



A Critical Analysis on Causes and Effects of Baseless Adjournments in Pakistan

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ABSTRACT

Pakistan is facing a phenomenon of delayed justice which is synonymous to denial of justice. There are several causes for delayed justice, baseless adjournment is one of the leading causes. Baseless adjournment is the postponement of the hearing to the next date on typical reasons. In the criminal justice system, these adjournments are granted due to the absence of a presiding officer, a witness did not appear, the judge was on leave, or there was a lack of prison vans to transport them to court on the date of hearing. In the civil justice system, baseless adjournments are granted due to insufficient laws, the mindset of judges and lawyers, and the accumulation of pending cases. The baseless adjournments lead to the monetary loss of the aggrieved person as well as his precious time and a de facto denial of judicial. The trend of adjournment can be decreased with the amendment in the laws, upgrading infrastructure and management of the court system by the introduction of modern technology including e-court, and an increasing number of courts and judges.

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1. Introduction

Judiciary is considered as a backbone of every state. It is responsible for the administration of justice in the society. Pakistan is considered among those countries where judicial system is still in a developing phase. There are number of initiatives taken to deal with the problems faced by the justice system of Pakistan (Hussain, 2015). According to a report by Geo News (2021) almost two million cases are pending in the lower and higher judiciary of Pakistan. The major reason behind the overburdening of judiciary is baseless adjournments which refers to the postponement of cases to the later time without any solid grounds just to prolong the litigation.

A state cannot be known as a state in its actual sense if it fails to fulfill its duties pertaining to the administration of justice (Chaudhry, 2012). Justice is essential to maintaining public order, maintaining harmony and security, guaranteeing development and extraordinary governance, and authorizing the exercise of rights (Hammergren, 2013). It is seen in Islam as one of the most sacred commitments of the state which it will carry out with sincerity and heartlessness in accordance with the principles laid down by Allah. Allah Almighty has ordained in the Holy Quran:

"O ye who believe! Stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to make you swerve to wrong and depart from justice. But Just: that is next to piety: and fear Allah, for Allah is well acquainted with all that ye do." (Chapter 5, Verse 8).

Whenever the right of any person is infringed in Pakistan and he wants the redressal of that infringement. The first fear which came into the mind is the slow judicial system of Pakistan depicting the real picture of maxim "Justice delayed is justice denied". The victim having the idea that he has to go to court repeatedly and return to home empty handed. He must wait for month

or years to get justice (Karim, 2003). The baseless adjournments lead to the monetary loss of the aggrieved person as well as his precious time. On the other hand, judiciary without taking care of the victim is continuously providing adjournments without considering any proper reasons. Mostly, advocates tires to use these tactics in order to prolong the case. Advocates in a wish to get more money would consistently search for adjournments to extend their number of appearances in court (Khan, 2004).

In civil cases these adjournments cause delay in utilizing the available remedy to the right which is infringed but in criminal cases these adjournments cause severe effects on victim's life. According to Atif Mirza (2016) nearly two third of the prisoners are under trial prisoners and waiting for the final decision of the court. This means that these are the people who have been charged with wrongdoing even though they have not been convicted, who are sitting in prisons trusting that their trial will be finished. It is likely that he will be found innocent after spending many years of his life behind bars and will be released and sent home.

If the situation remains the same then it will shatter the confidence of litigants on the judicial system and may leads towards the anarchy and personal revenge therefore the reforms are required in the criminal and civil justice system of Pakistan for the speedy disposal of cases and to discourage the culture of baseless adjournments which are used as a tool for prolonging the litigation by the parties and their lawyers. The present research will be based upon the qualitative analysis for explaining the causes which leads to baseless adjournments and analyzing the impacts of these adjournments on victims and recommending steps to overcome these adjournments on the basis of this study. For this study, various books, laws, case laws, journals, research articles and reports are studied.

The organization of the paper consists of four parts the first part is the introduction comprising description of the phenomenon of baseless adjournments and its prevalence in Pakistan. The second part explains legal framework of adjournments and those which amounts to baseless adjournments. The third part examines the factors that causes baseless adjournments. In the fourth part, there is a discussion about the effects of baseless adjournments and the ways to reduce these adjournments. The fifth part consist of conclusion. The conclusion also entails the recommendations of practical nature that can address the problem of baseless adjournments in a sound pattern, and could contribute positively in administration of justice in Pakistan.

2. Legal Framework of Adjournments

Adjournment is to postpone the legal proceeding to a later date on reasonable grounds. The court may suspend an existing proceeding if it deems it necessary after recording the reasons for the adjournment (*Adjourn Definition & Meaning - Merriam-Webster*, n.d.). Adjournment is completely optional, but the option must be exercised in a reasonable and legal manner, not randomly. There is no hard test as to how to use this option in every event. This will vary from the circumstances of every case. Adjournments are granted after looking into these circumstances. There are cases in which the adjournment is necessary and if not granted it may result injustice to that person who requested for the adjournment. The court has discretion to grant the adjournments but it must look into the matter completely. After understanding the whole matter, the court reach to the point whether adjournment is to be granted or not (Mughal, 2012).

Court can adjourn the hearing but with some sound reason which is very much important for the interest of justice. Court cannot make any decision without complete satisfaction (Shah, 2012). Adjournment is an exception to the general rule of daily hearings till the case is finally decided. Adjournment is a relief which is granted to parties. Each party has equal opportunity to avail this facility. But along with this relief there is a duty attached with it. Adjournment is to be requested when it seems necessary and without the adjournment the injustice will occur to someone (Bilal & Khokhar, 2021). An innocent may be punished if the adjournment could not be provided.

Once the evidence has begun to be heard, the trial will continue until each witness has been inspected, unless the court finds it necessary to grant the adjournment of the hearing after recording the reasons for the adjournment. Both parties will be allowed to adjourn to present

their disputes, summon witnesses or seek evidence in court, so the parties will be given an adjournment and the leave will be revoked by attorneys, parties, and judges (Hussain, 2015).

According to Mehmood (2020) adjournment in civil litigation dealt under order XVII of Civil Procedure Code, 1908 but the term adjournment is not defined in this code. The rule 1 of order XVII of CPC give powers to the court to postpone the hearing if the court satisfies that there is legitimate cause for the adjournment. It is the discretion of court to grant adjournment after considering the essential ingredients which are necessary to provide adjournment in any case. The Section 344 of the Code of Criminal Procedure, 1898 provides for adjournment in criminal litigation and enables the court to grant adjournment when it deems it necessary (Mehmood, 2020). Adjournments are frequently employed to delay justice, especially when they are granted to parties without any valid justification and used to prolong a case. Such adjournments are referred to as baseless adjournments.

3. Causes

The adjournment of criminal litigation can occur due to several reasons. Firstly, the absence of the judges is a major cause of adjournment. The limited number of judges available to hear cases often leads to adjournments, as judges are busy with other cases or are on leave (Shahzad, (2015, October 25)). This situation can be exacerbated by the transfer of presiding officers, which can result in a lengthy delay before a new presiding officer is appointed. The shortage of judges compared to the number of courts can also cause difficulties in filling the vacant spaces left by transferred judges, leading to further delays.

Secondly, the absence of accused or co-accused parties can also cause adjournments. The accused party is an essential part of the case, and without their presence, the presiding officer has no choice but to adjourn the hearing. In some cases, accused parties may intentionally delay the case by avoiding court appearances ('Delays and Lapses in Pakistan's Criminal Justice System', 2016).

The third reason for the adjournment of hearings is the failure of the police to produce the accused in court. This can occur due to institutional limitations, such as a lack of transportation, or the police being occupied with other lawful duties. This failure creates an opportunity for prison officials to decide who will attend their hearing, which is illegal (Bilal & Khokhar, 2021). It is the responsibility of the state to provide proper facilities to the police to ensure that they can carry out their duties efficiently, and justice is served on time.

The fourth reason for adjournments is the absence of the prosecution. It is the prosecution's duty to present the case before the court at the request of the aggrieved person or on behalf of the state (ur Rehman, Usmani, & Parveen, 2021). Due to the large number of cases, a prosecutor may have to appear in more than one court at a time, causing delays in the hearing.

The fifth reason for adjournments is the absence of witnesses. Witnesses play a vital role in providing evidence and helping the court to understand the matter at hand. If a witness is unavailable, the court will typically adjourn the hearing to hear their testimony, as their evidence can be crucial in making an accurate decision (Saleem, Ahmad, & Dad, 2020).

The sixth reason for adjournments is the absence of a defense counsel. Everyone arrested by the police has the right to defend themselves with the help of a lawyer. However, due to the busy schedules of lawyers, they may not always be able to appear in court, leading to delays in the hearing. This can be frustrating for the accused, but it is important to ensure that they have adequate representation before the court reaches a decision (Waqar & Iqbal, 2022).

Civil litigation also experiences the same tactics as criminal litigation. There are several reasons why civil litigation cases may be adjourned, including transfers and an insufficient number of judges. One cause of adjournment is when lawyers go on strike. While lawyers are responsible for representing their clients in court, they often find reasons to strike, which can range from disputes with their colleagues to protesting a new law (Shah, 2012). When lawyers strike and are unable to attend court, the court adjourns the hearing to a later date. This leads to a backlog of cases, which places a burden on the judiciary. Judges cannot resolve pending cases during a strike, and when the strike ends, new cases are registered, increasing the number

of cases that need to be heard. Judges are forced to grant adjournments continuously as they cannot handle the large number of cases in a timely manner.

Second is in civil and criminal matters, the busy schedules of lawyers are a significant factor. There are a couple of highly renowned lawyers who are so busy that in almost every third case, parties seek the services of a prominent set of lawyers, closely monitored by the trial courts (Shah, 2012). Lawyers as a group are never sure whether or not they will have another case, make them take a consistently expanding number of cases until they are so spread out, they couldn't in any capacity whatsoever give basic energy to anything except for a trial. To keep up with their own caseload, these lawyers generally look for regular adjournments for one explanation or the other. Because of their tumultuous timetables, lawyers are often inadequately prepared to defend their cases properly, showing clear and undeniable cases.

Third is the recruitment of inexperienced judges who do not have expertise in any civil or criminal matters. There are some law colleges in Pakistan where students are not supposed to go to classes, teachers are not supposed to give lectures and an instructive arrangement is not required (Hussain, 2015). These colleges have become factories for the dispensation of law degrees. Having a law degree is the primary requirement for becoming a member of the bar, and maintaining the degree along with a few years of experience is the main condition for joining the bench. As a result, the condition of judges is not suitable to provide us with the normal level of ability, efficiency and feasibility.

The fourth reason for adjournments is the case management system. The essential principle of case management is that the court manages the pace of litigation by organizing important events, scheduling pre-trial sessions, and setting dates and time limits for the trial. This includes managing time standards and caseloads. It is the responsibility of the judiciary to further develop planning and oversight. Effective court management ensures timely resolution of cases and is the key solution to the inappropriate trial setting practices that result in a higher number of cases set for trial than can be heard, leading to a vicious cycle of adjournments and delayed cases (Tabassum, Kamboyo, Mangrio, & Siddiqui, 2021). Better handling of cases by judges can save both time and money. However, the weak institutional planning of the legal system has hindered effective case management. Proper and balanced resources and caseload are essential for effective case management.

The fifth reason for adjournments is the inadequate infrastructure of the justice system. Insufficient resources, tools, and management for the speedy disposal of cases lead to an increasing backlog of cases. The courts in Pakistan face significant physical and human infrastructure constraints, which result in frequent adjournments. In some areas, the judicial system is still manual, making it challenging to manage the increasing number of cases (Studies, 2020). Unfortunately, the government has failed to provide adequate resources and infrastructure to enable the judiciary to function effectively.

4. Effects

Adjournments in the justice system can have a detrimental effect on the entire legal system. This can lead to a decline in people's confidence in the judiciary, which ultimately affects the functioning of the system. The adjournment cannot be demanded as a right as it is at the discretion of the court, and it often results in delays in handling cases. Witnesses make sacrifices by investing their time and comfort to assist the court in dispensing justice, while victims often encounter significant challenges as a result of these adjournments (Tabassum et al., 2021).

When a person files a case, they have to appear in court whenever summoned, sometimes traveling long distances. When they arrive, they are often told that the case has been adjourned to a later date, causing frustration and hardship. These unreasonable delays create stress for litigants and can lead to the abandonment of cases due to the financial and mental burden of attending repeated hearings. The length of lawsuits is usually in favor of the elite, as the poor are often forced to abandon the case or reach an out-of-court settlement they don't want. This erodes the litigant's confidence in the judiciary and makes them hesitant to file a case at all ('Exploring the Consequences of Delayed Justice System in the Disposition of Civil and Criminal Cases', 2013).

In Pakistan, the institutional framework for access to justice is not in line with what is protected in the Constitution. The litigant's time and resources are sacrificed in court proceedings, causing financial and emotional strain. These baseless adjournments create fear and lower confidence in the justice system, making people reluctant to pursue their legal rights (Karim, 2003). Overall, adjournments can have a significant impact on the lives of victims and litigants, and on the functioning of the justice system as a whole.

Baseless adjournments in criminal litigation can unjustly deprive someone of their freedom, forcing them to stay in jail until their case is decided, regardless of whether they are innocent or guilty (Waqar & Iqbal, 2022). The accused may spend months or even years behind bars, feeling as though they have already been deemed guilty, which can be a traumatic and devastating experience. Ultimately, these unnecessary delays can result in innocent individuals being wrongfully punished, and justice being denied.

The legal system in Pakistan is facing a significant challenge due to its outdated nature. The Criminal Procedure Code, which was formulated in 1898, is now 124 years old, while the Civil Procedure Code, which was formulated in 1908, is now 114 years old. As time has passed, crimes have evolved, and new methods of committing them have emerged. Lawyers and parties have taken advantage of the legal system's weaknesses, leading to case prolongation. Lawyers often use adjournments to harass the opposing party, causing undue delays in the administration of justice (Bilal & Khokhar, 2021). Therefore, it is crucial to update our legal system to prevent parties from exploiting its weaknesses.

The judicial system in Pakistan is overburdened, leading to significant delays in the delivery of justice. Justice delayed is justice denied, and the longer it takes to provide justice, the higher the chances of the liable party escaping unpunished. This can be a threat to civil rights and the defense of innocence. Martin Luther King once said, "Injustice anywhere is a threat to justice everywhere," highlighting the importance of fair, immediate, and inexpensive justice. It is necessary to ensure that justice is provided within a reasonable period according to the law.

The burden of cases is affecting all courts, from the Supreme Court to the lower district courts, making it impossible to deliver justice quickly. Unfortunately, a large portion of these cases have been pending for years, and adjournments regularly cause further delays. Lawyers are often blamed for using delaying tactics, but it is essential to note that no lawyer can succeed in delaying if the court refuses to grant it. The Law and Justice Commission of Pakistan reported that as of 2021, 2144496 cases were pending in the lower and higher judiciary of Pakistan (2021).

It is crucial to ensure timely disposal of cases to uphold the rule of law and to deliver fair trials, as it is a constitutional right under Article 10-A of the Constitution of Pakistan 1973. The Constitution clearly states that immediate justice should be provided to all, and the state should ensure inexpensive and expeditious justice. Delay in justice is against the public policy, and the state's responsibility is to make rules and regulations that ensure speedy and inexpensive justice. Simplification of procedural law, hiring more judges, and introducing modern technology such as e-courts can also help expedite case management. Ensuring that all parties have access to adequate facilities and training judges to take action against parties causing deliberate delays can also reduce the chances of unnecessary adjournments.

Although adjournments cause delays but they are also necessary to ensure that all parties have a fair chance to present their case. However, it is crucial that the state provides adequate facilities to the police, prosecution, and defense counsel, to reduce the chances of unnecessary adjournments. To manage cases more efficiently, judges should be trained to change their standards and take action against parties causing deliberate delays. Furthermore, the introduction of modern technology, such as e-courts, and the hiring of more judges, could be potential solutions to expedite the judicial process. Lawyers should also commit to taking only as many cases as they can handle and should prosecute on merit, not just for their clients. Additionally, simplification of the procedural law is necessary to make justice easily accessible to every person in society. By taking these measures, the judicial system can strike a balance between allowing for necessary adjournments while also ensuring timely justice for all parties involved.

5. Conclusion

Since the delay in justice is a bad trend, it seems worrying that there is a lack of speedy delivery of justice in Pakistan. Delayed justice can never be empowered or contribute to the development of society. Delay in justice violates basic human rights and the fact is that where there is a delay in justice, there is no rule of law. The main cause of delay is baseless adjournments. The baseless adjournments lead to the monetary loss of the aggrieved person as well as his precious time. Due to baseless adjournments, litigants lose their faith in the judiciary. In the criminal justice system, these adjournments are granted due to the absence of the presiding officer, a witness did not appear, the absence of the accused or co-accused, the judge was on leave, on the request of the prosecution or defense counsel or there was a lack of prison vans to transport them to Court on their date of hearing. In the civil justice system, baseless adjournments are granted due to the absence or transfer of judges, lawyers keep on strike, incompetence of judges, busy schedule of lawyers, and inadequate infrastructure. The trend of adjournment can be decreased with the amendment in the laws, upgrading infrastructure and management of the court, the introduction of modern technology including e-court, and an increasing number of courts and judges. Otherwise, these baseless adjournments will hinder the materialization of a wish to have a speedy, friendly, and effective justice in Pakistan.

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