

**A Minor Research Project on**

**The Interface between Professional Ethics and Reality of the Cases: The Politics of Domestic Violence Cases and the Style of Functioning of the Courts in the D.K. District**



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## **THE INTERFACE BETWEEN PROFESSIONAL ETHICS AND REALITY OF THE CASES: THE POLITICS OF DOMESTIC VIOLENCE CASES AND THE STYLE OF FUNCTIONING OF THE COURTS IN THE D.K. DISTRICT**

The judiciary that functions on the basis of evidence, witness, professional ethics, legal-judicial bounds and political interference often fails to understand the fact that truths, in certain cases, lay outside all these stipulations. While dealing with the cases, particularly cases related to domestic violence the judicial officers are limited by professional ethics, they may well aware of the fact that the truth of the case that they are handling is otherwise but they would act blindly towards that as they have to discharge their duty of judicial officers fearlessly to uphold the interests of their clients. The possibility of this is particularly more in the lower courts than in the upper courts as the cases of domestic violence are first dealt in these peripheral courts and only later they proceed, if the parties will, to the higher courts. Besides constitutional matters, the influence of the 'local factors' in the judicial recourse are more in these courts than in the upper courts.

It has been argued that 'the qualities of good judicial personnel are the qualities of a good man. There are additional demands on a judicial trail, to be sure-knowledge of the law, professional confinements and a willingness to suspend proceedings and judgment until all the evidence is in. But at last it must be the depth and texture of his humanity that qualify and define the judicial officer'. However, in many occasions owing to the professional morality the judicial persons denounce humanity and truth that place outside the judicial proceedings, i.e. they shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused. As per the judicial norms an advocate should always

remember that his loyalty is to the law, which requires that no man should be punished without adequate evidence. Pragmatically however, his immediate concern is to protect the interest of his client. For that purpose a judicial officer would not by any means, directly or indirectly, disclose the communications made by his client to him to others particularly the judges except the discloser of what would benefit the client.

Those who appear before a judge for justice do not really know before whom they stand. The persons who preside over the courtroom, cloaked in the solemn black robes of their office, and other judicial professionals are in that moment less individuals than symbols of judicial-legal texture. It is the hope of all, and the conviction of most, that these individuals will do their job well; dispensing what is perhaps our most precious social good-justice. Yet, in most respects, judges and the black coated officers remain anonymous to those who stand as accused and present there to witness the exploration of the fact. What no one knows, what no one is even permitted to ask, or allowed to collect, is the characters of the persons wearing the robe and the ways in which those individual's personal qualities will affect the performance of their duties.

The influence, focus and consideration of the real fact behind the cases registered as domestic violence in the judicial proceedings is less compared to considerations of professional ethics and the judicial tracks in which they have to move. The courts that are functioning in the Dakshina Kannada District are unique in themselves in dealing with domestic violence cases ever since their establishment in the year 1827 when local civil and criminal courts came into existence and particularly with the enactment of Family Courts Act in the year 1984 and their establishment in this district, besides two Fast Courts in

Mangalore and Puttur, in 2011 with a view to promote conciliation and speedy settlement of disputes relating to marriage and family affairs and for matters connected therein.

This is a study in the encounter between the professional ethics of the judicial officers including judges and humanity on the one hand and the real truth of the cases which lays outside or behind the bar of the judicial excavation on the other. The study would be confined to the D K courts in dealing with domestic violence complaints. Apart from this the study will also focus on the distinction between the ethics of the practice of judging and the ethics of malpractice; the latter, of course, is the primary subject of 'The Canons of Judicial Ethics', which parallels other professional 'codes of conduct' in spelling out ethical standards for the judicial profession and the sanctions to be imposed on those who violate those standards. I would also concern with the professional challenges that judges and other judicial functionaries face when they are acting entirely within the bounds of their professional duties-an issue much less frequently discussed in academic subjects and professional arenas but arguably of much more general significance. To do so it will be necessary to explore the professional-moral dimensions of judicial dealings as these are experienced in the daily lives of practitioners, to uncover the professional morality inherent in the practice of judicial proceedings. In particular, it is my hope to reveal some of the ways in which professional ethics and experience influence the professional lives of trial court judiciary and so to contribute in a modest way to understanding their professional ethics transgressing their personal values and the facts of the cases.

In this study, observations would be made on several issues such as professional ethics of the judicial officers, constitutional and legal bounds, personal values, political

manipulations and segregated and suppressed facts of the cases. For this purpose extensive interviews will be conducted about their personal and professional ethics. While the specific views that they would express may or may not be widely shared by others in the profession, their reflections would provide an accurate window into the world of judging and judicial-legal proceedings, especially some of the professional ethical issues that judges and judicial representatives face. Finally, this study would attempt to highlight the lacunas of the judicial dealings besides emphasizing how overemphasis on professional ethics in judicial courses affects unearthing the 'reality' of the cases.

### **OBJECTIVES OF THE STUDY :**

This is a study of The Interface between Professional Ethics and Reality of the Cases: The Politics of Domestic Violence Cases and the Style of Functioning of the Courts in the D.K. District. Its specific objectives are

- It is an attempt to meet one of the rare demands in the field of Judiciary.
- It also tries to understand the way the judiciary works in Dakshina Kannada District particularly related to Domestic Violence.

### **METHODOLOGY :**

The proposed project is largely based on primary data and observations would be made on several issues such as professional ethics of the judicial officers, constitutional and legal bounds, personal values, political manipulations and segregated and suppressed facts of the cases. For this purpose extensive interviews will be conducted about their personal and professional ethics.