



A study on the ethics and morality of legal profession

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Abstract

This paper discusses approximately legal career, the way it plays the vital position in management of justice. It talks approximately the legal practitioners, their role in ancient India and the way they contributed for the country within the satisfactory feasible manner with high morals. Morals play the most critical function for turning into a lawyer a success. It also discusses the ethics of legal professionals, what are their responsibilities toward courtroom, purchaser, opponents and co-workers. Advocates Act, 1961 affords for Bar Council regulations for the proper conduct of the Advocates and they're bind with the aid of those duties. In case they do no longer follow, then there's remedy inside the shape of punishment which has been discussed with the help of case legal guidelines.

Keywords: justification, plaintiff, presidency town, draftsman, standardization, low-grievance, layman, renovation

Introduction

The legal profession performs an crucial position in the management of Justice. The legal professionals are considered to be the middle of the management of justice. lawyers are the one who're related to the events, they pay attention to the birthday party and accumulate all the applicable felony materials relating to the case and argue the case in courtroom, consequently helping the choose to reach at the ideal and truthful judgment. With out the assistance of the lawyers it'd be a superhuman venture for the decide to return on the satisfactory judgment. Justice P.N. Saprul has stated that, 'justification for the lifestyles to the suggest is that every side to the debate need to be in a role to offer its case before an impartial tribunal in the nice and simplest manner viable.'

Objective

To study about the ethics and morality of legal profession

Materials and Methods

The study is collected from national journals, books and publication from various websites which give importance to the ethics and morality of legal profession.

Legal profession in pre-british period

It is not well settled as to whether the legal profession was in existence in the pre-British India. However it is clear that in pre-British India, it was not as organised as today. Actually the legal profession as it exists today was created and developed during the British period. During the British period, the courts derived their authority from the king who was considered the foundation head of justice. The institution of lawyer as it exist today was not in existence during this period. The plaintiff was required to present the plains before the court and thereafter court could direct the defendent to submit his reply. Therefore the court was required to

investigate the matter and deliver its judgement. The court delivered judgement on the basis of evidence gathered from various sources.

Legal profession during British period

As has been stated above the legal profession as it exists today was created and developed during the British period. However it is notable that in early days of the British period, the legal profession was not paid due attention and it was not well organised. Actually the east India Company was not interested in organising the legal profession. Therefore there was no uniform judicial system. In 1726 by a charter known as charter of 1726 in each presidency town a mayor court was established and thus, by the charter a uniform judicial system was introduced in all three presidential towns Bombay, Calcutta and Madras. The charter of 1726, thus introduced royal courts in India but did not make provisions for the regulations of the legal practioners. There was no provision for the legal training. Many persons having no Knowledge of the law were practising. In 1753 a new charter known as charter of 1753 was issued to modify the charter of 1726 but even this charter did not contain significant provisions for legal training and legal education of legal practioners and thus even after this charter the legal profession was not organised. The regulation act 1773 and the charter act 1774 contributed much to development on legal profession in India. The regulation act 1773, empowered the British crown to introduce the Supreme Court at Calcutta, Madras and Bombay. The legal practioners act 1879 made provisions that the people of any nationality or religion would be eligible to be pleaders, Attorneys and Barnister.

Legal profession after independence

ADVOCATES ACT 1961

In 1961 the existence advocate's act was enacted. It has

enacted for the purpose of amending and consolidating the law related to legal profession and also for providing the constitution of bar council and all Indian bar. Section 1 of the advocates act 1961, which extends to the whole of India except Jammu and Kashmir. Section 2 defines the what is Advocate, bar council, Law graduate. The main function of Bar council of India are to be laid down the standards of professional conduct an etiquette for advocates to safeguard the rights, privileges and interest of Advocates to promote legal education etc. The act contains exhaustive provisions relating to enrolment and admission of advocates, rights of advocates, punishment for provisional and other misconduct etc.

The lawyers of high moral value

The Bar is a public organization and is underneath prison obligation to impart wholehearted cooperation for the improvement of regulation. History has said with grace and appreciation that how the eminent lawyers after independence started making regulation a felony technological know-how. When we talk approximately attorneys in pre-independence era, final a part of 18th century the eminent attorneys helped in the improvement of enacted legal guidelines in addition to commonplace laws. Those lawyers have been the only who had their morals and worked on the principle of ethics. The attorneys who had been eminent in their very own discipline were given intrinsically concerned in freedom warfare in which their reasoning, rationality and logical elements helped them to clear up many acute issues. a lot of them played very essential function in the formation and shaping of our charter which eventually grew to become out to be one of the pleasant constitutions of the arena. One of the splendid examples of such character is the daddy of the nation, Gandhiji, who turned into an attorney. He started out his practice in India and went to South Africa. It's far noteworthy to state that Gandhiji changed into an brilliant draftsman and his representations to the government was once very logical, immediately, unambiguous, and succinct and based on natural and moral felony paradigm. He believed in fact whilst practicing as attorney and acted as a conciliator. In his autobiography "My Experiments With reality" he has narrated how he required a rich businessman to confess his guilt and after the court sentenced him, to maintain judgment in a frame for posterity to peer and understand.

Sir Alladi Krishna Swami Aiyer is some other instance, a attorney who become also a freedom fighter. He changed into the mentioned chief of the Madras Bar. After Independence he became a member of drafting committee of the Indian charter.

Dr. B.R. Ambedkar began practice at Bombay in 1924 and at the equal time began his career as a social worker, writer, politician and socialist. His picture as a jurist received giant recognition and emerged because the chief of depressed class. He become the Chairman of the Drafting Committee which framed the constitution of India.

Gandhiji laid emphasis on moral cloth of the society, preached spiritual pluralism, predicted ecological disaster of our time, accentuated on disciplined life, laid strain on private efforts to rise in existence and postulated prescriptions for optimistic paintings. even as speaking approximately this brand of attorneys it's miles worth noting that Bhulabhai Desai had

played a main position inside the INA trial wherein his principal competition become that a member of the problem u. s. has a right to salary warfare for securing the freedom.

Every other fantastic attorney within the publish independent technology is Viswanath Shastri. At one factor of the time he changed into the leading practitioner in the ideal courtroom. He became an authority in taxation law and remembered Privy Council Judgments on his finger guidelines. He turned into an easy man and in fact in his workplace there has been no chair and fan. Every other illustrious lawyer who became a household name in India is Nani Palkhiwala. He had started out with none ladder but his incomparable strength, extra special brilliance, prodigious reminiscence, large potential to paintings tough, profound analytical capability and unsurpassable humility took him to extraordinary heights.

Importance of legal profession

The criminal experts play vital position in the protection of peace and order in the society. Learned C.L. An and has rightly stated that the advocates proportion with the judges the duty for retaining order inside the network. They do now not sell stripes but settle them. They stand for criminal order that is one of the noblest competencies within the society. The order which the advocates are seeking out isn't always of grave but based mostly on justice. It's miles the most characteristic of the advocates to fulfill the preference of their customers thru supplying them Justice. It is the choice of every human on the earth.

The prison experts additionally play a very vital role in law reform also. The most hard a part of the gadget of law is drafting of its provisions and no person is better equipped to offer steerage on this than the criminal professionals. "in the end, it can be stated that the legal career is a profession of great honour. That is made for public welfare, for public true. This isn't always for incomes earnings however to offer Justice to the right individual. An advise is an officer of the court docket docket and is wanted to hold in the path of the court docket docket a deferential mind-set bearing in thoughts that the distinction of the judicial office. The best court has rightly found that the jail career is a associate with the judiciary within the administration of justice.

Ethics of legal profession

A felony practitioner is beneath triple obligation:-

An duty to his customers to be devoted to them till the closing, an duty to the career now not to besmirch its name by way of whatever performed by him, and an duty to the court to be and to remain a reliable part of the machinery thru which justice is administered. The scope of prison ethics is past the treatise of evidence or witnesses to be offered earlier than the courtroom. In examining those witnesses the endorse must now not forget that he isn't mere the suggest of the patron however also the officer of the court. in this way there are a number of the duties thereafter which the suggest have to comply with, like, professional courtesy, co-operation, same attention to all individuals of the career, encourage junior brethren, need to get up for its dignity and privileges on every occasion there's event for it, he ought to disclose corrupt or dishonest behavior in the career.

Professional Ethics can be defined as a code of conduct

written or unwritten for regulating the behavior of a working towards legal professional toward himself, his purchaser, his adversary in law and towards the courtroom. As a consequence, ethics of legal profession approach the body of guidelines and exercise which determine the professional conduct of the individuals of a bar. Whilst the person joins the criminal career and starts practising, his relation with guys in trendy is governed by way of general guidelines of law but his behavior as endorse is governed by means of the especial guidelines of profession ethics of the Bar. The principle item of the ethics of the prison profession is to preserve the distinction of the legal profession and the pleasant relation between the Bench and the Bar.

Professional Ethics is also known as criminal ethics. [Ethics] is a examine of the which means and application of judgments of accurate, awful, proper, incorrect, and so on. and each evaluation of regulation entails an moral Judgment.”⁵

The description of legal Ethics already clarifies that prison ethics is one of the branch of ethical science. Etymological origin of the phrases moral and ethics appear to be identical. The word ethical comes from Latin word *mos* (plural *mores*) that means thereby “custom or manner of existence.” The associated time period Ethics is derived from the Greek phrase *ethos* that means “custom” or “person”. As a result each the phrases ethical and ethics are basically synonymous and confer with a sort of conduct practices via a collection which has a tendency to turn out to be commonplace. But there is a mild difference within the two that ethical or morality mainly refers back to the behavior itself, whilst ethics or ethical suggests the have a look at of moral behavior or the device of code that is to be accompanied.

The Oxford accomplice to regulation explains the professional ethics as “the standards of right and honourable conducts which have to be discovered by individuals of learned professions of their dealings one with every other and in protecting the pastimes and managing the affairs in their customers.”

Need for professional ethics

The American Bar affiliation Committee has well explained the want of the code of legal ethics. It's miles determined that the legal profession is always the keystone of the arch of presidency. If it is weakened, and allowed to be a topic of the corroding and demoralising have an effect on of those, who're controlled by craft, greed or gain or other unworthy purpose, finally the arch ought to fall. The destiny of the united states depends upon the protection of the shrine of the justice, pure and unrolled by using the advocates. It cannot be so maintained, until the conduct and reasons of the members of the felony profession are what they object to be. Therefore, it will become the obvious and easy obligation of the attorneys to use their have an impact on in each legitimate manner to help and make the Bar what it is need to be. The committee has similarly determined that contributors of Bar, like Judges, are officials of the court docket and prefer judges, they must hold office only at some point of properly conduct and this accurate behavior must be defined and measured by means of moral requirements, but excessive, as essential to maintain the management of justice, pure and unsullied. Such popular can be crystallized right into a written code of expert ethics and

the attorney failing to comply thereto, ought to now not be accepted to coaching or maintain club inside the precise business enterprise.

Advantages of having codified professional ethics

First off, codes of ethics are important means of social control. It'll hold new nook to the career aware and antique members in line in keeping with the social requirement and expectations. The distinction of the profession may be required to be maintained via retaining the public confidence in it. Secondly, expert moral codes prevent manage or interference by using the authorities or by using society although a few considered one of its companies. If a degree of standardization is needed and that is carried out through the profession itself, it's going to maintain outdoor interference away. Governmental rules through regulation tend to be terrible while ethics factors to the purpose preferred.

0.33, moral codes are critical, in developing better requirements of conduct. Robert D. Kohn, Fellow of the yankee Institute narrates five ranges of development. Fourthly, the existence of code can have extremely good educative, corrective and appreciable value for both the lawyers and the laymen. The Advocates Act 1961, created all India Bar with a unified structure offering with a charter of Bar Council to the nation and significant Bar Council on the way to make sure dignity and right functioning of the courts. The Bar Council until date has no longer been able to achieve subject many of the advocates thru the disciplinary committees. This deviance sample and its coping with finds a tendency of low-grievance filing through clients because of lack of awareness of disciplinary technique on part of the clients or duress or incapability to rent legal professionals to report a grievance. Deviance at the part of advocates might also relate to clients, abuse of judicial method, disrespect of court and disciplinary action following conviction of lawyers for criminal offences. In case of Harish Chandra Tiwari v. Baiju²², the recommend who had misappropriated cash of the terrible client, falsely claimed to go back that cash and also filed fraudulent affidavit. The disciplinary committee of the Bar Council of India presented the punishment of 3 years suspension from exercise. In enchantment the splendid court docket depreciated the mind-set of the Bar Council of India to treat a totally grave professional misconduct in a relatively lighter vein.

Findings

Expert ethics is evolved via manner of practices and traditions. The Advocates Act 1961, is the high parliamentary regulation which governs the Bar sports and works for enforcement of expert ethics by means of providing punishment to the advocates who has failed to carry out his responsibilities. This act has been amended again and again to manage up with the emerging tendencies and problems. The Bar Council of India has additionally framed policies for conduct for the attorneys but until date they have got no longer been able to reap their purpose. This increase in the delinquencies among the lawyers is a chance for administration of justice so that you can impede the orderly functioning of the society. The discovered, dignified, grand and provider orientated career is being converted into

industrial corporation, cash-making enterprise and alternate-unionism is elevating its unsightly faces via boycotting the courts and strikes.

The code of expert ethics have been made with an assumption of felony career being the learned career and exceptional prepared to articulate code of ethics.

The working of the code has many limitations. First off, although the prohibitions contained within the code are couched in obligatory phrases, with the use of "shall now not" however it isn't always clear whether violation of every and each rule is actionable. Dr. Bakshi has rightly observed that some policies does no longer seem to create obligations, violations of so as to create ground for disciplinary complaints. For example, rule forty six of the code, describes loose legal assistance by every advocate to the angry and oppressed as one of the highest duties, which an endorse owes to the society. This responsibility is of the nature of directive principle of kingdom policy. This rule remains extra or less as unenforceable.

Secondly, the code has no longer been able to severe connection between the legal expert and economy. An endorse can be a snoozing companion in a firm, director or a chairperson of the agency, heir of own family business.

Thirdly. The code does now not communicate for the fixation of price for the attorneys and thereby locations no duty on legal professionals now not to price high price.

Recommendation

It pays to be moral in today's legal world. Violating any of the minimum disciplinary rules will have an instantaneous economic impact, as will acting in a very manner unbecoming of our profession. Associate in Nursing increasing range of lawyers ar being disbarred, suspended, and command in contempt of court each for violations of minimum disciplinary rules governing attorney conduct and for activity misconduct.⁵⁵ Lawyers will lose quality with the active bar and therefore the bench by developing q a name for breaking the foundations Eileen acting unprofessionally. as a result of referrals ar therefore vital in our profession, a name because the attorney WHO is often the topic of motions to compel may lead to a pricey daily loss of business.

Conclusion

To finish the above, the expert ethics also are termed because the duties to be followed by means of the advise, those are the morals and the fundamental courtesy which all people on this profession should recognise. those are not most effective the duties to be done due to the fact the Bar Council has made the guideline, but those are the simple manners which one should contain within them. Those are the obligations towards the courtroom, customer, Colleague or Opponent. The performance of the duty by using the advocate defines the dedication, dedication and loyalty towards the profession. The profession of law is honourable and it is anticipated from every person who are on this profession to be honest and paintings in upright manner. And any deviation of their performance of responsibility ought to be taken seriously. An advocate on this career has many obligations toward courtroom, patron, choose, opponent, colleagues, and many others. The advocate who does no longer work with sincerity,

who does no longer follow the guidelines of conduct is said to have misconducted in his profession. He is responsible of the misconduct of duty for which he's punished. so that you can keep away from misconduct one have to work in right and suitable manner no longer for the sake of having punished but for being dependable closer to them, their career. The essential aim of criminal ethics is to maintain the honour and dignity of the regulation career, to cozy a spirit of pleasant co-operation, to set up honourable and fair dealings of the suggest together with his patron, opponent and witnesses, to set up the spirit of brotherhood in the Bar itself; and to secure that legal professionals discharge their responsibilities to the network generally. Legal career is always the keystone of the arch of government. Felony profession isn't a commercial enterprise however a profession. It's been created by the state for the public good. Consequently, the essence of profession lies in matters:

Organisation of its members for the overall performance in their function.

Renovation of positive requirements, highbrow and moral, for the consideration of the profession.

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