

Characterising cheque dishonour cases in India: Causes for delays and policy implications

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Abstract

Cheque-dishonour cases constitute a significant portion of litigation in India. These cases are thought to be major contributors to overall pendency and delays in courts. The Supreme Court of India, in 2020, set up a committee and appointed Amici Curiae to formulate recommendations to reduce delays in cheque-dishonour cases. The recommendations target certain aspects of cheque-dishonour cases, however, empirical evidence supporting these recommendations is lacking. In this study we present an empirical analysis of the impact of six major characteristics of cases, which are the targets of the Supreme Court Committee and Amici Curiae’s recommendations. We find that many of the recommendations — more summary trials, clarifying jurisdictions, ensuring presence of the accused, reducing multiplicity of proceedings, and increasing the number of courts — may indeed reduce the delays in cheque-dishonour cases. However, the recommendation to encourage more mediation is likely to cause more delays instead of reducing them. We, thus, also demonstrate the importance of using empirical analysis to underpin important policy decisions in judicial procedure.

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Acronyms

ADR Alternative Dispute Resolution.

CoE Committee of Experts.

CrPC Code of Criminal Procedure.

LCI Law Commission of India.

NI Act Negotiable Instruments Act, 1881.

NJDG National Judicial Data Grid.

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1 Introduction

India has a slow judiciary - courts are clogged with large backlogs (Moog 1992; Debroy 2008; Datta, Hans, Mishra, et al. 2019). As of 8th December 2021, over forty-one million cases were pending across district courts (National Judicial Data Grid n.d.). It is estimated that judicial delays cost India around 1.5% of its GDP annually (Dey 2016). Slow judiciaries also have adverse consequences on the structure and efficiency of markets and the quality of life of citizens (Bank 2004; Chemin 2007; Rao 2020). Therefore, it is hardly surprising that tackling judicial delay has become a top priority for Indian judges and policymakers.

One reason for the large burden on courts is believed to be the large share of Negotiable Instruments Act, 1881 (NI Act) cases.¹ While the NI Act contains several provisions that may lead to a dispute, § 138, in particular, provides that if a cheque (drawn by a person for paying off a debt or a liability) is returned unpaid due to insufficiency of funds or credit, the payer may be imprisoned for up to two years or with a fine up to twice the amount of the cheque, or both. As per the Law Commission of India (LCI), they represent 6.5% and 7.8% of all institutions and pendency in Indian courts, respectively (Law Commission of India 2014). As per one order of the Supreme Court of India, they reflect more than 15% of all criminal cases in the District Courts (*Makwana Managaldas Tulsidas v State of Gujarat* n.d.). As per another order, they constitute over 30% of the total pendency in courts.²

Given this increasing volume and persistent mention of NI Act cases as a major cause of judicial delay, Tirumalai 2017 examined the behaviour of cheque dishonour cases in India by looking at the DAKSH database of 67,000 cases spread across Indian courts. In most cases, she found that resolution is delayed well beyond the statutorily prescribed timeline of 180 days. Using 50,000 case level data for eight States and two Union Territories, we also estimate the survival probability (using non-parametric Kaplan-Meier estimation) to understand the proportion of unresolved cases within the stipulated time.³ Figure 1 shows the survival probability (case ongoing) for the NI Act cases for different States. As per our estimate, less than 20% of the cases get disposed of within the prescribed timeline of 180 days. Also, the probability of case completion within 500 days is less than 50% for most States.

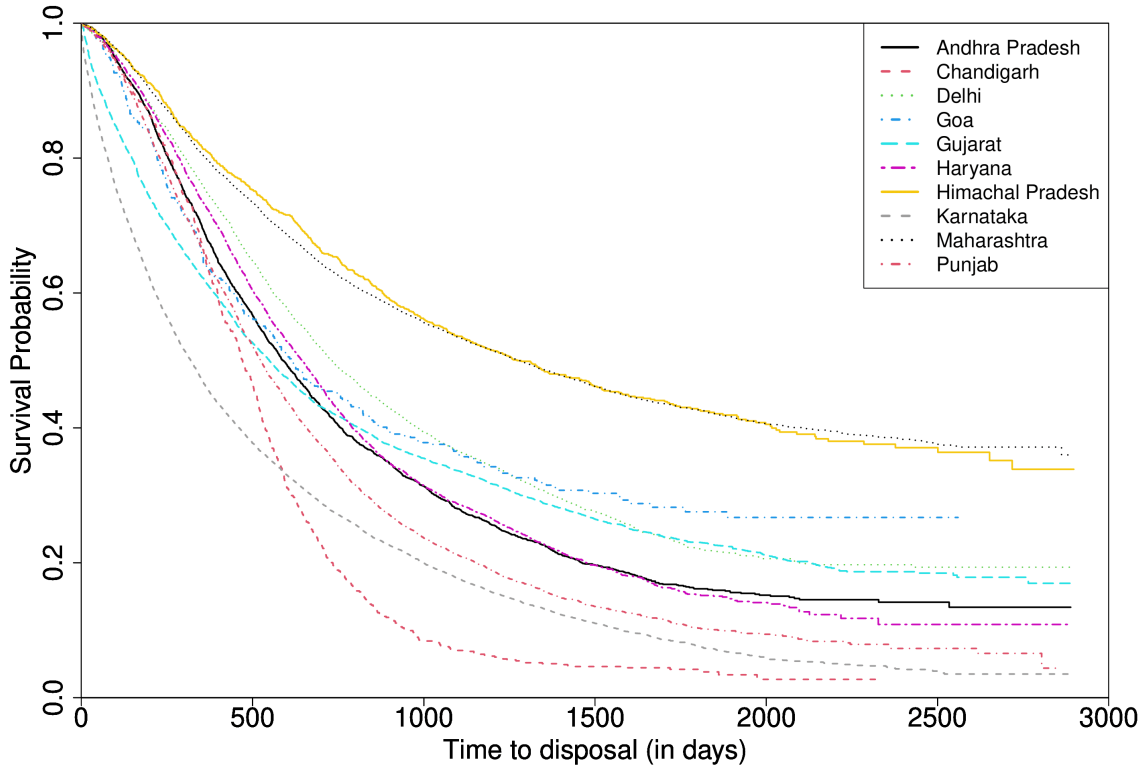
¹In particular, § 138 of the Negotiable Instruments Act (Dishonour of a cheque for insufficiency, etc., of funds in the account). Act 26 of 1881

²Similarly, a study published by the Department of Justice briefly touches on the burden of such cases on the judiciary and posits that they constitute 34% of pending criminal cases in Maharashtra. *In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881* n.d.; Mahadik 2018.

³The dataset used for this analysis is documented in section 4.1.

Figure 1: Survival probability of cases across States

Note: The X-axis shows the number of days that a case takes from the date of admission until the outcome. The Y-axis shows the probability of the case continuing up to a given number of days.



Since cheque dishonour cases are a large burden on the judiciary, various committees, institutions, and government bodies have focused on expediting disposal. For example, the Law Commission of India 2008, by relying on newspaper reports concerning the proportion of cheque dishonour cases, recommended setting up Fast Track Magisterial Courts (for a detailed discussion, refer to Bhan 2015). The Act was also subject to amendments in 2015 and 2018 to deal with the various procedural matters. Similarly, the Supreme Court has issued directions to lower courts and various financial institutions to take a more pragmatic and realistic approach for the speedy disposal of NI Act cases.

In 2020, the Supreme Court of India took on board a suo-motu case concerning the “expeditious trial of cases under section 138 of the Negotiable Instruments Act 1881” (*In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881* n.d.). Among other directions, the court formed a Committee of Experts (CoE)⁴ and appointed Amici Curiae⁵ to assist the court, to study processes to expedite the disposal of complaints under § 138 of the NI Act. In late 2020, the Amici submitted their recommendations. This included (i) increasing the use of pre-and post-summons mediation, (ii) expediting the service of

⁴Headed by Hon’ble Mr. Justice RC Chavan, former Judge of the Bombay High Court.

⁵Mr. Sidharth Luthra (Sr Advocate) and Mr. K Parameshwar (Advocate).

summons to reduce absconsion, (iii) addressing the multiplicity of proceedings, etc. (for additional detail, refer to Amici Curiae, In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881 2020).

Given this background, the purpose of this paper is fourfold. First, using case level eCourts data, for the first time in India, we estimate the real judicial caseload due to the NI Act. Second, we estimate the average case disposal time and its variation over time and across States. Third, we build a conceptual framework to establish the link between specific case characteristics and procedural delay. Furthermore, we empirically test our conceptual framework of procedural determinants of case disposal time using regression analysis. In line with Bielen, Marneffe, and Vereeck 2015, using case level interim and final orders data, we establish the link between the specific case characteristics and procedural issues while controlling for inherent court and judge characteristics. The empirical literature on the length of court proceedings currently focuses mainly on determinants at the country and court levels, e.g. public budgets for courts, backlogs, number of judges, etc. Some studies also focus on the case level determinants like the number of parties involved, number of pleadings, etc. Given access to the interim and final orders data, we focus on the case characteristics that can be directly targeted using procedural reforms.

Additionally, we examine the role of the Negotiable Instruments (Amendment) Bill, 2015, which was passed by the Parliament in December 2015. The amendment focused on clarifying the jurisdiction-related issues for filing cases for an offence committed under § 138 of the Negotiable Instruments Act, 1881. It also mandated the centralisation of cases against the same drawer. These reforms were specially drafted to accelerate court proceedings even though no evidence-based insight into the causes of prolonged trials was available. We analyse the effect of the 2015 amendment by comparing the duration of cases handled before and after their implementation using regression analysis. Our research makes it possible to evaluate the effectiveness of these reforms, at least for the States for which we gathered the data.

Our estimates suggest that cheque dishonour cases represent 13.2% of courts' workload (pending and disposed) in India. This number could be underestimated because, in about 36% of the cases in the sample, orders were either unavailable or could not be parsed. We also find significant variation in case disposal time across states. Median disposal time varies from as low as 218 days in Karnataka to as high as 547 days in Himachal Pradesh, with a median disposal time of 395 days. We also find that only a fifth of the cases gets disposed of within the prescribed limit of six months.

Controlling for State and year fixed effects, our findings suggest that, all else being equal,

cases where the accused fails to appear take an additional 201 days and 7 hearings to dispose of. Similarly, cases run as summons trials take 112 days and 7.4 hearings more than summary trials. Cases with jurisdictional issues take 271 days and 5.5 hearings more to dispose of than cases without these issues. Cases with a multiplicity of proceedings take an additional 168 days and 9.9 hearings to dispose of than those without. Contested cases take fewer days to dispose of than uncontested cases, even though they take more hearings. Our results also indicate that the 2015 amendments have significantly reduced case duration – reducing the case duration by more than six months.

The rest of this paper is organised as follows: after this introduction, section 2 elaborates on the history of cheque dishonour provisions in India and their relation to judicial delays. In section 3, based on our conversations with practising lawyers, other stakeholders, and the recommendations of the Amici Curiae and the Supreme Court, we figure out the key case characteristics linked to the procedural delay that can be directly targeted by court interventions. Section 4 describes the methodology, and section 5 presents the results thereof. In section 6, we analyse the effectiveness of the 2015 amendments by comparing the duration of cases handled before and after the procedural reforms were implemented. Finally, section 7 concludes the paper and presents the way forward.

2 Cheque dishonour and judicial delays

The Negotiable Instruments Act, 1881 was enacted to define the law relating to promissory notes, bills of exchange, and cheques (for an explanation of § 138, see Appendix A).⁶ To increase the culture regarding the use of cheques and enhance the credibility of the instrument, the Act was amended in 1988.⁷ A new chapter (§§ 138 to 142) was incorporated for penalties in the event of dishonour of cheques due to insufficient funds in the account of the drawer of the cheque. However, it aimed to include adequate safeguards to prevent harassment of honest drawers. § 138 provided for the circumstances under a drawer can be penalised for the dishonour of a cheque.

However, by 2001, these provisions were thought not to have had the desired effect.⁸ While the punishment was thought to be inadequate, courts could not dispose of cases in a time-bound manner due to the large number of cases pending across the country. Given the large burden on courts, a Working Group was constituted the same year to review § 138 of the NI Act and make recommendations regarding the changes needed

⁶*Negotiable Instruments Act* 1881.

⁷*Banking Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act* 1988.

⁸Lok Sabha 2001.

to effectively achieve the purpose of the section.⁹ In light of the recommendations of the Working Group, the government decided to bring further amendments to the Act. Among others, the amendments included:

- (a) increasing the punishment from one year to two years;
- (b) providing discretion to the court to waive the period of one month for taking cognisance of a case;
- (c) prescribing the procedure for dispensing with preliminary evidence of the complainant;
- (d) prescribing the procedure for service of summons via speed post or impanelled private couriers;
- (e) providing for summary trials; and
- (f) making the offence compoundable.

The amendments aimed at speedy disposal of cheque dishonour cases through their summary trial and making the cases compoundable. The punishment provided under § 138 also was enhanced from one year to two years. These legislative reforms aimed to encourage the usage of cheques so that regular business transactions and settlement of liabilities could be ensured. The amendments were considered by the Lok Sabha Standing Committee on Finance, which recommended that given the large burden on courts, the proposed amendments be coupled with the creation of specialised courts for § 138 cases.¹⁰ However, the subsequent Amending Act did not reference specialised courts.¹¹

LCI took up the proposal for specialised courts in 2008. According to the Commission, the credibility of the financial sector was facing setbacks due to the large pendency of dishonoured cheque cases. Relying on an array of judgments by the Supreme Court of India concerning speedy trials,¹² the Commission recommended the introduction of fast track courts to address cases concerning dishonour of cheques under § 138 of the Act. However, it did not comment on the number or expected workload of such courts.¹³ The need for additional courts was re-iterated by LCI in 2009.¹⁴

While LCI has focused on the need for more courts, the Supreme Court has provided assistance in implementing the amendments. In 2014, noting that the prime reason for the delays in § 138 case is the absence of the accused, the Court held that the magistrate

⁹Working Group under SB Jai Singhani 2001.

¹⁰Lok Sabha 2001.

¹¹*Negotiable Instruments (Amendment and Miscellaneous Provisions) Act* 2002.

¹²*Hussainara Khatoon v Home Secretary, State of Bihar* n.d.; *State of Maharashtra v Champalal Punjaji Shah* n.d.; *Surinder Singh v State of Punjab* n.d.; *S Rama Krishna v S Rama Reddy* n.d.

¹³Law Commission of India 2008.

¹⁴Law Commission of India 2009.

should adopt a pragmatic and realistic approach such as issuing notices and summons via e-mail or push notification to ensure delivery.¹⁵ In 2018, the court directed banks to give the details of the e-mail of the accused to the complainant for service through e-mail. The court also directed that: (i) cases must be dealt with summarily, (ii) the evidence of the complainant must be conducted within three months, (iii) an endeavour must be made to conclude the trial within six months, (iv) the trial, as far as practicable, must be held on a day-to-day basis, and (v) High Courts may pass additional localised directions for speedy disposal of cases.¹⁶

The Act was also amended in 2015 and 2018 to - clarify the appropriate area of jurisdiction where cheque dishonour cases can be filed,¹⁷ and grant power to courts to grant interim compensation, respectively.¹⁸ In particular, the *Negotiable Instruments (Amendment) Act 2015* aimed to address the difficulties faced by the payee or lender in filing cases under § 138 due to a lack of clarity concerning the appropriate forum. It thus inserted specific provisions concerning the jurisdiction for an offence under § 138, hoping to ensure that a fair trial of cases under § 138 is conducted keeping in view the parties' interests by clarifying the territorial jurisdiction for trying cases.

On the other hand, the *Negotiable Instruments (Amendment) Act 2018* aimed to address the delays caused by unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining stay on proceedings. As a result, the payee would have to spend considerable time and resources in court proceedings to realise the value of the cheque. To discourage frivolous and unnecessary litigation, it inserted a new section to provide that a court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant, in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and in any other case, upon framing of charge.

Lastly, in March 2020, the Supreme Court of India took on board a suo-motu case concerning the “expeditious trial of cases under section 138 of the Negotiable Instruments Act 1881”.¹⁹ As mentioned, the court-appointed Amici Curiae to assist in the matter, which presented its preliminary report to the court in October of the same year. The Amici made several suggestions to expedite trial, which among others, includes:

- (a) Address jurisdictional issues;
- (b) Address multiplicity of proceedings; and

¹⁵ *Indian Bank Association v Union of India and Ors* n.d.

¹⁶ *Meters and Instruments (P) Ltd v Kachan Mehta* n.d.

¹⁷ *Negotiable Instruments (Amendment) Act 2015*.

¹⁸ *Negotiable Instruments (Amendment) Act 2018*.

¹⁹ *In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881* n.d.

- (c) Expedite service of summons to reduce absconsion;
- (d) Explore setting up specialised courts;
- (e) Increase the use of pre- and post-summons mediation;
- (f) Mandate presenting of a plausible defence before conversion from summary to summons trial; and
- (g) Summon witnesses only when the accused presents a defence.²⁰

Noticeably, the recommendations of the Amici Curiae were in line with previously accepted reasons for delays in disposal. While considering the recommendations, the Supreme Court recommended the Government and High Courts take necessary action where possible and held that they should be the subject matter of deliberation by the CoE appointed in the same case.²¹

3 Conceptual framework and hypotheses

The recommendations of the Amici Curiae and the Supreme Court target several aspects of a NI Act case. They posit that these aspects likely lead to delays. This study examines six areas that are the targets of these interventions, viz. —

1. non-appearance by the accused;
2. trials being run as summons trials;
3. reference to mediation;
4. jurisdictional issues;
5. multiplicity of proceedings;
6. setting up additional NI Act courts.

The case characteristics whose impact we have chosen to examine were determined based on two factors: (1) the importance of that characteristic and (2) the feasibility of finding reliable information about it in the eCourts data. Accordingly, we chose to examine the effect of six case characteristics that map onto the six intervention targets mentioned above. The characteristics we chose are as follows:

1. The accused fails to appear before the court for at least one hearing;
2. The case is converted to a summons trial;
3. The case is referred to mediation;
4. The case has jurisdictional issues and is transferred to another court, as a result;
5. The case contains a multiplicity of proceedings — either the dishonoured cheque

²⁰Amici Curiae, In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881 2020.

²¹Headed by Hon'ble Mr Justice RC Chavan, former Judge of the Bombay High Court.

- was issued to satisfy multiple transactions, or multiple cheques were dishonoured;
6. The case was contested.

We discuss the salience of each case characteristic and the accompanying hypotheses below.

3.1 Non-appearance of the accused

Ostrom and Hanson (2000), in a study of nine state criminal trial courts in the United States, find that criminal cases where the defendant absconds take 40–90 days longer to dispose than those where the defendant appears in court.²² The defendant failing to appear in court is one of the leading causes for failed hearings. Consequently, delays in case disposal in the United Kingdom (National Audit Office (UK) 2006). Similarly, Llangasinghe (1998) found that the accused absconding is the most common reason for delays in case disposal in magistrates' courts in Fiji. The Amici Curiae and the Supreme Court's recommendations are premised on the notion that non-appearance of the accused leads to delays. We, therefore, seek to examine whether this holds good for cheque dishonour cases in India. We test the following hypotheses:

- H_{1a} : Cases, where the accused does not appear for one or more hearings, require more days to dispose
- H_{1b} : Cases, where the accused does not appear for one or more hearings, require more hearings to dispose

3.2 Conversion to summons trial

We could not find empirical studies on the effectiveness of summary trials in reducing case duration. Procedural law governing summary trials in the United States and United Kingdom are premised on the assumption that summary trials would reduce time delays in case disposal (Miller 2003). At the same time, Miller (2003) argues that regardless of the time-savings that may (or may not) result from summary trials, the discretion it gives to courts violates the principle of the right to a trial by jury. Therefore, bearing in mind the Supreme Court and Amici Curiae's recommendation that, to the extent possible, cases should be conducted as summary trials, and they should be converted to summons trials only in specific situations we test the following hypotheses:

²²The authors attribute this to the fact that in such cases, a separate procedure has to be conducted for the judge to issue a bench warrant to produce the accused before the court.

H_{2a} : Cases converted to summons trials require more days to dispose

H_{2b} : Cases converted to summons trials require more hearings to dispose

3.3 Cases referred to mediation by the court

Buscaglia and Ulen (1997) find that, in Latin American courts, when judges mandate mediation, it reduces the overall time required to dispose a case.²³ However, a review of empirical research on the time and cost-effectiveness of court-annexed Alternative Dispute Resolution (ADR), including mediation, by Wissler (2004) finds no conclusive relationship between the time required to dispose cases via ADR as compared to going to trial. Some studies reviewed by Wissler (2004) find that mediation can increase the duration. Some find that it can decrease the duration, while some find no effect. Heise (2010) further finds that participation in ADR does not significantly affect case disposal time. However, cases where the parties choose to settle take less time than ADR. Given the mixed findings on the effect of mediation and the Supreme Court and Amici Curiae's opinion that court-annexed mediation can reduce time to dispose cases, we test the following hypotheses:

H_{3a} : Cases referred to mediation require more days to dispose

H_{3b} : Cases referred to mediation require more hearings to dispose

3.4 Jurisdictional issues

Prima facie, there are four territorial areas involved in a cheque dishonour case - (i) where the issuer ordinarily resides, (ii) where the payee ordinarily resides, (iii) where the cheque was issued, and (iv) where the cheque was presented.

Prior to 2015, the NI Act only specified circumstances under which complaints concerning cheque dishonour could be filed. It did not specify the territorial jurisdiction of the courts where such a complaint had to be filed. This resulted in individuals filing cases in locations not readily accessible to the opposite party. Thus, cases would have to be transferred to suitable courts for hearing. In 2015, the Act was amended to provide that complaints can only be filed in a court in whose jurisdiction the bank branch of the payee lies.²⁴ While this addressed the lack of clarity in the court where complaints had to be filed, invariably, cases commenced in territorial jurisdiction where the accused did not

²³They conjecture is that the efficiency gains would result in judges having to dedicate less time to adjudicate such cases.

²⁴*Negotiable Instruments (Amendment) Act 2015.*

ordinarily reside.²⁵

Such jurisdictional issues, where cases have to be transferred from one court to another, may lead to delays.²⁶ We thus test the following hypotheses:

H_{4a} : Cases with jurisdictional issues require more days to dispose

H_{4b} : Cases with jurisdictional issues require more hearings to dispose

3.5 Multiplicity of proceedings

§ 219 of the Code of Criminal Procedure (CrPC) provides that when a person is accused of more than one offence of the same kind committed within twelve months, all offences may be tried together, subject to a maximum of three such offences. Similarly, as per § 220, if a person commits more than one offence in one transaction, she may be charged with all offences and tried at one trial. Experience has shown that a single financial transaction may lead to the dishonour of multiple cheques. However, under the CrPC, only three offences and, therefore, the dishonour of only three cheques can be tried together. This has resulted in multiple proceedings involving either the same issuer (accused) or the same transaction. Reducing such multiplicity may reduce the burden on courts. We thus test the following hypotheses:

H_{5a} : Cases involving a multiplicity of proceedings require more days to dispose

H_{5b} : Cases involving a multiplicity of proceedings require more hearings to dispose

3.6 Contested cases

When cases are contested, parties lead evidence before a court and rebut arguments. This is likely to lead to longer proceedings since courts have to come to reasoned decisions based on the proceedings. On the other hand, uncontested cases use minimal court resources, since parties reach a mutually acceptable decision verified by the court. Ostrom and Hanson (2000) find that cases that went to trial took 53–158 days longer to dispose than cases where the defendant pleaded guilty.²⁷ Buscaglia and Ulen (1997), in a study of judicial efficiency in Latin American courts, find that willingness to litigate increases the duration of court cases and results in a greater backlog of cases. National Audit Office

²⁵Amici Curiae, In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881 2020.

²⁶In Re: *Expeditious Trial of Cases under section 138 of the NI Act 1881* n.d.; Amici Curiae, In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881 2020.

²⁷The variation in the average delay is between the different jurisdictions studied.

(UK) (2006) finds that, in magistrate courts in the United Kingdom, contested cases typically take a greater number of hearings to dispose than uncontested cases. Contested cases take longer to dispose than uncontested cases. The difference between the time it takes the courts to dispose of uncontested cases compared to contested cases can yield insights into how efficient the court is at handling cases that go to trial, compared to cases where the defendant is willing to settle or compound. We thus test the following hypotheses:

H_{6a} : Contested cases require more days to dispose

H_{6b} : Contested cases require more hearings to dispose

In summary, these characteristics represent six different events that can take place in the course of litigating the case.²⁸ We test whether the event’s occurrence affects the case duration and the number of hearings required to dispose it. Table 1 presents a summary of the expected effects of the identified case characteristics. The potential effectiveness of the Supreme Court and Amici Curiae’s recommendation of setting up more NI Act courts can be indirectly tested through this characteristic.

Table 1: Expected effects of case characteristics

Case characteristic	Expected effect	
	Duration	Hearings
Non-appearance of the accused	+	+
Conversion to summons trial	+	+
Mediation	-	-
Jurisdictional issues	+	+
Multiplicity of proceedings	+	+
Contested cases	+	+

4 Methodology

4.1 Data description

We first drew a random sample of 100,000 cases filed between 1st January 2014 and 31st December 2018 across India from the database published by Development Data Lab.²⁹

²⁸These are not mutually exclusive. One or more of these events can occur in the same case.

²⁹Ash et al. 2021.

This window was chosen based on consultations with other researchers and practising advocates on the quality and completeness of data. We then attempted to download the case details for these 100,000 cases from the eCourts database.³⁰ We were able to download case details for approximately 89,000 cases.³¹ We used regular expressions to check whether the “Act Name” field references the NI Act. This was the first level of case classification. However, from our previous experience with eCourts data, we expected more NI Act cases among cases where the Act Name field did not match our search parameters.³² So we used regular expressions to search for references to the NI Act, cheque bounce/dishonour along with § 138 in the interim and final order texts, where available. We tagged the cases found through this protocol as related to cheque dishonour under § 138 of the NI Act (NI Act cases, for short). Data availability and quality vary significantly across States. Consequently, we could not include all the States of India in our study. We identified the States to exclude from the study based on the following criteria:

- States and Union Territories where we were unable to download sample data (this is because of data quality of the e-courts database);
- States and Union Territories that do not classify any cases as relating to the Negotiable Instruments Act;
- States and Union Territories where $< 2\%$ of the final orders (as a proportion of total NI cases) are machine-readable and in English.

Based on the criteria above, of the 29 States (including Jammu and Kashmir) and 7 Union Territories, our final sample covers 8 States and 2 Union Territories, shown in Table 2. For details concerning the selection, see appendix B.

Table 2: Sample description

State	NI Act cases	Non-NI Act cases	%NI Act cases	Total cases
Andhra Pradesh	2638	18567	12.4	21205
Chandigarh	731	1364	34.9	2095
Delhi	5202	14742	26.1	19944
Goa	399	2713	12.8	3112
Gujarat	6752	49476	12.0	56228
Haryana	5319	33542	13.7	38861

³⁰E-Courts Services n.d.

³¹This difference was caused by non-functional links, and corrupted or non-machine data.

³²The Act Name field sometimes does not contain the name of the substantive act, but rather the name of the procedural Act (e.g., CrPC) or, in rare cases, the subject matter of the case. This is mainly because case classification and nomenclature practices vary from state-to-state. However, in rare cases, the field is not populated or contains erroneous information. For details, please see, Damle and Anand 2020.

Table 2: Sample description

State	NI Act cases	Non-NI Act cases	%NI Act cases	Total cases
Himachal Pradesh	1164	11948	8.9	13112
Karnataka	11184	75807	12.9	86991
Maharashtra	8875	82673	9.7	91548
Punjab	5885	24739	19.2	30624
Total	48149	315571	13.2	363720

For these 10 States and Union Territories, we drew another random sample of 500,000 cases filed between 1st January 2014 and 31st December 2018 from the Development Data Labs database.³³ We then attempted to download case details for these 500,000 cases. We were able to successfully download case details for 4,68,855 cases. We removed cases from District and Sessions courts since these courts hear appeals and not the original matters. This gave a sample of 3,63,720 cases. As with the preliminary analysis, we used pattern-matching based on regular expressions to identify cases related to NI Act. In total, our sample has 48,149 NI Act cases. We manually checked the NI Act classification for approximately 1700 cases from the sample of 3,63,720 to check for erroneous classification. We found 1 false positive and no false negatives.³⁴ However, the data limitation above also limits our ability to reliably check for false negatives. Table 2 shows a summary of the sample. As shown, check dishonour cases in India represent approximately 13.2% of courts' workload (pending and disposed). This number could be underestimated because orders cannot be parsed in approximately 36% of the cases in our sample. Some may be NI Act cases, even though the Act Name field does not say so.

Table 3 shows the number of disposed and pending cases state-wise and the median time taken to dispose cases. According to § 143(3) of the NI Act, courts are required to, as far as reasonably possible, complete NI Act cases within six months, i.e. 180 days. However, as the table shows, the median time taken to dispose these cases is above the recommended limit in all states. Of the 37,479 disposed cases in the sample, 10,171 — i.e. 27% cases — were disposed within the prescribed limit of six months.

Table 3: State-wise disposed cases and time taken to dispose

³³Ash et al. 2021.

³⁴The false positive was because, for one case in Haryana, the court had dumped all the judgments issued on that date of disposal in the PDF file containing the order. As a result, the text for an actual NI Act case (along with all other cases disposed on that day) was erroneously included in the PDF of the judgment of that case. We further checked for similar erroneous data and found one more instance from the same court. However, none of the judgments in the PDF nor the case itself was related to NI Act. So effectively, it was correctly classified.

State	Disposed cases	Pending cases	Median days to dispose	Median hearings to dispose
Andhra Pradesh	2154	484	451	16
Chandigarh	703	28	453	9
Delhi	3910	1292	518	8
Goa	280	119	352	16
Gujarat	5183	1569	323	13
Haryana	4241	1078	488	12
Himachal Pradesh	673	491	547	16
Karnataka	10221	963	218	6
Maharashtra	5024	3851	520	19
Punjab	5080	805	440	13
Overall	37469	10680	395	11

Table 4 shows the pending cases across States and the duration of the pendency. The largest chunk of pending cases (35%) has been pending for 2 to 3 years. There is state-wise variation in the distribution of pending cases. So the recommendation of the Supreme Court that the respective High Courts should find solutions specifically suited for their States, has merits.

Table 4: State-wise pending cases by duration

State	Number of pending cases by duration (in years)					
	(1, 2]	(2, 3]	(3, 4]	(4, 5]	(5, 6]	(6, 7]
Andhra Pradesh	45	196	120	80	29	14
Chandigarh	0	6	16	5	1	0
Delhi	127	393	494	195	69	14
Goa	23	41	25	26	4	0
Gujarat	189	481	415	345	95	44
Haryana	201	578	204	82	9	4
Himachal Pradesh	47	142	120	96	56	28
Karnataka	134	422	253	97	40	17
Maharashtra	418	1122	921	787	431	172
Punjab	150	414	156	55	24	6
Total	1334	3795	2724	1768	758	299

Table 5 shows the year-wise number of NI Act cases in our sample. As expected, the pendency rate for older cases is lower than newer ones.

Table 5: Yearwise number of NI Act cases

Year of filing	Disposed	Pending	Total
2014	6293	391	6684
2015	6436	888	7324
2016	8562	2072	10634
2017	8904	3149	12053
2018	7274	4180	11454
Total	37469	10680	48149

Our objective is two-fold, to examine whether the interventions proposed by the Amicus Curiae are likely to affect the duration of cheque-dishonour cases, and if so, what is the magnitude of the effect. To that end, we first identified cases with specific characteristics that are thought to increase the duration of a cheque-dishonour case.

4.2 Identifying case characteristics

To identify cases with the characteristics of interest, we analysed the interim and final orders using a pattern matching protocol and regular expressions implemented in Python 3.8. We supplemented this with the information reported in the case details downloaded from the eCourts database. In particular, we relied on the purpose of hearings and the nature of disposal. The characteristics and the strategy to identify whether they appear in a given case are as follows:

Non-appearance by the accused – We looked for references to § 72 CrPC,³⁵ and terms like - accused not available / out of station / absconding / not present / absent, or that accused’s presence could not be secured, or references to the issuance of a bailable / non-bailable warrant to secure the presence of the accused. In addition to this, we looked at references to non-appearance, absconsion, bailable / non-bailable warrants in the data on the purpose of hearings.

Table 6 shows the number of cases in the sample in which the accused failed to appear in at least one of the hearings. It appears that this is a widespread occurrence, and consistently so, over the entire observation period.

³⁵§ 72, Code of Criminal Procedure. Warrants to whom directed.

Table 6: Cases where the accused was absent for at least one hearing

Year	Total NI Act cases	Non Appearance	
		Number of cases	Percentage
2014	6684	4302	64.4
2015	7324	5241	71.6
2016	10634	7527	70.8
2017	12053	8628	71.6
2018	11454	7927	69.2

We expected cases with incidences of absence by the accused would take more days and more hearings to dispose.

Jurisdiction issue – We looked for references to lack of jurisdiction / lack of proper jurisdiction / beyond jurisdiction, references to § 142 of the NI Act,³⁶ and citations of specific cases like *Vijay Dhanuka v Najima Mamtaj*,³⁷ and *KS Joseph v Philips Carbon*.³⁸ Additionally, we looked at cases that were marked transferred from one court to another or were observed to be transferred in the hearings or disposal data, since a vast majority of such transfers are due to jurisdictional issues.

Table 7 shows the number of cases in the sample in which there was a jurisdictional issue. The proportion of such cases as a percentage of the total, though significant, has fallen slightly over the observation period. The increase in cases with jurisdictional issues in 2016 is likely to be a consequence of the amendment in 2015, which resulted in more cases being transferred to courts that would now have appropriate jurisdiction.

Table 7: Cases with jurisdictional issues

Year	Total NI Act cases	Jurisdictional issue	
		Number of cases	Percentage
2014	6684	2089	31.3
2015	7324	2229	30.4
2016	10634	3520	33.1
2017	12053	3360	27.9

³⁶§ 142, Negotiable Instruments Act. Cognisance of offences.

³⁷*Vijay Dhanuka v Najima Mamtaj* n.d.

³⁸*KS Joseph v Philips Carbon* n.d.

Table 7: Cases with jurisdictional issues

Year	Total NI Act cases	Jurisdictional issue	
		Number of cases	Percentage
2018	11454	2900	25.3

We expected cases with jurisdictional issues to take more days and more hearings to dispose.

Case being converted to a summons trial – We looked for references to the case being tried under § 143 of the NI Act,³⁹ or §§ 262, 263, 264 or 265 of the CrPC,⁴⁰ or references to the case being tried summarily. These cases were marked as not summons trials. Cases where these were deemed not to apply, or the case was being conducted normally, or it is undesirable to try the case summarily, or the sections above not being applicable were marked as summons trials. Further, cases, where any hearing mentioned summons trial as the purpose, were marked as summons cases.

Table 8 shows the number of cases in the sample in which the case was converted from a summary trial to a summons trial. The proportion of such cases as a percentage of the total has grown over the observation period.

Table 8: Cases converted to summons trials

Year	Total NI Act cases	Summons trial	
		Number of cases	Percentage
2014	6684	1251	18.7
2015	7324	1880	25.7
2016	10634	2814	26.5
2017	12053	3542	29.4
2018	11454	3389	29.6

We expected cases converted to summons trial to take more days and more hearings to dispose.

Case referred to mediation – We looked for references to the case being referred to mediation / Lok Adalat / Alternative Dispute Resolution (ADR), or references to

³⁹§ 143, Negotiable Instruments Act. Power of Court to try cases summarily.

⁴⁰§§ 262, 263, 264 or 265, Code of Criminal Procedure. Procedure for summary trials; Record in summary trials; Judgement in cases tried summarily; Language of record and judgment.

the matter being settled mutually, or compromised. We also looked at references to the cases being sent to mediation in the hearings data, and references to the case concluding in the Lok Adalat or being settled mutually, or the parties reaching a compromise.

Table 9 shows the number of cases in the sample in which the accused failed to appear in at least one of the hearings. The proportion of such cases is considerable over the entire observation period.

Table 9: Cases referred to mediation

Year	Total NI Act cases	Mediation	
		Number of cases	Percentage
2014	6684	997	14.9
2015	7324	1521	20.8
2016	10634	2609	24.5
2017	12053	3100	25.7
2018	11454	2484	21.7

Multiplicity of proceedings – We looked for references to multiple cheques being dishonoured and multiple transactions, and references to §§ 219 and 220 of the CrPC.⁴¹ Table 10 shows the number of cases in the sample in which there was a multiplicity of proceedings. As a percentage of the total, the proportion of such cases is small. However, as Table 16 shows, the burden caused due to multiplicity varies across States.

Table 10: Cases with a multiplicity of proceedings

Year	Total NI Act cases	Multiplicity of proceedings	
		Number of cases	Percentage
2014	6684	259	3.9
2015	7324	382	5.2
2016	10634	544	5.1
2017	12053	515	4.3
2018	11454	310	2.7

⁴¹§§ 219 and 220, Code of Criminal Procedure. Three offences of same kind within year may be charged together; Trial for more than one offence.

We expected cases with a multiplicity of proceedings to take more days and more hearings to dispose.

Contested cases – The fact of the case being contested or uncontested is reported by eCourts in the “disposal type” field. We take the information as reported.

Table 10 shows the number of cases in the sample which were contested by the accused. The proportion of such cases is significant but appears to have declined over the years. This may be due to an increased tendency of parties to compound a case.⁴²

Table 11: Contested cases

Year	Total NI Act cases	Contested cases	
		Number of cases	Percentage
2014	6684	2171	32.5
2015	7324	1944	26.5
2016	10634	1822	17.1
2017	12053	1478	12.3
2018	11454	868	7.6

We expected contested cases to take more days and more hearings to dispose than uncontested cases.

These case characteristics were represented as binary variables. For example, if the parties did not appear for a hearing in a given case, the Non-appearance variable takes the value 1. If the parties appeared at every hearing, we would mark it as 0. Similarly, for the Summons Trial variable, if the case was converted to a summons trial, it is marked as 1. Otherwise, it is marked as 0.

Table 12 shows the State-wise number of cases in which we were able to identify characteristics of interest. The row totals are not expected to add up to the total cases in the respective state in the sample, because some cases can have more than one of the selected characteristics. As an illustration, a case may involve the dishonour of multiple cheques and be referred to mediation.

⁴²§ 147 of the Negotiable Instruments Act provides that every offence punishable under the Act shall be compoundable. § 147, Negotiable Instruments Act. Offences to be compoundable.

Table 12: Cases with identified characteristics of interest

State	Non Appearance	Summons Trial	Mediation	Jurisdiction Issue	Multiplicity	Contested
Andhra Pradesh	1674	814	260	210	124	753
Chandigarh	701	408	204	278	53	106
Delhi	2062	1359	1026	1045	208	521
Goa	381	78	90	33	18	109
Gujarat	5125	391	402	3059	107	797
Haryana	5214	3376	1731	2109	540	599
Himachal Pradesh	864	351	506	299	33	113
Karnataka	5850	2002	1846	953	410	3615
Maharashtra	5933	963	2546	3831	135	1118
Punjab	5821	3134	2100	2281	382	552

The State-wise numbers presented in Table 12 are likely underestimated. This is because orders cannot be parsed in approximately 36% of the cases in our sample. Further, some courts do not adequately record details of the purpose of hearings and the nature of disposal (Damle and Anand 2020). Cases in which information regarding these characteristics could not be found were marked as not having those particular characteristics. In our manual check of approximately 700 cases, we did not find any false positives or false negatives. However, the data limitation above also limits our ability to reliably check for false negatives. This, in turn, means there could be many more cases that have the characteristics above but could not be identified as having them.

4.3 Regression model specifications

To examine the impact of case characteristics on case duration, we rely on two different measures: (1) Duration of the case (in days) and (2) Number of hearings required to dispose of. We perform a multivariate analysis: we regress the performance indicators (i.e., duration of the case and the number of hearings required to dispose of the case) on several potential explanatory variables. We also control for State and year fixed effects. For each performance measure, we estimate the following fixed effect regression model:

Duration_i or Number of hearings_i

$$\begin{aligned} &= \beta_1 D_1(\text{Non - appearance}_i) + \beta_2 D_2(\text{Jurisdiction Issue}_i) + \beta_3 D_3(\text{Mediation}_i) \\ &+ \beta_4 D_4(\text{Multiplicity}_i) + \beta_5 D_5(\text{Summons}_i) + \beta_6 D_6(\text{Contested}_i) \\ &+ \alpha_s + Y_t + \epsilon_{ist} \end{aligned} \tag{1}$$

where D_1 is a dummy variable equal to 1 if the accused was not available / out of station/absconding or absent due to other reasons, D_2 is a dummy variable equal to 1 if the case refers to jurisdiction issues, D_3 is a dummy variable which takes the value 1 if the case was referred for mediation, D_4 is a dummy variable equal to 1 if the case suffers from a multiplicity of proceedings, D_5 is a dummy variable which takes the value 1 if the case is marked as summons trial, and D_6 is a dummy variable equal to 1 if the case was contested. We use the State and year dummies (α_s and Y_t respectively) to control for the macro-economic reforms and environment.

We performed robustness checks to ascertain whether our choice of using state and year fixed-effects were sound. The results are presented in Appendix C.1. Both the state and the year of filing have a significant effect on the overall duration of the cases, and the number of hearings required to dispose them. This justifies our decision to control for state and year in our estimation of the effect of case characteristics.

5 Results

We use the fixed-effects regression model to estimate the effect size of these characteristics on the total duration of the case. A fixed-effects regression model is an estimation technique that allows one to control for time-invariant unobserved variables that can be correlated with the observed characteristics, thus allowing us to estimate the effect size of identified (observed) characteristics on the total duration of cases. Notably, we only rely on disposed cases since pending cases in our data often do not have interim orders. By definition, they also do not have a final order. Thus, including such cases in the estimation can lead to higher uncertainty. For the empirical analysis, we only used the 37,498 disposed cases.

While hazard models, on the lines of Datta, S., and Sane (2017), would be an ideal choice to use in such an analysis, we chose the fixed-effects model due to the peculiarities of our data. Case-characteristics for pending cases cannot be reliably detected because orders

Table 13: Effect of case characteristics on days required to dispose a case

	<i>Dependent variable: Disposal Days</i>						
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
D(non-Appearance)	265.271*** (5.184)						200.695*** (4.979)
D(Summons)		178.660*** (5.322)					112.250*** (5.214)
D(Mediation)			161.640*** (5.338)				100.383*** (4.971)
D(Jurisdiction)				309.402*** (5.138)			271.877*** (4.921)
D(Multiplicity)					271.545*** (10.117)		168.070*** (9.938)
D(Contested)						0.200 (5.614)	-53.246*** (5.351)
State FE	Y	Y	Y	Y	Y	Y	Y
Year FE	Y	Y	Y	Y	Y	Y	Y
Observations	35,427	35,427	35,427	35,427	35,427	35,427	35,427
R ²	0.137	0.102	0.097	0.159	0.092	0.073	0.241
Adjusted R ²	0.137	0.101	0.096	0.159	0.091	0.073	0.241

Note:

*p<0.1; **p<0.05; ***p<0.01

for those cases are not available in most instances. Further, given that most cases in our data-set are disposed, we did not expect significantly different results from using a fixed-effects model. Finally, a fixed-effects model gives coefficients that can be easily interpreted, whereas hazard models yield probabilities for a case to conclude after a given duration. The coefficient from the fixed-effects model is therefore easier to for policy reform than the results of a hazard model.

Table 13 shows the results of the fixed effects regression to predict the effects on total case duration (in days). The State in which the case is filed has a large and statistically significant effect on the case duration. Controlling for the State-level effects, all but one of the selected case characteristics significantly increase the case duration.

As with the total duration to dispose the cases, the State in which the case is filed has a large and statistically significant effect on the number of hearings.

Table 14 shows the results of the fixed-effects regression to estimate the effect of case characteristics on the number of hearings required to dispose the case. Controlling for the State-level effects, all of the selected case characteristics significantly increase the number of hearings required to dispose the case.

Table 14: Effect of case characteristics on hearings required to dispose a case

	<i>Dependent variable: Number of hearing (for disposed cases only)</i>						
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
D(non-Appearance)	9.641*** (0.146)						7.049*** (0.131)
D(Summons)		11.031*** (0.145)					7.368*** (0.138)
D(Mediation)			5.605*** (0.153)				3.200*** (0.131)
D(Jurisdiction)				6.985*** (0.151)			5.471*** (0.130)
D(Multiplicity)					17.460*** (0.280)		9.926*** (0.262)
D(Contested)						6.218*** (0.159)	2.889*** (0.141)
State FE	Y	Y	Y	Y	Y	Y	Y
Year FE	Y	Y	Y	Y	Y	Y	Y
Observations	35,427	35,427	35,427	35,427	35,427	35,427	35,427
R ²	0.178	0.207	0.110	0.129	0.168	0.115	0.368
Adjusted R ²	0.177	0.207	0.110	0.129	0.168	0.115	0.367

Note:

*p<0.1; **p<0.05; ***p<0.01

The results for each of the case characteristics are discussed in detail in the following sub-sections.

5.1 Non-appearance of accused

The results, shown in Table 17, indicate that non-appearance of the accused typically adds 213 days to the total case duration. Further, non-appearance of the accused typically adds 7 hearings to the total hearings required to dispose a case. Both these findings are in line with what we expected.

Therefore, any interventions by courts to ensure the accused’s presence will help reduce the case durations and the number of hearings to dispose. The suggested interventions include serving notice of summons through digital media, such as instant messaging, email, and the Supreme Court’s automated notice-service software.

Ordinarily, if the accused fails to appear before the court repeatedly, the court issues a bailable warrant to produce them in court. If the accused still fails to appear, the court issues a non-bailable warrant under § 70 of the Code of Criminal Procedure (CrPC). This gives the police the power to arrest the accused anytime and anywhere. The police are also given the authority to forcibly open or break down the doors and walls of the home or the hiding place of the accused. If the accused still fails to appear in court even after the arrest warrants have been issued without bail, the judge can declare the accused to be a “criminal accused” under §§ 82 and 83 of the CrPC. It can then authorise the attachment and sale of the accused’s property to recover the disputed amount. One way of reducing delays caused due to the non-appearance may to reduce the time taken to conduct such processes, compelling the accused’s presence.

5.2 Jurisdictional issues

The results, shown in Table 17, indicate that jurisdictional issues typically add 287 days to the total case duration. Further, jurisdictional issues typically add 5.7 hearings to the total hearings required to dispose a case. Both these findings are in line with what we expected.

5.3 Conversion to summons trial

The results, shown in Table 17, indicate that conversion to a summons trial typically adds 111 days to the total case duration. Further, conversion to a summons trial typically adds 7.2 hearings to the total hearings required to dispose a case. Both these findings are in line with what we expected.

The Supreme Court and the Amici Curiae recommend that most cases be tried summarily. If courts implement this, they can significantly reduce the duration of cheque dishonour cases. The mechanism that the Supreme Court proposes is for courts to not convert cases to summons trials unless the accused presents a plausible defence. Further, the court has to record, in writing, its reasons for conducting the case as a summons trial. This recommendation, by itself, may be of limited use, unless an audit mechanism is put in place to assess how often and for what reason cases are converted to summons trials, and whether it was necessary to do so. This will also necessitate institutionalising a mechanism for regular judicial impact assessments.

5.4 Cases referred to mediation

The results, shown in Table 17, indicate that a case being referred to mediation typically adds 108 days to the total time required to dispose it. Further, the case being referred to mediation typically adds 3.3 hearings to the number of hearings required to dispose the case. These findings run counter to our hypotheses that cases referred to mediation take less time and fewer hearings to dispose. This also means that the recommendation by the Amici Curiae, calling for more cases to be referred to mediation, will not reduce the delays in cheque dishonour cases. They will have the opposite effect.

Our data show that the mediation process rarely fails. Few cases go back to the court for adjudication due to the parties not reaching a mediated settlement. Table 15 summarises the outcomes of cases referred to mediation. We can count all instances where a case is settled, withdrawn or compounded as a successful settlement. These constitute 78.6% of cases referred to mediation. In other words, the mediation process concludes in a successful settlement in a vast majority of the cases. The case gets sent back to the court for adjudication only in 21.4% of cases. Read with the result on the duration of cases referred to mediation being longer than other cases; this means that the delays result from issues in the mediation process itself, and not (as the literature in other jurisdictions indicates) in whether or not the parties choose to settle.

Table 15: Outcomes of cases referred to mediation

Disposal type	Disposal sub-type	Total cases	Percentage	Median duration (in days)
Dismissed	other	478	5.46	710
	settlement	8	0.09	512
	withdrawn	2942	33.58	491
Disposed	compounded	459	5.24	638
	other	1395	15.92	723

Table 15: Outcomes of cases referred to mediation

Disposal type	Disposal sub-type	Total cases	Percentage	Median duration (in days)
	settlement	2945	33.62	527
	withdrawn	213	2.43	462
Other	other	320	3.65	752
Total		8760	100.00	-

Note: The total is less than the total cases referred to mediation owing to the limitations in the data on disposal type and filing/disposal dates.

Precisely identifying issues with the mediation process requires further investigation. However, until these issues are properly identified and understood, courts referring NI Act cases to mediation will likely result in greater delays and pendency.

One caveat that we need to add here is that according to the practising advocates we consulted, the stage at which the case is referred to mediation has a bearing on whether or not mediation will lead to delays. Further, the court’s reasons (or lack thereof) for delaying the reference to mediation or delays in successive scheduling of hearings may have a confounding effect. However, a deeper analysis of whether courts delay scheduling for legitimate reasons requires an analysis of courts’ order sheets for each hearing. This information is, unfortunately, not available on the eCourts platform. To the best of our knowledge, most courts do not digitise this information. Therefore, we cannot further analyse this matter with the available data.

5.5 Multiplicity of proceedings

The results, shown in Table 17, indicate that multiplicity of proceedings typically adds 171 days to the total case duration. Further, a multiplicity of proceedings typically adds 10 hearings to the total hearings required to dispose a case. Both these findings are in line with what we expected.

This may be due to the excess coordination required on the part of the judiciary. To address this challenge, *In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881*, the Amici Curiae appointed by the Supreme Court recommended that:

1. The Union Government bring a legislative amendment to address the multiplicity of proceedings where cheques have been issued for one purpose. However, multiple complaints, summons and trials have to be undertaken.

2. The Supreme Court issue directions to High Courts to amend their Criminal Rules of Practice (by whatever name called) to ensure that complaints arising out of the same transaction, but resulting in dishonour of multiple cheques be clubbed together and a common process evolved for joint trial.⁴³

The Court accepted both these recommendations.⁴⁴

Table 16: Multiplicity of proceedings by state

State	Total NI Act cases	Cases with multiplicity of proceedings	
		Number	Percentage
Andhra Pradesh	2638	124	4.7
Chandigarh	731	53	7.3
Delhi	5202	208	4.0
Goa	399	18	4.5
Gujarat	6752	107	1.6
Haryana	5319	540	10.2
Himachal Pradesh	1164	33	2.8
Karnataka	11184	410	3.7
Maharashtra	8875	135	1.5
Punjab	5885	382	6.5

While on average, 4.2% of the cases in our sample include a multiplicity of proceedings, this is as high as 10.2% in Haryana. Notably, the three States and Union Territories with the highest proportion of such proceedings, i.e., Haryana, Punjab, and Chandigarh, all come under one High Court – the High Court of Punjab and Haryana at Chandigarh. Thus, bringing an amendment to the CrPC may not be an appropriate use of resources. Instead, in line with the second recommendation by the Amici, there is a need for targeted and context-specific intervention by concerned High Courts.

5.6 Contested cases

The results, shown in Table 17, indicate that contested cases typically take 3 hearings more but 46 days less to dispose than uncontested cases. While the finding on the effect

⁴³Amici Curiae, In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881 2020.

⁴⁴In Re: *Expeditious Trial of Cases under section 138 of the NI Act 1881* n.d.

on the number of hearings was as expected, the latter finding regarding the effect on overall duration runs counter to our hypothesis.

In 1925, the Civil Justice Committee noted that there is a temptation to hold back the heavier *contested* suits and devote attention to the lighter ones.⁴⁵ Close to a hundred years later, this conjecture may not hold for cases under the NI Act. The results imply that courts efficiently dispose cases when both parties participate in the proceedings by scheduling successive hearings in a shorter time than when the matter is uncontested.

While courts may not be able to reduce the number of hearings required to dispose of a contested case, prioritisation and scheduling with minimal delays reflects a positive framework to ensure expeditious trial. However, the proportion of contested cases reduced from 2014 and 2018. Uncontested cases, that form the majority, require less intervention by courts. They are listed after larger gaps. This may be due to parties needing more time to reach a mutually acceptable decision or courts prioritising contested cases. Either case suggests there may be some scope for improving the scheduling mechanism for uncontested cases.

5.7 Potential impact on case-loads

Table 17 shows the summary of results.

Table 17: Summary of results

Characteristic	Number of cases	As % of NI Act cases	As % of total cases	Effect on days to dispose	Effect on hearings to dispose
Non appearance of the accused	33625	69.8%	9.2%	+213	+7.0
Conversion to summons trial	12876	26.7%	3.5%	+111	+7.2
Mediation	10711	22.2%	2.9%	+108	+3.3
Jurisdictional issues	14098	29.2%	3.9%	+287	+5.7
Multiplicity of proceedings	2010	4.2%	0.6%	+171	+10.0
Contested	8283	17.2%	2.3%	-46	+2.9

⁴⁵Civil Justice Committee 1925.

Total	48191	100.0%	13.2%	N/A	N/A
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Note: '+' sign indicates an increase, while '-' sign indicates decrease.

The delays resulting from the respective characteristics affect a significant proportion of NI Act cases. Since NI Act cases constitute 13.2% of courts' workload, these delays are bound to contribute to the overall delays in courts. They affect the overall pendency in the judiciary.

For example, if the problem of accused persons not appearing before the court is addressed, all else being equal, the total duration of over 9% of cases would reduce by 213 days, and courts will have to allocate 7 fewer hearings per case. Similarly, if jurisdictional issues are addressed, the total duration of close to 4% of cases would reduce by 287 days, and courts will have to allocate 6 fewer hearings per case.

As per the National Judicial Data Grid (NJDG), as of January 2022, there were 3,57,72,846 total original pending cases in subordinate courts in India. Assuming the proportions and ratios of our analysis and results hold good for the country as a whole, 13.2% of these cases would relate to the NI Act, which would amount to 47,39,902 cases. To put the numbers in the table into context, ensuring the presence of the accused can lead to reducing 2,32,58,415 hearings across courts in the country.⁴⁶ Similarly, if all NI Act cases are disposed summarily, courts across the country can avoid 90,86,676 hearings. Further, if none of the cases had jurisdictional issues, 78,48,857 hearings could be avoided. While the Supreme Court has provided clarity on the procedure to be followed when the accused does not ordinarily reside within a court's jurisdiction, there is a need for further analysis on how to reduce such cases in the first place, since parties need not ordinarily reside and have bank accounts within the jurisdiction of the same court.

In the same vein, referring NI Act cases to mediation could be adding 34,40,884 hearings to the courts across the country. All these hearings can be avoided if the court tried and disposed of these cases. This is significant and highlights why it is necessary to support policy decisions with robust empirical studies.

5.8 Robustness checks

To test the robustness of our findings, we do two additional checks. First, in Appendix C.2, we check if our results are consistent across time and across States. Second, we run

⁴⁶This assumes the proportion of the distribution of case characteristics holds good for the country as a whole.

Table 18: Effect of NI Act amendments on case disposal

Year	<i>Dependent variable</i>	
	Disposal days	No. of hearings
D(2015)	24.202*** (6.902)	1.020*** (0.182)
D(2016)	6.439 (6.652)	-0.188 (0.176)
D(2017)	-106.686*** (6.612)	-2.475*** (0.175)
D(2018)	-197.606*** (6.955)	-4.118*** (0.184)
Observations	35,427	35,427
R ²	0.241	0.368
Adjusted R ²	0.241	0.367
<i>Note:</i>	*p<0.1; **p<0.05; ***p<0.01	

the hazard models considering both disposed and pending cases to reconfirm the effect of each case characteristics.

6 Effect of NI 138 Amendment, 2015

While we had not originally set out to test the effectiveness of the amendments to the NI Act, our dataset allowed us to test the effect of the year (using fixed-effects regression) on the total duration of the case and total hearings required to dispose. This can serve as a suitable proxy for the effect of the amendment itself. The results — given in Table 18 — show that there was a drastic decrease in the total case duration and the number of hearings required to dispose them for cases filed in 2017 and 2018. This indicates that the amendments to the NI Act made in 2015 — to clarify the geographical jurisdictions — may have had an impact on reducing the case duration and number of hearings to dispose cheque dishonour cases. This further confirms our result that solving jurisdiction related issues can reduce the overall duration of the NI Act cases.

However, when we use Kaplan-Meier non-parametric statistics to estimate a survival model for our cases, the survival probability suggest that there is no considerable change

in the probability of case completion over the years.⁴⁷ This might be due to the increasing number of cases being filed across country and the constant increase in pendency. We confirm this by looking across the effect of each characteristics over the years. We do find a persistent increase in time to disposal across all case characteristics over time (see Table 19).

Figure 2: Survival probability of cases across years

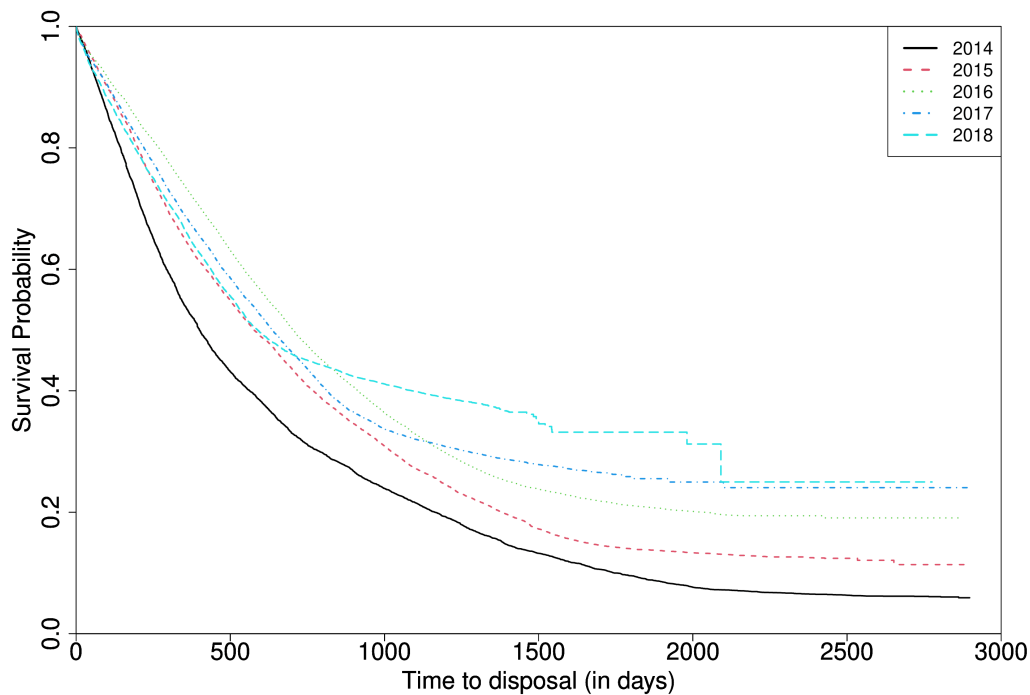


Table 19: Disposal Days: Variation across years

	<i>Dependent variable: Disposal days</i>				
	(2014)	(2015)	(2016)	(2017)	(2018)
D(non-Appearance)	155.424*** (8.163)	186.156*** (8.921)	220.051*** (10.899)	185.167*** (13.316)	242.311*** (14.042)
D(Summons)	35.087*** (8.335)	29.933*** (8.710)	118.444*** (11.340)	182.578*** (14.351)	220.014*** (17.025)
D(Mediation)	61.687*** (7.862)	37.802*** (8.316)	76.600*** (10.465)	156.578*** (13.797)	255.746*** (17.196)

⁴⁷Survival probability is calculated for each interval as follows: the number of observations that survived (that did not face the event), divided by the number of observations that were at the risk of facing the event (Rich et al. 2010). In our case, this will be the number of cases that did not get closed divided by the number of cases that could have been closed. The Kaplan Meier plots, thus, depict the estimated probability of survival at each point in time or the probability of the case not getting completed at each point in time.

D(Jurisdiction)	180.482*** (9.022)	231.023*** (8.876)	269.201*** (10.238)	313.779*** (12.909)	318.416*** (13.564)
D(Multiplicity)	64.826*** (19.158)	138.977*** (17.088)	141.382*** (20.037)	201.150*** (24.870)	246.812*** (31.392)
D(Contested)	5.510 (10.927)	-12.717 (10.419)	-59.490*** (11.695)	-75.624*** (12.818)	-71.797*** (13.581)
State FE	Y	Y	Y	Y	Y
Observations	6,760	8,458	8,165	6,117	5,927
R ²	0.189	0.202	0.228	0.232	0.269
Adjusted R ²	0.187	0.201	0.226	0.230	0.268

Note: *p<0.1; **p<0.05; ***p<0.01

7 Conclusion

The Amici Curiae and Supreme Court have given the following recommendations to reduce delays and pendency of cheque-dishonour cases:

1. Increase use pre- and post-summons mediation
2. Expedite service of summons to reduce absconsion
3. Mandate plausible defence before conversion from summary to summons trial
4. Summon witnesses only when the accused presents a defence
5. High Courts should prepare schemes to dispose cases pending for 2-4, 4-6, 6+ years
6. Address multiplicity of proceedings
7. The magistrate should record reasons for conversion of summary to summons trial
8. Explore setting up specialised courts
9. Judicially settle the position of § 202 CrPC
10. Jurisdictional issues

We have been able to test the likely effect of 6 of the targets of these interventions viz — trials being run as summons trials, non-appearance by the accused, jurisdictional issues, reference to mediation, and multiplicity of proceedings, and impact of setting up additional NI Act courts. Table 20 presents a summary of the expected and observed effects of the identified case characteristics.

Table 20: Expected and observed effects of case characteristics

Case characteristic	Expected effect		Observed effect	
	Duration	Hearings	Duration	Hearings
Non-appearance of the accused	+	+	+213	+7
Conversion to summons trial	+	+	+111	+7.2
Mediation	-	-	+108	+3.3
Jurisdictional issues	+	+	+287	+5.7
Multiplicity of proceedings	+	+	+171	+10
Contested cases	+	+	-46	+2.9

We find that most of the intended targets of the Amici Curiae’s and Supreme Court’s proposals do affect the duration of NI Act cases. So any interventions that can reduce the proportion of cases being converted into summons trials, prevent cases from being filed in the wrong jurisdiction, ensure the presence of the accused, and reduce the multiplicity of proceedings will reduce delays in these cases and will also reduce the number of hearings required to dispose them.

However, we find that cases referred to mediation take significantly longer to dispose. We find that referring more NI Act cases to mediation may increase delays and burden courts even more. Further, there appear to be issues with the mediation process itself, because not many cases return to the courts for adjudication due to the mediation failing.

At the same time, we find that contested cases take fewer days to dispose even though they require more hearings. This indicates that judges might be more efficient at resolving these cases than mediation forums. As a corollary, increasing the number of special NI Act courts might have the intended effect of increasing disposal rates and reducing pendency.

Our research attempts to quantify the effects of different characteristics of NI Act cases on the duration. We rely on texts of judgments and orders for much of this analysis. This approach can be improved if courts institute systems to produce more granular data on cases. One gap in our analysis, for example, is that we cannot reliably identify for what purpose the cheque in question was issued. Further, where orders are not available, our ability to identify the characteristics of interest are limited. That is also one of the reasons we had to omit many of the states from our analysis.

Policy-making and administration are research-dependent processes. Better research re-

quires better data. Therefore, courts should record better data about case characteristics and case flow. This will enable researchers and courts alike to conduct better judicial impact assessments and identify bottlenecks in existing processes and problematic provisions in laws. Courts, in turn, can use these analyses to improve procedures and administration and ensure better justice delivery.

References

- [1] Amici Curiae, In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881. *Preliminary Report by the Amici Curiae*. Before the Supreme Court of India. 2020.
- [2] Elliot Ash et al. “In-group bias in the Indian judiciary: Evidence from 5 million criminal cases”. In: (2021). Working Paper.
- [3] World Bank. *World development report 2005: a better investment climate for everyone*. The World Bank, 2004.
- [4] *Banking Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act*. 1988.
- [5] Indu Bhan. *Placing the burden of bounced cheques*. Apr. 30, 2015.
- [6] Samantha Bielen, Wim Marneffe, and Lode Vereeck. “An Empirical Analysis of Case Disposition Time in Belgium”. In: *Review of Law and Economics* (2015).
- [7] Edgardo Buscaglia and Thomas Ulen. “A quantitative assessment of the efficiency of the judicial sector in Latin America”. In: *International Review of Law and Economics* 17.2 (1997), pp. 275–291. ISSN: 0144-8188. DOI: [https://doi.org/10.1016/S0144-8188\(97\)00007-0](https://doi.org/10.1016/S0144-8188(97)00007-0).
- [8] Matthieu Chemin. “The Impact of the Judiciary on Economic Activity: Evidence from India”. In: *Cahier de recherche/Working Paper* 7 (2007), p. 24.
- [9] Civil Justice Committee. *Report of the Civil Justice Committee*. 1. 1925.
- [10] Devendra Damle and Tushar Anand. “Problems with the e-Courts data”. In: *NIPFP Working Paper No 314* (2020).
- [11] *Damodar S Prabhu v Sayed Babalal H.*
- [12] *Dashrath Rupsingh Rathod v the State of Maharashtra.*
- [13] Pratik Datta, Surya Prakash B. S., and Renuka Sane. “Understanding Judicial Delay at the Income Tax Appellate Tribunal in India”. In: 17/208 (Oct. 2017).
- [14] Pratik Datta, Mehtab Hans, Mayank Mishra, et al. “How to Modernise the Working of Courts and Tribunals in India”. In: *NIPFP Working Paper No 258* (2019).
- [15] Bibek Debroy. *Justice delivery in India: A snapshot of problems and reforms*. Institute of South Asian Studies, 2008.
- [16] Sudipto Dey. “Cost of pendency of cases could be as high as 1.5% of GDP: Harish Narasappa”. In: *Business Standard* (Aug. 14, 2016).
- [17] E-Courts Services. *High Courts of India and District and Taluka Courts of India*. URL: https://ecourts.gov.in/ecourts_home/.
- [18] Michael Heise. “Why ADR Programs Aren’t More Appealing: An Empirical Perspective”. In: *Journal of Empirical Legal Studies* 7.1 (2010), pp. 64–96.
- [19] *Hussainara Khatoon v Home Secretary, State of Bihar.*

- [20] *In Re: Expeditious Trial of Cases under section 138 of the NI Act 1881.*
- [21] *Indian Bank Association v Union of India and Ors.*
- [22] *KS Joseph v Philips Carbon.*
- [23] Law Commission of India. *Fast Track Magisterial Courts for Dishonoured Cheque Cases.* Report No 213. 2008.
- [24] Law Commission of India. *Reforms in the Judiciary - Some suggestions.* Report No 230. 2009.
- [25] Law Commission of India. *Arrears and Backlog: Creating Additional Judicial (wo)manpower.* Report No 245. 2014.
- [26] Jinadasa Llangasinghe. In: *COMMONWEALTH JUDICIAL JOURNAL* 12.3 (1998), pp. 21–28. ISSN: 0308-5104.
- [27] Lok Sabha, Parliament of India. *Parliamentary Standing Committee on Finance. Negotiable Instruments (Amendment) Bill, 2001.* 19. 2001.
- [28] Dushyant Mahadik. “Analysis of Causes for Pendency in High Courts and Subordinate Courts in Maharashtra”. In: (2018).
- [29] *Makwana Managaldas Tulsidas v State of Gujarat.*
- [30] *Meters and Instruments (P) Ltd v Kachan Mehta.*
- [31] A.R. Miller. “The pretrial rush to judgment: Are the "litigation explosion," "liability crisis," and efficiency clichés eroding our day in court and jury trial commitments?” In: *New York University law review (1950)* 78 (June 2003), pp. 982–1134.
- [32] Robert Moog. “Delays in the Indian Courts: Why the Judge Don’t Take Control”. In: *Just Sys J* 16 (1992), p. 19.
- [33] National Audit Office (UK). *Effective use of magistrates’ courts hearings.* 2006.
- [34] National Judicial Data Grid. *Summary Report of India as on December 8th 2021.* URL: <https://njdg.ecourts.gov.in/njdgnew/index.php>.
- [35] *Negotiable Instruments Act.* 1881.
- [36] *Negotiable Instruments (Amendment) Act.* 2015.
- [37] *Negotiable Instruments (Amendment) Act.* 2018.
- [38] *Negotiable Instruments (Amendment and Miscellaneous Provisions) Act.* 2002.
- [39] Brian J Ostrom and Roger A Hanson. “Efficiency, timeliness, and quality: A new perspective from nine state criminal trial courts”. In: (2000).
- [40] *Priyanka Nagpal v State (NCT of Delhi).*
- [41] Manaswini Rao. *Institutional Factors of Credit Allocation: Examining the Role of Judicial Capacity and Bankruptcy Reforms.* 2020.
- [42] Jason T Rich et al. “A practical guide to understanding Kaplan-Meier curves”. In: *Otolaryngology—Head and Neck Surgery* 143.3 (2010), pp. 331–336.
- [43] *S Rama Krishna v S Rama Reddy.*
- [44] *Shakti Travel and Tours v the State of Bihar.*

- [45] *State of Maharashtra v Champalal Punjaji Shah*.
- [46] *Surinder Singh v State of Punjab*.
- [47] Ramya Sridhar Tirumalai. "Promise to Pay: An Analysis of Cheque Dishonour Cases". In: *Approaches to Justice in India - Shruti Vidyasagar et al (ed) - Eastern Book Company* (2017).
- [48] *TP Murugan v Bojan*.
- [49] *Vijay Dhanuka v Najima Mamtaj*.
- [50] Roselle L Wissler. "The effectiveness of court-connected dispute resolution in civil cases". In: *Conflict Resol. Q.* 22 (2004), p. 55.
- [51] Additional Solicitor General of India Working Group under SB Jai Singhani. *Working Group under SB Jai Singhani, Additional Solicitor General of India*. 2001.

Appendix A Understanding § 138 of the Negotiable Instruments Act

As per § 138 of the Negotiable Instruments Act, 1881, if a cheque (drawn by a person for paying off a debt or a liability) is returned unpaid due to insufficiency of funds or credit, the payer may be imprisoned for up to two years or with a fine up to twice the amount of the cheque, or both.⁴⁸ However, this is only the case when: (i) the payee presents the cheque within six months of its issuance, (ii) demand for the payment within thirty days of the return of the cheque by the bank, and (iii) the payer fails to pay within fifteen days of the receipt of such notice. The cause of action arises after these fifteen days. The payee subsequently has one month to file a complaint before the appropriate court.

An offence within the contemplation of § 138 is complete with the dishonour of the cheque, but taking cognisance of the same by any court is forbidden so long as the complainant does not have the cause of action to file a complaint.⁴⁹ This is because the legislature has considered it appropriate to allow the drawer of a dishonoured cheque to pay up the amount before permitting her prosecution. The accused has a right to pay the money within fifteen days from the date of the service of notice, and only when she fails to pay is it open for the complainant to file a complaint. Thus, in *Shakti Travel and Tours v the State of Bihar*, where a complaint failed to mention that notice had been served, the same was not maintainable.⁵⁰

A complainant may approach the concerned court within one month of the time provided to the payer to satisfy his debt or liability. After an amendment in 2015, the Act has been modified to prescribe that the territorial jurisdiction for filing of a cheque dishonour complaint shall be restricted to the court within whose territorial jurisdiction the offence is committed, i.e., which is the location where the cheque is dishonoured or returned unpaid by the bank on which it is drawn. Place of issuance or delivery of the statutory notice or where the complainant chooses to present the cheque for encashment by his bank is relevant for determining territorial jurisdiction for filing cheque dishonour complaints.

⁴⁸A *cheque* is defined as per § 6 of the NI Act. It is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on-demand. It includes the electronic image of a truncated cheque and a cheque in electronic form. Once a cheque has been signed and issued in favour of the holder of the cheque, there is a statutory presumption § 139 of NI Act that the cheque is issued in discharge of a legally enforceable debt or liability. However, said presumption is a rebuttable one. The issuer of the cheque can rebut that presumption by adducing credible evidence that the cheque was issued for some other purpose like security for a loan. *TP Murugan v Bojan* n.d.

⁴⁹*Dashrath Rupsingh Rathod v the State of Maharashtra* n.d.

⁵⁰*Shakti Travel and Tours v the State of Bihar* n.d.

Once a complaint is led in court, the court takes cognisance and issues the process for producing the accused. If the accused fails to appear, the court may issue a suitable warrant to ensure the same. As per § 143 of the Act, cases are meant to be tried summarily. However, if the court believes that the nature of the matter 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, it may record such an order and hear the cases as a summons trial.⁵¹

Notably, the Supreme Court has observed that for the offence § 138, the compensatory aspect of the remedy should be prioritised over the punitive aspect.⁵² Waiver of imprisonment instead of payment of additional compensation is permissible under exceptional circumstances.⁵³ The court may close proceedings if the accused deposits the amount assessed by it regarding the cheque amount, interest/costs, etc., within the stipulated period. Compounding at the initial stage and even at a later stage is acceptable.⁵⁴

For brevity, fig. 3 demonstrates the course of a proceeding in the case of a cheque dishonour.

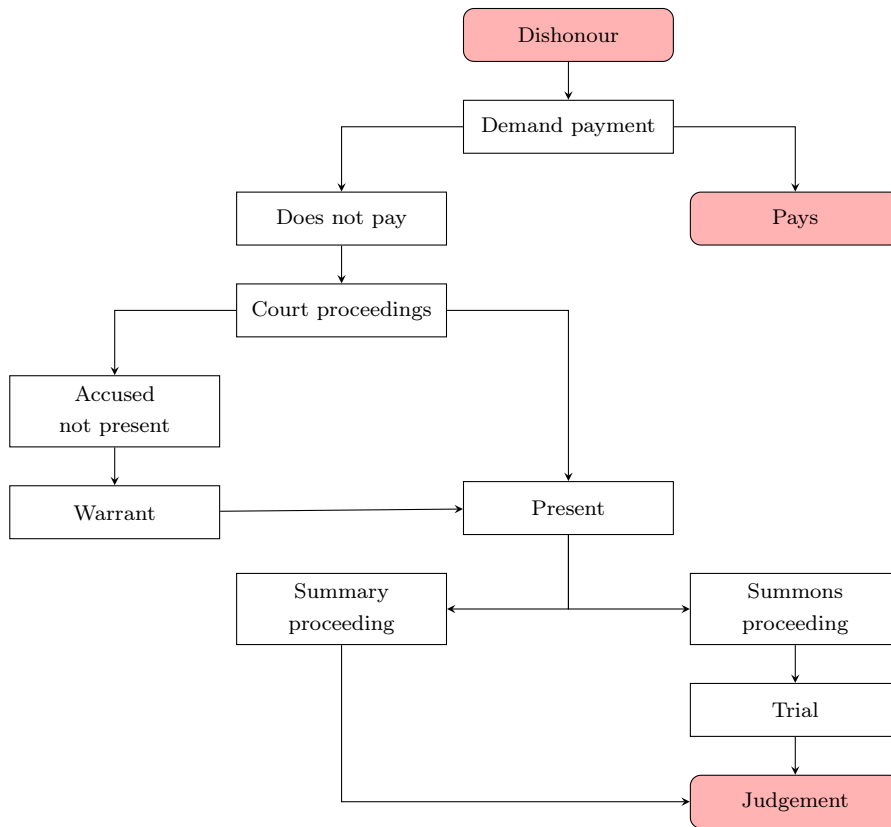
⁵¹In case of a summary trial, if the accused pleads not guilty, the magistrate may record the substance of the evidence and deliver a judgment. However, in a summons trial, the proceeding is as any ordinary matter followed by a judgment.

⁵²*Damodar S Prabhu v Sayed Babalal H* n.d.

⁵³*Priyanka Nagpal v State (NCT of Delhi)* n.d.

⁵⁴*Meters and Instruments (P) Ltd v Kachan Mehta* n.d.

Figure 3: Proceeding § 138 of the Negotiable Instruments Act



Appendix B Criteria for sample selection

Steps:

1. Remove States where we are unable to download/pick any information (Arunachal Pradesh, Andaman and Nicobar Islands, and Nagaland)
2. Remove States where we don't get any NI cases (Ladakh, Sikkim, Mizoram, Meghalaya, and Manipur dropped)
3. In our dataset, we have only one NI case in DNH at Silvassa. So we drop DNH at Silvassa.
4. In case of Puducherry, we don't find any interim or final order for the NI cases.
5. Given our limitation to process information recorded in regional language, we dropped states where less than 2% of the final orders (as proportion of total NI cases) were in English (Daman and Diu, Uttarakhand, Uttar Pradesh, Rajasthan, Tripura, Chhattisgarh, Jammu and Kashmir, and Bihar dropped)
6. We also drop states where NI cases in which interim or final order is available in english represent less than 1% of the total cases (Telangana, Jharkhand, Kerala, Tamil Nadu, Assam, Orissa, West Bengal and Madhya Pradesh dropped)
7. So we were left with 2 UTs - Chandigarh and Delhi, 2 small states - Goa and Himachal Pradesh, 2 mid size states - Punjab and Haryana, 4 large states - Karnataka, Gujarat, Maharashtra, and Andhra Pradesh. The NI cases as a proportion of total cases vary from 7.35% in Himachal Pradesh to 22.06

After this we are left with the following states and UTs from which we have drawn our sample —

1. Andhra Pradesh,
2. Chandigarh,
3. Delhi,
4. Goa,
5. Gujarat,
6. Haryana,
7. Himachal Pradesh,
8. Karnataka,
9. Maharashtra, and
10. Punjab.

Appendix C Robustness checks

In this section we describe the robustness checks we performed to assess how confident we can be in the results of the fixed-effects model.

C.1 Consistency

As Tables 19, 21, 22, 23 show, the year of filing and the state both have a significant effect on the duration of the case and the number of hearings required to dispose it. This supports our decision to control for state and year fixed effects in our main analysis.

Table 21: Number of hearings: Variation across years

	<i>Dependent variable: Number of hearings</i>				
	2014	2015	2016	2017	2018
D(non-Appearance)	5.996*** (0.221)	6.809*** (0.236)	6.929*** (0.279)	7.764*** (0.362)	8.049*** (0.364)
D(Summons)	3.773*** (0.226)	5.041*** (0.231)	7.678*** (0.290)	10.391*** (0.390)	11.416*** (0.442)
D(Mediation)	1.967*** (0.213)	1.653*** (0.220)	2.828*** (0.267)	4.868*** (0.375)	7.090*** (0.446)
D(Jurisdiction)	2.973*** (0.244)	4.911*** (0.235)	5.133*** (0.262)	7.023*** (0.350)	6.345*** (0.352)
D(Multiplicity)	5.756*** (0.518)	8.732*** (0.452)	9.122*** (0.512)	10.539*** (0.675)	12.298*** (0.815)
D(Contested)	5.157*** (0.296)	4.213*** (0.276)	3.139*** (0.299)	2.230*** (0.348)	1.341*** (0.352)
State FE	Y	Y	Y	Y	Y
Observations	6,760	8,458	8,165	6,117	5,927
R ²	0.317	0.348	0.372	0.384	0.389
Adjusted R ²	0.316	0.346	0.370	0.382	0.388

Note: *p<0.1; **p<0.05; ***p<0.01

Table 22: Disposal Days: Variation across States

	<i>Dependent variable: Disposal days</i>									
	(Punjab)	(Maharashtra)	(Karnataka)	(Himachal Pradesh)	(Haryana)	(Gujarat)	(Goa)	(Delhi)	(Chandigarh)	(Andhra Pradesh)
D(non-Appearance)	282.470*** (45.895)	117.295*** (12.643)	219.113*** (8.354)	217.113*** (40.559)	231.698*** (37.703)	193.737*** (12.871)	261.782*** (98.140)	227.051*** (13.886)	329.881*** (55.699)	152.268*** (17.760)
D(Summons)	134.133*** (10.040)	107.435*** (19.458)	43.375*** (11.362)	153.415*** (40.332)	155.525*** (11.272)	388.108*** (26.752)	361.641*** (59.235)	-17.411 (14.558)	86.252*** (20.949)	169.039*** (21.555)
D(Mediation)	85.850*** (10.097)	132.560*** (13.157)	213.240*** (10.996)	173.916*** (36.869)	52.617*** (11.094)	15.695 (20.682)	126.867*** (48.674)	-32.710** (15.447)	49.678** (22.164)	29.968 (27.086)
D(Jurisdiction)	203.741*** (9.841)	320.802*** (13.000)	263.146*** (14.634)	238.843*** (46.625)	223.542*** (10.874)	347.000*** (11.812)	221.767** (101.778)	253.748*** (15.816)	172.153*** (20.591)	202.846*** (33.936)
D(Multiplicity)	146.651*** (20.751)	293.331*** (42.522)	230.515*** (21.832)	99.971 (92.582)	93.660*** (17.977)	18.436 (43.271)	162.484* (96.128)	101.022*** (32.579)	156.640*** (40.015)	160.606*** (37.491)
D(Contested)	87.051*** (17.045)	-155.963*** (15.169)	-44.687*** (8.636)	-23.156 (52.987)	86.789*** (16.530)	-104.434*** (17.941)	-162.420*** (54.347)	-120.015*** (21.355)	9.070 (31.604)	-104.016*** (20.176)
Year FE	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Observations	4,949	4,930	9,017	640	4,130	4,881	274	3,824	686	2,096
R ²	0.214	0.245	0.246	0.259	0.209	0.301	0.260	0.259	0.251	0.149
Adjusted R ²	0.213	0.243	0.245	0.248	0.207	0.300	0.232	0.257	0.240	0.145

Note: *p<0.1; **p<0.05; ***p<0.01

Table 23: Number of hearings: Variation across States

	<i>Dependent variable: Number of hearings</i>									
	(Punjab)	(Maharashtra)	(Karnataka)	(Himachal Pradesh)	(Haryana)	(Gujarat)	(Goa)	(Delhi)	(Chandigarh)	(Andhra Pradesh)
D(non-Appearance)	7.600*** (1.329)	7.560*** (0.329)	7.425*** (0.220)	5.558*** (0.654)	4.860*** (0.966)	5.241*** (0.339)	6.959** (2.955)	3.628*** (0.174)	8.292*** (1.501)	7.522*** (0.628)
D(Summons)	5.428*** (0.291)	8.064*** (0.506)	7.352*** (0.299)	4.930*** (0.650)	5.504*** (0.289)	17.208*** (0.704)	14.333*** (1.784)	1.858*** (0.182)	4.982*** (0.564)	18.646*** (0.762)
D(Mediation)	3.415*** (0.292)	3.068*** (0.342)	6.631*** (0.290)	3.598*** (0.594)	2.316*** (0.284)	0.452 (0.544)	5.820*** (1.466)	0.955*** (0.193)	1.678*** (0.597)	2.993*** (0.957)
D(Jurisdiction)	4.860*** (0.285)	7.433*** (0.338)	3.650*** (0.386)	4.484*** (0.751)	4.575*** (0.279)	7.689*** (0.311)	6.092** (3.065)	2.461*** (0.198)	2.893*** (0.555)	7.414*** (1.199)
D(Multiplicity)	8.708*** (0.601)	12.314*** (1.106)	14.762*** (0.575)	2.704* (1.492)	5.261*** (0.460)	-0.259 (1.139)	9.605*** (2.895)	5.538*** (0.407)	10.163*** (1.078)	10.706*** (1.325)
D(Contested)	10.062*** (0.493)	-1.049*** (0.395)	1.758*** (0.228)	2.959*** (0.854)	8.682*** (0.423)	0.513 (0.472)	-0.066 (1.636)	0.466* (0.267)	4.183*** (0.852)	0.958 (0.713)
Year FE	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Observations	4,949	4,930	9,017	640	4,130	4,881	274	3,824	686	2,096
R ²	0.400	0.339	0.392	0.427	0.377	0.335	0.404	0.348	0.374	0.482
Adjusted R ²	0.399	0.338	0.392	0.418	0.376	0.333	0.381	0.346	0.364	0.480

Note: *p<0.1; **p<0.05; ***p<0.01

C.2 Survival model

Survival models have their origins in clinical research. The models estimate the probability of an event occurring within a certain time given that certain conditions are met. In our case, the model would estimate two things — (1) the probability of a case remaining pending a certain number of years after filing, and (2) how different case characteristics affect the probability of the case concluding before the end date of observations (i.e. 15th September 2021).⁵⁵

As demonstrated in Datta, S., and Sane (2017), we first use Kaplan-Meier statistics to calculate the probability of the case surviving — i.e. not concluding — in a certain number of days after filing. We calculate this probability by controlling for the year of filing and the state. Figure 1 shows the probability of a case remaining pending after a certain number of days, delineated by the state. Figure 2 shows the same for the year of filing. The figures show that the year of filing and the state both significantly affect the duration of the case. As an example, cases in Himachal Pradesh take much longer to dispose than cases in Chandigarh.

Next, we estimate the effect of each case characteristic on the probability of the case getting disposed by the end of the observation period (i.e. 15th September 2021). Like in Datta, S., and Sane (2017), we use the Cox-proportional hazard model to estimate the effect of each case characteristic. Table 24 shows the results of the Cox-proportional hazard model. A negative coefficient indicates a lower probability of the case completing before the end of the observation period, and a positive coefficient indicates a higher probability of the case completing. As an example, jurisdictional issues and non-appearance of the accused reduce the probability of the case concluding (before 15th September 2021) by approximately 71%, whereas the case being contested increases this probability by 55%.

The only result that contradicts the findings of the fixed-effects model is the effect of mediation on case duration. The results of the Cox-proportional hazard model indicate that being referred to mediation increases the probability of the case concluding within the observation period by 9.7%. However, as we have mentioned earlier, we cannot reliably identify case characteristics in pending cases. Therefore, this result has to be interpreted with some caution.

⁵⁵For a prior example of the use of hazard models for empirical judicial analysis, see Datta, S., and Sane 2017.

Table 24: Regression result: Probability of case completion

<i>Dependent variable: Probability of case completion</i>	
D(non-Appearance)	-0.712*** (0.013)
D(Summons))	-0.286*** (0.015)
D(Mediation))	0.097*** (0.013)
D(Jurisdiction))	-0.716*** (0.013)
D(Multiple cheques))	-0.235*** (0.027)
D(D(Contested))	0.553*** (0.015)
State	Y
Year	Y
Observations	46,304
R ²	0.274
Max. Possible R ²	1.000
Log Likelihood	-353,508.100
Wald Test	14,569.790*** (df = 19)
LR Test	14,819.270*** (df = 19)
Score (Logrank) Test	15,224.080*** (df = 19)

Note: *p<0.1; **p<0.05; ***p<0.01