

CHAPTER 4

THE UNOFFICIAL STUDIES OF DELAYS

4.1 Judges

4.1.1 Justice V.R.Krishna Iyer, Justice at Crossroads¹

Justice Krishna Iyer emphasized the need for “a new Justice System, a progressive jurisprudence and a commitment to the compassionate culture, which spans from the Buddha to the Mahatma.” Justice Iyer speaks about the administration of justice as having a social dimension and the need of the Bench and the Bar to respond to the current chaos as a matter of their patriotic commitment. The Judge opines that “Judicial gerontology, what with wizened system, halted for its astronomical arrears, astrological verdicts, wrinkled procedures, proprietariat penchant, proletariat allergies and Kumbhakarna habits wrapped in Raj robes desiderates such urgent changes that it is naive to suggest that **more judges and more budgets alone** would make a heaven out of hell.”²

The common man is overawed by the Judicial Process as ‘riddle wrapped in a mystery inside an enigma’, what with its baffling legalese, lottery techniques, habitual somnolencies, expensive proclivities, multi-decked inconsistencies, tyranny of technicalities and interference in everything with a touch of authoritarian incompetency.³

Justice Krishna Iyer pinpoints managerial incompetence of the Judges and the courts as one of the primary reasons for such a crisis. To quote him:

¹ Deep and Deep Publications, 1992

² *ibid* at Chapter 7, *Quo Vadis Indian Justice?*, p. 120

³ *ibid* at p. 138

“Management incompetence is writ so large in the system that a grocer’s shop is better managed than a munsiff’s court and a business house has infinitely superior management skills than High Courts and Supreme Court. Of course, judges, wise in other ways, are infants in judicial business management.”⁴

In conclusion, the learned jurist voices a **managerial overhaul** of the judicial process as the need of the hour.⁵ The call for overhaul must cover **management of courts, research and development in justicing processes** and Projects prepared by a high-powered Judicial Planning Commission.

Among the various suggestions penned by him towards justice reform, mention may be made of the following:

- (a) Scrap the two Procedure Codes and re-enact simplified regulations consistent with rules of natural justice and the essence of the adversarial system;
- (b) Improve legislative drafting and establish principles of interpretation to be followed by the judges;
- (c) Adopt modern methods of court management and use of judicial executives who would take over the administrative functions of the judiciary, the object being the maximisation of judicial time for real adjudicatory work;
- (d) Provide training and education by institutions at national and other levels;

⁴ *ibid* at p. 150

⁵ *ibid* at p. 151

- (e) Establish judicial accountability, constant monitoring of the judicial process and performance and its institutions and actors;
- (f) Establish research and development wings for High Courts and the Supreme Court;
- (g) Provide legal aid to the poor and establishment of judicare institutions;
- (h) Reduce and elimination of Court fees;
- (i) Drawing up of a Perspective Plan and Five Year Plans for Indian Justice and the manner of financing the Plans;
- (j) Requirement of an Annual Report and Publication of information on the state and status of Justice;
- (k) Inhale Bar reform and foster new social ethics of the profession without undermining its independence;
- (l) Promote Lok Adalats and other democratic methods for door-step delivery of Justice;
- (m) Make systematic use of retired Judges for reducing arrears of cases at the District Court, High Court and Supreme Court levels;
- (n) Computerise and store case-law, statute law and other legal opinions; and,

- (o) Immunise the Judiciary against Executive invasion, mafia pressure and politicking *vis-à-vis* judicial recruitment, in-service threats and temptations, retrial and post-retiral pollution;

4.1.2 Justice A.S.Anand, Approaching the Twenty-First Century: The State of the Indian Judiciary and the Future Challenges

This lecture⁶ brings into limelight the ideas and views of Justice Anand on judicial reforms. As noticed in one of the preceding chapters, Justice Anand in his lecture, said that, 'there is no denying the fact that the [arrears] continue to remain the central challenge facing the Indian judiciary'.

Justice Anand viewed unfilled vacancies and less number of judges as one of the primary reasons for delay in adjudicatory process. However, he also cautioned that mere raising of strength of the judges in the subordinate courts is not enough. It is also crucial that the right appointments are made based on merit, suitability, ability and integrity. In procedural laws, changes are required. Curtailment of appeals and revisions against interim orders as also adjournments is a must.

One of the solutions offered by Justice Anand is financial and administrative autonomy of the judiciary. The Chief Justices of the High Courts need to be given financial and administrative powers *vis-à-vis* State judiciary, by transfer of financial as well as administrative powers, from the executive to enable them to function effectively. The challenge of expensive justice needs to be curbed with extensive use of Alternative

⁶ Delivered at the Dashrathmal Singhvi Memorial Lecture compiled in Munish Gandhi, *Justice for Women: Concerns and Expressions*

Dispute Resolution systems like Lok Adalat, which needs support of the Bar and the Bench.

4.1.3 Justice Gumanmal Lodha, Judiciary: Fumes, Flames & Fire⁷

The author is the Ex-Chief Justice of Assam High Court. The book was published in the year 1983. It is a collection of essays written by the author on various topics. Part 5 of the book, wherein the author has discussed the lower judiciary, is quite revealing. Giving concrete examples, the author shows his anguish when he describes the “plight and pitiable conditions of living” of judicial magistrates and the grossly inadequate and dilapidated conditions of court buildings in which these judicial officers function. Quite often there are no almirahs to keep the files and what is equally appalling is that even printed forms and receipts for judicial work are not available. Most of these judicial officers live and work in rented buildings. Poor salaries, quick transfers, lack of avenues for promotion and sometimes bullying by lawyers adds to their woes. **And according to the author, “it is the lowest in the ladder of the judiciary who is the real pillar, bedrock and foundation of an efficient and successful judicial system”.**

The author has suggested certain measures for improving the plight of the Munsif:

1. **Financial Autonomy for Judiciary:** Leaving aside courts at district places, most of the Munsif courts are functioning in rented premises from landlords as the State has not been able to provide government buildings primarily on account of financial resources and equally on account of apathy and indifference to the financial requirements of the Judiciary. This, in the author’s view, can be

remedied by 'Financial Autonomy for Judiciary' and restoration of 'Primacy of Chief Justice'.

2. Intensive Training for Judicial Officers: The Judicial Officers must be taught the practical aspect of Judicial Administration. A system of judicial training for officers before they join their jobs should be introduced. It has been suggested by the author that the High Court should insist on at least six months compulsory training of the newly selected judicial officers.

4.2 Academicians and Members of the Bar

4.2.1 BOOKS

4.2.1.1 Upendra Baxi, The Crisis of the Indian Legal System

The first publication of the above book was in the year 1982. In Chapter 3 of the book, the learned author has dealt with the subject of arrears in Court by describing the problem as "the Docket Explosion". He has broadly summarized the factors contributing to delays in four categories: (i) government caused delays (ii) court caused delays; (iii) Bar caused delays; and, (iv) litigant caused delays. He opined that the overarching rubric of the very structure of the normative law, and its institutions, is a domain by itself. According to him, the problem raised by the overload of justice institutions is not one admitting facile or ad hoc solutions such as the increase in judge strength or some piecemeal reforms in one area or another. The problem, according to him, is "one that requires a critique of the Indian Legal System as it now exists and willingness to consider

⁷ Unique Traders, Jaipur, 1989

bold departures from it. In this sense, and in this only, the crisis of the Indian Legal System provides an opportunity for its **restructuring** as well.”

Mr. Upendra Baxi, an acknowledged jurist, has tried to analyse the role of each of the above categories in the docket explosion. He concludes by saying that “the crisis in the Indian Legal System cannot just be handled just by **tinkering with the outer peripheries of the justice system.**” The problems raised by arrears are problems whose scope transcend the court system itself and lies in the entire set of arrangements, which we call here the Indian Legal System. Perhaps, nothing short of a total transformation is needed if we are even to begin to “solve” these problems. That is why the crisis of the Indian Legal System also presents substantial opportunities for its reconstruction.

4.2.1.2 Robert S. Moog: Whose Interests Are Supreme?⁸

This objective and analytical study of an American researcher unfolds many hidden weaknesses of the Indian sub-ordinate judiciary. The legitimacy of an institution such as the judiciary is reflection of the respect the people give it and credibility accorded to it. According to the author, in situations in which a court’s neutrality is questioned, or when one of the litigants perceives that the court is allowing itself to be manipulated by the opposite party in pursuit of a non-meritorious claim, the court loses legitimacy and compliance with its rulings may suffer. According to him, once the court’s legitimacy is depleted, compliance with laws becomes less likely, and as compliance with decisions decreases, the court is further discredited. The concept of depletion of legitimacy is certainly relevant to the subordinate courts. He has noticed that in the eyes of much of the

⁸ Published by Association of Asian Studies, Michigan, 1997.

public, the advocates, and even the presiding officers, the legitimacy of these courts as forums of dispute resolution had been very nearly spent. He concluded by opining that much of what these courts are doing is not “meaningful” dispute resolution at all.

The author analysed the conventional explanations available for court depleted legitimacy and usefulness.

- (a) **Too few Presiding Officers:** By analysing the available statistical data relating to pendency, filing and disposal of cases on one hand and the strength of judicial officers involved in judicial work on the other hand, the author has concluded that “there is more to the problem of pending cases and delays than the average caseload of munsiffs.
- (b) **Insufficient Funding:** This relates to inadequacy of salary of the Presiding Officers, deteriorating infrastructure of the court and outdated equipment. According to the author, even if a better qualified breed of presiding officers were hired, these judges and munsiffs would possess no more power in their relationships with the other principal actors than the present ones do.
- (c) **Code of Civil Procedure:** Some sections of the CPC, are most often used to delay cases. Relying on the 14th Report of the Law Commission of India, the author concludes that “the problem, therefore, appears to lie not in the procedural formalities of the Code itself but in the informal manner in which it is commonly applied”.
- (d) **Complex Legislation:** This is not a plausible reason at the Subordinate judiciary level because the law involved in litigation at this level is mostly settled. Rural

litigation mostly turns on such factual questions such as where a boundary line of a disputed land is located or whether a document is genuine.

- (e) **Litigiousness:** By comparing the statistical data of the US and of cases instituted per one lakh population in U.P. , he has opined that Indians, in comparison to Americans, are extremely conservative in their resort to district level civil courts.

According to Moog, the author, since conventional explanations offered for the poor functioning of the district level civil courts are unsatisfactory, more research was carried out in this study to ascertain the causes of delay. This study also examines behavioral pattern of the principal actors of the Indian judiciary, consisting of (i) Presiding Officers (ii) Advocates (iii) and Clerks, Peons and Process Servers. Thereafter, an in-depth study was made of the inter-se relationship among the principal actors (i) Presiding Officer-Advocate (ii) Presiding Officers-Clerks, Peons, and Process Servers (iii) Advocates-Clerks, Peons, and Process Servers (iv) Plaintiffs' and Defendants' Counsels. This study also analyses and identifies the true users and the used of the district court system and distinguishes them from touts. This study also examines the standards in law schools, quality of the students and the education imparted to them. The study looks into the vices involved in the administrative powers of the High Court, the functioning of the Bar Councils.

After an elaborate examination of the whole justice imparting system at the district and subordinate levels in India, this study concludes that the High Court does affect the internal distribution of power and thus it indirectly influences the daily decision making process in subordinate courts. It does so, largely through the threat of its disciplinary

power and what at least some presiding officers perceive as its lack of support. The study further concludes that subordinate judges see themselves as far too susceptible to scrutiny by a largely unsympathetic High Court, based on what they often believe to be capricious complaints (from an advocate or someone among the court personnel) or an unfair report. This disciplinary power, in conjunction with the High Court's promotion policy (based largely on seniority) and its frequent transfer of presiding officers, is partially responsible for a weakened, overly cautious, and pliable subordinate judicial service, often unable or unwilling to assert itself against the advocates and at times not even against its own courtroom staff. It is doubtful that the High Court intended this when it formulated its policies, but that has been the result. On the other hand, the relative lack of control exercised over the advocates by the Bar Councils has strengthened the advocate's position, enabling them to be more aggressive in pursuit of their interests with less fear of disciplinary action.

4.2.2 ARTICLES

4.2.2.1 *N.R.Madhava Menon*⁹, State of Justice: An Agenda for Change¹⁰

To the author, the judicial system is in a bad shape today because of poor management of resources and a continuing reluctance to do what it can do within the existing framework. Brushing aside but not denying the blame on the government for the present judicial crisis, the author opines that among the factors for popular dissatisfaction with the delivery of justice in India, there are some attributable to the judicial machinery and its

⁹ The author is the former Member of the Law Commission of India, former Director of National Law School of India University and presently Vice-Chancellor, West Bengal National University of Juridical Sciences, Kolkata.

¹⁰ The Hindu Daily, Jan. 8th, 2001

management, for which the judges, lawyers and court administrators are themselves responsible.

The author takes the examples of hours of work, division of work, management of work, attitude towards work, priorities in work, little courtesies at work and accountability systems which would be set on track only when judges, lawyers and ministerial staff take their work more seriously than they do at present. The disappointment, as pointed by the author, is a general lack of concern and absence of judicial leadership in pressing for change. A planned and co-ordinated effort to shake-up the system and put the judicial house in order has not been made despite the availability of several reports of the judiciary and government. The thrust of the author's suggestions seems to be to improve the managerial functioning of the judicial system.

To face the above vices and challenges, Mr.Madhav Menon broadly makes the following suggestions whereby judicial productivity can be increased and quality of justice improved:

1. **Changes in work culture, work ethic and work environment:** This includes changes to work attitude, management of work, priorities in work, little courtesies at work, accountability systems, etc. This requires more seriousness on part of the people working in the system.
2. **Manpower selection and training:** The proposal to set up a National Judicial Services Commission for dealing with selection, discipline and other matters relating to the Union judiciary deserves to be examined for attracting the best minds into judicial office. It has been suggested that High Courts meanwhile can

do a lot to improve the machinery and procedural for judicial selection. An organized programme of training for judicial officers is required to be set up by the High Courts.

3. Goal setting, Prioritisation, Monitoring, Management and Maintenance: Court management should be taken out of the control of the Judges and judicial time should be devoted to judicial work only. It is time that court management is taken out of the control of the Judges and entrusted to trained administrators who are made accountable to the tasks of modernizing, maintaining and showing performance at all levels of judicial establishment.
4. Alternative Dispute Resolution, Pre-trial Settlements and Legal Aid.
5. Anticipating Needs, Involving the Profession and Inducing Change.

4.2.2.2 K. L. Bhatia, Gurdeep Singh, Jagmohan Singh, Delay: A Riddle Wrapped in a Mystery inside an Enigma¹¹

This research report is primarily aimed at analyzing the delays in criminal justice system in India. This article initially leafs through the recommendations made in various Reports of the Law Commission of India and other Committees constituted specifically for looking to the problem of delays in India and the implementation of those suggestions by way of statutory amendments. The authors point out the various dictums of the Supreme Court related to speedy justice. The authors however conclude that though the state kept its constitutional obligation by devising a procedure, that ensures a speedy trial for the accused and though the superior courts have also not lagged behind their constitutional

obligation in enforcing the right of the accused to a speedy trial by issuing the necessary directions to the state, yet delays persist. It is this dilemma, which led the authors to undertake this research project.

The authors point out various reasons for delay in criminal justice to the victims. Much time is consumed in between the various stages of the procedure like time consumed from occurrence of the offence to filing of FIR, then, date of occurrence to the date of dispatch of report by expert agency, filing of challan by the police in a court of law from the date of arrest of accused, time consumed in framing of charges, fixing the calendar from date of such framing, between date of first hearing and date of last hearing and lastly, time consumed from date of last hearing to date of delivery of judgment. One of the reasons pointed by the authors is grant of adjournments during the course of trial.

Certain measures to curb these delays have been pinpointed by the authors:

- a) Judges should desist in granting frequent adjournments on demand;
- b) Police must be made conscientious of its obligations so that investigations and other formalities are completed in the shortest time diligently;
- c) Court should not encourage cessation of work on account of strike;
- d) Prolific arguments should be avoided;
- e) Punctuality and sitting for more hours must become a practice;
- f) A federal calendar must be fixed in time and followed strictly;

¹¹ 37 JILI (1995) 42

- g) Admonishment and strictures should be used against erring law officers who consume more time completing the investigation process and filing the challans in as much as to discipline the disciplines thus shunning off their habitual practice of consuming time.

4.2.2.3 *M.M.Khapali*, Some Suggestions for Reducing Delays in Litigation¹²

The author, in this small comment on laws delays, has broadly analyzed the reasons for delay in civil litigation and suggested certain measures to mitigate it. He divides the reasons broadly into, (1) inevitable and inherent which cannot be eliminated like providing repeated opportunities to hear the party so that no injustice is done; (2) procedural in nature which can be eliminated like delay in getting the copies of deposition judgments, dispatch of records from one court to another or getting the old records from the district court.

Suggestions made by the author to at least mitigate if not eliminate avoidable reasons for delay include:

- a) All judges should be provided with typewriters.
- b) Modern methods for storing documents including the use of microfilming should be pressed into action.
- c) Use of dictaphones may be considered.
- d) Centralised printing exclusively devoted to the court work will help eliminate delay.

- e) At the arguments stage, written arguments should be made compulsory.
- f) Time consumed in taking *ex parte* evidence should be eliminated by providing for the filing of affidavits as done in cause cases.
- g) Amendments in certain areas¹³ will help avoid needless and frivolous litigation.
- h) Subordinate judiciary should be made attractive by way of good salary and perks apart from proper amenities including good library to get talent.

4.2.2.4 *Abhishek Manu Singhvi, Judge by Reforms*¹⁴

The learned author poses the back-breaking backlog as the biggest challenge, this in his view, is compounded by structural problems. The author classifies problems and solutions under four heads:

- a) **Structural:** This includes inadequate judge strength; grossly delayed appointments. Secondly, inadequate infrastructure for which the author suggests an exponential increase, improvement in legal infrastructure.¹⁵ Thirdly, handing over the financial purse strings for judicial expenditure to the judiciary itself. The negotiation of the judiciary for funds with the biggest litigant before the courts – the executive – reduces its independence. Next, law and justice must become a part of planned expenditure figuring as a substantial component of the plans drawn up by the Planning Commission.

¹² Indian Bar Review Vol. 14(2) 1987 p.271

¹³ The author gives examples of possible amendments in the Registration Act and Land Acquisition Act, which would help reduce delays in cases relating to such areas. (See *ibid* at p. 273)

¹⁴ *Economic Times*, 19.12.1999

¹⁵ The author opines that we need at least 5000 more courts; more, and better-appointed, law libraries and court complexes.

- b) **Legislative changes:** Implementation of a comprehensive menu of Alternative Dispute Resolution is recommended by the author. The proposed amendment to the Civil Procedure Code is a step in the right direction relating to ADR. Further, such ADR menu would include Lok Adalats, arbitration, conciliation and judicial settlement. Under this group, the author also suggested legislative elimination of multiple intra-court appeals and appeals against every interlocutory order.

- c) **Procedural:** Many suggestions were made under this criterion. Firstly, commissioners should record all evidence outside the court. Secondly, those seeking interim relief should be made to give security. Thirdly, the weapon of costs should be made use of and awarding of costs should become a norm and not an exception. Fourthly, the entire court administration system should be modernized which alone will expedite information-exchange. Fifthly, courts should develop a two-track monitoring system: one group of judges to track current filings; and, the other one for pending cases. Sixthly, time limits should be put by the judges on oral arguments. Seventhly, daily cause lists need rationalization in a way that a single list shows cases that are actually intended to be adjourned, and those which are supposed to be taken up for hearing and disposal. Eighth, no leap-frogging of new high-profile cases over the old ones should be permitted.

- d) **Attitudinal Change:** Mr.Singhvi emphasizes the need for a fundamental attitudinal change in the work culture in the courts while taking the example of the Supreme

Court.¹⁶

4.2.2.5 Marc Galanter: *Fifty Years On*¹⁷

The author wonders how can it be that few and perhaps fewer Indians invoke the courts while there is a widespread perception that the courts are inundated with cases, that frivolous litigation is rife, and that there is an abundance of hungry lawyers? Is there a connection between the relative scarcity of litigation and the impression that there is so much of it? Certainly Indian courts are desperately congested, even though the number of cases filed is small on a per capita basis. They appear to be heavily used because there are relatively few courts (in comparison to other common law countries). These courts are poorly equipped and inefficient. **Delay is endemic.** Outmoded procedural laws provide abundant scope for delaying tactics. Judges, fearful of the Bar, lack leverage to discipline lawyers or use available tools to expedite proceedings. Cases linger interminably and arrears mount.¹⁸

Galanter has viewed Lok Adalats as instance of a debased informalism – debased because it is commended not by the virtues of the forum it provides but by avoidance of the torments of the formal institutional process. Lok Adalats are only the most visible manifestation of this debased informalism, premised on the irredeemability of the formal legal process. A most dramatic and striking instance of this was the February 1989 settlement of the Bhopal case. The Government and many observers, including some in the judiciary, justified the settlements as beneficial to the victims by comparing it

¹⁶ According to the author, the arrears were reduced from 1.5 lakh (1995), to less than 22,000 (1997) and now rules at 17,000 (in 1999)!

¹⁷ *Supreme But Not Infallible: Essays in the honour of the Supreme Court Of India*, published by Oxford University Press

with the results of further litigation that would have lasted 'anywhere from 15 to 25 more years'. This was not a claim that the settlement represented the victims' true entitlements; rather it was an assertion that whatever the magnitude of those entitlements, the unalterable character of the Indian legal system made it inevitable that they could not be obtained before passage of so long a period that the discounted present value of these claims was less than the amount to be delivered under the settlement. The features of the system that insured protracted delay were treated as given and unchangeable.

Lok Adalats and other manifestations of 'banyan tree justice' are reflections of 'failing faith' in the efficacy and virtue of the formal legal process—at least in the lower courts. Abandoning all hope of reform, what is offered instead is a programme of palliation which is virtually a photographic negative of the animating idea of Public Interest Litigation (PIL) that the Supreme Court pioneered in the 1980s.¹⁹

According to Galanter, Law Commissions and other observers have been decrying the conditions of the lower courts for a century. He wonders that the current surge of defeatism should appear just as an expanded understanding of the dynamics of courts and new technologies supply, would-be reformers greater insight and more options than were available earlier. Although energizing the broad base of the judicial system to make responsive to public needs requires legislative enactments, many initiatives could be pursued by the higher judiciary in its role as overseer and guide of the lower courts. For example, the Supreme Court could set a model for the courts by curtailing unlimited oral argument; it could propose ways to free lower court judges from recording

¹⁸ *ibid* p.59

¹⁹ See *ibid* at page 62

evidence and to modify the evaluation of those judges to reward resistance to delay; it could give priority on court dockets to cases involving claims of excessive delay in the lower courts, so that powerful interests who wanted their cases heard promptly would be enlisted to support measures to assure that lower courts were functioning adequately.

Galanter suggests that in addition to these institutional and procedural changes, the higher courts have some scope to provide the lower courts with the substantive tools they need to make justice accessible to ordinary citizens. Perhaps the single greatest opportunity is the development of tort law, a field that legislative neglect has left to the judiciary for incremental common law development. The rationale of tort law is that in addition to dramatizing public standards of care, it secures compensation that makes an injured party 'whole', shifting cost of injuries to injurers and inducing potential injurers to invest in preventive efforts that reduce the incidence of future injury. Experience elsewhere has shown that tort is a rather spotty and uneven way of providing compensation for injuries and that the preventive effects it generates are often less than optimal. However, in a setting of no remedies for negligent injury and no pressure for prevention from the law, the net incremental benefits of a vivified tort law would be substantial.

He further suggests that in addition to being viable because it is already 'there' in theory, tort law has a further advantage: it does not depend on continuing inputs from government or external actors, but would generate strong incentives among lawyers and parties for its continuing use and development. Besides, it can operate without the extensive ex ante investment that it takes to put into place safety regulations or administrative controls and the continuing investment in updating and enforcing them.

The major function of government would be to resist pressures from discomfited parties to dismantle or cripple the system.

The need for the legal system to adapt to international capital flows and new productive technologies is widely understood. However, the changes incident to modernization of the economy also impact on the workers, consumers, and neighbours; machinery, transport, and chemicals bring unprecedented benefits, but they also bring injuries and risks of greater magnitude, typically caused by remote entities over whom there is no control through the ordinary reciprocities of life. The development of the kinds of remedy and accountability that may be afforded by tort law is particularly needful in an industrializing society in which neither social insurance nor effective administrative regulation is present.

In the coming decades, the Supreme Court will be challenged by many difficult and momentous legal questions. It will also face difficult problems of restructuring itself as an institution to meet the new demands that will engulf it. In addition, the Court will encounter the daunting task of building a strong and effective system of lower courts in which ordinary Indians can find expeditious remedies for everyday harms. Those remedies cannot be found in informalism detached from a flourishing system of efficacious courts. The road to useful informalism is through vigorous reform of formal legal institutions, not through resigned surrender to the unalterability of their defects.²⁰sss

²⁰ See *ibid* at page 63, 64