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The Fusion Debate  
HITIKSHA PATEL

Should Barristers and Solicitors Fusion or remain as two separate professions?

The professions of barrister and solicitor are separate and the work is different. It is wrong to think of solicitors as some sort of junior barrister, or barristers as trainee solicitors.

It is not possible to belong to both branches of the legal profession, but it is possible for a barrister to retrain and become a solicitor, and many often do; similarly solicitors can move in the opposite direction.

Today, there are still several differences between the roles, training and regulation between solicitors and barristers. Barristers can advocate in court, research cases and legal developments, meet certain professional clients as a result of the 1990 and 1999 act which brought some similarities between the roles of solicitors and barristers. And as a result of the act, solicitors have become more like barristers-it allows them to advocate but they still have to do most of the paper work and barristers can do some paper work. On the other hand, solicitors can give legal advice to the public - so people can directly contact them, still do paper work ( such as prepare cases, appeals, write letters, contracts and wills) and meet all clients even in prison, interview and phone witnesses and clients. There are still many differences, such as the professional body for each profession, the basic qualifications, the practical training, method of training, relationship with client and liability. However, both of them have full rights to advocacy.

By convention solicitors can join Inns of Court, but few do. The rank of Queen's Counsel is awarded to solicitors on the same basis as barristers; this is recent example of a fusion of the two branches of the profession.

Fusion, in this context means a union resulting from combining or merging elements or parts. A major debate used to be whether the two professions should be merged into one profession.

There are many advantages and disadvantages of fusion. Firstly, I will look into the advantages. The advantages of fusion were thought to be that it reduced costs as only one lawyer would be needed instead of a solicitor and a barrister.

Solicitors (or even the solicitor's clerk) sit behind the barrister in court throughout the trial, with little to do.

Lawyers would be able specialise rather than to send work out to barristers.

Solicitors with a talent for advocacy could practise it in any court, which largely they can now with solicitor advocates.

Expand the field from which judges are appointed-

Solicitors can already be appointed as Recorders and Circuit judges, a few have been appointed as High Court Judges.

Another point is that, At present, after University young lawyers have to decide whether to be a solicitor or barrister, without experiencing any practical law, however, if the two professions were to fuse, Young lawyers would not have to decide which part of the profession to join.

It would also save time by Eliminating wasted effort and duplication of work- where a client explains the case to a solicitor, who then instructs a barrister.

A barrister in charge of the case would be able to deal with the instructions and evidence better than one who received instructions second hand-

This would lead to continuity of casework. Continuity means the lawyer and client maintain, a stronger relationship and trust. There would be more continuity as the same person could deal with the case from start to finish.

Currently, Barristers often find themselves double booked and have to return the brief at the last moment for another barrister to read and deal with.

In the National Audit Office survey 1997, it showed that three-quarters of all prosecution briefs accepted by barristers were returned shortly before the trial.

Now, I will be looking into the disadvantages. It is argued, that if fusion does take place, there will be a decrease in the specialist skills and standards of advocacy. The standards of advocacy would be put at risk, because of the lack of experience in particular types of case.

Effective close workings of the Bar would be destroyed. Fusion would break up the close working relationships between a comparatively small Bar, so, there would be a lack of availability of advice from independent specialists at the bar. There would be a loss of expertise- Small firms would not have access to the full range of knowledge and experience available at the Bar.

There would also be some sort of reluctance to use specialists- Most lawyers to become general practitioners, and try to deal with cases himself rather than use an expert.

Professional ethics would also be at risk- The relationship between barristers and judges (whom barristers often wish to become) is of the highest integrity.

There is also close supervision by colleagues and judges.

Another point is that the best lawyers would gravitate towards the larger firms, and would not be available to all clients.

Lawyers who wanted to specialise in narrow areas of work would be unable to do so within a single firm.

The second opinion of a barrister on a case can bring objectivity to it, and is extremely useful to solicitors confronting a client who thinks he has a good case.

And finally, there would be a loss of a cab-rank rule, which is the fundamental rule that ensures client will always receive proper representation, no matter how distasteful the case or the client.

An example of a country where the two professions have already fused is America-A professional attorney authorized to plead cases on behalf of and in place of their clients (a lawyer) is called an attorney-at-law, while someone authorized to act on someone else's behalf in a legal or business matter is an attorney-in-fact, who does not have to be a lawyer.

According to my opinion, personally think that the two professions should not fuse. If they are just left as they are, the quality of their services and standards will be much higher than if they were to fuse. A higher work load would mean that there is too much to deal with and they could then begin to lack motivation, accuracy etc.

