2007


Jayanth K. Krishnan
Indiana University Maurer School of Law, jkrishna@indiana.edu

Follow this and additional works at: https://www.repository.law.indiana.edu/facpub

Part of the Comparative and Foreign Law Commons, Legal History Commons, and the Politics and Social Change Commons

Recommended Citation
Analyzing the Friedman Thesis Through a Legal Lens: Book Review Essay Assessing Thomas L. Friedman’s *The World Is Flat*

Jayanth K. Krishnan

In his best-selling book, *The World Is Flat*, Thomas Friedman assesses how globalization has affected the political, economic, and social landscapes of both the developed and developing world. For Friedman, globalization is emboldening people in countries, like in India, to make societal and governmental demands that are similar to those made by Americans in the United States.

This Essay seeks to add a new layer to the debate over Friedman’s flattening-world thesis. Focusing on India, in particular, I shall argue that as the trajectory of India’s economic development appears on the rise, the sad reality is that too many observers, like Friedman, have ignored how the functioning of the country’s legal system is spiraling downward. Furthermore, as I shall also suggest, Friedman’s thesis that globalization has indelibly altered human behavior, unfortunately, short shrifts how preexisting institutional and cultural factors still remain relevant in shaping decision-making processes.

I. INTRODUCTION ........................................................................................................ 924

II. THE FRIEDMAN ARGUMENT ............................................................................. 928
   A. The Forces Making the World More Flat .......................................................... 930
   B. Flattening the Friedman Forces into a Thesis and the Resulting Implications ...................................................... 933

III. SURVEYING THE LANDSCAPE OF REVIEWS .............................................. 935

IV. THE UNFLATNESS OF INDIA’S LEGAL SYSTEM .......................................... 938

V. BEYOND THE FLATTENERS OF GLOBALIZATION ......................................... 941
   A. Background on the Tsunami-Affected Environment ........................................... 944
   B. Legal, Political, and Economic Assistance to the Survivors .................................................. 948
      1. Affirming the Friedman Thesis ................................................................. 948
      2. Supplementing the Triple Convergence—Politics, Culture, and Society Still Matter ................ 951

VI. CONCLUSION ........................................................................................................ 953

* Professor of Law, William Mitchell College of Law, St. Paul, Minnesota. J.D., Ohio State University; Ph.D., University of Wisconsin-Madison. For their insights and invaluable help, the author thanks: Oz Fernandes, Marc Galanter, D. Geeta, Colin Gonsalves, Bharath Jairaj, T. Mohan, C. Raj Kumar, Sriram Panchu, Vikram Raghavan, Usha Ramanathan, Jesu Rathinam, and Vasu.

923
I. INTRODUCTION

In the United States, a country that has captured the attention of politicians, entrepreneurs, journalists, travelers, and many others is India. One might think there also would be a long-standing interest in India among the American public. After all, with the exception of a two-year period between 1975 and 1977, India has served as a light of democratic rule since gaining independence from Britain in 1947.1 It is a constitutional republic with a representative parliament; it has a free and flourishing media; and in certain ways, it seeks to emulate the American way of governance.2 Furthermore, for decades there have been interchanges between groups of Americans and Indians on issues ranging from agricultural development to legal education reform to various social, religious, and cultural matters.3

Despite these common ties, for those of us who study India, it remains both curious and frustrating why this country has not garnered the public interest in the United States that it so deserves—that is, until recent years. The fact that India and its neighbor Pakistan conducted nuclear tests in 1998 and that attention has grown both in the United States and worldwide is likely no coincidence.4 Moreover, since opening its markets in 1991, entering the globalizing economy, and experiencing an economic miracle of sorts, India has been fertile ground for American investors.5

It is these developments, and particularly the technological advancements made in India over the last decade, that have caught the eye of the public intellectual and New York Times columnist Thomas Friedman. In 2005, Friedman published what has become a best-selling book, The World Is Flat: A Brief History of the Twenty-First

---

2. Id. at 44-66.
4. A host of Web sites and news services have talked about the nuclear crises between these two countries. For just one sample, see South Asia's High Nuclear Stakes, BBC News, May 7, 2003, http://news.bbc.co.uk/1/hi/world/south_asia/1732430.stm. For other scholarly works on this topic, see generally South Asia's Nuclear Security Dilemma: India, Pakistan, and China (Lowell Dittmer ed., 2005) (discussing nuclear conflict in South Asia); Ashley J. Tellis, India's Emerging Nuclear Posture: Between Recessed Deterrent and Ready Arsenal 1-7 (2001); and Saira Khan, Nuclear Weapons and the Prolongation of the India-Pakistan Rivalry, in The India-Pakistan Conflict: An Enduring Rivalry 156, 156-77 (T.V. Paul ed., 2005).
He then published an updated and expanded version in 2006. In the book, Friedman assesses how globalization and the rapid changes in telecommunications have affected the political, economic, and social landscapes of both the developed and developing worlds. To be sure, Friedman discusses the transformations that have been ongoing in the United States, Europe, China, Africa, and Latin America. But much of his book focuses on India. For Friedman, it is in India today where people “are . . . able to compete for global knowledge work as never before.” This competition is leveling the economic playing field and, according to Friedman, beginning to make the world flat.

Over the last year, the merits of Friedman’s book have been reviewed and debated by an array of observers. While there are prominent supporters who have remarked on the contributions Friedman makes, his work has also received a noticeable amount of vituperative criticism. Given the amount of discussion surrounding this book, it is surprising for a study that discusses globalization, economic development, international terrorism and security, and the increasing political power of developing nation-states (namely India), so little is said by Friedman, his supporters, or his critics on where law fits into this discourse.

This Essay, therefore, seeks to add a new layer to the debate over Friedman’s flattening-world thesis. I will not attempt to dispute that Friedman and his critics, at various points, each raise valid arguments. But absent from the discussion to date has been an informed understanding of how, in an emerging country like India, the rule of law, the legal system, and legal actors are operating in the midst of these changing global dynamics. In fact, India’s legal system is in a state of crisis. The Indian Supreme Court currently has over 20,000 cases pending, while the lower courts face a backlog of tens of millions

---

8. See id. at 3-49.
9. See id. passim.
10. See id. at 30, 142, 213, 399-402.
11. Id. at 7.
12. Id. at 7-8.
13. See infra Part III.
14. See infra Part III.
And once in court, cases take several years, if not decades, to resolve. Thus, although the future economic outlook for India appears promising, that accessing justice can be both lengthy and expensive highlights how unflat legal life has been for generations of everyday Indians.

Before exploring this last point further, it is important to understand fully Friedman's argument and the subsequent responses to it. Therefore, Part II outlines Friedman's central thesis, the evidence supporting his position, and the conclusions he draws. In Part III, I survey the existing reviews of his book.

In Part IV, I present my evaluation of both Friedman's work and of the responses to it. As I shall argue, as the trajectory of India's economic development appears on the rise, the sad reality is that the functionality of the country's legal system is spiraling downward. While Friedman and his critics debate the economic situation in India, there is hardly a word mentioned in this dialogue about how most of the population is effectively denied access to adjudicate their legal claims in a timely fashion. For this reason, I shall suggest that Friedman's flattening-world thesis is limited in its scope. It fails to recognize that the great Indian democratic experiment—which serves as the hub of this cutting-edge technological innovation—is at risk of becoming delegitimized because of the increasing lack of faith many Indians have in the rule of law.

There is also another, what I will call behavioral, aspect to Friedman's argument on which I will focus. Friedman contends that globalization emboldens Indians to make societal and governmental demands that are similar to those made by Americans. With today's advancements in communication and technology, along with Indian economic policy embracing capitalism, the process of globalization has awakened millions of Indians to opportunities they never before imagined. The way they act and their desire to take advantage of these opportunities should be familiar to Americans. After all, as

15. See Jason Overdorf, Unclogging the Courts, NEWSWEEK INT'L EDITION, July 18, 2006, available at http://msnbc.msn.com/id/8525757/site/newsweek/. Also see data from the comprehensive, well-known Indian statistical database, Indiastat.com., http://www.indiastat.com (last visited Feb. 4, 2007). The statistical data I have is from 2004, which is the most recently compiled data at the time of this writing.


17. FRIEDMAN, supra note 7, at 398-400.

18. See id. at 28-29.
Friedman asserted in an interview promoting his book, "[t]hey want to be us."

This idea that globalization has flattened human behavior is a claim to which I will devote attention. By examining, in particular, the professional behavior of a group of individuals—Indian lawyers who seek to advance the rights of lower castes and the poor in their country—I will describe in Part V how these advocates in many ways act similarly to public interest lawyers in the United States. Without a doubt, e-mail and the Internet that have, among other things, helped build ties to global legal networks, are important tools these Indian lawyers rely on in their advocacy. As I shall suggest, however, beyond just Friedman's explanation of globalization, the behavior of—and more specifically, the tactical choices made by—these Indian lawyers are influenced by the political, social, and cultural opportunities and constraints that they encounter. In other words, in his excitement to trumpet the vast-ranging effects of globalization, I worry Friedman short-shrifts how preexisting political institutional and cultural factors remain relevant in shaping decision-making processes.

To demonstrate this point, I use as my case study the lawyering that took place in the aftermath of one of the greatest natural disasters in history. On December 26, 2004, the Indian Ocean Tsunami (Indian Ocean Tsunami or Tsunami) hit the shores of southern India, killing over 10,000 people and injuring and displacing many others. During

See The Charlie Rose Show: A Conversation with Tom Friedman, A Columnist for the New York Times (PBS television broadcast Apr. 5, 2005). See also Friedman's suggestion to his children, where highlighting this point, he states: "Girls, finish your homework—people in China and India are starving for your jobs." FRIEDMAN, supra note 7, at 277.

See India: Tsunami Summary, ASIAN DEV. BANK, Mar. 6, 2006, http://www.adb.org/media/articles/2005/6684_india_tsunami_disaster/default.asp?RegistrationID=guest; Tsunami Death Toll Passes 283,000, SYDNEY MORNING HERALD, Jan. 28, 2005, available at http://www.smh.com.au/news/Asia-Tsunami/Tsunami-death-toll-passes-28300/2005/01/27/1106445737181.html?onewclick=true. The Indian Ocean Tsunami was first triggered by an earthquake off the coast of Indonesia that then traveled westward through the Indian Ocean where coastline residents in several countries as far as Somalia felt its devastating effects. See The Deadliest Tsunami in History?, NAT'L GEOGRAPHIC NEWS, Jan. 7, 2005, http://news.nationalgeographic.com/news/2004/12/1227_041226_tsunami.html. The countries that were affected include: Indonesia, Sri Lanka, India, Thailand, Somalia, Myanmar, Maldives, Malaysia, Tanzania, Seychelles, Bangladesh, South Africa, Yemen, Kenya, and Madagascar. See Tsunami Death Toll Passes 283,000, supra. Note, the tsunami was not one giant tsunami but a series of multiple ones triggered by an earthquake originating near Indonesia. For a discussion of this point, see The Deadliest Tsunami in History?, supra. In just a matter of hours from when it began, the tsunami wiped out entire local populations. Estimates of the dead remain staggering to consider: over 200,000 people were killed with millions injured and stripped of everything they own. Tsunami Death Toll Passes 283,000, supra, see UN
the summer of 2006, I spent time in the state of Tamil Nadu, India. Roughly 8000 people alone were killed in Tamil Nadu by the tsunami. My fieldwork included visiting some of the most devastated areas of the state. Along with meeting with survivors, politicians, judges, and nongovernmental organizations (NGOs), I also conducted in-depth interviews with a coalition of lawyers who have been working to relieve the plight of those desperately in need of assistance.

As I discovered, the behavior and tactical decisions of these lawyers parallel what scholars in the United States have documented over the last twenty years in their empirical observations of American lawyers who engage in different causes. But contrary to the implications of Friedman's thesis, these Indian lawyers are not behaving like their American counterparts solely because globalization has lifted the veil over the subcontinent. The array of tactics deployed by the Indian lawyers, as we shall see, is based on the availability of resources, as well as on their own political, social, and cultural considerations.

II. THE FRIEDMAN ARGUMENT

While The World Is Flat is mainly a study on globalization, it is also, in part, a personal diary for Friedman. Friedman introduces himself to the reader as a journalist who, for three years following the attacks of September 11, focused his attention on the events occurring in the Middle East. As he describes, he traveled to India on a personal, "Columbus-like journey of exploration." He was curious as to why India had become the central place "for the outsourcing of service and information technology work from America and other industrialized countries."

What he discovered after his arrival forever altered the way he viewed the world. India had moved beyond being part of the second wave of globalization (which lasted, according to Friedman, between the years of 1800-2000) to now, a time when Western businesses saw it as the environment in which to expand, profit-wise. But since 2000,
neither companies nor countries drive globalization; rather, individuals in places like India are at the forefront. 26 Specifically, with the emergence of the personal computer, the Internet, the fiber-optic cable, and work-flow software, people are able to "go global," with the result being a boom in economic entrepreneurship and greater worldwide competition. 27

India, in particular, has been a favorite site for these new globalizers and has itself contributed immensely to the present, globalizing world. 28 Because of India's large English-speaking population, relatively cheap labor market, and high number of educated workers, foreign investors have been heading to the country in droves, in hopes of enhancing capital return. 29 There is no shortage of stories that discuss how American companies are increasingly turning to Indian workers to perform lower-skilled, labor-intensive jobs, such as staffing those now-famous call centers. 30 Paralleling this trend, high-technology firms like Microsoft and Dell during the past decade have been hiring sophisticated software engineers from India. 31 Indian entrepreneurs, in turn, use the resources provided by this foreign investment to improve their professional skills and market their services both within the Indian market and across the globe. 32 These developments occurred, in Friedman's view, because of the lightening-fast advancements in technology and communication. 33 As he notes:

It is now possible for more people than ever to collaborate and compete in real time with more other people on more different kinds of work from more different corners of the planet and on a more equal footing than at any previous time in the history of the world—using computers, e-mail, fiber-optic networks, teleconferencing, and dynamic new software. 34

For Friedman, in today's globalized world, developing nations like India are where much leading innovation and research occur. 35 The world thus is flattening because the traditional hierarchy in which Western countries reigned supreme economically is now becoming

26. *Id.* at 10-11.
27. *Id.*
29. *See id.*
30. *See id.* at 21-29.
31. *Cf. id.* at 34-35.
32. *See id.* at 272-73.
33. *See id.* at 8.
34. *Id.*
35. *Id.* at 29-30.
more horizontal, with heretofore exploited nations directly challenging the United States and Western Europe.  

But what forces account for this transformation? What led international economic forecasters, capital investors, and tech-savvy entrepreneurs to focus their attention on cities like Bangalore, Hyderabad, and Mumbai? For Friedman, there are ten factors, or what he calls flatteners, which explain this shift in power. I next examine each in turn.

A. The Forces Making the World More Flat

Friedman's first flattener occurred before countries like India even fully entered the globalizing economy. On November 11, 1989, the Berlin Wall (Wall) fell. Not only did this event mark the beginning of the end of the Soviet Union's political hold on Eastern Europe, but it also signified a rejection of the communist economic model in favor of capitalism. The fall of the Wall on "11-9" also set in motion changes in policies outside of Europe, namely in India. With its socialist-based economy faltering, the government in New Delhi two years later opened its markets and began to embrace capitalist reforms. Friedman notes a discussion he had with the Nobel Laureate Amartya Sen in which the prize-winning economist argued that the Wall's absence now allowed policymakers to think of financial, social, and rights-empowerment policies in global terms.

The fall of the Wall, however, is only half of Friedman's first flattener. The other half includes what occurred six months later. In May of 1990, the Microsoft Corporation launched its Windows 3.0 software. This development revolutionized the personal computer by allowing users to author their work in a digital manner. Due to its global-reaching presence, Windows 3.0 helped to make more uniform how people around the world conducted their

36. Id. at 4-12.
37. See id. at 50-200.
38. Id. at 50-51.
39. Id. at 51-52.
40. See id. at 52-53.
41. See id. at 53.
42. Id.
43. Id. at 54-55.
44. Id. at 55.
45. See id. at 55-56.
analyzing the Friedman thesis

Economic business. The combination of the Wall falling and the rise of this Microsoft innovation thus "paved the way for the adoption of common standards—standards on how economies should be run, on how accounting should be done, on how banking should be conducted, . . . and on how economics papers should be written."  

Friedman's second flattener emerged five years later—on "8/9/95." Although companies experimented with Web sites a few years earlier, it was on this date that the Internet start-up company, Netscape, became publicly traded. Netscape allowed computer users to access the Internet and to browse the Web in a simple fashion. This new form of connectivity unified communication along the Internet and fueled innovation, cooperation, and competition among entrepreneurs all over the world. Additionally, the birth of Netscape spawned advancements in fiber-optic technology, with over a trillion dollars invested in this area that greatly leveled communication among computer users.  

Friedman's third flattening force, the development of work-flow software during the 1990s, only further refined the gains made up to that point. By work-flow software, Friedman refers to those computer programs, protocols, and applications (e.g., Hypertext Mark-up Language (html), Hypertext Transfer Protocol (http), etc.) that helped standardize how people using the Internet and e-mail connected with one another. In sum, the fall of the Wall, the release of Windows 3.0 and Netscape, and then the implementation of work-flow software have served as the structural model upon which entrepreneurs and businesspeople could collaborate—or go global—like never before.  

But how is this collaboration to which Friedman refers taking shape? There are several ways, he contends, each of which is contributing to a further flattening of the world. For example, consider the phenomenon of uploading, where people use the internet to post blogs, information, ideas, news, encyclopedic entries, and other types

46. See id.  
47. Id. at 53-54.  
48. Id. at 59.  
49. Id. at 61.  
50. See id. at 61-62.  
51. See id. at 62-69.  
52. See id. at 73.  
53. See id. at 76-92.  
54. See id.  
55. See id. at 50-92.
of messages to disseminate what they think. Then there is outsourcing, where because the costs of transportation and communication have decreased, several Western firms have found it economically beneficial to train workers in cheaper labor markets, like India, to engage in specialization.

Offshoring and supply-chaining are Friedman's next two collaboration flatteners, which are related to one another. Offshoring refers to the practice of moving a plant from, say, Canton, Ohio, to Canton, China, where labor, tax, and health care costs are all much lower. Supply-chaining involves a situation where a company like Wal-Mart sells a good in Arkansas. The moment the sale occurs, the supplier of that good, who is often located in a country such as China or India, is notified to produce another of that same item, which is then sent to the Arkansas Wal-Mart. This supply chain is in constant motion; hence, no Wal-Mart is ever short of any good and no customer's need ever goes for want.

The final three flatteners that showcase how collaborative the world has become are: insourcing, informing, and what Friedman calls steroids. Insourcing occurs when foreign companies instruct American consumers to send back to them products that need repair and then fix these products not in Japan but rather in the United States, using a delivery company like United Parcel Service (UPS). UPS has been a frequent partner of, for instance, Toshiba, repairing Toshiba computers in its Louisville, Kentucky plant. Because of insourcing, delivery companies like UPS can participate in the globalizing economy in a new, competitive, and profit-making manner, even

56. Id. at 93-95. "Uploading is, without doubt, becoming one of the most revolutionary forms of collaboration in the flat world. More than ever, we can all now be producers, not just consumers." Id. at 94-95.
58. See FRIEDMAN, supra note 7, at 136-67.
59. See id. at 137.
60. Id. at 151.
61. Id.
62. See id.
63. Id. at 167, 176, 186.
64. See id. at 168.
65. Id. at 168.
though they may not have enough capital to establish a Wal-Mart-type global supply chain.\textsuperscript{66}

Informing might alternatively be referred to as the Google flattener.\textsuperscript{67} Because of Internet search engines such as Google and Yahoo!, information of every conceivable fashion is ascertainable, readable, and conveyable at the click of a button.\textsuperscript{68} These search engines are omniscient and omnipresent. Perhaps unsurprisingly then, Friedman quotes one high-tech executive as remarking that "'Google is like God.'"\textsuperscript{69}

Steroids are Friedman's last flattener.\textsuperscript{70} He is referring to the various ways that the above means of collaboration have been facilitated.\textsuperscript{71} Computers that are faster, smarter, and more capable of storage have been hugely important.\textsuperscript{72} So too have been the "breakthroughs in instant messaging and file sharing," the ability to make phone calls over the Internet, videoconferencing, strides in computer graphics, and advances in wireless technology.\textsuperscript{73} As a result of these steroids, communications of every facet are now more efficient and affordable, and, as such, they are making the world closer, more horizontal, and ultimately more flat.\textsuperscript{74}

Following this discussion, Friedman then presents the main thesis as well as the implications of his book. I briefly discuss these subsequent chapters next.

\section*{B. Flattening the Friedman Forces into a Thesis and the Resulting Implications}

In a chapter he calls "The Triple Convergence," Friedman contends that the confluence of three major events helps to provide the historical account to date of the twenty-first century.\textsuperscript{75} The first of these events is the combination of all of the aforementioned flatteners, which began around 2000.\textsuperscript{76} These forces created a "Web-enabled platform" that allowed for different types of collaboration among

\footnotesize

\begin{enumerate}
\item See id. at 167-76.
\item See id. at 176-86.
\item See id.
\item Id. at 186.
\item Id.
\item See id. at 186-200.
\item See id. at 189-91.
\item Id. at 191-95.
\item See id. at 200.
\item See id. at 201-33.
\item Id. at 203-06.
\end{enumerate}
individuals and organizations regardless of location. The second convergence is one that is currently ongoing. It involves the process of moving from a world that historically has been vertical to one that is becoming horizontal in terms of economic and political relationships among people, countries, and businesses. The third convergence is that since 1989 and particularly since 2000, three billion people who previously were not part of the global economy now are. Even though only about 150 million people are able to participate in this advanced globalized economy, these new workers are mainly coming from places like India, thereby changing how we traditionally viewed economic competition.

There are several implications to the triple convergence, according to Friedman. For instance, by moving to a more horizontal world, there is fluidity and constant redefinition of how economic policy is conceptualized and how politics is framed. Take the issue of outsourcing that, on the one hand, can be viewed as the shipping of American jobs overseas to cheaper, unregulated markets over which constituents complain and politicians rail. On the other hand, the outsourcing of jobs abroad makes up less than one percent of all jobs lost every year in the United States. The reason outsourcing does not hurt the American economy, from this perspective, is because the United States is a technologically advanced country. There is a demand for skilled workers, and the relative few who lose jobs to outsourcing can be retrained by firms that now have more money at their disposal because of the availability of cheaper labor abroad.

Another implication of the triple convergence is the fact that American policy officials will have to prioritize funding in the areas of science, education, and technological innovation, else the United States fall even further behind India and China. Relatedly, American immigration policy needs reconsideration, Friedman argues. The United States is witnessing a whole generation of scientists retiring;

77. Id. at 205 (emphasis omitted).
78. Id. at 206-11.
79. Id.
80. Id. at 211-13.
81. See id. at 213.
82. See id. at 43-44, 47-49, 116-17, 211-24.
83. See Drezner, supra note 57, at 24-25.
84. Cf. id. at 26.
85. See Friedman, supra note 7, at 253-75.
86. Id.
87. See id. at 321-90.
88. See id. at 330-36, 376.
instead of enticing foreigners with science backgrounds to come here, we are introducing sweeping immigration policies that, at the very least, chill their desire to immigrate.\textsuperscript{89} In addition, Friedman believes that we should expect to see private firms in this globalizing world playing an increased role in foreign affairs.\textsuperscript{90} And finally, despite all the positives Friedman sees accompanying the triple convergence, there is a serious, threatening downside as well. Just as individuals and businesses are able to go global, so too are al-Qaeda and international terrorists more generally.\textsuperscript{91} In fact, Friedman notes that the supply-chain model works here too.\textsuperscript{92} In contrast to thinking about this in terms of Wal-Mart, Toshiba, or UPS, as soon as a suicide bomber detonates explosives in Baghdad, al-Qaeda's leaders can rely on other recruits emerging in a place like Saudi Arabia who are ready to devote their lives for the extremist cause.\textsuperscript{93}

Friedman ends his book by emphasizing that if the United States wishes to remain at the cutting edge of technological innovation and scientific research, it must recognize that the world is becoming more competitive and that this competition is coming from nations like India, not other advanced industrialized states.\textsuperscript{94}

Given the prominence of the author and how widely sold this book has been, it is perhaps not surprising that many commentaries have been published over the last year. The next Part briefly summarizes several of these reviews. I then offer my thoughts of both the book and the arguments that have evaluated it.

\section*{III. Surveying the Landscape of Reviews}

Because a number of prominent people have remarked on Friedman's contribution, this Essay would be remiss if reference was not made to these assessments. In virtually all of these reviews—positive, negative, and in-between—the focus has been on Friedman's argument that because of the ten above-listed forces and the triple convergence, the world is becoming more flat.\textsuperscript{95} Reviewers who praise the book, such as the Nobel Prize-winning economist Professor Joseph Stiglitz, believe that while there remains unacceptable inequality

\begin{footnotes}
\item[89.] See id.
\item[90.] Id. at 452-53.
\item[91.] Id. at 8.
\item[92.] Id. at 429-36.
\item[93.] Id. at 8, 474-84, 530-66.
\item[94.] Cf. id. at 563-65.
\item[95.] See id. at 50-233.
\end{footnotes}
among nations due to, among other things, unfair trade rules and unfair competition practices by corporations, Friedman's flatteners are indeed leveling the economic playing field.\textsuperscript{96} Former Department of Treasury official Michael Langan also positively describes Friedman's flatteners as necessary considerations for any country that wants to ensure it is an economic winner.\textsuperscript{97} And, there are others who emphasize that Friedman is both “excellent” and “ingenious” at speaking intelligently, understandably, and convincingly to both policymakers and everyday people about complicated principles of economics, globalization, and societal transformation.\textsuperscript{98}

There are, however, others who are less sanguine. Aside from the complaint that Friedman’s writing is long-winded, repetitive, and too anecdotal, there are a host of substantive critiques from this group as well. Some have argued that Friedman places too much faith in open capital markets as the vehicle for resolving the plight of the needy.\textsuperscript{99} Others chide the originality of Friedman’s thesis that political, economic, and social relations are evolving as people from different worlds integrate; this idea was noticed by Karl Marx and Friedrich Engles over a century ago.\textsuperscript{100} And then there are those who claim that Friedman overstates his case.\textsuperscript{101} While certain populations are surely becoming wealthier, the disparity is only widening between the haves and have-nots.\textsuperscript{102}

This last point, in particular, has been emphasized in different ways by some of Friedman’s harshest critics. In despairing over the book’s popularity, Professor Roberto Gonzalez soberly concludes that the book “is culturally misinformed, historically inadequate and

\begin{itemize}
  \item \textsuperscript{97} See Michael Langan, \textit{On the Level: Technology Has Created a Faster, Smaller, ‘Flat’ World}, BOSTON GLOBE, Apr. 3, 2005, at D8 (reviewing FRIEDMAN, supra note 6).
  \item \textsuperscript{99} See George Scialabba, \textit{Zippie World!}, THE NATION, June 13, 2005, at 37, 39 (reviewing FRIEDMAN, supra note 6) (acknowledging that Friedman does give proposals that point to other ways for uplifting poorer nation-states).
  \item \textsuperscript{100} See John Gray, \textit{The World Is Round}, N.Y. REV. OF BOOKS, Aug. 11, 2005, at 13 (reviewing FRIEDMAN, supra note 6).
  \item \textsuperscript{101} See id; Robert Hanks, \textit{The World Is a Gobstopper}, DAILY TELEGRAPH (London), Jan 5, 2005, available at http://www.telegraph.co.uk/arts/main.jhtml?xml=/arts/2005/05/01/bofri01.xml (reviewing FRIEDMAN, supra note 6).
  \item \textsuperscript{102} See Gray, supra note 100, at 13; Hanks, supra note 101.
\end{itemize}
ANALYZING THE FRIEDMAN THESIS

Gonzalez bemoans how Friedman underplays that the majority of people in places like India and China struggle to eek out an existence. He further argues that by focusing on the elites in developing societies, Friedman's interviews suffer from obvious selection bias. Friedman, also according to Gonzalez, omits any serious discussion of how Western colonialism contributed to the current poverty faced by developing nations. Nor does Friedman recognize the major accomplishments that occurred within developing societies in spite of this Western exploitation.

From within India itself, Vandana Shiva has been one of the most outspoken critics of Friedman's work. Shiva, a research scientist and leading environmental scholar and activist, argues that Western powers and financial institutions purposely engage in policies that do nothing to equalize the gap between the rich and the poor. Western governmental support of multinational corporations and agribusinesses, the World Bank and International Monetary Fund’s structural adjustment programs, and the World Trade Organization’s Trade Related Aspects of Intellectual Property Rights agreement are but a few ways that Western countries have sought to maximize their financial interests on the backs of poor and developing nations. If anything, the globalization that Friedman lauds is only creating “a new caste system” where these privileged actors are today’s Brahmins while the lower castes “are all whose livelihoods are being robbed to expand the markets and increase the profits of global corporations.”

To some, the scrutiny Friedman’s book has received might seem surprising. Yet, after considering his track record of best-selling books, his position at the New York Times, and the connections he maintains among academic, journalistic, political, and business elites, such attention is understandable. In the next Part, I begin my evaluation of

104. Id.
105. Id.
106. Id.
107. Id. For another, overall devastating critique of the book, see Edward E. Leamer, A Flat World, A Level Playing Field, a Small World After All, or None of the Above?, 45 J. ECON. LITERATURE (forthcoming Mar. 2007) (manuscript at 11-26, 31-54) (reviewing FRIEDMAN, supra note 6) (offering a detailed, economic-based analysis and evaluation of Friedman’s book).
109. See id.
110. Id.
the debate over *The World Is Flat*. As stated in the Introduction, my analysis is two-pronged in nature. We first turn to a rule of law/judicial delay component, which has been conspicuously omitted from the discussion of Friedman’s book thus far.

IV. THE UNFLATNESS OF INDIA’S LEGAL SYSTEM

Friedman’s awe over India makes perfect sense given what the country has accomplished during its sixty years of independence. However, even within the most thriving of democratic societies problems exist. In addition to the challenges of poverty, underdevelopment, illiteracy, and population growth, India confronts other issues. Corruption and bribery of politicians, police abuse, nonperformance by and incompetence among bureaucrats, and an inadequate infrastructure are just a smattering of troubles that burden the Indian state.

As serious of a problem, if not more so, is the inefficiency of the country’s judicial system. The courts in India are thought to be the most crowded of any in the world. In the Indian Supreme Court alone there are about 20,000 cases pending. The total number of cases pending in all of the state high courts is roughly three million. And, nationwide there are twenty-four million cases pending in the lower courts, two-thirds of which are criminal cases. Relating to this last point, the government’s own Law Commission in 2004 reported that seventy percent of those who are jailed languish as “undertrials” who have yet to face prosecution in court.

Moreover, consider Table 1, which provides data on the backlog of cases, many pending for up to a decade or more, in the four states that receive the greatest amount of foreign direct investment.

---

112. *See* id.
113. *Id.*
116. *See* Judge Me Not, *supra* note 114, at 32 (“According to the Ministry of Law and Justice, 650,000 cases have been pending in the our [sic] High Courts for more than 10 years, while 630,000 have been pending between 5 and 10 years.”).
### Table 1

<table>
<thead>
<tr>
<th>State</th>
<th>Cases Pending in Lower Court</th>
<th>Cases Pending in High Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maharashtra</td>
<td>2,544,594</td>
<td>332,975</td>
</tr>
<tr>
<td>Karnataka</td>
<td>1,070,791</td>
<td>129,653</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>963,869</td>
<td>183,139</td>
</tr>
<tr>
<td>New Delhi</td>
<td>660,553</td>
<td>113,785</td>
</tr>
</tbody>
</table>

In Maharashtra, with Mumbai (Bombay) as the capital, there are over 2.5 million cases pending in the lower courts, over 2.1 million of which are criminal cases. In that state’s supreme court, or high court, over 330,000 cases remain pending, with about one-third pending for over five years. In Karnataka, with Bangalore as the capital, there are over 1 million cases awaiting adjudication in the lower courts, with about forty-five percent classified as criminal matters, while over 100,000 sit in the high court. The numbers are just as staggering for both Andhra Pradesh and New Delhi.

Indeed, there have been studies that examined the causes and impact of judicial delays on Indian society. The explanations are somewhat cross-cutting, but there is general agreement that while the wealthy may have the resources to endure the seemingly never-ending legal process, most ordinary and poorer Indians do not.

117. The data for this table come from the comprehensive, well-known Indian statistical database, Indiastat. See Indiastat, http://www.indiastat.com (last visited Feb. 11, 2007) (specific tables on file with the Tulane Law Review). The data is from 2004, the most recent statistics compiled at the time of this writing.

118. Id. The specific figures are that in Maharashtra 2,180,101 cases in the lower courts are criminal matters while 364,493 are civil matters. Id.

119. Id. In fact, the specific figures are that 66,807 cases have been pending for over five but less than ten years and 61,035 have been pending for over ten years. Id.

120. Id. The specific figure for criminal cases pending in Karnataka is 458,996; there are 611,795 civil cases pending. Id.

121. See id.


123. This disparity is because, in terms of litigiousness with more than two-thirds of cases in the lower courts being criminal, the Indian government is a litigant to all of these actions. See supra notes 117-121 and accompanying text. In civil matters, it is believed that the government is a party in about sixty percent of the cases. See Overdorf, supra note 15. In addition, the supreme court has broadly read provisions within the Indian Constitution to permit litigants to file claims directly in the supreme court or in a state high court where the government is accused of violating a fundamental right of the constitution. See Krishnan,
Furthermore, among many Indians there is a sad, fatalistic attitude towards the courts. It is true that court rulings are generally viewed as legitimate and that the supreme court and state high courts, in particular, are accorded a great deal of respect and admiration by both elites and the mass populace. But there remains deep frustration in the length of time it takes to receive a judgment, not to mention the anxiety over whether the judgment will be executed.

It would be unfair to expect Friedman to examine the problems plaguing India's courts in detail. Yet it is curious how a book that argues India is a more equitable, flattening society today could completely ignore how hundreds of millions of people are effectively barred from pursuing their legal claims in a timely manner. And, the overlooking of this issue makes even less sense considering that an inefficient legal system has repercussions for foreign investors—exactly the players on whom Friedman focuses. A delay-ridden, slow-moving legal system could well chill the interest foreign investors have towards India.

Imagine a situation where an American company contracts with an Indian developer to build a new office tower that never comes to fruition. Or what if after the tower is built, there are structural defects that the American company wants the Indian developer to correct? There are numerous other scenarios worth conjuring, and in each of these it is possible that the American business would prevail in court, or in an arbitration proceeding, which is now the forum to which more companies are turning. The question, however, is after how much time? Ultimately, then, is the payoff worth it to the American company, even with a cheaper labor market at its disposal?

Friedman's lack of attention to how the legal process operates allows him to clump together analytically various developing countries where there is outsourcing, innovation, research, and development. As such, although he focuses most of his book on the effect of globalization on India, he talks of similar trends occurring in China,

_Lawyering for a Cause, supra note 122, at 594; see also India Const. arts. 32, 226. At the same time, however, there are statistics showing that Indians are low users of civil litigation and that the backlog is the result of too few cases exiting the legal process and too few courts and judges to handle the volume that currently is present. See Galanter & Krishnan, supra note 16, at 789-90; Overdorf, supra note 15_.

124. _MARC GALANTER, COMPETING EQUALITIES: LAW AND THE BACKWARD CLASSES IN INDIA 482-83 (1984)._  
126. The little evidence that exists on Indian arbitration fora suggests that these too have become overburdened, understaffed, and administratively inefficient. _See_ id. at 810.
Brazil, and elsewhere. But of course each of these nations has their own distinct legal as well as political, cultural, and social facets. To argue that the world and, in particular, the behavior of individuals who reside in different corners of the world is becoming more leveled without considering how law in society operates places into question the extent to which global flattening is taking place.

The second part of my analysis of Friedman's book will follow up on this last point by examining the behavior of a group of professionals—specifically Indian lawyers who have sought to advance the rights of lower castes and the poor following the devastating Indian Ocean Tsunami in 2004. The tactics and strategies of these lawyers do not look all that different from what American public interest lawyers have been doing for decades. To be sure, flatteners like the Internet and computer technology have facilitated communication and collaboration between Indian and American lawyers, which, in part, may well explain the similarity in professional behavior. As we shall see, however, beyond Friedman's forces of globalization, there is a host of political, social, and cultural considerations that play a key role in the behavior and decision-making processes as well.

V. BEYOND THE FLATTENERS OF GLOBALIZATION

For critics who are troubled by The World Is Flat, it is most problematic because of what they perceive to be Friedman's insensitivity to the inequalities and disparities that continue to loom over much of the developing world. They hear Friedman as saying that his flatteners are the panacea to cure the ills of society, where eventually "everyone will get richer and smarter and it will all be fine." While the above discussion on India's legal system certainly illustrates a limitation to Friedman's thesis, I think much of the criticism from Friedman's harshest detractors is too sweeping. He does devote a chapter of his book to the unflat world, and he is emphatic that societies benefiting from technological advancement have a moral obligation to uplift the millions who are suffering and in need.

But, with this said, I do believe there is a more subtle, nuanced dilemma with Friedman's argument that both the author and his

127. See FRIEDMAN, supra note 7, at 30, 53, 81.
128. See id. at 8.
129. See, e.g., Hanks, supra note 101; Learner, supra note 107, at 11-26, 31-54.
130. See FRIEDMAN, supra note 7, at 459.
131. See id. at 460-61.
reviewers overlook. Recall that Friedman suggests that around 2000 the world became smaller as a result of the above-discussed triple convergence.\textsuperscript{132} Thanks to the curtain being lifted off of countries like India and China, whole new populations could compete against, cooperate with, and behave like, people in the West.\textsuperscript{133} According to Friedman, the triple convergence has standardized what people want and how they act—whether they live in Boston, Bangalore, or Beijing.\textsuperscript{134}

There are two problems worth mentioning here. First, at least between the United States and India, there have been important elements of a strong, cooperative relationship that date back over fifty years. Americans and Indians have been “collaborating”—to use Friedman’s oft-referenced word—on legal-related issues well before many of his flatteners even came into existence.\textsuperscript{135}

Consider that as early as the 1950s, and for the next three decades, the Ford Foundation (Ford), an American philanthropic organization, began devoting several million dollars to the Indian legal-education sector.\textsuperscript{136} At the time, officials at Ford were pursuing a policy also being championed by many American foreign policy experts: to prevent the rise of future totalitarian regimes like Hitler’s Germany and Mussolini’s Italy, Western institutions need to promote the rule of law within countries newly freed from colonialism.\textsuperscript{137} India was such a country, and India’s law schools were selected as the sites to emphasize these principles, because of the belief that law students were likely to become the next generation of government leaders.\textsuperscript{138} Ford did substantially scale back money for this project in the late 1970s, but it remained active in funding other law-related projects for another decade, including nongovernmental organizations that sought to use public-interest litigation as a means of championing their constituents’ causes.\textsuperscript{139} Ford’s involvement highlights significant collaboration between actors in the United States and India before 2000. That such activity was occurring indicates that at least some people in both countries were conceiving of the world as a more

\begin{itemize}
  \item \textsuperscript{132} See id. at 205-04.
  \item \textsuperscript{133} See id. at 204, 211-29.
  \item \textsuperscript{134} See id.
  \item \textsuperscript{135} See Krishnan, supra note 3, at 447-49.
  \item \textsuperscript{136} Id.
  \item \textsuperscript{137} Id.
  \item \textsuperscript{138} Id. at 450-55.
  \item \textsuperscript{139} See id. at 460-61, 468-73, 485 & n.279.
\end{itemize}
horizontal, flatter place than the triple-convergence hypothesis would suggest.

A second problem with Friedman's argument is that it fails to consider alternative explanations. Friedman is a self-proclaimed "technological determinist" who believes that because of the triple convergence, India is no longer viewed as a place of "snake charmers, poor people, and Mother Teresa."\(^\text{140}\) The triple convergence has helped make the demands and decisions of Indians, who live in such a starkly distinct society, much more understandable and in line with those who live in the United States.\(^\text{141}\)

But could there be other reasons that might explain why communities in India are exhibiting similar behavioral patterns as those we see here in this country? While I believe there is merit to Friedman's triple convergence, I also think that additional factors need consideration. Specifically, the political, social, and cultural opportunities and constraints present within a society are critical for understanding community behavioral dynamics. It is thus both surprising and disappointing that Friedman so underplays the significance of norms, customs, and traditions.

If Friedman had written a book that was more limited in scope perhaps this last point would need no greater expansion. Yet he is more ambitious; he purports to offer a brief history of the twenty-first century and an analysis of how people's behavior around the world will forever be altered by his triple-convergence hypothesis. As a comparativist whose academic career has focused on studying the behavioral aspects of professionals in India—specifically lawyers—I am intrigued by this proposition. My latest research involves looking at a group of lawyers who have been championing the rights of the Indian Ocean Tsunami survivors in the Indian state of Tamil Nadu. I have found that the triple convergence has had some impact on what these professionals do in their advocacy. But the tactical decision-making and overall professional behavior of these lawyers are affected by a constellation of other norms as well.

In fact, the manner in which these lawyers act falls into line with the recent scholarship on "cause lawyering." I, and others, have contributed at length to this growing literature; I therefore will not repeat those findings here.\(^\text{142}\) Suffice it to say the Indian lawyers in

---

140. See FRIEDMAN, supra note 7, at 460, 561.
141. See id. at 271-72.
142. For a summary of this literature and an empirical analysis of recent developments in India in particular, see Krishnan, Lawyering for a Cause, supra note 122, at 575-79.
Tamil Nadu, like the lawyers described in the cause-lawyering literature, view their work as embodying their own personal, cultural, societal, political, and professional values and use a variety of methods to achieve their goals. Furthermore, these lawyers are affected by more than simply the elements Friedman describes in his triple convergence. Although I am in the midst of completing a larger study on these tsunami lawyers, below I shall provide a preview of my findings that document this point. Before doing so, however, it is important to contextualize the environment in which these lawyers operate and survivors live. I therefore next describe the demography of this region, the caste politics and social divisions that have arisen, and the issues of salience that have emerged.

A. Background on the Tsunami-Affected Environment

In India, three southern states—Andhra Pradesh, Kerala, and Tamil Nadu—and one union territory—Pondicherry—were affected by the Indian Ocean Tsunami. Of these four, Tamil Nadu was the worst hit with approximately 8000 people killed, nearly 3500 injured, and close to a million people displaced and stranded as refugees in eleven coastline cities. Four places in particular, Chennai (the state’s capital), Cuddalore, Nagapattinam, and Kanyakumari, were the location of most of the state’s deaths. Figure 1 provides a map of Tamil Nadu that includes the hardest hit parts of the state.
Along the coastline of Tamil Nadu lay several communities that have made their living by fishing in the Indian Ocean and the Bay of Bengal for generations. Often referred to in India as “fisherfolks” these communities comprise what the Indian Constitution and Indian government refer to as “Other Backward Classes” (OBCs). Over 2000 different communities are considered OBCs; in fact, among OBCs there is stratification, with the fisherfolks constituting what the government calls the “most backward” of the backward classes.

The identification of the fisherfolks as most backward is important for the purposes of receiving government benefits. In the Hindu caste system, OBCs belong to the manual-labor, or Sudra, caste, which—excluding the “untouchables,” or Dalits, who traditionally were deemed unworthy of even being caste-tied—ranks at the bottom

147. GALANTER, supra note 124, at 159-67, 467-68.
148. Id. at 8.
149. Interviews with various lawyers, government officials, and social activists (see sources cited infra notes 157, 160, 170, 185 & 189); see GALANTER, supra note 124, at 468-70.
of the four-tier hierarchy.\textsuperscript{150} Above the \textit{Sudras}, from highest to lowest caste, are the \textit{Brahmans} (priests), \textit{Ksatriyas} (military/warriors), and \textit{Vaisyas} (merchants).\textsuperscript{151}

For centuries, OBCs and \textit{Dalits} endured socioeconomic and political deprivation within Indian society.\textsuperscript{152} In order to remedy these past wrongs and because they made up such a large percentage of the overall population, the Indian government, after gaining independence from Britain in 1947, encoded within the constitution educational and public-sector-employment entitlements to both sets of groups.\textsuperscript{153} The unyielding discrimination that continued against many within the OBC and \textit{Dalit} communities prompted subsequent government legislation to expand and define further these affirmative-action-type benefits, particularly for those communities deemed most backward.\textsuperscript{154} Over the last four decades, the fisherfolks have justifiably used these enhanced government benefits to increase their political and economic power within society.

Following the Indian Ocean Tsunami, tens of thousands of fisherfolks along the Tamil Nadu coastline fortunate enough to survive nevertheless lost their economic livelihood.\textsuperscript{155} Beaches were contaminated from the remnants of corpses, homes were destroyed, and boats, nets, and other fishing paraphernalia were washed away.\textsuperscript{156} For these communities, after the Tsunami struck the manner in which they had earned their living simply ended. They were displaced; they had no money; and they had to cope with the enormity of death and destruction that surrounded them.


\textsuperscript{151} Galanter, supra note 124, at 10; Quigley, supra note 150, at 91.

\textsuperscript{152} See Dumont, supra note 150, at 66-72; Srinivas, supra note 150, at 91-92, 114-17.

\textsuperscript{153} See Granville Austin, \textit{The Indian Constitution: Cornerstone of a Nation} 54-57, 61-62, 201 (1966); Galanter, supra note 124, at 368-70.


\textsuperscript{155} See India: Tsunami Summary, supra note 20.

\textsuperscript{156} See id.; Girish Agrawal & D. Geetha, \textit{Tamil Nadi: First the Tsunami Took Their Loved Ones and Now the Government Refuses To Let Them Rebuild Their Lives}, COMBAT LAW, Aug-Sept. 2005, at 70, 70-78.
In spite of this unimaginable environment, the fisherfolks have emerged from this calamity as a politically strong force. Even before the Tsunami, they were able to govern their community in an efficient way through local village councils known as panchayats. These panchayats consisted of elected officials who handled administrative, political, and other bureaucratic matters for the community. Because of this cohesiveness, after the Tsunami the panchayats reorganized themselves, held new elections, and have since sought to petition the state and central governments for aid on behalf of their constituents.

Indeed, because of their political mobilization, the fisherfolks have acquired some material benefits from the Tamil Nadu state government, the Indian central government, as well as international donors. But it is important to note that the relief efforts have not treated all affected communities alike. For example, numerous Dalit communities, which lived alongside the fisherfolks and frequently earned their livelihood by working as ancillary laborers for these fisherfolks, have barely been able to eek out an existence over the past two years. Indigenous tribal peoples known as Adivasis, who inhabited nearby rural forests, suffered greatly as well; yet they too have not received much in the way of relief.

To a certain extent, the lack of aid to these groups is not surprising. At least in this part of the country, they are not politically organized; they have few resources; and they remain highly discriminated against—economically, socially, and politically; as such, they command little concern from elected or bureaucratic officials. Add to this problem that on those few occasions where Dalits and Adivasis have attempted to assert themselves, they have incurred intense hostility from the fishing communities. It is therefore not difficult to see real caste-based tensions continue to exist in modern-day India.

158. Interview with Usha Ramanathan, supra note 157; Interview with D. Geetha, supra note 157.
159. Interview with Usha Ramanathan, supra note 157.
161. Id.; see Agrawal & Geetha, supra note 156, at 74-75.
162. Interview with Ossie Fernandes, supra note 160.
163. Id. A recent book that discusses the plight of Dalit and other disadvantaged groups in Tamil Nadu is P. Sivakami, The Grip of Change (2006).
164. Interview with Ossie Fernandes, supra note 160.
In the next Subpart, I will preview the professional behavior and tactical strategies of a group of lawyers who have been advocating on behalf of the coastline survivors. To be sure, the evidence presented will support, in part, Friedman’s argument that digitalization has transformed communication and advocacy. But other factors too have played a role, including sensitivity to and knowledge of culture, politics, and other societal norms.

B. Legal, Political, and Economic Assistance to the Survivors

1. Affirming the Friedman Thesis

In the immediate aftermath of the Tsunami, the scene in the affected areas of Tamil Nadu was utter chaos. Tens of thousands of people were left homeless and countless bodies remained strewn along the coastline. Most aid workers and NGOs pouring in from various parts of India and from around the world to help, alas, only contributed to the confusion. The scale of the devastation was so large that few government officials and NGOs knew where to begin the rescue effort.

One reason for the complete disarray, in terms of organization, was that prior to the Tsunami most people who came to help did not interact with coastline residents. They thus did not know the terrain, the people, or the logistics of rendering assistance. However, thanks to the advancement in technology and, in part, the triple convergence, some important efforts were made that otherwise could not have been. One telling example involved the process of identifying victims and then filing claims for government compensation. Originally, the government’s method included gathering survivors at daily town-hall

165. The Tamil Nadu Tsunami Resource Centre has provided a very moving and informative account of what the days were like immediately following the Tsunami. See EFICOR, TURNING THE TIDE: A YEAR AFTER TSUNAMI (2005), available at http://www.tntrc.org/downloads/ngo-report/turning_the_tide.pdf; see also The Deadliest Tsunami in History?, supra note 20.

166. This was true not just in Tamil Nadu but in other countries that were affected by the Tsunami as well. See Newshour with Jim Lehrer: Aftermath (PBS television broadcast Jan. 3, 2005) (transcript available at http://www.pbs.org/newshour/bb/asia/jan-june05/aftermath_1-3.html).

167. Id.

168. See Interview with Ossie Fernandes, supra note 160. The Human Rights Advocacy and Research Foundation was one of the first, and one of the few, well-equipped organizations to meet the immediate needs of the people. Id. This ability existed because the organization had worked with the coastal residents for nearly two decades prior to the Tsunami. Id.

169. Id.
meetings in the affected cities and posting slides on a screen that showed the bodies of the dead one-by-one. Once a body was identified, the closest relative, who often would be inconsolable, would be asked to go to the police precinct in which he or she lived to file a claim report.

For many survivors, particularly the fisherfolk, this was not a problem because the meetings were held at sites close to where they had resided. For a large number of Dalits, though, the situation was different. Thousands of Dalit victims were migrant workers who had come from great distances to work as laborers in the fishing industry. Their family members would have to make long journeys to the site where they could identify the photographs of the dead and then travel back to their home district to file a report, where they then had to wait weeks, if not months, to receive compensation.

Yet the Dalits continued to abide by this practice mainly because they knew of no alternative and were afraid that complaining about the hassle would jeopardize their chances of recovering anything from the government. After learning of this process, one lawyer affiliated with an involved NGO approached the state government official in charge of administering the victim-identification meetings. In an informal, nonadversarial fashion, the lawyer explained the emotional, financial, and logistical hardships Dalit families were enduring as a result of this current system. According to the lawyer, the government official was not unsympathetic; he just did not know the difficulties being encountered by the many Dalit families.

Together, the lawyer and the government official worked cooperatively in streamlining the process. Rather than requiring families to file compensation petitions in their own precincts, submissions could now be made in the office in which the identification took place. Government officials would receive the petition and file it in a centralized computer database to which all

170. Interview with Mr. Vasu, Attorney, in Tamil Nadu, India (Aug. 16, 2006).
171. Id.
172. Id.
173. Id.
174. Id.
175. Id.
176. Id.
177. Id.
178. Id.
179. Id.
180. Id.
police precincts would have access.\textsuperscript{181} Provided that the family members had proper identification of their own, they could then receive a check where the identification took place.\textsuperscript{182} Then, the information concerning when a family had been paid would be stored in this central database.\textsuperscript{183}

Here, the availability and usability of technology clearly helped the most desperate of people in the most desperate of times reap the benefits to which they were lawfully entitled.\textsuperscript{184} Moreover, there have been other ways in which Friedman’s argument has applied. For example, were it not for strides made in e-mail and the digitalizing of word-processing software, advocacy through publications would not be nearly as effective. For a large portion of these lawyers, much time has been devoted to documenting the adversity in the Tsunami aftermath. The Human Rights Law Network (HRLN) has published several volumes of works in order to highlight its message to the general public.\textsuperscript{185} One of the HRLN’s publications, \textit{Combat Law}, which is available online, has served as a key journalistic watchdog monitoring government action (and inaction) and providing assessments on the progress made by the affected coastal communities.\textsuperscript{186} Similarly, the legal NGO Campaign Against Child Labour has issued critical reports on the government’s inattention to the plight of child survivors of the Tsunami, most notably orphans.\textsuperscript{187}

The efficiency with which this work has been done is clearly attributable to the points Friedman makes about communication. Nevertheless, it would be a mistake to conclude that the triple convergence is solely responsible for the behavior of these professionals. As we will see in the next Subpart, there is a range of other factors that buttress the argument that the world is becoming more flat.

\textsuperscript{181} \textit{Id.} For those few police headquarters that lacked computer access, hard-copy reports were couriered. \textit{Id.}

\textsuperscript{182} \textit{Id.}

\textsuperscript{183} \textit{Id.}

\textsuperscript{184} \textit{Id.}

\textsuperscript{185} Interview with Colin Gonsalves, Attorney, Lead Official, Human Rights Law Network, in Tamil Nadu, India (Aug. 12, 2006). These publications were distributed to libraries, news outlets, bookstores, schools and universities, and government offices. \textit{Id.}


\textsuperscript{187} \textit{See, e.g.,} \textit{CAMPAIGN AGAINST CHILD LABOUR (TAMIL NADU), A POLICY AND LEGISLATIVE FRAMEWORK FOR ENFORCEMENT OF CHILDRENS RIGHTS AND GAINING NEW RIGHTS IN DISASTER SITUATIONS} (2005).
2. Supplementing the Triple Convergence—Politics, Culture, and Society Still Matter

While technology and globalization have benefited India greatly, for a host of issues that confront the Tsunami survivors, the involved lawyers still are required to know about and negotiate around generations of existing political, cultural, and societal norms in order to be effective advocates. This savvy has proven to be useful in the efforts to work on behalf of the especially hard-hit survivors—namely the coastal women and children. In most fisherfolk communities there is a defined, long tradition of division of labor. Adult men are in charge of staffing the boats, heading to sea, and netting the fish. The adult women typically then clean the fish and transfer them to marketplaces and other commercial vendors seeking to buy the product. The women also are usually in charge of handling the financial affairs of the family.

The Tsunami occurred during the day, when many fisherfolk women are on the beach preparing to transport the fish already caught by the men. As a result, one report notes that the number of fisherfolk women who died in Tamil Nadu in the Tsunami was four times the number of men. In the city of Cuddalore, nearly three-fourths of the victims were women. In addition to this tragic loss of life, there have been devastating implications for the women who survived. For example, many women survivors have been forced to pick up the work left by those who were killed. These longer work hours have not resulted in increased pay. Furthermore, there has been an increase in the number of young girls ceasing schooling in order to help make more money for their family. There are two other

---

188. Interview with Usha Ramanathan, supra note 157; Interview with Ossie Fernandes, supra note 160.
189. Interview with Usha Ramanathan, supra note 157; Interview with Ossie Fernandes, supra note 160; Interview with Jesu Rathinam, Convener, Coastal Action Network, in Tamil Nadu, India (Aug. 17, 2006).
190. Interview with Usha Ramanathan, supra note 157.
191. See John Aglionby, Four Times as Many Women Died in Tsunami, GUARDIAN (London), Mar. 26, 2005, available at http://www.guardian.co.uk/tsunami/story/0,15671,1445967,00.html. The practice is for the men to dock the boats, place the fish onto racks located on the beach, and then to head back to their homes. Id.
192. Id.
193. Id.
194. See id.
disturbing trends. There has been a spike in young girls now being married off to older men in order to provide these widowers with not just a worker but also with a female who is able to give birth to more children. And, an unknown number of young girls left orphaned by the Tsunami have become child laborers, been forced into prostitution, been victims of new guardians who are pedophiles or physical abusers, or all of the above.

Lawyers have led the effort to lobby local, state, and central government officials to address the problems facing these women and children. They have also engaged in several grassroots tactics. For instance, the lawyers have held legal-literacy camps for women and children to inform them of their constitutional and statutory rights. The lawyers have organized rallies and marches, served as representatives during several meetings with government officials, and filed petitions in court seeking judicial redress. In spite of facing their own constraints, there is evidence to suggest that the lawyers have been making progress in helping these particular survivors—albeit incrementally—over the last two years.

---

198. See generally *Campaign Against Child Labour (Tamil Nadu)*, supra note 187, at 17-18.
200. See id.
201. One immediate limitation has been a lack of resources. The lawyers I know in this coalition come from modest financial backgrounds and live, at best, middle-class lives. They are not independently wealthy. For those who work for NGOs, like the HRLN, they are dependent upon contributions from donors, which can be unpredictable. This unpredictability can consequently hamper attempts to plan and strategize on a long-term basis. And several of these lawyers have to supplement their income by taking part-time jobs, including teaching, consulting, writing, and the like. Interviews with various lawyers, government officials, and social activists (see sources cited supra notes 157, 160, 170, 185 & 189).
202. For example, from my research in the field, I have found that better fishing equipment has been provided by the government to some of the coastal residents and that there has been a little improvement in public housing as well. In addition, there has been a governmental effort to promote the planting of mangrove trees in more areas where fisherfolks and dalits live. See T.V. Padma, ‘Bioshield’ Proposed to Protect India’s Coast, *SciDev.Net*, Jan. 19, 2005, http://www.scidev.net/News/index.cfm?fuseaction=readnews&itemid=1860&language=1. Incredibly, because of their strength and sheer number, these particular trees served as a buffer to the Tsunami waves and prevented those few communities living behind this barrier from being harmed. See id. The idea is that aggressively growing these mangroves could be an easy, inexpensive, and effective way of warding off damage from similar, future natural disasters. See id. Also, according to Colin Gonsalves, there has been a favorable unpublished interim order issued by the Madras High Court, which ordered the state to provide greater access to dispute resolution fora so that survivors can more easily redress claims they have. See Interview with Colin Gonsalves, supra note 185. Still, there is a long list of survivor grievances that remain unattended to by the state. Perhaps the biggest
The lawyers’ familiarity with the people, politics, history, and culture of this society has been critically important in this advocacy. That attention and remedial assistance have begun to be paid to the women and children in need is not only because of the presence of technology in India, but rather because of what is being conveyed within this medium. And, that is the key point which I fear Friedman short shifts in his analysis.

Certainly the Internet, e-mail, and the digitalized word processor have all served as vehicles for carrying the substantive messages being disseminated by the lawyers. But that is all these technological advancements are—vehicles. No matter how superbly high tech communications become, at the end of the day, substantive ideas and effective advocacy are dependent upon human intelligence, ambition, creativity, and sensitivity to the norms and history prevalent in the society. In our particular case, for the lawyers who are seeking to alleviate the plight of the Tsunami survivors in Tamil Nadu, their message and representation are only as good as their understanding of the environment in which they are working. I am afraid that in all his enthusiasm to tout the ways globalization and technology are changing the dynamics of human behavior, Friedman glosses over this very crucial fact.

VI. CONCLUSION

Ultimately then, for me, the issues of concern in The World Is Flat are two-fold. First, for a nearly 600-page book that proclaims to provide a complete analysis of how the world has changed thanks to globalization and technology, it is disappointing that so little is said about where the rule of law fits into this picture. It is also a pity that Friedman overlooks just how important an efficient, predictable, and equitable legal system is, not just for the people within the country, but also for foreign entrepreneurs seeking to make long-term investments. After all, in a place like India, if the legal process continues to function as it does currently, then interested observers, like Friedman, should worry whether the country will remain an emerging economic power.
and whether it will even be able to sustain its present democratic structure.

Second, while Friedman rightly recognizes the monumental impact of globalization and technology on various societies around the world, his hyperemphasis on these developments effectively dismisses how preexisting political, social, and cultural factors still affect the way communities within these societies behave. In my brief examination of one such community—that of lawyers working on Tsunami relief in India—we have seen that other factors, in addition to the triple convergence, matter in how well these professionals understand and advocate on behalf of their constituents.

Yet neither of these points should take away from the overall contribution Friedman makes in The World Is Flat. Unlike his harshest critics, I do think his work has value, and I believe he is aware that a large number of people have been left out of the technological boom. His basic hope (and prediction) is that the forces of globalization will eventually reach these people so that they too will be able to experience the benefits felt by others in the world. Notwithstanding the points raised in the above assessment, I find little with which to quarrel regarding Friedman's aspiration.