

Guardians of justice: The ethical and social functions of lawyers in modern society

Leila Mohaghegh*

Abstract: *This study examines the social, ethical, and institutional roles of lawyers in contemporary legal systems and answers the central question of how these roles contribute to strengthening the rule of law, ensuring fair trial, and promoting public trust. The study's theoretical framework is based on concepts such as access to justice and lawyer independence. The research method is qualitative and based on document analysis of national legal sources, international instruments, and academic literature. The findings show that lawyers, in addition to legal representation, play a fundamental role in areas such as monitoring power, law reform, promoting legal awareness, and strengthening public trust. Also, the limitation of the right to a defence in the criminal sphere and inequality in access to legal services are among the main factors contributing to the justice gap. This article first examines the historical and theoretical foundations of the legal profession, then analyses the right to a defence and the role of lawyers in law reform, legal awareness, and public trust, and finally examines the challenges of access to a lawyer and lawyers' role in human rights. The results show that lawyer independence is a fundamental condition for the effective performance of these functions, and without ensuring equal access to legal services, the realisation of justice, and the legitimacy of the legal system will face challenges.*

Keywords: *rule of law; fair trial; access to a lawyer; lawyer independence; role of lawyers; public trust; human rights*

*Attorney at Law, Ph.D., in Innovation, Science, Technology and Law, Université de Montréal.
Here I honour the memory of my late father, Ahmad Mohaghegh; a man whose deep belief in justice, honesty, and human values was clearly evident in his life, and who was always considered a model of integrity and moral steadfastness; someone who respected the dignity of the legal profession and its high values.



This article content is offered under a [CC Attribution Non-Commercial No Derivatives license](https://creativecommons.org/licenses/by-nc-nd/4.0/). © the Author

1. Introduction

The rule of law is a fundamental concept in legal systems, although there are differing views on its precise limits and dimensions. However, there is wider agreement on principles such as due process, equality before the law, and accountability. The realisation of these principles lays the foundation for public trust in legal institutions. In such a structure, lawyers play an important role in ensuring the effective implementation of these values (Moorhead et al. 2023, 2).

The realisation of justice requires that individuals enjoy the “right to counsel” so that they can effectively defend their rights. The presence of a lawyer is not only a means of protecting the accused, but also an essential element in ensuring a “fair trial” and preventing violations of fundamental rights. Equal access to legal services has a direct impact on society’s perception of judicial fairness and, ultimately, on the legitimacy of government institutions. Justice requires that access to a lawyer not be reserved for the wealthy alone and that ordinary individuals be able to obtain legal services (Lintz et al. 2015, 5). The role of a lawyer in protecting citizens’ rights and defending individuals against institutions of power is crucial. Regulations should help address inadequate access to lawyers for those who cannot afford legal services and reduce inequalities in the provision of legal services, as limited access to legal representation constitutes injustice (Wald 2022, 375).

It is important to note that the role of a lawyer extends beyond legal representation to include explaining the law to citizens, monitoring procedural compliance, and preventing the arbitrary use of power. Lawyers use their legal knowledge to facilitate informed citizen participation and, through effective advocacy, contribute to the efficiency and accountability of the legal system. Their role also extends to drafting contracts, providing legal advice, monitoring the proper implementation of laws, and participating in the law reform process. However, these areas of law are often hidden from public view. In this regard, professional institutions such as bar associations help maintain the health of the legal system by developing standards of professional ethics and defending the independence of lawyers (Moorhead et al. 2023, 3).

To analyse the role of lawyers in the justice system, this research relies on key concepts such as the rule of law, lawyer independence, and access to justice. These concepts constitute the study’s theoretical framework and help clarify the relationship between lawyers’ professional functions and their institutional effects. The main question of the study is “what social, ethical, and institutional roles do lawyers play in contemporary legal systems, and how do these roles contribute to strengthening the rule of law, ensuring a fair trial, and enhancing public trust?” The study also examines whether existing legal frameworks are capable of effectively

guaranteeing the right to defence across different jurisdictions. In this context, “contemporary legal systems” refers to the current legal systems across multiple jurisdictions and is not limited to any specific country.

This study aims to examine the social, ethical, and institutional role of lawyers, and the effectiveness of legal representation in achieving justice, strengthening the rule of law, and promoting public trust in legal institutions. The research structure is arranged as follows: first, the history and theoretical foundations of the legal profession are examined; next, the concept of “right to defence” and the role of the lawyer in law reform, legal awareness and public trust, as well as the relationship of lawyer with the court, and the challenges of “access to lawyers” are discussed; and finally the position of the lawyer in the field of human rights advocacy is studied.

Although previous research has examined the role of lawyers, including their social functions and professional roles, their contribution to institutional and political development, and their ethical responsibilities in the pursuit of justice, the innovation of this study lies in providing an integrated analytical framework that simultaneously examines the social, ethical, and institutional dimensions of lawyers’ roles and assesses how these dimensions interact in different areas of legal services provision.

2. Methodology

A significant portion of the existing literature either focuses on lawyers’ roles in the criminal justice system or examines it through normative analysis, with insufficient attention to institutional functions. Furthermore, the relationship between lawyers’ roles and the efficiency of the legal system and public trust has been analysed less systematically. This article attempts to move beyond these fragmented approaches and explain the relationship between these elements at a common analytical level.

This research was conducted using a qualitative approach and employed document analysis as its primary method. The method was selected due to the conceptual nature of the subject and the need to examine the position and role of lawyers at the legal, social, and institutional levels; a subject that requires an in-depth analysis of legal texts, international instruments, and scholarly literature, rather than empirical or field data. In this research, conceptual content analysis systematically extracts key concepts from legal texts and international instruments to identify theoretical patterns concerning the role of lawyers.

In the first stage, research sources were determined to include three main categories:

1. Constitutional laws and national regulations related to the right to defence and the independence of lawyers;

2. International documents, including the International Covenant on Civil and Political Rights (ICCPR 1966), European Convention on Human Rights (ECHR 1950), American Convention on Human Rights (ACHR 1969), basic principles on the role of lawyers, and other human rights documents;

3. Academic literature, including books, research articles, and historical studies on the legal profession, the social role of lawyers, and their relationship to the rule of law and justice.

After collecting the sources, conceptual content analysis was used to identify patterns across three main dimensions of the research: the lawyer's contribution to upholding the rule of law, their function in ensuring a fair trial, and their social, ethical, and institutional position within the justice system.

Although this article is not a comparative study and aims to examine the role of the lawyer in society in general, to strengthen the validity of the analysis, a comparative approach was also used; meaning that regulations related to the right to defence in several legal systems (United States, Canada, Germany, European Union, India, and China) as well as international instruments were used as examples. This research uses comparative examples to strengthen the conceptual analysis.

This methodology enables the research to reach theoretical and analytical conclusions about the role and position of lawyers in achieving justice and strengthening the legitimacy of legal structures, without relying on statistical data, by analysing authoritative legal and scholarly texts.

3. Historical evolution of lawyers and advocacy

The purpose of this section is not to comprehensively review the history of lawyers and advocacy in the world; rather, it will briefly address the most important developments in this profession.

In the Western world, the first people who could be considered lawyers in the true sense of the word were the ancient Greek orators. At that time, eloquence and rhetorical persuasion were considered the main criteria for success, leading to the emergence of the professional orator, a figure regarded as the prototype of the modern lawyer. These individuals defended others in courts using their oratory skills and legal knowledge (Jacobowitz 2021, 283).

Among these orators, Demosthenes is the most prominent example. He lived in the fourth century BC, was one of the greatest orators in Greek history, and an important figure in Athenian public life. In addition to his outstanding skills in rhetoric and legal defence, Demosthenes was active in political thought and government administration. This combination of

oratory skills, legal awareness, and political concern made him a figure who went beyond that of a legal advocate and was influential in social and political arenas (Worthington 2013).

In ancient Rome, a more advanced legal system was formed, and a group of jurists/jurisconsults was responsible for providing legal advice. These individuals were not only among the most prominent figures of Roman legal culture, but also an important part of what is known today as Roman law, the result of their thought and innovation. In addition to their scientific role, they served as law designers and lawmakers, exerting a fundamental influence on the development of the law. There was a two-way relationship between them and government officials: jurists interpreted the laws, and, in turn, the government amended or reformulated them based on their interpretations and suggestions (Mehmeti 2020, 55).

The history of the formation of formal organisations of legal practitioners is not fully documented. By the end of the eleventh century, a group of individuals known as *Legis Doctores* was practicing as advocates in Modena, but there is no evidence of formal organisations at that time. From the early thirteenth century, there are signs of the simultaneous formation of professional guilds in several regions. Two main models for organising these professions emerged: the Florence Model, in which advocates, proctors, and notaries worked in a common guild; and the Bologna Model, in which advocates and notaries were in separate organisations (Brundage 1988, 445).

During the Middle Ages, the legal profession developed a deep connection with the church. Lawyers played an important role in the ecclesiastical courts, and many of the principles of legal ethics that today guide professional conduct have their roots in Canon Law. For example, the Constitutions of Pope Benedict XII (1334–42) required judges and papal administrators to fine negligent lawyers and compel them to make restitution for negligence (Brundage 1988, 452).

During the Renaissance, law became central, and the legal profession gradually separated from ecclesiastical institutions and became part of the secular judicial systems of the emerging States. During this period, lawyers were no longer considered representatives of the Church, but rather officers of the court. This period laid the groundwork for the formation and consolidation of modern legal ethics and professional independence (Ibbetson 2021, s93).

In the eighteenth century, despite criticisms of the legal profession, the social status of lawyers continued to rise. During this period, law still held the highest position among the three major scientific professions: church, medicine, and law. The reason for this superiority was the increased public

respect for the judiciary and the bar, as well as the independence of these institutions from royal or political pressure, which strengthened lawyers' position in society (Rose 2009, 20).

The process of true professionalisation of the legal profession and the elimination of amateur lawyers began in the mid-nineteenth century and continued in several stages until the mid-twentieth century. This development significantly improved the social status of lawyers and consolidated their professional role in society (Halpérin 2018, 3). For example, in the mid-nineteenth century, the American legal community moved toward establishing an ethical and professional identity and developing ethical standards for the legal profession. This process was not simply an effort to enhance the lawyer's technical competence, but rather to establish the lawyer as a member of a moral and professional community, one with responsibilities beyond client representation and recognised as a guardian of public trust and custodian of civic values. This development paved the way for rapid professionalisation after the American Civil War and with the rise of industrial capitalism, and laid the foundation for the modern social status of the legal profession in the United States, a position in which the lawyer is considered not only an agent of the law but also a pillar of moral and social order (Greenfield 2024, 57).

Since the beginning of the twentieth century, the number of lawyers has gradually increased, and the legal profession has expanded. During this period, the entry of women into this field has increased gender diversity, enhanced the profession's social impact, and broadened participation (Friedman 2019, 703).

It should also be noted that, in the late eighteenth, nineteenth, and early twentieth centuries, United States lawyers, alongside European played a prominent role in the formation and consolidation of international law. Their activities, from legal counselling in international affairs to State representation in negotiations and treaties, directly contributed to the formulation, development, and explanation of the principles of this branch of law. Many of these lawyers helped to institutionalise the rules of international law by participating in the drafting of international treaties and agreements or by playing a role in diplomatic and judicial practices. Others, through legal education, scholarly writing, and theoretical analysis, made important contributions to the development of international law literature and teaching. In sum, the role of lawyers in this period was fundamental and enduring, not only as judicial representatives but also as intellectual and practical architects of the international legal system (Raymond and Frischholz 1982, 802).

The legal profession has always had a deep connection to the defence of justice and individual rights. Over the centuries, it has evolved from

a rhetoric-oriented practice of ancient orators to a structured profession based on legal ethics, specialised training, and the protection of human dignity. Throughout history, the legal profession has been recognised as an essential component of our society, one that has been both respected and criticised (Jacobowitz 2021, 280–81).

4. The right to defence

The concept of the right to defence means that every person has the right to benefit from the presence of a lawyer at all stages of the proceedings. The presence of a lawyer not only provides the opportunity to receive legal assistance in preparing and developing the defence strategy, but also ensures that all procedural safeguards are observed in a real and effective manner (not merely ceremonial) throughout the criminal process, including the pre-trial stage. Therefore, government authorities are obliged to create conditions that ensure the defence lawyer has access to all the information necessary to provide an adequate defence, and to guarantee him full access to the case file. If the accused cannot afford to hire a lawyer, the government is obliged to provide the necessary tools and services for access to counsel. This principle is one of the fundamental foundations of justice in legal systems because an effective defence requires legal knowledge and familiarity with complex regulations that most people lack. In addition, the right to a defence, beyond protecting the individual rights of the accused, plays an important role in strengthening public trust and the continuation of the rule of law (Bachmaier Winter et al. 2020, 13).

One essential element in ensuring the health of the criminal justice system is that court-appointed lawyers defend their clients with the same level of commitment and diligence as private lawyers. These lawyers must act completely independently of law enforcement agencies, including investigators, police, prosecutors, and the courts, and adhere to the same principles of professional confidentiality required of defendants' chosen lawyers (Bachmaier Winter et al. 2020, 22).

The right to counsel is explicitly provided for in some constitutional systems. In some countries, although the constitution does not explicitly mention the right to counsel, this right is effectively ensured through ordinary law and judicial practice. In the United States, the Sixth Amendment states that: "in all criminal prosecutions, the accused shall enjoy the right to ... have the assistance of counsel for his defense" (Sixth Amendment to the United States Constitution 1791). In Canada, section 10(b) of the Canadian Charter of Rights and Freedoms states that: "everyone has the right on arrest or detention: ... (b) to retain and instruct counsel without delay and to be informed of that right" (Canadian Charter of Rights and Freedoms 1982). In India, Article 22(1) of the Constitution of India explicitly guarantees the right to counsel and provides that every detained person has the right to be advised and

defended by a legal practitioner of his choice. This article states: “no person who is arrested shall be detained in custody ... nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice” (Constitution of India 1950). The German Code of Criminal Procedure (Strafprozessordnung - StPO), Section 137, clearly emphasises the right to legal counsel at all stages of criminal proceedings, thereby effectively guaranteeing the accused’s right of defence in the German judicial system (German Code of Criminal Procedure (StPO) 1877). According to Article 130 of the Constitution of the People’s Republic of China, “the accused shall have the right to defense” (Constitution of the People’s Republic of China 1982) and Article 33 of the Criminal Procedure Law of the People’s Republic of China: “In addition to defending himself or herself, a criminal suspect or defendant may retain one or two defenders”(Criminal Procedure Law of the People’s Republic of China 2018).

At the international level, several documents have emphasised the importance of having a lawyer present. One of the most important of these documents is the Basic Principles on the Role of Lawyers (1990, Havana), adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. This document emphasises that effective access to independent lawyers at all stages of the criminal process, together with confidential lawyer–client communication and the possibility of free exercise of professional functions, are essential elements of a fair trial (United Nations 1990a).

The ICCPR also lists the fundamental rights of the accused in the context of a fair trial in Article 14(3)(D). This paragraph emphasises that the accused must be tried in his presence and has the right to defend himself in person or through legal assistance of his own choosing; and if he does not have legal assistance, he must be informed of this right. In addition, where the interests of justice so require, legal assistance must be provided to him, without denial of this right on grounds of financial inability (ICCPR 1966).

The right to a lawyer is recognised in all Member States of the Council of Europe under Article 6(3)(C) of the ECHR. This article provides that everyone charged with a criminal offence must have the minimum rights to defend themselves in person or through legal assistance of their choice, and that, if they have no means of payment, they must be given legal assistance free of charge when the interests of justice so require (ECHR, as Amended by Protocols Nos. 11, 14 and 15 1950). Article 47 of the Charter of Fundamental Rights of the European Union (EU Charter) states that: “Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice” (EU Charter of Fundamental Rights 2012). Therefore, free legal aid is an essential part of achieving effective access to justice.

Also, Article 8(d) and (e) of the ACHR similarly guarantees these rights: “(d) the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel” (Organization of American States 1969) and “(e) the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law” (Organization of American States 1969).

Accordingly, the right to have a lawyer is not an additional privilege, but an integral part of the concept of a fair trial and one of the main pillars of the rule of law. The presence of a lawyer ensures that the accused, regardless of their economic or social status, can defend their rights equally and have a real opportunity to defend themselves (United Nations Office on Drugs and Crime (UNODC) 2019, vii). However, despite the recognition of this right, its implementation remains subject to criticism, especially in civil litigation, where access to legal aid remains limited.

5. Lawyers and law reform

Lawyers play a central role in the dynamism and transformative capacity of the legal system and the realisation of the rule of law, because they are the bearers of what can be called “legal human capital.” This fundamental capital is the resource the legal system draws on to interpret, implement, and adapt laws in local contexts and changing circumstances. Legal human capital refers to the collective and accumulated knowledge of members of the legal profession, including lawyers and judges; knowledge that is formed and sustained about the real effects of regulations in social and economic arenas, and allows the law to find meaning beyond the text, within the framework of legal experience and practice (Hadfield 2007, 403).

Lawyers play a fundamental role in law reform. By examining case law and legal practice, lawyers identify the strengths and weaknesses of the law and present these practical findings to legislative bodies to help align laws more closely with social realities. Many lawyers who work in academia, as legal researchers or academics, contribute to improving the legal structure through scholarly publications and policy recommendations, as well as through collaboration with formal institutions such as the Law Commission and informal law reform groups. However, legislation is not the only route to law reform; if the courts are persuaded to adopt one interpretive approach rather than another, this change can lead to rapid and effective reform, because the new interpretation immediately affects how the law is applied. Lawyers also help shape legal discourse by participating in public debates and publishing articles, thereby facilitating social acceptance of reforms. Hence, a lawyer is not only an advocate for an individual in court, but also a social reformer who plays a role in the realisation of justice (Smith 1981, 119).

Another point is that, in many countries, Bar Associations, as independent bodies, propose legal amendments and policy reforms. These bodies, composed of lawyers, provide a clear picture of the challenges of implementing laws in practice and convey them to legislators. The participation of lawyers in the legislative process ensures that the legal system remains dynamic and up to date (Ontario Bar Association 2025).

6. Lawyers, legal awareness, and public trust

Civil rights movements have emphasised the need for practical legal knowledge for non-lawyers. In a functioning democracy, people must understand their rights and know how to enforce them. From a social perspective, lawyers make legal concepts more understandable to the public by publishing scholarly articles, giving public speeches, and being active on media platforms. This process makes citizens more aware of their legal entitlements and enables them to respond to any violations of these rights in an informed and responsible manner (Wallace 2021, 1–2).

Public legal education is a key tool that helps individuals understand their rights and how to exercise them. The integration of public legal education programmes, led by lawyers and implemented within the educational system, can enhance legal knowledge and foster informed civic engagement and youth activism. As a result, the groundwork has been laid for the formation of a generation that can understand and influence the law and society, and help reduce barriers to access to justice by fostering a more responsive and socially aware legal system (Markus 2024).

Beyond legal education, lawyers' actions also play a significant role in shaping public perceptions of fairness and trust in the legal system. By providing legal advice and full defence to clients, they ensure that individuals' rights are respected and that the legal process remains fair.

People who experience procedurally fair treatment from legal authorities feel more socially included and experience higher self-esteem. This experience increases their motivation to accept the legitimacy of authorities, cooperate with them, and comply with the law out of a sense of obligation (Meyerson 2015, 82).

Although the presence of lawyers can help increase public trust in the judicial system, this effect varies by institutional context. However, when citizens are confident that they can properly assert their rights with the help of a lawyer, their trust in the justice system is also strengthened. Such social trust is a fundamental factor in the formation of social peace and cohesion, and it contributes to the stability and efficiency of society's legal and social order (Taylor Poppe and Rachlinski 2016, 889).

7. Lawyers and courts

7.1 *Lawyers as intermediaries in the judicial process*

Courts are the place where justice is done, but in many cases, the laws and regulations are so complex that they are not understandable to ordinary citizens. In such situations, the lawyer serves as an intermediary between the public and the legal system. The presence of lawyers helps prevent rights violations and enhances the credibility and efficiency of the judicial system (Heineman et al. 2014, 9).

In court, a lawyer not only acts as an advocate for the client but also actively participates in preparing and presenting the case. By conducting legal research, collecting evidence, preparing legal documents, and presenting arguments before the judge, the lawyer helps the client to assert their rights effectively (Canadian Judicial Council, n.d.) Also, during the proceedings, the lawyer has the duty to raise all relevant issues freely and without fear, to use all legal defences and remedies, and to defend the client's right to a fair hearing in accordance with the law and the recognised standards and ethics of the legal profession (United Nations 1990b, 3). These measures enable ordinary people who are not sufficiently familiar with judicial processes to effectively defend their rights and increase the chances of achieving justice.

7.2 *Lawyers and judicial decision-making*

The lawyer and the judge move in the same direction, and their ultimate goal is the realisation of justice. These two can rightly be called the two wings of the justice system because each, in its own role, plays a complementary and essential part in ensuring fairness within the judicial process.

A lawyer has the duty to defend their client or support a claim and is considered one of the parties to the case. The judge examines the case through the opposing viewpoints of the lawyers of both sides. Since each party must convincingly present their evidence and arguments, the judge can examine the case with an open mind and impartiality and make a fair decision (Re 1985, 504). But a judge, like any other human being, may make human errors or be subject to external pressures. In many judicial systems, judges face case overload, heavy workloads, and time constraints that can affect the accuracy of their decision-making. In such situations, the lawyer's arguments play an important role in clarifying the facts. The lawyer, as an observer and defender of citizens' rights, guides the proceedings towards justice by providing accurate, well-reasoned legal analyses. Lawyers can also play an effective role in reducing judicial corruption by challenging unlawful decisions and misconduct, and by ensuring transparency in proceedings (Hadfield 2007, 409).

The relationship between lawyer and judge, especially in authoritarian systems, faces structural and institutional challenges that can severely affect the functioning of justice. One of the most important of these challenges is the limitation of lawyers' access to the case; in some systems, the lawyer does not have full access to the necessary documents and evidence in the early stages of the proceedings, which violates the principle of equality of arms and prevents the presentation of an effective defence. In some countries, pressure from security agencies on lawyers, especially in political or security cases, disrupts the professional relationship between lawyers and the courts and threatens their independence. Also, the lack of independence of the courts (judicial independence) in some legal systems means that the judges do not have sufficient freedom to act, and administrative or political considerations influence their decision-making. Such structures not only undermine public trust in the judiciary but also limit lawyers' role in protecting citizens' rights and upholding the rule of law (Burlacu and Rusnac 2025, 157)¹⁵⁷. As a result, the role of lawyers in judicial decision-making depends on the degree of judicial independence and the institutional structures of each legal system, which ultimately determine the extent to which legal arguments can influence adjudication processes and outcomes.

8. Access to a lawyer for all social groups

One of the fundamental principles of justice is equal access to a lawyer for all social groups. In criminal proceedings, defence lawyers play an important role in protecting the legal rights of defendants; a role that is not limited to individual defence but also contributes to the realisation of justice and even the formation of international standards (Yao 2023, 98).

In many countries, the right to a defence attorney is recognised in criminal cases, and even low-income individuals can use a public defender. However, in civil litigation, the situation is quite different: socio-economic status plays a decisive role in individuals' behaviour when faced with legal problems. Those who most need legal protection in civil litigation are usually the least able to pursue their legal claims. Vulnerable individuals in the lowest economic classes face serious financial barriers, so they cannot afford to hire a lawyer or even receive basic legal consultation; as a result, many of their legal problems remain unaddressed (Wallat 2019, 606). Wealthy individuals actually enjoy greater advantages in the justice system, although this situation is inconsistent with the fundamental principle of justice for all. If low-income individuals are denied access to a lawyer, a segment of society is effectively deprived of the rule of law. As a result, many low-income individuals are either unaware of their rights or cannot afford legal fees, leading them to resolve their disputes without legal mechanisms. This situation prevents individuals from pursuing their rights in the short term and, in the long term, deepens the justice gap and weakens public trust in the judicial system and the rule of law. Therefore,

reforming regulations to ensure access to legal services in non-criminal cases is both a social and legal necessity and a fundamental step toward reducing the justice gap (Wallat 2019, 584).

“Poverty is both a source and a consequence of injustice” (Bellsmith et al. 2022, 3). Instead of empowering people with low incomes and allowing them to fight for their rights, the justice system is sometimes a source of hopelessness, frustration, and helplessness, and a direct reflection of prevailing social inequality and deprivation (Bellsmith et al. 2022, 3). To achieve social justice, governments must provide mechanisms that enable all members of society, regardless of circumstances, to benefit from free or low-cost legal services. These measures include expanding legal aid centres and providing free legal advice. In addition, lawyers can play an effective role in spreading real justice by providing free or low-cost legal services. When all citizens can defend their rights, social cohesion is strengthened, and the ground for sustainable justice is laid (Bellsmith et al. 2022, 29–30).

One of the structural reasons for this gap is the difference in government policy priorities and the way in which legal aid frameworks have been developed, such that in many legal systems, guaranteeing the right to counsel in criminal cases is seen as an urgent and essential obligation. In contrast, civil cases often enjoy a lower level of institutional support. However, in some legal systems, within the framework of the gradual development of access-to-justice standards, the right to a lawyer in civil cases has also been recognised or supported (NCCRC, n.d.)

Comparative analysis shows that different legal systems use different models to provide access to justice. In some countries, State-funded legal aid systems play a major role, while in others, hybrid models that combine State support with pro bono services by lawyers are used. These differences show that access to legal services is not only a legal issue, but also a policy choice that depends on the social and economic conditions of each society. Therefore, access to lawyers for all social groups to truly achieve justice is only possible through the establishment of effective enforcement mechanisms (OECD 2025, 12, 22, 45).

If lawyers play a fundamental role in the effectiveness of the rule of law through their services, it is obvious that the cost of those services is also an important issue. When the cost of legal services is too high, many relationships and disputes are resolved without recourse to the law. As a result, legal human capital does not have the opportunity to form and grow. This situation is not only harmful to individuals in the short term, but also weakens the entire legal system and the rule of law itself in the long term. Therefore, the cost and accessibility of legal services should be considered among the important criteria for assessing the state of the rule of law (Hadfield 2007, 417).

Another challenge arises when lawyers are tasked with defending people who have strong evidence against them and who are accused of committing dangerous and destructive acts, such as serial killers or sexual offenders. In the public eye, the impression is sometimes created that a criminal defence lawyer is relying on technical arguments or legal loopholes to try to free someone who is apparently guilty. However, it should be noted that the criminal justice system is based on the fundamental principle that everyone is presumed innocent until proven guilty beyond a reasonable doubt. Accordingly, the lawyer's duty is to ensure that this principle is observed and to protect the rights of the accused, not to justify the crime (Singh 2022). In fact, the main purpose of the legal system in granting these rights is to protect the accused at all stages of the trial by fully utilising the capacity of defence lawyers. Defence lawyers are guardians of human rights and defenders of the constitution and legal protection. In the trial process, it is essential that they can fully play their role so that justice is served (Yao 2023, 98).

To reduce this public misconception, the main solution is to increase public awareness of the true role of defence attorneys; that defending the accused does not mean defending the crime, but rather defending principles such as due process and the right to a fair trial. Clear media coverage, understandable explanations in sensitive cases, and public education about why these rights exist can correct public perception and make it clear that effective defence is a prerequisite for a fair trial. The better citizens understand that defence attorneys have a duty to protect the accused's legal rights so that justice is served, the less pressure and misjudgements against lawyers will be (Wintersteiger 2015, 6).

9. Lawyers and human rights

Lawyers are among the most important human rights defenders in any society. Their duty is not only to pursue legal cases, but also to protect fundamental freedoms such as freedom of expression, freedom of assembly, and minority rights. In this context, they act as a social watchdog, playing a fundamental role in protecting human freedoms and values by monitoring and reporting human rights violations. They contribute to the transparency and soundness of the legal system by exposing corruption and reporting misconduct to the appropriate authorities. Such actions make society more resilient and safer against various forms of injustice (Koula 2024, 103).

In countries experiencing institutional breakdown or disregard for the rule of law, lawyers face serious risks in performing their professional duties. They are on the front lines of defending human rights and supporting people whose rights have been violated. Still, in doing so, they face pressures such as judicial harassment, threats, revocation of licences, baseless interrogations, arbitrary detention, and even forced deportation.

Authoritarian regimes not only prevent them from performing their legal duties but also, by creating surveillance, intimidation, and artificial restrictions, disrupt the professional and confidential relationship between lawyers and clients and prevent lawyers from effectively defending their clients. Especially when the clients are political opponents, journalists, or human rights activists. The increasing pressure and prosecution of lawyers simply for carrying out their defence duties is one of the most worrying signs of the weakening of justice and the elimination of independent voices in society (Amin et al., n.d.).

In authoritarian States, the rule of law is more of an ideal than an objective reality, and lawyers strive to realise its fundamental principles, including the authority of law, the separation of powers, respect for fundamental human and civil rights, and the establishment of an independent judiciary and an independent legal profession. In mature democracies, many of the core elements of the rule of law are institutionalised, yet these countries are not immune to hidden or emerging challenges in this area. Lawyers in general play an important role in monitoring government power, combating rights abuses, and protecting legal mechanisms. Therefore, whether in fragile States or in established democracies, the role of lawyers in maintaining and strengthening the rule of law is essential and irreplaceable (Wald 2024, 1–2). The situation of lawyers in non-democratic States requires special attention, since various constraints in such systems directly affect their professional activity.

Political pressure, professional restrictions, weak legal accountability structures, limited resources, and insufficient institutional support can reduce lawyers' capacity to play this role effectively. Furthermore, in some systems, excessive dependence of legal institutions on the State or weak professional independence prevents lawyers from playing an effective role in oversight of power (Khalikova and Kazun 2021, 373).

Despite these threats, lawyers have the right, under international professional standards, to defend their clients in national courts against unlawful actions by State bodies and to challenge violations of international obligations by States through international human rights mechanisms, such as by reporting, documenting violations, or participating in monitoring processes. The purpose of these rights is not to grant lawyers privileges, but to ensure that individuals at risk of violations of their fundamental rights receive independent and qualified legal assistance. Human rights lawyers are at the forefront of defending human freedoms and values. As human rights defenders, they need protection, as they are often the last refuge for persecuted activists, journalists, and defenceless citizens (Amin et al., n.d.).

The independence of lawyers is a fundamental safeguard for the protection of human rights and the effective monitoring of State power, and

a necessary condition for ensuring a sound judicial system in which lawyers can defend all human rights activists without fear. A lawyer can effectively defend human rights when he is immune from political, economic, or judicial interference and pressure; otherwise, his role is reduced to a ceremonial level and devoid of real function. In many societies, lawyer independence is the product of the legal profession's historical struggles and ensures that lawyers can stand up to abuses of power, violations of rights, and injustices without fear of sanctions, retaliation, or artificial restrictions. Just as a judge must be independent in the arbitration process, a lawyer must also enjoy professional autonomy in defending his client. Supporting a lawyer's independence is supporting justice itself, because without independent legal representation, the realisation of justice will either be incomplete or impossible (International Commission of Jurists 2025, 9–10).

10. Conclusion

As one of the main pillars of the judicial system, lawyers play a fundamental role in achieving justice and strengthening the rule of law. Their presence in court helps ensure a fair trial, protect citizens' rights, and reduce judicial errors. Cooperation between lawyers and judges forms the two main wings of the justice system and helps prevent violations of the rights of litigants.

The role of lawyers is not limited to the court. By analysing laws and judicial precedents, identifying legal weaknesses, and providing policy recommendations, they participate in the law reform process and help update and make laws more effective. The professional presence of lawyers in areas such as legal education, public awareness, and the fight against corruption also plays a decisive role in improving the quality of the legal order.

Equal access to legal services for all segments of society, especially low-income individuals, is an important part of lawyers' role in achieving social justice. Providing pro bono or low-cost services and ensuring lawyer independence, in addition to strengthening public trust in the judiciary, increases social cohesion, and the legitimacy of legal structures.

The analysis indicates that limiting the guarantee of the right to a defence to the criminal sphere is a structural inefficiency that causes deep inequalities in access to justice. Without affordable and accessible legal services in civil disputes, a large portion of citizens is effectively deprived of the protection of the law. Therefore, legal reforms should move towards creating universal legal protection systems, developing non-criminal legal aid, and strengthening genuine equality in access to legal representation for all members of society. To achieve access to justice, countries can use models such as legal aid expansion programmes, public defender systems in civil cases, and State-funded legal insurance schemes.

In general, a lawyer is not just an individual rights advocate; he is also a social activist who plays a role in court, law reform, legal education, and the defence of human rights. Supporting the independence of lawyers and ensuring universal access to legal services are prerequisites for achieving sustainable justice, the legitimacy of judicial institutions, and social security.

This research shows that the independence and ethical integrity of lawyers are essential not only for individual justice, but also for the health and sustainability of democratic governance. When lawyers are independent, committed, and trusted, justice transcends the courtroom and becomes a living, dynamic social value.

References

- Amin, Salim, Niklas Malte Müller, and Michaela Lissowsky. n.d. "Human Rights: Resilience against Injustice - Lawyers as Human Rights Defenders." Friedrich Naumann Foundation for Freedom. Accessed November 1, 2025. [Link](#) (last visited 14 July 2026).
- Bachmaier Winter, Lorena, Stephen C. Thaman, and Veronica Lynn, eds. 2020. *The Right to Counsel and the Protection of Attorney-Client Privilege in Criminal Proceedings: A Comparative View*. Vol. 44. Ius Comparatum - Global Studies in Comparative Law. Springer International Publishing. [Link](#) (last visited 14 July 2026).
- Bellsmith, Ireland, Olivia Goertzen, Kia Neilsen, and Olivia Stinson. 2022. *Poverty and Access to Justice - Review of the Literature*. International Centre for Criminal Law Reform. [Link](#) (last visited 14 July 2026).
- Brundage, James A. 1988. "The Medieval Advocate's Profession." *Law and History Review* 6 (2): 439–64. [Link](#) (last visited 14 July 2026).
- Burlacu, Ivan, and Constantin Rusnac. 2025. "The Right to Defense and Equality of Arms in Criminal Proceedings." *ACROSS Journal of Interdisciplinary Cross-Border Studies* 9 (5): 145–61. [Link](#) (last visited 14 July 2026).
- Canadian Charter of Rights and Freedoms, Constitution Act. 1982. [Link](#) (last visited 14 July 2026).
- Canadian Judicial Council. n.d. "The Role of Lawyers." Canadian Judicial Council (CJC). Accessed April 26, 2026. [Link](#) (last visited 14 July 2026).
- Charter of Fundamental Rights of the European Union. 2012. Pub. L. No. 12012P/TXT, OJ C 326 12012P/TXT (2012). [Link](#) (last visited 14 July 2026).
- Constitution of India. 1950. [Link](#) (last visited 14 July 2026).
- Constitution of the People's Republic of China 1982 (as amended 2019). [Link](#) (last visited 14 July 2026).
- Criminal Procedure Law of the People's Republic of China. 2018. [Link](#) (last visited 14 July 2026).
- Council of Europe. 1950. European Convention on Human Rights, as Amended by Protocols Nos. 11, 14, and 15. [Link](#) (last visited 14 July 2026).

- Friedman, Lawrence M. 2019. "Internal Legal Culture in the Twentieth Century: Lawyers, Judges, and Law Books." In *A History of American Law*, edited by Lawrence M. Friedman. Oxford University Press. [Link](#) (last visited 14 July 2026).
- German Code of Criminal Procedure (StPO). 1877. [Link](#) (last visited 14 July 2026).
- Greenfield, Abigail. 2024. "The Lawyer in Limbo: The Mid-19th-Century American Legal Profession's Status, Ethics, and Identity." *Chronos: The Syracuse University Undergraduate History Journal* 15 (1): 49–58. [Link](#) (last visited 14 July 2026).
- Hadfield, Gillian. 2007. "Don't Forget the Lawyers: The Role of Lawyers in Promoting the Rule of Law in Emerging Market Democracies." *DePaul Law Review* 56 (2): 401–21.
- Halpérin, Jean-Louis. 2018. "A Historical Panorama of the Legal Professions in France and Abroad." *Annales Des Mines – Enjeux Numériques* 3 (September): 1–5.
- Heineman, Ben, William F. Lee, and David B. Wilkins. 2014. *Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21st Century*. Belfer Center for Science and International Affairs - Harvard Kennedy School. [Link](#) (last visited 14 July 2026).
- Ibbetson, D. J. 2021. "The Renaissance of English Legal History." *The Cambridge Law Journal* 80 (S1): S91–106. [Link](#) (last visited 14 July 2026).
- International Commission of Jurists. 2025. *Justice Under Pressure: Strategic Litigation of Judicial Independence in Europe*. International Commission of Jurists (ICJ). [Link](#) (last visited 14 July 2026).
- ICCPR (International Covenant on Civil and Political Rights). 1966. UN General Assembly Resolution 2200A (XXI) of 16 December 1966, entered into force 23 March 1976. 999 UNTS 171. [Link](#) (last visited 14 July 2026).
- Jacobowitz, Jan. 2021. "Chaos or Continuity? The Legal Profession: From Antiquity to the Digital Age, the Pandemic, and Beyond." *Vanderbilt Journal of Entertainment & Technology Law* 23 (2): 279–300.
- Khalikova, Yulia, and Anton Kazun. 2021. "Should I Stay, or Should I Go? Self-Legitimacy of Attorneys in an Authoritarian State." *Crime, Law and Social Change* 75 (4): 373–95. [Link](#) (last visited 14 July 2026).
- Koula, Aikaterini-Christina. 2024. "Human Rights Violations Committed Against Human Rights Defenders Through the Use of Legal System: A Trend in Europe and Beyond." *Human Rights Review* 25 (March): 99–122. [Link](#) (last visited 14 July 2026).
- Lintz, Howard, Yallana McGee, Ola Mohamed, et al. 2015. *A Basic Human Right: Meaningful Access to Legal Representation*. The Human Rights Policy Seminar. University of North Carolina School of Law. [Link](#) (last visited 14 July 2026).
- Markus, Shelan. 2024. "The Legal Profession Must Support Public Legal Education for Youth." *Canadian Lawyer*. November 1. [Link](#) (last visited 14 July 2026).
- Mehmeti, Sami. 2020. "Jurists and Political Authority in Ancient Rome." *Acta Universitatis Danubius. Juridica* 16 (3): 54–70.
- Meyerson, Denise. 2015. "Why Should Justice Be Seen to Be Done?" *Criminal Justice Ethics* 34 (1): 64–86. [Link](#) (last visited 14 July 2026).
- Moorhead, Richard, Andrew R. Devine, and Amy Woolfson. 2023. *What Does It Mean for Lawyers to Uphold the Rule of Law*. Legal Services Board (LSB). [Link](#) (last visited 14 July 2026).
- NCCRC. n.d. "International Perspective on Right to Counsel in Civil Cases." National Coalition for a Civil Right to Counsel. Accessed April 26, 2026. [Link](#) (last visited 14 July 2026).
- OECD. 2025. *Toolkit for Access to Justice and People-Centred Justice Systems*. OECD. [Link](#) (last visited 14 July 2026).

- Ontario Bar Association. 2025. "LSO Governance and Electoral Reforms Proposal | Ontario Bar Association." Ontario Bar Association, February 18. [Link](#) (last visited 14 July 2026).
- Organization of American States. 1969. American Convention on Human Rights, Pact of San Jose. Costa Rica. Organization of American States - OAS. November 22. [Link](#) (last visited 14 July 2026).
- Raymond, John M., and Barbara J. Frischholz. 1982. "Lawyers Who Established International Law in the United States, 1776-1914." *The American Journal of International Law* 76 (4): 802–29. [Link](#) (last visited 14 July 2026).
- Re, Edward D. 1985. "Role of the Lawyer in Modern Society." *South Dakota Law Review* 30: 501–14.
- Rose, Jonathan. 2009. "The Chivalric Ethos of the Legal Profession - Loyalty and Honor." SSRN Scholarly Paper No. 1522255. Social Science Research Network, December 11. [Link](#) (last visited 14 July 2026).
- Singh, Avinash. 2022. "Can a Lawyer Defend Someone Who Is Guilty?" Astor Legal. January 27. [Link](#) (last visited 14 July 2026).
- Sixth Amendment to the United States Constitution, U.S. Const. amend. VI. 1791. [Link](#) (last visited 14 July 2026).
- Smith, J. C. 1981. "An Academic Lawyer and Law Reform." *Legal Studies* 1 (2): 119–30. [Link](#) (last visited 14 July 2026).
- Taylor Poppe, Emily, and Jeffrey Rachlinski. 2016. "Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes." *Pepperdine Law Review* 43 (4): 881–944.
- United Nations. 1990a. "Basic Principles on the Role of Lawyers." United Nations. September 7. [Link](#) (last visited 14 July 2026).
- United Nations. 1990b. "Handout 4.4 - Basic Principles on the Role of Lawyers (Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990)." Office of the High Commissioner for Human Rights (OHCHR). [Link](#) (last visited 14 July 2026).
- United Nations Office on Drugs and Crime (UNODC). 2019. *Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes*. Criminal Justice Handbook Series. United Nations. [Link](#) (last visited 14 July 2026).
- Wald, Eli. 2022. "The Access and Justice Imperatives of the Rules of Professional Conduct." *The Georgetown Journal of Legal Ethics*, Aquatic Ecology Series, vol. 35: 375–427.
- Wald, Eli. 2024. "The Role of Lawyers in Mature Democracies When the Rule of Law is Under Attack." SSRN Scholarly Paper No. 4947719. Social Science Research Network, September 1. [Link](#) (last visited 14 July 2026).
- Wallace, Amy. 2021. "Review: Public Legal Education – The Role of Law Schools In Building a More Legally Literate Society (Routledge 2021)." SSRN Scholarly Paper No. 3943343. Social Science Research Network. October 8. [Link](#) (last visited 14 July 2026).
- Wallat, Katherine S. 2019. "Reconceptualizing Access to Justice." *Marquette Law Review* 103 (2): 581–626.
- Wintersteiger, Lisa. 2015. *Legal Needs, Legal Capability and the Role of Public Legal Education*. Law for Life: The Foundation for Public Legal Education. [Link](#) (last visited 14 July 2026).
- Worthington, Ian. 2013. "Demosthenes, Orator." In *The Encyclopedia of Ancient History*. Blackwell Publishing Ltd. [Link](#) (last visited 14 July 2026).
- Yao, Keli. 2023. "Research on the Protection of Rights for Defense Attorneys." *Academic Journal of Management and Social Sciences* 4 (2): 98–102. [Link](#) (last visited 14 July 2026).