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DUTY TO CLIENT V. DUTY TO JUSTICE

Re-examining the Ethical Role of Advocates under the Indian Adversarial System

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ABSTRACT

The place of the legal profession within the system of delivery of Indian justice is contradictory. There is no denying the fact that the function of legal practitioners, qualified as officers of the court, is managed and controlled via an adversarial system where success is the be-all and end-all and where loyalty to the individual is subordinate. The ethical dilemma is, of course, whether the legal practitioner, being privy to the full guilt of the individual, should use all means possible to ensure your client goes free.

In this document, the ethical paradox in the duty of the client and the duty of the advocate to justice as provided in the Advocates Act of 1961 and Bar Council of India Rules has been critically examined with a focus on a blatant anomaly in the ethical codes of Indian justice, which forbid a judicial fraud, permitting an ethical neutrality by passive concealment of truth on procedural strategy, as against a naked advocacy of truth in a courtroom.

Further, the paper argues that such a contradiction erodes the public's confidence within the justice system and makes the administration of justice not so much a question of right and wrong, but of technical competence. It ends with suggestions on the need to realign professional ethics, which strengthens the advocate's position as facilitators of justice without undermining the right to a fair trial of the accused.

Keywords: Legal ethics, advocate's duty, adversarial system, justice, professional responsibility.

RESEARCH QUESTIONS

1. Whether the existing ethical standard under the Advocates Act, 1961, struck an appropriate balance between an advocate's duty to their clients and duty to the court itself?

2. Whether defending a guilty client within an adversary system undermines the substantive concept of justice?
3. Whether the doctrine of ethical neutrality has undermined the position of the advocate as an officer of the courts?
4. Does the adversarial system itself foster incentives contrary to justice?

OBJECTIVES OF THE STUDY

- To identify and analyze the statutes and professional obligations placed upon advocates in India
- To examine the tension between client loyalty and the pursuit of justice in criminal defense.
- To critically assess judicial observations on professional ethics and advocate conduct.
- To determine whether the adversarial system is structurally encouraging ethical contradiction.
- To propose reforms so as to align advocacy with the interests of justice.

INTRODUCTION

Justice, thus, is not only not abstract, since it cannot be, but also cannot be disambiguated from the institutions/invididuals which shape it. At this juncture, thus, the advocates occupy a position of immense power. But the advocates, it may be noted, not only represent interests by virtue of their role, since they also represent a part of the institution. In this context, it may be noted that the Indian judiciary itself, at various junctures, has regarded the advocates as officers of court.

This being said, despite being accorded such an hallowed status, the basic essence of the practice of what is known as an advocacy displays what can arguably be termed as a rather dramatic contradiction whereby these same ends are argued, for an activity that is supposed to be justly defensively criticized due to the obvious guilt of the accused, is purported to be pursued due to the prowess and knowledge of the accused himself and within an adversary criminal court of law where, of course, the burden of proof lies totally with the prosecution case.

This being said, the question arises: If the ultimate aim and end of legal framework is justice,

is it ethical to consciously encourage a backtrack in achieving it by legal agents themselves? Besides, the significance of the point is appreciated when it is juxtaposed with the professional ethics, which, while prescribing not misleading the court, remain silent on the hiding of the truth by way of silence.

This conflict between the duty of the advocate to the client, on the one hand, and the duty of the advocate to the notion of justice on the other, is clearly not just a moral issue but rather has structural roots in the adversarial process. The objective of this paper is to carry out an analysis, in an exploratory manner, of the nature of the reconciliatory mechanisms in the conflict between the duty to the client, on the one hand, and the duty to justice on the other.

STATUTORY AND ETHICAL FRAMEWORK GOVERNING ADVOCATES IN INDIA

1. Advocates Act, 1961: A Framework Without Ethical Precision

The Advocates Act, 1961, is a legislation for legal professionals. It makes provisions for the compliance of professional ethics. However, it is also important to make a mention of the fact that, apart from qualifications, it also makes provisions for the institutional organization of Bar councils. Nevertheless, it is also important to make a mention of the fact that what perhaps emerges rather surprisingly from this legislation is its failure to make provisions for the role which advocates play as dispensers of justice rather than as representatives of individuals. This legislation does not define the role of an advocate.¹

This absence of legislative direction, however, is more than a mere unintended consequence; it is an intrinsic one². The Act is delegating the development of standards of ethics to subordinate legislation, in this way, avoids confronting the tension inherent in the relationship between the advocate's duty to advocacy, on the one hand, and the advocate's duty to justice, on the other³. The absence of an express statutory expression of the advocate's duty to justice allows professional conduct to be determined largely in practice rather than in terms of legal direction.

Such ambiguity becomes a matter of great concern in criminal defence, as the point of

¹ Advocates Act, 1961, §§ 7, 24, 35, 49.

² Bar Council of India Rules, Part VI, Ch. II, framed under §49 Advocates Act.

³ Lon L. Fuller, *The Morality of Law* (procedural vs substantive justice).

confluence of liberty, truth, and justice is the keenest in criminal defence⁴. In the absence of guidance in the laws, ethical boundaries tend to be determined in terms of expediency rather than in terms of law.

2. Bar Council of India Rules: Ethics Reduced to Non-Deception

The Bar council of India Rules, which were framed in accordance with section 49 of the advocates act, form the first source of ethical regulation. Standards of professional conduct and etiquette are incorporated duly in part VI, chapter II. The rules impose two different categories of obligations, one owed to the court, while another is owed to the client.

"Moreover, although it is clear from the Rules themselves that it is prohibited to hoodwink the Court, to present false evidence, or to withhold material information by misrepresentation, there is no duty imposed on Advocates to pursue justice in a positive manner in their handling of cases, aside from procedural truthfulness. Compliance with ethics is essentially negative in orientation – what duty is avoided rather than done – rather than positive – what duty ought to be performed."

This differentiation is important. It is conceivable for an advocate to be thoroughly compliant with the professional rules yet engage, by design, in the perpetration of injustices by way of withholding facts. Thereby:

- Legality supplants morality.
- Correct procedural rules supplant substantive justice.
- Advocates may withhold incriminating truth gleaned from communication with the client, even if it impacts the determination of the case.⁵

Hence, these rules institutionalise ethical minimalism, where the lack of deception is equated with ethical conduct, irrespective of the outcome.

THE MYTH OF “DEFEND AT ANY COST” AND ITS JURISPRUDENTIAL ORIGINS

1. Presumption of Innocence and Burden of Proof

The rationale that guilty party defense can be overlooked has mainly emanated from the right to a presumption of innocence and shifting the prosecution’s burden of proof.

⁴ O.P. Sharma v. High Court of Punjab & Haryana, (2011) 6 SCC 86.

⁵ David Luban, Lawyers and Justice: An Ethical Study.

These can be regarded as essential aspects of safeguarding against arbitrary conviction or state oppression. However, the two principles have become shields for ethical abdication.

The presumption of innocence, accordingly, would amount to a legal, and not a factual, denial of guilt.⁶ The rationale of its effect, too, is relevant to controlling the judicial decision rather than the moral obligation of the advocates. Defence advocacy misinterprets the connection of law and morality too frequently and converts it into an advocate who totally disclaims the truth of the case.

This is an improper conflation of jurisprudence. Legal presumptions control the process of adjudication but do not redefine reality. This principle is being misinterpreted when legal protagonists employ these presumptions as a justification for controversial methods of operation.

2. Adversarial Loyalty and the Decline of Justice-Oriented Advocacy

The adversarial method prioritizes loyalty to the client as a moral good. Success is defined as obtaining an acquittal, rather than as achieving justice. This code of law creates perverse incentives – loopholes are admired, delay is normalized, and truth is merely a nicety.

In this sense, what is being advocated is transformed from justice-based to outcome-based practice. Accordingly, the measure of the lawyer's excellence changes from strategic ingenuity to ethical judgment. Finally, what is considered moral practice changes from alignment with justice to alignment with technical legality.

The result is a profession that succeeds in form only, failing in substance.

JUDICIAL INTERVENTION: ACKNOWLEDGMENT WITHOUT RESOLUTION

1. Advocates as Officers of the Court

In numerous cases, Indian courts have unequivocally held that Advocates were officers of courts. For example, in one important case, "O.P. Sharma v. High Court of Punjab & Haryana⁷," the Hon'ble Supreme Court emphasized the role of an advocate, saying: "An advocate's obligation to the court, which cannot be compromised in favor of the

⁶ State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254.

⁷ O.P. Sharma v. High Court of Punjab & Haryana, (2011) 6 SCC 86.

interests of the party, is paramount." Again, for example, in *R.D. Saxena v. Balram Prasad Sharma*⁸, the Hon'ble Court also emphasized: "The role of an advocate is not confined to a private capacity.

Nevertheless, these sentiments and declarations remain largely rhetorical.⁹ The courts have articulated the ideal, but failed to translate it into enforceable ethical obligations.

2. Ethical Decline and Judicial Concern

In the case, *Mahipal Singh Rana v. State of Uttar Pradesh*¹⁰, the Honorable Supreme Court was concerned that professional ethics were deteriorating, resulting in the lack of public trust within the legal community. It was admitted that the legal professional was instrumental in ensuring the betterment of the justice system.

However, even in that context, the judiciary avoids asking questions about the adversarial system that fosters ethical contradiction as a motivator¹¹. The selectiveness of legal disapproval itself provides a space in which the original ethical issue cannot be solved.

ETHICAL NEUTRALITY AS INSTITUTIONALISED CONTRADICTION

1. Silence as Strategy

What is most disquieting in defence advocacy is not deception, but rather strategic silence. What an advocate may know of the factual guilt of a client, owing to their obligation of confidence, they must keep silent about¹². Of course, an obligation of confidence is essential, and certainly, its absolute nature is an exception.

However, in that sense, silence becomes a strategic, rather than a protective, tool¹³. Justice is not deceived, but deprived of the truth. This differentiation allows the ethical rules themselves to remain ostensibly unblemished, rather than substantively so.

2. Justice as a Casualty of Professional Detachment

Such an approach, which by permitting the advocates to distance themselves from the

⁸ *R.D. Saxena v. Balram Prasad Sharma*, (2000) 7 SCC 264

⁹ David Luban, *Lawyers and Justice: An Ethical Study* (Princeton Univ. Press, 1988).

¹⁰ *Mahipal Singh Rana v. State of Uttar Pradesh*, (2016) 8 SCC 335.

¹¹ Law Commission of India, 266th Report on The Advocates Act, 1961 (2017)

¹² Bar Council of India Rules, Part VI, Chapter II, Rules 17–24.

¹³ Monroe H. Freedman, 'Professional Responsibility of the Criminal Defense Lawyer' (1966) 64 Mich. L. Rev. 1469.

outcome, effectively creates a professional identity which is morally anaesthetized. No longer is it the advocate who is the moral agent, it is simply the role of the technician. Rather than justice being a goal, it becomes a fortuitous by-product of competitive procedure.

This disconnection would take away all credibility from this system too, in public perception. Acquittals are not inherently acquittals by truth; they are acquittals by design¹⁴. The role of an advocate, as a torchbearer of justice, is symbolic at this point.

STRUCTURAL ROOTS OF THE ETHICAL CONTRADICTION: ADVERSARIALISM AND ITS CONSEQUENCES

1. The Adversarial System as an Ethical Architect

However, it must also be noted that, to be able to assess and understand the true nature of the ethical dilemmas that the advocate may be dealing with, it is not possible to progress beyond assessing the framework. It was established that the framework is adversarial, which is the case within the framework of Indian judicial system, and it operates on the theory that truth and justice can be found as a result of opposition under the guidance of an impartial authority.

I think one of the most interesting consequences of this kind of structural design is in the realm of professional ethics. The adversarial system doesn't simply permit, but promotes, and rewards, partisanship. Success is evaluated, not by contributions to truth or justice, but by the proficiency with which your side prevails. In short, ethics is synonymous with proficiency.

This means that the contradiction identified is no coincidence. In fact, the identified contradiction has been integrated.

2. Justice as an Emergent Ideal Rather Than a Direct Obligation

The significant aspect of this particular theory of Adversarialism is, while justice is an emergent product, nevertheless, it is never an obligation of an advocate to allow justice of this kind, but it is rather incumbent on him to advance the interest of the client within a legal fold.

Such diffusion of responsibility is having profound ethical implications in this regard. The lack of association between justice and duty—where justice is seen as the

¹⁴ Duncan Kennedy, 'Legal Education and the Reproduction of Hierarchy' (1982).

beneficiary rather than the mandatory concern of the professional—has moral implications. The advocate is relieved from all concern in the comforting thought that it is the system rather than the individual in whom the sense of responsibility resides. Such justice might be procedurally correct rather than substantively correct.

COMPARATIVE PERSPECTIVE: INQUISITORIAL SYSTEMS AND ETHICAL ALIGNMENT

1. Truth-Seeking as a Shared Institutional Goal

Contrary, in the inquisitorial approach, the role of the judge in the investigation and establishment of the truth of the fact is much greater than in the adversarial approach¹⁵. The lawyers, removed from the passivity of the adversaries of the narratives, take their proper place in the collective investigation of the truth of the fact.

This structural difference has significant ethical consequences. One is that the search for truth is a common goal in the institution, so ethical pressure falls only minimally on counsel in the defence. The counsel does not disengage from the search because the institution rewards neither silent non-disclosure nor concealment.

Thus, the ethical paradox which accompanies adversary systems is, therefore, not prominent under the inquisitorial model.¹⁶

2. Ethical Coherence Versus Procedural Loyalty

With regard to an inquisitorial system, ethical coherence is maintained consistent with professional standards of ethical behavior and Systems Orientation. Conversely, with regard to an adversary model of legal procedure, no room exists for ethical coherence as a principle of determining procedural loyalty rather than an appeal to morality. One is an advocate and thereby pledges allegiance at all times to his or her client.

If we compare this with the above-mentioned statement, we can obviously understand that the ethical inconsistency that may arise out of this particular law does not, in any way, transcend the basic structure within which the system that may be adopted would operate. However, we can clearly see that the importance that has been laid on the value of procedural loyalty tends to result in the lack of trust that can be found within the public¹⁷.

¹⁵ Mirjan Damaška, *The Faces of Justice and State Authority* (Yale University Press, 1986).

¹⁶ Mauro Cappelletti, *The Judicial Process in Comparative Perspective* (Oxford University Press, 1989).

¹⁷ Upendra Baxi, 'Rule of Law, Legitimacy and Justice' (Indian context).

THE ADVOCATE AS A MORAL AGENT: A THEORETICAL REASSESSMENT

1. The Fallacy of Moral Neutrality

The premise that justification finds support within unethical defense advocacy was based on the questionable principles that include moral neutrality. Defence advocates notwithstanding that the principles are morally neutral. A premise that cannot exist.

To practice law is to take certain decisions, to argue the claims, and to highlight and ignore the facts. And the truth of the matter is, it seems to make a difference. To argue to the contrary of this is to argue towards some form of ethical vacuum.

Neutrality, in this context, is not an ethical position but an abdication of responsibility.

2. Advocate as Officer of the Court: A Hollow Ideal?

The designation of the status of the advocate both as an officer of the courts, as part of the legal system, implies an expectation of an ethical match with the notion of justice. This ethical expectation, however, is in urgent need of development. The lack of development of norms via which the aforementioned expectation may be fulfilled has left the aforementioned expectation with little substantive significance.¹⁸

The advocate, therefore, locates himself in the in-between space of the following dualities:

- As a private representative, bound by loyalty to the client.
- As a public officer, with the trust of justice in hands.

While the legal framework acknowledges both identities, it fails to reconcile them. The resulting profession is thus one ruled by contradiction rather than coherence.

THE COST OF ETHICAL CONTRADICTION

1. Erosion of Public Confidence

However, whenever the hand of justice appears to be partly predicated on strategy rather than the truth, faith within the members of the public also begins to wane. Where the person on trial is found not guilty, this becomes not the affirmation of their innocent status, but rather the skill triumphing over the accused.¹⁹

While the former, who was erstwhile considered the torch bearer of the cause of justice,

¹⁸ Law Commission of India, 266th Report on the Advocates Act, 1961 (2017).

¹⁹ Marc Galanter, 'Why the Haves Come Out Ahead' (1974).

was considered the manipulator of laws on the other hand, the portentous consequences involved here cannot be overstated.

2. Reduction of Justice to Technical Compliance

Another way in which the ethical contradiction decreases the amount of content of the concept of justice is when the ethical contradiction abolishes the concept of content and instead arrives at the concept of procedure; furthermore, such a concept would not be grounded upon the concept of content of the concept of alignment with the concept of content of the concept of alignment with.

“A system which always subordinates truth to technique risks being both unethical, though legally sound.”

RESULTS AND FINDINGS

Various conclusions can be drawn with respect to the ethical position that the legal community places on the role of legal advocates within the legal system based on the previous sections. Although the conclusions drawn are not empirical, the evaluation that occurs within the previous sections serves to highlight the key conclusory positions that can be drawn with regard to legal advocates within the third country legal system.

1. Ethical Rules Prioritise Procedural Legality Over Substantive Justice

First and foremost, most prominently highlighted by this body of study is with regard to the fact that in terms of being an ethical code for advocates, legality with regard to matters of process has more importance than substantial justice. There has been a preoccupation in Bar Council of India rules with regard to misbehaviour in terms of misleading the court and presenting false evidence, and so on. However, not much has been said in terms of what constitutes ethical behavior with regard to matters such as silence, information, and so on.

As such, it is thus possible that this advocate would perfectly comply with the applicable rules while ensuring the process reaches a result that is unfair despite the intuition to the contrary. Here is where we point out the major flaw in the current system if it bases its principles in ethics on the premise of rule-based conduct rather than conduct-based justice.

2. The Advocate's Duty to the Court Is Normative, Not Operational

The pronouncement on the role of judiciaries is constant, yet this does not exist on the

level on which the aspirational element applies. Therefore, the Role of Advocates as Officers of the Court tends to be idealized, yet no considerable standard can or does exist.

This research contends and maintains that the lack of operational clarification offers a milieu wherein the primacy of allegiance to clients may be realized without significant ethical checking. This allegiance of service providers and advocates to the court represents no more than a rhetorical illusion.

3. Ethical Neutrality Functions as a Systemic Shield

The concept of ethical neutrality emerges as a pertinent issue in the defence advocacy discourse. The defence advocates aim at justifying their involvement in immoral activities by placing themselves in a position of ethical neutrality. They accomplish this in large part by just testing the case presented by the prosecution. What was established by the current piece of research is that it did not attain ethical neutrality but served as a protective gear to safeguard the defence advocates from moral condemnation.

Neutrality, in effect, allows the advocate to disengage from the outcomes of his or her acts but within the boundaries of the law. This, in a way, puts the legitimacy of the ethical approach of neutrality in a justice-oriented profession under question.

4. The Adversarial System Institutionalises Ethical Contradiction

The most important discovery of the research perhaps is that the ethical conflict confronted by the advocates is not an issue of personal morality but rather an inherent structural feature of adversarialism. The reward of success lies with the process, the client, and strategy; justice is merely collateral.

Thus, the adversarial framework enshines conflict between professional success and moral coherence. Ones who support the side of justice may be professionally penalized, and the more one is strategically successful, the more it could be away from justice.

DISCUSSION

The findings of this study necessitate a deeper discussion on the implications of ethical contradiction for the legal profession, the justice delivery system, and democratic legitimacy.²⁰

²⁰ Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing House)

1. Justice Versus Legality: A False Dichotomy?

The pattern of justification for controversial ethical calls is the claim that legality and justice are separate, therefore, the work of advocates is solely concerned with legality. Challenges emerging from this research confront the assertion. Legality, being the foundation upon which justice is attained, cannot be used in place of the latter.

Legal justice becomes adventitious rather than sought when advocates narrow down their position to a mere status as legal technicians. This view cannot be reconciled with advocates as officers of the court. Justice does not concern an advocate in what form, which makes a suspect basis for a moral profession.

2. The Moral Cost of Procedural Excellence

In procedural excellence, it has long been acclaimed to be an indicator of excellence in the practice of law or in law advocacy. In this aspect of the issue in this research, however, it has also underscored the moral implications of procedural excellence in and of itself.

This does not mean that procedural safeguards have to be diminished. What it means is that procedural competency needs to be ethically contextualized. That is to say, if it is not, then the procedure will have become an end in itself rather than a means to an end.²¹

3. Confidentiality and Its Ethical Limits

Confidentiality is one of the cornerstones in legal representation and acts as a basis for developing trust between a legal professional and a client, as well as a shield from oppressive power in a country. However, from the findings of this study, absolute confidentiality in conjunction with ethical minimalism contributes to a justice gap.

I think the difficulty is not the abandonment of confidentiality, but establishing the ethical limits of confidentiality. When confidentiality continually thwarts justice and not the protection of the right, it is necessary to rethink the ethical mandate behind confidentiality. Since there is no ethical guidance on the subject, the advocate is not aided on what stance to take that is ethical and moral.

²¹ Jerome Frank, *Courts on Trial* (Princeton University Press).

4. Public Perception and Democratic Legitimacy

Indeed, justice is earned on the basis of public confidence rather than legality. Moreover, this piece of research reveals the role of ethical contradiction as a reason for the prevailing belief in manipulable justice where decisal outcomes are unrelated to truth per se.

This erosion, therefore, bears democratic implications. Where a justice system is seen to be strategically negotiable, there is an undermining of the rule of law. This is because advocates, having a key role as they are embedded in this system.

5. Rethinking the Advocate's Identity

Consequently, the finding prompts a reflection on the professional identity that the advocate carries. Rather than seeing the tension between the advocate's duty toward the client and the duty toward justice as one that forces the advocate into an exclusive choice, the field of advocacy must begin to embrace the advocate's more integrated image²². Here, the advocate extends beyond the image merely as representative, into the figure imbued with the moral character of the justice system.

This involves moving away from the narrow concept of an ethical code of rules and towards the concept of justice-based professionalism.

CONCLUSION

It becomes the aim of the current study to question the assumption underlying the assumption on such a deep level and, most important of all, to prove that the ethics of the professional practice of the legal professional have very little to do either with unshakeable loyalties to the client—a loyalty potentially grounded on moral grounds or not.

Therefore, the advocate, such as conceived via legal ethics in India, finds him/herself within positions that are mutually contradictory. A position that praises the advocate as an officer of the court, assisting the administration of justice, has its complementary position praising the same advocate, both factually and culturally incentivizing him/her, or them, to advance their clients' interest even if the result tends towards patently unfair consequences. All of this, again, not accidentally, via the very nature of the adversary system.

²² William H. Simon, 'Ethical Discretion in Lawyering'.

The finding of this piece of research is to establish that the ethical imperative for these advocates is neither one of conscience, nor truly one of design. That is to say, while rules framed by the Bar Council of India steer clear of egregious misconduct, it fails to confront the moral dilemmas underlying the practice of law. By codifying moral behaviour in terms of procedural process, the system keeps justice as an afterthought, rather than an integrative imperative.

Of key importance, however, is that this research does not seek to propose that advocates should be judges, arbiters of guilt, nor moral judges. Instead, what is argued is that ethical neutrality, as presently employed, is not only not ethically neutral; it is also not normatively defensible. The problem, however, is that where neutrality consistently entails the distortion of the truth, then it ceases to be virtue.

SUGGESTIONS AND REFORMATIVE FRAMEWORK

This research does not advocate radical restructuring of the legal system. Instead, it proposes measured, legally defensible reforms aimed at ethical coherence.

1. Introduction of Justice-Oriented Ethical Guidelines

The Bar Council of India should formulate rules that can be supported by ethical guidelines aimed at resolving ethical dilemmas. The ethical guidelines should explain very clearly to the advocates that even as they should protect the rights of their clients, they should not act in a way to hamper the cause of justice.

Such guidance would not be binding in terms of liability, only in terms of ethics.

2. Strengthening the Duty to the Court

Firstly, the notion of the advocate as an officer of the court requires some operationalisation. Better articulation is needed concerning candour, fairness, and restraining ethics in the courts. Judicial commentary even in the lack of express censure is capable of influencing culture if consistent.

3. Ethical Training and Reflective Legal Education

Legal education should emphasize ethical reasoning as part of its core curriculum as opposed to it being on the periphery of what is being taught. Legal education should offer students a possibility to face moral conflicts with a sense of procedural justification, as opposed to encouraging them to side-step them. Reflective ethics

should promote a lawyer who is aware of society as much as professional success.

4. Encouraging a Culture of Responsible Advocacy

The essence of good advocacy as a professional ethic, however, should be more actively encouraged by bar organisations or by more senior advocates. Incentives should equally go beyond winning cases in court, as they should embrace recognition of ethical greatness. Cultural, rather than legal, solutions may be more appropriate.

FINAL OBSERVATION

Finally, this essay is committed to the view that justice is not merely the unintended consequence of some legal strategy. A calling that requires moral gravitas is equally willing to accept moral magistracy. Lawyers not only make arguments; we create an ethic of justice.

But if law has to remain a moral discipline rather than a technical competition, then even the lawyer has to be viewed differently – not as the determinant, but rather the self-actualizing legal professional participating in the process rather than purely the result.

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