ROLE OF ETHICS AND MORALITY IN THE DEVELOPMENT OF LEGAL PROFESSION IN INDIA

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“When we talk of ethics, the judges normally comment upon ethics among politicians, students, professors and others. But I would say that for a judge too, ethics, not only constitutional morality but even ethical morality, should be the base… …………Hon’ble Mr. Justice S.H. Kapadia, Chief Justice of India

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 hounourable and fair dealings of the counsel with his client, opponent and withness to establish a spirit of brotherhood in the bar itself and to secure that lawyers discharge their responsibilities to the community generally..........................Justice Marshall

Bullets kill men, but atomic bombs kill cities. A tank is a defense against a bullet, but there is no defense against a weapon that can destroy civilization; because civilisation is the outcome of ethics and morality. Our defense is law and order in the society-.................................................................Albert Einstein
Introduction:

Legal ethics may be taken to mean the body of rules and practice which determine the professional conduct of the members of bar. ¹ Importance or values of ethics are the platform of the life. They can take an individual to a height, who can touch the sky with glory. It is the motivation factor only which becomes the engine for the development in the life. Therefore, the quote by Albert Einstein, “Be a man of values, not a man of success” finds a suitable place here. The legal profession is such a profession which is interlinked in various ways with multifarious activities of the society. The institutions of legal profession in India dates back to ancient period of history. ² The lawyers play an important role in the maintenance of peace and order in the society. The peace and order, no doubt, are necessary tools for the very existence of the society. The lawyers provide invaluable aid to the judges in deciding the cases in most appropriate manner and arrive at correct conclusions. ³ The legal profession plays an important role in the administration of justice. Ethics means the principles of civilisation which creates a sense of path required to be followed by a person. It has been rightly 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. ⁴

As a principle of the Natural Law theory that justice is not only to be done; but seems to be done. This principle reminds the old saying, “Who can be the real Justice? Answer to it was -A person who is pure in heart like a little child can be the real justice”, which signifies transparency in the system. All these things are possible when we are able to maintain the principles of ethics and morality in harmony with the provisions of Laws of the nation. After independence it had become a challenge before the legal profession to deal with the

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² It is apparent from the writings of Narada, Katyana and Manu that there were lawyers to appear before the courts of kings to argue for their clients. The Muslim period of Indian history is also a witness to the fact that the institutions of lawyers was not organised and vakils represented their clients in the courts of Kazis, Mufties and Moulvies.


⁴ The Advocate has to play dual role in the administration of justice delivery system. Being an Officer of the Court, he has to assist the Bench in the proceedings of the case and being a torchbearer he has to look after the interest of the clients and ultimately the society.
sufferings of disadvantaged persons, deprived people and the persons whose rights had been violated. In order to control the activities of the advocates in a welfare state, Indian Parliament have enacted various Acts to rein the activities of the Advocates and Judges so that they can deliver the justice according to the provisions of laws; for this purposes various Acts were enacted. The objectives of legislations are to create a path which is required to be followed by the citizens of the nation. Violations of these laws attracts various sanctions such as fine, imprisonment (simple or rigorous) or both. There is only one difference between laws and ethics that in case of violations of laws there are punishments, whereas in case of violations of the principles of ethics and morality there are no sanctions. But in the era of civilisations it does not look good that we are following the laws because of the fears of the punishments. We should not forget our culture and traditions are full of good examples ethics and morality. As a torchbearer it is our moral duty to render the services in such a way that clients/ citizens can feel proud to be Indian; which is path of the development of the nation.

**Object of Research Article:**

Purpose of my research article is to highlight the role of ethics in the development of legal profession in India. Being a torchbearer an advocate has to be more serious towards his duties, because his actions are going to be the future of someone (client). The contents of the paper emphasizes that upto some extents we are being governed by the principles of ethics (sanskaras) taught at home and learning institutions such as schools/colleges/ universities. Law, justice and the common man are like wheels of vehicle which when together works the vehicle of citizen life run normally. If any one of them refuses to stop functioning well, the whole nation suffers. Either it is the common man who refuses to follow law, or it is the judicial system which delays in rendering justice. Laws are made by the government for the well being and prosperity of common people. There prevails a judicial administrative system in the society and any member who does not perform his/her duty in this system result in the ultimate suffering of the common people. It is sad to say that that today money is the biggest power and sometimes even justice is being sold by the money. Due to this the common man has to suffer a lot. The faith of the people on the law and judicial system is minimizing. The delay in rendering judgment by the courts has resulted in agreeing parties to settle outside the court by way of other illegal means. The poor people are unable to cope up with the increased

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5 The Parliament of India enacted these Acts in pursuance of Welfare State for asking the Advocates and Judges to maintain the dignity of legal profession in India. They were (i) All India Bar Committee, 1951, (ii) Advocates Act, 1961 and (iii) Contempt of Courts Act, 1971.
cost of litigation and hence they find it beneficial to face the suffering and the loss than to pay the excess cost of litigation. Laws are formulated to be followed by the people. The judicial system on the basis of these laws decides what is correct and what not. It punishes the guilty, the violator of laws and renders justice to the innocent person. This whole mechanism establishes peace, security and prosperity in the nation. However, if the judicial system does not perform well, the laws made for the benefit of the common man, cannot prove beneficial for the common people. For a peaceful progressive society, it is important that the people adhere to the laws formulated and do not violate them and in case of violation the judicial system provides quick correct order so as to resolve the matter. Security in nation leads to increase in foreign investment and economic activities. This has a positive effect and increases the per capita income of the people ultimately. Hence, law, justice and common man are wheels which when together runs leads to the path of success, security, prosperity and peace of the individuals and of the nation. Law, justice and common man are inter-related with each other which together leads to the formation of an ideal civilized society. Society is the place where people live together and carry out their day to day activities with the help and co-operation of each other. There is social action and interaction between them. Certain rules and regulations made by the supreme authority, commonly known as law, govern the conduct of the people living in society so that the activities taking place in a society are carried out smoothly. The Laws governing the society ensures that the accused gets punished and justice is given to the right and innocent person. This mechanism ensures peaceful and progressive environment in society. The laws governing any society differ from place to place country to country, and members of any land are governed by the law of their land. In Dalmia Cement (Bharat) Ltd v. Union of India, it was said, Law is the manifestation of principles of justice, equity and good conscience. Rule of law should establish a uniform pattern for harmonious existence in a society where every individual would exercise his rights to his best advantage to achieve excellence, subject to protective discrimination. The best advantage of one person could be the worst disadvantage to another. Law steps in to iron out such creases and ensures equality of protection to individuals as well as group liberties. Man’s status is a creature of substantive as well as procedural law to which legal incidents would attach. Justice, equality and fraternity are trinity for social and economic equality. Law is the foundation on which the potential of the society stands. Thus, careful examination of

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6 Law is the command of sovereign backed by sanction. Law can be defined as a body of official rules and regulations, generally found in constitutions, legislation, judicial opinions, and the like, that are used to govern a society and to control the behavior of its member.
the above definitions of law gives us a clear understanding that it is a set of rules which is followed in society for ensuring proper development, progress and justice to the members of society, the major part of which is comprised of common man. Law needs to secure human happiness and forbid those acts and attempts that are injurious to the welfare of an individual to the welfare of an individual and society. It has been rightly quoted by the Institutes of Justinian about law that “The percepts of law are these: to live honestly, to injure no one, and to give every man his due”. The basic theme on which law operates is to provide justice to the honest and innocent person and to protect its rights. The high income group, middle income and the low income group being the bifurcation of society as per monetary basis. The high income group are often regarded as the most influential and powerful group in a society. The middle and the low income group often comprise larger section of any society. The government of any country, any nation, is formed by the members of that nation either directly or indirectly. In democratic country like India, the government is of the people, for the people and by the people. Hence, administration of justice is a State obligation, perhaps one of the most significant. Justice is the foundation stone of a democratic state. The governing bodies are under obligation to frame such laws which provide benefit and enable progress of the country and most importantly impart justice to the needy people. The government of any country frame its policies keeping in mind the benefits and progress of the common man. It is the responsibility of every government to ensure that their legislative agenda has at its core, a genuine concern for the well being of the common man, that it is reflective of their hopes and their aspirations. The legislative reforms in any country are directed towards empowering and improving the conditions ordinary citizen of the nation. Federal country like, India, has three different independent wings which carry the work of fulfilling the objectives set by the government, basically the administration of justice. They are judiciary, executive and legislature. The legislature frames laws, executive implements them and judiciary imparts justice to the people on the basis of laws framed by the legislature. The legislature of any country frames laws keeping in mind the welfare of the common people along with the progress of the society. Whenever any law is being violated by any citizen, it is the judiciary which imparts justice to the person whose right has been infringed or is aggrieved. A citizen who feels aggrieved either by the action of

7 Bentham said, “Objective of law is to provide maximum happiness to the greatest number with minimum conflict”.

8 From the time immemorial the society has been divided into different strata on basis of money, caste, occupation, etc. Commonly, it is seen that people are divided on the basis of money and caste.
another or even by an action by the State can approach the appropriate court by way of a petition. Thus in this way, the three wings together independently promote and protect the well being of each and every individual and thereby the nation on whole. They together work likes any mechanism to provide justice to the common man by the implementation of laws. It must be remembered that ultimate power of the courts i.e. the judicial system arises not be the stick it wields, but by the degree of confidence that the citizens place in it. On the whole, for the survival and growth of society, an efficient legal system and one that renders timely justice is a must.

**Principles of morality vis-à-vis Constitution of India:**
The Constitution of India seeks to provide its citizens Justice-social, economic and political, Equality of status and of opportunity. Along with these the Constitution has the aim of promoting among all its citizens Fraternity, ensuring dignity to all its citizens and also unity and integrity of the nation. The whole democratic system of Indian Government works on the procedure laid down in the constitution made by our fore fathers. When the Constitution of India was made, main goal in the minds of the framers were the progress and prosperity of the nation as it had been continuously under several years of foreign rule. The Nation was once known as “Golden Bird” but over the time it had been plundered and exploited. Its people had to face a lot of hardship and therefore, the Drafting Committee, constituted to frame the Constitution. Therefore, the government form was made democratic so that the leaders of the country were responsible for their work and they had duty to fulfill towards common people and work for their benefit. In case they were unable to fulfill, they would be thrown out in next elections. Such huge power was vested in the hands of common people known as Universal Adult Franchise by the framers of Constitution. Part III of the Constitution of India deals with Fundamental rights and is one of the gifts given by the forefathers to the common people to ensure their security and prosperity. In the present

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9 The Constitution of India in sonorous terms resolves to constitute India as a Sovereign Democratic Republic and to secure to all its citizens Justice, Liberty, Equality and Fraternity.

10 The Preamble of Indian Constitution provides that all the citizens of India be entitled to social, economic and political justice along with equality of status and opportunity.

11 Under the chairmanship of Dr. B.R. Ambedkar and its fellow members explored other constitutions of the world and pick and chose those laws which would prove beneficial to the people of India and would fulfill their interest and provide them with happy and prosperous living.

12 Any infringement of these rights, that gives power to an Indian citizen to progress and prosper for the benefit of himself and under Article 226 before the high Courts of India. Law made by the legislature is same for all and equally binding. No one can be denied from justice.
scenario, where there is so much competition in the employment also. 13 Many a times it happens that affluent people in society on the basis of their power and position try to exploit and harass the down trodden people. 14 Part IV of the Indian Constitution, deals with Directive Principles of State Policy which acts as yardstick for the Indian government and help them in fulfilling their objectives. 15 It declares India as a “Welfare State”. Every citizen is bound to follow those duties known as Fundamental Duties which has been laid down in the Constitution of India. 16 Proper exercise of rights and discharge of duties, both by the State and the people, results in proper functioning of the government and brings prosperity to the individual and nation on the whole.

**Concept of Public Interest Litigation:**

However, with the passage of time, and increase in corruption proper functioning of the legal system was not taking place. There was delay in giving justice and sometimes important matters were not given much importance. Thus to overcome these problems and to improve the working of the legal system, the revolutionary concept of “Public Interest Litigation” was introduced in the Indian Justice System by former Hon’ble Chief Justice of India, Mr. P.N. Bhagwati. 17 Thus, with the introduction of this new concept, socially aware people, who worked and wished for the benefits of society, were able to file complaint and bring immediate attention of the judiciary towards the violation of law taking place openly in society in-spite of the presence of social control bodies like police authorities who are in-charge to keep maintain peace and security in the society and to keep a check on anti-social activities and furthermore to arrest and catch hold of the law violators.

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13 Article 16 provides that every citizen would be given equal opportunity in public employment irrespective of his caste, creed, sex, residence and other things.

14 Article 21 gives right to protection of life and personal liberty to every citizen except according to procedure established by law.

15 Article 39-A provides that Indian State should work to promote equal justice and free legal aid. This implies that justice to all should be imparted irrespective of anything and those who are unable to access to the judicial system due to financial reasons, it is the obligation of the State to provide them with free legal aid so that they do not remain aloof from being imparted justice and no innocent gets punished.

16 Every coin has two faces and clap is always from both hands. So when the constitution provides rights to the citizens, it also at the same time imposes certain duties on them so that there is no obstruction in the path of the government while it fulfills its objectives.

17 In layman’s terms this concept is known as “Justice for the ’common man’. ” The concept arose out of his long-standing personal views regarding what the true role of the judiciary ought to be: “The judiciary has the responsibility to serve the common man because the judges are in charge of administering the law. Judges have to give effect to the law, they have to interpret the law, and therefore judges must have the interest of the common man at heart. Judges must feel and know what the common man wants.”
Addressing the members of the Advocates Association of Bangalore (AAB), a senior judge of the Supreme Court said that judges and advocates should work together to render justice to the common man. The judges and the lawyers, who are the real interpreters of the statutory law, should be ones, who have profound knowledge about the prevailing laws and that they should truly and dedicatedly work to provide justice to the common people.

An inefficient law and justice system limits and impedes economic performance of a country. Law is not isolated from the rest of society; rather, the law affects economic development. And the evolution of the economy and the market will not occur if that law does not come to prevail. The law must be reformed to make way for the market economy, so as to be able to guarantee the rights of those citizens who are not only poor but also those who live within and by the boundaries of the law. A proper set of laws that are fine-tuned and an efficient judicial system act as an accelerant, while an improper set of laws, tardy justice, poor governance and inefficient administration act as a retardant. An inefficient law and justice system could become a dead weight to development efforts. How citizens interact amongst each other in society is to a large extent driven by economic pulls and pressures. A reliable and efficient law and justice system guarantees security of person and property to citizens; providing a dispassionate forum for resolving disputes, thereby enabling citizens to realize their aspirations by emboldening them to participate in economic activity and availing the benefits of peace and liberty.

Conclusion:
Actually the legal profession is a profession of great honour. It has been created not for private gain but for public good. It is a partner with the judiciary in the administration of justice. 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 ourself 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 we all. Therefore, we need to follow the path of ethics and morality which ultimately fullfills the requirements of objects of laws. The time has come to join our hands with NGOs, Govts and all the machinery to make our country to develop our culture and nation.