

STRIKE OF REPRESENTATIVE BODIES OF LAWYERS: DO THEY CREATE HURDLES, PAUSE AND HAMPER THE JUDICIAL PROCESS?

Iftikhar Elahi

Abstract

It had become a norm for the legal community to resort to strikes on various non-issues, even those not directly related to the judicial system or public interest. Due to these continuous and repeated strikes, the poor and helpless litigants who come to the courts have to face severe hardships and mental agonies. Those who travel from far-flung areas to reach the court with the hope of justice, have to return disappointed only because the lawyers have boycotted the court proceedings. Thus, not only their time, effort and financial resources are wasted, but their faith in the justice system also begins to waver. On the other hand, this practice is creating an unprecedented backlog of cases in the courts. Every single day of strike delays the hearing of thousands of cases, which further increases the pendency. This delay has a direct impact on the timely delivery of justice, while it is a well-established legal principle that "Justice delayed is justice denied" means justice received late is in fact tantamount to deprivation of justice.¹

The State's spend billions of rupees every year on improvisation of judicial system, judicial infrastructure, judges, court staff, prosecution, legal aid, digitalization, and other reformatory measures, so that timely, effective, and quality justice can be delivered to the citizens. However, when lawyers go on regular strikes, the effectiveness of all these government expenditures and reformatory efforts is adversely affected and rendered them futile. Moreover, on every day of strike, there is a significant reduction in the collection of court fees, fines, and other government revenues, as a result of which the Government Exchequer also bear a colossal financial loss.

Observing these continuous strikes, public hardships, increasing caseload, and wastage of state resources, a fundamental legal question

¹ Sourdin, Tania, and Naomi Burstyn. "Justice delayed is justice denied." *Victoria University Law and Justice Journal* 4, no. 1 (2014): 46-60.

arose in my mind: do such lawyers' strikes have any legal justification or protection under the Constitution of Islamic Republic of Pakistan, prevailing laws, judicial precedents, and the rules of the Bar Councils? If so, what are its limits and limitations, and if not, what are the legal, ethical, and institutional reasons for the continuation of this tradition? These questions motivated me to conduct research on this very important and sensitive topic. The main objective of this research is to examine whether the current tradition of lawyers' strikes is justifiable in the eyes of law or not, and what impact such protest actions have on the public's right to justice, the performance of the judiciary, the interests of the State, and the rule of law. Furthermore, the research will also critically examine how a balanced and constitutional harmony can be established between the right of lawyers to legitimate protest and the fundamental right of the public to timely justice, so as to ensure the protection of the legal and professional rights of lawyers without affecting the delivery of justice.

The paper argues that although lawyers enjoy the fundamental and basic rights of protest, association, and right of expression guaranteed under article 16,17,19 of the Constitution of Islamic Republic of Pakistan 1973, but the so called strikes announced by different Tehsil bar, District bar, High Court Bar, as well as provincial and Pakistan Bar councils resulting in judicial boycotts, conflict with the constitutional guarantee of access to justice under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 and the professional responsibilities of lawyers imposed upon them being officers of the court. This research further shows that bar strikes undermine the independence of the judiciary and erode public confidence. The study concludes by suggesting lawful, constitutional, and alternatives method/modes for redressing professional grievances without disrupting the smooth function of court's work and making any obstruction in dispensation of justice or compromising the rule of law which is the primary duty of the State.

2. Introduction:

One of the most significant functions of the State is the administration of justice and it is the base of the constitution of government of Pakistan. The Bar (lawyers) are entrusted with important and secret responsibility of interpreting and implementing the Constitution and the laws of the land. They play a vital and important role in protecting

the rights of prisoners, resolving disputes through mediation, and ensuring the accountability of State Institutions and individuals and foremost to safeguard the supremacy of the Constitution.

If the judicial system is not independent, accessible, and consistently effective and strong enough, the rule of law becomes just an empty slogan, a fantasy, and indigenous guarantees lose their practical meaning.² Undeniably, Courts cannot function in isolation as both judges and lawyers are wheel of the same chariot. The justice delivery system operates through the collaboration of judges, lawyers, prosecutors, government pleaders and allied court staff. Besides these stakeholders, lawyers occupy an exceptional and privileged position. Their primary and the foremost duty is not only to advance the cause of their clients but also to assist the courts in a fair manner, so that the judicial system may work efficiently in dispensation of justice. Despite this elevated status, strikes and boycotts called by Bar Councils and Bar Associations have come a recreating point of Pakistan's legal culture. Generally, strikes are constantly called up in response to judicial opinions, executive measures, legislative developments, local issues of lawyers, transfers of judicial officers, or matters relating to professional boons. While some grievances of legal finality may be bona fide and merit consideration, however due to these strikes and suspension of court work through boycotting the court proceedings not only undermine the whole legal system but also raises serious indigenous, legal, and ethical enterprises. Judicial boycotts for personal issues of different bars disrupt court proceedings, resulting into adjournments which increases backlog of cases, continued detention of under trial prisoners, and failure to provide timely relief to poor litigants. Over time, this practice significantly undermines public confidence in the justice system and fosters an impression that the functioning of the judiciary is at the whim and wish of the lawyers and local bars.

3. Historical Background of Bar/Bars' Strikes in Pakistan.

The phenomenon of lawyers' strikes in Pakistan must be understood in its historical context. During the era of military rule and suspension of constitution, lawyers emerged as a prominent voice against the illegitimate appropriation of power. The lawyers' movement 2007-

² Loughlin, Martin. "The rule of law: a slogan in search of a concept." *Hague J. on Rule L.* 16 (2024): 509.

2009 is the most prominent example of cooperation on the part of the legal community.³ This movement was in response to the suspension of the constitution and the removal of judges of Apex Courts from their offices. What prompted the protests, boycotts and demonstrations by lawyers across Pakistan, which eventually led to the restoration of the judiciary and reaffirmation of constitutional supremacy which ultimately became a matter of security for the bar and the affirmation of local supremacy.⁴ In the context of Pakistan, mutual support is widely regarded as principle, necessary, and bona fide. However, with the restoration of the Constitutional Order, the culture of protest and boycotts from the court proceedings by the legal profession did not stop. Instead, strikes gradually became the normal phenomena and were increasingly called for non-issues unrelated to constitutional crises. Bar Associations began to declare strikes over local disputes, administrative matters, judicial transfers, and political developments that had nothing to do with judicial independence and supremacy of constitution. These common and unnecessary obstacles in way of boycotting the court proceedings and routine protests and demonstrations in non-issues have begun to blur the distinction between professional discipline and ordinary debate. The courts have repeatedly expressed serious concern over frequent and indiscriminate strikes which undermine the justice system, erode professional discipline, and ultimately destabilize the moral authority of the legal profession.

4. Legal Status and Functions of Bar Councils

The lawyers' stand is that it is not correct to call a strike or court boycott a mere means of achieving professional interests, but rather, in some exceptional circumstances, it becomes an indispensable and effective constitutional protest to protect the Constitution, the rule of law, the independence of the judiciary and the public interest. According to them, when State Institutions transgress constitutional limits, the independence of the judiciary is threatened, or the professional freedom and dignity of lawyers are attacked, then remaining silent may be tantamount to deviation from constitutional obligations.

³["SCBA terms removal assault on independence of judiciary".](#) (2007, March 10). *Dawn*.

⁴ Rockwell, David N., Beverly C. Moore Jr, and Marshall Beil. "Controlling Lawyers by Bar Associations and Courts." *Harv. CR-CLL Rev.* 5 (1970): 301.

This position is based on the fundamental rights enumerated in the Constitution of Pakistan. Under Article 16 of the Constitution, every citizen has the right to peaceful assembly, while Article 17 provides for the freedom of association and the establishment of professional organizations. Similarly, Article 19 guarantees freedom of expression. The lawyers argue that since they, like other citizens, enjoy these fundamental rights, they also have the right to collectively protest on issues of their professional, constitutional and national nature, provided that the protest is peaceful and aimed at protecting the Constitution and Law.

It is further argued that the constitutional and judicial history of Pakistan is a testimony to the fact that lawyers have always played a key role in protecting the independence of the judiciary, the supremacy of the constitution and democratic values. In particular, the lawyers' movement that lasted from 2007 to 2009 is presented as a shining example of this, in which the collective struggle of lawyers played a significant role in restoring the independence of the judiciary and strengthening the constitutional system. According to lawyers, if this type of struggle can be considered legitimate and in line with the national interest, then collective protests or limited strikes in some other exceptional circumstances can also be considered a continuation of this constitutional tradition.

The legal community also argues that under the Legal Practitioners and Bar Councils Act, 1973, Bar Councils and Bar Associations are empowered to take steps to protect the interests of lawyers, safeguard their professional dignity and improve the legal system. Although, there is no explicit mention of strikes in the said Act, according to lawyers, when Bar Councils feel that there is a serious threat to the independence of the judiciary, the legal profession or the justice system, they can decide to hold a mass protest or boycott the courts.⁵

Such kind of lawyers are also of the view that not every strike is for the sake of personal or financial interests but on several occasions, lawyers have protested on national and public issues aimed at protecting fundamental rights, judicial reforms, the rule of law and ensuring

⁵ Legal Practitioners and Bar Councils Act, 1973 (Act XXXV of 1973) (Pakistan).

effective access to justice for the public. Therefore, it would not be a correct analysis to limit such strikes only to the professional interests of lawyers, but they should also be seen in the context of the wider public interest.

Internationally, lawyers also cite the United Nations Basic Principles on the Role of Lawyers (1990) in support of this position, according to which lawyers have the right to freely form and join professional organizations and to engage in collective action for the betterment of the legal system. Although these principles do not explicitly recognize the right to strike, lawyers believe that the guarantee of professional freedom and the right to collective expression provides a moral and legal basis for such protest actions.⁶

Furthermore, the legal community also holds the view that strikes should not be made a routine or everyday means but should be adopted as a last resort. When negotiations, resolutions, memoranda, judicial representation and other legal means have not proven effective and there is a risk of serious harm to constitutional or professional interests, then a limited and temporary protest can be considered a legitimate and proportionate response.

Whatever the case may be, Bar Councils are statutory bodies established under the Legal Practitioners and Bar Councils Act, 1973 in Pakistan or the Advocates Act, 1961 in India, and their functions is to regulate, supervise the conduct of lawyers and disciplinary responsibilities aimed at maintaining professional standard and protecting the dignity of the legal profession.⁷

Moreover, this statutory body can exercise only those powers and perform only those functions which are expressly conferred upon them by the Act *ibid*. The functions of the Pakistan Bar Council (PBC) are specifically enshrined in Section 13 of the Act. As the apex regulatory body of the legal profession at the national level, the PBC is primarily entrusted with matters relating to registration, regulation of the legal

⁶ United Nations, *Basic Principles on the Role of Lawyers*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27–September 7, 1990.

⁷ Anamika vista. (2021, September 20). *Professional ethics*. Scribd. <https://www.scribd.com/document/526392401/Professional-Ethics>

profession, legal education, and maintenance of professional standards. Notably, the Act does not expressly empower the PBC to call or support strikes.

Of the functions enumerated in Section 13, the only provision that can be argued to justify strikes by lawyers is “to protect the rights, privileges and interests of lawyers in their rolls, including taking steps for the fair, efficient and cost-effective administration of justice by the courts and all institutions subordinate to them.” The PBC may argue that, in exceptional circumstances, boycotting court proceedings is a legitimate means of protecting the interests of the legal community and responding to conduct prejudicial to the dignity or independence of the Bar. For example, where a judicial officer unjustifiably humiliates or abuses a member of the Bar, the relevant Bar Council may direct its registered lawyers to boycott proceedings before that particular court in order to protect the collective interests and professional dignity of the legal community.

However, regardless of whether such an interpretation of the Act is accepted, it is of limited practical significance. Empirical research shows that most lawyers’ strikes are not organized to redress grievances against the judiciary. Rather, they are usually called to protest acts of terrorism, police misconduct, government incompetence, mismanagement, excessive taxation, inflation and other socio-political issues. In such circumstances, it is difficult to appreciate how boycotting court proceedings addresses these concerns or serves the legal objectives entrusted to bar councils. The powers and duties of the Provincial Bar Councils are set out in Section 9 of the Legal Practitioners and Bar Councils Act. These functions largely mirror the functions assigned to the Pakistan Bar Council under Section 13, and notably, none of them expressly authorizes the calling or enforcement of strikes or judicial boycotts. Although clause (i) was inserted in Section 9 in 1982, requiring the Provincial Bar Councils to comply with directions issued by the Pakistan Bar Council, such compliance is necessarily limited to directions issued within the limits of statutory authority. A direction issued without jurisdiction or legal support cannot create a legal obligation on the Provincial Bar Councils to comply with it.

The concept of “strike” is associated with labor and industrial relations rather than with the legal profession. Historically, the power to

organize strikes and adopt other collective bargaining measures⁸, such as work stoppages, was given to trade unions to protect vulnerable industrial workers who had limited bargaining power against employers. Recognizing the imbalance between labor and management, labor legislation, now embodied in the Industrial Relations Act, 2012, specifically grants these rights to register trade unions as a means of collective bargaining.

The legal profession, however, occupies a very different position in society. Although, some lawyers may face financial difficulties, the profession as a whole is one of the most influential and organized segments of the community. Lawyers play a prominent role in almost every institution of the State, including the legislative, the executive, the judiciary, civil administration, local governments, and the media. Corporate entities routinely retain legal advisors, while many appoint lawyers to their governing boards. The influence of the legal profession is further illustrated by the fact that those holding the highest constitutional positions often have legal qualifications and, in many cases, practiced law before assuming public office.

Against this background, it is difficult to accept the proposition that the interests of the legal community can be protected only by strikes or boycotts of court proceedings. Lawyers have access to a number of institutional and constitutional fora through which they can effectively present and address their concerns. Senior members of the bar often hold positions of public authority, participate in legislative debates, appear before higher courts, and enjoy wide access to the electronic and print media. In these circumstances, resorting to judicial boycotts cannot be considered the only or most appropriate means of advancing professional interests.

Moreover, the Legal Practitioners and Bar Councils Act, when read with the Legal Practitioners and Bar Councils Rules, 1976, points in the opposite direction. The statutory framework emphasizes that a lawyer is, above all, an officer of the court whose primary responsibility is to facilitate the fair, efficient and speedy administration of justice. The Rules devote an entire chapter to the duties of a lawyer to the courts. Rule 166 expressly provides that a lawyer is under a duty to appear

⁸ Brisbin, Richard A. *A strike like no other strike: Law and resistance during the Pittston Coal strike of 1989-1990*. JHU Press, 2002.

whenever a case is called for, unless satisfactory alternative arrangement has been made.

The clear implication of Rule 166 is that even where a lawyer chooses not to appear in person as a form of protest, the lawyer remains under a professional duty to ensure that the interests of the client are not prejudiced by arranging for competent legal representation. Therefore, this rule reinforces the principle that a lawyer's responsibility to the client and the court cannot be waived simply because a collective protest has been announced.

Rule 175-E of the Legal Practitioners and Bar Councils Rules, 1976⁹ provides that no Bar Council or any representative body of lawyers shall be authorized to call for a nationwide strike or protest by the legal community without obtaining prior approval from the Pakistan Bar Council (PBC).¹⁰

It has been argued that since the rule *ibid* requires prior approval of the Pakistan Bar Council for calls for nationwide strikes initiated by other Bar Bodies, this rule should be construed as an express recognition of the Pakistan Bar Council's own power to initiate or call such strikes. However, this line of reasoning is difficult to sustain when examined in the light of established principles of administrative law. Public bodies and legal regulators derive their powers exclusively from the legislation under which they are constituted. They cannot assume or exercise powers merely because such powers appear convenient or can be inferred indirectly. Unless a law expressly or by necessary implication confers a specific power, the exercise of that power is without legal basis.

The Pakistan Bar Council is a statutory body created under the Legal Practitioners and Bar Councils Act. Consequently, its jurisdiction is limited to the powers specifically conferred by the Act. Neither the Act nor the Rules expressly empower the Pakistan Bar Council to declare, organize or direct a strike of lawyers. Rule 175-E regulates only the

⁹ *Pakistan Legal Practitioners and Bar Councils Rules, 1976*, r. 175-E.

¹⁰ Gillani, U. I. (2016, March 25). *No more strikes, please! Courting The Law*. <https://courtingthelaw.com/2016/03/25/commentary/no-more-strikes-please>

circumstances in which calls for nationwide strikes by other bar organizations require prior approval of the Pakistan Bar Council. It, either expressly or by necessary implication, enables the Council itself to declare or enforce strikes. To interpret the rule otherwise would be tantamount to reading into it a power which the legislature has deliberately chosen not to confer.

Moreover, the legality of Rule 175-E itself is open to serious questions. Delegated legislation must always remain within the limits set by the parent law. Rules made under a law cannot extend the scope of the powers conferred by the legislature nor introduce new substantive powers which the law itself does not contemplate. There is no provision in the Legal Practitioners and Bar Councils Act to empower the Pakistan Bar Council to make rules relating to the declaration, regulation or sanction of lawyers' strikes. In the absence of such statutory authority, Rule 175-E falls outside the ambit of the rule-making power delegated by the Act and therefore rests on an uncertain legal basis.

It is noteworthy that Rule 175-E was introduced in 2008 during the exceptional circumstances surrounding the lawyers' agitation. It seems that the rule has been inserted to address the political and institutional realities prevailing at the time rather than as part of a carefully considered legislative policy. Although the historical context of its entry, may explain its existence and this circumstance alone cannot justify attributing to it a legal significance, that exceeds the authority granted by the parent law. The legality of delegated legislation must always be measured against the enabling Act rather than the political considerations that led to its enactment.

For many years, criticism of lawyers' strikes has generally focused on their negative consequences for litigation, delays in court proceedings, and disruption of the administration of justice.¹¹ However, the debate raises a more fundamental legal issue. The question is not simply whether strikes are desirable or undesirable in terms of professional ethics or public policy, but whether they are permissible at all. Since bar councils are statutory authorities, they have only those powers that

¹¹ Midwood, Laura, and Amy Vitacco. "The Right of Attorneys to Unionize, Collectively Bargain, and Strike: Legal and Ethical Considerations." *Hofstra Lab. & Emp. LJ* 18 (2000): 299.

are expressly granted to them by law. In the absence of any statutory provision authorizing them to declare a strike or to strike directly, any such action may be considered to be outside their statutory jurisdiction.

The position of Bar Associations is even more precarious. Unlike Bar Councils, Bar Associations are voluntary representative bodies and do not have the legal authority to compel lawyers to abstain from attending court. A call to boycott court proceedings effectively encourages lawyers to disregard their professional obligations prescribed by the Legal Practitioners and Bar Councils Rules. As discussed, in particular, Rule 166 obliges every lawyer to appear in court when a matter is called for unless satisfactory alternative arrangements are made. A collective boycott which results in lawyers absenting themselves from court without ensuring adequate representation of their clients is inconsistent with this essential professional obligation.

The decision in the Writ Petition No. 7516/2025 & F.C.P.L.A Nos. 369,380,384 & 389¹² clearly states that Bar Councils are regulatory bodies formed under the Legal Practitioner and Bar Council Act,1973, and not the Trade Unions. They are not authorized to call strikes like trade unions to disrupt essential public services such as judicial functioning of courts. In contrast to Trade Unions, as the Bar Councils are not representing the industrial workforce, therefore, have no legal right to call the strikes to interfere in the smooth running of judicial system.

The Hon'ble Courts through the *ibid* verdicts highlighted that the legal mandate of the Bar Councils binds them to ensure discipline, ethical conduct towards smooth functioning of the courts. Thus, calling of strikes resulting in the de-functioning of court work is beyond their legal authority, and is an abuse of powers which is not the mandate of Bar Councils and calling of any such strike is beyond their jurisdiction and this practice must be discontinued in order to ensure uninterrupted running of Judicial System.

¹²Writ Petition No. 7516 of 2025, F.C.P.L.A. Nos. 379, 380, 384 & 389 of 2025 (Judgment dated October 15, 2025)

5. Constitutional Framework Governing Bar Strikes

5.1. Right to Access to Justice (Article 10-A)

Article 10 of the Constitution of Pakistan 1973, guarantees everyone to have a right of fair trial and due process of law. This right to be heard is not theoretical in nature and the same is not limited to only paper book. It also means that people should be able to approach the courts easily and have their cases heard without unnecessary delay.¹³ In a lucid parlance, access to justice includes the right to a timely court hearing, a fair opportunity to present one's case, and a reasonably prompt decision without any undue interruption.

This constitutional right of a timely court hearing and a fair opportunity to present one's case without any interruption and obstruction is directly violated when Bar strikes lead to court closures or mass boycotts. Litigants are unable to attend hearings, urgent lis are not heard, and cases that are ready for adjudication are postponed without any lawful excuse and reason. For many, even minor delays can cause serious harm, such as loss of liberty, financial hardship, or prolonged uncertainty which cause agonies to the public at large, and they lose their public confidence upon the Judicial System.

The decision in question highlights that repeated court boycotts do not just cause isolated suffering. They result in a systematic denial of access to justice. Some groups suffer more than others. Women seeking family relief, children involved in custody, waiting for periodical alimony or visitation matters, prisoners awaiting bail or trial, and poor litigants who cannot afford legal fees are particularly affected. For them, it further aggravating the situation by adjourning their cases due to lawyer's strikes.

The Hon'ble Apex court of Pakistan through the *ibid* verdicts further highlighted that denial of access to courts, even for a single day, creates widespread and long-lasting difficulties. Each closure adds to the already heavy backlog of cases, and places additional pressure on the courts when they resume work after strike and it would be difficult for Judges to manage their diaries which become overloaded due to adjournment of cases on account of strikes. Over time, these obstructions undermine public confidence in the justice system and create a perception that the courts are unreliable or inaccessible and are functioning on the whims & wishes of local Bars and Lawyers.

¹³ Aziz, Sadaf. "The Constitution of Pakistan." (2018): 1-240.

While emphasizing Article 10-A, the judgments under discussion further clarified that access to justice is a fundamental right that cannot be suspended or abeyance for professional protest in order to gain personal goals not related to the issue of their clients. Courts must remain open and functional at all times so that the constitutional promise of fair and timely justice is meaningful to every citizen.

It would be unfair not to quote the famous saying of Churchill when he said that “no one can defeat us if our courts are properly functioning”. This clearly indicates the importance of smooth uninterrupted functioning of justice system in a country and without ensuring this legal & statutory guaranteed right, no nation can survive.

5.2 Fundamental Rights of Lawyers

No doubt, the legal fraternity enjoy fundamental rights of freedom of assembly, association and expression as guaranteed under Articles 16, 17 and 19 of the Constitution of Islamic Republic of Pakistan, 1973. However, these rights are to be exercised and subject to reasonable restrictions imposed by the Constitution itself as well as the law of the land and these freedoms cannot override and encompass the constitutional right to due process. When lawyers’ strikes violate the principles of access to justice and obstruct the smooth functioning of courts, they are deprived of *ibid* constitutional protection.¹⁴ Professional responsibility and public interest impose certain restrictions on the exercise of these rights which always remain subject to reasonable restrictions as no one is allowed under the garb of these protected rights by making obstructions in smooth running of courts via calling for strikes.

5.3 Doctrine of Proportionality

The Apex court of Pakistan while seeing the legality of the strike of the lawyers also applied the principle of proportionality to examine whether the lawyers’ protest, especially, the boycott of courts, was lawful. According to this principle, any right should be exercised in a manner that is reasonable and does not cause undue harm. The court said that a complete court boycott did not meet this standard. When courts are completely closed, the justice system is affected and the

¹⁴ Wendel, W. Bradley. "Lawyers and fidelity to law." (2010): 1-304.

rights of those awaiting the decision of their cases are affected.¹⁵ Therefore, this step was considered excessive and unnecessary, and beyond their legal mandate. That is why the complete boycott was declared disproportionate and unconstitutional.

The court also said that lawyers may adopt less harmful alternate methods like they can pass resolutions for their demands, protest after court hours or negotiate with the concerned authorities. In this way, they can also raise their voice and not deprive the public at large to access of justice.

Last but not the least, the court clarified that the right to protest does not mean that the justice system should be paralyzed at the biased vested interests and whims & wishes of legal fraternity. It is important to bring a proportionate balance between lawyers' right of expression and using authority and the public's right to timely justice.

6. Judicial Precedents on Bar Strikes

Comparative and critical legal research provides valuable insights into the question of lawyers strikes within the constitution and legal frame work. Some of the landmarks judgments are discussing here.

6.1 Judicial Activism Panel vs. Federation of Pakistan (2020 MLD 178)¹⁶

Although the case in hand was mostly about in respect of the people related to medical field, the Hon'ble Lahore High Court laid down a principle that applies to other professions as well. The Hon'ble court said that professionals who work under the law or any statute cannot arbitrarily shut down essential services, so that the general public at large may affect in any manner.

This principle was also applied to lawyers' strikes. This verdict made it clear that judicial services are essential public service. If they are obstructed, the fundamental right of people to get justice is suffered and the entire legal system becomes handicapped.

¹⁵ Sulitzeanu-Kenan, Raanan, Mordechai Kremnitzer, and Sharon Alon. "Facts, preferences, and doctrine: An empirical analysis of proportionality judgment." *Law & Society Review* 50, no. 2 (2016): 348-382.

¹⁶<https://eastlaw.pk/cases/judgment?judgmentId=6347f68a65808751a13c14bb>

In simple words, no one has any right to suddenly shut down essential public services, as it directly affects the rights of the people.

6.2 Dr. Muhammad Abdullah vs Government of Pakistan (2013 PLD Baluchistan 1)

In this illuminated decision, the Hon'ble Baluchistan High Court¹⁷ seriously condemned the boycott of law officers. The Hon'ble court held that such collective actions of lawyers' community which obstruct the justice system and put the public in difficulty is against the norms & principle of professional conduct. The court stressed that law officers and lawyers are officers of the court, therefore, they have a special duty to support the law. Their professional duties to defend the rights of their clients are more important than any individual, collective or organizational dispute. If they do not perform their duties as per statutory obligations, it amounts to negligence towards both the judiciary as well as their clients.

6.3 Ch. Shamshair Ali vs Khalid Mahmood (2015 YLR 47)

In this case, the judges directly come across the customary excuse that "we couldn't appear because the Bar was on strike." However, the Hon'ble court patently said no, a lawyers' strike or boycott does not give anyone the right to bring the whole judicial system to a standstill.¹⁸

The court held that: court proceedings will carry on whether counsel turn up or not. Not attending court on the pretext of strike is their personal decision, but the costs definitely fall entirely on their clients, not on the court system at all.

The ruling basically points towards that the wheels of justice do not stop just because one group decides to down tools. The duty of the law courts is to keep continued delivery of justice and access to rights without interruption, and no individual or collective action by the Bar can override that priority.

6.4 Asif Ullah vs Government of KPK (W.P No 5504 of 2025)

In this very landmark judgment, a full Bench of Hon'ble Peshawar High Court Peshawar while examining the entire crime judicial system gave

¹⁷ *Dr. Muhammad Abdullah v. Government of Pakistan*, **PLD 2013 Balochistan 1** (High Court of Balochistan).

¹⁸ *Ch. Shamshair Ali v. Khalid Mahmood*, **2015 YLR 47** (Lahore High Court).

some guidelines to courts, investigating agencies, prosecution department, legislative bodies, and to the entire legal community whereby criminal judicial system can be reformed in this region wherein the public are losing their confidence on the prevailing judicial system.¹⁹ A special emphasis was also placed that any action or reaction which halting the judicial proceedings in any manner is against the very theme of law and is declared unlawful and unconstitutional, and courts were directed to proceed with the judicial proceedings by showing assertiveness of law and imposed heavy costs upon all those delinquent who halting this judicial system.

6.5 Ex. Capt. Harish Uppal Vs. Union of India (AIR 2003 SC 739)

Under the common law jurisdiction, India has also developed one of the most comprehensive bodies of jurisprudence on this issue. Over the years, the High Courts of India have repeatedly examined the legality of judicial boycotts by lawyers, resulting in a consistent judicial view that strongly discourages this practice.

The most authoritative pronouncement is the decision of the Supreme Court of India in Ex. Capt. Harish Uppal v. Union of India. This case was the output of public interest litigations challenging the recurring practice of lawyers' strikes and boycotts of court proceedings.²⁰ The petitioners requested the Supreme Court to determine whether such actions were consistent with the constitutional mandate to ensure access to justice and the statutory duties imposed on members of the legal profession.

Recognizing the far-reaching implications of the dispute, the Supreme Court of India constituted a three-judge bench to examine the matter thoroughly. Notices were issued to Bar Councils and other representative organizations of lawyers across the country, enabling all stakeholders to present their respective legal and constitutional arguments. The court thus ensured that the matter was decided by listening to the competing viewpoints and keeping in mind the wider impact of lawyers' strikes on the justice delivery system.

¹⁹ *Asif Ullah v. Government of Khyber Pakhtunkhwa*, W.P. No. 5504-P of 2025 (Peshawar High Court, judgment dated October 15, 2025).

²⁰ Gillani, U. I. (2016, March 25). *No more strikes, please! Courting The Law*. <https://courtingthelaw.com/2016/03/25/commentary/no-more-strikes-please>

In arriving at its judgment, the Supreme Court of India conducted an extensive review of earlier judicial precedents dealing with judicial boycotts and the professional obligations of lawyers. The court observed that several judgments of the High Courts and the Supreme Court had consistently questioned the legal basis of lawyers' strikes and stressed that such practices lacked legal sanction. The jurisprudence demonstrated a common judicial concern that systematic abstention from judicial proceedings undermines the administration of justice, prejudices litigation, causes unnecessary delay in the disposal of cases, and is inconsistent with the professional responsibilities of lawyers to the courts and their clients.

The decision in *Harish Uppal*, therefore, did not emerge in isolation. Rather, it represents the culmination of a long line of judicial authorities that had gradually developed the principle that the legal profession, being an integral part of the justice delivery system, owes a significant duty to ensure the smooth functioning of the courts. Consequently, this decision is recognized in Indian jurisprudence as a leading authority on the legality of lawyers' strikes and continues to serve as an important comparative precedent for jurisdictions facing similar legal questions.

7. Impact of Bar Council Strikes on the Judiciary

Day to day strikes by bar councils is a major reason that's why the accumulation of cases is getting worse. Each day, the courts are not running smoothly or not running at all means due to uncalled for strikes, a new batch of new filings pile up, while hundreds of old ones adjourned unheard.

These adjournments without judicial proceedings go on for months, sometimes years, and ordinary people wait continually for their legal disputes whether civil or criminal to be decided. This obviously negate the Constitution's guarantee of speedy and uninterrupted justice, Article 10A and puts unnecessary pressure on judges, court staff, and especially litigants who are already struggling.

In the long run, it weakens the strength of the entire justice system and erodes public confidence that the courts can actually deliver fair and timely decisions. When litigants witness the infinite delays caused by these boycotts, they honestly question whether the justice system even works for them anymore.

8. Comparative Study

If international legal systems are perused, the same reveals that lawyers' strikes and court boycotts are generally discouraged and, in many countries, considered completely illegal. In the UK, barristers and solicitors are bound by strict professional duties that compel nonstop service in the courts. The conduct of legal fraternity to obstruct judicial proceedings is considered as heinous violation of professional duty and may invoke disciplinary action against them. Stress is always placed on the persistence delivery of justice and respect for the authority of the court.

Similarly, the Indian judiciary has constantly and visibly held that lawyers have no right to strike or boycott courts. Indian courts have made it clear in several judgments that access to justice is a fundamental right of every person and is an essential public service. It cannot be stopped by a lawyers' strike or collective grievances. The courts have also held that lawyers, being officers of the court, are duty bound to ensure to their presence in judicial proceedings continuously without any hindrance.

The above evaluation of international judicial systems, it is need of time that Pakistan's legal system must also depart from the inherited culture of strikes and boycotts. International practice clearly supports structured of professional dialogue on institutional engagement, constitutional mechanisms, and disruptive protest practices. Adoption of these methods here in Pakistan will not only increase judicial efficiency but also protect the fundamental rights of citizens to get timely and effective justice.

9. Lawful Alternatives to Bar Strikes

The dicta passed in Writ Petition No. 7516/2025 & F.C.P.L.A Nos. 379,380,384 & 389 of 2025 suggest that although lawyers' community has the right to express professional concerns, but these dissents should remain within the legal parameters and should not interfere with the administration of justice. There are several legitimate and constructive alternative methods to strikes and court boycotts, which protect the freedom of both the legal fraternity as well as the public right for timely justice.

- **Passing Resolutions Without Disrupting Court Proceedings.**
 - Through this lawful process, the Bar Associations may pass resolutions and communicate the same to the judiciary, government authorities, or other relevant institutions. Bar Associations can formally express their demands or concerns by approaching to concerned authority through their elected representative. Not attending court is not the legal method to make their voices heard. Such practice must need to be discontinued forthwith. By resorting to this mode of redress of their grievances, they can legitimately achieve their goals without causing any damage to the clients' case and halting court proceedings. In such a way, the concerns of the lawyers' community are properly noticed and discussed.
- **Peaceful Protest Outside Court premises.**
 - No doubt, lawyers' community have the constitutional right to protest and express their concerns and views, however, this protest should be outside court premises and after court hours so that the protest may not disturb hearing of cases and may not halt court proceedings. Lawyers can express their disagreement in a responsible & ethical manner while performing their professional duties. They can also raise their concerns by means of the judiciary and other government institutions. Instead of stopping the work of the court, Bar Associations can meet the concerned authorities to present their problems formally and find solutions amicably.
- **Dialogue with Judiciary and Government Organizations.**
 - The judgement delivered by full court on this issue of lawyer strikes has focused more on resolving problems through proper channel. Bar Associations, Judiciary and allied government institutions can be used to support this process. These channels sort out to initiate dialogue to

promote mutual understanding on dissenting points. They reduce disputes amicably by means of table talks and hearing each other concerns & views.

- **Constitutional Petitions and Legal Remedies.**
 - Lawyers can also resolve their legitimate problems constitutionally and through legal court process. Remedy through filing writ petitions or other appropriate legal proceedings can be adopted by the lawyers to resolve their issues. This mode of resolving legitimate issues definitely ensures that their problems heard, considered and resolved within the four corners of law.
- **Parliamentary and Legislative Engagement.**
 - When their grievances involve policy or legislative matters, lawyers' associations can raise such grievances by formally engaging with legislators, parliamentary committees, or relevant government ministries. They can make submissions through their elected Bar representative and can settle such policy matters disputes through these legislative means. This approach allows them to bring positive legal reform for resolving their legitimate problems without disrupting essential public services i.e. court proceedings and representing lis of their clients.

Overall, these alternative modes provide effective ways for lawyer's community to enhance their professional concerns and at the same time, they ensure that access to justice is not hindered and the dignity of the legal profession is maintained.

10. Recommendation:

This research paper recommends the following steps to ensure the uninterrupted continuity of the justice system and to prevent the adoption of strikes which may halt court proceedings.

10.1 Clear Directions regarding Prohibition of Court Boycott

The legislatures bodies at provincial as well as Federal level should enact laws explicitly prohibiting court boycotts. Likewise, by means of delegated legislatures powers, the Bar councils at the national and provincial levels should also formulate regular, unambiguous and

explicit regulations prohibiting strikes, boycotts or any form of collective refusal to attend court proceedings if they cause disruption or obstruction of judicial proceedings.

These regulations and instructions should clearly acknowledge the principle that the right to advocacy is basically subject to the responsibility to maintain and support the justice system, and that court boycotts are inherently incompatible with this fundamental responsibility. Clear and strong laws & rules may eliminate this uncertainty and these illegal strikes & boycotts can easily be discouraged.

10.2 Effective Disciplinary Action in Case of Violation

Lawyers who persistently participate in or indulge in such like unconstitutional activities or in any manner encourage court boycotts should be subject to proportionate disciplinary action under the professional code of conduct by invoking the relevant provisions and should be dealt with iron hands without any discrimination

Disciplinary measures can be ranged by warnings, fines and suspension of license in case of serious or repeated violations. Consistent and non-discriminatory enforcement by adopting coercive measures will strengthen professional accountability and root out these illegal and unconstitutional practices that undermine public trust.

10.3 Strengthening the Bar-Bench Dialogue System

Regular, structured and meaningful dialogue forums should be established between the Bar and Bench to enable the redress of grievances and concerns without halting the smooth functioning of the courts.

These measures can be taken by constituting grievance redress committees, regular consultative meetings, or coordinating bodies that provide an opportunity for the legal profession to express their views & concerns in a constructive and legitimate manner.

Dialogue and effective communication at the initial level can practically reduce the intensity of conflicts and limit the possibility of confrontational actions such as strikes.

10.4 Promoting Legal and Ethical Awareness

One of the mechanisms to curb the tendency of co-called strikes is to promote educational programs by different academies for lawyers who should focus on the constitutional, ethical, and professional responsibilities of lawyers towards court & their clients.

In such like training program, it should be emphasized that the advocacy is not just a profession but a public service, and that the justice system and the protection of litigants' rights take precedence over their personal grievances.

By strengthening the awareness of professional ethics and constitutional values, lawyers can be sensitized to adopt legal, civilized, and legal means of protest.

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