

**INAUGURAL FUNCTION OF THE LAUNCH OF REDEFINING
LEGAL PRACTICE FOR ADVOCATES – GENERATION NEXT
(0-10 YEARS PRACTICE) CONTINUING LEGAL
EDUCATION TO YOUNG LAWYERS AT DISTRICT LEVEL**

**SPEECH ON 'ESSENCE OF LAWYERING' BY
HON'BLE THE CHIEF JUSTICE**

15.12.2013 – 10.00 AM

Vande Mataram

Vanakkam

My Lord the Hon'ble Chief Justice of India, Hon'ble Mr. Justice F.M. Ibrahim Kalifulla, Judge, Supreme Court of India, President and Board of Governors of Tamil Nadu State Judicial Academy, my esteemed sister and brother Judges, learned Advocate General, Presidents & Secretaries of Bar Associations of Madras High Court – Principal Bench and Madurai Bench – and all over the State, Judicial Officers, Senior Advocates, Advocates, ladies and gentlemen,

A very good Morning to you all.

I deem it a privilege to be part of this august gathering. We have assembled here for the launch of the Training Programme on Redefining Legal Practice for Next Generation

Advocates. The young lawyers of today will be the future judges and senior advocates and the entire responsibility of the judiciary will rest upon their shoulders. Therefore, the President and the Board of Governors of the Academy have rightly selected the young lawyers as the target trainees.

Friends, Once a lawyer; always a lawyer. Treat me also as one of you. The young lawyers have a very special place in my heart. It has always been my endeavour to see that they get a chance to present their case to the fullest ability and, in fact, I encourage the young lawyers to open the case instead of seeking adjournment on the ground of their seniors being busy elsewhere. All of you have chosen a noble profession as your career to achieve some aim in life. This profession is not a bed of roses. You may treat it as a 110 meters race. If the first generation lawyer, in order to prove himself, has to run 110 meters, the second generation and the third generation lawyers will have to run 100 meters and 90 meters respectively. All have to run in order to prove themselves. So, to become a good lawyer, all of you will have to strive hard. This is all the more necessary for those who are first generation lawyers.

Only a good lawyer commands respect from his/her colleagues and the Bench alike. You should also have the belief like the Father of our Nation, Mahatma Gandhi, believed that 'what is possible for one is possible for all'.

Though there are time tested do's and don'ts for becoming a good lawyer, they have been succinctly mentioned by the eminent jurist Mr.Fali S. Nariman, Senior Advocate, in his autobiography titled "Before Memory Fades"

1. It is better to spend more time thinking about a case than merely reading the brief.
2. Let your opinions be honest and responsible. Never begin a suit or an action unless you are satisfied that your client has evidence to substantiate his claim in a court of law.
3. The essence of good lawyering is acquainting oneself with the relevant law, including case law, on the subject in hand. The essence of good advocacy is to know the facts of your case, and then apply the law to those facts. Some budding young practitioners are much close to case law oriented; they attempt to

'accommodate' the facts of the case in hand with decisions of Courts given in other cases. It is wrong and never done. Be abreast of the case-law but never be accused of that legal malady called 'case-law-diarrhea'.

4. Do not respond to wise-cracks or insults that may be hurled at you during a hearing by an irascible opponent. You should ignore them and do not retaliate. It does not help to win cases. It would even contribute to losing your case. Here, I may add that you should concentrate in addressing the Court and not to the gallery for appreciation of your arguments.

5. When you argue a case in court, be clear and precise, not confused. Present a cogent and logical argument. Give ready and precise answers to the judge. Give your answer first and present your own point afterwards even when the question puts you off the track of your argument. If you don't know the answer to the question posed by the court, seek time but never give a wrong and incorrect answer.

6. Keep yourself informed and be up-to-date with all the reported judgments and decisions of the Supreme Court and the High Courts. It may help you in getting recognition in the court, which, in case of any doubt, may ask you about the latest case laws on the subject.

7. If, in a given case, you have two points to argue, first place the worst and put your very best work into it. The mind of the Judges also works in the direction to drive you in the corner. Then, you may place the next point which may get some appreciation and then, you will be at least half way to winning your case.

8. Keep yourself occupied in the profession even when you don't have cases to argue. It will enhance your mental faculties.

9. As a lawyer, it is your duty to bring to the attention of the court a case already decided on the point being argued. You may then distinguish your case from the decided case but you must cite it. Never cite an overruled case. It is highly improper.

10. In court, it is always better to understate a case than to overstate it. Never tell a Judge that you have a 'cast iron case'. I may add that those who have been science students are aware about the Newton's Third Law of Motion, i.e., every action has a reaction. Judges are also human beings. In nine cases out of ten, the natural urge of the Judge will be to cut you down to size, and prove to you that your case is not as water tight as you profess.

11. 'Don't count your chickens before they hatch.' In other words, never be too cocksure of winning cases.

There are many impediments to success – one of which is the luck of the client.

12. Never use the words " I have never heard of such a thing," when responding to what the Judge has said in the court. Also never say "Your Lordship will bear with me" as the court is always giving patient hearing.

13. Never exaggerate in court about facts of your case or the applicable law. Avoid rhetoric, and don't be too smart and funny. You will be stigmatized either as impertinent or flippant. Never trump the Judge's jokes or make it appear you are more humorous than he is. If you have to tell a story, tell one against yourself, and not one in your favour.

14. Never put forward an absurd argument. You will be branded as too clever by half!

15. Leave your anger – and all the vitriol that goes with it – outside the court. Never take it into the court with you.

16. Don't quarrel with your opponents or be nasty to them, because if you have chosen the law as your profession, the major part of your life will be spent with colleagues at the Bar. They will speak well about you, if you have not been mean or uncharitable to them – in word or in action.

17. Never consciously make an incorrect statement in court – or you run the risk of being mentally blackballed by the Judge.

18. Don't criticize the Judge, before whom you have appeared, either in the corridors of the court or in bar library or before clients or litigants.

19. Don't speak much as much-speaking lawyer is a worse lawyer. He is like a cracked drum – unpleasant to listen to by a Judge, whose painful duty is to hear him.

20. Learn to lose with dignity as only one side can win; and don't jump to conclusions about the Judge, who speaks his mind whilst you are arguing. It is only to get the best out of you and to clear the doubts.

21. Never give interviews or talk to the media in cases where you have appeared. It smacks of cheap publicity and is unfair to the Judge, who cannot retaliate, and it is also unfair to your opponent, who may not be given an opportunity to refute what you say.

22. Never complain about the inadequacy of the time set by the Judge for your argument. You thereby expose your own incompetence of not being able to 'put your case in capsule form.' When time is put against you, you will only have to say what is strictly relevant.

23. When arguing a case – civil or criminal – avoid histrionics and stick to the record and you will find the Judge receptive to your pleas. "

Friends, it is for you to follow these or not. It is not very difficult to accept and act accordingly in your profession. Some may believe that the end justifies the means. But it is not so. As our Father of Nation, Mahatma Gandhi, professed the 'ends' cannot justify the 'means' and he focused his thinking and acting on the 'means' rather than on the 'ends', I am of the firm belief that if you imbibe them as the guiding principles in your profession, one day you will certainly be called a good lawyer. The benefit of being a good lawyer are manifold. One of them is that a Judge exercises his discretion in favour of a good lawyer while considering the question of grant of interim order, if he finds that the chance of success in the case is 50:50 or even some percentage less. The profession may seem to you to be crowded, but don't forget, howsoever crowded it may be, there is always a room at the top. Always be optimistic and think positive. No dream is too big; so dream big and if you are a good lawyer, then you shall certainly attain great heights whereafter there will be no looking back. I request all of you to take a leaf

out of the life of our Hon'ble Chief Justice of India and see for yourself as to how the high principles and values, which His Lordship imbibed and professed, during his days at the bar as an Advocate, have not only made his parents and the entire family but also the legal profession in this country, proud.

I thank all of you for giving me an opportunity to share my views.

JAI HIND.