

Civil Litigation
Process for the
Digital Age

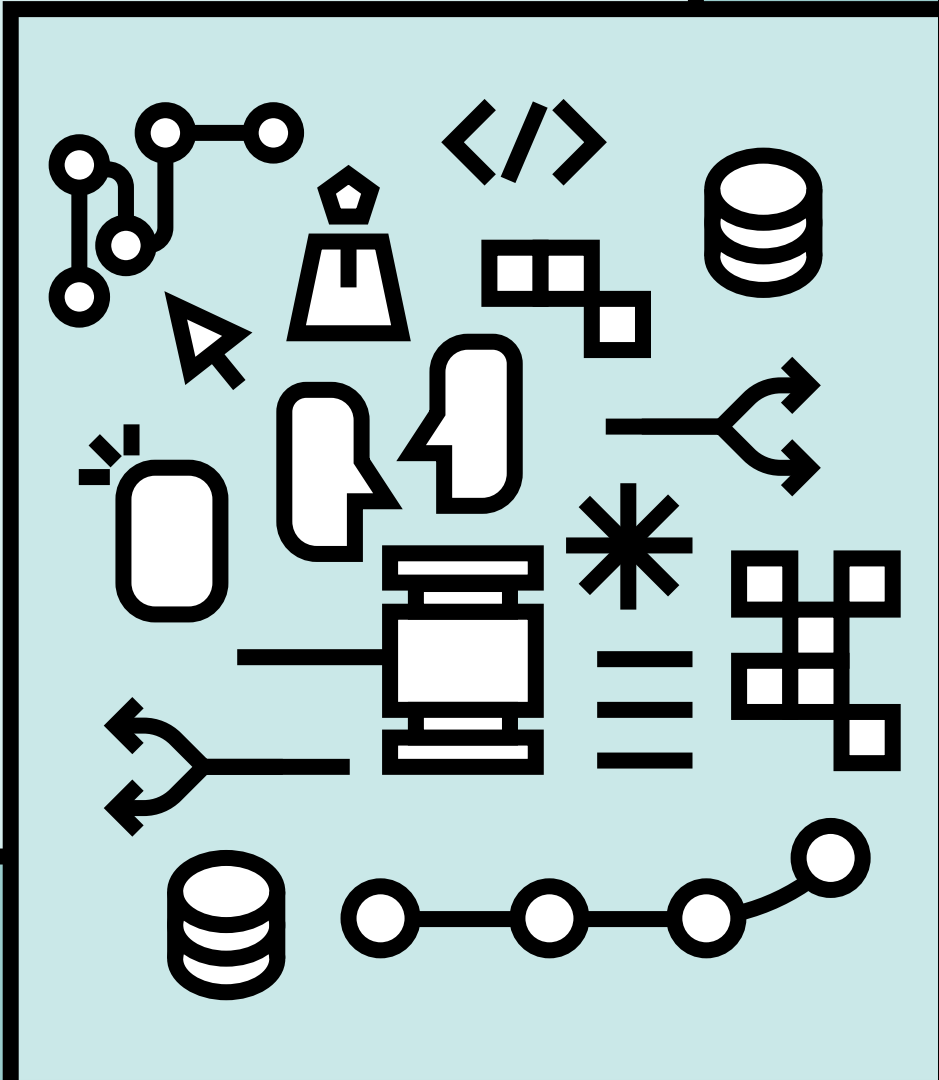
CONSULTATION PAPER SERIES

Sitting in judgment

*Issues and solutions for efficient judgment
delivery*

JALDI
LAB

Justice, Access &
Lowering Delays in India



Contents

Setting the context ● 1

Stakeholder requirements ● 2

Issues ● 3

1. Inadequate legal assistance • 3
2. Lack of resources • 4
3. Transfer of Judges • 4
4. Case weightage system issues • 5
5. Lack of accessibility of judgments • 6
6. Need for certified copies • 7

Recommendations ● 8

1. Enhancing the quality of legal assistance • 8
2. Adequate resources • 8
3. Data analysis • 9
4. Improved transfer policies • 10
5. Improving the case weightage system • 10
6. Facilitating access to court decisions • 11
7. Ecourts order to replace certified copies • 11

Conclusion ● 12

Setting the context

The Code of Civil Procedure, 1908 (“CPC”) defines a judgment as “the statement given by the Judge on the grounds of a decree or order”.¹ A judgment, therefore, represents the court’s rationale in formally adjudicating the rights of the parties. At this stage, the judge after due consideration of the evidence and arguments, applies her mind to the issues and renders a decision based on law and facts. The pronouncement of a judgment is followed by a decree, which is defined in the CPC as “the formal expression of an adjudication which conclusively determines the rights of the parties...”² Hence, while a judgment provides comprehensive reasons behind the decision of the court, the decree provides the executable aspects of the same like the costs due. Together, the two form the penultimate stage of the lifecycle of a civil case.

With the time-consuming stages of summons and evidence having been concluded, this stage should ideally require minimal time. However, in practice, delivery of judgment too is fraught with delays. The Supreme Court, in 1976, took note of this issue in *R.C. Sharma v. Union of India* and opined that though CPC stipulates no time limit for delivery of judgment, the litigants’ confidence in the judiciary “tends to get shaken if there is excessive delay between hearing of arguments and delivery of judgment”.³ Reiterating the need for timely delivery of judgment, the Supreme Court stated in *Anil Rai v. State of Bihar* that the “pronouncement of judgments in the civil case should not be permitted to go beyond two months”.⁴ Consequently, in 2002, the CPC was amended to provide a time limit for pronouncement of judgments.⁵ Order XX, Rule 1 of the First Schedule of CPC states that judgment must be pronounced within 30 days of the conclusion of the hearing, which may be extended to 60 days under extraordinary circumstances.

Despite the procedural mandate, judgments continue to be delayed in several cases, prompting litigants to approach the High Courts for expedited pronouncement. In *Deepti Khera v. Siddharth Khera*, for instance, the Delhi High Court observed that trial courts sometimes

1 The Code of Civil Procedure, 1908, Section 2(9).

2 The Code of Civil Procedure, 1908, Section 2(2).

3 1976 SCC (3) 574

4 2001 (7) SCC 318

5 The Code of Civil Procedure, 1908, Order XX, Rule 1.

keep matters pending “For Orders” for 2 to 3 years.⁶ As of 20th September 2024, the National Judicial Data Grid (“NJDG”) shows that 0.4% or 45,972 cases of the 1,09,62,638 civil cases pending at the District Courts are pending at the stage of judgment.⁷ Though this may seem minor, consultations reveal that these numbers are not the whole reality since judges tend to keep cases at the stage of arguments to get around the strict timeline of 30 days. Hence, delays at this stage reveal a concerning systemic failure in resource allocation, management, and process design.

This paper, part of the [Consultation Series](#) aimed at modernising India’s civil litigation process, seeks to identify the reasons for delay in pronouncement of judgments and offer procedural, technological and personnel-related solutions for the same.

Stakeholder requirements

To gauge the procedural efficiency of this stage, we need to identify and map out stakeholder requirements. For this exercise, we focus solely on the genuine, bonafide litigant and map the requirements for three specific categories of stakeholders—litigants, judges and the judicial system.

	Litigant	Judge	Judicial System
1	Expeditious pronouncement of judgment after completion of arguments	Availability of sufficient time and resources to write well-researched, quality judgments	Expeditious pronouncement of judgments after completion of arguments
2	Reasoned and fair judgment	Adequate and bona-fide legal assistance to ensure a fair and reasoned judgment	Safeguards and mechanisms ensuring fair and reasoned judgments, eg. periodic transfers, performance evaluations, etc.
3	Accessible judgments in both form and content	Accessible judgments in both form and content	Accessible judgments in both form and content

6 CM (M) 1637/2019, decided on 18th November, 2019

7 ‘Pending Dashboard’ (*National Judicial Data Grid: District and Taluka Courts*) <https://njdg.ecourts.gov.in/njdgnew/?p=main/pend_dashboard#> accessed 27 September 2024.

	Litigant	Judge	Judicial System
4	Avenues for recourse if the judgment is unduly delayed	Practical timelines and realistic work allocation to enable timely pronouncement of judgments	Effective incentives for judges to meet the prescribed timelines
5	Easy and prompt availability of authenticated judgment and decree	Prompt authentication of judgment and decree and communication of the same to the parties with minimal oversight	A secure and integrated electronic records management system that allows for quick and easy authentication of the judgment and decree

Issues

Having mapped the stakeholder requirements, the team undertook consultations with practising lawyers and judges to identify the following broad issues at the stage of judgment.

1. *Inadequate legal assistance*

Judges in our consultations cited inadequate legal assistance as one of the reasons for delayed judgments. A judgment being the culmination of the trial, the quality of assistance offered during the trial directly influences its writing. Lengthy pleadings, evidence, and unnecessary additional documents compel the judge to spend considerable time in summarising facts. Interminably long oral arguments with multiple, redundant case laws increases the length of the judgment, and consequently the time spent on it. As per our consultations, some advocates even file case laws on the day of the pronouncement of the judgment.

On the other end of the spectrum are advocates who forgo oral arguments altogether and simply ask the judge to give the judgment based on material on record. This places the entire onus of undertaking legal research on the Bench and considerably delays the delivery of judgments. Additionally, judges depend upon lawyers to provide subject matter expertise and a nuanced litigant-centric approach during the final arguments. The absence of oral arguments therefore can potentially impact the quality and perceived fairness of the judgment.

2. *Lack of resources*

A common issue highlighted by the judges that were consulted was the lack of resources available to them. Poor physical and digital infrastructure as well as a lack of skilled personnel to provide support create additional challenges for judges that ultimately lead to them being unable to perform as per the requirements of the system. In order to deliver quality judgments in a timely manner and fulfil their administrative duties, judges need to have access to basic amenities like subscriptions to legal databases for researching precedents and studying journal articles or have air conditioners in the summers of Rajasthan. Additionally, the lack of personnel like judgment writers or stenographers doubling as judgment writers means that judges are unable to dictate judgments and are required to write the same themselves. Consultations also reveal that most judges in the district courts do not have any clerks or interns to provide research assistance, unlike the judges in the High Court and the Supreme Court. Hence, the judges in the district courts have to do all the case research using free and unreliable databases themselves. This lack of assistance may lead to poor quality judgments as well as judges finding it difficult to pronounce judgments within 30 days.

3. *Transfer of Judges*

Transfer of judges, while essential for a fair and impartial judiciary, also leads to unwelcome disruption in proceedings. For a case that has progressed till the judgment stage, transfers may require the new presiding officer to rehear arguments, leading to delays.⁸ This necessitates a well thought out transfer policy to minimise disruption and ensure a smooth handover. However, the reality is far from ideal.

There are no institutional guidelines to assist judges with case and docket management in the event of their transfer. They are primarily expected to expedite the pronouncement of judgments in cases where arguments have been heard.⁹ However, in the absence of institutional support, fulfilling this mandate becomes challenging. Judges due for transfer continue to juggle multiple cases at various stages and are even assigned new cases, which impacts their ability to deliver timely

8 This is possible by filing an Interlocutory Application for reopening of the stage of arguments which the court may allow under its inherent powers under Section 151 of CPC.

9 Consultations with judicial officers from Punjab and Maharashtra

judgments. Our consultations reveal that, even where judges attempt to expedite judgment delivery, advocates hinder progress through repeated adjournments, either out of apprehension of bias or for purposes of Bench Hunting.¹⁰ A perusal of publicly available transfer policies reveals that they fail to address these significant practical concerns.¹¹

4. Case weightage system issues

Weightages are assigned to each type of case, both civil and criminal, to prioritise certain case types and motivate judges to dispose of them quickly and efficiently. At the end of each month a total number is tallied and this plays a significant role in the performance evaluation done through Annual Confidential Reports of judges. For example, the judges in the district courts under the Punjab and Haryana High Court are required to dispose of cases totalling 135 units + 18 contested judgements in a month, as per our consultations.¹²

In the district courts under the Rajasthan High Court, each case type and certain steps in the lifecycle of a case too lead to the judges earning a certain number of ‘days’.¹³ This is different from units used in the district courts of Punjab and Haryana in the sense that at the end of each month, the total number of days earned by the judges are added and then divided by the actual number of working days in that month. The percentage then derived indicates the performance of the judge, as per the rules. In other words, if a judge is able to make progress in and dispose of cases that give her 40 days in total and there were 20

10 Bench Hunting is when litigants and legal practitioners use various methods to get their case heard by a specific judge or bench for a favourable decision.

11 ‘Transfer Guidelines/Policy - 2016 for Judicial Officers’ (High Court of Madhya Pradesh) <https://mphc.gov.in/PDF/web_pdf/LU/Conf%201257%20%20Trans%20Policy%20.PDF> accessed 27 September 2024. ‘Transfer Guidelines/Policy of the High Court of the Chhattisgarh - 2013’ <https://highcourt.cg.gov.in/rule/transfer_policy2019.pdf> accessed 27 September 2024.

12 ‘Schedule of Units’ (Chandigarh Judicial Academy) <<https://cja.gov.in/Circulars/Schedule%20of%20units%2012.04.2017.PDF>> accessed 27 September 2024. (This circular is from 2016. We have not been able to find an updated version of the same but as the number of units required is different in this circular as compared to the one revealed in the consultations, this is not the one being currently followed. This has been attached to illustrate how the unit's system works.)

13 ‘Revised Standard of Work’ (Rajasthan High Court, Jodhpur) <https://hcraj.nic.in/hcraj/hcraj_admin/uploadfile/plorders/PI202145.pdf> accessed 27 September 2024.

working days in that particular month, her performance would be 200% and her evaluation would then be considered “Outstanding/Excellent”.¹⁴ However, the complications of disposing of cases does not stop here. Special units or credits are provided for disposing cases that have been pending for over 4-5 years in most jurisdictions to ensure they are prioritised.

On paper, this way of functioning might seem efficient. For judges, however, there are various flaws in this system. Firstly, it remains unclear how these units are decided and why disposal of a certain case type has more value than the other. The complexity of a case does not solely depend on its case type, factors like number of issues, whether the same issues have been decided in a previous case, the number of parties and the kind of evidence submitted, etc. play a role. Secondly, consultations with judges in Rajasthan reveal that a judge posted in special courts like those dealing with cases on negotiable instruments might not be able to get an adequate number of total days per month, reaching just the 50-95% mark considered “Below Average” despite working long hours as the days assigned to disposal is only 1/2.¹⁵ However, a judge in charge of both regular criminal and civil cases can easily reach the 200% mark and be considered “Outstanding/Excellent” as a civil suit disposed of by a civil judge gives them 3 days.¹⁶

This raises serious concerns about the way this system has been designed. Certain postings would become more coveted and most importantly, judges would prioritise case types with higher days/units/credits to ensure that their performance evaluation does not suffer. This kind of prioritisation also goes against the principle of equality before the law. Thirdly, a minimum quota to be met puts tremendous pressure on the judge to dispose of cases so that they can make up their days/units/credits, which could again in turn lead to poor quality of judgments. In turn, this could lead to more appeals, overburdening the judicial system even more.

5. *Lack of accessibility of judgments*

Judgments are often inaccessible to the ordinary litigant, in more ways than one. While technology is being harnessed to ensure that

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

court websites, orders, and judgments are accessible to persons with disabilities, they still face several impediments in accessing physical copies of court documents.¹⁷ In 2021, a petitioner had to approach the Allahabad High Court under the Persons with Disabilities Act, 2016 after his request for documents in braille script was rejected by the court administration.¹⁸ Presently, court rules do not explicitly ensure availability of court orders and judgments in braille, requiring litigants to seek an order to that effect from the presiding officer. Lack of adequate investment in proper resources is one significant reason for lack of accessibility; currently the Madras High Court seems to be the only court with a dedicated Braille printer.¹⁹

Even otherwise, judicial decisions remain inaccessible to litigants on account of legalese and the inherent complexity of law. Litigants find themselves completely dependent on lawyers to make sense of judgments and orders. This inability to independently understand judicial decisions and their reasoning not only disempowers litigants but may also foster perceptions of lack of fairness and transparency, especially in cases of unfavourable decisions.

6. Need for certified copies

Once the judgment has been pronounced, court-issued certified copies of judgments are required for processes like filing appeals in courts like NCLAT to ensure that the judgment has not been tampered with.²⁰ This needs to be separately applied for by the party who needs it and the courts generally take some time before they are able to provide the certified copies. While only the application for a certified copy has to be

17 'E-Courts: Accessibility Statement' (E-Courts Services - High Courts and District and Taluka Courts of India) <https://ecourts.gov.in/ecourts_home/static/access.php#:~:text=We%20are%20committed%20to%20ensure,in%20use%2C%20technology%20or%20ability> accessed 21 October 2024.

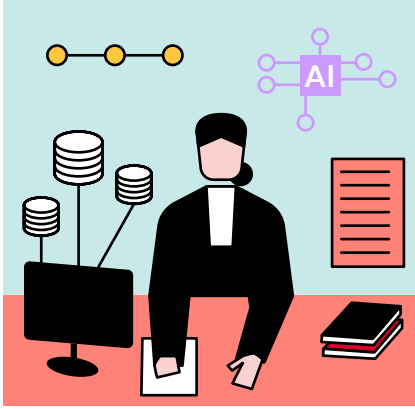
18 *Nitesh Gupta v State of U.P.*, Writ Petition No. 19802 of 2021 (All. HC) <<https://lawbeat.in/sites/default/files/2021-09/Blind%20man%20order.pdf>> accessed 21 October 2024.

19 'Madras HC installs Braille printer to provide judgment copies to the visually challenged' (*The Hindu* 14 November 2021) <<https://www.thehindu.com/news/cities/chennai/madras-hc-installs-braille-printer-to-provide-judgement-copies-to-the-visually-challenged/article37484692.ece>> accessed 21 October 2024.

20 Ritu, 'Filing of 'Certified Copy' not an empty ritualistic formality: NCLAT' (SCC Online 20 March 2024) <<https://www.scconline.com/blog/post/2024/03/20/filing-of-certified-copy-not-an-empty-ritualistic-formality-nclat-scc-times/>> accessed 27 September 2024.

made within the limitation period, this step can lead to delays in filing for appeals.

Recommendations



1. *Enhancing the quality of legal assistance*

Since the judgment stage is significantly impacted by the stages preceding it, effective solutions will involve streamlining processes in the earlier stages. Our consultation papers on [eFiling](#) and [Final Arguments](#) incorporate solutions that will optimise the process of judgment writing and assist judges in delivering timely and quality judgments. The earlier papers recommend

templatised pleadings and written arguments to ensure easy availability of concise and relevant information. Transcripts of hearings will serve as formal records of proceedings. When combined with AI-enabled summarisation tools, these solutions will instantly place all requisite case information at the judges' fingertips, streamlining the judgment writing process.

The consultation paper on Final Arguments recommends mandating the practice of submitting written arguments four weeks prior to oral arguments. This will ensure that all requisite submissions, including case laws, are filed well in advance of the stage of judgment.

Finally, it is suggested that the CPC may be amended to make it mandatory for parties to address written and oral arguments if required by the court. Currently, Order XVIII Rule 2 (3A) of the CPC provides that any party “may address oral arguments in a case”, which implies that the parties can choose to forgo arguments, if they so wish. As established, this leads to considerable difficulties for judges when writing judgments. It is therefore suggested that written and oral arguments be made mandatory under CPC whenever directed by the court, to facilitate fair, transparent, and timely judgments.

2. *Adequate resources*

It is essential that judges, being the scarcest resource in the judicial system, are provided with all the amenities and assistance required to



be able to fulfil their duty of providing justice to the litigants. The budget of the district courts lies with its parent High Court and while budgetary constraints exist, it is necessary that there are no basic infrastructural issues. Amenities like air conditioners, which are essential during heatwaves in places like Rajasthan must be taken care of. Under eCourts Phase III, Rs. 7210 crores has been sanctioned for the next 4 years by the

government for the ICT development of the Indian Judiciary.²¹ Before integrating new technology, the focus should be on ensuring that all district courts in the country have computers, Wifi connectivity, access to reliable legal databases, and portals like e-filing or e-payments are regularly maintained to avoid any crashing.

There is also a need to recruit skilled ministerial staff to support the judges. The administrative tasks assigned to judges also need to be drastically reduced as they leave very limited time for them to focus only on their judicial responsibilities. For this purpose, specialised staff should be recruited for IT support and Court Managers should have clearly defined roles so that tasks like organising conferences or legal aid camps do not fall to the judges. Ministerial officers, especially in such roles, should not be expected to work in other roles if there is vacancy. The remuneration for each role should match their skill set to ensure that skilled individuals are not just recruited but also retained.



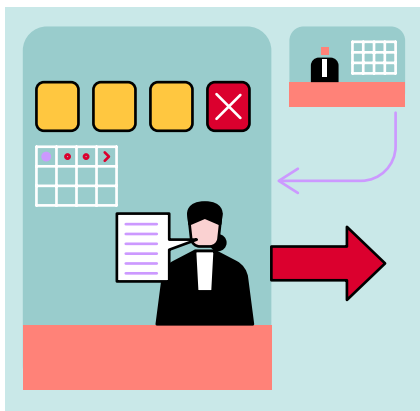
3. Data analysis

As mentioned above, one of the ways that judges might be able to ignore the 30 day timeline to give judgments is by posting the case for arguments constantly, under the garb of clarifications needed, even when both the parties have completed their final arguments. An analysis of the average number of hearings spent on arguments in each court and a survey of the lawyers practising in

21 'e-Courts Phase-III' (Ministry of Law and Justice, Government of India) <<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2040232#:~:text=eCOURTS%20PROJECT%20PHASE%20III&text=On%2013.09.,4%20years%20starting%20from%202023>> accessed 27 September 2024.

the court can help bring to light such practices. This would also reveal if there are any other inconsistencies.

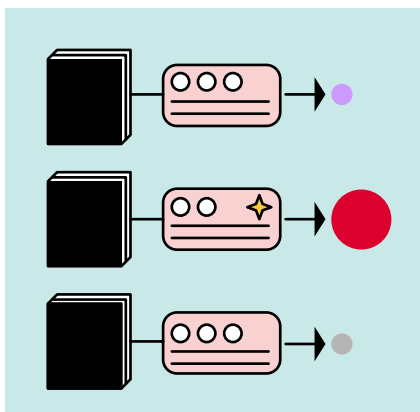
Making note of reasons for allowing adjournments in cases, as mentioned in the consultation paper on [Arguments](#), would also ensure that the judges are not posting cases to get more time to pronounce judgments.



4. Improved transfer policies

As mentioned earlier, a well-designed, comprehensive transfer policy is essential for minimising delays at the judgment stage. Such a policy should prescribe Standard Operating Procedures for case and roster management at the time of transfers. For a truly comprehensive and effective policy, the High Courts must incorporate feedback from judges and district

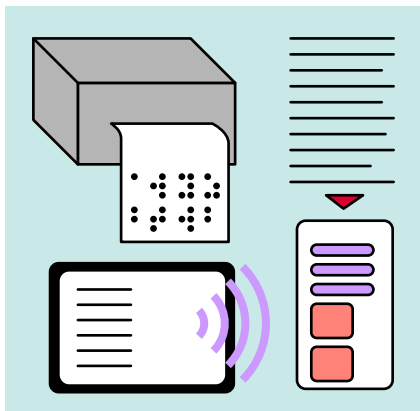
court administration to address practical concerns. One potential solution is to ensure that the general transfers are announced at least 3 months in advance. The judges may then be required to assess their dockets and accurately identify cases that can be realistically disposed of during their remaining tenure. The causelist should then be tailored accordingly to ensure that the identified cases are listed frequently until disposed of. Meanwhile, the court administration should refrain from assigning new cases to the transferring judge. Similarly, cases at the stage of evidence and final arguments that are in need of immediate resolution must be reassigned to other judges. This will allow the transferring judge adequate time to pronounce judgments in as many cases as possible before the transfer takes effect.



5. Improving the case weightage system

While it is not possible or desirable to treat all cases equally and prioritisation of certain cases like bail applications, long pending cases, etc. is essential, the current system of case weightages are fraught with too many problems. A rethinking of the system is needed and clear guidelines need to be developed to determine how much weightage should be given to a case based on components like average time taken for case

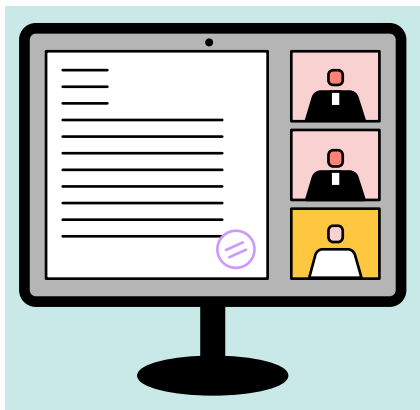
disposal, complexity of the case, whether the case would lead to new jurisprudence, etc. It might also be time to assign weightage on a case-to-case basis as complexity of the case cannot be pre-determined and hence, blanket weightages might not be the way forward. However, this redesigning requires a more in-depth understanding of the system and should be undertaken by High Courts in consultation with the Supreme Court and the district courts under them.



6. Facilitating access to court decisions

Judiciary must take steps to ensure accessibility of judgments, both in form and content. Accessibility of physical documents should not be overlooked in favour of online accessibility, especially since many litigants may not be familiar with technology. The rules must provide for availability of court orders and judgments in Braille without the requirement of an order from the presiding officer.

Once the judgment and decree are uploaded on the judges’ dashboard, an automatic notification consisting of a simplified and brief summary of the court’s verdict, reasoning, costs etc. should be sent to the litigant via SMS/email in her preferred language. This will present the litigant with all the necessary information to make an informed decision regarding appeal.



7. Ecourts order to replace certified copies

Certified Copies with their stamps and signatures are relics of a bygone era that heavily depended on paper-based processes. With the advent of ecourts website and all orders and judgments being made publicly available, it is high time that instead of requiring certified copies to be submitted for appeals, judges can just verify the judgment or order appealed against on ecourts

website itself and in fact download the copy from the website and make it a part of the record.

Conclusion

Pronouncement of judgment and decree form the penultimate stage in the lifecycle of a civil case. Progress at this stage is primarily in the hands of the judge and therefore any delay, however minimal, is concerning because it is largely attributable to the system as opposed to external factors. Delays at this stage are symptomatic of deeper systemic issues pertaining to resource allocation, case management, and process design. In addition to highlighting and substantiating these issues, the consultation paper provides various procedural and technological solutions to ensure fair, accessible, and timely judgments.

