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ADJOURNMENTS IN CIVIL SUITS: AN ANALYSIS OF LAW, PRACTICE, AND REFORM

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I. ABSTRACT

Adjournments are among the most contentious aspects of civil litigation in India. Intended as a procedural safeguard to ensure fairness, they allow courts to grant parties time when circumstances prevent effective participation in proceedings. However, over time, adjournments have come to symbolize delay, inefficiency, and abuse of process. In India's overburdened judiciary, where more than 5 crore cases remain pending, adjournments are frequently cited as a principal cause of delay in civil suits. They are designed to provide flexibility in proceedings and ensure fairness by granting parties adequate time to present their case. However, in practice, adjournments are often misused as a tactic to delay proceedings, harass the opposite party, or prolong litigation. This has resulted in enormous delays in civil justice delivery, contributing significantly to India's judicial backlog. The Code of Civil Procedure, 1908 (CPC), particularly Order XVII, regulates adjournments and restricts them to three per party. Judicial pronouncements have repeatedly stressed that adjournments must be exceptional. The problems associated with adjournments, such as delay, harassment of litigants, and erosion of judicial credibility, are balanced with the necessity of adjournments in genuine circumstances. Yet, systemic weaknesses, professional practices, and judicial leniency undermine these safeguards. This paper offers a comprehensive analysis of adjournments in civil suits. It traces their legislative evolution, examines statutory provisions, reviews leading case law, and highlights problems caused by misuse. It situates adjournments within the constitutional framework of the right to speedy justice and the principle of fairness. A comparative perspective with jurisdictions like the UK, US, Singapore, Canada, and Australia demonstrates how strict case management reduces abuse. The paper also engages with Law Commission reports, empirical data on judicial delays, and practical challenges. It concludes with reform proposals including stricter enforcement of limits, realistic cost sanctions, case

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management hearings, and leveraging technology. The goal is to ensure adjournments remain tools of justice rather than weapons of delay.

II. KEYWORDS

Adjournments in civil suits, judicial delay in India, Order XVII CPC, procedural reforms, case management system, access to justice

III. INTRODUCTION

The problems associated with adjournments, such as delay, harassment of litigants, and erosion of judicial credibility, must be balanced against the necessity of adjournments in genuine circumstances. Adjournments are the postponements of court hearings to a later date. In civil suits, they are granted to enable parties to prepare their case, secure evidence, or deal with unforeseen circumstances. At their core, adjournments reflect the principle of Audi alteram partem—the right to be heard—a fundamental element of natural justice.

Yet, the misuse of adjournments highlights the tension between fairness and efficiency in civil litigation. The civil justice system is guided by the principle that justice should be fair, impartial, and timely. Adjournments occupy a unique space in this framework: they are procedural safeguards to ensure that no party is denied a fair opportunity to present their case. At the same time, they are vulnerable to abuse, becoming instruments of delay that frustrate the constitutional mandate of speedy justice under Article 21 of the Constitution of India.

Historically, adjournments were left to judicial discretion, with courts exercising wide latitude. Over time, however, the growing culture of frequent adjournments led to chronic delays in civil litigation. The problem became so entrenched that the Law Commission of India, in multiple reports, identified adjournments as one of the leading causes of delay. Consequently, Parliament introduced significant amendments in 1999 and 2002 to restrict adjournments, most notably capping them at three per party under Order XVII of the CPC.

Despite these reforms, adjournments remain a persistent feature of litigation. Judges often grant adjournments out of sympathy, courtesy to members of the Bar, or due to

systemic issues like overloaded court dockets. The challenge, therefore, is to balance fairness with efficiency, ensuring that adjournments are granted only when indispensable.

This paper examines the statutory framework, judicial pronouncements, practical problems, and reform measures concerning adjournments in civil suits. It argues that unless adjournments are tightly regulated and cultural attitudes toward litigation shift, the problem of delay in civil justice cannot be effectively addressed.

A. HISTORICAL BACKGROUND

The provision for adjournments has existed since the earliest codifications of civil procedure in colonial India. The Civil Procedure Code of 1859 and subsequent versions recognized judicial discretion to adjourn proceedings. However, unlimited discretion led to routine postponements. The Code of Civil Procedure, 1908, consolidated earlier codes and retained provisions for adjournments under Order XVII.

Over time, judicial delays became endemic. The 1976 Amendment sought to address this by empowering courts with stricter timelines. However, the real turning point was the 1999 and 2002 Amendments, which explicitly capped adjournments to three per party. This legislative intervention signaled Parliament's recognition of adjournments as a major cause of delay.

B. IMPORTANCE AND PROBLEM

Adjournments are necessary in genuine cases, but in practice, they have become one of the most abused provisions. Advocates often seek adjournments for personal convenience, lack of preparation, or strategic delay. Litigants, especially wealthy or influential ones, exploit adjournments to exhaust weaker opponents.

The result is a staggering delay. As per the National Judicial Data Grid (NJDG), civil suits in district courts often remain pending for over 10 years. A study by the Delhi High Court (2014) found that an average civil case experiences more than 30 adjournments. Thus, adjournments are not merely procedural—they directly impact access to justice and public faith in the judiciary.

IV. STATUTORY FRAMEWORK GOVERNING ADJOURNMENTS

A. ORDER XVII OF THE CODE OF CIVIL PROCEDURE, 1908

Order XVII of the Code of Civil Procedure, 1908, specifically deals with adjournments of hearings in civil suits. It provides the statutory framework within which courts may grant, regulate, or refuse adjournments. The legislative purpose of this Order is to balance the principle of *Audi alteram partem*—ensuring both parties have adequate opportunity to present their case—with the constitutional mandate of a speedy trial under Article 21 of the Constitution of India.

1. Rule 1 – Adjournments for Sufficient Cause

Rule 1 empowers the court to adjourn the hearing of a suit if a party shows “sufficient cause.” However, this discretionary power is not unbridled. The 2002 Amendment to the CPC inserted a proviso, capping the number of adjournments to three per party during the hearing of a suit. The amendment was intended to curb the widespread misuse of adjournments as a delaying tactic and to promote judicial efficiency.

Importantly, the Rule requires that courts record reasons in writing whenever an adjournment is granted. This ensures transparency and accountability in judicial discretion. Despite this safeguard, judicial practice reveals that courts often relax the three-adjournment limit in exceptional circumstances, such as illness of counsel, unforeseen emergencies, or absence of crucial evidence.

The Supreme Court in *Salem Advocate Bar Association v. Union of India* (2005) clarified that while the three-adjournment rule is mandatory, courts retain the power to grant further adjournments in rare and extraordinary cases, provided reasons are recorded. Thus, the Rule strikes a balance between rigidity and flexibility.

2. Rule 2 – Non-Appearance on Adjourned Date

Rule 2 provides that if a party fails to appear on the adjourned date, the court may proceed to dispose of the matter in accordance with Order IX CPC. This could result in dismissal of the suit for default (if the plaintiff is absent) or an ex parte decree (if the defendant is absent).

This provision reflects the principle that adjournments are not indefinite entitlements. Once a party has been given an adjournment, their absence on the subsequent date amounts to negligence, and the court is justified in proceeding without them. The Supreme Court in *Arjun Singh v. Mohindra Kumar* (1964) stressed that Rule 2 should be applied strictly to prevent obstruction of justice.

3. Rule 3 – Failure to Produce Evidence or Witnesses

Rule 3 addresses situations where a party, despite having been given an opportunity, fails to produce evidence, secure attendance of witnesses, or perform any act necessary for further progress of the case. In such cases, the court is empowered to decide the case on the basis of the material available.

This provision is particularly significant because it prevents parties from indefinitely stalling the proceedings under the guise of “not being ready.” The court’s power to pronounce judgment despite such default is an important deterrent against dilatory tactics.

4. Doctrinal Balance in Order XVII

The three Rules, read together, reveal a carefully designed framework:

- Rule 1 allows adjournments but with a ceiling and judicial accountability.
- Rule 2 ensures that failure to appear after an adjournment leads to strict consequences.
- Rule 3 prevents non-production of evidence from being used as a stalling device.

Thus, Order XVII embodies the principle of limited judicial indulgence – permitting adjournments only when justified, but attaching consequences for abuse.

5. Critical Commentary

Despite its clarity, the application of Order XVII has been inconsistent. Courts often invoke their inherent powers under Section 151 CPC to bypass the strict three-adjournment cap. Moreover, the absence of strong penal consequences (beyond costs and procedural defaults) weakens the deterrent effect. Scholars have observed that

unless judicial discipline is strictly maintained, the legislative cap on adjournments remains more aspirational than real.

The Law Commission of India (230th Report, 2009) explicitly criticized the liberal granting of adjournments and recommended stricter enforcement of Order XVII to reduce pendency. The report highlighted that adjournments are the single most significant contributor to the backlog of civil cases in India.

B. SECTION 35-B CPC (COSTS FOR CAUSING DELAY)

Section 35-B of the Code of Civil Procedure, 1908 was inserted by the 1976 Amendment to address the growing problem of parties deliberately delaying proceedings. The provision empowers courts to impose compensatory costs on a party who fails to take a step that they were required to take on a particular date, or who otherwise causes delay in the progress of the suit. The legislative intent was to discourage adjournments sought on frivolous grounds and to instill a sense of responsibility in litigants and their advocates.

The text of Section 35-B provides that:

- Where on any date fixed for hearing a party to the suit fails to take the required step or obtains an adjournment, the court may order the party to pay costs to the other side.
- Unless such costs are paid on the next date, the defaulting party is not entitled to further prosecution of the suit or defense.

1. Judicial Interpretation

The Supreme Court in *Salem Advocate Bar Association v. Union of India* (2005) emphasized that the provision must be applied realistically to achieve its object. Courts were urged to award actual and realistic costs, keeping in mind the nature of litigation, inconvenience to the other party, and loss of court time.

Similarly, in *Rani Kusum v. Kanchan Devi* (2005), the Court reiterated that Section 35-B is mandatory in nature and not a mere directory provision. If costs are imposed, the defaulting party cannot proceed without compliance.

High Courts have, however, varied in their approach. While some courts impose significant costs (₹5,000–₹10,000 in recent years), many continue to award **nominal sums** (₹500–₹1,000). This reduces the deterrent effect, as wealthier litigants and institutions (including government departments) can afford repeated defaults.

2. Issues in Enforcement

- **Nominal Costs:** In practice, costs remain symbolic rather than compensatory. They seldom reflect the real expenses of a litigant, such as travel, counsel's fees, and time lost.
- **Judicial Reluctance:** Many judges are hesitant to bar a party from participating further in the suit merely because of non-payment of costs, fearing it may amount to denial of justice.
- **Government Litigation:** Since the government is the largest litigant in India, delays by government counsel often attract little more than token costs, rendering the section ineffective.

3. For Section 35-B to be effective, courts must

- Impose realistic, proportionate costs that reflect actual inconvenience and expenses incurred.
- Enforce strict compliance by disallowing defaulting parties from proceeding without payment.
- Differentiate between genuine hardship (illness, unavoidable circumstances) and intentional default.
- Consider graded costs (increasing amounts for repeat adjournments).

The Law Commission of India (230th Report, 2009) also recommended that adjournments must not be granted casually and, wherever unavoidable, must be accompanied by heavy costs to discourage habitual delays.

In conclusion, while Section 35-B CPC is a well-intentioned statutory tool to prevent misuse of adjournments, its ineffective implementation has diluted its utility. Strengthening the provision through judicial willpower, stricter application, and

perhaps legislative amendments to prescribe minimum realistic costs could make it a far more effective instrument in reducing judicial delays.

C. THE 2002 AMENDMENT

The Code of Civil Procedure (Amendment) Act, 2002 marked a watershed moment in the reform of Indian civil procedure. Before this amendment, adjournments were widely perceived as one of the chief causes of delay in the civil justice system. Although courts possessed discretionary power to regulate adjournments under Order XVII CPC, the absence of a statutory ceiling meant that parties and counsel often sought repeated adjournments on frivolous grounds, which were routinely granted by overburdened courts. This culture of adjournments severely undermined the objective of timely justice.

1. Background and Legislative Intent

The push for reform was influenced by repeated recommendations of the Law Commission of India (54th, 77th, and later 230th Reports), which consistently flagged adjournments as a structural problem. The Justice Malimath Committee on Civil Justice Reforms (1990) also emphasized the need for stricter procedural discipline to counter deliberate delays.

The Statement of Objects and Reasons of the 2002 Amendment explicitly declared its goal: to reduce delays in the disposal of cases and improve the efficiency of the justice delivery system. In particular, it recognized that adjournments had become a tool for abuse rather than an instrument of fairness, and therefore needed statutory regulation.

2. Key Changes Introduced

- **Cap on Adjournments (Order XVII Rule 1, Proviso):**
 - For the first time, the law imposed a statutory ceiling of three adjournments per party during the hearing of a suit.
 - The intent was to eliminate the practice of parties indefinitely prolonging litigation.

- Courts were mandated to record reasons for granting adjournments, ensuring accountability and transparency.
- **Judicial Discretion Preserved:**
 - While the ceiling was strict, the amendment allowed exceptions in unavoidable circumstances such as illness, accidents, natural calamities, or other events beyond a party's control.
 - This safeguard ensured that the rule did not operate harshly to deny genuine opportunities of hearing.
- **Section 35-B CPC (Costs for Causing Delay):**
 - The amendment also inserted Section 35-B, empowering courts to impose realistic costs on defaulting parties who caused delay.
 - This provision was designed as a deterrent, ensuring that the party causing delay bears not only the burden of inconvenience but also compensates the opposite side.

3. Judicial Interpretation

The Supreme Court in *Salem Advocate Bar Association v. Union of India* (2005) upheld the constitutional validity of the three-adjournment rule, holding that it was a necessary step to streamline proceedings. The Court clarified, however, that the rule must be applied with pragmatism—courts should not adopt an inflexible approach but may grant additional adjournments in rare cases where denial would cause injustice.

In *Rani Kusum v. Kanchan Devi* (2005), the Court reiterated that the provision was mandatory in principle but flexible in practice, provided that reasons for deviation were recorded. Thus, the judiciary has interpreted the 2002 Amendment as a balance between discipline and fairness.

V. LAW COMMISSION OF INDIA REPORTS ON ADJOURNMENTS

The Law Commission of India, in its various reports over the decades, has repeatedly identified adjournments as a primary cause of delay in civil litigation. The Commission's recommendations reflect the growing judicial and legislative concern that adjournments were being misused, leading to backlog, harassment of litigants, and erosion of public confidence in the justice delivery system.

A. 54TH REPORT (1973)

The 54th Report on the Code of Civil Procedure was among the earliest to draw attention to adjournments. It emphasized that adjournments should not be granted casually and that judicial officers must exercise strict control over proceedings. The Report observed that many adjournments were being sought without genuine cause, and judges, under pressure of heavy workload or sympathy for counsel, often conceded to such requests. The Commission urged that adjournments should be the exception rather than the rule and should be supported by written reasons.

B. 77TH REPORT (1978)

The 77th Report on Delay and Arrears in Trial Courts went further, analyzing the reasons behind the excessive adjournments. It noted that adjournments were frequently sought not due to necessity but merely for the convenience of counsel, such as clashes in schedule or lack of preparation. The Commission observed that this practice placed undue hardship on litigants, particularly those traveling long distances for hearings. It is recommended that adjournments should be granted only when necessary, and that repeated adjournments for the same reason should be prohibited.

C. 230TH REPORT (2009)

The 230th Report on Reforms in the Judiciary – Some Suggestions was particularly strong in its criticism, labeling adjournments as “a root cause of arrears.” The Commission found that adjournments had become a habitual practice in many courts, often used to delay justice and pressure weaker parties into settlement. It is

recommended that courts should impose realistic and deterrent costs for adjournments, reflecting the actual expense and inconvenience suffered by the other party. The Report also advocated for strict adherence to the three-adjournment rule introduced by the 2002 Amendment to the CPC, and urged judicial accountability in recording reasons for granting adjournments.

D. 245TH REPORT (2014)

The 245th Report on Arrears and Backlog: Creating Additional Judicial (Wo)manpower criticized the growing “adjournment culture” in Indian litigation. It pointed out that adjournments were often granted mechanically, undermining both efficiency and fairness. The Commission recommended strict enforcement of the three-adjournment limit, greater reliance on case management systems, and effective use of technology (such as e-filing and video-conferencing) to reduce delays. It stressed that adjournments should not be treated as a procedural right but as a judicial indulgence subject to stringent scrutiny.

VI. PROBLEMS ASSOCIATED WITH ADJOURNMENTS

Adjournments, though intended as a procedural safeguard to ensure fairness, have over time become one of the most significant contributors to judicial delay and inefficiency in India. Their misuse has consequences not just for litigants but also for the credibility of the entire justice system.

A. JUDICIAL DELAY

The most immediate and visible effect of frequent adjournments is the protraction of trials. Civil suits that, in theory, should be disposed of within two to three years often remain pending for a decade or longer. Each adjournment postpones the progress of the case by several weeks or months, and when compounded across thousands of suits, the cumulative effect is massive. For instance, the National Judicial Data Grid (NJDG) shows that as of 2025, more than 4.5 crore cases remain pending across Indian courts, with procedural delays such as adjournments cited as a major cause. This undermines public faith in the judiciary, as “justice delayed is justice denied.”

B. LITIGANT HARASSMENT

Adjournments impose a heavy burden on litigants, both financially and emotionally. Each trip to court involves legal fees, travel expenses, and loss of wages for working-class litigants. For those residing in rural or remote areas, even attending a single hearing can involve considerable expenditure and inconvenience. When hearings are adjourned repeatedly without substantial progress, many poor litigants become disillusioned and either abandon their claims or are forced into unfair settlements. This disproportionately affects vulnerable groups – women, daily wage earners, and small traders – whose access to justice is already fragile.

C. ABUSE BY LAWYERS

A disturbing dimension of the problem lies in the professional conduct of some members of the Bar. Adjournments are sometimes deliberately sought to extract higher fees by prolonging litigation or to shield influential clients from adverse orders. Some lawyers use adjournments strategically to tire out the opposing party, particularly when the opponent is economically weaker. The Law Commission's 77th and 230th Reports noted that many adjournments are sought for the convenience of counsel rather than genuine necessity. This practice erodes the ethical foundation of the legal profession, reducing litigation to a war of attrition rather than a search for justice.

D. SYSTEMIC INEFFICIENCY

From an institutional perspective, adjournments represent a wastage of judicial time and resources. When a case listed for final hearing is adjourned at the last minute, the valuable court slot is wasted, contributing to the mounting backlog. Judicial manpower, already scarce, is squandered on repeated procedural hearings rather than substantive adjudication. This inefficiency is particularly damaging in India, where the judge-to-population ratio is among the lowest in the world. Instead of facilitating efficient case disposal, adjournments perpetuate a cycle of delays and congestion in the dockets of trial courts and higher courts alike.

E. CONSTITUTIONAL CONCERNS

Excessive adjournments raise significant constitutional issues. The Supreme Court in *Hussainara Khatoon v. State of Bihar* (1979) held that the right to speedy trial is part of the fundamental right to life and personal liberty under Article 21 of the Constitution. While the judgment was in the context of criminal trials, its logic extends to civil litigation as well. Denial of timely justice due to adjournments effectively amounts to a denial of the right itself. Further, when wealthier litigants exploit adjournments to delay justice against weaker opponents, it results in unequal access to justice, violating Article 14's guarantee of equality before law. Thus, unchecked adjournments are not merely procedural inconveniences but pose a challenge to the constitutional commitment of fair and equal justice.

VII. REFORMS AND SUGGESTIONS

The persistence of adjournments as a bottleneck in civil litigation demonstrates that existing statutory measures, such as the three-adjournment cap under Order XVII CPC and the cost-imposition mechanism under Section 35-B, have not been enforced rigorously. To tackle this problem, a combination of strict procedural enforcement, institutional reform, and cultural change within the legal community is required.

A. STRICT ENFORCEMENT OF THE THREE-ADJOURNMENT RULE

The 2002 Amendment to the CPC expressly restricted adjournments to a maximum of three per party during the hearing stage. However, in practice, this rule is rarely enforced with the desired strictness, as courts often grant adjournments citing "interest of justice." To be effective, courts must adhere to the statutory limit and only relax it in genuinely unavoidable emergencies—such as sudden illness, accidents, or natural calamities. Judicial discretion should be exercised sparingly and with written reasons, ensuring that the rule is not diluted by routine practice.

B. REALISTIC AND DETERRENT COSTS

The imposition of costs under Section 35-B CPC was intended as a deterrent against frivolous delays. Yet, in reality, costs remain nominal—often in the range of ₹500–₹1,000—which fails to reflect the actual hardship caused to litigants. Courts should

adopt a realistic cost framework, taking into account expenses like travel, loss of income, and lawyer's fees. For example, in the UK, costs generally follow the principle of "costs follow the event," where the losing or defaulting party bears the actual legal costs incurred by the other side. A similar model in India, with calibrated safeguards, could create genuine disincentives for unnecessary adjournments.

C. USE OF TECHNOLOGY

Technological integration in courts, particularly after the COVID-19 pandemic, has significantly reduced the scope for adjournments due to non-appearance. Virtual hearings allow parties, lawyers, and witnesses to participate remotely, minimizing delays caused by travel or scheduling conflicts. Furthermore, digital tools such as e-filing, case-tracking, and automated scheduling can streamline case management. If properly institutionalized, technology can play a crucial role in reducing adjournments while also making justice more accessible.

D. PRE-TRIAL CASE MANAGEMENT

Another reform lies in strengthening pre-trial procedures. If issues are clearly framed, documents exchanged, and witness lists filed at the outset, the need for repeated adjournments during the hearing stage reduces considerably. The Commercial Courts Act, 2015 introduced case management hearings in commercial disputes, requiring judges to fix timelines for all stages of the trial. Extending such structured pre-trial case management to regular civil suits can ensure greater discipline in proceedings and minimize last-minute requests for adjournments.

E. CULTURAL SHIFT AT THE BAR

The "adjournment culture" has partly taken root because of the mindset among some lawyers who view adjournments as a convenient tool of litigation strategy. To change this, bar associations and professional bodies must inculcate a culture where advocates prioritize the client's right to timely justice over tactical delay. Continuing legal education and ethical sensitization programs can help reinforce the role of lawyers as officers of the court rather than mere agents of clients. Peer accountability within the Bar is also essential to discourage the practice of routinely seeking adjournments.

F. JUDICIAL TRAINING AND ACCOUNTABILITY

Judges often face pressure from lawyers—particularly senior counsel or those with large followings at the Bar—to grant adjournments. Judicial training programs should emphasize the importance of docket control and encourage judges to adopt firm stances against frivolous requests. Additionally, mechanisms of accountability, such as periodic performance audits and monitoring by High Courts, can incentivize judicial officers to reduce adjournments. Consistency in decision-making on adjournments will also create a culture of discipline among litigants and lawyers.

G. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION (ADR)

Finally, the promotion of ADR mechanisms—such as mediation, arbitration, and conciliation—can indirectly curb adjournments by reducing the burden on civil courts. Mediation, in particular, has been recognized by the Supreme Court in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010)* as an effective tool for dispute resolution. If more cases are diverted to ADR at an early stage, the number of civil suits requiring repeated hearings (and thus adjournments) will naturally decline. Institutional support for court-annexed mediation centers and incentives for parties to resolve disputes outside litigation can play a pivotal role here.

VIII. CONCLUSION

Adjournments in civil suits embody the tension between ensuring fairness and maintaining efficiency. Though essential in exceptional situations, they are too often exploited, leading to prolonged trials, harassment of litigants, and erosion of public trust in the judiciary. While the CPC, judicial precedents, and Law Commission reports provide mechanisms to curb misuse, lax enforcement has blunted their impact. Going forward, stricter application of limits, imposition of realistic costs, effective case management, and greater use of technology and ADR are essential. With these reforms, adjournments can return to their rightful role—as safeguards of justice rather than instruments of delay.

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