



CANONS OF JUDICIAL ETHICS (2005). By Justice R.C. Lahoti. Universal Law Publishing Co. C-FF-1A, Dilkush Industrial Estate, G.T. Karnal Road, Delhi-110033. Pp. 94. Price: Rs.95/-.

THE JUDICIARY has, by and large, retained its image as one of the few institutions of the country, which is still above the rot that prevails in most organs of governance. And yet, past few years have not been easy on the image of the judiciary. Whispered accusations to full-blown scandals of the late 80s and 90s have sown the seeds of doubt even in the minds of the most ardent believers in the integrity of judiciary, including senior members of the bar, former members of the bench, the parliamentarians as also the common man on the streets. The consequent demand for accountability from all sections has given rise to a raging debate between supporters of judicial self-discipline on one hand and voices for external, independent mechanisms on the other.

The book under review¹ is chiefly a lecture delivered in 2005 (ordained as the year of excellence in judiciary) by the (then) Chief Justice of India, R. C. Lahoti J on the occasion of “First M.C. Setalvad Memorial Lecture”. Lahoti, CJI paid his tributes to the legendary figure of Setalvad by this remarkable exposition on judicial ethics. The lecture sets off with brief anecdotes about Setalvad; anecdotes that serve to impress reader that ethics cannot be learnt and taught by listening and teaching but by practicing and emulating. And yet, a need for a more formal codification arises out of a need for standards. “Each judge should not be left to determine for himself what is and what is not proper. A uniform standard assists materially in the right administration of justice.”² Another utility of codified set of ethics is the role they can play as standards to which members of the judiciary must be held.³

The lecture introduces the audience to the concept of judicial ethics, the meaning and need for judicial ethics and the early attempts at codifying them. The important role performed by the judiciary in a democratic society like ours, full of diversities and clashing interests, emphasizes the importance of integrity and public acceptance of the

1. Justice R.C. Lahoti, *Canons of Judicial Ethics* (2005).

2. George A. Malcolm, *Legal and Judicial Ethics, Lawyers Cooperative* 199 (1949).

3. *Supra* note 1 at 12.



judiciary. A brief discussion on the early attempts at codification follows, glancing over a period that spans from the wisdom of *vedic*-era and *Bhagavad Gita*⁴ to the nineteenth century guidelines by Lord Hale.⁵

The discussion moves on to more contemporary documents bearing on judicial ethics: the Restatement of Values of Judicial Life, The Bangalore Draft Principles and the Oath by a Judge. In 1997, the Supreme Court of India adopted a charter named the Restatement of Values of Judicial Life, which was ratified in the Chief Justices' Conference held in 1999, the Golden Jubilee year of the Supreme Court of India. The restatement was considered to be a set of code and norms to be observed by judges in their conduct both on the bench and off the bench to maintain the integrity of the judiciary and the confidence of people in the judicial system. Indeed, the set of sixteen principles that follow from the restatement are salutary guides of conduct and embody a self-discipline at the level of the bench; their utility further evidenced by the important role played by these principles in the formulation of the international Bangalore Draft Principles of Conduct of 2002.⁶ The principles, however, are not without their share of ambiguities and should make a case for debate and discussion amongst members of the legal fraternity and students of ethics. While Lahoti CJI refrained from undertaking any elaborate discussion on the restatement, that is more than made up as he sets about on the task of analyzing the judge's oath under the Constitution of India. The oath, according to him, is nothing but a mode of achieving the goals set by the preamble. The CJI considers the oath as a complete code in itself and elaborates the concepts of "allegiance" and "true faith" in the backdrop of the duties that the sacrosanct office demands of its occupiers. The concept of independence of judiciary is closely dealt alongside a judge's commitment to constitutional beliefs affirmed to him on taking office. Impartiality, independence, objectivity and honesty from within are highlighted as a *sine-qua-non* for an independent judiciary. Just as the work tends to slide towards 'teaching by words', the CJI again refreshes the reading with short, but memorable, anecdotes from P.B. Gajendragadkar J his apparent reluctance for attending dinner invitations and the less apparent motivations of the hosts of such gatherings! Another passage from V.R. Krishna Iyer J⁷ further emphasizes the need to practise a degree of aloofness by a judge as personal visits to judges' residences under innocent pretexts are fraught

4. *Id.*, "The Concept of Judgeship in Gita" at 20.

5. *Id.*, "Things Necessary to be continually had in remembrance" at 18.

6. A complete, revised draft of these principles is *available at*
http://www.ajs.org/ethics/pdfs/Bangalore_principles.pdf

7. *Supra* note 1 at 40.



with grave dangers. Here, Lahoti CJI prescribes a fine balance, such that a judge remains beyond inducements and yet, is not so secluded as to lose touch with the realities of society. The passage gives a sense of the price a judge may have to pay in his private life for complete integrity in his public life. The author seeks to underline the belief that values of courage, honesty and integrity in a judge form the very basis of judicial independence and would enable him to withstand external interference and pressures through the sheer force of his inner convictions.

The latter portions of the book are enriched with select passages by Fali S. Nariman⁸, Jai Mukhi⁹ and excerpts from M. C. Setalvad's autobiography.¹⁰ Fali S. Nariman, penning the introduction of Setalvad's autobiography, fondly remembers him as a "great lawyer and a great advocate"¹¹ and recalls the force of his personality through his exchange with Setalvad in *St. Xavier College's* case.¹² Jai Mukhi, who had the good fortune and honor to work with Setalvad as his junior from 1961 to 1973 presents various facets of his personality, honesty, integrity, humility as also his fondness for restaurants, outings, drives and Friday evening movie shows!

The excerpts from Setalvad's autobiography make a good reading presenting the highlights of development of the legal profession in the country from the point of view of one deeply involved in the work. Brief passages cover the inauguration of the Supreme Court and Setalvad's speech as the first Attorney General of India, highlighting even then the complex task to be performed by the apex court and the need of impartiality and independence of the bench. The passage titled the "Bar Association of India" presents the ideas and objectives behind the formation of an All India Bar Association, as Setalvad recalls his speech at The All India Law Conference held at the Indian Law Institute, New Delhi in March, 1959.¹³ The closing parts of the excerpts contain Setalvad's reminiscences of the completion of his fifty years at the Bar.¹⁴ The glowing words of felicitations on this occasion and the tributes by Lahoti J, Fali Nariman and Jai Mukhi, impress one with the respect and fondness he earned from those who came in touch with him; someone

8. *Id.* at 49, "Tribute by Fali S. Nariman" from *Introduction to My Life - Law & Other Things*.

9. *Id.* at 58, "Remembrance of a Grand Person" by Jai Mukhi.

10. *Id.* at 64, "Some Excerpts From M.C. Setalvad's Autobiography, *My Life-Law & Other Things*.

11. *Id.* at 55.

12. AIR 1974 SC 1389.

13. *Supra* note 1 at 77

14. *Id.* at 84



“who practised more than he cared to preach”¹⁵ and a model to be emulated.

This book is an invaluable work not only for the members of the bench and the bar as canons of conduct on and off the bench but it is also a basic book for undertaking any serious study by a scholar on judicial ethics in India.

*Atul Singh**

15. Jai Mukhi, *id.* at 60.

*LL.M. Scholar, The Indian Law Institute, New Delhi.