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भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, New Delhi - 110 002

BCI:D:0938/2025

Date: 19.02.2025

To

Shri Arjun Ram Meghwal Ji,
Hon'ble Minister of Law and Justice,
Government of India,
New Delhi - 110001

Sub.: Detailed Objections and Suggestions on the Proposed/Draft Advocates (Amendment) Bill, 2025.

Hon'ble Sir,

The Bar Council of India is compelled to make this representation to express its profound concerns regarding the proposed Draft Advocates Amendment Bill, 2025. After thorough examination and deliberation, we have identified several provisions in the draft bill that, if enacted in their current form, will have serious implications for the legal profession and undermine the autonomy and integrity of the Bar Council of India. This representation summarizes our objections and suggestions in detail, along with reasoning and references to judicial precedents.

It is crucial to mention that two rounds of discussions were held between the Bar Council of India, the Law Secretary, and Chief Controller of Accounts Mr. Dhruv Kumar Singh. Despite an apparent consensus reached during these meetings on various key issues, shockingly the final draft includes provisions that were unilaterally inserted, reflecting complete deviations from the agreed terms. These provisions require immediate attention and rectification and omissions/removal.

It is shocking that in draft Publication, several material changes have been made by some Officials and Ministry of Law. The very concept of autonomy and independence of the Bar is attempted to be demolished by this draft. The lawyers throughout the country are agitated, strong protest is bound to occur. If such deliberate and draconian provisions are not omitted/amended

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immediately. The Lawyers of Delhi District Courts have already gone on strike and this protest is likely to spread throughout the country if no positive assurance from Ministry is made soon.

1. Insertion of Section 4(1)(d) – Government Nominees in BCI

The draft bill introduces Section 4(1)(d), providing for **the Central Government to nominate up to three members to the Bar Council of India**. This provision is fundamentally opposed to the structure and independence of the Bar Council, which has always been a democratically elected body representing the 27 lakh advocates of the country. The Lawyers have taken this to be a draconian provision.

This proposal was never discussed in any of the meetings and appears to be an arbitrary insertion. Allowing government nominated members would compromise the autonomy of the Bar Council, turning it into a government-regulated body rather than a self-regulating professional body. We strongly urge the Hon'ble Minister to delete this provision in its entirety. This has agitated the lawyers throughout the country and may invited nationwide protest.

2. Regulation of Foreign Lawyers and Law Firms

The A.K. Balaji judgment clearly placed the responsibility of regulating foreign law firms and lawyers on the Bar Council of India. The Bar Council's 2022 Regulations already provide a comprehensive framework for their entry, with ample safeguards and the requirement of Central Government approval.

The Ministry's draft, however, proposes to shift this regulatory authority to the Central Government. Such a move contradicts the judgment and creates unnecessary confusion. The Bar Council is equipped to regulate foreign entities in legal practice while ensuring the interests of Indian lawyers are protected. This provision must be rectified.

The Legal profession as a whole is to be regulated and governed by Bar Council of India, then why and how the Foreign Lawyers and Law Firms could be governed by Central Government. The Bar Council of India shall frame the rules in consultation with the Central Government governing the entry of foreign law firms and foreign lawyers in India.

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3. Section 49B – Power of Central Government to Issue Directions

The proposed Section 49B empowers the Central Government to issue binding directions to the Bar Council of India. **This provision is wholly unacceptable as it directly undermines the autonomy and independence of the Bar Council, which was designed as a self regulating body.** Such a provision is not only against the spirit of the Advocates Act but also unconstitutional. We demand for its complete deletion.

The lawyers have treated it to be most draconian and are ready to come on roads, if this provision is not omitted.

4. Section 24 – Deviations in Enrollment Eligibility and Fee Structure

The proposed amendments to Section 24 of the Advocates Act introduce several problematic changes concerning the eligibility for enrollment as an advocate and the enrollment fee structure.

The Bar Council had proposed a fixed enrollment fee of Rs. 18,000/- to the State Bar Council and Rs. 3,000/- to the Bar Council of India, with provisions for periodic revision based on inflation, in consultation with the Bar Council. **However, the Ministry's draft leaves the determination of the enrollment fee entirely to the Central Government, to be notified from time to time. This provision undermines the autonomy of the Bar Council and creates potential for arbitrary changes, leading to confusion and difficulties for newly enrolling advocates.** The Bar Council strongly opposes this and urges the restoration of the fixed fee structure as agreed during the deliberations. The original Act provided clear criteria for who may be admitted as an advocate on the State roll.

The Bar Council had proposed a clause allowing Indian citizens with foreign law degrees to enroll, subject to passing a pre-enrollment examination and compliance with prescribed conditions. However, this provision has been either omitted or altered in the draft, leaving the eligibility criteria incomplete and inconsistent.

The Bar Council had proposed a clear framework for admitting foreign nationals, who have procured foreign or LL.B degrees in India as advocates on the State roll, **provided that Indian nationals are allowed reciprocal rights in their home country and subject to discretion of BCI and subjecting them to such conditions and restrictions including limiting them to non-litigious practice in order to protect rights ,interests and**

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privileges of Indian Advocates. The Ministry's draft weakens this framework and introduces ambiguities that may lead to regulatory challenges.

The Bar Council urges the Hon'ble Minister to restore the provisions as originally proposed to maintain consistency and clarity in enrollment standards or amend it to disallow non-citizens to enroll with State Bar Councils.

5. Definition of "Legal Practitioner" – An Arbitrary Change

The Bar Council of India had proposed a clear and comprehensive definition of "Legal Practitioner" under Section 2(i) to ensure that individuals and entities practicing law in any firm, whether in courts, tribunals, or legal advisory roles in corporate entities or government bodies fall within the regulatory ambit of the Advocates Act. This was aligned with the A.K. Balaji judgment, which affirmed that the Act applies not only to individuals, group of individuals, companies, firms, juridical persons, LLPs, and foreign law firms engaged in the practice of law in substance. **Those firms or entities not registered with Bar Councils, cannot be treated as "Legal Practitioners"**

However, the Ministry's draft significantly diluted the proposed definition and introduced vague criteria that would open dangerous loopholes. Therefore, Bar Council of India requests to omit this definition of "Legal Practitioner."

6. Deletion of "Practice of Law" Definition

The Bar Council of India proposed to define "Practice of Law" comprehensively under Section 2(iv) to include both litigious and non-litigious legal work. This definition encompassed advisory, consultancy, and legal drafting provided by juridical persons, LLPs, LPOs, and BPOs if their activities, in substance, constitute the practice of law. This proposal was essential to ensure that all legal practice are regulated appropriately under the Advocates Act.

The Ministry's decision to omit this definition is contrary to the intent of the Act and the guidance provided by the A.K. Balaji judgment. This omission creates ambiguity and invites unregulated practices, especially by foreign legal entities. We request that this definition be reinstated to safeguard the regulatory framework of the legal profession.

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7. **Addition of a new Section 24B**

The draft bill reads as *"24B.- Removal of the name from State Roll. - The name of an advocate shall be removed from the State roll, if he is convicted of an offence and sentenced for a period of three years or above, with or without fine, and the conviction has been confirmed by the High Court or the Supreme Court:....."*

In the same above-mentioned time of "3 years or above" maybe amended to "7 years or above".

Further, the proviso provides that *"provided if the period of sentence is less than 5 years, the advocate may after two years have elapsed since his release make an application to the State Bar Council for re- enrolment and the State Bar Council shall consider such application in consultation with Bar Council of India in accordance with section 26 and the rules made in this regard."*

In the proviso the words "5 years" may be replaced with "7 years" and the word "two years" maybe replaced by "3 years".

8. **Section 26(c) and (d) to be omitted**

Strikes/boycotts cannot be treated as separately as proposed in the Draft Amendment Act.

Moreover, **for creating hinderance in court works**, the courts have been empowered to take action over Contempt of Courts Act, therefore, this cannot be treated to be a misconduct under Section 35 of the Act. Therefore, this provision has to be omitted.

9. **Amendment to Section 48B (2) "Power to give directions"**

Under the existing original Act. Bar Council of India under Section 48B (2) is empowered to supervise and give general instructions to State Bar Council/s as it may appear necessary.

The Ministry in the proposed draft under Section 48B (2) has proposed to constitute a committee comprising *"headed by Former Judge of a High Court and consisting of four senior Advocates having minimum twenty years of practice and registered with Bar Association"* be constituted by the Bar Council of India, if the State Bar Council is unable to perform its functions for any reason whatsoever.

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In view of the opinion given by various State Bar Councils, it is decided that amended Section-48B (2) is to be omitted in toto. The original 48B (1) and (2) both are to be retained intact.

10. **Addition of a new Section 36B (3)**

The ministry in the draft has proposed addition of a new section/subsection 36B (3) which provides that if it is evident that the State Bar Council or the disciplinary Committee has failed to conduct effective hearings, negligence or shown lack of diligence in hearing and disposing of complaints within the stipulated period of two years as prescribed, upon such failure, the same may be treated as misconduct.

The sub-section should be suitably amended as Disciplinary Committee is discharging a quasi-judicial court/function. Any timeline and consequence of any punishment cannot be put over individuals discharging quasi-judicial functions.

11. **Replacement of "Rules" with "Regulations"**

Throughout the draft bill, the term "Rules" has been replaced with "Regulations," thereby diminishing the authority of the Bar Council to frame binding rules. **These changes were strongly objected to during discussions, and it was agreed that the term "Rules" would be retained.** Regulations are subordinate to Rules and would reduce the Bar Council's power to enforce its decisions effectively. We strongly recommend that "Rules" be reinstated wherever "Regulations" have been inserted.

12. **Omission of Advocates Protection and Welfare Provisions**

In course of discussions, the Bar Council of India had proposed a new chapter on Advocates Protection and Rights to safeguard advocates from violence, harassment, and malicious prosecution. Given the increasing incidents of violence against advocates, this chapter is indispensable. Similarly, provisions related to welfare schemes for advocates, agreed between the Bar Council of India and the Ministry, have also been inexplicably omitted.

These protections and welfare measures must be reinstated to ensure the safety, dignity, and well-being of advocates across the country.

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13. Removal of Important Definitions and Sections

Several critical provisions proposed by the Bar Council, such as the definitions of "Non-Practicing Advocate," "Serious Misconduct," "Serious Offence," and the proposed sub-sections on welfare funds and transfer of funds between State Bar Councils, have been arbitrarily removed. Each of these provisions was carefully designed to address long-standing issues in the legal profession and must be reintroduced.

14. It is to be noted that the Bar Council of India has no intention to regulate the Bar Associations.

15. The Ministry in the proposed amendment has added a new Section 3(5)(b) which reads as:

"State Bar Councils -

(5) An electoral roll of eligible Advocates shall be prepared and revised from time to time by each State Bar Council as per regulations prescribed by Bar Council of India."

(b) nothing in clause (b) of sub-section (2) shall affect the representation of elected members in any State Bar Council as constituted immediately before the commencement of this Act, until that State Bar Council is reconstituted in accordance with the provision of this Act.

Provided that no Advocate/Legal Practitioner shall be entitled to be a member of any State Bar Council or Bar Council of India who is a convict or is facing trial in an offence of having minimum punishment prescribed is three years , with or without fine under any law for the time being in force or against whom a disciplinary proceeding is pending for a case of misconduct in any State Bar Council or in Bar Council of India or who has been punished for such misconduct.

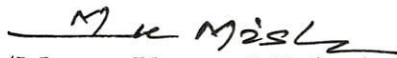
Provided further that the Bar Council of India may permit any such Advocate/Legal Practitioner, to contest the election of State Bar Council or Bar Council of India, if it finds that the Advocate prima-facie appears to have been falsely implicated and/or no substantive case of misconduct is made out against such advocate."

The Bar Council of India suggests that both the above-mentioned provisos should be omitted from the Act, it appears totally arbitrary provision which can be misused by anyone at any time.

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Hon'ble Sir the Draft Advocates Amendment Bill, 2025, in its current form, poses serious threats to the autonomy, dignity, and integrity of the legal profession. The Bar Council of India respectfully urges the Hon'ble Minister to reconsider these provisions and incorporate our suggestions made herein above. We seek a personal meeting with the Hon'ble Minister to discuss these matters further and work together to ensure that the amendments serve the best interests of the legal profession and the public.

Obliged,



(Manan Kumar Mishra)

Senior Advocate, Supreme Court of India

Chairman, Bar Council of India

Member of Parliament (Rajya Sabha)

Note:

1. Brief/Summary of Demands is attached as Annexure-1.
2. The Detailed Discussion/Reasons and proposals of Bar Council of India are attached herewith as Annexure-2.

Annexure-1

Brief/Summary of BCI's Strong Concerns/Issues on the Advocates (Amendment) Bill, 2025

The Bar Council of India, the State Bar Councils and major Bar Associations strongly oppose several provisions in the proposed Advocates (Amendment) Bill, 2025, citing erosion of autonomy, excessive government interference, unjust penalties, dilution of advocates rights, and exclusion of welfare provisions.

A. Definition of Legal Practitioner under Section 2 of the proposed Draft Advocates Amendment Bill, 2025 (hereinafter referred as "Draft")

The Ministry in its proposed Draft has added a new definition in Section 2 (1) (i) of "Legal Practitioners"

The Bar Council of India requests/demands that the new sub-section 2(1)(i) in its present shape along with the provisos be omitted in toto.

It is pertinent to mention that as per Hon'ble Supreme Court's judgement in A.K. Balaji the term "legal practitioner" would include individuals, group of Individuals(bar associations), companies, law firms, juridical persons & even BPO Companies, regardless of nomenclature, who in pith and substance are engaged in practice of law, who would be obligated to enrol/register with State Bar Council or/and Bar Council of India and be subject to its regulatory mechanism.

B. Section 3, State Bar Councils

The Ministry in its proposed Draft under Section 3(1) (cc) has changed the name of Bar Council of Tamil Nadu and Puducherry to "Bar Council of Madras", also under Section 3(1) (g) has proposed to establish a new "Bar Council of Jammu & Kashmir; and Ladakh". Further, in Section 3(1)(a) the word "Telangana" is missing in the proposed draft.



The Bar Council of India objects and demand that the Bar Council of Tamil Nadu shall be named as Bar Council of Tamil Nadu & Puducherry. Further Bar Council of India submits that Bar Council of Jammu & Kashmir and Ladakh be tagged along with the Bar Council of Punjab & Haryana till it gets the status of full fledged state.

The word "Telangana" must be added.

C. Disqualification of advocates from contesting Bar Council elections and Disciplinary Provisions (Section 3(5)(b), Section 36B(3))

The proviso to Section 3(5)(b) disqualifies advocates from contesting Bar Council elections if they are facing trial or disciplinary proceedings, even without conviction. This violates the principle of "innocent until proven guilty" and can be misused to block legitimate candidates by initiating false or prolonged criminal cases against them. Additionally, Section 36B(3) classifies procedural delays in disciplinary proceedings as misconduct, which is arbitrary and disregards practical constraints such as case backlog, judicial delays, and non-cooperation of parties.

The Ministry has amended and added sub-section 3(5)(b) in the proposed draft along with a provisos.

The provisos so added in the proposed draft to Section 3(5)(b) must be omitted.

D. Threat to the Autonomy and Independence of the Bar (Section 49B, Section 4(1)(d))

The proposed Section 49B which is proposed to empower the Central Government to issue directions to the BCI, is a direct attack on the autonomy of Bar Councils. This provision undermines the self regulatory framework of the legal profession, which has been fundamental to the Advocates Act, of 1961.



Therefore, Bar Council of India has requested to omit this new section from the proposed Bill.

Additionally, the amendment to Section 4(1)(d) proposes government nominated members in the BCI, thereby threatening the democratic structure and independence of the institution.

Therefore, Section-4(1)(d) has to be omitted/removed from the Amendment Bill.

The Ministry without any rhyme or without any discussions has made amendments in Section 4 namely sub-section 4 (1)(d) by which provision for nominees of Central Government in Bar Council of India has been inserted.

The Bar Council of India requests/ demands that sub-section 4(1)(d) must be omitted/ deleted from the proposed draft.

E. To insert new sub-section 6(1)(ia) and Section 6(2)(c)

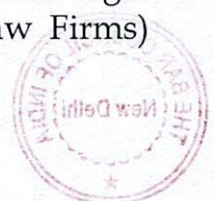
The Bar Council of India proposes to add a new sub-section 6(1)(ia) *applies to individuals, group of individuals, juridical persons, companies, firms, foreign lawyers/foreign law firms, BPO companies engaged in pith and substance in the practice of law and who are enrolled with Bar Council or for who are obligated to register with State Bar Council or Bar Council of India in the Amendment. However, same has not been included by the Ministry in its proposed draft.*

The Bar Council of India requests to add the same i.e., 6(1)(ia) in the draft amendment of Advocates Act.

Also, the existing Section 6(2)(c)- '*establishing law libraries*' by the State Bar Council has been omitted by the Ministry, the Bar Council of India requests that the same should be retained in the Amendment.

F. Regulation of Foreign Lawyers and Law Firms (Section 7, Section 49)

The proposed Section 49A(2)(cc) explicitly attempts to transfer the power to regulate foreign law firms and foreign lawyers to the Central Government, a provision that did not exist in the original Advocates Act, 1961. This contradicts the well-established authority of the Bar Council of India, which is to regulate the entire legal professionals (including foreign Legal Professionals/Law Firms)



under its statutory mandate. The BCI had already formulated comprehensive rules in 2022, ensuring that foreign lawyers and law firms could only practice in India under its strict regulatory framework **and with the approval of the Central Government.** **After some necessary amendments, these Regulations are again going to be published in 10 days.**

Under Section 7 of the Advocates Act, 1961, the BCI has the statutory authority to oversee legal education, legal practice, and the professional conduct of advocates, including foreign lawyers. The removal of the phrase "Indian/Foreign Centres of Legal Education" in Section 7 also limits BCI's ability to recognize foreign legal qualifications, making it inconsistent with Sections 7(ic), 24(1)(c)(iv), 47(2), and 49(1)(e) of the Advocates Act. Additionally, Section 49 empowers the BCI to make rules governing these matters. **The proposed 49A(2)(cc) overrides these provisions, shifting the power to regulate foreign legal professionals to the Central Government, thereby bypassing the existing legal framework that has long governed the profession.**

The deletion of the phrase "Indian/Foreign Centres of Legal Education" in Section 7 tries to narrow the BCI's authority to recognize foreign legal degrees. This contradicts other provisions of the Advocates Act, which already acknowledge foreign legal qualifications, and will create uncertainty for Indian students pursuing law degrees abroad.

Bar Council of India had proposed to amend the definition under Section 7(1)(i), however, the phrase "Indian/Foreign Centres of Legal Education" has been omitted by the Ministry in the draft.

Bar Council of India requests/demands that the same must be included in the Amendment.

Further, the Ministry has not included in the proposed Section 7(1)(id), the same must be added to the Amendment.

New Section 9B of the proposed draft



The Bar Council of India requests/demands that the newly added Section 9B, must be deleted from the proposed amendment. There

is absolutely no need of any **Special Public Grievance Committee** as Section-35 of the Advocates Act, 1961 already has provisions for the same.

H. Section 15 of the proposed draft.

The Ministry has amended Section 15 in the proposed draft as "*Power to make Regulations*". Bar Council of India demands/requests that the same must be kept as it is i.e., "*Power to make Rules*".

I. Section 16(4) to be omitted

This provision has become redundant now.

BCI had proposed to omit Section 16(4), however, the same has not been omitted by the Ministry in the proposed draft.

Bar Council of India requests that the same shall be omitted.

J. Proviso in Section 24(1)

The Bar Council of India had proposed amendment to the proviso in Section 24(1), the Ministry however has not included the same in the proposed Amendment.

Bar Council of India requests that the amendment proposed by BCI should be incorporated or if there is any hitch the same shall be restricted to "the citizen of India" only.

K. Government's Control Over Enrolment Fee under Section 24(1)(f)- Undermining Advocates Right

Under the Draft Bill the Central Government has taken full control over enrolment fee fixation, sidelining the Bar Council of India and State Bar Councils. Despite inflation, the fee remained stagnant at Rs.600 + Rs.150 since 1993. Though a structured revision to Rs.18,000 with periodic updates was agreed upon, the government disregarded this and now has imposed arbitrary changes without consulting the Bar.



This lethargy and lack of transparency creates confusion and unpredictability, affecting all advocates, particularly SC/ST candidates, whose promised fee reductions remain uncertain. By centralizing power, the government has undermined the autonomy of the Bar. A structured, fair, and transparent fee revision system must be reinstated.

Bar Council of India demands/requests that the same shall be amended as proposed by the Bar Council of India.

L. Section 26A

The Ministry in the proposed Amendment has amended/added the phrase *"or causing obstruction in court's functioning"* in Section 26A(c).

The Bar Council of India demands/requests that the phrase *"or causing obstruction in court's functioning"* be omitted from the Amendment.

Also, the proviso to Section 26A(c) and (d) shall be amended as *"Provided that for the persons mentioned in clause (c) and (d), the state Bar Council shall not take any action without conducting an inquiry and without taking approval of the Bar Council of India."*

The proviso be omitted.

M. Amendment to Section 24B

The Bar Council of India requests/demands that the phrase *"a period of three years and above"* in the propose amendment should be replaced by the phrase *"a period of 7 years or above"* and in proviso to this Section in the propose amendment the words *"5 years"* shall be replaced by the words *"7 years"* and the word *"2 years"* shall be replaced by the words *"3 years"*.

N. Section 28(2)(d) to be retained

The Ministry for unknown reasons best known to itself has omitted Section 28(2)(d) in the proposed draft.



The Bar Council of India requests/demands that Section 28(2)(d) shall be retained as in the Original Act.

O. Amendment to Section 30 – Right to Practice (Section 30)

The draft amendment allows the Central Government to frame rules governing advocates right to practice, which dilutes the BCI's authority over the legal profession. The BCI argues that enrollment, disciplinary actions, and practice regulations must remain solely under its jurisdiction, as historically mandated under the Advocates Act, 1961.

The Ministry in the proposed amendment has transferred the power under "Section 30 – Rights of Advocates to Practice" to the Central Government.

The Bar Council of India demands/requests that the same shall be omitted from the amendment.

P. Incorporation of Section 33-A

The Bar Council of India had proposed addition of a new "Section 33-A - Registration of an Advocate with a Bar Association", however, the same has been omitted by the Ministry in the proposed draft.

Bar Council of India requests/demands that "Section 33-A - Registration of an Advocate with a Bar Association" shall be incorporated in the Amendment.

Q. Unjust and Excessive Penalties (Section 35, Section 36, Section 37, Section 38, Section 42)

The amendment proposes a Rs 3 lakh fine on advocates found guilty of misconduct, while false complainants are penalized only Rs.50,000. This financial disparity violates the principle of proportionality, as established in constitutional jurisprudence. Additionally, these harsh financial penalties disproportionately affect young and underprivileged lawyers, creating an economic barrier to legal practice.



The proposed amendment must ensure that penalties remain **proportionate, just, and aligned with due process principles.**

In the proposed draft the Ministry in Section 35(1) has mentioned the time frame to refer a case for disposal to the disciplinary committee as "*period of one month*".

The Bar Council of India requests/demands that the phrase "*period of one month*" shall be replaced with "*period of three months*".

R. Curtailment of Advocates Right to Protest (Section 35A)

The proposed Section 35A prohibits advocates from calling for or participating in boycotts and strikes, treating it as misconduct. This provision infringes upon advocates constitutional right to protest, which is a legitimate means of raising concerns over judicial reforms, professional ethics, and legal infrastructure. The existing disciplinary framework already regulates unwarranted strikes, making this provision redundant and unnecessarily restrictive.

The Bar Council of India demands/requests that the same should be omitted from the Amendment.

S. Section 36B(3) to be omitted

The Ministry in the proposed draft Amendment Bill has inserted a new sub-section 36B(3) "*If it is evident from the record that the State Bar Council or its Disciplinary Committee has failed to conduct effective hearings, exhibited negligence, or shown lack of diligence in hearing and disposing of complaints within the stipulated period of two years as prescribed under sub-section (1), such failure may be treated as misconduct on the part of the General Council of the State Bar Council or its Disciplinary Committee, as the case may be.*"

The Bar Council of India demands/requests that subsection 36B(3) shall be omitted from the Amendment as the members of the Disciplinary Committee and the General Council of Bar Council discharge the quasi-judicial function and the Act itself makes them immune against such legal proceedings against any such proceedings under Section-42 and 48.



T. Inclusion of Welfare Provisions (Section 44 A, 44 B, 44 C, 44D, 44E)

The BCI had proposed provisions for an Advocates Social Security Fund, which included financial support for pensions, insurance, healthcare, and legal aid for needy advocates. The Ministry, however, omitted these sections, ignoring the longstanding demand for a structured welfare mechanism for lawyers. Lawyers, unlike salaried professionals, do not receive state sponsored benefits, and excluding welfare provisions further exacerbates their financial insecurity.

The Bar Council of India requests/demands that the same should be included in the Amendment.

U. Criminalization of Unauthorized Legal Practice (Section 45)

The BCI supports stricter penalties on unregistered legal practitioners, including Business Process Outsourcing (BPO) firms, Legal Process Outsourcing (LPO) entities, and unauthorized law firms. However, the Ministry's revised draft weakens enforcement mechanisms, allowing non lawyers to exploit the legal profession. The BCI demands stronger penalties to ensure that only qualified and registered professionals can engage in legal practice in India.

The Bar Council of India demands/requests that the proposal of Bar Council of India shall be inserted in the Amendment.

V. Creation of a Government Controlled Committee for Bar Councils (Section 48B(2))

The proposed Section 48B(2) allows the Central Government to replace an elected State Bar Council with a government appointed committee. This provision is undemocratic and unconstitutional, as it removes self-regulation from elected bodies and places lawyers under executive control. The BCI asserts that State Bar Councils must remain autonomous, accountable only to the legal community they serve.

The Ministry in its proposed draft has amended Section 48(B)(2).



The Bar Council of India requests/demands that the amendments made in proposed amended shall be deleted in toto and the existing Section 48B(1) & (2) as in the original Act are to be retained intact.

W. Amendment in Section 49

The Ministry in its proposed amendment has amended Section 49 as "*General power of the Bar Council of India to make Regulations*".

The Bar Council of India demands/requests that the word "*Regulations*" must be replaced with "*Rules*".

W(a). Amendment in Section 49 (1) (ic)

The Ministry in the proposed amendment has inserted a sub-section 49(1)(ic) wherein the word "*Legal Services*" is used.

The Bar Council of India proposed a new sub-section to be added as for rendering of legal assistance and spreading legal literacy

Bar Council of India demands/requests that in Section-49(1)(ic) the words "*Legal Services*" be replaced by "*rendered Legal Assistance*".

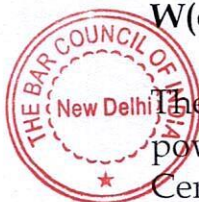
W(b). Amendment in Section 49(1)(ib)

The Ministry in its proposed draft has inserted a new clause 49 (1) (ib).

The Bar Council of India demands/requests that the same shall be amended as "*The Rules governing the entry, procedures, and areas of practice of foreign law firms or foreign lawyers seeking to practice in India in consultation with the Central Government*".

Bar Council of India also demands/requests that the proposed 49A(2)(cc) should be omitted.

W(c). Section 49A(2)(cc) to be omitted



The proposed **Section 49A(2)(cc)** explicitly attempts to transfer the power to regulate foreign law firms and foreign lawyers to the Central Government, a provision that did not exist in the original

Advocates Act, 1961. This contradicts the well-established authority of the Bar Council of India, which is to regulate the entire legal professionals (including foreign Legal Professionals/Law Firms) under its statutory mandate. The BCI had already formulated comprehensive rules in 2022, ensuring that foreign lawyers and law firms could only practice in India under its strict regulatory framework **and with the approval of the Central Government.**

Under Section 7 of the Advocates Act, 1961, the BCI has the statutory authority to oversee legal education, legal practice, and the professional conduct of advocates, including foreign lawyers. The removal of the phrase "Indian/Foreign Centres of Legal Education" in Section 7 also limits BCI's ability to recognize foreign legal qualifications, making it inconsistent with Sections 7(ic), 24(1)(c)(iv), 47(2), and 49(1)(e) of the Advocates Act. Additionally, Section 49 empowers the BCI to make rules governing these matters. The proposed 49A(2)(cc) overrides these provisions, shifting the power to regulate foreign legal professionals to the Central Government, thereby bypassing the existing legal framework that has long governed the profession.

The Bar Council of India demands/requests that Section 49A(2)(cc) shall be omitted.

X. Omission of Section 49B

The Ministry in its proposed draft has inserted a new Section 49B "*Power of Central Government to give directions*".

The Bar Council of India demands that the newly inserted Section 49B must be omitted completely.

Y. Inclusion of New Chapter "*Advocates (Protection and Rights)*"

The BCI had proposed a new chapter to protect advocates from violence, harassment, and malicious prosecution, which has been removed from the amendment. Advocates frequently face threats, assaults, and wrongful arrests, and many democratic nations provide statutory protections for legal practitioners. The BCI demands the reinstatement of these protections, as lawyers play a vital role in upholding justice and the rule of law.



The Bar Council of India proposed that a new Chapter "*Advocates (Protection and Rights)*" to be inserted in the Amendment.

However, the Ministry in the proposed draft omitted the said Chapter.

The Bar Council of India demands/requests for insertion of New Chapter as "*Advocates (Protection and Rights)*" as proposed by Bar Council of India.

Z. Fines & Costs: Section 35(3)(e)

The BCI and State Bar Councils demand the removal of provisions allowing government interference, including Sections 49B, 3(5)(b), and 36B(3). The Rs 3 lakh penalty must be reconsidered, and the restrictions on advocates right to protest under Section 35A must be removed. BCI's authority over foreign lawyers must be reinstated under Section 7, and advocates welfare provisions (Sections 44A-44E) must be restored. Unauthorized legal practice must be penalized more strictly under Section 45, and the Advocates (Protection and Rights) chapter must be reinstated. The provision allowing government control over Bar Councils (Section 48B(2)) must be withdrawn, ensuring that self regulation remains intact.

The BCI and State Bar Councils strongly oppose these amendments and caution that if the autonomy, fairness, and democratic structure of the legal profession are compromised, nationwide protests and legal challenges will follow.

The Ministry in its proposed draft under Section 35(3)(e) has inserted new 35(3)(e) which proposes to fine Advocates for Rs. 3 Lakhs on advocates if found guilty of misconduct in disciplinary proceedings.



The Bar Council of India demands/requests that the newly inserted Section 35(3)(e) is arbitrary and has to be omitted.

Annexure-2

Detailed Discussion/Reasons about the demands of Bar Council of India regarding the Advocates (Amendment) Bill, 2025

At the very outset, it is to be brought to the notice of the Hon'ble Minister that as per the instructions there were 3 sittings between the Bar Council of India, the Law Secretary and the Chief Controller of Accounts Mr. Dhruv Kumar Singh along with the Officials of the Council and the Law Department. Almost all the issues were discussed and deliberated thoroughly and a final settlement was arrived at with regard to the Amendment to be made in the Advocates Act, 1961. But, it is shocking that in Draft Publication, several material changes have been made by the officials of Ministry. The very concept of autonomy and independence of the Bar is attempted to be demolished by this Draft. The Lawyers throughout the country are agitated, strong protest is bound to occur and has already started with effect from 17.02.2025 in various parts of the country. If such deliberate and draconian provisions are promptly not omitted/amended immediately widespread repercussions are likely to ensue.

Almost all the Bar Associations and the State Bar Councils of the country are agitated over the **following provisions**, which in their view, are arbitrary, undemocratic and draconian.

The lawyers of the country, in mass are intending and planning to go for indefinite strike and protest. The lawyers of District Courts of Delhi have already gone on strike and they had also come to Bar Council of India to meet the Chairman and other office bearers in order to express their views.

All the State Bar Councils have resolved to hold their joint meeting on 23.02.2025 in order to chalk-out their future plan of action/nationwide agitation. However, Chairman, Bar Council of India has requested them not to take recourse of any strike or boycott in the light of the assurance given by Hon'ble Minister for Law and Justice, Mr. Arjun Ram Meghwal in last week.



In that view of the matter, it is requested to the Law Ministry to look into the following proposals/requests/demands of Bar Council of India and make necessary changes accordingly in the Advocates (Amendment) Bill, 2025.

If need be, the Principal Secretary of the Bar Council of India and other officials may sit together with the officials of the Law Ministry in order to remove any confusion.

A. Legal Practitioner: Definition under Section-2 of Draft: -

In its meeting dated 16.02.2025, the Bar Council of India has decided as follows: -

There is no need of word "legal practitioner" and section 2(1)(i) is to be deleted. The person doing legal work in any public and private organization and are not registered with any Bar Council, cannot be treated to be "Legal Practitioner". Those who are not registered with the State Bar Councils cannot be allowed to practice in India.

The Council is further surprised to see that an attempt has been made to make so called "legal practitioner" who is not an advocate also eligible for practicing law **and vote in elections and/or** contest elections of Bar Councils, therefore both the provisos are to be omitted completely.

Reasoning

The object of the Advocates Act, 1961 is to be regulate the law graduates enrolled with any State Bar Council and this definition intends to enhance the scope of the law practice **in a manner** which cannot be allowed under the Act. Every law graduate doing legal work in a private or public organization cannot be treated as a legal practitioner and only those are covered under the definition of the Advocate in the original Advocates Act, 1961 can only be allowed to practice law. Therefore, it is in firm opinion of the Council that there is no need of incorporation of this Section 2(i) and it is to be deleted in toto.



HOWEVER, IT IS MADE CLEAR THAT ON LINES OF THE AK BALAJI SC JUDGEMENT OF 2018 THE WORD "LEGAL PRACTITIONERS" WOULD HAVE INCLUDED COMPANIES, LAW FIRMS, GROUP OF INDIVIDUALS (BAR ASSOCIATIONS), JURIDICAL PERSONS AND EVEN BPO COMPANIES REGARDLESS OF NOMENCLATURE SO LONG AS IN PITH AND SUBSTANCE THEY ARE PRACTICING LAW AND WHO ARE ENROLLED WITH ANY STATE BAR COUNCIL OR WHO ARE OBLIGATED TO REGISTER WITH STATE BAR COUNCIL OR BAR COUNCIL OF INDIA AND WITHIN THE SAME AMBIT FOREIGN LAWYERS AND LAWYERS HAVE TO REGISTER AND ALSO HAVE TO SUBJECT THEMSELVES TO THE REGULATORY MECHANISM OF THE BAR COUNCIL OF INDIA.

B. Section-3 of the Advocates Act: -

As per the original Act, Section 3 (1) (a) read as:

3. State Bar Councils. — (1) There shall be a Bar Council — (a) for each of States of Andhra Pradesh, Bihar, Gujarat, Jharkhand, Madhya Pradesh, Chhattisgarh, Karnataka, Orissa, Rajasthan, Telangana, Uttar Pradesh, Uttarakhand, Meghalaya and Tripura, to be known as the Bar Council of that State;

The Bar Council of India's decision/request: -

Under Section 3, the Council has strong objection of change of name of State Bar Council of Tamil Nadu & Puducherry. In the year 1969 itself by way of amendment the word "Madras" was replaced by the word "Tamil Nadu". The Council resolves that the same word/phrase Tamil Nadu & Puducherry should be there.

Since the State Bar Council of Jammu & Kashmir and Ladakh are still Union Territory, therefore, it will be proper to tag them with the Bar Council of Punjab & Haryana till there territories get the full-fledged status of the State; creating a separate Bar Council for these Union Territories would be a liability on Bar Council of India. The nearest state of Punjab and Haryana Bar Council will take care of



these 3 Union Territories, therefore, Section-3(1)(g) should be deleted.

In the new draft of the Ministry under Section 3(1)(a) Word Telangana is missing. The same should be added.

C. SECTION-3(5)(b) PROVISO: -

Ministry has amended and added Sub-Section-(5) to the Section-3 of the Advocates Act. Proviso to Section-3(5)(b) of the Advocates Act must be omitted. Section-3(5) along with 3(5)(b) and its proviso as circulated by the Ministry reads as follows: -

THE FOLLOWING PROVISO TO SECTION-3(5)(b) IS TO BE OMITTED

Provided that no Advocate/Legal Practitioner shall be entitled to be a member of any State Bar Council or Bar Council of India who is a convict or is facing trial in an offence of having minimum punishment prescribed is three years , with or without fine under any law for the time being in force or against whom a disciplinary proceeding is pending for a case of misconduct in any State Bar Council or in Bar Council of India or who has been punished for such misconduct.

Provided further that the Bar Council of India may permit any such Advocate/Legal Practitioner, to contest the election of State Bar Council or Bar Council of India, if it finds that the Advocate prima-facie appears to have been falsely implicated and/or no substantive case of "misconduct" is made out against such advocate.

Both the above-mentioned Provisos of Section 3(5)(b) have to be deleted completely.

One of the primary concerns regarding the aforementioned provisos to Section 3(5)(b) is their potential for arbitrary application and misuse, which can seriously impact the rights and professional standing of advocates. The first proviso disqualifies advocates from being members of the State Bar Council or the Bar Council of India if they have been convicted or are merely facing trial for an offense with a minimum prescribed punishment of



three years. This provision disregards the fundamental principle of "innocent until proven guilty" and allows for disqualification even before an advocate is convicted. Given the potential for false or malicious prosecutions, this proviso can be strategically exploited to prevent certain advocates from contesting elections to these regulatory bodies.

Furthermore, the proviso does not take into account the nature of the alleged offense, the circumstances surrounding the charge, or whether the case has been politically or maliciously motivated. An advocate may be implicated in a case due to professional rivalries, political vendettas, or personal grudges, effectively barring them from participating in Bar Council elections despite the absence of any final conviction. This opens the door for undue influence and manipulation, where powerful interest groups may initiate frivolous criminal cases to target advocates seeking election.

The second proviso, which vests discretion in the Bar Council of India to permit an advocate to contest if it believes the allegations to be false or unsubstantial, further aggravates the problem. This discretion lacks objective standards and leaves room for selective application. The process of determining whether an advocate has been falsely implicated or whether a "substantive case of misconduct" exists is inherently subjective and susceptible to bias. There is no clear mechanism to ensure fairness, and decisions may be influenced by external pressures, favoritism, or political considerations.

Additionally, the inclusion of pending disciplinary proceedings as a ground for disqualification is problematic. Misconduct proceedings in Bar Councils are often prolonged and they may be initiated without cogent evidence/grounds. The mere pendency of such a proceeding should not be a basis for disqualification, as it can be misused as a tool to indefinitely keep an advocate out of the electoral process. Disciplinary proceedings can be initiated with mala fide intent, and given the lack of a strict timeline for their resolution, an advocate's participation in Bar Council elections can be obstructed indefinitely.



By allowing these provisions to remain, there exists a significant risk of their misuse by vested interests who seek to control the composition of Bar Councils by eliminating potential challengers. The possibility of false criminal cases, prolonged trials, and disciplinary proceedings being strategically used to target and disqualify advocates poses a direct threat to the independence and democratic functioning of these professional bodies. Therefore, these provisos must be omitted to prevent their arbitrary and unjust application, ensuring that the electoral process remains fair, transparent, and free from undue external influence.

This appears to be a totally arbitrary provision which can be misused by anyone at any time.

D. SECTION-4 OF DRAFT BILL: -

Section-4(1)(d) to be omitted/deleted from the draft amendment

There is no such provision as 4 (1) (d) in the Original Act, nor there was any proposed change by BCI. New sub-section 4 (1) (d) has been added in the draft of the Ministry. The Section 4 as in the original draft along with added sub-section 4 (1) (d) as in the proposed Ministry draft is quoted herein below:

4 - Bar Council of India. —(1) There shall be a Bar Council for the territories to which this Act extends to be known as the Bar Council of India which shall consist of the following members, namely: —

a. the Attorney-General of India, ex officio;

b. the Solicitor-General of India, ex officio;

c. one member elected by each State Bar Council from amongst its members.

d. not more than three members to be nominated by the Central Government. (TO BE OMITTED)

REASON: -

To the utmost surprise of the Bar Council of India, the draft amendment, which has been circulated in public domain, a few most draconian, impractical and unethical provisions have been inserted subsequently by the Joint Director for the reasons best



known to him. There was neither any proposal nor any discussion with regard to the addition of the nominees of the Central Government in the structure of the Bar Council of India under Section-4. There has never been any such concept nor it could be appropriate. The Bar Council of India is an autonomous and independent body of elected body of the Advocates of the country, in which the two representatives of the Central Government namely Attorney General for India and Solicitor General of India are there as the ex-Officio Members. Besides them only the elected representatives from the State Bar Councils are the Members of the Bar Council of India. It is a democratic body representing the 27 lakhs Advocates of the country which has been created with a view to adopt a self-regulatory mechanism for lawyers. The most important job of enrolment and removal of the Advocates from the roll of the Bar Council as well as the initiation and disposal of disciplinary proceedings against the Advocates are the main functions of the Bar Councils and Bar Council of India.

We fail to understand as to why and how the officials of Law Department have subsequently, without any rhyme and reason inserted this provision at their own and have made an attempt to create a grave apprehension in the minds of the Advocates of the country that the lawyers are likely to be regulated by the nominees of the Central Government and the Autonomy of the Bar Councils is going to be demolished.

E. Section-6 of Draft Amendment: -

Request to insert new sub-section as 6(1) (ia) in the original draft of Section-6;

Section 6 reads as Functions of State Bar Council.

The Bar Council of India's decision/request to add a new sub section as 6(1)(ia) which reads as follows



Advocates Act applies to individuals, group of individuals, juridical persons, companies, firms, foreign lawyers/foreign law firms, BPO companies engaged in pith and substance in the practice of law and who

are enrolled with Bar Council or for who are obligated to register with State Bar Council or Bar Council of India.

Under Original Act Section 6 (2) (c) reads as A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of –

(c) establishing law libraries.

Under the amended draft act proposed by the Ministry which is under circulation, Section 6(2) (c) has been omitted.

There appears to be no reason for omission of Section-6(2)(c). The existing provisions which permitted the State Bar Council to constitute funds for establishment of law library should be retained. The Council is of firm view that such function should remain there with the State Bar Councils.

F. SECTION-7 OF THE DRAFT AMENDMENT BILL: -

Under Section 7 BCI had proposed 7(1)(i) to recognize Indian/Foreign Centers of Legal Education including Law Universities, University Law Departments, Constituent Units for Legal Education, Law Colleges etc. whose degree in law shall be a qualification for enrolment as an Advocate and/or shall be a qualification for teaching law at any level; And for that purpose, to visit and inspect such Centers of Legal Education or Universities or cause the State Bar Councils to visit and inspect Centers of Legal Education/Universities in accordance with such directions as it may give in this behalf.

The Ministry has edited and has published Section 7(1) (i) as "to recognize Centres of Legal Education or Universities whose degree in law shall be a qualification for enrolment as an Advocate and/or shall be a qualification for teaching law at any level; and for that purpose, to visit and inspect such Centres of Legal Education or Universities or cause the State Bar Councils to visit and inspect Centres of Legal Education/Universities in accordance with such directions as it may give in this behalf."



The Ministry has omitted Indian/Foreign CLEs and has edited it as CLEs; the words "Indian/Foreign C.L.Es." should be added.

The Bar Council of India, as the apex regulatory body for legal education and the legal profession in India, rightfully holds the authority to recognize institutions that provide legal education, both within and outside the country. In furtherance of this mandate, the original draft of Section 7(1)(i) of the Amendment Bill appropriately included the phrase "Indian/Foreign Centers of Legal Education" to ensure a comprehensive framework for recognizing legal education institutions globally. This inclusion was essential to maintain consistency with the existing provisions of the Advocates Act, 1961, which already recognizes foreign legal qualifications under multiple sections. By specifically acknowledging foreign institutions, the Bar Council of India can exercise its powers to assess and accredit institutions that confer law degrees, ensuring that only those meeting its rigorous standards are recognized for the purpose of enrollment and legal academia.

The Ministry's edited version, which omits the term "Foreign Centers of Legal Education," unintentionally narrows the scope of recognition and creates an inconsistency with the Advocates Act. The Act already empowers the Bar Council of India to recognize foreign law degrees for the purpose of enrollment as an advocate, as evident from Sections 7(ic), 24(1)(c)(iv), 47(2), and 49(1)(e). Given this clear statutory intent, it follows that the Bar Council has explicit authority to evaluate and recognize the institutions that grant these degrees.

Infact BCI has been carrying out this function, through it's Rules of Legal Education, pre and post 2008 Rules too.

Chapter V of the Bar Council of India Rules of Legal Education , 2008, deals with the Recognition of Degrees in Law from Foreign Universities and outlines the criteria and procedures for recognizing law degrees obtained by Indian citizens from foreign institutions. Rule 37 specifies that an Indian citizen who has attained the age of 21 and obtained a law degree from a foreign university may have their degree recognized for enrollment as an advocate in India, provided that the course was of at least three years (if taken after graduation) or five years (if pursued after the 10+2 level). Additionally, the foreign university must be recognized by the Bar Council of India, and the candidate must pass an examination



conducted by BCI in substantive and procedural law subjects required for practice in India..

Rule 38 provides for the listing of foreign universities in the BCI's Schedule, based on recommendations from the Legal Education Committee, to ensure that law degrees from these institutions can be considered for recognition under Rule 37. Rule 39 outlines the recognition process for foreign universities, which includes an application by the foreign institution to BCI, along with details of its history, accreditation status, course curriculum, and other relevant academic information. The Legal Education Committee may conduct inspections or further inquiries before recommending recognition.

Rule 40 establishes standard criteria for recognizing a foreign law degree for enrollment in India. The degree must be a second-stage degree obtained either after graduation from an approved university or through an integrated program following 10+2 education. The course must have been pursued through regular study for at least three years (post-graduation) or five years (integrated program), with subjects aligning with the compulsory law courses prescribed by BCI for Indian universities. The rules aim to maintain parity between Indian and foreign legal education standards while ensuring that law graduates from foreign institutions possess the necessary legal knowledge to practice in India.

The omission of "Foreign CLEs" creates a potential regulatory gap, where the degrees may be recognized without a corresponding authority to evaluate the institutions that confer them. Such a situation could lead to ambiguity in enforcement and regulatory oversight, thereby affecting the quality assurance mechanisms that the Bar Council of India seeks to uphold.



Furthermore, in an increasingly globalized legal landscape, where legal practitioners frequently engage in cross border practice and academic exchanges, the ability of the Bar Council of India to regulate foreign institutions is crucial. Recognition of foreign institutions ensures that Indian students pursuing legal education abroad have clarity regarding the validity of their degrees for

professional enrollment in India. It also strengthens India's position in international legal education by promoting reciprocity in recognizing Indian law degrees in foreign jurisdictions. Additionally, the inclusion of foreign institutions in the recognition process would provide greater academic mobility and promote collaboration between Indian and foreign universities, thereby enhancing the quality of legal education in the country.

The need to reinstate "Indian/Foreign Centers of Legal Education" in Section 7(1)(i) is, therefore, evident to maintain consistency, clarity, and regulatory control. The Bar Council of India, as the statutory body responsible for upholding the standards of legal education and professional practice, must be empowered in the above referred section too to assess, accredit, and regulate foreign law institutions to ensure that only institutions of high academic and professional repute are recognized.

By reinstating the original language of the provision, the amendment would align seamlessly with the existing legal framework and reinforce the Bar Council of India's commitment to maintaining the highest standards of legal education, both nationally and internationally.

G. New provision under section 7(1) (id) is to be added. Section 7 under the Original Act reads as Functions of Bar Council of India.

BCI is empowered to make rules.

Proposed 7 (1) (id) to frame rules governing the entry of foreign law firms and foreign lawyers in India and for subjecting them to the regulatory mechanism of the Bar Council of India (AK Balaji Relevant para 41 & 46)

H. BCI has proposed Sub-Section-9B to be omitted: -

Section-9B is to be completely omitted as Section-35 of the Act is sufficient enough to take care of all such grievances.



I. *Section-15 of the Draft Bill: -*

Section 15 Power to make Rules specifically with respect to Bar Councils has been amended by the Ministry in its proposed "Power to make Regulations".

Original Section 15 heading should be kept as it is i.e. "Power to make rules"

It may be further noted that wherever word "regulations" is used under the proposed draft, it may be replaced with the word "rules" or "rules and regulations".

J. *Section-16(4) of the Advocates Act, 1961: -*

BCI had proposed to omit Section 16(4) as it has served its purpose; now redundant: -

In the original Act Section 16 (4) reads as An advocate of the Supreme Court who was a senior advocate of that Court immediately before the appointed day shall, for the purposes of this section, be deemed to be a senior advocate: 4 [Provided that where any such senior advocate makes an application before the 31st December, 1965 to the Bar Council maintaining the roll in which his name has been entered that he does not desire to continue as a senior advocate, the Bar Council may grant the application and the roll shall be altered accordingly.]

Ministry has not omitted the same. It may be omitted

K. SECTION-24 OF DRAFT AMENDMENT BILL: -

Under the Original Act Section 24 reads as "Persons who may be admitted as Advocates of State Roll"

Under the original Act Section 24 reads as

24. Persons who may be admitted as advocates on a State roll. — (1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfills the following conditions, namely: — (a) he is a citizen of India:



Provided that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practise law in that other country;

BCI had proposed amendment in Section 24 of the proviso

1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the following conditions, namely:--

(a) he is a citizen of India;

Provided that the Bar Council of India, at its discretion, may admit a national of any other country as an Advocate on a State roll, subject to the condition that the applicant holds a law degree from an Indian or foreign university recognized by the Bar Council of India and that Indian citizens with requisite qualifications are permitted to practice law in the applicant's home country. Such admission shall be governed by conditions and restrictions as prescribed by the Bar Council of India, including a mandatory qualifying pre enrolment examination for holders of foreign degrees and a post-enrolment examination, such as the All India Bar Examination (AIBE), applicable to both Indian and foreign degree holders, to assess their fitness for continued legal practice. The Bar Council of India may further impose limitations on the scope of practice, restricting non Indian citizens to non litigious legal practice. Additional requirements, such as undertakings to safeguard the integrity of the legal profession in India, may also be mandated, along with compulsory registration with the Bar Council of India.

The same has not been included by the Ministry.



Proviso to Section-24(1)(a)

The proviso as suggested by the Bar Council of India earlier has to be incorporated and if there is any hitch with regard to the

suggestions of the Bar Council of India then it should be restricted to the citizen of India.

L. Enrolment Fee: -

Section-24 under the Original Act reads as "Persons who may be admitted as advocates on a State roll., enrolment fee"

24(1)(f) in the original Act reads as "(f) he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrolment fee payable to the State Bar Council of 7[six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of a bank draft drawn in favour of that Council]"

BCI had proposed an amendment

(f) if he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrolment fee payable to the State Bar Council of Eighteen Thousand Rupees and to the Bar Council of India, Three Thousand rupees by way of a bank transfer (NEFT/RTGS/DD or any other means) in favor of that Council.

In the proposed draft amendment by the ministry "Section-24(1)(f) says that "he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrolment fee payable to the State Bar Council and to the Bar Council of India as notified by the Central Government from time to time."

The Hon'ble Law Minister will remember that the need for the amendment of the Advocates Act, 1961 arose only because of the fact that after 1993 the enrolment to be collected by the State Bar Councils and the Bar Council of India were never revised and in the year 1993 it was Rs.600 + Rs.150 only.



It is to be noted that in course of discussion it was agreed that the enrolment fee would be enhanced to Rs.18,000/-, which would be revised by the Bar Council of India in consultation with the Central Government after every three years and it would be as per the rate of inflation fixed by the Reserve Bank of India. However, to the utmost shock and surprise of the Advocates the draft which has

been circulated to public, the responsibility to fix the enrolment fee has been left to the Central Government.

Section-24(1)(f) says that "he has paid, in respect of the enrolment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrolment fee payable to the State Bar Council and to the Bar Council of India as notified by the Central Government from time to time" if it is left to the Central Government to be notified all the times it is bound to create confusion and difficulties. Therefore, there should be a definite formula for fixation of the enrolment fee and Rs.18,000/- was decided to be payable to State Bar Council and Rs.3000/- was decided to be paid to Bar Council of India. For the Candidates of SC and ST it was reduced in the same ratio as per the original Act. Therefore, the request is to fix the enrolment fee accordingly, subject to the provision for revision after every three years.

M. Under the Original Act Section 26A reads as

26A. Power to remove names from roll.

A State Bar Council may remove from the State roll the name of any advocate who is dead or from whom a request has been received to that effect.

The Ministry in the proposed draft of Section-26A has amended it as follows,

26A- Power to remove names from rolls-A State Bar Council may on receipt of information or request, remove from the State roll, the name of any advocate, -

- (a) who is dead; or
- (b) from whom a request has been received to that-effect; or
- (c) who is found guilty of serious misconduct or causing obstruction in
- court's functioning; or

(d) who has incurred any disqualification under section 24A

Provided that for the person mentioned in Clause (c) and (d), the State Bar council shall not take any action without conducting an inquiry.



Bar Council of India's Decision/Request: -

The word "or causing obstruction in court's functioning" has to be omitted as the courts have ample power to deal with such matters under the Contempt of Courts Act.

In the proviso to clause section (c) and (d) the following sentence may be inserted:-

"Provided that for the persons mentioned in clause (c) and (d), the state Bar Council shall not take any action without conducting an inquiry and without taking approval of the Bar Council of India."

- N. BCI had proposed that a New Section 24B shall be inserted in the draft which reads as

"The name of an advocate shall be removed from the State roll, if he is convicted of an offence and sentenced for a period of two years or above and the conviction has been confirmed by the High Court or the Supreme Court: Provided that in case period of sentence is less than five years, the advocate may after two years have elapsed since his release make an application to the State Bar Council for re enrolment and the State Bar Council shall consider such application in consultation with Bar Council of India in accordance with section 26 and the rules made in this regard."

The same has been edited by the Ministry as "The name of an advocate shall be removed from the State roll, if he is convicted of an offence and sentenced for a period of three years or above, with or without fine, and the conviction has been confirmed by the High Court or the Supreme Court:

Provided that in case period of sentence is less than five years, the advocate may after two years have elapsed since his release make an application to the State Bar Council for re- enrolment and the State Bar Council shall consider such application in consultation with Bar Council of India in accordance with section 26 and the regulation made in this regard."



Bar Council of India's Decision/Request: -

Section-24B

It is resolved to suggest the words "a period of 3 years or above" should be replaced by the words "a period of 7 years or above".

And in the proviso to this Section the word "5 years" may be replaced by the word "7 years" and the word "2 years" may be replaced by the word "3 years".

O. In the original Act Section-28(2)(d) reads as "Power of State Bar Council to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for

(d) the conditions subject to which a person may be admitted as an advocate on any such roll;

[It is very surprising to note that Clause-(d) to Sub-Section-(2) of Section-28 is omitted by the Ministry in the proposed Advocates (Amendment) Bill, 2025, which is presently in public domain.]

The Bar Council of India has resolved to request that these provisions, which have been omitted in the proposed draft amendment, has to be retained intact.

P. Under the Original Act Section 30 reads as:

30. Right of advocates to practice. - Subject to the provisions of this Act, every advocate whose name is entered in the [State roll] shall be entitled as of right to practice throughout the territories to which this Act extends

The Ministry has amended the same as



30. Right of advocates to practice. — Subject to the provisions of this Act and the rules made thereunder by Central Government or regulations made by the Bar Council of India, every Advocate whose name is entered in

the state roll shall be entitled to practice throughout the territories to which this Act extends.

Bar Council of India's Decision/Request: -

Since the Bar Council of India is to regulate the Advocates and to make provisions for enrolment as well as practice, removal everything, there is no sense in assigning this role to Central Government. This addition of word Central Government is bound to usurp the powers and autonomy of the Bar. This is bound to adversely affect the independence of the Bar, therefore, the words "Central Government" has to be omitted.

The omission of Section 28(2)(d) and the inclusion of the Central Government's role in Section 30, threaten the autonomy of State Bar Councils and the BCI, undermining their statutory mandate under the Advocates Act, 1961.

The omission of Section 28(2)(d) in the proposed amendment raises serious concerns regarding the enrollment and admission of advocates. The original provision empowered State Bar Councils to make rules governing the conditions for admitting advocates to their rolls. This authority is crucial in maintaining uniformity, integrity, and professional standards across the legal profession. By removing this clause, the amendment seeks to dilute the power of State Bar Councils, potentially creating an arbitrary system where external bodies could interfere with the process of enrollment. Such an omission disrupts the federal structure of legal regulation, which has been carefully designed to allow decentralized governance through the BCI and State Bar Councils, ensuring region-specific concerns are adequately addressed. If retained, Section 28(2)(d) will continue to ensure that Bar Councils, as self regulatory bodies, exercise discretion over admissions while maintaining professional independence.

The proposed amendment to Section 30, which includes the Central Government as a rule-making authority over advocates right to practice, is even more concerning. The existing Section 30 of the Advocates Act grants every advocate whose name appears on the State roll the unconditional right to practice across the country,

subject to provisions of the Act. The insertion of the Central Government as a rule-making authority creates a dangerous precedent by allowing executive interference in legal practice. The legal profession has historically been self regulated, with the BCI and State Bar Councils functioning independently to regulate enrollment, disciplinary proceedings, and ethical standards. Allowing the Central Government to frame rules shall lead to excessive control, bureaucratic overreach, and potential misuse of power, affecting the independence of the legal profession.

Moreover, this proposed amendment contradicts the very purpose of the Advocates Act, 1961, which was enacted to establish a unified Bar and a self-regulatory framework for advocates. The introduction of government involvement in determining conditions for practice may erode the autonomy of legal institutions, subjecting them to political pressures. In a democracy, an independent legal profession is a cornerstone of judicial independence, and any government interference in regulation of advocacy could impact access to justice, fair representation, and the fearless practice of law.

Given these concerns, it is imperative that Section 28(2)(d) is reinstated to ensure that State Bar Councils retain their rule-making authority over admissions. Additionally, the phrase "rules made thereunder by the Central Government" in Section 30 must be removed to safeguard the independence of legal practitioners. The Bar Councils must remain the sole authority over enrollment, regulation, and disciplinary matters, as originally envisioned under the Advocates Act, 1961. The legal profession's independence must not be compromised, and any dilution of the BCI and State Bar Councils powers is being strongly opposed.

Q. There is no section as 33-A in the Original Draft.

In the light of recent decision of Supreme Court, the BCI had proposed to include a New Section 33A "Registration of an advocate with a Bar Association.- It is clarified that any advocate found to have exercised his voting right in more than one Bar Association shall be liable to be proceeded for misconduct."



The same has been omitted by the Ministry in the draft. The same may be kindly incorporated.

R. Section 35 of the Original Act reads as

35: Punishment of advocates for misconduct. —(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

BCI in its draft proposed the same to be amended as

35 (1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary Committee within a period of one month from the date of receipt of Complaint.

The ministry in its draft has included the same as above. However, the request is that the word "period of one month" may be replaced by the "period of 3 months" from the date of receipt of the complaint.

S. Ministry in its draft amended the provision Section-35A which reads as follows:

35A- Prohibition on the boycotts or abstention from courts work. –

(1) No association of advocates or any member of the association or any advocate, either individually or collectively, shall give a call for boycott or abstinence from courts' work or boycott or abstain from courts' work or cause obstruction in any from in court's functioning or in court premises.

Violation of clause (1) shall be treated as misconduct and shall be liable for disciplinary action as contemplated under the Act and Regulations

Provided advocates may participate in a strike only when it does not impede the administration of justice such as strikes intended to bring attention to legitimate concerns about professional conduct, working



conditions, or administrative matters and may include symbolic or one-day token strikes, as long as they are conducted in a way that does not disrupt court proceedings or violate clients' rights.

The BCI has resolved that the Section-(1) or (2) including the proviso have to be omitted.

The reason being that the Bar Councils and Bar Council of India have always been taking cognizance of such strikes and boycotts and measures of suspension of advocates is being taken frequently under the definition of "misconduct".

The proposed Section 35A in the draft amendment to the Advocates Act, 1961, which seeks to prohibit boycotts or abstention from court work by advocates, is problematic and must be omitted to safeguard the independence, autonomy, and democratic rights of the legal profession. The Bar Council of India and State Bar Councils are already empowered under the existing framework to regulate professional misconduct, including actions that unduly disrupt the functioning of the courts. The inclusion of Section 35A is, therefore, unnecessary, redundant, and an excessive legislative interference in the self regulation of the Bar.

The BCI and State Bar Councils already have the authority under Section 35 of the Advocates Act, 1961, to initiate disciplinary proceedings for misconduct, which includes improper professional behavior, disrupting court proceedings, or failing to fulfill professional obligations towards clients. Courts have repeatedly recognized that strikes by advocates, while not encouraged, are a form of collective expression that, in some cases, can highlight systemic issues within the legal framework. By inserting a specific statutory prohibition, the amendment unnecessarily restricts legitimate dissent, which is fundamental to the autonomy of the legal profession.

A major concern with Section 35A is that it tends to criminalizes any form of collective action, including those undertaken for legitimate professional concerns. The proviso, which permits symbolic strikes, is a vague and subjective exception that leaves excessive discretion in the hands of authorities. The determination of what constitutes an "acceptable" strike versus an



"impermissible" one will lead to uncertainty and arbitrary enforcement, potentially targeting advocates who speak out against judicial irregularities, professional issues, or administrative inefficiencies.

The independence of the legal profession is a constitutional value and a crucial component of judicial independence. The judiciary and the legal profession together form the pillar of access to justice, and any law that restricts the ability of advocates to raise collective grievances undermines the very foundation of a free and fair judicial system. Self regulation of the Bar is an essential aspect of its autonomy, and external interference in its affairs must be avoided unless absolutely necessary. By legislating against boycotts or abstention from court work, the Central Government is attempting to exert undue influence over the Bar, curtailing its freedom of expression, right to dissent, and collective bargaining rights.

Additionally, the Bar Councils are best placed to evaluate whether an advocate's actions cross the threshold of misconduct under Section 35 of the Advocates Act. These bodies have consistently taken disciplinary action in cases where court boycotts have disrupted judicial functions in an unjustified manner. The proposed Section 35A wrongly assumes that there is a regulatory gap, when in reality, the existing disciplinary framework already addresses concerns regarding professional misconduct.

Moreover, an absolute prohibition on collective action by advocates can have unintended consequences. The legal profession is often the last line of defense in upholding the rule of law, protecting constitutional rights, and advocating against executive overreach. There have been historical instances where advocates collective action has been instrumental in challenging legal injustices, highlighting systemic failures, and resisting oppressive laws. For instance, legal professionals played a pivotal role in protests against emergency era violations of fundamental rights, judicial corruption, and threats to judicial independence. By curtailing advocates ability to organize and protest, the amendment will erode the democratic character of the legal system.



Furthermore, client interests, which the amendment purports to protect, are already safeguarded under the existing legal framework. The judiciary has held that lawyers must act in the best interest of their clients and should minimize disruptions to judicial processes. In cases where an advocate's absence has unfairly prejudiced a client, the courts have stepped in with appropriate remedies. A blanket statutory prohibition, however, disproportionately penalizes the entire profession for what should be handled on a case by case basis by State Bar Councils and the BCI

Section 35A should be omitted from the proposed amendment because it is unnecessary, redundant, and an excessive intrusion into the independence of the Bar. The BCI and State Bar Councils already have sufficient regulatory mechanisms to address professional misconduct, including disruptive court boycotts. By attempting to impose a statutory prohibition on collective action, the amendment seeks to silence legitimate grievances of advocates, undermine their role as defenders of constitutional rights, and introduce unwarranted state control over the profession. The autonomy of the Bar is a fundamental aspect of democracy, and any legislative attempt to curtail its freedom of expression and self-regulation must be strongly opposed.

Therefore, there is no need of additional provision; this is bound to agitate the Advocates and we cannot shut their mouth, if they have some genuine and bona-fide reasons.

BCI in the draft had proposed NEW Section 36B(1A).

The Ministry has proposed section 36B (3) "If it is evident from the record that the State Bar Council or its Disciplinary Committee has failed to conduct effective hearings, exhibited negligence, or shown lack of diligence in hearing and disposing of complaints within the stipulated period of two years as prescribed under sub-section (1), such failure may be treated as misconduct on the part of the General Council of the State Bar Council or its Disciplinary Committee, as the case may be."



Bar Council of India's Decision/Request: -

Section-36B(3) the consequence of "misconduct" has to be omitted/removed in its totality as the members of the Disciplinary Committee and the General Council of Bar Council discharge the quasi-judicial function and the Act itself makes them immune against such legal proceedings against any such proceedings under Section-42 and 48.

The proposed Section 36B(3) in the draft amendment to the Advocates Act, 1961, classifies delays in disciplinary proceedings by State Bar Councils or their Disciplinary Committees as misconduct, is legally untenable and must be omitted. The Bar Council of India and State Bar Councils perform a quasi judicial function in adjudicating complaints against advocates. The Advocates Act, 1961, under Sections 42 and 48, already grants them legal immunity from proceedings arising from the discharge of their functions. Imposing liability for procedural delays contradicts this statutory protection and unfairly penalizes members of the Bar Councils for inefficiencies that may often be beyond their control.

The disciplinary committees of Bar Councils exercise judicial discretion akin to courts when handling professional misconduct cases. Section 42 of the Advocates Act, 1961, provides these bodies with powers similar to those of a civil court, including summoning witnesses, taking evidence, and enforcing attendance. Section 48 further indemnifies Bar Council members from legal proceedings related to their functions. The proposed amendment disregards this framework by imposing personal liability on members of the General Council or Disciplinary Committee for procedural delays, which is inconsistent with established principles of judicial immunity. Holding such members accountable for delays that may arise due to case backlog, procedural complexities, or party non-cooperation sets an unreasonable precedent and deters competent individuals from serving on these committees.

The disciplinary process requires thorough examination of evidence and adherence to procedural fairness, which may inherently lead to delays. Many cases involve complicated factual disputes requiring witness examination, documentary evidence review, and legal



arguments. If members of the Disciplinary Committee are threatened with punitive measures for delays, they may be forced to rush through cases, prioritizing speed over substantive justice. Such an approach would compromise due process and fairness, leading to decisions that do not adequately address the merits of each case. Even in higher courts, cases frequently extend beyond statutory time limits due to procedural necessities, yet judicial officers are not held personally liable for these delays. The same principle must be applied to quasi judicial bodies like Bar Council Disciplinary Committees.

The proposed provision is also impractical because disciplinary proceedings are often delayed due to external factors beyond the control of the Disciplinary Committees. These include non appearance of complainants or respondents, adjournments sought by parties for legal representation or procedural compliance, related matters pending before higher courts, and administrative constraints such as resource limitations, staffing issues, and case backlog. Placing the burden of these procedural obstacles on Bar Council members is unjust, as they cannot control the availability of parties, the volume of cases, or other external impediments to timely resolution.

The classification of procedural delay as misconduct raises a serious issue of arbitrary and selective enforcement. Misconduct, in legal terms, generally implies intentional wrongdoing, negligence, or an ethical breach. Delays in adjudication cannot automatically be presumed to constitute misconduct unless there is clear evidence of deliberate obstruction or malfeasance. By equating procedural inefficiency with professional misconduct, the amendment creates a dangerously broad standard that could be misused to target members of Bar Councils for political or professional reasons. Furthermore, the absence of clear criteria for determining what constitutes "negligence or lack of diligence" introduces ambiguity and leaves room for discretionary and potentially biased enforcement.



Given the legal inconsistencies, the violation of quasi judicial immunity, and the practical concerns surrounding procedural delays, the phrase "such failure may be treated as misconduct"

must be omitted from Section 36B(3). Instead of imposing unrealistic liabilities on members of the Bar Councils, the focus should be on institutional improvements such as better case management, digital tracking of disciplinary proceedings, and procedural streamlining. The autonomy and independence of Bar Councils must be safeguarded to ensure that Disciplinary Committees can function effectively and fairly without the undue burden of personal liability.

The Bar Council of India is justifiably seeks removal of this provision, as it threatens the very foundation of the self regulatory structure of the legal profession. The independence of disciplinary proceedings must be upheld while ensuring efficiency through systemic reforms rather than punitive legislative overreach.

Therefore, in Section-36B(1A) the words "such failure may be treated as misconduct on the part of General Council of the State Bar Council or its Disciplinary Committee" should be omitted.

T. Welfare Provisions: -

BCI had proposed Section 44-A, B, C, D, E to be added in the draft as Formulation of Welfare schemes for Advocates.

It dealt with welfare schemes for advocates to be floated by the Central Government which was to be fully or partly funded by the Central Government. As per the Section Central Government was constituting a fund - "Advocates" Social Security Fund" which was to be managed by the Central Government.

The same been excluded by the Ministry in the draft published.

The Bar Council of India requests and demands that the same has to be included in the Amendment Act.



U. Under the Original Act Section 45 of the Act reads as

45. Penalty for persons illegally practising in courts and before other authorities.—Any person who practises in any court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months.

Ministry has amended it as "45. Penalty for persons illegally practicing in courts and before other authorities. —Any person who practices in any court or before any authority or person, in or before whom he is not entitled to practice under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to one year and/or with fine which may extend to two lakh rupees

Under Section 45 BCI had proposed Penalty for Unauthorized Practice of Law- Any person, whether an individual, group of individuals, juridical persons, firms, Legal Process Outsourcing, LPO's Limited liability partnerships (LLPs), entities under Indian Partnership Act, companies, including but not limited to Business Process Outsourcing (BPO) companies, who engage in activities that, in pith and substance, amount to illegal or unauthorized practice of law, including illegally representing or practicing in courts or before other authorities, or misleading the public by falsely claiming to be in practice of law, or practicing in any court or before any authority or person without being entitled to do so under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to one year, and/or with a fine which may extend to two lakh rupees.

Explanation-

I. The determination of imprisonment and fine for unauthorized practice of law or misleading the public involves assessing personal, strict, and vicarious liability. **Personal liability** applies to individuals directly engaged in such acts, with penalties of imprisonment up to one year and fines up to Rs. 2 lakhs, based on intent, harm caused, and the scale of misconduct.



a. **Personal liability** holds an individual accountable for their wrongful act or omission, requiring proof of fault, such as negligence, intent, or recklessness.

b. **Strict liability** applies to firms, LLPs, or companies facilitating or failing to prevent these violations, imposing fines and potential imprisonment for responsible individuals. Strict liability imposes accountability regardless of fault, intent, or negligence. The responsibility is based solely on the occurrence of the wrongful act.

c. **Vicarious liability** holds partners, directors, etc. accountable if they had knowledge of or consented to the act, with penalties proportionate to their involvement or supervisory failures. Vicarious Liability shifts responsibility to a connected party (e.g., employer or principal) for acts committed within the scope of their relationship and arises when a person or entity is held liable for the wrongful act of another (e.g., employee or agent), based on their relationship. Aggravating factors like deliberate deception or large-scale harm may lead to maximum penalties, while mitigating factors such as lack of knowledge or cooperation with authorities may reduce liability.

The Bar Council of India requests and demands that the same has to be included in the Amendment Act.

V. In the original Act Section 48B(2) reads as:

48B. Power (of BCI) to give directions.— (2) Where a State Bar Council is unable to perform its functions for any reason whatsoever, the Bar Council of India may, without prejudice to the generality of the foregoing power, give such directions to the ex officio member thereof as may appear to it to be necessary, and such directions shall have effect, notwithstanding anything contained in the rules made by the State Bar Council.

Ministry has amended 48B(2) to "Where a State Bar Council is unable to perform its functions for any reason whatsoever, the Bar Council of India may, without prejudice to the generality of the foregoing power, constitute a Committee replacing the State Bar Council and give such directions to such Committee, headed by Former Judge of a High Court and consisting of four senior Advocates having minimum twenty years of practice and registered with Bar Association, as may appear to it necessary, and such directions shall have



effect, notwithstanding anything contained in the regulations made by the State Bar Council"

REQUEST: -

In view of the opinion given by various State Bar Councils and Bar Associations, it is decided that Section-48B(2) is to be omitted in toto. The existing 48B (1) and (2) both are to be retained intact.

The proposed amendment to Section 48B(2) of the Advocates Act, 1961, which allows the Bar Council of India to replace a State Bar Council with a Committee headed by a former High Court Judge and comprising four senior advocates, is an unjustified intrusion into the self regulatory framework of the legal profession. The Bar Council of India and State Bar Councils rightfully oppose this amendment, as it undermines the autonomy of elected Bar Councils, disrupts the federal structure of professional regulation, and contradicts the foundational principles of the Advocates Act, 1961.

The existing Section 48B(2) already empowers the BCI to intervene when a State Bar Council is unable to perform its functions by issuing appropriate directions to its ex officio member, thereby ensuring continuity in governance. This provision is consistent with the self-regulatory nature of the Bar, which ensures that the legal profession remains free from external influence and is governed by its own elected representatives. The amendment, however, seeks to subvert this democratic structure by authorizing an unelected committee to take over the functions of a State Bar Council, thereby violating the fundamental principle of professional self governance.

The proposed amendment is constitutionally suspect as it violates the right of advocates to self regulation, which has been a cornerstone of the legal profession in India. The Supreme Court has consistently recognized that the independence of the Bar is essential to the independence of the judiciary and that State Bar Councils, as elected bodies, play a crucial role in maintaining this independence. The replacement of a State Bar Council with an unelected committee contradicts this principle and sets a



dangerous precedent for government overreach into the regulation of legal professionals.

Moreover, the composition of the proposed committee raises serious concerns about representational legitimacy and accountability. Unlike an elected State Bar Council, whose members are chosen by practicing advocates through a democratic process, the proposed committee would be a centrally appointed body, lacking direct accountability to the advocates it governs. The inclusion of a former High Court Judge and four senior advocates does not necessarily ensure fair representation of the diverse interests of lawyers across different regions and practice areas. Elected members of the State Bar Councils are best placed to address the concerns of their respective legal communities, as they are directly answerable to the lawyers who elected them.

The amendment also disregards the existing checks and balances within the Advocates Act, which already provide mechanisms to address the failure of a State Bar Council without resorting to its replacement. Under Section 48B(1) and (2), the BCI has sufficient authority to issue binding directions to an underperforming State Bar Council and ensure compliance without dismantling the elected body. This structure strikes an appropriate balance between monitoring and autonomy, allowing the BCI to rectify deficiencies without undermining the democratic functioning of the State Bar Councils.

Additionally, the amendment threatens the federal character of the regulation of the legal profession. The Advocates Act was enacted with a decentralized governance model, where State Bar Councils function independently under the broad supervisory authority of the BCI. The removal of a State Bar Council in favor of a centrally appointed committee centralizes power, which contradicts the legislative intent of the Act and creates scope for excessive central control over legal professionals at the state level. State Bar Councils are meant to regulate lawyers based on the unique needs and challenges of their respective regions, and replacing them with a centrally controlled body undermines this localized approach to regulation.



Furthermore, State Bar Councils already function under a legal and ethical duty to uphold professional standards, and in cases of serious failure, appropriate legal remedies, including judicial intervention, are available. Courts can issue writs of mandamus compelling a State Bar Council to discharge its statutory functions, thereby addressing inefficiencies without requiring its dissolution. The amendment's sweeping provision for replacement is an excessive and disproportionate measure when alternative legal remedies exist.

Given these legal, constitutional, and practical concerns, the proposed Section 48B(2) must be omitted in its entirety, and the existing Section 48B(1) and (2) must be retained intact. The self-regulation of the legal profession is a fundamental safeguard for judicial independence, and any legislative attempt to undermine it must be strongly opposed. The Bar Council of India and State Bar Councils justifiably seek the removal of this provision, as it represents an unwarranted centralization of power, threatens the democratic governance of the legal profession, and violates the fundamental principles of self-regulation enshrined in the Advocates Act, 1961.

- W. Under Section 49 General power of the Bar Council of India to make rules has been changed to "General power of the Bar Council of India to make regulations."

It may be reverted to "rules". The words Regulation has to be replaced by "Rules".

Section 49 General power of the Bar Council of India to make rules"

(1)] The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe —

- W(a). In the Original Act there is no sub-section as 49 (1)(ic)

The Bar Council of India proposed a new sub-section to be added as for rendering of legal assistance and spreading legal literacy



Therefore, in Section-49(1)(ic) - the word "Legal Services" has be replaced by the word " rendered Legal Assistance".

W(b). In the Original Act there is no sub-section as 49 (1)(ib)

Under Section 49 (ib) BCI had proposed "(ib) procedures, and areas of practice governing the entry of foreign law firms or foreign advocates seeking to practice in India." The Bar Council of India shall frame the necessary rules and regulations for the entry of foreign law firms and foreign lawyers in India in consultation with the Central Government.

The Section 49 (ib) (language may be seen from below) may be kindly included by the Ministry in the Draft.

REQUEST: -

New provision (ib) should be added which will run as follows: -

The Rules governing the entry, procedures, and areas of practice of foreign law firms or foreign lawyers seeking to practice in India in consultation with the Central Government.

AND

The proposed 49A(2)(cc) should be omitted.

W(c). In the Original Act there is no sub-section as 49A(2)(cc)

Ministry had proposed the same in its draft and BCI had requested the Ministry to delete the same

As per the Original Act 49A(2) reads as:

49A. Power of Central Government to make rules. —(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act including rules with respect to any matter for which the Bar Council of India or a State Bar Council has power to make rules.



(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for –

*The Ministry has added sub-section (cc) which reads as
(cc) rules governing the entry of foreign law firms or foreign lawyers in India.*

Under the proposed section 49A(2)(cc) the officials of Law Department at their own have tried to insert a provision relating to regulation and entry of foreign law firms and foreign lawyers with central government.

REASON: -

Under the original Advocates Act, 1961, this power has always been vested in the Bar Council of India, a statutory body created specifically to regulate, oversee, and uphold the standards of the legal profession in India. There is a clear and deliberate legislative intent behind assigning this function to the Bar Council of India, as it is the sole expert body with the requisite knowledge, experience, and jurisdiction to regulate the legal profession. Foreign lawyers and foreign law firms are permitted to enter India solely for professional purposes related to legal work, which is intrinsically linked to advocacy and professional responsibilities, all of which fall under the exclusive domain of the Bar Councils and the Bar Council of India. Any attempt to transfer this regulatory power to the Central Government contradicts the foundational principles of the Advocates Act, undermines professional self-regulation, and is in direct conflict with the legal framework governing advocates in India.

The Bar Council of India finds it imperative to bring to the Hon'ble Minister's attention that this issue was thoroughly deliberated, and the Law Secretary had unequivocally agreed that the function of regulating the entry of foreign lawyers and law firms must remain under the authority of the Bar Council of India. However, despite this clear consensus, an official from the Law Department has unexpectedly attempted to shift this power to the Central Government, a move that is legally untenable and practically disruptive. This change is bound to create unnecessary confusion, jurisdictional conflicts, and widespread turmoil



among Indian lawyers. Moreover, such a drastic shift in regulatory authority risks triggering nationwide protests and agitation, as it would be perceived as a direct encroachment upon the independence of the Bar and a dilution of advocates' rights.

The Bar Council of India is not opposed to the entry of foreign lawyers and law firms and has, at every stage, engaged in collaborative discussions with the Central Government, particularly the Ministry of Law and Justice. In fact, in its 2022 regulations, the Bar Council of India explicitly incorporated provisions granting substantial powers and functions/roles to the Ministry of Law and Justice, the Ministry of External Affairs, and the Ministry of Commerce. Furthermore, as per the regulations of the Bar Council of India, no foreign law firm or lawyer can be registered with the Bar Council of India without the prior approval of the Central Government. This ensures that all decisions regarding foreign lawyers and law firms are made within a structured and balanced regulatory framework, in alignment with national interests and policy considerations.

Given this well established mechanism, there exists absolutely no rationale, legal or practical, to divest the Bar Council of India of its regulatory authority and shift this responsibility to the Central Government. Such a move ignores statutory mandates, disrupts a working regulatory framework, and creates uncertainty in the governance of the legal profession. The current system, where the Bar Council of India is responsible for regulation while collaborating with the relevant government ministries, strikes the necessary balance between professional autonomy and state oversight. Interfering with this structure by handing regulatory powers to the Central Government would create unnecessary bureaucratic entanglements, slow decision-making, and expose the process to non expert interventions, thereby threatening the integrity of legal practice in India.

The officials of the Law Ministry, while drafting the Amendment, have fundamentally misunderstood the legal and practical implications of this move. Their failure to appreciate the complexities of legal self regulation, international reciprocity, and professional autonomy has resulted in a proposal that has sparked intense opposition and widespread discontent among



lawyers nationwide. This is not just a matter of statutory interpretation but of preserving the professional independence of the Bar, protecting the rights of Indian lawyers, and ensuring that foreign participation in the legal sector is subject to appropriate oversight by the statutory body specifically empowered for this purpose. The Bar Council of India's foremost duty is to safeguard the interests of Indian lawyers, ensuring that no decision is made at the expense of their rights, interests, privileges, including opportunities, or professional well being.

Allowing the Central Government to regulate foreign lawyers and law firms would lead to direct interference in legal practice and potentially politicize professional regulations, which goes against the very principles of independence, fairness, and non-partisan regulation of the Bar.

It is precisely for this reason that the Bar Council of India had initially proposed, and the Learned Law Secretary had agreed, that the power to formulate rules and regulations governing the entry of foreign law firms and foreign lawyers should remain solely with the Bar Council of India. This is not a matter of power but of statutory responsibility, practical necessity, and professional expertise. The legal profession, like the judiciary, must remain independent of executive control to function in an unbiased and efficient manner. Any shift in this power would not only weaken the regulatory framework of the legal profession but also diminish India's standing in international legal practice by creating uncertainty in its legal governance.

Therefore, the proposal to introduce the provision transferring regulatory authority to the Central Government must be withdrawn immediately, and the existing framework should be retained intact to preserve the integrity, autonomy, and efficiency of the legal profession in India.

X. Insertion of new section-49B/Shocking: -

In the Original Act there is no Section as 49B.

Ministry in its draft published has added the new Section 49B which reads



49B-Power of Central Government to give directions. - The Central Government may give such directions to Bar Council of India as may appear to the Central Government to be necessary for carrying into execution any of the provisions of this Act or of any rule or order made thereunder.

BCI STAND & DEMAND

Again, it is to be pointed out that this was never a part of any discussion nor it was there in the draft amendment sent or place before Bar Council of India and such arbitrary, impractical and draconian concept of issuance of direction to Bar Council of India by Central Government is going to demolish the entire concept of autonomy and independence of the representative/democratic body of Advocates. The Central Government is always consulted by the Bar Council of India on any important policy matter, but, the original Advocates Act, 1961 never thought it necessary even proper to insert any provision which could enable the Central Government to issue any direction to the Bar Council of India on any issue.

The proposed Section 49B, which grants the Central Government the power to issue directions to the Bar Council of India, is a direct assault on the autonomy, independence, and self-regulatory nature of the legal profession in India. The Advocates Act, 1961, was designed to ensure that the regulation of the legal profession remains exclusively within the domain of elected representatives of the Bar, free from executive or political interference. The insertion of Section 49B is not only unprecedented but also legally untenable, as it contradicts the fundamental purpose of the Advocates Act, undermines the democratic functioning of the Bar Council of India and State Bar Councils, and is incompatible with the principle of an independent legal profession.

The original Advocates Act, 1961, did not contemplate any provision allowing the Central Government to direct or interfere in the affairs of the Bar Council of India, despite the fact that the Act has undergone multiple amendments over the years. The absence of such a provision for decades underscores the legislative intent that the Bar Council of India should function as



an autonomous, self-regulated, and independent body, free from government control. The legal profession, like the judiciary, must remain independent of executive influence, and this proposed provision is a clear encroachment upon that independence.

The Bar Council of India, as a statutory body, is the sole authority responsible for regulating legal education, professional conduct, enrollment of advocates, and disciplinary proceedings, and it already engages in continuous consultation with the Central Government on critical policy matters. The Ministry of Law and Justice has always been a stakeholder in discussions regarding legal reforms, and the BCI has consistently engaged with the government on many important issues, including the regulation of foreign lawyers, reforms in legal education, and disciplinary mechanisms. The existing practice of consultation and cooperation ensures that the government's perspective is considered without undermining the independence of legal governance. The proposed Section 49B disrupts this balance and seeks to impose a rigid, unilateral command structure, reducing the Bar Council of India to a mere subordinate body of the executive.

Further, the insertion of this provision contradicts the very purpose and structure of the Advocates Act, which was enacted to establish a self regulatory mechanism for legal professionals, free from political influence. The Supreme Court of India has repeatedly emphasized the importance of the independence of the Bar as a pillar of judicial independence, recognizing that any external control over the legal profession compromises the rule of law. The right of lawyers to selfregulation is integral to their role as defenders of justice and constitutional rights, and any provision that subjects them to government control or directive authority is a dangerous erosion of this foundational principle.

The vague and overbroad language of Section 49B further aggravates its unworkability and potential for misuse. The provision merely states that the Central Government may give such directions to the Bar Council of India as may appear necessary. This ambiguity leaves the provision open to arbitrary and excessive interference, enabling the government to directly influence and control regulatory decisions of the Bar Council of



India, including enrollment criteria, disciplinary actions, and professional conduct standards. This could be misused to interfere with disciplinary proceedings against politically sensitive lawyers or influence the accreditation and approval of law colleges, among other areas. Such an unchecked power is neither legally justified nor practically necessary, as the Bar Council of India already functions within a well established statutory and procedural framework.

The autonomy of the legal profession is not merely an administrative concern but a constitutional necessity. A strong, independent Bar is a safeguard against executive overreach, as lawyers serve as guardians of civil liberties, constitutional rights, and access to justice. Allowing the Central Government to issue binding directions to the Bar Council of India creates a clear risk of executive interference in disciplinary actions, enrollment decisions, and legal education policies, which could be influenced by political or bureaucratic considerations rather than professional merit and ethical standards. The legal profession must remain self-governed to ensure that it remains a check on state power, rather than becoming subservient to it.

Moreover, such a provision contradicts global best practices in legal regulation. In democratic jurisdictions across the world, the legal profession is governed by independent Bar Councils or Law Societies, without direct government control. International legal frameworks recognize that professional bodies must remain independent to maintain public trust in the fairness, impartiality, and accountability of legal practice. The proposed Section 49B, if enacted, would place India's legal profession under direct governmental control, setting a dangerous precedent that could undermine India's credibility in international legal circles.

Given the serious constitutional, legal, and practical concerns, the proposed Section 49B must be omitted in its entirety. The Bar Council of India and State Bar Councils strongly oppose this provision, as it represents an unwarranted and unconstitutional intrusion into the governance of the legal profession. The Council's authority must remain independent and autonomous, in line with the original intent of the Advocates Act, to preserve the dignity, integrity, and independence of the legal profession in



India. The issuance of directions by the Central Government to the Bar Council of India is not only unnecessary but fundamentally incompatible with the principles of professional self regulation, judicial independence, and constitutional democracy. Therefore, this provision must be immediately withdrawn to protect the independence of the legal profession and uphold the core values of the Advocates Act, 1961.

Therefore, the Council resolves that Section-49B regarding the issuance of directions to Bar Council of India by the Central Government has to be omitted in toto as any such provision would be in complete violation of the autonomy and independence of the profession and against the very object of the Advocates Act.

Y. BCI had proposed a New Chapter to be added as "Advocates (Protection and Rights)"

This chapter ensured the protection and rights of Advocates/Legal practitioners, shielding them from violence, malicious prosecution, and undue interference, while enabling them to perform their duties with dignity and independence. It reinforces the protection of Advocates/Legal Practitioners while maintaining alignment with existing penal laws, ensuring justice for victims and deterrence against acts of targeted violence.

In the draft amendment made public by the Ministry, the whole Chapter is omitted by the Ministry.

BCI STAND

The proposal of Bar Council of India for insertion of the new chapter namely (the Advocates Protection and Rights) has to be added as the 27 lakhs lawyers of the country are making this demand for last several years and Hon'ble Law Minister has also given assurance publicly in several meetings of the Lawyers.

The omission of the proposed chapter "Advocates (Protection and Rights)" from the draft amendment to the Advocates Act, 1961, is a serious setback to the legal profession and an unjustifiable denial of necessary safeguards for advocates and legal practitioners. The Bar Council of India and State Bar Councils



have long demanded statutory protection for advocates against violence, undue interference, and malicious prosecution, recognizing that lawyers play a crucial role in upholding the rule of law and ensuring justice. The absence of such protections leaves advocates vulnerable to threats, intimidation, and attacks, which not only compromise their independence but also erode public confidence in the justice system.

Advocates are officers of the court and serve as the primary channel through which citizens access justice. They often deal with sensitive cases, politically charged matters, and contentious legal disputes, exposing them to retaliatory actions, physical attacks, and harassment from powerful interests, including state authorities, criminal elements, and private parties seeking to obstruct justice. Without statutory protection, advocates are left defenseless against such targeted acts, making them susceptible to coercion and preventing them from discharging their professional duties without fear. The proposed chapter was designed to address this gap, providing a clear legal framework for safeguarding advocates' rights without interfering with existing penal laws.

The United Nations Basic Principles on the Role of Lawyers (1990) affirm that governments must ensure that lawyers can perform their professional functions without intimidation, hindrance, harassment, or improper interference. India, as a signatory to international legal norms, has a duty to ensure that its legal professionals are not subjected to threats or violence for performing their duties. Several other democratic jurisdictions, including the United Kingdom, the United States, and European nations, have enacted laws that provide protections to legal practitioners, recognizing that an independent legal profession is essential for upholding fundamental rights and justice. The omission of this chapter contradicts international best practices and leaves Indian advocates more vulnerable than their counterparts in other democracies.

Moreover, the Supreme Court of India has consistently recognized that advocates, as essential stakeholders in the justice system, must be protected to ensure fair and impartial legal proceedings. In cases concerning attacks on advocates, threats to



defense lawyers, and undue influence by state agencies, the judiciary has acknowledged the need for enhanced protections for legal practitioners. Despite this, there remains no comprehensive statutory framework that specifically protects lawyers, making them more susceptible to attacks and intimidation than judicial officers, who enjoy statutory protection under the Judges (Protection) Act, 1985. Advocates play an equally critical role in the administration of justice, and denying them similar protections is a glaring legislative oversight.

The inclusion of the "Advocates (Protection and Rights)" chapter was not merely a demand of the Bar but a necessity recognized by the legal community at large. The advocates in the country have been raising this demand for years, highlighting cases of lawyers being assaulted, maliciously prosecuted, and threatened for representing clients in politically or socially sensitive cases. The Hon'ble Law Minister has also publicly assured the legal fraternity on multiple occasions that such a law would be enacted, further reinforcing the legitimacy and urgency of this legislative proposal. The sudden omission of this crucial chapter from the draft amendment betrays these commitments and disregards the safety and professional independence of the legal community.

Additionally, the proposed chapter was carefully structured to align with existing penal laws, ensuring that it did not create any undue privileges for advocates but rather reinforced the protection mechanisms already available to other key stakeholders in the justice system. The framework would have acted as a deterrent against targeted violence while upholding principles of justice and accountability. Its removal from the amendment represents a regressive step that weakens the legal profession's ability to function independently and securely.

Given these constitutional, legal, and practical considerations, the omission of this chapter must be rectified immediately. The Bar Council of India demands its reinstatement, as the protection of advocates is integral to maintaining the integrity of the legal profession and the justice system as a whole. The legal profession cannot function effectively under an environment of fear, coercion, and violence, and the Central Government must recognize its duty to protect those who safeguard the rule of law.



The reintroduction of this chapter is not only necessary but imperative to ensure that India upholds the principles of an independent legal profession, as mandated by its constitutional framework and international legal commitments.

Y(a). Similarly, the provisions relating to the welfare of lawyers which were originally the idea of Bar Council of India as well as the Department of Law and Justice too, should also be added.

The inclusion of provisions relating to the welfare of lawyers in the proposed amendment is not just desirable but essential to ensuring the well-being, security, and professional sustainability of the legal fraternity. The Bar Council of India and the Department of Law and Justice originally conceived these provisions, recognizing that lawyers play a fundamental role in upholding justice, protecting constitutional rights, and ensuring access to legal remedies. Despite the critical public function they perform, lawyers in India currently lack a structured welfare mechanism that provides financial, medical, or social security support, making their professional lives precarious, particularly for those in the early stages of practice and those working in rural or less lucrative areas.

Lawyers, unlike salaried professionals, have no guaranteed income, no employer-provided benefits, and no statutory retirement protections, making them highly vulnerable to financial instability due to illness, accidents, or unforeseen circumstances. The absence of a structured welfare framework results in severe hardships for lawyers and their families, particularly in cases of disability, old age, or untimely demise. Given the rising costs of medical care, housing, and professional development, a dedicated welfare scheme is necessary to provide financial aid, insurance, healthcare, and pensions to advocates, ensuring that they can discharge their professional duties without fear of financial ruin or professional insecurity.

The judiciary and legal profession form the backbone of a democratic system, and ensuring the well-being of legal practitioners is crucial to maintaining a strong and independent justice system. Several other professions such as government employees, doctors, and judicial officers are provided structured



welfare benefits, including pensions, medical coverage, and social security measures. The lack of similar protections for advocates, despite their indispensable role in upholding the legal framework, represents a significant gap in India's professional welfare policies. By neglecting the welfare of lawyers, the legal system risks weakening itself, as financial instability can discourage talented individuals from pursuing law or continuing in active practice.

Additionally, many democratic nations have enacted structured welfare schemes for their legal practitioners, acknowledging that financial insecurity among lawyers can adversely impact access to justice and the quality of legal representation available to citizens. For instance, in countries like the United Kingdom and Canada, government-supported welfare initiatives provide health insurance, pension benefits, and financial aid to advocates facing hardships. India must follow international best practices and introduce statutory welfare measures for lawyers to ensure that they can continue to serve society without undue hardship.

Furthermore, providing welfare benefits to lawyers is not merely an economic issue it is a matter of justice and professional dignity. The Constitution of India guarantees equal treatment and non-discrimination, and the exclusion of lawyers from state-supported welfare benefits creates an unjust disparity. If doctors, government employees, and judges are entitled to structured welfare benefits, then lawyers, who facilitate justice and protect constitutional rights, should not be left behind.

Given these legal, constitutional, and policy based considerations, the omission of welfare provisions from the draft amendment must be reconsidered immediately. The Bar Council of India's demand for structured welfare measures is fully justified, as ensuring lawyers security and well being is vital to sustaining the independence and efficiency of the legal profession. The Central Government must recognize that investing in lawyers welfare is not a privilege, but a necessity for a strong legal system, and must act to reinstate these provisions to support the legal professionals who uphold the rule of law and safeguard the rights of millions of citizens.



Y(b). FINES & COSTS (SECTION-35(3)(e)):-

The imposition of heavy fine of Rs.3 Lakhs as compensation against Advocates in the disciplinary proceeding is arbitrary and has to be omitted. This is discriminatory also because the persons lodging a false complaint is proposed to pay only a cost of Rs.50,000/- while this amount is Rs.3 Lakhs for an Advocate found to be guilty of misconduct.

The proposed imposition of a Rs 3 lakh fine on advocates found guilty of misconduct in disciplinary proceedings is legally flawed, arbitrary, and discriminatory, and must be omitted. While the need for an effective disciplinary framework is undeniable, penalties imposed must be proportionate, non-excessive, and in line with principles of fairness and equality before the law. The Bar Council of India and State Bar Councils strongly oppose this provision as it unjustifiably burdens legal professionals with an excessive financial penalty, while allowing persons filing false complaints to escape with a disproportionately lower penalty of only Rs 50,000.

The principle of proportionality, a well established doctrine in Indian jurisprudence, mandates that penalties must be reasonable and commensurate with the gravity of the offense. The Supreme Court of India has repeatedly held that excessive or disproportionate punishments violate constitutional principles under Article 14 (Right to Equality) and Article 21 (Right to Life and Liberty). The arbitrary distinction between an advocate and a complainant in terms of financial liability for misconduct directly contradicts this principle, as there is no rational justification for imposing a significantly higher burden on an advocate while allowing false accusers to get away with a much lower penalty.

Furthermore, the absence of clear guidelines for imposing fines creates notable risks of arbitrary and inconsistent enforcement. A blanket imposition of a Rs 3 lakh fine fails to take into account the severity of the misconduct, intent, or mitigating circumstances. There must be differentiation between minor infractions, procedural lapses, and serious ethical violations, ensuring that penalties are tailored to the nature and degree of



misconduct rather than being imposed as a rigid, punitive measure.

The proposed penalty structure is also fundamentally unfair, as it does not provide adequate deterrence against false complaints, which can often be motivated by malicious intent, personal vendettas, or political pressure. Advocates frequently face false and frivolous complaints as a means of harassment, particularly in cases involving high-profile matters, politically sensitive disputes, or human rights litigation. By imposing only a Rs 50,000 fine on individuals lodging false complaints, the amendment fails to establish a sufficient deterrent against abuse of the disciplinary process. False accusations can damage an advocate's reputation, disrupt their practice, and subject them to undue stress, and the law must ensure that such complaints are strongly discouraged.

Additionally, the heavy fine of Rs 3 lakh will disproportionately impact young advocates, those practicing in smaller courts, and lawyers from underprivileged backgrounds. Many advocates, especially those working in district courts or handling legal aid cases, do not earn high incomes, and such an exorbitant penalty would create financial hardship and discourage talented individuals from continuing in the profession. This excessive financial liability could also be exploited as a tool to suppress independent advocates who take up causes against powerful entities, weakening the independence of the Bar and access to justice for vulnerable litigants.

Moreover, even in judicial disciplinary mechanisms, such heavy monetary penalties are not imposed arbitrarily. Judicial officers and government servants found guilty of misconduct face suspension, removal, or other professional consequences but are not subjected to excessive financial penalties. Advocates, as officers of the court, should be treated similarly, with disciplinary action focusing on ethical and professional correction rather than punitive financial burdens.

Given these constitutional, legal, and practical concerns, the Rs 3 lakh fine must be omitted or significantly reduced, and a balanced penalty structure must be introduced. The disciplinary



process must remain focused on ensuring accountability while preserving fairness, professional independence, and access to justice. The Bar Council of India opposes this excessive penalty, and the proposed provision must be reconsidered to align with legal principles, proportionality, and fairness in disciplinary enforcement.



Bar Council of India