

Text of the Vice-President's Address at the launch of book 'The Constitution We Adopted (with Artworks)' edited by Shri Vijay Hansaria, Senior Advocate, Supreme Court of India (Excerpts)

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Good evening all of you.

Certainly not an easy task to be before a sitting judge, retired judges and lawyers, but this morning I was reminded of something which is very critical in the country and that is not for oneself, what the present Chief Justice said, we must believe in protocol.

When he indicated this, it was not personal. It was for the position he holds and I am sure this will be kept in mind by one and all. In a sense I am also sufferer. You would have seen the photograph of the President and the Prime Minister but not of the Vice-President. Once I demit the office, I will ensure it that my successor has a photograph but I am really beholden to the present Chief Justice for inviting attention to the people in bureaucracy, adherence to protocol is fundamental.

Therefore, ladies and gentlemen, I will start by greeting First Justice Rajesh Bindal, sitting judge of the Supreme Court because it is the articles of the Constitution that determine whose name has to be taken in precedence. C. R. Venkatramani, Attorney General of India, more of an academician. I am sure my very good friend, a senior advocate, present here, will agree, Ganguli Ji.

Shri Vijay Hansaria, Senior Advocate, Supreme Court of India. He is unique, difficult to define him. A man of culture, elegance, sublimity. Believes in persuasion, never in aggression. I came to know the family closely in 1988. Shri Sunil Kumar Jain, Advocate, Supreme Court of India. I shall be ever beholden to him because I came to Delhi for the first time after being elected to Parliament in 1989 and was lucky to be a Union Minister in 1990. But then our government collapsed and once who comes to Delhi, one who comes to Delhi and happens to be a senior advocate, doesn't want to leave this place. He hand-held me and advised me very rightly that I must have a place close to the Supreme Court, which is Sagar Apartments. Thanks to him. Because I don't want any issues of conflict of interest. I'm laying everything bare. I'm here with a purpose.

Justice Brijesh Kumar Ji, Justice Deepak Verma Ji, Dr. B. S. Chauhan in particular, I remember you because if I have to know everything about a particular provision, your judgments are encyclopaedic. Justice Ajay Rastogi, his father was very kind to me when I got into the Bar. I remember him right from the time he started his practise. I was already then in practise.

Vice-Chancellor, well, anyone who carries the prefix Vice, I have a special affection because I get someone who can tell the world we carry the prefix Vice. So, Vice-Chancellor, Jindal Global University, Dr. Raj Kumar.

This book is so very essential and I'll tell you in a while why. When we had in Parliament celebration of 75 years of adoption of the Indian Constitution, everyone was reminded how the Constitution was made. The contributions and the miniatures that are here. What we now tend to forget, law students, lawyers and judges. When they wish to go to the original provision, it is very difficult to find out from any book of the Constitution. Amended, amended, amended, so and so.

This book is your complete answer. The title of the book carries entire rationale why the book has come into being. The Constitution we adopted with artworks. You need it in your chamber, by your bedside to know the

painstaking work for nearly three years by Members of the Constituent Assembly, and if I may say so, they engaged in dialogue, debate, discussion, deliberation. But members of the Constituent Assembly missed something. Very important, they missed disruption, disturbance. There was nothing of this kind then.

A reminder to all of us that we need to make institutions great by emulating the best practises that were imparted, particularly for legislature, the founding fathers. This book will tell every law student how amendments have taken place. Starting with the very first amendment, if I may indicate to you, which is ofcourse having varied situations but one is the Hon'ble President of India was required as per this Constitution to address every session.

It was immediately decided every session would mean the Hon'ble President would be addressing Parliament four times a year and there will be debate and discussion on four occasions to deliver a motion of thanks to the Hon'ble President. So they immediately said, okay, in the beginning of the year or in the first session after elections. This book will come very handy to you.

Constitutions are living documents. They are meant to evolve over time. A great philosopher Heraclitus, much before Socrates indicated, the only constant in life is change. Life is dynamic, challenges are different. And that is why our Indian Constitution has also come to be amended multiple times because issues have to be addressed.

The society is dynamic and we have to address the changes that come on. Let me slightly digress, Disruptive Technologies, Artificial Intelligence, Internet of Things, Machine Learning, Blockchain. The change is much beyond industrial revolution paradigm shift. We are on quicksand of technological evolution. We have to live with them. Law has to change accordingly.

The courts worldwide look into the changes but I am of firm belief that the Constitution which Founding Fathers gave us is the only Constitution we must believe in, subject to the Constitutional Amendments that have been sanctified in a valid manner by the Parliament under the power it has under Article 368 of the Constitution. Undoubtedly there is supremacy of the Constitution but architecture of the Constitution, in its evolution, is the sole repository of Parliament. In some situations, Parliament alongside state legislatures.

Shri Vijay Hansaria, who has been in the Supreme Court for over four decades, it is very thoughtful of you to bring out this book. Particularly with Artworks and, I must greatly commend when we have honoured today family members of Nandlal Bose, Prem Behari Narain Raizada, and Vasant Krishan Vaidya. I had the good fortune to be Governor of the State of West Bengal and went to Shantiniketan multiple times. Also in my capacity as Rector of that University.

I can therefore tell you that when we had 75th celebration of adoption of the Indian Constitution, a special book was brought out, one of the four, on this aspect and, in my address to the Joint Session of Parliament, I had indicated what I said a little while ago.

The Constitution we adopted, the Constitution that is in vogue, has to be only with interventions that have been approved on a sanctified platform, Parliament. It has been indicated very rightly by Vijay. The world's only Constitution, also reiterated by the Attorney General. 22 miniature paintings, but just imagine, we have traversed our glorious civilisational journey for more than 5,000 years. Mahabharata to Ramayana, Indus Valley Civilisation, and before that if you'll find that bull. You'll find Gurukul. If you really go into the rationale of every miniature before, a part of the Constitution, then you'll find, in part three of the Constitution, Fundamental Rights, Ramayana, and you'll find Ram, Sita, Lakshman coming back to Ayodhya. The occasion indicates much.

When you go to part four of the Constitution, you'll find Kurukshetra. Krishna giving the discourse to Arjun. Everything is very meaningful and therefore, I spoke to him that Vijay, can you spare time to do justice to something which we need and I know now, every member of Parliament will have this book in his hand.

He will have this book, courtesy Chairman, Rajya Sabha. And why so? I want every member of Parliament to fully know what was the original Constitution. And I'm sure most members will be stunned to see original Article 19 and Article 19 now. The Hon'ble Court is dealing with these issues day in and day out. When I look at Vijay Hansaria, the highest court of the land trusted him, appointed him a amicus curiae. For what? The cases against MLAs and MPs? Must be dealt with soon, about judicial vacancies also.

We celebrate his book release, but we are confronted with a jarring reality. A judge's residence in Lutyens' Delhi had burnt notes, cash hold. There is no FIR till date. We have in the country rule of law. Criminal Justice System and if I go to the legal field which is occupied by legislation, there can be no occasion whatsoever to delay even for a moment because that is ordainment of law. The rule of law is the very foundation of society. Democracy has to be defined primarily by three aspects.

- One — Expression.
- Second — Dialogue.
- Third — Accountability.

If there is expression, which is thwarted, democracy is weakened but if one enjoying expression believes I alone am right, and does not want to listen to the other point of view, then democracy gets fragile. Because that is arrogance personified. The other point of view has to be understood and similarly accountable.

The surest way to degenerate an individual, or bring down an institution, is to keep it away from probe. Keep it away from scrutiny which means the institute becomes, the individual becomes known to oneself. Therefore if we have to really nurture democracy, ensure that democracy blossoms, it is inescapable that we hold every institution accountable, and every individual accountable, and in accordance with law.

Today I am reflecting, not as a bystanding detector, but as a foot soldier of judiciary. I have given my best life in judiciary and I was extremely lucky. I can never envisage that I will do anything within the remotest form, will compromise dignity of judiciary. I started with that protocol but I have raised issues consistently because a robust independent judicial system is the safest guarantee for the citizen and also for survival of democracy.

Now, I find at the moment a big change taking place. Judicial landscape is changing for the better. The outgoing Chief Justice, Justice Khanna, set very high standards in accountability, transparency. He needs to be commended that the incident to which I referred, at the residence of a judge, cash all. And please don't mistake me, I give highest premium and value to innocence of a person. We are supposed to be innocent till proved otherwise. I am casting no aspersions but all I am saying is, that when it comes to national interest, we cannot divide in two compartments, insiders or outsiders.

We all are united in nurturing constitutional essence and spirit. I am the one who held the fort that because of legacy issues, mechanism evolved by a judgement in early 90s, the present Supreme Court did what it could to the maximum extent but time has come now for revisitation. Because the scenario is indeed one for which every person in the country is waiting. They want nothing but absolute truth to come out. They cannot wait any longer, because this concerns judicial institution.

Therefore I said, that after the Supreme Court had seen a very challenging tenure for nearly two years, we have newer soothing trend lines. These are emerging and I am full of optimism and hope that your legacy issues that deter us from responding to sublimity of accountability and transparency will be overcome by revisitation. I got a good news this afternoon, a process of determination has taken place.

If we look at effectively the legislature, the executive, the judiciary, then when we are in distress, troubled by executive, we look up to judiciary except constitutional amendments, if legislation has transgressed beyond the power indicated in the constitution, we look up to judiciary. So a robust judicial system is quintessential to survival of democracy to blossoming of democracy and if that system for one incident is clouded somewhat, it is our pious obligation to clear the air at the earliest.

I say so for this reason, that investigation all over the world is domain of the executive. Adjudication thereof is the domain of Judiciary. I wonder, as chairman of Rajya Sabha, having examined the scenario which obtains in the country for removal of a judge, under article 124, the committee can be legitimately constituted only, either by the Speaker or the Chairman, as the case may be, when requisite number of members of Parliament come with a resolution to remove the judge.

Now just imagine how much labour has gone to Chief Justices of two High Courts. In one High Court, the coverage area is two states and a union territory. They are involved with an enquiry, which does not have any constitutional premise or legal sanctity but most importantly, it will be in consecution. The enquiry report may be sent to anyone and the mechanism evolved by the court on the administrative side. Can in this country we afford to invest so much time at the cost of administrative work of the Chief Justice of High Court? A judicial work of the High Court? And I still wonder, while investigating, or so-called investigation, the three judges

committee recovered electronic equipments from people. This is a serious issue. How can this be done? All I am suggesting to you is, with that caveat, I am a foot soldier of judiciary. We have to set highest standards, exemplary standards, indicating adherence to rule of law that I am sure you all will think.

Our institutions, no institution is superior. All are important, all are our organs of the constitution. Be it the legislature, the judiciary, or the executive but, it is fundamental that each institution maintains what I say, constitutional boundary limitations and this was emphasised by Dr. Ambedkar. You have been very thoughtful in putting in your book some selected speeches. Very carefully chosen but I tell you, Dr. Ambedkar so emphasised, reflecting the constitutional assembly, I quote, "The successful working of our constitution depends upon the maintenance of the boundary between the legislative, executive, and judicial functions."

Ladies and gentlemen, and very distinguished audience, constitutional transgressions are terrifying. They shape the democratic governance. Democracy as a citadel captures its strength when intact, but suffers acute vulnerability when compromised.

At the moment, I can say, with deep concern, this constitutional architecture is getting strained by the day and also fragile. With not so infrequent institutional incursions in the domain of the other, I don't say only specific to judiciary. Even the executive and to some extent even the legislature. Therefore I should not be mistaken that I am singling out an institution. All three wings, organs of the state, on which our constitutional fabric stands have to realise that they maintain sanctity for the other's domain. In this context, I had invited your attention to a hugely concerning issue. Not to us, but beyond us.

Everyone in the country is now thinking whether this will be washed off, whether it will fade with time, and they are really concerned. How come Criminal Justice System was not operationalised as it would have done for every other individual? Even with respect to the Hon'ble President and the Governor, only the two functionaries, the coverage of immunity is only while they hold the office.

Therefore, being an integral part of this institution, that has defined what we are today, and that defines what our democracy is today. This issue for which people are waiting with bated breath. The money trail, its source, its purpose, did it pollute the judicial system? Who are the bigger sharks? We need to find out. Already two months have gone by, and no one knows better than people before me. Investigation is required to be with expedition so is the case with the registration of an FIR.

I do hope and believe that the Supreme Court acted the very best so far because it had a legacy issue of judgments imparted in the 90s. But now is the time to take a call. Partly the confidence has been restored by Justice Khanna. When he put in public domain documentation which people thought will never be shown to them, that was a big step by him to project accountability and transparency. If democratic values have to prosper, I'm sure this is a test case.

There must be swift investigation by those concerned with investigation. We must use scientific material. People in the front line particularly know. Lot many things are happening, and these are tough times. Most guarded secret is an open secret on the street, everyone knows it. Names are floating, several reputations have become fragile. People think the system had really suffered something like a great challenge. The system will get purified, it will get image makeover. Once the culprits are brought to book and not for a moment I'm indicating anyone as a culprit. Everyone is innocent till proved otherwise.

I therefore focused on this particular day because this incident is a concrete manifestation of what ails the system at the moment. The entire nation was worried. An incident took place on the night intervening 14th and 15th of March. Nation of 1.4 billion did not come to know about it till after a week. Just imagine how many such other incidents may have taken place of which we are not in the know of it because every such transgression of integrity impacts common man, impact those who believe in rule of law, in merit, and therefore we have to be unsparing about it.

The motto of the Supreme Court which you must have seen a number of times, I saw it every time "Yato Dharmas Tato Jayah" where there is Dharm there is victory and "Satyameva Jayate" Truth has to triumph in this case. Nothing but absolute truth has to triumph in this case. Where is the genesis that our Supreme Court was handicapped? I held the brief for Supreme Court. When this happened, many were raising issues. I said - No. Both the Supreme Court and the executive of the day, the government, were handicapped because the

genesis of this impregnable cover is a judgement imparted by the Supreme Court in K. Veeraswami's case, 1991. If I may put it, Dr. Raj kumar will appreciate it.

Judicial Legerdemain, normally it is used for legislature. Am I right? Elected scaffolding of impunity, pairing, neutralising all salvos of accountability and transparency. Time for us now to change, and I have full trust and confidence in the present Supreme Court, which is of eminent people, people of integrity. In the short time the present Chief Justice has shown that things are soothing for people at large, and so did his predecessor.

There is need to protect judiciary, we have to ensure our judges are not made vulnerable, because they decide fearlessly. They do the most difficult job. They deal with powers in the executive, they deal with powers in industry, they deal with mighty power that has great economic strength and institutional authority, and therefore we must protect them. We must evolve our mechanism not for a moment. I will see, I will indicate that we must make our judges vulnerable - No.

We have to provide judges with something like impregnability when it comes to challenge to the judges on sinister premise, by pernicious design, by forces that cannot digest independence of judiciary. But that requires in-house regulatory mechanism, which is transparent, accountable, expeditious, and which should not have peer concern. We all are victim of it. For example, in Parliament, a breach of privilege is determined by the same people who sit alongside but we have to be ruthless, because we have to decide similarly.

Ladies and gentlemen, our constitution has a premise that is promised for us all, and I have had the occasion to go to several countries in the world. I can say our members of the Bar and members of the Bench are at a very high pedestal at a global level. Very high pedestal. Time for you to clap. They are very high.

Their intellect outshines others by several notches, they are brilliant. Therefore, let this small incident that is agitating mind of billions, 1.4 billion, let us give quietness to it by scientific, forensic, expert, thorough investigation that reveals everything and leaves nothing unrevealed. The truth needs to be let bare.

I am extremely delighted that Vijay Hansaria has given me an opportunity.

Thank you so much.

JK/RC/SM

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