

The Advocates Bill 2025: Striking at the Heart of India's Legal Autonomy

The stiff resistance shown by the legal fraternity has led to the successful withdrawal of a deeply anti-constitutional bill that had been at the centre of much furore. Courtesy that resistance, the **Advocates Bill 2025** has now been tabled by the Law Ministry, after the Bar Council of India (BCI) had written to Union Law Minister Arjun Ram Meghwal, stating that the proposed Bill seeks to undermine the “autonomy and independence of the Bar” and countrywide strike by advocates.

However, the debate it ignited over the potential impact on India's legal autonomy remains a critical reminder of the need to protect the independence of the legal profession in any future reform attempts. Let us delve into it a bit.

The Ministry of Law and Justice had recently introduced the **Draft Advocates (Amendment) Bill, 2025**, which sought to amend the **Advocates Act, 1961**. Public comments were invited on the draft. According to Ministry's statement, *"These amendments were designed to bring the legal profession and legal education in line with global best practices. The reforms aimed to enhance legal education, prepare lawyers for the evolving demands of a rapidly changing world, and raise professional standards. The ultimate objective was to ensure that the legal profession played a key role in building a just, equitable society and a developed nation."*

However, significant concerns arose regarding its potential to undermine the core principles of India's Constitution. The Bill, under the guise of reforming the legal profession, carried provisions that could erode the very foundation of democracy. It sought to introduce stringent regulations and oversight measures that could restrict the independence of advocates and, by extension, weaken the judiciary's role as a check on governmental power. India's Constitution, with its emphasis on fundamental rights, free speech, and the rule of law, has always relied on an independent and fearless legal community to hold those in power accountable. The Bill, however, could potentially stifle dissent, making it increasingly difficult for advocates to challenge governmental decisions or raise objections to policies that could be detrimental to the

public or contrary to constitutional rights. By imposing tighter controls on who can practice law, how legal professionals operate, and how they engage with the judiciary, the Bill risked creating an environment where the legal system could become a mere extension of the Executive branch. This could and this would compromise the spirit of the Constitution, shift the balance of power, and limit the space for legal opposition, preventing the effective exercise of judicial review.

The real concern lay in how these provisions could have curtailed the independence of the judiciary and legal practitioners, creating a docile legal profession unable to challenge laws and policies that threatened individual freedoms or went against the ideals of justice and equality enshrined in the Constitution.

A Critical Analysis of the Advocates Bill 2025

The proposed amendments in the **Advocates Bill 2025** raised significant constitutional and legal concerns, particularly regarding the independence of the legal profession, the role of the judiciary, and the fundamental rights of advocates. Below is an analysis of how specific provisions in the Bill conflicted with key sections of the Indian Constitution and existing laws governing the legal profession.

1. Central Government Nominations to the Bar Council of India

The Bill proposed the nomination of three members by the **Central Government** to the **Bar Council of India (BCI)**, along with the inclusion of two women advocates. And all this, despite the fact that the Constitution of India mandates a clear separation of powers between the Executive, Legislature, and Judiciary. The independence of the legal profession is a crucial aspect of the right to justice and the separation of powers doctrine, which is enshrined in the Constitution. By allowing the Central Government to appoint members to the BCI, the Bill undermined the independence of the Bar Council, violating Article 50 of the Constitution, potentially leading to government interference in the functioning of the legal profession and judiciary. The right to practice any profession is guaranteed under Article 19(1)(g), and any provision allowing for executive control over the Bar Council risks restricting the independence of legal practitioners.

2. **Prohibition on Strikes and Boycotts**

The Bill introduced **Section 35A**, which prohibited strikes, boycotts, and any activity that obstructed the functioning of courts. Violations of this provision were treated as misconduct subject to disciplinary action. While the Bill claimed to maintain the smooth functioning of courts, it infringed upon the fundamental right to freedom of expression and the right to assemble peacefully under Article 19(1)(a). Advocates, like any other citizens, are entitled to peacefully protest against issues affecting the legal system, working conditions, or justice delivery. The Bill's restriction on strikes could curtail advocates' ability to express dissent against government policies or judicial actions they deem unjust. It seems that while drafting the Bill, the drafters simply brushed aside Article 19(1)(b) which guarantees the right to form associations, including professional associations, and by banning strikes, the Bill restricted advocates from exercising their right to organize and protest.

3. **Power to Remove Advocates from State Rolls**

The Bill proposed **Sections 24A** and **24B**, allowing the **State Bar Council** to remove advocates from the State rolls for being convicted of offenses punishable by three years or more. While the removal of advocates convicted of serious crimes is justifiable, the potential for misuse of these provisions raised concerns about due process and judicial review. The removal of advocates without proper safeguards or a well-defined judicial process could lead to **discriminatory treatment**, violating **Article 14** of the Constitution. Are the Advocates facing criminal charges not to be provided a fair trial and a chance to defend themselves before being disbarred? Does **Article 21** not guarantee the right to fair procedure? The Bill which provided for removing an advocate from the rolls without sufficient due process thus, violated the principles of natural justice.

4. **Entry of Foreign Law Firms and Lawyers**

After the Proposed Bill was published the Bar Council of India Chairperson Manan Kumar Mishra wrote a letter to the Law Ministry, stating :

“The A.K. Balaji (Bar Council of India v. A.K. Balaji & Others, (2018) 5 SCC 379) judgment clearly placed the responsibility of regulating foreign law firms and lawyers on 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.”

The Bill permitted the entry of **foreign law firms** and **foreign lawyers** into the Indian legal market by giving the **Central Government** the power to regulate such entry. This could have once again led to excessive **executive interference**, compromising **judicial independence** as per **Article 50** of the Constitution. The provision also raised concerns about **national sovereignty** over the legal profession and the potential displacement of **domestic legal practitioners**, particularly smaller firms. In short, the Bill could have created a **two-tier legal system**, where foreign firms dominated, undermining the ability of Indian lawyers to compete fairly in the legal market.

5. Expansion of the Definition of Legal Practitioner

The Bill expanded the definition of "legal practitioner" to include law graduates and professionals working in private or public organizations, statutory bodies, and foreign law firms. While this broadening may have seemed progressive, it risked diluting professional standards and creating confusion about the roles of advocates versus other legal professionals. The Bill violated **Article 14** by potentially creating discriminatory conditions, with advocates being subjected to more stringent ethical standards than law graduates working in corporate or private sectors. This could affect the fairness of the legal system and lead to inequality in the practice of law.

Conclusion

Although the **Advocates Bill 2025** has now been withdrawn, it raised multiple constitutional concerns regarding the independence of the legal profession and fundamental rights. Provisions such as government nominations to the BCI, the prohibition of strikes, and the expansion of legal practitioner definitions posed significant threats to the autonomy of the Bar and the constitutional guarantee of fundamental rights. The nationwide protest by lawyers played a decisive role in

prompting the Bill's withdrawal, but it remains essential for lawmakers to carefully consider any future reforms to ensure they preserve the integrity of India's legal system and safeguard the independence of the legal profession.