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An Analytical Study on Legal Professional Duty and Religious Morality

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Abstract

The refusal of the **Ayodhya Bar Association** to represent the accused in the alleged Ram Mandir donation embezzlement case has generated an important constitutional and ethical debate. **The controversy raises a fundamental question: whether religious sentiments can override the constitutional guarantee of legal representation and the professional obligations of advocates.** This article analytically examines the issue in light of **Articles 14, 21, 22 and 39A of the Constitution of India, Section 303 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the Bar Council of India Rules, and the Principles of Natural Justice.** It argues that while religious sentiments deserve respect, they cannot supersede constitutional rights, the rule of law, or the independence of the legal profession.

Keywords: Legal Profession, Religious Morality, Constitutional Rights, Natural Justice, Article 22, BNSS, Bar Council of India, Fair Trial.

Introduction :-

On **29 June 2026 (Monday)**, an emergency meeting of the **Ayodhya Bar Association** was convened, where its President, **Kalika Prasad Mishra**, declared that any advocate representing the accused in the alleged Ram Mandir donation embezzlement case would be subjected to a fine of **₹5 lakh**. Consequently, the Association resolved that none of its members would appear on behalf of the accused.

This decision has sparked a nationwide debate, dividing public opinion between those advocating for the protection of constitutional rights and the principles of natural justice, and those seeking to uphold religious sentiments. The controversy raises significant constitutional, ethical, and professional questions concerning the duties of advocates and the administration of criminal justice.

Background of the issue

The Ram Mandir donation embezzlement case revolves around the allegations of massive financial irregularities, theft of devotee offerings and corruption involving temple staff and trustees.

Allegations: Allegations of crores of rupees been diverted from the funds of Ram Mandir, Ayodhya, prompting an official investigation. Further the probe revealed unauthorized collection mechanism of donations and funds. Some assets such as valuable offerings such as ornaments of gold, silver and diamonds along with cash have been found hidden in the cow dungs of the suspects.

Arrests and Seizures: At least 8 individuals involved in the cash and valuable counting process have been arrested.

Resignations: High ranking officials of the Shri Ram Janmabhoomi Teerth Kshetra Trust, including

Backlash: The subsequent decision of the Ayodhya Bar Association refusing legal representation to the accused and imposing a proposed fine of ₹5 lakh upon any advocate who accepts such a brief.

SPECIAL INVESTIGATION TEAM(SIT)

A three-member Special Investigation Team (SIT) appointed by the Uttar Pradesh government is investigating the siphoning of temple funds and valuables.

Recommendations of the SIT:

- The investigating team has recommended a comprehensive overhaul of temple management.
- Appointment of a professional Chief Executive Officer (CEO).
- Replacement of the uniforms of counting staff with pocketless garments to minimize the possibility of theft.

Legal Issues

The declaration made by the Ayodhya Bar Association raises an important constitutional question: **What deserves greater protection—constitutional rights and the principles of natural justice, or religious sentiments?**

The investigation by the Special Investigation Team remains pending. Until a competent court records a finding of guilt, no individual can legally be treated as guilty. Prematurely portraying an accused person as conclusively culpable undermines the constitutional presumption of innocence and the guarantee of a fair and impartial judicial process.

ARTICLE 22: Protection of the Right to Consult and Be Defended by a Legal Practitioner

Article 22(1) of the Constitution of India guarantees that every person who is arrested shall have the right to consult, and to be defended by, a legal practitioner of their choice.

This constitutional safeguard ensures effective legal representation from the earliest stage of arrest and detention, thereby protecting the individual's right to a fair procedure, preventing arbitrary exercise of State power, and upholding the principles of natural justice and due process. Safeguarding one's right to consult a legal practitioner.

SECTION 303(BHARTIYA NAGRIK SURAKSHA SANHITA): STATUTORY RIGHT- LEGAL RIGHT TO DEFEND

An accused person who is produced before a court from judicial or police custody for the purposes of trial may, in the absence of effective **legal representation**, be unable to adequately assert or **safeguard their legal and constitutional rights**. This concern assumes particular significance in cases involving offences relating to religious sentiments or other matters that have generated heightened **public or communal sensitivities**. In such circumstances, the accused may face a credible **risk of retaliation**, including threats, **physical assault**, or **mob violence** by individuals or groups claiming to have been aggrieved by the alleged offence.

A legal representative plays a vital role in ensuring that the accused is able to effectively exercise all procedural and substantive rights guaranteed under law. Where circumstances so warrant, counsel may move the court for appropriate protective measures, seeking:

- enhanced police protection,

- secure transportation,
 - appropriate directions from the court, and
 - permission for participation through video conferencing where legally permissible,
- thereby **minimizing personal security risks** while ensuring the **accused's right to a fair trial** is fully protected.

CODE OF PROFESSIONAL CONDUCT OF ADVOCATES

This incident not merely interrupts with the Legal Rights of a person or The Principles of Natural Justice but also imposes a **big question mark on the Professionalism of the advocates**.

Under the **Advocates Act, 1961**, read with the **Bar Council of India Rules**, an advocate is under a professional obligation not to refuse a brief or withdraw from representing a client solely on the basis of the nature or merits of the case, subject to the recognized exceptions provided under the Rules. Any unjustified refusal to accept or continue representation on such grounds may amount to **professional misconduct**, rendering the advocate liable to disciplinary proceedings in accordance with law.

BCI Rules on an Advocate's Duty Towards the Client:

Bound to accept briefs: An advocate is bound to accept any brief in the courts or tribunals or before any other authority in or before which he proposes to practice. He should levy fees which is at par with the fees collected by fellow advocates of his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.

PRINCIPLE OF NATURAL JUSTICE: RIGHT TO A FAIR HEARING

(AUDI ALTEREM PARTEM)

This dictates that **both parties must be heard**, ensuring that no one is condemned unheard.

The second principle of natural justice literally means "**to hear the other side**".

This is necessary for providing a **fair hearing** and no doubt the rule against bias would also be a part of the procedure.

A corollary has been deduced from the above rule, particularly the Audi alteram partem rule, namely "*qui aliquid statuerit parte inaudita alteram actquam licet dixerit, haud acquam*".

facerit", that is, 'he who shall decide anything without the other side having been heard, although he may have said what is right, will not have been what is right' or in other words, as it is now expressed, 'justice should not only be done but should manifestly be seen to be done.'

The concept has gained significance and shades with time. When the historic document was made at **Runnymede** in 1215, the **first statutory recognition** of this principle found its way into the "**Magna Carta**". The classic exposition of **Sir Edward Coke** of natural justice requires to "**vocate, interrogate and adjudicate**".

In the celebrated case of **Cooper v. Wandsworth Board of Works [(1863) 143 ER 414]**, the principle was thus stated:-

"Even God did not pass a sentence upon Adam, before he was called upon to make his defense. "Adam" says God, "where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat".

It says that **no one should be condemned unheard**. It is after all an approved rule of fair play. When it is said that hear the other side. It means that hearing should not be reduced to mere formality and it does not remain confined to only auditory hearing. It should be **effective hearing**.

Effect of the Ayodhya Bar Association's Resolution on the Independence of the Legal Profession

The declaration issued by the Ayodhya Bar Association refusing to represent the accused has the effect of exerting **undue professional pressure upon advocates**. Such a resolution creates an atmosphere in which legal practitioners may feel **compelled to refrain** from accepting the accused's brief, despite their **professional and constitutional duty** to provide **legal representation**. This form of collective pressure undermines the independence of the legal profession, interferes with an advocate's freedom to accept a client without fear or coercion, and impairs the accused's constitutional right to **effective legal representation and a fair trial**. Consequently, such actions not only discourage members of the Bar from discharging their professional obligations but also threaten the administration of justice by compromising the fundamental principle that every accused person is entitled to legal counsel, irrespective of the nature of the allegations or the public sentiment surrounding the case. Although an advocate ordinarily retains the discretion to accept or decline a case, a collective resolution by a Bar Association may create an environment of coercion in which members fear professional isolation,

disciplinary consequences, or social ostracism for representing the accused. This approach is inconsistent with the fundamental principles governing the legal profession. Such collective pressure undermines:

- the independence of the Bar;
- an advocate's professional autonomy;
- the constitutional right of the accused to effective legal representation; and
- the fair administration of criminal justice.

An advocate is an officer of the court whose foremost duty is to uphold the rule of law and ensure that every person, irrespective of the nature of the allegations against them, receives competent legal representation. The administration of criminal justice is founded upon the principle that **every accused person is presumed innocent until proven guilty through a fair and impartial judicial process**. Denial of legal representation, whether directly or indirectly through collective pressure, strikes at the very foundation of this principle.

CONCLUSION

The right to legal representation is an indispensable component of the administration of criminal justice and is intrinsically linked to the guarantees of equality before the law under Article 14, protection of life and personal liberty under Article 21, Right to be represented under Article 22, and the constitutional mandate of free legal aid under Article 39A of the Constitution of India.

The statutory framework under the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** further recognizes the accused's right to be defended by an advocate of their choice and empowers criminal courts to adopt appropriate procedural measures, including the use of electronic means such as **video conferencing** where authorized by law. Read together with **Articles 14, 21, 22 and 39A of the Constitution**, these safeguards impose a **positive obligation** upon the State to ensure not only that justice is administered fairly, but also that an accused person is not exposed to avoidable risks to life or bodily integrity while participating in criminal proceedings.

SIGNIFICANCE OF THE ARTICLE

This article examines the constitutional and professional issues raised by the Ayodhya Bar Association's refusal to represent the accused in the alleged Ram Mandir donation embezzlement case. **Though rooted in a specific controversy, it raises broader questions about public sentiment, legal ethics, and criminal justice.**

It shows that the right to legal representation is a constitutional guarantee under Articles 14, 21 and 22, supported by Article 39A, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bar Council of India Rules. Denial of representation can therefore weaken the rule of law and the fairness of criminal proceedings.

The article also explores the tension between religious sentiment and the independence of the legal profession. It argues that public emotions cannot override constitutional rights or an advocate's duty to ensure access to justice.

It further notes that collective resolutions imposing financial or professional pressure on advocates may amount to indirect coercion, discouraging them from taking up briefs and undermining the accused's right to effective representation.

The article also addresses the practical difficulties of defending accused persons in sensitive cases, including the need for security, protected transit, or video conferencing where permitted. This highlights the role of legal representation in **safeguarding life, liberty, and access to justice.**

Ultimately, the article reaffirms that the **presumption of innocence, the right to a fair hearing, and the independence of the Bar are essential to constitutional democracy. Justice must rest on constitutional values and due process, not public outrage or religious sentiment.**

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