

INAUGURAL SPEECH DELIVERED BY HON'BLE SHRI JUSTICE T.S. THAKUR, JUDGE, SUPREME COURT OF INDIA AND EXECUTIVE CHAIRPERSON, THE NATIONAL LEGAL SERVICES AUTHORITY (NALSA) ON 26.09.2015 AT PANAJI GOA.

1] My esteemed brothers Justice Kanade, Justice Reis, Justice Bhadang, Justice Wadane, Advocate General of the State of Goa - Mr. Nadkarni, former Judges of the Bombay and Goa High Court, the Vice President of Bar Association - Mr. Usgaonkar, Senior Advocates of the Bar, Executives members and Senior Members of the Goa Bar Association, Judicial Officers, Members of para volunteers, youths, ladies and gentlemen.

2] Say, it is a privilege for me to be amongst you this morning. This is perhaps for the first time, I am addressing a gathering in Goa. We have held different legal aid programmes all over the country for the past one year since I took over as the Chairperson of the National Legal Services Authority. But as you know, the size of the State matters and since there are States which are bigger than Goa in terms of population, and that is how visiting the State for holding the Conference here. But having said that, I can tell you that there are many other bigger States, where we have not been able to reach so far by the local and regional conferences and Goa in that sense heading towards the march, when there are many other States

where we are yet to visit. Thanks to the persuasive skill of my esteemed Brother Justice Reis that I am here with you this morning to inaugurate this programme, which touches some of the most critical issues concerning the future of this Country, namely, the rights of children, the abolition of child labour and the role of NALSA and State Legal Services Authorities in helping children to come out of this vicious circle.

3] As Brother Justice Reis mentioned earlier, the children are very important. They are our future and they are helpless. They have no voice and how they are dealt with. There are cases where children are exploited and in certain industries they are made to work notwithstanding the fact that their rights are affected. They have the fundamental right to education. But, as was mentioned earlier, the theoretical part is different from the practical realities. There are many ethical, moral and legal issues in regard to the rights of the children and in regard to the approach that one has to adopt and deal with these problems. I am sure, in the course of today's deliberations, people who have thought about this subject, people who are working in this direction, the people who have clear perception about the extent and the nature of the problems, are going to address here and at the end of the session we will be able to formulate a road-map for SALSA and

NALSA. As you must be knowing, most of you are familiar with the difficulties with regard to the establishment of NALSA and State Authorities. For the past about 20 years, we have been working in the direction of providing legal aid to that section of a society, which is on account of economic reasons unable to enforce their rights. The principle underlying the legal aid scheme is that the system which does not provide for any support to a citizen for getting his rights enforced. A person who is unable to enforce his right because he is unable to engage a counsel and unable to pay court fees and unable to access the justice delivery system, is no good system. So, in order that the disparity between the rich and the poor in the matter of access to justice is removed, the State has stepped in. The whole object behind the scheme under the NALSA and SALSA is that no one should be denied access to justice on account of his poor financial condition. The result is that, for the past about 20 years we have been primarily working in the field of providing the legal aid, in the sense that a person who is unable to engage any counsel, he comes to the Legal Services Authority, at the District Level, at the State Level, and at the High Court level asking for a counsel and we provide a Counsel free of any charge, so that he can access the system for getting his rights enforced. That has been the primary object with which we have been working. But then, justice is not only what is given in a Court of

law. Justice has a wider concept. Justice is something which is found, is the first word in the preamble of the Constitution and when we read the preamble, we the people of India, what do we do, we the people of India are getting together to give ourselves, the Constitution to ensure justice-economic, social, political. The justice has a much wider appeal and much wider connotation. Therefore, in order that the true message and the true meaning of that word is understood and benefits of that concept go to the people, we have enlarged the scope of our activities.

4] We are not now confined to only giving a lawyer to a litigant who wants his case to be argued only. We have gone a step forward and what is that step further, we have identified for the past one year or so. We have work done on this concept. We have held regional conferences, where people from all relevant sectors have been called and stepped to satisfy and to deliberate on certain issues in which we have clear findings that there is a role of para legal volunteers in this regard.

5] But, understand, the National Legal Services Authority or State Authority had not addressed themselves to the role that they can play in the unorganized labourer sector. Now, we would be knowing

that unorganized labour sector in this country today is the second largest. There are 46 crore people working in unorganised labour sector in the country and out of them, 15 crores are women and these include construction workers. We would see in Goa and rest of the country big big projects are under execution. Roads are being built, tunnels are being built, railway lines are being built and everywhere the construction works are going on. Country is being built. We are a developing country and we are in process of rapidly developing this Country. The development includes development in terms of infrastructure and so very large number of people and large labour forces are working in the field. What we find is that all are not in organized sector. Most of them, may be thousand of crore project is being executed. A company which has billions of rupees as its turn over, is making a lot of money out of it, but the poor labourer who engaged to work, is working with his wife as labourer in that project and their children are playing somewhere in the sun, sand and mud. Now, in an unorganized sector of construction work, particularly labourers have certain rights and certain obligations cast on contractors to provide them shelters, medical aid, social security schemes and so on.

6] In the course of our deliberations on this subject, in Karnataka, we found that Rs.three thousand crores have been collected

by the Government towards CESS. This collection is meant under the construction workers Act, to be spent for the benefits of labourers. Wide schemes are there. If somebody gets hurt, there is a scheme under which he can be given medical treatment out of that money. We can provide some kind of social security to the people who grow old and there are provisions for marriages of the children of these labourers and so on. There are number of schemes. The schemes are dead and they are not being implemented. The money that has been collected under the scheme, lying with a bank and they have invested the money and it is earning interest. Now we talk about justice. It is injustice to the labourers for whose benefits this money has been collected and because of the apathy, indifference and criminal neglect on the part of the administration if this money is not being utilized for the benefits of that poor people for whom it was collected, then this is a failure and the legal services authorities have a role to ensure that this failure is redressed. We have now a scheme that we have formulated and the Central Authority, in the recent meeting that we had in Delhi, has approved the scheme for the unorganized labour sector, our role in regard to unorganized sector.

7] Similarly, we have the problem of commercial sex workers. There are people who are suffering from AIDs. The people who are exploited and their children are neglected and so, we do have a role to

play in regard to that sector. This is also one of those sectors which has been traditionally neglected. It is a difficult kind of a problem. But I requested one of my Brother judges in the Supreme Court, Justice Sikri to lend some assistance to us because the time is a major constraint for the Supreme Court Judges, so I requested him to have wide range of consultations with the NGOs working in that field, the Government Agencies, Child Human Development Commission and so on and finally prepared a scheme. Now we have today a scheme that has been approved by the NALSA in the last meeting which identifies and sets out the role that we are going to play in regard to rehabilitation and reform of such type of unfortunate women in this particular profession, in that sector.

8] Drug abuse is yet another area that was neglected. Nobody ever thought that NALSA and Legal Services Authorities can have a role to play in so far as drug abuse is concerned. But, now it is said it is a government problem. Incidentally, every problem is a Government problem. There may be deficit in the Governance, but that does not mean that other statutory authorities like NALSA should also neglect. The NALSA and the State Authority have a role to play in regard to an area which the Government is not entering and it does not mean that State is not doing anything, the statutory authorities like NALSA

and State Legal Services Authorities have also failed. We have formulated a scheme based on deliberations which we had in Manali, recently where lots of eminent people in respect of the drug abuse, facts, and issues that arise in regard to this problem, which scheme has also been approved in the meeting just two weeks' back and we are going to launch that scheme on 9th November, 2015 in Delhi at the hands of the Prime Minister of India.

9] The Tribal rights is yet another area. Nobody ever thought that we have any specific role in regard to the tribal rights. We have tribal areas like Chhattisgarh, Jharkhand, Madhya Pradesh, Andhra Pradesh and we have a large tribal belt in the North-East. The entire North-Eastern region, is a tribal belt and we will be surprised to know that in the North-Eastern region there are certain areas in the States where the administration of justice is itself in the hands of a tribal Gavkuda. Can you imagine that it is a continent and not the country and there are still areas in our country where administration of justice is left to a Gav elder/Village elder of the village. He administers the justice and some of the things that we were told when we held a conference on the tribal rights in Gangtok where I invited all the judges who were dealing in the legal services authorities from the North-eastern region, it was shocking when one feels that this Country where there are still

areas left out of judicial movements, Rule of law has not reached. One understands, one of the Hon'ble Judges, who is Chairman of State Legal Services Authority in Meghalaya told me that he addressed the gathering in the said North-East and if there are areas where a woman is molested, the matter goes to the Gawkudas and he decides the matter and the punishment to that man who molested the woman is one leg of a pig. This is justice and if the woman is raped then the punishment is, the whole pig has to be given and it is not just one leg. Can you imagine, we have in this country such areas also, where the concept of justice is so different from the rest of the country. It is some times so scandalous even to think that this is also a concept of justice in certain areas. So the Legal Services Authority thought it is totally unacceptable and we have launched a programme in the North East to involve the Gawkudas. Now, we are inviting the Gawkudas and we want to tell them you are governed by the Sixth Schedule. The Sixth Schedule gives special powers and rights to them and we want to tell them whatever the authority is conferred upon them by law, system stays with you. But at least for the sake of God, the concept of justice, as we have said, you have the powers to exercise in the certain situation, exercise it along with lines that a civilised world understand to be exercised.

10] We have started programmes, from time to time, of training to

Gavkudas. The rights of tribal is also a neglected area in which we have formulated a scheme, where we will identify our role in regard to the particular sector also.

11] The 5th and last scheme which I want to make a reference is the implementation of poverty elevation. There were many numbers of schemes. There are Central Government schemes and the State Government Schemes which are meant to eliminate the poverty in the country. There may be old aged pension scheme, there may be Arogya Scheme for somebody who is sick, and many number of Social Welfare Schemes. Myself and all of you remember that when Rajiv Gandhi was the Prime Minister, he had said that out of every rupee sent, only 15 paise reach to the poor persons and rest are eaten somewhere in the country. So what is happening in poverty elevation sector, the money that is meant for poor, does not reach the poor and the poor continue to be poor and they are running from pillar to post for their work and nobody listens to them. Tell me a person who is poor and old and asking for a pension scheme by going to the office of Deputy Commissioner, how many Deputy Commissioners would entertain them. Just imagine what kind of trauma that he/she has to go through when she has to go to one clerk to the other clerk and one table to another table demanding bribe or such gratification. So we thought that, we have a role to play there also. Because the poor

persons, whether he is male or female there is right under that scheme which is being denied to the poor person. There may be no case in the Court she may not require a lawyer. She may require the help of para legal volunteer and we have this concept of para legal volunteers. I found that some of the para legal volunteers have been invited for this programme. What is the role of para legal volunteer. The role of para legal volunteer is not to go and threaten the Officer. No, the role of para legal volunteer is to go and facilitate the said person and he is like a representative of that poor person who is being shooed away by the administration for whatever reason. Now, we have a scheme where we will play a role in regard to enforcement of schemes and grant to flow the benefits under those schemes to the persons who are poor. These are some of the things that we have done more. I feel that it will help, make the State legal services authorities more accountable in the sense that earlier there was no definite manifesto. Now, today, we have the schemes formulated. These stand approved. Now, with these schemes being in place, NALSA will be able to judge the performance of the State authorities by reference to what has been done in each one of the schemes, apart from the traditional work of giving a lawyer to a litigant who comes to you for help. That is the staple diet for the State Authority, in the sense that that is the major work we are doing today. But, we have widened and broadened, risen up our role in

legal services, bringing in lot many areas that have so far been neglected and that are now going to come into force. As a matter of fact, I am forced to allocate funds to the State Authorities by reference to the scheme, so that State Authorities are perforce required to work in these areas. It is not just providing a lawyer one need required to have a huge organization as we have. Today, we have the Senior-most Judges in the Supreme Court as the Chairperson of the National Legal Services Authority and we have the Senior-most Judge in the High Courts as Chairperson of the State Authority and we have authorities down the line at District Levels. So there is very very large work force that is engaged in this process. The whole object was to provide a lawyer perhaps one officer was enough to keep on allotting a lawyer. The entire mechanism must stand galvanized so as to serve a larger object and that large object had remained unidentified and has now been identified. As I said, with the help of the schemes we should be able to go forward. I am sure, this conference may be the first of its kind at this level which is going to be very productive and whatever resolutions we pass, whatever the conclusions we draw will be very useful for us in regard to the two subjects that we have chosen : one is Child Friendly Court Room Interface under POCSOA and the other is Child Labour & Right to Education.

12] The third subject which has been chosen by Justice Reis, Significance of Lawyering Skill-Legal Services Lawyers. In regard to our traditional work of giving lawyers to litigants to meet them, there has been a certain amount of skepticism. The general belief among the litigants and among everyone concerned is that the legal aid lawyer means that he is not a very successful lawyer. He is a lawyer who has time to spare. He is person who wants to train himself on a poor man's case and he is not getting his own case and therefore, he is told that you come here and argue the matter and tell some facts by taking instructions. Now, this is not a good impression. This is wholly not correct also. Because, we have some of finest lawyers working for us. You will not believe that people like Shri Venu Gopal, Shri Nariman, Shri Rao and many eminent lawyers in the Supreme Court are duly empaneled. The moment the Court makes a request to them that you have to argue the matter free of charge, they very willingly do it. This must be true even in the High Courts. I would like to request the Vice President of the Goa Bar Association who is here with us, that spirit must continue and must come down to the High Court and the Senior members who are successful and who are more fortunate than the less fortunate at the bar and they are comfortable in terms of money, they should donate in terms of their time for such needy

people who cannot afford, because those who cannot afford to pay and who cannot pay in terms of money can pay in terms of prayers and the prayers sometimes are more effective than money.

13] I would say at our level in NALSA, we have devised a programme. We have now created a module and the module is to train panel lawyers. We don't want the feeling go around that the panel lawyers or legal aid lawyers are untrained lawyers or that they do not have the experience or professional acumen or the grab to handle it. So we engaged a group of people headed by a former Judge of Delhi High Court to create a module and that module has been approved by the NALSA. We started training master trainers and how to train them. This Country is vast. It is not possible to go around training people all over the country. So we thought that we will train trainers. So in Delhi we had a programme of one month. We got people nominated from different States to Delhi. We had batches and we wanted to train them as Trainers and the Trainers who would eventually go back to their States and train the Lawyers. So, we have started that exercise. I am sure this will help not only panel lawyers who are working for us, it will help generally, the Bar. Because training is something if a wise-man speaks to you you learn from what he speaks and a successful lawyer speaks to you, like we requested Mr. Nariman, he came and spoke to the trainers and he

addressed them and gave them invaluable hints, which being a Good Lawyer and it was a successful programme . We tried to expose our master Trainers to the best of the talent at the Bar in the Supreme Court and we wanted them to go back to their respective States and start training. I am sure that campaign has started is also doing well and therefore, the importance of improved Advancing Lawyering Skill which is the third subject of this conference is also a very contemporary and very very important subject on which I think the people who are here to listen to this programme would be immensely benefited.

14] Whenever I am in India, to say a very very important affair. I got four bouquets of flowers. But generally if you go to a foreign country, it is much simpler. It is quicker and simpler. I think the similarity is a better thing, but as we cannot depart from our traditions and it is the warmth by my esteemed Brothers here that all this has been done, but I am told that it is still a little briefer than what is at other places. I can assure you that this was very brief by those standards. I thank them for being so kind to me. I thank the Advocate General, whose hospitality, and support our system continues and I congratulate the organizers, particularly Justice Reis who has taken this great step in bringing these subjects to fore and providing an opportunity to all those who are concerned to share

their views.

Thank you very much.