

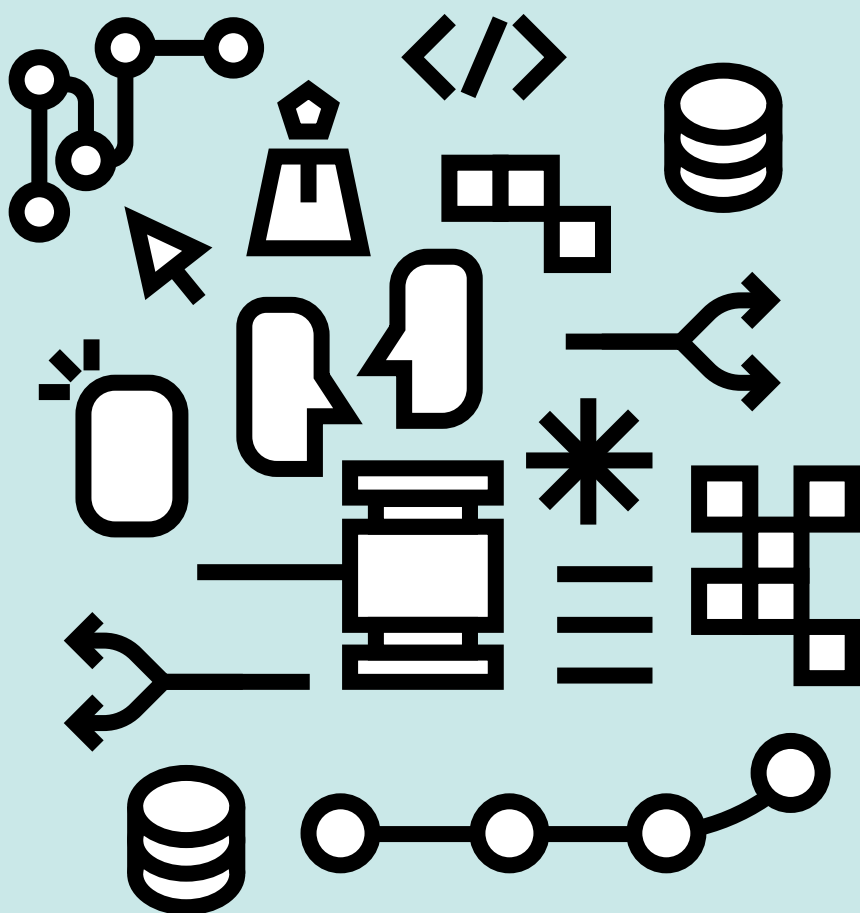
Civil Litigation  
Process for the  
Digital Age

CONSULTATION PAPER SERIES

# User-centric e-filing system for the District Judiciary

**JALDI**  
LAB

Justice, Access &  
Lowering Delays in India



### **About the Authors**

Atishya Kumar was a Research Fellow at the Justice, Access, and Lowering Delays in India (JALDI) initiative at the Vidhi Centre for Legal Policy.

Deepika Kinhal was a Senior Resident Fellow and Team Lead at the JALDI initiative at Vidhi Centre for Legal Policy.

Deeksha Katarki was a Project Fellow at the JALDI initiative at Vidhi Centre for Legal Policy.

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# Contents

**Setting the Context ● 1**

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**Requirements of stakeholders at the stage of filing ● 2**

---

**Current e-Filing ● 6**

---

**Who is e-Filing for? ● 8**

---

**Redesigned Models ● 9**

---

Model 1: The Feasible Module • 9

Model 2: The Futuristic Module • 19

**Short Term Solutions ● 23**

---

**Conclusion ● 27**

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## Setting the Context

The fundamental purpose at the stage of filing or electronic filing ('e-filing') is to enable a litigant or their advocate to submit pleadings and relevant documents to the court, to initiate a formal dispute resolution process. While submission of physical documents, in person, on the court premises, has been the norm, e-filing is now being taken as a serious alternative.

Though the e-filing version 1.0 application was developed and rolled out in 2018,<sup>1</sup> courts had continued to rely on paper-based processes. However, with the onset of the COVID-19 pandemic, which made it impossible for lawyers and litigants to physically approach the courts to seek justice, the courts had to quickly adapt to the situation. It was during this period that the idea of electronically filing a case remotely really took hold. In addition to the obvious benefit of being able to file a case remotely, the other important benefits of e-filing are:

- digitisation of case records at source,
- reduction of carbon footprint, and
- minimised inconsistencies in court records as the e-filed information is directly consumed by the Case Information System (CIS) software used in Indian courts.

Over the last 5 years, the e-filing application developed by the National Informatics Centre (NIC) has evolved and is currently in its 3.0 version. 22 High Courts have formulated e-filing rules.<sup>2</sup> However, adoption on the ground has been low. High Courts and District Courts have faced various challenges in moving away from physical filing of a case. While reluctance to embrace technology by all stakeholders, especially lawyers and clerks, has definitely impeded adoption, the issue equally lies with the lack of user-centricity in the e-filing modules. Both the previous and the current versions have failed to benefit the users, and have in fact resulted in unnecessary duplication of work, need

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1 Shri Ravi Shankar Prasad, 'Lok Sabha Unstarred Question no. 1825', (Answer (d) to (f) p.3, 21 September 2020) <[https://www.law.ox.ac.uk/sites/default/files/migrated/oscola\\_4th\\_edn\\_hart\\_2012.pdf](https://www.law.ox.ac.uk/sites/default/files/migrated/oscola_4th_edn_hart_2012.pdf)> accessed 10 January 2024.

2 e-Committee Supreme Court of India, 'Newsletter' ( October 2023) (p.27) <<https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2023/12/2023122269745448.pdf>> accessed 10 January 2024.

for expensive hardware, and additional human resource to enable implementation.

The Union Cabinet last year announced a budget allocation of Rs. 7210 Crore for the third phase of the eCourts Project, of which over Rs. 215 crore has been earmarked solely for e-filing.<sup>3</sup> Hence, the time is ripe to take a deeper look at the reasons behind the present reluctance to e-filing, and to design processes and solutions to make the next phase of e-filing transformative and foundational for the building of digital courts in India.

## Requirements of stakeholders at the stage of filing

To understand the need for a redesigned e-filing process that is easier to adopt, it is essential to be aware of the requirements of various actors at this stage. These parameters remain constant for both e-filing and physical filing. Mapping these helped the team identify the lacunae with the current e-filing version 3.0 being used across District Courts in Bihar,<sup>4</sup> Chhattisgarh,<sup>5</sup> Delhi,<sup>6</sup> Jharkhand,<sup>7</sup> Karnataka,<sup>8</sup> Kerala,<sup>9</sup>

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- 3 Ministry of Law and Justice, Rajya Sabha Unstarred Question no. 589, (Annexure-I, 7 December 2023) <<https://static.pib.gov.in/WriteReadData/specificdocs/documents/2023/dec/doc2023127281801.pdf>> accessed 10 January 2024.
  - 4 e-Committee Supreme Court of India, 'Newsletter' ( January 2023) (p.25.) <<https://meghalayahighcourt.nic.in/sites/default/files/news/nl34.pdf>> accessed 10 January 2024.
  - 5 *Ibid.*
  - 6 South-East District Court, New Delhi, 'e-Filing 3.0 facility has been implemented in Delhi District Courts w.e.f. 06.11.2023' (6 November 2023) <<https://southeastdelhi.dcourts.gov.in/e-filing-3-0-facility-has-been-implemented-in-delhi-district-courts-w-e-f-06-11-2023/>> accessed 10 January 2024.
  - 7 e-Committee Supreme Court of India, 'Newsletter' (December 2022) (p. 5.) <[https://tshc.gov.in/documents/admin\\_28\\_2023\\_05\\_25\\_17\\_20\\_44.pdf](https://tshc.gov.in/documents/admin_28_2023_05_25_17_20_44.pdf)> accessed 10 January 2024.
  - 8 Bengaluru Urban Courts, 'Roll out of e-Filing version 3.0 in all the courts of Bengaluru Urban District' (20 July 2023) <<https://bengaluru.dcourts.gov.in/implementation-of-e-filing-version-3-0-for-district-judiciary/>> accessed 10 January 2024.
  - 9 *Supra* n. 4.

Maharashtra,<sup>10</sup> Manipur,<sup>11</sup> Orissa,<sup>12</sup> Rajasthan,<sup>13</sup> Tamil Nadu,<sup>14</sup> Tripura,<sup>15</sup> Telangana,<sup>16</sup> Uttarakhand,<sup>17</sup> Uttar Pradesh,<sup>18</sup> etc. and understand why physical filing continues to be preferred by lawyers, clerks, court staff and even the judges. These requirements also serve as the foundation on which the redesigned processes have been formulated, which are detailed in the later sections.

Given below is a detailed break down of the requirements for each actor at the stage of initiation of a formal dispute resolution process in courts:

### Alternate Dispute Resolution

**Filing Party:** Know and understand the various modes of dispute resolution available to her.

**Advocate:** Not Applicable

**Judicial system:** Filter out frivolous disputes and disputes amenable for resolution through alternative mechanisms so as to reduce litigation burden.

**Court staff:** Not Applicable

**Judge:** Receive only such cases that are suitable for resolution in her court with case files being systematic, readable, and easily navigable.

### Jurisdiction

**Filing Party:** Within the civil litigation system, have information regarding jurisdiction needed to approach the correct forum.

**Advocate:** Have all the details to accurately:

- Identify the jurisdiction
- Draft the plaint

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10 *Supra* n. 4.

11 *Supra* n. 4.

12 *Supra* n. 4.

13 e-Committee Supreme Court of India, 'Newsletter' ( August 2023) (p.21.) <<https://ghcitanagar.gov.in/Notification/Administration/2023/NewsletterAugust2023.pdf>> accessed 10 January 2024.

14 *Supra* n. 2.

15 *Supra* n.4.

16 Fareedunnisa Huma, 'Telangana High Court Set To Launch Pilot E-Filing Portal 3.0' *Live Law* (2 October 2023) <<https://www.livelaw.in/high-court/telangana-high-court/telangana-high-court-introduces-e-filing-portal-online-case-filing-239105>> accessed 10 January 2024.

17 *Supra* n. 4.

18 *Supra* n. 4.

- Determine the court fee to be paid.

Have clear guidelines regarding territorial, pecuniary, and subject-matter jurisdiction of courts to file the case in the correct forum.

**Judicial system:** Classify cases accurately for easy tracking and roster allocation.

**Court staff:** Receive documents and pleadings in the correct order, meeting all the applicable rules and laws to formally accept and register the case in court.

**Judge:** Not Applicable

## Timelines

**Filing Party:** Have approximate timelines for resolution of the case, for transparency.

**Advocate:** Have approximate timelines for resolution of the case, for transparency as well as gauging the commitment required.

**Judicial system:** Not Applicable

**Court staff:** Not Applicable

**Judge:** Not Applicable

## Clarity regarding procedures

**Filing Party:** Have access to an information desk, or a place where the litigant can get answers to any questions regarding the court procedure.

**Advocate:** Have guidelines on the template/format in which the pleadings are to be submitted to the court.

**Judicial system:** Not Applicable

**Court staff:** Not Applicable

**Judge:** Not Applicable

## Scrutiny

**Filing Party:** Not Applicable

**Advocate:** Have defects in the pleadings communicated to her in a simple and timely manner, so that they can be corrected and the case is listed at the earliest.

**Judicial system:** Receive the pleadings in the correct format and with all relevant information to be able to list the case.

**Court staff:** Have contact details of the lawyer, to communicate defects found post scrutiny in a timely manner.

**Judge:** Have the case listed before her in the correct format, with office objections corrected.

### Identity of the case

**Filing Party:** Have a unique identity for the case, to easily track it.

**Advocate:** Have a unique identity for the case, to easily track it.

**Judicial system:** Digitise case records at the time of filing itself, and create a unique identity for the case.

**Court staff:** Not Applicable

**Judge:** Not Applicable

### Court Fee

**Filing Party:** Have information regarding the payable minimum court fee.

**Advocate:** Not Applicable

**Judicial system:** Correct court fee is paid to ensure no frivolous litigation while also ensuring access to justice.

**Court staff:** Not Applicable

**Judge:** Not Applicable

### Summons

**Filing Party:** Notify the respondent to appear in court for the case to proceed.

**Advocate:** Not Applicable

**Judicial system:** Have accurate contact details of the opposite party, to ensure that they are brought to court for the case to proceed.

**Court staff:** Have accurate contact details of the opposite party at the time of filing of the case, to generate and serve summons.

**Judge:** Not Applicable

While these are requirements from the perspective of each actor at the stage of instituting a suit, all of them must be catered to in any filing system—physical or electronic.

The litigant must be placed at the centre of such a system. Deciding to institute a civil suit can be a daunting process for any litigant. Successful 'filing' is the first step in the lifecycle of the case, and the system must

make efforts to make this legal process as clear, practical, and intuitive as possible.

Mapping the requirements shows that the litigants' initial questions such as—which forum should her dispute be taken to; what kind of information needs to be submitted to the court; how will the opposite party be brought to court; how would a judge be allocated to her case; and when the case proceedings might begin—must be answered by the system upfront. The stage of filing, being the entry point to the formal dispute resolution system, must be repurposed to answer these questions. This will boost the litigant's confidence and set the stage for a trust-based interaction with the court system.

## Current e-Filing

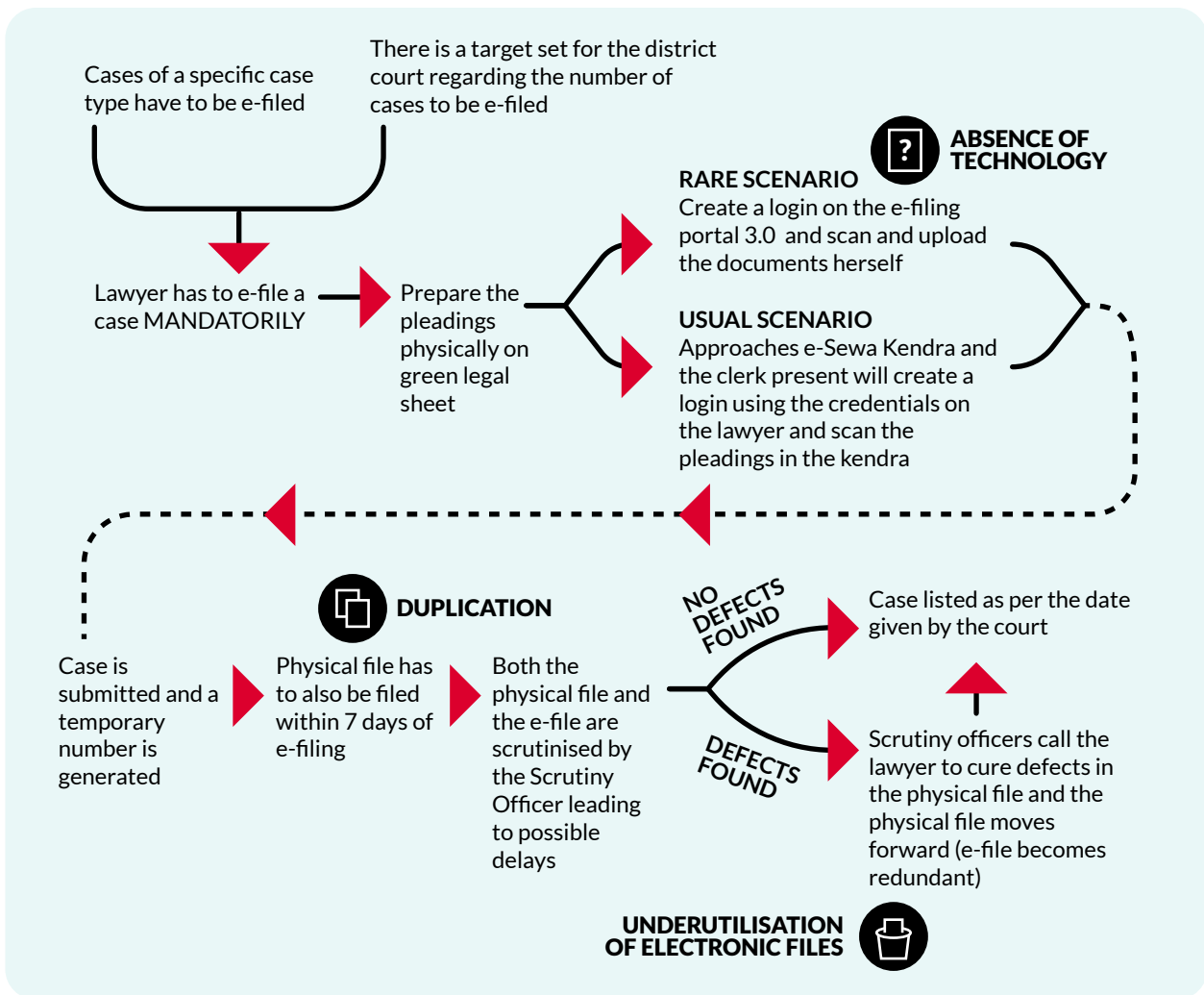
Between April and October 2023, the JALDI team visited four district courts in Karnataka and one district court in Kerala to observe various aspects of the Civil Rules of Practice in action, with a specific focus on the stage of filing. The team examined the present status of implementation of e-filing in these courts by speaking to the relevant court staff, lawyers and judges.

Through these consultations, it is evident that e-filing is yet to take off as a preferred option, despite the latest iterations of the e-filing portal being equipped with advanced features such as providing for online submission of pleadings and interlocutory applications, e-signing capabilities, online payment options, and portfolio management functionalities.<sup>19</sup> The team's observations match the recent reports<sup>20</sup> of lawyers staging protests due to a lack of clarity in implementation, the hurried nature of mandatory e-filing, and the lack of proper training and technical support. While the intent of the e-filing initiative was to increase accessibility of courts and efficiency in justice delivery, the situation on the ground is vastly different. The following process flow of the current e-filing system in the district courts showcases exactly why this is the case:

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19 eFiling Services, 'About e-filing' <<https://filing.ecourts.gov.in/pdedev/>> accessed 11 January 2024.

20 The Hindu Bureau, 'Lawyers stage protest against implementation of e-filing of cases' *The Hindu* (Puducherry, 6 September 2023) <<https://www.thehindu.com/news/cities/puducherry/lawyers-stage-protest-against-implementation-of-e-filing-of-cases/article67277256.ece>> accessed 11 January 2024.



As can be seen from the map above, currently, for an advocate to e-file the pleadings, the process is lengthier and more complicated than just physically filing a case at the court with the help of a filing clerk. Some of the major issues are as follows:

- **Duplication of Work:** Contrary to its intended purpose of easing workload, the current e-filing system is inadvertently burdening stakeholders with double the effort. Currently, the plaint must be physically prepared and subsequently scanned for submission through the portal. Therefore, both physical and electronic copies are required for submission. This duplication mandates scrutiny officers to examine twice the number of files. Additionally, in case of errors, litigants/lawyers face the arduous task of re-scanning correct documents, which introduces unnecessary delays and complexity to the process.
- **Absence of accompanying technology:** A significant hurdle in the current e-filing process is the software's inadequacy to smoothly upload documents. Litigants and lawyers, despite having organised and ready papers, encounter challenges with constant

file compression and splitting, leading to frustration. Even after successful uploads, the files exhibit prolonged opening times during scrutiny, reflecting the insufficiency of the current software. This highlights a crucial need for improved e-filing software to facilitate a seamless and efficient digital transition.

- **Underutilisation of electronic files:** After 'e-filing' of the plaint, the electronic documents often become a passive entity, with all subsequent corrections and filed applications typically being linked only to the physical case file. The file accessed by the judge is also the physical one, creating a sense of disillusionment among lawyers who struggle to perceive the tangible benefits of e-filing. In reality, advocates have not embraced e-filing; rather, they perceive the process as inconvenient and burdensome.

It is evident from these issues that the requirements of actors are not being met.

## Who is e-Filing for?

Any re-designed and re-engineered process should not just take into consideration the basic purpose for which it was created, but also ensure that the requirement of every actor is adequately met. As highlighted above, the current e-filing module does not meet the requirements for any actor at the stage of filing. However, there is one actor in the system who the current e-filing system does not even recognise as a beneficiary: the judges.

Judges are the scarcest resource in the judicial system and have a limited amount of judicial time to spend on each case. Hence, the focus needs to be on ensuring that processes lead to optimal utilisation of their judicial time. The JALDI team also sought to map the life-cycle of a civil case from the lens of [Value Stream Mapping](#). This resulted in the understanding that all essential and value-adding redesigned processes lead to more effective use of judicial time. Hence, the redesigned e-filing process seeks to make it more judge-friendly and ensure more efficient adoption.

A successful example in this regard is the e-filing system created as part of the Kerala High Court's Case Management System, built to expedite disposal of bail applications and ensure quicker release of

the accused once bail is allowed.<sup>21</sup> Earlier, it took approximately 10 days for an accused to be released on bail after filing an application. However, the end-to-end digitised process has shortened this timeline considerably, as the applications reach the judges a lot more quickly due to automated scrutiny. All the documents from the Investigating Officer can be digitally uploaded and forwarded to the court for the judge to electronically sign the order, with the e-copy being sent instantaneously to the police station.<sup>22</sup> Every step in the process ensures that the judge's judicial time is not wasted due to reasons like incorrect documents or unavailability of the Investigating Officer.

Keeping the lens of judge-centricity as well as the needs of all other actors in mind and using a [green field approach](#), the team has redesigned the manner in which e-filing can take place. The following sections present two models for consideration:

Model 1 envisions a more feasible and robust e-filing module using the latest technology that can be built in the near future. It presents reengineered processes that can be developed as part of eCourts Phase III. Model 2 is a futuristic design that the team hopes would be a reality sooner than later with dedicated effort. It presents a futuristic vision that can fuel innovation and completely transform the civil litigation process.

## Redesigned Models

### Model 1: The Feasible Module

This model is inspired by the Kerala High Court's Case Management System,<sup>23</sup> and informed by the feedback and information received from all the actors during the field visits undertaken by the JALDI Team.

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21 Leah Verghese and Anandita Pattanayak, 'The Technological Transformation of Kerala High Court' (2023) <[https://www.dakshindia.org/wp-content/uploads/2023/10/Technological-Transformation-of-Kerala-HC\\_V16-1.pdf](https://www.dakshindia.org/wp-content/uploads/2023/10/Technological-Transformation-of-Kerala-HC_V16-1.pdf)> accessed 11th January 2024.

22 *Ibid.*

23 Navya Benny and Sheryl Sebastian, 'Revolutionizing Justice- Exploring Kerala High Court's Innovative, Paperless E-Court System For More Accessible Justice [PART-1]' (*Live Law*. 3 March 2023) <<https://www.livelaw.in/top-stories/kerala-high-court-e-court-project-paperless-court-visionary-222988>> accessed 11 January 2024.

The stage of filing is divided into 3 segments-

- Pre-institution of the case
- Institution of the case
- Post-institution of the case

Let's look at each of these steps more closely.

### Pre-institution of the case

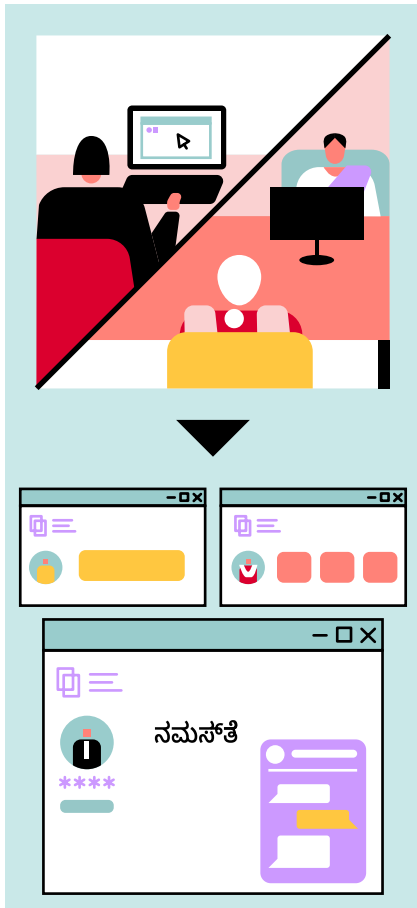
#### STEP 1: Easy registration on e-filing portal

**What:** Creating unique log-ins for Advocates, Litigants, and Parties-in-person for registration on the e-Filing portal, which takes them to their customised dashboards.

**How:** Advocates can register using their enrollment number, and litigants/parties in person can register by using any official identification. e-Sewa Kendra and chatbots will help in the registration process.

**Why:** Customised dashboards will provide all relevant information for different categories of users at all times. Judges will be able to take notes on a case, saving them the additional time taken to go through multiple documents in a case file. Litigants will have control over their own case, by ensuring that they are not completely dependent on their lawyer for even basic information such as the next date of hearing. A one-stop customised portal for each user will be a key benefit that can be initiated through a well designed e-filing portal.

**Important features of the dashboard:** The e-filing dashboard must also be available in regional languages, and be intuitive and user-friendly. Updates on new documents which have been uploaded, the next date of listing etc. must be clearly available on the dashboard for all users. Judges' dashboard must additionally provide indexed files to take notes, annotate etc.



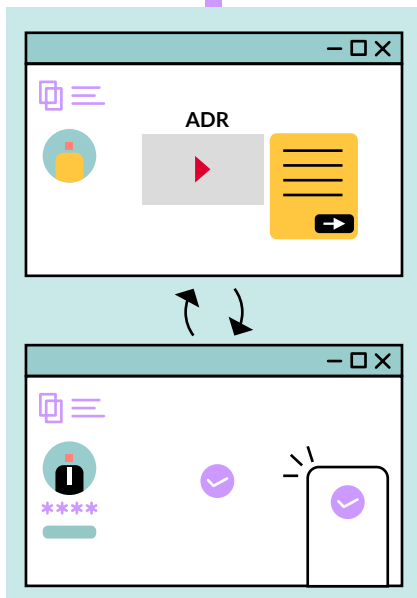
## STEP 2: Encouraging Pre-Litigation Mediation

**What:** Empowering litigants to make informed choices about Alternative Dispute Resolution (“ADR”) mechanisms, and educating them about expected case timelines for each mode of dispute resolution through data-backed information

**How:** The customised dashboard for all parties will provide information about ADR mechanism, particularly mediation, to resolve disputes. If a party so chooses, the e-filing portal will seamlessly direct parties to court-annexed or private ADR/ Online Dispute Resolution (“ODR”) service providers.

**Why:** The e-filing dashboard will mandate the lawyer to present the litigant with the option of pre-litigation mediation, to filter out cases ripe for ADR mechanisms and to ensure that the number of cases filed before courts are manageable, and are best suited to the litigation process. Litigants are often unaware of the possibility of settling their disputes through ADR. Presently, Section 89 of the Code of Civil Procedure, 1908, which allows for cases to be resolved through other dispute resolution methods, is applicable once the case enters the system. Consultations with judges and litigants have revealed that this provision is sometimes misused, as parties only agree to it to bide their time with no intent of settling. In such a scenario, it is in the best interest of the judiciary to filter out disputes amenable to ADR before they even enter the courts.

**Important features of the dashboard:** The litigant’s dashboard must contain video explainers on ADR. The litigant’s dashboard would have to be synced with their advocate’s dashboard. Once the litigant provides their consent to the advocate to proceed with e-filing (after understanding the alternative dispute resolution mechanisms, average timelines, and cost differences), the lawyer would get a notification (preferably an SMS) letting them know that they may now go ahead with the e-filing of the case on their dashboard. If the litigant does not



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provide their consent, the lawyer would also be notified of the same and may then opt for pre-litigation mediation.

A potential limitation would arise if a litigant is not well-versed with technology, and is unable to access and use their own dashboard, as they will then not be able to provide their consent for pre-litigation mediation. An authorisation document provided as an alternative, to simply be signed by the litigant and uploaded to the advocate's dashboard, will become another tick-box exercise with the litigant continuing to not be aware of the quicker and cheaper options available to them. A solution here is for the staff at the e-Sewa Kendra to be trained to inform the litigant regarding ADR options when they appear with their lawyers to e-file a case.

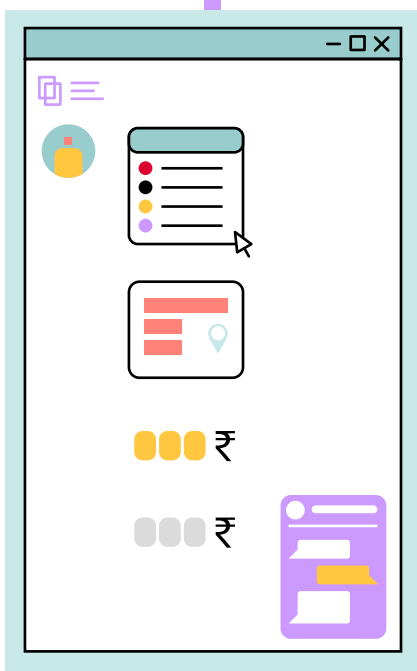
### Institution of the case

#### STEP 3: Determining case category and jurisdiction

**What:** Incentivise using the e-filing portal and empower advocates and litigants by embedding intelligent tools to assist with 4 information sets: accurate case category, relevant jurisdiction/s to file their case, court fee, and process fee calculation for different categories of case. At this juncture, the tools would be specifically designed for determining case type and jurisdiction.

**How:** Courts need to harmonise case classifications and simplify them to accurately shortlist case categories based on brief description of disputes. Artificial Intelligence ("AI") / Machine Learning ("ML") tools must be trained with jurisdiction-specific data, to give suggestions/information on where the case could be filed. Additionally, a chatbot using generative AI will help respond to regular queries that users may have.

**Why:** These 4 information sets are essential to kickstart the filing process, but usually hinder parties-in-person from filing independently. Simplification, codification, and training AI/ML tools will have all-round benefit for the Court registry as well



as the end-users i.e. advocates and litigants, as objections on all these four points usually clog the scrutiny stage and cause avoidable delays in filing a case.

**Important feature of the dashboard/portal:** While the chatbot can help determine the jurisdiction, to understand elements of territorial, subject matter, and pecuniary jurisdiction, it is essential to provide detailed information in the Frequently Asked Questions section of the dashboard. This is also a layer with the most number of variables. Therefore, integration with a helpline with trained lawyers to vet the information will be helpful.

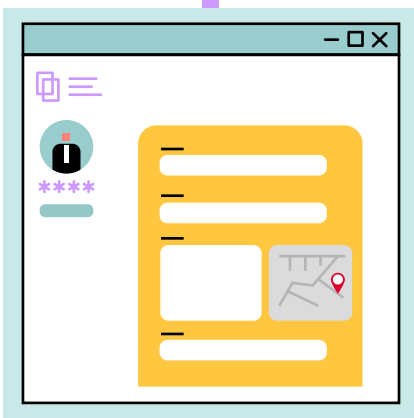
#### STEP 4: Drafting the plaint

**What:** Provide a customised template for plaints based on the case category chosen to ensure structured inputting of data, to aid in future application of AI/ML tools for optimal utilisation of judicial time.

**How:** Standard templates will have to be curated by the judiciary for each case type and subject code.

**Why:** The field visits revealed that plaints can often be unstructured and run into several pages, as currently the Civil Rules of Practice only dictate the formatting of a plaint. It was also noticed that the rules of formatting in the Civil Rules of Practice are not always followed by all lawyers, leading to plaints being submitted to the court in all shapes and sizes. An in-built template in the dashboard will save judicial time by providing structured, formatted information and lend itself to application of summarisation tools.

**Important features of the dashboard:** The dashboard must allow drafting of the plaint on the portal itself to ensure uniformity in formatting, and allow for asynchronous editing to take care of any gaps in digital infrastructure access or network issues. As the template would have multiple heads for all relevant information including the



address of the defendant, Google Maps may be integrated at this juncture so that while filling out the address, the exact location can also be pinpointed on the map as far as possible for easier service of summons.

### STEP 5: Attaching relevant documents with the plaint

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**What:** The portal should be synced with relevant government portals to be able to pull documents upon authentication, to attach digital documents to the plaint for substantiating the claims made therein.

**How:** The judiciary and the executive must work together to enable seamless integration of government portals with the e-filing portal. For instance, if the Bhoomi portal or the Kaveri Online Services portal in Karnataka are linked to the e-filing portal, authentic, original documents can be added to the plaint from the very start.

**Why:** One of the most cumbersome aspects of e-filing is the need to scan and upload original documents along with the plaint. The original documents also have to be submitted physically as the court might not consider a scanned copy 'original'. With integration of online portals, especially for property documents or banking documents, a large part of this problem can be addressed.

### STEP 6: Digital notarisation

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**What:** Authentication of the plaint via digital notarisation.

**How:** The process involves using digital signatures and seals to authenticate documents and provide a verifiable and tamper-proof method of certification. For example, the notaries will use an e-register system to make, extract, and issue notarized certificates. The certificates will be automatically assigned a serial number and a QR code. Individuals or agencies that receive notarized certificates can self-check the authenticity of documents through the e-Register system.

**Why:** Notarization serves as a legal requirement, enhancing confidence in the authenticity of signed documents. The process currently entails a notary, serving as an impartial witness, verifying the parties' conscious and voluntary agreement to the plaint. A notarized document is complete with the notary's signature, seal, registration number, and date, recorded in their register.

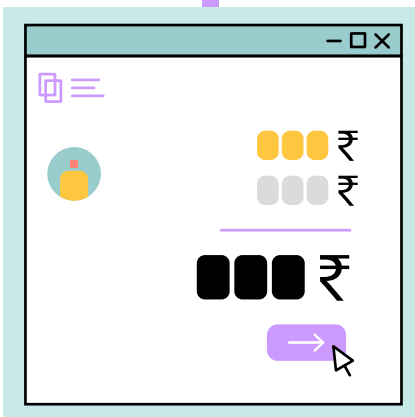
One of the main obstacles to an end-to-end digitised process currently is the need to get the pleadings notarised physically, which requires print-outs of the documents. Once notarised, the same has to be scanned and uploaded. Digital notarisation solves this problem. The Delhi High Court urged amendments to the Notaries Act for digitization in 2022. Recognizing the global trend toward digital transformation, some countries have implemented electronic notarization using digital signatures and seals. For example, Korea adopted electronic notarization in 2010, allowing authentication via computers or smartphones; similarly, France has allowed digital notarization since 2008.<sup>24</sup> This approach to notarisation leverages digital technologies to streamline and enhance the traditional notarial process.

#### STEP 7: Payment of court fee and process fee

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**What:** Determine e-payment of a fixed court fee and process fee using intelligent tools, as described in step 3.

**How:** Court fee and process fee Rules must be simplified to train algorithms to accurately calculate relevant fees for different categories of cases. Ad valorem court fee (court fee that varies based on the valuation of the suit) must be removed, and only a fixed court fee as per case type must be paid with a pre-determined, fixed, lump-sum process fee (this amount can be determined keeping the cost of service of summons through all modes, i.e. through process servers, Registered Post with Acknowledgement Due (RPAD), lawyer



24 B.N. Khanh, P.X. Linh, 'Electronic Notarization in the Context of Digital Transformation in Vietnam: Challenges and Recommendations' (2022) ITJEMAST 13(9) <<https://tuengr.com/V13/13A9U.pdf>> accessed 11 January 2024.

delivering the summons by hand, email/any social media etc. or courier service and the address selected as per google maps). A chatbot using generative AI will help respond to regular queries that users may have regarding both aspects.

**Why: Court fee:** While court fee was introduced to curb vexatious litigation, over 200 years of experience proves that this purpose has not been met. On the contrary, high costs deter honest litigants from seeking legal relief, especially in civil suits where the court fee is determined *ad valorem*, as costs can run into lakhs of rupees. Furthermore, determination of court fee is the most contentious issue between lawyers and scrutiny officers and if this issue is not resolved before the case is listed, it becomes another point of adjudication for the court to settle, taking up precious judicial time. Ideally, court fee would be completely abolished as it has stopped being a service fee and started assuming the form of 'tax on justice'.<sup>25</sup> However, before this can be achieved, an interim step could be amending the Acts which determine court fee across states, and make them fixed for all case types.

**Process Fee:** A lump-sum amount of process fee must be paid at the time of filing itself, so that summons can be reissued automatically in the later stages without waiting for the lawyer to pay the process fee.

**Important feature of the dashboard:** The amount of court fee payable must be indicated as soon as e-filing begins and the jurisdiction and case type are selected. This must also be indicated on the litigant's dashboard for transparency. The lump-sum for process fee must also be indicated once the respondent's address has been entered.

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25 'Law Commission of India: 189th Report on Revision of Court Fees Structure (February 2004) <<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081043.pdf>> accessed 20 December 2023.

## STEP 8: First listing of the case

**What:** First listing sought by advocates/party-in person as per the available court dates.

**How:** The e-filing portal would allow the lawyer to choose between an 'urgent' or a 'regular' first listing of the case. The lawyer would have to provide reasons for seeking an urgent listing so as to ensure that the provision is not misused. If the lawyer seeks a regular listing, they would be provided with a few options through the use of an intelligent court calendar and case allocation roster.

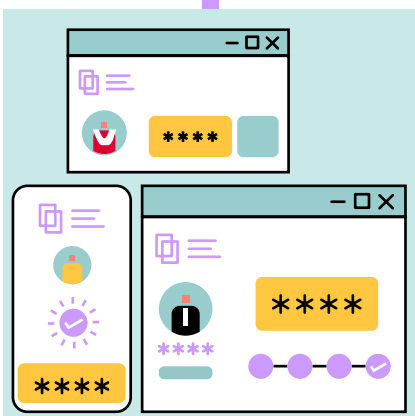
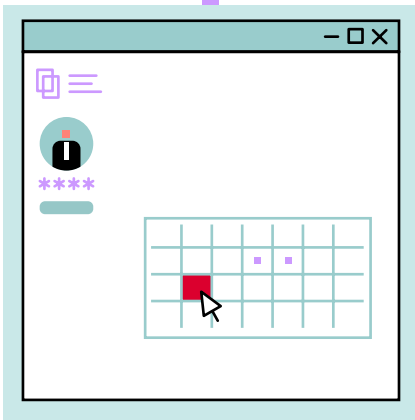
**Why:** Consultations with lawyers revealed that end-to-end digitisation affects the rapport that a lawyer or their clerk might have with the filing and scrutiny branch in a court, which helps them get urgent cases listed as soon as possible. Another related issue is the lack of an intelligent scheduling system which takes into account the lawyers' as well as the court's schedules. Giving options will take care of any competing requirements the lawyer may have, and reduce the potential for adjournments at later stages.

**Important feature of the dashboard:** Integration of court calendar with the e-filing dashboard to provide the advocate 2-3 dates to choose from while asking for listing.

## STEP 9: Case file is submitted

**What:** Completion of e-filing of the case post payment and authentication of the pleadings by the advocate and the litigant through a government ID-generated OTP. A unique number and identity of the case is created once e-filing is completed.

**How:** While filing income tax returns, authentication is currently done through Aadhaar generated OTP. e-filing may also be authenticated in a similar manner by both the advocates and the litigants. The temporary number provided



will be used for all registry purposes such as scrutiny till a case number is provided for the first listing.

**Why:** If the registry needs to check any document due to an issue with the automated scrutiny or the advocate needs to enquire about the case, the temporary number unique to the case is essential.

### Post Institution of the Case

#### STEP 10: Automated scrutiny:

**What:** Automated scrutiny of pleadings after completion of e-filing.

**How:** The Kerala High Court's Case Management System has been able to automate scrutiny for bail applications<sup>26</sup> as well as writ appeals. This should gradually be expanded to other case categories across the country. Civil Rules of Practice or similar such rules by High Courts provide a checklist of all the points that the scrutiny officers currently need to check for before the case is listed, which can be computerised and automated.

**Why:** Scrutiny currently is a time consuming job. Depending on the number of cases being filed, scrutiny of a case can take days, causing delays even before the case is listed in the court. Hence an automated scrutiny process, with asynchronous and synchronous communication with advocates, will increase efficiency. Templated filing mechanism will also ensure that there are fewer format-related defects.

**Important feature of the dashboard:** In case of objections, the defects should be communicated on the advocates'

26 BL Kochi Bureau, 'Kerala HC to introduce machine scrutiny for bail applications from July 10' (Businessline 7 July 2023) <<https://www.thehindubusinessline.com/info-tech/kerala-hc-to-introduce-machine-scrutiny-for-bail-applications-from-july-10/article67053433.ece#:~:text=Starting%20from%20July%2010%2C%20the,before%20the%20court%20for%20hearing.>> accessed 11 January 2024.

dashboard in real time for corrections, as automated scrutiny would be immediate.

### STEP 11: Auto generation of summons

**What:** Automatic generation of summons once the defects are cured and the case is listed.

**How:** As soon as the case is listed for hearing, summons through all modes should be automatically generated so that they can be sent out as soon as the court's orders regarding the same are uploaded on the judge's dashboard. In the event of non-service in the initial attempt, the system will automatically regenerate and resend the summons without awaiting a court order for re-issuance. The Registry will ensure that a unique ID and QR code are added to the summons on all forms of delivery, and generate digitally certifiable seals for authentication of all documents.

**Why:** Currently, once the order for service of summons is given by a judge, the same is recorded and sent to the pending branch at the end of the day, where all summons are generated and then sent to process servers for service. This process is time consuming and can be made more efficient through the e-filing dashboard, which can be accessed by all court staff for their unique purposes.

### Model 2: The Futuristic Module

With the rise of legal AI, the future holds a transformative potential where AI not only enhances lawyers' efficiency but also empowers individuals to manage their legal affairs independently. As access to justice reaches unprecedented levels, the futuristic e-filing process should mirror this progress. The integration of AI systems into the e-filing dashboard will directly provide people with tools to comprehend and assert their legal entitlements, marking a significant step towards democratising access to legal information and assistance. AI will equip clients to undertake much of the work currently given to lawyers and firms and will thus help deliver outcomes that are quicker and with lesser cost. This model aims to empower people in this regard.

## Pre-institution of the case

### STEP 1: Easy registration on e-filing portal

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**What:** The litigant/parties-in-person to create unique log-ins and register on the e-Filing portal, which takes them to their customised dashboards.

**How:** Litigants/parties in person to register through any official identification. Chatbots and customer care to help in the registration process.

**Why:** This step is similar to the first step of Model 1; however, it is important to note that there is no mention of an advocate's dashboard here, In the future, the litigant themselves will be able to file their cases while the role of the lawyer would be focused on making arguments in the lifecycle of a case.

### STEP 2: Providing case details

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**What:** Plaintiff to narrate the case details in their regional language into the e-filing dashboard. They may also choose to type out the details.

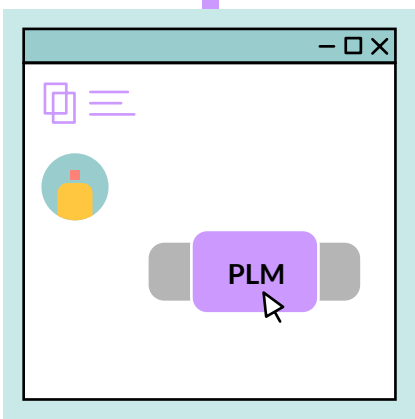
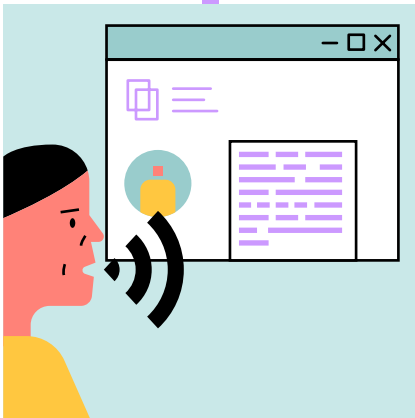
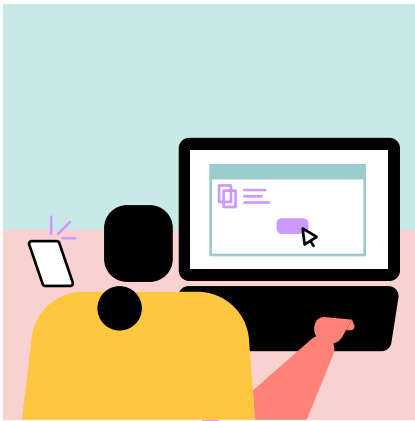
**How:** The e-filing dashboard would be designed to understand various languages and collect material facts from the litigant. The dashboard can also ask specific questions to get all relevant information, as this step will feed into the subsequent drafting of the plaint.

### STEP 3: Encouraging Pre-Litigation Mediation

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**What:** Empowering litigants to make informed choices about ADR mechanisms. and educating them about expected timelines per mode of dispute resolution and potential outcomes in their case, through data-backed information.

**How:** While the intention behind this step remains the same as Step 2 in Model 1, the process itself will be different. The e-filing dashboard will recommend the best methods of



dispute resolution that would be suitable for this case, as per the details provided in the previous steps. This could include the traditional civil litigation system or alternate dispute resolutions methods. These recommendations will also be accompanied by descriptions of the costs and the time that each of the methods suggested will take.

## Institution of the case

### Step 4: Determining case category and jurisdiction

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**What:** The case category and jurisdiction will be determined by the legal AI tools embedded in the e-filing dashboard as per the information provided by the litigant in Step 2.

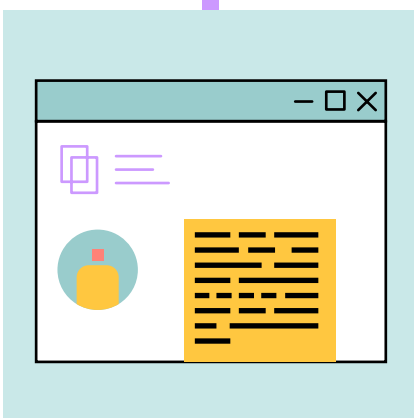
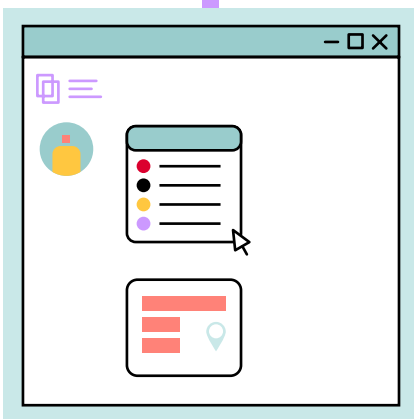
**How:** Once the litigant chooses to proceed with civil litigation, the case category and jurisdiction will be automatically filled out on the dashboard. The litigant can move on to filling out additional details.

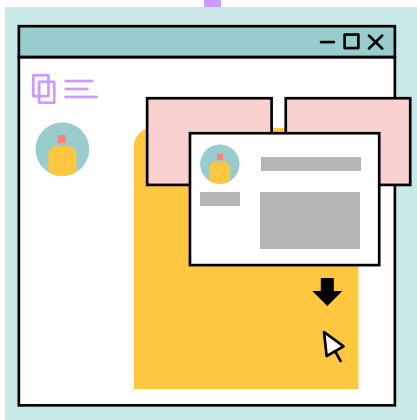
### Step 5: Drafting the plaint

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**What:** The legal AI will seamlessly generate the draft plaint as per the case details provided in Step 2, which will be subject to modification and adjustments as needed. The contact information of the respondent will be retrieved from a portal containing updated information of official addresses and email addresses of most people and companies.

**How:** The templates per case type would already be fed into the e-filing dashboard and a plaint would be automatically generated. The litigant will be able to edit this as per her needs. The future anticipates a shift towards exclusively electronic communication between the court and defendants. With every citizen possessing a digital identity, the dashboard will automatically retrieve the defendant's official addresses and all available contact information for the seamless service of summons once the case details are entered. This information can also be entered manually by the plaintiff.



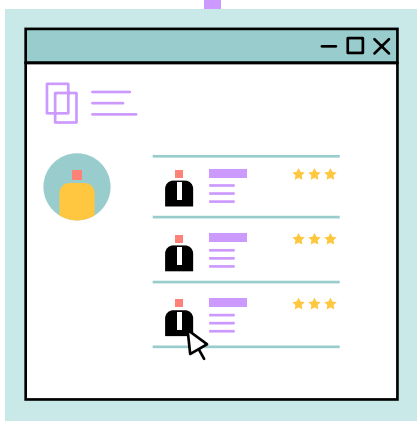


### STEP 6: Attaching relevant documents with the plaint

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**What:** The portal should be synced with relevant government portals to be able to pull documents upon authentication, for attaching digital documents to the plaint to substantiate the claims made therein. This step is identical to Step 5 in Model 1.

**How:** The judiciary and the executive must work together to design this feature to enable seamless integration of government portals with the e-filing portal. For instance, the Bhoomi portal or the Kaveri Online Services portal in Karnataka, if linked to e-filing portal, will ensure that authentic, original documents are added to the plaint from the very start.

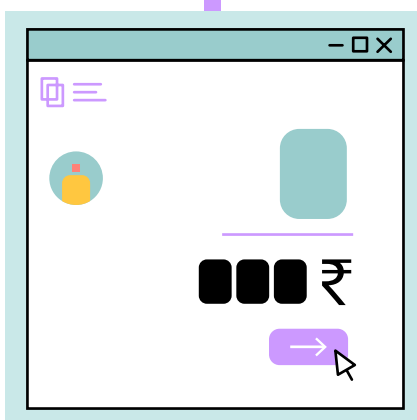


### STEP 7: Verification of the plaint

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**What:** Litigant may choose to get the AI generated plaint verified by a lawyer from a panel of lawyers, at additional cost.

**How:** Once the plaint is prepared, the litigant will have the option on the e-filing dashboard to connect virtually with a lawyer from a panel of lawyers who will be able to check the legal aspects of the plaint. There will be a standard cost for this. This process will be similar to opting for a virtual consultation with a doctor on an application/website.



### STEP 8: Payment of process fee

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**What:** The dashboard will calculate the lump-sum process fee to be paid.

**How:** While the primary mode of communication is anticipated to be electronic, the dashboard will calculate the process fee for physical summons delivery if deemed necessary. The e-filing dashboard will determine the lump-sum as per the cost of service of summons through all modes, i.e. through process servers, Registered Post with Acknowledgement Due (RPAD), lawyer delivering the summons by hand, email/any social media or courier service, and the address selected as

per google maps). No court fee would be payable as the same would have been abolished.

### STEP 9: First listing of the case

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**What:** Litigant to ask for first listing of the case as per the court dates available.

**How:** The e-filing portal would allow the litigant to choose between an 'urgent' or a 'regular' first listing of the case. The litigant would have to provide reasons for seeking an urgent listing so as to ensure that the provision is not misused. If they seek a regular listing, they would be provided with a few options as per an intelligent court calendar and case allocation roster.

### STEP 10: Case is submitted

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**What:** The case will be submitted once the litigant authenticates the pleadings through a government ID-generated OTP. A unique number and identity of the case is created once e-filing is completed. This step is identical to Step 9 in Model 1.

**How:** While filing income tax returns, authentication is currently done through Aadhaar-generated OTP. The e-filing of the case would also be authenticated in a similar manner by the litigant. The temporary number of the case will be used for all registry purposes like scrutiny till a case number is provided for the first listing. There will be no notarisation of plaint at any step and litigant's authentication will be sufficient.

## Short Term Solutions

While the models above are completely redesigned versions of e-filing processes, the team understands that all of the above solutions will take time to be built and implemented. Hence, a set of targeted solutions to overcome some of the immediate issues with e-filing 3.0 have also been provided, to ensure that the purposes of e-filing can be met immediately with these minor tweaks. The issues and targeted solutions detailed

below are a product of the field visits, consultations with lawyers, and research on steps taken by various states to implement NIC's e-filing version 3.0. The team has also relied on best practices from the district courts of Delhi, Odisha and Kerala,<sup>27</sup> as the adoption of e-filing has been the most successful in these three states.

## 1

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**Issue:** E-filing is currently leading to duplicity of work- pleadings are prepared and printed and the scanned copies are uploaded on the e-filing portal due to signatures being required on every sheet of the pleadings.

The scanning of all the documents also often leads to them being illegible and not OCR readable and hence, the judges have to continue to rely on physical files and look through all the documents to search for any specific point.

**Recommendation:** e-Filing rules and Civil Rules of Practice in all states should be amended to require signatures only on the last page so that converted pdfs can be uploaded straight away.

Converted PDFs must be OCR readable and hence, judges can also digitally search the document.

## 2

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**Issue:** The plaint is typed on green legal sheets while the other documents are generally of A4 size. Hence, the entirety of the pleadings cannot be scanned together and sheets have to be separated. This is a time consuming process.

**Recommendation:** A4 sheets should replace the green legal sheets till a better system where scanning is not required can be adopted, to make the scanning process quicker.

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<sup>27</sup> *Supra* n. 2.

3

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**Issue:** e-Filing version 3.0 only allows documents/pleadings up to 20 MB to be uploaded. Hence, pdfs have to be compressed after scanning when there are a lot of documents as part of the case file.

**Recommendation:** Increase the size of the pdf that can be uploaded to 50 MB. or provide for documents to be disaggregated and uploaded. Like vakalatnama, plaints and original documents must each be uploaded under separate meta heads, and not as part of the same file.

4

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**Issue:** The staff in the e-Sewa Kendras is often not trained staff specialising in e-filing. Court staff from different branches who can be spared and have some technical know-how are temporarily being assigned to the e-Sewa Kendras, and whatever little training they have is provided unofficially by the members of the IT cell of the court.

**Recommendation:** Trained and specialised staff is needed specifically for e-Sewa Kendras. Refresher courses whenever the portal is updated should also be provided.

5

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**Issue:** The current process of scanning all the documents for e-filing requires investment in high definition bulk scanners, which are expensive. Due to the large number of pages, scanning each page using phone scanners is not feasible. Many lawyers who have independent practices do not have the resources to set up such equipment.

**Recommendation:** Training sessions for all lawyers and clerks on how to convert word documents into PDFS are required. Furthermore, as mentioned in the first suggestion, signatures of the plaintiff should only be required on the last page so that only that page needs to be printed and scanned with the additional original documents to resolve this problem.

**Issue:** There is no PDF splitting technology provided which means that the court staff end up using free online PDF splitting websites which can cause privacy and cyber security concerns.

**Recommendation:** Official software needs to be provided for this purpose.

**Issue:** Scrutiny of documents takes longer with e-filing than it takes with physical filing because the Scrutiny Clerks have to find defects in the physical file and also compare it to the e-filed documents

**Recommendations:**

1. Provide Scrutiny Officers with the paid version of Adobe so that they can highlight and comment in the uploaded PDFs themselves.
2. The Kerala Case Management System being used in the High Court allows for scrutiny with a drop down menu for the kind of objections that can be found as per the checklist, and also provides additional space for comments. This is needed at all District Courts to ensure there is no duplicity of work.

**Issue:** The e-filing dashboard also does not allow the judges to record any notes on their portal currently.

**Recommendation:** The judge's dashboard of the E-filing portal should be reworked and there is a need to build a note keeping feature for every case.

**Issue:** In a few district courts in Karnataka, advocates need to go to a specific bank to obtain challan to pay the court fees above Rs. 500. This is a very cumbersome process as in smaller districts, there is sometimes only one bank branch where the payment of court fee can happen.

**Recommendations:**

1. In every district court complex, a bank branch should be attached for the payment of court fee.
2. The e-payment module should be made functional as soon as possible.

## Conclusion

This paper is a step towards informing the decision makers regarding the impediments to adoption of the current e-filing system and providing a vision for the future of the same. The Case Management System operable in the Kerala High Court started to speed up disposal of bail applications is a prime example of the fact that even the most advanced version of NIC's e-filing application is lacking in many aspects. With the eCourts Project being in its 3rd phase and a massive budget at its disposal, there is no time like now to build a user-centric end-to-end dashboard that can make the entire process of civil litigation less cumbersome, starting with filing. It is also evident that there is also a clear need to rethink legal rules that enable the process of e-filing as the current rules have been formulated for the NIC e-filing application. The legal rules need to be modular and flexible for the evolving technology and drafting those post process re-engineering is the end goal of the JALDI team.

This paper seeks to address audience from various backgrounds so that the models envisaged in it can become a reality through collaboration and hence, the team is eager to receive feedback through this [form](#). You can also get in touch with us at [jaldi@vidhilegalpolicy.in](mailto:jaldi@vidhilegalpolicy.in).

