

# **CANONS OF JUDICIAL ETHICS**

## **M. C. SETALVAD MEMORIAL LECTURE**

It is a very great honour indeed to have been invited to deliver a lecture in the series named after Shri M.C. Setalvad who was an eminent advocate and whose work and thought had profound influence on the law of this country.

The life and mission of Shri M.C. Setalvad contributed much in shaping the profession of law and other legal institutions in the independent India. He was a prolific writer and wrote several books. His books 'War and Civil Liberties', 'Justice for the Common Man', 'Law and Culture', 'The Role of the United Nations in the Maintenance of World Peace', 'The Indian Constitution' and several other books show his breadth and depth of vast knowledge and expertise in the field of law and other aspects of human life. He is probably the only Indian who was invited to give the Hamlyn Law Lecture – a prestigious lecture series in the United Kingdom.

After he delivered the Hamlyn Law Lecture at London on October 17, 1960, the Times reported that :-

“The powers of the courts in India in controlling arbitrary action by the administration were more far-reaching than in England, and perhaps he invoked at lesser cost and with greater expedition.”

His autobiography – “My Life, Law and Other Things” – published in 1970 is a book which gives insight into information of various incidents that had happened right from 1919 to 1969.

The legal philosophy developed by him was special relevance and must attract special attention in the era of globalisation.

Shri M.C. Setalvad was born on the 12<sup>th</sup> November, 1884 in Ahmedabad and his early education was there. Later his father shifted to Bombay and he was admitted in the Wilson High School. He passed his matriculation

examination in 1899 and in 1900 he joined the Elphinstone College in Ahmedabad. He passed his LL.B. examination in 1906. By this time his father had already acquired leading legal practice in the original side of the High Court of Bombay and he joined his father's chamber. He became the Advocate General of Bombay in 1937 and served in that capacity till 1942. In 1947 he had the rare distinction and responsibility to represent India at the Radcliffe Commission that set out the determination of boundaries for the provinces of Punjab and Bengal, between India and Pakistan. He was also a Member to the delegation to the United Nations General Assembly that represented the issue of Indian inhabitants in South Africa.

As is also well known he was appointed as the Attorney General of India after the commencement of the Constitution in 1950 and held that prestigious office for 13 long years.

The first Law Commission was headed by him (1955 to 1958) prepared several important reports and findings on issues such as; Liability of the State in Tort, Parliamentary Legislation relating to Sales Tax, Limitation Act, 1908, On the proposal that High Courts should sit in Benches at

different places in a State, British Statutes Applicable to India, Registration Act, 1908, Partnership Act, 1932, Sale of Goods Act, 1930, Specific Relief Act, 1877, Law of Acquisition and Requisitioning of Land, Negotiable Instruments Act, 1881, Income-Tax Act, 1922, Contract Act, 1872, and Reform of Judicial Administration.

There is much that we can learn from Sri Setalvad and his writings. They reflect not just his genius but his intellectual and professional honesty. The principles that he followed in his life are as relevant to us today as they were in his time and we cannot afford to bury them under the guise of pragmatism. We only need to look at Sri Setalvad's life to know that while following the highest of ethical principles we can still attain the greatest success in the profession.

At the outset, I must say that the subject chosen seems to be a permanent one and, therefore, everything which could possibly be said and a great deal more besides, has already been said and repeated in so many different tongues and with so many varying conclusions, and any further observations upon the matter are inevitably either plagiaristic or redundant.

The office of a judge and the respect for his judgments is protected and gains prestige based on the way a judge conducts himself in his public and private life. Following the highest standards of judicial ethics bears importance in today's world as though a judge may have the best ethical fibre he may inadvertently draw himself into disrepute or controversy for the lack of knowledge of judicial ethics. The failure of such a professional obligation could often even pose a threat to the reputation of the judiciary in general. Apart from dealing with his case load a judge is expected to be well versed with the law and procedures, as well as be up to date with the latest legal developments. The time of a judge is also often consumed by administrative responsibilities. However, inadvertence or ignorance of the norms whatever the pressures of time on a judge can never be cited as an excuse.

Therefore, a judge needs to update himself with not only the changes in the law but also constantly keep abreast with judicial ethics. A judge must appreciate that it is a process of continuous education and must

periodically remind himself of the high ethical standards that he is expected to maintain. While following the established practices is always a well accepted path, attending seminars and panels on judicial ethics and sharing ideas with fellow judges at various forums about such practices could also provide a valuable opportunity for sharing of experiences and learning from each other. Apart from providing encouragement to judges to follow such ideals it can also act as a deterrent from unethical conduct.

Just as justice must not only be deemed to have been done but also appear to have been done ethics values must also be appeared to have been practiced. Avoiding impropriety and even a semblance of impropriety and being impartial and diligent in his conduct is a duty that a judge owes to the institution of the judiciary itself as he must be aware that the any slackness on his part could have an impact on the public perception of the integrity of the judiciary and in turn affect the independence of the judiciary. Although it goes without saying that a judge should maintain the highest standards of personal ethics, a judge should not let his standards of personal righteousness, (however high and commendable they may be) come in the way of practicing the required codes of ethical judicial conduct.

New situations and changes in society require us to constantly re-examine and re-affirm our own values. Therefore judges must constantly discuss and evaluate their role and conduct in the light of such challenges and protect themselves from ethical entrapment. They must take on the challenge and establish for themselves a code of ethics that is always ahead of their times thus setting the benchmark for even other organs of the polity to follow.

Furthermore, unless a judge has a firm grounding in judicial ethics and is religious in its practice, he may fail to anticipate the ethical issues and challenges at the right point in time. And thus if a judge is not conscientious he may be unexpectedly confronted with ethical questions at a later point of time causing unnecessary embarrassment that could easily have been avoided.

Thus, a judge must train himself to recognize and anticipate the ethical challenges and confront them and evaluate their own conduct even when no criticism may be raised by litigants, the Bar, or the media.

The time is ripe for an open discussion on ethical challenges faced by judges amongst themselves not only to bring clarity to ourselves but also to further raise the standards of ethical judicial conduct for ourselves and place the Indian judiciary beyond any possible reproach. This would be in keeping with the highest traditions of judicial ethics that the Indian judiciary is known and respected for by our people in comparison to any other branch of the polity. And a judiciary equipped with a strong ethical tradition can never lose its moral strength or stature to dispense justice and is protected from attack from all quarters.

Judges should create an internal forum for themselves where they can come together and discuss new ethical developments and problems. Apart from sharing of their experiences and thus refining their own understanding such a forum would also be suitably placed to set the agenda on ethics to be followed by not just by the judiciary but by other branches as well. It need not be emphasized that a judiciary that enjoys the confidence of its people can be a great source of stability in a vibrant democracy such as ours and continue to play a pivotal role in the maintenance of rule of law. In

the current Indian polity the judiciary is called upon to control and regulate new areas of law everyday and is thus under constant scrutiny. Therefore preserving the highest standards of judicial ethics is critical to the judiciary's continued legitimacy and public acceptance. In the above context, it must be stated that respect for the judiciary cannot be blindly demanded or enforced. True respect can only come through the proper conduct and dispensation of justice by judiciary itself.

If I may borrow the words of Justice J.B. Thomas of Australia :

*“Some standards can be prescribed by law, but the spirit of, and the quality of the service rendered by; a profession depends far more on its observance of ethical standards. These are far more rigorous than legal standards.... They are learnt not by precept but by the example and influence of respected peers. Judicial standards are acquired, so to speak, by professional osmosis. They are enforced immediately by conscience.”*

[Judicial Ethics in Australia, 2d ed. Sydney: LBC Information Services, 1997]

Newly appointed judges must appreciate the fact that they are now part of an institution and that their individual actions could have a bearing on the entire institution. In the public perception, a single wrongful act committed by a judge could often annul much of the credibility upheld by the judiciary. Although the Indian judiciary is known for its high ethical standards, it need not be pointed out that though the media may or may not highlight the personal sacrifices and the generally high levels of ethical conduct maintained by the vast majority of judges, a single infraction by a judge could often be lead to untold damage to entire institution of the judiciary.

**Let me know share with you some of the ethical values that I cherish and I feel are particularly important.**

Public Speech:

Judges must be cautious of their role and responsibilities while engaging in public speech. Law is supposed to be founded upon morality and judges have to do with making law and its interpretation. Hence, the ethical obligation rests harder upon their shoulders. Judges must constantly be aware of their role and position in society and cannot be frivolous in the use of their words. It need not be stated that the words from a judge whether inside or out of the court room carry far more weightage than an average citizen. And while a judge may feel similar frustrations as an ordinary average citizen, they must weigh their freedoms against their ethical obligations as a judge who must not state his views in public over controversial issues that are *sub judice* or likely to be adjudicated upon by courts. In certain case it may also amount to prejudging issues and create needless controversy.

### Public Trust:

A judge must respect and honour his judicial office. It is an institution of public trust and he must endeavor to leave such office with higher respect and public confidence than when he inherited it. Societal equilibrium and faith in rule of law depends on the strength of the dignity of the judicial office. Judges are after all temporary occupants of an office that existed before us and will continue to exist after our exit.

### Family Conduct:

Judges are bestowed with the responsibility of judging the conduct of fellow citizens. Therefore it is only natural that they be expected to make truthful decisions in their own lives. If they succumb to making the wrong choices they lose the moral authority to judge the lives of others. Further, Judges are not only held responsible for their own conduct but also for that of their families. Such relationships may sometimes give rise to complex ethical challenges as they may place additional restrictions on the family members of a judge. Therefore, great caution also needs to be exercised by a judge and his family and friends while conducting themselves. This may even mean that they may have to sacrifice some of their freedoms that they may

have otherwise enjoyed. Wisdom can be gained from the 1972 ABA Model Code of Judicial Conduct which stipulated that; *“A judge should encourage members of his family to adhere to the same standards of political conduct that apply to him.”* Judges must constantly consult each other as well as draw from national and international practices of ethical judicial conduct as no amount of caution can sometimes be sufficient in order to avoid any conflict of interest and uncalled for controversy. Lord Denning in his monumental ‘Freedom under the Law’, discusses about striking a balance between private individual right and public convenience and states; *“the moral of it all is that a true balance must be kept between personal freedom on the one hand and social security on the other.”*

Recusal:

A judge may often encounter situations where a conflict of interest arises or where there is an apparent conflict of interest which may require him to recuse himself from the matter. Bias is one of the factors that may require recusal. While considering the question of bias a judge may have to evaluate not only whether he would indeed be influenced in his decision but also whether he may be perceived as being biased which may weaken

public trust ultimately. Ethical considerations play a decisive role in influencing a judge's recusal from a case.

#### Compassion and Conscience:

Being compassionate as a judge is as indispensable judicial ethic. A judge's metamorphosis from a student of law, to a practitioner and later as a judge often desensitizes us to the gravity and the impact of our work on litigants and the general public. We must resist the tendency to treat a case as a routine matter because for the litigant it is often his first brush with the rule of law, after probably having exhausted all his other available options. And the decision of a judge will undoubtedly alter the course of the litigant's life. Thus while upholding the rule of law if a judge can award a patient hearing to both the parties and be compassionate in his application of law, it often alleviates their suffering and certainly enhances their respect for the judiciary.

A sense of compassion in a judge is not a weakness as is sometimes supposed. It is a reflection of the divine spark within him, for pity is a kind of knowledge wherewith men are reminded of obscure and neglected interests which are of the highest concern to humanity.

Ethical norms are meant to inspire excellence. We are expected to adhere to them not for the fear of penalties but out of our own volition and based upon our own personal values. And although various documents set out general guidelines for us to follow we are also bound by our own inner values which guide us. The compliance of any value or rule and the efficient working of a system is ultimately dependent on the individual's good conscience than legal or societal sanctions.

Avoiding Class Bias:

Speaking of judges, Prof. Griffith in his book 'The politics of the Judiciary' says *"Judges are a product of a class and have the characteristics of that class... The judges define the public interest, inevitably from the viewpoint of their own class."*

The strength of our judiciary also depends on their ability to treat citizens of various religious, social and economic backgrounds without bias or prejudice. A class bias where an individual may be prejudiced against

another individual not because of who he is but 'what' he is also not uncommon in any society. A judge like any other individual must guard against succumbing to such biases.

It is true that no judge worthy of his office would knowingly permit any cloud of prejudice to darken his understanding or to influence his decision. Judge often believes that he has acted with what Edmund Burke called the "*cold neutrality of an impartial judge.*" But this blind faith in his impartiality that he lulls himself into a false sense of security. He has not taken into account the limitations of human nature. The partiality, the prejudice, with which we are concerned is not an overt act, something tangible on which you can put your finger. There is a considerable body of psychological information which demonstrates that impartiality can in general be approximated even less closely than is supposed by skeptics. About the weakness of human mind, Justice Cardozo once said "*Deep below consciousness are other forces, the likes and the dislikes, the predilections and the prejudices, the complex of instincts and emotions and habits and convictions, which make the man, whether he be litigant or judge.*" Judges have to free themselves from this sort of bias.

Hon'ble Bernard L. Shientag, while giving the Third Annual Benjamin N. Cardozo Lecture, has observed :-

“Naturally, it is in cases where the creative faculty of the judicial process operates, where there is a choice of competing analogies, that the personality of the judge, the individual tone of his mind, the color of his experience, the character and variety of his interests and his prepossessions, all play an important role. For the judge, in effect, to detach himself from his whole personality, is a difficulty, if not an impossible, task. We make progress, therefore, when we recognize this condition as part of the weakness of human nature.”

Constitutional Values:

The creative judge's starting point is a belief in a changing or evolving society, in which there is a continuous need for the law to be modified so as to bring it back into touch with social need. He must juxtapose evolving

societal needs with our resilient and visionary Constitutional principles which have stood the test of time.

I may again quote Justice Cardozo. He wrote in one of his lectures on the Nature of the Judicial Process :-

“The great tides and currents which engulf the rest of the men, do not turn aside in their course and pass the judges by. My duty as a judge may be to objectivity in law, not my own aspirations and convictions and philosophies, but the aspirations and convictions and philosophies of the men and women of my time. Hardly shall I do this well if my own sympathies and beliefs and passionate devotions are with a time that is past”.

Although decisions may be reversed by an appellate court, a disadvantage a judge often faces is the lack of feedback on his work. The nature of his work is such that even if he performs his duties to the best of his abilities and follows all procedures and laws he is perhaps going to leave one party less satisfied than the other. Complaints from litigants, praise from lawyers

or writings in the press which could go either way are seldom indicators of the quality of our work. Thus while we self-evaluate our work we must take on the role of becoming one's own critic. We must also look to our peers in the judiciary as well as the academia for an honest evaluation of our work.

People can come to the courts to redress their grievances. It is not only important they are heard, but it is important, they believe they have been heard. Studies show courteous listening may be more important to the party than the result. This technique may take cultivation, but once developed contributes strongly toward the parties' notion that they have received a fair trial.

Quite often there is criticism that judges are not punctual. Once a judge gets the reputation of being late, it is very difficult to change things and the whole system becomes lethargic. There is also serious complaint that judgments are not delivered in time and in many matters arguments have been made months before but judgments are awaited. There is nothing more distressing than the spectacle of a judge who is indecisive, particularly on matters which are mostly routine and which should be

disposed of almost instinctively as intellectual reflexes. The fact that judgments should be delivered within reasonable time will greatly improve the system.

**Let us now briefly examine the approaches followed by various jurisdictions towards judicial ethics.**

## **USA**

The American Bar Association formulated its Canons of Judicial Ethics for the first time in 1924. However, these canons were intended more as guidelines than statutory restrictions and therefore their applicability was limited as they did not address complex ethical issues. Consequently, the Model Code of Judicial Conduct was introduced by the ABA in 1972 to meet these challenges. This Code applies to all officers of the judicial system and non lawyer judges such as town justices and justices of the peace with the exception for part-time judges, judges pro tempore, and retired judges. This Code provides that judges should uphold judicial independence and integrity, avoid impropriety and the appearance of impropriety, and be impartial and diligent in performing their duties. The District of Columbia, the Federal Judicial Conference and as many as 47 states have adopted this code with minor changes. The ABA undertook a revision of the 1972 Code taking societal changes into account and the

new Model Code of Judicial Conduct was adopted by it in 1990. However, in the absence of specific jurisdictions statutorily adopting it, the Code is limited in its applicability.

## **CANADA**

The Canadian Judicial Council which consists of all the chief justices and associate chief justices in Canada was instrumental in the creation of the Canadian Judicial ethical Principles in 1971 to deal with the issue of discipline and education of judges. Interestingly, after extensive debate and consideration including inputs from the Bertha Wilson Committee and the Working Committee of the Canadian Judicial Council, the Judicial Council decided against an elaborate code of ethics based on the American model and in its place adopted the Ethical Principles in 1998.

These principles draw inspiration from the *Magna Carta* which set out that judges well-versed in the law be appointed and from the Act of Settlement, of 1701 that prohibited the arbitrary removal of judges by the crown; thus paving the way for the establishment of an independent judiciary.

The Canadian Judicial Council's "Ethical Principles for Judges" states in its foreword

*"The ability of Canada's legal system to function effectively and to deliver the kind of justice that Canadians need and deserve depends in large part on the ethical standards of our judges.... The adoption of a widely accepted ethical frame of reference helps the Council fulfill its responsibilities and ensures that judges and the public alike are aware of the principles by which judges should be guided in their personal and professional lives."*

It is interesting to draw a brief comparison between the Model Code of Judicial Conduct 1990 of the ABA and the Canadian model. The American Federal Code mainly delves on the following canons:

*Canon 1: A judge should uphold the integrity and independence of the judiciary;*

*Canon 2: A judge should avoid impropriety and the appearance of impropriety in all activities;*

*Canon 3: A judge should perform the duties of the office impartially and*

*diligently;*

*Canon 4: A judge may engage in extra-judicial activities to improve the law, the legal system, and the administration of justice;*

*Canon 5: A judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties;*

*Canon 6: A judge should regularly file reports of compensation received for law-related and extra-judicial activities;*

*Canon 7: A judge should refrain from political activities.*

While the Canadian Ethical Principles has developed five core principles namely, (i) judicial independence; (ii) integrity; (iii) diligence; (iv) equality; and (v) impartiality. Impartiality in the American Code is encapsulated in canons 5, 6, and 7. The American Code is a detailed document and forms the primary basis for initiating disciplinary action for ethical misconduct in comparison to the brief statement of ethical principles adopted by Canada. However, it may be noted that both systems have worked efficiently even though codification of ethical principles in Canada is not as

detailed.

## **AUSTRALIA**

It may also be noted that the Australian 'Guide to Judicial conduct' draws heavily from the Canadian Ethical Judicial Principles as well as from the writings of Justice J. B. Thomas of Australia and Prof. Wood of the University of Melbourne. The Australian guide aspires for high standards of conduct for the community to have confidence in its judiciary. It provides members of the judiciary with practical guidance about conduct expected of them as holders of judicial office and also takes into account the changes that have occurred in community standards over the years. It assumes a high level of common understanding on the part of judges of basic principles of judicial conduct. It also addressed issues upon which there is greater likelihood of uncertainty.

The Australian principles applicable to judicial conduct find foundation in three core values.

- a. To uphold public confidence in the administration of justice
- b. To enhance public respect for the institution of the judiciary and.
- c. To protect the reputation of individual judicial officers and of the judiciary.

The Australian Guide rests on the premise that a judge is primarily accountable to the law which he or she must administer in accordance with the terms of the judicial oath. It also asserts that judges subject to judicial restraints must engage themselves with the community. It asserts that, *“a public perception of judges as remote from the community they serve has the potential to put at serious risk the public confidence in the judiciary that is the cornerstone of our democratic society”* It was noted a majority of Australian judges subscribed to this view.

However, the principles that the primary responsibility of deciding whether or not a particular activity or course of conduct is appropriate or not rests with the judge, though it does strongly recommends consultation with judges and preferably with the head of their jurisdiction.

## **THE BEIJING PRINCIPLES**

Another important document that we must take into account is the Beijing Statement of Principles of Independence of the Judiciary. Though the statement's primary focus is on the independence of the judiciary we must take serious note of it as it must be appreciated that the judiciary can only draw its independence and legitimacy from the ethical stature that it enjoys in polity and society.

The decision to formulate the Beijing statement of principles of the independence of the judiciary was made during the 4<sup>th</sup> conference of Chief Justices' of Asia and the Pacific held in Australia in 1991. The Principles draw inspiration from the Tokyo Principles formulated by LAWASIA Human Rights Standing Committee. This statement has now been signed by 32 countries in the Asia Pacific region. The primary goal of the statement is to leave aside differences in both legal and social traditions and to formulate a unanimous statement on the independence of the judiciary.

It came about primarily because countries were wrestling with the complex challenges legal and judicial reform, including the key question of developing and refining the role and functions of the judiciary.

The Preamble to the statement aptly states that the organization and administration of justice in every country should be inspired by the following principles:

- The Charter of the United Nations that *inter alia* states its determination to establish conditions under which justice can be maintained to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms without any discrimination.
- The *Universal Declaration of Human Rights* that affirms the principle of equality before law, presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

- The *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* that guarantees the exercise of the above rights and the right to be tried without undue delay.

The United Nations and the Council of Europe took into consideration the American and Canadian Models while examining the issue of judicial ethics and prepared the Bangalore Principles of Judicial Conduct to which India is a signatory.

## **BANGALORE PRINCIPLES**

Although the Bangalore Draft Principles of Judicial Conduct were created in 2001 by the judges of the common law and was revised and adopted at the Round Table meeting of Chief Justices held at The Hague in 2002. These principles draw from the 'Restatement of Judicial Values 1999' (which will be discussed later in this paper) as also from the:

- The *Universal Declaration of Human Rights* that recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge;  
as well as the
- *International Covenant on Civil and Political Rights* that guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without delay, to fair and public hearing by a competent, independent and impartial tribunal

established by law;

their main focus is to establish standards for ethical conduct of judges and to provide a framework of guidance to regulate judicial conduct. These principles also enable the members of the bar, the legislature and the citizens to better understand and appreciate the role of the judiciary. These principles are also intended to convey the impression that the judicial conduct is subject to high standards whose compliance is in turn governed in a speedy, systematic and non-arbitrary manner. The Bangalore principles embody the essential principles of independence; impartiality; integrity; propriety; equality; and competence and diligence.

## **THE RESTATEMENT OF VALUES OF JUDICIAL LIFE**

'The Restatement of Values of Judicial Life' was a Charter adopted by Supreme Court in its Full Court Meeting in 1997 with the objective of serving as a guide of judicial conduct for judges. This Charter was also ratified and adopted by Indian Judiciary in the Chief Justices' Conference in 1999 as well as by all the High Courts. Though this Charter is only intended to provide general guidelines and is not

exhaustive in nature, it does set out certain important limitations on the behaviour of judges.

## **OATH**

One need not be reminded that the Judges of the High Courts and Supreme Court are also bound by the Oath that they take from Schedule III of our Constitution. The oath succinctly summarizes core judicial responsibilities in the following words; “*that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill will and that I will uphold the Constitution and the laws.*”

Viewed in this context, the Indian model of judicial ethics draws a fine balance between establishing core principles, setting and adopting national and international guidelines; and following an unwritten code of the highest ethical standards established and crystallized through a rich tradition of judging drawing from our inner-conscience and our cherished constitutional values. Thus, the Indian judicial ethical values must be employed to act as

means of furthering judicial independence in the interests of our citizens rather than as an instrument of superficial criticism.

It is for this reason that the Indian judiciary has established itself as strong, independent, impartial and informed judiciary that is highly respected for its functioning across the world. We, in India, are blessed with a highly ethical judiciary. It need not be emphasized that the good governance and the efficient working of the democratic machinery of a country is heavily dependent upon by the ethical standards or controls that are followed by its judiciary. Thus, it is incumbent upon every individual who is attached to this glorious institution to safeguard this institution and pass on the mantle of justice to future generation of jurists with its glory unblemished.

I may quote the words of Hon'ble Chief Justice Murray Gleeson of the High Court of Australia :-

“Confidence in the judiciary does not require a belief that all judicial decisions are wise, or all judicial behaviour impeccable, any more than confidence in representative democracy requires a belief that all politicians are enlightened and concerned for the

public welfare. What it requires, however, is a satisfaction that the justice system is based upon values of independence, impartiality, integrity, and professionalism, and that, within the limits of ordinary human frailty, the system pursues those values faithfully. Courts and judges have a primary responsibility to conduct themselves in a manner that fosters that satisfaction. That is why judges place such emphasis upon maintaining both the reality and the appearance of independence and impartiality”

We must also note that the judicial system is not free from criticism. Like other public institutions, the judiciary must be subject to fair criticism and if the occasion demands, trenchant criticism. Scurrilous abuse of particular members of the judiciary or attack which questions the integrity of judicial institutions undermine public confidence in the courts and acceptance of their decisions. This does not mean that the court should be immune from criticism. But these critics should keep in mind that the judiciary plays a pivotal role in maintaining the rule of law and those who hold positions of power and influence in the country have a responsibility to ensure that this institution survives and protects the valuable rights of the citizens of this

country. Unwarranted and irresponsible criticism of the judiciary would subvert the judicial independence.

In conclusion if I may quote Prof John S. Hastings, *“It must a conscience alive to the proprieties and the improprieties incident to the discharge of a sacred public trust. It must be conscience governed by the rejection of self-interest and selfish ambition. It must be a conscience propelled by a consuming desire to play a leading role in the fair and impartial administration of justice, to the end that public confidence may be kept undiminished at all times in the belief that we shall always seek truth and justice in the preservation of the rule of law. It must be a conscience, not shaped by rigid rules of doubtful validity, but answerable only to a moral code which drive irresponsible judges from the profession. Without such a conscience, there should be no judge.”*

[At conference on Judicial Ethics in the university of Chicago School of law in 1964.]