

ABSTRACT OF

**LAWYERS AND LITIGANTS IN A
NORTH INDIAN DISTRICT**

**Notes on Informal Aspects
of the Legal System**

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NOT SURPRISINGLY, THE organization of the legal profession at the district court level is closely bound up with the broader social structure, placing the Indian lawyer in a position regularly requiring quite parochial attention and action. At the provincial level at least, most lawyers have entered that profession by default after attempts at other occupations. Many have had their first contact with legal matters in the litigations pursued by their families, since many come from wealthy village families and are the first family members to have moved beyond the village's confines to achieve advanced education.

In the village studied, two men had become lawyers. The elder, though living in the district town forty miles away, visits the village frequently and is a key political figure there. The grandson of a poor farmer, his father had acquired sufficient wealth to send him through college and law school. In building up his practice at the district court, his contacts with the village were strengthened, contrary to what we might expect, because his practice depends on his reputation among village litigants. He has built an imposing house at the edge of the village for his exclusive use on his frequent journeys there, and he remains active as the leader of "the opposition party," one of the two main factions in the village. While this participation probably was not aimed at gaining him clients from the village, it did spread his reputation to distant villages connected to his by affinal ties.

The other lawyer's career represents a new line for an already established and wealthy gentry family. The family's Zaildarship (headmanship of a thirty-village unit) was abolished soon after independence, so the eldest son entered law as a barely acceptable alternative career. His father, as leader of the other village faction, is seen by the villagers to be behind much of the village's litigation, as is the older lawyer. But the son was sent into law to maintain family status rather than to aid in the litigation. In law college, he acquired various "modern" aspirations to improve the agricultural practices in his village, and since that time, his career has resembled the young American lawyer's—entering local politics with an eye to improving his practice. However, the outcome is likely to be an abandonment of the practice in favor of the political-administrative activities befitting his family's traditional role.

The third lawyer in this study provides a contrast in life style to these first two. Growing up in his lawyer-father's city residence, he had almost no social or economic ties with his ancestral village. Participating in the sophisticated Great Tradition of Hindu ritual, he lectures on Freudian psychology and the Upanishads to fellow members of voluntary organizations. His successful law practice is founded on his monopoly of business with a Rajput collectivity in the area.

The differences between these lawyers is in their life styles, but not in the kind of law they practice. Lawyers at all levels of the legal hierarchy deal with the same kinds of legal problems. Much of his time is spent at court reviewing the day's cases and speaking with clients. Successful lawyers often provide housing for out-of-town clients. Lawyer-client relationships are generally asymmetrical, the lawyer asserting his superiority and the client showing his respect. The exception to this pattern is the *Mukadmā bāz*, the litigant with so much experience that he is well-known as a lay law specialist who can hire mediocre lawyers and give them instructions. He may also carry on a sporadic trade in court cases, "purchasing" disputed territory, for example, and then winning the court battle for a profit. His skill is generally in a thorough knowledge of tactics (especially extra-judicial) rather than knowledge of the law. From the layman's point of view, most court cases seem to hinge not on the formal law, but rather on the advocate's ability to use these extra-judicial tactics.

Study of the structure of the Indian legal system must take the point of view, not only of the formal legal theoretician, but also of the lay participant whose idea of "what counts" may bear little resemblance to legal stipulations.