

7. Professional Ethics

Chief Justice Marshall of the United States of America

"The fundamental aim of legal ethics is to -

- maintain the dignity and honour of the law profession
- secure a friendly co-operation b/w the bar and the bench in promotion of highest standards of justice
- establish honorable and fair dealings of the counsel with his client, opponent and witnesses
- establish a spirit of brotherhood ⁱⁿ at the bar, and
- secure that lawyers discharge their responsibilities to the community in general."

Standards of Professional Conduct and Etiquette

[Chapter II, Part VI under sec. 49(1)(c), Advocates Act, 1961]

I	Duty to court	1-10
II	Duty to client	11-33
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VI	Duty to render legal aid	46
VII	Restriction on other employments	47-52

8. Advertisement / solicitation

Rule 36 : • An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, fairs, personal communications, intensions not warranted by personal relations, furnishing or inspiring newspaper comments, or producing his photograph to be published in connection with cases in which he has been engaged or concerned.

- His ~~name~~^{sign} board or name plate should be of reasonable size.
- His sign-board, name plate and stationery should not indicate that
 - he is or has been associated with any person or organisation

- or with any particular cause or matter
- or that he specializes in any particular type of work
- or that he has been a judge or an Advocate General.

Provided that this rule will not stand in the way of advocates furnishing website information as proscribed in the schedule under intimations to and as approved by the BCI. Any additional other input in the particulars than approved by BCI will be deemed to be violation of Rule 36, and such advocates are liable to be proceeded with misconduct u/s 35 of the Advocate Act, 1961

- Name
- Enrolment Number
- Telephone Number
- Email ID
- Professional and Academic Qualifications
- Areas of specialization
- Years of experience

1. Govt. Pleader vs. SA Pleader

- Juniors send postcards to public + solicit work + mention fee
- severe reprimand to be conveyed personally by DJ in open court

2. In re A, an Advocate

- letter sent to law minister by AOR
- Agreed to have sent the letter before Registrar
- Later ~~disagreed~~ denied before the court
- suspended for 5 years
- let the lawyers learn that a lawyer must not be a liar.

3. Bar Council of Maharashtra vs. M.V. Dabholkar

- lawyers standing outside Magistrate court
- ~~charging~~ charging fees towards potential clients
- snatched briefs
- Physical fights
- undercutting fees
- since BCI absolved them, Bar Council of Maharashtra appealed before SC!
- SC held that/remarked that blatantly indulging in solicitation to an extent which was even more ~~more~~ revolting than 'ambulance charging'.

4. C.D. Sekkigihar vs Secretary, Bar Council

- challenged Rule 7(2), Bar Council Rules
- 'Electoral Misconduct' - any person canvassing or announcing his candidature to the Bar Council
- Advertisement
- Madras High Court held that ~~any form~~ advertisement in any form by a member of the profession is considered as unworthy of the profession and constitutes moral misconduct

5. Rajendra V. Pai vs. Alex Fernando

- defending and Acquisition Proceedings for his own family property.
- solicited work from adjacent villages + contingent fees + wrong identification of various claimants
- Gross professional misconduct
- Debarment from life reduced to 7 years

6. Tata Press Ltd. vs MTNL

commercial speech or advertisements are fundamental rights under Article 19(1)(a), unless restricted u/a 19(6).

9. Professional Misconduct and contempt of court

section 30: Right of Advocates to practice

subject to provisions of this Act, an advocate whose name is borne on a state roll shall as of right be entitled to practice throughout the territories to which this Act extends

- in all courts including the SC
- before any tribunal or person legally authorized to take evidence
- before any other authority or person before which or return he is by or under any law for the time being in force entitled to practice

section 34: Power of HC to make rules

The High Court may make rules laying down the ~~standards~~ conditions subject to which an advocate shall be permitted to practice in the HC and courts subordinate thereto.

section 24: - - - there shall be only one class of persons entitled to practice the profession of law, namely the advocates.

section 33: no person shall be entitled to practice in any court or before any authority or person, unless he is enrolled as an advocate under this Act.