



# **Elements of Judicial Behaviour- Ethics, Neutrality and Professionalism**

**By: Justice U.C. Dhyani**

# BANGALORE PRINCIPLES OF JUDICIAL CONDUCT

- Judicial Independence
- Impartiality
- Integrity
- Propriety
- Equality
- Competence and Diligence

# JUDICIAL TEMPERAMENT


- Neutral
- Impersonal
- Detached
- Disinterested
- Dispassionate
- Not according to some personal Disposition


# PRINCIPLES OF NATURAL JUSTICE


- Audi Altrem Partem
- Nemo judex in Causa Sua
  - Arbitrariness
    - Bias
    - Prejudices
  - Jaundiced Eye

# E.M.S. Namboodripad v. T. Narayanan Nambiar 1970 (2) SCC 325


- “3. The offending parts of the Press Conference will be referred to in this judgment, but we may begin by reading it as a whole. This is what was reported :
- Marx and Engels considered the judiciary as an instrument of oppression and even today when the State set up his (sic) not undergone any change it continues to be so, Mr. Nambudiripad told a news conference this morning.


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- He further said that Judges are guided and dominated by class hatred, class interests and class prejudices and where the evidence is balanced between a well dressed pot-bellied rich man and a poor ill-dressed and illiterate person the judge instinctively favors the former, the Chief Minister alleged.
  - The Chief Minister said that election of Judges would be a better arrangement, but unless the basic state set up is changed, it could not solve the problem.


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- Referring to the Constitution the Chief Minister said the oath he had taken was limited only to see that the constitutional provisions are practiced. 'I have not taken any oath' the Chief Minister said "that every word and every clause in the Constitution is sacred".
  - Before that he had also taken an oath, Mr. Nambudiripad said, holding aloft a copy of the Marxist party's programme and read out extracts from it to say that the oath had always held that nothing much could be done under the limitations of the Constitution.


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- Raising this subject of Constitution and judiciary suo motu at the fag end of his Dews conference the Chief Minister said so many reports have appeared in the press that Marxists like himself, Mr. A. K. Gopalan, and Mr. Imbichi Baba (Transport Minister) were making statements critical of the judiciary "presumably with the idea that anything spoken about the court is contempt of court".




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- His party had always taken the view, the Chief Minister said that judiciary is part of the class rule of the ruling classes. And there are limits to the sanctity of the judiciary. The judiciary is weighted against workers, peasants and other sections of the working classes and the law and the system-of judiciary essentially serve the exploiting classes. Even where the judiciary is separated from the executive it is still subject to the influence and pressure of the executive. To say this is not wrong.

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- The judiciary he argued was only an institution like the President or Parliament or the Public Service Commission. Even the President is subject to impeachment. After all, sovereignty rested not with any one of them but with the people. Even with regard to Judges confidential records are being kept why ? The judge is subject to his own idiosyncrasies and prejudices.


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- "We hold the view that they are guided by individual idiosyncrasies, guided and dominated by class interests, class hatred, and class prejudices. In these conditions we have not pledged ourselves not to criticise the judiciary or even individual judgments."


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- This did not mean, he explained that they could challenge the integrity of the individual judge or cast reflections on individual judgments, the Chief Minister contended.
  - He did not subscribe to the view that it was an aspersion on integrity when he said that judges are guided and dominated by class hatred and class prejudices. "The High Court and the Supreme Court can haul me up, if they want" he said".


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- **Morals and Ethics**  
**Vegetative state**  
**Passive Euthanasia**



**Insulated Judiciary**  
**Defence lawyer - Murder**

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- Promptness is Vital
  - Follow Precedents
    - Strictures

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- Courts are the Slaughter houses of reputation ( on cross examination)
  - Judge: Rastus (Negro) Do you know what happens to you if you tell a lie?
  - Negro--- I go to hell and am burnt forever
  - Judge--- What happens to you if you tell the truth
  - Negro--- I lose the case!

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- Jurimetrics----- Have a computer machine, feed the data of case law and get the answer?

How can you trust on the moral sense of a machine?

- Hearing without determination

Determination without hearing



# CROSS EXAMINATION

- Counsel: Is it a fact that you are sharing your apartment with a woman.
- Witness: Yes, that is a fact.
- Counsel: I put it to you that woman is not your wife.
- Witness: No, she is not my wife.
- Counsel: I put it to you that woman is not your Mother.
- Witness: No she is not my mother.
- Counsel: She is not your daughter either.
- Witness: She is not my daughter.
- Counsel: Nor your Sister.
- Witness: No, She is not my sister.
- At this point the counsel stated that he has no further questions to ask. While witness was leaving the witness box the judge asked him, “Who is that women?”
- Witness: She is my grandmother.

# PROFESSIONALISM

- ❖ Attitude
- ❖ Skills
- ❖ Knowledge



• **THANK YOU**