

UNIT – I

The legal profession and the Advocates Act

History · Enrollment · BCI · Right to practise

Explanatory Lecture Slides

Professional Ethics and Professional Accounting System · Clinical-I · Semester VII

PROFESSIONAL ETHICS & PROFESSIONAL ACCOUNTING SYSTEM

Topics covered in this unit

01

Sketch the history of the Indian bar

02

Read the Advocates Act 1961 as the profession's constitution

03

Explain enrollment and the two classes of advocates

04

Place BCI and State Bar Councils

05

State the right to practise and its limits

06

Note strikes and the duty to the court

How this unit is organised

01	02	03	04	05	06
History	Advocates Act	Enrollment	Bar Councils	Right to practise	Strikes

History of the Indian bar

Company's courts, the Legal Practitioners Act 1879, the Indian Bar Councils Act 1926 (High Court bars), the All-India Bar Committee (1951), Advocates Act 1961 — one roll, one profession.

- Pre-1961: advocates, vakils, pleaders, attorneys as separate tribes. 1961 fused them, with a sunset for additional classes.
- A 10-mark of four statutes and the idea of an autonomous all-India bar.

History of the Indian bar

BEFORE

- Pleaders.
- Vakils.
- Attorneys.

AFTER 1961

- One advocate.
- One roll.
- BCI at the apex.

Advocates Act 1961

The profession's constitution: definitions (s.2), Bar Councils (ss.3–15), admission (ss.16–28), conduct (ss.35–44), right to practise (ss.29–34), BCI's rule-making (s.49).

- Do not treat it as a civics pamphlet. A 16-mark wants a map of chapters and two cases on s.30 / s.34.
- s.29: only advocates may practise. s.33: no person shall practise unless enrolled.

Advocates Act 1961

MUST QUOTE

- ss.29–30.
- s.35.
- s.49.

DO NOT FAKE

- A section of the BCI Rules you have not opened.

Enrollment — ss.16–28

s.17 State roll; s.18 transfer; s.24 qualifications (citizen, 21, law degree, no conviction of moral turpitude as notified); s.24A disqualifications; s.16 senior advocates.

- Senior advocate: s.16(2), ability, standing, BCI/HC designation. Officers of the court first, leaders of the bar second.
- A foreign law degree needs BCI recognition. Reciprocity for foreign advocates (s.47).

Enrollment — ss.16–28

NEED

- Degree.
- Citizenship (or reciprocal national).
- Character.

LOSE IT BY

- s.24A.
- Misconduct after a s.35 finding.
- Insanity etc. as provided.

BCI and State Bar Councils

s.4 BCI composition (AGs, elected, nominated). s.7 functions: standards, rolls, legal education, legal aid, poor, foreign reciprocity. State Councils: admission, local roll, welfare, misconduct of first instance.

- Bar Council of India v Board of Management / V. Sudeer (legal education) — BCI is not a university, but it sets the floor of the degree that s.24 talks about.
- Legal Education Rules 2008: the clinical courses you are sitting in exist because of this function.

BCI and State Bar Councils

BCI

- Standards.
- Education.
- Roll of rolls.

STATE COUNCIL

- Admit.
- Discipline at first instance.
- Welfare fund.

Right to practise

s.30: right to practise throughout India, subject to s.34 (HC rules on who may appear, robes, filing). Ex-Capt. Harish Uppal: appearance is a right of the client as much as of the advocate — a strike cannot close a court.

- Art. 19(1)(g) is the constitutional cousin, regulated by 19(6) and by the 1961 Act.
- A.K. Balaji / Bar Council of India v A.K. Balaji: foreign firms and the ‘practise of Indian law’ — name the issue, do not overstate the holding if you have not read it this term.

Right to practise

S.30

- All-India practise, on the terms of the Act.

S.34

- High Court may make rules of audience and dress.

Strikes

Harish Uppal (2003): lawyers have no right to strike; at most a symbolic one-day protest after a Bar Council resolution, and the court still sits. A boycott that strands a client is misconduct.

- Hussainara / a speedy-trial sentence belongs in the last line: other people's Art. 21 is not a bargaining chip.

Strikes

NEVER

- A strike that closes a court.

MAYBE

- A one-day protest that still leaves a roster.

BCI and State Bar Councils

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Cases a KSLU answer should name

CASE

Ex-Capt. Harish Uppal v Union of India

(2003) 2 SCC 45

No right to strike; the court remains open.

CASE

Bar Council of India v Board of Management, Dayanand College / V. Sudeer

(1999) 3 SCC 176

BCI's legal-education power — and its limits.

CASE

Indian Council of Legal Aid v Bar Council of India

(1995) 1 SCC 732

Pre-enrollment restriction on age — BCI rules must sit inside the Act and the Constitution.

Provisions & materials to quote

Advocates Act ss.2, 7,

Definitions, BCI, enrollment, practise.

s.49

BCI's general rule-making power — the parent of the conduct rules.

Art. 19(1)(g) / 19(6)

Profession, and its reasonable regulation.

Legal Education Rules

Why this clinical course exists.

s.47

Reciprocity for foreign advocates.

10 / 16-mark frames from this unit

Q1

Trace the development of the legal profession in India.

Q2

Explain the constitution and functions of the Bar Council of India.

Q3

Who is entitled to be enrolled as an advocate? What disqualifications apply?

Q4

Is there a right to strike? Discuss with cases.

Unit recap

- 1 1961 Act = one profession, one roll, one BCI.
- 2 s.24 to enter; s.30 to practise; s.34 for HC rules; s.35 if you fall.
- 3 BCI sets standards and education; State Councils admit and try misconduct first.
- 4 Harish Uppal: no strike that closes a court.
- 5 You are an officer of the court from the day of enrollment, not from the day of a first brief.