

## THE CULTURE OF A JUDGE

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There are more reasons than one why I should congratulate you. Firstly, you have chosen the law as your profession. It is the most coveted of all the professions in a civilized society. There is no other profession, which puts the intellectual wits of a person to test more than the legal profession. Out of the professionals rolling in money and wealth, those who are at the top are the men of law. Secondly, having chosen the judicial service as your career ahead, it is writ large that you do not aspire for materialistic pleasures so much as for spiritual attainments and serving the society. Thirdly, you are the batch having successfully undergone the First Foundation Training Programme conducted by Delhi Judicial Academy. You will be the example for others who will follow. You are the First!

Dispensation of justice is an attribute of God. Blessed are those on whom that Godly assignment has befallen. Still blessed are those who acquit themselves of such assignment with pride, dignity and honour. You are going to be the officers adorning the exalted office of judgeship and occupying the seat of justice. Even God, who has created the human being, does not sit in judgment over his deeds until the human's death whence only he determines whether he deserves to be sent to hell or heaven. You have been given the authority to sit in judgment over the deeds of a man in his lifetime. Your pen has the power to grant the freedom of living or the sentence of death to an accused. You can take

away his liberty for a number of days, months or years (subject to the limitations of law). Your mighty pen can turn riches into rags and a pauper into a millionaire. The more power you have, the more humility, rationality and balance must be among your possessions.

Every businessman begins his trade with such little capital as he has within his means. As his business prospers and as he rises the ladder of success his capital multiplies. Your capitals your knowledge and wisdom. With every next day and with every next step on the ladder of success your knowledge and wisdom would multiply. I leave it to you to learn and earn for yourself and to multiply your capital to enrich your treasure. What I propose to share with you today is enrich your treasure. What I propose to share with you today is neither knowledge nor wisdom but a few tips on what is the culture of a Judge. It is collection of a few gems, consisting of words of wisdom what I have either read, or listened to from my elders, or picked up as pebbles of experience on the shores of this unfathomable sea of law and justice.

### VIRTUES AND POTENTIALS IN A JUDGE

The first quality of a Judge is to be a gentleman. A Judge has no personal life. He cannot be permitted to say nor be tolerated to listen that from 10 AM to 5 PM he is a Judge and from 5 p.m. to 10 a.m. he is a master of his own. The throne crown, which decorates the personality of a Judge, is not taken off even while he sleeps. A judge, whether in his seat or on his own, whether moving around in the city or traveling across the country, is known and seen by people as a Judge. The holder of a judicial office is not permitted to deviate from virtue even in his dreams. So remember, if you are a Judge you are bound by the moral code of a Judge for 24 hours of the day. Your every action must be transparent.

You are watched by the society. Your personal actions, your family and your behaviour with every living creature with whom you deal must all be judicious, upright, above board and an example to the society. Recently, His Excellency Shri A. P. J. Abdul Kalam, the President of India visited the Supreme Court of India and spent an hour interacting with the Judges. While parting, he gave his message in somewhat these words – “You are 26 Judges of the Supreme Court. You are 26 role models of judiciary for this nation of more than one billion people. People look up at you for vindicating their grievances and for removal of injustice. You must come up to their expectations. You must have a vision and do your best to give shape to your vision”. Every judge is a role model to the society to which he belongs.

It was in the 4<sup>th</sup> Century B.C. when the wise Greek philosopher Socrates said that there are four qualities required in a Judge – “to hear courteously, to answer wisely, to consider soberly and to decide impartially”. The task of living upto these norms, so simple as said, is not difficult if only you have a vision, if you aim high, if you rise above trifles and if you have a determination to reach your goal. The very nature of duty discharged by a Judge is onerous and he is invariably under pressures – pressure of deciding which side the truth lies, pressure on time and pressure on energy requisite for hearing and deciding. Every next case before a Judge is a story of human frailty, misfortune, sin or fall from virtue. He is faced with two warring litigants each assisted by a mighty counsel canvassing vigorously the case of his client, whether deserved or undeserved, and the Judge has to choose between the two. An eminent trial Judge once observed sarcastically – “who says I decide in favour of truth against falsehood. Every day on the table before me there is a bundle of lies poured by each one of the two sides and I choose in favour of the one who has spoken lesser lies.” Yet the Judge has to do his

duty, which he cannot unless he is courteous. To answer wisely, a Judge must be master of the facts and a student of law. He must have an analytical mind-quick to grasp, assimilate, and reach an articulated conclusion. He must have an open mind involved till the end in pursuit of search for relevant answers. Then alone can he answer wisely. It is humane to have sympathy for the weaker of the parties but at times such sympathy can persuade a Judge to bestow his benevolence on an undeserving cause. Sympathies may be misplaced at times. A persuasive lawyer may carry the Judge with him while a rookie or disorganized lawyer may displease a Judge. He may be inclined to decide going by his mood, whim or fancy but that will be unjust, and therefore, he must consider soberly in the right frame of mind before he pronounces his judgment. And then, to decide impartially. Bacon said – “ Above all things, integrity is the Judge’s portion and proper virtue. It is the capacity to decide impartially which is the most important criterion for judging the performance of the Judges on the Bench.” It is said, judging is lonely job and Judges, more often than not, are islands.<sup>1</sup>

Remember a Judge has to be not only impartial but seen to be impartial. Patrik Devlin says “I put impartiality before the appearance of it simply because without the reality the appearance would not endure. In truth, within the context of service to the community the appearance is the more important of the two. The Judge who gives the right judgment while appearing not to do so may be thrice blessed in heaven but on earth he is no use at all.”<sup>2</sup>

The social service, which the Judge renders to the community, is the removal of a sense of injustice<sup>3</sup> He listens. The doors of the Court are open to everyone who knocks it. The most onerous task, the Judge performs is, he decides. The Judges repeatedly do what rests of people seek to avoid: make the decisions.<sup>4</sup> While everyone avoids taking

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decisions, the Judge listens with patience and decides boldly. While pronouncing his judgment he is least bothered who has won and who has lost; who is pleased and who is disappointed.

A Judge can transform the society. One of the functions discharged by the Judge is of a lawmaker. Through the process of interpretation he unconsciously percolates his own philosophy and beliefs in the judge-made-law, which, with the lapse of time, becomes the trendsetter in the society, as law-abiding citizens start shaping their actions, and working out their rights and obligations, based on the decisions rendered by the Judges. A Judge is not a revolutionary but an evolutionary. He interprets the law and abides by the rule of law.

The disinterested application of the law calls for many virtues, such as balance, patience, courtesy, and detachment, which leave little room for the ardour of the creative reformer. If a Judge leaves the law and makes his own decisions, even if in substance they are just, he loses the protection of the law and sacrifices the appearance of impartiality which is given by adherence to the law. <sup>5</sup>

### EXCELLENCE – YOUR PURSUIT

Life is a practical school. You enter to learn and serve. While leaving you must have a feeling of satisfaction and fulfillment without any need of looking back. You have to aim high. Your aiming high implies an obligation to achieve excellence in all your activities without which you cannot reach your goal. The distinction between a human being and other living creatures is while all living creatures can aspire and achieve perfection it is only human being who can achieve excellence. Excellence is perfection imbued with human qualities, devoid of selfishness. How beautifully the Constitution of India puts it in Article 51-A. Clause (j) says – ‘It shall be the duty of every citizen of

India to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement'. You, as members of judiciary, are the custodian of the Constitution and constitutional values. It is your fundamental duty to enforce fundamental duties. Do it, not by preaching alone but by precept. It is human nature to crave for excellence. If destiny has made you the Judge you will naturally strive for being a good Judge. It will be your urge to earn recognition from the members of the Bar, from litigants, from your colleagues and the society that here is a Judge whom we love and admire as a good Judge. This one sentence is a reward for all the labour and sacrifices you have done. You feel happy when somebody tells you these words and you are disappointed when you feel nobody spoke these words about you. How can you earn this reward? How to achieve excellence? How to reach high? What will make you a good judge? Let me share these with you. You can call them dos and don'ts of a Judge, handed down to you by an elderly friend and well wisher of yours.

### **Lesson 1: MAINTAIN A GOOD PHYSIQUE AND SOUND HEALTH<sup>6</sup>**

As a Judge you will have to hold long sittings in the Court followed by lonely sittings in the evenings at your residential office or study room constructing your judgments, deeply concentrating on the issues arising for decision. In the morning again there are sittings in solitude when you study either the briefs of the day or the developments in the field of law.

A healthy mind lives in a healthy body. Good physical health is a valuable gift of nature. Awareness of good health will keep you away from consuming anything, which might hurt your system. The

realization, that good health is the precious gift of God, will help you in treating the body as a temple and motivate you to keep it clean and pure. A healthy mind in a healthy body generates good, sound, clean and noble thoughts. It makes you feel good and spread happiness around you. A noble way of expressing our gratitude for good health is to serve the humankind and the ailing litigious society, which is before us everyday. The more you rise up and the more you advance in age, higher responsibilities would besiege you. One day you will rise so high that you will have an opportunity of usefully and effectively implementing your ideas and thoughts, earned by your rich experience, for the benefit of the society and that day the only handicap would be your fading health. Take care of it from now. You must set apart a minimum of 30 minutes time in your everyday schedule for physical exercises, particularly of stretching, which will insulate you against spondylitis and pain of joints which are the common ailments found in the elderly Judges handed down to them by long sittings and wrong postures.

## **Lesson 2: VALUE THE TIME**

The time of a Judge is public time of which he is a trustee. You cannot afford to waste a single minute out of it. Punctuality should be a part of your personality. You must sit in the Court at the appointed time and leave the court at the appointed time. The people present in the court should be able to mend their watches by your sitting and rising time. Late Justice Hidayatullah once said-one who does not believe in punctuality of time does not have faith in the rule of law. If your sitting time in the court is 11 AM you must be in your seat at 59 minutes and 59 seconds past 10 AM. Remember, if you cross the limit of 11 dot then it does not matter whether you sit late by 5 minutes or by 10 minutes. Your day's schedule should be planned on the principle- 'A time for

everything; and everything at its time.' Time and tide wait for none. The time missed or the time wasted is the time lost forever.

### **Lesson3: SIMPLE LIVING**

From whatever background you may have come, having chosen to be a Judge, you and your family members, especially your spouse, must be prepared to make both the ends meet within the limited salary. You must have an yearly and a monthly budget. Therein, try to make a provision for a minimum of 1% of your income being set apart for charity and a provision for purchasing one book, every month or in two months, which should be a classic-either of law or a subject of your choice, so as to develop your own personal library.

### **Lesson4: CHOOSE YOUR COMPANY CAUTIOUSLY**

Though a man is called a social animal and has to live in society the delicate nature of a Judge's duties requires certain degree of aloofness to be maintained by Judges. You having been seated on a seat of power, you would suddenly find many selfish persons and psychopants clustering around you. Be cautious and choosy in selecting your company. Keep a distance from those who praise you on your face and also from those who criticize you behind your back. An honest critic, with courage to tell your shortcomings on your face and in solitude, may be welcome for he is your well-wisher. People will invite you to functions to inculcate a false feeling of elation in you and utilize the platform for coming closer to you, in the eyes of other. A sensible line of distinction has to be drawn while accepting invitations for participation in functions, and in my humble opinion, it is advisable to confine yourself to such activities as are related to law, justice and education or are strictly cultural. In social functions, honour such invitation, which is either intimately personal to you or where all your colleagues are invited and



collectively go. Take care to inquire in advance who are going to be seated on dais with you.

### **Lesson5: READ LITERATURE**

You must develop a temperament of deriving pleasure out of reading. Every case before a Judge is a fascinating tale of human behaviour: sometimes gratifying, and at times disturbing. Learn to gain experience there from without being emotionally involved. Readings in law fascinate you by the feel of the heights, which the human mind can think and achieve. Hon'ble Justice M. N. Venkatachaliah, the former Chief Justice of India told me during one of my personal conversations with him that next to the study of religion and philosophy if there is anything worth studying then it is the legal literature. By studying the law you can attain spiritual heights. The time, which you set apart for reading law, ought to be divided into three parts. There are three types of literature in law which I would strongly advise you to inculcate the habit of reading: (1) the jurisprudential literature consisting of basics, fundamentals and development of theories in the field of law, such-Legal Theory by Friedmann, Nature of Judicial Process by Benjamin Cordozo, Law in the Making by C.R. Allen or Essays in Jurisprudence such as the Commemorative Volumes brought out on Golden Jubilee of Supreme Court of India, New Dimensions of Justice-by Hon'ble Justice J.S. Verma, former CJI and so on. (2) Law Reports, especially the decisions delivered by the Supreme Court of India and your own High Court, and (3) lives of Lord Chancellors and biographies of eminent Judges, jurists and lawyers such as Roses in December by M.C. Gagla, My Own Bosewell by Hidayatullah, My life, Law and Other Things by M.C. Setalvad and so on. You will find plenty of them in law libraries. These biographies and autobiographies will inspire and generate confidence in

you that you can also be Hidayatullah, Chagla and Setalvad. At some point of time each one of them stood at the same place where you are today.

### **Lesson 6: CONTINUING EDUCATION**

The days of your schooling are gone but regretfully I have to tell you that as a Judicial officer you shall have to remain a student throughout your life. The just preceding and the present centuries have witnessed an explosion in the fields of science, industrialization, technology and globalisation. You cannot afford to be a traditional Judge dispensing only civil, criminal and labour law justice. Just look at the sample of disputes which you will be called upon to decide:

- (1) disputes relating to environment and biotechnology,
  - (2) renting a mother's womb and consequential legal puzzles as to paternity, custody and privacy,
  - (3) the right of a child born or yet to be born to mother's milk,
  - (4) theft and other offences referable to time, technology a intellect, and so on.
- The methodology of justice administration is also undergoing changes. Computers have already partially taken over and sharing your mental work and intellectual exercises. Settlement of disputes no more means just recording of evidence and deciding a dispute; you are called upon to mediate and conciliate, may be to arbitrate. All this would need your continuing education in sociology, psychology, human behaviour, information technology and several other sciences and scientific methods posing extra demands on your time and energy. You can plan your weekends or vacations to be invested into learning these. If you lag behind, shining and success would not be yours.

### **Lesson 7: DEVELOP A HOBBY**

Every Judge must have a hobby preferably of reading poetry and/or listening to good music and/or a sport, Poetry titillates your nerves and

inspires. Listening to good music is soothing, enables concentration and avoids monotony. A good sport is a good relaxation and also a source of rejuvenation.

### **Lesson8: BE PROMPT**

An eminent Judge told me once that Indian judiciary, though highly respected by the masses, is losing its credibility for three reasons. The Judges have started compromising on (i) punctuality, (ii) promptness, and (iii) probity. Punctuality and probity I have already referred to earlier. Promptness is expected in pronouncing your decisions. Never delay your judgments. Every judgment need not necessarily be a piece of literature though I would not for a moment agree to compromise on quality. The judgment should be brief and to the point (To learn and pick up the art of brevity and precision and style of articulating judgments, search the law reports and see those written by Privy Council, Nagpur High Court and in recent times by Chief Justice G.P. Singh of the High Court of M.P.) Verbosity and use of high sounding words should be avoided. Judgment should be written in simple, chaste language and must be intelligible to the reader. Your judgments is meant for the litigant whose cause you are deciding and a litigant is not necessarily a learned man. Try to develop a habit of pronouncing the judgment generally by the next day of closing of hearing. Howsoever complicated a case may be and whatever be the length of judgment, it should never cross the coming weekend. For a Judge, a holiday is not an antithesis of work. Holidays and weekends are to be devoted for constructing such judgments as demand a longer sitting than available on the working days. Most of the landmark judgments delivered by the judges of the Supreme Court and High Courts were written in weekends or on holidays. Remember, your every judgment need not necessarily be an outstanding one. So far as the litigant is concerned, he is interested only in the operative part of the order, i.e.

whether he has won or lost the case; whether the suit has been decreed or dismissed. You should master the art of brevity and precision i.e. a capacity to express the maximum thoughts in minimum chosen words. A judgment is not an occasion for delivering sermons or placing your individual philosophical thoughts on record and certainly not for offering scathing criticism. The judgment must be scrupulously confined to dealing with only the points actually arising for decision. If you are faced with a dilemma between choosing a delayed well written judgment and a prompt working judgment, I will prefer to choose the latter. I had occasions to see the careers of some very good, eminent and well deserving judicial officers being spoiled and they demitting the office with a hanging head because they were used to delaying the delivery of judgments. At this juncture let me share a very personal secret with you. Once your judgment is ready and before you pronounce it, place it on the altar of God or the place where you perform worship. Pray that you have constructed the judgment to the best of your ability, knowledge and learning bestowed upon you by God and guided by the sole consideration of doing justice. If your creation reflected in the judgments is something superb it is the reflection of divine blessings and if it has not come up to the expectations let God take care of it. This small exercise would generate a feeling of detachment in you. You will never be a proud person with a swollen head nor a sense of guilt would ever haunt you. You may sometimes suddenly discover that the judgment requires some important change. A small time-gap may then be useful. But treat this as an exception.

**Lesson9: RESPECT AND REVERENCE YOUR COURT ROOM AS A TEMPLE OF JUSTICE**

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Remember, those great Judges who have earlier adorned the seat which you have been destined to occupy today. While entering your courtroom have a feeling as if you are entering a temple to perform worship. This will fill your mind with devotion for duty. While leaving the courtroom think that you are leaving the temple having offered your prayers. This will give you a sense of satisfaction, relaxation and detachment. I am told of a Judge who used to have his daily bath and put on clean, washed clothes just before leaving for the court. Before moving to take his seat on the dais, he would remove his shoes, for he believed that he was entering a temple. People with their sufferings, ailments and sins go to take a dip in the Ganges for getting rid of them and if one commits a sin while sitting in the Ganges he would never be forgiven. Take a vow: temptations, allurements or pressures shall never be forgiven. Take a vow: temptations, allurements or pressures shall never make you compromise with your principles.

### **Lesson 10: A TRIPLE MANTRA**

I tell you a formula given to me by Hon'ble Justice K.K. Verma, a Judge of M.P. High Court, who served judiciary for 32 years; who commenced his career, first, as a teacher and then, as a sub-Judge and rose to the height of a senior Judge of the High Court. To him I had gone to seek blessings on being appointed a District and Sessions Judge. I asked him to reveal the secret of his success so that I may also succeed like him. He gave me three advices: (1) never say anything about anybody in his absence which if asked to repeat in his presence you will not do; (2) never condemn anyone by words spoken and by words written- both at the same time, and (3) discharging administrative or judicial functions, let the justice be never divorced from mercy. These three principles would earn

you love and respect of all concerned and you will never be brought in ridicule.

## EPILOGUE

Despite its frustrations and difficulties, judicial work is, according to Lord Hailsham, 'a privilege, a pleasure and a duty'.<sup>7</sup> You are a Judge. In the performance of your judicial functions and exercise of judicial discretion you are not answerable to anyone except to your own conscience. The Constitution gives you that protection. But at the same time you are a public servant subject to certain rules of discipline. There will be testing times in your career. Your conscience would prompt you to do something for the public good but the limitations attaching with your office may prevent you from giving full vent to your feelings and you will feel suffocated. There will be good moments in your career when you will be filled with a sense of tremendous satisfaction that the might of your pen has proved stronger and sharper than the edge of any sword. In all such moments, learn to maintain your calm and cool, the peace and tranquility of mind and emotions.

Let me tell you a small prayer which I call the prayer of a Judge. Though, you are sitting on the seat of judgment, you cannot change the world. Even God has not been able to fully redeem His own creation- the Universe, from all its evils. You have to serve the society and dispense justice by putting in the best of your ability, knowledge and wisdom. Always feel happy with what you have done and having exerted yourself to your best, have a sense of satisfaction. You have a great potential and the society has high expectations from you. Between what you think yourself capable of doing and what you can actually do, strike a balance. Begin your every day with this prayer:

'Oh God, give me courage  
To change the things I can change;

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Grant me serenity,  
To accept the things I cannot change;  
And the wisdom,  
To know the difference.'

With these words I wish you a very bright judicial career ahead. May God be always by your side and enable you earning several laurels in life.

Thank you.

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### **References**

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- 5. The Judge, Patrick Devlin, pp. 5 & 4**
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- 7. Judges, David Pannick, pp.9-10**