

PROFESSIONAL ETHICS

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Professional Ethics Bar
Bench Relation And
Accountancy for
Lawyers

Origin and Development of Legal Profession Origin

- **In India, the Legal profession originated during the British Rule. There is no evidence of the existence of legal Profession before that ie. During the Hindu Rule and Mughal Dynasty period. During that period, the administration of justice was in the hands of the King and the Kings court was treated as the highest court of the country. There is no appeal against the order of the King. Persons disobeyed the King's order was charged with sedition**

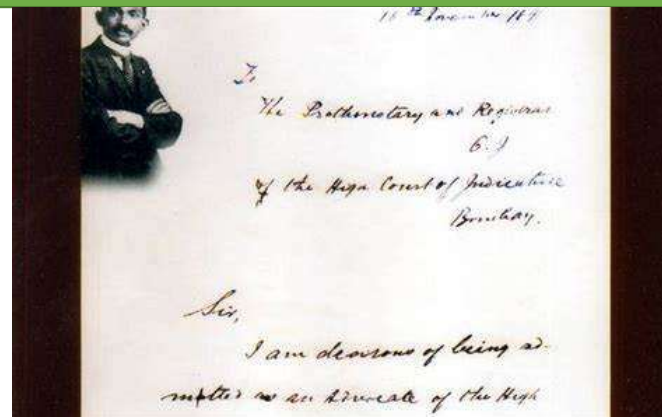
During that period the King was respected as the representative of God who was sent by the God to render justice to the people. In the King's court the plaintiff has to represent his case personally and thereafter the King will hear the other side. To assist and advice the King in the administration of justice there was a council of ministers and a group of educationalists

During Britisher's Period

The first time in India, the legal profession was recognized and regulated by the Charter Act of 1774. This Act has permitted the English lawyers to practice in the Supreme Court of Calcutta. Later on in 1801, the English lawyers were allowed to practice in the Madras Supreme Court and in the year 1823 they were allowed to practice in the Bombay Supreme Court, but Indian Lawyers were not allowed to Practice in those courts. (In 1826 these 3 Supreme Courts were abolished and in that place High Courts were Created).



In 1865, the Special Rights Act has conferred the right to the Madras, Bombay and Calcutta High Courts to frame rules for the recognition of Advocates and for preparing the Advocates roll. In 1879, the legal practitioner's Act has conferred the similar power to the other High court. Persons were allowed to practice in that high court. As per this Act persons studied Law in England were called as Advocates and persons studied Law in India were called as "Vakils". The "Vakils" were not allowed to practice before the High Courts. In 1923, an Advocates Committee was constituted under the leadership of Sir. Edward to study the legal profession and to make suitable recommendations to improve the legal profession. This committee has recommended for the creation of Bar Councils in each High Court and allowing the "Vakils" to practice before the High Court.



1923: Legal Practitioner's (Women) Act



CORNELIA SORABJI

(15 November 1866 - 6 July 1954)

She helped over 600 women and orphans fight legal battles, sometimes charging them nothing at all!



HISTORY OF LEGAL PROFESSION IN INDIA

1672: The First British Court in Bombay in 1672 by Governor Aungier.



1672
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HISTORY OF LEGAL PROFESSION IN INDIA

1726 - There was no established legal profession until the establishment of the Mayor's Court. Those who practiced law were devoid of legal training and some of the functionaries under the Mayor's courts were dismissed servants of the British East India Company..



HISTORY OF LEGAL PROFESSION IN INDIA

1774 - Supreme Court of Judicature established by a Royal Charter at Calcutta. Later on, similar courts were also set up in Madras in 1801 and in Bombay in 1823. Besides, the Regulating Act of 1773 empowered the Supreme Court to "approve, admit and enroll" Advocates and Attorneys-at-Law. "Attorneys of Record" were authorized to "appear, plead and act for the suitors". Attorneys were not admitted without a recommendation from high officials in England or a Judge in India.



HISTORY OF LEGAL PROFESSION IN INDIA

1774 - The term "Advocate" at that time was extended only to the English and Irish Barristers and members of the Faculty of Advocates in Scotland. "Attorneys" similarly referred to British attorneys and solicitors only. The Calcutta Supreme Court therefore appeared to be the exclusive fortress of British Barristers, Advocates and Attorneys. And, Madras gained its first barrister in 1778 with Mr. Benjamin Sullivan. The point that you need to focus on that is - the Charter introduced in India the British system of legal practice and profession where Indians had no right to appear before the Supreme Courts and this trend continued in Bombay and Madras as well in spite of the fact that both these courts were established much later.



HISTORY OF LEGAL PROFESSION IN INDIA

1774 - In contrast to the Courts in the presidency towns, the legal profession in the mofussil towns was established, guided and controlled by legislation. In the Diwani Courts, legal practice was neither recognized nor controlled, and practice was carried on by vakils and agents. Vakils had even been appearing in the Courts of the Nawabs and there were no laws concerning their qualification, relationship to the Court, mode of procedure of ethics or practice. There were two kinds of agents – a. untrained relatives or servants of the parties in Court and b. professional pleaders who had training in either Hindu or Muslim law.



HISTORY OF LEGAL PROFESSION IN INDIA

1774 - Bengal Regulation VII of 1793 was enacted as it was felt that in order to administer justice, Courts, must have pleading of causes administered by a distinct profession Only men of character and education, well versed in the Mohamedan or Hindu law and in the Regulations passed by the British Government, would be admitted to plead in the Courts. They should be subjected to rules and restrictions in order to discharge their work diligently and faithfully by upholding the client's trust.



HISTORY OF LEGAL PROFESSION IN INDIA

1833 - The Bengal Regulation XII modified the provisions of earlier regulations regarding selection, appointment and remuneration of these pleaders. It permitted any qualified persons of any nationality and religion to be enrolled as a pleader in the Sadar Diwani Adalat.



HISTORY OF LEGAL PROFESSION IN INDIA

1846 - The Legal Practitioners Act of 1846, was the first pan-India law concerning the regulation of the Indian legal profession. A religious test for enrolment as a pleader was abolished, and persons of any nationality and religion could be enrolled as a pleader. Every Barrister enrolled in any of Her Majesty's Courts in India became eligible to plead in the Sadar Adalats subject to the rules of those Courts applicable to pleaders as regards language or any other matter. The Legal Practitioners Act also permitted Vakils to enter into agreements with their clients for their fees for professional services.



HISTORY OF LEGAL PROFESSION IN INDIA

1879 - The High Courts started by the Crown were established at Calcutta, Bombay and Madras. The High Court Bench was designed to combine Supreme Court and Sudder Court traditions. Later, Additional High Courts were established in Allahabad (1886), Patna (1916), and Lahore (1919).



HISTORY OF LEGAL PROFESSION IN INDIA

1879 - The Legal Practitioners Act of 1879 repealed the Pleaders, Mukhtars and Revenue Agents Act, 1865. During this time in British India, there were six grades of practitioners- Advocates, Solicitors (Attorneys) and Vakils of the High Court and Pleaders, Mukhtars and Revenue agents in the lower courts. Vakils became a distinct grade above the Pleader. The Act brought all six grades of legal practitioners into one system under the jurisdiction of the High Courts.



HISTORY OF LEGAL PROFESSION IN INDIA

1879 - In order to be a vakil, the candidate had to study at a college or university, master the use of English and pass a vakil's examination. By 1940, a vakil was required to be a graduate with an LL.B. from a university in India in addition to three other certified requirements. The certificate should be proof that a. he had passed in the examination b. read in the chamber of a qualified lawyer and was of a good character. In fact, Sir Sunder Lal, Jogendra Nath Chaudhary, Ram Prasad and Moti Lal Nehru were all vakils who were raised to the rank of an Advocate.



HISTORY OF LEGAL PROFESSION IN INDIA

1923 - Barristers of England had come to occupy a predominant position in the legal profession. The Government of India in 1923 appointed the Indian Bar Committee, popularly known as the Chamier Committee to address the existing disparities in the Legal profession. It was chaired by Sir Edward Chamier, a retired Chief Justice of the Patna High Court).



HISTORY OF LEGAL PROFESSION IN INDIA

1923 - The Committee in its report stated that it was not practical at that time to organize the Bar on an all-India basis. However, the Committee suggested the establishment of Bar Council for each of the High Courts.



HISTORY OF LEGAL PROFESSION IN INDIA

1926 - The Committee suggested that a Bar Council should have power to make rules in matters such as qualifications and admission of persons to be Advocates of the concerned High Court, legal education, discipline and professional conduct of Advocates, terms on which Advocates of another High Court could appear occasionally in the concerned High Court or any other matter prescribed by the High Court.



HISTORY OF LEGAL PROFESSION IN INDIA

1926 - Giving effect to the Chamier Committee recommendations, the Central Legislature enacted the Indian Bar Councils Act, 1926. The Act was to provide for the constitution and incorporation of Bar Councils, to confer powers and impose duties on the Bar Councils and to consolidate the regulations pertaining to the legal profession.



HISTORY OF LEGAL PROFESSION IN INDIA

1926 - The Bar Councils could, with the consent of the High Court, make rules for: a) the rights and duties of Advocates of High Court and professional conduct; and b) legal education and examinations. The Act eliminated the two grades of practitioners, the Vakils and the Pleaders by merging them in the class of Advocates who were "entitled as of right to practice" in the High Court in which they were enrolled and in any other Court in British India, subject to certain exceptions.



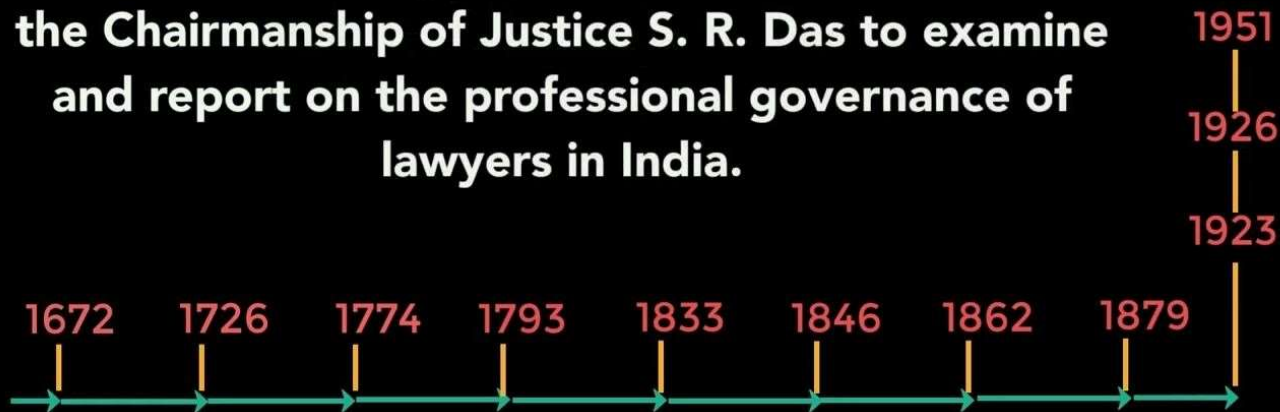
HISTORY OF LEGAL PROFESSION IN INDIA

1926 - The High Courts occupied considerable influence in these matters and the Legal Practitioners Act, 1879 remained intact. Pleaders, Mukhtars etc. who were practicing in mofussil courts remained out of the scope of the Act.

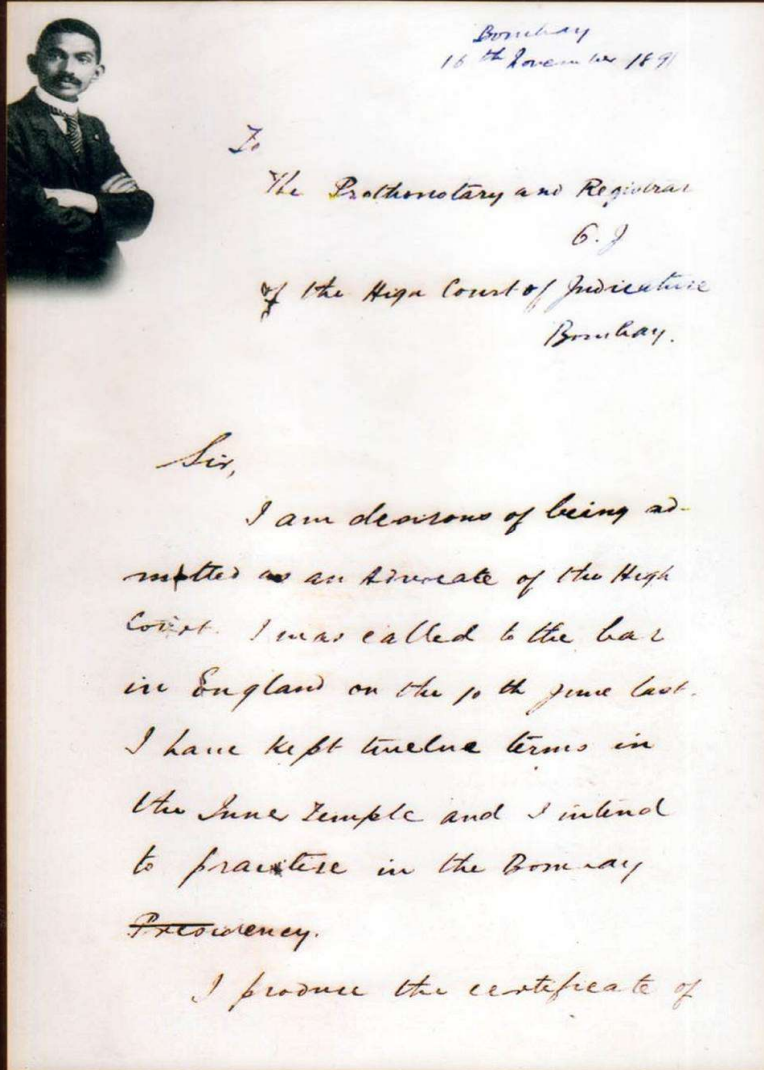


HISTORY OF LEGAL PROFESSION IN INDIA

1951 - The Government of India constituted a committee namely Indian Bar Committee under the Chairmanship of Justice S. R. Das to examine and report on the professional governance of lawyers in India.



Application of Mahatma Gandhi for enrolment as an Advocate to the Bombay High Court



On Behalf of the Esteemed Members of
The Hubli BAR Association Hubli
With Goodwishes & Goodluck

As a 19-year-old, Mohandas Karamchand Gandhi had left India for the first time on September 4, 1888, to get enrolled in the centuries-old law institute Inner Temple in London. Having become a barrister, M.K. Gandhi returned to his homeland in June 1891 and shifted from Rajkot to Mumbai after having decided to practice in the Bombay High Court. At Mumbai (then Bombay) Mr Gandhi submitted an application written in his own handwriting to the 'Prothonotary and Registrar of High Court of Judicature, Bombay' on November 16, 1891. The application in which Mr M.K. Gandhi mentions that he is "desirous of being admitted as advocate of the high court" is now on display at the bar association of High Court at Dharwad,

HISTORY OF LEGAL PROFESSION IN INDIA

1961 - The Advocates Act of 1961 was legislated to systematize, organized and to give full freedom to the legal practice. As a result of the Advocates Act, admission, practice, ethics, privileges, regulations, discipline and improvement of the profession as well as law reform are now significantly in the hands of the profession itself.





The Bar Council of India (BCI) is envisaged under the Advocates Act as a body for regulating the minimum standards to be maintained by institutions imparting legal education in India. The reformation of legal education in India undertaken since the late 1980s at the initiative of the BCI, the University Grants Commission (UGC), the Law Commission of India and various state governments has led to the establishment of various national law schools in India in the last two decades.



- ❖ Establishment of single Bar Council for entire India and State Bar Council for each state.
- ❖ The powers of Enrollment, suspension, removal of advocates to the Bar councils.
- ❖ Common roll of Advocates should be maintained by Bar councils.
- ❖ Qualifications and disqualifications for enrollment.



Advocates Act 1961

- Chapter -1 deals with primary issues such as short title, extent and commencement and definitions
- Chapter -2 sections 3-15 deals with the bar councils.
 - Bar council of India
 - State bar council
- Chapter 3 deals with admission and enrolment of Advocates.
 - qualifications and disqualifications
 - types of Advocates
 - 1. senior Advocates and
 - 2. Other Advocates



- Chapter -4 deals with Rights, Duties and privileges of Advocates. (sections 29 to 34)
- Chapter -5 deals with the conduct of Advocates.
 - Professional misconduct
 - punishment
 - Remedies
- Chapter -6 deals with Miscellaneous issues.
- Chapter -7 deals with Temporary and Transitional provisions

