

Judicial reforms – law and contract enforcement

Bibek Debroy

Section 1: Introduction

Economic reforms are driven by the intention of driving up India's GDP growth rates, from the present trend of around 6.5% to 8% plus.¹ In attaining higher GDP growth rates, legal reforms are now recognized as a critical ingredient. In a somewhat belated recognition of the importance of legal reforms, *Economic Survey 2004-05* has a section on the infrastructure of contract enforcement². The Indian legal infrastructure needed reforms in any case, even if the post-1991 cycle of reforms hadn't been introduced. However, liberalization provided an additional trigger. The word "law" has varying interpretations. Consequently, the expression legal reform also needs to be pinned down.

There are three layers in legal reform. First, there is an element of statutory law reform. Given the federal nature of the Constitution, these statutes can be either Central or at the level of States. Diverse figures float around on the number of statutes. For instance, at the Central government level, a figure of 3500 is often cited.³ This is almost certainly an over-estimate and partly occurs because amending statutes are counted as separate acts. Before the 1990s, obtaining access to statutes was often a problem.⁴ Information technology (IT) made life simpler and since 1996, *India Code* has been available on the Net⁵ and in CD form. While some statutes have been repealed in the 1990s, the present *India Code* listing shows a little less than 1100 Central statutes, nowhere near 3500. In addition, because of Article 246 of the Constitution, which lays down areas for State or Concurrent jurisdiction, there are State-level laws. While hard copy versions of State statutes exist for some States⁶, electronic versions are not available. Since State-level statutes are often in local languages, electronic compilation is more difficult. A figure of 25,000 to 35,000 State-level statutes floats around.⁷ This too, is probably an over-estimate. "There are now nearly 2500 Central laws in force. While our focus in this study has been on the Central laws, it is worthwhile keeping in view the fact that there is not even a rough estimate available about the number of laws operating as State laws. In one State alone the number is stated to be of the order of 1100. There might, thus, be 25000 to 30000 laws of States." This quote is from the report of a government-appointed

¹ The Tenth Five Year Plan (2002-07) has 8% as a target, while the National Common Minimum Programme (NCMP) talks of 7 to 8%.

² *Economic Survey* sets out the reform agenda, especially in its first chapter. Although *Economic Survey* originates with Finance Ministry and Department of Economic Affairs, it is remarkable that legal reforms found no explicit mention earlier, except for references to specific statutes.

³ *Survey, ibid.*

⁴ For instance, Ministry of Law, Justice and Company Affairs began to publish a hard copy version of all Central statutes, known as *India Code*, in 1993. But this made tardy progress. And private publications confronted the problem of *the Copyright Act* conferring a publication monopoly on the government.

⁵ www.indiacode.nic.in

⁶ But not all.

⁷ *Survey, ibid.*

committee.⁸ The State in question is not named, but is presumably Orissa, where there were reportedly 1015 statutes. Since the Orissa government website only gives a listing of acts and ordinances since 2000, and no State counterpart of *India Code* is yet available, it is impossible to check this figure. Nevertheless, 1015 (or 1100) is probably on the high side and so is the 25,000 to 35,000 figure that floats around. Having said this, there are three clear elements to statutory law reform – (a) weeding out old and dysfunctional elements in legislation⁹; (b) unification and harmonization; and (c) reducing State intervention.

Second, legal reform has to have an administrative law reform component, meaning the subordinate legislation in the form of rules, regulations, orders and instructions from ministries and government departments. Often, constraints to efficient decision-making come about through administrative law, rather than through statutory law and discretion, bribery and rent-seeking are fallouts. Unfortunately, administrative law is not readily available and this is especially true at State-level. Rather remarkably, the afore-mentioned Commission on Review of Administrative Laws had the following to say.¹⁰ “The Commission was seriously constrained by the fact that it did not have access to a complete set of subordinate legislation in the form of rules, regulations and administrative instructions, issued under different Central Acts, by individual Ministries and Departments. It appears that the Legislative Department itself did not have such a complete compilation of rules, regulations and procedures issued by the Ministries.... Another handicap was that the Central Ministries did not have full information about the rules and regulations issued by State Governments by virtue of the authority vested in them by Central laws.”

Finally, the third element of legal reform is what may be called judicial reforms, although swifter dispute resolution and contract enforcement are not exclusively judicial issues. Rather remarkably, official data on pendency of cases still date to December 1998¹¹. Excluding backlog in quasi-judicial forums and tribunals, for which figures are not available, the backlog of cases is 23 million. Of this, the backlog is 19,806¹² in the Supreme Court, a drop from 104,936 in 1991. The backlog in High Courts¹³ is 3.18 million, up from 2.65 million in 1993. Every year, new cases are instituted and old cases are disposed. If the number of new cases exceeds the ones

⁸ *Report of the Commission on Review of Administrative Laws*, Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances and Pensions, September 1998. This is popularly referred to as the Jain Commission.

⁹ The earliest Central statutes date back to 1836 and are the *Bengal Indigo Contracts Act* and the *Bengal Districts Act*.

¹⁰ *Report of the Commission on Review of Administrative Laws*, Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances and Pensions, September 1998.

¹¹ The Department of Justice’s website, www.mha.nic.in and Annual Report of Ministry of Law, Justice and Company Affairs at www.lawmin.nic.in.

¹² The *Annual Report* gives a backlog figure of 20,358 in December 1998.

¹³ There are 18 High Courts – Allahabad (with a bench in Lucknow), Andhra Pradesh (seat in Hyderabad), Bombay (benches in Nagpur, Panaji and Aurangabad), Calcutta (circuit bench in Port Blair), Delhi, Guwahati (benches in Kohima, Aizwal and Imphal and circuit benches in Agartala and Shillong), Gujarat (seat in Ahmedabad), Himachal Pradesh (seat in Shimla), Jammu and Kashmir (seats in Jammu and Srinagar), Karnataka (seat in Bangalore), Kerala (seat in Ernakulam), Madhya Pradesh (seat in Jabalpur, benches in Gwalior and Indore), Madras, Orissa (seat in Cuttack), Patna (bench in Ranchi), Punjab and Haryana (seat in Chandigarh), Rajasthan (seat in Jodhpur, bench in Jaipur) and Sikkim (seat in Gangtok). The jurisdiction of these High Courts varies.

disposed, the situation gets worse over time and that is indeed the problem with High Courts. Of course, one should mention that there has been some improvement in the 1990s. 1995 seems to be the cutoff year. Till 1994, cases disposed were between 80 and 85% of new cases. Since 1995, this ratio has been more than 90%. But unless this ratio increases to more than 100%, there won't be a dent on the backlog. Of the 3.2 million cases stuck in High Courts, 500,000 cases have been stuck for more than 10 years. Of these, 185,363 cases are in Allahabad High Court and 131,256 cases in Calcutta High Court. That is, if the Allahabad and Calcutta High Court problems can be resolved and fast-tracked, there won't be that many old cases. Other than these High Courts, there are also large backlogs in Madras, Kerala and Bombay High Courts. 50% of the High Court backlog is in four High Courts – Allahabad (0.86 million), Madras (0.32 million), Calcutta (0.28 million) and Kerala (0.25 million). Of the 3.18 million cases stuck in High Courts, 88% are civil cases. Only 12% are criminal cases. This leaves the lower courts¹⁴, where the backlog figure fluctuates around 20 million. Of the 20 million cases stuck in lower courts, two-thirds are criminal cases. In general, the conviction rate is lower than 5%. Having said this, one should recognize that there has some improvement in lower courts in the 1990s. The lower court backlog is primarily concentrated in UP, Gujarat, Maharashtra, Madhya Pradesh, West Bengal and Karnataka. And so far, improvements have been limited in UP, Maharashtra and Karnataka. The word contract shouldn't only be interpreted in the limited sense of *the Indian Contract Act* of 1872. The word has a broader connotation and any deviation from a contract requires dispute resolution. If there is a perception about the Indian legal system failing to ensure adequate incentives and disincentives and failing to ensure adherence to contracts, that's largely because of the ineffectiveness of dispute resolution.

Section 2: Statutory law reform

Any attempt at Central statutory law reform should originate with the Law Commission of India, the first post-Independence Law Commission being set up in 1955.¹⁵ The reform decade of the 1990s, and the period since then, coincides with the Thirteenth Law Commission (1991-94), the Fourteenth Law Commission (1995-97), the Fifteenth Law Commission (1997-2000), the Sixteenth Law Commission (2000-03) and the Seventeenth Law Commission (2003-06). The terms of reference of Law Commissions are fairly broad¹⁶ and cover every aspect of statutory law reform

¹⁴ District Level Courts, Munsif/Magistrate Courts and Magistrate II and equivalent courts.

¹⁵ Various Law Commissions have so far submitted 191 reports. Recommendations of 96 have been implemented. Recommendations of 34 have not been implemented, recommendations not being mandatory. Recommendations of 61 reports are under consideration.

¹⁶ For instance, the terms of reference of the Seventeenth Law Commission has: “(A) Review/Repeal of obsolete laws: (i) to identify laws which are no longer needed or relevant and can be immediately repealed; (ii) to identify laws which are in harmony with the existing climate of economic liberalization which need no change; (iii) to identify laws which require changes or amendments and to make suggestions for their amendment; (iv) to consider in a wider perspective the suggestions for revision/amendment given by Expert Groups in various Ministries/Departments with a view to coordinating and harmonizing them; (v) to consider references made to it by Ministries/ Departments in respect of legislation having bearing on the working of more than one Ministry/ Department; (vi) to suggest suitable measures for quick redressal of citizens grievances, in the field of law. (B) Law and Poverty (i) to examine the laws which affect the poor and carry out post-audit for socio-economic

indicated in Section 2. At the risk of some generalization, it is fair to state that Law Commissions haven't quite delivered on this broad mandate, reports tending to be reactive rather than proactive. For instance, the Thirteenth Law Commission had reports on some aspects of *the Code of Civil Procedure*, Article 12¹⁷, Section 373-A of *the Indian Penal Code*¹⁸, *the Specific Relief Act*, repeal of some pre-1947 Central Acts, some aspects of *the Motor Vehicles Act*, admiralty jurisdiction, custodial crimes and inter-country adoption. The Fourteenth Law Commission had reports on some aspects of *the Code of Criminal Procedure*, *the Narcotics and Psychotropic Substances Act* and some aspects of *the Indian Penal Code*. The Fifteenth Law Commission had reports on Section 52 of *the Transfer of Property Act*, amendments to *the Industries (Development and Regulation) Act*, *the All India Council for Technical Education Act* and *the Army, Navy and Air Force Acts*, the Central Vigilance Commission, various tribunals, *the Code of Civil Procedure*, *the Indian Divorce Act*, free and compulsory education for children, *the Corrupt Public Servants (forfeiture of property) Bill*, *the Patents Amendment Bill*, *the Hire Purchase Act*, reforms of electoral laws, *the Biodiversity Bill*, *the Prevention of Terrorism Bill*, rape laws and property rights of women. The Sixteenth Law Commission had reports on *the Foreigners (Amendment) Bill*, *the Arbitration and Conciliation (Amendment) Bill*, law relating to arrests, public interest disclosure and protection of informers, Article 20(3) of the Constitution, some aspects of *the Transfer of Property Act*, some aspects of *the Land Acquisition Act*, *the General Clauses Act*, amendments to *the Advocates Act*, *the University Grants Commission Act* and *the Indian Evidence Act*. The Seventeenth Law Commission had reports on environment courts, death sentence, fast-track courts, court fees, regulation of funds collected for calamity relief, *the Insurance Act* and *the Insurance Regulatory and Development Authority Act*. At a micro level, each of these may be important and it is also true that the Fifteenth Law Commission was more active than the others.¹⁹ Nevertheless, at the risk of some subjectivity in the assertion, a macro view of statutory law reform didn't emanate from the various Law Commissions. Instead, more often than not, Law Commissions reacted to Bills sent to them.

legislation; (ii) to take all such measures as may be necessary to harness law and the legal process in the service of the poor. (C) To keep under review the system of judicial administration to ensure that it is responsive to the reasonable demands of the times and in particular to secure:- (i) elimination of delays, speedy clearance of arrears and reduction in costs so as to secure quick and economical disposal of cases without affecting the cardinal principles that decisions should be just and fair. (ii) simplification of procedure to reduce and eliminate technicalities and devices for delay so that it operates not as an end in itself but as a means of achieving justice. (iii) improvement of standards of all concerned with the administration of justice. (D) To examine the existing laws in the light of Directive Principles of State Policy and to suggest ways of improvement and reform and also to suggest such Legislation as might be necessary to implement the Directive Principles and to attain the objective set out in the Preamble to the Constitution. (E) To revise the Central Acts of general importance so as to simplify them and to remove anomalies, ambiguities and inequities. (F) To recommend to the Government measure for bringing the statute book up-to-date by repealing obsolete laws and enactments or parts thereof which have out lived their utility. (G) To consider and to convey to the Government its views on any subject relating to law and judicial administration that may be referred to it by the Government through Ministry of Law and Justice (Department of Legal Affairs)."

¹⁷ Of the Constitution, on definition of "State".

¹⁸ On sale of women and children.

¹⁹ The reports on *the Indian Divorce Act*, rape laws and property rights of women need to be singled out for special mention.

Was there a coherent and integrated view of statutory law reform? Not until 1993 or 1994. In the initial flush of reforms, many statutes were linked to shifts in external sector policies and this included WTO commitments. *Remittances of Foreign Exchange and Investment in Foreign Exchange Bonds (Immunities and Exemptions) Act* (1991) and *the Foreign Trade (Development and Regulation) Act* (1992) are examples and this trend continued with *the Foreign Exchange Management Act* (1999), *the Trade Marks Act* (1999), *the Geographical Indications of Goods (Registration and Protection) Act* (1999), *the Designs Act* (2000), *the Protection of Plant Varieties and Farmer's Right Act* (2001), *the Competition Act* (2002) and *the Biological Diversity Act* (2003). Other legislative changes were triggered by financial sector reforms, such as *the Securities and Exchange Board of India Act* (1992), *the Special Court (Trial of Offences Related to Transactions in Securities) Act* (1992), *the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act* (1993), *the Gold Bonds (Immunities and Exemptions) Act* (1993), *the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act* (1993), *the Recovery of Debts Due to Banks and Financial Institutions Act* (1993), *the Depositories Act* (1996), *the Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Act* (1997), *the Insurance Regulatory and Development Authority Act* (1999), *the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act* (2002), *the Unit Trust of India (Transfer of Undertaking and Repeal) Act* (2002), *the Prevention of Money Laundering Act* (2003), *the Banking Service Commission (Repeal) Act* (2003), *the Fiscal Responsibility and Budget Management Act* (2003) and *the Sick Industrial Companies (Special Provisions) Repeal Act* (2004). And there was a bundle of statutory changes linked to unbundling the infrastructure sector and ending public sector monopolies. *The Multimodal Transportation of Goods Act* (1993), *the Oil and Natural Gas Commission (Transfer of Undertaking and Repeal) Act* (1993), *the Air Corporations (Transfer of Undertakings and Repeal) Act* (1994), *the Airports Authority of India Act* (1994), *the Cable Television Networks (Regulation) Act* (1995), *the Telecom Regulatory Authority of India Act* (1997), *the Electricity Regulatory Commissions Act* (1998), *the Information Technology Act* (2000), *the Central Road Fund Act* (2000), *the Energy Conservation Act* (2001), *the Control of National Highways (Land and Traffic) Act* (2003), *the Offshore Areas Mineral (Development and Regulation) Act* (2003) and *the Electricity Act* (2003) are instances. For all three categories of legislative changes, shifts in economic policy drove the statutory change. However, one ought to flag a few other significant statutes that don't readily fit into this scheme. *The Protection of Human Rights Act* (1994), *the Transplantation of Human Organs Act* (1994), *the Technology Development Board Act* (1995), *the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act* (1996), *the Arbitration and Conciliation Act* (1996), *the Provisions of the Panchayats (Extension to the Scheduled Areas) Act* (1996), *the Urban Land (Ceiling and Regulation) Repeal Act* (1999), *the Freedom of Information Act* (2003) and *the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act* (2003) are instances. And finally, one should mention the report of the National Commission set up to review the working of the Constitution.²⁰

²⁰ This submitted a report in March 2002. The Constitution does require changes. But not only was the

Nevertheless, the point remains that these changes were ad hoc, and were not driven by an integrated view of statutory law reform. The first attempt to take an integrated view was probably a project started by Ministry of Finance, in cooperation with UNDP. This was known as Project LARGE (Legal Adjustments and Reforms for Globalizing the Economy), with the collaboration of the National Law School, Bangalore.²¹ In hindsight, LARGE could have had two kinds of objectives. First, there was a dissemination objective, pushing the need for law reform. In this, LARGE was quite successful. Many figures commonly quoted owe their origin to LARGE, usually without acknowledgement and without remembering the context. An instance is the figure that the government is a litigant in 60% of civil suits, sometimes on both sides, and that many of these are appeals, with 90% of government appeals failing.²² These figures were alarming and may have contributed to a decision taken by State Law Ministers in December 1994 that disputes involving two government bodies should be resolved outside the court system. But this decision wasn't implemented. Second, LARGE could have had the objective of actually bringing about legislative changes. Barring the financial sector, LARGE was less successful in this. The fact that LARGE had been set up by Ministry of Finance meant that Ministry of Law was never quite involved. The LARGE work concentrated on Central statutes alone, ignoring State-level statutes, administrative law and dispute resolution.²³ In the process, LARGE also identified old statutes and old sections in statutes.²⁴ In May 1998, Department of Administrative Reforms and Public Grievances, Ministry of Public Grievances and Pensions, set up the aforementioned Commission on Review of Administrative Laws, under the Chairmanship of P.C. Jain.²⁵ Given problems associated with pinning down administrative law, and drawing on the LARGE work, the Jain Commission also identified 1323 Central statutes for outright repeal.²⁶ Subsequently, around 350 old statutes were repealed in 2001 and 2002.

But statutory law reform is not only a matter of repealing old statutes. There are issues of rationalization and harmonization and even of reducing unwarranted State intervention. Barring three areas, there hasn't been enough movement on

setting up of this Commission unnecessarily politicized, the Commission didn't really come up with anything significant and brushed most issues under the carpet.

²¹ LARGE formally started in December 1993, but became functional only in 1994 and lasted till March 1998. 30 Working Papers and 6 volumes were published in different areas of statutory law reform, Allied Publishers being the publisher for all these publications.

²² This figure was cited in *Legal Dimensions of Economic Reforms*, edited by Bibek Debroy and N. R. Madhava Menon, Allied Publishers, 1995. While the figure is correct, it was based on a sample survey conducted only in the State of Karnataka and was not necessarily true of the rest of the country. Yet another LARGE figure had even less credibility. This was a back-of-the-envelope calculation that if there were no new suits and present rates of dispute resolution continued, it would take 324 years to clear the backlog. Finally, the longest dispute also owes its origin to LARGE. This was a family dispute near Pune that began in 1205 and concluded in 1966, taking 761 years to be resolved. However, the origins of the dispute go back to 1205, the actual court case was only lodged in 1964, a point that is often missed in journalistic writing.

²³ There was always an expectation that there would be a second phase to LARGE.

²⁴ Although not LARGE output, *In the Dock – Absurdities of Indian Law*, Bibek Debroy, Konark Publishers, 2000, drew on this work.

²⁵ The report was submitted in September 1998.

²⁶ It must be remembered that it may sometimes be difficult to repeal a statute in its entirety. Instead, dysfunctional sections need to be deleted.

rationalization and harmonization. And in some of these, what has happened is just talk and no more. First, there is the tax reform area, including stamp duty issues²⁷ and harmonization here has been overtaken by the overall tax reform agenda. Second, there is the area of food laws, with diverse laws cutting across several Ministries and government departments. Other than representations from various chambers of commerce, in April 2000, the Prime Minister's Council on Trade and Industry submitted a report on food and agro industries.²⁸ This too talked about the need for unifying food legislation. Repealing some existing food laws²⁹ and removing food safety from others, there is now a *Food Safety and Standards Bill, 2005*. This is yet controversial and partly concerns representation on the National Food Safety and Standards Authority and increased compliance costs. In this context, a healthy development of the 1990s should be flagged. This is an increasing tendency to disseminate proposed Bills, often through the Net, so that feedback can be obtained. Third, one should mention labour laws, labour law reform unfortunately having become equated with industrial relations-related statutes alone.³⁰ This is unfortunate, because there is more to labour law reform than industrial relations alone. The UPA government's National Common Minimum Programme (NCMP) states the following on labour laws. "The UPA rejects the idea of automatic hire and fire. It recognizes that some changes in labour laws may be required but such changes must fully protect the interests of workers and families and must take place after full consultation with trade unions. The UPA will pursue a dialogue with industry and trade unions on this issue before coming up with specific proposals. However, labour laws other than the Industrial Disputes Act that create an Inspector Raj will be reexamined and procedures harmonized and streamlined." Hence, there are harmonization and rationalization issues, linked with the inspector *raj* and bribery and rent-seeking. Stated simply, 92% of the work-force is in the unorganized sector, where protective labour legislation is often non-existent. 8% is in the organized sector, where labour laws are too rigid. Harmonization, rationalization and reduction in State intervention will decrease the dichotomy between unorganized and organized labour markets. A National Labour Code was first drafted in 1994, incorporating the rationalization and harmonization elements.³¹ This didn't get far. However, the Second National Commission on Labour also pushes for rationalization and harmonization of labour laws,³² under five heads of industrial relations, wages, social security, safety and welfare. But as was mentioned earlier, such reforms get stuck because of the unnecessary equation with an exit policy for labour.

²⁷ One should mention the work of the National Institute of Public Finance and Policy (NIPFP) and the three Kelkar Task Force reports on direct taxes, indirect taxes and the FRBM Act.

²⁸ *Report on Food and Agro-Industries Management Policy*, the group having been convened by Nusli Wadia.

²⁹ *The Prevention of Food Adulteration Act* and *the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act* are the main ones, the others being orders under *the Essential Commodities Act*.

³⁰ This means *the Industrial Disputes Act (IDA)*, *the Contract Labour (Regulation and Abolition) Act* and *the Trade Unions Act*. Often the debate is only about *IDA*, especially Chapter V-B. *The Trade Unions Act* was amended after the report of the Second National Commission on Labour. An *Industrial Relations Bill* was promised in the 2001-02 budget, to replace the *IDA*, but has now disappeared from the agenda.

³¹ This was pushed by Friedrich Egbert Stiftung (FES).

³² The report was submitted in 2002, the first National Labour Commission having been set up in 1929.

Statutory law reform is also the province of States. In 1997, a decision was taken that State-level Law Commissions would be set up and this assumes significance because India doesn't have a system of desuetude, where statutes aren't open-ended and die a natural death. Unfortunately, this decision to set up permanent State-level Law Commissions hasn't been implemented, except in a State like Rajasthan. However, Gujarat has repealed some old statutes without a permanent Law Commission. One should note that under the federal frame of the Constitution, most factor markets are State subjects and most reform issues now pertain to factor markets rather than product markets. Most State-level reform initiatives, designed to improve growth and attract investments of both the domestic and foreign varieties, are the province of administrative law, rather than statutory law. However, one can mention a few instances where statutory law reform has been involved – housing, land acquisition, rent control, *Shops and Establishment Acts* and of more recent vintage, *Agricultural Produce Marketing Committee (APMC) Acts*.³³

Section 3: Administrative law reform

The expressions administrative law reform and improved governance are often used and they are linked, but neither is very precisely defined. Any discussion of governance is contingent on what one expects the government to do and this includes all three organs of State – the executive, the legislature³⁴ and the judiciary. Administrative reforms are required to ensure better delivery of governance and this is where the assorted subordinate legislation becomes important. However, administrative reforms are often interpreted as civil service reforms, although they should be much more than civil service reform. On reforming civil services, several recommendations have been made. The Report of the Fifth Central Pay Commission is one example.³⁵ The 10-volume report of the Expenditure Reforms Commission (ERC) is another.³⁶ That apart, there was a Surendra Nath Committee Report in 2003 and a Committee on Civil Service Reforms in 2004. The issues of downsizing, identifying surplus manpower, retraining, voluntary retirement schemes (VRS), contractual appointments, lateral entry and evaluation and vertical mobility keep recurring and the reform agenda is also known. However, what is invariably implemented is hikes in salaries and given the fact that only 18.5 million people work for the government, an inordinate amount of the reform discourse is taken up by what should be relatively unimportant, since the total workforce is around 400 million.³⁷

The broader agenda of administrative law reform involves two kinds of relationships that can overlap – dealings between the citizen and the government and dealings between an enterprise and the government. The latter can again be divided into three phases of an enterprise's existence - entry, functioning and exit. The former involves birth certificates, death certificates, land titles, assorted requirements of establishing one's own identity and issues connected with accessing public services.

³³ Land laws, tenancy as well as ownership, and contract farming (not even corporate farming) remain contentious areas.

³⁴ As such, the broader agenda of administrative reforms should also cover electoral reforms.

³⁵ This was submitted in January 1997.

³⁶ The final report was submitted in 2000. Since this was about government expenditure, it also covered issues like food and fertilizer subsidies.

³⁷ The 18.5 million figure includes 6 million who work for the public sector.

For both the citizen and the entrepreneur, the years since 1991 have witnessed the exertion of countervailing pressure, documenting corruption and inadequate delivery of services, even if this countervailing pressure tends to be located in certain geographical parts of the country. For instance, for citizen pressure, one can mention the Public Affairs Centre in Bangalore, Lok Satta in Hyderabad, the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan, Jana Agraha in Bangalore, the Centre for Science and Environment in Delhi, the work of the Administrative Staff College in Hyderabad, the Consumer Education and Research Centre in Ahmedabad or Parivartan in Delhi. These have questioned not only executive inaction through public interest litigation (PIL)³⁸, but also the inefficiency and leakage in government expenditure. *Right to Information Acts* in Goa, Tamil Nadu, Karnataka, Delhi, Rajasthan and Maharashtra are partly an outcome of such pressure. In 1997, a conference of State Chief Ministers agreed that all States, and the Centre, should have such a law. However, not all States have followed this agreement.³⁹ Following the UPA government's NCMP promise, an improved Central *Right to Information Act* has now been passed. On the entrepreneurial side, countervailing pressure, highlighting constraints to efficient decision-making through discretionary subordinate legislation, have been highlighted in reports brought out by larger chambers of commerce and industry like FICCI, CII and ASSOCHAM.⁴⁰ But one should not form the impression that big business alone is the issue. Since transaction costs have economies of scale and scope, they have a distributional angle and hurt the small entrepreneur more. One instance of countervailing pressure being exerted on behalf of small entrepreneurs is *Manushi's* work on cycle-rickshaws and vendors. This eventually led to intervention by the Prime Minister's Office and changes in municipal laws.⁴¹

At the Central government level, the Fifth Central Pay Commission also flagged the need to make government more citizen and business friendly. This report was submitted in 1997. And also in 1997, there was a Conference of Chief Ministers on Effective and Responsive Administration. In 1995, Finance Ministry sought to introduce reform measures in different Central Ministries and government departments. In 1997, this was followed by an exercise started at the initiative of the Prime Minister's Office. Reportedly, 43 Ministries and government departments identified administrative law (and statutory law) where simplification, rationalization and harmonization are possible. There is no report card on the extent to which these recommendations were implemented. In 2000, the Prime Minister's Council on Trade

³⁸ Environment protection is an obvious example. The issue of the judiciary stepping into the executive's arena naturally arises.

³⁹ Citizens' Charters, without an explicit *Right to Information Act*, can also be a powerful tool. Andhra Pradesh is an example.

⁴⁰ Many such studies suggest that transaction costs add around 20% to costs of doing business. However, these studies also tend to include infrastructure costs in transaction costs. That is, transaction costs are not procedural costs alone. Also see, World Bank publications like *Doing Business in 2005*, *India Regional Profile* and *India, Investment Climate Assessment 2004, Improving Manufacturing Competitiveness*.

⁴¹ The *Manushi* work began in 1996 and has been documented in several issues of the magazine. The issues are discussed again in *Deepening Democracy: Challenges for Governance and Globalization in India*, Madhu Purnima Kishwar, Oxford University Press, 2005. For related follow-up work, see, *Law, Liberty and Livelihood, Making a Living On the Street*, edited by Parth J. Shah and Naveen Mandava, Academic Foundation, 2005.

and Industry also submitted a report on administrative and legal simplifications.⁴² Understandably, this had an industry focus and listed the following as industry concerns. “Large number of clearances / permissions required; Complex regulation governing day to day functioning; Multiple agencies regulating operations functioning independently; Lack of co-ordination between various governing agencies; Frequent changes in policies / procedures / tariff structures; Unpredictability of changes; Lack of clarity on issues between Centre and States; Transaction oriented approach of the system instead of a corporate approach, leading to increased costs and delays; Lack of openness and transparency in communication and providing information.”

The Action Plan, emerging from the afore-mentioned Chief Minister’s Conference, focused on three areas where administrative law reform was important – (a) making administration accountable and citizen friendly; (b) ensuring transparency and right to information; and (c) tackling corruption and motivating the civil services. There is also a Central government identification of departments where the citizen interface is the most. This Central government categorization mentions public grievances (electricity, water, telephone, ration cards, sanitation, public transport, police), rural services (land records, BPL⁴³ cards), police (FIR registration, lost and found, missing persons), social services (pensions, land acquisition, rehabilitation and compensation, registration of licenses and certificates, ration cards, birth certificates, death certificates, domicile certificates, caste/tribe certificates, arms renewal, registration of documents, motor vehicle registration, driving licenses, school registration, university registration), public information (employment exchanges, examination results, railway, road and airline timetables, government notifications, government forms, government schemes, hospital/bed availability and services), agriculture (information about seeds, pesticides, fertilizers, crop diseases, weather forecasts, market prices), utilities (electricity, water, telephones), commercial (taxation and return filing) and government (electronic procurement). The intention behind this identification was to increasingly resort to e-governance.

While this is a Central government list, many of the issues concern State governments and even local bodies. At the State government level, reform initiatives have varied across States and have also sometimes been a function of the extent to which donor agencies have pushed governance reform. While few States may have set up Law Commissions, the track record on setting up Commissions or Task Force on administrative reforms is better. One should mention the Tamil Nadu High Level Committee on Administrative Reform and Preventing Corruption (1997), the Karnataka Administrative Reforms Commission (2001), the Kerala Administrative Reforms Committee (2001) and the Good Governance Committee in Maharashtra (2000).⁴⁴ Following Andhra Pradesh’s coinage of the term, the thrust of these recommendations is to make administration SMART (simple, moral, accountable, responsive and transparent). The implementation varies widely from State to State. One can refer to the clichéd examples of *e-seva* in Andhra Pradesh, *bhoomi* in Karnataka, *gyandoot* in Madhya Pradesh, *SETU* in Maharashtra and *RajNIDHI* in

⁴² This was chaired by Kumar Mangalam Birla.

⁴³ Below the poverty line.

⁴⁴ Although less formal, there were also a Cabinet Sub-Committee on Administrative Reforms in Andhra Pradesh, a Task Force on Governance and Civil Service Reform in Orissa and some issue-specific reports in Karnataka, Tamil Nadu and Kerala.

Rajasthan. There are also successful public-private partnerships.⁴⁵ Notwithstanding these isolated successes, one doesn't form the impression that implementation of administrative reforms has snowballed and acquired sufficient momentum.

Section 4: Speed of dispute resolution

We now turn to the most important issue of all, the speed of dispute resolution. Regardless of the improvements brought about in statutory and administrative law, the legal system isn't going to be credible without a credible and efficient system of dispute resolution. How does one reduce the backlog and improve efficiency? The first committee to examine speeding up of the judicial process was set up in 1924. Its report is the famous Rankin Committee Report of 1925. Justice Rankin, three quarters of a century ago, had the following to say: "Unless a court can start with a reasonably clean slate, improvement of methods is likely to tantalize only. The existence of a mass of arrears takes the heart out of a Presiding judge. He can hardly be expected to take a strong interest in the preliminaries, when he knows that the hearing of the evidence and the decision will not be by him but by his successor after his transfer. So long as such arrears exist, there is temptation to which many Presiding Officers succumb, to hold back the heavier contested suits and devote attention to the lighter ones. The turnout of decisions in contested suits is thus maintained somewhere near the figure of institution, while the real difficult work is pushed into the background." Even if this report were to be written in 2005, not a single word would change. If anything, the situation today is worse than what Justice Rankin found. Since 1924, there have been several committees set up to suggest improvements. In that sense, there is nothing new under the sun. In 1949, there was a Justice S.R. Das Committee to examine arrears in High Courts. In 1972, there was a Justice J.C. Shah Committee on overall arrears. In 1986, there was the Satish Chandra Committee. In 1990, there was the first Mallimath Committee. In 1950, there was a Judicial Reforms Committee only for Uttar Pradesh. In 1986, the Estimates Committee's report also had suggestions about dispute resolution reform. That apart, since 1955, we have had several reports of the Law Commission. The 14th, 79th, 80th, 120th, 121st and 124th reports of the Law Commission especially touched on the question of arrears. There is no dearth of recommendations. Finally, there the second Mallimath Committee submitted recommendations in 2003.

How does one ensure speedy redressal? There are many aspects to this question, some of which concern the improvement of procedures in the sub-ordinate and appellate courts. Various reports of the Law Commission have highlighted these issues. These reports have also focused on problems concerning the Bar and the judiciary. If one visualizes demand and supply curves for dispute resolution, these traditional remedies involve a shift of the supply curve to the right. Because of the shift, the cost of delivering justice will go down and the number of cases disposed will go up.⁴⁶ But first, let us mention demand-side solutions and these involve a shift of the demand curve to the left. When highlighting the backlog in courts, one has adjudication in mind. But adjudication is only one way of resolving disputes. Why

⁴⁵ Drishtee and Tarahaat are examples.

⁴⁶ This has not really worked. In a perverse application of Say's Law, supply has created its own demand.

must every dispute be dragged to court? There are other ways of settling disputes, often referred to as alternative dispute resolution. Conciliation, mediation and arbitration are other means of settling disputes, alternatives to adjudication through courts. Arbitration is of course for commercial disputes. What is the difference between conciliation and mediation? Sometimes, these two words are used synonymously. If a distinction is actually drawn between conciliation and mediation, it can be something like the following. Conciliation occurs when a third party nips the dispute in the bud and the two disputing parties are brought together. So the dispute is effectively never recognized as a dispute. Mediation occurs when there is a dispute and a third party suggests a compromise solution to settle the dispute. Arbitration is also like that, except the third party in an arbitration dispute has some legal standing. Earlier, this binding aspect of arbitration used to be through *the Arbitration Act* of 1940. There are several reasons why these alternative channels have failed to function effectively. Credible conciliators and mediators didn't exist.⁴⁷ The British tried to replace everything with the court system and historical forums of alternative dispute resolution simply fell into disuse. There were problems with the 1940 *Arbitration Act*. As a result, with the 1940 law, arbitration was simply a step one had to go through before the dispute was dragged to court. Arbitration was never freed from the apron strings of courts.⁴⁸ *The Arbitration and Conciliation Act* of 1996 has improved matters by imposing some finality to arbitral proceedings, although there are still complaints about loopholes.

Along similar lines of stimulating alternative dispute resolution, one should highlight the *Lok Adalat* system, set up in the 1970s to provide cheap legal services to the poor. *Lok Adalats* are now statutory bodies established under *the Legal Services Authorities Act (1989)*. But one of the problems is that *the Legal Services Authorities Act (1989)* describes the procedure through which a pending court matter can be transferred to a *Lok Adalat*. However, there is no procedure prescribed for cases that have not appeared in a court or tribunal. Therefore, while *Lok Adalats* have a very wide jurisdiction, they only deal with cases which are pending in some court or the other. This does not reduce the rate of institution in different courts, and even a trivial suit has to go through the usual waiting procedure before it is transferred to a *Lok Adalat* for settlement. Along similar lines, in some States, *panchayats* have been given dispute resolution powers.⁴⁹ There are also Family Courts and Women's

⁴⁷ Perhaps it is pertinent to mention that *the Code of Civil Procedure* does not directly provide for conciliation. However, Sections 32 and 27 urge courts to try for settlement in cases involving family matters and the government, respectively. In addition, Section 28 of *the Indian Contract Act (1872)* does not quite recognize alternative dispute resolution. This states, "Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent."

⁴⁸ The Supreme Court had the following comment on arbitration. "Interminable, time consuming, complex and expensive court procedures impelled jurists to search for an alternative forum, less formal, more effective and speedy for resolution of disputes avoiding procedural claptrap and this led them to the Arbitration Act. However, the way in which the proceedings under the Act are conducted and without an exception challenged in courts, has made lawyers laugh and legal philosophers weep. Experience shows and law reports bear ample testimony that the proceedings under the Act have become highly technical accompanied by an unending prolixity, at every stage providing a legal trap for the unwary." – *Guru Nanak Foundation vs. Rattan Singh & Sons (1981)*.

⁴⁹ One should however legitimately be skeptical about judgments delivered by *panchayats*.

Courts, the former set up under *the Family Courts Act* of 1984 and the latter without any statutory backing. Since 2001, 1734 fast track courts have also been started and many of the Women's Courts are fast track courts. The success of these attempts varies from State to State and forum to forum. Essentially, these alternative forums have the power to evolve their own procedures, distinct from cumbersome court procedures. In instances where such distinct procedures have evolved, success has been better.

On curbing demand for court cases, one should now get back to the role of the government as a litigant. Just as government borrowing pushes up interest rates and pre-emptively investible resources from the private sector, government litigation crowds out the private citizen from civil courts. This is especially so for appeals, which often fail. Apart from being a commentary on the quality of government legal counsel, such statistics also underline the procedure followed in appealing. Appeals have automaticity. The decision to appeal is taken at the bottom of the government's decision-making hierarchy. A decision not to appeal has to go all the way to the top. If this is reversed, many appeals by the government will disappear. Courts have often imposed penalties on the State for making frivolous appeals (*State of Orissa vs. Amrata Dei, Orissa, 1987* and *Comptroller & Auditor General of India vs. K.S. Jagannathan, Supreme Court, 1987*). Interestingly, several judgments have now enunciated the principle that the costs must be recovered from the officials.⁵⁰ "It is not only unfortunate, but a matter which requires prompt attention of the State as to why the poor people's money ... should be allowed to be wasted on avoidable litigation... In such a case, the exemplary cost is to be ... realized from the functionaries who opined to contest the claim by filing appeal in the high court" (*Rajasthan State Transport Corporation vs. Jhami Bhai Kanhiya Lal, Rajasthan, 1987*). Although this principle is laudable, it is impossible to pin responsibility (or irresponsibility) on anyone in the government hierarchy. That apart, the government is often a litigant on both sides. A plenary meeting of law ministers and law secretaries of the States was held in Calcutta in November 1994, a meeting that was referred to earlier. The Calcutta Resolution states, "The law ministers were (also) of the opinion that disputes between the government and public sector undertakings (PSUs), and one PSU and another PSU ought not to go to courts or tribunals, and that such disputes should be settled between the parties amicably." However, this decision was never implemented. Perhaps one can speculate and argue that as reforms proceed and the government's control over economic decision making diminishes, the government's role in civil litigation will also decline.

There are also too many general appeals. In civil cases, there is normally the right to make a first appeal on a fact or point of law to district courts (*Section 96, Civil Procedure Code*), and a second appeal to high courts on a point of law (*Section 100, Civil Procedure Code*). If the second appeal is heard by a single judge, the appellant can pray for an additional appeal, known as letters patent appeal, to a division bench of the high court. In several Supreme Court judgments, the apex court has castigated

⁵⁰ "Every meritless petition for special leave commits a double sin, and we are scandalized that the sinner here is the State itself. When thousands of humble litigants are waiting in the queue, hungry for justice, and the docket-logged court is desperately wading through the flood, every lawless cause brought recklessly before it is a dubious gamble, which blocks the better ones from getting speedy reforms." – Justice Krishna Iyer in *State of Punjab vs. Gurdial Singh, 1980*.

the high courts for being unable to distinguish between questions of fact and law. Subject to caveats, more appeals can be made directly to the Supreme Court – under Article 132 of the Constitution on Constitutional matters, Article 133 for civil appeals, Article 134 for criminal appeals and Article 136 for special leave petitions. Article 136 applies to judgments, orders and decrees of any court or tribunal. It is true that Article 133(1) and Article 134 require high courts to certify that “(a) the case involves a substantial question of law of general importance; (b) that, in the opinion of the high court, the said question needs to be decided by the Supreme Court”. But why not have a single article for appeals against judgments, decrees or orders of high courts? The Supreme Court can itself decide whether a substantial question of law or Constitutional interpretation is involved. Appeals from tribunals can also be directly routed to high courts, not the Supreme Court. Moreover, the right to make a second appeal to high courts can be scrapped altogether. In the past, whenever such proposals were placed before the Law Commission, the proposals were rejected. The only argument seems to be that historically, a litigant has been given two hearings – one on fact and the other on law.⁵¹ But without curbing the right to appeal, we cannot probably clear the backlog in courts.

Many court cases are also due to the inefficient indirect tax system.⁵² These will continue as long as the indirect tax structure is not rationalized and harmonized. If indirect tax rates, domestic or of the import variety, vary across commodities, classification disputes are bound to end up in courts.

However, court cases will not disappear even if demand is brought down. Therefore, the efficiency of disposal also needs to be improved. Other than lengthy legal procedures, a need for more judges and filling up vacancies in time invariably figures in any cataloguing of the efficiency problem.⁵³ To make an even stronger point, faulty appointment procedures lead to judges of questionable competence being appointed. More than one retired Chief Justice has alluded to corruption among the judiciary. There is a mandatory and Constitutional obligation on the part of the President to periodically assess the needs of various High Courts and appoint additional judges wherever necessary. But in practice, even sanctioned positions of judges are left vacant, apart from the problem of sitting judges being pre-empted on commissions of inquiry. It may be argued that Chief Justices must play a more active role in determining the judge strength and this must be enshrined in law. The President also has the power to appoint additional judges for a period of two years at a time. The appointment of additional judges was for the express reason of reducing the load of over-burdened High Courts. However, this provision has been misused. Very often, the term of the additional judge is the waiting period for finding a

⁵¹ “The people may be taught to believe in one court of appeal but where there are two, they cannot be blamed if they believe in neither. When a man keeps two clocks which tell the time differently, his fellows will receive with suspicion his weightiest pronouncements upon the hour of the day even if one of them happens to be right.” A.P. Herbert in *Uncommon Law*, quoted with approval by the Supreme Court in *Sita Ram vs. State of Uttar Pradesh*, 1979.

⁵² In 1959, the Supreme Court adjudicated whether charcoal is coal. Other questions thus adjudicated by the Supreme Court are: is betel leaf a vegetable (1961), are chillies and lemons vegetables (1974), is green ginger a vegetable (1977) and is a coconut a vegetable (1985). The 1985 case led to a split decision in the Supreme Court. Such issues are important because vegetables do not pay excise.

⁵³ The Satish Chandra Committee Report (1986) and various Law Commission Reports are examples.

permanent position in a suitable High Court. Also, in many cases, additional judges have been appointed when permanent positions were vacant. Thus, in addition to executive inaction, a case could be made out for unnecessary political interference. It is indeed true that the number of judges per capita is low in India. For example, the World Bank's database on 30 countries shows that the number of judges per 100,000 inhabitants varies from 0.13 in Canada to 23.21 in the Slovak Republic, with an Indian figure of 2.7.⁵⁴ Having accepted the point about increasing the number of judges, one should however be careful about cross-country comparisons that span judicial performance across different institutions, frameworks and legal culture.

With the same number of judges, it is possible to increase court productivity.⁵⁵ For instance, there is not enough use of technical aids like computers, dictaphones, etc. Computerization, introduced in 1990, has brought down the backlog in the Supreme Court considerably. There are several elements to Supreme Court computerization. First, there is a List of Business Information System (LOBIS), which is a database of fresh cases, disposed of cases and pending cases and is used to generate cause lists through the computer. Cases are listed strictly in chronological order of date of filing and all cases with the same law points are bunched or grouped together and posted before one bench. Second, there are computerized filing counters for filing fresh cases. Third, the database COURTNIC, used since 1993, provides information about pending case status to litigants and advocates. Fourth, there is a database known as JUDIS (Judgment Information System) that has the complete text of all Supreme Court judgments since 1950, with judgments since 1999 on the Net. However, this success hasn't yet been replicated in all High Courts and certainly not in lower courts, where there is also a training of personnel issue. In 18 High Courts and 9 Benches, the computerization model has followed the Supreme Court one, while computerization has been attempted in all 430 District Courts since 1997. On training to District Court officials imparted by NIC, NIC reports, "The project is yet to pickup momentum in most of the District Courts for want of interest from the District Court officials." The National Judicial Academy has also been set up in Bhopal for imparting training to the judiciary. Since 1993-94, there has been a centrally sponsored scheme for developing infrastructure in courts⁵⁶.

On productivity improvements, there is also a question of working hours in Indian courts. These range from 5.5 hours per day in subordinate courts to 5 hours in different High Courts and the Supreme Court, contrasted with 6.5 or even 7 hours per day in many other countries. In terms of working days per year, the Supreme Court is operational for only 180 days, or half the year. For High Courts, the working days are 200-210 per year⁵⁷, while in subordinate courts the figure varies between 240 and 270 days. Accountability and transparency norms cannot, and should not, be imposed on

⁵⁴ *Justice Sector at a Glance*, World Bank, 2000. The 30-country average is 6.38 and the Indian figure is of sanctioned judge strength, not the actual number of judges.

⁵⁵ Tracked over time, the number of cases disposed per judge has indeed gone up. But this improvement hasn't been fast enough and is not uniform in its geographical spread.

⁵⁶ This covers court buildings, as well as residential accommodation. For States, the Centre bears 50% of the costs, the remainder being borne by States. For Union Territories, the entire costs are borne by the Centre.

⁵⁷ Of course, some High Courts have a minimum of 210 days per year.

the judiciary from outside. And the same principle also applies to the bar. But there is no reason why the judiciary shouldn't evolve and impose such work norms on its own, especially since salary and perquisite increases are always on the agenda.⁵⁸ For instance, cutting down on the system of long leave in the Supreme Court is tantamount to increasing the number of judges by 25%. Such work norms should also be imposed on lower courts, where the issue is often one of fact rather than law. Given this, there is no particular reason why judgments should be so long, why these judgments have to demonstrate the judge's knowledge in quoting Shakespeare and why there should be such a long gap between final hearing and judgment delivery. There is indeed a suggestion that delay reduction programmes in the United States have worked when judges have been given incentives for reduction.⁵⁹

This brings one to the question of legal procedures. Many of these problems are procedural and delays are possible at each of the four stages a civil suit goes through – pre-trial, trial, appellate and execution. The procedural law for civil cases is essentially *the Civil Procedure Code*. Thankfully, this has now been amended⁶⁰ and delays in civil cases should drop. However, *the Criminal Procedure Code* (and *the Indian Evidence Act*), relevant for criminal cases, is yet to be amended. In 2003, the second Mallimath Committee made drastic recommendations about reforming India's criminal justice system and one shouldn't forget that two-thirds of the backlog consists of criminal cases. Once those recommendations are accepted, *the Criminal Procedure Code*, *the Indian Evidence Act* and *the Limitation Act* can be amended. However, the criminal justice system cannot be dramatically improved without addressing the issue of police reform. Between 1979 and 1981, there were eight reports of the National Police Commission. In 1998 there was the Ribeiro Committee and in 2000 there was the Padmanabhaiah Committee. The issue of police reform has been examined in such great detail that no further examination is needed. It is a question of implementing those recommendations. After all, *the Police Act* goes back to the year 1861. Indeed, *the Prisons Act* also goes back to 1894 and there are the recommendations of the All India Committee on Jail Reforms, going all the way back to 1980-83. Not implemented again. And while on jails and under-trials, information technology is a tool that has been used only up to a fraction of its true potential. How many of the 1200 plus jails have experimented with video-recording of evidence? How many have held courts within jail premises? Both ease pressures on the police. The figure on under-trials is subject to some dispute. But of the figure of around 300,000 that floats around, three-fourths are under-trials, many of whom are in jail and accused of petty offences, having been in jail for longer than the maximum mandatory sentences for those petty crimes.

Section 5: In conclusion

It is difficult to conclude such a paper. But one can probably argue the following. Most legal reforms since 1991 have been triggered by economic reforms, domestic and external. However, there is also a case for reforming the legal infrastructure without such triggers, because the legal system is unsatisfactory and

⁵⁸ The First National Judicial Pay Commission was set up in 1996.

⁵⁹ *Reducing Court Delays: Five Lessons from the United States*, World Bank, 1999.

⁶⁰ 2001 and 2002.

because it imposes significant costs. Barring the amendment to *the Civil Procedure Code*, the push for such change is conspicuous by its absence. And that's probably because, despite cynicism about the legal system and journalistic comments, no one yet has sought to drive the reforms. All said and done, economic reforms have been driven by the Ministry of Finance. No such leadership role for the Ministry of Law, Justice and Company Affairs has been evident.