



IMMORALITY IN THE PROFESSION OF LAW – PROBLEMS & SOLUTIONS

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The legal profession's ethics are the body of rules and practices that determine the professional conduct of the members of the bar. The legal profession is a field centered on the administration of justice, the interpretation of laws, and the defense of legal rights. It encompasses various roles, including lawyers (attorneys, advocates, solicitors), judges, legal advisers, paralegals, and legal scholars. Its core responsibilities involve:

1. Representing clients in legal matters (civil, criminal, administrative).
2. Providing legal advice and preparing legal documents.
3. Upholding the rule of law and promoting access to justice.
4. Interpreting statutes, case law, and constitutional principles.
5. Maintaining ethical standards, confidentiality, and impartiality.

Professional ethics for lawyers may be defined as a code of conduct, written or unwritten, to regulate the behavior of a practicing lawyer toward himself, his client, his adversary in law, and the court.

The norms of the practicing lawyer shall be fixed keeping in view the intellectual standing of a high level, social responsibility, and dignity of the legal profession, and a high standard of integrity and efficient service to his client as well as the public good.

Legal professions are the sole object of earning money. It is a profession of high dignity. Hence, an advocate should be modest, sober, patient, prompt to do his duty without anxiety, pious without going so far as superstition, conducting himself with piously in his profession and in all the actions of his life. He is a public functionary.

The legal profession is not a business but a profession. The state has created it for the public good. Consequently, the essence of the profession lies in the three thingsⁱ-

- (1) organisation 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.

The ethical reasoning process is the part of the individual's overall moral consciousness with which he or she deals with difficult conflicts or dilemmas in everyday practice. Ethical choice is just one of many types of decisions that lawyers must render in order to be effective members of the profession.ⁱⁱ

Section 49(1) of the Advocates Act. 1961 empowers the Bar Council of India to make rules so as to prescribe a standard of professional conduct and etiquette to be observed by the advocates. These rules specify the duties of an advocate to the courts, client, opponent, and colleagues, etc.

Immorality in the profession of law is created when the following duties have not followed by the advocates.

Duty towards Public:

(i) Duty towards Countryⁱⁱⁱ:-

- An advocate shall endeavour to make the laws suitable to the well-being of the people.



- An advocate shall guard the liberty and freedom of the people.
- An advocate should protect the fundamental human rights and respect the constitution of the nation.
- An advocate should strive for social legislation to accelerate the advent of a socialist pattern of society in India by dedication to public service.
- An advocate shall uphold the integrity and unity of the nation.
- An advocate shall educate the people to respect the law and respect for the courts and the Judges.

(ii) Duty towards Community:-

- The advocate shall establish Legal Aid Societies of the purpose of rendering legal assistance to really poor and deserving persons, free of any charges.
- The advocate shall help the local bodies, such as Panchayats in villages to function on sound lines, so that people may discharge their functions in an enlightened and responsible manner.
- The advocate shall provide legal education to the illiterate and working people by informing them of their rights and legal provisions in simple language.
- The advocate shall compose family differences and settle petty disputes and controversies by amicable settlement.
- Advocate shall educate the masses on the right lines to come out of many social ills from which people are suffering.
- Advocate shall work with social welfare committees to promote a social order in which justice, political, economic, and social, will be assured to one and all.

Duties to the Court:-

- The advocate should be straightforward, and his arguments should be pointed, clear, precise, and concise.
- He should have a sense of humour and pleasing manners in his arguments.
- He must be tactful in presenting the matters.
- He should not mislead the Court.
- An advocate shall not influence the decisions of the Court by any illegal or improper means.
- advocate shall, when presenting his case and while otherwise acting before a court, conduct himself with dignity and self-respect.
- The advocate shall not enter appearance, act, plead or practice in any way before a Court, Tribunal or Authority on behalf of close kith and kin.
- An advocate shall not criticize the judiciary with malice.
- He should not act or plead in any matter in which he is himself peculiarly interested.
- An advocate shall not stand as a surety or certify the soundness of a surety for his client, required for any legal proceedings.
- The advocate shall assist the Court by presenting fully the pertinent law in his case.
- An advocate shall appear in court at all times only in the prescribed dress. He shall not wear a band or gown in public places other than in Court.
- He shall not criticise the judiciary with malice.

**Duties to the Client:-**

- An advocate shall fearlessly uphold the interest of his client by all fair and honorable means without regard to any unpleasant consequences to himself or any other.
- He shall fairly and reasonably submit the case on behalf of their client.
- He shall pay attention to what he is capable of giving to the case he is dealing.
- He shall not act on the instructions of any person other than his client or his authorised agent.
- He shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client.
- He shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.
- An advocate shall not accept a fee less than the fee taxable under the rules when the client can pay the same.
- He shall not adjust fee payable to him by his client against his liability to the client, which liability does not arise in the course of his employment as an advocate.
- An advocate should keep accounts of the clients' money entrusted to them.
- He shall not lend money to his client for the purpose of any action or legal proceedings in which he is engaged by such client.
- The advocate should not disclose communications made to them in course of their professional engagement even after the case is over.

Duties to Opponent:-

- An advocate shall not communicate or negotiate upon the subject matter of controversy with any party represented by an advocate except through that advocate.
- An advocate shall not mislead an opponent, or put him on the wrong scent, regarding any point in the case.
- An advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing.

Duties to Colleagues:-

- The advocate shall not solicit work or advice directly or indirectly through mass communication.
- He shall not pursue his profession in a spirit of competition, or rivalry, with his brethren.
- He should be courteous to opposing counsel and should accede to reasonable requests regarding court proceedings.
- He shall not enter appearance in any case in which there is already a vakalatnama or memo of appearance filed by an advocate engaged for a party except with his consent.
- An advocate does not envy another advocate who attains to position and rank and earns well.
- A younger advocate must be cordial in their relationship and pay respect to senior advocates.
- He shall be ready to give help and advice to brother members.
- An advocate shall strive at all level to aid the legal profession.



- He should maintain their high tradition of fearless independence, probity and integrity, and live up to their noble ideals, and dedicate their lives for the vindication of truth and justice, and also for the good of the common man.

Other Duties of Advocates as per the Bar Council of India:-

Every advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 90/- every third year or a consolidated amount of Rs.. 300/- as a lifetime payment to the Bar Council of India Advocates Welfare Fund.

All the sums of the Welfare Fund shall be deposited in banks and managed by the Welfare Committees of the Bar Councils of India and the State. If any advocate fails to pay to the Welfare Fund, the Secretary of the State Bar Council shall issue to him a notice to show cause, and if he fails to pay, then the council can take appropriate action by passing an order suspending the right of the advocate to practice.

An advocate who has been convicted of an offence mentioned under Section 24-A of the Advocates Act or has been declared insolvent or has taken full time service or part-time service or engages in business or any advocate inconsistent with his practicing as an advocate or has incurred any disqualification mentioned in the Advocates Act or the rules made there under shall send a declaration to the effect to the respective State Bar Council in which the advocate is enrolled, within 90 days from the date of such qualification

An appeal shall lie to the Bar Council of India at the instance of an aggrieved advocate within 30 days from the date of the order passed by the State Bar Council in case of payment to the Welfare Fund under Rule 42 and failure of declaration regarding conviction under Rule 43.

There shall be a Bar Council of India Advocates Welfare Committee consisting of five members elected from amongst the members of the Council. Every State Council shall have an Advocacy Welfare Committee for the State.

Duty in Imparting Training: - It is improper for an Advocate to demand or accept fees or any premium from any person as a consideration for imparting training in law, the rules prescribed by a State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

Duty to render Legal Aid: - Every advocate shall in the practice of the profession of law bear in mind that anyone genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations as an advocate owes to society.

Restriction on their Employment: -

- (i) An advocate shall not personally engage in any business, but he may be a sleeping partner in a firm doing business, provided that, in the opinion of the appropriate State Bar Council, the nature of the business is not inconsistent with the dignity of the profession.
- (ii) An advocate may be Director or Chairman of the Board of Directors of the Company with or without any ordinary sitting fee, provided none of his duties is executive. An advocate shall not be the Managing Director or a Secretary of any Company.
- (iii) An advocate shall not be a full-time salaried employee of the person, government, firm, corporation or concern, so long as he continues to practice, and shall, on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears, and shall thereupon cease to practice as an advocate so long as he continues in such employment. Nothing in this rule shall apply to a Law Officer of the Central Government or a State or of any Public Corporation or body constituted by statute who is entitled to be enrolled.



- (iv) An Advocate who has inherited, or succeeded by survivorship to, a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has descended to him by survivorship or inheritance of by will, provided he does not personally participate in the management thereof.
- (v) An advocate may review parliamentary bills for a remuneration, edit legal text books at a salary, do press-vetting for newspapers, coach pupils for legal examination, set and examine question papers; and, subject to the rules against advertising and full-time employment engage in broadcasting journalism, lecturing and teaching subjects, both legal and non-legal.
- (vi) Nothing in these rules shall prevent an advocate from accepting, after obtaining the consent of the State Bar Council whose nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directive if as may be issued by the Bar Council of Indian from time to time.

Law as a profession demands services of a high order, comprising knowledge, skill, and ethical conduct. Society has entrusted the members of the profession with the responsibility to bring about justice, social and economic, in society, and for carrying out this responsibility, they command high status and dignity. The legal profession has experienced qualitative deterioration and moral degradation.^{iv}

Problems^v:-

Several unethical practices have been reported such as :

- 1) **Corruption and Bribery:** Some legal professionals accept bribes to influence court decisions or manipulate legal outcomes.
- 2) **Conflict of Interest:** Lawyers may represent clients with conflicting interests, compromising fairness and justice.
- 3) **Misuse of Client Funds:** Embezzling or mishandling client funds is a serious ethical breach.
- 4) **Lack of Confidentiality:** Breaching attorney-client privilege by disclosing sensitive information.
- 5) **Dishonest Practices:** Fabricating evidence, misleading the court, or manipulating witnesses.
- 6) **Negligence and Incompetence:** Failing to provide diligent representation due to carelessness or lack of preparation.
- 7) **Sexual Harassment or Exploitation:** Using professional authority to exploit clients or colleagues.
- 8) **Delay Tactics:** Unnecessarily delaying proceedings to gain strategic advantages or earn more fees.

The clients want to win the case. It is no matter whether they are right or wrong. They select lawyers for them. The legal profession is competitive and the number of civil cases are reducing lawyers seldom refuse to take cases. Most of the lawyers are only concerned as to whether a case will be bad for business and made them popular. The rules of the professional ethics demand the lawyers to make their value judgment and work for the good of the society. In the most basic sense ethic is a set of rules that define right and wrong conduct. These ethic rules govern approval or rejection of a conduct of a lawyer.

Delay in the adjudicative process is another example. Delay in some cases is due to administrative reasons. It is caused due to overburdened cases in the court. Lawyers are



responsible for the delay because they are also overburdened with the cases. Although monopoly is unethical. A very few senior advocates show generosity of bringing up the juniors and share fruits with them.

A delay in adjudicative process is the increasing trend of cost of justice. A “Legal -aid” programme is sponsored by central and state governments. There is the relief to poor litigants from Legal aid and NGOS. This scheme has failed to yield the desired result due to some identified reasons.

The legal aid programmes are very much popular in U.K. and U.S.A. These programmes have been helpful in insuring justice to poor people of the society. The programmes are successful due to the sincere interests of senior lawyers in whom the litigants have confidence. In India, an interest of senior lawyers is yet to be generated.

It is a serious problem of collision of the lawyer of a case with that of the lawyer of the other party. The collision leads to perpetration of injustice and brings disasters to the client. In the High courts and the Supreme Court, “bench fixing” is an increasing problem. Some judges are classified as suitable or favourable and presentation of petitions and appeals in their courts are manipulated. There are certain examples where the advocates are extending their hands in prolonged strikes and boycotts. It is contrary to all principles of professional ethics. It is for this reason that Justice Wadhawa of the Delhi High Court Said, “Strike by lawyers amount to denial of justice to the litigants”. A former Chief Justice of India suggested that lawyers are committing professional suicide by resorting to strikes and it does amount to professional misconduct.

Conclusion & Solutions:

- i. Training in developing the skill of advocacy is expected to be given to the new advocates.
- ii. India should have a special code of ethics. The professional deviants could be controlled. The Bar Council of India can extend its hands for a special code of ethics.
- iii. The majority of Lawyers should follow the ethical rules for preventing injustice in society at the hands of deviants.
- iv. The Bar Council of India should organise an orientation programme for the lawyers in every district headquarters & taluka headquarters. It is expected that the resource persons for this programme may be Indian Religion.
- v. The funds should be borne for this programme.
- vi. Ethical awareness is to be strongly cultivated in practicing advocates.
- vii. Legal ethics boards must enforce professional conduct rules consistently and transparently.
- viii. Mandate regular training in ethics and professionalism.
- ix. Establish efficient systems to investigate and penalize unethical conduct.
- x. Encourage reporting of misconduct by protecting whistleblowers from retaliation.
- xi. Educate the public about their rights and legal procedures to reduce exploitation.
- xii. Encourage standard billing procedures to avoid overcharging or fraud.
- xiii. Promote integrity through mentoring young lawyers and cultivating ethical firm cultures.
- xiv. Strengthen bar associations and ethics committees with independent oversight.



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- ⁱⁱⁱ S.R. Myneni, Professional Ethics, Accountancy for Lawyers and Bench- Bar Relation, p.92-104
- ^{iv} Dr. S.P. Gupta, Professional Ethics, Accountancy for Lawyers & Bench-Bar Relations, p.49
- ^v Nyaya Deep, The Official Journal of NALSA. Vol. XII- Issue 1- January 2011, p.95