

# FACULTY OF JURIDICAL SCIENCES

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# Lecture-39



## THE ADVOCATES ACT, 1961

In 1961, parliament enacted the Advocates Act to amend in consolidated the law relating to the legal practitioner, and to provide for the constitution for the State Bar Council and All India Bar Council. The Advocates Act implements the recommendation of the Bar Committee in the Law Commission with some modifications. It repeals the **Indian Bar Council Act, 1926**, the **Legal Practitioners Act, 1879**, in other laws under subject. The act has undergone several amendments since its enactment in 1961. The Act extends to the whole of India.

The Act establishes an All India Bar Council for the first time. The Attorney General of India in the Solicitor General of India is the ex-officio members of the Bar Council of India. Besides, it has one member elected by its State Bar Council from among its members. The Council elects its own chairman and vice-chairman. The Bar Council of India has been entrusted inter alia with the following important 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 of legal education in consultation with the universities imparting such educations in the State Bar Councils.
- (5) To recognize universities which degrees in law shall qualify for enrollment as an advocate and up to visit and inspect the universities for that purpose.
- (6) To exercise general supervision and control over state bar councils.
- (7) To promote and support law reform
- (8) To organize legal aid to the poor.

The Act creates a State Bar Council in each state. It is an autonomous body. The Advocate General of the state is an ex-officio member, and there are 15 to 25 elected advocates. These members are to be elected for a period of five years in accordance with the system of proportionate representation by means of single transferable votes from amongst advocates on the roll of the State Bar Council. The State Bar Council has power to elect its own chairman. The main powers and functions of the State Bar Council are:

- (a) To admit persons as advocates on its roll
- (b) To prepare and maintain such rolls.
- (c) To entertain and determine cases of misconduct against advocates on its roll
- (d) To safeguard the right, privileges and interest of advocates on its roll
- (e) To promote and support law reform
- (f) To organize legal aid to the poor

Thus, every State Bar Council prepares and maintains a roll of an advocate as an authenticated copy of the roll which to be sent to the Bar Council of India.

Advocates have been classified into Senior Advocates and other Advocates. An Advocate may, with his consent, be designated as a Senior Advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability, experience and his standing at Bar he is deserving of such distinction. Senior Advocates are, in the matter of their practice, subject to such restrictions as the Bar Council of India may, in the interest of the legal profession prescribe

Originally, the Act had saved the dual system *i.e.* Advocates and Attorneys, prevailing in the Bombay and Calcutta High Courts on their Original Side. It was left to the two High Courts to continue the system or not. These provisions were deleted with effect from 1<sup>st</sup> January 1977. The result is that, as a matter of law, Attorneys are no longer recognized as a separate class of

lawyers. However, since the system prevailed for a long period in the two towns it continues there still as a matter of practice.

Thus, admission, practice, ethics, privileges, regulation, discipline and improvement of the profession are now all in the hands of the hands of the profession itself. The legal profession has achieved its long-cherished object of having a unified Bar on All-India basis.