



**Reply Address by Mr. Justice S. K. Sinha,
Chief Justice of Bangladesh on his
Felicitation by the Bar**

January 18, 2015

Mr. Attorney General

Mr. President of the Supreme Court Bar Association

Esteemed colleagues of both Divisions

Learned members of the Bar

Ladies and gentlemen

Very good morning to you all. I feel a sense of pride and privilege assuming this highest seat of the judiciary. Today I should offer my gratitude to the gracious almighty, without whose infinite bounty and mercy, it would not be possible for me to occupy this exalted citadel of justice. May I request you all to pray for me, so that during my tenure in this office I could discharge my onerous responsibilities with proper wisdom and courage, and serve the nation upholding all judicial ethics and impartiality.

On this occasion, I would like to pay rich tributes and respect to the Father of the Nation and remember the heroic martyrs, who participated in a long struggle and sacrificed their lives through the historic war of liberation in 1971. We are really fortunate for achieving independence and getting a sovereign country like Bangladesh. Otherwise it would hardly have been possible for a person of my background to occupy this holy position of the apex court of the country.

At this moment I would like to pray for eternal peace of the souls of my beloved father and mother, whose blessings and affections are still a pristine source in all affairs of my life. I remember my father Late Lalit Mohan Sinha, who cherished a desire that I pursue my career in the profession of teaching. But due to my strong determination to become a lawyer, on completion of the legal education, I joined the District Bar in Sylhet and started my career till I shifted in the Supreme Court of Bangladesh.

From my background, I never dreamed of becoming a judge of this highest Court, but my perceptive abilities and life had completely been changed, when I joined the chamber of Mr. Sabita Ranjan Pal, who was a man of outstanding stature and a notable luminary of our judicial domain. Getting soft-touches of a magic-stone like Mr. S R Pal, eventually I became familiar with all legal fraternity including senior judges of the apex Court. So, I would like to express sincere gratitude and pray for eternal peace of my respected senior late S R Pal. I take this opportunity acknowledging support and sacrifice of my family members and the teachers of my schools, college and university, which are still strengths of my journey in this corridor of justice.

I am extremely grateful for respect and regard that has been shown to me through your praiseworthy words. If I have failed in the past to be worthy of those comments, I assure, in future, I shall be more committed in discharging the responsibilities, which would be entrusted upon me for dispensation of

justice. As a Judge in both the Divisions, I received full co-operation and support from all members of the Bar specially the seniors. I am confident that in any situation learned members of the Bar will not hesitate to stand by me extending their support and co-operation in upholding dignity and decorum of this highest institution.

On the occasion of celebrating the India's Independence Day in the Supreme Court, the former Chief Justice of India Mr. Justice S H Kapadia, a member of Parsi community, in his address stated:

"I am proud to be an Indian and India is the only country, where a member of the minority Parsi community with a population of 1,67,000 like myself, can aspire to attain the post of the Chief Justice of India. These things do not happen in our neighbouring countries."

I think, the said remark of Mr. Justice Kapadia regarding all neighbouring countries of India is not wholly true. It is a clear indication that any nation practicing democracy and pursuing values of constitutional ideals and principles may create an atmosphere, where even a member of the minority can attain any exalted post of the constitutional hierarchy. On this occasion, may I take an opportunity expressing my gratitude to the people of this country, who have strong commitment to the spirit of our liberation war and democratic values.

A mutual respect and trust between members of the Bench and the Bar is essential at this juncture of the judiciary. Existence of the rule of law is a condition precedent in a democratic polity and it demands a high sense of respect for the judiciary in which the nation reposed its trust and confidence for upholding the rights of the people. It is often said "Where the rule of law ends, the tyranny begins". As per the Constitution, the responsibility of establishing the rule of law is vested in the Supreme Court and the Bar plays an important role for ensuring the principles of the same. A strong but a courteous Bar is certainly the best friend of the Bench, and it is the Bar which can school-up a judge, who will be a priest in the temple of justice. Still now our society has a great respect for the judiciary and has reposed confidence in it for dispensation of justice. In spite of some drawbacks, limitations and paucity of the resources, we have been maintaining a time-tested system in the judiciary, where citizens from all walks of life still approach to the Courts for settlement of their disputes and enforcement of their rights against any authority even the Government.

We may deserve a place in the history, only if the efforts of both lawyers and Judges are put together for the cause of justice and service to the public. The legal profession always carries with it a great sense of responsibility. The public look at us to provide them the "elusive justice" and lawyers and Judges are the instruments to do so. Like a temple cannot remain closed, a temple of justice should not remain closed for the teeming millions of the country. It is no answer to them to say that courts are not functioning for one reason or the

other, and that we failed to provide the service in a manner befitting the profession we carry on and the office we hold.

Lawyers and Judges have to take effective steps towards the vision of better work-culture organizing a transparent system, where the litigant public does not find access to justice as a burdensome adventure. In this age of technology, we cannot expect the public to wait indefinitely for us to find an ideal solution. There has to be prompt justice. So, I would like to express my mind stating the following five-pronged strategies:

i) Pendency of old cases must get priority as litigant has waited enough and one must make sure that the current institution does not result in a similar long pendency. This is easier to say than done. But nothing is impossible if we make joint efforts in that direction.

ii) A good number of Judges of the District Courts, as reported do not perform any judicial work after the recess hour and they have recently developed a habit of leaving their stations without prior permission just to enjoy the weekends in Dhaka or elsewhere. In the Supreme Court, if we can perform judicial works at least 210 days in a calendar year, I believe, it would yield a good result reducing the case backlogs by 20%. And if all administrative business of the Supreme Court including different Committees' Meetings could be held before or after ordinary working-hours or on the non-working days, it would certainly cause a reduction of backlogs by an extra 10%. In the Supreme Court it will not be hard to reduce case backlogs by 15% to 20% if we the Judges can sincerely and strictly maintain the court hours and fully utilize the time allotted for the hearing of cases and judicial works. Similarly in the district Courts, the full utilization of normal Court-hours would easily reduce the existing backlogs by 25% more. So, may I urge upon all Judges to become a bit more attentive for proper utilization and time management of the court-hours. We the Judges are not supposed to proceed on leave unless it becomes unavoidable for us and should abstain from participating in any functions which may expose us to any public criticism.

iii) The Judges of all strata and court staff need continuous training in case management and court administration. They should know the basics of the computer-skills at least the word-processing and spreadsheet applications. Still now we have not formulated any Judicial Policy required for addressing the problems of the judiciary in handling of huge number of cases pending in different Courts. So we must undertake initiatives immediately to prepare a Judicial Policy containing guidelines for combating increasing backlogs and bringing excellence at all level of the judiciary.

iv) At present there are 94 Judges in the Supreme Court and 1500 Judges in the District Courts. Against such meagre workforce in the Supreme Court around 3,65,059 cases and in the district Courts around 24,95,944 cases have been kept waiting for hearing and disposal. It would be evident that number of Judges is quite disproportionate to the number of cases pending in different Courts of the country. Besides, present cumbersome legal system, complicated Land Administration of our country has made it difficult for a Judge to take any short cut approach in hearing and disposal of the cases. In all cases the Judges should have an ultimate objective to provide a fair and just decision to the litigant people. In order to address those problems, we have no alternative but to increase the number of Judges and that should be **at least double** of the existing number.

v) Use of optimal computer technology coupled with modern Court management system can go a long way to yield a better output. Each suit or case should be able to be tracked from its cradle to grave i.e. when a suit is instituted; right through different tiers of scrutiny; efforts have to be made for early hearing and disposal of the cases. We have to use technology to deal with high volume of pending cases causing backlog in the system. It is true that presently the citizens are much aware of protecting and enforcing their rights resulting in filing of a large number of cases. I think, it should be taken as a reflection of faith of the people in the system. But when the pendency of the cases acquire the character of arrears not on the date of the institution, but after they cross an ideal time frame for their disposal, that erodes the peoples confidence in the judiciary.

So, the above predicaments need be addressed taking both legislative and administrative measures. May I request the members of both Bar and Bench to find a way out on those matters and improve the situation.

Bangladesh is a unitary, democratic republic and by this time it has earned a good reputation for communal harmony. All along it has been fighting against terrorism and resists all types of terrorist activities. On 17 August 2005, around 500 bomb explosions occurred at 300 locations in 63 out of the 64 districts of Bangladesh and at that time premises and surrounding areas of the Supreme Court was not spared. A few days back, as noted, again an attempt was made for recurrence of the same incident. Fortunately the law enforcing agency recovered some bombs before their explosion even from a court-room and a fire-arm from the premises of the Supreme Court.

We know due to insane terrorist activities most of the time innocent people have to face tragic consequences. So I urge upon you all to work together in curbing all forms or manifestations of terrorism. It is impossible to eliminate terrorism if some terrorist acts are condemned, while the others are tolerated and justified. I am planning to sit with you all including members of

the Bar to beef-up the existing security measures and build awareness among lawyers and Judges. Due to restrictions to be imposed at entry-gates of the Supreme Court necessary for its security, we might face some inconveniences and difficulties. Even then, we have nothing to do but to tolerate those with patience.

Overall security and sanctity of this highest Court and its premises should be maintained at any cost by all concerned including lawyers and Judges. Before my elevation in the High Court Division, I spent a long period in the Bar enjoying your association and affections. Still now I consider myself as a member of your family. That is why I would like to remind you your rights and responsibilities. You have every right to walk around the premises of the Supreme Court and sit together to discuss any issue relating to the profession and the judiciary. May I urge upon you all to remain vigilant so that none can create any chaotic situation or any demonstration which might in turn undermine sanctity, dignity and holy image of this highest institution.

Terrorism cannot be curbed without a mechanism which would work effectively and ensure punishment of the actual offenders and perpetrators at minimum time and cost. Now-a-days our investigating agencies are not found sufficiently skilled and committed in collecting evidence and materials in support of the charge made against an accused. Recently in course of hearing of some sensational cases, it has been revealed to me that decisions ending up with the convictions of the accused persons cannot be upheld for lack of legal evidence and materials, which are supposed to be procured at the investigation stage. I have noticed a propensity among the officers entrusted with the criminal investigations having more interest in publishing the news and information regarding arrest and actions taken against an accused through electronic or print media rather than giving time for and attention to their duty of collecting evidence and supporting materials. Broadcasting of such information of the law enforcing agency in most of the cases hampers even the trial of a case. On principle none can be branded as a criminal or offender, unless it is decided by a competent Court on conclusion of a fair trial. I would thus request all members of law enforcing agency to bring an attitudinal change in their duties avoiding publicities and become more professional than focusing on media.

We know the media and the Courts work obviously in quite different ways. The Courts proceeds carefully through a fair process of law examining the evidence and materials on record produced by the prosecution. On the other hand the media generally operates hastily to cover news which may not in some cases be in line with the real fact or occurrence. I think the judiciary and media are two powerful public institutions and if they could maintain harmony and good understanding with each other, that would reinforce the public confidence in the judiciary and enhance its credibility. The judiciary and law serve justice and the media helps to bring law and justice to the people at

large. In true sense, their responsibilities are complementary not contradictory. On this occasion I would request esteemed persons involved in media to cooperate with the judiciary playing a constructive role, so that this institution can run without any hindrance enjoying full public confidence and credibility of all.

We are living in a changing complex society where the science and modern technology has close impact on the pattern of human behaviour and lifestyle that has given rise to the disputes and offences of various nature. To solve civil disputes and detect the perpetrators involved in commission of offences, there is no alternative but to fashion both procedural and substantive laws of the land. In my view the law should assume a new dimension to suit the need of our IT based modern society and it should play a dynamic role like a living organ.

The law is not like an antique to be taken down, admired and put back on the shelf but it is rather like a big tree having its root in the history and puts out new sprouts and occasionally drops dead leaves and wood. In the days of digital era we cannot improve institutional management capacity of the judiciary without integration of a sustainable and cost effective IT technology.

As per the present laws, our formal Court system does not admit any digital document or electronic communication as evidence. I think the time has now come to develop an affordable ICT infrastructure suitable to our legal system and integrate customize software for automation of judicial and administrative functions of the courts. To achieve those objectives, we have to scrap of all existing obsolete laws and rules including Civil Procedure Code, Criminal Procedure Code, Evidence Act, Penal Code, Arms Act, and they are to be enacted by complete overhauling.

We know, those laws were enacted when we had been under the then British colonial regime. That is why, in the existing laws of this land there is no reflection of democratic values. As a democratic nation we have by this time spent around 43 years, but unfortunately we cannot legislate essential laws making them suitable for a democratic nation. So, may I urge upon the Government to take immediate steps in that direction.

It is noticed that the Criminal Courts do not maintain any uniformity in awarding sentences to the convicts for want of a sentencing policy. In our neighbouring countries, as we know, they have already made the Sentencing Rules.

I take this opportunity and request the concerned authority for taking immediate steps to formulate the Sentencing Rules containing guidelines in awarding sentences by Criminal Courts of the country.

Besides, some other laws namely Durniti Daman Commission Ain, 2004 including its rules is to be updated and made more effective bringing

necessary changes in it, so that the actual perpetrators cannot get off taking advantages of the existing loopholes and flaws in them.

On this occasion I feel tempted to quote Sir Winston Churchill a former Prime Minister of England.

He said: “The service rendered by a Judge, demands the highest qualities of learning, training and character. These qualities are not to be measured in terms of pounds, shillings and pence according to the quantity of work done. A form of life and conduct far more severe and restricted than that of ordinary people, is required from Judges and, though unwritten, has been most strictly observed. They are at once privileged and restricted. They have to present a continuous aspect of dignity and conduct.”

As the symbol of confidence and independence the door of Supreme Court remains open to all and it always functions as the keeper of nation’s conscience and the lawyers are the vanguard for upholding the principles of the rule of law and independence of the judiciary as enshrined in the Constitution. Now-a-days Bar and Bench are subjected to wide spread criticism mainly for two reasons – one is that justice is very expensive and other is delay in disposal of the cases. Expenses of litigation may be minimized if learned lawyers take the profession as a social service and charge fees according to the capacity of their clients. To help the poor litigants on going Legal Aid programs should be strengthened both institutionally and functionally.

I believe, a proper administration of justice rests on public confidence and my colleague Judges including myself should function not individually but institutionally. So I require full co-operation from my esteemed colleagues of both the Divisions in discharging my onerous responsibility as the Chief Justice of Bangladesh.

I am really thankful for the kind words spoken about me. I assure you that I will try my best in living up to your legitimate expectations and for that I need your whole hearted co-operation. I am confident that learned lawyers and my colleague Judges will walk with me hand-in-hand for the larger cause to provide justice to the common people of the country.

Before I conclude, may I request you all to pray so that I can perform my functions and discharge duties by administering justice properly. I express sincere thanks to you all for being so kind in attending the ceremony and giving a patient hearing to me. May God bless us all. Thank you.

Justice Surendra Kumar Sinha
Chief Justice of Bangladesh.