

Inaugural Address

By Rashtrapati Dr. Sarvapalli Radhakrishnan President of India

On the occasion of the Inaugural Ceremony of the Centenary Celebrations of the Allahabad High Court) on November 25, 1966

Friends,

I am happy to be here and take part in your rejoicings on the completion of a hundred years of useful existence of this High Court. In fact, I have no claims to be here. I am a mere layman and not in any . J> sense acquainted with the subtleties of law. But, I do have to consult some lawyers on some law points, when I receive mercy petitions which I have to consider. That is one relationship which I happen to possess with law and lawyers. That this is a notable event, a historic occasion, as your Chief Justice has remarked, is evident from the fact that the representatives of the legal profession also from other countries are here to honour us. We are indebted to them all and we expect that they will all have a pleasant and useful time while they stay in this country.

You find that this institution has grown from being a part of the Fort William Presidency, and gradually it has come to occupy the position it does today. The Judges and the lawyers who belong to this Court made valuable contributions to the growth of law and politics. Many of them were, what we call, lawyer-statesmen. The names of Motilal Nehru, Madan Mohan Malaviya, Sunder Lal, Tej Bahadur Sapru and Jawaharlal Nehru have already been mentioned by the Chief Justice. They were all men who were not merely eminent in law but took part in the political life of our country and made invaluable contributions to the attainment of freedom which we all enjoy today. So their names will have to be remembered on an occasion like this.

Law has been ever-growing. It is not a thing which stands still. It is not an end in itself. Take our own Hindu Law. What has happened to the forms of adoption and the types of marriage which we had? They have practically faded out and another kind of law has taken the place of both adoption and marriage laws. This is a thing which happens not merely in law but even in religious forms. There was a huge controversy in our country once between those who believed in Yajna, Karma, etc., and those who affirmed the superiority of spiritual wisdom and enlightenment. That controversy was decided by a reference to a lady arbitrator. Mandan Mishra was performing a Yajna when Shankaracharya appeared. Having seen Shankaracharya there in his robes of a Sanyasi, Mandan Mishra said, "Why have you come to disturb the great Yajna which I am today performing"?

[Sanskrit Slok]

When the matter became one of hot controversy and Mandan Mishra's wife, Bharati, was asked to arbitrate between these two, I now want to tell you how she arbitrated. With purity, detachment, objectivity, dispassion, complete freedom from partisanship with her husband's case, she gave judgment against her husband. 'Of course, spiritual wisdom is superior to mere performance of rites': that is what Bharati said. She gave us an ideal of a good judge, of a good arbitrator. Her relationship with her husband did not count. The fact that she was to arbitrate between these two great people did not count. Pure objectivity and fidelity to truth: these were the only things which weighed with her and she gave the judgment in favour of Shankaracharya, with the result that Mandan Mishra became his disciple, became a Sanyasi, Sureshwaracharya, the first disciple of Shankaracharya, who held his Math in Sringeri. You see there how things have moved. You see there also how a woman, who was asked to give an award on such a controversy, behaved. We hear now-a-days all sorts of talk about 'convicting judges', 'acquitting judges', 'talking judges', 'silent judges', etc. But there was no such thing at all with Bharati. She merely threw herself into the task, studied what the truth was and said, "This is my judgment, Shankaracharya is right, Mandan Mishra is wrong". This is how she put it. Law is a thing which is perpetually moving, which should respond to the temper, to the traditional patterns as~well as to the modern tendencies and challenges which face us. All these things will have to be taken into account in judging law. What is the kind of life which we wish to lead? What does law say? Law has an end in view, the welfare of all people. It is not the welfare of the rich or the we ll-born but the welfare of every citizen of this country. That is what law aims at and tries to fulfil.

When I heard my friend, the Chief Justice, talk about the glories of Allahabad from ancient times, I was reminded of a verse which says: 'Do not talk to me about ancient glories. Let me know what you are at present doing.' It is not necessary for us to take pride in our past. There is a Negro spiritual which says about Jesus's death, "Were you there when they crucified my Lord? Were you there when they laid him in the tomb? " I was at Salt Lake City when this hymn was sung and the head of the Norman Church there asked me to say a few words. I said, "Why are you raising these hypothetical questions whether you were there two thousand years ago or not? The problem is what are you doing today. You are crucifying the Lord today, at the altar of racial bigotry, national egotism, etc. What i~ the fun of merely talking about what happened two thousand years ago?" That is what I remember to have said.

Dhritarashtra, who went to Vidura, said:

[Sanskrit Slok]

(People like you who have sense of values, who believe in the Providential government of the Universe, what you do will make a sacred place more sacred and not what happened some years ago.) So we must make our courts and institutions proper arbiters of the relations between man and man, between the citizen and the State. If there is to be an end, a goal for our law, that end has been beautifully described in the preamble to our Constitution: Justice, Liberty, Equality, Fraternity:

Justice not to be purchased, not to be got by hook or by crook, but impartial justice given to us by people who

are wedded to justice and who will interpret the law so that real justice may be there. Justice should be immanent in every kind of law, otherwise it is not true justice. Any kind of law which voices the will of the strong prevailed long long ago. That is not law. Justice must cater to the needs of all the individuals, of the citizens and the social welfare and it must be able to give proper judgment on controversies between citizen and citizen, between citizen and State, and between the State and the Union itself, as my friend the Chief Justice of India has said. That is the kind of Justice which we have to bring about.

Liberty is a famous concept. No two people are alike; one prefers rubies, another prefers diamonds, a third prefers pearls. We must tolerate. Any society which tolerates differences is capable of defending itself Any society which puts down differences-nobody can save such an institution. It becomes fanatic and fascist in its character. When we say that, so far as forms of religion are concerned, we tolerate everything, it must not be merely a kind of negative toleration; but it must be a positive appreciation of the values which different religions contain in themselves. We have got it. Whatever name we may adopt, whatever form of prayer [Sanskrit Slok] we may say, if it is earnestly intended, sincerely felt, it reaches the Ultimate Supreme [Sanskrit Slok] and that is what liberty truly means. Liberty does not mean license. It is not merely the assertion of rights and the denial of obligations, as our friend, the Governor, has just put it to you. You must know not merely the rights but the obligations also, which you have.

If you overlook the obligations, your liberty becomes merely a license. Therefore, it is this kind of liberty we want to be safeguarded in this country. Liberty must be preserved for everyone. Whatever he may do, so long as it is not repugnant to the moral sense of the community and to the general welfare of the people, so long as it is there, liberty will have to be preserved by us.

Equality is a concept which is coming up now. People, who have vested interest, will always protest against any tendency to equalise. Others will say, "Why, why should everybody not have the same privileges Why should not the law protect every citizen -" The law which is administered to every citizen must not be inferior to the law which we administer to the highest in the land. The same kind of Law must respect both. Law should not be a respecter of persons. It must take every individual for what he is worth. As the seed, so to say, of the political, spiritual and moral authority, it is the individual who must be regarded as the supreme end and not the society or the State. These things may be there; but the real point of equality is that the conditions of life must be such that it will be possible for every individual to develop his own character, his own talents. All these things we must be capable of developing; otherwise our 'equality' is merely inequality. There are others who say, 'Inequality is the law of nature. We cannot equalise all people. They are born with different talents and different aptitudes.' But what 'equality' says is that the law must provide equal opportunities for all. It does not say that we must make all into one.

When we have 'fraternity', fellow-feeling, we should not only have people belonging to different castes, different communities, etc., but have that basic feeling of charity which binds all individuals together-the development of . that feeling, that is the co-operative spirit which we are called upon to imbibe. It is not easy for us to judge our own national conduct or ethical standards. We always say a nation has no ethos. It has only interests. We can only judge our nation by the way in which a particular course of conduct subserves its interest or does not subserve its interest. But that kind of idea must be given up. We must bring a kind of supplement of peace under the rule of law. All nations must be subjected to this criterion of law. What we try to bring about within our own country we should try to bring about throughout the world. That is what we are aiming at. Fraternity means that kind of co-operative union of nations where nations will preserve their variety, their individuality, their distinctiveness, and yet serve the interest of the whole. It is that kind of fraternity we are insisting on. These obligations that we should have are enunciated in the Preamble to our Constitution. It is the concept of a good life; the good life is a just life, is a life which tolerates differences, is a life where everybody has got a chance of growing to his highest stature. It is a life where we look upon our own nation as one among many nations, as one which has to serve the community of nations.

These are the ideals that have been set down in our Constitution, and the people talk about it, speak about it, read about it. It is that Constitution with all its implications of the four conditions given in the Preamble. It is that people should understand and practise to the best of their ability in their daily life. If we do that, we will be good citizens of this land. If people lose respect for Law and respect for the courts which administer law, it will be a bad day for us. It is essential for the country to respect law, for the Government of the country to respect law and for the courts to maintain the sanctity and purity of legal administration and dispensation of justice. That is absolutely necessary, if the rule of law has to be continued in this country as it has to be continued.

When we look at all the things that are happening, the way in which for frivolous reasons, law is being violated and people expect, when there is violation of law, there should not be the assertion of the majesty of law. In other words, anybody who violates law must be punished. That is the meaning of Civil Disobedience which Gandhi ji started. He violated laws but submitted himself to the penalties which law imposed on him. He never tried to escape from those penalties. That is what we should do. If that happens, if our people develop respect for law and if our courts administer law without ill-will, malice, prejudice or favour, there will be growth in the tendency to respect law.

I am glad to be here and note that you have succeeded in completing a hundred years of useful life; and I want you in the next century to go forward developing your traditions and enhancing them to the best of your ability.