



## COURT VACATIONS AND PENDENCY OF CASES - GS II MAINS

Q. Discuss the problem of court vacation for a country like India and enumerate the measures to bring down the pendency of cases in Indian judiciary. (15 marks, 250 words)

**News:** *Blaming court vacation for pendency misses the real problem*

### What's in the news?

- A casual remark from a member of the Prime Minister's Economic Advisory Council has reignited the debate on judges' working hours and vacations.

### Issues Associated with Court Vacations:

#### 1. Case Backlog:

- Courts often have a large number of pending cases, and the absence of judges during vacation periods can lead to delays in the disposal of cases.

#### 2. Impact on Timely Justice:

- Vacations can disrupt the timely delivery of justice, as the absence of judges may result in rescheduling hearings and prolonging the duration of cases.

#### 3. Disruption of Legal Services:

- Extended vacation periods can disrupt legal services and legal representation for clients who are in need of urgent assistance.

#### 4. Addressing Vacation Disparities:

- The allocation of vacation periods among judges can sometimes be perceived as uneven or biased.
- Addressing these disparities and ensuring fair distribution of vacation time can be a challenge.

### Reasons for Demands to Do Away with Court Vacations:

#### 1. Faster Disposal of Cases:

- Reducing vacation periods can lead to a more consistent and uninterrupted flow of judicial proceedings, resulting in quicker disposal of cases.

#### 2. Enhanced Access to Justice:

- Reduced vacations mean more consistent availability of judges, ensuring that people have greater access to the courts and legal remedies.
- This is especially crucial for individuals seeking urgent relief or facing time-sensitive matters.

#### 3. Positive Public Perception:



- By reducing extended vacation periods, the judiciary can counter the negative public perception that might arise from the perception of judges having extended breaks while cases remain pending.

#### 4. Judicial Accountability:

- A reduction in vacation time could lead to higher accountability among judges, as there would be fewer instances where cases are delayed due to unavailability.
- This could result in better adherence to case management timelines.

#### Issues of Vacancies than Vacations in Indian Courts:

- No state has filled its complete quota of judges, whether in the high courts or the numerous lower courts.
- On average, **high courts have a vacancy rate of 30%**, but it can reach nearly 50%. Subordinate courts have an average vacancy rate of 22%.
- However, Bihar and Meghalaya have vacancy rates exceeding 30%, persisting for over three years.

#### Reasons for Case Pendency:

##### 1. Lack of Judges:

- India has only 15 judges per 10 lakh population, far below the Law Commission's 1987 recommendation of 50 judges per 10 lakh population.

##### 2. Lack of Basic Infrastructure:

- There's a shortage of courtrooms, and many existing ones aren't ideal. Nationally, there's a lack of support staff, averaging 26%.

##### 3. Legal Expertise and Ineffective Communication:

- Varying levels of skill and knowledge among both lawyers and judges result in continuous procedural delays.
- Additionally, when there's a mismatch in language skills, clarity of arguments, and final decisions, it increases the number of appeals.

##### 4. Lack of Legal Ethics and Culture:

- A culture within the legal profession that is permissive and potentially collusive enables the proliferation of unfounded applications, continuous adjournments, and meritless appeals.
- Lawyers employ tactics to deliberately prolong the trials.

##### 5. Obstacles to Technological Integration in Court:

- Adoption of technology in courts is hindered by inconsistent access to electricity, uneven internet bandwidth, and resistance from users.

##### 6. Challenges in Judicial Reform Initiatives:

**P.L. RAJ IAS & IPS ACADEMY | 1447/C, 3rd floor, 15th Main Road,  
Anna Nagar West, Chennai-40. Ph.No.044-42323192, 9445032221**

**Email: plrajmemorial@gmail.com Website: www.plrajiasacademy.com**

**Telegram link: <https://t.me/plrajias2006> YouTube: P L RAJ IAS & IPS ACADEMY**



- Efforts such as mandatory mediation, Lok Adalats, specialized courts, and prioritizing specific cases have been implemented.
- However, they face similar structural deficiencies.

## Way Forward:

### 1. Rationalise Government Litigation:

- Government litigation **currently constitutes approximately 50%** of the caseload in courts. Thus, steps are needed to rationalize and trim this.

### 2. Better Legislations:

- There is a need to evaluate the potential financial and time consequences of every newly introduced legislation at the pre-legislative stage, and they should be put in the public domain.
- This may result in better-crafted legislation and reduce the unnecessary burden on the courts.

### 3. Revise Obsolete Laws:

- Obsolete laws and procedures should be revised or removed to decrease the number of legal cases.

### 4. Address Vacancies:

- Expedite the appointment process for vacant judicial positions and strive to achieve full complement in courts to alleviate workload pressures.
- **Set higher standards for judicial appointments and legal practice** to ensure competence and proficiency among legal professionals.
- **Establish Permanent Administrative Secretariats (PAS)** led by qualified court managers to assist judges in case management and administrative tasks.

### 5. Enhanced Budgetary Allocations:

- The India Justice Report estimates that the overall per capita spending on judiciary stands at less than Rs 150.
- Thus, the government should enhance budgetary allocation to improve the access and quality of justice delivery.

### 6. Invest in Infrastructure:

- Build more courtrooms, hire additional support staff, and invest in technology to streamline court processes and enhance efficiency.
- Allocate adequate resources to the judiciary to improve infrastructure, enhance administrative capabilities, and ramp up efficiency in justice delivery.

### 7. Prioritize Judicial Reform:

- Undertake comprehensive judicial reforms to **address systemic issues, streamline processes, and enhance access to justice for all citizens.**



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- Implement specialized courts, pre-trial mediation, and other alternative dispute resolution mechanisms to expedite case resolution and reduce backlog.



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