

ROLE OF THE BAR COUNCIL IN INDIA

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BEST CITATION – VIBHUTI ARORA, ROLE OF THE BAR COUNCIL IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (12) OF 2025, PG. 524-531, APIS – 3920 – 0001 & ISSN – 2583-2344

Abstract

The Bar Council of India was created according to the Advocates Act of 1961 and serves as the main group that looks after the legal profession in the country. Its job is to decide who can become a lawyer, set high standards for how lawyers should behave, and make sure that all legal professionals follow the rules. This paper talks about how the Bar Council operates, the power it has, and how it helps shape the legal system in India.

The research explains that to practice law in India, a person must be registered with a Bar Council. It also examines the history of this system and how it has evolved. The paper describes the structure of the Bar Council of India and the State Bar Councils, including their roles, responsibilities, and areas they control. Another part of the study looks at how the Bar Council helps keep lawyers' behavior in check, ensures that legal education meets high standards, and supports the well-being of legal professionals.

The paper pays special attention to the rules and procedures used at both national and state levels to manage the conduct of legal professionals.

The paper also discusses important court decisions that have changed how the Bar Council works, the situations in which someone can be removed from the council, and the powers given to the chairperson of the council.

In the end, the Bar Council is seen as the main organization that helps maintain the reliability, ethical standards, and honesty of the legal profession in India.

Introduction

Functions of the Bar Council include: The Bar Council is the main group that looks after how lawyers work in India. It ensures that all lawyers follow the law and act properly throughout their careers. Anyone who wants to become a lawyer must join the correct Bar Council and pass the All-India Bar Examination (AIBE).

The regulation system has two levels:

1. The Bar Council of India (BCI) – this works at the national level.
2. State Bar Councils – these work at the state level.

Together, these councils form a full system for managing legal education, the process of becoming a lawyer, and how lawyers behave in their areas.

The Bar Council of India is a regulatory body set up under the Advocates Act 1961.

Admission of advocates – the main role of the Bar Council is to help people become lawyers, which is important for finishing their legal education.

Professional conduct – the Bar Council of India makes sure that all lawyers follow good professional standards and don't act in bad ways.

Disciplinary authority – the Bar Council serves as a disciplinary body and handles cases where lawyers have acted improperly.

Legal education – the Bar Council is responsible for keeping the quality of legal education high in universities.

Providing legal aid – the Bar Council ensures that people with low incomes can get free legal help.

All India Bar Examination

The All India Bar Examination, or AIBE, is a test that law graduates in India must take if they want to practice law. It is conducted by the Bar Council of India and started in 2010. The main purpose of this exam is to check if a law graduate has the necessary skills and knowledge to work as a lawyer. It also helps ensure that all lawyers meet a certain standard of ability.

To take the AIBE, a person must have a law degree, either a 3-year or 5-year LL.B course, from a recognized university.

They also need to be registered with a State Bar Council. The exam is offered in several languages and is written in an open-book format, meaning students can use approved study materials during the test.

The AIBE covers many subjects taught in law schools, such as Constitutional Law, the Criminal Procedure Code, the Civil Procedure Code, the Evidence Act, Family Law, and others.

It includes multiple-choice questions and lasts for three and a half hours. There is no penalty for getting answers wrong.

When someone passes the AIBE, they receive a "Certificate of Practice" from the Bar Council of India.

This certificate is needed for anyone who wants to practice law in courts all over the country.

The AIBE helps maintain the quality of legal professionals by making sure only those who meet the required standards are allowed to represent clients in court.

It is not a test for getting into law school but a final step that law graduates must complete before they can officially become lawyers in India.

Disqualification of advocates

Since a member of the Bar Council of India (BCI) is also an advocate, any bad behavior can lead to disciplinary action.

Under Section 24A of the Advocates Act, an advocate may be disqualified if:

- They are found guilty of an offense that shows poor moral behavior.
- They are convicted under the Untouchability (Offenses) Act, 1955.
- They are dismissed or removed from government jobs for an offense showing bad moral behavior.

These disqualifications end after two years once the person is free from prison or leaves government service.

The All India Bar Examination is an annual exam organized by the Bar Council of India.

It is for law graduates who want to become lawyers. Passing this exam gives you a certificate that lets you practice in any court in India. The exam happens in 53 cities across the country and is offered in English, Hindi, and other local languages. It is a multiple-choice test that takes about three hours to complete. The exam checks your knowledge of legal subjects and your ability to think critically. Its main purpose is to set a basic standard for becoming a lawyer and to ensure all lawyers have the skills needed for court work. To be eligible, you must have a law degree recognized by the Bar Council of India, you can be any age, and you must be registered with a State Bar Council. Recently, the Supreme Court said that students in their final year of law school can take this exam, provided they meet the eligibility requirements. The exam is paper-based and in multiple-choice format.

Disqualification of a member of the Bar Council of India

Under Section 10B of the Advocates Act, 1961, a member of the Bar Council of India (BCI) can be disqualified for three reasons:

1.

Not attending meetings: If an elected member misses three meetings in a row without a proper reason, they are treated as having resigned.

2.

Being removed from the advocates' list: If a member's name is removed from the list of advocates for any reason, they can no longer be part of the BCI.

3.

Other rules: A member can also be disqualified based on specific rules made by the BCI.

Disqualification through a "No-Confidence" Motion

Additionally, the leaders of the BCI, such as the Chairman or Vice-Chairman, can be removed through a "no-confidence" motion.

To pass this motion, at least three-fourths of the members who are present and voting must agree.

This agreement must be supported by more than two-thirds of the total members of the BCI.

A no-confidence motion can only be proposed if there is clear proof that the leader has done something wrong.

Disqualification during BCI elections

The BCI has rules that can disqualify candidates during elections to the State Bar Councils (SBCs) and the BCI itself.

For example, if a candidate acts improperly or causes problems during the counting of votes, their candidacy may be canceled.

The Central Election Tribunal or Committee makes this decision based on the report from the Returning Officer.

Advocates Act 1961

The Advocates Act, 1961, is an important law passed by the Indian Parliament to manage the

legal profession and create a uniform set of rules for all lawyers across the country. Its main goal is to bring together all the laws related to legal professionals, make it easier for people to become lawyers, and set the same standards for how lawyers should behave. Before this law, there were different rules in different parts of the country, which caused problems and made it difficult to manage the legal profession properly.

One of the biggest changes brought by the Act is the creation of the Bar Council of India (BCI) at the national level and State Bar Councils at the state level.

These are independent bodies that handle legal education, the behavior of lawyers, and the process of becoming a lawyer. The BCI works with the State Bar Councils, creates rules for lawyers to follow, and helps maintain the respect and fairness of the legal profession. The Act introduced a single term, "advocates," to describe legal professionals, replacing older terms like vakils, pleaders, and attorneys.

This change made sure that all lawyers have equal rights and are treated the same when working in any court or tribunal in India, including the Supreme Court.

To become a lawyer, people must first join a State Bar Council and then pass the All India Bar Examination (AIBE) to practice on their own.

The Act also gives the Bar Councils the power to discipline lawyers who break the rules.

They can suspend or remove a lawyer from the list of registered lawyers if they are found to be acting unprofessionally. This helps keep the legal profession responsible and increases trust in the justice system.

Another important part of the Act is its role in controlling legal education.

The BCI sets the basic standards for law courses and approves law schools to ensure that future lawyers receive proper training and knowledge.

Can the Bar Council of India be crowned with more powers?

The Bar Council of India (BCI) was created under the Advocates Act, 1961. It is a group that manages the education of lawyers, their behavior, and handles any misconduct. Its role is important for ensuring the legal system is ethical and of good quality. However, there is a discussion about whether the BCI needs more power to perform its duties better.

Right now, the BCI is responsible for allowing people to become lawyers, conducting the All India Bar Exam, setting rules for professional behavior, and dealing with complaints against lawyers.

Despite these duties, there are still problems like corruption, unethical actions, varying standards in legal education, and slow disciplinary actions.

These issues suggest that the BCI might need more authority to be more effective.

Giving the BCI more power could help solve these problems.

For instance, having more control over legal education might help law schools meet the same standards. Making the disciplinary system stronger could result in quicker actions against misconduct. Also, focusing on efforts to improve justice access could make the legal profession more modern and aligned with global standards.

However, it is important to be cautious.

Giving the BCI too much power could lead to too much control, which might reduce transparency and accountability. Therefore, any increase in authority should be balanced with strong checks and balances to prevent abuse of power.

The Bar Council of India, the Judiciary, and the Executive are three important parts of India's government.

Each has its own role, but they work together to maintain a balance of power. The Bar Council is created under the Advocates Act, 1961. Its main job is to manage the legal profession by enrolling lawyers, setting professional

standards, handling disciplinary cases, and promoting legal education.

The Judiciary is independent and its main role is to interpret the law, protect the Constitution, and ensure people's rights are respected.

Lawyers are considered officers of the court, so their behavior affects how justice is carried out. The Bar Council helps the judiciary by making sure lawyers follow ethical rules, supporting the smooth operation of the courts.

The Executive is responsible for making sure laws are followed and policies are carried out.

Although it does not directly control the Bar Council, it works with it on matters like legal education, court facilities, and policy changes that affect the legal profession. The Executive also supports the judiciary by setting up judicial commissions and offering help when needed.

The way these three groups work together is based on the principle of separating power while also working together.

The Bar Council connects the legal community with the judiciary while staying independent from the Executive. The Judiciary ensures that both the Bar Council and the Executive act within the limits of the Constitution.

In short, the Bar Council, the Judiciary, and the Executive have a relationship that is both dependent and independent.

Cooperation is important for maintaining the rule of law and democratic governance.

Important provisions under the Advocates Act.

The Parliament The Advocates Act, 1961, is an important law in India that controls the legal profession. It gives a full set of rules about enrolling lawyers, how they work, their rights and duties, and how they are disciplined. This Act also created official groups like the Bar Council of India (BCI) and State Bar Councils to make sure the legal profession is handled the same way all over the country. Here are some key parts of the Act:

1. Setting up Bar Councils (Sections 3 and 4): The Act creates State Bar Councils for each state and the Bar Council of India at the national level. These councils can control legal education, keep professional standards, enroll lawyers, and take action against bad behavior. They act like both leaders and regulators for the legal profession.

2. Classes of Legal Practitioners (Section 29): The Act only recognizes one type of person who can practice law, which is called an 'advocate.' This removed old differences between people like vakils, pleaders, barristers, and attorneys, and put them all under one category.

3. Right to Practice (Section 30): Section 30 lets advocates practice law in all courts, tribunals, and legal bodies across India. This means an advocate registered with any State Bar Council can appear in any court in the country, making their work more flexible and consistent.

4. Enrollment of Advocates (Sections 24 and 25): The Act explains the requirements to become an advocate. A person must have a law degree from a recognized university, be at least 21 years old, and pass the All India Bar Examination. The State Bar Councils handle the enrolment process based on rules set by the Bar Council of India.

5. Functions of Bar Councils (Sections 6 and 7):

State Bar Councils are in charge of admitting and enrolling advocates, keeping records, and dealing with cases of misconduct.

The Bar Council of India helps by looking after the State Councils, setting standards for legal education, approving law colleges, making ethical code, and pushing for legal improvements.

6. Disciplinary Control (Sections 35–44):

The Act has detailed rules about dealing with misconduct.

If an advocate is found guilty of wrongdoing, the Disciplinary Committee of the State Bar Council may issue a warning, stop them from practicing, or remove their name from the list of

advocates. They can appeal to the Bar Council of India and, if needed, to the Supreme Court.

7. Advocates' Welfare Fund (Section 16 and amendments):

The Act includes rules for setting up welfare programs for advocates.

This helps provide financial help in situations like hardship, disability, or the death of an advocate, showing that the law also cares about the well-being of legal professionals.

8. Conduct and Ethics:

Even though there isn't a single section on this, the Act allows the Bar Council of India to set rules about how lawyers should behave.

These include keeping the profession respected, being loyal to clients, and following the law.

Leading case laws on the role of the Bar Council in India

The learning process – you want a detailed explanation of important court cases.

Leading case laws on the role of the Bar Council in India

clear explanation of important court cases that have shaped the role of the Bar Council in India. Here's a summary of the major judgments, their background, the principles they set, and how they relate to the functions of the Bar Council of India (BCI).

1. O.N. Mohindroo v. Bar Council of Delhi (1968) 2 SCR 709

Context: This case asked if the Advocates Act, 1961, was constitutional, especially whether Parliament had the power to pass it.

Principle Laid Down: The Supreme Court said the Advocates Act is under the Union List, Entries 77 and 78 of the Constitution, which means Parliament can make laws about who can practice before the Supreme Court and High Courts.

Relevance to Bar Council: This case confirmed that Bar Councils, both at the state and national

levels, are legally recognized and have the authority to regulate the legal profession.

2. Bar Council of Maharashtra v. M.V. Dabholkar (1976) 2 SCC 291

Context: The case questioned whether disciplinary actions taken by Bar Councils against lawyers were administrative or judicial in nature.

Principle Laid Down: The Supreme Court said disciplinary proceedings under the Advocates Act are quasi-judicial.

This means that Bar Councils are not just groups that represent lawyers, but also have the responsibility to regulate professional conduct and ethics.

Relevance: This case showed that Bar Councils have a dual role – protecting the interests of lawyers and making sure they follow professional standards.

3. Indian Council of Legal Aid & Advice v. Bar Council of India (1995) 1 SCC 732

Context: The case asked if the BCI had a duty to oversee legal education in India.

Principle Laid Down: The Court ruled that the BCI has a legal responsibility to ensure the quality of legal education.

It can set rules for qualifications and courses in law degrees.

Relevance: This case expanded the BCI's role beyond regulating lawyers to also monitoring law schools and maintaining the quality of legal education, which helps ensure that future lawyers are well-prepared.

4. Sudeer v. Bar Council of India (1999) 3 SCC 176

Context: The BCI introduced a rule requiring "apprenticeship training" before someone could become a lawyer.

This rule was challenged.

Principle Laid Down: The Supreme Court ruled that the BCI had gone beyond its legal powers under the Advocates Act.

It could not impose new rules that were not already part of the law.

Relevance: This case is important because it reminds Bar Councils that they must act only within the limits set by the Advocates Act, 1961.

5. Ex-Capt.

Harish Uppal v. Union of India (2003) 2 SCC 45

Context: The issue was whether lawyers have the right to strike or boycott courts.

Principle Laid Down: The Court clearly said that lawyers do not have the right to strike or call for court boycotts.

Such actions disrupt the legal system.

The Bar Councils were ordered to take action against lawyers who strike.

Relevance: This case reinforced the role of Bar Councils as disciplinary authorities and reminded them of their duty to ensure that legal professionals do not interfere with the justice system or damage its reputation.

6. Supreme Court Bar Association v. Union of India (1998) 4 SCC 409

Context: The question was whether only Bar Councils could punish lawyers for misconduct, or if courts also had this power.

Principle Laid Down: The Court said that while Bar Councils are the main bodies for handling disciplinary matters, the Supreme Court and High Courts can also take action against lawyers who behave improperly.

Relevance: This case clarified that disciplinary control over lawyers is shared between the Bar Councils and the judiciary.

It also made it clear that Bar Councils cannot be the only ones deciding on professional misconduct.

7. Ajayinder Sangwan v. Bar Council of Delhi (1995)

Context: The case asked whether a State Bar Council could refuse to enroll someone in the bar without good reason.

Principle Laid Down: The Court ruled that State Bar Councils cannot make arbitrary decisions.

They must act fairly and within legal limits.

Relevance: This case strengthened the rights of lawyers against unfair decisions by State Bar Councils and confirmed that enrollment is a legal right once someone meets the required qualifications.

Conclusion

The Bar Council of India (BCI) was created under the Advocates Act, 1961. It plays an important role in India's legal system and the work of lawyers. As the main body that governs and represents lawyers in the country, it does more than just handle day-to-day tasks. It stands for freedom, moral values, and serving the public. The BCI is not just a regulatory body; it also protects the legal profession, supports justice, and helps connect the legal community with the courts.

Looking at the history of the BCI, we can see how India, after independence, wanted to make its legal system reflect democratic values.

The makers of the Advocates Act saw the need for a single authority that would support the independence of lawyers while making sure they are responsible. Before the BCI was formed, the legal profession was divided, with different rules in different places and little structure for discipline. The BCI helped fix this by creating a common system for enrolling lawyers, setting a single class of advocates, and making a national standard for legal practice. This helped show that being a lawyer is more than a job; it's a responsibility with both personal rights and social duties.

One of the main jobs of the BCI is to regulate and supervise the legal profession.

It sets standards for education, decides who can become a lawyer, and makes sure the legal field has qualified and skilled people. The All India Bar Examination (AIBE) is an example of how the BCI works to keep high standards and ensure uniformity. The BCI also sets rules for

professional behavior and ethics, making sure lawyers act with honesty and fairness. Without this oversight, the credibility of the legal profession would be in trouble because the public trusts lawyers for both their work and their integrity.

Another key part of the BCI's role is handling disciplinary actions.

By dealing with misconduct cases, the Council helps protect its members and the reputation of the legal profession. Even though this process can be slow, it shows that no lawyer is above being held accountable. It reminds everyone that the right to practice law comes with the responsibility to follow ethical rules and act honestly, fairly, and responsibly towards the court and society. Through this, the BCI supports the moral values of the legal profession and assures the public that lawyers are answerable to a fair body.

The BCI also plays a big role in legal education.

As a regulator, it sets the course for law schools, approves institutions, and ensures high standards for teachers and facilities. This is important because the quality of lawyers depends on the quality of legal education. The BCI has faced criticism for being too traditional or slow to adapt to new trends, but it has acted as a gatekeeper, stopping poor-quality schools from harming the profession's reputation. Ongoing discussions and reforms in legal education show the BCI's effort to balance tradition with modern needs.

In addition to regulating, the BCI also represents the legal profession.

It speaks up on issues like judicial appointments and court procedures. This ensures that lawyers' views are considered in discussions about justice and lawmaking. In times of political challenges or threats to judicial independence, the legal profession has often been at the center, and the BCI has supported these efforts. Its involvement in public debates and legal reforms shows its responsibility not just to

lawyers but also to the democratic system as a whole.

The BCI also embodies the idea of self-regulation, which is a special feature of the legal profession.

Unlike many other professions that are regulated by outside bodies, lawyers are governed by their peers through the BCI. This self-regulation helps the profession stay independent from government control, which is important for holding the state accountable. However, this also means the BCI has a bigger responsibility to ensure that its processes are transparent, fair, and impartial. If it fails, the whole profession's trust can be at risk.

Despite its important role, the BCI faces several challenges.

It has often been criticized for being influenced by politics, being inefficient in handling misconduct cases, and being slow to change legal education. The increasing number of law graduates and the growth of private law colleges have put pressure on the BCI's ability to regulate. Delays in resolving professional misconduct complaints also affect public trust. However, these challenges should be viewed in context. They don't take away from the BCI's important role but rather show areas where reforms and modernization are needed. Steps like digitizing records, improving complaint processes, and working with universities can help the Council overcome these problems.

From a constitutional perspective, the BCI's role aligns with the principles of justice, equality, and the rule of law.

Lawyers are seen as officers of the court and partners in delivering justice, and the BCI ensures they remain true to this. By balancing the individual rights of lawyers with their responsibilities, the Council acts as a constitutional body. Its contributions to protecting judicial independence, promoting access to them.

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