

ETHICAL CONUNDRUMS IN JUDGING

Justice C. V. Karthikeyan



Ethical Foundation

- Understanding struggle for freedom.
- Constitutional Values.
- Understanding India at 75.



Constitutional Vision of Justice

- Social, economic and political.
- Justice – Jus + Stice = Code of conduct which is constant.
- Restoring equality.
- Acknowledgement of suffering.
- Securing justice.

Bangalore Principles of Judicial Conduct

- Independence.
 - Impartiality.
 - Integrity.
 - Propriety.
 - Equality.
 - Competence.
 - Diligence.
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Ethical Judicial Decision-making

- Capacity to understand a situation.
- Taking proper action.
- Learning from mistakes.
- Intelligent reasoning.
- Drawing a better conclusion.

BHAGAT RAJA VS UNION OF INDIA & Others

AIR 1967 SC 1606

“It goes without saying that both the High Court and this Court are placed under a great disadvantage if no reasons are given and the revision is dismissed curtly by the use of the single word "rejected", or, "dismissed". In such a case, this Court can probably only exercise its appellate jurisdiction satisfactorily by examining the entire records of the case and after giving a hearing come to its conclusion on the merits of the appeal. This will certainly be a very unsatisfactory method of dealing with the appeal.”

Ethical Dilemmas in Judging

- Independence as the *sine qua non* of judicial ethical integrity.
- Upholding rule of Law.
- Decisional independence.
- Institutional independence.

Decisional Independence

- Ability to render a judgment without social prejudice or personal bias.



Institutional Independence

- Structural autonomy of judiciary.
- External regulation of judicial conduct.

Peripheral Pressures

- General pervasiveness of corruption in society.
- Social media and its influence.

Core Professional Pressures

- Caste, culture, creed and language.
- Go safe syndrome.
- Seeking adulation.

Accountability

- Accountable for decisions contrary to Constitutional or legal standards.
- Sensitivity to promote constitutional vision of justice.
