

Speech

By Mr. Biswanath Das,

Governor of Uttar Pradesh

Delivered on November 25, 1966, on the occasion of the Inaugural Ceremony

Mr. President, distinguished guests and friends-

1. It is a pleasure and privilege to be here today to celebrate the first Centenary of the Allahabad High Court having its jurisdiction all over the State of Uttar Pradesh. Though a constituent State of India, our State, in point of population, holds the 9th place in the world. Allahabad High Court is the biggest High Court in India--with 39 Judges including the Chief Justice, and is one of the biggest High Courts of the world-if not the biggest.

2. In course of the century, this High Court had, to its credit, eminent jurists as Judges, who always tried to give a proper direction to law and moulded legal thought, with their learned interpretations. The High Court Bar is equally a Bar with traditions of learning, culture, devotion and dedication, with jurists and lawyers of eminence and stature. With such favourable circumstances, in Uttar Pradesh and in other States, our Constitution-makers were emboldened to enshrine in the Indian Constitution the Rule of Law to be the prevailing order in India for all times to come.

3. Fundamental Rights- The preamble of our Constitution presupposes our traditional notions and faith in India's basic stand of Kartavya-Duties and Responsibilities of the citizen-while Fundamental Rights are embodied in the Constitution ensuring them social, economic and political justice, as also liberty of expression, equality of status and opportunities for all, assuring the dignity of the individual and unity of the Nation. The Constitution-framers vested authority in the Supreme Court of India for the enforcement of these Rights guaranteed to the citizen under the Constitution. The Supreme Court, as also the High Courts, have, therefore, the authority to issue directions, orders or writs for the enforcement of Fundamental Rights of the citizen.

Our Constitution, in its operation with its Fundamental Rights has brought about a tremendous change in the thought and action of the citizens of the Union. The Supreme Court and the High Courts, with their learned interpretations, have expanded the scope and operation of these Fundamental Rights in directions more than one-in a manner commendable.

4. Indian Traditions and Interpretations of Law-Courts in India have always been the Courts of equity, justice and good conscience. These were kept up as the accepted principles during the British rule. Article 225 of the Constitution clarifies this further that 'the jurisdiction of, and the laws administered in, any existing High Court and the respective powers of the Judges thereof: in relation to the administration of Justice in the Court . . . shall be the same as immediately before the commencement of this Constitution.' Article 142 (i) further throws light and lustre in this direction and vests authority 'to pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.' The expression 'complete justice', I believe, is a further clarification of the fact that our Courts are not merely Courts of Law, but also Courts of equity and good conscience. Customs and traditions of this country have always been important sources of Law, for Indian society is a living organism. Like a living tissue it grows. As such, it is dynamic. Interpretation of Fundamental Rights, without the necessary traditional background, makes Law lifeless and static. Static Law could hardly serve a dynamic society with its lifeless interpretations. A legalistic interpretation of our Fundamental Rights divorced of our traditional background could hardly meet the needs of a growing Society with all its dynamism.

5. Indian Customs and Traditions-Indian traditions, culture, Smritis, Puranams, Itihas and all Shastras never failed to emphasise on our basic notion of Kartavya-Duties and Responsibilities-of the individual citizen. Ancient Indian thought and notion regarded one's own Kartavya as the fountain source from which the notion of right is merely regarded as a flow. If the fountain source dries up, the flow ceases to exist. Ancient Indian society, very wisely, therefore, lays all emphasis on the same, with the feeling that the existence of the basic source is the surest guarantee of the flow arising out of it. Again, if duties are regarded as morally incumbent on the citizen, apart from his likes and dislikes or external compulsion, it generates the root idea of obligation to serve and give something in return-a conception based on social, cultural and devotional aspects of man--as a reflex of Society. This enlightened eternal social concept is based on the need of a two-way traffic: "Give and Take", so aptly expressed in our traditional concept of Adan and Pradan. To neglect or bypass this eternal and accepted concept is to deny the social existence, its relationship and outlook of life and living of India. Need I, therefore, appeal to the galaxy of jurists to consider that our Fundamental rights might be interpreted keeping in the background their inseparable concomitance of Kartavya-namely, the performance of individual duties and responsibilities that by notion, tradition and custom, man is bound to perform before claiming for a right, and more so a fundamental right. This is because there cannot be any rights without corresponding duties and responsibilities. Be it noted that Chapter X of the Constitution of the U. S. S. R. recognizes the benefits of our traditional notion of Kartavya Duties and responsibilities-naming Chapter X not only as a Chapter for Fundamental Rights but also for Fundamental Duties of the citizens.

The preamble of our Constitution also underlines the notions of Kartavya-Duties and Responsibilities-of the citizen. It is our wish and hope that the Judge-made law should reflect this undoubted traditional basic Indian notion by recognizing the well-accepted principles of Adan and Pradan and keeping in view Chapter X of the U. S. S. R. constitution the Chapter on Fundamental Rights and Duties of the citizen. Learned, scholarly and judicious interpretations, with the necessary background of Kartavya, do enhance the reputation of courts by expanding the scope of our Constitutional law, making judicial interpretations an undoubted symbol and a harmonising factor of rights and responsibilities.