

rollment is currently over 320 students. The bar examination, which measures the law graduate's practical and professional qualifications after completing the legal training program, is administered in separate law schools in Trinidad, Jamaica, and, very recently, the Bahamas.

### IMPACT

The legal system is viewed as an integral part of Barbados's proud democratic tradition. Despite the problems noted earlier, there is a high approval rating for the type of system overall and the commitment of the country as a whole to maintaining that system. The system complements that in other countries in the region, with whom, it is hoped, there will be greater political and economic unity in the future, for the benefit of the entire region.

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See also Antigua and Barbuda; Bahamas; Constitutional Law; Corporal Punishment; Jamaica; Legal Education; Magistrates—Common Law Systems; Privy Council

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## BARRISTERS

### THE STRUCTURE OF THE BAR

Barristers are members of the oldest legal profession in England and Wales (Scotland has its own legal system and professions). Their principal role is to represent clients in the civil and criminal courts. Although barristers no longer have a monopoly on advocacy in the courts—they share it with solicitors—they do have the

weight of tradition and an organizational structure that maintains their dominance.

At the end of 2000, there were just over 10,000 barristers in practice, two-thirds of whom practiced in London, the primary location of the major British courts. The bar is a predominantly male and white institution. Only 26 percent of its members are female, and a mere 9 percent are of nonwhite ethnic origin. The smallest group in the bar is composed of women of color, who number 322.

There are two major functional groups of barristers, namely, junior barristers and Queen's Counsel, often known as QCs or silks (because they wear silk gowns in court). On call to the bar, all barristers are known as junior barristers. After a number of years in practice (perhaps ten or fifteen), barristers are entitled to apply to the lord chancellor for silk—that is, to seek a position of seniority that increases the barrister's fees and making him or her eligible for appointment to the judicial bench. Not all applicants are successful. There are approximately 1,000 QCs in practice, 900 of them situated in London. The proportion of QCs in the barristers' total number has always hovered around 10 percent. Eighty-two QCs are women, and only 25 come from ethnic minorities.

The organization of the bar is different from that of other legal professions in England and Wales. Nominally, barristers are self-employed and forbidden to form partnerships or companies. They typically work in chambers—suites of offices or cooperative associations, often located in the Inns of Court (the set of buildings in London near the Royal Courts of Justice that were the traditional lodging and dining places of barristers), with expenses-sharing arrangements. The administration of the chambers is run by the barrister's clerk who, though not a lawyer, has considerable influence over the career trajectory of a barrister. Chambers used to be small enterprises with a handful of barristers and a senior and junior clerk. Nowadays, they have grown to the extent that some of them contain up to 100 barristers and 20 clerks, practice managers, and information technology (IT) assistants. Chambers also tend to take corporate decisions on who should receive pupillages (apprenticeships) and tenancies (memberships).

The governance of the bar has changed significantly in recent years. Whereas the Inns of Court (the Inns) used to be the main gatekeepers of the bar, much of that role has now been taken over by the Bar Council. The Inns still call new entrants to the bar, but matters of entry qualifications and discipline are handled by the Bar Council. There are four Inns of Court—Middle Temple, Inner Temple, Lincoln's Inn, and Gray's Inn—and virtually all barristers belong to one of them. The role of the Inns concentrates on fostering a collegial mentality among its members by bringing them together for dining

and other social events. The Inns are, however, significant owners of property in central London, where many chambers are situated. The Bar Council is now the representative body of the bar, determining what the entry requirements to the bar should be, how minority issues within the bar should be addressed, and how professional misconduct cases should be handled; it also presents the bar's case to government and functions as the regulatory body of the bar.

The sole route into the bar is through the academy. A law degree is the usual prerequisite, although graduates of other disciplines can do conversion courses to bring them to a comparable level. Following the law degree, the aspirant takes a one-year bar vocational course (BVC). The BVC is a mix of theoretical and practical skills, including advocacy. After successfully completing the BVC, the novice can be called to the bar. However, to practice as a barrister, a pupillage must be undertaken. Each set of chambers will determine how many pupils it wishes to take each year. The one-year apprenticeship under the supervision of a senior barrister is designed to instill the principles of the craft of being a barrister. In the second six months of the pupillage, the prospective barrister can do his or her own work, which may mean appearing in court on small pretrial matters or writing opinions for the pupil master. A stipend is usually paid to the pupil, who is also under scrutiny for his or her likely prospects of obtaining a tenancy with the chambers. There are always far more pupils than tenancies.

### BARRISTERS' WORK

The working arrangements of the bar are unusual. The bar is largely a referral profession in that barristers are hired by solicitors on behalf of clients for specific tasks. With a few exceptions, public clients cannot approach barristers directly. (Outside England and Wales, however, barristers' rules of conduct permit them to establish full-service law firms.) The philosophy behind this arrangement is that the barrister can bring a disinterested mind to the legal problem and suggest the most efficient and effective outcome, whether that be settlement or litigation. Barristers are additionally bound by the bar's "cab-rank rule" (although just how far they are bound is debatable). The rule states that barristers are not permitted to select cases according to personal whim; if the matter is their field of practice, they are obliged to accept the case.

Because barristers have few or no pastoral duties in connections with clients (unlike solicitors), they are, in theory, able to concentrate on the legal consequences of the case at hand. They are meant to be experts in the law and experts in trial advocacy. A large part of the advocacy expertise has depended on the bar having a monopoly on rights of audience in the higher courts. In 1992, the government decided to widen audience rights to include so-

licitors who had undergone advocacy training and become solicitor-advocates. Although not many solicitors have yet taken this route, the numbers are growing and therefore will pose a threat to the bar's hegemony in advocacy.

Advocacy is the core of the barrister's work. Preparing a case and presenting it in court is perhaps the most public demonstration of a lawyer's work. The British tradition of advocacy has always been one of orality, unlike the situation in the civil code countries. But with the growth of European Union law, the emphasis on oral presentation is beginning to decline. Courts expect briefs to be submitted in advance of trial and are willing to impose limits on advocates' freedoms to extend arguments for as long as they desire.

Increased specialization in the law has resulted in the formation of a number of specialist bar associations (SBAs). For example, the Commercial Bar Association (COMBAR) is the commercial and international barristers' SBA. Comprising 900 barristers, COMBAR represents an elite segment of the bar, one that, in effect, has its own court, the Commercial Court, staffed by specialist judges. To understand the extent of that court's influence, consider that 80 percent of the caseload in the Commercial Court has at least one non-British party and that in 50 percent of its cases, both parties are non-British. Quite understandably, English law and lawyers are desirable commodities in a globalized world.

### HISTORICAL BACKGROUND

Barristers began to constitute a recognized professional group around the end of the sixteenth century. Their main distinction from other groups, such as attorneys and solicitors, was social. Barristers were members of the Inns of Court, whereas attorneys belonged to the minor Inns of Chancery (now no longer extant). At that time, they did a mix of work, including conveyancing and advocacy for a range of clients, not merely the rich elite. Common law was not taught within the universities; neophyte barristers entered the Inns for their study of the law. Certain comprehensive texts on the common law, such as the magisterial *Blackstone's Commentaries*, began appearing in the eighteenth century. These works assisted students in learning the law, but legal education was largely ossified until the Inns of Court created their own law school in the nineteenth century. Both nepotism and expertise played significant roles in a lawyer's advancement, and on occasion, judgeships could be purchased.

During the eighteenth and nineteenth centuries, divisions between attorneys and solicitors and barristers hardened. Property conveyancing became the monopoly of attorneys, and advocacy became the province of the bar. Barristers also reluctantly relinquished direct contact with clients, instead receiving their instructions from solicitors. From conflict emerged an uneasy, symbiotic al-

liance. Yet barristers maintained one significant advantage: They provided the senior figures who became the judges. Solicitors only began to breach this barrier in the second half of the twentieth century.

### SIGNIFICANCE AND FUTURE

With their wigs and gowns, the trappings of the eighteenth century, barristers might seem an anachronism, yet they have survived, and despite a regime of restrictive practices, they have grown in number. Barristers have flourished in the world of politics; many members of government cabinets have belonged to the bar. However, in the twentieth century, the bar came under attack for being elitist, snobbish, and out of touch with modern legal life. Gradually, various restrictive practices disappeared, such as the tradition of the junior, as of right, receiving two-thirds of the fee when a silk was hired. In the 1990s, solicitors were given, under certain constraints, rights of audience in the higher courts. And solicitors' firms hired barristers as in-house advocates.

Perhaps the biggest change was the division of the bar into two hemispheres. The growth in legal aid in the second half of the twentieth century allowed a large class of barristers to sustain careers through state subsidy. Virtually every criminal defendant was legally aided; most divorces were done with legal aid. By the end of the century, it was evident to governments that open-ended, exponential growth in the legal aid budget was not viable. The result was a switch from legal aid to contingent fees on the civil side, with greater conditions being attached to the granting of criminal legal aid. This has made a barrister's career more parlous for many. For those in the commercial bar, however, the rewards have grown hugely as businesses litigate at an ever increasing rate.

It is unlikely that the bar will fuse with the solicitors' profession, as there is no real necessity to do so. There will always be a need for independent counsel and expert advocates, but their numbers will probably decline. However, much of the routine work of barristers is now being undertaken by solicitors, and they, too, are keen to take on the advocacy. It is more likely that, as legal education for solicitors and barristers converges, their career trajectories will increasingly intertwine. Each will spend time in the other's profession: Barristers will join solicitors' advocacy departments; solicitors will join barristers' chambers as advocates. These developments are presently occurring and will intensify in the years ahead.

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See also Common Law; England and Wales; Judicial Selection, Methods of; Law Firms; Legal Aid; Legal Education; Legal Professionals—Civil Law Traditions; Scotland; Solicitors

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## BASQUE REGION

### GENERAL INFORMATION

Exactly what constitutes the Basque region (or Euskaldunak, meaning "land of the Basques") has long been disputed. Culturally, it is the western area of the Pyrenees along the Bay of Biscay where the Basque language (Euskera) is or has been spoken. Historically, seven territories comprised the Basque region: the old Kingdom of Navarre and its part of the Basse-Navarre area in France; the Provinces of Labourd and Soule in France; and the Provinces of Vizcaya, Alava, and Guipúzcoa in Spain. In a contemporary political sense, the Basque Country (Euskal Herria) constitutes only the three historical provinces that Spain includes in the Basque Autonomous Community (Pais Vasco-Euskadi), although ardent Basque nationalists also claim Spain's Province of Navarre. Linked to the legal tradition of the Basque Country's three provinces, the Navarrese Foral Community became a separate autonomous community (AC) in Spain's contemporary democracy.

With ancestors that predate most modern Europeans, about 2 million Basques live in Euskadi on the Spanish side of the border, and another 200,000 live in France. The Basque language motivates much of their continued sense of identity and cultural distinctiveness. Euskera is linguistically unrelated to other European languages, having survived the Indo-European and Roman influences. The invading cultures that characterized the history of the Iberian Peninsula, including the Romans, the Visigoths, and the Muslims, had little contact with the Basques. The isolation afforded by the mountainous terrain protected the Basque language, promoted the development of a distinct identity, and facilitated the creation of some unique public institutions.

The Basque region's political roots are found in the ancient Kingdom of Vasconia. In the Middle Ages, the