

**40th anniversary of establishment of
High Court of Himachal Pradesh**

(Shimla, Himachal Pradesh – March 13, 2010)

Address by Hon'ble Mr. K.G. Balakrishnan, Chief Justice of India

Shri Prem Kumar Dhumal (Chief Minister, Himachal Pradesh)

Justice Kurian Joseph (Chief Justice),

Esteemed colleagues from the High Court of Himachal Pradesh,

Members of the bar,

And Ladies and Gentlemen,

I consider it a personal privilege to be present here for this programme which has been organised to mark 40 years since the establishment of the High Court of Himachal Pradesh. On this occasion I would like to convey my personal regards to all those who have been associated with the functioning of this Court. Since its creation, the State of Himachal Pradesh has performed well on several developmental indicators such as education and income-levels. In the same vein, access to justice is both a pre-condition as well as a stimulant for inclusive growth in any society.

Each generation must of course respond to the particular social, economic and political challenges before it. In keeping with the vision and the foresight of the framers of our Constitution, we must also do our best to respond to the problems faced by our society. There is no doubt that democratic values can be deepened only if we ensure that all of our citizens have access to basic entitlements such as nutrition, housing, education and healthcare. To borrow the terminology developed by Professor Amartya Sen, our understanding

of concepts such as 'niti', i.e. the design of our public institutions and policies and 'nyaya', i.e. the pursuit of substantive justice, should be geared towards developing the capabilities of our citizens. If the government can play the foundational role of ensuring equitable access to such basic entitlements, then the resourcefulness of citizens themselves will lead them to personal and collective empowerment.

This might be a simple idea to communicate but is indeed the existential question for examining our approaches to governance. The legal system must also contribute to the vital agenda of improving the capabilities of citizens. This places a special duty on both judges and lawyers who are often called upon to play central roles in resolving disputes about resource allocation. Whether it relates to questions about admissions to educational institutions, the provision of job opportunities or even the delivery of social welfare schemes designed to ensure better access to food and healthcare, it is imperative for the courts to give priority to concerns of distributive justice rather than those of benefits to private parties. In some cases, judges and lawyers have been confronted with underlying tensions between the competing notions of 'justice for the masses' and the 'rights of a few'. These tensions have become prominent on account of increasing competition for resources such as land, employment and investment opportunities. In a gradually liberalizing economy, we need to be vigilant about the widening of existing socio-economic inequalities. Judicial interventions have been the instruments of

distributive justice in the past and even more difficult questions will be brought before the courts in the future.

We may disagree with each other on how to deliver justice in particular cases, but I hope that there is a broad consensus on the understanding of our constitutional values amongst the legal community. Ideas such as the 'rule of law', 'equal protection before the law', the protection of 'personal liberty' and the promotion of civic virtues are at the core of these values. There are of course complications on account of the wide disparities among our people, but the first premise of a functioning democracy is that its citizens must learn to look past their mutual differences and resolve their disagreements through peaceful means.

It is my hope that all of us who are part of the legal system will take the lead in promoting these values in our society. The true worth of a judge or lawyer cannot be gauged by the length of judgments or the amount of earnings alone. Real merit comes to be gauged by the social impact of the arguments and ideas presented in the courtroom. The Ruby Anniversary of the High Court of Himachal Pradesh affords us a good opportunity to remind ourselves about what our priorities should be. With these words, I would like to thank Justice Kurian Joseph for inviting me to attend this programme.

Thank You!
