

## From the Editor's Desk



**Law & Freedom:** *the end of Law is not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings capable of Law, where there is no Law, there is no freedom. – John Locke*

**There's no end to Education.** *It is not that you read a book, pass an examination, and finish with education. The whole of life, from the moment you are born to the moment you die, is a process of learning. – J. Krishnamurti*

**Point of view:** *We can look upon a road, from two different points of view. One regards it as dividing us from the object of our desire; the other sees it as the road which leads us to our destination; and as such it is part of our goal. – Rabindranath Tagore*

*The great gift of human beings is that we have the power of empathy; we can all sense a mysterious connection to each other. – Meryl Streep*

### **WISHING ALL OUR READERS, SEAFARING BRETHRENS, FAR AND NEAR, ON LAND, AS WELL AS THOSE OUT ON THE DEEP SEAS AND THE OCEANS**

#### **“A Peaceful, Happy and Prosperous New Year, 2016”**

**We read and hear of** "The delivery of speedy and inexpensive justice, to the common, general-public, which remains a distant dream, and the perennial twin-problems of 'backlog' and 'delays' in the administration of justice still persists". The judicial system's focus seems more on protecting the powerful and influential, rather than putting laws into action keeping the weakest citizens in mind. "The object of the discipline enforced by the Court in case of contempt of court is not to vindicate the dignity of the Court or the person of the Judge, but to prevent undue interference with the administration of justice." -Bowen, L.J. in *Hellmore v. Smith (2) (1886)*, L. R. 35 C. D. 455. The object of conferring power to punish for its contempt on courts under contempt of courts Act, 1971 is to ensure that rendering justice shall be free from forces outside and nobody shall interfere with the administration of justice but on the other hand in a democratic structure, the people should have the right to criticize judges while grave deliberate error WHILE to err is human. The purpose of the contempt power should not be to uphold the majesty and dignity of the court but only to enable it to function. The Indian judiciary in its landmark judicial pronouncement has always tried to establish the balance between Freedom of Speech and Court's power to punish for contempt. In *Re: Vinay Chandra Mishra (the alleged contemnor)* [AIR 1995 SC 2348], the Hon'ble Supreme Court reiterated the position of law relating to the powers of contempt and opined that the judiciary is not only the guardian of the rule of law and third pillar but in fact the central pillar of a democratic State. If the judiciary is to perform its duties and functions effectively and true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all costs. Otherwise the very corner-stone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. It is for this purpose that the courts are entrusted with extraordinary powers of punishing those who indulge in acts, whether inside or outside the courts, which tend to undermine the authority of law and bring it in disrepute and disrespect by scandalizing-it. Contempt of Court in a Nutshell "Any act which hinders or impairs the judicial proceedings and interferes in the administration of justice constitutes Contempt of Court. Such act or conduct is dealt under the Contempt of Court Act, 1971. Section 2(a) defines contempt as both civil and criminal contempt. Civil Contempt, as per Section 2 (b), means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court. Criminal Contempt has been defined in Section 2(c) which states that Publication of any matter or any other act which lowers or tends to lower the authority of any court or interferes or tends to interfere in the judicial proceedings or administration of justice.

**Duty of advocate** - An Advocate's duty is as important as that of a Judge. He has a large responsibility towards society. He is expected to act with utmost sincerity and respect. In all professional functions, an Advocate should be diligent and his conduct should also be diligent. He should conform to the requirements of law. He plays a vital role in preservation of society and justice system. He is under an obligation to uphold rule of law. He must ensure that the public justice system is enabled to function at its full potential. He, who practices law, is not merely a lawyer, but acts as moral agent. This character, he cannot shake off, by any other character on any professional character, he derives from the belief that he shares sentiment of all mankind. This influence of his morality is one of his possession, which, like all his possession, he is bound to use for moral ends. Members of the Bar, like Judges, are the officers of Court. Advocacy is a respectable noble profession on the principles. An Advocate owes duty not only to his client, but to the Court, to the society and, not the least, to his profession. Besides, the foremost is of Inequality, unfair and

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*corrupt practices in Public Services. Neglect, Discrimination even after reporting to higher authorities, but for further harassment and humiliation to the core. Even the senior citizen with multi-organ defects by over ageing are not spared. What is preached is never followed. Hence, how do sincere, honest people work as Social and Rights Activist, but for Gandhian ideals of PEACE and NON VIOLENCE keep digesting " Not seen, Not heard and no say of the happenings". With the result, high inequality in public services of citizen's interest, by ill-conceived local police, especially of those at the verge of retiring Inspr.'s, DSP/ACP's, with an awakening to amass money or gain influence for post retirement. Probably the vigilance is inactive to these findings in public-interest. Rightly suggested by Madras HC Advocate N L Rajah that "Govt.Services, need to come under the New Consumer Act.. 'Professionally speaking' There can be no excellence in the law, without excellence in lawyers.*

*The legal profession at the highest level develops absorptive and analytic capacities of the human mind and offers great intellectual stimulus. It is no small service to be called upon to defend life, liberty and the other fundamental rights. But a large degree of equipment is needed to discharge such duties properly. A lawyer with a well- furnished mind alone can be truly a counsellor at law; he alone can, not merely look up precedents, but guide his client along the path of wisdom, even of generousities which may appear irrelevancies to the preoccupied client. In the hands of such a lawyer, the law represents the application of reason to noble and purposeful ends. It is per-eminently a time for deep, national introspection. We must be self-critical to meet the truth face to face. The bar is more commercialized than before. Today the law is looked upon, not as learned profession but as a lucrative one. The due process of law has become less due than tortuous and unending. Wooden - hard hard-headedness assesses a situation in terms of preconceived fixed notions while ignoring or rejecting any contrary indications. In short it is the obstinate refusal to learn from experience. The expression "public affairs" most certainly, would take within its ambit all matters entailing "public interest" or "common good" in a profound sense. As Lord Buckmaster observed, it would be more true to say of the finest lawyers that, so far from having a narrow outlook on the world, there is no horizon too large for them to gaze at. There is no learning that comes amiss to the lawyer; there is no phase of all the myriad mysteries of the human heart which may not be the subject of the case which he has to consider. Above Quotes are from the published articles and speeches of the renowned greatest legal- luminary, a doyen of the Bar himself, - N A Palkhivala. Source: Book titled "WE, THE PEOPLE" and "We, the Nation"). "Some advice you don't ask for. That is what I call feedback- unsolicited opinions about you or your work those comments are sometimes more valuable than what you do ask for we tend to ask for guidance - and we want it to be positive. Feedback is usually unsolicited and often unfavourable but bit can be most valuable even if embarrassing." "If same granted, you can get too much negative or contradictory feedback, become discouraged but feedback, be properly evaluated, from a contributor can be invaluable in gaining perspective on where you're going." "We need to measure ourselves with someone else's yardstick occasionally if you're getting the same feedback from several sources -either positive or negative -pay attention." SOURCE: Book PERSONAL EXCELLENCE - The Puzzle of...- Be receptive to feedback, by Dianna Boober*

*We live in an age which been increasingly and overwhelmingly surrounded by so called 'information technology' (IT). The IT, with its improvements devised almost with a day -to- day recurrence, refers to the tools for storing and dissemination of information, aimed at catering to, besides several others, those having an appetite or taste, real and sincere, or otherwise, for so-called 'knowledge'. In today's context, the mission to spread 'knowledge' has reached an all time high that it won't be wrong to call it a knowledge explosion. Even so, it is inconceivable that there can be justifiable reason or excuse to remain blinded, or be struck or stuck-up or stung; if, instead, one can easily find clues for searching and pitching at the right kind of information to suit own needs or aspirations. Albeit, as a wise man pithily quipped, - present day knowledge is by and large narrowed down to one thing- that is, the quest to simply know which side of the bread is buttered. Bound to be so, so long as the tendency is to try vainly or vaingloriously take the posture of being a jack of all trade. Never taking care to get to know not to bite more than what can be chewed, much less digested. In essence, solution, perhaps, lies only in 'moderation' in every sense. For that matter, that is a must, particularly in every sphere of human activity that has something to do with legislation and legal system impacting and impairing gravely the 'public interest'. Selectively, confining to the objective exercise or study on hand, intelligence so also intellect lies in identifying what and where to look for, also which one is more likely to be largely useful or of practical value in life. **THERE CAN BE NO EXCELLENCE IN THE 'LAW', WITHOUT EXCELLENCE IN LAWYERS.** "We don't always win. But if we fight the good fight and we stay strong, we will keep moving towards our goals. Never, ever, ever give up." - **Craig Ballantyne***

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