



Justice delayed is markets stymied

This article is related to General Studies-
Paper II (Governance).

The Hindu

Writer - Sameer Malik, Sanjib Po-
hit (with the National Council of
Applied Economic Research)

22 Jan., 2019

In a market economy like India, a strong judiciary is required for quick settlement of disputes.

Since the 1991 economic reforms, India has improved tremendously in almost all economic indicators, and is now one of the fastest growing nations in the world. Various economic policies of the current government have enabled the economy to move faster than ever before. These include tax reforms leading to the introduction of the Goods and Services Tax, reforms making India more competitive in the 'Ease of Doing Business' index, and implementation of the Insolvency and Bankruptcy Code. But it has never been more important to also strengthen the quality of the material which makes up the engine of the economy, i.e. India's institutions. As a democracy, India has an advantage: the roots of all its institutions are strong. However, they have simply failed to grow with the growing population and with increasing demands. The judicial system, in particular, is far from reaching the pace required for efficient functioning.

An inefficient judiciary

The importance of the judiciary cannot be underplayed in a market economy. Three things are crucial for the market economy to function efficiently: transparency in information, efficient dispute settlements, and contract enforcement in a time-bound manner powered by an effective judiciary. In a market economy, the government has little role to play in transactions among players. However, it plays an effective role by setting up efficient dispute settlement mechanisms, so that the costs of transactions are minimal. In such an economy, the judiciary plays the pivotal role by enforcing contracts in the case of disputes through minimal costs.

Over the years, and with the advent of the Internet, India has taken a leap towards transparency of information. However, little progress has been made in the case of dispute settlement mechanisms due to an inefficient judiciary. The situation is so desperate that the Economic Survey of 2017-18 had to set aside an entire chapter on the need for 'Timely Justice'. It noted that the current working capacity of the High Courts and the Supreme Court is only 63.6%. Plus, there are huge numbers of pending cases: 1.8 lakh in six of the major tribunals, and close to 3.5 million in the High Courts. For economic cases, the average duration of pendency is about 4.3 years for the five major High Courts. The Centre and the States approximately spend 0.08-0.09% of the GDP on administration of justice, which is very low. In 2017, India spent about ₹0.24 per person on the judiciary; the U.S. spent ₹12. Even though, understandably, it is a little punitive to compare India's budget with that of the most powerful economy in the world, the point is to set out a benchmark for India.

The problem is with economic theory

Unlike our policymakers, those in other countries seem to have realised the importance of the judiciary in the efficient functioning of a market economy. The problem here lies with economic theory. The proponents of reform belong to the school of neoclassical economics, and are taught that transactions are costless. However, the writings of Richard Coase and Douglass North have taught us that in reality, the rules and regulations that affect economic activity determine whether transactions are costless or not. This theory of new institutional economics questions the two crucial assumptions of neoclassical economics — costless transactions and perfect information — and stresses the role of institutions in facilitating market exchange by reducing transaction costs, providing a predictable framework for exchange, and overcoming imperfect information. In India, there are few practitioners of new institutional economics and that could explain why this aspect has not been addressed in the past decade.

The low focus on the judiciary obviously implies that non-compliance of contracts is not at all costly in India. The official dispute settlement mechanism does not deliver justice in a time-bound manner. Consequently, players are willing to bypass the system by paying rents to government officials, a system that became



customary in the License Raj. Officials are willing to accept quick money since there is little chance of getting caught, making venality a norm. Of course, studies in political economy have shown that strengthening institutions and political power enjoyed by the incumbent are in conflict of interest. Thus, the Opposition also has a major role to play in the solidification of institutions, including, and especially, the judiciary. Strong institutions are the key to move India up the economic ladder. Otherwise, India will remain a land of crony capitalists.

GS World Team...

Ease of Doing Business

Why in the discussion?

- Recently, in the World Bank's 'Ease of Doing Business' report, India has achieved tremendous leap of 23 places and is ranked 77th.
- The World Bank released the Ease of Doing Business Report on 31 October 2018. This ranking of India is the best performance ever.
- India's position in 8 out of ten standards has improved.
- In fact, India was ranked first time in the top 100 in the list of 190 countries last year.
- In the last two years, India is among the Top 10 countries that have improved the ranking of the Ease of Doing Business Index.
- India rank first in South Asian Countries. Earlier, India was at number 6 in the year 2014.

What is it?

- Ease of Doing Business means that it is easy for traders to do business in the country.
- According to the regulators and their rules of business, the conditions for doing business on 10 standards are seen how easy and difficult it is in a country.
- Doing Business Ranking is determined on the basis of Distance To Frontier (DTF) and these scores show how well the economy is doing in terms of business on global standards.
- In the year 2018, India's DTF score has increased from 60.76 in last year to 67.23.

Rare achievement

- India's leapfrogging of 23 positions in the 'Ease of business' index is certainly important because in this index last year, India had made a tremendous leap of 30 places in its ranking, which is a rare achievement for the largest and diverse country like India.

Main point

- New Zealand is at top in Ease of Doing rankings. After that, Singapore, Denmark and Hong Kong are ranked
- In the list, America is eighth, China is 46th and Pakistan is 136th. World Bank has placed India at the tenth position in the most reforming economies in this matter.
- India has jumped 53 places in its ranking in two years, which shows the highest growth done in any two years by any major country after the 2011 Doing Business Assessment.

How this ranking is determined?

- India has implemented 37 major reforms since 2003. In this report, Delhi and Mumbai were included in the year 2017.
- The report is based on the introduction of any business, construction permit, getting credit, protecting small investors, paying tax, trade in foreign countries, implementing contracts and making bankruptcies.
- who will nominate the president on the recommendation of these four members law.



Expected Questions (Prelims Exams)

1. Consider the following statements -

1. India was ranked 77th in 'Ease of Doing Business' Report in 2018.
2. India is ranked first in this report among the south Asian countries.

Which of the above statements is/are correct?

- (a) Only 1 (b) Only 2
(c) Both 1 and 2 (d) Neither 1 nor 2

Expected Questions (Mains Exams)

Q. India now needs a strong judiciary after economic reforms, which would be fast in dispute redressal. Presenting your thought in this regards, discuss it.

(250 Words)

Note: Answer of Prelims Expected Question given on 21 Jan. is 1(c)

