

PROJECT REPORT ON

A Study of Cheque-Bounce cases under Negotiable Instruments (NI) Act 1881

Submitted to

**Department of Justice
Ministry of Law and Justice
Government of India, New Delhi**



सत्यमेव जयते

Submitted by

Dr. Vikas Thakur (Principal Investigator)

School of Management
National Institute of Technology
Rourkela, Odisha-769008



TABLE OF CONTENTS

| Contents | Page No. |
|---------------------------------|----------|
| Table of Contents..... | i-iv |
| List of Figures | v-xi |
| List of Tables | xiii-xvi |
| List of Abbreviations used..... | xvii |

| | | |
|--------------------------------------|---|--------------|
| CHAPTER 1: INTRODUCTION | | 1-16 |
| 1.1 | Introduction..... | 1 |
| 1.2 | Importance of Cheque in Trade..... | 2 |
| 1.3 | Origin of Negotiable Act 1881..... | 2 |
| 1.4 | Evolution of Negotiable Act 1881..... | 3 |
| 1.5 | Important Sections of Negotiable Act 1881 | 5 |
| 1.6 | Current Indian Scenario..... | 9 |
| 1.7 | International Scenario of Cheque-Bounce Dealing Practices | 9 |
| 1.8 | Need for the Study..... | 13 |
| 1.9 | Motivation for the Study..... | 14 |
| 1.10 | Scope of the Present Study..... | 14 |
| 1.11 | Objectives of the Study..... | 15 |
| 1.12 | Chapter Summary..... | 16 |
| CHAPTER II: LITERATURE REVIEW | | 17-25 |
| 2.1 | Introduction..... | 17 |
| 2.2 | Classification of Literature..... | 17 |
| | 2.2.1 Statutory Acts..... | 17 |
| | 2.2.2 Rules..... | 18 |
| | 2.2.3 Judgements..... | 18 |
| | 2.2.4 Reports..... | 20 |
| | 2.2.5 Schemes..... | 21 |
| | 2.2.6 E-Sources..... | 22 |
| | 2.2.7 Other Sources..... | 22 |
| 2.3 | Literature Supporting Methodology used in the Study..... | 22 |

| | | |
|--|--|----------------|
| 2.4 | Chapter Summary..... | 24 |
| CHAPTER III: RESEARCH METHODOLOGY | | 26-32 |
| 3.1 | Introduction..... | 27 |
| 3.2 | Sample and Procedure..... | 27 |
| 3.3 | Questionnaire Design..... | 29 |
| | 3.3.1 Questionnaire Development for High Court..... | 29 |
| | 3.3.2 Questionnaire Development for Subordinate Courts..... | 30 |
| 3.4 | Validity of Designed Questionnaire | 31 |
| | 3.4.1 Expert Validity and Face Validity..... | 31 |
| | 3.4.2 Pilot Survey..... | 31 |
| 3.5 | Data Collection..... | 31 |
| 3.6 | Data Analysis Tools..... | 32 |
| CHAPTER IV: RESULTS AND ANALYSIS | | 33- 130 |
| 4.1 | INTRODUCTION..... | 33 |
| 4.2 | Primary Data Analysis..... | 33 |
| | 4.2.1 Statistical Analysis of Data Collected from Hon'ble Judges and Advocates..... | 33 |
| | 4.2.2 Statistical Analysis of Data Collected from Litigants..... | 98 |
| | 4.2.3 Statistical Analysis of Data Collected from Subordinate Courts' Registry..... | 107 |
| | 4.2.3.1 Pendency of Criminal and NI Act Cases in visited States' Subordinate Courts..... | 107 |
| | 4.2.3.2 Disposal rates of Criminal and NI Act Cases in 2018 in visited States' Subordinate Courts..... | 109 |
| | 4.2.3.3 Status on facilities and infrastructure..... | 111 |
| | 4.2.3.4 Status on usage of technology and digitalization..... | 113 |
| | 4.2.3.5 Status on man power planning..... | 115 |
| | 4.2.4 Statistical Analysis of Data Collected from High Courts' Registry.... | 118 |
| | 4.2.4.1 Pendency of Criminal and NI Act Cases in visited States' High Courts..... | 118 |
| | 4.2.4.2 Disposal rates of Criminal and NI Act Cases in 2018 in visited States' High Courts..... | 119 |
| | 4.2.4.3 Status on facilities and infrastructure..... | 121 |
| | 4.2.4.4 Status on the usage of technology and digitalization..... | 121 |
| | 4.2.4.5 Status on manpower planning..... | 121 |
| | 4.2.5 Statistical Analysis of Online Case Tracking..... | 122 |

| | | |
|--|---|------------------|
| | 4.2.5.1 Statistical Analysis of Online Case tracking of Digital and Paperless courts under Delhi, High Court..... | 125 |
| | 4.2.6 Model development for measuring performance of courts on NI Act cases using AHP-TOPSIS | 126 |
| | 4.2.6.1 Prioritization of performance criteria using AHP..... | 126 |
| | 4.2.6.2 Evaluation of courts using TOPSIS | 128 |
| | 4.2.6.3 Development of Framework for Evaluating | 130 |
| CHAPTER V: DISCUSSION | | 131-154 |
| 5.1 | Introduction..... | 131 |
| 5.2 | Discussion on Hon'ble Judges and advocates..... | 131 |
| | 5.2.1 Major bottlenecks and causes for delays in disposing cheque-bounce cases..... | 131 |
| | 5.2.2 Technology..... | 133 |
| | 5.2.3 Performance..... | 136 |
| | 5.2.4 Process Reengineering..... | 141 |
| | 5.2.5 General Questions..... | 145 |
| 5.3 | Discussion on Litigant's responses..... | 147 |
| | 5.3.1 Delays/Bottlenecks..... | 148 |
| | 5.3.2 Technology..... | 150 |
| | 5.3.3 Performance..... | 151 |
| | 5.3.4 Process Reengineering..... | 151 |
| 5.4 | Registry Discussion..... | 151 |
| | 5.4.1 Statistical Data..... | 151 |
| | 5.4.2 Building and Infrastructure..... | 152 |
| | 5.4.3 Computer Usage and Digitisation | 153 |
| | 5.4.4 Administration..... | 153 |
| | 5.4.5 Judicial Wing..... | 154 |
| 5.5 | Discussion on Online case wise time tracking..... | 154 |
| CHAPTER VI: RECOMMENDATIONS AND CONCLUSION | | 157 - 164 |
| 6.1 | Summary of Findings | 157 |
| 6.2 | Recommendations of the Study | 161 |
| 6.3 | Conclusion | 164 |
| References | | 167 |
| Annexure A1: Questionnaire for High Courts' Judges and Advocates..... | | 170 |
| Annexure A2: Questionnaire for High Courts' Registry..... | | 185 |

| | |
|---|-----|
| Annexure A3: Questionnaire for Subordinate Courts' Judges and Advocates..... | 190 |
| Annexure A4: Questionnaire for Subordinate Courts' Registry..... | 205 |
| Annexure A5: Questionnaire for Subordinate Courts' Litigants..... | 210 |
| Annexure A7: Online Case Tracking Data..... | 213 |
| Annexure A6: Permissions received from State High Courts..... | 215 |
| Research Team | |

List of Figures

| Figure No. | Figure Name | Page No. |
|-------------------|--|-----------------|
| 1.1 | Scope of the Present Study..... | 15 |
| 4.1 | Hon'ble Judges' Response rate on Question 1..... | 35 |
| 4.2 | Advocates' Response Rate on Question 1..... | 35 |
| 4.3 | Hon'ble Judges Vs Advocates data comparison for Question 1... | 35 |
| 4.4 | Hon'ble Judges' Response rate on Question 2..... | 36 |
| 4.5 | Advocates' Response Rate on Question 2..... | 36 |
| 4.6 | Hon'ble Judges Vs Advocates data comparison for Question 2.... | 36 |
| 4.7 | Hon'ble Judges' Response rate on Question 3..... | 37 |
| 4.8 | Advocates' Response Rate on Question 3..... | 37 |
| 4.9 | Hon'ble Judges Vs Advocates data comparison for Question 3.... | 38 |
| 4.10 | Hon'ble Judges' Response rate on Question 3(i)..... | 39 |
| 4.11 | Advocates' Response Rate on Question 3(i)..... | 39 |
| 4.12 | Hon'ble Judges Vs Advocates data comparison for Question 3(i) | 39 |
| 4.13 | Hon'ble Judges' Response rate on Question 4..... | 40 |
| 4.14 | Advocates' Response Rate on Question 4..... | 40 |
| 4.15 | Hon'ble Judges Vs Advocates data comparison for Question 4.... | 41 |
| 4.16 | Hon'ble Judges' Response rate on Question 5..... | 42 |
| 4.17 | Advocates' Response Rate on Question 5..... | 42 |
| 4.18 | Hon'ble Judges Vs Advocates data comparison for Question 5.... | 42 |
| 4.19 | Hon'ble Judges' Response rate on Question 6..... | 43 |
| 4.20 | Advocates' Response Rate on Question 6..... | 43 |
| 4.21 | Hon'ble Judges Vs Advocates data comparison for Question 6.... | 43 |
| 4.22 | Hon'ble Judges' Response rate on Question 7..... | 45 |
| 4.23 | Advocates' Response Rate on Question 7..... | 45 |

| | | |
|------|--|----|
| 4.24 | Hon'ble Judges Vs Advocates data comparison for Question 7.... | 45 |
| 4.25 | Hon'ble Judges' Response rate on Question 7(i)..... | 46 |
| 4.26 | Advocates' Response Rate on Question 7(i)..... | 46 |
| 4.27 | Hon'ble Judges Vs Advocates data comparison for Question 7(i) | 46 |
| 4.28 | Hon'ble Judges' Response rate on Question 8..... | 47 |
| 4.29 | Advocates' Response Rate on Question 8..... | 47 |
| 4.30 | Hon'ble Judges Vs Advocates data comparison for Question 8.... | 47 |
| 4.31 | Hon'ble Judges' Response rate on Question 8 (i)..... | 48 |
| 4.32 | Advocates' Response Rate on Question 8(i)..... | 48 |
| 4.33 | Judges Vs Advocates data comparison for Question 8(i)..... | 48 |
| 4.34 | Hon'ble Judges' Response rate on Question 8 (ii)..... | 49 |
| 4.35 | Advocates' Response Rate on Question 8(ii)..... | 49 |
| 4.36 | Hon'ble Judges Vs Advocates data comparison for Question 8(ii) | 49 |
| 4.37 | Hon'ble Judges' Response rate on Question 9..... | 50 |
| 4.38 | Advocates' Response Rate on Question 9..... | 50 |
| 4.39 | Hon'ble Judges Vs Advocates data comparison for Question 9.... | 51 |
| 4.40 | Hon'ble Judges' Response rate on Question 10..... | 52 |
| 4.41 | Advocates' Response Rate on Question 10..... | 52 |
| 4.42 | Hon'ble Judges Vs Advocates data comparison for Question 10 | 52 |
| 4.43 | Hon'ble Judges' Response rate on Question 11..... | 53 |
| 4.44 | Advocates' Response Rate on Question 11..... | 53 |
| 4.45 | Hon'ble Judges Vs Advocates data comparison for Question 11... | 53 |
| 4.46 | Hon'ble Judges' Response Rate on Question 12..... | 54 |
| 4.47 | Advocates' Response Rate on Question 12..... | 54 |
| 4.48 | Hon'ble Judges Vs Advocates data comparison for Question 12 | 55 |
| 4.49 | Hon'ble Judges' Response Rate on Question 13..... | 56 |

| | | |
|------|--|----|
| 4.50 | Advocates' Response Rate on Question 13..... | 56 |
| 4.51 | Hon'ble Judges Vs Advocates data comparison for Question 13... | 56 |
| 4.52 | Hon'ble Judges' Response Rate on Question 14..... | 57 |
| 4.53 | Advocates' Response Rate on Question 14..... | 57 |
| 4.54 | Hon'ble Judges Vs Advocates data comparison for Question 14 | 57 |
| 4.55 | Hon'ble Judges' Response Rate on Question 15..... | 58 |
| 4.56 | Advocates' Response Rate on Question 15..... | 58 |
| 4.57 | Hon'ble Judges Vs Advocates data comparison for Question 15 | 58 |
| 4.58 | Hon'ble Judges' Response Rate on Question 16..... | 59 |
| 4.59 | Advocates' Response Rate on Question 16..... | 59 |
| 4.60 | Hon'ble Judges Vs Advocates data comparison for Question 16 | 59 |
| 4.61 | Hon'ble Judges' Response Rate on Question 17..... | 60 |
| 4.62 | Advocates' Response Rate on Question 17..... | 60 |
| 4.63 | Hon'ble Judges Vs Advocates data comparison for Question 17 | 61 |
| 4.64 | Hon'ble Judges' Response Rate on Question 18..... | 61 |
| 4.65 | Advocates' Response Rate on Question 18..... | 61 |
| 4.66 | Hon'ble Judges Vs Advocates data comparison for Question 18 | 62 |
| 4.67 | Hon'ble Judges' Response Rate on Question 19..... | 62 |
| 4.68 | Advocates' Response Rate on Question 19..... | 62 |
| 4.69 | Hon'ble Judges Vs Advocates data comparison for Question 19 | 63 |
| 4.70 | Hon'ble Judges' Response Rate on Question 20..... | 63 |
| 4.71 | Advocates' Response Rate on Question 20..... | 63 |
| 4.72 | Hon'ble Judges Vs Advocates data comparison for Question 20 | 64 |
| 4.73 | Hon'ble Judges' Response Rate on Question 21..... | 65 |
| 4.74 | Advocates' Response Rate on Question 21..... | 65 |
| 4.75 | Hon'ble Judges Vs Advocates data comparison for Question 21... | 65 |

| | | |
|-------|--|----|
| 4.76 | Hon'ble Judges' Response Rate on Question 22..... | 66 |
| 4.77 | Advocates' Response Rate on Question 22..... | 66 |
| 4.78 | Hon'ble Judges Vs Advocates data comparison for Question 22 | 66 |
| 4.79 | Hon'ble Judges' Response Rate on Question 22 (i)..... | 67 |
| 4.80 | Advocates' Response Rate on Question 22 (i)..... | 67 |
| 4.81 | Judges Vs Advocates data comparison for Question 22 (i)..... | 67 |
| 4.82 | Hon'ble Judges' Response Rate on Question 23..... | 68 |
| 4.83 | Advocates' Response Rate on Question 23..... | 68 |
| 4.84 | Hon'ble Judges Vs Advocates data comparison for Question 23... | 68 |
| 4.85 | Hon'ble Judges' Response Rate on Question 24..... | 69 |
| 4.86 | Advocates' Response Rate on Question 24..... | 69 |
| 4.87 | Hon'ble Judges Vs Advocates data comparison for Question 24... | 69 |
| 4.88 | Hon'ble Judges' Response Rate on Question 25..... | 70 |
| 4.89 | Advocates' Response Rate on Question 25..... | 70 |
| 4.90 | Hon'ble Judges Vs Advocates data comparison for Question 25... | 70 |
| 4.91 | Hon'ble Judges' Response Rate on Question 26..... | 71 |
| 4.92 | Advocates' Response Rate on Question 26..... | 71 |
| 4.93 | Hon'ble Judges Vs Advocates data comparison for Question 26... | 72 |
| 4.94 | Hon'ble Judges' Response Rate on Question 27..... | 73 |
| 4.95 | Advocates' Response Rate on Question 27..... | 73 |
| 4.96 | Hon'ble Judges Vs Advocates data comparison for Question 27... | 73 |
| 4.97 | Hon'ble Judges' Response Rate on Question 28..... | 74 |
| 4.98 | Advocates' Response Rate on Question 28..... | 74 |
| 4.99 | Hon'ble Judges Vs Advocates data comparison for Question 28... | 74 |
| 4.100 | Hon'ble Judges' Response Rate on Question 29..... | 75 |
| 4.101 | Advocates' Response Rate on Question 29..... | 75 |

| | | |
|-------|--|----|
| 4.102 | Hon'ble Judges Vs Advocates data comparison for Question 29... | 76 |
| 4.103 | Hon'ble Judges' Response Rate on Question 30..... | 77 |
| 4.104 | Advocates' Response Rate on Question 30..... | 77 |
| 4.105 | Hon'ble Judges Vs Advocates data comparison for Question 30... | 77 |
| 4.106 | Hon'ble Judges' Response Rate on Question 31..... | 78 |
| 4.107 | Advocates' Response Rate on Question 31..... | 78 |
| 4.108 | Hon'ble Judges Vs Advocates data comparison for Question 31... | 79 |
| 4.109 | Hon'ble Judges' Response Rate on Question 32..... | 80 |
| 4.110 | Advocates' Response Rate on Question 32..... | 80 |
| 4.111 | Hon'ble Judges Vs Advocates data comparison for Question 32... | 80 |
| 4.112 | Hon'ble Judges' Response Rate on Question 33..... | 81 |
| 4.113 | Advocates' Response Rate on Question 33..... | 81 |
| 4.114 | Hon'ble Judges Vs Advocates data comparison for Question 33... | 82 |
| 4.115 | Hon'ble Judges' Response Rate on Question 34..... | 83 |
| 4.116 | Advocates' Response Rate on Question 34..... | 83 |
| 4.117 | Hon'ble Judges Vs Advocates data comparison for Question 34... | 83 |
| 4.118 | Hon'ble Judges' Response Rate on Question 38..... | 84 |
| 4.119 | Advocates' Response Rate on Question 38..... | 84 |
| 4.120 | Hon'ble Vs Advocates data comparison for Question 38..... | 84 |
| 4.121 | Hon'ble Judges' Response Rate on Question 39..... | 85 |
| 4.122 | Advocates' Response Rate on Question 39..... | 85 |
| 4.123 | Hon'ble Judges Vs Advocates data comparison for Question 39... | 85 |
| 4.124 | Hon'ble Judges' Response Rate on Question 40..... | 86 |
| 4.125 | Advocates' Response Rate on Question 40..... | 86 |
| 4.126 | Hon'ble Judges Vs Advocates data comparison for Question 40... | 86 |
| 4.127 | Hon'ble Judges' Response Rate on Question 41..... | 87 |

| | | |
|-------|--|----|
| 4.128 | Advocates' Response Rate on Question 41..... | 87 |
| 4.129 | Hon'ble Judges Vs Advocates data comparison for Question 41... | 88 |
| 4.130 | Hon'ble Judges' Response Rate on Question 42..... | 88 |
| 4.131 | Advocates' Response Rate on Question 42..... | 88 |
| 4.132 | Hon'ble Judges Vs Advocates data comparison for Question 42... | 89 |
| 4.133 | Hon'ble Judges' Response Rate on Question 43..... | 90 |
| 4.134 | Advocates' Response Rate on Question 43..... | 90 |
| 4.135 | Hon'ble Judges Vs Advocates data comparison for Question 43... | 90 |
| 4.136 | Hon'ble Judges' Response Rate on Question 44..... | 91 |
| 4.137 | Advocates' Response Rate on Question 44..... | 91 |
| 4.138 | Hon'ble Judges Vs Advocates data comparison for Question 44... | 91 |
| 4.139 | Hon'ble Judges' Response Rate on Question 45..... | 92 |
| 4.140 | Advocates' Response Rate on Question 45..... | 92 |
| 4.141 | Hon'ble Judges Vs Advocates data comparison for Question 45... | 93 |
| 4.142 | Hon'ble Judges' Response Rate on Question 46..... | 94 |
| 4.143 | Advocates' Response Rate on Question 46..... | 94 |
| 4.144 | Judges Vs Advocates data comparison for Question 46..... | 94 |
| 4.145 | Hon'ble Judges' Response Rate on Question 47..... | 95 |
| 4.146 | Advocates' Response Rate on Question 47..... | 95 |
| 4.147 | Hon'ble Judges Vs Advocates data comparison for Question 47... | 95 |
| 4.148 | Hon'ble Judges' Response Rate on Question 48..... | 97 |
| 4.149 | Advocates' Response Rate on Question 48..... | 97 |
| 4.150 | Hon'ble Judges Vs Advocates data comparison for Question 48... | 97 |
| 4.151 | Response of Litigants on Question 1..... | 98 |
| 4.152 | Response of Litigants on Question 2..... | 99 |
| 4.153 | Response of Litigants on Question 3..... | 99 |

| | | |
|-------|---|-----|
| 4.154 | Response of Litigants on Question 3(i)..... | 100 |
| 4.155 | Response of Litigants on Question 5..... | 100 |
| 4.156 | Response of Litigants on Question 5(i)..... | 101 |
| 4.157 | Response of Litigants on Question 6..... | 101 |
| 4.158 | Response of Litigants on Question 7..... | 102 |
| 4.159 | Response of Litigants on Question 8..... | 102 |
| 4.160 | Response of Litigants on Question 9..... | 102 |
| 4.161 | Response of Litigants on Question 10..... | 103 |
| 4.162 | Response of Litigants on Question 13..... | 103 |
| 4.163 | Response of Litigants on Question 14..... | 104 |
| 4.164 | Response of Litigants on Question 15..... | 104 |
| 4.165 | Response of Litigants on Question 16..... | 105 |
| 4.166 | Response of Litigants on Question 19..... | 105 |
| 4.167 | Response of Litigants on Question 20..... | 106 |
| 4.168 | Response of Litigants on Question 22..... | 106 |
| 4.169 | Response of Litigants on Question 23..... | 107 |
| 4.170 | Responses on capacity of courts room..... | 112 |
| 4.171 | Status of available facilities in the courts for staff..... | 112 |
| 4.172 | Availability of kiosk machine..... | 114 |
| 4.173 | Existence of Employees Union..... | 116 |
| 4.174 | Punctuality of employees..... | 117 |
| 4.175 | Existence of Court Managers..... | 117 |
| 4.176 | Opinion on Strengthening of Court Managers..... | 117 |
| 4.177 | Prioritisation of criteria using AHP approach..... | 127 |
| 4.178 | Ranking of courts using TOPSIS | 129 |
| 4.179 | Courts' performance measurement framework | 130 |

List of Tables

| Table No. | Table Name | Page No. |
|------------------|---|-----------------|
| 2.1 | AHP Applications by Previous Researchers | 23 |
| 2.2 | TOPSIS Applications by Previous Researchers | 24 |
| 3.1 | Status of Field Visits | 27 |
| 4.1 | Response rates of Hon'ble Judges and Lawyers on Question 1 | 34 |
| 4.2 | Comparison of responses on Question 1 among Advocates and Judges | 35 |
| 4.3 | Response rates of Hon'ble Judges and Lawyers on Question 2 | 36 |
| 4.4 | Comparison of responses on Question 2 among Advocates and Judges | 37 |
| 4.5 | Response rates of Hon'ble Judges and Lawyers on Question 3 | 37 |
| 4.6 | Comparison of responses on Question 3 among Advocates and Judges | 38 |
| 4.7 | Response Rates of Hon'ble Judges and Advocates on Question 3(i) | 38 |
| 4.8 | Comparison of responses on Question 3 among Advocates and Judges | 39 |
| 4.9 | Response Rates of Hon'ble Judges and Advocates on Question 4 | 40 |
| 4.10 | Response Rates of Hon'ble Judges and Advocates on Question 5 | 42 |
| 4.11 | Response Rates of Hon'ble Judges and Advocates on Question 6 | 43 |
| 4.12 | Comparison of responses on Question 6 among Advocates and Judges | 44 |
| 4.13 | Response Rates of Hon'ble Judges and Advocates on Question 7 | 44 |
| 4.14 | Response Rates of Hon'ble Judges and Advocates on Question 7(i) | 46 |
| 4.15 | Response Rates of Hon'ble Judges and Advocates on Question 8 | 47 |
| 4.16 | Response Rates of Hon'ble Judges and Advocates on Question 8(i) | 48 |
| 4.17 | Response Rates of Hon'ble Judges and Advocates on Question 8(ii) | 49 |
| 4.18 | Response Rates of Hon'ble Judges and Advocates on Question 9 | 50 |
| 4.19 | Response Rates of Hon'ble Judges and Advocates on Question 10 | 51 |
| 4.20 | Comparison of responses on Question 10 among Advocates and Judges | 52 |

| | | |
|------|---|----|
| 4.21 | Response Rates of Hon'ble Judges and Advocates on Question 11 | 53 |
| 4.22 | Response Rates of Hon'ble Judges and Advocates on Question 12 | 54 |
| 4.23 | Response Rates of Hon'ble Judges and Advocates on Question 13 | 55 |
| 4.24 | Response Rates of Hon'ble Judges and Advocates on Question 14 | 57 |
| 4.25 | Response Rates of Hon'ble Judges and Advocates on Question 15 | 58 |
| 4.26 | Response Rates of Hon'ble Judges and Advocates on Question 16 | 59 |
| 4.27 | Comparison of responses on Question 16 among Advocates and Judges | 60 |
| 4.28 | Response Rates of Hon'ble Judges and Advocates on Question 17 | 60 |
| 4.29 | Response Rates of Hon'ble Judges and Advocates on Question 18 | 61 |
| 4.30 | Response Rates of Hon'ble Judges and Advocates on Question 19 | 62 |
| 4.31 | Response Rates of Hon'ble Judges and Advocates on Question 20 | 63 |
| 4.32 | Comparison of responses on Question 20 among Advocates and Judges | 64 |
| 4.33 | Response Rates of Hon'ble Judges and Advocates on Question 21 | 65 |
| 4.34 | Comparison of responses on Question 21 among Advocates and Judges | 65 |
| 4.35 | Response Rates of Hon'ble Judges and Advocates on Question 22 | 66 |
| 4.36 | Response Rates of Hon'ble Judges and Advocates on Question 22 (i) | 67 |
| 4.37 | Response Rates of Hon'ble Judges and Advocates on Question 23 | 68 |
| 4.38 | Response Rates of Hon'ble Judges and Advocates on Question 24 | 69 |
| 4.39 | Response Rates of Hon'ble Judges and Advocates on Question 25 | 70 |
| 4.40 | Response Rates of Hon'ble Judges and Advocates on Question 26 | 71 |
| 4.41 | Comparison of responses on Question 26 among Advocates and Judges | 72 |
| 4.42 | Response Rates of Hon'ble Judges and Advocates on Question 27 | 72 |
| 4.43 | Response Rates of Hon'ble Judges and Advocates on Question 28 | 74 |
| 4.44 | Comparison of responses on Question 28 among Advocates and Judges | 74 |
| 4.45 | Response Rates of Hon'ble Judges and Advocates on Question 29 | 75 |
| 4.46 | Comparison of responses on Question 29 among Advocates and Judges | 76 |
| 4.47 | Response Rates of Hon'ble Judges and Advocates on Question 30 | 77 |

| | | |
|------|---|----|
| 4.48 | Comparison of responses on Question 30 among Advocates and Judges | 77 |
| 4.49 | Response Rates of Hon'ble Judges and Advocates on Question 31 | 78 |
| 4.50 | Comparison of responses on Question 31 among Advocates and Judges | 79 |
| 4.51 | Response Rates of Hon'ble Judges and Advocates on Question 32 | 80 |
| 4.52 | Comparison of responses on Question 32 among Advocates and Judges | 80 |
| 4.53 | Response Rates of Hon'ble Judges and Advocates on Question 33 | 81 |
| 4.54 | Comparison of responses on Question 33 among Advocates and Judges | 82 |
| 4.55 | Response Rates of Hon'ble Judges and Advocates on Question 34 | 82 |
| 4.56 | Response Rates of Hon'ble Judges and Advocates on Question 38 | 83 |
| 4.57 | Response Rates of Hon'ble Judges and Advocates on Question 39 | 84 |
| 4.58 | Response Rates of Hon'ble Judges and Advocates on Question 40 | 86 |
| 4.59 | Comparison of responses on Question 40 among Advocates and Judges | 86 |
| 4.60 | Response Rates of Hon'ble Judges and Advocates on Question 41 | 87 |
| 4.61 | Response Rates of Hon'ble Judges and Advocates on Question 42 | 88 |
| 4.62 | Comparison of responses on Question 42 among Advocates and Judges | 89 |
| 4.63 | Response Rates of Hon'ble Judges and Advocates on Question 43 | 89 |
| 4.64 | Comparison of responses on Question 43 among Advocates and Judges | 90 |
| 4.65 | Response Rates of Hon'ble Judges and Advocates on Question 44 | 91 |
| 4.66 | Comparison of responses on Question 44 among Advocates and Judges | 91 |
| 4.67 | Response Rates of Hon'ble Judges and Advocates on Question 45 | 92 |
| 4.68 | Comparison of responses on Question 45 among Advocates and Judges | 93 |
| 4.69 | Response Rates of Hon'ble Judges and Advocates on Question 46 | 93 |
| 4.70 | Comparison of responses on Question 46 among Advocates and Judges | 94 |
| 4.71 | Response Rates of Hon'ble Judges and Advocates on Question 47 | 95 |
| 4.72 | Comparison of responses on Question 47 among Advocates and Judges | 96 |
| 4.73 | Response Rates of Hon'ble Judges and Advocates on Question 48 | 96 |

| | | |
|--------|--|-----|
| 4.74 | Comparison of responses on Question 48 among Advocates and Judges | 98 |
| 4.75 | Response of litigants on Question 2 | 98 |
| 4.76 | Average criminal and NI Act 1881 cases filed in each day in the visited courts | 108 |
| 4.77 | Pendency of criminal and NI Act 1881 cases in the visited courts | 109 |
| 4.78 | Court-wise disposal rates of Criminal and NI Act cases in the visited States in 2018 | 111 |
| 4.79 | Court-wise data of Permanent and Temporary employees | 115 |
| 4.80 | Court-wise data of the sanctioned strength of employees | 116 |
| 4.81 | Criminal appeals and criminal revisions filed on average per day in High Courts | 118 |
| 4.82 | Pendency of criminal appeals and criminal revisions in visited high courts | 119 |
| 4.83 | Disposal rates of criminal appeals filed in visited high courts | 120 |
| 4.84 | Disposal rates of criminal revisions in visited High Courts | 120 |
| 4.85 | Court-wise data of permanent and temporary employees | 122 |
| 4.86 | Stage-wise average time taken for disposing of NI Act Cases | 124 |
| 4.86.1 | Average time taken for disposing NI Act Cases dealt in the digital courts | 125 |

List of Abbreviations

| | |
|---------|--|
| ADR | Alternate Dispute Resolution |
| Cr.P.C | Criminal Procedure Code |
| HC | High Court |
| MSJ | Metropolitan Session Judge |
| NJDG | National Judicial Data Grid |
| NI Act | Negotiable Instruments Act |
| PDJ | Principal District Judge |
| SCC | Supreme Court Cases |
| SLP | Special Leave Petition |
| U/s | Under section |
| SAP-LAP | Situation-actor-process—Learning-action-performance |
| AHP | Analytical Hierarchy Approach |
| TOPSIS | Technique for Order Preference by Similarity to the Ideal Solution |

CHAPTER – I

INTRODUCTION

1.1 Introduction

The term 'negotiable instrument' refers to 'a written document transferable by delivery'. In the words of Justice, Willis, "A negotiable instrument is one, the property in which is acquired by anyone who takes it bonafide and for value notwithstanding any defects of the title in the person from whom he took it". Thus, the term, negotiable instrument means a written document that creates a right in favour of some person and is freely transferable. The money is transferable from person to person either by delivery or by endorsement and delivery. A person becomes entitled to money when a negotiable instrument is transferred to him/her and he/she also has a right to transfer it further. The further transferring is governed by the legal maxim, which is as follows: *nemo dat quod non habet* i.e. no one can give what he/she doesn't have. The maxim in the context of the negotiable instrument means that no one can transfer an instrument to which he/she is not entitled to.

The negotiable instruments were developed to carry high amounts in a simple form and it had a form of security, unlike the currency which could be used by any holder, whereas certain negotiable instruments are only payable to authorized persons, who are mentioned in the instrument itself. The law pertaining to negotiable instruments was codified a long time ago in the year 1881. The same law is in force today, but, with major amendments.

A negotiable instrument is a transferable document by which a person can transfer the rights vested in him to another person in accordance with the provisions of the negotiable instruments act. Cheque is one of the more commonly used negotiable instruments. A cheque is a document that ensures the payment of a particular amount of money on demand to a certain individual or to the bearer of the instrument. The term cheque bounce or cheque dishonor is used to denote the fact that the cheque could not be honoured due to various reasons like insufficient funds on part of the drawer of the cheque or the amount exceeds the arrangement made with the bank. Dishonour of cheque is a punishable offence in India by way of section 138 of Negotiable Instruments Act 1881.

1.2 Importance of Cheque in Trade

It is said that during the reign of the Mauryan Empire an instrument called *adesha* was used as a bill of exchange. The banks were required to pay the money to the third person, which is close to the function for which cheques are used¹. During the 18th Century, major European power at the time had established their companies to trade in India. A major factor for preferring India was that it had the monetary system in place, unlike the barter system in some trade markets of the East, for example, the Dutch had to purchase cloth in India so they can barter it to purchase spice from Spice Island of Indonesia, which did not have a monetary system. Earlier the Mughuls had an instrument called *Barettes* (pay order) which is similar to modern cheques and drafts. The first time cheques in modern form were issued by Bank of Hindustan, established in 1770².

1.3 Origin of Negotiable Act 1881

Negotiable Instruments are part of the mercantile usages to carry out trade and commerce, as such the mercantile law was developed from these usages and practices of merchants, traders, etc. The first country that attempted to codify the usages of merchants was France in 1818, the code was called French Commercial Code. Further, this code was adopted as model code by other European Powers including England which would go on to shape the laws in India³.

It is interesting to know that the efforts to codify law pertaining to negotiable instruments were started in India, even prior to any efforts at the same in England. The principal source of the codification was the English common law, which brought criticism as the mercantile usages and practices were different in India and England, one such example is *Hundi or Hundies* which had evolved in India⁴. The bill then was shelved for some time and sent back for changes and reviews. An exception was made to accommodate Indian mercantile usages by providing a saving of usage relating to hundis, etc. in section 1 of the Act⁵. India is one of only a handful hardly any nations in Asia, that had critical cheque utilization. It had a long convention of utilizing cheques and passed laws formalizing cheque used as ahead of schedule as 1881.

¹ Evolution of Payment Systems in India, Reserve Bank of India Publication dated: Dec 12 1998 – Link <https://m.rbi.org.in/Scripts/PublicationsView.aspx?id=155>

² Ibid

³ Law Commission of India Report no. 11 Link - <http://lawcommissionofindia.nic.in/1-50/Report11.pdf>

⁴ Supra citation 1

⁵ Ibid

The cheque was exhibited in India by the Bank of Hindustan, the primary joint-stock bank developed in 1770. In 1881, the Negotiable Instruments Act (NI Act) was approved in India, formalizing the use and qualities of instruments like the cheque, the bill of exchange, and promissory notes.

1.4 Evolution of Negotiable Act 1881

The Negotiable Instruments Act, 1881 has undergone a significant change ever since its inception, during British rule in India. Before 1988, there was no arrangement to control the individual giving the Cheque without having adequate assets in his record. Obviously, on dishonoured cheque, there is a common obligation collected. To guarantee promptitude and cure against the defaulters of the Negotiable Instrument, a criminal cure of punishment was embedded in the Negotiable Instruments Act, 1881 by changing it with the Negotiable Instruments Act, 1988. With the consideration of these courses of action defined under NI Act, 1881, the condition certainly improved and the events of dishonour of cheques have reasonably plummeted.

Presently several amendments have been made to the Act with the aim of speedy disposal of cases under section 138 of the Act and for early settlement of disputes. However, nowhere a separate mechanism, especially for NI act or dishonour of cheque, is provided for resolving the disputes outside the criminal courts. The change of cheque dishonour from civil liability to and criminal offence punishable by imprisonment has led to heavy filing and pendency in criminal courts, which deal with all types of criminal cases, of which the cheque dishonour falls under less serious. The cheque as a paper instrument has remained the same without any remarkable change.

The most important provisions concerning the struggle of legal guidelines in negotiable instruments are embodied in sections 134 to 137 of the Negotiable Instruments Act, 1881, although, sure different provisions embodied in sections four, eleven, twelve, forty-six and 104 will also be applicable as *lex fori* for an Indian Court inside the dedication of the rights and liabilities of the events springing up out of a negotiable device regarding a foreign element or factors.

The Indian Law Commission, which considered the revision of the Negotiable Instruments Act, 1881, has accorded unique treatment to those provisions in its 11th report submitted to the Government and has advocated that those provisions need to be changed and recast. The Commission had cited that there may be loss of uniformity inside the principles embodied in the English and the Indian enactments and also " as between such concepts and people followed

in other international locations. According to the Commission, the existing provisions contained in sections 134-137 of the Indian Act do no longer deal with all questions which more often than not rise up in this branch of the regulation. The most important questions which, in step with the Commission, require to be solved in reference to international dealings in negotiable instruments are - the capacity of the parties, the format and crucial validity of the agreement, the liabilities of the parties such as Regulating presentment for recognition, presentment for payment, observe of dishonour for non-attractiveness and non-fee, noting and protest.

Other amendments to the Act were made from time to time but, nothing of great significance was amended until the 1988 amendment to the Act i.e. The Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, inserted Chapter XVII in the Negotiable Instruments Act, 1881 (hereinafter the "NI Act"). The statement of object and reasons attached to the Bill explaining the provisions of the added chapter read as follows:

"This clause [clause (4) of The Bill] inserts a new Chapter XVII in the Negotiable Instruments Act, 1881. The provisions contained in the new chapter provide that where a cheque drawn by a person for the discharge of any liability is returned by the bank unpaid for the insufficiency of funds standing to the credit of the account on which the cheque was drawn or for the reason that it exceeds the arrangements made by the drawer of the cheque with the bankers for that account, the drawer of the cheque shall be deemed to have committed an offense. In that case, the drawer without prejudice to the other provisions of the said Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to twice the amount of the cheque, or with both".

The doors of Criminal Courts were opened to adjudicate the dishonour of cheques and substantial gains were made in strengthening the accountability of drawers and faith was restored in the business community as failure to fulfill the commercial transaction and subsequently evading a party by issuing cheques with insufficient funds was now a punishable offense with jail time. But, as in case of any beneficial legislation, the pendency of cases increased in the Courts and getting justice became delayed and slow.

A second significant amendment was made to the Act and this time, it pertained to reducing the time taken for justice delivery in cheque dishonour cases. A short and alternative court process was also inserted to reduce the time. The amendment, in a nutshell, was as follows:

"The Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002, inter alia, amended sections 138, 141 and 142 and inserted new sections 143 to 147 in the said Act. These sections aimed at speedy disposal of cases relating to dishonour of cheque through their

summary trial as well as making them compoundable. The punishment provided under section 138 too was enhanced from one year to two years”.

The burden of the Courts did not reduce with the above amendments as new provisions were seldom used, especially the power to try a case as the summary case. The Law Commission of India took note and recommended the establishment of Fast track courts for cheque dishonor cases. Then, came the latest amendment to the Negotiable Instruments (Amendment) Act, 2018, which inserted section sections 143A and 148, providing for the first time, interim compensation and compensation at the appellate stage. As with any new legislation/amendments, it was left to the courts to interpret, apply and shape the law. In the recent months’ judgments have been pouring in as to the application of new amendments to the pending case.

1.5 Important Sections of Negotiable Act 1881

The Statue recognizes Promissory notes, bills of exchange and cheques as negotiable instruments under the Negotiable Instruments Act, 1881. The following sections have either been taken or explained from the Negotiable Instruments Act 1881:

- The Section 6 of the Act defines cheque as a bill of exchange, which is drawn on a banker and not expressed to be payable otherwise than on demand. The section also states that the cheque includes a cheque in electronic form and also includes an electronic image of a truncated cheque. The section also provides explanations of the expressions expressed in this section. It explains the electronic cheque as an exact mirror image of a paper cheque, which is signed, written and generated in a secure system with some safety standards and has a digital signature. This section further explains truncated cheque and that clearing house is managed or recognized by the Reserve Bank of India.
- Section 13 of the Negotiable Instruments act defines the types of negotiable instruments as cheque, promissory note and bill of exchange. This section further explains that a cheque, promissory note or bill of exchange is payable to a particular person, when expressed or payable to order as expressed and it does not prohibit transfer. This section further explains that a cheque, promissory note or bill of exchange is payable to the bearer, when expressed to be payable. Clause 2 of this section talks about the fact that a negotiable instrument is payable to two or more payees jointly, to any one of the two or one or some of the several payees.

- Section 92 defines dishonour due to non-payment as cheque, bill of exchange or promissory note, when the drawee of the cheque, acceptor of the bill or maker of the note, makes default in payment upon being duly required to pay the same.
- Section 118 deals with presumptions as to negotiable instruments and the presumptions are assumed until the contrary is proved. It is presumed that every negotiable instrument, which was drawn or made for consideration, which has been negotiated, accepted, transferred or indorsed, was done for consideration. The time of acceptance is presumed to be accepted within a reasonable time before the maturity of the instrument. The date of the instrument is presumed to be the date when the instrument was drawn or made and other such presumptions are made. The section ends by stating that where the instrument is obtained unlawfully through fraud or offense, the burden of proving that the holder is a holder in due course lies upon him.
- The most important section for the present study is section 138 pertaining to cheque dishonor for various reasons. The section is as follows:
 “Section 138: Dishonor of cheque for insufficiency of funds in the account —Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offense and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for [a term which may be extended to two years], or with fine which may extend to twice the amount of the cheque, or with both: Provided that nothing contained in this section shall apply unless:
 - (a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;
 - (b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, [within thirty days] of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation: For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability.”

- Section 139 deals with a presumption in favour of the holder. This section says that a cheque is received by the holder is presumed to be received for any debt or other liability unless the contrary is proved.
- Section 143 of the Act deals with the power of the courts to try cases summarily. The section has a non-obstante clause and defines the jurisdiction of cheque dishonor cases and that they must be tried summarily when possible. The section is as follows:

“Section 143: Power of Court to try cases summarily: (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials: Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees: Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code. (2) The trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until its conclusion, unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing. (3) Every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.”

- The NI Act was amended in the year 2018, and two sections were inserted for providing interim compensation to the complainant. Section 143A of the NI act deals with interim compensation at the trial stage. The section is as follows:

“Section 143A: (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offense under section 138 may order the drawer of the cheque to pay interim compensation to the complainant:

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and power to direct interim compensation.

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty percent of the cheque amount.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay the amount of interim compensation to the drawer, with an interest rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.”

- Section 144 of the Act deals with the service of summons, it also has a non-obstante clause and describes the process of service of summons. The section is as follows:

“Section 144: Mode of service of summons.: (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), and for the purposes of this Chapter, a Magistrate issuing a summons to an accused or a witness may direct a copy of summons to be served at the place where such accused or witness ordinarily resides or carries on business or personally works; for gain, by speed post or by such courier services as are approved by a Court of Session.

(2) Where an acknowledgment purporting to be signed by the accused or the witness or an endorsement purported to be made by any person authorized by the postal department or the courier services that the accused or the witness refused to take delivery of summons has been received, the Court issuing the summons may declare that the summons have been duly served.”

1.6 Current Indian Scenario

The all the organs of the Government i.e. The Judiciary, Executive and the Legislature have taken note of the pendency and delays in the cheque dishonour cases and has passed amendments and direction for speedy disposal of the cases. The Judicial system is still dependent on the physical delivery of the summons and in most of the instances the physical presence of the parties requires time and appearance of the parties. Day by day, the number of cheque dishonor cases is increasing and affecting the functioning of the criminal courts. On June 28, 2018, Chief Justice Dipak Misra expressed concern over the rising pendency of backlog which was about 33.3 crore cases. While 2.84 crore cases were pending in the subordinate courts, while about 43 lakhs and 57,987 cases are pending in the High Courts and Supreme Courts, respectively. Hence, the huge pendency of cheque-bounce cases calls for strong measures and reforms to meet the demand.

1.7 International Scenario of Cheque-Bounce Dealing Practices

A) United States of America (<https://app.leg.wa.gov/rcw/default.aspx?cite=9A.56.060>)

- In USA, RCW 9A.56.060 is the law code that governs the unlawful issuance of cheques.
- Cheques once issued can be banked within 6 months of the date of their issuance.
- Intent has a major role in a case of bounced cheque. It has to be established that the drawer had the knowledge that there were insufficient funds leading to dishonour of cheque.
- Cases of cheque bounce are categorised into two parts in the USA – Cheque bounces amounting to \$750 or less are classified as “Gross misdemeanour” and any amount that is above \$750 is categorised in class “C” felony.
- The drawer of the cheque is allowed a period of 10-15 days to pay the cheque amount.
- In case of failing to pay the amount in the said period, the drawee can approach to FDP (Fair Debt Collection Practices Act, 1978). They can hire debt collectors to retrieve that amount.

- On an alternative note, the payee can file a UIBC (Unlawful Issuance of Bounced Cheque) report to the Sherriff. There upon which investigation shall follow. Apart from the drawee, the financial institution involved is also taken into confidence.
- The financial institution/bank is taken into confidence to investigate whether the drawer has a history of several such dishonoured cheque transactions.
- Depending on the investigation, and the category of the offense, the court shall deliver its judgement. In case of gross misdemeanour, a fine ranging from \$375 - \$1125 or a fine that is 150% of the cheque amount, whichever is higher; shall be imposed on the drawer.
- Given a situation that, another similar offense occurs in a period of 6 months, the court can sentence imprisonment not less than 3 years and not more than 5 years; along with a fine amount of \$1150.
- In case of a class C felony, the drawer shall be subject to a fine of \$10,000 or imprisonment of up to 5 years.

B) Unites Arab Emirates (UAE) (<https://www.legal500.com/developments/thought-leadership/are-you-criminally-liable-for-bounced-cheque/>)

- Dishonour of cheques is considered to be a criminal offense in the UAE governed under Article 632 of the Commercial Transaction Law.
- The intent of the drawer to bank a cheque with insufficient funds needs to be established first.
- In case, the cheque is dishonoured, the drawer can still contact the drawee and will have a period of 3 days to pay the given amount. If the amount is not received within 3 working days, the drawee can file a police complaint against the drawer.
- The police can either counsel the drawer and drawee and settle dispute via full payment. Or, the drawer and his guarantor can submit their passport in the police station and ask for an extension to pay the amount in future.
- In case the drawer doesn't appear before the police for counselling, that shall be considered as a criminal charge. This could either lead to an arrest warrant or imprisonment in case the drawer fails to appear for counselling.
- The case can be transferred to the public prosecutor in case an arrest warrant is generated. Upon further investigation and report, the drawer and drawee shall be presented for hearing in court.
- Firstly, the case can be settled by paying the amount in full.

- Secondly, the drawer will be asked to submit his/her passport and shall not be allowed to leave the nation until the amount along with the fine amount is paid in full.
- Thirdly, the drawer is kept under custody for further investigation.
- The sentencing depends whether the amount is greater than or less than 200000 AED.
- In case the amount is less than 200000 AED, the case is allowed to be handled by one day courts. The drawer is subjected to compulsory detention and in certain cases, a fine ranging from 1000 AED to 300,00 AED.
- In case the amount is greater than or equal to 200000, it is termed as a grave offense that can attract a term of imprisonment from 1 year to 3 years.
- In UAE it is encouraged that cheques should be deposited with amounts that are 200000 or more in value. To discourage cheque amounts that are lesser than the said amount, fines high in amount ranging from 1000 AED to 300,00 AED is imposed.

C) Philippines (<https://attorney.org.ph/legal-news/280-issuing-bouncing-checks-what-are-your-legal-liabilities>; <https://www.manilatimes.net/2013/11/22/legal-advice/dearpao/bounced-checks-constitute-crime-of-estafa/54865/>)

- The Dishonour of cheques in the Philippines is governed under the law BATAS PAMBANSA BILANG 22 under Article 315.
- Depending whether the cheque bounced due to insufficient funds from the issuance date or the inability of the drawer to maintain funds after a month of issuing the cheque, a demand letter / Notice of Dishonour is posted to the drawer. In the former, case, the drawer is given a term of 5 days to pay the drawee. In the latter, a period of 10 days is given to the drawer to pay the amount.
- If the amount is not paid to the drawee in the said period, criminal charges are pressed. An arrest warrant is generated. The drawer is presented before the court.
- For an amount that is less than equal to 12000 pesos, a fine is imposed that is either double the cheque amount or an imprisonment that is not less than 30 days. Any extension in imprisonment period is 1 day per 8 pesos.
- In cases ranging from 12000 to 22000 pesos; for each 10,000 pesos, imprisonment period is extended for a year.
- For cases involving amounts that are greater than 22000 pesos, an imprisonment period of up to 20 years shall be applicable.

D) France (<https://www.bloomberquint.com/opinion/cheque-bouncing-join-the-league-of-civilised-nations>; <https://translate.google.com/translate?hl=en&sl=fr&u=https://cours-de-droit.net/cheque-sans-provision/&prev=search&pto=aue>;
<https://translate.google.com/translate?hl=en&sl=fr&u=https://www.lafinancepourtous.com/pratique/banque/moyens-de-paiement/les-cheques/le-cheque-sans-provision/&prev=search&pto=aue>)

- Cheque bounce cases in France are dealt under the Law L-131 73-83 of the Monetary and Financial French Law.
- The drawer in case of a bounced cheque shall be given 30 days to repay the amount along with a certificate of rejection. If the drawer fails to do so, the matter can be taken to a bailiff where another 15 days shall be given to the drawer to pay the cheque amount in full, sans any fines.
- This shall lead to forced execution where assets might be confiscated or salary withheld.
- In case the drawer fails to do so, the fines can range from 22 euros per 150 euros to the Tresor Public. In an average 30 euros is charged for cheques lesser than 50 euros and 50 euros or more are charged for cheques amounting to 50 euros and more.
- The consequences for writing bad cheques can lead to the drawer's bank account being seized and the drawer shall not be able to write cheques for another 5 years. The name shall be registered in a national defaulters list called FCC (*Fichier Central de Chèque*).

E) Singapore (<https://sso.agc.gov.sg/Act/BEA1949#pr57->; <https://www.quora.com/Is-it-illegal-for-your-check-to-bounce-due-to-insufficient-funds-in-Singapore>)

- The cheque bounce cases in Singapore is governed under the Bill of Exchange act, 1949, which has been recently revised in July 2004.
- A notice of dishonour of the cheque needs to be sent to the drawer once the cheque has bounced. Serial cheque bounces of the drawer shall attract fine/charges from the financial institution.
- Singapore resorts to special courts called the Small Claims Tribunal that deal with cases of dishonoured cheques.
- The Singaporean government claims itself to be business friendly and urges the parties to resort to arbitration to settle cheque dishonour issues.
- The drawee can press civil charges against the drawer for any amount that is equal to or more than \$10,000 and despite multiple attempts is not being able to be encashed.

F) Italy (https://www.bancaditalia.it/compiti/sistema-pagamenti/altre-attivita/dichiarazioni-protesto/operators_giude_june_2010.pdf?language_id=1)

- Cheque bounce cases in Italy are governed under the “Cheques Law” Article 45 of Royal Decree 1736 of 21 December 1933.
- In the event of a bounced cheque, the head of the clearing House, who is considered as an administrative official of the government under the Banca D’ Italia, can inform the judiciary or the police.
- The drawer shall be given will be given 60 days’ time period to pay the entire cheque amount.
- Failing to do so, the drawer in question shall face civil proceedings in a court of law where the court might order liquidation of assets of the drawer that ca raise funds that is greater than equal to the cheque amount and the fine.
- Furthermore, the Head of Clearing house shall be responsible for publishing names of the defaulters in Computerized register of protested cheques.

1.8 Need of the Study

India has come a long way since its independence and has seen tremendous growth in all the sectors, but one of the most important sectors i.e. Judiciary has consistently declined when it comes to the burden of cases pending before it. The Criminal Justice System is the rock bottom of a developed democratic nation and its smooth functioning restores the faith in the democratic structure of the Government. The Business community and the consumers/customers look forward to the Judiciary for quick redressal of wrongs as ease in the matters of commercial transaction is given particular importance. The piling of cheque dishonour cases and their long pendency cause a setback to the payee and disrupts his activities. The huge pendency also becomes a roadblock for delivering Criminal Justice not only in cheque dishonour cases, but, other criminal cases also get affected by the numbers of cheque dishonour cases.

The Law Commission has proposed that the law of the place where the instrument is payable shall govern all questions concerning presentment dishonour, protest and notice of dishonour. However, this is subject to the overriding clause (to which all other provisions are also subject to) that it will have an effect in the absence of a contract to the contrary. Leaving aside, therefore, the overriding clause for the present, the Law Commission's proposed rule as

contained in (b) (ii) to (b) (v) of section 108 can be said to be an improvement both on the existing Indian provision contained in section 135 of the Negotiable Instruments Act, 1881, and the English provisions contained in section 72 (3) of the Bill of Exchange Act, 1882.

Time to time revisions in the NI Act 1881, were done to ensure more reliability associated with the cheque and also the provisions were made to handle any discrepancy if arises among the parties. But, making Section 138 of NI Act 1881 as a punishable offense, the role of the existing criminal justice system has increased over the time period, which has led to the overburden in the courts dealing with criminal cases. The long trial system through the courts has further deteriorated the cause of justice. Hence, the current scenario has motivated for the improvement of the existing procedures and processes pertaining to cheque dishonour cases. With this objective, the present study has been conducted to fasten the justice delivery in the NI Act cases.

1.9 Motivation for the Study

In India, the Judiciary is an equal branch or organ of the Government and its efficient functioning is of prime importance for the development of the Nation. Moreover, a nation's growth is closely linked with its economy, and an economy can only flourish when there is accountability for bad trade practices such as dishonour of cheques. Ease in doing business is another aspect that attracts the investors, smooth functioning of the judicial system instills faith in the market as any wrong in the market or business can be swiftly corrected by the Judicial system.

1.10 Scope of the Present Study

The institutions for the present study are High Courts and Subordinate Courts. The target population consists of all those who interact with the court and court process. Through observation, experience, and literature, the following were identified as target population:

- i. Judges: The Court revolves around them and they are the final authority in their court hall. The intention was to collect data from Hon'ble Judges who had dealt with cheque bounce cases at any point of their life, either as a judge or as an advocate.
- ii. Advocates: They are the officers of the court and represent their clients. In cheque bounce cases, both the side in a case, i.e. the complainant and the accused are represented by a private advocate or a standing counsel, unlike in case of other criminal cases where the complainant is represented by the public prosecutor. The intention was to collect data from any advocate who has dealt with cheque bounce case.

- iii. Registry and other officials: They work on the administrative side of the court and are crucial for the smooth functioning of the judicial system. The intention was to cover all the department which come in contact with the case file or play a role in assisting the smooth functioning of the court. The questionnaire covered statistical wing, judicial, wing, administrative wing, building and infrastructure, court manager and etc.
- iv. Litigants: They come to the court to get justice. The intention was to cover litigants who are involved in cheque bounce cases in the absence of which any criminal case would suffice as the reforms which are to be done for cheque bounce cases would go hand in hand with reforms for other similar criminal cases.
- v. High Court: For the High Court, all the above stakeholders are considered except the litigants. Litigants are not usually required by the court to attend the court proceedings in High Court and they seldom come by.
- vi. Excluded population: Certain people who are otherwise crucial stakeholders in court system were excluded for the present study as they play little to no role in cheque bounce cases. Some of them are Government Pleaders, Public Prosecutors, official liquidator, Civil side sections and departments of the courts.

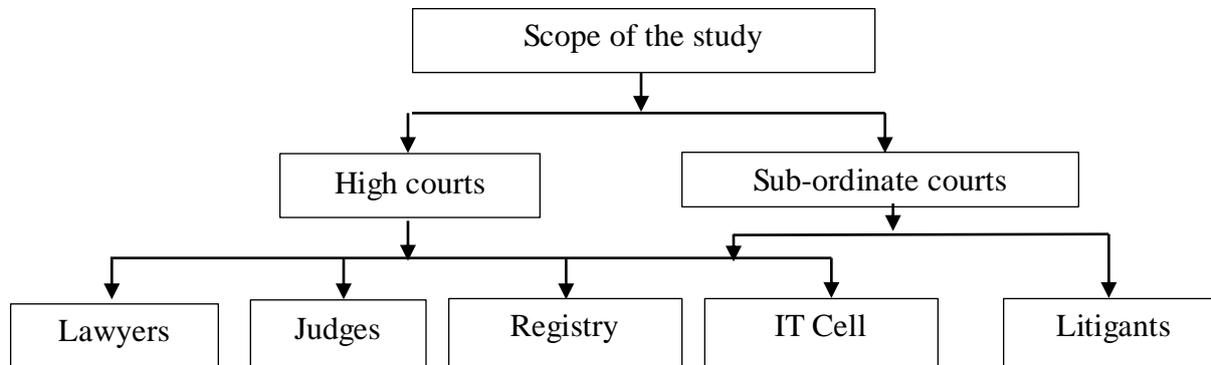


Figure 1.1: Scope of the present study

1.11 Objectives of the Study

- To identify various procedural steps (starting from institution till disposal) involved in cheque-bounce cases in different jurisdictions.
- To identify the major bottlenecks and causes for delays in executing the cheque-bounce cases throughout the whole process.
- To identify the role of technology in expediting the process.

- To develop a mathematical model for measuring the performance of courts in clearing cheque-bounce cases.
- Re-engineering the procedure in order to reduce the delays in the proceedings.

1.12 Chapter Summary

This Chapter discussed the origin and evolution of the negotiable Instruments Act with emphasis on cheque as a negotiable instrument. It is clear that India has a history of instruments similar to cheques being used during Mauryan and Mughal period. It is also clear from the evolution of the NI Act that it has undergone several changes and especially the law relating to dishonour of cheque has transformed from being civil in nature to a criminal case. Important sections of the NI Act were discussed in this chapter, including the recent amendments providing for interim compensation at trial and appellate stages. Other factors such as the current scenario, motivation, need and scope of the study were explained. In the next chapter, the review of literature showcases the literature studied for this study.

Chapter II

LITERATURE REVIEW

2.1 Introduction

Law is dynamic and regularly transforming; one needs to stay aware of the most recent advancements occurring in law, as amendments to acts and judgments of High Courts and Supreme Court are of immense importance to understand and comprehend the law. Therefore, it becomes necessary to classify and thoroughly review the literature connected to the Negotiable Instruments act in general and its section 138 pertaining to dishonour of cheques in particular.

2.2 Classification of Literature

The methodology used for this study is both non-doctrinal and doctrinal research i.e. study of legal concepts and principles, and it includes statutes, case laws, rules, codes, research papers etc.

2.2.1 Statutory Acts

A Broad survey of writing was done for the present study. Pertinent statutory acts were investigated with the end goal of this study, among which a few acts of parliament stand out, for example: The Negotiable Instruments Act, 1881, The Code of Criminal Procedure, 1973, 1996 Legal Service Authority Act, 1987 among many other acts.

The Negotiable Instruments Act, 1881, is imperial legislation passed during the British Raj, which is still in force in India. This Act deals with instruments such as, bills of exchange, promissory note, and more importantly cheques, which are central to the present study. In this Act, section 138 deals with dishonour of cheque and subsequent sections inform about the jurisdiction and procedure. The Act was thoroughly studied along with the recent amendments of 2018. It was revealed through the study that the Act not only has substantive law sections, but also gives a very brief procedural structure.

The Code of Criminal Procedure, 1973, is considered to be a part of major criminal acts, and it was passed to consolidate and amend the law relating to criminal procedure. This code deals with the administration of substantive laws and provides an apparatus and structure for investigating an offense, arresting a suspected person, and gathering of evidences for

concluding whether a person is guilty or not. This Act classifies offenses and defines different types of cases.

2.2.2 Rules

Criminal Rules of practice pertaining to various states were also taken into consideration to understand the procedure by which certain aspects of court proceedings are governed. The High Courts are empowered to make these rules under the Constitution of India, as such, each High Court has its own rules of Practice, which are applicable to the High Courts and subordinate judiciary.

2.2.3 Judgements

In a common law system precedent, judgments of superior or constitutional courts form an authority to establish a principle or rule that is later binding upon the courts as used to resolve other cases. India has a common law system that is no different and Courts are interpreters of the law. All the landmark judgments pertaining to Negotiable Instruments and more particularly, were studied and some of which are as follows:

- *Meters and Instruments (P) Ltd. v. Kanchan Mehta*.⁶

This is a division bench judgment of the Hon'ble Supreme Court. The Hon'ble Supreme Court made a certain observation in this judgment pertaining to cheque dishonour cases under section 138 of Negotiable Instruments Act 1881. The Hon'ble Supreme Court observed that there is a need for speedy disposal of cheque dishonour cases. The Hon'ble court noted that the use of technology would go a long way in ensuring a speedy trial. The Hon'ble Court also noted that certain types of cases such as traffic challans and some cheque dishonour cases could be decided online. The cheque dishonour cases where the accused do not contest can entirely be dealt on online and where viable video conferencing can be used.

- *Surinder Singh Deswal @ Col. S.S. Deswal vs. Virender Gandhi*.⁷

This is a division bench judgement of the Hon'ble Supreme Court. The Hon'ble Supreme Court reiterated that the section 148 has retrospective application, but section 143A is

⁶ (2018) 1 SCC 560

⁷ Supreme Court, Criminal Appeal NOS.1936-1963 OF 2019.

prospective. These sections deal with interim compensation and were inserted by the recent amendment to the NI Act.

- *G.J. Raja vs. Tejraj Surana.*⁸

This is a division bench judgement of the Hon'ble Supreme Court. The Hon'ble Supreme Court held that the section 143A of NI Act has no retrospective application. The section 143A deals with interim compensation at trial stage. This means that the section 143A has no effect on cheque dishonour cases filed before the amendment came into effect.

- *Surinder Singh Deswal @ Col. S.S. Deswal vs. Virender, Gandhi.*⁹

This is also a division bench judgment of the Hon'ble Supreme Court. The Hon'ble Court held that section 148 of the NI Act is retrospectively application. Section 148 deals with the interim compensation at the appellate stage. This means that section 148 is applicable to the cheque dishonour cases filed before the amendment came into effect.

- *Prem Chand Vijay Kumar v. Yashpal Singh.*¹⁰

This is also a division bench judgment of the Hon'ble Supreme Court. The Hon'ble Court held that there is only one cause of action for one cheque under section 138 of NI Act. The court observed that once a notice is issued for dishonour of cheque the same cheque when deposited and dishonoured again does not create a new or second cause of action. The court also observed that when the period of limitation ends a fresh notice demanding payment.

- *SIL Import, USA v. Exim Aides Silk Exporters.*¹¹

This is also a division bench judgment of the Hon'ble Supreme Court. This case pertains to cheque dishonour and in this case the respondent had sent a notice by fax to the appellant and also through post with acknowledgment due. The respondent filed a case under section 138 of NI Act but after the time limit from the date the fax was received by the appellant. The Hon'ble Court held that the notice by fax was valid and the case under section 138 of NI Act was filed after the limitation period. This case is important as the notice was sent by fax and other technological means can be used for sending notices in cheque dishonour cases.

⁸ Supreme Court, Criminal Appeal NO. 1160 OF 2019 Arising out of Special Leave Petition (Criminal)No.3342 of 2019.

⁹ Supreme Court, Criminal Appeal NOS.917-944 OF 2019 Arising out of SLP(Criminal) Nos. 4948-4975/2019.

¹⁰ (2005) 4 SCC 417.

¹¹ (1999) 4 SCC 567.

2.2.4 Reports

The reports of the Law Commission were given preferences over other reports, some of the reports of Law Commission of India are:

- **LAW COMMISSION OF INDIA REPORT 11: Negotiable Instrument Act 1881**
 This was the first report of Law commissions in independent India, where the NI Act is discussed, and light is thrown upon the possible revision in the NI Act. It did a commendable job in 1958 to create a better understanding and strengthening the Judicial system. The Commission also mentioned and described the categories and validity of cheques. This report helps to understand the negotiable Instrument Act beyond doubt.
- **LAW COMMISSION OF INDIA REPORT 49: The trial and punishment of social and economic Offenses.**
 In this report, a broader perspective of Socioeconomic offenses was included in various Acts: Essential Commodity Act, Prevention of Food Adulteration Act, Drug (Control) Act, Import Export (Control) Act etc. This report analyses the essence of various socio-economic offenses and related procedures for carrying out remedies and improvements in judicial procedure. It also answers the basic question of how various offenses committed under the above Acts are acted upon and whether, the quantum of the punishment given for the above violations is sufficient, looking at the gravity of the offenses. It also got a detailed idea about the kind of judgment delivery in various countries like England and Scotland is also discussed in the report. This report doesn't show any direct connection to Negotiable Instrument Act, but, we can indirectly relate with various economic offenses like deliberate tax evasion.
- **LAW COMMISSION OF INDIA REPORT 77: Delay and arrears in trial courts.**
 The report gives insight into the delays and the arrears caused due to the procedural or manual interventions in multiple cases. The report clearly says how delays in cases have affected the public in general and so the same is seen in various cases of the Negotiable Instrument Act. The backlog and the clearance have been very well-analyzed later in Law Commission of India report 245. Report 245 can be considered as a quantitative and analytic approach toward the delays and pendency in Courts, whereas Report 77 covers only the Delays and Arrear in a qualitative manner.
- **LAW COMMISSION OF INDIA REPORT 213: Fast Track Magisterial Courts for Dishonoured Cheque Cases**

The Law Commission has analyzed the situation of pendency of cases all over India and the gravity of the situation and has given a suggestion to carry out fast track courts. The expenditure from the fast track court should be levied upon the state central Government. The report recognizes the rapid deterioration in trust on a commercial instrument such as cheque and the degradation of morale in business have created an immediate need to take cases under NI Act in fast track mode and give relief to litigants to sustain the belief system in Commercial Infrastructure and Systems.

- LAW COMMISSION OF INDIA REPORT 245: Arrears and Backlog: Creating Additional Judicial (wo)manpower.

The backlogs in the courts have been big trouble for the judiciary, and the cause of the problems have been recognized and analyzed in this report. This report carries a complete study on the kinds of cases along with the numbers and the period for which they have been backlogged. Various reasons have been recognized under this report along with its conclusion and mitigation steps with proper data collection. The delays in cases related to NI Act is quite phenomenal in number, so the suggestions provided in this report can be taken as a base to understand the details of this study. In this report, the ratio between pendency and clearance related to NI Act has been very well studied and represented in the report. The pendency under NI Act cases is next to Traffic and Police Challan cases. This report got NI Act in the lime light and increased the curiosity to understand the pendency under the NI Act.

2.2.5 Schemes

1. Tele- Law This is a wonderful scheme lunched by Department of Justice, Ministry of Law and Justice, Government of India for the public welfare particularly for the marginalized and economically weaker section of the society, which finds the justice system inaccessible. The major target being the rural India, where the accesability of justice system is poor and economically non-feasible. Thus, the Ministry of Law and Justice joined forces with Ministry of Information Tecnology (MeitY), which resonate with the Digital India program, to give legal guidance and benefits through its Common Service Center (CSC) at the panchayat level, spread over the nation. In the first phase, the 'Tele-Law' plan will be tried as a pilot over 500 CSC in Uttar Pradesh and Bihar to understand the difficulties and make essential revisions to the plan before it is scaled up and turned out the nation over in a very precisely planned manner.

2. **Nyay Mitra-** Nyaya Mitra (hereinafter NM) program aims at assisting the district judiciary in reduction of pendency of ten year old cases and increasing access to justice for marginalized people. The program was launched in 227 selected districts of 16 States i.e. Uttar Pradesh, Bihar, Maharashtra, Gujarat, Rajasthan, West Bengal, Odisha, eight states of North Eastern Region and Jammu & Kashmir during April 2017. Selection of district courts for Nyaya Mitra was done based on highest pendency of court cases over 10 years of period sourced from National Judiciary Data Grid (NJDG) database. The position of the NMs were open to retired judicial officers and retired government officers (with legal background only). This activity would be propelled in 227 regions including 27 districts from North East and Jammu & Kashmir and 200 regions from Uttar Pradesh, Bihar, Maharashtra, Rajasthan, Odisha, Gujarat, West Bengal and so on, and would be worked out of CSCs.

3. **Nyay Bandhu-** Keeping in line with the Government's initiative to ensure empowerment to the common man through technology for access to justice, the Ministry of Law and Justice in 2019, launched a tele-law mobile application that is integrated with a dashboard and an application called Nyaya Bandhu.

2.2.6 E-Sources

Articles, live law, bar and bench, SCC, Mondaq database, online journals etc.

2.2.5 Others Sources

The following research studies of National Mission for Judicial Reforms by various organizations such as Administrative Staff College of India Hyderabad: Time and motion study of four district and sessions courts in Bangalore Daksh; Study on major bottlenecks in procedural laws affecting expeditious conclusions of criminal trials and measures needed to remove such bottlenecks by Jharkhand Judicial Academy; A study on court management techniques for improving the efficiency of subordinate courts by NALSAR Hyderabad, etc. have been studied for the present project.

2.3 Literature Supporting Methodology used in the Study

The research methodology is a systematized investigation to gain new knowledge about phenomena or problems. The present study will prepare the statistics through primary research regarding the status of cases going on in the various high courts and subordinate courts of the

selected States. The primary survey will target the data collection from the various stakeholders involved in the process like: Advocates, Judges, Litigants, and Registry. The study proposes the primary data collection from 10 states, which will be picked up depending upon the frequency of the cases and permissions from the respective High Courts. The study will also seek some secondary data from online case tracking from the selected States. Thereafter, the descriptive study will identify the various stages of the NI cases and calculate the average processing time and average delays at each stage. The descriptive study will be done both by using the secondary reports available and through the questionnaire surveys.

Subsequently, the data will be collected to identify the major bottlenecks in the process and a questionnaire survey will be conducted to identify and prioritize the causes for delay. Here, the qualitative, as well as quantitative data, will be collected through a survey from the courts of selected States. Data collection will cover all stages involved in the process of handling cheque-bounce cases defined under the Negotiable Instruments Act, 1881.

The present study has also used some managerial quantitative as well as qualitative tools to analyze the process of handling the cheque-bounce cases and propose the framework for improving the performance. AHP used in the present study is a structured multi-criteria decision-making (MCDM) method for organizing and analyzing complex decisions, developed by T. L. Saaty in the 1970s. In AHP both qualitative, as well as quantitative information, can be used to make decisions based on multi-criteria. AHP captures the priorities of each alternative with respect to criteria from the pair-wise comparisons. Some of the applications of developing performance models using AHP have been highlighted in Table 2.1.

Table 2.1: AHP Applications by Previous Researchers

| Sl. No. | Applications | References |
|---------|---|---------------------------|
| 1. | AHP-based sorting approach. | Ishizaka et al. (2012) |
| 2. | AHP model for evaluating sustainable manufacturing processes in Indian electrical panel industries. | Gupta et al. (2015) |
| 3. | Healthcare waste disposal strategy selection. | Thakur and Ramesh (2017a) |
| 4. | Sustainable operations management practices at home appliances industries. | Thakur and Mangla (2019) |
| 5. | Benchmarking healthcare supply chain practices. | Hossain and Thakur (2020) |

| Sl. No. | Applications | References |
|---------|--|---------------------------|
| 6. | Healthcare waste management for sustainable environmental development. | Thakur et al. (2020) |
| 7. | Smart, sustainable and resilient healthcare supply chain. | Hossain and Thakur (2021) |

After prioritising the performance evaluation criteria using AHP, the study has proposed TOPSIS methodology, to evaluate the various courts on the prioritised parameters. Hwang and Yoon (1981) developed TOPSIS as a multi-criterion decision-making (MCDM) technique. The main advantage of using TOPSIS after AHP is that it gives the best alternative solution, which is having the least distance from the positive ideal solution and the farthest distance from the negative ideal solution (Gumus, 2009). TOPSIS can also consider the relative weights of the selection criteria (Zolfani and Antucheviciene, 2012). The various areas of application of TOPSIS methodology have been shown in Table 2.2.

Table 2.2: TOPSIS Applications by Previous Researchers

| Sl. No. | Applications | References |
|---------|---|-------------------------------|
| 1. | Evaluation and ranking of candidate robots. | Bhangale et al. (2004) |
| 2. | Identifying best new product idea using hierarchical fuzzy TOPSIS and fuzzy heuristic multi-attribute utility function. | Kahraman et al. (2007) |
| 3. | Simulation based fuzzy TOPSIS approach for group multi-criteria supplier selection problem. | Zouggari and Benyoucef (2012) |
| 4. | Selecting green suppliers based on GSCM practices: Using fuzzy TOPSIS applied to a Brazilian electronics company | Kannan et al., (2014) |
| 5. | Evaluating healthcare waste disposal partners. | Thakur and Ramesh (2017b) |

2.4 Chapter Summary

The extant of literature that has been reviewed has discussed as to the matter of delays in judicial processes, with special focus on negotiable instruments Act. Courts in India are overburdened and lack basic infrastructure to deal with cheque dishonour cases. It is vital that

people have faith in the integrity and honesty of the system. However, the reliability of cheques in commercial dealings has been eroded to a great extent. There is a need to realize the commercial realities in India and further expedite the process of recovery to discourage delays caused by the accused, unnecessary adjournments and other frivolous processes. Our study carried out from different pieces of literature available from various access points were deeply analysed to refine our research methodology and enhanced our understanding of this subject. The reviews generated from the literature with the understanding achieved by studying the Acts and relating judgments created a clear outlook for our team to carry out our surveys and research in this filed.

Chapter III

Research Methodology

3.1 Introduction

Research methodology is the core of any research or study which is to be carried out in a scientific manner. Research methodology describes the approaches, design and research methods in detail. Research methodology defines the specific procedure and techniques used to select, identify, analyse and process the information about the research topic. In the present study, doctrinal and non-doctrinal research methods are used. The doctrinal method is used to study the concepts and principles of law from the existing literature. Non-doctrinal research also known as socio-legal is used to study law along with other fields. The present study has collected primary as well as secondary data in order to complete the said objectives. Primary data collection has been done by developing the questionnaires separately for Judges, Advocates, Litigants, and Registry.

3.2 Samples and Procedure

This study will target both the primary as well as secondary data from the various States. The selection of states and courts plays a major role in the collection of data and helps in refining the quality of any data that is being collected. The present study proposed the data collection from 10 states, distributed among five out of six regions of India i.e. North, South, East-West and Central. But, initially, in order to target 10 States, we selected 14 States (as shown in Table 3.1) and then finally, data collection has been started as per the permissions received from various high courts. Finally, 12 States have been covered as highlighted in Table 3.1.

Table 3.1: Status of Field Visits

| Sl. No. | Visited States | Sl. No. | Visited States |
|---------|----------------|---------|----------------|
| 1. | Telangana | 7. | Maharashtra |
| 2. | Odisha | 8. | West Bengal |
| 3. | Andhra Pradesh | 9. | Punjab |
| 4. | Jharkhand | 10. | Delhi |
| 5. | Goa | 11. | Haryana |
| 6. | Karnataka | 12. | Bihar |

From each selected State, the following two categories of courts, have been visited:

- a) High Courts (Including some benches)
- b) Subordinate Courts

a) **High Courts:** These are uniform across the nation in their stature and a few of them have benches usually within a federal state. Sometimes, one High Court is common for two or more states, but, as in any institution, there are exceptions to this rule due to the fact that Judiciary in India is one, single structure, right from Supreme Court to lowermost court. This single structure of Judiciary has power distribution from top to bottom at major institutional stages, giving relative autonomy for achieving justice, unlike the executive and legislative powers, which is clearly divided between State and Union in India. The Judiciary has no division and it forms the third branch of Government and it is as independent like other branches. Moreover, the fact of the matter is that the Judicial Institutions do not follow the State-Union division. The judicial districts do not necessarily adhere to revenue or administrative districts.

The High Courts extend their benches depending on the need like Bombay High Court bench at Goa, even though Goa is a separate State, having its Executive authority and the State legislature. The same can be said about Andaman and Nicobar Islands, a union territory, but they have Calcutta High Court Circuit Bench. On the other hand, Chandigarh and Delhi, both being Union Territories, have their own High Courts. This study focuses on the data collection from States. The parameter for selection is primarily based on the number of States and not the High Court and by covering States. Our study is bound to cover High Court or at the least a Bench of High Court in the selected State.

b) **Subordinate Courts:** The object of this study is to conduct research and collect data on cases falling U/s 138 of NI Act 188, which is a criminal offense and falls under the jurisdiction of Criminal Courts. Generally, in a District, that does not have a metro city, the highest court is the District Court having both, civil and criminal jurisdiction and a Judge may deal with both types of cases unless given a separate charge, or appointed to a special court. But, in cities and some towns, the civil and criminal courts have separate establishments, with City Civil Courts, predominantly having civil courts with the exception of a few criminal courts and Metropolitan Session and criminal courts dealing solely with criminal jurisdiction. This division in cities is due to more number of cases and courts. For the purpose of this study, the names of two or more district courts have been proposed and at least two Districts or metro/city courts will be visited for collecting primary data.

The method of selecting the District or Criminal courts are as follows:

- i) Courts in District/Cities, having the highest number of pending criminal cases.
- ii) District/Cities having the highest number of population will be selected.
- iii) Another means of selecting courts could be based upon the number of pending cases U/s 138 of NI Acts, but unfortunately, the data on this is not uniformly available, but wherever it is available has been made the basis of selecting a particular court.

3.3 Questionnaire Design

The questionnaires were designed taking a holistic approach and including all the parties necessary for the present study and research. SAP-LAP analysis has been done before developing the data collection tool. The process has been started by analyzing the current situation by studying the existing process of dealing with cheque-bounce cases in the court. Depending upon the current situation, the main factors affecting the execution process, were identified and included in the questionnaire. The field study investigation and qualitative inputs from the various stakeholders will help in identifying the main actions for improvising the process, which will lead to enhancing the performance.

The questionnaires were designed keeping in mind the courtroom setting and taking into account all the stakeholders involved in the cheque bounce cases. In the present study, the questionnaire consists of different types of questions, where the utmost care has been given to make the questionnaire understandable to the respondents by keeping the language simple for layman respondents such as litigants and using legal jargon only for the legal professionals. The questionnaire consists of questions with options in bipolar and unipolar Likert's scale. A good amount of questions is dichotomous and some are qualitative questions. All the questionnaires are in line with the latest law pertaining to the Negotiable Instruments Act 1881. Separate questionnaires were designed for High Courts and Subordinate Courts. Further, under the High Courts as well as Subordinate Courts, the three different questionnaires were developed for: judges, advocates, and registry. Litigants' questionnaire has been developed only for subordinate courts.

3.3.1 Questionnaire Development for High Courts

There are three questionnaires for the High Court, one each for Hon'ble Lordships, advocates and registry. The questionnaire for Hon'ble Judges and advocates is same. There is no questionnaire for the litigants as they rarely visit the High Court and they do not have to mandatorily attend the court proceedings as is the case in subordinate courts.

Judges and Advocates questionnaire: The questionnaire for Hon'ble Judges is three pages long, keeping in mind the busy schedule of the Hon'ble Judges. The questions range from

general reforms in the criminal justice system to specific questions pertaining to cheque bounce cases. Questions about stages, delays and technological interventions are also present in the questionnaire. Questions have also been asked regarding the recent amendments done in 2018 to the Negotiable Instruments Act, 1881. The complete questionnaire for Judges and Advocates (High Courts) has been shown in Annexure A1.

Registry questionnaire: The registry questionnaire was made to keep in mind all the sections of the registry, which will affect the court's smooth functioning. They include questions pertaining to the statistics section, administration, judicial wing, infrastructure, and computer. Court managers have also been asked to give their inputs in the questionnaire. The complete questionnaire for Registry (High Courts) has been shown in Annexure A2.

3.3.2 Questionnaire Development for Subordinate Courts

Following four separate questionnaires have been designed for the Subordinate courts: Hon'ble Judges, advocates, registry and litigants. The questionnaire for Hon'ble Judges and advocates is identical. The registry questionnaire is divided into different parts as per the sections present in the courts.

Judges and Advocates questionnaire: The questionnaire for Hon'ble Judges is three pages long keeping in mind the busy schedule of the Hon'ble Judges. The questions range from general reforms in the criminal justice system to specific questions pertaining to cheque bounce cases. Questions pertaining to stages, delays and technological interventions are also present in the questionnaire. Questions have also been asked regarding the recent amendments of 2018 to Negotiable Instruments Act 1881. The complete questionnaire for Judges and Advocates (Subordinate Courts) has been shown in Annexure A3.

Registry Questionnaire: The questionnaire of registry was made keeping in mind all the sections of the registry which will have an effect on the smooth functioning of the court. They include questions pertaining to the statistics section, administration, judicial wing, infrastructure, and computer. Court managers have also been asked to give their input in the questionnaire. The complete questionnaire for Registry (Subordinate Courts) has been shown in Annexure A4.

Litigant Questionnaire: Litigants are the parties involved in a case, and in a criminal case, they are known as complainant and accused. The questions are framed keeping in mind the approach of a layperson. Questions pertaining to delays and reasons for the delays, have been asked in the questionnaire. The questionnaire also includes questions on access to justice and understanding of the court proceedings from the litigant's point of view; moreover, it is also

checked how far the litigants can adopt to use present and future technology. The complete questionnaire for Litigants (Subordinate Courts) has been shown in Annexure A5.

3.4 Validity of Designed Questionnaire

3.4.1 Expert Validity and Face Validity

The questionnaire has been checked for content validity by experts in law i.e. professors of law and other legal professionals. The content validity was tested during the pilot survey and no major objections were raised by the respondents. The questionnaire is reliable as it has repeatedly yielded the same results and it has internal consistency as well. A few cosmetic changes were made to the structure of the questionnaire to make it more presentable after the suggestions from the stakeholders.

3.4.2 Pilot Survey

A pilot survey was conducted at the local court to assess and test the questionnaire. A smaller sample was used in the pilot survey. The responses in the pilot survey were positive and certain questions which were not clear for the respondent to understand were rectified and made understandable. It was noted in the pilot survey that the Hon'ble Judges require more time to answer the questionnaire as they have a busy schedule and they require a holiday to answer the questionnaire. It was also noted in the pilot survey that certain questions need to be remodeled.

3.5 Data Collection

The present study has targeted both primary as well as secondary data. The primary data has been collected from the high courts as well as subordinate courts. In the high courts, the following respondents have been targeted: judges, advocates, and registry. For the subordinate courts, the following stakeholders have been included in the survey: judges, advocates, litigants, and registry. For the present study, we have taken separate permissions for each State and for reference, all permissions letters received from various High Courts have been shown in Annexure A6. The secondary data has been collected from the case information software.

Primary Data: The collection of primary data is a core and crucial part of this project, as such; places of interest and importance are to be visited. As the objectives of this research are Socio-legal in nature, it becomes necessary to visit courts that constitute the bedrock of any legal research and interact with the interested parties, stakeholders, which includes Judges, Advocates, Court Staff, Court Managers, Registry and Litigants. The questionnaire was used to collect the primary data.

Secondary Data: The secondary data was collected through different means. The major means of collecting secondary data was through the online case tracking, which was made possible through the e-courts website, which is an initiative by the Department of Justices, Government of India and e-committee Supreme Court of India. The remaining secondary data was gathered from the reports of law commission of India and through other sources. It is pertinent to mention here that the casewise data is available for the subordinate courts and not for the High Courts, which has been observe this is a gap. The case wise data is even available for the Supreme Court on its website; as such, case tracking of High Court cases was not possible.

3.6 Data Analysis Tools

The data have been analyzed using SPSS (Statistical Package for Social Sciences). Five-point Likert scale questions have been analyzed by calculating the average mean and qualitative data have been analyzed using content analysis. The responses recorded from advocates and judges on the same parameters have been compared using statistical tests (p-value approach).

CHAPTER IV

RESULTS AND ANALYSIS

4.1 Introduction

The data collected can be divided into two heads, Primary Data and Secondary data. The Primary data collected is in the form of filled questionnaires by the Hon'ble Judges, Advocates, Officials of the Registry, the Litigants and in the form of courtroom observations of the trials by the Research officers. The Primary data can be further classified into quantitative data, qualitative data and data from courtroom observations and interactions with the various stakeholders of the Judicial system.

The secondary data comprises of the online case tracking from the e-Courts website wherein the data from disposed of Cheque Bounce cases from 10 states have been collected and the various stages of a case have been identified and checked for delays.

The analysis of the Primary Data is given as under, followed by the analysis of the secondary data. First of all, the responses received from Judges and Advocates have been analysed and compared, which has been followed by the analysis of litigants' responses and then questionnaires received from the registry have been analysed. Finally, the data collected through online case tracking have been analysed to find out the major bottlenecks and delays in the process.

4.2 Primary Data Analysis

The primary data analysis was done in order to gather information from the major stakeholders of the legal institution. The major stakeholders under consideration were the Hon'ble Judges, practicing Advocates, officials of the Registry of the various courts and the litigants. Questionnaires were structured and developed according to the stakeholders under the study. The data collected was tabulated in excel sheets in separate formats according to the stakeholders under consideration. The tabulated data were analysed with SPSS tool, responses were shown graphically using pie-charts and bar graphs and the resulting conclusions for each question were stated according to the analysed results and the recorded responses with reference to the courtroom trials attended and witnessed by the research officers. The Hon'ble judges and the Advocates form the major stakeholders to the upkeep of the Judicial system and hence the comparative data analysis of their responses is given as under, followed by the

analysis of responses from the litigants and the Officials of the Registry and the detailed account of the Courtroom Observations.

4.2.1 Statistical Analysis of Data Collected from Hon'ble Judges and Advocates

The questionnaires for the Hon'ble Judges and the Advocates, both for the High Courts and the Subordinate Courts were structurally the same way so as to ensure an effective comparative study between both the stakeholders. The questionnaires for the Hon'ble judges and advocates of High Courts have been shown in Annexure A1 and a questionnaire for Hon'ble judges and advocates of the Subordinate Courts have been provided in Annexure A3. The recorded responses were comparatively tabulated, graphically presented, and Z-test was applied to it using SPSS to find out the significant statistical difference in opinion between the Hon'ble Judges and the Advocates if any. The variances were calculated, a Z-table; furnished alongside all questions that have to determine whether the given two population means are of a different opinion. The question-wise analysis follows as under:

Q1. Cheque- bounce cases are a burden on the criminal justice system.

a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

This question was asked to know whether the Cheque-bounce cases form a significant part of the Criminal Judicial system of our country. The responses would help to determine whether Cheque bounce cases consume the major bulk of the court hours and well as of the Judicial system's manpower. According to the responses recorded (shown in Table 4.1), 42% of the Hon'ble Judges both from the High courts and the Subordinate courts have agreed to the statement that cheque bounce cases are a burden to the criminal justice system as shown in Figure 4.1. On the other hand, 46% of the advocates from the High Courts as well as from the Subordinate courts have agreed to the statement that cheque bounce cases are a burden to the criminal justice system as shown in Figure 4.2. It is clear from Table 4.2, the P-value is non-significant, and hence, there is no evidence of a difference between the opinion among lawyers and judges.

Table 4.1: Response rates of Hon'ble Judges and Lawyers on Question 1

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 15 | 98 | 37 | 82 | 39 | 2.881919 |
| Advocates | 18 | 41 | 15 | 20 | 33 | 2.929134 |

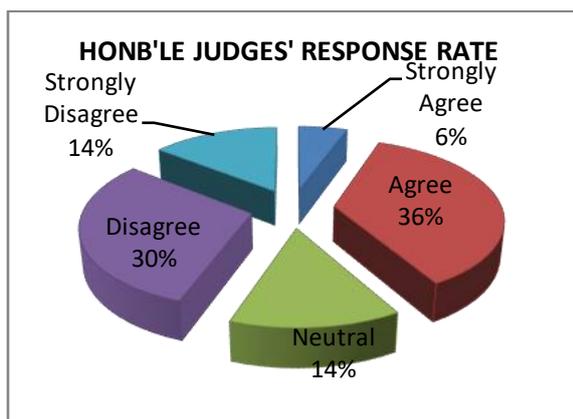


Figure 4.1: Hon'ble Judges' Response rate on Question 1

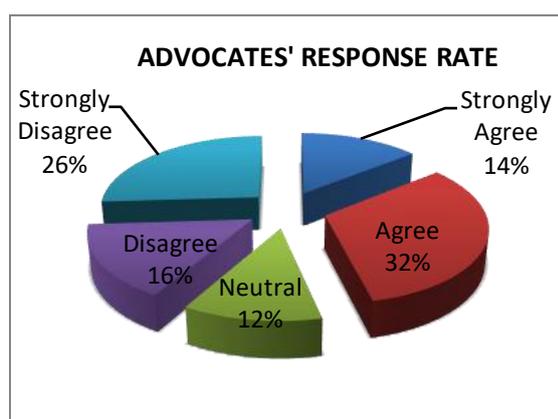


Figure 4.2: Advocates' Response Rate on Question 1

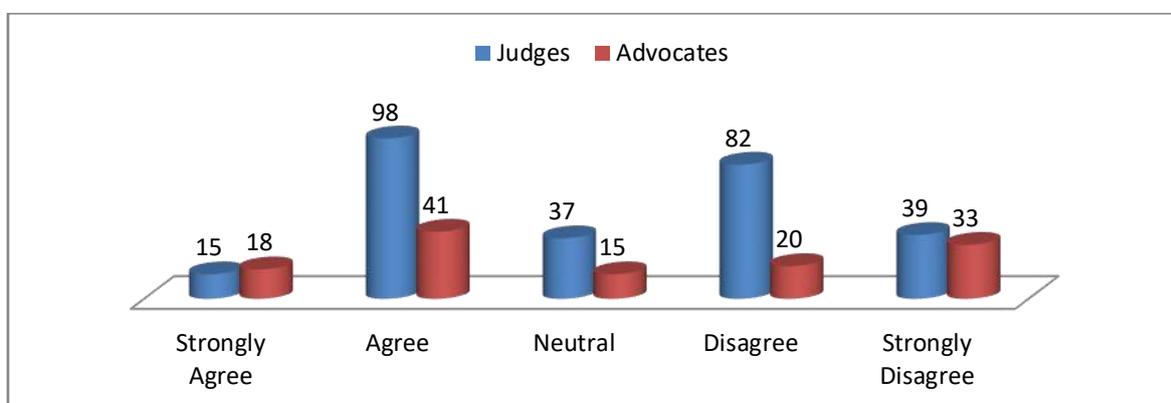


Figure 4.3: Hon'ble Judges Vs Advocates data for Question 1

Table 4.2: Comparison of responses on Question 1 among Advocates and Judges

| z-Test: Two Sample for Means | Judges | Advocates |
|------------------------------|----------|-----------|
| Mean | 2.881919 | 2.929134 |
| Known Variance | 1.447311 | 2.081592 |
| Observations | 271 | 127 |
| Hypothesized Mean Difference | 0 | |
| <i>z</i> | -0.32029 | |
| P(Z<=z) one-tail | 0.374375 | |
| <i>z</i> Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.748751 | |
| <i>z</i> Critical two-tail | 1.959964 | |

Q2. There are unwarranted delays in cases falling U/s 138 of NI Act 1881.

a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

This question seeks to find answers if there are any undue delays in the cheque bounce cases or is it the usual time taken to do justice to such cases. The recorded responses to this question

show that, 40% of the Hon'ble Judges both from the High court as well as from the Subordinate courts have agreed to the statement that there are unwarranted delays in cases falling U/s 138 of NI Act 1881, as shown in Figure 4.4. On contrary, 43% of advocates from the High Courts and the Subordinate courts have agreed to the statement that there are unwarranted delays in cases falling U/s 138 of NI Act 1881 as shown in Figure 4.5. It is clear from Table 4.4, that the p-value is not significant, and hence, there is no difference between the opinion among lawyers and judges.

Table 4.3: Response Rates of Hon'ble Judges and Advocates on Question 2

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 14 | 96 | 61 | 80 | 20 | 3.01476 |
| Advocates | 5 | 62 | 23 | 47 | 17 | 3.330882 |

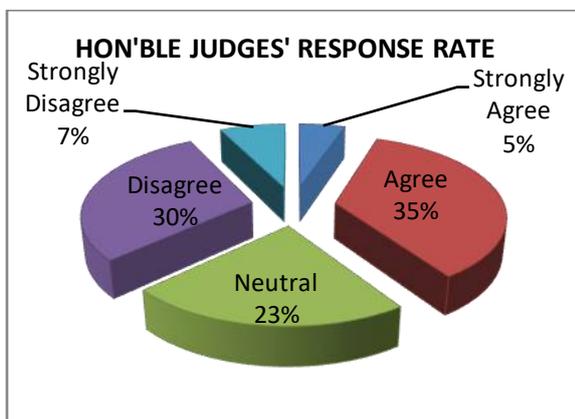


Figure 4.4: Hon'ble Judges' Response rate on Question 2

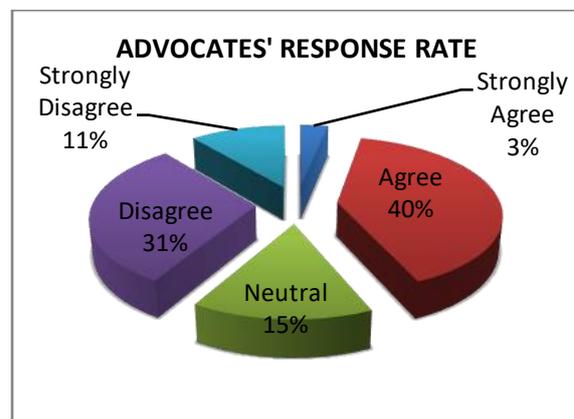


Figure 4.5: Advocates' Response Rate on Question 2

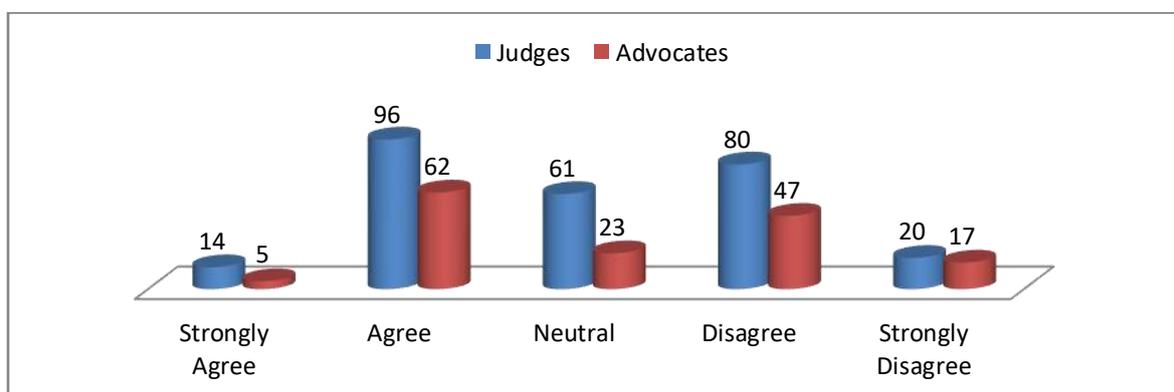


Figure 4.6: Hon'ble Judges Vs Advocates data comparison for Question 2

Table 4.4: Comparison of responses on Question 2 among Advocates and Judges

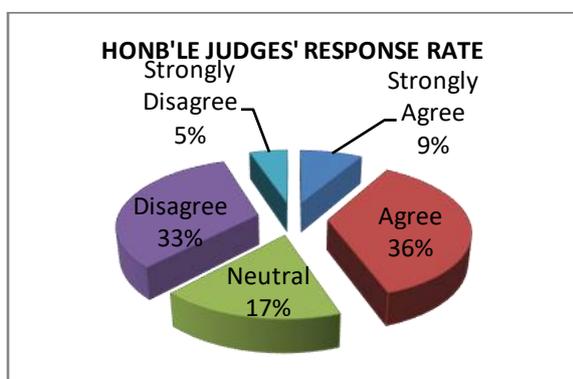
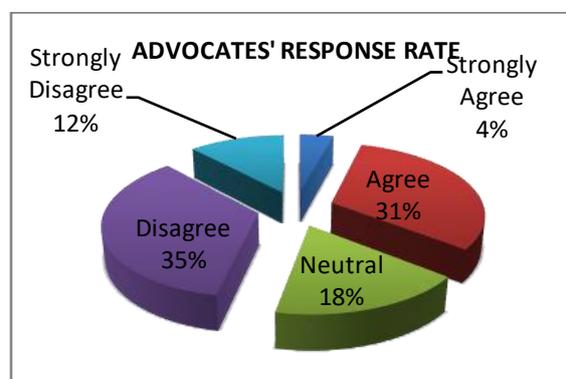
| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.01476 | 2.941558 |
| Known Variance | 1.151074 | 1.275808 |
| Observations | 271 | 154 |
| Hypothesized Mean Difference | 0 | |
| z | 0.6539 | |
| P(Z<=z) one-tail | 0.256588 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.513176 | |
| z Critical two-tail | 1.959964 | |

Q3). In cases U/s 138 of NI Act 1881, based on the delayed cases that you have experienced, can it be said that “justice delayed is justice denied”?

The question aims at determining whether the delay defeats the purpose of justice. In accordance to the responses recorded, 45% of the Hon’ble judges from the High Courts as well as from the Subordinate Courts have agreed to the statement “justice delayed is justice denied” as shown in Figure 4.7. Whereas, 37% of the advocates from the High Courts and the Subordinate Courts have disagreed with the statement “justice delayed is justice denied” as shown in Figure 4.8. It is clearly visible from Table 4.6 that the p-value is significant, hence, there is evidence of difference between the opinion among lawyers and judges.

Table 4.5: Response rates of Hon’ble Judges and Advocates on Question 3

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 23 | 98 | 47 | 89 | 14 | 3.099631 |
| Advocates | 6 | 45 | 25 | 50 | 17 | 2.955882 |

**Figure 4.7:** Hon’ble Judges’ Response rate on Question 3**Figure 4.8:** Advocates’ Response rate on Question 3

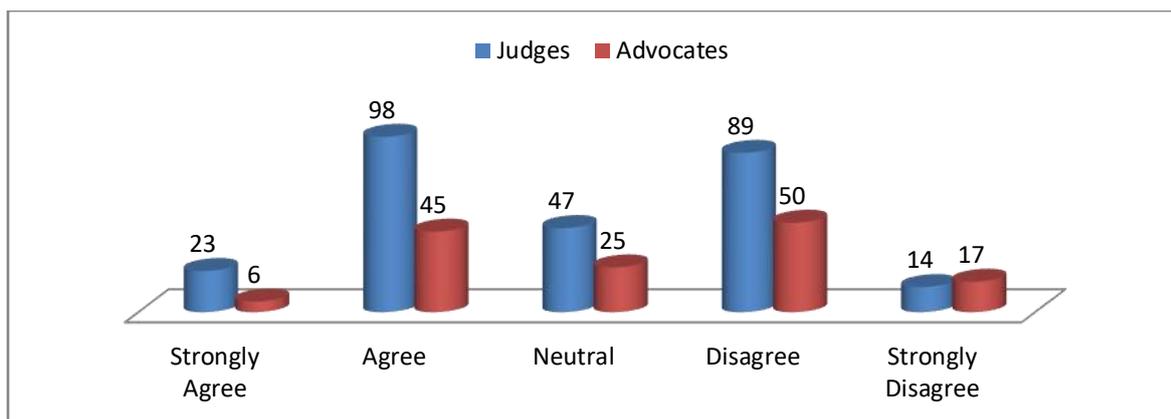


Figure 4.9: Hon'ble Judges Vs Advocates data comparison for Question 3

Table 4.6: Comparison of responses on Question 3 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.095941 | 2.811189 |
| Known Variance | 1.238028 | 1.272043 |
| Observations | 271 | 143 |
| Hypothesized Mean Difference | 0 | |
| z | 2.454051 | |
| P(Z<=z) one-tail | 0.007063 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.014126 | |
| z Critical two-tail | 1.959964 | |

3. i) "Justice hurried is justice buried"?

Table 4.7: Response Rates of Hon'ble Judges and Advocates on Question 3(i)

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 28 | 89 | 49 | 69 | 24 | 3.108108 |
| Advocates | 10 | 42 | 45 | 41 | 5 | 3.235294 |

The question seeks to answer whether haste in delivering justice defeats the purpose of justice. The responses recorded state that 45% of the Hon'ble Judges from the High Courts as well as from the Subordinate Courts have agreed to the statement that "Justice hurried is justice buried" as shown in Figure 4.10. According to the responses recorded, 36% of the advocates from the High Courts as well as from the Subordinate Courts have agreed to the statement "Justice hurried is justice buried" as shown in Figure 4.11. From Table 4.8, it is clear that the p-value

is non-significant; hence, there is no evidence of difference between the opinion among lawyers and judges and both are agreeing on the statement that “Justice hurried is justice buried”.

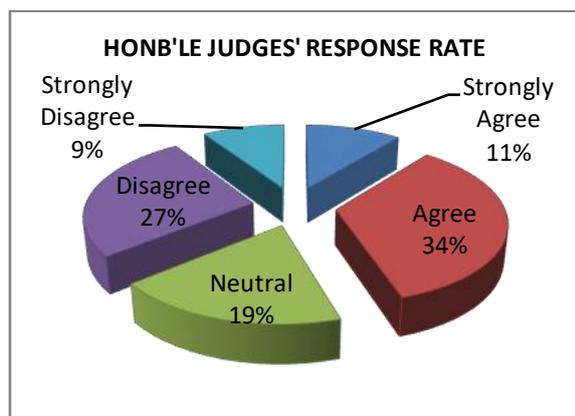


Figure 4.10: Hon'ble Judges' Response rate on Question 3(i)

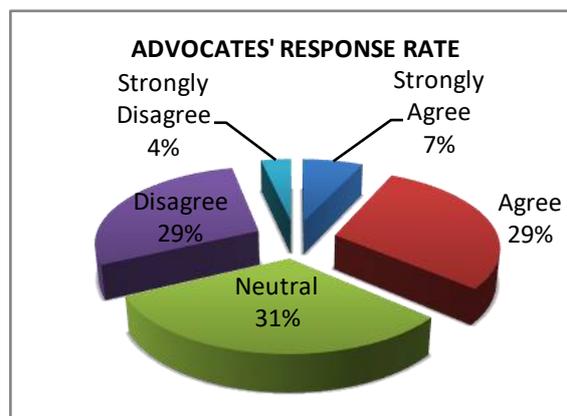


Figure 4.11: Advocates' Response Rate on Question 3(i)

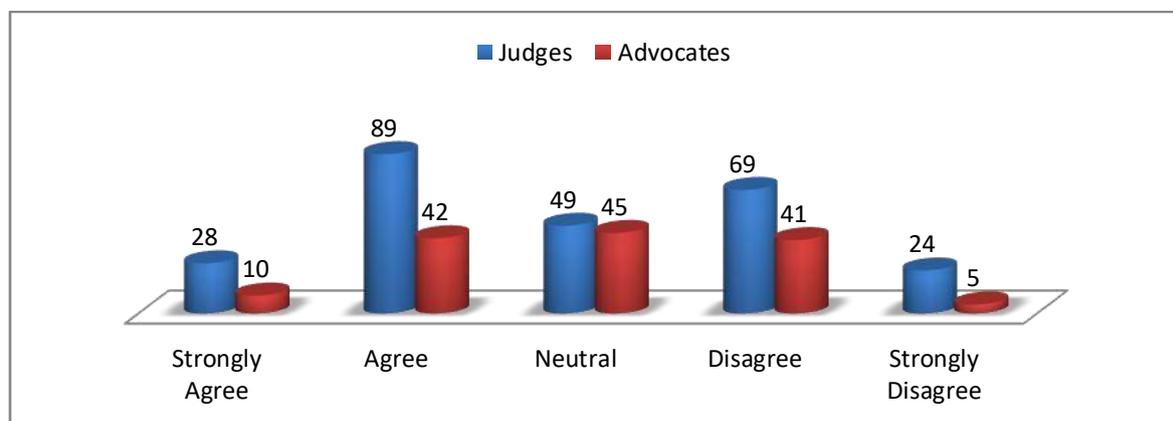


Figure 4.12: Hon'ble Judges Vs Advocates data comparison for Question 3(i)

Table 4.8: Comparison of responses on Question 3 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|---------|-----------|
| | Judges | Advocates |
| Mean | 3.10811 | 3.076923 |
| Known Variance | 1.40144 | 0.994083 |
| Observations | 259 | 143 |
| Hypothesized Mean Difference | 0 | |
| <i>z</i> | 0.28047 | |
| P(Z<=z) one-tail | 0.38956 | |
| <i>z</i> Critical one-tail | 1.64485 | |
| P(Z<=z) two-tail | 0.77911 | |
| <i>z</i> Critical two-tail | 1.95996 | |

Q4) Majority of the delay in cases U/s 138 of NI Act 1881 can be attributed to:

- Inadequate capacity
- Existing way of Court management.

- c) Courtroom officials.
- d) Judges.
- e) Advocate.
- f) Litigants
- g) Lack in use of technology

The given question was asked to pinpoint the major reasons of delay in cases U/s 138 of NI Act 1881. The question aims at finding as to what causes the major prorogations in cheque bounce cases and accordingly find solutions to those. Pertaining to the question above, 29% of the Hon'ble Judges from High Courts as well as Subordinate Courts seem to be of the opinion that the Advocates are the main reason for majority of the delay in cases U/s 138 of NI Act 1881. The second major attribute for delays are the Litigants, followed by the Existing Way of Court Management as shown in Figure 4.13. On the other hand, 26% of the Advocates from the High Courts and Subordinate courts have claimed that the Litigants and the Existing Way of Court Management are the main reason for majority of the delay in cases U/s 138 of NI Act 1881 that sums up to 52% as both the attributes have equal weightage in terms of opinion. The next attribute to gain weightage of opinion are the Advocates at 17%, followed by Inadequate Capacity of Courts which stand at 12% as shown in Figure 4.14.

Table 4.9: Response Rates of Hon'ble Judges and Advocates on Question 4

| Respondent | (a) | (b) | (c) | (d) | (e) | (f) | (g) |
|------------|-----|-----|-----|-----|-----|-----|-----|
| Judges | 35 | 64 | 16 | 18 | 108 | 81 | 45 |
| Percentage | 10% | 18% | 4% | 5% | 29% | 22% | 12% |
| Advocates | 23 | 51 | 13 | 8 | 33 | 50 | 16 |
| Percentage | 12% | 26% | 7% | 4% | 17% | 26% | 8% |

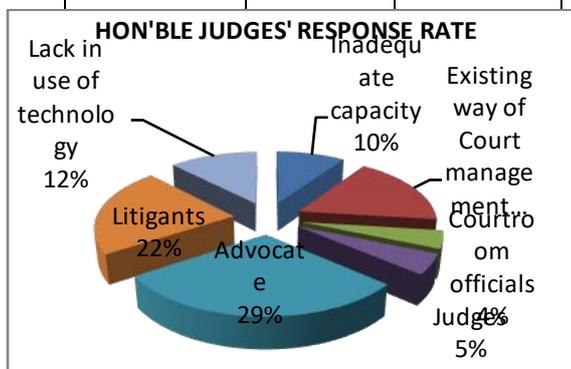


Figure 4.13: Hon'ble Judges' Response rate on Question 4

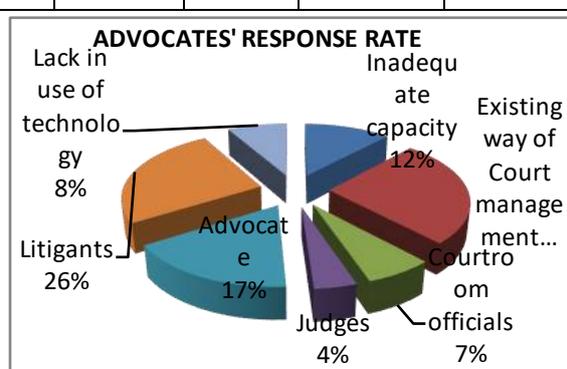


Figure 4.14: Advocates' Response Rate on Question 4

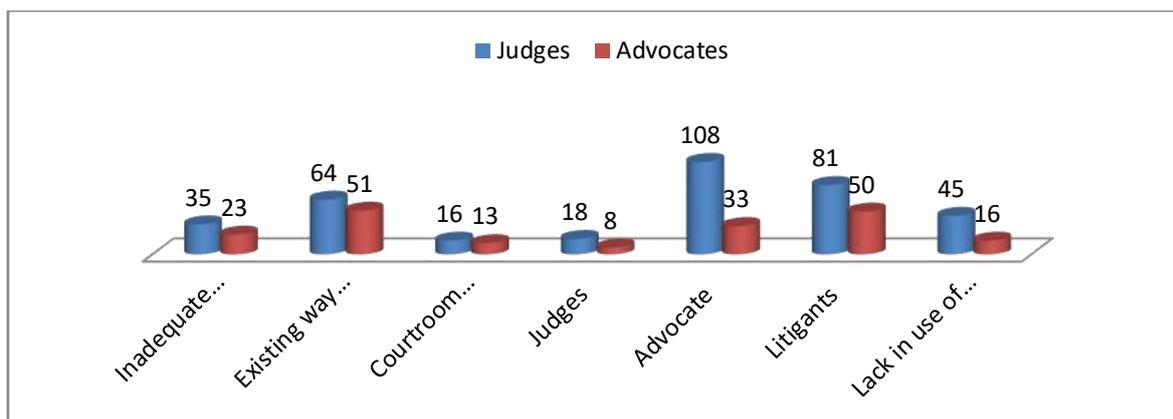


Figure 4.15: Hon’ble Judges Vs Advocates data comparison for Question 4

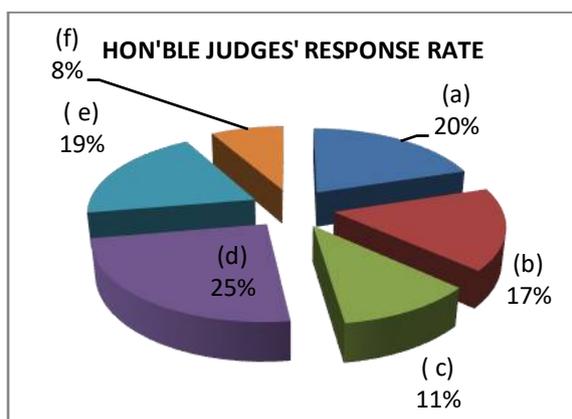
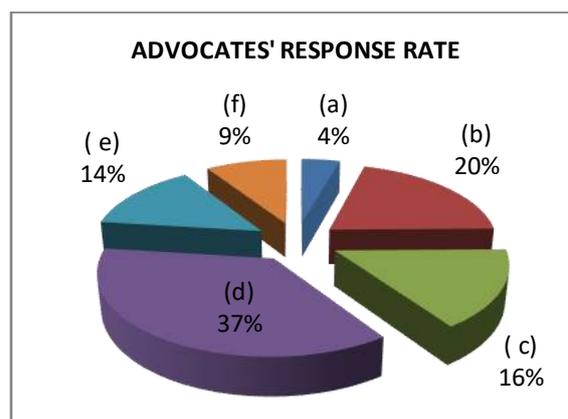
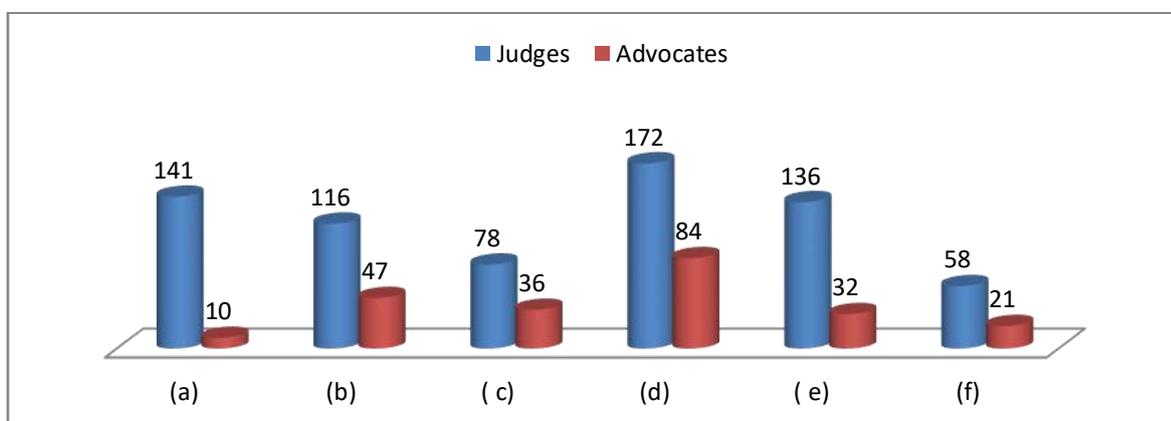
Q5.) According to you which of the following reforms are needed to reduce the pendency of cases U/s 138 of NI Act 1881 –

- More Judges and more courtrooms to meet the issue of the inadequate capacity of the judicial system.
- Use of advanced technology in the court process
- Improved Court Management.
- Minimizing adjournments
- Setting a time limit for Arguments
- A stern stance on Perjury and misleading the court

The given question was asked to collect a general opinion on the preferred choice of reform expected by the Hon’ble Judges and the advocates. The responses recorded for this question project that, 25% of the Hon’ble Judges from the High Courts and the Subordinate Courts have opined that ‘Minimizing Adjournments’ is one of the major reforms that are needed to reduce the pendency of cases U/s 138 of NI Act 1881. ‘More Judges and more courtrooms to meet the issue of the inadequate capacity of judicial system’ is at 20% followed by, ‘setting a time limit for Arguments’ at 19% as shown in Figure 4.16. For the same question, 37% of the Advocates from High Courts and the Subordinate Courts have given the opinion that ‘Minimizing adjournments’ is the most important reform needed to reduce the pendency of cases U/s 138 of NI Act 1881, followed by ‘Use of advanced technology’ in court process at 20% and ‘Improved Court Management’ at 16% as shown in Figure 4.17.

Table 4.10: Response Rates of Hon'ble Judges and Advocates on Question 5

| Respondents | (a) | (b) | (c) | (d) | (e) | (f) |
|-------------|-----|-----|-----|-----|-----|-----|
| Judges | 141 | 116 | 78 | 172 | 136 | 58 |
| Percentage | 20% | 17% | 11% | 25% | 19% | 8% |
| Advocates | 10 | 47 | 36 | 84 | 32 | 21 |
| Percentage | 4% | 20% | 16% | 37% | 14% | 9% |

**Figure 4.16:** Hon'ble Judges' Response rate on Question 5**Figure 4.17:** Advocates' Response Rate on Question 5**Figure 4.18:** Hon'ble Judges Vs Advocates data comparison for Question 5

Q6). Any special law/act which is bound to increase litigation should provide for special or separate Courts.

- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

The question aims at seeking common ground to the opinion that if any law or act is observed to be having a higher rate of occurrence with reference to the criminal acts, they should have separate courts established to deal with that particular case, pertaining to the law/Act. The

opinions gathered from the question state that, 53% of the Hon'ble Judges from High Courts as well as from the Subordinate Courts have agreed to the statement that any special law/act which is bound to increase litigation should provide for special or separate Courts as shown in Figure 4.19. The opinion poll states that, 68% of advocates from High Courts and Sub-ordinate courts have agreed to the statement that any special law/act which is bound to increase litigation should provide for special or separate Courts as shown in Figure 4.20. As shown in Table 4.12 as the p-value is significant, but both Judges, as well as Advocates, have agreed on the said statement, the only difference is due to the degree of agreement. Advocates strongly agree in comparison to Judges.

Table 4.11: Response Rates of Hon'ble Judges and Advocates on Question 6

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 39 | 107 | 53 | 57 | 15 | 3.361624 |
| Advocates | 39 | 53 | 12 | 25 | 7 | 3.676471 |

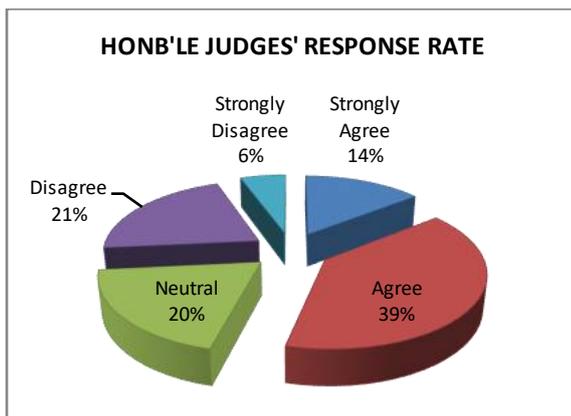


Figure 4.19: Hon'ble Judges' Response rate on Question 6

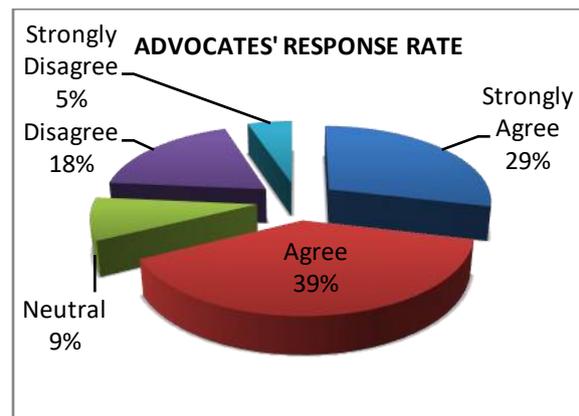


Figure 4.20: Advocates' Response Rate on Question 6

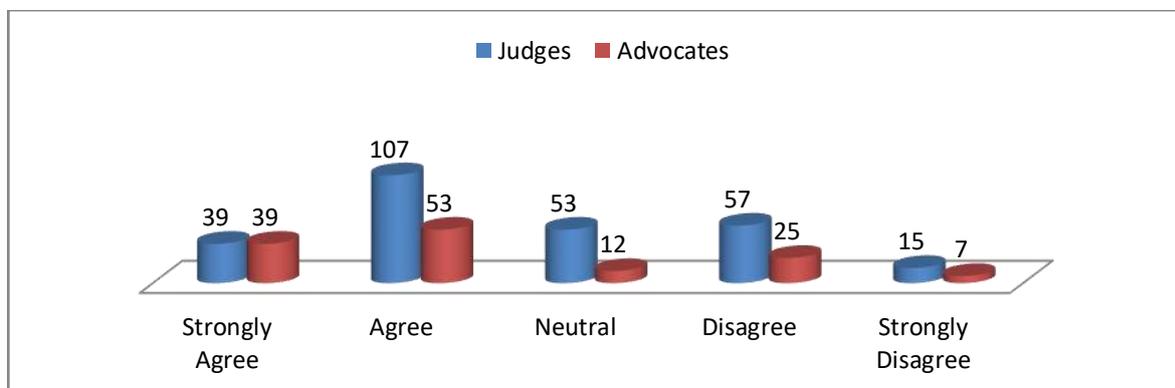


Figure 4.21: Hon'ble Judges Vs Advocates data comparison for Question 6

Table 4.12: Comparison of responses on Question 6 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.361624 | 3.676471 |
| Known Variance | 1.271442 | 1.468858 |
| Observations | 271 | 136 |
| Hypothesized Mean Difference | 0 | |
| z | -2.52956 | |
| P(Z<=z) one-tail | 0.00571 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.011421 | |
| z Critical two-tail | 1.959964 | |

Q7). Do you have a special court for economic offences for cases falling U/s 138 of NI Act 1881?

The given question seeks answers as to whether the country has been provided with the existence of a special court for economic offences for cases falling U/s 138 of NI Act 1881. For the given question, 60% of Hon'ble Judges from High Courts and Subordinate Courts have disagreed to the statement that they have a special court for economic offences for cases falling U/s 138 of NI Act 1881 as shown in Figure 4.22. For the question in consideration, around 72% of advocates from High Courts and Subordinate Courts have disagreed with the statement that they have a special court for economic offences for cases falling U/s 138 of NI Act 1881 as shown in Figure 4.22.

Table 4.13: Response Rates of Hon'ble Judges and Advocates on Question 7

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 105 | 156 |
| Advocates | 38 | 98 |

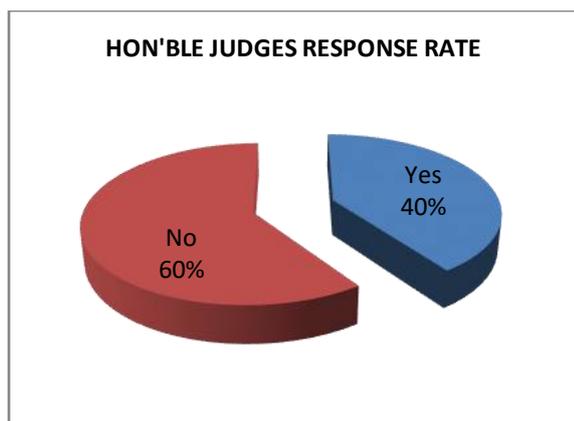


Figure 4.22: Hon'ble Judges' Response rate on Question 7

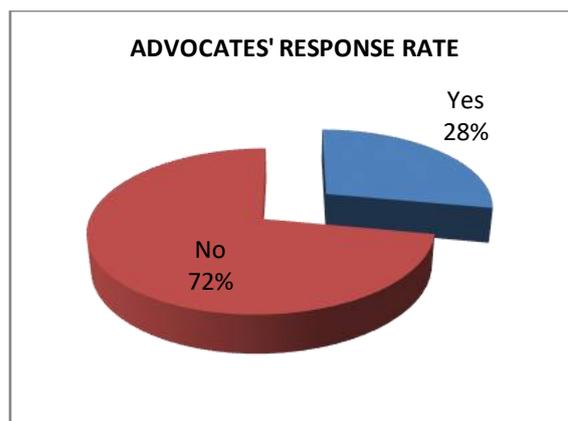


Figure 4.23: Advocates' Response Rate on Question 7

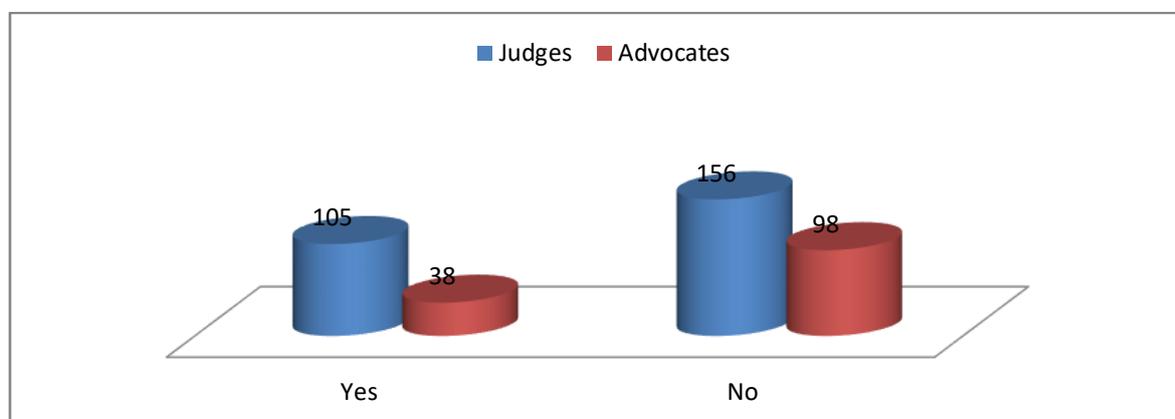


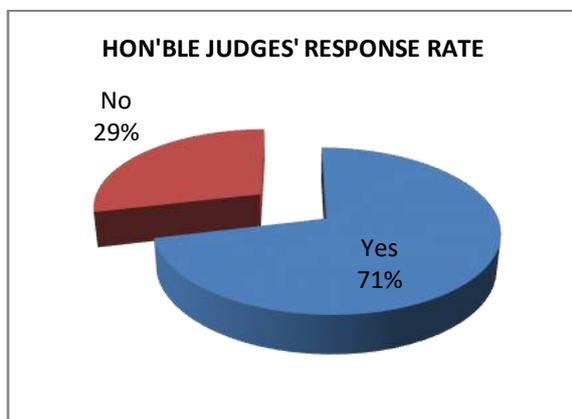
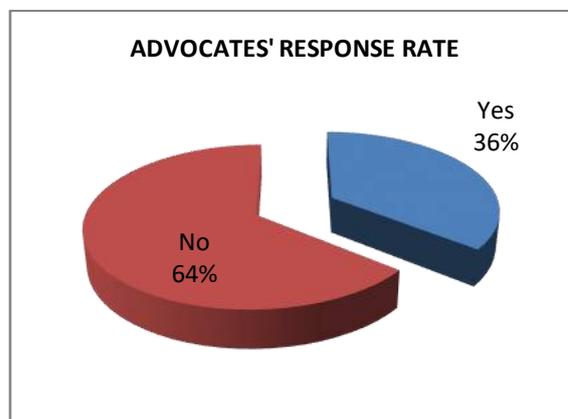
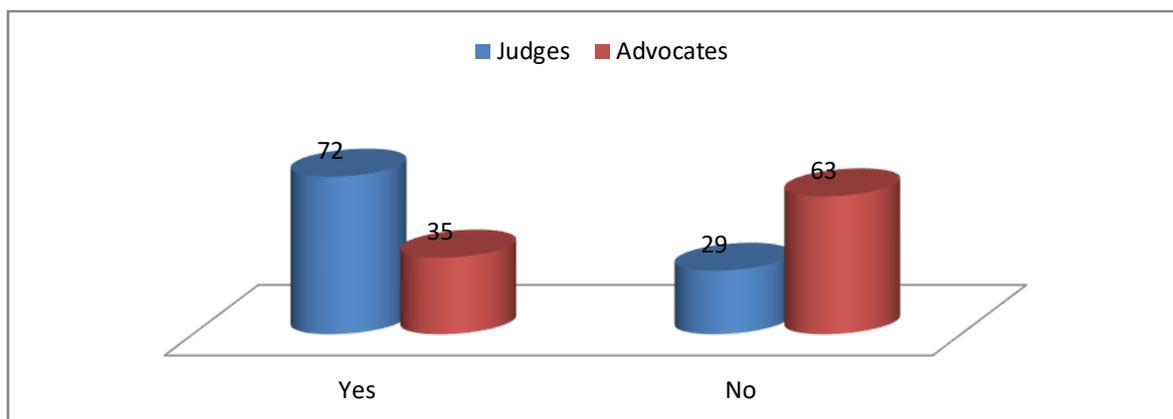
Figure 4.24: Judges Vs Advocates data comparison for Question 7

Q7 (i). Do you have a special court for economic offences for cases falling U/s 138 of NI Act 1881? If yes, is it sufficient to deal with the existing case U/s 138 of NI Act 1881?

This question seeks to shed light on the present status of the special court for economic offences for cases falling U/s 138 of NI Act 1881 stating to ascertain their efficiency and capability to absorb and do justice to the cases being registered and disposed. The opinion poll shows that, 71% of Hon'ble Judges from High Courts and Subordinate Courts have agreed that a special court for economic offences for cases falling U/s 138 of NI Act 1881 is sufficient to deal with the existing cases falling under that act as shown in Figure 4.25. For the same question, around 64% of advocates from High Courts and Subordinate Courts have agreed that a special court for economic offences for cases falling U/s 138 of NI Act 1881 is sufficient to deal with the existing cases falling under that act as shown in Figure 4.26.

Table 4.14: Response Rates of Hon'ble Judges and Advocates on Question 7(i)

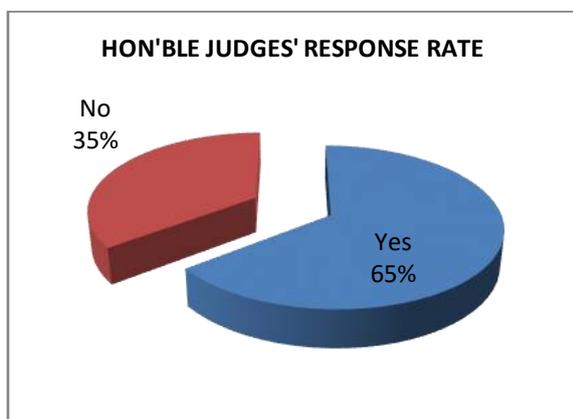
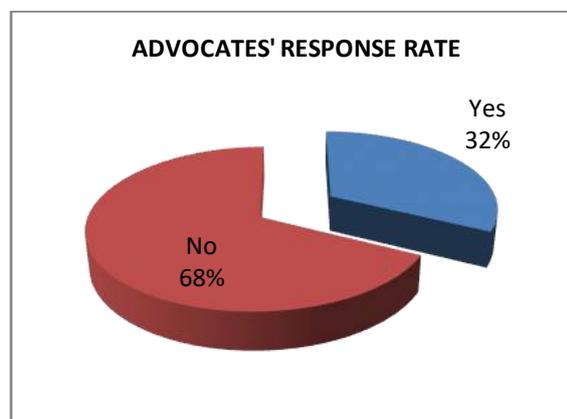
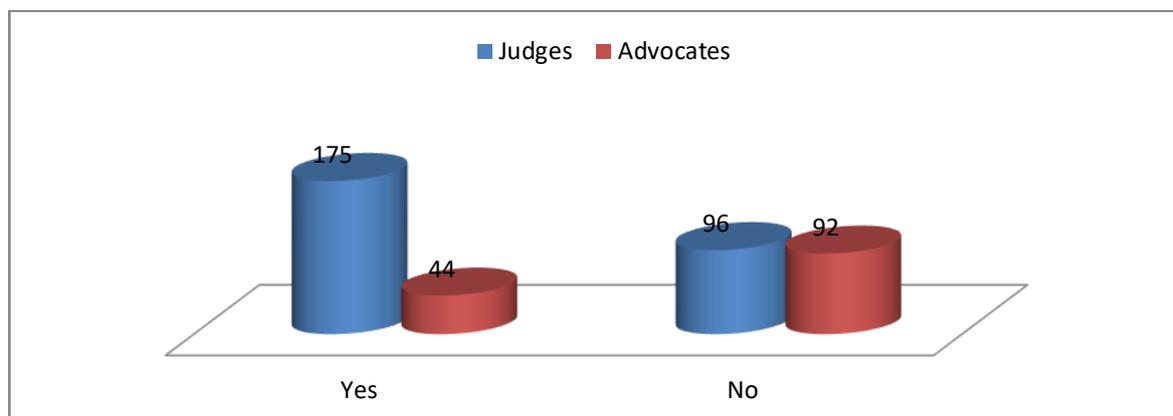
| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 72 | 29 |
| Advocates | 35 | 63 |

**Figure 4.25:** Hon'ble Judges' Response rate on Question 7(i)**Figure 4.26:** Advocates' Response Rate on Question 7(i)**Figure 4.27:** Hon'ble Judges Vs Advocates data comparison for Question 7(i)**Q8) Do you have Fast Track Courts?**

The question seeks to answer whether a particular region has fast track courts in their vicinity or not. The given question has generated a poll where, 65% of Hon'ble Judges from High Courts and Subordinate Courts have agreed to the statement that they have fast-track courts as shown in Figure 4.28. For the same question, around 68% of advocates from High Courts and Subordinate Courts have disagreed to the statement that they have fast-track courts as shown in Figure 4.29.

Table 4.15: Response Rates of Hon'ble Judges and Advocates on Question 8

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 175 | 96 |
| Advocates | 44 | 92 |

**Figure 4.28:** Hon'ble Judges' Response rate on Question 8**Figure 4.29:** Advocates' Response Rate on Question 8**Figure 4.30:** Judges Vs Advocates data comparison for Question 8

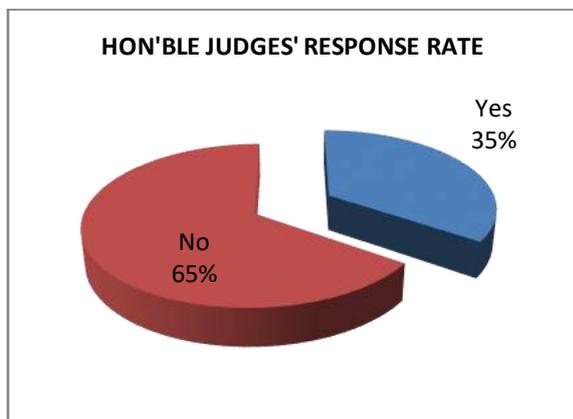
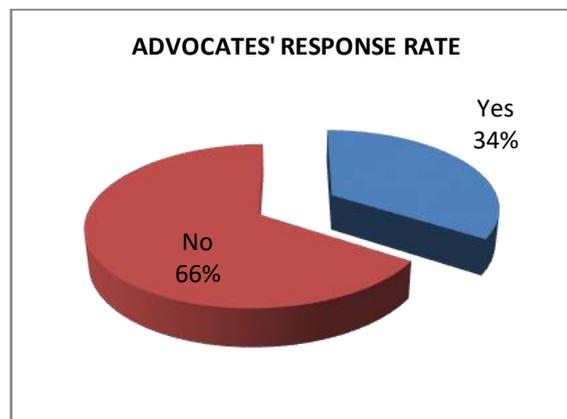
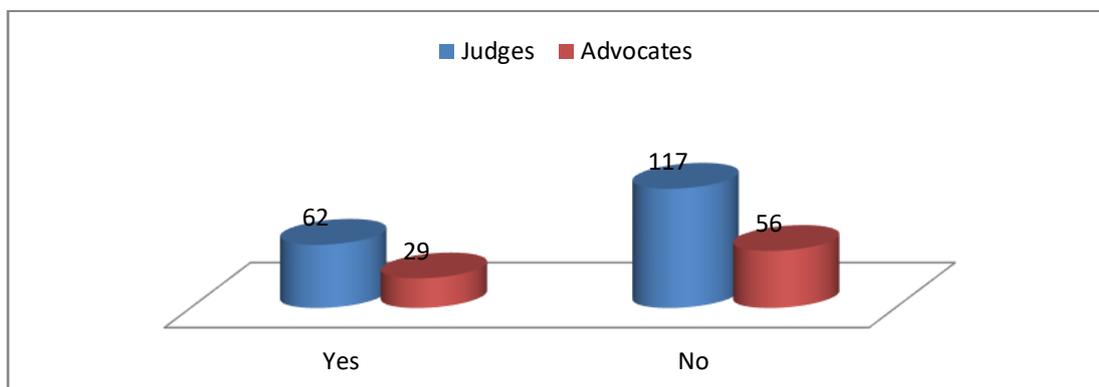
Q8) Do you have Fast Track Courts?

i) If, yes, do the fast track court deal with cases falling U/s 138 of NI Act 1881?

The question seeks to shed light on the contribution and the involvement of the fast track courts in cases falling U/s 138 of NI Act 1881. As per the recorded responses, 65% of Hon'ble Judges from High Courts and Subordinate Courts have disagreed to the statement that fast track courts deal with cases falling U/s 138 of NI Act 1881 as shown in Figure 4.31. On the other hand, 66% of advocates from High Courts and Subordinate Courts have disagreed to the statement that fast track courts deal with cases falling U/s 138 of NI Act 1881 as shown in Figure 4.32.

Table 4.16: Response Rates of Hon'ble Judges and Advocates on Question 8(i)

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 62 | 117 |
| Advocates | 29 | 56 |

**Figure 4.31:** Hon'ble Judges' Response rate on Question 8 (i)**Figure 4.32:** Advocates' Response rate on Question 8(i)**Figure 4.33:** Judges Vs Advocates data comparison for Question 8(i)

8) Do you have Fast Track Courts?

ii) If, no, do you believe that fast track courts would go a long way in curbing the pendency of cases falling U/s 138 of NI Act 1881.

The question was asked in accordance to Question 8 and question 8 (i) to gain the general opinion on the working and probable establishment of Fast track courts in regions lacking them. As per the recorded responses, 56% of the Hon'ble Judges both from the High Courts as well as from the Subordinate Courts have agreed to the statement that that fast track courts would go a long way in curbing the pendency of cases falling U/s 138 of NI Act 1881 as shown in

Figure 4.34. On the contrary, 66% of the Advocates from both High Courts and the Subordinate courts have disagreed to the statement that that fast track courts would go a long way in curbing the pendency of cases falling U/s 138 of NI Act 1881 as shown in Figure 4.35.

Table 4.17: Response Rates of Hon'ble Judges and Advocates on Question 8(ii)

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 152 | 119 |
| Advocates | 44 | 87 |

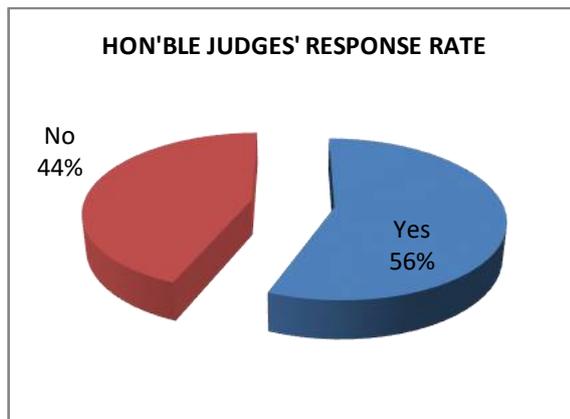


Figure 4.34: Hon'ble Judges' Response rate on Question 8 (ii)

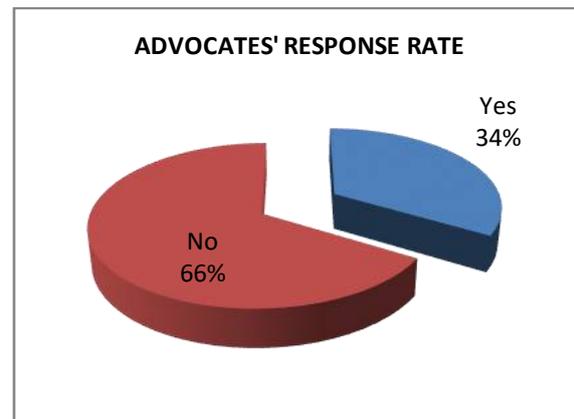


Figure 4.35: Advocates' Response Rate on Question 8(ii)

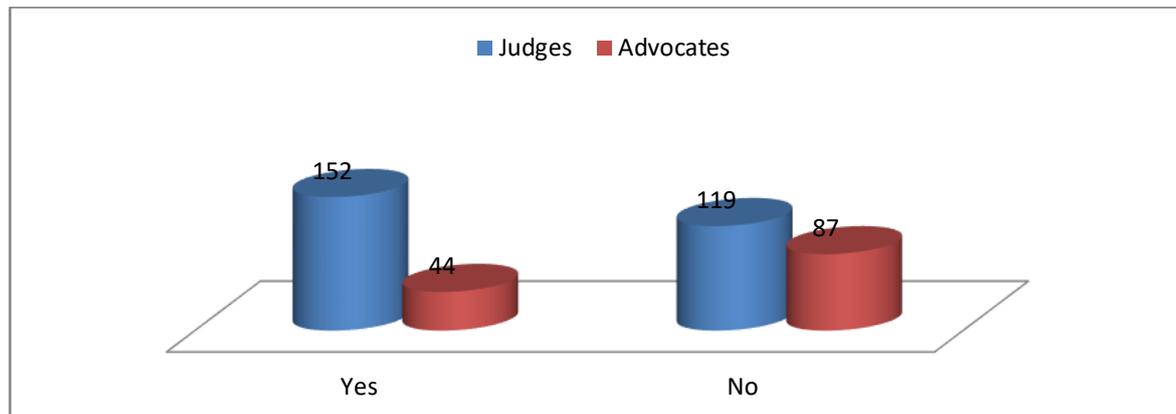


Figure 4.36: Judges Vs Advocates data comparison for Question 8(ii)

- 9) In your jurisdiction which types of additional courts are needed?
- Special Courts for NI Act
 - Fast track courts for NI act
 - Evening courts
 - Permanent Lokadalats

e) Lokadalats

The question was asked to raise polls as to which special courts are in demand among the various stakeholders of the legal system and what type of courts do they want to be established in their region. As per the responses recorded for the given question, 32% of the Hon'ble Judges from both High Courts and the Subordinate Courts have given the opinion that Fast track courts for NI Act, followed by 30% of judges opting for Special Courts for NI Act and 19% voting for Permanent Lokadalats as shown in Figure 4.37. The responses recorded show that, 27% of the advocates from High Courts and Subordinate Courts have opined for Fast Track courts for NI Act, followed by Special Courts for NI Act at 26% and Permanent Lokadalats at 21% as shown in Figure 4.38.

Table 4.18: Response Rates of Hon'ble Judges and Advocates on Question 9

| Respondents | (a) | (b) | (c) | (d) | (e) |
|-------------|-----|-----|-----|-----|-----|
| Judges | 91 | 96 | 13 | 58 | 42 |
| Percentage | 30% | 32% | 5% | 19% | 14% |
| Advocates | 35 | 37 | 10 | 29 | 25 |
| Percentage | 26% | 27% | 7% | 21% | 19% |

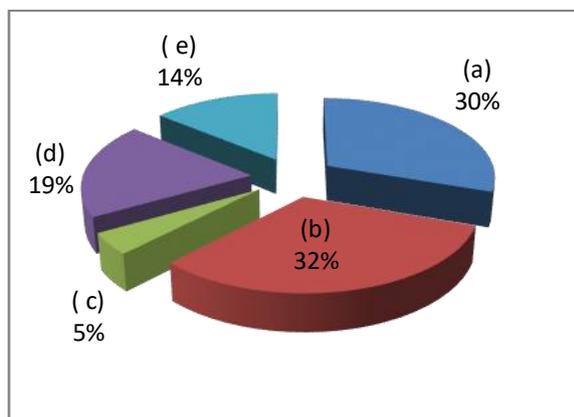


Figure 4.37: Hon'ble Judges' Response rate on Question 9

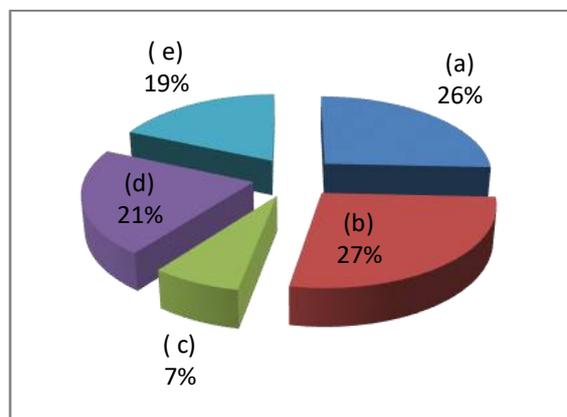


Figure 4.38: Advocates' Response Rate on Question 9

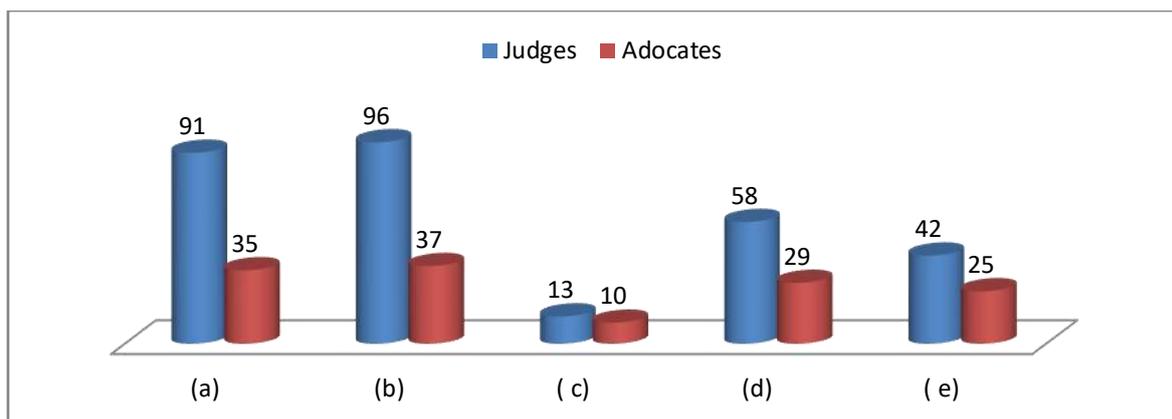


Figure 4.39: Judges Vs Advocates data comparison for Question 9

10) Can Lokadalats be helpful in decreasing pendency of cases falling U/s 138 of NI Act 1881?

The question was asked to raise polls from the Hon'ble Judges and the advocates to know if the lokadalats are preferred to be helpful to deal with cases falling U/s 138 of NI Act 1881. The responses for the given question show that, 53% of the Hon'ble Judges from both High Court and Subordinate court have given their opinion that Lokadalats can be helpful in decreasing pendency of cases falling U/s 138 of NI Act 1881 as shown in Figure 4.40. The responses project that, 57% of the advocates from the high courts and the Subordinate Courts have given their opinion that Lokadalats can be helpful in decreasing pendency of cases falling U/s 138 of NI Act 1881 as shown in Figure 4.41.

Table 4.19: Response Rates of Hon'ble Judges and Advocates on Question 10

| Respondents | Not at All Helpful | Not Much helpful | Somewhat Helpful | Very Helpful | Mean |
|-------------|--------------------|------------------|------------------|--------------|------|
| Judges | 24 | 70 | 144 | 33 | 2 |
| Advocates | 12 | 41 | 78 | 5 | 2 |

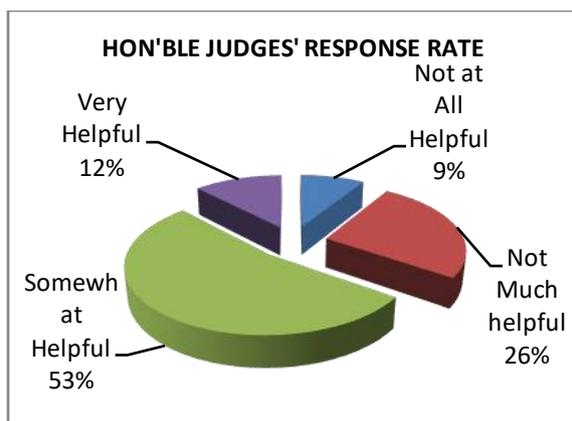


Figure 4.40: Hon'ble Judges' Response rate on Question 10

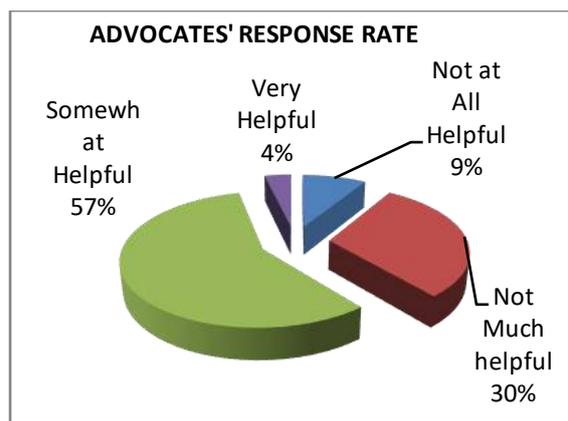


Figure 4.41: Advocates' Response Rate on Question 10

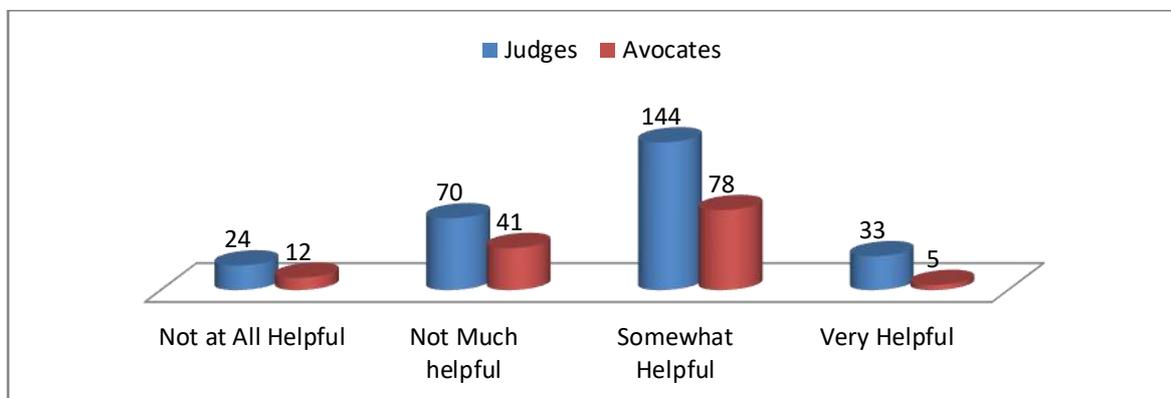


Figure 4.42: Judges Vs Advocates data comparison for Question 10

Table 4.20: Comparison of responses on Question 10 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.156827 | 2.220588 |
| Known Variance | 1.656217 | 1.738106 |
| Observations | 542 | 272 |
| Hypothesized Mean Difference | 0 | |
| z | -0.65605 | |
| P(Z<=z) one-tail | 0.255895 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.51179 | |
| z Critical two-tail | 1.959964 | |

11) Are there any guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric?

The given question was asked to determine the logic behind the distribution and establishment of courts in a given region. According to the responses recorded, 79% of the Hon'ble Judges

from both High Court and Subordinate court have given their opinion that there are no guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric as shown in Figure 4.43. On the other hand, 65% of the advocates from the high courts and the Subordinate Courts have given their opinion that there are no guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric as shown in Figure 4.44.

Table 4.21: Response Rate of Hon'ble Judges and Advocates on Question 11

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 57 | 214 |
| Advocates | 47 | 89 |

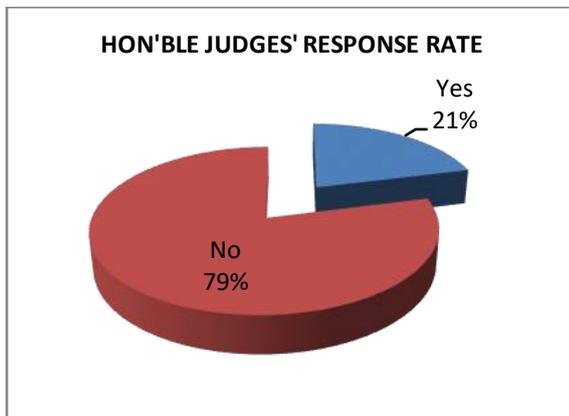


Figure 4.43: Hon'ble Judges' Response rate on Question 11

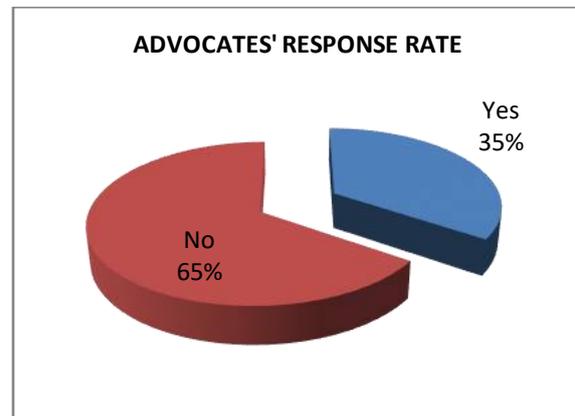


Figure 4.44: Advocates' Response Rate on Question 11

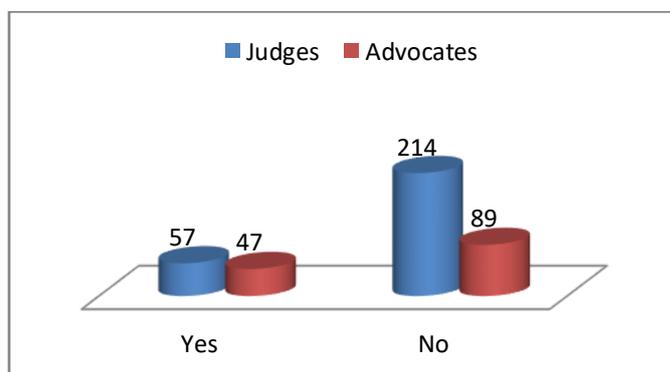


Figure 4.45: Judges Vs Advocates data comparison for Question 11

12) According to you which is the best method to determine the number of Judges needed?

a) Judge Population ratio.

b) Time based method.

c) Ideal Case load method.

d) Rate of Disposal Method.

The question seeks answer as to how to determine the number of judges, assigned to a particular court that would efficiently deal with the cases registered for trial. 52% of the Hon'ble Judges from both high courts and the Subordinate courts have given their opinion that Ideal Case load method is the best method to determine the number of Judges needed followed by Judge Population ratio at 36% as shown in Figure 4.46. 64% of the advocates both from the High Courts and the Subordinate Courts have given their opinion that Ideal Case load method is the best method to determine the number of Judges needed followed by Time based method at 18% as shown in Figure 4.47.

Table 4.22: Response Rate of Hon'ble Judges and Advocates on Question 12

| Respondents | (a) | (b) | (c) | (d) |
|-------------|-----|-----|-----|-----|
| Judges | 97 | 22 | 141 | 11 |
| Percentage | 36% | 8% | 52% | 4% |
| Advocates | 19 | 25 | 87 | 5 |
| Advocates | 14% | 18% | 64% | 4% |

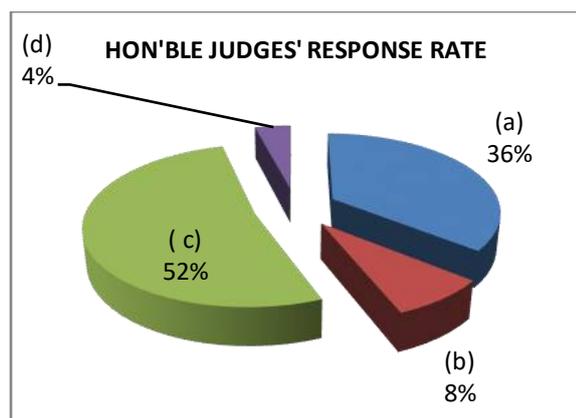


Figure 4.46: Hon'ble Judges Response Rate on Question 12

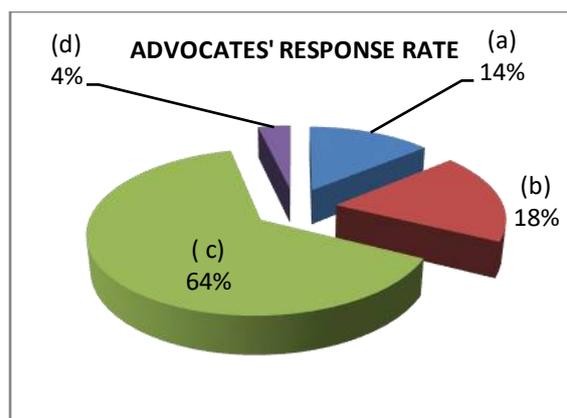


Figure 4.47: Advocates Response Rate on Question 12

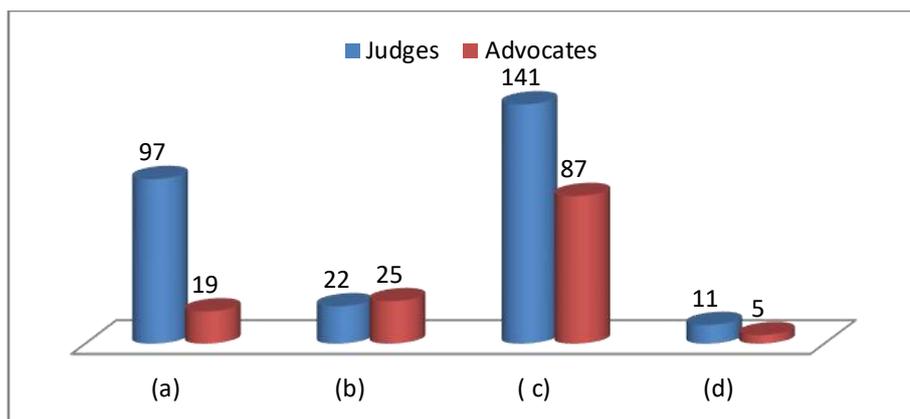


Figure 4.48: Judges Vs Advocates data comparison for Question 12

13) Do you believe that the formation of All India Judicial Service will solve the vacancy and recruitment problem in Subordinate Judiciary?

The question was asked to gain a general opinion as to how much helpful will be the establishment of All India Judicial Service in addressing the vacancy issues in the lower courts. The responses received show that, 60% of the Hon'ble Judges from both high courts and the Subordinate courts have disagreed to the statement that the formation of All India Judicial Service will solve the vacancy and recruitment problem in Subordinate Judiciary as shown in Figure 4.49. On the other hand, 65% of the advocates both from the High Courts and the Subordinate Courts have disagreed to the statement that the formation of All India Judicial Service will solve the vacancy and recruitment problem in Subordinate Judiciary as shown in Figure 4.50.

Table 4.23: Response Rates of Hon'ble Judges and Advocates on Question 13

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 108 | 163 |
| Advocates | 47 | 89 |

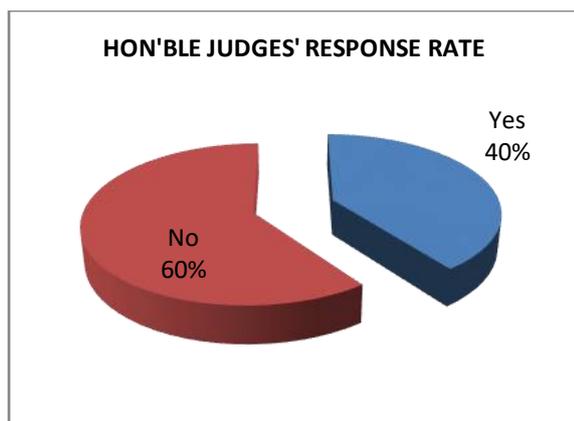


Figure 4.49: Hon'ble Judges' Response Rate on Question 13

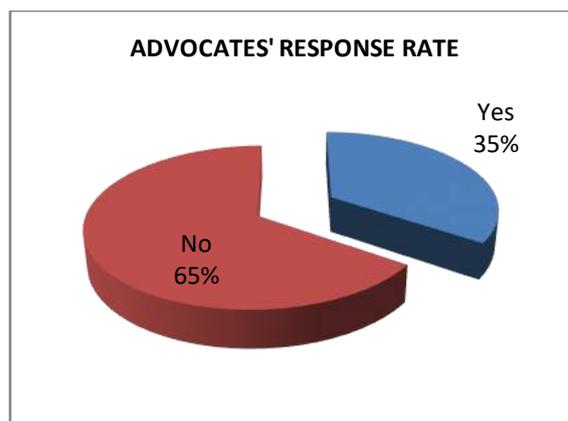


Figure 4.50: Advocates' Response Rate on Question 13

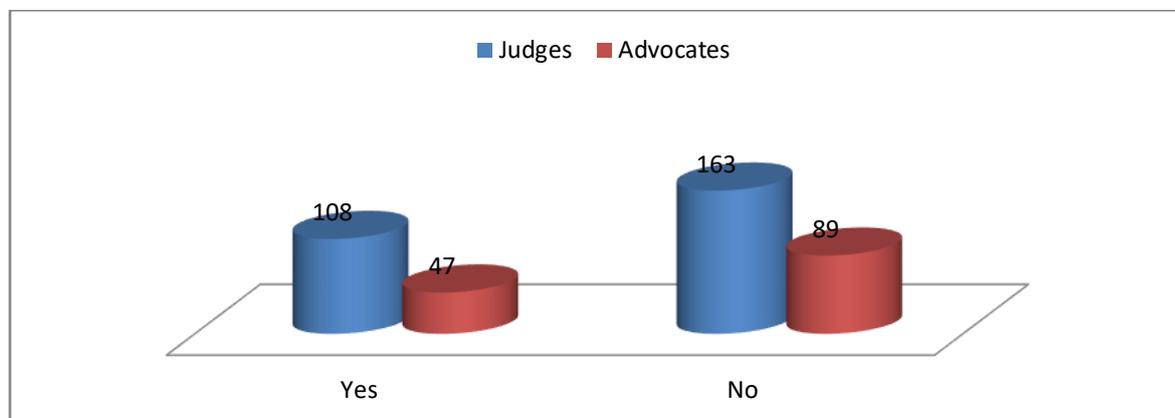


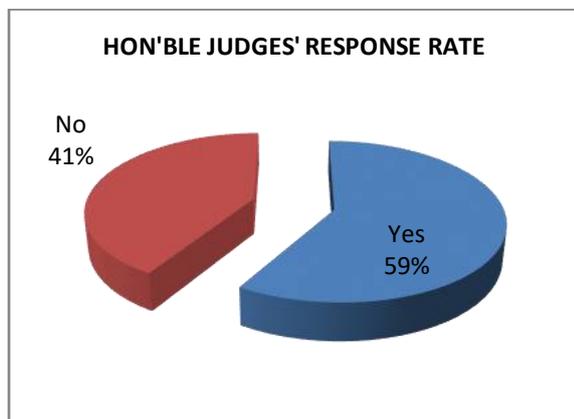
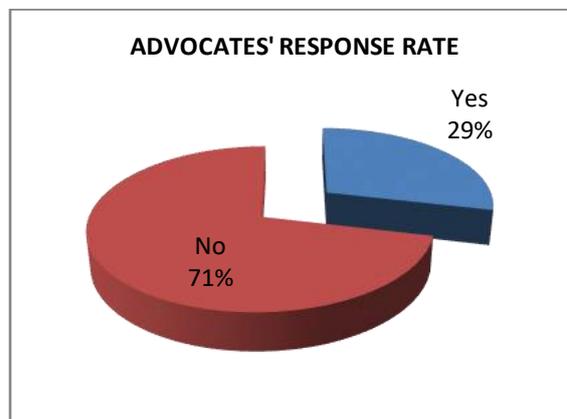
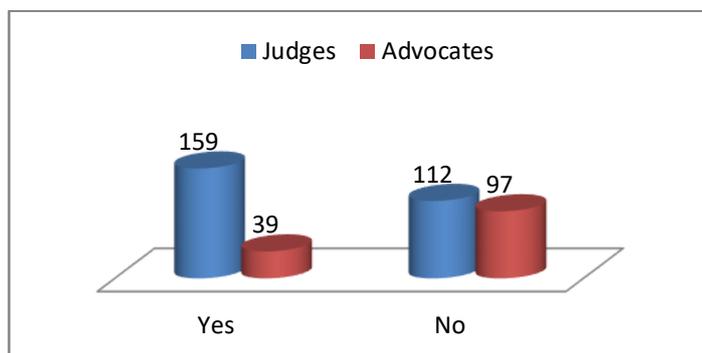
Figure 4.51: Judges Vs Advocates data comparison for Question 13

14) Do you think that increasing the retirement age for Judges will help in decreasing pendency?

This question was asked to know whether increasing the retirement age of judges will be beneficial in decreasing the time taken to solve a given case, as they have more experience and would definitely contribute with more accuracy and efficiency. As per the responses, 59% of the Hon'ble Judges from both high courts and the Subordinate courts have agreed to the statement that increasing the retirement age for Judges will help in decreasing pendency as shown in Figure 4.52. According to the tabulated responses, 71% of the advocates both from the High Courts and the Subordinate Courts have disagreed to the statement that increasing the retirement age for Judges will help in decreasing pendency as shown in Figure 4.53.

Table 4.24: Response Rates of Hon'ble Judges and Advocates on Question 14

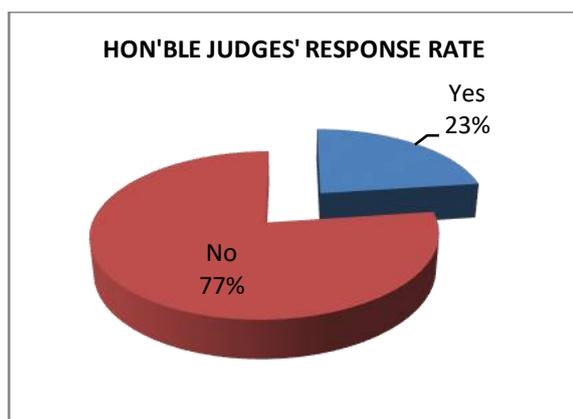
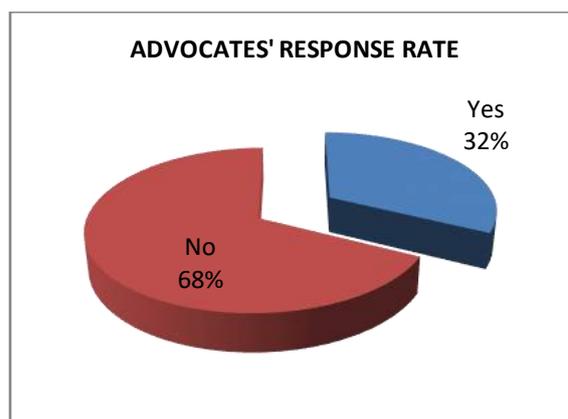
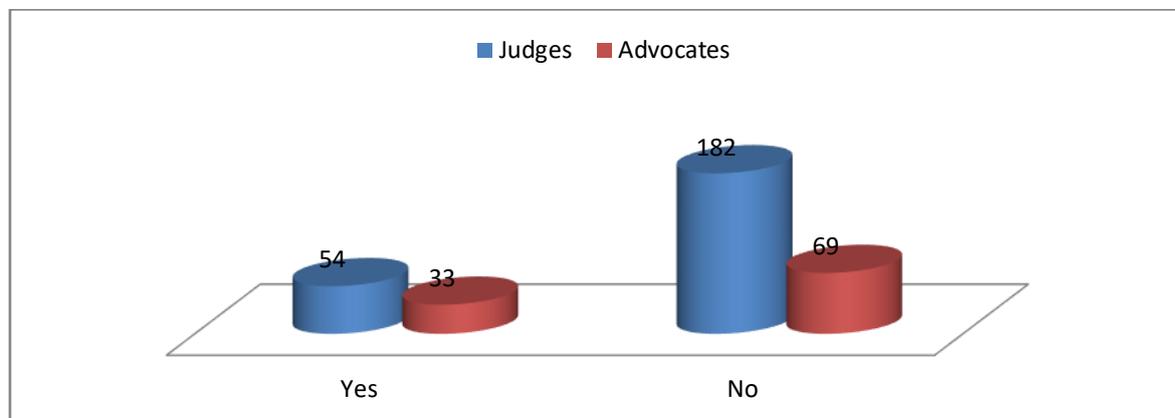
| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 159 | 112 |
| Advocates | 39 | 97 |

**Figure 4.52:** Hon'ble Judges' Response Rate on Question 14**Figure 4.53:** Advocates' Response Rate on Question 14**Figure 4.54:** Judges Vs Advocates data comparison for Question 14

15) For hearing more cases per day, do the working hours of judges need to be increased? The aforementioned question seeks to find the answer to whether increasing the working hours will result in a higher rate of case disposals. The responses recorded show that, 77% of the Hon'ble Judges from both high courts and the Subordinate courts have disagreed to the statement that for hearing more cases per day, the working hours of judges need to be increased as shown in Figure 4.55. On the other hand, 68% of the advocates both from the High Courts and the Subordinate Courts have disagreed to the statement that that for hearing more cases per day, the working hours of judges need to be increased as shown in Figure 4.56.

Table 4.25: Response Rates of Hon'ble Judges and Advocates on Question 15

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 54 | 182 |
| Advocates | 33 | 69 |

**Figure 4.55:** Hon'ble Judges' Response Rate on Question 15**Figure 4.56:** Advocates' Response Rate on Question 15**Figure 4.57:** Judges Vs Advocates data comparison for Question 15

16) Do you agree with the statement that, the Courts are in dire need of digitalization, in terms of infrastructure and court process?

This question was asked to determine if the stakeholders are finding a need to have a digital up gradation in the legal sector as well to make things easier, smoother and faster. As per the recorded responses, 69% of the Hon'ble Judges both from High Courts and the Subordinate Courts have agreed to the statement that, the Courts are in dire need of digitalization, in terms of infrastructure and court process as shown in Figure 4.58. The tabulated responses project

that, 70% of the advocates both from the High Courts and the Subordinate Courts have agreed to the statement that, the Courts are in dire need of digitalization, in terms of infrastructure and court process as shown in Figure 4.59. As shown in Table 4.27, as the P-value is not significant, therefore there is no difference of opinion between the Hon'ble Judges and the advocates.

Table 4.26: Response Rates of Hon'ble Judges and Advocates on Question 16

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 32 | 156 | 48 | 29 | 6 | 3.660517 |
| Advocates | 38 | 56 | 11 | 24 | 7 | 3.691176 |

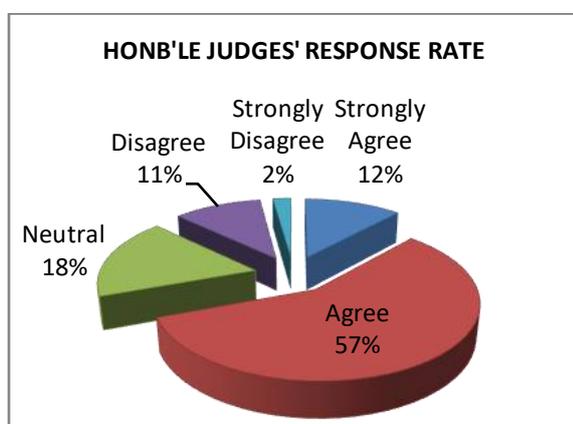


Figure 4.58: Hon'ble Judges Response Rate on Question 16

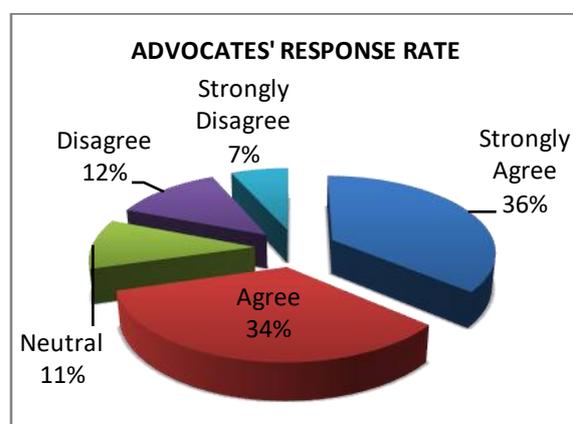


Figure 4.59: Advocates Response Rate on Question 16

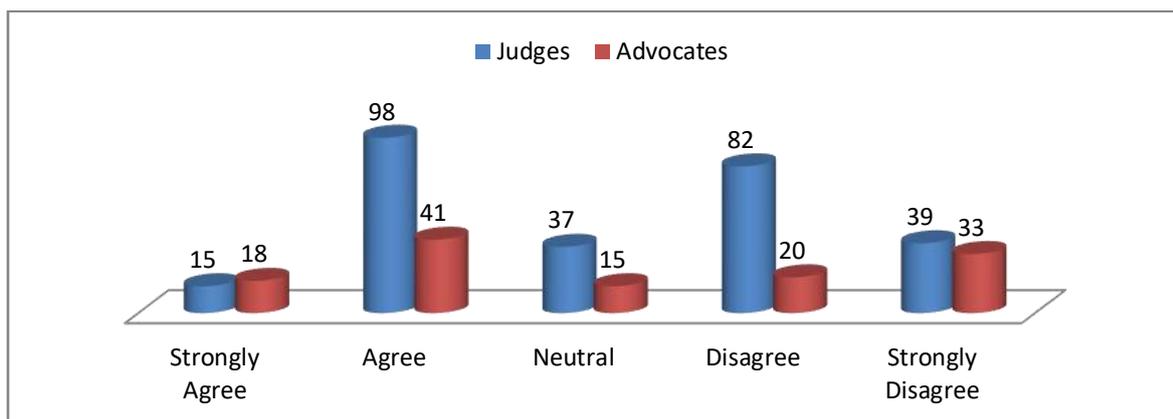


Figure 4.60: Judges Vs Advocates data comparison for Question 16

Table 4.27: Comparison of responses on Question 16 among Advocates and Judges

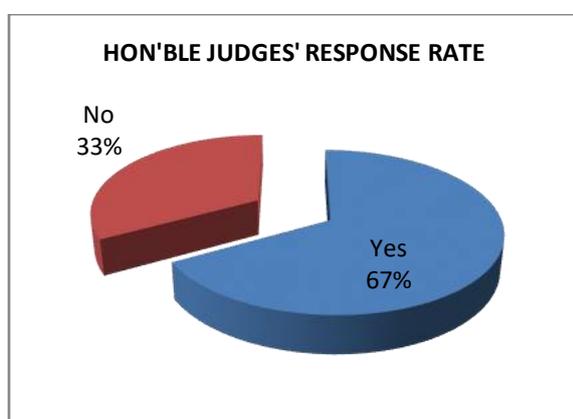
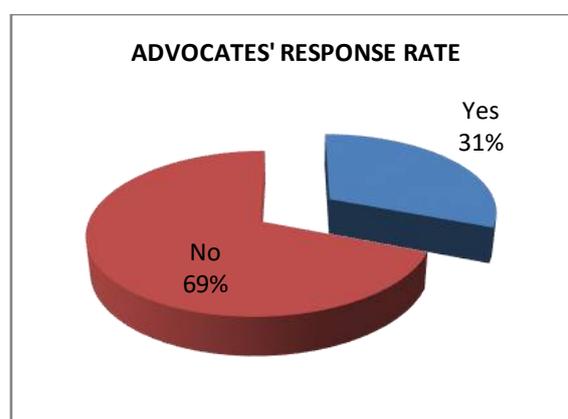
| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.881919 | 2.929134 |
| Known Variance | 1.447311 | 2.081592 |
| Observations | 271 | 127 |
| Hypothesized Mean Difference | 0 | |
| z | -0.32029 | |
| P(Z<=z) one-tail | 0.374375 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.748751 | |
| z Critical two-tail | 1.959964 | |

17) Can the time-bound procedure followed in Commercial Courts be replicated in Criminal Courts, especially in cases falling U/s 138 of NI Act 1881?

As per the recorded responses, 67% of the Hon'ble Judges from both High courts and the Subordinate courts have agreed to the statement that the time-bound procedure followed in Commercial Courts be replicated in Criminal Courts, especially in cases falling U/s 138 of NI Act 1881 as shown in Figure 4.61. On the other hand, 69% of the advocates from both High courts and the Subordinate courts have agreed to the statement that the time-bound procedure followed in Commercial Courts be replicated in Criminal Courts, especially in cases falling U/s 138 of NI Act 1881 as shown in Figure 4.62.

Table 4.28: Response Rates of Hon'ble Judges and Advocates on Question 17

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 174 | 86 |
| Advocates | 42 | 94 |

**Figure 4.61:** Hon'ble Judges' Response Rate on Question 17**Figure 4.62:** Advocates' Response Rate on Question 17

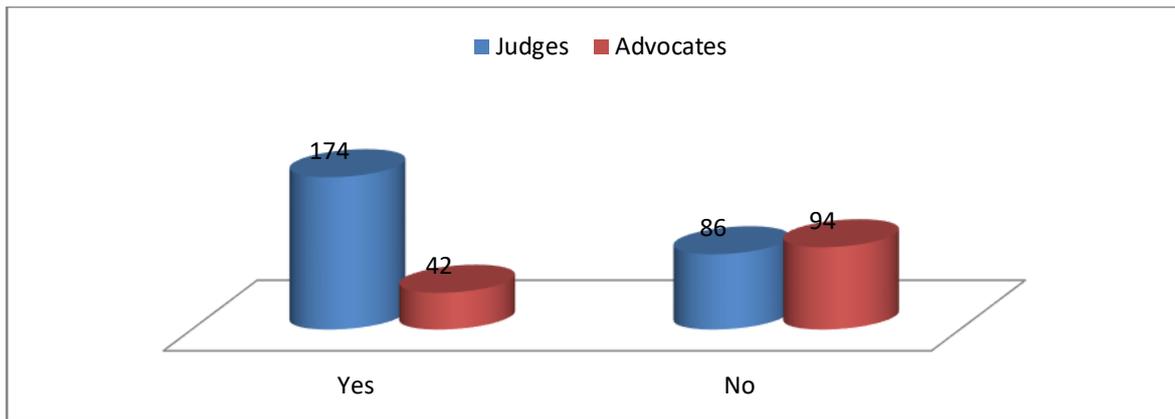


Figure 4.63: Judges Vs Advocates data comparison for Question 17

18) Would the introduction of electronic filing of cases and e-courts help to speed up court process for cases U/s 138 of NI Act 1881?

As per the responses tabulated, 71% of the Hon'ble Judges from both High courts and the Subordinate courts have agreed to the statement that introduction of electronic filing of cases and e-courts help to speed up court process for cases U/s 138 of NI Act 1881 as shown in Figure 4.64. As per the recorded responses, 73% of the advocates from both High courts and the Subordinate courts have agreed to the statement that the introduction of electronic filing of cases and e-courts help to speed up court process for cases U/s 138 of NI Act 1881 as shown in Figure 4.65.

Table 4.29: Response Rates of Hon'ble Judges and Advocates on Question 18

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 190 | 76 |
| Advocates | 97 | 35 |

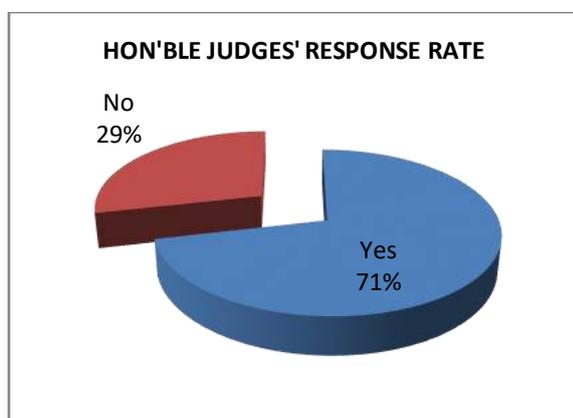


Figure 4.64: Hon'ble Judges Response Rate on Question 18

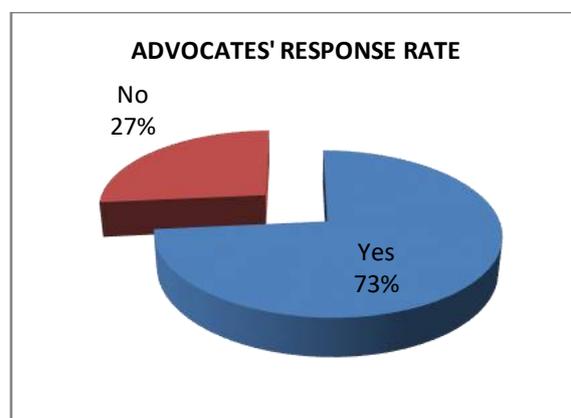


Figure 4.65: Advocates Response Rate on Question 18

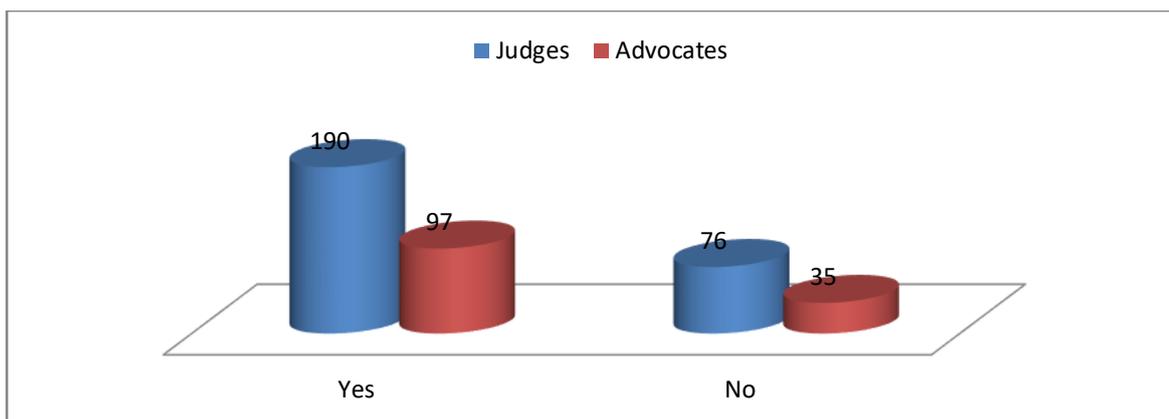


Figure 4.66: Judges Vs Advocates data comparison for Question 18

19) Would you prefer to serve the documents and papers to the other party through digital means, such as Whatsapp, email etc.?

The response recorded show that, 68% of the Hon'ble Judges from both High courts and the Subordinate courts have agreed to the statement that they would prefer to serve the documents and papers to the other party through digital means, such as Whatsapp, email etc. as shown in Figure 4.67. As per the recorded responses, 64% of the of the advocates from both High courts and the Subordinate courts have agreed to the statement that that they would prefer to serve the documents and papers to the other party through digital means, such as Whatsapp, email etc. as shown in Figure 4.68.

Table 4.30: Response Rates of Hon'ble Judges and Advocates on Question 19

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 183 | 88 |
| Advocates | 87 | 49 |

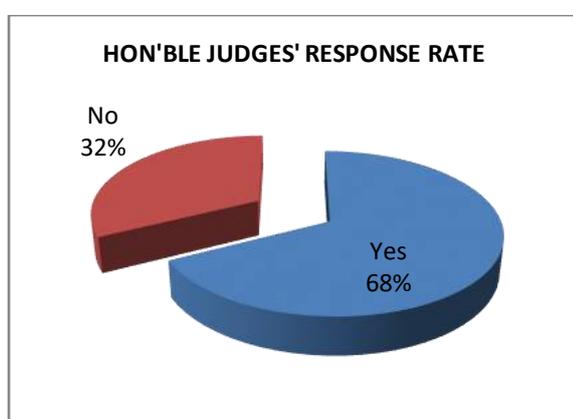


Figure 4.67: Hon'ble Judges' Response Rate on Question 19

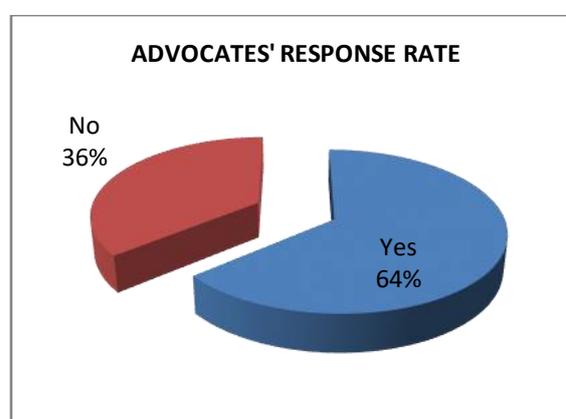


Figure 4.68: Advocates' Response Rate on Question 19

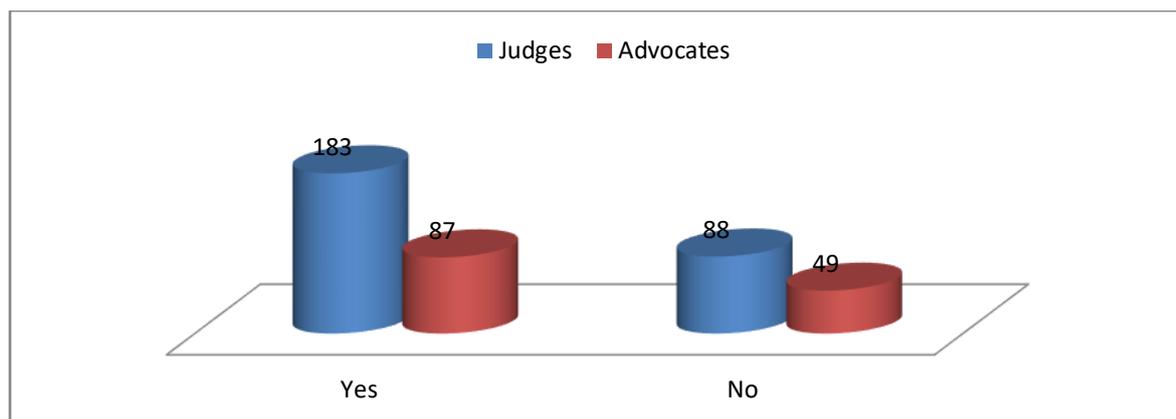


Figure 4.69: Judges Vs Advocates data comparison for Question 19

20) Do you advise the parties to go for Mediation or Conciliation?

The recorded responses show that, 51% of the Hon'ble Judges from the High Courts and the Subordinate Courts have said that they sometimes advise the parties to go for Mediation or Conciliation followed by 28% advising it very often and 14% opting for it Often as shown in Figure 4.70. As per the recorded responses, 46% of the advocates from the High Courts and the Subordinate Courts have said that they sometimes advise the parties to go for Mediation or Conciliation followed by 21% advising it very often and 20% opting for it often as shown in Figure 4.71. As shown in Table 4.32, as the P value is significant, therefore there is difference of opinion between the Hon'ble Judges and the advocates.

Table 4.31: Response Rates of Hon'ble Judges and Advocates on Question 20

| Respondents | Not at All Helpful | Not Much helpful | Somewhat Helpful | Very Helpful |
|-------------|--------------------|------------------|------------------|--------------|
| Judges | 24 | 70 | 144 | 33 |
| Advocates | 12 | 41 | 78 | 5 |

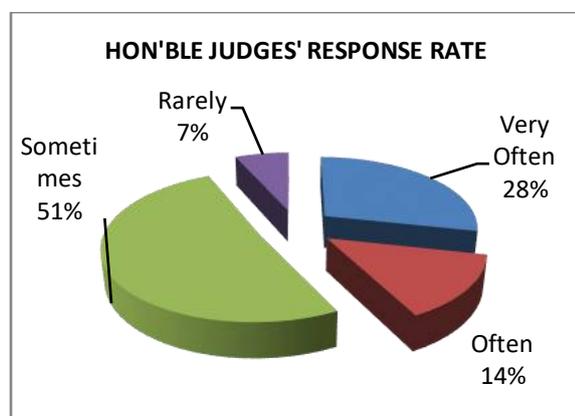


Figure 4.70: Hon'ble Judges' Response Rate on Question 20

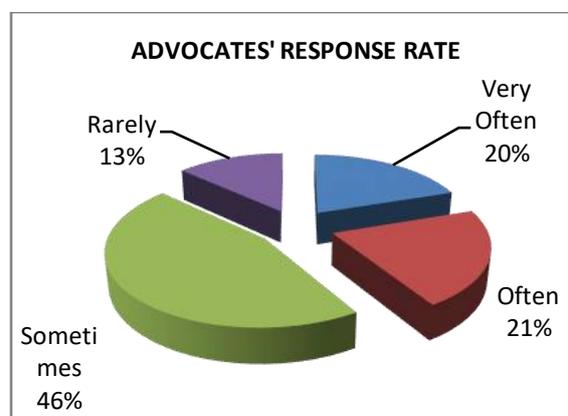


Figure 4.71: Advocates' Response Rate on Question 20

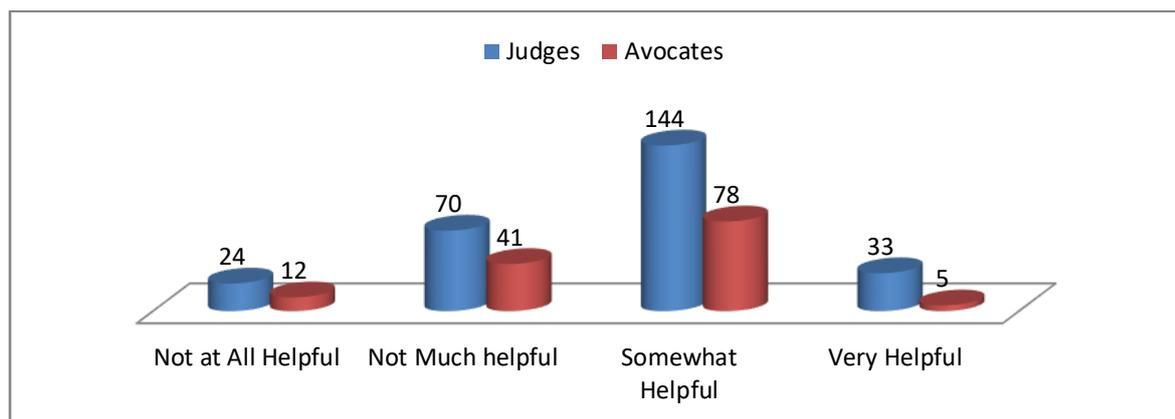


Figure 4.72: Judges Vs Advocates data comparison for Question 20

Table 4.32: Comparison of responses on Question 20 among Advocates and Judges

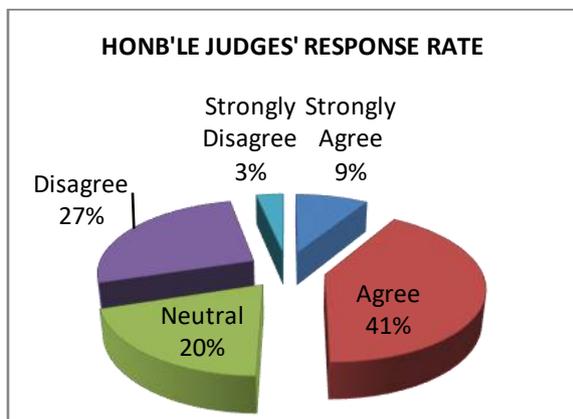
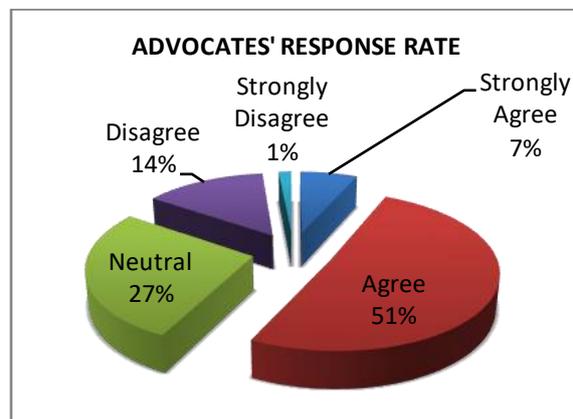
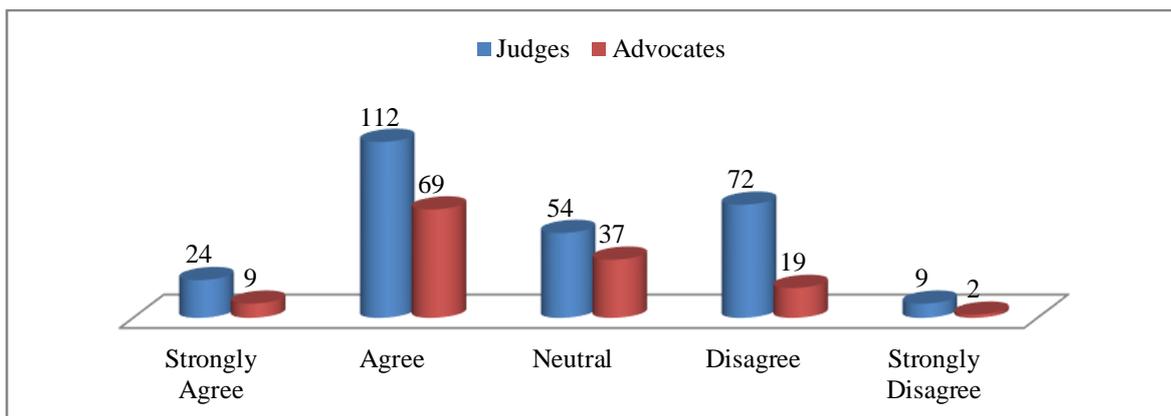
| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.642066 | 2.470588 |
| Known Variance | 0.930924 | 0.925606 |
| Observations | 271 | 136 |
| Hypothesized Mean Difference | 0 | |
| <i>z</i> | 1.694479 | |
| P(Z<=z) one-tail | 0.045087 | |
| <i>z</i> Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.090174 | |
| <i>z</i> Critical two-tail | 1.959964 | |

21) In cheque bounce cases, it should be compulsory for the Courts to refer cases for mediation.

The responses recorded for the given question show that, 50% of the Hon'ble Judges both from the High Court as well as the Subordinate Courts have agreed to the statement that in cheque bounce cases, it should be compulsory for the Courts to refer cases for mediation as shown in Figure 4.73. On the contrary, 58% of the advocates from the High Courts and the Subordinate Courts have agreed to the statement that in cheque bounce cases, it should be compulsory for the Courts to refer cases for mediation as shown in Figure 4.74. As shown in the Table 4.34, the P value is significant, but both the Hon'ble Judges and the Advocates have given their positive consent on the statement that it should be compulsory for the Courts to refer cheque-bounce cases for mediation.

Table 4.33: Response Rates of Hon'ble Judges and Advocates on Question 21

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 24 | 22 | 54 | 72 | 9 | 3.258303 |
| Advocates | 9 | 69 | 37 | 19 | 2 | 3.470588 |

**Figure 4.73:** Hon'ble Judges' Response Rate on Question 21**Figure 4.74:** Advocates' Response Rate on Question 21**Figure 4.75:** Judges Vs Advocates data comparison for Question 21**Table 4.34:** Comparison of responses on Question 21 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.258303 | 3.470588 |
| Known Variance | 1.099331 | 0.749135 |
| Observations | 271 | 136 |
| Hypothesized Mean Difference | 0 | |
| <i>z</i> | -2.1706 | |
| P(Z<= <i>z</i>) one-tail | 0.014981 | |
| <i>z</i> Critical one-tail | 1.644854 | |
| P(Z<= <i>z</i>) two-tail | 0.029961 | |
| <i>z</i> Critical two-tail | 1.959964 | |

22) Is it permitted to amend the complaint after initiating it?

The responses for the question above show that, 78% of the Hon’ble Judges both from the High Court as well as the Subordinate Courts have disagreed to the statement that it is permitted to amend the complaint after initiating it as shown in Figure 4.76. According to the responses, 62% of the advocates from the High Courts and the Subordinate Courts have disagreed to the statement that it is permitted to amend the complaint after initiating it as shown in Figure 4.77.

Table 4.35: Response Rates of Hon’ble Judges and Advocates on Question 22

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 177 | 83 |
| Advocates | 97 | 39 |

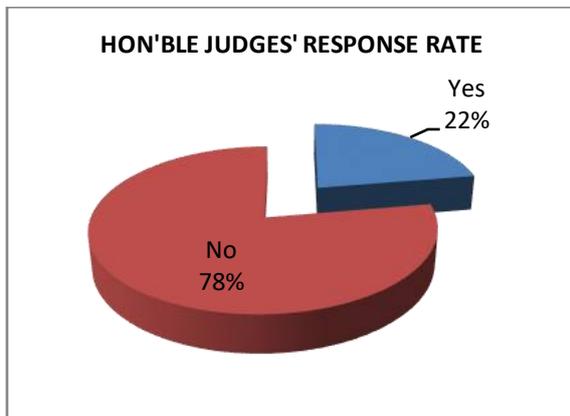


Figure 4.76: Hon’ble Judges’ Response Rate on Question 22

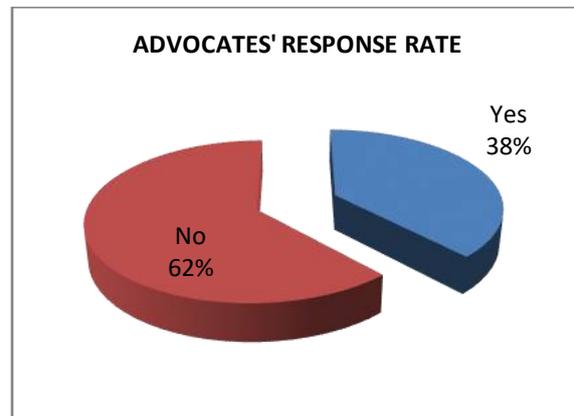


Figure 4.77: Advocates’ Response Rate on Question 22

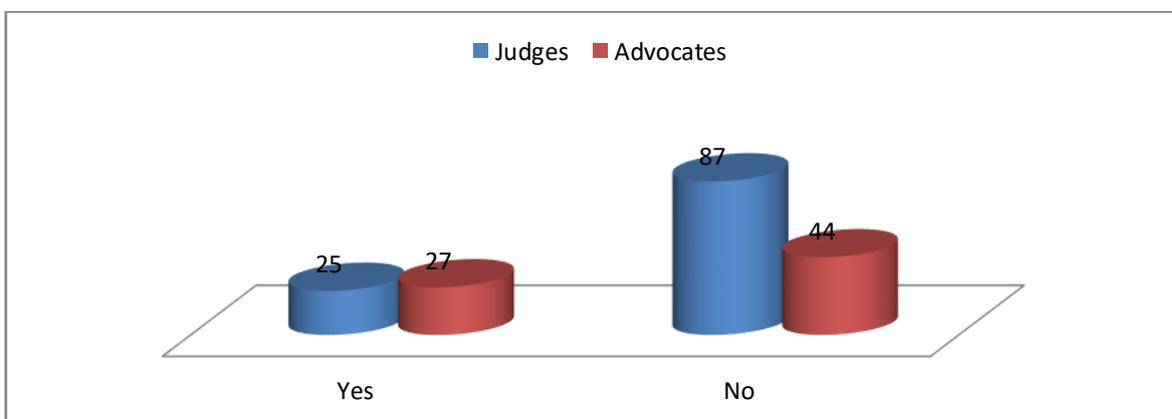


Figure 4.78: Judges Vs Advocates data comparison for Question 22

22. i) Is it permitted to amend the complaint after initiating it?

If yes does it cause delays?

As per the recorded responses, 68% of the Hon'ble Judges both from the High Court as well as the Subordinate Courts have disagreed to the statement that it causes delays to amend the complaint after initiating it as shown in Figure 4.79. The given responses show that, 72% of the advocates both from the High Court as well as the Subordinate Courts have disagreed to the statement that it causes delays to amend the complaint after initiating it as shown in Figure 4.80.

Table 4.36: Response Rates of Hon'ble Judges and Advocates on Question 22 (i)

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 38 | 79 |
| Advocates | 26 | 66 |

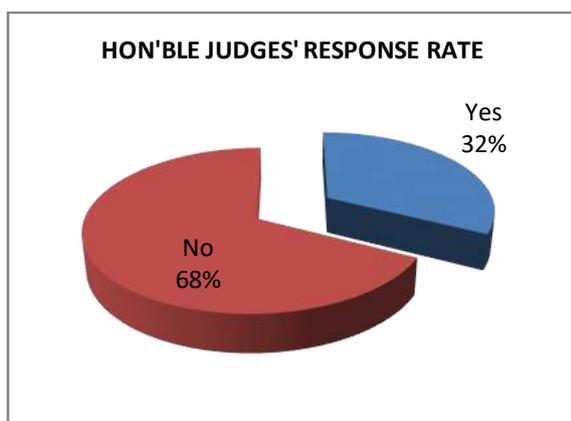


Figure 4.79: Hon'ble Judges Response Rate on Question 22 (i)

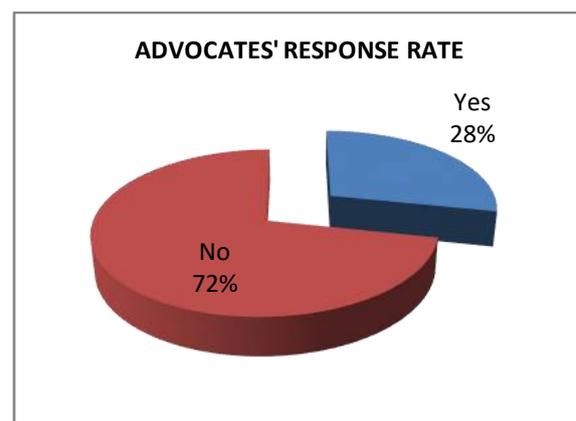


Figure 4.80: Advocates Response Rate on Question 22 (i)

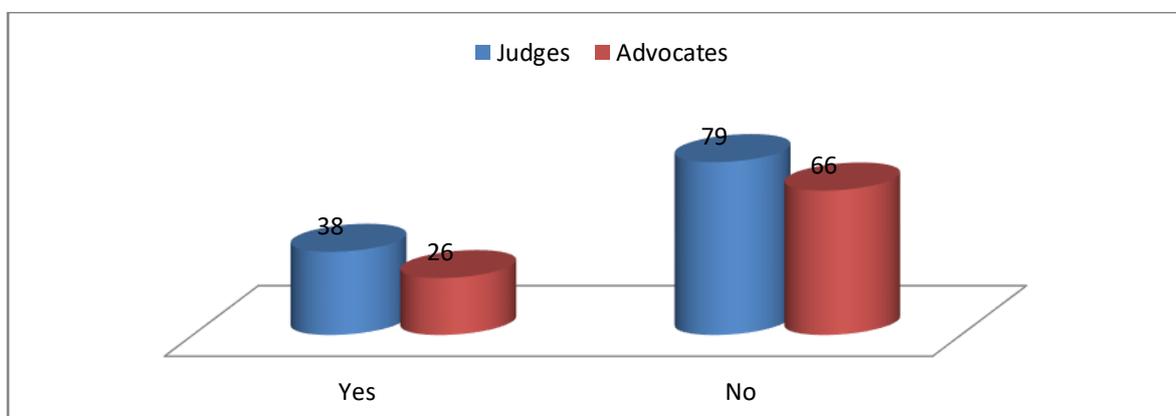


Figure 4.81: Judges Vs Advocates data comparison for Question 22 (i)

23) Do you favor the establishment of a separate cell of police for service of summons?
 The responses recorded show that, 70% of the Hon'ble Judges both from the High Court as well as the Subordinate Courts are in favour of the establishment of a separate cell of police for service of summons as shown in Figure 4.82. According to the recorded responses, 70% of the advocates both from the High Court as well as the Subordinate Courts are in favour of the establishment of a separate cell of police for service of summons as shown in Figure 4.83.

Table 4.37: Response Rates of Hon'ble Judges and Advocates on Question 23

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 186 | 79 |
| Advocates | 37 | 88 |

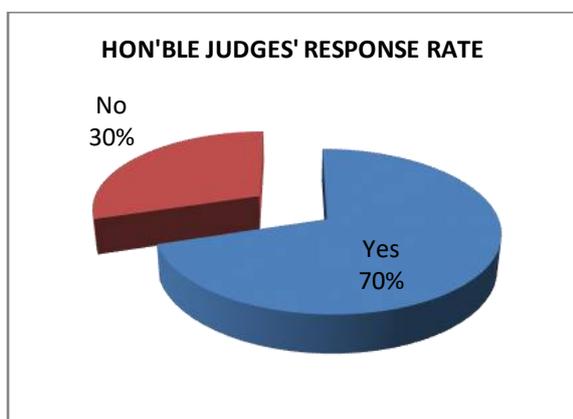


Figure 4.82: Hon'ble Judges' Response Rate on Question 23

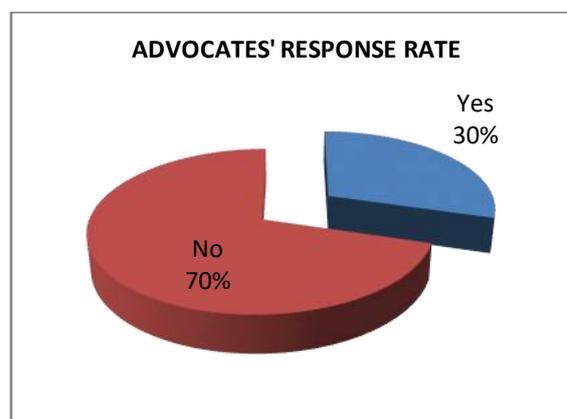


Figure 4.83: Advocates' Response Rate on Question 23

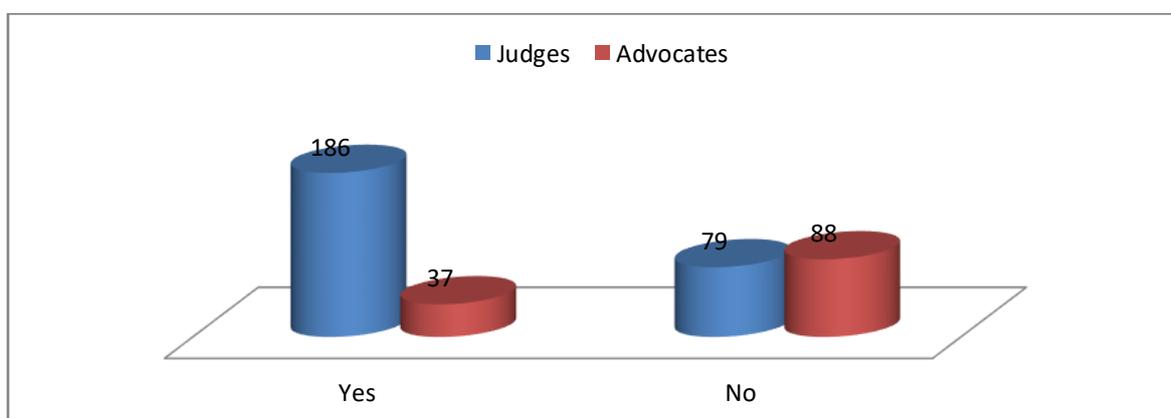


Figure 4.84: Judges Vs Advocates data comparison for Question 23

24) Can summons in cases falling U/s 138 of NI Act 1881, be served through digital means such as emails, whatsapp, etc?

As per the tabulated responses, 71% of the Hon'ble Judges both from the High Court as well as the Subordinate Courts want to serve summons in cases falling U/s 138 of NI Act 1881, through digital means such as emails, whatsapp, etc as shown in Figure 4.85. According to the responses recorded, 72% of the advocates both from the High Court as well as the Subordinate Courts want to serve summons in cases falling U/s 138 of NI Act 1881, through digital means such as emails, whatsapp, etc as shown in Figure 4.86.

Table 4.38: Response Rates of Hon'ble Judges and Advocates on Question 24

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 187 | 76 |
| Advocates | 35 | 92 |

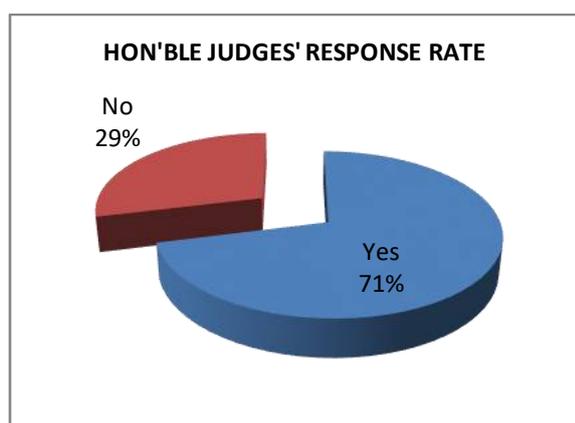


Figure 4.85: Hon'ble Judges' Response Rate on Question 24

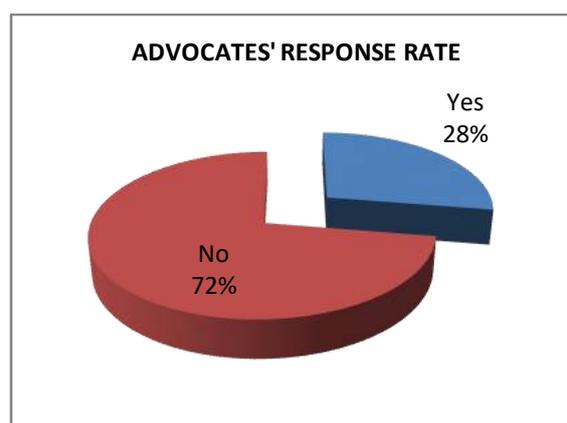


Figure 4.86: Advocates' Response Rate on Question 24

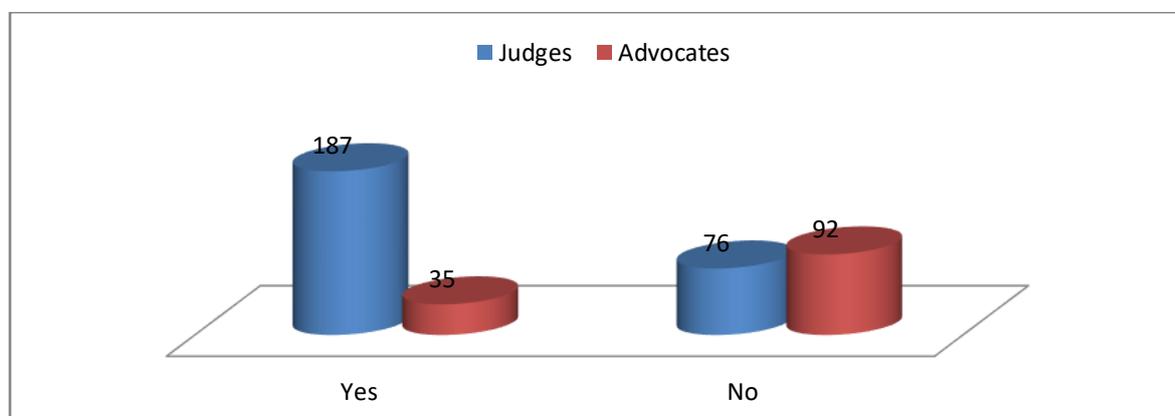


Figure 4.87: Judges Vs Advocates data comparison for Question 24

25) According to you, is it feasible for the complainant and advocate to appear before the Court through live telepresence or video conference?

The responses for the given question show that, 62% of the Hon'ble Judges both from the High Court as well as the Subordinate Courts have disagreed that it is feasible for the complainant and advocate to appear before the Court through live telepresence or video conference as shown in Figure 4.88. The responses recorded project that, 73% of the advocates both from the High Court as well as the Subordinate Courts have disagreed that it is feasible for the complainant and advocate to appear before the Court through live telepresence or video conference as shown in Figure 4.89.

Table 4.39: Response Rates of Hon'ble Judges and Advocates on Question 25

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 96 | 156 |
| Advocates | 34 | 93 |

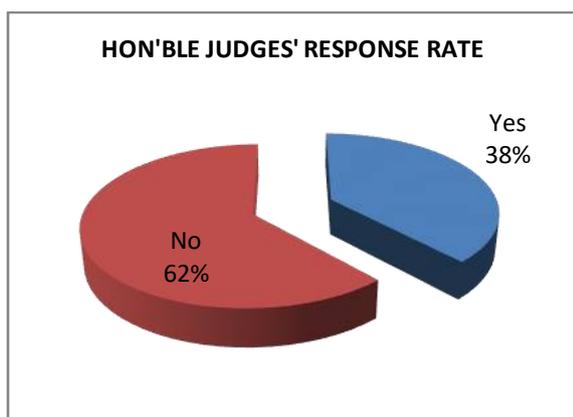


Figure 4.88: Hon'ble Judges' Response Rate on Question 25

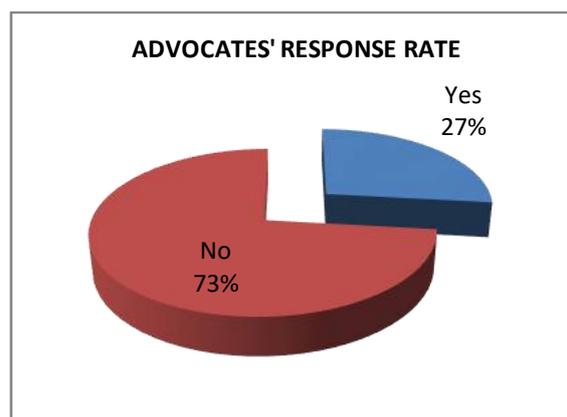


Figure 4.89: Advocates' Response Rate on Question 25

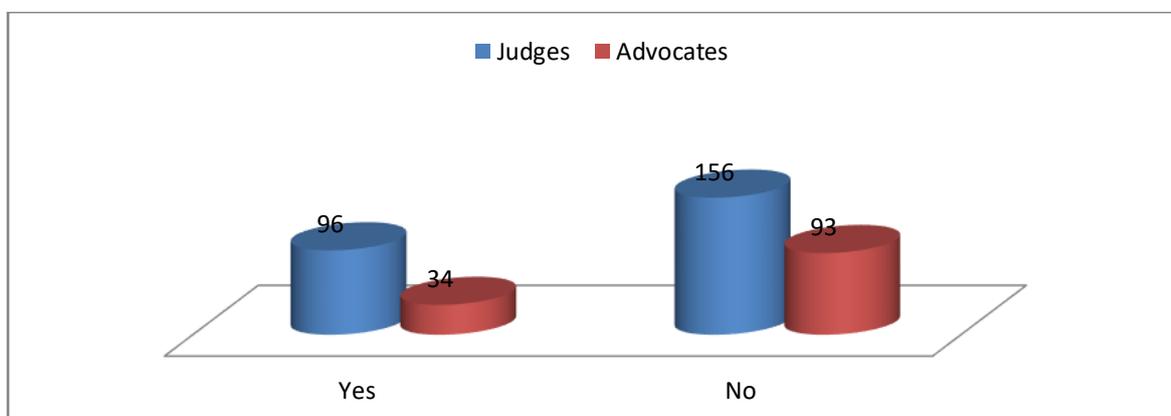


Figure 4.90: Judges Vs Advocates data comparison for Question 25

26) How often is the accused informed about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining?

As per the recorded responses, 47% of the Hon'ble Judges from the High Courts as well as the Subordinate Courts have opined that they frequently inform the accused about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining followed by 28% informing always as shown in Figure 4.91. According to the responses recorded, 47% of the advocates from the High Courts as well as the Subordinate Courts have opined that they frequently inform the accused about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining, followed by 35% informing rarely as shown in Figure 4.92. As shown in Table 4.41 as the P value is significant, showing difference in opinion between the Hon'ble Judges and the advocates, but both are not agreeing with the statement.

Table 4.40: Response Rates of Hon'ble Judges and Advocates on Question 26

| Respondents | Not At all | rarely | Frequently | Always | Total |
|-------------|------------|--------|------------|--------|-------|
| Judges | 27 | 42 | 126 | 75 | 270 |
| Advocates | 2 | 47 | 23 | 64 | 136 |

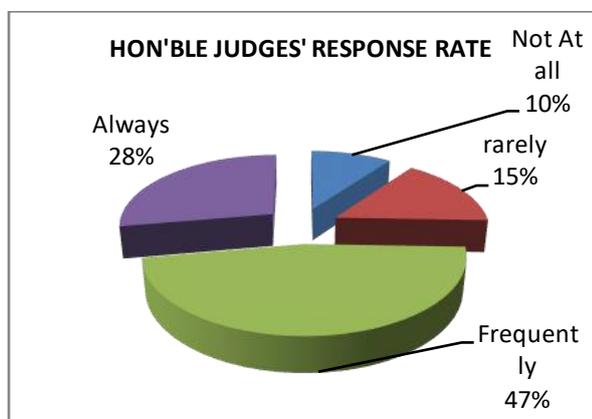


Figure 4.91: Hon'ble Judges' Response Rate on Question 26

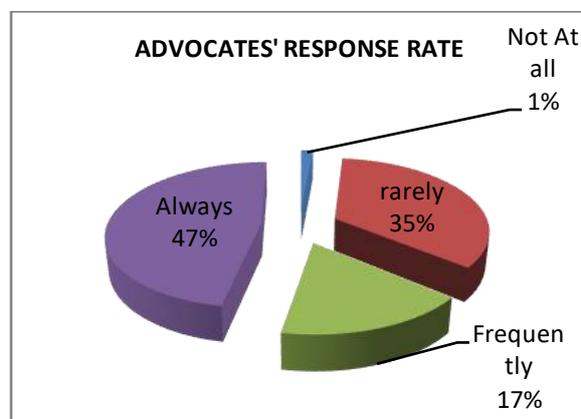


Figure 4.92: Advocates' Response Rate on Question 26

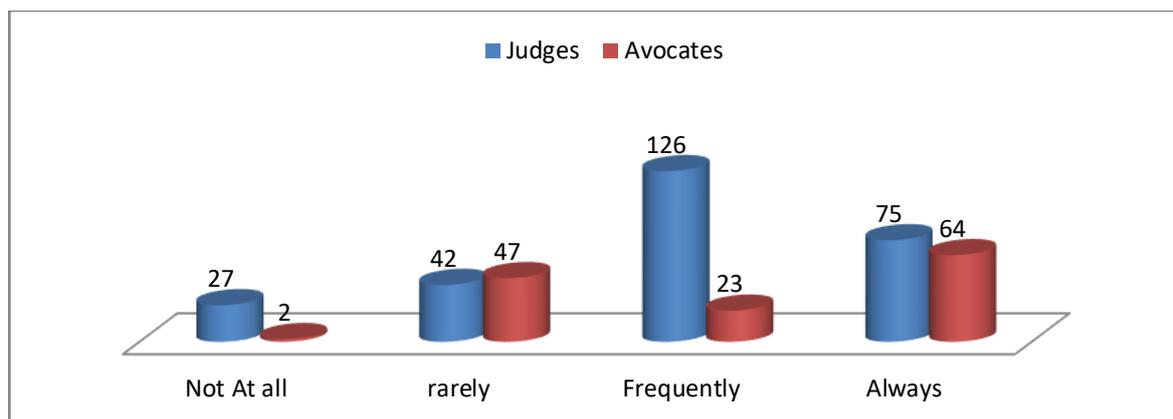


Figure 4.93: Judges Vs Advocates data comparison for Question 26

Table 4.41: Comparison of responses on Question 26 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.077778 | 1.904412 |
| Known Variance | 0.827284 | 0.865863 |
| Observations | 270 | 136 |
| Hypothesized Mean Difference | 0 | |
| z | 1.785225 | |
| P(Z<=z) one-tail | 0.037112 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.074225 | |
| z Critical two-tail | 1.959964 | |

27) According to you, is it feasible for the accused to plead guilty or not guilty before the Court through live telepresence or video conference?

As per the responses recorded, 65% of the Hon'ble Judges both from the High Court as well as the Subordinate Courts have agreed that it is feasible for the accused to plead guilty or not guilty before the Court through live telepresence or video conference as shown in Figure 4.94. The recorded responses show that, 68% of the advocates both from the High Court as well as the Subordinate Courts have disagreed that it is feasible for the accused to plead guilty or not guilty before the Court through live telepresence or video conference as shown in Figure 4.95.

Table 4.42: Response Rates of Hon'ble Judges and Advocates on Question 27

| Respondents | Yes | No |
|-------------|-----|----|
| Judges | 176 | 93 |
| Advocates | 42 | 91 |

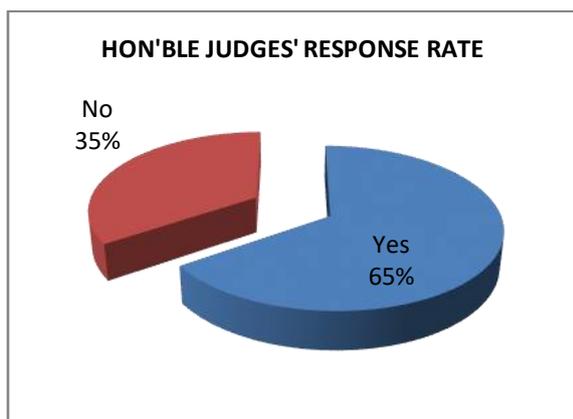


Figure 4.94: Hon'ble Judges' Response Rate on Question 27

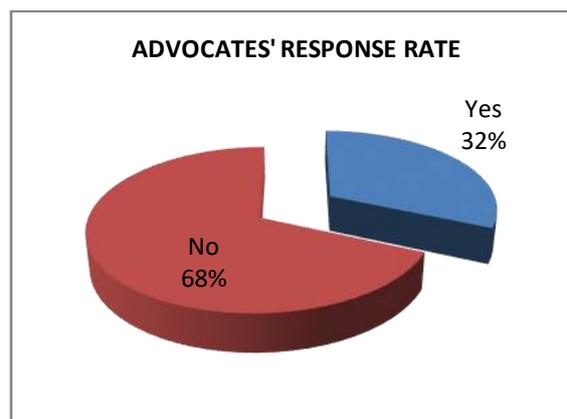


Figure 4.95: Advocates' Response Rate on Question 27

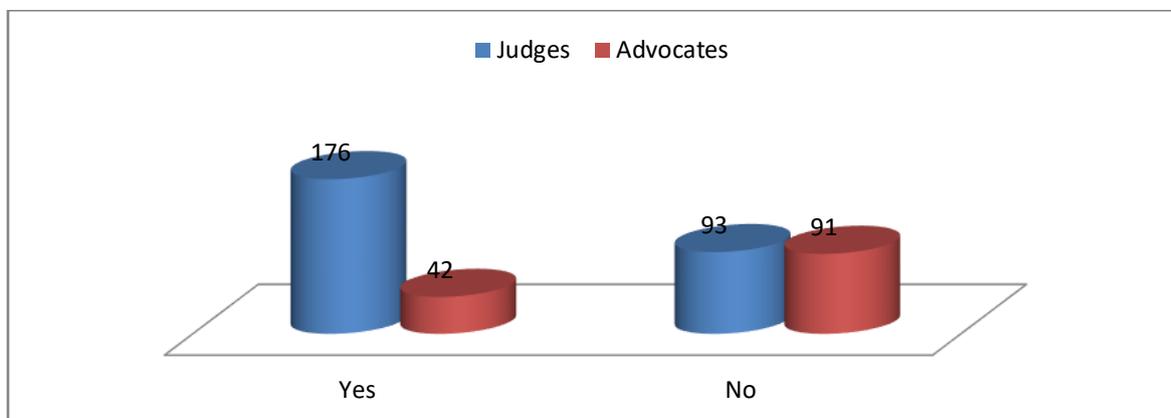
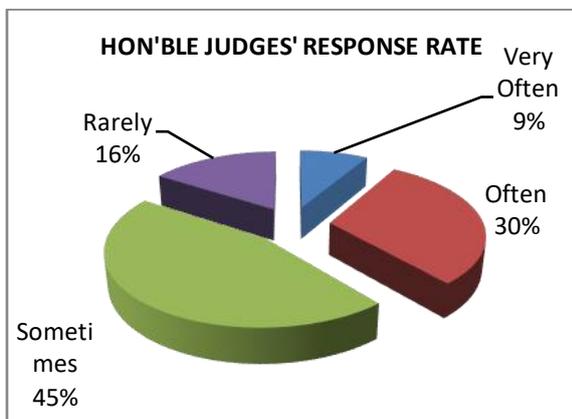
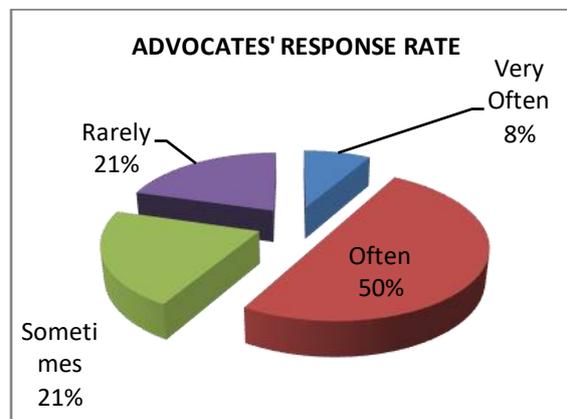
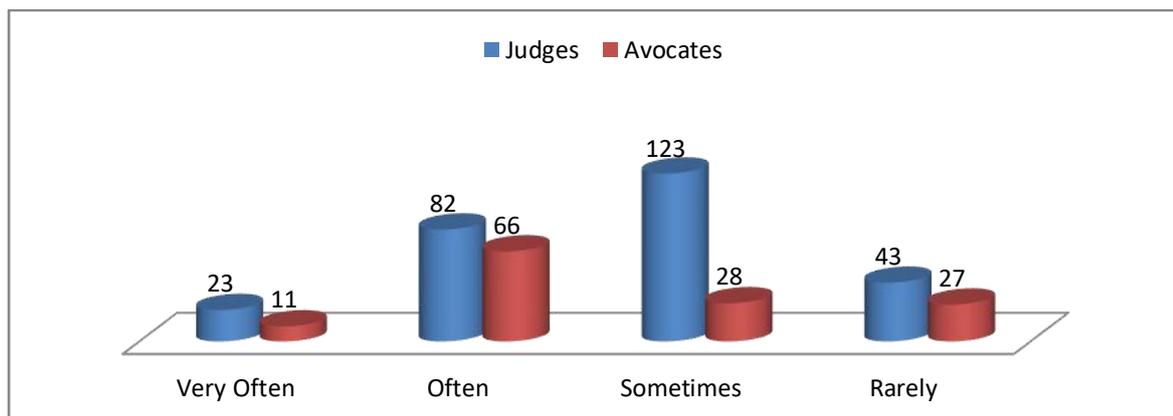


Figure 4.96: Judges Vs Advocates data comparison for Question 27

28) How often are cases falling U/s 138 of NI Act 1881, tried summarily as a summary trial? As per the responses recorded, 45% of the Hon'ble Judges from the High Courts as well as the Subordinate Courts have opined that sometimes cases falling U/s 138 of NI Act 1881, tried summarily as a summary trial followed by 28% claiming it to be often as shown in Figure 4.97. The recorded responses show that, 50% of the advocates from the High Courts as well as the Subordinate Courts have opined that often cases falling U/s 138 of NI Act 1881, tried summarily as a summary trial followed by 21% twice each claiming it to be often and rarely as shown in Figure 4.98. As shown in Table 4.44, as the P-value is not significant, hence there is no significant difference in opinion of the Hon'ble Judges and the advocates.

Table 4.43: Response Rates of Hon'ble Judges and Advocates on Question 28

| Respondents | Very Often | Often | Sometimes | Rarely | Mean |
|-------------|------------|-------|-----------|--------|------|
| Judges | 23 | 82 | 123 | 43 | 2 |
| Advocates | 11 | 66 | 28 | 27 | 2 |

**Figure 4.97:** Hon'ble Judges' Response Rate on Question 28**Figure 4.98:** Advocates' Response Rate on Question 28**Figure 4.99:** Judges Vs Advocates data comparison for Question 28**Table 4.44:** Comparison of responses on Question 28 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.318519 | 2.462121 |
| Known Variance | 0.698546 | 0.824323 |
| Observations | 270 | 132 |
| Hypothesized Mean Difference | 0 | |
| z | -1.52803 | |
| P(Z<=z) one-tail | 0.063253 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.126506 | |
| z Critical two-tail | 1.959964 | |

29) The recent amendments (2018) to NI Act which provide for interim compensation at trial and appellate stage would reduce the delays in cheque bounce cases.

As per the responses recorded, 55% of the Hon'ble Judges from the High Courts and the Subordinate Courts have agreed to the statement that the recent amendments (2018) to NI Act which provide for interim compensation at trial and appellate stage would reduce the delays in cheque bounce cases as shown in Figure 4.100. The recorded responses show that, 69% of the advocates from the High Courts and the Subordinate Courts have agreed to the statement that the recent amendments (2018) to NI Act which provide for interim compensation at trial and appellate stage would reduce the delays in cheque bounce cases as shown in Figure 4.101. As the value of P is significant as shown in Table 4.46, but, there is no difference in opinion between the Hon'ble Judges and the lawyers as both are agreeing the said statement.

Table 4.45: Response Rates of Hon'ble Judges and Advocates on Question 29

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 19 | 127 | 33 | 74 | 10 | 3.269962 |
| Advocates | 16 | 77 | 28 | 7 | 6 | 3.671642 |

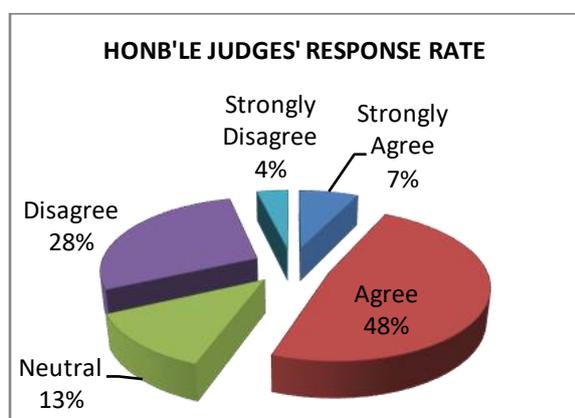


Figure 4.100: Hon'ble Judges' Response Rate on Question 29

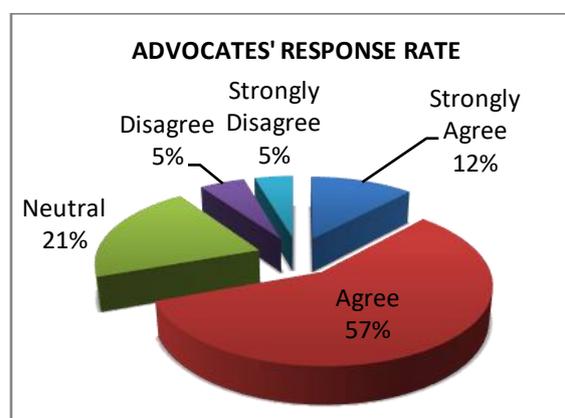


Figure 4.101: Advocates' Response Rate on Question 29

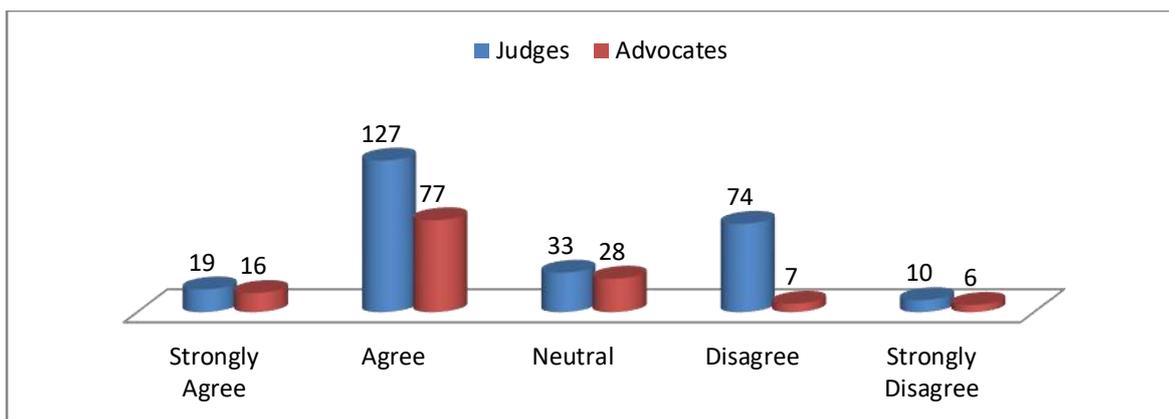


Figure 4.102: Judges Vs Advocates data comparison for Question 29

Table 4.46: Comparison of responses on Question 29 among Advocates and Judges

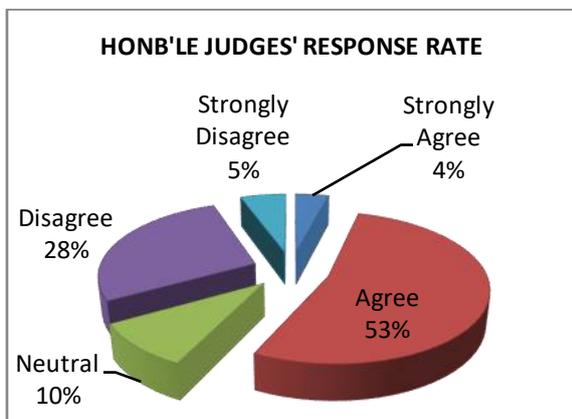
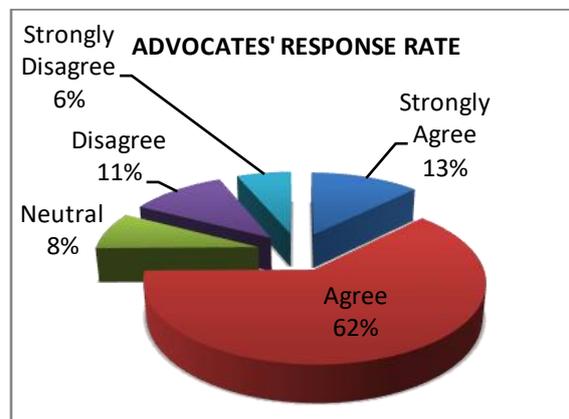
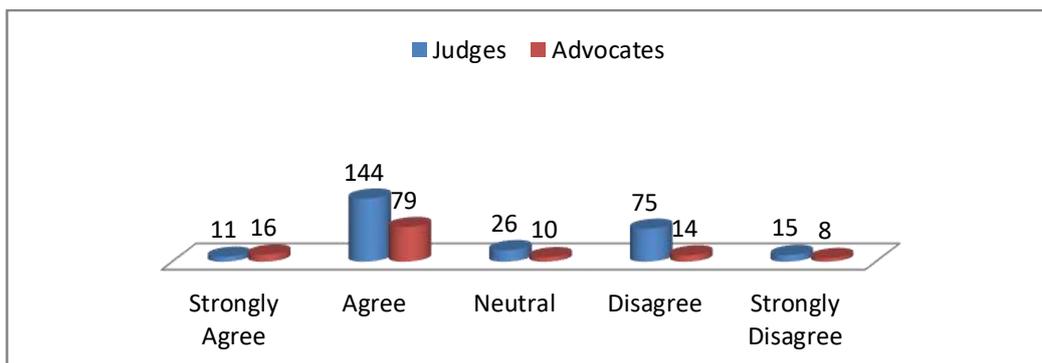
| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.269962 | 3.671642 |
| Known Variance | 1.132444 | 0.832479 |
| Observations | 263 | 134 |
| Hypothesized Mean Difference | 0 | |
| z | -3.91656 | |
| P(Z<=z) one-tail | 4.49E-05 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 8.98E-05 | |
| z Critical two-tail | 1.959964 | |

30) The Trial Court should exercise discretionary power to direct or to waive the requirement of paying interim compensation, when the accused pleads not guilty in a case falling U/s 138 of NI Act 1881.

As per the responses recorded, 57% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that The Trial Court should exercise discretionary power to direct or to waive the requirement of paying interim compensation, when the accused pleads not guilty in a case falling U/s 138 of NI Act 1881 as shown in Figure 4.103. The recorded responses show that, 75% of the advocates from the High Courts and the Subordinate Courts have agreed to the statement that The Trial Court should exercise discretionary power to direct or to waive the requirement of paying interim compensation, when the accused pleads not guilty in a case falling U/s 138 of NI Act 1881 as shown in Figure 4.104. From Table 4.48, it is clear that the P value is significant, but, this difference is due to the fact that, Advocates are more strongly agreeing the said statement than Hon'ble Judges.

Table 4.47: Response Rates of Hon'ble Judges and Advocates on Question 30

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 11 | 144 | 26 | 75 | 15 | 3.225092 |
| Advocates | 16 | 79 | 10 | 14 | 8 | 3.637795 |

**Figure 4.103:** Hon'ble Judges' Response Rate on Question 30**Figure 4.104:** Advocates' Response Rate on Question 30**Figure 4.105:** Judges Vs Advocates data comparison for Question 30**Table 4.48:** Comparison of responses on Question 30 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.217712 | 3.637795 |
| Known Variance | 1.159243 | 1.081406 |
| Observations | 271 | 127 |
| Hypothesized Mean Difference | 0 | |
| z | -3.71411 | |
| P(Z<=z) one-tail | 0.000102 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.000204 | |
| z Critical two-tail | 1.959964 | |

31) The direction to provide interim compensation at trial, as well as appellate stage, would reduce instances where the Accused knowingly delays the trial to buy some time, only to settle the case at a later date.

As per the responses recorded, 62% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that the direction to provide interim compensation at trial, as well as appellate stage, would reduce instances where the Accused knowingly delays the trial to buy some time, only to settle the case at a later date as shown in Figure 4.106. The recorded responses show that 66% of the advocates from the High Courts and the Subordinate Courts have agreed to the statement that the direction to provide interim compensation at trial, as well as appellate stage, would reduce instances where the Accused knowingly delays the trial to buy some time, only to settle the case at a later date as shown in Figure 4.107. From Table 4.50 it is clear that the P-value is not significant and hence there is no difference in opinion between the Judges and the Advocates.

Table 4.49: Response Rates of Hon'ble Judges and Advocates on Question 31

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 18 | 149 | 58 | 38 | 7 | 3.492593 |
| Advocates | 6 | 81 | 14 | 18 | 12 | 3.389313 |

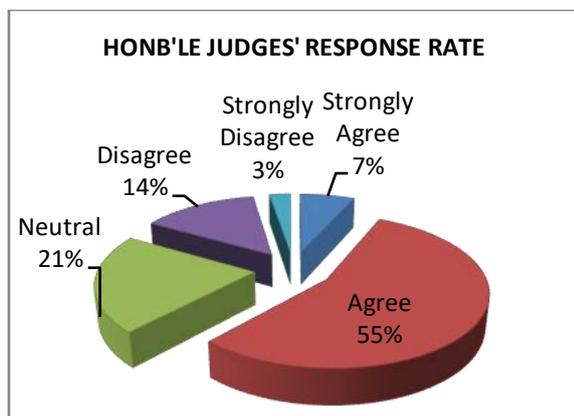


Figure 4.106: Hon'ble Judges' Response Rate on Question 31

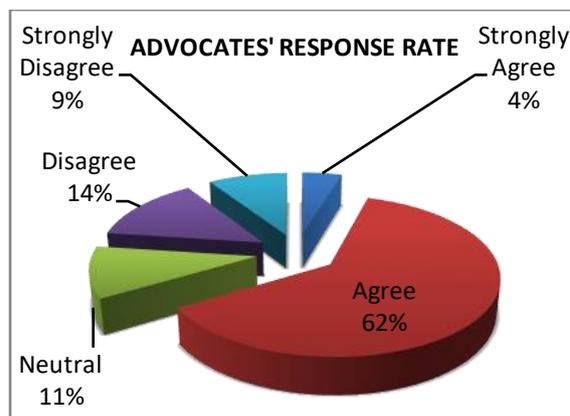


Figure 4.107: Advocates' Response Rate on Question 31

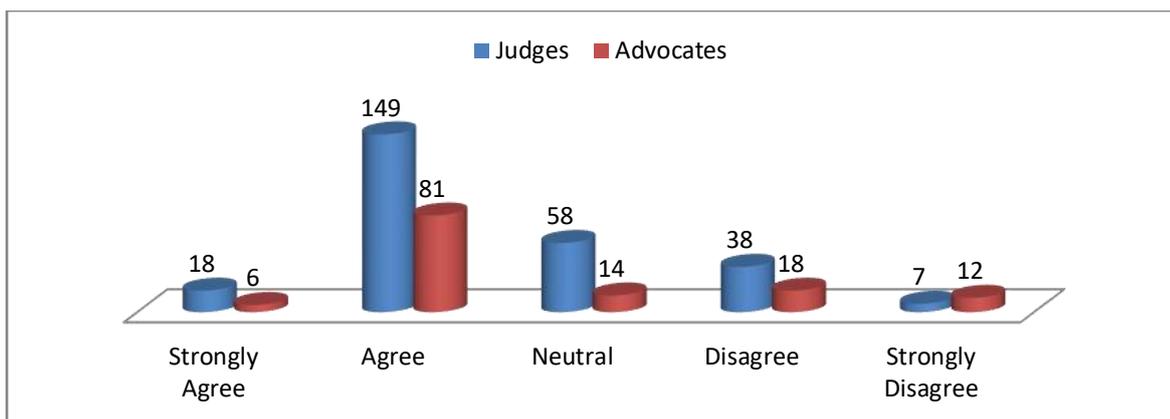


Figure 4.108: Judges Vs Advocates data comparison for Question 31

Table 4.50: Comparison of responses on Question 31 among Advocates and Judges

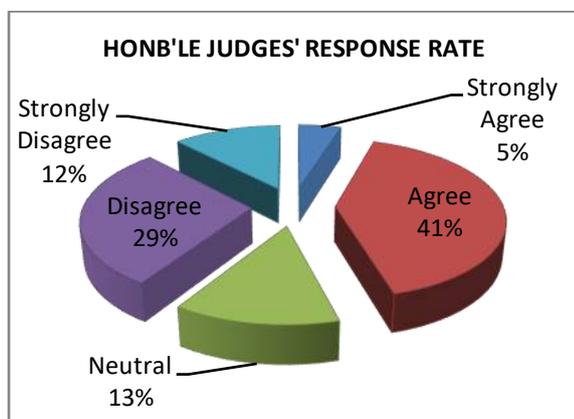
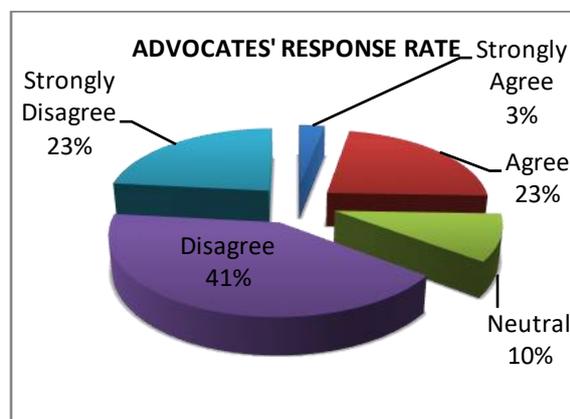
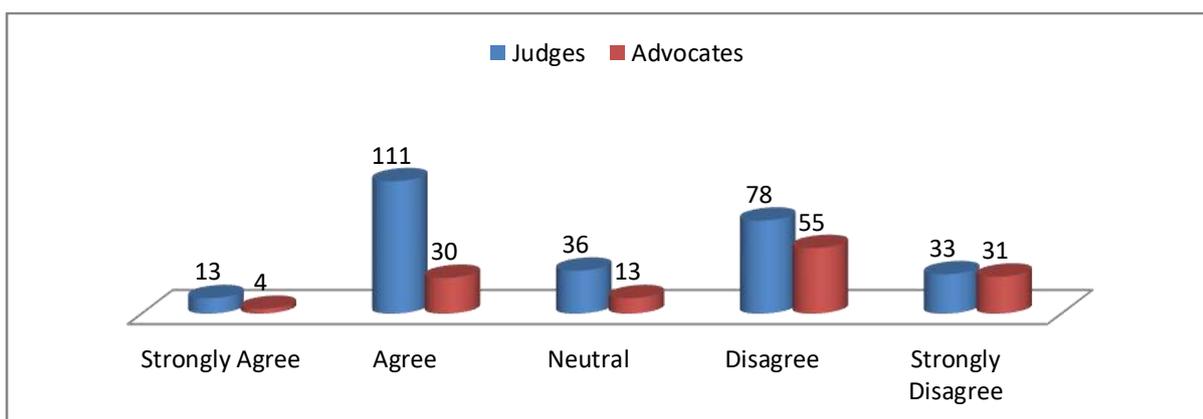
| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.492593 | 3.389313 |
| Known Variance | 0.820316 | 1.153779 |
| Observations | 270 | 131 |
| Hypothesized Mean Difference | 0 | |
| z | 0.948931 | |
| P(Z<=z) one-tail | 0.171328 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.342656 | |
| z Critical two-tail | 1.959964 | |

32) It would be better to increase the percentage of interim compensation at Trial stage, to do justice to the complainant.

As per the responses recorded, 46% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that it would be better to increase the percentage of interim compensation at the Trial stage, to do justice to the complainant as shown in Figure 4.109. The recorded responses show that, 64% of the advocates both from the High Courts and Subordinate Courts have agreed to the statement that it would be better to increase the percentage of interim compensation at the Trial stage, to do justice to the complainant as shown in Figure 4.110. Table 4.52 clearly shows that P-value is significant reflecting the difference in the opinion among Hon'ble Judges and Advocates, but overall responses are equally divided on both sides.

Table 4.51: Response Rates of Hon'ble Judges and Advocates on Question 32

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 13 | 11 | 36 | 78 | 33 | 2.97417 |
| Advocates | 4 | 30 | 13 | 55 | 31 | 2.406015 |

**Figure 4.109:** Hon'ble Judges' Response Rate on Question 32**Figure 4.110:** Advocates' Response Rate on Question 32**Figure 4.111:** Judges Vs Advocates data comparison for Question 32**Table 4.52:** Comparison of responses on Question 32 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.97417 | 2.406015 |
| Known Variance | 1.375717 | 1.338911 |
| Observations | 271 | 133 |
| Hypothesized Mean Difference | 0 | |
| z | 4.61694 | |
| P(Z<=z) one-tail | 1.95E-06 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 3.89E-06 | |
| z Critical two-tail | 1.959964 | |

33) Directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it.

As per the responses recorded, 50% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it as shown in Figure 4.112. The recorded responses show that, 42% of the advocates both from the High Courts and Subordinate Courts have agreed to the statement that Directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it as shown in Figure 4.113. It is clear from Table 4.54 that the P-value is significant and there is difference between the opinion of Hon'ble Judges and Advocates.

Table 4.53: Response Rates of Hon'ble Judges and Advocates on Question 33

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 11 | 123 | 53 | 61 | 21 | 3.156134 |
| Advocates | 10 | 47 | 25 | 20 | 33 | 2.859259 |

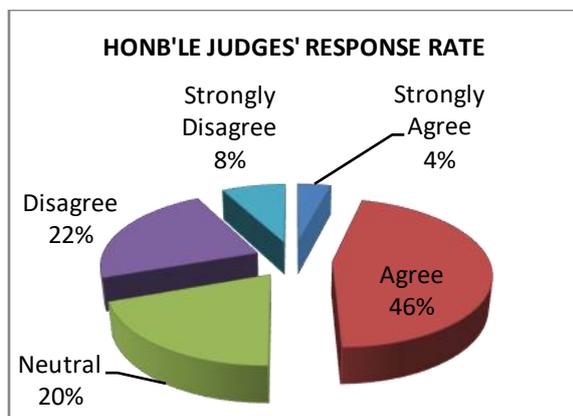


Figure 4.112: Hon'ble Judges' Response Rate on Question 33

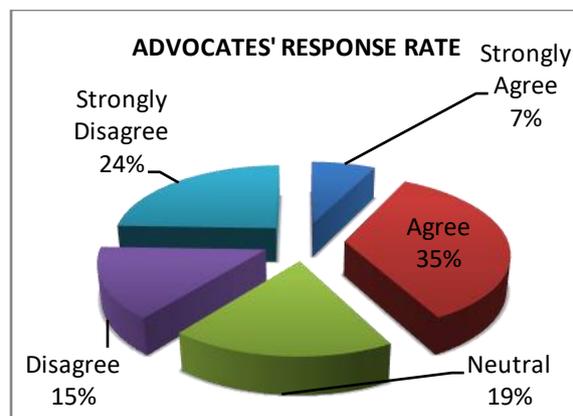


Figure 4.113: Advocates' Response Rate on Question 33

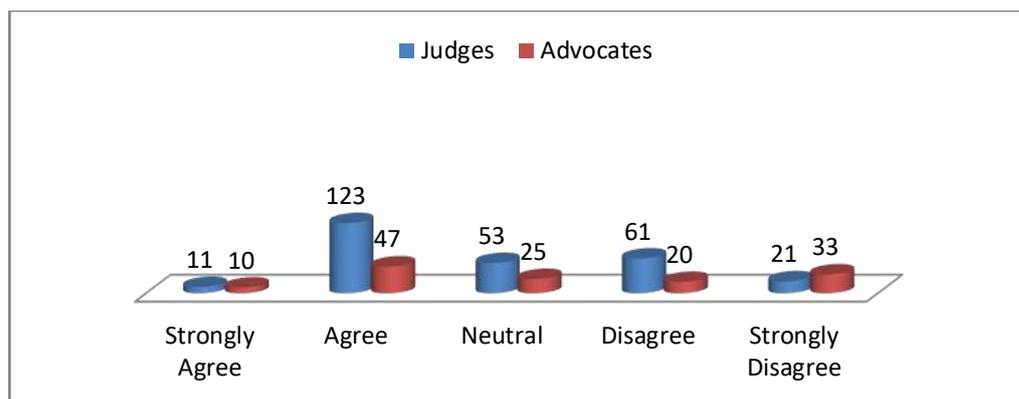


Figure 4.114: Judges Vs Advocates data comparison for Question 33

Table 4.54: Comparison of responses on Question 33 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.156134 | 2.843284 |
| Known Variance | 1.135474 | 1.750562 |
| Observations | 269 | 134 |
| Hypothesized Mean Difference | 0 | |
| <i>z</i> | 2.379589 | |
| P(Z<=z) one-tail | 0.008666 | |
| <i>z</i> Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.017332 | |
| <i>z</i> Critical two-tail | 1.959964 | |

34) According to you, is it feasible to examine, cross-examine or re-examine the witnesses through live telepresence or video conference?

As per the responses recorded, 67% of the Hon'ble Judges both from the High Court and the Subordinate Courts have disagreed to the statement that it is feasible to examine, cross-examine or re-examine the witnesses through live telepresence or video conference as shown in Figure 4.115. The recorded responses show that, 78% of the advocates both from the High Court and the Subordinate Courts have disagreed to the statement that it is feasible to examine, cross-examine or re-examine the witnesses through live telepresence or video conference as shown in Figure 4.116.

Table 4.55: Response Rates of Hon'ble Judges and Advocates on Question 34

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 83 | 170 |
| Advocates | 31 | 113 |

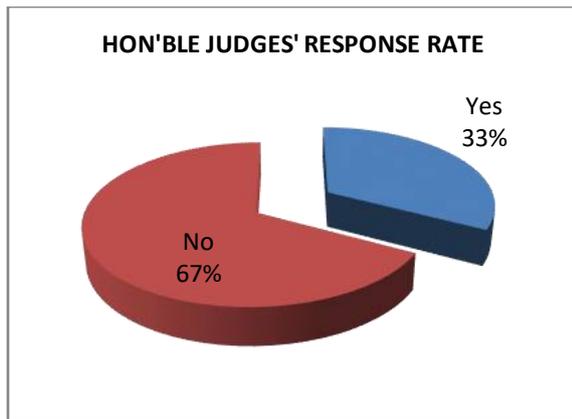


Figure 4.115: Hon'ble Judges' Response Rate on Question 34

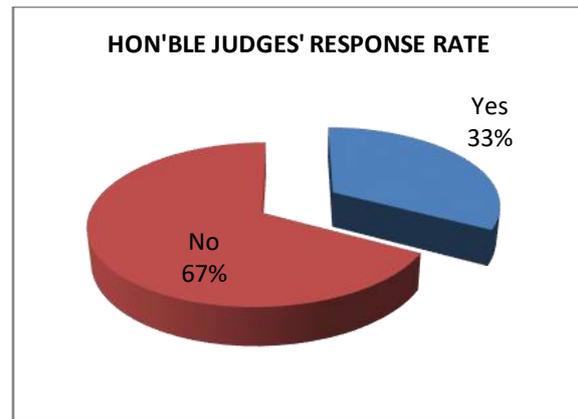


Figure 4.116: Advocates' Response Rate on Question 34

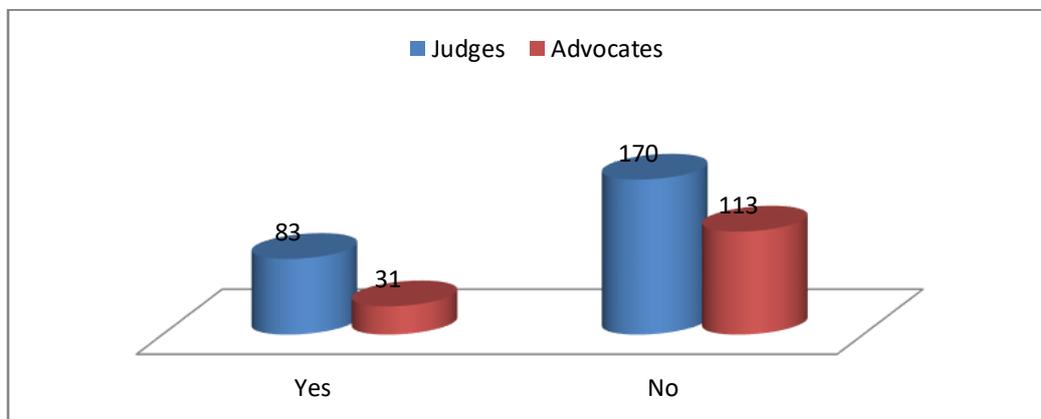


Figure 4.117: Judges Vs Advocates data comparison for Question 34

38) Should there be a time limit for arguments?

According to the responses tabulated, 71% of the Hon'ble Judges both from the High Court and the Subordinate Courts have disagreed to the statement that there should be a time limit for arguments as shown in Figure 4.118. The recorded responses show that, 66% of the Advocates Judges both from the High Court and the Subordinate Courts have disagreed to the statement that there should be a time limit for arguments as shown in Figure 4.119.

Table 4.56: Response Rates of Hon'ble Judges and Advocates on Question 38

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 76 | 186 |
| Advocates | 45 | 88 |

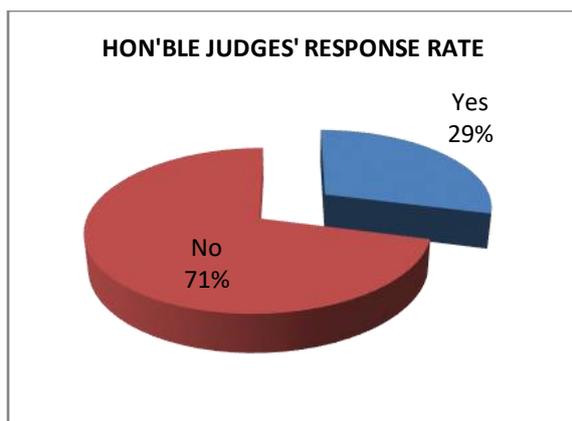


Figure 4.118: Hon'ble Judges Response Rate on Question 38

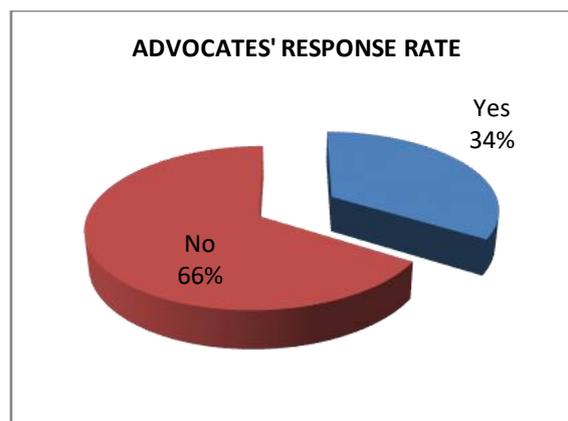


Figure 4.119: Advocates Response Rate on Question 38

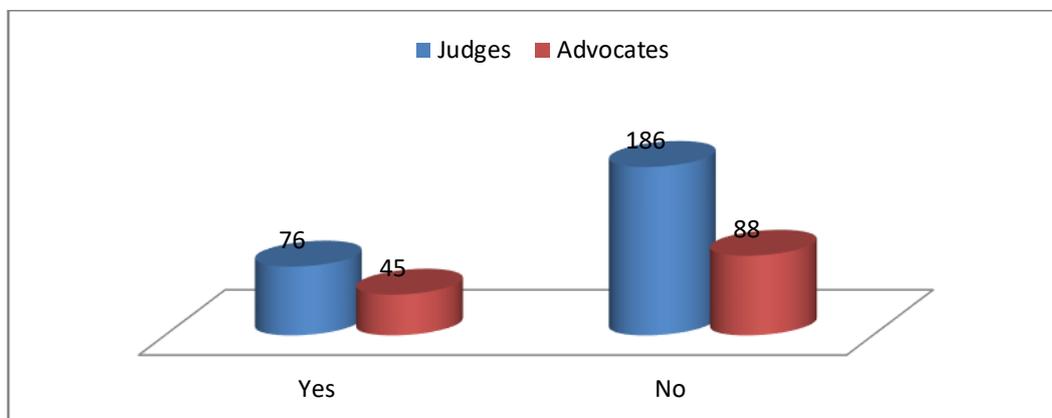


Figure 4.120: Judges Vs Advocates data comparison for Question 38

39) Do you favour written submissions over oral arguments to save time?

As per the responses recorded, 63% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that they favour written submissions over oral arguments to save time as shown in Figure 4.121. The recorded responses show that, 83% of the advocates both from the High Court and the Subordinate Courts have disagreed to the statement that they favour written submissions over oral arguments to save time as shown in Figure 4.122.

Table 4.57: Response Rates of Hon'ble Judges and Advocates on Question 39

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 156 | 92 |
| Advocates | 21 | 103 |

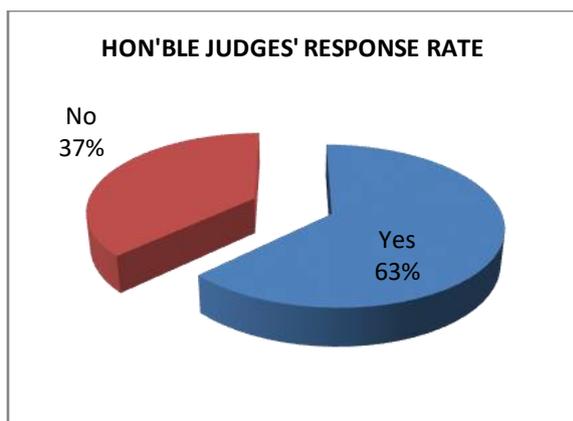


Figure 4.121: Hon'ble Judges' Response Rate on Question 39

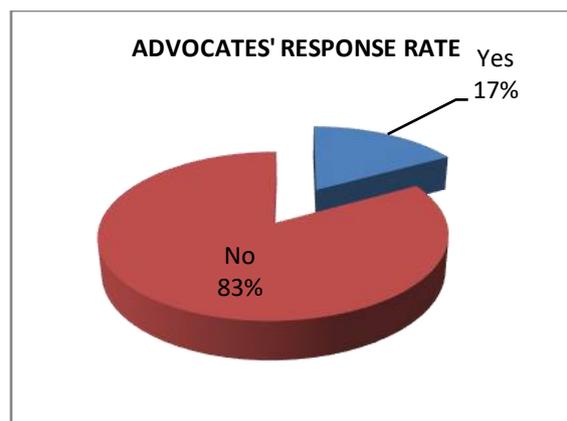


Figure 4.122: Advocates' Response Rate on Question 39

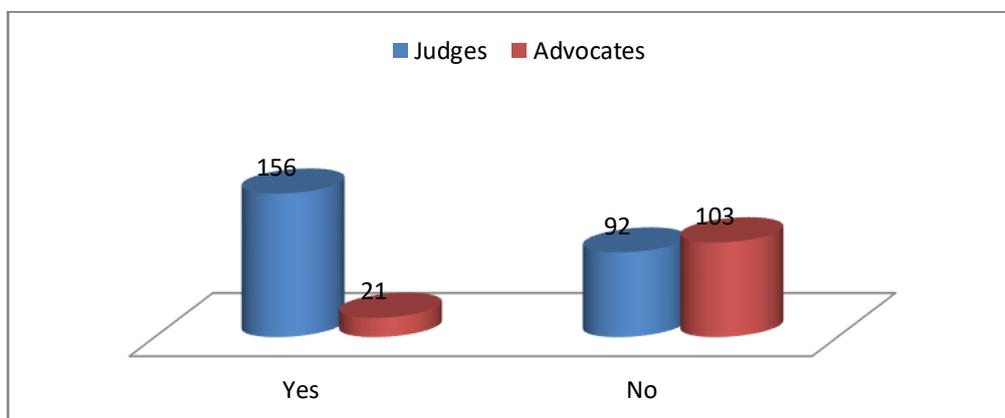


Figure 4.123: Judges Vs Advocates data comparison for Question 39

40) Will assigning Law clerks cum research assistants to Judges, solve the problem of delays in delivering of final Judgments?

According to the responses tabulated, Hon'ble Judges both from the High Courts and the Subordinate Courts have opined that assigning law clerks cum research assistants to Judges, will solve the problem of delays in delivering of final Judgments in the following way: 'will help to some extent in some areas (42%)'; 'help to some extent at (27%)' and 'definitely help at (20%)' as shown in Figure 4.124. The recorded responses show that, 41% of the advocates both from the High Courts and the Subordinate Courts have opined that assigning law clerks cum research assistants to Judges, solve the problem of delays in delivering of final Judgments 'will definitely help' followed by 'help to some extent' at 30% and 'will not help much' at 16% as shown in Figure 4.125.

Table 4.58: Response Rates of Hon’ble Judges and Advocates on Question 40

| Respondents | Definitely Help | Help to some extent | Help to some extent in some areas | Will not help much | Mean |
|-------------|-----------------|---------------------|-----------------------------------|--------------------|----------|
| Judges | 53 | 71 | 109 | 29 | 2.564885 |
| Advocates | 40 | 18 | 55 | 22 | 2.562963 |

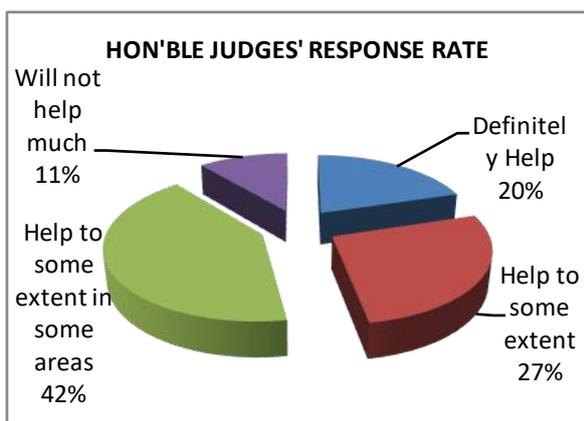


Figure 4.124: Hon’ble Judges’ Response Rate on Question 40

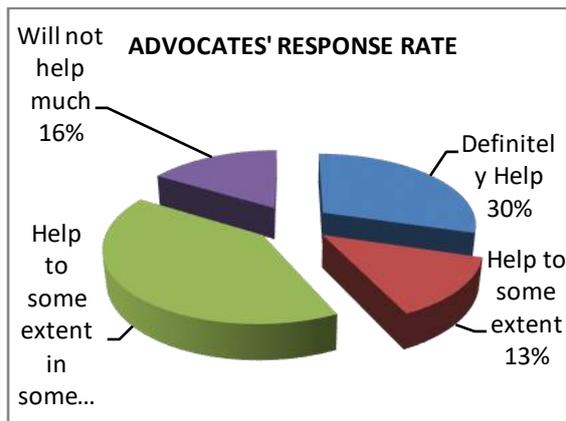


Figure 4.125: Advocates’ Response Rate on Question 40

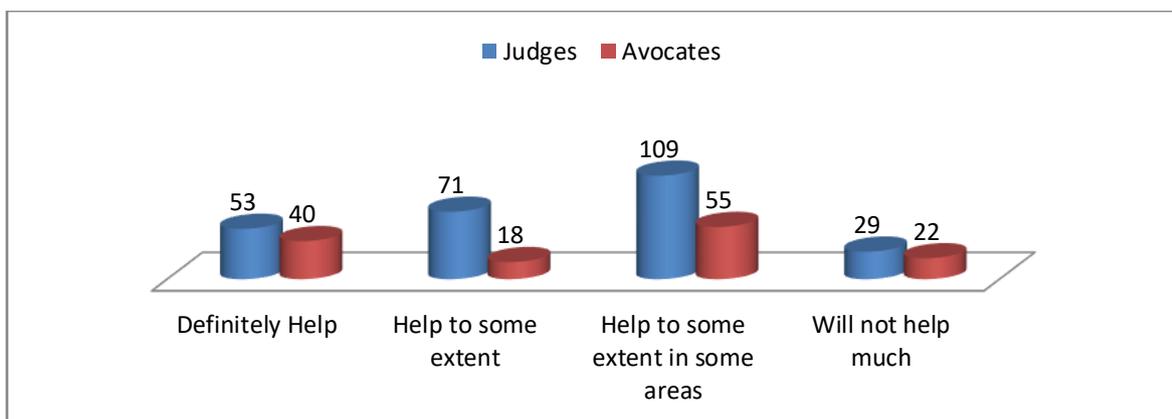


Figure 4.126: Judges Vs Advocates data comparison for Question 40

Table 4.59: Comparison of responses on Question 40 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.564885 | 2.562963 |
| Known Variance | 0.871744 | 1.164554 |
| Observations | 262 | 135 |
| Hypothesized Mean Difference | 0 | |

| | | |
|---------------------|----------|--|
| z | 0.017584 | |
| P(Z<=z) one-tail | 0.492985 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.98597 | |
| z Critical two-tail | 1.959964 | |

41) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court.

According to the responses tabulated, 70% of the Hon'ble Judges both from the High Court and the Subordinate Courts have disagreed to the statement that there should be only one forum to file revisions, instead of having High Court as well as Sessions Court as shown in Figure 4.127. The recorded responses show that, 76% of the advocates both from the High Court and the Subordinate Courts have disagreed to the statement that there should be only one forum to file revisions, instead of having High Court as well as Sessions Court as shown in Figure 4.128.

Table 4.60: Response Rates of Hon'ble Judges and Advocates on Question 41

| Respondents | Yes | No |
|-------------|-----|-----|
| Judges | 72 | 167 |
| Advocates | 32 | 99 |

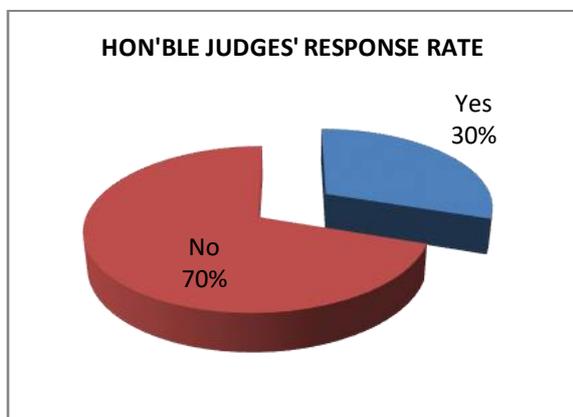


Figure 4.127: Hon'ble Judges' Response Rate on Question 41

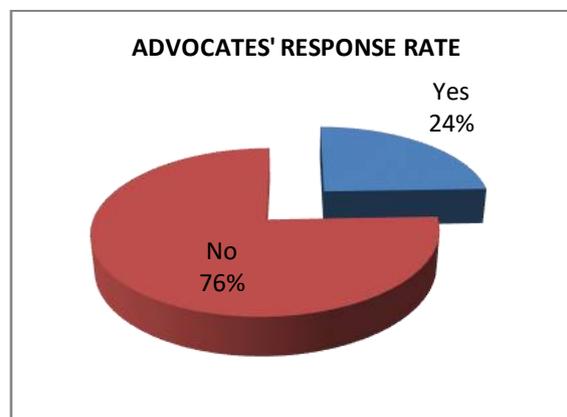


Figure 4.128: Advocates' Response Rate on Question 41

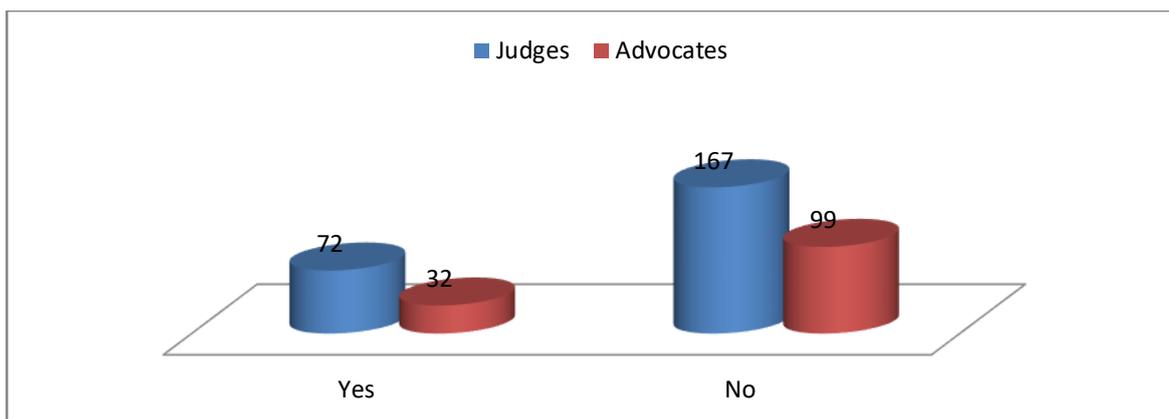


Figure 4.129: Judges Vs Advocates data comparison for Question 41

42) Digitalisation of Courts and Court process

According to the responses tabulated, 82% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that the digitalisation of Courts and Court process is needed as shown in Figure 4.130. The recorded responses show that, 83% of the advocates both from the High Court and the Subordinate Courts have agreed to the statement that digitalisation of Courts and Court process is needed as shown in Figure 4.131. As shown in Table 4.62, there is no significant P-value and hence there is no difference in opinion between Hon'ble Judges and Advocates.

Table 4.61: Response Rates of Hon'ble Judges and Advocates on Question 42

| Respondents | Not at all important | Not Important | Important | Very Important | Extremely Important | Mean |
|-------------|----------------------|---------------|-----------|----------------|---------------------|--------------|
| Judges | 11 | 29 | 61 | 99 | 30 | 3.4695 65 |
| Advocates | 7 | 10 | 30 | 33 | 21 | 3.5049 5 |

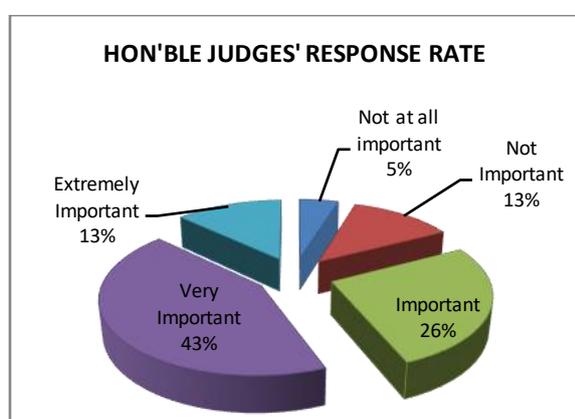


Figure 4.130: Hon'ble Judges' Response Rate on Question 42

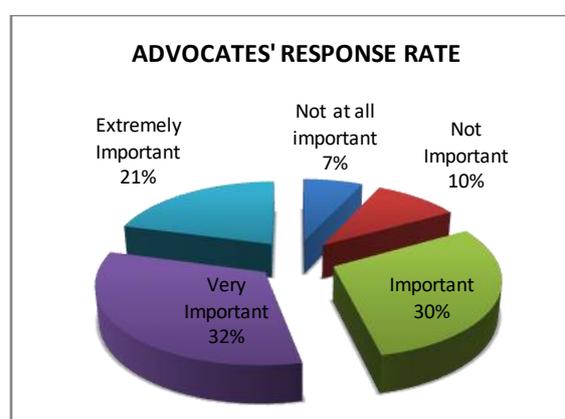


Figure 4.131: Advocates' Response Rate on Question 42

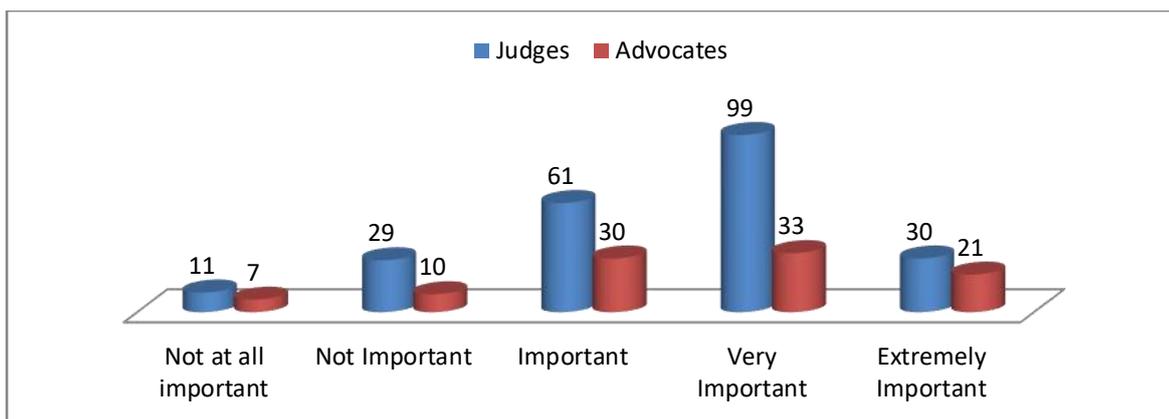


Figure 4.132: Judges Vs Advocates data comparison for Question 42

Table 4.62: Comparison of responses on Question 42 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.530435 | 2.49505 |
| Known Variance | 1.049907 | 1.279678 |
| Observations | 230 | 101 |
| Hypothesized Mean Difference | 0 | |
| z | 0.269537 | |
| P(Z<=z) one-tail | 0.393758 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.787517 | |
| z Critical two-tail | 1.959964 | |

43) Better infrastructure and increasing Court halls.

According to the responses tabulated, 87% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that better infrastructure and increasing Court halls are needed as shown in Figure 4.133. The recorded responses show that, 90% of the advocates both from the High Court and the Subordinate Courts have agreed to the statement that better infrastructure and increasing Court halls are needed as shown in Figure 4.134. As shown in Table 4.64, there is significant P-value and hence there is a difference in the degree of agreement among Hon'ble Judges and Advocates, but both are agreed on the said statement.

Table 4.63: Response Rates of Hon'ble Judges and Advocates on Question 43

| Respondents | Not at all important | Not Important | Important | Very Important | Extremely Important | Mean |
|-------------|----------------------|---------------|-----------|----------------|---------------------|--------------|
| Judges | 3 | 31 | 70 | 43 | 112 | 3.8880 31 |
| Advocates | 1 | 9 | 33 | 39 | 22 | 3.6923 08 |

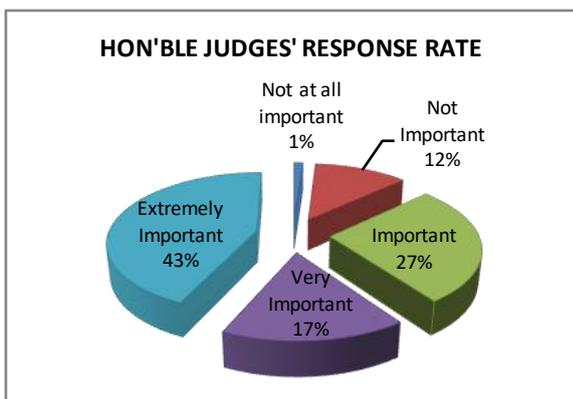


Figure 4.133: Hon’ble Judges’ Response Rate on Question 43



Figure 4.134: Advocates’ Response Rate on Question 43

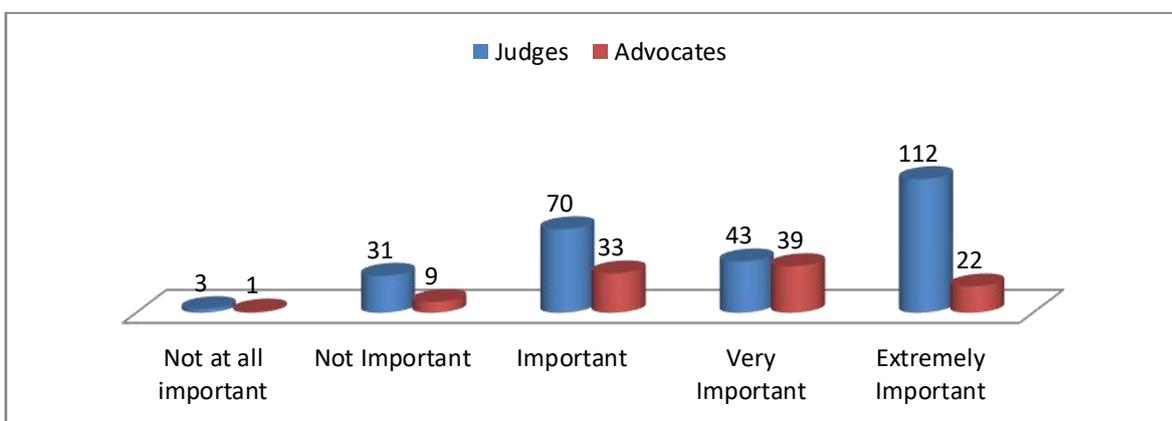


Figure 4.135: Judges Vs Advocates data comparison for Question 43

Table 4.64: Comparison of responses on Question 43 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.111969 | 2.307692 |
| Known Variance | 1.273177 | 0.866864 |
| Observations | 259 | 104 |
| Hypothesized Mean Difference | 0 | |
| z | -1.70027 | |
| P(Z<=z) one-tail | 0.04454 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.08908 | |
| z Critical two-tail | 1.959964 | |

44) Increasing manpower including the number of Judges

According to the responses tabulated, 84% of the Hon’ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that increasing manpower including the number of Judges is needed as shown in Figure 4.136. The recorded responses show that,

81% of the advocates both from the High Court and the Subordinate Courts have agreed to the statement that increasing manpower including the number of Judges is needed as shown in Figure 4.137. As shown in Table 4.66 there is no significant P value and hence there is no difference in opinion between Hon’ble Judges and the Advocates.

Table 4.65: Response Rates of Hon’ble Judges and Advocates on Question 44

| | Not at all important | Not Important | Important | Very Important | Extremely Important | Mean |
|-----------|----------------------|---------------|-----------|----------------|---------------------|--------------|
| Judges | 22 | 17 | 89 | 49 | 58 | 3.4425 53 |
| Advocates | 1 | 19 | 30 | 36 | 22 | 2.8161 76 |

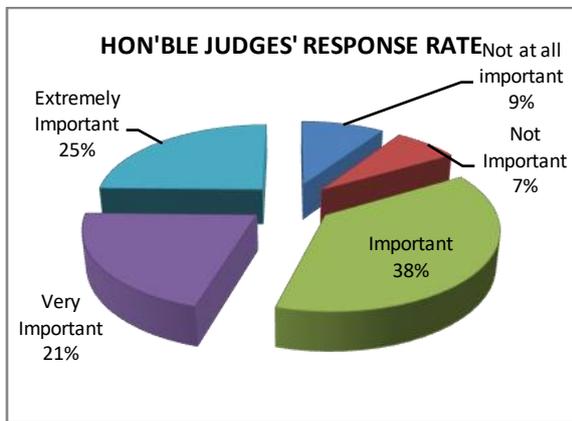


Figure 4.136: Hon’ble Judges’ Response Rate on Question 44

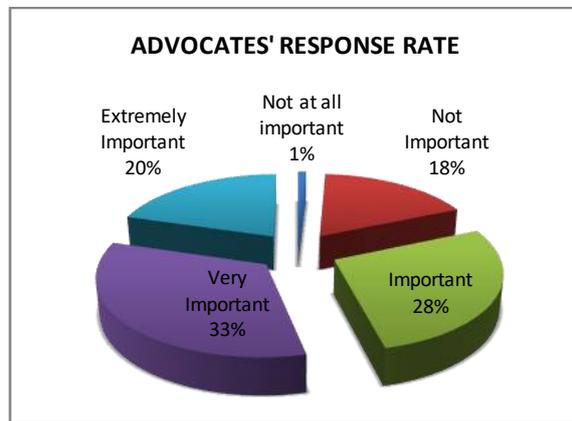


Figure 4.137: Advocates’ Response Rate on Question 44

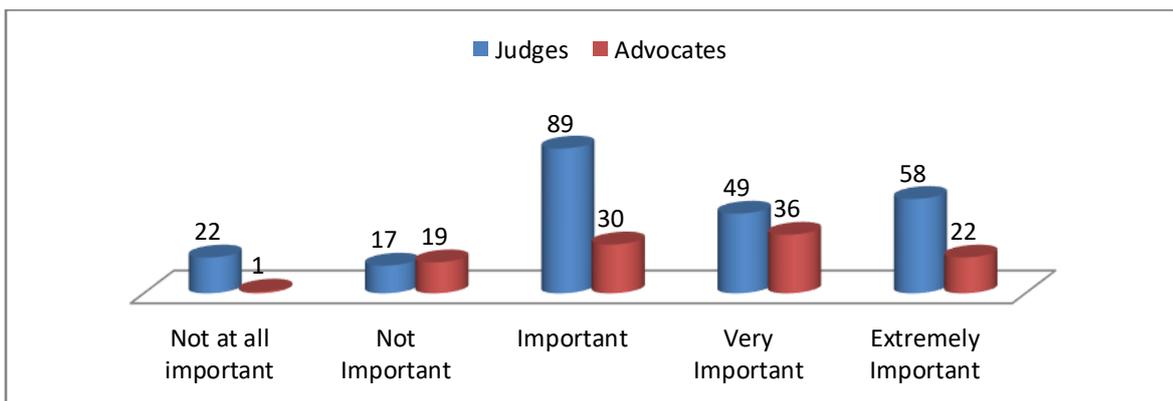


Figure 4.138: Judges Vs Advocates data comparison for Question 44

Table 4.66: Comparison of responses on Question 44 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.557447 | 2.453704 |

| | | |
|------------------------------|----------|----------|
| Known Variance | 1.4467 | 1.062671 |
| Observations | 235 | 108 |
| Hypothesized Mean Difference | 0 | |
| z | 0.820271 | |
| $P(Z \leq z)$ one-tail | 0.206031 | |
| z Critical one-tail | 1.644854 | |

45) Better mechanism for alternate dispute resolution

According to the responses tabulated, 56% of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that better mechanism for alternate dispute resolution is required as shown in Figure 4.139. The recorded responses show that, 61% of the advocates both from the High Court and the Subordinate Courts have agreed to the statement that better mechanism for alternate dispute resolution is required as shown in Figure 4.140. As Table 4.68 clearly shows that the P-value is not significant and hence there is difference in opinion between the Hon'ble Judges and Advocates.

Table 4.67: Response Rates of Hon'ble Judges and Advocates on Question 45

| Respondents | Not at all important | Not Important | Important | Very Important | Extremely Important | Mean |
|-------------|----------------------|---------------|-----------|----------------|---------------------|----------|
| Judges | 9 | 98 | 43 | 72 | 24 | 3.01626 |
| Advocates | 8 | 33 | 23 | 28 | 13 | 2.352941 |

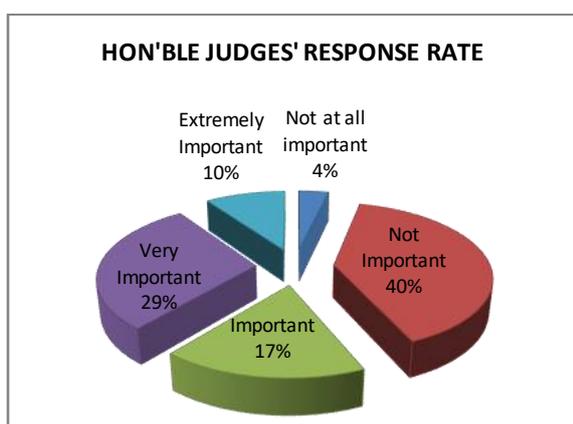


Figure 4.139: Hon'ble Judges' Response Rate on Question 45

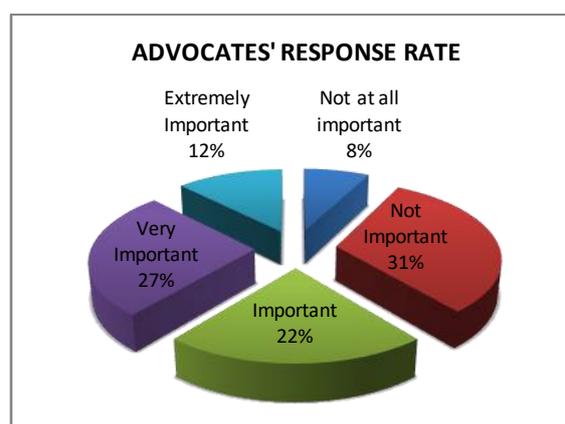


Figure 4.140: Advocates' Response Rate on Question 45

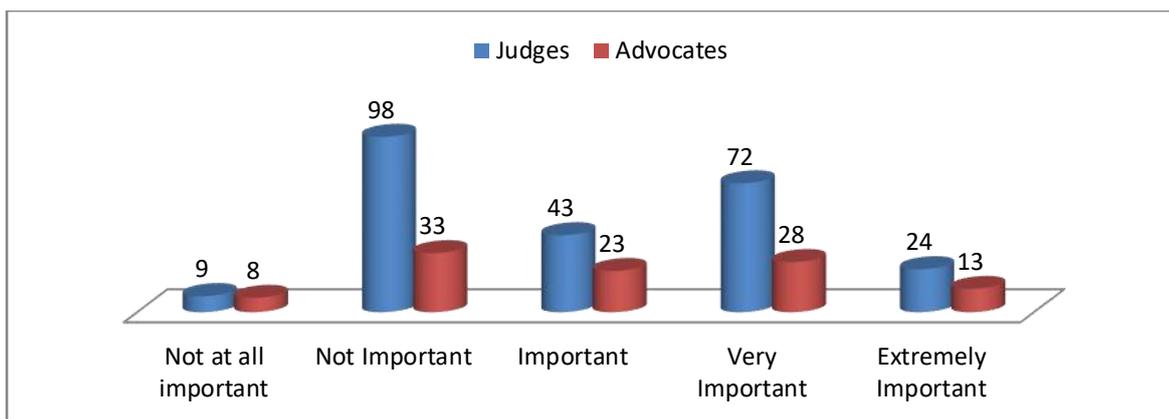


Figure 4.141: Judges Vs Advocates data comparison for Question 45

Table 4.68: Comparison of responses on Question 45 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.98374 | 2.952381 |
| Known Variance | 1.227378 | 1.378685 |
| Observations | 246 | 105 |
| Hypothesized Mean Difference | 0 | |
| z | 0.232962 | |
| P(Z<=z) one-tail | 0.407895 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.815791 | |
| z Critical two-tail | 1.959964 | |

46) Amendment to procedural laws

According to the responses tabulated, 85% of the of the Hon'ble Judges both from the High Court and the Subordinate Courts have agreed to the statement that Amendment to Procedural Laws is required as shown in Figure 4.142. The recorded responses show that, 82% of the advocates both from the High Court and the Subordinate Courts have agreed to the statement that Amendment to Procedural Laws is required as shown in Figure 4.143. As it is clear from the Table 4.70, there is no significant P value and hence there is no difference in opinion between the Hon'ble Judges and the Advocates.

Table 4.69: Response Rates of Hon'ble Judges and Advocates on Question 46

| Respondent | Not at all important | Not Important | Important | Very Important | Extremely Important | Mean |
|------------|----------------------|---------------|-----------|----------------|---------------------|----------|
| Judges | 22 | 17 | 88 | 59 | 78 | 3.583333 |
| Advocates | 6 | 12 | 20 | 36 | 28 | 2.75 |

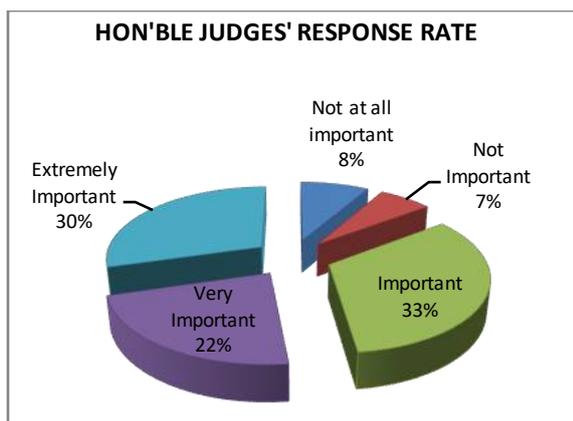


Figure 4.142: Hon'ble Judges' Response Rate on Question 46

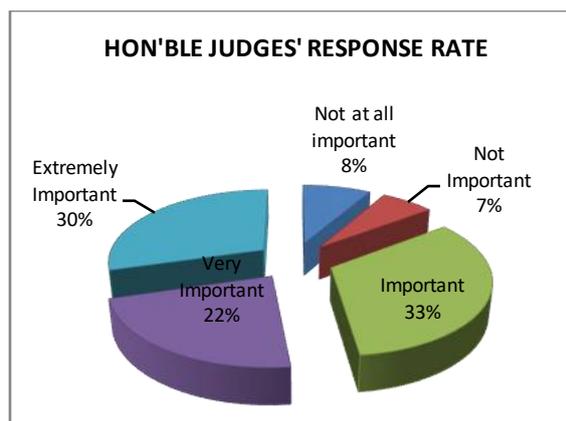


Figure 4.143: Advocates' Response Rate on Question 46

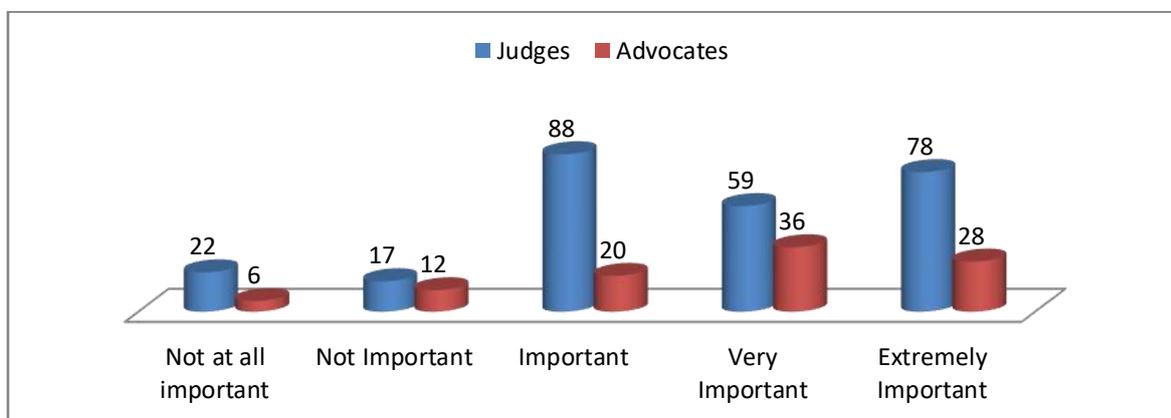


Figure 4.144: Judges Vs Advocates data comparison for Question 46

Table 4.70: Comparison of responses on Question 46 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 2.416667 | 2.333333 |
| Known Variance | 1.462753 | 1.359477 |
| Observations | 264 | 102 |
| Hypothesized Mean Difference | 0 | |
| z | 0.60666 | |
| P(Z<=z) one-tail | 0.272038 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.544077 | |
| z Critical two-tail | 1.959964 | |

47) Tele-Law service launched by Dept of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent.

According to the responses tabulated, 55% of the Hon'ble Judges both from the High Courts and the Subordinate Courts have agreed to the statement that Tele-Law service launched by Dept of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent as shown in Figure 4.145. The recorded responses show that, 45% of the advocates both from the High Courts and the Subordinate Courts have agreed to the statement that Tele-Law service launched by Department of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent as shown in Figure 4.146. As it is clear from Table 4.72, P value is significant and hence there is difference in opinion between Hon'ble Judges and the advocates.

Table 4.71: Response Rates of Hon'ble Judges and Advocates on Question 47

| | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-----------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 13 | 96 | 22 | 55 | 12 | 3.217172 |
| Advocates | 5 | 51 | 19 | 37 | 13 | 2.984 |

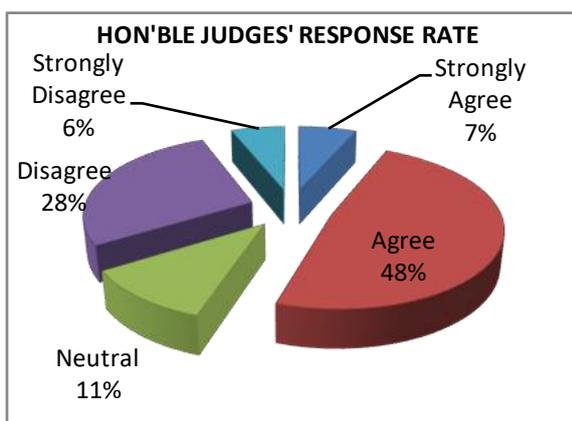


Figure 4.145: Hon'ble Judges' Response Rate on Question 47

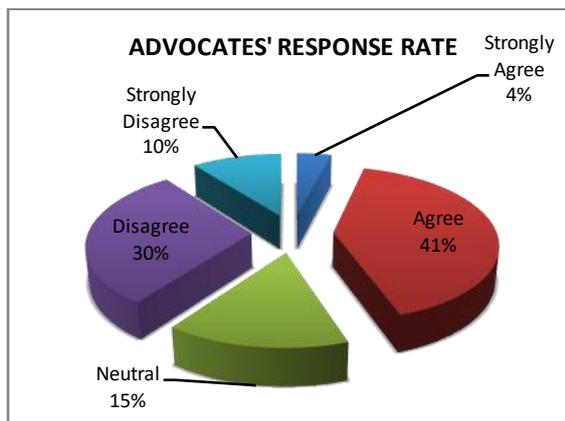


Figure 4.146: Advocates' Response Rate on Question 47

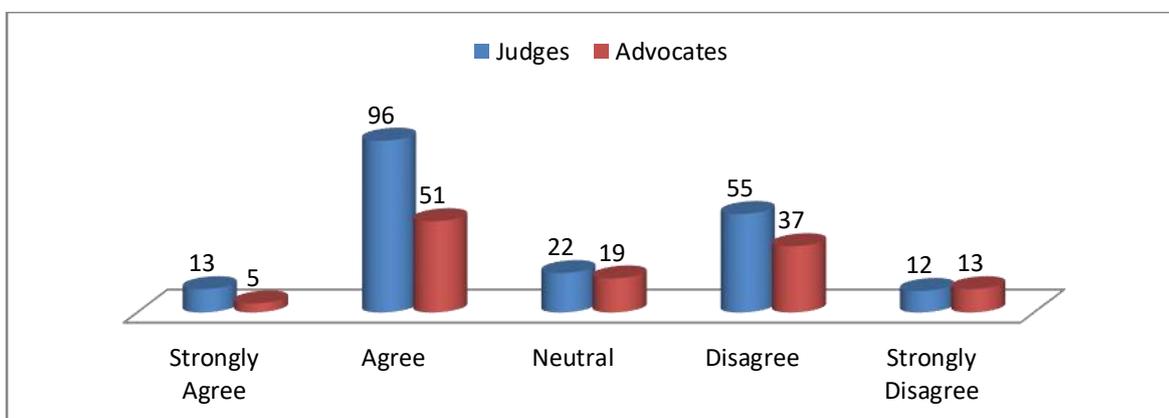


Figure 4.147: Judges Vs Advocates data comparison for Question 47

Table 4.72: Comparison of responses on Question 47 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.217172 | 2.984 |
| Known Variance | 1.220513 | 1.279744 |
| Observations | 198 | 125 |
| Hypothesized Mean Difference | 0 | |
| z | 1.820645 | |
| P(Z<=z) one-tail | 0.03433 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.068661 | |
| z Critical two-tail | 1.959964 | |

48) Tele-Law service would be detrimental in cases where there is a time limit to file the case, such as cheque bounce, as giving legal advice may take time and this in turn may become a cause for delay in filing of case.

According to the responses tabulated, 44% of the Hon'ble Judges both from the High Courts and the Subordinate Courts have agreed to the statement that Tele-Law service would be detrimental in cases where there is a time limit to file the case, such as cheque bounce, as giving legal advice may take time and this in turn may become a cause for delay in filing of case as shown in Figure 4.148. The recorded responses show that, 52% of the advocates both from the High Courts and the Subordinate Courts have agreed to the statement that Tele-Law service would be detrimental in cases where there is a time limit to file the case, such as cheque bounce, as giving legal advice may take time and this in turn may become a cause for delay in filing of case as shown in Figure 4.149. As shown in Table 4.74, there is no significant P value and hence there is no difference in the opinion between the Hon'ble Judges and the advocates.

Table 4.73: Response Rates of Hon'ble Judges and Advocates on Question 48

| Respondents | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree | Mean |
|-------------|----------------|-------|---------|----------|-------------------|----------|
| Judges | 9 | 76 | 32 | 58 | 17 | 3.010417 |
| Advocates | 5 | 55 | 13 | 29 | 12 | 3.105263 |

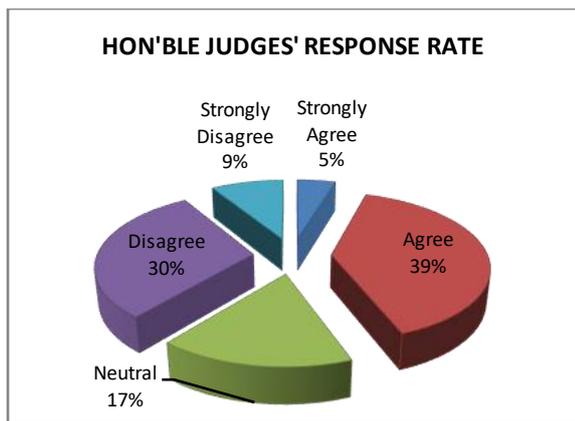


Figure 4.148: Hon'ble Judges Response Rate on Question 48

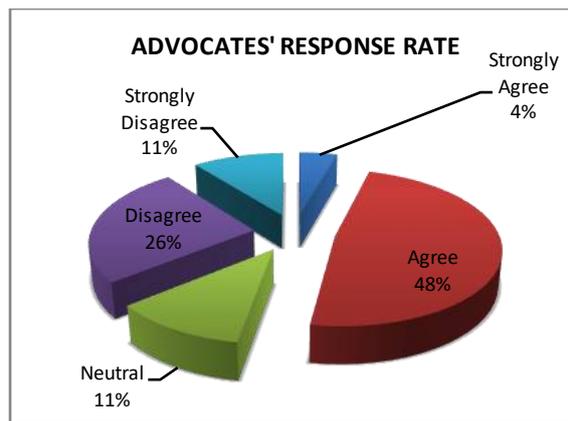


Figure 4.149: Advocates Response Rate on Question 48

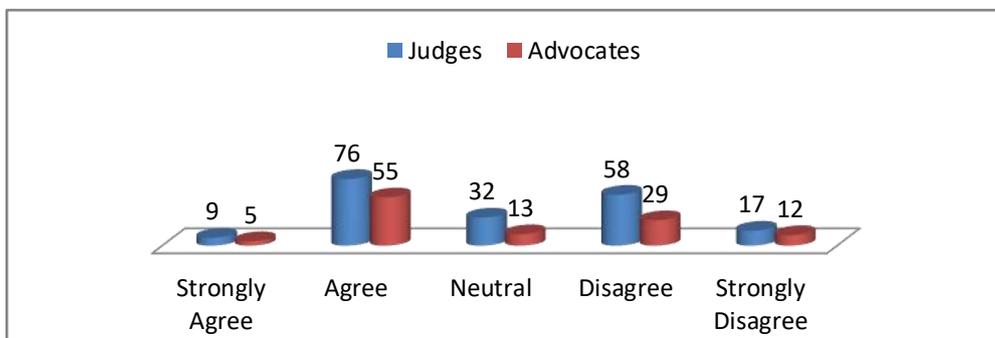


Figure 4.150: Judges Vs Advocates data comparison for Question 48

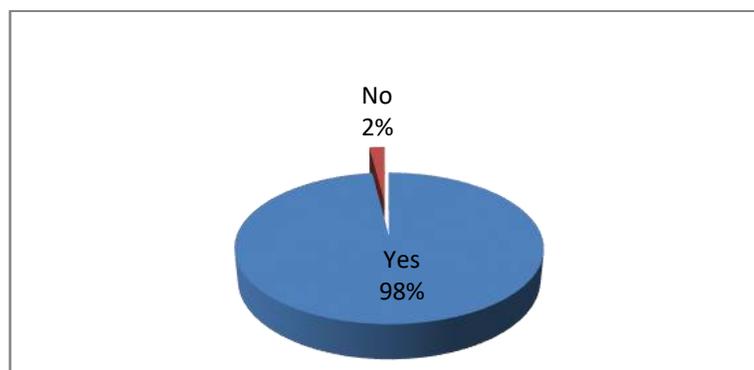
Table 4.74: Comparison of responses on Question 48 among Advocates and Judges

| z-Test: Two Sample for Means | | |
|------------------------------|----------|-----------|
| | Judges | Advocates |
| Mean | 3.010417 | 3.105263 |
| Known Variance | 1.239475 | 1.322253 |
| Observations | 192 | 114 |
| Hypothesized Mean Difference | 0 | |
| z | -0.70588 | |
| P(Z<=z) one-tail | 0.240131 | |
| z Critical one-tail | 1.644854 | |
| P(Z<=z) two-tail | 0.480263 | |
| z Critical two-tail | 1.959964 | |

4.2.2 Statistical Analysis of Data Collected from Litigants

1) Is your case pertaining to cheque-bounce?

The recorded responses show that, 98% of the litigants taking part in the survey have their cases pertaining to cheque bounce cases as shown in Figure 4.151.

**Figure 4.151:** Response of Litigants on Question 1

2) Who is the opposing party?

The recorded responses show that, 87% of the litigants have said that their opposing party is a private person, followed by Public Sector Units at 8%, central government at 4% and State Government at 1% as shown in Figure 4.152.

Table 4.75: Response of litigants on Question 2

| | State Government | Central Government | Public Sector Units | Private Person |
|-----------|------------------|--------------------|---------------------|----------------|
| Litigants | 1 | 4 | 7 | 83 |

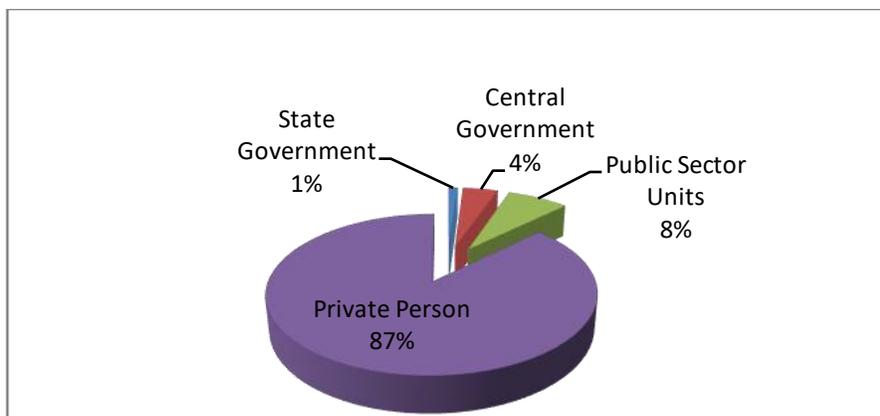


Figure 4.152: Response of Litigants on Question 2

3) Did you approach the State/District Legal Service Authority?

The recorded responses show that, 92% of the litigants have disagreed that they approached the State/District Legal Service Authority as shown in Figure 4.153.

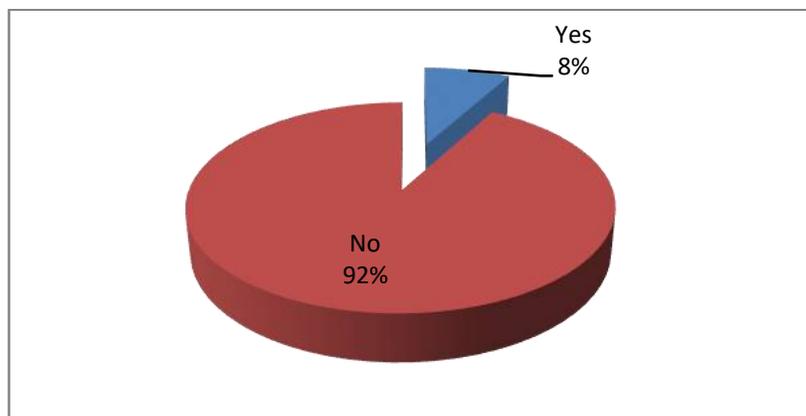


Figure 4.153: Response of Litigants on Question 3

3) Did you approach the State/District Legal Service Authority?

i) If yes were you allotted an advocate?

The recorded responses show that, 100% of the litigants have denied to have been allotted a lawyer by the State/District Legal Service Authority as shown in Figure 4.154.

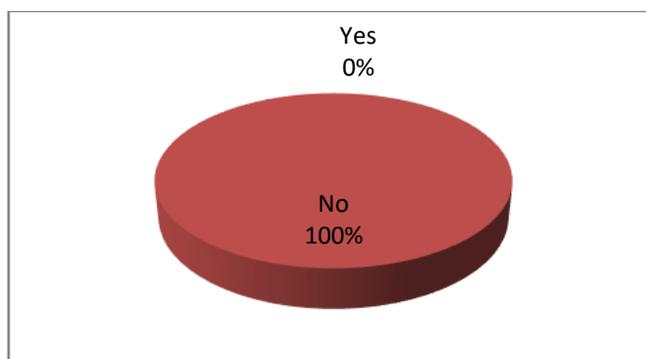


Figure 4.154: Response of Litigants on Question 3(i)

5) Did you know about Mediation and Conciliation?

The recorded responses show that, 62% of the Litigants have disagreed with the statement that they possess any knowledge about Mediation and Conciliation as shown in Figure 4.155.

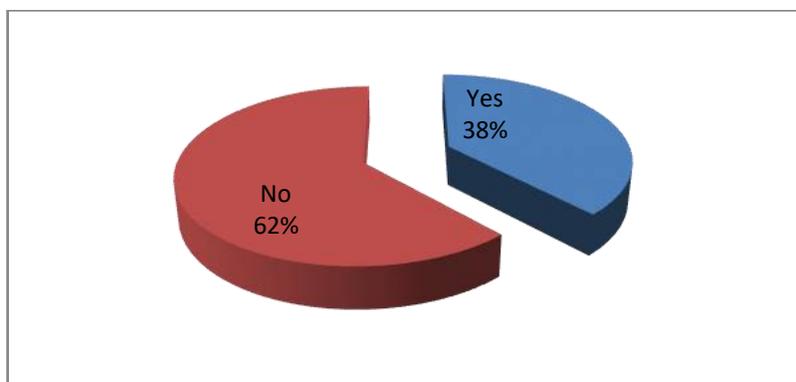


Figure 4.155: Response of Litigants on Question 5

5) Did you know about Mediation and Conciliation?

i) If yes, how did you come to know about it?

The recorded responses show that, 50% of the Litigants have got the knowledge of mediation and conciliation from their advocates, followed by Legal Service Authority at 32% and Friends and relatives at 18% as shown in Figure 4.156.

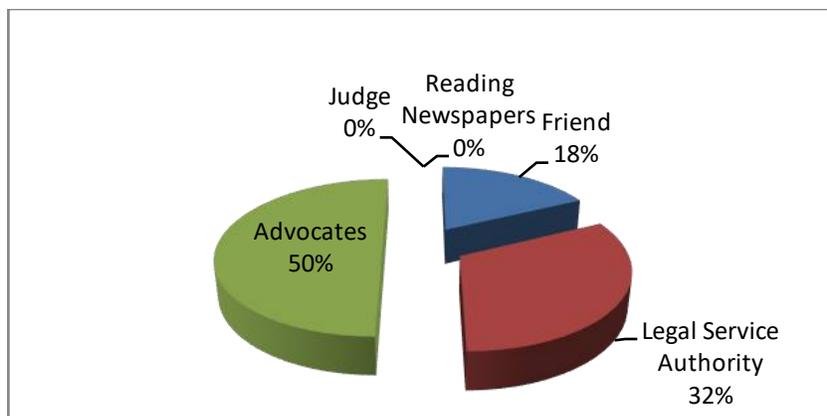


Figure 4.156: Response of Litigants on Question 5(i)

6) Is there a chance of settling the dispute out of Court?

The recorded responses show that, 71% of the litigants have denied to the statement that there is a chance of settling the dispute out of Court as shown in Figure 4.157.

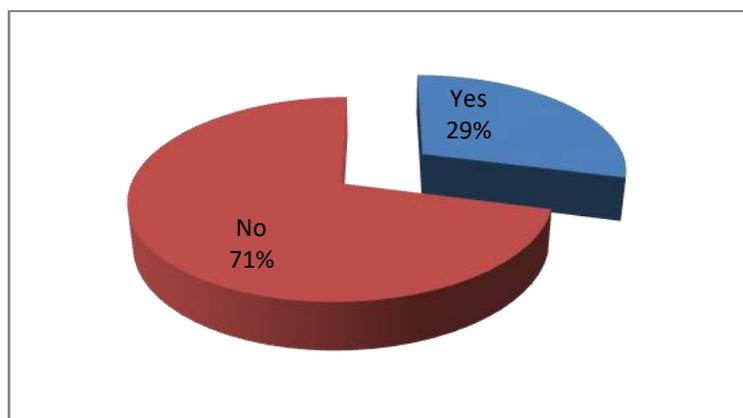


Figure 4.157: Response of Litigants on Question 6

7) How did you file the case? (not applicable to accused)

The recorded responses show that, 79% of the Litigants have said that their advocates have filed their cases where as 19% have opined that they have filed their cases through individual clerks followed by 2% of the litigants have filed it themselves as shown in Figure 4.158.

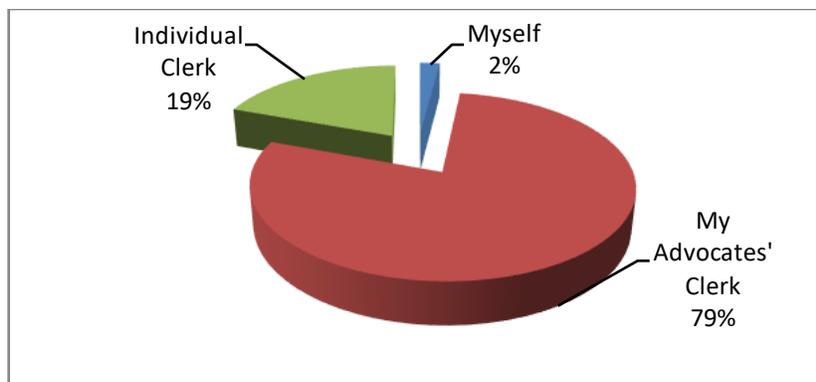


Figure 4.158: Response of Litigants on Question 7

8) Are you aware of e-courts website, which is accessible online?

The recorded responses show that, 71% of the litigants have disagreed to been aware of e-courts website, which is accessible online as shown in Figure 4.159.

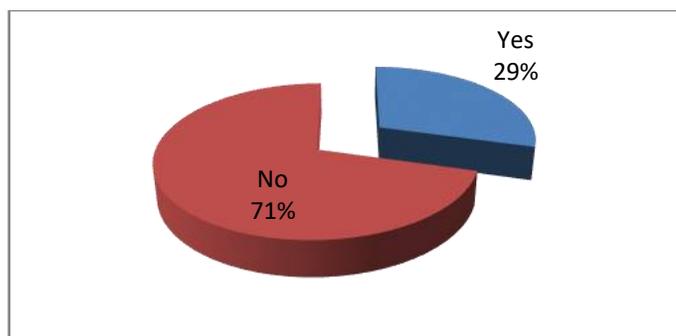


Figure 4.159: Response of Litigants on Question 8

9) Are you able to use a computer and internet to know about your case details/ status online?

The recorded responses show that, 69% of the litigants have denied to the statement that they can use a computer and internet to know about your case details/online status as shown in Figure 4.160.

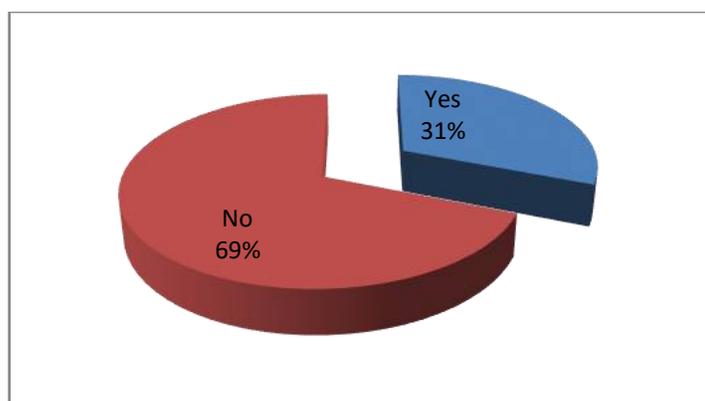


Figure 4.160: Response of Litigants on Question 9

10) Would you welcome the use of electronic filing and online payment of court fees?

The recorded responses show that, 75% of the Litigants have disagreed to the statement that they welcome the use of electronic filing and online payment of court fees as shown in Figure 4.161.

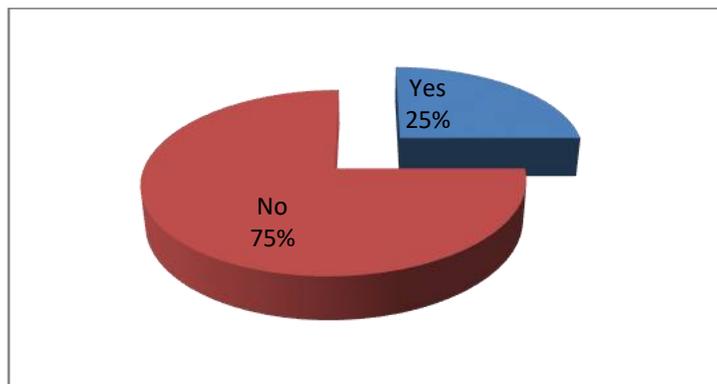


Figure 4.161: Response of Litigants on Question 10

13) Distance travelled by you to attend the court (kms) and time taken.

The recorded responses show that, 53% of the litigants are 10-20 kms away from the courts whilst 30% are within 1-10 kms followed by 17% at 20-30 kms as shown in Figure 4.162.

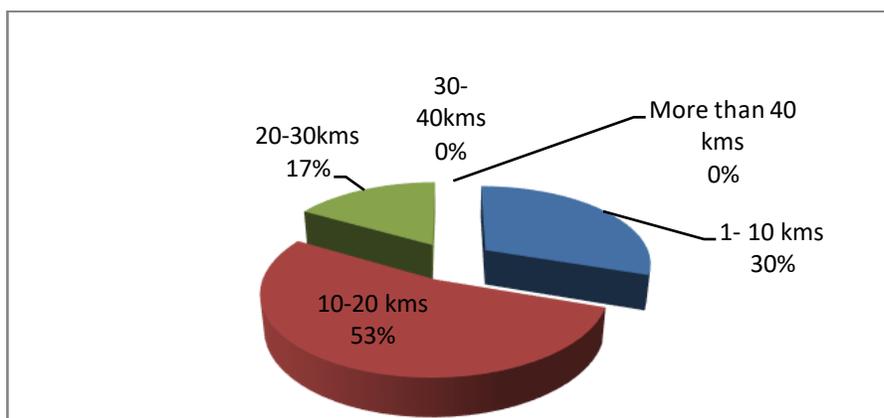


Figure 4.162: Response of Litigants on Question 13

14) How many times did your case got adjourned:

According to the responses recorded, 90% of the litigants have opined that their case has been adjourned (many times) more than thrice, followed by 7% at thrice and 2% at twice as shown in Figure 4.163.

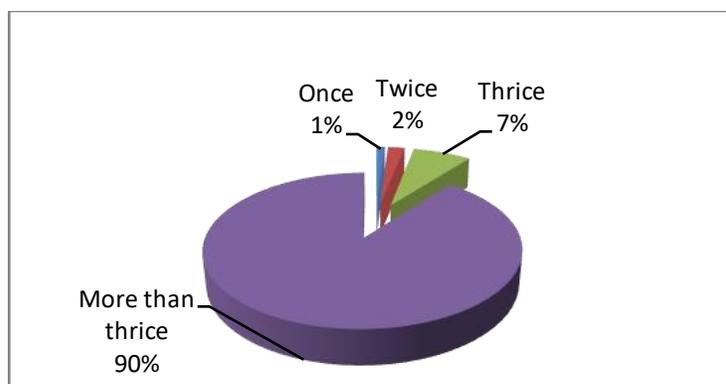


Figure 4.163: Response of Litigants on Question 14

15) What is the average gap between two hearings?

According to the responses recorded, 70% of the litigants said that the average gap between two hearings is 1-10 days whilst 29% said it was 10-20 days followed by 1% saying it's more than a month as shown in Figure 4.164.

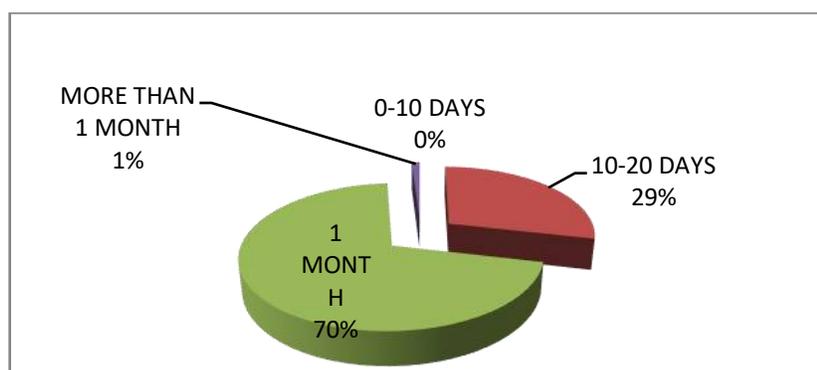


Figure 4.164: Response of Litigants on Question 15

16) Your understanding of legal procedures:

According to the responses recorded, 44% of the litigants state to have poor legal knowledge, followed by 42% stating their legal knowledge is average while only 4% claim to have good legal knowledge of court procedures as shown in Figure 4.165.

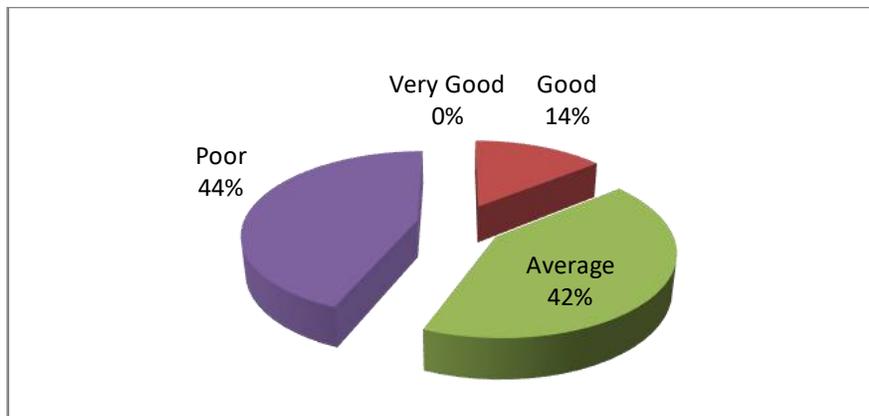


Figure 4.165: Response of Litigants on Question 16

19) For other causes, how the delay can be reduced:

According to the responses recorded, 74% of the litigants have said that reducing the number of adjournments will reduce delays followed by 16% giving their opinion on increasing the number of Courts and Judges and 10% asking to reduce the number of Court Holidays as shown in Figure 4.166.

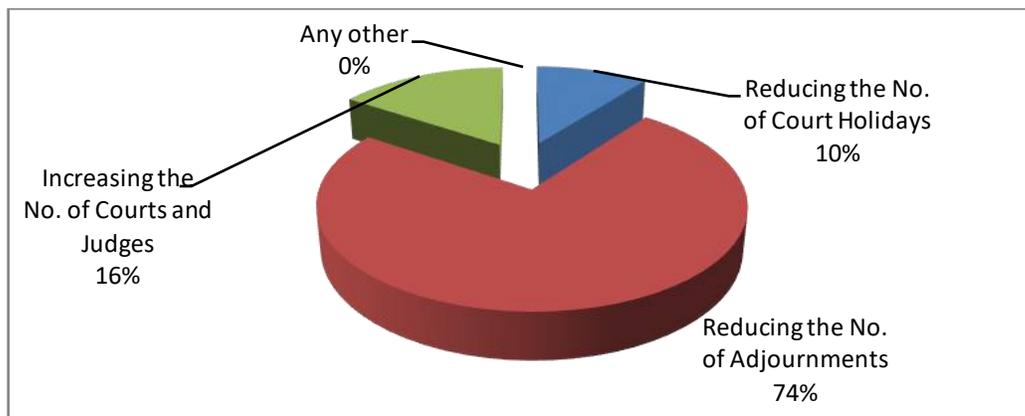


Figure 4.166: Response of Litigants on Question 19

20) Among different participants/stakeholders/of legal system, who was ultimately responsible for most of the delays: -

According to the responses recorded, 47% litigants have claimed that lawyers representing their cases were responsible for most of the delays followed by opponents or their Lawyers at 42% and myself or other litigants from my side at 7% as shown in Figure 4.167.

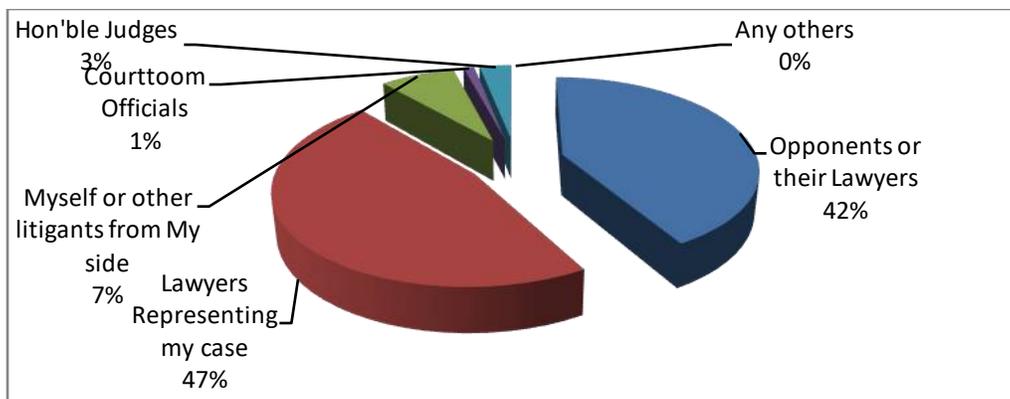


Figure 4.167: Response of Litigants on Question 20

22) Systemic reasons for delays:

According to the responses recorded, 44% of the Litigants have said that the Systemic reasons for delays is the Number of courts followed by Legally Mandatory Notice Periods at 30%, Staffing of vacant Positions at 15% and Number of working days at 11% as shown in Figure 4.168.

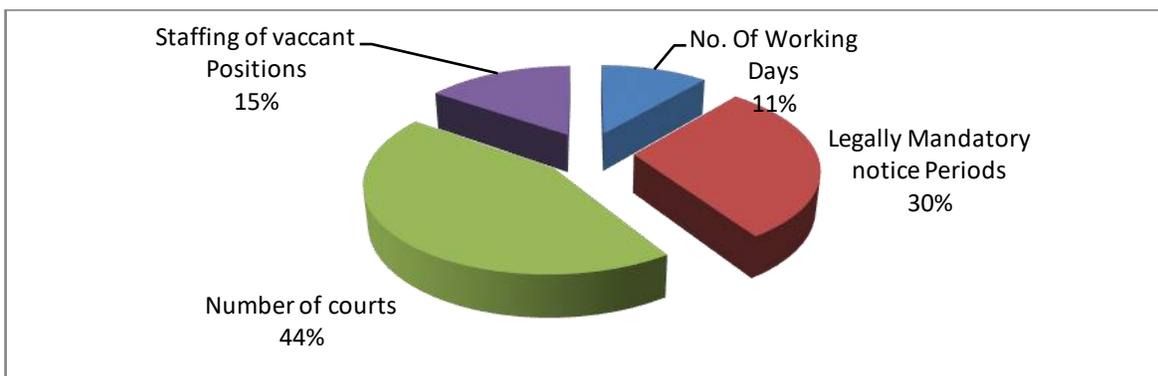


Figure 4.168: Response of Litigants on Question 22

23) Were you involved in a case prior to this case?

According to the responses recorded, 94% of the litigants have denied to have been involved in a case prior to this case as shown in Figure 4.169.

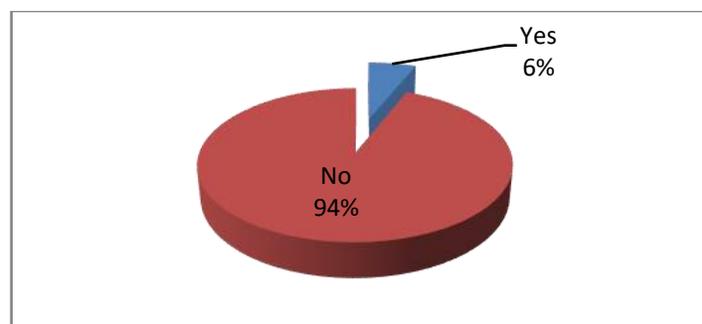


Figure 4.169: Response of Litigants on Question 23

4.2.3 Statistical Analysis of Data Collected from Subordinate Courts' Registry

In this section the data collected from the subordinate courts' registry from 10 States have been analysed. The developed questionnaire (shown in Annexure A4), has been used to collect the data from various subordinate courts in 10 States. The primary data mainly has been targeted on: pendency of criminal and NI Act related cases; disposal rates of criminal and NI Act related cases; data on facilities and infrastructure; status on usage of technology and digitalisation; and status on man power planning. The section-wise analysis has been done as following:

4.2.3.1 Pendency of Criminal and NI Act Cases in visited States' Subordinate Courts

Table 4.76 below shows the average number of criminal cases as well as cases pertaining to the NI Act 1881 per day from the various courts visited during the filed survey. Out of the 2 Courts visited in Bihar, the average number of criminal cases and NI Act cases are 2 and 0.53 respectively. In the court visited in Goa, the average number of criminal cases and NI Act cases are 3.7 and 2 respectively. Out of the 3 Courts visited in Jharkhand, the average number of criminal cases and NI Act cases are 8 and 4 respectively. Out of the 3 Courts visited in Karnataka, the average number of criminal cases and NI Act cases are 25 and 3.3 respectively. Out of the 2 Courts visited in Maharashtra, the average number of criminal cases and NI Act cases are 9 and 3 respectively. In the court visited in Odisha, the average per day registering of criminal cases is 3.36 cases per day while the data for NI Act is unavailable. In the court visited in Telangana, the average number of criminal cases and NI Act cases are 18.7 and 2.23 respectively. Out of the 2 Courts visited in Punjab, the average number of criminal cases and NI Act cases are 13 and 3 respectively. Out of the 2 Courts visited in Haryana, the average number of criminal cases and NI Act cases are 18.71 and 6 respectively.

Table 4.76: Average criminal and NI Act 1881 cases filed in each day in the visited courts

| Sl. no. | States | No. of Courts Visited | Average per day | |
|---------|-------------|-----------------------|-----------------|----------|
| | | | Criminal Cases | NI cases |
| 1 | Bihar | 2 | 2 | 0.53 |
| 2 | Goa | 1 | 3.7 | 2 |
| 3 | Jharkhand | 3 | 8 | 4 |
| 4 | Karnataka | 3 | 25 | 3.3 |
| 5 | West Bengal | 1 | 15 | NA |
| 6 | Maharashtra | 2 | 9 | 3 |
| 7 | Odisha | 1 | 3.36 | 0 |
| 8 | Telangana | 1 | 18.7 | 2.23 |
| 9 | Punjab | 2 | 13 | 3 |
| 10 | Haryana | 3 | 18.71 | 6 |

Table 4.77 shows the total number of criminal cases and NI Act related cases filed in the individual courts of the 10 visited states. Bihar has 89481 pending under normal criminal cases out of which 5959 cases are pertaining to NI Act. In totality 3401 criminal summary cases in Bihar are pending, out of which 524 are summary cases pertaining to NI Act as per the responses collected from 2 courts.

Goa has 15320 pending under normal criminal cases, out of which 6957 are cases pertaining to NI Act. In totality, 4423 criminal summary cases in Goa are pending, out of which 1432 summary cases are pertaining to NI Act as per the response collected from 1 court.

Jharkhand has 17956 pending under normal criminal cases out of which 3678 are cases pertaining to NI Act. In totality, 2159 criminal summary cases are pending out of which 1496 summary cases are pertaining to NI Act as per the responses collected from 3 courts.

Karnataka has 191819 pending under normal criminal cases out of which 64456 are cases pertaining to NI Act. In totality, 41967 criminal summary cases are pending out of which 22454 summary cases are pertaining to NI Act as per the responses collected from 3 courts.

Maharashtra has 351352 pending under normal criminal cases out of which 81260 are cases pertaining to NI Act. In totality, 116030 criminal summary cases are pending out of which 63826 summary cases are pertaining to NI Act as per the responses collected from 2 courts.

Odisha has recorded 55176 pending under normal criminal cases and 6428 pending criminal summary cases, whilst the registry did not have any separate data for cases pertaining to NI Act as per the response collected from 1 court.

Telangana has 72382 pending under normal criminal cases out of which 23151 are cases pertaining to NI Act. In totality, 84431 criminal summary cases are pending out of which 639 summary cases are pertaining to NI Act as per the response collected from 1 court.

Punjab has 88822 pending under normal criminal cases out of which 35719 are cases pertaining to NI Act. In totality, 55243 criminal summary cases are pending out of which 20833 are summary cases pertaining to NI Act as per the responses collected from 2 courts.

Haryana has 137792 pending under normal criminal cases out of which 66583 are cases pertaining to NI Act. In totality, 14986 criminal summary cases are pending out of which 36525 are summary cases pertaining to NI Act as per the responses collected from 3 courts.

Table 4.77: Pendency of criminal and NI Act 1881 cases in the visited courts

| Sl No. | Name of State | No. of Courts Visited | Pending Criminal Cases | | Pending NI Act Cases | |
|--------|---------------|-----------------------|------------------------|---------|----------------------|---------|
| | | | Normal | Summary | Normal | Summary |
| 1 | Bihar | 2 | 89481 | 3401 | 5959 | 524 |
| 2 | Goa | 1 | 15320 | 4423 | 6957 | 1432 |
| 3 | Jharkhand | 3 | 17956 | 2159 | 3678 | 1496 |
| 4 | Karnataka | 3 | 191819 | 41967 | 64456 | 22454 |
| 5 | West Bengal | | NA | NA | NA | NA |
| 6 | Maharashtra | 2 | 351352 | 116030 | 81260 | 63826 |
| 7 | Odisha | 1 | 55176 | 6428 | NA | NA |
| 8 | Telangana | 1 | 72382 | 84431 | 23151 | 639 |
| 9 | Punjab | 2 | 88822 | 55243 | 35719 | 20833 |
| 10 | Haryana | 3 | 137792 | 14986 | 66583 | 36525 |

4.2.3.2 Disposal rates of Criminal and NI Act Cases in 2018 in visited States' Subordinate Courts

Table 4.78 shows the total filed and disposed cases along with the disposal rate from the courts of each visited State in the year of 2018. Out of the 41698 criminal cases filed in Bihar, 3272 cases are pertaining to the NI Act 1881. Under criminal cases, 39635 have been disposed resulting in 95.05% disposal rate, while under NI Act cases, 1000 have been disposed of resulting in 30.56% disposal rate.

Out of the 16165 criminal cases filed in Goa, 2548 cases are pertaining to the NI Act 1881. Under criminal cases, 13356 have been disposed resulting in 82.62% disposal rate, while under NI Act cases, 456 have been disposed of resulting in 17.89% disposal rate.

Out of the 6174 criminal cases filed in Jharkhand, 1861 cases are pertaining to the NI Act 1881. Under criminal cases, 4014 have been disposed resulting in 65.01% disposal rate, while under NI Act cases, 874 have been disposed of resulting in 46.96% disposal rate.

Out of the 41698 criminal cases filed in Karnataka, 14339 cases are pertaining to the NI Act 1881. Under criminal cases, 39635 have been disposed resulting in 95.05% disposal rate, while under NI Act cases, 10023 have been disposed of resulting in 69.9% disposal rate.

Out of the 178859 criminal cases filed in Maharashtra, 20299 cases are pertaining to the NI Act 1881. Under criminal cases, 35504 have been disposed resulting in 19.85% disposal rate, while under NI Act cases, 11623 have been disposed of resulting in 57.26% disposal rate.

Out of the 16947 criminal cases filed in Odisha, the data related to cases, pertaining to the NI Act 1881 is unavailable. Under criminal cases, 8001 have been disposed resulting in 47.21% disposal rate, while under NI Act cases, the data is unavailable.

Out of the 85017 criminal cases filed in Telangana, 195 cases are pertaining to the NI Act 1881. Under criminal cases, 3709 have been disposed resulting in 4.36% disposal rate, while under NI Act cases, 100 have been disposed of resulting in 51.28% disposal rate.

Out of the 47182 criminal cases filed in Punjab, 16437 cases are pertaining to the NI Act 1881. Under criminal cases, 34190 have been disposed resulting in 72.46% disposal rate, while under NI Act cases, 8310 have been disposed of resulting in 50.5% disposal rate.

Out of the 31020 criminal cases filed in Haryana, 19438 cases are pertaining to the NI Act 1881. Under criminal cases, 14749 have been disposed resulting in 47.54% disposal rate, while under NI Act cases, 7321 have been disposed of resulting in 37.66% disposal rate.

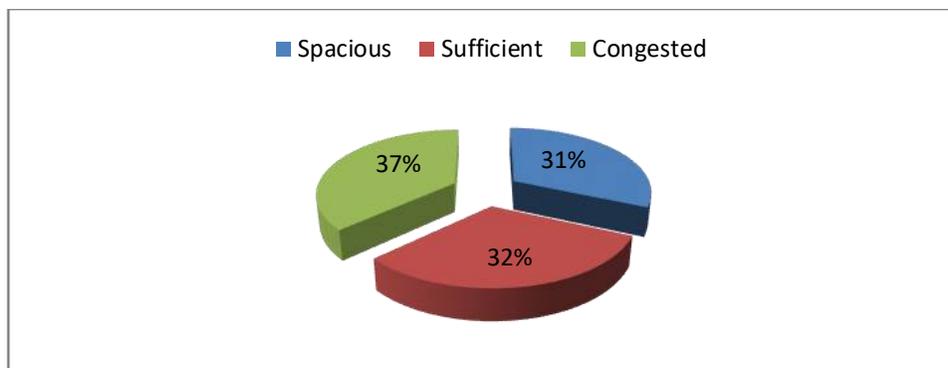


Figure 4.170: Responses on capacity of courts room

03) Please tick the facilities available to the staff:-

- a) Lunch room
- b) Wash rooms
- c) Drinking Water
- d) Canteen facility
- e) Separate Bar room for women advocates
- f) Any other may be stated

According to the recorded responses (shown in Figure 4.171), all the Registries have been provided with drinking water and Washroom Facilities as per the recorded responses, whilst a few have separate bar room for women and a few with canteen facility. None of the court is having the separate lunch room for the staff.

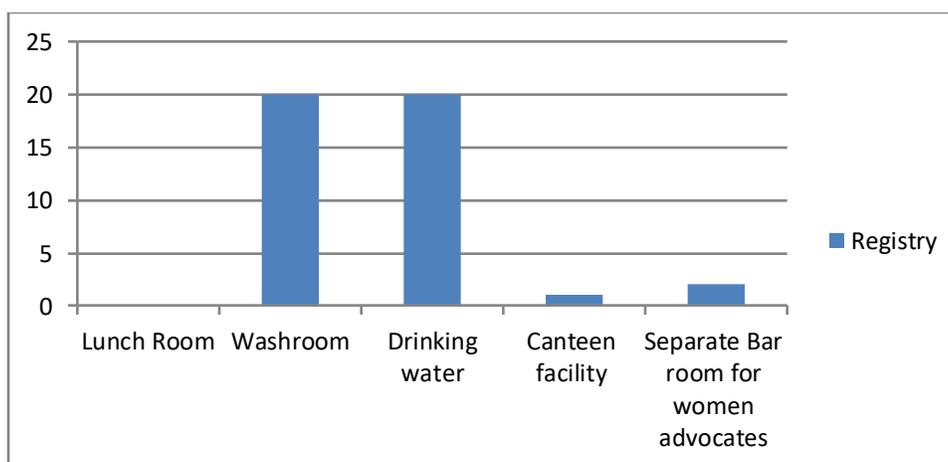


Figure 4.171: Status of available facilities in the courts for staff

05) Is the quality of overall work environment for employees up to the mark?

a) Yes b) No i) If not what can be improved?

According to the recorded responses, 81% of the Registries have agreed that the work environment is up to the mark.

07) Is the infrastructure in Court hall up to the mark?

a) Yes b) No

According to the Recorded responses, 67% of the Registries agree that the infrastructure of the hall is up to the mark.

4.2.3.4 Status on usage of technology and digitalization

Under this section, the questions were asked to evaluate the status of usage of latest technologies and digitalization process in the record keeping. The following observations have been recorded:

01) Are the Courts equipped with computers?

The recorded response suggests that all the courts are equipped with computers.

02) Does the Court have internet connectivity? a) Yes b) No.

According to the recorded response, all the courts have internet connectivity.

i) If yes of what kind: a) Cable to selected computer b) Wi-Fi secure

c) Wi-Fi Open

In accordance to responses, they have internet cable attached to the selected computer.

03) Is there an electronic machine (kiosk) available for litigants to check their case status?

a) Yes b) No

In accordance to the responses, 79% of the Courts have agreed to have kiosk facility.

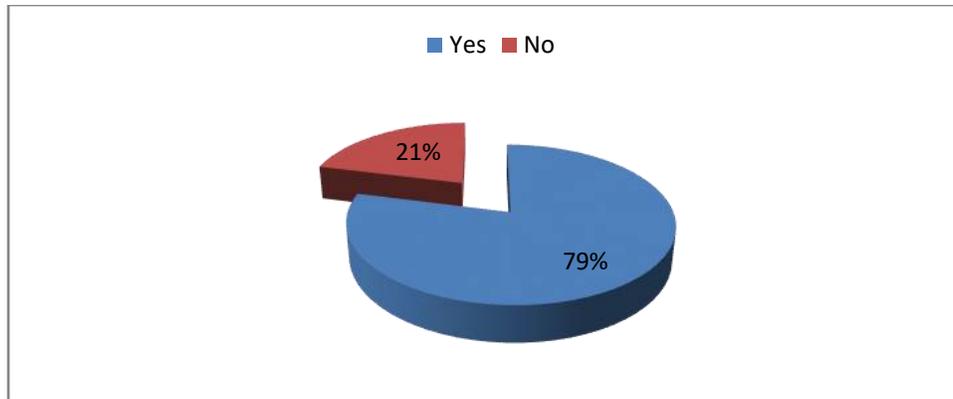


Figure 4.172: Availability of kiosk machine

04) Does your Court have Video Conference facility? a) Yes b) No

In accordance to the recorded responses all the courts have Video Conference Facility.

05) Do you update the roznama (entries of daily proceedings) on e-courts website?

a) Yes b) No

According to the responses, all courts regularly update roznama entries on e- courts website.

i) If yes, how often: a) daily b) weekly c) monthly

According to the responses, all the registries regularly update roznama entries on e- courts website on a daily basis.

06) In your Court, roznama (entries of daily proceedings) is recorded in which language?

a) All in English b) some in English, some in native c) All in native

As per the responses, 90% of the registries have opined that they record rozنامas in English and 10% of the courts are recording the rozنامas in native language.

i) If b) and c), do you translate the whole proceeding into English for updating on e-courts website? a) Yes b) No

According to recorded responses from the registries, none of them translate the entire proceeding to English.

Or

Write only the stage of case in English? a) Yes b) No

According to the responses from the registries, all of them write the stages in English.

4.2.3.5 Status on manpower planning

Table 4.79 below shows the number of permanent employees, temporary employees and the vacant posts that have been recorded from the responses collected from the various courts that were visited. Bihar has 285 permanent employees, 93 temporary employees and 113 positions are vacant in the courts. Goa has the maximum number of temporary employees and vacant positions, resulting to 303 employees and 135 vacant positions against 438 permanent employees. Jharkhand has 264 permanent employees, 6 temporary employees leaving the court with 20 vacant posts. Karnataka has 174 permanent employees, 24 temporary employees and 37 vacant positions in their courts. Maharashtra has the highest number of permanent employees which is 1752 employees, 53 temporary employees and 12 vacant posts. Odisha has 276 permanent employees, 4 temporary employees and 27 vacant posts. In Court of Telangana, there are 316 permanent employees, 22 temporary employees and 31 vacant positions. The courts of Punjab have 622 permanent employees, 115 temporary employees leaving the court with 107 vacant positions. The courts of Haryana have 294 permanent employees, 22 temporary employees and the least number of vacancies with 8 vacant posts.

Table 4.79: Court-wise data of Permanent and Temporary employees

| Name of State | Permanent Employees | Temporary Employees | Vacant Posts |
|---------------|---------------------|---------------------|--------------|
| Bihar | 285 | 93 | 13 |
| Goa | 438 | 303 | 135 |
| Jharkhand | 264 | 6 | 20 |
| Karnataka | 174 | 24 | 37 |
| West Bengal | 0 | 0 | 0 |
| Maharashtra | 1752 | 53 | 12 |
| Odisha | 276 | 4 | 27 |
| Telangana | 316 | 22 | 31 |
| Punjab | 622 | 115 | 107 |
| Haryana | 294 | 22 | 8 |

As shown in Table 4.80, the sanctioned strength of employees under the administrative control of the Judge or presiding officer of the court/ Special court is 521 employees in the courts of Maharashtra which is the highest among the 10 states from where the data has been collected.

Odisha has 276 employees administrative control of the Judge, followed by Goa with 107 employees and Telangana and Karnataka at 92 and 82 employees respectively.

Table 4.80: Court-wise data of the sanctioned strength of employees

| Sl. no | State | No. of Employees |
|--------|-------------|------------------|
| 1 | Maharashtra | 521 |
| 2 | Karnataka | 82 |
| 3 | Jharkhand | 54 |
| 4 | Telangana | 92 |
| 5 | Bihar | 25 |
| 6 | Odisha | 276 |
| 7 | Goa | 107 |
| 8 | Punjab | 25 |
| 9 | Haryana | 24 |
| 10 | West Bengal | 11 |

06) Does the court employee have an employees' union?

According to the responses from the registry, 89% of the Registries have said that they do not have an employees' union.

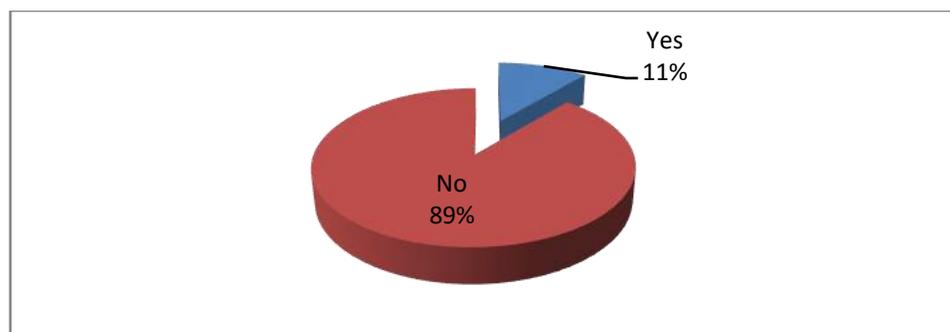


Figure 4.173: Existence of Employees Union

08) Do the employees come on time and work effectively?

According to the responses, 95% of the data reveals that employees of the registry come on time and work effectively.

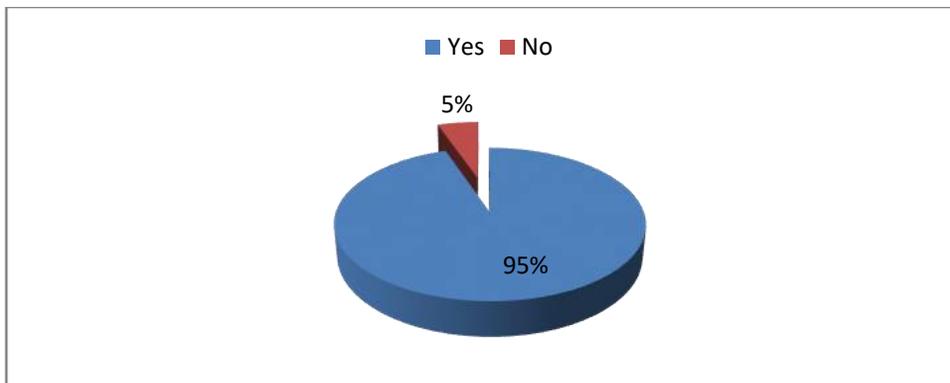


Figure 4.174: Punctuality of employees

10) Your district has been allotted: a) Senior Court Manager b) Court manager.

90% of the data reveals that the district is allotted with a senior court manager or a court manager. Only 10% of the courts are found to be lacking a Court Manager or a Senior Court Manager.

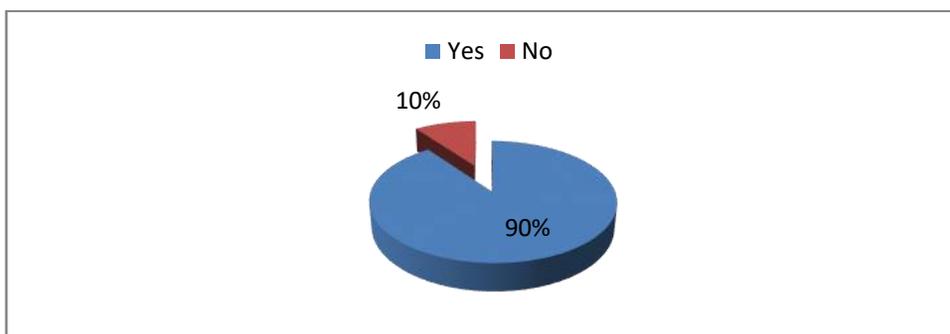


Figure 4.175: Existence of Court Managers

11) Does Court Managers in your district need strengthening?

The recorded responses reveal that 42% of the officials believe that Court Managers in the district need strengthening. 58% of the officials believe that the court managers in their district do not need any strengthening as shown in Figure 4.176.

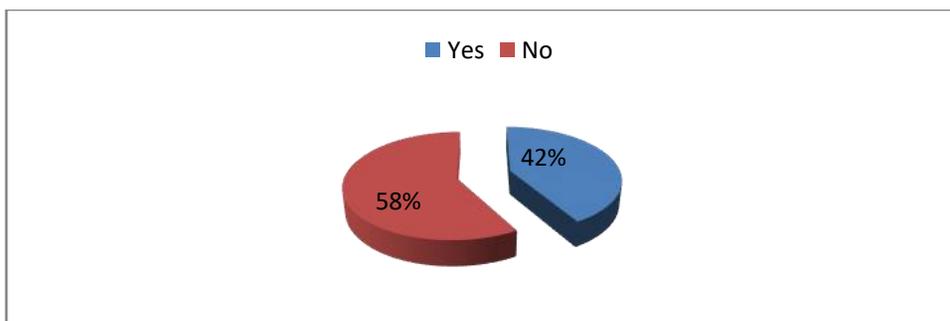


Figure 4.176: Opinion on Strengthening of Court Managers

4.2.4 Statistical Analysis of Data Collected from High Courts' Registry

In this section the data collected from the high courts' registry from four States have been analysed. High Courts of all the 10 states were visited, but finally data from only four states could be retrieved, namely Telangana, Karnataka, Punjab and Haryana. The developed questionnaire (shown in Annexure A2), has been used to collect the data from various high courts in 10 States. The primary data mainly has been targeted on: pendency of criminal and NI Act related cases; disposal rates of criminal and NI Act related cases; data on facilities and infrastructure; status on the usage of technology and digitalisation; and status on manpower planning. The section-wise analysis has been done as following:

4.2.4.1 Pendency of Criminal and NI Act Cases in visited States' High Courts

Table 4.81 below shows the average number of criminal appeals as well as criminal revisions being filed on each day in the High Courts. As per the responses recorded, Telangana High court receives 43 criminal appeals each day on average out of which 3.04 cases which are received on an average per day are registered under the NI Act cases 1881. Furthermore, Telangana high court receives an average of 16.43 criminal revisions each day of which 0.92 cases belong to the NI Act 1881. The responses further show that Karnataka high court receives 31 criminal appeals per day on average of which only one case on average comes under NI Act 1881. As shown in the Table 4.81 below, Karnataka high court receives 13 criminal revisions per day and 3 criminal revisions pertaining to NI Act cases. The high court of Punjab and Haryana has recorded 25 criminal appeals on average each day out of which criminal appeals NI Act cases account for 2 cases per day. The status of criminal revisions in Punjab Haryana high court shows that they have 9 criminal revisions on average each day and 3 criminal revisions that belong to cases of NI act 1881.

Table 4.81: Criminal appeals and criminal revisions filed on average per day in High Courts

| Sl. No | Name of State | Average Criminal Appeals | | Average Criminal Revisions | |
|--------|------------------|--------------------------|--------------|----------------------------|--------------|
| | | Criminal Cases | NI Act Cases | Criminal Cases | NI Act Cases |
| 1 | Telangana | 43 | 3.04 | 16.43 | 0.92 |
| 2 | Karnataka | 31 | 1 | 13 | 3 |
| 3 | Punjab & Haryana | 25 | 2 | 9 | 3 |

Table 4.82 below shows the court-wise criminal appeals of both normal and NI Act cases and criminal revisions of both normal and NI Act cases pending in the visited high courts of the four States. As per the recorded responses, Telangana high court has a total of 13655 pending criminal appeals out of which 1336 cases are under NI Act 1881. Telangana high court has recorded 16854 pending criminal revisions, out of which 1520 criminal revisions are pending under the NI Act 1881. In accordance to the recorded responses, Karnataka high court has a total of 55243 pending criminal appeal cases out of which 626 cases are under NI Act 1881. Furthermore, it has been recorded that Karnataka high court has recorded 14957 criminal revisions pending out of which 2036 criminal revisions are pending under the NI Act 1881. According to the responses recorded, 16453 criminal appeal cases are pending in the high court of Punjab and Haryana and 626 criminal appeals are pending under the NI Act of 1881. The criminal revisions of Punjab and Haryana high court account to 12332 cases and 2116 criminal revision cases come under NI Act 1881.

Table 4.82: Pendency of criminal appeals and criminal revisions in visited high courts

| Sl. No. | Name of State | Criminal Appeals Pending | | Criminal Revisions Pending | |
|---------|------------------|--------------------------|--------------|----------------------------|--------------|
| | | Criminal Cases | NI Act cases | Criminal Cases | NI Act cases |
| 1 | Telangana | 13655 | 1336 | 16854 | 1520 |
| 2 | Karnataka | 55243 | 626 | 14957 | 2036 |
| 3 | Punjab & Haryana | 16453 | 2642 | 12332 | 2116 |

4.2.4.2 Disposal rates of Criminal and NI Act Cases in 2018 in visited States' High Courts

Table 4.83 shows the disposal rates of criminal appeals as well as criminal appeals under NI Act 1881. The high court of Telangana has recorded 8460 criminal appeals out of which 3296 cases have been disposed resulting to 38.95% of disposal rate. The Telangana court has also recorded 639 criminal appeals under NI Act 1881 out of which 57 cases were disposed, leading to a disposal rate of 8.92%.

The high court of Karnataka has recorded 6368 criminal appeals out of which 1120 cases have been disposed resulting to 17.58% disposal rate. The court has also recorded 148 criminal appeals under NI Act 1881 out of which 37 cases were disposed, leading to a disposal rate of 25%.

The high court of Punjab and Haryana has recorded 8301 criminal appeals out of which 7463 cases have been disposed resulting to 89.9% of disposal rate. The court has also recorded 1110 criminal appeals under NI Act 1881 out of which 80 cases were disposed, leading to a disposal rate of 7.2%.

Table 4.83: Disposal rates of criminal appeals filed in visited High Courts

| Sl. No. | Name of State | Criminal Appeals | | Disposal Rate | NI Act Related Appeals | | Disposal Rate |
|---------|------------------|------------------|----------|---------------|------------------------|----------|---------------|
| | | Filed | Disposed | | Filed | Disposed | |
| 1 | Telangana | 8460 | 3296 | 38.95 | 639 | 57 | 8.92 |
| 2 | Karnataka | 6368 | 1120 | 17.58 | 148 | 37 | 25 |
| 3 | Punjab & Haryana | 8301 | 7463 | 89.9 | 1110 | 80 | 7.2 |

Table 4.84 shows the disposal rates of criminal revision normal cases as well as criminal appeal cases under NI Act 1881 from the visited high courts of the country. The high court of Telangana has recorded 3452 criminal revisions out of which 3130 cases have been disposed resulting to 90.67% of disposal rate. The court has also recorded 195 criminal revisions under NI Act 1881 out of which 100 cases were disposed, leading to a disposal rate of 51.28%. The high court of Karnataka has recorded 4700 criminal revisions out of which 1501 cases have been disposed resulting to 31.93% of disposal rate. The court has also recorded 792 criminal revisions under NI Act 1881 out of which 437 cases were disposed, leading to a disposal rate of 55.17%. The high court of Punjab and Haryana has recorded 5472 criminal revisions out of which 1766 cases have been disposed resulting to 32.27% of disposal rate. The court has also recorded 621 criminal revisions under NI Act 1881 out of which 472 cases were disposed, leading to a disposal rate of 76%.

Table 4.84: Disposal rates of criminal revisions in visited High Courts

| SL. No. | State | Criminal Revisions | | Disposal Rate | NI Act Related Revisions | | Disposal Rate |
|---------|-----------|--------------------|----------|---------------|--------------------------|----------|---------------|
| | | Filed | Disposed | | Filed | Disposed | |
| 1 | Telangana | 3452 | 3130 | 90.67 | 195 | 100 | 51.28 |

| | | | | | | | |
|---|------------------|------|------|-------|-----|-----|-------|
| 2 | Karnataka | 4700 | 1501 | 31.93 | 792 | 437 | 55.17 |
| 3 | Punjab & Haryana | 5472 | 1766 | 32.27 | 621 | 472 | 76 |

4.2.4.3 Status on facilities and infrastructure

As per the responses from all the four High Courts, the officials of the registry state that the building is sufficient for their daily judicial activities. In accordance to the responses received, registry from all the four high courts have agreed to have display boards with live updates of case/ item numbers shown, court wise. Telangana high court specifically states that the display boards updates and responsibility comes under IT department.

As per the responses recorded from the, all the high courts have been equipped with Wash rooms, Drinking Water, Canteen facility, Separate Bar room for women advocates and the only missing facility in all the three high courts are lunch rooms. The overall quality of work environment for employees is up to the mark in all the three high courts from where the data has been received. According to the recorded responses, 16 halls are laying vacant in Telangana High Court, a few halls are laying vacant in Punjab Haryana high court whereas in Karnataka High Court the Data was unavailable. The infrastructure of the court hall is up to the mark.

4.2.4.4 Status on usage of technology and digitalization

According to the responses, all the three High Courts are well equipped with computers. All courts have internet connectivity also, in accordance to responses, they have an internet cable attached to the selected computer. All the high courts are equipped with an electronic machine (kiosk) available for litigants to check their case status. All the high courts are also equipped with Video Conference facility. High Courts are regularly updating their roznama entries on e- courts website. The High Courts of Telangana and Punjab-Haryana record roznamas in English where as in Karnataka, they write some in English and some in native language. As per the information recorded, there are no such difficulties in updating case information in the e-courts and any such troubles are specifically dealt with the IT section.

4.2.4.5 Status on man power planning

Table 4.85 reflects the number of permanent employees, temporary employees and the vacant posts that have been recorded from the responses collected from the various high courts that were visited.

Telangana high court has 712 permanent employees and the data for the temporary employees were unknown leaving the court with 20 vacant posts. The Karnataka high court has 198 permanent employees, 8 temporary employees and less than 10 vacant posts. The high court of Punjab has 336 permanent employees, 12-16 temporary employees and 34 vacant posts. According to the High court of Telangana and Karnataka, the employees do have an employees' union whereas Punjab Haryana High court denies having any employees' union in their court. As per the recorded responses, the employees do not go on strikes and the situation doesn't arise for them to conduct strikes. All employees come on time and work effectively. It was also particularly stated that they remain in the office for extra hours if the work load seems to be gigantic. As per the recorded responses, Punjab Haryana and Telangana High Courts agree that court managers in their district needs strengthening.

Table 4.85: Court-wise data of permanent and temporary employees

| Name of States | Permanent employees | Temporary employees | Vacant Posts |
|--------------------|---------------------|---------------------|--------------|
| Telangana | 712 | NA | 20 |
| Karnataka | 198 | 8 | Less than 10 |
| Punjab and Haryana | 336 | 12-16 | 34 |

4.2.5 Statistical Analysis of Online Case Tracking

In accordance to the project plan, simultaneously, cases were tracked from the e-courts website which is a national web based portal to check the status of one's case. The e-Courts Project was conceptualized based on the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005" put together by e-Committee, Supreme Court of India with a dream to change the Indian Judiciary by ICT enablement of Courts. The e-Courts Mission Mode Project, is a Pan-India Project, observed and supported by Department of Justice, Ministry of Law and Justice, Government of India for the District Courts the nation over. In Phase-I of the e-Courts Project starting from 2007, an enormous number of Court Complexes, Computer Server Rooms and Judicial Service Centres were prepared for computerization of the District Courts. The Policy and Action Plan Document Phase-II of the e-courts Project, got the endorsement of Hon'ble the Chief Justice of India on eighth January 2014. The administration of India endorsed the task on 4th August 2015. On 7th August 2013, Hon'ble the Chief Justice of India propelled the e-Courts National entry ecourts.gov.in of the e-Courts Project. In excess of 2852 Districts and Taluka Court Complexes have verified their quality on the

NJDG gateway ecourts.gov.in and are giving Case Status, Cause records online with a significant number of them likewise transferring requests/decisions. The information of in excess of 7 crore pending and discarded cases and 3.3 crore orders/decisions of District Courts in India is accessible on NJDG at present.

The E-courts website has case status categories where cases can be tracked according to the act they fall under. Each case was analysed by going through the various orders that have been uploaded by the court to which the case belongs. The stages were tracked according to the uploaded orders and the following data was concluded. From each State, 45 selected cases were tracked in order to study the cases related to Section 138 of the Negotiable Instruments Act 1881.

The whole process of dealing with cheque-bounce case has been identified into 24 stages and data has been recorded for individual case with respect to these 24 stages (shown in Annexure A7). The following stages were recorded and found to be of crucial importance in studying these cases: -

- Filing Date
- Registration Date
- Complaint
- Jurisdiction
- Initial Hearing/Maintainability
- Initial Evidence/Witnesses
- Preliminary Arguments
- Interim Orders (1)
- Interim Orders (2)
- Case Adjourned.
- Order for Summoning
- Summons Issued for Accused
- If Summons Not Served, Service by Police
- Issuance of Bailable Warrant
- Issuance of Non-Bailable Warrant.
- Grant of Bail.
- Supply of Documents to Other Side.
- Pleading Guilty/ Not Guilty.
- Complainant Evidence.
- Examination of Complainant Witnesses
- Cross-Examination of Witnesses
- Statement of Accused
- Evidence by Accused

- Examination of Accused's Witnesses
- Final Arguments/Hearing Judgment
- Sentencing

The data recorded according to the dates, were analysed and the average time taken for each stage was calculated for 45 cases for each of the ten states. Table 4.86 reflects the data on stage-wise time taken for each case: -

Table 4.86: Stage-wise average time taken for disposing of NI Act Cases

| Sl no. | Stage | Average Duration (Days) |
|--------|---|-------------------------|
| 1) | Filing date – Registration date | 1.5 |
| 2) | Registration Date- Jurisdiction | 1.54 |
| 3) | Jurisdiction-Initial hearing/Maintainability | 79.69 |
| 4) | Initial Hearing/Maintainability-Initial Evidence | 36.26 |
| 5) | Initial Evidence/Witnesses-Preliminary Arguments | 42.57 |
| 6) | Preliminary Arguments- Interim orders (1) | 46.07 |
| 7) | Interim Order (1) – Interim Order (2) | 39.34 |
| 8) | Interim Order (2) – Case Adjourned | 48.13 |
| 9) | Case Adjourned – Order for Summoning | 84.79 |
| 10) | Order for summoning - If Summons Not Served, Service by Police | 49 |
| 11) | If Summons Not Served, Service by Police- Issuance of Bailable Warrant | 26.49 |
| 12) | Issuance of Non-Bailable Warrant.- Grant of Bail | 31.07 |
| 13) | Issuance of Non-Bailable Warrant.- Grant of Bail | 56.86 |
| 14) | Grant of Bail- Supply of Documents to Other Side. | 103.20 |
| 15) | Supply of Documents to Other Side.- Pleading Guilty/ Not Guilty | 47.7 |
| 16) | Pleading Guilty/ Not Guilty - Complainant Evidence | 35.50 |
| 17) | Complainant Evidence -Examination Of Complainant Witnesses | 23.48 |
| 18) | Examination of Complainant Witnesses - Cross-Examination of complainant Witnesses | 32.88 |
| 19) | Cross-Examination of complainant Witnesses - Statement of Accused | 24.91 |
| 20) | Statement of Accused- Evidence By Accused | 23.96 |
| 21) | Evidence by Accused - Examination of Accused's Witnesses | 33.02 |
| 22) | Examination of Accused's Witnesses - Final Arguments/Hearing | 53.39 |
| 23) | Final Arguments/Hearing - Judgment | 36.71 |
| 24) | Judgement- Sentencing | 27.37 |

| | | |
|-----|---------------------|--------|
| 25) | Filing - Sentencing | 479.21 |
|-----|---------------------|--------|

4.2.5.1 Statistical Analysis of Online Case Tracking of Digital and Paperless Courts under Delhi, High Court

Here, the study identifies the following five digital and paperless courts under Delhi High Court, to collect the online data on NI Act cases after 2018 onwards: Karkardooma Court Complex; Tis Hazari Court Complex; Patiala Court House Complex; Rohini Court Complex; and Saket Court Complex. Approximately, 10 cases have been tracked from 2018 to 2021 and the time span between registration date and decision date has been calculated, as shown in Table 4.86.1 below. The results clearly show the effect of converting the traditional courts into digital one.

Table 4.86.1 Average time taken for disposing of NI Act Cases dealt in the digital courts

| CNR No | Filing date | Decision date | Total no. of days |
|------------------|-------------|---------------|-------------------|
| DLET010056302018 | 21-08-2018 | 18-12-2018 | 119 |
| DLET010056202018 | 21-08-2018 | 18-12-2018 | 119 |
| DLET010011882018 | 22-02-2018 | 31-07-2018 | 160 |
| DLET010005192018 | 24-01-2018 | 09-01-2019 | 351 |
| DLET020035802020 | 13-03-2020 | 19-03-2021 | 372 |
| DLET020022002018 | 26-03-2018 | 15-10-2018 | 204 |
| DLCT010028662020 | 28-02-2020 | 18-03-2021 | 385 |
| DLCT010024262020 | 18-02-2020 | 11-11-2020 | 268 |
| DLCT010148162019 | 30-10-2019 | 16-02-2021 | 476 |
| DLCT010048202019 | 10-04-2019 | 01-08-2019 | 114 |
| DLCT010040702019 | 26-03-2019 | 13-09-2019 | 172 |
| DLCT010033002019 | 11-03-2019 | 03-08-2019 | 146 |
| DLCT010032172019 | 08-03-2019 | 29-04-2019 | 53 |
| DLCT010023212019 | 19-02-2019 | 18-03-2019 | 28 |
| DLCT010021852019 | 15-02-2019 | 19-03-2019 | 33 |
| DLND010024392020 | 12-03-2020 | 07-09-2020 | 180 |
| DLND010017282020 | 22-02-2020 | 22-10-2020 | 244 |
| DLND010002052020 | 09-01-2020 | 17-09-2020 | 253 |
| DLND010000082020 | 06-01-2020 | 26-10-2020 | 295 |
| DLND010142192019 | 08-08-2019 | 24-08-2020 | 383 |
| DLND010063102019 | 03-04-2019 | 02-08-2019 | 122 |
| DLND010042092019 | 27-02-2019 | 05-09-2019 | 191 |
| DLND010060472018 | 08-06-2018 | 14-01-2021 | 952 |
| DLND010034482018 | 19-04-2018 | 19-12-2018 | 245 |
| DLND010125152017 | 05-09-2017 | 24-04-2018 | 232 |
| DLNT010010112020 | 31-01-2020 | 30-03-2021 | 425 |
| DLNT010100152019 | 03-10-2019 | 18-01-2020 | 106 |

| | | | |
|--------------------|------------|------------|------------|
| DLNT010087112019 | 03-09-2019 | 22-01-2020 | 142 |
| DLNT010074922019 | 06-08-2019 | 6-11-2020 | 459 |
| DLNT010070932019 | 30-07-2019 | 21-08-2019 | 23 |
| DLNT010059112019 | 04-07-2019 | 27-11-2019 | 147 |
| DLNT010055722019 | 13-06-2019 | 29-08-2019 | 78 |
| DLNT010050802019 | 30-05-2019 | 05-03-2020 | 281 |
| DLNT010102552018 | 03-11-2018 | 22-02-2020 | 477 |
| DLST010048202019 | 19-07-2019 | 31-10-2019 | 105 |
| DLST010048262019 | 19-07-2019 | 31-10-2019 | 105 |
| DLST010045952019 | 10-07-2019 | 22-08-2019 | 44 |
| DLST010041462019 | 20-06-2019 | 07-02-2020 | 415 |
| DLST010025942019 | 18-04-2019 | 17-05-2019 | 30 |
| DLST010007522019 | 31-01-2019 | 28-02-2019 | 29 |
| DLST010082632018 | 12-12-2018 | 14-02-2019 | 65 |
| DLST010051942018 | 06-08-2018 | 17-11-2018 | 43 |
| DLST010051822018 | 06-08-2018 | 11-01-2019 | 159 |
| Total Average time | | | 214.7 Dyas |

4.2.6 Model development for measuring performance of courts on NI Act cases using AHP-TOPSIS

In this section, framework has been developed to measure the performance of various courts on the listed parameters. This study has proposed the hybrid model using AHP and TOPSIS, which has been shown in Figure 4.177 and Figure 4.178. The study has used two-stage methodology to accomplish this objective. In the first stage, the selected criteria which will affect the performance of the courts have been prioritised and subsequently, the best court in terms of performance can be evaluated using TOPSIS approach. Figure 4.177 has shown the various steps involved in prioritisation of the criteria and are as follows:

4.2.6.1 Prioritization of performance criteria using AHP

Various steps involved in the proposed methodology are (shown in Figure 4.177):

Step 1: The first step addresses the problem of evaluating the performance of various courts by identifying its related criteria for evaluating their performance.

Step 2: Then, weights are assigned by the experts' panel to various criteria.

Step 3: The weights assigned to various parameters are used to make the pair-wise comparisons among all the elements. The pair-wise comparison matrix shows the preference of row element over the column element as shown below in following equation:

$$A = \begin{bmatrix} 1 & a_{12} & a_{13} & a_{14} \\ 1/a_{12} & 1 & a_{23} & a_{24} \\ 1/a_{13} & 1/a_{23} & 1 & a_{34} \\ 1/a_{14} & 1/a_{24} & 1/a_{34} & 1 \end{bmatrix} \quad 4.1$$

Step 4: Eigen values (λ_{\max}) are calculated for the pair-wise comparison matrix by dividing each element by its column sum and then taking the row average. The consistency ratios (CR) are calculated for each pair-wise comparison matrix by using the following equation, in order to control the responses of the respondents. If the CR comes out to be greater than 10%, then responses are recorded again in order to maintain the consistency.

$$CR = ((\lambda_{\max} - n)/(n-1))/Table_value \quad 4.2$$

Step 5: Finally, the preference order is derived, for all the criteria by calculating their respective priority vector.

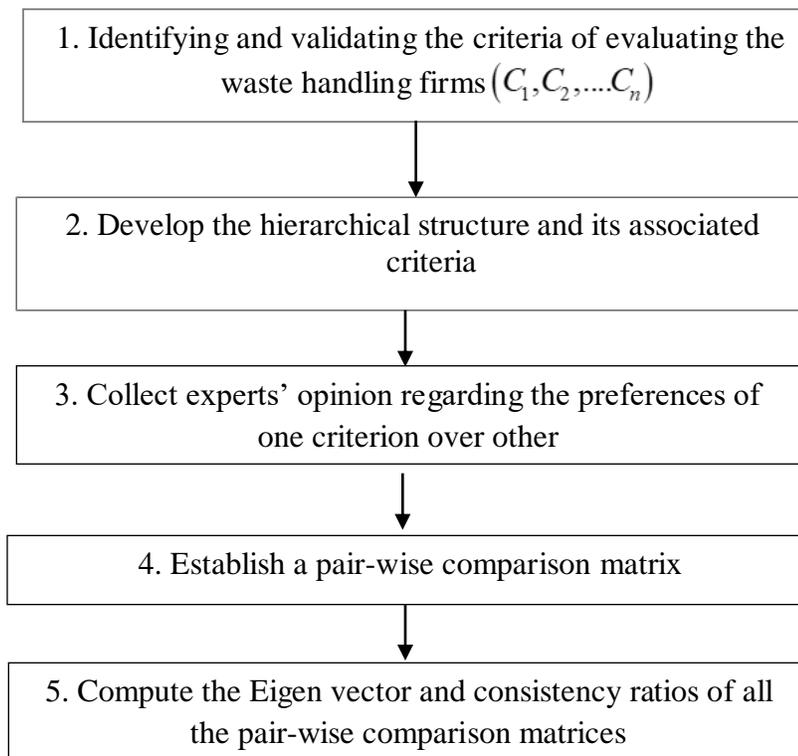


Figure 4.177: Prioritisation of criteria using AHP approach

4.2.6.2 Evaluation of courts using TOPSIS

Various steps involved in TOPSIS have been shown in Figure 4.178.

Step 1: Compute the weighted normalized matrix using the results of AHP.

In this step, the intersection results of ‘n’ criteria and ‘m’ alternatives (courts) are described in the form of matrix $(x_{ij})_{m \times n}$ and it is normalized by applying the following equations (4.3 and 4.4):

$$N = (r_{ij})_{m \times n} \quad (4.3)$$

$$\text{where, } r_{ij} = \frac{x_{ij}}{\sqrt{\sum_{i=1}^m x_{ij}^2}} \quad (4.4)$$

The normalized matrix is multiplied by the assigned weights in order to find out the weighted normalized matrix as shown in the following equations (4.5 and 4.6):

$$T = (t_{ij})_{m \times n} = (w_j r_{ij})_{m \times n} \quad (4.5)$$

$$\text{where, } \forall i \in \{1, 2, 3, \dots, m\}$$

$$\text{and } w_j = \frac{w_j}{\sum_{j=1}^n w_j} \quad (4.6)$$

$$\text{where, } \forall j \in \{1, 2, 3, \dots, m\}$$

Step 2: Calculate best and worst ideal performance parameters.

The best alternative solution (S_b) and worst alternative solution (S_w) are calculated as shown in equations (4.7) and (4.8), where J^+ represents the set of benefit attributes and J^- shows the set of negative attributes.

$$S_w = \left\{ \langle \max(t_{ij} | i = 1, 2, \dots, m) | j \in J^+ \rangle, \langle \min(t_{ij} | i = 1, 2, \dots, m) | j \in J^+ \rangle \right\} = \{t_{wj} | j = 1, 2, \dots, n\} \quad (4.7)$$

$$S_b = \left\{ \langle \min(t_{ij} | i = 1, 2, \dots, m) | j \in J^- \rangle, \langle \max(t_{ij} | i = 1, 2, \dots, m) | j \in J^- \rangle \right\} = \{t_{bj} | j = 1, 2, \dots, n\} \quad (4.8)$$

Step 3: Compute the distances between the ideal performance and all courts’ performance.

After calculating the ideal solutions, the distance between each target alternative from the best and worst ideal solution is calculated. Euclidean distance (ED) between the target alternative and best positive ideal solution is calculated by using following equation (4.9):

$$ED_b = \sqrt{\sum_{j=1}^n (t_{ij} - t_{bj})^2}$$

where, $i = 1, 2, \dots, m$ (4.9)

Euclidean distance between the target alternative and worst negative ideal solution is given in the following equation:

$$ED_w = \sqrt{\sum_{j=1}^n (t_{ij} - t_{wj})^2}$$

where, $i = 1, 2, \dots, m$

Step 4: Ranking of all the courts.

Calculating the closeness of all the courts' performance to the ideal solution by using the following equation and finding out the preference order.

$$C_w = (ED_w / (ED_w + ED_b)), 0 \leq C_w \leq 1$$

$C_w = 1$, indicates that target alternative has worst condition

$C_w = 0$, indicates that target alternative has best condition

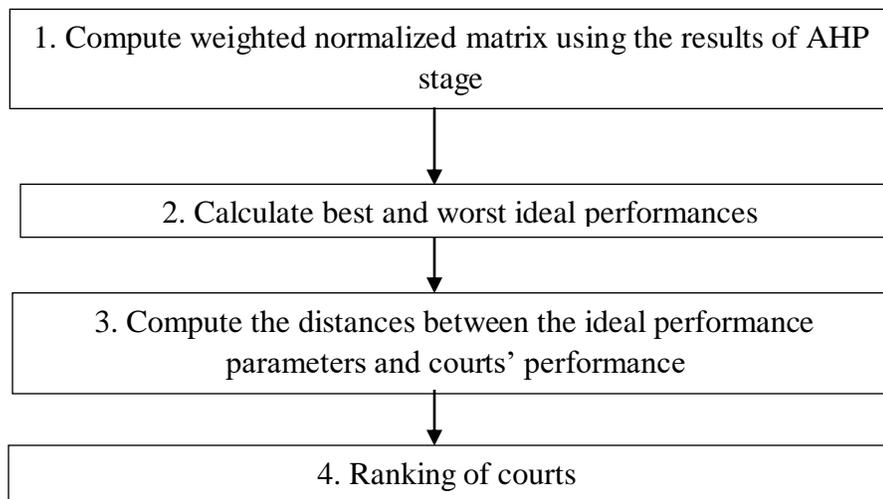


Figure 4.178: Ranking of courts using TOPSIS

4.2.6.3 Development of Framework for Evaluating

As shown in Figure 4.179, AHP-TOPSIS based hybrid model has been developed by including the important criteria, which will help in setting the benchmarks and measuring the performance of the existing courts. The developed framework can evaluate the performance of each court individually, by recording the data with respect to each criterion included in Figure 4.179.

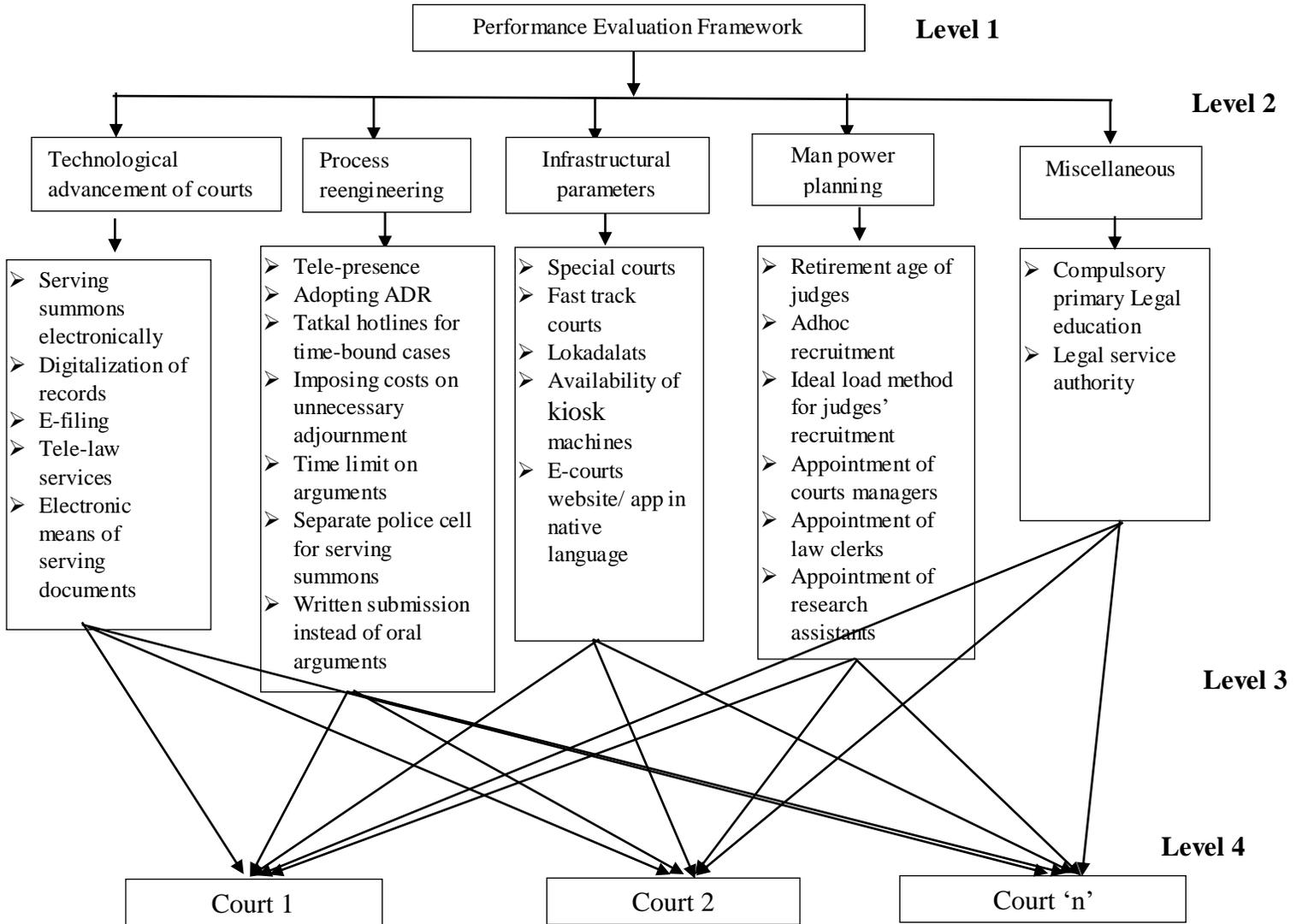


Figure 4.179: Courts' performance measurement framework

CHAPTER V DISCUSSION

5.1 Introduction

In any court setting, the Hon'ble Judges and advocates build the crux of the justice system. The Hon'ble Judges and advocates spend most of their time in the court as such their point of view on any subject pertaining to the court is of utmost importance. Thus, it became necessary to take their inputs for the present study.

5.2 Discussion on Hon'ble Judges and advocates

5.2.1 Major bottlenecks and causes for delays in disposing cheque-bounce cases

Findings highlight that the majority of the Hon'ble Judges of High Courts and Subordinate Courts agreed that there are unwarranted delays in cases falling U/s 138 of NI Act 1881. The offence under section 138 of Negotiable Instruments Act is non-cognizable in nature. As such the Police do not have the power to make an arrest of the accused, coupled with other factors like absenteeism of the litigants, which leads to unwarranted delays in cheque bounce cases. Majority of the advocates, both from the High court and Subordinate courts have also agreed to the statement that unwarranted delays in any case disappoint all the parties in a case. It disappoints the clients and the advocates come under pressure and ultimately the party which has caused or is responsible for the unwarranted delay is blamed. Therefore, both the Hon'ble Judges and advocates are of the same opinion. The former Chief Justice of India Mr. Justice R. C. Lahoti stated in his speech that *"the delay in disposal of cases in law court, for whatever reason it may be, has really defeated the purpose for which the people approach the courts for their redressal"*¹².

The respondents were asked whether they believe that justice delayed is justice denied, when it comes to cheque bounce cases. Majority of the Hon'ble Judges agreed with the said statement. The Hon'ble Judges are aware that time is the essence of a cheque dishonour case and the complainant is out of the money which the accused owes to him/her. Also, it causes inconvenience for the accused as he has to attend the court for an elongated period of time, which takes away his/her

¹² Dr. Justice AR. Lakshmanan, Voice of Justice, Universal Law Publishing Co. Pvt. Ltd. Delhi, (2006), pages 231-233, 236, 239, 245-247, 250.

time from other productive works. Whereas, majority of the advocates disagree that justice delayed is justice denied, when it comes to cheque dishonour cases. The reason for such a response is due to the fact that they directly dealing with a client and a hurried judgement could damage the prospects of their clients. Moreover, some advocates charge per hearing that benefits them if there are more number of hearings in a case. Thus, there exists a difference of opinion among the advocates and Judges. While the Judges have mandated to deliver justice in time, the advocates could benefit from the delay, as stated earlier. The longer a case goes on, the more they earn depending upon their terms of engagement. Also, there exists a difference in approach of the Hon'ble Judges and advocates. The same Hon'ble Judges and advocates when asked about the statement, whether justice hurried is justice buried, agreed with the said statement. The Hon'ble Judges are aware that they have to thoroughly follow the procedure laid down by law in any case. There are several consequences of hurrying in criminal cases, one of which could be that an innocent person might be punished, therefore defeating the purpose of justice itself, as the saying goes *"Let a hundred guilty be acquitted, but one innocent should not be convicted"*. Even the advocates also believe that the right to a fair hearing is an important right of the accused which requires time. In fact, the Hon'ble Supreme Court in its latest judgement has stated that *"In the pursuit for expeditious disposal, the cause of justice must never be allowed to suffer or be sacrificed.....fast tracking of process must never ever result in burying the cause of justice"*¹³ The respondents were also asked, to whom the delay in cheque dishonour cases can be attributed to. Most of the Hon'ble Judges attribute the delays to the advocates as advocates seek adjournments when they are unprepared or have to attend more than one case simultaneously. Secondly, they attributed the delay to the litigants. Despite the litigants' intentions to reach a settlement or to defeat the purpose of justice, they even do not have time to attend the court in many cases. The existing way of court management has been attributed as the third reason for delays, as in many states there are no court managers to help with court management.

As per the perspectives shared by advocates, delays are due to the existing way of court management followed by litigants. It has been seen that on many occasions an advocate would not have a single case on a given day but on some other days he would have more than one case

¹³ Anoklal Vs State of Madhya Pradesh Crl A Nos.62-63 OF 2014 Supreme Court of India dated: December-18-2019.

reaching before the bench at the same time. This result in him/her seeking adjournment in one or more cases to attend one case which s/he feels is most important at that time. This clashing of cases could be avoided with better court management. The second attribute identified is the litigants as they ask the advocates to seek time from court for various reasons like settlement of disputes outside the court, frustrating the other party by delaying the cause of justice or they may not get time from work to attend the court. It is quite interesting that the advocates are able to realize that they are the ones who seek time before the court, either due to the existing way of court management or upon the request of their clients. Therefore, the Hon'ble Judges and the advocates have attributed the delays to the same parties, but their order of attribution is different. The Hon'ble judges have attributed delays to advocates followed by litigants and existing way of court management. While the advocates have attributed delays to the existing way of court management followed by litigants and advocates. Both the Hon'ble Judges and advocates agreed that Litigants are the second category which contributes to most delays.

The Negotiable Instruments Act has been amended and certain beneficial sections have been introduced, certain questions were pertaining to recent amendment and their impact. It was asked whether the recent amendment providing for interim compensation would reduce the delays. The Hon'ble Judges and advocates, both agreed that the recent amendments (2018) to NI Act which provide for interim compensation at trial and appellate stage would reduce the delays in cheque bounce cases. Before the amendment, it was seen that the accused party would delay the court proceeding to frustrate the complainant, so that he/she may come for a compromise in which the accused would have an upper hand. Now with the amendment, the accused has to pay an amount immediately which is likely to thwart any attempt to delay as accused would be at loss.

5.2.2 Technology

The digitalization of courts is an ongoing process, the courtrooms are being infused with technology, but the filing and most of the other court procedure is done manually. It became necessary to assess the opinions of Hon'ble Judges and advocates. The overwhelming majority of the Hon'ble Judges agreed that the digitalization of courts and the court processes is important. Technology has penetrated all spheres of human life, but courts have not fully adapted to it. Much of the court work is done manually from the filing of the case to its disposal papers are used and when the call for records occurs files are physically moved which takes time and causes

unwarranted delays to case. The overwhelming majority of the advocates agreed that the digitalization of courts and the court processes is important. When the advocate files for a certified copy of a document it takes time as a copy has to be made and stamped if the files are digitalized, the advocates can get a copy of documents instantly.

The results indicate that the majority of the Hon'ble Judges agreed that Tele-Law service launched by Dept. of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent. The Hon'ble Judges are of the opinion that this service would help litigants to understand their case before approaching the court or advocates and they would be in better position to proceed with their case. Around half of the respondent advocates feel that this service will help the litigants understand their case before approaching an advocate, the other half feels that this would be detrimental to their profession and courts as litigants may file and argue their own case only realize at a later stage of the case that they require an advocate, which causes delay and further complicates the case. However, majority of the respondents considered tele-law services to be detrimental in cases where there is a time limit to file cases. As giving legal advice may take time which in turn may become a cause for delay in filing of case. In cases, like cheque bounce there is a time limit to issue notice to the drawer within thirty (30) days from date of bank memo, in such cases time taken by tele-law service could result in exceeding the time limitation imposed by the statute.

The digitalization of courts is an ongoing process the respondents when asked about the courts being in dire need of digitalization replied as follows, the overwhelming majority of Hon'ble Judges and advocates agree that the courts are in dire need of digitalization, this is apparent as the old methods such as filing papers in court and moving files of cases in court slows down the judiciary and add to the existing pendency. Therefore, the right from Hon'ble Supreme Court to sub-ordinate courts digitalization of court documents is taking place¹⁴. Furthermore, the overwhelming majority of Hon'ble Judges and advocates are in favour of electronic filing of cases. The manual filing takes time and has to be physically filed during court timings whereas an electronic filing is paperless and can be filed any time, moreover moving of case files takes time and having a case file in digital format would make it available instantly, therefore, saving the time

¹⁴ Columns: Digitization of the Indian Legal Sector, by Shireesh Sahai Available online - <https://www.barandbench.com/columns/digitization-indian-legal-sector>

of all the parties. The advocates would find it easier to file the cases and the get certified copies of the documents from the court instantly, moreover they need not carry bundles of files to the courts as the digital copies of the case would be available on any smart device. Presently only some courts halls in Supreme Court and Telangana High Court have fully functional electronic courts which are paperless.

The Hon'ble Judges and advocates were asked whether they would prefer to serve the documents and papers to the other party through digital means. The overwhelming majority of Hon'ble Judges and advocates answered yes, that they would prefer to serve the other side papers through digital means. The complainant advocates and the advocate of the accused take time for serving the papers to the other side, this time taking would be eliminated once digital means to serve papers is introduced as this process can be completed instantly.

The appearance of advocates and parties is an important factor in quick disposal of a case. The respondents were asked whether the parties and advocates can appear before the court through live telepresence or video conferencing. The majority of the Hon'ble Judges and advocates answered that it is not feasible for complainant and advocate to appear before the Court through live telepresence or video conference. The appearance of the advocate and complainant through live telepresence requires digital infrastructure at both the ends i.e. court and advocate or court and complainant, such infrastructure is not widely available in household of complainant and offices of the advocates although courts have progressed to a large extent and almost all are well equipped with digital infrastructure.

The Hon'ble Judges stated that even if the digital infrastructure is available at both the ends, the parties should have knowledge to use it and it should not result in further complications which would result in the delay of the case. The Hon'ble Judges and advocates stated the following hindrances, lack of system, lack of technical knowledge, technical issues, and infrastructure not being adequate among other similar reasons. The above stated hindrances can be overcome by providing adequate infrastructure, electronic systems, technical knowledge and training among other such things. Proper usage of live telepresence or video conference will reduce the absenteeism rates of both parties and advocates.

The producing of the accused takes time and sometimes requires police personnel and due to lack of arraignment sometimes the accused cannot be produced in courts, keeping this in mind a question was asked whether the accused can plead guilty or not guilty before the court through

live-telepresence or video conference. The majority of the Hon'ble Judges state that "yes" is it feasible for the accused to plead guilty or not guilty before the Court through live telepresence or video conference. The physical production of the accused takes time as it requires proper security measure on the part of police and the accused has to wait before the court which is an inconvenience. The accused pleading guilty and not guilty through virtual presence saves the time of the court and does not require police manpower. But the advocate on the other hand differed; they stated that it is not feasible for the accused to plead guilty or not guilty before the Court through live telepresence or video conference. The physical production of the accused before the court is important for the safety of the accused and it provides a safe environment, free from force and coercion and only then the accused can plead guilty or not. Hence, the Hon'ble Judges and the advocates have a difference of opinion in this regard.

The respondents were asked whether, it is feasible to examine, cross-examine or re-examine the witnesses through live telepresence or video conference. The majority of the Hon'ble Judges and advocates answered no to the above statement. They both believe that a person cannot feel as safe as being present in the court and he could be threatened and coerced by persons who are present beyond the camera when video conference may take place. It is only in a court in the presence of the Hon'ble Judges that a witness can be free to express whatever is needed without any fear. The majority of the Judges stated that poor network, lack of smooth communication, inadequate facilities, and lack of infrastructure could be the hindrance to examine the witnesses through online means. Moreover, demeanour cannot be examined and witnesses can be tampered while examining the accused through digital media. Proper signature cannot be obtained and police authorities may find it difficult to show the original documents along with the damages that have occurred.

5.2.3 Performance

The court infrastructure has a direct impact on the performance of the court for the purpose of this study it was necessary to assess the importance of this aspect among the respondents. The overwhelming majority of the Hon'ble Judges agreed that better infrastructure and increasing court halls are important. Good infrastructure and spacious court halls are necessary for the proper functioning of the court and a good working environment for the Hon'ble Judge. Lack of infrastructure would hinder the court proceedings and more court halls are needed to accommodate existing as well as newly recruited judges. The overwhelming majority of the advocates agreed

that better infrastructure and increasing court halls are important. Lack of infrastructure for advocates would make their work experience in court unpleasant. The advocates require a bar room, lunchroom for a good working environment.

The adequate (wo)manpower in judiciary is crucial to the smooth functioning of the justice system for the purpose of this study it was necessary to assess the importance of this aspect among the respondents. The overwhelming majority of the Hon'ble Judges and advocates agreed that increasing manpower including the number of Judges is important. There is a shortage of Hon'ble Judges and other staff in the Judiciary as per the statement of the Minister of State Law to the parliament in 2018, there were over five thousand vacancies in subordinate Judiciary. As per the Jan 2019 statement of Department of Justice, Ministry of Law and Justice, there are 401 vacancies in the High Courts. The vacancies in the judiciary burdens existing judges with overwork and cause a delay in cases. These vacancies cause hindrance in smooth in the functioning of the courts. The advocates are pressured by their client to get the cases listed early, but due to the courts being overburdened cases take time to be listed.

An enquiry in to courts at subordinate level revealed that the Hon'ble Judges and advocates stated that they require special and fast track courts for NI act cases, followed by Lok-Adalat. In some States, especially in the metropolitan area, certain magistrates are designated as judges who deal solely with cheque bounce cases and at the appellate level they are dealt as any other appeal and revision. The fast track courts are courts that exclusively deal with the same type of cases, have hearing on a day to day basis and in some cases are bound by time limit of delivering judgement in six (6) months. The third most required court is the permanent Lok-Adalat, a forum where cases can be settled with mutual understanding of the parties. The Law Commission of India in its report has recommended the establishment of fast track magisterial court for cheque bounce cases¹⁵. The majority of the Hon'ble Judges and advocates have stated that Lok-Adalats are helpful in decreasing pendency of cheque dishonour cases. The cheque dishonour cases are compoundable before the magistrate but the courts are overburdened and an alternate forum for compounding the offence with a mutual agreement is available i.e. Lok-Adalat and once compounded before this forum the case is closed.

¹⁵ LAW COMMISSION OF INDIA. Fast Track Magisterial Courts for Dishonoured Cheque Cases, Report No. 213. Available online - <http://lawcommissionofindia.nic.in/reports/report213.pdf>

Here, the respondents were asked to define the best method to determine the number of Judges and courts needed for a particular State. The majority of the Hon'ble Judges stated that the Ideal Caseload method is best followed by the judge population method. Advocates have also agreed on the Ideal Caseload method as the best method followed by the time-based method which is a distant second. The Ideal Case load method is defined as *“method requires a determination of the ideal number of cases that a judge should have on his/her docket. The total caseload (existing pendency plus new institutions) can then be divided by the ideal case load to estimate the number of judges required by the system. Where the number of cases per judge is disproportionately higher than the ideal case load, additional judges are required to be recruited”*¹⁶ and the Judge Population method is determined by the number of judges required per million populations this method was first propounded in a law commission of India report¹⁷. Time-Based method is as follows *“Broadly speaking, this method determines the time required to clear the existing judicial caseload. It then determines the time available per judge for judicial work. Dividing the first number by the second provides the number of judges required to deal with the existing caseload”*¹⁸. Our survey revealed that the majority of advocates and the Hon'ble Judges agree that the Ideal case load method is the best method to determine the number of Judges needed, sadly the law commission states the following about this method *“The ideal case load method seems difficult to implement in practice. One is absence of any exhaustive study, one does not find any fixed criteria for determining what the ideal case load should be. Generally, ideal caseloads are fixed on an ad hoc basis”*¹⁹.

In order to improve the performance of the courts, the respondents were asked on increasing the retirement age for Judges and decreasing the pendency. The majority of the Hon'ble Judges answer yes as such they agree that increasing the retirement age of the Judges will help in decreasing pendency. There has been a recommendation by the Law Commission of India ²⁰ and

¹⁶ LAW COMMISSION OF INDIA, Arrears and Backlog: Creating Additional Judicial (wo)manpower. Report no: 245 Available online - <http://lawcommissionofindia.nic.in/reports/report245.pdf>

¹⁷ LAW COMMISSION OF INDIA, Manpower planning in Judiciary: A Blueprint. Report no: 120 Available online - <http://lawcommissionofindia.nic.in/101-169/Report120.pdf>

¹⁸ LAW COMMISSION OF INDIA, Arrears and Backlog: Creating Additional Judicial (wo)manpower. Report no: 245 Available online - <http://lawcommissionofindia.nic.in/reports/report245.pdf>

¹⁹ LAW COMMISSION OF INDIA, Arrears and Backlog: Creating Additional Judicial (wo)manpower. Report no: 245 Available online - <http://lawcommissionofindia.nic.in/reports/report245.pdf>

²⁰ LAW COMMISSION OF INDIA, Reforms in the Judiciary – some suggestions Report no: 230 Available online - <http://lawcommissionofindia.nic.in/reports/report230.pdf>

Venkatachaliah report^{[9]21} to increase the age of retirement of Hon'ble Judges of all courts as retirement of judges creates a vacancy which takes time to fill. On the other hand, the majority of the advocates answered as “no” as they do not think increasing the retirement age for Judges will help in decreasing pendency. The reason could be that Judges need to be in the best state of mind to deliver justice and as a person grows old it becomes difficult to handle the stress of judicial work. This difference in opinion of Judges and advocates may be due to following reasons: the Judges would like longer employment which might result in their elevation to a higher court and it would solve the problem of vacancy for some time. The advocates, on the other hand, want the Judges who are in their prime and not older Judges. Those who wanted to increase the retirement age of the Hon'ble Judges stated and increase from the existing to 62-67 years.

In order to hear more cases, the respondents were asked if the working hours of courts needed to be increased. The overwhelming majority of the Hon'ble Judges answered “no” as they work long after the court proceedings in their chambers, write judgments, do research, etc. Increasing the working hours of the court could result in burnout and therefore compromise the quality of justice. A study by Daksh²² found that judges spent 55% of court time in administrative work like reissuing summons, fixing dates etc. On the contrary the Law Commission of India in its report²³ recommends that the working hours of the court should be extended by at least half an hour. The full court resolution²⁴ passed by the High Court of Karnataka increases the working hours of District court by one hour. The overwhelming majority of advocates also answered “no” to increasing working hours for hearing more cases per day. The reason for such a response is that the increase in court work hours would also increase the working hours of advocates.

The respondents were asked whether they advise the parties to go for mediation or conciliation. The majority of the Hon'ble Judges and advocates stated that they sometimes advise the parties to go for mediation. There is no provision which makes it mandatory for the Hon'ble Judges to advise the parties to go for mediation but the Hon'ble Judges and advocates see this as a model through which the dispute can be resolved therefore lowering the pendency of the court. The resolution of

²¹ Report of the National Commission to review the working of the Constitution, 2002.

²² DAKSH report on Time-and-Motion Study of four District and Sessions Courts in Bangalore, Karnataka.

²³ LAW COMMISSION OF INDIA, Reforms in the Judiciary – some suggestions Report no: 230 Available online - <http://lawcommissionofindia.nic.in/reports/report230.pdf>

²⁴ <https://www.livelaw.in/news-updates/district-courts-in-karnataka-to-work-extra-hours-from-new-year-read-notification-151178>

a conflict outside the court lowers the burden on the courts. The advocates want to resolve the disputes for their clients whether it is through court or any other forum.

The recent amendment in NI Act was made for grant of interim compensation and it was important to assess its impact on the performance of the cheque dishonour cases, in this view a question was asked whether the direction to provide interim compensation at trial as well as appellate stage would reduce instances where the accused knowingly delays the trial to buy some time, only to settle the case at a later date. The majority of the Hon'ble Judges and advocates agree that the direction to provide interim compensation at trial, as well as appellate stage, would reduce instances where the accused knowingly delays the trial to buy some time, only to settle the case at a later date. Once the accused has to shell out money to pay the interim compensation, he/she is likely to come regularly to court and this may also lead to a compounding of the offence.

Open communication, adequate resources and infrastructure like special courts and e-courts will help the legal authorities to accurately examine the witnesses through online media. Majority of the advocates stated that witness information must be kept confidential. Separate rooms and private sitting arrangements must be provided to assure witness protection. Whenever the parties or the advocates seek adjournments without justifiable reasons, the court shall proceed and pass orders. While most of the Judges put emphasis on police protection, rigorous review process, and undertaking from opposing party to assure safeguard of witnesses. If witness is pressurized, bail needs to be cancelled and heavy fine is to be imposed on the other party. Furthermore, documentary evident should be protected with thorough cross examination of witness on the same day without any delay.

In a case the oral arguments take a lot of time, possible alternatives were explored one of which was the written submissions instead of oral arguments. The majority of the Hon'ble Judges favour written submissions over the oral submissions to save time. The written submissions are usually filed before the case is heard, as such the Hon'ble Judges can come prepared with the submissions of the parties and they require minimal assistance of the advocates in the case which saves time. The Hon'ble Judge need not take notes and record the oral arguments of the advocates when they are already submitted in written form. The written submissions also help the Hon'ble Judges at the time of judgment writing as the judge need not remember and recall the oral arguments of the advocates when they are readily available at the time of judgement writing. On the other hand, the overwhelming majority of the advocates do not favour written submissions over an oral argument.

The advocates believe that through oral arguments they can be more persuasive and they can better elaborate their legal point and cause of their clients, moreover the Hon'ble Judges can immediately seek clarification from the advocate, which could convince the court. The difference between Hon'ble Judges and advocates is one of convenience and different approaches to a case, for the judges it will be easier to write the judgement and they need not remember or recall the oral arguments and for the advocates, it is the one of the essential way to practice their profession.

The Hon'ble Supreme Court and certain High Courts have appointed law clerks cum research assistants, who are assigned to Hon'ble Judges. The Hon'ble Judges spend most of their day time on the bench adjudicating the cases and the cause list is so long that even at the end of the court hours it is not completed. The Hon'ble Judges do not get any time to write judgements in court hours and they resort to writing or dictating judgments in the chamber or on a holiday, this results in delay in delivering judgements as some times the judgements are reserved for a long time due to lack of time for the Hon'ble Judges to write them. A law clerk cum research assistant can help with legal research and prepare notes for the Hon'ble Judges. A law clerk cum research assistant also helps with judgement writing. The advocates and their clients get frustrated when judgements are reserved for a long time and the delay in judgement may sometime defeat the purpose of justice. The advocates understand that a helping hand to the Hon'ble Judges in the form of law clerk cum research assistant goes a long way in solving the problem of delays in delivering final Judgments.

5.2.4 Process Reengineering

The Alternate Dispute Resolution (ADR) provide for an out of the box solutions. There are various ADR mechanisms such as Arbitration, Conciliation, Mediation, Judicial Settlement and Lok-Adalat. The offence U/s 138 of NI Act is compoundable and it can be settled outside the court, for the purpose of this study it was necessary to assess the importance of ADR among the respondents. The majority of the Hon'ble Judges and advocates agreed that better mechanism for Alternate Dispute Resolution is important. The Alternate Dispute Resolution provides alternate platforms for dispute resolutions outside the court, for the Hon'ble Judges this lowers the burden on them. The Alternate Dispute Resolution provides alternate platforms for dispute resolutions outside the court, for the advocates and their clients it provides a dispute resolution process which is quicker than the criminal courts.

It is the procedural laws which govern the day to day proceedings of the courts. The procedural laws must be updated from time to time to keep up with the best possible practices to complete the procedure in a smooth way. In this regard the majority of the Hon'ble Judges and advocates agreed that better amendment to procedural laws is important. Presently the procedural laws are such that they take time to complete, an amendment to procedural laws to introduce technological means to complete certain procedure would go a long way in reducing the necessary delays that occurs when procedure is followed.

The findings highlight that the Hon'ble Judges and advocates state that reforms are needed minimizing adjournments. The Cr.P.C provides for inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined²⁵, it also provides for exception when adjournments may be given by recording in writing the reason for the same, this exception has led to parties and advocates seeking numerous adjournments. It is seen that the parties are responsible for the adjournments and advocates are tasked with seeking them in court, but judges being on casual or earned leave or them being busy with other duties have also resulted in adjournments. Cost shall be actively imposed when adjournments are sought without reasonable justification.

The majority of Hon'ble Judges and an overwhelming majority of advocates also agreed that any special law/act which is bound to increase litigation should provide for special or separate Courts. The cheque bounce cases were civil in nature and were later transformed into criminal cases by virtue of amendment in the year 1988²⁶, this amendment did not take into account the impact it will have on criminal courts as the number of cheque dishonour cases were more in number and became, more than half the cases on criminal side in some states.²⁷ The Negotiable Instruments Act is a beneficial legislation it has been enacted for common populace and not having separate courts for criminal cases under NI Act deprives the common populace of the benefits of the act. The Law Commission of India in its report has recommended the establishment of fast track magisterial court for cheque bounce cases²⁸.

²⁵ Section 309, Cr.P.C 1973

²⁶ Banking, Public Financial Institutions and Negotiable Instruments Law (Amendment) Act, 1988 (Act 66 of 1988)

²⁷ LAW COMMISSION OF INDIA. Fast Track Magisterial Courts for Dishonoured Cheque Cases, Report No. 213. Available online - <http://lawcommissionofindia.nic.in/reports/report213.pdf>

²⁸ LAW COMMISSION OF INDIA. Fast Track Magisterial Courts for Dishonoured Cheque Cases, Report No. 213. Available online - <http://lawcommissionofindia.nic.in/reports/report213.pdf>

As per our primary survey, there are no guidelines for calculating the number of courts and number of judges methodologically. Hence, the process of recruiting the Judges and setting up required facilities should be reconsidered. As per our study results the following methods may be adopted for deciding the same: Ideal case load method, Judge population ratio, and time based method.

The respondents were asked on redesigning the recruitment process by forming “All India Judicial Services” in order to solve the recruitment and vacancy problem of the Judiciary. The majority of the Hon’ble Judges as well as advocates have stated “no” as an answer, as such they do not believe that All India Judicial Services can solve the problem. However, this proposal of the All India Judicial Services comes from the Constitution of India²⁹. A report of Law Commission of India³⁰ deals with the way to create All India Judicial Services and the need for it. The reason could be that All India Judicial Service would deal with the appointment of District Judges³¹ and in many states courts of the rank of District Judge and below function in state or regional languages.

The respondents were asked whether time bound procedure followed in Commercial Courts be replicated in cheque bounce cases. The majority of the Hon’ble Judges answered “yes” i.e. the time-bound procedure could be followed. The commercial courts³² have a specified timeline for the stages of a case within which parties may complete the stage, this reduces the unwarranted delays and completes a case in a systematic way. The majority of the advocates answered “no” i.e. the time-bound procedure could not be followed. The commercial courts are civil in nature and the cheque dishonour cases are criminal in nature, as such they cannot be compared. The reason for disagreement is that the burden of following the time-bound procedure would fall on the advocates. The Hon’ble Judges stated that there is a need for separate courts for cheque dishonour cases.

A question was asked pertaining to establishment of a separate cell of police for service of summons. The overwhelming majority of the Hon’ble Judges answered “yes” to the establishment of a separate cell of police for service of summons. The service of the summons is through physical means and the regular police force is not always available to serve the summons and they do not give priority to it. This results in delays in service of summons which in turn results in delays in

²⁹ Article 312, Constitution of India

³⁰ LAW COMMISSION OF INDIA, Formation of an All India Judicial Services Report no: 116 Available online - <http://lawcommissionofindia.nic.in/101-169/Report116.pdf>

³¹ Article 312, Constitution of India

³² The Commercial Courts Act, 2015.

cases. A separate cell would go a long way in solving the problem. On the contrary the overwhelming majority of the advocates answered “no” to the establishment of a separate cell of police for service of summons. The establishment of a separate cell of police for service of summons would result in appointing certain officials from the existing cadre of police who deal with law and order and crime. This would take the focus of the police away from their main obligations. Hence there is difference of opinion between Hon’ble Judges and advocates. The Hon’ble Judges believe that the creation of a separate cell of police would speed up the court process whereas the advocates believe that it would hamper the main obligation of the police i.e. maintaining law and order and investigating a crime.

The majority of the Hon’ble Judges and advocates agree that it should be compulsory for the Courts to refer cases for mediation. This gives an advantage to everyone as all the attempts to resolve the conflict would be exhausted before the beginning of the trial and might even result in settlement of the dispute outside the court. Presently parties during trial take time from the court to settle the dispute this results in pendency of the case and if the settlement does not take place it results in prolonging the trial. The advocates are of the opinion that if cases are referred for mediation then some of the cases would be resolved and there would be no requirement to approach the court. Presently parties during trial take time from the court to settle the dispute this results in the pendency of the case and if the settlement does not take place it results in prolonging the trial. The advocates are of the opinion that once the case goes for mediation; it is likely that the case would be resolved outside the court.

Majority of the advocates put emphasis on effective implementation of Witness protection scheme to safeguard witnesses from intimidation and threats. This scheme provides for “*protection of witnesses based on the threat assessment and protection measures inter alia include protection/change of identity of witnesses, their relocation, installation of security devices at the residence of witnesses, usage of specially designed Court rooms, etc.*”³³ While Judges stated that thorough implementation of witness protection law will assure better protection of witnesses. Courts should have a clearly communicated complaint handling process. Stricter punitive law, separate cells, waiting rooms, video recording of evidence, and speedy trials are certain means to assure the safeguard of witnesses. Most of the advocates also stated that there should be limit on the number of adjournments per case. Also, cost shall be imposed for repeated and frivolous

³³ ref. <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1578108>.

adjournments. While majority of the Judges stated that court management techniques should be used in preparation of the cause list.

5.2.5 General Questions

The findings highlight that the majority of the Hon'ble Judges agree that cheque bounce cases as a burden on the criminal justice system. The cases falling under section 138 of Negotiable Instruments Act are dealt by Criminal Courts which are central part of the Criminal Justice System and the Hon'ble Judges are the main figure in the court, their responses are of great importance. Initially, the cheque dishonour case is heard by the Judicial Magistrate First Class (known by other titles in different states), thereafter the appeal lies with the Session Courts. In some states certain courts have been assigned to deal with the cases falling under section 138 of Negotiable Instruments Act, but no additional recruitment is done. Rather Judicial Officers from existing strength are appointed as Judges in these assigned courts. Therefore, a good percentage of Hon'ble Judges consider Cheque bounce cases as a burden, as they make up a substantial amount of cases pending in Subordinate Courts. The majority of advocates also agree that cheque bounce cases as a burden on the criminal justice system. Although the practice of the advocates is benefit when there are more number of cases, yet they are at first the officers of the court and they act and think in a responsible manner, therefore they recognize that the huge number of cheque bounce cases are burden on the Criminal Justice System and it would have an adverse effect on society in general and courts in particular. Therefore, both the Hon'ble Judges and advocates are of the same opinion. According to the Law Commission of India Report, in Delhi alone out of the 7.6 lakh criminal cases pending in 2008, 5.1 lakh were cases pertaining to cheque bounce under section 138 of Negotiable Instruments Act 1881³⁴. This clearly shows that a huge amount of cases in criminal courts are pertaining to cheque bounce under section 138 of Negotiable Instruments Act 1881 and that they are a burden on the Criminal Justice System. Therefore, both the Hon'ble Judges and advocates are of the same opinion.

The respondents were asked about deciding the guidelines for calculating number of courts and the number of sanctioned post as a ratio of population or the number of cases or any other metric. On this, the overwhelming majority of the Hon'ble Judges states that there are no guidelines for

³⁴ LAW COMMISSION OF INDIA. Fast Track Magisterial Courts for Dishonoured Cheque Cases, Report No. 213. Available online - <http://lawcommissionofindia.nic.in/reports/report213.pdf>

the number of courts and the number of sanctioned post as a ratio of population or the number of cases or any other metric. The Law Commission of India in its report³⁵, states the following four methodologies to calculate the adequate judge strength: Judge to Population Ratio & Judge to Filing Ratio, The Time Based Method, The Ideal Case Load Method and The Rate of Disposal Method. Our survey revealed that the advocates are also with the same opinion that there are no guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric. Both the advocates and the Hon'ble Judges agree that there are no guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric. This is devastating for the Judicial system as the population and number of cases being filed is increasing without any guideline for increasing the number of courts.

An enquiry on the question whether complaint can be amended revealed that it is permitted to amend the complaint. Filing of the complaint is the first stage of the case in cheque bounce cases and an amendment of the complaint changes the course of the case. Further the majority of Hon'ble Judges and advocates stated that the time taken for amendment of a complaint is short, as such no significant delay takes place.

In a criminal case there are several opportunities for early disposal of the case, one such opportunity is plea bargaining by the accused, a question in this regard was asked to the respondents that whether they inform the accused about plea bargaining. The following was their response: The majority of the Hon'ble Judges and advocates state that they inform the accused about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining. The law of plea bargaining states that, it is the accused who has to file an application before the court for plea bargaining. However, in India most of the accused are not aware of their legal rights and it falls upon the judicial system to inform them so they may safeguard their rights. The law of plea bargaining helps in disposing the case, early in the hearing where accused pleads guilty to certain charges against him for a leniency in sentencing.

A cheque dishonour case can be tried summarily which results in early disposal of the case, a question was asked about the frequency with which cheque dishonour cases are tried as summary cases. The majority of the Hon'ble Judges state that it is sometimes that the cheque bounce cases

³⁵ LAW COMMISSION OF INDIA, Arrears and Backlog: Creating Additional Judicial (wo)manpower. Report no: 245 Available online - <http://lawcommissionofindia.nic.in/reports/report245.pdf>

are tried as summary cases, whereas the advocates state that it is often that the cheque bounce cases are tried as summary cases. The procedure for summary cases is shorter and it does not follow the usual criminal trial procedure, the method of taking evidence is also different. As the summary cases are required to be disposed in a short period of time it saves the time of the court and helps in reducing pendency. The difference between the Hon'ble Judges and advocates is a difference in perception, as the Hon'ble Judges see more cases and advocates only deal with certain cases.

As per the recent amendment the interim compensation is provided for the benefit of the complainant and the complainant is required to return the amount along with interest if the case results in acquittal. The respondents were asked whether such a condition i.e. returning the interim compensation along with interest would deter the complainant from withdrawing the compensation amount. The majority of the Hon'ble Judges agree that directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it. The complainant would be varying of the loss he would suffer if the case results in acquittal of the accused, he/she has to return the compensation amount but has to pay the interest on it. The advocates disagreed with the statement. The advocates believe that the complainant would be able to withdraw the compensation amount if his allegations is true and it acts as a deterrent against a complainant who is making false allegations as they would be proved wrong in the court of law and they would have to return the amount along with interest. Hence there is a difference of opinion between Hon'ble Judges and advocates.

5.3 Discussion on Litigants' Responses

All the responses received are from the litigants involved in the cheque bounce cases. The cheque dishonour cases are different from other criminal cases in many ways like both the parties to the case have private lawyers, instead of a prosecutor for the complainant. Therefore, it becomes necessary to target litigants involved in the cheque dishonour cases for the present study. Usually, the parties in cheque dishonour cases are private persons with some exception to cases which are filed by the Central or State governments and its instrumentalities, commonly the Banks. Loans are availed from Banks, nationalized or private and from financial institutions such as financiers and chit funds, further goods and services are availed from government and private businesses. The overwhelming majority of the litigants are the first-time litigants having their first court case.

In India, the general populace primarily prefers to resolve any dispute outside the court and then they approach the court as last resort to get justice. Courts are seen as time and money consuming affair.

5.3.1 Delays/Bottlenecks

Majority of the complainants in cheque dishonour case have filed the cases through their advocate's clerks. Being first-time litigants, they are not aware of the court procedures and accordingly approach an advocate to file the case. The advocate's clerk files the case, however, several documents are required along with stamps for case filing, which are bit complicated in process. Majority of the litigants do not welcome the idea of the use of electronic filing and online payment of court fees. Due to high computer illiteracy rate, low internet penetration, and lack of technical expertise in using gadgets, they find it difficult to complete the electronic process. As a result, they are unable to use computer and internet to know their case details and status online. According to the World Bank report (2017), only 34% of Indian population used internet, which is low. Also, majority of them are not aware of the e-courts website. The e-courts website is an initiative of the Department of Justice and e-committee of the Hon'ble Supreme Court, where one can see the case status, docket order, and other day to day proceedings. Earlier, the source of information about court cases for litigants was getting information through advocates, court clerks, and bench clerks or being individually present in court. With the advent of e-court website, the litigants would become aware about their case/cases, provided they are aware and able to use it. However, the language of e-court websites and app in English act as another barrier for the litigants if they don't know English. The e-courts website has case information about cases in subordinate courts and some High Courts but the High Courts have not furnished the details of daily or day to day proceedings as done by subordinate court. It is pertinent to mention that the daily or day to day proceeding and orders of the Hon'ble Supreme Court of India are available on its website but such information of cases in High Courts is not available.

Moreover, majority of the litigants do not approach the Legal service authority for legal aid. Even those who approached were not allotted any advocate from the legal service authority. In general, majority population is not aware of the legal service authority to avail the services. They have poor or average understanding of what is happening inside the courts. Most of the litigants are not aware of the legal procedures and courts. The law and legal procedure is not part of the education

system in India. In some states, the court language is English. Litigants who do not understand English are entirely dependent on the advocates to understand the legal procedures.

Furthermore, the offence U/s 138 of Negotiable Instruments Act is a compoundable one. This offence can be compromised with a mutual understanding of the parties. There are various forums and platforms where the cheque dishonour dispute can be resolved outside the court. However, most of the litigants are unaware of alternate dispute resolutions due to lack of education and those who are aware of it are informed by their advocates. Still they believe that there is no chance of settling the dispute outside the court. A case of cheque dishonour is a break of trust between the parties who had entered into an agreement and one party owes a debt to the other party. Before approaching the court, the complainant tries to settle the dispute through various means which range from directly asking money from the drawer to arrange a meeting of elders of both the parties or elders in an area which drawer resides to morally pressure the drawer to pay the amount. Initially, the complainant tries other means of settling the dispute outside the court and only then s/he approached the court. If the accused is believed to be innocent, then they prove themselves right by getting acquittal in the court.

Lack of courts and legally mandatory notice periods are also considered to be the top reasons for systematic delays. As per the statement made by the Minister of State for Law in Parliament in the year 2018, there were more than five thousand vacancies at District and subordinate judiciary in India. Most of the litigants believe that if there are more courts, then their cases would get resolved without much delay. Another reason of the delay is the mandatory notice period, where even when the payee issues the notice immediately after cheque bounce, s/he has to wait at least one month for reply of the drawer. Results highlight that an overwhelming majority of the cases are adjourned for a period of one month. The litigants come to the court of law to get justice delivered in a reasonable time. The courts, on the other hand, are understaffed having vacant positions for the judges in subordinate judiciary. Huge amount of cases is put on board of the Hon'ble judges which takes time to reach bench. Many cases in the cause list which are listed on a given date do not get heard as their number does not reach the bench on that given date. Even when the case reaches the bench and is adjourned, the Hon'ble Judge has to give a long date due to the huge amount of pendency. It is also important to note that the advocates and parties also ask for a long adjournment for different reasons. Adjournments are granted due to parties or advocates being absent, Hon'ble Judges on leave, boycott of courts by advocates and many more. However, an overwhelming

response from the litigant's states that advocate and advocate of other parties are majorly responsible for the delays caused either deliberately or inadvertently. The parties may ask their advocates to seek adjournments to delay the case in order to frustrate the other party or gather time for alternate solutions to the case. Meanwhile the advocates may seek time if they have to appear in other case on same date and time. They may be absent or may not appear if their fees are not paid. Likewise, more than fifty percent of the litigants come from a distance of more than ten (10) kilometres. The courts of law situated far away from the territorial jurisdiction are a hindrance in access to justice for the litigants. A litigant, whether wronged or is accused of a false offence, seeks justice from courts which are accessible to him/her, but a court being far away adds to the existing grievances of the litigants. The litigant has to travel a long distance multiple times which takes time and money, thus leading to absenteeism of the parties.

The litigants stated that adjournments, less number of Judges, staff and court holidays are major causes of delay in a case. The Cr.P.C provides for inquiry or trial of the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined³⁶, it also provides for exception when adjournments may be given by recording in writing the reason for the same, this exception has led to parties and advocates seeking numerous adjournments. On the other hand, there are huge vacancies in the judiciary, and this leads to piling of cases before a judge and long dates for hearing. The litigants also state that the court holidays are a major reason for delays, the courts have extensive summer and winter vacations depending on the state/region where the court is situated. The litigants who were involved in a case prior to their present case stated that their experience of the prior case was bad as it took a lot of time to reach an end.

5.3.2 Technology

The advent of e-court website helps the litigants to be aware about their case/cases, provided they are aware and capable to access it. It is clear from the responses of the litigants that more awareness is to be created about e-courts. While it was observed in some courts that there are judicial/case information centres which provide details of cases to the litigants, upon request. It was also observed that most of the visited courts had kiosk machine which have e-courts website as a platform. The e-courts website has case information about cases in subordinate courts and some

³⁶ Section 309, Cr.P.C 1973

High Courts. Although daily proceedings and orders of the Hon'ble Supreme Court of India are available on its website, but such information of cases in High Courts is not available.

5.3.3 Performance

Majority of the litigants believe that reducing the number of adjournments would reduce the overall delays in the case. The responsibility to reduce the number of adjournments falls on many stakeholders involved in a case. In order to go forward without adjournment, cooperation among the stakeholders is required.

5.3.4 Process Reengineering

These include provision of special courts and upgradation of e-courts website. Prior investigation before trial along with increased manpower, reduced adjournments, fees of advocates, and strict rules and regulations can help in reducing delays. Further there is a need to create more awareness about e-courts among litigants. The majority of the litigants stated that serving summons on the accused took a lot of time. The process of summons could be reengineered through use of technology. The summons could be sent in electronic form to the digital device available with the accused, if the accused is known to possess such device. The litigants stated that there is a need to increase the number of judges in subordinate courts, the court have to give long dates for hearing as there are overburdened with the existing cases.

5.4 Registry Discussion

The registry is an integral part of the court. It handles the administrative functions of the court. It is headed by the administrative officer called by different names in different states, some of which are: Registrar, Chief Managing Officer, Superintendent and etc. However, they are under the control of Principal District Judge in districts and Chief Metropolitan Judges in cities respectively. In some states cities Judicial Officers from the existing cadre are appointed as the Registrars.

5.4.1 Statistical Data

The primary data collected reveals that a substantial number of criminal cases are pertaining to cheque bounce and at least two courts visited in the state of Bihar show that more than half the criminal cases are pertaining to cheque bounce. This substantial amount of criminal cases

pertaining to cheque bounce warrants the establishment of Special and Fast tract courts at magisterial level.

The data also revealed that only few cases pertaining to cheque bounce are tried as summary cases. The section 143 of the NI Act clearly empowers the magistrate to try a cheque bounce case as summary cases provided that *“when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.”*³⁷ The above quoted provision should be followed as far as possible and try maximum number of cheque bounce cases as summary cases where the above stated provision is applicable.

The primary data also revealed that none of the courts visited had a disposal rate of hundred percent and all the courts visited had poorer disposal rate of cheque dishonour cases when compared to regular criminal cases. This means that every year a number of cases are carried forward as backlog and add to the existing pendency. The disposal rate of the NI Act further emphasizes the need for special and fast tract courts at magisterial level.

5.4.2 Building and Infrastructure

All the courts complexes visited for the present study are owned by the government. It was revealed through conversation with court officials that the development and renovation of the court complex/building should be given to the Principal Judge and not to the State Government as court officials would be in better position to utilize the budget. The respondents when asked whether the court complex is sufficient, around 37% of the respondents revealed that their court building is congested. The old courts have to be rebuilt according to the crowd that comes to the court. Most of the court rooms lack employee’s canteen and none had lunch room for the employees, providing the employees and staff with the amenities would go a long way in improving their performance. Women are half the population of the country but they are not proportionally represented in the advocates profession, providing basic amenities for women advocates would go a long way in attracting best talent to the advocate profession and judiciary, but few of the courts visited in this

³⁷ Section 143 NI Act 1881

study did not have a separate bar room for women advocates. The field visit revealed that air conditioning, lunch rooms, parking area are the demands of the employees across the courts.

A healthy work environment is very important for proper functioning of the court, eighty percent (80%) of the respondents replied that the work done by employees is up to the standard. At a maximum ten courts were found lying vacant in a court complex. A majority of the respondents stated that the infrastructure of the court is up to the standard, but some of the courts stated that they require waiting rooms for litigants, dispensary and parking area. The respondents revealed that improvements can be made to the court by providing by carrying out regular building repairs.

5.4.3 Computer Usage and Digitisation

It was found that all the courts are equipped with computers and they have internet connection through cable/LAN. Around 79% of the courts have Kiosk machine. The kiosk machine has e-courts platform on them and the litigants and others can check their case status and details. All the courts visited were equipped with video conferencing facilities. The respondents stated that the daily proceedings and the daily orders were being uploaded on the e-courts website, but when the e-courts website was checked not all cases were uploaded. The employees working on the e courts project stated that they require more staff. The entries on e-courts were mostly made in English with some courts using native language, this is because certain states are recording the daily proceeding in native language. There is a need of installing display boards outside the court rooms for informing the advocates that their case is about to reach. The respondents revealed that they face certain difficulties such as network failure, lack of technician and failure of National Judicial Data Grid (NJDG) servers. The National Judicial Data Grid does not maintain a separate data for the cases filed under Negotiable Instruments Act.

5.4.4 Administration

The average number of staff provided for each court is four to five. The respondents when asked about the reasoning of appointment and the number of staff and whether there are any methods to know the number of staff required stated that they do not know of any method required for determining the number of staff, employees required. The respondents stated that the PDJ or the Metropolitan Session Judge should have the authority to appoint staff on adhoc basis to overcome the vacancies which take time to fill. Only ten percent of the court had employees' union and they do not go on strike. It was observed that only a few employees were under suspension. The

punctuality and regularity of the staff can be improved by installing biometric system in court and by rewarding the staff who are regular to the court. It was observed that few of the states do not have court managers, the data also revealed that 42% of the respondents believe that court manager need strengthening in their district. The respondents state that the work done by court managers is limited to statistical data management, infrastructure work, time management on reports, pendency analysis among other such things. The court managers were supposed to take over the administrative functions and streamline the court process on the administrative side.

5.4.5 Judicial wing

The respondents were asked about how many cases are kept on the daily board of the Judicial Officers, the respondents revealed that 30-150 cases are put on daily board. The cases should be kept on board after applying the ideal case load method i.e. on average how many cases a Hon'ble Judge can complete the cause list. It was also stated by the respondents that around 30-90 minutes of time is required for remand work. It was also stated that 30 minutes to 2 hours are required by the judicial officers for administrative work.

5.5 Discussion on Online case wise time tracking

The case wise time tracking was undertaken to identify the stages at which the delay is caused and to identify the reasons for the delay. The following stages were identified as causing delays:

The online case tracking revealed that stage of summons takes more time and the average time taken at this stage is 84.7913. The summons is served through local police officer or through post. The reasons for delay in service are multiple. It was observed that most of the time the accused was not present at the address given or the accused does not live at that address. This could be overcome by making it mandatory for the drawer to provide email address or mobile number along with cheque, if the drawer has one and informing the drawer that any issues and case arising out of such cheque would be communicated to him, through the email address or mobile number. It is recognized that the availability of email address and mobile with internet connectivity may not be available with an average Indian citizen as computer literacy and internet penetration is low in India. But, wherever possible the email address and mobile number should be obtained and used in court process such as sending notice and summons to the accused. This would reduce the instances where it takes time to serve summons and notices and at the least a few cases would be

resolved without manually sending the summons. This method will take time to become universal but as India progresses the computer literacy, use of Smartphone and internet penetration is increasing.

The stages of issuing summons to be served by Police and issuance of bailable and non-bailable warrant occur after serving of summons is attempted through normal means and if the accused refuses to receive summons or does not show up in court after receiving the summons. It has been noted that this stage is identified as delay by the respondents in the questionnaire and also through online case tracking. To overcome this delay, it is recommended that a special cell of police should be established to serve the summons, presently the same police responsible for law and order is responsible for serving summons. It is revealed by the response to the questionnaire and online case tracking that the stage of granting interim compensation causes delay in the case. The accused tries to delay this stage so he may not have to pay the interim compensation. The new amendment has granted relief to the complainant and accused has to provide compensation after pleading not guilty to the case. To overcome the delay tactics by the accused cost may be imposed for frivolous adjournments.

The online case tracking and responses to the questionnaire also revealed that the stage of complainant evidence also causes delay. The reason for the delay was identified as absenteeism on part of the complainant and witnesses. The complainant may not get a leave or time to attend the court proceedings on a given date. The distance between the residence of the complainant and the court was also a contributing factor to the absenteeism. To overcome the delay a case should be heard on day to day basis and no adjournment shall be granted when complainant and the witnesses are present for deposing the evidence before the court. The stages of cross examination also contribute to the delays. It was observed that while examination in chief is well orchestrated between the advocate and witness but the same is not possible as cross examination is done by advocate of the opposite party to a witness called by opposite party. The reasons for the delays in cross examination are that the advocate and the witness/witnesses may not be ready or available on a fixed date.

The writing and delivery of judgement is the most important part of the case. It has far reaching implications for the parties involved in the case. The Hon'ble Judge spends most of their time on the bench in hearing the cases. Thereafter they are busy with administrative work and preparing of cases. The reserving of judgements for a long period of time might defeat the purpose of justice.

In this regard the Hon'ble Supreme Court and Hon'ble High Courts have appointed law clerks cum research assistants for rendering assistance to Hon'ble Judges through research in judgement writing and preparation of cases. The subordinate courts can hugely benefit from appointing law clerks cum research assistants and delays in delivery of judgement could be reduced.

CHAPTER VI RECOMMENDATIONS AND CONCLUSION

6.1 Summary of Findings

1. According to the World Bank report (2017), only 34% of Indian population used internet, which is low. Specifically, majority of litigants do not welcome the idea of the use of electronic filing and online payment of court fees. High computer illiteracy rate and low internet penetration causes delays in serving summons and notices. Also, majority of them are not aware of the e-courts website.
2. Further, court proceedings are being impeded by large number of absenteeism and adjournments. This could be due to delaying tactics adopted by litigants like settlement of disputes outside the court, frustrate the complainant and defeat the purpose of justice.
3. As per the perspectives shared by the shareholders, the existing way of court management is attributed for delays. In many states, there are no court managers to help with court management. Whereas some judges believe that inefficiency on part of advocates is contributing to pendency. For instance, advocates seek adjournments when they are unprepared or have to attend more than one case simultaneously.
4. Digitalization of courts documents and processes are considered to be the important element to reduce unwarranted delays to case. Easy access to resources through digital means, e-filing, and certified copies of the documents, live telepresence, and video conference further accelerate the court process. However, e-accessibility rate is less due to lack of digital infrastructure, inadequate facilities, and poor technical knowledge that impedes court procedures. Demeanour cannot be examined and witnesses can be tampered while examining the accused through digital media.
5. In certain States, tele-law service launched by Dept. of Justice would help the litigants to understand the case before approaching the court. However, not many judges and lawyers are convinced with this approach as tele-law services could be detrimental in cases where there is a time limit to file cases.
6. As per the statement of the Minister of State Law to the parliament in 2018, there were over five thousand vacancies in subordinate judiciary. Also as per Department of Justice, Ministry

of Law and Justice, Government of India in Jan 2019, there are 401 vacancies in the High Courts, which burdens existing judges with work overload and causes further case delay.

7. Although working hours of courts have been increased, it is not welcomed by honourable judges and advocates. Increasing the working hours of the court could result in burnout and therefore compromise the quality of justice.
8. An enquiry into courts at subordinate level revealed that there is a requirement of special and fast track courts for NI act cases, followed by Lok-Adalats in decreasing pendency of cheque dishonour cases. It was also observed in certain cities that few courts have been assigned as separate courts for cheque dishonour cases as they only deal with cases U/s 138 of NI Act.
9. As per our primary survey, there are no guidelines for calculating the number of courts and number of judges methodologically. Ideal case load method, Judge population ratio, and time based method may be adopted for determining the number of Judges needed. While, the law commission states the “The ideal case load method seems difficult to implement in practice. One is absence of any exhaustive study, one does not find any fixed criteria for determining what the ideal case load should be. Generally, ideal caseloads are fixed on an ad hoc basis”.
10. According to stakeholders, PDJ or the Metropolitan Session Judge should have the authority to appoint staff on adhoc basis to overcome the vacant positions. Only ten percent of the court had employee unions that do not go on strike. A few employees are under suspension. Some of the states do not have court managers, and if present, they are limited to statistical data management, infrastructure work, time management on reports, and pendency analysis.
11. There exists no provision which makes it mandatory for the Hon’ble Judges to advise the parties to go for mediation or conciliation. Yet the Hon’ble Judges and advocates consider these mechanisms as interventions to resolve disputes, thus lowering the pendency of the court.
12. Interim compensation at trial, as well as appellate stage, further reduce instances where the accused knowingly delays the trial to buy some time, only to settle the case at a later date, which may also lead to a compounding of the offence.
13. Judges are of the opinion that police protection, rigorous review process, and undertaking from opposing party assures safeguard of witnesses. In case, witness is pressurized, bail needs to be cancelled and heavy fine would be imposed on the other party. Protection of documentary evidence ensures thorough cross examination of witness without any delay.

Stricter punitive law, video recording of evidence, and speedy trials are certain means to ensure the protection of witnesses.

14. According to survey, majority of judges prefer written submissions over oral arguments that require minimal assistance of the advocates to save time. While the advocates believe that oral arguments are more persuasive to elaborate legal points and cause of clients. In addition, there is a requirement of law clerks cum research assistants, who are assigned to Hon'ble Judges that help in conducting legal research and judgement writing to mitigate delays in delivering final judgments.
15. Survey revealed that majority of judges and advocates are of the opinion that any new law/act passed by the Government shall take into account, its impact on the courts and wherever necessary provide a separate platform for adjudicating disputes.
16. As per the stakeholders, mechanism for Alternate Dispute Resolution such as Arbitration, Conciliation, Mediation, Judicial Settlement, and Lok-Adalat are underutilized. In their opinion, awareness regarding ADR mechanisms would reduce pendency of cases, which is quicker than the criminal courts.
17. The Judges are of the opinion that time bound procedure followed in Commercial Courts can be replicated in cheque bounce cases to ensure a specified timeline for the stages of a case within which parties may complete the stage, thus reducing unwarranted delays in a case. Further, separate cell of police need to be established for service of summons to proliferate the court process.
18. According to the dates, data is recorded and analysed. The average time taken for each step is being calculated for 45 cases for each of the 10 states. The data analysed is as follows: -

Stage wise average of 10 states for 25 Stages:

| Sl. no. | Stage | Average Duration (Days) |
|---------|--|-------------------------|
| 1) | Filing date – Registration date | 1.5 |
| 2) | Registration Date- Jurisdiction | 1.54 |
| 3) | Jurisdiction-Initial hearing/Maintainability | 79.69 |
| 4) | Initial Hearing/Maintainability-Initial Evidence | 36.26 |

| | | |
|-----|--|--------|
| 5) | Initial Evidence/Witnesses-Preliminary Arguments | 42.57 |
| 6) | Preliminary Arguments- Interim orders (1) | 46.06 |
| 7) | Interim Order (1) – Interim Order (2) | 39.34 |
| 8) | Interim Order (2) – Case Adjourned | 48.12 |
| 9) | Case Adjourned – Order for Summoning | 84.79 |
| 10) | Order for summoning - If Summons Not Served, Service by Police | 49 |
| 11) | If Summons Not Served, Service by Police- Issuance of Bailable Warrant | 26.49 |
| 12) | Issuance of Non-Bailable Warrant.- Grant of Bail | 31.07 |
| 13) | Issuance of Non-Bailable Warrant.- Grant of Bail | 56.86 |
| 14) | Grant of Bail- Supply of Documents to Other Side. | 103.20 |
| 15) | Supply of Documents to Other Side.- Pleading Guilty/ Not Guilty | 47.7 |
| 16) | Pleading Guilty/ Not Guilty - Complainant Evidence | 35.50 |
| 17) | Complainant Evidence -Examination Of Complainant Witnesses | 23.48 |
| 18) | Examination of Complainant Witnesses - Cross- Examination of complainant Witnesses | 32.88 |
| 19) | Cross-Examination of complainant Witnesses - Statement of Accused | 24.91 |
| 20) | Statement of Accused- Evidence By Accused | 23.96 |
| 21) | Evidence by Accused - Examination of Accused's Witnesses | 33.02 |
| 22) | Examination of Accused's Witnesses - Final Arguments/Hearing | 53.39 |
| 23) | Final Arguments/Hearing - Judgment | 36.71 |

| | | |
|-----|-----------------------|--------|
| 24) | Judgement- Sentencing | 27.37 |
| 25) | Filing - Sentencing | 479.21 |

19. The online case tracking revealed that stage of summons takes more time and the average time taken at this stage is 84.7913. Either the accused was not present at the address given or the accused does not live at that address. Moreover, gaming behaviour by parties and their advocates also lead to delays. Avoiding the summons or refusing to appear in the court are the main attributes to unwarranted delays in cheque bounce cases.
20. Results revealed that a substantial number of criminal cases are pertaining to cheque bounce cases. At least two courts visited in Bihar show that more than half the criminal cases are pertaining to cheque bounce which warrants the establishment of Special and Fast track courts at magisterial level.
21. According to court officials, the development of court complex/building should be given to the Principal Judge and not to the State Government. Nearly 37% of the stakeholders revealed that their court building is congested. Most of the court rooms lack basic amenities like lunch rooms, parking area, along with separate bar rooms for women advocates. Eighty percent of the stakeholders mentioned that the work done by employees and court infrastructure is up to the standard. Yet maximum ten courts are lying vacant in a court complex, whereas some of the courts require waiting rooms for litigants, dispensary, and parking area.
22. Around 79 percent of the courts have Kiosk machine, where litigants can check their case status and details. As per the stakeholders, daily proceedings and orders are being uploaded on the e courts website, but when checked, not all the cases are uploaded. The respondents encountered certain difficulties like network failure, lack of technician, and failure of National Judicial Data Grid (NJDG) servers. The National Judicial Data Grid does not maintain a separate data for the cases filed under Negotiable Instruments Act.

6.2 Recommendations of the Study

1. The number of adjournments in cheque dishonour cases should be reduced by imposing some cost on the party seeking adjournments, especially when adjournments are sought without reasonable justification.

2. The daily board of a court should consist of cases, which can be heard by the end of the day and keeping additional cases which are unlikely to be heard due to the huge number of cases listed in the cause list is unproductive. The parties who usually come to the court, but do not get a hearing due to overloading of cases to one court. For this the ideal case load method should be used to calculate the number of cases to be put on daily board.
3. To overcome the delay, a case should be heard on day to day basis and no adjournment shall be granted when complainant and the witnesses are present for deposing the evidence before the court.
4. It should be mandatory for the drawer to provide email address or mobile number along with cheque, so that the drawer should be informed that any issues and case arising out of such cheque would be communicated to him/her, through the email address or mobile number provided by him/her. This would go a long way in serving notices and summons to the accused through electronic means, whenever possible.
5. In cases, where the smartphone number or active email address has been obtained from the accused, the summons should be served in electronic form to the accused to save time.
6. Digitalisation of court is necessary to reduce delays and save time, moreover the option of electronic filing cases should be available at every court. The files and documents should either be submitted in digital format or kept scanned, so that, they may be produced instantly. The advocates and the parties should be allowed to serve documents and papers to other side through digital means, this will save time and reduce adjournments for the same reason.
7. The Tele-law services should be extended to all the States in India. There should be a priority (tatkal) line in Tele-law services for cases that have a time limit for filing of the case.
8. Telepresence and video conferencing can be used provided that adequate infrastructure, electronic systems, technical knowledge and training among other such things are taken care of.
9. The e-courts website has revolutionized the data and information pertaining to the court. There is a need to raise more awareness about the e-courts project, website, and app, especially among litigants. The website and app of e-courts should be available in national languages. The litigants should have access to the status of their case and the next date of hearing for this purpose Kiosk machines is required in all courts.

10. The daily proceedings and docket orders of the subordinate courts are available on the e-courts websites, but the same for the High Courts is not available. Whereas, the Supreme Court is also keeping the online data for the daily proceedings on their website. Hence, high courts should also provide the digital records of the proceedings.
11. There is a need to provide more staff for uploading of court proceedings to e-courts. The data of pendency shown by NJDG does not show separate data for cheque dishonour cases. The NJDG needs to maintain separate data for cheque dishonour cases so that we can expedite the cheques-bounce process by estimating the required number of (wo)manpower, facilities, and level of other technical interventions required.
12. All the courts should have display boards that will show the case number and names of advocates and parties which are presently being heard in the court hall. The display boards will help in informing the advocates and parties, when their case is reaching for hearing.
13. Good and spacious infrastructure is necessary for the proper functioning of the court and it provides a pleasant environment for the participants. The new court structures are required to overcome the congestion in old court structures. New court complexes should be established where old court structures exist. The Principal District Judge or his/her equivalent should have the authority to develop and renovate the court.
14. Lack of the number of courts is a reason for systematic delays. There is a need to establish Special Courts for NI Act cases and where the cheque dishonour cases are pending for more than two years a Fast Track Court should be established, this is in line with the recommendation of the Law Commission of India.
15. There is a need to establish permanent Lok-Adalats and permanent mediation centers wherever they are not already in existence.
16. There is a need to develop guidelines for the number of Judges required to clear the existing pendency and the upcoming requirements. Our study revealed out that Ideal Case Load Method has been rated as the best method for determining the required number of judges to be recruited.
17. The vacancies of staff will take time to fill, hence, in the meanwhile, the PDJ should have the authority to appoint staff on adhoc basis to overcome these vacancies. The age of the Hon'ble Judges should be increased by two years to overcome the vacancy problem for the time being.
18. Law clerks cum research assistants shall be appointed under each Judge of High Courts and subordinate courts, in order to overcome the delays in delivering of judgment.

19. All the courts should have court managers and to ensure this the High Courts of respective states should clearly define the procedure for the whole State and the existing court managers should be entrusted with more administrative work.
20. To overcome the delay in serving summons, it is recommended that a special cell of police should be established to serve the summons, presently the same police responsible for law and order is responsible for serving the summons.
21. A substantial number of Hon'ble Judges stated that it would be better to increase the percentage of interim compensation at the trial stage to do justice to the complainant. However, the majority of the Hon'ble Judges are against the interest being charged on the interim compensation which would have to be returned when the case results in acquittal.
22. The majority of the Hon'ble Judges favor written submission over oral arguments.
23. A witness protection scheme should be implemented.
24. Awareness should be created about the court procedures and legal service authority to avail legal aid along with awareness about alternate dispute resolutions. To ensure this the law and legal procedure can be included as part of the secondary education system in India.

6.3 Conclusions

There are five areas that cater to the need of stakeholders (judges, lawyers, litigants) in reducing the pendency of cheque-bounce cases.

1. **Technological advancement of courts/Process reengineering:** Digitalization of court is important to diminish delays, additionally the alternative of electronic filing and scanning of court documents should be available at each court. This could be achieved by submitting the records and documents either in digital format or scanned to reduce adjournments. Telepresence and video conferencing further make it easier for advocates to appear before multiple courts virtually. Awareness about e-courts project, website, and app, particularly among litigants, will empower the litigants to pursue their case. A proper (tatkal) line in Tele-law services for cases having a time limit, if introduced, can expedite the court proceedings.
2. **Infrastructural parameters:** The display boards outside the court halls and Kiosk machine would go a long way in informing the stakeholders about their case status. Adequate

infrastructure ensures proper functioning of the court as it provides a pleasant environment to stakeholders. Also, the development of new court complexes can overcome congestion in old court structures.

3. **Awareness about Lok Adalats and ADR:** In particular, there is a lack of awareness of ADR among the stakeholders. With alternative dispute redressal mechanisms, cases are settled in the preliminary stage. Awareness about the court procedures and legal service authority helps the stakeholders in faster disposal of cases. This can be achieved by including law and legal procedures in the secondary education system of India.

4. **Gaming behavior:** The cheque dishonour cases are plagued with absenteeism and adjournments. The delaying tactics are adopted by litigants and their advocates, these hurdles of delay could be overcome by implementing existing provisions and introducing new processes. Collecting information on the drawer, imposing a cost, increasing the interim compensation, protecting the witnesses and hearing the cases on a day to day basis would reduce the gaming behaviour. The establishment of special courts and fast track courts for cheque dishonour cases would ensure that cases are heard in one go without long adjournments. The time-based system followed in commercial courts should be studied and a similar structure can be developed for cheque dishonour cases.

5. **(Wo)manpower:** The smooth functioning of an Institution is dependent upon its (wo)manpower. The existing scenario of (wo)manpower is very poor. The numbers of Judges are insufficient and do not even fill the sanctioned strength, even when sanctioned strength is reached, more number of judges are required to clear the pendency in the meanwhile the retirement age of Hon'ble Judges should be increased by two years. There is a need to formulate guidelines for the number of judges required to clear the existing pendency, a good method for which is ideal caseload method which needs to be studied extensively. The vacancy of other employees and staff also impacts the performance of a court, for this, the PDJ or equivalent judicial officer could be empowered to recruit staff on adhoc basis till the vacancies are filled in a formal way. The introduction of new talent in the form of law clerks cum research assistants and court managers would go a long way in curbing pendency.

References

- Bhangale, P. P., Agrawal, V. P., & Saha, S. K. (2004). Attribute based specification, comparison and selection of a robot. *Mechanism and Machine Theory*, 39(12), 1345-1366.
- Gupta, S., Dangayach, G. S., Singh, A. K., & Rao, P. N. (2015). Analytic hierarchy process (AHP) model for evaluating sustainable manufacturing practices in Indian electrical panel industries. *Procedia-Social and Behavioral Sciences*, 189, 208-216.
- Hossain, M. K., & Thakur, V. (2020). Benchmarking health-care supply chain by implementing Industry 4.0: a fuzzy-AHP-DEMATEL approach. *Benchmarking: An International Journal*.
- Hossain, M. K., & Vikas, T. (2021, February). Smart, sustainable and resilient (SSR) healthcare supply chain: A Fuzzy-AHP Approach. In *24th International Conference on IT Applications and Management* (p. 117).
- <https://attorney.org.ph/legal-news/280-issuing-bouncing-checks-what-are-your-legal-liabilities> (Accessed on 5th May, 2021).
- <https://douglascountysheriff.org/491/Unlawful-Issuance-of-Bank-Check> (Accessed on 5th May, 2021).
- <https://sso.agc.gov.sg/Act/BEA1949#pr57-> (Accessed on 6th May, 2021).
- <https://translate.google.com/translate?hl=en&sl=fr&u=https://cours-de-droit.net/cheque-sans-provision/&prev=search&pto=aue> (Accessed on 6th May, 2021).
- <https://translate.google.com/translate?hl=en&sl=fr&u=https://www.lafinancepourtous.com/pratique/banque/moyens-de-paiement/les-cheques/le-cheque-sans-provision/&prev=search&pto=aue> (Accessed on 6th May, 2021).
- https://www.bancaditalia.it/compiti/sistema-pagamenti/altre-attivita/dichiarazioni-protesto/operators_giude_june_2010.pdf?language_id=1 (Accessed on 8th May, 2021).
- <https://www.bloombergquint.com/opinion/cheque-bouncing-join-the-league-of-civilised-nations> (Accessed on 6th May, 2021).
- <https://www.legal500.com/developments/thought-leadership/are-you-criminally-liable-for-bounced-cheque/> (Accessed on 5th May, 2021).
- <https://www.manilatimes.net/2013/11/22/legal-advice/dearpao/bounced-checks-constitute-crime-of-estafa/54865/> (Accessed on 5th May, 2021).
- <https://www.quora.com/Is-it-illegal-for-your-check-to-bounce-due-to-insufficient-funds-in-Singapore> (Accessed on 8th May, 2021).

- Ishizaka, A., Pearman, C., & Nemery, P. (2012). AHPSort: an AHP-based method for sorting problems. *International Journal of Production Research*, 50(17), 4767-4784.
- Kahraman, C., Ateş, N. Y., Çevik, S., Gülbay, M., & Erdoğan, S. A. (2007). Hierarchical fuzzy TOPSIS model for selection among logistics information technologies. *Journal of Enterprise Information Management*.
- Kannan, D., de Sousa Jabbour, A. B. L., & Jabbour, C. J. C. (2014). Selecting green suppliers based on GSCM practices: Using fuzzy TOPSIS applied to a Brazilian electronics company. *European Journal of Operational Research*, 233(2), 432-447.
- Thakur, V., & Mangla, S. K. (2019). Change management for sustainability: Evaluating the role of human, operational and technological factors in leading Indian firms in home appliances sector. *Journal of cleaner production*, 213, 847-862.
- Thakur, V., & Ramesh, A. (2017). Quantitative grey-ANP-TOPSIS based model for evaluating healthcare waste disposal partner. *International Journal of Procurement Management*, 10(6), 683-705.
- Thakur, V., & Ramesh, A. (2017a). Healthcare waste disposal strategy selection using grey-AHP approach. *Benchmarking: An International Journal*.
- Thakur, V., & Ramesh, A. (2017b). Quantitative grey-ANP-TOPSIS based model for evaluating healthcare waste disposal partner. *International Journal of Procurement Management*, 10(6), 683-705.
- Thakur, V., Mangla, S. K., & Tiwari, B. (2020). Managing healthcare waste for sustainable environmental development: A hybrid decision approach. *Business Strategy and the Environment*.
- Zouggari, A., & Benyoucef, L. (2012). Simulation based fuzzy TOPSIS approach for group multi-criteria supplier selection problem. *Engineering Applications of Artificial Intelligence*, 25(3), 507-519.

Annexure A1: Questionnaire for High Courts' Judges and Advocates

Annexure A2: Questionnaire for High Courts' Registry

Annexure A3: Questionnaire for Subordinate Courts' Judges and Advocates

Annexure A4: Questionnaire for Subordinate Courts' Registry

Annexure A5: Questionnaire for Subordinate Courts' Litigants

Annexure A6: Permissions received from State High and Subordinate Courts

Annexure A7: Online Case Tracking Data

Annexure A1: Questionnaire for High Courts' Judges and Advocates

HIGH COURTS

Questionnaire for Hon'ble Judges

National Institute of Technology, Rourkela is conducting legal research awarded by **Department of Justice, Ministry of Law and Justice, Government of India**, at High Courts and Subordinate Courts of at least Ten States by using questionnaires for Judges, Court Officers, Administrative Staff, Advocates, and litigants. Your responses are voluntary and will be confidential. Responses will not be identified as individuals. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Reforms in Cheque-Bounce Cases U/s 138 of NI Act 1881.

- 1) Cheque- bounce cases are a burden on Criminal justice system.
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

- 2) There are unwarranted delays in cases falling U/s 138 of NI Act 1881 at revision and appellate stage.
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

- 3) In cases U/s 138 of NI Act 1881, based on the delayed cases that you have experienced at revision and appellate stage, can it be said that "justice delayed is justice denied"?
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

Or

- i) "Justice hurried is justice buried"?
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

- 4) Majority of the delay in cases U/s 138 of NI Act 1881 at revision and appellate stage can be attributed to:
 - a) Inadequate capacity b) Existing way of Court management c) Courtroom officials d) Judges e) Advocate f) Litigants g) Lack in use of technology

- 5) According to you which of the following Reforms are needed to reduce the pendency of cases U/s 138 of NI Act 1881 at revision and appellate stage – **(Please rank, as 1, 2, 3....)**
 - a) More Judges and more courtrooms to meet the issue of inadequate capacity of judicial system.

- b) Use of advanced technology in court process.
 - c) Improved Court Management.
 - d) Minimizing adjournments.
 - e) Setting a time limit for Arguments.
 - f) A stern stance on Perjury and misleading the court.
 - g) Any other? Please specify:
- 6) Any special law/act which is bound to increase litigation should provide for special or separate Courts to deal with revisions and appeals.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 7) Can Lokadalats be helpful in decreasing pendency of cases falling U/s 138 of NI Act 1881 at revision and appellate stage?
a) Not at all helpful b) not much helpful c) somewhat helpful d) very helpful
- 8) Are there any guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric? a) Yes b) No.
i) If yes, then briefly explain:
- 9) According to you which is the best method to determine the number of Judges needed?
a) Judge Population ratio b) Time based method
c) Ideal Case load method d) Rate of Disposal Method
- 10) Do you believe that the formation of All India Judicial Service will solve the vacancy problem in Higher Judiciary? a) Yes b) No
- 11) Do you think that increasing the retirement age for Judges will help in decreasing pendency?
a) Yes b) No i) if yes, what should be the retirement age:_____.
- 12) For hearing more cases per day, do the working hours of judges need to be increased?
a) Yes b) No i) If, yes by how many hours?_____.
- 13) Can the time-bound procedure followed in Commercial Courts be replicated in High Courts, especially in Revision and Appeal cases?
a) Yes b) No if no, state the reasons:
- 14) Tele-Law service launched by Dept of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

- 15) Tele-Law service would be detrimental in cases where there is a time limit to file the case, especially appeals, as getting legal advice through digital means may take time and this, in turn, may become a cause for delay in filing of case.
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 16) Do you agree with the statement that, the Courts are in dire need of digitalisation, in terms of infrastructure and court process?
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 17) Would the introduction of electronic filing of cases and e-courts help to speed up court process at High Courts?
 a) Yes. b) No
- 18) Can personal notice and court notices, be served through digital means such as emails, whatsapp, etc?
 a) Yes. b) No
- 19) Would you prefer to serve the documents and papers to the other party through digital means, such as Whatsapp, email etc? a) Yes b) No
 i) If no, what could be the hindrance for such service?
- 20) Do you advise the parties to go for Mediation or Conciliation at revision and appellate stage?
 a) Very often b) Often c) Sometime d) Rarely
- 21) In cheque bounce cases, it should be compulsory for the Courts to refer cases for mediation, even at appealate and revision stage .
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 22) According to you, is it feasible for the advocates to appear and argue cases before the Court through live telepresence or video conference? a) Yes b) No
 i) If no, what could be the hindrance for such appearances?
- 23) It should be mandatory for the subordinate courts to keep digital copies of all the records so as to facilitate the digital transfer of records, when the High Court calls for records.
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 24) The recent amendments(2018) to NI Act which provide for interim compensation at trial and depositing of compensation at appellate stage would reduce the delays in cheque bounce cases.
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 25) The Appellate Court should exercise discretionary power to direct or to waive the requirement of depositing a minimum of 20% fine or compensation amount as awarded by

1 being not at all important, 2 –not important, 3-important, 4-very important, 5-extremely important

| <u>Subjects</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> |
|--|----------|----------|----------|----------|----------|
| Digitalisation of Courts and Court process | | | | | |
| Better infrastructure and increasing Court halls | | | | | |
| Increasing manpower including the number of Judges | | | | | |
| Better mechanism for Alternate Dispute Resolution | | | | | |
| Amendment to Procedural Laws | | | | | |

Criminal Revision in Cheque Bounce cases

By ticking (✓) appropriate box(es), Please indicate whether any of the stage of trial contributes to delay significantly.

| Stages | ✓ | Stages | ✓ | Stages | ✓ | Stages | ✓ |
|--------------------------|---|--|---|----------------------------------|---|-------------------------|---|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order of suspension of sentence. | | 7. Call for records | | 8. Order of stay | |
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |

For the stages that contribute to delay, please mention the average time taken (in days)

| Stages | days | Stages | days | Stages | days | Stages | days |
|--------------------------|------|--|------|----------------------------------|------|-------------------------|------|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order of suspension of sentence. | | 7. Call for records | | 8. Order of stay | |
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |

1) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?

a) Yes b) No

- 2) What is the average gap (days) between two dates of hearing in a Revision case pertaining to Cheque Bounce?
_____.

Please suggest any solutions to reduce delay in stages mentioned above:

1 2 3 4 5

Criminal Appeal in Cheque Bounce cases

By ticking (✓) appropriate box(es), Please indicate whether any of the stage of trial contributes to delay significantly.

| Stages | ✓ | Stages | ✓ | Stages | ✓ | Stages | ✓ |
|--------------------------|---|--|---|----------------------------------|---|-------------------------|---|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order to deposit compensation. | | 7. Grant of bail | | 8. Order of stay | |
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |

For the stages that contribute to delay, please mention the average time taken (in days)

| Stages | days | Stages | days | Stages | days | Stages | days |
|--------------------------|------|--|------|----------------------------------|------|-------------------------|------|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order to deposit compensation. | | 7. Grant of bail | | 8. Order of stay | |
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |

- 3) What s the average gap (days) between two dates of hearing in an Appeal case pertaining to Cheque Bounce?_____.

4) Please suggest any solutions to reduce delay in stages mentioned above:

1 2 3 4 5

5) What could be the dangers and threats of using technology in courts and court process?

(OPTIONAL)

Name of the court :

Location:

Current Designation:

Holding the position since: Appointed to the current position through:-

a) Bar/advocate b) transfer c) promotion. Previous
position(s) held:

Total experience:

HIGH COURTS

National Institute of Technology, Rourkela is conducting legal research awarded by **Department of Justice, Ministry of Law and Justice, Government of India**, at High Courts and Subordinate Courts of at least Ten States by using questionnaires for Judges, Court Officers, Administrative Staff, Advocates, and litigants. Your responses are voluntary and will be confidential. Responses will not be identified as individuals. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Advocates:-

Name: _____ Name of the Court: _____
 Location: _____ Contact details: _____
 How long have you been practicing? _____ .
 Are you designated as a Senior Advocate? a) Yes b) No
 Primarily associated _____ Court And other courts often visited _____
 Your area of expertise and focus _____

Reforms in Cheque-Bounce Cases U/s 138 of NI Act 1881.

- 1) Cheque- bounce cases are a burden on Criminal justice system.
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
 - 2) There are unwarranted delays in cases falling U/s 138 of NI Act 1881 at revision and appellate stage.
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
 - 3) In cases U/s 138 of NI Act 1881, based on the delayed cases that you have experienced at revision and appellate stage, can it be said that “justice delayed is justice denied”?
 a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- Or
- i) “Justice hurried is justice buried”?

a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

4) Majority of the delay in cases U/s 138 of NI Act 1881 at revision and appellate stage can be attributed to:

a) Inadequate capacity b) Existing way of Court management. c) Courtroom officials.
d) Judges. e) Advocate. f) Litigants g) Lack in use of technology

5) According to you which of the following Reforms are needed to reduce the pendency of cases U/s 138 of NI Act 1881 at revision and appellate stage – (Please rank, as 1, 2, 3.)

a) More Judges and more courtrooms to meet the issue of inadequate capacity of judicial system.

b) Use of advanced technology in court process.

c) Improved Court Management.

d) Minimizing adjournments.

e) Setting a time limit for Arguments.

f) A stern stance on Perjury and misleading the court.

g) Any other? Please specify:

6) Any special law/act which is bound to increase litigation should provide for special or separate Courts to deal with revisions and appeals.

a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

7) Can Lokadalats be helpful in decreasing pendency of cases falling U/s 138 of NI Act 1881 at revision and appellate stage?

a) Not at all helpful b) not much helpful c) somewhat helpful d) very helpful

8) Are there any guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric? a) Yes b) No.

i) If yes, then briefly explain.

9) According to you which is the best method to determine the number of Judges needed?

a) Judge Population ratio. b) Time based method.

c) Ideal Case load method. d) Rate of Disposal Method.

- 10) Do you believe that the formation of All India Judicial Service will solve the vacancy problem in Higher Judiciary? a) Yes b) No
- 11) Do you think that increasing the retirement age for Judges will help in decreasing pendency?
a) Yes b) No i) if yes, what should be the retirement age: .
- 12) For hearing more cases per day, do the working hours of judges need to be increased?
a) Yes b) No i) If, yes by how many hours? .
- 13) Can the time-bound procedure followed in Commercial Courts be replicated in High Courts, especially in Revision and Appeal cases?
a) Yes b) No if no, state the reasons:
- 14) Tele-Law service launched by Dept of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 15) Tele-Law service would be detrimental in cases where there is a time limit to file the case, especially appeals, as getting legal advice through digital means may take time and this, in turn, may become a cause for delay in filing of case.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 16) Do you agree with the statement that, the Courts are in dire need of digitalisation, in terms of infrastructure and court process?
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 17) Would the introduction of electronic filing of cases and e-courts help to speed up court process at High Courts?
a) Yes. b) No
- 18) Can personal notice and court notices, be served through digital means such as emails, whatsapp, etc?
a) Yes. b) No
- 19) Would you prefer to serve the documents and papers to the other party through digital means, such as Whatsapp, email etc? a) Yes b) No

- i) If no, what could be the hindrance for such service?
- 20) Do you advise the parties to go for Mediation or Conciliation at revision and appellate stage?
- a) Very often b) Often c) Sometime d) Rarely
- 21) In cheque bounce cases, it should be compulsory for the Courts to refer cases for mediation, even at appellate and revision stage .
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 22) According to you, is it feasible for the advocates to appear and argue cases before the Court through live telepresence or video conference? a) Yes b) No
- i) If no, what could be the hindrance for such appearances?
- 23) It should be mandatory for the subordinate courts to keep digital copies of all the records so as to facilitate the digital transfer of records, when the High Court calls for records.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 24) The recent amendments(2018) to NI Act which provide for interim compensation at trial and depositing of compensation at appellate stage would reduce the delays in cheque bounce cases.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 25) The Appellate Court should exercise discretionary power to direct or to waive the requirement of depositing a minimum of 20% fine or compensation amount as awarded by the Trial Court , when there is an appeal against conviction in a case falling U/s 138 of NI Act 1881.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 26) The direction to deposit compensation at appellate stage would reduce instances where the Accused knowingly delays the proceedings to buy some time, only to settle the case at a later date.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 27) It would be better to increase the minimum percentage of fine or compensation to be deposited at Appellate stage, to do justice to the complainant.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 28) Directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it.

- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 29) What steps should be taken to reduce adjournments?
- 30) In general how much time is given for Arguments? (hours).
- 31) Should there be a time limit for arguments? a) Yes b) No
- i) If yes, how much (hours). j)
- 32) Do you favour written submissions over oral arguments to save time? a) Yes b)No
- 33) Will assigning Law clerks cum research assistants to Judges, solve the problem of delays in delivering of final Judgments?
- a) Definitely help. b) Help a large extent. c) Help to some extent in some areas.
d) Will not help much.

Please indicate/tick (✓) the importance of below mentioned subjects on a scale of one to five (1-5). (1 being not at all important, 2 –not important, 3-important, 4-very important, 5-extremely important)

| <u>Subjects</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> |
|--|----------|----------|----------|----------|----------|
| Digitalisation of Courts and Court process | | | | | |
| Better infrastructure and increasing Court halls | | | | | |
| Increasing manpower including the number of Judges | | | | | |
| Better mechanism for Alternate Dispute Resolution | | | | | |
| Amendment to Procedural Laws | | | | | |

Criminal Revision in Cheque Bounce cases

By ticking (✓) appropriate box(es), Please indicate whether any of the stage of trial contributes to delay significantly.

| | | | | | | | |
|--------|---|--------|---|--------|---|--------|---|
| Stages | ✓ | Stages | ✓ | Stages | ✓ | Stages | ✓ |
|--------|---|--------|---|--------|---|--------|---|

| | | | |
|--------------------------|--|----------------------------------|-------------------------|
| 1. Filing of case | 2. Condonation of delay, if any | 3. Dispense with Certified copy. | 4. Notice to other side |
| 5. Preliminary Arguments | 6. Order of suspension of sentence. | 7. Call for records | 8. Order of stay |
| 9. Order vacating stay. | 10. Settlement of compoundable offence | 11. Final hearing | 12. Judgement |

For the stages that contribute to delay, please mention the average time taken (in days)

| Stages | days | Stages | days | Stages | days | Stages | days |
|--------------------------|------|--|------|----------------------------------|------|-------------------------|------|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order of suspension of sentence. | | 7. Call for records | | 8. Order of stay | |
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |

1) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?

a) Yes b) No

2) What is the average gap (days) between two dates of hearing in a Revision case pertaining to Cheque Bounce?

_____.

Please suggest any solutions to reduce delay in stages mentioned above:

1 2 3 4 5

Criminal Appeal in Cheque Bounce cases

By ticking (✓) appropriate box(es), Please indicate whether any of the stage of trial contributes to delay significantly.

| Stages | ✓ | Stages | ✓ | Stages | ✓ | Stages | ✓ |
|--------------------------|---|--|---|----------------------------------|---|-------------------------|---|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order to deposit compensation. | | 7. Grant of bail | | 8. Order of stay | |
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |

For the stages that contribute to delay, please mention the average time taken (in days)

| Stages | days | Stages | days | Stages | days | Stages | days |
|--------------------------|------|-----------------------------------|------|----------------------------------|------|-------------------------|------|
| 1. Filing of case | | 2. Condonation of delay, if any | | 3. Dispense with Certified copy. | | 4. Notice to other side | |
| 5. Preliminary Arguments | | 6. Order to deposit compensation. | | 7. Grant of bail | | 8. Order of stay | |

| | | | | | | | |
|-------------------------|--|--|--|-------------------|--|---------------|--|
| 9. Order vacating stay. | | 10. Settlement of compoundable offence | | 11. Final hearing | | 12. Judgement | |
|-------------------------|--|--|--|-------------------|--|---------------|--|

- 1) What is the average gap (days) between two dates of hearing in an Appeal case pertaining to Cheque Bounce?_____.
- 2) Please suggest any solutions to reduce delay in stages mentioned above:
 - 1
 - 2
 - 3
 - 4
 - 5
- 3) What could be the dangers and threats of using technology in courts and court process?

- a) Yes b) No
- i) If yes:
- ii) Total number of Criminal Appeals pertaining to Cheque Bounce U/s 138 of NI Act 1881 pending on 31.12.2018 in High Court _____
- iii) Total number of Criminal Appeals pertaining to Cheque Bounce U/s 138 of NI Act 1881 in 2018 _____
- iv) Total number of Criminal Appeals pertaining to Cheque Bounce U/s 138 of NI Act 1881 disposed in 2018 _____
- v) How many Criminal Appeals pertaining to Cheque Bounce U/s 138 of NI Act 1881 are received on average by each court per day? _____.
- vi) Total number of Criminal Revisions pertaining to Cheque Bounce U/s 138 of NI Act 1881 pending on 31.12.2018 in High Court _____
- vii) Total number of Criminal Revisions pertaining to Cheque Bounce U/s 138 of NI Act 1881 in 2018 _____
- viii) Total number of Criminal Revisions pertaining to Cheque Bounce U/s 138 of NI Act 1881 disposed in 2018 _____
- ix) How many Criminal Revisions pertaining to Cheque Bounce U/s 138 of NI Act 1881 are received on average by each court per day? _____.

Questions relating to building and infrastructure

- 01) Whether the building is: a) Congested b) Sufficient c) Spacious
- 02) Does the court have display boards with live updates of case/ item numbers shown, court wise? a) Yes b) No
- 03) Please tick the facilities available to the staff:-

- a) Lunch room
- b) Wash rooms
- c) Drinking Water
- d) Canteen facility
- e) Separate Bar room for women advocates
- f) Any other may be stated

04) What are the basic demands of the employees/staff relating to infrastructure?

05) Is the quality of overall work environment for employees up to the mark? a)

Yes b) No i) If no, what can be improved?

06) How many courts are lying vacant and since what time?

07) Is the infrastructure in Court hall up to the mark?

a) Yes b) No

08) What can be improved?

Questions related to Computer

01) Are the Courts equipped with computers?

02) Does the Court have internet connectivity? a) Yes b) No.

i) If yes of what kind: a) Cable to selected computer b) Wi-Fi secure

c) Wi-Fi Open

03) Is there an electronic machine (kiosk) available for litigants to check their case status?

a) Yes b) No

04) Does your Court have Video Conference facility? a) Yes b) No

05) Do you update the roznama (entries of daily proceedings) on ecourts website?

- 07) How many employees are under suspension and the period thereof? State reasons for the same:
- 08) Do the employees come on time and work effectively?
- 09) What can be done to improve punctuality and regularity of staff? Suggestions
- 10) Your district has been allotted: a) Senior Court Manager b) Court manager.
- 11) Does Court Managers in your district need strengthening?
- 12) What sort of work previously done by Judges has been taken over by Court Managers?

Judicial Wing

- 01) How many cases are kept on daily board by each judicial officer?
- 02) How much time is required by each judicial officer for other judicial work?
- 03) How much time is required by a judicial officer for administrative work?

Annexure A3: Questionnaire for Sub-ordinate Courts' Judges and Advocates

SUBORDINATE COURTS

Questionnaire for Hon'ble Judge

National Institute of Technology, Rourkela is conducting legal research awarded by Department of Justice, Ministry of Law and Justice, Government of India, at High Courts and Subordinate Courts of at least Ten States by using questionnaires for Judges, Court Officers, Administrative Staff, Advocates, and litigants. Your responses are voluntary and will be confidential. Responses will not be identified as individuals. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Reforms in Cheque-Bounce Cases U/s 138 of NI Act 1881.

- 1) Cheque- bounce cases are a burden on Criminal justice system.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
 - 2) There are unwarranted delays in cases falling U/s 138 of NI Act 1881.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
 - 3) In cases U/s 138 of NI Act 1881, based on the delayed cases that you have experienced, can it be said that "justice delayed is justice denied"?
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- Or
- i) "Justice hurried is justice buried"?
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
 - 4) Majority of the delay in cases U/s 138 of NI Act 1881 can be attributed to:
a) Inadequate capacity b) Existing way of Court management. c) Courtroom officials.
d) Judges. e) Advocate. f) Litigants g) Lack in use of technology
 - 5) According to you which of the following Reforms are needed to reduce the pendency of cases U/s 138 of NI Act 1881 – (Please rank, as 1, 2, 3....)

- 11) Are there any guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric? a) Yes b) No.
- i) If yes, then briefly explain.
- 12) According to you which is the best method to determine the number of Judges needed?
- a) Judge Population ratio. b) Time based method.
- c) Ideal Case load method. d) Rate of Disposal Method.
- 13) Do you believe that the formation of All India Judicial Service will solve the vacancy and recruitment problem in Subordinate Judiciary? a) Yes b) No
- 14) Do you think that increasing the retirement age for Judges will help in decreasing pendency?
- a) Yes b) No i) if yes, what should be the retirement age:_____ .
- 15) For hearing more cases per day, do the working hours of judges need to be increased?
- a) Yes b) No i) If, yes by how many hours?_____ .
- 16) Can the time-bound procedure followed in Commercial Courts be replicated in Criminal Courts, especially in cases falling U/s 138 of NI Act 1881?
- a) Yes b) No if no, state the reasons:
- 17) Tele-Law service launched by Dept of Justice in certain states, where legal advice is offered by panel advocates/experts through video conference, for a fee, would help the litigants to a great extent.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 18) Tele-Law service would be detrimental in cases where there is a time limit to file the case, such as cheque bounce, as giving legal advice may take time and this in turn may become a cause for delay in filing of case.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 19) Do you agree with the statement that, the Courts are in dire need of digitalisation, in terms of infrastructure and court process?
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 20) Would introduction of electronic filing of cases and e-courts help to speed up court process for cases U/s 138 of NI Act 1881?

a)Yes. b) No

21) Is it permitted to amend the complaint after initiating it? a) Yes. b) No

i) If yes does it cause delays? i) Yes ii) No

ii) How much time does it take: (Days)

22) Do you favour establishment of a separate cell of police for service of summons?

a)Yes b) No

23) Can summons in cases falling U/s 138 of NI Act 1881, be served through digital means such as emails, whatsapp, etc? a) Yes. b) No

i) If no, what could be the hindrance for such service?

24) Would you prefer to serve the documents and papers to the other party through digital means, such as Whatsapp, email etc? a) Yes b) No

i) If no, what could be the hindrance for such service?

25) Do you advise the parties to go for Mediation or Conciliation?

a) Very often b) Often c) Sometime d) Rarely

26) In cheque bounce cases, it should be compulsory for the Courts to refer cases for mediation.

a)Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

27) According to you, is it feasible for complainant and advocate to appear before the Court through live telepresence or video conference? a) Yes b) No

i) If no, what could be the hindrance for such appearances?

28) How often is the accused informed about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining?

a)Always b) Frequently c)Rarely d) Not at all

29) According to you, is it feasible for the accused to plead guilty or not guilty before the Court through live telepresence or video conference? a) Yes b) No

i) If no, what could be the hindrance for such pleading?

- 30) How often are cases falling U/s 138 of NI Act 1881, tried summarily as a summary trial?
a) Very often b) Often c) Sometime d) Rarely
- 31) The recent amendments(2018) to NI Act which provide for interim compensation at trial and appellate stage would reduce the delays in cheque bounce cases.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 32) The Trial Court should exercise discretionary power to direct or to waive the requirement of paying interim compensation, when the accused pleads not guilty in a case falling U/s 138 of NI Act 1881.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 33) The direction to provide interim compensation at trial as well as appellate stage would reduce instances where the Accused knowingly delays the trial to buy some time, only to settle the case at a later date.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 34) It would be better to increase the percentage of interim compensation at Trial stage, to do justice to the complainant.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 35) Directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it.
a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 36) According to you, is it feasible to examine, cross-examine or re-examine the witnesses through live telepresence or video conference? a) Yes b) No
- i) If no, what could be the hindrance for such examination of witnesses?
- 37) What measures must be taken for better protection of witnesses?
- 38) What steps should be taken to reduce adjournments?
- 39) In general how much time is given for Arguments? (hours).
- 40) Should there be a time limit for arguments? a) Yes b) No
- i) If yes, how much (hours).

- 41) Do you favour written submissions over oral arguments to save time? a) Yes b)No
- 42) Will assigning Law clerks cum research assistants to Judges, solve the problem of delays in delivering of final Judgments?
- a) Definitely help. b) Help a large extent. c)Help to some extent in some areas.
- d) Will not help much.
- 43) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?
- a) Yes b) No

Please indicate/tick (✓) the importance of below mentioned subjects on a scale of one to five (1-5).

1 being not at all important, 2 –not important, 3-important, 4-very important, 5-extremely important

| <u>Subjects</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> |
|--|-----------------|-----------------|-----------------|-----------------|-----------------|
| Digitalisation of Courts and Court process | | | | | |
| Better infrastructure and increasing Court halls | | | | | |
| Increasing manpower including the number of Judges | | | | | |
| Better mechanism for Alternate Dispute Resolution | | | | | |
| Amendment to Procedural Laws | | | | | |

By ticking (✓) appropriate box(es), Please indicate whether any of the stage of trial contributes to delay significantly.

| Stages | ✓ | Stages | ✓ | Stages | ✓ | Stages | ✓ |
|--------------------------|---|----------------------------------|---|---|---|---|---|
| 1. Filing of complaint | | 2. Marking of case/ jurisdiction | | 3. Hearing on maintainability and limitation. | | 4. Filing affidavit/evidence/witness | |
| 5. Preliminary Arguments | | 6. Order for summoning | | 7. Summons issued for accused | | 8. If summons not served, service by Police | |

| | | | | | | | |
|------------------------------------|--|---------------------------------------|--|---------------------------|--|---|--|
| 9. Issuance of bailable warrant | | 10. Issuance of non-bailable warrant. | | 11. Grant of bail. | | 12. Supply of documents to other side. | |
| 13. Pleading guilty/ not guilty. | | 14. Order for interim Compensation | | 15. Complainant Evidence. | | 16. Examination of Complainant witnesses. | |
| 17. Cross-examination of witnesses | | 18. Statement of Accused | | 19. Evidence by Accused | | 20. Examination of accused's witnesses | |
| 21. Final Arguments | | 22. Judgment | | 23. Sentencing | | | |

For the stages that contribute to delay, please mention the average time taken (in days)

| Stages | days | Stages | days | Stages | days | Stages | days |
|------------------------------------|------|---------------------------------------|------|---|------|---|------|
| 1. Filing of complaint | | 2. Marking of case/ jurisdiction | | 3. Hearing on maintainability and limitation. | | 4. Filing affidavit/evidence/ witness | |
| 5. Preliminary Arguments | | 6. Order for summoning | | 7. Summons issued for accused | | 8. If summons not served, service by Police | |
| 9. Issuance of bailable warrant | | 10. Issuance of non-bailable warrant. | | 11. Grant of bail | | 12. Supply of documents to other side. | |
| 13. Pleading guilty/ not guilty. | | 14. Order for interim Compensation | | 15. Complainant Evidence. | | 16. Examination of Complainant witnesses. | |
| 17. Cross-examination of witnesses | | 18. Statement of Accused | | 19. Evidence by Accused | | 20. Examination of accused's witnesses | |
| 21. Final Arguments | | 22. Judgment | | 23. Sentencing | | | |

SUBORDINATE COURTS

National Institute of Technology, Rourkela is conducting legal research awarded by **Department of Justice, Ministry of Law and Justice, Government of India**, at High Courts and Subordinate Courts of at least Ten States by using questionnaires for Judges, Court Officers, Administrative Staff, Advocates, and litigants. Your responses are voluntary and will be confidential. Responses will not be identified as individuals. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Advocates:-

Name: _____ Name of the Court: _____
 Location: _____ Contact details: _____
 How long have you been practicing? _____. Are you designated as a Senior Advocate? a) Yes b) No
 Primarily associated _____ Court. And other courts often visited _____
 Your area of expertise and focus _____

Reforms in Cheque-Bounce Cases U/s 138 of NI Act 1881.

- 1) Cheque- bounce cases are a burden on Criminal justice system.
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 2) There are unwarranted delays in cases falling U/s 138 of NI Act 1881.
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 3) In cases U/s 138 of NI Act 1881, based on the delayed cases that you have experienced, can it be said that “justice delayed is justice denied”?
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree

Or

 - i) “Justice hurried is justice buried”?
 - a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 4) Majority of the delay in cases U/s 138 of NI Act 1881 can be attributed to:
 - a) Inadequate capacity b) Existing way of Court management. c) Courtroom officials. d) Judges. e) Advocate. f) Litigants g) Lack in use of technology
- 5) According to you which of the following Reforms are needed to reduce the pendency of cases U/s 138 of NI Act 1881 – **(Please rank, as 1, 2, 3....)**

- a) More Judges and more courtrooms to meet the issue of inadequate capacity of judicial system.
- b) Use of advanced technology in court process.
- c) Improved Court Management.
- d) Minimizing adjournments.
- e) Setting a time limit for Arguments.
- f) A stern stance on Perjury and misleading the court.
- g) Any other? Please specify.
- 6) Any special law/act which is bound to increase litigation should provide for special or separate Courts.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 7) Do you have a special court for economic offences for cases falling U/s 138 of NI Act 1881?
- a) Yes b) No
- i) If yes, is it sufficient to deal with the existing case U/s 138 of NI Act 1881?
- a) Yes b) No If, no what can be done?
- _____.
- 8) Do you have Fast Track Courts?
- a) Yes b) No
- i) If, yes, do the fast track court deal with cases falling U/s 138 of NI Act 1881?
- a. Yes b) No
- ii) If, no, do you believe that fast track courts would go a long way in curbing the pendency of cases falling U/s 138 of NI Act 1881. a) Yes b) No
- 9) In your jurisdiction which types of additional courts are needed?
- a) Special Courts for NI Act b) Fast track courts for NI act c) Evening courts
- d) Permanent Lokadalats e) Lokadalats.
- 10) Can Lokadalats be helpful in decreasing pendency of cases falling U/s 138 of NI Act 1881?
- a) Not at all helpful b) not much helpful c) somewhat helpful d) very helpful
- 11) Are there any guidelines for the number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric? a) Yes b) No.
- i) If yes, then briefly explain.

- 33) The direction to provide interim compensation at trial as well as appellate stage would reduce instances where the Accused knowingly delays the trial to buy some time, only to settle the case at a later date.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 34) It would be better to increase the percentage of interim compensation at Trial stage, to do justice to the complainant.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 35) Directing the complainant to return the compensation amount along with interest in case of acquittal would deter the complainant from withdrawing the compensation amount and benefiting from it.
- a) Strongly Agree b) Agree c) neutral d) Disagree e) Strongly Disagree
- 36) According to you, is it feasible to examine, cross-examine or re-examine the witnesses through live telepresence or video conference? a) Yes b) No
- i) If no, what could be the hindrance for such examination of witnesses?
- 37) What measures must be taken for better protection of witnesses?
- 38) What steps should be taken to reduce adjournments?
- 39) In general how much time is given for Arguments? _____ (hours).
- 40) Should there be a time limit for arguments? a) Yes b) No
- i) If yes, how much _____ (hours).
- 41) Do you favour written submissions over oral arguments to save time? a) Yes b) No
- 42) Will assigning Law clerks cum research assistants to Judges, solve the problem of delays in delivering of final Judgments?
- a) Definitely help. b) Help a large extent. c) Help to some extent in some areas.
- d) Will not help much.
- 43) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?
- a) Yes b) No

Please indicate/tick (✓) the importance of below mentioned subjects on a scale of one to five (1-5). **1 being not at all important, 2 –not important, 3-important, 4-very important, 5-extremely important**

| <u>Subjects</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> |
|--|----------|----------|----------|----------|----------|
| Digitalisation of Courts and Court process | | | | | |
| Better infrastructure and increasing Court halls | | | | | |
| Increasing manpower including the number of Judges | | | | | |
| Better mechanism for Alternate Dispute Resolution | | | | | |
| Amendment to Procedural Laws | | | | | |

By ticking (✓) appropriate box(es), Please indicate whether any of the stage of trial contributes to delay significantly.

| Stages | ✓ | Stages | ✓ | Stages | ✓ | Stages | ✓ |
|------------------------------------|---|---------------------------------------|---|---|---|---|---|
| 1. Filing of complaint | | 2. Marking of case/ jurisdiction | | 3. Hearing on maintainability and limitation. | | 4. Filing affidavit/evidence/witness | |
| 5. Preliminary Arguments | | 6. Order for summoning | | 7. Summons issued for accused | | 8. If summons not served, service by Police | |
| 9. Issuance of bailable warrant | | 10. Issuance of non-bailable warrant. | | 11. Grant of bail. | | 12. Supply of documents to other side. | |
| 13. Pleading guilty/ not guilty. | | 14. Order for interim Compensation | | 15. Complainant Evidence. | | 16. Examination of Complainant witnesses. | |
| 17. Cross-examination of witnesses | | 18. Statement of Accused | | 19. Evidence by Accused | | 20. Examination of accused's witnesses | |
| 21. Final Arguments | | 22. Judgment | | 23. Sentencing | | | |

For the stages that contribute to delay, please mention the average time taken (in days)

| Stages | d a y s | Stages | d a y s | Stages | d a y s | Stages | d a y s |
|------------------------------------|------------------|---------------------------------------|------------------|---|------------------|---|------------------|
| 1. Filing of complaint | | 2. Marking of case/ jurisdiction | | 3. Hearing on maintainability and limitation. | | 4. Filing affidavit/evidence/witness | |
| 5. Preliminary Arguments | | 6. Order for summoning | | 7. Summons issued for accused | | 8. If summons not served, service by Police | |
| 9. Issuance of bailable warrant | | 10. Issuance of non-bailable warrant. | | 11. Grant of bail. | | 12. Supply of documents to other side. | |
| 13. Pleading guilty/ not guilty. | | 14. Order for interim Compensation | | 15. Complainant Evidence. | | 16. Examination of Complainant witnesses. | |
| 17. Cross-examination of witnesses | | 18. Statement of Accused | | 19. Evidence by Accused | | 20. Examination of accused's witnesses | |
| 21. Final Arguments | | 22. Judgment | | 23. Sentencing | | | |

Please suggest any solutions to reduce delay in stages mentioned above:

1 2 3 4 5

What could be the dangers and threats of using technology in courts and court process?

Annexure A4: Questionnaire for Subordinate Courts' Registry

SUBORDINATE COURTS

National Institute of Technology, Rourkela is conducting legal research awarded by **Department of Justice, Ministry of Law and Justice, Government of India**, at High Courts and Subordinate Courts of at least Ten States by using questionnaires for Judges, Court Officers, Administrative Staff, Advocates, and litigants. Your responses are voluntary and will be confidential. Responses will not be identified as individuals. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Registry and other Officials

Personal Profile:

Name: _____ Court: _____ Contact detail: _____

Designation: _____ Other details: _____

Questions of pendency(statistical)

- 1) Total number of criminal cases pending on 31.12.2018 in courts of district _____
- 2) Total number of summary cases pending as on 31.12.2018. _____
- 3) Total number of criminal cases filed in 2018 _____
- 4) Total number of criminal cases disposed in 2018 _____
- 5) Of the total number of criminal cases disposed in 2018, total numbers of cases appealed in Sessions courts were _____.
- 6) How many criminal cases are received on average by each court per day? _____
- 7) Do you have separate statistical data for cases filed U/s 138 of NI Act 1881?
 - a) Yes
 - b) No

If yes:

- i) Total number of cases, U/s 138 of NI Act 1881 pending as on 31.12.2018 in courts of district? ____
- ii) Total number of summary cases, U/s 138 of NI Act 1881 pending as on 31.12.2018. _____
- iii) Total number of cases filed U/s 138 of NI Act 1881 in 2018? _____
- iv) Total number of cases, U/s 138 of NI Act 1881 disposed in 31.12.2018? _____
- v) Of the total number of cases, U/s 138 of NI Act 1881 disposed in 2018, total numbers of cases appealed in Sessions courts were _____.
- vi) How many cases, U/s 138 of NI Act 1881 are received on average by each court per day?
_____.

Questions relating to building and infrastructure

01) Is the court building a government building or taken on a lease? If on lease is the building being shared? a) Yes b) No.

i) If yes a) with government b) with private persons c) Semi government

02) Whether the building is: a) Congested b) Sufficient c) Spacious

03) Please tick the facilities available to the staff:-

g) Lunch room

h) Wash rooms

i) Drinking Water

j) Canteen facility

k) Separate Bar room for women advocates

l) Any other may be stated

04) What are the basic demands of the employees/staff relating to infrastructure?

05) Is the quality of overall work environment for employees up to the mark? a)

Yes b) No

i) If not what can be improved?

06) How many courts are lying vacant and since what time?

07) Is the infrastructure in Court hall up to the mark?

a) Yes b) No

08) What can be improved?

Questions related to Computer

01) Are the Courts equipped with computers?

02) Does the Court have internet connectivity?

a) Yes b) No.

ii) If yes of what kind:

a) Cable to selected computer

b) Wi-Fi secure

c) Wi-Fi Open

03) Is there an electronic machine (kiosk) available for litigants to check their case status?

a) Yes b) No

04) Does your Court have Video Conference facility?

a) Yes b) No

05) Do you update the roznama (entries of daily proceedings) on eCourts website?

a) Yes b) No

i) If yes, how often: a) daily b) weekly c) monthly

06) In your Court, roznama (entries of daily proceedings) is recorded in which language?

b) All in English b) some in English, some in native c) All in native

ii) If b) and c), do you translate the whole proceeding into English for updating on

eCourts website?

a) Yes

b) No

Or

Write only the stage of case in English?

a) Yes b) No

07) What are the difficulties faced by you for updating case information on eCourts?

Administrative wing

- 01) Total number of staff provided to each court?
- 02) How many permanent, temporary or ad hoc employees are working against sanctioned posts (to be specified individually) and how many daily wagers are working?
- 03) How many vacant posts continued to exist?
- 04) Are there any guidelines for number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric?
 - i) If yes, then briefly explain.
- 05) What is the sanctioned strength of employees under the administrative control of the Judge or the presiding officer of the court, Special court?
- 06) Does the court employees have an employees union?
 - i) if yes do they go on strikes?
 - ii) how many times in a year?
- 07) How many employees are under suspension and the period thereof? State reasons for the same:
- 08) Do the employees come on time and work effectively?
- 09) What can be done to improve punctuality and regularity of staff? Suggestions
- 10) Your district has been allotted: a) Senior Court Manager b) Court manager.
- 11) Does Court Managers in your district need strengthening?
- 12) What sort of work previously done by Judges has been taken over by Court Managers?

Judicial Wing

- 01) How many cases are kept on daily board by each judicial officer?
- 02) How much time is required by each judicial officer for remand work and other judicial work?
- 03) How much time is required by a judicial officer for administrative work?

Annexure A5: Questionnaire for Subordinate Courts' Litigants
SUBORDINATE COURTS

National Institute of Technology, Rourkela is conducting legal research awarded by **Department of Justice, Ministry of Law and Justice, Government of India**, at High Courts and Subordinate Courts of at least Ten States by using questionnaires for Judges, Court Officers, Administrative Staff, Advocates, and litigants. Your responses are voluntary and will be confidential. Responses will not be identified as individuals. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Litigants (Criminal Cases):-

Personal Details:

Name of Person:

Age:

Gender :

Education :

Social Category : SC/ST/OBC/General Economic Category : AAY / BPL / APL(tick)

(tick)

Complainant/Accused

Is your case pertaining to cheque-bounce? a) Yes b) No

If no, what kind of criminal case is it? _____

Case and institution details:

1) Case Number:

2) Type of dispute:

3) Who is the opposing party?

a) State Government.

b) Central Government.

c) Public Sector Undertaking.

d) Private persons.

4) Did you approach the State/District Legal Service Authority? a) Yes b) No.

i) If yes, were you allotted an advocate?

a) Yes b) No

ii) What was the advice given?

- 5) Did you know about Mediation and Conciliation? a) Yes b) No.
- i) If yes, how did you come to know about it?
- a) Friends/Relatives. b) Legal Service Authority. c) Advocate
- d) Judge. e) Reading/News.
- 6) Is there a chance of settling the dispute out of Court? a) Yes b) No
- i) If so, would you be willing to approach Lokadalat for settling the dispute?
- 7) How did you file the case? (not applicable to accused)
- a) Myself. b) My Advocate's clerk. c) Independent clerk
- 8) Are you aware of e-courts website, which is accessible online?
- a) Yes b) No
- 9) Are you able to use a computer and internet to know about your case details/ status online?
- a) Yes b) No
- 10) Would you welcome the use of electronic filing and online payment of court fees?
- a) Yes b) No
- i) What could be the obstacles and challenges to filing the case online?
- 11) Date of institution of case:
- 12) Date of first hearing:
- 13) Distance traveled by you to attend the court (kms) and time taken:
- 14) How many times did your case got adjourned:
- 15) What is the average gap between two hearings?
- 16) Your understanding of legal procedures:
- a) Very good. b) Good.
- c) Average. d) Poor.

Annexure A7: Online Case Tracking Data

| Sl no. | States | Stage 1 | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 | Stage 9 | Stage 10 | Stage 11 | Stage 12 | Stage 13 | Stage 14 | Stage 15 | Stage 16 | Stage 17 | Stage 18 | Stage 19 | Stage 20 | Stage 21 | Stage 22 | Stage 23 | Stage 24 | Overall average time |
|--------|---------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------------------|
| 1 | Delhi | 1.43 | 1.72 | 44.78 | 27.09 | 71.80 | 31.68 | 40.25 | 1.00 | 1.00 | 9.00 | 16.82 | 1.00 | 1.00 | 11.00 | 149.40 | 21.09 | 21.67 | 7.40 | 10.33 | 7.66 | 1.00 | 109.40 | 2.10 | 15.98 | 351.93 |
| 2 | Uttar Pradesh | 3.50 | 2.90 | 3.40 | 32.04 | 16.90 | 9.20 | 21.10 | 23.60 | 25.80 | 46.13 | 11.00 | NA | NA | NA | NA | 19.11 | 1.33 | 5.67 | 4.61 | 1.21 | 6.00 | 1.33 | 10.15 | 22.20 | 166.10 |
| 3 | Haryana | 1.38 | 1.98 | 1.37 | 5.94 | 51.62 | 18.35 | 30.03 | 38.76 | 62.11 | 60.70 | 9.65 | 46.42 | 73.00 | NA | 77.00 | 1.00 | 3.50 | 1.00 | 3.08 | 1.20 | 1.00 | 3.04 | 3.04 | 17.77 | 209.20 |
| 4 | Punjab | 1.21 | 3.44 | 1.02 | 55.05 | 10.37 | 28.95 | 35.88 | 41.67 | 54.29 | 16.10 | NA | 75.50 | NA | 106.00 | 76.00 | 51.00 | 1.00 | 1.90 | 2.70 | 1.00 | 1.00 | 1.00 | 8.31 | 25.70 | 155.67 |
| 5 | Odisha | 1.20 | 3.70 | 355.75 | 43.88 | 77.22 | 87.70 | 66.43 | 66.45 | 214.27 | 70.25 | 4.80 | 36.00 | 20.00 | 435.95 | 22.82 | 14.42 | 31.35 | 49.00 | 30.50 | 14.35 | 11.30 | 60.80 | 60.80 | 69.88 | 1148.30 |
| 6 | Bihar | 1.60 | 2.79 | 70.59 | 23.12 | 43.57 | 93.00 | 44.97 | 38.96 | 47.15 | 40.17 | 20.00 | 17.66 | 36.66 | 42.51 | 7.20 | 3.20 | 12.00 | 56.80 | 3.00 | 25.17 | 190.27 | 190.27 | 110.67 | 32.36 | 500.65 |
| 7 | Jharkhand | 1.22 | 2.33 | 26.24 | 2.23 | 27.29 | 45.25 | 35.25 | 37.15 | 27.95 | 59.69 | 15.14 | 11.40 | 1.00 | 28.00 | 11.00 | 39.80 | 39.80 | 42.44 | 14.36 | 71.77 | 30.47 | 24.42 | 29.31 | 29.31 | 378.73 |
| 8 | Goa | 1.00 | 1.87 | 36.84 | 44.97 | 30.89 | 35.61 | 32.25 | 32.34 | 9.75 | NA | NA | NA | 16.94 | 16.00 | 13.69 | 123.25 | 19.50 | 4.50 | 18.00 | 29.70 | 1.00 | 17.20 | 17.20 | 16.66 | 283.78 |

164503/2021/NM

| | | | | | | | | | | | | | | | | | | | | | | | | | | |
|----|----------------|------|------|--------|-------|-------|-------|-------|--------|--------|-------|--------|-------|--------|-------|-------|-------|-------|--------|--------|-------|-------|-------|-------|-------|--------|
| 9 | Maharashtra | 1.73 | 1.34 | 38.38 | 68.71 | 31.57 | 29.13 | 39.07 | 43.66 | 42.92 | 22.55 | 27.75 | 16.25 | 16.50 | NA | NA | NA | 41.42 | 47.76 | 62.13 | 43.70 | 45.43 | 47.21 | 59.04 | 23.88 | 375.36 |
| 10 | Andhra Pradesh | 1.53 | 1.77 | 218.58 | 59.60 | 64.54 | 81.81 | 48.18 | 157.69 | 362.67 | 98.43 | 106.77 | 44.33 | 289.80 | 83.00 | 25.00 | 46.67 | 63.26 | 112.33 | 100.47 | 43.86 | 42.77 | 79.27 | 66.53 | 19.99 | 122.40 |

Annexure 6: Permissions received from State High and Subordinate Courts

116

**A.VENKATESWARA REDDY
REGISTRAR GENERAL**



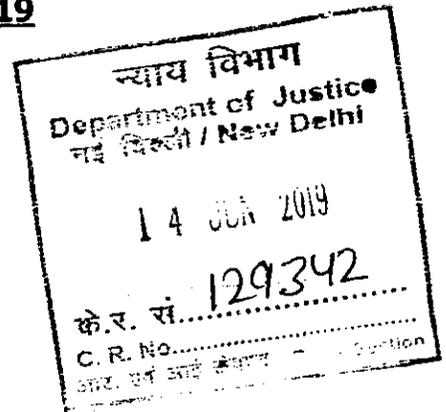
**HYDERABAD
DT. 10.06.2019**
(Off) : 2344 6166
(Fax) : 2344 6155

ROC.NO.227/SO/2019

To

The Director,
Government of India,
Ministry of Law and Justice,
Department of Justice, Jaisalmer House,
26-Mansingh Road, New Delhi – 110 011.

Sir,



Sub: High Court for the State of Telangana at Hyderabad – Letter from the Director, Government of India, Ministry of Law and Justice, New Delhi – Collection of primary data from High Court and Subordinate Courts by Researchers of National Institute of Technology, Rourkela on Action Research Project "A Study of Cheque Bounce Cases under NI Act, 1881"- Request to permit the action research team to visit the High Court and Subordinate Courts premises to interact with the Judicial Officers and Court Officials – Permission accorded – Reg.

Ref: Letter File No.N-9/34/2018-NI-1, dated 14.05.2019 of the Director, Government of India, Ministry of Law and Justice, Department of Justice, New Delhi.

Adverting to the subject and reference cited, I am to inform that the Government of India in their letter read above has requested the Registry to permit the research team of National Institute of Technology (NIT), Rourkela to visit the High Court for the State of Telangana at Hyderabad, the Metropolitan Sessions Court, Hyderabad, Ranga Reddy District Courts, City Civil Court, Secunderabad and Warangal District Court to interact with the Judicial Officers and the concerned Court Officials and for collection of data on Cheque Bounce Cases.

DIR (NM)
14/6

UJ (NM)
2203-20(NM)
14/6/19

L.O.
14/6/19

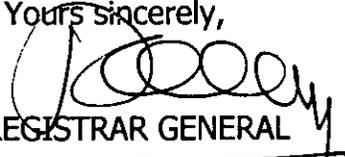
O.A.
17/6/19

DOJ 15/6/13/6

In this regard, I am to inform that the Hon'ble the Acting Chief Justice has been pleased to accept the request of the Government of India and accorded permission to the research team of National Institute of Technology (NIT), Rourkela to visit the High Court for the State of Telangana at Hyderabad, and the District Courts at Ranga Reddy District Court, City Civil Court, Secunderabad, the Metropolitan Sessions Court, Hyderabad and Warangal District Court to interact with the Judicial Officers at the District Courts and the concerned Court Officials and for collection of data on Cheque Bounce Cases.

Therefore, I request the Government of India to communicate the same to the research team, and requested to intimate the visit of the research team of National Institute of Technology (NIT), Rourkela, well in advance, for taking further steps in the matter.

Yours sincerely,


REGISTRAR GENERAL

10.6.19

Copy to:

1. The Registrar (Judicial), High Court for the State of Telangana at Hyderabad.
2. The Metropolitan Sessions Judge, Hyderabad.
3. The Chief Judge, City Civil Court, Secunderabad.
4. The Prl. District & Sessions Judge, Ranga Reddy District.
5. The Prl. District & Sessions Judge, Warangal District.

4.6.2019

HCC No.25/2019

HIGH COURT OF KARNATAKA
HIGH COURT BUILDINGS, BENGALURU-1
DATED: 1st JUNE 2019.

FROM
THE REGISTRAR GENERAL, HIGH COURT OF KARNATAKA, BANGALORE-1

To,
Sri.Giridhar Gopalkrishna Pai,
Director(NM)
Department of Justice,Jaisalmer House,
26-Mansingh Road,
New Delhi-110011.

4/6

*Pl. inform the
Project Proposer.
LO (NM)*

Sir,

Sub: Permission to the Research Team, NIT, Rourkela to visit High Court of Karnataka, Bangalore City Civil Court, CMM Courts, Mysuru District Court, Dharwad and Hubli Courts- reg.
Ref: Your e-mail dated:16.05.2019.

With reference to the above subject, I am directed to inform you that, the Research team of National Institute of Technology, Rourkela are permitted to visit High Court of Karnataka, Bengaluru City Civil Court, CMM Courts, Mysuru District Court, Dharwad and Hubli Courts for collection of Primary Data on cheque Bounce Cases and the research team shall ensure that it shall not cause any inconvenience to the Court work.

Therefore, I am to request you to intimate the date and time of their visit.

Yours faithfully,

4-31-19
(V.SRISHANANDA)
REGISTRAR GENERAL
Registrar General
High Court of Karnataka
Bengaluru 560 001



THE HIGH COURT OF ORISSA, CUTTACK

No.XI-07/2019/.....6428..... Dated. 17/05/2019.....

From

Shri R.K. Pattnaik,
Registrar General

To

The Principle Investigator (NMJD Project) and
Assistant Professor (School of Management),
National Institute of Technology, Rourkela,
Odisha-769008.

Sub: Collection of primary data from High Court and Sub-ordinate Courts of
State of Odisha by NIT, Rourkela.

Sir,

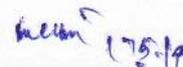
I am directed to say that the Hon'ble Court while considering your proposal for collection of primary data from High Court and Sub-ordinate Courts to conduct legal research work on cheque bounce cases under the NI Act have been pleased to concur with the proposal and observed that the research team shall conduct legal research work in the High Court of Orissa, Cuttack and three other District Courts at Cuttack, Khurda at Bhubaneswar & Sundargarh besides Civil & Sessions Court, Rourkela on the conditions that the following information shall not be provided..

- i. Name of the Court
- ii. Name of the Parties
- iii. Case Number
- iv. Name of person interviewed.

Further the Hon'ble Court have been pleased to observe that the report of the research work will be published only after approval of the High Court.

This is for your information and necessary action.

Yours faithfully,


REGISTRAR GENERAL

116AR

By Speed Post

Tel. : 22673569(O) Extn. 1367
 No. : B(Gen)-1001/2019/840
 Date : 25 June, 2019

From

S. G. Dighe,
 Registrar (Inspection-I)
 High Court (Appellate Side)
Bombay.

To,

✓ Shri Giridhar G. Pai, Director,
 Government of India,
 Ministry of Law and Justice,
 Jaisalmer House, 26 – Mansingh Road,
New Delhi – 110 011.

[Handwritten signature]
 1/7

[Handwritten signature]

[Handwritten signature]
 1/7/19

Subject : Your Request to grant permission for collecting the primary data from Subordinate Courts by Researchers of National Institute of Technology, Rourkela.

Refnce : Your letter dated 14/05/2019

Sir,

With reference to letters, on the subject noted above, I am to state that your aforesaid request was placed before the Hon'ble the Chief Justice for consideration and His Lordship has been pleased to grant the permission for collecting the primary data from Subordinate Courts i.e. City Civil and Sessions Court, Greater Bombay, District & Sessions Court, Pune, Aurangabad, Panaji and Margao, on Cheque Bounce Cases by Researchers of National Institute of Technology, Rourkela, subject to the following conditions :-

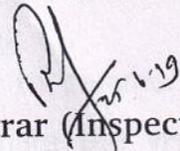
1. The records/Court orders should be seen in the Court premises and in the presence of an official of the Courts.
2. The information obtained shall not be used for any purpose other than the purpose for which the permission has been asked for viz. Study and research work, etc.
3. The names of the parties in the proceedings/Court orders shall not be disclosed and the same shall be kept confidential.
4. The Court work should not be affected by his research work.

311-Div(NM)
 1/7/19

.. 2 ..

5. He should not make use of the data for writing article in newspapers or journals.
6. He shall furnish copies of the reports, dissertation or any other published material, on the strength of the said research, to the High Court.
7. That the information obtained shall not be used for any purpose other than the purpose for which the permission has been asked and it will not be shared with external sources such as Press.

Yours faithfully,



Registrar (Inspection-I)

.....

No. B(Gen) 1001/2019/ 84)

Copy forwarded with compliments for information and necessary action to :

- 1) **The Principal District & Sessions Judge,**
Pune / Aurangabad / North Goa (Panaji) / South Goa (Margao).
- 2) **The Principal Judge, City Civil & Sessions Judge, Mumbai.**

(With directions that they should direct the officials working under their control to ensure that the day to day work is not affected and they avoid making any controversial statements.)

High Court, Appellate Side,

:

:

Sd/L

Bombay, Date : 25 June, 2019

:

Registrar (Inspection-I)

164503/2021/NM

Through Speed Post/E-mailNo. 646 spl. /4 Exclusive Cell

From

The Registrar General,
High Court of Punjab and Haryana,
Chandigarh.

To

Dr. Vikas Thakur,
Assistant Professor,
Principle Investigator (NMJD Project),
National Institute of Technology,
Rourkela, Odisha-769008.301 Exr
6/6/19Dated Chandigarh 06-06-2019**Sub: Collection of primary data from High Court and Subordinate Courts of State of Punjab and Haryana by National Institute of Technology, Rourkela.****Ref. Letter No.N-9/34/2018-NM dated 14.05.2019 of Ministry of Law and Justice, Government of India and your E-mail dated 06.05.2019.**

Sir,

I am directed to refer you on the subject cited above and to inform you that Hon'ble the Chief Justice has been pleased to grant permission to visit this Court and Subordinate Courts of States of Punjab and Haryana as requested vide File No. N-9/34/2018-NM dated 14.05.2019 by the Director, Ministry of Law and Justice, Department of Justice, Government of India (**copy enclosed**).

You are further requested to intimate the schedule to visit this High Court as well as Subordinate Courts of States of Punjab and Haryana atleast 15 days in advance during the month of July, 2019.

Yours faithfully,

Saur
6/6/19Assistant Registrar (Exclusive)
For Registrar General

cr R

Encl: As above.

164503/2021/NM

REGISTRAR GENERAL
HIGH COURT, CALCUTTA



3, Esplanade Row West
 Kolkata-700 001
 Phone : (033) 2213 5472
 Tele/Fax : (033) 2248 7835
 Mobile : 98308 91262

By Speed Post

No. 2007 - G

Dated Calcutta, the 20th May, 2019

To :
 Dr. Vikas Thakur,
 Principal Investigator (NMJD Project)
 &
 Assistant Professor (School of Management),
 National Institute of Technology,
 Roukela, Odisha- 769008

Sub.- *Permission to carry-out 'A Study of cheque-bounce cases under Negotiable Instruments (NI) Act, 1881' in this Hon'ble Court and Subordinate Courts in the State of West Bengal.*

Sir,

With reference to your e-mail dated 02.05.2019 on the subject captioned above, this is to inform you that the Hon'ble the Chief Justice has been pleased to permit the study team from National Institute of Technology, Rourkela, comprising of Dr. Vikas Thakur, Principal Investigator, Adv. Hussain Amir, Ms. AtibhaVijaya Singh, Mr. Anand Kumar Mishra, Ms. Ishani Mishra and Mr. Sidhartha Sahu, all Research Officers, to visit and carry out their legal research study on the aforesaid subject in [i] this Hon'ble Court, [ii] City Sessions Court (including all Criminal Courts under it), [iii] District Court of South 24 Parganas (including all Criminal Courts under it) [iv] Paschim Bardhaman District Court at Asansol and Durgapur (including all Criminal Courts under it) on the following conditions:

1. The study team shall provide the specific time frame for conduct of the study well in advance;
2. The study team shall visit and carry out their study in this Hon'ble Court and the aforesaid subordinate Courts without any access to the original case records;
3. In conducting the study in this Hon'ble Court, the study team shall not interview the Hon'ble Judges and the Learned Registrars of this Hon'ble Court. However, they may collect the relevant data from the concerned departments only;

This is for your kind information.

Yours sincerely,

(A. K. Mukherjee)
Registrar General

164503/2021/NM

Communications should be
addressed to Registrar General by
designation, not by name

(P.H.C. Sch. 1-6)

No. 47560 / (Statistical) / 2019

प्रेषक :

विधु भूषण पाठक

महानिबन्धक,

उच्च न्यायालय, पटना

Bidhu Bhushan Pathak

Registrar General,

HIGH COURT OF JUDICATURE AT PATNA

Fax No.: 0612-2504088

Ph.: Office – 2504111

Mob:- 9431017412

Dated, Patna, the 28th May 2019

To,

Asst Professor(School of Management),

Principle Investigator (NMJD Project),

N.I.T. Rourkela,

Odisha-769008.

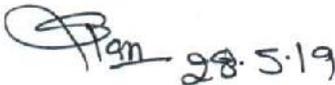
Subject:- Collection of Primary data from Patna High Court and Sub-ordinate Courts at Patna, Gaya and Bhagalpur by researchers of N.I.T., Rourkela.

Sir

With reference to your letter on the subject noted above, I am directed to say that the court have been pleased to permit a team of the researchers of National Institute of Technology, Rourkela to visit Patna High Court and Sub-ordinate courts at Patna, Gaya and Bhagalpur for the purpose of collection of data regarding Cheque Bounce Cases as a part of the study/research **without interfering with or compromising court functioning and maintaining confidentiality.**

This is for your kind information and needful.

Yours faithfully,



Registrar General I/c

जा.क्र./आस्था/ 8114/2019
जिल्हा व सत्र न्यायालय, औरंगाबाद.
दिनांक :- 18 / 09 / 2019.

प्रति,

सर्व न्यायिक अधिकारी,
औरंगाबाद मुख्यालय

विषय :- प्रश्नावली भरुन या कार्यालयास सादर करणेबाबत...

संदर्भ :- 1. हुसेन आमिर यांचा दिनांक 11/09/2019 रोजीचा ई-मेल.
2. प्रबंधक तपासणी-1, मा.उच्च न्यायालय, मुंबई यांचे पत्र,
B(Gen)-1001/2019/840, dated 25 June,
2019.

महोदय / महोदया,

उपरोक्त संदर्भाकीत विषयांस अनुसरुन आपणांस कळविण्यात येते की,
National Institute of Technology, Rourkela यांना मा.ना.उच्च न्यायालय,
मुंबई यांनी जिल्हा न्यायालय, औरंगाबाद येथून विविध प्रकारची माहिती जमा करणेबाबत उपरोक्त
संदर्भ क्र.2 नुसार परवानगी दिलेली आहे.

त्यानुसार National Institute of Technology, Rourkela यांचे प्रतिनिधी
श्री हुसेन आमिर हे दिनांक 17 ते 23 सप्टेंबर 2019 या कालावधीमध्ये जिल्हा न्यायालय,
औरंगाबाद येथे भेट देणार आहेत. त्यांना आवश्यक असणारी माहिती त्यांनी सोबत जोडलेल्या
प्रश्नावलीमध्ये नमुद केलेली आहे.

त्यानुसार आपणांस असे कळविण्यात येते की, आपण सोबत जोडलेली प्रश्नावली
भरुन या कार्यालयास दिनांक 23/09/2019 रोजी सकाळी 11 वाजेपर्यंत सादर करावी.

आपला विश्वासू

(श्रीपाद द. टेकाळे)
प्रमुख जिल्हा न्यायाधीश,
औरंगाबाद.

सोबत :- प्रश्नावली.

जा.क्र./संगणक/ ६६०३ /२०१९
जिल्हा व सत्र न्यायालय, पुणे
दिनांक - ०७/०९/२०१९

प्रति,

सर्व जिल्हा न्यायाधीश,
शिवाजीनगर, पुणे.

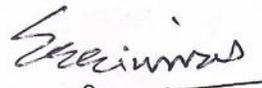
विषय - प्रश्नावली भरून या कार्यालयास सादर करणेबाबत...
संदर्भ - १. हुसेन आमिर यांचा दिनांक ०५/०९/२०१९
रोजीचा ई-मेल.
२. प्रबंधक तपासणी-१, उच्च न्यायालय, मुंबई यांचे पत्र,
B(Gen)-1001/2019/840, dated 25 June, 2019

महोदय/ महोदया,

उपरोक्त संदर्भाकीत विषयांस अनुसरून आपणांस कळविण्यात येते की, National Institute of Technology, Rourkela यांना मा. ना. उच्च न्यायालय, मुंबई यांनी जिल्हा न्यायालय, पुणे येथून विविध प्रकारची माहिती जमा करणेबाबत उपरोक्त संदर्भ क्र.२ नुसार परवानगी दिलेली आहे.

त्यानुसार Institute of Technology, Rourkela यांचे प्रतिनिधी श्री हुसेन आमिर हे दिनांक ११ ते १६ सप्टेंबर २०१९ व २४ ते २५ सप्टेंबर २०१९ या कालावधीमध्ये जिल्हा न्यायालय, पुणे येथे भेट देणार आहेत. त्यांना आवश्यक असणारी माहिती त्यांनी सोबत जोडलेल्या प्रश्नावलीमध्ये नमुद केलेली आहे.

त्यानुसार आपणांस असे कळविण्यात येते की, आपण सोबत जोडलेली प्रश्नावली भरून या कार्यालयास दिनांक ११/०९/२०१९ रोजी सकाळी ११ वाजेपर्यंत सादर करावी.


(एस. बी. अग्रवाल)
प्रमुख जिल्हा न्यायाधीश, पुणे.

सोबत - प्रश्नावली.

A.VENKATESWARA REDDY
REGISTRAR GENERAL



HYDERABAD
DT.21.08.2019
(Off) : 2344 6166
(Fax) : 2344 6155

ROC.NO.227/SO/2019

Sir/Madam,

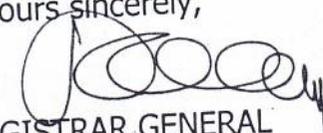
Sub: High Court for the State of Telangana at Hyderabad – Permission accorded to the Researchers of National Institute of Technology, Rourkela to collect primary data from High Court and Subordinate Courts on Action Research Project "A Study of Cheque Bounce Cases under NI Act, 1881"- Scheduled programme received – Forwarded - Reg.

- Ref:1) Letter File No.N-9/34/2018-NM, dated 14.05.2019 of the Director, Government of India, Ministry of Law and Justice, Department of Justice, New Delhi.
2) High Court's letter in Roc.No.227/SO/2019, dated 10.06.2019.
3) email received from of (NMJD Project) and Assistant professor (School of Management), NIT, Rourkela.

Adverting to the subject and references cited, I am to inform that the Principal Investigator, NIT, Rourkela in his letter 3rd cited, has informed that one of the research team, namely Sri Hussain Aamir, Research Officer from NIT, Rourkela will be visiting the High Court for the State of Telangana, and other Subordinate Courts for collection of primary data from 21st August to 5th September, 2019. The Principal Investigator has forwarded the questionnaires for collection of primary data and requested to provide necessary cooperation to their team member.

Therefore, I am to enclose herewith the email dt.20.08.2019 of the Principal Investigator along with the questionnaire and you are requested to cooperate with the said research Officer.

Yours sincerely,


REGISTRAR GENERAL

21/8/19

To

1. The Metropolitan Sessions Judge, Hyderabad.
2. The Chief Judge, City Civil Court, Secunderabad.
3. The Prl. District & Sessions Judge, Ranga Reddy District.

HCC No. 25/2019

HIGH COURT OF KARNATAKA
HIGH COURT BUILDINGS, BENGALURU-1
DATED: 18th July 2019

FROM
THE REGISTRAR GENERAL, HIGH COURT OF KARNATAKA, BENGALURU- 1

To,
The Registrar,
City Civil Court,
The Deputy Registrar,
CMM Court,
The Presiding Officer,
Small Cause Court,
The Principal District and Sessions Judge,
Mysure, Hubballi, Dharwad.

Sir,

Sub: Forwarding the questionnaire to Judicial Officers and Registry of District Courts –reg

Ref: 1. E-mail dated 16.05.2019

2. E-mail dated 04.07.2019 from Dr. Vikas Thakur, Principle Investigator (NMJD Project) and Asst. Professor (School of Management), National Institute of Technology, Rourkela

* * *

With reference to the above subject, I am directed to inform you that, permission was accorded to the research team of National Institute of Technology, Rourkela to visit High Court of Karnataka, Bengaluru, City Civil Court, CMM Courts, Mysore District Court, Dharwad and Hubli Courts for collection of Primary Data on cheque Bounce case.

~~In this regard, permission is also accorded to collect the information through~~
questionnaire to Judicial Officers & Registry of District Courts in respect of collection of statistical information about 138 NI Act Cases.

Therefore, I am to forward herewith the copy of questionnaire to Judicial Officers and Registry of District Courts. Further, Sri. Hussain Aamir, Research Officer will visit the Courts for collection of primary data on Cheque Bounce cases through questionnaires and give the hard copy of the questionnaire to Judicial Officers.

Yours faithfully,



18/7/2019

(T.G. SHIVASHANKAREGOWDA)
REGISTRAR (COMPUTERS)

164503/2021/NM

B. RAJASEKHAR
REGISTRAR (IT-cum-CPC)
I/C REGISTRAR GENERAL



NELAPADU
AMARAVATI
 (Off): 0863 2372613
 (Fax): 0863 2372631

ROC No. 220/50/2019

Dated 18.01.2020

To

The District and Sessions Judges,
 Krishna at Machilipatnam,
 Guntur and Visakhapatnam.

Sub: High Court of Andhra Pradesh – Letter received from the Director, Ministry of Law and Justice, Department of Justice, Government of India– Permission for collection of Primary Data from the Subordinate Courts by Researchers of National Institute of Technology, Rourkela – Permission accorded – Reg.

- Ref: 1) Letter No. N-9/34/2018-NM, dated 14.05.2019 from the Director, Ministry of Law and Justice, Department of Justice, Government of India, New Delhi.
- 2) Letter dated 17.01.2020 from Principle Investigator (NMJD Project) and Asst. Professor (School of Management) National Institute of Technology Rourkela.

Adverting to the subject and reference cited, I am to inform that the High Court is pleased to grant permission to the Researchers of National Institute of Technology (NIT), Rourkela to visit the Subordinate Courts, namely Krishna (including Courts in Vijayawada), Visakhapatnam District Court and Guntur District Court from 16th January to 23rd January 2020 to attend the court sittings for collection of permissible primary data through questionnaires.

Therefore, you are requested to cooperate with Mr Anurag Mishra, Research Officer in the primary data collection.

The District Judges are hereby directed to issue instructions to the students to maintain absolute silence in the courts, and not to cause any disturbance to the Court Proceedings.

Yours sincerely,

REGISTRAR (IT-cum-CPC)
I/c REGISTRAR GENERAL

Copy to:

1. The Director, Ministry of Law and Justice,
 Department of Justice, Government of India, New Delhi.
2. The Principle Investigator (NMJD Project) and Asst. Professor (School of Management) National Institute of Technology Rourkela.

Research Team

| S. No | Name of professional | Designation | Area of Expertise/ Specialization | Experience (in years) | Qualifications |
|--------------|-----------------------------|--|---|------------------------------|--|
| 1. | Dr. Vikas Thakur | Assistant Professor and Principal Investigator | Operations management, Process mapping, Supply chain management | 10 | PhD (IIT Roorkee), MBA, B.Tech |
| 2. | Dr. Binita Tiwari | Assistant Professor and Co-PI | Human resource management, Organizational behaviour | 05 | PhD (IIT Roorkee), MBA, B.A.Sc Electronics |
| 3. | Dr. Dushyant Mahadik | Assistant Professor and Co-PI | Management, Process Reengineering, Systems Design | 13 | BE, MTech (IITB), PGDM (IIMA) |
| 4. | Mr. Anand Kumar Mishra | Research Officer | Marketing and field survey | 02 | MBA, B. Com. |
| 5. | Mrs. Atibha Vijaya Singh | Research Officer | Law | 05 | PhD. (pursuing), L.L.M., L.L.B. |
| 6. | Mr. Hussain Aamir | Research Officer | Law | 02 | L.L.M. (pursuing), L.L.B. |
| 7. | Ms. Ishani Mishra | Research Officer | HR and Quantitative analysis | 01 | MBA, PhD. (pursuing) |
| 8. | Mr. Anurag Mishra | Research Officer | Law | 03 | L.L.B. (pursuing) |