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The Legal Journey from Legal Education to Lawyering in Bangladesh: A Boon or A Menace

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ABSTRACT

Adversarial System of Courts within the legal realm of the Common Law such as in Bangladesh designates lawyers to high social prominence as professionals of law are the primary interpreters of various laws of the land. Lawyers being social engineers principally act as consciousness and voice of the citizens of the state. These two characteristics are naturally inherited as energizers by lawyers in early stages of student-hood. However, how long does that very enthusiasm last and are there any catalysts to further it? Is the question to reckon with? The profession of law like any other occupation circumnavigates a set of etiquettes that dictates the natural course of the profession. The prime rationale of this paper is to contemplate the etiquettes of profession, the uncompromisable duties of a practitioner, the grounds that coherently result in either suspension or revocation of practitioners' licenses along with justifying to its readers the social necessity for ethical lawyers.

Keywords: Advocate, Attorney, Barrister, Counsel, Judicial officer, Lawyer, and Etiquette.

INTRODUCTION:

On the 4th day of February 1972 Bangladesh attained the acknowledgement of an independent State by then British Crown hence becoming a member of the Commonwealth and thereafter attaching its legal structure within the Common Law i.e., the embodiment of law established and administered by judges or comprehensively extracted from previous decisions and implemented within the territories under the Crown. Authoritative decisions of the Superior Courts, if uniformly followed, ripen into law, whereby legislative backing is not necessary. The principle of precedent or stare decisis based on ratio decidendi has been constitutionally recognized in most Commonwealth countries to consider a few, Article 141 of the Indian Constitution provides for the binding effect of law declared

by the Supreme Court over all other Courts within its borders. Similarly, the concept is also found in the Constitution of Pakistan in Articles 189 and 201 providing the binding effect of judgements pronounced by the Supreme Court and the High Court respectively on all other Courts below. Likewise, the Constitution of People's Republic of Bangladesh in Article 111 engravings of binding effect of law declared by the two superior Courts i.e., the Appellate Division and the High Court Division on all subordinate Courts is expressly available. The Appellate Division in the case of ACC vs. Barrister Nazmul Huda held that law declared by the Division manifests mandatory binding effect on Courts lower than the Division i.e. the High Court Division and all subordinate Courts. Furthermore, all subordinate Courts are under the super-

intendence of the High Court Division and law declared by either Divisions of the Supreme Court befalls the subordinate Courts irrevocably and judgements of the lower Courts must neither contradict nor be inconsistent to that passed by either Divisions as such is unlawful or illegal. The doctrine of precedent has been accredited as the pole-star or the foundation of the Common law system. Such has been preferred as necessity to the rule of law however the doctrine is re-considerable and not absolute but the preferred path or the supportive, authoritative guidance aiding the extraction of reasonable conclusions or decisions. Characteristic adversarial judicial system is another prominent underlying/ requisite feature next to precedent.

The archetype of the adversarial approach of judiciary is its downright dependance on parties of a case, as the Court decides based on the evidence put forth by the participating parties in form of a contest or debate between two parties represented by lawyers. Justice Stephen Gageler of the High Court of Australia while defining the role of a Judge or jury in an adversarial system stated that the Judge or Jury acts as arbitrators of the contest between the parties asserting their preferred version of the truth. Alluding from such, it can be conclusively established that not only is the legal proceeding initiated by the party claiming *injuria sine damnum* or violation of right, but the presentation of the evidence to the Court is orchestrated by the representing legal practitioner. Furthermore, the Preamble of the Constitution pledges to establish a society with the prevalence of rule of law while confirming equality, justice, freedom and non-exploitation. In assurance of such, provisions of representation of an individual in a Court of law by a legal practitioner of predilection is constitutionally resonated and such is the unassailable right of every citizen whether or not it is provided by law. In spirit of the Right, Order III of Code of Civil Procedure, 1908 provides for appearance for/against any application by a recognized leader on behalf of the parties acting on power of attorney. Which in turn further justifies the pivotal role of lawyers providing amenities in the form of legal assistance, defense, pleading or prosecution in the process of adjudication. The lexis denotes an individual learned in law rolled as a practitioner under the

Bangladesh Bar Council and is a member of a Bar Association admitted to practice law which in turn allows engagement and appearance of the enrolled individual on behalf of a client and for the cause of the client respectively. Legal Practitioners by virtue of pro-fession are regarded as officers of the Court offering assistance to the Court to reach a verdict. Paul H Rubin and Martin J Bailey in their paper argued that law is stimulated by legal practitioners and as such functions according to the preference of the practitioners. Furthermore, lawyers within the epitome of the Common Law System dictate the system of trial and based on the evidence can also predict the achievable outcomes. From the trend of the above, the role of lawyers as social engineers can be irrefutably settled. Such character demands adherence to certain profession limits which in Bangladesh is regulated by the Bar Council. Being independent professional(s) lawyers provide legal services to in-need client(s) by acting as their voice in a Court of law.

Unfortunately, reputation of legal practitioners has been descending exponentially within the country. In disposition of such, this research aims to revive, reiterate and enlarge the professional etiquette of legal practitioners *vide* canons provided by the Bar Council. This paper furthermore aims to expound the uncompromisable duties of a practitioner, the grounds that coherently results in either suspension or revocation of practitioners' license. Along with the object of reminding legal personnel, this paper also focuses to educate the clients their rights seeking representation in a Court of law.

Bar Council: Establishment, Duties and Responsibilities

The Bar Council of Bangladesh instituted under the Bangladesh Legal Practitioners and Bar Council Order, 1972 (President's Order No. 46 of 1972) is a statutorily established fifteen (15) member autonomous governmental organization/body under the canopy of Ministry of Law, Justice and Parliamentary Affairs. Out of the 15 seats, the first seat is *persona designate* for the Attorney General of Bangladesh who is also the Chairman *ex-officio*. The remaining fourteen (14) seats are divided equivalently into General and Zonal Seats among the elected Advocates serving a term of three (3) years.

Statutorily, it is the duty of the Bar Council to safeguard the rights, privileges and interest of Advocates on its roll. Thereby, the Bar Council is entrusted to warrant the performance of the following -

- a. Conduct necessary examinations to admit eligible individuals as Advocates in its Roll and remove advocates when applicable
- b. Prepare and maintain such roll
- c. Establish and administer standard of professional conduct and etiquette for enrolled advocates
- d. Ascertain allegation of misconduct against enrolled advocates and to punish such alleged individual accordingly
- e. Fortify the rights, interest and privileges of enrolled advocates
- f. Diligently maintain funds of the Bar Council by managing and investing it
- g. Arrange for election for members of the Council
- h. Outline the *modus operandi* to be adhered by committees of the Council
- i. Endorse legal education and standard of such education in consultation with the universities in Bangladesh imparting such education
- j. Perform every function conferred by/under the Order
- k. Do all other things necessary for satisfying the aforesaid functions

Supervisory Responsibility of Legal Education

In Bangladesh Bar Council vs AKM Fazlul Kamir, the *obiter dicta* of the Appellate Division regarding the deteriorating image of legal profession considered the ethical decline of legal education as its primary ground and thereby issued the following directives:

Anticipated of Lawyers-

1. The profession of law is a social liability founded on celebrated traditions whereby welfare of the State is incumbent along with safeguarding the fundamental rights.
2. Lawyers are recognized as 'social engineers' and are expected to persistently ensure outreach of social economic growth and justice to all classes of the society.
3. The Bar Council, a Statutory body rendering public service and the law empowering such body optimistically seeks members that will serve society and also uphold ethical cannons.

Enforcement of the Anticipation

1. Promulgation of Rules: Subject to approval by the Government the Bar Council shall outline a set of Rules and monitor the standard of legal education offered by various institutes
2. Syllabus: Establish a syllabus to be mandatorily adopted and taught by various law institutes in pursual of the award of LLB (Honours.) and LLB (Pass Course) to be eligible for enrollment as an advocate and publicize such syllabus.
3. Jurisdiction: The Bar Council *cansuo motor* cognize any law degree from any institution and can also enroll an individual as a practitioner of the profession of law. The Bar Council may also *suo motore* repudiate to concede any degree in respect of any student electing to be enrolled as an advocate who has not obtained a four years honors course in law
4. Constraint: The offering of a degree in Bachelors of Law shall not be less than four (4) years of education either by a public or private university and also such institutes are debarred from admitting more than fifty (50) students per intake. The Bar Council may also elect to ratify or adjust the upper and lower limits of age of individuals seeking to be enrolled as Advocates
5. Faculty-Student Ratio: All public and private universities are not to issue any certificate of a law degree that has inadequate teaching members i.e. teachers fewer than what maybe/is prescribed by the Bar Council
6. Enrollment: The Bar Council shall effectively adopt measures to ensure enrolment process of new Advocates at all level of practice every calendar year

Renovation of ethical footing of legal education was also transpired by the Lord Chancellor's Advisory Committee on Legal Education (AC-LEC) in England. However, premise of such leading to enhanced professional ethics was not justified by the Committee. The Committee emphasized on Neo-Aristotelian framework of legal education to be one farther enveloped by ethical standards as it accentuates reflexiveness between micro and macro ethics utilizing participatory *modus* of learning and also that the stance of current education was more techno-

cratic, individualistic and had authoritarian tendencies. Legal ethics should be familiarized or taught in order that the profession is justified of its quantified principles. One major contradistinctive aspect of legal education in the developing countries like Bangladesh from that of the developed countries like the United States of America is, the law schools there are usually affiliated with various law firms, corporations, legal aid centers, think tanks, etc. with the goal of furthering and strengthening legal knowledge of future practitioners of the craft. Such was observed by the honorable High Court Division in the case of Kazi Habibul Awal vs Bangladesh Bar Council wherein directive to indoctrinate provisions to impart students with legal training required under Article 21 of the order was reestablished.

Significance of Practitioners of the Profession of Law

Hereinbefore in Chapter 1: Introduction, the various lexicology addressing practitioners of the profession of law has been elaborately expounded. This section discusses the significance of such pundits as Advocates shoulder preponderant responsibilities/obligations within color of profession, being an officer of the Court of Justice who is authorized to act, refer a case to arbitration and may also affect compromise. Advocates occupy position of high social eminence as the profession of law is an intellectual property and inclines to the service of justice and is one of noble character and hence cannot be considered like any other profession, trade or business. The structure of the Judiciary is profoundly dependent on the diligence, integrity and alertness of the learned advocates, as such practitioners of law aid in shaping and preserving the society and justice system. Paul H Rubin and Martin J Bailey in their research proposes that the shape of modern product liability law is regulated to due interests of tort lawyers as tort laws (or laws generally) is significantly inspired by the ability of lawyers.

The Bar and the Bench shoulder parallel responsibilities and is conjointly absorbed to uphold/ promote justice in the same spirit of a sport team and the camaraderie is established on mutual respect, trust and confidence. Cordial atmosphere between the Bar and the Bench is essential/necessary for administration of

justice. Whilst also, the clientele-counsel relationship is abridged by utmost trust whereby a client usually lets out the deepest, darkest secrets under the seal of confidentiality, which is the anchor of legal profession. A practitioner of law is responsible to assist the Court in interpreting or laying down the law correctly dispensing justice as was held in the case of Abdus Sattar vs Imam Hossain, therein the High Court Division applauded the actions of the Appellant Advocate who gracefully conceded to the submission of the defense counsel. Moreover, was reasonable enough to make submissions from the Indian Supreme Court despite such supporting the contention of the respondent, dispensing justice is the highest tradition of the Bar.

Duties of a Lawyer

Within the legal realm of the Commonwealth, the rights and duties of practitioners of law is administered by the English Common Law, the only distinctive aspect within the Indian Sub continental Regional countries like Bangladesh, India, etc. is that such rights and duties have been updated/adapted, modified/tailored and amalgamated in the form of a Statute.

Lawyers engaged in a case in the most ordinary sense is to be responsibly present or effect necessary arrangements for conducting the concerned case whenever such case is called on. Provided the briefed or engaged Counsel moves solo and is unable to affect presence, the brief should be returned. Given, two or more Counsels are engaged, there must exist pre arrangement between the appointed Counsels for attending to the case. It has been precogitated that the profession of law is an intellectual property and the essence of such profession demands the employed practitioner to extensively scrutinize and get acquainted with a case from every possible direction and also accumulate every plausible information that may/ can be utilized in a Court of law that confers to the interest of the employing client, or furthers the cause of employment, or saves the appointing client pro tanto from conviction unless such is inevitable from the evidence produced before a competent Court. It is incumbent on the Counsel to prepare the case before coming to Court to save embarrassment and time as the mandate of clientele obligation arises from the from the very moment of confirmation of employment in a case i.e.

drafting of the pleadings and not simply when the case arrives at the juncture of hearing. Attorned lawyers should also advice the representing party to come prepared along with the available materials and relevant documents. Counsel (s) should discreetly confirm that the record of respective client is completed properly or is errorless. A practitioner of the noble profession of law is liable to render performance to the employing clients and the Court thus allowing reasonable facilities and fine-tuning in due dispensation of justice and must also avoid being a dummy at the hands of the Judge i.e. via negligence of putting forth the questions essential for examining a witness (es) and allowing the presiding Judge to do the same, such is incongruous to the dignity of the bar. Professionally Advocates or Lawyers are expected to serve the interest of the assigning client(s), to consider

a few examples, the scope of employment of tax lawyers is generally to locate loophole/(s) within the law, a criminal lawyer through the course of law and the facts of a case is to convince the Judge towards the interest of the appointing client. Lawyers must be equipped with executive virtues *inter alia* a strong resolve i.e. valor and determination. In considering legal issues, virtue/ethics recommends that if one is an upright person, one shall endeavor to do good things, and if one wishes to be good, one must always do moral things.

Professional Ethics of a Lawyer

Fig. 1 below depicts the categorized code of ethics as stipulated by the Bangladesh Bar Council, adhering to such is indiscriminately required of every practitioner of law.

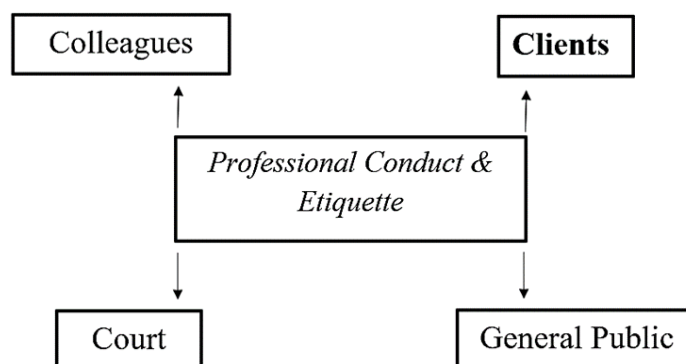


Fig. 1: General layout of legal professional conduct and etiquette as prescribed by the Bangladesh bar council.

The word ethics originates from the Greek terminology ‘ethikos’ which expounds to systemic rules of behavior. Gita Radhakrishna in their study entitled Human Values in Legal Professionals’ Ethics Education states that the Legal Professional Act of Malaysia in Section 11 requisites the following eligibility criterion along with others –

- a. Applicant(s) must be of good character
- b. Applicant(s) must not be previously convicted of any criminal offence in the State of Malaysia or anywhere abroad
- c. Applicant(s) must not have been adjudicated bankrupt

- 1. A citizen of Bangladesh
- 2. Must be twenty-one years of age or above
- 3. Must have obtained a law degree from any university within the State or any other University abroad subject to recognition of such degree by the Council
- 4. Has not been previously involved in any act involving moral turpitude leading to dismissal from Government Service unless a period of two years has elapsed or has been convicted of any criminal offence unless a period of five years has passed since conviction.

In Bangladesh the eligibility requirement for an individual to be enrolled as an Advocate is inscribed in Section 27, thereto it is stated the individual must be

In *Din Mohd. vs High Court of West Pakistan*, it was confirmed that dismissal from Government services does not operate as definite impediment against enrollment as an Advocate. In order to be acknowledged as an Advocate one must be eligible and be enrolled at

par the provisions of President's Order No 46 of 1972 and must also be a voting member of any Bar Association within the territory of Bangladesh. Law professionals are empowered by the appointing client by executing a power of attorney to represent or appear on behalf of the grantor and perform every task required in representing the grantor. From the course of the literature, it has been concluded time and time again that practitioners of the profession of law occupy high and challenging moral position thereby fulfilling a partisan role of higher communal value within the system of administration of justice. The profession unswervingly has been recognized as a critical one.

The high and challenging moral position is also accompanied by numerous obligations towards clients and Courts whereby lawyers must reconcile balance between ethics and service and compromise neither one. César S. Arjona proposes that professional comfort sedates moral conscience and simplifies moral universe hence allowing lawyers to concentrate and perform functions to the best of potential. The author has however failed to realize that Advocacy is a simple matter of sincerity. Thurman Arnold once sarcastically advised law students, 'there will come a time in your practice when, despite your very best efforts, someone must go to jail. Remember! When that time comes, make sure it's the client. 'There exists no constraint of time or restraint in filing a complaint concerning professional misconduct of a lawyer. However, such complaints must be based on violation of code of professional conduct imposed by the Bar Council and such is discussed hereafter.

General Public

The traditional prototype of legal professional ethics demands the stance of the practitioners to be in and from the direction where of clientele interest is maximized thus exhorting lawyers to detect statutory ambiguities, conflicts, doctrinal interludes, etc. Law Professionals usually conjure ethical values much higher compared to ordinary citizens. Nevertheless, from a broader ethical assessment, lawyers should resort to a concept acclaimed as purposivism i.e. displaying greater fidelity to the public purposes of legal rules however such being contrary to the traditional module which usually encourages subservient manipulation of systemic limitations. Integrity and im-

partiality should be the characteristic definition of an officer of the Court, while refraining from presenting bigoted evidence or resorting to falsehood, or delaying tactics, or dishonesty to meet the aspirations of the client. The Code of Ethics disqualifies the double-tendre role that is being a representing counsel and a witness in the same case. Withdrawal of professional connection or wakalatnama in a case where the Counsel is required to give evidence is recommended. The Madras High Court segregated the principle and construed it further thereby establishing that a lawyer can appear in Criminal cases and Civil suits as a party and counsel only while conducting one's own cause.

Law professionals owe citizens the assurance of not deceiving justice by deploying nefarious measures like bribery or unethical/unlawful offerings to attain judgment favoring one's client. The unethical/unlawful offerings were outspoken in the case of Mofazzal Hossain vs Secretary Jhenaidah Bar, wherein allegations of procuring innocent girls for illegal use along with demand of bribe was made and founded against the petitioner. As a general rule, a lawyer should accept anyone's case provided the fees tendered is optimum, instructions provided are adequate and the representing lawyer is accustomed with the nature of the case. Obligations befall the Superior Courts to render protection to the profession and the general public from disreputable practitioners.

Court

It is well accepted within the Judicial Organ of Bangladesh that lawyers are officers of the Court and such designation requires the concerned to comply with the medians of expected behavior thereby attracting confidence of the community. Moreover, lawyers are fundamentally responsible to aid the Court in arriving at the right juncture of justice, to maintain the continual, unadulterated flow of the stream of justice and to uphold the dignity, reputation and aura of the entire judicial organ. The Constitution of the People's Republic of Bangladesh came into being under the power of the people hence conferring jurisdiction on the Courts to protect, preserve and be accountable to the Constitution and the People who created it to begin with. Such conferred jurisdiction allows a Judge, a public servant to determine questions of dispute on the merit of law among litigants in attempt to reach or

uncover the truth. Judges along with lawyers are equally liable in stimulating public confidence in the judiciary by adapting stand-out ethical standards and impartiality. Under such notion, it is to be cognized that the Bench and the Bar are complementary to one another and also balances each other on equal terms, a relationship founded on tolerance, patience and respect. Lawyers are expected to treat a Court with respect and the Courts are thus expected to judiciously ruminates the submissions of a lawyer and vice-versa in other words entertains layering proficiency. In order to facilitate due dispensation of justice, the highest traditions of the Bar require that a Counsel must draw attention of the Court to any error being committed as an Advocate owes due diligence to the Court, be present inexcusably to make submissions keeping in mind that mere engagement in another case in some other Court under no circumstance serves as a reasonable ground of postponement as opportunity for alternative arrangements is available. Carrying over from such, provided two or more counsels are engaged and neither can attend the hearing, either one of the engaged counsels must return the brief in good time or make suitable arrangements as contemplated herein before. Nonetheless, sufficient reasonable grounds of inability to be present when a suit is called on should be considered in deciding a case under Order IX, Rule 8 of the Code of Civil Procedure.

Colleagues

Counsels are expected to conform mutual respect on colleagues. In a proceeding, it is not the duty of a Counsel to overthrow the submission of an opposition as concoction without reasonable grounds. Such displays disrespect while also confirming gross professional misconduct. Provided a counsel conducts a brief on behalf of another, the Counsel holding such brief is ethically obliged to transmit the information given there under to the Counsel on whose behalf the brief was originally conducted.

Clients

The Clientele-Counsel relationship is one of employer-employee respectively whereby the latter is ethically liable to cautiously evaluate the facts provided afore rendering any legal advice, which must be no negligent, bonafide and to the best of ability. Undoubtedly a Counsel is bound to attend to the needs of the client

and be present in all proceedings up to the delivery of judgment. Daniel R. Fischel in their research promulgated confidentiality as the defining essence of the profession of law, it is also commendable that practitioners of the profession avert from appearing against a former client in any subsequent proceeding wherein the practitioner fears violating the norm of confidentiality unconsciously or consciously. Conclusively, it is *contra bonos mores* for a Counsel to accept briefing of a case where the opposition approaches for potential representation without informing such to the briefing party. It is even more unwarranted wherein a Counsel represents conflicting interest in the same case i.e. representing both parties of the same case, under the same cause of action seeking adverse remedies to one another. The appointment of a representing Counsel is confirmed by the client with the leave of the Court, none other than such client can seek determination of appointment on accusation of conflicting interest. A Counsel can represent opposing interest even after attaining a decree in favor of the appointing client by aiding its execution in the direction of original disinterest or favoring the opposition. In *Fazlullah Khan vs. Mukamal Shah*, the learned Counsel appearing for tenant and a co-sharer landlord as pro forma defendant in ejectment proceedings. The tenant took plea of being attorned to the co-sharer landlord. Subsequently, the same counsel filed for ejectment proceedings on behalf of the co-sharer landlord against tenant who confessed judgement. Then Supreme Court held that this did not amount to professional misconduct. Lawyers or Advocates are representatives of interest of the appointing party and are constricted to perform within the dictation(s) provided, to consider an example a lawyer is not obliged to suo moto confirm title of a property for which drafting of a *Baina Nama* was specifically instructed. It is ethically detrimental to develop personal interest in the transaction without completely disclosing the nature and range of such interest to the concerned party. Interest can either be proprietary or possessory when considering suits of civil nature. It is fairly determined that a lawyer can represent one's own cause and not attract professional misconduct. Such notion was then again seen in *Abdul Hamid vs Bangladesh Bar Council*, wherein the partition suit of a property purchased under the name of the appellant's spouse was conducted by the appellant

and there existed no conflicting interest among the parties. It is safe to say that the transactional interest of the representing lawyer must develop on the represented subject matter after or during the course of employment.

Fees

As evident from various literatures and real-life Courtroom dramas, time consumed and fees of service surpassing the expectation of an appointing client are the two prime factors of Clientele-Counsel dispute. Nonetheless, fees levied by a practitioner for services cannot be subject of any proportionality check or restraint statutorily or otherwise i.e. fees charged can never be excessive. Ethically speaking, a professional of law should be considerate of the financial state of any approaching client and analyze it based on complexities of the case and its demand of time and labor, knowledge and expertise, interference to any other existing employment, contingency or certainty of the composition, customary charges of the bar for similar service, employer status i.e. whether the client is regular or casual, etc. for determining the chargeable fees. The aforementioned however are mere directives and has no binding effect.

The Bar Council takes a step further and reminds the members on its roll that the profession contributes to administration of justice and is NOT a money-making trade. A. Mitchell Polinsky and Daniel L. Rubinfeld conjointly derived a mathematical equation aiming to rationalize the amount of fees to be charged by lawyers for services at the choice and control of the client which is,

$$p(\bar{h}^*)a - w(\bar{h}^*) - \bar{k} \geq 0;$$

Where in, k = fixed cost incurred; h = time invested (in hours); $p(h)$ = probability of prevailing [provided integrated once $(p') > 0$ and integrated further $(p'') < 0$]; w = wage per hour; a = award provided the client prevails; asterisk indicates optimal values of choices of the client.

Within the scope of employment, lawyers should precisely keep account of the money provided by respective client(s) of a case and capitalize on profit potential by seeking percentile schemed fees.

Shield against Defamation

The Legal dominion of Bangladesh proclaims the offence of defamation as tortuous criminal liability whereby an individual is attacked on reputation by publication of imputing substance(s) via words, signs, visible representations, etc. However, Counsels are envois of the appointing client and are bound to serve the interest of the appointee and in course of such service, must not deter from making any allegations in furtherance of the interest, or be overpowered by fear rather be unconcerned of the consequences of the act irrespective of such grounds being instructed or not similar to that of a judge. Counsels like Judges are privileged with immunity against defamation within the scope of employment or professional capacity empowered by the Ninth Exception of defamation, thereto it has been engraved that imputation made for safeguarding the interest of one's own self or that of others or the public generally in good faith does not amount to defamation. Furthermore, the structure of cross examination is built entirely on shaking the credit, character and veracity of the cross-examined thus defamatory statements within color of office is inevitable and exempted save in so far there exist express malice or prejudice or objective to impute reputation without bona fide intention on part of the Counsel.

Disqualification of a lawyer

A lawyer may only be ceased of the privilege to practice law *in re* violation of the ethical norms or professional misconduct heretofore discussed in the Chapter 5. It is fairly conclusive that the right to practice law is an intellectual property and a practitioner cannot be whimsically, irrationally or arbitrarily deprived of such rights (Munshi, 2021). Moreover, the number of complaints received is never a direct measure of professional deviance or misconduct since not every act or omission attracts professional misconduct unless accompanied by willful wrongdoing or certain degree of guilty mind and being prosecuted is not misconduct in itself.

The *lexis* 'professional misconduct' has not been statutorily defined in the Bangladesh Legal Practitioners and Bar Council Order, 1972 or the Rules framed there under however the terminology has well-ordained meaning when considered factually under

legal index. Black's Law Dictionary expounds the term as dereliction of duty i.e. unlawful or improper behavior via maladministration of arbitration, caused due to abandonment of duty likely to inflict significant miscarriage of justice, constitute moral turpitude while showcasing utter disregard for professional integrity. Further, misconduct may also be understood as intentional infringement of discipline, standard of behavior or any other act or omission considered ignominious or reprehensible by competent lawyers of repute. Misconduct cannot be constricted to technical interpretation neither it is precisely definable. Moreover, the notion of mere negligence does not concur professional misconduct unless the dessert of negligence is served along with the entrée of moral dereliction. Provided, misconduct is conclusively devised from facts, the Bar Council may suo motostart disciplinary proceedings, take cognizance of complaint and thereafter refer a case to the Tribunal instituted under the Statute to enforce any befitting disciplinary action. Given the fact that the initiation of proceedings against an Advocate lies exclusively with the Bar Council, any disciplinary action taken against a member on its roll is purely executive whereby it is not essential that the accused be provided an opportunity to be heard ahead ordering suspension. Suspension in its most natural sense is disciplinary matter in aid of disciplinary proceeding or temporary commandeering of certain privileges and not punishment .Furthermore, suspension has been categorized as intermediate penalty as distinguished from removal from role as the definitive punishment. However before effecting such, the alleged must be heard and also must irrefutably be proven untrustworthy and unbecfitting of the honorable profession as an order of enrolment can only be extinguished on a subsequent accountability following fresh inquiry. In AM Amin Uddin vs Bangladesh Bar Council it was established that no act done bonafide entices misconduct. Characteristic negligence, incompetence, error of judgement, omission, etc. usually does not fall within the purview of professional misconduct unless such leads to loss of life or property or irreparable damage to liberty, right, interest of any person. In the aforementioned case, the Honorable Bench of the High Court Division reminded the Bar Council and the country in general that the core-foundation of the profession is reputation earned

through dedication and struggle at the bar. Therefore, before putting an Advocate on the dock, the scar such tends to leave on reputation must be considered because putting an advocate on dock is by itself a stigma to the hard-earned career and reputation. It was further advocated that the process of exposing a practitioner must be slow. Eric H. Steele and Raymond T. Nimmer in their paper claims that since clients are the primary actors of complaints, the range of disciplinary objections against lawyers is limited which is fairly perceivable by the naked mind. Shortcomings of the legal practice as a professional system should always be explained in terms of the conditions within which it operates.

CONCLUSION:

Maija-Riitta Ollila, a Finnish philosopher promulgated that a certain part of 'the wholeness of being a human' is sliced into the epithets of professional ethics. Professional ethics are rules that define the paradigm of practicing a profession, whereby regulation and conscience are parallel to each other since realizing the issues subsisting within the professed standard is one massive leap towards mining ethical professionals, in this case lawyers. James E. Lennertz adopts the distinction between common morality and professional duties from the research works of Kenneth Kipn is whereby the latter demands confidentiality of information. Law Professionals must obey the law and strive to assist dispensation of justice and safeguard the interest of the appointing client(s). Evidentially in Bangladesh, law students are mere students with negligible to no opportunity for pro-bono and also the rather disheartening culture that law is not learnt at the universities but rather in the Court. The pathway of a career in law is rather bumpy as the very virtue of the profession demands its craftsmen to learn to analyze every syllable, every word spoken, read between the lines, etc. After all, Lawyers are given the title 'learned' for a reason. This paper originally set out to rejuvenate the professional ethics that should be abided by a lawyer along with reflecting on the duties of the Bar Council and generally educating its readers why law professionals are a necessity for the society. All of the above have been successfully covered hence it is safe to say that Lawyers being social engineers are the Legal Conscious of the Country. However, not for-

getting that key term profession i.e. occupation or method of income which usually gives rise to conflicts. In Bangladesh, fees and time are the main actors of dispute between lawyers and clients. This paper has successfully proposed a solution to the problem of fees. However, issue of overconsumption of time is explainable and what the clients need to understand and is, it does NOT depend on the bar but rather on the Bench and the Client themselves unless the appointed Counsel is irresponsible, negligent having little to no concern for professional reputation.

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CONFLICTS OF INTEREST:

There exists no conflict of interest between the author.

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