

Legal Profession Ethics in India

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***Abstract---** Ethics are principles and values, which together with rules of conduct and laws, standardise a profession, such as the legal profession. They act as a significant guide to confirm right and proper behaviour in the daily practise of the law. If lawyers do not follow to, and promote, principles of justice, fairness and equity, the law itself is brought into disrepute and public confidence in the law will be undermined, thereby hindering access to justice. In order to achieve accountability, it is also important to ensure that rules of ethics, once developed, are publicised amongst the legal profession and the public. To ensure that ethics are enforceable, the legal profession should also put in place effective disciplinary procedures. In India to maintain the honour of legal profession, the Advocate Act 1961 has been passed and established Bar Councils. Under section 49 (1) (c) of Advocates Act breach of Advocates duties codified in regard to the Professional and other misconduct. So a lawyer should be clear in expressing his views and should understand that it is not enough for him alone to understand that his client is right but to prove it to the judge and to the others concerned with the case.*

***Index Terms---** Court, Lawyer, Justice, Morality, Ethics.*

I. INTRODUCTION

In the administration of justice, the legal sector serves a major part. But according to one very popular proverb one of the major quality one needs to possess is to know how to lie perfectly. But it's the attorneys who go beyond their means to demonstrate their position and bring them to court when the innocent victim wants justice. So it's not a lie at this stage that produces the lawyer a victor, but his capacity to wait for the reality, interpret the case, handle all circumstances and be tactful enough to tackle the adversary. A decent lawyer remains by his decision and does not readily agree to statements which are against his clients. A lawyer has to be prepared and clever in addressing the complicated problems of the opponent to argue with his client, so that individuals believe in his favor. A successful solicitor must be conscious of what is correct, legitimate and permissible and punishable by legislation. Apart from these apparent demands, a lawyer's stake in the issue is the other required standard for him to succeed. A good solicitor should listen to and follow sincerely what the customer has to tell.¹ No issue are taken or treated as small or secondary by a good lawyer, as even a small victory can add a colourful feather in the successful lawyer's hat. To solve any legal problem taken up by him successfully a good lawyer needs to have strong will power and fortitude. A lawyer has to be a very confident who decides to prove his point and is also determined to at doing it. Only after all these qualities client have full trust and assurance in the

¹ Krishnamurthy C, Legal Education and Legal profession in India.

lawyer and only then client can commend him all the details of his case which can further help him to win the case². It is also essential to evaluate all elements of a situation in order to have a thorough understanding of what a lawyer is battling for. If necessary, a lawyer must be as audacious as to proceed and carry out interrogations with individuals involved and request the necessary documents or other materials as evidence proving the innocence of the client. It is also very essential to have a strong thinking authority to explain this situation.

II. ETHICS FOR LEGAL PROFESSION

The legal ethics of a practicing lawyer, its client, its enemy in law and to the court, can be defined as a code of conduct written or unspoken. Ethics of the legal profession is therefore the set of laws and practices that determine the industry and that implies the set of laws and practices that determine the conduct of members of bar council. When a person becomes an advocate, the special rules of professional ethics of the bar governs his relation with men in general. Chief Justice Marshall has observed: "The fundamental aim of Legal Ethics is to maintain the honour and dignity of the Law Profession, to secure a spirit of friendly cooperation between the Bench and the Bar in the promotion of highest standards of justice, to establish honourable and fair dealings of the counsel with his client opponent and witness; to establish a spirit of brotherhood in the Bar itself; and to secure that lawyers discharge their responsibilities to the community generally."³ Legal profession should never be considered as a business. It has been created by the state for the public good. Consequently, the spirit of the profession lies in the three things: Firstly, Organization of its members for the performance of their function. Secondly, Maintenance of certain standards, intellectual and ethical, for the dignity of the profession; and thirdly Relegation of monetary gains to efficient service. Section 49 (1) (c) of the Advocates Act, 1961, sanctions the Bar Council of India to make rules so as to set the standards of professional conduct and etiquette to be followed³ by the advocates. It has been made clear that such rules shall have effect only when they are approved by the Chief Justice of India. It has also been made clear that any rules made in relation to the standards of professional conduct and etiquette to be observed by the advocates and in force before the commencement of the Advocates (Amendment) Act, 1973, shall continue in force, until altered or repealed or amended in accordance with the provisions of this Act. In the exercise of the rule making power under Section 49 (1) (c) of the Advocates Act, 1961, the Bar Council of India has been made several rules so as to prescribe the standards of professional conduct and etiquette to be observed by the Advocates. Chapter II of Part VI of the rules framed by the Bar Council of India deals with the standards of professional conduct and etiquette. It contains several rules which lay down the standards of professional conduct and etiquette. These rules specify the duties of an advocate to the Court, client, opponent and colleagues, etc. However from the Preamble it becomes clear that these rules contain canons of conduct and etiquette adopted as general guides and the specific mention thereof should not be construed as a denial of the existence of other equally imperative, though not specifically mentioned.

² Joginder Singh Gandhi, Sociology of legal Profession, law, and legal system.

³ C.L. Anand, General Principles of Legal Ethics, pg. no. 63.

III. IMPORTANCE OF LEGAL PROFESSION

The legal profession plays an important role in the administration of justice. The lawyer assists the Court in arriving at a correct judgment. The lawyer collects legal materials relating to the case and thereby helps the Court or Judge to arrive at a correct judgment. Without the assistance of the lawyer it would be a superhuman task for the judge to arrive at a satisfactory judgment. Justice P.N. Saprú⁴ has stated that the justification for the existence of counsel is that each side to the controversy should be in a position to present its case before an impartial tribunal in the best and most effective manner possible. Actually the law is very complicated. The language of Acts and Regulations is often found to be very complicated and confusing and not easy to be understood. The citizens of the country require the advice of the advocate to understand the exact meaning of the provisions of the Act and Regulations. In the case of Madhav Singh⁵ the court observed that “advocates and pleaders are enrolled not only for the purpose of rendering assistance to the courts in the administration of justice but also for giving professional advice for which they are entitled to be paid by those members of the public who require their services. The lawyers are not puppets compelled to obey the dictate of their clients, where matters of good faith and honourable conduct are concerned. They are responsible to the court for the fair and honest conduct of a case”. They are agents not of man who pays them but are acting in the administration of justice⁶. The lawyers play important role in the maintenance of peace and order in the society. The peace and order, no doubt, are necessary for the very existence of the society. Learned C.L. Anand⁷ has rightly stated that “the advocates share with the judges the responsibility for maintaining order in the community. They do not promote stripes but settle them. They stand for legal order which is one of the noblest functions in the society”. Order which advocate seeks is not order of grave. It is order based on justice. Justice is the highest thing desired by men on earth. It is the function of advocates to plead for legal justice for their clients or decision of disputes according to the law. He has stated further that rights and liberties are the creation of law and are subject to limitations imposed by the law. Advocates are every day defending rights and liberties of citizens against all violators of the law. The lawyers play important role in the law reform also. “By reason of the experience gained in the daily application and interpretation of laws, lawyers are best aware of the imperfection, of the legal system and constitute the most competent class of men to advise on law reform and to promote popular enthusiasm and support for it. The most difficult part of the process of legislation in the drafting of its provisions and no one is better fitted to give guidance on this than the lawyers.”⁸

IV. A SUCCESSFUL ADVOCATE SHOULD FOLLOW CERTAIN GUIDELINES

Good control over language, excellent speech, strong expression, decent understanding of law, good common sense, solid mental existence and good health all assist the lawyer to become a famous and efficient lawyer⁹.

⁴ Art of Advocacy, edited by Chief Justice Dr. B. Malik, pg, no. 325.

⁵ Madhav Singh, AIR 1923 Pat 185

⁶ In the matter of Babu Dwarka Prasad Mithal, AIR 1924 All 253

⁷ C.L. Anand, General Principles of Legal Ethics, pg. no. 253

⁸ Art of Advocacy, edited by Justice Dr. B. Malik.

⁹ Advice to Young Advocates published in Art of a Lawyer, edited by Dr. B. Malik, C.J., pg. no. 420.

Mr. Justice R.C. Lahoti has given the following tips to be a successful advocate:

- IV.I. Value the time:** In legal profession time, talent and knowledge are marketable commodities. They are displayed in the show case and purchased by one who can afford to pay the price. Just as raw material has to be preserved and can be available for producing the finished product so in legal profession time has to be saved for utilization in delivering the finished product.
- IV.II. Interpersonal skills:** An excellent interpersonal skill and ability to develop the good relationship with every person they work with, are necessary for a great lawyer. The lawyer should strengthen the mutual relations to cultivate expert and professional solidarity and friendly relations in their work.
- IV.III. Perseverance:** Many hours of work is required in most of the cases with great research and writing work a great lawyer must have the ability to put in the time. One must be dedicated towards your work and get it done with all your efforts. One must have the perseverance to complete the work to a successful finish.
- IV.IV. Writing skills:** Good writing helps in making the position stronger and wins cases, the combination of great speaking and writing skill is extremely important which is very useful in preparation of arguments, briefs, and other legal documents.
- IV.V. Logical thinking ability:** It is necessary to think logically, make reasonable judgments and assumption based on present information. The lawyer should not see the opposite party as an enemy. Thus the lawyer relation with the opposite party should be concrete. Nevertheless, this should not affect the representation of his client.
- IV.VI. Creativity:** Great lawyers are not only logical and investigative, also they display a great deal of creativity in solving the problems. Being creative makes a lawyer to think of a reasonable solution when the problem arises. The best solution is not always the obvious one for a great lawyer it is necessary to think outside the box.
- IV.VII. Research skill:** Able to research quickly and effectively is important to understand your clients, and you can easily prepare your legal strategies. Preparing a legal strategy generally requires a voluminous amount of research. To become a great lawyer you should have excellent research skills to be able to gather important information.

V. CONCLUSION

Thus, to sum up, the legal profession is a profession of great honour. It has been created not for private gain but for public good. It is not a money making occupation but a branch of administration of justice. Since it is not a business, a lawyer cannot solicit work or advertise either directly or indirectly. An advocate is an officer of the Court and required to maintain towards the Court a respectful attitude bearing in mind that the dignity of the judicial office is essential for the survival of the society. The Supreme Court has rightly observed that the legal profession is a partner with the judiciary in the administration of justice.¹⁰

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¹⁰ Hamraj L. Chulani vs. Bar Council of Maharashtra and Goa, AIR 1996 SC 1708

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