

## WHAT ROLE (IF ANY) DO LAWYERS PERFORM IN SHAPING THE SOCIETY THEY LIVE IN?

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*'Legum servi sumus ut liberi esse possimus'*<sup>1</sup>  
(We are bound by the law so that we may be free)

This statement reflects the monumental ideal, which truly captures the essence of the role of lawyers in a society – the ideal of liberty. Since time immemorial, the institution of lawyers has been seen to stand on a noble pedestal, as a protector of the individual's freedom; as a bastion of justice for the society. Be it the classical times of the Roman Republic, the period of revolutionary change in USA's legal history, or even the story of partition of the Indian sub-continent, the role of lawyers has been fundamental in developing, what is today known as, history. However, this change in societal attitudes is harnessed by the legal fraternity by exercising their influence over, not only the law, but also, their connection with politics of a society. Against this background of legal and political power yielded by lawyers, their role as ambassadors of liberty and their part in shaping the society will be subjected to brief ruminations.

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<sup>1</sup> Cicero, *Pro Cluentio*, 146.

Undoubtedly, even in the contemporary world, lawyers are often framed as the noble defenders of justice in many instances. As prosecutors, they are the guardians of liberty of the public at large; they safeguard an individual's interests as legal advisers, and; even as representatives of litigants before domestic as well as international courts, lawyers ensure that the law is upheld when a judgment is reached. The very notion of liberty is indeed connected to justice itself, as John Rawls, famously asserts while stating his first principle of justice as fairness that, each person has an inalienable claim over the same and equal basic liberties.<sup>2</sup> The social norms and defining traits of a society, though abstract and notional, are based on similar values of justice and liberty and lawyers have been the defenders of these basic and equal liberties. They shape the society through their professional allegiance with values which are at the core of a just society.

Even history has been testament to the seminal role of lawyers in shaping the society. Ever since Emperor Claudius legalised advocacy as a profession, it has spread its influence amongst the various factions of the western society.<sup>3</sup> However, the effectiveness of this influence and its impact on a society's combined actions and attitudes was more clearly portrayed in the example of the American abolishment of slavery through the Emancipation Proclamation in 1863 where the long-held beliefs on slavery were changed at the core

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<sup>2</sup> J Rawls, *Justice as Fairness: A Restatement* (Harvard University Press 2007) 42-43.

<sup>3</sup> JA Crook, *Law and Life of Ancient Rome* (Cornell University Press 1967).

social level.<sup>4</sup> This was the vision of a lawyer from the USA. Indeed, besides the legal robe that covers a lawyer's profession, they also influence a society, politically. The fact that lawyers have a close and proximate relationship with the political machinery of a society and its power dynamics is further shown by their involvement in important governmental positions. Abraham Lincoln, who was the progenitor of the abolishment of slavery was himself a self-taught lawyer and he later became the sixteenth President of the United States of America.<sup>5</sup> His idealistic approach culminated into change of an entire national culture. Another seminal example of a lawyer as a politician is of Franklin D. Roosevelt who has been the President of the USA for the longest tenure. His policies did not only shape the American culture and society between the two world wars, but it has also shaped the landscape of international relations which still impact the world today.<sup>6</sup> In one way, the international society seems to be shaped by lawyers who not only shape the meaning and form of laws but also legislation and policies which govern the society completely.

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<sup>4</sup> Emancipation Proclamation, 1 January 1863, Presidential Proclamations, 1791-1991; Record Group 11; General Records of the United States Government; National Archives.

<sup>5</sup> D Abrams & D Fisher, 'The Sensational Murder Trial that Showed Off Abraham Lincoln's Skill as a Lawyer' *TIME* (4 June 2018) <https://time.com/5257581/lincolns-last-trial-excerpt/> (accessed 30 October 2020)

<sup>6</sup> KT Walsh, 'FDR: The President Who Made America into a Superpower' *U.S.News* (10 April 2015) <https://www.usnews.com/news/blogs/ken-walshs-washington/2015/04/10/fdr-franklin-delano-roosevelt-made-america-into-a-superpower> (accessed 30 October 2020)

One is compelled to appreciate the societal impact of lawyers in a society to yet a greater degree when a glance of the history of the Indian subcontinent is taken into account. The struggle for self-determination of the Indian people would not have been successful without the endeavours of the legal fraternity. Sir Syed Ahmed Khan had been a key figure in setting the direction for independence for the Muslims of India.<sup>7</sup> The social understandings of the people were further influenced by the efforts of lawyers in this regard. Gandhi's non-cooperation movements and his realisation of the people's basic rights and liberties, together with Muhammad Ali Jinnah's legal and political struggle not only allowed India to be independent but it also, simultaneously, granted Muslims a separate country.<sup>8</sup> This revolutionary change in the social reality and the society had certainly been the result of how lawyers viewed the system and reacted to it. Seemingly, a change in legal culture can directly lead to change in the political landscape which in turn also shapes the framework of the society.

Given the rise of globalisation, and the innate tendency of human beings to follow the ideal rule, or the rule of law, for *inter alia* stability,<sup>9</sup> it seems that lawyers will always have this influence over the society and its rules. However, with this great power, as Lord Acton warned, comes a greater susceptibility to corruption.<sup>10</sup> The recent example of lawyers transforming into a mob by barging into a

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<sup>7</sup> SP Cohen, *The Idea of Pakistan* (Brookings Institution Press 2004) 25

<sup>8</sup> See, *Ibid*, 33-34

<sup>9</sup> See T Hobbes, *Leviathan* (Penguin Books 1968).

<sup>10</sup> Letter from Lord Acton to Bishop Mandell Creighton (3 April 1887)

hospital, and society's reaction to this incident being one of shock, shows the sanctity attached to the legal profession.<sup>11</sup> Thus, lawyers, in their role to shape the society act as trustees who must perform their role with the utmost degree of care. When one is reminded of Sir Oliver Wendell Holmes's words about the role of the judiciary as a *court of law and not a court of justice*,<sup>12</sup> the role of lawyer appears to be ever more important in the interest of dispensing justice. The role of lawyers is thus of an importance which will always be understated. Not only do they indirectly make the laws, they also defend it and keep order in the society, and when the rule is unjust, they reshape the society to reinstate the right order.

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<sup>11</sup> R Bilal, K Malik & W Riaz, '3 patients die as lawyers' protest outside Lahore hospital turns violent' *Dawn* (Updated, 12 December 2019) <https://www.dawn.com/news/1521675> (accessed 30 October 2020)

<sup>12</sup> M Yant, *Presumed Guilty: When Innocent People Are Wrongly Convicted* (Prometheus Books 1991) 11; See, M Herz, "'Do Justice!': Variations of a Thrice-Told Tale' [1996] 82 Va L Rev 1, 111-161

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