

UNIT – II

Professional ethics and the seven lamps

Lamps · Duties · BCI Rules · Privilege

Explanatory Lecture Slides

Professional Ethics and Professional Accounting System · Clinical-I · Semester VII

PROFESSIONAL ETHICS & PROFESSIONAL ACCOUNTING SYSTEM

Topics covered in this unit

01

Name Judge Abbot Parry's seven lamps

02

Map duties to court, client, opponent, colleagues

03

Place the BCI Standards of Professional Conduct

04

Explain privilege and confidence

05

Note conflict of interest and advertising

06

Place the duty in a constitutional frame

How this unit is organised

01

Seven lamps

02

Duty to court

03

Duty to client

04

Duty to opponent /
bar

05

Privilege

06

Advertising & conflict

Seven lamps of advocacy (Parry)

Honesty, courage, industry, wit, eloquence, judgment, fellowship. A 10-mark that must not become a sermon: one Indian sentence under each lamp.

- Honesty: never mis-cite. Courage: take the unpopular brief (s.15, BCI Rules — a cab-rank flavour). Industry: the file. Judgment: what not to ask. Fellowship: the bar is not a bazaar of back-biting.

Seven lamps of advocacy (Parry)

MUST NAME ALL SEVEN

- Honesty.
- Courage.
- Industry.
- Wit.
- Eloquence.
- Judgment.
- Fellowship.

EXAM USE

- One lamp, one duty-rule, one case.

Duty to the court

Officer of the court. Never mislead on law or fact. Never coach a witness to lie. Dress and address. Do not abuse process. Do not discuss a pending matter privately with the judge.

- R.K. Garg / contempt cousins in the next unit. P.D. Gupta v Ram Murti: an advocate who grabs the client's property is the opposite of this duty.
- BCI Rules: Part VI, Chapter II, s.I (duty to the court).

Duty to the court

NEVER

- False citation.
- Private word in the chamber on a live matter.
- Insult of the bench as a tactic.

ALWAYS

- Correct a statement you later learn was wrong.

Duty to the client

Competence, loyalty, communication, confidentiality, no conflicting interest, no unconscionable fee, no buying the subject-matter (champerty flavour — Indian courts are more tolerant of a genuine fee agreement than of trafficking).

- R.D. Saxena v Balram Prasad Sharma (2000): no lien on the client's papers to extract a fee. Return the file. Sue for fees if you must.
- V.C. Rangadurai: the client's trust is the profession's capital.

Duty to the client

FILE

- It is the client's. Give it back.

FEE

- Reasonable.
- In writing where the rules ask.
- Not a hostage.

Duty to opponent and to the bar

Fairness: do not ambush on a date without notice; do not talk to the other client behind the other advocate; keep promises of 'not before'. Fellowship includes the junior you lead and the opposite number you oppose.

- A.S. Mohammed Rafi: even a terrorist is entitled to a defence; the bar that refuses a brief on popularity grounds fails the cab-rank idea.
- Do not abuse a witness. Do not communalise a courtroom.

Duty to opponent and to the bar

OPPONENT

- Notice.
- No private deal with their client.

BAR

- Juniors are not servants.
- Seniors are not princes.

Privilege and confidence

BSA 2023 ss.132–134 (old IEA ss.126–129): professional communications. The privilege is the client's. Crime/fraud exception. In-house counsel is a careful later question — do not bluff it.

- Never use a confidence in a later case against the same client. Conflict: decline, or both clients with informed written consent where the rules allow — usually decline.

Privilege and confidence

WHOSE PRIVILEGE

- The client's.

BREAKS IF

- Furtherance of a crime or fraud.
- Disclosure the client authorises.

Advertising and solicitation

India is stricter than the US. BCI rules: no touting, no flashing, a website of a permitted kind, no guarantee of result. Rule 36 and the 2008 / later relaxations for a website — quote what your current BCI text actually says.

- Ambulance-chasing and a 'package' for accident claims is solicitation. A college moot-win on a visiting card is still advertising if it is a tout.

Advertising and solicitation

NO

- Touts.
- Guaranteed result.
- Paid publicity.

CAREFUL YES

- A sober chambers website.
- A law-report mention you did not buy.

Duty to opponent and to the bar

Fairness: do not ambush on a date without notice; do not talk to the other client behind the other advocate; keep promises of 'not before'. Fellowship includes the junior you lead and the opposite number you oppose.

- A.S. Mohammed Rafi: even a terrorist is entitled to a defence; the bar that refuses a brief on popularity grounds fails the cab-rank idea.
- Do not abuse a witness. Do not communalise a courtroom.

Cases a KSLU answer should name

CASE

R.D. Saxena v Balram Prasad Sharma

(2000) 7 SCC 264

No lien on the client's papers.

CASE

V.C. Rangadurai v D. Gopalan

(1979) 1 SCC 308

Trust is the profession's only capital — a leading misconduct holding.

CASE

A.S. Mohammed Rafi v State of T.N.

(2011) 1 SCC 688

Even the hated accused is entitled to a defence; the bar that refuses fails its duty.

Provisions & materials to quote

BCI Rules, Part VI, Ch

Standards of Professional Conduct and Etiquette — court, client, opponent, colleagues.

BSA 2023 ss.132–134

Professional privilege (old IEA 126–129).

Advocates Act s.35

Misconduct — the teeth of these duties.

Art. 19(1)(a)/(g)

Speech and profession, both limited by the ethics code.

s.16 Advocates Act

Senior advocate — a higher lamp, not a higher fee alone.

10 / 16-mark frames from this unit

Q1

Explain the seven lamps of advocacy.

Q2

Discuss the duties of an advocate towards the court and towards the client.

Q3

Has an advocate a lien over the client's papers for unpaid fees?

Q4

Write a note on professional privilege / advertising / the duty to defend an unpopular accused.

Unit recap

- 1 Seven lamps: honesty first; fellowship last; none is optional.
- 2 Court > client when they collide (never mislead the bench).
- 3 R.D. Saxena: return the file.
- 4 Privilege is the client's; crime/fraud is the exception.
- 5 No touts; no strike; no guaranteed decrees.