

THE HEFTY VACATION PERIOD OF THE APEX COURT, HIGH COURTS, AND THE LOWER COURTS

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Abstract

In this article, the author aims to discuss the current backlog of cases the judiciary is facing. Looking at the data from the official government site, as of April 2018, over three Crore cases were pending across the Supreme Court, the High Courts, and the subordinate courts (including district courts). What can be concluded is that there is a high mismatch between the number of cases that need to be disposed of and the working number of days of court. An effort for finding the solutions for resolving this situation is made, ending with highlighting the significance of the evergreen rule of law i.e. “justice delayed is justice denied”.

Keywords: Judiciary, Justice, Pending cases, Court vacation, Working days

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A hundred and thirty-eight and One hundred twenty-five! These are not just random numbers or seat predictions for the alliances – these are the number of days the Supreme Court as well as the Delhi high court was on holiday in 2019. Taking into account the percentage, this means that the Supreme court is working only for 62 percent in a year while the Delhi high court is looking at a figure of 63 percent for the same. Looking at the data from the official government site, as of April 2018, over three Crore cases were pending across the Supreme Court, the High Courts, and the subordinate courts (including district courts).¹ Of these, the subordinate courts accounted for over 86% pendency of cases, followed by 13.8% pendency in the 24 High Courts. The remaining 0.2% of cases were pending with the Supreme Court.² To top that up, between 2006 and 2018 (up to April), there has been an 8.6% rise in the pendency of cases across all courts. Pendency before Supreme Court increased by 36%, High Courts by 17%, and subordinate courts by 7%. What can be concluded is that there is a high mismatch of cases that need to be disposed of and the working number of days of court.

¹ *3.3 Crore cases pending in Indian Courts, pendency figure highest at its highest:CJI Dipak Misra*, Business Today (June 28, 2018), [https:// www. businesstoday. in/ current/ economy-politics/3-3-crore-cases-pending-indian-courts-pendency-figure-highest-cji-dipak-misra/story/279664.html](https://www.businesstoday.in/current/economy-politics/3-3-crore-cases-pending-indian-courts-pendency-figure-highest-cji-dipak-misra/story/279664.html)

If we look at the reasons as to why the vacations were introduced, we find that it was introduced during the time of The Raj as an exclusively colonial practice for just their own people as it just for the English judges who needed to visit their motherland for a period of time. The major argument given in support of this practice today is that the legislature, which plays an equally important role as that of the judiciary, goes on vacation for an equal amount of time. ³But if we were to compare both of these organs we will find that the legislature does not have a daily transactional role as that of judiciary thus the amount of vacation that legislature takes is not as significant as that of the judiciary.

Another argument in favor of continuing with the vacations is that judges work for extremely long hours and are overburdened on a daily basis. So in the absence of sufficient breaks, judges will suffer burnout and won't be able to perform their duties in an efficient way. Also, the long breaks are used by judges to write judgments that are pending and also to indulge in research, which is essential for judges to maintain the quality of justice. On an average, High Court

² *Long Leave the SC*, Deccan Herald (June 7 2019), [https:// www. deccanherald. com/ opinion/ main-article/long-leave-the-sc-738597.html](https://www.deccanherald.com/opinion/main-article/long-leave-the-sc-738597.html)

³ *Why does SC work for only 193 days in entire year?*, India Today (May 25, 2018), [https:// www. indiatoday. in/ mail- today/ story/ pil- why- does- supreme-court-work-for-only-193-days-in-entire-year-1241141-2018-05-25](https://www.indiatoday.in/mail-today/story/pil-why-does-supreme-court-work-for-only-193-days-in-entire-year-1241141-2018-05-25)

and subordinate court judges have 60-70 cases listed before them each day. This is a large number by any yardstick. The time they spend in court is generally only one-third of their working time. Judges spend evenings, nights, and weekends reading files, writing orders, reading other judgments, and laws. Further, subordinate court judges already work six days a week, unlike the High Court and Supreme Court judges who work five days a week. There is no doubt that judges work long hours but what needs to be highlighted here is that there is really no overwhelming reason why the judiciary, particularly the High Courts and the Supreme Court should continue to take long vacations even with this enormous amount of workload. Every professional or working person has to put in the hard work and the hours and Judges are no different from them. There is no need for making a special case for them for a long break when compared to others in society who have an equally important role, equally important work and equally important status and are not entitled to such long vacations.⁴

The official work hours for the judges in India are 10:30 am to 4:30 pm from Monday to Friday with a lunch break of one hour. Saturdays are usually non-working but depending on the workload and number of

cases listed for a day the work hours vary and are often extended. But the brutal reality is that even though the reporting time is clearly stated as 10:30 am, the judges arrive as late as 11:30 am leaving a room full of lawyers and people there for their case waiting for them. Furthermore, they take “mini-breaks” of ten to twenty minutes even before the lunch hour and after that too. These “mini-break” doesn’t seem that big of an issue but in reality what they do is that they break the flow of the courtroom according to which the litigants, the court masters and the interns were working leading to another unexpected unforeseeable delay. This problem is now being recognized at last and in recent development Justice S.K. Sahoo of Orissa High Court has called for a thirty-minute increase in the working hours of courts on all working days. “If half an hour is increased, there will be an additional 10 hours in 20 working days in a month leading to 120 more working hours in a year. Imagine the difference it can make in the disposal of cases,” Justice Sahoo said. This measure was established with the explicit intention that this would help in clearing the backlog of cases in the courts to some extent. Such actions are the need of the time.

⁴ *Court Vacations: Are they justified?*, Bloomberg Quint (Dec. 27, 2018), [https:// www. bloombergquint. com/ opinion/ court-vacations-are-they-justified](https://www.bloombergquint.com/opinion/court-vacations-are-they-justified)

Indeed, the nature of judicial work is such that it requires a lot of reading, research, writing, and rendering judgments and we as citizens need to ensure that judges have sufficient time to do that work in a proper and efficient manner because, in the end, it affects the morals of the society and trust of millions. For example, a judge who is entrusted with the duty of deciding whether the person on the stand is innocent or is deserving of going to jail needs to analyze things from a lot of perspectives. He/she needs to know the case in and out, be coherent with the facts and the arguments put forward by the lawyers. For all this, a clear and relaxed mind is needed to make the right decision and working long hours only leads to worsening of the situation leading to mistake in judgments but there are many practical solutions to this problem and shutting down courts en masse for months at a stretch is not one of them. Taking these long breaks is clearly not helping the judiciary in any way to speed up their mechanism nor is it beneficial in the long run if we keep in mind the year by year increasing pendency rate. Also, we have no concrete proof of whether it is helping the judges to function better as we are lacking in terms of data or scenarios to compare the present with.

The crux of the problem here is that judges are not given a rough estimate of the work that they are supposed to get done in a certain period of time; they have no idea as to how their slacking off even for a day would create a huge backlog of cases. They need to be made aware of that. A way better approach than the present system would be to individually fix the case disposal rate of each judge based on their past performance. The working conditions will be fixed, the workload for each day will be decided beforehand and the total number of cases a judge can deal with at any point in time would be pre-calculated.⁵

We need to do all we can to fix its working, reinstating that the institution cares for the interests of the citizens and their voices are being heard. Taking long breaks when no other profession of such stature is doing so does not really work in the favour of judiciary. It does not give the message of an institution that is interested in reforming itself for the benefit of citizens. Rather, it indicates that the courts do not care for the citizens, but care for themselves, therefore there should be a balance of interests in a way that the individual judges get their required time off but the courts continue to function throughout the year. This will ensure that this rotational vacation does not

⁵ *No record of why courts are closed for the summer and other long holidays*, Money Life (Feb. 18, 2016), [https://www.moneylife.in/article/no-record-of-why-](https://www.moneylife.in/article/no-record-of-why-courts-are-closed-for-the-summer-and-other-long-holidays/45524.html)

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lead to judges burning out and a major part of the judiciary is functioning at any given point during the year. But this proposition can only be implemented if all the vacancies are filled regularly and promptly.⁶

All in all, it is the need of the hour that the judiciary meets the interests of the common people, fulfills its commitments, modifies its practices and ensures justice. It cannot reside in an isolated castle, far away from the

needs and the concerns of the people depending on it. The words “Justice delayed is justice denied” may be attributed to William Ewart Gladstone but the significance of his words still hold true even more so in the present age where justice is seen as a commodity of just the rich there it is in humanity’s interest to do away with age-old practices and buckling up for new reforms for delay justice is the greatest injustice.

⁶ *60,000 cases pending with Supreme Court, but it will work for 190 days this year*, India Legal (Jn. 8, 2020), <https://>

www.indialegallive.com/top-news-of-the-day/news/supreme-court-work-190-days-year-81525