



CONFEDERATION OF INDIAN BAR



KALINGA INSTITUTE OF
INDUSTRIAL TECHNOLOGY
(KIIT) UNIVERSITY, BHUBANESHWAR

ALL INDIA SEMINAR
ON
"GLOBAL LEGAL EDUCATION"

ON 8TH - 9TH AUGUST, 2015
AT KIIT UNIVERSITY, BHUBANESHWAR

The Seminar will be Inaugurated by:
HON'BLE SHRI PRANAB MUKHERJEE
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VOL. I

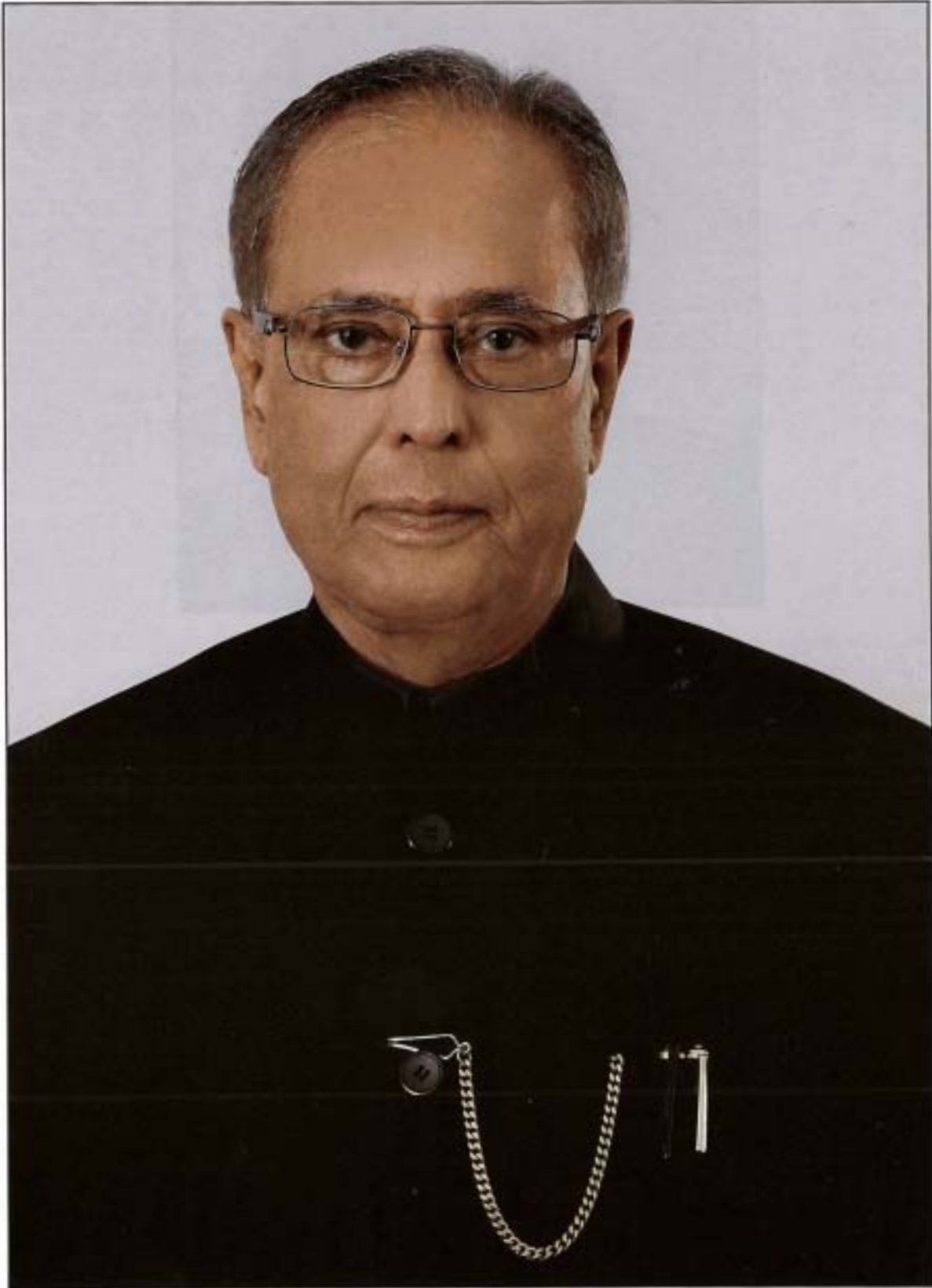
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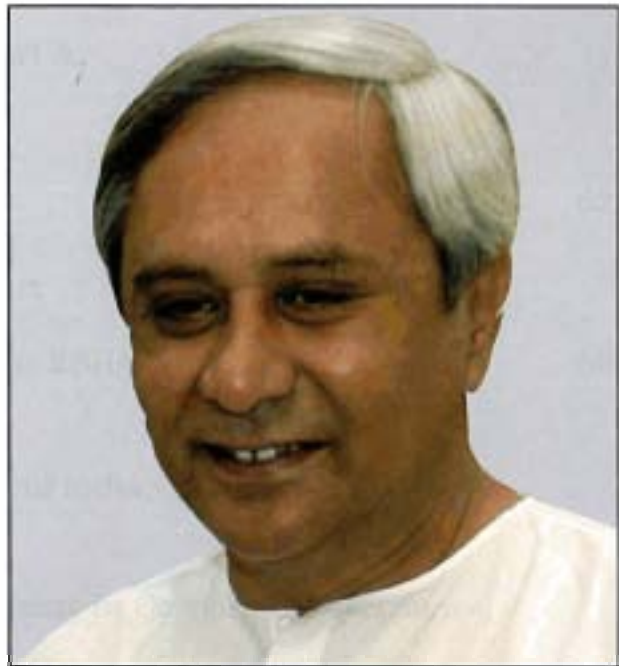
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“COMMENCING LAW PRACTICE: LITIGATION VS. CORPORATE WORK”: DIFFICULT CHOICES IN A COMPETITIVE WORLD

by

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Introduction

The function of legal education like any other discipline is to produce an informed, skilled, ethical and thinking individual. Now, when we try to see that function in relation to the topic of our article, it's very formulation "*Commencing Law Practice: Litigation vs. Corporate work*" suggests that there is something which is a matter of concern bordering on anxiety, for the students, teachers, policy makers/decision makers or the visionaries who are perceiving a discernible trend in career choices in law, towards corporate practice over litigation practice.

In order to get to the roots of the question, we interviewed 4 practicing young lawyers, recently passed out from the college; 3 students who are pursuing law and interning with us and asked them the question as to what influenced or is likely to influence their career choice. Before we go into that, let's first understand the determinants of the career choices, which are largely psychological and socio-cultural, in the present context of our civilisational history.

Psychological Factors: *Mann Ki Baat*

An Individual's choices, as may be seen are influenced by a variety of factors which are: one's own desires/inclinations, peer pressure, family needs and the ideals/values of the times, one is living in. With all said and done, an individual seeks money, comfort/ease, stability, dignity and sense of fulfillment, coming either from learning opportunities or being able to help somebody or being able to do something worthwhile which one believes to be so, and which may be a pursuit of one's passion, or something which really excites him or her.

Socio-Cultural Setting

For understanding the influence of this factor, one has to ask oneself as to, who all are coming to study Law, these days?

Generally, you will find the law colleges (especially the one's offering 5 year law courses) teeming with 1st generation middle class Indians, with no pedigree and no contacts, in legal profession. And normally they are the ones, you will find as the votary of "Corporate Practice over Litigation Practice" trend. Have you ever wondered why that is happening? Simply the reason for this trend is that, it is an expression of middle class anxieties, being articulated in terms of need for good money, stability, life style, standard of living et al. All these youngsters having their moorings in middle class socio-economic ethos, see the probability of all those comforts coming only from corporate law practice, in comparison to litigation practice where gestation period is painfully long and ungainly.

Post-Internet Historical Epoch and the Career Choices

As is already well known, we are living in times where loads and loads of information, whether visual or textual, is available in graphic detail, on and the so called "good life" at one's finger tips through various technological devices. In that sense, we are living in a very unique epoch in entire human history, when the entire entrepreneurial class is geared towards tempting its customers (existing/potential), especially the younger ones, towards the so called goodies of "good life", be it flashy smart phones, tablets and other technological gadgets, clothing, cars, houses and all other things which are sought to be sold, irrespective of the fact whether one needs them or not. And this over all socio-economic and cultural setting unleashes an unprecedented torment upon a young impressionable mind, where one starts considering oneself as a "have not", in the Marxist sense of the term, irrespective of the fact, whether one is a "have not" or not. This unprecedented exposure to the ideas of "good life" and the lure of the lucre to indulge oneself in that "good life", coupled with overall market economy milieu, leaves little for individuals, especially younger ones, whose outlook on life and its aspects is still in the formative stages. This leads to a very peculiar situation for all those youngsters, who have to make the difficult choice, and as a result the option of litigation practice, becomes a casualty. With respect to litigation practice, the youngsters perceive that, for a very long time there is going to be no money and there is an unending 24X7 grind and they would be at the receiving end from judges, seniors, clients, registry etc.

Who are inclined to opt for litigation?

As already discussed, individuals blessed either with pedigree, connections and money or simply the passionate ones (idealists), choose to opt for litigation over corporate practice. However, it may be seen that such idealists are rare, or few and far between. When we tried to understand the factors, which influenced the career choice of the individuals whom we interviewed, as to whether Corporate Practice or Litigation Practice, is their preferred option”; out of the two young girls, the one, who has already come out into practice after finishing her law degree this year and the other one who is still pursuing law stated the harsh reality which litigation practice is today perceived to be. They candidly stated that the litigation practice is a long drawn process, it takes atleast 6 years to learn the procedure and the court craft and building clientele with no money coming their way initially, and when it at all comes it's good enough just to sustain them. And, in the meanwhile, if they gather courage to start on their own, then the money is depressingly intermittent which is much worse than when one is working with a senior. Apart from that, it is also a case in point that seniors only in metropolitan cities, pay to their juniors, otherwise in other places, seniors either do not pay at all or if they do, then it is far below one's dignity or necessity. The interviewed youngsters further stated that going to courts as a junior is also not very fulfilling as they are either running legal errands like taking dates etc., or simply waiting for their 'number' to come up and calling up the senior when the matter comes up for hearing. One of the girls simply said that the litigation practice is a waste of time, for the aforesaid reasons.

Another youngster, who has been into practice for 3 years, hilariously put the difference between the two kinds of practice by stating that “*Corporate mein Coat Apni Pasand Ka Pehen Sakte Hain*”, which is again a very poignant point to make, as the dress code for litigation lawyers in Indian summers is not a very inviting proposition.

One more youngster, who has been into practice for one and a half years stated that in litigation there is a lot of struggle and it takes time to settle down and corporate practice on the contrary gives a comfortable environment and decent salary to start with, which is much needed to fulfill one's desires. This youngster further stated that apart from comfort and money, the quality of work is consistent and very exciting as the transactions help them learn a lot and not just about law but also about business and its various facets when it interacts with law.

One of the individuals we interviewed, who has been into litigation practice for 3 years after graduating, and who had had brief stint of 2 months,

in our law firm which helped him in reflecting and gathering that his heart lies in litigation practice, responded to the question as to “why litigation?” in the following manner.

He spoke in a very upbeat mood that litigation practice was a dream for him and pursuing it, despite challenges, is a dream fulfilled. He was of the view that there is a remarkable dearth of competent lawyers at the trial courts, who can draft overnight and argue matters, the next morning. The reason he attributed to that state of affairs was that, the trial is a very time consuming process which leaves very little incentive and time to really invest into intellectual pursuits like researching on case law and drafting, as most of the time is consumed in the courts and socialising thereafter, to build clientele.

He was of the view that only 5 per cent of his classmates, after 3 years of graduating are still in practice, out of 10-12 per cent, who had initially opted for it. On being asked, as to why that was the case, he gave a variety of reasons for this state. Like some of them realised that “*hamare bas ki baat nahin hai*”, “*Bahut idhar uhdar jana padta hai; bahut garmi hai, bahut dhoop hai*”, “*Trial Courts glamorous nahin hain*” and he said “*sophisticated log bhag gaye aur ab woh High Court and Supreme Court mein adjournments lene ka kaam karte hain*”. When asked as to what has sustained him, he said since he was capable of doing Jugaad (innovatively enterprising), his being soft spoken and the flexibility about money gives confidence to the clients that they will neither be taken for a ride by him nor will be ditched for non-payment of his professional fee. And above all, he said it is the money which comes to him by giving tuitions that has been sustaining him in the practice, otherwise he said “*seniors ke saath mahine ka 3-4 hazar bhi mil jaaye toh kaafi hai*”. And then he said, once a case is given to him he gives it his all, which inspires not only the confidence of the court in him but also of the clients as well. Because of this, he said, he started tasting success, however in the same breath he admitted that he was speaking in a very bullish market, where he was recently empanelled with the Legal Services Authority and assigned some cases. Otherwise, he said, at times it is extremely scary with no money and no clients in sight with ever increasing family needs.

Conclusion

In conclusion, it can be said that from purely individualistic perspective, corporate practice wins hands down in the present debate. But systemically speaking it is equally important to have competent and ethical lawyers at all levels, be it corporate-commercial or litigation (trial and appellate). Because that is what will help India in not only putting in place a robust court and

litigation system, but also in emerging as a promising and business friendly destination in terms of World Bank's "Ease of Doing Business" indices. Therefore, the need of the hour is to incentivise litigation practice, so that it is able to attract competent, committed and ethical lawyers in its fold and that will happen only when the seniors allow juniors to appear and do proper legal work like drafting, researching, appearing and cross-examining; Court premises present a congenial and comfortable environment to work and good monetary prospects for juniors are there. The big picture will however always remain skewed in favour of corporate / advisory practice over litigation practice.