

Lawyer's Strike & Professional Ethics

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Abstract: The legal profession occupies a vital role in ensuring the administration of justice, upholding the rule of law, and safeguarding constitutional rights. However, recurrent strikes and abstention from court proceedings by lawyers in India have raised critical concerns regarding professional ethics and the effective functioning of the justice delivery system. This research paper examines the socio-legal dimensions of lawyers' strikes, analyzing their impact on litigants, judicial efficiency, and public trust in the legal system. The study investigates the ethical obligations imposed on advocates under the Advocates Act, 1961, the Bar Council of India Rules, and constitutional mandates, emphasizing principles such as duty to the court, duty to clients, and commitment to legal justice. Through review of landmark judicial pronouncements including Ex-Capt. *Harish Uppal v. Union of India (2003)*, this paper highlights that lawyers' strikes are considered illegal and unjustified, except under the most exceptional circumstances. The research also explores the underlying causes of professional protests—ranging from political influence to institutional dissatisfaction—and assesses alternative mechanisms for expressing collective grievances without hampering court proceedings. The findings underscore the need for stronger regulatory enforcement, ethical sensitization, accountability mechanisms, and constructive dialogue between Bar Associations and judicial authorities. Ultimately, the paper advocates for ethical legal practice that balances advocacy rights with the paramount obligation to ensure uninterrupted access to justice.

Keywords: Lawyers' strike, Professional ethics, Bar Council of India, Access to justice, Legal profession in India, Judicial decisions.

Introduction - The profession of law needs not only high depth of knowledge of law and other Social Sciences but also a sense of social responsibility which calls for high and noble conduct. Lawyers provides free legal assistance to the indigent and oppressed persons who cannot pay fully reasonable or advocate and that within the limits of an of an advocates economic condition. To our distinct concept in commercial activity – one works for gain or profit were as in profession one works for his livelihood as well as social task. In this research work we discussed the social responsibilities of advocates in modern Era with special reference to advocates protection Act, 1961.

Law and legal system both are the effective means or instrument by which social order can be mentioned in society. The lawyers, advocates and judges al therefore enjoy a pride place in the society by virtue of their character and skill of laws and a step further, the service they render to the society their primary function is to solve people's problem and help the poor mass in realizing their legitimate dues within reasonable time.

It is true that lawyers allows are professions not only to grow as individuals and collectively but also the chance to take an active role in the advancement of society. Social

responsibility is essentially argument about the limits that applied to the judgmental moral obligation that lawyer have to faithfully play their role in the larger legal system.

In 1923 the Full Bench of Hon'ble Calcutta High Court in Tarini Mohan Borari's case,¹ 10 deprecated the pleader's act of boycotting the Court and abstaining from attending the Court deliberately. The Division Bench of Rangoon High Court in case of RE: Pleader² held the abstaining of pleader from Court without client's consent and leaving him undefended amounted to professional misconduct. Further, the Hon'ble Supreme Court in Bramha Prakash Sharma v. State of M.P.,³ held the resolution passed by the Bar Association expressing want of confidence amounting to contempt of court.

In Bar Council of Maharashtra v. M.V. Dabholkar,⁴ the Hon'ble Supreme Court expressed that the main function of the legal profession is to promote the administration of the justice and the Bar cannot behave with doubtful scruples or strive to thrive on litigation. In Pandurang Dattatraya Khandekar v. Bar Council

Maharashtra,⁵ it was observed that the Advocates are expected to follow norms of professional ethics and try to protect the interest of their clients. Thus, it would be against

professional ethics for a lawyer to abstain from the Court when the case of his client is called for hearing.

Further, in *S.J. Choudhary v. State (Delhi Admn.)*,⁶ the Hon'ble Supreme Court reminded that a lawyer is under obligation to do nothing that shall detract from the dignity of the Court, of which he is himself a sworn officer and assistant. He should at all times pay differential respect to the Judge, and scrupulously observe the decorum of the Courtroom. And if he fails to attend the Court he will be committing a breach of professional duty. Later, in *Sanjeev Dutta v. Deputy Secretary*,⁷ the Hon'ble Supreme Court cautioned the lawyers to improve the quality of service there under both to the litigant public and the Courts and to brighten their image in society.

The Hon'ble Supreme Court in *Ramon Services Pvt. Ltd. v. Subhash Kapoor*,⁸ reiterated that by striking work, the lawyers fail in their contractual and professional duty to conduct the cases for which they are engaged and paid. It has been further held though the Bar and Bench are two inextricable wings of the judicial forum and therefore the mutual respect is sine qua non for the efficient functioning but that does not mean that any Advocate or a group of them can boycott the Courts and ask the Court to desist from discharging judicial function. At any rate, no Advocate can ask the Court to avoid a case on the ground that he does not want to appear in the Court.

A Division Bench of Hon'ble Punjab and Haryana High Court in *State of Haryana v. Rai Sahab*,⁹ taking a strict view held that only due to Advocate's abstaining from Court work, Courts should not strike their responsibility by not deciding cases in accordance with law. Similarly, in *Rajendra Singh v. Union of India*,¹⁰ it was held that in case of lawyer's strike Judges can dispose of cases themselves even when unaided by lawyers. The Hon'ble Supreme Court too in *Common Cause, a Society v. Union of India*,¹¹ held that the cases must proceed when they appear on board and should not ordinarily be adjourned on account of the absence of lawyers unless there are cogent reasons to do so. In *K. John Koshy v. Dr. Tarakeshwar Prasad*,¹² it was observed that the Court is under an obligation to hear and decide cases brought before it and cannot shirk that obligation on the ground that the Advocates are on strike.

The Hon'ble Supreme Court in *Mahavir Prasad Singh v. Jacks Aviation*,¹³ held that judicial function cannot and should not be permitted to be stonewalled by browbeating or bullying methodology, whether it is by litigants or by counsel. Judicial process must run its even course unbridled by any boycott call or the bar or tactics of filibuster adopted by any member thereof.

In *Koluttumottil Razak v. State of Kerala*,¹⁴ the Hon'ble Supreme Court considering a case in which appellant was in jail heard and decided during lawyer's strike observing that Court should in such cases look into the matter itself and interfere if necessary on merits, else article 21 may be violated.

But as a matter of fact the subordinate judiciary proved to be helpless during strikes and it always adopted a safer course to yield to such activities. Usually the Courts have been nothing more than a silent spectator of the event. Thus, the normal Court working has always been a far cry during the period of lawyers' strike.

The Hon'ble Supreme Court in *Ramon Services Pvt. Ltd. v. Subhash Kapoor*,¹⁵ has held that in case an advocate fails to attend the Court on account of lawyers' strike, without informing his client to make necessary arrangement, the Court has power to permit the party to realize the costs from the advocate concerned. An advocate cannot get absolved merely on the ground that he did not attend Court as he or his association was on strike.

The question whether an advocate is having the right to go on strike or boycott the Courts was considered by the Hon'ble Supreme Court also in the case of *Ex. Capt. Harish Uppal v. Union of India*.¹⁶ The Apex Court analyzed the aspect in detail and settled the law. The lawyers who are officers of the Court cannot use strike as a weapon against the Court or against the client. It is already settled law that a lawyer who has accepted a brief must attend the Court, and if he does not attend the Court, it would amount to professional misconduct. According to the Bar Council of India Rules, 1975 'an advocate shall, at all times comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar or for a member of the bar in his non-professional capacity, may still be improper for an advocate'. Hence, it is unprofessional and unethical to organize and participate in a strike. Being a responsible officer of the Court, an advocate cannot go on strike as it interferes with the administration of justice. The phenomenon of going on strike at the slightest provocation is on the increase. Often strikes and calls for boycott have paralysed the functioning of the Courts for a number of days. In a joint meeting of the Chairmen of the various State Bar Councils and members of the Bar Council of India held in September, 2000, it has been resolved to constitute grievances redressal communities at the Taluk, District, High Court and Supreme Court levels.

In *Madras Sugar Ltd. v. The State of Tamil Nadu*,¹⁷ the Madras High Court held that no advocate has a right to abstain from Court without first returning the brief to his client and refunding the fees received from him. Boycotting Courts have become a regular feature and almost throughout the year one section or the other of the members of the bar abstains from Courts. If Courts choose to remain silent witnesses and help such lawyers to stay away from Courts by adjourning the case, it will not be a case of failure to exercise jurisdiction and dereliction of duty but also abetment of the unlawful and unethical activities of the advocates. When an advocate is entrusted with a brief, he is expected to follow norms of professional ethics and try

to protect the interest of his client in relation to whom he occupies a position of trust. In Bar of Maharashtra,¹⁸ it was observed that the Advocates are expected to follow norms of professional ethics and try to protect the interest of their clients. Thus, it would be against professional ethics for a lawyer to abstain from the Court when the case of his client is called for hearing.

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1. There is socially useful function for the lawyers to perform;
2. The lawyer is a professional person who will perform that function; and
3. His performance as professional person is regulated by himself and more formally by the profession as a whole. The central function that the legal practitioners must perform is nothing less than the administration of justice."

In **Lal Mohammed v. M.S.T. Haroon**³², the council did not appear in the Court on account of advocate's strike when the case was called for hearing. Later on restoration application was submitted, but was rejected by the Court. In **Rajendran Nagercoil Municipality**³³, a petition was filed for transferring the case from one Court to another, because the lawyers were avoiding appearance before Courts by adopting the measure of boycott. The Madras High Court held that refusal of the lawyers to appear and plead before Courts is no ground to transfer the case from one Court to another. The Court observed that the advocate's profession is accepted as a noble one by the entire world. And it is very sorry state of affairs when lawyers assume a role of trade union for their demands.

The advocates share with the judges the responsibility of maintaining order in the community. Law's nobility as a profession lasts only so long as the members maintain their commitment to integrity and service to the community. Indeed, the monopoly conferred on the legal profession by Parliament is coupled with a responsibility—a responsibility towards the people. That is why the Apex Court has observed that strikes by advocates are illegal and that Courts must take a very serious view of strikes and calls for boycott. It was also observed that a protest on an issue involving dignity, integrity and independence of the Bar and judiciary, provided it does not exceed one day may be overlooked by Courts, who may turn a blind eye for that one day.

The lawyers can get redressal of their grievance by passing of resolutions, making representations and taking out silent processions, holding dharnas or to resort to relay fast, having discussion by giving T.V. interviews and press statements.

Conclusion: The ethical foundation of the legal profession is rooted in the fundamental duty to uphold justice, fairness, and the rule of law. Lawyers' strikes and boycotts of court proceedings, although sometimes motivated by genuine concerns, undermine judicial efficiency and violate core professional obligations. The Indian judiciary has consistently held that such strikes are illegal except in extremely exceptional situations threatening the legal system itself. Ensuring uninterrupted access to justice must remain paramount. Thus, a balanced approach—integrating ethical conduct, institutional reforms, and constructive communication—can harmonize advocates' rights with the justice needs of society. A more ethically committed and professionally accountable Bar is essential to sustaining public confidence in India's legal system.

Suggestions:

(i) Strict Regulatory Enforcement- The Bar Council of India must strictly enforce ethical guidelines and initiate disciplinary actions against unlawful strikes to maintain professional accountability.

(ii) Alternative Mechanisms for Protest- Lawyers should adopt lawful and constructive forms of protest such as representations, peaceful demonstrations outside court premises, or mediation with authorities rather than court boycotts.

(iii) Ethics Training & Continuous Legal Education (CLE)- Mandatory ethics and professional responsibility workshops should be conducted to promote awareness of duties toward clients and the judiciary.

(iv) Strengthening Dialogue between Bar & Bench- Institutional grievance redressal committees should be established to resolve conflicts promptly without disrupting judicial functioning.

(v) Transparency within Bar Associations -Decisions regarding collective actions must be democratic, avoiding political influence and prioritizing public interest.

(vi) Client-Centered Approach- Advocates should ensure that no protest affects a litigant's right to timely justice, especially in criminal, bail, and time-sensitive matters.

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