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LAWYERS AS ARCHITECTS OF SOCIAL JUSTICE AND CONSTITUTIONAL DEMOCRACY

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INTRODUCTION:

“A lawyer is a person who writes a 10,000-word document and calls it a 'brief.’”

~ Franz Kafka

Bhimrao Ramji Ambedkar believed that “education is the ultimate tool of liberation” and urged people to “educate, agitate, and organise” against social injustice. His vision continues to inspire the legal profession, which stands as one of the noblest pillars of democracy and constitutional governance. Law is not merely a profession but a commitment to justice, equality, integrity, and the protection of human dignity. It demands individuals of courage, honesty, and compassion who can uphold the rule of law and ensure that justice remains accessible to every section of society. In preserving constitutional values and defending individual liberties, the legal profession plays a transformative role in shaping a more just, inclusive, and enlightened society.

HISTORY OF LEGAL PROFESSION:

“True we (lawyers) build no bridges. We raise no towers. We construct no engines. We paint no pictures- unless as amateurs for our principal amusement. There is little of all that we do which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men’s burdens, and by our efforts, we make possible the peaceful life of men in a peaceful state”

~ John W Davis

The history of the legal profession in India originated from the Vedic concept of *Dharma*, where justice was administered by kings and their officials based on morality, fairness, and religious principles. Before British rule, Hindu and Islamic legal systems governed society, and there was no formal legal profession, as disputes were usually decided directly by rulers or judicial authorities. A major transformation occurred during British rule when the East India Company

introduced British-style courts, codified laws, and modern judicial administration. The Charters of 1726 and 1753 established Mayor’s Courts in Calcutta, Bombay, and Madras, while the Regulating Act of 1773 led to the establishment of the Supreme Court at Calcutta in 1774. Judicial reforms introduced by Warren Hastings, Lord Cornwallis, and Lord William Bentinck further strengthened the organised legal system in India. Initially, legal practice was dominated by English barristers, and access to legal services remained limited due to the absence of formal legal education for Indians. To address this, institutions such as Hindu College and Elphinstone College introduced legal education, leading to the emergence of an indigenous Bar. However, legal education remained exclusionary, especially for women, until the early twentieth century. After Independence, legal education expanded significantly and became an essential part of constitutional governance, social justice,

policymaking, and the rule of law in democratic India.

LEGAL PRACTITIONERS ACT, 1879

The Legal Practitioners Act, 1879, was enacted in colonial India to consolidate and regulate the legal profession by defining the qualifications, enrolment, rights, duties, and conduct of various categories of legal practitioners such as advocates, vakils, pleaders, mukhtars, and revenue agents. It empowered High Court-enrolled advocates and vakils to practise before higher courts and allowed attorneys to appear in subordinate courts and revenue offices. The Act also strengthened professional discipline by authorising High Courts to frame rules for suspension, dismissal, and certification of pleaders and mukhtars, and to take action against misconduct. It further empowered the Chief Controlling Revenue Authority to regulate revenue agents.

INDIAN BAR COMMITTEE, 1923:

In 1923, a committee called the Indian Bar Committee was constituted under the chairmanship of Sir Edward Chamier. The committee was to consider the issue of the organization of the Bar on all India basis and the establishment of an All-India Bar Council for the High Court. Bar Council should be established in each High Court with the power to enquire into matters calling for disciplinary action against lawyers, and it should refer the case to the Bar Council for enquiry and report.

INDIAN BAR COUNCILS ACT, 1926

In 1926, the Indian Bar Councils Act was enacted to give effect to some of the recommendations of the Indian Bar Committee. The main object of the Act was to provide for the constitution and incorporation of the Bar Council for certain courts, to confer powers and impose duties on such councils and also to consolidate and amend the law relating to the legal practitioners in such courts. Section. 10 empowered the High Court to reprimand, suspend or remove from practice any Advocate when found guilty of professional or any other misconduct.

AFTER INDEPENDENCE:

The Legal Practitioners Act, 1879 was enacted to consolidate and amend laws relating to legal practitioners in colonial India. It established a structured framework regulating the qualifications, enrolment, rights, duties, and conduct of advocates, vakils, pleaders, mukhtars, and revenue agents. Section 4 empowered advocates and vakils enrolled under the Letters Patent of High Courts to practise before such courts. Section 5 allowed attorneys of High Courts to practise before subordinate courts and revenue offices within the court's jurisdiction. The Act also empowered High Courts to maintain professional discipline and ethical standards. Under Section 6, High Courts could frame rules regarding the suspension and dismissal of pleaders and mukhtars. Section 7 provided for the issuance of certificates authorising pleaders to practise after enrolment. Section 13 empowered High Courts to suspend or dismiss practitioners guilty of professional misconduct. Further, Section 17 authorised the Chief Controlling Revenue Authority to regulate revenue agents.

ALL INDIA BAR COMMITTEE, 1951:

It was under the chairmanship of S.R. Das; it recommended the establishment of an All India Bar Council and State Bar Councils. Subject to certain safeguards, the committee suggested that the powers of enrolment, suspension, and removal of advocates should be vested in the Bar Councils. It is recommended that there should be no further recruitment of non-graduate pleaders, and also recommended that there should be a common roll of advocates who should be authorised to practice in all courts. It also recommended the division of the Bar into senior advocates and advocates.

INTERNATIONAL CONVENTIONS:

BASIC PRINCIPLES ON THE ROLE OF LAWYERS

It was adopted on 7th September 1990 by the Eighth United Nations Congress on the

Prevention of Crime and the Treatment of Offenders, Havana, Cuba⁶⁶¹.

1. Every person has the right to seek assistance from a lawyer of their choice to protect their rights and defend them in criminal proceedings.

2. Governments must ensure equal and effective access to legal services without discrimination based on race, sex, religion, language, economic status, or social origin.

3. Adequate funding and resources must be provided for free legal aid and assistance to poor and disadvantaged persons.

4. Governments and bar associations should create legal awareness programs to educate people about their rights and the role of lawyers.

5. Every arrested or detained person must be immediately informed of their right to consult a lawyer.

6. Persons who cannot afford legal services are entitled to free legal assistance where the interests of justice require it.

7. Arrested or detained persons must have prompt access to a lawyer, preferably within 48 hours of arrest or detention.

8. Communication between lawyers and clients must remain confidential and free from interference or censorship.

9. Lawyers must receive proper legal education, ethical training, and awareness of human rights and fundamental freedoms.

10. No discrimination should exist in entry into the legal profession, and special opportunities should be provided to underrepresented communities.

11. Lawyers are required to maintain the dignity of the profession, protect clients' interests, uphold justice, and defend human rights.

12. Governments must ensure that lawyers can perform their duties independently without

intimidation, harassment, or improper interference.

13. Lawyers should not be identified with the causes or actions of their clients merely because they represent them.

14. Lawyers enjoy freedom of expression, association, and participation in discussions relating to law, justice, and human rights.

15. Professional associations of lawyers should function independently to safeguard professional integrity and ensure access to justice.

16. Disciplinary proceedings against lawyers must be fair, impartial, and conducted according to established professional ethics and legal standards.

ADVOCATES ACT, 1962

The Advocates Act, 1961 was enacted to unify and regulate the legal profession in India by replacing the earlier system of multiple categories of legal practitioners and establishing a single organised framework. It created State Bar Councils, the Bar Council of India, and an All-India Bar to ensure uniform regulation of the profession. The Act governs admission and enrolment of advocates, and classifies them into Senior Advocates and other Advocates under Section 16, with Senior Advocates being designated based on merit and expertise but subject to restrictions on direct client interaction and court practice. Section 24 prescribes the eligibility criteria for enrolment, requiring citizenship, a minimum age of 21 years, and a law degree. The Act thus established a structured, professional, and regulated legal system in India and strengthened legal education and the legal profession after independence.

ALL INDIA BAR EXAMINATION:

The Bar Council of India introduced Rules 9 to 11 in Part VI, Chapter III, making the All India Bar Examination (AIBE) mandatory for law graduates

⁶⁶¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>

enrolled under Section 24 of the Advocates Act, 1961, from the academic year 2009–2010 onwards. Section 24A disqualifies persons convicted of offences involving moral turpitude or offences under the Protection of Civil Rights Act, 1955, though the disqualification ends after two years of release. Sections 25 to 27 deal with enrolment applications, their scrutiny, disposal, and refusal by State Bar Councils, while Section 26A empowers State Bar Councils to remove names from the State Roll.

Sections 20 to 22 contain provisions regarding the enrolment of certain Supreme Court advocates, settlement of seniority disputes, and issuance of certificates of enrolment. The Act also provides the right of pre-audience to law officers such as the Attorney General, Solicitor General, Advocate Generals, and Senior Advocates. Section 55 protects the rights of existing legal practitioners like vakils, pleaders, mukhtars, attorneys, and revenue agents, whereas Section 30 grants every enrolled advocate the right to practise throughout India before all courts, tribunals, and authorised authorities. Overall, the Advocates Act, 1961 unified the legal profession, established uniform standards for legal practice, and created autonomous Bar Councils for regulation and discipline.

LAWYERS CONTRIBUTION IN CHANGING THE SOCIETY⁶⁶²:

The Indian legal profession has played a crucial role in shaping India's political, constitutional, and social structure. Many leaders of the freedom movement, including Mahatma Gandhi, Motilal Nehru, C. Rajagopalachari, Bal Gangadhar Tilak, and Sardar Vallabhbhai Patel, were lawyers whose legal knowledge and leadership contributed significantly to India's independence and democratic governance. After independence, Dr. B. R. Ambedkar and other legal experts played a major role in drafting the Constitution of India, which guarantees fundamental rights, equality, liberty, and

constitutional governance. The legal profession is regarded as a noble profession that requires integrity, ethics, and dedication to justice. The Bar Council of India regulates professional conduct, while lawyers also provide legal aid and pro bono services to weaker sections of society. Articles 14, 21, and 39A of the Constitution ensure equality before law, protection of life and liberty, and free legal aid, further strengthened by the Legal Services Authorities Act, 1987. The judiciary expanded access to justice through Public Interest Litigation (PIL), mainly under Justices P. N. Bhagwati and V. R. Krishna Iyer, by relaxing the rule of locus standi and allowing public-spirited individuals to approach courts for the protection of public rights. Thus, lawyers and the judiciary continue to serve as protectors of constitutional values, social justice, and the rule of law in India.

Hussainara Khatoun vs. State of Bihar

This caused many people to be regarded as having the first PIL in India as well. In this case, the attention of the Court was on the inhuman condition of under-trial prisoners in the state of Bihar, who had been in detention pending trial for periods far in excess of the maximum sentence for their offences. The Court not only ordered to make the right to a speedy trial regarding the main issue of the case, but also passed the order of general release of about 40,000 under-trials who had undergone detention beyond such a time period.

S.P Gupta vs Union of India

The Supreme Court of India defined the term Public Interest Litigation in the Indian Context. The concept of Public Interest Litigation (PIL) is in consonance with the principles enshrined in Article 39A of the Constitution of India to protect and deliver prompt social justice with the help of law. Justice Bhagwati and Justice V.R. Krishna Iyer were the first to accept the PIL. The Court entertained a letter from two professors at the University of Delhi seeking enforcement of the constitutional right of inmates at a protective

⁶⁶² <http://www.legalservicesindia.com/article/1918/Role-of-Lawyers-in-Social-Transformation.html>

home in Agra who were living in inhuman and degrading conditions.

Vishaka vs. State of Rajasthan

In this case, a woman, who was a social worker, was brutally raped while she was in the course of her employment and on her behalf, an NGO filed a PIL in the Supreme Court for the protection of the rights of women at the workplace. The court accepted the petition and laid down the guidelines to safeguard the interests of women at the workplace, and after that, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted based on the guidelines laid down by the Supreme Court in this case.

M.C. Mehta vs. Union of India & Others

In this case, a PIL was filed to prevent and protect the Taj Mahal from the harmful gases and toxic gases released by the industry near the Taj Mahal. The court accepted this petition as it was for the protection of the environment from exploitation, and the court ordered a Ban on 299 industries from using coal and asked them to switch to Compressed Natural Gas (CNG).

Yashdeep Chahal v. UOI & Ors

The Delhi High Court has appointed Senior Advocate Rebecca John as amicus curiae in a PIL seeking action against certain media houses for revealing the identity of the victim and the accused persons of the Hyderabad rape case. The plea thus sought directions to initiate appropriate proceedings against the media houses and individuals in accordance with law and also to direct the investigation authorities to prevent the supply of information about the merits of the case to the media or public, before the completion of the investigation.

Chief Justice Sanjay Karol and Justice S Kumar

The judiciary has repeatedly recognised the important role of lawyers in ensuring access to justice and strengthening democracy in India. In a PIL filed by Advocate Ramakant Sharma, a Bench led by Chief Justice Sanjay Karol directed the government to improve infrastructural

facilities for advocates, including lawyers' halls, toilets, and digital facilities. Similarly, during the COVID-19 pandemic, the Bombay High Court observed that access to justice is a fundamental right and that advocates and their staff form an essential part of the justice delivery system. At the same time, courts have stressed that Public Interest Litigation (PIL) must be used responsibly. The Uttarakhand High Court criticised a frivolous PIL regarding UGC fund mismanagement and emphasised the ethical responsibility of lawyers to prevent misuse of judicial processes. In another instance, the Bombay High Court entertained a PIL regarding police brutality during the COVID-19 lockdown and directed the State Government to respond. These examples show that lawyers play a vital role not only as legal representatives but also as protectors of constitutional values, human rights, social justice, and democratic accountability in India.

CONCLUSION:

The legal profession is one of the most demanding yet noble professions, as the responsibilities of a lawyer extend far beyond merely appearing before courts and arguing cases. A lawyer plays a crucial role in safeguarding justice, protecting constitutional values, defending individual rights, and contributing to the overall development of society. The profession demands not only intellectual competence and advocacy skills, but also integrity, discipline, ethical conduct, and a deep sense of social responsibility. The impact of a lawyer's work cannot always be measured in tangible terms, yet its influence profoundly shapes future generations and strengthens the rule of law within a democratic society. A lawyer must therefore remain cautious and conscious of his or her conduct, character, and professional ethics, for the legal profession is built upon public trust and confidence. In this regard, the words of Mahatma Gandhi remain timeless and relevant:

“Keep your thoughts positive, because your thoughts become your words. Keep your words positive, because your words become your behaviour. Keep your behaviour positive, because your

behaviour becomes your habits.
Keep your habits positive, because your habits
become your values.
Keep your values positive, because your values
become your destiny.”

These words reflect the essence of the legal profession, where values and ethics ultimately determine the destiny of both the advocate and the justice delivery system. Thus, lawyers are not merely legal professionals; they are custodians of justice, protectors of constitutional morality, and indispensable pillars in the progress of a civilised society.





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