



Role of lawyers as Professionals

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Abstract: *At Present the public image of lawyers is far from flattering. They are seen as fortune seekers rather than seeking to serve, a selfish class, who, on account of their special knowledge and expertise, provide service on such terms as they please. In short, the profession of law is regarded as a money making racket. Today people are apt to agree with Dean Swifts description of lawyers as, “ a society of men bred up from their youth in the art of proving by words multiplied for the purpose, that white is black and black is white according as they are paid’ No longer is the profession of law regarded as a noble one. Being a lawyers they forgotten their proper role in society.*

Webster define profession as “calling requiring specialized knowledge and often long and intensive preparation including instruction in skills and methods; and committing its members, to continued study and to a kind of work which has for its prime purpose the rendering of a public service. Roscoe Pound summed up the matter with admirable aptness when he said; “Historically, there are three ideas involved in a profession: organization, learning and a spirit of public service. These are essential. The remaining idea that of gaining a livelihood is incidental”.

Further as a professional they have forgotten that while the chief end of business is personal gain, the main goal of a profession is public service. Moreover lawyers seems to operate on the law of demand and supply and forces of commercialism. They are charging abnormal fees from the clients even when they are not put in appearance and it is embarrassing sight that some lawyers plead with the judge to record their appearance to enable them to collect fees from their absent clients. Lawyers have forgotten that they are mere the guardians of law of noble ideals and traditions, and not mere traders in the market place, whose sole aim it to make amassing profits.

In this paper I am to talk about the legal profession of which I am proud and privileged to belong, the profession of law.

Importance of Legal Profession in the Society.

Legal Profession is such a profession which is interlinked in various ways with multifarious activities of the society. During the course of maintaining such relationship, the lawyer has to show his ability, capacity as well as sobriety in dealing with the people. The Lawyer employs his ability and enthusiasm towards his work and duties by

maintaining coolness of his mind. When a client comes to a lawyer with his problems, he gives a patient hearing to him. The lawyer is not weary of irrelevant talks of his client. He encourages him to give his full story and all his grievances, for it is from his narrative that the lawyers becomes able to gather essential facts. Those facts form the basis of his claim or defense. The lawyer is able to separate the kernel



from the chaff, the essential from the non-essential and the important from the non-important facts. For all these things, his academic knowledge and practical experience help him in maintaining and defending the case of his client before the court of law. It is noteworthy that it is the lawyer who informs the court about the facts of the case as well as the case law on the basis of which, he seeks relief for his client. Being an officer of the Court, the lawyer assists the Court in arriving at correct conclusions in the cases before the court. The Judge administers justice on the basis of relevant case laws informed by the lawyer to the Court.¹

Moreover Firstly, lawyers are "technical experts" who give their clients and others access to the complex machinery of the law. Secondly, lawyers act as "wise counselors" who help their clients understand not only what is legal, but also what is right. Finally, lawyers are called upon to be "effective leaders" who are the final decision makers on important matters which involve complex considerations beyond the law.

There was time when a lawyer was regarded as a family friend. He commanded awe and respect, And for good reasons, Prominent freedom fighters belonged to the legal fraternity and played a leading part in the framing of our Constitution. Gandhiji, Pandit Nehru, Dr. B.R. Ambedkar, Alladi Krishna Swami Iyer, K.M. Munshi to mention just a few. Lawyers gave up their practice to join the freedom movement and many of them went to jail in the cause of the freedom struggle.

¹ Dr. S.P. Gupta, Professional Ethics, accountancy for Lawyers & Bench-Bar Relations, Third edition, page 1.

But at present the public image of the lawyer is far from reality. They are seen as fortune seekers rather than seeking to serve, a selfish class, who, on account of special knowledge and expertise and image providing legal advice as they please. They are making enormous money out of litigation. They have forgotten that the essential difference between business and a profession is that while the chief end of business is personal gain, the main goal of a profession is public service.. The idea that professionals are for the people and the people are not for the professionals sounds like a strange and alien doctrine. The lawyers charging high fees from the clients . To those who are unable to pay adequately, or not at all, professional service should be freely and cheerfully given. Moreover lawyers seems to operate on the law of demand and supply and forces of commercialism. They are charging abnormal fees from the clients even when they are not put in appearance and it is embarrassing sight that some lawyers plead with the judge to record their appearance to enable them to collect fees from their absent clients.

Further it is suggested that lawyers should not charge for their services, but should not forget that their main purpose and desire should be of rendering service to those who seek his aid and help the people in the society who are in need of it. It is better to provide a freely and cheerful service to the people who are unable to pay adequately or not at all. The Indian Constitution provides under Article 39-A Equal justice and free legal aid. If doctors can have free medical clinics why should lawyers not run free legal clinics at least once a week? Lawyers must devote some part of their time and services free of charge for the



benefit of the poor and the oppressed. who are in need of legal service. . A Lawyer should follow Rule of Law in defending the rights of all the individuals. Thus the urgent need for the legal profession is to become people oriented and to reorient themselves towards the service of the people in the society.

Provide Free Legal Aid:

The Indian Constitution has provided under Article 39-A by the 42nd amendment in 1976 a constitutional safeguard to the Right of the accused to have free and competent legal assistance has been prescribed. As Right to legal aid is a basic human right which is implicit in Articles 7, 8 and 10 of the Universal declaration of Human rights. It is also clearly provided in Clause (3) of Article.14 of the International Covenant on Civil and Political rights ,under Article 6(3)(6) of European convention of Human rights and Art. 8(2)(E) of the American Convention of Human rights, legal aid is prescribed as a fundamental right.. It is rightly said that important commandant for the human Right is "Thou shall not ration justice". Lord Denning has aptly observed that since the Second world War , the greatest revolution in the law has been the system of legal aid. It means that in many cases, the lawyer's fees and expenses are paid for by the State and not by the party concerned".²

In the socially transformed society Only wealthy persons and large corporations receive the highest quality advice from the legal professionals. The poorest in the society, the "third World population", receive negligible or very haphazard and poor legal advice. The

term "third world" is used as an all-inclusive expression for the exploited elements of society, the depressed minority groups, the workers, and the peasants. It also includes society's "deviants"-prisoners, mental patients, radicals, dissenters, as well as the powerless groups generally, such as youth, women and the disabled.

As far back as 1905, one of the most distinguished American jurists, Louis Brandeis, said, "The leading lawyers of the United States have been engaged mainly in supporting the claims of the corporations. Able lawyers have, to a large extent, allowed themselves to become adjuncts of great corporations and have neglected the obligation to use their powers for the protection of the people."

The lament of President carter in May 1978 was in the same vein: "Lawyers of great influence and prestige led the fight against civil rights and economic justice;;They have fought innovation even in their own profession;.. Lawyers as a profession have resisted both social change and economic reforms".³

But now the situation is very different. Most of the successful lawyers have been defenders of the established order and of entrenched interests because in a society dominated by commerce and industry, individual and corporate owners have been their principal clients. It is not uncommon for several leading lawyers to be retained by a big corporation or a financial institution depriving the employees or less affluent parties who are pitted against them of the services of these lawyers. If the

² AIR 2007, SC 113.

³ AIR 2002, SC 5



situation continues the lawyer paradise will be reduced.

The important duty of the lawyers is to defend the rights of all individuals according to the Rule of Law enshrined under Article 14 of the Indian constitution. Justice and law remain mere slogans if and Courts of law become objects of cynical decision if people are denied justice for no fault of them. There are exceptions too where in matters of public interest and constitutional importance many senior lawyers represented voluntarily free of charge. But this practice should become as a general rule instead of rare exception. The lawyer should become people oriented and reorient themselves towards the service of the people. Professional ethics should be showed in dealing with fellow human being's needs without any self interest.

A lawyer because of his importance in society and the respect that is accorded to the black gown he dons has certain obligations to discharge both inside and outside the court.

Duty to the court:

A lawyer has two important duties i.e., duty to the court and duty to the client. Being a lawyer his duty to the court requires that he will be prepared to assist the court and must be fair in pleading his case before the Court. He should act with dignity and self respect. He shall not influence the decision of a Court by any illegal or improper means. Private communications with a Judge relating to a pending case are forbidden. Particularly in criminal matters it will be misconduct on the part of a lawyer to implicate an innocent person deliberately in order to secure an acquittal for his client. A lawyer should cite cases which have

relevance and are important for the determination of the issue before the court irrespective of whether the decided cases will help the lawyer's case or otherwise. This is what Lord Birkenhead called "an obligation of confidence",⁴

Duty to the Client:

A Lawyer shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. He should fearlessly to upheld the interests of his client by all fair and honorable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to be law which requires that no man should be convicted about adequate evidence. He should keep the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.

Duty to the opponent:

A lawyer shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an Advocate except through that Advocate. He should do is best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the court.

A Lawyer shall do his best to carry out all legitimate "promises made to the

⁴ AIR 2002, SC 6.



opposite party even not written or enforceable under the rules by the court. These two obligations of a lawyer would enhance his image in the eye of his opponent advocate.

Duty to Colleagues:

A lawyer shall not enter appearance in any case in which there is already a Vakalat or memo or appearance filed by an advocate engaged for a party except with his consent, in case such consent is not produced he shall apply to the court stating reasons why the said consent could not be produced and he shall appear only after obtaining the permission of the court.

The other important thing is politicization of the profession should be condemned. Independence of the judiciary and the autonomy of the legal profession must be debated. Political considerations that affect fair administration of justice must be banished. In his daily work a lawyer shall uphold rule of law. In our secular state he should strive to make reverence for the law the religion of the nation, and make sure that nothing is done to lower the prestige and authority of the judiciary by anyone, however high or mighty. He should fulfill that obligation even if it brings him into disfavour with the authorities or is contrary to current political or social pressures. Bar is a bulwark against authoritarianism. It is not a coincidence that in a dictatorship lawyers are jailed on frivolous charges. And it is the courageous efforts of lawyers that have led to the overthrow of totalitarian regimes.

Thus other aspect is that senior lawyers have an obligation to train and encourage junior members of the Bar and should not deny entry into their chambers to juniors

who are keen to learn and have a commitment to practice law. A competent well trained junior Bar is an essential adjunct to the administration of justice. The role of a senior lawyer is not merely to familiarize the junior with case law and the relevant statutes. The habit of independent thinking and questioning should be inculcated. And, above all, the junior must be exposed to and imbibe the noble traditions of the Bar, the tradition of truthfulness, the tradition of fearlessness, the tradition of fairness and the tradition of service to the indigent and the disadvantaged.

In conclusion I would suggest that being a legal professional, besides following Seven Lamps of Advocacy i.e. Honesty, courage, Industry, Wit, Eloquence, Judgment, Fellowship, they should show recognition of what is meant by the 'service ethic's of dealing with a fellow human being's needs without consideration of self-interest. Thus Lawyers must serve as healers, not makers, of human conflicts and suffering. Thus they should practice the noble profession of law in the spirit of public service, try to restore the stature, the dignity and the image of our profession and play a rightful role in society and provide much needed service to the community and become a model for emulation to others.