

Regulating Act 1773 → S.C. was established in Calcutta through a Charter which provided -

Legal Profession and the Advocates Act 1961 (1)

- S.C. in Bengal to approve, admit and enrol as much advocates and attorneys as shall meet the requirement
- Who shall be ~~appointed~~ attorneys & reward
- Such advocates or attorneys so admitted and enrolled shall be allowed to appear and plead for or on behalf of suitors.

Only English and Irish lawyers were allowed to appear

Indian had no right to appear

Some powers were given to S.C. of Madras, Bombay and Madras

Advocates entitled to appear were only English and Irish.

Indian lawyers had no right to appear in the court.

Where the S.C. of with same jurisdiction and power were established at Bombay and Madras same powers for the enrolment of advocates and attorneys were conferred on them.

Company's Court

Prior to the British power Justice was administered by Courts established by Moghul Emperor called Vakils were available to litigants

- Vakils practising before the Moghul Courts appeared in the Company's Court also till Bengal Regulation of 1793 which was created for the first time to regulate legal practice for the Company's Court.

Moghul's - Vakils

Bengal Regulation regulated the appointment of Vakils ~~at that time~~ in the Court of Civil Judicature

In the Province of Bengal, Bihar and Orissa and gave power to Sadar Judicial and Adalat to enrol pleaders for ad

all company courts, to fix the number of pleaders and to fix a scale based on a percentage for the value of property.

~~1814~~ Bengal Regulation 1814 - Pleders were empowered to act as arbitrators and to give legal opinion on payment

Bengal Regulation of 1833 - Only duly qualified persons of whatever religion or nationality would be enrolled as pleaders in Sadar Adalat

Bengal Practitioners Act 1846 - made three important changes

- ① Office of pleader was open to all persons of whatever nationality by Sadar Courts for those who were duly qualified and were of good character
- ② Attorneys and Barristers of Her Majesty's Court in India were eligible to plead in any Sadar Courts subject to the ruling of those Courts
- ③ Pleders were permitted to enter into agreement with their ~~pleaders~~ clients for their fees. Act did not affect certain Vakils entitled to appear before the village munsif and other authorities specified in Madras Code.

Legal Practitioners Act 1855 permitted all barristers and ~~other~~ attorneys of the S.C. to be admitted as pleaders in the Courts of East India Company. A pleader was not bound to attend the Court except at the hearing of his case.

Practising advocate in Calcutta after graduation he sh
taken a degree of in law and served as an articled cl
with a vakil of five years standing

It was given power s/s 6 to make rules for the
qualification and admission of proper persons to be

① Pleeding the subordinate courts and of the revenue
office

② to be masters of subordinate courts and
the fees to be paid for the ^{examination} ~~admission~~ and admission
of such persons

But women could not be admitted as pleaders.

Through Legal Practitioners (Women) Act 1923

women were allowed to enroll as legal practitioners

In Madras House

s/27 ~~employees~~ empowered the H.C to fix and regulate
from time to time fees payable by any party to the

advocate

s/36 dealt with touts, judges, collectors and revenue
officers were empowered to publish list of persons who
were tout ~~as~~ thought it was mandatory to give them
an opportunity ~~to~~ to defend themselves.

Chamber Committee and Indian Bar Council Act; 1926

Distinction b/w barristers and Vakils was creating
a dissatisfaction

In 1923 GoI constituted Indian Bar Committee via

Chamber Committee to report on

① Proposals of making of Indian Bar whether on all India
or provincial basis and their position in varying

② How much it was possible to ^{remove} ~~remove~~ the distinction b/w
barristers and Vakils

②

British Crown took over the administration of the country from the company and Government of India Act 1858 was passed.

Indian High Courts Act 1862 was enacted by British Parliament authorising the setting of High Courts in several presidencies in place of respective S.C. and Sadar Diwani Adalats and Sadar Nizamat Adalat. Several other H.Cs came to be established later.

Letter Patent 1865 authorised H.Cs to approve, admit and enrol Advocates.

Legal Practitioners Act 1879 —

Amended the law relating to legal practitioners of the H.C. except revenue agent.

Attorneys were under the disciplinary jurisdiction of the H.Cs. Revenue agents were ~~not~~ subject to the disciplinary authority of the Chief Controlling Revenue Authority.

§4 of the Act empowered an Advocate or Vakil on the roll of any H.C. to practise in all the courts subordinate to the court in which he enrolled.

H.C. could dismiss any advocate so enrolled from practice but not without affording an opportunity of defending himself.

In the Chartered High Courts rule had been framed. The persons who could be enrolled as advocates were barristers of England, Ireland or Scotland.

✓ The rules of the H.Cs. varied like in Madras who had taken a degree was qualified and underwent training with

Bar Council Act 1926 was passed and in 1928 Bar Councils were constituted in different ~~provinces~~ provinces. ②

Every Bar Council was to comprise 15 members with an Advocate General as an ex-officio member and four members nominated by H.C. and 10 elected members ~~consent~~. amongst the advocates of the H.C.

The term of the Bar Council was ~~three~~ 3 yrs.

H.C. had to prepare and maintain a roll of advocates, Vakils and pleaders entitled as of right to practise.

S/9 authorised ~~Bar~~ Bar Council with the sanction of the H.C. to make rules to regulate the admission of persons to be advocates, to prescribe the qualification and to regulate the admission of advocates.

An ~~applicant~~ applicant for enrolment had to pay a stamp duty for the entry in rolls as provided in Indian Stamp Act.

While papers of the applicant for enrolment had to be presented to the Bar Council but that was subject to the approval of H.C.

S/14 of the Act empowered him to practise—

① In the H.C. and

② in all the subordinate courts and tribunals

Under Advocates Act power of enrolment of advocates virtually remained in the H.C. and

function of Bar Council was advisory.

The right of the advocates of one H.C. to practise in another H.C. was subject to the rules made by H.C.

Recommendations of Indian Bar Committee and Law

Aug 1926 was not satisfactory

- ① Pleaders, muckhtars and Revenue agents practising in provincial courts were not covered.
- ② Power of Bar Council was limited, neither its autonomy nor they had any substantial an

After the implementation of Indian Constitution and establishment of S.C. need for an all India Bar realised and then Union govt. Set up a Committee All India Bar Committee under the Chair of J. S.R. Das of S.C.

In 1955 Law Commission provided by Mr. M.C. Chhibber 14th report of Judicial Administration & recommended for All India Bar as to composition and funding of State and All India Bar Council.

To implement the recommendations the Legal Practitioners Bill 1959 was introduced in Lok Sabha in 1959 and was Passed in the name of Advocates Act 1961.

To work any legal system efficiently, experts lawyers are required. Lawyer is a person who possesses special knowledge of Law and also have some practical skill in his working. The legal Profession is an important limb of the machinery of administration of justice as well as the guarantee of Rule of Law.

Development of Legal Profession

① Pre-independence development

② Post-independence development

① Pre-independence development : →

During the ~~British~~ British Period Legal Profession ~~started~~ started acquiring its modern form.

① Charter Act 1774 : →

The Act empowered the Supreme Court to approve, admit and enrol so many advocates and attorneys at law as it thought proper. However, only Englishmen and no Indian had the right to appear before the court.

The position in the Company's Courts in Mofussil area was different, there local Vakils continued to work.

Judicial Plan 1793 : → Bengal Regulation VII of 1793

Created for the first time a regular legal profession for the Company's Courts. It empowered Sadar Diwani Adalats to enrol pleaders (however only Hindus & Muslims were allowed). The rules regarding to professional ethics, fees etc. were laid down.

Bengal Practitioners Act 1879

The office of the pleader in ^{Company's} Courts was thrown open to all persons of whatever nation or race. Every barrister enrolled in any of the Kingdoms in India was made eligible to plead in ^{any} Sader Adalats. ~~Vakils~~ ^{Persons} were allowed to ~~franchise~~ to enter into agreement with the clients for their fees for professional services. He did not attract certain Vakil's entitled to appear before the Village Panchayat and other courts specified in ~~the~~ Madras

Legal Practitioners Act 1879 →

It is also in force today to a limited extent in the Advocates Act 1961.

High Courts could frame rules regarding enrolment disciplinary action against and dismissal of lawyers. ~~Sec~~ s/4 of the Act empowered an advocate or a person on the roll of any High Court as a pleader in the High Court ^{to practise in all courts subordinate to the High Court}. The three chartered High Courts (Bombay, Madras and Calcutta) added to the category of advocates and attorneys, the category of Vakil's (the Indian law graduates). While an advocate could appear on original as well as appeal side of these High Courts, the Vakil's could not appear on the original side or even in appeals from original side.

The Act also empowered an advocate or Vakil on the roll of any H.C. to plead before any subordinate court in British India. Section 27 empowered the High Court to fix and regulate from time to time the fees payable by any party in respect of his adversary's advocate, pleader, Vakil, mukhtar or attorney. s/36 is an important part of the Act which continues to exist.

two, which empower District Judges, session Judges, district magistrates, collector etc. to publish the list of touts. The touts could be debarred from entering the court's premises and could also be subjected to fine and imprisonment.

Legal Practitioners (Women) Act 1923 - Qualifiers

Women could be enrolled as pleaders:

The Chamber Committee and the Indian Bar Councils Act 19

Indian Bar Committee like the Chamber Committee was constituted to remove the dissatisfaction which arose because of the distinction b/w barristers and vakils.

The committee was asked to report on the possibility of constituting an all-India Bar and the possibility of removal of distinction b/w advocates or barristers and vakils.

The committee reported that formation of an all-India Bar was not possible and it recommended the establishment of a Bar-Council for each High Court.

The Act made following important changes -

- ① Establishment of a Bar Council for each High Court consisting of 15 members, one of whom was the Advocate-General as an ex-officio member, and four members nominated by H.C. and ten members elected by and from amongst advocates of the High Court.

(ii) The Council, with prior sanctioning Court, was empowered to make rules regulating the admission of advocates their qualifications and the fees payable to the Council. The final decision regarding admission was taken by the High Court.

(iii) Power to take disciplinary proceeding on a reference from the High Court was given to the Bar Council according to rules framed by H. High Court. Final orders were also passed by the High Court.

It may be pointed out that under the Act, the power of enrolment of advocates virtually remained in High Court. The function of the Bar Council was only advisory. The distinction b/w advocates & vakils was left untouched.

(II) Post independence Developments →

With the coming into force of the Constitution in 1950 and the establishment of Supreme Court in India the need for an All India Bar was stressed by the legal fraternity. In this spirit the Union Govt. set up a Committee the All India Bar Committee under the chairmanship of Justice S.R. Das of the Supreme Court.

Subsequently in 1955 the Law Commission presided over by Mr. M.C. Setalwad in its Attorney General of India, in its famous report of the Reform of Judicial Administration endorsed the Recommendations of All India Bar Committee, as regards the creation of a unified All India Bar as well as to establish composition and functions of the State and All India Councils.

To implement the recommendation of the All India Bar Committee and of the Law Commission in its 14th Report, the Legal Practitioners Bill 1959 was introduced in the Lok Sabha in the 19th Nov 1959. The bill was to amend and consolidate the law relating to legal practitioners and to provide for the Constitution of State Bar Councils and an All India Bar Council.

The Advocates Act 1961 -

To implement the recommendations of the All India Bar Committee, the Advocates Act was enacted. Main features of this Act are -

- ① Establishment of an All India Bar Council (for the first time in India) and a number of State Bar Councils.
- ② An Advocate is initially enrolled with a State Bar Council and a common roll of all the advocates in the country is maintained by All India Bar Council. An advocate in common roll has a right to practice in any court of the country including the Supreme Court.
- ③ ~~Interms~~ A single class of legal practitioners the advocates.
- ④ A uniform qualification for the admission of advocates.
- ⑤ Division of advocates into senior advocates and other advocates based on merit.
- ⑥ No advocate can get himself enrolled with more than one State Bar Council, though he can get himself transferred from one State Bar Council to another.

Bar Council of India -

It consists of - the Attorney General of India, ex-officio
Solicitor General of India, ex-officio, and
one member elected by each state Bar Council from
amongst its members.

There shall be a chairman and a Vice-chairman
of the Bar Council of India elected as provided by law
a ~~secret~~ Secretary and an Accountant, if any.

The Bar Council of India has been ~~established~~
authorised to constitute one or more of the
following committees -

- (i) Legal Aid Committee
- (ii) Disciplinary Committee
- (iii) Executive Committee
- (iv) Enrolment Committee
- (v) Legal Education Committee

Functions : - Main functions of the Bar Council of India

- ① To lay down standards of professional conduct and
etiquette for advocates and rules regarding enrolment
suspension etc. of advocates.
- ② To safeguard the rights, privileges and interests
of advocates.
- ③ To exercise general supervision and control over
State Bar Councils.
- ④ To promote and suggest law reforms.
- ⑤ To ~~promote~~ legal education and to lay down
standards of such education in Constitution of
Universities and State Bar Councils.
- ⑥ To recognize Universities whose degree with
quality a person to be enrolled as an
advocate and to recognize foreign
law degrees.
- ⑦ To conduct seminars and talks on legal
matters and to publish legal journals.
- ⑧ To organise legal aid to poor.
- ⑨ To manage and invest the funds of Bar Councils.

Graya Panchayats and Indian Constitution

⑦

Graya Panchayat is a system of dispute resolution at village level in India and works on the broad principles of natural justice and tend to remain procedurally as simple as possible. They can be given civil and ^{minor} criminal jurisdiction but they should never ~~follow~~ follow civil and criminal procedure code in toto.

Legislation to formulate these bodies and bring them within the ambit of organised justice in India was planned as a part of Panchayati Raj Reforms of Rajiv Gandhi in 1980s.

Panchayat Raj is a South Asian political system mainly in India, Pakistan and Nepal. 'Panchayat' literally means assembly of five wise and respected elders chosen and accepted by village community. Modern Indian govt has decentralised several administrative functions to the village level, empowering elected gram panchayats. Gram Panchayats are different from Khap Panchayats (Caste panchayats) found in some parts of India.

Panchayati Raj is a system of governance in which gram panchayats are the basic unit of administration. It has three level ~~at~~ village, block and district.

Panchayati Raj found backing in the Indian Constitution under 73rd Amendment Act 1992 (Art 243 - 243ZG) and Schedule XI)

Now Panchayat Raj system exists in all states except Nagaland, Meghalaya, and Mizoram and all UTs except Delhi.

These Panchayats receive funds from Central Financial Commission, Centrally sponsored scheme and state finance commission.

- The Act aims to provide 3 tier system of Panchayati Raj for all states having population of over 2 millions to hold panchayat elections regularly every 5 yrs to provide reservation for SC, ST and Women.

Three type of system of Panchayati Raj consist -

- ① Village level Panchayat
- ② Block "
- ③ District "

The current justice delivery system is perceived as expensive, time-consuming, technical and difficult to comprehend. To mitigate this hardship, the

Ministry of Panchayati Raj has proposed a Muzo Panchayat Bill 2019. Port Upendra Bauri is the Chairman of the committee. It will be presented in the winter session of Parliament.

Benefits → ① Relieve the burden of regular courts

- ② Large number of cases ~~would~~ would be compromise
- ③ Appeals and revisions from these decisions would be small in no.
- ④ Speedy and cheap disposal of cases
- ⑤ Litigants and witnesses would conveniently attend the
- ⑥ Panchayat could bring justice nearer to the village.
- ⑦ better chances of conciliation

Who is entitled to free legal aid

Any person who is

- ① member of S.C or ST
- ② poor (with annual income of not more than 50,000/- for cases in S.C. and 25,000/- in other courts)
- ③ a victim of trafficking or human being or beggar
- ④ disabled including mentally disabled.
- ⑤ a woman or child
- ⑥ a victim of mass disaster, ethnic violence, caste atrocity, natural disaster or industrial disaster

⑦ Cases for which legal aid is not available :-

- ① In respect of defamation, malicious prosecution, Contempt of Court, perjury etc.
- ② Proceedings relating to elections
- ③ Cases where the fine imposed is not more than 50/-
- ④ Economic offences and offences against social causes
- ⑤ When interest will not be affected if not represented properly.

