

Economic Development - The Human Nature Constraint - Part III

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Introduction

In Part II we concluded that without a complementary justice system, the regulations intended to prevent a recurrence of disasters such as Enron Corp and Lehman Brothers will fail. This point made, we are left to consider, “How do we improve the system?” An adequate response to this question is beyond the scope of this series. However, in Part III we will have a discussion inspired by an interesting High Sheriff’s Lecture delivered by Lord Neuberger of Abbotsbury on 13th October, 2011, in Leeds, United Kingdom (UK) entitled “Justice in a Time of Economic Crisis and in the Age of the Internet”ⁱ. Of particular interest is his principle-based approach to the matter of reform. Care is taken to establish a suitable framework for the development of an effective justice system.

Initially, we will briefly summarise the framework, specifically as it relates to the role of the state. Secondly we will touch on the role of education as an enabling component to the reform process. Finally we will extend the discussion to address the role that civil society may play, as participants at the decision-making level. The objectives are to appreciate the foundation on which a reformed justice system should be built, and to encourage greater awareness of our role as citizens.

To summarise, the lecture addresses how the courts and justice system in the United Kingdom may evolve to become more efficient and effective. Recommendations are made for improving the function of the courts, through greater incorporation of Information and Communication Technology (ICT). Additionally, there is a call for the simultaneous retirement of the paper-based system. However, these practical recommendations are secondary to what is identified as the “fundamental” objective that should govern the reform process i.e. the maintenance, or enhancement, of domestic security and freedom through the rule of law. Lord Neuberger ties the responsibility to achieve this objective to the state by suggesting that it’s most basic role is to protect citizens. In this way, he implies the priority that our leaders should be giving to reform.

The role of the state

Lord Neuberger defines an effective justice system as achieving three functions:

- (i) making clear and effective laws,
- (ii) enforcing those laws effectively and clearly through the legal system, and
- (iii) ensuring the law and the legal system are accessible to all.

There are numerous participants who will contribute to the establishment of such a system for example, the Parliament, courts, police and prison services. However, the state is identified as principally responsible for providing the enabling environment. In this regard, such an environment is characterised by freedom and democracy, along with commitment to the rule of law. The concluding recommendation is that any reform must be geared towards enhancing these characteristics in society, by “providing a secure framework within which legal rights and obligations are clear, clearly understood by all

and apply to all equally.” It immediately becomes apparent that achievement of this is dependent on the development of supporting structures that move society towards this state. One integral establishment will be an adequate system to educate citizens. This leads us into our discussion on the role of education as a supporting component to the reform process.

The role of education

“People must understand their legal rights and obligations and must be able to enforce them when necessary”

This statement emphasises the need for public education as part of the reform process, particularly to ensure that there is access to justice for all. There is no question that knowledge of rights and obligations improves the justice system. Nonetheless, the issue of “How?” remains a challenge. It is not enough to make constitutions and legislations publicly available. In many cases the legal language used prevents people from accessing the information that these documents are supposed to communicate. As a result, significant pockets of ignorance remain in society, leaving individuals isolated and vulnerable. However, with the use of ICTs and civil society organisations, knowledge can be made more readily accessible to the masses. It can be distilled and communicated in an easily palatable format using simple language, animation, diagrams and drama. Additionally, legal education can be integrated into already established forums such as, the school’s curricula or entertainment programmes.

The role of civil society

Finally, we will look at the role of civil society. Civil society is made up of the vast number of social relationships and organisations that comprise society, for example communities, schools, neighbourhoods, unions, clubs, etc. It is within these varying contexts that society’s values and practices are developed. As a body of organised and functional institutions, civil society is able to effectively interface with the state and the market, to represent citizens’ best interests, and advocate for change and access to rights for all. For example, women’s civil society groups have successfully advocated for the rights that we have today.

It is undeniable that effective civil society participation has the potential to bring about reform, thereby empowering citizens and resulting in greater equity and justice. Such participation speaks of utilising all avenues for involvement in education and decision making processes, as well as searching out and developing additional avenues. The key to effectiveness lies in access to and representation of the wide cross-section of groups in society, particularly those that may customarily be excluded. Therefore, the participation process should be characterised by:

1. meaningful dialogue within the public sphere, concerning goals and objectives of involvement.
2. strategic activities geared towards creating spaces for engagement at the decision-making level, for instance through lobbying or advocacy.
3. once access is gained, there must be educated and constructive interaction that represents the best interests and objectives of the people.

However, this topic is material for another discussion. Nonetheless, the current “OccupyWallStreet” campaign in the United States of America, which has spread to

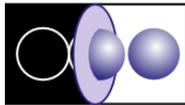
other countries including England, Japan and France, is an interesting case study. Of perhaps greater significance is the effective demonstration of education, ICT and consequent civil society activities that have given rise to the Arab Spring that is transforming entire nations in the Middle East.

In conclusion, we understand that the process of effectively reforming the justice system will be a tedious one. However, the times have made it a necessity. In the words of Lord Neuberger, “*we are living in one of those rare periods where the many aspects of our future, and in particular our legal future, are likely to be rather different from those of the past.*” Nonetheless, as the justice system evolves it is crucial to ensure that it remains grounded in and defined by the fundamental objective to maintain and enhance security and freedom for all. For further information see: www.consultinginterface.com or write to contact@consultinginterface.com .

ⁱ The document may be found at this link:

<http://www.judiciary.gov.uk/Resources/ICO/Documents/Speeches/mr-speech-justice-in-the-age-of-the-internet.pdf>

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