Hon. Shri. Soli J. Sorabjee
Attomey General Of India
February, 1999

Hon'ble Chancellor of the University, Vice-Chancellor Prof. D. N. Dhanagare, distinguished members of the Management Council and Academic Council and Faculty of the University, staff of the University, young students of the University who are graduating today, distinguished guests, ladies and gentlemen.

I am deeply thankful for the invitation extended to me by the Shivaji University to address the thirty-fifth Annual Convocation of this great University. I consider it a privilege and feel greatly honoured for the invitation to give the Convocation address.

Maharashtra is no stranger to me. I have lived the better part of my life in Bombay where I still have a home. My most favourite hill stations are Matheran and Mahabaleshwar where I have a country home. I am in every sense a Maharashtrian even though I speak Marathi with a Bombay Parsi accent. From my younger days Shivaji has been my hero and I keenly looked forward to and immensely enjoyed the

visits to Pratapgarh fort and its surroundings which never failed to inspire me and reminded me of the brave deeds, the wise statesmanship and the spirit of tolerance of Shivaji Maharaj.

May I extend my congratulations and best wishes to those students who are graduating put today from the halls of this University. I have no doubt that the training they have received and the traditions they have imbibed in this University will serve them well in facing the challenges of life hereafter.

Preservation of democracy and democratic values and protection and promotion of human rights are matters with which every one of us is or should be concerned. It is a legitimate pride of every Indian that despite the trials, turmoils and tribulations which our nation has undergone, democracy, rule of law and respect for human rights are preserved and respected in our country. The topic of my address is :

The Role of Lawyers and the Judiciary in Upholding The Constitution, Democracy and Human Rights

The perennial problems of orderly government were perceptively discerned two centuries ago by Madison, one of the Founding Fathers of the American

Constitution. He stated in the Federalist :

"In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself".

Over the years, experience has demonstrated that governments are not obliging and do not control themselves. The 'great difficulty' mentioned by Madison confronts our country in a large measure as we strive to ensure fundamental freedoms and elementary decencies to our citizens whilst respecting the Rule of Law and the independence of the judiciary.

Despite the law's horrendous delays and a multitude of deficiencies which plague the Indian leagal system, it is heartening that the public still retains confidence in the judiciary. It is to the judiciary that the citizen turns for protection from legislative excesses and executive abuses and for vindication of his or her rights against the State.

An independent judiciary is one of the pillars of our constitutional edifice and is indispensable to a democracy. It is a constitutional and moral imperative for the protection of the human rights of the citizens, for maintenance of the Rule of Law and for preservation of democratic values. And the essence of independence of judges is that in adjudication of disputes between citizens and between citizens and the State judges must act impartially and be free from pressure or influence of any kind and emanating from any source.

What kind of persons did our Founding Fathers visualise for the high judicial office? Nehru spoke for all when he said : "Judges should be not only first - rate but should be acknowledged to be first - rate in the country, and of the highest integrity, if necessary, people who can stand upagainst the executive government, and whoever may come in their way".

In order to ensure the independence of the higher judiciary our Constitution provides for security of tenure, namely 62 years in the case of a High Court judge and 65 in the case t>f a Supreme Court judge. Judges cannot be removed at the pleasure of the executive but only by the procedure provided in the Constitution which is popularly called the process of impeachment [see Article 124 (4)]. The remuneration of the judges is guaranteed by the Constitution and cannot be altered by the government of the day except by a constitutional amendment. These are the main bulwarks to insulate judges from executive pressure and to

relieve them from being dependent on the government.

But executive influences operate in a variety of subtle ways. For example, the prospect of appointment after retirement to some statutory body or council or commission, and sometimes the prospect of a gubernatorial office.

It is my view that Supreme Court and High Court judges after retirement should not be given any assignment nor appointed to any body or tribunal subordinate to the High Court or the Supreme Court. It is an unseemly sight to witness legal challenges to the orders of former Supreme Court judges in the High Court or in the Supreme Court. The proper course is to give full pension to judges on retirement and avail their services in national interest e.g. heading a commission of inquiry in a matter of a vital national importance, as and when the occasion arises. It is also myview that the present retirement age of the High Court and Supreme Court judges needs to be increased so that the experience and the abilities of the serving judges may be utilised rather than lose them at the early age of 62 and 65. In most countries following the common law tradition the usual retirement age is 70 years.

I do not desire to list all the qualities a judge should possess. But the foremost quality required in deciding constitutional issues is that the judge must be attuned to the philosophy of our Constitution which is succinctly and admirably encapsulated in the Preamble and amplified in the chapter on Fundamental Rights and Directive Principles, which taken together constitute the conscience of our Constitution.

We may and should seek light from judgments of courts in the UK, USA, Canada, Australia, New Zealand, South Africa and other countries. It is important to have exposure to judgements of national courts of other countries as also the judgments of regional and international tribunals and understand their approach to the solution of problems especially in the field of human rights. But ultimately we have to work out our own constitutional salvation in the light of our historical background, our conditions, our traditions, our peculiar problems and in keeping with our consitutional values and the discipline of our Constitution.

Another important facet of independence is that the judge must be independent of himself or herself. In other words in deciding cases judges should consciously avoid being influenced by their preconceived notions. It is a difficult task.

Have judges maintained "the cold neutrality of an impartial judge", as was Burke's expectation?

Let us be realistic. Judges like you and me are human beings and we cannot expect them to completely shed their predilections and pre-conceptions. The individual tone of the mind, the colour of past experience, the character and variety of interests, the socio-economic background of the judge inevitably play a role in the decision-making process. Chief Justice Patanjali Shastri frankly acknowledged that "It is inevitable that the so-called social philosophy and the scale of values of the judges should play an important party". At the same time, he recognised that "the Constitution is not meant only for the people of their way of thinking but for all."

Doubtless, there have been occasions when judges have read their preferences into statutory and constitutional provisions. The judgment of Chief Justice S. R. Das declaring gambling as an immoral trade beyond the pale of constitutional protection, Justice Kapur's view that certain advertisements for sexual disorders were not protected by the fundamental right of free speech and Justice Hidayatullah's decision that Lady Chatterley's Lover was "obscene", all reflect the social and moral philosophy of these judges. Strong views for the rights of labour certainly influenced the decisions of Justice Gajendragadkar in the filed of industrial law. Justice D. A. Desa's inveterate belief that landlords were a rapacious lot and all tenants deserved the Court's utmost solicitude was transparent in his judgments.

It can be safely affirmed that in the overwhelming majority

of cases, judges in India have not acted as knight-errants o'n white chargers in quest of their individual notions of justice. Cases are decided as if the parties before them were anonymous and the issues are legal and constitutional. Judge as a rule do not intentionally take a view against their conscience or their oath, nor do they take any cue from the sentiments of the ruling party. By and large, judges do make a conscientious effort to neutralise their personal beliefs and predilections. If a law prohibiting consumption of alcohol is challenged, the court is not concerned with the wisdom of the policy underlying the legislation and it cannot invalidate the law because, in its opinion, the evil of drink cannot be effectively tackled by legislation. Again when legislation involving nationalisation of road transport is challenged, the individual notions of the justices about the

policy of nationalisation are irrelevant in deciding whether there has been breach of any constitutional provisions. The decision of the Supreme Court in the bank nationalisation case is frequently cited as an instance of the Court striking down the measure because of its disapproval of the policy underlying it. What is overlooked in criticism of that much maligned judgment is that the Supreme Court rejected the basic argument of the petitioner that nationalisation of banks was not in the public interest. The Court ruled that certain provisions of the Bank Nationalisation Act did not provide for compensation as required under the existing constitutional provisions. The consequence was that these provisions were amended and nationalisation of banks was effectuated.

It can be safely affirmed that in the overwhelming majority

The general judicial attitude is aptly and correctly summed up in the classic statement of Justice Vivian Bose, in a case of preventive detention of certain communists in which he observed. “It is perhaps ironical that I should struggle to uphold these freedoms in favour of a class of person who, if rumour is to be accredited and if the list of their activities furnished to us is a true guide, would be the first to destory them if they but had the power. But I cannot allow personal predilections to sway my judgment of the Constitution”.

Is there any antithesis between democracy and an independent judiciary”? Is judicial review undemocratic? Does judicial invalidation of laws thwart the will of the people? It is necessary to remove certain misconceptions about the role of the judiciary in our constitutional scheme. One of the essential features of our Constitution is division of powers between different institutions, namely the three main wings of the State: The Parliament and the State legislatures, the Executive and the Judiciary. A central feature of our Constitution flowing from the division of powers is that of a limited government. Consequently, no authority or branch of the State can have absolute power. -Moreover, the limits of power cannot be determined by the limited power itself. Since our Constitution divides powers between different organs and also prescribes limitations on the powers of Parliament, the State Legislatures and the executive; it is imperative that there should be an impartial umpire in the shape of an independent judiciary to resolve the inevitable disputes over the boundaries of constitutional power which arise in the process of government.

Moreover, our Constitution has guaranteed certain fundamental rights in Part-Ill of the Constitution and hasexpressly provided that any law or executive action which abridges any fundamental right is void. Thus, fundamental rights constitute a limitation on the powers of Parliament and State Legislatures and the executive, and the question whether any legislation or executive action is violative of any fundamental right has to be decided by some independent body. But one may well ask: Why should judges only decide these questions and perform this role? Are they superior beings endowed with greater intelligence or wisdom than the members of the other branches of the State? Certainly not, In fact, some of our legislators and administrators are extremely able and versatile. In that case, how can five or seven or nine or thirteen or for that matter the entire Court of twenty four unelected judges, who are supposed to live in ivory towers quite out of tune with the urges and aspirations of the people, invalidate laws passed by the elected representatives of the Mpeople and strike down, executive action? Is this not undemocratic ? The crux of the matter is that the entire purpose of imposing limitations would be defeated if Parliament and the concerned Legislatures and the Executive were to be judges in I their own cause whenever the validity of their action is called in question. Moreover, judges, who have no stake in the matter and who are above the tensions and temptations of party strife are better equipped by their training and tradition to take an objective view of longer range than the limited period of responsibility entrusted to the Legislature and the Executive.

This aspect of the matter was considered in the Constituent Assembly. After a full and extensive debate our Founding Fathers entrusted the solemn duty of enforcing the fundamental rights of the people of India to the Supreme Court and the High Courts. They were aware of the dangers inherent in entrusting judicial review to “five or six gentlemen sitting in the ... Supreme Court.” They were, however, prepared to take the risk because they did not trust either the Parliament of the Legislatures to observe the discipline of fundamental rights which, they apprehended, could be steamrollered by a popular assembly swayed by the passions and prejudices of the day. And remember that one of the most serious problems in our democracy is to strike a balance between the rights of the majority and those of minorities, between the rights of the present generation and those of the future. It is not unlikely that a present majority may by its actions jeopardise the fundamental rights of minorities and affected their future. And what are popular

majorities if not volatile aggregations that melt and reassemble, shift and change?

Under our constitutional scheme the Supreme Court is the ultimate interpreter of the Constitution and to this Court is assigned the delicate task of determining what is the power conferred on each branch of government what are its limits and whether the action of any branch transgresses such

limits. It is for the judiciary to! enforce constitutional limitations and to uphold constitutional and democratic values. That is the essence and the rationale of judicial review.

It is not generally appreciated that when a court invalidates legislation, it neither approves nor condemns any legislative policy, nor is it concerned with its wisdom or expediency. It merely determines whether the legislation is in conformity with or contrary to the provisions of the Constitution. Likewise, when it upholds legislation or vindicates the executive, the court is not indulging in cooperation with the government. In both cases, the court discharges its duty as a judicial sentinel, guarding the Ark of the Constitution - no more, no less.

However the judiciary cannot fully or adequately perform its role without the assistance and cooperation of the Bar. Indeed without independent and able lawyers the judiciary would be unequal to its task. Let us not forget the prominent part played by lawyers in our freedom movement. The Father of our Nation, Gandhiji, was a barrister, Motilal Nehru was one of the outstanding lawyers in the country, and so were C. R. Das, Rajendra Prasad and others. And in the framing of our Constitution lawyers made a distinctive contribution, K. M. Munshi, Alladi, and, of course, the principal architect of our Constitution, Babasaheb Ambedkar, who was a lawyer par excellence.

In the present context and state of affairs lawyers have an important role to play in upholding our constitutional values and for the preservation and consolidation of democracy in our country. In a developing country like ours a multitude of vital questions arise which require a basic understanding not only of the legal questions but also of the political and economic issues involved. This requires a type of lawyer who has an approach and a background quite different from that of his predecessors. The contemporary lawyer must become an active participant in the shaping and formulation of legislation. He must be involved in the radically increased role of public and administrative law in developing societies. If he isolates himself and abdicates his responsibility, others without the requisite knowledge and experience and with little thought for consequences will rush to

the task. A lawyer also requires to be actively concerned with legal education and human rights education.

In these days when the spectre of intolerance and fanaticism is on the ascendant and the erosion of the fundamental rights of the people is deepening daily, the protection of the human freedoms of the individual is one of the most important of a lawyer's functions. One of the fundamental duties laid down in Article 51-A of our Constitution is "to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women". Lawyers should discharge this duty conscientiously. Again a lawyer has an abiding moral obligation to uphold the rule of law and give effect to many of its principles in his daily work.

He should strive to make reverence for the law to become the political religion of the nation, and make sure that nothing is done to lower the prestige and authority of the judiciary by anyone, however high or mighty. He must always be vigilant against men of zeal,, but without understanding. A lawyer's foremost responsibility in a free democracy is to avail of every opportunity to inform and educate the people about the principles underlying our institutions and the working of the government, and thereby enable them to think and judge for themselves and not be fuddled by the popular slogans of the day.

Administration of justice is crucially dependent on competent and well-prepared advocates. Sir Owen Dixon, the great Australian Chief Justice, memorably summarised the duty of lawyers.He said :

"To be a good lawyer is difficult. To master the law is impossible. But I should have thought that the first rule of conduct for counsel, the first and paramount ethical rule, was to do his best to acquire such a knowledge of the law that he really knows what he is doing when he stands between his client and the court ..."

I regret to state that generally there is a pathetic fall in the professional competence of lawyers. After securing the LLB degree in examinations, which leave much to be desired, advocates commence practice without requisite training in the chambers of a senior advocate and thus deny themselves the invaluable experience to be gained thereby not merely of

knowledge of the law but also of the traditions associated with the practice of law.

There is increasing human rights discourse in our country which is encouraging. But it is often overlooked that access to justice is a basic human right. Without easy and expeditious access to justice, enjoyment of other human rights becomes meaningless. Therefore the availability of lawyers to defend the rights of all individuals is an indispensable aspect of the rule of law, and involves the obligation to take an active part in implementing schemes of legal aid. If the vast majority of our people are denied justice for no fault of theirs except that they are too poor to pay for it, courts of law become objects of cynical derision and lawyers become mere money spinners. Members of the bar must devote some part of their time and services free of charge for the benefit of the poor and the oppressed.

Law's delays is an ancient lament. Shakespeare speaks of it in Hamlet's immortal,To be or not to be' soliloquize. Countless words have been uttered on the subject and there is no dearth of reports and studies to cope with the problem of arrears in courts. Yet the problem has not been solved. Apart from the hardship caused to individual litigants inordinate delays in disposal of cases have led to the emergence of a parallel extra legal system of administration of justice dominated by Mafia groups. People prefer to obtain relief or rather justice as they perceive it, from these groups, which is expeditious and inexpensive rather than wait for years in a court of law and spend vast amounts on lawyers.

This is particularly so in cases relating to recovery of possession of premises and recovery of monies. The most disturbing part is that recourse to extra legal mechanisms is gaining acceptance and legitimacy in the minds of the general public. This phenomenon undermines the credibility and efficacy of our judicial institutions and subverts the Rule of Law.

You may ask how are lawyers concerned with it. They are, in a big way, because they contribute the most to delays in the disposal of cases. After obtaining a stay or an interim injunction every trick in the book is employed to prolong litigation. Adjournments are obtained on filmsy grounds and sometimes on non-existent grounds. Various applications are filed with the sole view of delaying disposal of cases. If we lawyers are serious about tackling the monster of arrears and thereby ensuring the credibility of our legal and judicial system we must take a pledge that we shall not be a party to such unworthy tactics. A lawyer may lose a client for refusing to indulge in dilatory tactics. But he should realise that the system is far more important than a client or two.

The other aspect which bothers me is the commercialisation of the legal profession. It is forgotten that the profession of law is not a trade or business operating on the laws of demand and supply. Roscoe Pound touched the essence of the matter: “Historically, there are three ideas involved in a profession; organisation, learning and a spirit of public serviced. These are essential. The remaining idea, that of gaining a livelihood, is incidental”. It is not suggested that professionals should live on love and fresh air and should not charge for their services. A professional needs to make money like any other person. But his main aim should not be of making a mini fortune in minimum time but of rendering service to those who seek his aid and also to the community of which he is a necessary part. To those unable to pay adequately, or not at all, professional service should be freely and cheerfully given. The essential difference between business and a profession is that while the chief end of business is personal gain, the main goal of a profession is public service.

Unfortunately, able lawyers have to a large extent allowed themselves to become adjuncts of great corporations and have neglected the obligation to use their powers for the protection of the people. As far back as 1905, one of the most distinguished American jurists, Louis D. Brandeis said, “The leading lawyers of the United States have been engaged mainly in supporting the claims of the corporations”. The lament of President Carter in May 1978 was in the same vein: “Lawyers of great influence and prestige led the fight against civil rights and economic justice ... They have fought innovation even in their own profession ... Lawyers as a profession have resisted both social change and economic reform.”

The situation in India is not very different. By and large successful lawyers have been defenders of the established order and of entrenched interests because in a society dominated by commerce and industry, individual and corporate owners of property have been their principal and most remunerative clients. If this trend continues, a lawyer will no longer command the respect of the people and will eventually be reduced to an inferior and despised status in society. The urgent need for all the professions is to reorient themselves towards the service of the people. The professionals must serve as healers, not makers, of human conflicts and suffering. If I have spoken mainly of the legal profession, the reason is that I belong to it and the price one pays for pursuing any profession is to obtain an intimate knowledge of its ugly side.

One of the most significant developments in recent times has been the evolution of Public Interest Litigation (PIL) and the liberalisation of the rule of locus standi. The Supreme Court has ruled that where judicial redress is sought in respect of a legal injury or a legal wrong suffered by persons, who by reason of their poverty or disability are unable to approach the Court for enforcement of their fundamental rights, any member of the public, acting bonafide, can maintain an action for judicial redress. Thus tho underprivileged and the downtrodden have secured access to court through the agency of a public-spirited person or organisation. It is landmark judgment in the Francis Coralin Mullin case the Supreme Court declared that life in Article 21 does not merely connote physical existence but the right to life includes the right to live with human dignity and all that goes along with it, namely, the right to the basic necessities of life and to carry on such functions and activities as constitute the bare minimum expression of the human personality. This unique contribution made by our Supreme Court in the development of human rights jurisprudence has transcendental significance especially in developing Third World countries.

PIL has appreciably contributed to environmental protection. The Supreme Court has held that the right to live under Article 21 includes the right of enjoyment of pollution-free water and air for full enjoyment of life. The Court has ruled that the "right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed" and held the "hygienic environment is an integral facet of right to healthy life". In its efforts to prevent environmental degradation the Supreme Court has ordered certain tanneries which were discharging trade effluents into the river Ganga to stop running, unless the trade effluents were subjected to a pre-treatment process by setting up primary treatment plants as approved by the State Board. The Court was conscious "that closure of tanneries may bring unemployment, loss of revenue" but firmly ruled that "life, health and ecology have greater importance to the people". The Court has issued stringent directions for prompt installation of corrective mechanisms like effluent treatment plants in case of industrial units which emitted fumes said to damage the magnificent Taj Mahal at Agra. In case of non-compliance the Court has ordered the shutting down of polluting units.

It must be acknowledged that the judicial pendulum in PILcan swing and has on occasions swung erratically. Somevorders and directions which have been passed are beyondthe judicial sphere and do more credit to the heart than to thehead. Not unexpectedly, PIL and judicial activism associatedwith it has had its share of cynics and critics in India. Themain thrust of the criticism is that the judiciary by its directives to the administration is usurping the functions of the legislatures and of the executive and is running the country and, according to some, ruining it. What these vociferous critics of the judiciary overlook is that it is the notorious tardiness of legislatures and the callous inertia of the executive in redressing violations of fundamental rights which provide the occasion, or rather the necessity, for judicial intervention. The alarming loss of control by Parliament of the executive is a stark reality. It has led to dysfunctioning in the democratic process. In cases where the executive refuses to carry out the legislative will or ignores or thwarts it, it is surely legitimate for courts to step in and ensure compliance with the legislative mandate. When the Court is apprised of and is satisfied about gross violations of basic human rights it cannot fold its hands in despair and look the other way. The judiciary can neither prevaricate nor procrastinate. It MUST respond to the knock of the oppressed and the downtrodden for justice by adopting certain operational principles within the parameters of the Constitution and pass appropriate directions which are ancillary to its jurisdiction of enforcement of fundamental rights in order to render full and effective relief.

A similar trend is discernible in many other democratic countries. PIL has made significant strides in Pakistan and in Bangla Desh. Justice Sedley in his Paul Sieghart Memorial Lecture in 1995 stated that “modern public law has carried forward a culture of judicial assertiveness to compensate for, and in places repair, dysfunctions in the democratic process”. He points out that the “reassertion of judicial oversight of government which has been the achievement of the 1970s and 1980s in UK has been replicated all over the common law world as judiciaries have moved to fill lacunae of legitimacy in the functioning of democratic polities.” The case for judicial activism has been admirably and convincingly stated by Justice Kirby of the Australian High Court in felicitous language. “When new problems arise, when the common law has no exactly analogous decision or where (as if so often the case) the Constitution or the legislation is ambiguous, we must also look to legal principle and legal policy. Judges do not usually have the privilege to decline the obligation of decision. Sometimes we will err, for that is inherent in

the human condition but if we search for the solution to the particular case with the illumination of legal authority, legal principle and legal policy and are sometimes called judicial activists, we must accept that appellation with fortitude. Our activism has limits as every one of us knows but in a real sense the common law itself is the product of judicial activists. The most we can hope is that we are successors, worthy in our time, to the great spirits who have preceded us". Lawyers have a significant role to play by judicious utilisation of PIL. They can ensure that the fundamental rights not remain mere parchment promises for the downtrodden and the exploited but are made living realities for them. PIL affords a unique opportunity to lawyers to uphold the Rule of Law and to ensure the sustenance of our democracy. Quite a few lawyers have availed of PIL and in many cases rendered services free of charge. Thanks to the combined endeavours of the Bar and the Bench the gains from PIL in India have been substantial. The Rule of Law has been upheld and democratic values have been preserved. Numerous undertrial prisoners languishing in jails for inordinately long periods have been released; persons treated like serfs and held in bondage have secured freedom and have been rehabilitated; inmates of care homes and mental asylums have been restored their humanity, the condition of workers in stone quarries and brick kilns and young children working in hazardous occupations has undergone a humanising change. Fundamental rights have become living realities, to some extent, for at least some illiterate, indigent and exploited Indians. Juristic activism in the arena of environmental and ecological issues, and accountability in the use of the hazardous technology has been made possible and has yielded extremely salutary results. A climate of transparency has been created and a sense of accountability in public functionaries has been engendered. Above all, the Courts have started taking human suffering seriously and are responding with sensitivity. And that is no mean achievement.

However care must be taken to see that PIL does not degenerate into personal interest litigation or political interest litigation or publicity interest litigation. It must always be borne in mind that the rationale of PIL is enforcement of the fundamental rights of those sections of society who on account of socio-economic disabilities are unable to approach the court themselves and in which case the court permits a public spirited person or an organisation acting bona fide to approach the court on behalf of those downtrodden sections. PIL is a good steed and both judges and lawyers should take care to ensure that it does not

become an unruly horse or a bull in a China shop.

An able and independent judiciary and an able and independent Bar together are the guarantor of the quality and durability of our democracy. But in addition to ability and independence what is most essential are integrity and uprightness. It cannot be over-emphasised that a judge like Caesar's wife must be above suspicion and judges have to present a continuous aspect of dignity and detachment. Lawyers must also observe the highest standards of rectitude in the practice of their noble profession. Judicial corruption wherever it exists must be ruthlessly rooted out. It is not suggested that the judiciary as a whole has become corrupt. That would be most unfair to the vast majority of judges who are discharging their judicial functions honestly and conscientiously under heavy pressure of work. But it is undeniable that the public image of the judiciary has been tarnished.

Lawyers have a very important role to play in rooting out judicial curruption. No judge can successfully reap the fruits of corruption without the active collaboration of lawyers. The Bar owes it to itself, to the judiciary and to the people to hound out such corrupt members from its midst. Its silence or acquiescence cannot be rationalised on grounds of close friendship or so-called damage to the institution. More important, if the allegations against a judge are part of a motivated campaign, that too should be exposed in fairness to the judge and in the larger interest of the institution. The need of the hour is for an effective and expeditious mechanism to deal with judicial misconduct in lieu of the present cumbersome process of impeachment.

We frequently speak of democracy and extol its virtues. But we tend to forget that democracy is a serious undertaking and is based on ethical principles. In the words of that wise and humane American jurist, Louis D Brandeis "democracy demands continuous sacrifice by the individual and more exigent obedience to the moral law than any other form of government. Success in any democratic undertaking must proceed from the individual. It is possible only where the process of perfecting the individual is pursued".

On the concluding day of the Constituent Assembly on the 25th November 1949 Babasaheb Ambedkar lamented: "On 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognising the

principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will - blow up the structure of political democracy which this Assembly has so laboriously built up".

As we are entering the Golden Jubilee of our Republic let us resolve to end this life of contradictions. Let us also take a pledge to fulfil the lofty ideal of our Founding Fathers and make available to "We, the People of India", Justice, Social, Economic and Political as also Equality of status and of Opportunity. And God willing, we shall redeem that pledge.

❐❐❐