PRAVNA PROFESIJA U ENGLESKOJ I WALESU

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VELEUČILIŠTE U POŽEGI

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THE LEGAL PROFESSION IN ENGLAND AND WALES

ZAVRŠNI RAD

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PREDDIPLOMSKI STRUČNI STUDIJ UPRAVNI STUDIJ

THE LEGAL PROFESSION IN ENGLAND AND WALES

ZAVRŠNI RAD

IZ KOLEGIJA ENGLESKI JEZIK I

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SUMMARY

The English and Welsh legal system forms the basis of many common law legal systems throughout the world and thus enjoys a superior international status. English and Welsh law is composed of criminal law and civil law. The rules governing criminal and civil law are derived from common law, legislation and European Union Law, which is essentially binding on all UK legal systems. Those within the legal profession have specialist knowledge of the various principles, rules and laws that govern the English and Welsh legal system.

Defining the term legal profession is not that simple or easy. However, the simplest definition might be the most suitable. The legal profession is a vocation that is based on expertise in the law and in its applications. The ones who are engaged with these vocations generally form a body of individuals who are qualified to practice law in particular jurisdictions. The acquired knowledge of these individuals is aimed at studying, promoting, encouraging and justifying the collection of rules imposed by the authority. In this way, they form a legal profession.

The aim of thispaper is to analyse the legal profession in England and Wales which is divided into two main branches: barristers and solicitors. The term lawyer is a general one which covers both. There are numerous similarities and differences between these two. They each do the same type of work i.e. advocacy, which means representing clients in court and paperwork but the proportions vary, with barristers commonly spending more time in court. Other legal professions which include judges, notaries and the roles of Attorney-General, Solicitor-General and Director of Public Prosecutions are also mentioned.

Keywords: **legal profession, barrister, solicitor, law.**

SAŽETAK

Engleski i velški pravni sustav čine osnovu mnogih pravnih sustava običajnog prava širom svijeta i stoga uživa vrhunski međunarodni status. Engleski i velški zakoni sastavljeni su od kaznenog prava i građanskog prava. Pravila koja se odnose na kazneno i građansko pravo proizlaze iz običajenog prava, zakonodavstva i prava Europske unije, što je u biti obvezujuće za sve pravne sustave Ujedinjenog Kraljevstva Velike Britanije i Sjeverne Irske. Pravna struka ima specijalističko znanje o različitim načelima, pravilima i zakonima koji upravljaju engleskim i velškim pravnim sustavom.

Definiranje pojma pravna struka nije tako jednostavno ili lako. Međutim, najjednostavnija definicija mogla bi biti najprikladnija. Pravna struka je poziv koji se temelji na stručnosti u zakonu i njegovim primjenama. Oni koji su angažirani s tim zvanjima općenito

su pojedinci osposobljeni za obavljanje pravnog posla u pojedinim područjima. Zanimanja tih pojedinaca su proučavanje, promicanje, poticanje i tumačenjebrojnih zakona koje je nametnula vlast. Na taj način formiraju pravnu profesiju.

U ovom radu analiziranaje pravna profesija u Engleskoj i Walesu koja je podijeljena na dvije glavne grane: odvjetnik i pravni zastupnik. Pojam odvjetnik opći je pojam koji pokriva oboje. Postoje brojne sličnosti i razlike između njih. Svatko od njih radi isti posao, tj. zagovaranje, što znači zastupanje klijenata na sudu i papirologiju, ali razmjeri variraju, a odvjetnici često provode više vremena na sudu. Navedena su i druga pravna zanimanja koja uključuju suce, javne bilježnike i uloge glavnog državnog tužitelja, zamjenika državnog tužitelja i ravnatelja državnog odvjetništva.

Ključne riječi: **pravna profesija, odvjetnik, pravni zastupnik, zakon.**

Contents

1. INTRODUCTION

There is a huge diversity in the ways in which law is being taught and interpreted. But the fact is that the importance of legal profession has been recognized all over the world. Its importance is undeniable and the ways in which it can affect our lives is enormous. Each law system has a very close bond with the professionals who deal with it. The judges interpret the law, the lawyers present the cases in court, the counsellors advise the clients and lawmakers who write and pass the laws. The development of the common law of England was more or less coincidental with the appearance of the professional judge. They were soon followed by practitioners of rational principles in the thirteenth and fourteenth century.This was mostly the accomplishment of the elite body of judges and advocates who belonged to the order of serjeants at law; a body which, in over six centuries of history had less than a thousand members which is about the same as the number of queen's counsels nowadays. The power and unity of this profession clarify how the thinking and analysis of such a small group of people in Westminster hall developed into one of the world's two greatest systems of law. The special English professional structure was totally independent of university law faculties, where only Canon law and Roman law was taught and this factor as much as any other ensured the autonomous character of English law and its isolation from continental jurisprudence.

The United Kingdom of Great Britain and Northern Ireland consists of four countries with three distinct jurisdictions. Each jurisdiction has its own court system and legal profession: England and Wales, Scotland and Northern Ireland.The UK has incorporated other European legislation into UK law and recognises the jurisdiction of the European Court of Justice in matters of EU law.

The legal profession in England and Wales is divided into two branches: barristers and solicitors. They each do the same type of work; representing clients in court and paperwork but the proportions vary. Barristers commonly spend more time in court.

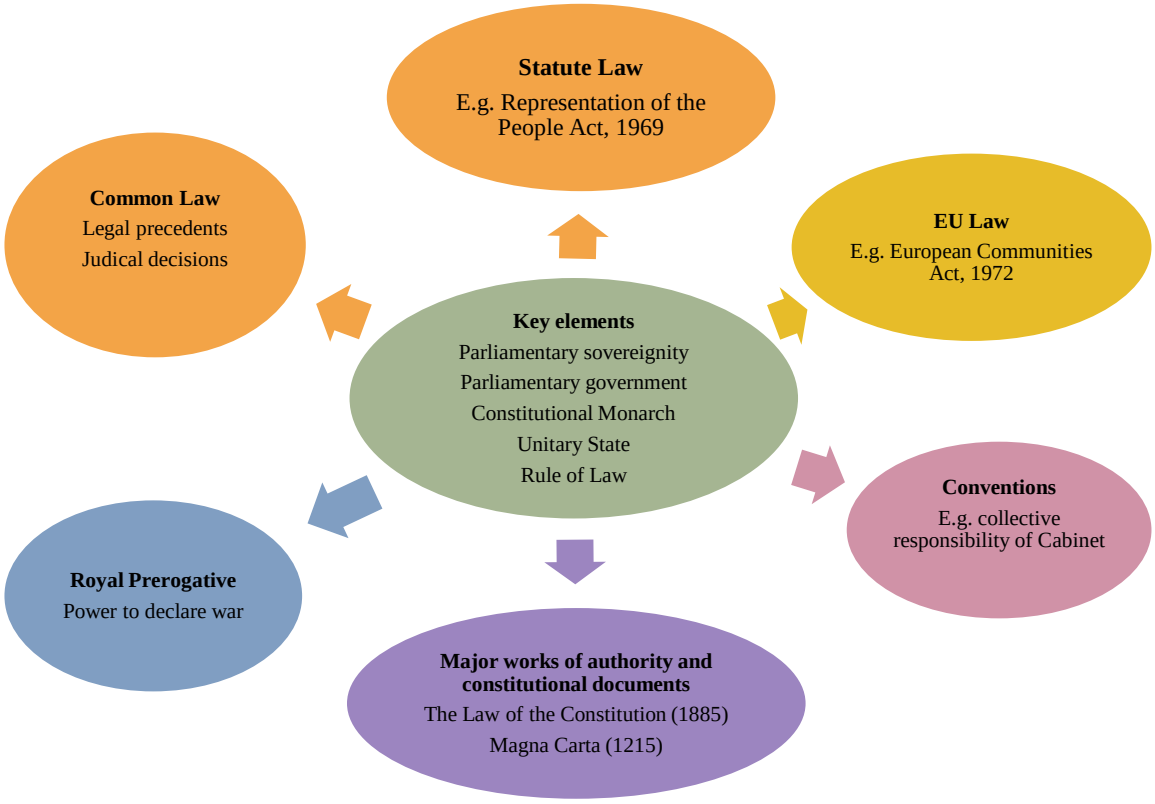
In the past, the two branches of this profession have been quite free to arrange their own affairs but over the past 20 years the situation has changed significantly with the Government directly and indirectly exercising increased controls over the profession. This is unusual but not unique in worldwide terms. The insight into the history and development of the legal profession in England and Wales is depicted in the following chapter.

2. THE LEGAL SYSTEM OF ENGLAND AND WALES

In 1750 the law and the legal system carried the marks of its feudal past rather than the signs of any visible reaction to the demands of a new and changing world. The social, economic and philosophic change meant that change was inevitable within the law and the legal system. William Blackstone, an English jurist, judge and Tory politician who was born in London in 1723, divided the law into two categories. "There was the lex non scripta, the unwritten or common law, and the lex scripta which was the written or statute law " (*Manchester, 1980:22*).

This classification expressed the lawyers' view of the complete comprehensive nature of the common law and its essentially important role. It reflected and shaped the lawyers' attitude over the years towards the specific roles and relative importance of the common law and of the statute.

Figure 1. **Sources of the Constitution**



Source: Natalie Mosley, Sources of the Constitution, URL [Accessed: 10 January. 2018].

2.1. Statute Law

Statutes might be classified as being either declaratory of the common law or remedial of some defects within. The Statute was to be seen primarily as no more than a complement to the Common Law. A Statute is a written law passed by an Act of Parliament and is enforceable in courts. Some statutes do not embody principles affecting the constitution but some of them do because of the relationships within the state and the way in which they affect how some states are governed. The function of a statute is to correct and supply the deficiencies of the Common Law, not to replace it.

The Statute Law is the most important and it takes precedence. The Queen is the Head of State and the Parliament is the supreme law-making authority. Much of the relationship between the Sovereign and Parliament is based on tradition rather than statute.

There are two legislative chambers in the Government.

a) The House of Commons, which consists of elected members, and
b) The House of Lords, which consists of elected peers and inherited titles.

2.2. Common Law

The Common Law, also known as Case Law was the law by which proceedings and determinations in the king's ordinary courts of justice were guided and directed, and therefore such customs were known by the judges of the several courts of justice. It has been established by the subject matter heard in earlier cases and so the law was co-created by judges. It originated during the reign of the English King Henry II (1154-89), when many local customary laws were replaced by new national ones which applied to all, and were thus 'common to all'.

Legal principles are also based on the decisions of judges interpreting statute law. All the collected judicial decisions from the Common Law (or Case Law) are common to each person all over Great Britain. The Common Law can be changed by legislation but cannot overrule or change statutes. All the courts must follow judgements made by one court of law in future if they face a similar case. It is a reflection of the accumulated wisdom of the past which binds judges into acceptance of these legal precedents and most of the original laws such as freedom of speech, civil rights, freedom of movement began this way. Apart from the authority ceded to the European Union following the European Communities Act from 1972, Parliament is supreme, because it is the only body with the right to enact a new law, or alter or reverse a law which it itself has passed. Any law passed by Parliament which clashes with, alters or

reverses any part of the common law automatically takes precedence, and becomes the law of the land.

A major impact on domestic law has had the European Union law. The United Kingdom signed up in 1972, and formally joined the European Community on 1 January 1973. European law was incorporated into United Kingdom law by the European Communities Act 1972. Since then, European law has been considered to be a valid and binding source of United Kingdom law. Sometimes community law and domestic law sit side by side and the litigant can use either.

There are also secondary sources of European law. These are laws made under the terms of the treaties and they are divided into two: directives and regulations. Regulations are binding and directly applicable to all member states. Regulations are the most direct form of EU law. As soon as they are passed, they have binding legal force throughout every member state, on a par with national laws. Directives are used to bring different national laws in line with each other. EU directives lay down certain end results that must be achieved in every Member State. National authorities have to adapt their laws to meet these goals, but are free to decide how to do so.

2.3. Conventions

A convention is a regularly observed practice considered appropriate for a given set of circumstances. Constitutional conventions are, therefore, sets of rules established over time by custom and practice, which relate to the exercise of government powers. Conventions are not legally binding.These are habits, norms and rules that through long usage have come to be considered binding on those who should abide by the constitution.

Conventions include individual and collective ministerial responsibility. They may not have the force of law, but breaking them can have political repercussions. They are particularly important in countries like the UK which does not have a written constitution, where they provide help in understanding how the state functions. They do not exist in any written document holding legal authority. The difference between a convention and a law is that laws are enforced by courts, with legal sanctions following their breach, whilst conventions are enforced only by political pressure. Also, laws are systematic, a set of rules bound together by other rules, and each constitutional convention stands alone. Conventions can become laws if Parliament chooses to include them.

2.4. Works of authority

Major works of authority have become sources of guidance which are widely recognised and are therefore viewed as authoritative. They often contain the nearest to a written account that we have in the way the constitution operates.They act as guides, for both those who study the UK system and those who are involved in the UK system, to the workings of the institutions and political system.Some famous experts have, through political and legal texts, become such influential observers and commentators on the UK constitution that their works have become accepted as works of authority on the UK constitution. The most famous examples (all from the nineteenth century) are by Bagehot, May and Dicey (*Wilson, 2003: 165, URL*).

Bagehot's seminal work helped define the position of the constitutional monarchy and set out several comparisons between British and American constitutional arrangements, the latter of which he found too inflexible and lacking in proper accountability mechanisms. Parliament was for Bagehot the fulcrum of political debate and decision-making.

Erskine May who was the Clerk of the House of Commons produced the most authoritative nineteenth-century account of the workings of parliament and the importance and status of constitutional conventions, termed the 'Parliamentary Bible' by the BBC in a 2008 article.This work is still being maintained and updated even today.

Albert Venn Dicey, a jurist and an academic, produced a detailed analysis of the rule of law, the importance of Parliament and the precise nature of the relationship between government and the judiciary, also underlining the binding force of unwritten constitutional conventions. He stated that Parliament was an absolutely sovereign legislature with, under the English constitution, the right to make or unmake any law whatever (*anonymous, n.d. URL*).

3. THE LEGAL PROFESSION IN ENGLAND AND WALES

The legal profession is a vocation that is based on expertise in law and its application. (*Alford, Glendon, Sawyer, n.d.: 1: URL*). Legal professions in England and Wales are divided into two branches under the legal system – solicitors and barristers. Other legal professions include judges, notaries and the roles of Attorney-General, Solicitor-General and Director of Public Prosecutions.

3.1. The history of legal profession

Distinct legal systems appeared early in history. A distinct class of legal specialists other than judges first emerged in Greco-Roman civilization. There was a prejudice against the idea of specialists in law being generally available for free. As the law became more complex, men prominent in public life found it necessary to acquire legal knowledge.

This system of development of early Roman law gave the Roman patrician legal expert an influential position. He became the first nonofficial lawyer to be regarded with social approbation.

The earliest known part-time legal specialist was the judge. The chief, prince or king of small societies discharged the judicial function as part of the general role of political leader. As his power spread, he delegated the function but not to legal specialists. After this stage, legal duties were taken over by royal officials who were generalists. Priests or wise men often judged or advised the judges.

During the twelfth century, justiciarii (members of Curia Regis i.e. royal councils) travelled the country on Eyre or sat in the Exchequer and Bench. Some of them were Clergymen while others, including the more successful ones, were Knights. This profession did not require a degree in Roman law but the uniform administration of royal justice raised the judicial role into the distinct and technical profession. The tradition of King's Justice was handed over to their successors. By 1200, continuity was facilitated by appointing to the bench, men who had previously served as clerks to the judges of previous generations.

Courts in England were highly local, tied to local systems of property ownership. This could roughly be related to a feudal system. People were obliged to their lord and the ties they had to the land. Courts were groupings of lords who would know the issues complained of and apply understandings of customary right. There was no distinction between legislation,

advocacy, and judgement, as we see it today. Courts were multiple, from the moots to the hundred courts to the Eyre courts. Around twelfth century, the king initiated an attempt to impose a Common Law across England, overriding the judicial powers of the local lords. The king imposed King's justice by sending out members of his household to sit and hear complaints that had accumulated since the previous circuit. Most notoriously, the king's justice was imposed by the Star Chamber beginning in the fourteenth century.

It is very difficult to say at what date professional lawyers first appeared in the common law system. The only trials in the Anglo-Saxon age which can be followed in any detail are important cases involving high ecclesiastical dignitaries, and yet even they seemed to conduct their cases in person. There is no convincing evidence of a legal profession in the Anglo-Saxon period. A body of professional advocates and attorneys to mediate between the judges and the private litigants appeared a few decades after the twelfth century. This added a new class of legal experts which soon outnumbered the judiciary. This necessitated the judges to be comparable in the background and forensic skills with those who appeared before them. By the end of the thirteenth century it had become a general rule that the judges of benches had to be appointed from the professional bar. This did not become an absolute rule until the fourteenth century but the exceptions were only temporary appointments. Thus, England possessed from an early date a bar and bench united by their membership of common profession. This new profession had arisen independently of the church and universities and was rooted in the practice of the law of the land.

The need for a regular legal profession has been pressing since the Royal Courts. The non-clerical legal profession appeared in the course of the thirteenth century. The clergy was according to canon law not allowed to practice in lay courts for gain, though it was possible for them to provide some legal assistance to the litigants until a lay professions came into being. From the very beginning the legal profession in England was divided into two functions. There was a forespeaker (advocatus or prolocutor) who stood beside a litigant and spoke for him while there was a representative (attornotus or procurator) who acted on behalf of somebody else in his absence so as to bind him in his absence. Thus, in English Legal profession the division of function preceded the appearance of a profession, but the allocation of functions has shifted over centuries.

In the medieval age, even for the central courts, there were no professional advocates. The proceedings were informal where the parties to the conflict presented their own cases to the best of their abilities before the king or the nobles or the clergy. The proceedings resembled a family dispute, where the disputing family members presented their case in front of an elder.

The king's intervention, measured by royal writs, was now delegated to a group of courtiers. Now as soon as the role of adjudication was delegated to deputies, it became necessary to confine them with a routine, strict procedure set of forms, and a set of pleading. These, in turn, necessitated the growth of the legal profession, for the public could hardly be expected to understand the newly invented office machinery of the King's Court.

The first instance of a legal profession of a substantive size which involves men following the law for a living and subject to some form of discipline only became visible in the middle of the thirteenth century, and an element of professional regulation was then introduced. The first elements were present as early as 1200-10 when the names of a few pleaders, attorneys and essoiners are found to recur in the rolls of the Curia Regis, but those habitual practitioners did not yet act to the exclusion of others, nor where their functions always mutually exclusive.

Some of the regulations that came in the thirteenth century included a 1275 enactment that professional lawyers found guilty of deceit should be punished. Another enactment was in 1280 when the city of London made regulations concerning practitioners in the mayor's court, for the administration of an oath to those newly admitted, and for keeping separate the functions of the pleader, attorney and essoiner.

In the fourteenth century, the pleaders in the Common Bench were selected by the judges, made to take an oath and were to remain aloof to the lesser practitioners. Even before 1300, a small group of highly skilled advocates dominated the bar. At that time the advocates of the Royal Courts also became distinguishable and larger profession whose roles included representing clients in the formal aspects of litigation, managing suits for the absent clients, taking out writs and instructing counsel and they were subject to the disciplinary control of the bench. The separation of pleaders and attorneys, then was a natural separation of different skills between quick-witted and learned courtroom lawyers and managerial, clerkly lawyers. A similar distinction was reproduced by barristers and solicitors much later.

By the fourteenth century, London suburbs, especially those in the west were filled with the inns of the numerous politicians, bureaucrats and lawyers who came to the city when the Parliament and courts were in session. The judges and serjeants had their own houses but the apprentices and clerks found it convenient to live in shared accommodation. By the end of the fourteenth century some of them had taken the responsibility of educating lawyers thus lectures and disputations were held in halls and discipline was enforced. Four inns achieved predominant position and they were known as the Inns of Court. They were: The honourable society of Lincoln's Inn; the honourable society of Inner Temple; the honourable society of Middle Temple and the honourable society of Grey's Inn.

The Inns of Court's origins are not precisely known but they were central to the development of English law and the legal profession. The serjeants were drawn from the four Inns of Court. At the Inns, readings were given, and they were not restricted to common law but also to certain aspects of Roman law. The primary function of the Inns was to preserve and elaborate the settled learning concerning real actions and real property, and it was in that sense that the law schools made tough law (*Shah, 2014, URL*).

The Inns signified the idea that law was not something that was made by acts or statutes only, but also influenced and refined the profession which would produce the future legislators and judges. But in the sixteenth and seventeenth century the Inns lost their authority.

Figure 2. **The Inn's of Courts**

Source: anonymous_1, URL [Accessed: 10 January. 2018].

In the seventeenth century various developments took place in the legal profession. The attorneys were looked down upon by the barristers. They were considered as glorified clerks as they were technically a part of the clerical staff of the court. The attorneys came into direct contact with the client and referred the barrister when difficulties arose. Barristers acted as consulting experts. The attorney was like a client to the barrister. In that period many students of the Inns of Court specialized to become pleaders, equity draftsmen and conveyancers. There was no need for them to be part of the Bar, so they were called practitioners under the Bar. The attorneys were thrust out of the Bar in the middle of sixteenth century and were in a difficult position. Until the eighteenth century the various branches of legal profession existed side by

side. In the nineteenth century the profession of solicitors had gained a definite lead over the other branches of the profession. Even though a few pleaders and conveyancers were licensed to practice in courts, there remained only two branches of the profession: the barristers and the solicitors.

The administration of justice became no more an area in which only the judges, barristers and attorneys were concerned. A chance was created by the crown to engage civilians in working on a new technique of law and government, but in the end, a compromise was worked out. The attorney- general and solicitor-general were regularly elected members of the House of Commons. They served as a link between the executive and the legal system.

However, legal professions of size and importance are relatively modern. A study published by Monopolies Commission and a Royal Commission on legal profession and service reported that many changes were inevitable (*Shah, 2014, URL*). The Government of Margaret Thatcher was determined to make the British economy, in general, more competitive.

In 1987 the conveyancing monopoly of the lawyers was broken. This was the first and the most significant step to change the lawyers' restrictive practices. Earlier only solicitors were allowed to charge for the work of conveying the title in a real estate deed. The Administration of Justice Act in 1985 allowed a system of licensed conveyancers, regulated by the Council for Licensed Conveyancers to be established.

Solicitors could prepare cases for the trial and barristers had the right to be heard before the court. Significant changes were made to this status quo by the Courts and Legal Services Act in 1990. Instead of the professional bodies simply creating rules the act established a framework for authorized bodies to set the rules.

The Access to Justice Act from 1999 changed the rules again. Among the numerous other progressive provisions, all barristers and solicitors were to have the right of audience before every court in all proceedings.

Apart from these, numerous other developments took place, particularly relating to the rules of advertising. The rules were significantly simplified, so that solicitors and barristers could advertise the services they offered. Today these advertisements in England and Wales cannot be compared to advertisements done by lawyers in other countries but the development per se is a significant break from the past traditions.

3.2. Characteristics of the profession

One of the major attributes of the legal profession is that it is independent. Constitutionally, this is very important. This independence can be as basic as a lawyer giving independent advice to his clients irrespective of the policy of the government of the day. It also involves a professional obligation to take up any case, especially those, wherein the public opinion is against the same. The assertion of independence can also imply that the professions should be free to regulate themselves in accordance with their own rules of professional conduct, without interference by the Government. The Legal Services Act of 2007 takes this process further.

Primary characteristics which distinguish the legal profession from business are

- a duty of public service,
- a relation, as an officer of the court, to the administration of justice involving thorough sincerity, integrity and reliability,
- a relation to clients with the highest degree of fiduciary,
- a relation to the colleagues at the bar characterized by candor, fairness and unwillingness to resort to current business methods of advertising and encroachment on their practice, or dealing directly with their clients (*Alyssa, 2015, URL)*.

3.3.Social role

The legal profession has always had an ambiguous social position. On the one hand, leading lawyers have been socially prominent and respected. The family status of early Roman jurisconsults was more important than their legal expertise in securing such a position. In England and the countries influenced by its system, the highest prestige gradually came to be conferred on the judges rather than on the order of serjeants, of which the judges were members. Nowadays, judges of high-level courts in liberal-democratic common-law countries tend to enjoy greater respect than their brethren at the bar.

On the other hand, lawyers have engendered distrust and even hatred in many societies. Partly it has been the consequence of a general hostility to the whole idea of law. Along with ideological and political reasons for popular distrust are the inherent difficulties with the law and some legal functions.

People would like the law to be clear, simple and applicable in all cases so that anybody could understand it. The feeling against advocacy in the criminal law was so strong that in cases involving more serious kind of crime, a right to representation by a trained advocate was nowhere generally recognized until the eighteenth century.

The organized legal profession has in some jurisdictions endeavoured to meet the problem of litigious advocacy by contending that the dominant duty of the advocate is not to the client but to the truth and the law. The duty of the advocate is to fight for the rights of the client but only up to the point where an honourable person could fairly put the case on his own behalf. Others agree that lawyers are obliged to advocate jealously for the client even if they disagree with the client's position or views, provided that they neither misrepresent the law nor misstate the facts.

4. THE BRANCHES OF THE LEGAL PROFESSION IN ENGLAND AND WALES

Before becoming a lawyer, a decision must be taken on what type of lawyer they want to become and what kind of a legal career they want to have, which means deciding between becoming a solicitor or a barrister. Simply put, solicitor works in a law company and a barrister appears in court. Therefore, before deciding you need to ask yourself what are your abilities, what kind of temperament you have and how you stand with your finances.

4.1. Solicitors

Solicitors are legal advisors. In 2016, there were around 136,000 practising solicitors in England and Wales, working in private and public practice.The profession of a solicitor has been growing rapidly so that since 1970 it has more than trebled in size. Their role is to give specialists legal advice and help. They are the main advisers on all matters of law to the public. In general, they deal with all aspects of legal practice from drafting letters to researching cases and providing legal advice.

Solicitors can work in a range of areas, including:

- Private - providing legal services such as Conveyancing, probate, civil and family law, litigation, personal injury and criminal law.
- Commercial – advising and acting for client firm in contracts, tax, employment issues and company mergers and acquisitions.
- In-house – providing legal advice while working within organizations such as companies, government or local authorities.
- Crown Prosecution Service – examining evidence to decide whether to bring cases to court (*llmstudy, n.d. URL*).

Solicitors' work depends on the area of law in which they practice but in general it involves a range of activities including:

- Providing legal advice to clients, instructing barristers or advocates to act for clients.
- Representing clients in court.
- Researching on points of law, negotiating contracts and preparing legal documents.
- Attending meetings and negotiations.

- Preparing papers for court (*llmstudy, n.d. URL*).

Most solicitors are employed by a law practice or firm which is a partnership of solicitors who offer services to clients. There are three broad types of firms:

a) High street firms – usually small firms dealing with individuals with housing, employment and immigration problems.
b) Medium-sized firms – may offer specialist advice on a niche area (media, family or IT) or a huge spectrum of services from corporate finance to a private client.
c) Large commercial firms – a term which refers to the top five UK law firms is Magic Circle and includes Allen &Overy, Clifford Chance, Freshfields Bruckhouse Deringer, Linklaters and Slaughter and May (*llmstudy, n.d. URL*).

4.1.1. Organization and education

Almost all solicitors begin with a degree, though not necessarily in law. A number of law schools introduced an admissions test in 2004 (the National Admissions Test for Law) to help select students onto their law degrees. It consists of a series of comprehension questions and an essay question. However, critics point out that they provide only a limited portrait of a candidate's skills and miss out important skills needed in law students such as their level of conscientiousness.

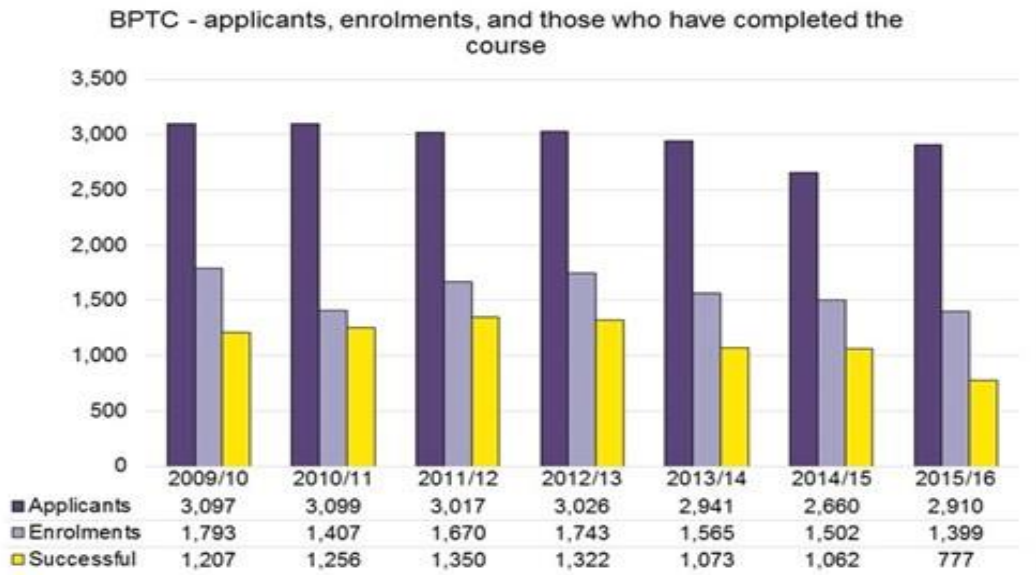
Essential skills needed to be a solicitor are:

- Determined and highly motivated; a desire to work with people
- Strong spoken and written communication skills
- Persuasive manner in a position to influence
- Ability to analyse and manage large amounts of information
- A high level of accuracy and attention to details
- Ability to work under pressure
- Commercial awareness
- Numeracy skills
- Personal effectiveness skills
- Problem-solving skills
- IT skills
- Commitment to continuous personal development (*llmstudy, n.d. URL*).

Students whose degree is not in law have to take a one-year course leading to the Common Professional Examination. It is possible for non-graduate mature students who have demonstrated some professional or business achievements to enter the profession without a degree. They take a two year Common Professional Examination (CPE) course.

The next step for law graduates and those who have passed the CPE is one-year Legal Practice Course designed to provide practical skills, including advocacy, as well as legal and procedural knowledge. Since 2009 the Legal Practice Course (LPC) is divided into two stages. Stage one covers the core areas: business law and practice, property law and practice, litigation, professional conduct and regulation, taxation, wills and administration of estates, skills elements (writing, drafting, interviewing, advising, advocacy and practical legal research). Stage two consists of three vocational electives which can be studied at different institutions if wished. The two stages will normally be completed within a year but students can take breaks in their studies as long as they complete the course within five years. Fees for LPC are £5,000 and £9,000.

Table 1. **Number of Practising Solicitors in England and Wales**



Source: Bar Standards Board, 2016, URL [Accessed: 10 January. 2018].

After passing the Legal Practice Exams, the prospective solicitor must find a place, usually in a firm, to serve a two-year apprenticeship. The work of a trainee solicitor can be very demanding and a survey carried out for the Law Society showed that one-third of solicitors work more than 50 hours per week.

It is also possible to become a solicitor without a degree, by completing the one-year Solicitors' First Examination Course and the Legal Practice Course and having a five-year training contract.

Most solicitors usually qualify for and practice in a specialist area (family law, commercial law, media law). They are required to participate in continuing education throughout their careers.

The Solicitors Regulation Authority announced its planned super-exam, the Solicitors Qualification Examination, which will be launched in 2020. This new way of qualifying as a solicitor will have two stages of skills and legal knowledge assessments.

In order to qualify as a solicitor, candidates will need to:

- Pass Solicitors Qualification Examination (SQE) stages 1 and 2 to demonstrate they have the right knowledge and skills.

  STAGE 1: It will involve six functioning legal knowledge assessments and one legal practical legal skills assessment. This will be the cheaper part of the exam and it could be taken before the required period of work experience.

  STAGE 2: The second part of the Solicitors Qualification Examination would be taken on the point of qualification and will involve two sessions of five practical legal skills assessments, which include client interviewing, advocacy and persuasive oral communication, case and matter analysis and legal research.
- Have been awarded a degree or an equivalent qualification, or have gained equivalent experience.
- Have completed at least two years of qualifying legal work experience.
- Be of satisfactory character and suitability.

As a result, the Solicitors Regulation Authority (SRA) will drop the requirements for all aspiring solicitors to study the Legal Practice Course (LPC) and for non-law graduates to take the Graduate Diploma in Law (GDL). This will eliminate the current problem of many would-be solicitors having to pay large up-front costs of up to £15,000 without a guarantee of a training contract or becoming a solicitor.

English and Welsh candidates who have already started a law degree, Graduate Diploma in Law or Legal Practice Course by the time the super-exam is implemented in 2020 will have a choice of whether to follow the old route or to take the new Solicitor Qualification Examination. An independent organisation will be responsible for the delivery of the exam itself, and the Solicitors Regulation Authority expects to put the contract out to tender before

the summer. This reform will offer new ways to structure the courses, to give enhanced legal and training skills, to raise standards for solicitors to new levels and to widen the access to the profession. The new system will bring English and Welsh practice into line with the international one.

4.2. Barristers

Barristers are advocates who operate from the Chambers, which are a collective of barristers like a firm, although they are self-employed and pay a proportion of their earnings to the Chambers for space. Much of their work involves court work and highly developed presentation and interpersonal skills are essential.

There are around 15,000 barristers in independent practice, known collectively as the Bar. Its governing body is the Bar Council which established a Bar Standards Board responsible for regulating the Bar. It makes the rules and takes the decisions affecting entry to, training for, and practice at the Bar, including disciplinary issues.

The main function of barristers is advocacy. Most of their time, they spend in court or preparing for it. Until 1990 they were the only people allowed to advocate in the superior courts. This has changed and they have to compete with solicitors for this work. Barristers usually qualify and practice in a specialist area but unlike solicitors spend most of their free time researching the law and practising advocacy at courts. Their main work comes from disputes so barrister's expert knowledge of a particular area of law (crime, family, finance, sport or corporate) can determine the outcome of a dispute.

Barristers are self-employed and cannot form partnerships but they usually share offices, called chambers, with other barristers. They share a clerk, who is a type of a business manager, arranging meetings with the client and the solicitor and also negotiating the barristers' fees. Around 70% of practising barristers are based in London Chambers, though they may travel to courts in the provinces.

Not all qualified barristers work as advocates at the Bar. Like solicitors, some are employed by law centres and advice agencies, Government departments or private industry and some teach.

Traditionally, a client could not approach a barrister directly, but had to see a solicitor first, who would then refer the case to a barrister. In 2004, the ban on direct access to barristers was abolished.

4.2.1. Organization and education

There are some essential skills needed to become a barrister. Some of them are public speaking, excellent advocacy and presentation skills, attention to details, ability to think and communicate clearly, ability to break down complex matters into simple language, high level of intellectual and analytical ability, ability to deal with a wide range of people and excellent research skills.

The starting point is (at least) an upper second class degree. If the degree is not in law, applicants must do the one-year course leading to the Common Professional Examination which is the same course taken by would-be solicitors with degrees in subjects other than law. Mature students may be accepted without a degree, but this is not a likely route to the Bar.

All students have to join one of the four Inns of Court: Inner Temple, Middle Temple, Gray's Inn and Lincoln's Inn, all of which are in London.

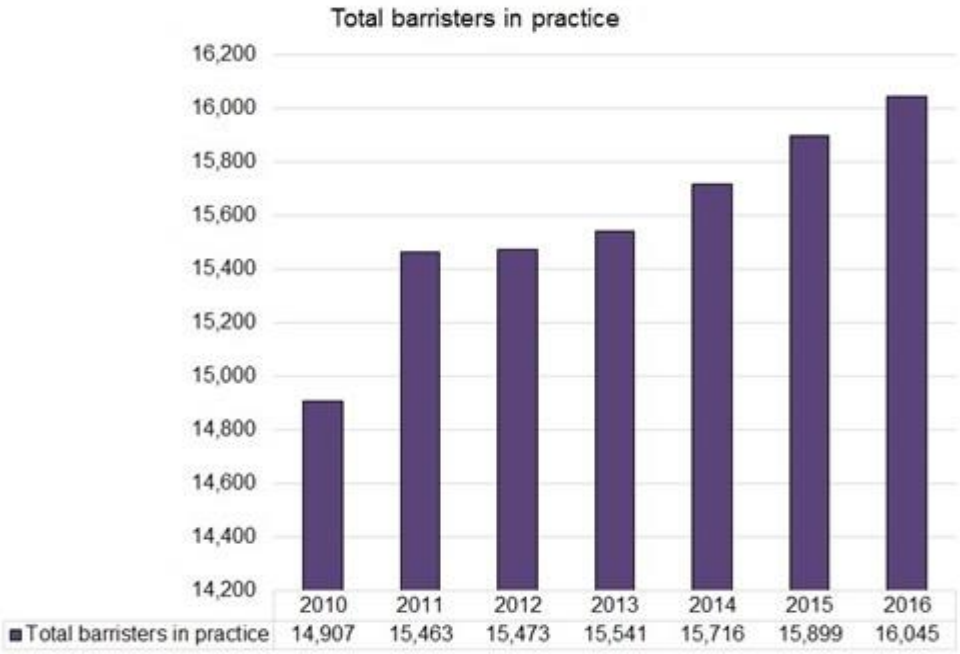
The Inns of Court first emerged in the thirteenth century and their role has evolved over time. Their main functions now cover the provision of professional accommodation for barristers' chambers and residential accommodation for judges, discipline, the provision of law libraries and the promotion of collegiate activities.

Students take a one year Bar Professional Training Course. They also take an aptitude test and an English language test in order to reduce the number of students taking the BPTC.

Students have to dine at their Inn 12 times to benefit from the wisdom and experience of their elders if they sit among them at mealtimes. The dinners are linked to seminars, lectures and training weekends, in order to provide genuine educational benefit.

After this, the applicant is called to the Bar, and must then find a place in chambers to serve his or her pupillage. This is a one-year apprenticeship in which pupils assist a qualified barrister who is known as their pupil master. Pupillages are split into two six-month sections. The first six involves shadowing an experienced barrister and the second six a pupil has a right to offer legal services and exercise rights of audience under supervision. Pupillage completed, the newly qualified barrister must find a permanent place in chambers, know as a tenancy. They can also do a mini-pupillages, marshalling or undertake voluntary legal work which is a great way to get experience.

Table 4. **Number of Practising Barristers in England and Wales**



Source: Bar Standards Board, 2016, URL [Accessed: 10 January. 2018].

Barristers must complete a minimum of 45 hours of continuing education in the prescribed subjects by the end of their first three years of practice. They have to study four subjects:

- Case preparation and procedure
- Substantive law or training relating to practice
- Ethics
- Advocacy training (*Elliot, Quinn, 2009, 196, URL*).

All the barristers who have been qualified for over three years must undertake each year a minimum of 24 hours' study and at the end, after 10 years in practice, solicitors and barristers may apply to become a Queen's Counsel which offers higher paid cases and less preliminary paperwork. The barristers who do not attempt to become a "silk" are called junior barristers and the ones who manage to get a "silk" are called senior barristers. Their cases are more complex. Queen's Counsel is in fact a special which is awarded for a distinguished branch of advocates in England and Wales. Traditionally, this was restricted to barristers but in 1996 the system was changed and solicitors became entitled to be appointed Queen's Counsels. QC status is connected with formal privileges and fees charged.

Figure 3. **The “silk”**

Source: Shaun Curry, 2015, URL [Accessed 10 January.2018].

Numerous differences between barristers and solicitors exist. However, it is difficult to define them separately. Quite often their professions cross the line and overlap with each other's work. On the one hand, one can say that barristers are types of lawyers who only represent their client in the courts or in front of a jury and they are normally instructed by the solicitors rather than the client. On the other hand, solicitors are the type of lawyers who can be involved in many legal aspects such as preparing a case, advising, drafting legal work and doing daily management of a legal case. Barristers also have a specialized knowledge and practice of one aspect of legal system and solicitors are related more to the general knowledge of the legal system.

4.3. Notaries

Notaries form the third and the oldest branch of the legal profession in England and Wales. They are qualified lawyers appointed by the Archbishop of Canterbury and regulated by the Master of the Faculties and they provide a bridge between the civil law and the common law.

Notaries have a legal training and their qualification as a notary is independent and requires separate examinations. Most of them may also be solicitors. They must follow the same initial course in order to qualify for the profession. They have to successfully complete the

notarial practice course provided by the University College of London. After that, they can practice anywhere in England and Wales and all have the same powers.

Notaries practice under rules very similar to those of solicitors including renewing a practicing certificate, keeping client's money separate and maintaining insurance. They authenticate and certify signatures and documents and often also practice as solicitors.

Their activities have been recognised worldwide for centuries and this has allowed citizens and business to circulate freely. They facilitate commerce and life for ordinary citizens, allowing them to go about their daily lives and conduct business freely at a reasonable cost and without undue delay.

Notaries have an official seal and notarial acts in England and Wales have probative force. Notarial acts are prepared in private and public form. Notarial acts under the signature and seal of a notary are recognised as evidence of a responsible legal officer all over the world. They are required to renew their notarial practising certificates annually and hold professional indemnity and fidelity insurance cover.

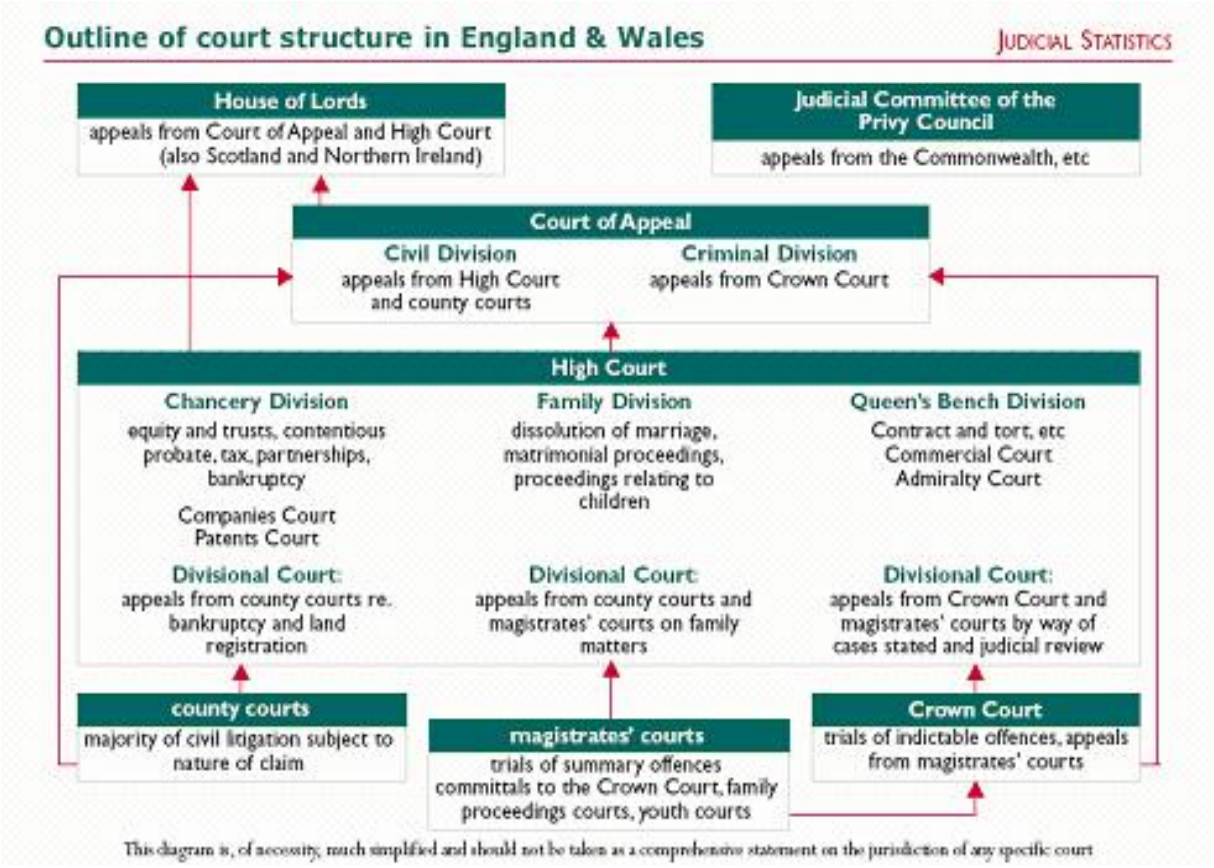
4.4. Judges

Judges decide on legal cases in certain circumstances or, if a trial involves a jury, judges rule over the proceedings to ensure fairness and that the jury has arrived at their decision in the correct way. The Judicial Appointments Commission selects candidates for judicial office on merit.

Both solicitors and barristers may be appointed as judges. The English legal system requires that a judge first practices for several years as a barrister or a solicitor with a good reputation. Country-court judges are appointed by the Crown on the recommendation of Lord Chancellor. They have to practice as barristers for at least seven years before they can be recommended. The County-court judges are Circuit Judges, Recorders, District Judges and Deputy District Judges. In the structure of the Courts there is also a Magistrates' Court and judges obtaining their duty there are called Magistrates. To practice in the High Court they need to be recommended by the Lord Chancellor and need to be barristers for at least ten years.They are called the High Court and the Deputy High Court Judges. Judges at the Court of Appeal are appointed by the Queen as recommended by the Prime Minister. They need to have fifteen years of experience as barristers. For the appointment of judges of the House of Lords, it is the same case and they are appointed for Life Peers. In order to become a Law Lord, a judge needs to practice for at least fifteen years as a barrister or for two years in a high judgeship. The Prime

Minister also recommends candidates for the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls to the Queen.

Figure 4. **The structure of the Court System**



Source: anonymous_2, n.d.URL, [Accessed 11 January. 2018].

The Lord Chief Justice is the most senior judge in England & Wales and the President of the Courts of England and Wales and he fulfils 400 statutory duties. His key responsibilities include: representing the views of the judiciary of England and Wales to the Parliament and the Government, overseeing the judiciary's welfare, training and guidance, discussing with the Government the provision of resources for the judiciary, and deploying judges to and allocating work to the courts of England and Wales.

The Senior President of Tribunals and four Heads of Division who are Supporting the Lord Chief Justice in his role are each responsible for a particular part of the law and the court structure. In order of seniority they are: the Master of the Rolls, the President of the Queen's Bench Division, the President of the Family Division, and the Chancellor of the High Court.

The Master of the Rolls is the second in judicial seniority to the Lord Chief Justice, and is the Head of Civil Justice and the President of the Civil Division of the Court of Appeal. He

is also a Judge of the Court of Appeal. The Master of the Rolls is consulted on matters such as the civil justice system and rights of audience. The Heads of Division and the judges of the Court of Appeal are addressed as `The Right Honourable', followed by their judicial titles. In court they are called `My Lord' or `My Lady'.

The judges of the Court of Appeal are senior judges with lengthy judicial experience, who hear both criminal and civil appeals which have been referred up to them from the High Court and the Crown Court and County Courts. High Court Judges are assigned to one of the three divisions of the High Court – the Chancery, Queen's Bench or Family Division. High Court judges are mainly based in London, but also travel to major court centres around the country. High Court judges try serious criminal and important civil cases and assist the Lord Justices of Appeal to hear criminal appeals.

Circuit Judges are appointed to one of the six circuits in England and Wales, and sit in the Crown and County Courts within their particular region. Some Circuit Judges deal specifically with criminal or civil cases, while others are authorised to hear public and/or private law family cases. Some may sit in specialised civil jurisdictions, hearing, say, chancery or mercantile cases.

District Judges are full-time judges who deal with the majority of cases in the County Court. In the Family Court, District Judges hear most of the cases involving the division of family assets and, along with the Circuit Judges, they also hear the cases involving children. They preside over a wide a range of family and civil law cases such as claims for damages and injunctions, possession proceedings against mortgage borrowers and property tenants, divorces, child proceedings, domestic violence injunctions and insolvency proceedings. District Judges are assigned on appointment to a particular Circuit and may sit at any of the County Courts or Family Courts hearing centres or District Registries of the High Court on that circuit.

Magistrates, or Justices of the Peace, are members of the local community without legal background or knowledge who act as judges in the magistrates' court. They bring a broad experience of life to the Bench, working part-time and dealing with over 95% of all criminal cases. These are the less serious cases, such as minor theft, criminal damage, public disorder and motoring offences. Justices of the Peace sit with a qualified Legal Adviser. Justices of the Peace are unpaid, although they do receive reimbursement for their travel and expenses.

4.5. Attorney – General and Solicitor – General

The Attorney-General advises the Crown on legal issues and acts as a plaintiff for the Crown in very important cases. The Attorney-General is a member of the House of Commons and is usually a barrister with high reputation. This is true for the solicitor-general as well, who is the agent of the Attorney-General. Both belong to the ruling party in the Parliament. They are appointed by the Prime Minister and must abdicate in case of a change in the Government. The Attorney-General has a number of independent public interest functions in addition to overseeing the Law Officers' departments.

These are:

- the Crown Prosecution Service
- the Serious Fraud Office
- Her Majesty's Crown Prosecution Service Inspectorate
- the Government Legal Department.

Other responsibilities include:

- acting as a principal legal adviser on questions of EU and international law, human rights and devolution issues
- referring unduly lenient sentences to the Court of Appeal
- bringing proceedings for contempt of court
- intervening in certain proceedings to protect charities
- dealing with questions of law arising on government Bills
- legal aspects of all major international and domestic litigation involving the government (*gov.uk, n.d. URL*).

The Solicitor-General also has a wide range of responsibilities. They include:

- deputising for the Attorney General and being responsible for such matters as the Attorney General delegates to him
- providing support to the Attorney General in his superintendence of the Government Legal Department, the Crown Prosecution Service, the Service Prosecuting Authority, HM Crown Prosecution Service Inspectorate and the Serious Fraud Office
- providing support to the Attorney General on civil litigation and advice on civil law matters and on the public interest function (*gov.uk, n.d. URL*).

4.6. Director of Public Prosecution

In general the Director of Public Prosecutions gives advice to the police and other law enforcement agencies and is not a political civil servant. It is the function of the Director of Public Prosecution with a view to initiation or continuation of criminal proceedings, to consider the facts and information brought to their notice by the police or others, and where they think proper, to initiate, undertake and carry on criminal proceedings. To become a Director of Public Prosecutions, applicants need to have at least ten years of practical experience. The Crown Prosecution Service prosecutors prepare cases for court and present cases in both the magistrates' courts and the higher courts. The Director of Public Prosecution (DPP) is the head of the Crown Prosecution Service and operates independently, under the superintendence of the Attorney General.

5. CONCLUSION

After a detailed study of changes in the legal profession, it is obvious that the English Legal Profession has traditionally been highly monopolistic; this is understood by various instances discussed. English Legal Education, the process through which new legal professionals were created was also of hermit nature. Legal Education was taught at the Inns of Courts rather than law schools. The various branches of legal professionals prior to the sixteenth century like the serjeants, barristers, attorneys, notaries, scriveners, etc. have been reduced to two major branches, i.e. the barristers and the solicitors. It is also seen that since the 1980s the profession has undergone some major reform. It is becoming more competitive and the lines of distinctions are disappearing due to law degrees. The reformation process is not over yet. In fact this is just the beginning of the attempt to change the legal profession into one of the most liberal and competitive professions. These efforts have been initiated mostly at a legislative level.

Two branches of barristers and solicitors have been established over the years. They obtain their qualifications in a different way. However, a big change is being introduced. The Solicitors Regulator Authority announces the super-exam which will be launched in 2020 and Graduate Diploma in Law and Legal Practice Course are set to vanish. This exam should unlock choice in routes to qualification and enable apprenticeship, allow universities to develop courses that work for students and solve the training contract bottleneck. In conclusion, this is an exciting time for legal education. These reforms are a unique opportunity for innovation and improvement of legal training.

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