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Process Reforms as Public Policy: Case of India

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¹ The views presented here are those of the authors and do not necessarily represent the position of either Institute for Competitiveness or Stanford University. Working papers are in draft form. This working paper is distributed for purposes of comment and discussion only.

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Executive Summary

Process reforms are an important policy tool for improving economic performance. Indian economy has shown strong economic growth and macroeconomic resilience in past few years, which has been lauded by many. Many factors have contributed to this success. The ones that are most widely acknowledged are structural reforms such as introduction of GST, an inflation-targeting framework, and the implementation of the Insolvency and Bankruptcy Code; focus on infrastructure development etc. Another very important contributor has been the systematic application of 'Process Reforms' in order to improve ease of doing business, delivery of public services and removal of outdated regulations. However, the contribution of these reforms is not fully appreciated in economic literature.

So, what exactly are process reforms? Process reforms are the nuts-and-bolts reforms, often microeconomic in nature, with a specific focus on an individual sector or issue. Their core objective is to simplify and streamline operational processes and enhance the efficiency of a particular activity. Although such reforms involve small changes, they still have the potential to make significant impact.

Despite their importance, discussion about this class of reforms is limited in both policy discussions and academic publications except specific instances. Though there are writings about changes done in a specific sector. This is in contrast with the extensive literature on Business Process Re-engineering in the corporate sector. The framework of Business Process Restructuring is as much applicable for public policy as much for corporates. This paper attempts to fill in this gap by creating a framework for thinking about process reforms. One key feature in type of reform is the importance of clearly mapping out the existing process and then identifying the problem points.

We illustrate that there are at least six types of process reforms using India's recent experiences. The first type, which is the simplest of all, requires administrative streamlining of existing processes. We illustrate this using the example of Direct Benefit transfers to beneficiaries account with use of technology. The second type of process reforms requires changes in regulations under the existing law, as illustrated in the case of telecom regulations for the IT-BPO sector. The third type requires amendments to the legislation. We illustrate this with the case of decriminalisation of various offences under the legal meteorology law. The fourth type requires adding capacity at some level of the government, as illustrated by the expansion of India's Intellectual Property Rights ecosystem. The fifth type of process reforms involve removing of a state mandated activity. This is illustrated using the requirement of compulsory mediation before litigation in commercial cases. Finally, the sixth type of process reform involves merging, closing or restructuring government bodies as has been done with various autonomous organisations in India in the past few years.

Though we have used Indian illustrations in this paper, process reforms have universal application as inefficiencies in government processes exist in all countries.

I. Introduction

In recent times, India has received widespread appreciation on its improved economic performance. It has been credited widely for having displayed macroeconomic resilience. IMF in its recent statements mentioned that India is one of the fastest growing large emerging markets is contributing more than 16 per cent of global growth this year.

While there are many factors contributing to this success, there are few which have received more attention than others. The reforms that are usually credited are the key structural reforms such as the Goods and Services Tax (GST), introduction of an inflation-targeting monetary policy framework, cleaning up of the banking system and the Insolvency and Bankruptcy Code (IBC), push to digitisation among others. Another factor which is usually acknowledged is the broad-based push to infrastructure development.

However, apart from these, another very important contributor has been the systematic application of process reforms in order to improve ease of doing business, delivery of public services and removal of outdated regulations. They are being routinely used to manage the supply side of the economy. It is being included as a part of training of government officials as well so as to make these a routine part of the policy tool-kit²³. Yet, the contribution of these reforms is not fully appreciated. While individual reforms are touted to have been instrumental in successfully bringing about key changes, they often aren't understood as a distinct category of reforms.

So, what are these process reforms? These are the nuts-and-bolts reforms that are done to simplify regulations or processes related to a particular activity or sector. They are aimed at simply making an existing system more efficient. These are targeted changes, often microeconomic in nature, with an emphasis on a specific issue. They often require no more than a series of small tweaks, but can have significant overall impact. In fact, in some cases, process reforms can prove essential for the success of structural reforms.

Despite its importance, there is little academic literature available on government process reforms, not only in India but across the world. This does not mean that Governments have not used this for public administration. In fact, Governments across the world have been using this to tackle various policy issues.

Some countries have placed more systematic focus on the issue. For instance, in the United States, the Government Accountability Office has published a guide to assist federal agencies in their business process reengineering efforts. Similarly, Hong Kong has an Efficiency Office, to help government agencies – whether individual departments or several departments under one or more policy bureaux – undertake business process re-engineering. The Hong Kong's Efficiency Office launched a Streamlining of Government Services programme in 2019 with an

² <https://ladakh.nic.in/training-on-government-process-reengineering-conducted-in-ladakh/>,
https://www.mcrhrdi.gov.in/images/1st_quarter/GPR.pdf

³ <https://nielit.gov.in/content/workshop-e-governance-and-government-process-reengineering>

aim to improve government services through streamlining business processes and widening the adoption of technology on a continuous basis. From 2019-20 to 2022-23, a total of 316 streamlining measures have been proposed by 39 bureaux and departments. The result has shown shortened processing time, reduced manpower efforts, reduced administrative costs leading to better ease of availability and saved resources for citizens along with improved transparency and government accountability⁴. Yet, the broader policy discourse does not focus on these process reforms as a distinct class of reforms.

Interestingly, there is a lot of literature available on business process re-engineering for corporates. Whatever literature is available on public sector, it is either related to Public Sector Enterprises or if it is regarding public administration, it mostly focusses on a one-off event or activity.

This paper delves into the understanding of process reforms as a class of reforms. We have created a framework to think about process reforms based on the learnings from literature on Business Process Re-engineering in corporate sector and from some literature available from other countries regarding the process re-engineering in public policy. Further, we have given the possible type of process reforms using the examples from India.

II. What does the literature on business process re-engineering say?

There is a lot of literature available on Business Process re-engineering for corporates. It is a business management strategy originally pioneered in the early 1990s. The strategy is to focus on the analysis and design of workflows and business processes within an organization.

This began as a technique to help organizations rethink how they do their work in order to improve customer service, cut operational costs etc. In 1990, Michael Hammer, a former professor of computer science at the Massachusetts Institute of Technology (MIT), published the article "Reengineering Work: Don't Automate, Obliterate"⁵ in the Harvard Business Review, in which he claimed that the major challenge for managers is to obliterate forms of work that do not add value, rather than using technology for automating it. He argued that "The usual methods for boosting performance—process rationalization and automation—haven't yielded the dramatic improvements companies need. In particular, heavy investments in information technology have delivered disappointing results—largely because companies tend to use technology to mechanize old ways of doing business. They leave the existing processes intact and use computers simply to speed them up. It is time to stop paving the cow paths. Instead of embedding outdated processes in silicon and software, we should obliterate them and start over. We should "reengineer" our businesses." This essentially meant that the businesses need to go into detail of the processes and remove the inefficiencies at each step.

Another important beginning of Business Process Restructuring is attributed to the book 'Reengineering the Corporation: A Manifesto for Business Revolution' by Hammer and Champy

⁴ <https://www.effo.gov.hk/en/our-work/management-consultancy/streamlining-of-government-services-programme>

⁵ <https://hbr.org/1990/07/reengineering-work-dont-automate-obliterate>

(1993). It is widely referenced by most researchers of this field and is regarded as one of the starting points of business process restructuring. They define business process restructuring as the fundamental rethinking and redesign of business processes to achieve dramatic improvements in critical, contemporary measures of performance, such as cost, quality, service and speed.

Business process re-engineering is also sometimes termed as business process redesign, business transformation, or business process management. It is important to distinguish it from project or programme management, where the focus is on individual projects.

While different people have put together a list of steps to be undertaken in slightly different ways, typically, business looking for process re-engineering have to do these five steps:

- I. Define the processes
- II. Analyse the processes
- III. Identify the process re-engineering opportunities
- IV. Develop and implement re-engineered processes
- V. Monitor and evaluate the progress of the process after re-engineering

In essence, the first step of any process re-engineering involves mapping the current process as it exists today. Second is to analyse various aspects of each process- i.e. time taken, cost of each step. Then the next step is to identify where the blockages or inefficiencies are. Fourth is to make the necessary changes in the processes and then continuous monitoring of the re-engineered processes.

III. Process reforms in public policy

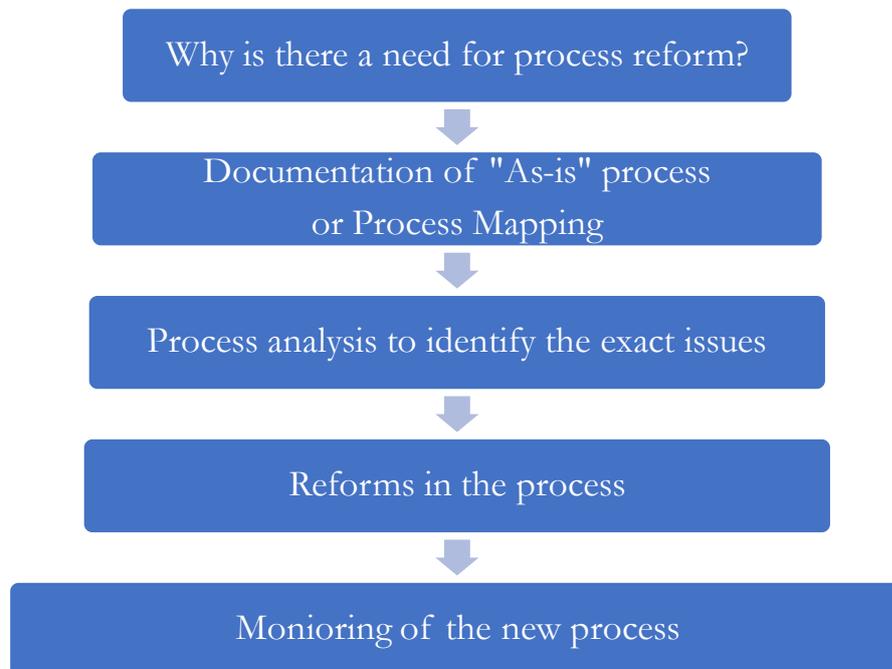
Even though the objectives of public policy are very different from the goals of a business or private enterprise, the principles of process re-engineering can be and in fact are routinely applied by the government. The basic steps involved in the government process reforms are very similar to that of business process re-engineering. Though there are wide applications of this in public administration, there is very little academic literature available on the subject. In whatever literature is available for process re-engineering in public administration, it does not treat 'process reforms' as a distinct standalone type of reform.

Government deals with different agents- citizen, businesses, employees and other government departments. So, the processes followed in each activity may vary and the exact steps taken to undertake reforms will be different. However, the core principles remain the same.

Some countries and international bodies have provided a framework for Business Process Re-engineering in public policy. For instance, European Union and UNDP in Uzbekistan has developed a Manual on effective and efficient usage of BPR in public service delivery (BPR Manual), encompassing the guidance on how to improve the public service delivery "Improved public service delivery and enhanced governance in rural Uzbekistan". The manual lists down the steps to be done to do BPR in public policy. Though the manual has been prepared for Uzbekistan, the lessons are applicable in general. Similarly, United States has a Business Process

Re-engineering Assessment guide.⁶ In India, Handbook on Government Process Re-engineering was prepared by National Institute for Smart Government on behalf of Department of Electronics & Information Technology as part of some training programme⁷.

Using the learnings from these manuals, literature from BPR in corporate sector and India's own experience, we have created a broad framework for undertaking process reforms in the Government, which is as follows:



Step I: First step in the process re-engineering is to understand the actual aim of the rule/law/regulation which is under study. This is to understand what is the actual result that this re-engineering aims to achieve. This will help in laying out clear problem statements and hence pinning down the ‘target’ of the process reform.

Step II: Second step is to map out the existing process ‘As is’. Process Mapping is the process of documenting the process as it exists today with the intention of developing a correct understanding of how things happen “actually” and not how they are supposed to happen as per the regulations. This is the most important step as sometimes the processes may be different from what are envisaged due to various reasons. This mapping needs to be done in as much detail as possible.

Step III: The next step is the analysis of the mapped out process to find out the problems and issues. This step is important to find out the parts of the process which are redundant or are not essential. This will require detailed analysis such as time taken at each process, cost incurred by both the citizen or business and the government in delivery of the service. Further things to note are as transparency at each step, complexity of the process by measuring things such as number

⁶ <https://www.gao.gov/assets/aimd-10.1.15.pdf>

⁷ <https://www.meity.gov.in/writereaddata/files/GPRH170512.pdf>

of forms to be filled, number of offices to approach etc. This will help in identifying the chokepoints or bottlenecks in the system.

Step IV: After identifying the issues in the process, the next step is to prepare the new process design. There can be various ways of addressing a problem that has been identified in the process. A decision has to be taken as to how will the process be changed to rectify the issue identified. This may involve removing, reducing, redesigning or replacing the non-value adding activities of the process. For some processes, automation of a manual process can fix the problem or in other cases outsourcing a part of the process may be required. Once the new processes are defined, they have to be implemented as per the context. Since the processes for any sector or area are usually derived from underlying regulations or legislations. Hence, making changes to the process may require changes in the appropriate rules or maybe legislation in some cases, whereas in some other cases administrative changes may suffice.

Step V: Finally, once the process reforms are carried out, it is important to monitor the impact of those reforms. It must be noted that process re-engineering is a continuous process instead of a one-time event. Hence, it is imperative that continuous feedback be taken allowing for iterations.

IV. Types of process reforms in public administration

The way in which processes need to be re-engineered depend on the context. In some cases, the bottlenecks can be removed via simple administrative adjustments, whereas in others it will require amendment in regulations and in other even in the legislation itself. Some issues could be caused by the lack of adequate capacity in a activity where presence of the government is important, whereas in other an unnecessary activity that has been mandated by the Government is non-valuer adding and should be removed. Further, in case cases entire organisations that have been set up by the government may not be necessary in the current context, and may require rationalising. In this section, we discuss six ways of carrying out process reforms. The illustrations below have been taken from India's recent experiences, however the core idea will be applicable to all counties as similar inefficiencies may exist anywhere.

Type 1: Streamlining of the existing administrative processes

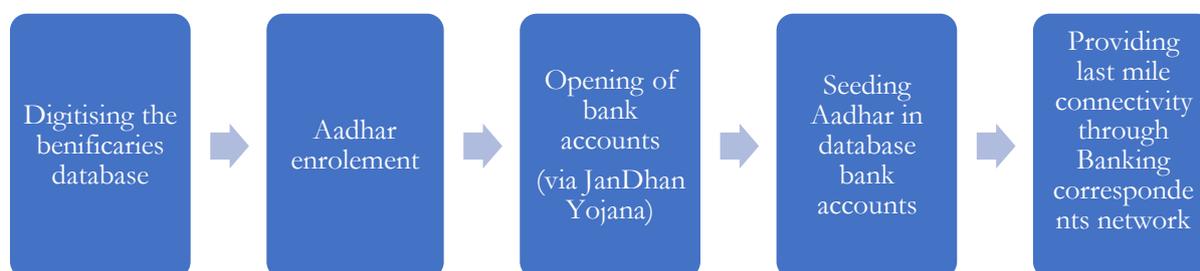
The first type of process reform is the simplest which merely requires streamlining of administrative processes. It does not require any change in the legislation or addition of any resources or capacity by the government. We illustrate this kind of process reforms using the case of Direct Benefit Transfer (DBT) in India which has completely overhauled the on-ground delivery of public services.

DBT is not a social assistance programme in itself, but a means to provide one. Launched about a decade ago as a transformative programme in public service delivery using modern Information and Communication Technology, DBT has expanded to over 300 Central schemes and more than 2000 State schemes.

Earlier, the transfer of money used to happen through multiple intermediaries leading to inaccurate targeting of beneficiaries, duplication of beneficiaries and leakages from the system. Additionally, there were large delays in the payments. This led to overall ineffective public service delivery. It was estimated that these inefficiencies led to leakages worth 2% of the India's GDP, which is around 50% of total subsidy outlay.⁸ Previously, as well, a study by Planning Commission in 2005 found that about 58% of the subsidized food grains issued from the Central Pool do not reach the BPL families because of identification errors, non-transparent operation and unethical practices in the implementation of Targeted Public Distribution System (TPDS). The report further found that for one rupee worth of income transfer to the poor, the Government of India spends Rs.3.65, indicating that one rupee of budgetary consumer subsidy is worth only Rs 0.27 to the poor.⁹

This was clear that the process of delivering subsidies and benefits to the citizens clearly required an overhaul. And hence, DBT was launched. DBT was made possible because of triangulation of the following three components- Jan Dhan, Aadhar and Mobile (JAM). It began with the Government of India issuing a unique identification number to its citizens, called the Aadhar. Then, under the Jan Dhan scheme, no-frills savings accounts were opened for a very large section of the population. Around 516 million beneficiaries have been covered as on January 2024. Thirdly, mobile numbers were linked with both the Jan Dhan accounts and Aadhar IDs.

Pre-requisites for DBT



Source: <https://dbtbharat.gov.in/data/documents/REPORT-ON-DBT.pdf>

DBT through its direct and time-bound transfer system enabled the governments to transfer benefits using just an individual's bank account number preferably linked through Aadhaar. This Aadhaar number or the biometric input, being unique in nature, removes 'duplicates' and 'ghosts' from the government databases. This helped in curbing leakages and pilferation.

It is estimated that since launch of DBT, close to Rs 2.7 trillion¹⁰ have been saved up to March 2022. Out of the cumulative DBT-enabled gains, weeding out of 42 million fake ration cards under the public distribution system for food grains helped in saving Rs 1.35 trillion (50% of the

⁸ <https://dbtbharat.gov.in/data/documents/REPORT-ON-DBT.pdf>

⁹ [https://dmeo.gov.in/sites/default/files/2019-](https://dmeo.gov.in/sites/default/files/2019-10/Evaluation%20Study%20on%20Targeted%20Public%20Distribution%20System%20%28TPDS%29.pdf)

[10/Evaluation%20Study%20on%20Targeted%20Public%20Distribution%20System%20%28TPDS%29.pdf](https://dmeo.gov.in/sites/default/files/2019-10/Evaluation%20Study%20on%20Targeted%20Public%20Distribution%20System%20%28TPDS%29.pdf)

¹⁰ <https://dbtbharat.gov.in/static-page-content/spagecont?id=18>

total). Removal of 41.1 million fake beneficiaries under LPG-PAHAL scheme helped in savings to the tune of Rs 729 billion (27%). Among others, the deletion of duplicate beneficiaries under the job guarantee scheme, MGNREGA yielded gains of Rs 410 billion (15%) and Rs 187 billion (7%) due to a reduction in the sale of subsidised fertiliser. And this is an underestimate as is the savings only to the government, that too on account of some schemes. It does not include the savings to the beneficiaries on account of avoiding any cuts to be paid to the middlemen.

In addition, the process of providing subsidies and benefits to beneficiaries previous to DBT was such that beneficiaries had to be identified separately each time which meant there was massive duplication of efforts. This was clearly a very inefficient system. Post implementation of DBT, the process of identification has become a one-time effort making the process much more efficient.

The seamless transfers using DBT provided lifeline when the pandemic completely disrupted economic activity. The schemes launched during the pandemic to provide safety nets to the vulnerable via scheme like PM Garib Kalyan Scheme or PM-KISAN Scheme used the DBT mechanism to provide transfers to the beneficiaries. India managed to provide food or cash support to 85 % of rural households and 69 % of urban households. This is an impressive achievement.

While these individual components are not unique to India, their unique triangulation enabled reducing of frictions in the system, hence improving on-ground delivery of public services massively. India's DBT implementation has won praise from the IMF and the World Bank for efficiently providing support to the underprivileged sections of society.

DBT is an example of major initiative launched by Government of India to re-engineer the existing cumbersome delivery processes using technology.

Type 2: Changes in regulations

In some cases, the analysis may reveal that the regulations itself are such that they hamper efficient functioning of the sector. In such cases, there is a need to change the rules to address the issue. As an illustration, we have taken the example of regulation of Information Technology (IT)- Business Process Outsourcing (BPO) sector in India.

The IT-BPO sector suffered from many outdated regulations with onerous compliance requirements till recently. These requirements not only wasted lot of time of the management, it led to high compliance and financial costs to the company (Sanyal & Arora (2023)). They were regulated under the '*Revised Terms and Conditions- Other Service Provider 2008*', which had the following key issues:

- **Lack of clarity on definition of OSPs:** OSP regulation defines, 'Applications Services' as providing services like tele-banking, tele medicine, tele-education, tele-trading, e-commerce, call centre, network operation centre and other IT Enabled Services, by using Telecom Resources provided by Authorised Telecom Service Providers.

- **Local infrastructure requirement:** Regulations insisted on use of a local Electronic Private Automatic Branch Exchange (EPABX), thus disallowing global cloud based systems whereas most BPOs/ international logistics companies/ airlines etc. have moved to cloud based systems. India was the only major country placing such a requirement on companies.
- **Separate Registration for each OSP:** The regulation stated that, “The registration is location specific, so a Company may have more than one registration. Any change in the location of OSP Centre shall require amendment in the original registration.” This was a completely outdated regulation in the age of Work from Home.
- **Restrictive infrastructure sharing:** Infrastructure sharing between domestic and international OSPs was not allowed and international OSP operations could not service domestic customers.

Recognising these issues, Government liberalized the Telecom regulations for these Other Service Providers. New revised and simplified OSP guidelines were first issued in November 2020¹¹ and further in June 2021¹². The revised guidelines simplify the regulations and processes. Some of the key changes that were made in the regulations are:

- **Clear definition of OSP:** The applicability of new guidelines is limited to entities that provide "Voice based BPO services" to its customers. Voice based BPO services is now defined to mean call center services.
- **Removal of registration requirement:** No registration certificate will be required for OSP centres in India.
- **Removal of distinction between domestic and international OSPs:** The categorization of OSPs has been done away with and one single OSP category has been introduced regardless of their domestic/ international business operations.
- **Work from home and remote locations allowed:** The agents at home/anywhere shall be treated as remote agents of the OSP centre. The interconnection between remote agents is permitted using any technology including broadband over wireline/wireless. The remote agent can now directly connect to customer EPABX /centralised EPABX without the need to connect with the OSP centre.
- **Interconnectivity and infrastructure sharing between OSPs allowed:** Interconnection between two or more OSP centres of the same or unrelated company is now permitted. Infrastructure sharing among OSPs is also allowed. The guidelines allow the use of EPABX at foreign locations.

After these reforms were done, NASSCOM conducted a survey between October to November 2021 to assess market’s reaction to the reforms¹³. The survey found that 92% of the participants found that the OSP reforms have helped reduce compliance burden.

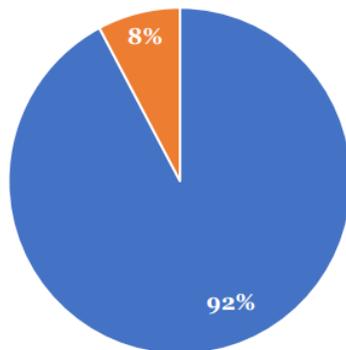
¹¹ https://dot.gov.in/sites/default/files/2020_11_05%20OSP%20CS.pdf

¹² <https://dot.gov.in/sites/default/files/Revised%20OSP%20Guidelines.pdf>

¹³ <https://www.indiabudget.gov.in/budget2022-23/economicsurvey/doc/eschapter/echap09.pdf>

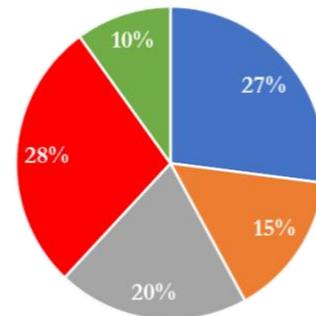
Figure: Results from NASSCOM survey

Whether OSP reforms helped in reducing the compliance burden? (n=90)



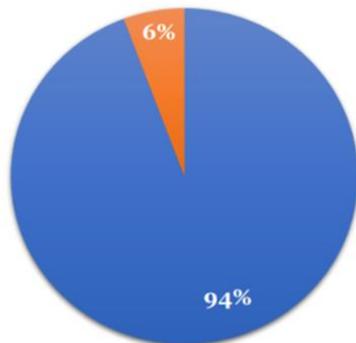
■ Yes ■ No

How much is the reduction in compliance burden?



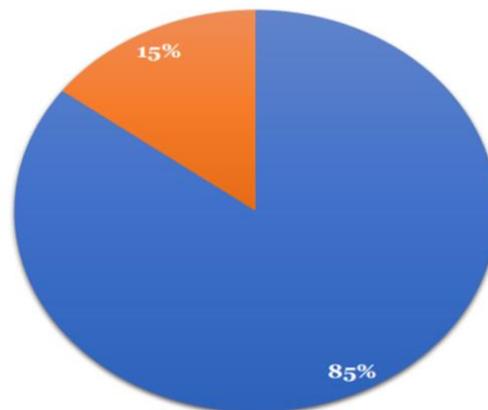
■ Less than 20% ■ 30-40% ■ 40-50%
 ■ Over 50% ■ No Change

Whether OSP reforms will make voice-based services more competitive globally? (n=88)



■ Yes ■ No

Whether removal of local EPBAX requirement helped in improving the EoDB? (n=81)



■ Yes ■ No

This illustrates how the change in processes brought about via changing the regulations have the potential to give a major impetus to a sector - in this case, India's IT-BPO sector.

Type 3: Changes in the legislation

This relates to process reforms where underlying laws need to be changed as the processes are derived from an underlying legislation. One such example is that of Legal Metrology Act 2009 of India. This Act which regulates manufacture and sale of measuring instruments and trade and commerce in goods which are sold by weight, measure or number.

This legislation has long been subjected to criticism for the provision of imprisonment as a punishment for offences under it. Sections 25-47 in Chapter V of the 2009 Act enumerate various offenses related to weights and measures. They include use and manufacture of non-standard weighing and measuring instruments, undertaking commercial transactions in violation

of prescribed standards and transacting in pre-packaged commodities without requisite declarations on the package.

As per this Act, the first violation of any of the offences under Chapter V by an enterprise entails a monetary penalty. However, upon a second/subsequent offence committed under the same provision, the Act provides for imprisonment along with a possible fine. Given the hardship imposed by the criminalisation of second and subsequent offences under this Act, the balance between empowering the legal metrology inspector and protection of legitimate entrepreneurs had got distorted.

Evidence for this behaviour is available in the data released by Press Information Bureau (PIB) in its May 2022 report¹⁴ on the National Workshop on Legal Metrology Act, 2009. Over a four-year period from 2018-2022, for an average of approximately 1,00,000 first offences booked per year, whereas only eight instances of second offences being booked are reported around the country. Even out of the miniscule number of cases booked for second offences, not all are filed in the court of law (Table 1).

Table 1: Number of 1st and 2nd offences

Cases/Years	2018-19	2019-20	2020-21	2021-22
1st Offence				
No of cases booked	1,13,745	1,26,409	82,279	74,721
No of cases compounded	97,690	1,24,902	74,230	55,779
2nd Offence				
No of cases booked	12	5	3	11
No of cases filed in the court of law	4	3	3	7

Source: PIB¹⁵

Process reforms in this case required legislative changes. To address this issue, the government has decriminalized several provisions of the 2009 Act under the Jan Vishwas Bill 2022 which was recently passed by the parliament.

While this is a good beginning, Sanyal and Mishra (2023) point out that this only solves a part of the problem. The offences under section 30 (penalty for transactions in contravention of standard weight or measures), section 33 (penalty for use of unverified weight or measures) and section 36 (penalty for selling of non-standard packages) are responsible for over 80% of the cases under the 2009 Act. Offences under these three sections are still criminalised. The government needs to re-examine these sections.

Type 4: Adding capacity in some level of government

This relates to cases where lack of adequate capacity in the government is creating a bottle-neck in a necessary government activity. In such cases, there is a need to increase the capacity of government at various levels in order to increase efficiency or resolve the issues in the

¹⁴ <https://pib.gov.in/PressReleasePage.aspx?PRID=1823947>

¹⁵ <https://pib.gov.in/PressReleasePage.aspx?PRID=1823947>

area/sector. One such area in case of India is the Intellectual Property rights (IPR) ecosystem, specifically patents.

The number of patent applications rose from 45,444 in 2016-17 to 82,805 in 2022-23. The patents granted in India has gone up from 9,847 to 34,153 during the same time period. Despite these improvements, India lags far behind its global peers. The number of patents applied and granted in India is still a fraction compared to patents granted in China, USA, Japan, and Korea.

Table 2: Patent applications and grants in China, US and India

Year	China		United States of America		India	
	Filing	Grants	Filing	Grants	Filing	Grants
2016	13,38,503	4,04,208	6,05,571	3,03,049	45,444	9,847
2017	13,81,594	4,20,144	6,06,956	3,19,829	47,854	13,045
2018	15,42,002	4,32,147	5,97,141	3,07,759	50,659	15,283
2019	14,00,661	4,52,804	6,21,453	3,54,430	56,284	24,936
2020	14,97,159	5,30,127	5,97,172	3,51,993	56,771	26,361
2021	15,85,663	6,95,946	5,91,473	3,27,307	66,440	30,074
2022	16,19,000	7,98,000	5,89,155	3,25,445	82,805 ^P	34,153 ^P

Source: World Intellectual Property organization (WIPO)

Note: **a.** Numbers for India are from CGPDTM; Numbers for India are fiscal year wise.

b. For 2022 for numbers for China and USA, annual reports of respective offices;

c. *Utility models (petty patents) filed and granted by china in addition to patents.

d. P = provisional data

In addition, the time taken for processing a patent application in India is much higher as compared to its global peers. Sanyal and Arora (2022) in their paper mention that “The Global best practice is disposal within 2 to 3 years, whereas in India, average time taken is just under 5 years and is up to 9 years in some categories like for biotech and will cross 10 years soon if the shortage of manpower issue is not addressed.’ They elaborate that the major cause of this delay in processing the patent applications is the shortage of manpower in patent office in India. Manpower employed in Indian patent office is only around 900, as compared to 13704 of China and 8132 of US.

A few years ago, some manpower was added, mostly at examiner level. This shifted most of the pendency from first examination at examiner level to the disposal level. This was also noted by the Parliamentary Standing Committee on Commerce’s Review of Intellectual Property Rights Regime in India (2021).

It is evident that there is a need to increase capacity in the patent office, especially at senior levels. No other reform will be able to address this issue. Recognising the need for this, the process of increasing the manpower in the Office of Controller General of patents and trademarks has started.

Type 5: Removing requirement or a state-mandated activity

In some cases, there are some non-value adding mandatory activity which are choking the entire process. In such a case, it needs to be removed completely to smoothen out the process. We illustrate this with the case of mandatory mediation required before going for commercial litigation.

As per the current status, pre-litigation mediation in India for commercial disputes as mandated under Section 12A of the Commercial Courts Act 2015 is compulsory. The available evidence strongly suggests that the mandating of mediation is clearly not working in commercial cases.

Manivannan (2023) in his paper presents evidence from the two district level commercial courts in Mumbai suggests that for the years 2020-2023, between 97-99 percent of the applications for pre-litigation mediation were non-starter because the parties did not choose to participate in the proceedings. Even in the cases where mediation was tried, it failed in more than half of the cases. Sanyal and Mishra (2023) in their paper also find similar results for the year 2023. The evidence is clear that mandating mediation has not worked for 99% of commercial cases but adds time and cost for everyone (*Table 3*).

Table 3: Categories of Disposed Cases in Commercial Courts of Mumbai (2020-2023)

Year	Disposed Cases	Settled Cases	Failed Cases	Non-Starter Cases	% of Non-starter and Failed Cases
2020	304	3	0	301	99
2021	3555	22	28	3505	99
2022	7717	139	139	7431	98
2023*	3404	114	120	3170	97

Source: Sanyal and Mishra (2023)

Data for 2023 is till September

When the original Mediation bill 2021 was introduced in the parliament, Section 6 had a statutory mandate to compulsorily use mediation for dispute resolution before going to court. Notably, the provision applied even in cases where the parties chose not to have a mediation clause in their agreement. However, the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice in its report submitted July 2022, noted that making pre-litigation mediation mandatory may actually result in delaying of cases and recommended that the pre-litigation mediation should not be made compulsory. Taking the feedback of the committee and other stakeholders into account, the revised Mediation Bill passed in August 2023 and formalized as Mediation Act 2023 changed the corresponding provision to make pre-litigation mediation voluntary.

We have specifically presented it here an example of how process reforms may sometimes lead to unintended consequences and need to be rectified using feedback. Indeed, this should be done as a matter of routine so that processes can be continuously upgraded.

Similarly, there is a need to make mediation voluntary under Section 12A of the Commercial Courts Act 2015, as has been done in civil cases to simplify the process of grievance redressal in the country.

Type 6: Rationalisation of government departments or bodies

Governments set up certain autonomous bodies or organisations with a particular goal. These are set up whenever it is felt that certain functions need to be discharged outside the governmental set up with some amount of independence and flexibility without day-to-day interference of the governmental machinery. These are set up by the Ministries/Departments concerned with the subject matter.

Over time, the economic structure of the sector may change, the body may not have been able to do what it envisaged to do, the purpose of establishment may have been fulfilled or there may be another body that was set up which serves similar purpose. In such cases, there is a need to have relook at the value that autonomous bodies are adding and then either merge, restructure or close it depending on the context.

India has more than Central Autonomous Bodies. In last few years, government has done an audit of such institutions and has undertaken a rationalisation of autonomous bodies. A Committee was set up under the chairmanship of Shri Ratan P. Watal by the government in 2017 for Review of Autonomous Bodies.¹⁶ Further, Based on the recommendations of Expenditure Management Commission, NITI Aayog had undertaken a review of the Autonomous Bodies, under the Department of Health and Family Welfare, that have been formed under Societies Registration Act, 1860.¹⁷ Further, there were recommendations to rationalise autonomous bodies under various ministries such as railways¹⁸ by former Principal Economic Adviser, Shri Sanjeev Sanyal.

As a part of this exercise, some bodies were closed down, such as Central Organisation for Modernisation of Workshops (COFMOW)¹⁹, Tariff Commission²⁰, All India Handloom Board, All India Handicraft Board etc. In some cases, the functions of some institutions were transferred to an existing government department. For instance, the mandate of Films Division, Directorate of Film Festivals, National Film Archives of India and Children's Film Society, India transferred to National Films Development Corporation. Further, as per the recommendation in the NITI Aayog report, Rashtriya Arogya Nidhi (RAN) and Jansankhya Sthirata Kosh (JSK) were closed and the functions were proposed to be vested in Department of Health & Family Welfare.²¹

¹⁶ https://delhishelterboard.in/main/wp-content/uploads/2016/05/R_701_1491893864269.pdf

¹⁷ <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1519581>

¹⁸ https://digitalscr.in/bzadiv/circulars/misc_circulars/uploads/Rationalisation_Govt_Bodies_%20MoR.pdf

¹⁹ https://indianrailways.gov.in/railwayboard/uploads/directorate/secretary_branches/Office_Order_2022/Rationalization%20of%20Government%20%20Bodies%20under%20MoR-Closure%20of%20COFMOW.pdf

²⁰ https://www.teamleaseregtech.com/fileviewer/?f=https://avantiscdnprodstorage.blob.core.windows.net/legalupdatedocs/17543/Jun62022_MoCI_MoCI%20notifies%20regarding%20the%20windup%20of%20Tariff%20Commission.pdf

²¹ <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1519581>

V. CONCLUSION

As one can see from the discussion in this paper, process reforms are an important part of the public policy and governance. There is some scattered literature about individual changes but very little literature on 'process reforms' as a class. In this paper we argue that there is a need to systematically analyse these reforms as a distinct class, thereby making them a routine subject of both policy and academic discourse.

The paper provides possible ways to do those reforms using examples from India. Other countries have also done process reforms in various sector such as in the processes of postal clearance in customs department²². As discussed, there are at least six ways of doing process reforms. However, it is important to note that they are not always in neat boxes. In some cases, ironing out the issues may require process reforms of various categories together. Similarly, in some cases, same issue could be resolved by different type of process reforms.

There has been a consistent effort done by the Government of India to institutionalize process reforms to bring about changes in various sectors in recent times. It is being included as a part of training of government officials as well so as to make these a routine part of the governance and policy tool-kit.²³

Governments everywhere should do a periodic assessment of process under various regulations, legislations and even of the institutions. This should be an ongoing feature for every country. We hope that greater attention on process reforms will lead to the constant use of small, targeted, iterative changes that improve economic and policy efficiency.

²² <https://www.effo.gov.hk/en/our-work/management-consultancy/business-process-re-engineering>

²³ https://www.mcrhrdi.gov.in/images/1st_quarter/GPR.pdf

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