

Ethics For Legal Profession in India

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ABSTRACT

Legal ethics may be taken to mean the body of rules and practice which determine the professional conduct of members of bar. The very first purpose and aim of legal ethics is to maintain the dignity and honour of the law profession. In India to maintain the honor 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 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. A successful lawyer stands by his point and does not easily agree to statements made against his client. In handling the opponent's tricky questions to make a lawyer disagree with his own client, a lawyer must be alert and tackle the situation smartly, thus having people think in his favor. A successful lawyer must have quick thinking to handle difficult situations in the court.

Key Words

Lawyer, Court, Justice, Morality, Ethics.

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1. Introduction:

The legal profession plays an important role in the Administration of justice. But it is a common proverb that to become a lawyer, the only quality one needs to possess is to know to lie. But when an innocent victim wants justice it is these lawyers who go out of their way to prove their point and get them justice. So at this point its not lying which makes the lawyer a winner but his ability to stand for the truth, understand case wholly, analyze every situation and being tactful enough to handle the opponent ^[1]. So what really makes a lawyer successful? Of course the necessary education qualifications required to become a lawyer is first and foremost important. Also, the proper understanding of the legal system by the lawyer, of the place where he is practicing his profession, is also very important. A good lawyer must himself be well aware of what is right and lawful and what is permissible by law and what is punishable by law. Apart from these obvious requirements the other necessary quality for a lawyer to become successful is the interest that a lawyer should take in the matter at his hand. A successful lawyer should get down to listening to what the client has to say and take it seriously. He never treats any issue as small or secondary, as even a small victory can add to the tag of a successful lawyer. A lawyer needs to have the will power and determination to solve any task taken up by him to be successful. A lawyer must come across as a confident person who would do everything it takes to prove his point and is also determined at doing it. Only then will a client have

his full trust and confidence in the lawyer and entrust him with all the details of the case which will help win it. Ability to analyze all the aspects related to a case so as to have thorough knowledge of what the lawyer is fighting for is also necessary. If required, a lawyer must be bold enough to move forward and carry on interrogations with people connected to the case and ask for necessary documents or other materials as proof to prove the client innocent. A good reasoning power to reason out the case at hand is also very necessary.

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Law firms in Kelowna have some of the best lawyers; these Kelowna lawyers offer amazing services to their clients and help them get full justice. Law firms in Penticton also strive to give the best services to their clients. The Penticton lawyers offer a wide variety of services and see to it that the customers are all satisfied. By possessing these qualities and working in the best interest of clients, a lawyer is sure to become successful in his career. ^[2]

2. ETHICS FOR LEGAL PROFESSION:

Legal ethics may be defined as a code of conduct written or unwritten for regulating the behavior of a practicing lawyer towards himself, his client, his adversary in law and towards the court. Thus, ethics of legal profession means the body of the rules and practice which determine the profession means the body of the rules and practice which determine the professional conduct of the members of bar. When a person becomes an advocate his relation with men in general is governed by the special rules of professional ethics of the bar. The main object of the ethics of the legal profession and the friendly relation between the Bench and Bar. 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 is not a business but a profession. It has been created by the state for the public good. Consequently, the essence of the profession lies in the three things:

1. Organization of its members for the performance of their function;
- 2 Maintenance of certain standards, intellectual and ethical, for the dignity of the profession; and
3. Subordination of pecuniary gains to efficient service.^[4]

Section 49 (1) (c) of the Advocates Act, 1961, empowers the Bar Council of India to make rules so as to prescribe the standards of professional conduct and etiquette to be observed 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.⁵In 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.

3. 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. Saprú^[6] 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 Singh^[7] 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 justice.^[8] 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. Anand^[9] 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.^[10]

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.”

4. ACCOUNTABILITY OF ADVOCATES

The advocate has been made

accountable. Section 35 of the Advocates Act that where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee can punish the advocates for the professional or other misconduct. Where on receipt of complaint or otherwise the Bar Council of India has reason to believe that any advocate whose name is not entered on any State Roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee. This committee can punish the advocate for such misconduct. The 'professional or other misconduct' includes the breach of duties specified by the rules made by the Bar Council of India.

The breach of duty has, thus, been made punishable. The order of the disciplinary committee of the State Bar Council may be challenged in appeal before the Bar Council of India and the order of the disciplinary committee of the Bar Council of India may be challenged in appeal before the Supreme Court.^[11]

5. A SUCCESSFUL ADVOCATE SHOULD FOLLOW CERTAIN GUIDLINES

Now-a-days it is often that the legal profession has no future. It is overcrowded and usually those persons join this profession who do not get other job. But this view is not correct in relation to the persons who join this profession keeping in mind that they are to devote their whole time to this profession. For a person who is hardworking and devoted to law has a bright future.^[12]

Actually good command over the language, good voice, good power of expression, good knowledge of the law, good commonsense, good presence of mind and good health all help alawyer to become over the temper is also necessary for becoming a popular and successful lawyer.^[13]

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

1. Work hard: There is no royal road to success in profession. In law, to earn

success, one has to live like hermit and work like a horse.

2. Be physically fit: The law graduates who join the legal profession must have a sound physique and healthy body to bear the burden of higher responsibilities and facing the challenges of the strenuous profession.

3. Value the time: In legal profession time, talent and wisdom 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.

4. Knowledge of English language: While the students should enrich themselves in their mother tongue they should not lag behind in learning English and should rather acquire good command over it which holds so much of promise for them. English has become the Chief Global language. The only language known to computers in the world around, is English.

5. Read literature: Reading literature gives width to vision. There is so much to read in law that one life may not be enough to complete reading the available literature I law. The books available in law consist of fundamentals of law, jurisprudential thoughts, legal research and biographies and autobiographies of eminent judges and lawyers. It is inspiring to read them.

6. Knowledge of Computers: Computers are indispensable and therefore the students must learn computer.

7. Develop a hobby: Every professional must have a hobby to divert and entertain himself and get rid of monotony.

8. Look smart: A professional should try to look as attractive as he can. "Always bear a smile on your face and try to look as attractive as you can. An astute client would access your worth in the first meeting and decide upon retaining you as his lawyer feeling impressed initially by your appearance and the impact of your personality."

9. Aim high: One who aims high should not feel diffident by the crowd in

profession.

6. 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.^[14]

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