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THE ETHICS OF LEGAL SOLICITATION IN INDIA

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Abstract

This paper examines the ethical challenges of legal solicitation in India, where traditional professional values conflict with modern demands for transparency and access to legal services. Governed by the Advocates Act, 1961 and Bar Council of India Rules, lawyers are prohibited from advertising, to preserve the dignity of the profession. However, these restrictions can limit access to justice, especially for vulnerable or uninformed individuals. The paper discusses key cases like *V.B. Joshi v. Union of India* and *Bar Council of Maharashtra v. M.V. Dabholkar*, and contrasts India's stance with global practices, such as the U.S. ruling in *Bates v. State Bar of Arizona*. It highlights how digital platforms and legal tech startups have blurred the line between ethical outreach and commercial solicitation. The paper concludes by recommending clear guidelines to regulate online legal marketing, protect client rights, and ensure the legal profession evolves without compromising its ethical foundations.

Keywords - Legal Solicitation, Professional Ethics, Bar Council of India, Access to Justice, Digital Legal Marketing

INTRODUCTION

The legal profession has long been held in high regard for its commitment to ethics, integrity, and service. Lawyers are seen not just as professionals, but as custodians of justice, responsible for upholding the rule of law and protecting the rights of individuals. However, the commercialization of legal services, especially through legal solicitation, has sparked intense debate within the profession. The act of actively seeking clients for financial gain challenges the core values of legal practice, which emphasizes client welfare over personal profit. This has resulted in a clash between the profession's traditional ethical standards and the growing demand for consumer rights, particularly in an age where transparency, access to information, and market competition are seen as vital to empowering consumers.

The lawyers in India are also governed by a significant legal document, namely, the Advocates Act, 1961, which, among other things, prohibits attorneys from client solicitation and advertising their profession or providing services in the manner of business promotion. Beyond this clause, allows the Bar Council of India (BCI) to prescribe conduct and manners of legal practice for advocates, and may include prohibitions against advertising and solicitation. In India, the rules as set out in Rule 36 of BCI rules, place a similar prohibition on a lawyer when he states that “a lawyer shall not solicit work or advertise” either directly or indirectly.

In contrast, there are provisions within the Article 19(1)(g) of the Constitution of India which allows one to practice any profession including that of a Legal practitioner, though on reasonable restrictions. Critics say this somehow amounts to cessation of justice, especially to poor or uneducated people. This is because they are usually in situations where they do not have or know who to consult for effective legal representation and decision-making.

The question remains whether the legal profession could adapt to modern consumer demands without sacrificing its ethical foundations, or will the tension between tradition and market forces continue to shape the future of legal practice in India? This research seeks to explore the clash between tradition and consumer rights in legal solicitation, examining whether current regulations serve the public interest or need reforms.

1. HISTORY OF ETHICAL RESTRICTION

Even in recent years there has been a belief that the legal profession is of a higher ethical standing than all other professions in society. The past gave birth to certain constraints on how lawyers promote themselves and attract clients, thereby shaping the contours regarding ethical solicitation of the legal profession. In the Indian context, the Advocates Act, 1961, and the Bar Council of India Rules go a long way in regulating the conduct of lawyers including advertising and marketing of legal services. Under Rule 36 of the Bar Council of India Rules, made under Section 49(1)(c)¹ it is expressly stated that no lawyer shall procure or advertise his professional services or practice. The logic behind this limitation was to make sure that the profession stays as a noble calling, not a commercial venture. For many centuries, it has been natural for lawyers to be kept away from the market since winning over clients was considered shameful and unprofessional to the extent that in the lawyer’s scramble for business, ethical barriers may be

¹ Advocates Act, 1961

haphazardly breached due to potentially moving towards dumbing ourselves into pursuit of clients mannerisms. Retaining clients was seen as “trapping” and so degrading as to risk a “race to the bottom”. Lawyers’ success has always been based on status and trust, rather than marketing and promotion.

In Western countries, this understanding concerning legal solicitation started evolving around the latter part of the 20th Century but particularly after the US Supreme Court in *Bates v. State Bar of Arizona* (1977)² codified advertising as permissible within defined limits. The very court appreciated the need for the consumer to seek the information regarding legal services and accepted the role of advertising in serving justice. On the other hand, in India, this change towards more advertising and solicitation practices did not take place and the Indian legal system still adopted the conservative approach on legal ethics. Thus, the ethical apprehensions rested on the fact that such solicitation might take advantage of helpless and defenseless clients. Further, one of the other ethical concerns was that legal advertising has a possibility of generating false expectations since lawyers might overstate their capabilities excessive results just to attract clients.

Globally, the discussion with respect to the ethical issues pertaining to the restriction of legal solicitation is no longer confined within national borders owing to the emergence of cross border legal practices with the advent of legal tech startups. As a result, there is an increasing value in extending the parameters of the ethical argument in traditional practice in response to the modern day challenges while at the same time protecting the key values of the profession.

2. THE ETHICAL DILEMMAS OF LEGAL SOLICITATION

Solicitation and Exploitation of Vulnerable Clients

By "vulnerable" here, one is not only referring to the economically disadvantaged but also to individuals who may be in very precarious and fragile emotional or physical states and have experienced trauma, loss, or injustice and who often seek legal advice to inform their choices. The latter understanding of the legal profession has traditionally placed tremendous importance on the protection of such individuals from being taken advantage of by attorneys whose interests may be primarily financial.

² Bates v. State Bar of Arizona, 433 U.S. 350

As an example, in several countries, lawyers indulge in ambulance chasing; this is also known as getting to the accident victims and their families immediately after the incident and offering them legal services. Such practice is considered inherently exploitative because a victim who is in a state of shock, grief, or confusion may be compelled out of ignorance of his rights or even of the nature of his case to engage the services of the first attorney to knock on his door. This reduces the dignity of the legal profession, making it an enterprise rather than a noble service in the interest of the administration of justice. However, if legal solicitation is done transparently and ethically, it would serve to help bridge the gap by making individuals aware of their legal options at a time when they most need it. Such as when victims of workplace discrimination or labor exploitation do not know about the legal recourse available, advertisement can be helpful.

Though direct solicitation is still illegal in India, some law firms manage to get around such restrictions through online portals, social media, or email marketing. As newer methods are used, the line between ethical outreach and exploitation sometimes becomes very fuzzy. Unsolicited messages offering instant legal remedies, or for that matter even encouraging them to sign up with lawyers without realizing the implications, will be found online by the vulnerable consumer. Transparency through clear rules and ethical standards ensures that such legal solicitation plays an informational and assistive role for clients, rather than an exploitative one. For example, those jurisdictions that allow legal advertising have enacted numerous safeguards, such as requiring clear disclaimers, complete transparency in terms of fees, and prohibitions on the makings of outlandish promises to prospective clients.

The Role of Professionalism in Legal Marketing

Professionalism is one of the most important characteristics in any respected legal system. Speaking in terms of legal marketing, the requirement of professionalism is even more crucial. The way lawyers present themselves and their services has implications so vital to the client and to the public at large. BCI has held fast in India for long that the legal profession should retain a non-commercial ethos so as to retain the dignity of the profession, and ensure that clients choose their lawyers based on reputation and merit, and not marketable skills. Professionalism on the one hand and the perils of over commercialization is, in fact, an ongoing debate.

The legal profession in India was always averse to branding itself as a business; it was considered a service where the lawyers had to work in the best interest of their clients, and the bottom line in this case was not money but serving good. The Bar Council of India has always been saying that opening up the process of 'free' lawyer advertising would ensure that concern for quality legal service delivery would give way to alluring advertisement. In this instance, it can be found that the emphasis has shifted from legal competence to marketing competence, and that will somehow affect the integrity of the profession. **Justice S.P. Bharucha**, a former Chief Justice of India, remarked in one of his speeches that "*the dignity of the profession must be preserved, and lawyers must not become mere traders in the legal marketplace.*"

In the landmark case of *V.B. Joshi v. Union of India, 2008* the issue of legal advertising came up for consideration when Rule 36 of the BCI Rules was challenged on the ground that the said Rule infringed his fundamental right to carry on the profession, guaranteed under Article 19(1)(g) of the Indian Constitution. The Supreme Court dismissed the petition and upheld the restrictions imposed by the BCI on advertisement in the legal profession. The Court reasoned that such advertising of lawyers' services would result in unhealthy competition and, in the long term, would affect the morality of the legal profession. This case brought professionalism in the marketing of law into focus and reminded the profession that reputation, integrity, and quality of service must always come first before commercial tactics.

3. CONSUMER RIGHTS IN LEGAL MARKETPLACE

One of the fundamental rights of consumers in any market is the right to information. When it comes to the legal field, that right takes centre stage, as most would reach for legal services during periods of stress and crisis. People are able to make informed choices about legal issues only when information with regard to their options, the expertise of lawyers, and possible outcomes is openly available. As legal advertising is restricted in India this information is not often available and thus creates a gap in which many cannot achieve appropriate legal representation. Ethical legal marketing can improve access to justice through regulated advertisements or an online presence, lawyers can make the public aware of specialized legal services for particular needs, such as personal injury, employment law, or family disputes. For example, rural areas in India may not be aware of their various legal remedies for land dispute or when wages are not paid among many others.

On the other hand, the flip side of legal aggressive solicitation is misinformation and exploitation. When legal advertising becomes too commercialized there's a risk that lawyers might exaggerate their success rates, promise unrealistic victories, or use intimidation tactics to compel clients into legal actions not fully comprehended. In the case of *Bar Council of Maharashtra v. M.V. Dabholkar*³ it was observed that some advocates were running advertisement in the newspapers claiming their expertise and extent of success in the courts which is against the rules of professional conduct. The Bar Council of Maharashtra initiated action against the advocates for breach of professional ethics. The Supreme Court held this view and supported the essentials of ethical standards and professional conducts. The Court of law held that the advocates should not do anything that may be construed as undignified or taking advantage of the clients by making false claims to attract the clients.

In *Bar Council of India v. A.K. Balaji (2018)*⁴ petitioner- the Bar Council of India and held that the foreign law firms cannot practice in Indian Courts by rendering the litigation services or by opening any office. However, they cannot do advertisement in any form whatsoever in India either for the foreign law firms or for the lawyers the Supreme Court of India decided in favor of the Employed by them. The Court went out of its way to convey that such practices will lead to unfair competition and spreading of misleading information in the Indian marketplace.

4. THE DIGITAL AGE AND LEGAL SOLICITATION

While online legal services like LinkedIn and Bar and Bench make availability more accessible, they do pose ethical dilemmas. Such online services blur the line between information and soliciting, which is restricted in India. Automated legal services might commodify the law rather than give it the attention each case requires. The lawyers will increasingly use such social media platforms like Instagram, Facebook, and LinkedIn to reach their clients through targeted ads. While this might connect people with particular legal needs, there is an emerging concern about the spread of incorrect content and predatory treatment of vulnerable clients. While legal tech startups may be innovative, they need to ensure that their novelty does not violate traditional codes since profit comes before professionalism. It calls for clearly articulated ethical guidelines that would make the online and social media use of lawyers in the digital age

³ Bar Council of Maharashtra v/s. M.V Dhabolkar, (1976) AIR 242

⁴ Bar Council of India v. A.K. Balaji & Others, (2018) 3 MLJ 470

regulated. This means that all advertising or content should be transparent, not misleading to clients, so that the legal profession retains its integrity even in digitized space.

SUGGESTIONS AND CONCLUSION

The digital era has undeniably transformed the way legal services are marketed and accessed, bringing both opportunities and challenges. While technology has made it easier for clients to connect with lawyers, it has also blurred ethical lines, especially in the areas of online platforms, social media marketing, and legal tech startups. The key to maintaining the integrity of the legal profession lies in balancing professionalism with consumer rights, ensuring that the core values of trust, transparency, and honesty are upheld. As the legal landscape evolves, it is crucial to safeguard the ethical principles that define the profession, while also improving access to legal services for clients who need them most. To address these challenges, there must be clear ethical guidelines governing the use of online platforms and social media by legal professionals. Lawyers should be required to provide truthful information in their ads, ensuring potential clients are not misled by exaggerated claims. Additionally, specific regulations should be introduced to protect vulnerable clients, such as accident victims, from aggressive marketing tactics. Legal tech startups should also be subject to regular audits to ensure they adhere to the same ethical standards as traditional law firms. By creating a regulatory framework that embraces technology while protecting client welfare, the legal profession can evolve without sacrificing its professional integrity.

BIBLIOGRAPHY

- Vannan, N. S. (2003). *ADVERTISEMENTS BY ADVOCATES AN INDIAN PERSPECTIVE* (Doctoral dissertation, National Law School Of India Univercity).
- Sengupta, I. (2014). Nurturing Caring Lawyers: Rethinking Professional Ethics and Responsibility in India. *J. Indian L. & Soc'y*, 5, 13
- Wilbur, J. H. (1953). Advertising, Solicitation and Legal Ethics. *Vand. L. Rev.*, 7, 677.
- Gygli, R. R., & Larson, G. W. (1966). Solicitation by and for Attorneys. *Clev.-Marshall L. Rev.*, 15, 244.
- Luther, M. J. (1958). Legal Ethics: The Problem of Solicitation. *American Bar Association Journal*, 44(6), 554–591.