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ROLE OF ADVOCATES IN MITIGATING THE ISSUE OF PENDENCY AND DELAY OF CIVIL CASES

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Abstract

The problem of delay and pendency of civil cases has become one of the most serious challenges faced by the Indian judicial system. Courts across the country are burdened with millions of pending cases, many of which continue for years before reaching final adjudication. Such delays weaken public confidence in the justice delivery system and affect the constitutional promise of access to justice. While judicial vacancies, infrastructural limitations and procedural complexities are often identified as major reasons for pendency, the role of advocates in either contributing to or reducing delays cannot be ignored. Advocates are essential stakeholders in the administration of justice and act as officers of the court. Their conduct, preparedness, ethical responsibility and professional approach directly influence the speed and efficiency of civil proceedings.

This paper examines the role played by advocates in addressing the growing issue of pendency and delay in civil litigation. It analyses the causes of delay in civil courts and evaluates how lawyers can contribute towards timely disposal of cases through responsible litigation practices, effective case management, promotion of alternative dispute resolution mechanisms and adherence to professional ethics. The paper also discusses judicial observations and legislative reforms aimed at discouraging unnecessary adjournments and dilatory tactics. Further, it highlights the importance of technology, mediation and professional accountability in ensuring speedy justice. The study concludes that advocates occupy a crucial position in the justice delivery system and that meaningful reduction in pendency is impossible without their active cooperation and commitment.

Introduction

The administration of justice forms the foundation of a democratic society governed by the rule of law. In India, the judiciary is entrusted with the responsibility of protecting legal rights and ensuring fair adjudication of disputes. However, the increasing backlog of cases has posed a serious threat to the effectiveness of the judicial system. The famous maxim “justice delayed is justice denied” reflects the harmful consequences of prolonged litigation. Delays in civil disputes not only burden litigants financially and emotionally but also weaken faith in legal institutions.

The issue of pendency is particularly severe in civil courts where disputes relating to property, contracts, family matters, commercial transactions and compensation often remain unresolved for several years. The National Judicial Data Grid has repeatedly shown a substantial rise in pending cases in district courts and High Courts. Various factors contribute to this problem, including shortage of judges, procedural complexities, excessive adjournments, inadequate infrastructure and increasing litigation.

Among all stakeholders connected with the justice delivery system, advocates play a

significant role in the functioning of courts. They act as intermediaries between litigants and the judiciary and are expected to assist courts in the administration of justice. The legal profession is not merely a commercial occupation but a noble profession carrying ethical and social responsibilities. Advocates are expected to conduct cases with fairness, competence and integrity. However, in many cases, delays in civil litigation are aggravated by unnecessary adjournments, prolonged arguments, lack of preparation and procedural misuse by lawyers.

At the same time, advocates also possess the ability to significantly reduce delays and pendency. Through responsible advocacy, effective drafting, encouragement of settlements and proper use of alternative dispute resolution mechanisms, lawyers can contribute towards speedy disposal of cases. The role of advocates therefore becomes central in any discussion concerning judicial reforms and reduction of pendency.

This paper seeks to analyse the role of advocates in mitigating delays in civil cases and examines the reforms and professional responsibilities necessary for improving the efficiency of the judicial process.

Understanding Pendency and Delay in Civil Cases

Pendency refers to cases that remain unresolved before courts for a prolonged period. Delay in civil litigation may arise at different stages such as filing of pleadings, service of summons, framing of issues, production of evidence, arguments and execution of decrees. The large number of pending civil suits has become a matter of serious concern for the judiciary and the government.

One of the major reasons behind pendency is the increasing burden of litigation combined with insufficient judicial strength. Indian courts handle millions of cases every year, while the judge-population ratio remains significantly lower than recommended standards. In addition

to institutional shortcomings, procedural delays also contribute heavily to pendency.

Frequent adjournments have emerged as a common feature in civil litigation. Parties often seek repeated postponements for filing documents, producing evidence or continuing arguments. Lawyers sometimes use adjournments as strategic tools to delay proceedings for the benefit of clients. The Code of Civil Procedure was amended to restrict the number of adjournments and impose costs, yet the practice continues in many courts.

Another significant factor is poor case management. Delays occur due to lengthy pleadings, repeated filing of miscellaneous applications and lack of preparedness by advocates. Complex procedural formalities and inefficient scheduling further prolong trials. Government departments also contribute heavily to pendency because they are among the largest litigants in the country.

The consequences of delayed justice are severe. Litigants suffer financial hardship, emotional stress and loss of faith in the judiciary. Commercial disputes affect economic activity and investment confidence. Long-pending property and family disputes disturb social harmony. Thus, reducing pendency is not merely an administrative necessity but an essential requirement for ensuring access to justice.

Advocates as Officers of the Court

Advocates occupy a unique position within the legal system. They are representatives of their clients, yet they also owe duties towards the court and society. The Advocates Act, 1961 and the Bar Council of India Rules emphasize professional ethics and responsibilities expected from lawyers.

The Supreme Court has repeatedly stated that advocates are officers of the court and must assist in the administration of justice. Their role extends beyond winning cases for clients. They are expected to present facts honestly, avoid misleading the court and ensure that judicial time is not wasted unnecessarily.

The legal profession carries a social obligation because advocates influence the efficiency and credibility of the justice system. If lawyers encourage frivolous litigation, seek unnecessary adjournments or misuse procedural law, the burden on courts increases. On the other hand, when advocates act responsibly and ethically, they contribute significantly to speedy justice.

Professional ethics require advocates to maintain fairness and integrity in their dealings with courts and clients. Lawyers should advise clients against filing baseless claims and should encourage settlement wherever possible. Ethical advocacy therefore becomes an important tool in reducing delays and pendency.

Role of Advocates in Reducing Pendency and Delay

The problem of judicial delay and pendency of cases has become one of the greatest challenges faced by the Indian legal system. Courts at all levels are burdened with an enormous number of pending cases, resulting in delayed justice for litigants. The famous principle “justice delayed is justice denied” reflects the serious consequences of prolonged litigation. While shortage of judges, inadequate infrastructure and procedural complexities contribute to delays, advocates also play a highly significant role in ensuring the efficient functioning of courts. As officers of the court, advocates have both professional and ethical responsibilities to assist in the administration of justice. Their conduct, preparation and cooperation can substantially reduce pendency and delays in judicial proceedings.

1. Avoiding Unnecessary Adjournments

One of the most important ways advocates can help reduce delay is by avoiding unnecessary adjournments. Adjournments prolong litigation and waste valuable judicial time. Courts have repeatedly expressed concern regarding the misuse of adjournments in civil and criminal proceedings. Frequent postponements not only delay justice for parties but also contribute heavily to the accumulation of pending cases.

The amendments introduced to the Code of Civil Procedure, 1908 sought to control this problem by restricting the number of adjournments and empowering courts to impose costs on parties seeking delays. However, despite these reforms, adjournments continue to be sought frequently because of lack of preparation, absence of witnesses, non-availability of lawyers or deliberate strategies to delay proceedings.

Advocates must recognize that repeated requests for adjournments affect not only individual litigants but also the overall efficiency of the judicial system. Proper preparation before hearings, timely filing of pleadings and punctual appearance before courts can significantly improve the pace of litigation. Lawyers should avoid seeking adjournments except in genuine and unavoidable circumstances such as medical emergencies or unforeseen situations.

The Supreme Court and various High Courts have repeatedly emphasized that unnecessary adjournments undermine public confidence in the justice delivery system. Responsible advocates should therefore adopt professional discipline and ensure readiness on scheduled dates. By minimizing avoidable delays, lawyers can contribute greatly towards speedy disposal of cases.

2. Effective Drafting and Case Preparation

Poor drafting and incomplete pleadings are major causes of delay in judicial proceedings. Defective complaints, vague written statements and unclear applications often compel courts to seek additional clarifications, amendments or repeated hearings. Advocates play a crucial role in ensuring that pleadings are concise, precise and legally sound.

Well-drafted pleadings help courts identify the real issues involved in disputes at an early stage. Clear presentation of facts, proper framing of legal issues and accurate citation of relevant laws reduce confusion and facilitate efficient adjudication. Effective drafting also minimizes unnecessary procedural objections and technical disputes between parties.

Case preparation is equally important in reducing delays. Advocates who conduct thorough legal research and organize evidence properly assist courts in reaching timely decisions. Proper preparation includes examining documents carefully, preparing witnesses in advance and ensuring that evidence is produced without delay.

Lawyers should maintain regular communication with clients and witnesses so that hearings are not postponed due to absence of necessary parties. In many cases, delays occur because advocates fail to produce documents or witnesses on scheduled dates. Responsible preparation and coordination can therefore reduce procedural complications and promote faster disposal of cases.

Furthermore, effective advocacy involves presenting concise and focused arguments rather than unnecessarily lengthy submissions. Courts often face difficulty due to repetitive arguments and excessive oral hearings. Advocates who present well-structured arguments save valuable judicial time and improve the efficiency of proceedings.

3. Discouraging Frivolous Litigation

Frivolous and vexatious litigation contributes substantially to judicial backlog. Some litigants misuse legal processes to harass opponents, delay lawful obligations or gain unfair advantages. Filing baseless suits and repetitive applications unnecessarily burdens courts and delays justice for genuine litigants.

Advocates have a professional and ethical responsibility to discourage such practices. Before initiating litigation, lawyers should honestly assess the merits of cases and advise clients appropriately. Filing cases with little legal basis merely to prolong disputes amounts to abuse of the judicial process.

Courts have increasingly imposed exemplary costs on parties engaging in frivolous litigation. However, judicial penalties alone are insufficient unless advocates themselves exercise ethical judgment. Lawyers should not encourage

unnecessary appeals, repetitive petitions or false claims for personal gain or strategic advantage.

Responsible advocacy requires balancing the duty towards clients with broader obligations towards justice and society. Advocates are not merely representatives of private interests; they are also officers of the court with a responsibility to uphold fairness and integrity in legal proceedings.

By discouraging frivolous litigation and promoting honest legal advice, advocates can significantly reduce the burden on courts. This would allow judges to devote more time to genuine disputes requiring judicial intervention.

4. Promoting Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) mechanisms such as mediation, arbitration, conciliation and Lok Adalats have emerged as effective tools for reducing pendency in courts. Section 89 of the Code of Civil Procedure encourages courts to refer suitable disputes for settlement through ADR methods.

Advocates play a vital role in promoting ADR and encouraging clients to adopt non-adversarial methods of dispute resolution. Many disputes involving family matters, commercial transactions, labour conflicts and property issues can be resolved amicably without prolonged litigation.

Mediation is particularly effective because it focuses on mutual settlement rather than adversarial victory. It preserves relationships, reduces costs and provides faster solutions compared to traditional court proceedings. Advocates trained in mediation techniques can assist parties in negotiating fair and practical settlements.

Lawyers should educate clients about the advantages of ADR, including confidentiality, flexibility and speed. Unfortunately, some advocates discourage settlements because prolonged litigation may generate greater professional fees. Such attitudes contribute to unnecessary delays and increase the burden on courts.

The success of ADR largely depends upon the willingness of lawyers to adopt cooperative approaches instead of aggressive adversarial tactics. If advocates actively support mediation and settlement processes, a substantial number of disputes can be resolved outside courts, thereby reducing pendency.

5. Use of Technology and Digital Tools

The modernization of courts through technology has created significant opportunities for reducing delays and improving judicial efficiency. E-filing systems, virtual hearings, digital records and online case management platforms have transformed the functioning of courts in recent years.

Advocates must adapt themselves to technological developments and make effective use of digital tools. Timely electronic filing of pleadings and documents reduces administrative delays and paperwork. Online access to case status and court records enables better case management and preparation.

Virtual hearings have proved especially useful in procedural matters, bail applications and short hearings. They save travel time for lawyers and litigants and allow courts to handle more cases efficiently. The COVID-19 pandemic demonstrated that technology can ensure continuity of judicial proceedings even during emergencies.

Technologically competent advocates contribute towards smoother functioning of courts. Lawyers should therefore develop familiarity with e-courts systems, digital evidence management and online legal research platforms. The use of technology not only saves time but also increases transparency and accessibility in the justice delivery system.

6. Cooperation with Courts in Case Management

Modern judicial systems increasingly emphasize case management techniques for controlling delays and ensuring timely disposal of cases. Effective case management requires active cooperation between judges and advocates.

Advocates should cooperate with courts in scheduling hearings, identifying key issues and limiting unnecessary evidence. They should avoid filing repetitive applications or seeking unnecessary cross-examinations that consume excessive court time.

Lawyers can assist courts by narrowing the scope of disputes and focusing only on relevant legal and factual questions. Concise written submissions and focused oral arguments help courts manage heavy caseloads more effectively.

Judicial observations have repeatedly highlighted the importance of disciplined advocacy in ensuring speedy justice. Professional cooperation between the Bench and the Bar is essential for maintaining procedural discipline and improving efficiency.

Ultimately, courts function effectively only when advocates actively support the administration of justice. By acting responsibly, ethically and professionally, lawyers can play a transformative role in reducing pendency and ensuring timely justice for litigants.

Judicial Reforms and Legislative Measures

Several legislative and judicial reforms have been introduced to address delays in civil litigation. Amendments to the Code of Civil Procedure aimed to streamline procedures, restrict adjournments and encourage ADR mechanisms.

The Commercial Courts Act introduced strict timelines and case management procedures in commercial disputes. Recent discussions regarding further reforms in civil procedure law also focus on introducing mandatory timelines and strengthening mediation processes.

The Supreme Court in various decisions has emphasized the duty of all stakeholders, including advocates, to prevent delays. Courts have criticized dilatory tactics and stressed the need for professional responsibility among lawyers. Judicial observations indicate that delay cannot be attributed solely to shortage of judges; procedural misuse and lack of

cooperation from advocates also contribute significantly.

The judiciary has also promoted mediation centres, Lok Adalats and arbitration mechanisms. These reforms can succeed only if advocates actively support and participate in them.

Challenges Faced by Advocates

Although advocates can help reduce pendency, they also face practical difficulties that affect their ability to conduct cases efficiently. Heavy caseloads, inadequate infrastructure and frequent strikes or boycotts disrupt court functioning. Young lawyers often lack proper training in case management and ADR techniques.

In some courts, poor scheduling and overcrowded dockets make it difficult for advocates to manage multiple matters effectively. Delays caused by non-availability of witnesses, administrative inefficiencies and repeated procedural requirements further complicate litigation.

Financial pressures also influence litigation practices. Some lawyers may encourage prolonged litigation for monetary benefit, though such practices are unethical. Addressing pendency therefore requires both institutional reforms and professional accountability.

Bar Councils and legal education institutions must play a proactive role in promoting ethical advocacy and practical training. Continuous legal education programs on mediation, technology and professional ethics can improve the quality of legal practice.

Need for Ethical and Responsible Advocacy

The legal profession occupies a respected position because advocates are expected to uphold justice and fairness. Ethical advocacy is essential for reducing delays in civil litigation. Lawyers must remember that they are not merely agents of clients but participants in the administration of justice.

Responsible advocacy requires honesty, preparedness and respect for judicial time. Advocates should avoid misleading arguments, false evidence and procedural abuse. They should encourage settlements where possible and advise clients against unnecessary litigation.

The culture of delay can only change when the legal profession collectively adopts a commitment towards efficiency and justice. Senior advocates and Bar Associations have an important role in setting professional standards and discouraging unethical practices.

Legal ethics should not remain confined to academic discussion but must become part of everyday legal practice. The credibility of the judiciary depends significantly upon the conduct of advocates appearing before courts.

Suggestions and Recommendations

Several measures can strengthen the role of advocates in reducing pendency and delay in civil cases:

1. Mandatory training programs should be conducted for advocates on case management, mediation and use of technology.
2. Bar Councils should strictly enforce ethical standards against advocates engaging in dilatory tactics or frivolous litigation.
3. Courts should impose realistic costs for unnecessary adjournments and procedural abuse.
4. Mediation and ADR training should become an integral part of legal education and professional practice.
5. Digital infrastructure should be expanded to improve e-filing, virtual hearings and online document management.
6. Advocates should cooperate in framing concise pleadings and limiting irrelevant arguments.

7. Legal aid and awareness programs should encourage settlement of disputes at early stages.
8. Coordination between the judiciary and Bar Associations should be strengthened for improving court management practices.

These reforms can significantly improve efficiency if implemented sincerely and consistently.

Conclusion

The issue of pendency and delay in civil cases has emerged as one of the most pressing concerns affecting the Indian justice delivery system. Prolonged litigation weakens public confidence in courts and undermines the constitutional promise of timely justice. While institutional shortcomings such as shortage of judges and inadequate infrastructure contribute significantly to the problem, the conduct and role of advocates also have a major impact on the pace of civil proceedings.

Advocates occupy a central position within the judicial system as representatives of litigants and officers of the court. Their professional responsibilities extend beyond client representation and include assisting courts in the fair and efficient administration of justice. Unnecessary adjournments, frivolous litigation and procedural misuse by lawyers contribute heavily to delays. At the same time, responsible advocacy, proper case preparation, ethical conduct and promotion of ADR mechanisms can greatly reduce pendency.

The success of judicial reforms depends not only on legislative amendments and technological advancements but also on the cooperation of the legal profession. Advocates must adopt a constructive approach focused on speedy and effective resolution of disputes. Ethical advocacy, disciplined litigation practices and active participation in mediation and case management are essential for improving judicial efficiency.

Ultimately, reducing pendency is a collective responsibility shared by judges, advocates, litigants and the government. However, advocates hold a particularly influential role because they directly shape the progress of litigation. If the legal profession embraces its responsibility towards timely justice, significant improvement can be achieved in the functioning of civil courts. The future of an efficient and credible judicial system therefore depends substantially upon the commitment of advocates to uphold justice not only in substance but also in time.



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