

The Role of the Judiciary for Economic and Social Development
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It is good to be here at The Hague, the international city of peace and the judicial capital of the world. It makes perfect sense to have peace and justice so perfectly aligned. As Baruch Spinoza, one of the greatest philosophers, wrote: "Peace is not the absence of war, but the presence of justice." In the 21st Century we still see justice tied to peace--perhaps more than ever---but increasingly we see justice tied to matters of economic and social development too. The broadening reach of justice reflects the dynamic advancements in the world today. Advancements in technology. Advancements in communication. We are less compartmentalized, less segmented, and more interdependent than ever before. John Donne's timeless lines, "No man is an island, but every man is a piece of the continent," might have been written a long time ago, but it's a way of life today.

This notion of interdependence is not new to you. First, there was the development of the European Union, and the launch today of your Network of Judicial Councils is a natural outgrowth of that effort. And this notion of interdependence is not new to those of us at the World Bank. Today, more than ever, the World Bank sees a link between the judiciary, and more broadly the rule of law, and economic and social development.

This afternoon, I wish to focus my comments on two matters:

- One, is the importance of an effective judiciary for economic and social development, and
- Two, is the role of the EU judiciaries and Judicial Councils in the development process.

In the 21st Century, economic and social development is not just about the balance of payments or building a road or increasing tax collection. More and more it is about the rule of law. We believe that the rule of law is in effect when there are:

- ***Meaningful and enforceable laws:*** That means transparency, fairness, and predictability in decisions;
- ***When there are enforceable contracts:*** So that there's promotion of business and commerce;
- ***When there is basic security:*** That means personal safety and protection of property, and an independent judiciary that safeguards both;
- ***And finally when there is access to justice:*** That means concrete ways to invoke that safeguard.

If we have these elements, the state can regulate the economy and empower private individuals to contribute to economic development by confidently engaging in business, investments, and other transactions. This in turn fosters domestic and foreign investment, the creation of jobs, and the reduction of poverty. If there is to be sustainable development, the rule of law is a must.

Development without attention to the rule of law has resulted in failure:

We only have to look back at the Asian financial crisis of the 1990's to see that. A positive economic situation sometimes masks the need to upgrade substantive laws and may result in weak legal institutions. Argentina, a more recent example, experienced economic progress during the 1990's only to find itself in crisis during the last two years. Many point to corruption and the lack of the rule of law as the main cause. Promoting the rule of law becomes more incumbent on all of us because a financial crisis in one country can spell financial problems in many others.

And when one considers globalization, economic and social development with attention to the rule of law becomes absolutely paramount. All of us have a part to play as the rules governing globalization continue to unfold. While globalization has spurred economic development, its benefits have been uneven, affecting different segments of society. There are still more than one billion people who live on less than one dollar a day and nearly three billion who live on less than \$2 a day. The poor continue to lack legal rights that empower them to take advantage of opportunities and provide them with security against arbitrary and inequitable treatment. Discriminatory or arbitrarily enforced laws deprive people of their individual and property rights, raise barriers to justice and keep the poor poor. For this reason an effective judiciary is critical.

And for us at the World Bank it is a priority. We were not always in the business of the rule of law. For years we concentrated on education, health and infrastructure. We still do those activities, but we have made the rule of law a vital part of what we do. And in doing this, it has not made our job easier, it has made it harder. Harder in a way that we believe makes our work more useful and overall moves us closer to our goal of reducing poverty around the world.

Today, we have about 500 projects and activities dealing with the rule of law. That means loans and grants to help support Judicial Councils, train judges, improve court management, introduce ADR, provide legal education and legal aid, and more.

And yet, while the development community recognizes the need for the rule of law and its importance, we are not there yet. In September 2000, the United Nations unanimously adopted the Millennium Declaration that strives to:

- 1) eradicate extreme poverty and hunger;
- 2) *achieve universal primary education;
- 3) *promote gender equality and empower women;
- 4) reduce child mortality;

- 5) improve maternal health;
- 6) *combat HIV/AIDS, malaria and other diseases;
- 7) ensure environmental sustainability;
- 8) develop global partnership for development.

But nowhere is the rule of law mentioned. The rule of law must be included in any conversation about economic or social development. It is up to the World Bank, the United Nations, the European Union and other leaders of the world community, and every person in this room, to make sure that the rule of law is an integral part of that conversation. And that commitment begins in meetings like this with more than nineteen judiciaries represented.

You will go along way toward achieving this goal, if you will make the rule of law not just a part of a conversation for the European Union countries. But also and, most importantly for the developing world, as others will be looking to you and what you do as a model for their work.

Developing countries are already making the rule of law part of their efforts to attract foreign investment. And doing so means moving toward market economies and overhauling legal and institutional frameworks. All of which helps create *predictability*. Last year aid flows from the OECD donor countries amounted to \$56 billion. International investment flows to developing countries were more than three times this amount at \$154 billion. And in countries like Sri Lanka, the rule of law takes on special social meaning where developmental successes have tragically been overshadowed by seemingly intractable, on-going ethnic conflict. Although a peace process has begun, success depends on an effective and trusted judiciary.

As part of their efforts to create an effective judiciary, many countries are following your lead in establishing Judicial Councils, which were adopted in some countries in Western Europe as a means to protect judicial independence. So your influence is not limited to the greater Europe but it is worldwide. For example, Argentina looked to Spain, Italy, and France in its considerations in creating its Judicial Council. And while it is true that reforms must take into account the country's cultural, political, social, and economic environment, some countries think because they adopted elements of your legal system, they can easily transplant your institutions. They are finding that this not easy; in fact it is difficult.

Especially in countries where judicial independence is weak and corruption is endemic, attention to both the real and perceived interference is central to achieving success. One way to promote judicial independence, is as we have seen, a trend of moving budget management to the judiciaries. As you know all too well, Judicial Council's are also taking on the role of managing budgets both in Europe and in other countries such as Colombia, Ecuador, Peru (in addition to appointment, discipline and training of judges).

So as you make reforms in your own countries, remember that they will be transplanted elsewhere. Consider the possible real or perceived effects of those reforms. Do they foster the rule of law and do they contribute to best practices? We are all watching the promising reforms taking place in the United Kingdom. The abolishment of the Lord Chancellor's Department and a clearer statement of institutional roles is enhancing judicial independence and the separation of powers. And The Lord Chief Justice is taking on the role as head of the judiciary. We would expect no less.

You are also expecting the same from countries that await entry into the European Union. You are establishing standards for them. For example, "states should consider creating independent judicial councils to administrate the judiciary." As a result, it could be argued that you are moving toward a European justice system, where consistency of laws and interpretation is just as important as the structure and service of the judiciary.

As regionalism and globalization continues, and it will continue, there will be more and more harmonization of laws and judiciaries. Yes, we have civil law and common law jurisdictions, but more and more, we are seeing a convergence of the two systems, and more and more one is borrowing from the other. There is also an increased need for greater cooperation among judiciaries-- whether it is for arrest warrants or enforcement of judgments. As interdependence grows among countries so does the need for greater exchange --whether it is on judicial training, standards of quality, or case management systems.

Your launch of this European Judicial Council Network is an excellent way to start. I am pleased to see that the draft charter includes efforts to reach beyond Europe. I encourage you to do this as you can influence through example. Part of your efforts I hope will be to extend this transfer of know-how and experience to developing countries. We all must be advocates of the importance of the judiciary in the development process and promoters of the rule of law internationally.

We at the World Bank have been working with the Judicial Council of Denmark on a database of judicial indicators worldwide (www.worldbank.org/ljr). Danish Judges have been working and traveling to several eastern European and Former Soviet Union countries to gather key information. This database is one way we are sharing comparative knowledge with countries. Another example, is that the Dutch Judicial Council has kindly agreed to second Judge Reiling to the World Bank for two years. We would welcome the opportunity to cooperate with your new Network as well. We have a vested interest in your success. You are models for many countries around the world, and you are central to our efforts to assist developing countries in sustainable economic and social development.

It *is* a new world we face when it comes to the judiciary and the rule of the law and its broadening reach. And history tells us that when we discover a new world our sense of our place in the old one changes and our sense of mission changes, too. That is exactly what happened to Spain and really all of Europe when Columbus discovered the Americas. Up until then the motto for the Spanish Royal Court was "there is nothing

more beyond." Upon Columbus's return, the motto changed to "there is plenty more beyond."

As I mentioned earlier, our mission at the World Bank also known as the International Bank for Reconstruction and Development has shifted from reconstruction of post WWII countries to one of reducing poverty. As a result, the impact of the rule of law has become integral in that effort. In this new world of the law where its reach extends to areas of economic and social development and more, we are all discoverers like Columbus as we come across profound and creative applications for the law. And we are all like the Spanish Royal Court, forever changed by what we have discovered. There **is** indeed plenty more beyond---and **you are** exemplifying that spirit today, especially as you launch your network.

Economic and social development depends on an effective legal and judicial system. I noticed that the subject of this discussion was listed as the "economic and social needs for an effective and efficient judiciary". I hope that you agree that more importantly, the judiciary has a critical role to play in development generally.