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WHAT IS THE ROLE OF LEGAL AND JUDICIAL REFORM IN
THE DEVELOPMENT PROCESS?

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On the 4th of July 1776, on the occasion of the signing of the Declaration of Independence, John Hancock is reported to have observed: "We must be unanimous; there must be no pulling different ways; we must all hang together." To this Benjamin Franklin responded: "Yes, we must all hang together, or most assuredly we shall all hang separately." That, in fact, is an apt initiating thought also for the analysis I intend to present in this lecture. Franklin was, of course, talking about the interdependence of the security of different groups of American revolutionaries, whereas we have to talk **about the** interdependence of different aspects of development - economic, social, political, and most immediately in the context of the present meeting, legal as well. It can be argued that if the different aspects of development are not simultaneously addressed and considered together for analysis and action, they may each end up "hanging separately."

This conference is aimed at the need for understanding the interconnections between different aspects of development, and in particular between legal and non-legal features of the process of development. The title of the conference invokes "Comprehensive Legal and Judicial Development." Perhaps we can sensibly begin by asking what can "comprehensiveness" mean in the present context. I believe that demand can be interpreted in two rather different ways. One notion of comprehensiveness looks outward - at legal and judicial development seen as a part of a fuller view of overall

development, linking legal reform with economic expansion, social progress, political enrichment and other kinds of development which complement each other and are mutually reinforcing. This is the more obvious of the two possible interpretations.

The second approach, in contrast, would look inside the legal domain itself, rather than outward from it. Comprehensiveness, thus interpreted, would be concerned with the internal diversity within the huge sphere of legal and judicial activities, demanding fuller integration of the different sub-domains within this large domain. As is said in the subcontinent from which I come, law is a huge **banyan tree**, and the left branch does not know how the right branch is vegetating. By the way, in India they are vegetating pretty slowly all around - the majority of people held in custody are, I understand, patiently awaiting their trial, rather than serving a prison term. There is need for special efforts in keeping each branch in touch with the others. This is comprehensiveness within "law's empire" (to use Ronald Dworkin's articulate phrase).

The title of this talk that the organizers of the meeting proposed to me pointed, as it happens, distinctly at the outward-looking view of comprehensiveness. There is, in fact, a bit of a narrative here, as literary critics say. When I was first asked to speak, my instructions were to speak on "the role of legal and judicial reform in the development process." But afterwards the title was changed - more interestingly I think - to take the form

of a question:: "What is the role of legal and judicial reform in the development process?" I don't think it is a trick question (like such classic ones as: "do consonants hibernate?"). And I will indeed try to answer it. Later on, I shall have to ask the Legal Department of the Bank whether I have passed.

Comprehensive Development Framework

The case for outward-looking comprehensiveness has a close connection with the kind of reasoning that led President James Wolfensohn to the "comprehensive development framework," which has played an important part in the World Bank's approach to the process of development and its demands in recent years.³ This involves rejecting a compartmentalized view of the process of development. Most importantly, it militates against the old wisdom of doing one thing at a time.⁴ The idea of doing one thing at a time is, of course, full of charm (I tend to think of it as rustic charm - like "Lorna Doone" or Wordsworth's "Lyrical Ballads"), but it isn't a great guide to practical policy, for reasons that Jim Wolfensohn has discussed so well. The idea of different things "hanging together" is quite central to this approach, and indeed to any integrated understanding of the process of development.

Given the emergence of approaches like the Comprehensive Development Framework (or the CDF) in recent years, the task of fitting law and judicial arrangements within a more comprehensive outlook is a new challenge. An interesting policy document

recently produced by the Legal Department of the World Bank, called Initiatives in Legal and Judicial Reform, draws our attention to the fact, among others, that various "developments and experiences in recent years [have] increased the focus of leading development institutions on the role of law in economic development." Despite its comparative newness, this is an active - and I believe highly promising - field. The questions that we have to ask, however, are: does this make sense, and if so, exactly why and precisely how?

The fact that, as stated, leading development institutions take all this very seriously may be adequate for many observers to accept that the **complementarity** between law and economic development (and more generally, the need for a comprehensive approach to development) must be important. But this is clearly not an adequate ground for professional lawyers or economists or social scientists to accept the soundness of this integrative approach. For one thing, many development institutions have a remarkable record of persistent mistakes - sometimes mind-boggling ones. So the Legal Department is right to call this meeting and to demand critical scrutiny of the growing tendency of development institutions - including the World Bank itself - to emphasize "comprehensiveness." It is particularly necessary to examine the underlying reasoning that provides the intellectual argument for an integrated and comprehensive approach. As Leonardo da Vinci said about half a millennium ago, relying on authority involves only

memory and no intellect. We can do better than that.

Conceptual Intesrity and Causal Interdependence

What, then, is the case for a comprehensive approach? I would argue that it is crucial to distinguish between two rather different types of reasons for wanting a comprehensive approach, related respectively to causal interdependence and conceptual integrity. The former points to the causal interconnections between the different domains that can be fruitfully seen together, whereas the latter relates to the possibility that the divided concerns are conceptually incomplete, so that they could not really be considered independently at all. The latter is a more assertive claim and has tended to receive less attention, compared with causal connections, and may be I should discuss it a bit more.

Perhaps an analogy would help to bring out the distinction. Take the weather. We may consider separately different aspects of the weather, viz. the clouds, the rains, the sun, the humidity, the temperatures, and so on, and we can consider their interdependence (such as clouds are associated with more rain, rains are linked with the lack of sun, and so on). If, however, we are concerned with a concept like "a typical summer day," or "a severe winter. month," the very idea has different components within it, which encompass temperature, rain, snow, sun and other weather characteristics. The issue here is not that temperatures, rain, sun, etc., link with each other (this they certainly do, but that

is not the point at issue here), but that we cannot form a judgment as to whether a particular day is a typical summer day, or a **specific** month is a typical winter month, without considering together a variety of different information about temperature, rain, sun, etc. Conceptual integrity of the idea of a typical summer day or a typical winter month, then, demands all this information together, and this is altogether a separate issue from the causal interdependence of these distinct variables.

I would argue that both kinds of reasoning - conceptual integrity and causal interdependence - are involved in the rationale of a comprehensive development framework. Since the idea of conceptual integrity is perhaps less familiar, let me deal with it first. At one extreme, **conceptual** integrity may take the form of arguing against the viability of any self-contained notion of "economic development," or "social development," or "political development," or for that matter "legal development." There is "development" in a general sense, and one can even perhaps talk about its economic, social, **political**, or legal correlates. But on this conceptually integrated extremist view, it would be misleading - or worse - to talk about economic development, legal development, etc., as separate entities. This is the kind of integrated view of development which has been well championed by my dear, deceased friend Mahbub ul Hag in his pioneering and masterly exploration of the concept of "human development." We don't ask: which kind of human development: economic, social, political or legal? Rather

human development encompasses them all, and they can be, in this perspective, **only seen** together, not in isolation from each other. If such a radical view were to be taken, then legal and judicial reform would be seen as contributing to the process of development in general (or, perhaps, to the process of human development seen as a whole), rather than separately to legal development, economic development and other fragmented concepts of development.

The idea of only one integrated idea of development is, of course, quite extreme, and rather uncompromising. We may choose to be less radical and conceptually more tolerant, and argue that there can, **in fact**, viable notions of development in particular domains, even though they also interlink. For example, we can have well-developed democracies with political and civil liberties, or well-achieved economic development with growing economic prosperity, and so on, without presupposing that one must go with another.

Legal Development and Conceptual Intesrity

Conceptual integrity is still very important in this less extreme formulation, though it applies in different ways, at two different levels of aggregation.

First. even though we have separate concepts of economic development, legal development, etc., we may still have an interest in the development process as a whole. We have reason to want to know how a country is developing, taking everything into account,

and not just how it is doing in one narrowly defined field or another. In this broader - more inclusive - reckoning, it may turn out that development as a whole is an amalgam of developments in the distinct domains of -economics, law, etc. To use the old analogy again, development seen as a whole - what we may call development tout court - is like a typical summer day, and it requires an integrated consideration of developments in distinct domains such as economic, legal, etc. (much in the way a typical summer day depends on the sun, the temperature, the blue sky, and so on). The claim here is not so much that, say, legal development causally influences 'development tout court, but rather that development as a whole cannot be considered separately from legal development. Indeed, in this view, the overarching idea of development is a functional relation that amalgamates distinct developmental concerns respectively in economic, political, social, legal and other spheres. This is more than causal interdependence: it involves a constitutive connection in the concept of development as a whole.

Before I go on to the second way in which constitutive connections are important, let me comment briefly on how far-reaching are the implications of an integrated and overarching concept of development. While I have, so far, used this case only as an illustration, let me now make the substantive claim that this conceptual integrity of the overarching idea of development is indeed correct. It is, of course, true that at one level

"development" is a matter of definition, and some people seem to insist that they are free to define any concept in any way they like; it is almost like a "fundamental right to define anew" (a fundamental right in favour of which street demonstrations may ~~soon~~^{soon} begin). However, it so happens that linguistic usage over a long time has given a certain content to the idea of development, and it is not possible to define development independently of those established associations.

It is hard to think that development can really be seen independently of its economic, social, political or legal components. We cannot very well say that the development process has gone beautifully even though people are being arbitrarily hanged, criminals go free while law-abiding citizens end up in jail, and so on. This would be as counterintuitive a claim as the corresponding economic one that a country is now highly developed even though it is desperately poor and people are constantly hungry. Only a Humpty Dumpty, in Lewis Carroll's insightful caricature, can provide full support for the fundamental right to define anew: "When I use a word, it means just what I choose it to mean - neither more nor less." Development has a strong association of meanings that makes a basic level of legality and judicial attainment a constitutive part of it.

If this is accepted, then one part of the answer to the question that I have been asked becomes immediately clear. In answering the query, "What is the role of legal and judicial reform

in the development process?" , we must at least begin by noting the basic fact that legal development is constitutively involved in the development process, and conceptual integrity requires that we see legal development as crucial for the development process itself. That is, even if legal development were not to contribute one iota to economic development (I am not saying that is the case, but even if this were, counterfactually, true) , even then legal and judicial reform would be a critical **part** of the development process. The notion of development cannot be conceptually delinked from legal and judicial arrangements. That central point deserves recognition before I go on to other constitutive and also to the class of causal connections.

I turn now to the second use of the idea of conceptual integrity. **Even** when we consider development in a particular sphere, such as economic development or legal development, the instruments that are needed to enhance development in that circumscribed sphere may not be confined only to institutions and policies in that sphere. If the development achievements in a particular sphere is to be judged by what freedom people manage to have in that sphere, then we have to take the overall effect of all these instrumental variables on the lives of human beings in that particular **sphere**.⁶

To illustrate, if women are given some legal rights through a process of reform which they did not earlier have, this may look like a legal **development**, and in a sense it clearly is that. And

yet, if the focus of legal **development** is to give women rights that they can exercise, then this putative legal development may be constitutively hollow if women do not manage in fact to exercise any of these rights because of, say, illiteracy.' The very idea of legal development may then be, as in this illustration, contingent on certain social or economic characteristics. If we overlook these constitutive linkages, then we may miss some of the strongest arguments for taking a comprehensive approach, which go well beyond the causal **interdependences** between separately conceptualized ideas of legal development, **social** development, political development, **and so on**.

The basic claim here is this. Legal development - to stick to that example first - is not just about what the law is and what the judicial system formally accepts and asserts. Legal development must, constitutively, take note of the enhancement of people's capability - their freedom - to exercise the rights and entitlements that we associate with legal progress. Given this need for conceptual integrity (in this case, the need to see legal development not just in terms of legislation and laws but in terms of effective freedoms and capabilities), all the instruments that causally influence these freedoms must be taken into account in assessing what progress is being made in enhancing the development of a successful legal and judicial system.

An exactly similar analysis will apply to other notions of development in particular spheres such as economic, political, and

so on. Economic development is not just about the formal economic **opportunities** that are available (such as free markets, open trade, transactional facilities, etc.), but ultimately about the effective freedoms and capabilities-that people have in the sphere that we **see** as economic, in particular to have basic economic needs fulfilled. This **conceptually** integrated **concept** may, in terms of causal influences, **depend** on a variety of policies and facilities that are not primarily economic (such as schooling and literacy, epidemiology and health care, etc.), but we cannot leave them out as "**non-economic**" concerns once we adopt an adequately broad and integrated view of economic development.

This recognition, by the way, has an immediate bearing on the World Bank's mandate to concentrate on economic development in **particular**. That seemingly narrow mandate, seen in a conceptually integrated form, cannot exclude extensive use of policy instruments in social, political, legal and other spheres. They have to be included among the relevant policy variables not just because the overarching **concept** of **development** tout court integrates economic development with other kinds of developments to arrive at an integrated view of development as a whole, but also - and more immediately - because economic development itself requires instruments which, by themselves, do not count as economic instruments. Causal interconnections supplement the broadening of policy attention that has its origin in the need for conceptual integrity.

I must also note that the answer to the question I have been asked to address is also influenced by this line of argument. I have already discussed why legal development must be seen to be important in the development process even if it had no influence on development in other spheres (this is because of the need for conceptual integrity in an overarching concept of development). But to this now I must add a different set of considerations which also influence the answer to the question: "What is the role of legal and judicial reform in the development process?" Legal and judicial reform is important not only for legal development, but also for development in other spheres, such economic development, political development, and so on, and these in turn are also constitutive parts of development as a whole. This is like a thickly interwoven textile.

I shall have to say a few more things about the general framework of analysis, but let me take a little breather away from theory to consider some practical illustrations. This may help to give concreteness to some of the issues of interdependence involved.

The Legal Roots of Capitalist Success

Let me begin with legal development, and its relation with economic and political development. As discussed already, legal development must be seen as important on its own as a part of the development process, and not merely as a means to the end of other

kinds of **development**, such as economic development. It is extremely important to get this point fully accepted, since there is a well-established tradition in development studies and policy making to concentrate exclusively on economic expansion. For example, much harm has been done in the assessment of political development by asking such misleading questions as: "Does democracy help to facilitate development or hinder it?" The champions of "Asian values" have tried to make much of their belief that a negative answer to this question is empirically justified. The fact is, of course, that there is no convincing empirical evidence at all which indicates that democracy slows down economic growth (it does not seem to have any clear influence on economic growth one way or the other), but there is plentiful evidence that democracy does strengthen social security and the prevention of economic disasters.* But more fundamentally, the question is wrongly posed, since it tends to overlook the fact that democracy is a constitutive **part** of the process of development itself. The case for democracy does not have to be indirectly established through its contribution to economic or some other kind of development. The same applies to legal development. The conceptual integrity of development requires that we value the emergence and consolidation of a successful legal and judicial system as a valuable part of the process of development itself - not just for the way it may aid economic or political or some other kind of development.

It is important to be careful here in recognizing that the basic significance of legal development does not require us to abstain from considering the causal interdependence between legal and other kinds of development. In particular, it does not require us to abstract from the causal interconnections that suggest that legal or judicial reform may be easier to organize once the process of economic or political development has proceeded some distance. In the context of Latin America, Maria Dakolias makes precisely this point in asking for speedier progress of legal change at this time. She provides evidence to argue in this line and concludes: **"The Latin American region today is politically, economically and socially better suited for judicial reform than it was in the 1960s and 1970s. There is greater economic stability in the region, which has allowed these countries to begin 'second generation reforms'."**⁹ The feasibility, effectiveness and speed of legal and judicial reform may well be influenced by political, economic or social circumstances, and it is possible to take intelligent note of that causal interconnection without denying the constitutive importance of legal development as a part of the process of development. The need to take note of causal connections is not overridden by the basic importance of any component of the development process. Indeed, any rational programme of enhancing development must pay attention, simultaneously, to both,

The causal connections are also important in assessing the contribution of legal development to other types of development.

It is hard to understand the history of economic change, for example the rise of capitalism as an economic system, without acknowledging the role of non-economic influences, among which legal changes figure prominently. Let me pause here a bit to recollect how capitalism came into being and became such a successful system. Capitalism did not emerge until the evolution of law and order and the legal and practical acceptance of property rights had made an ownership-based economy feasible and operational. The efficiency of exchange could not work until contracts could be freely made and effectively enforced, through legal as well as behavioural reforms. Economic expansions are hard to plan without the needed trust in each other's plans and announcements and the required confidence that agreed arrangements can be relied upon. Investment in productive businesses could not flourish until the higher rewards from corruption had been moderated, and in this too, legal and behavioural changes played their part. The financing of businesses could not run smoothly until credit institutions had developed, and borrowers were standardly inclined to repay loans, rather than absconding away. Similarly, labour productivity demanded educational arrangements, often arranged by the state; the powerful forces of learning by doing and on-the-job training had to build on the base of institutional education provided by schools and colleges, often run by the state or the local authorities. In these developments too, legal reforms that gave citizens the right to free public education

and forced them to accept the duty of sending their children to school played a critical part, as elementary education became both a legal entitlement and a legal obligation of the parents.

It is not hard to point to many other ways in which legal change has facilitated the expansion of Western capitalism. Those early foundations of economic development called for legal and other developments of specific kinds, and these demands have expanded over the years as the early forms of capitalism have given way to reformed arrangements involving social security, unemployment compensation, public health care, and other constituent parts of contemporary Western economies.

Development Process and Legal Reform

Similar diagnoses can be made about the process of economic development elsewhere in the world, even though the balance of concentration has sometimes varied over the regions. For example, land reform, according to all evidence (including the World Bank's own research in this field), played an unusually crucial part in the high growth rates and shared economic expansion in East and South-east Asia, from Japan, Korea and Taiwan all the way to the very dissimilar economies of China and Thailand.

The development of education has played a momentous part in Asian economic expansion. This is, of course, spectacularly so for Japan, where the educational priorities and the rights of citizens and residents against the local authorities to provide school

education assumed a leading role in the initiation of rapid economic expansion. For example, between 1906 and 1911, education consumed as much as 43 per cent of the budgets of the towns and villages, for Japan as a whole." In this period in Japan, the progress of elementary education in particular was most rapid, and the recruiting army officers noted the remarkable fact that while in 1893 one third of the army recruits were illiterate, already by 1906 there was hardly anyone who was not literate. By 1913, though Japan was economically still quite underdeveloped and very poor, it had become one of the largest producers of books in the world - publishing more books than Britain and indeed more than twice as many books as the United States." To a great extent the fast economic expansion of East and South-east Asia has drawn on the lessons of these experiences, particularly through the arrangements associated with the enhancement of human resources and skill." These developments were at once social (they deal with education and other social opportunities) and economic (they influenced economic performance), as well as legal (they were associated with creating a pattern of rights and duties which influenced the lives of citizens).

Another interesting area, which has come into prominence very recently, is India's sudden and rapid success in the development of computer software (India has become the second largest software producer in the world, behind only the United States). This process has been facilitated not only by the earlier expansion of

technical education in India, but also by the comparatively flexible legal arrangements that govern these businesses compared with the much more rigid regulations that apply to more traditional commerce and industrial production, in which progress has **been much** slower.

The Media, Public Discussion and Gender Equity

It is possible to identify many different areas of legal and judicial reform on which economic development has drawn in diverse ways in different regions in the world. Perhaps I should briefly mention three further subjects which should figure in the agenda of work here. First, as I have tried to discuss elsewhere, a free and vigorous media can be immensely influential in strengthening economic security, political liberties, legal and human rights, and so on. Much difference can be made in this field by judicial guarantees of - and support for - the right of free speech, fair comment and public criticism. An active media can also help to give an effective voice to the vulnerable and the poor, and can also force the government into greater accountability, which is very central to a successful process of development.

Second, public interest in social responsibility can itself be a factor of some importance, and innovative legal arrangements (for example, public interest litigation, class action suits, etc.) can serve as catalysts for drawing neglected issues into the limelight of open scrutiny and social challenge.

Third, special attention has to be paid to the rights of women, which are important not merely for gender equity (a crucial enough cause even on its own), but also for benefits for all (men, women and children), for example through reduction of child mortality and diminution of high fertility rates. Recent research has brought out the far-reaching role of justice to women which influences nearly every aspect of economic, social, political and legal development, and which call for legal and judicial reform aimed specifically at this objective. I have tried to discuss these issues in Development as Freedom.

Security and the Environment

One hopes that the Legal and Judicial Reform Unit of the Legal Department of the Bank, which is hosting this conference, can incorporate interregional comparative investigations on these and other subjects as a part of its forthcoming programme. It is also important not to **approach** the future as if it must be a repetition of the past. East and South-east did very well through its policies for "growth with equity," but there was, alas, little provision for what we may call "decline with security" and this extracted a very heavy price when the Asian economic crisis occurred in 1997 onwards. This points to the need for facilities for social safety nets, economic security and other provisions, including acknowledging the role of democracy and adversarial politics in providing political incentive to the government to make

adequate provisions against insecurity in general and economic catastrophes in particular. I have tried to discuss these issues elsewhere, and will not further into them here, but I must note in the context of the present lecture that the changes that seem to be needed all involve specific legal and judicial reforms.

To this already large list, we must also add the growing necessity of seeing the task of economic development in an environment-sensitive way, and particularly in the form of requirements for sustainable development.¹³ If economic development is much facilitated by particular legal developments, this applies a fortiori to sustainable economic development. Legal provisions in protecting the environment and helping its sustaining can be a particular crucial field for legal and judicial thinking in the context of development, at the present time.

Democracy and an Independent Judiciary

I have ~~spent~~ spent some time in discussing a few of the areas in which legal and judicial reforms can contribute greatly to the nature and quality of economic development. Similar interconnections apply to other areas of development as well. Just to illustrate, the progress of political development, particularly in the form of emergence and consolidation of democracy, not only requires legal provisions for elections and the supervision of the independence and neutrality of the process, but it is also dependent on judicial protection of dissent and the guaranteeing of

ogen, pluralist politics.

The independence of the judiciary is obviously a very important prerequisite of generating confidence in the multi-party democratic process and in-encouraging people to **participate** in the democratic process in an unrestrained - and most importantly fearless - way. The experience of various countries that leave a lot to be desired in these judicial arrangement has many lessons to offer in this respect - particularly about what is not to be emulated - and these issues are not made any less **important** merely because these countries hold periodic elections.

Comprehensiveness: Institutions and Freedoms

Before ending, I may take the liberty of discussing briefly a question of **approach** and strategy that I have often faced. I have been frequently asked in what way does the "**comprehensive development framework**" (CDF) explored and advocated by President Wolfensohn relate to the kind of integrated view of freedom on which I have concentrated in my own work, for example in **Development as Freedom**. The CDF approach is institutionally founded, and in many ways, this is a natural extension of the kind of institution-based approach that the World Bank has reason to pursue, except that in the Wolfensohn interpretation the coverage is much wider and the domain of institutional interest remarkably broader than in the past. On the other hand, in the **approach** based on an integrated view of freedom, the focus is primarily on what

freedoms people actually enjoy, and this brings in institutions only as ways and means of achieving development, characterized as expansion of different kinds of interlinked freedoms and the removal of different categories of interconnected "unfreedoms."

There is really no tension between the two approaches. Both draw on the fact that we live in a world in which different institutions interact with each other, and the success of development efforts depends greatly on the fruitfulness of these interactions. The market, the legislature, the judiciary, the media, political parties, business enterprises, non-governmental organizations, and 'other economic, political and social' institutions all play specific - and interlinked - roles in the overall development experience of a country. This broad and inclusive perspective is extremely important to bear in mind, so that we do not end up seeing development in an artificially narrow way, focusing on one part of the interlinked structure and ignoring others.

Partisans of various schools of thought have often tried to glorify one part of the complex reality, while excluding others, thereby producing an artificially restricted view of development. Many commentators have seen the market - and the market alone - as central, whereas others have conceptualized development simply in terms of policies executed by the government and as exercises of planning. There have also been other constricted and circumscribed views, which have done less than justice to the inclusive and

multidimensional nature of development. It is, thus, extremely important to see the linkages clearly and to see the extent to which different aspects of development relate to one another.

Both the CDF view and the integrated freedom view take these interconnections fully on board. The CDF approach looks at different instruments, in particular at different institutions, and want them to be developed in conjunction with each other, taking full note of the causal linkages between their respective effects. The integrated freedom view starts at the other end, and looks at different aspects of human freedom and how they link with each other. The linkages operate through two different routes, and it is useful to distinguish between them. First, freedom in any particular sphere may depend on instruments from other instrumental spheres. Just to recapitulate, this is well illustrated by the fact that the realization of legal rights of women depends not only on legislation but also on the ability of women to read and write and on other social opportunities that women may or may not have. If illiteracy prevents women from exercising their rights, then it seems right to say that her legal rights were not realized, rather than to assert that her legal rights were all realized but she did not actually use them because of illiteracy. Second, even after the freedoms of different kinds have been appropriately characterized (taking note of constitutive connections), there are also interconnections that come through the fact that different types of freedoms have to be considered together to get an adequate

understanding of the process of development as a whole. It is just as important to assert the separate importance of freedoms of different kinds as it is to acknowledge their empirical interdependence.

In making effective use of the **approach** of Comprehensive Development Framework, there is a good case for bringing in the freedom-based considerations explicitly into the accounting. This gives an immediate reason to ask about the end product of legal and judicial reform and other institutional changes, and the need to be clear about what they are aimed at. This is where the foundational objective of 'the expansion and consolidation of human freedom becomes central as constitutive of development. It is in these ways that the freedom-based **approach** can effectively supplement the CDF strategy. Many of the examples I have already discussed bring out the crucial role of freedoms that are enhanced or consolidated by institutional reform. This is a good way of relating the comprehensiveness of the institutional framework to the comprehensiveness of the freedoms at which they are aimed.

A Concluding Remark

In this lecture I have tried to answer the question that was posed to me, and I hope I get reasonable marks at least for effort, if not for achievement. Many of the examples with which I have tried to illustrate the arguments are easy to extend and enrich through further investigation. I believe the lessons that emerge

may be much richer and more complex than what we know at this time. I certainly look forward to seeing how World Bank's initiative in investigating the role of legal and judicial reform proceeds.

The basic distinction between the case for comprehensiveness arising out of conceptual integrity as **opposed** to that generated by causal interconnections is particularly important to seize in this context. Conceptual integrity is relevant at different levels. It is critical at the foundational level of an overarching conceptualization of development, and in particular (in the present context), in affirming the constitutive importance of legal development, even if it made no contribution whatever to economic, social and political development. Furthermore, the issue of conceptual integrity is important even at the disaggregated level of identifying the nature and requirements of legal development, economic development, **etc.**, and in particular (in the present context), in taking note of the non-legal influences on legal development, non-economic (often legal) influences on economic development, and so on.

It is in this broad framework that, I believe, the question posed to me can be adequately addressed. We have to see the role of legal and judicial reform in legal development, while taking into account the plentiful influences that may come from other spheres (economic, **political**, social, **etc.**). We must also see the role of legal development in general and of legal and judicial reforms in particular in enhancing development in other spheres

(again, economic, political, social, etc.). In both these exercises we have to take adequate note of the causal and conceptual interrelations between these different fields which are significant at different levels of aggregation.

If this sound a little complex, I must point out that the complication relates, ultimately, to the **interdependences** of the world in which we live. I did not create that world, and any blame for it has to be addressed elsewhere. However, I don't really think that the basic approach is particularly exacting to follow, even though it requires that we have to pay attention to **quite** a few distinct variables and their interrelations. We have no great difficulty in taking plural concerns into account in every other sphere of life. In terms of the analogy used earlier, involving the weather, we seem to be able to pay separate attention to sun, rain, snow, temperatures, etc., without getting confused between them; we recognize that they are distinct and yet interrelated. We also have little problem in understanding that a concept like a typical summer day or a standard winter month is conceptually integrative and requires us to take note of various things at the same time. We may not talk about the weather all the time, as the English is supposed to do, but we do follow what is going on.

Mark Twain once remarked about New England weather that he "counted one hundred and thirty-six different kinds of weather inside twenty-four hours." If he could do that, the Legal and Judicial Reform unit of the World Bank can certainly do the various

things I have been suggesting that it should do. The organizers gave me a question to answer, and I have, in return, given them a list of things to do. I would say we are just about quits.

NOTES

1. P.M. Zall, ed., Ben Franklin Laughing (Berkeley, CA: University of California Press, 1980), pp. 153-4.
2. I have discussed the different kinds of interdependences involved in the process of development in Development as Freedom (New York: Knopf, and Oxford: Oxford University Press, 1999).
3. James D. Wolfensohn, "Comprehensive Development Framework," mimeographed, World Bank, 1999.
4. On this see also Amartya Sen and James D. Wolfensohn, "Development: A Coin with Two Sides," New York Times, 5 May, 1999.
5. Legal and Judicial Reform Unit, Legal Department, World Bank, Initiatives in Legal and Judicial Reform (Washington, D.C.: International Bank for Reconstruction and Development, 2000), p. 2.
6. This is more fully 'discussed in my Development as Freedom.
7. On these connections, see Salma Sobhan, Legal Status of Women in Bangladesh (Dhaka: Bangladesh Institute of Legal and International Affairs, 1978).
8. On this and related issues, see my Human Rights and Asian Values, Morgenthau Memorial Lecture (New York: Carnegie Council on Ethics and International Affairs, 1997); a shortened version was published in The New Republic, July 14 & 21, 1997.
9. Maria Dakolias, "A Strategy for Judicial Reform: The Experience in Latin America," Virginia Journal of International Law, 36 (Fall 1995), p. 230.
10. See Carol Gluck, Japan's Modern Myths: Ideology in the Late Meiji Period (Princeton: Princeton University Press, 1985), p. 166; see also the literature cited there.
11. For these data, see Gluck, pp. 12, 172, and the references cited by her.
12. See World Bank, The East Asian Miracle: Economic Growth and Public Policy (New York: Oxford University Press, 1993).
13. See, for example, National Research Council, Our Common Journey: A Transition toward Sustainability (Washington, D.C.: National Academy Press, 1999).