Empowerment Security & Opportunity Through Law and Justice

by
James D. Wolfensohn
President
The World Bank Group

St. Petersburg, Russia, July 9, 2001

Let me first say that we are very, very proud of this meeting because it follows on the meeting that we had in Washington on comprehensive reform. I'd like just for a moment to place in context this meeting where we move on to the issues of action and where we will deal with the important subjects to which I referred last evening.

The first thing that I'd like to say is that, as the World Bank, we come to this issue on the basis of the challenge of development. This is a challenge which, as I think you know, faces us globally, with six billion people on our planet, of whom three billion, half the world's population, lives under $2 a day and a billion two hundred million people live under $1 a day.

For us, this is the overwhelming issue of today, but it is an even more difficult issue as we look forward. We know that in 25 years our planet will have eight billion people and that the next two billion people joins the developing and transitional world, whereof only 50 million people go to the developed economies.

So today we have 4.8 billion out of six billion, or 80 percent of the world, living in developing and transition economies, and in 25 years it will be very close to 6.8 billion out of eight.

For us this is a very real challenge, and it's a very real challenge for all of you. Because if we are going to confront the question of equitable growth, if we are going to confront the issue of poverty, we must think of a number of aspects of the development process at the same time.

We have also learned that pouring money into a country in terms of trying to help it develop or that coming with programs from Washington, London, or Paris to try and impose on a country simply does not work. It has taken us some time to learn that and some money, but we have learned it. And we've also learned that if you come with development plans but you do not have the basis in an economy and in a political system that are sound, you can come with any amount of programs and any amount of money, and you will not achieve equitable development.

Thus, at our first conference, I think we all agreed that there were a number of things that needed to be dealt with simultaneously. The first was to have a political system that functions. This means having good
people in government and strengthening the capacity of government, so that the instruments of government can work. Secondly, we know that you need a financial system that works and that is transparent, that is honest, and that is available to all people. And the third thing that we know is absolutely critical--absolutely critical--is that you have to have a legal and judicial system which functions equitably, transparently, and honestly. If you do not have that form of legal and judicial system, there is absolutely no way that you can have equitable development.

In our meetings, Amartya Sen, the Nobel Prize-winning economist, was very careful to point out that political development, social development, and economic development, and, may I say, legal and judicial development, cannot be looked at separately. The issue is the issue of development. The issue is not segmenting them into different packages, because there is a close interconnection between political, economic, social, and legal.

And so in our discussions today, we must recognize exactly where we fit in. We are part of the development process. We are not the whole of the development process. This is not a simple, expedient or pill or simple answer to the question of development, but an absolutely essential component of it. Without it, our experience has been that you cannot have equitable growth. So we're looking, first of all, at the issues of legal and judicial reform as part of this development process.

The other thing that has been happening in recent years is that there have been a lot of changes. There have been a lot of changes in this country. There have been a lot of changes, if I may point out the obvious, in terms of the former Soviet Union, which ceased to exist, as we know, almost ten years ago, with the creation of more countries and a new system that has emerged in this area. We know also that in Africa we have had 42 out of 48 countries move from a military dictatorship or some other form of individual governance to more democratic systems. Similarly, we know that in Latin America we have had a development of openness in societies and an evolution towards more democratic processes. Moreover, in this world of ours of six billion, we know that in two countries alone -India and China- we have a third of the people: a billion in India and a billion in China. What happens in those two countries affects the global marketplace more than anything else.

So we've seen a lot of changes: first of all, the move to a more democratic process, and many countries trying to find their way in terms of the establishment of governance and of legal systems. They do this at the same time as they're trying to strengthen their government and their social and political awareness. What we are discussing in our meetings here is the central element of the legal and judicial reform, a building block on which development must take place.

The other thing that has happened is globalization. One of the positive aspects of globalization is that with all these individual states, there is, nevertheless, a coming together in terms of trying to get globally accepted principles. Some of them find their manifestation in agreements. Some of them find their manifestations in UN Conferences. But every one
of these countries comes together and is exposed at one level or another to the general consensus. This consensus was embodied in the UN Millennium Declaration in the year 2000, where you will remember that they covered the fundamental values that we all hold dear: peace and security, development and poverty eradication, environment, human rights, democracy, good governance. All of these things follow conventions on everything from the rights of the child to the international criminal court statute. So you have the individual states, but you also have an overriding influence, a moral influence in many cases, in which the world is trying to find its way to learn to live together.

Apart from these changes, there are two things we should get clear. The first is, development doesn't happen overnight. It's a process that takes time. And so we need to understand that, as we talk about these varying forms of development, that they will take time and they cannot be imposed. They need to be built on the local cultures, the local mores, the local habits, the local traditions, and the local systems.

The other thing that I find and have found in my own incumbency of this job as being particularly difficult is the number of countries that there are. In Africa, with 600 million people, we have 48 countries. At our meetings recently in Quebec of the heads of government of Latin America, 35 countries turned up. Five of them—the United States, Canada, Brazil, Mexico, and Argentina—represent more than 90 percent of the combined GDPs of these 35 countries—in fact, 95 percent of their GDPs. The other 30 countries represent 5 percent of their GDPs, but have 60 percent of the people. And when we talk about bringing legal and judicial systems or other systems to these countries, you break it down to 35 justice ministers, 35 chief justices, 35 police chiefs, 35 of everything, and this creates very great difficulty for us in terms of what we have to do in order to bring about a cohesive and effective global development.

This is the background in which we are working and establishing the rule not of individuals but the so-called rule of law. What we're talking about is a system in which the government is accountable to the law, in which everyone is equal before the law and has access to the protection of the law, and in which there is a core of individual rights which are respected, including human and property rights.

Now, why am I talking about this in terms of poverty? The answer is that we've moved in our considerations of poverty way beyond the question of the $1 a day or $2 a day. What we're talking about is something that is quite different in terms of tone and in terms of substance. We're talking about human beings and the way they live. We have just completed a study in which we have interviewed 60,000 poor people in 60 countries. In my opinion, it is the best piece of work that's ever been done in the Bank because it starts right where the action is, with the people.

What we've learned is that people in poverty don't start immediately talking about money or even baskets of goods. What they start talking about is voice, is access, is integrity, is the ability to live peacefully, an ability to have their children have opportunity, and an ability not to be beaten up, for women particularly not to be beaten up, an opportunity to live in safety, an opportunity to live protected under
the law. Of course, they also talk about having a job and making some money. What came out in terms of our studies was enormously interesting and moving.

For example, a woman in Ecuador told us, in speaking about the municipal administration: "Some receive us and others don't. It's awful. They are abusive. They treat us like dogs. The municipality only serves the high-born." A woman in Brazil said, "I don't know who to trust, the police or the criminals. We work and we hide indoors." In Uganda, a woman told us, "If a woman is given a chicken or a goat by her parents, she cannot own it. It belongs to her husband. A wife may work hard and get a chicken. If it lays eggs, they belong to the husband." Or from a woman, a parent, living in Ghana, "We watch the children die because we cannot pay hospital bills and we cannot get access to government services."

Now, what does legal and judicial reform have to do with this? It has everything to do with it. It has to do with the protection of rights. It has to do with equity. It has to do with access. It has to do with voice. And, ultimately, it has to do with the most important thing of all: it has to do with peace. Because if there is poverty, and if there is expanded poverty, the simple fact is there will be no peace.

So I simply want to say to you that this conference is more than just a study of jurisprudence. It is more than just a meeting of lawyers. It is an absolutely central component of the issue of the future of our planet. It has to do with the issue of poverty, but it also has to do with the issue of peace.

Think through the numbers and think of these people and their voices, because for them what they need is equality under the law, transparency, integrity, and individual freedom. And only if we do our work will that be possible.

I put down a few thoughts of what I imagine might be some of the things that you're going to be thinking about, with much greater knowledge and much greater experience perhaps than I have. So let me just read quickly the points that I wanted to make and set some subjects that you might find worth talking about.

I talked first about the issue of poverty. The second is that strengthening the rule of law and the functioning of legal and judicial systems is not merely a technical challenge. It is a political one. We have recently done a study in 15 countries and found, frankly, that there's been too much emphasis on the number of judges, the number of court buildings, the number of computers. It's a sort of a supply analysis without dealing with the question of the demand for reform. There must be a democratic demand and there must be strong political leadership. We cannot just impose a legal and judicial system by creating it.
The third thing I wanted to say is that the legal content makes a big difference and that we need to look at how we can effectively deliver the laws and the procedures that will give justice to people. I know you will be talking about the issue of the alternative delivery mechanisms. I would urge you to do that because in many cases, the tribal, the family, and the local laws are functioning effectively and we should not try and replace them absolutely or completely, but build on them and do our analysis on a country-by-country basis.

Fourthly, there is no best practice that applies everywhere. We must recognize that we must start on the ground, look at the multiple layers of the informal systems, and then build on them as we develop under the leadership of the governments and under the leadership of the democratic procedures the system that might prevail.

The next point, one that I made earlier, is that establishing a legal system is a long-term challenge. We know from our work in the Bank over many years that there is no endpoint at which you can tick it off and say you now have done it. What you need to have is the capacity to grow, to develop, to change, and to adapt to new conditions. But what is critical is that we do not change the fundamentals, i.e. that we do not put the laws back in the hands of a potentate, but that we keep the issues of integrity and democracy at the base of any changes that we might make.

And then the next thing is that making decisions in an efficient and proper way is one thing, but then that carrying them out is another. What is the role of the implementation of decisions? What is the role of the police? What is the role of the enforcers of justice? That's perhaps a subject for a separate discussion, but we surely should not ignore it as we think in terms of the judicial system.

And, finally, any system of justice has to operate alongside an adequate government and governance. You cannot have a legal and judicial system without a parallel development in terms of regulation and in terms of government activity because you'll get an imbalance and the system simply will not work.

This leads me to my last observation, which is the issue that is the most pernicious and destructive issue of all, the issue of corruption. I first addressed this matter four years ago at an Annual Meeting speech, and I'll give you a little personal anecdote. When I arrived at the Bank, our general counsel took me aside and he said, "Mr. President, there's one thing you should know. Since we are a development body, the thing you cannot talk about is the `C' word, the word beginning with `C.'" I said, "What is that?" And he quietly said to me, "That's corruption." And I said, "Why can't I talk about corruption?" He said, "Corruption is a political issue. It's a very difficult issue, and we stay away from it at the Bank."

Well, a year later, I made a speech about the cancer of corruption. I defined it as a social and economic issue, not a political one. Since that time we in the institution have been trying to deal with that issue by assisting countries in their attempts to confront corruption. Of course, most of the countries started by looking at economic corruption.
I need hardly tell you that in the last ten years the role of business and the role of investment has grown from being half as important as development assistance to being five to six times the size of development assistance. So the issue of corruption in terms of private sector and the issue of corruption in terms of investment in developing countries has come to the fore. But what we have learned as we've approached corruption is that, unfortunately, it exists all too often in the legal and judicial systems that operate in countries, some represented here.

I would urge you in the discussions over these coming days to talk openly about this issue. This is not an issue that we can put under the table. This is not an issue that we can pretend does not exist. It is an issue that is absolutely central to anything that we do in terms of legal and judicial reform.

I have in my hand a study which we are completing in the Bank and is up for discussion called "The Misrule of Law." "The Misrule of Law" deals with the question of corruption in over 100 countries where we have done studies. It's very interesting what has come out of this.

First of all, the evidence demonstrates that with a better rule of law, you basically get higher income in the populations. That seems absolutely clear. With a better rule of law, you also have improved literacy. A remarkable study by the Peruvian Government also demonstrates what is true everywhere, in our belief, which is that corruption is a regressive tax which hits the poor most.

What I thought you also might find interesting is that we looked at the question of what are the most important obstacles to impartial and transparent justice. We looked at Eastern Europe and the former Soviet Union and developing countries, and we discovered that the first and biggest is the takeover of the justice systems by economic interests and the elite. Second, and significantly behind, particularly in Eastern Europe and the former Soviet Union, is political interference.

The point that I'm trying to make to you is that we have to be tremendously aware about this issue of the takeover of our legal and judicial systems by economic and political forces, and the vulnerability of our legal system to this issue of corruption which, as I have said, is the most pernicious and destructive aspect of all. I would urge you in your discussions not to forget that unless we deal with this issue, the construction of model legal and judicial paradigms is for naught, and that we should address it and recognize that for all of us this is a crucial and overlaying issue.

You're entering four days in which you're going to deal with these issues, and I would again remind you that what you're dealing with is not just a legal debate or a technical debate or a debate about changes. It is not just an issue of deciding what is the best format, whether it is developed locally or with reference to international precedent. Instead, what you're dealing with is a construction of a basis in which human beings can act together and live together, can have equity, can have voice, can have justice, and on the basis of that build their future. We have to get over the question of looking at poor people as the object of
charity, as a liability, and look at poor people as the solution. They are the asset. Poor people know more about poverty and about getting out of it than most of us in this room will ever know. But to give them the opportunity to use their capacities, to give them the chance, we must have effective and equitable legal and judicial systems.

If we do not protect their rights and give them opportunity, the poor will continue to be a liability. If we can give them the opportunity and the access to use their skills and their assets, if we can empower the poor—not to give them priority but to give them equity, justice, and the possibility to fulfill their human capacities—then we will have peace. So your discussion is pretty important.

I have a quote from Anna Akhmatova, one of this country's greatest poets, and it says: "Victory is standing at our door. How shall we greet this guest we have yearned for? Let women raise their children higher, children saved a thousand times from death. Thus will we respond to our long-awaited guest."

Let us all join in giving our children the sort of future that will give them peace and prosperity.

Thank you very much.