



LL.B. VI TERM

**Paper – LB-601 Professional Ethics and Accounting
System**

Course Materials

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Paper – LB-601 Advocacy, Professional Ethics and Accountancy for Lawyers

Objectives of the Course:

Professional ethics form the foundation in the lives of the lawyers. Every person has been given the right to engage a lawyer of their choice to represent their case. It means that lawyers have the constitutional obligation to take up the case of every person who approaches them for legal representation. Does it mean that the lawyer is obligated to represent a self-confessed murderer, rapist, and other accused persons who are alleged to have committed very serious offences against the nation even though his conscience or his personal beliefs do not permit that? How can the lawyer do that when his inner conscience revolts at the thought of represent a certain category of persons? All clients approach the lawyer with hope and desire that their lawyers will zealously represent their case. Does zealous representation mean that the lawyers must get the relief sought by the clients by all means? Are there any boundaries set by law or professional ethics that a lawyer must not cross? What is the role of truth and morality in determining the standards of professional ethics for lawyers? What conduct amounts to professional misconduct? What are the repercussions if a lawyer does not follows the principles of professional ethics? What are the mechanisms set by law to deal with complaints of professional misconduct? These and many other similar other questions trouble the mind of new entrants to law practice. The lawyers have to adopt ethical practices in all spheres of their profession from meeting clients, giving them legal counseling, presenting their cases before appropriate bodies, managing client's accounts, etc. This paper covers this wide spectrum of lawyers' conduct and specifically aims to

1. Familiarize the students with the legal provisions, guidelines, and judicial decisions on the subject of professional conduct for lawyers
2. Acquaint them with the opinions of the Bar Council of India on professional misconduct
3. Train them in the skills of client interviewing and counseling
4. Teach them the basics of professional accountancy

The course will be conducted through lectures, case method as well as participatory methods involving students in problem-solving, role plays, and simulation, etc. The full course is primarily class based but students are encouraged to focus on ethical issues during their internship in the other CLE course, namely, Moot Court, Mock Trial and Internship and raise those issues in the classes in this course

Learning Outcomes

It is expected that at the end of semester, the students will be able to

1. Identify situations of professional dilemmas
2. Recall and explain the principles of professional ethics
3. Take appropriate decisions when faced with any dilemma of professional ethics.

4. Interview and counsel clients in a professional manner
5. Apply the basic principles of professional accountancy

Evaluation Method and Scheme

The students will be evaluated out of 100 marks. Considering that the course is aimed at providing theoretical knowledge and practical skills, evaluation for this course has two components: (1) the end-semester written examination for 60 marks, and (2) classroom evaluation for 40 marks. The end-semester written examination will consist of eight questions. Students will be required to answer 5 questions of 12 marks each. The question paper may have parts requiring a certain number of compulsory questions to be answered from each part.

The students are required to self-study the prescribed opinions of the Bar Council of India. There will be a class test consisting of multiple choice questions based on these opinions of the Bar Council for 20 marks. Students will be evaluated for ten marks on the basis of their performance in client interviewing and counseling.

10 marks are for 100% attendance and 2 marks up to maximum of 10 marks will be deducted for each block of 5% attendance less than 100% attendance, i.e., 8 marks till 95%, 6 marks till 90%, 4 marks for 85%, 2 marks for 80% and no marks for less than 75% attendance.

Contents

Prescribed Legislations:

The Advocates Act, 1961

The Contempt of Courts Act, 1971

Prescribed Books:

Krishnaswami Iyer's Professional Conduct and Advocacy (1945), available at <https://archive.org/details/professionalcond029273mbp>

GCV Subba Rao, Commentary on Contempt of Courts Act 1971 (2014)

Ranadhir Kumar De, Contempt of Court Law & Practice (2012) Wadhwa Book Company

Francis L. Wellman, The Art of Cross Examination, available at [http://www.delhihighcourt.nic.in/library/articles/the%20art%20of%20cross%20examination\[1\].pdf](http://www.delhihighcourt.nic.in/library/articles/the%20art%20of%20cross%20examination[1].pdf)

Suggested Readings:

Justice Mirza Hameedullah Beg, Role of the Bench and the Bar, available at <http://www.allahabadhighcourt.in/event/RoleoftheBenchandtheBarMHBeg.pdf>

J.W. Smyth Q.C., The Art of Cross Examination (1961), available at <http://www.allahabadhighcourt.in/event/RoleoftheBenchandtheBarMHBeg.pdf>

Champ S. Andrews, *The Law A Business or a Profession* (1908), available at <https://www.jstor.org/stable/pdf/784941.pdf>

Ben W. Heineman, Jr., William F. Lee, David B. Wilkins, *Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21st Century* (2014) available at https://clp.law.harvard.edu/assets/Professionalism-Project-Essay_11.20.14.pdf

Geoffey C. Hazard Jr., *Responsibilities of Judges and Advocates in Civil and Common Law: Some Lingerin Misconceptions Concernin Civil Lawsuits* (2006), available at http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=2091&context=faculty_scholarship

PART A- ADVOCACY

I The Advocates Act, 1961- (4-5 Lectures)

- (a) **Introduction:** (i) Brief History of Legal Profession in India
(ii) *Judge Edward Abbott Parry, The Seven Lamps of Advocacy* (1923), available at <https://archive.org/details/sevenlampsfadvo00parr>
- (b) **Bar Councils- Section-4 to 7:** Bar Council of India, Bar Council to be body corporate, Functions of State Bar Councils and Functions of Bar Council of India
- (c) **Admissions and Enrollment of Advocates** – Section- 16 : Senior and other Advocates, Section-17 – State Bar Councils to maintain roll of Advocates, Section -22- Certificate of Enrollment, Section- 24: Persons who may be admitted as an Advocates on state roll, Section- 24A: Disqualification for Enrollment, Section 26A: Power to remove names from roll
- (d) **Right to Practise :** Section 29-30,33: Advocates to be only recognized class of persons entitled to practice, Right of Advocates to Practise
- (e) **Conduct of Advocates and Disciplinary Proceedings :** Section 35-36,37-38 : Punishment of Advocates for misconduct, Disciplinary Powers of Bar Council of India, Appeal to Bar Council of India, Appeal to the Supreme Court

Reading Material: Fifty Selected opinions of the Disciplinary Committees of Bar Councils [only soft copy will be supplied to students]

II Contempt Of Court - Contempt of Courts Act, 1971

- (a) **Contempt - Meaning** and Purpose section 2(a), Civil Contempt 2 (b), Criminal Contempt 2 (c), Criminal Contempt - Mens Rea Principle in Contempt Cases Contempt by State Government (3-4 Lectures)

1 Maninderjeet Singh Bitta v. UOI, (2011) 11 SCALE 634

2 R.K. Anand v. Registrar, Delhi High Court (2009) 8 SCC 106

3 In Re Arundhati Roy, AIR 2002 SC 1375

4 Mrityunjoy Das v. Sayed Rahaman AIR 2001 SC 1293

(b) Defences – Sections 3 to 8 (2-3 Lectures)

Innocent Publication, Fair and accurate report of judicial proceedings, Fair Criticism of Judicial act, Complaint against presiding officers of subordinate courts , Publication of information relating to proceedings in camera & other defences, Contempt and Freedom of Speech

5 Bhuramal Swami v. Raghuvveer Singh & Ors. (Judgment delivered on 21st Oct 2016)

6 Perspective Publication v. State of Maharashtra, AIR 1970 SC 221

7 Narmada Bachao Andolan v. UOI, AIR 1999 SC 3345

(c) Contempt by Judges & Magistrates- Section 16 (One Lecture)

(d) Punishment for Contempt - Sections 10 to 13 (2-3 Lectures)

Power of the High Court to punish contempt of subordinate courts and try offences committed outside jurisdiction, Punishment for Contempt and Contempt not punishable in certain cases, Purging of contempt

8. SC Bar Association v. UOI, AIR 1998 SC 1895

9. Smt Pushpaben & others v. Narandas V Badani, AIR 1979 SC 1536

10. Daroga Singh v. B K Pandey, (2004) 5 SCC 26

11. Pravin C. Shah v. K.A. Mohd. Ali, (2001) 8 SCC 650

(e) Procedure Section 14- 15, 17-18 (2-3 Lectures)

Procedure where contempt is in the face of the Supreme Court or High Court, Cognizance of Criminal Contempt, Procedure after Cognizance AND Hearing of Criminal Contempt cases by Benches,

12. R.K. Anand v. Registrar, Delhi High Court (2009) 8 SCC 106
13. In re Vinay Chandra Mishra, (1995) 2 SCC 584
14. Bal Thackery v. Harish Pimpa and Others (2005) 1 SCC 254E

PART –B: Professional Ethics

Rules Governing Advocates: (10-11 lectures)

(a) Restrictions on Senior Advocates

(b) Standards of Professional Conduct and Etiquette

- (i) Duty to the Court
- (ii) Duty to the Client
- (iii) Duty to the opponent
- (iv) Duty to Colleagues
- (v) Duty in Imparting Training
- (vi) Duty to render Legal Aid
- (vii) Section on other employments

(c) 50 Selected Opinions of the Disciplinary Committees of the Bar Council of India, available at <http://203.153.33.250:8282/gsdI?e=d-010-00-off-1lawbook--00-1----0--0direct-10----4-----0-1--11-en-50---20-about---00-3-1-00-00--4--0--0-0-11-10-OutfZz-8-00&cl=CL1.1&d=HASH01690220b11483f79d156200&hl=0&gc=0>=0> **(Self Reading for MCQ Test during semester for 20 marks)**

(d) Cases on Professional Misconduct

- 15 An Advocate v. Bar Council of India, 1989 Supp (2) SCC 25
- 16 Salil Dutta v. T.M. and M.C. (P) Ltd. (1993) 2 SCC 185
- 17 State of Maharashtra v. Budhikota Subbarao, (1993) 3 SCC 71
- 18 C. Ravichandran Iyer v. Justice A.M. Bhattacharjee, (1995) 5 SCC 457

- 19 P.D. Gupta v. Ram Murti, (1997) 7 SCC 147
- 20 T.C. Mathai v. District & Sessions Judge, Thiruvananthapuram, (1999) 3 SCC 614
- 21 R.D. Saxena v. Balram Prasad Sharma, (2000) 7 SCC 264
- 22 D.P. Chadha v. Triyugi Narain Mishra, (2001) 2 SCC 221
- 23 Shambhu Ram Yadav v. Hanuman Das Khatri, (2001) 6 SCC 1
- 24 Bhupinder Kumar Sharma v. Bar Assn., Pathankot, (2002) 1 SCC 470
- 25 Ex-Capt. Harish Uppal v. Union of India, (2003) 2 SCC 45

(d) Rules relating to Advocates' Right to take up Law Teaching

- 26 Anees Ahmed v. University of Delhi, AIR 2002 Del. 440

PART C- Practical Training in Client Interviewing and Counseling

- 27 "Interviewing" in Don Peters, The Joy of Lawyering, pp. 5-20
- 28 "Tips on Clients Interviewing and Counselling" by Margaret Barry and Brian Landsberg
- 29 "Advice" in Conference Skills, Inns of Court School of Law, pp 131-150 (1999/2000)
- 30 Kinds of Questions: Advantages and Disadvantages, Summary prepared by Ved Kumari from Don Peters, The Joy of Lawyering
- 31 Self-appraisal Questionnaire for Interviewers

PART D- Accountancy for Lawyers (one lecture)

Management of time, human resources, office, etc, Accountancy knowledge for lawyers [like evidentiary aspects, interpreting financial accounting statements in the process of lawyering, etc], Nature and functions of accounting, important branches of accounting. Accounting and Law, Use

of knowledge of accountancy in Legal Disputes especially arising out of Law of Contracts, Tax Law, etc.,

Accountancy in Lawyers' office/firm: Basic financial statements, -Income & Loss account, Balance-sheet- Interpretation thereof, -Feature of Balance sheet Standard Costing.

32. Standards of Professional Conduct and Etiquette: Duties to the Clients
