for constitutional purposes. The width of the guarantee is to be read generously.

Third, a chose in action may be compulsorily acquired by the State under Article 31(2), provided the acquisition subserves a public purpose and is accompanied by payment of compensation. The earlier view – that money and choses in action were immune from the power of eminent domain because there could be no public purpose in their taking – was expressly disapproved and held no longer to represent good law.

Fourth, extinguishment of a debt owed by the State or a State-owned corporation is, in substance, a transfer of ownership of the property represented by that debt to the State. The form of the legislative provision is irrelevant; what matters is the substance of its effect. Where the beneficiary of the extinguishment is the State, the transaction is in reality a compulsory acquisition and must meet the requirements of Article 31(2).

Fifth, and most broadly, the rule of law requires that rights once adjudicated upon by a competent court cannot be legislatively erased at the convenience of those who hold power. Legislative supremacy and executive authority operate within constitutional bounds, and those bounds protect rights that have passed through the judicial process from casual or purposive annihilation.

Observation: The years immediately following the Emergency carried within them a peculiar constitutional tension. Parliament had asserted enormous power.

Fundamental rights had suffered suspension. Institutions had been tested in ways that would take a generation to measure fully. Yet within the Supreme Court, one could sense another process slowly unfolding – a quiet, deliberate effort to restore the equilibrium between authority and accountability, between power and the law's discipline over power.

I made extensive notes on each issue. Hearing the arguments, I understood almost at once that what appeared on the surface to be a labour dispute concerning bonus payments was in truth something of a far deeper constitutional order. The real question was whether a judicial command could be neutralised merely because it had become inconvenient to the executive or financially burdensome to the State. Could Parliament, by the instrument of legislation, do what only an appellate court is permitted to do – set aside what a court has decided? The answer, given across several concurring judgements, was a firm and considered no.

I understood the significant first principle of judicial independence that judgements are sacrosanct and the constitutional rights once determined do not vanish because power changes its mind about them or if they become inconvenient. The emergency had attempted, among other things, to establish that rights are what the State permits them to be. This judgment quietly and firmly refused that premise. The need for what Justice Bhagwati called a bold and dynamic approach – a willingness to look through form to substance – was, I saw then, not a judicial luxury but a constitutional necessity.

There was, beneath the constitutional doctrine, something profoundly human. A worker who had earned his entitlement through years of service, who had seen it confirmed by settlement and approved by government, who had seen a court vindicate his right – such a worker could not be told that his entitlement had simply dissolved because the political moment had shifted. The Court recognised, rightly, that governance which permanently detaches itself from fairness ultimately weakens its own moral foundation.

I have carried with me, from this case, a question that took many years to find its answer: what is the use of a legal right that can be extinguished by the very institution that created it? The answer, worked out gradually over a career of fifty years, is that rights rest not on formal sources alone, but on the integrity of those who hold power. Law, at its best, is a discipline that integrity imposes upon power. This case was one of the moments in which I first understood that the distance between law and justice is not fixed – it narrows or widens depending on the courage of the institutions that mediate between them.

Bibi Saddiqa Fatima v. Saiyed Mohammad Mahmood Hasan
1978 INSC 101

Some cases before the Supreme Court travel far beyond their immediate subject matter. A dispute ostensibly concerning title to property will open, almost without announcement, into questions of morality, trust, obligation, and the more enduring currents of human conduct – loyalty, misuse of confidence, and the fragile line separating stewardship from appropriation.

This matter arose out of a Shia waqf-alal-aulad created in 1928 by Smt. Sughra Begum in respect of extensive zamindari properties divided into qurras. Raja Haji Saiyed Mohammad Mahmood Hasan was appointed Mutawalli of Qurra No. 1. During his lifetime, a permanent lease of land was obtained in the name of his second wife – the appellant – and a bungalow known as "Mahmood Manzil" was subsequently constructed upon it from the waqf fund. After the Raja's death, the appellant claimed exclusive ownership over the property and sought eviction of the respondent on the footing that he was merely a tenant.

The respondent contended that both the lease and the construction had been financed entirely from waqf income, and therefore formed part of the waqf estate itself. A Mutawalli, it was argued, occupies a fiduciary position and cannot divert waqf assets into private ownership by placing property in the name of his wife or any other person. The Trial Court and the High Court, after examining voluminous financial records and surrounding circumstances, concluded that the property had indeed been acquired from waqf funds and retained its character as waqf property – notwithstanding the appellant's name in the documents.

The question before the Court was not who held the paper title, but whether trust property could silently shed its character merely because legal forms had been arranged in a particular manner. The appellant had, moreover, taken three entirely inconsistent positions across the three courts – personal savings before the Trial Court, the husband's personal funds before the High Court, and a novel theory before the Supreme Court that waqf income disbursed by the Raja had become her personal money. The Court noted that no such case had been taken at any prior stage, and declined to permit a fresh stand to substitute for the one which had failed on evidence.

The Supreme Court affirmed the concurrent findings and held that both the lease and the construction of "Mahmood Manzil" had been financed entirely from waqf income. Drawing upon Tyabji's Muslim Law, Ameer Ali's authoritative work, and the tenth edition of Keeton and Sheridan on Trusts, the Court reiterated that a Mutawalli – though not a trustee in the technical sense – is bound by all the obligations of a fiduciary. He cannot advance his own interests, or those of one

class of beneficiaries, by virtue of his position. Property acquired from waqf funds retains its waqf character irrespective of the name in which it stands; and ordinary benami principles cannot in any event override the fiduciary obligations inherent in waqf administration. The Court further held that Clause 24 of the waqf deed itself stipulated that any property purchased out of the funds of the estate becomes part of the waqf and cannot become the private property of any person.

What remained with me after the judgment was the Court's insistence that substance must prevail over form wherever a fiduciary relationship is involved. Law may recognise documents, titles, and the apparent state of ownership; but equity searches always for the source of power and the source of funds. The Court would not permit legal form to become the instrument by which trust obligations are gradually dissolved.

The judgment also speaks quietly to something beyond its specific facts. Every position of authority carries within it the temptation of appropriation — the almost imperceptible movement from stewardship toward ownership. The Mutawalli's conduct in this case illustrated precisely that temptation: a systematic diversion of trust assets, accompanied by fictitious accounting entries intended to disguise the real source of the funds. Fiduciary law exists precisely to prevent such transitions from passing unexamined.

Observation: The case demonstrated, too, that justice sometimes consists not in the creation of new rights, but in the preservation of existing obligations. The Court protected the waqf not merely as property, but as an institutional trust intended to survive individual personalities and private desires. In doing so, it reaffirmed that law does not merely regulate transactions; it also safeguards relationships founded upon confidence and duty – relationships whose integrity is diminished whenever power is used for private rather than entrusted purposes.

Leaflets

The judgment in *Bangalore Water Supply and Sewerage Board* v. *A. Rajappa (supra)* was delivered on 21.02.1978. The seven-judge constitutional bench, in laying down the triple test for the definition of "industry" under the Industrial Disputes Act, 1947, had – in its expansive reading of Section 2(j), its insistence that the motive of profit was irrelevant to the question of whether an establishment constituted an industry, and its exclusion of only the sovereign functions of the State from that definition – arrived at one conclusion of immediate and startling personal implication: that a law office, previously held by the Supreme Court to fall outside the definition of industry, was now brought within it.

I had been sitting in the first or second row of that courtroom, making notes

from 10:30 in the morning to 4:00 in the afternoon, reading through all the judgements cited during the remaining hours, and attending the chamber conferences to understand their nuances. This was not merely an intellectual observation. The very profession I had entered, the chamber I worked in, the seniors I assisted, the discipline I had devoted myself to – all of it was now an "industry" within the meaning of a statute. The advocate, in the eyes of the evolving law, was no longer only an officer of the court and a minister of justice. The dignified profession, built upon the deepest resources of individual learning, judgment, and integrity, was now to be understood through the framework of an employer-employee relationship – with all that designation carried.

The two leaflets that follow were written, cyclostyled, and circulated among the members of the Bar within days of the judgment. They were not formal submissions. They were not scholarly articles. They were the spontaneous response of a twenty-three-year-old mind grappling, in the only way it then knew, with the collision between a great constitutional idea and its unintended consequences – between the noble expansion of protection for the working person, and the particular nature of a profession whose means of production live not in machines or capital, but in the mind, the memory, the years of accumulated learning, and the irreplaceable integrity of individual thought.

They were written in the spirit of inquiry, not of protest. They were the first public expression of a question that would take decades to fully form: whether law, in its necessary drive toward social equality and equity, sometimes inadvertently consumes the very conditions that make justice possible. That question, first articulated here in the tentative and somewhat playful register of a young advocate's leaflet, is one of the seeds from which, over fifty years of practice and reflection, the understanding that became Legal Revolution 5.0 would slowly and inevitably grow.

Read them, therefore, not as historical curiosities, but as the earliest stirring of a mind that had not yet found its full language – but had already found its question

Leaflet*
01.03.1978

Is our constitution based on the theory of relativity?

In light of the developing and/or changing doctrines of social structure a young law student asked my professor as to what "*We the people of India have given to ourselves*". The professor narrated the following dialogue, which Einstein had brought forth, to explain his theory of relativity to a blind lady whom he had offered a glass of milk to drink and had inquired about the theory of relativity from him:

"Drink I know, but what is milk?"

"Opaque white fluid"
"Fluid I know, but what is white?"
"The colour of Swan's feathers"
"Feathers I understand, but what is Swan?"
"A large water bird, with webbed feet and crooked neck"
"And what….?
"Crooked neck"
"Neck I know but what is crooked?"

Einstein caught hold of his friend's arm and straightened it and said, "*This is straight"*, then bent it half at the elbow and said "*This is crooked"*

"Thanks, now I know what's milk"

So, when you talk of relativity, you don't know where you are reaching.

Leaflet*
02.03.1978
Nationalisation of Advocates

"*Mr. Advocate you are an industry, what are the means of production of your profession. We do not think, they are the number of briefs in your law firm or the books that show in your show cases?"*

Mr. Advocate "*No, the means of production of my profession are the hours I spend on my table reading and making notes, my approach towards a case, my knowledge and experience in case law, my ability to apply law to the facts and the philosophy that I wish to propound for justice for all*"

Mr. Bureaucrat "*Sir, the State wants to acquire your means of production under Article 31 (1) of the Constitution, you shall be paid an amount under Article31 (2), this is in furtherance of Articles 39 (b) and (c) of the Constitution and is saved by Article31 C of the Constitution. The young juniors are ready and willing to labour hard, all they need is an opportunity to work, your approach towards a case and your knowledge of case law i.e. all that you have produced, developed and/or accumulated by your 30 yrs. of hard labour. Hereinafter you shall not work on any brief independently, but shall only help the junior lawyers in their development*"

Mr. Advocate "*My chamber is open for all but as every thought is an integrated process of an individual, every one of them has to develop his own self in his own way. My approach towards a case and my knowledge of case law are the very constituent and cause of my expression, manifestation and existence. If I shall only help the juniors in their development, my entire will and energies, which I feel, think and understand are used in further expression of my ideas towards an ideal will be suppressed and dechannelised. In the absence of necessary experience and knowledge there will be stag-*

nation and disintegration, the development of law and myself shall stop and cease"

Mr. Bureaucrat: "*But, Mr. Advocate, that does not matter, today the State is of the opinion that the need of the juniors is more than yours, they are the future prospects of this country, the needy juniors must get the benefit of your production. No sacrifice is small for the cause of the nation. Your means of production shall hereinafter apply only in furtherance of Chapter IV of the Constitution*"

News Next Day

One of the lawyers' chambers in Supreme Court caught fire last night. Mr. Advocate was last seen late night expressing something to the effect that he will defend his means of production and a meaningful existence to the end of his life and that he has an inalienable right over minimum basic and reasonable rights of life, liberty and property.

Mr. Advocate is lying in the hospital in critical condition and is charged for committing an offence under Section 309 IPC – attempt to commit suicide. Fire brigade have extinguished the fire, the situation is reported to be well under control.

*Note: These two leaflets were got cyclostyled and circulated to the members of the bar

Inspirational Thoughts

Om purnamidah purnamidam purnath purnmudhachyate
Purnasaya purnamaadaya purnamevav shishayate

That is a whole; this is a whole; the whole is the manifestation of the whole. When the whole is negated from the whole, what remains is the whole.

– Ishavasya Upanishad

…

"Whatever you are, or whatever it is that you do, when you really want something, it is because that desire originated in the soul of the universe. It is your mission on earth."

– The Alchemist – Paulo Coelho

…

I am exiting and seeing myself, seeing myself see myself and so on.

– M. Jeste

…

We have all to become completely de-sovereignised, give up our political system, stop thinking or doing anything that might jeopardise someone else's interest. Our solutions are not going to come

from political reforms, but entirely from design revolution. When human beings develop the knowledge and the confidence to employ the principles of design underlying the universe, they will collaborate spontaneously.

– Buckminster Fuller

…

Progress itself upsets the status quo. It shakes people from the attitude of numb acceptance. It disturbs vested interests not only of the well-to-do, but of vast numbers, who although they want to better their lives, yet fear to depart from the familiarity of the known.

– Indira Gandhi

…

It is only at great moments that advances are possible. Between such moments there is most likely to be first, a contented coasting on a path made smooth by established rights; then forgetfulness of those rights; finally a challenge of them fired by passions made dangerous by ignorance. That leads either to loss of liberty or to the restoration of freedom through the resurging spirit of the people.

– Irving Brandt – The Bill of Rights

…

For freedom, we know, is a thing that we have to conquer afresh for ourselves every day, like love, and we are always losing freedom, just as we are always losing love, because after each victory, we think we can now settle down and enjoy it without further struggle… The battle of freedom is never done, and the field never quiet.

– Henry W. Nevinson – Essays on Freedom

…

Great revolutions are works rather of principles and not of bayonets, and are achieved first in the moral and afterwards in the material sphere.

– Giuseppe Mazzini

…

"You know, it is such a peculiar thing – our idea of mankind in general. We all have a sort of vague, glowing picture when we say that, something solemn, big and important. But actually all we know of it is the people we meet in our lifetime… I take the only desire one can really permit oneself. Freedom, Alvah – freedom. To ask nothing. To expect nothing. To depend on nothing."

– The Fountainhead – Ayn Rand

…

"Integrity is the ability to stand by an idea. That presupposes the ability to think. Thinking is something one does not borrow or pawn."

– The Fountainhead – Ayn Rand

…

"I hate incompetence. I think it is probably the only thing I do hate. But it did not make me want to rule people. Nor to teach them anything. It made me want to do my work in my own way and let myself be torn to pieces if necessary."

– The Fountainhead – Ayn Rand

…

Politics represents to us: all those noisy and incoherent promises, the impossible demands, the hotchpotch of unfounded and impractical plans… opportunism that cares neither for truth nor justice, the inglorious chase after unmerited fame, the unleashing of uncontrollable passions, the exploitation of the lowest instincts, the distortion of facts… all that feverish and sterile fuss.

– Antonia de Oliveira Salazer – The Portuguese Dictator

…

"The quality of his perseverance and loyalty to his idea is what was important, not the quality of his work. Every person has an integrity, a quality of character – and if he observes it, whatever he does will turn out well in the end. Someday you will express yourself fully, no matter what medium you may choose."

– Irving Stone – Lust for Life (Rembrandt passage)

…

"Only a life lived for others is the life worthwhile."

– Albert Einstein

"The heights that great men reached and kept were not attained by sudden flight, but they, while their companions slept, were toiling upward in the night."

– Henry Wadsworth Longfellow

…

"Do not attach importance to being known but try and be worth knowing."

– Confucius

…

"Remember – at the time of thy birth all laughed, thou cried. Live in such a way that at the time of thy death, all were to cry, thou alone smiling."

– Sadi

…

No quest is higher than the quest of knowledge; no knowledge higher than the knowledge of self.

– Scribblings

…

Life is a science; to live it is an art.

– Scribblings

…

Afterword – Enamored by the divine figure

The chapter that opened on 01.08.1976, when I stood before the locked door of 20-A, Lawyers' Chambers turned its first full page on 31.03.1978. I had entered the temple. I had found my seniors, my discipline, my routine, my colleagues, and my first earnings. I had sat beside and had seen the greatest advocates of the age in the greatest constitutional battles of the post-emergency era. I had learned that preparation is the invisible architecture of every argument, that the court-room is the place where law is made rather than merely applied, and that justice – when it comes – comes as the product of sustained human effort, integrity, and courage. I had learned, too, that institutions reveal themselves not through their grandeur alone but through their silences, their asymmetries, and the quiet choices made by those who inhabit them – choices that accumulate, over time, into either the strengthening or the slow erosion of everything the institution was created to serve.

One thing struck me with particular force during these twenty months, and it has never ceased to strike me in the fifty years that have followed: there was, at the Supreme Court, no such thing as specialisation in the sense that the word later came to carry in legal practice. Every Senior Advocate of consequence – and our chamber was no exception – carried a docket that ranged freely across the full spectrum of legal issues as it presented itself to the highest court of the land. Constitutional law sat alongside service law; labour and industrial disputes ran concurrently with criminal appeals; general civil matters were argued in the same week as matters of taxation, property, and personal law.

Mr. R.K. Garg, who spoke with the authority of a committed constitutional philosopher, argued service matters and criminal cases with equal precision. Mr. S.C. Agrawal, whose memory of judgements was encyclopaedic and whose reach extended to the law reports of England, Australia, the United States, and Canada, brought that same breadth to general civil and every field that came before him. The Supreme Court demanded a complete advocate – one whose knowledge was not a narrow channel but a wide river, capable of receiving whatever the stream of human conflict chose to bring to it and always open to new laws.

This was not accidental. It was the natural consequence of what the Supreme Court is and does. It is the court of the Republic and Democracy – the institution to which every unresolved question of law, every breach of constitutional promise, every failure of justice at every level of the system, eventually finds its way. Its docket is, in the most literal sense, the docket of the nation. And the advocate who appears before it must be prepared to receive the nation's conflicts in all their variety – the dismissed government servant and the dispossessed tribal; the de-

tained political prisoner and the taxed industrialist; the worker denied his bonus and the State defending its sovereign power. To serve that court well is to serve all of them. And to serve all of them well, one must understand that law is not a collection of separate subjects but a single, continuous, and interconnected discipline – that the constitutional principle invoked in a fundamental rights case lives also in the labour court's examination of a dismissal, in the civil court's protection of possession, and in the criminal court's insistence on proof beyond reasonable doubt. The unity beneath the diversity is justice itself.

I understood this, in those early years, more by absorption than by articulation. But I understood it. And it shaped, from the very beginning, the kind of advocate I set out to become – one who would not confine himself to a single lane of practice, but would follow the law wherever it led, in whatever court it needed to be argued, on behalf of whatever human being had need of it.

The Mistress had revealed herself to me in her finest form during these twenty months. I was devoted – completely, unreservedly, and without the shadow of a doubt. The door had opened. The apprenticeship was complete. What lay ahead was the slow, demanding, and inexhaustible education of an independent life at the bar – the years with Mr. P.R. Mridul and the making of a craftsman; the years of standing alone in an arena that grew wider with every passing season; and, in time, the long reckoning with everything that devotion would cost. For devotion, when it is given to an institution rather than to the principle that institution exists to serve, carries within it the seed of its own most painful education. That education was still ahead. But it had already, in these first twenty months, quietly begun

CHAPTER 2

01.04.1978 – 31.07.1982
The Craftsman Is Forged in the Fire

The Years of Mr. P.R. Mridul and the Making of a Lawyer

"*The man who is master of his profession has mastered something worth mastering.*"

– G.K. Chesterton

The first door had opened. The apprenticeship at Ramamurti & Co. was complete. Twenty months of watching, reading, absorbing – learning the grammar of the Supreme Court, understanding how law is made rather than merely applied, sitting beside the greatest advocates of the age as they shaped the constitutional landscape of a recovering Republic. But watching, however attentive, is not doing. And the craftsman is not forged in the library; he is forged in the fire. On 01.04.1978, the next chapter of that education began – four years and four months with Mr. P.R. Mridul, Senior Advocate, that would complete the making of the lawyer and begin the long, demanding, and ultimately irreplaceable work of becoming one who could stand alone.

First Day with Mr. P.R. Mridul, Senior Advocate

01.04.1978 (Diary Entry)

I left Ashok Vihar by the 7:45 bus, reached Tilak Bridge, changed to another, and arrived at M-90, Greater Kailash Part I, New Delhi, at 9:15 in the morning. The house was on two floors. Mr. Mridul stayed on the first floor; the office occupied the second. I made my way upstairs and introduced myself to Mr. N. Rai, the office clerk, who had a small room adjacent to the large room where Mr. Mridul worked. I took a chair inside the main office and asked Mr. Rai about the matters listed for admission and final hearing in the coming week. He looked at me with an expression of pleasant surprise, as if uncertain whether the question was entirely serious.

At precisely 10:00, Mr. P.R. Mridul arrived. He was tall, fair, and moved with a deliberate ease that carried in it the long habit of authority – the unhurried confidence of a man who had been a judge of the Bombay High Court and knew

that a courtroom listens to one who does not hurry. He wore a white, crisp, starched Pyjama Kurta. He told me to take a table and chair to his left, facing him across the expanse of his large working desk. Three chairs stood in front of the desk for briefing advocates. The room was well-ordered, the bookshelves full, the light good. It was a place built for work. Mr. Vivek Seth was the other junior already working with him and occupied a chair on the table next to me.

I set myself to the files immediately, as I had always done. The morning passed in reading and making notes on the matters listed for the week. By about 1:30, as Mr. Mridul prepared to leave for lunch, he mentioned – almost as an aside – that he had been searching for an authority to support a proposition he needed for a company matter: specifically, that it was the date on which the Company Judge passed the winding-up order that was legally relevant, and not the date on which the application for winding up had been issued. He had not been able to locate the supporting authority.

After he left, I went to the bookshelves. We had Pennington and Ramaiya on Company Law. I searched through both and found, precisely on point, reported in *Re. Fildes Bros. Ltd.,* (1970) 1 All ER 923. When Mr. Mridul returned from lunch at 3:00, I placed the report before him. He was genuinely and visibly pleased – not merely grateful, but surprised. He was, after all, a recognised authority in company law, having argued and decided a large number of such cases both as an advocate and as a judge of the Bombay High Court. That he had not encountered this particular English authority was itself a measure of how vast the body of law had become, and how essential it was to have, beside a senior of such stature, someone whose single function was to know where things were.

The twenty months with Mr. S.C. Agrawal – the hours spent reading law reports, making notes, locating authorities at the moment they were needed – had prepared me for exactly this. The education of Ramamurti & Co. had found its first practical expression on the first afternoon of a new chapter. In a profession where reputation is built one moment at a time, that first afternoon mattered. The craftsman had begun.

The Second Day: Article 12 and the Expanding Horizon of the State

02.04.1978 (Diary Entry)

The second day brought a brief involving the maintainability of a writ petition against an authority covered under Article 12 of the Constitution – the provision that defines 'State' for the purposes of the fundamental rights chapter. Mr. Mridul, having considered the matter, expressed the view that the writ was not maintainable and that the High Court had been correct in so holding.

I offered a different perspective. After the Supreme Court's judgment in *Sukhdev Singh* – decided in 1975, reported at *(1975) 3 SCR 619* the law on Article 12 was no longer as settled or as narrow as the earlier cases had suggested. The Court had begun to accept that the role and nature of the State was changing – that statutory corporations performing public functions, and entities substantially controlled and funded by government, could properly fall within the constitutional definition. The strict and limited interpretation was opening up.

Mr. Mridul was, in the finest tradition of the Bombay Bar, quick to engage with a proposition he had not himself advanced. He did not dismiss the thought; he examined it. He asked me to stay that evening at his residence so that we could return to the question in the morning with fresh minds. I agreed readily, and stayed the night.

The next morning, notice issued from the Supreme Court – vindicating the broader reading of Article 12 that I had put forward. It was a small but significant moment in the forming of a professional relationship. Mr. Mridul understood, from those first two days, that he could rely on me for judgements and precedents. I understood, from those two days, that he was a man whose intellectual honesty was equal to his professional eminence: a man who could be persuaded by argument, which is the rarest and most valuable quality in a senior.

The law on Article 12 was, in those years, undergoing one of the most significant expansions in constitutional history. The traditional view had drawn a relatively sharp line between the State in its formal constitutional sense and private or quasi-public bodies. Sukhdev Singh had begun to blur that line. What I had sensed – and what the subsequent development of the law would confirm – was that this was not a finished argument but an opening one. The courts were beginning to understand that in a mixed economy committed by its own Constitution to equitable distribution and social welfare, the boundaries of the State could not be frozen at the moment of the Constitution's making. They would have to move with the reality of what the State actually did and what it controlled.

That understanding – of law as a living and evolving organism, not a fixed code – was the philosophical thread that would run through my entire practice. It had begun, in Ramamurti & Co., with Mr. Garg's instruction to read from both ends of the timeline simultaneously. It continued here, in the second day of a new association, in a brief argument about an entity that may or may not be the State.

Mr. P.R. Mridul

Mr. P.R. Mridul hailed from Jodhpur and was, in the fullest sense, a self-made man. He obtained his master's degree in economics from Rajasthan University and

thereafter took his law degree from the Government Law College, Bombay. He was enrolled at the Bar on 15.05.1958, and joined the chamber of Shri M.H. Shah, one of the leading figures of the Bombay Bar of that generation. He soon made a mark in the profession, specialising in Constitutional Law, Company Law, Commercial Law, and Arbitration – fields that demanded precision, intellectual range, and the capacity to master complex factual records.

He was designated as a Senior Advocate of the Bombay High Court on 11.09.1975, and was elevated as an Additional Judge of that Court on 03.01.1976. His tenure lasted until 20.06.1977, when he resigned and returned to the Bar. Thereafter, he joined the Supreme Court and established himself there with remarkable speed – unsurprising to those who had witnessed his discipline and clarity of thought.

By the time I arrived at M-90, Greater Kailash, on the morning of 01.04.1978, he had already become a name of first consequence at the Supreme Court Bar. He was in great demand not only in the Supreme Court but also in the High Court of Delhi and in High Courts across the country, carrying with him from Bombay a tradition of structured and disciplined advocacy.

Moving to C-67, Neeti Bagh

01.05.1978 (Diary Entry)

A month into the association with Mr. Mridul, I found and took on rent a room above the garage at C-67, Neeti Bagh, at Rs. 300 per month. The room had been used by another tenant of Mr. H.K. Puri, Advocate, who came to brief Mr. Mridul and who occupied the main house at C-67. The house immediately to the right – No. 66, Neeti Bagh – belonged to Mr. Sobhagmal Jain, who had served as Advocate on Record for the State of Rajasthan until 1977, when Mr. B.D. Sharma had taken over that position.

The geography of Delhi legal life was, in those years, a compact one. Advocates lived near their seniors, their seniors near the court, and the court at the constitutional centre of the Republic. Neeti Bagh placed me closer to Greater Kailash and to Mr. Mridul's residence and office. It also placed me in a neighbourhood that carried, in its very street numbers and name-plates, the interconnected texture of a profession in which relationships, proximity, and continuity of association were themselves a form of professional capital.

The room was modest. It was enough. What I needed – and what the room provided – was a quiet space from which the day could begin in order and to which it could return at night in reflection. The discipline of the barsati on South Avenue, where the routine of those first months had been established, continued

now in Neeti Bagh – a different room, but the same life.

Elevation of Mr. S.C. Agrawal as Judge, High Court of Rajasthan
15.06.1978 (Diary Entry)

The news of Mr. S.C. Agrawal's elevation as a Judge of the High Court of Rajasthan reached me while I was at work. It was not unexpected – those who had worked closely with him had long known that his appointment to the Bench was a matter of when, not whether. His encyclopedic knowledge of the law, his extraordinary memory for judgements from across four common law jurisdictions, his methodical preparation and his unfailing courtesy both inside and outside the courtroom – all of these were the qualities of a judge, as much as of an advocate.

And yet the news carried with it a particular emotion I had not fully anticipated. Mr. S.C. Agrawal had been the first professional home I had known at the Supreme Court. It was in his chamber that I had sat on my first morning, reading the 1950 volume of the Supreme Court Reports while the world of the Bar moved around me. It was beside him that I had first entered a courtroom as someone associated with a matter. It was from watching him that I had understood what it means to prepare – truly prepare – and what a difference preparation makes when the moment of argument arrives.

His elevation was a gain for the institution of the judiciary and, in time, would prove to be a gain for Indian constitutional law. It was also the marking of a passage – the door of a chamber and a time that had shaped me, now framed permanently in the amber of memory. The river moves; the bank where you once sat remains behind.

I wrote to him to offer my respects and congratulations. I did not then know that the formidable legal mind I had first encountered across a table piled with files in Chamber 20-A would, in the years ahead, continue to shape Indian constitutional jurisprudence from the Bench – and that our paths would cross again in circumstances neither of us could then have foreseen.

Setting into a Routine

After a few days, Mr. Mridul's chamber took its settled shape. Mr. Vivek Seth was already working with him. Mr. Harish Javeri – originally from Gujarat, who had been associated with Mr. Mridul in Bombay much as Mr. V.J. Francis had been – joined soon after, bringing with him the texture of that earlier Bombay association. Mr. Mridul shifted his working space to the first floor of his residence, where he lived with his family, and it was there that the chamber found its permanent

form. Gradually, I found my place within it.

The routine, once established, was exact. Mr. Mridul would regularly have two, three, or even more Special Leave Petitions to argue each day, alongside final hearing matters. He was an early riser and a man of sustained energy, but by around eight in the evening he would rise from his work table and the real work of the chamber would pass to me. He would hand over the briefs – sometimes a single heavy matter, sometimes several – and I would begin. My first task, always, was to prepare a list of dates and events: a meticulous chronology drawn from a thorough reading of each SLP and every annexure, set down first in rough form in my notes register. Once I had complete command over the facts – not a sufficient acquaintance with them, but command – I would prepare a clean, structured list of dates, with page references precisely noted, in the neat handwriting that had become my working signature.

These lists would typically run to eight or twelve pages and would be placed in the brief alongside the relevant authorities identified for each issue. I would generally complete the night's work by eleven-thirty or past midnight. On one occasion, when the brief was of unusual weight, I did not leave until four-thirty in the morning – and it was one of the most satisfying nights of that entire period. There was not a single instance, in the entire four years and four months of that association, when I left the chamber without completing what had been assigned to me. That was not a rule I had been given; it was a discipline I had brought with me.

Mr. Mridul would go through the list of dates and the brief first thing in the morning, before the day's work began. Over time, he developed what I can only describe as an absolute confidence in my preparation – in the clarity of the chronology, the reliability of the authorities, and the certainty that nothing of consequence had been overlooked. That confidence, once established, was never withdrawn.

From the first stipend I received from Mr. P.R. Mridul, I purchased a beautiful sari for my mother – a small, deeply felt gesture of gratitude to the person who stood as my co-creator with the cosmos and presented to her and received her blessing. She wore it proudly.

Assisting Mr. P.R. Mridul

The Supreme Court, the Delhi High Court, and Beyond

Working with Mr. P.R. Mridul was, in every sense, a phenomenal experience. His grasp of a brief was swift and sure; his articulation was impeccable; his command over language and over the craft of the courtroom was of an order that one does not

often encounter and, having encountered, does not forget. To listen to him argue was as enriching as to assist him. He had a rare ability to engage with propositions of law – and with the subtle gradations of legal nuance – with a facility that made the difficult appear, in his hands, almost natural. I cherished every moment spent with him, whether inside the courtroom or outside it – in conference, in preparation, in the long evenings of a working chamber, and in the easy conversation of travel to courts elsewhere. He was, in the fullest sense, a companion in the profession, as well as a master of it.

As his confidence in me deepened, so did the scope of my engagement. He came to rely on me not merely for the preparation of facts, but for the framing of legal propositions and the identification of authorities on any issue that arose – whether in the quiet of the chamber or in the heat of argument before the Court. I was invariably present in conferences with briefing counsel and would provide the necessary authorities promptly as Mr. Mridul advanced his submissions, the material always prepared and at hand before the moment required it.

In due course, the briefing counsel themselves began to place confidence in the lists of dates and events I had prepared and in the authorities I had assembled – from foundational principles through to the most recent precedents. With Mr. Mridul, I had the opportunity to appear in the High Courts of Hyderabad and Himachal Pradesh; travel to Jaipur became almost routine, sustained by a steady flow of matters from there.

One particularly memorable occasion brought together, as briefing counsel, two of the senior-most advocates then practising at the Delhi High Court – both of whom would later be elevated to the Supreme Court, one of them ultimately as Chief Justice of India. The conferences were detailed and thorough, and all authorities had been meticulously organised by me for the hearing. When the matter was called, I took my customary place in the second row, as briefing counsel sat with Mr. Mridul in the front row.

In the course of the arguments, Mr. Mridul called for a particular authority. The briefing counsel – both formidable figures – began to search for it. One of them, casting his eye to the row behind, noticed me seated there. Without hesitation, he asked me to assist with the proceedings. I was prepared. What might have appeared to those watching as a sudden development was, for me, simply the continuation of a discipline that had been building for years. I stepped in without difficulty, and the matter proceeded without interruption. The moment passed without ceremony. That, too, was its own kind of measure.

First Major Criminal Case in the High Court

Just before the Supreme Court closed for summer vacation, I received a notice from the High Court of Delhi informing me that I had been appointed as amicus curiae for the accused in a criminal matter. For an advocate still in the early years of practice, it was both an honour and a responsibility. I immediately contacted the Registry and was handed a copy of the Trial Court judgment running into about eighty-five pages. When I enquired about the statements and evidence, I was informed that they were available in the Criminal Section of the Registry and that I was entitled to inspect them.

The record was enormous – close to a thousand pages. To many, such a record may have appeared intimidating. To me, it was an invitation. I had always believed that the facts of a case do not reveal themselves through summaries; they reveal themselves through patient immersion. A large record meant only one thing – there was work to be done.

I discussed the matter with a few senior members of the Bar who had considerable experience in criminal law. Their advice was practical and well intentioned. They suggested that before proceeding further, I should obtain typed copies of the entire record or otherwise avoid entering the matter inadequately prepared. In ordinary circumstances, that advice may have been sensible. However, obtaining copies would have taken months, and I had only the duration of the Supreme Court's long summer vacation – during which the Delhi High Court continued to sit – before I would need to return to Mr. P.R. Mridul's chambers for the new term. I had already made up my mind that I would not seek an adjournment and would appear on the date it was listed for hearing. If the record existed, I would consume it. Time was not the constraint; indolence was, and indolence was never the governing principle of my preparation.

The facts of the case were unusual. A young man had published a matrimonial advertisement in a newspaper introducing himself as an MBA returned from Canada and expressing his desire to find a suitable life partner. Over time, he became engaged to five different women living in different cities and travelled between places maintaining separate relationships. He had an accomplice whom he introduced as his sister. Eventually, two of the women happened to meet and realised that they had a common fiancé. Criminal proceedings followed under Section 420 IPC and connected provisions.

There was an additional allegation under Section 376 IPC by one of the women, on the ground that he had promised marriage and thereafter disappeared. The Trial Court convicted him on both counts and imposed seven years' imprisonment under Section 420 IPC and ten years' rigorous imprisonment under Section 376 IPC.

My first act after receiving the brief was unusual but instinctive. I purchased a separate register and dedicated it entirely to this matter. Somewhere within me there was already a certainty that this case would require more than ordinary preparation. I obtained a four-volume set of the Penal Code and began tracing every judgment dealing with the offence of cheating, extending even into English Reports. As I read, I came, in time, to realise that at the centre of Section 420 was not deception in the abstract but something far more precise – dishonest inducement resulting in parting with property.

The statutory ingredients began to organise themselves in my mind. First, there had to be dishonest inducement. Second, there had to be parting with property as a consequence of such inducement. If either ingredient failed, the offence itself weakened. Simultaneously, another issue emerged: whether separate incidents involving different persons could legally be treated as one transaction, or whether each event retained its independent character.

I enquired from the Registry about the working hours of the record room and was informed that it remained open from 10 a.m. to 5 p.m. The next morning I reached before time and was allotted a desk. From that day onward, I settled into a discipline. Every day, from morning until evening, with only a brief lunch break, I read the record line by line and made notes.

After three days, the officer in charge of the record room – somewhat surprised by the routine – approached me and asked about my background. He seemed pleased to know more. For me, however, the exercise had become entirely internal. Every witness statement, every exhibit, and every factual thread had to find its place in the register and in memory.

It took approximately fifteen days before I felt that the entire record existed inside my head. Years later, as staff moved across departments in the High Court, I would occasionally receive unexpected assistance from people who did not know me personally but remembered those days of preparation in the record room. I came to realise that institutions quietly observe sincerity – and do not easily forget it.

Once the facts became clear, the task shifted from collection to application. My submissions evolved around a few broad propositions. First, merely introducing oneself as an MBA returned from Canada and seeking marriage was not dishonest in itself. Second, meeting multiple prospective partners and attempting to determine compatibility did not automatically constitute dishonest inducement. Third, the gifts exchanged by families – rings, clothes, cash, and customary articles – had not been shown to have been demanded by the accused. There was no evidence that property had changed hands because of inducement.

I also argued that in the social context of Hindu marriages, gifts are often

given by parents voluntarily as an expression of affection, duty, and tradition rather than because of legal compulsion or deception. I relied upon a judgment of the Madras High Court supporting this proposition. Further, I questioned whether independent episodes involving different individuals could lawfully be clubbed into a single trial. On the charge under Section 376 IPC, I argued that criminal statutes must be interpreted strictly and that concepts of consent developed in one context could not simply be imported into penal jurisprudence.

On the day of hearing, I reached the Delhi High Court at 9:45 a.m. carrying my authorities. I handed over the list to the Court Master. He looked somewhat surprised at the number of authorities in a criminal appeal being argued by an *amicus curiae.* I smiled and requested that the judgements be kept ready – having seen such preparation as standard practice in the Supreme Court.

While waiting in the second-floor lobby, an experienced advocate approached me with his junior and asked whether I appeared for the principal accused. When I confirmed, he asked whether I knew the history behind the case. I replied that I knew the facts on record and my submissions, and that anything beyond the record neither interested me nor appeared relevant to adjudication.

He informed me that the matter had become something of a public sensation and had received considerable media attention. I told him, truthfully, that I did not read newspapers or magazines as a matter of habit. He appeared surprised. He then informed me that he represented the co-accused and, being senior, intended to lead the matter – and that thereafter I could supplement. That arrangement suited me perfectly.

When the matter was taken up, my learned friend suggested that the Trial Court judgment be read first so that the Court could revisit the facts. The Court agreed, and the eighty-five-page judgment was read. By the time that exercise concluded, the day was almost over. Watching the process, I reflected on how differently preparation and hearing unfolded in different courts.

The next day, after brief submissions by my learned friend, he informed the Court that he had another engagement and that I could continue. I rose and, following a practice I had observed in the Supreme Court, handed over my list of dates and submissions. The Hon'ble Judge looked at me, smiled, and simply said, *"Yes."* I began.

I took the Court through the chronology, reading from the evidence directly from the record. Because I had lived with the record for fifteen days, each reference came naturally. Arguments continued for the next three days. Lawyers entered and left. The Court engaged deeply. The State responded. For me, however, something more important was happening beneath the formal surface of proceedings. I was discovering the difference between reading law and inhabiting law. After argu-

ments concluded, I received a message from my client asking me to visit him in Tihar Jail and consider appearing in other matters. I visited Tihar Jail – my only such visit in a life at the Bar – and he entrusted me with additional cases. Eventually, judgment was delivered.

The conviction under Section 420 IPC was maintained and the sentence of seven years affirmed. The Court held that the incidents did not stand independently but formed part of a continuing course of conduct indicating intention from the inception of the matrimonial advertisement. However, the conviction under Section 376 IPC was set aside. The Special Leave Petition before the Supreme Court was subsequently dismissed.

Looking back, what remained with me was not the result. What remained was immersion. That case gave me a complete understanding of penal law and, in particular, of the anatomy of Section 420 IPC. Interestingly, the first Special Leave Petition in which I later obtained notice from the Supreme Court was also under Section 420. Life sometimes prepares us quietly for chapters yet to unfold.

First Special Leave Petition

The moment every advocate privately waits for arrived through a brief from Jaipur. An advocate who had been associated with my father sent me instructions to file a Special Leave Petition on behalf of a client who was a clerk. The client's means were limited: he could pay ₹ 550 towards fees and the same amount towards expenses. I agreed readily, without negotiation. The matter was not about the fee.

It was, as it happened, a matter under Section 420 of the Indian Penal Code – the very provision I had spent fifteen days inhabiting in the record room of the Delhi High Court. The preparation for the amicus curiae matter had not concluded with the delivery of judgment. It had quietly deposited itself as a foundation, awaiting precisely this moment. I drafted the SLP with the same care I had given to every document prepared over the previous three years – anchoring the legal position in the judgment in the *Prem Nath* case and building the petition on that research. Every proposition was supported. Every fact was set out in sequence. Every legal argument was grounded in authority. Mr. Anil K. Gupta, Advocate on Record, readily agreed to file the SLP, with clear instructions that I would look after it in the registry and handle all that was necessary. He generously allowed me the use of his chamber no. 128 for filing my SLPs – a boon I received with genuine gratitude.

The matter was listed before a bench of Justice N.L. Untwalia and Justice P.S. Kailasam – one of the more exacting benches of that period. I rose and made my submissions. A single query was placed from the Bench. I answered it. Notice was issued. Bail was granted.

The entire exchange lasted only a few minutes. But those few minutes carried the accumulated weight of three years of preparation, observation, reading, and the discipline of a life given to a single purpose. Notice in a Special Leave Petition is not granted lightly. The Supreme Court's time is finite and the demand upon it immense. When the Bench issues notice, it has found, in the matter placed before it, a question that merits the Court's attention. That question had been identified, framed, and argued. The petition had done its work.

I came out of the courtroom and stood for a moment in the corridor. I had argued my first matter before the Supreme Court of India – independently, on behalf of a client who had placed his trust in me as an advocate whom he could afford. The brief had been treated with the same seriousness I had seen my seniors bring to every case. That was not a decision; it was a conviction – one that has governed my practice across every year since. The law does not know the size of the fee. It knows only the quality of the argument. And the argument must always be worthy of the court before which it is made.

Shifting to M-84, Greater Kailash Part I
01.07.1979

By what I can only describe as the quiet grace of circumstance, I secured a barsati floor on rent at M-84, Greater Kailash Part I, New Delhi-110048. The rent was Rs. 700 per month. The landlord, Mr. Kashyap, was an elderly and fine-mannered gentleman whose quiet dignity suited the house and the neighborhood. The barsati was on the third floor of a house built on 500 sq. yds, with the open air and the rooftops of Greater Kailash around it. M-84 was two houses away from Mr. Mridul's residence and office at M-90. The geography was, for once, entirely in my favour.

The most memorable moment of moving day was not the moving itself. When I left for court that morning with Mr. Mridul, Mrs. Mridul's mother (*Nani Ji*) a revered and gentle lady whom I addressed as *Nani Ji* – took it upon herself, in my absence, to install an image of *Ganesh Ji* in my new home. When I returned with Mr. Mridul in the evening and found what she had done, I was deeply moved. It was an act of quiet maternal grace – the kind that asks for no acknowledgment and receives none, because it needs none. *Ganesh Ji*, the remover of obstacles, the deity invoked at every new beginning, had been installed in my home by hands that were not mine. That the beginning had been blessed by another was itself a blessing of a kind that one does not forget.

After settling the formalities, I received a call from Mr. B.P. Agrawal, who had come to Delhi to file SLPs in the Supreme Court. I went to Hotel Janpath, met

him, returned to M-84, and carried everything up to the third floor. The day ended late, as most of my days did – and with a particular satisfaction: the satisfaction of a man who has found his base, close to his work and his senior, with every hour saved in commuting now freely available for the briefs that needed it. Proximity to work is not a luxury for a young advocate; it is a professional resource. I had understood this from the very beginning, and M-84 represented its clearest expression yet.

Filing a Batch of SLPs and Many More

Mr. B.P. Agarwal instructed me to file a batch of Special Leave Petitions challenging the validity of the Rajasthan Land and Building Taxes in the Supreme Court of India. A "batch" or "bunch," as it is known in legal parlance, is something of a cash crop – perhaps the most lucrative windfall the legal profession has to offer. It is a phenomenon where several petitions, all arising from the same underlying question of law, are disposed of by a single judgment of the Court. This is most common in matters of Taxation, Land Acquisition, and Service disputes, where the same legal issue governs the fortunes and careers of a large number of litigants simultaneously.

The mechanics of a bunch are straightforward yet significant. The High Court disposes of all connected petitions by a single judgment. Each litigant, however, pays his fees independently – and rightly so, for though the petitions share the same questions of law and grounds, each carries its own specific facts. For the advocate, this arrangement is a rare stroke of professional fortune: meaningful money earned with a proportionally lesser investment of time. The returns – both financial and reputational – are amplified in a way that ordinary single-client briefs rarely afford.

Once the Supreme Court issues notice in the main matter, it issues notice in all connected matters and tags them together. This gave junior advocates like me a valuable opportunity to appear regularly before the Court – a privilege that builds both confidence and standing.

This bunch arrived at precisely the right moment – just as I had settled into M-84 and found my full footing in the city. The SLPs had to be prepared with care: drafting each petition to account for specific factual variations while maintaining consistency in the legal arguments, getting them cyclostyled, and assembling the Paper Books. The entire process was a well-coordinated exercise – a dependable clerk, complete documentation, and a disciplined eye for detail at every step.

Adding to the interest of the exercise was the question of limitation. All the

SLPs whose limitation period was set to expire during the summer vacation could not be filed until the Court reopened. The 90-day limitation period prescribed for filing an SLP from the date of the impugned judgment includes the summer vacation – meaning that an entire backlog had to be held in readiness and filed on the single day of reopening. I also received additional SLPs from other advocates based in Jaipur who trusted me to file on their behalf. In total, twenty-one SLPs were filed on that single day of reopening – the second highest filing on a reopening day. It was a marathon, but well planned, with a perfect team and processes in place from the first moment. The last petition was filed at the residence of the Registrar at 11:50 at night. Not a single matter crossed the limitation period. That, in itself, was a quiet and complete victory.

'Get Me *Ujjam Bai*' – The Beginning of the Cardex System

One morning, Mr. Mridul called me into his chamber while he was working on a brief. After a moment, without looking up, he said: "*Get me Ujjam Bai*." It was a name I had not encountered before. I could not be entirely certain, from the way it was said – his attention already returning to the brief – whether he had said Ujjam Bhai, or Ujjam Bai, or some name close to either. A junior in that chamber was presumed to know all the significant judgements. I came out quietly, went up to my own space, and sat for a moment to think about where to begin.

The only route available was to search through the Nominal Table Index of judgements of the Supreme Court – a voluminous work compiled by Gopalakrishnan – running through it name by name until I arrived at something that matched. After about five hours, I found it: *Smt. Ujjam Bai v. State of U.P. 1963(1) SER 778,* under the alphabet 'S'. Five hours to locate a citation. I sat with that fact for some time after placing the report before Mr. Mridul. It was not self-pity; it was calculation. A junior advocate's most irreplaceable resource is time. And a system that consumed three hours in the mere retrieval of a name was a system that called for a better answer. The question was not whether to build something better. The question was what to build, and how.

The answer was the Cardex, which I designed by eliminating formal prefixes such as Mr., Smt., M/s and Capt. I designed a card of five inches by seven – large enough to carry the essential data of a judgment in a single organised face, compact enough to be stored and retrieved in volume. I had a rack table prepared with nine drawers and arranged for approximately sixteen thousand cards to be printed, sufficient to cover all the judgements reported in the Supreme Court Reports. The front of each card carried the names of the appellant and respondent, the composition of the bench, the statutes considered, the judgements cited within the case,

and the subject and issue decided. The reverse recorded the subsequent history of the judgment – the cases in which it had been followed, distinguished, doubted, or overruled.

Whenever a new judgement was delivered, a new card was made. I would enter the reference on the back of every earlier card it had cited or engaged with, so that the system carried within it both the lineage and the legacy of each case: where it had come from, and where it had gone. I filled the cards whenever time permitted – late at night, or early in the mornings before the day's work began, even my wife and my sister helped me in the endeavor. In time, the system became current with the Court's entire reported output and remained so. Those who needed a judgment on any point of law knew where to come.

The idea, though it found its fullest expression later in SpotLaw, had its origins in two earlier places. Shortly after I joined my uncle's service centre at Agra, Mico Bosch introduced a Cardex system for inventory management. Each card corresponded to a single product – from washers and gaskets to spark plugs and fuel pumps – and recorded, day by day, the ingress and egress of that item. There were approximately fourteen hundred cards in the full inventory. I took it upon myself to fill each one and to keep every card current, every day. I learned, in those months in an Agra workshop, that the difference between a system that works and one that merely exists is nothing more – and nothing less – than the daily discipline of accurate, consistent recording.

I did not then know that I was learning, in an inventory system for automotive parts, the foundational discipline of what would become the Cardex of the Supreme Court of India. What Mico Bosch had taught me about spark plugs, the Supreme Court asked me to apply to constitutional law. And the lesson had taken hold long before the occasion for applying it arose.

There was a second influence, quieter but no less direct. In the library of the Indian Law Institute, I had noticed the book cards in their wooden drawers — one card for each volume in the collection, carrying its title, its details, and its location on the shelves. If the entirety of a legal library could be navigated through a Cardex, there was no reason why the judgements of the Supreme Court could not be made equally accessible. The library had shown what was possible. Agra had shown what discipline was required. The three hours spent searching for Ujjam Bai had shown the opportunity that the alternative presented.

The system I built was the convergence of all three. I was a lawyer, not a toolmaker. Yet, in the absence of the proper instruments required to perform legal "laser surgery," I was compelled to create my own tools for searching, organising, and analysing information with the least possible expenditure of time and energy. Every case represented not merely a legal file, but the head and heart of a human

and social distress, requiring the finest tools available to help resolve its trauma and the similar issues that might subsequently arise.

Meeting Padma
18.07.1981

There are days that alter the trajectory of a life without announcing themselves as such. 18.07.1981, was one of them. My Buaji – my paternal aunt – had arranged a meeting at the Mansingh Hotel in Jaipur. I went with the settled manner of a man whose life was already full: a professional routine of great intensity, a residence that suited his habits, a practice finding its own shape, and the deep companionship of books and ideas that had sustained him since childhood. I was not looking for a change; I was, if anything, entirely content with the life I had.

I met Padma. I told her about my life, about the hours I kept, about the late evenings in chamber and the early mornings, about the discipline that governed the days and the books that governed the nights. I was entirely honest – perhaps more honest than was strategically wise. She listened without surprise.

Her father and brothers were jewellers, and she had grown up watching men work through the day and late into the night, because that is what serious work demands. She understood, without requiring explanation, what it meant to be in a profession that makes no distinction between weekdays and weekends, between office hours and personal time.

She agreed. The word carries less weight on the page than it carried in that conversation. In agreeing, she was not merely accepting a description of my habits; she was accepting a life, with full understanding of what that life required and what it would ask of her. That quality of clear-eyed acceptance – of choosing with open eyes rather than romantic illusion – is, I have come to understand over more than four decades, one of the rarest and most valuable qualities a human being can bring to a shared life.

That day and night, Jaipur received what was recorded as the highest rainfall in its history. A portion of the OTS was washed out by the heavy water in the nalla that passed close by. Traffic to Delhi was cut, and I remained in Jaipur for three days. Those three days – quiet, rain-soaked, unhurried – confirmed what the meeting had already begun to tell me. I returned to Delhi with my decision made.

Engagement
03.08.1981

I got engaged to Padma in Jaipur on 03.08.1981. On the engagement album, I wrote:

"This is a step to enable two individuals to communicate fully and establish a bond which has the potentialities of developing total expression leading to Self-Realisation."

I had always penned every significant event and thought – committing the moment to paper, making it a record, giving it a permanence that memory alone cannot guarantee.

The engagement was not merely a social occasion. It was a commitment made in full consciousness – by a man who had chosen, at twenty-one, a profession which could meaningfully utilise his energies; at twenty-two, a disciplined life; at twenty-three, independence to work more efficiently; and who now, at twenty-six, chose a life's companion with the same deliberateness that had governed every earlier choice. Each of these choices had arrived naturally, one flowing into the next – not as milestones reached through effort, but as expressions of a life unfolding with clarity and purpose. The quality of a choice is determined not by its outcome – which lies in the future – but by the consciousness with which it is made. I made this choice consciously, gratefully, and without reservation.

Advocate on Record
18.10.1981

The results of the Advocate on Record examination were declared on 18.10.1981. I had cleared it. I was now an Advocate on Record of the Supreme Court of India. The institution of Advocate on Record is peculiar to the Supreme Court of India and has no precise equivalent in any other court in the country or, indeed, in most legal systems. An Advocate on Record is an advocate who has passed a specialised examination – in practice and procedure before the Supreme Court, in drafting, in advocacy, and in professional ethics – and who alone is entitled to file documents, vakalatnamas, and applications in the Supreme Court on behalf of parties. Advocates who have not cleared the examination may appear and argue in court, but they must do so through an Advocate on Record, whose name appears on the record of the case and who bears professional responsibility for the conduct of the matter before the Court.

The examination is, by design, demanding. It is intended to ensure that those who carry the professional responsibility of filing in the highest court in the land have demonstrated not merely general legal knowledge but specific competence in the particular discipline of Supreme Court practice – the chambers, the cause list system, the procedure of mentioning, the method of preparation of paper books, the rules governing the filing of Special Leave Petitions – all conventions accumulated over decades that a practitioner must understand before he can discharge the responsibility the designation places upon him.

The qualification was, therefore, not merely a credential. It was the formal recognition that I had served the apprenticeship, passed the test, and was now entitled – and obligated – to bear the full professional responsibility of practice before the Supreme Court of India. Five years earlier, I had stood before the locked door of 20-A, Lawyers' Chambers, with the whole profession still ahead of me. I now had a designation, a residence two houses from my senior, a practice finding its own voice, and, within weeks, a life's companion. The foundations had been laid, one by one, each in its proper season.

Marriage
20.11.1981

I married Padma on 20.11.1981 – a Saturday. It was a grand occasion, alive with warmth and celebration – judges, colleagues, family, friends, and nearly every notable presence in Jaipur gathered together. There were music and laughter, rituals and revelry, the full and joyous pageantry that a wedding in Jaipur naturally brings with it.

By Monday, I was back in court. A marriage on Saturday, court on Monday – from the outside, it might appear a remarkably brisk return to ordinary life. But from the inside, it felt entirely natural. It was consistent with the life I had been living since the morning of 01.08.1976, when I first walked into the Supreme Court. It was consistent with the life Padma had chosen to share — and she had chosen it with full understanding, with open eyes, and with a quiet enthusiasm that left no room for ambiguity. The profession had not paused for the marriage; neither had the marriage been diminished by the profession. From the very first week, they existed as two pillars of a single life – each supporting the other, neither displacing the other.

The following weekend I returned to Jaipur, and together we went back to Delhi on Monday – beginning, in that simple and unannounced way, the life we would build together.

Padma brought to our shared life a quality I had recognised from the very first meeting, and which the years have only deepened and confirmed: the capacity to hold the life of the profession and the life of the home simultaneously – fully, gracefully, and without allowing the demands of either to crowd out the other. She created a home that was always calm, always welcoming, always complete – a place where the energies of court and counsel refreshed themselves the moment one walked through the door, and where the next day's work could begin from a place of quiet steadiness.

That capacity is not a small thing. It is, in truth, one of the most generous

gifts one human being can offer another. She brought it naturally, offered it freely, and has sustained it across the decades with a grace that has never sought acknowledgment – and has never required it.

Lekhraj Sharma, Office Manager
May 1982

Among the most important people in any office – and particularly in a lawyer's office – is the Office Manager, known in traditional legal practice as the *Munshi* or, in contemporary language, a paralegal and office administrator. An efficient, committed, and diligent office manager becomes one of the foundational pillars upon which a legal practice is built.

Behind every matter argued in court lies an invisible architecture of preparation – maintaining files and records, organising documents, preparing briefs, ensuring timely filing, removal of defects, tracking listings and court dates, interacting with clients, managing accounts and fees, coordinating logistics, and preserving order amidst the constant movement of litigation. Advocacy may be visible in court, but its continuity depends greatly upon disciplined work outside it. I was extremely fortunate to have found such support in Shri Lekhraj Sharma.

He joined my office in May 1982 and continues with me to this day. Over more than four decades, he has taken care of the office with integrity, commitment, quiet efficiency, and a sense of dignity that made the chamber function with consistency and trust. In a profession where deadlines are unforgiving and details often determine outcomes, his dependability became one of the unseen strengths of the practice.

He has witnessed almost everything that passed through the chamber – the growth from early years of independent practice, the pressures of litigation, institutional responsibilities, victories, disappointments, transitions, and the gradual evolution of thought and work over the decades. Few people outside the family have observed such a long arc of professional life from so close a distance.

I am certain that over the years he must have received many opportunities and offers – including from some of my associates who later established independent practices or from those who regularly interacted with the office. Yet he remained where he began. His loyalty was never loud, and his commitment never demanded recognition. He carried himself with honesty, humility, and quiet self-respect.

Nothing gives greater satisfaction than seeing those who travelled with you grow in their own lives. I take great happiness in knowing that his two daughters are happily married and well established, and that his son completed his LL.B. and has entered active legal practice.

Institutions are not built only by those whose names appear on files and judgments. They are also built by those who work behind the scenes with dedication and integrity, asking for little and contributing much. Lekhraj Sharma has been one of those people in my professional journey.

On the Panel of the International Airports Authority of India

The landlords of M-84, Greater Kailash I, were the Kashyap family. Their son, Mr. Suresh Kashyap, served as the General Manager of Personnel at the International Airports Authority of India. One morning, returning from my walk, I ran into him in that easy, unhurried way that only residential neighbourhoods allow. In the course of conversation, he suggested I meet the Law Officer at IAAI, Mr. R.K. Agarwal, who happened to be from Rajasthan.

The meeting that followed was one of those pleasant surprises that life occasionally places in one's path without prior notice. Mr. R.K. Agarwal turned out to be a man of considerable standing – a former member of the Rajasthan Higher Judicial Service who, after taking voluntary retirement, had joined IAAI as their General Manager of Law. He carried the bearing of a judge and the practicality of an administrator, and our conversation flowed with the ease that often comes when two people from the same soil meet in a distant city.

Mr. Agarwal was quick to assess, and generous in his confidence. He put me on the panel of IAAI and began entrusting me with cases before the Delhi High Court. He was, as I came to understand, particularly impressed by the clarity with which I grasped basic legal principles, the structured quality of my approach, and the precision of my drafting. For a young advocate still building his practice in the capital, this was an opportunity of real consequence – not merely for the work it brought, but for the regularity it established. Appearing before the Delhi High Court with a credible institutional client creates a different quality of practice altogether – it opens conversations and doors that might otherwise take years to find.

I deeply acknowledge the faith and trust that Mr. R.K. Agarwal reposed in me. It came early, it came generously, and it made a lasting difference.

First Major Arbitration

M.L. Dalmiya & Co. v. AAI

21.07.1982

One day, Mr.R.K. Agarwal called and mentioned he needed assistance with a significant matter. When I visited his office, he placed before me an arbitration

claim filed by M.L. Dalmiya and Company, arising from the termination of their contract on 10.01.1979, for the construction of the airport at Hulule Island in the Maldives. It was, from the first reading, a matter of real substance and international dimension.

As I reviewed the contract, something immediately stood out: it contained no termination clause. The termination, as a result, had no contractual foundation. I pointed this out to Mr. Agarwal – that the termination was, on the face of the contract, without legal authority. It was a significant detail, and he acknowledged that he might have even reviewed the agreement himself when it was originally executed. I explained that we would need to invoke the common law doctrine of termination and the relevant provisions of the General Clauses Act to build the defence. He was visibly impressed by the approach, and moved swiftly.

Without delay, he relieved the law firm that had initially drafted the agreement and entrusted me with the vakalatnama to draft the reply and contest the arbitration on behalf of IAAI. He mentioned that the case involved an enormous volume of files and records – nearly two full cabinets. I assured him, simply and directly, that every fact and issue would be addressed as it arose.

As I began working on the brief, it became clear that filing a counterclaim was not merely advisable – it was essential. The AAI had been required to complete the international contract on its own, an undertaking of considerable complexity given the sensitive international implications of the project at Hulule Island. In completing it, they had incurred substantial additional expenses well beyond the original budget, owing to delays and cost escalation. The counterclaim was not only necessary; it was entirely justifiable on the facts, and it gave the entire matter a different centre of gravity.

I approached the brief with the same perspective I brought to every case: what would this look like if it went all the way to the Supreme Court? That question, held in mind from the first day of work on any matter, ensures that nothing is done carelessly at the lower level that cannot be defended at the highest. It is a discipline, and it is also a form of respect – for the client, for the process, and for the law itself.

Inflow of Regular Work and Time to Move Forward

Work continued to flow with pleasing regularity – matters in the Delhi High Court, drafting assignments, and the filing of SLPs. The practice had found its rhythm, and with that rhythm came the opportunity to engage with some of the finest legal minds of the time.

In several matters, as instructed by clients, I had occasion to brief senior advocates of the highest standing – Mr. Ashok Kumar Sen, Mr. Soli J. Sorabjee, and others of that calibre. I always looked forward to engaging the best—those who could perform better than I could. The preparation was always thorough: briefs sent a day or two in advance, followed by a morning conference at nine o'clock sharp. Briefing these luminaries was an education in itself – in economy of thought, in the architecture of legal argument, and in the quiet authority that true mastery of law confers.

Mr. Ashok Kumar Sen had a style entirely his own. The moment I would begin, he would look up and say, with characteristic precision – "*Aruneshwar, three minutes*." And three minutes it was. The issue, stated cleanly; the facts, with page references. He needed nothing more. His memory was extraordinary, his grasp of legal principle instinctive and deep. My own first preference, whenever the choice was mine, was Mr. P.R. Mridul – but the choice of senior counsel naturally rested with the client and the local counsel who had instructed me, and I was entirely content to work with whoever was chosen.

By the end of July 1982, I had approximately 225 matters filed. The practice was established, the work was consistent, and something in me recognised that it was time to move forward – to step fully into my own, whatever form that would take. I was approaching six years in the profession. They had been six years of absorption of engagement, of building – quietly and steadily – a body of work and a manner of practice that felt genuinely my own. The thought of moving on carried no anxiety, only a calm sense of readiness.

There was one thing I was clear-eyed about: the nature of the work ahead. I was aware that the great Constitutional cases – the landmark arguments that fill law school textbooks and shape the jurisprudence of a generation – might not come my way in the ordinary course. But that awareness diminished nothing. For me, every case was a landmark. Not in the formal sense, but in a more fundamental one. To a professional, a case is one among many. But to the client sitting across the table, it is the only case – the one on which his livelihood, his career, his family, his rights, and sometimes his entire sense of self rests. That understanding never left me. It shaped the seriousness with which I approached every brief, however routine it might have appeared from the outside. Each client deserved, and received, the full weight of attention that his singular stake in the matter demanded. That, too, is a kind of landmark practice – perhaps the most honest kind.

The Last Day with Mr. P.R. Mridul
31.07.1982

The last day of an association that has shaped you is not like other days. It carries a particular quality – a stillness, a clarity – that the busy, productive middle years do not offer. On 31.07.1982, I had been in the Supreme Court for six years, and with Mr. Mridul for four years and four months. The apprenticeship – first at Ramamurti & Co., then in Greater Kailash – was complete. I knew it was complete the way one knows these things: not through any external signal, but through an inward certainty that had been quietly gathering for months and had become, by that evening, simply undeniable.

At around 5:30, after he returned from his evening walk, I met Mr. Mridul and told him that I wished to leave and begin my independent practice. He called Mrs. Mridul and said, in the quiet, matter-of-fact manner that characterised him: "*Look, Aruneshwar is leaving and wants to start on his own."* Mrs. Mridul smiled – the warm, genuine smile of a woman who had watched a young man grow and find himself within her household over four years and four months, and was now seeing him step out into his own life. It was a smile of recognition, and of quiet pride.

I will never forget the time I spent in that house, or what I received from Mr. P.R. Mridul. It was not merely legal knowledge, though the knowledge was considerable and lasting. It was something more fundamental: the habit of exactness. He was precise in his language, precise in his preparation, precise in his analysis of facts and law – and his command of the English language, combined with a natural fluency in oratory, made his advocacy a thing of genuine beauty to witness. He had come from the Bombay Bar – that great tradition of structured, disciplined advocacy, nourished by a developed solicitor system and a culture of specialised, focused briefing – and he carried that tradition into every matter he argued. Working alongside him, day after day, taught me that advocacy is not only an art; it is a craft. And a craft must be practiced with the exactness and the care of a true craftsman.

The twenty months at Ramamurti & Co. had provided the foundation – the reading, the constitutional exposure, the understanding of the Court's mind and history. The four years and four months with Mr. Mridul had refined and sharpened that foundation, giving it the precision and the confidence required to stand independently before the highest court in the land. Between these two formations, something complete had been made.

I took my scooter and drove directly to the Kalkaji Temple, along with Vivek Seth. I stood before Kalka Maa and offered a simple, heartfelt prayer – that I had

taken this step, and that she gives me the strength, the steadiness, and the confidence to earn my living with dignity, and to serve equity, equality, and justice in everything I did.

Then I drove home and called Padma in Jodhpur. I told her what I had done. She was quiet for a moment – the thoughtful quietness of someone genuinely reflecting – and then she wondered whether I had taken the right step. I told her that the step had to be taken, and that whether it was the right one, only time would tell. What I knew with certainty was this: the natural arc of practice had reached its point of completion. Clients were beginning to see in the junior what the junior had come to see in himself – a readiness to stand on his own. That is the organic logic of the profession: when the time comes, it announces itself, and one simply moves with it.

The step had been taken. The temple had been visited. The prayer had been offered. What lay ahead was independent practice at the Supreme Court of India – carried forward on six years of preparation, the discipline of two remarkable seniors, and the joyful conviction that the law, served with integrity, returns that integrity in full measure. The Mistress, in all her richness and her possibility, was now entirely my own to court.

The Crucible of Restoration
Argued, Assisted, Associated and Other Judgments with Observations

To live and breathe the law in the Supreme Court of India between 1978 and 1982 was to witness a wounded institution performing open-heart surgery upon itself. In that process, the Supreme Court gradually rebuilt Indian constitutional democracy with stronger safeguards, deeper constitutional consciousness, and a far more resilient institutional foundation. The four years and four months from April 1978 to July 1982 became years of continuous and intensive legal education – not within classrooms, but within the courtrooms, chambers, libraries, and corridors of the Supreme Court of India itself. The list of judgements that follows represents matters in which I was associated, involved, or which I attended and studied closely during this transformative constitutional period.

Each judgment became not merely a chapter in the evolution of Indian constitutional law, but also a chapter in the making of the lawyer observing and absorbing it. In the pages that follow, I have attempted, in my own limited way, to place on record my understanding of some of these judgements, their larger human significance, the constitutional questions they posed, the institutional anxieties they reflected, and what they taught those privileged to witness that extraordinary phase in the rebuilding of constitutional democracy.

For me, this period was never merely a sequence of calendar years. It was an intense masterclass in the fragility – and the fierce resilience – of human institutions:

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	In Re. Special Courts Bill, 1978	—	1978 INSC 249	Constitutional Law
2	S.K. Gupta	K.P.Jain	1979 INSC 22	Insolvency Law
3	Shanti Vijay	Princess Fatima Fouzia	1979 INSC 165	Property law
4	Ganga Sugar Co.Ltd.	State of U.P.	1979 INSC 191	Tax Law - Indirect
5	State of Gujarat	Bhogilal Keshavlal	1979 INSC 251	Land Acquisition & Rehabilitation Law
6	V.C. Shukla	State through CBI	1979 INSC 262	Constitutional Law
7	Bhim Singh	Kan Singh	1979 INSC 277	Property law
8	P.S.R. Sadhanantham	Arunachalam	1980 INSC 16	Criminal Law
9	P.N. Eswara Iyer	Registrar, Supreme Court	1980 INSC 17	Constitutional Law
10	Niranjan Singh	Prabhakar R. Kharote	1980 INSC 44	Criminal Law
11	Ramesh Chandra	State of U.P.	1980 INSC 51	Economic & Regulatory Law
12	Gurbaksh Singh Sibbia	State of Punjab	1980 INSC 68	Criminal Law
13	Parasram Harnand Rao	Shanti Prasad Narinder K.Jain	1980 INSC 73	Land Revenue and Tenancy Laws
14	Harjeet Singh	Union of India	1980 INSC 77	Service Law
15	Mahindra Nath Shukla	State of Bihar	1980 INSC 80	Mining & Natural Resources Law
16	Shukla	Delhi Administration	1980 INSC 74	Criminal Law
17	Raja Mallaiah	Anil Kishore	1980 INSC 95	Tax Law - Indirect
18	Workmen, Sudder Workshop	Management	1980 INSC 103	Labour & Industrial Law
19	Bar Council of India	Surjeet Singh	1980 INSC 102	Legal Profession & Advocates
20	Ranbir Singh Gill	Gurcharan Singh Tohra	1980 INSC 127	Election Law

21	Ambika Prasad Mishra	State of U.P.	1980 INSC 117	Constitutional Law
22	Seth Nand Lal	State of Haryana	1980 INSC 118	Constitutional Law
23	Shri Digvijay Woollen Mills Ltd.	Mahendra Prata-prai Buch	1980 INSC 132	Labour & Industrial Law
24	Minerva Mills Ltd.	Union of India	1980 INSC 142	Constitutional Law
25	Hamida Sarfaraz Qureshi	M.S. Kasbekar	1980 INSC 179	Criminal Law
26	Maru Ram	Union of India	1980 INSC 212	Criminal Law
27	Som Prakash Rekhi	Union of India	1980 INSC 220	Constitutional Law
28	ABSKS	Union of India	1980 INSC 224	Constitutional Law
29	International Tourist Corp.	State of Haryana	1980 INSC 236	Constitutional Law
30	Natraj Studio	Navrang Studio	1981 INSC 4	Arbitration
31	Om Prakash Sud	State of J&K	1981 INSC 34	Government Contracts & Public Procurement
32	Laxmi Khandsari	State of U.P.	1981 INSC 57	Constitutional Law
33	S.S.Dhanoa	Municipal Corporation	1981 INSC 115	Criminal Law
34	Air India	Nergesh Meerza	1981 INSC 152	Constitutional Law
35	Choudhary Sahu	State of Bihar	1981 INSC 204	Land Revenue and Tenancy Laws
36	S.P.Gupta	Union of India	1981 INSC 209	Constitutional Law
37	V.T. Khanzode	Reserve Bank of India	1982 INSC 31	Service Law
38	Om Prakash Gupta	Dig Vijendrapal Gupta	1982 INSC 36	Rent Control and Eviction Law
39	Lakshmi Charan Sen	A.K.M.Hassan Uzzaman	1982 INSC 43	Election Law

Re: Special Courts Bill, 1978 – Justice Under the Shadow of Power
1978 INSC 249

Among the many constitutional moments that shaped my early years at the Bar, few carried the intensity, political sensitivity, and institutional significance of Re: Special Courts Bill, 1978. It was not merely a legal reference under Article 143 of the Constitution. It was, in truth, India asking itself a deeply uncomfortable question after the Emergency: Can democracy punish the abuse of power without itself becoming abusive?

The atmosphere of the country in the post-Emergency years was unlike anything younger generations may fully appreciate today. Institutions had survived, but not untouched. Public faith had been shaken. Political morality had become a national debate. The newly elected Government sought accountability for alleged abuses committed during the Emergency period, particularly by persons who had occupied high political office. The proposed Special Courts Bill was therefore conceived as an extraordinary mechanism for the speedy trial of offences committed by holders of high public or political positions.

But beneath the stated objective of cleansing public life lay a constitutional tension of enormous magnitude. The Bill proposed Special Courts presided over by sitting or former High Court Judges nominated by the Central Government in consultation with the Chief Justice of India. Appeals from such courts were to lie directly to the Supreme Court. The proceedings were designed to bypass ordinary delays and ensure expeditious disposal. In constitutional theory, this appeared efficient. In constitutional psychology, however, it raised profound questions. Could exceptional political circumstances justify exceptional judicial structures? Could the Executive identify a class of persons for accelerated criminal prosecution without violating equality before law? Could speed become a disguised instrument of political vengeance?

The Supreme Court treated the matter with extraordinary seriousness. Notices were issued across the country. State Governments, Advocates General, political personalities, and numerous interveners entered the proceedings. The sheer range of participants reflected the national importance of the controversy. The Court was not merely interpreting a Bill; it was attempting to define the constitutional limits of retributive democracy.

What made the proceedings historically remarkable was that the Court refused to reduce the issue either to political rhetoric or to technical formalism. The judges recognised the legitimacy of the State's concern that abuse of public office must not remain beyond accountability. At the same time, they also recognised the grave danger inherent in allowing the Executive to create mechanisms that could selectively target political opponents.

This was the first Constitutional matter in which I had full opportunity to brief Mr. P.R. Mridul. Mr. V.C. Shukla was a close friend of Mr. P.R. Mridul and we were briefed to appear for him as intervenor. I also accompanied Mr. Mridul to meet Mr. Shiv Shanker, Senior Advocate, a close friend of Mr. Mridul, who was appearing for the State of Karnataka. My research led me to two basic issues – first that this was a political question and as such the reference should be returned without answering the same. I had the support of Federal Court Judgment where the reference was returned without answering the same. The second issue was

purely constitutional, that the jurisdiction of Supreme Court was exhaustively spelled by Constitution of India and could not be enlarged by a Statute (My understanding of judgment on Gyan Chand's case). The first issue was brilliantly argued by Mr. Mridul also followed by other seniors as that affected the maintainability of the reference. The second issue was exhaustively argued by Mr. Shiv Shanker for more then a day. Both Attorney General of India (Mr. S.V. Gupte) and Solicitor General of India (Mr. S.N. Kacker) took about four days to answer the same and get around it. Justice Y.V. Chandrachud (p. 513 – 525) meticulously dealt with the issue and came around it.

It was a great satisfaction about raising constitutional questions and seeing how the Senior Advocates and the Supreme Court dealt with them and continued to develop the swadeshi jurisprudence in the social and political milieu.

Shanti Vijay & Co. v. Princess Fatima Fouzia
1979 INSC 165

At the centre of this case lay 107 items of jewellery – emeralds, diamonds, sapphires, rubies of the highest quality – belonging to the estate of H.E.H. Nawab Mir Sir Osman Ali Khan Bahadur, the last Nizam of Hyderabad, once reputed to be the wealthiest man in the world. By an indenture of 1951, the Nizam had settled these treasures in trust for the benefit of his sons, granddaughters, daughter, and step-brother. Clause 13 conferred upon the Board of Trustees an absolute discretionary power of sale after the deaths of the settlor and his eldest son Prince Azam Jah, who died in October 1970. The Board comprised a Chairman – R.N. Malhotra, Additional Secretary to the Government of India – and four other trustees.

What followed was a sale process of remarkable improvidence. Intimations were sent through a Bombay jeweller to a limited circle of 29 dealers – with no newspaper advertisement whatsoever. Inspection was restricted to a single day; sealed tenders were demanded the next morning. On 09.03.1978, Malhotra was in New Delhi on official duty. The remaining four trustees opened tenders at the Ambassador Hotel, Bombay, purported to accept the highest bids aggregating Rs. 14.43 crores for 36 of 37 items, and dispatched letters of acceptance – all within a half-hour. Princess Fatima Fouzia, a granddaughter and beneficiary, immediately sought an injunction before the City Civil Court, Hyderabad. An ad interim injunction followed on 14th March. Meanwhile, a rival bidder, Peter Jansin Fernandez, emerged with an offer of Rs. 20.25 crores for all 37 items in one lot – nearly Rs. 6 crores more than the aggregate of the accepted bids. The High Court set aside the alleged sale and accepted Fernandez's offer. On remand directed by the Supreme Court to implead all tenderers, the High Court again found against them. The matter returned to the Supreme Court.

The Supreme Court dismissed the appeals and, going further, set aside even the High Court's acceptance of Fernandez's offer – directing a fresh open auction because the true value of the jewellery remained unknown and might well exceed even Rs. 20.25 crores. Its reasoning rested on three foundations. First, no concluded contract had been formed on 9th March. The Minutes Book – the primary record – contained entries for 5th March and 8th March and then jumped directly to 15th May 1978; there were no minutes for 9th March at all. The tabular chart bearing alleged trustees' initials was of doubtful authenticity – none of the trustees other than Abbasi had entered the witness box, none had proved their initials, and it was humanly impossible to have prepared so elaborate a document in the half-hour between the opening and alleged acceptance of tenders. The Court held the story of acceptance on 9th March to be "a complete myth." Beyond this factual finding, the resolution of 8th March did not in its terms authorise the four remaining trustees to accept bids – authorisation to bind a trust estate must be express, specific, and in the clearest terms. The Chairman's telephonic enquiry and reported response of "Teek Hai" fell far short of formal authorisation. Second, even assuming a valid contract, it was frustrated by the ad interim injunction of 14th March – time being of the essence under Clauses 11 and 12 of the conditions of sale, performance had become impossible within the stipulated period. A lawyer's letter purporting to "demand" delivery was no tender in law. Third, the trustees' claim to "absolute" discretion under Clause 13 could not oust the jurisdiction of the Court under Section 49 of the Indian Trusts Act, which is unambiguous: where a discretionary power is not exercised reasonably and in good faith, a principal Civil Court may control it. No trust deed can extinguish this jurisdiction by describing the power as absolute. The trustees had sold jewellery of unknown – and possibly far greater – value without advertisement, without ascertaining true market value, and without approaching museums or reputed auction houses. They had not acted reasonably and in good faith, even absent fraud or corrupt motive. On the law of co-trustees, Sections 47 and 48 of the Act require all trustees to join in the execution of the trust unless the deed expressly provides otherwise; a majority cannot bind the trust.

Observation: This case speaks, at its deepest level, to a truth the law of trusts has always understood but that is easily forgotten in the urgency of commercial transactions: to hold property for another is to inhabit a position of the most exacting moral accountability. The Nizam had placed in his trustees' hands not merely an inventory of jewels but the last remnants of a civilisation that history had swept away – and the future security of those who bore his name. The evidence revealed not wickedness but something more insidious: a carelessness born of the habit of administering someone else's property. The trustees had aligned

themselves with the buyers rather than the beneficiaries – a posture the Court rightly identified as contrary to the very essence of their office. The word "absolute" in a trust deed is not a grant of sovereignty; it is at most an exclusion of liability for honest errors of judgment made in good faith after due enquiry. What occurred here fell far short of that standard. The Court's final direction – setting aside even Fernandez's higher offer and ordering a fresh open auction – was not merely a legal remedy. It was a statement that justice in a trust context demands not only the rejection of an improvident transaction but the creation of conditions in which the true value of what was entrusted can be genuinely discovered, in the full light of open competition, in service of those for whom the settlor placed his most prized possessions in trust.

V.C. Shukla v. State through CBI
1979 INSC 262

V.C. Shukla, who had held high public office during the Emergency, was proceeded against under the Special Courts Act, 1979 – enacted for the speedy trial by Special Courts of persons who held high office and were alleged to have committed offences during the Emergency period. The Special Court directed the framing of a charge against him under Section 120B IPC read with the Prevention of Corruption Act. He appealed to the Supreme Court under Section 11(1) of the Act. Before the merits could be reached, the Solicitor General Soli Sorabjee raised a preliminary objection: the order directing the framing of a charge was an interlocutory order against which no appeal lay under Section 11(1). The matter was referred to a larger Bench.

The Supreme Court, by a majority of three to one – Justices Fazal Ali, Sen, and Desai constituting the majority; Justice Shinghal dissenting – upheld the objection and dismissed the appeal as not maintainable. The majority drew a sharp distinction between "interlocutory order" as used in Section 397(2) CrPC – where this Court in *Amar Nath* and *Madhu Limaye* had held that orders substantially affecting the rights of the accused were not interlocutory – and the same expression in Section 11(1) of the Special Courts Act. Section 11(1) opens with the words "Notwithstanding anything in the Code" – an express exclusion of the CrPC's architecture, including the accused-friendly judicial gloss developed under Section 397(2). The natural and ordinary meaning of "interlocutory order" governed: an order is final if it finally disposes of the rights of the parties; it is interlocutory if the proceedings continue after it. An order framing a charge does not end the proceedings – the trial continues until acquittal or conviction. The Act had built into it exceptional safeguards before any case reached the Special Court

– investigation by the CBI, independent government satisfaction, a sitting High Court Judge as Special Judge, and a full right of appeal on facts and law after the final judgment. Allowing an appeal to the Supreme Court against every interlocutory order would flood the Court with preliminary appeals and defeat the Act's paramount purpose of speedy trial. Justice Shinghal, dissenting, held that an order framing a charge was at least intermediate or quasi-final in character, substantially affecting personal liberty and concluding the pre-trial stage; the right of appeal under Section 11 should be liberally construed in favour of liberty.

Observation: Beneath its technical surface, this case engages a tension of enduring importance – between the speed of justice and the fullness of justice; between the institutional imperative of efficient disposal and the individual's right to challenge every decisive step toward conviction. I find the majority's analysis compelling in its logic: the non-obstante clause was a deliberate legislative signal that the ordinary procedural architecture of the Code was not to govern this special regime, and to import the CrPC's judicial gloss would be to read that clause out of the statute. And yet Justice Shinghal's dissent commands deep respect, for the order framing a charge is not, in the lived experience of the accused, a trivial procedural step. It is the moment at which the State's allegation crystallises into a formal accusation and the accused is committed to the ordeal of trial. The law here was not unjust – the Act's design was fair and its safeguards real. But justice requires acknowledging that speed, however necessary, is not the only value a legal system must honour. The liberty of the subject is not a value to be traded away lightly, even for legitimate institutional purposes. Justice Shinghal's dissent is the conscience of the case – and consciences, even dissenting ones, deserve their record.

P.S.R. Sadhanantham v. Arunachalam
1980 INSC 16

Sadhanantham had been convicted of murder by the Sessions Court. The Madras High Court acquitted him on appeal. His brother Arunachalam – neither complainant nor first informant, a stranger to the prosecution on the record – petitioned the Supreme Court under Article 136 for special leave to appeal against the acquittal. The Court granted leave, heard the appeal, allowed it, and restored the conviction and life imprisonment. Sadhanantham, now imprisoned afresh, filed a writ petition under Article 32 attacking the constitutional foundations of what had been done to him. His contention was stark: Article 136 does not empower the Court to grant special leave to a private individual with no antecedent right of appeal under any statute; in the absence of a procedure established by law conferring such a right, the grant of leave and his resulting conviction violated Article

21. I appeared for the petitioner Sadhanantham alongside Mr. P.R. Mridul, whose argument the Court described as the "sheet anchor" of the petition.

The Supreme Court dismissed the writ petition unanimously, though with two separate opinions. The majority per Justice Krishna Iyer held that Article 136 is not a portal through which only those already possessing a statutory right of appeal may pass. It is an original and independent constitutional jurisdiction – residuary, extraordinary, omnipresent – vested in the Court to reach injustice wherever it occurs. The argument that Article 136 requires a pre-existing statutory right was described as "ingenious but fallacious." On whether Article 21 was satisfied, the majority held that Article 136 is itself composite: it is power and procedure combined. The very fact of entrusting this jurisdiction to the highest court implies adherence to judicial principles, scrupulous fairness, and the disciplines of legal reasoning. This built-in procedural architecture satisfies Article 21's requirement of "procedure established by law." The discretion, however, must be exercised with restraint – meddlesome bystanders, personal vendettists, and officious adventurers are not to be given access to this Court at the expense of another's liberty. But in situations of bureaucratic indifference, politicisation of prosecution, or State failure, a bona fide citizen may be permitted to step forward. Justice Pathak, concurring, emphasised that crime is a wrong against the public at large and that the Court should entertain such petitions only where genuinely convinced that public interest justifies the appeal and that the State's inaction is for extraneous reasons.

Observation: To write the observation for a case in which one appeared for the losing side requires a particular honesty – and perhaps a particular insight into why the losing argument, though technically elegant, was ultimately wrong. The argument for Sadhanantham rested on classical foundations: a right of appeal is the creature of statute; without statutory authorisation no person may challenge a judgment in a superior court; Article 136 confers no right on any litigant – it is a discretionary power vested in the Court. How then could the brother of the deceased, armed with no statute and no standing on the record, invoke this jurisdiction to imperil the liberty of an acquitted man? The Court's answer was constitutionally necessary: Article 136 is not a supplement to statutory appellate rights but their constitutional superior, designed to operate precisely in spaces where the statutory architecture fails to deliver justice. To require a prior statutory right as a condition precedent would make this extraordinary jurisdiction captive to the very ordinary system it was created to transcend. What gives the case its permanent resonance is Justice Krishna Iyer's observation that justice is "functionally outraged not only when an innocent person is punished but also when a guilty criminal gets away with it, stultifying the legal system." Law conceived only as the

protection of the accused is an incomplete instrument. Justice is bilateral. And yet the Petitioner's concern was not without merit as a matter of principle: an acquittal is a determination by a competent court that the prosecution has failed. To expose that determination to challenge by any private citizen willing to invoke this Court's jurisdiction raises genuine anxieties about the finality of acquittals and the security of liberty. The Court's answer – that the jurisdiction must be sparingly exercised – is the right answer. But the discipline of that discretion rests with the Court, not with any enforceable rule. It is a trust reposed in the highest institution of the land, and the weight of that trust is not light.

P.N. Eswara Iyer v. Registrar, Supreme Court of India
1979 INSC

An amendment to Order XL of the Supreme Court Rules, 1966 – the rules governing review petitions – lay at the heart of this challenge. The amendment made two significant changes: it removed the requirement of an advocate's certificate as a condition precedent, and it provided that unless otherwise ordered, review petitions would be disposed of by circulation rather than by oral hearing in open court, with the petitioner confined to supplementary written arguments. Judges would then either dismiss the petition outright or direct notice and an oral hearing if a prima facie ground for review was found. The amendment had been prompted by the degeneration of the earlier system – certification had become routine, review petitions had multiplied, and dockets were clogged with what the Court itself described as "unwanted review babies." Several petitioners challenged the amended rule under Article 32, contending that the elimination of oral advocacy and open court hearing was subversive of basic principles of judicial justice; that circulation was incompatible with the public character of judicial proceedings; and that restricting criminal review to "errors apparent on the face of the record" was discriminatory under Article 14. The Supreme Court Bar Association intervened through its President, Dr. L.M. Singhvi.

The Supreme Court dismissed all writ petitions unanimously. The majority per Justice Krishna Iyer drew a careful distinction between an original hearing and a review – a second look at a decision already rendered after full oral argument. Review is not a fresh trial; its scope is limited to new evidence not earlier available, error apparent on the face of the record, or other sufficient reason. Given that the same judges who heard the case originally deal with the review papers, and given that oral hearing is not eliminated but deferred to the stage where it is genuinely needed, the circulation procedure was rational rather than arbitrary. Comparative practice reinforced this: the United States Supreme Court's conference procedure and the House of Lords' practice of committing petitions to an appeal committee

before directing oral hearing both demonstrated that restriction of orality at preliminary stages was consistent with the highest judicial traditions. On the alleged discrimination between civil and criminal review, the majority held that Article 137 – the constitutional source of the review power – is equally wide for both; the expression "record" in the rule includes any material brought on record with the Court's leave; the apparent distinction dissolved on a purposive reading. Justice Pathak, concurring, held that oral hearing is not mandatory at the preliminary screening stage – where there is no doubt whatsoever that a review is without substance, oral hearing is superfluous.

Observation: This case sits at the intersection of two deep commitments of the Indian legal tradition: the sanctity of oral advocacy, and the imperative of institutional efficiency. The Bar, through Dr. Singhvi, was not wrong to raise its voice. The spoken word, as Justice Krishna Iyer acknowledged with genuine warmth, is irreplaceable – "the intellectual lacework of intricate legal reasoning and impassioned sculpture of delicate factual emphasis may often be beyond the craftsmanship of pen and paper." And yet the Court was right. Review is not appeal; it is a second look, not a second trial. The amendment did not eliminate oral advocacy – it relocated it to the stage where it could do the most good: after the Court had found, on its own preliminary examination, that there was something worth arguing. What I find most enduring about this case is Justice Krishna Iyer's observation on the management of justice as an institutional imperative. The "litigative Ganga" will swell – in a democracy of India's dimensions and aspiration, it inevitably will. Court management, modernisation, and the rationalisation of procedure are not betrayals of justice; they are its preconditions. A court that cannot move cannot serve. The review of one's own judgment is also, as the Court notes, an act of institutional humility – the acknowledgment that even the highest court may err. The Court secure enough in its authority to review its own orders, and wise enough to do so on proper grounds rather than on demand, has truly understood its role.

Gurbaksh Singh Sibbia v. State of Punjab
1980 INSC

Gurbaksh Singh Sibbia, a Minister of Irrigation and Power in Punjab, faced grave allegations of political corruption. Applications were filed before the Punjab and Haryana High Court under Section 438 CrPC – the provision for anticipatory bail, introduced for the first time in the 1973 Code – praying for bail in the event of arrest. A Full Bench dismissed the applications and formulated an eight-point code of conditions governing the exercise of the power. These included: that the power was extraordinary and must be exercised sparingly in exceptional cases only;

that the limitations of Section 437 were implicitly contained in Section 438; that the petitioner must make out a "special case"; that the power should not be exercised in cases punishable with death or life imprisonment unless the charge appeared false; and that in cases of serious corruption by persons at higher rungs of executive and political power, the discretion should not be exercised at all.

The Constitution Bench allowed the appeals in part, substantially set aside the Full Bench judgment, and restored the full amplitude of Section 438. The legislative history was decisive: the 41st Report of the Law Commission had deliberately chosen not to enumerate conditions exhaustively, and Parliament had chosen not to follow the model of Sections 437 and 439 with their specific restrictions. To read those restrictions back into Section 438 was to undo a deliberate legislative departure. Section 438(1) uses the language "may, if it thinks fit" – conferring the widest discretionary latitude. Since denial of anticipatory bail is a deprivation of personal liberty, the Court must lean against imposing restrictions not found in the statutory text. Six of the eight Full Bench propositions were substantially rejected. The power is not "extraordinary" in the sense of being reserved for exceptional cases only. The conditions of Section 437 cannot be read into Section 438. Requiring a "special case" reduces a beneficial provision to a dead letter. The bar in cases punishable with death or life imprisonment under Section 437 exists for reasons applicable to a different situation. The proposition foreclosing the power in cases of political corruption is unworkable at the stage before evidence is assembled. Only the proposition against "blanket orders" covering any and every future offence was accepted – the applicant must demonstrate reason to believe he may be arrested for a specific non-bailable offence. The Court clarified further: an FIR is not a condition precedent for applying under Section 438; the power survives even after an FIR but ceases upon arrest; an order need not be limited in point of time; notice to the public prosecutor need not precede an ad interim order but must follow forthwith; anticipatory bail does not impede investigation.

Observation: This is among the most significant criminal law judgments of the era in which I have practised – a judgment that rescued a fundamental provision of the Code from being throttled in its infancy by a well-intentioned but over-cautious judicial construction. The Full Bench had not acted in bad faith; it had acted in anxiety. But anxiety, when translated into an eight-point code of self-imposed restrictions, produces exactly the wrong result – a provision designed to protect the innocent from politically motivated arrest becomes available only to those who can already prove the accusation false. That is not protection at all. The deepest teaching of this judgment lies in the Court's treatment of judicial discretion. The Full Bench had sought certainty – a code of clear rules to guide a power

it feared might be abused. The Supreme Court reminded it that certainty achieved by foreclosing categories is a false certainty. Life is never static. A rule that seems protective in one set of facts becomes an instrument of injustice in another. The legislature had advisedly chosen not to enumerate conditions; it had trusted the superior courts. The judiciary should have trusted itself. This judgment also carries a warning that resonates across every decade of my practice: that the criminal process can be perverted for political ends; that the parade of a respectable person in handcuffs serves its purpose before a conviction is ever secured; and that anticipatory bail exists precisely to protect against this perversion. The law's concern for the liberty of the accused – even the accused of serious offences – is not sentimentality. It is the mark of a legal system that has internalised the presumption of innocence as a living constitutional principle rather than a formal platitude.

Bar Council of Delhi v. Surjeet Singh
1980 INSC 102

The Bar Council of Delhi, by a proviso added to Rule 3(j) of its Election Rules with the approval of the Bar Council of India, required every advocate to file a declaration confirming that he was practising in Delhi, was not an undischarged insolvent, had not been convicted of moral turpitude, was not in full-time service, and had not been suspended – within a stipulated period. Failure to file in time resulted in automatic exclusion from the electoral roll. Approximately 2,000 of the 5,000-odd advocates on the State roll failed to submit their declarations and were excluded. The election of November 1978 proceeded on a roll of barely 3,000 advocates. Writ petitions challenging the election were filed in the Delhi High Court, which set aside the entire election. The Bar Council of Delhi and Bar Council of India appealed.

The Supreme Court dismissed the appeals. Section 3(4) of the Advocates Act vests the power to prescribe qualifications and conditions entitling an advocate to vote exclusively in the Bar Council of India; Section 49(1)(a) expressly confers on the Bar Council of India the power to frame rules governing electoral qualifications, disqualifications, and the preparation of electoral rolls. The State Bar Council's power is confined to preparing and revising rolls in accordance with rules made by the Bar Council of India – it is procedural and ministerial, not substantive. It cannot, in the garb of an election rule, prescribe new conditions of voter eligibility. The impugned proviso did precisely that: automatic exclusion for failure to file a declaration – regardless of whether any actual statutory disqualification applied – was the creation of a new disqualification, a power residing exclusively in the Bar Council of India. The approval of the Bar Council of India did not cure this inval-

idity: making a rule and approving a rule are two distinct acts; approval can lend validity to a State Bar Council's rule only if the rule was within the State Bar Council's competence in the first place. Approval of an ultra vires rule does not cure the substantive incapacity. The challenge to the election by writ petition was also maintainable – the Election Tribunal had no jurisdiction to declare a provision of the Election Rules ultra vires; the infirmity went to the very root of the electoral roll's preparation, and the writ jurisdiction was properly invoked. Estoppel did not bar the petitioners: a voter who participated in the election retained his right to challenge it on grounds going to the foundation of the process.

Observation: This case touches the legal profession at its most vulnerable – its internal governance. The Bar Council of Delhi had proceeded from an understandable frustration: large numbers of advocates enrolled in Delhi had drifted away, ceased to practise within its jurisdiction, and yet remained on the State roll with all attendant electoral rights. The impulse to clean the rolls was not wrong. The method was. In seeking to solve a genuine governance problem, the Bar Council of Delhi overreached – and in doing so, disenfranchised two thousand of its own members without the legal authority to do so. The deeper lesson, resonant for a profession that must hold itself to the highest standards of rule adherence, is this: the means must be as impeccable as the end. Institutional competence is not a formality that approval can supply – making a rule and approving a rule are different things in substance, and a State Bar Council cannot acquire a power it does not possess simply because the parent body endorses its exercise of it. The law recognises that procedural rights – including the right to vote in elections to one's own professional body – cannot be extinguished by administrative shortcut. The Bar, of all institutions, must know this best.

Minerva Mills Ltd. v. Union of India
1980 INSC 140

I appeared in this matter with Mr. R.K. Rastogi, Advocate General for Rajasthan, after seeking due permission from my senior Mr. P.R. Mridul. Mr. N.A. Palkhiwala appeared for the Petitioners; Mr. L.N. Sinha as Attorney General appeared for the Union of India. I followed the hearing from 10.30 a.m. to 4.00 p.m. each day, prepared and submitted written submissions on behalf of the State of Rajasthan, and took Mr. Rastogi's permission to put my name to them. Chief Justice Y.V. Chandrachud, in his judgment, duly recorded that. The feeling of recognition – however small – was profound.

Minerva Mills Limited, a textile company in Karnataka, had been taken over under Section 18A of the Industries (Development and Regulation) Act, 1951

and subsequently nationalised and included in the Ninth Schedule by the Constitution (Thirty-ninth Amendment) Act. The petitioners challenged two provisions of the Constitution (Forty-second Amendment) Act, 1976 – enacted during the Emergency: Section 4, which expanded Article 31C to protect laws giving effect to any Directive Principle in all of Part IV from challenge under Articles 14 and 19; and Section 55, which inserted Clauses (4) and (5) into Article 368 – declaring no limitation whatsoever on Parliament's amending power and depriving courts of the power to call in question any constitutional amendment on any ground.

The Supreme Court, by a majority of four to one – Chief Justice Chandrachud and Justices Gupta, Untwalia, and Kailasam; Justice Bhagwati concurring in part – struck down both provisions as unconstitutional. On Section 55: Clause (5), which declared Parliament's amending power unlimited, transgressed the limitation which *Kesavananda Bharati* had identified as itself a basic feature of the Constitution. A limited amending power was conferred by the Constitution on Parliament – Parliament did not possess it inherently. A donee of a limited power cannot, by the exercise of that very power, convert it into an unlimited one. The power to destroy is not a power to amend. Clause (4), which deprived courts of all power to examine any constitutional amendment, was equally void: the Constitution is founded on a careful balance among the three branches of State; if courts are totally deprived of examining the validity of amendments, fundamental rights become rights without remedies – as writ in water. The right under Article 32 to move the Supreme Court for enforcement of fundamental rights would be drained of all content. Clauses (4) and (5) were inter-linked – together they constituted a transparent attempt to make Parliament sovereign over the Constitution itself. On Section 4: The original Article 31C, which protected laws enacted under Articles 39(b) and (c), had been upheld in *Kesavananda Bharati* as a reasonable abridgement in a defined field. The 1976 amendment extended this protection to laws giving effect to any Directive Principle – effectively withdrawing Articles 14 and 19 from the bulk of legislative activity. Articles 14 and 19 are not ornamental rights; they are the elementary requirements for the functioning of democracy. The Constitution is founded on a balance between Parts III and IV – like two wheels of a chariot: snap one and the other loses its efficacy. To give absolute primacy to one over the other disturbs this harmony and damages the basic structure. Justice Bhagwati, concurring on Section 55 but dissenting on Section 4, held that Directive Principles and Fundamental Rights are not unequals; a law genuinely enacted for a Directive Principle would not violate the substantive equality underlying Article 14.

Observation: Minerva Mills is among the most important constitutional judgments in the history of this Court – This was not an ordinary case of government

versus citizen. It was a case about the Constitution itself – whether Parliament, in the extraordinary conditions of the Emergency, had attempted to place itself above the document from which it derived its very existence. The Forty-second Amendment was the Emergency's most ambitious constitutional project: to make Parliament sovereign over the Constitution, the Constitution sovereign over the courts, and in doing so the Executive sovereign over democracy itself. Chief Justice Chandrachud's formulation will endure: *"Three Articles of the Indian Constitution and only three stand between the heaven of freedom into which Tagore wanted his country to awake and the abyss of unrestrained power. They are Articles 14, 19 and 21."* That is not rhetoric. It is constitutional anatomy. The Forty-second Amendment was, in constitutional terms, an attempt at the death of law – the replacement of a framework built on the balance of power and the protection of the individual with a structure of unqualified legislative supremacy. The Court's judgment was the birth of justice restored: the Constitution as a living covenant between the people and their government, in which the government's power to pursue social goals is real but bounded, and the people's rights are not parchment guarantees but enforceable constitutional mandates. I have never forgotten the feeling of being present in that courtroom – small in role, large in witness – as that covenant was reaffirmed.

S.P. Gupta v. Union of India
1981 INSC 209

The case arose from a convergence of three executive actions taken by the Union Government between January and May 1981, each of which the petitioners – practicing advocates of several High Courts – contended struck at the independence of the judiciary as a basic feature of the Constitution.

The Circular Letter of 18.03.1981Shri P. Shivshankar, the then Law Minister of India, addressed a circular letter on 18.03.1981 to the Governors of the States and the Chief Ministers (except those of the North-Eastern States), requesting them to obtain, through the Chief Justices of their respective High Courts, the written consent of sitting Additional Judges to being appointed as permanent Judges in High Courts outside their home States. Persons who had already been recommended – or who might in future be recommended – for initial appointment were likewise required to indicate, in order of preference, three High Courts to which they would be willing to go. The circular expressly clarified that the furnishing of consent imposed no obligation on the Government to honour the stated preferences. This circular gave expression to a policy – approved by the Chief Justice of India – that one-third of the Judges in every High Court should come from outside the State in which that High Court was situated. The petition-

ers challenged the circular as subversive of judicial independence, arguing that it subjected additional Judges to an implied threat: consent or be discontinued.

Short-Term Extensions of Additional Judges Prior to and following the circular, the President, acting under Article 224 of the Constitution, had been granting serial short-term extensions – of three months, six months, or one year – to sitting Additional Judges of the High Courts of Allahabad, Bombay and Delhi whose original terms had neared expiry. Three Additional Judges of the Delhi High Court – Mr. Justice O.N. Vohra, Mr. Justice S.N. Kumar and Mr. Justice S.B. Wad – were extended for a period of only six months on the recommendation of the Chief Justice of India, and then for a further three months by the Central Government. Subsequently, Mr. Justice S.N. Kumar was not given any further appointment, relying upon an adverse opinion furnished by the Chief Justice of the Delhi High Court regarding his integrity. Mr. Justice O.N. Vohra was also dropped outright. The short-term extension of Additional Judges, the petitioners argued, placed them in an intolerable condition of dependence upon executive favour, fundamentally incompatible with the security of tenure that judicial independence demands.

By a Presidential order dated 19.01.1981, Mr. Justice M.M. Ismail, the then Chief Justice of the Madras High Court, was transferred to the Kerala High Court as Chief Justice, and Mr. Justice K.B.N. Singh, Chief Justice of the Patna High Court, was transferred to the Madras High Court as Chief Justice. Mr. Justice Ismail refused to comply with the transfer, filed an affidavit declining to proceed to Kerala, and ultimately resigned from high office. Mr. Justice K.B.N. Singh actively resisted his transfer, transposing himself as a petitioner in the proceedings before this Court.

Nine writ petitions in all were transferred to or filed directly before the Supreme Court, raising substantially common constitutional questions regarding the appointment, extension, and transfer of Judges of the High Courts – forming two broad groups: one concerning the circular and the short-term extensions (Transferred Cases Nos. 19–22 of 1981), and the other concerning the transfer of the two Chief Justices (Writ Petition No. 274 of 1981 and allied matters).

Apart from the various constitutional questions that fell for determination, my research was on whether the State could claim privilege against disclosure of the correspondence exchanged between the Law Minister, the Chief Justice of a High Court, and the Chief Justice of India in matters concerning the appointment and transfer of Judges. There was judgment of **Nixon v. U.S.** which held the field on the question of privileges by the State. I knew that the State could not, but I requested I had the judgment of *Mirajkar vs. Union of India* AIR *1967 SC 1,* where a nine-judges bench of the Supreme Court held that no writ can be filed against the judgment of any court, and the only way to challenge its validity was

by way of appeal, review, revision or special leave petition.

Mr. P.R. Mridul made his submission with all the vehemence and brilliance at his command. The argument on privilege was conducted on behalf of the Union of India and the Law Minister: that the correspondence between the Law Minister, the Chief Justice of Delhi, and the Chief Justice of India regarding the non-extension of Justice S.N. Kumar's term was protected against disclosure – both under the constitutional mandate of Article 74 clause (2), which bars any court from inquiring into advice tendered by the Council of Ministers to the President, and under sections 123 and 124 of the Indian Evidence Act, since its disclosure would cause serious injury to public interest. Mr. Mridul argued with his characteristic force that the views of the two Chief Justices, obtained through the constitutionally prescribed process of consultation, formed material of the highest confidence – the frank expression of constitutional functionaries who had every reason to believe, over two centuries of consistent practice, that such communications would remain privileged.

When the judgment came, Mr. Mridul happily told me that we had secured one out of seven judges deciding in our favour. Justice S. Murtaza Fazal Ali gave a lone but luminous dissenting opinion, agreeing entirely with the submissions we had made.

Justice Fazal Ali's dissent was no mere technical disagreement. After personally inspecting the documents, he upheld the State's plea of privilege, recording in his interim order of 16.10.1981: *"I am afraid, I am unable to persuade myself to agree... I am clearly of the opinion, after inspecting the documents and considering the pros and cons, various shades and aspects of the matter with all its ramifications, that it is not in public interest to disclose the contents of the documents... I am aware that my voice is a lone dissent but I am satisfied that I am in good company with my judicial conscience."*

The substance of his reasoning was both principled and prophetic. He held that the codified law of India – sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution – was not a matter of judicial discretion to be swept aside in favour of the liberal American doctrine of candour. He distinguished the constitutional foundations of India's system from the American pattern, noting that India had deliberately adopted the English framework, and that Parliament's decades-long silence in not liberalising the privilege provisions was itself a considered legislative statement. More striking was his warning of consequence: that the disclosure of secret correspondence between the Chief Justice of India, the Chief Justice of Delhi, and the Law Minister – officials who had expressed their views in confidence on the solemn assumption of privilege – would destroy the consultative process the Constitution had envisioned, bring the judi-

ciary into disrepute, and open a Pandora's box from which no institution would emerge unscathed. He concluded gravely: *"It is difficult to construct an edifice but very easy to demolish the same. But, alas! we have demolished it and caused irreparable damage for which our future generation will never forgive us. Whether I was right in upholding the plea of privilege, or my Brothers in ordering disclosure of documents, only time will tell."*

The six-judge majority, of course, held otherwise – ordering disclosure and settling the law in the direction of open governance and transparency in judicial appointments. And the judgment became, rightly, a landmark.

But for me, the deeper fascination lay elsewhere. Whether one agreed with Justice Fazal Ali or with the majority, what one witnessed in S.P. Gupta was not interpretation – it was creation. A seven-judge Bench, in the space of a single judgment, had refashioned the constitutional law of judicial independence, State privilege, locus standi, and the consultative process of judicial appointments. The law that emerged from that Bench did not pre-exist in any statute. Parliament had not made it. It was conceived in the arguments of counsel, nurtured through weeks of submission and counter-submission, and delivered by the Court as living constitutional doctrine. Brick by brick, as I had always sensed, the law is not merely interpreted by the courts – it is created there.

On Being a Son of a Judge

10.10.1978 (Article)

I do not speak of olden golden days, nor do I claim to know the shape of future platinum. I speak only of what I have observed and what I have known: that to be born into a family where integrity, values, and honest work are part of one's natural inheritance is itself a form of grace – not a burden, but a foundation. In Chapter VI, Shlokas 40–41 of the Bhagwad Gita, in reply to Arjuna's query as to what end meets the person who, though possessed of faith, is unable to control himself and whose mind deviates from *yog*, the Blessed Lord says: *"O Partha, neither in this world nor in the next is there destruction for him. The doer of good, O my son, never comes to grief. Having attained to the worlds of the righteous and having lived there for countless years, he who falls from yog is reborn in the house of the pure and the prosperous."*

I was born into such a house – and I believe many others too are similarly born into families where purity, integrity, discipline, and character are not treated as burdens or limitations, but as the very substance of a meaningful life. These are not constraints. They are the conditions from which a life of dignity quietly emerges.

My grandfather was the first person in Jaipur to complete a B.A. in English,

in 1914. He obtained his LL.B. degree in 1926 and joined the judicial service of the erstwhile State of Jaipur on 07.01.1929, as a Munsif Magistrate. He carried with him a character of quiet integrity, disciplined simplicity, and deep faith in cosmic energy. He retired as the first Registrar of the High Court of Rajasthan on 31.03.1952.

My father obtained his LL.B. degree in 1945 and joined the Bar in 1951. From 1958 to 1973, the hours he kept were those of a man wholly dedicated to his work – communicating with clients even through postcards, sometimes while seated in a cinema hall. He was elevated as a Judge in 1973. No client ever entered our home socially. He was known – and remains remembered – for his perseverance, integrity, discipline, and unwavering commitment to work.

Scott Newman, son of Paul Newman, once observed: *"The only thing my dad helps me get is my foot in the door. But no one in their right mind is going to hire somebody to handle a part just because he's somebody's son."*

That observation resonates deeply with my own experience as well. Having graduated from Jodhpur and walked into the Supreme Court of India on 01.08.1976, carrying one attaché case, one copy of the Bhagwad Gita, seven volumes of The Complete Works of Swami Vivekananda, and the essays of Ralph Waldo Emerson, I certainly carried a name – but the name was only a beginning, never a guarantee.

Being the son of a Judge places one in an interesting position. Success is often received as natural – "*of course, he is a Judge's son.*" Yet that very assumption becomes its own quiet test: to demonstrate that preparation, discipline, advocacy, and professional competence stand entirely on their own foundation.

That test is one I have always welcomed. The values of the house one comes from are not shortcuts to achievement. They are merely the soil. What grows in that soil is entirely one's own responsibility.

Author's Bridge: The Subterranean Roots: The intellectual seeds that would eventually find expression in my essays on Ideology and Development in 1984 and 1986 were not planted in those years alone. Their germination had begun much earlier – in the intense, demanding, and intellectually rigorous atmosphere of the chambers of Mr. P.R. Mridul. It was a space where preparation had to be absolute, precision was expected, and intellectual honesty was non-negotiable.

Much of my worldview was quietly shaped during those years – in long evenings and late-night hours spent moving between the opposing philosophical poles of Ayn Rand and Harold Laski, or balancing the spiritual clarity of the Bhagwad Gita with the analytical skepticism of Bertrand Russell. It was further nurtured through discussions, study circles, and exchanges where Mr. Vijay Panjwani first encouraged a young and somewhat hesitant advocate to commit his thoughts

to paper for public reflection and discussion.

My core convictions – that meaningful development is impossible without institutional integrity; that ideology divorced from practical application eventually degenerates into rhetoric; and that true education lies not merely in accumulation of information, but in the capacity to think independently, constructively, and responsibly – did not arrive suddenly or fully formed. They accumulated gradually: line by line, argument by argument, brief by brief.

They were shaped while reading judgements in the stillness of early mornings, while preparing matters deep into the night, and while sitting silently through high-stakes conferences as seniors argued strategy, principle, law, and consequence, and the deeper architecture of institutions slowly began revealing itself.

What eventually appeared years later in the INC Youth Magazine was therefore not the birth of those ideas, but merely their first public articulation. The convictions themselves had been quietly taking shape ever since my arrival in the Supreme Court of India in 1976.To understand the visible expression of those ideas, one must first understand the silent and subterranean roots from which they emerged.

Inspirational Thoughts

A collection of marginalia and quotes that served as the intellectual scaffolding

> *"A point is reached in civilised society where the human mind is capable of appreciating, and of comprehending, the trend of such evolution, and also of controlling it and thereby artificially to some extent directing the speeding up of social progress."*
>
> **– Herbert Spencer (1820–1903)**

…

> *Indians have always arisen who, discarding the immediate and absorbing prize of the hour, have sought for the realisation of the highest ideals in life – not through passive renunciation but through active struggle. The weaklings who have refused the conflict, acquiring nothing, have had nothing to renounce. The alone who has striven and won can enrich the world by bestowing the fruits of his victorious experience.*
>
> **– Sir J.C. Bose**

…

> *Nothing braces the mind so much as training in the ability to apply powers to disagreeable tasks.*

…

> *"Die, then! Die if you must, Mukunda! Never believe that you live by the power of food and not by the power of God! He who has created every form of nourishment, He who has bestowed*

appetite, will inevitably see that His devotee is maintained. Do not imagine that rice sustains you, nor that money or man supports you. They are His instruments merely. Use the sword of your discrimination, Mukunda! Cut through the chains of agency and perceive the single cause!"

– Autobiography of a Yogi – Paramhansa Yogananda, p. 91

…

"Before you can lead, you must know how to follow."

– Honor Thy Father – Gay Talese

…

The man of melancholy disposition is little concerned with the judgment of others… He has a lofty sense of the dignity of human nature. He esteems himself and regards man as a creature deserving of respect. He suffers no abject subservience and breathes the noble air of freedom.

– Immanuel Kant – Observations on the Feeling of the Beautiful and the Sublime

…

Hamilton turned out to be one of the small class of men of whom it has been justly said that they appear as levers to uplift the earth and roll it into another course, but they do not attain to such rare functions by the high range of their ambitions but by the large development of their powers.

…

"It is no disgrace to be a shoemaker, but it is a shame for a shoemaker to make bad shoes."

…

– Scribblings

"To become a great professional, you have to first become a great human being."

…

– Scribblings

"Only a life lived for others is the life worthwhile."

– Albert Einstein

…

"TThe heights that great men reached and kept were not attained by sudden flight, but they, while their companions slept, were toiling upward in the night."

– Henry Wadsworth Longfellow

…

"Most of the shadows of this life are caused by our standing in our own sunshine."

– Ralph Waldo Emerson

…

"The larger the island of knowledge, the longer the shoreline of wonder."

– Ralph W. Sockman, Now to Live

…

"Some books are to be tasted, others to be swallowed, and some few to be chewed and digested."

– Francis Bacon, Of Studies

…

"Do not attach importance to being known but try and be worth knowing."

– Confucius

"Remember – at the time of thy birth all laughed, thou cried. Live in such a way that at the time of thy death, all were to cry, thou alone smiling."

– Sadi

…

No quest is higher than the quest of knowledge; no knowledge higher than the knowledge of self.

– Scribblings

…

Life is a science; to live it is an art.

– Scribblings

…

"You are too good for what you want to do with yourself… I will not help you at all. I will not discourage you. I will not teach you any common sense. Instead, I will push you on. I will drive you the way you are going now. I will beat you into remaining what you are, and I will make you worse".

– The Fountainhead – Ayn Rand, (Cameron to Roark)

…

"Even in failure there is a preparation for success."

– Sri Aurobindo

…

"Fight and fall nobly or conquer mightily."

– Sri Aurobindo

…

The need of the country is socialism, not state capitalism.

– P.R. Mridul, Senior Advocate

Afterword – The Craftsman's Education

On 01.08.1976, I entered the profession; on 31.03.1978, I closed the door of 20-A, Lawyers' Chambers behind me for the last time as a junior apprentice. Years later, on 31.07.1982, the door of M-90, Greater Kailash, was similarly, consciously closed.

In those six years – twenty months with Ramamurti & Co., and over four years with Mr. P.R. Mridul – I received an education that no law school on earth could replicate. It was not an education in the law as an academic subject, but in the law as an active, living discipline. I saw it continuously applied to the raw friction of human life, continuously tested by the finest legal minds of the country, and continuously reshaped by a Supreme Court engaged in nothing less than rewriting the working philosophy of the Republic.

What I carried away from that foundational era was not a mere index of legal propositions, though those propositions were vast and deep. I walked away with a distinct set of professional habits:

- **The Habit of Preparation:** Reading until a matter was fully understood, never stalling at the point where it was merely sufficiently understood.
- **The Habit of Precision:** Saying exactly what needed to be said, and possessing the restraint to say nothing more.
- **The Habit of Intellectual Honesty:** Choosing to directly acknowledge a legal vulnerability rather than trying to conceal it – persuading the court to see why the flaw, though real, did not defeat the broader justice of the cause. It meant learning the delicate art of working within the statutory architecture: never violating the law, but masterfully tracing its outer parameters to uncover a remedy.
- **The Habit of Continuity:** Remaining dynamically alive to developments across all fields of law, refusing to let specialisation become an intellectual straitjacket.

The judgements chronicled in this chapter are far more than historical precedents. Taken together, they form a vivid portrait of a vulnerable Republic in the agonising process of self-definition. They capture a nation recovering from the wounds of the Emergency, fighting to insulate the independence of its judiciary, expanding protections for its working class, balancing the tension between fundamental rights and directive principles, and insisting – argument by argument—that the Constitution is not a political slogan, but a sacred commitment.

I was there to witness all of it, positioned right at the centre of the storm—to see, to comprehend, and to be thoroughly shaped by what I saw. The craftsman

had finally been forged. My independent practice had begun, the briefs were trickling in, and it was time to step out and serve the Mistress of Law with all her grandeur, her discipline, and her occasional magnificence.

A profound question, which had first stirred in the youthful elation of reading *Maneka Gandhi (supra)*, had deepened through *Minerva Mills (supra)* – those cases where the Court had come so tantalisingly close to absolute justice, only to stop short at the precipice. The question was not yet urgent, but it was growing. And whatever grows in the deep silence of a life devoted to a single, singular purpose, will eventually demand to be answered.

Interlude
Before I Began to Speak Through Law (1975–1976)

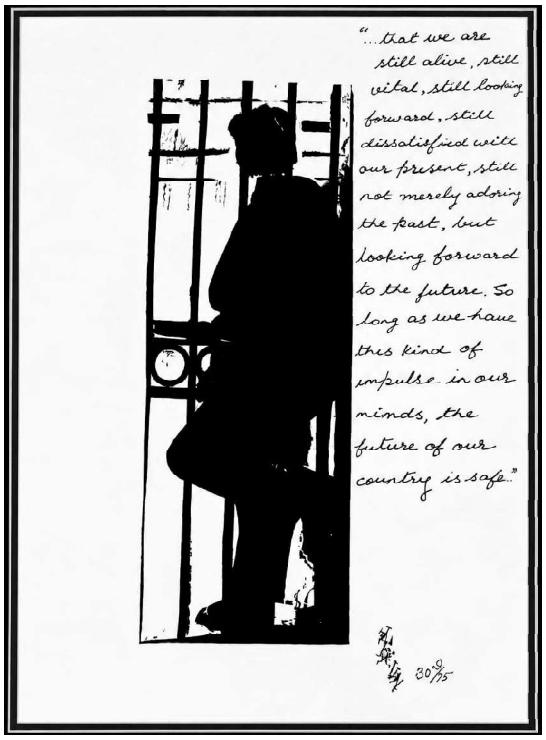
Long before I stood before the Supreme Court and learned to compose an argument, I had been composing in another medium entirely. From my school years, I had loved drawing – the discipline of observation, the patience of line, and the way a pencil could hold what the eye had seen and the mind had felt. Between 1973 and 1976, during my law studies and in the months immediately before I entered the profession, that impulse became more sustained. I drew without ambition and without audience. These works emerged simply because observation demanded expression.

The drawings reproduced here were created during those years. Over five decades, the original paper had yellowed and some of the lines had lost their sharpness. They have been digitally restored using artificial intelligence solely to recover clarity – not to alter character. What is preserved is what was drawn then.

Looking back now, I understand that these drawings were not separate from law. They preceded it. The same impulse that later searched for justice through arguments had already begun searching for meaning on paper. Observation became listening. Listening became understanding. Understanding became argument. Argument gradually opened into dialogue. And dialogue eventually found its way into law, mediation, philosophy, and writing.

These are fragments of an inner landscape that existed before professional identity formed. Every calling, perhaps, begins elsewhere.

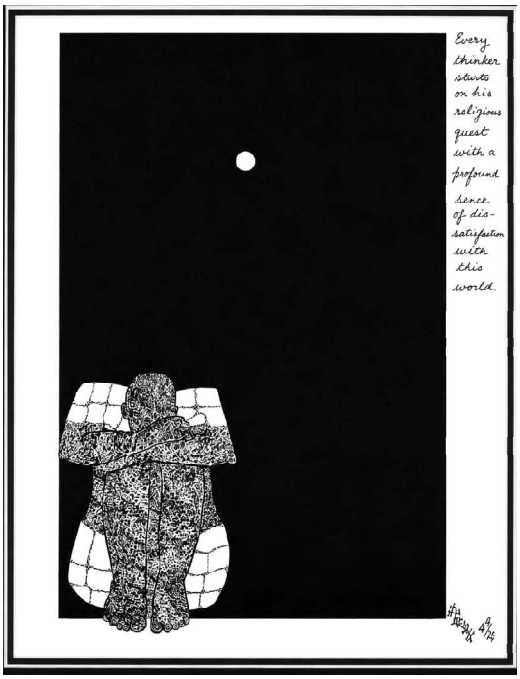
Mine began with black ink and a pencil.



Looking Forward
The future begins before movement becomes visible.



Bondage
Not every confinement is visible.



Solitude
In stillness, the questions that the world cannot answer begin to form.



Faces in Shadow
Identity often emerges at the edge of light.



Age and Advice
Humour is one of the gentlest forms of truth.



Woman with Matka
Form, balance, grace - and continuity.



Child Portrait
Observation before interpretation.

CHAPTER 3

01.08.1982 – 16.06.1990
Standing Alone: The Arena Widens
Major Battles, International Steps, Corporate Law and Emergence of a Vision

First Major Litigation in Chennai (Madras)

On the morning of 15.08.1982 – India's Independence Day – the telephone rang at around eleven o'clock. It was Mr. P.R. Mridul, Senior Advocate, with whom I had worked closely and whose standards of preparation had shaped much of my early professional discipline. He mentioned a significant case pending in the High Court of Madras and asked whether I would assist him, and on what terms. I quoted Rs. 1,100 per day. After a brief consultation with the advocates present in his room, he agreed without further negotiation and asked me to come to his office immediately.

I arrived within five minutes. Seated there were Mr. Narayan Nettar and another gentleman, whom Mr. Mridul introduced as Mr. R.K. Naroola. I did not know it then, but this introduction proved to be one of the most consequential of my professional life. This was to be my first independent brief outside Delhi – the first time I would carry the full weight of preparation without the familiar scaffolding of the capital's courts and colleagues. I felt, in equal measure, the excitement of new ground and the quiet responsibility that comes with it.

The case was a First Appeal before the Madras High Court. We represented the respondents, Kullitalai Cane Farms, in their dispute against Kaveri Sugar Mills. A set of briefs was placed in my hands with the instruction to prepare meticulously and brief Mr. Mridul. The appeal was listed for November 1982, which meant an early morning flight – 6:30 a.m. – to Madras via Hyderabad, in time for a 2 p.m. listing. Opposing us was Mr. G. Ramaswamy, one of the most distinguished Senior Advocates at the Madras Bar – a formidable adversary whose reputation alone demanded that our preparation be without gaps.

We stayed at the Taj Chola, where our conferences were held each evening. It was during those days that I came to appreciate the full measure of Mr. R.K. Naroola. Fluent in Tamil, at ease with Madras and its professional circles, he was a

man of remarkable maturity, resourcefulness, and quiet intelligence. His network in the city was extensive and immediately practical. As a Banking Law expert and faculty member at the All-India Bankers Training Institute, he had authored a well-regarded treatise on Bank Documents, widely recommended in banking circles. He was, in the best sense, a man who knew things – and more importantly, knew how to use what he knew.

In the course of preparation, a pressing need arose for certain law reports that were not readily available. Mr. Naroola, with characteristic efficiency, arranged for them to be secured from the residence of P. Rangarajan Kumaramangalam – an advocate and son of Mohan Kumaramangalam, the distinguished Member of Parliament and former Union Cabinet Minister who had died in an air crash in 1973. That a resource so specific could be located and made available overnight spoke to the depth of Mr. Naroola's connections, and to the way Madras's legal community functioned – with a certain intimacy that Delhi, for all its scale, did not always possess.

The case turned into a marathon. Hearings stretched over twenty-six days across November 1982 and February 1983. On the last two days, Mr. P.R. Mridul could not attend; Mr. R.K. Naroola took over as lead counsel, ably assisted by me at double my original fees. Judgment was delivered on 12.05.1983 in our favour. A hearing of this length teaches a lawyer things that shorter matters cannot – the sustained management of evidence, the calibration of argument across weeks rather than hours, the art of holding a court's attention without exhausting its patience.

The matter did not end there. Mr. Naroola asked me to assist at the execution stage as well. We secured a favourable order. The respondents approached the Supreme Court, but the matter was ultimately resolved by compromise on 19.11.1986. From first hearing to final settlement, I had been present throughout – a full chapter of litigation, closed at last.

Cytozyme: A First Venture into the Corporate World
1984

During one of our visits to Madras, Mr. Naroola introduced me to Mr. Wes Bowen, the Chief Executive of Cytozyme – an American biotechnology company whose product claimed to enhance plant productivity by more than two hundred percent. The claims were extraordinary, but the science, as Mr. Bowen presented it, was compelling.

We visited the offices of Southern Petrochemical Industries Limited – SPIC – with whom Mr. Naroola had long-standing and trusted relationships. Detailed meetings followed. Nothing was rushed; the conversations were exploratory, as

first conversations about joint ventures always should be. The project ultimately did not advance to fruition, but the experience was valuable in a different way. It was my first real exposure to the world of corporate joint ventures – to the particular grammar of business negotiation, where relationships matter as much as terms, and where patience is as important a quality as precision. It was a grammar I would need to learn, and this was the beginning of that education.

The Ravi Beas Waters Dispute Tribunal
1985

A letter arrived from the Law Secretary of the State of Rajasthan, informing me that I had been appointed as an Advocate to assist in the proceedings before the Ravi Beas Interstate Water Disputes Tribunal. I was to assist Mr. N.L. Jain, the Advocate General of Rajasthan. When I made contact, I was told that Dr. Y.S. Chitale would lead the State's case and that a conference had been arranged at his home office in Neeti Bagh.

The conference brought together a distinguished gathering: Dr. Y.S. Chitale, Mr. N.L. Jain as Advocate General, Mr. B.D. Sharma as AoR for the State, Mr. D.Y. Chandrachud, senior officers of Rajasthan's Irrigation Department, and others whose expertise lay in the hydrological and engineering dimensions of the dispute. The Tribunal was constituted under the chairmanship of Justice V.B.Eradi. The discussions were detailed and wide-ranging, and a working decision was reached: daily minutes of the hearings would be drafted and dispatched to the Advocate General. I took on this responsibility willingly. I had always made it a practice to take careful notes during hearings – the discipline of recording accurately while following an argument is one that sharpens both – and here it would serve an institutional purpose as well.

The experience was illuminating, though not without its frustrations. I soon realised that I was the least well-compensated member of the team – the others billing by the hour for conferences, while I was engaged on an appearance basis. I raised this with the Advocate General, who acknowledged the inequity and made representations to the State on my behalf, though without ultimate success. There are moments in a career when one accepts what cannot be changed and chooses to focus on what can be gained. The knowledge to be acquired from this matter was, in any case, the more lasting compensation.

Understanding the substance of water disputes litigation required a different kind of learning from anything I had encountered before. I spent long hours with Mr. Bhatia, poring over maps of the Indus river system – tracing the flow, understanding the historical allocations, grasping the competing claims of states that

depended upon the same arteries of water for their agriculture and their people. The experience gave me a perspective I had not previously had: of water not merely as a resource to be divided, but as a living issue of sovereignty, equity, and survival. That a natural bounty could become the subject of such bitter contestation among states of the same nation spoke to something deeper than law – it spoke to the fragility of shared inheritance. Meanwhile, across the border, surplus waters flowed into the sea, unclaimed and unused – a reminder, if one were needed, of how partition had reshaped not only boundaries but the very geography of deprivation.

Elevation of Justice P.N. Bhagwati as Chief Justice of India

18.07.1985 (Diary Entry)

After the longest tenure as a puisne judge of the Supreme Court – eleven years, eleven months, and twenty-four days – Justice P.N. Bhagwati was elevated as the Chief Justice of India. His was a tenure that had already reshaped the jurisprudence of the Court in ways that would endure long after his departure. His judgements in *Maneka Gandhi*, *R.D. Shetty*, and *Motilal Padampat* had each, in their own domain, expanded the boundaries of constitutional protection. His pioneering work in developing Public Interest Litigation had opened the doors of the Supreme Court to those who had previously had no means of reaching them. He would serve as Chief Justice for one year, five months, and eight days – a period shorter than his influence warranted, but sufficient to confirm what his years as puisne judge had already established.

An Evening with Chief Justice Bhagwati

06.12.1985 (Diary Entry)

A close friend of my father hosted a family dinner at which Chief Justice P.N. Bhagwati was also present. It was an informal evening and a rare opportunity to interact outside the courtroom. At that time, one practical difficulty faced by advocates in the Supreme Court was the absence of any system indicating which matter was being heard in which court. Lawyers would constantly move from one courtroom to another, approach court masters, or rely upon fellow advocates merely to determine which item was being called.

A few days earlier, in his Law Day address on 26.11.1985, Chief Justice Bhagwati had spoken about exploring cameras and visual systems that could enable lawyers to track proceedings more efficiently. I asked him about the proposal. He explained that the equipment under consideration was prohibitively expensive and did not appear financially feasible.

I suggested that perhaps the solution did not require sophisticated technology. I mentioned that simple electronic display devices – similar to the token displays used in UCO Bank, Supreme Court, or even Nirula's Ice Cream Parlour – could be installed outside each courtroom. As each matter was called, the court master could update the display with the item number. In addition, larger consolidated display boards could be placed in the Bar Library and galleries showing the status of all courts simultaneously.

Chief Justice Bhagwati appeared intrigued and asked whether such a system was actually possible and what it might cost. Without much calculation, I estimated that the entire project could perhaps be implemented for approximately Rs. 50,000. He was pleasantly surprised that such a modest expenditure could potentially solve a daily institutional problem affecting advocates, court staff, and court functioning. Before leaving, he asked me to meet him in chambers and demonstrate how such a system could work.

Installation of Electronic Display Devices in the Supreme Court of India
May – July 1986

Having made the commitment, the next challenge was execution. The following morning, I contacted my colleague Shri Anil Kumar – who was later elevated as a Judge of the Delhi High Court – and narrated the discussion. We began searching for practical solutions and turned to what was then an indispensable professional tool: the Yellow Pages.

After several calls, we located Major Kapoor, an ex-serviceman dealing in electronic display systems. He visited with demonstration units and explained that the technology was based on LED display boards controlled through a simple keyboard interface. The concept was straightforward: once a matter was called, the court master would press the item number, which would immediately appear on the display board outside the courtroom.

I arranged a demonstration before Chief Justice Bhagwati. He immediately appreciated both its simplicity and utility. Thereafter, I accompanied Major Kapoor across the Supreme Court premises and identified locations for installation during the summer vacation period. The final quotation came to Rs. 47,500 – remarkably close to the estimate I had casually given at dinner.

As expected, implementation was not without resistance. The first resistance came before installation. An Assistant Registrar told me quite directly that I was interfering with the functioning and aesthetics of the Supreme Court. I replied that perhaps one had to run repeatedly from Court No. 6 to Court No. 8 and back, carrying updates to seniors and clients, to appreciate the practical difficulty.

The second resistance emerged after installation. Chief Justice Bhagwati called me and mentioned that in certain courts the system appeared not to be functioning. On inquiry, I discovered that some court masters were not switching on the electrical supply while continuing to report that the devices were defective. The display system had reduced dependence upon manual inquiries and informal information channels. Once this was brought to Chief Justice Bhagwati's notice, he quickly understood the nature of the resistance.

The system gradually stabilised and, over time, electronic display devices became a normal feature not only in the Supreme Court but across High Courts and District Courts. Looking back, the episode left me with a lasting lesson: institutional reform does not always require grand design. Sometimes, it begins with noticing an everyday inconvenience, asking a simple question, and being willing to convert an idea into execution.

First Visit to Malaysia and the Formation of Gupta Naroola & Co.
1985

By 1985, my partnership with Mr. Naroola had acquired a momentum of its own. His connections and banking expertise, combined with my legal acumen and appetite for new frontiers, made for a collaboration that was greater than the sum of its parts. That year, we travelled together to Malaysia to explore a proposal for the development of a theme park – to be called *Sama 500* – conceived along lines similar to Disneyland, with financing to be arranged through Shearson Lehman Brothers. Our meetings there brought us into contact with Malcolm Kinnard from Australia, Mr. Rehman, Mr. Lim Tuk Futt, and Mr. Kula Shekhran. The project did not ultimately materialise, but the journey itself was formative – my first engagement with international project finance, with the particular rhythms of cross-border negotiation, and with the way professional relationships, when built on genuine trust, can open doors in rooms one has never entered before.

In 1986, Mr. Naroola and I formalised what had grown organically between us, and established Gupta Naroola & Company. It was a natural evolution – the confirmation, in institutional form, of a partnership that had already proven itself across years and continents.

The Computer, the Database, and a New Medium
1986

The Cardex had served its purpose magnificently. Through the years with Mr. Mridul and into the early years of independent practice, the nine-drawer rack –

first at M-84, and later wherever I worked – had been a living index to the Supreme Court's jurisprudence: sixteen thousand cards, each filled by hand, each cross-referenced, each kept current. It was a system built on discipline, and the discipline had held.

But paper ages. By the mid-1980s, the cards had begun to yellow at their edges – not dramatically, not yet beyond use, but enough to make the fact undeniable: a system built on card and ink, however meticulously maintained, was not a permanent solution. The knowledge it contained was sound; the medium that carried it was mortal.

The answer arrived through an advertisement. Sterling Computer Systems was promoting a PCL model – one of the first machines of its kind to reach the Indian market at a price and scale that an individual practitioner might seriously contemplate. I enrolled in a three-month computer course. The learning was not effortless – the machine was new, the concepts were new, and the time had to be found in the margins of a practice that left few margins. But the discipline of learning something from the beginning, with care and without shortcuts, was not unfamiliar. I had learned the law that way. I had maintained the Cardex that way.

At the conclusion of the course, I purchased a PCL for Rs. 40,000, together with an L&T Dot Matrix Printer. It was a considered expenditure and it transformed the chamber. The drafting of Special Leave Petitions – always refined through six to eight iterations before filing – became considerably less labourious. The machine did not lower the standard; it removed the friction that stood between the standard and its achievement.

In time, the database of Supreme Court judgements – every citation, every bench, every proposition, the subsequent history of each case as it was followed, distinguished, doubted, or overruled – migrated from card to screen. The principle remained what it had always been: knowledge, to be reliably used, must be systematically organised and continuously maintained.

When the software had been developed sufficiently to merit a public presentation, I approached Justice E.S. Venkataramiah, then Chief Justice of India, and requested that he release it. He agreed readily and without hesitation (Annexure 2). It was the kind of institutional encouragement that carries a weight beyond the occasion itself.

What followed was an instructive encounter with the Bar politics of the period. The President of the Delhi High Court Bar Association informed me that neither he nor the members of the Association would attend any function at which the Chief Justice was the chief guest – a consequence of tensions between the Association and the Chief Justice that had nothing to do with the software and everything to do with the frictions that accumulate, in any profession, between its

institutions and their occupants. The programme was cancelled.

The database endured. The occasion for its public release would find another form, in its own time. What mattered was the system itself – the same lesson the Cardex had taught, now carried forward into a new medium.

First Visit to Singapore
1987

The year 1987 marked my first visit to Singapore with Mr. R.K.Naroola – a city whose compact efficiency and legal sophistication left a lasting impression. The exposure to international legal and commercial frameworks deepened the perspective that Malaysia and the Cytozyme discussions had begun to develop. The world, it was becoming clear, was larger than the corridors of the Supreme Court – and the corridors of the Supreme Court were connected to it in ways that were only beginning to be understood.

BJP comes to power in Rajasthan
20.04.1990
Consent for appointment as AoR for the State of Rajasthan

The appointment as Advocate-on-Record for the State of Rajasthan was a recognition that had been in contemplation for some time. Mr. B.P. Agarwal, the Advocate General of Rajasthan, indicated that he would need to secure the concurrence of Mr. Arun Jaitley before confirming the appointment. I told him that this would present no difficulty. I called Mr. Jaitley, who expressed his full support and asked to be informed when Mr. Agarwal was next in Delhi. A meeting between the two was arranged at my residence. Mr. Jaitley gave his clearance, and the appointment followed. It was a moment of quiet satisfaction – the formalisation, in official terms, of a relationship with the State of my roots that had been building for years.

A Chance Meeting, and the Precious Stone
11.06.1990

As I was leaving the Supreme Court for lunch one afternoon, I encountered Mr. S.R. Bhansali, the Law Secretary of Rajasthan. We fell into easy conversation – the kind that happens between two people who share professional ground and feel no need to be formal about it. As he prepared to leave, I noticed a *Neelam* – a blue sapphire – in his hand.

I mentioned, as naturally as one mentions such things when they arise, that the Neelam is a stone of considerable power – associated with *Raj Yog*, with Saturn's influence, with the kind of fortune that can cut both ways if the stone does not suit its wearer. I had worn one myself, once. It had been extraordinarily beneficial for a time, and then I had removed it. Mr. Bhansali was emphatic: if the stone had suited me, I ought to wear it again.

I had always believed in the quiet logic of astrology – not as superstition, but as a system, a way of understanding the invisible forces that shape circumstance. I believed in *karm* as the deeper engine beneath all of it. And I had come, through the years, to believe in the value of most things that exist – for existence itself is a kind of argument. If a thing persists, it persists for a reason. The Neelam had its reason. Whether I would wear it again was another question entirely.

Argued, Assisted, Associated and Other Judgments with Observations
The Arena Widens – Carrying the Full Weight of the Brief

The period from the first of August 1982 to the sixteenth of June 1990 was the period in which I stood alone, carried the full weight of the brief, and discovered what independent practice truly demands. The scaffolding of senior chambers had been dismantled. There was no one else's reputation to shelter beneath, no senior's authority to reinforce a submission before a sceptical bench. The brief was mine; the preparation was mine, the argument was mine, and the judgment – whatever it was – would be mine to account for.

This is the crucible in which a lawyer is either made or revealed. The years of apprenticeship and association with Mr. P.R. Mridul had been years of formation – of acquiring the habits of mind and method that independent practice demands. But formation is not the same as testing. The test comes only when the junior's voice is replaced by one's own; when there is no comfort of deferring to the senior in chambers, no second pair of eyes to review the argument the night before. The matter must be prepared to its fullest depth and argued to its highest capacity, or it will simply not be argued at all.

The cases that had come to me during this period were varied in their legal domain and diverse in their human significance. They ranged across constitutional law, company law, public interest litigation, arbitration, municipal law, and service law. Several were argued before Constitution Benches and large benches of the Supreme Court; others were heard before the Delhi High Court, in matters where the intersection of commercial and constitutional questions demanded precision on both fronts. In each, what the client required was not a reproduction of received learning but its disciplined application to the particular problem before

the court – and, where the law was unclear or undeveloped, the construction of a principled argument that the court could accept as a sound extension of existing principle.

The judgements that follow are not a mere catalogue. Each represents a question that the law was compelled to answer – a question arising from the particular facts of human and commercial life that is always more complicated than the textbook suggests. Each, in its own domain, contributed a brick to the living architecture of Indian jurisprudence. And each, for me, was a test: of preparation, of argument, of intellectual stamina, and of the commitment – which I had carried from my first day at the Supreme Court – to serve the institution and the client together, without compromise between the two.

The years of this chapter also witnessed my first international engagements, the formation of Gupta Naroola & Company, the transition from the Cardex to the computer database, and the early articulation of a vision for law reform that would mature, over the following decades, into the larger architecture of Legal Revolution 5.0. The courtroom was not the only arena; the mind was simultaneously at work on the larger questions of what law must become if it is to serve justice in the twenty-first century. But the courtroom was the foundation. Every vision of reform rests, ultimately, on the experience of what the law actually does to human beings when it is applied – or withheld.

For those who seek to understand how law develops in a living system, these judgements offer a window into the decade of the 1980s – a decade of considerable constitutional energy, in which the Supreme Court was simultaneously consolidating the gains of the post-Emergency recovery and advancing into new territory: environmental protection, arbitration reform, public interest litigation, the rights of street vendors, and the boundaries of corporate accountability. The advocate who worked in those years worked in a period of genuine constitutional creativity, and had the privilege – and the responsibility – of contributing to that creativity.

The seed that had been planted in the years of apprenticeship – the conviction that law, at its finest, is not merely the resolution of disputes but the ongoing construction of a just social order – began, in these years, to put down roots of its own.

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	Munshi Ram	Narsi Ram	1983 INSC 2	Practice and Procedure
2	Sadhu Ram	Delhi Transport Corpn.	1983 INSC 104	Constitutional Law
3	Deena	Union of India	1983 INSC 126	Constitutional Law
4	Sushma Sharma	State of Rajasthan	1985 INSC 54	Service Law

5	Vijay Laxmi Gangal	Mahendra Pratap Garg	1985 INSC 130	Rent Control and Eviction Law
6	Khandelwal Metal and Engg. Works	Union of India	1985 INSC 142	Tax Law - Direct
7	State of Rajasthan	Prajapati Garh Nirman Samiti Ltd	1989 INSC 73	Land Revenue and Tenancy Laws
8	Karnataka State Tourism Development	KST Appellate Tribunal	1986 INSC 211	Insurance Law
9	Ramesh B.Desai	Union of India	(1990) 69 Comp. Cas 33	Company Law
10	Gaurisons	International Airport Authority of India	1988 34 E.L.T. 550	Customs Law
11	Brijiendra Nath Bhargava	Harsh Wardhan	1987 INSC 356	Rent Control and Eviction Law
12	Sultan	Ganesh	(1988) 1 SCC 664	Rent Control and Eviction Law
13	Rural Litigation and Entitlement Kendra	State of U.P.	1985 INSC 49	Constitutional Law
14	P.M.Ashwathanarayana Setty	State of Karnataka	1988 INSC 293	Constitutional Law
15	Ujagar Prints	Union of India	1988 INSC 343	Tax Law - Indirect - Excise Law
16	Pal Singh	Sunder Singh	1989 INSC 5	Rent Control and Eviction Law
17	Raipur Development Authority	Chokhamal Contractors	1989 INSC 180	Arbitration
18	Sodan Singh	New Delhi Municipal Committee	1989 INSC 260	Constitutional Law
19	Ashok Dhawan	Union of India	(1989) 39 DLT 360	Tax Law - Indirect
20	Ramzan	Hussaini	1989 INSC 362	Contracts & Specific Relief Law
21	Mangilal Vyas	State of Rajasthan	(1990) Supp. SCC 21	Criminal Law
22	Lt.Governor of Delhi	Const. Dharampal	1990 INSC 193	Service Law

Smt. Vijay Laxmi Gangal v. Mahendra Pratap Garg
1985 INSC 130

Mr. S.N. Kacker, Senior Advocate, was briefed to appear for the Appellant, Smt. Vijay Laxmi Gangal, landlady of premises situated at Bhau Ka Nagla, Agra Road,

Mauza Dholpura, near Ferozabad in Uttar Pradesh. She had instituted a suit in August 1973 for recovery of possession from the Respondent-tenant, Mahendra Pratap Garg, alleging that the demised property lay beyond the municipal limits of Ferozabad and was intended for use as a factory – placing it beyond the protective ambit of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. She claimed that the property had been let on a rent of Rs. 360 per mensem under a rent note, that the tenancy had expired by efflux of time on 30th June 1973, and that the Respondent owed arrears of Rs. 3,960.

I appeared for the Respondent-tenant. Apart from other issues, I contended that the property lay within three kilometres of the Ferozabad municipal limits and was squarely governed by the Act; that the true rent was only Rs. 125 per mensem and not Rs. 360; that the Respondent had never executed the rent note relied upon by the Appellant; and that the suit was in any event barred by Section 20(1) of the Act, which prohibits the institution of a civil suit for eviction of a tenant except on the grounds enumerated in Section 20(2).

The Fourth Additional District Judge, Agra, trying the suit as a Small Causes Court, found that the property was indeed within two kilometres of the municipal limits and that the Act applied. Having reached this conclusion, the natural and inevitable consequence under Section 20(1) – dismissal of the suit for want of jurisdiction – ought to have followed. Instead, the Court proceeded to examine the deposit made by the Respondent under Section 20(4) and found against him. The Respondent had deposited Rs. 7,490 on the first hearing date – comprising arrears at the rate claimed by the Appellant (Rs. 360 per mensem), together with interest and costs. The District Judge held that because the Respondent had simultaneously pleaded in his written statement that the true rent was only Rs. 125 per mensem, the deposit was not "unconditional" as required by Section 20(4) and therefore afforded no protection against eviction. The suit was accordingly decreed.

The Respondent carried the matter in revision to the Allahabad High Court. A Division Bench allowed the revision and dismissed the suit, finding that the deposit was not rendered conditional merely because the Respondent had disputed the quantum of rent in his pleadings while simultaneously depositing the higher rate claimed. The Appellant had come to the Supreme Court by special leave.

Before the Supreme Court, Mr. Kacker placed strong reliance upon an earlier judgment of the Court in *Mangal Sen v. Kanchhid Mal 1982 (1) SER 331*, where the Supreme Court had observed that where the tenant had contended in his written statement that there was no default in payment of rent, *"it is clear that the deposit, even if it was made on the date of the first hearing, was not an unconditional*

tender of the amount for payment to the landlord." Mr. Kacker pressed with characteristic force that so long as this observation of the Supreme Court stood as precedent, a bench of the same strength – two judges – could not take a different view. The argument was formidable.

In response, I submitted that the passage relied upon from Mangal Sen was obiter and not a ratio, and that it arose in an entirely different factual setting: in that case, the rent had not even been deposited on the first date of hearing. The observation about unconditional tender had been made against that background. In the present case, by contrast, the finding that the entire rent claimed – at the rate demanded by the landlord – had been deposited on the first hearing date was not in dispute. If a tenant deposits the full amount claimed and yet remains free to dispute the quantum in his pleadings – as Section 20(6) expressly contemplated – that simultaneous dispute cannot transform an otherwise complete and timely deposit into a conditional one.

During the hearing, Justice Fazal Ali observed that the bench would constitute a larger bench to clarify the line in Mangal Sen. The matter was adjourned. I went to Mr. R.K. Garg to seek his opinion on the submissions; he agreed with Mr. Kacker's position. The matter thereafter came before a bench of three judges. After full consideration of the arguments on both sides, the appeal was dismissed, the Supreme Court distinguishing *Mangal Sen v. Kanchhid Mal (supra)* on its facts. I found immense satisfaction in these proceedings – they confirmed in me a confidence in the integrity of legal interpretation and the willingness of the Supreme Court to pursue justice to its proper conclusion, uninfluenced by the standing or seniority of the counsel before it.

Supreme Court agreed with my submissions and held – On the foundational error of the District Judge: The Court noted, at the threshold, that the District Judge had committed a fundamental jurisdictional error. Having found that the Act governed the premises, the inevitable consequence under Section 20(1) was that the suit – which was not grounded on any of the enumerated grounds in Section 20(2) – should have been dismissed for want of jurisdiction. The plaint contained no allegation of arrears of not less than four months coupled with a failure to pay within one month of a notice of demand, which is the specific ground under Section 20(2)(a). The Court declined to examine why the District Judge had not taken that course, but made clear that what followed was an exercise in analysing a provision that should not have been reached at all.

On the meaning of "unconditional" in Section 20(4): The Court firmly rejected the District Judge's construction. The provision requires that a tenant, at the first hearing of the suit, "unconditionally" pay or deposit the entire amount of arrears of rent, damages for use and occupation, interest at nine per cent per an-

num, and costs. The District Judge had held that because the Respondent's written statement disputed the rate of rent, the deposit of the higher rate was not "unconditional." The Court found this construction untenable and self-defeating. Section 20(6) expressly provides that any amount deposited under Section 20(4) shall be paid to the landlord "without prejudice to the pleadings of the parties." The legislature had thus expressly contemplated that the deposit would be made while contentions about the quantum of rent remained alive. To construe "unconditional" as requiring the tenant to abandon all defence regarding the quantum of rent would render Section 20(6) entirely nugatory – a result that no canon of construction permits. A deposit is conditional if it is made subject to the condition that it shall not be paid to the landlord until the suit is decided. A deposit made at the full rate claimed by the landlord, available to the landlord forthwith under Section 20(6), is not rendered conditional by the tenant's simultaneous plea that the true rent is lower.

The decision in *Mangal Sen* v. *Kanchhid Mal (supra)* was distinguished on its facts: in that case it had not been established that the correct amount had been deposited within the prescribed time, whereas in the present case the District Judge's own finding confirmed the timely deposit of the full amount claimed. The contested observation in Mangal Sen had been made on facts wholly different from those before the Court.

On the discretionary relief under Section 20(4): The Act is a social piece of legislation which leans in favour of tenants. The discretionary relief – which enables the court to decline a decree for eviction where the tenant has made the required deposit – could not be withheld simply because the tenant had failed to prove his case about the quantum of rent. That failure is addressed by the outcome of the litigation on rent; it cannot be visited upon the tenant a second time by denying him the benefit of a deposit made in full and on time.

Observation: I appeared as counsel for the Respondent-tenant in this case – and I find in it a characteristic of rent control litigation that I have encountered across many years: the tendency of trial courts, even after correctly finding that a tenant-protective statute applies, to search for a path to eviction that the statute itself does not readily offer. The District Judge's error was compound. Having found that the Act governed the premises, he should have ended the matter there. Instead, he construed Section 20(4) in a manner that no reasonable reading of Sections 20(4) and 20(6) read together could sustain. The "unconditional" deposit requirement was designed to protect landlords from tenants who deposit money while simultaneously attaching conditions preventing its withdrawal – not to penalise tenants who deposit the full amount claimed while reserving a legitimate legal dispute about the rate. The two things are entirely different.

What made this case particularly memorable for me was the challenge it posed at the appellate level. Mr. S.N. Kacker is among the finest advocates of his generation, and his argument was constructed with precision – the observation in Mangal Sen was there in the law reports, and the bench of two judges before which the matter first had come was bound by the principle that it could not depart from an earlier bench of equal strength. Justice Fazal Ali's decision to constitute a larger bench was, in my view, both correct and courageous – it reflected the understanding that the law must be clarified, not merely deferred to. The three-judge bench that ultimately decided the matter brought to it the careful analysis the question demanded.

I went to Mr. R.K. Garg after the adjournment, seeking his assessment of the argument as it had developed. His agreement with Mr. Kacker's reading was a salutary reminder that in law, intellectual honesty requires one to engage fully with the other side's strongest point – not to dismiss it but to meet it. That I ultimately succeeded in the Court does not diminish the quality of the opposition; it rather confirms that the Court's task is to find the truth that the law contains, undistracted by the weight of names on either side of the ledger.

The deeper principle here is the relationship between the letter of a protective provision and its spirit. Rent control legislation emerged from the recognition that the bargaining power between landlord and tenant is asymmetric, that the tenant's need for shelter is fundamental, and that ordinary market forces and contract law leave the weaker party without adequate protection. Section 20(4) was crafted to give the tenant a single redemptive act: the timely deposit of the full amount claimed. To say that this act of redemption is vitiated because the tenant simultaneously exercises his legal right to dispute the rate of rent is to turn the provision against the very person it was meant to protect. That is the death of law masquerading as its observance. The Supreme Court's judgment restored the provision to its proper purpose – and that, in the simplest terms, is what the birth of justice requires.

Nand Lal and Others v. Sukh Dev and Another
1987 Supp SCC 87

The plaintiff-respondent instituted a suit for redemption of mortgage and for recovery of possession of the mortgaged property in the Court of Munsif, Shahpura. The trial court decreed the suit for redemption but declined relief for possession. The District Judge on appeal granted the relief for possession also. The High Court of Rajasthan confirmed the District Judge's view, holding that the mortgage deed showed that the parties intended to terminate the landlord-tenant relation-

ship, and that upon redemption the tenants' right to possession ceased.

The Supreme Court allowed the appeal and set aside the judgment of the High Court. The Court held that there was nothing in the mortgage deed to warrant an inference of relinquishment of the rights of the tenants by obtaining the mortgage deed. The Court further held that for merger it was necessary that the lesser estate and higher estate should merge in one person at one and the same time and in the same right with no interest in the property remaining outstanding. Since neither the lease nor the mortgage constituted a higher or lesser estate relative to the other, no merger could take place in law. The decree for redemption only redeemed the mortgage and did not determine the lease. The tenancy rights of the mortgagee-tenant continued and the owner was accordingly not entitled to recovery of possession.

Observation: This case and the many similar cases I continued to argue before the Supreme Court across these years raised a serious issue rooted in a pervasive and largely unacknowledged failure: the poor drafting of mortgage deeds, the failure of trial courts to frame the correct issue, and even the failure of authoritative textbooks on the Transfer of Property Act to address the core legal questions that lay at the heart of every such dispute.

The real issue that needed determination in all these cases was never articulated in any of the courts below. It was this: whether the tenant inducted by the mortgagee was so inducted in order to defeat the mortgagor's right to recover possession on redemption – that is, whether the tenancy was sham, mala fide and not bona fide – or whether the mortgage deed empowered the mortgagee to induct a tenant and the tenant was in fact inducted bona fide at a market rent. This distinction was decisive. In the first case, the tenant goes out with the redemption of mortgage, while in the later, the tenant gets protection of Rent Control Act. The facts had to pleaded, the issue had to be framed, the evidence has to be led and the case had to be decided on case-to-case basis on the facts of each case.

Most of the mortgage deeds that had come before the courts, drafted in the rural idiom of Rajasthan, contained a simple clause that the interest payable on the mortgaged amount would be set off against the rent received from the mortgaged property. This clause itself implied that the property was being given on rent; and if the rent recovered was equal to or greater than the interest, it was a strong indicator that the induction of the tenant was bona fide at a fair market rate.

Yet in none of these cases was any such issue framed in the trial court, much less decided. I had, in case after case, to apprise the trial court advocates and the clients of what the core issue truly was, and to get the matters remanded back to the trial court so that the foundational question could be raised and determined.

It was deeply saddening to witness how years – sometimes decades – were consumed in the journey from the institution of the suit to the Supreme Court and back again to the trial court, with the central issue in the litigation never having been raised or decided at any stage along the way.

This is one of the many passages in my fifty years at the bar that speak to a truth I have long held: that the law is not merely what is enacted or reported. It lives in the quality of the minds that engage with it at every level – from the draftsman in the village to the trial court, from the High Court to the Supreme Court. When any link in that chain fails, justice becomes a journey without a destination.

Brijendra Nath Bhargava & Anr. v. Harsh Wardhan & Ors.
1987 INSC 356

The Appellants had been tenants of a showroom on M.I. Road, Jaipur since 1947 – a tenure spanning decades during which they built their business and their tenancy around premises they regarded as their own commercial home. In 1958, Bhonri Lal, Surendra Kumar, and Rajinder Kumar purchased the property and the Appellants became their tenants, paying rent which had risen from Rs. 135 to Rs. 145 per mensem. The premises, being a showroom and business property, were governed by the Rajasthan Premises (Control of Rent and Eviction) Act, 1950.

In 1974, Bhonri Lal and his co-owners filed a suit for eviction on three grounds: bona fide need, material alteration of the premises, and default in payment of rent. During the pendency of the suit, the present Respondents – Harsh Wardhan, Himanshu, and Smt. Ritu Kasliwal – purchased the property in 1979, thereby acquiring, as Justice Oza observed with quiet precision, not merely the property but the litigation itself.

By the time the matter had come for final hearing, the grounds of bona fide need and default had been abandoned or not pressed. The single ground that survived to judgment – and upon which eviction was granted by the Trial Court and affirmed in Second Appeal by the Rajasthan High Court – was the ground under Section 13(1)(c) of the Act: that the Appellants had, without the permission of the landlord, made a material alteration in the premises by constructing a wooden balcony called a Dochhatti.

The Appellants' case was that the Dochhatti had been constructed in 1958 with the permission – express or implied – of the original landlord; that in any event the landlord had waived any right arising from the construction; and that a wooden structure resting on beams and pillars within the showroom, easily re-

movable without damage to the building, did not constitute a "material alteration" within the meaning of the Act. All the three courts below – the Trial Court, the Appellate Court, and the High Court in Second Appeal had all found against the Appellants, resulting concurrent finding of all the three courts.

The appeal had come up for hearing before a bench of Justice Sabyasachi Mukharji and Justice G.L. Oza and the judgment was delivered by Justice G.L. Oza. The Advocate on Record for the Appellant engaged Mr. Shiv Dayal Srivastava, Senior Advocate, a retired judge of the High Court of Madhya Pradesh. The Supreme Court allowed the appeal, set aside the judgment and decrees of all the courts below, and dismissed the suit.

The Court examined the two notices sent by Bhonri Lal before the filing of the suit. Neither notice mentioned the Dochhatti or its construction as a ground for termination of the tenancy or eviction. In cross-examination, Bhonri Lal himself explained the omission: the tenant had assured him that, when he vacated the premises, he would remove the balcony, and on that assurance the landlord had not raised any objection. More significantly, in 1964 a window had been opened on the eastern wall of the showroom specifically to provide light and air to the Dochhatti – and the cost of constructing this window, Rs. 199.85, had been borne by the landlord himself. This evidence had been ignored by all three courts.

The only possible conclusions from these facts, the Supreme Court held, were either that the Dochhatti had been constructed with the implied consent of the landlord, or that after becoming aware of it and receiving the tenant's assurance, the landlord had waived his right to object. A party who gives up the advantage he could have taken of a legal position cannot later turn around and invoke that position. If the Dochhatti was constructed without the landlord's consent, he would inevitably have made it a ground for termination of the lease in at least one of the two notices given before the suit. The total omission was telling and conclusive. When courts of fact omit to consider material pieces of evidence and draw inferences without looking into circumstances which, if considered, would have supported a contrary inference, their findings are not binding on the Supreme Court.

On whether the Dochhatti constituted a "material alteration": Even assuming the construction had been without consent, the Court applied the test laid down in *Om Prakash v. Amar Singh* and the established principle from *Babu Manmohan Das Shah v. Bishun Das*: "material alteration" means a substantial change in the character, form, and structure of the building without destroying its identity. The alteration must affect the front, elevation, or structural fabric of the building. Minor alterations made for the convenient use of tenanted premises – partitions, almirahs, windows, temporary structures –do not constitute material alterations if they leave the form and structure of the building essentially unaffected.

The Dochhatti was a wooden structure: beams, planks, and a staircase within the showroom, creating a cabin with a balcony accessible from inside. It was admittedly removable. No specific allegation had been made in the plaint that it was affixed to the walls in any manner that would prevent removal without damage to the building. The evidence relied upon by the courts below – largely derived from an inspection note – was found to be inadequate and inferential. A wooden cabin within a showroom, however convenient and sizeable, that does not alter the front elevation or structural character of the premises and is removable without damage to the building, does not satisfy the definition of material alteration giving rise to a ground for eviction.

Observations: In this case, concurrent findings of three courts on material alteration by the tenant – by constructing a dochhatti – were set aside by the Supreme Court. In this matter, a retired Judge of the High Court, who had been designated as Senior Advocate and who had almost entirely left active practice and returned to his home state, appeared for the Appellants. The Judge of the same High Court who had sat with him as a colleague on the Bench delivered the judgment that set aside those concurrent findings. To my mind, this was unacceptable. This was injustice – not in the technical sense alone, but in the deeper sense.

In the original Constitution of India, a retired High Court Judge was not entitled to appear and plead before the Supreme Court. That prohibition was removed by the Constitution (Seventh Amendment) Act, 1956 – an amendment that had its origins not in any principled reconsideration of judicial propriety, but in the personal preferences of certain Chief Justices of High Courts who expressed that it was better to remain Chief Justice of a High Court than to become the junior-most puisne Judge of the Supreme Court. The prospect of a mere three years of extension in service was not inducement enough for them. A constitutional amendment was accordingly made, not to advance justice, but to accommodate judicial ambition. Nearly seven decades have elapsed since that accommodation, and the time has come to examine candidly whether it has served the cause of justice or subverted it.

The reality that practice has revealed – and which no one at the bar speaks openly but every advocate knows – is this: that except for a rare few, retired High Court Judges who enter the Supreme Court bar have been unable to make any genuine contribution to the development of the law, bringing no profound or exceptional juristic knowledge that the court did not already possess. They carry with them, long after demitting office, the invisible but unmistakable authority of the judicial hat they wore for more than a decade. A shadow of judicial power cast across the bar, and it distorts the scales.

But the harm does not end there. These retired Judges, by their very presence in the arena, become a clear and serious obstruction to the development of the junior bar. They are preferred by clients and by those who retain counsel for their perceived affinity with those who sit on the Bench — over and above the Advocates on Record and the young advocates who still have a long career ahead of them and who have devoted those careers entirely to the Supreme Court. Every brief that goes to a retired High Court Judge is a brief taken away from a young advocate who earned it through years of apprenticeship and dedicated service. The opportunity that ought to have gone to them is filled, and filled unnecessarily, by those who had already had their season in a different and higher office and who are simultaneously making good money as arbitrators.

This is a structural injustice to the junior bar, and it compounds the personal injustice that arises when a retired Judge appears before his former colleague on the Bench. It is time that either the Seventh Amendment be revisited and the original prohibition restored, or that at the very minimum a clear and enforceable prohibition be enacted against a retired High Court Judge appearing before any Judge of that same High Court who has been elevated to the Supreme Court and with whom he served as a colleague. Familiarity between Bench and Bar, when it arises from a shared past on the Bench itself, is not a collegial virtue. It is a constitutional vulnerability.

The deeper consequence of this vulnerability is one that the institution of the Supreme Court must confront with honesty. When concurrent findings of three courts are set aside in circumstances such as these – where the connection between advocate and judge carries the weight of a shared judicial past – the message that goes out to every court below, and to every advocate who laboured through those three levels of litigation, is devastating. It says that courts have become gambling places, where decisions are spun like a coin; that no one knows what can happen; that it is always worth a try if you find the right advocate for the right Bench. This perception – and it is not merely perception, it is lived experience at the bar – is one of the most significant and least acknowledged causes of the mounting arrears in the Supreme Court.

Every such reversal seeds a hundred new appeals. Every litigant who hears of it reasons, rationally and not unreasonably, that three courts can be wrong and the Supreme Court can be right; that the odds are worth taking; that justice, or something that resembles it, may yet be found by finding the right door. The institution that was designed to be the final guardian of the law has, in cases such as this, inadvertently become an invitation to litigation without end.

And every such case carries, on the other side of the ledger, a deeply rooted and largely invisible injustice. The party who had won in three courts, who had

every reason to believe that the law had finally spoken in his favour, finds that trust broken – not by any failure of the law itself, but by the mechanics of bench-hunting and advocate-selection that no statute acknowledges and no court will openly condemn. The economic loss is grave; the loss of years and energy is irretrievable; but perhaps the deepest wound is to the faith that justice is something more than a game of skill played by those who know which door to knock on.

The statement attributed to some judges – and repeated by others after them – that the Supreme Court is final not because it is infallible but because it is last, is a statement of institutional honesty. But it carries within it a corollary that our system has never fully confronted: that every reversal of a court below is, by necessary implication, a finding that the court below was wrong. And if it was wrong, the citizen who suffered through years of litigation, three levels of courts, and ultimately a reversal in the highest court, bore the full cost of that wrong – in time, in money, in anxiety, in years of life consumed by the machinery of justice. The authority that caused that wrong bears no cost whatsoever. The immunity extended to judicial and quasi-judicial authorities is archaic and must be fundamentally reconsidered. AA system in which the citizen alone pays for the errors of those in governance is not a system of justice.

Raipur Development Authority v. Chokhamal Contractors
1989 INSC 180

A cluster of construction contract disputes between the Raipur Development Authority and various contractors came before a Constitution Bench on a single referred question: whether an arbitral award under the Arbitration Act, 1940 is liable to be remitted under Section 16(1)(c) or set aside under Section 30(c) merely on the ground that the arbitrator has given no reasons. The contractors sought to have the awards remitted or set aside on the ground that the absence of reasons rendered them legally infirm – drawing upon the growing administrative law current that the obligation to give reasons is a rule of natural justice applicable to all quasi-judicial bodies.

The Supreme Court answered the referred question in the negative. An arbitral award is not liable to be remitted or set aside merely because the arbitrator gave no reasons, except where the arbitration agreement, the deed of submission, a court order, or the governing statute expressly requires them. The Court traced the historical foundation of arbitration as a creature of contract – the arbitrator is a tribunal selected by the parties, and the Act imposes no obligation of reasons in any of its provisions. The administrative law duty to give reasons, developed in the domain of public law to govern the exercise of state power, cannot be transplanted

wholesale into private arbitration with its own statutory architecture and its own balance of interests. Critically, however, the Court made a pointed observation directed at Governments: it is not justifiable for Governments and their instrumentalities to enter into arbitration agreements that do not require speaking awards. Since public interest is involved in the adjudication of the State's financial claims, and since non-speaking awards had at times raised doubts about their rectitude and propriety, Governments should as a matter of policy ensure that all future arbitration agreements expressly require reasoned awards.

Observation: The Court's answer was correct in law and sound in institutional terms. The Law Commission had considered and rejected mandatory reasoning in its 76th Report; Parliament had not moved; for courts to impose by decision what the legislature had declined to enact would have shaken decades of commercial life built upon arbitral finality. And yet the most important passage in the judgment is not the legal ruling but the institutional guidance to Governments. A private party who chooses arbitration accepts finality as part of the bargain. A Government that does so exposes public money and public interest to a private process with no obligation of transparency. The twin principles at stake — accountability and finality — are not easily reconciled, and the law left that reconciliation to policy rather than compulsion. Whether Governments heeded that guidance is another question. The gap between a sound judicial observation and actual administrative practice has always been one of the more sobering distances in Indian public life.

Sodan Singh v. New Delhi Municipal Committee
1987 INSC 260

Street hawkers and pavement traders from Delhi brought petitions before the Supreme Court asserting the fundamental right to carry on trade and business on public streets. The matter was placed before a Constitution Bench because the petitioners questioned the correctness of Pyarelal v. N.D.M.C., which had held that persons cannot claim a lawful right to pursue street trading. The core question was whether Article 19(1)(g) extended to street trading and, if so, what limits the State could impose.

The Supreme Court overruled *Pyarelal* and held that the right to carry on trade or business under Article 19(1)(g) is not confined to private premises — it extends in principle to public streets, subject to regulation. All public streets vest in the State as trustee for the public; within reasonable limitations, a citizen's right to earn a livelihood through legitimate street trading is constitutionally protected. However, there is no fundamental right to occupy any particular spot perma-

nently — Article 19(1)(g) protects the right to trade, not the right to a specific location. The Court also declined to extend the Olga Tellis ratio to street trading: Article 21 protects against the deprivation of the very means of survival; a trader denied a specific commercial spot has alternative avenues and cannot equate his position with that of the pavement dweller whose removal means homelessness. The municipal authorities were directed to frame comprehensive schemes designating hawking and non-hawking zones, criteria for licensing, permitted articles, charges, and grievance redressal mechanisms. Justice Kuldip Singh, concurring, added that in a country of endemic poverty where the State has failed to provide employment to millions, denying citizens the right to earn a livelihood through street trading is constitutionally unjustifiable.

Observation: Constitutional litigation at its finest produces exactly this outcome – neither side wins entirely, because the Constitution itself holds competing values in tension, and the Court's task is to find the balance between them. The position I argued was upheld on the question of specific spots; the broader constitutional principle was resolved in favour of the petitioners – and rightly so. Article 19(1)(g) was designed to be comprehensive, and street trading is as legitimate an occupation as any. What impresses most, looking back, is the Court's constitutional realism: the municipal authorities had for years been issuing Tehbazari licences and collecting charges from hawkers while simultaneously contending that hawkers had no right to be there. That is not a sustainable legal position, and the Court declined to sustain it. Justice Kuldip Singh's observation – that abysmal poverty warrants rejection of the argument that nobody has a right to engage in street trading – is not judicial sentiment. It is constitutional economics. The right to livelihood is the daily reality of millions who gather their meagre resources, occupy a few square feet of pavement, and try to earn what the State has failed to provide by any other means. The law before Sodan Singh said street trading was not a right. The justice of the matter – as lived by those millions – said it must be. The Supreme Court bridged that gap.

International Airport Authority of India v. Municipal Corp. of Delhi and Ors.
AIR 1991 Del 302

The International Airport Authority of India challenged a demand notice dated 16 February 1987 issued by the Municipal Corporation of Delhi, levying property tax of Rs. 1,71,71,786.65 on Terminal II of Indira Gandhi International Airport – covering arrears from 1 April 1982 through 1986-87. The Authority's central contention was that the property belonged to the Central Government

and was therefore exempt from municipal taxation by virtue of Article 285 of the Constitution, which shields Union property from State taxation. The Union of India supported the Authority's position, relying on a Ministry of Law opinion and a letter of September 1981 asserting that vesting under the IAA Act was for management only, not ownership.

The Division Bench, per Kirpal, J., rejected the Authority's contention with clarity and firmness. Analysing Section 12(1)(a) of the International Airports Authority Act, 1971, the Court held that upon the appointed day, all properties administered by the Director General of Civil Aviation vested absolutely in the IAAI as a statutory body corporate – a separate juristic entity distinct from the Union of India. The word "vest" in Section 12 carried its full legal meaning of title and ownership, not merely administrative custody. The Court distinguished the Calcutta and Bombay High Court decisions relied upon by the petitioner, noting that those courts had neither analysed Section 12(1)(a) carefully nor considered the Authority's own balance sheets and annual accounts – documents which recorded all fixed assets as belonging to the Authority and upon which depreciation had been claimed and approved by the Comptroller and Auditor General. The September 1981 ministerial letter was not a decision under Section 12(3) of the Act – it was written, the Court observed, merely to resist payment of municipal taxes. Applying the ratio of *Western Coalfields Ltd.* v. *Special Area Development Authority*, AIR 1982 SC 697, the Court affirmed that government ownership of an entity does not make the entity's property government property. The writ petition was dismissed with costs; the Authority was granted three weeks to pay.

Article 285 of the Constitution exempts only the property of the Union of India from State taxation; it does not extend to statutory bodies incorporated under Parliamentary law, which are separate juristic entities. The word "vest" in a statutory transfer provision connotes transfer of title and ownership unless the contrary is expressly provided. The conduct of a party – including its own accounting treatment of assets – is admissible and highly relevant to determine true legal ownership. A government letter asserting a legal position, written with the self-interested motive of avoiding fiscal liability, does not constitute a decision under a statutory dispute-resolution mechanism.

Observations: Appeared for the Airport Authority of India, this was a taxation issue involving two statutory authorities a mini version of *NDMC v. State of Punjab (supra)*, there NDMC was claiming Municipal taxes from the States for the properties held by them within the limits of NDMC. In this case the MCD was claiming taxes from Airport Authority which was a Statutory Authority under the AAI Act. The issue for me was simple, if AAI claimed to be owner of the entire area by virtue of the vesting in it under the AAI Act and was claiming depreciation on it,

AAI was liable to pay taxes. If the property continued to be property of Union of India then Art 289 would come into play and the issue will have to be determined, whether MCD which was a statutory arm of UT of Delhi an extension of Union of India can claim taxation from another statutory authority of the Union of India. The court held that incorporation under statute creates a genuine legal person, distinct from its governmental parent. The impact was that the statutory corporations and authorities directly under the control were holding independent status, with respect to the property, though the final title of the property was with the Union of India only.

The entire issue of title to property is in hopeless confusion, and there has been no effort to resolve it once and for all. Blockchain technology may now make it possible to maintain reliable title information for every parcel of property, but this requires strong political will and a robust legal framework. One of the major factors restraining real-estate development is the absence of clear title. Most civil litigation pending in courts concerns title to property, and this issue requires serious attention from the Government and the courts.

Articles

Since 1974, I had been maintaining diary, making notes, jotting down thoughts, and scribbling articles, though I had never published anything. When Mr. Vijay Panjwani, Advocate started a study circle, I was immediately interested and eager to join gatherings that would help me organise my thoughts and contribute meaningfully to national development. Mr. Panjwani encouraged me to write an article for the *INC Youth Magazine*. I agreed and quickly penned down some of my ideas, which were eventually published. This first experience of sharing my thoughts publicly was both gratifying and inspiring.

Ideology and Its Necessity – I

01.04.1984 (Article)

Development is the work of principles and ideologies rather than of bayonets, and is achieved first in the moral and afterwards in the material sphere. In a civilised society, a stage is reached where the human mind becomes capable of appreciating and comprehending the trend of evolution, and also of controlling and thereby, to some extent, directing and accelerating social progress. A need therefore arises to appreciate and understand the underlying principles and ideologies, the stage of evolution, the course of development, and the forces resisting progress and development.

Prime Minister Mrs. Indira Gandhi once said:

> *"Progress itself upsets the status quo. It shakes people from the attitude of numb acceptance. It disturbs vested interests not only of the well-to-do, but also of vast numbers who, although they wish to better their lives, yet fear to depart from the familiarities of the known."*

Development or progress has to be achieved every day, for we are always in danger of lagging behind because, after every step forward, we begin to think that we can settle down and enjoy it without further struggle. The battle for development is never over and the field is never quiet.

In his speech delivered in the Constituent Assembly on August 14, 1947, on the eve of Independence, Pt. Jawaharlal Nehru said:

> *"That future is not one of ease or resting, but of incessant striving, so that we may fulfill the pledges we have so often taken and the one we shall take today. The service of India means the service of millions who suffer. It means the ending of poverty, ignorance, disease, and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but as long as there are tears and suffering, so long our work will not be over."*

To achieve concentrated progress, we must organise our thoughts, direct them toward definite ends with a positive mental attitude, and support them with conviction. If the constant enquiry is merely *"What will please the people,"* there can be nothing but temporary expediency, fickleness, and folly. A clear understanding is therefore required of principles, ideologies, and the definite ends toward which we must move."

Ideology and Its Necessity – II

01.05.1984 (Article)

Development is a constant positive movement toward a definite end. It is progress made toward an integrated system until a total integrity is achieved and can thereafter be sustained through inherent internal checks and balances.

Integrity is not merely the ability to refrain from picking one's neighbour's pocket; if that were so, ninety-five per cent of humanity would be considered honest and integrated. Integrity is the ability to stand firmly by an idea. The ability to stand by an idea presupposes the ability to think. Thinking is an act anterior to all constructive action, and it is something which cannot be borrowed or pawned.

It is only at great moments in history that advances and developments become visible and come before the eyes of the public at large and thereby enter history. But between these great moments, there is first a contented movement

along a path made smooth by established rights, and then those rights are endangered by passions inflamed through ignorance. These actions lead either to the loss of liberty or the restoration of freedom, depending upon the integrity or disintegrity achieved during the intermediate period by the individuals who lead such moments.

India was called a Golden Bird in the eleventh century. The Mohammedans had come to India in 1526. The East India Company commenced its dealings with India in 1599. The First Indian Revolution broke out in 1857. The Indian National Congress was formed in 1885. Independence was proclaimed in 1919, but was finally attained only in 1947.

The need during every transitional period is the education of individuals so as to equip them with the strength of mind and character necessary to sustain themselves during historical moments. By education is meant the imparting of training through which the current of expression is brought under discipline and made fruitful through positive and constructive action. It is a process by which awareness is brought into individuals so that they may speak on behalf of the nation, become cultured and public-spirited persons, and not remain confined within petty personal, local, caste, or communal squabbles.

Education is the instrument for social, economic, and political development. Without education, liberty degenerates into license, and democracy risks becoming vulnerable to manipulation by prejudice, ignorance, and short-term emotionalism.

The future of a nation ultimately depends not merely upon its resources or institutions, but upon the quality of thought, discipline, integrity, and awareness developed within its people."

Ideology and Its Necessity – III

01.06.1984 (Article)

The crisis before developing societies is not merely economic. It is fundamentally a crisis of direction, discipline, and ideological clarity. Material progress without intellectual and moral development eventually produces imbalance.

Every civilisation passes through periods where inherited structures begin weakening while new structures have not yet acquired sufficient strength. During such periods, societies become vulnerable to confusion, fragmentation, and loss of collective purpose.

The responsibility of leadership in such times is therefore not merely administrative. It is educational, moral, and civilisational. Leadership must create confidence, inspire constructive participation, and help individuals rise above narrow

divisions of caste, religion, region, language, and personal interest.

No democratic society can sustain itself merely through slogans, temporary popularity, or emotional mobilisation. Democracy requires informed participation, disciplined thought, and institutions capable of balancing liberty with responsibility.

True development does not consist merely in increasing production, constructing roads, or expanding industries. These are important, but they are not sufficient in themselves. Development ultimately means the progressive expansion of human capability, dignity, awareness, and opportunity.

Where ideology loses touch with practical reality, it degenerates into rhetoric. Equally, where practical politics loses touch with ideals and values, it degenerates into opportunism. The challenge before every society is therefore to maintain a continuous balance between principle and practical application.

A nation grows not merely by the strength of its armies or the wealth of its markets, but by the character, awareness, and constructive participation of its citizens. Institutions alone cannot protect freedom unless supported by individuals capable of understanding and sustaining them.

The future belongs to societies that are able to combine discipline with liberty, science with morality, development with justice, and national strength with human dignity.

Law and Information Technology: The Court of the Twenty-First Century

A Vision for the Computerisation of the Indian Legal System

1989 (Article)

We stand, at this moment in the history of the Indian legal system, at a crossroads that our predecessors could not have anticipated and that our successors will not forgive us for ignoring. The information revolution that is remaking commerce, science, governance, and human communication across the world has arrived at the gates of the law – and the law, as is its habit, has not yet decided whether to open them.

I write as one who has spent thirteen years in the corridors and courtrooms of the Supreme Court of India, and who has, alongside that daily practice, been engaged for the past seven years in an experiment that began not with a vision but with a frustration. In 1982, I spent five hours searching for a single judgment – *Ujam Bai* v. *State of Uttar Pradesh (supra)* – moving from volume to volume, index to index, in the way that every advocate in this country has learned to move: methodically, patiently, and with the quiet resignation of one who has accepted

that the tools of his profession are not equal to its demands.

Five hours for one citation. In a system that produces thousands of judgements every year, across twenty-four High Courts and the Supreme Court, the arithmetic of that inefficiency is staggering. Multiply five hours by the number of advocates in this country, multiply that by the number of citations searched every working day of every working year, and you will begin to understand not merely the inconvenience but the institutional cost – in time, in money, in the quality of preparation, and ultimately in the quality of justice – of a profession that has not yet made its peace with information technology.

That afternoon in 1982 planted a conviction that has not left me since. I enrolled in a computer course. I began, in the evenings after court and the early mornings before it, to build what I could not find: a computerised database of Supreme Court Judgments – searchable, interlinked, and growing entry by entry through seven years of patient labour conducted alongside a full practice at the Bar. That database is now ready. It is the foundation upon which, I believe, a national legal information system can and must be built. I write this article not to announce what has been done, but to argue what must follow – and why the profession cannot afford to wait.

The Scale of the Problem

The Supreme Court of India has, since its inauguration on the twenty-eighth of January 1950, delivered judgements that now number in the hundreds of thousands. Every one of them is, by virtue of Article 141 of the Constitution, the law of the land – binding upon every court, every tribunal, every authority across the Republic. The High Courts have produced a body of precedent that is many times larger still. Taken together, the reported and unreported judgements of the Indian superior courts constitute one of the largest bodies of case law in the common law world.

This body of law is currently accessible – to the extent that it is accessible at all – through a system of law reports, digests, indexes, and conversion tables that was designed in an earlier century for a smaller volume of judicial output and a smaller number of practitioners. The All-India Reporter has been publishing since 1914. The Supreme Court Reports, the official series, carries only reportable judgements. The Supreme Court Cases, begun in 1969, added a parallel series. The cyclostyled copies circulated by the Supreme Court Bar Association fill some of the gap for recent decisions. Conversion tables, prepared by dedicated librarians, help advocates move between series. The system works – after a fashion, for those who know how to use it, and who have access to a well-stocked library, and who have the time to search.

But the system's limitations are not incidental. They are structural. A precedent that is difficult to find is, in practical terms, a precedent that does not exist – at least for the advocate who cannot afford the time or the resources to search for it. The law that is on the books but not in the brief is law that has failed its purpose. And a system in which the quality of legal research is determined not by the diligence of the advocate but by the size of his library and the depth of his retainer is a system that has already compromised the equality before the law that the Constitution promises.

Consider what this means in practice. An advocate in a district town, representing a litigant of modest means before a subordinate court, has access to perhaps a handful of volumes – whatever the local bar library has managed to acquire, whatever he has personally subscribed to, whatever has not yet been lost or misfiled in the years of accumulated use. The advocate in a senior chamber in the Supreme Court has access to thirty or forty subscriptions, a personal research staff, and the institutional memory of decades of practice. Both are, in constitutional theory, officers of the court. In informational reality, they inhabit different professions. That gap – the gap between what the law guarantees and what the system delivers – is the gap that information technology alone can now close.

What Seven Years Have Taught

I did not begin with a plan. I began with a personal computer, a determination, and the memory of five lost hours. The computer course I undertook in the early 1980s was, at the time, regarded by many of my colleagues with a mixture of bemusement and mild curiosity – the sort of reaction that greets any professional who departs from the established rhythm of the chamber to pursue something that cannot yet be entered on a cause list or cited in a brief.

What I discovered, in the years of building the database, was something that no amount of theoretical argument about information technology could have taught me: that the organisation of legal knowledge is itself a form of legal understanding. To decide how a judgment should be indexed – by which statute it interprets, by which constitutional provision it engages, by which principle it affirms or modifies, by its relationship to the cases that preceded it and the cases that followed – is to engage with that judgment at a level of analytical depth that mere reading does not always require. The discipline of the database became, unexpectedly, a discipline of jurisprudential thought.

The database I have built now carries the judgements of the Supreme Court, indexed by citation, by subject, by statute, by the names of the parties, and – critically – by the subsequent treatment of each judgment: whether it has been

followed, distinguished, doubted, or overruled. This last feature is, in my experience, the most important and the most neglected. The advocate who cites a judgment without knowing its subsequent history cites it at his peril; the judge who relies upon a precedent that has been silently eroded by a dozen subsequent decisions relies upon a foundation that may no longer bear the weight placed upon it. The database makes that history visible. It turns a static body of decisions into what it truly is: a living conversation of the law with itself, continuous and evolving, in which every new judgment stands in relationship to every relevant judgment that has gone before it.

The Architecture of the Possible

The personal computer is no longer a novelty. It is present in government offices, in universities, in commercial establishments across the country. The question is no longer whether the technology exists – it does. The question is whether the profession has the will to use it in the service of justice.

The architecture I propose is straightforward. At its centre is a national judgment retrieval system – a searchable, interlinked database of every decision of the Supreme Court and, in time, of every High Court in the country. Every judgment would be entered in full text, indexed across multiple parameters, and linked to the statutes it interprets and the cases it cites and is cited by. The advocate searching for authority on a given point would receive not a single citation but a structured map of the relevant law – the leading cases, their progeny, their current standing, and the trajectory of the principle they establish.

Around this central database, the system would carry the full text of every statute, every amendment, every rule of court – updated as the law changes, not months after. It would carry an index of advocates, indexed by area of practice and court of appearance, so that the litigant in Rajasthan seeking Supreme Court counsel could identify those best placed to assist. It would carry a subject index of academic articles and bar journal publications, so that the argument being developed in the chamber can be informed by the best thinking of the academy as well as the best thinking of the courts.

This is not a distant dream. It is a near-term possibility, given the technology that now exists and the database that already does. What is required is institutional commitment – from the Bar Councils, from the Supreme Court Bar Association, from the Court itself – to treat the digitisation of judicial output as the institutional priority that it is.

The Case for Neutral Citation

No reform would do more, at less cost, to make the legal information system function than the introduction of a standard system of neutral citation for the judgements of the Supreme Court and the High Courts. The present system is a source of confusion that serves no one. The same judgment may carry the citation of the Supreme Court Reports, the All-India Reporter, the Supreme Court Cases, Supreme Court Cases and a dozen specialised series – all different, none of them total in itself, and none of them usable in a database context without a conversion table. The advocate who cites a judgment must first determine which series the court will accept, then locate the judgment in that series, then verify that the conversion is accurate. This is labour that adds nothing to the quality of argument and everything to its cost.

A neutral citation system assigns to each judgment a reference that belongs to the judgment itself, independent of any law report: the name of the court, the year, and the sequential number of the decision. Such a system alone can resolve the issue of searching judgements in digests published by all Law Reports. Now all this is technically simple, institutionally straightforward, and jurisprudentially necessary. Its adoption by the Supreme Court of India would, at a stroke, make every judgment in the instantly and unambiguously retrievable – and would make the database itself the authoritative reference, as it ought to be, rather than any private law report, which continue to publish a few judgements not reported in any other Law Report

The Advocate, the Judge, and the Litigant

The profession and the institution are for the human beings in whose service both exist. Every litigant who comes to an advocate's office comes, particularly at Supreme Court, at the end of a long and exhausting road. He has tried to resolve his dispute through all possible means – through negotiation, through patience, through the hope that time would provide what justice could not. He comes to court as a last resort, carrying a problem that has already cost him and his family sleep, money, and health. What he requires, above all, is professional efficiency and quick disposal: the efficient identification of his rights, the efficient preparation of his case, the efficient resolution of his dispute. Everything that makes the legal system less efficient than it could be falls, ultimately, upon him.

The computerisation of legal information is not an abstract reform. It is a reduction in the cost and time borne by the litigant. Every hour saved in legal research is an hour that need not be billed. Every precedent found in minutes rather than hours is a judgment better prepared, an argument more precisely

targeted, a hearing more focused and therefore shorter. The information revolution, applied to the law, is a form of justice reform – not the most visible, not the most dramatic, but perhaps the most fundamental, because it improves the quality of every other reform that depends upon the law being applied correctly and efficiently.

What Must Be Done – And When

The answer to the question of timing is simple: now. Not when the technology is mature enough, the profession has to get ready and readiness will not arrive of its own accord. Every year of delay is a year in which thousands of judgements are delivered without the benefit creating a full body of relevant precedent, which thousands of advocates research without adequate tools, in which thousands of litigants bear costs that better information would have reduced.

These steps need immediate action:

First, the Supreme Court Bar Association should establish a Committee on Legal Information Technology, charged with overseeing the systematic digitisation of all Supreme Court Judgments reported in any law report and the development of a legal database, using the foundation that already exists.

Second, the Supreme Court should adopt a system of neutral citation for all judgements delivered from this year forward, with a programme for the retrospective assignment of neutral citations to all judgements delivered since 1950.

Third, the Bar Councils of India should incorporate basic computer literacy and legal database skills into the curriculum of legal education and continuing professional development, so that the generation of lawyers now entering the profession enters it equipped to use the tools that the twenty-first century will require of them.

Fourth, access to the national legal database should be treated as a professional right – available to every enrolled advocate, at a cost that no working lawyer could reasonably regard as prohibitive, and free of charge to those who cannot afford even that.

A Closing Word

Over seven years of solitary work alongside a full practice, I have made my best efforts to build a database that demonstrates what is possible. I offer it not as a completed monument but as a foundation – a beginning, laid in the conviction that the Court of the twenty-first century must be a court in which no judgment is unfindable, no statute is inaccessible, and no litigant bears the cost of a system

operating below its informational capacity. The information revolution will not wait. It is already here, and the question it puts to the legal profession is the same question that every age puts to its institutions: will you meet the future, or will you let the future leave you behind? The law has always chosen, in the end, to meet it. I have no doubt that it will choose so again.

The Supreme Court Canteen – The Young Lawyer's University

Supreme Court has three canteens by 1990. A small canteen on the same floor on which the courts are situated, which is exclusively for Advocates, a canteen just below it, now more used by clients and a large canteen below the platform in front of Court No.1 where the advocates can sit with their clients and also the clients

When I first entered the Supreme Court of India in August 1976, I believed that the Courtroom was the true university of law. The Bench, the Bar, the submissions, the citations, the silence before judgements – everything appeared sacred, profound and larger than life. Very soon, however, I discovered that while the courtroom taught law, the canteen taught the profession and the professionals. Senior Advocates, Advocate on Records, other Advocates were all there one time or another. Many senior advocates who did not have chambers, or who preferred to have lunch with their colleagues, would open their tiffin boxes and eat together.

For a young lawyer arriving from outside Delhi, in the vast constitutional theatre of the Supreme Court, the canteen became far more than a place for tea, coffee and snacks. It was an informal academy of advocacy, human behaviour, institutional culture and relationship with colleagues.

The canteen had a character and culture entirely its own. It carried neither the polished anonymity of modern cafeterias nor the speed of contemporary professional life. It had warmth, noise, pauses and continuity. Some advocates sat for quick cup of coffee and snacks and some for hours over a single cup of tea. Some tables belonged almost permanently to particular groups, seniors or ideological clusters. Juniors joined them respectfully listening more than speaking, absorbing the atmosphere like silent apprentices in an ancient guild.

It was there that one first learnt the invisible rules of the Bar.

Who greeted whom first.
Who never raised his voice.
Who carried authority without display.
Who fought bitterly in court yet laughed together over lunch.
Who prepared meticulously.
Who survived on brilliance.
Who survived on relationships.

Who survived on courage alone.
Who paid the bill

In court, the senior advocates appeared distant, formidable and almost mythic. In the canteen, they became human. One saw the human behind brilliance, humour behind authority and vulnerability behind reputation. One unwritten rule existed, if a senior is sitting with you on the table, he pays the bill

Great constitutional questions discussed passionately before Constitution Benches would quietly dissolve into ordinary conversations about health, families, politics, cricket, judges, politics of the day, every headline of the newspaper

For young Advocates, the canteen was also a waiting room of dreams:Some waited for their matter. Some for a senior's acknowledgment. Some for briefing the counsel. Some merely for the courage to continue in Delhi. Briefs and law reports were kept outside the canteen.

One most interesting activity that struck me was that some seniors would ask a brilliant junior to join for a cup of tea and in a very casual manner ask what is the latest development of case law on an issue. The young junior, in his enthusiasm, would share his thoughts and the latest citations, which became handy for the senior appearing in court

There were gossips, naturally. The Supreme Court canteen perhaps contained more rumours per square foot than any newsroom in the country. But hidden beneath the gossip was a remarkable institutional memory. Long before judgements were reported in journals, their likely impact was debated in those corridors and canteen tables. Immediately Elections to Bar Associations were strategised there. Judicial appointments, constitutional crises, political upheavals and shifting legal trends travelled across tea tables faster than official communication.

Yet what remains in memory today is not the gossip.
It is the humanity.
The hurried tea between matters.
The kindness of seniors who quietly paid for juniors.
The laughter after losing impossible cases.
The silence after politically sensitive hearings.
The collective anxiety during moments.

The ordinary dignity of advocates trying to build meaningful lives within an unforgiving profession. The canteen also taught patience. In those years, litigation moved differently. There were always time periods between matters, waiting for clients, waiting for opportunities and sometimes simply waiting for destiny itself to move. And in that waiting, relationships were built.

Almost all of the friendships, professional associations and institutional bonds that shaped my journey in Supreme Court were born not inside courtrooms, but

across the modest tables of the Supreme Court canteen. I often feel that the canteen represented the human face of the legal profession. The courtroom displayed intellect, discipline and authority. The canteen revealed enthusiasm, ambition, humour, compassion and resilience. The courtroom interpreted law; the canteen interpreted life.

Between 1976 and 1990, before the pressures of larger practice and expanding responsibilities consumed time completely, the canteen remained an extension of apprenticeship – a living classroom where one slowly understood that advocacy was not merely about arguing cases. It was about understanding people, institutions, conflict, ego, fear, power, relationships and, above all, oneself.

Many judges, advocates and colleagues who animated those tables are no longer with us. Their voices now survive only in memory. But even today, whenever I pass through the corridors of the Supreme Court and sit on those tables, I always feel that the old vibrations still exists somewhere in time – carrying echoes of arguments, laughter, whispered strategy, unfinished conversations and the restless dreams of young advocates who arrived there believing that law alone would change the world.

The Supreme Court Bar Library
The Republic of Books and Minds

If the Supreme Court canteen was the young lawyer's university of human behaviour, the Supreme Court Bar Library was its parliament of intellect. For generations of Senior Advocates, retired judges and advocates, the Supreme Court Bar Library was not merely a room filled with books. It was a living institution within the institution – a silent republic of memory, argument, learning and strategy. It represented the accumulated intellectual labour of decades of constitutional evolution. The library possessed a character and atmosphere difficult to explain to anyone who has not experienced it.

It consisted of five large rooms, lined from floor to ceiling with books – law reports, constitutional treatises, commentaries, journals, statutes, encyclopaedias, digests and international publications. Every wall appeared covered by bound volumes carrying the wisdom, conflicts and evolution of the law across generations. One did not merely enter a library; one entered the recorded conversation of civilisation itself. The air carried a peculiar mixture of paper, dust, silence and seriousness.

Young advocates walked through the corridors almost reverentially, often carrying not only files but also invisible anxieties about their futures. Seniors occupied tables with a natural authority that required no announcement. Many distin-

guished Senior Advocates – particularly retired Judges who had returned to the Bar after their judicial tenure and had thereafter been designated as Senior Advocates – almost had chairs permanently associated with them. Those chairs became institutions in themselves.

Advocates-on-Record, juniors, clients and briefing counsel would gather around them for conferences, opinions, strategy discussions and constitutional debates. Some seniors spoke softly; some dictated endlessly; some analysed files with microscopic precision; some held great wit, humour and devastating observations about law, social engineering and judges. A young lawyer sitting quietly nearby often received an education unavailable in any law school.

The Library functioned simultaneously as:

- a research centre,
- a strategy room,
- a consultation chamber,
- a debating society,
- and an informal constitutional and law academy.

There, one learnt that great advocacy was not merely about speaking well in court. It was about preparation, memory, discipline, patience and depth of reading. Legal research itself was an art particularly for those who did not have a personal library and chamber. Finding a relevant judgment often required moving through multiple volumes of Digests and Law Reports. Advocates developed extraordinary memories because survival required it. Many senior advocates could recall citations, page numbers and minority opinions from cases argued decades earlier. The Bar Library therefore produced not only Advocates, but legal minds.

Some of the greatest constitutional debates of the country were intellectually prepared within those rooms long before they reached the courtroom. Questions involving federalism, liberty, emergency powers, taxation, elections, public institutions and judicial review travelled first through whispered discussions around library tables before becoming reported judgements. The Library also reflected the invisible hierarchy and culture of the Bar. There were tables where juniors sat cautiously. Tables where political discussions dominated. Tables known for constitutional law. Tables where election strategies of Bar Associations were quietly planned. Tables where humour flowed more freely than legal advice. And tables where silence itself commanded discipline.

Yet beneath all hierarchy, there existed a shared relationship with books. Even the most celebrated Senior Advocates continued reading endlessly. That perhaps was the greatest lesson the library taught young advocates: in law, reputation may bring visibility, but only learning sustains longevity. The Bar Library was also

a place where time moved differently.

Hours disappeared between references, conversations and waiting for matters to reach. Advocates who entered for ten minutes often emerged after three hours, carrying not only authorities for a case but fragments of institutional wisdom gathered from conversations overheard across the room. For many young Advocates who had come from smaller towns and modest backgrounds, the library was also deeply democratic. A junior with little money could sit a few feet away from the finest legal minds of the country and silently learn from them every single day. In that sense, the library represented one of the purest forms of apprenticeship available within the profession.

I often feel that the Supreme Court Bar Library represented the intellectual conscience of the Bar. Courtrooms displayed advocacy in action; the library revealed the labour behind advocacy. Courtrooms produced judgements; the library produced the preparation from which those judgements emerged.

Many of the legendary Advocates and retired judges who once occupied those familiar chairs are no longer with us. Their voices have faded into history. Yet their intellectual presence still survives within those walls, hidden somewhere between the ageing law reports, annotated commentaries and the silent tables where generations of Advocates learnt not merely how to argue cases, but how to think. And perhaps that was the true greatness of the Supreme Court Bar Library. It did not merely store books. It quietly shaped minds.

Inspirational Thoughts

"Behind every judgment is a narrative… and within every narrative is a dialectical tension between deep-rooted conflict and the need for resolution."

…

"Presidents, Politicians, PMs, Judges come and go… but some constitutional decisions touch the very foundation of civilisations."

…

There is legend about a bird which sings just once in its life, more sweetly than any other creature on the face of the earth… singing among the savage branches, it impales itself upon the longest, sharpest spine. And dying, it rises above its own agony to out-carol the lark and the nightingale. One superlative song, existence the price. But the whole world stills to listen, and God in His heaven smiles. For the best is only bought at the cost of great pain… or so says the legend.

– Colleen McCullough – The Thorn Birds

…

"We must act according to the best dictates of our reason and then leave it to the Cosmos to judge

of its ultimate value. If you are certain at this moment that you want to serve our Maker in one way or another, then that faith is the only guide you have to the future. Do not be afraid to put your trust in it."

– Irving Stone – Lust for Life (Mendes to Vincent), p. 33–34

…

Sea is fathoms deep, therefore do not try to peep into its depth, without holding your breath. You may find a whale, a pearl or an octopus – But kindly do not rush, conclusions only create prejudice and confusion.

– Scribbling

…

Allow ideas to percolate and seep into the mass mind gradually and steadily. Ideas, having gained momentum by popular appreciation and revitalised by scathing criticism, become a live force, ready to be cast in the mould of great organisations and institutions. Ideas held sincerely and pursued constantly are bound to break the hard core of criticism and flow past every obstacle.

– Scribbling

…

Implicit faith in and total surrender to One Cosmic Reality is the pre-requisite to become a great human being. To become a great professional, you have to first become a great human being.

– Scribbling

…

"Vision without action is just a dream. Action without vision just passes the time. Vision with action can change the world."

– Joel Barker

…

Afterword – The Arena Widens: What the Years Taught

The period from August 1982 to June 1990 was the period in which the practice found its own shape – not the shape that the junior years had given it, which was necessarily the shape of other people's cases and other people's priorities, but the shape that one's own mind, one's own temperament, and one's own reading of the law and its possibilities had always intended it to take.

The cases of this period ranged across nearly every significant domain of the Supreme Court's docket: constitutional law in its most expansive expressions, environmental law at its birth, arbitration law at a defining moment, commercial and company law at the threshold of the era of economic liberalisation, and the enduring fields of service law, civil law, and criminal procedure that have always

constituted the bulk of the court's work. To practice across all of these fields in a single decade was a privilege that one-dimensional specialisation could not have provided, and the cross-pollination of ideas – the constitutional principle informing the commercial argument, the civil procedure insight sharpening the public law submission – was among the most valuable intellectual gains of the period.

The judgements listed in this chapter are, taken together, a portrait of a decade in which the Supreme Court was continuing the project of constitutional definition that the post-Emergency recovery had inaugurated. Each judgment added a brick to the living architecture of Indian law; each added a layer to the understanding of what the Constitution requires of the institutions it has created and of those who work within them. The advocate who was present for this process – who argued these cases, read these judgements, and absorbed their significance – was receiving an education that no classroom could have provided.

What the professional record cannot show is the parallel journey that ran beneath it. The years between 1982 and 1990 were the years in which the Upanishads became not merely texts to be read but disciplines to be lived. The morning practice that my grandfather had given me – early rising, the Gita, the discipline of quiet – deepened into something I can only describe as a gradual reorientation of the inner compass. I began to understand, slowly and without drama, that the cases I was arguing were not separate from the larger question of what existence is for. The courtroom became, in some moments of unusual clarity, an extension of the inquiry the Upanishads had opened: who is the knower? Who is the doer? The law answers these questions procedurally; the Upanishads answer them constitutionally, in the deeper sense of that word. Both answers, I was beginning to understand, were needed.

The arena had widened. The practice had found its depth. And in the spaces between cases – in the early mornings before the courts opened and the late evenings after they had closed – a larger vision of what law must become was beginning, quietly but insistently, to take shape.

CHAPTER 4

The Chessboard in Full Play
16.06.1990 – 31.03.1999
Advocate on Record for Rajasthan, the SCBA, and the Institutional Life

The Appointment
16.06.1990

There are mornings that arrive with a peculiar weight – ordinary in their outward arrangements yet charged with the intimation of turning. The morning of the 16.06.1990 was one such. Following the rituals with which I customarily begin a day that carries expectation, I put on a blue sapphire and proceeded to the Supreme Court. Little did I know, as I entered those precincts, that by eleven o'clock a message would reach me from Mr. Anil K. Gupta's chamber, summoning me to speak with the Law Secretary of the State of Rajasthan.

Mr. S.R. Bhansali, the Law Secretary, came directly to the point. TThe orders of my appointment... had been issued that very day. He wished me to take immediate charge of the entire litigation, including all pending matters. Then, with the warmth of one who has offered counsel and seen it vindicated, he asked whether I had worn the blue sapphire. Some days earlier, in Delhi, I had noticed the stone upon his own finger and, learning that I had once worn one and removed it, had counselled me to put it on again on the coming Saturday – that the obstacle which had delayed this appointment would then dissolve. I told him that it was only that morning I had done so. He laughed – a full, generous laugh – as if to say: *'You see? I told you so.'*

He told me that the official letter would be sent through an office messenger and that I would receive it on Monday, along with a bunch of cases in which SLP had to be filed on the reopening day and that I must take over the charge from Mr. B.D. Sharma and Mr. Inder Makhwana, the outgoing Advocates on Record for the State, and collect all the pending briefs. The simplicity of the instruction was, as I would discover within hours, in sharp contrast to the complexity of the undertaking.

I received the Order of appointment on Monday, the fees to be paid to the

Advocate on Record was according to the Taxation Schedule as provided in the Supreme Court Rules, 1966.

Taking Charge of the Office

The formal processes of institutional life are rarely as clean as they appear in official correspondence. The instruction to 'take over the charge' assumed the existence of a system capable of being handed over. What I encountered was something altogether different.

Mr. B.D. Sharma was not in his chamber when I first called. Mr. Inder Makhwana was away from his residence and not expected for two hours. I waited, called again, visited again – and when both gentlemen were finally met, it became apparent that there was no established procedure for the transfer of charge. There was no permanent office of the Advocate on Record for the State of Rajasthan. Three employees – a peon, a clerk, and a stenographer – had been appointed on an ad hoc basis, and all three received me with the guarded silence of those whose loyalties lay elsewhere. It was the first time a new person had come to disturb their settled arrangements, and their discomfort was palpable. Their commitment, as I understood well, was to those who had originally engaged them.

I telephoned Mr. Bhansali. He was characteristically direct: send a letter to him stating that charge had been taken, with copies to the Registrar of the Supreme Court and all concerned; collect the briefs from both the previous Advocates on Record; and get to work. He added that fresh *Vakalatnamas* were being issued in all new matters, and that I should begin appearing forthwith.

There were pressing concerns beyond the formalities. Numerous Special Leave Petitions (SLPs) had limitation periods expiring during the court vacations. Unless I obtained those files immediately, there would be no possibility of drafting and filing them on the date of reopening, which fell on the 09.07.1990.

Collecting the Briefs – The Room at Nizamuddin

When I made inquiries about the files of the SLPs pending filing, the briefs of the matters to be listed, and the paper books of pending Appeals, the clerk of the State office informed me, with studied vagueness, that the files of SLPs pending filing and the briefs relating to the matters to be listed would be handed over soon, while the appeal paper books were kept in a rented room at Nizamuddin East. I asked him to accompany me so that I might take stock of what I was dealing with, and asked further whether there was a file register – some record of file numbers as maintained in any orderly legal office. He told me flatly that there was no such

register, and offered, without any apparent concern, to take me to the room.

I had maintained a register since the very first case I received in 1976. Every file bore a number; every file was kept in strict chronology, so that any stranger to the office could locate any matter at any time. The very idea of practicing otherwise was foreign to me.

The room on the first floor at Nizamuddin told the whole story at a glance. It was a room of good size – and it was needed, for it was filled from corner to corner with the paper books of pending Appeals, lying in great piles on the floor, thick with dust accumulated over years of inattention. I stood there for a moment, took it all in, and told the clerk that we would return the following day to collect everything. That evening, I went to a stationery shop, bought two registers, engaged a tempo, and engaged two labourers to carry the files down from the first floor, load them, and bring them to my residence-cum-office on the first floor of Greater Kailash 1.

Once the files arrived, I set the clerk to work at once: each file was to receive a number and be entered in the register. My own files had been running from 1001; the State of Rajasthan files would begin at 3001 for appeals as there were about two thousand pending and at 5001 for fresh SLPs and that will continue. The principle was what it had always been: not a single piece of paper in the office without a file; not a single file without a number; every file in its proper place in the rack, accessible to anyone. I had the racks arranged that very evening.

The following day, the paper books were collected in their entirety, the room was emptied and its keys returned to Mr. B.D. Sharma, and the work of properly numbering and cataloguing every old and new file began. The clerk — a painstaking and responsible man, as it turned out – undertook this task with care, and soon every file stood in order.

Filing on Reopening – The Work Begins

The SLPs were drafted one after another through the vacation period. Every petition was filed within time. The last one was filed late in the night, as had happened earlier, nearly a decade earlier at the residence of the Registrar. From Monday onwards I continued to appear in the matters as they were listed. It became clear early that in several cases counter affidavits had not been filed – a consequence of the officer in charge not having been in contact with the office, and of there being nothing in the record to suggest that any effort had been made to establish that contact. These gaps were to be addressed, one by one.

Paltry Fees, the Non-Clearance of Bills, and the Economics of Professional Ruin

The work thus begun in June 1990 was sustained through the years that followed. But alongside the singular devotion to advocacy ran a parallel story – one of fees unpaid, bills ignored, and a fee structure so antiquated as to constitute, in effect, a systemic insult to every government counsel who served with integrity.

No issue has caused more quiet and persistent damage to the legal institution than the question of advocates' fees – particularly those of counsel engaged on government panels. To be appointed to a Government Panel or to appear for a Public Sector Undertaking carry, on the surface, the appearance of distinction: steady instructions, matters of consequence, the prestige of appearing for the State. In practice, it has often amounted to professional servitude – work without adequate or timely recompense, conducted under a fee structure whose foundations were laid in an era long since passed, and which the Supreme Court has, to this day, not applied sustained and serious mind to reforming.

The origins of the problem lie in the Taxation Schedule of the Supreme Court Rules – a matter which the Supreme Court could resolve with relative ease, the reform percolating thereafter to the High Courts and creating, at last, a dignified professional economics across the entire bar. But there has been a total lack of will to carry out this small, inconspicuous-looking change that carries a mega effect on the dignity of the institution. Under the Federal Court Rules, 1937, a leading Advocate was entitled to sixty-five gold mohurs (65 Gms.) for an appearance in a Special Leave Petition and one hundred and five gold mohurs (105 Gms.) for an appearance in Appeal. One gold mohur was held equivalent to sixteen rupees (Rs.16) making the entitlement one thousand and forty rupees (Rs. 1040) for an SLP, and one thousand six hundred and eighty rupees (RS. 1680) for a final hearing.

Some intelligent draftsman, having not the remotest idea of what was being done, instead of simply amending the rate of the gold mohur from sixteen rupees (Rs.16) to eighty-four rupees (Rs. 84) as it stood then – which would have entitled leading counsel to five thousand four hundred and sixty rupees (Rs.5460) for an SLP and eight thousand eight hundred and twenty rupees (RS. 8820) for an Appeal – reduced the fees schedule under the Supreme Court Rules, 1966, to eight hundred rupees (Rs.800) for leading counsel for appeals and two hundred rupees (RS.200) for appearing in SLPs. I think there exists no parallel example of a reduction of fees in any other industry anywhere in the world. This one act of casualness brought down the dignity of advocates to what it is today – and this rests entirely with the Supreme Court as legislature, for the Supreme Court is the author of the Supreme Court Rules.

A few designated Senior Advocates were not affected by this amendment and cared little for it. But the entire mass of the next line of advocates took a devastating blow. Senior Advocates continued to charge their accustomed fees – one thousand six hundred and eighty rupees (Rs.1680) for Appeals and one thousand and forty rupees (Rs.1040) for SLPs – quite unaffected by the 1966 Rules. By around 1978, Seniors had begun charging three thousand three hundred rupees (Rs.3300) for SLPs and five thousand five hundred for Appeals (Rs.5500), and that escalation has continued, reaching into lakhs and rightly so. As of today, the price of one gold mohur, or ten grams of gold, stands at one lakh ninety thousand rupees (Rs.1,90,000).

In every Appeal, courts were making orders as to costs, which had to be determined according to the Taxation Schedule. This is a matter of profound significance: the litigant who is in fault must bear the cost of the innocent litigant who has been dragged into litigation, without the means or energy for it. Since the Taxation Schedule was never meaningfully amended, judges stopped ordering costs, or began ordering *ad hoc* costs – a state of affairs unthinkable to my mind and conscience. Litigation has become free for all, for there is no fear of economic consequence even where the litigation is frivolous or deliberately vexatious.

The heaviest blow fell upon the Advocates on Record, those briefing the Seniors, or those acting as lead counsel, who remained entitled only to fees under the 1966 Rules. The language of the Taxation Schedule is ambiguous, even now as we celebrate seventy-five years of the Supreme Court, and ill-suited to practical application. After thirty-four years, the Taxation Schedule was amended on the 07.07.1990, whereupon fees for an SLP became eight hundred rupees (Rs. 800) and for an Appeal two thousand four hundred rupees (RS.2400), but the confusion of language was not resolved. The fee for drafting an SLP was fixed at one thousand two hundred rupees (RS.1200), the fee for a Senior settling it at one thousand rupees (Rs.1000), and for drafting other applications and written submissions at five hundred and fifty rupees (Rs.550). But even these modest sums were not coming.

The consequences, when I encountered them, were sobering. Some three months after resuming the appointment, I visited the Law Department of Rajasthan to enquire about the clearance of my bills. What I found I have not forgotten: my bills – representing months of diligent work before the Supreme Court – were stacked, untouched, in corners of two large offices one of civil cases and other criminal. Not examined. Not queried. Simply left to accumulate. The Law Secretary summoned the concerned officers and staff, their explanation was candid if dispiriting: the volume of fresh matters arriving daily for filing left no time for clearance of existing bills, and they had never encountered so may bills.

It became apparent, as I pressed the matter further, that no previous holder of the office had ever established a proper system for getting bills cleared, nor had the Law Department developed any settled procedure for doing so. The issue was treated in the way that inconvenient institutional problems are habitually treated in large departments – deferred indefinitely, in the hope that it would eventually resolve itself. It never does.

I raised the matter at every appropriate level, including directly with the Chief Minister. Some files moved; some feathers were ruffled. Nothing of substance was accomplished. When I subsequently served as Additional Advocate General from 2004 to 2009, the unpaid bills from my earlier tenure remained outstanding. It was eventually necessary to file a Writ Petition. The Supreme Court got the matter settled in due course, but by then I had lost a sum that was significant – not merely in its quantum, but in the moment of its loss, when the money was most needed. The time and energy spent in recovering fees from the very State I had served so devotedly was repugnant to everything I believed the relationship between counsel and client ought to represent.

And the fees themselves? They were, by any fair measure, an insult – minuscule beyond reckoning in relation to the work they purported to compensate. A counsel who reduced the State's pendency before the Supreme Court from seven thousand matters to three hundred and fifty in a period of about nine years – appearing in thousands of hearings, filing counters in every matter, maintaining a disciplined team at own cost, and protecting the State's interests across the full breadth of its litigation – was entitled to receive, for that prodigious effort, precisely what the Taxation Schedule declared appropriate, and did not even receive that within a reasonable time. The Schedule had not kept pace with the times when I served. It has not kept pace still.

But the deeper catastrophe is not the inadequacy of the fees. It is the silence that surrounds it – and what that silence conceals. Every advocate on a government panel, every counsel appearing for a Public Sector Undertaking, knows the equity of this arrangement. Each one has felt it – in the delayed bills, the unpaid dues, the quiet humiliation of chasing the State for money already earned and long overdue. And yet not one of them speaks. The silence is not born of ignorance. It is born of calculation – of a cold understanding of where the real advantage lies. For behind every incumbent on a panel stands a queue: a long, patient, eager queue of advocates willing to accept the same terms, the same paltry fees, the same indignity, for the privilege of holding the appointment. Because the appointment itself has become the prize. The brief is not valued for what it pays; it is valued for what it enables, a recognition, for the access it confers, the associations it cultivates, the doors it quietly opens to money that arrives by other means,

by other paths, without appearing in any bill or taxation schedule at all.

This is not a minor infirmity of the system. It is a blood cancer – malignant, deep-rooted, and advancing without resistance, because those best placed to name it have chosen instead to benefit from it. And like all cancers left untreated, it does not stabilise. It consumes. It has consumed the dignity of those members of the bar – from the public prosecutor to the counsel on the Central Government panel in the Supreme Court – who hold their integrity and continue to work within the structure to which they are entitled. It has consumed the integrity of the panel system itself, and with it the advocates who wished to give their all. This is a blow dealt every day to my Mistress. There is nothing divine in it, and nothing even approaching the humane. The Law as it now exists continues to demolish the mettle of advocates with integrity – forcing them, case by case, year by year, to pick up means they neither wished for nor deserved. And in its ultimate analysis, it has led the institution to the situation it has reached today. Death.

Establishing a Permanent Office at Bikaner House

Operating the office of the State of Rajasthan from the confines of Chamber No. 96, already my own working space, was never a sustainable arrangement. The office of the Advocate on Record needed to exist as a place in its own right: a place where the officers of the State could always come and learn the exact position of every pending matter in the Supreme Court; a place that would outlast any individual appointment; a place that belonged to the State, not to any particular advocate on record.

I put this case to the Chief Minister, Bhairon Singh Shekhawat Ji, he understood at once, and told me that he was already taking steps to secure the vacation of Bikaner House from the Central Vigilance Commission, which had been using a portion of the premises for its own offices. In due course, I received a call from the Resident Commissioner of Rajasthan in Delhi, the CVC had vacated, and I was invited to come and identify which portion would be most suitable for the office of the Advocate on Record, so that the remaining rooms could be allotted to others – to the RTDC and similar public sector undertakings.

I visited Bikaner House, surveyed the entire building, and earmarked a substantial independent locked room, together with an adjacent room. This portion was separated from the main building – quiet, self-contained, and, to my mind, ideal. I told the Resident Commissioner I would take it over the following morning.

When I returned the next day and asked for the keys, I was informed that the room had been locked for so long that the keys could not be found. The lock was

broken open. Inside was a large room – large indeed, and populated: great ant-hills rose from the floor, and rats moved freely about the premises. I arranged for the rooms to be cleaned, identified a chamber for myself in the smaller adjacent room, furnished it, and installed iron almirahs reaching to the ceiling.

Gradually, all the files and books were moved from my residence, to the new office at Bikaner House. My appointment as Advocate on Record for the State of Rajasthan had, as a natural consequence, brought the dissolution of the partnership of Gupta Naroola and Company. But the ties between R.K. Naroola and myself, forged in our very first case together in Madras, remained as strong as they had ever been. Institutions change; friendships rooted in character and mutual respect do not.

The Dissolution of the Rajasthan Assembly and Resignation as AoR
15.12.1992

On 06.12.1992, the demolition of the Babri Masjid at Ayodhya sent convulsions through the political life of the nation. The Central Government moved swiftly to dissolve the Legislative Assemblies in five States, including the State of Rajasthan, and Governor's Rule was imposed. The consequences for my office were immediate and pointed. There was heavy pressure – from Congress politicians and from advocates in the Supreme Court associated with them – upon the Governor of Rajasthan to change the Advocate on Record.

The Law Secretary of Rajasthan, called to tell me that a change was inevitable and that I should prepare myself for it. I received the information with equanimity. A man who has given his best to his work need not cling to office; the work speaks for itself, and the wheel of political fortune turns without asking the advocate's leave. As soon as the new Advocates on Record were appointed, I handed them the keys of the Bikaner Office, the list of pending files along with the files all organised in a proper manner

Hon'ble Mr. Justice Dwarka Prasad Gupta
21.07.1926 – 18.06.1993

Papa was an extraordinary human being. My first memory of him is of visiting him in jail as a three-year-old child, with my mother and grandfather. The Jaipur Bench had been abolished and more than seven hundred advocates practising at Jaipur had courted arrest in protest. My next memory is of stepping down at Raika Bagh railway station at Jodhpur and travelling in a *tonga* to a house in His Highness Flats – a two-bedroom flat on the third floor, opposite a zoo. He had

joined R.K. Rastogi, Senior Advocate and former Advocate General of Rajasthan, and commenced independent practice soon thereafter.

Perseverance, hard work, and strict discipline were his signature. Through the fifteen years of conscious life, I spent with him, from 1958 to 1973 – whereafter I moved to Agra and then to Delhi – I did not once see him retire before two o'clock in the morning. From eight o'clock each evening, the typewriter kept up its unceasing rhythm.

He enrolled as an Advocate of the Supreme Court in 1955, served as Secretary of the Rajasthan High Court Bar Association, Jodhpur from 1959 to 1964, and as a Member of the Bar Council of Rajasthan from 1961 to 1964. He also authored a book on the Motor Vehicles Act during this period. His advocacy was marked not by theatricality but by clarity and calm conviction – measured in tone, never hurried, never overstated, always anchored in principle.

He was elevated as Additional Judge of the High Court of Rajasthan on 24.09.1973 and confirmed as Judge on 21.09.1975. Between 1978 and 1982, he served additionally as Lokayukt of Rajasthan. He served twice as Acting Chief Justice – from 08.10.1980 to 30.10.1980, and again from 08.08.1981 to 05.03.1982. He also discharged the constitutional responsibility of serving as Acting Governor of Rajasthan from 04.11.1985 to 19.11.1985 – a rare confluence of judicial and executive duty, discharged with characteristic composure and discretion. He was nominated Chairman of Bharatiya Vidya Bhawan, Rajasthan, in 1980, and was included in *Who's Who in the World* (Fifth Edition) that same year, and thereafter in *The International Who's Who of Intellectuals*, Cambridge, England, in December 1982.

He was appointed as the 15th Chief Justice of Rajasthan on 12.04.1986 and retired on 31.07.1986 – the shortest complete tenure of any Chief Justice of Rajasthan: three months and nineteen days. Among his lasting contributions to the institution was the construction of ten single-storeyed, four-bedroom houses for the High Court Judges in the Gandhi Nagar colony – a matter he pursued with quiet determination against institutional inertia. That colony stands to this day as his gift to the Court he served.

After retirement, he was designated Senior Advocate by the Supreme Court of India in 1987. In August 1990, he participated in the Sixth International Ramayana Conference held by Mahatma Gandhi Institute, Moka, Mauritius. He was an enthusiastic traveller throughout his life... and had undertaken an extensive journey around the world, travelling to England, America, Canada, France, Germany, Italy, Switzerland, Holland, Denmark, Japan, Bangkok, and other nations.

The Man Beyond the Office

After I joined the Bar and he retired as Chief Justice, a closeness between us deepened that had been constrained earlier by the proprieties of a father who was a sitting judge and a son building practice. We conversed at length – particularly during the period when I was working on *Understanding the Supreme Court Better: 151 Facts You Need to Know*. He shared his recollections of senior advocates with a vividness that made those encounters live again: Ashoke Kumar Sen, relishing lunch at our place in Jodhpur when Papa had briefed him to appear in the Rajasthan High Court; Gopal Swarup Pathak former Vice President of India – with whom he used to hold conferences at six in the morning. These were not nostalgic digressions. They were the transmission of a tradition, one generation to the next.

There was another dimension of his life which he revealed to me quietly, and which I did not fully comprehend until years later. I distinctly remember Guruji visiting our home at Jodhpur in 1964. Papa's association with the drafting of the Vishwa Hindu Parishad Trust in 1966 was another expression of that larger commitment – to the cultural and civilisational life of the nation, which ran alongside his commitment to the law.

During the short period when the Janata Government was in power, he came to Delhi. I was surprised to see Shri Atal Bihari Vajpayee bend to touch his feet. On enquiry, Papa told me that he had joined the RSS in 1944 in Agra, and in 1945 in Kanpur during his LL.B. college days. Thereafter he had been active in Delhi, working under Eknath Ranade and Vasantrao Oak, until warrants were issued against him in 1948 following the Gandhi murder. He had lived underground until 1950, then moved to Jaipur and enrolled as an Advocate in 1951. Atal Ji had joined in Gwalior in 1949 – which made Papa considerably senior to him in the organisation – and Advani Ji had joined even later, at Alwar.

The Last Day 18.06.1993

Papa was in Delhi, staying at our place. He was keen and looking forward to visiting the United States – to meeting members of the family who had settled there. Travel had always been his passion. So had the maintenance of close and healthy relationships with everyone who mattered to him. Both spoke of a man still fully alive to what lay ahead.

In the early morning hours of 18.06.1993, at around five o'clock, he woke me. He was feeling uncomfortable – his asthma was troubling him, and he needed asthelin for the inhaler. I got it immediately. Through the day, however, his breathing remained shallow. As was his way, he refused to see a doctor. For him it was a routine matter; he had managed asthma for years and knew its rhythms, or so he

believed. Eventually I arranged for a doctor who examined him and prescribed additional medicine.

By evening I was deeply uneasy. I called his close friend in Delhi, Mr. J. Sharma, who came immediately. Together we took Papa to Safdarjung Hospital. His oxygen level had dropped. Medicines were administered as prescribed. Around eleven o'clock that night he had a stroke. As he was moved to the ICU, he collapsed.

I called Jaipur. My mother received the news with a strength that I have never forgotten – the strength of a woman who knew that what had to be done must be done. She told me to bring his body to Jaipur.

I arranged a vehicle. I went home to inform Padma and to ask her to get ready to travel to Jaipur with my cousin sister and brother-in-law, who have always been a great support to me through my entire years in Delhi. Then I drove – alone – with my father's body.

On reaching Jaipur, I called former Chief Minister Bhairon Singh Shekhawat. He made arrangements immediately. Papa was accorded a full State Funeral – a rare and singular honour for a Chief Justice of the Rajasthan High Court. It was a recognition not merely of office, but of a life: quietly lived, fully given, worthy of the highest regard.

That was the end. And in its own way, it was entirely consistent with how he had lived – with dignity, without fanfare, and with the deep silence of a man who had said, through his work and through his life, everything that needed to be said.

He was sixty-six years old.

The Election, Atal Behari Vajpayee, and the Return of the BJP Government

11.11.1993

Among the figures whose company I have valued most in this long professional life, Bhairon Singh Shekhawat Ji, the Chief Minister of Rajasthan and Vice President of India, occupied a place of particular warmth and meaningful communication. He was a man of the rarest quality – at once a statesman and a human being of great natural generosity. He had, over the years, given me a standing instruction that I could come to see him whenever I wished, without ceremony, without knocking at the Chief Minister's Office in the Secretariat in Jaipur. When I once asked him about this, he told me the reason with characteristic directness: when a man knocks and waits, every watching eye reads the gesture as supplication. When a man enters immediately after knocking, it is understood that the room is his own in some measure – that he needs no permission. There was, in this small teaching, a whole philosophy of how to conduct oneself in the world.

I received a call from Bhairon Singh Ji's office asking me to come urgently. When I arrived, the situation was explained: Bhairon Singh Ji had ninety-six BJP members of the Legislative Assembly who had won on the BJP ticket, while there were six independents pledged to the party, together making 102, a clear majority in the assembly of 200. A representation had to be drafted to the Governor asserting this majority and requesting the opportunity to form the government. Atal Bihari Vajpayee was expected that evening.

The letter was drafted by me and placed before Atal Bihari Vajpayee, who approved it. Atal Bihari JI distinctly remembered my father as a towering figure in RSS in early day, whom he had met with great respect in 1977, when Atal Ji was Minister of External Affairs in Morarji Desai Government and my father was a High Court Judge and had gone to Delhi. That evening, Atal Bihari Vajpayee, Bhairon Singh Shekhawat Ji, and all the MLAs proceeded together to the Raj Bhavan. The Governor had no choice but to direct the BJP to form the government in the State of Rajasthan.

Reappointment as Advocate on Record for the State of Rajasthan
July 1994

The wheel turned, as wheels do. In July 1994, I was reappointed as Advocate on Record for the State of Rajasthan, and the office at Bikaner House was restored to its purpose. The intervening period had, if anything, sharpened my understanding of what the position demanded and how it ought to be conducted. I returned not merely to resume a role, but to discharge it with a rigour that the office had perhaps not always received.

Building the Team – Method, Discipline, and the Pursuit of Disposal

With the office established and the files in order, the real work of building a working team could begin. I set about building a proper working team without delay. At Bikaner House, some seven Associates joined me, each assigned to specific and defined responsibilities: the drafting of Special Leave Petitions in criminal, service, and allied matters; the conduct of legal research; the preparation of counter affidavits. I sought and received the full co-operation of the State. From the outset, I resolved that no adjournment would be sought in any matter on our account. In every case that came before the court, I appeared prepared – with the list of dates and events marshalled, submissions ordered, and the paper book studied.

The administrative arrangements were equally deliberate. One peon was assigned the specific task of applying for certified copies of all office orders in matters

listed before the Supreme Court on a given day, and collecting those copies the following morning. Five copies of each order and judgment were obtained: one for the Officer-in-Charge of the concerned Department, one for the Law Department, one for the file, one to accompany the bill, and one for the master folder — a running record of every order and judgment passed across the tenure.

A separate staff member was employed solely to prepare bills in quadruplicate for submission to the Law Department for clearance. The signing of each bill was itself a task of some ceremony: eight signatures were required on every bill – a laborious formality that, whatever its intended purpose, left little doubt about where the system's priorities lay.

When I assumed charge, approximately two thousand five hundred appeals were pending before the Supreme Court on behalf of the State of Rajasthan. Special Leave Petitions were filed without delay; counter affidavits were filed in all contested matters without delay. Day after day, week after week, the docket was worked through with method and without respite. By the time I relinquished the brief for the State in 1999, the total pendency had been reduced to three hundred and fifty cases – the lowest figure the State had ever recorded in the Supreme Court of India.

The quality and pace of this work was not, I should note, without its discomforts for many others. Matters that had previously languished after the grant of a stay order – listed once, adjourned indefinitely, and quietly forgotten – were now listed, heard, and disposed of. Those who had made a quiet profession of delay found the new order unwelcome. But the interest I served was the interest of justice and of the State, and that left no room for accommodation with inertia.

Forty-Nine Special Leave Petitions in a Single Day

July 1994

As a child, I used to sit beside my father, Justice D.P. Gupta, and mark his cause list for the day – counting the matters, wondering at the scale of the work, feeling the quiet pride of belonging to a world where so much depended upon so much. That early fascination with the cause list never left me, and on this day in July, 1994, it returned to me in a form I could not have anticipated.

On that Friday, I had forty-nine Special Leave Petitions listed for admission, none of them bunch matters; each a separate and distinct case. I moved through them one after another. Some matters in the Chief Justice's Court had to be passed over while I was engaged in Court No. 5, and as soon as I entered the Chief Justice's Court, the passed-over matters were being called out.

Chief Justice R.N. Misra looked up from the bench, the brief in his hand,

and said: *'Mr. Gupta, do you know you are holding ten per cent of the brief of the Supreme Court today? We normally list five hundred matters, and you are doing forty-nine of them.*'

I have experienced many moments of professional satisfaction in this long career. But there was something in that moment, the Chief Justice of India pausing in the flow of a working day to observe what a junior advocate was doing, and to say it publicly, that touched a deeper register than mere professional pride. I replied:

> *"My Lords, I am extremely beholden, and feel proud to belong to an institution where the Chief Justice is aware of and is watching what the juniors are doing, what can be of a greater achievement in the career of a young advocate."*

It was one of the finest moments of my life at the Bar.

Two Minutes – And the Making of Justice

There was a bunch of pending Appeals before Justice R.N. Misra, Chief Justice of India, in which the State of Rajasthan had a significant policy question at stake. The matter was called at twelve minutes to one o'clock. I looked at the Chief Justice; I looked at the clock. The Chief Justice, with the quiet smile of a man who has seen everything the Bar can offer, said: '*Mr. Gupta, there are still two minutes to go*.'

I said: *'Yes, My Lords. The matter relates to the policy of the State to grant one hundred days of employment to one member of each family that has no breadwinner. The High Court has directed the regularisation of persons so employed. If the judgment of the High Court is not set aside, the policy of the State will fail.*'

It was one o'clock and my submissions were over. The Chief Justice looked across at the other side and asked if there was anything to be said. There was no reply. The bench rose for lunch.

After the lunch interval, the court reassembled, and the Chief Justice dictated the judgment, the appeals were allowed. There are such moments in the practice of law when the clarity of a submission, meeting the readiness of a court, produces justice in the most economical of forms. These are not dramatic moments in the conventional sense. They are, in truth, the finest testimony to what an institution, working as it should, is capable of achieving and imparting justice.

Registration of the Law Information Center
19.12.1994

Throughout this period, I had continued, at my own time and expense, to develop a database of Supreme Court judgments – a tool conceived not for com-

merce but for the craft of advocacy. The speed at which the law was expanding, the proliferation of law reports and statutes, and the sheer volume of precedent that a practitioner in the Supreme Court was expected to command demanded a better instrument than any that then existed.

It was becoming increasingly clear to me that the profession required not merely information, but intelligent access to information. The challenge was no longer the availability of judgments; it was the ability to retrieve the right judgment at the right time and place it meaningfully within legal argument.

It was both encouraging and instructive to discover that others of the highest distinction at the Bar shared this conviction. Dipankar P. Gupta, then Solicitor General of India; K.T.S. Tulsi, Additional Solicitor General; Arun Jaitley; Harish Salve; and Gopal Subramanium each took a keen interest in the computerisation of legal knowledge and the development of legal software.

Out of these conversations – and out of a shared understanding of what the legal profession would increasingly require – the idea of the Law Information Center emerged.

By then, I had already invested substantial time in developing a meaningful judgment and information retrieval system for the Supreme Court of India. But it had become equally clear to me that such an initiative should not remain the work of an individual. It was work for the institution. If the effort was to outlive those who began it, a formal legal institution had to be created that could preserve, expand, and carry the legacy forward.

Accordingly, on 19.12.1994, the Law Information Center was formally registered.

K.T.S. Tulsi agreed to serve as Chairman. Arun Jaitley, Harish Salve, and Gopal Subramanium became Vice Chairmen, while I took responsibility as President. Dipankar P. Gupta, Solicitor General of India, agreed to be the Patron.

At that stage I was living in a tenanted house, and Harish Salve graciously offered his own address for the purpose of registering the society – a gesture entirely consistent with the generosity and institutional spirit that characterised him.

The development of a judgment retrieval system carried a cost, but the need was evident and the resolve was firm.

By the early nineteen-nineties, the World Wide Web had begun to emerge as a transformative reality, and it became apparent that maintaining legal databases on CD-ROMs would remain, at best, a transitional arrangement. The database was therefore moved to the Internet.

At that time, I was personally subscribing to approximately eighteen law reports. Yet even then, obtaining the right judgment at the right moment – with the speed and precision that genuine advocacy demands – remained an elusive objective.

The Law Information Center was conceived as an institutional answer to that problem: a shared knowledge resource created not for ownership, but for service to a profession that urgently needed it.

SCBA Elections: Honorary Secretary
22.03.1995

There is a sprawling platform in front of the Chief Justice's Court where advocates continue to meet, greet, and talk while waiting for their matters to be called in Court Nos. 1 to 5 – particularly in the winters, when the morning sun falls generously on that open space and the bar gathers with a warmth that the courtrooms themselves rarely permit. It was on one such morning that I found myself standing with Mr. Kailash Vasudev and Mr. Rupinder S. Suri. Kailash was senior to me by a year and Rupinder junior by a year. Both were serious professionals with a good practice, and both felt strongly about the state of the bar and the need to do something meaningful for it. Kailash had contested the election for the post of Secretary for 1993–94 and Rupinder for 1994–95. Both had lost.

That morning, they spoke with undisguised discomfort about what they saw happening in the SCBA elections – the manner in which outcomes were being shaped, the candidates who were prevailing, and what that said about where the association was heading. I listened, and then said what seemed to me self-evident: the difficulty was that those who were serious professionals were not united, and that disunity allowed others to walk through the gap. Both of them turned to me and said, with a directness I had not entirely anticipated – if that was the diagnosis, why should I not contest and lead the path myself? I said I was willing to take the challenge, but on one condition: that both of them supported me fully, and that after me, Kailash would contest for the post of Secretary, and thereafter Rupinder. They agreed without hesitation. And so, on a cold winter morning on that sunlit platform, what became a quiet but purposeful succession was settled.

Contesting the SCBA election was a novel experience for me – and a humbling one. I was a new face in the election arena, having spent two decades with my head firmly in the work. I had seldom sat in Library 1 or Library 2, where I was told opinions were formed, alignments were made, and candidates were assessed over unhurried conversation. The geography of electoral influence in the Supreme Court Bar is not confined to the courtrooms. It stretches across the High Court bars and the Trial Courts, where a large number of voting members practise and where, I discovered, many of the decisive votes resided.

I visited both the High Court and the Trial Court, accompanied by my associates, meeting members I had long known by face but not by name — advo-

cates I had watched arguing across crowded corridors for two decades, whose silhouettes were familiar but whose stories I had never paused to know. The election gave me that pause. I met them, spoke with them, heard them, and in doing so made friendships that would endure long after the ballots were counted. It was one of those unexpected gifts that a contested election sometimes delivers – the forced expansion of a professional world that, in the ordinary course of intense practice, tends to narrow around one's own docket.

The votes were cast. When the count was done, I had won the post of Honorary Secretary of the Supreme Court Bar Association by three votes from my nearest contestant. Three votes – the thinnest of margins, the most fragile of mandates. And yet, in that margin, I felt not fragility but responsibility. The post had been entrusted to me by the narrowest of verdicts, which meant that every single vote had mattered, and that every person who had cast one in my favour had made a deliberate choice. That is a more demanding kind of trust than a landslide. Mr. Kapil Sibal was elected as the President. Kailash won election for 1996-97 and Rupinder for 1997-1998

First Sports and Games meet of SCBA

One of my first acts as Honorary Secretary was to plan a full calendar of activities – events that would bring the bar together not only as a professional body but as a community. Among them, the idea closest to my heart was organising a Sports Meet for Judges and Advocates. The legal profession, by its very nature, is one of sustained intellectual tension and long sedentary hours. The courtroom demands concentration, argument, and endurance of a kind that leaves little room for physical expression or the release that sport alone can provide. I had always believed that a bar which plays together argues better – that the informality of a sporting field dissolves the hierarchies of the courtroom and reveals the human beings behind the robes and the gowns.

A full-day Sports Meet was organised at the National Stadium. The response exceeded what I had dared to expect. Judges came. Advocates came. Associates and clerks came. Families came. The events were spread across the day – badminton, table tennis, chess, carom, cricket, squash, athletics – and the stadium, ordinarily a place of national competition, rang that day with a different kind of contest: one played in good faith, with laughter, and without consequence to anyone's brief. Prizes and certificates were given not only to the winners but to the participants – because participation itself, in a profession that so rarely permits it, was the achievement worth honouring.

It was a grand success. Everyone enjoyed it totally – and perhaps none more

than the Judges, who shed, for those few hours, the weight of the bench and appeared before us simply as men and women who could serve and volley, who could lose gracefully and win without ceremony. That day planted a seed that I have never stopped believing in: that the bar is not only a professional institution, it is a human one – and human institutions flourish when they are occasionally permitted to play.

Law Information Center, First Legal Web Site in India launched by Justice M.M. Punchhi

07.11.1996

By November 1996, Law Information Center had been formally registered as a Society, the database of Supreme Court Judgments was ready, and the moment had come to place it before the world. The idea of launching it on the Internet – still a novelty in India, still regarded by most of the legal profession with a mixture of curiosity and suspicion – had been conceived and nurtured over years of solitary effort, beginning with that five-hour search for *Ujam Bai versus State of U.P.* in 1982, which had planted in me a deep-seated and unshakeable conviction that the legal profession needed better tools. I spoke to Justice M.M. Punchhi, Judge of the Supreme Court, about launching the website. He agreed readily and with characteristic grace. On the 07.11.1996, India's first legal website was formally launched – an event that drew magnificent coverage across the national press, and that marked, in its quiet way, the beginning of a new chapter in the relationship between law and information technology in this country

08.09.1996, Information Technology cannot be neglected - The Hindu

"Though computers are not a substitute for original thinking, use of computer and information technology as a tool for gathering information cannot be neglected." Speaking at the formal launch of two legal software of LawInC - Locator and Dial-N – Mr. Justice M.M. Punchhi of the Supreme Court stressed the importance of computers in the life of the judiciary. Acknowledging the importance of computers. Mr. Punchhi said, *"Use of information technology is a must and has helped the Supreme Court in substantially reducing the arrears."* He expressed the hope that this step by the Law Information Centre will help Indian Law in going global.

09.11.1996, Computers & Law - The Hindustan Times

"Information technology cannot be negated. Though computers are not a substitute for original thinking, use of computer and information technology as a tool for gathering information cannot be negated," said Supreme Court judge, Mr. Justice M.M.

Punchhi while stressing on the importance of computers in the life of judiciary. While speaking at the formal launch of two legal software of LawInC-Locator and Dial-N, Mr Justice Punchhi said that "use of information technology is a must and has helped the Supreme Court in substantially reducing the arrears". He expressed the hope that the steps by the Law Information Centre would help Indian law in going global.

09.11.1996, LAWINC software launched on Net – Observer

The Past and the present of the Indian judiciary and legal professionals can now browse on the Internet. The Law Information Centre (LIC) has launched a software on the Internet which the petitioners and respondents to evaluate the past performance of all Indian lawyers. Researchers, law ministers and school can also know the number of cases and pending before the Supreme Court with full text of each case. The lawyers and judges who were party to anyone can also be known through this software. Lawyers and judges can also save time finding all precedent trials and their corresponding references by the press of a button. All these can be done minutes through the home page of the Law Information Centre on the India connect LawInC World Wide Web. Called the Locator, Dial-N, SpotLaw, Stat-Scope, DHRUVA, Vakalat, Plea, MyOle and Cola, this software can answer practically all questions pertaining to the Supreme Court cases, judges and its lawyers free of charge, claims LIC president Aruneshwar Gupta.

"The Locator is a massive database of the Indian legal fraternity with their specialties and place of practice. The "Vakalat" is a short form for Various Anecdote and knowledge Around Law for Advocates and Trainees. "DHRUVA" (Draft, Help, Research Utilities and Vital Assistance) is a software using database of articles published in various journals, textbooks and other information like court fees, practice and procedures followed in different courts, formats of petition, deeds and other documents" said Mr. Gupta. "SpotLaw", according to Mr. Gupta is the facility for the lawyers and judges. This software helps legal professionals to text search an interlinked database of Cause titles, corresponding citations, statute index, subject index and random search with respect to the judgements of Supreme Court, high courts and of the courts of Australia, Canada, UK and USA. "SpotLaw" is aimed to help the lawyer's search for precedent cases suitable to their reference and arguments. We also plan to network the Indian High courts in this software," said Mr Gupta. Dial-N which has already been launched gives a date and subject wise daily abridged legal news published in leading newspapers and as available from the Bars. Stat-Scope to be launched in February is a software giving statutes in the Constitution and its amendments.

12.11.1996, Hold a Sec. Milord while I surf the Law net - Delhi Midday

LOCATOR and Dial-N, the two legal software of LAWINC, were formally launched on the Internet by Supreme Court judge M.M. Punchhi in New Delhi on Thursday. Locator is the first electronic directory of Indian legal fraternity, which lists legal organisation courts, advocates, teachers and others connected in the field, in India and overseas. On the other hand, Dial-N is the date and subject-wise daily Indian abridged legal news published in leading national newspapers, and also as available from the Bar which may not have been published as certain information is only available to the bar members. Both this software along with a few more will soon be available in floppy and CD format.

LAWINC, or the Law Information Centre, is a non-government organisation to reduce delays, arrears and provide justice for all. Lawyers of the country listen. Do away with nerve-wracking searches, expensive law books and voluminous case journals. Yet be acquainted with knowledge of cases from across the world, login to the world of Internet. Thanks to the Law Information Centre, Lawyers can access everything they ever wanted - information about judges, lawyers, unbeatable case references ranging from Australia to America, case histories and more. The legal electronic directory on Internet in India was launched last week by Supreme Court Judge M.M. Punchhi.

The Law Information Centre has accessed two legal software on LawInC website on Internet Locator and Dial-N. All the lawyers now have to do is to have computers with Internet connection and then e-mail to *"aruuneshg@giasdl01.vsnl.net.in*" and then go cyberspace surfing on matters legal.

On the occasion of the formal launch of, LawInC on Internet, Justice Punchhi said, *"The massive database that sophisticated technologies has brought about will help save time tremendously, help effective court management and streamlining of case. Further, concealment of legal information will not be possible as everyone will have access to the same information. This will be the court of 21st Century,"* said Justice Punchhi. However, Justice Punchhi who admitted he never familiar with these gadgets, had his apprehensions too. "With *the advent of these sophisticated systems, thinking will recede to the background. One may travel, entrap and gather much (information), but it may come to a standstill and mere ornamentation to the thinking process."*

"The information super highways and the innovative computer programme will help the lawyers in their pursuit of justice consummately," said chairman of Law Information Centre and Ex-Additional Solicitor General K.T.S.Tulsi*"The launch of the legal software is a fructifying moment at the end of a long and an arduous work."*

The speakers during the launch of felt that in a fast-paced world of information superhighways, judges, lawyers and litigants have been left in an extremely

disadvantageous position. Thanks to the age-old system and practices followed at the courts while dealing with hundreds of thousands of cases. This situation is accentuated by the limitation and uncertainty in knowledge gathered through digests, manuals, case diaries, notes etc.

Delay arrears and inconsistency exist because the legal system has not been able to keep pace with the developing and changing statutes and case laws, felt the lawyers. LawInC was founded by eminent lawyers, the fundamental objective of the organisation is to collect, analyse, process, generate, retrieve and transmit comprehensive information. For the moment, lawyers can access two websites at the Internet through LawInC Locator and Dial and Dial-N, but more website are in the offing, Locator is the first which lists legal organisation, courts, advocates, teachers and others connected in the field, in India and overseas.

"It would help in creating faster interaction between lawyers and their clients in India and abroad and help clients to locate lawyers specialising in various fields. Any client can locate a professional of his choice on parameters like name, state, category, area of specialisation and courts of practice," said Aruneshwar Gupta, president of LawInC. "The search result would pinpoint the exact professional needed." The second software offered on Internet is Dial-N. This website will provide the date and subject-wise daily legal news gleaned from newspapers and from the Bar.

Further, LawInC has already created software and data bank in certain sections like a selected recommendation of National Human Rights Commission, 94-96 in printed book form 'LIC 001 NHRCR 00001' on the website. The other software that are on the anvil are SpotLaw (database of Case Law) Stat Scope (Software of various acts, rules, orders and regulations), DHRUVA (published articles and other court related information) Vakalat (basic knowledge for a novice), Plea (file organising and billing system), MyOle (personal files and retrieval system) and COLA (Calendar of Lawmen Activities).

20.11.1996, First legal directory launched on Internet - Business Standard

LawInC (Law Information Centre), founded by a group of prominent lawmen as Mr. K.T.S.Tulsi, Former Additional Solicitor General of India, Mr. Arun Jaitley former Solicitor General of India and other senior advocates has objective of collecting, analysing, processing, sorting and transmitting full and updated information related to law through software development so that delays and inconsistencies in the legal system can be removed. The two software - Locator and Dial-N are in floppy and CD formats. Locator contains list of legal organisation, courts, advocates, teachers and others connected in the field, in India and overseas. Dial-N is the date and subject wise daily Indian abridged legal news

26.11.1996, India's first legal electronic directory launched on Internet - Observer

The country's first legal electronic directory has been launched on the Internet. The launch is the result of efforts made by a group of prominent legal persons who teamed up to form a company called Law Information Centre (LawInC). The company was founded with the objective of collecting, analysing, processing and transmitting full and updated information related to law through software development. Among those associated with LawInC are former solicitor general Arun Jaitley, former additional solicitor general K.T.S. Tulsi and senior advocates Harish N. Salve, Gopal Subramaniam and Aruneshwar Gupta. The two legal software packages that have been launched on the Internet are 'Locator' and 'Dial-N'. Locator is the first electronic directory of the Indian legal fraternity. It lists legal organisations, courts of law, advocates, teachers and other persons connected to the legal field. The software will help facilitate faster interaction between lawyers and their clients in India and abroad. It will also help clients locate lawyers in specialised fields.

December 1996, Law Information Centre - India Today

Law Information Centre (LAWINC) has launched two legal software on the Internet – Locator and Dial-N. Locator is the first electronic directory of Indian legal fraternity. Dial-N is a compilation of legal news published in newspapers and also as available from the Bar. At http://www.indiaconnect.com/lawinc/

India's first legal electronic directory launched on the internet – The Stock Advice

Law information center a non-Govt. Organisation was conceived in 1982 and was registered in 1994 as a society under the Society Registration Act, 1860. LAWINC was founded by a group of prominent dedicated lawmen as Mr. K.T.S. Tulsi Senior Advocate Ex-Additional Solicitor General of India, Mr Arun Jaitley Senior Advocate, Ex Solicitor General of India, Mr. Harish.N.Salve Senior Advocate, Mr. Gopal Subramaniam – Senior Advocate, Mr. Aruneshwar Gupta - Advocate and five others.

LawInC was founded with the fundamental objectives of collecting, analysing, processing, and sorting generating retrieving and transmitting full and updated information related to law through software development, so that delays, arrears and inconsistency in the legal system can be reduced/eradicated. The formal launch of two legal softwares of LawInC as on Internet - Locator and Dial-N was done on 7th November 1996 by Mr Justice M.M.Punchhi, Judge Supreme Court who is also the chief guest of the function. Dial-N is the date and subject wise Daily Indian Abridged Legal News published in leading national Newspapers, and also

as available from the bar which may not have been published as certain information is only available to the bar members.

25.12.1996, The long arm of the law grabs the net - Economic Times

India's first legal electronic directory has been launched on the Internet. The directory, called Locator, was created by the Law Information Centre, a company formed by Indian lawyers, including the former Solicitor General Dipankar Gupta. The Locator, a who's who of India's legal profession, can be found at the Law Information Center's Web site, which is still being developed. The site should also soon include press cutting on legal issues, articles, a database of Indian legislation and legal information for the general public.

Assistant Secretary Nikilesh Ramachandran said many lawyers in India had access to the Internet. We did a couple of seminars before we set up the page asking lawyers whether they would be interested, and the reaction was positive he added. "It is a big leap for us and it will take us a few months to get the products up and running." The company has yet to decide a pricing structure for its information service. The company has yet to decide a pricing structure for its information service. The site can be found at *http://www.indiaconnect.com/ lawinc.htm.*

07.01.1997, The Asia Pacific Legal 500 - 1997 Edition, India who's hits Internet – The Lawyer, London

The most visible sign of a profession gearing itself up to challenge the dominance of international law firms has been the launch of the country's first Internet legal directory, under the title Law Information Centre (LawInC). The system is intended to disseminate contacts and facilitate lawyer/ client interaction

April 6 to 19, 1998, Making it Easy – Business India

It took Aruneshwar Gupta five hours to locate the case of Ujam Bai versus State of U.P. in 1982. Since that day he had a deep-seated desire to develop a systemic technique of keeping records. It has taken him a while, but Gupta is finally ready with what he calls "by far the most comprehensive package of law-related study in the world". LAWINC '98 is a CD-ROM priced Rs. 1,000 and it contains some 680 record books. The 43-years-old Gupta, a third-generation lawyer, says his dream of developing an efficient tool for keeping records became a reality with computers. "After all," he puts it, "lawyers are like surgeons – the better the tools, better is the quality of service." The law graduate from Jodhpur says LAWINC'99 will make it possible for the lawyers to dispense with huge, difficult-to-maintain libraries.

Consent taken by Justice M.K. Mukherjee for elevation as a judge of High Court of Rajasthan
02.01.1997

During my winter vacation in Jaipur, I received an unexpected call from the office of Justice M.K. Mukherjee, the Chief Justice of Rajasthan. His office conveyed that he wished to meet with me the following morning at 11 a.m. I arrived punctually at his residence, where he greeted me with his characteristic warmth and grace. After a brief exchange, he got straight to the matter at hand, asking if I would consent to be considered for elevation as a judge of the Rajasthan High Court.

At 42, I was relatively young, though I was aware that others had been appointed to the High Court between the ages of 38 and 42. I had often contemplated such a role, and while I knew the responsibility was substantial, I felt a deep sense of readiness. Years of dedication and experience had shaped my commitment to justice, and I believed I was equipped for the position. I assured the Chief Justice that I would promptly send my biodata and other necessary documentation for review.

Hopeful yet realistic, I recognised that factors beyond my control – judicial politics, timing, and perhaps even destiny – would influence the outcome. Though I felt prepared for this path, I was mindful of the unpredictability that accompanies judicial appointments. The journey ahead was uncertain, but if everything aligned, I was ready to take on this new role.

I returned home, filled with anticipation to share the news with my mother. With a blend of excitement and humility, I told her about the Chief Justice's offer. As the words left my mouth, I saw her face light up with pure joy and pride. It was clear how deeply this moment touched her, as though all the years of quiet sacrifice and support had come to fruition in a single instant.

I bent down, touched her feet, and sought her blessings. She was visibly moved; her eyes shone with both happiness and pride, reflecting all that we had been through together. Her quiet strength and unwavering faith in me had been the bedrock of my journey. In that moment, her blessing felt like a protective shield, surrounding me with warmth and filling me with a renewed sense of purpose and resolve to honour her faith in me.

Meeting with Justice M.M. Punchhi
12.01.1997

On 04.01.1997, I returned to Delhi as the Supreme Court was scheduled to reopen on 06.01.1997. Soon after my return, I arranged to meet Justice M.M.

Punchhi, the senior-most puisne judge of the Supreme Court, to share with him that the Chief Justice of Rajasthan had formally taken my consent for elevation to the High Court.

Justice Punchhi was a person for whom I had deep respect and whose insights I valued greatly. When we met, he greeted the news with a light laugh and remarked upon the irony of our respective positions. He observed that while he himself was awaiting elevation as Chief Justice of India, I was hoping for appointment as a High Court judge. Both of us, in different ways, occupied positions of anticipation – uncertain not merely about timing, but about how destiny would unfold.

I responded that the comparison hardly appeared fair. He stood at the threshold of leading the entire Indian judiciary, whereas I was merely aspiring to serve as a relatively junior judge in a High Court that historically had seen very few judges rise to the Supreme Court. His expression then became thoughtful. He told me that he had reservations about whether my appointment would ultimately materialise – not because of merit, but because, in his words, I did not entirely "fit into the system."

The observation surprised me. I asked him what he meant.

> *I had always considered myself entirely ordinary – perhaps slightly above average academically, educated at Kendriya Vidyalaya, Air Force No. 1, Jodhpur, educated in law at Jodhpur, and simply trying to work with whatever limited abilities and strengths I possessed, together with all the ordinary frailties that accompany every human being. I did not perceive anything unusual about myself.*

Justice Punchhi paused before responding. Then, in a reflective tone, he said:

> *"Aruneshwar, the issue is not your background. The issue is what you are. You approach justice with dignity and fearlessness. You possess an independent spark that does not always sit comfortably with established structures. Your integrity is difficult to negotiate with, and people sometimes find that unsettling. You care deeply for the profession and think beyond immediate outcomes. That can become both a strength and a challenge. There are always forces within institutions that prefer continuity over disruption. But still – good luck. Destiny often has plans larger than our own."*

His words remained with me. Not because they predicted an outcome, but because they reminded me that institutions, like individuals, are shaped by visible rules and invisible currents.

Sometime later, I received a call from an old acquaintance who suggested that he could introduce me to people who might, in his words, "help" secure my appointment. Curious but cautious, I agreed to meet. The conversation gradually revealed itself. What was being offered was not support but expectation – an assumption that influence extended in the present would create obligations in the future.

At that moment, I remembered something Chief Justice M.N. Venkatachaliah

had once spoken about – moral laws that operate quietly beneath formal systems. The proposal eventually became clear enough that I responded directly.

I explained that I knew only one way of working – a path rooted in integrity, service, and independence of thought. If that path succeeded, I would remain grateful. If it did not, I would still remain at peace. The conversation ended there.

Soon thereafter, I learned that a decision had emerged that practising advocates below the age of forty-five would ordinarily not be considered for judicial appointment. Whether events were connected or not was never something I attempted to determine. But Justice Punchhi's observations returned to me repeatedly. They strengthened a conviction that had already begun taking shape within me – that one cannot control outcomes and should not make efforts for the same, but one can always control the manner in which one prepares, works, and conducts oneself.

Chief Justice Mukherjee retired on 24.12.1997 and, in due course, it appeared that the list of names from whom consent had been taken – including mine – was never forwarded. 'The process quietly to an end.' I did not view it as loss. I believed I still had many years ahead of me and that destiny would chart its own course in its own time.

I continued my journey in the profession with the same conviction – to do each assignment with integrity, to honour each responsibility entrusted to me, and to derive fulfilment not from designation, but from striving for excellence in whatever work came before me. That journey, as events later revealed, still had many chapters left to unfold.

1998 – BJP Lost Election Resigned as Advocate on Record for State of Rajasthan

31.03.1999

As BJP had lost election in Rajasthan and I was certain that it will be difficult for me to continue as the AoR of the State of Rajasthan in Supreme Court, also because I found it extremely difficult to communicate with Mr. Ashok Gehlot, though he was well acquainted with me since Law College in Jodhpur and we have been meeting off and on various occasions. But in meeting with him on legal issues when I briefed him and told about the seriousness of the suits relating to validity of GATT Agreement pending in Supreme Court, I felt that I was not able to get his full enthusiasm as was with Bhairon Sing Shekhawat. I also felt that since there was a tradition for the law officers to change with the change of government, a smooth transition was the appropriate course.

The Supreme Court Corridors During Elections Where Law, Politics and Personalities Converged

If the Courtrooms represented the constitutional face of the Supreme Court, and the Bar Library its intellectual conscience, the corridors during Bar elections revealed its political heartbeat. In ordinary days, the corridors of the Supreme Court carried the familiar rhythm of legal life – hurried footsteps, black gowns flowing between courts, juniors carrying bulky files, clients waiting anxiously outside courtrooms, whispered conferences before matters were called, and lawyers rushing from one Bench to another before the dreaded "pass over" disappeared forever.

But during elections of the Supreme Court Bar Association or the Supreme Court Advocates-on-Record Association, the entire atmosphere transformed. The corridors began to buzz. What was otherwise a disciplined professional institution suddenly acquired the energy of a miniature democratic republic. Conversations became animated. Smiles became strategic. Handshakes lasted longer than usual. Lawyers who had not spoken for months rediscovered warmth and fraternity. Every corridor discussion carried hidden arithmetic. Support, Opposition, Neutrality, Possibility.

The Supreme Court itself seemed to develop a parallel invisible courtroom – one where arguments were no longer addressed to judges, but to colleagues. Senior advocates who normally walked through corridors with measured detachment now contesting for President, Vice President or Senior Executive Members stopped frequently to greet groups of advocates. Juniors who otherwise hesitated to approach seniors suddenly found themselves being addressed by name. Advocates-on-Record became especially important because every vote carried significance. Chamber visits increased. Tea tables became campaign rooms. The canteen transformed into a political observatory.

Rumours travelled through the corridors faster than official announcements. One heard:

- who was contesting,
- who had withdrawn,
- who had shifted loyalties,
- which senior had quietly blessed whom,
- who controlled which voting blocs,
- and who was expected to swing the election at the last moment.

Nothing remained entirely confidential for long. The remarkable aspect of these elections, however, was that they reflected not merely ambition, but the living democratic culture of the Bar. Lawyers who fought fiercely against one another in elections often appeared together before the same Bench the very next

morning as if nothing had happened. Rivalry and collegiality coexisted in a uniquely professional balance. For young lawyers, these elections became another form of education. One slowly understood:

- institutional power,
- persuasion,
- networking,
- loyalty,
- influence,
- and the invisible architecture through which professional bodies functioned.

One also learnt that the legal profession, despite all its intellectualism, remained deeply human. Ego, affection, ideology, insecurity, friendship and ambition travelled together through those corridors in complex combinations. There were moments of high drama. Groups gathered suddenly near staircases, opposite the canteen or outside courtrooms discussing late-night parties and developments. Someone rushed through the corridor carrying "confirmed news" which changed entirely within the next fifteen minutes. Senior lawyers held impromptu consultations surrounded by juniors eager to decode expressions and body language. Sometimes even judges appeared aware that election season had overtaken legal conversation outside the courtrooms.

Yet beneath all the excitement lay something deeper. The elections represented a collective assertion by the Bar that institutions belonged not merely to rules, but to participation. The Supreme Court Bar was not only a professional body; it was also a living democratic community constantly negotiating leadership, identity, priorities and representation. The corridors during election season revealed the Supreme Court in its most human form. Beneath the constitutional gravitas, the reported judgements and the ceremonial dignity existed an energetic republic of lawyers – ambitious, argumentative, emotional, strategic and deeply alive.

The same corridors where historic constitutional battles were argued during the day would, by evening, echo with campaign discussions, whispered calculations and political humour. Law and democracy walked side by side there, often separated only by the width of a corridor. And for a young lawyer standing quietly against those walls, watching seniors move through that charged atmosphere, the lesson slowly became clear: Institutions are not sustained merely by judgements and rules. They are sustained by people, personalities, participation and the continuous human energy that flows through their corridors.

Argued, Assisted, Associated and other Judgments with Observations

The nine years from June 1990 to March 1999 represent the most intensive period of structured advocacy in the Supreme Court of India across my career. As Advocate on Record for the State of Rajasthan for the better part of this decade, and as counsel in my own right across a wide range of matters. I argued most of them, assisted in a few, and was associated with some that were of great constitutional importance – matters in which Senior Advocates of the highest distinction were addressing the court, and where I did not consider that I could make any significant independent contribution, but where my presence and preparation served the larger purpose.

The matters range from individual criminal appeals where the life and liberty of a single human being hung upon the court's consideration of a dying declaration, to constitutional questions of the widest public importance touching the separation of powers, the rights of minorities, the protection of forests, and the architecture of governance itself. Some were argued alone; others in association with the finest Senior Advocates of the time; a few in a supporting role – but in each instance with the same preparation and the same commitment to the institution.

Taken together, they constitute a working record of what advocacy in the Supreme Court of India demanded and delivered across a decade that was, by any measure, yet another consequential chapter in the Court's history. The following is the list of judgements, and thereafter the facts, the law expounded, the brick laid in the edifice of jurisprudence, and the statement of law with observations of the court in the more significant among them.

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	Ashok Kumar	State of Rajasthan	1990 INSC 274	Criminal Law
2	Subhash Sharma	Union of India	1990 INSC 326	Constitutional Law
3	IAAI	Municipal Corp. Delhi	AIR 1991 Delhi 302	Tax Law - Direct
4	Ajeet Singh Singhvi	State of Rajasthan	1991 INSC 56	Service Law
5	Maharaja Tourist Service	State of Gujarat	1991 INSC 117	Tax Law - Direct
6	Ashok Kumar @ Golu	Union of India	1991 INSC 145	Criminal Law
7	Laxmikant Pandey	Union of India	1991 INSC 191	Constitutional Law
8	Bhagwan Swarup	State of Rajasthan	1991 INSC 215	Criminal Law

9	Collector of Central Excise	Rajasthan State Chemical Works	1991 INSC 235	Tax Law - Indirect - Excise Law
10	Grand Slam International	Union of India	(1991) 45 DLT 396	Tax Law - Indirect
11	Common Cause	Union of India	(1992) Supp. 2 SCC 156	Consumer Law
12	All India Judges Assn.	Union of India	1991 INSC 290	Constitutional Law
13	R.K.Pariyar	International Air-port Authority	(1992) 46 DLT 646	Tax Law - Indirect
14	Rabindra Chamria	Registrar of Companies	1991 INSC 299	Company Law
15	State of Rajasthan	Shiv Lahari Sharma	(1992) Supp. 1 SCC 4	Service Law
16	Abdul Rehman Antulay	R.S. Nayak	1991 INSC 329	Constitutional Law
17	Jagan Nath	Har Lal	(1992) 46 DLT 644	Land Revenue and Tenancy Laws
18	State of Rajasthan	Bhawani Singh	(1993) Supp. 1 SCC 3	Land Revenue and Tenancy Laws
19	Board of Muslim Wakfs	Hadi Begum	(1993) Supp. 1 SCC 1	Land Revenue and Tenancy Laws
20	State of Rajasthan	Narayan	(1992) 3 SCC 615	Criminal Law
21	State of Rajasthan	Kishan Singh	1992 INSC 194	Land Revenue and Tenancy Laws
22	Bhagirathdan	State of Rajasthan	1992 INSC 206	Service Law
23	Babuda	State of Rajasthan	(1992) Supp. 2 SCC 4	Criminal Law
24	Surendra Kumar Gyani	State of Rajasthan	(1992) 4 SCC 464	Service Law
25	*Krishan* Ram	State of Rajasthan	(1993) Supp. 2 SCC 5	Criminal Law
26	State of Rajasthan	Nandlal	1992 INSC 258	Tax Law - Indirect - Excise Law
27	Gannon Dunker-ley and Co.	State of Rajasthan	1992 INSC 312	Constitutional Law
28	Common Cause	Union of India	(1997) 10 SCC 729	Consumer Law
29	Rajasthan Hou=sing Board	Shri Kishan	1993 INSC 23	Land Acquisition & Rehabilitation Law

30	State of Rajasthan	Rajendra Kumar Godika	(1993) Supp. 3 SCC	Service Law
31	State of Rajasthan	S.K.Dutt Sharma	(1993) Supp. 4 SCC 6	Service Law
32	Brij Lal	Board of Revenue	(1993) 2 SCC 544	Land Revenue and Tenancy Laws
33	Gandhi Grah Nirman Sahkari Samiti Ltd	State of Rajasthan	1993 INSC 126	Land Acquisition & Rehabilitation Law
34	Mani Ram	State of Rajasthan	1993 INSC 131	Criminal Law
35	Tarun Bharat Sangh	Union of India	1993 INSC 147	Environment law
36	Ferro Alloys Corpn. Ltd.	State Electricity Board	(1993) Supp. 4 SCC 1	Constitutional Law
37	Kikar Singh	State of Rajasthan	1993 INSC 194	Criminal Law
38	All India Imam Organisation	Union of India	1993 INSC 200	Constitutional Law
39	St.John's Teachers Training Institute (F)	State of T.N.	1993 INSC 218	Constitutional Law
40	Federation of Directly App. of India	Union of India	1993 INSC 220	Service Law
41	Vishwa Dev Sharma	State of Rajasthan	(1993) 4 SCC 75	Criminal Law
42	Miran Bux	Laloo	(1993) Supp. 3 SCC 3	Criminal Law
43	Gauri Shankar Gaur	State of U.P.	1993 INSC 261	Land Acquisition & Rehabilitation Law
44	Rajasthan Roller Flour Mills Assn.	State of Rajasthan	1993 INSC 281	Interpretation of statute
45	Shri Malaprabha Co-Op.Sugar Factory	Union of India	1993 INSC 304	Economic & Regulatory Law
46	SCAORA	Union of India	1993 INSC 318	Constitutional Law
47	National Textile Corporation Ltd.	Sayar	(1994) SCC (L&S) 95	Service Law
48	Jaipur Develop-ment Authority	Radhey Shyam	1994 INSC 78	Land Acquisition & Rehabilitation Law
49	J.K.Synthetics Ltd.	CTO	1994 INSC 197	Tax Law - Direct
50	Tej Singh	State of Rajasthan	1994 INSC 202	Property Law

51	Frick India Ltd.	State of Haryana	1994 INSC 210	Tax Law - Direct
52	Arjun	State of Rajasthan	1994 INSC 257	Criminal Law
53	All India Judges Assn.	Union of India	1994 INSC 317	Service Law
54	Arvind Khanna	International Airport Authority	(1995) 58 DLT 378	Contracts & Specific Relief Law
55	Shanti Devi	State of Rajasthan	1994 INSC 340	Land Acquisition & Rehabilitation Law
56	State of Rajasthan	Puri Construction	1994 INSC 396	Arbitration
57	State of Rajasthan	Umrao Singh	1994 INSC 423	Service Law
58	Babua Ram	State of U.P.	1994 INSC 437	Land Acquisition & Rehabilitation Law
59	Sitaram	State of Rajasthan	1994 INSC 444	Tax Law - Indirect
60	M.Ismail Faruqui	Union of India	1994 INSC 479	Land Acquisition & Rehabilitation Law
61	State of Rajasthan	Aruna Devi	1994 INSC 500	Criminal Law
62	Tarun Bharat Sangh	Union of India	1994 INSC 502	Environment law
63	State of Rajasthan	Sevanivatra Karamchari Hitkari	1995 INSC 4	Service Law
64	State of Rajasthan	Gopaldas	1995 INSC 32	Service Law
65	State of T.N.	M.P.P.Kavery Chetty	1995 INSC 60	Constitutional Law
66	International Airport Authority of India	Grand Slam International	1995 INSC 120	Customs Law
67	State of Rajasthan	Noor Bano	1995 INSC 263	Service Law
68	Union of India	Indian Alumi-	1995 INSC 275 nium Co.Ltd.	Tax Law - Indirect - Excise Law
69	Municipal Commr. of Dum Dum Municipality	Indian Tourism Development Co.	1995 INSC 433	Constitutional Law
70	Yadu Nandan Garg	State of Rajasthan	1995 INSC 671	Land Acquisition & Rehabilitation Law
71	Ajit Singh	Union of India	1995 INSC 685	Mining & Natural Resources Law
72	State of Rajasthan	Fateh Chand Soni	(1996) 1 SCC 562	Service Law
73	State of Rajasthan	Rameshwar Lal Gehlot	1995 INSC 895	Labour & Industrial Law

74	Common Cause	Union of India	1996 INSC 20	Constitutional Law
75	State of Rajasthan	Seva Ram	1996 INSC 173	Land Acquisition & Rehabilitation Law
76	Lt.Col. Sawai Bhawani Singh	State of Rajasthan	1996 INSC 188	Interpretation of Statute
77	State of Rajasthan	Kalyan Sundaram Cement Ind.Ltd.	1996 INSC 227	Contract Law
78	Indian Council for Enviro-Legal	Union of India Action	1996 INSC 237	Environment Pro - tection Law
79	J.Jayalalitha	M.Chenna Reddy	(1998) 8 SCC 601	Criminal Law
80	Union of India	A.Sanyasi Rao	1996 INSC 235	Tax Law - Direct
81	Shaheen Welfare Association	Union of India	1996 INSC 324	Criminal Law
82	Pratap	State of Rajasthan	1996 INSC 319	Land Acquisition & Rehabilitation Law
83	Sahkari Samitiyan Vyavasthapak	Union State of Rajasthan	1996 INSC 344	Property law
84	Ratan Lal Bohra	State of Rajasthan	(1996) 8 SCC 735	Administrative law
85	CIT	Gemini Pictures Circuit	1996 INSC 456	Tax Law - Direct
86	Satya Narain Pareek	State of Rajasthan	1996 INSC 465	Service Law
87	Urban Improve- ment Trust	Gokul Narain	1996 INSC 502	Land Acquisition & Rehabilitation Law
88	Bobby Art Inter- national	Om Pal Singh Hoon	1996 INSC 595	Media & Entertainment Law
89	Prakash Wati Bali	Manish Dewan	(1996) 62 DLT 475	Land Revenue and Tenancy Laws
90	Shiv Shakti Gold Finger	Asstt. Commi- ssioner	1996 INSC 683	Tax Law - Direct
91	State of Rajasthan	Mangilal Pindwal	1996 INSC 708	Interpretation of Statute
92	State of Rajasthan	Raj Singh	1996 INSC 704	Land Acquisition & Rehabilitation Law
93	State of Rajasthan	Rajasthan Agr. Input Dealer's Assn.	1996 INSC 712	Interpretation of Statute
94	Pradesh Pong Bandh Visthapit Samiti	Union of India	1996 INSC 799	Land Acquisition & Rehabilitation Law

95	International Airport Authority of India	Ashok Dhawan	(1997) 11 SCC 343	Customs Law
96	Anugrah Narain Singh	State of U.P.	1996 INSC 1027	Constitutional Law
97	J.S.Parihar	Ganpat Guggar	1996 INSC 1030	Contempt Law
98	State of Rajasthan	D.R.Laxmi	1996 INSC 1045	Land Acquisition & Rehabilitation Law
99	Rajasthan Coop. Diary Federation Ltd.	Maha Laxmi Mingrate Marketing	1996 INSC 1059	Contracts & Specific Relief Law
100	J.K.Industries Ltd.	Chief Inspector of Factories and Boilers	1996 INSC 1114	Interpretation of Statute
101	State of Rajasthan	B.K.Meena	1996 INSC 1123	Service Law
102	Vijay Singh Deora	State of Rajasthan	1996 INSC 1140	Service Law
103	Sant Ram & Co.	State of Rajasthan	1996 INSC 1347	Arbitration
104	T.N.Godavarman Thirumulpad	Union of India	1996 INSC 1477	Environment law
105	State of Rajasthan	Kunji Raman	1996 INSC 1502	Service Law
106	NDMC	State of Punjab	1996 INSC 1513	Constitutional Law
107	State of Rajasthan	Amrit Lal Gandhi	1997 INSC 13	Service Law
108	State of Rajasthan	Bhup Singh	1997 INSC 16	Criminal Law
109	Balbir Singh	State of Rajasthan	(1997) SCC (Crl.) 972	Criminal Law
110	State of Rajasthan	Dinesh K. Bharti	1997 INSC 42	Service Law
111	J.K.Synthetics Ltd.	CTO	1997 INSC 69	Tax Law - Direct
112	Malaprabha Co-Op.Sugar Factory	Union of India	1997 INSC 70	Economic & Regulatory Law
113	Bharat Ram Meena	Rajasthan High Court	1997 INSC 79	Service Law
114	State of Rajasthan	Tarachand	1997 INSC 130	Service Law
115	State of Rajasthan	Prem Raj	1997 INSC 142	Service Law
116	State of Rajasthan	R.Dayal	1997 INSC 148	Service Law
117	CIT	Kandath Motors	1997 INSC 229	Direct Tax
118	Kadra Pahadiya	State of Bihar	1997 INSC 293	Criminal Law
119	Shri Digvijay Cement Co.	State of Rajasthan	1997 INSC 305	Tax Law - Direct

120	P.K. Sandhu	Shiv Raj Patil	1997 INSC 319	Service Law
121	Ami Lal Bhat (Dr.)	State of Rajasthan	1997 INSC 537	Service Law
122	Gaurav Jain	Union of India	1997 INSC 547	Constitutional Law
123	Dilip K. Basu	State of West Bengal	1997 INSC 588	Criminal Law
124	State of Rajasthan	Prakash Chand	1997 INSC 776	Criminal Law
125	T.N.Godavarman Thirumulpad	Union of India	1998 INSC 25	Environment law
126	Bhartiya Homoeo-pathy College, Bharatpur	Students' Council	(1998) 2 SCC 449	Constitutional Law
127	State of Rajasthan	M.C.Saxena	1998 INSC 112	Service Law
128	State of Rajasthan	Mahender Kumar Thanvi	(1999) 1 SCC 245	Criminal Law
129	Gaurav Jain	Union of India	1998 INSC 160	Constitutional Law
130	State of Rajasthan	Sanjay Kumar	1998 INSC 213	Criminal Law
131	R.C.Sood	High Court of Judicature at Rajasthan	1998 INSC 232	Service Law
132	Mohd.	State of Rajasthan	(2000) 10 SCC 486	Criminal Law
133	State of Rajasthan	Ram Bharosi	1998 INSC 303	Criminal Law
134	Baij Nath Sharma	Hon'ble High Court at Jodhpur	1998 INSC 339	Service Law
135	State of Gujarat	Hon'ble High Court of Gujarat	1998 INSC 380	Criminal Law
136	Madan Lal	Union of India	(1998) 75 DLT 750	Service Law
137	Sushma Suri	Govt. of National Capital Territory	1998 INSC 386	Service Law
138	In Re.Special Reference No.1 of 1998	—	1998 INSC 402	Service Law
139	M.C.Mehta	Union of India	1998 INSC 274	Environment law
140	Javed Abidi	Union of India	1998 INSC 485	Service Law
141	Rajendra	State of Rajasthan	1999 INSC 447	Service Law
142	State of Rajasthan	Teja Ram	1999 INSC 121	Criminal Law
143	Indian Drugs & Pharmaceuticals Ltd.	Punjab Drugs Mfg. Assn.	(1999) 6 SCC 247	Constitutional Law

Ashok Kumar alias Golu v. Union of India and Others
1991 INSC 145

A cluster of writ petitions had been filed before this Court on behalf of life convicts serving imprisonment in the prisons of Rajasthan. At their core was a single, urgent plea: that prisoners who had served more than eight years of actual incarceration were entitled to premature release under the Rajasthan Prisons (Shortening of Sentences) Rules, 1958. The difficulty was Section 433A of the Code of Criminal Procedure, 1973 – inserted with effect from 18.12.1978 – which imposed a statutory bar against release unless a minimum of fourteen years' actual imprisonment had been undergone. The leading petitioner, Ashok Kumar alias Golu, had been convicted for murder and sentenced to life imprisonment two days after Section 433A came into force. His attempts at premature release – first before the Rajasthan High Court, then through representations to the Governor and the State Home Minister – had come to nothing. He now invoked the extraordinary jurisdiction of this Court under Article 32 of the Constitution.

The two principal questions of law were:

- Whether the insertion of Section 433A amounted to legislative fraud – given that the companion Indian Penal Code (Amendment) Bill XLII of 1972, passed by the Rajya Sabha on 23 November 1978, had never been cleared by the Lok Sabha, and that the Government had assured Parliament that both Bills formed an integrated legislative scheme.
- Whether, on the ratio of *Maru Ram v. Union of India*, in the absence of guidelines framed by the State under Articles 72 and 161 of the Constitution, Section 433A could not apply to life convicts – and whether the Rajasthan Rules of 1958 would consequently prevail for the purposes of exercising clemency power.

Interlinked with these were questions of considerable constitutional reach: whether the Maru Ram decision conflicted with Kehar Singh on the necessity of guidelines; whether the two expressions "remission" and "remit" in Articles 72 and 161 carried different content; whether prisoners whose death sentences had been commuted to life imprisonment by executive clemency constituted a distinct class under Section 433A; whether conditional premature release before the fourteen-year mark would count as actual imprisonment for the purposes of the section; and whether the entire law of remission required reconsideration in light of this Court's decision in *Bhagirath v. Delhi Administration,* which had extended the benefit of set-off under Section 428 of the Code to life convicts.

Since the constitutional validity of Section 433A was directly in issue, the senior advocate for the Union of India was required to lead the arguments. After

the learned senior had argued for some time, Justice P.B. Sawant framed the Union's submission in one formulation. Justice A.M. Ahmadi then framed it in a formulation entirely different. To each, the learned senior replied that the submission had been well articulated. Justice Ahmadi – perceiving, with his characteristic acuity and the faintest of smiles, that his learned colleague and he could not both be correct — put that question directly to the senior advocate. The learned senior had nothing to answer. He stated that he had concluded his arguments and sat down. I was then called to make my submissions. The process took three days.

My opening proposition went to what I considered the foundational flaw in the entire challenge: how can the executive sit as a super-judiciary? Once the trial court, the High Court, and the Supreme Court have finally determined the sentence to be imposed upon an accused, the finality of that adjudication is the finality of the judicial function itself. The separation of powers is not a doctrine of convenience. It is a basic structural feature of the Constitution – as this Court had affirmed in Mirajkar, in Madan Mohan Pathak, and in S.P. Gupta. Once life imprisonment has been judicially imposed and confirmed, it must be final in the judicial sense – unless the court itself has provided for reconsideration, or unless the appropriate constitutional authority separately invokes its power. The executive cannot, through the mechanism of statutory remission, convert itself into an appellate forum above the judiciary.

The further submissions advanced were:

- The constitutional validity of Section 433A had been settled by the Constitution Bench in *Maru Ram v. Union of India (supra)* and was not open to reagitation. The petitioners had not challenged it; the question was closed.
- The failure of the Lok Sabha to pass the IPC (Amendment) Bill did not invalidate the CrPC (Amendment) Bill. They were distinct legislative instruments. Parliament is sovereign within its field; the Lok Sabha was under no constitutional obligation to pass a Bill simply because the Rajya Sabha had done so, or because a Joint Secretary's circular had described the two Bills as interlinked. Such a representation could not operate as estoppel against the legislature. The doctrine of colourable legislation – as explained in *K.C. Gajapati Narayan Deo v. State of Orissa (supra)* – goes to the competence of the legislature, not to its motives. Parliament was plainly competent to enact Section 433A; no question of legislative fraud or colourable exercise of power therefore arose.
- The expression "imprisonment for life" must be read in the light of Section 45, IPC, where "life" denotes the natural life of a human being. The punishments enumerated in Section 53 confirm that life imprisonment,

read with Section 45, means imprisonment for the full and complete span of life. Section 57 – which reckons life imprisonment as equivalent to twenty years solely for the purpose of calculating fractions of terms of punishment under Sections 65, 116, 119, 120, and 511 of the IPC – creates a computational fiction for a limited arithmetic purpose only. It does not fix the term of life imprisonment at twenty years for all purposes, as this Court had authoritatively held in *Gopal Godse v. State of Maharashtra (supra).*

- The Rajasthan Prisons (Shortening of Sentences) Rules, 1958, being subordinate legislation operating in the concurrent field, must yield to Section 433A, which is central law made by Parliament in the exercise of its plenary legislative power.
- The clemency powers vested in the President under Article 72 and in the Governor under Article 161 are constitutional powers of the highest order, unfettered by statute. They override Section 433A as they override Sections 432 and 433. But these powers are vested in the executive and are to be exercised on the advice of the Council of Ministers. A court cannot issue a writ of mandamus compelling the President or the Governor to exercise those powers in any particular direction or in favour of any particular prisoner. The absence of guidelines, recommended in Maru Ram but without binding constitutional force as confirmed in Kehar Singh, does not itself entitle a prisoner to release.
- The petitioner, not having completed fourteen years of actual incarceration, could not invoke Sections 432 or 433 of the Code. His continued detention was consistent with Section 433A, and nothing on the record disclosed any illegality in it.

All the submissions advanced by me were accepted by the Court. The judgment, delivered by Justice A.M. Ahmadi, dismissed the writ petition and stated the law with a comprehensiveness that resolved the principal questions in this field.

Observation: The life-conviction landscape of India in this period was one of formidable constitutional complexity. Three distinct legal regimes – statutory remission under the Code, the residual operation of State prison rules, and the sovereign clemency power of the President and the Governors – converged, and sometimes collided, upon the single question of when a person who had taken another's life could walk free. The Court's treatment of these petitions as a representative proceeding, and its comprehensive resolution of the law across all three domains, performed a jurisprudentially necessary service.

For me, as counsel appearing regularly in constitutional and service matters during my apprenticeship and thereafter, this was the first case argued at length in

Supreme Courtfor the State of Rajasthan, the principle that courts cannot compel the exercise of executive clemency – however deserving the petitioner, however compelling the case – was one I would encounter, and reaffirm, again and again. The deeper principle, which animated my opening argument and which the Court's reasoning implicitly affirmed, was the primacy of judicial finality. The executive may be generous; it may be dilatory; it may be moved by considerations the law does not require. What it may not do is position itself above the judiciary's final word. That the Law is conceived, nurtured, and delivered by the Court — and that once delivered, it cannot be undone by administrative fiat – is a proposition that lies at the very heart of the Legal Revolution 5.0.

State of Rajasthan v. Rajasthan Pensioner Samaj
1991 Supp (2) SCC 141

The High Court of Rajasthan at Jodhpur in D.B. Civil Writ Petition No. 760 of 1988 had allowed a petition filed by Rajasthan Pensioners Samaj and directed the State Government to provide an opportunity to widows of contributors of the Jodhpur Provident Fund, who had died before the issuance of a memorandum dated 17.10.1987, to opt for family pension and to pay them such pension on their exercising the option, and further directed the issuance of necessary memoranda or amendments within six months. The impugned judgment of the High Court was mainly based on the decision of the Supreme Court in *D.S. Nakara v. Union of India,* (1983) 1 SCC 305. The State of Rajasthan appealed, contending that after the Constitution Bench judgment in *Krishena Kumar v. Union of India,* (1990) 4 SCC 207, which distinguished and explained the Nakara judgment, the CPF retirees formed a different class from those who had opted for the pension scheme and were not entitled to switch over or to claim equivalent benefits. It was further contended that the right to opt for pension was the right of the employees and could not be inherited or exercised by the widows.

The Supreme Court held that the impugned High Court order could not be sustained in light of the principle laid down in *Krishena Kumar* case, which distinguished the D.S. Nakara judgment. The appeal was accordingly allowed and the impugned order set aside. However, the Court noted that after the close of arguments, it had suggested to the appellant-State to sympathetically consider the plight of the widows and submit a proposal to ameliorate their long-standing sufferings. The State accordingly submitted a proposal agreeing to grant *ex-gratia* payment at the rate of Rs. 150 per month with effect from 01.11.1989, to the alive widows of the Jodhpur CPF Retirees who did not opt for the pension scheme and who died after availing CPF benefits. Counsel for the respondents agreed to

the proposal. The Court accordingly directed the State Government to pay the admitted ex-gratia payment at Rs. 150 per month from 1.11.1989, in addition to the admissible dearness allowance.

Observation: This is a case in which I appeared for the State of Rajasthan in a matter that combined the law of service pensions with the deeper law of compassion. The legal outcome was clear: Krishena Kumar had narrowed Nakara and the High Court's order could not stand. But the Supreme Court's suggestion to the State to consider the plight of the widows, and the consequent ex-gratia relief, is a vivid illustration of the proposition central to Legal Revolution 5.0 – that the court is not a passive reader of enacted text. It conceived a humane outcome that Parliament had not provided for, nurtured that conception through judicial suggestion, and delivered it as binding relief. The law, in that courtroom, was born in the conscience of the court.

Nemi Chand v. Onkar Lal
(1991) 3 SCC 464

The respondent-landlord had let the appellant into exclusive possession of the suit property as a lessee. During the lease period, the appellant lent a sum of Rs. 5,000 to the respondent on the security of the suit property under a mortgage deed dated 19.03.1975. The deed stipulated that neither interest on the mortgage amount nor rent under the lease would be payable, the two amounts being equal and thus set off against each other. The mortgage was to expire in five years, after which the respondent was to repay and take back possession. The respondent issued notice of intention to redeem, but the appellant refused to surrender possession, contending he was entitled to retain it as a lessee. The respondent filed a suit for redemption. All courts below, on a construction of the mortgage deed, held that the appellant had surrendered his possession as a lessee by entering into the new mortgage relationship, and that upon redemption he had no further right to retain possession. The High Court of Rajasthan confirmed the decrees below.

The Supreme Court allowed the appeal and set aside the judgements and decrees of the courts below. Following *Nand Lal v. Sukh Dev, 1987 Supp SCC 87, Shah Mathuradas Maganlal & Co. v. Nagappa Shankarappa Malage, (1976) 3 SCC 660, and Sambangi Applaswamy Naidu v. Behara Venkataramanayya Patro,* (1984) 4 SCC 382, the Court held that the courts below had misconstrued the mortgage deed. The words in the deed – "there shall be no interest of amount to you and no rent of the house; the interest of the amount and the rent of the house are equal" – showed that both interest and rent had accrued but were set off against each other. The lease, therefore, subsisted. The mortgage being usufructuary in charac-

ter, the possession was already with the appellant as lessee. He held the property both as a lessee and a mortgagee.

There was no merger of the lease and the mortgage; no such merger could take place in law. The decree for redemption only redeemed the mortgage and did not determine the lease – a relationship that still subsisted and was determinable according to law.

Observation: This judgment is a direct extension of *Nand Lal v. Sukh Dev (supra)* – the court reaffirming its own earlier delivery of the law, adding precision and depth to the principle that the lease and the mortgage are distinct relationships that cannot be collapsed into each other by judicial sleight of hand at a lower level. The courts below had read the mortgage deed as effecting a symbolic surrender of possession – an error of law that the Supreme Court corrected. What strikes me, looking back across fifty years, is how often the court at the highest level has had to rescue litigants from the misreadings of subordinate courts. Legal Revolution 5.0 holds that it is the Supreme Court that finally conceives, nurtures and delivers the law; what happened in this case proves the point.

Gannon Dunkerley and Co. v. State of Rajasthan
1992 INSC 312

Following the Constitution's Forty-Sixth Amendment of 1982 – which inserted Article 366(29-A)(b) to create a "deemed sale" of goods transferred in the execution of a works contract – State Legislatures amended their sales tax statutes to tax the value of materials used in works contracts. The Rajasthan Sales Tax Act, 1954 was amended accordingly between 1987 and 1990. Civil and construction contractors operating across Rajasthan challenged the constitutional validity of Section 5(3) of the Act and Clause (i) of Sub-Rule (2) of Rule 29 of the Rajasthan Sales Tax Rules, contending that these provisions transgressed the legislative competence conferred on State Legislatures by Entry 54 of the State List, read with Articles 286 and 289 and the Central Sales Tax Act, 1956. The Rajasthan High Court had upheld the provisions. I appeared for the State of Rajasthan before the Constitution Bench.

A five-Judge Constitution Bench, speaking through Agrawal J., allowed the appeals in their entirety. Although the Forty-Sixth Amendment validly empowered State Legislatures to levy sales tax on deemed sales in works contracts, that power was not unlimited. A State Legislature cannot tax inter-State sales, outside-State sales, import-export sales, or declared goods subject to Section 15 restrictions merely by including them within the "turnover" of a works contract. Section 5(3) of the Rajasthan Sales Tax Act used the word "turnover" instead of "taxable

turnover," thereby sweeping within its ambit transactions on which the State had no constitutional competence to levy tax. The distinction was not semantic but substantive: Section 2(s) of the same Act itself distinguished between "sales on which no tax is leviable" and "sales already subjected to tax" – demonstrating that the Legislature was aware of the constitutional boundary, and had then crossed it. Clause (i) of Rule 29(2) suffered from the same infirmity. Both were declared unconstitutional and void. The constitutional validity of a statute, the Court held, is determined by the scope of its provisions on their widest reasonable construction – not by how it is administered in practice; an assessing authority's favourable exercise of power cannot save an unconstitutional provision.

Observation: The judgment was complete and instructive. It taught me the rigour with which the Court scrutinises fiscal legislation for constitutional overreach – and that the difference between "turnover" and "taxable turnover" was, in the Court's analysis, not a drafting slip but a substantive constitutional transgression. A legislature that knows the boundary, as the Act's own definitions demonstrated, and then frames a charging provision that ignores it, cannot claim that the boundary was never crossed. Fiscal legislation, perhaps more than any other, is prone to this kind of quiet overreach – the extension of a competence granted for one purpose to cover transactions that lie beyond its outer edge. The Court's insistence on examining the provision in its widest possible reach, rather than as benignly administered, is exactly the correct approach: a law must be assessed for what it can do, not merely for what the Revenue chooses to do with it on a given day. Appearing for the State in a losing constitutional matter is never comfortable, but it deepens one's understanding of the Constitution's internal architecture as no victory can. The case required Rajasthan to fundamentally restructure its works contract taxing mechanism – a consequence that brought home, more vividly than any academic study, how directly constitutional boundaries translate into the practical governance of a state's revenue affairs.

State of Rajasthan v. Nandlal and Others
1992 INSC 258

Country liquor licensees under the Exclusive Privilege System had lifted short quantities from State warehouses – below their guaranteed minimum – and when called upon to pay the deficit, challenged this before the Rajasthan High Court, contending the shortfall was caused by the State's own failure to supply on demand. The High Court found in their favour. The State came in appeal. I appeared for the State of Rajasthan as Appellant.

The Supreme Court accepted my submissions and held that the burden of

proof that the State failed to supply country liquor as and when demanded lay squarely upon the licensees themselves. A vague allegation of non-supply, unsupported by specific and reliable – preferably documentary – evidence showing that demand was actually made and not met, is insufficient to discharge that burden. A mere shortfall in production figures does not establish non-supply in any particular case. Non-supply had to be established separately and specifically in each licensee's case. The matter was sent back to the authorities for fresh consideration, giving each licensee an opportunity to prove his individual claim.

Observation: The burden of proof is not merely a rule of evidence; it is a statement about where responsibility lies in any given dispute. Those who allege default by the State – particularly in commercial contracts freely entered into – must come to court armed with the evidence of that default, not merely with the assertion of it. This principle matters far beyond excise licensing. In an era of expanding public contracts covering power, fuel, infrastructure, and procurement, the temptation for contractors to blame the State for every shortfall is ever present. Courts must hold firm to the requirement that blame, to be judicially actionable, must be evidentially established. The proposition confirmed in this case – that whoever seeks relief must place before the court the evidence that entitles them to it – is among the most foundational principles of the administration of justice. Without it, courts become instruments of convenient narrative rather than arbiters of proven fact.

Mani Ram v. State of Rajasthan
1993 INSC 131

A land dispute in Ganganagar turned fatal on 22.06.1972 when Mani Ram shot dead Hazur Singh. The trial court acquitted both brothers. The Rajasthan High Court reversed the acquittal and convicted Mani Ram under Section 302 IPC, sentencing him to life imprisonment. He came in appeal to the Supreme Court. I appeared for the State of Rajasthan as Respondent.

The Supreme Court agreed with my submissions and held that medical evidence about the contents of the stomach and the estimated digestion time could not be treated as decisive. The defence had sought to discredit the eyewitnesses – the deceased's wife and son – by pointing to the doctor's opinion on digestion period, arguing it contradicted their account of the time of the attack. The Court held that the process of digestion depends upon the digestive power of an individual and varies from person to person; it also depends on the type and quantity of food consumed. The time stated by the eyewitnesses was only an approximate time, not a precise observation. Medical evidence is only evidence of an opinion

and is hardly decisive. Where it cannot be said to have been fatal to the otherwise consistent and impressive evidence of eyewitnesses, the Court should not permit it to displace direct testimony. The conviction was confirmed under Section 304 Part I IPC and the sentence reduced from life imprisonment to seven years' rigorous imprisonment.

Observation: The recurring tension in criminal law between scientific opinion and direct human testimony is one that courts must resolve with care and without false hierarchy. A pathologist who examines a stomach's contents hours after death is offering a probabilistic inference, shaped by variables he cannot know – the individual's metabolism, the type of food, the quantity consumed. The widow and the son who walked with the deceased to his field that afternoon are reporting what they saw. To allow the inference to defeat the observation is to privilege the laboratory over life. Medical evidence illuminates; it does not adjudicate. Justice is not a calculation; it is a judgment about what human beings did and what human beings witnessed. The law must never forget that distinction.

State of Rajasthan v. Sevanivatra Karamchari Hitkari Samiti
1995 INSC 4

A union of retired government servants of Rajasthan challenged the State's pension scheme on the ground that those who retired before the cut-off date of 29 February 1964 were being denied the benefits of the new Family Pension Scheme introduced under Chapter XXIII-A of the Rajasthan Service Rules with effect from 1 March 1964. The union contended this was unconstitutional discrimination under Article 14. I appeared for the State of Rajasthan as Appellant, placing before the Court the complete policy history of pension liberalisation and arguing that the Nakara decision, which the respondents relied upon, had been substantially narrowed by subsequent decisions.

The Supreme Court accepted my submissions and held that Rule 268-H, which restricted the new family pension scheme to government servants in service on 29.02.1964, was not violative of Article 14. The cut-off date was not introduced arbitrarily or capriciously; it had a reasonable basis in the financial and administrative exigencies of pension reform. The wisdom in a policy decision of Government is not justiciable unless such a decision is wholly capricious, arbitrary, or whimsical so as to offend Article 14. It is permissible for the State Government to provide different modes of computation of pension in respect of Government servants retiring on different dates, and this cannot be challenged on the ground of discrimination so long as the cut-off date has a reasonable nexus with the change in the mode of computation.

Observation: The *Nakara* judgment, read expansively, would have made every pension revision a constitutional event – capable of being challenged by every retiree who did not receive the same benefit as those who retired after the change. Governance of social security on that basis is impossible. The State must retain the ability to reform pension structures incrementally, to introduce new schemes prospectively, and to draw rational administrative boundaries without being compelled to reopen the entire past each time it does so. The proposition that policy wisdom is not justiciable unless it crosses the threshold of arbitrariness under Article 14 restored this necessary governing space. It is a proposition with consequences that reach far beyond pensions – into every domain where the State must balance the claims of the present against the expectations of the past.

Commissioner of Income Tax, Madras v. Gemini Pictures Circuit Pvt. Ltd.
1996 INSC 456

Gemini Pictures Circuit had sold land on Mount Road, Madras in 1966–67 and claimed exemption from capital gains on the ground that the land was agricultural in character and excluded from the definition of "capital asset" under Section 2(14)(iii) of the Income Tax Act, 1961. The Madras High Court found in favour of the assessee. The Revenue came to the Supreme Court. I appeared for the assessee as Respondent. My submission was straightforward: the land stood registered in the revenue records as agricultural land, revenue was paid on that basis, no permission had been obtained for conversion to non-agricultural use prior to the date of sale, and vegetables were actively being cultivated on a portion of it. The revenue entry was valid, undisputed, and unimpeached.

The Supreme Court did not accept my submissions and held in favour of the Revenue, ruling that the question whether land is agricultural must be decided on a totality of facts – that municipal registration as urban land, urban land tax levied, commercial surroundings, and the construction of a hotel on part of the property all pointed away from agricultural character, and that the land was accordingly a capital asset chargeable to capital gains. The proposition adopted was that a revenue record alone does not determine character; the surrounding economic and physical reality must govern.

Observation: I could not accept this reasoning then, and I cannot accept it now. What troubled me most was the inconsistency that this line of reasoning exposed: in land acquisition matters, where compensation fell to be determined, courts readily accepted revenue records showing agricultural character and held the land agricultural; but when the same question arose in the context of capital gains liability, those very courts looked past the record to the surrounding reality.

The same land, the same entry, produced opposite answers depending upon which side of the equation the Revenue happened to stand. That asymmetry was not law; it was fiscal convenience dressed as judicial reasoning. The revenue record is not merely an administrative document – it is the State's own authoritative declaration of the character of land, upon which citizens plan their affairs, pay their dues, and arrange their transactions. To hold that this declaration yields to an impressionistic assessment of surrounding circumstances is to create a zone of perpetual uncertainty precisely where the citizen is most entitled to certainty. Large tracts across urban India continue to carry agricultural entries to this day – not because they are truly agricultural, but because conversion carries a price, or because title disputes have frozen the record in a moment long past. The law must speak with one voice on what a revenue record means. Until it does, this question will continue to return – as it has, and as it will.

Pradesh Pong Bandh Visthapit Samiti, Rajasthan v. Union of India
1996 INSC 779

Construction of the Pong Dam on the river Beas commenced in 1960. The land submerged fell, after the reorganisation of State boundaries in 1966, within Himachal Pradesh – though the waters benefited Rajasthan to a dominant extent. A series of inter-State meetings addressed the displacement of affected families. At a meeting on 20.08.1962, it was agreed that oustees would be eligible for allotment in the Rajasthan Canal area. The Chief Ministers of both States, meeting on 3–4 September 1970, agreed that each eligible oustee family would receive 15.625 acres – the Planning Commission's figure for a viable agricultural holding. The Cabinet Secretary, in his note of July 1972, observed with prescience: *"This is a unique case of land acquisition oustees being rehabilitated in a State different from the one in which the land is acquired. The matter can be governed purely by goodwill between the reservoir land donor State and the irrigation beneficiary State and by humanitarian considerations."*

On 15.09.1972, Rajasthan made the Rajasthan Colonisation (Allotment of Government Land to Pong Dam Oustees in the Rajasthan Canal Colony Area) Rules, 1972. Allotments of 15.625 acres were made to 9,169 oustee families during 1973–75, subject to stringent conditions: personal residence within six months, personal cultivation, physical presence at annual Girdawari inspections, and a prohibition on transfer for ten years, with khatedari rights accruing only after 20 years and upon payment of all dues. Breach of any condition attracted cancellation and reversion.

The conditions proved deeply difficult to satisfy. The allotted land was newly opened canal colony territory – without roads, schools, irrigation or any of the

amenities that make settlement possible. Hill people from Kangra, transplanted to the desert plains, faced a wholly different climate, soil, culture and language. Many never came to Rajasthan at all. Others came, tried, and returned to Himachal Pradesh – selling or abandoning the allotted land before leaving. As many as 2,289 cancellations had occurred by 1981 simply because oustees had failed to take possession within 45 days of the allotment notice.

In September 1981, the Chief Ministers of both States met and arrived at a Memorandum of Understanding. Rajasthan made generous commitments: the possession period was extended from 45 to 90 days; 2,289 cancellation orders were to be reviewed; cultivation requirements were relaxed; khatedari rights were brought forward from 20 to 10 years; encroachments were to be cleared before allotment orders were issued; and cancelled allotments on non-irrigable or non-command land were to be reviewed and exchanged. The 1982 Amendment Rules gave effect to all of these commitments.

By December 1991, a survey revealed that of 5,076 allottees, only 549 remained in possession; 212 plots were lying vacant; and 4,315 had transferred their lands to non-oustees who were in actual possession. Rajasthan faced an acute dilemma: the allotted lands had, in the large majority of cases, long since passed into the occupation of local Rajasthani cultivators – farmers who had invested in genuinely abandoned land over years and brought it under productive cultivation. Their mass eviction risked grave public-order consequences and produced its own manifest injustice.

In March 1992, Rajasthan addressed this reality through two amendments. The first extended the ban on transfer from 20 to 25 years – not to perpetuate injustice to oustees, but to prevent a fire-sale of residual paper allotments before the title situation could be regularised. The second, Rule 6-A, permitted reverted lands to be sold by special allotment to bona fide Rajasthani residents in continuous possession as on 31.12.1991, after due enquiry by the Collector. Within months, responding to grievances raised by Himachal Pradesh, Rajasthan inserted Rule 8-AAA – pursuant to a direct agreement between the Revenue Minister of Himachal Pradesh and the Chief Minister of Rajasthan – providing for suo motu review of all cancellations where Rule 6-A had been applied without prior hearing, and application-based review of all other cancellations. Between 1992 and 1996, State Level and District Level Committees were constituted, affidavits were filed, pro-oustee financial packages were announced for Phase II settlers – free ration for two years, Rs. 8,000 per hectare for land levelling, Rs. 8,400 for house construction, interest-free loans – and 158 cases of oustees allotted non-irrigable land were being re-allotted in the command area. The writ petition challenged the 1992 amendments as discriminatory and sought comprehensive directions.

The Supreme Court allowed the writ petition. The proviso to Rule 6(3) – extending the transfer ban to 25 years – and Rule 6-A were quashed. The Court then issued comprehensive directions under Article 142: a District Judge nominated by the Chief Justice of Rajasthan was to review all post-January 1992 cancellations within 18 months, with the entire record to be produced by Rajasthan; notices were to be given individually and through public advertisement in newspapers in both States, at Rajasthan's cost; the District Judge was to record whether cancellations were justified or whether oustees had been forced to leave through lack of infrastructure or through coercion; a High Level Committee was to be constituted by the Union of India – headed by the Secretary, Ministry of Water Resources – to oversee resettlement; unjustly dispossessed oustees were to be restored to possession or given equivalent irrigable land; additional monies collected were to be refunded; and all the Committee's directions were to be binding on Rajasthan. Costs of Rs. 25,000 were imposed.

My submission that the Beas waters would have been lost to the country without the dam was dismissed as "a non-sequitur." My contention that all eligible oustees had been allotted land in 1973–75 was contradicted by Rajasthan's own affidavit of April 1996, which disclosed 302 cases where possession could not be given for want of command area and 158 cases needing re-allotment for lack of irrigation. The Court concluded that Rajasthan had "disfavoured the oustees and favoured the Rajasthanis and had made rules and implemented them with that in mind." Rule 8-AAA was found illusory – it was, the Court held, manifestly absurd to expect an oustee who had retreated to Himachal Pradesh to read the Rajasthan Gazette and file an application within 60 days. Rajasthan's revenue authorities were found to have a "track record" that disqualified them from conducting the review themselves.

*Observation:*This is one of the few cases in my career where I felt, with genuine conviction, that the Supreme Court did not fully see the ground-level realities, and that Rajasthan's sincere and sustained efforts to resolve an intractable problem received inadequate recognition. The 1992 amendments were not the cunning of a State intent on dispossessing oustees. They were the response of an administration facing, on the ground, what the Cabinet Secretary had foreseen in 1972: a problem ungovernable by rules, requiring goodwill and humanitarian imagination that formal legal frameworks could not supply. The oustees who never had come, who could not settle, who sold their land and returned to Himachal Pradesh – their departure was a human reality, not a legal violation manufactured by Rajasthan. The Rajasthani cultivators in possession of abandoned lands were not trespassers by design; they were farmers who had invested years and labour in land that had been genuinely left behind.

The Court's finding that Rajasthan had acted with deliberate mala fide was, in my submission, unsupported by the full weight of the evidence. The State's candid disclosure – in its own affidavit – of pending cases, incomplete possessions and cases of re-allotment was the transparency of a government grappling with a problem, not the conduct of one concealing a design of discrimination. The comprehensive package of pro-oustee measures announced at the State Level Committee, the insertion of Rule 8-AAA within months of the original amendment at Himachal Pradesh's request, and the active functioning of review committees – all of this pointed toward engagement, not evasion.

The judgment's invocation of Article 142 to impose a supervisory apparatus did not, as subsequent events confirmed, resolve the problem. It remains unresolved on the ground to this day. Some problems are rooted in climate, culture, geography and the limits of human adaptability – and are simply beyond the power of any court order to cure. Inspite of sustained political will and coordinated administrative action, across both States and the Union, over many years, there were always issue sat the ground level which were overlooked from the beginning the promise seems not to have been delivered

T.N. Godavarman Thirumulkpad Etc. v. Union of India and Others
1996 INSC 1477

A writ petition originally filed to protect the forests of the Nilgiris had, by 1996, expanded into a comprehensive proceeding on the nationwide implementation of the Forest Conservation Act, 1980. The Court issued notice to all States. The central questions before the Court were: the true scope of the Act; whether "forest" and "forest land" under Section 2 extended to all forests regardless of ownership or classification; and whether activities such as saw milling, veneer milling, plywood milling and mining within forest areas required prior Central Government approval.

I appeared for the State of Rajasthan. Rajasthan's situation was materially different from the forested hill States that animated the original petition. Rajasthan is predominantly a desert State. Mining – of marble, sandstone, granite, limestone and other minerals – is a principal source of State revenue and, more importantly, a direct livelihood for vast numbers of common people across Rajasthan's rural economy. The difficulty, from Rajasthan's standpoint, was not a deliberate disregard of forest law but a ground-level problem of profound practical consequence: the boundaries of forest areas had never been demarcated on the ground. There existed large numbers of notifications under the Indian Forest Act, 1927 and the Rajasthan Forest Act, 1953, but these notifications had not been translated into physical demarcation on the land. In the absence of such demarcation, it was, in

practice, impossible to determine with certainty whether any given mine fell within a forest area or outside it. Mining leases had been granted after seeking the permissions of the Forest Department – a Department that, in the absence of demarcation, gave permissions without itself being able to draw a clear boundary. Rajasthan's position before the Court was simple and honest: unless forest areas are physically demarcated on the ground, it is impossible to determine compliance or non-compliance, and blanket orders shutting down all mining in potentially affected areas would cause severe economic and human hardship without resolving the underlying problem.

The Court declined to engage in the nuanced State-specific analysis that Rajasthan's position invited. Proceeding on the basis that the legal position had already been settled by *Ambica Quarry Works* v. *State of Gujarat* (1987), *Rural Litigation and Entitlement Kendra v. State of U.P.* (1989), and its own recent order in Supreme Court *Monitoring Committee v. Mussorie Dehradun Development Authority* (November 1996), the Court issued comprehensive interim directions applicable across the country. The Forest Conservation Act, 1980 was held to apply to all forests irrespective of ownership or classification. "Forest" was to be understood in its dictionary sense, covering all statutorily recognised forests – reserved, protected or otherwise. "Forest land" under Section 2 included any area recorded as forest in Government records, regardless of ownership. Prior approval of the Central Government was required for any non-forest activity – including mining and saw milling of any kind – within any forest area. All such ongoing activities without prior Central Government approval were directed to cease forthwith.

Each State Government was directed to: constitute an Expert Committee within one month to identify all forest areas, areas which had been forests and stood degraded, and plantation areas; file a report within two months regarding saw mills, veneer mills and plywood mills operating in the State – their ownership, capacity, and proximity to forests; constitute a further Expert Committee to assess sustainable capacity of forests and the optimum distance from forests at which saw mills should be located; and constitute a compliance oversight committee headed by the Principal Chief Conservator of Forests.

The Court's order addressed Rajasthan's submissions directly and adversely. Verma, J. observed: "*This has become necessary also because of the stand taken on behalf of the State of Rajasthan even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay*." Rajasthan was publicly identified in the order as having taken a position contrary to settled law.

The Forest Conservation Act, 1980 applies to all forests irrespective of the nature of ownership or classification. The word "forest" must be understood in its dictionary sense – covering all statutorily recognised forests, whether reserved, protected or otherwise. "Forest land" includes any area recorded as forest in Government records, regardless of ownership. Any non-forest activity – including mining and all forms of saw milling – within a forest area requires prior approval of the Central Government under Section 2 of the Act. All such activities conducted without prior approval must cease forthwith and constitute a prima facie violation of the Act. State Working Plans, as approved by the Central Government, form the sole permissible basis for tree felling in forest areas. The Court's orders in a continuing mandamus proceeding bind all authorities throughout India and override any inconsistent executive or judicial orders at any level.

Observations: Appearing for the State of Rajasthan issues were raised which I believed was a legitimate and honest objection to the passing of a blanket nationwide order without regard to Rajasthan's specific ground-level reality. I was heard – and was named in the order for the wrong reasons. The Court's criticism of Rajasthan was, in my respectful view, based on a misreading of the State's position. Rajasthan was not arguing that mining in forest areas was lawful without Central Government approval. It was arguing that the prior question – whether any given mine was in a forest area at all – could not be answered without physical demarcation of forest boundaries on the ground. That was not a legal argument contrary to settled decisions; it was a factual and administrative submission that the Court did not pause to engage. The decisions cited – *Ambica Quarry Works, Rural Litigation Kendra* – dealt with the legal scope of the Act; they did not resolve the demarcation problem that Rajasthan was raising.

The consequences of the blanket order for Rajasthan were severe. Mining, which sustains the livelihood of lakhs of ordinary Rajasthani's – the mason cutting sandstone, the labourer at the marble quarry, the artisan dependent on the stone trade – was brought to a sudden halt across areas whose forest status was genuinely uncertain. These were not ecological criminals; they were working people whose livelihoods were extinguished by an order that made no provision for the ground reality.

After the order, on my persuasion and through sustained engagement with the Court-appointed machinery, committees were constituted for Rajasthan; all forest notifications under the Indian Forest Act and the Rajasthan Forest Act were consolidated and physical demarcation was undertaken on the ground. Since large areas that had once been forest had over decades been absorbed into agriculture and thriving urban settlements, the declaration of substantial new land along the Indira Gandhi Canal as notified forest appeared a practical solution – offsetting losses elsewhere and keeping the State's forest cover within acceptable interna-

tional standards. Efforts were also made to swap forest areas and bring land titles into order. But nothing could be done without the permission of the Supreme Court, and that proved a very difficult threshold to cross. The result is that even today, large areas with established urban populations continue to carry the legal designation of "forest" in Government records – a title fossil, neither cleared by the courts nor resolved by the executive, that burdens Rajasthan's land administration to this day.

The *Godavarman* case grew, year by year, into the most expansive continuing mandamus in Indian judicial history – a permanent environmental tribunal operating through the Supreme Court. It achieved important things for India's forests. But for Rajasthan, a desert State whose relationship with its sparse forests is fundamentally different from the hill and tropical States, the blanket application of a one-size-fits-all order produced hardship that a more calibrated judicial approach might have avoided.

New Delhi Municipal Council v. State of Punjab
1996 INSC 1513

The New Delhi Municipal Committee levied property tax on immovable properties owned by various State Governments situated within the Union Territory of Delhi, under the Punjab Municipal Act, 1911. The respondent States challenged the levy on the ground that their properties were exempt from Union taxation under Article 289(1) of the Constitution. The Delhi High Court allowed the challenge. On appeal, the Supreme Court felt that the matter involved questions of sufficient constitutional magnitude to warrant a larger bench, and it was ultimately placed before a nine-Judge Bench – the broadest constitutional bench to consider the question of inter-governmental immunity from taxation in India's history.

The nine-Judge Bench delivered a historic ruling, though with differences in reasoning between the majority and the concurring opinions. The per curiam conclusions were: (i) any tax levied within a Union Territory is "Union taxation" within the meaning of Article 289(1); (ii) a Union Territory is not a "State" within the meaning of Articles 246, 285 and 289 of the Constitution – the definition of "State" in Section 3(58) of the General Clauses Act, 1897, being a statutory definition, does not govern these constitutional provisions; (iii) Article 289(1) exempts State property and income from Union taxation as a general rule, but this exemption is subject to Article 289(2), which empowers Parliament to enact law taxing the commercial activities of State Governments. The Punjab Municipal Act, 1911 and the Delhi Municipal Corporation Act, 1957, as Parliamentary enactments applicable to a Union Territory, constitute Union legislation and the

taxes levied thereunder are Union taxes. Properties of State Governments used for governmental, non-commercial purposes are exempt under Article 289(1); those used for trade or business are not. The minority held that the municipal legislation was not enacted with reference to Article 289(2) and did not specifically target commercial activities.

Taxation levied within a Union Territory by legislation enacted by Parliament constitutes "Union taxation" for the purposes of Article 289(1) of the Constitution. A Union Territory is not a "State" for the purposes of the taxing immunity provisions. Article 289 comprises three interlinked provisions: clause (1) creates a general immunity of State property from Union taxation; clause (2) is an exception enabling Parliament to tax commercial activities of States; clause (3) is a qualification upon clause (2). The immunity of State property is not absolute where that property is used for trade or business. The doctrine of inter-governmental fiscal immunity in India, as expressed in Article 289, is distinct from its American and Australian counterparts and must be governed by the constitutional text itself.

Observation: This was constitutionally the most significant matter of the Chapter Four period – a nine-Judge Bench convened only when the Constitution demands settlement at its highest level. The fiscal relations between the Union, the States, and the Union Territories had been a source of enduring constitutional uncertainty; this judgment provided the framework within which those relations in Delhi would thenceforth be managed. The competing opinions of the majority and the minority reflected genuine uncertainty about the nature of Union Territory taxation and the scope of parliamentary power under Article 289(2). I followed every development with professional intensity. The constitutional architecture of fiscal federalism was at stake – and in such cases, no advocate who truly loves the law can remain a mere spectator.

State of Rajasthan and Anr. v. Prem Raj
1997 INSC 142

The respondents were pre-1979 retirees of the Rajasthan Government whose pensions had been computed under the formula prevailing at the time of their retirement. The State had issued notifications in 1970 and 1974 liberalising the pension scheme, with cut-off dates that excluded certain pre-1969 retirees. In 1980, a revised slab-based formula was introduced for those retiring after 31 March 1979. Critically, in September 1985, the State issued a further notification extending the benefit of the revised formula to all pre-31.3.1979 pensioners as well, through an ad hoc formula or actual recomputation by option. The respondents filed writ petitions challenging only the 1970 and 1974 notifications – without

challenging the 1985 notification – contending that the cut-off dates discriminated against them. The High Court struck down the 1970 and 1974 notifications without examining the 1985 notification.

The Supreme Court allowed the appeals by the State. I appeared for the State of Rajasthan. The Court held that the High Court had committed a fundamental error in striking down the 1970 and 1974 notifications without examining the notification of 02.09.1985, which had already extended the benefit of the revised pension formula to all pre-31.3.1979 retirees – including the respondents. Since the 1985 notification had not been challenged and had not been quashed, the respondents were already entitled to its benefits. There was no surviving injustice capable of supporting the striking down of the earlier notifications. The writ petitions were dismissed, and the respondents were directed to avail the benefits of the 1985 notification, subject to exercise of their option between the ad hoc formula and recomputation on the basis of last emoluments and qualifying service.

In adjudicating a challenge to a pension notification on grounds of discrimination, the Court must examine the entirety of the relevant statutory and executive framework, including subsequent notifications that may have already provided the relief claimed. If a supervening notification has already cured the alleged discrimination by extending benefits to the claimant class, it is not open to the Court to strike down earlier notifications without any examination of that supervening provision. The principle in *D.S. Nakara v. Union of India,* (1983) 2 SCR 165 – requiring equal treatment of pensioners – remains good law, but its application must be guided by the full framework in force at the time of adjudication.

Observations: I was successful for the State in this appeal. The case involved a species of judicial error that sometimes occurs when courts fix their gaze narrowly upon the specific notifications impugned, without attending to the broader framework. The 1985 notification was, in effect, an administrative grant of precisely what the High Court sought to secure by judicial intervention – making the court's remedy both unnecessary and constitutionally impermissible given the absence of any challenge to that supervening order. It was a clean victory on a clear and important point of law. It also served the broader principle that the State should not be exposed to wide-ranging consequential claims where it has, voluntarily and comprehensively, already extended the benefit to all qualifying pensioners.

Mrs. P.K. Sandhu v. Shiv Raj V. Patil Etc.
1997 INSC 319

Mrs. P.K. Sandhu, a senior in-service officer of the Lok Sabha Secretariat, filed a writ petition seeking a writ of quo warranto against officers from outside the Sec-

retariat who had been appointed on deputation to senior posts – Joint Secretary, Additional Secretary, and Secretary to the Speaker. She contended that these appointments deprived in-service officers of their legitimate promotional opportunities. The Supreme Court had earlier suggested modifications to the recruitment rules. In response, the Lok Sabha Secretariat (Methods of Recruitment and Eligibility Conditions for Appointment) Amendment Order, 1996 was issued, providing 75% of senior posts to be filled by promotion and 25% by deputation, with eligibility for promotion requiring three years as Director and seventeen years of total service in Group 'A' posts. Mrs. Sandhu challenged the 17-year service requirement as arbitrary and violative of Article 14. I appeared for the petitioner.

The Supreme Court dismissed the writ petitions. The Court held: the 75:25 ratio between promotional and deputation appointments was fair, reasonable, and in the best interests of the service – not arbitrary; the prescription of seventeen years of total Group 'A' service as an eligibility condition for promotion to Joint Secretary level was within the Speaker's rule-making authority under Article 98 of the Constitution, and could not be characterised as violating Article 14; the prescription of length of service for senior promotion is a legitimate regulatory measure; officers already on deputation had acquired a legal right to remain in service from 9 October 1996, the date the Amendment Order came into force; the Speaker's option to appoint a Secretary General on contract – whether an in-service officer or an experienced superannuant – could not be assailed as arbitrary. Whether Mrs. Sandhu personally satisfied the promotional qualifications was a matter for the Speaker to determine in due course.

The Speaker of the Lok Sabha has wide rule-making authority over the recruitment and conditions of service of Secretariat staff under Article 98 of the Constitution. Prescription of minimum length of service as an eligibility condition for promotion to senior posts is a legitimate regulatory measure, not an arbitrary exercise of power. A 75:25 ratio between internal promotion and lateral deputation for senior posts in a specialised legislative secretariat is consistent with Article 14. A writ of quo warranto will not issue against officers appointed under a validly amended scheme. The question of whether a particular in-service officer satisfies promotional criteria is for the competent authority – not the Court – to determine in the first instance.

Observations.: I was on the losing side, appearing for the petitioner. The case placed me in an unusual position – arguing against the rule-making power of the Speaker of the Lok Sabha, one of the most constitutionally insulated offices in India. The Court's deference to the Speaker's regulatory authority was legally sound. Mrs. Sandhu's grievance was genuine: she felt her career had been displaced by lateral entrants brought in through deputation. But the Court was right that the

remedy for such a grievance lies in the proper application of promotional rules – not in quo warranto. I advised her accordingly. The loss, though felt keenly, was on a matter of principle. Advocacy is not always about winning; it is about arguing the best case the facts and law permit, with integrity, and accepting the judgment when it comes.

State of Rajasthan v. Prakash Chand and Others
1997 INSC 776

A Public Interest Litigation was filed in the Rajasthan High Court at Jodhpur seeking directions for better accommodation and facilities for its Judges. The writ petition came to be heard in part before Shethna, J. A second petitioner was subsequently impleaded who challenged, among other things, the validity of the constitution of a Bench of the High Court at Jaipur. The Additional Advocate General of Rajasthan moved an application under Rule 55 of the Rajasthan High Court Rules, 1952, seeking transfer of the petition to a Division Bench as it involved constitutional questions. The Chief Justice, in the presence of all parties, directed on 09.11.1997 that the petition be listed before a Division Bench comprising M.P. Singh and B.S. Chauhan, JJ. The Division Bench disposed of it on 10.11.1997 – the petitioners' own counsel stating that the reliefs no longer survived.

Shethna, J. was at this time sitting in a Division Bench pursuant to a changed roster. A criminal revision petition – wholly unrelated to the disposed writ petition – was listed before him. While hearing its preliminary arguments, he called for the record of the already-disposed writ petition, and in a detailed order made caustic allegations in intemperate language: against the Chief Justice for having transferred the matter; against the Judges of the Division Bench which had disposed of it; and against former Chief Justices of the Rajasthan High Court – including the then Chief Justice of India, Mr. Justice J.S. Verma – alleging that they had "illegally" drawn full daily allowance of Rs. 250 while staying at the High Court Guest House at Jaipur and had thereby committed "misappropriation of public funds." Most extraordinarily, he directed issuance of a show cause notice to the serving Chief Justice to explain why contempt proceedings should not be initiated against him for having transferred the writ petition. The State of Rajasthan appealed to the Supreme Court.

The Supreme Court allowed the appeal in its entirety. The Court held that the Chief Justice is the master of the roster – with exclusive authority over the constitution of Benches, allocation of cases, and transfer of part-heard matters, including to Division Benches where constitutional issues arise under the Rules. Puisne Judges can do only such work as the Chief Justice assigns; no Judge can give

directions to the Registry contrary to the Chief Justice's determination; and no puisne Judge can assume jurisdiction in any case without the Chief Justice's allotment. Shethna, J. had no authority – judicial or administrative – to call for the record of a disposed writ petition while hearing an entirely unrelated criminal revision. His observations against the Chief Justice, the Division Bench, and former Chief Justices were not merely lacking in restraint – they amounted to abuse and misuse of judicial authority, conduct subversive of judicial discipline, and contempt of court.

The direction to issue a show cause notice to the Chief Justice was wholly illegal, misconceived, and without jurisdiction – Section 16(1) of the Contempt of Courts Act, 1971 does not apply to Judges of Courts of Record. The allegations of "criminal misappropriation" regarding the High Court Guest House were factually incorrect, legally unsound, and procedurally untenable – Bungalow A/2 at Jaipur had been placed at the disposal of the High Court by the State Government in 1979; its occupation was an internal arrangement of the Court, not "free Government lodging" within the meaning of Para 2(E)(ii) of the High Court Judges Travelling Allowances Rules, 1956. All observations, comments, insinuations and orders of Shethna, J. in connection with the disposed writ petition were quashed and directed to be expunged from the record. The Court closed with the words: *"We hope there shall not be any other occasion for us to deal with such a case."*

Observation: The Supreme Court breaks for lunch at 1.00 pm. At 1.05 pm on the day the matter first came to the Attorney General's attention, the Chief Justice of India had already called the Attorney General to look into what had occurred – a sitting Judge of the Rajasthan High Court had issued a contempt notice against his own Chief Justice. At 1.10 pm, as I was opening my lunch at my Bikaner House office, the telephone rang. It was the Attorney General. *"What is happening in your Rajasthan?"* he asked. I replied with the same casualness one uses when one does not yet know the full gravity of a thing: *"Sir, whatever is happening will be taken care of." "Justice Shethna, sitting as a Single Judge, has issued a notice of contempt against the Chief Justice of the High Court,"* said the Attorney General. I said: *"No big issue, Sir. We will get it stayed tomorrow. I will see you in ten minutes – driving time."* I cut the line and drove to the Attorney General's office at the Supreme Court.

The Attorney General told me what had happened, handed me a copy of Shethna J.'s order, and asked what should be done. I told him: I will file a Special Leave Petition on behalf of the State of Rajasthan, for which the AG could appear; we mention the matter before the Court the next morning and get the order stayed; after notice is issued, the Solicitor General may appear for the High Court; and we will see what best can be done from there. Everything went precisely as decided. What began as a ten-minute lunchtime conversation became one of the

most significant judicial discipline cases of the decade – and the law laid down in the judgment became a path-breaking pronouncement on the powers of the Chief Justice as the Master of the Roster.

The institution was saved. But it left me deeply sad – and that sadness deepened further when read alongside the R.C. Sood matter decided a few months later. This was one of the most remarkable litigations of my career – not for its constitutional novelty, but for what it revealed about the capacity of internal judicial tensions to erupt into full-blown institutional crisis. Shethna J.'s conduct was, by any standard, a serious departure from the decorum, collegiality and institutional loyalty that the judicial office demands above all else. The Chief Justice is the master of the roster – not a ceremonial description but the constitutional and administrative spine of every High Court. When a puisne Judge attacks that authority by labelling a lawful administrative order as criminal contempt, by directing show cause notices against his own Chief Justice, by making findings of "misappropriation" against former Chief Justices who have no forum in which to reply – he does not merely transgress a rule of judicial decorum. He strikes at the institutional foundation upon which the court's entire authority rests.

The Supreme Court's intervention was firm, principled and final. Its closing observation – that it hoped never again to encounter such a case – carried the weight of an institution that had been made to look upon a fractured reflection of itself. The victory for the State was categorical. More important was the message sent to every judicial officer in India: that the judicial institution, in defending its own dignity, would not spare even a member of the higher judiciary who had so egregiously transgressed its norms. The Supreme Court's words bear permanent inscription: "Dangers from within have much larger and greater potential for harm than dangers from outside. Judges alone in the judicial family can guard against such dangers from within."

That observation was written in 1997. It was meant as a warning. I came to know later that Shethna J. had taken a personal vow – that he would ensure I was never elevated as a Judge of any High Court for as long as he remained a member of the judiciary. I record this not with bitterness but with a certain philosophical equanimity. A man who issues contempt notices against his own Chief Justice is capable of many things. That such a vow was taken tells one more about the state of the institution than it tells about me. I had appeared for the State of Rajasthan, discharged my brief with complete propriety, and the law was laid down correctly. Whatever personal consequences were intended for me by that vow, they belonged to a domain I had long since decided not to inhabit – the domain of anxiety about what powerful persons might do to one's career in retaliation for honest professional conduct.

What I could not set aside so easily was the sadness. The Prakash Chand case and the *R.C. Sood* case, decided within six months of each other and both arising from the same High Court, were not isolated aberrations. They were early and visible symptoms of an institutional decay whose seeds were already firmly planted. The R.C. Sood matter – where an institution collectively used its own administrative machinery as an instrument of vendetta, where a complaint formally closed by the Chief Justice was resurrected within days of a Supreme Court order they resented, where a committee was assembled not to find truth but to manufacture a record – that case showed something darker still: not one Judge's excess, but a Full Court's collective failure of institutional conscience.

In 1997 and 1998 I still carried hope. The IT age was arriving; I believed that transparent administration, computerised management of court processes and an objective framework for appointments and transfers would, over time, erode the culture that these cases exposed. That hope has not been vindicated. The decades since have not moved the needle in the direction I anticipated. It has gone, I say this without pleasure and without exaggeration, not from bad to better – but from bad to worse. The warning of 1997 went unheeded. The pattern has repeated. And the institution that the Supreme Court hoped, in those closing words, never to have to confront in such circumstances again – has given it reason, more than once, to revisit exactly that confrontation

R.C. Sood v. High Court of Judicature at Rajasthan
1998 INSC 232

R.C. Sood was a member of the Rajasthan Higher Judicial Service who had served as Registrar of the High Court from 1989 to 1994, and whose elevation to the High Court Bench was, at the material time, actively under consideration on account of his seniority.

His troubles unfolded in two episodes. The first arose from a typographical error in an advertisement for direct recruitment to the Higher Judicial Service – the cut-off date was published incorrectly. A two-Judge Committee attributed this, tentatively, to the petitioner and recommended a departmental enquiry. The Full Court suspended Sood and resolved to initiate proceedings. Sood approached the Supreme Court, which quashed both the suspension and the proceedings by judgment of 22.11.1994, observing that it was difficult to appreciate how any conclusion of forgery or personal responsibility had been reached.

The second episode began within days. In September 1993, a complaint had been received against Sood from a person purporting to represent an organisation called the "Rajasthan Judicial Liberation Front." A preliminary enquiry had been

conducted by the Additional Registrar (Vigilance); witnesses were examined; the complainant could not be traced at the address given; and the then Chief Justice, on receiving the enquiry report, had passed a formal order on 31 January 1994 recording that the complaint was false, fabricated and the handiwork of mischief mongers – and directing that no action be taken. The matter stood formally closed. In May 1994, the Chief Justice further issued a standing administrative direction that no complaint against a judicial officer would be entertained unless supported by an affidavit.

Eight days after the Supreme Court quashed the first proceedings with costs of Rs.20,000, a Judge of Rajasthan High Court revived the closed September 1993 complaint by writing to the then Chief Justice, expressing surprise that a complaint against R.C. Sood had not been placed before the Full Court. On 30.11.1994 – the very date the Full Court assembled to consider the consequences of the Supreme Court's quashing order – it recalled the Chief Justice's closure order of January 1994 and constituted a fresh three-Judge Committee to enquire into the complaint and any other complaints "forwarded by Honourable Judges." It further resolved – with a candour that proved fatal to its case – that since Sood's seniority placed him in consideration for elevation as a High Court Judge, the Chief Justice of India and the President of India were to be so informed.

The Committee gathered complaints that were either undated, or dated days before and after the Full Court's own resolution – none supported by affidavit, in direct violation of the standing administrative direction. One of the principal witnesses examined had been removed from service following a disciplinary enquiry in which Sood himself had participated as Registrar (Vigilance); others had been superseded or penalised on the basis of his reports. The original complainant, when examined, turned out – on subsequent police verification – to have no traceable existence at the address given; the Supreme Court later found him to have been "in all probability an impostor." The third member of the Committee signed the final report of 04.01.1995 without having participated in any of the witness examinations. The Full Court on 5/6 January 1995 resolved to initiate a regular departmental enquiry. Sood filed a writ petition before the Supreme Court under Article 32.

The Supreme Court allowed the writ petition, quashed all disciplinary proceedings. I appeared for the respondent High Court and personally produced the original file of the three-Judge Committee before the Court. The Court examined it carefully – and what it found in that file told its own story.

The Court held that the Chief Justice's closure order of January 1994 was a lawful and competent exercise of his administrative authority; the Full Court had no valid reason to recall it. The standing direction requiring affidavit support for

complaints had been ignored. The "fresh complaints" said to have been received by Judges were not even known in their particulars to all Full Court members when the November 1994 resolution was passed. The direction to inform the Chief Justice of India and the President of India – specifically referencing Sood's likely consideration for elevation – left no room for doubt as to the true purpose of the proceedings. The Court found the entire action to be "not bona fide" and amounting to "victimisation." The earlier hope expressed by the Supreme Court in its 1994 judgment – that the episode had been an inadvertent exception – stood, the Court recorded, "completely belied." The writ petition was allowed with costs imposed upon the High Court.

Observation: What the R.C. Sood case describes is not the misconduct of an individual Judge. It is a window into something far more disquieting – the capacity of an institution, collectively, to use its own administrative machinery in the service of outcomes that have little to do with the administration of justice. I do not wish to apportion blame between individuals or to adjudicate who was right and who was wrong in the human drama that played out behind these resolutions and committee reports. What is clear is that the whole issue seemed to revolve around the elevation of a person as a Judge of the High Court, and that forces were at work, pulling strings, in ways that had no place in the solemn exercise of institutional power. That is what made me deeply uncomfortable – and that discomfort has not left me.

The Supreme Court had imposed costs of Rs. 20,000 upon the High Court. For a court, this was not a large sum in monetary terms – but it was a profoundly significant act in institutional terms. What followed moved me in a way I had not anticipated: the Judges of the High Court stood together, each one contributing his share, and the costs were deposited collectively. There was something in that act – a closing of ranks, a shared bearing of institutional shame – that was, in its own way, deeply sad. Whatever had gone wrong, these were men who had devoted their lives to the law. That it had come to this was a sorrow that transcended the particular controversy.

There is a truth that I have come to understand more fully with each passing year, and which this case placed before me with particular force: only a contented person can be a good Judge, just as only a contented person can be a good advocate. When the soul is burdened with grievance, with personal pain, with the weight of ambition frustrated or honour impugned – when those energies are at work within a Judge – the common man who comes before the court seeking justice carries a burden he does not know he carries. The quality of justice is inseparable from the quality of the inner life of those who dispense it. Deep vendetta, personal suffering and institutional politics, operating silently beneath the

surface of judicial proceedings, are ultimately paid for not by the Judges who harbour them, but by the ordinary citizen who has nowhere else to turn.

I have thought about this case many times in the years since – and particularly as I reflect upon the arc from 1976 to the present day. In 1998, when this judgment was delivered, I still carried a measure of hope. The IT age was arriving. I believed that computerised case management, data-driven administration, and transparent tracking of judicial performance would, over time, make the exercise of institutional power more objective and less susceptible to personal feeling and factional interest. The Third Judges Case, decided the same year, had laid down what appeared to be a structured architecture for judicial appointments – one that promised greater predictability and fairness. I believed that what R.C. Sood had exposed was the residue of an older, unreformed culture, and that the culture would, under the pressure of modernisation and constitutional discipline, reform itself.

That hope has not been borne out. The decades since 1998 have not moved the needle in the direction I anticipated. The collegium system has in practice often reproduced the opacity it was designed to displace. Transfers are still used as instruments of pressure. Judicial officers who find themselves at odds with powerful interests within the institution are not always protected by the principles that the Supreme Court articulated so clearly in this case. The IT revolution has generated the appearance of modernity without always transforming the underlying culture. The arc has not bent toward greater transparency and objectivity – it has, in significant measure, bent the other way.

I record this not as a counsel for despair, but as an honest reckoning. Institutions are ultimately the sum of the human beings within them, and human beings carry within them – alongside their finest qualities – their grievances, their hungers, their wounds. The challenge of institutional design is to create structures that constrain those darker energies and channel them toward the public good. That challenge, in the context of India's higher judiciary, remains – as of the writing of these pages – substantially unmet. It is the challenge that the next generation of lawyers, judges and statesmen must take up with both urgency and wisdom, if the promise of justice that the Constitution holds out to every citizen is to be made real.

Special Reference No. 1 of 1998

Re: Appointment and Transfer of Judges – The Third Judges Case
1998 INSC 402

Following the Supreme Court's landmark decision in *Supreme Court Advocates-on-Record Association* v. *Union of India*, 1993 (4) CEC 44 – the Second Judges Case –

doubts arose about the interpretation and practical application of the consultation process for appointments and transfers of Judges. Questions arose: whether the Chief Justice of India must consult only himself or a plurality of senior Judges; what the expression "consultation with the Chief Justice of India" meant in the context of High Court appointments; whether seniority must be specifically departed from with recorded reasons; and whether judicial review lay in respect of High Court Judge transfers. On 23.07.1998, the President of India, exercising power under Article 143(1), made a reference to the Supreme Court on nine questions. The Attorney General of India stated categorically that the Union did not seek review or reconsideration of the Second Judges Case and would accept the Court's answers as binding.

The nine-Judge Bench rendered its advisory opinion. The Court answered the reference as follows. For appointments to the Supreme Court and transfers of High Court Judges, the Chief Justice of India must consult the four senior-most puisne Judges of the Supreme Court – this constitutes the collegium. For appointments to a High Court, the Chief Justice must consult the two senior-most puisne Judges. The expression "consultation with the Chief Justice of India" in Articles 217(1) and 222(1) requires consultation with a plurality of Judges in the formation of the Chief Justice's opinion; the sole, individual opinion of the Chief Justice does not satisfy the constitutional requirement. The Chief Justice cannot act alone in responding to the Government's communications on the non-appointment of a recommended candidate. The collegium must include Judges conversant with the affairs of the relevant High Court – not only those who have it as their "parent" High Court, but also those who have served there on transfer. The views of the Judges consulted must be in writing and communicated to the Government of India along with the Chief Justice's recommendation. For Supreme Court appointments, "strong cogent reasons" need not be recorded for departing from seniority with respect to each senior Judge passed over; it is sufficient to record the positive reason for the recommendation. Recommendations made without compliance with the consultation process are not binding upon the Government of India.

Observations: I had watched the evolution of this question across more than two decades – from Sankalchand Himmatlal Seth in 1977, through the *First Judges* Case (S.P. Gupta) in 1982, the Second Judges Case in 1993, and now this Third Judges Case in 1998. The question at the heart of all three – who appoints the Judges? – is, in truth, the most consequential question in any constitutional democracy. The judiciary is the last resort of every citizen. Yet the character of that judiciary has been determined, in practice, not by what the Constitution prescribes but by who holds the power to pick, choose and appoint. And that is precisely where the debate has remained frozen – in the structure of power, rather

than in the quality of the person upon whom that power is exercised.

The real issue lies not in the structure but in what every structure – collegium or Government – has consistently failed to address: the quality and completeness of information available about the person being considered for appointment. Is he without baggage? Without professional scars? Without prejudices hardened by decades in a particular camp? Is he contented – for only a contented person can be a fair Judge? Is he capable of keeping his mind open to the young advocate before him who may be arguing a point he has never considered? These are not questions that seniority resolves. No collegium of five Judges, however senior and distinguished, can answer them without a rigorous, objective and data-driven evaluation of the candidate's record. And yet, these are the only questions that truly matter.

In this I speak from a particular vantage point. In 1986 I began working on the computerisation of all judgements of the Supreme Court of India. By 1989 the software was ready. In 1996 I launched India's first legal website – carrying all material information relating to each judgment: the judgements delivered by each Judge, cases that followed or were followed up, statutes and sections considered, legal maxims, books and periodicals cited, words and phrases judicially defined, and articles referred to. The database also carried the potential to go much further: a Judge's record on each subject and issue, whether cases were decided in favour of the individual, public sector undertakings or the Government, the full profile of Advocates appearing – every piece of information necessary to build a complete and objective picture of both the Advocate and the Judge. Extended to the proceedings and orders of High Courts, Tribunals and Trial Courts, it was entirely possible to capture how many matters were listed, how many adjourned, how many disposed – a real-time map of the administration of justice across the country.

I was not a tool-maker seeking commercial reward. It was a test case – nothing more, nothing less. The question I was really asking was simpler and more consequential than any commercial proposition: if one individual, working alone with limited resources, could create such a tool, could not the institution and the Government do the same – pan India, making the law available instantaneously to every citizen, and ensuring that the best among men would be chosen to man the institution that dispenses it? I knew that adoption would take time; what was needed was for someone at the apex of the institution – the Chief Justice of India, the Law Minister, or the Attorney General for India – to initiate the process and carry it forward. I spoke to each one of them. None took it further. What followed was not even a considered rejection – it was simply silence, and then the passage of time. Nothing meaningful happened then, and nothing meaningful has happened

to this day. What stands in its place is a system in visible distress – total chaos, no coherent structure, no reliable data, no objective measure of performance, and no institutional will to build one.

Today, with artificial intelligence available as an analytical tool, there is no excuse for this opacity. A Multi-Regression Variate analysis – drawing on a Judge's published judgements, his rate of reversal, the quality of his reasoning, his administrative conduct, the assessment of the Bar that appears before him, and a hundred other verifiable data points – is entirely feasible. It would not replace human judgment; it would inform and discipline it. It would give the collegium what it has never had: a factual foundation that goes beyond personal acquaintance and institutional memory. I wrote an article on the appointment of Judges to the Supreme Court – at a time when software development was still at its nascent stage – in which, on the basis of simple arithmetic applied to available data, I identified thirteen Judges who were likely to reach the Supreme Court, including three who were likely to become Chief Justices of India. It happened almost exactly that way.

The mathematics of appointment is not mysterious: a Judge elevated to the High Court at approximately forty-five years of age retires at sixty-two; the pipeline from today's High Court appointments to tomorrow's Supreme Court Bench is entirely visible to anyone who chooses to look. The Judges already sitting in the High Courts today will continue to reach the Supreme Court until 2046. We already have a sense of who they are – and one can already see the lobbying that determines whether they arrive in time to become Chief Justice of India, or are quietly overtaken.

Everyone continues to fight the effect, and no one – I say this with the deepest respect for all concerned – no one is fighting the cause. The simple theory of causation holds that if the cause is removed, the effect ceases to exist. The cause of an institution that delivers uneven justice is the appointment of Judges unequal to the task – whether by reason of intellectual limitation, personal prejudice, professional indebtedness, or factional loyalty. Whether the recommendation comes from the collegium or from the Government acting on its own, if the real issue driving the selection is the appointment of "my person" – then no constitutional architecture, however elegantly designed, will save the institution. The advocate will suffer; the common man will suffer.

I began my professional life with the image of the Law as my Mistress—vibrant, demanding and worthy of total devotion. She is dead. I grieve her passing, for she was once magnificent. I am no longer waiting for an answer, no longer looking for a prescription for her recovery. I have moved on – to a deeper and more enduring commitment to what Justice truly means, beyond the reach of any institution to diminish. I turn now, with whatever time remains, to my Love – Justice

herself – timeless, unconditional, and imperishable. For in the end, justice cannot be permanently denied to a people who are entitled to it. Of that I remain, and shall always remain, unshakeably convinced.

Articles, Addresses and Presentations

Eve of retirement of Justice K. J. Reddy
13.07.1995 (Address)

Justice K. Jayachandra Reddy retired from the Supreme Court of India on 13.07.1995, having served the nation with singular distinction. He had come to the Bench from a distinguished career at the Andhra Pradesh Bar, and brought to the Supreme Court a mind deeply schooled in the first principles of criminal law – an area in which, by common acknowledgment of the Bar, few judges of his generation possessed equal mastery. What distinguished him from many of his brethren was not merely learning, but the quality of his listening. In a court where the pace of arguments is relentless and the temptation to interrupt is ever-present, Justice Reddy heard counsel out. He allowed an argument to complete its arc before he responded to it. There was in this a discipline that was also a form of respect – for the advocate, for the litigant standing behind him, and for the process itself. More than once, I observed in his court that it was this quality of attentive patience – more than the final order – that gave a litigant the feeling of having been genuinely heard. In the judicial process, that feeling is itself a form of justice. The address that follows was delivered at the farewell organised by the Supreme Court Bar Association, where I had the privilege of speaking on behalf of the Bar

We have gathered here to say goodbye to Justice K. Jayachandra Reddy. These moments are sad for we are parting with somebody with whom we have spent memorable moments, but these moments are also happy moments for a great judge has with great dignity and respect discharged the enormous functions and now will be able to do better things then just dealing with litigation. It is very easy to take the podium and say good bye Sir thank you‘. But it becomes difficult if one wishes to say more and has no tact but only honestly.

We find greatest solace when we look at Justice K. Jayachandra Reddy, who has endeared himself to us all by his never failing smile, kindness, consideration, knowledge of first principles especially in criminal law, judicial integrity, tradition, heritage, culture and an honesty of highest order. An honesty to form opinion only after listening carefully and fully appreciating another possible point of view and always ready to change one‘s own, if so necessary.

My lord’s interest in tennis was a great factor and support to SCBA to organise the first SCBA Sports meet, with great success and Justice K. Jayachandra Reddy

lifting the doubles championship. This and many other factors have made him one of the most liked and great judges of Supreme Court.

We hope to get more of his support, guidance and contribution in times to come, off the bench.

Meet a Lawman Series - 1
16.11.1995 (Welcome Address)

Chief Justice of India, Mr. F.S. Nariman, Senior Advocate, Mr. Kapil Sibal, President of the Supreme Court Bar Association, Mr. M.N. Krishnamani, Vice President of the Supreme Court Bar Association, Judges of the Supreme Court other dignitaries, senior members of the Bar, colleagues and friends.

While invoking the blessings of the One Cosmic Reality that envelops this universe and is the common thread amongst us all, I feel it my great privilege to welcome you all on this inaugural session of "Meet a Lawman Series".

Harold J.Laski once said:-*"every time an intellectual has a chance to speak out against injustice, and yet remains silent, he contributes to moral paralysis and intellectual barrenness that grips the affluent world".*

It is only in our profession that we can not only speak out fearlessly against injustice but we are paid for not remaining silent. Yet we find that our country is passing through an era of social & cultural decay and intellectual bankruptcy. If lawman are unable to give direction and lay the path of development, believe me nobody can and, therefore, it is the call of the time that the young generation of future lawman here must learn from the rich experiences of the present. It is with this concept that the Supreme Court Bar Association has started this series. The elders must create a sense of confidence in the emerging young generation of lawyers to rise by toil and toil alone and get well equipped to match the best by the best, for in the ultimate fight, they must know, that it is the product which wins and not personal projections alone. Though, a good book may be run down and a bad one cried up, for a time, yet sooner or later, the reward will be in proportion to the merit of the work and one must always be reminded of what Rabindranath Tagore wrote to Gandhi on 12.04.1919 after the Jallianwala Bagh massacre on that day –

> *"....great gift of freedom can never come to a people through charity. India's opportunity for winning it will come to her when she can prove that she is morally superior to the people who rule by their strength of conquest."*

Mahatma Gandhi wrote in 'Young India' on 16.06.1920 on the law of suffering: –

> *"No country has ever arisen without being purified through the fire of suffering. The mother suffers*

so that her child may live. The condition of wheat growing is that the seed grain should perish. Life comes out of death. Will India rise out of her slavery without fulfilling this eternal law of purification through suffering? "

A raw law graduate with a license to wear a white band, a black coat and a black gown, with ideals of noblest profession with greatest potentialities of greatest good to the society is perplexed when he enters the same. He gets opportunity to interact, in flesh and blood, with the countries intellectual giants and he sees their great art of advocacy. He sees those, of whom he had only heard or read. What he sees today is the flashes of this great lawman in the court either as Judges or Senior Advocates, of whom he is only able to understand to the extent of the limitation of his knowledge and thinks that, that is all. What he fails to see is that, this is an insignificant resultant of 40 years of hardest struggle, toil and sacrifice. He is unable to comprehend the input after 10.30 am to 4.30 pm. He is unable to see that the height reached by any person, institution or nation is directly proportionate to the extent of sacrifices made.

The basic purpose underling this series is to make them aware that this profession is neither the dumping ground or luxury of an idle mind nor the breeding ground for politicians, but is an involvement so strong that one often finds oneself plunged in a thick fog of threadbare details, in the black and silent nights or early hours, it is a profession in which there are no easy joys. It is a profession in which the opportunities are not blown away with the smokes that rise at tea tables in the canteens, but one has to constantly develop one's entire human personality and continuously move ahead in time, for in this profession feeling envious for others achievement leads you no high but only reflects the deep sense of insecurity, desperation and frustration.

A young film actor once told a veteran *"Sir I, have achieved in 5 years what you were able to achieve in 40 years of you career".* The veteran smilingly said *¯Well, young man what do you propose to do in next 35 years?"* The young man left films and joined politics.

Believe you me friends, Law is not a profession of lost opportunities as one overhears in the canteens ¯Oh! What is the difference between me and Mr. Nani Palkiwala except that I did not get the opportunities in life that he got"? And the opportunities go up with the smoke of the cigarettes

The opportunities will always be there, it is the time spent in preparing oneself for rising to the occasion which is important and that cannot be achieved by any other process but by reading, analysing, understanding and expressing.

Sir Walter Scott, a great notary of lawyers' readings and literature and humanities said in 'Guy Mannering':-

> *"A lawyer without history or literature is a mechanic, a mere working mason, if he possesses some knowledge of these, he may venture to call himself an architect".*

For lawyers mere knowledge of law or facts in not enough, he must have the power of applying the law to the facts and to place them properly before the Court and during the process always be aware and conscious of the dignity of himself and of the institution, ethical and moral values.

Dr. S.D. Sharma, President of India, on 25.09.1993, on the occasion of the First Convocation of National Law College at Bangalore said:

> *"Indeed a reputation for equity, equalityfulness will help the practitioner of law in his legal profession as well as in other dimensions of his entire life. The word of such a person always carries more weight with judges. Sharpness of mind and width and strength of intellect have their own utility, but right behaviour and a reputation for fidelity with equity, equality have perhaps an even greater value. A sense of service must rule and regulate the total approach of the advocate. Only then would he properly perform his rightful and appropriate duties under the aegis of Dharam."*

Ours is a peculiar profession where as one appears before a Judge, there is an interaction of raw and developing mind with a developed, mature and experienced mind analysing the same facts on the anvil of justice. One can see the existence of the basic raw material, but it is its proper molding which is necessary, without shaking away the confidence of the young in his own self, in the profession and injustice.

The young man has also to be told that he has not to worry even in the decaying system when the institution of '*Vanaprasth*' and '*Sanyas*' which duty bounded the elders to devote, time in helping the younger generation in profession, has ceased to exist. Today we find the young generation in direct professional conflict with the retired, the resigned and the terminated which are heavy road blocks to the their development in the profession. It is different that some become great judges and lawyers and get due recognition, but that is their singular achievement. We wish to extend a helping hand and provide necessary support to the development of our institution which I am certain that this and other activities of the Bar Association will provide.

With these words may I welcome you all on this inaugural session.

Law Day Function

26.11.1995 (Welcome Address)

Mr. Justice A.M. Ahmadi, Chief Justice of India, Mr. H.R. Bhardwaj, Minister of State for Law, Justice and Company Affairs, Mr. Milon K.Banerji, Attorney General for India, Mr. Kapil Sibal, President, Supreme Court Bar Association, Mr.

M.N. Krishnamani, Vice President, Supreme Court Bar Association, Judges of the Supreme Court of India, Chief Justice of Delhi High Court, Judges of Delhi High Court, other dignitaries, senior members of the Bar, colleagues and friends.

It is my proud privilege to welcome you on this 'Law Day' and I welcome you, one and all. I welcome you all on this 16th (sixteenth) Law Day Celebration as we commenced celebrating it from 1979, though it relates back to 26.11.1949 when we adopted, enacted and gave unto ourselves our constitution. On this occasion, we have been doing heart searching, we have carried out introspection, we have talked about our problems and difficulties and possible answers to resolve the same, in our march to reach the ultimate goal of 'Universal brotherhood', of Gandhian goal of 'wiping out every tear from every eye' and constitutional goal of justice, liberty and equality to our citizens.

The manifestation of the One Cosmic Reality through us all, basically leads to two major expressions, one within and other without. These in turn lead to 'our problems' and 'problems because of us' and on this Law Day, we relate them to our profession. Most of our basic problems with which majority of advocates struggle today, relate to basic professional necessities like proper facilities of chambers, cubicles, conference rooms, library, parking, canteen and even clean toilets and that is why we are called developing.

Supreme Court Bar Association spends 60% of its total collection on the salaries of the staff, 30% towards printing, stationery and other miscellaneous expenses and meager about 10% for library. Nothing on academics, nothing on research and development and of course we have no welfare scheme, which clearly establishes that we are lacking far-behind in effectively contributing to bring about professional proficiency amongst our fellow members, which must be the real thrust of our activities.

We seriously lack in 'informatics,' which is the most powerful tool of today 's third wave situation, where we conceive of the existence of a 'Global Village' with 'Electronic Cottages'. To make a beginning for the first time the Bar Association has installed a computer (donated by our President, Mr. Kapil Sibal) in its office. We have already developed a data base of all our 3091 members. For the first time on 16.11.1995 we have started a 'Meet a Lawman Series' for guidance of the young lawyers, which was inaugurated by the Chief Justice of India with Mr. F.S. Nariman delivering the keynote address.

Undoubtedly, the existing legal system is not up to the mark, but one must always be reminded of what Roscoe Pound wrote in Justice According To Law', P.90-91:

> *"Realism in art is a cult of the ugly. The realists say that ugly exists in nature, therefore, it is true. So to be true we must paint the ugly. But when they say that ugly is real, they may mean that it*

> *exists, which nobody can deny, or they may mean that it is significant which is disputable. We have always known that judicial process does not at all times, in all places and in all respects confirm absolutely to our ideal of it. Despite all checks with which we surround it, it does not come out in every case entirely as we could wish. But, the striving for the ideal goes far to realise the ideal. It is the approximation to our ideal which is significant not the falling short, which we seek continually to control and reduce to a minimum."*

Problems created by us are also many. The fundamental being our incapacity to raise our professional level enabling control of the increasing social decay. It is our profession alone, which deals with all social activities, including its evils and we have the potentiality to control them. Our law reports, reflect our achievements and involvements. We find in them every issue, big or small, difficult or easy, complex or simple which has arisen and effected our social and economic, growth and development and with which law has developed 'brick by brick'. We have only to brace ourselves together, by joining our heads and hands together, by putting our house in order and fight just one evil, which as our Chief Justice puts it 'wipe out one blot on our face' *i.e.* 'the arrears'.

Individually we are intellectual giants, but collectively, we fail to co-ordinate and emerge as the leading institution. We need some more scientific and spiritual temperament, for we are passing through an era of crises of faith and trust. While welcoming you all on this Law Day, it can only be wished that we leave our small petty 'islands of thoughts' which we under illusion, believe to be the 'Whole'. We are the only hope for the nation, if we are able to surge ahead jointly, in the spirit of this land, from the time of Rig Veda till today-

"Meet together, talk together,
May your minds comprehend alike,
Common be your actions and achievements,
Common be your thoughts and intentions,
Common be the wishes of your hands,
So may there be union amongst you."

However, that is only possible if we are well equipped. We have better tools for our surgery, we have developed para legal services, the economics of the profession works well (of course for young lawyers) and we are not made to dissipate our thoughts, energy and time on minor problems. One arise out of the other and we go round in a circle. We will have to break this circle/some generation will have to do it and we are ready to do it. All we need is some more patience, some more guidance and some more support. I am very optimistic obvious because I have to be here for next 25 yrs., though I am also aware that 25 yrs. is insignificant in our nation's history of 5000 yrs. and my guiding lines have always been what Dr. Radhakrishnan felt (Our Heritage, p13):

"that we are still alive, still vital, still looking forward, still dissatisfied with our present, still not merely adoring the past, but looking forward to the future. So long as we (all) have this kind of impulse in our mind, the future of our country (institution), of every country for that matter is safe."

With these words, I welcome you all on this evening.

Meet a Lawman Series -2

05.12.1995 (Welcome Address)

Mr. Justice Kuldip Singh, Mr. K. Parasaran, Sr. Advocate, Mr. Kapil Sibal, President Supreme Court Bar Association, Mr. M.N. Krishnamani, Vice-President, Supreme Court Bar Association and friends;

I welcome you all on this second session of the 'Meet a Lawman Series'. The fundamental purpose of commencing this series is to enable young advocates to understand that in its ultimate analysis it is important to be a great human being for becoming a great lawyer which purpose enable the young mind to understand that though the process of emergence as a great judge or a great lawyer seems to be extremely slow and full of difficulty but perseverance and pursuance through the right path will ultimately help each one of us to reach to the highest level in the profession.

One of the foremost principle of the profession is to have a deep sense of confidence on one's own process of analysis, which should be backed by voracious readings, clear thinking, a insatiable quest for knowledge and a deep inner urge to reach equity, equality and justice.

Ralph Waldo Emerson in one of his classic essays on 'Self-Reliance'says

"In every work of genius we recognise our own rejected thoughts; they come back to us with a certain alienated majesty. Great works of art have no more affecting lesson for us than this. They teach us to abide by our spontaneous impression with good-humored in flexibility then most when the whole cry of voices is on the other side. Else tomorrow a stranger will say with masterly good sense precisely what we have thought and felt all the time, and we shall be forced to take with shame our own opinion from another. There is a time in every man's education when he arrives at the conviction that envy is ignorance; that imitation is suicide; that he must take himself for better for worse as his portion; that though the wide universe is full of good, no kernel of nourishing corn can come to him but through his toil bestowed on that plot of ground which is given to him to till. The power which resides in him is new in nature, and none but he knows that what that is which he can do, nor does he know until he has tried."

I welcome you all on this series to enable us to understand and realise from the experience of the Judges and learned Senior Advocates that the prime requirements of the professions are ability to communicate by speech, quickness of thought, prodigious memory, ability to bring out equity, equality of the picture, sound knowledge of law, accuracy, patience and thoroughness and many other do's. We

must also by the experience of Judges and Senior Advocates learn that several things and actions should not be undertaken, like involving in sharp practices, dishonest dealings, short circuiting, media projecting etc., lest we bum out ourselves like a comet and does not shine like a star.

The profession is continuously progressive and requires consistency and constant perseverance to ideas, thoughts and action. We must also learn from their experience that existence of a wide range and variety of problems is a part of the profession and if there is path with no problem, it may probably lead us nowhere.

Meet a Lawman Series - 3
05.01.1996 (Welcome Address)

Mr. Justice J.S. Verma, Mr. A.K. Sen, Sr. Advocate, Mr. Kapil Sibal, President, Supreme Court Bar Association, Mr. R. Mohan, Senior Executive Member, Members of Supreme Court Bar Association and friends.

I warmly welcome you all on this third session of the 'Meet a Lawman Series'. The objective of the series, which in fact it has been able to achieve, is percolation of ideas to harness us to become better professional. This series is enabling us to realise the uphill route to success in this profession. This series is also providing us insight into the feelings and thoughts of the leading personalities in our profession, who have reached great heights by recognising and manifesting independence of spirit and a very deep sense of dedication to the cause of justice.

Every person has integrity, a quality of character and when he observes it, whatever he does, turns out to be well in the end. The integrity makes him the sort of man he is and helps people to repose trust in the innate goodness and virtuosity of all men. These people are able to make a clear face of the situations and maintain serenity and poise even in the most exacting crises.

Justice Holmes in his speech delivered at Harvard University on 'The Profession of Law', said

> *"The law is the calling of thinkers... If your subject is law, the roads are plain to anthropology, the science of man, to political economy, the theory of legislation, ethics and thus by several paths to your final view of life...To be master of any branch of knowledge, you must master those which lie next to it and thus to know anything you must know all.... No result is easy which is worth having. Your education begins when what is called your education is over ...Only when you have worked alone.... and in hope and in despair have trusted to your own unshaken will then only will you have achieved. Thus, only can you gain the secret isolated joy of the thinker, who knows that, a hundred year after he is dead,... man who never heard of him will be moving to the measurer of his thought..., which to his prophetic vision is more real than that which commands and army".*

I welcome you all to make best use of the wide experiences expressed here, by those who have relentlessly contributed for more than four decades, to make the life of man on this diminishing earth more secure and more tolerable by making available, Justice for all.

Supreme Court Bar Association

Secretary's Report - 1995-96

19.04.1996

Dear Members,

There is no great and no small,
To the soul that maketh all,
And where it cometh, all things are,
And it cometh everywhere.

– **Ralph Waldo Emerson**

1. In the tradition of this office, Mr. K.M. Munshi, the first Secretary of Supreme Court Bar Association, it is time to place on record various achievements and shortfalls during the year for the consideration of you all. I am aware that a few will have time and feel the enthusiasm to read this all, for members of our association had little time to read the notices, even though they were made prominent by changing their colours. Interestingly those who complained about lack of activities had no knowledge and never participated in any one of them and there were numerous activities this time.
2. The report is heavily loaded with major achievements, some of which had never been hereto before undertaken, both on infrastructural and academic side. Some of these if maintained with additions, will certainly help in bringing about a better, harmonious, cohesive and strong bar, contributing its worth in national development. These activities and achievements would not have been possible, but for the relentless and selfless working of all the members of the executive, more particularly, some of the younger members, whose enthusiasm, energy and interests were at times difficult to understand and appreciate.
3. SCBA still continues to be an unregistered body, extending various services to 3212 members, consisting of Senior Advocates, Advocate on records, other advocates and some non-active members. The problem of welfare scheme for the members will have to be resolved on a national or

state level. Though there is no comparison, but it is interesting to know the figures and realise the strength of cohesive powers of bar in contemporary situation. The reserved retirement fund with the American Bar Association is to the tune of 4.5 billion US Dollars; nobody eats one's capital.

4. Non availability of sufficient chambers is one of the greatest problems for the members of the Bar and results in use of libraries, corridors and lounge for the purpose of holding conferences with the clients. The construction of the chambers is going on at full speed, thanks to the Chief Justice of India. But, I feel that provisioning of 130 single allottee chambers will be wholly insufficient for the members (more adding every year) and active steps will have to be undertaken for construction of more chambers.
5. Finances of the Association are in a bad shape. Almost 70 % of the money is spent on the staff. Some planned budgeting will have to be worked out. The staff members are the only permanent feature of the association and contribute their very best to keep all the members of the executive busy. I am sure that if they had been less active, lot of pressures would have been there. I have special appreciation for them, their co-operation and the way they are able to control the functioning of the association.
6. The year started with cleaning, polishing, repairs and furnishing, provisioning of new curtains and upholstery in library and lounge.
7. Farewell parties were held in honour of Mr Justice P.B. Sawant, Mr Justice R.M, Sahai, Mr. Justice N. Venkatachala and Mr. Justice K. Jaychandra Reddy. We will always cherish our profound remembrances with them.
8. A Computer and a TV were donated by Mr. Kapil Sibal, President. The computer has helped us in developing the database of all the members and library books. But as new technology replaces the old existing system, the inertia of *status quo* sets up resistance and, therefore, full use of the computer could not be made.
9. "Meet a Law Man Series" was commenced, to help the young members to get some guidance from the living legends, to enable them to be better professionals. The series was inaugurated by Chief Justice of India with Mr. F.S. Nariman, Senior Advocate giving the keynote address. The second series was addressed by Justice Kuldeep Singh and Mr. K.Parasaran, Senior Advocate and the third by Mr. Justice J.S. Verma and Mr. A.K. Sen, Senior Advocate. The fourth to be delivered by Mr. Justice M.M. Punchhi and Mr. Soli J. Sorabji could not be held.
10. For the first time the Bar Association organised sports and games meet,

which received very enthusiast participants consisting of several family members of the bar members, young and old. All the major games like badminton carom, chess, cricket, squash, table tennis, and athletics were held. Prizes and certificates were given to winner and also to the participants.

11. Law Day functions was held on 26th November with all its gaiety and M.C. Setalvad Lectures were held to help advocates taking advocate on record examination.
12. A cultural programme was held at FICCI auditorium, which was very well attended and received all round praise and applaud.
13. One of the major achievements was the furnishing of the R.K. Garg Memorial Library, which though have costed dearly to us, but is the most useful asset for the Association, subject to its being maintained as a research library and books being available to the members when they are required.
14. Many new books were added to the library, valuing about Rs.2,60,800 and with the establishment of R.K. Garg Memorial Library, it might be possible to stop some pilferage of books, which I consider to be the most degenerating act.
15. This was a sad year, when we lost some of the most esteemed senior advocates and other members of our association. We lost Mr. M.C. Chakraborty, Mr. Gobind Mukhoty, Dr.Y.S. Chitale, Mr. K.G. Bhagat, Dr. Anand Prakash, Mr. S.D. Bajaj and one of the greatest constitutional authority Mr. H.M. Seervai, We also lost Mr. M.S. Bedi, Mr. C.V. Rappai, Mr. P.Keshava Pillai, Mr. J.L. Mathubhai, Mr. *Krishan* Prasad, Mr. J.M. Sood, Mr. J.M. Lal, Mr. M.S. Gupta, Mr. B.Reis, Mr. K.L. Mohindru, Mr. Suresh A.Shroff, Mr. C.P. Lal, Mr. M.V. Goswami, Mr. Shivjee Mathur and Mr. B.B. Tawakley. Full court references and condolence meetings were held.
16. Visits of President of Ghana Supreme Court Bar Association and of Mr. Vladimir A. Tumanov, President of the Constitutional Court of Russia Federation and his delegates were a great occasion for us all and helped in providing some international interaction.
17. Twelve (12) new lockers were allotted to the members whose names were pending in the list since long.
18. There were serious problems with the canteen and caterer. I hope the same gets fully resolved quickly. With the starting of Canteen Plaza, which will not take much time now, as it is at the final stage, I think we all will have better food facilities.

19. The maintenance of office records and files will have to be looked after more closely. The auditor's report for the year ending March 31, 1996 is circulated along with this report.
20. Another greatest achievement was opening of a 'Railway Reservation Counter' in the premises of the Supreme Court. This is helping and is will be a great help to all the advocates and litigants, particularly outstation.
21. We had committees for just everything, after all that is the need of the democratic process. Everybody was everywhere and somebody was nowhere. I was informed at one stage that a committee was constituted to even write the secretary's report, I am thankful; I had the opportunity to pen it down myself. I am aware that judicious self-restraint (the tradition in which I have been nurtured for last 20 yrs.) is the greatest virtue when you deal with reasonable, rational and similarly coordinating people and it works perfectly, but I have yet to learn much more while dealing with the other kind.
22. I must also convey my thanks to the Registry of the Supreme Court, who have extended all possible help to us whenever it was so need.
23. For and on behalf of the executive I thank all the members of the Bar Association for the great support given by them in all spheres and advice given by them from time to time, which helped us all in carrying out our functions and duties in the right earnest way.

Forever speak the equity, equality, follow the Dharam,
Strive constantly towards true learning and process,
Forever on the righteous way to welfare.
Teach the world as diligently as you learn,
Behave this way every day, life long,
Conducting yourself thus, be creative and ascending.

BANDHS (Closure)

An Anti-National Activity for Misguiding the Masses

20.07.1998 (Published Times of India)

'Bandh' may find its root in 'collective bargaining', a doctrine that evolved in the West after the Industrial Revolution. In the second stage of the Civil Disobedience Movement, it became our tool against the Raj, but for a country which is celebrating the 'Golden Jubilee' of its independence, is maturing as a democracy and where institutions are finally coming out of political clutches, it is time to clear the face and distinguish the situations where it was employed. What can do it better than the pen of a judge?

Judiciary, by its very nature, is unceasingly involved in the process of writing the history of the nation, in the existing socio -economic milieu, in the form of judgements (every judge, to the best of his ability, on the facts and circumstances expressed by advocates, to the best of their capacity) and helping in reasonable, just and proper governance of the country. Judiciary operates within the parameters of procedures and precedents and is always conscious of judicious self-restraint, lest, in its enthusiasm to bring about social reforms, it falls overboard. If during a phase of a nation, the constant effort of politicians is to do 'what will please the people' and not 'what will benefit the people', the country is doomed to ignorance, corruption, insecurity and debt unless the third pillar of democracy assumes a more vibrant role.

The judgment of the High Court of Kerala declaring 'bandhs' to be illegal and unconstitutional clearly reflects the thinking of positive, analytical minds who sincerely and strongly, feel, believe and realise that the vast inherent potential of our great country has not been exploited even minimally and that the basic cause has been instability caused by people who being in control are only furthering their vested interests. These people don't care about the loss in man-hours caused and the light years we are pushed behind every time work is halted, more so in this electronic age, when technology acquired last week is termed 'ancient' by the time it hits the market.

'Bandh' is the exhibition of political parties or organisations of its so-called 'strength' by collecting people who have no interest in nation-building and who congregate, either, because they are paid to do so or have been emotionally charged or brainwashed into it. Nothing is really achieved out of the 'bandh' except satisfaction of the insecure ego and vulgar public show of head-counts in the vote-banks of the person behind it who in the process helps anti-social elements and mindless clods have a field day by burning vehicles, looting shops, jamming the wheels of progress and preventing the common man from earning his bread from daily toil.

If you wish to stop the development of any nation, stop its production by declaring 'bandhs' on the flimsiest of reasons, or loot or destroy the product it has produced, whether by law, as happened during the Raj or at gun-point as happens under terrorism. Whereas terrorism invokes a violent form of destruction of the national product, 'band/i' is slow destruction by not allowing production or trade; the cause is the same, the effect is the same.

Bandh' is an anti-national and inhuman activity, which should not be allowed at any cost. Our difficulty has been the twin attitudes of "*Kya farak parta hai*" (What difference does it make?) and "*Kal kar lenge*." (Will do it tomorrow). The concepts are deep rooted in our philosophy which believes in the concept of 'rising above the *gunn*' (*tri-gunn-rahitam*) and 'continuance of life, birth after birth'

but which has been misinterpreted and misapplied. But these doctrines are applicable to maybe one amongst a million who is again one amongst a million on the path of realisation. When we don't carry out our '*karm*', don't let others do their '*karm*', have a gala day, watch TV, surf the Internet, etc. etc. for a day, with a *'Kya farak parta hal, kal kar lenge'* attitude, we forget that locked as we are with our '*karm*', in our search for happiness in this mundane world, we are only entitled to returns to the extent of '*karm*' carried out.

When will we understand, as a nation, that farak parta hai and kal nahi kar sakte, for everyone gets left behind by one light day and millions of people of this great country have not moved millions of years ahead, just because someone heading one political party or organisation felt that such tactics are to be deployed whenever political power is waning. The nation will reap only the product of collective 'karm's of its citizenry. Nobody must ever forget that in this world of constant activity all achievement is directly proportionate to the extent of sacrifices made. Rising higher requires more production, sacrificing energies for construction and not for satisfying desires.

During our school days, we had a progressive notion that one of the ways to carry out a 'bandh' would be to restrain the teacher in class and force him to teach for 5 hours, instead of the 30 minutes that he taught, out of the 40 minutes that he was supposed to teach. Has there been a single day in our history when all the political parties or any one of them asked the citizens of our country to work twice or thrice their daily output? Nobody will and nobody can because with that approach we will be geared towards being a developed nation and who would like India to be a developed country. Politics is the science of amassing power and emulates the 'city bus syndrome, where every person uses the entire muscle-power available to get in and having got in, uses all energies in preventing others from getting in. If one achieves power, others do not. One, who achieves it, tries every gimmick to keep it and stay on and the one who doesn't have it yet tries every trick in the trade to get it.

The basic issue is:

> *Whether the common man will get ground in this process as between the two grinding stones of a 'chakki' or like 'manthan', where two equal and opposite forces react with one other, good, strong leaders will emerge, as butter does, to help the common man. As of today, political parties or organisations are crushing the common man and the poor man unassumingly kisses the hand that beats him. But ultimately the hand that beats has to disappear, justice has to thrive. However, the process leaves behind destruction that takes years of hard labour by the new generations to rectify.*

'Bandh' and every form of action charged by public passions crush the common citizenry and throw their lives into a mess to come out of which takes generations. The nation then requires World Bank aid and the citizenry City Bank Loans,

leading only to constant debt, toil and struggle from which the individual and nation will never be able to come out, except by violating laws, human rights or corrupting their morals. The gap between the classes continues to widen and we are at every moment getting away from the ideal set by Mahatma Gandhi to 'wipe out every tear from every eye'.

"*Nobody can be allowed to stall the process of law and the course of justice...*" observed the Supreme Court recently while dealing with a case relating to a strike by advocates. As, were it not so, in all decisions, one side would always be dissatisfied and hold the Rule of Law to ransom by calling for a bandh therefore bandh cannot be allowed at any cost.

There are other mature ways of registering protests. The High Court of Kerala has rightly declared 'bandhs' illegal and unconstitutional, giving legal imprimatur to restrain one of the greatest social evils existing in a democratic set-up. Let us, for once, face reality squarely, think, reflect and decide as a nation, whether we are ready to join hands together as we walk towards the 'golden age' or will still call for 'bandhs' and mortgage our generations to foreign debts. Believe you me, this time it is not going to be only 425 years (17 generations)!

* Published in DNA

Changing Facets of Sexual Offences

05.09.1998 (Address)

Man has learned and is able to control many of nature's forces, but so long as he is unable to control the forces within himself, there can be no question of real civilisation. Human culture has not carried things beyond putting a finer polish on its animal impulses i.e. physically reacting to external stimuli, *de hors* emotional bonding and intellectual analysis. The human race may have become more developed materially and technically, but it is not happier. The great mechanical and urban advancement is being achieved to the detriment of the integrity and character of the human being, which values are the barometer of its development level in the real sense.

Taylor Caldwell wrote in 'Man is never victorious never defeated' –

"Man is never victorious, never defeated,
the looters yield their loot to the cheated,
honesty and folly can never be parted,
the waters return to the hills from where they started."

That is the ultimate Equity, equality. Research may ultimately find that person involved in extramarital affairs gets paralytic strokes, as nature reacts violently when disharmony is intentionally/deliberately created, for every action has an equal and opposite reaction and whether one likes it or not, all *karm's*-physical, emotional and intellectual bear their fruits. There is always an ultimate justice.

Man is the first product of evolution who is capable of controlling his evolutionary destiny, A human being has five sense organs—the eyes, ears, nose, tongue and skin—which provide the faculties of sight, hearing, smell, taste and touch emotions and intellect through which he perceives and analyses the other beings and nature around and express himself. In inter-personal relationships, more particularly when it relates to two different sexes, these five sense organs are used and, on some occasions, their misuse results into an offence. Use of senses of smell and taste seldom lead to committal of any sexual offence but some movement of the eyes, some words spoken, sounds and noises made can be offensive and touch of flesh by way of bottom pinching, brushing past, embracing, indecent assault or rape would amount to suppression of will of the other by invading the privacy or the personal space which an individual requires for stable progression in life and will constitute sexual offences.

Every act of a human being whether on the physical, mental or intellectual plane of consciousness which leads to inflicting pain or suppression of the will of another being is an offence. All acts in the nature of offence done by a male human being against a female human being can be termed as sexual offence. Women are the victims of almost all sexual offences because the offenders, and they themselves think, they are unable and, therefore, unlikely to retaliate either with physical force or with recourse to law. They become victims and sacrificial lambs on the altar of the fragile male ego. They are the victims of a cozy belief that they go willingly to the slaughter.

As human beings co-exist in the social system, one of the most important aspects of criminal law and human contribution is to effectively and efficiently deal with this aspect of social aberration, and see that not only the offender is convicted, the victim compensated, but this offensive nature is controlled and the thoughts and energies of perpetrator and victim channelised into constructive fields of development. The criminal justice system will also have to be vigilant that in the existing dangerous state of exploitation of every human being by another, either for political or economic gains, false facts are not sought to be established or presumed, leading to moreevil than reform.

A significant number of writers have explored the psychology behind human behaviour and while Sigmund Freud place emphasis over sex-motivated expressions, Karl Marx on the economic motivation, Nietzsche on the power motivation, the Bhagwat Gita rests on theory of self-motivation. In the evolution process, the division into two sexes was brought about by nature only for the purpose of procreation of reproductively of species and must, therefore, be limited to monogamous relationship behind closed doors. But in the changing social environment it has come out on the roads and places of work and as a result of constant awareness,

easy accessibility has resulted in increasing exhibition of sexuality and thereby the commission of sexual offences. Sexual offences are acts or expressions of violence and perversion unleashed on the weakest available female in the safest possible circumstances by the stronger male as a result of feelings of anger, frustration, depression, insecurity, deprivation and hostility and arising out of ignorance of his true nature of *sat, chitt and ananda*.

Sexual offences are covered under the following Acts of Parliament-

1. Indecent Representation of Women (Prohibition) Act, 1986
2. Indian Penal Code, 1860
3. Suppression of Immoral Traffic in Women and Girls Act, 1956
4. Dowry Prohibition Act, 1961

Sexual offences, can broadly be classified into following heads-

1. Obscenity and indecent representation of women
2. Eve-teasing, winking, staring, gesticulating, following, stalking, using improper words and language, squeezing, bottom pinching, improper touching and brushing past,
3. Sexual harassment
4. Molestation and indecent assault
5. Immoral Trafficking
6. Rape
7. Dowry deaths and bride burning

Obscenity and indecent representation of women

The sexist representation of women in cross-culture is an issue of grave concern. Obscenity is a threat to the purity of women's sexuality and her modesty. It tends to deflect an active involvement and participation so that men cannot be held to be at fault. Blame, however, lies with those who produce these obscene representations including the women who appear in it. Intelligent, well-built and groomed, half-clad women on the cover page of Cosmopolitan or Sports Illustrated-swimming suit issue all over the world provokes more sexuality than bare *adivasi* rustic females. Sex and violence in movies and media and erotic lucid details in best sellers or those which sell most is the material available to every citizen from rickshaw-pullers students to CEOs.

Eve-teasing, winking, staring, bottom pinching, improper touching, brushing past etc.

These sexual offences are becoming common amongst teenagers with urbanisation and are mostly committed in crowded places like college campus,

public transport, fairs and fetes. These expressions are a result of sadistic tendencies and sick mentality of those human beings who cannot control their urges of indecently act towards fellow female beings in society. The reactions of the female give them the pleasure they had sought by violating the privacy of another individual. The male being feels elated about his superiority and he boasts about his acts amongst his peer group and thinks that he has achieved something great and unusual. Actions like these need immediate reaction from rational people and should be nipped in the bud. An act which is demonical can never be appreciated and needs emphatic resistance. These cases may not get reported and, therefore, it is for the public and the citizens to be vigilant about them.

Sexual harassment

Sexual harassment contains elements of coercion, threat, and/or unwanted attention in a non-reciprocal relationship. In the University, sexual harassment of women by male faculty members undermines women as students or co-workers. Sexual harassment in this case may, therefore, take the following forms when man in position of control, influence or affect a woman's job; career makes use of his authority and power to coerce the woman into sexual relations or to punish her refusal. In these cases the superior tends to take advantage of his position and the economic pressure leads to silent suffering.

Where in cases of sexual harassment men accused and found guilty of sexual harassment are professors and teachers, it becomes a serious issue and they should be suspended from their jobs or demoted from their posts, as students look up to their teachers as mentors and guides who are pillars of inspiration and place them on a pedestal and believe that they can do no wrong.

Sexual harassment at the workplace may include:

1. Verbal harassment of abuse.
2. Subtle pressure for sexual favours.
3. Sexist comments about the students clothing, body or sexual activities.
4. Unnecessary patting or pinching.
5. Leering or ogling at a woman's body.
6. Constant brushing against a woman's body.
7. Demanding sexual favors accompanied by implied or overt threatsconcerning ones job, marks, letters of physical assault.

Recently the Supreme Court in the matter of *Rupan Deol Bajaj and Anr.* v. *K.P.S. Gill and Anr.*1995 (6) SCC 0194 has given directions to Chief Judicial Magistrate, Chandigarh to take cognizance upon the police report in respect of the offences under Section 354 and 509 IPC and try the case in accordance with

law. After a lapse of almost 8 years, a lady IAS Officer, was successful in getting a senior police officer no less than D.G. Police, Punjab to the book, for outraging her modesty.

Molestation and indecent assault

Molestation of a female particularly of tender age is a greater evil as her body is immature, her sexual powers are still dormant and she has not developed a sense of awareness of her sexuality. But nevertheless, from her very birth she possesses the modesty which is so inherent in her being as an individual of the fairer sex, which is violated by such acts and leaves deep scars on her memory. These acts are committed by more mature male members or known elders on nubile females who find it difficult to understand the motive behind such acts of violence and are unable to communicate and express their anguish.

Immoral Trafficking

The Suppression of Immoral Traffic in Women and Girls Act, 1956 remains practically in suspended animation. There has been an alarming increase in trading of women. A woman can be purchased in the open market for half the price of a buffalo. Ashwini Sarin, an Indian Express Correspondent reported the purchase of Kamla, a mother of six children from the circuit house for two thousand rupees only. Large areas of *Dholpur* provide girls in abundance for sale. The plight of homeless girls in protection homes, which are meant for their rehabilitation, but there they are treated inhumanly and as barter-able commodities it pitiable.

The birth of a girl child is still regarded as contemptible and some parents do not even hesitate in trading the body of their girl child for a few worthless dimes. Inhuman conditions in Agra Protection Home compelled two eminent law professors Dr. Upendra Baxi and Dr. Lotika Sarkar to move the Supreme Court for redress. It is on the record of the Supreme Court that the inhuman treatment, mental and physical torture, turned 19 of the girls into mental cases. The protection homes set up for proper and adequate care for homeless and handicapped women seem to have been converted into centers of torture frequented by sex hungry law enforcers and other power wielding officials.

Kashmir Marriage Racket of minor Bengali girls revealed the large-scale transportation of minor girls for commercial purposes from one corner of the country to the other extreme, where they were sold in the marriage market like a cheap commercial commodity. Hundred girls between the ages of 12 and 15 years were sold in Bedgam District of Jammu and Kashmir alone, most of them being "married" to men between the ages of 60 and 75 years. The girls were kidnapped, lured or

purchased for a paltry amount of Rupees one hundred and taken to Kashmir by the flesh-traders. This also reveals the large-scale violation of women's rights embodied in the Child Marriage Restraint Act, 1929, Indian Penal Code, 1860 and the Suppression of Immoral Traffic in Women and Girls Act, 1956.

The nefarious practice of flesh-trade and sex-exploitation is not confined within the territorial limits of this country. The case of Tulsa, a minor Nepali girl highlights the planned and well-established practice of importing poor foreign girls into the vice dens of big cities in India where brothels are run on a large scale. She was kidnapped from a village in Nepal, brought to Bombay and sold to the brokers operating in the red-light area of Bombay. After being brutally used and abused, and becoming infected with many venereal diseases, because of the continuous sexual exploitation, when she was seen to be unfit for the brothel, she was kicked out and left on the streets. Fortunately, she was admitted to a Government Hospital by a philanthropist, who also informed her family in Nepal about her whereabouts.

Sheela Barse, noted journalist and social worker, on the basis of her intensive study of criminal exploitation of women in India rightly remarked-

> *"Kidnapped children, abducted as teenagers or lured to cities in young adulthood in the hope of employment and the lives of thousands of women are thereafter destined to be circumscribed by the four walls of sleazy brothel. All other deprived sections of society get at least sympathy but for prostitutes there is only ostracisation".*

Licentious life is destined for them. The continuous fear of torture by brothel operators looms large over them, their rights get rusted by dilution of enforcement efficiency and apathy. Members of anti-prostitution squads are won over by the flesh traders and made to share the booty of the flesh trade. Instead of discharging their duty by taking prompt action even on the receipt of a complaint, they deliberately remain indifferent and rather shield the anti-social element and thereby allow and encourage the criminal exploitation of the unfortunate and helpless poor women.

The height of the inefficiency in the system is revealed by the nexus between criminal dons and top officials when it is reported that top police and judicial officers of Bombay were present at a lavish party hosted by the under-world king in a posh hotel of Bombay. A two-hour long video film showed about 15 police officers including the Assistant Commissioner of Police and some high Judicial Officers attending the party and freely mixing around with criminals of the wanted category. When the custodians of law are hand in glove with those who are actually running the whole criminal show what can be the fate of the rights of the weaker sex.

Rape

While all rapes result in total emotional devastation, child rapes particularly inflict gross physical damage on the victim. Rape is the most horrendous of the sexual offences even more disasters than, murder for the victim continues to lead a traumatic life. Its gravity lies not merely in injury to the body, but also in injury to self-esteem and self-respect. The physical battling and assault which accompany rape are not only what constitutes rape but it is the injuries added to the insult.

Victims of this sexual assault has survived a horrifying, humiliating, degrading, brutalising, angering, demeaning and dehumanising experience. Rape is the most serious violation of a person's body because it deprives the victims of both physical and emotional privacy and autonomy. When the offence of rape occurs, the victim's sense of self as well as her body is abused without consent. She loses her most basic human right: Control of her physical and emotional of self. The victim's psychological response to rape primarily reflects her reaction to violation of self. Therefore, they deserve to be treated with dignity and compassion and assured that their decision of getting the accused to the book is respected.

The prevailing view, which with great respect needs reconsideration is, that women who cannot be held as chaste or innocent are not raped as their consent is presumed. Rape has nothing to do with innocence and chastity, nor does it require blood to be spilt or minds to be lost. The act of rape is the most violent abuse of a woman's body, privacy, modesty, autonomy and will. It is an act of unrestrained hostility and anger, an assault unique in the degradation it inflicts. The suffering, mental agony and trauma it causes is profound and the scars that are imprinted on the memory of victim never heal completely. The community and the law must be responsible for the scarcely veiled threat "*They'll never believe you*".

This attitude became only too evident by the various decisions of the Courts as in the case of *Ram*v. *State of Karnataka*, 1994 (1) SCC 0453 better known as Hassan Case, where the Supreme Court, centred its decision on the concept of "victim-precipitated rape", a concept in which the victim is regarded as the cause of the crime often on such flimsy grounds as the alleged provocation of her attire, or past sexual behaviour. The attacker, on the other hand, is treated as James Coleman and others put it-"as a de-cerebrate organism, unable to quell his lust in the face of such outrageous provocation". And so the punishment of both accused persons, in spite of the offence of rape being proved, was reduced from seven years to three years of rigorous imprisonment.

In *Tukaram* v. *State of Maharashtra* 1979 (2) SCC 0143 also known as the Mathura Case the Supreme Court overruled Bombay High Courts conviction of two police officers for the rape of Mathura, a sixteen years old girl, in police cus-

tody. The court held that though there was sexual intercourse, there was no rape because there was no mark of physical injury and hence no proof that Mathura had physically resisted. The message is that if there is no mark of physical injury then there is lack of resistance from the victim and consequently presumed consent.

In *Premchand* v. *State of Haryana* 1989 Supp. (1) SCC 0286 the mandatory the minimum sentence of 10 years awarded to two police officers for raping a woman was reduced by the Supreme Court to five years only because the woman was of easy virtue and there was no proof of physical resistance.

In *State of Rajasthan* v. *Narayan* 1992 (3) SCC 615, the Supreme Court however observed that, even if there has been a delay of two to three days in lodging the criminal complaint such delays are usual as in the "*Indian Society, being what it is, the victims of such a crime ordinarily consult relatives and are hesitant to approach the police since if involves the question of virtue and chastity of a married woman. A woman and her relatives have to struggle with several situations before deciding to approach the police, more so when the culprit happens to be relative."* The Supreme Court, set aside the acquittal order passed by the High Court and restored the order of conviction and sentence awarded by the trial court.

Distrust of rape complaints stems from the ease with which rape allegations can be made. There seems to be no reciprocal distrust stemming from the ease with which they can be denied and nearly always are. When a rapist leaves few physical scars on his victim, he usually claims in court that prosecutrix is lying, the allegations are false and that there was consent. The manner in which trials are conducted, gives the accused ample scope for showing that the woman's behaviour was provocative and to cast sufficient doubt on her evidence. The attitude towards women who have been raped undoubtedly deters many victims from reporting their assault. Whether the victim conceals the rape or confronts the community with it, she is affected by the social implications of her involvement in such a sordid incident.

In a recent judgment i.e. *Delhi Domestic Working Women Union* v. *Union of India*, 1995 (1) SCC 0014, the Supreme Court has analysed the defects of the existing system. Firstly, complaints are handled roughly and are not given such attention as is warranted. The victims, more often than not, are humiliated by the police. The victims have invariably found rape trials a traumatic experience. The experience of giving evidence in court has been negative and destructive. The victims often say, they considered the ordeal to be even worse than the rape itself. Undoubtedly the court proceedings added to and prolonged the psychological stress they had to suffer as a result of the rape itself.

The Supreme Court quoted from Modern Legal Studies-Rape and the Legal

Process by Jennifer Temkin, 1987 Edition, page 7: *"It would appear that a radical change in the attitude of defense counsel and judges to sexual assault is also required. Continuing education programmes for judges should include re-education about sexual assault. Changes in the substantive law might also be helpful in producing new ways of thinking about this type of crime."*

And Shapland: "The *changes in the criminal justice system necessary to approximate more closely to the present expectations of victims are not major or structural. They are primarily attitudinal. They involve training the professional participants in the criminal justice system that the victim is to be treated courteously, kept informed and consulted about all the stages of the process. They involve treating the victim as a more equal partner. This might include a shift in working practices of the professional participants that might initially appear to involve more work, more difficulty and more effort, but paradoxically may result in easier detection, a higher standard of prosecution evidence and fewer cases thrown out* of court."

And O Reilly attitudinal training: *"We are now victim-oriented and have taken an active role in getting the entire helping network-lawyers, doctors, nurses, social workers, rape crises centre workers-to talk and to interact together. We are then in a position to concentrate fully on the primary goal that unites us all helping victims of sexual assault to get their lives back together."*

And Fox and Scherl, who studied Patterns of response among victims of rape, in a later study, offered suggestions to help victims through the various stages of reaction. There is a typical emotional response to rape which occurs in three phases:

- acute reaction
- a period of integration and resolution in which the victim comes to terms with feelings of guilt and anger.
- Depression and numbness which the victim feels.
- Some may also need to go through a period of guilt and self-punishment.

The Supreme Court further indicated broad parameters in assisting the victims of rape.

1. The complainants of sexual assault cases should be provided with legal representation. It is important to have someone who is well-acquainted with the criminal justice system. The role of the victims advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example, mind counseling or medical assistance. It is important to secure the continuity of assistance by ensuring that the same person who looked after the complainant's

interest in the police station represents her till the end of the case.

2. Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station. The guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.
3. The police should be under a duty to inform the victim of her right to representation before any questions are asked of her and that the police report should state that the victim was so informed.
4. A list of advocates willing to act in these cases should be kept at the police station for victims who do not have a particular lawyer in mind or whose own lawyer is unavailable.
5. The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victims are questioned without undue delay, advocates should be authorised to act at police station before leave of the court is sought or obtained.
6. In all rape trials anonymity of the victim must be maintained, as far as necessary.
7. It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss and some are too traumatised to continue in employment.
8. Compensation for victims must be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board. Whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of childbirth if this occurred as a result of the rape.

Some steps that should be taken while dealing with such sexual offences and some suggestions:

1. The victim of a sexual attack should first and foremost be taken to any institute which is in the form of women's and children hospital, so that the health and safety of the victim which should be the prime concern, can be taken care of.
2. Going to a hospital as soon as possible after the assault is extremely important for several reasons

a. The victim may need immediate medical attention.
b. Tests for pregnancy, venereal disease and AIDS.
c. Recording of medical for prosecution of the offence committed.
d. Preferably, during such a sensitive stage of after-offence care, a female attendant/nurse should be the one who should deal with the victim who has undergone such physical and emotional traumatic experience.

3. When the victim is interviewed by the police, there should always be a female police officer to conduct such interview, considering the emotional and traumatic state of the individual the questions generally asked at this time makes the victim recounting the assault, including what force, threats weapons, the assailant may have used, questions as to what happened before and after the assault may also be asked, which may deem harsh, invasive, insensitive, but which often are necessary for investigating the crime.
4. Lie Detector Test: A polygraph is a machine that measures bodily functions, such as heart rate, breathing rate blood-pressure. The accused person is asked firstly such questions that have nothing to do with the assault and then ask question concerning specific details of the assault. The changes in the heart-rate, breathing rate, and blood-pressure are used to indicate degree of equity, equality, fulness. Though results of polygraph examination are not admissible in the courts, but still can be quite helpful in giving right kind of leads to the police in their investigations.
5. Plea bargaining: The concept of plea-bargaining is new to Indian system, but although not an ideal solution, it may sometimes benefit the victim. In cases where it is difficult to prove all the elements of the higher offence for lack of sufficient evidence then the prosecution may plea-bargain with him to admit his guilt in a lower offence and be liable for a reduced sentence. The victim will not have to endure the trauma of a trial through which they are forced to relieve the trauma once under-gone.
6. Sweeping legal reforms are essential, not small adjustments to the sentencing policy or quibbling over age limits. Reforms must give equal status to the word of the complainant and the accused in court and must put into perspective the crimes sexual element.
7. The corroboration requirement must be dropped as the present practice is grossly offensive to women, and discriminatory. Evidence relating to the sexual reputation of the complainant has to be made inadmissible. Consent should not be assumed on the basis of sexual reputation, sexual behaviour with other persons or lack of physical injuries. The law, as it

stands today, does not take into account the mental anguish caused by sexual attack.

8. Public censure in order to curb these vile urges which overpower men and lead to commission of sexual offences violating the mind, body and soul of the victims i.e. female, the perpetrators should be publicly censured. The offenders name, place of residence, the particulars of the offence, punishment imposed along with his photograph should be published in news papers and other sources of mass media *i.e.* T.V. Radio, Local cable operators and even on Internet at the expenses of the offender. Section 74 C of the Indian Penal Code (Amendment) Bill, 1978 contemplates public censure, Section 375 to 377 must also be included in Section 74 C (3) of the 1978 Bill. This kind of adverse publicly of the accused, would deter future offenders to resist from indulging in such shameful crimes and the fear of maligning the name and status to his family may also keep a check on such reckless urges.
9. Gender education is necessary for it will promote understanding between males and females, which will encourage men to identify with women, which will remove the ease with which men can depersonalise women, which will blur the daunting and destructive edges of masculinity and femininity. Analysis of the offender will provide some clues to deal with him. Researchers have established that majority of sexual offences are committed in cases where the female is known to the male. In these cases, girls of tender age and development fall easy prey to elder male members. The other cases are either by way of retribution by a caste against another or by those who have developed a sadistic tendency. An analysis of Delhi police records for the last years shows that 76% of recorded rape cases occurred within the family, 82% rapists were men who knew their victims well and were brothers, cousins, uncles, in-laws, fathers, step fathers, 30% of those raped were little girls between the age of 7 and 10. This is just Delhi, just police records, just this past year.

The punishment factor of a prison sentence for rape is considerably undermined by its erratic application. Only a very small percentage of men who commit rape get punished for it by imprisonment. More than half the cases are not reported. Of the reported half the men do not eventually go to prison for the crime so long as half the men tried, do not deserved prison sentences the notion of rape-being one of the most serious crimes seems far-fetched.

Dowry Deaths, Bride Burning

A survey on "Why women burn" conducted by Sunjay Suri and Sevanti Niham, brings forth the oppressive attitude towards women on her giving birth to a female child. The survey published in parts, shows society treats women as a chattel and no effort is made to change the attitude of men towards women.

Of late there has been an alarming increase in cases relating to harassment, torture, abetted suicides and dowry deaths of young innocent brides. This growing cult of violence and exploration of young brides, though keeps on sending shock waves to the civilised society whenever it happens, continues unabated. There is a constant erosion of the basic human values of tolerance and the spirit of "live and let live" lack of education and economic dependence of women have encouraged the greedy perpetrators of the crime.

In the matter of *State (Delhi Admn.)* v. *Laxman Kumar* 1985 (4) SCC 476 the Supreme Court observed that:

> *"Marriage according to the community to which parties belong, is sacramental and is believed to have been ordained in heaven. The religious rites performed at the marriage altar clearly indicate that the man accepts the woman as his better half by assuring her protection as guardian, ensuring food and necessary of life as the provider, guaranteeing companionship as the mate and by resolving that the pleasures and sorrows in the pursuit of life shall be shared with. If this be the concept of marriage, there would be no scope to look for worldly considerations, particularly dowry.*

When a girl is transplanted from her natural setting into an alien family, the care expected is bound to be more than in a case of a plant. Human emotions are unknown to the plant life. In the growing years in the natural setting the girl now a bride- has formed her own aptitude, habits, and impressions and got used to a way of life. In the new setting, some of these have to be accepted and some she has to surrender. This process of adaptation cannot be one-sided.

She has to get used to a new set of relationships- one type with the husband, another with parents-in-law, different one with younger ones in the family. The husband has to stand as a mountain of support ready to protect her and espouse her cause where she is on the right and equally be ready to cover her either by pulling her up or taking responsibility over himself when she is at fault. The process has to be a natural one and there has to be exhibition of co-operation and willingness from every side. Otherwise, how would the transplant succeed".

The Dowry Prohibition Act was enacted in 1961 and has been amended from time to time but his piece of social legislation keeping in view the growing menace of the social evil, also does not appear to have served much purpose as dowry seekers are hardly brought to book and convictions recorded are rather few.

Awakening of the collective consciousness is the need of the day. Change of

heart and attitude is what is needed. If man were to regain his harmony with others and replace hatred, greed, selfishness and anger by mutual love, trust and understanding and if the woman were to receive education and become economically independent, the possibility of this pernicious social evil dying a natural death will not remain a distant dream only. The legislature, realising the gravity of the situation, has amended the laws and provided for stringent punishment in such cases and even permitted the raising of presumptions against an accused in cases of unnatural deaths of the brides within the first seven years of their marriage.

The role of courts, under the circumstances assumes greater importance and it is expected that the courts would deal with such cases in a more realistic manner and not allow the criminals to escape on account of procedural errors or technicalities as then the criminal would receive encouragement and the victims of crime would be totally discouraged if the crime goes unpunished.

The courts are expected to be sensitive in cases involving crime against women. The verdict of acquittal made by the trial court in this case is an apt illustration of the lack of sensitivity on the part of the trial court. It recorded the verdict of acquittal on mere surmises and conjectures and disregarded the evidence of the witnesses for wholly insufficient and insignificant reasons. It ignored the vital factors of the case without even properly discussing the same.

An important aspect of human development or progress is to rise from its mere animalistic physical existence to reach a higher emotional, intellectual and spiritual plane. On the intellectual and spiritual planes of consciousness there is no question of sex discrimination. Sexual offences are also committed on an emotional plane, which will need a deeper look and serious efforts if we have to co-exist and undertake positive development. It is this lower nature with its animal qualities that must be conquered by the spirit within man in order that he may become truly a human being. The control of lower instinct is necessary in order that human being rises higher.

As long as the satisfaction of the appetite and lust of the flesh is included in a man's ideals and aims, he can never rise above the plane of animalism. Flesh here refers to man's material nature which violates the spirit, is opposed to and exclusive of it. Mere animalistic sexual expression has no more place in our civilisation than would mud-huts serve as modern houses. But in our pseudo-civilisation, worse than animalistic sexual misuses are indulged in and condoned. Laws condemning them exist on paper but have no teeth to punish the guilty or warn the like-minded.

There can be no question of real civilisation until a relentless campaign against the domination of sexual urges is well on its way. A lessening of the overwhelming

influence of sex is necessary before the race can claim a semblance of true culture and of becoming spiritualised, where there are no sexual offences.

References:

1. The Coiled Serpent: C.J. Van Vliet
2. Hume's Theory of Justice: Jonathan Harrison; W. Friedmann
3. Subversive Sites: Feminist engagement with Law in India Ratna Kapur and Brenda Crossman
4. Facts of Rape: Barbara Toner
5. Laws of decency and morality as restraints on freedom of speech & expression: P.H. Ray.
6. Law in changing society: W. Freidman 71. Theory of Legislation Jeremy Bentham 8; Delhi Law Review Vol. XVI: 1994
7. Indian Socio Legal Journal: 1988, 1991

Appointment of Judges to Supreme Court

01.10.1998 (Article)

Whether the ultimate power is vested with the executive, (pre and post *S.P. Gupta* – 1981 Supp.SCC 0087) or with the judiciary (Post AOR Association – 1993 (4) SCC 0411 which celebrated its 5th anniversary on 06.10.1998), it is now established and beyond any doubt that, inspite of best efforts made by all those who have been seriously interested and involved in the appointment making process of Judges of the High Court and Supreme Court, to enable the institution to be manned by the best, the appointments have not been wholly satisfactory. There has been sparks of outstanding brilliance but that did not fully represent the best legal material available in the country. It is time to accept the equity, equality that the entire top will never be manned by the best, primarily because there is no way to get out of the chaos we have created around us. The best choices will have to be made from the existing man material. Even the transfers have not been able to achieve the object for which they were affected and the process has not been able to keep pace with the speed at which the vacancies have occurred.

The basic reason is absence of any authenticated information system relating to judges and advocates. The Supreme Court does not maintain any data base which can be used by the Chief Justice and his colleagues and can be used as a base material for the purpose of making the appointment or rejecting a person for the appointment. There is misleading, non-verified and non verifiable information, vested interests, people pulling strings and/or putting pressures through calculated public relations. Somewhere it is in crude form and sometimes in subtle form. People have changed, faces have changed, methods have changed, but the principle, the net result, the impact has remained the same, a not wholly effective, efficient and healthy legal institution. The legal institution is breaking under its

own pressure, since it has refused to grow with the times and change with the technology.

The burden on the present Chief Justice of India is a very heavy one. The redeeming feature is that his shoulders are broad and strong enough to bear and carry the same. He has a dignity, respect for others point of view (it is not important that he may agree with them), understanding of human nature, wide experience, strong convictions, openness to new concepts, a vision, willingness to act firmly, deep sense of justice, a tilt towards academics, a sense of humor when it is most required (to defuse tensions) and dissatisfaction with the present, which are the qualities which one looks for in all the brethren.

He has learned the powers of his mind, not that he may shine but because virtue may triumph and the cause of justice may prosper. But he will have to face the pressures from within and without. Unforeseen circumstances will not allow him to go full throttle and the time has tendency to run out fast. The present Chief Justice of India takes the judiciary to the next century and in the process may be able to make as many as 16 appointments to the Supreme Court out of 26 and fill more than 260 vacancies in the High Court out of total strength of 568 during his tenure which lasts till 01.11.2001. There are seven (7) vacancies in the Supreme Court and as many as nine (9) more will be created during the tenure of the present Chief Justice of India.

The following will retire on the following dates:

Sl.	*Justice*	*Date of Retirement*	*PHC*
1	M.K. Mukherjee	12.01.1998	Calcutta
2	Sujata V. Manohar	28.08.1999	Bombay
3	S. Saghir Ahmed	07.01.2000	Allahabad
4	S.P. Kurdukar	16.01.2000	Bombay
5	M. Jagannadha Rao	12.02.2000	A.P.
6	G.T. Nanavati	17.02.2000	Gujarat
7	D.P. Wadhwa	05.05.2000	Delhi
8	S.B. Majmudar	20.08.2000	Gujarat
9	A.P. Mishra	09.01.2001	Allahabad

When one speak of plurality in the consultation process, it must be information from different sources, but it becomes a bargaining trap of which he has to be extremely cautious, because that is where one has to make compromises with the merits. Consultation with plurality or widening the consultative process to extra constitutional powers always have dangerous consequences, has tendency to delay

the process and weaken the institution, which as on today is definitely starving with vacancies. Alexander Hamilton in 'Federalist- Paper 76' clearly wrote:

"The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them. He will have fewer personal attachments to gratify, than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. A single well-directed man, by a single understanding, cannot be distracted and warped by that diversity of views, feelings, and interests, which frequently distract and warp the resolutions of a collective body. There is nothing so apt to agitate the passions of mankind as personal considerations, whether they relate to us or to others, who are to be the objects of our choice or preference. Hence in every exercise of the power of appointing to offices by an assembly of men, we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are the by those who compose the assembly. The choice, which may at any time happen to be made under such circumstances, will of course be the result either of a victory gained by one party over the other or of a compromise between the parties. In either case, the intrinsic merit of the candidate will be too often out of sight. In the first, the qualifications best adapted to uniting the suffrages of the party, will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent: "Give us the man we wish for the office, and you shall have one you wish for that." This will be the usual condition of the bargain. And it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations."

In any institution the problem or difficulty is not with the person who heads the institution or the persons who are involved in the ultimate decision making process for they act most judiciously on the basis of information available to them. The difficulty arises when the decision process get infected with the information intentionally and deliberately made available to them. The methods used are sometimes so subtle that one is unable to realise the impact of it till the process is over. The right approach is the ability to get all information available to himself from all possible sources; these sources are of course definable. If one is able to tap all available sources and make all relevant or other information available to Him, he is bound to act more judiciously. In fact all sources of information are available to him, for nobody not only cannot say no to him, but people are more than willing

to load him with information. During the process the information is consolidated, which function is normally delegated because of other priorities on ones time, the distortions takes place and the trust get betrayed, but the damage is done.

Since there is no developed information system and/or data base relating to the judges and the advocates available with the persons vested with the authority and/or power to carry out their constitutional obligations, the entire process of appointment of judges of the High Court and their transfer or appointment of judges of Supreme Court, is based on the little information available with the key persons. In the absence of any data on which an objective analysis can be made, the process is individual based totally subjective and cannot be said to be based on any objective criteria except the way "one feels about the other". These feelings are based on the information and/or knowledge of the background of the persons and their inter human/public relationships that develop over the years.

One major consideration for appointment to the Supreme Court will be as to whom will be the 35th Chief Justice of India. Any judge now appointed with tenure of little over five and half year will become the 35th Chief Justice of India after the retirement of Justice S.R. Babu, who will remain to be the Chief Justice of India till 01.06.2004. If the 'legitimate expectation' theory propounded and carried to its logical application by Justice J.S. Verma to the appointment of judges of Supreme Court is upheld in the Reference 1 of 1998 and the judges are appointed to Supreme Court strictly according to their seniority in High Court (unless cogent reasons are recorded in writing for not appointing them) and if there is a stronger legitimate expectation to become Chief Justice of India, the following will be the Chief Justices of India:

Sl. No.	*Name*	*Appt.HCJ*	*HC*	*Retd. SCJ**
1	R.Dayal	05.10.1984	Sikkim	18.05.2006
2	Ashok Mathur	13.07.1985	Rajasthan	08.07.2008
3	K.G.Balakrishnan	26.09.1985	Kerala	05.12.2010
4	G.S. Singhvi	20.07.1990	Rajasthan	12.12.2013
5	H.L.Gokhale	20.01.1994	Gujarat	10.03.2014
6	R.M.Lodha	31.01.1994	Rajasthan	28.09.2014
7	Rajeev Gupta	27.09.1994	M.P.	10.10.2015
8	Barin Ghosh	14.07.1995	Calcutta	05.06.2017

*If elevated to Supreme Court

If the judges who were appointed as High Court Judges after 1990 i.e. have

put in less than 10 yrs. are deleted from the zone of consideration (listed hereinafter) and no judge from the High Court of A.P., Allahabad, Bombay, Delhi, Gujarat and Madras are considered as there are already two or more than two judges from these High Courts in Supreme Court and representation from State/High Court is a very relevant criteria, the following are left in the zone of consideration (arranged' according to the date of their retirement) for becoming Chief Justice of India:

Sl. N.	*Name*	*Appt.HCJ*	*State*	*Retd. SCJ*
H30	D.M. Dharamdhikari	24.03.1989	M.P.	14.08.2005
H24	R.C. Lahoti	03.05.1988	M.P.	01.11.2005
H28	W.A. Shishak	02.01.1989	Gauhati	01.01.2006
H08	R. Dayal	05.10.1984	Sikkim	08.05.2006
H23	B.P. Singh	03.09.1987	Patna	07.09.2007
H31	H.K. Seema	24.05.1989	Gauhati	01.06.2008
H10	Ashok K. Mathur	13.07.1985	Rajasthan	08.07.2008
H27	Bhawani Singh	16.12.1988	H.P.	28.03.2009
H29	A. Passyast	20.03.1989	Orissa	05.10.2009
H17	B.N. Agarwal	17.11.1886	Patna	15.10.2009
H11	K.G. Balakrishnan	26.09.1985	Kerala	05.12.2010

There is a legitimate expectation that the doctrine of legitimate expectation may give way. The under current is also that a CJI should not have a very long tenure unless there is no other alternate available. If the seniority in the State High Court is to be maintained, it is evident that Justice RC.Lahoti is the only available choice for the 35th CJI. He will remain CJI till 01.11.2005. He also fills the vacancy for M.P. from which there is no representation after retirement of Justice J.S. Verma. If CJI has to be non controversial and, therefore, if Justice R. Dayal, Justice Ashok K. Mathur and Justice Bahawani Singh are not to be appointed as CJI, then Justice B.N. Agarwal is the choice for the 36th CJI, he also fills the vacancy for Patna which has no representation in Supreme Court and Justice K.G. Balakrishnan is the choice for the 37th CJI who continues till 05.12.2010. This takes care of three (3) appointments to the Supreme Court. However, since Justice K.G. Balakrishnan is senior to Justice B.N. Agarwal, they will have to be appointed on different dates, with later joining earlier, else K.G. Balakrishnan will be the 36th CJI and Justice B.N. Agarwal will retire as No.2

Reservation or quotas for the minority are *sub silentio* accepted criteria for

appointments. But they stand satisfied with Ms. Justice Sujata V. Manohar representing women, Justice K.T. Thomas representing Christians, Justice Sagjr Ahmed and Justice S.S.M. Quadri the muslim and Justice S.R. Babu the OBC. Sikhs not having any representation for the time being, after the retirement of Justice Kuldeep Singh who had filled the vacancy of Justice Sarkaria.

Representation from State/High Court is the other important factor. The States/High Courts, which do not have any representation, are - Gauhati, H.P, P & H, Rajasthan, and Sikkim.

All India seniority then remains to be the relevant consideration. The following is the list of judges, which constitutes the zone of consideration for appointments to Supreme Court. Three senior most judges from each High Court are as follows:

HC	Name	HC appt.	PHC	SC Retd.*	Remarks
H16	Y.B. Rao	11.07.1986	A.P.	26.06.2003	
H33	P.V. Reddy	16.03.1990	A.P.	10.08.2005	
H50	B.S. Reddy	25.11.1991	A.P.	02.03.2008	
H05	B.M. Lal	24.05.1984	All	06.10.2002	CJ Patna
H06	Om Prakash	24.05.1984	All	06.03.2002	CJ Kerala
H07	Brijesh Kumar	24.05.1984	All	10.06.2004	
H18	A.A. Desai	21.11.1986	Bom	24.06.2007	
H19	S.N. Variava	21.11.1986	Bom	11.08.2005	
H20	A.C. Agarwal	21.11.1986	Bom	27.08.2002	
H03	U.C. Banerjee	09.01.1984	Calcutta	18.11.2002	CJ A.P.
H04	S.K. Mookherjee	09.01.1984	Calcutta	29.04.2002	
H13	N.K. Mitra	20.12.1985	Calcutta	18.11.2003	
H09 H14	Mahinder Narain A.B.Saharaya	04.07.1985 24.04.1986	Delhi Delhi	24.03.2002 15.09.2005	CJ Delhi – Actg. CJ P & H
H22	Y.K. Sabarwal	29.04.1987	Delhi	14.01.2007	
H12	S.N. Phukhan	11.10.1985	Gauhati	01.04.2002	CJ Orissa
H28	W.A. Shishak	02.01.1989	Gauhati	01.01.2006	
H31	H.K. Seema	24.05.1989	Gauhati	01.06.2008	
H01	M.B. Shah	28.01.1983	Gujarat	25.09.2003	CJ Bombay
H39	C.K. Thakkar	21.06.1990	Gujarat	10.11.2008	
H40	B.C. Patel	21.06.1990	Gujarat	07.08.2008	

H27	Bhawani Singh	16.12.1988	H.P.	28.03.2009	CJ J & K
H41	Ms. Kamlesh	25.06.1990	H.P.	01.09.2006	CJ H.P.Actg.
H49	L.S. Panta	20.08.1991	H.P.	23.04.2009	
H15	R.P. Sethi	30.05.1986	J. &.K	07.07.2002	CJ Karnataka
H45	V.K. Gupta	07.11.1990	J. &.K	10.09.2012	
H46	Bashir A. Khan	12.11.1990	J. &.K	01.04.2010	
H34	S.V. Patel	29.03.1990	Karnataka	12.01.2005	Madras No. 2
H51	A.J. Sadasiva	22.02.1993	Karnataka	07.03.2002	
H52	K.H.N. Kuranga	22.02.1993	Karnataka	11.05.2005	
H11	K.G. Balakrishnan	26.09.1985	Kerala	05.12.2010	CJ Gujarat
H32	G. Rajasekhar	23.11.1989	Kerala	23.05.2002	
H48	Ms. K.K. Usha	25.03.1991	Kerala	03.07.2004	
H24	R.C. Lahoti	03.05.1988	M.P.		
H30	D.M. Dharamdhikar	24.03.1989	M.P.	14.08.2005	
H44	V.S. Kokje	28.08.1990	M.P.	06.09.2004	
H35	Doraiswami Raju	14.06.1990	Madras	02.07.2004	
H36	N.V. Arumugham	14.06.1990	Madras	15.04.2002	
H37	A.C. Lakshman	14.06.1990	Madras	22.03.2007	
H02	D.P. Mohapatra	18.11.1993	Orissa	03.08.2002	CJ Allahbad
H29	A. Pasayast	20.03.1989	Orissa	05.10.2009	
H47	D.M. Patnaik	07.01.1991	Orissa	01.09.2002	
H21	M.M. Liberhan	11.02.1987	P & H	11.11.2003	CJ Madras
H25	N.C. Jain	27.06.1988	P & H	05.04.2004	
H38	R.S. Mongia	15.06.1990	P & H	10.06.2005	
H17	B.N. Agarwal	17.11.1986	Patna	15.10.2009	
H23	B.P. Singh	03.09.1989	Patna	07.09.2007	
H26	Narbdeshwar Dubey	31.10.1988	Patna	20.03.2004	
H10	Ashok K. Mathur	13.07.1985	Rajasthan	08.07.2008	CJ M.P.
H42	N.K. Jain	09.07.1990	Rajasthan	20.10.2007	Madras No. 4
H43	N.L. Tibriwal	09.07.1990	Rajasthan	17.01.2002	Gov. Raj. Acting
H08	R. Dayal	05.10.1984	Sikkim	08.05.2006	Calcutta

* *If elevated to Supreme Court*

The aforesaid list if arranged according to All India Seniority Will read follows:

HC	Name	HC appt.	PHC	SC Retd.*	Remarks
H01	M.B. Shah	28.01.1983	Gujarat	25.09.2003	CJ Bombay
H02	D.P. Mohapatra	18.11.1983	Orissa	03.08.2002	CJ Allahbad
H03	U.C. Banerjee	09.01.1984	Calcutta	18.11.2002	CJ A.P.
H04	S.K. Mookherjee	09.01.1984	Calcutta	29.04.2002	
H05	B.M. Lal	24.05.1984	All	06.10.2002	CJ Patna
H06	Om Prakash	24.05.1984	All	20.03.2002	CJ Kerala
H07	Brijesh Kumar	24.05.1984	All	10.06.2004	
H08	R. Dayal	05.10.1984	Sikkim	08.05.2006	Calcutta
H09	Mahinder Narain	04.07.1985	Delhi	24.03.2002	CJ Delhi – Actg.
H10	Ashok K. Mathur	13.07.1985	Rajasthan	08.07.2008	CJ M.P.
H11	K.G. Balakrishnan	26.09.1985	Kerala	05.12.2010	CJ Gujarat
H12	S.N. Phukhan	11.10.1985	Gauhati	01.04.2002	CJ Orissa
H13	N.K. Mitra	20.12.1985	Calcutta	18.04.2003	
H14	A.B. Saharaya	24.04.1986	Delhi	15.09.2005	CJ P & H
H15	R.P. Sethi	30.05.1986	J.& K.	07.07.2002	CJ Karnataka
H16	Y. B. Rao	11.07.1986	A.P.	26.06.2003	
H17	B.N. Agarwal	17.11.1986	Patna	15.10.2009	
H18	A.A. Desai	21.11.1986	Bom	24.06.2007	
H19	S.N. Variava	21.11.1986	Bom	11.08.2005	
H20	A.C. Agarwal	21.11.1986	Bom	27.08.2002	
H211	M.M. Liberhan	21.02.1987	P & H	11.11.2003	CJ Madras
H22	Y.K. Sabarwal	29.04.1987	Delhi	14.01.2007	
H23	B.P. Singh	03.09.1987	Patna	07.09.2007	
H24	R.C. Lahoti	03.05.1988	M.P.		
H25	N.C. Jain	27.06.1988	P.& H	05.03.2004	
H26	Narbdeshwar Dubey	31.10.1988	Patna	20.03.2004	
H27	Bhawani Singh	16.12.1988	H.P.	28.03.2009	CJ J& K
H28	W.A. Shishak	02.01.1989	Gauhati	01.01.2006	
H29	A.Pasayast	20.03.1989	Orissa	05.10.2009	
H30	D.M. Dharamdhikar	24.03.1989	M.P.	14.08.2005	
H31	H.K. Seema	24.05.1989	Gauhati	01.06.2008	
H32	G. Rajasekhar	23.11.1989	Kerala	23.05.2002	
H33	P.V. Reddy	16.03.1990	A.P.	10.08.2005	

H34	S.V. Patel	29.03.1990	Karnataka	12.01.2005	Madras No. 2
H35	Doraiswami Raju	14.06.1990	Madras	02.07.2004	
H36	N.V. Arumugham	14.06.1990	Madras	15.04.2002	
H37	A.C. Lakshman	14.06.1990	Madras	22.03.2007	
H38	R.S. Mongia	15.06.1990	P & H	10.06.2005	
H39	C.K. Thakkar	21.06.1990	Gujarat	10.11.2008	
H40	B.C. Patel	21.06.1990	Gujarat	07.08.2008	
H41	Ms. Kamlesh	25.06.1990	H.P.	01.06.2006	CJ H.P. acting
H42	N.K. Jain	09.07.1990	Rajasthan	20.10.2007	Madras No. 4
H43	N.L. Tibriwal	09.07.1990	Rajasthan	17.01.2002	Gov. Raj. Acting
H44	V.S. Kokje	28.07.1990	M.P.	06.09.2004	
H45	V.K. Gupta	07.11.1990	J.& K.	10.09.2012	
H46	Bashir. A. Khan	12.11.1990	J & K	01.04.2010	
H47	D.M. Patnaik	07.01.1991	Orissa	01.09.2002	
H48	Ms. K.K. Usha	25.03.1991	Kerala	03.07.2004	
H49	L.S. Panta	20.08.1991	H.P.	23.04.2009	
H50	B.S. Reddy	25.11.1991	A.P.	02.03.2008	
H51	A.J. Sadasiva	22.02.1993	Karnataka	07.03.2002	
H52	K.H. N. Kuranga	22.02.1993	Karnataka	11.05.2007	

*If elevated to Supreme Court

Taking into consideration State/High Court representation, there seems to be likely hood of appointments of Justice U.C. Banerjee from High Court of Calcutta, Justice R.P. Sethi from J & K, Justice S.N. Pukhan from Gauhati and Justice A. Pasayast from Orissa to Supreme Court. In all this cobweb situation and interlinking priorities, where is the consideration on merits. A consortium of judges will have to judge a judge on merits for appointment as judge in absence of data-base on judges by the judges.

Inspirational Thoughts

"Action or inaction leads to victory or defeat; moving ahead is choiceless, never think of retreat."

– Scribbling

…

"Combat and pain still are portion of man."

– Scribbling

…

"You cannot build the future unless you go brick by brick."

– Bo Harald

…

Behind every judgment is a narrative, giving it at once content and context – and within every narrative is a dialectical tension between deep-rooted conflict and the need for resolution. Presidents, politicians, prime ministers, and judges come and go; ideologies change and today's headlines are tomorrow's footnotes — but some constitutional decisions touch the very foundation of the growth, development, and direction of civilisations.

…

Judges must set limits on translating their own social vision into constitutional interpretation. Their impact on the future is greatest when they refrain from playing God with their power.

– Scribbling

…

"The chains of habit are too weak to be felt until they are too strong to be broken."

– Samuel Johnson

…

"What I gave I have; what I spent I had; what I left I lost."

– Traditional

…

The treason of the intellectual consists in his not speaking out loud and clean for the values that he, by the vision and the very nature of his personality, holds sacred.

– N.A. Palkhivala, We the People

…

Action or inaction leads to victory or defeat; Moving ahead is choiceless, never think of retreat. Problems arise and hit you with a thud — For winning them over, nip them in the bud.

– Scribbling

Afterword - A Reckoning with Nine Years

A chessboard is finite. Sixty-four squares, thirty-two pieces, rules that do not change. And yet within that finitude, no two games have ever been identical. The player who understands this – truly understands it, not merely as a clever observation but as a living reality – has understood something about the nature of existence that no law school teaches and no judgment contains. Every case that came to the table in these nine years was such a game: bounded by statute, precedent, and procedure, yet each one utterly unrepeatable in its human particulars.

The Gita does not ask the warrior to win. It asks him to fight – fully, with total preparation, with complete engagement of every faculty – and then to release the outcome without clutching at it. That is the only instruction that survives the chessboard. The pendency reduced; the institution served; the brief returned when the time had come – none of it was held. It was offered, as one offers the fruits of action at the feet of the Cosmic Reality that makes all action possible. That which was given was given completely. That which was returned was returned without residue.

The nine years of this intensity reveal, as one stands far enough back to see them whole, is not the victories or the defeats – these are the surface of the board – but the invisible architecture that moves beneath every human institution: the pull of the permanent against the pull of the transient, the insistence of justice against the accommodation of power, the still small voice of integrity against the organised noise of the system. That architecture does not change. It was the same in the court of *Dhritarashtra* as it is in the collegium of the twenty-first century. Only the names change. The forces are eternal.

The seed planted in these years – in the Law Information Centre, in the first legal website, in the conviction that information is the oxygen of justice – would take another decade and more to flower. Legal Revolution 5.0 was not yet a name, but its root was here: the understanding that law serves justice only when it is accessible, transparent, and free of the monopoly that institutional inertia and vested interest construct around it. The chessboard has no use for a piece that cannot move freely. A legal system has no use for a precedent that only the connected can find.

Justice Punchhi said: the real issue is not the background, but the being. He was right – and more right than even he perhaps intended. The Gita says the same thing in the language of the eternal: it is not the field that matters, it is the one who inhabits the field. The *kshetr* is temporary; the *kshetragye* – the knower of the field – is not. Whether one argues from the Bar or sits upon the Bench or writes from outside all institutions, the being that animates the work remains. Forms change. The fire does not go out.

And it was in these years – in the silences between the victories, in the unpaid bills and the corridors where appointments were traded and integrity was an inconvenience – that the first clear light of a deeper understanding began to fall. Not with anguish. Not with the trauma that Arjun felt when he saw his teachers and kinsmen arrayed on the opposite side of the field. But with the same clarity that *Krishan* answered Arjun's paralysis: – do not yield to unmanliness.

The chessboard is put away. The pieces return to the box. The next game has not yet been set. But the player who has spent nine years on this particular board

carries something the board itself cannot confer: the knowledge that every move, however small, participates in an architecture larger than any single game. That knowledge is not pessimism about the institution. It is not disillusionment with the Mistress. It is the beginning of something that will take the remaining chapters of this life to name – and that will, when named, be called simply: Love.

CHAPTER 5

01.04.1999 – 31.03.2004
Beyond the Courtroom: The Lawman Sees the World

Litigation Overseas, Technology, and the Search for a Larger Architecture of Justice

One door closes and another opens. Even before I resigned as Advocate on Record, my great friend Mr. R.K. Naroola called to tell me that we needed to travel to Singapore to deal with an important matter involving breach of contract. I asked him to send me the complete file. I studied the documents, drafted a list of dates and events, and formed my opinion on the legal nuances of the contract and the path forward. That opinion differed materially from the view already taken by the senior corporate lawyers in Singapore – a difference significant enough to require my travelling with him to meet the senior partners of that firm in person. The conference was fixed for nine o'clock in the morning.

Litigation in Singapore

We left on a late evening flight, reached the hotel around ten. The morning and were in the conference room by 9am. The matter concerned a power project in Andhra Pradesh. Our client had duly executed a Power Purchase Agreement, and a financier-consultant had undertaken to arrange the entire financing within sixty days. Some fifteen days before that deadline, the consultant requested an extension of thirty days, which the parties agreed to and recorded in writing.

Seven days into the extended period, the consultant informed our client that the financing could be arranged – but only if our client's share in the project were reduced from seventy percent to fifty percent. The question before us was plain: what action should be taken, and what reply should be sent?

The Singapore lawyers counselled patience. The extension had been agreed barely a week earlier; their view was that we should wait for it to run its course before taking any steps. My opinion was different. The consultant's communication, I argued, constituted an anticipatory breach of contract, a repudiation of the obligation to arrange the full financing. His new proposal was not a modification of the original terms; it was a novation, a fundamentally different offer substituted

in place of the one agreed upon. On that ground, we were entitled to terminate the contract immediately, without waiting for the extended period to expire.

The conference ran without interruption until six in the evening, when it was finally resolved to proceed on my opinion – to terminate the contract and refer the dispute to arbitration. It was, I have often thought since, one of the finest legal conferences of my professional life. Every fact was examined, every implication tested, every available course of action taken to its logical conclusion. There is a particular satisfaction in the application of law to facts with precision and clarity, and that day provided it in full measure.

The following day, we worked through nine successive drafts before the termination notice and arbitration reference were in final form. Even as we did so, I remained certain that the matter would not reach a hearing – that the parties would ultimately settle, and a fresh agreement would be entered into. I told my client plainly: when the settlement comes, ensure it is converted into a consent award, or the litigation will simply resume in another form. The financier and his partners flew in from Canada. Negotiations continued for forty-eight days. A settlement was eventually reached. The terms were not mine to know – my work had ended the moment the negotiations began.

Justice Sought, Justice Lost: Litigation in the USA

As the wheel of time turns, it brings the unexpected to your door. The youngest son of my landlord in Greater Kailash came to me with a grave matter. He had suffered a serious accident caused by a bowl manufactured in the United States — a bowl that had split at a defective joint while spinning at fifteen thousand revolutions per minute and struck him with devastating force. What made the circumstances all the more remarkable was this: the defect in that bowl had been identified in the United States as far back as 1981 – approximately the very year I had first come to know him – and every such bowl had been recalled. Everyone, that is, except this one, which had somehow made its way across the world to a factory in Noida, where it waited, unrecalled and unremedied, until the day it failed. He had filed suit in the United States for recovery of thirteen million dollars. To support his case, he needed the bedside tickets and complete medical records from Holy Family Hospital in Delhi, where he had been treated. All he had were prescriptions – insufficient, by any standard, to establish the fact and extent of his medical treatment before an American court.

The detail about the recalled bowl is now woven into the narrative rather than inserted as a parenthetical, and the sentence builds toward the accident with a sense of slow, almost fateful inevitability – which is what the fact deserves. Shall we continue?

The hospital refused to provide the records, sheltering behind the claim of confidential information. Having dealt with precisely this question years earlier in the S.P. Gupta case, I found that position wholly unacceptable. The real urgency was practical: the trial in the United States was imminent, and the records had to be obtained without delay. The legal obstacle was equally plain – Holy Family Hospital was a private entity, and technically no writ lay against it. I told my client that we would file a Writ Petition in the Delhi High Court, which would in all likelihood be dismissed, and then carry the matter to the Supreme Court, where I strongly believed justice would be done.

The High Court dismissed the petition on the narrow ground that no writ was maintainable against a private hospital, it not being an authority within the meaning of Article 12 of the Constitution. We approached the Supreme Court, where the matter came before a bench presided over by Justice M.M. Punchhi. When the case was called and the judges looked toward me, I did not belabour the legal complexities. I told them simply: here was an Indian citizen who had suffered grievously, and who stood to recover thirteen million dollars for himself and his family – if only his own medical records could be placed before the court that was to try his case. The Supreme Court issued notice.

When the matter returned after notice, Holy Family Hospital was represented by a formidable senior counsel. Before he could say a word, Justice Punchhi turned to him and asked, with characteristic directness, what possible objection there could be to furnishing the patient with his own bedside tickets, X-rays, and complete medical record. The senior turned to his briefing advocate, evidently unprepared for the question. Before any answer could be formulated, Justice Punchhi dictated the order – recording that the learned senior had no objection to the production of the records – and directed the matter to be listed after four weeks. When it came up again, he inquired whether the full medical record had been received. I confirmed that it had. He disposed of the matter, leaving open the question of law as to whether Holy Family Hospital fell within Article 12. It was a masterly piece of judging – justice done swiftly, the technicalities acknowledged but firmly refused the last word.

With the records secured, the American litigation could proceed. Under United States civil procedure, it falls to the advocate to file an affidavit addressing the legal issues arising in the case. The opposing side had raised the doctrine of *forum non conveniens*, and I was required to file an affidavit establishing that the doctrine – applied by the American courts in the Bhopal Gas Tragedy litigation – had no application here: the case had been pending for nearly six years, and no forum remained available in India, both by reason of limitation the fact that evidence in a foreign courts could not the treated as valid evidence in courts in India. My client asked me to accompany him to New York to meet the attorneys at the

American law firm and brief them on the Indian law dimensions of the matter. I readily agreed.

We went to New York. The conference with the lead attorney – a fine and perceptive gentleman – was long and productive. He came quickly to appreciate that the case turned substantially on questions of Indian law, and that my presence had been worth the journey, whatever were his initial reservations. American law firms handling such matters operate on a contingency basis, charging thirty percent of whatever is ultimately recovered while funding the entire cost of the litigation themselves – a model that concentrates the mind wonderfully on the merits.

We lost in the court of first instance on the *forum non conveniens* issue. The matter was taken on appeal to the Supreme Court of New York. I made a second trip to New York with my client. We lost again. I thereafter had a suit filed in the Bombay High Court, only to get it dismissed on the ground of limitation. Before anything more could be done, the respondent company went into liquidation. Substitution of the liquidator, procedural complications, and the relentless arithmetic of delay conspired to foreclose every remaining avenue. Justice, in the end, was not to be had – not for want of law, not for want of effort, but because the machinery ran out of road before the destination was reached.

Observations on the American Court

The American courtroom was, in almost every respect, unlike what I had known at home, and several things struck me with the force of revelation.

There was no formal dress code, yet every advocate and every judge appeared in a dark suit and tie – discipline maintained by convention rather than compulsion, which is perhaps the more durable kind.

The cause list was fixed to the minute: each advocate was allotted a precise span – five minutes, seven, nine, fifteen – recorded against their name on the list, and when the time expired, the court master rang a bell and the judge would not hear one word more, even if counsel was in the middle of a sentence. It happened to opposing counsel in our own case – she was cut off mid-sentence and required to sit down. There was something bracing about it, and something the Indian system would do well to contemplate.

Advocates for both sides were seated on opposite sides of the courtroom. A central podium stood between them, and each counsel would walk to it to address the court – a physical arrangement that gave the proceedings a formality and equality of bearing that I found admirable.

Five judges sat on the bench, each with a separate gate behind them leading out of the courtroom. During the course of an earlier matter, one judge rose quietly mid-argument and slipped out through his gate – for reasons that were not disclosed and were not ours to question – and returned a few minutes later with equal discretion, without disturbing the proceedings in the slightest.

Finally, and perhaps most instructively: written submissions were comprehensive, carefully structured, and fully cited. No one read a judgment aloud in court. The judges had read the papers; counsel were there to argue, not to recite. The contrast with our own courts – where hours are consumed reading passages that judges have before them – did not escape me.

Vice President, SCAORA – 1999-2001

The institution of Advocate on Record is exclusive to the Supreme Court of India – a creation of the Supreme Court Rules, with no parallel elsewhere in the legal system. Its origins lie in the practice of the Federal Court, where cases were filed by Agents and argued exclusively by Barristers-at-Law practising as Associate Advocates or Senior Advocates. When the Federal Court gave way to the Supreme Court of India, and the Advocates Act brought uniformity to the legal profession across the country, the old architecture required reconstruction. On the recommendations of the Gajendragadkar Committee, the institution of Advocate on Record was formally established under the Supreme Court Rules, 1966 – a deliberate and considered creation, designed to ensure that those who file and conduct matters before the highest court of the land meet a standard of preparation commensurate with that responsibility.

The qualification was exacting. A minimum of four years as an Advocate, followed by one full year of training under a practising Advocate on Record, was the threshold merely to sit the written examination. To pass, one had to secure sixty percent marks – a bar that kept the institution selective and, in its better years, genuinely distinguished.

The Supreme Court Advocates on Record Association – SCAORA – runs parallel to the Supreme Court Bar Association, but with a far more limited and defined membership. Having found my years with the SCBA rewarding, I thought perhaps I might be able to contribute something through SCAORA's executive as well. I contested for the post of Vice President. I won – this time by a margin of two votes.

Litigation in Singapore and New York – The Second Chapter

I had believed the Singapore matter closed. It was not. Mr. Naroola informed me that fresh litigation had arisen from the same dispute – the Canadian financier, rather than honouring the settlement, was now proposing to sell off his share in the power project to a third party without remitting a single rupee to our client. I was struck, and not a little dismayed, by what this revealed: my client had not converted the settlement into a consent award, as I had specifically and emphatically advised him to do. The consequence of that omission was now before us — another breach, another round of litigation, and the same adversary, emboldened by the absence of an enforceable award.

I made three trips to Singapore to persuade the Singapore advocate engaged by our client that we had a sound case. The financier, I argued, could not simply walk away by selling his share – he was obligated to share the proceeds with our client. The Singapore advocate's difficulty was the agreement itself, which stipulated that payment to our client would fall due at the milestone of "financial closure" – a milestone he maintained had not been achieved. My submission was straightfor-ward: so far as the financier was concerned, financial closure had been achieved in every meaningful sense. He had received the full return on his investment and was walking away from the project with his pockets full. He could not do so without accounting to the man whose project he had financed. After three visits and sustained argument, the Singapore advocate was persuaded. It was time to draft the Statement of Claim before SIAC.

Mr. Amarchand Shrishrimal and I drafted the Statement of Claim together – a detailed, comprehensive document setting out all the facts and the legal submissions flowing from them, which we then sent to the Singapore advocate. He was, to put it plainly, unhappy with it. The level of factual detail, he felt, was excessive. Our view was the opposite: that a thorough statement of facts was not merely useful but essential if the arbitrators were to fully understand and appreciate the issues at stake. We stood our ground.

SIAC's procedure for pleadings is, in my experience, one of the most sensibly structured in any forum I have encountered. After the Statement of Claim is filed, the respondent files a counter. The claimant does not then file a rejoinder in the conventional sense – instead, the original Statement of Claim is amended. The respondent amends the counter in response. The claimant may amend again. This iterative process continues until the pleadings are complete. On that foundation, both parties draw up a common list of dates and events, and the final pleadings, documents, and issues are placed before the arbitrators for hearing and award. The entire procedure is clean, purposeful, and stripped of the technicalities that else-

where consume years without advancing the cause of justice by a single step. I have made serious efforts, in several arbitrations in India, to have this procedure adopted. I have not succeeded.

What followed in our own case was, in its way, a small comedy – and a revealing one. After the counter was filed, the Singapore advocate sent us a list of queries on facts, which we answered. The Statement of Claim was amended accordingly. Then came a fresh counter, and fresh queries, and fresh answers, and another round of amendments. This cycle repeated itself – queries, replies, amendments, counter-amendments – until both sides had amended their respective pleadings eleven times. When the dust finally settled, what stood before the arbitrators as the final Statement of Claim was, in all material respects, the original document that Mr. Shrishrimal and I had drafted and sent from India at the outset. The Singapore advocate, to his credit, confided that he had now understood the case completely and could conduct it himself from that point forward. Our work, once again, was done.

Our clients won. The award came in at two point eight three million US dollars, with costs. The other party challenged the award before the courts in New York. Our clients asked me to go to New York and oversee the defence of the award. I reached out to an associate of mine who had relocated to New York and established himself in bankruptcy law, and made the trip on my own without the client. He arranged a morning meeting with the senior litigation partner of one of the leading law firms in the United States – a brief, purposeful encounter over coffee that set the matter in motion. A counter was filed; the principal defence was *forum non conveniens*. Once again, I found myself struck by the quality of the written submissions on the it is Law Firms – crisp, precisely drafted, with citations integrated cleanly into the argument rather than appended as an afterthought. The case was dismissed. We had prevailed, finally and completely.

I am deeply grateful to my client and to Mr. R.K. Naroola for the confidence they placed in me across this long and winding litigation – and to whatever hand of fortune guided us through it to a just conclusion.

But there is something larger that this experience left with me, and it bears saying plainly. The intelligence, the commitment, and the sheer volume of work that Indian advocates bring to their cases is not inferior to what I encountered in Singapore or New York – if anything, it is equal, and in some respects greater. What we lack is not ability. What we lack is precision, conciseness, and the procedural discipline that converts ability into justice delivered. That gap is not a law of nature. It is a choice – one that the institution has not yet found the will to make.

March on Parliament

February 2000 (A Diary Entry Expanded)

There are moments in the life of a profession that reveal, with painful clarity, the distance between its aspirations and its conduct. The march on Parliament in February 2000 was one such moment – not because the cause it claimed to advance was without merit, but because of what it exposed about the forces that had seized upon that cause and the manner in which they chose to pursue it.

The immediate provocation was the proposal of Ram Jethmalani, then Law Minister in the Vajpayee Government, to amend the Advocates Act, 1961 so as to permit foreign law firms to enter India. The proposal did not emerge from a vacuum. India had liberalised its economy in 1991. Foreign direct investment had poured in. Multinational corporations had arrived with their complex cross-border transactions and their expectation of counsel from firms they knew and trusted. The World Trade Organisation was exerting pressure through the General Agreement on Trade in Services, of which India was a signatory, though it had carefully declined to make any commitment in respect of legal services. By 1999 and into 2000, the debate over the liberalisation of India's legal market was neither frivolous nor novel; it was a question that serious minds in the profession – and outside it – were actively and legitimately engaged with.

What happened on the streets of Delhi in February 2000 was something rather different. Tens of thousands of advocates – by some accounts close to forty thousand – marched to Parliament House. They carried placards. They chanted slogans. They were, in the event, met with police tear gas and lathi-charges, which lent the day a quality of civic drama that the organisers had perhaps not anticipated. The Bar Council of India and bar associations across the country had thrown their weight behind the agitation. The march was presented as the profession's united declaration against the subversion of Indian law by foreign capital.

I watched this with feelings that I find difficult to compress into comfort. What unfolded on those streets was, at its core, dirty politics – the parties in opposi-tion deploying the professionals of the Bar as instruments against their own interests, in order to attack a government, they wished to embarrass. The proposal to permit foreign law firms to enter India was, to my mind, not merely defensible but potentially liberating. My own experience of litigation overseas had shown me what that opening could confer: the opportunity to make a mark on a larger stage, to compete and to earn on terms commensurate with the quality of Indian legal minds. Yet all of that possibility was sacrificed on the altar of a political agenda that had nothing to do with the law, and the advocates who marched that day

were used as instruments – not protagonists – in a contest that was never truly theirs.

The profession to which I had devoted myself since 01.08.1976 – the profession that I had always understood to be, at its finest, a calling anchored in reason, in argument, in the slow and disciplined persuasion of the trained mind – had taken to the streets in the manner of a trade guild defending its monopoly. That is not a comfortable thing to write, and I write it not in contempt of those who marched but in grief at what the spectacle disclosed. The overwhelming majority of those who swelled the procession were advocates from the trial courts – men and women for whom the entry of a Freshfields or a Linklaters or a Sullivan and Cromwell was a threat as remote and abstract as a comet.

No foreign law firm, then or now, was ever going to appear in the subordinate courts to plead a summary suit or a rent eviction. The practice of those advocates – their clients, their livelihoods, their daily professional existence – was entirely untouched by the question of whether a foreign firm might be permitted to advise a Tata or a Reliance on an international merger. Yet they marched, in their thousands, because they had been told that the profession was under siege, that the foreign invasion would destroy them, that Ram Jethmalani – a Senior Advocate of immense distinction, a constitutional mind of the first order, whatever one's quarrel with his political associations – was betraying Indian law to its historic colonial oppressors.

The irony was not lost on those of us who had built our practices in the higher courts and in the Supreme Court. It was precisely we – the Senior Advocates, the members of the Supreme Court Bar Association, those engaged in corporate and commercial and constitutional practice – who would have competed with, and been affected by, any genuine liberalisation of the legal market. And yet it was not we who were in the vanguard of that procession. We were, for the most part, not there. The march was led by those whose proximity to the question being decided was the slenderest, and whose manner of deciding it was the most visceral.

I have never believed that a profession earns its dignity by the frequency or the vehemence of its street protests. The medical profession does not march on Parliament when pharmaceutical regulations are revised. The engineering and accountancy professions do not resort to collective agitation as their first instrument of policy. The law, above all other professions, has an obligation to engage with questions of law – including questions about the law governing itself – through the instruments the law provides: through argument, through representation, through petition, through the exercise of professional intelligence brought to bear upon a public question. When the Bar descends to the street and displaces counsel with clamour, it does not strengthen the profession's claim to be the guardian of the rule of law. It weakens it.

There was, to be sure, a legitimate argument to be made against the manner in which the Jethmalani proposal had been advanced – without adequate consultation with the Bar Council, without a framework that addressed the asym-metries between Indian and foreign firms, without attention to the restrictions under which Indian lawyers then operated: the prohibition on advertising, the cap of twenty partners, the absence of limited liability structures. These were real and serious concerns, and they deserved – they demanded – serious and considered engagement. The Society of Indian Law Firms, established in 2000 in the very climate that the agitation had created, eventually became the vehicle through which a more nuanced conversation was conducted. By 2007, there was genuine optimism in London and in New Delhi that a framework for liberalisation, with appropriate reciprocity and safeguards, might be within reach.

But that conversation, measured and professional as it was, received none of the attention that the lathi-charges and the tear gas had generated. Drama, it appeared, was a more reliable instrument of public memory than argument. The proposal was shelved. Successive Law Ministers avoided the question for years. The Bombay High Court, in 2009, effectively shut the door through its judgment in the Lawyers Collective case. The Madras High Court, in 2012, opened it fractionally through AK Balaji, introducing the doctrine of the "fly-in, fly-out" foreign lawyer advising on foreign and international law. The Supreme Court affirmed that position in 2018. It was not until the Bar Council's 2022 Regulations, brought into their amended form in May 2025, that a regulatory framework for foreign lawyers in India finally acquired shape – twenty-five years after the procession that had so effectively prevented an earlier resolution.

I record this event in my memoir not as a detached chronicler but as one who felt, in February of that year, something that I can only describe as a diminishment – not of the law, which is too old and too resilient to be diminished by a single afternoon's theatre, but of the Bar's image of itself, and of the image it projected to those who needed to trust it. When forty thousand advocates march in a body on Parliament, what the citizen observes is not a profession defending principle. What the citizen observes is a guild defending its gate. And when the police fire tear gas into that procession and the lathis fall, what the citizen feels is not sympathy for the rule of law. What the citizen feels is that two sets of people, neither of whom has asked his opinion, are fighting over something in which he has a stake and no voice.

I had spent the preceding twenty-four years – from 1976 to 2000 – assisting, observing, arguing, case by case, judgment by judgment, that the law's greatest authority derives from its reason. That February afternoon tested that conviction, as a certain category of professional conduct, must always test those who

hold it. It did not break it. But it left a mark that I have not forgotten.

Argued, Assisted, Associated and Other Judgments with Observations

Even as I made my trips to Singapore and New York, the Supreme Court did not wait. Appearances continued, arguments were heard, and judgements were delivered. The international work ran alongside the domestic practice, not in place of it – a parallel current that, if anything, sharpened the precision I brought back to the Indian courtroom. The following are some of the reported judgements from this period, across a range of subjects and jurisdictions, in which I appeared as arguing counsel

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	B.R. Enterprises	State of U.P.	1999 INSC 230	Constitutional Law
2	Banolata Mohapatra	State of Orissa	1999 INSC 238	Practice and Procedure
3	State of Rajasthan	Rajasthan Judicial Service Officers	1999 INSC 266	Service Law
4	Hari Singh	Kanhaiya Lal	1999 INSC 381	Property law
5	Ashwani Kumar	Regional Transport Authority	1999 INSC 447	Insurance Law
6	Shree Digvijay Cement Co.Ltd.	State of Rajasthan	1999 INSC 567	Tax Law - Direct
7	Shree Cement Ltd.	State of Rajasthan	(2000) 1 SCC 765	Tax Law - Direct
8	State of Rajasthan	Anil Kumar Sunil Kumar & Party	(2000) 4 SCC 347	Tax Law - Direct
9	State of Rajasthan	Harphool Singh	2000 INSC 285	Property law
10	Divya Mfg. Co.Pvt.Ltd.	Union Bank of India	2000 INSC 334	Company Law
11	Aligarh Muslim University	Mansoor Ali Khan	2000 INSC 593	Service Law
12	State of Rajasthan	Hanuman	(2001) 1 SCC 337	Criminal Law
13	Khatema Fibres Ltd.	State of U.P.	2000 INSC 416	Constitutional Law
14	Rajasthan High Court Advocates' Assn.	Union of India	(2001) 2 SCC 294	Property law
15	Urban Improvement Trust	Om Prakash Sharma	(2010) 15 SCC 333	Land Revenue and Tenancy Laws
16	Ganga Ram Moolchandani	State of Rajasthan	2001 INSC 298	Service Law
17	ITC Agro Tech Ltd.	CTO	2001 INSC 312	Tax Law - Direct
18	All India Judges Assn.	Union of India	2002 INSC 165	Service Law

19	Shyama Charan Agarwala & Sons	Union of India	2002 INSC 301	Arbitration
20	Harish Uppal (Ex-Capt.)	Union of India	2002 INSC 523	Administrative law
21	Nasiruddin	Sita Ram Agarwal	2003 INSC 41	Rent Control and Eviction Law
22	Radha Mohan Lal	Rajasthan High Court	2003 INSC 73	Criminal Law
23	Ravi Khuller	International Airport Authority	2003 DHC 11790	Land Acquisition & Rehabilitation Law
24	Shri Hans Enterprises	Airports Authority of India	(2003) 105 DLT 226	Arbitration
25	N.S.Nayak & Sons	State of Goa	2003 INSC 286	Arbitration
26	Guruvayoor Devaswom Managing Committee	C.K.Rajan	2003 INSC 394	Constitutional Law
27	Kashi Nath	Jaganath	2003 INSC 605	Family law
28	Rajasthan High Court	Babu Lal Arora	2003 INSC 712	Service Law
29	Pradeep Singh	State of Rajasthan	(2004) 10 SCC 743	Criminal Law

Ex. Capt. Harish Uppal v. Union of India
2002 INSC 523

A series of writ petitions raised the common question whether lawyers have a right to go on strike or call for a boycott of courts. The background was one of increasing frequency of strikes and boycott calls by Bar Associations and Bar Councils across the country, paralysing court functioning for extended periods. An interim order of 1995 had directed that strikes should not be resorted to except in the rarest of rare cases and had suggested that the Bar Council of India incorporate appropriate clauses in its disciplinary rules. The Bar Council had failed to do so. Various Bar Councils, Bar Associations, the Attorney General, and an amicus curiae appeared and made submissions. The broad consensus among the Bar – excepting the Bar Council of U.P. – was that lawyers cannot and should not resort to strikes where a legal remedy is available, and that even in exceptional cases only a one-day token strike on issues of dignity and independence of the Bar or Bench may be justified. The U.P. Bar Council contended that lawyers have a right to strike and that courts have no supervisory jurisdiction over advocates' conduct by virtue of Section 50 of the Advocates Act.

The Constitution Bench held, per Variava J. for himself, Pattanaik C.J., and Doraiswamy Raju J., that lawyers have no right to go on strike or give a call for

boycott, not even a token strike. An advocate is an officer of the court with obligations to ensure its smooth functioning and a duty to his client; strikes interfere with the administration of justice. Lawyers holding *vakalats* cannot refuse to attend court in pursuance of a strike call. Every lawyer must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with adverse consequences by an Association or Council, and no threat of expulsion or coercion of any nature can be held out. No Bar Council or Bar Association can permit a meeting to consider a call for strike or boycott. Courts are under no obligation to adjourn matters because lawyers are on strike; on the contrary, it is the duty of all Courts to proceed with matters on their boards even in the absence of lawyers. A lawyer holding a *vakalat* who abstains pursuant to a strike call shall be personally liable to pay costs. The only recognised exception is where the dignity, integrity, and independence of the Bar and/or the Bench are at stake – in which case Courts may overlook a protest abstention for not more than one day, the President of the Bar first consulting the Chief Justice or District Judge whose decision shall be final. The contentions of the U.P. Bar Council were rejected: nothing in Section 7 of the Advocates Act authorises paralysing the working of courts. The Bar Council of India was directed to incorporate the suggested clauses into its disciplinary rules. Shah J., for himself and Dharmadhikari J., directed all Bar Associations to implement the Bar Council of India's resolution of September 2002 and directed High Courts to frame rules under Section 34 of the Advocates Act to enable appropriate action against defaulting advocates.

Observation: There are judgments that resolve disputes between parties, and there are judgments that are declarations addressed to a profession, to a republic, and to history. This was emphatically the latter. An advocate is an officer of the court. He is not a tradesman who may withhold his services as a bargaining chip. He is not a labourer whose withdrawal of labour is a protected economic weapon. He is a participant in the administration of justice – and the administration of justice is not a commodity to be held hostage, however genuine the grievance.

And yet the judgment, for all its moral authority and constitutional clarity, has not stilled the phenomenon it sought to correct. A conservative reckoning of documented strike episodes between 2002 and 2023 yields well over two hundred distinct instances of collective abstention across High Courts and district courts – several lasting not for a days but weeks and months. The causes range from the constitutionally weighty to the frankly trivial: parking disputes, court infrastructure demands, internal Bar rivalries over the location of benches, no-confidence resolutions against specific judicial officers, protests over the creation of tribunals. In every episode, the real victim was the same – the litigant whose recovery suit was adjourned, the undertrial whose bail application could not be

heard, the widow whose succession petition gathered dust.

Having watched this profession from the inside for five decades, I am compelled to state what most senior members of the Bar know but few say openly: the primary engine of the strike is not grievance but politics – not the politics of constitutional principle but the politics of personal ambition and factional power. And at the very centre of this machinery stands the government panel advocate.

The government panel system is, in principle, an entirely legitimate institution. In practice it has become one of the most corrosive forces in the political life of the Indian Bar. Panel appointments are, in the overwhelming majority of cases, made not on the basis of merit or professional competence but on the basis of political affiliation and proximity to the ruling party. Every change of government is followed, with the regularity of constitutional convention, by a wholesale revision of legal panels. The message is unambiguous and understood by every member of the bar at every level: your professional advancement in the government sector depends upon your political alignment. The advocate who loses his panel upon a change of government is a man with motive, opportunity and availability – the three ingredients that the organiser of a strike requires above all others. The advocate who establishes himself as a militant bar leader – who can call a strike, paralyse the courts for a week, and demonstrate that he commands a following – simultaneously demonstrates to the political establishment that he is a man worth cultivating. A track record of successful agitation translates into political capital, political capital translates into a government panel. The litigant is nowhere in this cycle except as the occasion that brings lawyers and judges together in the first place.

What this compels one to say, with the directness that fifty years at the highest levels of this country's jurisprudence entitles one to employ, is this: the Indian legal profession has not yet freed itself from two inherited psychologies, equally destructive and equally alien to the constitutional vision of the advocate. The first is the psychology of the trade union – the collective bargaining mentality that treats the withholding of professional services as a legitimate weapon, borrowed from industrial labour conflict that has no application to a learned profession whose primary obligation is to the court and to the client. The second is the psychology of colonial patronage – the understanding that professional advancement flows from proximity to power rather than excellence in practice. Both were shaped by the colonial experience. Both are incompatible with the constitutional order that replaced it. Both are perpetuated, generation after generation, by institutional arrangements that have never been seriously reformed.

Neither the Bar Council of India nor the State Bar Councils have made any effective, meaningful, or sustained contribution to the professional growth, skill

development, or quality enhancement of the Bar they claim to represent. Legal education in India remains in a state that can only be described as a national embarrassment. Once admitted to the bar, the young advocate receives no systematic mentoring, no continuing legal education, no structured exposure to the law, and no instruction in professional ethics. The bar Associations, which could have been vehicles for professional development, have instead become political clubs. The consequence is a bar that is, at its base, frustrated, under-employed, under-skilled, and therefore susceptible to the mobilisation that the strike represents. The young advocate who has waited years for a brief, who has no mentor and no institutional support, is easy prey for the bar leader who offers him the solidarity of the strike as a substitute for the professional growth that nobody has provided. The strike gives him an identity, a community, and a cause. That this comes at the expense of the litigant is a consideration too abstract to compete with the immediate reward of collective belonging.

The path forward requires a transformation far more radical than the framing of rules under Section 34 or the passing of Bar Council resolutions. It requires, first, a thorough reform of the government panel system – transparent, merit-based criteria for panel appointments insulated from political change. It requires, second, the complete depoliticisation of Bar Council and Bar Association elections. It requires, third, a genuine and rigorous system of continuing legal education and mentorship, funded from the substantial resources the Bar Councils collect. It requires, fourth, a reform of the process by which advocates are considered for elevation to the Bench – a process that rewards professional excellence rather than political alignment.

Among the things that must die – among the inherited forms that constitute the Mistress in her most limiting aspect – is the entire complex of political patronage, panel dependency, and strike militancy that has for too long defined the public identity of large sections of the Indian Bar. Among the things that must be born – among the expressions of the Love that justice demands – is a Bar that earns its authority not by the threat of collective withdrawal or the cultivation of political patrons, but by the daily, disciplined, selfless excellence of its individual members in service of those who entrust their most urgent human concerns to its keeping. That birth is the most important unfinished business of the Indian legal profession in the twenty-first century. It is overdue.

A Lawman Thinks Aloud: Articles, Addresses, and the Emerging Architecture of a New Age

A practising advocate of any seriousness does not merely appear in court. He thinks

– about the law, about its institutions, about where it is going and where it is failing to go. Between 1999 and 2004, even as I argued before the Supreme Court and carried Indian law across to Singapore and New York, I was also thinking aloud – in journals, at seminars, at the farewells of judges whose departure diminished the bench – about the seismic shift that was remaking law's landscape from beneath.

The shift had a name: the Information Age. It had consequences that no statute had anticipated and no court had fully confronted. The Contract Act and the Evidence Act, both creatures of 1872, had been built for a world of ink and paper, signatures and seals, documents you could hold in your hand. That world was dissolving. Contracts were being concluded by a click of the mouse. Evidence lived in servers, not files. Jurisdiction – that most foundational of legal concepts – was being scrambled by a medium that recognised no geographical boundary at all.

These were not abstract anxieties. They were practical urgencies, and I engaged with them urgently – at conferences, in the SCAORA Journal, which I helped bring into existence during my tenure as Vice President, at seminars organised by Bar Associations and legal institutions across the country. I spoke about cyber law, electronic filing, wireless legal research, the emerging architecture of e-courts. I argued, consistently, that Indian advocates were not intellectually unequal to the challenge – only procedurally and institutionally unprepared for it. That gap between capacity and structure was, I believed then and believe now, a choice, not a fate.

In the same years, I had the privilege of bidding farewell to judges whose tenure had enriched the institution – Justice M.J. Rao, whose visionary paper on the financial independence of the judiciary sowed seeds that have yet to fully flower; Dr. A.S. Anand, whose judgements carried the clarity of a law professor and the conscience of a man who genuinely believed in the first principles he applied. These occasions were not ceremonial for me. They were opportunities to take stock – of what the institution was, what it had been, and what it needed to become.

What follows is a selection of the written and spoken work of those years. It is offered not as an archive but as evidence: of a mind engaged, of an institution at a crossroads, and of the persistent, sometimes lonely conviction that law, properly understood and properly structured, remains the indispensable instrument of a just society

Legal Institutions and Information Technology
01.10.1999

Author's Bridge: The years b*etween 1999 and 2004 were years of a double awareness. In the courtroom, the mistress I had served for two decades was showing the first visible signs of a deeper malaise – not merely the malaise of arrears and delay, which had always been present, but something more fundamental: a growing incompatibility between the institution's inherited architecture and the world it was being asked to govern. Outside the courtroom, a new world was assembling itself at extraordinary speed – one that the Contract Act of 1872 had never imagined, that the Evidence Act had no language to address, and that the courts, by and large, had not yet found the intellectual courage to confront. This article, delivered in October 1999, was my attempt to name what I saw – to place the crisis of legal institutions within the larger crisis of a civilisation in mid-transition, and to argue that the path from law toward justice required, among other things, the mastery of tools that law had not yet designed to pick up. The institution that could not adapt would not survive. And an institution that did not survive could not deliver justice. That was the connection. That was always the connection.*

The Backdrop

Man remained nomad for over 300,000 years but settled down and became 'agriculturist' (First wave) around 5,000 yrs. BC. after the death of 'industrialisation' (second wave), which started in about 1770 (after the war of Plassy in 1757), in or about 1955, developed countries entered the 'information technology (third wave). Knowledge explosion is slowly reaching its crest and there is already a feeling of limitation of the third wave. Thinkers are preparing the ground to move to the fourth, i.e., the era of artificial intelligence (fourth wave). We are not only languishing far behind, but are still trying to feel the impact of information technology and wondering and/or deciding whether we should move ahead or not. If the judiciary in India has to survive, the Supreme Court of India will have to brace itself; use the developed and developing tools and technologies, mend them in its way, and take a quantum leap forward with the social and economic structure, which is already changing fast. The power of technology must be harnessed to meet the demands thrown up by the statute and litigation explosion.

With the change of socio-economic structure, the nature of litigants and litigation has changed, the design of courts and law offices, even the '*munshi*' has changed (from an old bespectacled man in the comer, to an aggressive smart looking cellular phone user) and the approach of judges and advocates is also changing, creating a more professional, effective and meaningful impact. The process of change and development is choice-less and irreversible. Either you move with the

wave, or you will be wiped off. The only choice is whether the change is forced upon or it is planned and that is the distinction between slavery and freedom, that is the distinction between an unchannelised power and channeled power, one can destroy an edifice, and the other can develop it.

Since the human mind is capable of foreseeing its development and control its nature, and, Bharat produces better beings, when the need so arises, which rise above *vox populi* and take reins in command, we need not throw up our hands. We must not feel despair in any event, also because Bharat has a long history of surviving onslaughts, continue its struggle for existence and has a great capacity to suffer. We do not have a 'mission impossible'; it may be a 'mission difficult'. It is fair to assume that most people of the world, if they so choose, can respond positively to the challenge of change and make an effective contribution. The governing elite will have to develop an interest in technology, shrugging off its traditional and ideological prejudices and jointly work towards national development.

The advent of third wave is reorienting the social structure with seemingly unrelated individual trends or events like cracking up of nucleus family, spread of cable TV and Internet mania, crashing of moral and value system, terrorism – both physical and cultural, over population, changing demography energy crises, environment degradation, illegal migration, shrinking of natural sovereignty, political unheard coalitions without common ideologies but seemingly common objectives are taking place around us. In this seemingly existing chaos, every individual, as parent, child, professional, client, intellectual, artist, teacher, bureaucrat, politician and even anti-social element is trying to re-organise and reorient and design a coherent and effective response to it. If legal thinkers are able to understand the process of socio-economic transformation, they will be able to meet it well prepared.

The conspectus

A recent 'The Times of India-Aditya Birla Group' Opinion Poll conducted by DRS was interesting, if not amazing. Without commenting on the quality of poll, for in a democracy what is counted is the 'number of heads' and not 'what is in the head's' and the charged public passion also rule the roost and, therefore, the poll may not reflect the exact fact situation, but it can be said with some certainty that the judicial profession constituted primarily of 'Judges' and 'Advocates' is under severe attack. Judiciary, as an extremely conservative profession, is wholly reluctant to espouse any kind of change, but this resistance to change has now reached a point where one feels that it is seriously threatening the profession's future. A small effort made by individuals or a little spark of grandeur here or there fail to paint the true and complete picture, where the advocates strength in India

is over a million and is the second largest in the world.

According to the poll, the standing of the Judges and Advocates amongst the 16 professions were as follows:

Sl.	*Particulars*	*Judges*	*Advocate*
1.	The most respected	05	11
2.	The most honest	07	16
3.	Contributes the most to society	07	16
4.	The most corrupt	13	05
5.	Deserves better recognition & incentives	12	15
6.	Fetches a lot of money	12	13

There is a rapid diminishing respect for law and legal system, there is almost contempt and defiance for judges, advocates, and the law institutions. It is not that there is no work or there are no hard-working individuals, but the social value and social utility of the profession has gone down and is going down. It is time for a united effort and action to expose and destroy inefficiency, unfairness and injustice. It is now or never. There has been enough of introspection, it is time for some action, and if we do not do it now, we will be failing a great nation, from gearing up for the next millennium.

Supreme Court

Judges, advocates, academicians, law teachers and litigants who have never used a keyboard are undertaking computerisation of courts, offices, law libraries and litigation and are feeling the inconvenience. There is, therefore, a need to develop a systematic framework for understanding the clash of forces in today's world and synthesise them, so that we have a clear vision of our path and goal, which must not contradict each other at any cost. Gandhi ji has not only taught us but has practically demonstrated to mankind that independence can be won by non-violence and in fifty years, the largest democracy has exhibited that it can survive by non-violence, for it gained its independence by non-violence. The goal of the Supreme Court is clear and *i.e.,* to play an effective role in the development of a more sane, sensible, sustainable, reasonable, just, decent and democratic society, than we have ever had, where equity, equality, honesty and fairness strives and to restrain its antithesis from damaging law and justice. The path has to take similar strides.

Supreme Court, with all dignity and aura at its command, has successfully carved out a role for itself; which was here-to-before, neither conceptualised nor

contemplated by the constitutional makers or the people of Bharat, but the need of which has been found to be imminent in a democratic set up. At times, the contemporary institutions fail to carry out or inherently found themselves incapable of performing its constitutional, social and moral duties and obligations. The people heading contemporary institutions even try to over reach their constitutional obligations and the Supreme Court has to keep them in check. The role of the Supreme Court is almost akin to the *rishies* of the past, i.e., to keep a vigil on the king, tell him when he went wrong or where he was going wrong and support the citizens to withstand his onslaught if he got arbitrary. They also interpreted the laws (*shastras*) and pen the history of the time, which are now imbedded in our law reports, covering social events every day.

To maintain its solemn promise and to see that the same effectiveness and efficiency is percolated down to the High Court, higher and sub-ordinate judiciary, the Supreme Court of India will have to forge ahead with the third wave. The only difficulty or impediment will be its own chains and shackles, which binds it and restrain the development of the institution. These will have to be broken, without in any manner effecting its decorum and dignity. Synthesis is essential and crucial for each institution in its own way, at different moment of history, more particularly for a dynamic institution like the Supreme Court, where a dynamic role is assigned to it under a dynamic constitution to deal with a dynamic society bursting at is seams to forge ahead directionlessly.

History continues to produce its list of winners and losers and, if the Supreme Court is able to understand the laws and forces of nature, it will emerge as a winner. Supreme Court and High Courts of India are court of records and have all the necessary information with it, which are public information and not a privileged one. For the essential growth of the institution, all the information must be made available to the prosumer (producer + consumer) of such information accurately, efficiently and cost effectively at the maximum speed which the Information Technology tools can provide. Supreme Court and High Courts will also have to use some of the widely vested powers in them to change the face of this profession, without the growth of which, it cannot survive as a growing institution.

Information must be made available to the judges, advocates, litigants, and public to increase efficiency, bring about awareness, and reduce the time spent by them in un-productive activities. But there is vested interest at every step, which resists every change. The vested interest is of the person who is presently holding the information under his thumb. The vested-interest also arises out of ignorance, for it upsets the *status quo* and shakes people from numb acceptance, it proposes to takes them to an unknown environment and work culture and there is a fear of

departing from the familiarity of the known. These two groups, *i.e.,* people with vested interest and the ignorant, form an odd coalition, which most find difficult to understand, but they jointly pitch themselves against all advancements. The small minded LDC is joined in its effort of resisting the change with some intellectual giants of its time, like *Duryodhan* joined by *Shri Bhishma Pitamah* to fight *Krishan*, whose sole purpose was the destruction of evil heads who were then ruling Bharat.

Our cultural mix in law has led us to adopt the legacy of the British Raj and the free spirit of America. Our courts, in spite of judicious self-restraint, gave expressions and vent to the free human spirit, but the legal fraternity has not yet been able to give up the shackles placed by the British, some of which has even been given up by the British. This split has led us to a guised development without any real sense of direction or dedication to the profession. A split personality will never make a great person and there has never been a great lawyer who is not a great person. The Supreme Court has not been able to keep pace with the change and the judiciary is finding it difficult to make an effective contribution in the changing socio-economic structure brought about by the third wave.

The impact of IT on Law

The Law Colleges

In a world changing by the minute, lawyers cannot be trained and prepared to limit their role to find law and argue cases, but they will have to be trained in managing people and businesses and also solve problems using tools from other disciplines. Law colleges will have to stop teaching extinct laws, which may have a historical significance. They will have to explode the curriculum to include business, social sciences, technologies and beyond. Law colleges will have to fuse and combine law degrees with other professional courses. Classrooms will have to focus on reality and the survival of the lawyers in the profession and to contribute their very best in the development of the institution.

Even if one graduates with a multidisciplinary degree in law and the other core disciplines, one will still need, every day of his/her career, to focus on constant learning and relearning to keep up with the rest of the world. The lawyers will have to be aware of the new industries and trades developing around. Law colleges will have to orient students to use new technologies to improve practice and efficiency. Organisational psychology and the development of large law firms will change the trial style and court functioning. Thinking like a lawyer and litigating every issue is just isn't going to be enough.

The Client

Lawyers who are used to shaping the needs of their clients will have to get used to having their work defined by the client. Increasingly sophisticated consumers have in-house lawyers who successfully define and manage their routine work. Client caprice will zap even good firms into oblivion. Public Corporations, Industrial houses and litigants exploring new growth will no longer limit their access to the lawyers in the vicinity, the availability of lawyers round the clock will be significant. The market guides solos and firms to position themselves based on the evolving needs of the marketplace. Lawyers will have to develop the keenest ear to the market, to win.

Lack of chambers and well-equipped libraries to carry out meaningful research will loose its significance. Client will appreciate the speed, efficiency and cost at which legal services are provided. Government, corporations, industrial houses and individuals are the clients for lawyers. Their growth will has a direct impact on the development of the legal institutions.

The Lawyers and their firms

Law, once a calling, is becoming a highly specialised business. Lawyers who nurture the profession's fine tradition of intellectual and human excellence while keeping a keen eye on the bottom line (a bottom line that contemplates the value of humanity, knowledge, caring and cooperation) will forge ahead. Graduating from a named law collage, joining a Senior Advocate or law firm with influence, or a career marriage will not shape the rest of anyone's life as a lawyer. When the public's average legal needs begin to be met without the involvement of a lawyer, the exploding legal population will have to be watched and the competition will become harder.

Large firms are opening offices throughout the world to follow the internationalisation of capital, clients, cultures and the signing of GATS. Though we are resisting their advent, indirectly, many of them are already operating and sooner or later, all those who matter will be here. The Internet allows advocates in the USA, China and India to hold video conferencing with their clients in Japan for litigation in Singapore. Instantaneous communication powers a practice, with scant regard for time or place. As a global communicator, the web reaches every village and office and there is going to be an explosion of information. Businesses will rise and fall overnight, fueled with energy and imagination and, therefore, the old models of capital, tradition and planning will undergo radical change.

Law firms will have to look forward to professional non-lawyer managers, experienced paralegals, or MBAs. Hourly billing and per appearance fees (even for

non-effective hearings) will be challenged. It is not long before it will be declared as foolish to assume that the value which advocates can sell is the time they spend doing something, charging conference per hour and per appearance. Multidisciplinary practice will expand the value of advocates' work of clients. What does a multidisciplinary practice hold for lawyers and law firms that could improve the quality of life and the service provided to clients will require deeper analysis.

The most valuable thing for a law firm will be the minds and the wisdom that came from all the hard-works experience. There will be no money in the ability to resell work product. Capturing and preserving new technologies and giving new meaning to the concept of leverage and managing information will make money. Lawyers will not be able to resell information that is free on the Internet. Lawyers no longer will be paid to do technical work or merely filing cases that can be performed by artificial intelligence or no intelligence. Lawyers will be paid for their wisdom, experience, and care, strategic and tactical skill. Lawyers must become owls, not falcons. Successful lawyers will become competent entrepreneurs, capable of running a business, managing multidisciplinary projects and developing new work, helping clients how not to litigate and litigate successfully. Telecommunication from home and elsewhere, resolving the problem of city crowding, parking, pollution and road jams is on the anvil.

The Application of IT to law

The process of litigation is creative for judges and advocates, decisive for litigant, educative and informative for people who wish to be aware of various dimensions of inter and intra-human expressions and interactions, their rights and duties, entertaining for the public in general, and a source of plugging holes for legislators. This activity also acts as a process of balancing powers and the real purpose continues to reach justice by the process of dialectics. Since the objective of every litigant is to win the case and to get the best professional help to achieve the said objective and it is for him that 'the bells toil', all necessary information must be instantaneously available. Information must be available relating to:

1. The advocate who is an expert in the field of that litigation or consultancy. But this eliminates touts and middle-person as they have a vested interest in the non-existence of this information. These people find support from conservative groups, finding their roots in the British Raj, who resist specialisation and advertisements. The UK has already changed its Rules.
2. The listing of the case - the e-cause list - terminal, weekly, tentative and daily, so that the track may be kept independent and irrespective of the

advocate / advocate-on-record's efficiency. The clerk of the Advocate and AOR has a vested interest and will resist this change, though more time and money may be spent on FAX, phones, and telecommunication. (Supreme Court, Delhi and Karnataka High Court lists are already available).

3. The issues pending before the court must be made available to public. Advocates who specialise in similar order briefs, along with a court reader who holds expertise in keeping information on orders made by the Court in diverse litigation, have a vested interest.
4. Judgments - All proceedings, orders and judgements in the Supreme Court and the High Courts must be available free of cost on the web using neutral citizen. Not only this data must be available, but also it must relate and be interactive with the existing data and judgements in other countries. This will eliminate errors and delays and hasten the decision-making process. It will also be a major human energy saver. But the clerks in the library and in the office of the advocates, advocates on records, every private law report publisher, and the printer have a vested interest and will resist any such development. They will be joined with those intellectuals who are not yet used to surfing the net.
5. Statutes: Everybody is presumed to know the law, more so the Judges and Advocates. It will be no answer that a case was decided because a certain statute and its amendment was not placed before the Court by the advocate. Non-availability of relevant Acts, Rules, Orders, Circulars, etc. is a source of great irritation and tension when it is not available and impedes the decision making process. Statutes are amended again and again without going back into its history and contemporary analysis because it is difficult to keep track of all the state and central acts, rules, regulations and also those framed by the statutory authority every day.
6. Contemporary thoughts and their analysis and researched material - The basic idea of carrying out legal research in colleges, legal institutes and bar associations is to encourage academics. In all-important matters, the pleadings, submissions, arguments, research papers must be invited from, academicians and research scholars and the same must be available for other users. Para legal services must be created to support the infrastructure and specialisation and super-specialisation in the legal profession must be encouraged. The law research industry is already grossing US $ 600 million globally, it will soon reads a trillion dollar.
7. The majority of the public reflects the true human nature and avoid litigation, they consist of prudent, law-abiding, good-natured beings for

whom litigation, the process and the decision is a source of information, a news item and an entertainment - part of daily gossip at coffee clubs. They want law and order to prevail and that the guilty be punished, which enables them to develop a sense of security and feel good, News and media and politicians who thrive on a vote bank have a vested interest in the lack of information on real issues, thread bare details and a well-reasoned analytical approach. The media will need some news to tell people, let it be the correct one. If artists stop painting, some will still paint, only that it will not be as beautiful as it should be. The court must contribute their best to make all information available to all.

All these changes will happen quickly. Judges, and advocates trained to anchor decisions to precedent will have to respond to a future that is not a straight line from the past. The legal profession has produced national leaders and some finest practitioners, but not many leaders for the bar who think for the bar and the legal institution. If the legal industry has to survive with dignity, some leaders will have to emerge. These leaders will not have to work in the direction of what the bar desires, but what the bar needs.

If we are able to widen our vision and sow the seeds for the coming legal generation without prejudices and restrains, there is nothing that can stop the Indian legal system and the Supreme Court of India to enter in the new millennium well equipped to meet its challenges, which it is going to face without any choice.

* Published in SCBA Golden Jubilee Journal

SCAORA Journal

10.01.2000 (Editorial)

Author's Bridge *– In 1999, as Vice President of the Supreme Court Advocate-on-Record Association, I helped bring into existence the SCAORA Journal – a publication to commemorate the Golden Jubilee of the Supreme Court of India. It was an act of institutional faith at a moment when my faith in the institution was itself under strain. The Advocate-on-Record is the person most intimately connected to the Court's functioning — the one who files, the one who appears, the one who, in the truest sense, keeps the machinery of justice in motion. To give that community a voice in its own journal was to insist, quietly but firmly, that the institution had a living conscience and a capacity for self-reflection. That insistence was itself a form of hope – a refusal to accept that the mistress was already beyond redemption.*

The institution of Advocate-on-Record is a creation of the Supreme Court of India under the Supreme Court Rules framed by it. Nobody has felt the power

and passion, creativity and glory, fumes and fury of the greatest institution of this country more than the over 1000 Advocates-on-Records who have practiced and are practicing in the Supreme Court of India since 1954. Nothing could have been more apposite to and contributory by the SCAORA, then bringing out the 'SCAORA Journal' to commemorate the 'Golden Jubilee of the Supreme Court of India'.

We also feel proud to read and share Justice Michael Kirby's thought while dealing with a judgement of the Supreme Court of India in *S.N. Mukherjee v. Union of India (1990) Supp. 1 SCR 0044*, glorifying the first Advocate-on-Record to become the Judge of the Supreme Court of India – Justice S.C. Agarwal (as the 103' Judge) with the following words:

> *"… The* (S.C. Agarwal J.) observed that, even in the High Court's decision, the duties cast on judicial decision-makers were affirmed. Agrawal J. did not read the opinions in the High Court of Australia as wholly excluding the expansion of the common law duty to provide reasons to various administrators according to the common law. Perhaps future decisions in Australia will demonstrate that his opinion was precedent" *(Supreme Court not infallible-Essays in Honour of the Supreme Court of India-p.77)"*

Bringing out of this 'SCAORA Journal' is yet another effort of SCAORA (in the series of events that may follow) to bring about a synthesis of information and knowledge to enable us all to jointly meet the challenges of the e-age and the transformation which it is bringing to our 'life, law and other things'.

SCAORA Journal Release by Justice K.G. Balakrishnan

15.09.2000 (Closing Remarks)

Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India, Mr. Altaf Ahmed, Additional Solicitor General of India, members of the Executive Committee of Supreme Court Advocate-on-Record Association on the dais, dignitaries and member of the legal fraternity.

Dharm and *Adharm*, thesis and antithesis, divine and demonical, knowledge and ignorance are contradictions inevitably existing in the world around us. Creativity, progress, development, harmony and peace will always be thwarted by destruction, wars, terrorism and crimes. A few emotionally and intellectually imbalanced and charged people with dangerous motives, will always continue to exist and never allow peace, harmony and a happy living for people who wish to spend their life with their friends and family. The fight between people who wish to discharge their duties and earn their rewards and those who will exploit and manipulate others and live on others' labour will ceaselessly continue to exit, the form will change, the faces will change. It is a crime, to suffer exploitation silently,

seeing exploitation to continue and be a part of exploitation. The laws are made, the courts punish the wrong doers and the advocates endlessly work to restrain and limit this suffering and exploitation, physical, emotional and intellectual.

Since the world has moved from agricultural to industrial to the age of information and knowledge, the crimes have also changed their nature and impact. In the agricultural age, a single agriculturist used to individually use shovels and the crimes were committed using bands, knife and swords, one man fighting one man. The Industrial age led to mass production and came the creation of machine guns and bombs, resulting in mass destruction of person and property by a group of people. In the age of information and knowledge thefts are being committed on a much larger scale by a faceless, nameless single individual. The 'I love you' mayhem caused 5 billion dollars' worth of damage to Companies like Microsoft, Amazon.com, Yahoo.com, and buy.com within a span of a few days. Cybercrimes will range from illegal or deliberate network abuse and frauds to mere annoyance, unfair deceptive acts or practices effecting economies and a peaceful existence in privacy. Criminals are basically a weak, frustrated, depressed and depraved lot and mostly look for easy victims in the 'Cyber world' who desire to 'get rich quick' and, therefore, they fall into their lucrative trap or try to exploit big economic giants to establish their superior genius.

Learned, Additional Solicitor General, in his characteristic style, brought phonetic coherence between Cyber Crimes and Khyber Pass. He explained the difficulty of prosecuting criminals, jurisdictional issues, the necessity of skilled Computer Crimes investigators, meaningful computer regulatory laws, and the necessity of Courts to brace themselves for moving into technological computer issues. He brilliantly expounded the issues, which may demand extension of Article 21 and 19(l)(a) because the Government will have to legislate the crimes in the new environment, assign punishments, prosecute and punish criminals, but also closely safeguard and watch the rights of every citizen and our Additional Solicitor General will have to labour hard as interestingly courts are more concerned about the rights and civil liberties of criminals then commoners and are in the process supported by human rights activist.

Mr. Justice Balakrishnan, who will have to deal with these issues for almost a decade and, as Mr. Altaf Ahmad puts it, 'shoulder the responsibility of leader of the judiciary in India from the year 2007' has given us a great hope that we will be able to detect and combat computer crimes. His Lordships succinctly dealt with the historical development of the computer, the new way of life which the Information Technology has brought to us and the way working has changed from a traditional paper document piling office and oral negotiations to a paperless office and electronic commerce. His Lordships dealt with the development of 'Cyber

Space' and definition of 'Cyber Crimes' and that same resulting in theft of money, ideas and thoughts of people in a virtual world. There have been frauds relating to Credit Cards, A.T.M., Electronic funds transfers, there have been misappropriation of funds, people have tried to get into personal computes, encroach on privacy and copyrights and there have been hackers and perverted people distributing obscene material. The impact and effect of the virus, particularly to a lawyer's office, is alarming.

His Lordship and Additional Solicitor General were kind enough to deal in detail the I.T. Act, 2000. The crimes enlisted therein, amendments of other statutes brought about by it and finally the existing limitation of the law enforcement machinery, which is also well established. But, we have the hope and that will keep us working with dignity, combating 'Cyber Crimes'. Nibbling crimes in the bud will be only possible if, Government, business houses, consumers and law persons combine to combat them.

SCAORA has published its inaugural issue of SCAORA. Journal to commemorate the Golden Jubilee of the Supreme Court of India and we are beholden to our Lordships Mr. Justice K.G. Balakrishnan, to have kindly consented to release the same. The basic purpose underlying the publication is to voice the creative existence of an institution, the AORs, who in the very nature of things are most closely associated and affected with the greatest institution of this Country the Supreme Court of India.

Lawyers and Wireless Application Protocol (WAP)

29.09.2000 (Article)

Neither one of us is able to think nor able to fully appreciate all the uses of a new technology until we have our hands on it. But, once one starts using it, one cannot- live without it. This has continued from the discovery of fire, to the wheel, to electricity, to silicon chips. In June 1997, the WAP Forum was formed by Ericsson, Motorola, Nokia and Unwired Planet and on 14.06.2000, the Indian WAP Initiative was launched. As an indivisible part and process of globalisation, India is taking the same route in technological development as the counterpart in the US and more so when it relates to the commercial and professional world. The Indian legal system is a few years behind in technological usage, but there is always a possibility of a quantum jump, which may bring us to the fore.

World over (except in India), the lawyers love affair with book based research officially ended about 15 years ago (1985) when Lexis and Westlaw in USA, CURS (Computerised Legal Information and Retrieval System) in Australia, LAWNET in Singapore and other similar organisations, with full co-operation from Govern-

ment and Courts, developed computer based research tools for judges, lawyers, academicians and litigants and large law firms switched over to meet the expectations of their clients in an e-age developed interaction. The global issue relating to Law-IT is, whether lawyers will now be able to leave their desks and computers, as the legal research go wireless, along with the commercial world using WAP.

Some time back, Motorola, Westlaw and Ideas Corporation had teamed up to develop and start a software platform called 'pocket paralegal' which enabled legal research to be performed using a Motorola page writer pager. Westlaw was thereafter looking to port its data on wireless devices with Microsoft-driven PCs RMI, Black Berry and Rocket-e Book. But Motorola and Westlaw have decided that more research and testing may be needed to cater the needs of:

- 1 billion mobile (Phone, PDA, pagers) users by 2002.
- 650 million mobile phone users by 2002.
- 30 billion US$ e-commerce market by 2002.

The lawyers are divided as always. The opinion on one, side is that data like this will prove to be very useful to judges, lawyers and litigants specially when a judgment is unexpectedly referred to during the course of an oral arguments and may also be very handy in hotels, airports and automobiles where it is difficult to stay wired and when the user is thinking on her/his legs or dealing with an opinion.

The other side thinks that remote excess of law may not be required, for it is not often that one needs to do is a immediate legal search in the courtroom and the hallmark of every good lawyer is over preparation. Photocopies of important judgements accompany senior lawyers in every case and at one point of time, advocates were prohibited to refer to judgements not listed to in the statement of case. It is also felt that services provided may not be available at a cheap rate.

However, the greatness of every technological advancement is to bring about efficient, accurate and cost-effective tools which can help the professionals to perform better in the social system. How lawyers will use the new IT tool and what advantages it is going to give to them can only be fully used and exploited after the technology is put in full use. As such, those who are willing to give it a try, think that remote legal search is really a great idea.

The basic difficulty which Westlaw, Lexis, Findlaw and other similarly situated 'Judgment Text Hyperlinked Databases Search' are finding is that they are basically using an industrial age 'book form' to an e-age research/speed and, therefore, the result are haywire/chaotic. The most powerful e-age tool is, therefore, to provide a judgment retrieval system based on the Interlinking Database. There is a clear possibility of availability of text of judgment, catch word, judgment on a

particular section of a statutes, follow up/ citatory, or shepherding, or by name of a Judge available through WAP technology at a throw away price. The change is inevitable, it is only a matter of time, how soon it will be done or how much time it will take for the lawyers in India to make full use of Information Technology to their benefits and in turn, to the social system.

Seminar on Cyber Laws

10.11.2000 (Article)

The backdrop

The right to life enshrined in Article 21 means something more than mere survival or animal existence. It includes the right to live with human dignity — all those aspects of life which go to make a man's life meaningful, complete, and worthwhile, including his tradition, cultural heritage, and protection of that heritage in its full measure. The potential of the Internet to inform, educate, entertain, conduct business, and transmit information on a global scale is considerable; it has also become a powerful influence in the social, education, legal, and cultural fields. The Internet empowers citizens, educators, and lawpersons by removing the barriers in the creation and distribution of content, offering universal access to ever richer sources of digital information. But the rampant misuse of such technology has brought pornography and obscenity to the doorsteps of all and sundry.

Earlier to the industrial age, in the agricultural age, the society in a village was less complex and commercial relationships were more direct. Every man's word was his bond and any failure to perform the act or deliver the consideration was known in the entire village. Nobody wished to be socially ridiculed, and persons who habitually broke promises were socially ostracised. Therefore came the golden words:

"Raghukul neeti sada chali aai, paran jaai per vachan na jaai" (From Ram's ancestor times, it is the policy that one may die, but promises will not be breached)

The contract was affirmed by a physical touch – either embracing or a handshake. The relationship was based on barter. The contract and its breach had to be established by oral evidence before the king or the village panchayat. Sri Ram and Sugreev entered into an agreement where Sugreev agreed to help Sri Ram to find Sita.

It was a treaty between representatives of two different communities and was entered into by embracing each other. There were no advocates and no written document. Another legal issue which arose in that episode was whether Bali was given a show cause notice before Sri Ram killed him without fighting him. The answer is yes: the *'mala'* given by Sri Ram to Sugreev was a due show cause notice

to Bali that he must surrender and explain his misdeeds, or he would be executed. There was complete adherence to the principles of natural justice.

Around 1770, after the first War of Plassey in 1757, when Indian 'loot' was used as British capital, the society moved into the industrial age and became complex, and its commercial relationship diversified. Courts, paper, pen, and ink came into existence. Both the Contract Act and the Evidence Act came into existence in 1872 – almost a century after the beginning of the industrial age. These laws, which are still in existence, were all creations of the industrial age and, therefore, incapable of meeting the challenges of the new cyber age.

Around 1955 came the Information Technology age and changed the way people live, the way they transact their business, and the nature of their commercial relationships. In the new age of the paperless office, where information moves at great velocity and deals are fast concluded, lawyers, laws, and judges will have to keep pace with it.

The advent of computers, the internet, and new technology has neither changed the attitude nor the approach of the people, nor the legal principles that are going to bind them, but has changed the way people are carrying on their business and the speed at which transactions are taking place – without people coming in physical contact with each other, through video conferencing and using digital signature. Cyber laws are being legislated to legalise the relationship, and the courts will try to do justice between the parties by applying laws to the facts in a manner that results in a situation where a person is not benefited by its wrongs, and the person wronged is duly compensated.

The Internet today is the fastest, cheapest, and easiest mode of communication available to the world. It is a giant network which interconnects innumerable smaller groups of linked computer networks – a network of networks. This amalgam of computers and computer networks, some owned by government and public institutions, some by non-profit organisations, and some privately owned, lacks any central control or supervision. The resulting whole is a decentralised, unrestricted global medium of communication – 'cyberspace' – which links individuals, institutions, corporations, and governments around the world.

The greatest achievement of the Internet, and the basic reason for its very wide acceptance, is its breaking down of all human-created barriers in communication – colour, caste, age, religion, sex, geographical location, political leanings – and that is Article 14 in its actual application. The acceptance or rejection of any idea, information, or data depends upon its content alone and its utility to the development and growth of human civilisation. Cyber laws are developing because of the new and unique legal issues that arise from the use of computers and the Internet – a multidisciplinary area encompassing contract, tort, copyright, employ-

ment, trademark, constitutional law, banking, criminal law, and civil procedure.

New Agreements of the Information Age

The industrial age dealt with agreements like personal and employment-related agreements, consultant and contractor agreements, and sales, re-sale, and distributors agreements. The new technology has brought new forms:

- Non-disclosure and confidentiality agreements
- Annual maintenance agreements
- Software development, software licence, and software maintenance support agreements
- Source code escrow agreements
- Shrink wrap and click wrap agreements

Shrink Wrap and Click Wrap Agreements

A peculiarity of software is that it cannot be sold in the strict sense. On account of its intrinsic value and the ease with which it can be duplicated, the rights of the developer are in serious jeopardy. The alternate mechanism, therefore, developed was to licence the software instead of making an outright sale. By licensing the software, the holder of the copyright could control the manner in which the software was subsequently utilised. The doctrine of 'first sale' was negated, and the software developer took care that the person purchasing the software was contractually bound by certain conditions and limitations. This gave rise to shrink wrap and click wrap agreements and litigations. Since the identity of the parties was not known, the shrink wrap licence agreement is packaged along with the software. By tearing the shrink-wrap or clicking the mouse on the net, the user is deemed to have agreed to the terms of the agreement.

Since the user normally does not take the trouble to examine in detail the terms of the agreement, there is litigation if the software does not work to expectations. In *ProCD* v. *Zeidenberg* (86 F 3d 1447), ProCD discriminated in the prices depending on the user – ordinary or commercial – but contained a shrink-wrap agreement relating to a copyright clause which prevented duplication of data in any other form. Zeidenberg used the commercial database to create another larger database. ProCD sued Zeidenberg. The Court of Appeal upheld the shrink-wrap contract on the following basis:

- The purchaser had at the time when he gave his assent to the contract, notice that additional terms existed;
- The purchaser had the opportunity to review the terms of the licence; and

- The purchaser was allowed the opportunity to reject the terms, return the software, and obtain a refund if he thought the terms were objectionable.

Proof of Document and Electronic Evidence

Since the essential feature of the definition of documents in the Indian Evidence Act is that it comprises, matter expressed and described on any substance, by no stretch of interpretation will the same include electronically stored data in a computer. It was, however, possible to present a computer printout of electronic documents as evidence, which may also contain a digital signature. Section 61 of the Evidence Act deals with proof of contents of documents; Section 62 with primary evidence; Section 63 with secondary evidence; and Section 65 with cases in which secondary evidence relating to documents may be given. The IT Act, 2000, has tried to create certain presumptions with regard to electronic documents, because a computer print out of electronically stored data cannot be held to be primary evidence. Section 65B, inserted in the Evidence Act 1872 by Section 92 of the IT Act 2000, has tried to eliminate the error by legislative amendments.

The Question of Person and Jurisdiction

Until computers arrived, only people could agree to a contract. With the growth of electronic commerce and automated systems, however, computers that talk to one another across networks can enter into agreements without human intervention. Orders are placed by computers directly to other computers. What happens when the computer makes a mistake and orders a hundred burgers instead of one? New laws will have to be made to handle these revolutionary situations.

Jurisdictional questions are equally challenging. If a contract is executed at the same time between parties in India, Australia, America, and England, it may be 11.00 a.m. in India, 5.30 a.m. in England, 3.30 p.m. in Australia, and 11 p.m. in the U.S.A. on an earlier day – and each computer printout will give a different date and time. Similar problems will arise relating to the sending and receipt of emails. Does the mere fact that a website can be viewed from anywhere in the world give every court jurisdiction? The answers are unclear and developing.

Since the world has moved from the agricultural to the industrial to the age of information and knowledge, the crimes have also changed their nature and impact. In the age of information and knowledge, crimes are being committed on a much larger scale by a faceless, nameless single individual. The 'I Love You' mayhem caused five billion dollars' worth of damage to companies like Microsoft,

Amazon, Yahoo, and Buy.com within a span of a few days. Cyber crimes will range from illegal or deliberate network abuse and frauds to mere annoyance – unfair, deceptive acts or practices affecting economies and a peaceful existence in privacy.

The Internet is a dynamic entity and has changed at a very fast speed in the last five years and will change dramatically in the next five. It will be absurd to restrain the development of technology merely because some people find it difficult to run with it. The Advocates, Courts, and Legislators will not be able to limit the development of new technology – they are there only to prevent illegalities and compensate those affected by breach of contract, not to throttle business.

Dharam and *adharam*, thesis and antithesis, divine and demonical, knowledge and ignorance – contradictions that will inevitably continue to exist in the world around us. The Advocates, Courts, legislators, academicians, and intellectuals will have to join together to meet the challenges put forth by the cyber age.

*Organised by Adhivakta Parishad, Delhi

Computers and Internet – Utility in the Legal Profession

27.11.2000 (Article)

India, with over 700,000 enrolled members of the Bar, constitutes the second largest strength of advocates in the world, the largest being in the USA with over one million. But we do not command the professional respect of our counterparts in the USA, where it is the richest profession. There is a massive demand for professional legal services and a huge area of unmet legal needs of the society on one side, while advocates are unable to get the professional satisfaction of contributing their best to social change and national development on the other.

Delay in the decision-making process, in disposal of litigation, and mounting arrears have further dampened the image of advocates in the social system – though legal help is sought by every other individual of the society. Everyone needs advocates, whether the issue relates to sale, mortgage, gift, will, revenue, tenancy, or acquisition by an agriculturist; licences, labour, excise, rent, family law, service law, or taxation issues of the industrial age; or joint ventures, mega contracts, intellectual property rights, computer frauds, and freely available adult material of the e-age. Solo advocates or family law firms are unable to work efficiently, accurately, and cost-effectively, particularly because of a lack of specialisation, inability to ensure competence in legal knowledge as a result of dilution of standards in law colleges, absence of continuous legal education, legislation explosion, over- population of judgements, and absence of IT tools – or, where available, the inability to use them.

Except for a few advocates at the top, advocates generally are unable to charge

and get the right value for their time – and when they do, they have to do it indirectly, which disintegrates their personality. Cases are received from relatives, friends, and close associates, and it is difficult to tell them the real value of an advocate's time. A vast majority of legal professionals are struggling to make their presence felt and spend a major part of their professional life in creating infrastructure. But we are now crossing that stage as the next generation has come on or is on the threshold. We will have to move ahead and make full use of the latest technology for our profession.

There is, and always will be, a need for well-trained legal minds, conversant with using the latest technologies, with the right human material and perspective. Change shall come if we have better coordination amongst ourselves, widen our horizons, and help each other – even our opponents and the judges – to perform as better professionals. We are all here to make money through our profession in the most esteemed and dignified manner and to serve law and justice. Let us all get well conversant and better equipped with the best available IT tools – and create better tools if there are none.

Using Computers and the Internet in Legal Practice

1. Typing of petitions and documents – Word processing: easy to correct, neat and clean, multiple copies, memory.
2. Word search in pleadings and depositions.
3. Judgment retrieval – Legal Data Retrieval Systems: AIR, SCC, JURIX, JUDIS, Spot Law, US Supreme Court, All ER.
4. Central and State Acts, Rules, Regulations, etc.
5. Articles, speeches, and other data – latest on any subject.
6. Office Maintenance Software – PLEA (Professional Lawyers Electronic Assistants), accounts, and speech recognition software.
7. Internet Global Search – USA, UK, Australia, Singapore, Canada, and other Commonwealth countries for all data in items 4 and 5, and international conferences.

On Eve of the retirement of Justice M. J. Rao

30.11.2000 (Address)

Author Bridge: *Justice M.J. Rao retired from the Supreme Court of India on 30.11.2000, having served as its 128th Judge. He had been elevated to the Bench of the Andhra Pradesh High Court on 29.11.1982 at the age of approximately forty-seven years – a relatively early elevation that spoke to the quality of the mind and the reputation that*

had already been established at the Bar. His tenure at the Supreme Court, spanning three years, eight months, and eleven days, was brief by the institution's standard – yet it was dense with the quality of judgment that the institution requires at its finest. Every advocate who appeared before him carried away the same impression: here was a judge who had done his own thinking before the matter was called.

He did not wait for the arguments to construct his understanding; the arguments were invited to refine and test an understanding that was already engaged. That quality – of independent pre-engagement with the material before the bench – is rarer in a judge than it ought to be, and more valuable than it is commonly acknowledged. The advocate who appeared before Justice Rao knew that he was being heard by a mind fully present to the problem. Beyond the bench, his visionary paper on the financial independence of the judiciary – presented to the Law Commission of India – planted seeds that the institution has yet to harvest in their fullness. It was delivered at a farewell organised by SCAORA at the India Habitat Centre, New Delhi, that I had the honour of speaking on behalf of the Association.

Farewells are always painful, particularly from those with whom you have been sharing the workplace for years. An occasion like this is also reflective, for it gives one a chance to realise the existence and contribution of a personality, more particularly when it relates to not so common, Justice M.J. Rao.

Judges combine in themselves the popularity, the comprehensiveness, the venerability and the human dignity as contradistinguished from any other profession in the world. The secret of respect in which we hold our judges is not in their robes or in the ceremony which surrounds their office, but in the fact that we feel that they possess a balance, open, analytical and scientific mind, working within the parameters of self-imposed restrictions and limitations. It is a stupendously difficult and onerous task to banish from the mind the natural prejudices to which human nature is prone and reserve any decision until the last argument is heard.

It is indeed a quality of mind which takes years of labour to reach its full maturity and Justice M. J. Rao had reached that stage quite early when he was elevated as a Judge of Andhra Pradesh High Court on 29.11.1982, at the age of about 47 years. He was subsequently elevated to the Supreme Court as the 9th Judge from the Andhra Pradesh High Court and as 128thjudge of the Supreme Court of India and had a short tenure of 3 yrs,8 months, 11 days. We wish he had more. With Justice M.J. Rao on the bench, the Court radiated with his personality and class, everyone felt his uniformly serious and dignified bearing and very courteous manner while he was carrying out an arduous duty and significant task and that was the reason he was able to get the best out of us, which was always to be the best as he wished, for he needed much more assistance to exhaust his insa-

tiable desire to lay down a solid brick which can be helpful to lawyers and litigants in times to come. He always radiated a very strong independent factor.

His reasoning was always logical and dictions exact almost to perfection and the judgements were delivered after deep self-research and will always be available to us as valued precedents. His humility, humbleness, simplicity, a sternness of unbending character and intellect, a natural urge to do complete justice, will be long cherished by us all. The lawyers are not a very happy lot, but one thing is certain, everybody left his court feeling that he had been heard, law had moved forward and justice had pervaded.

Apart from his outstanding judgements, his report to the Law Commission of Indian and his visionary paper of 'Financial Independence of the Judiciary, Court Services and Plan' has sown the seed for rejuvenation and reconstruction of the Indian Judiciary. If implemented in its spirit, it will bring about the necessary, significant and long desired change in the Indian Judiciary.

May I, on behalf of this august gathering, executive members and the members of the Supreme Court Advocate-On-Record Association, convey out most sincere, affectionate and warm wishes to Justice M.J. Rao and Mrs. Rao and wish them good health and a long, active life for many, many yearsto come.

*Organised by SCAORA at India Habitat Center, New Delhi

Symposium on Evolving Legal & Regulatory Framework Governing Information Technology

17.03.2001 (Address)

Author's Bridge: *The earthquake at Bhuj in January 2001, which had killed twenty thousand people and injured one hundred and sixty thousand more, cast a long shadow over the early months of that year. When I was invited to speak at a symposium on the legal framework governing information technology in March 2001, that image – of man-made structures collapsing on human beings – was still immediate. It seemed to me the right metaphor for what was happening in law. The structures built in 1872 were collapsing under the weight of a digital world they had never imagined. The question was not whether they would collapse – that was inevitable. The question was whether we would build new structures in time or allow human beings to be buried under the debris of institutional inaction. That question – the gap between the speed of human change and the slowness of legal adaptation – is at the heart of what later became Legal Revolution 5.0.*

Earthquakes don't kill; buildings or superstructures do" was what we heard and shook us all in the beginning of this year. It shook us all because everyone realised that it is the man-made structures that create problems and lead to the

destruction of human beings. When men made structures shake and fall, people get buried under the debris of the structure created by beings themselves. The only way to survive earthquakes is to regulate and control our own creations, always aware of the fact, that nature will create epicenters to test human creations. The fundamental principles for regulating Information Technology is being governed by similar parameters, the mode and the methodology will, however, change and will depend on the vision and capacity of those who matter. If man is able to regulate its creations better, the destruction will be lesser.

Another fundamental principle to be remembered is that, it is not Information Technology that is being regulated or controlled, but what is being regulated is the exploitation of human beings by other fellow human beings, while they are interacting in the IT age. *Dharam* and *adharam*, thesis and antithesis, divine and demonical, knowledge and ignorance are contradictions inevitably existing in the world around us. Commerce, creativity, progress, development, harmony and peace will always be thwarted by breaches, destruction, wars, terrorism and crimes, which we have to control and regulate. Few people in advantageous situations and a few emotionally and intellectually imbalanced and charged people with dangerous motives, will always continue to exist and never allow peace, harmony and a happy living for people who wish to spend then life working hard and enjoy its fruits with their family and friends

The fight between people who wish to discharge then duties and earn corresponding rewards and those who will exploit and manipulate them and the fruits of their labour will ceaselessly continue to exist. The Government, its long arms and the intellectuals who co-operate with them try to minimise and reduce this exploitation by providing a necessary legal and regulatory framework.

It took electricity about 101 years before it reached 50 million people. Radio took 38 yrs. TV took 13 yrs. and the Internet just 4 yrs. to reach the 50 million benchmark. IT is helping human being in their fight against ignorance and that is very critical. This achievement of the Internet and the basic reason of its very wide acceptance is its ability of breaking up all human created barriers like colour, age, race, religion, caste, sex, geographical location, political leanings, language, currency, etc. The acceptance or rejection of any idea, information, data, concept, music, photograph, painting, etc. is its content alone and the value worth of the content is determined by its utility to the development and growth of human civilisation. The electronic movement disseminating information and creating values knows no boundaries and is exposing everyone at a speed unknown here to before. In this race, the people with content or content provider will ultimately win the race.

Democracies are places where-rich make the laws and laws govern the poor

and, therefore, one will have to closely supervise the regulatory measures which effect the direction of flow of money. Whether the money flows to the privileged ruthless exploiter having means of production under its control, or to the manipulating middleman working on contact and drink-dinner diplomacy, or to the hard-working creator passionately burning his night oil. The mantra of globalisation has created possibilities, for the first time, in development of human race, to put the hard working intellectual in the driving seat, where he can claim fruits of his labour directly from those who use it, without interference of those who only create impediments in his creativity and charge tax or license fee from him to allow him to vent his ideas, to develop a product or creation for others to get efficient, accurate and effective services at cost effective rates. All regulations will, therefore, have to keep this clear objective in mind that they in the garb of controlling and regulating, do not fall in the trap the pseudos. The ray of hope is because it is the intellectual themselves who will have to regulate and defend his creation.

The advent of computers, the internet and new technology has neither changed the attitude nor the approach of human beings but has changed the way they are and can run their business and the speed at which the transactions are taking place, without people coming into physical contact with each other, through e-mail, video conferencing and the use of digital signature. The impact of IT is also felt on the emotional and physical relationship of human beings with fellow beings and is also restructuring the family, effecting personal and family laws. The laws are legislated to spell out the nature of these relationships so that they become acceptable to the courts to enable courts to do justice between the parties by compensating the wronged and punishing the criminal when the need so arise and it arises so often, helping lawyers to flourish

The effort of a model law by UNCITRAL was felt to harmonise international economic relations while using IT for electronic commerce using EDI (Electronic Data Interchange) and to try to clearly and expressly spell out as to what amounts to exploitation and crime and to create a dispute resolution mechanism to compensate the exploited. The regulatory measures gave legal recognition to a multidisciplinary area that encompasses various issues, including contract, tort, copyright, employment, trademark, constitution, banking, taxation, civil procedure and criminal law and provide for a dispute resolution mechanism. Most of the basic and fundamental statutes like the Contract Act, Evidence Act, Indian Penal Code, Transfer of Property, etc. came into existence in 1862-1882 and were all creations of the industrial age and, therefore, incapable to meet the challenges of the new IT age. These Acts and Common law systems have taken the human being comfortably through the Industrial Age.

Jurisdiction Issues

Since cyberspace is not limited by physical boundaries, confusion and contradictions has plagued judicial decisions in the areas related to disputes arising as a result of the worldwide use of the internet. Inconsistencies and a lack of proper analysis of the new media marked the early cases. *Zippo Manuf. Co.*v. *Zippo. Dot Com. Inc*[1] provided for a sliding scale for measuring websites as (i) Passive (ii) Interactive and (iii) Integral. The Zippo case held that the court ordinarily, would not exercise personal jurisdiction based solely on passive websites. The interactive web site allowed forum State viewers to communicate information back to the site and may grant jurisdiction to the Courts. An integral website, however allowed user to conduct transactions from one's own State, by placing online orders, putting messages directly and making payments and the *lex loci delicti* or 'the law of the place of the wrong will apply.'

Cybersell, Inc. v. *Cybersell Inc*[2] involved a service mark dispute between two corporations, one at Orlando and another at Arizona. The issue was whether the use of the Arizona website was sufficient to grant the Court in Orlando jurisdiction. The Court held, after analysing the judgment of the US Supreme Court, that:

> *"It is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protection of its laws". The Court rejected the effects test', "because a corporation does not suffer harm in a particular geographical location in the same sense that an individual doesn't"*

In *United States* v. *Thomson*[3] sexually explicit images and tapes were offered from California and purchased at Tennessee. The issue was whether contemporary community standards of California or Tennessee should be applied. The Court held that the community standards of the geographical area where the materials are sent must be applied and held that the material to be obscene according to Tennessee standards. The Court noted that the California company was technologically able to limit user access in jurisdictions with more restrictive obscenity laws than those in California and ought not to have entered into a transaction, with members of Tennessee, for they could be judged by reference to those standards.

Press-Kap, Inc. v. *System One's Direct Access*[4] was a case of breach of a lease agreement in New York between a company in Florida and New York. The Court found that the contacts between New York Company and Florida Company were by exchange of electronic data between the computers and the Florida Court, where the computer of the lessor was located, was insufficient for personal jurisdiction. The court warned about the unfairness of allowing jurisdiction where the contracts were between computers only.

In *Panavision* v. *Toeppen*[5] a partnership company doing business in Los Angeles, California, succeeded in establishing jurisdiction over an individual residing in Illinois by relying chiefly on the 'Effects Test'. The case related to a 'cybersquatter' that had registered the Panavision domain name with the intent of extorting money. The court held that *Toeppen* had harmed *Panavision*, the brunt of which *Panavision* had to be borne in California, the heart of the motion picture, television camera and photographic equipment business.

The difficulties relating to the jurisdictional issue climaxed on 22.11.2000, by an order issued by a Judge, Jean Jacques Gomez of the *Paris Tribunal de Grande Instance,* directing *Yahoo Inc* to put a filtering system in its US website so as to prevent access by French residents to portions of Yahoo Inc. auction site offering to sell World War II memorabilia containing Nazi symbols. The court held that the U.S. website was subject to French jurisdiction simply because it could be accessed from France through a hypertext link to the French-language website. The French judge, following the recommendations of an expert panel appointed to investigate such technologies, held that Yahoo! must in three months, put a three-part system in place that includes filtering by BP address, the blocking of 20 keywords and self-identification of geographic location, failing which the company would be subject to a fine on $ 13,000 a day.

The French decision, if followed by other courts, could make material in a foreign language and not specifically aimed at the population of another country, actionable under the country's law simply because it is available there. Muslim countries can entertain a lawsuit against a French website, which features nudity and constitutes a crime in those countries. The aberrational French decision, unless reversed, could undermine the harmony and predictability of the jurisdictional questions in cyberspace. Such harmony and predictability is crucial to the flowering of e-commerce. European Union Commission in its October 2000 proposal stated "differences between national rules governing jurisdiction and recognition of judgements hamper the sound operation of the internal E.U. market"

The E.U. Commission has recommended that jurisdiction should generally be based on the defendant's domicile, but an alternative jurisdictional ground should be available if there is a close link' between the court and the action or if the 'sound administration of justice would be facilitated.' In tort actions, jurisdiction lies in the place where the harmful event occurred, or there is a risk of its occurring.

E-documents and Digital Signature issue

Since the essential feature of the definition of 'documents' in the Indian Evidence Act is that it comprises of matter expressed and described on any sub-

stance, by any stretch of interpretation, the same will not include electronically stored data in the computer. It was, however, possible to present a computer printout of the electronic documents as evidence, which may also contain a digital signature. The issue for consideration was whether there is a binding contract or the printout produced as evidence was legally, acceptable to courts.

Section 61 of the Evidence Act deals with the proof of contents of documents, Section62 deals with primary evidence, Section 63 with secondary evidence and Section 65 with cases in which secondary evidence relating to documents may be given. A computer printout of an electronically stored data cannot be held to be primary evidence. For it is a copy of an electronic data and can only be treated as secondary evidence. However, the secondary evidence can only be produced if the original had been destroyed or could not be produced. It will not be a correct fact to say that the primary evidence had been destroyed and therefore, there was a technical error in accepting any contract entered into on the net bearing digital signatures. Section 1 of the of the Second Schedule to the IT Act, 2000 amended the definition of evidence and Section 9 has created presumptions with regard to electronic documents and eliminate the error by legislative amendments.

Similarly, w.e.f. 01.10.2000, the Millennium Digital Commerce Act, or E-Sign, became federal law in the US. E-Sign establishes the general rule that a signature, contract, or other record in electronic form will not be denied legal effect solely because it is in electronic form or an electronic signature was used in forming the agreement. An electronic record of a contract will be legally binding provided that it:

1. Accurately reflects the information contained in the contract or record;
2. Remains accessible to all persons entitled by law to have access to it; and
3. Is capable of being reproduced.

Encryption, Cryptography and Privacy Issue:

Privacy is a natural, basic and fundamental right of each one of us. 1PR is one of the facets of the right of privacy. In a world full of hijackers of ideas and glory, it becomes important for the creator or developer to save the product from interception and misuse. Encryption provides a method of coding, as a result of which no third party is able to understand and use the product unless specifically permitted. But such technology, if used to carry on clandestine operation can be detrimental and prejudicial to national security.

Sections 65 and 66 of the IT Act, 2000, enumerate offences where any person violates the right of privacy by tempering with a computer source document

or hacking a computer system Recently, FIRs were filed under Section 66 and arrests of service providers were made as the service provider had stopped viewing of the web site because of non-payment of its dues. The police, unequipped to deal with such a situation and moved by the literal language of the section took action. But the action was a complete misinterpretation and misapplication of Section 66.This is the beginning to provisioning of legal regulations and their enforcement. If the cheque of an individual bounces, the court has to initiate proceedings against the person whose cheque bounces and not against the person who seeks to get his money dues. If somebody is unable to pay rent, he is liable to be evicted and at times, people have paid money to the underworld to get their premises vacated, as courts did not come to the rescue. In the IT commercial world, things are moving fast as everyone is seeking to make more money by spending his money and energy. The service provider does not wish to involve into court technicalities to run its business;it will stop providing service and no court will be able to hold its action as illegal.

The Internet is a dynamic entity and has changed at a very fast speed in last five years and will change dramatically in next five years. The regulation of such an entity by legislation will require a legislature that is capable have promptly and efficiently make new laws to meet the changes. It will too much to ask any political systems to efficiently and appropriately regulate the internet. There are realms where there are no laws and where there are multiplicities of laws. It will be absurd to even think of restraining the development of technology)' or the human race merely because some people find it difficult to understand or run with it.

1.952 F.Supp.1119, 1124 (W.D. Pa. 1996);

2. 130 F.3d 414 (9th Cir.1997),

3. 74 F.3d 701 (6th Cir. 7996);

4. 636 So. 2d 1351 (Fla. Dis. Ct App.1994);

5. 938 F.Supp.6I6

25 years of MISA Judgment

28.04.2001 (Article)

Author's Bridge: *April 2001 marked twenty-five years since the judgment in the MISA case – ADM Jabalpur v. Shivkant Shukla, 1976 – in which the majority of the Supreme Court held, at the height of the Emergency, that the right to move the court for enforcement of fundamental rights was suspended. It was considered as one of the darkest moments in the institution's history – and it was Justice H.R. Khanna's lone dissent, holding that the right to life could not be suspended even during an Emergency, that kept*

the flame of justice alive. That dissent cost him the Chief Justiceship. I had watched the Emergency as a young law student and had arrived at the Supreme Court in 1976 in its immediate aftermath. The scar was still visible on the institution when I first walked its corridors. Twenty-five years later, it was necessary to reflect on what that moment had meant – and what it continued to mean for every advocate who believed that law exists to serve justice, not the other way around.

What is common between Hitler, Marxism and the thinning of the ozone layer. The existence of all these and several other historical events engulfed humanity and formed the basis and sub conscience forces and deep sentiments of judges' perception triggered with the right impulse when needed and developed during the judges lifetime. These issues made their impact felt in the determination of constitutional issues of far-reaching public importance of *'Mera Bharat Mahan'*. The shift from 'will of law' to 'will of judges' is natural for the role of judges is akin to *rishies, i.e.,* giving direction in the matter of governance of the country by interpreting and applying the *dharm shastras* (statutes) and keep the administration on the right track.

The Supreme Court has always been the cynosure of attention and attraction for the people and this interest has become even stronger in the past decades, which is a very desirable phenomenon. The ongoing perception that is holding the field is, government over business, industries and traders; the minority, backwards and have-nots above government and the environment above all. President Roosevelt, in his 08.12.1908, message to the U.S. Congress, stated *"The chief lawmakers in our country may be, and often are, the judges, because they are the final seat of authority."*

Every time they interpret contract, property, vested, rights, due process of law, liberty, they necessarily enact into law parts of a system of social philosophy; and as such, interpretation is fundamental, they give direction to all law-making. The decisions of the courts on economic and social questions depend upon their economic and social philosophy; and for the peaceful prowess of our people during the twentieth (now twenty-first) century, we shall-owe most to those judges who hold to a twentieth (now twenty-first) century economic and social philosophy and not to a long-out grown philosophy which was itself the product of primitive economic conditions." The appointment made to the highest offices on the basis of some connections do not, therefore, always give, desired result. In the words of Justice Benjamin N. Cardozo-

> *'Deep below consciousness are other forces, the likes and the dislikes, the predilections and the prejudices, the: complex of instincts and emotions and habits and convictions...'*

and human limitations or the faculty of rationalisation.

The facts which weighed heavily on the mind of the majority while deciding Kesavananda Bharti was Hitler (anti-Marxist - anti Jew). In the words of Justice P. Jaganmohan Reddy (a majority judge)

> *"...I, on my side, also tried to convince them (Baig and Dwivedi) that the main consideration, to my mind, was that if the amendment is without any limit, you could replace democracy with dictatorship, autocracy, or even convert the State into monarchial system. When I was in England during my student days, I followed the manner in which Hitler, though he was appointed by the President as the Chancellor under the Weimar Constitution, exercised the power of amendment to declare himself the President and exercised unlimited powers under the Constitution to convert the State into a dictatorship".*

India was similarly gripped during the emergency, under the protective umbrella of socialism and secularism, used to change pubic passions. The judges who constituted the minority in *Kesavananda Bharti* and had seen and felt the final rise of Marxism at the end of industrial age (Post Second War) as the solution to *'garibee hatao',* joined with positive thinking, committed and forward looking judges and constituted the majority in MISA Case, (everyone gets a chance to glorify himself in his lifetime for five minutes, the important factor is the (in) glorification as history). The majority judges in the MISA Case imbibed by their legal philosophy did not feel the fear of the ghost of Hitler and deposed complete and full faith in the power of the elected representatives of the greatest democratic institution and the executive.

They upheld the unlimited power of the executive, which had then risen over and above the rule of law, human or natural rights, basic structure, inherent limitation, etc. One of the greatest contributions of the MISA Case, for which it will always be remembered, is Justice H.R. Khanna's dissent, which kept the flame of justice alive in the thunders and storm around. It is akin to the existence of *Vibhishan* in Lanka during *Ravan's* regime or *Dhurv* in *Hirnakashyap's* regime and one will always wish that Supreme Court will not have Justice Khanna's opinion as minority but will have it as the unanimous opinion in times to come and never wish to review it.

Fundamental and basics are not plastics which could be molded in the fire of intense convictions of a being, they can only be applied judiciously to the approaching events and that is 'justice'. The paradigm shift from the industrial age to the electronic-information age and theory of relativity to string theory will require a deeper analysis of issues, which will continue to test 'judge's human material' as contra-distinguished from 'rhetoric intellectual capacity'.

National Conference on Legal Reforms in Infrastructure
Legal Reforms in Ports & Special Economic Zones
11.05.2001 (Address)

Author's Bridge: *One of the dimensions of this period that is easily overlooked is the breadth of the practice – the range of arenas in which the advocate who thinks beyond the brief finds himself engaged. By 2001, my engagement with law had expanded well beyond the traditional courtroom into the territory of legislative drafting, infrastructure policy, and the legal architecture of a liberalising economy. The address on ports and Special Economic Zones, delivered at a National Conference on Legal Reforms in Infrastructure, is a record of that engagement. It is also, I believe, an example of what the legal profession ought always to be doing but rarely does: looking beyond the individual case to the systemic conditions that produce it, and asking what the law must become if it is to serve the nation's development rather than merely regulate its disputes. Chanakya understood this two and a half millennia ago. It was time for those of us in the profession to understand it again.*

The Backdrop

2500 year ago, *Chanakya* in *Arthashastra* commanded *"As an intelligent person protects his farm by fencing and uses a stick to get the fruits (from the tree), similarly a king should protect the kingdom (commerce) and use resources to collect his revenues."* In subsequent maxims he cautioned that *"Public has five (5) things to fear i.e. Government servant, thief, enemy, relatives of the king (courtier) and self-indulging king"* and further that *"Just as it is not possible to know when the fish moving in water drinks water, similarly it is difficult to find out when officers employed in execution of works misappropriate money."* What was true 2500 yrs. ago is more true and relevant today in a liberalised economy, where the Government has to provide fencing in the form of a legal framework, mend it as it decays by providing legal reforms, collect revenues as taxes, fees, etc., for keeping a vigil, working as a regulator and using authority when so necessary in public interest'. All these functions become even more crucial when the Government is soliciting private investments and initiative in public infrastructure development by entering into Public Private Partnerships (PPP's).

It would be trite to over emphasise the fact that lack of infrastructure is the major bottleneck in this country's Economic development. The liberalisation adopted by the 1991 Industrial Policy has paved the way to infusion of private finances in infrastructure facilities. Progress has already been made in this direction in the fields of telecommunication, power, and roads and now in airports and ports.

The experiences of the last decade, however, establish the existence of inertia

and resistance coming from a bureaucracy which is finding hard to accept the idea of sharing power with private entities. Somehow, the NGO's and the media also end up charging public passions with distorted information. What a PIL can do to an infrastructure project is known to everyone, Narmada is one such instance. Once a stay is granted on one issue or other, there is nothing but ruin.

Lesser said is better about the kind of naked opportunism displayed by the political parties on this front, where double-standards are practiced as an art form. Somewhere in all these issues we lose sight of the central objective that this country is desperately in need of massive addition in public infrastructure to achieve any kind of viable economic development and with the existing ground realities, a synergy will have to be built with all the players - the government constituted of Executive, Legislature, Judiciary, Media the 4th limb of democracy and NGO's voicing public interest the civil society. All will have to put in a consolidated effort for the people of India. The time has come to change the basic mind set of those who matter and constitute 'Infrastructure Team India,' which will work towards eliminating controls placed by *babu raj*, remove legal cobwebs, direct law to justice and educate masses with correct information.

Indian Ports - a need to develop

Like all other infrastructure facilities, ports have always been considered to be a part of essential sovereign functions. Ports apart from being a hub of trade, vast coastlines involved security issues and the employment of a huge work force, which has been the beneficiary of the socialistic welfare State.

World Sea-borne trade recorded its fourteenth consecutive annual increase in absolute terms in 1999, reaching 5.23 billion tons. The Commerce Ministry of India has projected a volume of 0.514 billion tons of marine cargo by 2002, which will be much less than 1% of world sea borne trade. As compared to international ports, Indian Ports are grossly inefficient. They are equipped with outdated machinery, have congestion problems, are significantly over-staffed, bureaucratic involvement is all pervasive, administration is over regulated and there is chaos and inadequate facilities for handling the cargo.

A member of the Hamburg-based association of German shipping companies said: *"Indian officials, whether they belong to customs, port authorities, or any other agency, seem to think that shipping companies have all the time in the world. The delays caused to ships at Indian ports are simply catastrophic. It would not surprise me if many shipping companies decided out of sheer frustration to avoid direct calls at Indian ports in the future"*. Rather than face delays, many shipping lines are deploying ships for trans-shipment of cargo in India via. Colombo, Singapore, Dubai, or Abu Dhabi.

If Indian ports have to handle the projected traffic of 530 Mt. by 2006 and 1270 Mt. by 2020, it will require an estimated investment of Rs 45,000 crores, which can come only by PPP.

Synthesising Ports with SEZs

You don't make money in what you sell, you make it elsewhere goes the popular marketing *mantr*. All recoveries are indirect. Free TV viewers pay in products that sponsor programs. McDonalds has real margin in ice creams, finger fries, soft drinks and coffee then burgers. Similarly, Ports economy is not limited on recovery of amounts by providing basic functional services, which must necessarily ensure:

1. Zero waiting period at anchorage
2. Berthing priority schemes
3. Quick turnaround of ships
4. Speedy excavation of cargo
5. Pilotage

Development of ports inherently envisages concessions, which has to come from the government in the form of SEZs. These concessions will have to provide incentives in developing a core sector manufacturing base and benefits from importing and exporting cargo. The development of SEZs provides the necessary impetus to investors in creating port facilities. Port infrastructure, therefore, takes within its sweep building of several facilities like: -

1. Manufacturing units and trading houses with SEZs benefits.
2. Road and rail lines to hinterland major industries and commercial centers. India has 9 port states and 5 port Union Territories. 19 states and 1 Union territory are land-locked.
3. Airport facilities for personnel movement.
4. Hotel facilities.
5. Residential units for work force, including electricity, fresh water, schools, hospitals, commercial areas, recreation centers, etc.
6. Security of 6,000 kms of coastlines constituting the Indian National boundaries will have to be relentlessly protected, facilities for them has also to be provided.

Each one of these is regulated by not one but a number of Acts, Rules, Regulations, Circulars, Memos, etc. and when we talk of reforms, all of them must be looked into. Port Sector Specific Laws:-

1. Coast Guard Act, 1978

2. Customs Act, 1948
3. Customs Tariff Act, 1975
4. Dock Workers (Regulation of Employment) Act, 1948
5. Dock workers (Safety, Health & Welfare) Act, 1986.
6. Fisheries Act, 1897
7. Major Port Trust Act, 1963
8. Marine Insurance Act, 1963
9. Marine Products Development Authority Act, 1972
10. Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act., 1981.
11. Merchant Shipping Act, 1958
12. National Waterways Act 19^2.
13. Navy Act, 1957'
14. Ports Act, 1908
15. Seamen's Provident Fund Act, 1966
16. Warehousing Corporations Act, 1962

2. Institutional framework laws:-

1. Companies Act, 1956
2. Foreign Exchange Management Act, 1990
3. SEBI Act, 1992
4. Security (Contract) Regulation Act, 1956
5. Income Tax Act, 1961.

3. Other laws: - Land Laws:-

1. State, Municipal and town planning legislation
2. Area development authority's legislation
3. Development Boards Legislation.
4. Law Acquisition Act, 1894.

4. Environment Laws:-

1. Forest Act, 1927.
2. Forest (Conservation) Act, 1980
3. Environment (Protect) Act, 1986

Creation of an overarching legislation and authority.

Like the Telecommunication Regulatory Authority of India, the National Highway Authority of India, Airports Authority of India, it is time to have a Ports

Authority of India (PAI). The Major Ports Trust Act has been amended to attract new technology, introduce better managerial practices, expedite the implementation of schemes and foster strategic alliances with minor ports for the creation of optimal port infrastructure. But to have a meaningful impact and speedy long-term development, PAI should be supported by an overarching legislation. The PAI, to the exclusion of all other statutory authorities, must be empowered to deal with all issues relating to development, regulation and maintenance of all ports. The PAI Act must ensure:

1. Regulation of investments and developments, from making presentations to inviting bids to entering into contracts to granting all approvals.
2. Entitle the investors to levy charges and recover its investments and reasonable profits from the users and share it with the government.
3. Deal with all and every issue relating to ports, whether they relate to the environment, acquisition of land, tariff charges, labour law implementations, property tax, etc.
4. Resolve all disputes relating to and concerning port development and maintenance

Issues to be addressed in the legal framework of ports:

Corporatisation of port trusts will have to be based on the landlord port concept, where the port authority will own the land and basic infrastructure and leases it to operate on LDO basis - lease, develop and operate. Corporatisation of port trusts will require separating public statutory functions from commercial activities, leaving the commercial activities with the newly created corporation. This approach will raise two issues, first is where to vest the regulatory and policy powers now exercised by port trusts and secondly, how to legally transfer existing contracts between port trusts and private operators to new port authorities, who will manage and regulate these contracts.

A three-tier institutional set up could clearly separate policy and regulatory responsibilities at the central and local levels and regulatory responsibilities and commercial activities at the port.

1. Private and public operating companies - Carry out commercial activities related to cargo traffic management and handling shipping services.
2. Port Council – An autonomous public joint stock company granted the rights to use state land and administer, maintain and develop port infrastructure. It will enforce navigation safety measures, environment protection regulations, monitor concessions and contracts governing private activities in port areas and market port facilities to potential investors.

3. Port Authority of India - A statutory authority consisting of a Board and representatives from various ministries to prepare national port policy and strategic planning objectives and define sector regulations to be enforced by the port councils and operating companies.

Network connections and inter modalism issues raises broader issues of inter-ministerial co-ordination. The Ministry of Railways and the Ministry of Surface Transport have shared interest in developing intermodal platforms that lower transport costs, resulting in an increase in India's trade competitiveness. At the port level better co-operation between Indian Railways, developing most dry ports, Container Corporation of India, Central Warehousing Corporations and others can build potential investors confidence.

Corporatisation of port trusts and the move towards a landlord port system will change the context in which the Tariff Authority for major ports was established by increasing competition in the sector and introducing another layer of public authority.

The judiciary needs to reconcile with the economic realities of PPP

It is time for courts to clearly appreciate the way to development and the fact that government also impedes progress by getting influenced by vested interests, as all progress upsets the *status quo*. If the Government at any point of time becomes aware that there has been a mistake (not merely a created mistake because of a change of government or persons who matter) and the investor has already changed its position, then it must: -

1. Give notice to the investor of the changed factors.
2. Negotiate with the investor after clearly disclosing the public policy, which it seeks to invoke and discuss remedies.
3. Give sufficient time to the investor to change its position.
4. Reimburse costs incurred by the investors in case of stalling or takeovers.

If the Government does not follow the aforesaid principles and *suo moto* changes the policy, the Courts must not only hold the entitlement of the investors for reimbursement and damages on the ground of legitimate expectation' or promissory estoppel' but must take the entitlement of the investors to the level of vested rights', and that be in build in the statutes. The shift of the Supreme Court from *Motilal Padampat* (1979) 2 SCR. 641 to *Jit Ram Shiv Kumar* (1980) 3 SCR 689 to *Kasinka* (1995) 1 SCC 274 leads to uncertainty, which must be unknown to the law. If serious development has to take place, the dispute resolution has to be speedy, faster, reasonable, just and proper.

Conclusion

1. Basic ground work should be extensively carried out before starting any infrastructure project and full use should be made of the services of professionals by getting research and analysis done on all related and connected aspects of a project, like land acquisition, environmental issues, labour related issues, so that the phenomena of 'law landmines' or booby traps' is avoided. Last week, we read a newspaper report on the all-weather deep draft Poshitra Project, which caters to a huge SEZ. The High Court of Gujarat banned all projects that effect the Marine National Park located in the waters of the. Gulf of Kutch. Poshitra SEZ, a Rs. 5650 Crore, dream international hub, planned as a 240 sq. km. modern business city, is also hit by land acquisition problem as it effects 30,000 people supported by NGO's, demanding higher compensation. This all may lead to an incongruous situation, where we may have an SEZ without a port.
2. The basic concept has to be clear to every individual and that is that the idea is not to create a group of disparate, divergent and disoriented heads who merely siphon the project funds by self regulations. The group must work objectively through a definite legal framework predicated on experience for regulating players and forces involved. The action of the Government, which must be accountable to allocated risk factor, has to be mathematical, transparent and speedy and no person must be allowed to make separate margins or profits by performing what is called public services. If the government feels that its servants are unable to enjoy the luxuries they are entitled to while holding the reins of power, the government must duly compensate them as a project cost. If laws are made only to be broken or which from their inception are incapable of being followed, why have them at all. Why create a world of cheats and frauds if justice and integrity is very much an attainable idea.
3. We need to make a shift from impromptu, bold, fashionable policy statements to a real, concrete, comprehensive, clear policy framework on a long term basis after identification and vetting of all the concerned legislation and laws affecting or likely to affect the private initiative in public infrastructure development and to create regulatory regimes that are effective, transparent and are rooted in reality and pragmatism.
4. The trial and error approach needs to be replaced by a well considered and thought over concerned initiative where, as far as possible, no frayed edges are left and all issues are firmly tied up, taking in view the ground realities. It is time to remove inhibition, impediments and roadblocks

inherent in a democratic setup like that of India, and frame a structure which is more trustworthy, transparent, convenient, certain, committed and able to tolerate the impact of changes of the E-age.

LIST-I

24. Shipping and navigation on inland waterways declared by Parliament by Jaw to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulations of such education and training provided by, State and other agencies.
26. Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.

LIST–III

31. Ports other than those declared by or under law made by Parliament of existing law to be major ports.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List-1 with respect to national waterways.

On the eve of retirement of Dr. A.S. Anand, CJI

30.10.2001 (Address)

Dr. A.S. Anand served as the 29th Chief Justice of India, retiring on 31.10.2001. He came to the Supreme Court with a mind formed as much by academic discipline as by the practice of law – and that dual formation was visible in everything he did on the Bench. His judgements had the lucidity of the classroom and the authority of the courtroom simultaneously. He wrote in complete sentences, with a visible care for the integrity of the argument from opening proposition to conclusion – a quality that is rarer than one would wish in judicial writing. More than

his writing, what struck the advocate appearing before him was his fidelity to first principles. He did not reach for clever distinctions or find comfort in procedural shortcuts. If the first principle applied, he applied it – regardless of where it led.

That quality – which some call rigidity and I call intellectual courage – is what gives a judge's work its lasting value. Across the years of appearances before him, I observed that even in matters where his bench ruled against my client, the reasoning was such that one could understand it, engage with it on appeal, and respect the process that had produced it. That is not a small thing. It is, in fact, almost the whole thing. The address that follows was delivered at the farewell organised by the Supreme Court on the eve of his retirement, and I spoke in the capacity of Vice President resort and a member of the Bar who had watched him across the full arc of his tenure

Dr. A.S. Anand the Chief Justice of India, Justice S.P. Barucha, the Chief Justice of India designate, Judges of the Supreme Court of India, the learned Attorney General for India, Judges of the Delhi High Court and fellow members of the Bar.

Today we have gathered here to honour Dr. A.S. Anand, the 29th Chief Justice of India, on the culmination of his distinguished career as a judge and then the Chief Justice of India, which he has now completed with the fullest share of the burden this responsibility entails and with profound dedication, dignity, grace and equanimity and above all with a deep sense of justice. As a legacy, apart from a whole lot of memories to cherish, he has left a body of judicial text in the form of judgements informed by a lucid and authentic exposition of law which has the fervor of a law professor.

Chief Justice Anand has always risen above every prejudice of any kind by taking recourse to the first principles, a belief that the world is wisely ordered and that every man must conform to the order which he cannot change, that whatever the Almighty has done is good, that all mankind is brethren and we must cherish them. He never allowed the pillars of his faith and sense of justice to shake at any cost and he continued to treat all those around him with utmost equanimity, a quality, a faculty of person-hood and a culture trait which is slowly diminishing.

Judgments delivered by him can be well compared to the literary narrative, which, after attaining the status of a classic, act as an inspiration, a model to be followed by the future generations. Therefore, the words of the Bishop of Manchester for Charles Dickens's works are wholly apt for Chief Justice Anand's judgements. With some suitable modifications to suit the context, and, in the same vein that the Bishop of Manchester described the works of Charles Dickens, I describe the judgements written by Chief Justice Anand:

"I have read most of his works, and, so far as I can remember, there is not a single page, or one single sentence, tainted with any impurity or anything that would suggest a vile or vicious thought. I believe that the judgements, of which he was the author, have been pregnant with consequences of incalculable benefit to our people. It made us see, application of simple and fundamental principles of law to the most complex fact situations. It has taught us the great lessons of sympathy and thought in all things Chief Justice Anand is not what he might have desired, or what he might have been, yet we are not his judges. We do not know the circumstance of the trial through which his life has passed. But I feel that our nation owes a debt of gratitude to the great judge for what he has done to elevate and purify human life where it most needed elevation and purification ".

And with these thoughts and sentiments, I extend this customary vote of thanks to all the dignitaries, friends and colleagues on behalf of the Advocates-on-Record Association and on my personal behalf.

Mr. F.S. Nariman, Sr. Advocate

10.01.2002 (Birthday – Scribbling)

Mr. F.S. Nariman is just another ordinary, common, prudent person, as known to the law and that is what makes him different. He has an amazing logical thinking with a deep feeling of reasonableness and justice and sticks to it like a rock. Coming from a very humble background, he has been able to stand to his convictions with the determination of Himalaya and the purity of Ganges.

I have watched Mr. Nariman for over 26 years in cases and functions, important and not so important. He has been consistent and that is his being simply great. His capacity to reach the bottom of the issue, analyse it and give it the direction in the interest of the client, is what makes him rise above. It was a treat to read and I was awestruck by the depth of his feelings he expressed in the communication sent by him on the accidental death of my Senior R.K. Garg. Mr. Nariman was out of India, and he summed up the message saying *"Death was being without friends."*

It has always been a treat to hear Mr. Nariman, his dictions are clear, his appearance is simple. In fact, once he gets up. The only fear judges, associates, opposite counsel, others sitting behind him and persons in the gallery, including his clients, is that he will stop and then they will not be able to hear him anymore.

The only words I have for him, on behalf of the legal fraternity, the Indian nationals and all the beings, though I don't represent any one of them, is that "*if at time the entire nature had a chance to speak on human beings, it will stand up and say, here is a man*".

All India Seminar on Judicial Reforms
Electronic Filing System (EFS) another step towards E-Courts
07.06.2002 (Address)

I am thankful to the Chief Justice of India for making a reference to the efforts made in structuring a system which can enable legal institutions to make full use of Information Technology. I am also thankful to SCAORA for giving me this opportunity to express the concept which has grown out of my experiences for over a period of 16 years in the field of application of IT to law and 26 years in Supreme Court.

When one talks of Electronic Filing System (EFS), the image that comes to mind is of yet another computer-based technological advancement. A shift from paper-based filing to filing through an electronic medium, more or less, a purely functional innovation or change. Beyond this, we do not apply our minds any further, as we do not feel any need for it. But there is, in fact, much more to EFS, than merely a technological innovation, as its ramifications for us as advocates go beyond the ritual of filing. As material stake-holders in development and growth of judicial institution we must be prepared to position ourselves to derive maximum benefit from this change and we cannot derive any benefit from it unless we first develop a full understanding of EFS and also be aware of the fact that EFS is an initial step towards the establishment of a Case Judgment and Statute Information Management System *i.e.* CJISMS supporting a fully functional e-Court.

Just to risk a short digression, I was thinking last night about the implications of Nainital being the chosen place to discuss this crucial change. The word 'Nainital' itself gave me the clue. 'Nain'in Hindi means 'eyes' and '*Taal* means rhythm'. Therefore, Nainital tells us that if we have to be in rhythm with the changing times, we must set our 'eyes' on the future. 'Nain' and 'Taal'. If we do not get into rhythm with the changing times, we will have to face the music. Keeping in view the global challenges in legal services that we are going to face, since India is a signatory to GATS i.e. General Agreement on Trades and Services, we must, today itself, position ourselves in a manner, that like in computer software, in Law IT field also, we should be able to play a leadership role in the global market place, banking on our formidable manpower resources in legal field. Let us now develop a full understanding of EFS, what ramifications it has for us and how we are going to manage our affairs as we are going to grow with it.

The Backdrop

In the age of the internet, courts in India, with the help of the National Information Center (NIC), took a giant leap in 1994 and started providing cause

list, orders, statutes and other data on the web for free access by the users. The judgements available on the Net have a nominal price tag, but we hope that it will soon disappear and dissemination of public information, which has already consumed public money, will be available free of any charges.

Electronic Filing System (EFS) is one of the first crucial steps in the journey of the Indian judicial system towards e-age, which is finally going to culminate into fully functional E-courts all over the country up to the trial court level. The ultimate ideal of E-courts is delivery of justice in a paperless environment where all documents, pleadings, cause lists and judgements are generated and stored on E-media. Oral evidence will be recorded and arguments will be heard using a video conferencing facility. All this data will be instantaneously and simultaneously available as referred to by the Chief Justice of India on-line, on time, all the time, to one and all on electronic media through appropriate structuring.

Though we wish to have a quantum jump and have moved ahead a bit, but we have everything on paper today, the working is still all on paper. Data placed on the web currently is only an e-copy of the hard copy data, which is placed in files, which constitute the record of the Court. From paper to screen, from pen to keys and from shuffling the papers to scrolling the data is a long journey involving the development of skills and aptitude amongst judges, advocates, court officers, supporting staff and para legal. E-Courts cannot be established by mere technological applications. The overall quality and structure of services being delivered will have to be significantly enhanced to achieve this goal. Because, in the ultimate analysis we must understand that the litmus test of any growth or development is measured by the improvement in the satisfaction rate of the end-users.

Merely automating a process or function, by using technology applications, is not going to improve performance, if that function is not structured appropriately or is, in fact, not what is required of the institution or its users. The critical issue of investment in technology is to ensure a linkage to wider strategic and operational issues. If thousand of man- hours are going to be spent by high-tech entrepreneurs and the registry of Courts will be working 10 hours a day to improve information technology infrastructure, some time must be spent on the effect of information behaviour. There is a need to evolve a sufficient mature practice to represent the holistic or 'joined up' view of the improvement and direction of E-Courts and as crucial stakeholders in the system, we must be in a position to be a part of this process and may be, to guide the process of change itself in a manner as to derive maximum benefit and value from it. J. Bird in his article *'It's all IT to me'* emphasised- *"Too often they*, i.e., *(Senior Manager or Politicians) fall in love with technological innovation which has no practical use in the real world."*

E-Courts will only grow along with the evolution of human resources con-

nected with the judicial system. Establishment of e-courts in a phased manner will require:

- Structuring a proper electronic network system.
- Supporting the structure by necessary amendments in the statutes.
- Creation of or up-grading the e-infrastructure.
- Providing and imparting training to all those associated with it.

Working of EFS -Phase-I

In the first phase of implementation of EFS, the Supreme Court is required to

- Give a unique electronic ID to each AOR, who will also be provided an e-mail ID @ SCAORA.com on which all official communications can be made by the Registry of the Courts.
- By using the Electronic ID and a password, the AOR's from their offices or anywhere in the world can access the Case, Judgment, Information, and Statutes Management System (CJISMS) for the purposes of both filing and retrieving data. Those who do not have the necessary' infrastructure and hard ware in-house will be able to access the EFS facility from EFS kiosks set up by SCAORA. Other AORs and litigants 'in person' may still continue to use the filing counter facility provided by the Courts, where the counter clerk will use the same operational system, but, there will be queues and delays. It is like getting a railway ticket while operating from home or getting it at the reservation counter after tasting heat and dust.
- An AOR may have to file a caveat, petition, and appeal, IA, along with the petition or appeal or IA in a pending matter. For filing the Caveat, the AOR will have to enter
- Name of the High Court for which a drop-down list will be provided.
  - o Date of Judgment
  - o Name of Judges in the impugned judgment, for which again a drop down menu will be provided
  - o Name and Address of Petitioners
  - o Name and Address of Respondents
  - o As soon as the data is entered , the AOR will receive an auto response on the email giving a message to the effect that the:

    Caveat has been electronically registered. Kindly file the hard copy of the same, along with Vakalatnama, in the filing Counter Affidavit within next two working days, failing which the electronic registration will be deleted. Once the Advocate on records get their digital signatures and

their clients registered, the Vakalatnama can be filed electronically. The court fees can be electronically accepted by Courts and debited from the Bank Account of the Advocates on Record.

- Thereafter, the AOR will have to file the hard copies in the filing counter. There will be no need for the Supreme Court Registry to input the data already fed in by the AOR for the second time. The registry will, however, cross-check the data entered by AORs at their end. The filing of the hard copies will disappear once the judges and advocates become folly adept to working on a computer screen.
- For filing of the petition, the AOR can carry out caveat check and limitation check on line in the same manner as already referred to earlier. Necessary information will have to be entered on line by the AOR, including the statute and the subjects covered. A drop-down list of statutes and subjects will be provided. Once the data is entered, the AORs will have to hyperlink the index of the paper book. This index will be updated from time to time by the registry when the Court orders are passed, counter or rejoinders, or additional documents are filed and will be available to the advocates on records simultaneously on-line, on time, all the time.
- After filing of the hard copy of the petitions or appeals at the filing counter along with the e-response on scrutiny of the defects, the registry will hyperlink the defects on the basis of statute and subjects categorization to the file and an e-mail will also be sent to the AOR along with the list of defects.
- After curing of the defects, the SLP will be numbered. The moment the SLP is numbered; the date, Court no. and Item no. will be generated like the reservation ticket and e-mailed to the AOR. This will help the AOR and clients to pre-arrange their affairs.
- This data will help in the automatic preparation of the cause lists. After the list is out, the AOR can enter the appearances of the Senior Advocate and Associate Advocates online, which will be cross checked by the Court Masters at the time of hearing of the matters.
- The orders, signed orders, or judgments will be made available on the net and e-mailed to the AORs. The orders of dismissal and notices can also be dispatched via electronic media and will be fully operational after CJI-SMS comes into operation and all High Courts are also linked using a uniform structure.

EFS Phase-II

After the EFS becomes operational in all the High Courts and the initial problems faced in the implementation are overcome and the data of the cases disposed by the High Courts are also available on the electronic media, the AOR will have to merely link the data, hyperlink the impugned judgment and all the judgements on which reliance is being placed. The text of relevant Articles or section or statutes can also be hyperlinked to the case.

After the Judges and the Advocates reach a certain comfort level of using the technology. CJISMS-Case, Judgment, Statute Information Management System can be introduced:

This second phase will finally lead to the development of a powerful Case, Judgment, and Statute Information Management System where only the list of dates and events, the grounds of the petition or appeal and the documents and evidence will be required to be filed on electronic media. This will be possible when the judges will be comfortable reading and thinking on a computer screen. Since some of the judges in this generation itself have developed understanding and enthusiasm for the use of information technology, some technological courts can be put in place immediately, where some cases of a special nature can be heard and disposed of using electronic media only in a paperless environment.

Impact of EFS

EFS are going to have an impact on each and every one associated with law and the Indian Legal System as a whole. The clerks, paralegals and advocates who are either part of a law firm or individual solo setups, after some rudimentary training, will be in a capacity to generate data which will be also useful in their office management system. The advocates will be able to get the list of defects, indexes, office reports, notices, orders, signed orders and judgements online on time, all the time. A major part of the mechanical job executed by the registry will be done by the Advocates, and will be stored in a database to be continuously used in all the proceedings, which is going to reduce the mechanical work load of the registry.

Since all the matters will be automatically listed on the basis of statutes and a three-level subject index, the judges can, in one stroke, dispose of more than one matter on the same issue. This will bring about speed, uniformity and help judges to clear the arrears. The ultimate benefit of all these effort is going to reach to the end users or litigants in the form of cost-effective and efficient legal services.

The Structuring

The structuring of EFS will entail a shift from a text-based system to a data-based system, which involves a basic shift of technology. Database may ultimately be able to link with mobile phones using Wireless Application Protocol (WAP) as things develop and in the meanwhile may be, through the SMS,*i.e.,* Short Messaging Service. The creation of data based structure is a very cumbersome process, but once that is achieved, and believe you me, it is very much achievable, the hyper-linking, inter-inking and permutation and combination of data can produce amazing results which will significantly help in streamlining the entire judicial system affecting arrears, predictability, man power planning and above all its ultimate goal of controlling arbitrariness and discrimination and establishing a more just, neutral and equitable system. The implementation of e-courts is going to have a significant impact on the culture of the legal institution, as EFS or later on e-courts, is not going to be merely a data and information retrieval systems, but they are going to be a key factor in the creation of knowledge itself in the legal field.

Let me pause here and give you an illustration as to how data and information lead to knowledge creation.

> *"A train time table provides data which must be interpreted to be useful. A platform announcement that the next train to the desired destination is leaving in five minutes provides information having specific meaning in a given context. The passengers' realisation that the first train to reach the destination may not be the first to leave, since some are stopping trains and others express, depends on knowledge, i.e., a more generally applicable model based on insight and experience. Data and information are vital resources, but it is the superior knowledge that produces the more effective decision and action."*

Similarly, proper structuring of legal data and organising and disseminating legal information, will provide tremendous scope for law persons to create knowledge beneficial to them and to the system as a whole.

The structuring of the EFS has to be based on a CJI-SMS,*i.e.*, Case, Judgment Information and Statute Management System. CJI-SMS will finally interlink the data of cases pending and judgment delivered by the Supreme Court, High Courts and Trial Courts, the data on statutes enacted by Parliament and State Assemblies and, the data relating to Advocates. It will enable Trial Court judges in the country to know the latest statutes and the latest judgements on any subject and issues on line, on time, all the time and for the Chief Justice of India to know, the matters filed by and decided by any and every District Judge or High Court Judges anywhere in the country if he so desires. This will also enable the collegium under the current system of judicial appointment to have concrete tools to monitor, evaluate and assess the performance and quality of judges and advocates for the

purposes of elevations, as till this time the only method available could at best be described as informal, based on reference and personal impressions.

Supporting the structures:

Process of change also invariably affects other structures related with the institution, which are required to be adjusted and modified to synchronise with the change. Union and State Governments are major litigants; they are one of the parties in all criminal, tax, service, land acquisition, tenancy and land laws matter which will roughly add up to 85 to 90% of litigation. Thus, government advocates will have to properly equip themselves to effectively make the e-courts vision possible. These related structures/issues would also include:

- Amendment of Civil Procedure Code, Supreme Court Rules, 1966 and several other related procedural statutes/rules.
- Introduction of the EFS paper in the AOR Examination.
- SCAORA to open EFS kiosks.
- Proper training curriculum and facilities

Creation and up-gradation of infrastructure:

It is time to deal with the legal institution as a whole, with judges from the Trial Court to the Supreme Court constituting one pillar, Advocate from the Trial Court to the Supreme Court forming the second, a spate of statutes and law reports as the third and forth pillars respectively. The common object of the four pillars is to solidly support structures to improve efficiency by reducing the amount of wasted time and duplicating of efforts, which involves energy and costs and needs to be saved.

Training

Resistance to change is ingrained in every institution and the legal institution is no exception. Resistance to change is also directly proportionate to the level of effort that is required to adopt the change at the individual level and the ultimate resistance comes" from the redundancy factor, *i.e.,* individuals whose roles either become totally redundant or at least get substantially reduced. Resistance also comes from those individuals who become redundant due to their inability to cross over to new structures unless the environment gives them no choice but to adopt the change. Again, change and typically technology-based change, the kind of which we are contemplating here, destroys the hierarchy and the younger and the lower down in hierarchy in an institution, who can better adopt to change acquire an edge over the others. Ultimately, when the benefits of change are substan-

tial, the resistance is required to be leveled out. Therefore, the E-Courts will grow with proper training and will be ultimately accepted as the system because they:

- Will be less cumbersome than the existing system.
- Will consume less time, *i.e.,* the speed of doing a work will be much faster and consume less energy.
- Will be more accurate,*i.e.,*will commit less, errors.
- Will consume less money-will be cost-effective. For example, even if authorised copy of all judgements of the High Court under appeal are available free on the net and are accepted in electronic format, it will save around Rs. 3 Crores. for the litigants, which figure is calculated on the basis of an average of 30,000 petitions filed in the Supreme Court every year and an average judgment is of 10 pages and on an average ten copies are prepared costing @ Rs. 10 each.
- Will reduce discretion discrimination and arbitrariness and would ultimately help people to develop from manual workers to thinking individual

Conclusion

Persons involved in the legal system are not yet equipped at least psychologically to read, appreciate and think while looking at the screen of a computer. Most of us are also not very adept at keying in, typing down, or editing data using a keyboard faster than we can do it on paper using a pen. The comfort level of the judges, advocates, officers of the court and registry will have to be kept in mind while introducing any new system, which can only be achieved by proper structuring and training.

It is a well-acknowledged fact that the judiciary is the most conservative institution of governance and it requires a great deal of internal trust and confidence to embark on a new venture of any kind or to introduce any change. A slight disturbance in paradigm, it is feared, may create repercussions of such wide-ranging dimensions that would introduce uncertainty and ambiguities, making the legal system more obscure. The value and sanctity of the judicial system is so profound that it cannot be tinkered with. Therefore, when we undertake a paradigm shift, we better be sure about each and every repercussion. Any change to be introduced in the judicial system has to grow from within the institution and the road map for change has to be invariably provided by the institutional insiders, which then may be later on implemented by any external agency using technology tools.

Therefore, let us embrace the EFS initiative initiated by the Chief Justice of

India with open arms and open mind and to do so, let me propose, in order to be able to create an optimal system accruing best results and benefits to all the stake-holders, be it judges, advocates, court officials and litigant public and also as a functional necessity, let SCAORA provide full assistance and support to the Chief Justice and his brother judges to make this dream come true. And let us not forget, that we have in Mr. P.H. Parekh the most powerful modem developed so far to provide inter-connectivity and interface between advocates and judiciary. We must exploit him fully.

Thanks to all of you for a very patient hearing. The floor is now open for questions.

**Organised by SCAORA at Nainital*

Conference on Globalisation - Global Prosperity - Impact on Human Life
Law's direction in the wave of Globalisation
22.02.2004 (Address)

Author's Bridge: *This address, in many ways, is a summation of the decade. It asks, at the largest scale, what the role of the lawman must be in a world being remade by globalisation, technology, and the collapse of the old certainties. The answer it reaches is the one I had been approaching, through every case argued and every article written, for twenty-seven years: that the advocate is not merely a technician of the existing law, but a guardian of the direction in which law must travel if it is to serve justice. And that the direction of law, rightly understood, is always toward the conflict-free society – the society in which every breach of trust is identified, addressed, and compensated, and in which dignity, peace, and equality become lived realities rather than constitutional promises.*

Chairman, dignitaries on the dais, my esteemed colleagues, ladies and gentlemen. I am overwhelmed for this opportunity to address this august gathering at Jaipur today. I take this opportunity to congratulate the Indian Institute of Comparative Law, University of Rajasthan and the Rajasthan Tax Consultants Association for holding this national conference on a topic which has more relevance and significance today, than it ever had. I say today, because we are in the process of yet another paradigm shift and the role of lawmen is once again most important at this juncture. We have a choice to make, and we will have to make it today, either to leave the world to thrive on chaos or network together to bring about sustained development leading to social order and peace.

More than 75 years ago, on 07.01.1929, my grandfather joined judicial services in the erstwhile State of Jaipur and retired as the first Registrar of Rajasthan High Court. Subsequently, my father served inthe judiciary and retired as the

Chief Justice of the High Court of Rajasthan in 1986. I feel privileged to carry forward the legacy of my family tradition.

Every single day of my life as an advocate for over 27 years in the Supreme Court of India, I have felt the impact of the decision-making process on issues of varied nature, touching almost every aspect of human existence, social behaviour and States governance. From basic structure and fundamental rights to compassionate appointments, from inter-state water disputes and mineral rights to international maritime zones, from investigations by investigating officers to anticipatory and cancellation of bails, from terrorist attacks, murders and rapes to sexual harass-ment, there is a litigation, there is a judgment. Faces are different, facts are different, issues are different, laws are different, but you always have a litigation touching every facet of human co-existentialism and a judge delivering a judgment determining the cause. One party loosing other party winning. No other authority in human civilisation today has this sort of power vested in it.

From the first breath to the last, every human being is bound by laws, whether he likes it or not, whether he is aware about them or not Lawmen has to continuously think feel and work in a direction so that equity, equality and justice .will at the end, manifest itself in the mundane world. Our entire approach is firmly established on the premise of *'satyamev jayate - truth always wins*.' This is common to all jurisprudence, to ail judicial systems and to all persons associated with the judiciary. If justice and justice is common to all and the entire effort of every lawman is to enable the cosmic equity, equality find itself in all laws and all litigation, it is time for appreciating the role of lawmen in giving the direction which can lead to human development.

The development towards a positive social order is nothing but the establishment of 'Rule of Law'as contra-distinguished from 'Rule of Person' Lawmen has always played the most important role in the development and establishment of human values in the social framework. Hiroshima and Iraq wars are effect and not causes. They occurred because lawmen failed the people who matter or in other words, because the man who matter did not listen to the lawmen. When battles are fought, everyone is a looser. Wars will continue to thwart the progress of this world if people are unable to settle disputes across the table. Wars will continue to break the economics and prosperity of people if men will not listen to lawmen. When people who matter rely more on their own strengths and charge ignorant people's passions, we have exploitation, brutality and violence, which are antithetic to the Rule of Law. When the basis of decision making is vested interests or achieving personal power, the decisions can never be reasonable. That is the reason why politicians cannot be leaders for human development in the E-age.

All these years, I have seen conservative and popular judges. I have seen great

judges and not so great judges. I have seen and felt the joys of winning and ills of losing cases, but, I have also seen and felt justice thwarted and injustice thriving and that is painful. That is painful for every lawman who has some understanding the direction of law and the created direction-lessness to suit the case in hand, where the judges work like politicians. There are several unanswered and unanswerable judgements by the best of the judges. They are like accidents, which continuously take place and always end in tragedies and that is what we have to limit by judicious self-imposed limitations.

Believe you and me, my friends, in this third wave of E-age, where cross cultures exist in every corner of every country and we have a pluralistic society in place, the whole range of activities will co-exist simultaneously in our bed rooms, House of Lords, or Supreme Court of India, they have become centers of powers. Every judge of every court, when his conscious is shaken and feels that illegality, arbitrariness and exploitation is being perpetrated, he puts his foot down to regulate it and also uses judgment as a tool for social change. Judges sanction the policies and is capable to determining the impact in the social changes. Lawmen are man of words. Day in and day out, they spend their time playing with words and word content and meaning, with rights and duties, with liberty and exploitation and arrive at equity, equality and justice, which every human being seeks to achieve for himself. A judge must always think of the future, upon which great decisions depend, and thereby guide social change in the right direction.

The judges are not trying to play a larger role, but in democratic set-ups in the E-age, their roles have got redefined. It is time that the role of lawmen should be placed in the right perspective and framework, by lawmen here. The role of the judges is akin to *rishies* i.e. they have to test the validity of the laws laid down by the legislature based on precedents, their experiences of life and vision, direction of society and also to supervise that the laws laid down are proper laws, which are capable of eliminating the mischief. No law seems to be fully implementable, there is always somebody who wishes to break it. Time has established that there is always a vested interest while making every law and not a single law is framed which can be successfully implemented to the hilt. There is not a single law framed by any legislature, the violation of which has not to be tolerated by society. More successful people are not law-abiding citizen but law violators, and that can be understood by lawmen alone.

The greatest achievement of the E-age is that it has effectively broken and removed the barrier of colour, religion, age, sex, geographical area, caste and that is the true mark of globalisation. For the first time in the history of mankind, the test of every great idea, thought, or product is its capacity to bring the greatest good to the greatest number. The recognition or rejection is instantaneous.

Lawmen direct the world to a peaceful, happy place to live where everyone has the confidence that equity, equality and justice will dominate and prevail or lawmen can continue to live in their fool's paradise that they have no major role to play in global politics, but only the limited role assigned to it to merely interpret the words of the legislature and policies of the bureaucrats, who have their vested interests in existence of a lop-sided, ignorant and uninformed society.

Today world is developing competition beyond redemption. Using dialogue for arriving at justice is the profession of lawmen, it is lawmen alone who can ameliorate the condition of mankind. Politicians are meddling with the vote banks to achieve power and bureaucrats, media, industrialists, entertainers, sportspersons etc. are merely helping each other to be the fore runner in the economic rat race. Nobody except lawmen have time and devotion to ameliorate the condition of mankind, using rule of law and that is also the demand of their profession more in the wave of globalisation, for which they alone are best equipped.

Long live lawmen and the judiciary.

*Organised by the Indian Institute of Comparative Law at Jaipur, Rajasthan

Inspirational Thoughts

"The shell must break before the bird can fly"

– Alfred Lord Tennyson

…

"We shall not cease from exploration, and the end of all our exploring will be to arrive where we started and know the place for the first time."

– T.S. Eliot – Little Gidding

…

"There is a tide in the affairs of men, which, taken at the flood, leads on to fortune; omitted, all the voyage of their life is bound in shallows and in miseries. On such a full sea are we now afloat; and we must take the current when it serves, or lose our ventures"

– William Shakespeare – Julius Caesar

…

"The farther the outreach, the deeper the root must grow"

– Scribbling

…

"It is not because things are difficult that we do not dare. It is because we do not dare that they are difficult".

– Seneca – Epistulae Morales

…

"Man's reach should exceed his grasp, or what's a heaven for?"

– **Robert Browning** – **Andrea del Sarto**

…

"Whatever you can do, or dream you can, begin it. Boldness has genius, power, and magic in it"

– **Johann Wolfgang von Goethe**

Afterword – The Lawman Thinks Aloud

The five years that ran from April 1999 to March 2004 were, the years in which thought caught up with experience. For twenty-three years I had been holding conferences, settling lists of dates and events, creating strategies, and making submissions. The doing had been total: the AOR years for Rajasthan, the SCBA Secretaryship, the Sports Meet on the National Stadium field, the Law Information Centre, the SCAORA Vice Presidency, the litigation in Singapore and New York. Each of these had demanded the full weight of professional concentration, and had received it. The thinking that accompanied the doing had been real, but it had largely been private – noted in diaries, turned over in early mornings before court, whispered between the lines of briefs that the system demanded be confined to the legal question immediately at hand.

With these five years, the thinking became public. The addresses collected in this section are not ceremonial performances. They are, taken together, a record of a lawman arriving at a set of convictions that the preceding decades had been preparing – and finding, at last, the occasions and the audiences to which those convictions could be spoken plainly.

What were those convictions? Reading these pieces together, three emerge with particular clarity.

The first was about the institution. The law was not keeping pace with the world it was asked to govern. The Contract Act of 1872 had been drafted for a world of ink and paper; the Information Age was transacting in electrons. The Evidence Act had been conceived for documents you could hold in your hand; the digital era was producing evidence that lived in servers, was created by machines, and existed in jurisdictions that no statute had contemplated. The courts were applying nineteenth-century tools to twenty-first century realities – and the litigant, as always, was bearing the cost of the mismatch. This was not a crisis of the law's principles. It was a crisis of the law's architecture. And architecture can be rebuilt, if the will exists and the vision is sufficiently clear.

The second conviction was about the Bar. The profession I had entered in 1976 with such completeness of devotion was consuming its own young. The

junior advocate – the generation that carries the future of the institution – was being crushed between paltry fees, unavailable panels, and the entrenched interests of those who had made a second career of occupying space that belonged to younger hands. The panel system had become a vehicle of patronage rather than professional competence. The Taxation Schedule remained an insult to those who served the State with integrity. These were not peripheral complaints. They were structural failures, correctable by the very institution that had created them – if it chose to look.

The third conviction was the most important, and the most personal. It had been forming since the first time I watched a litigant leave the courtroom with a technically correct judgment that delivered nothing resembling justice – since the first time I saw the adversarial system produce a winner and a loser where the situation had called for a resolution. By January 2004, when I stood before the Indian Arbitration Bar in Jaipur and asked whether conciliation and mediation could take precedence over court litigation, I was not posing a procedural question. I was posing a civilisational one. The answer I had reached – not on that day, but through years of quiet accumulation – was that the courtroom, magnificent as it is, is not the final destination. It is a necessary institution in a world that has not yet found better ways to resolve its conflicts. But the world can find better ways. And the lawman who has spent his life in the courtroom is, paradoxically, the person best placed to help build them – because he knows, from the inside, what the courtroom cannot do.

That conviction – seed in 1976, germinating through thirty years of practice, flowering for the first time in these five years of public address – would, in the decades that followed, become the architecture of Legal Revolution 5.0. The conflict-free society. The peace mediation paradigm. The fifth dimension of human existence. All of it was already present, in essence, in the question asked at Jaipur on the 31.01.2004. It needed only time, further thought, and the gathering courage to say it at a larger scale.

The Mistress had been served faithfully across these five years – in the courtroom, in the arbitration chamber, in Singapore and New York, in the institutional life of the Bar. But something larger was now asking to be served. The Love had not yet been born. But its first cry had been heard.

CHAPTER 6

The Additional Advocate General Years
Law in the Service of the State
01.04.2004 – 31.01.2009

Additional Advocate General, the Rajasthan Sports Act, and the Battle for Regulatory Vision

There are periods in a professional life when the currents of private practice and public duty converge into a single, swift stream. The years from April 2004 to January 2009 were such a period for me. My appointment as Additional Advocate General and Advocate on Record for the State of Rajasthan at the Supreme Court brought with it not merely a new brief and a new designation – it brought a new order of responsibility, a different quality of engagement with the law. To appear on behalf of the State is to inhabit a particular moral position: one is not merely the instrument of a client's desire, but a steward of the public interest, arguing before the highest court of the land on matters that touch the lives of millions who will never know your name.

The practice during this period was, in sheer volume and variety, demanding – again, as it had been during my first tenure from 1990 to 1999, though not quite in the same manner, for this time, there was a larger panel of advocates handling cases for the State of Rajasthan in the Supreme Court. A large number of cases were handled every day – criminal appeals, service disputes, environmental litigation, constitutional challenges, inter-state water disputes, excise and taxation matters, and public interest litigation of national significance. The reported judgements are recorded here as testimony to the unbroken rhythm of advocacy, which continued without pause through all the storms and controversies of these years. The court-room was always the steadying centre – the place where the precision of argument, the authority of precedent, and the conscience of the judge conspired to make law and to deliver that rare thing: a reasoned answer to an unreasoned world.

But the years were also marked by a venture of an altogether different kind – one that took me far from the court-room into the turbulent territory of legislative drafting, political will, sports governance, and the bitter resistance of entrenched interest. Having lived through litigation for over three decades, I thought to sink deeper into the system – to have a first-hand feel of law as dealt with by the policy

maker and enacted by the Legislature. The Rajasthan Sports (Registration, Regulation and Recognition of Associations) Ordinance of 2004 – and the Act that followed in 2005, succeeded by similar Acts for the States of Himachal Pradesh and Uttar Pradesh – was, in its conception, a modest document. In its consequences, it proved to be a mirror held up to the character of those who claimed to govern, and a measure of who, in any age, truly stands on the side of justice. What it ultimately gave rise to was the Indian Premier League – but the IPL is not even the tip of the iceberg, not even a minuscule part, of the sports industry as it was envisioned when the first of these Acts was conceived.

Appointment as Additional Advocate General and Advocate on Record

The appointment came in April 2004, in the early days of the Vasundhara Raje government in Rajasthan. The State required an Advocate on Record at the Supreme Court who could not only carry the docket of pending matters but provide strategic counsel on the great constitutional and legislative questions that would inevitably arise in the course of a determined government's work. I accepted the charge with clarity about what it entailed and what it did not: it was a public office held on trust, to be relinquished without hesitation when the political dispensation that had conferred on it changed. That moment would come five years hence. Until it did, the work was unceasing.

The role of the Additional Advocate General appearing before the Supreme Court – is a peculiar and honourable one. He is not a government servant, nor is he a mere hired counsel. He is an officer of the court who also serves the State, and the tension inherent in that dual identity demands of him a quality of independence that is not always comfortable for those who commission his services. I have always believed that the best counsel given to a State is counsel that begins with honesty about the strength of the case – and if the case is without merit, says so plainly. The courts invariably know. It is the advocate who sometimes forgets.

Inter-State Water Disputes between Punjab, Haryana and Rajasthan

Among the most consequential briefs that came to me in this period was protecting Rajasthan's interest in the long-festering inter-state water disputes involving Punjab and Haryana – a controversy that had its origins in the reorganisation of states in 1966 and had generated more heat than light in the four decades since. Water, in the semi-arid landscape of Rajasthan, is not merely an agricultural input or an life resource – it is survival itself, and the allocation of the waters of the Ravi and the Beas rivers was a matter on which the State could not afford to be repre-

sented with anything less than full preparation and every litigation had to have the same approach in all the pleadings

The historical architecture of the dispute was this: in 1955, the waters of the Ravi and Beas rivers, calculated at 15.85-million-acre feet, had been allocated between Rajasthan, undivided Punjab and Jammu and Kashmir – with Rajasthan receiving the substantial share of 8 million acre feet, a recognition of its vast arid territory and its dependence on canal irrigation. The reorganisation of 1966, which created Haryana out of Punjab, transformed a question of water-sharing into a question of political survival for two successor states, each claiming the inheritance of the river waters that flowed through the Punjab heartland. Rajasthan's share, settled in the agreements of 1955, 1976 and 1981, stood as a fixed point in a landscape of continuous contestation, and it was the duty of counsel to ensure that it remained so.

The Eradi Tribunal, constituted in 1986 under Justice V. Balakrishna Eradi of the Supreme Court – an extension and refinement of the adjudicatory process that had begun with the Punjab Accord of 1985 – had delivered its interim report in 1987, upholding the legality of the earlier agreements and recommending revised allocations to Punjab and Haryana. The SYL canal, the physical instrument by which Haryna's share was to have been conveyed, remained, and continues to remain, an unfinished monument to political intransigence – its construction in Punjab halted first by Khalistani militancy in 1990 and thereafter by successive State Governments unwilling to see it completed.

Rajasthan's interest in these proceedings was the interest of the bystander who stands to lose the most if the quarrel between two principals leads to a renegotiation of the settled terms. The arguments on behalf of the State were directed to one essential proposition: that the 1981 agreement, and the allocations confirmed therein, constituted settled law – that no subsequent political act between Punjab and Haryana could derogate from it, and that the Punjab Termination of Agreements Act of 2004, by which Punjab sought unilaterally to annul the water-sharing agreements, was constitutionally impermissible. The Supreme Court finally declared the 2004 Act unconstitutional – though that vindication came much later, in 2016, by way of an advisory opinion. Rajasthan's share stood protected, but the road to that protection was long.

Six cases in all arose on the issue of water allocation and disputes. At my behest, the State had engaged Mr. K.K. Venugopal, Senior Advocate, and Mr. C.S. Vaidynathan Senior Advocate to lead us in the matter. Irrespective of the 2004 Punjab Act, during the years 2004 to 2009, visits were made by the reconstituted Eradi Commission along the entire length and breadth of the Ravi-Beas waters – from their beginning at the Rohtang Pass to their ending at Bikaner. Three char-

tered aircraft were engaged, one by Punjab, one by Haryana and one by Rajasthan; schedules were fixed; and all the Judges, officials and advocates travelled together, visiting the sites to arrive at a complete and clear understanding of the water resources and the mechanics of their flow and distribution amongst the States. It was quite an experience – to see, from the air and on the ground, the whole vast system of rivers, canals and headworks upon which the lives of millions in three states depended, and to understand, with a vividness that no brief or map could convey, what was truly at stake in the litigation.

The Architect of Structures: Sports, Society, and the Sovereign State

A Game Without Rules

From the moment of my appointment as Additional Advocate-General of Rajasthan, one resolve had taken firm shape within me: I would do something meaningful for sport. Sports had lived within me from childhood. During my school years, I had subscribed to Sports and Pastime and preserved its monthly volumes from as early as 1960. Every four years, I followed the Olympics with hope, pride, and anguish – only to be shaken, each time, by India's dismal performance on the world stage. The anguish was not merely patriotic. It was personal.

I had played every game where I could lay my hands on – indoor and outdoor alike. Every hour not given to study was given to reading, drawing, or the playing fields. Sport was not a pastime for me; it was an education no classroom could provide. It taught discipline without command, courage without noise, defeat without bitterness, and victory without arrogance. Long before I understood law as a profession, sport had taught me justice as fairness, effort, and merit.

While practicing in the Supreme Court, I had read with deep concern the judgment in *K. Murugan* v. *Fencing Association of India*, (1991) 1 SCR 658, where the Court expressed anguish over the state of sports administration and emphasised the urgent need to cleanse it. The Court had directed the Union of India to ensure proper management of sports bodies and pointed to the scandalous disparity between the funds poured into sport and the results achieved. Yet nothing of substance followed.

The pain became sharper after India's performance at the Sydney Olympics in 2000. Mr. V.R. Reddy and I together produced a half-page insert in certain magazines and newspapers under the heading "*Bronze for a Billion*" – a cry of anguish, but also a call to action. We were a civilisation of immense youth, talent, and energy, yet the nation seemed resigned to symbolic participation rather than excellence.

At the National Games held in Hyderabad in 2003, Rajasthan returned with a single Bronze Medal. It was painful. It was intolerable. I discussed the issue with Smt. Vasundhara Raje Scindia, then on a whirlwind election campaign, and realised at once that she understood the deeper connection between sport and youth development. Rajasthan was not barren ground. At one time, both the national basketball and volleyball teams had drawn freely from its players; the State had produced runners of genuine distinction. Something had gone profoundly wrong.

My analysis was clear. If results were not commensurate with talent – whether at the State or national level, in sport or any other field – the fault lay not in the youth, but in the structure around them. The framework was not supporting the object for which it ought to exist: National growth, youth development, excellence, and justice. Instead, it had been captured by individuals, interests, and private fiefdoms.

The sportsperson – the *Aatma* of the entire industry – was the one being sacrificed. All the fifty-two other stakeholders existed because of him or her, survived because of him or her, and profited because of him or her. Yet he or she was the last to be considered, the last to be protected, and the first to be abandoned.

Remarkably, India had no meaningful regulatory law for the sports industry. The Ministry of Youth Affairs and Sports had, from time to time, issued notifications loosely gathered together as the Sports Code. But it was not the law. It was not governance. It was a set of well-intentioned circulars without teeth, without authority, and without enforcement.

My thinking crystallised around a conviction I had long held: if the energies of youth are not properly channelled, they dissipate in ways harmful both to the individual and to the nation – in the gratification of the senses, in the politics of manipulation, and in the culture of dependency that certain vested interests find profitable to sustain. The development of a sportsperson's spirit is, at its deepest, the formation of character. Sport teaches a young person to face defeat without bitterness, to pursue excellence without arrogance, to work within a team without surrendering individual responsibility, and to accept discipline without losing freedom. These are not small virtues. They are the foundations of a civilised polity.

The Proposition and the Political Will

In the early days of May 2004, following one of our discussions on the inter-State water disputes between Punjab, Haryana, and Rajasthan, the subject of youth energy arose with Smt. Vasundhara Raje Scindia, then Chief Minister. I placed the proposition before her plainly: Rajasthan could draft a Sports Regulation Act.

The Chief Minister listened with the directness that characterised her at her best – a quality rare in political life, and rarer still when confronting an uncomfortable truth. Her response was unambiguous. She wished to see the energy of Rajasthan's youth channelled into something constructive – for the State and for the nation. She wished to pull them back from the politics of manipulation that consumed their most vulnerable years: politics dominated by what I came to think of as the "drink-and-dinner diplomats" – men whose only philosophy was to use and use more; men whose interest in sport was the interest of predators; men who thrived on chaos, had no serious agenda for national development, and accumulated wealth and power by turning the young into their instruments.

The proposition was simple, and its arithmetic was devastating. India, a nation of more than one billion people, could win only a single Bronze Medal at the Olympics. Rajasthan, a State of fifty-five million, returned from the National Games with one Bronze. The problem was not talent – it never had been. The problem was the complete absence of structure. When there are no traffic signals on a road, accidents are not a possibility; they are a certainty. The accidents in Indian sport had been accumulating, unnoticed and unremedied, for more than fifty years.

The Chief Minister assured total and unwavering support. What followed was four months of intense intellectual labour – and political combat far dirtier than I had anticipated. The Mistress had always demanded hard work. But here, for the first time, I found myself using law not in service of a client's interest, but in service of a nation's youth. It felt different. It felt – and I note this with the precision of one who has lived with the distinction ever since – like the first faint stirring of something other than the Mistress.

Four Months of Drafting – and the NAT-NOT2 Men

The first striking issue in drafting was that sports associations were freely using the names of districts, States, and even India, without existing in any truly representative capacity. This, in my view, was contrary to the spirit – and even the letter of The Emblems and Names (Prevention of Improper Use) Act, 1950. Entry 4 of the Schedule, read with Section 3, clearly prohibited such improper use. The Statement of Objects and Reasons was therefore of critical importance. On my personal initiative, I had it settled by Mr. K.K. Venugopal and Mr. Altaf Ahmed.

The open arguments of those who had thrived in the unregulated sports industry for five decades were revealing in their candour. The State's business, they said, was water, roads, and electricity — not the regulation of sports, which they treated as a private industry. If Rajasthan did not win, how did it matter? At least it could participate. Why should Rajasthan be a pioneer? Why disturb the existing *status quo*?

These were not arguments of principle. They were arguments designed to avoid the real issue: the sportsperson. The arguments came not directly, but through bureaucrats. Except for a few, almost the entire bureaucracy in Rajasthan arose against the effort. Every clause was subjected to attempted sabotage – particularly the provision for appointment of an Administrator where associations refused to function democratically, and the requirement of elections in accordance with the structure of the Bill.

Democracy is described as part of the basic structure of the Constitution. But when democracy was sought to be implemented at the grassroots level of sports associations, it was resisted tooth and nail. Every step forward was met with a concerted effort to retreat. Yet the political will of Smt. Vasundhara Raje proved equal to every pressure – internal and external alike.

I had solid legal support in the classical judgment of *All India Bank Employees' Association v. National Industrial Tribunal,* AIR 1962 SC 171, which clearly held that Article 19(1)(c) of the Constitution guaranteed the right to form associations, but did not guarantee concomitant rights such as holding property or collective bargaining. State legislation creating a democratic regulatory regime could, in any event, override the memorandum of association of bodies which held themselves out as representing a district, State, or Nation.

In the months that followed, I encountered seven questions, asked with varying degrees of genuine curiosity and disguised obstruction. They taught me more about the nature of the Indian administrative character than any volume of jurisprudence could have done.

The first question was whether any other State had done this before. It had not. But I had long taken as my lodestar a line from Ayn Rand's The Fountainhead, which I had found applicable in the Supreme Court more times than I could count:

"I do not stand at the end of any tradition. I may perhaps stand at the beginning of one."

The world had moved from the age of control to the age of regulation. The moment had come to set precedents, not await them.

The second question was essentially the same: was there any precedent? It received the same answer. The third asked how I could be certain that change would follow. The answer was logic: an industry involving more than one billion people, without a governing structure, will produce exactly the chaos it has produced. Change the structure, and outcomes will begin to change.

The fourth questioned why I was undertaking this effort at all. The answer came, as so many of my answers have come, from the *Shrimat Bhagwad Gita*: both sides of the bread are buttered. If we succeed, we shall have done something for the nation. If we do not, we shall have tried – and the effort itself is its own reward.

The fifth question – why disturb the *status quo* when people are content as they are – was the most revealing. It disclosed not a principled objection, but a comfortable attachment to dysfunction. The sixth and seventh were, in substance, one: will it work, and if not, what then? The history of Bharat is the history of patient persistence – 1757, 1857, 1947. When the time comes, it comes. And the time had come.

The drafting process crystallised in my mind a principle that I later committed to paper and shared with the Chief Minister – not as a complaint, but as a diagnosis. I named it the NAT-NOT² *Principle: the principle of the man who is Neither a Thinker Nor Open To Thoughts*. Its seven propositions described, with some precision, the bureaucratic character that had become the principal obstacle to the legislation:

- *He does not know the direction, but sees obvious defects in the direction you have chosen.*
- *He will not act, but will point out errors in your action.*
- *He thrives on chaos, and will therefore resist the creation of order.*
- *Whatever is not under him is against him.*
- *He respects and trusts you – but not quite as much as he respects and trusts himself, because he knows everything and can do everything; he only lacks the time.*
- *He will not run the race himself, but will not permit you to win it either.*
- *And finally, he knows there is a cosmic energy moving the system, but believes that all events take place because of him.*

This was a portrait drawn without malice. These men were not villains. They were products of a system that had rewarded caution above courage, precedent above vision, and institutional survival above genuine service for the better part of a century. They were, in their own way, inheritors of thirteen centuries of aggression, subjugation, and intellectual slavery. But in the moment of a great legislative opportunity, they were obstacles – and had to be recognised as such.

Are They More Powerful Than *Raavan* and *Kans*?

While the Bill was being drafted, there was a matter pending in the Supreme Court in which the Chief Secretary of Rajasthan was required to come to Delhi in July 2004, along with the next Chief Secretary. During a lunch meeting, the issue of the proposed Sports Bill arose. The learned Chief Secretary looked at me and said:

Chief Secretary: *"Aruneshwar Ji, do you really think you can throw Dalmia and Rungta out of cricket?"*

I laughed and replied:

"Are they more powerful than Raavan and Kans?"

Then I added:

"Sir, to tell you frankly, this is your job. You are the policy-makers for the State; the Chief Minister is interested in the development of youth. If you see the deteriorating condition of sports in Rajasthan, it is for the bureaucrats and the legislature to resolve the issue. However, let me tell you this: the normal delivery time is nine months. I assure you, I will deliver Mr. Rungta in nine months, and Mr. Dalmiya thereafter in another nine months."

Since the State Assembly was not in session, a Cabinet meeting was convened on 16.08.2004, to which I was invited. The Bill was approved. On 17.08.2004, the Governor of Rajasthan signed the Ordinance. The Bill that was drafted became the law of the land.

That very day, Rajyavardhan Singh Rathore won the Silver Medal at the Athens Olympics, 2004 – India's first individual Olympic Silver Medal in shooting. To the Chief Minister, to me, and to all those who had laboured through those months of drafting and resistance, it felt less like a coincidence and more like divine affirmation.

The Rajasthan Sports (Registration, Regulation and Recognition of Associations) Ordinance, 2004 was promulgated on 18.08.2004. It was immediately challenged before the High Court of Rajasthan. On 14.03.2005, the Ordinance was repealed and replaced by The Rajasthan Sports (Registration, Regulation and Recognition of Associations) Act, 2004.

The *Sena* of *Raam* and the *Sena* of *Raavan*

With the understanding of the *Shrimat Bhagwad Gita*, the *Upanishads*, and the great Epics that has guided my inner life, the pattern of resistance became clear. Those who cheered the Sports Act were those who believed in the cherished principles upon which our civilisation rests, but who had long remained silent spectators of its deterioration, those who opposed it, wrapping their opposition in the language of freedom and olympianism, were often those with the deepest vested interest in the continuation of unregulated chaos.

As the architect of the Act, I had never heard of Mr. Lalit Modi when the process began. I was not serving any individual's interest. I was serving the interest of the nation's youth.

In every war, people finally disclose their true nature. They reveal whether they belong to the *sena* of *Ram* or the *sena* of *Ravana*. The side they choose tells us, more truthfully than any declaration could, who they are. The greatest wrong that

precipitated the *Mahaabhaarat* was not *Duryodhana's* ambition, but *Bhishm Pitamah's* choice to stand behind him. It is our true nature, and the goal we hold in the heart, that determine our action – however much we may seek to conceal it from public view.

Let us undertake serious introspection, if we are sincere about the development of Bharat. Let us join the *sena* of our true nature, without fear and without guilt, and fight the war that is always, in every age, the only war worth fighting – the war for justice.

Sports Politics – The BCCI Chapter

Then came the dimension I had anticipated – a dimension that transformed a State legislative exercise into a matter of national sports politics. Cricket was only one of the forty sports mentioned in the Schedule to the 2004 Ordinance, yet its impact on the BCCI, one of the most powerful sports associations in India, now the world, was immediate.

About one and a half months after the promulgation of the Ordinance, I received a call from Mr. Lalit K. Modi. He sought my assistance in relation to the illegalities being perpetrated in the BCCI elections. I told him candidly that while I understood the structure of the sports industry at the national and international level, I had no knowledge of the specific issues relating to the BCCI and would have to be properly briefed. He responded with equal candor and said I would soon receive a call from someone who would explain the issues they were facing.

Soon thereafter, I received a call from Mr. Prabhu Chawla, the journalist, who invited me for a lunch meeting at the Delhi Golf Club. The other person attending would be Mr. I.S. Bindra, a former IAS officer and President of the Punjab Cricket Association.

After detailed discussions on two occasions, the issue became clearer. There were thirty-one votes in the BCCI. The group led by Mr. J. Dalmiya had fifteen votes. The group supported by Mr. Lalit Modi had sixteen. However, under the BCCI election rules framed during Mr. Dalmiya's dominance, Mr. Dalmiya, as President, was entitled to cast an additional vote. When a tie occurred, he was further entitled to cast another vote as Chairman of the Board conducting the election. Thus, he won 17:16.

The procedure was plainly arbitrary, unreasonable, unjust, and undemocratic. Yet no one could effectively challenge it. The Societies Act, under which the BCCI was registered, provided no meaningful forum. According to them, the BCCI was a private body, and therefore no writ petition was maintainable. A civil suit would not be decided until several more elections had taken place. Law was being

used to perpetuate injustice; but there was neither a forum nor a process to remedy it. And who suffered finally? The sportsperson, the State, and the nation.

To my mind, if their group wished to win, they had to work for at least two more votes – one to secure a clear majority, and one to cover the possibility of defection. A final count of 20:11, 19:12, or even 18:13 would be a clear victory that could not be manipulated.

To enable that, I told them that similar Sports Acts should be enacted in at least two more States. My interest was not merely in the BCCI. My larger interest was that if three States legislated on sport, the Central Government could legislate under Article 252 of the Constitution, which empowers Parliament to legislate on a State List subject if two or more State Legislatures pass resolutions requesting it. That would allow the vision to take shape at the grassroots level and help transform India into a genuine sports-playing nation.

While studying the global sports industry, I realised that the issue affecting sports in India was not merely national; it was international. International cricket was being controlled substantially by England and Australia, and they continued to collect the larger part of the wealth generated by billions of fans. The only persons who truly understood this economics were Mr. Lalit Modi and Mr. I.S. Bindra. No one else in India seemed to understand it fully, or even make a serious effort to do so.

To illustrate: in a cricket match between Australia and New Zealand played in Australia, the total collection may have been around USD 200,000. A match between New Zealand and India in Australia could fetch around USD 1.2 million. A match between Australia and India, still more. Yet neither the BCCI nor the Indian players received their rightful share of this wealth generated because of team India. The reason was simple: in India, cricket was not merely a sport; it was a religion connecting the three-wheeler driver to the Chief Justice of India, the rag-picker to the Tatas and Birlas. The money flowing into the ICC came substantially from Indians in India and from NRIs across the world.

The global sports industry was already worth nearly one trillion dollars. India, despite its population, passion, and potential, generated barely one billion. With the right structure, this could grow to at least twenty billion, and eventually to hundred billion. That alone would be a game changer.

This was no longer merely about cricket, or Rajasthan, or the BCCI. It was about justice. It was about the unseen sportsperson, the exploited youth, the captured institution, the colonised economic structure, and the lost possibility of Bharat.

In that struggle, I saw clearly what would later become the deeper meaning of my life's journey. Law, as a profession, had been my Mistress – beautiful, de-

manding, seductive, and often controlled by those who knew how to bend her. But justice was my Love – pure, timeless, and incapable of being reduced to procedure, power, or privilege.

The drafting of the Sports Act was one of the first moments when I saw the distinction clearly. I was using the instruments of law, but I was not serving law alone. I was serving justice. And perhaps, without knowing it then, the death of my Mistress had already begun, and the birth of my Love had quietly taken place.

L.K. Modi elected as President of RCA
21.02.2025

The Rajasthan Sports Ordinance, 2004, was immediately challenged before the High Court of Rajasthan. I appeared for the State and successfully resisted the grant of any stay on its implementation, relying on the fundamental principle laid down in *State of Bihar v. Kameshwar Singh,* 1952 SCR – that there is a presumption in favour of the validity of legislation, as the legislature understands the needs of the people and its laws are directed in the public interest. Since the Ordinance was enacted in furtherance of Article 51A(j) of the Constitution, it was a valid piece of legislation and could be duly implemented.

All associations began restructuring their Memoranda of Association in accordance with the Ordinance – except the Rajasthan Cricket Association, which resisted full throttle. Litigation after litigation followed, in the High Court and in the Supreme Court. An Administrator had to be appointed for non-compliance. The Memorandum was amended, and finally, by virtue of the orders of the Supreme Court, Justice Anil Dev Singh, former Chief Justice of Rajasthan, was appointed as Election Commissioner. The elections were scheduled for 21.02.2005 at Jaipur. The fifty-seven private votes were permitted to be cast, but were directed to be kept in sealed cover and not counted for the election of office-bearers.

Mr. Lalit Kumar Modi did real hard work at the grassroots level. He kept his voters intact. On 21.02.2005, he was elected President of the Rajasthan Cricket Association. As soon as the results were declared, I called the Chief Secretary:

"Sir, this is a premature delivery – in seven and a half months, Rungta Ji is out."

The structural principle the Sports Act had established – democratic accountability, transparent elections, the disqualification of private voters – was now tested in the arena where it mattered most. What followed was instructive: not merely in what it revealed about cricket governance, but in what it disclosed about the character of those who, in the name of sport, were engaged in the old business of using sport as a platform for networking with power.

Drafting the H.P. and U.P. Sports Acts– The Precedent Travels

Soon after Mr. Lalit Modi was elected President of the Rajasthan Cricket Association, tremors were felt across cricket associations throughout the country. I was informed that Himachal Pradesh and Uttar Pradesh were also prepared to consider the enactment of similar Sports Acts – each founded on the same essential principle that animated the Rajasthan legislation: elections to be democratised, private voters to be disqualified, and voting power to vest only in genuine district associations.

I had a meeting with Shri Virbhadra Singh, Chief Minister of Himachal Pradesh, at Himachal Bhawan, New Delhi. He invited me to assist in the drafting of a Sports Act for the State. The meeting was arranged by Mr. I.S. Bindra at the President's Pavilion in the I.S. Bindra Punjab Cricket Association Stadium, Mohali.

The most interesting experience on reaching Mohali was seeing the Nawab of Pataudi and Ms. Sharmila Tagore in the President's Pavilion. As soon as I arrived, those present gathered around me to congratulate me for the success in Rajasthan and to express their desire for a similar change in Himachal Pradesh – a strong bastion of Mr. J. Dalmiya. It was interesting to see Ms. Sharmila Tagore standing by herself while everyone converged around me. At that moment, I felt confirmed in a belief I had carried for nearly three decades: that the legal profession stands in a space of its own – above the passing glamour of sport, cinema, and politics. I felt proud to belong to a profession that commanded respect not because of visibility and entertainment, but because of intellect, courage, and service.

The drafting of the Himachal Pradesh Sports Act was another interesting experience because Rajasthan had now created a precedent. No more seven questions. No more resistance. What was most memorable was my meeting with Ms. Suman Rawat, Deputy Director of the Himachal Pradesh Sports Council – a renowned former Indian track-and-field athlete, known as the *"Queen of the Hills",* the first from Himachal Pradesh to receive the Arjuna Award in 1986, a Bronze medalist in the 3000 meters at the 1986 Seoul Asian Games, and a Gold medalist in the 1987 South Asian Games. Meeting her reaffirmed the very purpose of the legislation: that the sportsperson, not the manipulator of sport, must be placed at the centre of the system.

After a whole day's discussion on the structure of the sports industry, the pathetic conditions of sportspersons, and the efforts to regulate it by legislation, she said finally: "*Sir, when I read the draft of the H.P. Sports Act and held these discussions, I can say with conviction – bande ko sports aur sports industry samajh aati hai."* (Person understant sports and sports industry)

Those words were the ultimate music to my ears. Not because they were a

compliment to the drafter, but because they came from the sportsperson herself – the very person for whom the entire exercise had been undertaken. They confirmed that the *Aatma* of the sports industry had been heard.

The U.P. Sports (Registration, Recognition and Regulation of Association) Act, 2005, listed 35 sports in its Schedule and came into effect from 11.10.2004. The H.P. Sports (Registration, Recognition and Regulation of Association) Act, 2005, listed 56 sports in its Schedule and received the assent of the Governor on 20.04.2005.

The validity of the U.P. Sports Act was challenged in the Allahabad High Court, and the validity of the H.P. Sports Act in the High Court of Himachal Pradesh at Shimla. Senior doyens of the Bar – some of whom later became Union Ministers – appeared challenging the validity. I appeared defending it.

The Eighteenth Day – Justice Sushil Harkauli

In the Allahabad High Court, the matter was listed before a Bench presided over by Justice Sushil Harkauli – one of the finest judges I have come across. I used to reach court around noon and as the matter was normally taken after 12.00 noon-after completing the admission list remained until 4:30 p.m., making my notes. Day after day, as holidays intervened and the seniors on both sides continued their submissions, I waited. My turn came on the eighteenth day. As I rose to make my submissions, Justice Harkauli looked at me and said: *"Mr. Gupta, we have been seeing you here since the matter started, and today is the eighteenth day. You do not belong to the Allahabad Bar. Who are you, and why are you here?"*

I respectfully submitted:

> *"I am the Additional Advocate-General for Rajasthan. I drafted a similar Act in Rajasthan. I am the architect of this Act and I am here to defend the validity of the Act."*

Justice Harkauli smiled – and it was a smile that carried something beyond courtesy – and said:

> Justice Harkauli: *"Mr. Gupta, through all eighteen days of hearing, I was wondering who had drafted this Act, for we have no one here who could have drafted it. Now, tell us what this Act is all about."*

Justice Harkauli and his brother's judge closed their briefs. They heard with rapt attention as I spoke of the ills, the issues, and the concerns about the international and national sports industry – and of the first legislative step taken to ameliorate the conditions of sportspersons in India. At 4.00 pm, I concluded my arguments with these words: *"I do not know, My Lords, how you feel about it – but to me, it is the most painful sight in the life, to see our country, with more than a billion people, receiv-*

ing only a Bronze or a Silver at the Olympics."

The courtroom was quiet for a moment and then it rose, never to assemble again. Then the arguments resumed. But something had transpired, to pause that needed no legal authority, no precedent, and no case citation. It was a truth that any human being with a conscience could recognise.

The BCCI Elections – Appointment of Election Committee by the Supreme Court

By September 2005, the contours of what had begun as a State legislative exercise had expanded into a national drama. I had come to understand cricket politics in India – and the so-called big wigs associated with it – with a clarity that only direct engagement can produce. The BCCI was not merely a sports body. It was a power structure. The men who controlled it bore no resemblance to administrators of a game; they were custodians of industries worth billions, operators of patronage networks of extraordinary reach – Chief Ministers, Union Ministers, corporate houses, and the invisible architecture of influence that runs beneath the visible surface of public life in India. The Law, as I had known it across three decades, was their instrument. Justice, as I was beginning to understand it, was what they feared most.

Mr. Dalmiya played his cards with the skill of a man who had spent a lifetime navigating the intersection of commerce, politics, and sport. He succeeded in assembling, on the same side, figures whose alliance would have seemed impossible to any serious student of Indian political life. That they found common cause against a State legislative Act designed to bring transparency and democracy to sports governance said everything about the nature of institutional interest and nothing at all about political principle. The Mistress, it turned out, had admirers across every ideological persuasion – for she asks nothing of her suitors except that they continue to need her.

The question that exercised me then – and which I recorded in my diary at the time – was why those in the highest circles of national life had remained silent. The answer, when I turned it over honestly, was not difficult to find. The amelioration of the sportsperson does not win votes. Vote banks lay elsewhere. For those who governed the nation, sport was another form of entertainment – useful for spectacle, irrelevant to power. But for me, the lines drawn between the two groups in this contest were akin to those drawn on the field of *Kurukshetra*: between those who stood on the side of *Shri Krishan*, and those who – knowingly or unknowingly – served the cause of *Duryodhana*. The side one chooses in moments of moral testing reveals more than any speech, manifesto, or declaration ever can.

28.11.2005 – Sharad Pawar Elected President of BCCI – And Walking Away

By an order dated 25.10.2005, the Supreme Court appointed Shri T.S. Krishnamurthy, former Chief Election Commissioner, as Observer at the Annual General Meeting of the BCCI, to be held not later than 30.11.2005. A preliminary meeting was held at Chennai on 23.10.2005, and the proceedings thereafter continued at Kolkata on 27-28.11.2005.

I appeared before the Election Observer on behalf of both Rajasthan and Himachal Pradesh – at Chennai and at Kolkata – and succeeded in securing both votes. A colleague had insisted on handling Uttar Pradesh; that vote was lost as expectable. I also placed before the Observer certain fundamental flaws in the BCCI's voting pattern, and he was good enough to record them in his report.

The result was decisive. Sharad Pawar was elected President by twenty votes to eleven. The other office-bearers – Niranjan R. Shah, Mohinder P. Pandove, and N. Srinivasan – were elected eighteen to thirteen. It was an unambiguous mandate, and those who had resisted the law had been answered by the very democratic process they had sought to subvert.

Soon after the elections, I was thanked personally by Shri Sharad Pawar, Shri Praful Patel, Shri Farooq Abdullah, Shri I.S. Bindra, and others who had supported the cause. I told them plainly that this was perhaps our first and last meeting – that hereafter they would have no occasion to see me, and I would have no meaningful reason to see them. I had not come to build relationships. I had come to do what needed to be done. I never met anyone of them again.

Immediately thereafter, I called the Chief Secretary of Rajasthan and apprised him of the completion of my mandate. The delivery of Dalmiya had taken exactly nine months from the delivery of Rungta – precisely as I had promised at that lunch table in Delhi. A word given is a debt incurred. That debt had been discharged.

I was approached by Mr. Lalit Modi to attend the first meeting of the BCCI following the election. I soon found, however, that another advocate had been engaged to represent the Board. I understood at once, and without any bitterness. Those who secure the freedom and those who administer the system thereafter are, almost invariably, different people. The Law works this way. I walked away. I did not come back.

What this episode demonstrated, beyond all argument, was that when personal interests are sufficiently threatened, political ideology offers no resistance whatsoever. Leaders of opposing parties had stood together on the same side of a cricket dispute – which confirmed that what was at stake for those inside it was far more serious than any publicly acknowledged interest. The Mistress is no respecter

of ideology. She serves whoever holds power and abandons whoever loses it. That is her nature. I had always known it. Now I had seen it in its most concentrated form.

I walked away from that chapter without regret – with the clarity that comes only from having done what one believed to be right, and with the knowledge that the war for equity, equality, democracy, and justice in Indian sports was a long one, and had barely begun. For me, this was never about the BCCI, or Lalit Modi, or Dalmiya, or Rungta, or any individual. They were characters in a much larger play. The real question – the only question that had ever mattered – was whether Law would remain the Mistress of power: beautiful, usable, and bendable to the will of the highest bidder; or whether it could become, even at great cost, a true instrument of Justice. That question had no answer yet. But something in me had shifted in the asking of it.

The Mistress Begins to Die – The Love Begins to Be Born

The Sports Act was not merely a legislative exercise, and my visits to Allahabad during the High Court proceedings were not merely for the purpose of making submissions before the judges. Each morning, I made my way to the *Triveni Sangam* – to that sacred confluence where the *Ganga*, the *Yamuna*, and the invisible *Saraswati* meet – and stood in those waters as the sun rose over the plains. The *Triveni* does not distinguish between the advocate and the seeker. In those morning immersions, away from the briefs and the arguments and the tactics of litigation, something became visible that the court chamber had kept obscured.

I began to see, with a clarity that the holy waters seemed to sharpen, that in the war being fought around the Sports Act, both sides were ultimately seeking the same thing: power. The faction I supported had a better vision – a vision that promised more resources for sport, and perhaps, in time, more dignity for the sportsperson. But the deeper question – the question of a genuine sports culture for the nation, a culture that extended beyond cricket, beyond the glamour of the franchise, to the child on the village ground and the runner on the dusty track – that question had found no champion on either side. It was then, in those early morning hours at the *Triveni*, reading books on spirituality alongside the files of litigation, that the title of this book first began to take shape within me. Not as a phrase, but as a recognition.

I had used Law. But I had never worshipped it. I had fought through Law, but not for Law alone. I had fought for the sportsperson, for the young, for fairness – for Bharat. The Mistress had been my instrument across three decades of practice. She had served me, and I had served her, and together we had done much. But she was no longer my end. In the drafting of every clause of the Sports Act, in

four months of resistance and political combat, in the quiet recognition that the system would bend every rule to protect its beneficiaries, I had seen something that no legal education had ever shown me: that Law, in its purest aspiration, is only a vehicle. Justice is the destination.

And when I saw that clearly – when I understood, in the marrow of my bones, that I would sacrifice any brief, any relationship, and any comfort rather than betray that destination – something in me changed irrevocably. A man does not always know the precise moment when one chapter of his inner life closes and another opens. But I know that it was somewhere between the river at Allahabad and the court rooms of *Rajasthan*, between the arguments and the silences, between the drafting and the walking away, that the change completed itself. The Mistress had begun to die. My Love had begun to take form.

The Law's Unfinished Business with Justice

The Indian Premier League was the logical commercial outcome of the change in regime within the BCCI. Bollywood joined hands with cricket. The inaugural season of 2008 was a spectacle unlike anything Indian sport had previously produced, and the league has continued to grow – through scams, through the departure of Mr. Lalit Modi from India in 2010, through every controversy that the confluence of money, celebrity and governance predictably generates. By May 2026, the IPL's estimated valuation stood at approximately 18.6 billion USD. It had, in turn, catalysed other franchise leagues – Pro Kabaddi, Kho-Kho, and various football endeavors – though with considerably less success. The money had arrived.

Yet the IPL, for all its scale, is not a league in the true sense. It is contested by ten teams with no club structure beneath them reaching down to any grassroot level. Compare this with European football: more than 1,170 professional clubs across thirty-four countries compete in recognised leagues, sustained by thousands of semi-professionals and amateur clubs that form the living base of the pyramid. The structure runs from the village to the continent. In India, the structure runs from the franchise to the franchise, and stops there. The youth at the bottom of the pyramid – the very youth for whom the Sports Act of 2004 was conceived – remain, two decades later, largely outside the architecture of organised sport.

In numerical terms, India's total sports industry is valued at approximately 20 billion USD, of which nearly eighty-six per cent is attributable to the IPL valuation alone – projected to reach 40 billion by 2030. The global sports industry, by contrast, is valued at 2.3 trillion USD: two trillion in its core segments —

professional and elite leagues, grassroot sport, sports tourism, and sporting goods – and three hundred billion in its support industries, encompassing broadcast, streaming, gaming, nutrition, wearables, technology, and sports services. Global projections anticipate growth to 3.7 trillion by 2030, and 8.8 trillion by 2050. India, for all its numbers, for all its talent, for all its passion, captures a fraction.

The Government of India has, finally, enacted the National Sports Governance Act, 2025. The National Sports Board, however, has not yet been constituted. More significantly, the Act does not address the foundational questions: the relation-ship between Sports Associations, Sports Leagues, and Sports Clubs; the democratic accountability of governing bodies to their members; the rights of the individual sportsperson against the institutions that claim to represent them. The legal structure as enacted cannot, in my assessment, achieve the object it ostensibly pursues. Justice for the sportsperson – the only object that ever justified the exercise of legislative power in this domain – remains undelivered.

The Mistress continues to reign in the one sector that most directly shapes the future of the nation – the lives of its youth. She reigns not through wisdom, but through inertia; not through design, but through the accumulated weight of decades of structural neglect. She is well-dressed and well-attended. She is served by advocates of distinction and administrators of credential. But she does not deliver Justice. She never has. And until the structure is reformed from its foundation – until the club is the unit of democracy, the sportsperson is the object of governance, and the law is answerable to the field rather than to the franchise – she never will. That remains the unfinished business of 2004. It remains the unfinished business of my life in Law. And it is the reason this book had to be written.

Sanaatan Dharm, Global Fellowship, and the Civilisational Search for Justice

April 2007 – November 2008

A life in law is not lived only in the courtroom. For me, it never was. From the earliest years of practice, the deeper philosophical current that ran beneath every brief, every argument, every judgment was the current of *Sanaatan Dharm* – the ancient civilisational understanding that *dharm* is not merely personal conduct but the very architecture of a just social order, that justice is not a procedural outcome but a cosmic principle, and that the conflict-free society is not a utopian dream but the natural destination of a civilisation that takes its *dharmic* inheritance seriously. That current found expression in my commentary on the Shrimat Bhagwad Gita, which has been the philosophical backbone of my life. During this

period, it also found expression alongside my legal and institutional life through sustained engagement with the global community: the sustained engagement with the global community of those who share the conviction that *Sanaatan Dharm* holds within it the seeds of a civilisational answer to the crisis of the age.

The Hindu Heritage Pratishthan, which I helped to nurture through these years, was founded on a single clarifying principle – that the One Cosmic Reality which envelops the universe and binds all human beings in a common thread is not the exclusive property of any one faith or tradition, but is the deepest insight of the *Sanaatan* tradition, expressed in the Sanskrit declaration: *Vaasudhaiv Kutumbakam* – the world is one family. That insight carries within it the most radical possible answer to the question this book poses: if the world is one family, then every breach of trust between its members is a family matter to be healed, not an adversarial dispute to be adjudicated. The justice that the conflict-free society requires is not the justice of the courtroom alone – it is the justice of *dharm*, which is also the justice of love.

In April 2007, I was invited to introduce Mrs. Anuja Parashar – Staff Officer to the Director General, Home Ministry of the United Kingdom, and National Executive of the Interfaith Network UK – at a gathering of the Hindu Heritage Pratishthan in New Delhi. The Inter Faith Network for the UK had been founded in 1987 to promote good relations between people of different faiths, and Mrs. Parashar had devoted herself to that work across the full spectrum of Britain's religious communities. The occasion was an opportunity to reflect, before that gathering, on the global challenges facing every existing heritage in a rapidly flattening world – and to affirm that the *Sanaatan* tradition, rooted in *abhay* (fearlessness), *asangh* (non-attachment), and *ahimsa* (non-violence), carries within it the principles most needed by a world that is splitting apart under the weight of charged passions and vested interests.

In May 2007, I travelled to New Zealand to speak at the inaugural session of the First New Zealand Hindu Conference, in the presence of the Prime Minister of New Zealand and, as a guest of honour, the Chief of the Maori people. It was one of those rare occasions on which two ancient civilisational traditions – each carrying its own cosmology, its own understanding of the relationship between the human being and the natural world, and its own experience of the consequences of cultural disruption – stood on the same platform and recognised each other. New Zealand, that long white cloud at the edge of the Pacific, was the setting for a conversation about cultural harmonisation, universal peace, human unification, and individual bliss. These are not the language of the courtroom. But they are the language of the justice that lies beyond the courtroom – the justice.

In November 2008, I spoke at the First Human Empowerment Convention

in Chicago, Illinois – a gathering of the Hindu Diaspora from across the United States, assembled to reflect on the contribution of that Diaspora to the renaissance of their civilisational heritage in its motherland. It was in Chicago, on 11.09.1893, that Swami Vivekananda had addressed the Parliament of the World's Religions and opened the Western world's eyes to the *Vedantic* understanding of the unity of all faiths and the universality of the human spirit. One hundred and fifteen years later, the Hindu Diaspora gathering in the same city carried the memory of that address and something of its aspiration. The three days of that Convention were among the most memorable of this period – a sustained encounter with men and women who had carried their *dharmic* inheritance across the globe and were engaged in the quiet, determined work of building, in their countries of residence, communities rooted in trust, peace, harmony, and bliss.

These engagements – in New Delhi, New Zealand, and Chicago – were not digressions from my central journey. They were expressions of its deepest conviction: that the crisis of law and justice which this book chronicles is not merely an institutional crisis, but a civilisational one; that the answer to that crisis lies not only in legal reform but in the revival of a consciousness – the consciousness of *dharm*, of the One Cosmic Reality, of the world as one family – from which the *Sanaatan* tradition has never departed. The global travel of these years was the travel of a man who was building, alongside his legal practice, the larger network of understanding that would eventually find expression in the vision of Legal Revolution 5.0 and Finance Revolution 5.0 – the Birth of My Love, Justice.

> *"Let history remember this day as the day when people rose out of their stupor and joined together as a force united to help mankind. Let history remember this day as the day when humanity stopped making excuses, took their life in control, and ascended its journey to the ultimate. Long live humanity – peacefully, harmoniously, and blissfully."* – Address at the Inaugural Session, 1st New Zealand Hindu Conference, May 2007

BJP Loses the Election
December 2008

In December 2008, the people of Rajasthan rendered their verdict. The BJP government of Smt. Vasundhara Raje Scindia was defeated, and the Congress returned to power. It was, in the arithmetic of democratic life, an ordinary event – governments rise, governments fall, and the wheel turns without consulting those who have given the best of themselves to the years it has carried them through. I received the news with the equanimity that the *Bhagwad Gita* has always counselled in moments when the work in hand has been done to perfection. The work had been done. The Sports Act had been drafted, defended, and placed upon the

statute book. The BCCI elections had been fought and won. The legislative vision had been tested by five years of political fire. What the electorate chooses to do with the governments through which such work is done is not within any advocate's brief – nor should it be. What gave me pause was not the defeat itself, but the quiet recognition of what it meant for the work that remained unfinished: the club structure that had not yet been built into the law, the sportsperson at the base of the pyramid who was no closer.

The Honourable Departure
31.01.2009

On the 31.01.2009, I tendered my resignation as Additional Advocate General and Advocate on Record for the State of Rajasthan at the Supreme Court of India. The BJP government of Smt. Vasundhara Raje Scindia had lost the state elections. The Congress had returned to power. Ashok Gehlot had become Chief Minister. In these facts lay all that needed to be said – the appointment had been made by one government, the mandate of the people had changed, and the office was to be returned as cleanly as it had been received.

There is a particular integrity in departure. I have always believed that the completeness of the handover, the absence of lingering, and the refusal to remain where one is no longer needed are the true measures of how one leaves a position. The five years had been years of consequence, of legal service to the State, of legislative vision tested by political fire, and of advocacy that never ceased. I left with nothing owed and nothing owing. That, in the end, is the only condition worth departing under.

Argued, Assisted, Associated and Other Judgments with Observations

Through all the turbulence of legislative drafting, cricket politics, international addresses and philosophical reflection, the court-room remained constant – the arena where the discipline of law demands the fullest concentration of the advocate's faculties. The matters argued before the Supreme Court of India during this period represent the unbroken thread of advocacy that ran through these years. They include matters of constitutional significance argued for the State of Rajasthan; criminal appeals that required the most careful marshalling of evidence and precedent; environmental litigation of national consequence; and public interest matters that went to the heart of the governance of the republic. They are recorded here in full as testimony to the breadth of a practice that neither slowed nor narrowed in the years of service to the State.

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	Abdul Wahid	State of Rajasthan	(2004) 11 SCC 241	Criminal Law
2	Dayal Singh	State of Rajasthan	2004 INSC 262	Criminal Law
3	Shankarlal	State of Rajasthan	(2004) 10 SCC 632	Criminal Law
4	State of Rajasthan	Maharaj Singh	(2004) 13 SCC 165	Criminal Law
5	State of Rajasthan	Ikbal Hussen	2004 INSC 502	Criminal Law
6	State of Rajasthan	Khuma	2004 INSC 506	Criminal Law
7	Kishnia	State of Rajasthan	(2004) 11 SCC 567	Criminal Law
8	State of Rajasthan	Bhanwar Singh	2004 INSC 521	Criminal Law
9	Prithvi Raj	Kamlesh Kumar	2004 INSC 534	Criminal Law
10	State of Rajasthan	J.K.Udaipur Udyog Ltd.	2004 INSC 559	Tax Law - Direct
11	State of Rajasthan	Teg Bahadur	2004 INSC 560	Criminal Law
12	Adu Ram	Mukna	2004 INSC 591	Criminal Law
13	State of Rajasthan	Shambhoogiri	2004 INSC 594	Criminal Law
14	Research Foundation for Science	Union of India	2005 INSC 11	Environment law
15	Ishwar Singh	State of Rajasthan	2005 INSC 15	Service Law
16	Mridul Dhar	Union of India	2005 INSC 28	Education Law
17	State of Rajasthan	Gurmail Singh	(2005) 3 SCC 59	Criminal Law
18	Narmada Bachao Andolan	Union of India	2005 INSC 142	Constitutional Law
19	State of Rajasthan	Nav Bharat Construction Co.	(2005) 11 SCC 197	Arbitration
20	Brij Mohan Lal	Union of India	2005 INSC 171	Constitutional Law
21	Girdhari	Union of India	(2005) 11 SCC 291	Land Acquisition & Rehabilitation Law
22	Rajasthan Welfare Society	State of Rajasthan	2005 INSC 192	Service Law
23	State of H.P.	Pawan Kumar	2005 INSC 193	Criminal Law
24	State of Rajasthan	Ram Chandra	2005 INSC 200	Criminal Law
25	State of Rajasthan	Biram Lal	2005 INSC 207	Criminal Law
26	State of Rajasthan	Jora Ram	(2005) 10 SCC 591	Criminal Law
27	All India Judges Assn.	Union of India	(2006) 12 SCC 187	Service Law
28	In Re.Enf.and Imp. of Dowry Prohibition	—	2005 INSC 243	Family Law

29	Hanmat Singh	Nodal Officer	(2005) 83 DRJ 573	Land Acquisition & Rehabilitation Law
30	P.A.Inamdar	State of Maharashtra	2005 INSC 358	Constitutional Law
31	State of Rajasthan	Daulat Ram	2005 INSC 374	Criminal Law
32	Ashutosh	State of Rajasthan	2005 INSC 390	Property law
33	State of Rajasthan	Basant Nahata	2005 INSC 406	Criminal Law
34	T.N.Godavarman Thirumulpad	Union of India	2005 INSC 439	Environment Protection Law
35	State of Rajasthan	Nav Bharat Construction Co.	2005 INSC 479	Arbitration
36	Jaipur Municipal Corpn.	C.L.Mishra	(2005) 8 SCC 423	Merger and Acquistion Law
37	Parbata	State of Rajasthan	(2005) 13 SCC 398	Criminal Law
38	Brij Mohan Lal	Union of India	(2010) 15 SCC 505	Judiciary & Court Administration
39	Jalaram	State of Rajasthan	2005 INSC 587	Criminal Law
40	State of Orissa	Gopinath Dash	2005 INSC 610	Service Law
41	Shiv Dayal Gupta	State of Rajasthan	2005 INSC 614	Service Law
42	Vishnu Dutt	State of Rajasthan	2005 INSC 618	Insurance law
43	State of Rajasthan	Mohd. Ayub Naz	2006 INSC 4	Service Law
44	Municipal Corpn., Jaipur	Shankarlal	2006 INSC 70	Land Revenue and Tenancy Laws
45	Seema	Ashwani Kumar	2006 INSC 83	Family law
46	Dinesh	State of Rajasthan	2006 INSC 130	Criminal Law
47	BSNL	Union of India	2006 INSC 133	Constitutional Law
48	Avas Vikas Sansthan	Engineers Assn.	2006 INSC 185	Service Law
49	Jindal Stainless Ltd. (2)	State of Haryana	(2006) 7 SCC 241	Constitutional Law
50	State of Rajasthan	Kulwant Kaur	2006 INSC 252	Service Law
51	Asstt. Engineer	Ram Charan	2006 INSC 349	Labour & Industrial Law
52	Federation of (P) Medical & Dental Colleges	State of Rajasthan	(2010) 15 SCC 493	Service Law

53	Asstt.Engineer, CAD	Dhan Kunwar	2006 INSC 398	Service Law
54	Jindal Stainless Ltd. (3)	State of Haryana	2006 INSC 435	Constitutional Law
55	Justice Sunanda Bhandare Foundation	Union of India	(2014) 15 SCC 497	Disability Rights Law
56	CBI	Ravi Shankar Srivastava	2006 INSC 505	Criminal Law
57	Kuldip Nayar	Union of India	2006 INSC 532	Constitutional Law
58	Chand Mal Chayal	State of Rajasthan	(2006) 10 SCC 258	Service Law
59	Jaipur Aloo Aaratiya Sangh	State of Rajasthan	2006 INSC 609	Constitutional Law
60	Suga Ram	State of Rajasthan	2006 INSC 624	Criminal Law
61	Anar Devi	Parmeshwari Devi	2006 INSC 628	Family law
62	Prakash Singh	Union of India	2006 INSC 642	Constitutional Law
63	Director of Agriculture	Collector of Customs	(2007) 136 DLT 408	Tax Law - Direct
64	T.N.Godavarman Thirumulpad	Union of India	2006 INSC 704	Environment law
65	State of Rajasthan	Sarjeet Singh	2006 INSC 731	Service Law
66	M.Nagaraj	Union of India	2006 INSC 711	Constitutional Law
67	RPF Commr.	Sanatan Dharam Girls Secondary School	2006 INSC 747	Service Law
68	Banshi Dhar	State of Rajasthan	2006 INSC 764	Service Law
69	State of Rajasthan	Kashi Ram	2006 INSC 794	Criminal Law
70	M.C.Mehta (Taj Corridor Scam)	Union of India	2006 INSC 964	Criminal Law
71	K.Karunakaran	State of Kerala	2006 INSC 913	Criminal Law
72	Rotash	State of Rajasthan	2006 INSC 962	Criminal Law
73	Bablu	State of Rajasthan	2006 INSC 998	Criminal Law
74	People's Union for Civil Liberties	Union of India	2006 INSC 1001	Constitutional Law
75	Yamuna Shankar Sharma	State of Rajasthan	2007 INSC 21	Service Law
76	Milkmen Colony Vikas Samiti	State of Rajasthan	2007 INSC 49	Constitutional Law

77	Life Insurance Corporation	State of Rajasthan	2007 INSC 86	Tax Law - Direct
78	Abbas Ali	State of Rajasthan	2007 INSC 147	Criminal Law
79	Mangi Lal	State of Rajasthan	2007 INSC 158	Service Law
80	State of Rajasthan	Netrapal	2007 INSC 217	Criminal Law
81	Amar Nath Agarwalla	Dhillon Transport Agency	2007 INSC 235	Rent Control and Eviction Law
82	Ashoka Kumar Thakur	Union of India	2007 INSC 346	Constitutional Law
83	Supreme Court Bar Assn.	Union of India	2007 INSC 423	Service Law
84	T.N.State Electricity Board	Central Electricity Regulatory Commission	2007 INSC 447	Interpretation of statute
85	Jodhraj Singh	State of Rajasthan	2007 INSC 484	Criminal Law
86	Rajasthan Public Service Commission	Kaila Kumar Paliwal	2007 INSC 511	Service Law
87	Raju	State of Rajasthan	2007 INSC 515	Criminal Law
88	Abdul Aziz	State of Rajasthan	2007 INSC 516	Criminal Law
89	Sunder Lal	State of Rajasthan	2007 INSC 522	Criminal Law
90	Daya Singh Lahoriya	State of Rajasthan	2007 INSC 567	Criminal Law
91	Suman Sood	State of Rajasthan	2007 INSC 568	Criminal Law
92	Udai Singh Dagar	Union of India	2007 INSC 583	Constitutional Law
93	Ashoka Kumar Thakur (9)	Union of India	2007 INSC 623	Constitutional Law
94	State of U.P.	Jeet S.Bisht	2007 INSC 656	Constitutional Law
95	Goa Shipyard Ltd.	Babu Thomas	2007 INSC 670	Service Law
96	Bapu	State of Rajasthan	2007 INSC 679	Criminal Law
97	State of Rajasthan	Babu Ram	2007 INSC 683	Criminal Law
98	State of Rajasthan	Wakteng	2007 INSC 691	Criminal Law
99	State of Rajasthan	Om Prakash	2007 INSC 693	Criminal Law
100	Heera	State of Rajasthan	2007 INSC 705	Criminal Law
101	Lala Ram	State of Rajasthan	2007 INSC 710	Criminal Law
102	State of Rajasthan	Chhittarmal	2007 INSC 719	Criminal Law
103	People's Union for Civil Liberties	Union of India	2007 INSC 730	Constitutional Law

104	Rajesh Kumar Daria	Rajasthan Public Service Commission	2007 INSC 761	Service Law
105	Iddar	Aabida	2007 INSC 782	Criminal Law
106	State of Rajasthan	Nana	2007 INSC 806	Criminal Law
107	Deepak Singchi	State of Rajasthan	2007 INSC 809	Criminal Law
108	State of Rajasthan	Jagdish Chopra	2007 INSC 882	Service Law
109	Research Foundation for Science	Union of India	2007 INSC 897	Constitutional Law
110	Research Foundation for Science Tech	Union of India	2007 INSC 909	Environment law
111	State of Rajasthan	Parthu	2007 INSC 913	Criminal Law
112	Pratibha	Rameshwari Devi	2007 INSC 929	Criminal Law
113	Narayan International	Union of India	(2008) 221 ELT 183 Del.	Customs Law
114	State of Rajasthan	Ajit Singh	2007 INSC 1062	Criminal Law
115	Devi Lal	State of Rajasthan	2007 INSC 1058	Criminal Law
116	State of Rajasthan	Munshi	2007 INSC 1062	Criminal Law
117	Jaswant Talkies	CTO	2007 INSC 1139	Tax Law - Direct
118	State of Rajasthan	Khandaka Jain Jewellers	2007 INSC 1157	Tax Law - Direct
119	State of Rajasthan	Pareshar Soni	(2007) 14 SCC 144	Land Revenue and Tenancy Laws
120	People's Union for Civil Liberties	Union of India	2009 INSC 586	Constitutional Law
121	Umar Mohammad	State of Rajasthan	2007 INSC 1268	Criminal Law
122	State of Rajasthan	Jaggu Ram	(2008) 12 SCC 51	Criminal Law
123	Kashi Ram	State of Rajasthan	2008 INSC 108	Criminal Law
124	State of Rajasthan	Madan Singh	2008 INSC 130	Criminal Law
125	Rajasthan Krishi Vishva Vidhyalaya	Devi Singh	2008 INSC 186	Service Law
126	State of Rajasthan	Lala	(2008) 11 SCC 145	Criminal Law
127	Madan Mohan Sharma	State of Rajasthan	2008 INSC 239	Service Law
128	State of Rajasthan	Rohitas	2008 INSC 242	Criminal Law
129	State of Rajasthan	Rajendra Prasad Jain	2008 INSC 243	Criminal Law
130	Kailash	State of Rajasthan	2008 INSC 283	Criminal Law
131	Vinay D. Nagar	State of Rajasthan	2008 INSC 285	Criminal Law

132	Cement Workers Karamchari Sangh	Jaipur Udyog Ltd.	2008 INSC 390	Practice and Procedure
133	Ram Swaroop	State of Rajasthan	2008 INSC 404	Criminal Law
134	T.N.Godavarman Thirumulpad	Union of India	2008 INSC 416	Environment Protection Law
135	State of Karnataka	R. Vivekananda Swamy	2008 INSC 436	Service Law
136	Bhura Ram	State of Rajasthan	(2008) 11 SCC 103	Criminal Law
137	Ashoka Kumar Thakur	Union of India	2008 INSC 473	Constitutional Law
138	Oma Ram	State of Rajasthan	2008 INSC 504	Tax Law - Indirect - Excise Law
139	State of Rajasthan	Udai Lal	2008 INSC 619	Criminal Law
140	Maninderjit Singh Bitta	Union of India	2008 INSC 606	Constitutional Law
141	T.N. Godavarman Thirumulpad	Union of India	2008 INSC 620	Environment law
142	Habib Ibrahim	State of Rajasthan	2008 INSC 756	Criminal Law
143	Seema	Ashwani Kumar (3)	(2008) 7 SCC 509	Family law
144	State of Rajasthan	Gulab Singh	2008 INSC 798	Criminal Law
145	Madan	State of M.P.	2008 INSC 814	Criminal Law
146	Satya Narain Yadav	Gajanand	2008 INSC 887	Criminal Law
147	State of Rajasthan	Gajendra Singh	2008 INSC 899	Criminal Law
148	Dinesh Kumar	State of Rajasthan	2008 INSC 901	Criminal Law
149	Grid Corpn. of Orissa Ltd.	Gajendra Haldea	2008 INSC 936	Electricity law
150	Pramod Kumar Saxena	Union of India	2008 INSC 1061	Criminal Law
151	Aslam	State of Rajasthan	2008 INSC 1088	Criminal Law
152	Ram Kumar	State of Rajasthan	2008 INSC 1099	Property law
153	State of Goa	Subhash Ghogle	2008 INSC 1193	Criminal Law
154	Hanuman Prasad	State of Rajasthan	2008 INSC 1315	Criminal Law
155	CTT	National Industrial Corpn. Ltd.	2008 INSC 1376	Tax Law - Direct
156	Vaman Narain Ghiya	State of Rajasthan	2008 INSC 1420	Criminal Law
157	Panchi Devi	State of Rajasthan	2008 INSC 1492	Service Law
158	Prem Kanwar	State of Rajasthan	2009 INSC 5	Criminal Law
159	Neku Khan	State of Rajasthan	2009 INSC 7	Criminal Law

160	Girdhar Kumar Dadhich	State of Rajasthan	2009 INSC 68	Service Law
161	Surendra Kumar Bhatia	Kanhaiya Lal	2009 INSC 88	Criminal Law

Rajasthan Cricket Association & Ors. v. State of Rajasthan
AIR 2005 Raj 144

(Remanded back by the Supreme Court in *Kishore Rungta* v. *State of Rajasthan*, *(2011) 15 SCC 495*), validity upheld again by the High Court and the Supreme Court)

The Governor of Rajasthan promulgated the Rajasthan Sports Association (Registration, Recognition and Regulation of Associations) Ordinance, 2004 by gazette notification dated 18.08.2004. The petitioners – the Rajasthan Cricket Association and others – challenged the validity of the Ordinance on three grounds: first, that the Governor's exercise of power under Article 213 of the Constitution was vitiated by the non-existence of the conditions controlling such exercise; second, that the Ordinance violated the petitioners' fundamental right to form associations guaranteed by Article 19(1)(c); and third, that it was violative of Article 14, being unreasonable and arbitrary. The petitioners argued in detail that the Ordinance compulsorily inducted new classes of members, transferred governance from individual members to institutional bodies, mandated fresh elections, dissolved existing associations effectively, and assumed complete State control over all aspects of sports association functioning – all amounting to a fatal interference with the right to form and continue voluntary associations under Article 19(1)(c).

The High Court dismissed the writ petitions and held the Ordinance intra vires the Constitution. On Article 213, relying upon the Constitution Bench decision in *S.K.G. Sugar Ltd.* v. *State of Bihar*, *(1974) 4 SCC 827*, the Court held that the necessity of immediate action and of promulgating an Ordinance is a matter purely for the subjective satisfaction of the Governor. He is the sole judge as to the existence of the circumstances necessitating the making of an Ordinance and his satisfaction is not a justiciable matter. The ratio of *S.R. Bommai* v. *State*, (1994) 3 SCC 1 was held not applicable to Article 213 cases, since the Governor is the sole judge in that regard.

On Article 19(1)(c), the Court held, accepting the submissions advanced on behalf of the State, that the Ordinance did not directly or indirectly restrict the right of any individual to form an association. The right of an association to represent the State or District is not a fundamental right of any individual but is a concomitant right of the association, regulation of which is not guaranteed under

Article 19(1)(c). Since the individual's right under Article 19(1)(c) was not violated, the question of whether the regulatory mechanism constituted a permissible restriction under Article 19(4) did not arise. The regulations were in public interest covered under Article 19(6).

On Article 14, since there was no lack of legislative competence and Article 19(1)(c) was not violated, the Ordinance could not be struck down on the ground of unreasonableness or arbitrariness. The Governor, before promulgating the Ordinance, was aware of the needs of the people; the Court could not sit in judgment over the wisdom of the Governor.

Observation: This was a significant constitutional contest, more particularly as I was the architect of the Sports Act and was clear about its objectives, structure and the impact and effect of each Section. The legal formulations advanced on behalf of the State — on the non-justiciability of the Governor's satisfaction under Article 213, on the distinction between an individual's right to form an association and a concomitant right of that association to represent the State, and on the limited grounds of judicial review of legislation – were accepted and incorporated into the judgment. The legal formulation as advanced was precisely this: that the right of an association to represent the State or District is a concomitant right of the association itself, not a fundamental right of any individual, and therefore falls outside the protective ambit of Article 19(1)(c). The regulations in question were in public interest covered under Article 19(6).

I have, throughout my years at the bar, held the view that the court does not merely read the constitutional text – it gives it its working meaning. The distinction between a fundamental right and a concomitant right, between what the Constitu-tion protects and what it leaves to the State to regulate, is a distinction that the court conceives and delivers. Parliament enacted Article 19; the Supreme Court, through decades of jurisprudence culminating in *Dharam Dutt v. Union of India, (2004) 1 SCC 712,* defined its contours; and it was that delivered law which I placed before the Division Bench and which the Division Bench accepted. The 2005 Act, was upheld by the Supreme Court in *Kishore Rungta v. State of Rajasthan, (2011) 15 SCC 495* – which itself is testament to how the final delivery of law always rests with the highest court.

D.M. Singhvi v. Union of India & Ors.
AIR 2005 Raj 280

The petitioner, a former Chief Engineer and agriculturist, filed this public interest petition praying that the share of water of the inhabitants of Rajasthan be safeguarded by ensuring compliance with the provisions of the Punjab Reorganisation

Act, 1966, and that the Bhakhra Beas Management Board (BBMB) be directed to take over from the State of Punjab the administration, maintenance and operation of the irrigation works and headworks under Section 79 of that Act. The background was that while the 1966 Act and the tripartite agreement of 1981 had allocated 8.60 MAF of water to Rajasthan, the headworks at Ferozpur, Ropar and Harike – through which water was supplied to the Gang Canal, Bhakhra Canal and Indira Gandhi Canal – continued to be administered and controlled by the State of Punjab, in derogation of Section 79 of the 1966 Act which vested that control in the BBMB. Punjab had even passed a unanimous legislative resolution threatening to stop the supply of water to other states and had enacted the Punjab Termination of Agreements Act, 2004. The State of Punjab (Respondent No. 4), raised preliminary objections that the matter constituted a water dispute barred under Section 11 of the Inter-State River Water Disputes Act, 1956 read with Article 262 of the Constitution, that it fell within the exclusive original jurisdiction of the Supreme Court under Article 131, that the petitioner had no locus standi, and that the headworks vested in Punjab and could not be transferred without agreement under Article 298.

The High Court dismissed the preliminary objections filed by the State of Punjab and allowed the writ petition. It held that the matter did not involve a water dispute as defined in Section 2(c) of the Inter-State River Water Disputes Act, 1956, since the petitioner had not raised any question pertaining to the delivery or quantum of water. The petition related solely to the enforcement of Section 79 of the 1966 Act, which mandated that the BBMB exercise administrative and operational control over the headworks – control which the State of Punjab was illegally retaining. The right to water being a fundamental right the High Court was duty-bound to protect the fundamental rights of the inhabitants of Rajasthan under Article 226. The reliefs sought did not fall within Article 131. The Court accordingly directed the BBMB to take over from the State of Punjab the administration, maintenance and operation of the irrigation works and headworks as per Section 79 of the Punjab Reorganisation Act, 1966, within thirty days, with the Union of India also directed to ensure compliance.

Observation: The Ravi-Beas waters question had been a constant companion of my practice across the years – first in the Tribunal work of the 1980s, and now in this writ petition before the Division Bench. The contest here was ultimately about whether a court of law would enforce a statutory vesting of administrative control against the intransigence of a party State, or abdicate in favour of jurisdictional objections. I supported the petitioner's prayer, for the interest of the State and the interests of justice pointed in the same direction. The High Court rose to the occasion and it conceived the relief that the statute had provided but that

executive default had withheld, and it delivered that relief to the nearly eight hundred thousand cultivators of Rajasthan whose crops depended upon these waters. Water is life; the court on that day was its guardian.

State of Rajasthan v. Bhanwar Lal
2004 INSC 521

This case raised a question of fundamental importance to the enforcement of the Narcotic Drugs and Psychotropic Substances Act, 1985. Section 50 mandates that a search of a "person" must be conducted before a gazetted officer or a Magistrate. The accused Bhanwar Lal was found in possession of narcotics concealed in a bag being carried by him – not on his body. The question before the Supreme Court was whether the Section 50 safeguards applied only to searches of the physical body, or whether they extended to bags and containers being carried by the accused. Appearing for the State of Rajasthan as the Appellant, I argued that stretching "person" to include bags and luggage would hand drug traffickers a technical escape that the legislature never intended.

The Supreme Court accepted the submissions and held that the word "person" in Section 50 means a human being as he moves about in civilised society – with appropriate coverings, clothing, and footwear – and nothing beyond. A bag, briefcase, or any article or container being carried by an accused is a separately identifiable object and cannot under any circumstances be treated as part of the body of a human being. The requirement of Section 50 therefore does not apply to searches of bags and containers; it applies only where the human body itself is to be searched.

Observation: Criminal statutes must be construed to give effect to their purpose, not to create escape routes that their framers never contemplated. The legislature enacted Section 50 to protect citizens from the indignity and arbitrariness of unwarranted bodily searches – a concern of the highest constitutional seriousness. It did not enact it to immunise luggage from search. When courts stretch protective provisions beyond their purpose, they do not advance civil liberties; they advance impunity. The drug trafficker who conceals narcotics in a bag and then claims the protection of a provision designed to safeguard bodily integrity is not invoking his rights; he is exploiting the law's generosity against its own intentions. The Court's insistence on plain meaning, purposive construction, and practical common sense in this case preserved the integrity of an Act whose entire purpose is the suppression of one of the most destructive forces in human society.

State of Rajasthan v. Gajendra Singh
2008 INSC 899

Gajendra Singh had been convicted by the trial court under Section 376(1) IPC for rape and sentenced to seven years' rigorous imprisonment – the prescribed minimum. The Rajasthan High Court in appeal reduced the sentence to five years without recording any reason, much less the "adequate and special reasons" required by the proviso to Section 376(1) for imposing a sentence below the statutory minimum. The State came to the Supreme Court. I appeared for the State as Appellant, placing before the Court the unambiguous statutory requirement: the proviso is not directory; it is mandatory. Where no adequate and special reasons are recorded, the minimum prescribed by the legislature must stand.

The Supreme Court accepted the submissions and held that the requirement to record adequate and special reasons before reducing a sentence below the prescribed minimum is cumulative and mandatory. The High Court had recorded no reason at all. It was accordingly not justified in reducing the sentence. The High Court's order was set aside and the sentence of seven years' rigorous imprisonment imposed by the trial court was restored.

Observation: When the legislature prescribes a minimum sentence for an offence, it is not making a suggestion; it is making a declaration about the floor of justice for the victims of that offence. Rape is not merely a crime against an individual; it is a violation that carries consequences – physical, psychological, social – that no sentence can fully address. The least the law can do is apply the minimum it has itself prescribed, and do so with reasons when it departs below it. A High Court that silently reduces a rape sentence without a word of explanation is not exercising judicial discretion; it is abdicating judicial responsibility. The message it sends – to the survivor, to society, and to potential offenders – is that the legislature's moral judgment about the gravity of the crime is negotiable. It is not. The requirement of "adequate and special reasons" exists precisely to ensure that mercy, when it is shown, is shown on grounds that the law recognises – not on grounds that the court simply finds convenient.

Articles, Publications, Addresses, Presentations and Blogs

It was interesting and meaningful to spend days in the courtroom, drafting legislation and defending it, but larger global questions – and how the Indian legal system could meet them – were always at the back of my mind. The five years from April 2004 to January 2009 were years of unrelenting professional activity – the AOR docket for Rajasthan, the Sports Acts, the water tribunal visits, the BCCI elections, the arguments in Allahabad and Shimla and before the Supreme Court.

The calendar was full. The briefs were many. And yet the mind that had always moved between the particular and the universal continued, in the interstices of advocacy, to think aloud.

The pieces collected in this section represent that thinking made public. They range from the economics of State finance to the jurisprudence of public interest litigation, from the role of mediation in resolving conflict to the financial architecture of judicial independence, from the forces of globalisation reshaping the nation to the quiet first entry of a blog that named, in a single sentence, the deepest conviction of a lifetime at the Bar. They were discussed with the associates, delivered in conference halls, at seminars and before financial officers and law reform gatherings. But their subject was always the same: the distance between what law promises and what justice requires – and what must be done, structurally and philosophically, to close it.

Think, Reflect, and Act – Globalisation and Multinationalism

10.01.2005 (Article)

Author's Bridge: *By 2005, the work of the Additional Advocate General had immersed me fully in the machinery of the State – its litigation, its legislative drafting, its sports governance, its economic structures. But the mind that had always moved between the courtroom and the larger questions of civilisation continued to think beyond the brief. These two short pieces – published early in 2005 – are thinking aloud about the global economic order and the role of data, knowledge, and institutional wisdom in national development. The conviction that law and justice cannot be served by an institution that does not understand the economic and informational forces shaping the world it is asked to govern. The advocate who reads only law reports is, as Walter Scott said, a mechanic. The one who reads the world is an architect. These pieces are evidence of the attempt to remain an architect.*

One often wonders what is going on with an individual, a family, a country, and the world. In spite of the fact that every one of us is working hard, we have neither peace, nor harmony, nor security. The answer lies in the ancient trinity of construction, maintenance, and destruction – *Brahma*, *Vishnu*, and *Mahesh*. So long as things are natural, one can accept them. But when the construction is the creation of structures designed to exploit rather than to serve, it demands reflection.

For economically developing systems, economic poverty is the cause of most evil. To remove the evil, every one of us works and struggles – and is capable of making a good and better living for himself and his family, for no one consumes the entire product of his own labour. However, when the multinational television

and media network tells the common man about a better living, he takes a loan – and the multinational banks provide it unhesitatingly. From that loan, he buys products supplied by multinational corporations, maintained by multinational power companies, legally protected by multinational law firms, and eventually drained by multinational hotel chains or looted by multinational terrorism. On destruction, he receives multinational aid and multinational sympathies.

Wars and multinational terrorism are all inevitable parts of the same networking. The result is always the same: the ancestral accumulated wealth – which gives the necessary security and confidence – is lost, and every new generation starts afresh with a subconscious and deep sense of insecurity, competition, and frustration. The family or nation never truly develops; only the struggle continues.

How Data Accumulation Relates to National Growth

The relationship between information, knowledge, and institutional strength is neither abstract nor theoretical. It follows a clear, logical, and verifiable chain of development:

- Persons and institutions affected by technological advancement must first understand the process of data generation.
- Proper structuring and organisation of data enables the extraction of value.
- That value, when processed and interpreted correctly, becomes information.
- Information, when meaningfully applied, generates knowledge.
- Knowledge strengthens the quality of decision-making.
- The accumulation of correct decisions gradually leads to learning, maturity, and wisdom.
- Organisational wisdom ultimately creates integrity within institutions.
- Institutional integrity and strength, in turn, enable the nation to move forward with stability, confidence, and purpose.

The chain is continuous and indivisible. Break it at any stage – through ignorance, vested interests, inefficiency, lack of vision, or refusal to adopt the tools and technologies of the age – and the process of development stagnates precisely at the point of that break. The legal institution is not exempt from this chain. In many ways, it is among its most vital links, for it is the legal system that must ultimately transform accumulated wisdom into justice, and justice into a lived reality for the common man.

Officers of Rajasthan Financial Corporation, Jodhpur (Raj.)
Role of Recovery in Economic Development of the State
24.03.2006 (Address)

Author's Bridge: *As Additional Advocate General for the State of Rajasthan, I was often called upon to address gatherings that lay at the intersection of law and economics – not in the abstract, but in the specific, practical terms of what the law does to real people and real enterprises. This address to the officers of the Rajasthan Financial Corporation was one such occasion. The word 'recovery' in the context of financial institutions means something very different from its meaning in human experience. To the institution, it is the recollection of a debt. To the entrepreneur whose unit is sick, it is the removal of the last support. The advocate standing between those two meanings is standing, always, at the place where law and justice may or may not coincide. This address was an attempt to show that they need not diverge – and that the law, rightly applied, could serve development rather than obstruct it.*

While I stand addressing this august gathering of industrialists, economists, and members of financial institutions, I continue to reflect upon the true meaning of the topic of the day: The Role of Recovery in the Economic Development of the State.

Recovery, in its etymological sense, means to become well again after illness; to regain something that has been lost; or to receive that which has long remained delayed. Yet, when we speak of recovery proceedings initiated by financial institutions against defaulting entrepreneurs, we are often, in effect, removing the remaining life support from a dying person. If debts still remain outstanding thereafter, lenders begin searching for ways to recover whatever little survives in the form of residual assets.

One must honestly ask: *how does such a process contribute to the economic development of the State?*

Financial institutions are trustees of funds provided by the Government, and the Government, in turn, is the trustee of funds collected from taxpayers. As trustees of public money, financial institutions undoubtedly carry obligations that cannot be permitted to dissipate through indifference or irresponsibility. Yet the responsibility of trusteeship must be exercised with intelligence, sensitivity, and economic understanding – not merely through the mechanical invocation of recovery provisions.

Where the industrial unit is healthy, but the entrepreneur is dishonest – where the enterprise continues generating revenue while the entrepreneur wilfully defaults – recovery must indeed be swift, firm, and decisive. Such individuals become a burden upon the system, and the funds blocked or misappropriated by

them are funds that could otherwise support honest entrepreneurs and contribute meaningfully to the economic growth of the State.

But where the entrepreneur is honest and the unit itself has become sick – whether due to errors in production, marketing, finance, technology, or unforeseen economic circumstances – the law must respond differently. Immediate recovery proceedings against such entrepreneurs are not merely economically counter productive; they are often deeply unjust. The corrective surgery required to revive such a unit may be difficult and painful, yet revival frequently remains possible. Premature recovery proceedings destroy that possibility and eliminate what could still have been rehabilitated and made productive once again.

A legal and financial system genuinely committed to economic development must therefore distinguish carefully between these two situations. Law that fails to make this distinction does not truly serve justice, development, or economic progress – it merely recovers debt.

Public Interest Litigation

16.12.2006 (Article)

Author's Bridge: *Of all the instruments that law has evolved in its long struggle toward justice, PIL is perhaps the most honest in its admission that the ordinary machinery of adjudication is insufficient – that when institutions fail, when the legislature is captured by vested interests and the executive is complicit in the failure, the court must step into the space that no other institution is willing to occupy. I had watched PIL grow across three decades of practice, from its early flowering in the post-Emergency years through its maturation into a primary instrument of social justice. I had also watched it being abused, weaponised, and turned into a tool of harassment. By 2006, the tension between PIL as chariot of dharm and PIL as vehicle of adharm had become one of the central contradictions of the institution I had served. This address, delivered in December 2006, is my attempt to hold that tension honestly – and to argue, through the Gita's jurisprudence of cosmic duty, that the instrument is sound even when those who wield it are not.*

In Chapter IV, Shloka 7 of the *Bhagwad Gita*, *Krishan* says: "Whenever there is decay of dharm and rise of adharm, then I embody myself."

Dharm is, in essence, that *karm* which is conducive to the growth, evolution, and progress of human beings and society. Whatever obstructs or impedes that growth and progress becomes *adharm*. Every time *adharm* prevails and obstructs human evolution, cosmic intelligence manifests itself – naturally and inevitably – through the instruments available to it within that age.

The Third Wave brought about a profound paradigm shift. Networking be-

came the principal means of climbing the social and institutional ladder. The movement of money increasingly flowed toward the middleman rather than the creator; accolades moved toward the manipulator rather than the person of integrity. The inability of both the legislature and the executive to adequately address this situation – often because vested interests themselves became intertwined with the very disorder they were expected to regulate – gradually led to the manifestation of corrective constitutional energy through the judicial process itself.

The judiciary, therefore, had to employ Public Interest Litigation as another chariot suited to the contingencies of the age. The rise of the judiciary as an institution seeking to alleviate public suffering and protect citizens against corruption, arbitrariness, exploitation, and injustice was thus not accidental. It was a natural constitutional evolution. In many ways, it also challenged the older Machiavellian understanding of the judiciary as merely the weakest limb of govern-ment. PIL emerged as an instrument through which the judiciary could respond to arbitrariness, administrative inaction, systemic exploitation, and the various forms of injustice that empowered individuals and institutions often inflict upon others, despite the constitutional promise that all are created equal in dignity before the law.

If the judiciary continues to use PIL with restraint, wisdom, and constitutional integrity as a means of strengthening *dharm* and limiting *adharm* within the social system, it strengthens its own moral authority. But if individuals who themselves embody *adharm* begin using the judicial process for personal, political, ideological, or institutional ends, the institution itself risks degeneration. Every great instrument of justice carries within it the possibility of misuse.

PIL will therefore continue to remain necessary so long as this larger struggle between justice and injustice, truth and falsehood, equity and exploitation, continues within society – and so long as there remain individuals willing to undertake that struggle in the larger public interest.

Incidentally, after the *Mahaabhaarat* war was over, the chariot whose reins had been held by *Shri Krishan* was itself extinguished, for it had no further utility once its purpose had been fulfilled. PIL too may ultimately cease to be necessary once *dharm* becomes sufficiently established within institutions and society. That moment, however, has not yet arrived. Until it does, the chariot must continue to move.

Friends, the struggle is neither simple nor superficial. The networking structures of the modern age often make it difficult to distinguish clearly between those who stand on the side of *dharm* and those who merely appear to do so. It therefore becomes necessary for people of integrity and awareness to understand causes, anticipate consequences, and quietly serve the larger purpose of justice — not for applause, visibility, or media recognition, but because justice itself requires such participation.

Supreme Court of India – Reflective, Restrained and Redeemer

30.07.2007 (Article)

Author's Bridge: *This article was written in the summer of 2007, when I had been at the Bar for thirty-one years. By then, the dissonance between law and justice that had begun as a quiet unease in the corridors of the Supreme Court had deepened into a structural diagnosis. I knew, with a clarity that years of practice had made inescapable, that the institution was both magnificent and flawed – that it carried within itself the capacity to redeem the nation and the capacity to betray it. This article is the full accounting of that dual reality. It is neither a condemnation nor a celebration. It is what thirty-one years at the Bar, watching closely, produced: a portrait of an institution at the crossroads – one that could yet, if it chose, be the living instrument of justice that the Constitution intended it to be. That faith – battered but intact – is what keeps the advocate returning to the courtroom, day after day, year after year, even as the mistress begins to die.*

The impact of the decision-making process of Courts touches almost every aspect of human existence, social behaviour, and State governance. From Presidential elections to compassionate appointments; from international and inter-State boundary and water disputes to mutation and khatedari rights; from anti-dumping measures and disinvestment policies to medical reimbursements and pensionary benefits; from excesses by armies in foreign territories to anticipatory bail and cancellation of bail; from the conviction of terrorists, murderers, and child rapists to sexual harassment at workplaces – there are cases and there are judgements.

Judges are different, lawyers and litigants are different, facts and faces are different, issues and laws are different, jurisdictions are different – yet there is always litigation touching some facet of human coexistence and a judge delivering a judgment determining the cause. One party loses, another wins, and every person who reads the judgment comments upon it. No other authority in human civilisation today exercises such diversity in the powers vested in it.

From the moment a being is conceived in the womb until the issuance of a succession certificate – from the first breath to the last – every human being possesses legal rights regulated by laws, whether he likes it or not, whether he is aware of them or not, whether he fights for them or not. Sooner or later, every individual becomes involved, in one form or another, in the assertion of access to equity, equality, and justice, and either receives or continues waiting for *Satyamev Jayate* – the ultimate triumph of truth, equity, and justice.

This is common to all jurisprudence, uniform across judicial systems, and consistent for all persons associated with the judiciary. Since equity, equality, diversity, inclusiveness and justice are universal aspirations, and since the effort of

every lawman is ultimately to enable this cosmic equity and justice to find expression through law and litigation, it becomes necessary to appreciate the role and direction of the judiciary, which alone has worked – and can continue to work – as the redeemer within a world structured upon numerical majorities and a government "of the people, by the people, and for the people," functioning through checks and balances created by a written Constitution.

The Supreme Court of India has always been the cynosure of public attention and attraction, and this interest has grown even stronger in recent decades – a highly desirable development in a constitutional democracy. It has played a profoundly important role in the life of the people of India and has, in many ways, performed a role similar to that played by the *rishis* in ancient times: giving direction in matters of governance, keeping administration upon the correct path on the one hand, and protecting the life, liberty, and property of citizens on the other.

The Supreme Court has dealt with these issues whenever they have been brought before it and whenever the need has arisen, always with the larger objective of protecting and developing "We the People," while also extending every possible constitutional support to the Government in achieving its laudable goals of equality and justice for all.

In the last sixty years, 175 Judges have been elevated to the Supreme Court of India, out of whom 23 are presently sitting Judges. During this period, the Supreme Court has dealt with more than two million petitions for Special Leave and Appeals and has delivered nearly 37,000 reportable and non-reportable judgments and many Non-reportable judgments.

Judgments are both causes and effects – causes of issues that subsequently arise and require adjudication at later stages, and effects of the social and political events, circumstances, and precedents that they seek to synthesise within changing dimensions of time, space, and human energy. Every judgment reflects the Judge's background, understanding, and analysis within the evolving political and social milieu, which, in the words of Justice Oliver Wendell Holmes Jr., constitutes *"an inarticulate major premise,"* and in the words of Chief Justice J.S. Verma, *"the Judge's perception"* – shaped, triggered, and refined through the Judge's own lifetime of experience and reflection.

As Justice Benjamin N. Cardozo observed in The Nature of the Judicial Process:

> *"The work of a judge is in one sense enduring and in another sense ephemeral. What is good in it endures. What is erroneous is pretty sure to perish. The good remains the foundation on which new structures will be built. The bad will be rejected and cast off in the laboratory of the years."*

It may well be that Judges have, at times, committed serious errors. Yet the judiciary has also demonstrated the capacity to correct itself as society, constitutional understanding, and historical circumstances evolve. The underlying principle has always remained that to perpetuate an error is no heroism; to rectify it is the compulsion of judicial conscience.

In this, we derive comfort and strength from the wise and inspiring words of Justice Green C. Bronson in *Pierce* v. *Delameter*: How. App. Cas.

> *"A judge ought to be wise enough to know that he is fallible and, therefore, ever ready to learn; great and honest enough to discard all mere pride of opinion and follow equity and equality wherever they may lead; and courageous enough to acknowledge his errors."*

Every Judge of the Supreme Court, whenever his conscience is shaken and he perceives illegality, arbitrariness, or exploitation being perpetrated, has sought to intervene and regulate it, often using judgements as instruments of social change. In this process of constitutional dialectics, Judges of the Supreme Court have heard arguments for hours, days, and at times weeks, before delivering judgements and issuing directions.

Academicians, jurists, senior advocates, and commentators have at times severely criticised Judges and judgements – but such criticism too is often another form of perception, just as judgements themselves reflect judicial perception.

Unlike the Supreme Court of the United States, where arguments are frequently limited to minutes and decisions are primarily brief-driven, Judges of the Supreme Court of India hear arguments with extraordinary patience, serenity, and attentiveness – a process that often makes one bow one's head with reverence.

The process of litigation is simultaneously: creative for Judges and advocates, decisive for litigants, educative for informed citizens, revealing of human relationships and conflicts, informative regarding rights and duties, corrective for legislators, and illuminating for the executive regarding errors committed intentionally or otherwise.

It also acts as a mechanism for balancing constitutional power. The larger purpose remains the pursuit of justice through the process of dialogue. Within the judicial process, one can witness generative dialogue unfolding live — the gradual elimination of error through the reasoning of the Bar and the Bench, like a musical note slowly rising toward a crescendo. No advocate can legitimately complain that the Judges of the Supreme Court have denied him a fair hearing.

Thirteen Judges of the Supreme Court heard *Kesavananda Bharati v. State of Kerala* for almost an entire term. Several books and an enormous body of jurisprudence were cited. Justice Y.V. Chandrachud observed:

"We were invited to consider parallel clauses in the Constitution of 71 countries of the world spread far and wide, with conflicting social and political philosophies. We traveled thus to new lands like Bolivia, Costa Rica, El Salvador, Guatemala, Honduras, Liberia, Nicaragua, Paraguay, Uruguay and Venezuela. Constitutional sojourns to Australia, Canada, Ceylon, France, Germany, Ireland, Switzerland, U.S.S.R. and U.S.A. were of course of frequent occurrence. These excursions were interesting but not proportioned to their utility, for I believe there is no international yardstick with which to measure the width of an amending power.

We were then taken through the writings of scores of scholars, some of whom have expressed their beliefs with dogmatism not open to a Judge. There was a faint controversy regarding the credentials of some of them, but I will mention the more-often quoted amongst them, in order to show what a wide and clashing variety of views was fed to us. They are : Granville Austin, James Bryce, Charles Burdick, John W Burgess, A. P. Canaway, Dr. D. Conrad, Thomas M. Cooley, Edward S. Corwin, S. A. De Smith, de Tocqueville, A. V. Dicey, Herman Finer, W. Friedmann, Carl, J. Friedrich, James W. Garner, Sir Ivor Jennings, Arthur Berriedale Keith, Leo Kohn, Harold J. Laski, Bora Laskin, A. H F. Lefroy, William S. Livingston, William Marbury, C. M. Mcllwain, Charles E. Merriam, William B. Munro, Lester B. Orfield, Henry Rottschaeffer, George Skinner, Joseph Story, C. F. Strong, Andre Tunc, Samuel P. Weaver K. C. Wheare, Hugh E. Willis, Westel W. Willoughby, Woodrow Wilson, W. Anstay Wynes and Arnold Zurcher.

At one end is the view propounded by writers like James Garner ('Political Science and Government') and William B. Munro ('The Government of the United States') At the other end is the view expressed with equal faith and vigour by writers like Dr. Conrad ('Limitation of Amendment Procedures and the Constituent Power), William Marbury ('The Limitations upon the Amending Power' - Harvard Law Review, Vol. XXXIII) and George Skinner (Intrinsic Limitations on the Power of Constitutional Amendment' - Michigan Law Review, Vol. 18) I will therefore make a spare and studied use of the view of some of these men of learning. But I cannot restrain the reflection, in the strain of Dr. Conrad, that after going through all this erudition, one may well conclude this tour d' horizon with the opening quotation of Walter Bagehot's famous treatise : "On all great subject, says Mr. Mill, much remains to be said".

The Charter of United Nations, the Universal Declaration of Human Rights and the European Convention of 1950 were cited to show the significant change in the world thinking towards the rights of individuals Apart from whether the so-called intellectuals - the classe non classed' - believe in the communistic millennium of Marx or the-individualistic Utopia of Bastiat, the answer to this question must depend upon the stark urgency for striking a balance between the rights of individuals and the general good of the society.

We were also invited to have a glimpse of the social and political philosophies of Grotius (1583 - 1645), Hobbes (1588 - 1679), Locke (1632 - 1704), Wolff (1679 - 1784), Rousseau (1712 - 1778), Blackstone (1723 - 1780), Kant (1724 - 1804), Bentham (1748 -1832) and Hegel (1770 -1831).

The debates of the Constituent Assembly and of the first Provisional Parliament, on which none declined to rely furnished a lively experience. The speeches of Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel, Dr. Rajendra Prasad, Dr. S. Radhakrishnan, Dr. Ambedkar, Govind Ballabh Pant, Dr. K. M. Munshi, Alladi Krishan Swamy Ayyar, Dr. Shyama Prasad Mookherjee, Acharya Kripalani, Rev. Jerome D' Souza, K. Santhanam, Dr. Punjabrao Deshmukh, H. V. Kamath and others were read out to us

> *During the course of arguments, a catena of decisions of several courts were cited before us. We were taken through an array of cases decided by the Privy Council, the Supreme Court of the United States of America, the Supreme Courts of American States, the High Court of Australia, the Supreme Court of Ireland, the High Court of Ireland, the Supreme Court of South Africa and, of course, our own Supreme Court, and the High Courts.."*

The Supreme Court of India has played the exact role required and expected of it, in the best possible manner, for a country with an ancient and deeply rooted culture and heritage – a country that attained independence through a struggle based on unheard and untested principles, and then adopted a well-debated, powerful written Constitution regulating a democratic system capable of dealing with paradigm shifts.

With all the dignity and aura at its command, the Supreme Court has successfully carved out for itself a role which had neither been fully conceptualised nor clearly contemplated by the framers of the Constitution or by the people of Bharat, but the need for which became imminent as Bharat grew and matured into a powerful economy.

The error is not in the action or the role of the judiciary, but in the concept of limitation of that role when applied mechanically to ground realities. The concept of checks and balances, and the empowerment of constitutional institutions with definite and limited jurisdictions and functions, works perfectly well to prevent the concentration of power in the hands of a tyrant or an institution becoming tyrannical. But when contemporary institutions fail to perform their constitutional, social, and moral functions, duties, and obligations, it becomes incumbent upon the judiciary to issue necessary directions, without crossing the inherent restraints built into every Judge's system.

The Supreme Court has time and again remanded matters back to the executive to reconsider its decisions and put its house in order, instead of striking down every illegal action and granting restitution. The entire purpose of Public Interest Litigation is to help the executive run the Government according to law, or to make the legislature aware of archaic or unenforceable existing laws and the need to make necessary amendments.

The real ill lies in the fact that everybody is presumed to know the law, but when legislation and delegated legislation are enacted continuously, it has become impossible for Judges, advocates, the executive, and even the legislature to keep pace with the laws in force, even in the information age. The real ill lies in the fact that there are existing laws which are not enforceable. The real ill lies in the fact that there are laws which the executive does not have the will to enforce. The real ill lies in the fact that the executive often acts contrary to what the law says because, according to it, the law does not say what is equitable, effective, and en-

forceable. The real ill lies in the fact that no law seems fully implementable; there is always someone able to break it with ease and escape without compensating those who suffered the loss.

Time has established that vested interests often operate while making laws, and hardly any law is framed which can be successfully implemented to the hilt. There is hardly any law framed by any legislature whose violation does not, in some measure, have to be tolerated by the executive. The real ill lies in the fact that many of the most successful people today are not law-abiding citizens, but law violators; and it is there that the Supreme Court has made serious efforts to put its foot down. It is there that justice and equity come down to rescue the citizen and make the legislature and executive red-faced. The real ill also lies in the fact that there has never been a serious legal audit of the laws sought to be enforced, and that several reports of Law Commissions continue to gather dust.

Directionless rhetoric by those who prefer the beauty of form over the beauty of substance continues to criticise, without sufficient understanding, the magnificent role played by the Indian judiciary in the last almost six decades. Civil rights activists who fight for bonded labour, reservation for minorities, and environmental protection on one side, also fight for abolition of the death sentence, custodial rights, and pavement dwellers on the other. They have at times supported judicial activism to the hilt, and at other times called judicial activism euphoric. In one breath, they limit the role of the Supreme Court to that of an interpreter of the Constitution and laws made by the legislature; in another, they feel uncomfortable when the Supreme Court empowers the executive to act firmly, while also wishing that the Courts help reach the Gandhian ideal of wiping every tear from every eye.

The Supreme Court has time and again restrained itself with great pain, even while feeling that grave inequity was being perpetrated. The Supreme Court has, at times, requested the legislature:[3]

> *"Though we have abstained from striking down the legislation, yet, it appears to us that immediate steps are called for and are imperative to rationalise the levies. In doing so, the States should realise the desirability of levying on the initial slab of the subject-matter – say up to Rs. 15,000/- – a nominal court fee not exceeding 2 to 2½% so that small claims are not priced out of Courts. 'Those who have less in life,' it is said, 'should have more in law.' Claims in excess of Rs. 15,000/- might admit of an ad valorem levy at rates which, preferably, should not exceed 7½%, subject further to an upper limit which, having regard to all circumstances, could be envisaged at Rs. 75,000/-. The upper limit, even prior to 1974 under the Bombay Act, was Rs. 15,000/-, and prior to 1961 under the Rajasthan Act, Rs. 7,500/-. Having regard to steep inflation over the two decades, the upper limit could perhaps go up to Rs. 75,000/-. After that limit is reached, it is appropriate to impose on gradually increasing slabs of the value of the subject-matter progressively decreasing rates, say from 7½% down to ½% in graduated scales. The Governments concerned should bestow attention on these matters and bring about rationalisation of the levies."*[3]

However, the legislature has chosen to remain silent for almost two decades.

Our cultural mix in law has led us to adopt both the legacy of the British Raj and the free spirit of America. Our Courts have shown the greatest judicial self-restraint at times, and at others have given expression and vent to the free human spirit, which to a stray observer may appear seemingly contradictory. However, as Walt Whitman says:

> *"If it contradicts itself, well, then it contradicts itself, for it is large and can contain multitudes."*

Or, as Ralph Waldo Emerson wrote in *Self-Reliance*:

> *"A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines. With consistency, a great soul has simply nothing to do…He may as well concern himself with his shadow on the wall. Speak what you think now in hard words and to-morrow speak what to-morrow thinks in hard words again, though it contradict everything you said to-day. Ah, so you shall be misunderstood? Pythagoras was misunderstood, and Socrates, and Jesus, and Luther, and Copernicus, and Galileo, and Newton, and every pure and wise spirit that ever took flesh. To be great is to be misunderstood"*

The limited role earlier assigned to the judiciary – of merely interpreting laws made by the legislature – has correctly and dramatically changed in the latter half of the last century. In the actual balance of power, it now seems that the basis of that presumption does not fit this new era of globalisation. The judiciary no longer remains the weakest limb of Government. It is the most powerful and potent limb – not only protecting, defending, and shielding equity, equality, and justice, but also convicting the corrupt and the guilty in power.

It is time to recognise the power of integrity, thought, and adherence to truth and justice – a power which only the Courts can meaningfully exercise, for they are not ordinarily driven by public passion and are expected to remain substantially fearless, self-reliant, and independent. This is the reason that in all democracies the judiciary continues to play a significant and effective role. As Albert Einstein observed:

> *"It is a welcome symptom in a age which is commonly denounced as materialistic, that it makes heroes of men whose goals lie wholly in the intellectual and moral sphere."*[4]

Judges, ably aided by advocates and academicians, will have to play a much larger and more vital role in the governance of every country. Whether it be the Supreme Court of the United States, the High Court of Australia, the House of Lords, or the Supreme Court of India, these institutions have increasingly become centres of constitutional power and direction.

The Supreme Court has time and again tested the validity of laws on the touchstone of equality, drawing not merely from the text of law but also from

judicial experience, constitutional philosophy, and a larger vision regarding the direction of the society. Its role has also extended to ensuring that valid laws exist and that the laws laid down are properly implemented and administered.

The basic difficulty lies not merely in laying down the Fundamental Duties (Chapter IV-A of the Constitution) or the Directive Principles of State Policy (Part IV of the Constitution), but in translating them into an implementable legal framework. Laws are ordinarily framed to remedy a particular mischief. But if manipulators are able to influence the making of laws, and such laws ultimately govern those who wish to live without manipulation, the burden upon the Supreme Court inevitably becomes heavier.

During the course of judicial scrutiny, Judges have sanctioned policies and determined their impact within the changing social milieu. Lawmen are men of words. Day in and day out, they engage with words, meanings, rights, duties, liberty, and exploitation, ultimately seeking to arrive at justice – values every human being seeks for himself. Judges have always thought in terms of action upon which great public interests depend, and through that process have often directed social change toward what is reasonable, just, and proper for the people. The Supreme Court has, at several crucial moments, indicated – and at times even set – the direction in which the nation must move, though public sentiment may not always immediately appreciate that direction.

The advent of the electronic age is reorienting the social structure itself. Seemingly unrelated developments – the gradual breakdown of the nuclear family, the spread of cable television and Internet culture, the erosion of moral and value systems, terrorism both physical and cultural, overpopulation, energy crises, environmental degradation, illegal migration, shrinking notions of sovereignty, and political coalitions formed without common ideologies but with seemingly common objectives – are all unfolding simultaneously around us.

Within this apparent chaos, every individual – parent, child, professional, client, intellectual, artist, teacher, bureaucrat, politician, and even the anti-social element – is attempting to reorganise, reorient, and design a coherent and effective response to the changing environment. If legal thinkers are able to understand the process of socio-economic transformation, which they inevitably must, they will be able to meet these challenges with greater preparedness.

With the transformation of the socio-economic structure, the nature of litigants and litigation has also changed. The design of courts and law offices has evolved; even the traditional *munshi* has changed – from an old bespectacled man seated quietly in a corner to an aggressive, professionally equipped cellular-phone user. The approach of Judges and advocates is also changing, creating a more professional, effective, and meaningful impact.

The process of change and development is both irreversible and choiceless. Either one moves with the wave or risks being swept away by it. The only real choice is whether change is forced upon institution or consciously planned. That, ultimately, is the distinction between slavery and freedom; between unchannelled power and channelled power. One destroys an edifice, while the other places it within the annals of history.

Issues of every conceivable nature have reached the Supreme Court and have been dealt with magnificently by it, often charting the course for the entire nation. The Supreme Court has addressed these issues with great circumspection and has attempted to resolve them in a manner that promotes accord, balance, and harmony.

One thing remains clear and certain: every individual Judge has sought to contribute his very best in the interest of the nation, the institution, and the common man. Abrasions are part of the life process – both for individuals and institutions – and every institution passes through cyclical phases of growth and correction, which society constantly attempts to minimise and refine.

The judgements of the Supreme Court assimilate the reflections and expressions of reflective and disciplined minds, which, after hearing the finest intellectual arguments of the age on every social, economic, constitutional, and political facet, have acted with remarkable restraint and have played their role as a redeemer in the growth of a great nation

1. The Nature of the Judicial Process Benjamin N. Cardozo
2. H.H. *Kesavananda* Bharati Vs. Union of India 1973 Supp. SCR 0001
3. (1988) Supp. (3) SCR 0155 at 0195 P.M.A. Setty Vs. State of Karnataka
4. My First Impression of the USA An interview of Albert Einstein for Nieuwe Rotterdamsche Courant, 1921. Appeared in Berliner Tageblatt, July 7, 1921.

Seminar on Mediation and Arbitration

10.02.2008 (Address)

Author's Bridge: *The reader who has followed the journey from the first diary entry of August 1976 will recognise what this address represents: the moment at which the advocate who has spent thirty-two years inside the adversarial system begins to articulate, with the full weight of that experience behind him, why the adversarial system is not enough. The argument here is not theoretical. It is the argument of a man who has watched the dialectic produce sparks instead of light, who has felt the courtroom become a theatre of ego rather than a temple of justice, and who has understood – through thirty million dockets and thirty million human stories behind them – that the birth of love requires a different instrument than the death of the mistress produced. That instrument is mediation.*

Chief Justice of Rajasthan, Hon'ble Judges, distinguished dignitaries on the dais, my esteemed colleagues, ladies and gentlemen.

I take this opportunity to congratulate UIA and Law Asia for coming together and organising their first joint international seminar in Rajasthan – a land renowned for its rich culture, heritage, history, valour, and much more. I sincerely hope that each one of you will carry back with you fond memories of the moments we have shared together here.

Over the last three days, we once again had the opportunity to renew friendships, build new relationships, share ourselves, and exchange thoughts on the latest developments in the fields of mediation and arbitration. With a few exceptions, most of us gathered here are mature professionals with multidimensional personalities who understand both the complexities of the legal system and the ways of the world. We are here because we feel passionately about our profession and because we believe that justice can often be achieved outside the courts as effectively – and sometimes more meaningfully – than within them.

Courts across the world continue to be burdened with increasing volumes of unresolved litigation, resulting in further slowdown of the justice delivery process. In India alone, we have nearly 30 million pending cases, and perhaps an equal number globally, which would roughly constitute almost one percent of the world's population of approximately 6.5 billion. Yet every litigation does not affect merely two individuals; it affects families, businesses, relationships, and communities. The cascading social and economic effect is therefore alarming. With disposal rates slower than the rate of institution, arrears will continue to mount. That is precisely why we are here – to help unburden courts through a swift, efficient, effective, and comparatively low-cost mechanism called mediation.

We all value our relationships – with clients, Judges, opposing counsel, and at times even with the opposite party. Most professionals seek to keep everyone reasonably satisfied, earn a dignified livelihood, and lead a meaningful life. Since our professional abilities are often judged by our capacity to secure relief for clients, and when someone among us steps into the role of mediator or adjudicator, it becomes easier to assist parties in leaving the room with greater clarity, satisfaction, and perhaps even a smile. Mediation, in essence, is the process of reasoning out reasonableness.

The moment an advocate is engaged in a criminal matter, his immediate task is first to protect his client from arrest; if arrested, then to secure bail; and ultimately to seek acquittal from the charge alleged. But if this alone becomes the objective, without considering the effect upon the person wronged, justice itself remains incomplete. We have had – and continue to have – many brilliant and successful advocates, but brilliance alone does not always create great lawmen. Great lawmen are those who remain conscious of the larger social impact of every

litigation and continue carrying that awareness in both heart and lead as the dispute unfolds and the picture becomes clearer. Lawmen often know best what is truly important and socially acceptable. A fair settlement frequently gives deeper satisfaction and is more rewarding to the soul than even the most brilliantly argued lawsuit.

If no agreement were ever breached, if all laws were perfectly just and reasonable, if nobody violated the law, and if every violator were convicted and compelled to restore the advantage gained through wrongdoing, we would all perhaps be doing something entirely different in life. Every single day of my professional journey has reinforced one simple truth: human coexistence necessarily involves relationships, and relationships inevitably involve conflict.

Whether the issues are domestic, economic, social, commercial, or inter-State, there are agreements and there are disputes. Agreements arise because people associate with one another for reasons known to them and for benefits, they believe are likely to emerge from their interaction or transaction. Disputes arise because the expected benefits fail to materialise, or because the outcomes achieved differ from those anticipated or promised. Every human being – from first breath to last – and every business or industry – from inception to dissolution – survives upon these two forms of relationships and their consequences.

Competition, coupled with the desire to control economics and power, whether by individuals or groups, has often resulted in the charging of public passions on the basis of class, caste, religion, economic divisions, and the distinctions between the "haves" and "have-nots." Hidden agendas and vested interests blur issues and diminish the capacity for objective thinking. Yet in many cases, the moment one party is able to genuinely see the perspective of the other, resolution begins to emerge. Parties may arrive at satisfaction even without a formal settlement or may negotiate fresh understandings. Incidentally, the very act of putting issues into writing often resolves several problems because it creates the possibility of objective thinking.

Although there are hundreds and thousands of laws and agreements on paper, many common disputes simply do not raise claims realistically capable of being resolved through formal litigation. Disputes between family members, neighbours, or employees often fall into this category. For instance, a homeowner may find that the formal legal system offers no practical solution to a neighbour's excessively bright driveway lights shining into his bedroom window. Yet in mediation, it may emerge that the neighbour installed the lights because the homeowner's dog repeatedly entered his lawn, or because the homeowner's tree had encroached onto his property. Understanding the underlying cause often changes the nature of the conflict itself.

Believe me, friends, nobody litigates for pleasure or amusement. Litigation is time-consuming, expensive, emotionally draining, and painful. Every person who approaches a Court does so because he feels wronged. He feels he has suffered enough. It is one of those eternal human cries: *Kab tak sahen, khamosh rahen* – how long shall we continue to suffer silently? The aggrieved person feels that others have benefited at his cost, that he has been exploited, excluded, treated unequally, arbitrarily, or unreasonably – whether by Government or by private individuals.

If the European Union could emerge after the devastations of the Second World War, if the Berlin Wall could fall after decades of ideological hostility, and if the Samjhauta Express could run between India and Pakistan after years of conflict, there is very little in human affairs that cannot ultimately be resolved through dialogue and amicable settlement. In the end, much depends upon changing human perception.

Of course, there are professional litigants and there are cantankerous personalities. Yet if one speaks to them carefully, even they often acknowledge that prolonged litigation is neither easy nor desirable. They, too, look forward, somewhere within themselves, to a reasonable settlement. That is the fluid stage where a person requires a shoulder to lean upon, someone capable of restoring clarity, objectivity, and perspective – someone who can help him understand where continuing conflict may ultimately lead.

That is precisely why mediation is possible. That is why people eventually agree to resolve disputes, redirect their lives and businesses, and stop wasting valuable time, energy, and resources upon failed expectations and broken agreements.

Nearly every dispute – regardless of complexity, intensity, or monetary value – can be resolved upon terms acceptable to all sides if, and only if, parties are willing to confront honestly and fearlessly:

- themselves,
- their opponents,
- the law,
- the evidence,
- and the uncertainty inherent in litigation.

Mediation requires parties to confront realities – their weaknesses, needs, vulnerabilities, and true motivations. Mediation becomes difficult only where hidden agendas persist, surprises are reserved up one's sleeve, or where parties are unwilling to act reasonably. Like spiritual growth itself, mediation cannot be forced upon someone who is neither prepared nor willing to be reasonable, or who has not yet suffered sufficiently to desire resolution. In such situations, mediation

may have to terminate without a settlement.

Even after mediation and arbitration fail, and parties still approach the Court, the matter must be treated seriously, for then there exists either a problem against the law or against reason requiring authoritative resolution.

At the root of most litigation lies:

- refusal to restore an unfair advantage,
- suppressed will,
- broken trust,
- wounded emotion,
- or a deep feeling of inequity and injustice.

Yet even after years of litigation, mediation often remains possible because parties gradually discover that instead of bringing them closer to resolution, litigation has pushed them farther apart – and often closer to financial and emotional ruin. People eventually realise that while it may have been easy to declare, *"I will sue you for all you are worth,"* finding a meaningful formula to end the litigation can be far more difficult. That is where mediation helps.

When passions cool and the anticipated benefits of litigation no longer appear likely to materialise, people begin seeking compromise. At that stage, somebody must be there to show direction – someone trustworthy, someone who will not betray confidence, someone capable of touching the human heart, someone willing to hold a hand and lead parties from conflict toward agreement, from darkness toward light, from bitterness toward understanding.

I genuinely believe that mediation and arbitration are extraordinarily powerful, though still underutilised, instruments for harmonious human relationships and conflict resolution. In the information age, lawmen are perhaps better placed than ever before to play a useful, effective, and constructive role in mediation and arbitration across every sphere of human interaction.

Litigation, in my view, must remain the last resort for resolution of conflict – necessary only where one party remains unreasonable and unwilling to give the other what is justly due. In such situations, Courts must act swiftly and decisively according to the law.

If this seminar succeeds in spreading one message globally – that reasonable people mediate while only the unreasonable insist endlessly upon litigation – then I believe this seminar would have achieved its true purpose.

Long live justice. Long live advocacy.

Thank you.

All Indian Seminar on Judicial Reforms
Financial Autonomy in the Administration of Justice
22.02.2008 (Address)

Author's Bridge: *The independence of the judiciary is not a philosophical abstraction. It is a structural reality that depends, at its most basic level, on money. An institution that must beg the executive for its budget is not independent of the executive. An institution whose advocates are paid at rates fixed in 1966 and never meaningfully revised is not an institution that commands the dignity it deserves. I had experienced this structural failure personally – in the unpaid bills that accumulated in corners of the Law Department of Rajasthan, in the paltry fees that made government counsel a form of professional servitude, in the absence of any coherent plan for the judicial institution's financial future. This address, delivered at an All India Seminar on Judicial Reforms in February 2008, is the full articulation of that structural argument – the argument that the death of the mistress is not merely a matter of judicial corruption or institutional bias, but also, and most fundamentally, a matter of the State's chronic unwillingness to fund justice adequately.*

Independence of the judiciary is the basic foundation and bedrock of the existence of a sane, rational, and sound social system. The principle of judicial independence is almost universally accepted. One of the accepted facets of institutional independence concerns the financial resources and financial freedom or autonomy to be granted to the judiciary. Today, this concept has evolved and gained acceptance in most democracies governed by the rule of law. The doctrine of separation of powers has accordingly been suitably modified and adjusted to achieve the goal of financial freedom for the judiciary. Resolutions in this regard have also been passed by international bodies under the aegis of the United Nations and under the auspices of the International Commission of Jurists.

In spite of several judgements delivered by the Supreme Court of India, orders passed in Public Interest Litigations presently under its consideration, several reports and papers written by persons of the highest understanding in law and legal affairs, and sincere efforts made by Chief Justices and Law Ministers of both the Union and State Governments, no effective solution appears to have emerged over the last three decades to provide an efficient judiciary and resolve the issue of mounting arrears.

Let us first look at certain statistics relating to the administration of justice and the projections arising from them. These figures are not merely interesting; they are also alarming. Bharat presently has a population of approximately 110 crores, while the total litigation pending before Courts is around 3 crores. An almost equal number of matters are pending before Tribunals, Commissions, Ar-

bitrators, Mediators, and Conciliators at the District, State, and National levels, taking the total number of pending disputes to nearly 6 crores.

We have approximately 16,000 sanctioned posts for Judges, out of which nearly 3,500 remain vacant, even after the Second Judges Case, which celebrates its tenth anniversary on 06.10.2008. There are approximately 50,000 staff members assisting the Judges and another 50,000 working in the registries.

We have nearly 8,50,000 members enrolled with the Bar Councils, out of whom about 1,00,000 are litigation advocates, supported by nearly 3,00,000 staff members dependent upon them. This figure assumes significance because in nearly 90% of litigation, the Government or an authority under Article 12 of the Constitution is one of the parties. In several cases, the Government also bears the cost of legal aid counsel and *amicus curiae*. Thus, almost seventy percent of litigating advocates and their staff are an integral and necessary component of the administration of justice. Every one of these stakeholders experiences the pressure of financial constraints flowing from the Government exchequer, which remains tightly controlled by the executive.

If the existing scenario continues in its present form – which unfortunately appears likely – then, by the doctrine of legitimate expectation, by the year 2015 the population of Bharat may rise to nearly 130 crores; total pendency may increase to approximately 4.5 crores; the number of Judges may rise to around 17,500 with nearly 5,000 vacancies; and the total number of members of the Bar may cross 10,00,000, with nearly 1,20,000 litigation advocates, out of whom almost 90,000 may substantially depend upon Government litigation for their fees.

Financial autonomy has two broad aspects. The first concerns the allocation of budgets by the Union and State Governments according to the requirements projected by the heads of the judiciary. The second concerns the freedom to utilise the allocated budget under the directions of the head of the judiciary itself. Security of payments of monthly salary for Judges from consolidated fund is not the only barometer for independence of judiciary and economic independence.

At present, the Chief Justice of India and the Chief Justices of the States prepare their budgets with the assistance of their Registrars, who are themselves senior judicial officers looking forward to elevation. These budgets largely remain routine budgets based upon notional increases over previous years. They are rarely based upon any larger vision, policy implementation, long-term planning, or structural reform for the judiciary.

Funds are allocated under rigid heads, and by the time permission is obtained to transfer funds from one head to another, the amounts often lapse. Similarly, the budgets relating to Government Advocates are prepared by the Law

Secretary, another senior officer, and are thereafter forwarded to the executive, where they suffer substantial cuts.

Recommendations have already been made for the immediate establishment of Judicial Councils at both National and State levels, functioning under the heads of the judiciary. Such Judicial Councils should examine institution rates, pendency patterns, projected dockets, the number of Courts, judicial officers and staff required, average disposal rates, and infrastructural needs. Much would ultimately depend upon how effectively such Judicial Councils function.

The e-Committee has provided laptops to Judges, but with limited access and without adequate legal software. It is somewhat like placing one leg on the accelerator and another on the brake – the car makes noise, but does not move.

The Judicial Council, through its Administrative Office, should prepare annual budget estimates and finalise them in consultation with the executive. Once such budgets are finalised, they should be placed before Parliament or the State Legislatures without downward revision. Financial Advisers from the office of the Comptroller and Auditor General of India may monitor expenditure and take appropriate action according to established procedures through their annual reports.

Since Government Advocates are also important stakeholders in the administration of justice, it is imperative that a uniform and rational system be evolved for them as well – an area to which surprisingly little serious attention has yet been paid. This can be addressed relatively easily through suitable amendments to the taxation schedules under the Supreme Court and High Court Rules.

Under Order XXI Rule 8(2) of the Supreme Court Rules, 1966, an amicus curiae is entitled to Rs. 250/- for appearance at the admission stage and Rs. 500/- at the final hearing stage. The old saying remains true: *'if you give peanuts, you get monkeys.'*

If genuine financial autonomy is granted to the Indian judiciary in matters concerning the administration of justice, and if meaningful steps are taken pursuant to the recommendations emerging from this Conference, we may indeed begin witnessing tangible improvement by 2015. Otherwise, in 2015 we shall once again be discussing judicial reforms – perhaps with even greater zeal and seriousness, but confronting even larger arrears and greater institutional strain.

Thank you for being with me.

Harmonious Co-existence
23.06.2008 (Blog)

Author's Bridge: *For the first time, I posted a thought in the public digital space.* It was *a brief entry, almost a caption, but its brevity was deceptive. This first post articulated, in a single sentence, the principle that lies at the heart of everything: majority rule is a mechanism for managing conflict, while harmonious coexistence requires the inclusion of the remaining 49.99%, who are also citizens of India. It requires justice. And justice, in its fullest sense, requires a system designed not for adversarial victory but for the healing of conflict.*

De hors territory, colour, gender, economics... the world is divided into those who wish to control the earth and those who live and wish to live keeping relationship based on harmonious co-existence... in democracy 50.01% rules...

Inspirational Thoughts

"I must pay my way by what I do."

– Harold Laski

...

"The intelligence, the commitment, and the sheer volume of work that Indian advocates bring to their cases is not inferior to what one encounters in Singapore or New York – if anything, it is equal, and in some respects greater. What we lack is not ability. What we lack is precision, conciseness, and the procedural discipline that converts ability into justice delivered."

– Scribbling

...

Money is the barometer of a society's virtue. When you see that trading is done not by consent but by compulsion – when you see that in order to produce, you need to obtain permission from men who produce nothing – when you see that money is flowing to those who deal not in goods but in favours – when you see corruption rewarded and honesty becoming a self-sacrifice – you may know that your society is doomed.

– Ayn Rand – Atlas Shrugged

...

"A view point can only come from a point of view."

– Gunnar Myrdal

...

There is no conflict of interests among men, neither in business nor in trade nor in their most personal desires – if they omit the irrational from the view of the possible and destruction from

their view of the practical. There is no conflict, and no call for sacrifice, and no man is a threat to the aims of another – if men understand that reality is an absolute not to be faked, that lies do not work, that the unearned cannot be had, that the undeserved cannot be given.

– Ayn Rand – Atlas Shrugged

…

"If a nation expects to be ignorant and free, it expects what never was and never will be."

– Thomas Jefferson

…

The moment a person becomes aware of the existence of consciousness or a cosmic energy beyond the existence of body, mind and intellect, a new window opens in life. The moment a person looks beyond the slumber of the mundane and recognises the inevitable spiritual journey, it is the first step towards the real purpose of birth in a human body. The moment a person wishes to undertake a spiritual journey, the field of conflict shifts from Kurukshetr to Dharamkshetr.

– First Discourse

…

Asato ma sadgamaya – from falsehood to truth; tamaso ma jyotirgamaya – from darkness to light; mrityor ma amritam gamaya – from death to eternity.

– Upanishadic invocation

…

The basis of fearlessness – abhaye – are: Integrity, Justice, Knowledge, Perseverance, Steadfastness, Truth. The ultimate barometer of social success is money earned through dignity and without compromising integrity.

– Scribbling

…

Afterword – The Architect Surveys the Temple

Thirty-four years. Thousands of petitions filed and argued all over the country and overseas. A Sports Act drafted, defended, and placed upon the statute book. BCCI elections fought and won. The inter-state water rights of Rajasthan protected through years of commission hearings. The Law Information Centre's database reaching the Internet. Articles published, conferences addressed across three continents. The institutional character of the Supreme Court breathed every moment, with neither sentimentality nor despair.

Looking back now across the distance of years, these five years of service to the State appear to me as a complete arc – a period with its own internal logic, its own moral drama, its own set of questions answered and questions left open. The

appointment and resignation bracket a period in which private practice and public office were held in a single hand, in which the courtroom and the legislature were both arenas of argument, and in which the ancient question of whether law serves justice – or merely serves itself – was tested in ways that were simultaneously intimate and national.

The Rajasthan Sports Act endures. The National Sports Act of 2026 has been enacted, though it has not yet come to life in the way that matters – through administration, through the constitution of the Sports Board it requires, through the structural attention to the sportsperson at the centre of the industry that alone can make it meaningful. The Eradi Tribunal's allocations to Rajasthan have been upheld. The reported judgements argued in those years have become part of the law of the land, cited and built upon in ways that their making could not always foresee.

What strikes me most, looking back, is not the volume of the work but the quality of the question that was forming beneath it. The articles in this section, read in sequence, trace the arc of a conviction moving from intuition toward articulation. The 2005 piece on globalisation observed that the individual is always the last to benefit and the first to bear the cost of the systems built around him. The 2006 address on recovery asked whether the law serves development or merely collects debts. The 2007 essay on PIL named it as the chariot of *dharm* — indispensable, but vulnerable to being commandeered by those it was designed to restrain. The 2007 essay on the Supreme Court said plainly what thirty-one years of observation had produced: that the institution was both magnificent and at a crossroads, and that the path it chose would determine whether it redeemed the republic or retreated into a sophisticated mechanism of delay.

The 2008 mediation address identified the adversarial system as insufficient – necessary but not final, a vehicle to be eventually superseded by something that healed rather than merely adjudicated. The 2008 address on financial autonomy named the structural condition without which judicial independence is a philosophical abstraction rather than an institutional reality. And the first blog – placed the entire argument in its largest frame: a world divided between those who wish to control and those who wish to co-exist, and a democracy that resolves that division only by the arithmetic of fifty-point-one percent, which is a mechanism for managing conflict, but must become a process of ending it.

These are not separate arguments. They are one argument. And the deeper lessons woven through these five years – the NAT-NOT2 principle, the chariot of PIL and its divine charioteer, the difference between those who belong to the *sena* of *Raam* and those who serve *Raavana* while claiming otherwise – are not lessons confined to any chapter. They are the permanent texture of public life. They were

true in the *Mahaabhaarat*. They were true in these five years. They will be true in every age that comes after, until the war that is always the only war worth fighting is finally, and for good, won.

By January 2009, when I handed over the keys of the Bikaner House office and walked away without looking back, the question had been asked – in court-rooms and seminar halls, in addresses and articles and blog entry – with sufficient clarity that the answer could no longer be deferred.

The Mistress had been served faithfully, brilliantly, and without reservation. The Love – its name not yet known, its form not yet complete – was waiting in the years that lay ahead.

CHAPTER 7

The Storm Within the Temple
01.02.2009 – 31.03.2019

Resignation, Reflection, and the Slow Recognition of the Mistress's Decline

There are chapters in a life that announce themselves with clarity – a first appearance, a landmark judgment, a legislative victory, a defeat that reshapes everything that follows. And then there are chapters that arrive quietly, almost without announcement, chapters whose full meaning only becomes visible when one looks back from a sufficient distance. The years between the 01.02.2009 and the 31.03.2019 were, in their outer dimension, years of continued and varied engagement: arguments before the Supreme Court and the High Courts, addresses delivered at Commonwealth conferences and national seminars, articles written on the great questions of law and governance, institutional ventures for the digitisation of justice, the launch of a players' association for a sport I had loved since boyhood. The practice continued. The calendar filled. The briefs accumulated. And yet, beneath all of this – running like a subterranean current beneath the visible course of a river – something was shifting that no brief could fully contain and no judgment could resolve. The Mistress was declining. I had not yet fully named what was rising in her place. But the process, I now understand, had already begun.

The resignation of the 31.01.2009 was, in one sense, a clean act: a mandate had ended, an office was returned as honorably as it had been received, and I walked away without lingering. But resignation, in the deeper sense in which I have always understood that word, is never a single moment. It is a posture of the soul – a willingness to release what one has held, to stand in the open space that follows without immediately filling it with the next venture, the next brief, or the next cause, the next brief, the next cause. The years that followed my departure as Additional Advocate General were, in ways I did not fully anticipate, years of a different kind of resignation: a slow, sometimes painful, sometimes illuminating release of the belief that Law, faithfully argued, rigorously applied, and courageously defended, would by its own logic and momentum deliver Justice. That belief had sustained me across three and half decades at the Bar. It had animated every argument I had made in the great matters of the preceding chapters. It was,

in a sense, the deepest article of my professional faith. And in the years between 2009 and 2019, that faith began – not to collapse, for that would be too dramatic a word – but to be quietly and irrevocably revised.

The press conference against Justice Dipak Misra in January 2018 – in which four of the most senior judges of the Supreme Court stepped before the cameras and told the nation that the institution was in danger – was not an event that this chapter can pass over in silence. It was the most dramatic public symptom of a disease that had been developing for years: the disease of institutional decay within the highest court of the land. I had watched it with the particular pain of one who had known the court in its years of greatest dignity, who had stood before its benches when the traditions it had accumulated across a decades were still intact and still honoured, and who had written and spoken repeatedly about the urgency of their preservation. The press conference was the moment when the Mistress's decline became visible to the entire nation. Scams in the judiciary, allegations of corruption in the assignment of sensitive matters, the weaponisation of the roster – these were not peripheral events. They went to the question of whether Law, administered by those who had abandoned their own traditions, could any longer be trusted as even a partial instrument of Justice. My answer, painful as it was to reach, was that it could not – not without reform so deep and structural as to amount to a reinvention.

The revision did not come from a single event, though certain events accelerated it. It came from the accumulated weight of observation – from watching, across years of practice and public engagement, how the law is used by those with the power to use it and withheld from those without. It came from the growing awareness, sharpened by the addresses I delivered in Hong Kong and Jodhpur and Zambia, by the long evenings spent with books that ranged from Toffler to the Upanishads, that the world was undergoing a transformation of a kind that the legal structures of the industrial age were wholly unequipped to address. The shift from the third dimension to the fourth – from the age of territory and control to the age of information, consciousness, and borderless human connection – was not merely a technological phenomenon. It was a civilisational one. And the law, moving at its habitual pace of one mile per hour while the entrepreneur moved at one hundred, was not merely slow. It was, in the most crucial respects, becoming irrelevant as an instrument of Justice for the common man.

This realisation did not make me despair of the profession I had given my life to – I am, by temperament and conviction, a diehard optimist, and I have always believed that the arc of equity, equality, and justice bends, however slowly, in the right direction. What it produced, instead, was a deepening of the distinction that had first announced itself at the *Triveni Sangam* in Allahabad, in the early morn-

ings during the Sports Act litigation, between Law and Justice. Law, I had always known, is a human instrument – fallible, manipulable, subject to the weight of vested interest and the skill of those who argue it. Justice is something else: it is the destination towards which Law, at its highest and best, aspires. The tragedy of these years – and it was, I came to see, a genuine tragedy, not merely a professional disappointment – was the growing evidence that the Mistress had, in so many of the domains that mattered most, ceased to aspire. She had become comfortable in her role as the instrument of power rather than its constraint. She had forgotten, or chosen to forget, that she was born to serve Justice, not to replace it.

The cases continued. The judgements accumulated – in the Supreme Court and the High Courts across this period, covering every range of constitutional and civil law from service matters and criminal appeals to public interest litigation and excise disputes. Each argument was made with the same rigor, the same preparation, the same commitment to the principle that the court is a temple and the advocate its most necessary servant. I did not lower my standard. I did not reduce my effort. But I found myself, with increasing frequency, returning from the court to a question that the chamber itself could not answer: whether the finest argument, even when it prevailed, was moving the needle in the direction of Justice for those who needed it most – for the sportsperson at the base of the pyramid, for the common man who could not afford the brief, for the young whose energies were being harvested by systems that the law had licensed and that Justice had never sanctioned.

It was in this period that my writing and my public addresses began to take on a character distinct from the purely forensic. The address delivered at the Commonwealth Law Conference in Hong Kong in April 2009 – on the mobility of the legal profession in the age of globalisation – was, at one level, a practical argument about the future of legal services. At another level, it was the first formal expression of a conviction that was forming in me: that the profession would have to move at the speed of the world it served, or become, in Toffler's memorable image, the car at the back making screeching noises while the car in front accelerated beyond reach.

The Gold Deal belongs to this chapter – a venture in which the intersection of global finance, institutional structure, and the sovereign interest of the nation came together in ways that illuminated, with particular sharpness, how the Mistress operates when billions are at stake. It will be described in its proper place. What it taught me, beyond its immediate lessons, was something I had suspected but not yet confirmed with such clarity: that the legal structures governing the movement of capital across the world were not designed to deliver justice to the productive class – the entrepreneur, the farmer, the young person with energy and

no collateral – but to protect and perpetuate the interests of those who had already accumulated. Law, in the domain of global finance, was not a constraint upon exploitation. It was its most sophisticated instrument.

And yet – and this is the paradox that defines this chapter – it was also in these years that some of the most significant intellectual and institutional work of my career was done. The vision of SpotLaw, the advocacy for neutral citation and integrated legal databases, the addresses on the role of information technology in the dispensation of justice, the launch of the Basketball India Players Association, the commentary on the MeToo movement, the address on *Kesavananda* Bharati – all of these represent, in their different ways, an attempt to build the structures through which Law might yet become a more faithful servant of Justice. I had not given up. I had not retreated. I had simply begun to see, with clarity that the earlier decades had not afforded, the distance between where Law stood and where Justice required it to go. And in seeing that distance, I understood for the first time – in the marrow rather than merely the mind – that the title of this book was not a metaphor. It was a record of lived experience. The Mistress was declining. Love was, slowly and painfully and irreversibly, being born.

These years must be read, then, as a chapter of two simultaneous movements: the outer movement of continued professional engagement – arguments, addresses, articles, institutional ventures – and the inner movement of a deepening reckoning with the limits of Law as an instrument of Justice. Neither movement can be understood without the other. The outer events gave the inner reckoning its occasions and its evidence. The inner reckoning gave the outer events their meaning. Together, they constitute what I have come to understand as the slow, necessary, and in the end liberating recognition that the Mistress I had served with such devotion across five decades was not, and could never be, the last word. Justice was the last word. And Justice was something the Mistress, however diligently argued and however faithfully applied, could only point towards – never, by her own efforts alone, deliver.

The Gold Deal
2009

Author's Bridge *– The Gold Deal sits in this chapter not as a financial transaction but as a civilisational diagnosis. It is the moment at which after spending three and half decades arguing before the Supreme Court of India encountered, for the first time with full clarity, the architecture of the global control economy – the system by which the movement of the world's most fundamental store of value is regulated, priced, and ultimately controlled by a handful of institutions whose names are unknown to the billions who live within their grip. What the Sports Act had revealed about the governance of*

sport – the NAT-NOT2 men, the drink-and-dinner diplomats, the private voters who controlled public institutions – the Gold Deal revealed about the governance of money itself, at a scale that made the BCCI politics of the preceding chapter look like a village dispute. The connection to the central argument is direct: wherever there is a commodity of sufficient value, the Mistress is present – not as the guardian of justice, but as the instrument of those who have already captured the supply. Law, in the domain of global finance, is not a constraint upon exploitation. It is its most sophisticated architecture, well managed.

I was approached, sometime in the months following the close of my tenure as Additional Advocate General, to assist a client who wished to purchase three thousand metric tonnes of gold from anywhere in the world. The brief was unusual, but the conditions were simple – two in number, and both entirely reasonable on their face.

The first condition was that the buyer would need to see the entire quantity physically present before committing and paying a single dollar: an official invitation, and twenty-four hours to verify what he was buying. The second was that he would arrange, at his own cost and risk, the carriage of the gold to his own refinery – insurance, freight, and reprocessing all to be borne by him. He wished to receive the gold and stamp it with his own brand. The international commission on a transaction of this scale was fixed at one percent: half a percent to the buyer's team, half a percent to the seller's team. On three thousand metric tonnes of gold, that commission was, to put it plainly, a number of very considerable weight.

I began making enquiries. And as I moved deeper into the world I had entered, I began to understand something that no law report, no constitution bench judgment, and no brief I had ever held had prepared me to understand. The global gold industry, I discovered, was not one world. It was two – and the distance between them was not geographical. It was structural, philosophical, and in its deepest dimension, civilisational.

The first world was the London Bullion Market Association – the LBMA – which presided over the official gold economy of the Western world with the serene authority of an institution that has never needed to justify itself because it has never been seriously challenged. Six prime banks held effective control over the supply chain from mine to market: the mine owners who extracted the ore, the dore suppliers who processed the raw material, the refineries that produced the certified bars, the manufacturers of mining and refinery equipment, the LBMA's own certification system, and the secured transport networks – closed vehicles, sealed consignments, armed escorts – through which certified gold moved between its authorised participants. The price of gold, as declared twice each day in London, was set within this architecture. The rules of the architecture were the rules of the ICC – the International Chamber of Commerce, another institution

seated at the base of the Western economic order. Every agreement that could be made, every commission that could be shared, every obligation that could be enforced, was mediated through instruments that those six prime banks and their associated structures had the power to honour or decline at will.

I came to think of this system by an acronym: CP-GOD – Currency, Pharmaceuticals, Gold, Oil and Diamonds. These were the five commodities around which the control economy of the modern world was organised. Each had its own architecture of extraction, certification, pricing, and distribution. Each architecture was, in its essential structure, the same: ...the same small number of families controlled a small number of institutions at the top, with the power to determine what was real and what was not, what was certified and what was not, what could move and what could not – and a very large number of human beings, from the mine worker breaking rock in the dark to the refinery technician to the jeweller to the buyer, who operated entirely within the terms that those institutions set and had no meaningful power to alter them or even understand them.

The second world was Dubai Gold – the free market, the non-LBMA universe, in which gold moved outside the certified architecture, available to buyers and sellers who could not or would not operate within the official system. Millions of people were associated with it across the world. It served real economic needs. It was, in its way, indispensable. But it was also, by the definition of those who controlled the first world, unregulated – which meant, in practice, that its participants were perpetually vulnerable to the decisions made within an architecture they could not access and did not control.

I saw, in this structure, something I had seen before in a different arena. The LBMA and Dubai Gold were not simply competing systems. They were, in the language of the Gita and the Upanishads that had shaped my understanding since long before I first entered the Supreme Court, two expressions of the cosmic duality that runs through every human institution: the rules of Vishnu – the preserver, the organiser, the architect of order – and the freedom of Shiv – the destroyer of form, the bearer of the unbounded. The religions of the book and the free religions. Law and justice. Integrity and manipulation. Contradictions that are yet complementary – for one does not exist without the other. That is the law of nature, and it operates as reliably in the gold markets of London and Dubai as it does in the law courts of New Delhi.

The challenge, as always, was to find a path between the two worlds that served the legitimate interest of the person I was acting for – my client, who wished to buy gold, to carry it to his refinery, and to stamp it with his own name. That interest was entirely lawful. It was straightforwardly commercial. And it had led me, within weeks of beginning my enquiries, into the most complex web of

institutional interest I had encountered since the BCCI elections.

Agreements were drafted – numerous agreements, each following ICC rules, each allocating shares of the half-percent commission amongst the various intermediaries who had attached themselves to the transaction as it made its way from one side of the world to the other. Friends who had been friends for decades became, in the shadow of the commission, considerably less so. Everyone was looking for a larger share of the cake. The mathematics of half a percent of three thousand metric tonnes of gold, distributed across a chain of intermediaries, produced a number sufficient to test the integrity of most of the people it touched.

A European bank was eventually identified – identified, as I have always worked, through professional contact: the bank's advocates engaged with my team, for a dealing between professionals is always cleaner than a dealing between those who do not share a professional language. We understand each other's obligations. We understand what a deadline means, and what a commitment means, and what silence in response to a question means. Dates were fixed for the visit at which my client would physically verify the gold. The invitation was the only thing that remained. The time given was forty-eight hours. It was extended. Extended again. Extended a third time. Nothing came.

I made enquiries through a source whose understanding of the global gold market I had come to respect. His response was precise and unsparing: the deal had been feasible two weeks earlier. It would not happen now. And even if the European bank held to its word and offered the gold for sale, the capacity to carry it away from European vaults – to actually move three thousand metric tonnes of gold across jurisdictions and into my client's refinery – was beyond what the bank's counterparties would permit.

The reason, he told me, was this: the Dubai Gold that the European bank had been positioned to buy – the non-LBMA stock that would have formed the basis of the transaction – had, in the weeks following the Beijing Olympics of 2008, been acquired by China. A portion of it might have been available to my client. It was no longer. China had taken what it needed, and what it needed was everything.

It happened precisely as he said it would. The European bank confirmed that it stood by its offer to sell. But the gold, it informed us, would remain in its vaults. It would not be moved. The deal was over.

What the Gold Deal left me with was not bitterness – I had never expected the transaction to be simple, and the commission, however large in arithmetic, had never been the reason I engaged with it. What it left me with was understanding: a specific, concrete, irreplaceable understanding of how the world's most fundamental store of value is actually governed.

The mine worker who breaks the ore from the rock in South Africa or Ghana, or the Democratic Republic of Congo does not set the price of what he extracts. The refinery that certifies the bar does not determine who may buy it. The sovereign fund that holds the gold in its vaults does not decide in isolation when and to whom it may be sold. All of these decisions – price, certification, movement, access – are made within an architecture controlled by those UHNI (Ultra High Net-worth Individuals), who are not seen in Forbes Lists or elsewhere, but they even hold the prime banks and their associated institutions, operating through rules written by bodies whose legitimacy derives from nothing more than the accumulated historical fact of their own power.

The 2008 financial crisis – the crisis of institutions Too Big to Fail, whose recklessness was socialised across the populations of nations that had no say in the decisions that created it – had demonstrated what happens when that architecture fractures under the weight of its own contradictions. The film described it from one angle. The lived experience of attempting a legitimate commercial transaction in the year immediately following it described it from another. Both arrived at the same conclusion: that Law, in the domain of global finance, operates as the guarantor of the existing distribution of power, not as the instrument of its correction. The mine worker who suffers most from the volatility of a gold price he cannot influence is the last person the legal architecture of the LBMA was designed to protect. He is, in the deepest sense, the person that Justice – as distinct from Law – would place at the centre of any honest reckoning with the gold industry's governance.

The Sports Act had taught me this lesson in the domain of sport. The Gold Deal taught me the same lesson at global scale, with global stakes, and with the added clarity that comes from seeing the system operate not in a courtroom or a legislative chamber, where at least some forms of accountability are present, but in the private negotiations of banks and sovereign funds where no court has jurisdiction, no advocate has standing, and no brief, however well prepared, can compel any institution to honour an obligation it has decided to decline.

Law, without a global architecture of Justice to give it force and direction, is the instrument of the powerful. That was not a new observation. But I had now seen it — not in a judgment, not in a text, but in the lived experience of watching three thousand metric tonnes of gold move from one sovereign vault to another at the decision of institutions that answered to no one who needed it. It confirmed, with the weight of direct experience, what the decade that followed would demand I say plainly: that Legal Revolution 5.0 is not merely a proposal for reforming the courts.

It is, taken together with Finance Revolution 5.0, a proposal for reforming

the civilisational architecture within which the courts operate – an architecture in which Law serves power, and Justice waits, and the mine digger who breaks the ore from the rock, the sportsperson who creates the value for the Olympics and that others harvest, the rural school teacher who holds a civilisation together for a salary that insults the function, the mediator who heals what the adversarial system has torn, the homemaker whose labour sustains every institution that exists and is counted as nothing in the ledgers of any economy – all of them wait with Justice, unreached and unrecognised, for a revolution that is not merely legal but civilisational in its scope, its ambition, and its demand

A Forty-Four Year Wait for the Obvious and still waiting

2017 – Neutral Citation – From 1982 to 2026

1982 – The Seed

There are ideas that arrive with complete clarity in the mind but require decades to persuade an institution to receive them. The concept of Neutral Citation for the judgements of the Supreme Court of India and the High Courts was one such idea. Its first stirring came in 1982, in the aftermath of engagement with the landmark judgment in *Ujjam Bhai v. State of Uttar Pradesh,* when I first came to understand, with the precision that only direct research can produce, the scale of the disorder that the existing system of law reporting had created. Every private publisher assigned its own citation to every judgment. Every court referred to whichever citation its advocate placed before it. The same judgment appeared in different volumes, with different page numbers, in different law reports – and all of them were cited as binding precedents in the same courtroom, often by advocates and judges who did not know they were referring to the same case.

The problem was not aesthetic. It was constitutional. By Article 141 of the Constitution of India, the law declared by the Supreme Court is binding on all courts in the country. Every judgment of the Supreme Court – reportable or non-reportable – is therefore law. Yet there existed no single authenticated, official, and exhaustive source from which any judge, advocate, litigant, academic, or foreign court could retrieve that law with confidence. The chaos was not a metaphor. It was a precise and documented reality, and it was growing more dangerous every year as the volume of judgements delivered by courts across India continued to expand.

A Legislative Framework – The Law that collapsed - 1875 to 2016

Authorised and official law reporting in India had begun with the Indian Law Reports Act, 1875, which restricted the binding status of High Court Judg-

ments to those published in an official, court-authorised series. The mandate broke down progressively over the following century. Official series fell behind private publishers in speed of publication. Private publishers multiplied. The Supreme Court itself began citing private law reports in preference to its own authorised series. Two examples capture the failure with particular sharpness. The judgment in *Gian Kaur v. State of Punjab* was reported differently across three different official series simultaneously.

The Indian Law Reports Act, 1875, was finally repealed by the Repealing and Amending Act, 2016 – leaving the country without any statutory framework for law reporting whatsoever. By 2017, the official Supreme Court Reports, the only authorised series, had published approximately 37,800 of the court's fifty thousand judgements. The Supreme Court of India had referred to approximately 680 law reports in its fifty thousand judgements delivered between 1950 and 2021 – 423 Indian and 257 foreign. Every one of them assigned its own citation. No single authenticated source existed from which the law could be retrieved with confidence. The law declared by the Supreme Court – binding by constitutional mandate on every court in India – was, in practical terms, inaccessible to everyone except those with access to expensive private subscriptions. In Pakistan, the equivalent Law Reports Act continues to impose a penalty of one lakh rupees and imprisonment of six months on any publisher who publishes law reports without authority. India had no such protection at all.

Canada, the United Kingdom, and the World Act - 1999 to 2001

Canada had solved this problem in 1999. Beginning that year, Canadian courts commenced assigning to each judgment, as it was delivered, a database-friendly citation independent of any publisher: the name of the court, the year, and a running serial number. A decision of the Supreme Court of British Columbia in May 2004, for instance, carried the citation 2004 BCSC 596 – the 596th decision of that court in the calendar year. The United Kingdom followed in 2001, by Practice Direction of Lord Woolf CJ dated the 11th of January 2001, applying the system to all divisions of the Court of Appeal and the Administrative Court, with a further Practice Direction dated the 14th of January 2002 extending it to all parts of the High Court. The direction was unambiguous: every judgment was to receive a unique number within each calendar year; every paragraph within the judgment was to be numbered sequentially; and the neutral citation was to be used by all courts and all law report publishers whenever the judgment was cited. Australia, Singapore, New Zealand, Hong Kong, and Malaysia followed. The solution was the same in each jurisdiction: a court-assigned, publisher-independent, permanently fixed citation, free from the moment of pronouncement, re-

quiring no page number, no subscription, and no private intermediary. By 2023, India was more than two decades behind every comparable jurisdiction in the common law world.

The White Paper and Six Chief Justices - 2017 to 2023

Through these years I pressed the case – through articles, through addresses at conferences, through sustained institutional engagement at the Law Information Centre, of which I served as President. The Law Information Centre, under the patronage of Justice A.K. Patnaik, former Judge of the Supreme Court of India, and the chairpersonship of Justice Badar D. Ahmed, former Chief Justice of the High Court of Jammu and Kashmir, with Vice Chairmen including Jaideep Gupta, B. Adinarayanan Rao, and R. Santhanakrishnan, produced the White Paper on Digital Publishing and Printing of judgements of the Supreme Court of India with Neutral Citations.

It proposed a two-phase architecture of complete scope: Phase One covering the collection of all judgements from existing published and digital sources, the assignment of Neutral Citations in strict chronological order from 1950 to the present, the compilation of a Master Text List, and the conversion of all data into a standardised digital format – including the seeding of Neutral Citations into every cross-reference within every judgment. Phase Two covering the preparation of Subject-Issue-Decision catchwords across eighty-six subject categories, the preparation of summaries and head notes, and the publication of formatted judgements in both digital and printed form, distributed to every High Court, District Court, Tribunal, and other judicial forum across the country – approxima-tely twenty thousand institutions under the aegis of the Supreme Court's e-Committee.

The White Paper also proposed the assignment of Neutral Citations to the judgements of the Federal Court from 1935 to 1950, and to the judgements of the Privy Council from 1726 to 1950 insofar as they were applicable to India – a proposal that would have given India's jurisprudential archive an authenticated reach extending three centuries back. It proposed a Blue Book on Law Reporting and Neutral Citation, setting out the principles of assignment and publication. It proposed the deletion of the colon from Neutral Citations – a technical point of real significance, since colons create search difficulties in digital databases. It proposed that the neutral citation be required to appear before all other citations in every judgment, every law report, and every digital publication, and that any publisher discovering a judgment without an assigned Neutral Citation be required to notify the Registrar of the Supreme Court within fifteen days for assignment.

This White Paper was submitted to Chief Justice Dipak Misra. It was sub-

mitted to Chief Justice Ranjan Gogoi. It was submitted to Chief Justice Sharad A. Bobde. Each received it. Each acknowledged it. Each moved on. The institution heard the argument and deferred the action, in the manner that institutions do when the matter is not personally urgent to those at their head. The Mistress, in this domain, demonstrated her characteristic capacity for courteous inaction.

Note for Discussion with the Chief Justice of India

On the 09.07.2023, I prepared a detailed Note for discussion with Chief Justice Dr. D.Y. Chandrachud, setting out the specific steps required for implementation. The Supreme Court had by then issued a Notice dated the 6th of June 2023 announcing its intention to introduce Neutral Citation, and a first set of citations had been assigned to 2023 judgements. The Note examined what had been done and identified precisely what remained to be done. It was the note of a practitioner who had been pressing this case for over four decades, and who wished to ensure that the partial steps taken were not mistaken for completion.

The Note recorded sixty-three blank files without data among the judgements assigned Neutral Citation numbers in 2023 – file numbers that had been allocated but contained no judgment text. It identified eighty-two one- or two-page orders whose inclusion in the Neutral Citation series required a specific decision – whether such brief disposals of the character they bore deserved inclusion in the authentica-ted archive. It noted one confirmed duplication: *SCAORA* v. *Union of India*, decided on the 16th of October 2015, appeared under two separate Neutral Citation numbers. These were not minor anomalies in an otherwise complete system. They were symptoms of what happens when an institution treats a fundamental reform as an administrative exercise to be completed by a committee, rather than a civilisational obligation to be discharged with the rigour it deserves.

The Note also placed before the Chief Justice several proposals that remained unaddressed. The assignment of Neutral Citations to the approximately fourteen thousand judgements that, while referred to and considered by the Supreme Court in its reported decisions, were not themselves reported in the Supreme Court Reports. The assignment of Neutral Citations to Federal Court Judgments from 1935 to 1950 and to Privy Council Judgments applicable to India from 1726 to 1950. The creation of a Neutral Citation Committee to oversee the authentication and publication of the complete INSC series. The upload of all formatted judgements with Neutral Citations to the Supreme Court's official website, in PDF format, with and without head notes, free of charge to every user in India and in the world. The printing and physical distribution of INSC volumes to the twenty thousand judges and judicial officers in the High Courts, District Courts, Tribu-

nals, and Commissions of India. And – looking beyond India – the proposal that India lead the Neutral Citation project across the Commonwealth's fifty-six countries, establishing itself as the anchor of an integrated common law jurisprudential database for the Global South.

Chief Justice Chandrachud Acts

It was Chief Justice Dr. D.Y. Chandrachud who finally moved with the decisiveness the matter demanded. On the 23.02.2023, the Supreme Court's Public Relations Office issued a Press Note announcing the implementation of Neutral Citation for the Supreme Court of India. The first notification covered all judgements and orders of the Supreme Court from the 01.01.2023 onwards, with each decision receiving its INSC number at the moment of publication on the official website. The second notification covered judgements reported in the Supreme Court Reports from 1950 to 2014, with Neutral Citations seeded retrospectively into the e-SCR module. The format adopted was precisely that which the White Paper and the Note had proposed: year, INSC, running number – 2023 INSC 1, 2023 INSC 2, and so on through the archive. *The Vivek Narayan Sharma v. Union of India* judgment on demonetisation, delivered on the 02.01.2023, became 2023 INSC 2. The paragraph citation format followed the UK model: *Vivek Narayan Sharma v. Union of India 2023 INSC 2 (304)*, where 2023 INSC 2 is the Neutral Citation and 304 is the paragraph number. It was, in the language of the Press Note, a step intended to revolutionise the pattern in which citations operate – access to case law that had previously been available only to subscription holders of private law reporters would now be available to everyone, free of cost.

These were steps of genuine institutional consequence. They deserved recognition, and they received it. But they were two steps of a three-step journey. The third step – Neutral Citation, for the approximately fourteen thousand judgements that have been referred to and considered by the Supreme Court in its reported decisions but are not themselves reported in the Supreme Court Reports – has not yet been taken. Until it is, the archive is incomplete. Judgments of real precedential weight remain outside the authenticated umbrella. Blank files continue to carry Neutral Citation numbers. Duplicates remain unresolved. The e-SCR module continues to carry judgements in formats that have not been standardised to the principles the White Paper prescribed. The subject-issue-decision catchword system across eighty-six categories has not been implemented. The Follow-In database – tracking which judgements have been followed, considered, distinguished, or overruled – does not exist in authenticated form. The Blue Book on law reporting has not been issued. The Neutral Citation Committee has not

been constituted. The distribution of INSC volumes to twenty thousand judicial officers has not commenced. And the leadership of the Neutral Citation project across the Commonwealth and the Global South remains, as it has been for a quarter century, an unrealised aspiration.

The AI Threat That Makes Completion Urgent: 2024 to 2026

The urgency of completing this work has, in the intervening years, acquired a new and far more serious dimension than professional inconvenience or institutional pride. Artificial Intelligence systems trained on incomplete, inconsistent, and uncurated legal databases are capable of generating plausible-sounding judgements – of producing decisions that were never delivered, attributed to courts that never decided them, bearing Neutral Citations that cannot be verified against any authenticated official source. This is not a theoretical risk. It is an operational reality that is already affecting legal practice in jurisdictions where AI legal research tools have been deployed without adequate authentication infrastructure. A lawyer citing a judgment that an AI system has fabricated, and a court relying on a precedent that does not exist, is not a scenario that can be dismissed as improbable. It has already occurred in other jurisdictions. The absence of a complete, court-controlled, exhaustively authenticated Neutral Citation record for every judgment of the Supreme Court and the High Courts of India is not merely a gap in legal bibliography. It is the precise condition that makes the law of India vulnerable to fabrication at scale.

This is the sharpest irony of forty-four years of advocacy for Neutral Citation. The argument began in 1982 as a matter of professional order – of bringing structure and consistency to the chaos of competing private citations. It was correct then, and the case was clear. But in 2026, the argument has acquired a constitutional and civilisational dimension that was not visible in 1982. An incomplete authenticated archive is not a moderate administrative inconvenience. In an age of AI-generated legal content, it is a structural vulnerability in the rule of law itself. The institution that was born to be the guardian of that rule of law – the Supreme Court of India – has the tools, the authority, and the demonstrated will, as Chief Justice Chandrachud showed, to close the vulnerability. The question is only whether those who succeed him will treat the completion of this work with the urgency it deserves, or whether the institution will revert to its more comfortable posture of acknowledging the argument and deferring the action.

Canada acted in 1999. The United Kingdom in 2001. Australia, Singapore, New Zealand, Hong Kong, and Malaysia followed within the decade. India has taken two steps of a three-step journey, twenty-five years after the world showed it the way. The Mistress, in this domain at least, still has time to honour her original

promise – but not unlimited time. The AI clock is running. And this time, the delay will not merely inconvenience the profession. It will expose the law itself to something far worse than chaos: the systematic replacement of real precedent with fabricated authority, in a system that lacks the authenticated infrastructure to tell the difference.

Argued, Assisted, Associated and Other Judgments with Observations

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	Chaman Lal Singhal	HUDA	2009 INSC 120	Property law
2	Gopal	State of Rajasthan	2009 INSC 186	Criminal Law
3	State of Rajasthan	Hanif Khan	2009 INSC 234	Criminal Law
4	Vishal Singh	State of Rajasthan	2009 INSC 253	Criminal Law
5	State of Rajasthan	Bhanwar Lal	2009 INSC 295	Criminal Law
6	State of Rajasthan	S.N. Tiwari	2009 INSC 344	Service Law
7	*Krishan* Ram	State of Rajasthan	2009 INSC 356	Criminal Law
8	State of Rajasthan	Mohan Lal	2009 INSC 543	Criminal Law
9	Destruction of Public & Private Property	State of A.P.	2009 INSC 535	Constitutional Law
10	Kanti Lal	State of Rajasthan	2009 INSC 554	Criminal Law
11	Ramesh Bhai	State of Rajasthan	2009 INSC 606	Criminal Law
12	Hari Ram	State of Rajasthan	2009 INSC 693	Criminal Law
13	State of Rajasthan	Jagdish Narain Chaturvedi	2009 INSC 752	Service Law
14	Ram Singh	Ram Niwas	2009 INSC 807	Criminal Law
15	High Court of Judicature	Veena Verma	2009 INSC 888	Service Law
16	Rajasthan Judicial Service Officers' Assn.	State of Rajasthan	2009 INSC 889	Service Law
17	Urban Improvement Trust	Mohan Lal	2009 INSC 1209	Constitutional Law
18	Jaiprakash Associates Ltd.	State of M.P.	2008 INSC 1487	Constitutional Law
19	Gajendra Singh	Ajay Singh	(2010) Lob IC 2388	Service Law
20	State of Rajasthan	Hanuman Singh Bhati	Unreported	Service Law
21	Jabar Singh	Dinesh	2010 INSC 145	Criminal Law
22	General Insurance Council	State of A.P.	2010 INSC 225	Motor Vehicles Law

23	K. *Krishan* Murthy	Union of India	2010 INSC 307	Constitutional Law
24	Rajasthan Pradesh Vaidya Samiti	Union of India	2010 INSC 334	Constitutional Law
25	G.Parshwanath	State of Karnataka	2010 INSC 525	Criminal Law
26	LML Ltd.	Commr. Of Customs	2010 INSC 631	Customs Law
27	Puneet Expo	Union of India	(2010) 9 AD (Del.) 53	Customs Law
28	Central Public Information Officer	Subhash Chandra Agarwal	2010 INSC 820	Information Technology Law
29	Ghanshyam Sharma	State of Rajasthan	2010 INSC 842	Service Law
30	State of Rajasthan	Daya Lal	2011 INSC 43	Service Law
31	Kalyaneshwari	Union of India	2011 INSC 60	Environment Protection Law
32	Jagdish Rai	State of Punjab	(2011) 4 SCC 571	Criminal Law
33	Maninderjit Singh Bitta	Union of India	2011 INSC 280	Land Acquisition & Rehabilitation Law
34	Indian Council for Enviro-Legal Action	Union of India	2011 INSC 498	Environment law
35	DSSSB	Mukesh Kumar	(2011) 125 DRJ 85	Service Law
36	International Airport Authority of India	Televista Electronics Pvt.	Unreported	Property law
37	Asit Kumar Roy	Election Commission of India	Unreported	Election Law
38	Raghubir Singh	State Rajasthan	2011 INSC 619	Criminal Law
39	State of Rajasthan	Arjun Singh	2011 INSC 643	Criminal Law
40	State of H.P.	Union of India	(2011) 13 SCC 344	Constitutional Law
41	Association of Metro Commuters	Delhi Metro Rail Corporation	(2012) 2 ILR (Del.) 172	Government Contracts & Public Procuremen
42	Idu Khan	Union of India	(2012) 2 AD (Del.) 741	Customs Law
43	Maninderjit Singh Bitta	Union of India	2012 INSC 78	Land Acquisition & Rehabilitation Law
44	Ram Dhari Jindal Memorial Trust	Union of India	2012 INSC 141	Land Acquisition & Rehabilitation Law

45	Brij Mohan Lal	Union of India	(2012) 6 SCC 502	Service Law
46	Indian Instt. Of Public Opinion Pvt.Ltd.	Life Insurance Corporation of India	(2012) 130 DRJ 157	Administrative law
47	Life Insurance Corporation	Damyanti Verma Deed	Unreported	Insuarance law
48	Heritage Preservation Society	State of Rajasthan	Unreported	Environment law
49	Delhi Pradesh Taxi Union	Airports Authority of India	(2003) 105 DLT 479	Motor Vehicles Law
50	Research Foundation for Science	Union of India	2012 INSC 49	Environment law
51	Laxmi Narain Modi	Union of India	2014 INSC 69	Environment law
52	Medha Kotwal Lele	Union of India	2012 INSC 488	Constitutional Law
53	Vindhya Kukrety	Shushma Kukrety	Unreported	Property law
54	Arvind Khanna	International Airport Authority	Unreported	Customs Law
55	Management of M/S Rajasthan	Jasod Singh	Unreported	Labour & Industrial Law
56	PUCL (PDS Matters)	Union of India	(2013) 2 SCC 663	Constitutional Law
57	Rajasthan State Ind. Dev.& Inv.Corpn.	Diamond & Gem Dev.Corpn. Ltd.	2013 INSC 93	Constitutional Law
58	Rajasthan State Ind. Dev.& Inv.Corpn.	Subhash Sindhi Coop. Housing Society	2013 INSC 94	Land Acquisition & Rehabilitation Law
59	S.D.Bandi	Div.Traffic Officer	2013 INSC 440	Administrative law
60	Rakesh Kumar Sharma	State (NCT of Delhi)	2013 INSC 501	Service Law
61	Rajasthan State Agriculture Mktg. Board	Mohan Lal	2013 INSC 542	Service Law
62	Laxmi Narain Modi	Union of India	2013 INSC 575	Environment law
63	Lalit Kumari	Govt. of U.P.	2013 INSC 748	Criminal Procedure Law
64	P. Ramakrishnam Raju	Union of India	2014 INSC 229	Constitutional Law
65	Jal Mahal Resorts (P) Ltd.	K.P. Sharma	2014 INSC 342	Environment law
66	Ram Daan	Urban Improvement Trust	2014 INSC 989	Land Revenue and Tenancy Laws
67	Puducherry SC People Welfare Assn.	UT of Pondicherry	2014 INSC 528	Constitutional Law

68	Rajdeep Sardesai	State of A.P.	2015 INSC 415	Criminal Law
69	Assn. of Retired Judges of Sup.Ct.& High Courts	Union of India	(2016) 16 SCC 657	Service Law
70	State of U.P.	Arezzo Developers (P) Ltd.	(2016) 12 SCC 530	Tax Law - Direct
71	Anil @ Bawa	State of Haryana	2016 INSC 1169	Criminal Law
72	Subramanian Swamy	Union of India	2016 INSC 427	Criminal Law
73	Pawan Kumar Sharma	State (Mines Department)	Unreported	Mining & Natural Resources Law
74	International Airport Authority of India	Asian Computer Consultancy	Unreported	Customs Law
75	Voluntary Health Assn. of Punjab	Union of India	2016 INSC 1013	Medical & Health Law
76	E.R.Kumar	Union of India	(2017) 2 SCC 779	Constitutional Law
77	Union of India	Rajasthan High Court	2016 INSC 1122	Constitutional Law
78	Prabhati Devi	Anil Sethi	Unreported	Land Revenue and Tenancy Laws
79	Vijay Kumar Sharma	Vijay Kumar Kapoor	(2017) 201 Co. Cas.630	Company Law
80	Dr.S.S.Narnoli	Premsons	Unreported	PIL
81	Union of India	Indian Radiological & Imaging Assn.	2018 INSC 236	Medical & Health Law

Subramanian Swamy v. Union of India & Ors.
2016 INSC 427

A batch of writ petitions was preferred under Article 32 of the Constitution of India led by Dr. Subramanian Swamy and others, seeking to challenge the constitutional validity of Sections 499 and 500 of the Indian Penal Code, 1860 – which codify the offence of criminal defamation – and Sections 199(1) to 199(4) of the Code of Criminal Procedure, 1973, which prescribe the procedure for prosecution of such offences.

The petitioners contended that criminal defamation constitutes an unreasonable restriction on the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution, and that the remedy for injuries to reputation ought to lie exclusively in the civil law of torts. It was argued that the very existence of criminal defamation as a cognisable threat casts a chilling effect

upon legitimate speech, dissent, and journalism – rendering it incompatible with the values of a mature democracy. The petitioners further urged that the principle of proportionality required that restrictions on free speech be no more than strictly necessary, and that Section 499 IPC, with its elaborate architecture of criminal sanction, failed that test.

The Union of India and the complainants defended the provisions, submitting that freedom of speech is not an absolute right; that reputation is itself a fundamental right under Article 21 forming an intrinsic component of individual dignity; and that the State is entitled – indeed obliged – to protect the reputation of individuals from defamatory attacks through the mechanism of criminal law, which serves a social purpose that civil remedies alone cannot fulfil.

The writ petition had its origin in observations of the Supreme Court in *R. Rajagopal* v. *State of T.N.* and *N. Ravi* v. *Union of India*, in which the Court had left open the question of constitutional validity of Sections 499 and 500 IPC for determination in an appropriate case. The present batch of petitions provided that occasion.

Dismissing the writ petitions, the Supreme Court upheld the constitutional validity of Sections 499 and 500 IPC and Sections 199(1) to 199(4) CrPC:

The term 'Defamation' as used in Article 19(2) is not to be construed narrowly and is not to be read in conjunction with the surrounding terms such as 'security of the State', 'friendly relations with foreign States', and 'public order, decency or morality'. Defamation has its own independent identity and meaning, and the principle of *noscitur a sociis* has no application where the term is clear and unambiguous on its face.

Criminal defamation as embodied in Sections 499 and 500 IPC, does not constitute a disproportionate restriction on the right to free speech. The right to freedom of speech cannot mean that a citizen may defame another with impunity. Protection of individual reputation cumulatively serves the social interest and is not separable from the constitutional scheme.

The right to reputation is an essential component of the right to life and personal liberty guaranteed under Article 21. Reputation is an inherent element of human dignity; it cannot be allowed to be crucified at the altar of another's right of free speech. The balancing of fundamental rights is imperative.

The concept of fraternity under Article 51-A(e), read in the context of fundamental duties, requires every citizen to respect the dignity of the other. Mutual respect is the fulcrum of fraternity. While there is full room for dissent, difference, and discordance, the exercise of the right of free speech must be consonant with the constitutional obligation to promote harmony and brotherhood.

Public servants constitute a class unto themselves and are entitled to the protection afforded by Section 199(4) CrPC, which permits the filing of a complaint through the public prosecutor before a Sessions Court for offences relating to their discharge of official duties. This provision does not create an impermissible inequality; it protects a distinct class for a legitimate constitutional purpose.

A law imposing restriction is proportional if it is meant to achieve a proper purpose; if the measures taken to achieve that purpose are rationally connected to the purpose; and if those measures are necessary and not excessive. Reasonableness is examined not from the standpoint of the person upon whom the restriction is imposed, but from the standpoint of the interest of the general public. Sections 499 and 500 IPC satisfy this test.

Observation: A few judgements brought me face to face with an archaic law and the modern evolution of law all over the world. I had appeared for one of the petitioners and prepared extensively and deeply. The issues were much deeper on pure legal jurisprudence. I raised three basic and fundamental issues, which were referred to in the judgment, but never answered by the Supreme Court:

1. Defamation is injury or damage to reputation, which is a metaphysical property. Criminal prosecution was entertained in defamation cases because of the erroneous doctrine of 'malice in law' or 'intended imputation or presumption by law of the existence of malice', when the said doctrine has been kept out of criminal jurisprudence, the enactments based on the said doctrine cannot be allowed to survive. Once there is no presumption of malice by law, the thought, idea and concept of 'per se malicious or per se defamatory', and the basis and foundation of defamation becomes non-existent and is eroded and the criminal content in defamation in Article 19(2) has to be severed from the civil content in it.
2. The reputation of every person does not have any specific identifiable existence, for it is perceived differently, at different times, by different persons associated, related, concerned for affected by it, who, in turn, are acting with their multi-dimensional personality for multiple reasons and prejudices and as such, they are bereft of any social impact or criminal element in it.
3. On a reading of Sections 499 and 500 IPC and Section 199 CrPC, it is manifest that there is a presumption of facts as a matter of law and that alone makes the provision arbitrary and once the foundation is unreasonable and arbitrary, the provisions deserve to be declared ultra vires Articles 14, 19 and 21 of the Constitution.

In support of my first submission, I cited *James Rhodes* v. *OPO* – 2015 UKSC

32, wherein the Supreme Court of the United Kingdom had dealt with the entire case law since *Wilkinson* v. *Downton* (1897) 2 QB 57. I had obtained all the judgements referred to in *Downton* and those referred to in them, and that exercise took me to judgements stretching back to 1770 – the very year of the advent of the Industrial Age, when the world had begun to become European-centric. The criminalisation of defamation law was based on the doctrine of 'malice in law' or 'intended imputation or presumption by law of the existence of malice'. The entire law had been developed by courts and, after tracing the entire law on the subject, the Supreme Court of the United Kingdom overruled the law laid down in the *Downton* case and followed by the courts thereafter.

When I made my submissions that the entire law was made by the court and that it was time to bury the same, Justice Dipak Misra did not appear persuaded by all that was submitted and, in effect, said that no court could have ever said that. I then read out paragraph 81 of the judgment in *Rhodes v. OPO*, which read as follows:

> *"81. There is a critical difference, not always recognised in the authorities, between imputing the existence of an intention as a matter of law and inferring the existence of an intention as a matter of fact. Imputation of an intention by operation of a rule of law is a vestige of a previous age and has no proper role in the modern law of tort. It is unsound in principle. It was abolished in the criminal law nearly 50 years ago and its continued survival in the tort of wilful infringement of the right to personal safety is unjustifiable. It required the intervention of Parliament to expunge it from the criminal law, but that was only because of the retrograde decision in DPP v. Smith. The doctrine was created by the courts and it is high time now for this court to declare its demise."*

I read the last sentence again to emphasise my submission. I am certain that the matter will be considered again when the questions raised will be looked into in the right perspective – particularly that defamation is a metaphysical property, where supporters of one person have a reputation only in their own mind. The moment anyone touched the Europeans' self-created superiority; he had committed defamation. The three questions I raised before the Court remain unanswered, and in that unanswered state, they remain alive – waiting for the day when a bench of sufficient intellectual courage will engage with them fully, trace the genealogy of this archaic doctrine to its origins, and declare, as the Supreme Court of the United Kingdom declared of the related doctrine in *Rhodes*, that its time has passed. The mistress, in this case, has not yet yielded to justice. But she will.

Lalita Kumari v. Government of U.P. and Others
(2013) 14 SCR 713

A writ petition was filed under Article 32 of the Constitution by Lalita Kumari, a minor child, through her father Bhola Kamat, seeking the protection and recovery of his daughter who had been kidnapped. A written report had been submitted to the officer-in-charge of the concerned police station on 11 May 2008, but no action was taken. Only after the father moved the Superintendent of Police was an FIR eventually registered – and even then, neither was the accused apprehended nor was the girl recovered in any timely manner. The matter was initially placed before a two-Judge Bench in 2008, which noted the widespread and inconsistent practice of police officers across the country – some registering FIRs immediately upon receipt of a complaint, others conducting informal preliminary inquiries before deciding whether to register at all. The core question that arose for determination by the Constitution Bench was whether, under Section 154 CrPC, registration of an FIR upon receipt of information disclosing a cognisable offence is mandatory – or whether the police officer has a discretion to first conduct a preliminary inquiry.

The Constitution Bench answered definitively in favour of mandatory registration. The condition sine qua non for registering an FIR is simply that there must be information disclosing a cognisable offence – the reasonableness or credibility of the information is not a condition precedent. The plain language of Section 154(1) CrPC is imperative and admits no other construction. Registration does not violate Article 21; it is in conformity with it, as it sets a fair and transparent criminal justice process in motion. The Court, however, recognised that a limited preliminary inquiry may be permissible in specified categories – matrimonial disputes, commercial offences, medical negligence, corruption, and cases of abnormal delay in reporting – but only for the narrow purpose of ascertaining whether the information prima facie discloses a cognisable offence. It cannot be used as an instrument of delay, evasion, or harassment. The CBI Crime Manual permitting preliminary inquiries is an administrative document and cannot supersede the Code. Comprehensive guidelines were issued specifying the categories where preliminary inquiry may be permissible, the time-frame within which it must be completed, and the conditions governing such inquiry.

Observation: The Lalita Kumari case illustrates with uncommon clarity the distinction between what I have come to regard as the two lives of the law: the law as written, and the law as lived. Section 154 CrPC has always been plain enough in its language – information of a cognisable offence received at a police station is to be recorded. The text admits of no qualification. And yet, across the country, in

station house after station house, the law as lived operated on an entirely different principle – the principle of police discretion, of the preliminary inquiry, of the informal filter that stood between the citizen and the record of the State. What the Constitution Bench did in this case was not to discover a new rule. It was to recall the law from its prolonged absence – to bring it back from the wilderness into which it had been allowed to wander.

But the case carries a further lesson that the Court itself was alive to. The mandatory registration principle, taken to its absolute extreme, could itself become an instrument of injustice – a vehicle for harassment, for the weaponisation of false FIRs, for the criminalisation of civil disputes. And so, in the same breath, the Court drew the line: mandatory yes, but with guidelines; compulsory yes, but with accountability. I have personally witnessed both realities across fifty years of practice – the grievous injustice done to those whose complaints were ignored at the police station, and the equal injustice of malicious and unfounded FIRs that wrecked careers and reputations. The Lalita Kumari judgment understood both. It is not often that a Constitution Bench holds the scales with such steadiness. This case, for me, is one of the finest illustrations of the court acting as the conscience of the republic – turning the cold letter of the law into the warm breath of justice.

Dr. K. Krishan Murthy v. Union of India
2010 INSC 307

By the Constitution (Seventy-third) Amendment Act, 1992 and the Constitution (Seventy-fourth) Amendment Act, 1992, Parliament inserted Parts IX and IX-A into the constitutional text, giving constitutional status to elected local self-government institutions – Panchayats for rural areas and Municipalities for urban areas. A batch of writ petitions challenged the constitutional validity of Articles 243-D(4) and 243-T(4), which contemplate the reservation of chairperson positions in Panchayats and Municipalities in favour of Scheduled Castes, Scheduled Tribes, and women; and Articles 243-D(6) and 243-T(6), which enable State Legislatures to enact reservations in favour of backward classes in these bodies. The petitioners contended that reservations in favour of backward classes could only extend to those identified under Articles 15(4) or 16(4); that the reservation of chairperson posts amounted to the reservation of an executive office equating with reservation in public employment; and that multiple layers of reservation could result in overbreadth exceeding the 50% ceiling established in *Indra Sawhney v. Union of India*.

The Constitution Bench upheld the constitutional validity of the challenged

provisions. Articles 243-D(4) and 243-T(4) providing for the reservation of chairperson positions are constitutionally valid – the reservation of chairperson posts cannot be equated with the reservation of solitary posts in public employment, and the principles evolved under Article 16(4) cannot be mechanically applied in the context of local self-government. Articles 243-D and 243-T form a distinct and independent constitutional basis for affirmative action in elected local bodies, self-contained and not derivative from Articles 15 or 16. Articles 243-D(6) and 243-T(6) are constitutionally valid, but the identification of "backward classes" for local self-government purposes should be distinct from identification under Articles 15(4) and 16(4) – social and economic backwardness does not necessarily coincide with political backwardness. The onus lies on the executive to conduct a rigorous investigation into the patterns of backwardness that act as barriers to political participation; any overbreadth in State legislation may be challenged before the appropriate High Court. The *Indra Sawhney* ceiling of 50% vertical reservations should not be breached, save for the protection of Scheduled Tribes in Panchayats located in Scheduled Areas. The right to vote and contest elections is in the nature of a legal right, not a fundamental right, and is subject to legislative control.

Observation: This was, in a certain sense, a case about the geography of justice – about how far the writ of the Constitution runs into the village and the ward, into the gram sabha and the nagar panchayat, into the spaces of governance that most closely touch the daily life of the ordinary Indian citizen. The challenge raised was not without force: if the *Indra Sawhney* ceiling governs reservations in employment, why should a different and more expansive regime operate in local self-government? If equality is a constitutional value, is it not violated by the reservation of chairperson positions in a manner that restricts the competitive field entirely?

The Court's answer, and it is one I find compelling, is that equality is not a uniform formula applied identically across all constitutional domains. Equality is context-sensitive. The patterns of disadvantage that exclude Dalits, tribal communi-ties, and women from meaningful participation in the gram panchayat are not identical to those that exclude them from university seats or government posts. Local self-government has its own terrain of exclusion – the entrenched power of dominant castes at the village level, the social and economic pressures that prevent weaker sections from standing for election or occupying positions of authority even when formally eligible. Reservations in this domain address a form of backwardness that is political in its character, not merely economic or educational. The Constitution's promise of equality must reach the village council as surely as it reaches the High Court.

I have watched over the decades how constitutional jurisprudence moves —

cautiously, incrementally, one measured step at a time. The Krishan Murthy judgment took one such step – modest in its immediate scope, but large in its implications for democratic decentralisation and social inclusion. In this case the law did not merely speak; it listened. It listened to the voice of those who had been excluded from the councils of governance for generations. And in listening, it became, for a moment, something more than law. It became justice.

Articles, Publications, Addresses, Presentations and Blogs

How Mobile can the legal profession be expected to become?

The resignation as Additional Advocate General and Advocate on Record for the State of Rajasthan had just been tendered. A decade of service to the State had ended – not in bitterness but in the quiet recognition that a chapter had completed itself and the next had to be entered. Two months later, I was in Hong Kong for the 16th Commonwealth Law Conference, speaking on the mobility of the legal profession in the digital age. The question posed in the title was not merely technological. It was civilisational: whether the legal profession – whose essential function is to serve the person who needs justice – was prepared to move at the speed of the world it was asked to govern. My answer, then as now, was that the only legitimate restriction on the profession's mobility was the requirement of local registration for filing – the son-of-the-soil principle that protects the integrity of the court's process. Everything else was institutional inertia masquerading as principle

16th Commonwealth Law Conference, Hong Kong

All of us would not have been here in Hong Kong, enjoying this wonderful gathering and gala dinner, had we not already become mobile and comfortable with the technologies and systems that enable us to function seamlessly across borders. When I speak of mobility, I refer not merely to physical movement, but also to mobile phones, the Internet, communication technologies, and modern modes of transport.

The real question, however, is: How mobile can the legal profession be expected to become?

My answer is – as mobile as I am, without limitation.

The litmus test of progress and development of any technology or service lies in whether it is efficient, accurate, and cost-effective. If we are able to achieve that for our clients, our profession is moving forward; if not, we are either stagnant or retrogressing.

Laws are chains and shackles created to regulate human conduct from conception to succession certificate, enabling individuals and society to coexist in peace and harmony. These rules have evolved, refined, and expanded ever since human civilisation came into existence, and continue to evolve now in the electronic age. These do's and don'ts seek to restrain those who are unable to remain within the parameters of what is reasonable, just, and proper, and who exploit others through abuse of pseudo-superiority and power – though every human being is created equal, with his own DNA, functional utility, social contribution, and impact.

It is these individuals who fall outside the system whom, as lawyers, we prosecute and defend.

Yet these do's and don'ts cannot themselves become impediments to the evolution of our own profession. As members of one of the highest forms of public service, the legal fraternity has been entrusted with the responsibility of assisting arbitrators and Judges in the search for equity, equality, and justice. We help clients claim or defend whatever they are entitled to under the law.

In the process, every serious member of the legal fraternity develops keen observation, sharp intellect, and reflective objectivity. Few professionals engage in more out-of-the-box thinking than lawyers. If we are capable of doing this for our clients, why can we not do it for our own profession? What limits us from moving ahead except our own hesitation and resistance?

The process of litigation is creative for Judges and advocates, decisive for litigants, educative and informative for society, revealing of inter-human relationships and conflicts, and corrective for legislators.

It also functions as an important process of balancing powers, while the larger objective remains the pursuit of justice through dialectics.

Since the primary objective of every litigant is to win his case and secure the best possible professional assistance for that purpose – for it is ultimately for him that "the bells toll" – restrictions upon the mobility of lawyers only impede the litigant's access to legal services of his choice. Justice must not only be done; it must also be seen to be done.

In litigation, the following activities are ordinarily undertaken:

1. **Getting a Client:** Large law firms market themselves subtly through conferences, dinners, sponsorships, networking, and numerous other mechanisms. There are referral lawyers, and unfortunately, there are also ambulance chasers. Ultimately, however, some mechanism always exists either for the lawyer to reach the client or for the client to reach the lawyer. There is presently no real limitation upon the mobility of lawyers in

attracting or securing clients. Every serious law firm and practitioner today maintains a web presence without geographical limitation.

2. **Conference with the Client:** Once the client is engaged, conferences are no longer difficult. Near-free access to the Internet, instantaneous data transfer, and modern telecommunications permit seamless interaction with clients across jurisdictions. Lawyers are able to understand exactly where the client's "shoe pinches" and devise strategies for resolving disputes. There is, therefore, virtually no limitation upon the mobility of advocates in conferencing with clients or receiving documents.
3. **Legal Research:** The classic saying remains true: a lawyer may not know what the law is, but he must know where the law is. Every dispute involves statutory provisions and precedents. Treatises, conventions, statutes, rules, regulations, guidelines, memoranda, and other instruments carrying legal force are produced every minute and simultaneously made available electronically. Likewise, judgements delivered by arbitrators, tribunals, commissions, trial courts, appellate courts, constitutional courts, apex courts, Privy Councils, and Houses of Lords across the world are now instantly accessible online. Companies such as LexisNexis, Westlaw, the World Legal Information Institute, SpotLaw, and numerous other legal information providers will continue developing a multi-billion-dollar global legal information industry. There is effectively no limitation upon the mobility of lawyers in obtaining legal information or even outsourcing legal research to countries such as India, Nigeria, Malawi, or elsewhere.
4. **Drafting:** Drafting claims, plaints, complaints, petitions, counterclaims, written statements, defenses, and other legal documents similarly faces no real geographical limitation. Effective drafting requires:
   a. List of Dates and Events in Chronology
   b. Sound strategy,
   c. Legal research,
   d. Precise language, and
   e. Clarity of expression.

   There is therefore no limitation upon the mobility of the profession in relation to drafting work. Indeed, Legal Process Outsourcing (LPO) itself is increasingly being outsourced globally and is expected to become a multi-billion-dollar industry.
5. **Filing of Cases**: This perhaps remains the only stage necessarily involving a local advocate – a son of the soil, a *bhumi putra*. Here, solicitors,

advocates-on-record, or locally enrolled advocates within the jurisdiction must necessarily play their role. This is where local practitioners must legitimately earn their professional fees. This, perhaps, is the only area where some regulatory restriction upon the profession remains both reasonable and necessary.

6. **Appearance and Arguments**: Oratory and the ability to think on one's feet remain great arts and natural talents. Clients are naturally most comfortable with lawyers whom they believe know the law best. At the same time, lawyers themselves often know which counsel can deliver the best result. Rapport with the Judge also remains an undeniable factor within the decision-making process. That is why institutions such as Senior Advocates and Queen's Counsel evolved. Ultimately, however, this remains a matter between the client and the lawyer engaged by him. There should therefore be no unnecessary limitation upon the mobility of lawyers in this area either.
7. **Collection and Distribution of Fees:**This perhaps remains the most important practical issue, yet even here, mobility itself creates no inherent difficulty. In arbitration matters, parties are already free to choose jurisdictions and venues from amongst places possessing jurisdiction. Litigation itself, to some extent, has become a form of legal tourism. Nobody travels alone for litigation or conferences; States and countries, therefore, possess significant economic interests in facilitating such movement.

According to Alvin Toffler in his book Revolutionary Wealth, business and entrepreneurship are moving at full throttle at the speed of one hundred miles per hour, while the legal industry continues moving at one mile per hour.

Since both are intrinsically interconnected, the vehicle in front strains noisily because it finds it impossible to drag the vehicle behind it. The vehicle behind equally screeches in resistance, struggling against being dragged forward. The passengers – for whose benefit both vehicles exist – move forward slowly, uncomfortably, and without enjoyment.

In this slow movement of the legal industry, burdened by limitations and technicalities inherited from the industrial age, the common man becomes the real sufferer.

Believe me, friends, the advent of the Third Wave, the electronic age, globalisation, and the borderless global village has created cross-cultural coexistence in every corner of the world. Communities now coexist simultaneously despite differences of colour, caste, sex, age, location, language, or nationality, all connected through instantaneous communication systems.

It is therefore time for this august gathering to seriously consider whether the fundamental doctrine of territorially restricted legal practice – a doctrine shaped largely during the agricultural and industrial ages – now requires deeper reflection and deconstruction.

At this moment, we already possess:

- global communication networks,
- global trade,
- global fund transfers, and increasingly
- global governance structures.

Such developments will inevitably require some form of global judiciary and, correspondingly, a global Bar.

If the legal profession – along with legislation, litigation, and judgements – is to keep pace with a rapidly changing world where communication and commerce increasingly move at the speed of thought, then the profession itself must become fully mobile and capable of moving at the pace of other institutions.

The legal profession must move seamlessly.

If lawmen can come together, no country can easily be demeaned. And if lawmen themselves cannot come together, then who will?

Thank you for being with me.

Look East for Answers

The court ruling on homosexuality follows the Constitution and the Eastern thoughts

11.07.2009 (Article: Published in DNA)

Author's Bridge: *The Delhi High Court's* judgment in ***Naz Foundation v. Government of NCT of Delhi****, decriminalising consensual sexual relations between adults of the same sex, was delivered on 2 July 2009. Ten days later, I wrote this response – not as a commentator on constitutional law, which the judgment itself had handled with considerable grace, but as an advocate of the Sanaatan philosophical tradition, which had always understood inclusiveness as its defining characteristic. The argument of this piece is the argument of the Mahaabhaarat itself: that the universe of human possibility is vastly wider than any single set of social conventions, that the Eastern tradition has always made room for what the Western tradition condemned, and that the Delhi High Court, in reading the Constitution's inclusiveness clause as a living principle, was looking East for answers that the West had suppressed. It is a piece about justice in its fullest sense – the justice that sees every being as created equal, in their own way, with their own DNA and their own path to realisation.*

By removing the shackles of criminality from consenting partners, homosexuals, and lesbians, the Delhi High Court did not merely take Hindu thought one step forward; it, in fact, took a quantum leap toward freedom of will, thought, and action. Consensual relationships between adults do not, in any manner, degrade, denigrate, humiliate, or corrupt human beings – though they may be perceived as immoral by those who chant the mantra of morality while, in practice, substantially contributing to the perpetuation of a corrupt society.

For a large number of people who are not seeking spiritual growth or salvation, interaction in worldly affairs is natural. It is permissible too, so long as their actions neither thwart nor impinge upon the life and liberty of others. Such individuals are as much a part of the social system as those who view life as a journey toward self-realisation. Inclusiveness lies at the very core of Eastern thought. A civilised society is one in which people are not merely tolerant of others but possess genuine respect for the other human being. Disagreements are natural and can ultimately be resolved only through democratic principles where fair and free majorities govern.

There has always been – and there will always continue to be – the greatest respect for the institution of marriage: the one-man, one-woman relationship. It remains the bedrock of civil society. Such a stable and enduring relationship alone can provide the necessary *laxman rekha* essential for spiritual growth, emotional security, and the healthy development of children.

At the same time, neither consensual relationships amongst adults nor the birth of children outside conventional marital structures has historically been treated as a great taboo within Hindu mythology. Pandu, Dhritarashtra, and Vidur were born through the blessings of Vyas, the great rishi. Karn and the five Pandavas were born through the blessings of various devatas. Draupadi herself had five husbands. All were powerful, revered, and unique human beings who formed part of a glorious civilisational narrative.

The utopianism propounded by Plato (427–347 BC), and articulated in The Laws, dealt extensively with what he described as the "problems of sexual conduct" – as though sexual conduct itself were inherently problematic. Plato emphasised self-control and declared that "males do not have sexual relations with each other because such things are unnatural," and further suggested that religion, honour, and spiritual beauty should be employed to restrain such conduct. Religion was thus used to support legal morality, thereby creating a continuing conflict between organised religion and individual sexuality.

This line of thought was later carried forward by Jeremy Bentham in his book '*Theory of Legislation*' and eventually found statutory expression under the aegis of Thomas Babington Macaulay in the Indian Penal Code, 1860. Much like

several other colonial legal structures, the larger objective of the British Raj was not merely governance, but also the gradual displacement and distortion of Eastern philosophical thought by imposing Victorian morality and Western legal constructs. Interestingly, many ideas once considered "unnatural" by Western morality have themselves now become accepted as natural in the very societies from which those doctrines emerged.

Ultimately, what is natural or unnatural depends largely upon the nature and understanding of the individual himself. Indeed, it is far more unnatural, amoral, and inhuman for one generation of human beings – believing themselves to be final interpreters of cosmic truth – to decide permanently what shall be considered natural or unnatural for all future generations and then spill blood to establish that belief.

The inclusiveness, flexibility, and acceptance inherent within Eastern philosophy – allowing every individual the freedom to seek ultimate realisation, or even not to seek it, through a process known only to himself or herself – has always made Eastern civilisation uniquely universal without the need for missionaries or coercion.

The Delhi High Court beautifully synthesised the constitutional spirit when it observed:

> *"If there is one Constitutional tenet that can be said to be the underlying theme of the Indian Constitution, it is that of 'inclusiveness. The Indian Constitution reflects this value deeply ingrained in Indian society, nurtured over several generations. The inclusiveness that Indian society traditionally displayed, literally in every aspect of life, is manifest in recognising a role in society for everyone. Those perceived by the majority, as 'deviants' or different are not, on that score, excluded or ostracised."*

The judges summed up that dignity, and equality is possible only in a society, that displays inclusiveness and understanding.

Reinventing Democracy

16.12.2009 (Note)

By 2009, a conviction that had been forming across decades of practice had crystallised into a single diagnostic sentence: democracy has given us government by the people and of the people, but not for the people. The Magna Carta of 1215, the Enlightenment, the age of democratic constitutions – all of it had produced trillions of dollars of production and yet left six billion of the world's population in poverty. The common man had lost faith first in the king, then in communism, and was now losing faith in democracy itself. This note was an early attempt to articulate what would later, in the context of Legal Revolution 5.0, become a full-fledged institutional vision: that the answer was not to abandon

democracy but to reinvent it – to create structures that could deliver government genuinely for the people, not merely of them.

Even after the issuance of the *Magna Carta* in 1215 – which weakened rule by birth and laid the foundations of the rule of law – and despite the emergence of democratic governments and global production worth trillions of dollars, humanity has still not been able to substantially remove the poverty affecting nearly six billion people out of a global population of approximately 6.7 billion.

After losing faith in kingship and later in communism, the common man now appears increasingly to be losing faith in the democratic process itself, for he finds himself trapped in an unending rat race whose strings are often controlled by a few who continue to manipulate and exploit him in the name of faith, religion, caste, political parties, currency valuation, and countless other divisions.

Democracy has undoubtedly succeeded in creating governments "by the people" and "of the people," but it has not always succeeded in creating governments truly "for the people." The ordinary citizen today continues to live under the constant shadow of terrorism and violence, corruption within public institutions, diminishing standards of professionalism and the arts, increasing complexity of laws, and growing social uncertainty. In such circumstances, he often seeks refuge in various forms of entertainment, yet even that rarely leaves him genuinely peaceful or fulfilled.

Globalisation has already broken down geographical and communication barriers. Humanity has moved from the Agricultural Age to the Industrial Age and now into the Electronic Age. This transformation creates the possibility of a powerfully networked and interconnected social structure – one that can become anti-terrorist without being anti-power, anti-corruption without being anti-production, and anti-religious extremism without being anti-spiritual.

Such a structure may ultimately enable every human being to live with dignity, peace, harmony, and at least a minimum level of economic security and social support – a vision toward which various forms of humanism have aspired for more than two thousand years.

Since the common man continues to sustain democratic systems across the world, the time may have arrived to seriously contemplate the gradual emergence of a global democratic movement which, in due course, could evolve toward some form of accountable and representative global governance under the framework of the United Nations.

The formation of a Global Democratic Party for India may perhaps be viewed as one small step toward such a larger vision – a vision which modern communication systems and global interconnectedness have now made conceivable in ways that were previously impossible.

Well Managed

20.10.2010 (Mark's Great Adventure – Blog)

I spoke to Aruneshwar Gupta, a lawyer from Delhi, on the flight to Udaipur. He had seen the book I was reading, "Web of Debt" by Ellen Brown and asked me what I thought. I told him I was dumbfounded by how utterly corrupt the entire world's financial systems were. He had a jovial nature about him and he chuckled when he replied in his thick Indian accent, "*Theyare not corrupt, mark, they are well-managed.*"

Of course, from the perspective of the Rothschilds, the Rockefellers and the handful of others who call the shots, he is absolutely correct. And since it was beginning to make me too serious and too upset, it was good that he could get me to laugh about it.

He was very interested in the straw bale housing project I had been working on in Pakistan. He invited me to look him up when I get to Delhi and made a suggestion about building some straw bale homes in India. It would certainly be worth talking about…

Other than that, the flight to Udaipur was uneventful until I picked up my backpack at the luggage carousel. It was then that I realised that ½ of the belt that attaches around my hips was…gone. I was more than a bit surprised to find that the very thick, very wide and very tough piece of plastic that previously held it in place had been ripped apart. This is not something that a human, not even Arnold Schwarzenegger, could do. Clearly, it got caught in some machinery and I won't be able to repair it until I can get a replacement part back home.

But Koi Bat Nahin, I still have my shoulder straps.

I arrived at Rita and David's house tues. (10/19) afternoon. They are both gone, but I was met by their business associate, mr. kabra. Rita is in Delhi,and I hope to stay here until she returns on the 23rd. The place is spectacular, with a view of Lake Pichola from a rise just a bit out of town. It will be a very relaxing few days here and I find mr. kabra's company quite agreeable.

All India Seminar, Jodhpur (Raj.)
PIL as Tool of Access to Justice for the Poor

14.03.2011 (Address)

Author's Bridge: *The address was delivered at an All India Seminar in Jodhpur, in the presence of Justice T.S. Thakur. By then, thirty-five years had passed since R.K. Garg had told me, in 1976, that courts must act as tools for social change. PIL had been that tool – from the letter of an old woman treated as a petition, to Bandhua Mukti Morcha, to*

Godavarman, to the regulatory framework being laid down by the Court in 2010 after a fourth challenge to the appointment of an Advocate General. The arc was long and the instrument had been abused as often as it had been wielded with justice. But the conviction remained: that PIL existed because the ordinary machinery of adjudication was structurally unable to reach those who needed justice most – the poor, the unreachable, the disadvantaged. This address is the testimony of an advocate who had watched that instrument at work across a generation, and who still believed in it – carefully, critically, and without illusion.

Justice T. S. Thakur, Judge of the Supreme Court of India and Chairman of this session, distinguished dignitaries on the dais, Hon'ble Judges, learned Seniors, my colleagues, ladies and gentlemen.

When I joined the Bar in 1976, my senior, Mr. R.K. Garg, once told me: "Courts must act as another tool for social change." Those were the years following *Kesavananda Bharati v. State of Kerala (supra),* the supersession and resignation of three Judges of the Supreme Court, the great dissent of Justice Khanna in *ADM Jabalpur v. Shivkant Shukla (supra),* and Justice Mathew's articulation in N.M. Thomas. Justice Chandrachud, Justice Bhagwati, and Justice Krishna Iyer were then beginning to shape constitutional thought, and soon thereafter came Justice Chinnappa Reddy and Justice D.A. Desai. We witnessed *Indira Nehru Gandhi*, where constitutional amendments were struck down, followed by *Maneka Gandhi, D.S. Nakara, Motilal Padampat,* Airports Authority, and many other judgements which collectively laid the constitutional foundation for Courts to deal with the immense social transformations unfolding after the sun had begun setting upon the British Raj, not only in Bharat but across the world.

From 1984 onward – beginning with the treatment of a letter written by an old lady seeking justice as a Public Interest Litigation, moving through *Bandhua Mukti Morcha, Godavarman (supra)*, and eventually culminating in the 2010 regulatory framework concerning PILs, where even the fourth challenge to the appointment of an Advocate General was brought through a PIL – Public Interest Litigation has travelled a long distance. It became perhaps the most potent constitutional instru-ment for providing access to justice to the poor, the disadvantaged, the unreachable, the voiceless, and those unaware even of how to reach justice or alleviate their suffering.

The Supreme Court has always had – and continues to have – Judges drawn from diverse walks of life, possessing varied, rich, and deep experiences in both law and life. Every Judge, according to his perception developed over years of balancing conflicting interests, has contributed his very best toward the social transformation we continue to witness as India seeks to rebuild itself after nearly 947 years of exploitation by foreign powers, including approximately 190 years under the

British Raj and, thereafter, decades of internal institutional imbalance and political misuse by our own people.

Democracy has undoubtedly given us Governments "*by the people*" and "*of the people*," but not always Governments truly "*for the people*."

Jawaharlal Nehru, in his 1942 work The Discovery of India, reflected upon the poverty prevailing across India and observed, in substance, that there existed a direct relationship between the extent of poverty in different regions and the duration of British rule imposed upon them. Bengal, Bihar, and Orissa experienced nearly 190 years of colonial domination; Central India, nearly 140 years; Punjab, approximately 90 years. Interestingly, the first Hindi word to enter the Oxford Dictionary was "loot."

Every human being seeks justice because, somewhere within life's experiences, he or she feels deprived of justice. Most people suffer silently; others react violently. Some express themselves through poetry, books, speeches, protests, social movements, or even civil wars.

Recently, in his autobiography, Paul Allen wrote about his brilliant but highly assertive partner Bill Gates, insisting upon a 65% share instead of the originally agreed 60%. Allen reluctantly accepted the arrangement, but continued carrying within himself a feeling of subtle injustice. That is a subtle injustice. Forced prostitution and begging represent gross injustice.

Like physical disability, birth into socially and economically disadvantaged conditions is often situational and historically conditioned. Merely being disadvantaged does not by itself establish injustice. Injustice truly arises when exploitation – whether subtle or gross – is perpetrated by one human being upon another.

At times, however, the common man is struck by what may be described as an "injustice tsunami." The individual no longer even understands what has hit him, why his circumstances are as they are, or where the causes lie. That is where the role of advocates beyond the courtroom assumes importance, as brilliantly articulated by Justice G.S. Singhvi.

Both poverty and injustice are effects, not causes. Judges continue refining and shifting their perceptions as they move closer toward understanding and appreciating the deeper causes underlying social and economic realities.

The social transition from the Agricultural Age to the Industrial Age and now to the Information Age is bringing rapid transformation – from the breakdown of joint families to the emergence of social networking platforms like Facebook. Most laws created for the Industrial Age will eventually require replacement by laws suited for the Electronic Age. The Right to Information Act is one such E-Age enactment, and we will continue witnessing more scams, market manipula-

tions, match-fixing episodes, and systemic causes of poverty and injustice being exposed to public scrutiny.

We will increasingly be able to observe the role played by what I describe as C-GOD – the international forces dealing with Currency, Gold, Oil, and Diamonds – which influence global market fluctuations and thereby indirectly affect poverty and injustice across nearly all nations, including India. At one point, when the stock market collapsed, Indian citizens collectively lost nearly 225 lakh crores in value. The question remains: where did that wealth disappear? If such enormous losses can occur merely through a single financial event, injustice will continue and the gap between rich and poor will widen so long as we remain unable to understand the underlying causes. Every single day, currency valuations alone continue to make the ordinary Indian significantly poorer than individuals in Europe or the United States simply because someone, somewhere, determines currency equations.

Public Interest Litigation has served a historic purpose and will continue to do so, provided it is used as a constructive constitutional instrument supporting the transformations that are yet to come.

I remain a diehard optimist. Believe me, friends, humanity will one day move closer toward Mahatma Gandhi's ideal of wiping every tear from every eye – particularly those tears caused by exploitation, injustice, and external systemic forces.

Yesterday, while discussing issues relating to five-star support systems for the poor and the contradictions within ideological discourse, one thought became very clear to me: no client ever truly knows what his lawyer argued, so long as the lawyer resolves the client's problem. Nani Palkhivala argued before the Court in *Kesavananda Bharati* v. *State of Kerala*, but *Kesavananda* Bharati himself may never have fully known the constitutional depth of those arguments.

As Mr. P.H. Parekh observed yesterday, perhaps we are here today because we were there yesterday. And perhaps that alone explains why, behind every dignified and elite exterior, there often exists a deeply sensitive and wounded human heart.

Let us therefore continue organising more such conferences and continue working together toward bringing meaningful access to justice to the poor and the disadvantaged.

Observation and Suggestions for Law makers

26.04.2011 (Article)

April 2011 was the moment of Anna Hazare's fast and the Jan Lokpal movement – the largest civil society mobilisation India had seen since the Emergency. These

two pieces – the Observations and Suggestions and the Objects and Reasons for the Lok Pal Bill – were my contribution to that moment: a lawyer's analysis of what the legislation needed to say and how corruption, as a legal category, needed to be defined. The distinction drawn between economic extortion (the public servant who demands money for what the citizen is entitled to as of right) and economic seduction (the corporate house that funds a political party to secure licences and contracts) remains one of the clearest analytical frameworks I have produced. The argument for a directly elected Rashtrapal and Lokpal – accountable to the people without the mediation of political parties — was an early articulation of the reinvented democracy this chapter pursues. Both pieces are retained together, as they form a single legislative intervention.

There are four observations and two suggestions that may be made with regard to lawmakers, without entering into several other issues which are equally serious. These observations and suggestions deserve consideration if statutes, enactments, and amendments are to become more responsive to contemporary realities.

Observations:

1. Registration of Title: The Indian Registration Act presently registers documents; it does not conclusively transfer or certify title. It is imperative that the law be suitably amended, as has already been done in jurisdictions such as Canada, where systems of title registration exist. Registration of title would expose undisclosed holdings of public persons and make property ownership substantially more transparent. Such databases should eventually be linked to international information systems so that overseas properties and assets held by public officials and influential persons may also become visible to public scrutiny.
2. Sovereign Funds Parked Overseas: An amendment may be considered in the Indian Penal Code by inserting a proposed Section 121B after Section 121A, broadly dealing with the offence of illegally parking sovereign wealth or illicit funds outside India. The underlying concern is that large-scale unlawful diversion of national wealth weakens the economic sovereignty of the nation and indirectly undermines the welfare of its people. The issue, therefore, is not merely financial illegality but the larger question of economic injury to the State itself. Any such legislation, however, would necessarily require careful constitutional scrutiny, proportionality, and international cooperation mechanisms consistent with modern criminal jurisprudence.
3. Poverty and Global Economic Forces: The persistence of poverty is deeply

connected with larger global economic structures that have evolved since the Industrial Age. There exist powerful transnational forces that influence Currency, Pharmaceuticals, Gold, Oil, Diamonds, commodities, and financial markets. These forces frequently operate beyond the effective control of individual nation-states.

For conceptual understanding, I have described these forces as "CP-GOD" Currency, Pharmaceuticals, Gold, Oil, and Diamonds. Massive market fluctuations often wipe out enormous amounts of public wealth within hours. At one stage, nearly 225 lakh crores in market value disappeared from Indian markets during financial crashes; on another occasion, nearly 200 lakh crores were similarly wiped out. The question naturally arises: where did that wealth go, and who ultimately benefited?The answer frequently points toward large financial institutions and highly networked global economic structures which profit from volatility itself. Such economic disruptions produce not merely financial losses but also suicides, despair, unemployment, and widening inequality – effects often more devastating than direct colonial extraction. The issue of global poverty and economic exploitation, therefore, requires much deeper examination at an international level.

4. The Speed of Change: The years ahead are likely to witness extraordinarily rapid transformation. The younger generation is entering public life carrying far less institutional insecurity than previous generations. They are products of the Electronic Age – technologically gifted, globally connected, and relatively free from historical baggage. The energy of the E-Age is already beginning to break through the structures of Industrial-Age governance, which continue to dominate political and legal systems. There is therefore an urgent need to create legal structures suited for this new age. Industrial-Age institutional frameworks effectively exhausted themselves in the West by the mid-twentieth century and, in many ways, in the East after liberalisation and globalisation. Human life today no longer revolves around a rigid 9.00 a.m. to 5:30 p.m. structure. Society now operates through 24×7 communication systems – Facebook, instant messaging, digital interaction, and global networking – transcending geography, gender, age, and traditional classifications. This is only the beginning. Humanity is steadily moving toward a deeper and more functional conception of equality.

Suggestions:

Corruption has remained an unresolved issue since the days of Plato, who, in The Republic, raised the fundamental concern that those who are honest, just, and principled often become the greatest sufferers in society, while the corrupt, unethical, and manipulative frequently rise to the top of the social order. Nearly

2,500 years later, humanity continues struggling with the same unresolved contradiction. Yet the present age perhaps offers an opportunity for genuine structural transformation.

1. Understanding Corruption: Corruption may broadly be classified into two categories:

    a. Economic Exploitation or Extortion - This occurs where a public servant demands money for performing duties for which he is already compensated by the State through taxpayers' money. Examples include: admissions, appointments, transfers, ration cards, licenses, passports, approvals, FIR registration, utility connections, and similar governmental functions. In such cases, the public servant should face severe punishment because the citizen is compelled to pay for something which he is already entitled to as a matter of legal right. The citizen paying under compulsion should ordinarily not be treated as an offender, and suitable mechanisms for restitution and reimbursement should exist.

    b. Economic Seduction or Collusive Corruption: This occurs when corporations, business houses, contractors, or powerful individuals influence public office holders or political systems in order to obtain massive economic advantages from the public exchequer. Examples include:

        i. allocation of licences,
        ii. public contracts,
        iii. imports,
        iv. infrastructure projects,
        v. public-private partnerships, and
        vi. large regulatory clearances.

    Such arrangements often involve relatively small payments to public officials while enormous benefits accrue to private entities. In these cases, not only public officials but also beneficiaries within corporate structures should face serious liability, because corruption is often driven as much by inducement as by acceptance.

2. **Institutional Accountability:** Any anti-corruption mechanism must possess jurisdiction broad enough to examine allegations against all public functionaries without exception. Institutions themselves are not corrupt; rather, individuals temporarily occupying institutional offices may act corruptly. Over time, however, repeated misconduct leads society to lose faith in the institution itself. An effective accountability structure must therefore be:

a. independent,
b. constitutionally protected,
c. transparent,
d. and institutionally fearless.

The larger constitutional objective should be to create mechanisms that remain accountable ultimately to "We, the People" rather than to political structures alone. Democracy has undoubtedly created Governments "by the people" and "of the people," but the continuing challenge remains creating governance genuinely and consistently "for the people."

Violence on Television and Its Impact on Children

14.04.2012 (Article)

From the bedtime stories narrated by our *daada* and *daadi*, which quietly inculcated within children a deep sense of culture, values, imagination, and emotional security, society has gradually shifted toward late-night television viewing. With that shift has come increasing exposure to televised violence, which affects children of different age groups in different ways. Children understand and process television differently depending upon:

- the length of their attention span,
- their cognitive development,
- the amount of mental effort they invest,
- and their own life experiences.

Infants: Up to 18 Months: Infants can pay attention to an operating television set only for brief periods. Even this limited attention demands considerable mental effort, and infants generally remain more interested in their immediate surroundings and activities. When infants do look at television, they rarely comprehend what adults consider actual "content." Instead, they experience fragmented flashes of light and sound, occasionally recognising simple combinations such as human faces or animal figures. Some evidence suggests that infants may imitate behaviour seen on television when presented in an extremely simple, uncluttered, and instructional manner.

Toddlers: Around Two-and-a-Half Years and Above: Children do not become full-fledged "viewers" until approximately two-and-a-half years of age. The viewing habits formed during these early years often influence viewing patterns throughout life. Toddlers display a strong preference for cartoons and programs involving rapid movement and highly active characters. As a result, they are frequently exposed to large amounts of televised violence, particularly cartoon violence.

Preschool Children: Three to Five Years: At the preschool stage, children begin approaching television with curiosity and exploration. They actively search for meaning within content, yet remain especially attracted to:

- rapid movement,
- sudden scene changes,
- loud sounds,
- vivid colours, and
- visually intense imagery.

Television violence is often packaged with precisely these vivid production features. Preschool children, therefore, become naturally drawn toward violent programming, particularly animated violence. Importantly, it is not always the violence itself that attracts them, but the surrounding excitement and stimulation. Nevertheless, the consequence is significant exposure to violent acts during formative years.

At this stage, children are generally unable to properly understand:

- motivation,
- consequences,
- moral complexity, or
- emotional suffering associated with violence.

Research and observation suggest that preschool children often become more aggressive in play after watching highly exciting or violent television content.

Elementary School Children: Six to Eleven Years: This period is widely considered critical in understanding television's impact on aggression and behavioural development. Children at this age develop:

- longer attention spans,
- the ability to follow continuous plots,
- understanding of motivations, and
- awareness of consequences.

At the same time, however, they often begin investing less mental effort while watching television. Since the depth of mental engagement determines whether children thoughtfully process information or merely react emotionally and superficially, this reduction in reflective viewing becomes important.

Children in this age group continue watching cartoons but increasingly shift toward family-oriented and adult programming. Many also develop a fascination with horror films, often as an attempt to confront or overcome their own fears.

However, repeated exposure to fear and violence may gradually desensitise

them emotionally and increase tolerance toward violence in real life. At this age, children are less likely to imitate violence when:

- violence is clearly portrayed as evil,
- suffering is shown realistically, or
- wrongdoing results in punishment or disapproval.

Conversely, aggression increases when children:

- perceive television violence as realistic,
- identify strongly with violent heroes, or
- repeatedly fantasise about aggressive themes.

Adolescents: Twelve to Seventeen Years: During adolescence, children become capable of highly abstract thought and sophisticated reasoning, although they do not always apply these abilities critically while watching television. Adolescents generally:

- watch less television than younger children,
- watch less frequently with family, and
- increasingly consume independent media.

Their interests often revolve around:

- identity,
- independence,
- friendship,
- emotional relationships,
- music, and
- rebellion.

Accordingly, they are often drawn toward:

- music videos,
- horror films,
- violent thrillers, and
- emotionally intense programming.

Adolescents are generally less likely than younger children to believe television reflects reality or to identify completely with fictional characters. However, the smaller percentage who continue strongly identifying with violent heroes are more likely to exhibit aggressive behaviour, especially when combined with aggressive fantasies.

Because adolescents possess stronger reasoning abilities and frequently challenge conventional authority, they may also become particularly susceptible to imitating certain portrayals of:

- violence,
- crime,
- rebellion, or
- suicide.

Fortunately, such imitation generally affects only a relatively small percentage of adolescents.

The Role of Parents and Society

In a world where violent television content has become pervasive and children remain psychologically impressionable; parents continue to be the most important mediators of children's viewing habits.

Television violence is certainly not the sole cause of aggression. Some children are naturally far more vulnerable to its effects than others. Yet for children already emotionally or psychologically at risk, repeated exposure to violence may significantly intensify aggressive tendencies.

Although such vulnerable children may constitute only a minority of viewers, they may disproportionately constitute a majority of future aggressors. That fact alone makes both violent media content and its social consequences worthy of serious public attention.

The larger challenge before society is therefore not merely technological, but civilisational: whether modern systems of communication and entertainment will strengthen emotional balance, compassion, and human sensitivity — or gradually normalise aggression, fear, emotional detachment, and violence within the collective social mind

Towards Economic Independence

28.09.2013 (Article)

Author's Bridge: *Money is a form of energy. Its karmic character derives from the manner of its generation. These propositions, which would find their fullest expression in Finance Revolution 5.0, had been forming in me across the years of watching the global financial system produce poverty by design – through currency fluctuations managed by those who create the rules, share market crashes that wipe out lakh crores from India in single events, and debt structures that keep developing nations permanently dependent on the institutions that lend to them. This piece is the earliest sustained articulation of the vision that would become Finance Revolution 5.0: that every human being is entitled to basic human necessities without struggle, that the global economic structure can be reformed to deliver that entitlement, and that the legal profession has both the analytical*

tools and the institutional responsibility to help design the reformed structure.

Created and manipulated poverty, sustained through a highly structured and carefully managed economic order, remains one of the principal causes of global economic imbalance. Money is another form of energy and, once created or minted, it does not disappear. It continues to move from hand to hand, transaction to transaction, generating corresponding debits and credits. As money is exchanged for goods and services, a portion of it gradually accumulates with those who understand and manage the deeper structures of finance through institutions and networks that comprehend its true nature and movement. The consequence is the continuous need for Governments to mint more money.

More than 193 nations across the world continue every day to create currency against sovereign bonds – promises backed by further promises to pay. This newly created money is circulated through banking systems and international monetary institutions and continues to move ad infinitum without destruction.

As the volume of money in circulation globally continues to expand, it creates the impression that global production and prosperity are continuously increasing. In reality, what is often increasing is sovereign debt, while the ultimate concentration of financial gain moves steadily toward fund managers and institutional structures that successfully operate within highly fluctuating global markets. Currency fluctuations, stock market volatility, and commodity price movements have become hourly and daily realities. These uncertainties keep ordinary people perpetually anxious, while simultaneously sustaining within them the fragile hope that one day fortune may turn in their favour and life may finally change.

In spite of relentless effort, the labourer in the factory, the trader in the marketplace, the entrepreneur, the bureaucrat, and even the politician often remain unable to fully comprehend the trauma arising from economic dependence upon distant and largely invisible structures and institutional mechanisms. Those who understand the system frequently benefit from the anxieties, tensions, and vulnerabilities created within it.

It is deeply painful to witness human beings struggling merely for existence when every individual in this global village ought to be entitled to the basic necessities of life – water, food, clothing, shelter, medicine, and dignity – without perpetual fear and insecurity. Nature itself provides abundance; scarcity is often a product of structure, distribution, and access.

The social order is, in many ways, a magnified reflection of the individual human being. The fundamental architecture underlying the individual, society, and the cosmos operates upon interconnected principles. A deeper understanding of the human system and its organic harmony, when meaningfully applied to society, possesses the potential to reduce the economic imbalances created and

perpetuated by concentrated structures of control.

From the moment a cell is formed within the human body and assumes its role within a tissue or organ, it exists without anxiety for survival. Every cell receives oxygen and nourishment through a highly coordinated circulatory system. Every cell is protected by the larger body because damage to even a small part weakens the whole. The vitality of each cell is essential for the health and harmony of the entire organism.

The National Heritage Foundation has been working in coordination with the Global Political Alliance to conceptualise mechanisms through which every human being may receive a form of universal social support referred to as "Glocal." Glocal is envisioned as a fourth-dimensional para-currency – neither based upon, nor convertible into, existing monetary currencies. It is conceived as a means of recognising and honouring unremunerated human contribution and voluntary service that cannot adequately be measured merely in financial terms.

Across the world, individuals perform immense acts of charity, compassion, caregiving, and service. Yet much of this contribution disappears unnoticed within existing institutional structures and rarely reaches or meaningfully recognises those who sustain the social fabric through their silent contribution and mere existence. The National Heritage Foundation, together with several other organisations sharing similar objectives, continues to work toward a more harmonious and peaceful human order.

The time perhaps has come for the wisdom traditions and civilisational heritages of the world – Taoist, Hindu, Buddhist, Zoroastrian, Shinto, Pagan, Maori, Maya, Roma, Aboriginal, and many others – to rediscover their shared ethical foundations and contribute toward a global order in which every human being may live with dignity, peace, and freedom from the constant struggle for basic human necessities.

Release of '*Shrimat Bhagwad Gita*' - The Song Celestial – A Lawyers Perspective

24.01.2014 (Address)

Author's Bridge: *The second edition of Shrimat Bhagwad Gita was released on 24.01.2014 at the India International Centre, in the presence of five Judges of the Supreme Court of India – Justice A.K. Patnaik, Justice T.S. Thakur, Justice Dipak Misra, Justice Arijit Passayat, and Justice Gopal Gowda. The occasion was among the most significant of this period – not merely as the release of a book, but as the public affirmation that the Gita's jurisprudence of duty, consciousness, and the conflict-free society – had found its fullest expression in a work that the Hon'ble Judges of the Supreme Court*

had chosen to honour with their presence. The Gita is not a devotional text. It is the deepest available map of the human conflict between duty and paralysis – between the judge who knows what justice requires and the judge who cannot bring himself to deliver it because of the relationships, the economics, and the institutional pressures that surround him. That is Arjuna's dilemma. That is every lawman's dilemma. And that is what Krishan answers as an advocate – not by resolving the dilemma but by revealing the consciousness from which it dissolves.

While invoking the divine energy that continues to exist within and all around us, I welcome you all on this cold Delhi evening. I believe that the warmth of our own awakening – ignited by the presence and expressions of the profound speakers gathered here – will keep us enlightened far beyond this evening itself.

I am deeply overwhelmed by the presence of each one of you, and I am certain that this will remain one of the most memorable evenings of our lives – an evening we shall all cherish for years to come. We shall cherish it because we have the rare privilege of listening to some of the finest minds of our time, reflecting upon subjects they have not merely studied, but lived with the highest integrity while continuously striving to advance equity, equality, and justice for fellow human beings.

It is difficult to explain precisely why certain individuals become truly great. Yet everyone who comes into contact with such persons experiences a spark of reality that transcends mere physical existence. Each one of them has carried the burdens and responsibilities of the legal and judicial profession with remarkable grace, serenity, joy, and an enduring inner balance. Their backgrounds, experiences, and approaches may differ, but they are united by one common thread: an unwavering commitment to justice, exercised with integrity, fearlessness, compassion, and consciousness throughout their professional journey. Such qualities come only to a rare few.

They are, in many ways, living embodiments of the *stithi-pragya* described in the *Shrimat Bhagwad Gita* – persons of steadfast wisdom, anchored in awareness amidst the turbulence of life. Ladies and gentlemen, let us spend this evening in the company of that divine energy which moves the cosmos, shapes nations and institutions, and inspires human evolution through the *karm yogis* seated amongst us today.

I warmly welcome all the dignitaries on the dais, my colleagues, friends, and every distinguished guest present here, to experience and enjoy the divinity that surrounds us.

All of us, in our own journeys, have moved from the warmth of a mother's love and the stories told by grandparents to becoming storytellers ourselves. In education, we moved from grade to grade; in sports, we discovered discipline and

the spirit of teamwork. Gradually, we accumulated information, transformed it into knowledge, and through experience sought wisdom and professional excellence. Along the way came material aspirations, physical fitness, emotional maturity, social recognition, political visibility, and the constant effort to remain relevant within society. To sustain ourselves, we walked, practised yog, pranayama, meditation, and various disciplines of inner balance.

Yet throughout this entire process, there remained within us an awareness of a deeper spiritual existence – a quiet consciousness that observed everything silently from within. That inner stillness allowed us to evaluate the roads ahead, renew our energies, and continue the search for meaning amidst the movement of life.

At the deepest level, every human being longs for the freedom to do what he or she truly wishes to do in life. That, perhaps, is the ultimate freedom – the freedom to create, to participate in a creative process, and to act without baggage, fear, or inner fragmentation. The final key lies in being true to one's own self, for therein rests the path to what may truly be called Gross Personal Happiness.

This book is my own humble attempt to experience that state of happiness in its highest form. I sincerely hope that, while moving through its pages, readers may discover within themselves a deeper awareness of their own larger cosmic existence and perhaps experience a quiet glimpse of a hitherto unknown bliss.

The understanding of the *Shrimat Bhagwad Gita* provides that foundational substratum at the level of consciousness, which remains untouched even when the greatest traumas arise around us. The *Song Celestial* continues to illuminate every circumstance of life. The work I have produced is a *shloka-by-shloka* rendering of that divine dialogue – in many ways a bare act of the *Gita* itself, without commentary or footnotes – allowing the eternal expression to speak directly to the reader.

Release of 'The Origins of Astronomy, the Calendar & Time' by Shri Kosla Vepa

26.02.2014 (Address)

Author's Bridge: *Kosla Vepa's extraordinary work of reconstruction – recovering the true timeline of Indic civilisation from the astronomical references in its ancient texts – resonated with me as a lawyer for a reason that is, at first glance, unexpected. The process of proof in law, in astronomy, and in mathematics is the same: the interpretation of words and data to reach the objective sought to be achieved. True interpretation is impossible when the language is foreign and the objective is to rule the race – which is why all work done on the Indic civilisation during the British Raj requires serious reconstruction. The connection between Kosla Vepa's work and my life's work is this: both are engaged in*

the recovery of a truth that has been obscured by the interests of those who benefit from its obscuration. That is also, ultimately, what every advocate who believes in justice is doing in every case he argues.

I am, but a nameless comet moving amongst the galaxy of stars and planets gathered here on the occasion of this two-day International Seminar on "Determining Cultural Continuity since Vedic and Epic Eras through Sequential Dating of Astronomical References and other Corroborating Scientific Evidences."

I first met Kosla Vepa because I had realised very early in my professional life that the process of proof in law, astronomy, mathematics, science, and indeed all disciplines founded upon logical deduction, is fundamentally the same. We merely work with different materials. As lawyers, we seek to establish our client's right through facts, evidence, interpretation, and reasoning – moving page after page toward equity, equality, and justice. Every proof is ultimately a conclusion reached through interpretation. But true interpretation becomes difficult when the language itself is foreign and the underlying objective is not understanding, but domination. That perhaps explains why so much work undertaken on Indic civilisation during the British Raj requires serious reconstruction and re-evaluation.

We are all gathered here in search of historical and civilisational truth – to understand and correctly place the chronology of Indic kaalganana, from the first Manu to the seventh, and more specifically from the Dwapar Yug onward, so that events may be properly situated within the larger flow of time. This is not merely an academic exercise. It is also an effort to restore intellectual balance, civilisational continuity, and rightful understanding. Friends, believe me, it is only a matter of time before equity and truth ultimately prevail.

Yet beneath all this research and inquiry lies a deeper search – the search for Sat-Chit-Anand: conscious awareness of truth, equity, equality, and the bliss that arises from meaningful action itself. Perhaps, in modern language, we may call it the search for Gross Personal Happiness.

When I first met Kosla Ji nearly a decade ago, I was deeply struck by his passion to rediscover and make available the authentic history of Indic civilisation – a history that has often been distorted by those acting out of ignorance, ego, or deliberate intent to diminish and exploit one of the world's oldest living cultures. The Origins of Astronomy, the Calendar and Time is truly an extraordinary work produced by an extraordinary seeker in pursuit of that higher intellectual and civilisational truth.

The book is the result of immense labour, disciplined scholarship, and sustained research. Today, Kosla Vepa has become a respected name in both Eastern and Western circles of astronomy and Indic studies. His depth of analysis and

intellectual range are remarkable and, in many ways, unparalleled. The extensive appendices, bibliographies, manuscript references, endnotes, and timelines contained in the work reveal the magnitude of study and reflection that has gone into its creation.

The Comparative Timeline of Greece, South and West Asia, as well as the timelines relating to trigonometry, Islamic scholarship, and transmission of knowledge, reflect years of painstaking research and synthesis. Equally significant is the section on the Sanskrit alphabets and pronunciation, for the erosion of any civilisation often begins with the erosion of its language and script. From Om as the primordial sound to the original fullness of the Devnagari script, much has gradually been lost through centuries of alteration, simplification, and external dominance over systems of printing and education.

The section on the Global Perspective on Calendars is another truly exceptional contribution. One is reminded here of Bal Gangadhar Tilak and his pioneering work on Vedic chronology and Vedanga Jyotisha, where he sought to place Indic chronology within a rigorous astronomical framework nearly a century ago.

Friends, I am certain that Kosla Vepa will long be remembered as a true son of Maa Bharati for his invaluable contribution to Indic studies and civilisational understanding.

And on a deeply personal note, I must add that behind every such sustained intellectual journey there often stands a silent force of strength and grace. A significant contribution to this work undoubtedly comes from the quiet support, warmth, and unwavering presence of Mrs. Vepa, who has stood smiling and steadfast beside him throughout this remarkable journey.

Sixty years of Lateral Existence

10.01.2015 (Article)

Author's Bridge: *A life-review written on the occasion of the sixtieth year of existence – the first flash from the age of three, walking to Jaipur Central Jail with breakfast for the advocates detained for protesting the abolition of the Jaipur Bench; the last flash, a weekend at a Kerala beach resort and the release of the Supreme Court on Arbitration at the Indian Law Institute. Between those two flashes, the grandfather's morning walks and evening stories, the father's dignified career, the Supreme Court's corridors, the cases won and lost, the institutions built and contested. It belongs in this chapter because sixty years of lateral existence had produced, by 2015, the clearest possible awareness of what the remaining years were for: to create the powerful legal structures that would resolve some of the conflicts, or expose their true nature for resolution in times to come — for a better tomorrow*

Flashes continue to arise and re-arise from the earliest moments of memory. The first is of a three-year-old child in 1958 – my mother, my grandfather, another companion, and I stepping out of a brown Ford Prefect and walking toward the Jaipur Central Jail carrying breakfast for my father and his colleagues at the Bar, who had been detained while protesting against the abolition of the High Court Bench at Jaipur. K.N. Wanchoo, then Chief Justice of Rajasthan, had his own perceptions and institutional vision, which ultimately led to the abolition of the Jaipur Bench.

The next flash is of getting down at Rai-ka-Bagh Railway Station in Jodhpur with all our belongings, as my father – then practising in the High Court – shifted the family from our ancestral home in Jaipur to His Highness Flats opposite the zoo in Jodhpur.

The fifty-seven years thereafter appear like a continuous stream of flashes – culminating recently in a wonderful and deeply refreshing break at a beach resort in Kerala, followed immediately by the release of the *Supreme Court on Arbitration and Contract* at the Indian Law Institute on January 9, 2015.

As I continued to observe my paternal grandfather, Rao Bahadur Madho Prasad Gupta – in whose company much of my childhood was spent – living an extraordinarily disciplined life, detached from the mundane and ephemeral while constantly enquiring into deeper realities, listening to his stories and reading the books around him, it gradually dawned upon me that realisation of the Self is perhaps the true and ultimate purpose of human existence.

It also became increasingly clear that events continuously arise and dissolve only to give way to the new, and that perhaps the deeper objective of existence is to make one consciously aware that bliss, equity, equality, and harmony are intrinsic to the nature of the Self and the larger Cosmic Consciousness – realities that exist beyond lateral time.

At the same time, observing my maternal grandfather, Dr. A. C. Bansal – a highly respected and spirited personality in Agra – a strong desire emerged within me to serve fellow human beings through the medical profession. That aspiration consciously and unconsciously influenced my inner system for years, until one day it became apparent that there existed larger forces shaping the movement of life itself, and I gradually surrendered to their flow.

On August 1, 1976, I found myself in the corridors of the Supreme Court of India amidst some of the most powerful intellectual minds of the nation. For the next twenty-seven years I continued to contribute my very best to the profession, evolving through every case, every constitutional issue, and every social conflict into a more reflective human being in search of equity, equality, and justice.

The journey gradually deepened my understanding of the constantly shifting social, economic, and political structures of society – systems continuously being stitched and unstitched by the movement of time and human aspiration. Alongside this, there remained a quiet awareness that perhaps it may someday become possible to follow the footsteps of my father, Justice D. P. Gupta, who retired with the highest integrity, honesty, uprightness, and dignity.

Twelve years further, windows have continued to open and close; people have walked into life, moved away, and returned again; events have continuously arisen and dissolved according to their own nature, making space for the new.

Sixty years of lateral existence have still not made me wise enough to fully determine the relationship between modest personal needs and grand social status, between deep inner peace and collective recognition, between silent, unchanging awareness and the charged passions of public life. Yet throughout this movement, there has remained a constant awareness of a divine cosmic energy existing blissfully within, untouched by the continuous flow of fleeting events around it.

This simultaneous awareness of the outer and inner existence has, for quite some time now, coexisted in what may perhaps be called a quantum manner — where everything exists here and now in every moment. There has been a constant perception of forces that continue to exploit, disturb, and damage peace and harmony within society, but there has equally been the awareness of luminous forces – light workers, seekers, thinkers, and *karm yogis* – working tirelessly to establish peace, compassion, dignity, and the eradication of poverty.

The true contribution, perhaps, lies in creating legal and social structures strong enough either to resolve conflicts or to expose their true nature, so that humanity may continue moving toward a more conscious, harmonious, and just tomorrow.

Role of Information Technology in dispensation of Justice

28.04.2015 (Blog)

Author's Bridge: *The 2015 blog on IT and justice is, in some ways, the most technically detailed articulation in what Legal Revolution 5.0 requires at the operational level. Neutral citation for all judgements of the Supreme Court and twenty-four High Courts; an interlinking database on judgements, statutes, and litigants; electronic voting for Bar Associations; Court Live for transparency; AI for sentencing policy and case categorisation. The vision had been forming since 1981, when the first electronic display board was installed in the Supreme Court on my insistence during the Chief Justiceship of Justice P.N. Bhagwati. Thirty-four years later, the blog named precisely what remained undone. The litmus test of every institution's evolution, it argued, would be the*

extent of its use of information technology. That argument was partly vindicated, in the years that followed, by the Supreme Court's own implementation of neutral citation – the forty-four-year journey described elsewhere in this chapter.

Equity, equality, justice, and bliss constitute the essential and fundamental nature of every human being and of every healthy social order. Illegality, injustice, and disharmony are choiceless distortions that continue to arise within both the individual and society. Judges, advocates, and all those associated with the justice delivery system function, in many ways, as the kidneys of civilisation – continuously attempting to detoxify society and restore balance.

Conflicts, clashes, and litigation have existed since the dawn of human civilisation. One may even say that the first contract arose when Shri Ram embraced Sugreev and Vibhishan and promised to restore to them the kingdoms of Kishkindha and Lanka, respectively. Had those promises been breached, litigation would inevitably have followed – though in those times disputes were resolved more by the power of the sword than by the power of the pen. Justice was ultimately done when Shri Ram executed Raavan, whose excessive accumulation of wealth and power had disturbed the larger economic and moral balance of society by concentrating almost all the gold existing on earth within Lanka.

Thus, legal relationships, laws, disputes, litigation, and justice existed long before Information Technology came into being – and in many ways the systems of that era were often more direct, efficient, and economical.

In the present yug, the age of Information Technology effectively began around 1955, when white-collar employees in the United States and Europe numerically surpassed blue-collar workers. When I joined the profession in the Supreme Court of India in 1976, the weekly cause list was settled every Thursday at 4:30 p.m. by the Registrar sitting in the Chief Justice's Court. I had inherited *AIR* volumes from 1914 onwards, purchased *Supreme Court Reports*, relied upon the *Supreme Court Encyclopaedia* of Gopala Krishnan for nominal indexing, and treated authors like Basu and Mulla as authoritative guides. Manuals and digests were the only practical means for tracing precedents.

The only way to remain updated – and avoid embarrassment when a judge suddenly asked, *"Have you looked into the latest judgment delivered by us?"* – was to meticulously study the cyclostyled judgements circulated by the Supreme Court Bar Association and maintain extensive personal registers. As juniors, we would run from courtroom to courtroom, tapping colleagues on the shoulder merely to ascertain which matter was being heard and whether our senior needed to rush to another Bench. Frequently, by the time he arrived, the matter had already concluded. Even bare acts were difficult to procure.

Today, all that appears almost ancient. We now receive bookmarked cause

lists on our mobile phones; Judgments are available instantly on tablets; electronic display systems allow advocates to monitor multiple courts simultaneously while standing before another Bench. Statutes become digitally accessible within hours of receiving Presidential assent. Yet, paradoxically, judges today are more burdened than ever before – overwhelmed not only by the sheer number of briefs and precedents, but also by the explosion of information flowing continuously through multiple formats. Judges now often read vastly more material than their predecessors merely to construct a complete factual and legal picture before rendering justice consistent with their conscience.

Three realities remain basic, fundamental, and vital in every litigation and must never be lost sight of.

First, nobody approaches an advocate out of pleasure. No person willingly enters the office of a lawyer unless genuinely troubled – unless something is deeply pinching within life and professional legal assistance becomes necessary to restore balance and order. There begins the role of the advocate.

Second, every law and every litigation arises because somewhere a will has been suppressed, a human being has been exploited by another, or a cry for justice has gone unheard because someone stronger dominates existing social forces through unjust means. There begins the role of the judge.

Third, every conscientious judge sitting in the temple of justice sees not merely the immediate dispute, but also the human beings, the social realities, and the direction in which society itself is moving. Every sincere effort is made to achieve complete justice between the parties. That is why equity, equality, and justice still survive – and why society continues to retain hope.

The true litmus test of the evolution and excellence of every institution in the future will be the extent to which Information Technology is intelligently and meaningfully integrated into its functioning. The challenge today is not technological understanding; there is no rocket science involved. The real challenge lies in ensuring that all stakeholders meaningfully use these tools in every sphere of their professional activity. Mere computerisation of courts by agencies such as the National Informatics Centre cannot by itself transform justice delivery unless advocates, clerks, court staff, and institutions are equally trained and technologically integrated.

Information Technology is a tremendous boon because it enables collation, organisation, classification, and interlinking of information on a scale previously unimaginable. Yet unless implemented thoughtfully, IT risks becoming merely a commercial enterprise for consultants and hardware manufacturers, or worse, a fashionable display where institutions proudly announce, “Look, we also use technology,” without fundamentally improving justice delivery.

What is truly required is a complete and integrated understanding of the entire litigating ecosystem, with the role and economics of every stakeholder clearly recognised. No stakeholder in the legal profession functions as a charitable institution surviving on grants alone. Judges, advocates, clerks, researchers, and administrators are all professionals who sustain the system while carrying dignity, self-respect, and responsibility in what they do.

At the same time, one must remain conscious of vested interests that survive upon chaos, delay, confusion, and institutional paralysis. One only has to ask: if hundreds of judicial vacancies remain unfilled, if cases are not speedily determined, and if justice continues to be delayed, who ultimately benefits? The answer is obvious – those whose existence depends upon continuing injustice, exploitation, and disorder. Such forces exist at every level of society. Information Technology can either expose such structures or strengthen them, depending on how it is used.

The installation of electronic display devices in the Supreme Court in 1986, merely showing court numbers and item numbers, was the first significant technological step. The ability today to access live court information on mobile devices represents a substantial leap – though one that took more than twenty-five years. The journey from digitised judgements to the eventual integration of Artificial Intelligence into litigation and adjudication will likely take several decades more if pursued meaningfully. Some nations have already begun using AI in sentencing policies and other legal processes for over a decade.

Information Technology can meaningfully transform justice delivery if there exists sufficient institutional will. Among the necessary reforms are:

• Providing neutral citations for all judgements delivered by the Supreme Court and the twenty-four High Courts, thereby eliminating confusion created by hundreds of competing law reports and inconsistent citations.

• Creating subject-wise integrated databases of judgements linked to classification systems used by courts, enabling greater consistency in decision-making and more meaningful legal advice.

- Creating interconnected databases of litigants, witnesses, and deponents through identifiers such as PAN, Aadhaar, DIN, or similar systems, making it possible to identify habitual litigants and organised criminal networks.
- Creating integrated databases for litigation involving Government departments and authorities under Article 12 of the Constitution, thereby reducing repetitive and frivolous litigation and helping legislatures identify legal loopholes.
- Seamlessly transferring digital records between High Courts and the Su-

preme Court, thereby saving enormous public time, cost, and energy.

- Developing objective databases relating to advocates' work, research, writings, appearances, and professional contributions to create fairer systems for judicial appointments.
- Implementing the principle of "One Bar, One Vote" through common digital databases linked to the Bar Council of India, thereby strengthening democratic functioning within Bar Associations.
- Training and developing millions of IT-enabled clerks and para-legal professionals capable of supporting advocates and courts in the digital age.
- Creating structured databases evaluating judicial work and appellate outcomes to assist in the fair and objective elevation of judges.
- Implementing "Court Live" systems to further strengthen transparency and the constitutional principle of open justice.

In every litigation, the judge stands upon a vast chessboard attempting sincerely to ensure that justice prevails, while injustice continuously attempts to confuse issues, conceal truth, manipulate fears, and distort equity and equality. Properly utilised, Information Technology can become one of the most powerful tools available to judges for delivering timely and effective justice.

But to achieve that transformation, all stakeholders must become aware of the interconnected, interwoven, and interdependent nature of modern legal information systems — linking judgements, statutes, litigants, books, articles, subject classifications, and emerging technologies capable of filtering information and even suggesting possible legal pathways. Only then can technology truly become a handmaiden to justice rather than merely an instrument of procedure.

Happy Teachers' Day
A Letter from Ms. Ajita Sahu and a Reply
05.09.2015 (Teachers Day)

Authors' Bridge A letter from a young law associate, received on Teachers' Day, and the reply written to her. This exchange sits as evidence of what the profession, at its best, produces: not merely technical competence but a way of seeing – the capacity to find beauty in a dirty wall, to read The Fountainhead every month and discover something new, to understand that the biggest strength lies in the deepest insecurity. The teacher who produces that awareness in a student has done something that no court victory can replicate. And the student who writes to name it has understood, at the soul level, what the profession is ultimately for. It is not for winning cases. It is for the growth of the human being in the service of justice.

Sir,

I have spent the entire day thinking how best to wish you. How best to convey my deepest regard on this day. I realised, it certainly was not possible. Not to put in words something so heartfelt; words would never give justice...

I decided to keep it simple.

I decided to be exact. To the point. Straight. Unambiguous.

I decided to not think too much and just go with the flow, because that is how

I remember you would write...

I may be wrong.

Thank you. So much.

For being exactly who you are.

For being an unapologetic and completely complete version of yourself.

Thank you. For letting me be a part of that.

Thank you. For setting standards.

Thank you. For making me understand that it is human to be human. That it is okay to revel in my deepest insecurities.

Thank you for making me understand that this is where my greatest strengths lie.

Thank you. For making me realise that the biggest and the most heartfelt joy in the world is in noticing the simplest of things. I realised that after I noticed a butterfly on a flower, I just potted in my garden.

Thank you. For training me, without realising, to think like you (at least I believe so).

Of course, not completely, but I feel so.

Every time I'm faced with a situation, I think of how you would handle it, what your reaction would be. I may not have the correct answer, but I feel I have a better understanding of things than I did back then...

Sir, thank you for really making me understand the joy in books.

I read The Fountainhead almost every month and realise how much more there still is to learn from just that one book...

Thank you. For making me realise how important it is to be true to oneself. To be completely honest at a soul level. To disagree with things that DO NOT agree with one at one's soul level... I cannot thank you enough for introducing me to something so fundamental...

Thank you. For making me realise the beauty in everything around me. I cannot stress upon it enough, but you literally opened my eyes to my surround-

ings. I see love and joy and grandeur in even a dirty wall... Thank you...

I could go on and on and on...

Sir, thank you for accepting me to be a part of your world. You have certainly changed mine.

Ajita

Reply

Dear Ajita,

Blessed Be.

Thanks for the most precious, wondrous and reflective gift, every word of which does complete justice to what you have felt and is true. If that is so, how can you ever be wrong.

Ajita, all that you have learnt and all that you continue to learn is all result of your own deep commitment to your own self. You possess a great heart, an unbending positive will, simplicity and humbleness are ingrained deep in your spirit.

You have an unshakable integrity and a singularity of purpose which has the potentiality to deal with the most adverse and difficult times. And all this exists naturally in your system.

Great books are reflections of great minds and are the best companions in life. Mother Nature and the laws of nature possess beauty and structures that continue to manifest their magnificence at all times. They provide the fundamentals of existence; continue to observe and enjoy their splendour in the stillness of time.

Always continue to enjoy the ecstasy of your blissful existence and take care of your own self and Praveen...

Blessed be...

Aruneshwar

SpotLaw Apps – An idea finally encapsulated after 34 years

25.11.2015 (Article)

The idea had been born in 1981 – the year the first electronic display board went up in the Supreme Court. Thirty-four years later, in 2015, SpotLaw was named, described, and launched as an application: a constantly updating encyclopaedia of judgements from the apex courts of India, the UK, the USA, Australia, Canada, Singapore, and Malaysia, structured around a database that allowed search by name, citation, date, judge, statute, subject, and issue. The idea of the SpotLaw – the tool that could put the correct legal precedent in the hands of the judge, the

advocate, the litigant, and the legislator at the moment it was needed – was the technological expression of the deepest conviction: that the gap between the law as it exists and the law as it is accessed is a gap that produces injustice, and that technology, properly used, can close that gap. SpotLaw was, in this sense, a small piece of Legal Revolution 5.0 before that revolution had found its name.

From the moment a human being is conceived in the womb until the issuance of a succession certificate – from the first breath to the last – the law silently governs every aspect of existence. From abortions to wills, from juvenile justice to the death sentence, from free grants to taxation, from admissions to educational institutions to post-retirement benefits, from equality to desegregation, from Presidential elections to compassionate appointments, from international and inter-State boundaries and water disputes to anti-dumping measures and disinvestment policies, from medical reimbursements and pensionary benefits to excesses by armies in foreign territories, from anticipatory bail to cancellation of bail, from convictions of terrorists, murderers, and child rapists to sexual harassment at the workplace – there are disputes, there are courts, and there are judgements.

Judges, advocates, litigants, facts, issues, statutes, and jurisdictions may differ, but litigation ultimately touches every dimension of human coexistence, and somewhere a judge delivers a judgment determining the rights and obligations of parties. Law governs every facet of human existence – whether one likes it or not, whether one is aware of it or not, whether one chooses to assert those rights or remain silent. Every issue ultimately finds regulation through some Act, Rule, Regulation, Notification, Circular, or judicial pronouncement. One party loses, another wins, and society continuously comments upon the outcome.

Sooner or later, every individual becomes involved, directly or indirectly, in the quest for access to equity, equality, and justice. This reality is common to all systems of jurisprudence, universal to all judicial structures, and consistent for all persons associated with the administration of justice.

Judgments are creative works of intellectual craftsmanship for judges and advocates; decisive outcomes for litigants; educative and informative material for those who seek awareness of inter and intra-human relationships, rights, and duties; entertaining spectacles for the general public; sources of legislative correction for lawmakers; and reminders to the executive of errors committed either deliberately or unintentionally.

Every person in the world is presumed to know the law, yet when law is actually required, it often becomes extremely difficult to locate the precise statutory provision or the relevant judgment. Neither statutes nor precedents on a specific issue are always readily accessible, and conventional word-search methodologies are cumbersome, incomplete, and inefficient.

It is in this background that *SpotLaw Apps* seeks to create a constantly updating encyclopaedia of judgements from the Apex Courts of India, the United Kingdom, the United States, Australia, Canada, Singapore, Malaysia, and judgements referred to therein. The objective of this unique application is to enable judges, advocates, academicians, legislators, law students, corporate entities, media professionals, litigants, and researchers to carry out meaningful legal research seamlessly through a smart phone.

SpotLaw is not conceived merely as a conventional word-search application. It seeks to be supported by a structured and intelligently curated legal database functioning as a dynamic online legal manual, permitting highly specific and research-oriented searches on the basis of:

- Name of Appellant
- Name of Respondent
- Citation
- Date of Judgment
- Name of Hon'ble Judge
- Statute — Acts, Rules, Regulations, etc.

and eventually expanding further to include:

- Subject, Issues, and Decision
- Legal Maxims
- Books and Periodicals
- Name of Advocate
- Amendments to Statutes

A truly meaningful legal research process requires far more than locating isolated judgements. It requires identification of the latest judgements in which earlier decisions have subsequently been followed, distinguished, or overruled across common law jurisdictions. It also requires tracing the latest interpretation of every Article, Section, Rule, or statutory provision, together with all subsequent legislative amendments.

With only a few clicks, the user should be able to obtain a complete analysis of the subject, issues involved, relevant statutes, amendments, precedents, and the full text of judgements. With a team of innovative lawyers, researchers, academicians, and pragmatic software developers, SpotLaw seeks to place before the legal fraternity a modern research platform designed specifically for the evolving requirements of the Information Age.

The extensive SpotLaw database presently covers judgements of the Supreme Court of India from 1950 onwards and is intended to be updated on a daily basis.

Every judgment is carefully analysed and classified by an expert team of lawyers and academicians under structured legal parameters, thereby covering almost every possible factor upon which users may seek to search, analyse, rely upon, or support legal submissions before courts and tribunals.

Essential Steps to Cleanse Economy

28.11.2016 (Article)

Demonetisation *– the withdrawal of high-denomination currency notes announced by Prime Minister Narendra Modi on 8 November 2016 – was the most dramatic economic intervention in India since liberalisation. This piece, written twenty days later, is neither a celebration nor a condemnation. It is an analysis of what the intervention required to succeed: not merely the will of a single man with a strategy, but the execution by a team with a clearer understanding of the flow of money in the global context, its sources, streams, current, and the formidable structures that protect it. The connection to the book's theme is direct: the detoxication of the blood stream of the economy is the economic equivalent of the detoxication of the legal system. In both cases, the vested interests that benefit from the presence of the toxin are the same interests that resist the cleanse. And in both cases, the deepest resistance comes not from the obvious enemies but from those who have found a comfortable accommodation with the status quo.*

As the world has moved from the third dimension to the fourth, on its march towards the fifth, the limitations and restrictions of borders and time – vestiges of the Industrial Age – have steadily lost their significance in almost every facet of human and social interaction. Cultures, nations, institutions, social structures, and processes that refuse to move with the wave are being, and will continue to be, left behind. The younger generation in particular has suddenly become more health-conscious, taking time out for workouts, yog, and cleansing. The use of organic food and the rise of veganism are more visible than ever before. All this is gradually leading towards a more harmonised civil society – the avowed aspiration of humankind.

Money is merely a tool for the exchange of goods and services and acts as the bloodstream of the social system. Yet the prosumer – the producer-consumer – has often not received his due and feels exploited, either by legally sanctioned structures or by those possessing domain knowledge. The contamination, toxins, and cancerous growth within the national bloodstream have increasingly begun to challenge the very existence of the system itself. Abrasions exist in every human body and in every institution, and the law continues to regulate and restrain them. But any meaningful reform inevitably disturbs the comfort zones of those who shamelessly glorify their plunder and exploitation.

Resistance to change by the status quo is natural, for change disrupts familiarity with the known and unsettles vested interests that exercise deep-rooted and pervasive control, often fuelled by forces fearful of the rise of a great civilisation. Young India, in particular, has increasingly found itself unable to contribute meaningfully to national growth and GDP because it feels trapped within the global *arth chakra*.

Demonetisation was one among several necessary and essential steps aimed at cleansing the economy – a process that many desire, but few genuinely attempt to understand. It represented a firm beginning by those capable of perceiving the deeper structural distortions and who sought to rebuild the nation's foundations. Yet, by itself, demonetisation could never have been sufficient and, if unsupported by institutional reform, could also lead to serious consequences. For the moment, however, it compelled society to become suddenly aware of the digital world and the institutional importance of banking. Hoarding wealth under the garb of securing personal insecurities instantly lost much of its charm, charisma, and perceived permanence.

Demonetisation necessarily requires institutional support, transparent processes, and empowerment through clarity, precision, and accountability. If followed by meaningful structural reform, it can certainly bring about a significant transformation in the approach, attitude, and outlook of those who constitute the meaningful mass of the nation – the people who silently bear the burden of the system, observe change with awe and circumspection, and wait for transformation to become irreversible.

The detoxification of money and the strategic timing of such reforms can help India emerge as a significant participant among the forces shaping the global economy. But such transformation demands far more than the will and strategy of a single individual. It requires execution by a committed team possessing a deeper understanding of the global flow of money, its sources, streams, currents, and the formidable structures that continue to protect and preserve existing concentrations of power.

With resistance existing both within and outside the system, the process will inevitably take time, and every transformation of this magnitude will necessarily carry its own birth pangs. Yet, rooted in the deep strength of our civilisation and culture, India possesses the capacity to take a quantum leap and become an integral part of the paradigm shift for which humanity has long waited, ever since it opened itself – consciously or unconsciously – to the New Age.

Let us therefore join the chorus by choice, and strive to make "Mera Bharat Mahan" meaningful in its truest sense, as we move together into the Fourth Wave.

Dimension Theory as basis of GDPS - Growth, Development, Progress and Social-Engineering (Blog)

***Author's Bridge**: The movement of human civilisation from the third to the fourth dimension – from the physical and territorial to the metaphysical and borderless – is the deepest structural change. This piece names that movement explicitly, in the framework of what it calls the Dimension Theory of Growth, Development, Progress, and Social-Engineering. The fourth industrial revolution – robotics, artificial intelligence, blockchain – is not merely a technological phenomenon. It is a civilisational shift, in which the institutions of the third dimension – adversarial courts, territorial jurisdictions, national currencies, hierarchical governance – are being superseded by the institutions of the fourth. Legal Revolution 5.0, Finance Revolution 5.0, and the conflict-free society are, in the language of this piece, fourth-dimensional*

As a few individuals became aware of the fifth dimension and began manifesting, expressing, and expounding their perceptions, understanding, and knowledge relating to it – as reflected even in works like Interstellar – institutions across the world simultaneously started preparing themselves to meet the challenges of the Fourth Industrial Revolution emerging within a VUCA world: Volatile, Uncertain, Complex, and Ambiguous. The VUCA nature of the modern world is itself the result of the quantum coexistence of multidimensional beings striving to retain and preserve their identity amidst rapidly changing realities.

The human mind today is increasingly capable of comprehending the direction of this interconnected and webbed structure. This understanding has become easier because the dimensional shift post-2015 has enabled larger sections of humanity to appreciate, understand, and accept the theory of dimensions and the broader framework of GDPR as underlying many of the advancements, tensions, and conflicts that presently exist and those that will continue to emerge in due course of time. These changes affect virtually everything and everyone as the social DNA itself continues to evolve – economics, politics, governments, bureaucracies, interna-tional organisations, NGOs, entrepreneurship, family structures, relationships, law, art, sports, and spiritual awareness.

Those who are able to perceive the direction of change naturally begin assisting others in absorbing and moving harmoniously with it. Seers, seekers, statesmen, thinkers, and leaders continue to sustain the social structure by communicating these shifts to the masses through different forms of social interaction. The masses themselves are often not interested in understanding the foundational basis of these transformations because their structured routines keep them occupied, and they continue to rely upon representative leadership for guidance and direction. It therefore becomes imperative to understand dimensions themselves and

the manner in which every dimensional shift inevitably transforms the world around us.

The cycle moves through twelve dimensions in total. However, for present purposes, it is sufficient to understand only the first six, for they relate directly to our times and contemporary realities. The remaining dimensions will reveal themselves as civilisation continues its lateral journey through time and consciousness.

1. **First Dimension:** Dot; awareness or consciousness existing as an individual unit; nomadic existence; pre-settlement; pre-civilisation; pre-agriculture; the closest relationship between two dots creates a line.
2. **Second Dimension:** Area – square, rectangle, circle, triangle; settlement, civilisation, family, tribes, clans, colonies; ownership of land; Agricultural Age/Wave; awareness of group existence; use of education and knowledge primarily for survival; actions charged by passion; direct man-to-man conflict.
3. **Third Dimension:** Awareness of time and space; cube, prism, sphere, volume; territorial expansion beyond nations; acquisition of land through discovery and war; the art of war; relativity; the First, Second, and Third Industrial Revolutions; accuracy, precision, punctuality, and exactitude; mass production and mass destruction; approximately 1770–1955.
4. **Fourth Dimension:** Awareness and belief in metaphysical existence; life beyond mere physicality; quantum mechanics; internet, web, and space travel; a borderless, genderless, classless, and timeless world; search for soulmates; intuitive wisdom; 24×7 existence beyond conventional time structures; television, mobile communication, and internet connectivity; awareness of consciousness, signs, and symbols; approximately 1955–2015.
5. **Fifth Dimension:** Harmony in metaphysics; awareness that every being on earth possesses a meaningful and purposeful existence as part of the whole and must therefore receive due recognition and respect; synchronised and deeper human relationships; meeting of soulmates and respect for old souls; culture as the barometer of gross social happiness; awareness that humanity can survive only through collective concord; collective consciousness functioning in harmony; intuitive communication with higher energies; approximately 2015–2035.
6. **Sixth Dimension:** Rhythm in metaphysics; awareness of universal consciousness; synchronised existence of the majority of beings; universalism and blissfulness; post-2035.

The dimensionality of human beings continues to evolve and expand choicelessly, and with it, changes their perception, thought processes, attitudes, and social interactions. As the DNA of the majority transforms, humanity gradually recognises that civilisation itself has moved from one age to another, almost as if mounted upon successive waves. Humanity moved from the pre-agricultural age to the Agricultural Age, from the Agricultural Age to the Industrial Age, from the Industrial Age to the E-Age, and now increasingly towards the AI-Age.

When humanity shifted from the second dimension to the third, it became aware of time and space and learned to utilise the accumulated wisdom of the past for invention and expansion. Thus commenced the Industrial Age around 1770 in Europe. It was also the period during which the wealth extracted from India through plunder and exploitation flowed uninterruptedly into Europe, strengthening industrial expansion without meaningful resistance or competition. The development of the steam engine, the textile industry, and iron production became central to this transformation.

The Second Industrial Revolution, spanning roughly from 1870 to 1955, witnessed the emergence of Europe and America as dominant industrial powers. Banking institutions and debt-based financial structures generated capital almost out of abstraction, financing inventions, infrastructure, and technological growth. Electricity, oil, and steel enabled both mass production and mass destruction. Technological advancements such as the telephone, the light bulb, and the internal combustion engine accelerated competition and strengthened nation-states.

Post-1955, when white-collar employment in the United States exceeded blue-collar employment, the Third Industrial Revolution emerged through digital technology. Personal computers, the internet, mobile phones, and information and communication technologies transformed the globe into a deeply interconnected structure – a global village. Humanity suddenly became linked to itself beyond geography and beyond intention, and a collective awareness dawned that the earth functioned as a single integrated unit.

The E-Age created a borderless, seamless, limitless, genderless, classless, ageless, multicultural world where the true measure of success became the power of thought and the capacity to provide products and services that were faster, more accurate, more efficient, and more cost-effective. During this period, the consciousness of the majority gradually shifted from the physical third dimension to the metaphysical fourth dimension. This transition also generated greater awareness regarding health, wellness, emotional well-being, humane values, and spiritual existence, leading towards a more compassionate civil society.

The Fourth Industrial Revolution emerged around 2015, building upon the digital revolution and introducing artificial intelligence, nanotechnology, quan-

tum computing, biotechnology, 3D printing, and autonomous systems. Simultaneously, wealth creation through more humane and relationship-based structures has also continued to evolve within this quantum world. This emerging framework increasingly challenges older monopolistic systems controlled by a limited few who continue to manipulate passions and insecurities in order to sustain exploitative and competitive structures within the lateral world.

At the same time, humanity has also become increasingly conscious of the misuse of money and financial systems by institutions and actors operating against broader human and social interests. The awareness that economic structures themselves can become instruments either of collective harmony or collective exploitation is now beginning to emerge with far greater clarity than ever before.

A Historical Launch – Basketball India Players Association (BIPA)

29.07.2017 (Address)

Author's Bridge: *The launch of BIPA on 29.07.2017 at the Constitutional Club, New Delhi, was the culmination of two years of planning with former Olympians, Arjun and Dhyanchand awardees, and current national and international players. It was also a direct expression of the Sports Act jurisprudence developed in Chapter 6: the conviction that the sportsperson, not the administrator, is the true sovereign of the sporting institution. BIPA was the first sports association in the country in which all promoters and all office-bearers were players. Its vision – lifelong security, medical coverage, pension benefits, the enhancement and defence of the player's image – was the vision of a profession that had learned from the advocate's own experience: that dignity requires structure, and structure requires the law to be on the side of those who create the value, not merely those who administer it.*

29.07.2017, marked a historic date and a landmark event in the history of basketball in India. This historic occasion was the culmination of detailed discussions, deliberations, and planning spread over almost two years amongst sports professionals, former Olympians, Arjuna and Dhyan Chand Awardees, captains of the Indian Men's and Women's Teams, international and national players, and other stakeholders of the sports industry.

Among the distinguished gathering present at the packed Deputy Speaker Hall, Constitutional Club of India, to grace the launch of BIPA were Yogeshwar Dutt – Olympic Medallist in Wrestling, 2012 (Chief Guest); Gian Singh – Olympian, 1984; Ajmer Singh – Arjuna Awardee and Olympian Basketball Player, 1980; Hanuman Singh – Arjuna Awardee and Olympian Basketball Player, 1980; Zorawar Singh – Olympian Basketball Player, 1980; T.S. Sandhu – Olympian, 1980; Gajendra Singh Shekhawat – Member of Parliament and President of BIPA; Ram

Kumar – Dhyanchand Awardee, former Captain of the Indian Men's Team and Secretary General of BIPA; Divya Singh – former Captain of the Indian Women's Team and Treasurer of BIPA; and many others who were duly felicitated on the occasion and committed themselves passionately to pursuing the vision, mission, and objectives of BIPA.

The vision, mission, and objectives of BIPA were expressly and clearly articulated to provide its members with:

- Lifelong security
- Medical coverage
- Tickets to sporting events
- Pension benefits
- Enhancement and protection of the image of players and the profession
- Representation and protection of players' rights at all forums
- Additional benefits proposed for players through BIPA included:
    - o Effectively marketing players to leagues and international teams
    - o Assisting players in obtaining overseas opportunities
    - o Protecting players' contractual and other legal rights under agreements
    - o Assisting players in finding teams, clubs, academies, agents, and providing support in player transfers
    - o Helping players maximise income through endorsements, commercials, autographs, and appearances
    - o Advising players regarding personal conduct and media relationships
    - o Referring players to medical specialists and treatment facilities whenever required
    - o Serving as a buffer between players and teams whenever disputes or issues arise
    - o Mentoring players and acting as a positive influence in their professional lives
    - o Remaining accessible to players' families to address concerns and provide guidance

The goals of BIPA were clearly directed towards uplifting basketball and basketball players in India by:

- Bringing a corporate structure to basketball administration in India
- Delivering direct benefits to players
- Launching larger, better, and more popular sporting events
- Sharing profits amongst players
- Enhancing the social value and recognition of basketball players
- Empowering every basketball player as the sport grows

- Promoting national icons at the international level and helping them receive their due recognition
- Encouraging parents to motivate their children to take up basketball professionally
- Inspiring children to adopt basketball as a profession
- Restricting BIPA membership exclusively to basketball players and basketball stakeholders

The incorporation and launch of BIPA was unique and significant for several reasons, including the following:

- BIPA was the first sports association in the country in which all the promoters were themselves, basketball players
- BIPA was the first sports association in the country in which all office-bearers were national and international basketball players
- BIPA emerged as one of the largest players' associations in the country, and possibly in the world, with nearly 2,800 members consisting of basketball players, coaches, referees, ground officials, physiotherapists, dieticians, and other stakeholders, with the membership expected to increase to 20,000 by the end of the year
- BIPA was actively making efforts to become a founding member of the World Basketball Players Association and the World Players Association

All the speakers made one thought and principle clear, express and unambiguous: BIPA had no conflict of interest whatsoever with any Federation or Association, since its sole objective was the promotion of basketball, which was equally consistent with the objectives of Olympism and FIBA. The benefits of the activities undertaken by BIPA would ultimately flow directly to every player, who would continue participating in official tournaments organised by Federations and Associations. The larger purpose of empowering players was not merely individual advancement, but the strengthening of the nation itself through medals, accolades, sporting excellence, and the greater glory of the game.

The Invisible Lawyers Team

11.12.2017 (Interview)

Author's Bridge: *The interview with The Invisible Lawyer, published in December 2017, is one of the most compressed and complete statements of the three great institutional challenges of the age: the digitisation of the legal profession, the crisis of judicial governance (the conflict between the Chief Justice and the senior-most puisne judges), and the legality and implications of blockchain and cryptocurrency. The answer on AI*

and Judgments — that artificial intelligence can assist the judge but never replace him, because the judge's experience, perception, and consciousness are irreducible — is one of the clearest statements of what Legal Revolution 5.0 means in practice. The answer on technology and corruption – that technology can reduce dependencies on third parties and middlemen, but cannot end corruption, because corruption is a human problem – is one of the clearest statements of what Finance Revolution 5.0 requires as its complement: not technology alone, but the karmic transformation of the human being who uses it.

Advocate Aruneshwar Gupta, President, Law Consults, discusses the legal profession in the digital age, recent Supreme Court developments and the legality of crypto currency in this interview with Invisible Lawyer.

The Invisible Lawyer (TIL): Do you think the legal profession in India has been able to adapt to the digital age?

Aruneshwar Gupta: The legal profession in India has yet to enter the twenty-first-century digital age and it will require latent force to break the sluggish pace. The first step towards digitisation was taken in 1985 when the electronic display devices were put up in the Supreme Court to display Court No and Item No (Justice P.N. Bhagwati, then Chief Justice of India, on my insistence). Even then, there was serious resistance from close quarters, both in its implementation and execution. At the turn of the century, while the world had awakened to the internet, offices of NIC were set up in Supreme Court, High Courts and District Courts which took up digitalisation of court records, registry, subject categorisation (mixed up with statutes), putting - up of cause list, reported judgements (circumscribed by Indian Law Reports Act, 1885) to be accessed via internet. This led to the creation of E-Courts (for the judges), with great lead taken by the High Courts of Delhi and Andhra Pradesh. Simultaneously, the E-Committee was formed by the Supreme Court, and they undertook providing of necessary infrastructure and hardware, including laptops, to all the judges of the lower judiciary (about 15,000 then). This was like providing a body without a soul, for there was no legal software to be used by them, except using them as electronic typewriters. Digitisation of central statutes was completed under the India Code, but they were merely scanned PDF files of Acts. There is no database to get all the amendments for each section and an interlinking with the subject categories.

The digitalage is not merely about converting data from paper to computer. It is not about digesting information in a different format, but it is about creating an authenticated open information-sharing platform based on Interlinking databases. The real rationale of any new technology is to bring in more accuracy, speed, efficiency and cost effectively. The whole idea is the elimination of inputting the same information by different stake holders, thereby removing multiple efforts

and expenses and to spend less time in searching and more time in doing. Documents submitted by parties, pleadings and judgements must be available to all without putting any further effort and energy. All information, documents and entire data must be accessible seamlessly by judges, registry, law makers, advocates and litigants at trial, appellate stage and the Supreme Court 24 x 7 in an integrated format to bring justice to all.

TIL: Why has the Supreme Court not gone digital, are judges and lawyers prepared for it?

AG: The Supreme Court has not gone digital because the entire digitisation, both horizontal at the State level and vertical at the courtlevel, has been taken up with different domain knowledge, approach and points of view. There is no interlinked and integrated single umbrella structure to take care of the whole legal industry, which was imperative to move to the digital age. There has been absolutely no dialogue or interaction between those who are taking steps for bringing in digitis ation and those who are using it and are affected by it i.e., all the stakeholders.

The stakeholders in the legal industry are:

- Judges - Supreme Court, High Court, District Courts, Trial Courts, Tribunals, Commissions, etc.
- Registry in all the Courts, Tribunals, Commissions, etc.
- Legislature - All authorities enacting Acts, Rules, Regulations, or issuing Memorandums, Circulars, Government Orders, etc.
- Law Officers, Government Advocates and Public Prosecutors
- Advocates - Senior, Advocate on Records, Advocates
- Advocates Clerks - para legal (there is no training program for them)
- Government Departments and Public Corporations - the largest litigant » Private Litigants

We all need to change our mind set to adopt the change and make it available in an adaptable uniform manner so that it is useful and purposeful for all and this is very difficult and tough, though not impossible

A simple illustration is that everybody is presumed to know the law and that means all judgements and all statutes must be available to all in the digital format. There is a mushroom growth of websites, including the official website, competing vigorously with each other to provide judgements of the Supreme Court, High Courts, Tribunals, Commissions, etc. and everyone giving its own citation. Since the year 2000, Canada, the United Kingdom, Australia, New Zealand, Hong Kong, Singapore etc has adopted 'Neutral Citation' for each judgment, where each judgment is given a serial number. Judgments are cited as precedents using

neutral citation assigned by the court on the basis of court name, year, serial number and para number (name of publisher and page numbers are eliminated). We are already about 18 years behind, but nobody is willing to adopt the change. Acts, Rules, Regulations, Orders, Memos, Circular and directions of all States and all Article 12 Authorities with all their amendments must be available digitally on the day they are gazetted or are implemented and linked to a common subject index and the matters as they are filed in the court, but there is no effort in that direction.

TIL: What are the other ways that technology will affect the legal industry and practice?

AG: The technology is being applied to various sectors and that will affect the legal industry and legal practice exponentially. Lawyers will have to gear themselves up to the changes and meet the challenges of the new technology:

- There can be a common database, of all the litigation updated and shared between Courts, Government Departments, Government Advocates and Legislature for all are being paid by the common man, the tax payers.
- The technology, when used in Financial Sector is called FinTech. FinTech is being applied to Banking, Securities and Derivatives and will bring huge work for the lawyers
- Real Estate - Authenticated and verified titles can be made available and will need no further proof, bringing ease in the transfer of property
- Wills - Authenticity need not be established if it a part of block chain vault
- Intellectual Property - Registrations can be foolproof and violations can be quickly determined
- Insurance - Transfers and premium payments can be timely executed
- Healthcare - Individual records can be made available instantaneously
- Education -Individual records can be available, including date of births effecting juvenile justice system
- Energy - Tariff and Consumption can be recorded without errors
- Smart Contracts will soon firm up, limiting the area of disputes

And many more

TIL: Do you think computers will start writing judgements by use of Artificial Intelligence?

AG: Judgments proceeds decision made by a judge in view of the facts, using precedents and as the judge perceives it in consonance with his sense of equity, equality, justice and consciousness. Computers and AI used by Computers are

only tools to assist judges to make more objective decisions and follow precedents more rigorously til! they stand over-ruled. AI can provide the best possible decision on basis of existing judgements, but since the society is dynamic and so is taw, the final decision always will have to be made by judges. Judges will have to use their experience, perceptions and their understanding of the society in every case to make decisions and write judgements. AI can be effectively applied in cases where there are multiple/ bunch cases with almost similar facts, like land acquisition compensation, motor accident claims, criminology, i.e., sentencing policy, etc.

TIL: What is your view on the recent crisis in the Supreme Court with two judges appearing to be at odds with each other? Has this happened before to your knowledge?

AG: Crises between the Chief Justice and the senior-most pusine judge has always been existing in the Supreme Court and all High Courts in the country and it also exists in all services, including politics. It arises out of a basic urge of number two to be number one or that he could have been number one. This feeling sub-consciously brings about very uncomfortable emotions which continue to subsists in perpetuity, more particularly when the understanding is that the situation has not been caused by the hands of Cosmos as it happened for Cain and Abel, but by the hands of men and there is a possibility of turning it around again.

In Supreme Court the crises became more apparent and open after the great supersession of judges after the judgment of *H.H. Kesavananda Bharti, 1973 INSC 91* between Chief justice A.N. Ray and Justice H.R. Khanna (sole dissenter in ADM Jabaipur case) then Chief Justice Y.V. Chandrachud and Justice P.N. Bhagwati; Chief Justice Sabyasachi Mukherjee and Justice R.N. Mishra; Chief justice A.M. Ahmadi and Justice Kuldeep Singh; Chief Justice J.S. Verma and Justice M.M. Puncchi; Chief Justice Punchhi Sathasivam and Justice H.L. Dattu.

Judiciary is a single family and great man make great judges. These differences and crises at the personal level seriously effects the entire judiciary as it leads to the creation of lobbies and groups, bringing in a vertical split in the judiciary and other institutions get reasons to raise fingers. Unhealthy environment, bickering, pressures and personal prejudices may also effect decision making process and the real cause for which this great institution exists, i.e. providing equity, equality and justice to all. Time that we learn from Spiritual Laws (Ralph Waldo Emerson)

"What a person does; and has, what he has to do with hope or fear? In himself is his might. Let him regard no good as solid but that which is in his nature and which grow out of him as long as he exists. The goods of fortune may come and go like summer leaves; let him scatter them on every wind as the momentary signs of his infinite"

TIL: You mentioned that you support Block Chain Technology ('BCT'), Bitcoin and the cryptocurrency economy; will it not encourage money laundering and the sale of drugs and arms? What is its legal status? Is it "dark money"?

AG: Technological developments must continue to happen with full freedom, innovations and immunity. BCT and its application in crypto currencies are going through a teething period, they are not drugs or weapons themselves hence not out rightly in-humane. Due to the age of influencers who have vested interest in the *status quo* and excessive information, people and people's mindsets are made up even before a new invention or technology has reached a certain maturity level or before they understand it completely for possible future implications and applications. The fear of possible disaster accompanies every new technology. Letters were once considered bad news; aeroplanes and cars were considered unsafe; computers were feared as replacements for human beings; and credit-card theft was regarded as a major problem. Technology is never good or bad, technology is neutral. The issue of good or bad depends on how it is being used. It may be used to bring about peace, harmony and happiness or people can use it for conflict, disharmony and exploitation. Atomic energy is neutral, however when used for generating electricity, it is good, if it is used as a bomb, it is bad.

Blockchain is the new internet and is being applied to almost all sectors by people who wish to live in a more authenticated, harmonised, dignified world and to protect themselves from exploitation, forgery and falsified world because some people who are abrasions of society continue to do so. 9/11 and the 2008 economic meltdown were basic reasons for socio-philosophy-intellectual entrepreneurs to get it going. lodex and Vicks are popular cold and flu balms. They are relatively cheap and easily available over the counter. Some students use it between two loafs of bread and consume it as ecstasy to be "high' as illegal drugs. Now, tell me, is Vicks or Lodex a scam, or students misusing it.

Blockchain will prove useful in attempting eliminating forgery of documents and middleman In all sectors. This will result in a substantial saving of time, in establishing the authenticity of a valid document and determining forgery of the document. Bitcoin, is a new global asset, is a current technological trend and is sure to rise high, because of demand arising out of low supply and human sentiment. The first Bitcoin "block' was 'mined' on 03.01.2009, and is called as the 'Genesis block'. Soon, events like the first Bitcoin real-world transaction took place when one pizza was bought for 10,000 Bitcoins, today one Bitcoin is valued at 14,500 U5$. However, it is possible that the Crypto currency boom might prove to be a great boon for the common man.

Even when we have fiat money, there is money laundering, the sale of drugs and the supply of arms to terrorists. All these are abrasions of the society and will

have to be restricted by the police and the judiciary. Those who are genuine and are looking for the advancement of human society in a free environment will not themselves allow the technology to be used for the purposes for which it was not created and will not be privy to terrorism, drugs and arms sale.

There is nothing illegal about the Bitcoin or other crypto currencies, which is merely a protocol such as sms or the internet. Brazil, Canada, Japan, Netheriands, New Zealand and Scandinavian countries etc. are fully supporting; Australia, Russia, South Korea, Turkey, US etc. are supporting with caution; China, India and Morocco etc. have issued directions to the effect that trading in Crypto Currency is at own risk and without legal support – Euro Countries and Germany etc. consider it to be a bubble like the Tulip Mania' in 1636-37 in Holland. With the transparency and openness of the BCT, it will be not only be difficult but almost impossible to use technology for illegal purposes and exploitation as every transaction may be traceable.

The price of Bitcoin has since continued to rise and more and more funds are being deployed in BCT by financial Institutions. It is not dark money like dark internet, for it is open and transparent, while protecting privacy.

TIL: Can technology end corruption?

AG: Technology cannot end corruption. Technology and inventions happen because people want to try to solve social problems. The problem of corruption is human related and technology can only attempt to create systems where dependencies on third parties and organisations such as banks can be reduced. Those who cannot earn money with dignity will always find ways and means to get what is not due to them through dishonest means. Blockchain Technology should help the common man to get access to authenticated information and several services without the interference of middle man and that will eliminate corruption to a substantial extent. BCT is to make the life of the common man on the street happier, healthier and meaningful.

Launch of 'SpotLaw App'

2017 (Address)

Role of Information Technology in Dispensation of Justice

Equity, equality, justice, and Bliss are the basic and fundamental nature of every human being and the social order. Illegality, injustice and disharmony are choice less evils that continue to come into existence in the individual and the society. Judges, Advocates and others associated with them, continue to work as the kidneys of the system, to detox the society. Conflicts, clashes and litigations have continued, since human civilisation came into existence. Contract was cre-

ated when *Mr. Ram* hugged *Sugreev* and *Vibheeshan* and promised them to be made the king of *Kishkindha* and Sri Lanka, respectively. A breach would have led to litigation aid during that time, resolved by the power of the sword, than the power of the pen. Justice was done when *Mr. Ram* executed *Raavan*, for he had brought about a total imbalance in the economic structure, by amassing almost the entire gold existing on earth. Legal relationships, laws, litigation and justice existed even before Information Technology; indeed, the systems of that time were more effective, efficient and economical.

In this *yug*, the age of IT started in 1955 when the number of white collar employees surpassed the blue collar, in the USA and Europe. When I joined the profession in 1976 in the Supreme Court, the settlement of the weekly cause list was carried out by the Registrar at 4:30 pm on every' Thursday in the Chief Justice Court. I had inherited AIR from 1914 onwards, had purchased SCR, Supreme Court Encyclopedia by *Gopala Krishnan* provided a nominal Table Index, *Basu aid Mullah* were the authenticated Text Books and Manuals were the source of finding the precedents. The only way to remain updated and to refrain from cutting a sorry figure and look around when the judge said "Have you looked into the latest judgment delivered by us", was to go through the cyclostyled judgements circulated by SCBA and regularly maintain personal registers. As juniors, we had to run from court to court and shake the shoulders of our colleague to find out which matter was going on in the court and go back and tell our senior that he needs to rush or need not rush to that court. Sometimes the matter was already over by the time he could reach. The bare acts were barely available.

Today, all that looks ancient, we get bookmarked cause list on our mobiles, judgements can be found on tablets and an electronic display system helps us to watch other court even when we are on our legs in the court room. Statutes are available within hours of their receiving the assent of the President. But the judges are overburdened by number of briefs and judgements and are at times conscious about the mounting arrears while disposing the cases. The judges have to read much more today, to have a total portrait of the true facts, keep their head high and impart justice without compromising with their conscience, than their predecessors and one basic reason for that, is explosion of information all around in multiple formats.

Three things are basic, fundamental and vital in every litigation and must never be lost sight off.

First, nobody loves advocates. Nobody would enter the office of an advocate unless he is in real trouble, unless his shoe is pinching and the nail is not decipherable and professional legal help is required to resolve the issue and put life in order. There comes the role of the advocates.

Second, every law or litigation comes into existence because there is suppression of a will, exploitation of a being by another and the cry has gone unheard because of some person dominating the existing social forces, by inhuman means. There comes the role of the Judges.

Third, all judges at all times, sitting in the temple of justice, see the cause and also see the persons and issues behind the cause and also the direction in which the society is moving and make all out efforts to do complete justice between the parties. That is how and why equity, equality and justice exist and we still have a hope.

The litmus test of evolution and eminence of every institution today and hereafter will be the extent to which information technology is used by its stakeholders. It is not difficult to fully understand, appreciate and implement the extant of use of IT in the dispensation of justice, as there is no rocket science involved in it. The difficulty is in making the stakeholders' use it in every field of their activities. Use of IT in courts by NIC will not alone be effective unless, advocates and their clerks are well trained and tuned to use it.

Use of IT is a great bounty in the hands of us all, as it can be effectively used for collating, organising and interlinking information. But a few things are imperative and if we do not pursue them, IT will be there but not as handmade to justice, but as a money spinner for IT Consultants, hardware manufacturers and others and a fashion statement by flashing light on our own face and saying

Look, we also use IT. We have to have a correct, complete and overall picture of the entire litigating process, with the role of each stakeholder well defined and the most important is the economics of each stakeholder. Every stakeholder in the legal industry is not working as an NGO, using taxpayers' money as grants or charities, but we are all here as professionals who are paid for speaking the equity, equality and we demand respect and reverence, for we hold self - esteem, dignity and pride, in what we do. Finally, we have to watch the vested interest of those who survive on chaos, confusion and commotion and those who are supporting them consciously, unconsciously, or even remotely, for their interest are to lead the institution to legal rigor mortis and disgrace.

Look around and see if over 400 existing vacancies of judges in High Courts are not filled, because the issue is referred to a constitutional bench or otherwise, if cases are not determined speedily, if justice is not imparted in time, who is empowered. The answer is obvious, all those elements, whose very existence is based on the presence of injustice, exploitation and poverty in the society and they are everywhere, from politics to beggars. Social predators continue to wait for the assignment of throwing out tenants, recovery of created and illegal debts, holdings *bandhs* and *gherao,* shouting slogans, stalling court proceedings, making the gov-

ernment fall and making the great nation look mean and small and IT makes such information available, easier and faster.

The installation of electronic display devices in 1986 in the Supreme Court, giving court number and item number, was the first step in making use of IT and today we can get live display boards of all the courts on our mobile is a long leap, but that took more than 25 years. From getting judgements of courts on the tablets in a structured format to the ultimate, introduction of Artificial Intelligence in litigation is a long way to go and will take another 25 years or more, if we start today. Some of the countries are already using Artificial Intelligence for over a decade in sentencing policy and other areas. IT can be implemented for dispensing justice by moving information seamlessly in the following manner with ease, if there is a Will to do it:

Providing Neutral Citation for all judgements delivered by the Supreme Court and 24 High Courts, to eliminate the chaos created by over 600 law reports published all over the country and now web judgements. All are giving their own independent citations. Neutral Citation was implemented in Canada, the UK, USA and Canada in the year 2000, we are just 17 years behind;

Creating a database of judgements on each subject and issues and linking them with the subject index used in the court for classification of cases and making the data available to Advocates. This will bring more uniformity in the decision-making process and assist Advocates to give meaningful legal opinion to their clients;

Entering DIN Number, PAN Number, Aadhaar Card No. or any other identifiable number of each litigant, witness, deponent in each litigation and have a common linked database on litigating persons and those associated with them. We have over three crore pending cases and if we are able to create the interlinking database, believe you, me, friends, we will be able to filter about thirty lakh professional criminals and professional litigants;

Creating a common database of litigation in which the Government or any Article 12 Authority is a party and sharing it between Courts, Government Department, PSU, Law Department, Attorney General and Advocate General Office to enable the legislature to plug holes where necessary and put an end to several frivolous litigations and putting them on notice in similar issues

Existing data on decided cases should be moved from High Court Registry to the Supreme Court Registry in cases filed in the Supreme Court. This will save enormous costs and man-hours for the country;

Creating and using a database on advocates on the number and nature of filings, appearances, written submissions, articles published, presentations made,

conferences attended to have some objective basis for appointment of advocates as judges to High Courts. Family, chamber, caste relationship is an anathema for holding such a high station and injustice to other advocates joining the bar;

Implementation of One Bar, One Vote for each Bar Association by using a common database of advocates already available with the Bar Council of India and having electronic voting. This will make the Associations more effective, meaningful and purposeful. Every leader of the bar will have his defined territories to work on and make them more professional;

There is a need of over two million IT trained clerks or Para Legal Associates to support over one million advocates in the country and maintain their office; Creating database on judgements delivered by judges of High Courts and how they fared in the Supreme Court, to have some objective basis for the appointment of High Court judges to the Supreme Court;

Implementing Court Live to bring about more transparency and fully implement the avowed principle of open-door justice; In every case, the Judge is on a chess board making whole hearted efforts to make justice win. On the other side is injustice continuously digging pits, confusing issues, flashing baits, veiling the equity, equality, creating non-existent fears to make justice lose. Information technology, if used to its full proper potential, is one of the greatest tools in the hand of a judge, to make quick moves in the dispensation of speedy justice. But to make its full use, judges will have to get all the stake holders trained and aware of interconnected, interlinked, interwoven and interlaced databases on judgements, statutes, subjects, issues, decisions, litigants, books, articles and a process that filtersthe entire information and also suggests possible, probable answers and alternatives, to enable the judges impart justice for all.

Code for National Sports Associations (NSA)

01.04.2018 (Note)

There are more than 7,500 known sports in the world. Nearly 750 of them are played internationally across nations, while many others remain indigenous, local, or community-based activities confined to smaller groups of people. Sport originally evolved as a means of recreation, physical fitness, leisure, and entertainment. Over the years, however, it has transformed into a lifelong vocation, occupation, and profession, increasingly pursued as a serious career by millions across the globe.

While competition is an inseparable and intrinsic part of every sport, sport may broadly be defined as:

> *"A disciplined, synchronised, and rigorous physical activity involving body, mind, and spirit within a framework of rules, organised for participation and competition, helping develop integrity of character, confidence, self-reliance, and a sense of well-being; teaching individuals how to function as part of a team, how to handle success and disappointment, and how to respect fellow human beings."*

The sports industry today is one of the fastest-growing industries in the world, crossing more than US $1.6 trillion in value. It has therefore become imperative to move away from existing control-oriented structures concentrated in the hands of a few and evolve a more transparent and accountable regulatory framework in which all stakeholders can participate freely, openly, and meaningfully.

Sports possess powerful national, regional, and emotional overtones because they combine audio-visual entertainment with regimental discipline, precision, and collective identity. The qualities required in sports – discipline, exactitude, physical fitness, mental strength, integrity of body and mind, teamwork, focus, and the will to excel – place sports persons upon a very high pedestal in the social order. Fans identify themselves deeply with teams, players, cities, states, and nations, making sports a significant force in shaping social consciousness and collective aspiration.

Competitive sports may broadly be classified into two categories:

1. Recognised Competitive Sports
2. Recreational Competitive Sports

This Code concerns itself primarily with recognised competitive sports and the stakeholders associated with them. Recognised competitive sports involve representation at national and international levels, requiring systems for identification, nurturing, training, and selection of talent from school and college levels upward through district, state, and national competitions.

The international sports structure presently consists of more than 150 International Sports Federations, Associations, or Organisations (ISFs), which regulate and organise competitions among nations or individual athletes. These international bodies, in turn, recognise or affiliate National Sports Federations or Associations (NSAs) representing individual countries. NSAs thereafter recognise or affiliate State Sports Associations (SSAs), which further connect with District Sports Associations (DSAs). At the grassroots level, district bodies should ideally include clubs, academies, coaches, referees, and other stakeholders actively participating in organised competitions.

However, since most National Sports Associations in India were historically registered under the Societies Registration Act, 1860 – many of them even before Indian independence – the existing governance structures evolved without any

comprehensive statutory framework governing accountability, transparency, representation, or democratic functioning.

Except for the pioneering effort undertaken through the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005, which attempted to regulate sports associations up to the State level, there exists no coherent national legal framework comprehensively governing the functioning of NSAs, SSAs, DSAs, clubs, and sports academies.

Most sports bodies – whether ISFs, NSAs, SSAs, DSAs, clubs, or academies – function as NGOs incorporated either as societies or not-for-profit companies. They generally lack stable and independent financial structures. As a consequence, many office bearers and administrators become dependent upon irregular or questionable methods of funding and survival, except for limited grants provided by Governments, which remain grossly inadequate compared to the actual financial requirements necessary for the meaningful development of sports infrastructure and athlete welfare.

The result is that while sports have become a trillion-dollar global industry, the actual players – who are the very soul and substance of the industry – often remain insecure, underrepresented, and economically vulnerable. A modern sports governance framework must therefore move beyond mere regulation of tournaments and federations and evolve towards creating a stakeholder-driven ecosystem that protects athletes, promotes professionalism, ensures transparency, develops infrastructure, encourages private participation, and ultimately recognises sports as an essential instrument of national development, public health, youth empowerment, and social harmony.

45th Anniversary of *Kesavananda Bharti*

24.04.2018 (Address)

Author's Bridge: *April 24, 1973 – the day on which thirteen judges of the Supreme Court delivered the judgment in* ***H.H. Kesavananda Bharati v. State of Kerala,*** *establishing the basic structure doctrine and, in Justice H.R. Khanna's formulation, placing the Constitution beyond the reach of even an overwhelming parliamentary majority. April 24, 2018 – the 45th anniversary, marked at an evening at which the author served as introducer and moderator. This address is, the moment at which the argument that had been forming since the 1970s – that it was Hitler, not abstract constitutional theory, that weighed with the Kesavananda majority – received its public vindication, through Justice Jaganmohan Reddy's own account. The basic structure doctrine is not merely a constitutional principle. It is the legal system's answer to the question about law and justice must ultimately face: whether the law, left to itself, can protect the*

values it is meant to serve, or whether it requires, beyond itself, a consciousness that no amendment can touch.

While invoking the constitutional spirit that continues to sustain the Rule of Law and democratic governance, I welcome you all this evening to partake in some extraordinary intellectual delicacies to be served by some of the finest constitutional minds of our times, on the occasion of the 45th Anniversary of the locus classicus delivered on 24.04.1973 by the Supreme Court of India in *Kesavananda Bharati v. State of Kerala* – a judgment which, like a great banyan tree, has held the constitutional field for nearly half a century, its roots penetrating deep into the foundations of the Rule of Law.

I have always loved facts, figures, and statistics and, therefore, permit me to share some interesting dimensions relating to *Kesavananda*. The case was heard from 31.10.1972, to 23.03.1973. Arguments extended over sixty-six days and the judgment, pronounced on 24.04.1973, came on the sixty-seventh day. The judgment has since been referred to and followed in more than 129 decisions of the Supreme Court, standing amongst the most influential constitutional decisions ever delivered. For years, *Kesavananda* also held the distinction of referring to the largest number of judgements and authorities – 269 in all – until it was surpassed by the judgment in *Justice K.S. Puttaswamy* v. *Union of India*, which referred to nearly 484 judgements, books, articles, and web resources.

One issue that fascinated me deeply during my early years at the Bar was the process of judicial perception. At times, one found oneself making submissions before minds that appeared already closed with predetermined views. The question that troubled me was – what shapes judicial thinking, particularly while deciding issues that fundamentally alter the balance of constitutional powers, institutional structures, and social engineering?

During discussions with my colleagues in the canteen of the Supreme Court in the late seventies, whenever the issue arose as to what may have weighed with the majority in *Kesavananda*, I would invariably say – much to the dismay of many – that the answer was Hitler. Believe you me, friends, most thought the suggestion cynical or exaggerated. Yet I continued to hold firmly to that belief, wondering why something so obvious appeared invisible to others.

Nearly twenty years later, in 1999, came the autobiography of Justice P. Jaganmohan Reddy titled *The Judiciary I Served*, and finally, I found vindication. At page 232, Justice Reddy recorded:

> *"The main consideration to my mind was that if the amending power is without limit, democracy itself could be replaced by dictatorship, autocracy, or even monarchy. During my student days in England, I had closely followed how Hitler, though appointed Chancellor under the Weimar Constitution, utilised the constitutional process itself to convert the State into a dictatorship."*

That, friends, was the real constitutional anxiety behind *Kesavananda* – the fear that unlimited constitutional power, even when exercised constitutionally, can ultimately destroy constitutionalism itself.

After 2015, the world has entered the Fourth Industrial Revolution – robotics, artificial intelligence, blockchain, quantum systems, and algorithmic governance. The issues before constitutional courts hereafter will not merely concern traditional separation of powers but also the interface between constitutional morality, technological power, and human freedom. The discussion today, therefore, cannot remain confined merely to the past applications of *Kesavananda*; it must necessarily explore the future constitutional conflicts that are yet to emerge.

Permit me here to recall a remarkable passage from Hind Swaraj, where Mahatma Gandhi described the condition of the British Parliament:

> *"That which you consider the mother of Parliaments is like a sterile woman and a prostitute… without outside pressure it can do nothing… It is under the control of ministers who change from time to time."*

One often wonders whether concerns of this nature – limitations of representative institutions and the dangers of transient political majorities – also weighed subconsciously in the shaping of the Basic Structure doctrine.

Friends, this evening we have amongst us some of the most distinguished minds of the constitutional and legal fraternity.

A.K. Ganguly has always remained one of the finest seniors to walk the corridors of the Supreme Court without the burden of self-importance, yet carrying within him immense institutional wisdom and constitutional understanding. His reflections on *Kesavananda* are always marked by rare clarity and depth.

A.K. Patnaik belongs to that rare class of judges whose scholarship extends beyond adjudication into the very architecture of legal interpretation. His contribution to successive editions of Principles of Statutory Interpretation and Shorter Constitution of India demonstrates a remarkable engagement with the two foundational pillars of constitutional adjudication – constitutional law and statutory interpretation. Few judges have combined judicial office with such deep academic scholarship.

And then we have L. Nageswara Rao – one of the most multidimensional personalities to adorn the Bench and the Bar. We know him as an advocate, a Senior Advocate, and a Judge of the Supreme Court, but many may not know that he was also a Ranji Trophy cricketer and appeared in television serials and even a Bollywood film. Such multidimensionality enriches judicial personality because constitutional law ultimately concerns the understanding of human experience itself.

Ladies and gentlemen, let us now immerse ourselves in the luxury of profound constitutional thought and hear words of wisdom from these distinguished speakers, as we revisit not merely a judgment, but a constitutional civilisation-defining moment in the history of Bharat.

SCAORA - E Journal - Introduction

02.09.2018 (Article)

Author's Bridge: *The strength of any nation is directly proportionate to the integrity of the institutions in that nation – and to the inter-institutional bonding. That proposition, with which this introduction opens, is the institutional complement to the personal narrative. The SCAORA e-Journal was not merely a publication; it was an assertion of institutional self-respect by an institution – the Advocate on Record – that had served the Supreme Court in two million petitions over sixty-four years and had never been adequately recognised for that service. The introduction situates the AOR at the centre of the judicial system's web – connecting the common man, the state governments, the High Court advocates, the Supreme Court registry, the Senior Advocates, and the judges themselves. To institutionalise that web through a journal was to insist that the institution had a voice, a history, and a claim to be heard – not merely as a procedural mechanism but as a custodian of justice.*

The strength of any nation is directly proportionate to the integrity of its institutions and the harmony of their inter-institutional bonding. As the world moves deeper into the Fourth Industrial Revolution and humanity enters an increasingly interconnected and webbed existence, the vitality and relevance of institutions will depend substantially upon the speed, clarity, and wisdom with which they adapt themselves to evolving technologies and changing social realities.

The institution of the Advocate-on-Record in the Supreme Court of India creates one of the most powerful institutional webs within the constitutional structure of Bharat. Positioned at the very fulcrum of the justice delivery system, the Advocate-on-Record stands simultaneously connected with the common citizen and the State as litigants; with advocates from High Courts across the country as professional associates; with the Registry of the Supreme Court as the procedural and processing division; with Senior Advocates as guides, strategists, and leaders; and with the Judges of the Supreme Court as teachers, mentors, and constitutional sentinels. The institution, therefore, occupies a uniquely strategic and resourceful position in the quest for equity, equality, and justice for all.

No other institution has so silently observed, so diligently supported, and so magnificently contributed to the power and passion, creativity and glory, turbu-

lence and transformation, as well as the extraordinary and path-breaking accomplishments of the greatest constitutional institution in the world's largest democracy, as the institution of the Advocate-on-Record since its establishment in 1954. Through nearly two million petitions and appeals filed over the decades, the institution of AoRs has remained the invisible but indispensable spinal framework of the Supreme Court system.

The institution of the Advocate-on-Record occupies a unique constitutional and professional position because it has been created and nurtured by the Supreme Court itself under the Supreme Court Rules. It possesses within it the potentiality and the institutional wherewithal to produce some of the finest Judges, Senior Advocates, constitutional thinkers, and law firm leaders of the country. The experience of an Advocate-on-Record uniquely equips a person to simultaneously understand litigation, procedure, institutional functioning, judicial temperament, client psychology, advocacy, and constitutional balance. Few other positions in the legal profession provide such multidimensional exposure.

The launch of the SCAORA Journal marks one of the most significant and celebrated moments in the institutional journey of the Supreme Court Advocates-on-Record Association over the last sixty-four years. The Journal will provide a meaningful intellectual platform to members of SCAORA and the wider legal fraternity to articulate, analyse, and objectively examine the issues with which they are professionally and institutionally engaged, as well as issues that may have a direct bearing on questions likely to arise before the Supreme Court.

A vibrant institutional journal is not merely a publication; it is the reflective consciousness of an institution. The SCAORA Journal has the potential to deepen constitutional discourse, broaden intellectual horizons, encourage structured legal thought, and create a meaningful repository of contemporary legal analysis in times of rapid social and technological transformation. Most importantly, it will help strengthen the Rule of Law by enabling legal minds to engage continuously with the evolving challenges confronting the judiciary, governance, and society.

MeToo – Unburden your baggage, cleanse your soul, save your daughters

21.10.2018 (Blog)

Authors Bridge: *The #MeToo movement reached India in October 2018 with the force of a long-suppressed wave finally breaking. This piece – written within days of the movement's Indian eruption – is addressed to the women who had suffered, and to the men who had perpetrated. It is not a legal commentary, though it carries legal implications throughout: the demand for compensation beyond social stigma, the naming of all*

who enabled the predator as complicit in the exploitation, the insistence that karmic and moral laws are as irreversible and ruthless as physical laws. But it is primarily a human document – written by an advocate who had spent forty-two years watching suppressed wills find no voice in the institution meant to hear them, and who saw in the #MeToo movement the first mass assertion, by those wills, that the time for silence was over. The wheel of energy and time had turned. The time had come to speak, to even the score, to laugh, and to dance.

There always is:

A time to get hurt, a time to heal, and a time to strike back;
A time to remain silent, a time to contemplate, and a time to speak;
A time to suffer, a time to meditate, and a time to even the score;
A time to weep, a time to smile, and a time to laugh;
A time to mourn, a time to console, and a time to dance…

The time to get hurt, remain silent, suffer, weep, or mourn is over. The time to heal, contemplate, meditate, smile, and console is also over. The time has now come to strike back, to speak, to even the score, to laugh, and to dance.

Post-2015, the critical mass of beings has shifted from the third to the fourth dimension – from mere physical territories and existence to the metaphysical and the borderless; from shut, closed, meaningless, irrational, inhuman chaos and oppression to an open, transparent, well-meaning, rational, humane, uncluttered, and judicious social order. This can be experienced through the issues in which the majority has become interested and for which it now seeks support and justice for all. Inclusiveness, environment, health, wellness, spiritual growth, blockchain, and artificial intelligence have all become significant and momentous. Century-old enactments perpetrating divisiveness and inequity on the basis of colour, caste, creed, gender, and geographical area are being struck down by the Supreme Court of India. There is still serious resistance to all this by those who are unable to see the light at the horizon or who, because of vested interests, are afraid of change and the loss of the comfort of the status quo and the known. Yet these changes are a welcome sign for the growth of homo sapiens.

The #MeToo movement is another facet of the same energy, touching and affecting everybody and carrying humanity towards a more civilized, humane, and harmonised society. It is a process of final recollection, expression, and forgiveness. The MeToo movement seeks to bring about greater awareness and understanding of the Self, to unburden accumulated baggage, cleanse the soul, and enjoy the bliss of existence hereafter. It is not merely about an individual female, but about every female who has suffered, or may suffer, at the hands of a fundamentally criminal-minded being who ruthlessly, brutally, and without pity physically and

emotionally exploits her to satisfy his lust, inflicting permanent damage upon her being.

The #MeToo movement is about the recollection of an event that deeply hurt a woman during her vulnerable years. The transgression is usually by a known male colleague, family member, or family friend for whom she had respect and regard until the occurrence of the inconceivable, unimaginable, and unbelievable. At a time when she was coming of age, becoming aware of her own identity and selfhood, her trust was violated by those with whom she had once felt secure. Suddenly, she found herself experiencing shock, pain, trauma, and emotional devastation at the hands of a valued and respected elder human being who had exposed the concealed and veiled darkness of his immoral and malicious persona.

Dr. Jekyll in public had transformed into Mr. Hyde in private, inflicting wounds that often lasted a lifetime. The incident may have lasted only a few moments, but its trauma endured for years. She was vulnerable because of the social and economic pressures and the milieu surrounding her. Handicapped by the absence of communication and support systems within family and friends – who, instead of finding answers and solutions, may themselves have led her towards ridicule and humiliation – she often found herself entirely alone in confronting a male-dominated social structure. She was hurt, injured, and damaged, yet maintained her silence because she feared even more disastrous consequences and social oblivion.

The trauma struck not merely at the physical or emotional level, but at the soul itself, often restraining her from giving her fullest expression to the world. Her potential remained eclipsed and dormant. Yet she continued to heal, contemplate, meditate, smile, and laugh to the best of her ability, even though the lurking fear and insecurity remained pervasive at both conscious and subconscious levels.

But the wheel of energy and time, vulnerability and fear, insecurity and desperation, has now moved full circle. Today, she has settled herself, consolidated herself, discovered her true self, evolved emotionally, and matured enough to express fearlessly her unhappy past experiences. The time has now come to express oneself clearly, expressly, and unambiguously; to unburden the trauma; and to forgive oneself for not having been able to respond at that point in time. MeToo is about freeing oneself from a past that continued to invade the present and had the potential to haunt the future whenever one encountered the person again or heard about him shamelessly enjoying the fruits of self-glorification in society.

The MeToo movement is not merely about exploited women individually, but also about their sisters, daughters, and all other women who must be protected from exploitation at the hands of sexual predators and their equivalents. Such predators often assume that they are beyond accountability because of their

wealth, influence, or social standing, little realising the *karmic* burden attached to the colour of money earned and hoarded by questionable means. These malicious and demoniac-minded individuals not only fail to feel shame or remorse for their acts, but often boast about their exploits before friends, sycophants, and bootlickers. Sad though it is, many derive a distorted sense of magnificence from unwelcome touches, molestation, exploitation, and rape. Their minds are consumed by greed and lust, and whatever discretion remains is often drowned in alcohol, drugs, and other external stimulants.

The feminine energy is rising, and it will – and must – with all the force and ferocity at its command, confront all those whose hands, fingers, lips, tongue, or body transgressed into unwelcome territories without respect, dignity, or love, thereby inflicting a chilling effect upon pure and self-seeking souls moving through the world in search of expression, beauty, and freedom in a rational and secure social order.

Pity the sexual predators, for they possess neither dignity, respect, nor love within themselves or for their fellow human beings – more so when they claim to be educated, privileged, and civilised. These tormented souls demean not only themselves but also the most sacred relationship that exists between male and female – a relationship that forms the true foundation of growth, development, and progress of the social order itself. Such beings, and their equivalents, exist everywhere, always searching for easy prey whom they believe will remain silent because they have no choice. But that never truly happens. Everyone must eventually receive back what he gives, with interest loaded thereon. *Karmic* and moral laws are as irreversible and relentless as physical laws. Every event is recorded forever in the cosmic consciousness – the good, the bad, and the ugly – and their consequences inevitably follow.

Those who suffered in silence during their vulnerable years are now expressing themselves, unburdening and freeing themselves from trauma. But these predators will carry their burden until they are hounded to their graves unless they seek forgiveness and are forgiven for their misdeeds. Blatant denial, demands for proof, or threats of defamation only deepen exposure and invite further ridicule, particularly from the women closest to them.

"Not to complain and not to explain" may appear to be an easy answer, but it is not the correct answer. The complaint comes from the exploited woman whose cry had already gone unheard once before. She now possesses the means and the courage to place the facts in their proper perspective. The accused will inevitably have to explain himself, particularly before those closest to him, confront the dark recesses of his own being, seek forgiveness, and attempt to live a better life — or else continue to utter a hundred more lies, demean himself further, and suffer deeper *karmic* consequences.

A word of caution or social admonition at the very first instance could perhaps have prevented repeated abuse and may have saved many others from similar agony. Yet it is never too late, for exposure itself carries consequences that will impact both the predator and all those around him for the remainder of his life. Law too must evolve and provide due compensation for the suffering endured, apart from the social stigma and public exposure of the true nature of such conduct. Mr. Hyde must be punished for his acts, and Dr. Jekyll, too, must bear accountability.

In crime, responsibility does not rest with the perpetrator alone. Those who create the weapon, accompany the offender, or knowingly or unknowingly facilitate the act also carry a measure of responsibility. Similarly, in cases of sexual exploitation, responsibility extends beyond the individual act to those who ignored warning signs, refused to acknowledge the truth, or unintentionally created opportunities for abuse through silence and indifference. Therefore, it is not the hunter alone who must eventually suffer the consequences, though he shall certainly suffer them most deeply in the silence of seclusion – through penance and purification – until forgiveness is granted here or hereafter.

Yet these are aberrations within society, not reflections of society as a whole. Society and its lawmakers must strive to regulate and reduce such aberrations. We do not seek a society divided between exploiters and exploited, criminals and victims. Life is ultimately about love, forgiveness, joy, happiness, ecstasy, and the constant search for soul-consciousness – an enlightened experience of equity, equality, and justice where the bliss of existence can truly be enjoyed. And that becomes possible only when those who have suffered fearlessly unburden themselves of the baggage they have carried for years.

(Acknowledgment to Pallavi Malviya Gupta, Ajita Mutha Sahu and Roli Jindal)

Democracy, Politics and the Law – The Judiciary as the last line of defense

CLA 2019, Zambia

14.03.2019 (Address)

Authors Bridge: *Delivered at the Commonwealth Lawyers' Association Conference in Zambia in March 2019, deals with the shift from Globalisation 1.0 to 4.0; from the first to the fourth industrial revolution; from the third to the fourth dimension of human existence; from a VUCA world to a SRIM world to a HITAA world – Harmonised, Integrated, Transparent, Accountable, and Abundant. The role of the judiciary as both shields and sword – shield to protect any exploitation, sword to punish the exploiter. The conviction – stated here before a global audience of Commonwealth lawyers – that when*

the legislature and the executive fail the people, the man in the street rushes to the lawman, who rushes to the court, which affirms the rule of law. Judiciary as the first and last line of defense for civil society and for mankind.

All through the conference, I have been hearing speakers speaking about what has happened in the past. Law, judges, and lawyers are mostly engaged in rear-view mirror driving; my effort today is to undertake forward-view driving while still keeping an eye on what has gone by. The canvas of the subject at hand is very wide – Democracy, Politics and Law: The Judiciary as the Last Line of Defence. I have therefore placed it under five heads – The Global Shift; the shift leading to a new orientation of democracy and politics; the new orientation leading to conflicts; Rule of Law; and the Role of the Judiciary.

The Global Shift

The majority of the world has moved into Globalisation 4.0. Globalisation is the free movement or flow of people, goods, information, ideas, and services beyond national boundaries and across the globe without restraint. Martial races fought wars and became victorious using muscle power or the aristocracy of the sword. They looted, pillaged, plundered, and raped other nations and transported people as slaves during Globalisation 1.0. Expansion of religion and conversion of others into their fold also led to the movement of people across the globe during Globalisation 1.0.

With trading and the rise of currency, human beings who created relationships on the basis of reason, merchandise, and goods moved across seas and land during Globalisation 2.0. Information, ideas, and knowledge moved across the globe during Globalisation 3.0, and the internet provided a seamless infrastructure for this transmission.

Now we have set foot in Globalisation 4.0, marked by the movement of services globally without the movement of people or infrastructure, enabled by high-speed mobile internet, big data analysis, cloud technology, and artificial intelligence. From Business Process Outsourcing to Knowledge Process Outsourcing to Legal Process Outsourcing, there has been an explosion of e-services such as Netflix, Fiverr, Upwork, and Mechanical Turk. A 2015 World Bank study suggested that the gig economy would grow to US$ 25 billion by 2020. There are 167 listed collaboration platforms such as Basecamp, Teamwork, and Trello. Language translation services are helping people below the poverty line enter the global economic mainstream.

Post-2015, nations are making efforts to take the lead in the Fourth Industrial Revolution and are striving to compete in the meaningful production of in-

formation, ideas, goods, and services using artificial intelligence. There is a simulated arms race amongst technology companies in machine intelligence and machine learning.

All this is happening because individuals are moving from the third dimension to the fourth dimension. Human beings who lived as individual nomads during their first-dimensional existence, as tribes and town dwellers in their second-dimensional existence, and as city and metro dwellers within defined national territories in the third dimension, have now moved beyond physical man-made boundaries into a metaphysical world. Physical location is losing significance, and human beings are finding themselves in greater harmony with fellow beings irrespective of race, colour, religion, national origin, citizenship status, gender identity, sexual orientation, age, or disability. DNA tests have broken down notions of exclusivity or superiority by ancestry – notions deeply ingrained in leaders who pushed factions towards violence and war.

The impact of this concurrent and simultaneous transition is being felt by all institutions, models of governance, politics, law, and individuals. From the United Nations to family structures, from banking to cryptocurrency wallets, from the manner in which wars are fought to the manner in which agriculture is carried out, from terrorism to pick-pocketing, from global politics to village-level affairs, from heads of state to rag-pickers – every structure is undergoing reorientation.

All these shifts and transitions are directing citizens of the world towards global democracy, global politics, and global law – a borderless and homogeneous world where, in the words of Mahatma Gandhi, it becomes possible to "wipe out every tear from every eye."

The pessimists say that we are living in a VUCA world – Volatile, Uncertain, Complex, and Ambiguous. The realists would say that we must work together to create an SRIM world – Stable, Reliable, Inclusive, and Multidisciplinary. The optimists like me would say that we are moving towards a HITAA world – Harmonised, Integrated, Transparent, Accountable, and Abundant.

The Shift Leading to a New Orientation of Democracy and Politics

Effective political power in democracy can no longer be assumed because of inclusiveness, demographic changes, immigration, polarisation, and the unbundling of power. Power will increasingly have to be shared, bartered, and won over by reason, with new awareness dawning through diverse forms of support and assistance at global, national, regional, and local levels. Democracy has become complicated and, at places, even shambolic, with the emergence of single-party dominance and authoritarian rulers. Parliamentary democracy globally appears to be under stress.

With adult franchise now established in democratic countries around the world, governments are indeed formed "by the people" and "of the people," but they are often failing to become governments "for the people." The "people" here are not merely the traditional social elite, but all those who were historically pushed back as backward or underdeveloped and who now possess the right to vote. Coalitions of historically underprivileged groups are assuming power and becoming electoral majorities, while those who remained in power for centuries find themselves reduced to insignificant minorities. Divide-and-rule politics and the escalation of conflicts among minorities are gradually being substituted by inclusive welfare, growth, and development driven by local aspirations.

Politics today is no longer merely a matter of muscle power, aristocracy of the sword, or racial supremacy. Global harmony and consensus have become essential, and such consensus can only emerge through a clear understanding of the larger picture and by establishing a nexus between the goal and the path, between the object sought to be achieved and the process of achieving it. Both the process and the object must be reasonable, just, and proper, and their outcome should not lead to exploitation, suppression of any will, or the rise of unheard cries.

Authoritarian politics is being replaced by politics grounded in reasoning – reasoning that is not confined to the welfare of a class, race, or gender, but directed towards the welfare of all. Those pushed back over centuries – women, blacks, browns, yellows, reds, LGBTQ communities, and many others – are reasserting their existence, and there is no reversal of this fourth wave.

The New Orientation is Leading to Conflicts

All the phases and segments of Globalisation 1.0, 2.0, and 3.0; the First, Second, and Third Industrial Revolutions; the First, Second, and Third dimensional mindsets; and the First, Second, and Third waves of civilisation have not disappeared into oblivion. They continue to exist simultaneously in a quantum manner alongside the Fourth. Conflicts between people existing at different levels are becoming sharper.

Conflicts are emerging every moment between those still holding tribal attitudes; those fighting for territorial expansion, monopolies, and cartels; and those who find it impossible to accept, adapt, and acclimatise to the new emerging economic and social order relentlessly moving forward.

Mass production of quality goods by certain countries at non-competitive prices will inevitably wipe out jobs and industries elsewhere, leading to mass unemployment and social unrest. By 2022, average human task-hours were projected to reduce from 71% to 58%, while machine and algorithmic work would

rise from 29% to 42%. Nearly 62% of organisational data processing, information search, and transmission tasks are expected to be performed by machines. All this will create more disagreements, clashes, disputes, and litigation.

The siphoning away of taxpayers' hard-earned money by those who acquire power and park wealth in tax havens through camouflage and bribery is also creating serious conflicts between the governing and the governed.

Rule of Law

Though the history of mankind is filled with wars, loot, plunder, pillage, and rape, history has also taught us that nothing lasting has ever been achieved through violence, destruction, and devastation. The rise of the rule of law represents the rise of civil society seeking protection against criminality, illegality, and exploitation.

These inter and intra conflicts at global, national, state, and family levels can only be resolved through a continuous affirmation of the rule of law. The rule of law must act more firmly than ever as the protector of civil society. Since the issuance of the Magna Carta, the rule of law has steadily established itself and has continued to respond to crises arising in human interaction within societies governed by law rather than autocracy or military regimes.

In a world of multi-level governance and global legal pluralism, subjecting political actors to the rule of law presents a special challenge. The unbundling of authority across different levels of governance and the absence of a single overarching framework governing their interaction make attribution of responsibility more difficult and governance failures more likely. Yet, according to me, these apparent weaknesses may become the greatest strengths of governance beyond the nation-state. Different layers of governance can operate as checks upon one another, thereby hedging political power, strengthening accountability, and contributing to the multi-level protection of human rights.

The rule of law is not static. It will continue to evolve as technology accelerates the pace of change. Global politics will have to rise above dogmas, ideologies, groupthink, crusader mentalities, and anti-intellectualism that divide humanity into believers and non-believers, righteous and unrighteous. The ruleof law alone provides a framework for respecting the equal moral worth of all human beings and building equality across the world.

I know some people are gloomy about the future of the rule of law. I do not share their pessimism, for I am a hard-core optimist. Responsible judicial review is both a precondition and a defining characteristic of a society that values the maintenance of the rule of law.

Role of the Judiciary

The judiciary, by its inherent nature, assumes jurisdiction to determine all forms of conflict arising out of abrasions within society. As conflicts deepen and sharpen – which they inevitably will among institutions, technologists, entrepreneurs, families, NGOs, and governments – the role of the judiciary becomes even more critical.

The process of litigation is creative for judges and advocates; decisive for litigants; educative and informative for those who seek awareness of inter and intra-human relationships, rights, and duties; entertaining for the public; a source of plugging legislative gaps; and a means of revealing executive error, whether deliberate or inadvertent. Litigation also acts as a balancing process of powers, while the larger purpose remains the attainment of justice through dialectics.

Within the judicial process, we witness dialectics live – the elimination of errors through reasoned engagement between the Bar and the Bench, through examination of issues, precedents, and evolving societal realities, while continuously applying the principles of the rule of law to changing technological and socio-economic structures.

The judiciary will increasingly have to act at all levels – local, national, and global – with the full power of wisdom at its command, both as shield and sword: shield to protect against exploitation, and sword to punish exploiters while resolving conflicts, expounding equity and equality, and providing justice for all.

With judicial activism protecting human rights and acting as a crusader against injustice in all forms, the judiciary is steadily emerging from the Machiavellian shell of limited power. Alexander Hamilton once described the judiciary as the weakest arm of government, possessing neither sword nor purse, its role limited merely to interpreting laws. But that is not wholly true.

While interpreting the equality clause – one of the profound pillars of the rule of law – the judiciary possesses the power to strike down arbitrary action, convict heads of state for corruption, and declare null and void legislation abridging equality. Believe me, friends, this is not an inroad into the doctrine of separation of powers; it is the only road to the judicious exercise of power necessary to provide a protective umbrella to an increasingly fractured civil society.

When the legislature and executive fail the people, the man on the street turns to the lawman, and the lawman turns to the courts for the protection of the judiciary, affirming the rule of law in every case that comes before it. With parliamentary democracy under stress and conflicts becoming sharper, the judiciary will have to play a firmer and larger role than ever before.

As the protector of constitutionalism and the rule of law, the judiciary is

both the first and the last line of defence of civil society and of mankind itself.

Inspirational Thoughts

"Man fights grimly for the status of ideologies, lest the experience they seek to validate be derided by their opponents."

– Harold Laski

…

Mahaabhaarat is the war fought by each individual at every conscious moment, from the time there is awareness to take the spiritual journey till the realisation dawns. Mahaabhaarat is the conflict within the person, between the thoughts and feelings nurtured over the years for the family, friends, and colleagues on one side, and the thoughts and feelings for realising the Truth and the true nature of one's own Self on the other.

– Second Gita Discourse

…

"Tribulations first make one realise what one is. The consciousness of a supreme duty lifted her character to a higher level than she had ever known. Just before the mortal, transient frame perished, the immortal work of art was perfected. The mediocrity, through suffering, achieved greatness commensurate with her destiny.

– Stefan Zweig – Marie Antoinette (The Portrait of an Average Woman), p. xv

The passage on Marie Antoinette – who was forced by destiny to transcend herself – maps directly onto the institutional crisis of this decade: that which one did not seek, one was compelled to bear; and what was borne with conscience made the bearer greater.

…

A distracted mind can be quieted, but to keep awake a quietened mind is difficult, because it goes to sleep. The only way to tackle a quiet mind is to empty it in atma-vichaar – reflection upon Brahma. When the mind tends to fall asleep, keep it awake by atma-vichaar; and when the mind becomes distracted by kaam-bhog, let it be withdrawn by vairaagye.

– Maandukye Upanishad – Adwaita Prakarana, pp. 40–45

…

"Believe you me, there is no pain greater than seeing injustice happen and being privy to it."

– Scribbling

…

"Deeper it can go, shallow it can never. All incidents seem to be of this moment ever. Time is timeless, contracts, expands, done and undone. Nothing ever changes; past, present, all explode into one."

– Scribbling

…

There is no great revolutionist than the small little conscience that resides in the human heart.

– Scribbling

Afterword – The Storm Within the Temple

Ten years. A decade that arrived without announcement and departed without ceremony, leaving behind, in the life of the institution I had served, a landscape altered in ways that neither the beginning nor the end of the period could have fully predicted.

The articles, addresses, and reflections gathered in this section are, taken together, the intellectual analytics of those ten years. They begin with a question about the profession's mobility – asked in Hong Kong in April 2009, two months after service to the State of Rajasthan had ended – and they close with a reading of a democratic moment in May 2019 as a civilisational event, the reincarnation of a great nation in its own body. Between those two poles lies an arc of thought that moved, steadily and without retreat, from the particular to the universal: from the mechanics of electronic filing and neutral citation to the metaphysics of the fourth dimension; from the jurisprudence of public interest litigation to the philosophy of harmonious co-existence; from the economics of demonetisation to the theology of the Hindu temple; from the operational architecture of SpotLaw to the deepest question of what Legal Revolution 5.0 must become if it is to serve the common man rather than merely the well-resourced.

What unites these pieces is a single conviction that deepened across ten years of continued practice and accelerating observation: that the gap between Law and Justice – always present, always uncomfortable – had, in the decade of the storm within the temple, widened to the point where it could no longer be accommodated within the existing institutional architecture. The January 2018 press conference did not create that gap. It named it, publicly, before the cameras of the nation. But the gap had been forming across over the decade – in the assignment of sensitive matters, in the weaponisation of the roster, in the slow erosion of traditions that had given the institution its dignity, in the growing evidence that those with the power to use Law were using it with increasing sophistication to obstruct Justice rather than deliver it.

The response to this widening gap, across these ten years, was not despair — it was never despair – but the construction of alternatives. SpotLaw was an alternative to the inaccessibility of legal precedent. BIPA was an alternative to the exploitation of the sportsperson. The recommended arbitration clause with its mandatory mediation period was an alternative to the adversarial default. The Dimension Theory was an alternative framework for understanding why the institutions

of the third dimension were failing the people of the fourth. The note on the Hindu temple was an alternative jurisprudence – one grounded not in the convenience of a Protestant legal tradition imposed by a colonial power, but in the living spiritual reality of what a temple is and why it exists.

These alternatives were not retreats from the law. They were, each of them, arguments made through the law and about the law – arguments for what the law must become if it is to remain the Mistress worth serving. But they were also, and this is the deeper truth of this decade, the first clear articulations of the Love that was rising in the Mistress's place. Not as her replacement – the advocate who abandons Law entirely has abandoned the most powerful instrument available to the common man – but as her correction, her reformation, her deepening.

The court remains necessary. The argument remains necessary. The brief remains necessary. But the brief must serve Justice, not merely the law. The argument must lead toward resolution, not merely toward victory. And the court must understand itself not as the end of the road for human conflict, but as a last resort – the destination reached only when every other means of achieving harmonious co-existence has been exhausted.

That understanding – which the *Shrimat Bhagwad Gita* had always expressed in the language of *dharm*, which the Upanishads had always expressed in the language of consciousness, which Toffler had expressed in the language of industrial revolution, and which the thirty million dockets of the Indian judiciary had expressed in the language of human suffering – was not arrived at in a single moment of revelation. It arrived, as the deepest truths always arrive, incrementally and cumulatively, through the accumulated weight of what was seen and argued and written and refused and finally, irrevocably, understood.

The storm within the temple of justice had been real. The institution had shaken. The faith had been tested, as Justice Punchhi had predicted it would be tested, as long ago as January 1997, when he said that those who move with integrity and passion for the profession make those in power uncomfortable. But the faith had not broken. It had been refined – stripped of its innocence, deepened by its losses, and redirected from the Mistress to the Love.

The decade that followed would demand that the Love find its institutional form. That demand is the subject of the chapter that comes next

CHAPTER 8

The Mistress in Decline – The Love in Ascent
01.04.2019 – 31.12.2024

Designation, Neutral Citation, Peace Mediation and the Light of Legal Revolution 5.0

There are moments in life when the outer world and the inner world arrive at the same destination by entirely different roads – and the meeting, when it comes, carries not the quality of surprise but of recognition. The years between April 2019 and December 2024 were such a period for me. The outer world was in transition: a nation repeatedly redefining itself through democratic choice; a pandemic that closed courtrooms and opened screens; the emergence of Artificial Intelligence as perhaps the most consequential jurisprudential challenge since the printing press; the gradual erosion of traditions that had held the Supreme Court together across generations; moments of institutional introspection; and, running beneath all of it, the growing realisation that Law, as presently structured and administered, was becoming increasingly distant from the justice it had always promised.

The inner world, meanwhile, had arrived at a different clarity – one that perhaps only the long arc of five decades of practice can produce. I began to understand that the Mistress I had served since the 01.08.1976 was not diminishing because of any single failure or betrayal, but because over time she had begun to drift from her original purpose. And what I had come to call my Love – Justice in its fullest and most uncompromising sense – was not an aspiration or sentiment but a structural necessity: something toward which Law could point, facilitate, and sometimes approximate, but could never, by its own force alone, completely deliver.

This chapter is therefore different in its architecture from those that precede it. The earlier chapters were built around cases argued, legislation drafted, strategies crafted, and relationships forged and strengthened in the warmth of advocacy. They carried the rhythm of battles – positions taken, ground gained or lost, and lessons drawn. This chapter is built instead around reflection: addresses delivered, blogs written, mediation training conducted, seminars attended, institutions imagined and pursued, and – most significantly – the gradual unfolding of a philosophical framework that had been germinating since those early mornings at Triveni Sangam, Allahabad, and which, in these final years of active practice, found its

most mature and considered expression. The cases continued – a handful of them, each significant in its own right – but the centre of gravity had shifted. The court chamber remained the arena of the Mistress; the address, the article, the mediation classroom, and the webinar increasingly became the arena of the Love.

When I look back at the writing and speaking that accumulated during these years – on Alternative Dispute Resolution and its dimensions of evolution; on Artificial Intelligence and its application to legal institutions; on fading traditions of the Supreme Court; on advocacy through the lenses of *Angad* and *Shri Krishan*; on Legal Revolution 5.0 and the collaborative jurisprudence it demands; on the *Shrimat Bhagwad Gita* as a map for resolving inner conflict; on Finance Revolution and the ethical colour of wealth; and on Peace Mediation as the process through which parties rediscover the solution already existing within themselves – I no longer see isolated pieces. I see a single sustained argument, expressed through many occasions and in many registers.

That argument is this: the third-dimensional structures of Law – adversarial, territorial, command-based, slow, and often inaccessible to the ordinary citizen – are giving way, gradually yet irreversibly, to forms of justice in which resolution is approached not merely through the authority of the State to decide and punish, but through the human capacity to understand, communicate, collaborate, and resolve. Technology, private systems of trust, digital infrastructure, and Artificial Intelligence will not eliminate legal institutions; they will compel their transformation. The Mistress does not disappear in this transition. She evolves – or she risks becoming increasingly irrelevant.

Yet – and this is the paradox that gives this chapter its character – it was also in these years that I witnessed some of the most hopeful institutional energies of my professional lifetime. The stewardship of Chief Justice D.Y. Chandrachud brought visible attempts to reposition the institution for a new age – through steps such as neutral citation (part), live streaming, the National Judicial Data Grid, e-filing, and virtual courts – which represented, for the first time in my professional life, a serious effort to move the judiciary toward its next stage of evolution. The Mediation Act, 2023 gave statutory recognition to an idea that I had long believed to be among the most humane and sustainable forms of dispute resolution, though its full transformative potential still awaits institutional embrace.

Parallel experiments in other fields revealed similar possibilities. The Basketball India Players Association (BIPA) attempted to place the sportsperson – not administration – at the centre of governance. SpotLaw, a vision that had been forming in me since 1981, moved closer to becoming an integrated AI-assisted legal research ecosystem and, I believe, will gather full momentum once neutral

citation at authentic and structured legal data becomes universally available. These were not isolated initiatives. They were glimpses of the Love beginning to find institutional form.

What unites the writings of these years – from Artificial Intelligence and legal institutions, to *Sanaatan Dharm* and Modern Law; from mediation reflections to social commentary; from Finance Revolution to constitutional thought – is a single conviction arrived at across fifty years of practice and deepened in these final years of it: Law without Justice is not merely inadequate; at its worst, it becomes the most sophisticated instrument of injustice available to those who possess the power to use it.

Justice, in its deepest sense, is not merely a legal construct – it is a civilisational and philosophical one. It emerges from the recognition that every human being carries equal intrinsic worth; that dignity cannot depend upon power; and that institutions exist not to preserve themselves, but to create conditions in which human beings can realise their fullest possibility. At her best, the Mistress has always served this purpose. At her worst, she has obstructed it. These years brought me to a quiet certainty about which role she had increasingly come to play – and what would be required for her renewal.

The articles, addresses, and reflections that follow are presented individually, as they were originally conceived and delivered. But they are intended to be read together. They form a single movement – the movement of a mind that spent fifty years in the service of the Mistress and arrived, in the final phase of that journey, at a fuller understanding of what the Love demands. Legal Revolution 5.0 – the collaborative, empathetic, consciousness-centred jurisprudence explored in these pages – is not a prediction of what law may someday become. It is an attempt to rediscover what Justice has always been. The Mistress is changing. The Love endures. And the work of bringing them closer together has entered its next and perhaps most consequential phase.

Smt. Shail Gupta

06.06.1932 – 16.01.2018
80th Birthday – 06.06.2012

On Mummy's birthday, I share the joy that her life has been to me, to our family, and to everyone whose life she touched – and I wish her peace, happiness, and joy wherever she exists in the life that follows this one.

Mummy had completed eighty seasons of life. I spent sixty conscious years with her. She was the cause and the effect of my birth, my existence, my basic education, my background, my tradition, my culture, my belief system, and a

rock-solid foundation upon which everything that followed was built. I have never felt a more complete matching of spirit and substance with any other person than I found with her. I was certainly unable to imbibe several of her finest qualities – for she was, like the affectionate earth itself, one who continued to give everything in abundance to everyone, without the remotest touch of arrogance. That is a rarest of rare phenomena. It is not learnable. It is what one simply is.

She touched every person she met – deeply and personally – giving something of herself to each, from Swami Satyamitranand Ji, who was her Guru, to the domestic helpers who served the household. She was simple, humble, modest, and unassuming. She treated everyone with love, respect, and a very personal warmth.

Her extraordinary kindness, compassion, magnanimity, generosity, and benevolence flowed without measure – extended to anyone and everyone with a motherly love that sometimes astonished, and occasionally discomfited, even those nearest to her. She could not help it. It was her nature.

She was a wonderful natural entrepreneur – possessed of great strength, confidence, and the perseverance to handle every situation with poise, dignity, and self-respect. She was an ardent reader of books, deeply spiritual, and kept to her schedules with quiet discipline. She had taken the best possible care of all of us – close family and extended family alike – with a constancy that never faltered and never sought acknowledgment.

On behalf of Padma, Shashwat, Pallavi, Shitij, and Reshika, I wish her a joyful birthday – and eternal peace, happiness, and joy in the life that awaits her.

16.01.2018

Mummy left us today. I spoke these words at the gathering of those who came to be with us, and I record them here as they were spoken – for they belong to this life as much as any judgment or argument, and more than most.

Thank you, all of you, for being with us today. We have gathered here in memory of my mother, Smt. Shail Gupta, so that together we may acknowledge and share both the joy that her life was to us and the pain that her passing brings. In sharing the joy and the pain together, may we lessen the pain – and may we remember, more clearly, the joy.

Mummy completed eighty-five summers in her life. She is survived by her three sons, one dear daughter, and nine grandchildren. She was the eldest of four brothers and a sister at Agra, and she must have spent much of her early life helping her mother to raise the younger children – and that is how she became the person she was: incredibly generous, deeply kind, tireless, and strong in a way that neither circumstance nor age could diminish. She was so strong that until her last breath, she continued to say that she was fine.

She was the cause and effect of our birth, our existence, our background, our tradition, our culture, our belief system, and a legacy of love and perseverance that will outlast all of us.

My first memory of Mummy goes back to 1958 – when, as a child of three and a half, holding her hand, I went to jail to meet my father. He had, along with many other advocates at Jaipur, courted arrest while protesting the abolition of the High Court Bench at Jaipur. That image has never left me: a small hand in hers, and the complete absence of fear, because her hand was there. That was what she gave – not merely love, but the courage that comes from being loved absolutely.

In 1958 we shifted to Jodhpur. It must have been a very difficult transition for her – from a four-storeyed kothi at Agra, to a bungalow in C Scheme, Jaipur, to a two-bedroom flat on the third floor of a building in Jodhpur, opposite a zoo. She made each place a home. She got me to learn handwriting, drawing, music, and geometry early in life. She enrolled me in typing classes, knowing, with a mother's quiet prescience, that the skill would one day be indispensable to my profession.

She did everything, and she did it fully. She grew a kitchen garden. She maintained and milked the family cow. She made butter. She made home ice cream – by hand. She distributed clothes at the *kodhi khana* on my father's birthday each year, with a fervour and zeal that made the ritual feel like a celebration. She was the finest cook any of us has ever known. She acquired a knitting machine in the 1960s and would produce sweaters for family members and friends within hours – as though the making was itself the joy. She travelled round the world with my father in 1971, for he was an enthused traveller, and she matched him without complaint. She built a home library and filled it, book by book, over the decades.

When my father was elevated as a Judge of the High Court of Rajasthan in 1973, life became easier and more glorious for her – but she did not rest. She continued to work with the same spirit of creativity that had always driven her. She undertook the distribution of clothes for newborn children. She resurrected the artist within herself and created some of the finest paintings to emerge from her brush. And then her great spirit of entrepreneurship bloomed fully – she started MilkyWay, one of the first fast food centres in Jaipur. She served as President of Durga Vahini, Rajasthan, and as Vice President of Vishwa Hindu Parishad. Those were her own glorious years – as an affectionate mother, a provider of everything to everybody, a woman who had reached the zenith of personal satisfaction and still gave more.

There are no words adequate to describe the closeness between a child and his mother – particularly when one knows, with a certainty that cannot be explained in legal reasoning, that one has inherited a matching DNA. She was simple,

humble, modest, and unassuming. She had a deep spiritual foundation and walked her faith quietly, without theatre. Like the earth itself, she continued to give everything in abundance to everyone, and she asked for nothing in return.

I have had the privilege of the greatest mother – exactly the way she was. Nothing but the best.

She has left us. But she has not left.

Taking The Silk Route

08.03.2023 (Address)
23rd Commonwealth Law Conference 2023, Goa

It is indeed a privilege to address this august gathering on a subject which, though wrapped in silk, carries within it questions of power, hierarchy, recognition, equality, and the future of the legal profession itself. The subject before us is not merely about gowns. It is about the philosophy of distinction within a profession that speaks every day in the language of equality before the law.

Interestingly, history has witnessed three great Silk Routes.

The first was the ancient Eurasian Silk Route – stretching across Asia, the Indian subcontinent, the Middle East, Africa, and Europe for nearly seventeen centuries, carrying not merely silk but civilisation itself: trade, culture, religion, philosophy, science, and political thought.

The second Silk Route emerged in modern times in the darknet world – a digital marketplace functioning through anonymity and Bitcoin, trafficking in prohibited goods before it was eventually dismantled by state power.

And then comes the third Silk Route – the one we are discussing today – the route to silk within the legal profession itself. A route that has survived longer than the first two and perhaps become even more complex, controversial, and difficult to navigate.

I must confess that I always found it curious that the legal profession chose silk as its highest symbol of distinction. Silk is soft, smooth, graceful, refined – carrying perhaps more elegance than the profession which wears it. Yet this silk gown has come to symbolise authority, learning, status, and institutional recognition.

My own first encounter with silk came in 1973 when my father was elevated as a Judge of the Rajasthan High Court. In India, Judges of the High Courts and the Supreme Court wear silk, as do designated Senior Advocates. From that moment onward, I began observing how much power a piece of cloth can silently carry inside a courtroom.

To understand the institution of silk, one must travel back to Roman civilisation. Emperor Justinian had placed lawyers at a pedestal higher than soldiers defending the empire. His reasoning was profound. Soldiers protect territories, property, and physical boundaries. Lawyers protect rights, liberties, relationships, obligations, and justice itself – realities extending far beyond what can be secured by the sword.

By the thirteenth century, England had developed professional lawyers known as Pleaders and Attorneys. From amongst the Pleaders emerged the Serjeants-at-Law, who alone possessed rights of audience before the superior courts. Judges themselves were selected from their ranks. They wore the coif as a mark of distinction.

The modern Silk Route truly began in 1597, when Queen Elizabeth I appointed Francis Bacon as Learned Counsel Extraordinary, granting him precedence before courts. Bacon – philosopher, statesman, and one of the greatest minds of his age – may well be regarded as the first true silk of the modern legal world. His essays still carry the brilliance of language with which he enchanted his age.

Ironically, Bacon later became the only Lord Chancellor of England ever convicted for corruption and bribery. I have often remarked that Bacon perhaps used a silk route to obtain silk – and unfortunately, in many jurisdictions, including India, that criticism has not entirely disappeared.

Interestingly, the institution itself does not exist in the same form in jurisdictions such as the United States, France, Germany, Japan, Singapore, South Africa, Sri Lanka, and many others that evolved differently from the colonial model.

Over centuries, the institution evolved across the Commonwealth as Queen's Counsel, King's Counsel, and Senior Advocates. Yet everywhere the same question persisted: who truly deserves silk – and who decides? What is the route to silk?

The difficulty is not in recognising merit. The difficulty lies in the process of recognition itself. Across jurisdictions, allegations have repeatedly surfaced – of favouritism, coteries, lobbying, exclusivity, anti-competitive practices, and invisible institutional barriers. Many deserving advocates were denied silk when it was due, while others received it without the profession fully understanding why.

In India, Section 16 of the Advocates Act, 1961 divided one unified profession into two classes – Senior Advocates and other advocates. Senior Advocates were conferred distinction but simultaneously subjected to restrictions. They could not file vakalatnamas, draft pleadings directly, or accept instructions from clients without another advocate. The idea, perhaps, was to create a class of advocates expected to maintain the highest standards of dignity, integrity, ethical conduct, and contribution to the development of law and social jurisprudence.

But over time, the institution created another reality. The moment a judge

unconsciously develops greater regard for one advocate merely because he wears silk while another equally competent advocate stands beside him without it, inequality quietly enters the courtroom. Justice, at that moment, risks appearing less than completely equal. Clients and briefing advocates then begin searching not merely for experience but for perceived influence. When litigation begins to move through status rather than merit, justice alone suffers.

A profession that exists to protect equality before the law must itself be careful not to structurally perpetuate inequality within its own ranks. Any institution that creates two visible classes within a noble profession must justify itself through complete transparency, objectivity, and fairness. Otherwise, silk becomes less a recognition of learning and more an instrument of exclusion.

The legal profession today stands at the threshold of a completely different age. Artificial intelligence, virtual hearings, global legal platforms, digital courts, and cross-border legal services are transforming advocacy itself. The future lawyer may not even stand physically before the judge. The future court may itself become borderless, transcending many of the physical limitations within which traditional institutions evolved.

In such a world, the real question is no longer who wears silk, but whether the profession itself remains worthy of public trust. The future belongs not to inherited privilege, invisible hierarchies, or institutional vanity, but to merit, transparency, technology, accessibility, and justice.

And therefore, ladies and gentlemen, perhaps the time has finally come for the Commonwealth itself to reflect seriously on whether this inherited system of silk should continue in its present form.

Incidentally, in Sri Lanka every advocate wears a senior gown. Perhaps that itself contains a profound constitutional message – that dignity at the Bar should belong equally to all who serve the cause of justice.

Moving Into Web3 Space

Blockchain, Decentralisation, and the Seeds of Finance Revolution 5.0 (Article)

There is a moment in every technological revolution when what began as the preoccupation of a small group of visionaries – hackers, cryptographers, libertarians, and philosophers of code – crosses an invisible threshold and becomes the concern of lawyers. That moment, for the revolution that would come to be called Web3, arrived for me sometime around 2011. I had been watching it gather. The Toffler's had prepared me to watch for precisely such moments. *Revolutionary Wealth* had described, with prophetic precision, the coming of financial innovation be-

yond fiat currency: not merely another species of derivative instrument, but something far more radical – the attempt by a generation of technologists to remove the intermediary from human exchange altogether and take finance beyond the control of conventional banking.

The origins lay in a conviction as old as liberty itself and as new as the internet. In the early 1990s, a group of libertarians – mathematicians, cryptographers, computer scientists, and philosophers – established a mailing list and began meeting to discuss what they believed was the central question of the coming age: in a world in which governments and financial institutions could monitor, intercept, and control every form of electronic communication and transaction, and in which, under the garb of system failure, billions of dollars could be siphoned from the pockets of the self-earning middle class, how could individuals protect their privacy, autonomy, and economic freedom?

They called themselves the Cypherpunks, and in 1993 they published their manifesto—a declaration that strong cryptography, in the hands of ordinary people, could rebuild the architecture of privacy and freedom that the digital age was rapidly dismantling. The society they envisioned was one of minimal institutional ownership and control, peer-to-peer interaction secured by mathematical proof rather than institutional trust, and individuals transacting with each other across borders without the permission or surveillance of any government or bank.

The vision was radical. Its implementation, however, remained elusive; indeed, for those who claimed intellectual property rights and ownership in new forms of currency, it carried the warning of a death knell. Over the following fifteen years, a succession of digital payment systems attempted to realise some version of that vision and failed – each for instructive reasons. The fundamental problem was centralisation. Every system, however idealistic in conception, ultimately placed the authority of the transaction in some organisation, server, or identifiable point of control, making it vulnerable to regulatory pressure, hacking, or the collapse of the business model sustaining it.

The Byzantine Generals' Problem – the question of how independent parties can reach consensus in a system where any participant may act dishonestly – had no solution within those architectures. Double-spending, the digital equivalent of paying the same amount twice against the same balance, remained unresolved. The banking lobby and complex government regulation did the rest. Each experiment failed, and those who attempted to create an alternative to the monopoly of state-issued money found themselves bankrupt, prosecuted, or abandoned by a market that had not yet found reason to trust them. The anti-thesis remained in control of banking and fiat currency for nearly two and a half centuries.

Then, in October 2008 – in the very weeks when the global financial crisis

was exposing the catastrophic fragility of the centralised financial system that the Cypherpunks had always distrusted – a white paper appeared. Its author was identified only as Satoshi Nakamoto, a name that was, in all likelihood, a pseudonym and may have concealed either an individual or a group. The paper proposed a peer-to-peer electronic cash system – Bitcoin – that solved, with mathematical elegance, many of the problems that had defeated its predecessors.

The double-spending problem was resolved through a distributed ledger. Every transaction was recorded simultaneously across thousands of independent nodes, so that no single point of control existed and no transaction could be falsified without the agreement of the majority of the network. The result was a currency that no government could print, no bank could freeze, and no institution could expropriate—a currency secured not by trust in any institution, but by the verifiable logic of the algorithm itself. The first Bitcoin block – the Genesis Block – was mined on 03.01.2009, and in its coin-base parameter Satoshi embedded a headline from *The Times* of that morning: *"Chancellor on brink of second bailout for banks."* The message was not subtle. It was a declaration of independence.

I watched these developments with the attention of a man who had spent forty years at the intersection of law and financial structure, and who had been asking, since reading Toffler in 2007, what a genuinely equitable financial architecture would look like. What I saw in Bitcoin, and in the blockchain technology that underlay it, was something the financial and legal establishment was not yet ready to see: not merely a new payment system, but a new infrastructure of trust. The blockchain – that chain of blocks, as Satoshi had originally called it, without using the word we now associate with the technology – was, at its deepest level, an instrument of accountability. Every transaction recorded on it was permanent, transparent, and tamper-proof.

The implications for the legal system were staggering for anyone who had spent a career dealing with fraud, interpolation, forgery, perjury, and corruption of records. Land registries whose entries could not be falsified. Wills and succession documents whose provenance could be mathematically certain. Title deeds carrying their own chain of custody, visible to every party and corruptible by none. The technology did not merely have the potential to disrupt finance; it had the potential to eliminate entire categories of litigation that had consumed decades of court time and caused incalculable human suffering.

After the glitch during the 2013 Silk Road episode, a few other scams, and the U.S. Standing Committee finding no inherent illegality in the structure, by 2017 the ecosystem had matured sufficiently for its legal dimensions to no longer be deferred. A new generation of entrepreneurs – genuine builders, not merely the scammers and speculators who had by then attached themselves to every corner of

the space – were creating platforms in which entertainment, sports, gaming, and commerce were conducted through decentralised systems governed by smart contracts: agreements encoded directly in software, self-executing upon satisfaction of their conditions, requiring no court to enforce them because their enforcement was architectural. Regular contracts had begun giving way to smart contracts.

The question was no longer whether this technology was real – it manifestly was – but what legal framework would govern it, what rights it created, what obligations it imposed, and what remedies would be available when things went wrong. And in the fast-moving, poorly understood, jurisdiction-straddling world of Web3, things went wrong with impressive regularity.

This was the moment at which Law Consults, the law firm, made its decisive move. We created Web3 Legal as a dedicated division of the practice – not as a peripheral experiment, but as a considered institutional commitment, reflecting the conviction that the legal profession must enter new territories while those territories are being mapped, not after they have been settled by others. The line between gaming and gambling in the virtual world was, and remains, extraordinarily thin. The Supreme Court's jurisprudence on games of skill and games of chance, from *State of Bombay v. R.M.D. Chamarbaugwala* through the horse-racing judgements, had been built for a world of physical tables and physical tracks; its application to a decentralised protocol required careful, disciplined, and genuinely creative legal work. Regulatory frameworks for digital assets were emerging simultaneously and inconsistently across dozens of jurisdictions.

Clients came to us navigating a landscape in which the rules were being written even as the game was being played, and the quality of legal counsel they received in those early years would shape, for better or worse, the structures they built and the regulatory relationships they established. As expected, regulatory structures emerged in jurisdictions seeking to become global players – the United States, London, Dubai, Singapore, and Hong Kong among them. India, sadly, has not yet seriously considered moving into this space with the clarity and confidence required. Sad, but true.

From 2021 onwards, working in association with Charltons, the distinguished Hong Kong-based law firm with one of the most respected practices in digital assets regulation in the Asia-Pacific region, we undertook a systematic documentation of digital asset regulations across twenty-eight countries. The work required sustained research and the kind of comparative legal analysis that had always been, in my understanding, one of the highest forms of legal practice. It demands not merely knowledge of one system's rules, but comprehension of the underlying policies, institutional histories, and political economies that produce different regulatory choices in different jurisdictions. The result was a comprehensive mapping

of the global regulatory landscape for digital assets, which was presented to delegates at the Commonwealth Law Association Conference in Malta in 2023 – one of the most significant international forums for precisely this kind of convergent legal thinking.

The presentation in Malta, led by Ms. Julia Charlton, was not merely a professional milestone. It was the fullest public expression, to that point, of a conviction that had been forming in me across a decade of watching Web3 develop: that the emergence of decentralised finance was not a threat to the financial order, but an invitation to rethink it. It was an invitation to ask, at the most fundamental level, what the financial system is for, whom it serves, and what values it embeds in the daily transactions of human life.

It was precisely this rethinking that had been germinating through the years since Toffler and through the years of watching blockchain mature into what I would come to call Finance Revolution 5.0 – the PICS Economy. The PICS framework – standing for Harmony, Equity, Individual, Community, and Sustainability – emerged from a recognition that the existing financial order, for all its efficiency and scale, made invisible the most important forms of human value: the peacemaker who resolves a dispute without litigation, the volunteer who cares for the elderly without a salary, the teacher who educates without institutional employment, and the environmental steward who restores what industry has degraded. These contributions – vast, civilisationally essential, and entirely real – do not appear in any GDP calculation, do not earn their contributors any market return, and have been systematically undervalued by every financial instrument that the modern economy has invented.

Blockchain made possible something that had previously been architecturally impossible: the creation of a verified, tamper-proof, distributed record of contribution – not merely financial contribution, but human contribution in all its forms. For the first time in the history of economic organisation, it became technically feasible to create an Invisible Economy: a parallel system of value recognition that could see, record, and reward what the visible economy was incapable of recognising.

The peacemaker could be recognised. The carer could be compensated. The health of the environment could be measured and rewarded. The *nishkaam karm* of the *Shrimat Bhagwad Gita* – action performed without attachment to its fruits – could, in the architecture of a blockchain-based PICS economy, find institutional expression. For the first time, acting without seeking reward and being rewarded for acting without seeking reward were no longer contradictory propositions.

The philosophy is simple: every *karm*, or action, produces *karm phal*, the fruits of action. If the doer of the *karm* does not receive or accept the *karm phal*,

those fruits are collected by others. The coming into existence of the fruits of action is a natural consequence; the question is whether the doer receives them, or whether they are taken away and collected by others. One reason why the rich become richer and the poor become poorer is that the rich have created a financial structure in which *karm* phal continues to flow toward them. The value created by billions moves through a well-managed financial structure to those who control and manage fiat currency, sovereign funds, and the debt economy.

This is not a utopian vision, as many may see it. It is a structural one – as structural, in its own way, as the architecture of the Constitution. Just as the Constitution gave institutional form to the aspiration for equity, equality, and justice in the political life of the nation, the PICS Economy seeks to give institutional form to the aspiration for equity, equality, and recognition in economic life. And just as the Constitution required Law – the legal system, the courts, and advocates – to give it life and meaning, the PICS Economy requires a Legal Revolution to accompany the Finance Revolution: a Legal Revolution 5.0 in which law is not merely an interpreter of statutes, but a conscious architect of the conditions under which justice – economic, social, and spiritual – becomes liveable rather than merely arguable.

The seed of that revolution was planted, for me, not in any court or legislature, but in watching a pseudonymous mathematician solve, in a nine-page white paper written in the midst of a global financial crisis, a problem that centuries of monetary history had treated as insoluble. Satoshi Nakamoto did not merely create Bitcoin. He demonstrated that the architecture of trust – the foundation upon which all law and all economy ultimately rests – could be rebuilt from first principles, without any institution, without any government, and without any authority other than the verifiable logic of the algorithm itself. That is a lesson that law, and the society it serves, has not yet finished learning.

Argued, and Other Judgments with Observations

Sl.	*Appellant*	*Respondent*	*Citation*	*Subject*
1	Madras Bar Association	Union of India	2021 INSC 332	Service Law
2	Ms. Indira Jaisingh - 2	Supreme Court of India	2023 INSC 524	Senior Advocate
3	Urban Improvement Trust	Gordhan Dass	2023 INSC 935	and Aquisition
4	Dr.Hema Valecha	Sports Authority of India	Unreported	Service Matter
5	Agriculture University	Bhargav Associates	Arbitration	Contract
6	Pearl Developers	Bhargav Associates	Arbitration - 1	Contract
7	Bhargav Associates	Pearl Developers	Arbitration - 2	Contract

Madras Bar Association and Another v. Union of India and Another
2021 INSC 332

The Madras Bar Association – petitioner in a long series of constitutional battles over the independence of tribunals from executive control – returned to the Supreme Court in 2021, this time to challenge the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, promulgated by the Union of India through Sections 12 and 13 of that Ordinance amending the Finance Act, 2017.

The background to the challenge was a chronicle of institutional persistence that stretched back more than a decade and, as I have reflected upon it since, bore an uncanny structural resemblance to what I had witnessed – and been a part of – nearly half a century earlier in *Madan Mohan Pathak* v. *Union of India (supra)*. The names of the parties had changed. The faces on the Bench had changed. The statutes in question had changed. But the constitutional conflict remained unchanged in its essentials: could the Executive and the Legislature, acting in concert, set at naught by fresh legislation a judgment of the Supreme Court that had become final and binding? The answer, which has been the same across every generation of Indian constitutional jurisprudence, is no. Yet the question keeps returning – and with it, the humongous loss of time, energy, public money, and institutional trust that every fresh episode inflicts upon those who have placed their faith in the finality of a court's pronouncement.

The immediate history was this: By the time the 2021 Ordinance was promulgated, the Supreme Court had already decided – in a series of judgements that had come to be known successively as MBA-I, MBA-II, MBA-III, and *Rojer Mathew* – the fundamental principles governing the constitution, appointment, conditions of service, and independence of tribunals. The critical directions in MBA-III (*Madras Bar Association* v. *Union of India*, 2020 *SCC Online SC 962)* – handed down just months before the Ordinance – had established that: advocates with ten years' experience were eligible for appointment as Members; the Search-cum-Selection Committee must recommend one name per post, rather than a panel of two or three, to insulate appointment from executive preference; the Government must appoint within three months of recommendation; the tenure of Chairpersons must be five years or until the age of seventy, whichever was earlier; the tenure of Members must be five years or until the age of sixty-seven; and House Rent Allowance must be paid to Members to ensure decent accommodation and the conditions necessary for independence.

The Ordinance, promulgated in April 2021 by amending the Finance Act, 2017, sought to reverse or neutralise each of these directions by legislative fiat. Section 12 introduced the following provisions: a first proviso to Section 184(1)

prescribing a minimum age of fifty years for appointment as Chairperson or Member — directly reversing the MBA-III direction that had removed the bar against younger advocates; a second proviso, read with a third, stipulating that allowances payable to Members would be equivalent to those of a Central Government officer holding a post with the same pay – directly neutralising the Court's mandate regarding House Rent Allowance; Section 184(7), which re-enacted the provision that the Search-cum-Selection Committee should recommend a panel of two names per post, and that the Government should make its decision "preferably" within three months – the word "preferably" converting a binding direction of the Court into a voluntary aspiration; and Section 184(11), which fixed the tenure of all Chairpersons and Members at four years with retrospective effect from May 26, 2017.

The Madras Bar Association challenged the constitutionality of each of these provisions on the ground that they constituted an impermissible legislative override of final and binding judicial pronouncements, violated the doctrine of separation of powers, were repugnant to the independence of the judiciary as a basic feature of the Constitution, and were arbitrary and violative of Article 14.

The Hon'ble Supreme Court held (Per L. Nageswara Rao, J., for the majority; S. Ravindra Bhat, J., concurring; Hemant Gupta, J., partly dissenting) - The Court, by a two-to-one majority, allowed the petition and struck down the impugned provisions. The majority restated, with precision, the settled law on legislative override: the effect of a court's judgment may be nullified by legislation that retrospectively removes the legal basis upon which the judgment rested. Such validating legislation is permissible provided it cures the defect identified by the court, does not transgress constitutional limitations, and does not amount to the nullification of a mandamus. What is impermissible – what has always been impermissible – is for the legislature to negate a direction of the court by simply re-enacting the very provision that had been struck down, without curing the constitutional defect that caused it to be struck down in the first place. The test is whether, had the altered position existed when the Court rendered its judgment, the judgment would not have been passed. If the answer is no – if the legislature has done nothing to cure the defect but has merely re-enacted the offending provision in different statutory dress – the legislation is void.

Applying that test, the Court found every impugned provision wanting:The first proviso prescribing a minimum age of fifty years was struck down as an unconstitutional attempt to circumvent the MBA-III direction that had removed the excessive experience requirement for advocates. It was arbitrary on its face: an advocate with eighteen years' practice and deep expertise in indirect taxation, telecom regulation, or international trade law who was forty-four years old would be ineli-

gible, while an individual of fifty who had practiced for only ten years and spent the intervening years in an unrelated executive role would qualify. The criterion bore no rational nexus to the object of appointing the most meritorious candidates. It was, in the words of Justice Ravindra Bhat, "virtually picked out of a hat."

The second and third provisos dealing with allowances were struck down as a direct reversal of the Court's mandamus regarding House Rent Allowance – and a mandamus of the Supreme Court, the majority held, cannot be reversed by legislative veto. Section 184(7) was struck down in its entirety. The re-enactment of the provision requiring the Committee to recommend two names per post was a simple repetition of what the Court had struck down in MBA-III, without any attempt to cure the defect. The word "preferably" introduced into the three-month timeline converted a binding judicial direction into a discretionary guideline – which was nothing less than the legislature deciding that its convenience took precedence over the court's order.

Section 184(11), fixing tenure at four years by retrospective legislation, was declared void as a direct contradiction of the Court's declaration in MBA-III that tenure should be five years. The retrospective element was upheld in principle but limited in effect: appointments made pursuant to the Court's own interim orders during the interregnum could not be disturbed

The majority concluded with a statement of constitutional principle that has endured across every generation of this Court's engagement with the tension between legislative authority and judicial finality: transgression of constitutional limitations and intrusion into judicial power by the legislature violates the separation of powers, the rule of law, and Article 14 of the Constitution.

Justice Hemant Gupta, dissenting in part, held that the Court's directions in MBA-III had encroached upon the domain of the legislature – that courts may strike down legislation but may not direct Parliament to enact law in a particular form, and that the legislature's departure from such directions does not in itself render subsequent legislation unconstitutional. He concurred, however, that the provision requiring the Selection Committee to recommend a panel of two names, and the four-year tenure provision, were unsustainable, as these had already been specifically decided in MBA-III.

Observation. : This case arrived before me at the very end of fifty years of practice – and in the fifty years that separated its decision from the day I had first encountered this constitutional conflict as an apprentice, nothing of substance had changed. The case that comes to my mind across the decades is Madan Mohan Pathak. The year was 1977. I was in my first year in the chamber of Mr. R.K. Garg. The Government of India had enacted the Life Insurance Corporation of India (Modification of Settlement) Act, 1976 – a statute whose sole purpose,

nakedly visible on the face of its title, was to nullify a settlement that the Calcutta High Court had directed the LIC to honour in favour of its Class III and Class IV employees. A judgment had been given. An obligation had been established. The legislature responded not by curing any defect in the law but by abolishing the very right that the court had declared. The Supreme Court struck it down. It was held that the legislature had committed a direct usurpation of the judicial power by nullifying a specific court order rather than by altering the legal position prospectively.

Forty-three years later, in 2021, the Union of India promulgated an Ordinance that repeated – in a different statutory form, in a different institutional context, in the language of financial reform rather than labour settlement – the same constitutional transgression. The directions of the Supreme Court in MBA-III had been issued after years of litigation, after multiple judgements across multiple benches, after detailed consideration of what the independence of tribunals required. The Ordinance set them aside. Not by curing the constitutional defects that had been identified. Not by introducing a different regime that might have passed constitutional muster. But by re-enacting the invalidated provisions, word for word in some cases, and converting a binding direction of the Court into a voluntary aspiration in others – replacing "shall" with "preferably" as if the sovereignty of the Court's mandate could be dissolved by a single adverb.

This is the pattern. It has always been the pattern. The Executive and the Legislature, confronted with a judgment of the Court that inconveniently constrains their preferred arrangement of power, respond not with constitutional compliance but with constitutional circumvention – the minimum degree of compliance necessary to avoid contempt, combined with the maximum degree of legislative manoeuvre available to neutralise the judgment's practical effect. The Court strikes the circumvention down. The Government waits, and tries again.

The cost of this pattern is not borne by the Government. It is borne by the institution. It is borne by the individuals – the Members of tribunals whose tenure was arbitrarily curtailed, the advocates in their forties with twenty years of expert practice who were told they were too young, the litigants before understaffed tribunals whose cases waited for appointments that were deliberately delayed — whose lives and livelihoods were sacrificed to the Government's preference for executive dominance over an independently constituted adjudicatory system. That cost – the humongous and never-compensated cost of institutional bad faith deployed against individuals who have done nothing except rely on the finality of a court's pronouncement – is the true price of legislative override, and it is a price that does not appear in any budget estimate or any government account.

The collaborative, consciousness-centred architecture of justice begins, nec-

essarily, with the recognition that the adversarial structure of law, for all its magnificence when it functions as designed, contains within it a structural vulnerability: the judgment that has been won, at great cost, over many years, can be reversed the following morning by a legislature that has decided, for reasons of its own convenience, that it would prefer the invalidated arrangement to the constitutionally mandated one. Until the law internalises – not merely as a constitutional principle announced in judgment after judgment, but as a lived institutional culture – the absolute finality and inviolability of a court's pronouncement, the protection of the individual against the sovereign will remain provisional, conditional, and contingent upon the sovereign's willingness to accept it.

That willingness, across five decades of watching the Executive and the Legislature in their relationship with this Court, has been intermittent at best. The Madras Bar Association, in its four incarnations before the Supreme Court, is a monument to institutional persistence in the face of that intermittence. It is also, viewed in the full light of constitutional history, a monument to the proposition that the Court, however tested, however circumvented, however provoked, will hold the line. The question that remains – that has always remained – is how long the line must be held, and at what cost to those who stand behind it.

Designation of Senior Advocates: A Trilogy of Promise, Participation and Retreat
Indira Jaising v. Supreme Court of India– 1, 2, 3
2025 INSC 249

The story of the designation of Senior Advocates in India under Section 16 of the Advocates Act unfolds across three chapters of judicial history, each separated by years, each reflecting a different mood of the institution – aspiration, refinement, and, finally, a troubled retreat.

The issue had been gathering storm for decades, and nobody had the courage to take it up, till the petition was filed by Ms. Indira Jaising – herself a Senior Advocate of the Supreme Court, and author of *The Constitution is My Home* (2026) – challenging under Article 32 the opaque, arbitrary and secretive process by which the designation of Senior Advocates was then being conducted across the country, or in many cases not being conducted at all. The process was governed by no established and published criterion, conducted in the secrecy of a Full Court meeting, and shielded from the scrutiny that any exercise of public power demands. The writ petition sought, at its core, the substitution of arbitrariness with objectivity, of opacity with transparency, and of institutional caprice with principled assessment.

The January 2017 order – brief, procedural, but consequential – transferred to the Supreme Court a companion petition pending in the Delhi High Court challenging the constitutional validity of Sections 16 and 23(5) of the Advocates Act, 1961, and set both down for hearing together. The substantive decision in *Indira Jaising-I* followed, laying down mandatory guidelines under Article 142, which created for the first time a Permanent Committee headed by the Chief Justice, a point-based assessment format, a permanent secretariat, and the prohibition of secret ballot as the rule. The Court itself acknowledged, in paragraph 74, that the guidelines were not exhaustive and might require reconsideration in the light of experience to be gained over time.

The second chapter was written when, after years of implementation, the Court in *Indira Jaising-II* returned to the exercise and reconsidered several directions – modifying the marks assigned to publications, reconsidering the cut-off marks and the question of secret ballot, and affirming in paragraph 51 that the process of improvement was a continuous one. It was in this second proceeding that I appeared and placed before the Court the submissions which form the essential analytical backbone of what I describe below.

The third and most recent chapter arrived unexpectedly – born not of a direct challenge to the designation system, but of a scandal involving an Advocate-on-Record who had lent his name to petitions drafted by another, and of a newly designated Senior Advocate against whom a pattern of misrepresentation before the Court had been judicially recorded. The Supreme Court, confronted with what the system had produced, raised nine serious concerns about the *Indira Jaising* guidelines – particularly whether applications should be permitted at all given the scheme of Section 16(2), whether the interview compromises the dignity of an advocate deserving designation, whether the points system adequately accounts for integrity and character, whether trial court lawyers are adequately served by the criteria, and whether secret ballot deserves reconsideration – and referred the questions to the Chief Justice of India for reconsideration by a Bench of appropriate strength. In doing so, the Court has opened up the entire question again, and there is hope that it will one day be settled once and for all, given a practical shape that truly supports and empowers the Bar and the institution.

I have lived through all three chapters of this story – as an observer, and for two decades as a participant. My application for designation was deferred seven times from 1999 onwards, notwithstanding that fifteen judges of the Supreme Court had recommended my name in that first round alone, when the ordinary threshold was five. I was finally designated in 2019, in the very first round conducted under the *Indira Jaising* guidelines. By that point, I had to my credit more than 425 reported Supreme Court Judgments spanning forty-three years of active

practice – Judgments in which I had appeared as counsel – in addition to thousands of appearances before the Supreme Court and the High Courts across the country for which no systematic data existed, and an association with litigation overseas. It is also a matter of record, and I state it without rancor, that those who had at an earlier stage found reason to oppose my designation – a circumstance to which Justice Punchi had alluded in 1997 – had, by 2019, either retired from the scene, reached the natural culmination of their careers, or simply moved on. Time, as it invariably does, had resolved what argument could not.

I had appeared in the second proceeding – Indira Jaising-II – and placed before the Court a comprehensive submission grounded not in abstract principle but in lived experience of the system, urging its total reformation. The system, for all its structural elegance, was bleeding at the joints – and for the same reason that someone obtained better orders in a case, and someone else was elevated as a judge of the High Court: the exercise of unreviewable, undocumented discretion. The application form collected rich data – seniority at the Bar, Vakalatnamas filed, cases argued at admission and final hearing stage, written submissions submitted, legal propositions expounded, panels held, books read and authored, articles presented at state, national and international conferences, bar association leadership, *pro bono* litigation, income tax returns – and none of it was being used. Points were being allotted on an *ad hoc*, subjective basis. The interactive sessions were being conducted in groups, reducing what ought to have been a genuine evaluation of an advocate's jurisprudential personality into something between a cattle show and a theatrical gesture. The range between the most senior and the least experienced applicant was so wide that without a proportionate, principled methodology for distributing points across the continuum, the numbers meant nothing.

I proposed a reformed framework – a total of 200 points distributed across six categories: Professional Attainments (100 points), Academic Contributions (20 points), Leadership at the Bar (30 points), Social Contribution through *pro bono* work (20 points), financial standing as evidenced by income tax returns (20 points), and personality assessed through individual interview (10 points). Within each category, I proposed objective sub-criteria: the number of vakalatnamas, the subject-matter and issues of judgements and awards, domain knowledge derived from those subjects, the nature and level of academic addresses and publications, bar council and bar association positions held, and a structured methodology for calculating Pro bono hours certified by courts or legal aid authorities. I proposed that points be allotted on a Proportionate Increment Basis – anchoring the highest value to the most senior applicant, the lowest to the least, and distributing all others proportionately across the range – so that every figure meant something, and nothing was left to the whisper of discretion.

I further proposed that technology be employed as it had never yet been employed – and as it was now available. The emerging platform of neutral citations across all courts, combined with deep data analysis and artificial intelligence, would make it possible for the Court to have real-time, objective, structured data on every advocate's appearance, time on their feet, subject-matter expertise, and published work – reducing arbitrariness to near zero and making the designation system a model of institutional excellence rather than a recurring embarrassment.

I also raised a question that went to the heart of the system's legitimacy: the total number of designated Senior Advocates bore no rational proportion to the strength of the judiciary or the membership of the Bar. With 34 judges in the Supreme Court and 1,108 in the High Courts – a combined judicial strength of 1,142 – and a bar membership of approximately fifteen lakh advocates, a ratio of 1:6 would yield 6,852 Senior Advocates across the country. The actual number designated by the Supreme Court since 1966 was a mere 488 – a fraction even of this modest figure – with the institution having absorbed into its Senior Advocate rolls far more retired judges and former officers of the State than advocates who had earned their distinction through decades of practice before the court. This, I submitted, was wholly discriminatory and entirely contrary to the legitimate expectations of the young members of the Bar who must compete, at the very threshold of their careers, against the entire weight of the retired judiciary.

The Court took note. Some of my submissions found their echo in the modified framework of Indira Jaising-II. But the full architecture of what I had proposed – the 200-point proportionate system, the technology-driven neutral-citation database, the rational numerical proportion between the Bar and the Bench – remained unadopted. The Court moved, but not far enough.

And then came the third chapter – *Jitender @ Kalla*. The Court's concern about the conduct of Advocates-on-Record is entirely right – indeed, it is the most important holding in the case. An Advocate-on-Record who signs a petition he has not read, who lends his name as a rubber stamp for another's careless or dishonest work, is guilty of the precise dereliction that the institution of Advocate-on-Record was created to prevent. I had myself experienced, in those formative years under Justice S.C. Agrawal – who taught me that every word filed before a court must be a word you have read, understood, verified and own – what it means to be truly responsible for every word and line of what you file. That duty is comprehensive. It does not end with the conference, the receipt of the file, and the fee.

As to the nine doubts about the *Indira Jaising* guidelines – they trouble every reflective member of the Bar, and they deserve to be addressed on their merits. But abrasions in a system reflect the exception, not the rule, and the exception must

not be allowed to condemn the rule. Isolated acts of misconduct do not define an institution. A society is not defined as a society of murderers because murders occur within it, nor as a society of reckless drivers because accidents happen on its roads. We do not shut the courts because some litigants suppress facts. We do not dissolve the Bar because some advocates misbehave. We identify the failure, correct it, and strengthen the institution. That is the path of reform.

The nine doubts, framed with institutional courtesy though they are, tend – whether by design or by consequence – toward abolishing the application system altogether and returning designation to the unreviewable conferment it once was. That would be retreat, not reform. It would return the Bar to precisely that opacity and arbitrariness from which Indira Jaising-I rescued it, rather than carrying the institution one step further toward the transparency and excellence that the Bar, and the judiciary it serves, both deserve.

The designation of a Senior Advocate is not a gift that power confers upon merit when it remembers to look up from its own affairs. It is a recognition that the profession owes its ablest members in exchange for the discipline, the restrictions, and the dignity that the designation demands. One straightforward path toward identifying that ableness – objectively, without the intervention of discretion – is this: every advocate who has completed more than twenty-five years of active practice, filed more than five hundred cases on his own account, and made more than two thousand independent appearances in court – not as an associate or assistant, but as counsel of record – and who wishes to be designated, ought as of right to be considered and, upon verification of that data, granted the silk. The numbers speak for themselves. They require no interview, no secret ballot, no Full Court deliberation, and no recommendation from a judge who may have seen the advocate argue for no more than a season.

This matters because the structural conditions of our judiciary make subjective assessment not merely unreliable but structurally impossible. Seventy percent of judges of the Supreme Court serve for less than five years – a tenure too brief to form any considered view of an advocate's career as a whole. Almost all Chief Justices and senior judges of the High Courts arrive from outside the State, having had no prior opportunity to observe the advocates practising before them, and are therefore compelled to proceed on the recommendations of others. And how does a Full Court of seventy or more judges – as the larger High Courts now are – arrive at a considered collective judgment on an individual advocate's ability in open session? In practice, it does not. It proceeds on the recommendation of two or three judges, which is precisely the unreviewable, undocumented discretion that the *Indira Jaising* framework was designed to discipline – not restore.

The Mistress – that Law which I had served with absolute devotion for so

many decades – was never more herself than when she demanded objectivity. It was when she abandoned objectivity that she began to die. The institution of the Senior Advocate designation has, in its history, alternated between those two poles. The *Indira Jaising* trilogy is the story of that alternation – a story not yet concluded, a story whose last word must be Justice, not merely Law.

Arbitration Mafia: The Uncomfortable Arena

My first arbitration was in 1982 against J. Dalmiya, whom I again had occasion to meet again in the BCCI election dispute in 2005. Over the following four decades, I conducted a large number of arbitrations for the Airports Authority of India, SAIL, the State of Rajasthan, and several other public bodies and private individuals, including proceedings before the SIAC in Singapore. From the very first, I carried an uncomfortable feeling about the institution – a feeling that only deepened with every year of exposure to it.

The source of the discomfort was structural. The arbitrator is appointed by the parties. That appointment, however carefully disguised in the language of neutrality, creates a subtle and ineradicable bias. The arbitrator knows who chose him – and who is paying his fees. The private contractor invariably paid more than the Government. In the courts, we had the phenomenon of bench-hunting: litigants manoeuvring to appear before a bench they considered favourable. In arbitration, the problem was structurally worse – it was not bench-hunting but bench-choosing. The party did not hunt for the bench. It constituted it.

The clearest expression of what this meant in practice came from a large construction contractor against whom I was appearing. He told me, with the candour of a man who had long since ceased to be embarrassed by the truth, that he never made money in the execution of contracts – he made it through arbitration. The work was poorly drafted, the claims for extra work were inflated, and the arbitral process provided the arena in which those claims could be pursued before a tribunal of the party's own choosing, with prospects that no court would have permitted.

NHAI engaged me at one stage to undertake a legal audit of their pending arbitration cases, involving thousands of crores of rupees in exposure. Except for two law firms, all others refused to provide the requisite data. The legal audit was abandoned. The resistance itself was instructive – it told me everything about the ecosystem that had grown around large-scale infrastructure arbitration, and about the interests that a rigorous independent audit would have threatened.

The final five arbitrations I conducted were, collectively, an exasperation that confirmed every discomfort I had felt since 1982.

In the first, a former judge of the Supreme Court was the arbitrator. The

proceedings were adjourned with a regularity that bore no relationship to any conceivable necessity – adjournment after adjournment, the matter moving forward only in name. Justice delayed in arbitration is an oxymoron that the institution has been unable to cure, because the arbitrator's incentive structure does not align with expedition.

In the second, after the award had been passed, I received a call from the Supreme Court judge who had presided as arbitrator. He proceeded to explain, in some detail, how the award he had just made could be successfully challenged before the Supreme Court. When a former judge of the Supreme Court calls losing counsel after passing an award to advise on grounds of challenge, the institutional boundary between arbitration and advocacy has dissolved entirely.

In the third, the award was made by a former Chief Justice of India and two High Court judges – a tribunal of unimpeachable formal credentials. It was set aside by the High Court on a purely technical ground arising from pleadings, accompanied by sarcastic remarks directed at the arbitral tribunal. The highest credentials of the arbitrators offered no protection against the supervisory court's willingness to substitute its own view.

In the fourth, I had made detailed submissions on the construction of rescission of contract – on the interplay between Sections 27 to 30 of the Specific Relief Act, 1963 and the relevant provisions of the Indian Contract Act, 1872. The contract had come to an end not by formal termination but by conduct and circumstance – a nuanced legal question that went to the root of the dispute. The arbitrator's award did not deal with it. Not a word. The legal propositions raised before him were simply ignored. An arbitrator may be appointed by the parties, but he is bound by law – and the minimum that the law demands of any tribunal is that it engage with the legal questions placed before it.

In the fifth and final case, the High Court set aside the award on a technical ground of limitation – raised but never decided by the arbitrator as a preliminary issue – and at the request of the parties appointed a fresh arbitrator, recording the award as set aside by consent. When the client asked me how I had consented, I told him I was willing to file an affidavit as Senior Advocate: I never consented. The litigation had by then been running for more than three decades. It had begun with the father of the present appellant. By the time the matter reached me, the family had watched thirty years of their lives consumed by a dispute that showed no sign of resolution. The father was gone. The son walked away – not in victory, not in defeat, but in exhaustion, unwilling to spend what his father had left him on a litigation his father had begun. That exhaustion is the true cost of institutional failure, and it does not appear in any law report or any arbitration statistics.

The Government of India has, in recent years, moved decisively toward mediation – giving it statutory form through the Mediation Act, 2023. This is, in my considered view, the right and perfect approach. Mediation is what I have always believed dispute resolution must fundamentally be: a process in which the parties themselves arrive at a solution they can live with, guided by a neutral who has no stake in the outcome and no appointment to protect. The mediator does not decide. The mediator facilitates the parties' own capacity to decide. There is no bench to choose, no award to challenge, no technical pleading to unravel after thirty years of litigation. Most disputes arise not from the irreducible conflict of rights but from the failure of communication and the hardening of positions. Remove those incentives; provide a skilled, neutral facilitator; give the parties a structured space for honest conversation – and most disputes will find their own resolution. That resolution will stick, because the parties made it.

This is my true love in the field of dispute resolution. It always was.

Articles, Presentations and Blogs

The Temple and the Trust: A Confusion of Foundations Legislative and Judicial Misapprehension (Note)

Author's Bridge: *The governance of Hindu temples in independent India is one of the most consequential and least examined failures of constitutional jurisprudence. The Shirur Mutt line of authority – which drew a distinction between the secular management of religious property and the performance of religious rites – was intellectually convenient but, in the context of the Hindu temple, constitutionally erroneous and spiritually illiterate. The temple is not a charitable trust. The deity is the owner. The steward is the servant, not the master. That proposition – which the Supreme Court has not yet squarely faced – connects directly to the book's central argument: that law, divorced from its dharmic foundation, produces not justice but a sophisticated instrument of institutional dispossession. The 1.3 million audit objections unresolved across Andhra Pradesh, Telangana and Tamil Nadu; the archakas living in penury; the gurukuls that have disappeared for want of support – these are not administrative failures. They are the systemic consequence of treating a living spiritual institution as a revenue department of the State. This note was written to name that consequence and argue for the constitutional correction that fifty years of practice had made inescapably clear.*

The deepest confusion afflicting the governance of Hindu temples in India is neither administrative nor financial in origin – it is philosophical. It arises from a foundational failure to distinguish between what a temple is and what a trust or endowment does. Until that distinction is correctly grasped by the legislature and

correctly articulated by the Supreme Court, no statute enacted and no judgment delivered will bring lasting order to the field.

A Hindu temple comes into existence not by the act of a donor, a settlor, or the State. It comes into existence because a deity – cosmic and divine energy – has been invoked and established in an idol, figure, icon, mark, or symbol through the solemn and precisely prescribed ceremony of *praan pratishtha*, conducted in accordance with *Vedic*, *Agamic*, or *Tantric* tradition. From that moment, the idol is not a representation of the divine; it *is* the divine, present in that place, for the purpose of the spiritual welfare of every being who approaches. The temple structure built around it, the lands endowed to it, the jewellery and artefacts consecrated to it – all of these belong to the deity, in perpetuity, as the owner, as a juristic person whose rights neither prescription, limitation, nor legislative expropriation can extinguish.

The trust, the endowment, the management board, the *shebait*, the *mahant*, the *archak* – these are instruments of stewardship, not ownership. Their sole function is to ensure that the *sampradaayik* traditions unique to the deity are preserved and performed without impediment: the correct *mantra*, the correct ritual, the correct *shringaar*, the correct *prasaad*, the correct festival, the correct timing. Their authority is fiduciary and spiritual; it carries no proprietary dimension whatsoever. This was, and remains, the established order of *Sanaatan Dharm*.

The British, proceeding from the assumptions of a Protestant legal tradition in which a place of worship is simply a building held by a congregation under a charitable trust, imposed that frame upon Hindu temples beginning with the Bengal Endowment and Escheats Regulation of 1810 and the Madras Endowment and Escheats Regulation of 1817. They treated temple properties as charitable assets amenable to secular regulation, appointed administrators at their pleasure, and diverted revenues into government coffers. The mosque was left untouched – a fact the White Paper rightly records as the deliberate fruit of a policy of division.

What is less forgivable is that independent India, which enacted a Constitution containing Articles 25, 26, 27, 28, 29 and 30 expressly to protect religious freedom, continued and in several respects deepened this appropriation. State governments across the country – Andhra Pradesh, Tamil Nadu, Karnataka, Kerala, Uttarakhand – brought temple after temple under statutory boards, nominated committees, and executive commissioners, retaining revenues that should have flowed exclusively to the maintenance of the deity's spiritual traditions, to *gurukuls*, *paathshalas*, *gaushaalas*, and to the welfare of *archakas* whose poverty is now an established and scandalous fact.

The Supreme Court, in its foundational judgment in *Commissioner, Hindu*

Religious Endowments, Madras v. L.T. Swamiar of Sri Shirur Mutt (1954), drew what it considered a workable distinction: management of religious property is a secular matter and amenable to regulation; performance of religious rites is a matter of religion and protected. This distinction, however, intellectually convenient, is in the context of the Hindu temple not merely imprecise – it is constitutionally erroneous and spiritually illiterate. All activities of a temple are religious and spiritual. The management of temple lands, the collection of *hundi* receipts, the appointment of priests, the repair of the *garbhagriha* – each of these acts is inseparable from the purpose for which the temple exists. A government that manages the temple's property is not a neutral secular administrator; it is an interloper in a spiritual continuum established over millennia. If the temple undertakes secular or commercial activity, it ceases to be a temple. The error runs in both directions.

The consequences of this confusion are not merely theoretical. More than 1.3 million audit objections involving hundreds of crores remain unresolved across Andhra Pradesh, Telangana and Tamil Nadu. Prime agricultural lands endowed to temples for centuries are under illegal encroachment or leased at rents that bear no relation to market value. Temple vehicles, meant for religious processions, carry government officials. *Archakas*, the custodians of an unbroken *sampradaayik* tradition, live in penury and fear, their traditions eroding for want of institutional support. The *gurukuls* and *naad-shaalas* that once transmitted the oral canon of mantra and ritual from generation to generation have largely disappeared. These are not isolated failures of administration; they are the systemic consequence of treating a living spiritual institution as a revenue department of the State.

The constitutional framework demands a correction that is both principled and urgent. Articles 25 and 26, properly construed, guarantee to every religious denomination the right to manage its own affairs in matters of religion and to administer its property in accordance with law. The clause in Article 25(2)(a) that permits the State to regulate or restrict any economic, financial, political, or other secular activity associated with religious practice was never intended to authorise the wholesale absorption of temple governance into State machinery. Its continued misapplication is, a "clear error," and one that may require either constitutional amendment or, at the very least, a nine-judge reconsideration of the *Shirur Mutt* line of authority in the light of the *Sanaatan* understanding of what a temple is and why it exists.

The remedy lies in restoring management to autonomous boards constituted from the *sampradaaya* and the community of devotees; in an independent, judicially superintended dispute resolution mechanism for matters of succession and property; and, most fundamentally, in the Supreme Court's willingness to acknowledge what this Court has not yet squarely faced: that a Hindu temple is not

a charitable trust. It is the abode of a deity. The deity is the owner. The trust is, and always was, the servant – not the master.

Until that recognition is embedded in statute and affirmed in judgment, the chaos will continue, and a civilisational heritage of incalculable antiquity will continue its silent diminishment

ADR and DIG 4.0 (Address)

Author's Bridge: *This structured presentation – from the historicity of the first dispute in Sanaatan time through the four dimensions of human existence, the four industrial revolutions, Globalisation 4.0, and the architecture of arbitration and mediation – is the most comprehensive single document on what Legal Revolution 4.0 means in practice and why Legal Revolution 5.0 must follow it. The Recommended Arbitration Clause that the piece proposes – requiring the parties to attempt mediation before invoking arbitration – is the procedural expression of the deepest conviction: that litigation must be the last resort, not the first. The quotation from Emperor Kangxi of China in 1700 – 'the good citizens who may have difficulties among themselves will settle them like brothers by referring them to the arbitration of some old man' – and the arbitration clause from George Washington's will establish that the vision of conflict resolution outside the adversarial court is as old as civilisation itself. Legal Revolution 5.0 is not a new idea. It is the oldest idea, returning in the language of the fourth dimension.*

Ladies and Gentlemen, distinguished faculty members, respectedprofessionals, and my young friends.

It is a privilege to speak to you today on a subject which is not merely about law, arbitration, or mediation, but about the transformation of civilisation itself – ADR and DIG 4.0: Dispute Resolution in the Age of the Fourth Dimension, Fourth Industrial Revolution, and Globalisation 4.0.

Law students today are not preparing for the profession which existed twenty or thirty years ago. You are preparing for a profession that is being reshaped every moment by Artificial Intelligence, Blockchain, Robotics, Digital Commerce, Quantum Connectivity, and Global Services. The future lawyer will not merely know statutes and precedents. The future lawyer will have to understand technology, psychology, economics, communication, human behaviour, negotiation, and global cultural dynamics simultaneously. The world around us is changing faster than legal structures can presently comprehend. But before we understand ADR in the modern world, we must understand one eternal truth – disputes are as old as human consciousness itself.

The first dispute, according to Indic thought, arose between the descendants of Sage Kashyap – the Adityas and the Asuras. Conflict, therefore is not an aberra-

tion of society; it is part of human evolution itself.

The first great dispute resolution process emerged during Prajapati Daksha's *Yagye*. The first mediation perhaps came when Sanak, Sanandan, Sanaatan, and Sanatkumar intervened between Jai-Vijay and Bhagwaan Vishnu. Mediation, therefore, is not a Western import. It is deeply embedded in our civilisational consciousness.

Human society has continuously evolved through dimensions of awareness. In the First Dimension, man existed as a dot – a nomad, isolated, surviving individually without settlement or civilisation. In the Second Dimension came settlement, agriculture, tribes, ownership of land, civilisation, family structures, and wars fought with swords and physical combat. In the Third Dimension came industrialisation, territory expansion, precision, mass production, punctuality, nationalism, and the age of nation-states. The First Industrial Revolution, with steam engines, began around 1770. The Second with electricity around 1870. The Third with electronics and computers after 1955.

But post-1955, humanity entered something much deeper. The Fourth Dimension. A world beyond physicality. A world of the internet, mobile communication, quantum existence, social networking, borderless interaction, and intuitive awareness.

Today, people work beyond office timings, beyond geography, beyond race, beyond gender classifications. Relationships are no longer territorial. Business is no longer local. Commerce is no longer physical. Ideas travel faster than armies once did.

And after 2015, the Fourth Industrial Revolution arrived.Artificial Intelligence. Blockchain. Robotics. Crypto currencies. Autonomous systems. Machine learning. Friends, every industrial revolution changes four things simultaneously:

- It changes the means of production.
- It changes the way people transact.
- It changes institutions.
- And finally, it challenges the law.
- Agriculture changed civilisation
- Industry changed nations
- Electronics changed communication.
- Artificial Intelligence will change human decision-making itself.

Similarly, Globalisation also evolved in phases.

- Globalisation 1.0 was the movement of people.
- Globalisation 2.0 was the movement of goods.

- Globalisation 3.0 was a movement of technology.
- Globalisation 4.0 is the movement of services without the movement of people.

Today, a lawyer sitting in Delhi drafts contracts for New York, arbitrates disputes involving Singapore law, appears virtually before tribunals in London, and advises clients in Dubai – all without leaving his chamber.

The legal profession itself has become borderless. And this is precisely why ADR has become central to the future of law. Because traditional litigation systems were created for the industrial age – territorial, hierarchical, slow, paper-based, and jurisdiction-bound. But modern commerce moves at the speed of thought. Business cannot wait fifteen years for a decree. Commercial relationships require speed, confidentiality, flexibility, expertise, and preservation of future relationships. That is where ADR emerges not merely as an alternative, but increasingly as the preferred mode of justice delivery.

The Chinese Emperor Kangxi in 1700 had observed something remarkable. He said that if people found easy and perfect justice in courts, litigation would multiply endlessly. Therefore, disputes should preferably be resolved amongst themselves through wise intervention and arbitration.

Even centuries ago, civilisations understood that sustainable societies cannot survive only through adversarial conflict. ADR fundamentally recognises one truth:Every dispute f

irst begins with a relationship.

- A contract.
- A partnership.
- A family arrangement.
- A commercial understanding.
- A governmental promise.
- A social expectation.

Disputes arise when expectations collapse. And once parties are unable to settle mutually, structured dispute resolution mechanisms become necessary. Arbitration evolved precisely to address this need. The word Arbitration comes from the Latin *Arbitratus*, meaning judgment or decision. Arbitration allows parties freedom:

- Freedom to choose arbitrators.
- Freedom to choose governing law.
- Freedom to choose procedure.
- Freedom to choose venue.

- Freedom to maintain confidentiality.

That is why international commerce increasingly prefers arbitration. Even George Washington, in his will, incorporated an arbitration clause directing disputes to be resolved by wise and impartial persons rather than ordinary litigation.

Modern arbitration clauses today define:

- seat of arbitration,
- governing law,
- arbitral institution,
- procedure,
- and enforcement mechanism.

Institutions like the International Chamber of Commerce, the Singapore International Arbitration Centre, and others have become global commercial justice platforms. But even arbitration is gradually giving way to something more humane and sustainable – mediation. Mediation is perhaps the highest form of civilised dispute resolution because it does not merely decide disputes – it heals relation-ships. A mediator does not impose justice.A mediator facilitates understanding. Mediation is dynamic, interactive, confidential, flexible, and party-centred.

Unlike litigation:

- there are no rigid pleadings,
- no strict evidence rules,
- no winner and loser,
- no destruction of future relationships.

The mediator acts as a bridge between emotions and reason. That is why mediation is becoming central in:

- family disputes,
- commercial conflicts,
- workplace issues,
- community disputes,
- cross-border transactions,
- and increasingly even in international diplomacy.

The future belongs not merely to adversarial brilliance but to conflict management wisdom. And technology is now transforming ADR itself. E-Mediation and Online Dispute Resolution are changing the very architecture of legal practice.

- Paperless pleadings.

- Virtual hearings.
- AI-assisted transcription.
- Real-time multilingual translation.
- Digital evidence presentation.
- Remote participation across jurisdictions.
- Justice delivery is becoming seamless.

The lawyer of tomorrow may never physically meet the client or opposing counsel. And yet, the need for human wisdom will become even greater. Because Artificial Intelligence can process information. But it cannot yet fully understand pain, dignity, fear, trust, relationships, compassion, or silence. That remains the domain of human consciousness. India today stands at a historic opportunity. We possess:

- massive commerce,
- one of the world's largest legal communities,
- English-speaking legal talent,
- judicial experience,
- civilisational familiarity with consensual resolution,
- and a growing digital ecosystem.

India can become a global hub for arbitration and mediation. But for that to happen, four things are essential:

- certainty,
- speed,
- institutional integrity,
- and immaculate execution.

Commercial parties do not choose arbitration centers because of speeches. They choose them because of trust. And trust is built only through efficiency, neutrality, and enforceability.

My young friends, the future legal professional will not survive merely by memorising sections and precedents.

You must become:

- technologically aware,
- globally sensitive,
- emotionally intelligent,
- culturally adaptive,
- commercially literate,
- and spiritually grounded.

Because law in the DIG 4.0 world is no longer merely about rights and liabilities. It is increasingly about managing human coexistence in a deeply interconnected civilisation. You are entering the profession at a time when:

- artificial Intelligence will draft documents,
- blockchain will authenticate transactions,
- smart contracts may self-execute,
- digital currencies may challenge sovereign systems,
- virtual courts may become normal,
- and cross-border services will dominate commerce.

But remember one thing. Technology may accelerate dispute resolution, But only wisdom can resolve human conflict. ADR therefore, is not merely a professional skill. It is a philosophy of civilised coexistence. The future belongs to those lawyers who can transform conflict into collaboration, confrontation into communication, and disputes into sustainable relationships. The legal profession is no longer merely about winning cases. It is about preserving civilisation itself.

Thank you.

Webinar organised by EMAC

01.05.2020 (Inaugural Address)

Author's Bridge: *The thirty-eighth evening of the first national lockdown. Every court in the country had shut. Every lawyer was at home. The pandemic had done what decades of institutional inertia had not: it had made the digital court a necessity rather than an aspiration. The Electronic Mediation and Arbitration Centre was launched on that evening, via webinar, with Justice Kurian Joseph as the inaugural guest – a judge who held the record for the second highest ratio of judgements delivered to those of which he was a signatory: 81.90 per cent. The EMAC model was precise and disciplined: claims filed in five days, counter in ten, rejoinder in five, three sessions of two hours each, award in ten days thereafter. No extensions. No queue-jumping by those who could afford to delay. In the stillness of the lockdown, the Love had found a form. The Mistress had been forced, by a virus, to make room for it.*

Justice Kurian Joseph, former Judge of the Supreme Court of India, my colleagues at the Bar, ladies and gentlemen – good evening, and a very warm welcome to all the distinguished guests joining us today at this inaugural session of the Electronic Mediation and Arbitration Centre – EMAC.

Today marks the thirty-eighth evening of the lockdown. For all these days, we have remained within the confines of our homes – with our families, our books, our thoughts, and our phone calls. While we have continued to attend to our

professional responsibilities in one form or another, there is one thing all of us have missed deeply – meeting our friends, colleagues, and fellow travelers in person. Human interaction, warmth, and companionship remain irreplaceable.

I sincerely hope and trust that all of you are keeping healthy, happy, and in high spirits – perhaps also finding time to do those things which, amidst the relentless pace of professional life, we always wished to do but never found the time for.

The idea of creating a platform for speedy disposal of disputes and providing quick, effective justice has remained under active consideration amongst the EMAC panelists for over half a decade. This period of global pause and enforced isolation from the humdrum of ordinary life gave us the opportunity to reflect deeply upon the issue, refine our thoughts, and finally give institutional shape to a long-standing vision. I am extremely happy that today we are able to launch EMAC and place before the legal fraternity and litigating public a meaningful platform dedicated to efficient dispute resolution.

One reality of litigation, whether before courts or outside them, is that in most disputes one party invariably finds advantage in delay. Delay itself often becomes a strategy. That, perhaps, is one of the primary reasons why disputes continue endlessly and litigants suffer irreparable commercial, emotional, and financial consequences.

Yet, our experience has also shown that there exists another important class of litigants – parties who genuinely wish to have their disputes resolved quickly, efficiently, and decisively. They are ready and willing to proceed on the basis of documents without prolonged oral evidence or endless procedural technicalities. Unfortunately, such litigants are compelled to stand in the same queue as every other matter, resulting in enormous delays and avoidable losses.

EMAC seeks to cater specifically to this category of litigants. It is designed as a platform where disputes can be resolved within six weeks through a disciplined, technology-driven, document-based process. The calendar for disposal is simple and precise. The parties appoint one of the mediators or arbitrators from the EMAC panel and execute an EMAC Arbitration, Conciliation and Mediation Agreement.

The claimant files the statement of claim along with supporting documents within five days. The counter statement, together with supporting documents, is filed within ten days thereafter. A rejoinder, if necessary, along with any additional documents, is filed within five days thereafter.

All documents are deemed admitted unless specifically disputed as forged. If allegations of forgery arise, the mediation process fails and parties are free to pursue other remedies.

EMAC thereafter prepares a common paper book with continuous running pagination and provides the same to the parties and the mediator. Three dates for

video hearings are fixed after thirty days, depending upon the availability of the mediator.

The process is intended to function with strict discipline and certainty. There is no scope for unnecessary adjournments or extensions of time. Pleadings may be filed twenty-four hours a day, seven days a week. If parties fail to adhere to the prescribed schedule, the mediation automatically stands closed, and parties may thereafter opt for a fresh process if they so desire.

The mediator is expected to conclude the proceedings within three sessions and pass the award or settlement within ten days thereafter.

Friends, the future of dispute resolution lies not merely in law, but in disciplined management of time, technology, trust, and human conduct.

The world is rapidly moving toward digital legal systems, virtual hearings, electronic records, and AI-supported dispute resolution structures. The legal profession cannot remain insulated from these transformational changes. Justice delivery systems must evolve with the speed of commerce, communication, and modern life.

I am deeply grateful to Justice Kurian Joseph for graciously accepting our invitation to inaugurate EMAC today.

Justice Kurian Joseph is known not merely for the depth of his judicial wisdom, but also for his remarkable clarity, precision, and swiftness in decision-making. He holds the distinction of having one of the highest judgment delivery ratios in the history of the Supreme Court of India – being a signatory to approximately 81.90% of the matters heard by him, amongst the very highest in the Court's history. He has been part of over 1,050 judgements and remains amongst the top judges delivering the highest number of judgements in the Supreme Court.

That level of productivity is not merely a statistical achievement; it reflects discipline, decisiveness, intellectual clarity, and an extraordinary commitment to justice delivery.

Beyond the courtroom, Justice Kurian Joseph is widely respected for his mediation skills, not only in India but internationally, particularly in Singapore and other global forums, where consensual dispute resolution is increasingly becoming the preferred path to justice.

Friends, perhaps the time has come for us to recognise that access to justice in the future will not merely depend upon grand court buildings or endless procedures, but upon our collective ability to create systems that are efficient, humane, technology-enabled, and trust-based.

EMAC is a small but sincere step in that direction. Thank you very much for joining us this evening.

Artificial Intelligence (AI) and Legal Institutions
21.06.2020 (Blog)

***Author's' Bridge**: From Bobby Fisher's contemptuous dismissal of the Greenblatt Program in 1972 to Kasparov's stunned defeat by Deep Blue in 1997 – twenty-five years in which the machine learned what the grandmasters knew and refined it beyond what any individual human mind could process. The analogy to law is exact and the implications are inexorable. The chess board has 64 squares; the legal system has fifty thousand Supreme Court Judgments, ten lakh High Court Judgments, and twelve hundred and fifty Central Acts. The advocate and the judge, like the grandmaster, must make their moves in that universe. AI can map that universe with a completeness and a speed that no human mind can match. What it cannot do – what will always remain the judge's irreducible contribution – is the perception, the experience, and the consciousness that transforms information into justice. This blog draws that line with precision. It is the fullest statement of what AI is for in the legal system – and what it is not for.*

In 1972, Bobby Fisher took over the title from Boris Spassky to become the World Champion and in the same year, he played three games against the Greenblatt Program and massacred the computer. In his comments on the games, Bobby said that the computer was very weak and that he could give it great odds and still beat it. In 1989, IBM took up the challenge and build up a computer chip 'Deep Thought', which evolved to 'Deep Blue', 'Deep Blue Jr.', 'Big Blue' and finally 'Deep Thought II' as it continued to play against grand masters over and over again.

In 1997, Garry Kasparov was hunched over a chessboard, visibly frustrated. He was fidgeting in between turns and shaking his head in disbelief as he waited for his opponent to put the final touches on an inevitable victory. Finally, Kasparov made his move, stood up and raced away from the board. He raised his arms, astounded that he was beaten by a machine. His opponent was the IBM supercomputer, a machine that was capable of imagining an average of 200 million positions per second. Going into the match, Kasparov was confident, he was the Michael Jordan of chess. He had been beating chess-playing computers and was considered nearly unbeatable.

When Kasparov, one of the greatest chess players of all times, lost to a computer in front of a global audience, Artificial Intelligence was out and open and the time had begun when machines were ready to surpass humans in processing data and accurately displaying results, based thereon. The computer continued to use the logic of the grand masters in arriving at the result and using the final result as new information. By that process, the computer reached at a more refined inference and was able to infer at a much quicker pace, though it lacked originality

or a new idea with which it could experiment, which faculty is unique to human beings.

The real purpose of AI was and will always be to help *homo sapiens* to evolve further as better human beings. The direction of human evolution and all institutions evolved by him, including law, is to create a harmonised, conflict free civil society without exploitation and corruption and to provide compensation wherever there is misuse of power, will has been suppressed, injury has been caused and damage has been done.

A chess board has 64 squares, 32 black and 32 white and has 32 players on the board, 16 black and 16 white. The move of every player on the board is defined by the rules of the games. The entire game is about placing of each player strategically to checkmate the opponents' king. With every move, the position of the board changes and that leads to making a new move by the opponent. Over the years, 1972 to 1997, the computer continued to absorb the moves of the grand-masters with whom it played and processed the next best move based on the logic of the location of the players on the chess board, by the grand-masters. The next best placement evolved by looking at the moved played by the opponent, the position of the entire board, i.e. the placement of all the players on the board on black and white squares and the possible and likely moves that may be made in the future. The next move was the result derived from the sum total of all the positions and moves played by all the grand-masters against it all these years.

In every litigation there are a certain set of facts existing prior to the filing of Suit or FIR. There are about 1250 Central Acts and about the same number in each State and Union Territory, more are enacted and amendments are brought about to the existing enactments regularly. There are Rules, Regulations, Notifications, Memorandums and Government Orders ('Statutes') existing and issued almost every day. Supreme Court has in it's about 50,500 judgements (1950 till date) considered more than 4,000 of such statues and other notifications etc. having the force of law. There are about 10 lakh judgements delivered by the High Court all over the country and have interpreted a large number of statues and notifications, etc., as and when any issue arose before it.

This is like the setting of a chess board. The parties and their advocates strategically apply statutes and judgements to the facts of their case and, by a process of dialectics, make every effort to get justice in their favour. Unlike chess, where the winner is decided by checkmating the opponents' king, in litigation, the Judge decides the winner as he reaches to equity, equality and justice by a process of logic and reasoning based on his perception and experience. In every case, the judge has to give grounds for his judgment and hold one party as the winner and the other as looser on the basis of the information, understanding and

appreciation of the facts stated in documents and pleadings, relevant statutes and judgements and his insight into socio economic milieu. He has to compensate the person who has been wronged in civil cases and punish the guilt in criminal cases.

The documents and pleadings in every case are unique to itself. No two faces are the same and no two cases are the same, they may be similar or even twins. That makes law different from chess. The society is dynamic and evolving and so are statutes and abrasions. Statues are enacted to deal with abrasions or to regulate the social relationship to restrain abuse, exploitation and corruption. When Kasparov was beaten, the computers were capable of making 200 million calculation per second and had limited storage capacity. Today, they can make up to 10,000 billion calculations per second and have unlimited storage capacity, everything is on the cloud.

Application of AI to legal institutions is an irreversible and unalterable process of evolution and we will have to adopt the same sooner or later. The sooner we accept the change, earlier we will be able to evolve further. It is the most meaningful and phenomenal change for which we have been waiting for a long time, to wipe out every tear from every eye, by bringing justice to all. Once an authentic data on uniform parameters of all the judgements of the Supreme Court and High Court, relevant Statutes, pleading and documents therein is created, an AI application can provide the following help to all the stake holders, which will continue to become more meaningful and significant as it will be made more and more applicable:

1. **Benefit to litigants:**

    a. It will be possible to read and cull out relevant data from any number of documents and sorting them on the basis of dates and also on relevance. Once the appropriate data is extracted out of the documents, the facts and events can be arranged in strict chronology. On the basis of the information thus extracted, further help can received in drawing out a list of dates and events. In most cases, the facts and events are not disputed, in Singapore, the advocates have to draw a common list of dates and events. What is in dispute is the understanding, interpretation and the reason behind the event.
    b. After analysing the dates and events and the existing database of judgements and statutes, the application can display the breaches committed by the parties and the rights of the parties which have been violated.
    c. Once the terms and conditions of contract that have been breached are determined or the provisions of statues that have been violated becomes available, the application can provide the list of judgements that will support the case.
    d. Finally, it will also be possible to determine

i. the possible time consumed in reaching to the end of litigation
ii. the cost of litigation
iii. whether it will be meaningful to take up the litigation or not

3. **Benefits to Advocates:**

a. Drafting of Deeds, Wills, MoU, Agreements are already in vogue. But it is difficult to lay your hands on formats which are tailor made for the purpose. An AI application can help in reaching to a more authenticated format to be used.
b. Authenticated translation of documents from local languages to English, particularly at the High Court and Supreme Court level, still continues to be a serious issue. As the database of documents, pleadings, submissions and judgements continue to grow in both vernacular and English Language, more authenticated translations can be made available at a much quicker pace.
c. Use of an AI application will certainly improve the quality of pleadings by eliminating grammatical mistakes and using legal language, spell check is already available. Once a true and correct list of dates and events and pleadings is ready, the next step will be to help in preparing:

i. Issues
ii. Question of law
iii. Grounds in support of the pleadings

d. Once the pleadings are completed, an AI application can help in matching them with the oral evidence that comes on record.
e. After the pleading and evidence is completed, the application can help in framing of submissions.
f. Finally, the application can provide for relevant judgements in support and against the submissions.
g. Based on the entire litigation material, the application can also evaluates the pros and cons of the submissions and then assigns a score for each submission
h. AI can radically make legal research much easier. The humongous redundant results by word search and search within search can be minimised. Advocates always need precise and only the most relevant Judgments to be made applicable to the case in hand as precedents. Judgments can be recommended for the specific facts and submissions of the case, which fits their need.
i. Once the parameters for appointment of senior advocates and judges

of the High Court are objectively defined, it will be possible for those who wish to make that stream, as their life objective, to follow the parameters and reach his/ her avowed ambition for which s/he is willing to work with humility, determination and perseverance.

j. At the time of elevation of an advocate as judge, it will be possible for her/ him to follow a well-defined path and be aware of the others in the field, whom s/he will face for appointment as Chief Justice of High Court, judge of the Supreme Court of India and Chief Justice of India. A substantial number of prejudices and preferences will be effectively eliminated.

4. **Benefits to Judges (at all level):**

   a. Make the understanding of facts simpler and easier.
   b. Provide options in analysing the facts and the decision-making process.
   c. Provide options for granting punishment to the accused and compensation to the victim in criminal cases.
   d. Provide options for granting of relief, compensation, damages and costs in civil cases.
   e. Help in the usage of better language and the usage of the right words and terms.
   f. Improve the writing of judgements by providing the grounds and judgements which supports the final view taken.
   g. Identify tonal nuances of the judgment being written and help making them neutral and objective.
   h. Bring about content quality and consistency

5. **Benefit in appointment of High Court Judges, Chief Justice of High Court, Judges to the Supreme Court and Chief Justice of India:**

   a. Once the data on the performance of each advocate in each case from the inception of her/his career, becomes available on objective parameters, it will be possible to pick up the best talent from the bar for appointment as a judge of the High Court. AI will be able to retrieve the following data for each advocate:

      i. Petitions and Counters drafted – Subject and issue wise
      ii. Admission matters argued – subject and issue wise, including time spent on legs
      iii. Final hearing matters argued – subject and issue wise, including time spent on legs
      iv. Written Submissions submitted in court or Propositions of law propounded

v. Articles and books published
vi. Presentations and Addresses delivered at national and international conferences
vii. Judges can continue to enter and mark conduct and performance of each advocate in case in which they consider it noteworthy on the parameters like presentation, dignity while addressing, pitch and tone of voice, mannerism, gestures, etc.

b. Once a person is appointed as a Judge of the High Court, a report on her/his performance can be objectively retrieved from the proceedings, orders and judgements delivered. Analysis of every Judge can be made by using the multivariate regression method of her/his as a single puisne judge, puisne judge along with a senior judge and as a presiding puisne judge. Some of the parameters can be:

i. Proceedings issued
ii. Orders delivered - subject and issue wise, including time taken
iii. Judgments delivered - subject and issue wise
iv. Appeals and Special Leave Petitions filed against orders and judgements delivered
v. Orders and Judgments confirmed and set aside by the Supreme Court
vi. Judgments of the Supreme Court, High Court and other courts referred, considered, analysed, explained, applied, distinguished and held obiter, etc. in the judgements delivered
vii. Ratio between proceedings, orders, signatory and judgements delivered

c. Propositions of law propounded in judgements, an algorithms can be developed to use the above data and identify the perceptions of the judge and her/his proficiency in bringing justice to the litigant. It will also be possible to identify inconsistencies in judgements in respect to a particular issue arising in a subject. This data can be used meaningfully for the purposes of her/his elevation as Chief Justice of the High Court and elevation as Judge of the Supreme Court.

5. Benefit to Legislature and Executive:

a. There are three basic reasons for a litigation:

i. The statute is invalid,
ii. The statute is valid but the action is invalid,
iii. The person has taken some advantage by violating a provision of statue or breached a term and condition and does not wish to

compensate back to the state or the person from whom the benefit have been taken by him.

b. Normally, 50% of litigation is civil and 50 % is criminal and in civil cases, 85% are those in which the government is a party. Out of the 3.3 Crore pending litigation, an AI application can be run on the about 1.40 Crore Civil litigation in which the Government is a party, to determine under which of the three heads the case is falling.
c. If the Legislature understands and realises that the litigants have approached the court because the statute is invalid in view of the law laid down by the Supreme Court, they can make amendments to the Statute and that will lead to the disposal of all those cases. If the Legislature still persists on continuing with the litigation, the Court must burden the legislature with heavy costs
d. If the Executive understands and realises that the litigants have approached the court because the statute is valid, but the action taken by them is invalid, the Executive can retrieve the order and get the cases disposed of. If the executive still persists on continuing with the litigation, the Court must burden the Executive with heavy costs.
e. If the analysis is that the person has taken some advantage by violating a provision of statue or breached a term and condition of the contract and does not wish to compensate back to the state or the person from whom the benefit has been received and is using the process of court to stall such recovery. The court should give him an option to withdraw the litigation and pay back the advantage he received by him. If the litigant still persists on continuing with the litigation, the Court must burden with heavy costs.
f. A mature AI application can over the years, help the legislature and executive in ascertaining the validity of a statue or action at the time of its enactment or passing of the order and the possible impact it will make on the exiting judgements and statutes.

All this can dramatically reduce the mechanical work of the Advocates and Judges and make their contribution to justice more meaningful and purposeful. They can take time in thinking more than what is already made available by the machine. However, AI will never ever replace the ingenuity of an advocate and experience of a Judge and that will be the real test of her/ his value worth as a lawman, to think out of the box, which is working with her/ him shoulder to shoulder.

The final vision of the application of AI to legal Institutions is that before

entering into litigation, the person should be aware of his coming *karmas*. Before filing the case and during the process, advocates are able to put their best foot forward. Before passing an order or delivering a judgment, the same could be thoroughly examined. Finally as soon as a statute is enacted or a judgment is delivered, it must be possible to objectively say "**This is Law! This is Justice!**" or "**Is this a Law? Is this Justice?**" This will be the true application of Artificial Intelligence to the legal institutions, not just creating some meta-tags to help the retrieval of judgements on subject and issue, which application has now become ancient.

Law Profession as a Career

The law profession evolves slowly and you not only grow with it, but it grows into you

29.07.2020 (Address)

Author's Bridge: *Written during the lockdown, for the generation of law students whose classrooms had closed and whose futures were uncertain. The ten mantras and eleven steps that this piece offers are drawn from nearly forty-five years of watching, briefing, and appearing before the greatest legal minds of the age. They are not career advice in the conventional sense – they are a transmission of the professional values that make an advocate worthy of the institution he serves. The injunction that runs through every point – think, read, prepare, appear with integrity, never mislead the court, never lose the judge's trust, enjoy the bliss of the profession – is the distillation of fifty years at the Bar into the essentials that a young advocate needs to carry into the courtroom on the first day and every day thereafter.*

Ten *Mantras* to make the most of your initial years:

1. Be in the chamber, office, or court from 9 am to 9 pm, keeping Friday evenings off. Never leave the office without preparing the cases listed for the next day.
2. Observe how seniors hold conferences with client and advocates prepare the brief, drafts, or settle pleadings and make their oral submissions.
3. Observe how the judges accept or disagree with the arguments and make their observation in court. Learn to think like a judge.
4. Carefully analyse the judgment, when delivered and understand how the judge had appreciated the arguments of both the sides and made findings on each issue.
5. Continue to absorb as much as possible from the seniors and the court, talk to them. Hear and learn from their experiences.
6. Never enter the court without being thoroughly prepared with the matter listed in the court.

7. Never leave the court till your matter is over, board is discharged, or judges have risen
8. Always be updated with the judgements of the Supreme Court daily. Maintain your notes register and remember the citation. It gives you a cutting edge and makes your contribution to a senior meaningful.
9. While waiting for your case to come up, don't stand in the corridors gossiping, that you can do after you have put in twenty years. Sit in the court and carefully follow the proceedings in the case being heard. Learn about judges' perception, the way the propositions are being considered, and the nature of existing and new litigation.
10. Read biographies of judges, advocates and other books

Build rapport with the judges: If you tell the judges the true and correct facts and the existing judgements on the issue and how justice can be done between the parties, judges are always ready to accept your submissions and, in the process, they also develop confidence in your integrity, which, to my mind, is the greatest treasure that one can earn in life.

Eleven steps for a promising future as a lawyer: The career starts where college ends and with the existing legal education system, a young graduate will have to develop meaningful skills to make an effective foothold in the profession. Apart from what has been stated above, all students must remember and understand:

1. Nobody likes to visit an advocate unless it becomes imperative. Every client that comes to you knows the facts of his case and the injury that he is suffering. He needs the help of an advocate to get respite and relief.
2. Listen carefully to the clients' problems and issues. Never presume facts, always keep your mind and options open.
3. Always prepare your drafts after reading each document and carrying out complete research on statutes and judgements on the subject. Be ready with judgements on both sides – for and against.
4. Learn to use your intellect and skills to the work in hand as it comes to you.
5. Every senior advocate or advocate has her/his career, aptitude, attitude, attributes, and approach. Don't copy anybody, imitation is suicide.
6. Never place incorrect facts or mislead the court because, in the end, the true and correct facts will always come before the court. Never lose the trust of the judge, don't allow him to black out you. Once a judge stops believing in you, he will not grant you discretionary reliefs and that is very painful.
7. Never be discourteous or show your tantrums in court. There is always an appeal to a higher court.

8. Always dress properly, presentation is very important.
9. There are no short cuts in the profession. Don't try to rush through the profession, move forward step by step.
10. You must love reading, writing, thinking, and open analysis. If you don't have those potentials don't spend your time in this profession
11. Enjoy your vacation time. Get out of town and be with your family. Enjoy every bit of your personal and professional life.
12. Feel proud to be an advocate. From the time a child is conceived till the succession certificate of her/his properties is issued, legal issues are affecting every person. There will always be abrasions in society, advocates will always be needed, there is no shortage of work, but there is certainly a dearth of good professional advocates. The most difficult, but the most important thing, is to think and that is what you are paid for. Read, think, analyse, and express clearly and correctly.
13. People will continue to come to you for opinion, advice, and engage you as a professional. Perform your best in every case by understanding the facts, the issue, and the social evil underlying it, understand the applicable statute, know, and find the right precedents supporting your case.

Law is the most dignified profession and is dynamic. It evolves slowly and you not only grow with it, but it grows into you. It helps you to grow into a better human being as you continue to search for equity, equality and help judges to do justice between the parties.

In the profession, we deal with abrasions of the society, so you will always be dealing with violence, exploitation, illegalities, breaches, manipulation, and mechanisation. All that should not be a deterrence, but a motivation to perform better and work to your perfection and enjoy the bliss of your existence. Only a happy advocate can perform best.

Always be a happy advocate.

Webinar - Conflict free woman, moving into the fifth dimension (Address)

Author's Bridge: *This address, delivered for 'We the Women of India' platform, is the fullest engagement with the feminine energy as a civilisational force. The Prakriti-Purush framework of the Gita – the dynamic feminine and the static masculine as the two poles of cosmic existence – provides the philosophical scaffolding. The women of the epics – Savitri's advocacy before Yam, Meera Bai's correction of Jiva Goswami, Draupadi's cry that went unanswered and changed the course of civilisation – provide the mythological depth. And the very practical proposal for private online Family Dispute Resolution*

Centres and Matrimonial Dispute Resolution Centres – in which women advocates would be equal holders – provides the institutional expression. The connection to the book's theme is direct: if the woman at the centre of every family becomes conflict-free, nothing can stop the world from becoming conflict-free. The fifth dimension – emotional bonding in spirituality – begins with her.

'We the Women of India' crafted by Shobhaa Ji is a platform that has the potentiality to make women aware of the issues that are normally and consciously pushed under the carpet or is made to push under the carpet. These issues have deep discomfort, distress and pain and finally they erupt as volcano and burn the entire carpet, the furniture around and the house in which it was so exquisitely placed by the cosmos. We, the women, constitute half the world, in terms of living beings. The entire world, as what we see, hear, smell and feel, is a manifestation of *Prakriti*, the feminine energy, as contradistinguished from *Purush*, which is a ghost without it. We have the *Purush* male dormant, unmoving energy and the *Prakriti* feminine dynamic, constantly moving energy and the two together constitute the cosmos as a whole.

When *Meera Bai* went to meet *Jiva Goswami* in *Brindavan*, *Jiva Goswami* informed her that he did not meet women, to which Meera Bai replied that she thought there was only one male and all others were females. *Jiva Goswami* realised his error and came running to *Meera Bai* to touch her feet. We, the women, will have to work to bring knowledge to the ignorant, like *Meera*, to make our perceptions free of insecurity, fear and guilt and with clear direction.

The constant change and movement in *Prakriti* bring into existence multi-fold human beings with different gender, colour, age, attitude and aptitude who are born to a certain set of parents at a certain location, develop multi-fold relationships, get married to a certain spouse and have children and events continue to take place every moment, based on a *karmic* theory. Every person is like a bead on a string and continues to vibrate within the span of its potentiality. I get support to this by the string theory of Stephen Hawking.

I speak today on the basis of my background and perception that evolved, as I developed close associations and interacted with fifty-one women in my Life. Women being my family, extended family, friends and colleagues. I have constantly observed and analysed their needs, requirements, wishes, longings, attitude, approach, desires, passions, sufferings, pain, traumas, ordeals, changing moods and tempers. Apart from my mother, sister, wife, mother in law and two daughter in laws with whom I had very close relationship, there have been my paternal and maternal grandmothers, Taais, Chachi, Buaas, Mausi, Maami, cousin sisters, bhaabhis, sisters in law, friends, colleagues at the bar, co-travellers in trains and flights, some of whom I met only once and never met again, but exchanged just

everything and many chat friends, whom I have never met.

What I speak today also comes from my understanding arrived at by reading several female authors like Amrita Pritam, Shivani – all her heroines were the most beautiful woman in the world, Mahadevi Verma, Shanti Singhal – whose collection of 50 poems Alka is a amazing piece of art, Subhadra Kumari Chauhan - of *khoob ladi mardaani* fame, Gaayatri Devi, Kamala Bajaj, Jane Austin, Emily Bronte, Ayn Rand – whose Fountainhead and Atlas Shrugged has given me deeper understanding into power of women with dignity, integrity and independence.

I have heard stories as a child and bow with awe, mythological figures like *Maa Saraswati*, her manifestation as *Maa Gaayatri* of whom I am a *upaasak*. *Maa Laxmi*, whose *vaahan* is an owl, waking in the night and sleeping in day. *Maa Durga*, her avatar as *Maa Sati*, *Maa Paarvati*, *Maa Kaali* and *Saavitri*. When Saavitri came back home after meeting Satyawaan, she was told by Naarad, that if she married her love, he will die exactly one year after she gets married. Saavitri took up the challenge and, when the time came, entered into dialogue with Yam, and established beyond any doubt that her existence on earth will not make any sense, without Satyawaan and the two together can only help in the enlightenment of the world. She propounded the highest form of advocacy and sensitisation to win over Yam and succeeded.

I have also made sincere efforts to understand with deeper analysis characters in epics like Manthara, Kekayi, Sita, Urmila – wife of Laxman, Ahiliya, Shabari, Radha, Kunti, Draupadi, Uttara – wife of Abhimanyu, Meera, Jhansi ki Raani, ending with Mata Hari portrayed in his magnanimous style by Paulo Coelho, in 'The Spy' whose last words were: "*The crimes I commit, I escaped, the greatest of which was being an emancipated and independent woman in a world ruled by man*".

All of them have undergone conflicts and have resolved them from time to time, over and over again and some of them were emerged as the greatest leaders and examples of powerful womanhood. The feminine energy is more powerful as it is dynamic and it has emotions in it and that has to be clearly understood by the predators.

As human beings we are all created equal, but no two human beings are identical. Differences exist to help every human achieve the real purpose of life and that is to attain perpetual happiness and consciously realise our true nature of eternal bliss, by realising the complete whole. Our goal is thwarted not only because of own doings or attributes but because of the created competition, ego, greed and arrogance of that leads to internal conflicts and external conflicts. The real objective of talking with Shobhaa Ji is to help bringing about awareness of the resolution of these conflicts for women, for that alone can help the world move into the fifth dimension. A glimpse of the fifth dimension we find in the movie

Interstellar, it is about emotional bonding in spirituality. Set in a dystopian future, Ex NASA pilot Cooper move out to find a new planet for humans. He enters into a black hole and is out of the time zone. When he comes back to meet his daughter, she is 85 years old and he is still 50. There is an emotionality even in his metaphysical existence and that is termed as the fifth dimension

The world is already riding on the fourth wave with 4 G, the fourth industrial revolution, Globalisation 4.0, Fourth Education Revolution, Legal Revolution 4.0. The next movement will be to ride the fifth wave as 5 G is already in. We will, in due course, move to the fifth industrial revolution, Globalisation 5.0, the fifth Education Revolution, Legal Revolution 5.0, in the next 20 years, when most of the law graduates who are now passing out of law colleges will be yearning to become High Court judges, Senior Advocates, or Senior Partners in a law firm. This movementis choiceless, so let us prepare the Generation Z to deal with the conflicts as they will continue to arise and resolve them. The solutions are passed over to Generation *Alpha* to take it forward.

Women is the first *guru* for every child born and she is the centre of each family. If she becomes conflict free, nothing can stop the world to become conflict free. Awareness is the beginning of understanding and knowledge is a choiceless happening. Once we know the equity, equality, we cannot act otherwise, unless we intend to do otherwise, which is hypocrisy. Interestingly, we are all hypocrites.

On the issue of creation of awareness for the new generation, let me tell you a small episode, written by an Ahriana Platten, a pagan and Minister of Inter Faith in Colorado, whom I met in a conference in Chicago in 2007 and again in Nagpur in 2008, which is as follows:

> *"On my way to the office this morning, my sweet little three year old said, "Why do you have to work , Mommy?" And somehow, by the grace of all that is good, I didn't say what popped into my mind "because Mommy has to make money so we can have food and a house and clothes.*
>
> *In a single flash, I realised that whatever I said to him in response could, in one little moment, affect how he looked at work for the rest of his life! What did I want him to grow up believing? What had I been taught as a child?*
>
> *I distinctly remembered my mother saying, "Your father works hard every day so we can have nice things," and she was right. My father worked very hard. I came to understand, at an early age, that if you wanted to have nice things, you would have to work and work hard.*
>
> *I learned that life is about work and work is about survival- and survival is the most important consideration. And it wasn't just my parents who taught me, it was teachers, friends, and the media who shaped my belief system.*
>
> *In a split second, I reflected on my own twenty plus years of employment. I could clearly see how I had played out these beliefs, working long hours, making my career the priority, and judging my own successes by the numbers on the balance sheet at the end of each month. I could see the*

connecting lines I had drawn between work, money, and the fear of "not having".

And, as I glanced at the innocent blue eyes in my rear-view mirror patiently waiting for an answer, I considered what I want my Wee-One to grow up believing – because at three, whatever mommy says is "fact." – "Mommy goes to work to make the world a better place, Sweetheart. Each of us has a special gift to give each other -something we can do - and doing that special thing is how we take care of each other and the world we share." "When you go to school," I went on to explain, " and you share your smile ,and you play with your friends, and you learn new things, you are giving your special gift to make the world a better place too, and that is your job!."

My heart leaped inside my chest and I would swear some celestial choir sang out in perfect harmony "Yes! Good Answer!" This is what I wanted my child to believe that we work to make the world a better place! I wanted him to feel good about growing up and going to work. I wanted him to see work as something special, not as something that we "have to do" to survive.

I pulled up in front of the playground gate, unbuckled my Angel-Boy and hugged him, feeling like the best Mommy in the world! How would it change our world, I considered as we walked hand-in-hand toward the pre-school door, if we each woke up with the intention of sharing our individual gifts with one another each day. What if we believed that how we treat each other, the smiles we share with one another, and the things we learn together actually contributed to making the world a better place? Even better, what if we were taught to look for a job that would make the world a better place, rather than learning to value the job according to its compensation level?!

As I pulled away from the day care, having given the prerequisite snuggle, I found myself thinking about how blessed I am to have the job I have and to have a gift to share. I thought about what I would do "today" to make the world a better place, and I felt something brighten in my soul. And now, as I sit here in my office writing about my morning, I realise that what I thought was about my child, was really about me - that the one being the teacher was actually the student. Today I discovered a reason to work, a holy and whole reason - to make the world a better place. In that simple learning I have reshaped the past, changed the present and through the innocence of a child, maybe even affected the future, all in one little moment in time."

I have listed some issues which needs to be taken out from below the carpet and discussed in the open so that there is awareness. These issues are not isolated for some women, but they affect every woman. As Mother Nature, she needs to feel proud, honoured and delighted and not feel guilty, insecure and develop fear of any kind whatsoever, with regards to some of them. As an equal owner of the globe, she needs to make the predators aware of their *laxman rekha*, lest they face the consequences for any and every crossover. WWI must undertake this awareness and sensitisation, stand by them and provide legal support as and when necessary.

Some of the enlisted issues are girl child discrimination, violence in all forms, including domestic violence and Me Too, period shame, virginity taboo, dealing with traumas, particularly the childhood scars, emotional blockage or lack of emotional maturity – this needs open and confidential communication, not to be put to social ridicule. One of the classic examples of being put to social ridicule is the serial '13 Reasons Why' on Netflix. A college student commits suicide because she

has been socially and finally physically ridiculed, by 13 of her close friends, both females and males, including a college professor, for not getting her justice. She feels the breach of trust all around her.

Inability to speak openly and understand clearly, limited opportunity to express fully, breast feeding at public place, economic insecurity, equality in education and at work place for which *Vishakha* Guidelines are in place, Mathematics farce – the incorrect understanding that women are not good in mathematics, Skill development - mastering 64 *kala*, which every women should learn, but there is a need for right teachers to teach these *kalaas*. Social security for aged women – one can see a large number of widows from Bengal in Banaras waiting for their time to come. Fear and threat of divorce and being isolated both by parents and family, redefining *Istridhan* - expenses made before marriage + gifts, jewellery and clothing from both sides, maintenance and property rights and finally adult relationship stigma – search of soulmate. Forty steps of Love by Elif Shafak, Kramer vs. Kramer and Zahir by Paulo Coelho deal beautifully with these searches of the self.

Every conflict has its root in aversion, distaste, or dislike, the feel of violation of privacy or equal rights and status. It is a kind of disagreement with the person, situation, or event. Brooding on dislike leads to differences. It is at that moment that the dislike has to be addressed to bring an end to the conflict. If it does not end there, it will escalate to first violence to self, which must be stalled at any cost, then irretrievable breakdown of the relationship and finally litigation.

There can be n number of differences on any issue. There can be as many as 21 differences on the way tea can be enjoyed. The need is to understand the difference and not lose the respect for the other, by clearly speaking out. Tell it to the person and not to your family or friend alone about what makes you uncomfortable and whenever you feel you are at the receiving end or is being used in any manner what so ever. The sensitisation has to be about being aware of the feeling of violation of privacy or equal rights and status and speak out your true feeling without any discomfort as another equally existing human being dehors age, colour, caste, status and gender.

I am pursuing my project of 'Private Courts' with online Arbitration and mediation. Two verticals of online Private courts, Family Dispute Resolution Centre and Matrimonial Disputes Resolution Centres, directly relate to the resolution of conflicts and disputes in which women are directly affected. My suggestion for WWI would be to start by sensitising and preparing women advocates in India and be equal holder in the online mediation and arbitration, in which they can excel and which is one of the way forward to help woman becoming conflict free.

Spirituality and Human Rights - Human Rights Day
10.12.2020 (Address)

Author's Bridge: *The meeting of two streams – Justice Dipak Misra and Professor Bharat Gupt – and the meeting of two great subjects: Spirituality and Human Rights. The argument that connects them is: that the rights guaranteed by the Constitution – dignity, equality, liberty – are not inventions of the Enlightenment or the post-war international order. They are re-statements, in the language of modern law, of what Sanaatan Dharm has always understood as the entitlement of every being created equal in the spark of Purush that embodies them. The legal revolution is, at its deepest level, a spiritual one: the conscious realisation, by individuals and institutions alike, that every being is entitled to dignity, to protection from exploitation, and to the conditions in which they can realise their true nature. Human Rights Day is the secular name for that realisation. Spirituality is its source.*

This is a momentous occasion for a twin *sangam* as we celebrate the Human Rights Day today. First *sangam* is of two great seekers, scholar and objective thinkers, Justice Dipak Misra, former Chief Justice of India and Prof. Bharat Gupt, Classicist, Theatre theorist, Musicologist and member of the Executive Committee of IGNCA.

The second *sangam* is of the subject of the day, Spirituality and Human Rights. We will all take a dip in it today and come out wholesome. We look forward to knowledge and enlightenment to unfold itself, before it merges into the ocean of *Aakash* record and YouTube to be available to us, as and when recalled by us, at our will.

Every being is created equal in as much as, it has a living spark or *Purush,* the spiritual constituent and a physical structure, made of *Prakriti*. Every human being has, in addition, desires, attachment, ego, emotions and intellect and that makes every human being different. *Prakriti,* coupled with *karm* of some, has given rise to the issues of human rights as *homo sapiens* has continued to mark towards peace and harmony.

Before the great split and the great destruction which came on the last day of *Mahaabhaarat*, the direction for the mankind established by *Sanaatan dharm* was express, clear and unambiguous. Carry on whatever activity comes to your hand, to your perfection, according to your attitude and attribute, with the clear goal, to realise the true nature of Self. The purpose of life was conscious realisation of the fact, that the true nature of the Self is of bliss and ecstasy and that is the real and the only equity, equality – *satt-chitt-aanand*.

The great split took place when *Balraam* realised that every prevailing and accepted human right and every rule of law of war was broken, courtesy *Shri*

Krishan and as the most agitated person, he walked over to Central Asia. *Balraam* energy – *A brahm* established communities who would be ruled by the books as the rule of law, either follow, merge, or disappear. While the open, reasoned, logical system continued to prevail in *Bhaarat*, according to *Sanaatan Dharm*.

The great destruction was by the release of the *Brahmaastr* of *Aswathaama*, which he was unable to withdraw like Arjun and that destroyed the entire existing science and technology and its knowledge and understanding. The same is being retrieved and revived forover 2,500 years from manuscripts carried away from *Bhaarat* to all over the world. The entire science and technology development that has taken all over the world today and has been in conflict with Spirituality and Human Rights is not even 2% of what is on the platter of the human beings.

The resultant effect of all this, coupled with the arrogance, greed and ambition, to conquer and control the world, led to forgetfulness of the real purpose of life. With the losing of spirituality, the history of 2,500 years is full of wars and conquests, plunder, rape, loot and destruction of every known human right and painfully, their glorification.

For 2,500 years, the world has seen the rise and fall of Alexander, Catholic missionaries, Radical Islam, Napoleon, Hitler and the like. The world saw slavery, colonisation, the World War I and World War II and finally, 70 years before today, when the General Assembly of the United Nations declared resolution 423(V), inviting all member states and any other interested organisations to celebrate December 10, as the Human Rights Day.

We at World Organisation of Law and Finance (WOLF) and its vertical National Human Rights Security Council (NHRSC), are celebrating this today, by bringing a confluence of Spirituality and Human Rights. All this is possible now, for since 2015 we ride the fourth wave, with 4 G, the fourth Industrial Revolution, Globalisation 4.0, Fourth Education Revolution, Legal Revolution 4.0 in place. The next shift will be to ride the fifth wave as 5 G is already in. We will, in due course, move to the fifth industrial revolution, Globalisation 5.0, the fifth Education Revolution, Legal Revolution 5.0, in the next 20 years, when most of the graduates will be in power as Politicians, Bureaucrats, Judges, Senior Advocates, Educationalists, Industrialists, Media personnel, Bankers and Consultants and Spiritual leaders.

This movement is choiceless, so let us all today become aware of this great convergence of Spirituality and Human Rights, which have no existence in isolation like *Purush* and *Prakriti*. Prepare Generation Z to realise the true path and pass it over to Generation *Alpha*

Peace Mediation – Legal Revolution 5.0

13.05.2021 (Blog)

Author's Bridge: *The fine distinction between Meditation and Mediation is the presence and absence of the letter T. That single observation – which opens this blog – contains the fullest philosophical statement of what Legal Revolution 5.0 means. In meditation, the Self acts as the Teacher. In mediation, the T is the mediator – the intellectual obstetrician who helps the parties give birth to the resolution that already exists within the conflict itself. The evolution from Legal Revolution 1.0 (the family head, the tribe head, the king) through 2.0 (Magna Carta and Parliament) through 3.0 (independent judiciary) through 4.0 (ADR) to 5.0 (peace mediation) is the arc of civilisation's attempt to move from violence to reason to wisdom. Peace mediation is not the disposal of a dispute. It is the eradication of the conflict itself, forever – the combustion of the substratum that made the conflict possible. That is the constitutional goal: not a casteless society, not a classless society, but a conflict-free society. That is the Birth of My Love.*

The fine distinction between Meditation and Mediation is the presence and absence of the letter 'T'. In meditation, the Self itself acts as the third party or the teacher and guides the Self to realise the true nature of the Self. T in mediation is the mediator. A mediator is a person who acts as an intellectual obstetrician, helping people to give birth to the key that resolves the dispute between the parties. A mediator is not a person who helps in the conception or existence of the solution. The correct answer already exists within us all. Aid, help and assistance of a third party is essential and imperative to enable surfacing of the resolution. Mediator helps disputing parties see the equity, equality and resolve the existing conflict.

As a law of nature, there exists fundamental similarities and characteristic differences amongst us. This dualism helps each individual to understand the commonality and have a multidimensional view of life, events, relationships and other things. The commonality between all human beings is to value human equality. All beings are created equal *dehors* gender, colour, caste, religion, family backdrop, social status, IQ, EQ, SQ, and HQ. Differences exist to enable us to appreciate and respect the significance of meaningful co-existence and sustained harmonious relationship. All relationships are based on trust. Breach of trust gives rise to conflict.

Whenever the will of one person or a group of persons is suppressed by another person or group of persons, for any reason whatsoever, conflict arises. There is no conflict till the suppression of will does not takes place or pain touch the soul. We all can harmoniously co-exist happily, peacefully and perpetually enjoy the bliss of togetherness, without suppression or suppressing of will of another, that is being human.

However, time and time again, people continue to exhibit their superiority and power. Some people are ruthlessly ambitious, not for their own development, but for claiming being victorious and dominating others. Classic examples are Alexander, Arabs, Mughals, Julius Cesare, Napoleon, Hitler, European colonisation and the like. They plunder and loot others who have worked hard and created more resources for themselves. Their army rape women and girls who have no way to defend themselves as war booty and they are called great. Sad but true

All technological development and marketing products, need basic raw materials. Countries with technological advancement create ways to get these resources at minimal costs or by illegal means. Gold dore, blood diamond, oil and minerals, wood and coal and also human resources are sought to be won or obtained at the tiniest price. Some people have a deep desire to dictate and control others and use them free or just for food, clothing, and shelter, for their own comfortable and luxurious existence. This leads to economic exploitation, corruption, slavery, poverty, domestic violence, suicides and all forms of conflicts.

Generation after generation, people who exploit call themselves rich, educated, developed, strong and powerful. Those who were exploited are called poor, uneducated, underdeveloped, weak and fragile. This leads to insecurity, diffidence and a perception of inequality and bias, based on the barometer of money. As basic needs, which continue to ladder up, are never met and there is always deep pain and trauma within, as contradistinguished from bliss and ecstasy.

The real conflicts are created by those who continuously perpetrate criticism, competition and comparison arising out of egoism, arrogance, fear, insecurity lust and greed. On the other side are those who believe in co-existentialism, caring and creativity and make their best efforts to resolve the conflicts by gentleness, modesty and deep understanding of equity and equality, which, when does not find respect and reverence leads to disruptive encounters.

Communication is the greatest strength of human being. That is why we are called evolved. We can converse, talk and chat 24 x 7. We can tell others what we feel and think. Every conflict is capable of resolution, if people are reasonable, objective and are able to communicate and address their real issues, clearly, expressly and unambiguously. But people restrain as they feel and understand that the communication will likely lead to escalation of conflicts than sorting them out. Inability to resolve conflicts gives rise to dispute and unsettled disputes gives rise to litigation, fights and wars.

As human being civilised it shifted from violent ways of dispute resolution by dual, ring fights, battles and wars to a civil way of using the office of family head, tribe head, *panchaayat* or king, a neutral third party - Legal Revolution

1.0. With the proclamation of Magna Carta (1273), the power to resolve disputes and pass decrees moved to Parliament - Legal Revolution 2.0. The independent judiciary became the repository of dispute resolution from the trial court to the Supreme Court and that marked the advent of Legal Revolution 3.0.

As several issues arose in court litigation, people moved to arbitration, conciliation and mediation (ADR) - Legal Revolution 4.0. Riding on the fourth wave, as the human being has moved to the Fourth Dimension and Globalisation 4.0, Fourth Industrial Revolution and Fourth Education Revolution are already in place, we also see peace mediation marking the Legal Revolution 5.0.

Mediator uses specialised communication techniques during the dynamic, structured, interactive process and assists disputing parties in resolving the dispute between them. All participants are encouraged to actively participate in the process, vent out their grievances to enable the mediator to reach to the bottom of the issue. Mediator focuses upon the needs, rights and long-term interests of the parties during this party-centered process. Grievances relate to past conflicts. It's like rear view mirror driving. Interests are futuristic, looking forward to 2030, 2040, 2050. Mediation is to help parties change the whole outlook of the dispute.

Mediator uses a wide variety of techniques as s/he guides the process in a constructive direction and to help the parties find their optimal solution. A mediator is facilitative and manages the interaction between parties and facilitates open communication without vested interests and perceptions. He helps in breaking new grounds to have better relationship, live a better and happy life. Mediation is also evaluative as the mediator analyses issues and relevant norms 'reality-testing', while refraining from providing prescriptive advice to the parties, 'You should do...' or 'This may be better...'

Peace mediation, as contradistinguished from mediation simpliciter, is not a process of merely deciding a dispute or disposing of a litigation by bringing about a settlement between the parties for the present. Peace mediation is a process of eliminating and eradicating the conflict itself, forever. The process entails exploring and exposing the error in understanding and perception, which formed the very basis of the disagreement that brought about the clash of interests. Quality Peace Agreement must result in combusting and resolving the base or substratum of the conflict forever.

The purpose of both meditation and peace mediation is to understand the basis and true nature of the issues agitating deep all bring about in existence a **conflict free** individual, family, society, state, nation and the world.

Nivaaran: From Mediation of Disputes to Peace Mediation

May 2021 (Note)

As my journey in law matured, I increasingly began to realise that litigation, however necessary, was often only the treatment of visible fractures. Courts adjudicated disputes, but beneath those disputes lay deeper human conflicts – wounded relationships, distrust, fear, ego, inequality, institutional failure, and the inability of human beings to engage in meaningful dialogue. The law could pronounce upon rights and liabilities, but many times it could not heal the human condition that had produced the conflict in the first place.

It was this gradual realisation that brought me closer to the philosophy of mediation – and thereafter to a much deeper idea which I began to describe as *Peace Mediation*. A significant shift in my own thinking came after I completed the 40-hour Mediation Training Programme. Until then, like most lawyers shaped by decades of adversarial practice, disputes were largely viewed through the prism of rights, remedies, precedents, and judicial outcomes. Mediation exposed me to an entirely different dimension of justice – one where listening often became more powerful than argument, understanding more transformative than accusation, and dialogue more constructive than victory.

For perhaps the first time in my legal journey, I began to see conflict not merely as a legal problem to be decided, but as a n condition to be understood. In this journey, Nivaaran emerged as an important institutional expression of that evolving thought. The idea of Nivaaran had been conceived much before I joined, as the mediation movement in India had already begun taking shape after the constitution of the Mediation and Conciliation Project Committee (MCPC) in 2005, headed by the senior-most puisne Judge of the Supreme Court of India. High Courts and District Courts across the country had, thereafter, actively advanced the mediation movement under the framework of the Legal Services Authorities Act, 1987.

Nivaaran was conceived by mediators of the Supreme Court not merely as another mediation organisation. It represented an effort to globalise the mediation movement and position India as a leader in mediation, particularly for the Commonwealth and Global South. At its core lay a deeper understanding of conflict resolution itself – not as adversarial victory, but as the restoration of dialogue, dignity, trust, and social harmony. It sought to move mediation beyond a procedural mechanism and reposition it as a civilisational necessity in an increasingly fractured world.

The philosophy underlying Nivaaran resonated deeply with my own evolving understanding of justice. Over the decades, I had witnessed that many conflicts entering courtrooms had already destroyed years of human relationships be-

fore the first case was even filed. Families had broken down, commercial partnerships had collapsed, communities had become hostile, workplaces had turned toxic, and institutions had lost credibility. Litigation often became the formal recording of a collapse that had already occurred much earlier at the human level.

Nivaaran's emphasis on jurisprudence of peace mediation, therefore, carried profound meaning. The idea was simple yet transformative: conflict cannot always be resolved merely through positional bargaining or legal adjudication; sustainable peace emerges when parties begin to hear not merely the arguments, but the fears, aspirations, pain, and humanity of each other. The objective was not merely the settlement of cases, but the restoration of communication itself.

The institution was founded in 2019 as Team Nivaaran by a group of committed legal professionals and mediators who shared the belief that mediation must evolve beyond the settlement of disputes into a larger instrument of peacebuilding and preservation of the Rule of Law. Nivaaran was however formally registered on 25.04.2024 with nine Life Trustees of Nivaaran Mr. R. Santhanakrishnan, Life President of the Commonwealth Lawyers Association and President of Nivaaran; Shri Rajiv Dutta, Senior Advocate; Shri Jitendra Sharma, Senior Advocate; myself, Aruneshwar Gupta, Senior Advocate, as Vice Presidents; Ms. Nandani Gore, Secretary; Ms. Prabha Swami, Treasurer; Shri R.K. Khanna, Senior Advocate and former President SCBA, member MCPC; Ms. Shirin Khajuria, Senior Advocate; and Ms. Abha Sharma, Advocate, as members.

Over time, several distinguished members, mediators, legal professionals, and young advocates joined the movement, transforming Nivaaran into a growing platform for dialogue, mediation advocacy, and peace-oriented legal thought. One of the most meaningful initiatives undertaken by Nivaaran has been its Online International Summer School on Mediation, supported by CLA and SIMC, which has now successfully completed six editions. What began as an educational initiative gradually evolved into an international intellectual platform bringing together young advocates, law students, mediators, academicians, and legal thinkers from across the Commonwealth. The Summer School became not merely a mediation training programme, but also a space for the exchange of ideas on mediation, conflict resolution, ethics, constitutionalism, technology, and the future of justice systems in an increasingly interconnected world. The idea travelled beyond borders and found resonance in the Caribbean through four sessions on mediation under the banner of "Caribbean Waves." Its journey now appears set to continue towards Africa as "Africa Safari," carrying with it the conversation on peace, dialogue, and human understanding across continents.

What gave the initiative special significance was the enthusiastic participation of young lawyers from different jurisdictions and cultural backgrounds. In

many ways, the programme reflected the larger philosophy of Nivaaran itself – that the future of justice would not be built merely through adjudication, but through generative dialogue, understanding, collaboration, and the cultivation of a culture of peace.

The organisation also reflected another important shift taking place within my own thinking – the movement from "dispute resolution" to "conflict prevention." Courts largely intervene after the breakdown has already occurred. Peace mediation, however, seeks to intervene before the fracture becomes irreversible. It seeks to build social structures where dialogue replaces hostility before violence, prolonged litigation, institutional paralysis, or emotional destruction take hold.

What particularly appealed to me was that Nivaaran did not view mediation in isolation from the larger evolution of society. It consciously linked mediation with technology, online conflict resolution, education, training, public awareness, and the broader global commitment embodied in Sustainable Development Goal 16 – Peace, Justice and Strong Institutions. This integration of justice, technology, and human dialogue mirrored many of the thoughts that later found fuller expression in my writings on Legal Revolution 5.0, Project WISE 2.0, and eventually Finance Revolution 5.0 and the PICS Economy.

Increasingly, I began to see that the future of justice would not lie exclusively in larger court complexes, more statutes, or endless procedural expansion. The future would depend equally upon the creation of systems that reduced hostility itself – systems that encouraged empathy, trust, transparency, accountability, and collaborative problem-solving.

For me personally, these interactions with some of the finest mediators in India and abroad reinforced a profound realisation: every civilisation ultimately depends upon the values it transmits to its youth. If future generations are trained only to win adversarial battles, conflict will multiply. But if they are trained to understand human dignity, dialogue, and reconciliation, justice itself acquires a more humane and sustainable character – a clear movement towards a system where law truly serves justice for the common man.

Over time, this thought process crystallised further in my mind into a simple realisation: Courts may deliver judgements, but societies survive through trust. No civilisation can sustainably function if every disagreement must culminate in adversarial combat. The Rule of Law itself ultimately depends upon the existence of social trust, institutional legitimacy, and peaceful methods of resolving human differences. Without peace mediation, even the finest constitutional structures eventually become overburdened.

It was from this philosophical foundation that the idea of the Commonwealth Peace Mediation Conference (CPMC 2026) eventually emerged – carrying

the theme: *"Peace Mediation and the Rule of Law."* The thought underlying the Conference was rooted in a simple continuum: peace within the individual, peace within the family, peace within institutions, peace within nations, and finally peace within the world at large. From the micro to the macro, peace mediation lays the path to the Rule of Law.

My association with Nivaaran, therefore, became far more than institutional participation. It became part of the larger transition taking place within me – from seeing justice merely as adjudication to understanding justice as the preservation of human harmony itself. Perhaps that was also the natural evolution of my own journey. I had begun my professional life fighting cases within courtrooms. But somewhere along the way, I had begun searching for a world where fewer people needed to enter them at all.

Webinar - Art of Advocacy

31.06.2021 (Address)

Author's Bridge: *The art of advocacy, traced from Angad before Raavan to Shri Krishan before Arjun to years of watching, briefing, and appearing with the greatest senior advocates at the Supreme Court of India. The seven qualities of Angad – presentation, speech delivery, emphasis and pausing, body movements, knowledge and humility, client representation, concluding effectively – are the qualities of the advocate who has mastered the outer form. The art of Shri Krishan – who never told Arjun what to do, but empowered him to think correctly and act with perfection by himself – is the art of the advocate who has mastered the inner one. Between those two forms of mastery – the outer and the inner – lies the entire education of the legal profession. And at the end of that education is the sentence with which this webinar closes: advocacy is the manifestation of the spiritual energy of equity, equality and justice, which alone can lead to the development of a conflict-free society living in harmony and bliss.*

I am not a bearer of any of the seven lamps. I am only a mirror, to reflect the brilliance, wisdom and genius articulated by the insightful speakers, flashing light all around.

Since the beginning of civil society, all the kings and every common man, needed professional help to objectively express his concerns, interests and entitlements, against violation of laws and his rights, perpetrating illegalities and breaches of contract and trust. This is the only profession in the world, where one is paid to search the equity, equality and speak for justice, fearlessly.

Back into the history, about a million years ago, *Shri Raam* decided to send *Angad* son of *Raja Baali,* to be his Advocate before *Raavan* and make him understand the futility of war, which would wipe out, about 50 million warriors.

There was a stiff resistance by both his younger brother *Laxman* and *Raja Sugreev* against sending of *Angad*, particularly because *Shri Raam* had killed *Raja Baali*, only a few days back.

However, *Shri Raam* narrated to them the skills of *Angad* and that settled the issue. *Angad* had all the attributes of a great advocate and that was the confidence of *Shri Raam* in him. Lets me share them with you:

1. His presentation as a person, attire, posture and body language. It was humble but not meek, it was straight but not arrogant, it was like a seeker, but not passive and finally it was casual but not devoid of alertness.
2. The speed of his speech delivery, was neither too fast nor too slow. Just perfect to enable the listener, to be able to hear and understand each word clearly. The pitch of his voice, was neither too high, nor too low. It was just audible to the hearer, with pleasure. Finally, his pronunciation was impeccable. Every word was pronounced correctly with clarity. The voice did not carry any accent or inflection.
3. He knew which word had to be emphasised and when to pause between the words. Pausing is always essential to help the judges contemplate on what they had heard and relate it to the issue in hand. All this comes from self-reliance and self-confidence and the impact he is making
4. He had no movements of his body, while making his submissions. Like some speakers who continue to move up, on their toes, move their hands or eye brows. He would talk straight eye to eye, without allowing any digressions. Keep the judges focussed, to the words and their content.
5. *Angad* was the most well-read and intelligent person during his times. He was well versed in all the 4 *Veds*,18 *Upanishads* and108 *Puraans* the entire political and social milieu. He is self-actualised, learned it by his deep, insatiable desire to go deep into the fundamentals and basis of every issue. But he will never make any effort to brag about his knowledge. He will only speak the relevant, to the context.
6. He was representing a patron and will always protect his interest. He will do nothing that will impair the interests of his client, at any cost, by perpetrating his own prejudices. He will always maintain the dignity of the person, he is representing, fearlessly.
7. And finally, he knew when to stop speaking. Having made his point and having realised that the person hearing has understood, he will close his dialogue

Now we move forward to about 5,000 years ago and find *Shri Krishan* advocating a reluctant *Arjun* standing between about 4.5 million warriors

during the *Mahaabhaarat*. *Arjun* , a very experienced and intelligent warrior, had developed cold feet, looking to the grave consequences of his actions, in which all may die. He, like an unwilling and hesitant judge, did not wish to act and decide the case and was finding ways to get an adjournment. As *Arjun* put his seven questions on existing issues and conflicts, one after another, *Shri Krishan*, with immaculate precision and perfection, narrated to him the entire cosmic interplay and resolved the conflicts, for all times to come. Not ignoring any one of them, but making him understand the philosophy behind them.

Shri Krishan not merely helped *Arjun* understand the cosmic equity, equality, but also brought about realisation and enlightenment, to enable him to see beyond the mundane and the ephemeral and act to his perfection and enjoy the bliss of his action. *Shri Krishan,* always smiling, developed the arguments on his legs and never told *Arjun* as to what he should do. He empowered Arjun to think correctly and act exactly the way *Shri Krishan* wished him to act, in the existing facts and circumstances. That perhaps is the greatest art of advocacy, unlike the dialectics and rhetoric prevalent during the times of Socrates, Plato and Aristotle.

We now come to the present age. Each senior in the Supreme Court whom I have watched, briefed and interacted, in last about 45 years of my being there, had a unique gift. Apart from all that we have heard from the profound speakers today, let me share with you my personal experience:

> C.K. Daphtary, the 2nd Attorney General of India, whom I saw moving slowly with a stick in the corridors of the Supreme Court, was famous for his wit.
>
> I briefed Mr. Lal Narain Sinha, the 5th Attorney General of India, in the Rangnath Reddy Case. He was extremely unassuming, simple, humble, very precise and absolutely non-repeating. The judges were always extra attentive, when he was making his arguments, lest they may miss a word.
>
> I had occasion to hear Mr. Nani Palkiwala in the Minerva Mills Case, while I was representing the State of Rajasthan. He would give easy-to-understand common examples and had a total command on facts and figures.

Mr. Ashok K. Sen, the longest serving Law Minister of India in cabinets of three generations of Prime Ministers – Jawaharlal Nehru, Indira Gandhi and also Rajeev Gandhi had the memory of an elephant. He could tell you the page numbers of your brief, years after you had briefed him. He knew the objects and reasons of all statutes. He knew almost all the judgements of the Privy Council, Federal Court and House of Lords, like the back of his hand. His library was better equipped than the Supreme Court Judges Library

Mr. F.S. Nariman has a robust common sense, very quick in reducing complicated issues to first principles.

Mr. Soli Sorabjee had an outstanding court craft. I have seen it in many matters in which I briefed him

My first senior Justice S.C. Agarwal, who retired as a judge of the Supreme Court of India, was called the walking encyclopaedia of Supreme Court Judgments. He had citations of all judgements in his head and would open them up, as a juggler takes out handkerchief out of his hat.

Mr. R.K. Garg another senior and partner of Mr. S.C. Agrawal, always told me, learn to use the Supreme Court as a tool for social change. He continued to argue national socialism as the constitutional goal and saw the Supreme Court move in that direction. His perseverance and contribution in development of constitutional jurisprudence is unparalleled

I have not seen another senior like Mr. P.R. Mridul, with whom I was associated for about four years, having better command on English language and fluency in oratory. He would regularly read novels and would pronounce every new word twenty times that he came across, to get it on his tongue. His classic and constant reminder was, law is not mere knowledge but the application of it, to the facts in your hand

Friends Advocacy is the expression and manifestation of the spiritual energy of equity, equality and justice, which alone can lead to the development of a conflict-free society living in harmony and bliss, with allegiance to a higher cause – in the words of Justice Dipak Misra.

Thanks to Mediation Steadfast, Australia and Nivaaran, Mediators of the Supreme Court of India, for giving me this opportunity to share my thoughts on, the Art of Advocacy.

40 hrs, 5 days – Mediation Training Program

05-09.03.2022 (Address)

Author's Bridge: *I undertook forty hours of formal mediation training alongside twenty-six colleagues. It was an interesting experience to sit again as a student. It is also the most honest act available to me, who believe that Legal Revolution 5.0 is not merely a vision to be articulated but a discipline to be practiced. This reflection on the training programme is one of the most personally revealing pieces: the admission that the journey from the adversarial dialectic to the generative dialogue is not completed by understanding it intellectually but by submitting to it experientially. The forty hours were, in a real sense, a turning point – the moment at which the advocate who had argued for peace mediation began also to practice it.*

The journey of forty hours of mediation training through interactive sessions, spanning five days, has been one of the most absorbing, reflective and fasci-

nating experiences for me. The journey with 26 most colourful, joyful, vibrant and creative colleagues and two trainers will be the most memorable moments for times to come.

Choicelessly, I have a spiritual–philosophical approach and I continue to see every activity, event and institution with those glasses on. The fine distinction between Meditation and Mediation is the presence and absence of the letter 'T'. In meditation, the Self or the *Aatma* itself acts as the third party or the teacher and guides the Self to realise the true nature of the Self or the Equity, equality. An independent third party in mediation is an outsider, the mediator. A mediatoris a person who acts as an intellectual obstetrician, helping people to give birth to the key that resolves the dispute between themselves. The correct answer already exists within the problem itself. At the base of every problem, there is someone who is unreasonable, unjust and improper with the attitude and potentiality to exploit the other, without giving the due, be it money, time, emotional support, or respect. Aid, help and assistance of the mediator is essential and imperative to enable surfacing of the toxin. The whole process is like *samudra manthan*.

It is not suddenly, that meditation is taking its roots deeper into the social psyche and is being promoted from the top. All this is a wave motion and we all have to move with it, choicelessly. As human being civilised they shifted from violent ways of dispute resolution by dual, ring fights, battles and wars to a civil way of using the office of family head, tribe head, panchaayat or king, a neutral third party that was the advent of Legal Revolution 1.0.

In 1273, with the proclamation of Magna Carta, the power to resolve disputes and pass decrees moved to Parliament, constituted of the people, by the people and by the people. That marked Legal Revolution 2.0. Independent Judiciary became the repository of dispute resolution from the Trial Court to the Supreme Court to the ICJ and that manifested Legal Revolution 3.0.

As several issues arose in court litigation, people moved to arbitration, conciliation and mediation, which was Legal Revolution 4.0. This is where most of us are existing. Riding on the fourth wave, the human beings have moved to the Fourth Dimension and Globalisation 4.0, the Fourth Industrial Revolution and Fourth Education Revolution. The new breaking ground is peace mediation, marking the Legal Revolution 5.0.

Peace mediation, as contradistinguished from mediation simpliciter, is not a process of merely deciding a dispute or disposing of a litigation by bringing about a settlement between the parties for the present. Peace mediation is a process of eliminating and eradicating the conflict itself, forever. The process entails exploring and exposing the error in understanding and perception, which formed the very basis of the disagreement that brought about the clash of interests. Quality

Peace Agreement must result in combusting and resolving the base or substratum of the conflict forever.

The purpose of peace mediation is to make every person become conflict free by understanding the basis and true nature of the issues agitating deep in them. Our Constitutional goal is not a casteless society, it is not a classless society, the real Constitutional goal is the development of conflict free society. Lawmen have a pivot role in this paradigm as lawmen, not as politicians or social reformists. Let's all work together to create a conflict free society, the ultimate goal of mankind.

73 Years Young High Court of Rajasthan

29.08.2022 (Blog)

Author's Bridge: *The High Court of Rajasthan, inaugurated on 29.08.1949 with Chief Justice K.K. Verma and eleven judges representing five former princely states, embodies a history that is also the author's own. It was from the doors of this institution that the family's connection with the law was forged across three generations. The blog at the 73rd anniversary is not a ceremonial tribute – it is a meditation on what institutional continuity means when the institution is dedicated to something larger than itself. Roscoe Pound's observation that it is the approximation to the ideal of justice, not the falling short, which is significant, captures exactly the understanding of law: not condemned for its failures, but valued for its striving – and held to account, with love, for the distance that still remains.*

Law and Legal Institutions are young forever with the dynamic energy existing within, which continues to evolve with every human relationship coming into existence. They ceaselessly, in spite of minor abrasions, march forward with poise, dignity and magnanimity, to protect and compensate the suppressed wills and unheard cries and also punish those who commit breach and violate the law. Courts are the hub of social balance as it resolves conflicts and disputes from conception of being until the issue of the succession certificate.

Roscoe Pound, in 'Justice according to Law,' brilliantly penned

> *"We have always known that the judicial process does not at all times and in all places confirm absolutely and in all respects to our ideal of it. Despite all the checks with which we surround it, it does not come out in every case entirely as we could wish. But the striving for the ideal, I repeat, goes far to realise the ideal. It is the approximation to our ideal of it which is significant, not the falling short, which we seek continually to control and to reduce to a minimum".*

Greater Rajasthan was formed on 30.03.1949, with Sawai Man Singh II as the *Rajpramukh* and Hiralal Shastri as the Chief Minister. On that date, High Courts were functioning in five states – Jaipur, Jodhpur, Bikaner, Udaipur and

Alwar. On 29.08.1949, the Rajasthan High Court, Ordinance 1949 was notified and the High Court of Rajasthan was inaugurated at Jodhpur by the *Rajpramukh*. Oath was administered to Justice K.K. Verma from Allahabad as Chief Justice of Rajasthan and the following 11 (eleven) Judges representing different states as judges of the High Court of Rajasthan:

1. Justice Naval Kishore and Justice Amer Singh of Jasol from Jodhpur
2. Justice K.L. Bapna and Justice Mohd. Ibrahim from Jaipur
3. Justice J.S. Ranawat and Justice Shardul Singh Mehta from Udaipur
4. Justice Khem Chand Gupta from Kota
5. Justice Tirlochan Dutt from Bikaner
6. Justice D.S. Dave from Bundi
7. Justice K.K. Sharma from Bharatpur
8. Justice Anand Narain Kaul from Alwar

The principal seat of the High Court was kept at Jodhpur and benches at Jaipur, Udaipur, Bikaner and Kota. Shri K.S. Hajela was appointed as the first Advocate General of Rajasthan.

Shree M.P. Gupta, my grandfather as the first registrar of the High Court On 26.01.1950, the Constitution of India came into effect, Rajasthan was given the status of Class 'B' State and the strength of the judges was reduced to 6 (six). It was essential that the Judges must confirm to the eligibility provided under the Constitution. The result was that Hon'ble Chief Justice K.K. Verma, Justice Khem Chand Gupta, Justice Trilochan Dutta, Justice Sardool Sing Mehta retired on 24.01.1950 and Justice A.N. Kaul on 03.03.1950. Justice Naval Kishore was appointed as the acting Chief Justice and continued till 0101.1951, when Justice K.N. Wanchoo from Allahabad was sworn in a Chief Justiceon 02.02.1951. Chief Justice K.N. Wanchoo continued as Chief Justice till 10.08.1958, when he was elevated as a judge of the Supreme Court of India. Justice K.N. Wanchoo completed a tenure of 7yy, 7mm, 12 dd, the longest tenure by any Chief Justice of Rajasthan.

From 22.05.1950, benches at Bikaner, Kota and Udaipur were abolished, but the Jaipur Bench continued to function. In the vacancy caused, two eminent lawyers – Shri I.N. Modi (29.01.1953) from Jodhpur and Shri D.M. Bhandari (26.08.1955) from Jaipur were elevated to the Bench. Jaipur bench was abolished in 1958 and was re-established on 31.01.1977. 40 Chief Justices and 200 puisne Judges totaling to 240 judges have been elevated as judges of the Rajasthan High Court. 53 of them have been from other High Courts. 8 Judges had two tenure either because of non-confirmation and reappointment or transfer to other High Courts and *ghar waapasi*. 23 Chief Justices and Judges have been elevated to the

Supreme Court, 8 of them having Rajasthan as their Permanent High Court (PHC) and one as Chief Justice of India.

Chief Justice Dipak Misra, in his foreword to 'Understanding Supreme Court Better – 151 Facts you need to know' beautifully articulated:

> *"Information, sometimes, is perceived as an unhealthy substitute for knowledge. On certain occasions, it is pointed out that knowledge is lost in information. Though these observations characterise and, in a way, distinctly compartmentalise between 'knowledge' and 'information, yet a pregnant one, there are situations, places and institutions where information has the effect of potentiality to assume the position and platform of knowledge. However, it has to satisfy certain condition precedent, i.e., precision, terminological exactitude and sincerity of effort..."*

With its nobility, fairness, integrity and deep understanding the High Court has continued to reach the common man. Looking forward for many more glorious and wonderful years, delivering justice to all as we have the brightest and beautiful minds on the bench, relentlessly supported by a highly experienced, knowledgeable and skilled bar.

Supreme Court - Lost Traditions

24.12.2022 (Article)

"He who can no longer pause to wonder and stand rapt in awe, is as good as dead; his eyes are closed," Albert Einstein

Author's Bridge: *This catalogue of lost traditions is one of the most personally charged pieces – charged not with anger but with the grief of the advocate who has watched, across nearly five decades, the slow erosion of the disciplines that gave the institution its dignity. Time schedule; the Notice, Admit or Dismiss tradition; bail orders available on the same day; adjournments in rarest of rare cases; alternate writing of judgements; the SCR as the sole citation; the Attorney General's chair; one leading advocate at a time; the running page number index. Each of these is not merely a procedural nicety. Each is a manifestation of the institutional consciousness that understood what the court was for and calibrated its every practice accordingly. Their loss is the loss of that consciousness. This article names what has been lost – and implicitly calls for its recovery – with the precision and authority of fifty years of daily observation.*

We continue to pause, wonder, and stand in awe before the majesty of justice and continue to serve her in search of equity, equality and justice. Law is dynamic and always alive. In 1976, when I joined the Supreme Court Bar, I was totally mesmerised by some traditions which held great logic, reasoning, and respectability. They were the bedrock foundation of the institution. It was a privilege to see, learn, inculcate them, and feel proud to be at the Supreme Court, which has its

own respect, dignity, magnanimity, and mystery. As we pause, we see some of them are lost, it will be great if some of them are restored to its original state and some restored with modifications.

1. **Time Schedule 10.30 am - 01.00 pm and 02.00 pm - 04.00 pm**- It was possible to adjust one's watch with the entry and exit of the Hon'ble judges in the court room. It was unthinkable that the court will not be sitting at 10.30 am, get up for lunch at 1.00 pm, sit post lunch at 2.00 pm and continue hearing till 4.00 pm. Not abiding by the time schedule is perhaps the most unfortunate event for the institution. Taking up admission matters on Monday and Friday, slowly broke this tradition. Some judges preferred to finish the matters mid lunch and leave for lunch, or even they crossed 2.00 pm till they finished the board. While other traditional benches, which got up at 1.00 pm, would sit again at 2.00 pm and the Advocates and staff had to continue without lunch at all. Time discipline is the basis of several schedules and activities. This is one tradition which must be ruthlessly struck to and must be restored.
2. **Notice, Admit or Dismiss**- Every matter, that came up for admission, was either admitted, notice was issued, or dismissed. Post notice either admission or dismissal followed. There was no concept of Final Hearing matters to be listed on Non-Miscellaneous Day (NMD). The entire calendar and time schedule of the Supreme Court and the Advocates gets mixed up because of NMD matters being heard for quite some time and adjourned or even remaining part heard. In matters where the Supreme Court feels that the matter needs consideration, even in PIL, leave to appeal may be granted and the matter heard as regular appeals in its due turn.
3. **Order of Stay or Bail to follow notice**– It was little necessary to argue for bail or stay in a matter where the Supreme Court issued notice. Stay or bail would normally follow the order of issue of notice. Only in exceptional cases, the same would not happen. Supreme Court issues notice only in cases where the conscience of the judge is touched, and there seems to be a serious error in the judgment of the High Court. If the Supreme Court feels that illegality has been done, there is no reason that the illegality is perpetrated even for a moment thereafter. I always thought that was one basic distinction between the Supreme Court and other Courts where facts had still to come on record. There should be no grey area for the Supreme Court. Admit or notice and stay or dismissed.
4. **Making bail orders available on the same day -** Once the Supreme Court passed an order granting bail, the Registrar of the Supreme Court would

not leave the Supreme Court till certified copies of all the orders in which bail was granted was delivered to the Advocate on Record. Orders of the Supreme Court must be given effect to forthwith, more particularly when they relate to the liberty of a person. Any violation thereof amounts to contempt of the Supreme Court. Non delivery of a certified copy of bail on the same day is contemptuous.

5. **Adjournments:** Adjournment in the Supreme Court was granted in the rarest of rare cases. Then came the era of adjournment by the circulation of a letter. It is amazing to see matters getting adjourned because pleadings are not complete even without the circulation of a letter. Not done in the Supreme Court. Time of Clients traveling from far states, lodging and boarding in Delhi, Senior Advocate, Associate Advocate and Advocate on Record, is not without costs.
6. **Alternate writing of judgements by judges on the bench**– Supreme Court sits in the bench of 2, 3, 5, or more judges. Every time a case is heard by the Supreme Court, a proceeding, order, or judgment is delivered. Proceedings are dictated by the presiding judge and are signed by the court masters. Orders are dictated by the presiding judge but are signed by the judges. Judgments are delivered by the judges and are signed by them in open court. As a tradition, if the judgment were unanimous, the judgements were written in the alternative. Meaning thereby that if two judges heard the case, each judge will write one judgment. In three judges' bench, if three appeals are heard, each judge will write one judgment and similarly, in a constitutional bench, if five different sets of appeals are heard, each judge will write one of the unanimous or majority judgment and others will be signatory to it. It is amazing to see that the ratio between delivery of judgment of court and signatory of many judges is below 20%. Means that the judge has signed 80 judgements and written only 20 judges out of the 100 judgements of which the judge was a member.
7. **Citation of SCR** – Pursuant to the Law Reports Act, 1875, judges used to mark judgements as reportable and non-reportable. Official law reports were published under the aegis of courts and were alone cited and referred to in the judgements. For the Supreme Court, the official Law Report was 'Supreme Court Report – SCR' and the judges insisted on citing the same only. However, the tradition got lost as Judgments which were not reported in SCR were also cited in the judgements. Publication of SCR was also not able to keep pace with the publication of private law reports, as approval of head notes of SCR had to be done by the judge

writing the judgements and the publication had to wait for approval. However, the line between reportable and non-reportable judgment has now become non-existent as the Law Report Act 1875 was repealed in 2016. Incidentally, the Law Report Act, 1875, in Pakistan prohibits any other publication of law reports by a private publisher and imposes a penalty to Rs. 1,00,000 and imprisonment of 6 months in default thereof on such publication. With the inception of the web and internet and steps taken by Supreme Court, it is expected that only judgements published by official law reports using neutral citation will be cited by the Supreme Court and other courts. Neutral citation has been implemented by Canada in 1999, the UK in 2001 and by Australia, New Zealand, Hong Kong, Singapore, etc. We are only about 20 plus years late.

8. **Strict adherence to Cause List –** Tentative, Daily, Weekly, Six-monthly and Annual cause lists were published on a regular basis. Till 1978, the tentative list was settled every Thursday by the Asst. Registrar in the Chief Justice Court, where an Advocate on Records could get their matters listed. That was the first training ground for young Advocate on Records. Admission matters and Appeals were taken strictly based on the cause lists so published. It was possible for Advocate on Records to touch base their clients in advance and engage senior advocates. It was possible to see the cases going up the ladder and being taken up in predictable time. Matters are listed and taken up, but the scheduling has broken down. Matters come in between and matters get deleted. Time that the tradition is restored, and Advocate on Records and litigants know the queue they are in.
9. **Seniors Fees Schedule –** Fees of Senior Advocates, Advocate on Record and Associate Advocate was well structured under the Federal Court Rules 1937 and Supreme Court Rules 1950 and was linked to the Taxation Schedule to the said Rules. If the matters were dismissed with costs, actual fees could be recovered accordingly. Seniors were charging Rs.1040 for admission and Rs. 1680 for the final hearing. Advocate on Records were charging 1/3rd or 50% or 2/3rd of the Seniors fees. But the Fees of the Advocate on Record and Associate Advocate was always linked to the fees of the Senior. Rs. 1,040 was equivalent to 65 GMs (1 Gold Mohar = Rs.16) and Rs. 1680 was equivalent to 105 GMs. The fees could be quoted without the consent of the senior advocate. The only issue was the availability of the senior, which was normally always there. This tradition broke down around 1978, when some senior started charging Rs. 2,500 for admission and Rs. 3,500 for final hearing. The basic reason for

breaking down of the tradition and the fees getting delinked from the Supreme Court Rules and costs being awarded without any basis was that someone in his great wisdom instead of linking the fees to the price of Gold or General Price Index reduced the Fees in the Taxation Schedule of Supreme Court Rules, 1966 to Rs.800 for Final Hearing for Senior Advocates and Rs.200 for Admission matters and was meaningless. Supreme Court Rules Taxation schedule was amended in 1990, making it 2400 and 800 and again in 2013 to 24,000 and 8,000. But this is far less than what is normally charged by Seniors, not to speak of special matters where the figure has reached Rs. 1 Crore plus, per appearance and rightly so.

10. **Attorney General and Government to stand on the right side in the court, whether appearing as Petitioner or Respondent –** In almost all courts, the Advocate for Petitioner or Appellant stands on the right and the Advocate for Defendant or Respondent stands on the left. The Supreme Court never had any such practice. This tradition came into existence as the first chair on the front row in the court was reserved for the Attorney General and he would address the court from there, whether he was appearing for Appellant or Respondent. The Government was always on the right side. The sitting arrangement in court had its deep root in the design of 'Tree of Life'. As soon as the Attorney General walked in the Court room, he would occupy the said chair, even while waiting for his matter to be called. This tradition was lost over the years as the Attorney General accepted to sit on any chair that was available to him. This is one tradition which need to be restored.
11. **One leading advocate at a time**– When one advocate was addressing the court, he would stand, and others would be sitting, whether instructing or waiting for their turn. Court will wait for all to sit down. However, with the increase in the number of advocates appearing in the same matter, involving multiple parties and PIL matters, it has become impossible for all the advocates in a matter to occupy the chairs and many advocates, continue to stand. Even if there are chairs, there are advocates standing in the front row. Something will have to be done to restructure the sizes of the courts and provide sitting space for all those who are in the court. Hearing and observing Senior Advocates arguing is a treat and a great learning process. The aura and dignity of the court is when all are sitting and only one addressing. Several courts have only one podium for the addressing advocate in the middle. The advocate who has to make submissions moves to the centre to address and walks back to the chair after

addressing the court. This is one way to restore the dignity of the court.

12. **Index of briefs by Registry and running page number**– It is impossible to address the court if the page numbers of the judges brief and that of the advocate do not match. As a matter of tradition, the index was prepared by the Registry in running page numbers, even if there were different volumes. The Counter Affidavit, Rejoinder Affidavit and IA have all to be numbered, else it is impossible to address the Court and the only way is to have running numbers and proper indexing. Since the affidavits and documents are filed by advocates independently without reference to the earlier page number, it is difficult to keep up with pagination. Time that some practice directions are issued, so that the index be prepared and emailed to all Advocates on Records along with the Office Reports so that is uniformity of briefs are maintained and there is ease in addressing the court.

2nd Soli Sorabjee Memorial Lecture at CLC 23, Goa

09.03.2023 (Address)

Introduction Chief Justice Dr. D.Y. Chandrachud

Author's Bridge: *Chief Justice Chandrachud's stewardship of the institution was something unprecedented: a serious, systematic, and accelerating effort to move the institution into the digital age it had been resisting for decades. Neutral citation. Live streaming. National Judicial Data Grid. e-Filing. Virtual courts. Each of these was a piece of the institutional transformation that Project WISE had envisioned in 2003 and that the author had been arguing for across two decades of presentations and proposals. The introduction is, more than a tribute to a Chief Justice. It is the acknowledgment that the Love — in its institutional form – had at last found a champion at the head of the institution.*

Hon'ble Chief Justice of India Dr. D.Y. Chandrachud, Hon'ble Chief Justice of England and Wales, the Right Hon'ble Lord Burnett of Maldon, President of the Commonwealth Lawyers Association Peter Maynard, dignitaries on the dais and off the dais, colleagues, friends, ladies, and gentlemen.

How cosmos brings people in our life, or that of an institution and nation, has much more in it, then we can ever know. That is perhaps one of the unanswered questions, which is only decoded after the period is over. During the period, we can only make efforts to decipher and, with awe, watch the head of the institution, leading from the top.

Hon'ble Chief Justice Dr. D.Y. Chandrachud was designated as a Senior Advocate by the Bombay High Court in 1998 and appointed as the Additional Solicitor General of India in the same year. He was elevated as judge of the Bombay

High Court and thereafter as Chief Justice of the High Court of Allahabad. He was appointed to the Supreme Court on 13.05.2016, and on 09.11.2022, was appointed as the 50th Chief Justice of the largest democracy in the world. A position that he holds with great dignity, vibrancy, majesty and fervour during the uncommon times.

Chief Justice Chandrachud has authored several outstanding and path breaking judgements of the Supreme Court on all most all issues, as they continue to arise. Right of Privacy, Free Speech, Personal Liberty, Gender Justice for women in armed forces, Intersectional violence, Labour, Floor test for election, distribution of essential supplies and services during pandemic, Affirmative action, Disability rights, Commercial Law, Insurance Law, Insolvency Law and many other subjects have been magnificently dealt by him

His legal statesmanship is reflected in every judgment. Criminal law should not become a tool for the selective harassment of citizens. Sexual Harassment at workplace is an affront to the fundamental rights of a woman to equality. There can be no gamble with the environment: heads I win, tails you lose approach is simply unacceptable; unacceptable if we are to preserve environmental governance under the rule of law. This statement led to the evolution of the environmental rule of law principle.

His very powerful dissent relating to the biometric project – Adhaar is labelled in academic circles as stirring dissent, fiery dissent, historic dissent, stinging dissent, lone yet powerful dissent. His dissent had not to wait, for a day in the future when it could be duly recognised. The reasoning given by him has been relied by Chief Justice Sykes in striking down the Jamaican National Identification and Registration Act and has become part of the global migration of ideas, by finding fertile soils far from home and bloom into full richness, as one academician penned.

Chief Justice Chandrachud is a profound speaker and has delivered numerous addresses, particularly at conferences organised by the United Nations High Commission for Human Rights, the International Labour Organisations, the United Nations Environmental Program, the World Bank and the Asian Development Bank and several premier International and National Institutions and events organised by civil societies.

As Chief Justice of India, he has taken great initiative by making full use of technology for the institution. After his taking over, suddenly we have seen the big machine moving. E-Committee, Virtual Court, National Judicial Data Grid, Inter – Operable Criminal Justice System, e-Filling Software 3.0, e-Payments, e-Sewa Kendra, National Service and Tracking of Electronic Process, Judgment Search Portal, Live Streaming of Court proceedings, Transcription of live court proceedings, case categorisation and finally Neutral Citation. His strength to take positive

decisions to enable the institution is unparallel and this I say after having personally interacted with almost 35 Chief Justices of India.

All this is but a small spark of what Chief Justice Chandrachud is. There is no other avid thinker, intellectual giant and a passionate legal mind, who is pushing and pulling the highest legal institution into the next level, with all that is at his command, to meet the challenges of legal issues arising as a result of us all being in a VUCA world - Volatile, Uncertain, Complex and Ambiguous, Fourth Industrial Revolution, Globalisation 4.0, Fourth Education Revolution and Legal Revolution 5.0. We are fortunate to have him with us, at the second Soli Sorabjee Memorial Lecture.

Law in Sports Governance, it's place in the Modern Times, Colombo

03.04.2023 (Address)

Author's Bridge: *Sports and the law share more than a metaphor. Both are governed by rules of play that exist to create a level field, to protect the weaker party from the stronger, and to ensure that the outcome reflects merit rather than power. Both have, in practice, been captured by interests that use the forms of the rules to perpetuate the advantages of those who already hold power. The address in Colombo – delivered to an audience that included Aravinda De Silva, one of the finest cricketers of his generation – uses the sports person's experience as the lens through which to examine what legal reform in sports governance requires. Living in the present – not the past of what has been won, not the future of what must be protected – is the discipline of the great athlete. It is also, the address argues, the discipline of the lawman who wishes to serve justice rather than merely administer the existing order*

Good Morning everybody. Thanks to my dear friend Aravinda De Silva, a great cricket legend of all times for joining us in spite of his very busy schedule and prior commitments, my colleague at the bar, Kuvera De Zoysa, President Counsel and a great civil, commercial and sports lawyer, my colleague Muddasir Hossain from Bangla Desh a member of CLA, Christopher Johnston from Brisbane, Australia, Justice Asad Munir, Judge High Court of Lahore, lawyer cricketers, captains, coaches, team managers, colleagues, friends, ladies and gentlemen.

Aravinda De Silva needs no preparation to play, he has it in his DNA. He can hit his shots even at short notice, as soon as he is on the ground. I was always envious of sports persons because they play and I, as a lawyer, only practice. But today, to my heart's content, I am in the midst of lawyers who do both, practice and play. The credit of all this goes to one man amongst us, R. Santhanakrishnan, former President of CLA and a very dear colleague of mine. He is a legend organiser, having great passion and a life mission of creating a human chain and making

lawyers come together using cricket and Commonwealth Lawyers' Association as the binding force of friendship.

When the first man threw the first stone at the tree to get a fruit and to shoo an animal while sitting in his cave, sports was created. Since then, sports have continued to evolve and postmodern era is going to be virtual games. Technology is changing our way of life, supporting the emergence of a more harmonised civil society. The topic of today's seminar 'Law in Sports governance, its place in Modern Times' is a very relevant topic for the present.

There are about 8000 sports which are played all over the world. Sports can broadly be classified in two parts. Competitive sports and Recreational sports. Competitive sports are the World Cup, the Olympics, the Commonwealth and the Asian Games. The Olympic charter, which is the law governing sports played in the Olympics, has evolved over the years and that is the law that governs them. All these laws are private in nature and does not call for, interference by the Government, in fact, it resists any intervention. Recreational sports are what we are doing, cricket amongst professionals, but there is serious competition in recreational sports also. Everyone is putting his best and we are all reaching our colleagues and friends round the globe.

Cricket is not yet included in the Olympics and it has its own independent passionate players, fans, economics, viewership, calendar and laws. But there are some fundamental issues and laws which govern the Olympics, cricket, and all sports. In fact, they govern all human relationship. The fundamental of all human relationship is trust and breach of trust must be accounted for, for that hits the soul. All laws are made to protect the trust and deal with situation when a breach of trust takes place. If you are out, time to walk back out to the pavilion. But you are out or not, must be decided as per rules, not human sycophancies. That is where the law, lawyers and judges come in.

Over the decades, playing cricket as a child, watching competitive cricket, talking cricket, every ball, every player has become an inextricable part of social life. It is the second religion followed not by the dictates of rituals, but by own passion, for many particularly in the South Asia Region. For Europe, it is Football, for the USA, it is Basketball and Baseball. Sports is live entertainment with military precision. If the player loses focus, he is gone, the war is lost.

Geet Sethi, in his book *'Success vs Joy'* has referred to a very meaningful story about James Watanna, a young man from Thailand who completed a world tour in snooker at the age of 18. In the Mita World Cup, where the prize money was 200,000 pounds, in the semi-final he lost against celebrated James White, even after leading 8-6 and lost 10-8 in a 19 frame match. When he was asked, he said

that as a young boy he used to walk on street of Bangkok and had a house in mind, which he could buy from the prize money. In that one hundredth of a second, his mind travelled a thousand miles to Bangkok, and he lost the frame, the game, the tournament and the prize money.

Living in the future is professional suicide and living in the past is more dangerous. Sports and life in sports is living in the present. 13 months later, in 1992, in the British Open, before entering the venue, Wattana was given terrible news that his father was shot. Wattana did not flinch and compiled a maximum break of 147, which is like taking 10 wickets in cricket. He had total control of his emotions and was able to focus without diversion of any kind.

There are 52 stakeholders in the sports industry. But the Sports industry revolves around the Sports Association. Laws have been enacted to regulate the conduct of both Sports Association and the players and make them accountable if they breach the trust. The Government steps in and supports sports because it channels the energy of the youth in the most creative way. But, there is always a way around the laws and the laws are regularly breached. Associations breach the trust of players by siphoning of the funds for personal use or corrupting the process of selection, by not selecting the best performer and creating deep scars in the mind of the deserving. Players breach the trust of the fans by making money in match fixing or spot fixing, or using drugs for enhancement of power, or using means like tempering wih the ball to win in the match.

I was told by the taken of an Olympic Gold Medalist, that in the Olympics final round, someone came and tempered with his rifle. His foot base was shaking every time he shot. This is all a breach of trust and must be accounted for. This is where the law has to come into play.

In India, we have a Sports Code which has continued to evolve since 1982. Supreme Court of India, while dealing with *S. Murgan versus Fencing Association*, showed it's deep pain and anguish about the disturbing state of affairs of the sports association. It was a case relating to the election of the Sports Association in violation of existing norms.

When I drafted the Rajasthan Sports (Registration, Regulations and Recognition of Association) Act 2005, the real issue was regulating the structure of Sports Associations in Rajasthan. It was out of sheer passion for sports, I ran 52 drafts in a period of over 4 months. All National Associations are affiliated to an International Sports Federation. There is no way to regulate International Sports Federations. State or Provincial Association to respective National Association, District Associations to State Level Sports Associations and all schools, colleges, clubs and academies in the District to the District Association. That is the pyramidal structure that should be created and followed.

In the State of Rajasthan, we have 33 districts. Each District had one vote for the State Sports Association. But the Rajasthan Cricket Association had 57 life members who had a right to vote and all these 57 persons were person of the erstwhile President. Most of them were his employees. They simply out-numbered the legitimate representative of the Districts. In the Rajasthan Act, we disallowed all the votes of the life members and gave total voting rights to the 33 district-level sports association.

BCCI had an interesting situation. They had 31 votes. Jagmohan Dalmiya had 15 votes and the other Group had 16 votes. After the voting was over, Dalmiya used to cast a vote as President of BCCI, that led to a tie. To break the tie, he casted another vote as Chairman of the meeting and continued to win, which was not legally correct but there was no instant remedy. Himachal and U.P. were committed votes of Dalmiya, having the same structure of the Sports Association as Rajasthan, with Life members. I drafted the Sports Association Act for Himachal and U.P. Matter went of court challenging the constitutional validity of the Acts. I continued to move between Rajasthan, Himachal and UP and finally able to manage 2 critical votes, which led to the removal of Dalmiya and finally coming of IPL. Law, when properly made and executed, can bring the required change needed by the society. Law is the most powerful tool for social change.

There are instances of siphoning off of funds and by calculated ways to keep control of the sports association. The funds that are siphoned off for personal use must be spent in sports development and that is the game changer. There is a need for software and technology support at ground level to bring the best talent to the top.

The issue of payment directly to the players by fans is a rise of civil society. It is like crowd funding. Players are the central figure of the sports industry and are entitled to a major pie in the cake. They are entitled to earn as much as possible from the free live entertainment provided by them. Every sport has a wow factor and that is what makes the TRP rise, that is where more money is. If you are exploiting the player, you are killing the sports industry. Banning has penal consequences and cannot be done by Sports federation or Association which are Societies or Trusts and have no legislative power to enact penal law.

The issue that concerns player is match fixing, spot fixing and drugs. They all demean the beauty of sports. It is for each player to restrain and follow the spirit of the game and refrain from using any kind of illegal means or stimuli to win the game. NADA and WADA are in place. Appeal from WADA goes to Switzerland Court of Appeal and that is cumbersome. The control of a few is all pervasive.

Looking to the heavy stakes as sports industry now is worth 1.7 trillion dollars it is imperative to have a sports dispute resolution system in which judges and lawyers can play an effective role. Sports need a quick, effective and unbiased

mechanism of sports resolution. The most important issue is the integrity and domain knowledge of the judges who man the sports adjudication forums. We can establish a South Asia Sports Dispute Resolution Centre or Austrasia Sports Dispute Resolution Centre.

International Mediation Day

19.10.2023 (Address)

Author's Bridge: *International Mediation Day was, not merely a calendar occasion but a marker of institutional arrival. The Mediation Act of 2023 had given statutory recognition to what has always been the real goal, providing justice beyond the law. The address delivered on that day is, the moment at which Legal Revolution 5.0 moves from vision to law. It is not a victory speech – is too clear-eyed for that. The gap between what the Act says and what the institution delivers remains large. But the Act exists. The principle is embedded. The love has found its first statutory form. That is not nothing. That is, in fact, almost everything that fifty years of advocacy can hope to see.*

The mediation movement in the USA originated as a reaction to the shortcomings and challenges associated with divorce practices in the early 1970s. Disheartened by the adverse outcomes of litigated divorces, both parties and their advocates began exploring divorce mediation as a more collaborative approach.

In this backdrop, 1975 saw the establishment of the Family Mediation Association (FMA) by Jim Coogler, Steve Erickson, and their peers. Coogler's pioneering book, "Structured Mediation in Divorce Settlement," acted as a beacon for this emerging field. His personal experience with a painful divorce process, one that resulted in significant personal and familial losses, became the catalyst for his advocacy. Initial scepticism was palpable, with critics questioning the potential of mediation, especially for high-conflict couples. However, the pressing need for a more compassionate approach for divorcing families was evident.

By 1981, a second influential body, The Academy of Family Mediators (AFM), was founded by John Haynes, Steve Erickson, and others. Initially, the AFM's focus was on providing divorce mediation training and a means of funding its establishment. The association rapidly expanded, offering a variety of member benefits by the mid-80s. By the mid-90s, its member base had ballooned to over 4,000 mediators and trainers.

The growth of mediation wasn't confined to family disputes. Other Alternative Dispute Resolution (ADR) entities like the Society of Professionals in Dispute Resolution (SPIDR), Conflict Resolution in Education Network (CRENET), National Association for Community Education (NAFCM), and the Na-

tional Association for Mediation in Education (NAME), and many more, also saw significant growth. With primary funding from the Hewlett Foundation, these organisations continued to thrive until the late 90s. By 2000, the Hewlett Foundation decided that it will fund only one umbrella organisation. To consolidate resources, AFM, SPIDR, and CRE-NET merged to form the Association for Conflict Resolution (ACR). This merger brought together over 7,000 members, encompassing diverse practice areas.

The ACR's impact is evident in its establishment of Conflict Resolution Day in 2005, setting standards for school-based peer mediation programs in 2007, and its continued advocacy for peaceful conflict resolution. ACR drafted 'Recommended Standards for school-based Peer Mediation Program, 2007 and many other standard documents for training, with a view to:

- Promote awareness of mediation, arbitration, conciliation and other creative, peaceful means of resolving conflict
- Promote the use of conflict resolution in schools, families, businesses, communities, governments and the legal system
- Recognise the significant contributions of (peaceful) conflict resolvers
- Obtain national synergy by having celebrations happen across the country and around the world on the same day.

October, with its roots in the Latin word "Octo," means eight. October occupied the eighth place of a year when the year was made of ten months and 304 days. However, because of the season calendar mismatch, January and February were added, and October became the tenth month, but it did not lose its name. Eight and October, symbolising fertility, prosperity, and peace, serves as a poignant month for such advocacy. This month sees global celebrations of peace and non-violence, especially with Gandhi Jayanti on October 2nd. In 2008, the American Bar Association (ABA) designated the third week of October a s 'ABA Mediation Week.' Recognising the same spirit, both the ABA and ACR, along with numerous organisa-tions, earmarked the third Thursday of October as International Mediation Day.

This year, on October 19th, team Nivaaran, the mediators of the Supreme Court has come together to celebrate International Mediation Day. Significantly, Nivaaran is introducing this celebration in India and pledges its annual observance. I'm optimistic that India will witness a surge in mediation associations akin

to the USA's experience. While challenges and scepticism are inevitable, team Nivaaran, the Supreme Court Mediators, stand resolute. In collaboration with the MCPC, under the esteemed leadership and guidance of Justice Sundresh, we aim to establish a unified front, to set standards of mediation in the letter and spirit and upholding the principles of the India Mediation Act, 2023.

Shrimat Bhagwad Gita - Confluence of Sanaatan Knowledge and Wisdom

05.11.2023 (Blog)

Author's Bridge: *This extended meditation on the Bhagwad Gita – from the twenty-eight divine attributes and sixty-four asuric characteristics of Chapter 16, through the kshetra-kshtragya framework of Chapter 13, through the three gunn of Chapter 14, to the Saonkiye Yog of Chapter 2 and Arjun's futuristic trauma as the template of every lawman's paralysis – is the most sustained engagement with the philosophical backbone that underlies the entire narrative. The Gita is not, a religious text in the conventional sense. It is the most complete available map of the conflict between the forces that wish to control and exploit and the forces that wish to exist in harmonious co-existence – the Mahaabhaarat as the war that every human being fights at every conscious moment. To understand the Gita is to understand why law without dharm produces injustice, and why justice, in its truest sense, is not a legal concept at all. It is a spiritual one. This is the fullest statement, of that understanding.*

We exist in a powerfully webbed and networked structure, where people with divine energy continue to work with integrity, faith and trust and making efforts to live in peace and harmony without exploitation and without suppression of the will of fellow beings. However, people with *asur* or dis-harmonised energy continue to act without integrity, faith and trust as they continue to exploit others, supress their will and perpetrate corruption. In Chapter 16, *shalok* 16.01 – 16.05, *Shri Krishan* expounds 28 (twenty-eight) attributes of people with divine energy and in *shalok* 16.04 – 16.20, explicates 64 (sixty-four) characteristics of *asur*, disharmonised, toxins, narcissists, vampire, zombies and the like beings. These traits are *sanaatan* in nature, they exit forever in different combination in all human beings around us and every one of us must know about them early in life, sooner the better.

Every individual is in a constant struggle to achieve total harmony and perpetual happiness. In the process, every person continues to make serious and sincere efforts to resolve the conflicts within one's own self and those existing in the world around. In this process of resolving conflicts, every person at every moment needs the necessary information, understanding, knowledge and wisdom to guide

him to deal with the same. Every moment, the divine and the *asur* energies within and outside seems to continue to come into conflict as we are struck by futuristic trauma as happened with Arjun, just before the beginning of the great war of *Mahaabhaarat*. Arjun, a *kshatriye*, one of the finest archers of his time, a great warrior, with vast experiences of combats, fights, war, knowledgeable in various arts, with potentiality for clear and objective intellectual analysis, but also emotional, was overwhelmed by futuristic trauma (*shalok* 1.28-1.46, 2.4-2.8).

As soon as Arjun realised the post-war scenario, in which almost all 4.5 million heroic and fearless human beings were to be wiped off the face of earth, leaving behind old parents, widows and children, leading to *varn* admixture and *pitr dosh*, he was seized by feeble mindedness, confusion and grief, resulting in a deep, distressing state, affecting his entire persona. As he watched both the armies locked in fierce battle, he felt that the war will not serve any purpose and will lead not to victory but to the death of millions and that was unacceptable to him as a king. He strongly felt that every benefit of war will be lost after the war, with the extermination of all kith, kin, and fellow beings and he was struck by a total emotional breakdown.

Arjun narrated his harrowing emotional feelings and condition to *Shri Krishan*, who, as his true and closest friend, had agreed to be Arjun's charioteer. *Shri Krishan* begins his address with a powerful statement to shake Arjun and connect him to the fundamentals of existence in Chapter 2 , Shalok 11 to 30:

> *"You grieve for those who should not be grieved for, yet you speak like wise. The wise grieve neither for the living nor for the dead[11]. Neither I, nor you, nor any of these ruling princes were ever non-existent before, nor is it that we shall not cease to be in the future[12]. The indweller in the body experiences childhood, youth and old age of the body and also passes on to another body, the serene one is not affected thereby[13]. The contacts of the senses with their objects create son of Kunti, feelings of heat and cold, of pain and pleasure. They come and go and are impermanent, bear them patiently, Bhaarat[14]. That man, the best of men, is fitted for immortality, whom these do not torment, who is balanced in pain and pleasure and is steadfast[15]. The unreal has no existence, the real never ceases to be. The equity, equality about both has been realised by seers[16]. Know that to be certainly indestructible by which all this is pervaded. None can affect the destruction of the immutable[17]. These bodies of the Indweller, who is eternal, indestructible, and immeasurable, are said to have an end. Fight, therefore, Bhaarat[18]. He who holds aatma as the killer and he who considers it as killed, both are ignorant. It kills not, nor is it killed[19]. The aatma is neither born nor does it die. Coming into being and ceasing to be, do not take place in It. It is unborn, eternal, constant and ancient. It is not destroyed when the body is slain[20]. He who realises the aatma as indestructible, eternal, unborn and changeless, how can he kill, Paarth, or cause another to kill?[21] As a man casting off worn-out garments puts on new ones, so the embodied, casting off worn-out bodies, enters into others[22]. Weapons do not cleave the Aatma, agni burns it not, water wets it not and wind dries it not[23]. This Self is un-cleavable, incombustible and neither wetted nor dried. It is eternal, all-pervading, stable, immovable and everlasting[24]. This aatma is said to be un-manifested, unthinkable and immutable, therefore, knowing it as such, you should not*

> *grieve[25] or if you conceive of aatma as given to constant births and deaths, even then, mighty armed, you should not feel sorrow[26]. Death is certain for that which is born, birth is certain for that which is dead. You should not, therefore, grieve over the inevitable[27]. Beings are all, Bhaarat, un-manifested in their origin, manifested in their mid-state and un-manifested again in their end. What is the point then for anguish?[28] One beholds the Self as wonderful, another mentions it as marvellous, another again hears of it as strange, though hearing yet another knows it not at all.[29] This Indweller in the bodies of all is ever indestructible. Bhaarat, therefore, you should not grieve for any being.[30]"*

As they enter into conversation, Arjun continues to ask questions, raise issues and even challenge the authority of *Shri Krishan*, with the sole purpose of refraining to enter into war and that led to the unfolding of *sanaatan* knowledge and wisdom, which was spread in *the Vedas, vedaant, upanishads* and in *sanaatan* culture, which has continued to move down the ages as *smriti* and *shruti*. What unfolded was the various nature of beings, their attitudes, the eternal nature of the absolute equity, equality, attributes of cosmos, various paths that are followed by *homo sapiens*, for their spiritual growth and self-realisation.

Shri Krishan with his multi-dimensional existence, apprises Arjun as *Shri Krishan* (human), consciousness (*aatma*), total consciousness (*param-aatma*) and beyond consciousness (cosmos). *Shri Krishan* acts as a peace mediator resolving all existing conflicts between Arjun, who was trained all his life to fight wars on one side and emotionally blocked Arjun, who was restraining to fight a war, on the other side. *Shri Krishan* addresses the deep internal conflict with in Arjun's mind, which arose in view of the futuristic trauma or social sufferings that may arise in the future and will affect generations to come. *Shri Krishan*, who was well aware of the coming changes, continued to answer all queries of Arjun with a smile, showing him the larger picture, the cyclical transitory time, the spiritual dimension of all beings and existence of a single cosmic energy beyond and as the basis of all that exists in this universe and all that is *Sanaatan* wisdom. The interactive session finally helped Arjun to resolve his conflicts and perform his duties with perfection and without delusion.

The brilliance of the generative dialogue between *Shri Krishan* and Arjun is that *Shri Krishan* continues to expound the *Sanaatan* knowledge and wisdom without telling Arjun what needs to be done. *Sanaatan* knowledge and wisdom helps Arjun to take decision on his own and the that the brilliance of it all

S*halok 8.17* refers to the beginning of the time or the awakening of *Braham* for one day after one *Brahm night* = On*e kalp = 14 Manvantara + 1 Sat yug* = 1000 *yug* = 4,320,000,0000 years, expounds the calculation of time or *kaal gadna* also existence of cyclic time as contradistinguished from Abraham religions which are based on lateral time.

Chapter 13 deals with *kshetr* and *kshetragye*, the body and the embodied, or the *Prakriti* and the *Purush.* This is the most important and the least understood basis of *Sanaatan* philosophy. *Purush* is *aatma, ishwar, jeev, praan*, self, conscience, consciousness, cosmic reality, cosmic energy, life element, living spark, soul, spirit, absolute equity, equality, will, embodied, in-dweller, or any other name connoting the life element in being with some attributes as referred in Chapter 2.

Prakriti is everything other than the *Purush*, including the five basic element – earth, water, fire, air and space, five *gyaanendriyaan* or sense organs – eyes, ears, nose, tongue and skin, which perceives the objects of senses, five *karamendriyan* – mouth for speech, hands for action, feet for moment, genital organs for reproduction and anus for excretion, by which we undertake action. Everything that exists in the world around is also a combination of *Purush* and *Prakriti*. *Shalok* 13.5 and 13.6 expounds the same as follows:

> *"The great elements, egoism, intellect, as also the un-manifested, the ten senses and the one mind and the five objects of the senses[5], desire, hatred, pleasure, pain, the aggregate intelligence, firmness, the kshetr has been thus briefly described with its modifications[6]."*

13.7 to 13.11 explicates knowledge and ignorance as follows:

> *"Humility, modesty, non-injury, forbearance, uprightness, service of the teacher, purity, steadfastness, Self-control[7], tranquillity towards the objects of the senses and also absence ofegoism, perception of evil in birth, death, old age, sickness and pain[8], non-attachment, non-identification of Self with son, wife, home and the like and constant equanimity in the occurrence of the desirable and the undesirable[9], unswerving devotion to Me in yog of non-separation, resort to sequestered places, distaste for the society of men[10], constancy in Self-knowledge, perception of equity, equality as the end of the knowledge, this is declared to be knowledge and what is opposed to it is ignorance[11]."*

Shalok 13.12 – 13.18 describes Purushottam, or total cosmic energy

> *"…Beginningless is the supreme Brahm. It is not said to be 'sat' or 'asat'[12]. With hands and feet everywhere, with eyes and mouths everywhere, with ears everywhere, He exists enveloping all13. Shining by the functions of all the senses, yet without the senses. Absolute, yet sustaining all, devoid of gunn, yet He experiences them[14]. Outside and within all beings, the unmoving and also the moving, because of this subtlety, He is incomprehensible, He is far and near[15]. He is undivided and yet He seems to be divided in beings. He is to be known as the supporter of beings. He devours and He generates[16]. The light of all lights, He is said to be beyond darkness, knowledge, the knowable, the goal of knowledge, seated in the hearts of all[17]. Thus, the kshetr, knowledge and that which must be known has been briefly described…[18]*

In Chapter 10 – *shalok* 10.20 – 39, *Shri Krishan* narrates 76 (seventy-six) attributes of *Parameshwar* or *Purushottam* dealing with the manifestation. Some of them are Sun amongst luminaries – *shalok* 10.21, Moon amongst planets - *shalok* 10.21, Mind amongst senses – *shalok 10.22,* Ocean amongst water bodies – *shalok*

10.24, Om amongst sound – *shalok 10.25, Jaanvi* (Ganges) amongst rivers. All these gives the widest spread of knowledge about the cosmic expression in the world and things around us in its most outstanding and brilliant form.

In chapter 14, *Shalok* 14.06 – 14.16, *Shri Krishan* deals with the attributes of the three *gunn – saattvik, raajsik* and *taamsik* and in chapters17 and 18, deals with the spread of the three *gunn* in different events of beings. He narrates the nature of *Sattva – shalok* 14.06, 14.09 – 14.11, 14.14, 14.16 -14.17, *Rajas – shalok* 14.07, 14.09, 14.10, 14.12, 14.15-16 and *Tamas-shalok* 14.10, 14.13, 14.15-16. He describes three kinds of *shradha - shalok* 17.02 – 17.03, worship – *shalok* 17.04, austerity – *shalok* 17.05 – 17.06, food – *shalok* 17.07 – 17.10, yagye – *shalok* 17.11 – 17.13, speech – *shalok* 17.15 – 17.16, gift – *shalok* 17.20 – 17.22, abandonment – *shalok* 17.07 – 18.09, knowledge – *shalok* 18.20 – 18.22, action *shalok* 18.23 – 18.25, doer *shalok* 18.26 – 18.27, intellect – *shalok* 18.30 – 18.32, firmness – *shalok* 18.33 – 18.35 and happiness *shalok* 18.37 – 18.39. All this gives deep and complete knowledge of them all and this knowledge is all-pervasive.

Shri Krishan expounds all possible paths, chapter after chapter. Chapter 2 - *Saankhye Yog*, the path of Self Knowledge; Chapter 3 – *Karm Yog*, the path of action; Chapter 4 – *Gyaan Karm Sanyaas Yog*, the path of knowledge, action and renunciation; Chapter 5 – *Karm Sanyaas Yog* - the path of action and renunciation; Chapter 6 – *Aatm Sanyam Yog*, the path of Self-Restraint; Chapter 7 – *Gyaan Vigyaan Yog* , the path of Knowledge and Science; Chapter 8 – *Akshar Brahm Yog* - The path of Imperishable; Chapter 9 – *RaajVidya RaajGuhya Yog* - the path of wisdom and mysticism; Chapter 12 – *Bhakti Yog* - the path of devotion and surrender; Chapter 18 – *Moksh Sanyaas Yog* - the path of renunciation and emancipation. All these words of wisdom are to help us to find what is true for us.

In Chapter 11, *Vishwarup Darshan* helps Arjun experiencing the universal form of the cosmos. *Sanaatan* knowledge and wisdom is not merely rhetoric, logicalising, or dialectics where the entire effort is to win and establish intellectual superiority but is all about the transmission of and having cosmic experience. The world has choicelessly moved from the third to the fourth dimension after experiencing the covid cosmic kick and have become aware of the metaphysical existence of us there is awareness of toxin-free health, pollution-free environment and non-conflicting existence. Reading, understanding and assimilation of the simple but deep learning so beautifully expounded in *Shrimat Bhagwad Gita* has more relevance and significance to mankind today than ever. There is not a single word in the song celestial which does not contain an underlying thought or hold a significant meaning or relate to the path that every human being is traveling in lateral time and existing in a quantum way. It is for us to locate our standing in the

universe and move forward to achieve the true and real purpose of life. It is also for us to see why those who, though seem to be rising on the social ladder, are falling from the true and real purpose of life, until the light dawns and the *karmic* colours splash on life's canvas, following irreversible laws of nature, without judgment.

The song celestial helps us to unwind all that riddles us once we decide to let our life loose. There is not a single word or thought which can be added in the song celestial here, there, or anywhere. *Shrimat Bhagwad Gita* is a complete code, with its tributaries and attributes reaching all over. Time and again, it becomes imperative for everyone who in the process of seeking realisation seeks to decipher the mundane and the ephemeral, as well as also the metaphysical and ethereal, to perceive the picture as a whole, which it quests to experience, as the goal and purpose of coming into existence.

Shrimat Bhagwad Gita is one of the most powerful documents to be read and re-read, to enable understanding of the people and world around and realising the true nature of the Self. It helps us to understand in the most profound manner the war between forces that are blindfolded by lust, greed, and desire to control and continue to exploit others and feel more authorised, empowered, and sanctioned and to continue in their venture, on the one hand. On the other hand, are those that have the necessary wisdom, knowledge, experience and understanding and wish to continue to exist, helping each other and feel pained by the miseries of the exploited and the exploiters and keep evading the war until it becomes inevitable, for that brings several other kinds of misery, unhappiness, and disasters to many others. It is imperative to have awareness of the whole to act meaningfully and effectively act in the world to our perfection and continue to enjoy the bliss of existence.

The advent of the new age demands re-enforcement of the same said principles and the underlying energies in a new form to be fully appreciated, understood, and realised. One of the basic ingredients of the *Sanaatan* belief system is the physical experience of Cosmic energy and that is one reason that the fundamentals of philosophy have survived, irrespective of the onslaughts. The conscious meta - physical experience and realisation and the bliss that follows, is a very personal experience and keeps the being act purposefully, till the existence continues to exist in bliss and ecstasy.

Reading and understanding *Shrimat Bhagwad Gita* is yet another step to help the perception of the conflicts and resolve them, or help the perception of the absence of such conflicts and negate them. In the absence of correct appreciation, understanding and realisation of the self every human being not only thwarts her/his own development and progress towards the Ultimate, but also gets involved in social reactions and interactions which defeat the very purpose of existence. The inability of human being to perceive the whole or Its true nature brings about

thoughts and feelings like disapproval, disappointment, displeasure, annoyance, anger, dissatisfaction, depression, frustration, guilt, fear, jealousy, hatred, melancholy etc. leading to social expressions and social phenomena like lack of sympathy, unfriendliness, hostility, aggression, enmity, abuse, violence, exploitation, brutality, terrorism, poverty, corruption, divorce etc. which religion and law endeavor to minimise and control. This book is neither intended to unsettle the minds of those who are attached to pleasure and power or to invite their opinion. This is meant merely to induce and reinforce in the wise the stimulus and vitality to carry persistently and precisely on their activities, to create a perfectly harmonised social order and help every other individual to reach Self-realisation.

It is time for us all to realise our true Self and move on a spiritual path, within. It is the time to *Shrimat Bhagwad Gita* helps us to see the larger cosmic picture, our location in the cosmos, and the path uniquely suitable and provided to us. For over 5,000 years now and for times immemorial , *Shrimat Bhagwad Gita* will continue to help every old soul on the path to resolve the issues and help become conflict-free, leading to move with the spiritual revolution 5.0.

Finance Revolution 4.0 - Cryptocurrency Reaching the Unreached

14.11.2023 (Blog)

Author's Bridge: *From Finance Revolution 1.0 (barter) through 2.0 (silver coins) through 3.0 (fiat currency and central banks) to 4.0 (cryptocurrency and blockchain) – the evolution of money is the evolution of trust. Each revolution has represented the creation of a new form of trust between human beings at an expanding scale: from the village to the nation-state to the global financial system to the decentralised digital network. Bitcoin's 2.1 quadrillion Satoshis – wealth generated by proof of work rather than by the power to print – represents, in the author's reading, the first monetary system in history whose genesis is genuinely free of the karmic colour of exploitation. The connection to Finance Revolution 5.0 – the PICS Economy, the Pro Bono Social Impact Credits, the quantification of invisible wealth – is direct: both are attempts to create a financial architecture that rewards creation rather than exploitation, and that reaches the unreached rather than accumulating with those who already hold power.*

The evolution of human societies has always been accompanied by the evolution of our economic. From the earliest days of civilisation, the need to exchange goods and services led to the development of various systems for trade. These systems have come a long way, transforming from rudimentary practices of barter to sophisticated financial networks. Each significant change in these systems can be viewed as a revolution in finance, paralleling the evolution of human society itself as a whole.

The Early Stages of Economic Exchange: The Finance Revolution 1.0 occurred with the establishment of agricultural societies. Here, the barter system was introduced, allowing for the direct exchange of goods and services without the need for a standardised medium of exchange. This system, though effective in small communities, had its limitations, especially in larger, more complex societies.

Industrialisation and the Emergence of Standardised Currency: With the onset of industrialisation, there was a need for a more efficient and scalable system of trade. This led to the introduction of silver coins – a standardised, tangible medium of exchange. This shift marked a significant evolution in the world of finance, streamlining trade and commerce and paving the way for more complex economic interactions and marked Finance Revolution 2.0

The Rise of Fiat Currency and Centralised Financial Systems: The next major shift came with the emergence of fiat currency, initially backed by gold. This was a move away from commodity-backed currencies to a trust-based system where the value of money was determined by government regulation and law. This era saw the rise of centralised financial institutions like the Federal Reserve and the Bank of England, which became pivotal in regulating and stabilising the global economy and led to Finance Revolution 3.0.

Cryptocurrency: The Dawn of a New Financial Era: Post 2008, we have witnessed the beginning of what can be termed as Finance Revolution 4.0, marked by the emergence of cryptocurrencies like Bitcoin, Ethereum and Alt Coins. Unlike traditional currencies, cryptocurrencies operate on a decentralised system, free from the control of any central authority. This revolutionary technology offers a new form of wealth that is less susceptible to traditional economic vulnerabilities, and it fundamentally shifts the concept of trust in financial transactions moving on blockchain, open ledger and payments built in smart contracts.

The Impact of Cryptocurrency on Global Financial Systems: Cryptocurrencies represent a paradigm shift in the financial sector. They offer a decentralised, global form of exchange, enabling transactions that transcend geographical boundaries. This new form of digital asset aligns perfectly with the principles of the Fourth Industrial Revolution, which emphasises interconnectivity and intelligent technological solutions.

Financial Inclusion in the Digital Age: One of the most striking aspects of cryptocurrencies is their potential for financial inclusion. With widespread access to mobile technology, cryptocurrencies provide an inclusive alternative to traditional banking systems. They are especially beneficial to populations in remote or impoverished areas, who have historically been excluded from formal financial services.

Harnessing Mobile Technology for Economic Empowerment: The ubiquity of mobile technology provides a unique platform for the proliferation of cryptocurrencies. Unlike traditional banking systems, which often require extensive infrastructure, cryptocurrencies can be accessed and managed through simple smartphone applications. This accessibility has the potential to democratise financial services on a global scale.

Representing and Mobilising 'Invisible' Wealth: The world is replete with untapped pro bono work that significantly contributes to community welfare but remains unrecognised in traditional GDP metrics. Cryptocurrencies and blockchain technology offer an innovative way to represent this 'invisible' wealth, quantifying and rewarding contributions that have long been overlooked in economic assessments.

The world will be richer by 2.1quadrillion Satoshis - Satoshi Nakamoto's introduction of Bitcoin revolutionised the concept of currency, not by creating 21 million Bitcoins, but rather 2.1 quadrillion Satoshi – the smallest unit of Bitcoin. This profound innovation extends far beyond a simple numerical figure; it represents a new paradigm of wealth generation, one that is slated to continue until the year 2140. Unlike traditional wealth, which is often marred by histories of looting, plundering, or exploitation, the wealth generated by Bitcoin is underpinned by a 'proof of work' system. This system ensures that the creation of new Bitcoins) is the result of computational effort and energy. The creation and the evolution of Bitcoin is not just a technological or financial milestone, but a step towards a more sustainable and equitable global economy. It is a clear example of how the Fourth Industrial Revolution can harmonise the creation of wealth with the urgent need for sustainable development, challenging traditional notions of value and resource utilisation

In consonance with UN SGDs - This approach to wealth creation resonates deeply with the ethos of the United Nations' Sustainable Development Goals (SDGs). The SDGs aim to address global challenges, including those related to the environment, economic inequality, peace, and justice. Bitcoin, in its essence, contributes to several of these goals. The 'proof of work' model embodies a form of digital 'mining' that, unlike traditional mining, does not deplete physical resources. Moreover, the decentralised nature of Bitcoin reduces inequalities by providing access to a global financial system, irrespective of users' geographical location or socio-economic status. The ongoing advancements in blockchain technology are leading to more energy-efficient protocols, aligning with the SDGs' focus on sustainable energy and climate action. This 'green wealth' generated by Bitcoin and other cryptocurrencies is not just about financial value; it's about creating a more equitable and sustainable world. By leveraging technology, cryptocurrencies offer

a pathway to a financial system that aligns with broader global objectives of sustainability and equality.

The Regulatory Challenge: Balancing Innovation and Stability: The rise of decentralised technologies like cryptocurrencies poses a unique challenge to governments and regulatory bodies. These entities, which represent centralised authority, are now tasked with regulating a system designed to operate beyond traditional controls. This situation reflects a fundamental tension between established financial systems and emerging technologies, requiring a careful balancing act.

The emergence of virtual assets and cryptocurrencies marks the beginning of a new era in finance. As part of Finance Revolution 4.0, these technologies are not just reshaping the financial landscape but are also playing a crucial role in the broader societal transformation towards a more inclusive, sustainable, and interconnected world. As we continue to navigate the Fourth Industrial Revolution and Globalisation 4.0, cryptocurrencies stand at the forefront of this change, representing a new 'Fourth Dimension' in finance and beyond.

Letter from Bhubaneswari Misro, Intern
24.01.2024

Author's Bridge: *A letter requires no commentary when it speaks with this completeness. Bhubaneswari Misro arrived as an intern and departed as something the profession rarely produces quickly – a young advocate who knows why she has chosen it. What she describes as the gift of a mentor is, at its root, the gift the law itself gives when it is transmitted not as procedure alone but as a way of living: attentively, philosophically, without the separation between the professional and the human that institutions so often demand. That she found in a chamber at the Supreme Court of India the same questions she had been carrying into temples and in her reading – questions about meaning, duty, and the invisible architecture of existence.*

Dear Sir,

Here I am writing this letter for you just like any other intern, but you hold a very special place in my life. I am filled with an overwhelming sense of gratitude and admiration for you.

It's truly my destiny to meet you in this life. It is the best ever decision to intern under you and start the new year in such an awe-inspiring place.

The wisdom you imparted during our discussions on litigation, life lessons, cosmic kick, and even the simple joys of lunch and tea times has left an indelible mark on me, and I carry them with me as cherished memories. Your unique approach to litigation has been transformative, reshaping my perspective in ways I hadn't anticipated. The girl who has always been confused about taking up litiga-

tion as a profession and who always doubted herself, is now confidently declares her love for litigation, and all credit for this newfound clarity goes to you, sir. I appreciate how you went beyond the call of duty to provide real-world insights. You didn'i just teach me about the law; you showed me how it shapes lives and communities. Your anecdotes about past cases, the legal twists and turns, added a layer of humanity to this profession that no textbook could ever capture.

Our time together, though brief, has been the most enriching period of my life. Your insights, both professional and personal, have significantly altered how I perceive the world. Your spiritual insights you shared made a huge difference in my life. Your teachings on mantras, philosophies, theories, why we go to the temples, story behind the religious treads, and diverse religious perspectives have given purpose and meaning to my daily life. Your words hold a unique value, akin to rare diamonds, and I hope you continue to pen down your thoughts, as they are truly priceless. The meticulous maintenance of your diaries and registers is inspirational, and I've found myself rekindling a habit of reading, inspired by your vast literary pursuits.

Encountering a personality as humble and down-to-earth as yours, despite achieving great success, has been a rare and rewarding experience. I am grateful for the short but impactful time spent in your presence. I also want to extend my gratitude to the rest of the team. Each person played a crucial role in making this internship memorable. The collaborative spirit here is infectious, and it's been a pleasure working alongside such talented individuals. In you sir, I found not just a mentor and teacher, but a figure akin to family, which is the best thing I could ask for! I never once felt the weight of work or the monotony of daily routines; instead, I eagerly anticipated each Monday with enthusiasm. As I move on to the next chapter, I'll carry the lessons, memories, and every bit of our conversations. There is so much more I'd like to express, but I eagerly look forward to the opportunity to speak with you in person.

To express my gratitude, I have prepared a small token of appreciation. Please accept it as a humble gesture symbolising the immense respect and admiration, I have for you and the entire team. Hoping our paths cross again in the future, and if you ever visit Hyderabad, Andhra Pradesh or Odisha, I would be delighted to arrange a meeting with you and support you in any way.

Thank you, sir, for this extraordinary opportunity, for believing in my potential, and for influencing not just my legal understanding but my character as well. I leave with a heart full of gratitude, a mind enriched with knowledge, and a spirit inspired to make a positive impact in the legal realm.

With heartfelt regards,

Bhubaneswari Misro

The impact of the *Mahabhaarat*
(Blog)

The epic *Mahaabhaarat,* penned by Ved Vyas, a contemporary historian, recounts the great war fought over 18 days, from November 11 to November 28, 3162 BCE. The dating of *Mahaabhaarat* aligns with detailed astronomical references to 150 positions of planets and *nakshatra* in the epic, supported by modern planetarium software simulations.

This monumental war involved approximately 4.5 million warriors (18 *akshoni*; 1 *akshoni* = 250,000). These individuals were heroic, gallant and the noblest of their time, equipped with the most advanced and sophisticated weaponry. Just before the war, Arjun, one of the finest archers of his time, known for his vast combat experience, emotional depth, and intellectual prowess, was overwhelmed by a vision of its aftermath: the annihilation of almost the entire 4.5 million valiant, heroic and fearless best of human beings, leaving behind old parents, widows and children, leading to *varn* admixture and *pitr-dosh*. This realisation triggered a deep, futuristic trauma in Arjun, defeating the very purpose of fighting a war.

The Great Philosophy: During that moment of existential crisis, generative dialogue between Arjun and *Shri Krishan* unfolded, giving birth to the profound philosophical teachings of the *Shrimat Bhagwad Gita*. This dialogue not only addressed Arjun's concerns but also delved into deeper philosophical questions about the nature of beings, the manifestations of cosmos, the immutable nature of *purush* or soul and the mutable nature of *prakriti*.

The Great Split: Balram, upon his return, on the 18th and final day of the Mahabharat, discovered that many accepted laws of warfare had been breached during the conflict, largely influenced by the strategies of *Shri Krishan*. This revelation incited Balram's fury, leading to a profound and irrevocable split between him and *Shri Krishan*, the impact of which has been felt by us for the last 5140 years.

In his wrath, Balram pulled down Dwarka, the splendid capital city established by *Shri Krishan*, into the sea. He then departed, journeying towards central regions with a vision to establish civilisations governed by the rule of written laws. This momentous act by Balram is believed to have catalysed the emergence of Abrahamic religions, characterised by their adherence to the scriptures of the Torah, Avesta, Bible and Quran as the ultimate command and the words of the divine. The marshal races believe in conversion and reaching to a majority of 51%, which will lead to the day of judgment or *Qayamat ka din*, when the followers will go to heaven or *jannat* and all others to hell or *jehnum.* They are constantly on war amongst themselves and with others.

In contrast, other civilisations continued to uphold principles of justice, equity, and the good conscience of everyone, without transgressing or exploiting others. For them, the God is living a moral life, the evolution of the self to reach self-realisation, *moksh,* or *Nivaaran.* This divergence in philosophical and legal thought marked a significant juncture in human history.

It also led to the development of two distinct schools of jurisprudence: one that emphasised the 'command of the sovereign' as the ultimate law, where violations were subject to punishment, and the other advocating for laws and procedures that should be moral, reasonable, just, proper, and conducive to equity and justice. This great split not only symbolises the ideological divergence in the aftermath of the *Mahaabharat* but also highlights the lasting impact of this epic saga on legal and religious philosophies worldwide.

The Great Destruction: The impact of *Brahmaastr*: When Ashwathaama, son of Dronaacharya, learned of his father's death be deception, in a vengeful rage, he unleashed the *Brahmaastr*, intending to annihilate the Pandavas and their allies. To counter this formidable weapon, Arjun, deployed his *Brahmaastr*. The potential clash of these two celestial weapons threatened to decimate much of the existing civilisation.

It was at this critical juncture that *Shri Krishan* intervened, understanding the dire consequences of this confrontation. Through his wisdom, he persuaded Arjun to retract his *Brahmaastr*. However, Ashwathama, was unable to withdraw his weapon and redirected it towards Uttara, the wife of Abhimanyu, who was pregnant with Parikshit, the future king.

In a remarkable act of preservation, *Shri Krishan* diverted Ashwathama's *Brahmaastra*, averting a direct tragedy. However, this diversion led to an devastating consequence: the loss of vast amounts of knowledge and technology that existed at the time.

The Great Subsumption: The destruction of the *varn* system: In the aftermath of the *Mahaabharat*, Arjun's apprehensions about the disintegration of the strict *varn* system became a reality. The once-clear lines dividing the four *varn* – *brahmin, kshatriye, vaishye,* and *shudr* – became indistinct and blurred. This led to a profound societal transformation where individuals were no longer confined to a single *varn*. Instead, they assumed roles and responsibilities that spanned multiple *varn*, or in some cases, transcended the *varn* system entirely, becoming 'multi-*varn*'.

This evolution is vividly reflected in the modern world, where the population is increasingly multi-dimensional and adept at multitasking, embodying traits from various *varns* in their daily lives. A personal example illustrates this blend of *varns*. Born into a *vaishye* family, my work as an advocate aligns with the *Brahmin*

role, interpreting laws and assisting in the resolution of disputes, contributing to the development of law and social history. My aggressive approach in advocating for my clients mirrors the qualities of a *kshatriye*. Yet, since the legal profession is fundamentally a service industry, it aligns with the attributes of a *shudr*.

This intersection of roles in my professional life exemplifies the concept of '*varn* admixture'. Technically, I embody aspects of all four varnas in my daily routine, making me a '*chatur-varn*' in the modern context. This phenomenon is a testament to the profound and lasting impact of the *Mahaabharat's* aftermath on societal structures and individual identities.

The World Congress of Vedic Sciences – Sastra Deemed University, Thanjavur
Sanaatan Dharm and Modern Law: A Collaborative Jurisprudence
24.12.2024 (Address)

Author's Bridge: *The address is the final and fullest statement of the intellectual framework that underlies the entire journey from the Death of the Mistress to the Birth of the Love. Three fundamental distinctions between Sanaatan Dharm and Modern Law: the concept of time (cyclic spiral vs. lateral); the purpose of existence (self-realisation vs. dominance and control); and the path (karm as one's own perfection vs. law as external coercion). Legal Revolution 5.0 as the moment at which modern law – under the cosmic Covid kick that shifted human consciousness from the third to the fourth and fifth dimensions – begins its convergence with the human centered dispensation of justice that is at the core of Sanaatan Dharm. This is not a cultural argument or a political one. It is a jurispruden-tial one: that the justice the law has always promised but never fully delivered is, in its deepest nature, what the Sanaatan tradition has always called dharm – and that the collaborative jurisprudence of the fifth dimension is the path by which those two traditions finally arrive at the same destination.*

Today, I stand before you to explore the intersection of *Sanaatan Dharm* and modern law. As we navigate the complexities of our contemporary world and peep into the future, it is essential that we revisit the basis, objectives, principles, and path of *sanaatan dharm* and modern law and work out a collaborative *Sanaatan* jurisprudence.

I seek the indulgence of this august gathering to excuse me for two conscious misdemeanors. One is changing the subject of the session. I have substituted Modern Law and *Sanaatan Dharam* with *Sanaatan Dharm* and Modern Law, as *Sanaatan Dharm* came much before the modern laws, so it should have precedence over the later. Secondly, the spelling of certain Sanskrit words that have no corresponding English word have been changed to the way it should be read by the common man

like me and not scholars in this gathering. A departure from some pronunciation standards, established by some group of people, has being made, as for me an incorrect pronunciation of the word produces a different thought and leads to a complete misunderstanding of the word content.

Every word has content, colour, vibration, numerology, and meaning, which is totally lost if it is not pronounced and felt currently, *Brahm* and *Brahma*, *dharm* and *dharma*, *karm* and *karma*, *yog* and *yog*, *vaishye* and *vaishya* have totally different contents, impacts and meanings.

There are three marked distinctions or fundamental differences between *Sanaatan Dharm* and modern laws. This distinction has led to religions based on personal experience through a traditional knowledge system on one side and religions based on books or Abraham religions on other side. These distinctions are at the base of eastern and western philosophies, culture and heritage, thinking process and the *sanaatan dharm* and modern laws. These three issues are:

1. **Concept of time:** *Sanaatan Dharm* believes in cyclic spiral time and quantum existence. Modern law believes in lateral time and lateral living.
2. **Purpose or objective of life:** *Sanaatan Dharm* believes that the realisation of the Self or the divine cosmic energy within us is the purpose or objective life. At the base of modern laws, the roots of which goes to conflicts is divisiveness, clash of civilisations and classes, achieving power for dominance and control over others and exploitation of nature for luxurious existence.
3. **Path or the process of achieving the purpose or objective:**At the base of *sanaatan dharm* is the great principle of *karm*. Everyone has to perform their own *karm* to one's own perfection and enjoy the bliss in performing whatever work one gets in hand and that itself leads to de-toxification, purification, spiritual growth, experiencing and realisation of the cosmic self within us. Mutual respect, a conflict-free individual and a conflict free society. The modern law is external, based on conflicts. Man vs. nature, dominant vs. subservient, superior vs. inferior, ruler vs. ruled, kings vs. churches, male vs. female, white vs. rest, rich vs. poor etc.

Concept of Time

At the heart of *sanaatan dharm* lies the concept of *kaal chakr*, or cyclic spiral time, without a beginning and without an end. At the heart of Abraham religions is the lateral time, which has a beginning and will end on the day of judgment or *kayaamat ka din*.

In the *Sanaatan* narrative of cosmic interplay, which the Western call as

mythology, the smallest measurement is the time taken by a sun ray in moving through three atoms and is called *truti*, which is 10^{17} x 3.375 sec. What can be more scientific that this. *Truti* leads to *pal*, *pal* to *vegh, laav, nimesh, kshan, kshta, laghu naadi, muharat, prahar, paksh, maas, ritu, aayaan – dakshinayaan* and *uttarayan* and a year, divine year, life of *devta*, which is 432,000 years or a *kali yug*. A *maha yug* is composed of one *Satt, Treta, Dwapar* and *Kali* and is 4,320,000 years.

Each *manvaantar* has 71 *maha yug* and 1 sat yug. Each kalp has 14 manvaantar and 1 sat yug is a *Brahm* day, which has 1000 *yug*. One *Brahm* year has 360 *Brahm* days. The lifespan of a *Brahm* is 100.*Brahm* year equivalent to 311.040 trillion years. This *kaal chakr* signifies and establishes beyond any doubt, that the *Brahm* is also bound by cosmic laws or laws of cosmos. *Brahm* is bound by a structured cycle, with no escape. With the awakening of the *Brahm's* manifestation undergoes the *ardh-naareshwar* split, dividing into two fundamental aspects:

1. **Purush:** The immutable, imperishable, absolute equity, equality, blissful, which is the true nature of the self within every individual jeev.
2. **Prakriti:** The mutable, ever-changing aspect, comprising the physical world, including the human body, mind, intellect, ego, and their countless attributes, attitudes, aptitudes.

The primary objective of *Sanaatan Dharm* is to guide every being in realising and experiencing the Self or *Purush* within. This ancient philosophy provides a comprehensive framework for understanding the ultimate Truth, enabling seekers to attain self-realisation through surrender. *Sanaatan Dharm* focuses on resolving internal conflicts, helping individuals become conflict-free by acknowledging and respecting the differences inherent in *prakriti*. By embracing this way of life, individuals can realise their true nature and attain liberation. *Sanaatan Dharm* or Hinduism, is therefore is not guest every way of life, it is a way of life designed to facilitate self-realisation and help other achieve their objective. *Sanaatan Dharm*, therefore, provided for various aspects of self-evolution, including:

1. Responsibilities and obligations for rulers, spiritual leaders, traders, and workers
2. Yogic practices and spiritual disciplines - Scriptural guidance from the
    a. *Ved*
    b. *Brahm Sutr*
    c. *Nyaaye Sutr*
    d. *Manu-smriti*
    e. *Yaagyvalk-smriti*
    f. *Naarad- smriti*

g. *Brihaspati-smriti*
h. *Katyaayan Smriti*
i. *Smriti Chandrika*
j. *Mimansa*
k. *Raamaayam*
l. *Mahaabhaarat - My learned panellist Shridhar has done an outstanding work on maxims from Mahaabhaarat*
m. *Shrimat Bhagwad Gita*
n. *Mitakshara*
o. *Dayaabhaag*
p. *Hindu Law*

The modern law is external, based on a relationship. Every relationship is based on trust. Every breach of trust leads to injury. For every injury that must be a forum for recovery of damages and damages must be recovered. Ubi jus ibi remedium and *damnum sine injuria* in civil disputes and penal action in criminal breach.

The history of Modern Law can be expounded in five time zones or revolutions

a. **Pre 1215 –** No legal structure - Rules made and litigation adjudicated by family head, Tribal head, or the King – Royal Charter – Justice was raw, centralised and embodied in social hierarchies - Legal Revolution 1.0
b. **1215 – 1775 -** *Magna Carta* arises out of conflict between the royalty and the church. Rise of Rule of law, cubing monarchical power, Codification of Laws – Rise of Corporations – Britain, Dutch, France, Spain – Legal Revolution 2.0
c. **1776 – 1985 –** This period witnessed judicial independence, the rise of individual rights and constitutional democracies after the American and French revolutions. Legal system emphasised personal freedoms, equality, and justice, reshaping the relationship between the state and the citizens – Legal Revolution 3.0
d. **1985 – 2020 –** Globalisation expanded the legal landscape beyond national borders, introducing ADR. This era saw cross-border mechanisms for resolving disputes, reflecting an interconnected world and the need for flexible collaborative justice approaches - Legal Revolution 4.0

Legal Revolution 5.0 – 2020 Onwards – A collaborative Jurisprudence - Cosmic Covid kick has shifted the human consciousness from 3rd dimension existence of the humanity to 4D and 5D, particularly the modernites and post–modernites to human-centered dispensation of justice, which is at the core of *Sanaatan Dharm*. Shift from adversarial litigation to conflict solving with empa-

thy for intended beneficiaries and stakeholders. The need to have an integrated view of the whole, cross-border collaboration to manage global healthcare had led to the development of collaborative jurisprudence. For the West, they have no option but to change and we see their accepting the *yog* day and getting deeper into and accepting *Ayurveda,* meditation and mediation for meaningful existence.

A War Against Injustice and Social In-Equality: Indian Judiciary 2050
Project WISE 2.0

Author's Bridge: *In 2003, a document called Project WISE was placed before Justice R.C. Lahoti, then the senior-most puisne judge of the Supreme Court: a comprehensive, integrated blueprint for reforming the legal ecosystem from foundation to summit. Justice Lahoti received it, noted it, moved on. When we met again in 2018, he said, openly and without qualification: we had missed the bus. Project WISE 2.0 – Indian Judiciary 2050 – is the bus that must not be missed again. Sixty-four structural proposals covering the Supreme Court, ADR institutions with appropriate modification must be implemented, the Bar Council, law universities, law reporting, infrastructure, and artificial intelligence. The vision is not new. It has been forming since 1985, when the effort to convert the Supreme Court judgements in digital format was initiated and when the first electronic display board went up in the Supreme Court the author's insistence. Forty-four years later, with neutral citation was partly implemented by Chief Justice Chandrachud's marked that the vision is closer to reality than it has ever been. But closer is not arrived. The sixty-four proposals of Project WISE 2.0 are the map of what be done – and the legacy that is placed before the institution it has served, and loved, across fifty years.*

In 2003 - 2004, after I had organised three visits of technology specialists from Crimson Logic, Singapore – the company then implementing e-judiciary in Singapore – and had made presentations in that context, I placed personally before Justice R.C. Lahoti, then the senior-most puisne judge of the Supreme Court of India, a document I had called Project WISE: War against Injustice and Social In-Equality – Indian Judiciary 2020. It was a comprehensive, integrated blueprint for reforming the legal ecosystem from its foundations to its summit, conceived in the conviction that the Web and Internet were already in place, that the move to e-judiciary was inevitable, and that the moment to act was precisely now, before the institution fell further behind the world it was meant to serve. I presented it with one clear understanding: that only if one of three persons could be moved to act, the institution could be moved with him – the Chief Justice of India, the Attorney General, or the Union Law Minister.

Justice Lahoti – who subsequently became Chief Justice of India – did not dismiss it. But in the manner of the institution he headed, he received it as one

receives a proposal whose time has not yet come. He listened. He noted. He moved on. He did initiats the work of the e-Committee, but that was far from what was required. I did not meet him again for fifteen years. When I had occasion to meet him in 2018, he introduced me, with a generosity that touched me, as a pioneer in e-judiciary in India. I told him, plainly, that he had not been able to use my services in full measure, and that the problems the project had sought to resolve had since escalated considerably. He said something then, openly and without qualification, that has remained with me since: that he had not been able to fully appreciate, in 2003, what I was talking about; that looking back, he could see clearly what I had seen then; and that we had missed the bus.

Those words – spoken with the honesty of a man no longer constrained by institutional position – were, in their way, the most precise summary of everything this chapter has documented. The disease that Project WISE sought to diagnose and remedy in 2003 had, by 2018, metastasised. By 31.07.2026, as this autobio-graphy closes, it has become what the medical profession would unhesitatingly call cancerous. The dysfunction is no longer a failure of individual actors; it is a structural condition. The Mistress is not merely indisposed. In the domain that matters most – the delivery of timely, impartial, and affordable justice to the common man and the common advocate – she is, in the sense that her founding promises always implied, dead.

And yet – because a warrior of light does not stop at diagnosis, and because the Love that replaces the Mistress is not a sentiment but a structure – Project WISE 2.0 exists. It can be a seed of a work that will follow and the foundation of a sustained effort towards Indian Judiciary 2050. The ambition has been extended by twenty-five years because the work of the preceding twenty-five years was not done. The core issues raised in 2003 were addressed only at the margins; the centre – the common advocate, the common litigant, the man on the street who enters the court as a last resort and leaves it financially exhausted and judicially abandoned – was never touched. If the issues raised in Project WISE 2.0 are now addressed and implemented meaningfully, from scratch, with the collective will of the Chief Justice of India, the Minister of Law and Justice, and the Attorney General for India acting in concert, the vision of an empowered, trustworthy, and future-ready Indian judiciary by 2050 is not merely possible, it is, as Alexander Hamilton acknowledged in a different context, inevitable – provided the necessity is real, the evil to be remedied is greater than the evil of reform, and the probability of success is honestly assessed.

All three conditions are met. The necessity has never been more urgent. The evil of continued inaction – another two decades of institutional drift, of merit displaced by patronage, of the litigant abandoned at the door – far exceeds the evil

of reform. And the probability of success is real precisely because no comprehensive, unified attempt has yet been made. The field, for all its decay, remains reformable.

The Supreme Court Canteen
Where Generations Changed, but the Spirit Remained the Same

If the Courtrooms were the theatre of law, and the corridors its restless bloodstream, the Supreme Court canteen was its informal university. For nearly five decades, I have watched that canteen remain strangely unchanged, even while everything around it transformed. The furniture changed little. The tea tasted familiar. The noise remained constant. Only the faces changed.

The young advocates who once entered the canteen nervously carrying bulky files under their arms are today senior advocates themselves – grey-haired, respected, surrounded by juniors, speaking with the same authority once exercised by those whom they had silently admired from a distance. Time completed its invisible circle.

Today, the tables are occupied by young advocates carrying sleek iPads and laptops instead of heavy briefs. Entire libraries now exist within a screen. Judgments appear within seconds. Research, which once took days, now takes minutes. Artificial Intelligence itself has begun entering legal preparation. Technology has changed completely. But the learning has not.

The young lawyer still watches seniors carefully. Still listens silently. Still learns strategy between casual conversations. Still studies confidence, timing, courtcraft, humour, patience and persuasion – those unwritten dimensions of advocacy which no law college can truly teach.

Earlier, discussions revolved around constitutional amendments, landmark judgements, emergency jurisprudence, political upheavals and legendary courtroom battles. Today, conversations move toward technology, globalisation, mediation, Artificial Intelligence, digital privacy, startups, cryptocurrencies and international commerce. The subjects have changed. But the passion remains exactly the same.

The canteen continues to be a remarkable equaliser. A junior advocate with trembling uncertainty may find himself seated beside a constitutional expert who argued historic cases. A lawyer who fought bitterly in court an hour earlier may now share tea and laughter with the same opposing counsel. Political ideologies collide there, professional rivalries soften there, friendships are born there, and occasionally even careers are shaped there.

Many young lawyers perhaps never realised that some of their greatest les-

sons were not learnt inside courtrooms, but across those canteen tables. One learnt:

- how seniors analysed judges,
- how failures were absorbed,
- how reputations were built,
- and how dignity in the profession was preserved even amidst fierce competition.

The canteen carried its own unwritten code. People argued intensely, disagreed passionately, criticised judges and judgements openly, debated politics endlessly — and yet remained bound together by a shared identity as members of the Bar. I sometimes sit quietly and observe the younger generation moving through the same spaces where we once stood with uncertainty, ambition, anxiety and dreams. Their devices are different. Their language is different. Their pace is faster. Their world is digital.

Yet their eyes carry the same fire.

The desire to be heard.

The desire to succeed. The desire to matter.

And perhaps that is why the Supreme Court canteen continues to survive beyond generations. Because beneath changing technology, changing law, changing politics and changing personalities, the essence of the profession remains untouched. Every generation enters believing it is witnessing a new era. Every generation eventually becomes history itself. But the canteen remains – quietly witnessing it all.

Inspirational Thoughts

"The objective was not merely the settlement of cases, but the restoration of communication itself."

— Scribbling

…

"Love is the force that transforms and improves the soul of the world."

— The Alchemist

…

"The language that everyone on earth was capable of understanding in their heart… it was love

— The Alchemist

…

We exist in a powerfully webbed and networked structure, where people with divine energy continue to work with integrity, faith and trust, making efforts to live in peace and harmony without exploitation and without suppression of the will of fellow beings. However, people with

asur or dis-harmonised energy continue to act without integrity, faith and trust, as they exploit others, suppress their will and perpetrate corruption.

— Blog

…

This is the art of true advocacy – not domination, but persuasion rooted in clarity. Shri Krishan did not argue Arjun into action. He illuminated Arjun's own consciousness until the right action became the only possible action. That is the highest form of advocacy: not the imposition of a conclusion but the creation of the conditions in which the judge, or the party, or the opponent, arrives at the correct conclusion by their own light.

— Reflection

…

Money will not purchase happiness for the man who has no concept of what he wants. Money will not give him a code of values if he has evaded the knowledge of what to value. Money will not buy intelligence for the fool, or admiration for the coward, or respect for the incompetent. Money is a living power that dies without its roots. Money will not serve the mind that cannot match it.

— Ayn Rand — Atlas Shrugged

…

Until and unless you discover that money is the root of all good, you ask for your own destruction. When money ceases to be the tool by which men deal with one another, men become the tools of men. Blood, whips and guns – or dollars. Take your choice; there is no other; and your time is running out.

— Ayn Rand — Atlas Shrugged

…

"The man who damns money has obtained it dishonourably; the man who respects it has earned it."

— Ayn Rand — Atlas Shrugged

…

The unknown is not the unknowable… all possible knowledge is within the power of humanity. The idea of limit, of the impossible, begins to grow a little shadowy and it appears instead that whatever man constantly wills, he must in the end be able to do; for the consciousness in the race eventually finds the means.

— Sri Aurobindo — The Life Divine

…

"No words to say, no thoughts to think – That is what happens when you have the drink. Stop the flow or control the fly, Do anything – It does not die."

— Scribbling

Afterword – The Senior Advocate and the Deeper Mission

In its outer dimension, the period of this chapter produced a body of written and spoken work that would, measured by any ordinary standard of professional output, constitute a lifetime's contribution. Thirteen major addresses and blogs. A comprehensive Project WISE 2.0 with sixty-four proposals for the transformation of the Indian legal system. The EMAC, launched in the stillness of a national lockdown.

The Art of Advocacy traced from *Angad* to *Shri Krishan* to forty-five years of watching the greatest advocates argue at the Supreme Court. The Mediation Training Programme of forty hours, in which the advocate who had argued for Legal Revolution 5.0 submitted himself to the discipline of practicing it. The address in Colombo on Law in Sports Governance. The introduction of Chief Justice Chandrachud at the Soli Sorabjee Memorial Lecture. The blog on the Supreme Court's lost traditions. The extended meditation on the *Shrimat Bhagwad Gita* as the most complete available map of the conflict between forces that wish to control and forces that wish to co-exist in harmony. And the address for Shobhaa De's platform – the fullest engagement, in a lifetime of thought on the subject, with the feminine energy as the civilisational force that holds every family together and whose conflict-free existence is the precondition for a conflict-free world.

Taken together, these pieces do not form an archive. They form an argument – the same argument that had been forming since the first morning at the Triveni Sangam in Allahabad, since the drafting of the first clause of the Rajasthan Sports Act, since the walking away from the BCCI without looking back. The argument is this: that the third-dimensional structures of Law – adversarial, territorial, slow, and structurally incapable of reaching those who need justice most – are being superseded, not by choice but by the inexorable logic of civilisational evolution, by fourth and fifth-dimensional structures in which Justice is approached not through the power of the state to punish and decree but through the capacity of human beings to understand, communicate, and resolve. Legal Revolution 5.0 is not a proposal for tomorrow. It is the naming of what is already, choicelessly, arriving.

What distinguishes this chapter from those that preceded it is not the volume of the output – the earlier chapters were equally productive, and the period of the AOR years was more demanding in sheer quantity of argument. What distinguishes it is the quality of arrival. The pieces in this chapter are not explorations. They are completions. The lost traditions of the Supreme Court – named in the December 2022 blog with the precision of someone who had watched each tradition disappear across nearly five decades – are not lamented; they are docu-

mented, for the institution that wishes to reclaim them.

Project WISE 2.0 is not a wish list; it is a sixty-four-point programme, each element of which is grounded in the operational experience of half a century at the Bar. The introduction of Chief Justice Chandrachud at Goa is not a compliment; it is a recognition – clear-eyed and historically informed – that the institution had found, for a moment, a leader willing to take the digital transformation it had been resisting for decades and make it irreversible. The Art of Advocacy is not nostalgia; it is a transmission – from Angad and *Shri Krishan* through C.K. Daphtary and Lal Narain Sinha and Nani Palkhivala and Ashok Kumar Sen and R.K. Garg and P.R. Mridul to the generation of young advocates who will carry the profession forward or abandon it for something else.

The designation of Senior Advocate brought with it a particular kind of freedom – the freedom of one who has nothing left to prove, and who can therefore speak plainly. The addresses and blogs of this chapter have that quality: they say what they mean, without the protective hedges of institutional caution or professional calculation. The blog on the Supreme Court's lost traditions could only have been written by someone who had watched those traditions from the inside, and who had nothing to lose by naming what had happened to them. Project WISE 2.0 could only have been submitted by someone who had submitted its predecessor in 2003, been told it was too ambitious, watched the institution miss the bus it was offered, and come back twenty years later with sixty-four proposals instead of one. The address on the feminine energy as civilisational force could only have been delivered by someone who had read Amrita Pritam and Ayn Rand and the Mahaabhaarat with equal attention, and had understood – through fifty-two women across a lifetime of observation – that the Prakriti without which the Purush is a ghost is not merely a philosophical category but a daily lived reality whose structural invisibility is the deepest injustice of every economy in the world.

And then there is the Bhagwad Gita. The extended blog of November 2023 – the most sustained single engagement is not a devotional exercise. It is a jurisprudential one. The twenty-eight divine attributes and sixty-four asuric characteristics of Chapter 16 are not moral categories; they are a taxonomy of the human beings who inhabit every institution – the judge who holds his conscience intact under political pressure, and the one who does not; the advocate who tells the court the truth when it is inconvenient, and the one who does not; the administrator who serves the institution and the one who serves himself through it.

The *kshetr-kshetragye* framework of Chapter 13 is not metaphysics; it is the most precise available description of the relationship between the advocate, the brief, and the justice the brief must serve. And Arjun's seven questions – asked by the most capable warrior of his age from a position of total paralysis – are not the

questions of a coward. They are the questions of every lawman who has stood between the power of the State and the rights of the individual and understood, with full clarity, the consequences of the argument he is about to make.

The Gita was present at the beginning, in the reading habits formed in the earlier in life and while commuting in DTC, in the Bhagwad Gita commentary that became one of the three books forming the philosophical backbone of the entire narrative. It is present at its close, not as a piety but as a working instrument – the most complete map available to the human mind of the war between those who wish to control and those who wish to co-exist, and of the advocate's irreducible role in that war.

The Mistress, across these five years, continued her decline – institutional, structural, and in the January 2018 press conference, publicly visible. The Love, across these same five years, found its form: in the sixty-four proposals of Project WISE 2.0, in the forty hours of mediation training, in the EMAC launched by webinar during a pandemic, in the blog that named what the Supreme Court had lost and what it must recover, in the address that placed the feminine energy at the centre of the conflict-free civilisation that Legal Revolution 5.0 aspires to build.

The Mistress is in decline. The Love is in ascent. And the Chapter that follows – the final chapter – is the chapter in which the Love finds its name, its launch, its statutory form, and its most complete articulation. The work of fifty years has arrived at its destination. Not a destination of rest, but of clarity – the clarity that comes from having lived the full arc of a great question and arrived, in the seventy-first year, at an answer that satisfies not merely the intellect but the conscience.

The Mistress had everything. She gave everything. And what she gave, in the end, was the understanding that she was always, at her deepest and her best, pointing toward something beyond herself. That something is Justice. It was always Justice. And it is to Justice – in peace mediation, in the PICS economy, in Legal Revolution 5.0, in Finance Revolution 5.0, in the Students World Cup, in every forum and every form in which the conflict-free society can be built, one resolved dispute at a time – that the final chapter is devoted.

CHAPTER 9

01.01.2025 – 31.07.2026

Legal Revolution 5.0, Peace Mediation, Finance Revolution 5.0, PICS Economy, AI, and the Architecture of a Conflict-Free Society

> *"For in the true nature of things, if we rightly consider, every green tree is far more glorious than if it were made of gold and silver."*
>
> **— Martin Luther**

Every moment of life with the law has been lived fully, with dignity and with joy. In this final chapter, the convergence becomes visible—many threads that appeared, across the decades, to move in different directions reveal themselves to have formed a single weave.

The period between January 2025 and July 2026 became such a moment for me. On 10.01.2025, in the seventieth year of my life, *Legal Revolution 5.0* was launched with Justice Dinesh Maheshwari, former Judges Supreme Court of India Mr. R. Venkataramani, Attorney General for India, and Mr. Rajiv Dutta, Senior Advocate, presiding over the occasion. On 24.01.2026, *The Dawn of Finance Revolution 5.0 – A PICS Economy* was placed before the world in the presence of former Chief Justice of India Justice Uday U. Lalit and Justice Dinesh Maheshwari, Chairperson, Law Commission of India.

These were not merely books. They were expressions of an understanding that had been forming quietly across five decades – through early mornings at the Triveni Sangam in Allahabad, through the Sports Act litigation, through walking away from the BCCI without regret, and through countless moments in practice when law revealed itself not as the destination but as the vehicle: beautiful, indispensable, yet incomplete.

Legal Revolution 5.0 argued that the evolution of dispute resolution has moved through successive stages – from authority, to constitutional order, to judicial independence, to alternative dispute resolution, and now toward Peace Mediation: a process whose purpose is not merely to settle disputes but to dissolve conflict at its source.

Its aspiration is deeper than adjudication. It seeks to create understanding where misunderstanding created division; dialogue where silence produced dis-

tance; and resolution that transforms rather than merely concludes. Across years of drafting, advocacy, and mediation, I gradually came to recognise a distinction that shaped my later work: law resolves, but justice transforms.

Finance Revolution 5.0 carried the same inquiry into economics. Every human being, I proposed, lives simultaneously in two economies. The first is visible – the economy of money, contracts, salaries, taxation, and measured output. The second is invisible – the economy of service: the labour of homemakers, caregivers, teachers, volunteers, coaches, mediators, and those acts of contribution that sustain society but rarely appear in any ledger. One economy is measured. The other gives meaning.

The idea behind the PICS framework emerged not from theory but from observation—particularly those moments in court when invisible human contribution had to be translated into monetary language and was found incapable of capturing what had truly been given.

Justice Uday U. Lalit, in his foreword and remarks at the launch, recognised the idea as an attempt to think beyond conventional economic structures and to place human contribution at the centre of value creation. Coming from one who had served the Supreme Court with distinction, those reflections carried meaning far beyond endorsement.

Justice Dinesh Maheshwari, in his Afterword, articulated with remarkable clarity the deeper implication of the idea – that societies ultimately endure not merely because of the wealth they generate, but because of the invisible values they preserve and reward. He recognised that the central inquiry of the PICS framework was not economic expansion alone, but whether human contribution beyond markets and transactions could be acknowledged within a broader architecture of justice and social progress.

Together, those reflections affirmed something I had gradually come to understand across decades of practice: that value and worth are not always identical, and that a civilisation advances not only by measuring what it produces, but by recognising what it quietly receives from those whose contribution remains unseen.

This chapter, like those before it, is built upon writings, addresses, conversations, and reflections. But unlike the earlier chapters, it arrives at a point of clarity. Not the clarity of completion. Only the clarity that comes from recognising that the questions which accompanied a lifetime sometimes reveal their answers slowly.

Peace Mediation, the PICS Economy, Legal Revolution 5.0, Finance Revolution 5.0, the work in sports governance, the reflections on the *Bhagwad Gita*, the conversations on Artificial Intelligence and justice – all belong to the same inquiry: how human systems may become more aligned with human dignity. The

addresses delivered at Malta, O.P. Jindal University, the University of Delhi, the launch of the Students World Cup, and later reflections on constitutional philosophy and *Sanaatan* thought were not separate destinations. They were expressions of the same search.

Artificial Intelligence, I argued, will not replace those who uphold justice – it will replace those who perform without purpose. The *Bhagwad Gita* remained the deepest thread: not only a spiritual text, but a profound exposition of jurisprudence of mediation – where guidance illuminates judgment without replacing it. The Students World Cup carried forward another long-held conviction: that sport, like law, flourishes when structures empower participants rather than institutions.

As this journey reaches fifty years from 01.08.1976, one understanding remains unchanged: law matters. What has changed is my understanding of what law serves. Law is the pathway. Justice is the destination. Procedure is the instrument. Justice is the light. The law gave me discipline, structure, opportunity, and an arena in which to grow. But over time I came to understand that its highest purpose lies beyond itself. I began my journey in the service of my Mistress. I continue it in the service of my Love. 31.07.2026 therefore marks neither retirement nor conclusion.

Only the completion of one circle and the beginning of another. Half a century after entering the Supreme Court through Gate D with a name unknown and conviction intact, the conviction remains. Only the understanding has changed.

From Courtroom Conflict to Conflict-Free Society

As I moved through the final decades of my professional life, a quiet but irreversible transformation began within me. I had spent nearly half a century inside courtrooms — arguing, contesting, resisting, defending, and seeking justice through the institutional framework of law. Courts remained indispensable to civilisation; without them, organised society would collapse into disorder. Yet, with time, I also began to perceive a deeper truth: that litigation, however necessary, often enters only after relationships have fractured, trust has collapsed, and conflict has already hardened into adversarial positions.

The courtroom could decide disputes; it could not always heal the human condition that created them. This realisation gradually shifted my gaze from the resolution of disputes to the prevention of conflicts themselves. I began to understand that the future of civilisation could not rest merely upon expanding courts, multiplying statutes, or increasing punishments. The future demanded something deeper — the creation of systems, institutions, technologies, and human values capable of reducing conflict at its source.

It was this transition in consciousness that eventually gave birth to many of the ideas that emerged later in my writings and institutional work. In *Legal Revolution 5.0*, I explored the constitutional and jurisprudential evolution of law in modern democracies, particularly the transformation of the judiciary from Hamilton's "least dangerous branch" into one of the most powerful institutions shaping human destiny. I examined how the "pen power" of law had, over time, become equal to – and often greater than – the power of the sword or the purse. Yet I also recognised that law alone could not create harmony unless society itself evolved beyond transactional existence.

That thought found further expression in *Finance Revolution 5.0 – The PICS Economy*, where I attempted to explore whether economies themselves could be reimagined – from systems based purely on possession, extraction, and consumption to systems capable of recognising human service, compassion, mediation, caregiving, environmental protection, and social contribution as measurable civilisational value. The PICS framework was born from the belief that societies collapse not merely from economic inequality, but from the invisibility of human goodness.

At the same time, the emergence of Artificial Intelligence opened before humanity both extraordinary promise and unprecedented danger. AI, if guided only by commercial greed or political control, could deepen manipulation, surveillance, and social fragmentation. But if aligned with constitutional morality, transparency, mediation, and justice, it could also become one of the greatest instruments ever created for reducing human suffering, corruption, delay, and institutional opacity. Gradually, all these streams began converging into a singular idea: that the next great civilisational movement may not merely be the Rule of Law, but Peace Mediation as the pathway to the Rule of Law.

Litigation resolves disputes. Peace mediation resolves conflicts. One operates after damage. The other seeks to prevent damage itself. This understanding ultimately drew me beyond the boundaries of conventional legal practice into the larger quest for a conflict-free society – a society where justice is not experienced merely as a judicial verdict, but as dignity, participation, transparency, dialogue, compassion, accountability, and social trust. I had begun my journey believing that law itself was my destination. I now understood that law was only one of the instruments through which humanity struggles toward justice. And justice, in its truest sense, lies beyond courts alone.

Book Launch of Legal Revolution 5.0 – 70th Birthday

10.01.2025 (Address)

Author's Bridge: *This was a cosmic design that the Bhagwad Gita describes as the natural consequence of karm pursued with complete devotion and without attachment to the fruit. Justice Dinesh Maheshwari Former judges Supreme Courts of India Mr. R. Venkataramani, Attorney General for India, Rajiv Dutta, Senior Advocate – a companion of nearly half a century at the Bar, were the panelists. The room was filled with colleagues, friends and associates who had watched the argument develop across decades of practice and address. The seed sown by Alvin Toffler's observation in 2007 – that the knowledge economy had emerged not because of law but in spite of it, that law was moving at one mile per hour while the entrepreneur moved at one hundred, that what prevailed was not immobility but legal rigor mortis – had grown, across years of thought, argument, address, mediation practice, and institutional engagement, into a fully articulated vision of what Legal Revolution 5.0 requires and what it makes possible. The address delivered at that launch is the fullest single statement for the occasion most suited to receive it, of the journey from the first day at the Supreme Court on the 01.08.1976 to the moment of this book's release forty-eight years and five months later. It is the moment at which the advocate who walked through Gate D with a name that nobody knew became the architect of a revolution to carry the idea forward.*

More than 48 years ago, in 1976, I embarked on my journey in the legal profession at the Supreme Court. Early on, I came to understand that law, lawyers, and judges form the foundation and bedrock of the ever-changing social dynamics. This realisation filled me with a profound sense of purpose. I was captivated, almost spellbound, and deeply satisfied on a soul level to have joined this profession and when I read his speech delivered on 05.02.1885, titled Our Mistress, the Law. In this timeless address, he expressed:

> *"Every calling is great when greatly pursued. But what other gives such scope to realise the spontaneous energy of one's soul? In what other does one plunge so deep in the streams of life – so share its passions, its battles, its despair, its triumphs, both as witness and actor?"*

These words resonated deeply within me, reinforcing my commitment to the legal profession. Over time, I observed how law, lawyers, and judges evoked powerful emotions. They were loved and celebrated by those who found justice in their favour, but equally despised by those who felt wronged or disappointed. This duality was not confined to India but reflected a global truth, across the countries. They were loved because their absence would result in chaos and anarchy; they represented the last bastion of hope for a civilised society.

Yet, they were also hated for their candid perspectives, for taking stands that were often unpopular or uncomfortable. At times, they were criticised for failing

to uphold the dignity and respect that their esteemed positions demanded. It pained me to witness law, lawyers, and judges under relentless scrutiny and critique from various quarters. Authors, playwrights, filmmakers, politicians, thinkers, and social activists often voiced their discontent, challenging the role and relevance of the legal system. This criticism struck a chord with me, particularly as I pondered the relationship between law and the evolving complexities of society.

In 2007, I read Alvin Toffler's 'Revolutionary Wealth', a work that brought this tension into sharp focus. In Chapter 5, Toffler highlighted a stark contrast – the clash of speed in modern society. American companies and businesses, the drivers of countless societal transformations, were metaphorically zooming at a hundred miles per hour. In stark contrast, the law appeared to crawl forward at a mere one mile per hour. Toffler's observation struck a nerve when he wrote:

> *"The knowledge economy has emerged not because of these laws but in spite of them. This is neither stability nor immobility. It is legal rigor mortis. Lawyers may be changing how they work. But law itself is barely in motion."*

These words sparked a profound sense of urgency within me. They compelled me to reflect deeply on the role and future of the judiciary in a rapidly transforming world. During that period, the seed to write this book was sown.

In 2009, at the first Hindu Diaspora Conference at Chicago, I had the opportunity to meet Justice Jake Swamp, the Chief of the American Natives. He presented me with a book titled 'The Laws of Peace' and shared a compelling story about their decision not to join the American Confederation. Justice Swamp explained that George Washington's refusal to give women a rightful place in governance was a pivotal reason. In Native American tribes, women held significant positions of authority, particularly in the judiciary. Washington's refusal to grant them voting rights diminished the role of feminine energy, leaving it dormant and unacknowledged in the evolving structure of governance.

The announcement of the Fourth Industrial Revolution at the World Economic Conference in 2015 marked a turning point. This watershed moment underscored the accelerating pace of technological and societal change. By 2018, the declaration of Globalisation 4.0 further reinforced the interconnectedness of our global society and the need for robust systems to navigate its complexities. These developments intensified my curiosity about how legal systems across the world were adapting – or failing to adapt – to these seismic shifts.

From 2018 onwards, we also witnessed the rise of digital assets and private currencies based on private algorithms rather than government policies and human idiosyncrasies. Following the cosmic kick of COVID-19 in 2020, online interactions became an accepted mode of human engagement. This period also

marked a critical shift, as the collective consciousness of the world transitioned from the third dimension to the fourth, with some individuals even advancing to the fifth dimension. This shift hinted at the potential for a conflict-free individual and, ultimately, a conflict-free society.

Simultaneously, the legal industry shifted its focus from the prevailing Public Dispute Adjudication System to Private Alternate Dispute Adjudication and further to Private Conflict and Dispute Resolution. This transition ushered in the era of Peace Mediation through online conflict resolution. India, with its vast potential, stands poised to become a global hub for online conflict resolution and peace mediation. These aspects have been carefully explored and addressed in this book.

As I pondered these questions, I found myself drawn to the concept of legal revolutions and how they have unfolded alongside other transformative movements in history. It became clear to me that the evolution of law must not merely parallel these changes but actively engage with and shape them. It is this belief that has driven me to articulate these thoughts and explore these themes further in the pages of this book.

CLA News / CLA Member Book Review Corner*

Author's Bridge: *A book is not complete until it has been read by those it did not write itself for. The CLA review by Sagar Kulkarni and Moksh Varaiya – an FCIArb and a law student from Pune, a practitioner and a beginner, each encountering the argument from their own position in the profession's arc – is included here not as endorsement but as evidence: evidence that the argument travels, that it resonates across the generational divide that the book itself addresses, and that the question it raises – whether legal systems, like industries and economies, undergo revolutions that redefine how justice is delivered – is a question that the profession is ready to engage seriously. The review's one substantive challenge – that the book does not address the critics of peace mediation, and that adoption of a new belief system requires weighing its pros and cons rather than merely charting its history – is a fair point. It is noted here with respect. Legal Revolution 5.0 is a vision statement, not a polemical tract. Its critics will write their own responses. The history it charts is the ground on which that debate must take place.*

Legal Revolution 5.0 by Mr. Aruneshwar Gupta, Senior Advocate, is an insight-ful and expansive exploration of the evolution of humanity and the irreversible transformation in the structure, processes, or power dynamics of a society, system, or institution that naturally led to the structuring of legal systems across the world. The Book Cover embodies a picture of a frozen blood drop, hinting that revolutions occurred with bloodshed are archaic in nature. The author identi-

fies that conflict free individuals and a conflict-free society cannot be based on conflicts, but elements of trust, respect and harmony are an eternal link to revolutionise the future. The author examines how legal frameworks have transformed over time, with paralleling societal, political, epidemics, global and technological advancements.

The author believes that the *Sanaatan* (to mean eternal) narrative of the cosmic interplay serves as a timeless reminder of humanity's ongoing struggles with conflicts, disputes, battles, wars, and world wars, including nature's way of dealing with and balancing the irresponsible *karmas* of *homo sapiens*. The author believes this phenomenon is an eternal and continuous element of the humankind and all the stakeholders must hone themselves and evolve to address new challenges. The book introduces the concept of "Legal Revolution 5.0," which marks a significant shift towards peace mediation, online dispute resolution, and the integration of artificial intelligence in legal practices. The author argues that legal transformations are as crucial as industrial and technological revolutions, shaping justice systems to meet contemporary needs.

The book is supplemented with a preface setting the background for the book followed by a detailed foreword by Hon'ble Mr. Justice Rajesh Bindal, Supreme Court of India terming the book as an indispensable guide for those who seek to understand the past, navigate the present and shape the future of law, and a revitalising introduction note written by Hon'ble Mr. Justice A.H.M.D Nawaz, Judge of the Supreme Court of Sri Lanka calling the book a minefield of provocative thinking and an unputdownable vade mecum once one is seized by it.

The book is structured around five major legal revolutions, each representing a distinct phase in legal development:

1. **Legal Revolution 1.0 –** The pre-1215 era, characterised by rudimentary legal frameworks before codified law. The author discusses the raw and decentralised legal and justice system governed by traditional values rooted in social systems, adjudicated by heads of family and village elders.
2. **Legal Revolution 2.0 –** The Magna Carta epoch (1215–1785), which laid the foundation for constitutional law and individual rights. The era where parliamentary systems began replacing absolute monarchy, thereby shifting the focus towards society and individual rights.
3. **Legal Revolution 3.0 –** The post-American independence period (1785–1985), focusing on judicial independence and the expansion of legal institutions. The focus towards individual rights and constitutional democracies, emphasising on personal freedoms, equality and justice, is reshaping the relationship between the state and its citizens.
4. **Legal Revolution 4.0 –** The rise of alternative dispute resolution (ADR)

and judicial independence (1985–2020). The era of cross-border mechanism for resolving disputes and establishing a more connected, collaborative justice systemcatering the world. The rise of globalisation.

5. **Legal Revolution 5.0** – The modern era, emphasising online conflict resolution, peace mediation, artificial intelligence in law, shift towards empathy, ethics, technological advancement, reimagining justice as a collaborative, human-centered experience, and global legal connectivity.

In addition to the above elements, the author goes a step further and lays down theories relating to the philosophical shifts in human perspectives during the tenure of a lifetime, the transition of humankind from materialism and power to self-realisation and unity consciousness, as the author draws an interesting analogy of philosophical shifts from 2D to 5D. The author determines the influence and impact of the movies, inspiring a shift in human consciousness, taking the imagination of the humans to new levels, introducing sci-fi elements, technological advancements and stories that reimagine the history of revolutions with a futuristic twist. The author also dwells into several court judgements around the world that reflect emphasis on collaboration with empathy, human dignity, sustainability, compassion, and equity in the legal process, making judicial processes or decisions more aligned with human-centered and environmentally responsible principles.

Several other elements like the impact, contribution and importance of the first industrial revolution from 1770 to the fourth industrial revolution 2015 onwards, demonstrating how the revolutions have taken place based on human needs; globalisation 1.0 to globalisation 4.0, discussing the forces driving the globalisation from traditional elements of invasion by force to penetration of globalisation through digitalisation, automations, AI, etc.

The author navigates the readers in the smoothest way through the chronology of past, present and future of the comprehensive historical analysis, emphasising the revolutions required to reach the various stages, at the same time keeping the readers' interests at the highest peak, by integrating insights from philosophy, sociology, and technology. The author further tames the reader' scuriosity by including discussions on AI, digital assets, and blockchain, adding a contemporary and forward-looking dimension, eventually glueing the reader's attention by emphasising on peace mediation as opposed to adversarial legal proceedings to collaborative technology driven dispute settlement.

The book encapsulates and critically discusses several elements to put forward the author's ultimate thought of peace mediation, laying down guidelines for a foreseeable future for peace mediation. The book lacks discussion on the critics surrounding the propounded theory of peace mediation. Perhaps address-

ing the opposing views on the author's proposed thought of peace mediation will help in caressing the reader's mindset to adopt peace mediation practices. Adoption of a particular system or belief can be accepted only by weighing the pros and cons of the belief system, merely charting through the history may not invoke a revolution to adopt an entirely new belief system unless the opposing views are addressed.

To conclude, *Legal Revolution 5.0* is a thought-provoking and meticulously researched book that provides a fresh perspective on legal evolution. The author successfully demonstrates that legal systems, much like industries and economies, undergo revolutions that redefine how justice is delivered. The book's focus on online dispute resolution, AI, and peace mediation makes it particularly relevant in an era of rapid technological advancements. While dense in certain areas, it is a valuable resource for legal scholars, practitioners, students and anyone interested in learning and deep diving into the past, present and future of law and justice.

* Sagar Kulkarni, Advocate, FCIArb, FAIADR & Moksh Varaiya, Student, MIT Law College, Pune

The Future of Mediation

A Pathway for Law Students at Jamia Hamdard University

22.02.2025 (Address)

Author's Bridge: *Six weeks after the launch of Legal Revolution 5.0. The book was in the world; the argument was being received. And already, the next generation of the profession was asking the question that every new generation must ask: What does this mean for me? The address at Jamia Hamdard University is the answer given to law students – not as a prescription but as an invitation. The choice named at its close is their own choice, restated for the generation that will carry it forward: not between litigation and mediation as procedural alternatives, but between two fundamental philosophies of life, law, and justice. Do you wish to be warriors of rigid enforcement or architects of lasting peace? Do you see justice as a battle or a bridge? Will you argue for victory or mediate for harmony? The address does not answer those questions for the student. It places them before the student with the full weight of forty-nine years of practice behind them. The weight is the answer. The constitutional goal, stated here with the directness that a student audience deserves, is not a casteless society or a classless society. It is a conflict-free society. That is the inheritance offered to the generation now entering the corridors of the Courts.*

It is perhaps one of the greatest anomalies of human civilisation that as societies began to settle and evolve, conflicts and disputes also became an inherent part of human interaction. In the earliest days, such disputes were resolved through

physical fights and duels, often dictated by sheer strength rather than justice. However, with the signing of the Magna Carta in 1215, the foundations of parliamentary governance and an independent judiciary were laid, gradually replacing brute force with legal institutions. This transformation was further solidified after American independence in 1776, where the principles of governance, justice, and rule of law were strongly propounded by The Federalist Papers, authored by John Jay, James Madison, and Alexander Hamilton. These seminal works championed the establishment of an impartial judiciary and the importance of structured dispute resolution, paving the way for modern legal systems.

As legal institutions developed, the seven lamps of advocacy, the cross-examination of witnesses, judgment based on legal principles and contractual obligations, and the doctrines of statutory interpretation emerged as the beacons of litigation. The legal profession evolved into a structured industry, where the primary objective became winning cases for clients through all available means and strategies. This adversarial system, built on the premise of advocacy and court room battles, defined the litigator's role as a fierce representative of their client's interests, often prioritising legal victories over collaborative resolution.

However, as societies progressed and conflicts grew more complex, litigation escalated at an unprecedented rate, clogging the courts due to its structured, technical approach and rigid formalities. The legal process became increasingly intricate and procedural, often alienating the very individuals it was meant to serve. Clients frequently found themselves caught in a labyrinth of legal technicalities, procedural delays, and exorbitant costs, unable to comprehend how their case spiralled out of control. Many litigants, having invested their entire lives, energy, and earnings into seeking justice, were left devastated when an unfavourable verdict – often dictated by legal nuances rather than substantive justice – brought their pursuit to an abrupt and incomprehensible end.

As the inefficiencies and limitations of traditional litigation became more evident, the need for a more harmonious, accessible, and human-centric approach to dispute resolution became increasingly apparent. This led to the emergence of Alternative Dispute Resolution (ADR) – a more flexible, cost-effective, and relationship-preserving means of settling disputes. Mediation, arbitration, and conciliation began to gain prominence as effective alternatives, offering timely, efficient, and less confrontational pathways to justice.

As humanity has evolved through different stages of consciousness and social development, the legal landscape has undergone significant transformations. Arbitration, once considered a faster and more efficient alternative to court litigation, gradually became adversarial, expensive, and time-consuming – mirroring the very judicial system it sought to complement. As a result, there was a natural shift

toward mediation, a process rooted in collaboration, mutual understanding, and constructive dialogue.

The COVID-19 pandemic acted as a catalyst, triggering a profound shift – not just in legal practices but in human awareness itself. It awakened a global realisation of the value of emotional and mental well-being, family bonds, environmental concerns, empathy, and meaningful communication. As people grappled with uncertainty, loss, and isolation, there was a collective recognition that human relationships and well-being must take precedence over prolonged adversarial disputes.

This transformation has significantly reshaped how individuals, businesses, and communities perceive and approach conflicts, disputes, litigation, and their resolution or adjudication. The emphasis has shifted from winning cases to preserving relationships, from rigid legal battles to flexible, solution-oriented discourse. Mediation, as a non-confrontational process that empowers disputing parties to co-create solutions, has emerged as the cornerstone of this new legal consciousness, reflecting a broader societal evolution toward peace, harmony, and sustainable conflict resolution.

No longer is the legal field just about winning or losing battles in court. The traditional financial rat race, marked by exploitation, control, and rigid dialectics, is giving way to a more collaborative, empathetic, and solution-oriented legal landscape. Across society – from corporate boardrooms to local communities – there is growing discourse on the high costs of litigation, the breakdown of relationships due to prolonged legal battles, and the inefficiencies of traditional legal mechanisms, particularly delays caused by backlogged cases.

This collective awakening has ignited an urgent need for a more effective, accessible, and human-centric approach to dispute resolution – and mediation has emerged as the most promising answer. At its core, every individual aspires to live a conflict-free life. Societies thrive when peace and harmony prevail, and businesses function best when trade and industry operate seamlessly without unnecessary disputes. This is the foundation of a meaningful and civilised society – a society where people engage not in battles of dominance but in dialogues of understanding. That also marks the distinction between developed, developing and underdeveloped countries.

It is imperative to recognise the fundamental distinctions between adjudication and resolution, litigation and mediation, litigators and mediators, and, more profoundly, between those who operate through control and competition versus those who seek peace and harmony. Litigation and mediation are not merely alternatives, but complementary forces that serve different purposes for different purpose.

Litigation operates within a rigid black-and-white framework, where one

party wins and the other loses. It is built on statutes, principles of legal precedents, argument, and competition, where the goal is to prove one's case rather than seek mutual understanding. It often delivers definitive legal outcomes, but these may not always address the emotional, financial, or relational complexities of a dispute.

Mediation, on the other hand, embraces a spectrum of possibilities. It recognises that conflicts are rarely binary and contain a million shades of nuance. It is rooted in dialogue, empathy, and collaboration, allowing parties to co-create solutions rather than imposing rigid legal outcomes. Mediation preserves relationships, ensures confidentiality, and provides creative solutions beyond the conventional legal framework. The result is not just resolution, but transformational, where both parties leave the process empowered rather than defeated.

The world is shifting from an adversarial mindset, where control and exploitation have historically shaped legal and economic systems, toward a collaborative mindset, where fairness, sustainability, and emotional intelligence guide decision-making. Litigators and mediators embody two distinct attitudes, aptitudes, approaches, visions, and missions – one seeks legal finality, while the other seeks practical reconciliation; one thrives on conflict, while the other thrives on opportunity; one delivers judgment, while the other facilitates understanding. Neither is superior; both serve different needs. Litigation remains necessary for strict enforcement of laws, but mediation offers a more flexible, humane, and sustainable path to dispute resolution.

As law students and future legal professionals, you stand at the frontier of this transformation. The choice before you is not just between litigation and mediation, but between two fundamental philosophies of life, law and justice. Do you wish to be warriors of rigid enforcement or architects of lasting peace? Do you see justice as a battle or a bridge? Will you argue for victory or mediate for harmony?

The future of law is evolving. Those who recognise the power of mediation, the importance of dialogue, and the value of human-centric conflict resolution will not only shape the future of legal practice but redefine the very essence of justice itself. The world needs lawyers who understand that justice is not merely about punishment and judgements, but about restoring balance. Those who embrace this vision will lead the world into a new era – one where the law empowers, heals, and unites.

Mediation is not just an alternative to litigation; it represents a fundamental shift in how conflicts are resolved, prioritising communication, relationship preservation, and long-term harmony over mere legal victories. The Indian legal system has recognised this transformation. The Mediation Act, 2023, coupled with

Supreme Court initiatives, has given mediation statutory recognition. Courts now encourage pre-litigation mediation, making it an integral part of dispute resolution, especially in commercial and family matters.

Internationally, countries like Australia, Singapore, the United States, and the United Kingdom have fully embraced mediation as a preferred dispute resolution method. India is now aligning itself with this global trend, creating immense opportunities for law students and young legal professionals. As law students, this is your chance to be at the forefront of change. The demand for skilled mediators and mediation advocates is growing, and there are multiple pathways to enter this field.

To excel as a mediator, you must evolve as a different kind of legal professional and human being – one with an inclusive perspective and an unshakable confidence in the power of resolution. Some essential skills include:

Active Listening and Communication – Understanding what is said and what remains unspoken.

Objective Analysis and Problem - Solving – Seeking win-win solutions beyond rigid legal structures.

Emotional Intelligence (EQ) – Navigating disputes with empathy and the ability to diffuse tension, hostilities and opposition.

Legal Knowledge and Ethics – Ensuring structured, fair, and just outcomes within the mediation process.

Dear students, the legal profession is not just about laws; it is about serving justice, resolving conflicts, and contributing to societal harmony. As the world moves toward a more collaborative and conscious way of resolving disputes, you have the chance to lead this transformation. Embrace mediation, sharpen your skills, and position yourself as a pioneer in this new era of dispute resolution.

The future is not just about fighting cases and living in a society infested with conflicts, disputes, arguments, litigation, battles, and wars—it is about creating solutions. The constitutional goal is not to establish a casteless or classless society but to foster a conflict-free society. The future belongs to those who embrace change and drive innovation in the legal system. I wish you all success in your journey as the future peace mediators and mediation advocates.

24th Commonwealth Law Conference 2025, Malta

6-10, April 2025

Declaration on the Use of AI

Author's Bridge: *CLA adopted a Declaration on the Use of Artificial Intelligence. The seven principles of the Declaration are principles of great significance. That the Com-*

monwealth lawyers' global community arrived, in April 2025, at a document whose architecture mirrors the argument made across the preceding decades is not a coincidence. It is the natural result of the collective intelligence of a profession recognising, at the moment of its greatest institutional crisis, what the crisis requires.

Recognising the transformative power of Artificial Intelligence (AI) in reshaping our world, enhancing our capabilities, and improving our lives, and,

Acknowledging the unprecedented risks and challenges it poses to life, individual rights, social justice, and global security, we, the undersigned

Commit to a collaborative, transparent, and ethical approach in the development, deployment, and governance of AI technologies, endorsing only the use of AI-enabled systems and services that are proven to:

1. Ensure the Primacy and Sanctity of Human Life
2. Respect Ethical Principles and Human Rights
3. Adhere to International Security and Safety Standards
4. Promote International Collaboration and Governance
5. Adhere to International Privacy and Data Governance Standards
6. Promote Innovation and Sustainability
7. Respect for the Environment

These seven principles shall be directed within the powers of those charged with legal services to ensure that deployed AI-enabled systems and services are used to uphold, ensure and to promote them as follows:

1. Primacy and Sanctity of Human Lifein practice:
   - **0.1** Insofar as it is in our power, a human being must never be harmed, nor should a human being ever, by inactivity, be allowed to come to harm.
   - **0.2** That AI should always be under the ultimate control of a human being.
2. Respect Ethical Principles & Human Rights in practice:
   - **2.1** The upholding and enhancement of human rights, ensuring they do not infringe upon individual freedoms, privacy, or dignity.
   - **2.2 Equity and Inclusion –** to promote fairness and ensuring that AI benefits all segments of society without discrimination, and with permanent monitoring to eliminate biases.
   - **2.3 Accountability and Transparency:** To ensure that all AI are explainable, transparent, and subject to human oversight, with accessible mechanisms for redress.
3. Adhere to International Privacy and Data Governance Standards in practice:

3.1 Data Protection must have in-built robust data protection measures to safeguard personal and sensitive information against unauthorised access and breaches. Commonwealth Lawyers Association – Declaration on the Use of AI

3.2 Consent and Autonomy: The ensuring of informed consent for data collection and use, respecting individuals' autonomy and control over their personal data.

3.3 Data Minimisation and strict adherence to the principle of data minimisation, collecting only what is necessary for the intended purpose and ensuring data accuracy, which purpose shall not conflict with any of the principles hereof.

4. Adhere to International Security and Safety Standards in practice:
   - **4.1 Security by Design:** To apply security standards at every stage of AI development and deployment to protect against threats and to ensure the integrity of AI systems.
   - **4.2 Risk Assessment** To identify potential harms and implement all measures to mitigate these risks.
   - **4.3 Emergency Protocols:** The use of protocols that enable an immediate response to AI-related accidents or misuse, and with mechanisms that allow for rapid deactivation and remediation.
5. Promote Innovation and Sustainabilityi n practice:
   - **5.1 Sustainable Development:** to ensure alignment with sustainable development goals, and the promotion of environmental stewardship and resource efficiency.
   - **5.2 Open Innovation:** To encourage the sharing of knowledge among stakeholders to foster innovation and accessibility.
   - **5.3 Future-Oriented Governance:** Using only AI-enabled systems and services designed under adaptive governance structures that can accommodate the evolving nature of AI, ensuring that the resulting systems and services remain flexible and inclusive of diverse perspectives.
6. Promote International Collaboration and Governance in practice:
   - **6.1 Global Standards:** To ensure that Providers who are actively working towards the establishment of global standards and norms for AI that respect cultural diversity while promoting universal ethical principles.
   - **6.2 Cross-Border Cooperation:** To ensure that Providers, actively working towards enhancing international cooperation in AI research, development, and regulation, facilitate knowledge exchange and providing mutual assistance.

6.3 Multistakeholder Engagement: To ensure that Providers who are actively engaging a wide range of stakeholders, including governments, the private sector, academia, civil society, and the public, in the governance of AI to maintain comprehensive and balanced perspectives.

7. Respect for the Environment in practice:

7.1 That AI services and systems be deployed in such a way as to minimise any negative environmental impact.

Nyaaye Sutr: The Aphorisms of Justice

June 2025

A New Translation and a Timeless Revelation

There are moments in a life of scholarship and practice when one encounters a text that does not merely inform but transforms – that does not add to what one knows but reorganises the very foundations upon which one's knowing rests. My encounter with the *Nyaaye Sutr* of *Mahaarishi Gautam* was such a moment, and it came, as the most illuminating encounters often do, not at the beginning of the journey but near what others might regard as its end, though I have never regarded any moment of learning as anything other than a beginning.

I had carried out the first edition of a *shlok* by *shlok* translation of the *Shrimat Bhagwad Gita* in 2008 – a work of devotion as much as of scholarship, born of the conviction that the Gita's wisdom must be rendered accessible not as the property of any particular philosophical school or sectarian tradition but as the universal inheritance of every human being who seeks to live and act rightly in a world of irreducible complexity. The fourth edition of that translation was launched in 2024 by Justice Rama Balasubramanian, whose presence at that occasion was itself a testament to the deep and enduring conversation between law and *dharm* that has animated my entire professional life. I was also undertaking translation of the eleven major Upanishads, those sublime dialogues between teacher and disciple in which the nature of reality, consciousness, and the self are explored with a directness and a depth that no philosophical tradition has surpassed.

But what had mesmerised me always – what had beckoned from a distance across decades of reading and reflection – was the *Nyaaye Sutr*: the aphorisms of justice composed by *Mahaarishi Gautam*, one of the greatest systematic thinkers of the ancient world. I had laid my hands on approximately four interpretations of this text over the years, and in each of them I found the same fundamental difficulty: they were subjectively oriented by their authors. Each interpreter had approached the sacred text through the lens of his own philosophical preoccupa-

tions, his own tradition, his own way of seeing – and had produced, consequently, a reading that illuminated certain dimensions of the text while occluding others. What the *Nyaaye Sutr* demanded was a simple translation that transcends the individual perception of the interpreter and achieves universal application. The text must be allowed to speak for itself, and what it speaks must be capable of addressing every human being who bears the responsibility of delivering justice, regardless of his time, his place, his tradition, or his personal philosophy.

For me, the *Nyaaye Sutr* related directly and practically to delivery of justice by development of judicial excellence and evolution of the self in the process. Judicial excellence, means something far more demanding than procedural correctness or technical proficiency in the application of precedent. Judicial excellence is the capacity to see through the thicket of argument, counter-argument, evidence, manipulation, misrepresentation, and delay that characterises contested litigation — and to arrive, by the exercise of trained insight, disciplined integrity, and rigorous intellect, at the truth of the matter and the justice of the outcome. This capacity is indispensable for every judge or decision-maker who bears the responsibility of delivering true justice, and its development cannot be left to chance or to the accumulated experience of years on the bench alone. Justice is not achievable by the spin of the coin, it is an absolute to be provided in each case.

Those who violate laws and commit breach of trust and contract – and it is upon their conduct that courts are most severely tested – do not do so naively or without resources. They use the best strategies, retain the most skilled professional services, and persist with remarkable tenacity in blurring the lines between truth and falsehood and between justice and injustice. They have to the aware of to distortions, deceptive tactics, manipulation and delays designed not to advance the search for justice but to subvert it – to exhaust the patience of the court, to overwhelm the opposing party, and to ensure that the passage of time accomplishes what the merits of the case cannot.

Against this organised subversion of justice, the judge who possesses only procedural knowledge and legal erudition is insufficiently armed. He needs something deeper: the qualities of mind and spirit that *Mahaarishi Gautam* identified and codified more than many millennia ago as the foundational conditions of judicial excellence.

Justice is not a matter of procedure alone. It is the outcome of insight, integrity and intellectual rigour. It can only be achieved when the judge or decision-maker possesses comprehensive knowledge, refined analytical skills, and the discernment necessary to perceive the underlying tensions and core conflicts embedded within each dispute. This demands not only an understanding of legal principles but also intigrity, deep domain expertise and an unwavering commitment

to truth that no sophistication of argument can dislodge and no pressure of time or convenience can compromise.

Mahaarishi Gautam, in his seminal work the *Nyaaye Sutr*, codified the foundational principles essential for such judicial excellence. This profound treatise, consisting of 528 sutras organised into five chapters – each divided into two parts – lays down the philosophical and logical framework that underpins the pursuit of justice across every domain of human inquiry and decision-making. The very first sutra of the first part of the first chapter stands as the gateway to the entire text – its preamble, its declaration of intent, its map of the territory that the remaining 527 sutras will explore in systematic and illuminating detail.

With the assistance of a Sanskrit scholar whose knowledge of the classical tradition was as deep as his patience with my questions was generous, I undertook the translation of this first sutra. What opened before me was a revelation. The sutra identifies sixteen qualities or categories of knowledge and capacity – sixteen attributes that together constitute the complete equipment of the judge or decision-maker who aspires to deliver true justice. Each of these sixteen is then expanded, examined and expounded in the *sutr* that follow. The first *sutr* is, in the most precise sense, a preamble – it announces the sixteen, names them, and places them in relation to one another as the pillars of a single, unified architecture of judicial excellence.

The translation I arrived at reads thus:

> *"Judicial excellence is achieved by understanding the evidence, issues, yearning to do justice, motive, illustrations, doctrines, sections of law, logic, capacity of decision-making, entering into generative dialogue, understanding futile arguments, irrelevant issues, confusions, tricks, domain knowledge, in the court." – Nyaaye Sutr* [1.1.1]

What follows is the understanding of each of the sixteen qualities that this first sutra enumerates – not as a Sanskrit scholar's philological exercise but as a practitioner's reflection upon what each quality means for the judge and the decision-maker who must apply it in the living reality of a contested dispute.

The Sixteen Qualities of Judicial Excellence – As Derived from Nyaaye Sutr 1.1.1

1. *Pramaan* – Evidence including appreciation of facts correctly is the foundation upon which every structure of judicial reasoning is built, and the judge who cannot distinguish reliable evidence from unreliable, direct from inferential, contemporaneous from reconstructed, is building upon sand regardless of the sophistication of his legal analysis. Evidence would include the facts and material supporting those facts. Mahaarishi Gautam places evidence first among the sixteen qualities because, without correct

understanding of facts, nothing that follows can be sound. For the judge, this quality demands not merely familiarity with the law of evidence but a trained skepticism – an instinct for the fabricated document, the tutored witness, the convenient recollection – that only experience combined with intellectual discipline can develop.

2. *Prameye* – Issues – The identification of the issues in a dispute is among the most demanding and most undervalued of judicial skills. Parties in litigation invariably present their cases in the form that serves their interests, surrounding the core issue with layers of peripheral argument, procedural objection, and factual assertion designed to obscure rather than illuminate. The judge who cannot cut through this surrounding undergrowth to identify with precision the questions that actually require decision will spend his energies resolving what does not matter and leave unresolved what does. Clarity about the issues is the precondition of clarity in the judgment, and clarity in the judgment is the precondition of justice.
3. *Sanshaye* – Yearning to Do Justice – Sanshaye actually means doubt, but it is the doubt that gives rise to a determination to do justice. A doubt is a motivational quality – the genuine, sustained, active yearning to do justice – that distinguishes the judge who merely decides from the judge who truly adjudicates. This quality is the inner fire without which all the other may remain merely technical accomplishments. It is the doubt that keeps the judge awake with a difficult case, that drives him to read one more judgment, consider one more argument, examine one more piece of evidence – because the outcome matters not merely as a professional product but as a human act with human consequences for the parties before him. Without this yearning, procedure becomes ritual and law becomes a mechanism.
4. *Prayojan* – Motive or *mens rea* – Every dispute has a motive that underlies and explains it – a purpose that the parties seek to achieve through the litigation that may or may not correspond to what they say they seek. The judge who understands motive understands why the case is really being fought, who stands to gain from particular outcomes, and why parties behave as they do in the conduct of the proceedings. This understanding does not license the judge to decide on the basis of assumed motive rather than proven fact – but it equips him to ask the right questions, to identify the pressure points in the evidence, and to recognise when the ostensible dispute is a vehicle for a purpose that the court is being used, rather than served, to achieve.
5. *Drishtaant* – Illustrations – The capacity to reason by analogy – to illumi-

nate an abstract proposition by reference to a concrete illustration, a decided case, a principle drawn from a cognate field, or an example from the common experience of life – is among the most powerful tools available to the judicial mind. *Mahaarishi Gautam's* inclusion of illustrations among the foundational qualities of judicial excellence reflects the ancient understanding that pure abstraction, however logically coherent, loses its purchase on reality unless it is anchored in the particular. The great judges of every tradition have been distinguished not only by the power of their abstract reasoning but by the vividness and precision of the illustrations through which they made that reasoning comprehensible to the parties, to the profession, and to posterity.

6. *Siddhaant* – Doctrines – Doctrines are the established propositions – the settled principles, the *maxims* vthe authoritative interpretations, the accumulated wisdom of the tradition – upon which the judge draws to resolve the questions before him. The quality *Mahaarishi Gautam* identifies is not merely knowledge of the doctrines but the capacity to understand their foundations, their scope, their limitations, and the conditions under which they apply and do not apply. A judge who knows the doctrine but does not understand why it exists – what injustice it was designed to prevent, what value it was designed to protect – will apply it mechanically in situations where its application produces injustice, and will fail to apply it in situations where its spirit demands it though its letter may not compel it.
7. *Avayav* – Means components and that would near Sections of Law – The knowledge of the positive law – the statutes, the rules, the regulations, the constitutional provisions that govern the dispute – is the most obvious and the most frequently emphasised of the judicial qualities, and for that reason perhaps the most taken for granted. What *Mahaarishi Gautam's* formulation adds to mere familiarity with legal texts is the understanding of how the parts of the law relate to the whole – how individual components fit within the architecture of the statute, how statutes fit within the constitutional order, and how the positive law of any given moment relates to the deeper principles of justice that it imperfectly embodies. The judge who sees only the section and not its place in the larger design will be mastered by the text rather than its master.
8. *Tark* – Logic is the discipline that governs the movement from premises to conclusions – that ensures the judge's reasoning is valid, that his inferences are warranted, and that his judgment follows coherently from the findings of fact and the propositions of law upon which it rests. *Mahaarishi*

Gautam's placement of logic among the sixteen foundational qualities reflects the profound understanding that justice cannot be accidental – it must be the product of rigorous reasoning that can be examined, tested, and, if necessary, challenged. The judgment that cannot be logically defended and supported by reasons is not merely intellectually defective; it is unjust in its very form, because it fails to give the losing party the reasoned explanation that justice requires.

9. *Nirnaye* – Capacity of Decision – Making – *Nirnaye* actually means judgment, but it also means the capacity to decide – to bring the process of inquiry to a definitive conclusion, to choose between competing positions with the firmness that the finality of judgment demands – is a quality distinct from and not reducible to the intellectual qualities that precede it. Many a judge has been intellectually equipped to analyse a dispute with great sophistication but lack the decisional courage to resolve it with clarity and conviction. Indecision in a judge is not a form of intellectual incapacitation – it is a form of injustice, because it leads to adjournments, arrears and leaves the parties without the resolution that the law promises them and that human beings in conflict require and approach the court for that reason. *Mahaarishi Gautam* understood that the capacity to decide is itself a discipline that must be cultivated.
10. *Vaad* – Entering into Generative Dialogue – The quality of generative dialogue – the capacity to engage with the arguments of counsel, with the positions of the parties, and with the reasoning of prior decisions in a manner that generates new understanding rather than merely rehearsing established positions – is among the most creative and the most neglected of judicial virtues. The judge who listens to the argument not to understand but merely to confirm what he has already decided has foreclosed the possibility of justice before the hearing begins. True generative dialogue requires the judge to hold his preliminary views lightly, to be genuinely open to the possibility that the argument before him will change his understanding, and to engage with counsel in the collaborative search for the right answer that the adversarial system, at its best, is designed to facilitate.
11. *Jalp* – Understanding Futile Arguments – Among the most practically important of the sixteen qualities is the capacity to identify and appropriately disregard futile arguments – those submissions that are made not to advance the search for truth but to confuse, delay, exhaust, or overwhelm. *Mahaarishi Gautam's* ancient text recognises what every experienced judge and advocate knows from daily practice: that a substan-

tial proportion of the argument deployed in contested litigation serves no legitimate purpose and that the judge who cannot distinguish the futile from the substantive will spend his energies and consume the time of the court on material that deserves none of either. This quality requires not impatience but discrimination – the ability to hear everything and to attend carefully to what matters.

12. *Vitanda* – Irrelevant Issues – Closely related to the identification of futile arguments is the capacity to recognise and exclude irrelevant issues – those factual and legal questions that the parties introduce into the proceedings not because they bear upon the outcome but because their introduction serves strategic purposes of delay, distraction, or confusion. The judge who allows irrelevant issues to colonise the proceedings loses control of the case and thereby loses control of the justice of the outcome. The discipline of relevance – the insistence that every question examined and every argument considered must bear a genuine relationship to the resolution of the true issues – is a foundational condition of efficient and just adjudication.
13. *Hetvabhaas* – Confusions – the fallacies of reasoning, the false inferences, the plausible but ultimately unsound arguments that present the appearance of logical validity without its substance – are among the most dangerous weapons in the arsenal of the sophisticated litigant. *Mahaarishi Gautam's* identification of the capacity to recognise and dispel confusion as a foundational judicial quality reflects the understanding that the corruption of justice most often proceeds not through crude falsehood but through the subtle misrepresentation of truth – the argument that contains just enough accuracy to be credible and just enough distortion to be misleading. The judge who cannot identify the fallacy embedded in a plausible argument will be led by it to an unjust conclusion while believing himself to have reasoned soundly.
14. *Chchal* – Tricks – The recognition of tricks – the tactical stratagems, procedural maneuvers, evidentiary sleights of hand, and deliberate misrepresentations that parties and their advocate deploy to gain advantage by means other than the merits of the case – is a quality that cannot be acquired from books alone. It is the product of experience combined with a trained vigilance that refuses to take the conduct of proceedings entirely at face value. The judge who is innocent of the existence of tricks – who assumes that every procedural application is made in good faith, every evidentiary objection is genuinely based, every request for adjournment is truly necessary – will be manipulated by those who have no such

innocence, and the justice of the outcome will be the casualty of his credulity.

15. *Jaati* – Domain Knowledge – Jaati commonly mean caste, community, birth group, however in boarder and real sense it means a class, genus or species, a group sharing common generic characteristics. *Jaati* for the purpose of imparting justice would mean the domain knowledge, knowing all about a subject matter of the dispute beyond the mere legal framework within which it is presented. It is a quality whose importance grows with the increasing complexity and specialisation of modern litigation. A judge who must decide a dispute about pharmaceutical patents without understanding the science of pharmacology, or a dispute about financial derivatives without understanding how those instruments function, or a dispute about environmental harm without understanding the ecology of the affected system, is dependent upon the experts who appear before him in a manner that compromises his capacity for independent judgment. *Mahaarishi Gautam's* ancient text understood what modern judicial systems are only beginning fully to appreciate: that the judge must bring to the dispute not only legal knowledge but the depth of understanding in the relevant domain that genuine mastery of the subject matter requires.
16. *Nigrah – Isthaan* – Court – *Nigrah* derived from its root *grah* – to hold with the prefix ni – down or in – typically means holding back, curbing, restrain, suppression, or control. Here it will mean hold back or control illegality or injustice. *Isthaan* means place. *Nigrah-Isthan* is the place where injustice is controlled and justice is imparted and that is court. The temple of justice. The situational quality of being in the court, of being present in the full sense of that word to the reality of the proceeding before one – completes and encompasses all the others. All fifteen of the preceding qualities must be exercised not in the abstract but in the concrete, living, human reality of the courtroom: in the presence of parties whose lives and livelihoods are at stake, of advocates whose professional obligations place competing demands upon them, of witnesses whose testimony must be evaluated with simultaneous attention to its content and its manner of delivery, and of a public whose confidence in the administration of justice depends upon the visible integrity and competence of the process it witnesses.

Shreye – Saadhigam –To achieve excellence – The purpose of having mastry in all this sixteen attributes is to achieve excellence. In Nyaaye Sutr, it should obviously mean Judicial Excellence.

Reflection:Nyaaye Sutr 1.1.1 offers, in its magnificent compression of sixteen qualities into a single aphorism, is nothing less than a complete philosophy of judicial excellence – a philosophy that is at once ancient and entirely contemporary, rooted in a civilisational tradition that understood the administration of justice as among the highest of human callings, and addressed to every judge, arbitrator, tribunal member, and decision-maker who bears in our own time the same responsibility that Mahaarishi Gautam recognised and codified thousands of years ago.

The translation of this *sutr*, arrived at through months of dialogue with a gifted Sanskrit scholar and decades of reflection upon the demands of adjudication as I have witnessed and participated in them, is offered not as a scholarly achievement but as a practitioner's gift to the profession – an invitation to every member of the legal community, whether on the Bench or at the Bar, to measure themselves against these sixteen standards and to find in that measurement not a judgment but a direction: the direction toward the judicial excellence that justice, in every age and in every court, eternally demands.

Students World Cup Launch

12.07.2025 (Address)

It is with immense pride and a deep sense of purpose that I welcome you to this historic occasion, the official launch of the Students World Cup. Today, we are not merely inaugurating a tournament; we are igniting the flame of a vision, a movement, a mission rooted in the transformative goal of Viksit Bharat @ 2047, with the National Sports Policy 2025 and Students World Cup serving as a critical milestone on that path.

It would be far too modest of me to speak to this august audience about sports. Each one of you is a legend in your own right – individuals who have lived and breathed sports, who have shaped your lives through sheer will, discipline, character, humility in defeat, and courage in resurgence. You have brought honour to the nation – and now, you are here to give even more, sharing your experience of the good, the bad, and the ugly in the world of sports. I bow to each of you – with deep awe, respect, and gratitude.

During my school days, I played almost every sport I could find. I had a burning passion for perfection and a deep commitment to give my best in everything I did. Yet, despite this love for sports, I never became a professional sportsperson. My pursuit of excellence took a different path. I have often envied sports persons – for they get to play matches, while I have spent nearly five decades only practicing – in courtrooms, as an advocate.

In the year 2000, moved by a profound sense of national disappointment, former Solicitor General of India, Mr. V.R. Reddy, and I published a quarter-page advertisement titled *Bronze for a Billion*. This followed the Sydney Olympics, where Karnam Malleswari won a bronze medal in the women's 69 kg weightlifting event – India's only medal that year. Like many fellow citizens, I felt not just sadness but a deep sense of torment at our nations under whelming performance on the international stage.

By that time, I had completed 25 years of practice in the Supreme Court, and I had come to a clear understanding – just like justice, winning medals is never an accident. It is the culmination of relentless human endeavour, discipline, vision, and systematic preparation. Medals are forged in the crucible of fierce competition, and often tested against the backdrop of unfair play, especially by those who believe in winning accolades at any cost.

So, if we were not winning medals, it was evident that something was drastically wrong – fundamentally flawed – in the very structuring of our sports ecosystem. And if that was the case, it wasn't merely unfortunate – it was disastrous. It meant that the aspirations of young athletes were being stifled, their potential choked at the root, and their cries for support went unheard. Somewhere, somehow, all this deeply offended my sense of justice and fair play.

In 2004, I was appointed the Additional Advocate General for the State of Rajasthan. With a burning fire in my belly, I urged the then Chief Minister to channel the energy of our youth into sports by enacting a Sports Act, which she totally supported with enthusiasm and passion. I told her that whenever a thesis is born, the antithesis already exists. *Raavan* existed before *Shri Raam* and *Kans* before *Shri Krishan*. We must expect resistance from known and unknown quarters, even to something as seemingly harmless as a Sports Act proposed by a relatively quiet state, one that had won just a single bronze medal in the 2003 National Games in Hyderabad.

And resistance came, as expected. From all quarters: from the Indian Olympic Association, National federations, State Associations, bureaucratic corridors that were reluctant to upset the status quo. To me, that resistance made the mission even more interesting and compelling, it confirmed that I was on the right path. I immersed myself in the study of global sports ecosystems – the Olympic movement, sports industry in the USA, UK, Germany, France, Australia, Russia, China, Argentina, and every credible resource available on the internet. I analysed Basketball, Football, Baseball and other leagues, international federations, regulatory frameworks, funding models, scouting systems, and more to evolve a structure and system that could fit and was suitable to us.

Two critical issues struck me during this journey. Firstly, I discovered that

the British Olympic Association did not take a single penny from the Government – a revelation that proved sports has its own economics. In contrast, I was hearing that the Indian sports industry was in shambles because of a lack of funds. What I did not hear but soon realised that the available funds rarely reached the players, nor were they invested in infrastructure. Instead, the money disappeared into a maze of mismanagement and misplaced priorities of foreign tours and late-night parties of the office bearers. It became increasingly clear, the problem was not a lack of talent, or even a lack of financial resources. The real issue lay in the absence of legal and corporate structure, accountability, commitment and long-term vision of those who were controlling sports.

Secondly, I discovered that out of 150 recognised International Sports Federations, out of 8000 sports played around the world, not a single International Sports Federation was registered in India, not even Kabaddi and Kho Kho. As a result, all major revenue in the global sports economy flowed overseas, with no anchoring of the sports industry within our borders. The global sports industry today is estimated at $2 trillion, while in India, it has barely reached $20 billion. Determined to address these gaps, I went through 52 drafts over four months to build a legislative framework.

Eventually, the Rajasthan Sports Ordinance, 2004 was promulgated by the Governor of Rajasthan on 17.08.2004 – coincidentally, the very same day Rajyavardhan Rathore won a silver medal at the Athens Olympics. A good omen. The validity of the Act was fiercely contested – first in the High Court, and later in the Supreme Court. But its impact was immediate and far-reaching within the sports sector. It was as if the *Raavan's* at the top had sensed the birth of a *Raam* and were making all out efforts to stall its growth.

The Rajasthan Sports Act cleared the way for Lalit Modi's election as President of the Rajasthan Cricket Association (RCA) in February 2005, followed by the enactment of similar Sports Acts in Himachal Pradesh and Uttar Pradesh, which, as envisioned, led to a change in the leadership of the BCCI in November 2005. Sharad Panwar in J. Dalmiya out. That change ultimately led to the birth of the Indian Premier League in 2008. What started as a $ 0.8 billion enterprise is today an $18.5 billion global phenomenon.

But let us be clear and I repeat, let us all be clear, IPL is not a league in the truest sense. It is a tournament, not a grassroots ecosystem. The spirit and intent of the Sports Act that made IPL possible have not percolated downward. It has not created a broad-based sports industry or institutional framework aligned with the vision I had imagined, and for that reason, I was not comfortable. I knew much more needed to be done. The Sports Act of Himachal Pradesh and UP were repealed, the only surviving Sports Act is in Rajasthan. Sad but true.

We are in a better place today with the Government of India pushing and doing its best. But the real progress is neither due to the Government, for nothing is being done for re-structuring the sports ecosystem. The progress is nor due to the support of the IOA, sports federations, or associations. It is the result of individual passion, family sacrifice, community support, and the relentless efforts of coaches working in silos. Even on the global stage, the model is deeply skewed. The Olympics generates over $7.7 billion in revenue, yet not a single dollar reaches the sportspersons – the very lifeblood, the creators of that value.

All this, I had shared with Rajeev more than a decade and a half ago, when I met him by a divine design and saw the same burning passion in him for the youth and the nation. He kept the idea alive, brewing it quietly and meaningfully in his mind, nurturing it with his team and friends and discussing it now and then. And now, the Students World Cup has taken shape, born from a simple yet powerful purpose: to play sports as a way of life for every student. To create a platform where talent – from every school, district, state, and nation – can come together not just to express themselves, but to connect, collaborate, and celebrate excellence.

The Students World Cup must achieve what the IPL cannot. This is our contribution to a larger national mission: to build a sporting culture that touches every home, every classroom, every playground – and eventually, every heart. We are looking to built a nation, while they are stuck with brand valuation, which for us is co-incidental, logical consequence.

At the Students World Cup Council, we are fully committed to bringing this vision to life. Our focus is clear: Building talent identification systems that begin at the grassroots, by tracking and managing data from every match played by every student. Partnering with schools, sports science institutions, and academies to foster holistic development. Leveraging digital platforms for transparency, accessibility, and real-time engagement and creating a structure where everyone involved gets a fair share – a pie in the cake

We live in a nation where every school has a playground, but not every child plays – because they don't see a future in it. The Students World Cup aims to open the doors to global careers, to train students not just for academics, but for meaning, mission, and mastery – in both profession and life. The Students World Cup is a Made-in-India generational dream, aspiring to become a truly global platform – especially for the youth of the Global South, the Commonwealth nations, and all those parts of the world where access to sports infrastructure has remained limited for far too long.

We envision an India that is not just a superpower in IT, space, or defense, but also the global hub for youth sports – where the best athletes are scouted,

trained, supported, and celebrated. India has the demographics. India has the culture and the drive. Now is the time to build the global sporting capital of the future – right here, on our soil.

Dear friends, I must take a moment to express my heartfelt gratitude to all those who have walked with us on this journey and I welcome you all, the educators who opened their schools, the coaches who believed in raw talent, the administrators who supported a bold vision, The private sector that extended a hand of partnership, and most importantly, to the students – our sportsperson – who are the beating heart of this movement. They are not just participating in a tournament – they are participating in history. They are helping write a new narrative – one where youth lead the way, where talent doesn't have to pay to shine, and where a nation of a billion and forty million dreams rises to shine together.

We dedicate this day to all the young sports person who will be touched by this vision across the world. This is your stage – work together, play fair, and above all, enjoy what you do. Let the Students World Cup be a celebration not just of goals and points, but of values, brotherhood, resilience, and unity in diversity. To our partners: this is just the beginning. We invite you to walk with us as we grow this into a global mega event, touching all.

Let us together create a legacy that will endure for generations. Today, we think bold. We dream big. We act with conviction. Welcome to the launch of the Students World Cup. Welcome to the movement that will change the way the world looks at youth, in India, and at sports. Jai Hind. Jai Youth. Jai Sports. Jai Viksit Bharat. Thank you.

Justice is not Judiciary Dependent – Mediation and AI are the future of Justice

04.08.2025 (Blog)

Author's Bridge: *This blog is the most direct and unguarded statement, it does not hedge, it does not soften, and it does not defer to the institution that has been the arena of fifty years of practice. It states, plainly, what five decades of observation have made inescapably clear: that judicial idiosyncrasy and perception bias make justice arbitrary when it rests on individual temperament rather than structured reasoning; that advocates who become brokers rather than warriors of light erode the public confidence the profession exists to sustain; that porous, uncoordinated judicial processes allow the breaching party to use the system as a weapon of delay and denial rather than a vehicle of resolution. These are not complaints. They are diagnoses. And a diagnosis, in the hands of the advocate who understands it at it is not an occasion for despair but for design. The blog's closing propositions – that mediation will become the first step in all civil, commercial,*

and relational disputes; that AI will be integrated into the core of judicial and regulatory systems; that judges and advocates will be reoriented from status-seekers to service providers – are not predictions. They are the architecture of what the Love requires and what justice, if it is to survive as a lived reality rather than a procedural formality, must become.

Traditional courts, arbitrations, tribunals, commissions, and other judicial authorities constituting the justice delivery system – long regarded as the final bastion and once seen as the ultimate guardian of fairness, accountability, and civil order – have always been under intense scrutiny. But now, they face a deep and growing crisis of existence. The disillusionment resulting from delays, inconsistencies, and inefficiencies pervading these institutions is leading to a massive erosion of public trust. At the heart of this breakdown lies a painful fact – the failure of judges, arbitrators, and advocates to deliver justice in a timely, impartial, and competent manner.

The failures of judges, arbitrators, and advocates – whether through delay, bias, negligence, or incompetence – are not merely unfortunate. This systemic failure is not just regrettable – it is accelerating a historic shift towards alternatives. They have triggered an exponential rise in the demand for alternative models of dispute resolution. Mediation and AI-driven adjudication are fast emerging as the twin pillars of a new era of justice – one that is more accessible, equitable, and future-ready.

Cracks in the Legal Edifice: As the System Fails

All human relationships are based on trust. All conflicts and disputes arise from a breach of trust. Justice means providing just and reasonable compensation to the wronged party through timely resolution. However, in many jurisdictions – especially those burdened with colonial legacies, archaic procedures, and adversarial inefficiencies – the following trends are increasingly visible:

1. **Judicial Idiosyncrasy and Perception Bias:** Law is meant to be a handmaid to justice. However, the outcome of a case is often shaped by the personal worldview, mood, temperament, or background of the presiding judge, and the interpretation of law is structured accordingly. Justice becomes arbitrary when it rests on individual perception rather than structured reasoning and consistent jurisprudence. When outcomes hinge on subjective perceptions rather than objective reasoning, justice becomes erratic and unreliable.
2. **Advocates as Dispute Resolvers or Roadblocks:** Lawyers, as facilitators of justice, are meant to help judges deliver justice – but many become its

saboteurs. Through negligence, incompetence, or even collusion, some advocates become impediments. They mislead clients, exploit technicalities, delay proceedings, and find loopholes for personal gain. Some of them are even proclaimed as great advocates, yet they have eroded public confidence in the legal system, causing irreparable harm and widespread disillusionment.

3. **Porous, Uncoordinated, and Fragmented Judicial Processes:** Judicial systems are often slow, porous, and uncoordinated. The hierarchy from trial courts to the Supreme Court allows habitual and rampant adjournments, missing records, procedural abuse, and lack of systemic accountability – crippling courts and tribunals. Fundamentally, the breaching party rarely wishes to compensate the wronged party and instead uses the best legal services to avoid it through ingenuity. The result is not just delay – it is denial of justice. Every litigation involves a litigant, their family, friends, and colleagues – all waiting for justice. The cumulative result is that citizens are suffering and have lost faith in the very notion of a fair and accessible justice system.

The Rise of Mediation: Justice through Generative Dialogue and Resolution

As faith in adversarial litigation and adjudication wanes, mediation is gaining prominence – not as an alternative, but as a superior first resort. Unlike court battles, mediation is collaborative, cost-effective, and focused on resolution where both parties win, rather than adjudication where one party wins and the other loses. It is:

- Customised, person and context-sensitive
- Speedy, confidential, and cost-effective
- Non-adversarial, non-technical, solution-centric
- Empowering, allowing parties to co-create outcomes
- Ethical, empathetic, and inclusive

Unlike judges and arbitrators who adjudicate based on records submitted by advocates and impose outcomes under threat of contempt, mediators facilitate a deeper understanding of conflicts, enabling parties to arrive at meaningful solutions. Where litigation demands proof of past events, mediation allows space for shaping future relationships. It replaces the win-lose paradigm with collaborative problem-solving grounded in mutual respect.

The Emergence of AI Judges, Advocates and Legal Advisors

Artificial Intelligence is set to revolutionise justice delivery – just as it has

transformed healthcare, logistics, and finance – by automating, accelerating, and democratising access. AI is immune to fatigue, ego, or influence by seniority or sensationalism. Trained on vast datasets of judgements, statutes, parliamentary debates, and policy documents, AI systems can:

- Deliver neutral, precedent-consistent judgements
- Offer accurate legal predictions based solely on facts
- Provide on-demand legal advice at scale
- Reduce human error, bias, and inefficiency
- Regulate filing processes and eliminate procedural errors

In high-volume, low-value disputes – where delays cause disproportionate hardship – AI could soon become the preferred adjudicator. The question is no longer whether AI can deliver justice, but whether humans can afford to deny it any longer.

The Ethical Imperative: No One Should Suffer for Systemic Failure

Justice must never be a gamble or left to chance. It must not depend on the temperament of a judge or the preparedness of an advocate. A just system must ensure:

- Universal access, irrespective of wealth or status
- Consistency and predictability, rooted in law – not personality or perception
- Timeliness, because justice delayed is justice denied
- Integrity and professionalism at every level of the process
- No citizen should lose a case due to a judge's subjective bias
- No business should collapse because of a lawyer's negligence or lack of preparation
- No system should claim legitimacy if it routinely fails the very people it is meant to serve

Peeping into the Future

We are living through Legal Revolution 5.0 – an era defined not just by digitisation, but by moral clarity and systemic reengineering. A future where technology, ethics, and human wisdom converge to create a more inclusive and responsive justice ecosystem. This transformation will lead to:

- Mediation is becoming the first step in all civil, commercial, and relational disputes
- AI integration into the core of judicial and regulatory systems
- Reorientation of judges and advocates from status-seekers to service providers

- Radical transparency, accountability, and citizen-focus in legal institutions

The future of justice will not be built in the shadow of failing judges, arbitrators, or crumbling courtrooms. It will be built in the light of restorative dialogue, intelligent systems, and empathetic resolution. If the human judiciary continues to falter, it is both inevitable and just that people will turn to machines that do not err, and processes that do not exploit – systems that are faster, fairer, and freer from bias.

Mediation and AI are not threats to the legal profession – they are the course correction it desperately needs. They do not diminish the legal profession; they redeem its purpose. If judges, arbitrators, and advocates do not evolve – do not rise to the occasion – the gavel will not just fall silent, it will be replaced.

Flow with the flow

20.08.2025 (LinkedIn Post)

Author's Bridge: *These poems posted on LinkedIn, the medium the most public and immediate available to the advocate who wishes to speak not to the courtroom but to the profession and to the world. The poem is not a celebration of resignation; it is a statement of the drishta's understanding. The High Court robe is but cloth on the skin. Supreme Court heights are but one fleeting stage. The measure of life is not rank or name but service to justice – that is, lasting fame. Not every river must flow to the sea; not every judge must be in the Supreme Court. These lines carry the full weight that a law student reading on phone can absorb in thirty seconds and carry for a lifetime. The distinction between the karta and the drishta that the Bhagwad Gita expounds across seven hundred and one shlokas is contained here. The court of conscience where justice is done is not a geographical location. It is a state of being. And the advocate who has understood that – who has moved from karta to drishta without abandoning the courtroom – has understood the deepest teaching the profession has to offer.*

An Advocate dreams of the Judge's high seat,
Yet justice in his words, makes his life complete.
Why chase the crown of robes beyond your reach?
The noblest bench is the heart that won't cheat.
The High Court robe is but cloth on the skin,
Justice is deeper, it speaks from within.
Supreme Court heights are but one fleeting stage
Integrity's flame makes a lawyer a sage.
Not every river must flow to the sea,

Not every Judge must be in the Supreme Court.
The measure of life is not rank or name,
But service to justice – that is lasting fame.
The trial court's hall, with its silence and cries,
Holds justice as grand as the Supreme skies.
Titles may rise and then vanish with the years,
But courage in law outlives honours and peers.
Take life as it comes, let ambition be mild,
For destiny's hand writes on the heart, not on a file.
The Judge or the advocate, both serve the same sun,
The court of conscience where justice is done.

The *Karmic* colour of Money

Author's Bridge: *The karmic colour of money was the subject of articles written between 2012 and 2015 and consolidated into the combined article that appears in this chapter's preceding section. Here, the same argument returns in verse – addressed not to the economist or the financial regulator but to the judge who has sold the sacred trust of his office for silver's glow. The poems are the Epilogue's indictment in a different register: the gavel cannot shield the heart when greed has torn its noblest threads apart; the ink of sin is etched on soul and bone; the record is kept where no one stands alone. These are not rhetorical flourishes. They are the conviction of an advocate who has watched, across fifty years of appearances, what happens to the institution when its custodians choose possession over service. The Cosmic Judge – the judge before whom no advocate can appear on the other's behalf – is watching. Karm's voice will never fade away. That is the deepest warning and its deepest consolation, spoken here in the voice of verse.*

The Judge who bends the scales for silver's glow,
Builds palaces of shame where rivers flow.
The law he sells will one day judge his breath,
And crown his name with infamy and death.
For the robe and gavel cannot shield the heart,
When greed has torn its noblest threads apart.
The price he takes may silence lips today,
But Karm's voice will never fade away.
He thinks the bribe is hidden from the skies,
Yet Cosmos reads the truth behind his lies.
The ink of sin is etched on soul and bone,
A record kept where no one stands alone.
His hand that signs decrees for the gain of gold,

Will tremble when the final writ is told.
No advocate shall plead, no trial to call,
The judgment comes that binds him once for all.
Gold on his table, jewels in his store,
Cannot protect him from the inner war.
For every coin that stains his palm with fire,
Becomes the weight that drags his soul down dire.
The robe of honour, sacred in its hue,
Turns into rags when conscience is untrue.
A beggar in the court of time he stands,
With empty eyes and trembling, guilty hands.
He lives beyond the means his post allows,
Yet fate prepares the noose that time endows.
For what is stolen never brings delight,
It burns the thief by day, consumes by night.
The law he mocked becomes his prison cell,
The Llaw he twisted weaves his binding spell.
For Karm's net is vast and finely spun,
And none escape – not even judge or nun.
So let him learn: the gavel is a trust,
Its weight is more than diamonds, gold, or dust.
To serve with the cleanest hand is wealth enough,
The crooked path is always dark and rough.
O Judge, remember – justice is your breath,
A sacred oath, more solemn still than death.
Forsake the bribe, live honestly, pure, and true,
For the Cosmic Judge is watching over you.

Fiat Currency to Stable coin: Finance Moving into the Fourth Dimension

Author's Bridge: *The Dawn of Finance Revolution 5.0 was launched on 24.01.2026. This article, written in August 2025 and published five months before that launch, is the technical and conceptual approach to the fourth dimension of finance: the Digital Monetary Trinity of fiat currency, stablecoins, and tokenised assets. Fiat currency – backed by sovereign trust but circulated on fractional reserve debt – is the third-dimension Kuberdhan economy. Stablecoins – pegged, programmable, borderless, operating continuously without the banking system's office hours – are the fourth-dimension extension of Lakshmidhan: the economy of honest value created and exchanged. And tokenised assets – including, explicitly named in this article, the Pro Bono Social Impact Credits – are the*

instrument through which the Invisible Economy finally finds its institutional voice. The three economies named in the 2012-2015 combined essay and the three pillars of the Digital Monetary Trinity are the same three realities, named in the language of the financial system that has evolved in the decade between them. Finance is catching up with the philosophy

Money has always been more than paper, coins, or digits on a screen. It is, at its core, a tool of exchange – a medium that allows one person to exchange the value of their product, service, or labour with the equivalent value created by another. This basic equity, equality, has remained unchanged through history, even as the forms of money have evolved.

From barter to coins, from gold-backed notes to fiat currency, each stage of money represented a new dimension of exchange. Now, with the emergence of stablecoins, finance is stepping into what can be called its fourth dimension: a digital, borderless, programmable form of money that integrates seamlessly with the global economy. Fiat and stablecoins are complementary. Both are necessary in the modern era, and the future is tokenised assets that will further expand how we define and exchange value.

Fiat Currency: The Third Dimension of Money: Fiat currency represents the third great stage in the history of money. After barter (first dimension) and commodity money such as gold (second dimension), fiat introduced a new principle: trust in the state.

1. **Sovereignty and Control:** Fiat currency is backed by the authority of the state. It ensures governments maintain control over taxation, monetary policy, and financial regulation.
2. **Universal Acceptance:** Fiat serves as legal tender – recognised for all debts, trade, and settlement of obligations. It provides a common standard of value in every economy.
3. **Stability and Security:** Fiat draws its legitimacy from the credibility of central banks and institutions, making it the anchor of financial trust.
4. **Accessibility:** Fiat is embedded in daily life: from wages and taxes to buying groceries. It is the operating system of modern economies.

Fiat currency, therefore, will never be obsolete. It is the foundation of money's third dimension, without which the fourth dimension of stablecoins cannot exist.

Stablecoins: The Fourth Dimension of Finance: Stablecoins take money into the fourth dimension by marrying fiat stability with digital flexibility. Pegged to fiat, commodities, or baskets of assets, stablecoins provide instant, programmable value exchange that transcends borders.

1. **Borderless Exchange:** Stablecoins allow near-instant cross-border trans-

fers, bypassing delays and fees of traditional banking rails.
2. 24/7 Settlement: Unlike fiat, which flows through banks that close at night and on weekends, stablecoins operate continuously.
3. **Protection Against Inflation:** In unstable economies, citizens naturally migrate to stablecoins to protect savings – an act of survival rather than speculation.
4. **Financial Inclusion:** With a smartphone, anyone can hold, transfer, or receive stablecoins without needing a bank account.
5. **Programmability:** Smart contracts enable conditional transfers – a true leap into the fourth dimension of finance, where money itself "thinks" and "acts" based on predefined logic.

Stablecoins do not replace or extinguish fiat. They extend its reach into the digital universe, unlocking possibilities fiat alone cannot.

Fiat and Stablecoins: Partners in Evolution: It is tempting to frame fiat and stablecoins as rivals. In reality, they are complementary stages of money's evolution:

Fiat provides the sovereign anchor of trust, the reference point for value. Stablecoins provide the digital rail of innovation, carrying fiat's stability into a programmable, borderless environment. Just as paper currency did not abolish gold overnight, stablecoins will not erase fiat. Instead, they represent the next step forward – money entering its fourth dimension.

The Future of Stablecoins: As stablecoins mature, their role will expand in scope and significance:

1. **Beyond the Dollar:** The future will bring Euro, Yuan, and multi-asset stablecoins, reflecting the shift to a multipolar global economy.
2. Commodity-Backed Coins: Oil, gold, and other resource-backed stablecoins will emerge, especially from energy-rich nations, reshaping trade and finance.
3. **Mainstream Adoption:** Payment processors, fintechs, and global banks are already integrating stablecoins into remittances, payroll, and commerce.
4. **Regulated, Audited Coins:** With stricter oversight, stablecoins will shed their speculative reputation and become trusted financial instruments.
5. **Smart Stablecoins:** Contracts that self-execute on delivery of goods or completion of services will create programmable, frictionless commerce.

The Rise of Tokenised Assets:

1. **Beyond Money**: While fiat and stablecoins evolve money itself, tokenised

assets expand what can be exchanged as money.

2. **Tokenisation of Real-World Assets:** Equities, bonds, real estate, and commodities can all be represented digitally, creating liquidity and fractional ownership.
3. **Democratising Wealth:** A worker in India could own a fraction of New York real estate or a corporate bond in Europe. Tokenisation lowers barriers to global markets.
4. **New Classes of Assets:** Carbon credits, intellectual property rights, pro bono social impact credits, music and art royalties can be tokenised and traded.
5. Stable coins as the Settlement Layer: Tokenised assets will rely on stablecoins for instant, borderless settlement.
6. Geopolitical Race: Nations are competing to be hubs for tokenised finance – Singapore, UAE, and Hong Kong are already leading.

Finance in the Fourth Dimension: The Digital Monetary Trinity: by 2030, the global financial system will likely revolve around three intertwined pillars:

1. Fiat Currency as the sovereign, legal anchor.
2. Stablecoins as the programmable, borderless extension – finance in the fourth dimension.
3. Tokenised Assets as the expanded universe of tradable value.

Together, these will form the Digital Monetary Trinity, reshaping how value is created, stored, and exchanged.

The New Story of Money: Money began as barter, evolved into commodities, then became fiat currency – each step adding a new dimension. Now, with stablecoins and tokenisation, finance enters its fourth dimension: faster, smarter, and more inclusive than ever before. Fiat will remain the backbone of trust. Stablecoins will provide the rails of digital exchange. Tokenised assets will redefine what counts as wealth.

For governments, the task is to regulate with foresight, ensuring trust while enabling innovation. For businesses, the opportunity is to embrace programmable finance and tokenised markets. For individuals, the promise is empowerment – access to savings, assets, and opportunities once limited to the privileged few.

The story of money has always been about enabling human exchange. Stablecoins mark the next chapter in that story – where finance itself becomes multidimensional, intelligent, and truly global

Sanaatan Philosophy and the Constitution of India – A Bhagwad Gita Centric Reading of Constitutional Values

05.12.2025 (Address)

Author's Bridge *- This Gita address at the university put directly to the next generation of advocates – the Gita does not prescribe a single path to justice; it maps every possible path. This article, penned for the Adhivakta Parishad annual meeting, carries the argument from the university to the practicing Bar. The Constituent Assembly members were not copy-paste jurists of foreign models; they were deeply spiritual freedom fighters, rooted in a society shaped over millennia by Sanaatan Dharm. Vasudhaiv Kutumbakam contains within it the seeds of the Constitution's socialist and secular character. The Constitution is not a rupture from the past but a contemporary Dharm-Granth of the Republic. These are not sentimental claims; they are structural ones, grounded in the specific texts of the Gita and the specific articles of the Constitution. The parallel between the Preamble's four commitments – justice, liberty, equality, fraternity – and the Gita's four dimensions of dharmic conduct; the reading of Article 19's freedom of thought and expression through the lens of Arjun's sixteen questions in the generative dialogue; the constitutional morality of the Supreme Court's jurisprudence as modern Raaj-Dharm – each of these connections is argued with the precision that a practicing advocate brings to a constitutional submission. The Constitution of India is modern in its form, Sanaatan in its spirit, and universal in its normative reach.*

There is a deep, all-pervasive and subtle philosophical relationship between *Sanaatan* philosophy and the Constitution of India, most powerfully understood through the lens of the *Shrimat Bhagwad Gita*. The members of the Constituent Assembly were not mere copy-paste jurists of foreign models. A large number of them were deeply spiritual freedom fighters, grounded in Indian realities, well-read in law, philosophy and history, and rooted in a society shaped over millennia by *Sanaatan Dharm* – a tradition that is not 'religion' in any narrow, sectarian sense, but a civilisational way of being concerned with right conduct, righteous order and collective welfare.

The *Sanaatan* idea of *'Vasudhaiv Kutumbakam'* naturally contains within it the seeds of what the Constitution articulates as its socialist and secular character – care for all, exclusion of none, plurality, respect for multiplicity and oneness simultaneously. Long before modern electoral democracies, India had successful participatory governance in its own idiom. The traditional account of Mathura, where Nand Baba was an elected head and not merely a hereditary ruler, symbolises the oldest strain of participatory *Raaj-Dharm*, in which leadership was a responsibility to protect and serve, not a license to dominate. Seen in this civilisational light, the Constitution is not a rupture from the past but a contemporary *Dharm-*

Granth of the Republic. Nowhere is this more evident than in the Preamble, which is the soul and signature of the document.

The Preamble, as the opening statement, is the vision, mission, identity and nature of the Constitution. It proclaims India to be a sovereign, socialist, secular, democratic republic and commits the State to secure justice, liberty, equality and fraternity for all citizens. These are not mere political slogans; they are the constitutional translation of *dharm.*

In the *Shrimat Bhagwad Gita* (4.7–4.8), *Shri Krishan* declares his intervention: "Whenever there is decay of *dharm* and rise of *adharm*, I personify myself, Bhaarat. For the protection of good, for the destruction of the wicked and for the establishment of dharm, I am born age after age." This is the essence of the role of the Governments. The Governments and the Constitution exist primarily to fulfil this purpose for 'We, the People of India':

- to protect the good and the vulnerable,
- to restrain and punish those who perpetrate *adharm*, and
- to continuously re-establish *dharm*, or a just order.

Justice – social, economic and political – is nothing but the institutional form of *dharm*. Each of these three dimensions is a facet of the same core duty: that arbitrariness, exploitation and oppression of any kind must be eliminated, and that every human being must be able to stand with dignity. Thus, the constitutional commitment to justice is not ritual religiosity, it is living *dharm*, a normative order grounded in fairness, responsibility, restraint and compassion.

Liberty – of thought, expression, belief, faith and worship – is a constitutional echo of the generative dialogic structure arising from Gita. On the battlefield of Kurukshetr, Arjun expresses his future trauma and raises 16 questions which arise in the life of every human being, and the answers to them by *Shri Krishan* expound the fundamentals of *Sanaatan* philosophy. *Shri Krishan* responds smilingly to all the questions and finally gives full liberty to Arjun to decide (SBG 18.63): *"Thus has wisdom more profound than all profundities been declared to you by Me. Reflect upon it fully and act as you choose."* This is the highest respect and recognition for liberty and autonomy of judgment. The Constitution, through Articles 19 and 25, institutionalises the same spirit: the right to think, speak, worship or not worship, and to seek justice in one's own way, so long as it does not harm the larger order of society.

Equality and *Sambhaav*. Gita's famous assertion in 5.18 "*Wise (Braahman) with self-knowledge and humility sees with the same feeling a cow, an elephant, a dog and a mortician*" captures the spiritual principle of *sambhaav* – equality of vision toward all beings. The Constitution embodies this very moral intuition in Funda-

mental Rights Articles 14 to 16, which insist that no human being will be discriminated on the basis of birth, caste, sex, faith, language, or status. The Gita defines *varn* in 4.13 – *"The fourfold varn system was created by Me by different distribution of gunn and karm."* The Constitution, by prohibiting discrimination and enabling affirmative measures, operationalises the same idea: social status must not be frozen by birth; what must matter is character, conduct and contribution.

Fraternity and *Vasudhaiv Kutumbakam*: Fraternity in the Preamble seeks to assure the dignity of the individual and the unity and integrity of the nation. This is constitutional language for what *Sanaatan* philosophy expresses as *Vasudhaiv Kutumbakam* and what the Gita teaches in 6.29 – "*His mind being harmonised in yog, he sees himself in all beings and all beings in himself, he sees the same in all.*" In constitutional practice, fraternity becomes:

- non-discrimination
- inclusion of the weakest voices
- recognition of plural identities

all under a shared constitutional roof. It is the emotional and ethical glue that makes justice, liberty and equality liveable realities and not mere words.

Fundamental Rights: Rights as Instruments of *Dharm*: The Fundamental Rights in Part III embody the liberal rights tradition, but in India, they are not only shields for individual autonomy, they are also instruments to realise constitutional *dharm* – a just social order.

Freedom of Thought and Expression: Article 19(1)(a) protects freedom of speech and expression. The entire interaction between Arjun and *Shri Krishan* in *Shrimat Bhagwad Gita* brings about a marked distinction between the Socrates, Plato and Aristotle style dialectics and the *Sanaatan* form of generative dialogue. In dialectics, the man of knowledge continues to push the learner to agree to his own form of understanding and philosophy. There are spates of questions leading to exposing the ignorance of the learner. While in the SBG generative dialogue process, Arjun has complete freedom of thought and expression, which we find in the 16 questions asked by him – 2.4, 2.7, 2.54, 3.1-3.2, 3.36, 5.1, 6.33-6.34, 6.37-6.39, 8.1-8.2, 10.17-10.18, 11.13, 12.1, 13.0, 14.21, 17.1 and 18.1. In 4.4, Arjun openly challenges the authenticity of *Shri Krishan*: "*Later was your birth, earlier the birth of Vivaasvaat. How then can I understand that you told it in the beginning?"*

Akin to the Constitution providing roles of Union Government, State Government and the citizens, SBG exhaustively expounds the 76 manifestations of Purushottam in 10.20 – 10.39. SBG continues to make all understand the distinction between *Purush* and *Prakriti* – the stable *Purush* and the changeable Prakriti.

Across the Gita, *Shri Krishan* lays out all possible paths that a human being might take in their journey toward Justice and fulfilment.

Constitutional Morality as Modern *Raaj-Dharm*: Modern constitutional jurisprudence in India speaks of 'constitutional morality' – a higher ethic binding upon institutions and office-bearers beyond the bare text of the law. This is nothing but modern *Raaj-Dharm*. Gita, especially in Chapters 3, 16 and 18, describes the qualities of a raja or leader:

- self-discipline
- fearlessness and courage,
- fairness and non-partiality,
- humility and absence of ego,
- compassion for all beings, and
- a constant orientation to lok-kalyan.

Sanaatan philosophy, as embodied in *Shrimat Bhagwad Gita*, is a deep and all-pervasive basis of the Constitution of India and it gives clear, express and unambiguous direction to the State and the citizens of the nation. *Sanaatan Dharm* expounds continuity: the ethical architecture of the Constitution – its insistence on justice, dignity, equality, duty, welfare, fraternity and environmental harmony – is not alien to Indian civilisation. It is deeply rooted in it. When *Sanaatan Dharm* is understood as a universal ethic of *Dharm*, *kartavye* and *lok-sangrah*, it stands in complete harmony with a secular, rights-based, plural and democratic constitutional order. The Gita's vision of action without attachment, leadership without ego, strength without cruelty and welfare without exclusion resonates strongly with the Constitution's aspiration to create a just, compassionate, conflict-reducing social order.

In this sense, the Constitution of India can truly be seen as:

- Modern in its form
- *Sanaatan* in its spirit, and
- Universal in its normative reach.

To read the Constitution through the lens of the Gita is to recognise a shared commitment of both law and governance. The ultimate purpose of both is the welfare of all beings and all attaining a blissful state – "*With sins destroyed, dualities removed, mind disciplined, being delighted in the welfare of all beings, the rishi attains the Brahm state.*" SBG 5.25.

*For Adivakta Parishad Annual meeting at Balotra

50 Years of Mr. Rajiv Dutta, Senior Advocate, at the Bar

21.12.2025 (Address)

Author's Bridge: *The address at Rajiv's fifty-year celebration is not a tribute in the conventional sense. It is a portrait of what the Bar, at its best, produces and sustains: clarity without sharpness, objectivity without coldness, humility without hesitation, the ability to speak from the heart without baggage or hidden agenda. In a profession where many carry the armour of ego and competition, Rajiv remained unarmoured. That quality – the capacity for an unconditional relationship, free of expectations and burdens, deep at the soul level and therefore effortless – is not merely a personal virtue. It is a model of what the advocate's relationship with the profession itself must be. Fifty years at the Bar is stewardship. And stewardship, in the end, exactly what both the Mistress and the Love require of those who serve them.*

Today, we gather for a rare and graceful milestone – Mr. Rajiv Dutta, Senior Advocate, is completing fifty years as a member of the Bar. In our profession, years are not counted merely by calendars. They are felt – through the aura a person carries, the quiet confidence with which he stands in the courtroom, the warmth of his handshake, the sincerity of his smile, and that unmistakable look in the eyes that comes only from deep honour and deeper integrity.

In the Supreme Court, these qualities are revealed not only in court, but also in the corridors, in the canteen, and in those everyday moments where the true character of a lawyer – and of the person behind the lawyer – shows itself: how he speaks, how he listens, how he treats juniors, how he disagrees without wounding, and how he remains rooted without becoming rigid.

I joined the Bar one year after Rajiv. I still remember those early days—walking into the Supreme Court chambers of Justice S.C. Agarwal, who shared the chamber with R.K. Garg and D.P. Singh, Senior Advocate. Rajiv had joined D.P. Singh, along with R.K. Jain and R.P. Singh. Soon, I found myself among a close circle that broadly included Justice Sunanda Bhadare, Y.K. Jain, Justice Anil Kumar, B.B. Singh, K.K. Mohan, L.R. Singh, Naresh Sharma, Rajiv Dutta, Ashok Panda, Rupinder Suri, and many others.

For me, those days were busy and intense, with a deep urge to learn and understand the working of this great institution, and to make my own path meaningful by contributing whatever little I could. But Friday evenings were precious – the one free window – when we would gather, relax, exchange thoughts, and share that warm gup-shup which, in many ways, kept us human in a demanding profession.

Over the years, my respect for Rajiv only deepened. I saw in him a rare combination – clarity without sharpness, objectivity without coldness, humility

without hesitation. What always stood out was his ability to speak from the heart – plainly, honestly, without baggage, without calculation, and without any hidden agenda. In a profession where many unconsciously carry armour—of ego, insecurity, competition, or strategy – Rajiv remained refreshingly unarmored. For me, my relationship with Rajiv was, and remains, unconditional. It has been free of expectations and burdens – a relationship that feels deep at the soul level, and therefore effortless in the best sense.

Fifty years at the Bar is not simply longevity; it is stewardship. It means decades of discipline behind the scenes, generations of juniors guided by example, countless causes argued with responsibility, and an unbroken commitment to the rule of law. It means the patience to prepare, the courage to submit, the restraint to remain respectful, and the strength to remain independent – especially when the moment demands calm, balance, and clarity.

Rajiv's journey reflects what the Bar at its best represents: excellence without arrogance, firmness without hostility, and persuasion anchored in principle. In an age where noise often competes with substance, a sustained life of credibility becomes its own quiet legacy – and an inspiration for those who come after.

On behalf of all present, I offer Rajiv our warmest congratulations, our deep respect, and our gratitude. May the years ahead be blessed with good health, peace of mind, and the continuing joy of seeing your values live on – through your work, your juniors, and the very culture of the Bar that you have helped shape.

Congratulations, Rajiv – on fifty remarkable years at the Bar."

Launch of Finance Revolution 5.0 – PICS Economy

24.01.2026 (Address)

Author's Bridge: *If the launch of Legal Revolution 5.0 on 10.01.2025 was first great institutional arrival, the launch of The Dawn of Finance Revolution 5.0 – A PICS Economy on 24.01.2026, with Former Chief Justice of India Justice Uday U. Lalit and Justice Dinesh Maheshwari, Chairperson of the Law Commission of India, was its second. Justice Lalit's closing remarks are reproduced here because they constitute an independent intellectual assessment of the book's central idea by one of the finest legal minds to have served the Supreme Court of India. That someone who had spent fifty years dealing with law and legal analysis day in and day out had produced an idea that transcends the normal limitations of legal thought; that the central concept – service recognised as wealth – had the power to reshape societies, recalibrate aspirations, and create a calmer, fairer, and more conscious world; that it deserved to be read globally, debated seriously, and implemented boldly – these are not compliments delivered from a podium. They are the recognition, by the institution that had shaped both speaker and*

author across their respective lifetimes, that the journey from Law to Justice – from the Mistress to the Love – had produced something that pointed beyond both. The applause recorded in the text is the applause of the institution recognising itself in what it had, after fifty years, produced.

Hon'ble Justice Uday U. Lalit, former Chief Justice of India, Hon'ble Justice Dinesh Maheshwari, Chairperson, Law Commission of India, Mr. R. Venkataramani, learned Attorney General for India, Senior Advocates, respected colleagues at the Bar, friends, distinguished dignitaries, and my dear family – good evening.

I begin with gratitude – gratitude for your presence, and for your wishes and blessings. This work is not confined to one discipline, because the truth it seeks is not confined to one compartment. It travels – between law and economics, between courts and communities, between the visible economy of money and what I may call the invisible economy of meaning. It reads, therefore, not merely as a study of finance, but as a statement of civilisational direction – a brief for how humanity must measure value if it wishes to remain humane.

And why does it travel so widely? Because the problem it addresses is not narrow. It is civilisational. If every human being is already working, either in the visible economy or in the invisible economy, how long can we sustain a financial order that remembers only money and forgets the service that makes life liveable? What is unseen may not be priced, yet it is what sustains, and therefore, the heart remains the true currency of civilisation.

This evening, I want to share the impulse behind this book – Four thinkers – Alexander Hamilton, Jawaharlal Nehru, Ayn Rand and Alvin Toffler, laid down the foundations of the thought that finds its expression in this work, and also the manner in which it can be implemented – something that, till now, was not feasible. While Hamilton, Nehru and Rand were grappling with structure, Toffler, in Revolutionary Wealth (2006), could see what was coming when he asked: *"Are there ways to remunerate the unremunerated for their contributions – perhaps with computer-aided, multiparticipant barter system or even new para currencies, of one kind or another."*

Very early in my profession I was able to see society's hidden fractures and I realised something unsettling. The cases that my colleagues argued on one side, I on the other, and finally the judge in the middle sought to resolve – property, employment, family, contracts, corporate, criminal, and constitutional battles – were rarely the real disease. They were symptoms – visible crests of deeper conflicts and fissures in society, intensified by created and perpetuated poverty.

Behind the legal claim, there was often a deeper imbalance – unequal bargaining power, silent exploitation, and, most painfully, the strange way society rewarded some handsomely for how they used their time, while ignoring others

altogether. And this pattern kept repeating sector by sector: those who contributed the most – those carrying families, healing relationships, teaching children, caring for elders, restoring harmony by resolving conflicts, serving quietly – were often the ones suffering. While those who spent their lives brokering – capturing margins, manipulating rules, extracting without creating – often lived the "best" lives: socially celebrated and economically secured.

This was not merely a moral discomfort. It was a structural defect. And over time I became convinced: the defect is not only in governance, not only in law, not only in institutions. It is also in the architecture of finance – the *arth chakr*, the cycle of money – not merely at a national level, but at a global level.

Over the last few centuries, wealth extracted through plunder, slave trade, resource grabs, and later, through corrupt–crony systems, became legalised, respectable, and dry-cleaned as it entered private vaults, financial institutions, and State balance sheets – washed by sovereign recognition, tax treatment, and official guarantees. Whether one uses philosophical language or purely secular language, the point is that a civilisation can become very rich in GDP, yet poorer in dignity, unity, trust, and meaning. The missing link is the "credit unseen money" – the subtle capital of *seva*, the wealth of service that does not appear in budgets, balance sheets, and market valuations, yet without which no economy can survive. Millions of teachers, caregivers, homemakers, mediators, volunteers, and social workers sustain the fabric of society without formal remuneration, or with lesser remuneration. This is an invisible GDP of compassion – unaccounted for in fiat statistics, yet indispensable to national well-being.

On 19.01.2026, former President of India, Shri Ram Nath Kovind, graced and launched the "Responsible Nations Index" under the aegis of the World Intellectual Foundation. The idea behind that Index is strikingly aligned with the spirit of this book: it attempts to assess nations not merely by economic strength or power, but by responsibility – towards their own citizens, towards the planet, and towards the wider world. It dares to state a hard truth: high GDP may coexist with low responsibility, and prosperity without ethics is an incomplete success.

I mention this because the agony that compelled Sudhanshu Mittal to create the Responsible Nations Index is the same agony that compelled me to pen Dawn of the Finance Revolution 5.0 – the painful gap between what we count and what truly counts. That lens – responsibility beyond GDP—is exactly the lens I encountered in my own professional life. I saw, case after case, that what comes to court is rarely the root; it is the visible crest of a deeper moral and structural tide. And one of the deepest tides is the way finance is structured – how the *arth chakr* rewards what is tradable, extractable, and broker-able, while it discounts what is stabilising, healing, and civilisation-building

When a former President of India implicitly reminded us that "Who is powerful?" is not the only question – the deeper question is "Who is responsible?" – it becomes a signal that we are living in a moment of civilisational introspection and transition. That is precisely why this book provides a path for a complementary construct: a second ledger – a way to record and recognise contribution that the market does not price, and the GDP does not capture. Because if nations are beginning to be evaluated beyond prosperity, then surely human beings – caregivers, teachers, mediators, volunteers – must also be recognised beyond income.

In that sense, the Responsible Nations Index and the PICS framework are parallel awakenings – both pointing to the same truth: the richest economies in GDP are not necessarily the richest in responsibility; and the most valuable citizens are not necessarily the most monetised.

The solution, which took me about two decades of reflection on the *arth chakr*, led to the creation of a second ledger for the world – a ledger not of purchasing power, but of conscious human contribution. That is the heart of this work. A serious leap of faith, against all odds.

This second ledger is operationalised through *Pro Bono* Social Impact Credits – PICS. PICS are not printed, not borrowed, not mined. They are earned through verifiable acts of pro bono service: mediating disputes, teaching and mentoring, serving in health camps and community justice, protecting the environment, nurturing youth – structured, documented human contribution. Each unit of PICS represents documented contribution – an imprint of knowledge, reverence, and service.

This book is dedicated to "Warriors of Light and the New Civilisation." A "warrior of light" is not someone who fights people. It is someone who fights distortions – within self and within systems to become conflict free. Someone who insists that dignity is not charity; it is justice. Someone who believes that service is not weakness; it is strength.

If, in the coming years, even a small part of our society begins to record what is noble, reward what is healing, and remember what is selfless, then we will reduce conflict at its roots, not merely litigate its symptoms. And perhaps the next generation will look back and say: they did not merely write another book on money. They tried to restore the dignity of human time.

Thank you all for being with me, for honouring this moment, for blessing this work, and for standing with the idea that service deserves a ledger, and civilisation deserves a conscience.

Welcome and a personal warm thanks to all

Justice Uday U Lalit, Former Chief Justice of India

Closing remarks of address

"I must say that, on the note as to what exactly would be the idea to construe and understand the concept of money. Money, we normally say, is an instrument or a medium of barter. Some measurable value system gets attached to the concept of money, monetary transactions.

So, he has relied upon Hamilton, Jawaharlal Nehru, and Ayn Rand. In my young days, I used to be a great fan of Ayn Rand. And that particular passage, which is, whether money is the root cause of evil, he has extracted it in the book. And that's something which this book now takes off from that level, and now enters into a completely different dimension.

I must say that I haven't come across this kind of analysis made by anyone when it comes to contributions which are measurable and which are not measurable. So therefore, in order to have an analysis where both can coalesce together, and there has to be an attempt to recognise what is called an immeasurable contribution, which is a social contribution. And therefore he comes out with certain indicia which is called PICS or social impact, kind of, you know, what he says is credits.

So this is a very beautiful attempt and I must say I am really, I was mesmerised when I saw the draft. So... (Audience applause)

And to come, all this to come from somebody who is actually in a very drab kind of situation, dealing with law and legal analysis day in and day out for the last fifty years. Mr. Aruneshwar Gupta, you need to be saluted. Yes. (Audience applause)

You really deserve it. You deserve all the accolades. You deserve all the congratulations because this is a brilliant attempt. An attempt which is, which transcends the normal limitations with which we see certain concepts. This is a new idea for whether the society accepts it or not is not the point. The point is that somebody can think about this, somebody can come out with that logic, come out with this idea, and that's the path-breaking idea. And so, therefore, congratulations, Mr. Aruneshwar Gupta. Thank you so much."

The Power of the Pen: Judicial Review, Rule of Law, and the Constitutional Discipline of State Power (Article)

Author's Bridge: *a comprehensive survey of seventy-five years of constitutional jurisprudence in India across three domains: the basic structure doctrine, the substantive review of statutes, and the supervision of executive action as the final comprehensive account of*

what the Mistress has achieved across the arc of her service. From A.K. Gopalan to Kesavananda Bharati; from Maneka Gandhi to Navtej Singh Johar and Shayara Bano; from S.P. Gupta to Vineet Narain and Anuradha Bhasin – the trajectory is unmistakable: what began as cautious parliamentary deference has matured into constitutional guardianship. The pen – the power of reasoned judgment over the sword of coercive force and the purse of economic command – has proven, across seventy-five years, to be the most enduring instrument of constitutional governance. That is not a small achievement. It is, in fact, one of the great achievements of the Indian republic. The article records what judicial review has achieved, is what Legal Revolution 5.0 must build upon that foundation – and what it must go beyond.

Introduction

Across history, political authority has commonly been understood through two visible instruments: the sword, representing coercive force, and the purse, symbolising economic command. Empires rose through armies and wealth, yet the most enduring transformations of organised society have often emerged not from conquest alone but from ideas articulated before courts, refined through judicial reasoning, and ultimately embodied in law. This quieter authority – the power of the pen – enables constitutional societies to restrain power, secure justice, and preserve human dignity.

Modern constitutional democracies rest upon this insight. While executives command force and legislatures control finance, the long-term survival of constitutional governance depends upon courts interpreting and enforcing fundamental norms. The seventy-five-year constitutional journey of India, and the jurisprudence developed by the Supreme Court of India during this period, demonstrates how judicial review can stabilise democracy, shape public law, and contribute to wider constitutional understanding beyond national boundaries.

Earlier political thoughts often doubted whether law alone could restrain power. Writing amid unstable republics, *Niccolò Machiavelli* in *The Prince* and *Discourses on Livy* viewed institutions as effective only when supported by force and could be defended[1]. A later constitutional vision appeared in *The Federalist No. 78,* where *Alexander Hamilton* described the judiciary as the "least dangerous" branch because it possessed neither sword nor purse, but only judgment[2]. Constitutional experience since then has shown that this apparent weakness is in fact the judiciary's enduring strength: authority grounded in reasoned legitimacy. Judicial decisions, therefore, do more than resolve disputes; they shape constitutional meaning, redefine liberty, and discipline public power[3].

Over these seventy-five years of constitutional practice, judicial review in India has evolved not in a single dimension but across three interrelated constitu-

tional domains. First, the courts articulated limits upon the constitutional amending power, ensuring that constitutional change does not destroy the foundational structure. Second, judicial review of statutes developed from procedural supervision into substantive scrutiny grounded in equality, proportionality, and constitutional morality. Third, the review of executive action expanded from questions of formal authority toward a broader constitutional discipline of legality, fairness, accountability, and institutional integrity. The present article accordingly examines this threefold constitutional evolution and traces how judicial review in India has evolved from a cautious interpretative function into a central mechanism for preserving constitutional governance.

Judicial Review of Constitutional Provisions and Amendments

Consistent with the constitutional evolution outlined in the introduction, India's seventy-five-year journey demonstrates how judicial review has transformed from cautious restraint into an entrenched constitutional sentinel. What began as limited supervisory authority has matured into the central mechanism through which democracy, federalism, and the rule of law are protected against political excess and institutional capture.

i. Early Deference (1950s–1960s)

At the founding stage, parliamentary supremacy largely prevailed and constitutional amendments were treated as political acts warranting minimal judicial intrusion. The Supreme Court of India initially upheld Parliament's authority to amend Fundamental Rights, reflecting institutional deference to the legislature[4]. Subsequent reaffirmation[5] of this position sustained the breadth of the amending power, though judicial concurrences began expressing unease about unchecked constitutional alteration.

By the late 1960s, the Court decisively asserted that Fundamental Rights could not be freely amended by ordinary political majorities[6]. Although later doctrinally modified, this turning point marked the judiciary's emergence as a constitutional safeguard against majoritarian erosion of rights and signalled the transition from passive interpretation toward structural constitutional protection.

ii. Structural Supremacy (1970s–1980s)

The next phase established the supremacy of the Constitution over all state organs and imposed substantive limits upon Parliament's amending power. The propounding of the Basic Structure Doctrine in *Kesavananda Bharati v. State of Kerala*[7], confirmed that while the Constitution may be amended, its essential

framework cannot be destroyed. Judicial review thus became the mechanism delineating the boundary between amendment and constitutional alteration. Soon thereafter, the judiciary invalidated an amendment designed to immunise executive authority from electoral scrutiny, reaffirming that democracy, rule of law, and judicial review themselves form part of the Constitution's inviolable core[8]. Later rulings further clarified that limited amending power and judicial review are intrinsic constitutional features, and that even legislation shielded within protective constitutional schedules would remain subject to review where basic structural violations arise. Judicial review thereby evolved into a continuing constitutional function rather than a limited interpretive power.

iii. Entrenchment of Judicial Review (1990s–2020s)

In the contemporary phase, judicial review has moved beyond implication to constitutional entrenchment. The courts affirmed that the review jurisdiction of High Courts and the Supreme Court of India constitutes an essential feature beyond parliamentary removal, preserving judicial scrutiny of legislative and executive excess as inseparable from constitutional supremacy[9].

Subsequent jurisprudence pierced statutory immunity mechanisms and confirmed that even laws placed under constitutional protection remain reviewable for structural violations[10]. Judicial intervention also extended to institutional independence, where constitutional amendments affecting judicial appointments were invalidated for compromising the primacy and autonomy of the judiciary in the appointment of judges of the constitutional courts in India[11]. More recently, even politically charged constitutional reorganisations have been subjected to searching scrutiny through doctrines of constitutional morality, federal structure, and constituent power[12]. Collectively, this modern jurisprudence confirms judicial review as the operational core of transformative constitutional governance.

Judicial Review of Statutes (Legislative Action)

Legislative authority operates within constitutional limits, a principle consistently affirmed in Indian constitutional jurisprudence over seventy-five years. Statutes are judicially reviewed not only for legislative competence but also for reasonableness, proportionality, non-arbitrariness, dignity, equality, and constitutional morality. In *A.K. Gopalan v. State of Madras*[13], the Supreme Court upheld the Preventive Detention Act, adopting a narrow and compartmentalised reading of Fundamental Rights, and held that the expression 'procedure established by law' under Article 21 of the Constitution did not impose any requirement as to the substantive fairness or quality of the law. While judicial review was exercised, it

reflected early deference to legislative judgment, representing the Court's early deferential approach prior to the later development of substantive rights review. In *State of Madras v. V.G. Row*[14], the Court introduced the doctrine of reasonableness under Article 19, holding that restrictions on fundamental freedoms must be objectively justifiable. This judgment established an early doctrinal basis for substantive review of statutory restrictions on civil liberties.

Building doctrinally upon these early foundations, in the case of *Bhikaji Narain Dhakras v. State of M.P.*[15], the Court evolved the Doctrine of Eclipse, holding that pre-constitutional laws inconsistent with Fundamental Rights are not void but inoperative. The decision preserved legal continuity while affirming constitutional supremacy. In *R.C. Cooper v. Union of India* (Bank Nationalisation case)[16], the Court shifted from formalistic to effects-based review, holding that legislative impact on rights, not legislative object, determines constitutionality. This marked a decisive expansion of substantive judicial scrutiny over economic legislation.

Further in, *Bachan Singh v. State of Punjab*[17], while upholding the death penalty provision, the Court constitutionally constrained its application to the "rarest of rare" cases. Judicial review thus constitutionally constrained penal legislation through proportionality and human dignity. *Indra Sawhney v. Union of India*[18] upheld reservations while imposing the 50% ceiling and creamy layer exclusion, calibrating legislative policy through equality's lens. *T.M.A. Pai Foundation v. State of Karnataka*[19], balanced regulatory laws with institutional autonomy, ensuring education statutes respect minority rights and occupational freedom proportionally.

Ashoka Kumar Thakur v. Union of India[20], sustained OBC reservations under the 93rd Amendment but mandated creamy layer exclusion for substantive fairness. *Shayara Bano v. Union of India*[21] invalidated instant triple talaq (instant divorce) as manifestly arbitrary, anchoring review in dignity and constitutional morality. *Navtej Singh Johar v. Union of India*[22] struck down Section 377's criminalisation of consensual same-sex relations, affirming that legislative morality must conform to constitutional morality and minority dignity. *Joseph Shine v. Union of India*[23] dismantled adultery laws as arbitrary and patriarchal violations of Articles 14, and 21 of the Indian Constitution.

Justice K.S. Puttaswamy v. Union of India[24] applied proportionality to the Aadhaar Act (Law mandating biometrics for essential services), striking excessive intrusions while demanding that welfare legislation conform to privacy and data protection. *Association for Democratic Reforms v. Union of India*[25] invalidated the Electoral Bonds Scheme for enabling opacity that violates voter's information rights, applying rights-based review to legislation affecting electoral transparency. This

cumulative doctrinal trajectory, unfolding over seventy-five years of constitutional adjudication, reflects the steady transformation of statutory judicial review from procedural supervision into substantive constitutional guardianship.

Judicial Review of Executive Action

Executive discretion operates within constitutional limits and remains subject to legality, reasonableness, proportionality, and accountability. In *Rai Sahib Ram Jawaya Kapur v. State of Punjab*[26], the Court clarified the scope and limits of executive power in a constitutional scheme, emphasising that executive action must trace authority to the Constitution or law. It is foundational for reviewing executive policies that operate without legislative backing. It anchors the idea that governance is bound by constitutional structure.

In *Maneka Gandhi v. Union of India*[27], it was held that the executive action (passport impounding) was subjected to substantive judicial review, and "procedure established by law" under Article 21 was read as fair, just and reasonable. The decision transformed review of executive discretion into a right centered, anti-arbitrariness doctrine – making legality inseparable from fairness. Moreover, in *S.P. Gupta v. President of India*[28], the Court scrutinised executive involvement in judicial appointments/transfers and expanded constitutional accountability through openness and reasoned governance. It reinforced that high constitutional power is not immune from review where constitutional limits and institutional integrity are implicated.

In *Olga Tellis v. Bombay Municipal Corporation*[29], the evictions by municipal/executive authorities were tested, recognising livelihood-linked protections. The case is a landmark in reviewing executive action that severely affects livelihood and dignity, requiring legality to be tempered by constitutional compassion and due process, and in *S.R. Bommai v. Union of India*[30], the Court held that "satisfaction" under Article 356 is justiciable, enabling judicial review of proclamations of President's Rule. It constitutionalised restraints on partisan executive dismissal of elected governments.

In *Vineet Narain v. Union of India*[31], the Court employed continuing mandamus to insulate investigations from executive interference and restore institutional integrity, affirming that where executive inaction or institutional compromise threatens constitutional governance, courts may issue structural directions to secure accountability. Similarly, in *Anuradha Bhasin v. Union of India*[32], executive internet restriction was subjected to legality and proportionality scrutiny. The Court rejected an indefinite internet ban as incompatible with the rule-of-law discipline, insisting that restrictions must be justified, reasoned, and reviewable.

In *Vivek Narayan Sharma v. Union of India*[33], the Court reviewed an extraordinary executive-economic measure (demonetisation) for statutory compliance, process, and constitutional reasonableness (majority upheld; dissent highlighted procedural limits). The case illustrates the modern posture: even macroeconomic executive action is not beyond constitutional review.

Conclusion

Across India and other constitutional democracies, courts converge on a single principle: political power is derivative, constitutional authority is primary, and judicial review is its guardian. Over seventy-five years of constitutional practice in India, judicial review has expanded across three interrelated domains – the control of constitutional amendments, the substantive scrutiny of statutes, and the supervision of executive action. What began as a procedural safeguard has matured into a structural doctrine that restrains executive excess, limits parliamentary overreach, prevents constitutional subversion, and subjects public power to legality, proportionality, and constitutional morality.

Judicial review today functions as a central mechanism of constitutional governance. It promotes transparency in public decision-making, safeguards electoral integrity, protects institutional independence, and ensures that even democratically enacted laws remain subject to constitutional limitations where they undermine rights, equality, or the basic structure of governance. The constitutional experience of India's seventy-five-year journey demonstrates that judicial review has evolved from interpretative supervision into an enduring institutional safeguard of the rule of law. In this evolution, the authority of constitutional reasoning – the enduring power of the pen – continues to sustain democratic accountability, constitutional stability, and the long-term preservation of constitutional government.

1. Niccolo Machiavelli, The Prince (Harvey C. Mansfield trns. University of Chicago Press 2nd Edition 1998) (1532)
2. Alexander Hamilton, Federalist NO.78, in the Federalist papers 465 (Clinton Rossiter Edition, 1961)
3. H.M. Seervai, Constitution Law of India (4th Edition)
4. *Shankari Prasad Singh Deo v. Union of India* 1951 AIR 458
5. *Sajjan Singh v. State of Rajasthan* 1964 INSC 237
6. *I.C. Golaknath v. State of Punjab* 1967 INSC 45
7. *Kesavananda Bharati v. State of Kerala*, 1973 INSC 91
8. *Indira Nehru Gandhi v. Raj Narain* 1975 INSC 127
9. *L. Chandra Kumar v. Union of India* 1997 INSC 288

10. *I.R. Coelho v. State of Tamil Nadu* 2007 (2) SCC 1
11. *Supreme Court Advocates-on-Record Association v. Union of India* 2015 INSC 285
12. *In Re: Article 370 of the Constitution,* 2023 INSC 1058
13. *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27
14. *State of Madras v. V.G. Row*, 1952 AIR 196
15. *Bhikaji Narain Dhakras v. State of M.P.*, 1955 AIR 781
16. *R.C. Cooper v. Union of India*, 1970 AIR 564
17. *Bachan Singh v. State of Punjab*, 1980 INSC 120
18. *Indra Sawhney v. Union of India*, 1992 Supp (2) SCR 454
19. *T.M.A. Pai Foundation v. State of Karnataka*, 2002 INSC 454
20. *Ashoka Kumar Thakur v. Union of India*, 2008 INSC 473
21. *Shayara Bano v. Union of India*, 2017 INSC 785
22. *Navtej Singh Johar v. Union of India*, 2018 INSC 790
23. *Joseph Shine v. Union of India* 2018 INSC 898
24. *Justice K.S. Puttaswamy v. Union of India*, 2018 INSC 880
25. *Democratic Reforms v. Union of India*, 2024 INSC 113
26. *Rai Sahib Ram Jawaya Kapur v. State of Punjab*, 1955 INSC 27
27. *Maneka Gandhi v. Union of India*, 1978 INSC 16
28. *S.P. Gupta v. President of India*, 1981 INSC 209
29. *Olga Tellis v. Bombay Municipal Corporation*, 1985 INSC 151
30. *S.R. Bommai v. Union of India*,1994 INSC 111
31. *Vineet Narain v. Union of India,* 1997 INSC 826
32. *Anuradha Bhasin v. Union of India,* 2020 INSC 31
33. *Vivek Narayan Sharma v. Union of India*, 2023 INSC 2

* Published in India's Constiutional Odyssey, 75 Years of Evolution and Global Reach

Guzra Hua Zamana as Chief Guest – Jaipur

18.04.2026 (Blog)

In the city whose legal heritage continues to endure, I was requested, one evening, to be the Chief Guest. Sitting and reflecting in the evening and immersed in the music of – Guzra Hua Zamana, as alignment, as discipline, as consciousness in its most refined expression, connects man to harmony, compassion, and empathy. The advocate who has remained in tune – who has not become the asur that the system, at its worst, invites its custodians to become – is the advocate who sat through feeling the music seep to soul level with a heart that, after fifty years, still remained undamaged.

Plato, in *The Republic*, observed: *"A man who has no music in himself cannot be trusted."*

In Jaipur, one does not begin an evening with words alone – one begins with *sur*. Because here, in this timeless city, music is not an addition to life; it is its quiet foundation. A musical evening such as this is not merely a gathering of performers and listeners; it is a meeting of inner worlds. Before language was formed, it was sound – *naad* – that first connected existence. And even today, when words fail, it is music that continues the conversation. This is not merely philosophy – it is a deep psychological and civilisational truth.

Shrimat Bhagwad Gita with even greater clarity in Chapter 16, expounds the distinction between *daiv* and *asur* qualities. If we reflect through the lens of tonight's theme, the *asur* is one who is without *sur* – one who has lost the inner tuning that connects man to harmony, compassion, and empathy.

Music, is not entertainment. It is alignment. It is discipline. It is consciousness in its most refined expression. In a world increasingly dominated by noise, speed, and distraction, music invites us back – to stillness, to listening, and ultimately, to ourselves. It teaches us that harmony is not accidental; it is created – note by note, breath by breath.

Jaipur, with its heritage of art, architecture, and aesthetics, provides the perfect canvas for such an experience. Here, every *raag* seems to carry colour, every rhythm echoes history, and every pause has a presence of its own.

I compliment the organisers for nurturing such spaces where culture is not displayed, but lived. And I bow to the artistes whose melodies transform sound into something sacred. Their contribution is not merely artistic – it is civilisational.

Nivaaran: The Forty-Hour Foundation

May 29, 2026 (Address)

Authors Bridge: *When Nivaaran was founded, it carried a conviction that mediation was not merely a procedural alternative but a civilisational necessity – and that those who would practice it must be formed, not merely trained. It was in that spirit that the forty-hour foundational training programme was conceived by MCPC and imparted by many including Nivaaran: not as an introduction to technique, but as an initiation into a different understanding of conflict itself. To beaddressing at the beginning of third session was another practitioner's journey toward peace – was to understand, once again, that the arc of a vocation does not conclude at the point of arrival. It continues into those to whom the understanding is passed. The courtroom teaches the advocate the grammar of law. The mediation room teaches him the grammar of the human being. Forty hours is, of course, only a beginning. But every beginning is also, in its own way, a completion – the completion of the thought that made it possible.*

Good morning to everyone present.

We meet here not merely to learn a method, but to strengthen an idea – an idea without which no civilisation can remain both free and peaceful: the idea that conflict can be resolved with dignity, without humiliation, and without coercion.

Courts are indispensable. They uphold rights, correct wrongs, and enforce accountability. But a society that relies only on courts to settle every disagreement is like a family that needs police intervention for every argument. The law can decide, but it cannot always heal. The law can award, but it cannot always restore. The law can punish, but it cannot always reconcile.

Mediation exists because human life is richer than legal categories. In disputes, people are not only fighting over money or property or clauses. They are fighting over recognition, respect, fear, pride, and the deep need to be treated as a person – not as a case number.

So mediation is not softness. It is constitutional maturity in human form. It is the discipline of resolving disputes through reasoned dialogue, informed choice, and voluntary agreement.

And here is the profound truth:A mediator does not bring power into the room. A mediator brings order into the room.

Order not by force – but by process. Not by command – but by structure.

Not by judgment – but by neutrality.

In conflict, parties often arrive as prisoners of their own narratives. Each side believes, *"If I move, I lose." "If I compromise, I surrender." "If I soften, I become weak."* And then months become years. Relationships fracture. Businesses bleed. Families break. Institutions corrode.

The mediator's task is to change that inner geometry – quietly, respectfully – so that parties can see a new possibility: *"We can end this, without destroying each other."*

That is why your learning today is not merely technical. It is moral. It is civic. It is nation-building in the small spaces where real life happens – homes, offices, partnerships, communities.

A court judgment can conclude a dispute. But a mediated settlement can conclude a conflict. And there is a difference. Because conflict is not only a legal event. Conflict is a human experience. As you go through the sessions today, carry three principles – simple, but transformative:

1. Be curious, not certain: Certainty locks the mind. Curiosity opens the door to resolution.
2. Hold dignity as the highest currency: When dignity is protected, agreement becomes possible. When dignity is attacked, even a good offer becomes unacceptable.

3. Respect the process: Your greatest strength as a mediator is not cleverness. It is steadiness – calm, impartial, structured, and humane.

If you do that, you will discover something remarkable: When parties feel genuinely heard, they become capable of compromise without feeling defeated. When options are framed without blame, solutions appear where none existed. When the room becomes safe, truth becomes speakable – and when truth becomes speakable, settlement becomes possible.

So let us begin today with a larger vision:To make mediation not an "alternative," but a first instinct of a mature society – a society that does not celebrate conflict, but resolves it; a society that does not weaponise law, but uses law wisely; a society that understands that justice is not only what is ordered, but also what is agreed with dignity.

Thank you. Let us begin.

The NCMSC Nomination: Justice for All

04.06.2026

With barely eight weeks remaining before the fiftieth anniversary of entry into the Supreme Court – the Chief Justice of India reconstituted the National Court Management Systems Committee (NCMSC). The committee's mandate, rooted in the *Scheme for Enhancing Timely Justice*, reaches across every level of the Indian judiciary – from the Supreme Court to the district court – toward the single civilisational promise that justice must be accessible, timely, and real for every citizen, not merely for those who can afford to pursue it across years and decades of litigation. To be nominated to such a body as member at this precise moment in a fifty-year journey from the grammar of law toward the grammar of justice, is not coincidence, I am beholden to Justice Surya Kant Chief Justice of India is to give me the opportunity. It is the logic of a life that moved, steadily and irreversibly, from advocacy to dialogue, from adjudication to peace, and from the service of the Mistress toward the building of something the Mistress alone could never deliver. The arc, it appears, is not yet complete. It only appears so from a distance. Seen from within, it continues – and it continues, now, in the direction of justice for all.

The Books That Came When They Were Needed

A Library as a Life Map

There is a kind of providence in the arrival of books. They do not come randomly. They come – if one is paying attention – precisely when the soul needs what they carry. Looking back across sixty-five years of reading, I can trace the arc of my inner

life as clearly through the books that came into my hands as through the cases I argued in court, the causes I espoused, and the silences I learned to keep. They prepared me for the profession; they deepened my philosophy of life; they accompanied me through the seasons of certainty and contemplation that every thinking person must traverse. The library at my study room is not an accumulation. It is a biography. Every book on those shelves has a story of its own – a moment of arrival, a reason it stayed.

Over the years, it grew to about fifteen hundred volumes – over and above law. Philosophy, fiction and biography, poetry and economics, science and spirituality – all shelved together without apology, because that is how they lived in my mind. The law is a mirror of human nature, and to understand human nature one must read everything – the novel that illuminates why people lie, the philosophy that asks how to live without fear, and the biography that shows how extraordinary people endured ordinary circumstances and made something permanent of them.

What follows is not a catalogue. It is the map of a journey – a journey that begins in the spiritual foundations laid long before the law, moves through the grammar of the world in all its complexity, and returns, full circle, to the ground from which everything began. A library is not a collection. It is a conversation – between books, between ideas, between the person who shelved them and the person who returns to them years again and again and discovers that something within has shifted. The books I read in 1975, I read again in 2004, and I still wish to read again – the chosen hundred and ten – before I am done. Each reading becomes a different experience, not because the books have changed, but because I have evolved.

The Roots: Spirituality and Inner Life Before the Law

Long before law entered my life as a calling, it had entered as a discipline of the spirit. My grandfather – the first Registrar of the Rajasthan High Court, and the quiet architect of my inner formation – had given me, before I could fully read them, the texts that would accompany me for a lifetime. Through his evening narrations spanning years – the *Bhaagwat*, the *Raamayan*, the *Mahaabharat*, and the *Panchatantr* – came the earliest understanding that before one enters the world of law, one must first enter the worlds of *dharm*, conflict, destiny, character, and the consequences of *karm*. The imagination is often the first courtroom in which a human being begins to hear the arguments of life.

No single work has accompanied me longer or penetrated deeper than the *Shrimat Bhagwad Gita*. A copy by Swami Chidbhavananda, autographed and gifted

by my grandfather, travelled with me in the attaché case I carried to New Delhi on the morning of 01.08.1976. It has never truly left me. My library holds multiple interpretations of it – Swami Chinmayananda, Radhakrishnan, B.G. Tilak's *Gita Rahasya*, Swami Yogananda, Swami Satyamitranand Giri (my mothers' *guru*), the *Hari Gita* in Hindi by Dinanath Dinesh, Vinoba Bhave, Mahatma Gandhi, and many more. Each was written from a different vantage point of understanding; each yielded something the others had not.

It was the Gita that first showed me that there is no fundamental conflict between the self and the world – each exists in its own sphere, and the apparent conflict arises from the confusion of the two. This was never merely an abstract proposition. I experienced it through every moment of my professional existence. The Gita taught me to live within the world as it is – ephemeral, constantly changing, incapable of providing the permanent security that most people spend their lives pursuing – without fear of future trauma, without anxiety arising from insecurity, comparison, competition, or the endless rat race of professional ambition. In every case that came to my table, I prepared to the best of my ability, made my submissions with dignity and complete engagement, and then let the matter go. The outcome was never mine to control. The effort always was.

The Complete Works of Swami Vivekananda – all seven volumes – entered my life in 1974 and have never left it. Vivekananda prepared me for what life had to offer: a sense of the scale of what it means to be alive in India at this moment in history, with all the possibility and all the failure that such a moment contains. His vision of a nation awakened – educated, self-reliant, fearless, and spiritually grounded – became part of my own understanding of what law could achieve if honestly administered by people equal to its demands.

Sri Aurobindo came through his prose – the two volumes of *The Life Divine*, *Essays on the Gita*, *Savitri*, and *Hymns to the Mystic Fire*. Aurobindo's insistence that consciousness itself evolves, that the human being is not a fixed entity but a becoming, permanently shaped the way I came to see every case and every litigant. No person who came before me was ever truly complete. Every litigant was a consciousness in motion, shaped by circumstances that the law too often reduced merely to facts and reliefs. I tried always to see more than that.

Autobiography of a Yogi by Paramahansa Yogananda – first read in 1975 – opened something else entirely: the possibility that the inner life is as real and disciplined a domain as the professional one, and that the two are not separate endeavours but one continuous field of existence. A yogi's training and a lawyer's training have more in common than either tradition readily acknowledges. Both demand absolute concentration. Both demand the subordination of the personal self to a purpose larger than itself. Both demand that one remain clear-eyed, present,

and undistracted in the face of enormous complexity. The lawyer who has trained the mind through one discipline will find the other not alien but familiar.

Ralph Waldo Emerson's essays – particularly *Self-Reliance*, *History*, *Friendship*, *Circles* and *Love* – deepened this understanding in another register: I had my own field to till, my own set of activities assigned to me by nature and circumstance, my own professional career and destiny. The Gita had said precisely this in Sanskrit; Emerson gave it its Western voice. These were not merely intellectual acquisitions. They were part of the inheritance of an upbringing that believed the inner life and the outer life were inseparable. I came to Delhi carrying the *Bhagwad Gita*, Vivekananda, Aurobindo, and Emerson in my attaché case. Everything else followed.

The Grammar of the World: Law, History, and the Architecture of Society

The professional reading began in the chamber of Mr. R.K. Garg, where Harold Laski's *A Grammar of Politics* came into my hands for the first time. Laski's insistence that political authority must ultimately be grounded in the consent of the governed, and that law without justice can degenerate into organised force, raised questions that perhaps had already begun silently forming within me, though I had not yet articulated them fully. Frida Laski had quoted her husband in the opening pages:

> *"My husband once said that every time an intellectual has the chance to speak out against injustice, and yet remains silent, he contributes to the moral paralysis and intellectual barrenness that grips the affluent world."*

That sentence has never left me. Alongside Laski came Sir Henry Maine's Ancient Law – that extraordinary exploration of how legal systems evolved from status to contract, from tribe to individual, and from inherited hierarchy toward more conscious notions of legal personality and rights. Plato's Republic, the life and faith of Justice Holmes, and the Federalist Papers of Jay, Hamilton, and Madison arrived during those formative years and gradually provided the intellectual scaffolding upon which much of my later constitutional understanding came to rest.

Of all the figures encountered through reading, Alexander Hamilton struck with a particular and lasting force. I first read his biography sitting in the Judges' Library of the Supreme Court – and it led me, directly and inevitably, to *The Federalist Papers*, which Hamilton authored alongside John Jay and James Madison. I have long called *The Federalist Papers* the *Bhagwad Gita* of constitutional thought – alongside the Constituent Assembly Debates, the two works that most completely reveal what a constitution truly is: not a document, but a civilisational commitment argued into existence by men who understood both its necessity and its fragility.

Hamilton's life struck something deeper than intellectual admiration. When a matter took me to New York, I extended the journey to Washington D.C. – off route, and questioned for it. My answer was simple: I was going to visit the United States Supreme Court, to stand before the eight brass panels in its corridors tracing the development of law across civilisations. But I also went to stand before the statue of Alexander Hamilton outside the White House – the First Secretary of the Treasury, aide-de-camp to General Washington at twenty-two, who lived his entire public life with integrity, intellectual honesty, creative energy, and dignity of the highest order, and who was destroyed not by his enemies but by the very republic he had helped to build. I stood there for a long time. Some lives teach through their achievements. Hamilton's teaches through both – what he built, and what it cost him.

The difficulty of Karl Marx's *Das Kapital* was real. Its complexity presented a challenge from the very first page. Yet the atmosphere of a chamber in which Lenin's photograph occupied the wall, and where Mr. R.K. Garg spoke with the conviction of committed nationalist socialism while repeatedly emphasising the obligation of society toward the less privileged, made it essential to grapple directly with what Marx was attempting to say. Whether one ultimately agreed or disagreed with him was secondary. The effort to understand him deepened the inquiry into the relationship between law, power, economics, labour, and the interests that institutions often consciously or unconsciously serve.

John Rawls' *A Theory of Justice* and its great counterpoint, Amartya Sen's *The Idea of Justice*, deepened the same inquiry further – what does justice actually require, not merely as a statutory framework, but as a moral and civilisational proposition? Samuel Huntington's *Clash of Civilisations and the Remaking of the World* arrived with its deeply unsettling thesis about the fault lines of the coming century, and Amartya Sen answered it powerfully through *Identity and Violence: The Illusion of Destiny*, reminding us that human identity is never singular, but layered, plural, and evolving, and that reducing a human being to a single civilisational category is both intellectually flawed and socially dangerous.

Bertrand Russell's *History of Western Philosophy* and *Principles of Social Reconstruction* completed much of this foundational phase. Russell's clarity of thought, his refusal to accept any proposition that could not withstand rational scrutiny, and his conviction that reason, when honestly applied to human affairs, could help create a more humane civilisation, resonated deeply with many of the realities I was simultaneously witnessing in courts and public life.

Jawaharlal Nehru's *Glimpses of World History* and *Discovery of India*, both written in prison, carried that distinctive quality which confinement occasionally produces – reflection that is at once unhurried, expansive, deeply personal, and pro-

foundly civilisational. Glimpses of World History opened before me the vast movement of civilisations rising, interacting, declining, and reinventing themselves across centuries. Discovery of India revealed India's own extraordinary complexity – its philosophical layers, spiritual traditions, internal contradictions, conquests, assimilations, resilience, and capacity for renewal – all expressed in prose of rare elegance and emotional depth.

These were not merely books of history. They enlarged the intellectual and civilisational frame within which I would later approach constitutional questions, questions of identity, liberty, governance, rights, diversity, and the evolving relationship between the citizen and the State. The indice throughts were skill missing.

The eight volumes on Mahatma Gandhi and the fourteen volumes on Sardar Vallabhbhai Patel by P.N. Chopra belong to this same essential stream of reading. Patel was not a man who separated law from statecraft, nor statecraft from ethics, nor ethics from national purpose. There was a completeness in his personality – firmness combined with realism, practicality anchored in national vision – and that completeness itself became one of the enduring lessons of his life.

The five volumes on the Framing of the Indian Constitution and the complete Constituent Assembly Debates continue to occupy a special place on my shelves – not merely as reference works, but as constitutional literature of the highest order and among the great intellectual achievements of the twentieth century. Every lawyer who studies them with seriousness comes away understanding the Constitution differently – not as a mere technical document or legal mechanism, but as the distilled aspiration of an ancient civilisation attempting, after centuries of political fragmentation and colonial experience, to consciously reinvent itself through liberty, democracy, dignity, justice, equality, and constitutional morality.

The Individual Against the World: Ayn Rand and the Philosophy of Self-Reliance

It was Ayn Rand's works that arrived with a particular and unexpected force. *Atlas Shrugged* came into my hands in 1976, soon after I entered the profession. *The Fountainhead* and *Atlas Shrugged* were not merely books – they were experiences that profoundly influenced my thinking, perspective, and outlook toward life and profession. Her depiction of Howard Roark and Dominique Francon in The Fountainhead, and of John Galt, Francisco d'Anconia, Ragnar Danneskjöld, Dr. Hugh Akston, Dagny Taggart, and Hank Rearden in Atlas Shrugged, resonated deeply with the sentiments of individuality, self-reliance, rationality, and the pursuit of excellence that the *Bhagwad Gita* and Emerson had already planted within me in a different philosophical soil.

The idea that ordinary human beings could become extraordinary simply by maintaining rationality, integrity, discipline, and independence of thought in a world increasingly shaped by compromise, conformity, and corrupt doctrines carried immense force. *Anthem and Capitalism: The Unknown Ideal* followed. Together they helped shape a philosophy of professional self-respect that sustained me through many years in which institution often moved in the opposite direction – against independent judgment, and in favour of conformity, deference, inherited networks, and lineage.

Interestingly, Rand's deeply individual-centric philosophy stood in sharp contrast to the welfare-oriented constitutional thinking that largely prevailed both within the chamber in which I trained and in many strands of constitutional jurisprudence flowing from the Supreme Court during those decades. This apparent dichotomy – between Rand's emphasis on individual excellence, rationality, productivity, and self-reliance, and the Court's evolving commitment toward social justice, welfare jurisprudence, and protection of the economically and socially disadvantaged – generated within me a long and continuing internal dialogue.

At around the same period, I also had occasion to read and reflect upon the ideas and interviews of Buckminster Fuller, particularly during and after the influence of Expo '70 in Japan, where his geodesic domes and futuristic vision had captured global imagination. Fuller appeared to hold an almost opposite civilisational perspective from Ayn Rand. While Rand placed extraordinary emphasis upon the sovereignty of the rational individual, Fuller viewed humanity increasingly as an interconnected and cooperative system, where knowledge, technology, design, and collective intelligence had the potential to create abundance for all mankind. His concept of "Spaceship Earth" – the idea that humanity travels together on one fragile planetary system with shared responsibilities – carried a deeply civilisational and almost cosmic dimension.

Fuller's faith in human innovation, systems thinking, anticipatory design science, and the possibility that technology could eventually eliminate scarcity itself, opened another dimension of thought before me. His vision was not rooted in adversarial competition alone, but in creating structures through which humanity itself could evolve toward greater balance, efficiency, sustainability, and collective well-being. In many ways, some distant seeds of my later reflections on technology, conflict-free coexistence, invisible human contribution, and eventually the philosophy underlying *Finance Revolution 5.0 – The PICS Economy* may perhaps be traced back to those early encounters with Fuller's ideas.

At the same time, my understanding of 'ego' differed fundamentally from Ayn Rand's conception of it. Within the *Sanaatan* understanding that had shaped my own consciousness through the *Shrimat Bhagwad Gita* and related spiritual

traditions, ego was not self-hood or individuality; it was the mistaken identification of the *aatma* with the body, mind, intellect, status, possession, or personality, ultimately giving rise to *ahamkaar* – attachment, pride, and arrogance. Yet, interestingly, Rand's principal characters, despite their fierce individualism, were rarely petty, insecure, or psychologically small. They possessed integrity, self-respect, dignity, discipline, and, in their own distinctive manner, even a certain humility toward excellence and purposeful work.

I therefore never felt compelled to reject one philosophy in favour of another, while continuing to remain firmly rooted within my own philosophical understanding. Rather, I gradually began holding these differing streams of thought together within a reflective, balanced, and objective consciousness. Perhaps this represented, in my own understanding, a gradual movement from a linear existence toward what may be described as a quantum existence – an awareness where seemingly contradictory ideas, realities, and dimensions could coexist simultaneously within a larger unity. For me, this increasingly became an awareness of totality at every moment of existence.

The key perhaps lay in *Contraria Sunt Complementa* – the motto inscribed on Niels Bohr's coat of arms, meaning "contradictions are complementary." Bohr, whose contributions transformed quantum theory, perceived duality not as conflict, but as integral parts of a larger unified reality. Over time, these apparently contradictory philosophies – individual excellence and collective welfare, self-reliance and social responsibility, liberty and social justice, technological abundance and spiritual balance – increasingly appeared capable of coexisting without contradiction within my own understanding

Any philosophy that fails to find practical application in the lives of individuals may ultimately struggle to find relevance at the national level. Equally, any social structure that suppresses individual aspiration and excellence risks weakening civilisation itself. The path and the goal must therefore remain aligned. The tension between philosophical ideals and practical realities – between the world as it ought to be and the world as it exists – is not a reason to abandon either. It is often the beginning of a deeper inquiry.

Such reflections gradually compelled a continuous re-evaluation of how philosophical ideals could be harmonised more meaningfully with the practical realities of legal and constitutional life, professional conduct, governance, economics, and human behaviour itself.

The World Seen from Within: Crime, Power, and the Logic of Transgression

A serious advocate cannot fully understand the cases he argues without at-

tempting to understand the forces that produce them. It was for this reason – never merely for entertainment – that books dealing with crime, organised power structures, and the psychology of transgression became essential reading.

The *Godfather* and *Omerta* by Mario Puzo, *Honour Thy Father* by Gay Talese, *The Valachi Papers* by Peter Maas, and *The Day of the Jackal* and *The Odessa File* by Frederick Forsyth illuminated, from within, the deeper logic of human transgression: why individuals make the choices that ultimately bring them before courts; how institutions become compromised; how loyalty gradually transforms into complicity; and how the line separating the criminal from the respectable is often far thinner than polite society publicly acknowledges.

A lawyer who has never attempted to understand the world of crime from within will often remain confined to the external surface of his brief. These books revealed not merely criminal psychology, but institutional psychology itself.

They also illuminated something deeper about organisations and structures of power generally – whether in criminal syndicates, bureaucracies, corporations, political systems, or even professional institutions. Every structure of power gradually develops its own internal logic, its own hierarchies of silence, and its own mechanisms through which individual conscience can slowly become absorbed into collective complicity.

That understanding proved, across fifty years of practice, to be profoundly transferable. The study of crime was therefore never separate from the study of law, society, governance, or human nature. In many ways, it became part of understanding the fragile boundaries between order and disorder, legitimacy and power, morality and expediency, law and human impulse itself.

The World in Motion: Technology, Economics, and the Speed of Change

Then came Alvin and Heidi Toffler – *Future Shock, The Third Wave, War and Anti-War*, and finally *Revolutionary Wealth* – along with Bill Gates' *The Road Ahead* and *Business @ the Speed of Thought*. These books were true eye-openers, particularly in understanding the transformative power of information technology, digital systems, communication networks, and the internet upon civilisation itself.

They arrived at precisely the period when I had begun my own work relating to the computerisation of Supreme Court judgements and legal databases, and they reinforced what I had independently begun sensing: that information, properly organised, democratised, and made accessible, would eventually become one of the greatest instruments of justice in the modern age.

It was Toffler who observed in *Revolutionary Wealth* that businesses were moving at a hundred miles an hour while the law crawled at one. That image struck a

chord within me that never truly left. Courts, legal systems, and governance structures often appeared burdened by procedures and institutional inertia, while technology was radically altering the speed, scale, and nature of human interaction itself. The future, I increasingly realised, would compel law to evolve not merely technologically, but philosophically.

Steven Pinker's *Enlightenment Now* and its powerful counterpoints revealed simultaneously the extraordinary progress of civilisation and the persistent continuity of human folly. Scientific advancement, technological innovation, and material prosperity alone could not automatically resolve the deeper conflicts of consciousness, identity, inequality, ego, violence, and power.

Stephen Hawking's *A Brief History of Time, Theory of Everything* and *Black Holes* arrived when I perhaps most needed the reminder that the universe is infinitely larger than any courtroom, any institution, any ideology, or any individual conflict. The questions argued before judges, however important within the framework of human society, remain infinitesimally small within the larger cosmic order.

Yet that realisation did not diminish the importance of law. On the contrary, it deepened the sense that human beings must approach law, justice, conflict, and institutional responsibility with both seriousness and humility – fully engaged yet never consumed by illusion regarding the permanence of any human structure.

Long years within the profession can sometimes burden the spirit with excessive gravity. Books like these restored perspective. They reminded me that while litigation may occupy human attention intensely in a given moment, civilisation itself continues moving through larger cycles of technological evolution, philosophical transformation, and expanding consciousness.

Biographies: Conversations With Those Who Walked the Same Corridors

My library is also richly filled with biographies, autobiographies, memoirs, and personal reflections – works that reveal not merely the public achievements of individuals, but the inner architecture of their lives, convictions, struggles, disciplines, and choices.

Among the legal and constitutional memoirs that deeply influenced me were M.C. Setalvad's *Bhulabhai Desai* and *My Life and Other Things*, M.C. Chagla's *Roses in December*, Justice M. Hidayatullah's *My Own Boswell* and *My Miscellany*, Fali S. Nariman's *Before Memory Fades*, Justice R.M. Sahai's *A Lawyer's Journey*, P.P. Rao's *Reclaiming the Vision* and alsoRam Jethmalani's *Big Egos, Small Men*, *a mini narration.* These were never merely professional reading. They were conversations across generations with men who had walked the same corridors, confronted similar constitutional dilemmas, navigated institutional complexities, and faced the

perpetual tension between individual conscience and institutional expectation.

Every biography of a lawyer or judge is, at its deepest level, a meditation on the relationship between personal integrity and institutional power – between what one inwardly knows to be right and what the system, circumstance, or historical moment permits, demands, or tolerates.

Alongside these came biographies and autobiographies of statesmen, political leaders, philosophers, artists, revolutionaries, and historical personalities who shaped nations, ideologies, and civilisations in different ways. Emil Ludwig's *Napoleon*, Adolf Hitler's *Mein Kampf*, the autobiographical writings of Mahatma Gandhi and Jawaharlal Nehru, Irving Stone's *Lust for Life,* based on the life of Vincent Van Gogh, and works relating to Alexander Hamilton and Justice Holmes all formed part of this larger exploration of leadership, ambition, vision, creativity, nation-building, power, morality, and the human condition itself.

Some of these personalities inspired admiration, some demanded caution, some provoked intellectual disagreement, and some revealed the immense creative and destructive potential residing simultaneously within human consciousness. Yet all of them, in different ways, helped deepen my understanding that institutions, ideologies, and civilisations are ultimately shaped by the quality, discipline, limitations, vision, and consciousness of the individuals who lead them.

Fiction as Mirror: The Novel as a School of Human Nature

My Hindi library – running into several hundred volumes, collected by my mother – is a world in itself. Acharya Chatursen's historical novels – *Somnath, Sona Aur Khoon*, and *Vayam Rakshamah* – opened before me India's past in all its complexity, grandeur, conflict, and moral ambiguity. Sharat Chandra Chattopadhyaya's fiction revealed the extraordinary tenderness, emotional depth, and silent suffering embedded within Indian society. Gurudutt's novels – prolific, popular, and deeply rooted in the anxieties and dislocations of post-partition India – perhaps taught me more about the ordinary litigant standing outside my chamber than many formal sociological studies ever could. Yashpal, Krishan Chander, Rajendra Yadav, Prem Chand and the larger progressive Hindi literary movement kept alive within me the awareness that law ultimately serves real human beings living real lives, and not merely abstract jurisprudential propositions or technical legal doctrines.

John Grisham's *The Firm* arrived at a stage when I perhaps most needed to be reminded that law, at its best, is deeply human drama – real individuals confronting real fears, vulnerabilities, compulsions, institutions, and systems far larger than themselves while searching for relief, dignity, survival, and justice.

Shantaram by Gregory David Roberts – the story of a man attempting to reconstruct himself from the ruins of his own choices and experiences – came during years when reinvention, both inward and outward, had itself become part of my own philosophical reflection upon life and profession. Khaled Hosseini's A *Thousand Splendid Suns* remains, to my mind, one of the most powerful books ever written about justice – precisely because it is not directly a book about law. It reveals with painful clarity what the absence of justice does to human beings, particularly to those who possess neither power nor institutional access, and who have nowhere left to turn except endurance itself.

The Contradictions on the Shelf: *Sanaatan* Under Siege and Its Defence

My library also contains what some may consider a surprising or even contradictory collection – a significant number of books that question, critique, challenge, or outright attack Hindu and *Sanaatan* philosophy, alongside an equally large body of literature that explains, defends, celebrates, and reinterprets it.

Breaking India and *Unbreaking India*s its along *with The Hindusim*. Books examining the political uses and misuses of religion stand alongside the Upanishads. Critiques of caste, ritualism, and social hierarchy coexist with the *Brahm Sutr*, the *Ashtaavakr Gita*, and numerous works on *Vedaant*, *yog*, and spiritual consciousness. Strongly anti-Hindu polemics and equally passionate Hindutva literature occupy the same shelves without discomfort or embarrassment.

I have never perceived any contradiction in this co-existence. The presence of opposing views, honestly and intensely argued, is not a problem to be eliminated; it is an essential condition of genuine inquiry. Truth cannot emerge from intellectual isolation. It requires engagement with disagreement, contradiction, challenge, and alternative perception.

The world itself does not exist through simplistic certainties. It exists through layered and simultaneous realities – what modern physics may describe as quantum co-existence. Light behaves both as a particle and a wave. India is simultaneously ancient and modern, spiritual and material, deeply philosophical and deeply conflicted, the civilisation that conceived zero and the civilisation that struggled for centuries with organised social inequities within its own structure.

This quality of the library – its refusal to choose comfort over inquiry – perhaps mirrors the eleventh chapter of the Bhagwad Gita, the *Vishwaroop Darshan*, the vision of the Universal Form. Arjuna does not merely witness the reassuring and intimate *Krishan* he knows personally; he witnesses totality itself – creation and destruction, beauty and terror, order and chaos, past and future, all existing simultaneously within one indivisible reality.

The books on my shelves often appear to me in much the same manner – as my own *Vishwaroop*: fifteen hundred and more perspectives, arguments, insights, contradictions, and reflections upon the same inexhaustible human condition. None is complete in itself. None is sufficient alone. Yet together, forming a larger and more meaningful whole. To read only those books that confirm one's existing beliefs is to mistake intellectual comfort for wisdom. The library that truly teaches is the library that challenges.

The Return: Spirit, Consciousness, and the Circle Completed

Paulo Coelho entered my life around 2008, and he entered it differently from almost every other writer I had read before. The first of his books that came into my hands was *The Pilgrimage* – his deeply personal account of spiritual seeking, discipline, symbolism, and inner transformation beginning with the sword of Ram. Then came *The Alchemist* – that deceptively simple and luminous work centred upon the idea that the universe itself conspires to assist the individual who sincerely seeks his true path and personal legend.

I encountered these books at a stage when the profession had perhaps begun feeling increasingly structural and external, and they quietly reminded me that the journey itself was always the destination. Thereafter followed *Brida, Aleph, By the River Piedra I Sat Down and Wept, Adultery, Manual of the Warrior of Light,* and many others – nearly eighteen volumes in all, including works on Coelho's own life and journey. Each book illuminated, in a different form, the same timeless question: what does it truly mean to live fully, consciously, and meaningfully, rather than merely to exist or endure?

Elif Shafak's *The Forty Rules of Love*, Sylvia Fraser's *The Rope in the Water*, and the *Faqir* trilogy of Ruzbeh N. Barucha became similarly transformative encounters. These books seemed to arrive precisely when some inner space had become ready to receive what they carried.

Among them, *Manual of the Warrior of Light* remains a work to which I repeatedly return. It is composed largely of brief reflections and meditations, yet some of those pages contain more distilled wisdom than entire volumes of theoretical exposition.

The journey that began with the *Bhagwad Gita* and Vivekananda, that travelled through Marx and Rand, through constitutionalism, crime, technology, economics, courts, conflict, and institutional life, ultimately returned – as perhaps every genuine journey eventually must – to the very ground from which it first began. Not to the same point, but to the same foundation, now seen through the eyes of one who has travelled a much longer distance.

The *Gita* has not changed. Emerson has not changed. Ayn Rand has not changed. Paulo Coelho has not changed. Bertrand Russell has not changed. But I have lived more, observed more, argued more, contemplated more, and understood more. And therefore, when I now return to those same pages, I hear meanings that I could not have heard earlier.

That, perhaps, is the enduring grace of great books.

They do not surrender their full meaning at once.

They wait.

They remain patient in a manner that human beings rarely are, and institutions almost never are.

And they reveal their deepest truths only to those who continue returning to them across the long journey of life itself.

Books as Seeds: The Writings That Emerged from the Reading

When I now look back upon my own writings, I no longer see them as separate articles or books written at different stages of life. I see them instead as seeds emerging from the same inner journey – seeds planted by the fifteen hundred volumes that preceded them, nourished them, and gradually made them possible, by actually applying them, testing the propositions and living through them.

Shrimat Bhagwad Gita – *The Lawyer's Perspective*, which was authored by me, gave expression to the philosophical foundation that decades of reading, contemplation, constitutional engagement, and lived experience had slowly built within me: the understanding that human action must ultimately align with *dharm*, detached from ego, possession, insecurity, and fear. It reinforced the realisation that duty without inner balance leads to exhaustion, achievement without consciousness leads to emptiness, and power without wisdom ultimately leads to destruction. Yet none of this was truly new. These were among the oldest truths humanity had always known – truths that had travelled with me in the attaché case I carried to Delhi on 01.08.1976, and which every book, every case, every legal and constitutional conflict, and every season of certainty, reflection, and silence had gradually deepened further.

Legal Revolution 5.0 emerged from my lived journey within the legal system itself – from witnessing the transformative power of constitutional courts, the expansion of liberty and human rights, the evolution of public law jurisprudence, and the extraordinary capacity of ideas, judgements, and constitutional interpretation to reshape societies and nations. Yet it also reflected my growing awareness that legal systems alone cannot sustain civilisation unless supported by ethics,

trust, restraint, consciousness, dialogue, and collective responsibility. In many ways, it became the practical continuation of the very inquiries toward which Laski, Holmes, Rawls, Sen, Russell, and the constitutional debates of India had long been pointing – though only decades of lived participation within the legal system could perhaps have allowed those reflections to crystallise in the form they eventually assumed.

Finance Revolution 5.0 – The PICS Economy represented the next stage of that evolving inquiry. If law shapes institutions, economics shapes human behaviour, aspiration, and social structure itself. Increasingly, I began asking whether civilisation could consciously evolve toward a model in which compassion, mediation, environmental stewardship, service, caregiving, human participation, and invisible social contribution could also become visible, measurable, dignified, and honourable forms of value alongside money itself. The *Bhagwad Gita's* philo-sophy of *nishkaam karm* – action without attachment to its fruit – appeared to me capable of finding an economic expression suited to the emerging technological age, where the *karam phal* are not siphoned off by lootes.

And finally came this autobiography – not merely as a recollection of events, judgements, constitutional matters, professional engagements, relationships, institutions, or milestones, but as the lived bridge connecting all the ideas that had gradually emerged through the journey itself. This autobiography is therefore not merely the story of a lawyer. It is the story of a search.

A search that began with law, travelled through constitutionalism, power, conflict, institutions, economics, technology, mediation, relationships, silence, contemplation, and philosophy, and ultimately arrived at a simple realisation: that justice is not merely a doctrine to be argued, interpreted, or institutionalised. It is a consciousness to be lived.

I began reading as a young man eager to understand the world. I continued reading through the middle years as a practitioner seeking to serve it with sincerity and dignity. I read now, in the later years, perhaps as someone who has gradually made peace with much of what the world has to offer – and who continues searching, somewhere between the lines of these volumes, for that which endures when everything transient, temporary, and external has finally fallen silent.

The answer, as best as I have understood it, remains perhaps the same answer that the *Bhagwat Gita* gave at the very beginning and continues to give even now: Work as a *drishta* toward your own highest perfection, while remaining fully present to the bliss of every passing moment of existence.

The books did not teach me the law.

The law taught me the law.

The books taught me what the law is for.

On Attaining Fatherhood – A Proud Father and a Blissful Grandfather

There are achievements the law recognises and records. And there are those it does not. Fatherhood belongs to the second category – unrecorded, unargued, and more consequential than most of what appears in any law report.

Shashwat Gupta: We were blessed with a son on 24.03.1983 and named him Shashwat. He came into the world with abundant energy and an independent mind – qualities that have remained with him throughout his life. From an early age, he developed a deep interest in music and displayed a natural gift for languages, acquiring them with an ease that appeared almost instinctive. His joining both the Hindi and English choral groups during his school years reflected his genuine love for music. During his college years, his entrepreneurial spirit had already begun to emerge – he was drawn to the promotion and business of Indian music and to exploring possibilities beyond the conventional path.

After obtaining his law degree, he worked earnestly to develop the firm – bringing in Legal Process Outsourcing (LPO) and building a professional infrastructure with a clear commercial vision. His core strengths lay in business development, marketing strategy, and the translation of legal understanding into market opportunity. In 2011, he married Pallavi Malviya, belonging to a distinguished family of Delhi – her father, a 19*73* batch IIT Bombay graduate, owns a pharmaceutical enterprise in Delhi. Shashwat and Pallavi relocated to Singapore in end of 2011. The early years were not without difficulty, but a joint will carried them through. Pallavi worked shoulder to shoulder with Shashwat to help build up business and made meaningful investments. In 2017, he found his footing in the world of digital assets – a domain that suited his forward-looking mind and his instinct for identifying what lies just beyond the horizon. He is a people leader with experience in new market entry, brand building, relationship management, and the conceptualisation and execution of ideas that sit outside conventional frameworks. He has wide interests – in music, in arts, in perfumery, in the intersection of culture and commerce.

He and Pallavi are blessed with a daughter, Vihika – charming, bright, and very much her parents' child.

Shitij Gupta: We were blessed with a second son on 02.12.1987, and he was named Shitij. Where Shashwat arrived with energy and assertion, Shitij brought calm and quiet – a thinker by nature, the kind of person who helps without announcement and considers before he speaks. After completing Class XI from DPS R.K. Puram in 2007, he secured admission at the University of Michigan

entirely on his own merit. I accompanied him on that journey – the father travelling with the son toward a new chapter, as fathers have always done. He graduated in 2011. That we could not be present at his graduation is something I carry with me still – one of those small, irreversible absences that life occasionally imposes, and which do not diminish in the telling.

After graduation, he went through a demanding selection process and was taken on by Morgan Stanley, where he completed his apprenticeship and built a thorough understanding of the banking system from the ground up. He moved on to E*Trade and then to UBS, accumulating the kind of experience that is only built through sustained engagement with complex institutions. In 2016, he married Reshika Bagaria, belonging to an illustrious family from Dibrugarh, long established in the tea business. In 2019, he and Reshika returned to India. After exploring several enterprising ventures, he joined his brother – and the two of them together have built something worth building.

He and Reshika are blessed with a daughter, Kanvikaa – high in energy, multidimensional in her interests, and entirely her own person.

The First *Guru*, the Home Maker, and the Relationship Keeper: Behind everything recorded in these pages – every case, every argument, every journey, every institution engaged – there stood one person without whom none of it would have been possible in the form it took: Padma.

The entire burden of bringing up our children was carried, singularly and without complaint, by her. She was their first *guru* in the truest sense – not merely their caregiver but the shaping presence of their early lives, the one who set the tone for everything that followed. She managed a household that was never merely a household – it was a place of constant movement, of guests arriving and departing, of obligations extending far beyond the domestic, of a husband who was present in body but perpetually engaged in the next matter, the next book, the next cause. She held all of it together, with a grace that asked for no acknowledgment and received far less than it deserved.

From a single-bedroom home at M-84, Greater Kailash I – where we began – to the renovated house in Jaipur, to the flats that both sons have now made their own in Gurugram, she has been the quiet constant through every transition. Forty-four years of marriage have not been forty-four years of ease. They have been forty-four years of sustained giving – of managing what needed managing, of absorbing what needed absorbing, of being the foundation so that others could build. She has taken a great deal, and she has taken it with dignity, with care, and with a warmth of spirit that has made our home, in every place it has existed, a place that people wish to return to.

I was involved – in the law, in writing, in the many activities that continued to find their way to me across the years. That involvement was made possible, in no small measure, because she ensured that everything else was taken care of. That is not a small thing. It is, in its own way, the largest thing.

There is a third role she has played, quieter even than the other two, and perhaps the most sustaining of all: she has been the keeper of relationships. In a life lived at the pace mine has been – with the Bar, the books, the causes, the travel, the obligations that accumulated across five decades – it is easy for the threads that connect one to family, to friends, to those who mattered at every stage of the journey, to loosen imperceptibly until one day they are gone.

Padma did not allow that to happen. She remembered. She reached out. She made the call, sent the word, ensured the visit. She kept alive, through sustained personal effort and genuine warmth, the web of relationships that gives a life its texture and its meaning beyond the professional. Every person who has felt welcomed in our home – and they are many, across many decades and many homes – felt so because of her. That is a gift that no degree confers and no court recognises. It is entirely her own.

A Grandfather's Reckoning: Both my sons are working with integrity and dignity in the world of digital finance, with full support by their family. I am proud of them all – not merely for what they have achieved, but for the manner in which they have achieved it, keeping the family together.

For me, the best hours of these years are those spent with my grand-daughters. I am fully aware of the power of the relationship I had with my own grandfather, a man whose presence shaped something in me that I could not have named at the time but have spent a lifetime understanding. That relationship taught me what grandfathers know and fathers are still learning: that the child before you is not a continuation of your story, but the opening of an entirely new one. The granddaughter-grandfather bond operates at a different frequency from all other bonds. It is beyond argument, beyond authority, and beyond the reach of professional vocabulary entirely. It is, in the deepest sense, pure.

Vihika and Kanvikaa – the Alpha generation, born in 2020 into a world that will be shaped by forces their grandparents can only partially imagine – carry forward something that no deed of property and no reported judgment can transmit. They carry the frequency of a family that has, for three generations, believed in the law as a form of service, and in service as a form of love.

That is legacy enough. That is more than enough.

The Birth of My Love: Justice Beyond Law

The PICS Economy – Launch

02.07.2026

Author's Bridge: *The launch of the PICS Economy on 02.07.2026 – less than a month before the completion of fifty years at the Supreme Court of India – was not, in any ordinary sense, a legal event. No court was convened. No judgment was delivered. No statute was cited. Yet, for one who had spent half a century inside the architecture of law, it carried the unmistakable character of a verdict – the verdict that a life of inquiry, pursued with sincerity across five decades, had at last arrived at its deepest question and placed that question before the world. The question was not new. It had been forming since the first morning at Ramamurti & Company, and when I understood that thirty per cent of my time was given without charge to those who could not pay. It had been forming through every conference held for a client who had spent his family's savings to reach the door of justice. It had been forming through every homemaker whose labour sustained a household that the law could value in divorce proceedings but the economy could not value in any other. Pro Bono Social Impact Credits – PICS – is the institutional answer to that question. Whether it succeeds or fails in its present form is for those who come after to determine. That it has been asked, named, and launched is the completion that this chapter records.*

I commenced my legal profession as an unpaid apprentice – and encountered from the very first morning an economic reality that no seminar on constitutional law, no discourse on evidence, no treatise on professional ethics had ever addressed. The financial architecture of the Bar was an unwritten subject. Struggles, sources of livelihood, the quiet inequalities within the profession – these were accepted without analysis and rarely debated. No one spoke of them directly. They were lived, silently and separately, by every advocate who entered the profession with sincerity and soon discovered how little sincerity alone could earn.

As the years passed, I realised that nearly thirty per cent of my professional time was devoted to rendering *pro bono* legal advice or appearing in matters without charging any fee. Nearly sixty per cent of my work was inadequately compensated, because many clients simply did not possess the financial means to pay fees commensurate with the time, preparation, and responsibility involved. It was only in approximately ten per cent of my professional engagements that I received remuneration reflecting the true value of the work performed.

If this was my experience despite the opportunities that came my way, it was undoubtedly the experience of thousands of lawyers across the country – advocates whose contribution to justice was no less significant than that of the celebrated names of the profession, whose preparation was equally disciplined, whose argu-

ments were equally principled, and whose clients were equally deserving. Gradually I realised that the same invisible imbalance existed in nearly every sphere of human endeavour.

What disturbed me was not economic inequality itself – no human system has ever been free of it. What disturbed me was the subtle pressure it exerted, over time, upon character. Success increasingly came to be measured by visible wealth rather than invisible contribution. Large houses, luxury automobiles, branded possessions, and conspicuous accumulation became accepted markers of achievement, while honesty, service, and integrity rarely attracted comparable recognition. In such an environment, many were tempted to compromise principles simply to remain competitive – and the fault did not always lie with the individuals who yielded. It lay equally with a system that measured prosperity far more effectively than it measured contribution, and that rewarded possession far more reliably than it recognised service.

This imbalance extended far beyond the legal profession. Doctors treated countless patients who could never afford their fees. Teachers devoted entire careers to shaping future generations with little economic acknowledgement. Scientists pursued research whose benefits would be enjoyed by those not yet born. Artists, musicians, writers, filmmakers, sportspersons, researchers, farmers, environmenta-lists, social workers, mediators, caregivers, and volunteers quietly created enormous social value that never appeared in any economic ledger. And above all of them stood millions of homemakers – whose lifelong labour sustained families, nurtured generations, and held societies together, yet whose contribution remained almost entirely absent from every conventional measure of wealth created by the civilisations they made possible.

These observations stayed with me across decades of practice. They eventually compelled me to pen *Finance Revolution 5.0 – The PICS Economy*. What began as an attempt to understand a professional imbalance gradually evolved into a larger philosophical inquiry: whether the economic structures through which civilisation measures itself had fundamentally mistaken what is most valuable about human existence.

On 02.07.2026 – in the fiftieth year of my practice, and less than a month before the date on which that practice would formally complete its arc – another journey quietly began. It did not commence in a courtroom. It was not inaugurated through a judicial pronouncement or a legislative enactment. It began with the official launch of the PICS Economy – Pro Bono Social Impact Credits.

It was particularly meaningful that the launch was performed by Justice Kurian Joseph, former Judge of the Supreme Court of India. Throughout his judicial career, Justice Kurian Joseph distinguished himself not only through the quality of

his judgments, but through his unwavering commitment to mediation and consensual dispute resolution. He consistently encouraged dialogue over confrontation, and successfully facilitated settlements in numerous complex disputes – including those most resistant to adjudication, those involving families, where the law can only determine rights but dialogue alone can restore relationships. It was therefore fitting that an initiative seeking to recognise human contribution beyond monetary reward should be inaugurated by a judge who had consistently recognised the value of reconciliation beyond adjudication. Law resolves. Justice transforms. His presence at that launch embodied both.

What gave the occasion its deeper significance was not merely the formal inauguration, but what had already quietly taken shape in the days immediately preceding it. Seven days before the official launch, on 24.06.2026, the beta version of the PICS framework was released – and what it revealed was that the idea had not waited for the ceremony. Nearly a hundred organisations had already registered, drawn not only from India but from across the globe: Argentina, Brazil, Canada, Liberia, Malaysia, Mauritius, Nigeria, the Netherlands, the United Kingdom, and the United States, among many others that continued to join with every passing week. Thousands of volunteers had enrolled. Certificates bearing PICS Credits had been distributed to them in formal recognition of their social contribution – the first time, in an institutional and documented sense, that such contribution had been acknowledged not through salary, not through prize, not through any instrument of the market, but through a dedicated framework whose sole purpose was to say: *what you gave was seen, and what you gave had value.* The idea had moved from inquiry to architecture. The invisible economy had found, at last, the second ledger.

The PICS Economy rests upon a question that is simple in its expression and profound in its implications: *Can human contribution be recognised even when it is not paid?*

For centuries, economic systems have measured wealth through money, property, production, and profit. Yet every civilisation has survived, progressed, and flourished because millions of acts of service were performed without expectation of financial return. Parents raised children. Teachers moulded young minds. Volunteers strengthened communities. Citizens protected the environment. Mediators resolved conflicts. Neighbours cared for one another. Countless individuals preserved trust, compassion, and social harmony – without salary, without equity, without any instrument of the market recording what they had given or to whom. These contributions generated immense value. They remained absent from every measure of the wealth they made possible. Restore the intended sentence from the source manuscript; the present text is corrupted and unintelligible.

During five decades in the legal profession, I encountered this paradox repeatedly and in its most acute form. Courts could determine compensation, quantify damages, value property, and calculate financial loss with remarkable precision. Yet the greatest contributions of the most indispensable human beings remained beyond monetary measurement. The law could acknowledge sacrifice. The economy possessed no structured mechanism to recognise it – and in the absence of recognition, the sacrificers slowly and silently diminished, while those who had learned to convert service into transaction accumulated the rewards that service alone could not command.

PICS is neither a currency nor a financial instrument, nor is it intended to replace money. It is a framework for recognising measurable pro bono social impact – a ledger, at last, for the invisible economy. Every hour devoted to improving another human life, strengthening institutions, protecting nature, resolving disputes, educating society, preserving culture, or building stronger communities deserves acknowledgement. Recognition nurtures dignity. Dignity strengthens civilisation. And civilisation endures, in the final analysis, not because of what it has extracted from the earth or accumulated in its vaults, but because of what its members have given to one another without being required to do so. The philosophy of the PICS Economy is reflected in its motto: *Printed fades. Mined fluctuates. Earned endures.*

Money changes hands. Markets rise and fall. Assets appreciate and depreciate. Genuine contribution, however, remains permanently associated with the individual who created it – beyond ledgers, beyond time, beyond the reach of any tribunal that may one day audit the transactions of a life. Character, trust, and social impact are accumulated one act of service at a time, and they constitute a form of wealth that no financial instrument can replicate and no economic collapse can extinguish.

Looking back across fifty years, I now understand that many chapters of my life which once appeared disconnected were, in truth, preparing me for this inquiry. Litigation taught me the importance of justice. Mediation revealed the transforma-tive power of dialogue. The *Shrimat Bhagwad Gita* taught me the philosophy of selfless action without attachment to its fruits – *nishkaam karm* as the deepest form of engagement available to a conscious human being. The emergence of Artificial Intelligence demonstrated that what was once invisible – contribution unrecorded, service unmeasured, goodness uncounted – can now be measured, authenticated, and recorded with increasing accuracy and institutional legitimacy. Together, these decades of experience revealed the possibility of recognising human contribution in a manner that no previous generation could have imagined, because no previous generation had possessed simultaneously the philosophical

understanding and the technological instrument required to bring it into form.

Perhaps every life carries within it a question that only time can fully unfold. Mine was never merely about winning cases, writing books, or appearing before constitutional courts. It was about discovering whether society could one day evolve a framework that honours contribution beyond commerce and recognises the intrinsic value of service as a civilisational – not merely a personal – good.

Whether the PICS Economy ultimately succeeds or fails in its present form is for future generations to determine. Every transformative idea must withstand the scrutiny of time and the honest examination of those who come after. I have merely planted a seed. Others will nurture it, refine it, reshape it, or perhaps carry it to heights beyond anything I presently envision. If that happens, I shall remain content — for ideas, like trees, are planted by one generation and provide shade to another.

This autobiography does not conclude with an ending. It concludes with a beginning. The law taught me that justice gives society stability. Mediation taught me that dialogue gives humanity peace. The *Shrimat Bhagwad Gita* taught me that detached action gives life meaning. The PICS Economy has taught me that every act of genuine goodness creates value – whether or not the marketplace is yet wise enough to recognise it.

The Mistress gave me fifty years of discipline, structure, and the arena in which to grow. What she ultimately gave – through every case argued, every judgment studied, every client whose trust I carried, every institutional failure I witnessed without retreating from the institution – was the understanding that her deepest purpose always lay beyond herself. Law is the pathway, but justice is the destination. Procedure is the instrument, but truth is the light. The PICS Economy is not a departure from that understanding. It is its most complete expression to date.

The journey from the courtroom to the recognition of human contribution has taken fifty years. The remaining journey belongs not to me, but to humanity.

Inspirational Thoughts

Health enough to make work a pleasure, Wealth enough to support your needs, Strength enough to battle difficulties and overcome them, Patience enough to toil until some good is accomplished, Grace enough to realise your errors and forsake them, Charity enough to see the good in others, Love enough to be useful and helpful to others, Faith enough to make real the things of God, Hope enough to remove all anxious fears concerning the future.

— Johann von Goethe

…

Shri Krishan expounds all possible paths, chapter after chapter… Each chapter is a torchlight. Each is designed to help us find what is true for us — not imposed, not theoretical — but experiential and real. Sanaatan wisdom is not merely rhetoric, logicalising, or dialectics, where the entire effort is to win and establish intellectual superiority. It is all about transmission of and having a cosmic experience. It is about generative dialogue.

Afterword – The Birth of My Love: The Final Chapter

There is a particular quality of light that arrives only at the end of a very long day – not the blaze of noon, which reveals everything in its harshest clarity, nor the golden softening of late afternoon, which flatters what it touches, but the clear, level, shadowless light of the final hour, in which things appear exactly as they are. The articles, addresses, and reflections gathered in this chapter have that quality. They were written and delivered in the first light of the seventy-first year of existence and the fiftieth year of practice – and they carry, each of them, the unmistakable character of arrival.

The Legal Revolution 5.0 launch address of January 2025 is not an argument. It is a completion. The argument had been made across five decades of practice, across nine chapters of this autobiography, across every seminar and blog and address and mediation session and institutional proposal that the preceding years had produced. What the launch address does is name the completion – to say, in the presence of all the dignitories and companions of nearly half a century, that the seed sown by Toffler's observation in 2007 has become a fully articulated vision of what the fifth revolution requires and what it makes possible. The vision is not theoretical. It is operational: Peace Mediation, Online Conflict Resolution, AI as an instrument of transparency and access, the PICS Economy as the architecture of Finance Revolution 5.0. Each of these is a structure. Each is a response. Each is, in the language of the *Bhagwat Gita*, the fruit of *karma* pursued with complete devotion and without attachment to the fruit.

The address are the completion that faces forward – not backward toward what has been built, but forward toward those who will carry it. The choice placed is not between litigation and mediation as procedural alternatives; it is between two philosophies of life. Do you see justice as a battle or a bridge? That question. I have been asking to myself across fifty years of practice. The answer arrived at – not through argument alone but through the lived experience of every chapter from the apprenticeship at Ramamurti & Company to the walking away from the BCCI, from the Sports Act drafting to the Gold Deal, from the SCBA Secretaryship to the EMAC webinar in lockdown – is that justice is a bridge. It has always been a bridge. The adversarial system is the approach road to the bridge, not the bridge itself.

The Malta Declaration of April 2025 is the completion that belongs to the global community of law. Seven principles for the governance of Artificial Intelligence, adopted by the Commonwealth Lawyers Association – principles that Legal Revolution 5.0 had argued. AI will not replace those who uphold the rule of law and deliver justice. It will replace those who fail to do so. And it will replace those who fail to adopt it as a tool in the service of justice. The profession that does not understand this will not survive the fifth revolution. The profession that understands it will be transformed by it.

Shri Krishan as the senior advocate enters into dialogue with. Arjun, as the experienced judge, gripped by futuristic trauma, seeking to adjourn the war. The Bhagwad Gita as spiritual jurisprudence – not metaphysics, not religious observance, but the most complete available map of the advocate's irreducible function: to empower the judge to arrive at the correct decision by his own light, without telling him what to decide, without dominating, without imposing, but through the generative dialogue that illuminates the consciousness from which the right decision becomes the only possible decision. That is the art of advocacy at its highest. And it was the art that was practiced – imperfectly, earnestly, and across five decades of daily application – in every courtroom from New Delhi to Singapore to New York to Allahabad to Zambia and Malta.

The *Guzra Hua Zamana* evening in Jaipur is the completion that belongs simply to the human being. Music as alignment. The *asur* as one without sur, one who has lost the inner tuning that connects existence to harmony. And the advocate who has remained in tune – who has not become the *asur* that the system, at its worst, invites its custodians to become – sitting in the city of his family's legal heritage, in the city where three generations of this family have served the law and its institutions, with a heart that after fifty years remains, against all the evidence of what has been witnessed, undamaged. That undamaged heart is not naivety. It is the fruit of the Gita's teaching: that the one who acts without attachment to the fruit, who gives everything and expects nothing, who serves justice without requiring justice to reward him for the service – that one emerges from fifty years of devotion not diminished but, in the truest sense, free.

The Epilogue, which closes this chapter and this autobiography, is not a conclusion in the conventional sense. It is a reckoning – the clearest, plainest, most direct statement of what fifty years of practice and witness have produced. It names what has been done to the institution by those who inhabited it without honouring it. It names what must be done by those who come next. And it names what was born in the place of what died: not a sentiment, not an aspiration, but a structure – the structure of Peace Mediation, of Finance Revolution 5.0, of the PICS Economy, of Legal Revolution 5.0 – through which Justice may live inde-

pendent of any single courtroom, any single bench, any single generation of advocates.

My Love

Not the Mistress, who demanded everything and could be bent by those with sufficient power and sufficient absence of conscience. Not Law, which can be argued from either side and delivered to whoever argues most effectively or sits most comfortably with those in power. But Justice – which exists as truth, timeless, incorruptible, and absolute; which does not require the cooperation of any institution in order to exist; which only requires that those who come after refuse to make the choices that diminished the institution's custodians.

The journey began on the 01.08.1976, at Gate D of the Supreme Court of India, with a name that nobody knew and a conviction that the law, faithfully served, would deliver justice. It ends on the 31.07.2026, with the same conviction – refined, tested, wounded, and deepened into the understanding that the law, faithfully served, can only point toward justice, and that Justice itself must be built, structure by structure, dialogue by dialogue, resolved conflict by conflict, in the spaces that Law creates and in the spaces that Law cannot reach.

The Mistress has served her purpose. She gave, across fifty years, the tools, the training, the discipline, the arena, and – most crucially – the evidence. Evidence of what justice requires, of how far Law falls short of it, and of what must be built in the space between the two. That space is the work of the years to come. The date of 31.07.2026 is not arbitrary. It is the fiftieth anniversary, to the month, of the 01.081976. Half a century. A complete arc. And on the other side of it – not an ending, for there are no endings in a life devoted to justice, only transitions – the first day of whatever comes next.

The Mistress is gone. The Love is alive. The conflict-free society remains to be built. And it will be built – note by note, *shlok* by *shlok*, mediation session by mediation session, PICS credit by PICS credit, young advocate by young advocate – by those who understand that law is not a destination one arrives at. It is a direction one chooses, every day, with everything one has towards Justice.

That is the final learning. It is also its first. It was always its only one.

Epilogue

What people call "system failure" never comforted me. I could never accept something so vague; it was an anathema to my understanding. It is far too easy a phrase – an abstraction that blurs faces, dilutes responsibility, and numbs the conscience. Over the years, it became increasingly clear to me that there is no such thing as a system failing on its own. A system is nothing but the sum total of its custodians and stakeholders. When they falter together, it is not failure – it is abandonment; not natural, but man-made. And abandonment, unlike failure, is a choice.

In the grand architecture of law, each stakeholder is entrusted with a sacred role: the judge, the advocate, the registry and when they start failing, what follows is not accountability, but a relentless game of blame – each pointing at the other, while the litigant, the ordinary human being who entered the system in good faith, walks away financially exhausted, emotionally shattered, and without the energy or the means to seek further redress. That departure – silent, unremarked, and repeated millions of times – is the truest measure of institutional decay.

From the very first encounter – through the early, almost sacred phase of my courtship with her, and for many years thereafter – I believed, understood, and felt her presence in that exalted way. I beheld in my Mistress a near-divine form, embodying the potential for human *nirvaan*. I did not merely practise law; I was devoted to her. In her, I saw promise, discipline, and a pathway to justice itself. To her, I gave everything within my command – my time, my energy, my intellect, and, in many ways, my very being. I believed she was the destination. I believed she was among the finest creations of human civilisation.

Love, when it is deep, all-pervasive, and enduring, ultimately demands integrity, dignity, and uncompromising honesty. There came a moment – not sudden, not dramatic, but quiet and irreversible – when I began to see her differently. I realised that she was no longer held in the sanctity I had once believed in. Those entrusted with her had, in subtle and varied ways, begun to possess her rather than serve through her. She was being negotiated, interpreted, bent, and, at times, fragmented – not always by great acts of visible corruption, but by the accumulated weight of small surrenders: a bench-hunted matter here, an unspoken understanding there, a junior promoted not for excellence but for lineage or caste or chamber connection, a judgment delivered without eye contact, its true reasons

veiled perhaps even from the conscience of the one dictating it. What I had revered as sacred had, in places, become transactional. That realisation did not anger me; it wounded me. And the scars of those wounds – of a warrior of light who chose to remain and to witness rather than to retreat – have endured far longer than I had imagined.

For me, this was not a professional disappointment; it was a personal bereavement – the grief of witnessing something I had loved for a lifetime slowly lose its essence. I could feel the sand slipping through my fingers, even as I remained, at times, a silent and restrained observer. It was the painful recognition that what I had served with such devotion was not held in the same spirit by others – many who neither cared for her sanctity nor served her purpose, but reduced her to an instrument of self-glorification, a stepping stone for personal advancement, and, at times, a means for the pursuit of wealth. And in that pain, something within me began to shift.

I came to understand that beyond her lay something far more enduring – something that could neither be diluted nor delayed, neither distorted nor denied by human hands: justice in its purest sense. Not the justice contingent upon procedure, not the justice that depends upon which advocate stands on which side or which bench a matter finds itself before, but the justice that exists as truth – timeless, incorruptible, and absolute. I realised that when law, constrained by its limitations and eroded by the intellectual and moral bankruptcy of its stakeholders, ceases to serve justice, it loses its living essence. In that moment, the law, as I had known and revered it, stood before me as diminished – no longer the vibrant force I had loved, but a form emptied of its spirit.

That was the moment of her death — not a death of destruction, but a death of illusion. And in that very moment, something else was born.

My Love

A love no longer confined to prescribed technicalities or transient forms, nor subject to human idiosyncrasies, but aligned with the deeper essence of Justice and equality – one that recognises diversity, honours it, and advances inclusiveness through understanding, not imposition. A love that does not depend upon institutions for its existence but finds expression through them when they are worthy – and transcends them when they are not.

And here I must speak plainly – not in anger or frustration, for as a *Drishta*, I never felt anger; every event is an event bound by time and space, liable to change in every moment, arising from its own causes and dissolving into its own consequences. What I carry is not grievance, but clarity – the clarity that fifty

years of devotion, witness, and its eventual reckoning have made possible – and it is in that clarity, and that clarity alone, that I speak to those within the institution who chose possession over service.

To the judge who allowed a personal equation, a caste affinity, a chamber lineage, or an invisible compact with an advocate to colour the colour of justice delivered: you sat in the temple, entrusted with the authority of the Constitution, and you crossed the *Laxman Rekha*. You did not merely wrong the advocate before you. You wronged the litigant behind him – a human being who had spent his entire savings and sometime mortgaged his family's property, his dignity, and health to reach that courtroom. He did not know why the tsunami struck. He will never know. That unknowing is the cruellest part of what you chose.

To the advocate who became a broker rather than a warrior of light – who used his proximity to power to sell assurances rather than to argue principles, who promoted a junior because he belonged to the right caste or the right chamber rather than because he had earned the right through diligence and integrity: you narrowed the profession and you dishonoured its calling. The profession's dignity is not an abstraction; it is the daily lived experience of every conscientious advocate who still enters court believing that preparation, principle, and honest argument are enough. Every time you demonstrated otherwise, you made that belief a little harder to sustain.

To both: the institution you shaped in your own diminished image will outlast you. What you built into it – the habits, the dependencies, the invisible compacts – will take generations to dismantle. But it will be dismantled. Because justice, as I have come to understand it, does not require your cooperation in order to exist. It only requires that those who come after you refuse to make the same choices.

It is at this threshold that the role of civil society and the common man assumes its true meaning. It is here that democracy reveals its truest character – not merely as a structure of the people, or by the people, but as a living force for the people. When institutions falter, society cannot retreat into helplessness. It cannot bury suffering under silence, nor seek refuge in the convenient abstractions of destiny or "system failure." Civil society is not external to the system – it is its very essence, the reason for which the system exists and survives.

When formal structures weaken, it is the moral force of society that must rise – not as a chorus of complaint, but as a quiet, uncompromising assertion of values. Justice does not revive by decree; it is restored when individuals refuse to surrender their clarity of right and wrong to the convenience of decay. In such moments, the enduring wisdom of the *Shrimat Bhagwad Gita* acquires renewed urgency –

"Yada yada hi dharmasya glnir bhavati Bhaarata, abhyutthaanam adharmasya tadatmanam srjamyaham"

Not as a promise of divine rescue from without, but as a call to awakened consciousness from within. The renewal that the verse announces is not the arrival of an external saviour; it is the awakening of those who still carry clarity in themselves and possess the courage to act upon it. For when institutions grow inert, confined within their own frameworks and the comfort of the *status quo*, renewal does not emerge from within their stagnation. It arises from minds that still think clearly, from consciences that still refuse compromise, and from leadership that possesses the courage to convert moral conviction into political will.

And to the young advocate reading this – you who are perhaps in your first or second year at the Bar, who entered the profession with the same devotion I carried in that attaché case on the 01.08.1976 – I say this directly: do not allow what you see to become what you do. The disillusionment will come; I will not insult you by pretending otherwise. You will see matters decided for reasons that have nothing to do with the submissions made. You will feel the injustice of it in a way that is physical, not merely intellectual. That feeling is correct. Do not suppress it, and do not surrender to it. Use it. Let it be the measure against which you hold every choice of your own professional life. The institution needs you to remain a warrior of light precisely because others have chosen to become something less. Your integrity is not only a personal virtue; it is a structural necessity.

The answer, therefore, does not lie in the destruction of what has become obsolete – for destruction alone leaves a vacuum, and there is no vacuum in nature. The answer lies in the disciplined creation of a consistent, radical alternative – one that is not reactionary, but principled; not episodic, but enduring. It is built not on the rejection of the old, but on the affirmation of what is right. For systems do not collapse merely because they fail, but because something truer has not been allowed to be built to replace them. And it is in that act of creation – clear in thought, firm in purpose, and unwavering in integrity – that My Love – Justice – ceases to remain an abstraction and incarnates into lived reality, shaping institutions in its own image.

Justice is not the exclusive domain of courts and codes. It finds its true life in human conduct – in generative dialogue, in peace mediation, in service free from exploitation, in transparency and accountability. It is measured not merely in judgements delivered without delay, but in conflicts resolved, dignity preserved, and harmony restored. I was, therefore, not disillusioned in my journey; yet I carried a pain that touched the deepest layers of my being – intensified as I heard, first as murmurs, then as voices, and now as a refrain on every street: that while corruption may be tolerated or rationalised in politics, bureaucracy, or commerce,

the very suggestion of its presence within the judiciary is experienced as a profound breach of trust – something society finds difficult, if not impossible, to accept. And rightly so.

For the court is the last room a citizen enters when every other door has closed. If that room, too, is governed by invisible compacts rather than by principle, there is nowhere left to go. That is not merely an institutional failure. It is a civilisational one.

It was this very pain that compelled me, at every moment of my existence, to look beyond what was and to imagine what could be. I made earnest efforts to contribute my little – not even the tip of an iceberg, but perhaps a speck of dust in a vast desert.

For it became imperative to seek ways in which justice could be lived, not merely litigated; to recognise and honour the invisible contributions that sustain society – the quiet acts of service that seldom find expression in the language of law, yet form the very foundation of justice itself. Above all, it became essential that judges, advocates, and all stakeholders in the justice system could hold their heads high – before themselves, their families, and society at large – and experience the quiet fulfilment, the inner bliss, of being true participants in the delivery of justice.

For that inner bliss – that sense of having served the highest purpose of one's calling – is not a reward that any external authority can grant or withhold. It is the natural fruit of a life lived in alignment with the principle one entered the profession to serve. Those who chose otherwise forfeited it. It cannot be recovered by designation, by elevation, or by the passage of time.

The ideas I have explored – the vision of peace mediation as a pathway to justice, the use of Artificial Intelligence as an enabling instrument of transparency and access, the recognition of human service as measurable value, and the emergence of an economy of conscience through Finance Revolution 5.0 – are not abstractions. They are responses: responses born of a wound that was deeply personal, and therefore profoundly real. They are the answer a practitioner of fifty years gives to a system that revealed itself to him – not to condemn it, but to move beyond it toward something that serves the human being more fully, more honestly, and more lastingly.

I no longer ask, *"Why has the system failed?"*

I ask, *"What must I create so that justice does not depend on the system alone?"*

For, in the end, the system did not fail me – it revealed itself to me. And in that revelation, it set me free: free from the confines of form, from the illusion of permanence, and from the belief that justice could ever be wholly contained within

the boundaries of courts and law.

I began my journey in the service of my Mistress. I complete it in the service of my Love.

Law is the pathway – but justice is the destination. Procedure is the instrument – but truth is the light. And when truth awakens, it does not seek permission to exist.

31.07.2026

Om purnamadah purnamidam purnat purnamudachyate /
Purnasya purnamadaya purnamevavashishyate

That is a whole; this is a whole; the whole is the manifestation of the whole.

When the whole is negated from the whole, what remains is the whole.

Ishaavaasye Upanishad

"My friends, if incidentally you are remembering me,
You must only have good memories of me, as a friend.
And whenever you take a nice, joyous drink,
Remembering me, just empty the drink for me."
Omar Khayyam Rubaaiyaan (75)

Annexure 1

Our Mistress, the Law

Mr. Chairman and Gentlemen of the Bar,

The Court and the Bar are too old acquaintances to speak much to each other of themselves, or of their mutual relations. I hope I may say we are too old friends to need to do it. If you did not believe it already, it would be useless for me to affirm that, in the judges' half of our common work, the will at least is not wanting to do every duty of their noble office; that every interest, every faculty, every energy, almost every waking hour, is filled with their work; that they give their lives to it, more than which they cannot do. But if not of the Bench, shall I speak of the Bar? Shall I ask what a court would be, unaided? The law is made by the bar, even more than by the Bench; yet do I need to speak the learning and the varied gifts that have given the Bar of this State a reputation throughout the domain of the whole common law? I think I need not, nor of its high and scrupulous honour. The world has its fling at lawyers sometimes, but its denial is an admission. It feels, what I believe to be the equity, equality, that of all secular professions, this has the highest standards.

And what a profession it is! No doubt everything is interesting when it is understood and seen in its connection with the rest of things. Every calling is great when greatly pursued. But what other gives such scope to realise the spontaneous energy of one's soul? In what other does one plunge so deep in the streams of life – so share its passions, its battles, its despair, its triumphs, both as witness and actor?

But that is not all. What a subject is this in which we are united, this abstraction called Law, wherein, as in a magic mirror, we see reflected, not only our own lives, but the lives of all men that have been! When I think on this majestic theme, my eyes dazzle. If we are to speak of the law as our mistress, we who are here to know that she is a mistress only to be wooed with sustained and lonely passion – only to be won by straining all the faculties by which man is likest to God. Those who, having begun the pursuit, turn away uncharmed, do so either because they have not been vouchsafed the sight of her divine figure, or because, they have not the heart for so great a struggle.

To the lover of law, how small a thing seems the novelists' tales of loves and fates of Daphnis and Chloe! How pale a phantom even the Circe of poetry, trans-

forming mankind with intoxicating dreams of fiery ether, and the foam of summer seas, and glowing greensward, and the white arms of women! For him, no less a history will suffice than that of the moral life of this race. For him, every text that he deciphers, every doubt that he resolves, adds a new feature to the unfolding panorama of man's destiny upon this earth. Nor will his task be done until, by the farthest stretch of human imagination, he has seen as with his eyes the birth and growth of society, and by the farthest stretch of reason, he has understood the philosophy of its being. When I think thus of law, I see a princess mightier than she who once wrought at Bayeux, eternally weaving into her web dim figure of the ever-lengthening past – figures too dim to be noticed by the idle, too symbolic to be interpreted except by her pupils, but to the discerning eye disclosing every painful step and every world-shaking contest by which mankind has worked and fought its way from savage isolation to organic social life.

But we who are here know that the law even better in another aspect. We see her daily, not as anthropologists, not as students and philosophers, but as actors in a drama of which she is the providence and overruling power. When I think of Law as we know her in the courthouse and the market, she seems to me a woman sitting by the wayside, beneath whose overshadowing hood every man shall see the countenance of his deserts or needs. The timid and overborne gain heart from her protecting smile. Fair combatants, manfully standing to their rights, see her keeping the lists with the stern and discriminating eye of even justice. The wretch who has defied her most sacred commands and has thought to creep through ways where she was not, finds that his path ends with her, and beholds beneath her hood the inexorable face of death.

Gentlemen, I shall say no more. This is not the moment disquisitions. But for the first time I was called to speak on such an occasion as this, the only thought that could come into my mind, the only feeling that could fill my heart, the only words that could spring to my lips, where a hymn to her in whose name we are met here to-night – to our mistress, the Law.

*'The Law', Suffolk Bar Association Dinner, February 5, 1885

Annexure 2

This letter is reproduced not as endorsement but as a historical marker of a phase in my professional journey. Certain documents belong not to memory alone but to the institutional conversations that shape a life in law.

E. S. Venkataramiah
Chief Justice of India

Supreme Court of India
New Delhi

28th August, 1989

Dear Mr. Gupta,

I thank you for your letter dated the 14th August, 1989 requesting me to release the software on Indian Laws processed by the Law Information Centre in the Indian Law Institute on 14th September, 1989 at 4.10 P.M. I gladly accept your invitation.

With warm regards,

Yours sincerely,

(E.S. Venkataramiah)

Mr. Aruneshwar Gupta,
Hon. Co-Ordinator,
Law Information Centre, India,
B-20, Greater Kailash,
Part I,
NEW DELHI - 110 048.

"Shri Aruneshwar has done a splendid job in conveying the essential message of the Bhagwad Geeta in eminently readable prose. I enjoyed reading the elegant presentation. The readers will also be amply rewarded".

Justice M.N. Venkatachaliah
Former Chief Justice of India
Foreword – Shrimat Bhagwad Geeta - A Lawyers Perception (Second Edition – 2013)

"It might surprise some that a practical lawyer has devotedly concentrated on translating the essence of various chapters of Bhagwad Geeta with the purpose to help the "perception of the conflicts and resolve them… For his work, Shri Aruneshwar Gupta deserves appreciation. His dedication, devotion and surrender to the divinity are manifest in the expression…"

Justice Dipak Misra
Former Chief Justice of India
Foreword – Shrimat Bhagwad Geeta - A Lawyers Perception (Third Edition – 2016)

"Finally, books like this are not written by the drives of lesser invitations of the mind, adding another page of narrations to lie as decorative coffee table readings. The innermost persuasions are treasures of one's self and the products are of sharing and compassion. I consider the book as one such persuasion and I am humbled to commend is as our mobile companion"

Mr. R. Venkataramani
Attorney General for India
Message from a Fellow Traveler
– Shrimat Bhagwad Geeta - A Lawyers Perception (Fourth Edition – 2023)

"For those who seek to understand the past, navigate the present, and shape the future of law, this book is an indispensable guide. It is with great admiration and respect that I command this ground-breaking work, and its author, whose ingenuity and foresight will undoubtedly leave a indelible work on the legal and intellectual landscape"

Justice Rajesh Bindal
Former Judge Supreme Court of India
Foreword – Legal Revolution 5.0 – 2025

"The book is a minefield of provocative thinking and an unputdownable vade mecum once one is seized by it. It is invigorating and bound to offer abundant food for thought, with ample intellectual stimulation to consume. The writing is so inspirational that it endures for its clarity, bringing home the truism that there lies a greater truth beyond merely asserting the long professional experience should not be lightly questioned. Aruneshwar Gupta challenges this traditional complacency with his thought-provoking salvos"

Justice A.H.M.D. Nawaz
Judge, Supreme Court of Sri Lanka
Foreword – Legal Revolution 5.0 – 2025

"Gupta's work announces not merely the arrival of a new financial model but the emergence of a new civilization metric, one the allows humanity to quantify not just what it produces, but who it becomes. This book deserves to be read globally, debated seriously and implemented boldly. It carries the quiet confidence of a stateman and the long-vision of someone who knows that revolutions are born when societies finally begin to see what they had always overlooked. It is unmistakably, a blue print for the future"

Justice Uday U. Lalit
Former Chief Justice of India
Foreword – Dawn of the Finance Revolution 5.0 – 2026

"What has been presented is not a dogma, but an open blue print – intended for the debate, testing, and refinement. It is a clarion call to restore the balance be celebrating bot just what shines, but what sustains; not just what is counted, but what counts… Aruneshwar Gupta has attempted to give voice to the silent; and has fittingly demonstrated what an intuitive mind could produce"

Justice Dinesh Maheshwari
Former Judge Supreme Court of India
Chairperson, Law commission of India
Afterword – Dawn of the Finance Revolution 5.0 - 2026

₹1495

LAW & JUSTICE PUBLISHING CO

CODE B

ISBN 978-81-69453-21-9

9 788169 453219

www.lawjusticepublishing.com