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Appendix 3: Glossary of Terms Defining the Function of Legal Professionals in Various Countries*

United Kingdom of Great Britain and Northern Ireland: There are two types of legal practitioners in the United Kingdom, the solicitor and the barrister. Although certain functions are common to both, specific areas remain the exclusive domain of each. Barristers specialize in advocacy. With the exception of the lowest civil and criminal courts, they have the exclusive right of audience in open court. Barristers provide legal opinions to solicitors and the clients of solicitors. However, in most cases barristers may act only on the instruction of solicitors, whom clients must approach in the first instance.

Solicitors perform the ordinary legal business of their clients. They provide business advice, draft wills and deeds, and prepare instruments to convey land. Solicitors also play an instrumental role in litigation. They handle initial client contact and prepare, on the advice of barristers, cases for presentation to the courts. Solicitors may conduct pretrial proceedings and may be heard on inter-

* Many countries refer to the English barrister and solicitor in defining the role of their legal professionals. Thus, the United Kingdom is the first entry in the glossary.

The glossary entries are excerpted from

Campbell, Dennis, ed. *TRANSNATIONAL LEGAL PRACTICE: A SURVEY OF SELECTED COUNTRIES*. 2 vols. Netherlands: Kluwer Law and Taxation Publishers (1982);

Rhyné, Charles S., ed. *LAW AND JUDICIAL SYSTEMS OF NATIONS*. 3d ed. Washington: World Peace Through Law Center (1978); and

Schlesinger, Rudolf B. *COMPARATIVE LAW*. 4th ed. Mineola, New York: Foundation Press, (1980).

These are comprehensive reference works which the reader should refer to for more detailed descriptions of the role of legal professionals in various countries. It should be noted that the glossary does not examine every type of legal professional in every country. It does not, for instance, discuss the function of or requirements for becoming a judge or prosecutor. Nor does it attempt to specify the role of the notary, which varies in importance and legal significance from country to country. Furthermore, there have been recent developments in the regulation of the legal profession in the People's Republic of China and the Sultanate of Oman that make it difficult to characterize the function of Chinese and Omani lawyers. For a detailed discussion of the role of legal professionals in these countries we refer our readers to the articles in this volume by Jamie Horsley and John McHugo.—eds.

locutory applications, but they may not represent their clients in open court. Unlike barristers, solicitors are officers of the court and in theory, subject to judicial discipline.

The academic training required of barristers and solicitors is identical. Applicants to either profession must either obtain a qualifying law degree from a university in England or Wales or pass what is known as the Common Professional Examination. Prospective barristers must join one of the four Inns of the Court and complete a twelve month pupillage under a practicing barrister. Prospective solicitors must enroll as a student with the Law Society and complete a training period with a practicing solicitor.

Commonwealth of Australia: In New South Wales and Queensland, the legal profession follows the English model. Legal practitioners are either barristers or solicitors. The other states and territories of Australia have combined the professions so that all practitioners are responsible for the functions of both barristers and solicitors. In most states, a person without a legal degree may qualify for admission to the profession by successfully completing a bar examination administered by the Supreme Court. Generally, a person with a legal degree may qualify for admission without taking the bar examination. Upon admission to a state bar, legal practitioners must undergo a period of practical training. Persons admitted to practice in any part of Australia or in the United Kingdom generally will be permitted to practice in any state in Australia.

Republic of Austria: The legal profession in Austria cannot be viewed as a single entity. Legal practitioners may work as *Rechtsanwälte* or *Notars*. *Rechtsanwälte* represent clients in court and may become involved in planning their clients' business and property affairs. *Notars* draft legal documents, exercise exclusive authority to authenticate instruments, and assist the courts in executing estates and wills. The Austrian *Notar* is distinct from the notary public in the United States and the United Kingdom and even the *Notar* in the Federal Republic of Germany in that he or she is fully qualified as a lawyer.

Rechtsanwälte must become members of the Chamber of Advocates. Applicants must possess Austrian citizenship, obtain a doctor of law degree, and complete four years of professional training. They must also pass an examination administered by the Chamber. *Notars* are nominated to office by the Minister of Justice. Candidates must possess Austrian citizenship and a law degree, though not necessarily a doctor of law. They must complete a five year training period and pass either the examination for *Notars*, the Chamber's examination, or the examination for judges.

Kingdom of Belgium: There is only one type of legal practitioner in Belgium, the *advokaat* or *advocat*. The only function reserved to *advokaten* is pleading before the Belgian courts. An *advokaat* must be a citizen of a Member State of the

European Community. He or she must possess a law degree from a Belgian law school, complete a “stage” period of practical training, and be included on the annual list of lawyers.

Federative Republic of Brazil: In Brazil, there is only one formal type of legal professional, the *advogado*. *Advogados* may practice law after graduating from a Brazilian legal training program, completing a period of practical training, and registering with the Brazilian Bar Association, the *Ordem dos Advogados do Brasil*. Recently graduated, unlicensed law students may assist in proceedings and prepare documents, though they may not give legal advice or initiate lawsuits. In geographical areas having fewer than three lawyers, persons without law degrees may receive temporary licenses to practice if they pass an examination administered by the Brazilian Bar Association.

Canada: Although a person admitted to the Bar Association of Canada is registered as both a barrister and a solicitor, the legal profession is unified. Legal professionals are most often referred to as lawyers. Lawyers must be admitted to the bar of the province in which they intend to practice. Although requirements differ from province to province, a legal degree and apprenticeship period of “articling” are standard prerequisites.

Kingdom of Denmark: There is only one type of legal professional in Denmark, the *advokat*. *Advokater* have the exclusive authority to handle cases and appear in court. They serve as trustees in bankruptcy, provide advice on corporate, business and tax laws, and assist with estate planning and real estate transactions. *Advokater* are appointed by the Minister of Justice from among a group of candidates who have attained the age of 25 years, passed an examination in law, and worked for at least three years as an assistant to an *advokat*, judge, or professor of law.

Arab Republic of Egypt: The *avocat* is the only legal practitioner in Egypt. *Avocats* possess the exclusive right to represent parties in civil, commercial, personal status, and administrative cases, and to act as defense counsel in criminal cases. *Avocats* must graduate from a legal program at an Egyptian university, complete a two year training course, and be admitted to the Egyptian bar association.

Not all *avocats* may practice before every court. Admission to the bar entitles an *avocat* to practice before the tribunals of first instance and the summary tribunals. Certification to appear before a particular high court of appeal is granted at the discretion of a committee of that court after three years of practice. An *avocat* must practice for seven years before a high court and obtain the permission of a committee presided over by the Chief Justice in order to appear before the Supreme Court.

Republic of Finland: The *asianajaja*, the only type of legal practitioner in Finland, does not have a monopoly over courtroom activity. Anyone may appear in court, either on behalf of themselves or another person. However, only those who obtain admission to the Finnish Bar Association, the *Suomen Asianajaliitto*, may use the title *asianajajat*. Requirements include Finnish citizenship, Finnish domicile, completion of substantive tests, and proof of practical experience.

French Republic: There are four categories of legal practitioners in France. *Avocats* provide the broadest range of legal services. Prior to 1971, when the professions of *avocat* and *avoué* were merged, *avocats* provided legal advice and handled all client contact, while *avoués* functioned as representatives of clients in the filing of papers and other formal procedural matters. Presently, *avocats* fulfill both roles. *Avocats* may not, however, solicit on appeal or solicit and argue before the supreme courts. Those tasks are reserved for *avoués à la Cour d'Appel* and *avocats à la Cour de Cassation et au Conseil d'Etat*.

To practice as an *avocat*, one must be admitted to a local bar. Applicants must be French citizens and law graduates of a French university. They must also pass an examination and complete a three year apprenticeship in the district of the local bar to which they are applying. Upon acceptance, *avocats* may plead cases throughout France.

Conseils juridiques provide legal advice to all types of clients including individuals and large corporations. *Conseils juridiques* may not appear before French courts. Foreign lawyers who are certified to practice in France but do not meet all of the requirements to practice as *avocats* may become members of this profession.

Federal Republic of Germany: *Rechtsanwälte* provide general legal advice and represent clients in West German courts of law. In civil litigation, *Rechtsanwälte*, admitted to practice before a court of general jurisdiction or an appellate court, enjoy a monopoly over oral arguments and the submission of documents before the particular court. *Rechtsanwälte* devote the greater amount of their time to litigation. Even in highly industrialized areas of Germany, only a comparatively small group of lawyers is predominantly engaged in matters involving preventive law or legal planning.

Bar admission requires three and one-half years of university law study, satisfactory completion of two state examinations covering substantive and procedural law, and a period of practical training in various legal institutions. In undertaking the practical training period, the applicant becomes a civil servant. In order to become a German civil servant, one must possess German citizenship. Upon admission to the bar, a lawyer automatically becomes a member of the local chamber of attorneys, the *Rechtsanwaltskammer*.

Rechtsbeistand, legal advisors of a limited practice, are not required to become bar members. However, they must meet detailed state rules and are not authorized

to act on behalf of clients when the act of an attorney is required. *Rechtsbeistand* generally handle small collections and other local court cases.

German Democratic Republic: There are few private attorneys in East Germany. Most people defend themselves in civil matters and are defended by a neighbor, co-worker, or other lay person in criminal matters. People who do seek professional representation must obtain an attorney through a *Collegium* or attorneys collective. All attorneys are required to join a *Collegium*. There is a *Collegium* in each administrative county and all are under the supervision of the Ministry of Justice. A four year law course at an East German law faculty and a year of practical training are prerequisites to admission to a *Collegium*.

Republic of Ghana: Legal practitioners in Ghana who are registered in the Roll of Legal Practitioners may function as barristers, solicitors, or both. Registration requirements do not limit practice to Ghanaian citizens. They allow for practice by non-Ghanaian lawyers and take account of the fact that a significant number of Ghanaians obtain their education abroad. Applicants may qualify for registration if they hold a qualifying certificate granted by the General Legal Council and a degree from a university recognized by the General Legal Council. Alternatively, applicants may be enrolled if they are Ghanaian citizens who are qualified to practice law in a country with a legal system analogous to that of Ghana, have graduated from a university recognized by the General Legal Council, and have satisfactorily completed a course in Ghanaian Customary Law administered by the General Legal Council. Finally, applicants may be registered if they are of good character and entitled to practice in a country with an analogous legal system.

Hellenic Republic: Legal practitioners in Greece are members of a unified profession. They perform the functions of both barristers and solicitors. Greek law characterizes lawyers as “unsalaried public servants” and vests in them certain privileges including permanent tenure, professional secrecy, the right to interview clients in prison, and the ability to issue certified copies of documents. With few exceptions, only Greek citizens may practice law in Greece. Citizens who wish to become practicing lawyers must obtain a law diploma from a Greek university or a foreign university recognized by the Greek Government, complete a two year training period under an established lawyer, and pass a bar examination testing their ability in civil, commercial, and criminal law. After four years of practice before a court of first instance, lawyers may be certified to practice before a court of appeal.

Irish Republic: Like practitioners in the United Kingdom, legal practitioners in Ireland are of two types, the barrister and the solicitor. The functions of Irish and English barristers and solicitors are similar. No person may practice in both

professions at the same time. The Honorable Society of King's Inns governs entry into the profession of barrister. The Society administers a mandatory two year academic course. Before being "called to the bar," students must also complete eight terms in the Commons and demonstrate their knowledge of the Irish language. Those wishing to become solicitors must follow a course of study set out by the Incorporated Law Society of Ireland and complete a three year apprenticeship. A university degree in law and arts is a prerequisite to entry into the Law Society's program.

State of Israel: In Israel the advocate, or *Orekh Din*, performs all the functions of legal practitioners. In keeping with its national policy of encouraging immigration, Israel facilitates the absorption of foreign legal practitioners into its permanent numbers. Anyone who has obtained a higher legal education, completed a qualifying period as a clerk, and passed the examination of the Chamber of Advocates may become an advocate. A legal degree from a non-Israeli institution generally will fulfill the legal education requirement. Foreign lawyers may be deemed to have a higher legal education if they have been admitted to the profession of advocacy in another country and have practiced for at least two years, or if they have served for two years in a foreign judicial capacity that required a legal education.

Italian Republic: Although the legal profession in Italy is technically bifurcated, the differences between *avvocati* and *procuratori* are minor. The theoretical distinction between *avvocati* and *procuratori* follows the distinction between barristers and solicitors in the United Kingdom. Currently however, most parties are represented by attorneys who act as both *avvocati* and *procuratori*.

Attorneys must be citizens of Italy, and must possess a law degree from an Italian university or a university in another Member State of the European Community. They also must be listed on the roster of *avvocati* or *procuratori*.

Japan: There are a variety of legal practitioners in Japan. The most important is the *bengoshi*. *Bengoshi* have a litigation-oriented practice, but they are qualified to perform the more planning-oriented functions of most of the other legal practitioners. These other legal practitioners include *benrishi*, *gyosei shoshi*, *koshonin*, and *shiho shoshi*. *Benrishi* advise on patents, utility models, designs, and trademarks, and represent clients before the Patent Office and the Ministry of International Trade and Industry. *Gyosei shoshi* prepare and give advice on contracts, documents certifying facts, and documents for submission to government administrative agencies. *Koshonin* prepare and attest to various private legal documents such as sales contracts and wills, and *shiho shoshi* represent clients with respect to real estate registrations and deposits and in appeal proceedings before legal affairs bureaus. *Bengoshi* may only prepare tax returns, financial reports, and account books or represent and advise clients on tax matters if they pass the

examination on tax laws and accounting procedures required of *zeirishi* (certified public accountants).

Although the law provides alternative methods for obtaining *bengoshi* credentials, most *bengoshi* are Japanese college graduates who passed a bar examination and subsequently were selected by the Supreme Court for the two year program at the Judicial Training and Research Institute.

Kenya: The legal profession in Kenya is unified. All advocates perform the functions of barristers and solicitors and enjoy a right of appearance before all Kenyan courts. In order to practice, advocates must be admitted to the Roll of Advocates. A law degree from a prescribed Kenyan university, prior status as a barrister in the United Kingdom, or status as a legal practitioner in another Commonwealth country is required for admission.

Grand Duchy of Luxembourg: Although the number of legal professionals in Luxembourg is small (approximately 200 in 1978) there are three different types of practitioner, each of whose functions differ. *Avocats-stagiaires* can defend in criminal trials and can plead, but not solicit, before tribunals and courts in matters of civil law. *Avocats-avoués* may plead and solicit before all jurisdictions of the judicial districts in which they are licensed, and before the Supreme Court of Justice when enlisted in the Bar of the City of Luxembourg. *Agréés* represent and give legal assistance to parties before the peace courts and arbitration tribunals. To become a member of any of these professions, applicants must possess a law degree, though not necessarily from a university in Luxembourg.

Kingdom of the Netherlands: *Advocaten* are the only licensed legal professionals in the Netherlands. Anyone who successfully completes a course of legal study at a Dutch university and passes examinations in civil, commercial, administrative, and criminal law will be admitted to the Dutch bar. Each new bar member must complete a three year practical training period.

The only areas reserved to *advocaten* involve activities before the Dutch courts. Other activities that fall within the daily practice of *advocaten*, such as business advising and document drafting, may be performed by anyone regardless of whether they possess a legal degree or belong to the bar association.

Republic of Panama: *Abogados*, the only recognized legal practitioners in Panama, draft and prepare legal documents and agreements, register documents, transact administrative business, give legal opinions, and represent clients in court. A certificate of competency from the Supreme Court of Justice is required for practice. Certificates are issued to Panamanian citizens who are graduates of a recognized Panamanian law school. Non-nationals licensed to practice law elsewhere may be admitted to practice on "revalidation" of their law degrees by the National University.

Polish People's Republic: There is only one type of legal practitioner in Poland, the *adwokat*. All practicing *adwokaci* are members of the Advocates' Joint Office and must be registered in the List of the *Voivodship* Advocates' Council. Registration will be granted only to Polish citizens who have completed a course of higher education at a Polish law faculty and a post-graduate court training course in a law office, and passed an examination administered by the Advocates' Council.

Republic of Portugal: There are two types of legal practitioners in Portugal, the *advogado* and the *solicitadore*. Both *advogados* and *solicitadores* may plead cases in court, but the latter are limited in the judicial proceedings that they may undertake.

Advogados and *solicitadores* must complete a five-year course of study at a Portuguese law school. In addition, *advogados* must complete an eighteen-month apprenticeship under the direction of an experienced lawyer. *Advogados* must be members of the *Orden dos Advogados*, and *solicitadores* must register with the Chamber of *Solicitadores*. Generally, only Portuguese citizens and immigrants who have been naturalized citizens for more than ten years may practice law. However, a foreigner graduated from a Portuguese law school may be allowed to practice law if reciprocal privileges are provided by the foreign citizen's country.

Kingdom of Saudi Arabia: Legal practitioners may represent clients before Saudi committees designed to settle commercial disputes and other legal matters, and may be licensed to practice in *Shari'a* (Islamic) courts. Such licenses are granted by the chief judge of a particular locality and must be approved by a Court of *Cassation*. A citizen of at least 21 years of age, who has legal training in one of five Saudi law schools and who can provide satisfactory character references may be granted a license. In addition, those who have been judges or law teachers may be licensed.

Spanish State: All legal practitioners in Spain are members of a *colegio de abogados*, one of which is found in each city where a territorial or provincial high court sits. The *colegios* assign cases to their members, who must possess a Bachelor of Laws degree from a Spanish university. Legal counsel is mandatory for all persons who are party to a civil or criminal case.

Swiss Confederation: In Switzerland, *avocats* (also called *rechtsanwälte* or *avvocati*), possess an exclusive right of audience before Swiss courts. Other legal practitioners working under a variety of titles may draft documents and advise clients but may not appear in court. *Avocats* must possess Swiss citizenship, obtain a legal degree from a Swiss university, and complete a one to two year post-graduate training period. They must also pass a state bar examination. Other legal practitioners must obtain a legal degree as well, but need not pass the bar examination.

Republic of South Africa: A legal practitioner in South Africa may be an advocate or an attorney. Advocates, like barristers in the United Kingdom, appear in court, draft pleadings, and give legal advice on the conduct of trials. Attorneys have no right of audience before the Supreme Court. They plead cases in lower courts, give legal advice, administer estates, and act for their clients in a variety of matters.

An advocate must be a citizen of South Africa, possess a law degree from a South African university, and complete a course of study in English, Afrikaans, and Latin. Like advocates, attorneys must be citizens of South Africa and possess a law degree from a South African university. However, attorneys are required to complete examinations in English and Afrikaans only. A two year clerkship is mandatory.

Union of the Soviet Socialist Republics: Legal services in the Soviet Union may be provided by *advokats* or by *iuriskonsul't* (legal counselors). *Advokats* provide a broad range of services including advice on legal matters; legal drafting for individual citizens, public enterprises, state offices, and collectives; and representation of individual clients in criminal and civil proceedings and institutional clients in court and arbitration proceedings. *Iuriskonsul't* are employees of the state or a public organization and are authorized to provide services only to their employers. These services include rendering legal opinions, preparing legal documents, and appearing in court.

Advokats must be members of one of the *kollegia advokatov* (colleges of advocates) which are voluntary associations of practitioners. Admission to a *kollegia advokatov* is governed by the college's presidium, subject to approval by the corresponding governmental executive. *Iuriskonsul't* do not belong to a college of advocates. Their status is regulated by Soviet law and by employment contract.

United States of America: There is one category of legal practitioner in the United States. The terms attorney or lawyer are used interchangeably to designate a professional who may represent clients before the courts, give legal advice, and prepare legal instruments and contracts that secure legal rights, whether or not the matter is one that is pending before a court.

Requirements for entry to the profession are regulated by the fifty individual states. In general, an attorney must complete a three year, full-time course of study at a law school approved by the American Bar Association and pass an examination administered by the bar association in the state in which he or she wishes to practice. Admission to state bar associations is not restricted to U.S. citizens. Resident aliens who meet the normal requirements may be admitted and special admissions programs in some states allow foreign lawyers to take the bar examination and practice U.S. law.

Socialist Federal Republic of Yugoslavia: There is only one category of legal professional in Yugoslavia, the attorney. Candidates to the provincial bar associations of Yugoslavia must be graduates of a Yugoslavian law school. In addition, the provinces may require the completion of practical training periods of varying lengths of time, depending on their needs. Most programs last from one to three years.