

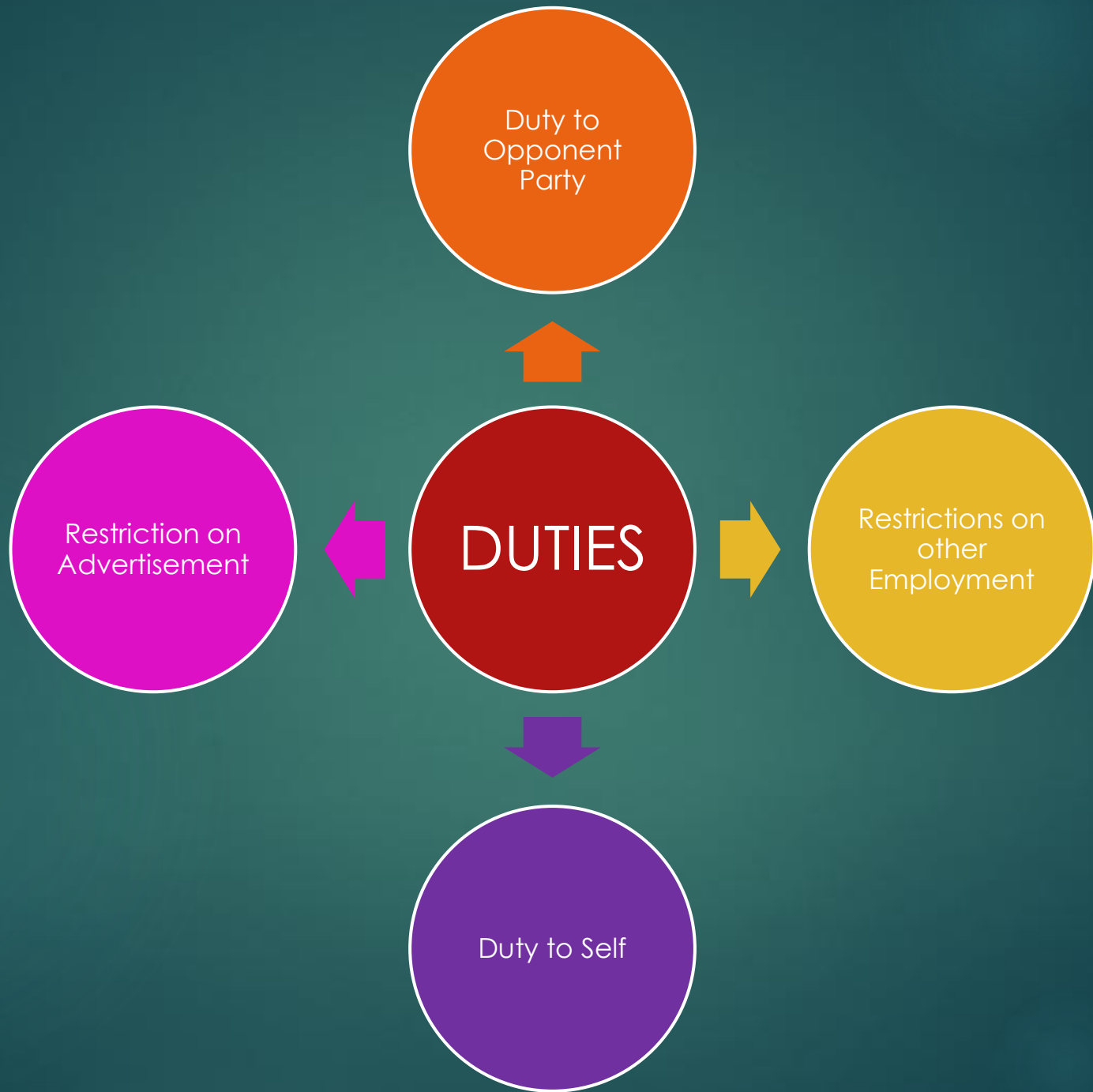
PROFESSIONAL ETHICS

SEMESTER- VIII (B.Com LL.B.)

DATE- 15.04.2020

SUBJECT- Professional Ethics, Accountability for Lawyers & Bar Bench Relation (Clinical Course)

TOPIC- Duties of an Advocate (Part 4)



DUTY TO OPPONENT PARTY

(Rule 34 & 35)

Rule 34 & 35 deals with the duties of an Advocate to the opponent party. They are as follows.

1. Rule 34 provides that an Advocate shall not in any way communicate or negotiate upon the subject matter of dispute with the opposite party directly. For any reasons, If we want to communicate anything then it should be done through his Advocate.

2. Rule 35 provides that an Advocate shall do his best to carry out all legitimate promises made to the opposite party. Even if such promises are not in writing or not enforceable under the rules of the court, he must try his level best to perform his promises.



3. He shall not use unfair and malicious tactics against the opponents.

4. He shall not abuse the rules of evidence and the process of the court in order to injure the opponent.

5. He shall not make baseless attacks on the reputation of the opponent or his witness or unduly harass them.

6. He may make concessions to the convenience of the opponent and his lawyer in fixing the date of trial.



RESTRICTION ON OTHER EMPLOYMENTS

Bar council of India Rule-40 restricts the Advocates not to personally engage in any other business other than the legal profession.

The reason for this restriction is that he should fully concentrate in the legal profession and elevate it to the high stand . If he is allowed to do other business then that may lower down the standard of this profession. If he join as a full time salaried employee either in the Government or in the private sector he must request the Bar Council to remove his name from the Advocates Roll.

Though there is general restriction on other employment, there is no restriction for engaging himself in the following works.

He can be a Sleeping partner in a business, if in the opinion of the State Bar Council that business is not inconsistent with the profession.

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1. An Advocate who has inherited a family business shall continue it, but he shall not personally participate in the management of the business.
 2. He shall engage himself in writing Law Books.
 3. He shall join as a part-time Law Teacher or any other part –time job which may not be inconsistent with the legal profession. The part-time job should not exceed more than 3 hours in a day.
 4. He shall prepare question papers for the Exams.



5. He shall review parliamentary Bill for a remuneration.

6. He shall act as a member of the parliament or Member of the State Assembly.

7. He shall study Post Graduate course in Law without suspending his practice.

DUTY TO SELF

Legal profession is the noble profession. The degree of standard expected from the lawyer with respect to his knowledge, skill and ability is so high. So, an Advocate should follow the following duties as duty to self.

1. An Advocate must develop the habit of systematic study of law and acquire up-to-date knowledge in law.
2. He shall exercise prudence, deligience and judiciousness in all his activities.
3. He shall never be a party to anything which he known to be wrong.
4. He shall not stir up litigations.



5. He should discourage vexations (groundless)litigation.

6. He shall encourage compromise between the parties.

7. He shall not indulge in any act which amounts to professional misconduct.

8. He should not do any act which amounts to contempt of the court.


9. He must be fair and honest in his dealings.

RESTRICTION ON ADVERTISEMENT

Rule 36 of Bar Council of India restricts the Advocates not to advertise about the profession. This restriction is imposed because Advocate profession is the noble profession. Due to this restriction Advocates are banned to do the following things.

1. Directly or indirectly advertise about their profession.
2. Publishing his photo along the news regarding his appearance in a case.
3. Circulation of pamphlets or giving advertisement with a view of soliciting case.

His name board should be small and in prescribed size. In the name board the following matters should not be mentioned.

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1. Information relating to his membership in Bar Council or post in the Bar Association.
 2. Information about the specialization in a particular branch of law.
 3. Information about Ex-Judicial Officer or Ex-Government Advocate.
 4. Information about his membership in other associations.

Making advertisement against the above said restrictions will be treated as professional misconduct.

THANK YOU !!