

The Legal Aspects of Professional Ethics in Advocacy

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Abstract: Professional ethics are important in the legal profession ethics is more important because they help uphold the rule of law and administration of justice to provide faire legal justice in the society. Advocate ensure that laws are applied consistently to protect the justice in the society. Advocates are representing clients during litigation so ethical behavior is essential to maintain public trust in the legal system because they help promote access to justice and the rule of law. Lawyer too is under duty to render best services with reasonable fee. Once reputation as a good lawyer achieved, money automatically follows, but lawyer should keep in mind that in the administration of justice, money should not be the goal but the service should be the goal and object.

Keywords: Legal profession, Ethics, Legal duty, Promote justice.

1. Introduction

The fundamental aim of legal ethics is to maintain the honour and dignity of 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 respectful and fair dealings of the counsel with his client, opponent and witness to establish a spirit of brotherhood in advocate bar and to secure that lawyers discharge their responsibilities towards the community.

The legal profession plays important role in the administration of justice. Ethics means the principles of civilization which creates a sense of path required to be followed by a person. It has been observed that the administration of justice should possess three ingredients, namely a well-planned body of laws based on wise concepts of social justice, a judicial hierarchy comprised of the Bench and the Bar, learned in the law and inspired by high principles of professional conduct and existence of suitable generation to ensure fair trial. The lawyer assists the court in arriving at a correct judgments. The contribution and importance of legal profession in the society is remarkable. During the course of maintaining such relations, the lawyer has to show his ability, capacity as well as intelligence in dealing with the social problems.

Importance or values of ethics are the platform of the life. It has been observed that the contribution of the lawyer is not limited to arriving at decisions of the cases. He contributes his role in the maintenance of law and order in the society. The

attitude of the lawyer is not concerned with the extension of number of the cases before the Court rather he is more concerned in searching the reliefs of the problems. The lawyer expands brotherhood in the society. He promotes justice in the society by defending the rights and freedoms of the people before the Court.

2. The Principle Uphold the Rule of Law

Lawyers help ensure that laws are applied consistently and fairly, regardless of a person's status or power. It is seen that the legal profession is not meant only for normal situations in the society. It is the duty of the lawyer to provide free legal aid to needy persons in all situations including emergency so that peoples may have access to the Courts for seeking justice. The lawyer has to provide free legal aid not for the sake of getting applause from the Court rather to get self-satisfaction through his benevolent services. It is a matter of great satisfaction that these days lawyers are providing free legal aid to indigent persons by way of public interest lawyering. The lawyers are more concerned to maintain the rule of law than to protect the interest of their clients. Indeed, legal profession is one of the two wheels on which the administration of justice moves smoothly and properly in the general frame-work of the society. Therefore, an advocate must have substantial knowledge of law to apply it properly.

3. Privilege Communication and Protect Client Confidentiality

Lawyers must respect the privacy of their clients and keep their confidences. To plead a case is an art for the advocate. His duty is to make best use of materials before him and which have been provided to him by the client. For becoming a successful lawyer some qualities like a good voice, command on words, confidence, persistence, practical judgment, experience of handling cases, background of legal and general knowledge etc. are required to become successful in art of advocacy. However these qualities are not substantial. Besides this knowledge of the various subjects can make a lawyer outstanding in his profession. E.g. the law of evidence and procedure, professional ethics, logic and psychology, knowledge of mankind and of affairs and general principle of law etc.

Today it is necessary for legal profession to implement eight

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lamps of advocacy for effective result and to become the role model for society with professional ethics, which have been referred as the qualities for an advocate to be successful at the Bar, e.g. Honesty is the best policy, advocates must be honest with his clients.

4. Build Public Trust

When we talk about ethics, the judges normally comment upon ethics among legal professors. Ethics, not only constitutional morality but even ethical morality, should be the base. With this it has rightly been observed that a sound system of the administration of justice should possess three ingredients, namely, a well-planned body of laws based on wise concepts of social justice, a judicial hierarchy comprised of the Bench and the Bar, learned in the law and inspired by high principles of professional conduct and existence of suitable generation to ensure fair trial.

The role of an advocate is quite pertinent and important in securing relief in the cases relating to infringement of his client's constitutional and other legal rights. Therefore it is pertinent to note that the role of an advocate in providing relief to his clients in the case of violation of their rights through the writ jurisdiction of Superior courts, i.e. Supreme Court and High Courts, is quite significant. It may be either for the cases of enforcement of fundamental rights or for other constitutional and civil rights. The advocate pleads in these courts for the enforcement of his client's rights to the best of his capacity and ability and provided adequate relief to his clients.

It is seen that; the classroom study provides only theoretical knowledge of the law and a good background for the legal profession but for success in the legal profession the experience as lawyer with professional ethics is necessary. The experience enables a lawyer to understand not only the law but also the nature of judges and citation of relevant rulings and art of convincing the Judges by his arguments. Actually, good command over the language, good power of expression, good knowledge of law, good presence of mind, good drafting of plaint, good arguments and good cross-examination all helps a lawyer to become a successful lawyer and experience will help a lawyer to obtain all these qualities and the public interest lawyering plays important role in making a lawyer able to obtain these qualities.

5. Promote Fairness in Advocacy

It is a duty of lawyers to treat all parties involved in legal matters with fairness. It has been observed that in the freedom struggle and making of the Constitution the role of the advocates is universally known. We all well known that Champion of the freedom struggle Mahatma Gandhi, Lokmanya Tilak, Pt. Jawaharlal Neharu, Dr. Babasaheb Ambedkar, Swatantraveer Sawarkar, Justice Gokhale etc. have played remarkable role in the freedom struggle. Dr. Babasaheb Ambedkar, as an architect of our Constitution, gives us one of the best Constitution in the world. Thus, all these freedom fighters as an advocate utilized their legal knowledge not only for social welfare but also create tremendous

impression and served the nation. They were successful only because, all these towering personality were very intellectual and with high morality and ethics obviously due to their remarkable contribution, this profession become more respectable and reputable.

Therefore, in the recent past, role of ethics played very remarkable role for lawyers and advocates become role model for society and in discussion in the public with respect to their overall conduct. An advocate is an officer in the court who is indispensable for delivering justice. Without the active participation of the advocate, the justice system would be incomplete and inadequate. The advocates in India were considered as the symbol of intelligence, patriotism, sincerity, dedication, and were commanding respect in the society which is to be always on the higher side as compared to the other profession.

6. Ensure Access to Justice

However, after the independence, our expectation from the lawyers could not be fulfilled as desired by society. There are many reasons. Now a days advocates are fully concentrated towards their income and become money oriented. Advocates become self-cantered and therefore gradually isolated from society and social problems. Today, advocates are not so much interested in social, political, educational, and welfare activities. Secondly as compared to the quantity, the quality and standard did not maintain properly. Lack of confidence, neglected behaviour and apathetic towards solving social problems. Therefore, the honour, dignity, glory, respect of this profession is gradually deteriorated. All these consequences are only because of advocates does not have respect with professional ethics and constitutional morality.

7. Guide Conflict Resolution

Lawyers help guide conflict resolution in a fair and ethical manner. Ultimately, the legal profession has been created not for private gain but for public good. It is not a business but profession. Legal profession itself created for to find out and solve the problem of society. Greatest happiness of the greatest number, solve the burning problem of the society and achieve the idea of welfare state are the main object of law. Therefore, the role of ethics in legal profession is paramount important to meld and shape the society in appropriate direction and achieve the idea of ideal state.

8. Conclusion

It is concluded that only because of the ethics and morality in the legal profession, this profession has great honour and dignity. An advocate is an officer of the court and the court acts on his statements. To maintain the honour of the legal profession the Advocates Act has been passed and Bar Councils have been established. The State Bar Councils and the Bar Council of India can punish the advocate for the profession or other misconduct. Actually, the law are only creating a path which is required to be followed by the citizens of the nation. There is a need to introspect our self about the duties and

responsibilities entrusted to us. Before asking what the nation has given to us, we must think what we have contributed to the nation. As mentioned in the Preamble of the Constitution, nation comprises us all. Therefore, we need to follow the path of ethics and morality which ultimately fulfils the requirements of objects of our Constitution and laws to achieve the idea of welfare state.

Obviously, lawyers as a role model, have more social responsibility than layman. Advocates are known as social engineer, because, on the one hand engineers find out the fault and rectify the machines, similarly on the other side, as a social engineer, advocates are also well known about the social problems and rectify or solved the various burning social problems through his skill and legal knowledge. Ultimately law

is for society, and society is not for law. Society has very high expectations from legal profession, because people believed that only law could give them appropriate remedy and without assistance of lawyer it is not possible.

Hence today it is need of the hour to maintain the honour, dignity and glory of legal profession with high ethics and morality and to fulfilled the aspirations of society.

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