

# JUSTICE ALTAMAS KABIR'S CONVOCATION ADDRESS

*Justice Altamas Kabir\**

Friends,

On the occasion of your Annual Convocation, I felt that instead of giving you a scholarly lecture on a legal topic, it would be more appropriate to give you a bit of information, some of which you may already have, that may help you in making a decision in pursuing in law.

Till about fifteen years ago, law as a career option was not much of a choice and was more or less at the bottom of the choices available to a person thinking of a career. Today, the position is different. Today, a career in law is a very attractive proposition, so much so that an entrance test has had to be introduced for the purpose of admission into the law colleges and universities. Why is this so and what has caused such a change in attitude so that a career in law today is considered by many to be a better choice than a career in engineering or medicine?

One of the main reasons for the change in attitude are the vast opportunities that are now available in a law career on account of technological advances and the shrinking and blurring of boundaries of trade and commerce. With the advent of the internet, things have taken a dramatic turn. Commerce has become global and with such globalization, trade agreements at an international level among international players have become common. With information exchange possible within minutes, commercial contracts and agreements are reached quickly without the parties or their lawyers having to undertake long travel. These transactions otherwise took hours and even days. This has, however, also given rise to disputes at an international level requiring the expertise and assistance of members of the legal profession.

Company laws, Patent, Trade Marks and Designs laws, Shipping laws, Customs laws, laws relating to Contract, Arbitration and Mediation laws, have gained prominence.

Gone are the days when the practice of law was confined to a regular court room for the redress of grievances at different hierarchical levels.

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Formerly, among the major statutes broadly governing civil society were the Transfer of Property Act, the Code of Civil Procedure, the Evidence Act, the Code of Criminal Procedure, the Indian Penal Code, the Indian Succession Act, the Specific Relief Act, General Clauses Act, etc. The present generation of laws involves varied areas of specialization. Tax laws, labour laws, laws relating to co-operative societies and consumer protection – these are some of the areas of diversification and specialization, which have been compartmentalized and are dealt with differently.

Although, arbitration as a method of having disputes settled by a private judge of one's own choice has been in existence for a long time, today, with globalization, the concept of arbitration has taken an even firmer hold. Commercial litigants prefer to have their disputes settled by arbitration which gives the parties a chance to select their own judge or judges to determine their disputes with less procedural delay. Of course, the award of the arbitrator is still subject to challenge in a court of law, but the same is a relatively less time-consuming process. A special group of arbitration lawyers have developed over the years and their practice is confined mainly to arbitration matters, which also includes conciliation.

A separate chapter has been included in the Arbitration and Conciliation Act, 1996, on the settlement of disputes through conciliation. In addition, the Code of Civil Procedure was amended in 1999 to re-introduce §89 which had formed part of the original Code, but had been repealed in 1940. In the re-introduced section, which came into effect from January 3, 2009, mediation was included as one of the modes of alternate dispute resolution.

All these alternate dispute resolution mechanisms have broadened the scope of a career in law and have made it lucrative too. Apart from arbitration, plea bargaining and mediation, the other alternate dispute resolution mechanisms require the intervention of courts at some point or the other. A completely separate forum has been in existence as far as the settlement of disputes by arbitration is concerned. It is an area which involves specialization. Similar is the case with conciliation and mediation. In order to make the two modes of settlement of disputes effective, a good deal of expertise is necessary for which training and experience is necessary. This is yet another area which is being explored and used the world over to good effect.

The virtual world of cyber space is another challenging new dimension to be considered when opting for a career in law. As far as I know, until today, not a single cyber crime under Chapter XI of the Information Technology Act, 2000, has led to a conviction, because prosecution agencies have not been able to gather proper evidence of the crime. What started off as a kind of recreation or even a game, has now become an engine of knowledge and super-fast method of commission of crimes punishable under the Indian Penal

Code or other criminal laws, but with the advantage of greater anonymity and the ability to hide one's identity. In order to make the Information Technology Act work, legal practitioners must themselves have thorough knowledge of how to deal with the provisions of Chapter III, and IX to XI of the Act, which calls for specialization. Crimes in cyber space are similar to those in the real world, only the methodology used is different. A completely new set of words and expressions have come into use which are similar-sounding in respect of offences committed in the virtual-world. The cyber world knows no geographical boundaries. One can sit in Alaska and perpetrate a cyber crime in Africa and disguise his or her presence by routing his or her moves through different countries. In order to be able to trace and discover the perpetrator of the crime requires a great deal of technological knowledge and support from service providers and can prove impossible at times.

Then there are the various Tribunals. Ever since the introduction of Articles 323A and 323B in the Constitution by the 42<sup>nd</sup> Constitution Amendment, in addition to the Courts, various statutory Tribunals have been established, each dealing with different subjects and having their own sets of advocates and Bar Associations. There are Industrial Tribunals and Labour Courts, which are in existence from before the 42<sup>nd</sup> Amendment, Income Tax and Sales Tax Tribunals, Customs and Excise Tribunals, Co-operative Tribunals, the Consumer Tribunals, Administrative Tribunals, Land Tribunals, Military Appellate Tribunal, Competition Commission, Electricity Appellate Tribunal, etc. administering the laws relevant to them, each having its own Bar Association comprising advocates having specialized knowledge of the particular subject relevant to their practice.

Apart from practising in the law Courts and Tribunals, there are so many other avenues also open to graduates in law today. One has the choice of joining a law firm and being a part of the corporate world. Such a career can be very daunting, since a great deal sometimes depends on the written word. Good cases can at times be lost on account of poor drafting. International agreements of trade between countries require experts in the field of drafting commercial documents which are legally sound. Our country has in the past lost out on account of the failure of our legal representatives to appreciate seemingly innocuous clauses relating to tariff in trade agreements, resulting in loss of revenue and loss to our own entrepreneurs and businessmen. We did not until recently have our own panel of lawyers for looking after the court's interest in negotiating and drafting trade agreements under the W.T.O. and TRIPS regimes but I have been told by people who matter that steps have been taken to create a panel of lawyers specially for this purpose.

Some of you may be academically disposed and may not be as articulate as a practising advocate would have to be. You have the choice of joining the judicial service or the teaching profession. There is a dearth of

good faculty all over the country, and teachers like your own founder Vice-Chancellor, Professor Madhava Menon and the present Vice Chancellor, are hard to come by.

Good lawyers also make great politicians. Several MPs and Ministers in the Central Government and in the Opposition are members of the legal fraternity. You have people like Mr. P. Chidambaram, Mr. Kapil Sibal, Mr. Veerappa Moily, Smt. Jayanti Natarajan, who had successful stints as lawyers. You have Mr. Ram Jethmalani, Mr. Arun Jaitley, Smt. Sushma Swaraj, Mr. Ravi Shankar Prasad in the Opposition. Mr. Somnath Chatterjee excelled both as a Barrister as well as one of the finest speakers of the Lok Sabha.

Nearer home, our present Speaker was a criminal sessions lawyer of repute. Mr. Kashikanta Moitra has made his name both as a lawyer and as a former Minister in the State Cabinet. Mr. Kalyan Bandopadhyay is a successful blend of law and politics. There is Mr. Rabilal Moitra, our Law Minister, Mr. Nisith Adhikary. The list is endless. From the past you have names like Mr. Ashoke Sen, Mr. Siddharth Shankar Ray, Mr. Shankar Das Banerjee, Mr. Amar Chakraborty, Mr. Shankar Ghosh, Mr. J.N. Ghosh, Mr. Mansur Habibullah and Mr. Bholanath Sen, who successfully combined a career in law and politics.

Friends, as they say, the world is your oyster. Opportunities are waiting out there for you. Go out there and get the taste of life on your own terms.

Good Luck.