

The Legal Profession as a Pillar of Constitutional Democracy in India

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Abstract: Constitutional democracy is not just about holding elections and sticking to the books legally: it is about a group of legal professionals who are trained, ethical and independent, and who can help maintain the rule of law, protect fundamental rights and hold the powers of the state to account. Since independence, and even before, the lawyers in India have played an integral role in constitutional democracy, and in fact since the nationalist movement which gave birth to the Constitution. The article traces the historical developments of the Indian Legal profession, its constitutional and institutional background, how the legal profession relates to democratic governance, factors that support or challenge the role of the legal profession in democracy, and the important judgments, laws, and constitutional amendments that helped shape the legal profession in India's polity. The article is on the interaction among judicial independence, Bar autonomy, public interest litigation, legal aid, separation of powers and constitutional morality, reflecting the importance of the character of the legal profession for Indian democracy. The article presents the case law of the Supreme Court of India, comparative constitutional theory and field observations of the constitutional state of the profession with concrete suggestions for strengthening the role of the constitutional profession in the new constitutional order and concludes with a vision of a fully adequate Bar.

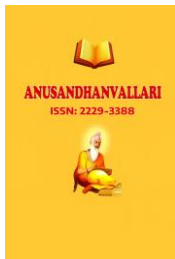
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1. INTRODUCTION

During the drafting of the Constitution, in New Delhi from 1946 to 1949, lawyers were the ones who took a leading part in the proceedings. Dr. B.R. Ambedkar, the master architect, was an international lawyer and barrister. The key leaders of the drafting were almost all lawyers, including Jawaharlal Nehru, Vallabhbhai Patel, C. Rajagopalachari, Alladi Krishnaswami Ayyar and T.T. Krishnamachari. This was not just a random occurrence. The legal profession had more than any other given the conceptual language of rights, constitutionalism and the rule of law to the nationalist generation of India. It was the lawyers who converted the concepts of liberty into the actual structure of a written Constitution.

The Constitution of India has been open to contestation, reinterpretation and even amendment over the last seventy years, and continues to be a living document. The values and institutions that it protects and enshrines, such as fundamental rights, separation of powers, federalism, an independent judiciary, parliamentary democracy and constitutional morality, need to be continually defended and expressed. Much of that defence is left up to the legal profession. They argue constitutional issues before the Supreme Court; they tell governments the limits of legislative power; they mount public interest litigation against the excesses of the State; they represent the accused before the coercive power of the State; and they educate generations of legal scholars who pass on constitutional values through the ages.

However, the ties between the legal profession and constitutional democracy in India is not pure and simple. Profession is big, diverse and internally stratified with huge inequalities in resources, status and access. In some



instances, it has been a silent partner in the very injustices it purports to fight. Lawyers have gone on strike, leaving litigants without justice, and paralyzing courts. The democratic reputation of the profession has been sullied by corruption, professional misconduct and by the capture of judicial institutions by the elite. One can therefore talk of the legal profession as a 'pillar' of constitutional democracy only in a spirit of praise but also in a spirit of serious reflection on the achievements, failures and unrealized potential of the profession.

This article has nine sections. Section 2 explores the profession from ancient India until colonialism and then on to the post-colonial era. Section 3 deals with constitutional and statutory basis of the profession. In section 4, the nature of the profession's democratic role is analysed. Section 5 outlines factors that can inhibit the profession's ability to support constitutional democracy. Markdown case laws are explored in Section 6. Section 7 examines some of the more significant laws, policies and constitutional changes. Section 8 provides recommendations on how to augment the profession's constitutional role. Section 9 concludes.

2.1 Pre-Colonial Foundations

India has a long history with the formalised legal institutions even before colonialism. The Arthashastra of Kautilya from the 3rd century BCE provides elaborate rules regarding the courts and judges, legal procedure, and the duties of dharmadhyakshas (superintendents of law). Manusmriti, Yajnavalkya Smriti, and Naradasmriti formulated an advanced law of obligation, responsibility and property. In ancient India, the process of dispute resolution was spread out over the royal courts, village assemblies (sabhas and samitis), guild (shreni) tribunals, and family councils, a pluralistic system of laws that reflected the social complexity of the subcontinent.

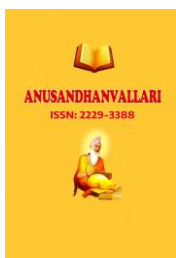
There was no formal legal profession as such, no organized Bar, no system of formal legal representation; but there were learned brahmin scholars, who were called pandits, who advised on matters of dharma. The Mughal period (1526-1857) added another set of qazis to look into personal law and imperial justice that was concurrent with the existing system of customary courts of the Hindus. This pluralistic legal legacy influenced the colonial enterprise's interaction with Indian law and it has left an enduring legacy on the post-colonial constitutional settlement that acknowledged personal law and customary law in addition to codified national law.

Although this process of change was largely a gradual one, it was ultimately a very significant one.

The British colonial system made an organized effort to change the legal system in India. The introduction of the common law system, the adversarial model of justice and the formal practice of advocacy in the Supreme Courts in the Presidency towns (1774 in Calcutta, 1823 in Bombay, and 1862 in Madras) marked the beginning of this. The Indian High Courts Act 1861 established a single high court in each Presidency instead of the old Supreme Courts and Sadar Courts and ushered in a modern and recognisable judicial system in India.

This colonial-procured law profession was very hierarchical. The top of the hierarchy were English-trained barristers, trained at the Inns of Court in London, with Indian-trained pleaders and mukhtars practicing in the lower courts under strict conditions. In the face of this hierarchy, however, there was an amazing growth of constitutional awareness among the Bar during the colonial era. The Indian National Congress, which was established in 1885, was mainly a lawyers' body with the first 25 presidents being barristers and high court lawyers. The constitutional language of rights, democratic accountability and rule of law was internalized, absorbed and used against the colonial state by the most intellectually capable lawyers in Indian society.

The political lawyer was brought into existence by the great lawyer M.A. Jinnah when defending Bal Gangadhar Tilak in sedition proceedings. The exposure to racial injustice in the legal system in South Africa marked the turning point for Gandhi's evolution from a barrister educated in London to become the leader of a nation's struggle for independence. Barrister and doctorate holder B.R. Ambedkar built the most complex legal critique of the caste from within the legal tradition. Tej Bahadur Sapru, Alladi Krishnaswami Ayyar were involved in the top-level constitutional negotiations. These numbers show that the legal profession in India, from its inception in colonial



times, was already already a space for constitutional politics, where questions regarding power, rights and the boundaries of authority were raised and challenged.

2.2 The Constituent Assembly and the Lawyering of the Constitution

The debates of the Constituent Assembly are the most important documentary evidence of the founding constitutional moment of the Indian nation. The discussions reveal the extent of the influence of the legal profession on the design of the Constitution. The Constitution (Articles 12 to 35) was written in a manner that would be legally enforceable and granted a Bill of Rights, a testament to the legal profession's instinct to give political promises a legal form. For lawyers, the most important institutional decision of the Assembly was to create an independent Supreme Court with the power of judicial review, which was so important that the decision to create it was made even with the realization that rights without remedies are no real rights.

For social, economic and political democracy, wherein the formal provisions of the Constitution would be translated into reality through the constant interaction of democratic institutions, including the legal system, the closing speech by Dr. Ambedkar to the Constituent Assembly in November 1949 is the most eloquent statement of the constitutional vision. The Constitution could be eroded by those who have power, Ambedkar cautioned, and only a vigilant citizenry – and independently minded legal profession – could stop it.

2.3 Post-Independence Consolidation

There was a lot of consolidation as well as democraticization of the legal profession in the post-independence era. The 14th Report of the Law Commission (1958) called for substantial changes to court practice and to legal education. The Advocates Act, 1961 came into existence on the recommendations of Justice S.R Das, Chairman of the All India Bar Committee which introduced the concepts of bringing together the profession under a single category of 'advocates', the formation of Bar Councils of India and State Bar Councils and the establishment of national standards for legal education and professional conduct. The Act was a professional legal act of institutional self-constitution – a constitutional moment in the profession.

The profession grew rapidly over the next few decades. At the time of independence, India had just a few thousands of lawyers, but the present numbers are more than 1.7 lakh registered advocates, the biggest legal profession in the world. This has resulted in opportunities and challenges: a more diverse profession, yet with extreme inequalities; an expanded geographical location, and a growing number of practitioners lacking adequate equipment. In assessing the profession's constitutional status, the issue of allaying the need of the profession as a democracy to be represented by all its members, and not the elite, remains paramount.

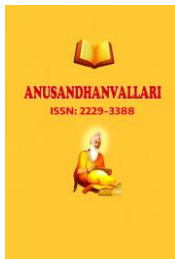
3. CONSTITUTIONAL AND STATUTORY FOUNDATIONS

3.1 The profession is governed by the following provisions in the Constitution

The following provisions in the Constitution govern the profession:

The word 'lawyer' or 'attorney' is not mentioned in the Constitution of India but some of its provisions can be said to have a direct relevance to the structure and democratic role of the legal profession. Article 19(1)(g) assures all citizens the fundamental right to practice any profession or carry on any occupation, trade or business with reasonable restrictions as provided in Article 19(6). Restrictions on the right to practise law must be proportionate and legally valid, and the Supreme Court has recognized the right to practise law as one of the basic rights.

The Supreme Court has interpreted Article 22(1) (together with Article 21) as giving every arrested person the right to free legal aid if he is unable to afford legal representation. Articles 32 and 226 guarantee the right to move Supreme Court and High Courts respectively for enforcement of the fundamental rights respectively which have allowed the Bar to play the role of constitutional guardians by engaging into PILs.



The Bar is recognised as a source of judicial talent in Article 124(3) which allows eminent lawyers to be appointed to the Supreme Court bench without judicial experience, albeit this provision is rarely and occasionally used.

3.2 The Advocates Act, 1961

The Advocates Act, 1961 is the constitution of the Legal Profession. It sets up the Bar Council of India (BCI) as the supreme regulatory authority which can prescribe standards for legal education, enlist advocates, prescribe rules of professional conduct and etiquette, promote legal reform and have disciplinary jurisdiction. The Act also provides for State Bar Councils having parallel functions at the State level, thus establishing a federal system of professional self-regulation that is similar in design to the cooperative federalism in the Constitution.

The Act contains an interesting fourth chapter on the Bar Council of India, which is of importance from a democratic point of view. The BCI is a democratically elected body, with a self-regulatory mandate, in a meaningful sense, that is an advocate of India who is enrolled. This is the constitutional principle of autonomy adopted by this model of self-regulation: the legal profession safeguards the constitutional rights and hence must be free from state control. One of the salient features of the jurisprudence of the Advocates Act is the conflict between professional autonomy and public accountability.

3.3 Bar and Judiciary Independence

The independence of the Bar is closely tied to the constitutional principle of judicial independence which is implicit in the doctrine of separation of powers and is explicitly guaranteed by the constitution in terms of appointment, powers, remuneration and removal of judges. There is no alternative to an independent Bar: judges who are schooled in fearless advocacy and zealous representation will be more likely to defend constitutional values from the Bench. On the other hand, a Bar under executive control or political pressure will not be able to perform its constitutional mandate.

The collegium system of the Supreme Court for judicial appointments, which has been developed over the years as a result of the Bar-Bench struggle to safeguard judicial independence, is another result of this collaboration. The collegium system for appointment of judges, which the Supreme Court has introduced over the years from the struggle of the Bar-Bench to ensure judicial independence, is yet another such product. One of the most important services of the Bar to the constitutional order has been the steadfast effort to thwart any executive action to control judicial appointments.

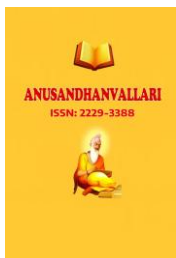
4. Nature of the role of the legal profession in constitutional democracy

4.1 Guardians of the Rule of Law

The principle of the rule of law, that is, the principle that everyone and every institution, including the State, is subject to and answerable to the law, is the cornerstone of constitutional democracy. The legal profession is the one with the closest relationship to the day-to-day implementation of the rule of law. The rule of law has real flesh and blood when a lawyer confronts an arbitrary government act in a High Court, pleads for the release of an illegally detained person or counsels her client on his legal rights. The lawyer's job is not just "technical" but rather "political" in the sense that it is a part of the structure under which the democratic process is carried out.

4.2 Defenders of Fundamental Rights

The rights guaranteed by Part III of the Constitution, i.e., the fundamental rights to equality, freedom of expression, religion, liberty and constitutional remedies are not self-executing. They need advocates who are ready and capable of advocating for their implementation with the State and other powerful players. Substantial histories of Indian constitutions are the histories of lawyers who took on the State in the cause of protecting individual and collective rights, for instance, in the cause of press freedom in *Romesh Thapar v. State of Madras* (1950); personal



liberty in *A.K. Gopalan v. State of Madras* (1950); and the basic structure of the Constitution in *Kesavananda Bharati v. State of Kerala* (1973).

The Constitutional Jurisprudence of 4.3 Architects

Constitutional democracy is not just a set of institutions, it is a body of living jurisprudence, a set of evolving interpretations of the constitutional text through litigation, argument and judicial reasoning. This jurisprudence is mainly designed by lawyers. Advocates' arguments in front of the Supreme Court help to form the Court's interpretation of the meaning of the Constitution; over time, arguments become precedents that limit the scope of power and determine the nature of rights. The work of the lawyers like Nani Palkhivala, Ram Jethmalani, Fali Nariman, Soli Sorabjee and Indira Jaising have been priceless to the Indian constitution.

4.4 Agents of Constitutional Change Through PIL

Lawyers gained an unprecedented tool for constitutional change in public interest litigation (PIL) in the late 1970s and 1980s. PIL made the constitutional courts a place for the resolution of structural injustice by placing any good faith person in the position to approach the Supreme Court or High Court on behalf of those who are unable to do so. Attorneys who filed PIL cases for bonded labourers, child workers, environmental victims and inmates of prisons were not just involved in opposing the state, but they were also engaged in transforming the constitution.

4.5 Custodians of Separation of Powers

Constitutional democracy is not only about the supremacy of the law, but also about the constitutional boundaries of different branches of government. The role of lawyers—arguing before courts, supplying the executive with legal opinions and providing the public with scholarly writing—is very important in keeping the lines of authority between the government's three branches distinct and separate. The doctrine of basic structure developed in *Kesavananda Bharati* is in large measure the result of the Bar's insistence that Parliament cannot destroy the Constitution which it was established to serve. In like manner, the Bar's opposition to the Executive's efforts to undermine judicial independence, notably in the Emergency of 1975–77, has shown the industry a constitutional spirit.

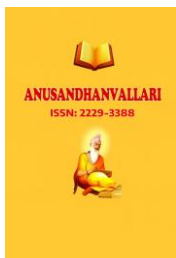
5. FACTORS AFFECTING THE PROFESSION'S CONSTITUTIONAL ROLE

5.1 The State and political power should be independent of each other.

There should be independence between the State and political power. The basic requirement of the constitutional function of the legal profession is that it be free from state and political interference. A Bar that is reliant on executive powers – whether lawyers work for the state, the executive has control over Bar Council elections or the senior advocates are selected through political quotas – cannot effectively check state power. The Emergency of 1975-77 proved how fast one can undermine the constitutional democracy when the executive is keen to do so: arresting lawyers under MISA, transferring judges who did not bend to the will of the government and forcing the Bar to keep its mouth shut were the worst attacks on the constitutional order in post-Independent India.

To promote a high-quality legal education. To support the quality of legal education.

The quality of legal education is a key prerequisite for the constitutionality of the legal profession. A profession that trains workers who are technically literate and constitutionally uneducated; a profession that trains workers who know how to do things but do not know what rights are, cannot fill its democratic obligation. The legal education system in India, which has more than 1,500 law schools with vast differences in the quality of their students, is beset with problems. The few who are constitutionally sophisticated are the ones who have come out of the 5-year integrated LL.B. programme started in the 1990s through the National Law Universities. Systemic reform of legal education is necessary including the compulsory constitutional and legal ethics courses.



5.2 Professional ethics and accountability

For constitutional democracy not only does one need competent lawyers, but one needs ethical lawyers. The Bar Council of India Rules on Professional Conduct and Etiquette outline the obligations arising from a duty of loyalty towards a client, a duty of candour towards the court and a duty of responsibility towards the administration of justice. However, the enforcement of these norms is not consistent and the disciplinary jurisdiction of Bar Councils has been criticised as ineffective. It is a betrayal of the constitutional aspirations of the profession to be exploited by powerful forces at the expense of the public, ambulance-chasers, or misleaders of the courts. Ethical behaviour, which should be taught, set an example by older practitioners, and encouraged by the Bar, is essential.

5.3 Diversity and Representativeness

It is impossible for a profession of law to adequately carry out the function of the constitution unless it is diverse and reflects the diversity of the society it serves. Caste, gender, religion and geographical bias have long been prevalent in the legal profession in India. There is a higher proportion of women than men who are lawyers and are getting better representation as senior lawyers and partners, but women are under-represented as judges. There is systematic under-representation of dalits and Adivasis at the highest level of the profession. High concentration of elite legal practice in few metros creates gaps in legal representation in the rest of the country. A constitutionally adequate legal profession should be one where, rather than social privilege, talent and merit should be the determining factors in success.

5.4 Judicial-Bar Relationship

The relationship between the Bar and the Bench is an important factor in the constitutional functioning of the profession. Only a relationship of mutual respect, mutual independence and shared dedication to constitutional values can provide the sort of fearless advocacy and impartial adjudication that constitutional democracy needs and deserves. On the other hand, a sycophancy and a corruption or a dependence between two parties, destroy the constitutional order. It is a negotiation that is evident in the Supreme Court's law on contempt of court, such as the recent controversy over whether criticism of judicial decisions constitutes contempt of court.

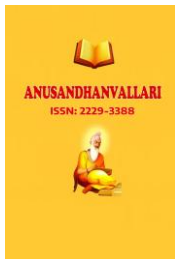
5.5 Technology and how it is reshaping legal practice.

The digitalisation of legal practice offers challenges and opportunities for the role of the lawyer in the Constitution of legal practice. E-filing, virtual hearing, AI legal research and online dispute resolution have helped to improve access to courts and mitigate some obstacles to constitutional justice. However, they have brought new challenges, too: digital surveillance, risks in data privacy, algorithmic bias in court rulings, and exclusion of people living in digital darkness. The lawyer should not only be a practitioner of this technology, but also a constitutional actor: one who assures that technology is for, and does not against, the constitutional values.

6. LANDMARK CASE LAWS

6.1 Kesavananda Bharati v. State of Kerala (1973)

Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461, is the most significant case in the history of the Indian Constitution. In a majority decision of seven to six, a thirteen judge Bench of the Supreme Court has said that Parliament is allowed to amend the Constitution of India as much as it can do so under Article 368 but it cannot upset the 'basic structure' of the Constitution. The judgment was argued for 66 hearing days and some of the most outstanding lawyers of the era like Nani Palkhivala, H.M. Seervai and Fali Nariman had done so. The result was that constitutional democracy itself was beyond the reach of amending power of Parliament. The role of the legal profession in this case was not peripheral; it was the Bar which was responsible for pushing the constitutional argument that has limited parliamentary sovereignty in the service of democratic government.



6.2 A.K. Gopalan v. State of Madras (1950)

In A.K. Gopalan v. State of Madras, AIR 1950 SC 27, for the first time, Supreme Court has considered the scope of Article 21 (right to life and personal liberty) in relation to preventive detention. Most took the more limited view that 'procedure established by law' referred to any form of procedure which was provided for in law, rather than to a 'fair procedure' or a just procedure. This was later overruled by Maneka Gandhi v. Union of India (1978), but it illustrates the importance of that first constitutional litigation in determining the nature and direction of constitutional interpretation, and the arguments advanced by the Bar in front of the Court in deciding the case.

6.3 Maneka Gandhi v. Union of India (1978)

Maneka Gandhi v. Union of India, AIR 1978 SC 597 is a game-changer in the Indian constitutional law. Importing due process values into the constitution was done by a 7-judge bench that found the 'procedure established by law' under Article 21 to be reasonable, fair and just and overruled the narrow interpretation given by A.K. Gopalan. The concurring opinion of Justice P.N. Bhagwati laid a broad and integrated interpretation of the fundamental rights, which has influenced the Indian constitutional jurisprudence from ever since. The case also serves as a remarkable example of the impact of a senior advocate who made her case before the court in a relentless manner for the confiscation of a passport to be a breach of personal liberty.

6.4 S.P. Gupta v. Union of India, 1981.

The Supreme Court's discussion of the constitutional foundations for judicial appointments and transfers in S.P. Gupta v. Union of India, AIR 1982 SC 149 (the First Judges Case). In the first of the Judges Cases, a full bench declared that the executive had primacy in relation to judicial appointments which was then reconsidered in the Second and Third Judges Cases. The litigations, brought by lawyers who held that the judiciary was independent of the government, illustrate the Bar's role in constitutional litigations concerning institutional conditions for democracy. The collegium system for judicial appointments which was upheld by the Second Judges Case (Supreme Court Advocates-on-Record Association v. Union of India, 1993) as a constitutional mandate was the culmination of decades of constitutional arguments made by the Bar.

6.5 Supreme Court Advocates-on-Record Association v. Union of India (2015)

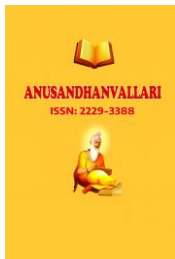
In NJAC Case (2015) 5 SCC 1, the Supreme Court had invalidated the Constitution (99th Amendment) Act, 2014 and National Judicial Appointments Commission Act, 2014 which proposed to replace the collegium system with a commission that comprised of political persons. The Court said the amendment infringed on the fundamental structure of the Constitution by affecting the independence of the judges. The Bar was active in the litigation and submitted a number of petitions, and made a vigorous case that the proposed reform would take the judicial branch under the executive wing. It is a powerful example of the Rule of Law and the legal profession as a constitutional watchdog against legislative overreach.

6.6 Romesh Thapar v. State of Madras (1950)

The first important free speech case before the Supreme Court was Romesh Thapar v. State of Madras, AIR 1950 SC 124. The Court invalidated an order which prohibited entry and circulation of a newspaper in Madras because it was not saved by any of the restrictions mentioned in Article 19(2). The case set a precedent for restrictions on freedom of speech to be narrowly interpreted and within the constitutional boundaries. It was litigated by lawyers who knew that a constitutional democracy means not only that there is a right to free expression, but that there also needs to be a right to be free from censorship by administrative authorities.

7. LAWS, POLICIES, AND CONSTITUTIONAL AMENDMENTS

7.1 The Constitution (First Amendment) Act, 1951



The Constitution (First Amendment) Act, 1951 introduced significant modifications to the fundamental rights chapter, adding the Ninth Schedule to protect land reform laws from judicial review and amending Article 19(2) to expand the permissible restrictions on freedom of speech. Argued extensively before the courts, the Amendment illustrated how constitutional change—even in a democracy—can be used to curtail rights, and how the Bar's role in constitutional litigation is not always aligned with the expansion of freedom. It also demonstrated how constitutional amendments themselves can become the subject of intense constitutional litigation, with lawyers on both sides shaping the evolving text of the Constitution.

7.2 The Constitution (42nd Amendment) Act, 1976

The 42nd Amendment, enacted during the Emergency, was the most sweeping amendment to the Constitution in its history. It inserted the word 'socialist' and 'secular' into the Preamble, curtailed the power of courts to review constitutional amendments, expanded the preventive detention powers of Parliament, and added Article 39A on legal aid. Many of its provisions were reversed by the Constitution (43rd and 44th Amendment) Acts of 1977 and 1978 after the Emergency ended. The period demonstrated both the vulnerability of constitutional democracy to authoritarian overreach and the resilience of constitutional values when the legal profession, judiciary, and civil society reassert them.

7.3 The Constitution (44th Amendment) Act, 1978

Enacted by the Janata government that came to power after the Emergency, the 44th Amendment restored many democratic safeguards curtailed by the 42nd Amendment. It restored the power of courts to review Emergency proclamations, reinstated the right to property as a constitutional right (though not a fundamental right), and protected the right to life and personal liberty even during an Emergency. The 44th Amendment is a testament to the legal profession's ability to secure constitutional restoration through democratic politics—several of its architects were lawyers who had opposed the Emergency in and out of court.

7.4 The Constitution (99th Amendment) Act, 2014 and the NJAC

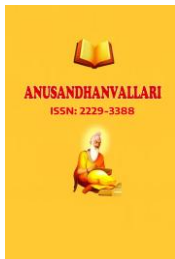
The Constitution (99th Amendment) Act, 2014 sought to replace the collegium system of judicial appointments—evolved by the Supreme Court through constitutional interpretation—with a National Judicial Appointments Commission comprising the Chief Justice, two senior Supreme Court judges, the Law Minister, and two 'eminent persons'. The Amendment was challenged by the Bar on the ground that it compromised judicial independence, a component of the basic structure. The Supreme Court's decision in the NJAC Case to strike down the Amendment as unconstitutional—a decision deeply contested in its reasoning if not its outcome—reflects the ongoing struggle over the constitutional governance of the legal and judicial system.

7.5 The Legal Services Authorities Act, 1987

The Legal Services Authorities Act, 1987 is significant not merely as an access-to-justice measure but as a constitutional instrument for democratic inclusion. By mandating free legal services for the poor, the marginalised, and the vulnerable, the Act seeks to make constitutional rights real for those who would otherwise be excluded from the democratic legal order. NALSA's programmes—legal literacy camps, Lok Adalats, para-legal volunteers, and Legal Aid Clinics—are not merely welfare measures; they are mechanisms for constitutionalising the daily lives of ordinary Indians.

7.6 The Right to Information Act, 2005

The Right to Information Act, 2005 operationalises the constitutional right to information as a component of freedom of speech and expression under Article 19(1)(a), as interpreted by the Supreme Court in *Union of India v. Association for Democratic Reforms* (2002). Lawyers have been among the most significant users of the RTI Act—both as professional tools and as instruments of democratic accountability. The Act has enabled lawyers to



obtain information about judicial appointments, court administration, and the functioning of legal institutions, contributing to transparency in the very system within which the legal profession operates.

7.7 The Bar Council of India Rules and Legal Education Regulations

The Bar Council of India's Rules on Professional Conduct and Etiquette—made under Section 49(1)(c) of the Advocates Act—constitute the ethical constitution of the legal profession. They prescribe duties to the court, duties to the client, duties to opponents, and duties to colleagues. The BCI's Legal Education Rules, 2008 and subsequent amendments have sought to introduce clinical legal education, legal aid components, and constitutional law as mandatory curriculum elements. Compliance with these regulations is central to maintaining the profession's democratic character—an ethically grounded, constitutionally literate Bar is more likely to fulfil its democratic mandate than one that is merely technically proficient.

8. SUGGESTIONS FOR STRENGTHENING THE LEGAL PROFESSION'S CONSTITUTIONAL ROLE

8.1 Constitutional Literacy as a Professional Obligation

The Bar Council of India should mandate constitutional law and legal ethics as core components of Continuing Legal Education for all enrolled advocates, not just for those recently admitted to the Bar. A constitutionally literate profession—one that understands the basic structure doctrine, the dimensions of fundamental rights, the principles of separation of powers, and the demands of constitutional morality—is better equipped to perform its democratic function. Regular constitutional refresher programmes, conducted through Bar associations at state and district levels, would help sustain this literacy across the profession's enormous and diverse membership.

8.2 Strengthening Professional Self-Regulation

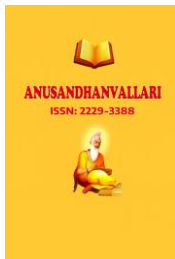
The Bar Council of India and State Bar Councils must exercise their disciplinary jurisdiction more effectively and transparently. The current system—in which complaints against advocates languish for years and disciplinary orders are rarely published—does not provide the accountability that constitutional democracy requires of its institutional guardians. An independent Ombudsman for the legal profession, transparent disciplinary proceedings, and a published database of disciplinary orders would strengthen professional accountability without compromising Bar autonomy. The Bar must demonstrate that self-regulation works before it can credibly resist calls for external oversight.

8.3 Diversity and Inclusion in the Profession

A legal profession that serves constitutional democracy must reflect the diversity of the constitutional people. The BCI and law schools should adopt affirmative measures to ensure adequate representation of women, Dalits, Adivasis, and other marginalised groups at all levels of the profession. Scholarships for first-generation law students, mentorship programmes for junior advocates from disadvantaged backgrounds, and gender-sensitive policies in Bar associations and chambers are practical steps towards a more representative profession. The constitutional value of equality demands no less.

8.4 Reform of Judicial Appointments and Bar-Bench Relations

The process of judicial appointments in India—whether through the collegium or any replacement mechanism—must be transparent, merit-based, and insulated from executive and political pressure. The Bar's role in this process should be formalised: senior advocates' associations and Bar Councils should have structured input into judicial appointments, providing the Court with a wider pool of candidates and a check on arbitrary selection. Simultaneously, the Bar must resist the culture of sycophancy and networking that can compromise the integrity of the Bar-Bench relationship.



8.5 Public Interest Lawyering and Legal Empowerment

The tradition of public interest litigation must be preserved and strengthened, even as it is protected from misuse. Bar associations should establish pro bono committees to coordinate public interest cases, provide resources to lawyers taking on constitutional cases against the State, and create mentorship pathways for young lawyers interested in rights-based litigation. Law school clinical programmes should include constitutional litigation components that train future lawyers in PIL strategy, brief writing, and constitutional advocacy.

8.6 Engagement with Technology and Emerging Constitutional Challenges

The legal profession must proactively engage with the constitutional challenges of the digital age. Surveillance technology, data privacy, algorithmic decision-making, artificial intelligence in legal proceedings, and the regulation of social media platforms all raise profound constitutional questions about privacy, free speech, equality, and due process. The Bar should establish specialist committees on law and technology, develop positions on digital rights and AI governance, and produce constitutional arguments that will shape the developing jurisprudence in these areas. A profession that is ahead of the constitutional curve in these domains will be better placed to defend democratic values in a rapidly changing technological environment.

9. CONCLUSION

The legal profession's relationship to constitutional democracy in India is one of constitutive interdependence. Constitutional democracy created the modern Indian legal profession—through the Advocates Act, the constitutional framework of rights and courts, and the institutional architecture of the legal system. In turn, the legal profession has been the primary engine of constitutional democracy's realisation—through litigation, advocacy, legal aid, public interest law, and the daily work of translating constitutional text into living rights. Neither can flourish without the other.

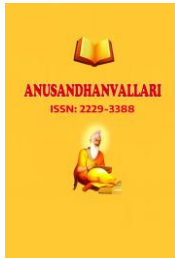
The history traced in this article—from ancient India's learned juriconsults through the colonial Bar's nationalist transformation to the constitutional courtrooms of the twenty-first century—reveals a profession that has, at its best, embodied the constitutional values of liberty, equality, justice, and fraternity. The lawyers who argued *Kesavananda Bharati*, who dissented in *ADM Jabalpur*, who brought *Vishaka* to the Supreme Court, who challenged Section 377 over decades of litigation—these are the pillars of constitutional democracy in the most literal sense.

But the article has also engaged honestly with the profession's shortcomings: its internal inequalities, its complicity at times in the erosion of rights, its uneven quality, its ethical lapses. Constitutional democracy is not served by a profession that celebrates its best moments without confronting its worst. The suggestions offered in this article—on constitutional literacy, professional regulation, diversity, judicial appointments, public interest law, and technology—are offered in the spirit of constructive reform: a recognition that the legal profession must continuously earn its constitutional credentials, not merely assume them.

Ultimately, the measure of the legal profession's democratic worth is not the grandeur of its constitutional victories but the consistency of its commitment—in every courtroom, in every client conference, in every legal aid clinic, in every public interest petition—to the proposition that no one in India is beyond the protection of the law, and no authority in India is above it. That proposition is the soul of constitutional democracy. The legal profession's highest calling is to keep it alive.

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