

# Historical Development of Legal profession

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## Historical Development of the Legal Profession

Legal profession in Ancient Greece: The ancient education was based on the concept of *trivium*. It primarily consisted of three subjects; logic, grammar and rhetoric. The advent of professional academicians Sophists allowed young men with political ambitions to be trained in the subjects of trivium and this allowed them to be successful orators. Advocates in ancient Greece were substituted by “friends for assistance”. Greeks developed the tools necessary for lawyers but cannot be credited for creating the institution of lawyer itself.

Legal Profession in Rome: Advocacy as a profession developed in ancient Rome and this happened because of a viable legal system adopted by the Romans. Emperor Claudius legalized advocacy as a profession. Roman lawyers, like their Greek counterparts were trained in Logic, Grammar and Rhetoric. The early lawyers were not primarily trained in law and had a consulting nature. This led to the development of *iurisconsults*. The term meant a jurist who was consulted for an opinion in a legal matter and who gave ‘response’ (a type of jurist writing where jurists published answers to their queries asked to them). Their profession was considered one which cannot be evaluated or dishonoured by a price in money. ( **Adolf Berger, Dictionary of Roman Law, page 523** ) Roman law used the term ‘Advocatus’ which was applied for the profession of an advocate. Advocates gave juristic advice before and during trial in civil and criminal matters. Pleading could only be done by orators.

Legal profession in England: Maitland called 12<sup>th</sup> century “a legal century.” ( **Harold Berman, Law and Revolution, Stanford University press** ) According to Berman, it was in the 12<sup>th</sup> century that Western legal education was formed. It was a century of marvelous suddenness. Now in every country of West was created a professional courts, a body of legislation, a legal profession, a legal literature and science of law. In England, the current legal system owed its existence to the feud between Thomas Beckett and Henry II. It was a feud between ecclesiastical powers and secular powers. In England legal profession and education were regulated by Bars and Inns.

The main training centre for the barristers were inns of the court. They were private unincorporated association in the nature of collegiate houses. They were located in London. They were invested with the exclusive privilege of calling men to the Bar i.e. conferring the rank

or degree of a barrister . The inns of the court are governed by offices called Benches and hold the exclusive privilege of conferring the degree of Barrister at law which is required to practice as an Advocate or Counsel in Superior Courts .

Legal Profession in India : The earliest traces of legal profession in India can be traced back to the establishment of First British Court in Bombay in 1672 by Governor Aungier . The admission of attorney was in the hands of Governor in Council .

(a) Mayor's Court : Under the Charter of 1726 , three Mayor's courts were established in the three presidency towns . No particular qualifications were prescribed to be a lawyer and the matter was left to the Courts .The Mayor Court had the following functions :

(1) Framing of rules and appointment of officers.

(2) Administration of Justice.

During this period two principles were established related to legal profession ; right of an attorney to protect the rights of his client inspite of opposition from council or the governor was upheld for attorneys in each of the Mayor's Court and Mayor's Court had established the right to dismiss an attorney guilty of misconduct .

(b) Regulating Act of 1773 : Three Supreme Courts , Supreme Court of Calcutta (1774) , Supreme Court of Madras ( 1801), Supreme Court at Bombay (1822). For the first time the qualification of the chief justice and puisne judges were prescribed . The Charter of the Court required that the Chief Justice and puisne judges be English barrister of at least five years of standing .

(c) Regulation Act of 1793 : Under this regulation Advocates could not demand or accept any fees , goods , effects or valuable consideration from the clients over and above sanctioned fees . The ultimate punishment for the violation of this rule was the dismissal of a lawyer . Regulation of 1793 laid the foundation of modern vakalatnama ( now described under Order III , Rule 2 and 4 of CPC, 1908) . Vakeels attached to one court were not permitted to plead in any other court . Every pleader was required to attend the court regularly and punctually . Absence in the Court had to be notified to the Registrar of the Court . Failure to do so made an Advocate liable to fine . A pleader showing disrespect to the court could be fined upto Rs . 100 . Fee was regulated by the Charter

and if more fee was charged that was prescribed in the Charter then it would amount to Sadar Adalat .

- (d) Legal Practitioners Act , 1846 : It was the first All India Law concerning the pleaders in the Mofussil . The office of the pleaders in the Courts of the Company was thrown open to all person of whatever nation or religion . Every Barrister enrolled in any of Her Majesty's Courts in India was made eligible to plead in Sadar Adalat . Vakils were allowed freedom to enter into agreement with their clients for their fees for professional services . Legal Practitioner's act of 1853 did away with the compulsory attendance of the Barristers . Pleader , Mukhtar and Revenue agents were non licensed inferior grades of practitioners in the mofussil . They were recognized and brought under control of Courts under Agents Act XX of 1865 .
- (e) Legal Practitioner's Act , 1884 : Women were not given the right to practice and Legal practitioners ( Women) Act , 1923 was enacted .
- (f) In 1923 , Chamier Committee was appointed under the Chairmanship of Sir Edward Chamier . It was composed of four Barristers , one attorney , one civilian and three representatives of Vakil Bar . The committee contemplated on the constitution of an All India level Bar Council but reached a conclusion that it was not practical at that time . The Committee however , suggested that a Bar Council should be constituted for each High Court .
- (g) Indian Bar Councils Act , 1926 : The Central legislature enacted the Indian Bar Councils Act , 1926 to give effect to the recommendations of the Chamier Committee . It provided for the incorporation of Bar Councils for certain Courts in British India . The purpose of the act thus was to unify the various grades of legal practitioners and to give a level of autonomy to the Bars .
- (h) All India Bar Committee , 1951 : In 1951 , the Government of India constituted a committee under Chairmanship of Justice S.R. Das of Supreme Court for the following purposes :
  - (1) The desirability and feasibility of a completely unified Bar for the whole of India .
  - (2) The continuation or abolition of different classes of legal practitioners , like advocates of Supreme Courts , advocates of the various High Courts , District Court , pleaders , Mukhtars etc .

- (3) The desirability of a single Bar Council for whole of India or for each State .
- (4) Consolidation and revision of the various enactments relating to legal practitioners .
- (i) Advocate Act , 1961 : Parliament enacted it in 1961 to provide for State Bar Council and Bar Council of India at a national level . It repeals Indian Bar Council Act , 1926 and Legal Practitioners' Act , 1879 . An All India Bar Council performs the following functions :
  - (1) To lay down standards of professional conduct and etiquette for advocates.
  - (2) To safeguard the rights ,privileges and interest of advocates.
  - (3) To promote legal education.
  - (4) To lay down standards in legal education in consultation with Universities .
  - (5) To recognize universities with degrees in law shall qualify for enrolment as an advocate and conduct inspection of universities .
  - (6) To exercise general supervision and control over State Bar Councils .
  - (7) To promote and support law reform.
  - (8) To provide Legal aid .

Further , the Act provides for disciplinary committees at a State level which decide upon the cases of professional misconduct .