Advocacy profession had its seeds in Europe as well as in the East. In the preliminary stage it was not like to-day's shape. Since the 12th century, this profession has come into existence in England during the reign of Henry-II. For several centuries, this profession was in the hands of priests. In 1833, ‘Bar Committee’ representing the Barristers was set up in England for the first time. Before it, it was called as ‘Benchers’.

In India, the Regulating Act, 1773 established Supreme Court at Fort William (Calcutta), and also allowed legal practicing. The Bengal Regulation, 1793 was passed in 1793, the object of which was to regularize and to control both recruitment and conduct of the Legal Practitioners in the Company’s Courts. It prescribed certain qualifications, and rules of practicing.

In the next step, “The Legal Practitioner’s Act, 1846” was enacted in 1846. In those days, there were different kinds of Legal Practitioners, viz, Barrister, Mukhtars, Vakils, etc. Act of 1846 brought certain changes according to the prevailing circumstances in British India. After it, the Legal Practitioners Act, 1853 was passed.

In those days, Pleadres and Mukhtars were non-graduates and matriculates only. The Barristers and Solicitors were the law graduates from Britain. Indians used to go to Britain to study Barrister at Law.

After 1850, the education in graduation level was started in India. Hence, the 1853 Act prohibited the recruitment of Pleadres and Mukhtars who did not possess graduation. The British Government though that the number of graduates would be sufficient to meet the requirement in the Courts.

Thereafter, The Legal Practitioners Act, 1879 was enacted, enlarged the rights of Advocates, Vakils and Attorneys of High courts.

In 1923, the British Government appointed an India Bar Committee. That committee made several recommendations for the establishment of an India Bar, to decide the Constitution of Bar Council whether on an all India basis or on the Provincial basis, to remove several defects in the legal profession, and to remove the distinction between Barristers and Vakils etc.

As a result of the recommendations of India Bar Committee. The Bar Councils Act, 1926 had been passed. But some the recommendations of the committee were only adopted in the 1926 act, in fact, it was a half –hearted legislation. It did not establish an all India bar council. It did not extend to entire India. Bar councils were established at provincial level, i.e. Calcutta, Bombay, Madras, etc. each bar council was used to regulate the admission of legal practitioners of the high court, to regulate their discipline and professional conduct; and to make arrangement for legal education and examination.
COMPARISON BETWEEN THE BAR COUNCIL OF INDIA
AND THE BAR IN ENGLAND (page 5)

The legal profession has been described as a great profession par excellence universally. In India, statutory provisions had been made since 1774. There were several statutes. Viz., legal practitioners act 1879, the bar councils act 1926, letters patent of the several high courts, the civil procedure code 1908, the Indian evidence act 1872, etc. for regulating the legal profession, and formulating the professional ethics and etiquette.

The advocates act, 1961 repealed the provisions of legal practitioners act, 1879, bar councils act, 1926, letters patent of high courts. For the purposes of improving the standards of, and for regulating and controlling the legal profession, the British Government had been making statutes since the beginning of the legal profession started in India.

In England, the position was different. In that country, the rules of professional conduct and discipline were contained in the regulation of inns of court. Even now the situation stands the same. The reason is that the britishers like customs and usages more.

CONSTITUTION OF STATE BAR COUNCILS

Section 3 of the advocates act, 1991 explains about the constitution of State Bar Councils. There shall be a bar council for each of the states. There may be a bar council for two or more small states, or the union territories. A state bar council shall consist of the following members namely;

a). in the case of the State Bar council of Delhi the additional solicitor – general of India ex-officio; in the case of state bar council of Assam, Nagaland, Meghalaya, Manipur and Tripura the Advocate-General of each of the states of Assam, Nagaland, Meghalaya, Manipur and Tripura ex-officio; in the case of the State Bar Council of Punjab and Haryana, the Advocate General of each of the States of Punjab and Haryana, ex-officio, and in the case of any other State Bar Council, the advocate-General of the state ex-officio.

b). In the case of a state bar council with an electorate not exceeding five thousand. Fifteen members, in the case of a state bar council with an electorate exceeding five thousand but not exceeding ten thousand, twenty members and in the case of a state bar council with an electorate exceeding ten thousand, twenty five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the state bar council.

FUNCTIONS OF STATE BAR COUNCILS (page 7)

State bar council is an autonomous and independent body. It is a legal person. It is a body corporate. It shall have perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and may by the name by which it is known sue and be sued.
Sections 6 of the Advocates act, 1961 enunciates the functions of state bar councils. These functions are set out according to the recommendations of the all – India Bar committee. The functions are:

1. Enrolment of advocates: A state bar council is empowered to admit persons as advocates on its roll.
2. Maintenance of Roll: it shall prepare and maintain roll of advocates. Prior to the advocates act, 1961, the high courts were entitled to maintain the advocates roll. The 1961 act shifted this function form high courts to state bar councils.
3. Misconduct of advocates: it protects the ethics of legal profession. It has the power to entertain and determine cases of misconduct against advocates on its roll.
4. Welfare of advocates: it safeguards the rights, privileges and interests of advocates on its Roll, State Bar Council may constitute one or more Funds in the prescribed manner for the purpose of giving financial assistance to organize welfare schemes for the indigent, disabled or others Advocates. This is a human as well as humane provision.
5. Law Reforms: it promotes and supports law reforms. It shall conduct seminars and organized talks legal topics by eminent jurists and publish journals and papers of legal interests.
6. Legal aid: Article 39-A of the Constitution of India directs the State to provide free legal aid to the poor and also equal justice. Accordingly, State Bar council organizes legal aid to the poor in the prescribed manner. A state bar council may constitute one or more funds in the prescribed manner for the purpose of giving legal aid or advice in accordance with the rules made in the behalf. (Refer to Topics ‘Legal aid’ in Public interest lawyering notes of SLS, wherein it is elaborately discussed.
7. Finance: It shall manage and invest the Funds of the State Bar Council.
8. Election: election is the oxygen and foundation of democracy. The state bar council shall conduct elections for electing its executive body.
9. Miscellaneous: The state bar council is authorized to perform all other functions conferred on it by or under this act, and to do all other things necessary for discharging the aforesaid functions.
10. source of income: a state bar council may collect enrolment fee, or renewal fee as per rules prescribed. It may also receive any grants, donations, gifts or benefactions for all or any of the purpose mentioned above.

DISCIPLINARY COMMITTEES OF BAR COUNCILS (page 8)

SCOPE: Section 9 of the advocates act, 1961 explains about the composition of disciplinary committee. Plus chapter-V deals with the provisions relating to conduct of advocates. Chapter –V contains sections 35 to 44 and 36-a,36-b,42-a (later are newly inserted). Before the advocates act 1961, the disciplinary jurisdiction over legal practitioners was subject to jurisdiction of the High courts. The high courts were empowered to punish the legal practitioners for their professional misconduct. The punishments were ranging from smaller to heavy or penalty by way of fines. But now the advocates act , 1961 has entrusted this jurisdiction to the disciplinary committee of bar councils.

OBJECT: Parliament enacted several Acts to regulate several professions and to provide for an adjudicative machinery for enforcing discipline and regulating respective professional conduct. Examples: The advocates Act, 1961; The Medical Council Act, 1956: The Chartered Accountants Act, 1949, etc. The Advocate Act, 1961 creates Bar Council of India extending to
entire India, and a State Bar Council for each State. Section 35 of the Advocates Act, 1961 empowers the State Bar Council to hold enquiry against the misconduct of an advocate. It can hold an enquiry either by its Suo Motu or on an application by the aggrieved person. However, the Bar council is a larger body, and has to perform several functions.

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QUALIFICATIONS AND DISQUALIFICATIONS (page 15)

ANSWERS:

SCOPE: Section 24 of the Advocates Act, 1961 enunciates the required qualifications of a person to be enrolled as an advocate in the State Roll. Section 24-A of the same Act explains the “Disqualification for Enrollment.”

QUALIFICATIONS OF A PERSON TO BE ENROLLED AS AN ADVOCATE

According to Section 24 of the Advocate Act, 1961, the following are the required qualifications of a person to be enrolled as an advocate,---

1. He is a citizen of India.
2. He has completed the age of 21 years.
3. He has obtained a degree in Law from the recognized university.
4. He has paid required stamp duty, enrolment fee, etc.
5. He fulfils other conditions as may be specified in the rules made by the State Bar Council.

1. HE IS A CITIZEN OF INDIA: This is the first qualification of a person, who wants to enrolment his name as an advocate in India. Section 3 of the Citizenship Act, 1955 confers citizenship to every person by his birth in India. Articles 5 to 11 of the Constitution of India explain the constitutional provisions regarding “Citizenship”. Article 5 confers citizenship to every person, at the commencement of the constitution, who has his domicile in the territory of India, and
   a. who was born in the territory of India; or
   b. either whose parents was born in the territory of India; or
   c. who has been ordinarily resident in the territory of India for not less than five years immediate preceding such commencement, shall be citizen of India.

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RIGHT TO PRACTICE (page 18)

SCOPE: Before enacting the Advocates Act, 1961 there were different classes of Legal Practitioner, viz., Barristers, Attorneys, advocates Vakils, Pleaders, Mukhtars, Agents etc. The 1961 Act made several important changes, and brought this profession into uniformity. Now there is only one class of legal practitioners viz, Advocates. Chapter-iv (containing sections 29 to 34) of the Advocates Act, 1951 explains the legal provisions about the right to practice.

OBJECT: The Advocates Act, 1961 imposes restrictions upon the persons who have not enrolled as Advocates. The Advocate profession requires more legal knowledge, experience, professional ethics and etiquette. If layman enters this profession, much confusion and disorder will occur. Like a doctor, an advocate an advocate must be fully
trained and equipped the requisite qualifications. Else the administration of justice and procedure of the courts will be spoiled utterly.

MEANING:

Practice. (n.) = habitual actions: acquired skill: one of the arithmetical rules.

Practice. (v.i) = to acquire a habit: to be a practitioner:

Practice. (v.t) = to do habitually, to do repeatedly to exercise to make a practice of to follow or work at as a profession to study to exercise ones skill in regularly or frequently so as to win greater command.

RIGHT OF ADVOCATES TO PRACTICE: According to Section 30 of the Advocates Act, 1961, every advocate, whose name is entered in the State Roll is entitled as of right to practice throughout the territories to which this Act extends, subject to the provisions of this Act,---

1. in all courts including the supreme court;
2. before any tribunal or person legally authorized to take evidence; and
3. before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practice.

SPECIAL POWER OF ATTORNEY:

Advocates are the only recognized persons entitled to practice. Some times, Courts may permit any person to appear before them under particular circumstance. Any person can defend his own case. No person can give special power of Attorney to defend his case to a person who is not an advocate. Courts do not permit such special power of Attorney.

MEANING

Tout., touting. (n)= a person who hangs about to give information, get tips, etc.

Tout. ( V.t) = to act as a tout.

An advocate shall not engage touts to obtain cases. Payment of commission to touts or third persons to procure clients is unprofessional. It is evil for advocacy.

BRIEF: It is the duty of advocate to prepare a good brief. He has to draft a good standard pleadings following the procedures rules and ethics of the court he has to follow the instructions and genuine events of the cause, while preparing the pleadings. He should not take instructions from unauthorized persons. The brief must be good in all aspects. It means it should be correct grammatically.

ADVOCATE PROFESSION vs BUSINESS AND RESTRICTION ON THE OTHER
SCOPE: Law is a learned profession per excellence. It is not a profession for money. It is a career of service to the public utility. It is not a trade or business. It is a noble profession. The greatness and honour of this profession is due to the code of its ethics and etiquette. Rules of Ethics are the most precious heritage of the legal profession. The advocates are the part of administration of justice. They are guardians and vindicators of the two most precious things in the world, viz. justice and liberty. Advocacy is profession, which must have certain intellectual and ethical standards. These standards must be maintained by all advocates in the interests of justice and public. The relation between an advocate and his client must be understood under this background. An advocate must maintain amicable and genuine relations with his client, most particularly pertaining to money. In every trade, business money plays an important role. Their aim is profit and profit only. In legal profession, an advocate takes fee, but here the money is not primary, and it is only incidental to his services. Money is secondary. His services are primary for the welfare of the society and to protect the justice.

OBJECT: The advocacy profession is a unique profession. It cannot be compared with any other profession or business. It is a noble profession. It protects the peace and prosperous in the society. An advocate is a part and parcel of administration of justice. It is a public service. An advocate’s office is a public office. It requires public trust. If advocates are permitted to do business or to engage in any other employment besides his profession, it badly affects on his profession. It badly affects on the clients and court processing’s. It also causes harm to the society. This gives vast opportunities of success to him. For the public also it is useful and they receive better services from an advocate.

SEVEN LAMPS OF ADVOCACY (page 39)

Abort pary, LJ enunciates seven important characteristic of advocacy. He describes them as Seven Lamps of Advocacy. These are the most essential features and characteristics advocacy and to get the success in the career of every advocate. They are;

1) Industry ;
2) Fellowship
3) Judgments
4) Honesty ;
5) Courage
6) Eloquence and
7) Wit

Sri. K.V. Krishnaswamy aiyer, in his classic book professional conduct and advocacy adds one more lamp called as ‘eight lamp’ i.e. tact
ETHICS AND ETIQUETTE OF LEGAL PROFESSION (page 42)

Ethics (n)= the science of moral and duties; a moral philosophy or moral science, i.e. that branch of philosophy which studies the principles which determine the rightness or wrongness of particular acts or activities; customary behavior or morals.

Etiquette (n) = Social formalities and rules; the rules of behaviour standard in polite society. Rules governing professional conduct, e.g. advocacy etiquette, medical etiquettes court ceremonial or conventions of official life.

DISTINCTION BETWEEN ETHICS AND ETIQUETTE

Ethics are morals. It is the first stage of polite society. Etiquette is the second stage of polite society which are formulated into the rules of behavioral standard in a particular polite society.

Ethics are seen in every kind of human life. They are inherent in every religion. Etiquette are the rules of behavioural standard in a stated polite society, viz. medical etiquette, legal etiquette, etc.

Ethics were born in human civilization since the beginning. Every religion preaches morals and ethics to every person to that entire society. Ethiquette are restricted to particular kind of profession etiquette are nothing but regularization of ethics. Ethics are nothing but a bundle of habits. Etiquette are noting but a bundle of rules of ethics. These rules have statutory force. Whereas ethics have no statutory force. Thus ethics are older than etiquette.

Ethics and etiquette are necessary for every person. However, they are more essential and necessary to an advocate, being legal profession is a noble and public profession.

EXAMPLE: An advocate shall not do side business. He shall not advertise. He shall not wear his dress in public places, etc. these were the traditional ethics at one time. later these ethics were formulated into statutory rules. i.e. Into law, by certain acts and rules made there under, viz, the legal practitioners act, 1879, bar council act, 1926, letters patent of several high courts. Etc.

<table>
<thead>
<tr>
<th>ETHICS</th>
<th>ETIQUETTE</th>
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<tbody>
<tr>
<td>1. Ethics are morals. Ethics means the science of morals and duties.</td>
<td>Etiquette are statutory rules etiquette means the rules of behaviour standards.</td>
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<tr>
<td>2. These are the first stage in a society.</td>
<td>These are refined and approved</td>
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<tr>
<td>3. These are seen in every kind of human life</td>
<td>These are found only in particular kinds of profession or sect or country.</td>
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<td>4. These are inherent in every man.</td>
<td>These are published by way of notifications official gazettes, rules, statutes, etc.</td>
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<td>5. Generally these are found in religions.</td>
<td>General, they are formulated by a particular body authorized to do so.</td>
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<td>6. Ethics are older than etiquette. They have started along with the starting of human civilization.</td>
<td>Etiquette are newer, novel and modest than ethics. They have started and acquired statutory form along with the common law of England. Thereafter they spread all over the common – wealth countries, wherever britishers rules.</td>
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<tr>
<td>7. These are a bundle of habits and morals.</td>
<td>These are a bundle of rules.</td>
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<tr>
<td>8. Ethics are general and infinite. These</td>
<td>These are necessary to control and regulate a</td>
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are necessary to control and regulate every human being.

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<th>9.</th>
<th>If these are violated, there can be no punishment.</th>
<th>If these are violated, it can be termed as professional misconduct and there are punishments against the violators.</th>
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<tr>
<td>10.</td>
<td>There shall be no external enquiry, but only internal regret and confession.</td>
<td>There shall be complaint, proper enquiry by proper authority, and finally punishment.</td>
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<td>11.</td>
<td>The person, who violates ethics, cannot be expelled from the society or profession.</td>
<td>The person, who violates etiquette, can be expelled, or suspended from the profession.</td>
</tr>
<tr>
<td>12.</td>
<td>Ethics have their source from the tradition, culture and heritage.</td>
<td>Etiquette have the source of statutory and delegated legislation.</td>
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<tr>
<td>13.</td>
<td>These guard the society at large and guide the person individually.</td>
<td>These guard their legal profession, society court, administration of justice, and finally the individual advocate.</td>
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<tr>
<td>14.</td>
<td>These are helpful for the honour, dignity and integrity of religion and society in general</td>
<td>These are helpful for the dignity, integrity and honour of a profession.</td>
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<tr>
<td>15.</td>
<td>Moral ethics of a person are not observed by general public.</td>
<td>Etiquette of an advocate are strictly observed by the general public.</td>
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<tr>
<td>17.</td>
<td>Ethics are helpful to upright a person.</td>
<td>Etiquette are helpful to upright entire profession and thereby helpful to the society.</td>
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**PROFESSIONAL MISCONDUCT (page 46)**

**MEANING :**

**MISCONDUCT (N)** = Bad behaviour

**Misconduct (v reflex).** = to have oneself badly.

**Professional misconduct** = both give the same meaning. Dos and donots are laid down by the professional ethics and etiquette. The advocates act, 1961 is the parent act. Under the 1961 act, bar council of India and state bar councils are constituted for controlling and regulating the advocacy profession. The 1961 act delegates powers to make the rules for the purpose of controlling and regulating the enrolment, enquiry, suspension, removal of the advocates.

The disciplinary committee of state bar councils and the disciplinary committee of the bar council of India are constituted by the 1961 act. These are the domestic tribunals constituted with the sole object and purpose of protecting the advocacy profession, and punishing the advocates whoever violate their duties and obligations.
These disciplinary committee conduct enquiry, investigation into the professional misconduct of the delinquent – advocates, and also impose the punishments according to the gravity and nature of the offences committed by such advocates.

In exercise of the powers conferred by the 1961 act under various section, the bar council of India framed various rules. They have statutory force. The bar council of India rules lay down various rules imposing various duties upon the advocates, such as duties to court, duties to client, duties to public, duties to colleagues, duties to opponent, etc we have studied these duties in various topics of this book. These rules have statutory force and are enforceable, being they are etiquette and not mere morals or mere ethics.

Initially, these duties were only morals and ethics. But now they have been formulated into etiquette i.e. statutory force. Besides these etiquette, there are certain other ethics prevailing in the advocacy profession. Every advocate enrolled should follow these etiquette and ethics compulsory.

Professional ethics though morals in nature, they attained enforceability and obligatory, being the courts gave judgments on such ethics. Hence professional ethics are also obligatory to be followed by an advocate.

In any advocate violates, it is called professional misconduct or unprofessional conduct. Such an advocate is punished according to grave and nature of the misconduct defined in the rules and in practice. The act or bar council of India rules have not defined professional misconduct or unprofessional conduct.

However, by the very nature of the various rules, which impose duties upon the advocates, one can easily understand what is a professional misconduct /unprofessional conduct, and what is a professional conduct.

Here under, the important points on the nature and procedure of trial of the professional misconduct proceedings are explained. Thereafter, some of the important instances and case-laws are given year by year. These are only few. However, by reading them, the student can easily understand the gravity and nature of various professional misconducts, and also the appropriate punishments awarded by the disciplinary committee, the bar council of India, and the supreme court in such instances and cases.

Lastly punishments under different act are explained in abstract manner, which have already been dealt in other topics of this book.

CONCEPT OF PROFESSIONAL MISCONDUCT (page 47)

While disposing D.P. Chadha vs triyugi Narain Mishra (2001) 2 SCC 221), the supreme court explained the concept of professional misconduct elaborately as thus.

i). The term misconduct has not been defined in the Act. However, it is an expression which a sufficiently wide meaning. In view of the prime position which the advocates occupy in the process of administration of justice and justice delivery system, the courts justifiably expect from the lawyers a high standard of professional and moral obligation in the discharge of their duties. An act or omission on the part of a lawyer which interrupts or misdirects the sacred flow.
of justice or which renders a professional unworthy of right to exercise the privilege of the
profession would amount to misconduct attracting the wrath of disciplinary jurisdiction.

ii). A mere error of judgment or expression of a reasonable opinion or taking a stand on a
doubtful or debatable issue of law is not misconduct; the term takes its colour from the
underlying intention. But at the same time misconduct is not necessarily something
involving moral turpitude. It is a relative term to be construed by reference to the subject-
matter and the context wherein the term is called upon to be employed. A lawyer in
discharging his professional assignment has a duty to his client, a duty to his opponent, a
duty to the court.

ACCOUNTANCY FOR LAWYERS (page 58)

INTRODUCTION :

An advocate is a professional, like doctor, architect, chartered accountant engineer and so
on. He has to maintain accounts as per the income-tax act, 1961, the advocates act, 1961
and the bar council of India rules, 1975.

The relationship between a doctor and his patient is quite different from that of the relationship
between an advocate and his client. The advocacy is a noble profession, which cannot be
compared with other profession. Still there is economic relationship between an advocate and his
client, advocates and the court, and advocate and other persons. Client is a layman. He
completely depends upon advocate for his legal redressal. Thus, besides an ordinary obligation
between an advocates and client, there are certain social obligations upon the advocates. We have
read about the relations between the advocate and his client in the first part of this book.

A client entrusts his case to his advocate completely trusting him. Entrusting a case
means in turn. Entrusting certain amount and properties in general or rights in
extraordinary circumstances advocate becomes responsible for the economical
transactions between him and the court.

The advocates’ fee rules (page 63))

Article 277 of the Constitution of India and Section 27 of the Legal Practitioner’s Act, 1879
empower every High Court to frame the rules regulating the Advocates’ Fee s in its
jurisdiction. The Andhra Pradesh Hight Court has framed The Andhra Pradesh Advocates
Fee Rules, 1990. There are 54 Rules in the 1990 Rules. Every advocate practicing in this
State should collect the fees according to the fixed rates and to issue receipts to his
clients accordingly. Further he has to maintain bill book with serial number, cash register
and other documents as per the Income-tax Act and Rules.

Rules :

1. These rules may be called ‘The A.P. Advocates’ Fee Rules”
2. In these Rules unless the context otherwise requires –
(i) “Advocate” includes a Pleader authorized to practice in Courts within the meaning of Advocates Act;

(ii) “District Court” means and includes the highest Court in the District and any other Court equivalent to such Court within the meaning of the Civil Courts Act and includes the Courts of the Chief Judge, Additional Chief Judges and the Chief Judge and the Additional Chief Judge of the City Civil Small Causes Court within the City of Hyderabad.

(iii) “Sub-Court” includes the Court of the Subordinate Judge in the districts including the Additional Subordinate Judges and in the City of Hyderabad includes the Courts of the Additional Judges, City Civil Court and Additional Judge, City Small Causes Court;

(iv) “District Munsif Court” includes the Courts of the District Munsif in the District and Assistance Judges in the City Civil Court.

Accounting / accountancy: work of recording money paid, received, borrowed, owned etc. The word ‘accounting’ is used in the USA to mean the subject as a course of study, where British English uses ‘accountancy’. In India, both the terms are used for collection, recording, classification and presentation of financial data for the benefit of management and outside agencies such as shareholders, creditors, bankers and government.

Accountant: A person who keeps a company’s or a society’s or a union’s or a person’s accounts and prepares financial statements; and expert in accounting and financial matters generally; a person who examines a company’s accounts.

History: The accounting system was developed along with the trade, commerce and industry. It was followed in 4500 B.C. in the ancient civilizations of Babylonia and Assyria. The Double Entry System of today was propounded first in Geneva in 1340.

In Hindu mythology, one Chitragupta, is the accountant of the Hell, who writes the account of events of every living being.

Accountants were appointed and working in the Darbars of Hindu Kings and Muslim emperors. Chanakya Kautilya, the Guru of emperor Chandra Gupta, wrote ‘Artha Sastra’. In that book, he wrote the methods of accounting. He narrated several advantages of accounting and procedures for writing accounts. He also advised the Kings to appoint inspectors to inspect the accounts and supervise the accountants.

Branches of Accounting

There are three important branches of accounting. They are;

1. Financial accounting
2. Cost Accounting and
3. Management Accounting

HISTORY OF THE TERM ‘BAR’ (page 96)

Originally the bar or rail (often in local courts in old times a mere people) which in superior courts of record separated the members and officers of the court from the criminals brought before it, and from the suitors, their advocates, and the general public.

Such bars to this day exist in the house of parliament, and there still used for similar purposes to the above. The bar in the house of commons yet remains literally a bar, although concealed from view when not in use. Bars, in a somewhat modified form, will be found, on close examination, in all the superior courts of justice, where there is a distinct division of each court into two parts, the judges. The king’s counsel, those holding patents of precedence, and officers of the court (amongst them solicitors) sitting upon the insides of this division, while the public remain outside it as in ancient times. It has long been the practice to allow such parties in civil suits as appear in person, to stand on the floor within the bar.

Advocates, as representing the suitor or criminal whose case the court is trying, used always to stand at the bar, by the client’s side, and there plead his cause. From this last fact, the phrase the bar or the term bar has obtained a secondary signification, and is used to those who practice the profession of advocacy. From the same fact, too, the word barrister has been derived.

BAR BENCH RELATIONS

Bar and bench are two wheels of a chariot. Both are equal. Both work for the administration of justice, and for society. Both are public office with socio-welfare objectives. Their goal is to render justice to the needy and aggrieved.

In performing their duties, one is not inferior and another is not superior. Both of them are equal. There must be constructive co-operation between these two important wings, because both of them are two eyes to the administration of justice.

There must be constructive co-operation, trust, amicableness, mutual respect, and harmonious relations between bar and bench for the dignity, integrity and honour of justice.

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### Distinction Between the Concepts “Bar –Bench Relations” and “Advocate’s Duty to Court”

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<tr>
<th>BAR-BENCH RELATIONS</th>
<th>ADVOCATE’S DUTY TO COURT</th>
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<tbody>
<tr>
<td>1. The concept Bar-Bench relations is more wider and omniferous.</td>
<td>The concept ‘Advocate’s Duty to court’ is narrower.</td>
</tr>
<tr>
<td>2. This concept has multi-faceted purposes and objects.</td>
<td>This concept has limited objects and purposes, i.e. to control and regulate the advocates in the court.</td>
</tr>
<tr>
<td>3. It consists positive and negative directions.</td>
<td>It consists only negative directions to the advocates.</td>
</tr>
<tr>
<td>This concept is aimed to regulate and control both the bar and bench and particularly it is aimed to harmonise the relations between the bar and bench.</td>
<td>This concept is aimed to regulate and control only the bench and it aims to control and regularize the legal profession not exceeding that limit.</td>
</tr>
</tbody>
</table>
5. This concept includes several aspects i.e. advocate’s duty to clients, advocate’s duty to court, advocate’s duty to his opponent, his duty to public, professional ethics and etiquettes, etc.

This concept is confined only ‘advocate’s’ duties to court, but not with other aims and purposes, and at least not with other duties of the advocates. Hence the area on operation of this concept is very limited.
ADVOCATE’S DUTY TO THE COURT (page 107)

Scope: An advocate shall, at all times, comfort himself in a manner befitting his status as an officer of the court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the bar, or for a member of the bar in his non-professional capacity may still be improper for an advocate.

An advocate shall fearlessly uphold the interests of his client, and he has to follow the principles of ethics and etiquette both in letter and in spirit. The bar council of India rules, state bar councils rules mention certain canons of conduct and etiquette as general guides. Yet, the specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned in them.

BOYCOTT (page 109)

Boycott. (v.t). = to join with others in refusing to have any dealings with (some other individual or group); to exclude a product from a market by united action.

Boycott has become a regular practice in schools, colleges, factories, offices etc. wherever there is a strong trade unionism, boycotts are conducted very often. It is no doubt it achieves the favourable results by its collective bargaining power. It may achieve to fulfil their demands. Fundamentally, the principle of boycotting, whether good or bad in other fields, is a debatable point to be discussed in the light of social, educational and economical factors. The important question is that how far, it is genuine in legal profession. The question is that are the advocates equal to the workers of a factory or to the students of an institution?

It is a million dollars question. Today, bar associations are giving “call” for boycotting the courts on trivial matters and some other big burning points.

Examples:

a). The advocates of Andhra Pradesh did boycotting the courts. The demand was to have a high court bench at guntur. High court advocates also boycotted high court on this issue some days.

b). A traffic inspector beat an advocate (practicing in city civil court, Hyderabad). It caused annoyance and humiliation among co-advocates of city civil court, Hyderabad and they boycotted the courts for several days. The high court advocates also boycotted high court for two days on this issue.

THE CONTEMPT OF COURTS ACT, 1971 (page 129)

INTRODUCTION: prior to the 1926 act, the contempt proceedings were undertaken by the courts of record under various statutes which were in force at that time. in fact, the then British Indian courts exercised uncontrolled power relating to the contempt of the court proceedings.
Some of the defects in the existing laws at that time were remedied by enacting. The contempt of courts act, 1926. The contempt of courts (Amendments) Act, 1937 brought certain other modifications. In place of the 1926 act, the contempt of courts act, 1952 was enacted by the Indian parliament after the independence.

DEFINITION AND CONCEPTS OF CONTEMPT OF COURT (page 131)

CONTEMPT (N) = arrogance, contemn, scorn, disdain, disobedience, disorder, disregard, haughtiness, hauteur, neglect, ruction, ruffianism, unruliness, violation.

Contemner, contemnor. (n) = one who contemns.
Contempt of court (ph) = a contempt is a willful disregard or disobedience of a court.

DEFINITION: Sec 2(a) of the contempt of courts act, 1971 defines: ‘contempt of court' means civil contempt of criminal contempt."

SEC 2(B) of the contempt of courts act, 1971 defines “civil contempt’ means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

Sec 2(c) of the contempt of courts act, 1971 defines: ‘Criminal contempt' means the publication (whether by words, spoken of written, or by signs, or by visible representation or otherwise) of any matter or the doing of any other act whatsoever which...

INTRODUCTION: (page 140)

We have read the concept of contempt of court. The object and purpose of the contempt of courts act, 1971 are to maintain the decorum and dignity of the court. If the courts decorum and dignity are not honoured, it gives a wrong meaning and direction to the general public.

Advocates are part and parcel of the court. They may also be treated as court officers. Our traditions require mutual respect, courtesy and understanding between the bench and the bar if justice is to be done effectively and efficiently by our courts. Therefore, advocates should always respect the court. They must be helping the court proceedings in a polite and polish way.

If any advocate behaves with impolite and indecent manner, and behaves unruly, he is liable to the punished under the Rules of Bar council of India rules. Further he is also liable to punished under the provisions of the contempt of courts act, 1971.

We have studied general cases and instances relating to civil contempt and criminal contempt pertaining to general public. In this topic, we study some of the important case – laws and instances relating to contempt by lawyers.