

IDEALS, ETHICS, CONVENTIONS AND NORMS OF JUDICIAL CONDUCT

I (i) Judiciary is accorded a unique and pre-eminent position in our Constitution. Consequently, very high standard of conduct is expected of the judges. The importance and true role of the judiciary has been emphasised in paragraph 22 of the judgement of the Supreme Court of India in (*Tarak Singh v. Jyoti Basu*, at page 210) reported in **(2005)1 SCC 201** as follows:-

"Again, like any other organ of the State, the judiciary is also manned by human beings but the function of the judiciary is distinctly different from other organs of the State - in the sense its function is divine. Today, the judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock at all the doors fail, people approach the judiciary as the last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth. Because of the power he wields, a judge is being judged with more strictness than others. Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the justice-delivery system resulting in the failure of public confidence in the system. We must remember that woodpeckers inside pose a larger threat than the storm outside".

(ii) The Supreme Court has enunciated the high standard of conduct expected of a judge in paragraph 21 of the judgment (*C. Ravichandran Iyer v. Justice A.M. Bhattacharjee*) (1995) 5 SCC 457 Para 21) as follows:-

"Judicial office is essentially a public trust. Society is, therefore, entitled to expect that a Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and Impervious to

corrupt or venial influences. He/she is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of judicial process. Society, therefore, expects higher standards of conduct and rectitude from a Judge”.

IDEALS AND ETHOS OF THE JUDICIARY

II (i) The judge occupies a unique place in society. It is believed that a judge discharges divine functions of imparting justice without fear or favour. It is with reverence that people enter into a Court hall. The exalted position the judge occupies makes it imperative that he/she conducts himself/herself in an exemplary manner both inside and outside the Court. The judge is therefore expected to possess unimpeachable integrity and character.

(ii) It is said that if wealth is lost nothing is lost, if health is lost something is lost and if character is lost everything is lost. It is the exemplary conduct and character of the judge that contributes to the trust and confidence in the judiciary. Therefore a judge must constantly remind himself/herself about the sacred and paramount responsibility of conducting himself/herself at all times in such a manner as not to give any scope to shake the confidence of the people in the judiciary.

(iii) It is not enough that the judge maintains highest standards of integrity and rectitude. He/ she has the added responsibility of maintaining his/her image and reputation as an honest and upright judge of unimpeachable integrity and character.

(iv) Judges should bear in mind that they are the trustees of public confidence. They should not fritter it away by his/her improper conduct or behaviour. Temptation and avarice are the worst enemies of integrity. Judge must remember that his/her reputation may get sullied even by improper conduct of others such as his/her spouse, dependents, kith and kin and friends. Therefore, this calls for constant vigil and prompt preventive action by him/her. It should be etched on his/her mind that it is a sin to deviate from the path of honesty and rectitude. The moment he/ she gives scope to point a finger at him/her as "Corrupt or Dishonest Judge" he/ she forfeits his/her moral right to hold the scales of justice evenly.

(v) Most important qualities needed for functional excellence in a Judge are Honesty, integrity, incorruptibility, uprightness of character, conscientiousness and sincerity, which have to be adhered to both inside and outside the Court.

(vi) The judge should be scrupulously honest and take special care to conduct himself in such a manner as not to give any scope to doubt his honesty.

(vii) The judge should be conscious of the prevailing atmosphere in the country where the common people readily believe that every public servant is dishonest. Therefore the judge should take special care to preserve his image as an honest and upright judge.

(viii) Simple living and high thinking is a good motto for the judges to follow.

(ix) Whereas the Judge pronounces judgment on the conduct of the parties, it is the people that ultimately judge the judges. The judge is judged by his judicial conduct by the way he thinks, by the way he conducts himself and by the way he renders his decisions. The judge is expected to possess several cardinal judicial virtues, the most important among them being fearless independence, unimpeachable integrity and character, impartiality, open mindedness, decisiveness, thoroughness, courtesy, patience, dignity, sense of humour, humility, an understanding heart and social consciousness. As the judge is judged with reference to these ideals, it should be the constant endeavour of the judge to acquire or perfect these qualities.

NORMS OF JUDICIAL CONDUCT INSIDE THE COURT:

III) 1) **PUNCTUALITY** - Punctuality has to be maintained not only in attending the Court on time but also in pronouncing judgments and orders with utmost expedition. Former Chief Justice of India **Mr. Justice Hidayathullah**, has observed "*A judge who does not observe punctuality of time does not believe in Rule of Law*". Eminent Justice **V.R. Krishna Iyer**, an outstanding jurist of our time, exclaimed "**Judges who do not pronounce judgments in time commit turpitude**". He has expressed with great pain, his concern about judicial delays saying "It has become these days, for the highest to the lowest Court's Judges, after the arguments are closed, take months and years to pronounce judgements even in interlocutory matters - a sin which cannot be forgiven, a practice which must be forbidden, a wrong which calls for censure or worse".

2)The judge should be punctual and strictly maintain the working hours to avoid great hardship and inconvenience to the lawyers, litigants and witnesses. He/ she should avoid rising before time. He / she should not waste judicial time at the cost of precious public exchequer.

3)The Judge should bear in his mind the oft quoted proverb "**Justice Delayed is Justice Denied**". He should also remember that "**Justice Hurried is Justice Buried**". While the Judge has the responsibility of quickening the pace of justice, he should take care not to sacrifice the quality of justice.

4)Judgments/orders should be pronounced with utmost expedition according to the statutory mandate (Order XX Rule 1 of C. P. Code).

5) Every minute of the Court time being precious public time, the judge must constantly endeavour to avoid spending Court's time more than necessary.

6) The judge should bow respectfully (to the seat of justice) before taking his seat in the Court hall and again when he rises to leave the Court.

7) Judge should, as far as possible, sit in an erect posture in the court hall.

8) It is the responsibility of the judge to maintain the dignity and decorum of the Court.

9) The judge should perform his duties with *independence, impartiality and objectivity*.

10) The judge should try to maintain a pleasant and dignified atmosphere in the Court. If the atmosphere gets disturbed, he must tactfully deal with the situation and restore normalcy.

11) The judge should be uniformly courteous and fair in whatever he says and does. He should take care not to give an impression that one or the other lawyer or party receives more favourable treatment.

12) The judge should treat the Advocates with courtesy and respect and avoid making disparaging remarks against them.

13) The Judge should avoid entering into an argument with the Advocate. He should remember that it is the duty of the Advocate to convince the Judge and not vice-versa.

14) The Judge should abstain from hearing any matter in which he himself/herself, the members of his/her family or his/her close friends and relatives have any interest.

15) It is not proper for the Judge to skip the Court during Court hours.

16) Judge should wear properly cleaned and pressed dress as per dress code.

17) Judge should wear polished shoes and clean socks.

18) The judge should take care not to sleep or doze off in the Court. Taking a light meal is perhaps a good precaution.

19) If yawning becomes inevitable, the judge should cover his/her mouth with a handkerchief.

20) Judge should not chew Pan or Pan masala in the Court.

21) The Judge should not carry the mobile phone when sitting in the Court Hall.

22) Judge should be calm and composed and not lose his/her temper or raise his / her voice.

23) The Judge should regulate the proceedings during recording of evidence and hearing arguments in such a manner as to avoid unnecessary spending of time.

24) The Judge should take care to see that reasonable number of cases are posted to avoid witnesses being sent back without being examined. The Judge should see that the Advocates are not made to wait unnecessarily till the end of the day.

25) It is not proper for the Judge to select simple cases for disposal in preference to older / complicated / heavy cases, only to reach the prescribed quota.

26) The Judge should keep, on his table important books that are normally required for ready reference, such as C.P.C., Limitation Act, Evidence Act, LP.C., Cr.P.C., Specific Relief Act, '

Hindu Law, Contract Act, Court Fees Act and Suits Valuation Act, Stamp Act, Civil Rules and Order, Criminal Rules and Order, Motor Vehicles Act and Rules, Police Act, Premises Tenancy Act, Transfer of Property Act etc.

27) The judge may maintain a notebook / diary on the table and record therein important stages of the case and dates of posting.

28) The directions of the Superior Courts should be briefly recorded prominently in the case file in order to ensure due compliance.

29) The judge should maintain a separate book to enter the fine amounts imposed in each petty case for purpose of verification of the amounts collected.

30) It should be remembered that the witnesses have no stake in the case. They come to Court to give evidence only to assist the Court in dispensation of Justice. As Bentham has said "*Witnesses are the eyes and ears of Justice*". Therefore, the Judge should ensure that the witnesses are treated with due courtesy and respect. Judge should have concern for their time and convenience and make every effort to examine them at the earliest.

31) The judge should bear in mind that evidence can be given only in regard to facts in issue and relevant facts.

32) It is the duty of the Court to regulate cross examination of the witnesses in such a manner as to avoid insulting / threatening or otherwise harassing them during their deposition.

33) Attention should be paid to the special needs, concerns and conveniences of sick, aged and women witnesses.

34) Evidence recorded should be read over, interpreted, corrected and after admission by the witness, it should be signed by the Judge with the endorsement "RO & AC" (Read over and admitted to be correct). However, if the evidence given is in the language

other than the Court language and the same is interpreted to the witness in the language known to him. then the endorsement below the deposition should be "ROI & AC" (Read over, interpreted and admitted to be correct).

35) Whenever a document produced is admitted in a suit or proceeding by a party or witness, the judge shall then and there mark the document as an exhibit and make an endorsement in accordance with Order XIII Rule 4 of C.P.C.

36) The judge should ensure that the witnesses are promptly paid their Travelling Allowance and Daily Allowance as per rules.

37) While sitting in the Court the Judge should concentrate on the work on hand and not allow himself to be distracted in any manner.

38) The Judge should not delegate or authorise the bench clerk to fix: the date to which the case should be adjourned. This would not preclude the Judge from taking assistance of the bench clerk to know the suitable dates for next posting.

39) It is the duty of the Judge himself to formulate questions to be administered to the accused U/s. 313 of Cr.P.C. This function cannot be delegated to any Court Official,

40) A Judge should make notes of arguments advanced on facts and law by all the advocates / parties.

41) It is the duty of the Judge himself to summarise the pleadings in the judgment. This responsibility cannot be delegated to the Stenographer / Typist.

42) A Judge should discuss in the judgment all the important points argued by both the sides, both on facts and law and referred to all important decisions cited by the Bar. It is not proper to avoid dealing

with difficult questions.

43)The Judge should carefully read and make the necessary corrections before pronouncing the judgment / order.

44)While dealing with the applications for grant of temporary injunction, the Judge should avoid passing orders '*to maintain status quo*' without recording a finding as to possession/ status.

45)Judge should not call the members of the staff to admonish them in the open Court. Any advice or admonition may be administered in the Chamber when he / she is alone. Hurting or insulting members of the staff should be avoided.

46)The Judge should take special care to avoid being misunderstood when dealing with or otherwise interacting with the members of the opposite sex, more so in dealing with a lady Stenographer / Typist.

47)The Judge must take all possible care and precaution to maintain his / her fair name and image.

NORMS OF GOOD CONDUCT OUTSIDE THE COURT

- IV 48) **Former Chief Justice Lahoti has observed "*Once having assumed the judicial office, the judge is a judge for 24 hours*".** Hence, the Judge should, at all times, be conscious that he / she is under constant public gaze and take care to avoid any act or omission unbecoming of the high office he/ she holds.
- 49) Justice must not only be done but it must also be seen to be done. The Judge, whether in official or personal capacity, not do anything that is likely to cast doubt on his /her integrity.
- 50) Even in administrative matters the judge must be just fair and reasonable.
- 51) The judge should maintain at all times a degree of aloofness consistent with dignity of his office.
- 52) In choosing to attend any function, judge should be mindful of the adverse effect it may have on his/her image as a fair, independent and impartial judge.
- 53) A judge should not enter into any public debate or express views in public on political or other matters that are likely to be controversial.
- 54) The Judge should avoid close association with any member of the Bar practising in his/her Court.
- 55) The Judge shall not publicly express his views either on politics or on any matter that is likely to come before him/her.
- 56) The Judge shall not discuss with the media about the views expressed in his/her judgment/ order or about any case pending before the Court.

- 57) A Judge shall not either by himself/herself or in association with any other person, engage himself in any trade or business directly or indirectly. However the judge may publish any work of art, literature or law with prior permission of the High Court.
- 58) The Judge should not permit any member of his / her family who is a member of the Bar to use his/her residence for professional work.
- 59) The judge shall neither consume any intoxicant in public nor appear in public after consuming any intoxicant.
- 60) The Judge should neither seek nor receive favours of any kind from anyone.
- 61) No favours should be taken from Advocates, litigants or Police.
- 62) No gift shall be accepted by the Judge except from relatives and close friends.
- 63) The judge should plan his/her daily routine taking care to find time for his family, rest and recreation, physical exercise/yoga/walking, etc., for reading the day's cases, dictating judgments / orders and reading latest Judgements, other books on law and news papers.
- 64) Judges should be mindful about maintaining their image even when attending private functions, meetings and other gatherings. They should take care to be punctual, to be dressed decently, to talk discretely and behave in a dignified and graceful manner.

- V. 65) Inside the Court the Judge should scrupulously follow the dress code.
- 66) Outside the Court – The Judge should always dress neatly while coming to the court and departing from the Court. Judge should always wear decent dress befitting his position.
- 67) The Judge should be formally dressed while attending the public functions.
- 68) The Judge should wear decent, formal dress when he goes to meet the Judges of the higher Courts.