
ADJOURNMENTS AS THE SILENT SABOTEUR: HOW ORDER XVII TRANSFORMS JUSTICE INTO DELAY IN INDIA

Swara Mehta, Institute of Law, Nirma University
Vasavi Trivedi, Lloyd Law College

ABSTRACT

What if the greatest threat to justice in India is not the absence of law, but a tool buried within its procedural mandate? Imagine a legal provision, designed to ensure fairness and provide a systematic mechanism, is designed to create delays, backlog and profound disillusionment. This is not a hypothetical scenario, but it's a startling reality of the adjournment culture entrenched within the Indian judiciary. This article explores Order XVII of the Code of Civil Procedure, 1908, the rule governing adjournments, and takes a view of its saboteur nature, arguing that what was conceived as a narrow exception for granting fairness has been transformed into a routine tool for perpetuating inefficiency, eroding public trust, and denying timely justice. Adopting a proactive approach, the analysis moves beyond conventional explanations like judicial vacancies to critically examine the ingrained procedural pattern adopted by courts and tribunals alike. Further, the article explores judicial apathy, the Bar's tactics, and the failure to enforce existing legal provisions, revealing a significant gap between legislative intent and ground reality.

Ultimately, the article closes by addressing the need to resolve this pendency crisis, which requires more than a legislative amendment; it demands a profound cultural shift within the legislative ecosystem. It concludes with a suite of proactive recommendations aimed at strict enforcement, meaningful deterrence, and technological integration to restore adjournments to their original purpose: a shield for fairness, not a sword against justice itself.

Keywords: Adjournment, Delay, Judicial inefficiency, Order XVII, The Code of Civil Procedure, 1908.

I. Introduction

The article's thesis rests on the evidence elicited from the delays, backlogs, procedural blockages and ultimately the denial of justice that characterizes much of our judicial system. A significant contributor to this crisis is not only the structure of the judiciary or the way justice delivery has evolved over the years, but the persistent issues of delays, which directly fuels the problem of pendency. This ever-increasing pendency erodes public trust in the system, prolongs disputes, makes it expensive for everyone involved and reinforces the age-old saying: '*Justice delayed is justice denied.*' In order to critically assess this issue, it is essential to understand both the cause behind these excessive delays and pendency, as well as the far-reaching implications they have on the credibility, efficiency and accessibility of the current justice system.

To put more weight onto these looming issues and to see the exact picture faced by India presently: there is a backlog of 68,424 cases in the Supreme Court of civil nature alone.¹ The situation is much worse in High Courts where 44 lakh cases are presently pending,² and Uttar Pradesh is topping this hierarchy with a weak case management.

To have a deeper understanding of this dilapidated condition, the contributing factors of this issue have to be analyzed. In India, it seems that the judicial system has not coped with the number of cases filled each year, which has majorly disrupted its balance and hindered expedient case resolution. Currently, the judge-to-population ratio stands at approximately 21 judges per million people.³ This is too low, especially when compared to countries with more efficient case management systems. In those nations, the appointment of judges and a proportional ratio to the population are well maintained, a balance with is substantiated by the proven results of their efficient case management. For example, the USA has a ratio of 150 judges per million population, while Australia has 100. India clearly lags far behind. Although a target of 50 judges per million was set by Supreme Court in the 2002 judges per million population, etc.⁴ India is clearly far-off in comparison to these countries. Even though, India did have a target ratio it aimed to achieve in 2002 *All India Judges Association Case*, this target has yet to be met. This persisting

¹ National Judicial Data and Grid (Supreme Courts of India), SC; <https://scdg.sci.gov.in/scnjd/> (last visited Oct. 2, 2024)

² National Judicial Data and Grid (High Courts of India), HC NJDG https://njdg.ecourts.gov.in/njdg_v3/ (last visited Oct. 2, 2025)

³ Shri Arjun Ram Meghwal, Unstarred Question No. 1335, Lok Sabha (9 Feb. 2024).

⁴ *All India Judges Association and Others v. Union of India and Others*, 2002 INSC 165, March 21, 2002.

gap demonstrates that the resulting delays and systematic weakness are creating a significant strain on the judicial system, highlighting flaws that are entirely of its own doing.

More importantly, the paper's focus on procedural inefficiency addresses a key cause of delays and pendency in court cases.⁵ These delays, are often categorized into court-side or counsel-side inefficiencies. They include the absence of judges, counsels or witnesses on the hearing days;⁶ the improper case management leading to insufficient time per case; the lack of preparation or the adoption of incorrect procedure. To understand most of these civil procedural inefficiencies, we must examine the mechanism provided by India Law: The Civil Procedure Code of 1908. While the CPC has helped judiciary immensely by systemizing procedures and creating a coded system to avoid confusion, it has its shortcomings. One such shortcoming is found in Order XVII, which governs adjournments. Although necessary to uphold the principle of natural justice, this tool has become one of the most misused provisions in courts and opposes efficient justice delivery. Its poor implementation actively opposed efficient justice delivery and is a significant contributor to delays. The following sections will explore adjournments in greater depth, analyzing their meaning, scope, nature and loopholes.

II. Legal Framework of Order XVII CPC

Adjournment, in the simplest sense, refers to the postponement of a hearing or trial to a later date, this can be done either at the request of one of the parties or by the court itself, following due process. In Judicial parlance, commentators have noted that this mechanism is meant for a narrow procedural device to balance efficiency with fairness. It is not designed as a right for litigants, but as a discretionary tool for courts to secure justice in circumstances were going forward with a hearing of the case is genuinely impractical.

The provision as mentioned under Order XVII of the Code of Civil Procedure, 1908, provides the statutory foundation for this tool. These rules are tailored to be straightforward, in order to prevent undue delays or exigencies.

- The O. XVII, Rule 1 authorizes the court to grant adjournments, conditional on a “sufficient cause” to be provided by counsel. This grant is ordinarily restricted to only

⁵ *India Justice Report: Ranking States on the Capacity of Police, Judiciary, Prisons and Legal Aid* (2025), April 2025, p. 5.

⁶ Prasanth Regy, Shubho Roy, and Renuka Sane. *Understanding judicial delays in India: Evidence from Debt Recovery Tribunals*. In: Ajay Shah's Blog (May 16, 2016)

three instances.⁷ Importantly, the provision empowers the court to impose costs occasioned by each adjournment, or even higher costs, as a deterrent against frivolous requests, these limitations were put, to omit the misuse and put a bar to imm-proportionate delays.

- Further, the Rule 2 enables the court, where substantial evidence has already been recorded and when a party fails to appear on the adjourned day, to proceed with the case as if that party were present.⁸
- Rule 3 empowers the court to decide a suit on the merits of the case, instead of choosing to adjourn the proceedings. This Rule may be exercised when the parties are present, however, if there is a delay in either producing evidence or securing witness. Here, if the parties are absent the court may proceed under Rule 2.⁹

In theory, the framework appears robust. By limiting adjournments to three, mandating costs, and setting clear consequences for non-compliance, by this Order XVII is seeking to strike a balance between litigant convenience and judicial efficiency. Yet, judicial interpretation has clarified its nuances. Courts have held that Order XVII Rule 2 and 3 are independent and mutually exclusive; where Rule 2 deals with absence of a party, and Rule 3 deals with default despite presence.¹⁰ The judiciary has also recognized that while adjournments may be necessary, their overuse can derail justice, turning the courts into what critics describe as a sluggish elephant in the race towards timely adjudication.

The legislative history also reflects attempts to reform the misuse of adjournments. Amendments have been introduced to reinforce cost imposition and limit adjournments to three, except in exceptional circumstances. Further, special statutes such as the Commercial Courts Act, 2015 introduced stricter controls, limiting adjournments in commercial matters to three and using

⁷ Code of Civil Procedure, 1908, Order XVII, Rule 1.

⁸ Shri Asoke Kumar Sen, Law Commission of India: Twenty-Seventh Report- Reform of Judicial Administration, Vol. I, 1958 (Ministry of Law) p. 53.

⁹ Shri Asoke Kumar Sen, Law Commission of India: Twenty-Seventh Report- Reform of Judicial Administration, Vol. I, 1958 (Ministry of Law), p. 57.

¹⁰ Ashok KM, 'Order XVII Rule 2 CPC -Court Can Proceed Only Against an Absent Party Whose Evidence Has Been Substantially Recorded: Supreme Court' Live Law, Aug 17, 2023.

<https://www.livelaw.in/supreme-court/order-xvii-rule-2-cpc-court-can-proceed-only-against-an-absent-party-whose-evidence-has-been-substantially-recorded-supreme-court-235397>

techniques like color-banding to alert judges on case stages.¹¹ These innovations demonstrate that the law continues to grapple with the tension between procedural fairness and efficiency.

Despite this framework, the statistics reveal a different story. As of recent data, over 70,173 civil cases are pending before the Supreme Court, and nearly 62 lakh cases are pending before High Courts across the country.¹² The Delhi High Court alone has 99,023 pending civil cases, while the Bombay High Court carries 5,50,777,¹³ and the Allahabad High Court (Lucknow Bench) 1,35,306.¹⁴ Many of these cases have suffered repeated postponements due to adjournments, often on grounds such as absence of lawyers, lack of evidence, or mere convenience.¹⁵ This backlog highlights the growing disparity between the law on paper and its practice on the ground.

Thus, while Order XVII was crafted as a mechanism to secure efficiency and ensure justice, its misuse has transformed it into a bottleneck for the justice system. This statutory framework, therefore, forms the backdrop against which the systemic abuse of adjournments must be critically analyzed.

III. The Systemic Abuse of Adjournments

Order XVII of the Code of Civil Procedure, 1908, was introduced with a clear intent of ensuring uniformity and fairness in the adjudication of civil justice. One of the methods to serve this purpose was through the justified opportunity of adjournment, which came with its limited application to ensure its unprejudiced usage. Its primary point was to create a balance between the demands of justice with practical exigencies, like unexpected absence of counsel, sudden illness of a party, unavoidable difficulties in producing evidence, or any other emergency. The underlying intent was for such adjournment to be granted sparingly, with strict judicial supervision.

¹¹ 'Reduction in Time Taken for Trial and Judgment in Dedicated Commercial Courts', Reforms Implemented; <https://dashboard.doj.gov.in/eodb/reform.html>

¹² National Judicial Data and Grid (Supreme Court of India and High Courts of India), SC NJDG and SC NJDG <https://scdg.sci.gov.in/scnjdg/> (last visited Oct. 2, 2025)

¹³ National Judicial Data Grid (High Courts of India), HC NJDG, https://njdg.ecourts.gov.in/hcnjdg_v2/?p=home/index&state_code=27~1&app_token= (last visited Oct. 2, 2025)

¹⁴ National Judicial Data Grid (High Courts of India), HC NJDG, https://njdg.ecourts.gov.in/hcnjdg_v2/?p=home/index&state_code=9~13&dist_code=2&app_token= (last visited Oct. 2)

¹⁵ N. Khaitan, S. Seetharam, 'Inefficiency and Judicial Delay, New Insights from the Delhi High Court', Vidhi Centre for Legal Policy, 2017, p. 22.

In practicality, however, this well-thought-out and incorporated procedural tool has now become one of the most systematically abused provisions of the CPC, and a norm with no unusuality to be seen in this adjournment culture, instead of acting as an exception.¹⁶ The frequency is also increased due to the overwhelming caseload and reluctance of judges to antagonize the Bar, even though the request for adjournment may usually come out of convenience, strategic advantage, or even relaxation of time sometimes, which the Judge can validly deny as an invalid ground under Order XVII Rule 1, however they rarely do so, so as to not become unpopular.¹⁷ The remedy for this evil lies in the hands of Bar and a strong judiciary. The culture of “mutual accommodation” among advocates often compels courts to tolerate frivolous requests for adjournments, despite the statutory mandate discouraging them.

The Delhi High Court, has rebuked misuse of adjournment by observing that ‘*justice hurried is justice buried, but justice delayed is justice denied*’.¹⁸ The National Judicial Data Grid (NJDG) has recorded “unavailability of lawyers” as one of the primary reasons behind pendency - contributing to delays in the disposal of nearly six lakh cases. Justice C.Y. Chandrachud, in 2024, specifically warned this ‘*culture of adjournments*’ prolongs the agony of litigants and sustains the cycle of backlog, famously cautioning that courts must not become institutions of ‘*tareekh pe tareekh*’.¹⁹

Even the executive has recognized this malaise, President Draupadi Murmu, addressing the district judiciary, lamented that adjournments inflict disproportionate pain on underprivileged litigants, branding it as a “black coat syndrome”²⁰ that alienates the common man from the justice system. The Kerala High Court, too, has held that unnecessary adjournments deny justice to genuine victims by frustrating time-bound disposal of cases.²¹

IV. Consequences of the Adjournment Culture

¹⁶ Lachhman Dass Vs. Jagat Ram and Others, (2007) 10 SCC 448.

¹⁷ Setalvad, M.C. Law Commission of India: Fourteenth Report- Reform of Judicial Administration, Vol. I, 1958 (Ministry of Law) pp. 337-338, para. 66.

¹⁸ Hussainara Khatoon v. Home Ministry [1979] 3 SCR 169.

¹⁹ Vineet Upadhyay, ‘More Cases Disposed of Than Instituted in Last 2 Years, but Long Way to Go Yet’, Times of India (Delhi), Oct. 28, 2024.

²⁰ Vineet Upadhyay, ‘More Cases Disposed of Than Instituted in Last 2 Years, but Long Way to Go Yet’, Times of India (Delhi), Oct. 28, 2024.

²¹ Gokul Raj v. State of Kerala, (2024) O.P(CrL.).No.108/2024

The consequences of this adjournment-driven litigation culture are grave and multifaceted. First and foremost, it erodes public trust in the judiciary. A litigant who is compelled to spend decades in courtrooms, often at great personal cost, ceases to believe in the promise of justice. For the economically weaker sections, frequent adjournments make litigation unaffordable, effectively denying them access to justice guaranteed under Article 39-A of the Constitution.

The wastage of judicial time is another major concern. Every adjournment squander precious court hour, taxpayer money, and administrative resources, all while further congesting already overburdened dockets. This in turn emboldens frivolous litigation, as parties know that procedural abuse can indefinitely prolong outcomes. In civil suits especially, disputes often outlive the litigants themselves, degenerating into generational struggles where parties die waiting literally for justice.²²

Judicial precedents have consistently attempted to curb this menace. In *Lachman Dass v. Jagat Ram*, the Court reinforced the principle enshrined in Order XVII Rule 1(2), that once a hearing commences,²³ it should continue from day to day without unnecessary interruption. Similarly, in *Radhabai v. Purdibai*²⁴, it was held that if a suit is dismissed for non-payment of adjournment costs, such dismissal constitutes a decree and is appealable, signaling the seriousness with which adjournment costs are treated.

Ultimately, while adjournments are indispensable procedural tools in exceptional cases, their misuse has converted them into a weapon against the judicial system itself. They perpetuate pendency, foster a sense of alienation among citizens, and diminish the credibility of courts. Instead of furthering justice, Order XVII in its current, abused form, undermines it, revealing how a statutory safeguard, when misapplied, can turn into a salient poison corroding the very foundations of justice delivery.

V. Judicial Apathy and Passive Enforcement

The most striking failure of our judicial system lies in its inability to tackle the adjournment abuses via its apathy towards self-enforcement of the same. With the ever-increasing pendency

²² Krishnan, Jayanth K. and Kumar, C. Raj, "Delay in Process, Denial of Justice: The Jurisprudence and Empirics of Speedy Trials in Comparative Perspective" (2011). Articles by Maurer Faculty. Paper 155.

²³ *Lachhman Dass Vs. Jagat Ram and Others*, (2007) 10 SCC 448.

²⁴ *Radhabai v. Mt. Purnibai*, AIR 1943 Nag 149.

rate within our Judicial system, it remains reluctant to acknowledge its failures rigidly.

Existing Order 17's text shows a clear ceiling for adjournments in our system, which for sure is surely within the comprehensive capacity of a reasonable person in our society. Yet the professionals of law have turned out to be unsuccessful in interpreting the same.

- Order 17²⁵ explicitly provides the maximum of three adjournments per party to the case, barring any "exceptional reasons." Rather, courts have interpreted the phrase "Exceptional reasons" to mean reason, either valid or irrelevant, extending from an advocate's personal inconvenience, a clerical lapse, or non-availability of a judge. This misinterpretation has caused a shift from what was meant to be an outer limit into an illusory limit.
- Code provides for the power to impose costs on parties seeking adjournments. However, most judges in most of our courts either impose nominal costs or even waive the costs. What action was meant to create deterrence turned out to be a mockery of compensation, whose costs are borne by the opposite parties, increasing the litigation costs.
- Due to the non-competency of Judges and the overwhelming number of caseloads, they prefer granting adjournments rather than hearing arguments. Instead of preferring active case management, judicial procrastination is given due importance under the guise of "fair opportunity to parties."

Case Laws-

Salem Advocate Bar Association v. Union of India (2005)²⁶

The Supreme Court themselves have emphasised that adjournments ought to be a rarity and not a right that is granted easily, and called for discretionary powers to be exercised with judicial discipline and due care.

²⁵ Code of Civil Procedure, 1908, Order XVII. Adjournments.

²⁶ Salem Advocate Bar Association, Tamil Nadu v. Union of India, AIR 2005 S.C. 3353.

Krishna Veni Nigam v. Harish Nigam (2017)²⁷

Yet again, the court brought into light the delays causing issues render justice meaningless within the Justice system, and recognising adjournments as the chief reason for the same.

VI. Legislative Intent vs Ground Reality

Often, it is believed that what is prescribed, written down, is exactly what is being implicated in reality. Rather, we have convinced our subconscious self that we are implementing our written down legislation in the same way, we are replicating it in real-life scenarios too. The ideal conditions are misrepresented in order to show the imperfect side as the most ideal conditions that could have been possible.

The real question is, are we abiding by the written intentions of our legislation or just believing so?

The legislative intent of the Civil Procedure Code is unambiguous: it is to ensure speedy, fair, and inexpensive justice. On and off, the amendments have specifically targeted the existing abusive adjournment system embedded within our legal system, through regularising and tightening the procedural timelines and capping the adjournments under Order 17²⁸ of the Code.

However, the ground reality shows deviation; the judicial practice has started treating the adjournment as a weapon to easily access a flexible, negotiable option, to neutralise any legislative reforms or actions against them.

The paradox can be better comprehended as a law v. culture problem; the law demands strictness, and the Indian litigation thrives on delays. Advocates heavily depend upon adjournment as a delaying tactic, and Judges depend upon adjournment as a relief valve until the dockets are bloated and require relief.

In all, a legislative intent to act as a shield has been misused and converted to a sword, injuring the legal and justice system of the state.

²⁷ Krishna Veni Nagam v. Harish Nagam, AIR 2017 S.C. 1345 (India).

²⁸ Code of Civil Procedure, 1908, Order XVII. Adjournments.

VII. Recommendations-

Our current system of adjournment begs the question: why not institutionalise delay as a legitimate branch of litigation practice?

Imagine an Adjournment industry, run by professionals specialising in artful excuses, along with the '*best Adjournment Tactic Award*' for the advocate successfully stretching a civil suit into the next generation itself!

This is what we are up to a certain extent, we are witnessing today, the only difference is no one is articulating the facts and opinion expressly about this.

Considering the existing scenario, certain recommendations may help alleviate the negatively impacted part of the system and restore the original purpose of Adjournment: a shield, not a sword.

1. Strict adherence to the order 17

Rule 1, Order 17²⁹, stipulates the principle of granting only three adjournments, enshrined under the law. The issue at hand is the ineffective implementation of the provisions. A strict enforcement mechanism is required to be brought into effect by both judges and court management.

Zero tolerance beyond three adjournments can help ensure no one overrides the legislation, only in cases of exceptional and compelling reasons demonstrated by the applicant. A party claiming for adjournment more than three times must submit a formal affidavit stating the reasons, which is further subject to judicial scrutiny.

Automatic Dismissal Clause must be brought into force, wherein after three adjournments, if the party fails to present its case, the matter would be automatically dismissed, with no further chances of rescheduling. Technological advancements could help provide automatic reminders to judges when a particular matter is approaching its third adjournment, prompting them to decide the matter expeditiously.

²⁹ Code of Civil Procedure, 1908, Order XVII. Adjournments. India.

2. Penalizing Frivolous Adjournments with Meaningful Costs

The way criminal laws provide a means to create deterrence within society, not a replicate but a similar means needs to be adopted. Symbolic fines imposed for adjournments turned out to be insufficient in discouraging parties or advocates from seeking them; rather, the imposition of significant fines needs to be brought into force, which is more than just normal.

An escalating cost system could prove to be more beneficial. First adjournment would attract a normal fine, followed by an increase in a significant fine beyond three. Subsequent adjournment should also be fined to reflect the costs borne by the courts.

‘*Court time recovery*’ could help ensure that the wasted resources costs are borne by those responsible for it and not the court. This structuring could act in such a way that it is sufficiently punitive to deter frivolous adjournment.

3. Judicial performance review

Judges often grant adjournments due to excessive workplace pressure and lack of proactive case management by the courts. Although not an absolute solution, a proactive step towards combating this issue could be a necessary performance review of the judiciary, focusing on their management, particularly adjournments. Performance-based incentives for judges, based on their ability to effectively and efficiently manage the cases and dispose of them with a limited number of adjournments, are stated. Incentives could include promotions, recognition, or other incentives as per the requirements. Peer reviews alongside a transparent checking mechanism. The number of adjournments granted, reasons for the same, and the time taken for the final verdict must all be regularly monitored and publicly reported.

4. Regulating lawyer conduct

Disciplining the Judiciary is important, but regulating the advocates' conduct is also necessary. Bar councils and courts must penalise the advocates who regularly seek adjournments without any strong or serious reason. Rather, sanctions or penalties or any disciplinary proceedings could be initiated. Such delaying tactics adopted are a mole within our justice system.

5. Cultural change through Precedents

Higher courts, like the Supreme Court and high courts, must take stringent action or *Suo moto* action in exemplary circumstances. Creating such precedents can ensure trial courts adhere to that habit; breaching Order 17 restrictions might pose serious consequences. A few precedents can bring in massive changes within the courts and discipline the Judiciary across all jurisdictions.

6. Technological advancements

The judicial system is heavily dependent on humans for its clerical and not on technology. The process of scheduling, managing cases through manual work has delayed the process and opened the door for easy manipulation. Technological advancements could provide an efficient working opportunity, drastically reducing the opportunities for adjournment abuse.

A Digital Case management system backed by AI, which could facilitate tracking of adjournments and automatically reschedule for genuine requests. This can help notify both Judges and Advocates of the pending deadlines, adjournments, and any upcoming critical points to be taken care of. In cases of Adjournments, if one party seeks an adjournment, the system would notify the opposite party, ensuring a transparent and accountable procedure.

The recommended steps wouldn't clear the system at once, but rather pave a path to walk towards the development and improvement of the Bleak and weak judicial system towards a more transparent and accountable system.

VIII. Conclusion

The experience with adjournments in Indian courts illustrates how a procedural safeguard, originally designed to ensure fairness, has gradually turned into one of the chief causes of delay and mounting pendency. What was meant under Order XVII of the CPC as a measured tool for balancing opportunity with efficiency has now been weakened by routine misuse, judicial leniency, and the tactical stalling adopted by lawyers. The result is wasted court time, an ever-expanding backlog of cases, and a growing sense of disillusionment among citizens towards the justice system.

The law itself leaves little room for doubt: adjournments are to remain rare, exceptional, and carefully regulated. Yet, on the ground, they have evolved into an entrenched practice where postponement is no longer an exception but a strategy, making justice a distant and uncertain outcome.

Reversing this culture requires more than legislative amendments—it demands serious enforcement in practice. Courts must adhere to statutory limits, impose meaningful costs for unnecessary delays, subject judicial performance to review, regulate repeated dilatory conduct by counsel, and embrace modern case-management technology. Only if these reforms are implemented can adjournments be restored to their proper role: a safeguard for fairness rather than an instrument of obstruction.

When that shift occurs, the judicial system can finally move away from the infamous cycle of *'tareekh pe tareekh'* and deliver what the Constitution promises—justice that is not only fair but also timely.