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Session Two: Legal Reform Processes

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SESSION TWO: LEGAL REFORM PROCESSES

PETER KYLE

I want to talk about these two subjects of judicial reform and financial sector reform in the context of the World Bank, which is my world and where I think a lot of interesting work has been done in this area. In the early 1980s and 1990s, the focus of the World Bank and financial sector reform—and let me start by putting the context of financial sector reform in place—was on the developmental aspects, access to finance, microfinance institutions, and debt recovery issues. We are not concerned with central banks and banking structures as such; that was more the focus of the IMF. Our role was a developmental one as opposed to a surveillance one. The financial sector department only had twenty people, and there was not even a vice-presidency. So a very limited role of financial sector reform. All that changed in the late 1990s when we had the Asian financial crises in South Korea, Thailand, and Indonesia. All of a sudden, the role of financial sector reform became front and center stage for the World Bank. The World Bank and the IMF had to put together very large flows to all those countries to help them overcome their financial crises. In the span of six weeks we put a four billion dollar loan to South Korea. It was unheard of in the Bank to move quite so quickly and to come up with such large amounts of money. And the same was done for Indonesia and the other countries in the region.

All of a sudden, we became aware of the fact that we were not quite as well prepared to handle these financial crises as we should have been. We did not have ready access to the laws. We did not know the governors, the deputy governors, and the boards of the central banks of these countries. We were not familiar with the financial sector data as we should have been. We were surprised by the contagion effect; the upsets in South Korea moved very quickly to other parts of the region: to the Philippines, to Vietnam, and to all the other sectors in the region, and then indirectly to the rest of the world as part of the global economy. This provoked a substantial and urgent rethink amongst the boards of the IMF and the World Bank and amongst other things. Another step that was taken was the creation of a financial sector assessment program. This has become the key diagnostic of the World Bank financial sector vice-presidency. It is a joint program of the IMF and the World Bank, which itself is quite unusual. I think one of the previous speakers spoke of the cooperation between international institutions.

The cooperation between the IMF and the World Bank has always been a little tense, but in this area we do work very closely with the IMF,

and I have worked particularly closely in this particular area. The financial sector assessment program is the main diagnostic tool for the bank in assessing and identifying problems and potential problems in the financial sector. There are two broad objectives. One is a risk vulnerability assessment, which is the prime responsibility of the IMF. The function here is to identify potential risks to avoid future Thailand, future Argentina, future Turkey, and so on. We have a series of technical diagnostic tools that we put in place to evaluate what we would do if there were sudden changes in exchange rates, sudden changes in interest rates, sudden changes in economic and political conditions that might have an impact on the financial sector, on the securities market, on the insurance market, and so on. That is primarily the responsibility of the IMF. The World Bank's responsibility is the developmental one: what are the strengths and weaknesses of the financial sectors, what needs building, what needs technical assistance? We look at access to finance, payment systems, deposit insurance, a range of pure banking issues, and then we look into broader non-bank financial instruments such as leasing, micro finance, capital markets sector, insurance sector, and any other sectors that, broadly defined, have an impact on the financial sector.

This, in turn, leads into World Bank and IMF projects and technical assistance reforms. The countries are assessed against various international standards. We have about nine standards that we apply. Not all nine apply to all countries. In the case of banking supervision, we follow the BCP, the Basel Core Principles, for banking supervision. In the case of insurance it is the IAIS principle. For corporate governance we follow the OECD principles. In the case of insolvency, we follow the World Bank principles. The World Bank itself developed a series of consultancy principles three to four years ago, and that has become the international yardstick for insolvency reform. IOSCO is the standard for securities market reform. Each country is evaluated in accordance of these international standards so that we get consistency and reasonable benchmarks. I just returned from Georgia last week, where we had a team of sixteen people working long hours for about three weeks to complete an assessment of the financial sector. It is done in cooperation with the governments. The government then responds, and there will be some corrections and negotiating. They will try to up the materially non-performed markings that we might give them; they will try and get a better rating. This leads into the international credit ratings. Some of these reports are public and some are not, some are confidential. So there is a process of cooperation to get to these standards.

One of the key lessons, and this is why I was interested to focus on this topic today, are the weaknesses of the court system. I have done thirty-three of these programs, and in every single case the judicial sector is cited as the weak link. Judges are described as corrupt and incompetent. Judges are slow. The courts are slow. The courts are expensive. Of course, it is easy to blame the judicial sector. I have long found that if

you are a plaintiff and you win the case, the judge was wonderful, he understood the law, and everything went well. If you lose the case then the judge did not understand, he was corrupt, he was bought off. Somewhere in between those extremes is the truth, and when I visit the courts, as I do on all these assessments, to get their take on these allegations, I find that the judges are, for the most part, very hardworking, very conscientious, very reliable, but very short staffed, very poorly trained, and poorly paid. The infrastructure is weak. Many judges have to operate from their own home offices. I have been in countries where, because of erratic power supply, the courts are only open for an hour or so a day, so cases are routinely adjourned and the backlog of cases increases. Very poor case management, very poor budgetary provisions. Judges tend not to have control over their own budgets; these are controlled from the central ministry of justice. So the judicial sector is very hard pressed to meet the demands which the financial sector increasingly places on it.

From the financial sector's point of view, this has created a very bad situation, because if the banks and creditors are not able to enforce this security, then they would prefer not to lend. I remember in Ghana, a couple of years ago, the banks were basically refusing to lend money to anyone. They were putting the money into treasury bills getting 18 percent on the treasury bill, which is a safe investment, no hassle, but there is no banking. So we had all these banks. We were busy assessing financial adequacy and looking at risks and so on, but there is no lending, so the whole purpose of the financial sector was completely undermined.

I have talked about the judges; still, in many parts of the world there is a lot of corruption. For example, last week in Georgia, I found that petty corruption was almost a thing of the past. After the Rose revolution last year, the new president came in and quickly got rid of petty corruption. The telephone justice, the practice of prosecutors calling judges to suggest ways they might like to vote or to rule on cases, is still alive and well. This is something we are very concerned about. What are we doing about it?

Judicial reform has become a high priority in the Bank. It took some years before that did become a priority. It is only really in the last eight to nine years, under Mr. Wolfensohn, that it became one of the millennium goals. The legal department created a judicial reform practice group just after Roberto MacLean left. This was largely a result of the success that we had with Roberto. He was followed up by other judges, and at the present time we have three judges on our staff, one focusing on insolvency reform from Argentina. We have another judge from Slovakia, and we have a lady from Holland working full time on judicial reform. We now have a large number of legal and judicial reform assessments. Teresa Genta-Fons has been heavily involved in this work in Indonesia and other parts of Latin and Central America. This has become an important part of the World Bank legal department's response to weaknesses in the financial sector and the private sector. We have been

instrumental in developing training programs for judges, mediation, case management, drafting, and we have a heavier focus on insolvency reform, secured transactions, property rights, and registry reform. If I had more time I would develop these themes in more detail.

So, in summary, the judicial sector is highly relevant to the efficiency of the financial sector. Financial intermediation depends on the ability of creditors to be able to cover their loans. If the courts are unable to do that because of delays, procedural problems, infrastructural problems, corruption, then lending is undermined, interest rates increase, the private sector do not borrow, and the growth of the country is stymied. All these reforms go hand in hand: financial sector reform, judicial reform, and private sector reform. One of the great joys of my job is to be involved in all three of these areas and to have a role. In a small way, you can be heavily involved in working with governments to develop, on the ground level, agendas to improve the judicial sector so that the financial sector and the private sector can be more efficient and play the role that they should play in a market economy.

PROFESSOR NDIVA KOFELE-KALE

It was exactly ten years ago that the Organization of American States adopted the first comprehensive regional convention against corruption. The African states followed in 2002 with the African Union Convention for preventing and combating corruption. The United Nations followed in 2004 with the first global anti-corruption instrument. My brief this morning will examine very briefly this global effort at combating official corruption that is also referred to as grand corruption. I will pay particular attention to two innovations that were first introduced in the Inter-American convention and subsequently incorporated in the African Union Convention as well as the UN convention.

First, I think we need to ask why it was necessary for the international community, beginning with the Latin American states, to focus attention on the problem of global corruption. I can offer three plausible explanations. The first is the vast quantities of national assets that were being stolen and diverted into private accounts and subsequently transferred to overseas banks. We are talking of assets so staggering that one commentator referred to it, or the private build up, as going beyond shame, and almost beyond imagination. The Nigerian government, by its own account, confesses that almost \$100 billion have left Nigeria into private accounts and that their external debt as of 2002 stood at \$28 billion. So you are talking of private accounts that can easily wipe out Nigeria's external debt and return the state into some degree of servancy. So, that was the first observation made by the Latin American states, the African states, and the rest of the global community. The second observation was that the vast amounts of state funds I have just mentioned tended to be diverted by high-ranking constitutional responsible officials. Heading the list were current presidents as well as former presidents. I can give names

upon names of sitting presidents and former presidents who are alleged to have pillaged their national treasures. The third possible explanation was the negative effects of official corruption on the majority of these countries.

Let me quickly draw attention to some of these negative consequences. Much of the information I am sharing with you comes from studies done by the World Bank and the IMF. First is that corruption tends to reduce economic growth and discourage foreign direct investment. The fact is that when society is corrupt, it tends to undermine the performance, integrity, and effectiveness of the private sector. Second is that corruption tends to decrease government revenues. We are talking of revenues coming from tax collection and customs duty. For example, in one African country in a given year, more than \$134 million were collected from customs duties, of which \$14 million were paid into the state office. Clearly, such a misallocation of government revenues, at some point in time, has an impact on society. Third, there is also the misallocation of scarce resources. We are talking of a situation where funds are diverted by a small elite, usually a bureaucratic/political elite, at the expense of the mass of the population. I think that it is important to give some texture to this aspect of corruption. We are fortunate to have read the most recent report prepared by the U.S. Senate involving Riggs Bank. In that report, there were two extremely large depositors in Riggs, General Pinochet of Chile and President Obiang of Equatorial Guinea. Obiang had various accounts totaling \$700 million. We need to put this in perspective. In his country, the average Equatorial Guinean survives on two dollars a day, two percent of the national budget is devoted to health care. It is in this context that one begins to understand this diversion of limited scarce resources into the private accounts of a few at the expense of the many.

Corruption also breeds impunity and dilutes public integrity, a big part of it with respect to judges. Judges who receive bribes tend to strengthen the hold and influence of the criminal element in society. Clearly, when the judiciary is corrupt, it makes it difficult for those who are in the most need of the judiciary as well as the poor and disadvantaged to have any confidence in the judiciary. Corruption also violates human rights. It is no surprise that the countries that tend to fall very high on transparency international corruption perception index are countries where respect for human rights is usually at the lowest. Finally, corruption of the kind that we are talking about also encourages political instability. In this sense, when these stolen funds that are transferred abroad are used to buy weapons to create political instability, a number of these countries over time are faced with civil wars as well as all kinds of societal problems. That is the case in Angola, the Democratic Republic of the Congo, Liberia, and Sierra Leone just to mention a few. It is against this backdrop of vast quantities of stolen national funds, constitutionally responsible leaders at the top of the list, and the undeniably negative consequences of corruption on society at large, that I think the Latin Americans, the Afri-

cans, and the rest of the world finally decided to do something soon, before things got even worse.

Let me call attention to a number of weapons that the three international multilateral conventions have mentioned and have developed to fight this pestilence that seems to be all over the world. The first strategy that seems to be common in all three instruments is that of prevention and punishment. The strategy on prevention and punishment starts with a broader definition of corruption. The three conventions that I have mentioned go beyond previous anticorruption instruments in criminalizing not only your typical bribery type of corruption, embezzlement, and money laundering, but they go beyond those. You will find in the European regime that the emphasis is on bribery, embezzlement in both the public and private sectors, influenced trading, consignment, money laundering, and so on. I would say that the Latin Americans were the first to design this broader concept of corruption by introducing the offense of illicit enrichment. The Latin Americans introduced it, the Africans picked it up, and the UN a couple of years ago also incorporated it in its Anticorruption Convention. The Latin Americans defined illicit enrichment as a significant increase in the property of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions. I put it to you that this is indeed a remarkable innovation in the fight against corruption, and the intent behind the illicit enrichment offense is to relax the burden of proof that the prosecution usually bears. Typically the accused in criminal prosecutions or criminal proceedings is presumed innocent until his guilt is proved beyond a reasonable doubt by the state. In the illicit enrichment of funds that burden is shifted to the accused to come forward with information detailing the amount of funds that are in his possession. Once it has been established that there is a discrepancy between his lifestyle and his known source of income, that is a powerful tool because the nature of grand corruption cases makes it very difficult for the state to satisfy the high burden of proving beyond a reasonable doubt. So that, I believe, is the first interesting innovation in the fight against corruption.

The second is directed at the back end of corruption. This has to do with the recovery and the repatriation of stolen funds. As I have mentioned, much of what has been stolen in Latin America, Asia, and Africa tends to flee those countries in offshore banks that are prepared in order to conceal these illicit funds. So the Latin Americans, followed by the Africans, decided to place emphasis on the recovery and repatriation aspect in the fight against corruption. We have perhaps one of the most obstinate obstacles placed in the path of recovery. I call it the paper trail problem. We have fairly good empirical evidence to suggest that it is not easy, once those funds leave the country of origin, that tracing, detection, and finally placing a finger on them, is easy. In fact, it becomes a world game of hide and seek. For example, President Marcos of the Philippines is reputed to have had in a couple of Swiss banks 7270 accounts, as many

shoes as his wife had. Suddenly, it takes an enormous investment of resources, both fiscal and human/technical, to trace these kinds of accounts. So the three instruments have focused on international cooperation. They have done that in a few ways. First, by insisting on mutual legal assistance plus mutual technical cooperation, including law enforcement. Second, by requiring member states or state parties to the various conventions to relax their banking secrecy laws or not to use those as an obstacle to a requesting state seeking information on the location of assets. Third, to waive those banking secrecy laws in the interest of discovery. If a requesting state has an interest in finding out where these resources are, the Latin American Convention, as well as the African and the UN Conventions, all admit wide latitude with respect to discovery.

Finally, illicit enrichment, like all the treaty based offenses, is considered an extraditable offense. It is immaterial for the purpose of extradition that the funds were obtained for political reasons so the political defense is unavailable for an accused in a high corruption case.

It has been ten years since the Latin Americans adopted the Inter-American Convention, yet we have evidence that high corruption persists, not only in Africa, but in Latin America. There are rumors around that an ex-president of Peru is under indictment for corruption, which suggests that perhaps the war against corruption in Latin America is still on—in Africa it is—and that we still have a long way to go.

DR. SHIAO-MING SHEN

The topic of my speech is economic legal reform in China. I will discuss this topic in three areas: first, the successes of Chinese economic reform; second, the continued reform and the progress in the future; and third, legislation relating to the changing economy.

First, I will discuss the successes of China's economic reform. Since 1978, China has been in a historical stage of reform, opening up and modernizing under Deng Tsiao-ping's theory of building socialism based on Chinese characteristics. In Deng's proposals, he wanted the Chinese economy of central planning and state ownership to be reformed and opened to the outside world. Deng did two main things. First, he created a market economy in food by freeing prices and abolishing the agricultural communes as units of production and replacing them with family farms. In China, 75 percent of Chinese, around 800 million people today, still live on the land. Farming outputs in China did not go up at all between the mid 1950s and 1978. After the policy changed, in the first half of the 1980s, real value in agriculture went up by 7 percent a year. Internationally, Deng's open door policy attracted more foreign investments. It began by eliminating the central government's monopoly in foreign trade. Over the last two decades, China's economy has kept a momentum of rapid development with its GNP having grown at an average rate of 9 percent, and it is likely to continue to grow at the same pace for some time. Such an increase in output represents one of the most sustained

and rapid economic transformations seen in the world economy in the past fifty years. China's economic reform is a breakthrough. In an economic system with public ownership as the main factor and with diversified economic elements, developing together has already taken shape. Another prominent characteristic is the abrupt rise of the non-state owned economy. According to the statistics at the end of 1995 the industrial outputs of the non-state owned economy took up 66 percent of the total industrial outputs of the whole nation. The total volume of retail sales of consumer goods of the non-state owned economy took up 70 percent of the whole economy. The adjustments of the ownership structure have met the needs created by the development of the market economy.

China's open door policy is an essential element of the economic reform process, in that it promotes foreign trade. It has introduced the modern management system, where business transactions are conducted in a legal framework. From 1979 to 2000 China has absorbed \$447 billion U.S. dollars of foreign direct investment (FDI). Every week more than \$1 billion of FDI flows into the country. Foreign investment is expanding the Chinese economy from small scale, labor intensive industries, such as the processing and real estate industries, to capital and technology intensive industries.

The location of investment is spreading from coastal areas inland. The number of internationally well known corporations which have invested in China has been growing. 400 companies out of the Fortune 500 have made investments in over 2000 projects in China. China has a business relationship with 170 countries all over the world. In 1978, China's foreign trade volume was \$20.6 billion U.S. dollars, ranking 32nd in terms of global trade. In 2004 China's trade total was \$1150.2 billion U.S. dollars. China has emerged as the world's largest trading nation.

The second area of economic legal reform in China is the continued economic reform and the progress in the future. The Chinese government will face considerable changes in maintaining strong growth and providing a higher living standard for the Chinese population over the next decade. There are three major problems that are at the forefront.

The first problem is the reform of state owned enterprises (SOEs). The greatest challenge facing Chinese economic reform is SOEs. Virtually all small scale business in China has today been privatized, both in traditional industries such as retail as well as in emerging areas of technology. About half of the economy remains in the form of large SOEs, including all the basic industries such as steel, petroleum, mining, and energy. These large enterprises are not efficient. The government is gradually reforming SOEs. But in many cases, central and local authorities are reluctant to sell, merge, or bankrupt SOEs, because they are typically a major source of jobs and tax revenue in many areas. As a result, banks are forced to lend to these enterprises to keep them afloat, further building up bad loans and reducing available credit to the private sector. Production from these companies also adds to unsold inventories,

heightening competitive pressures. To reform the SOEs, the government needs to have a functioning social security system, particularly employment benefits and pensions.

The second major problem facing the Chinese government is reform of the financial sector. The banking system is weighed down by bad loans, largely made to SOEs. This makes privatization of the banks and the broad reform of the wider financial sector difficult. With a reform of a banking infrastructure, the government has embarked on recapitalizing the major banks and preparing to list them on stock exchanges.

The third major problem facing the Chinese government is that agricultural reform remains a key challenge, particularly in building a state system of enforceable land rights that would provide greater access to funds for farmers and allow freer movement of workers from country to city regions.

The third area of economic legal reform in China is legislation related to a changing economy. The extraordinary economic performance of China has been driven by changes in government policy. The transformation started in the agricultural sector and was extended to industries in large parts of the service sector so that the price regulation was dismantled by 2000. The introduction of company law for the first time permitted individuals to own limited liability corporations. The government also enforced a number of competition laws in order to unify the internal market. The business environment was further sharpened by allowing direct foreign investments in the country, reducing tariffs, abolishing the state's export treaty monopoly, and ending the multiple exchange rate.

China's entry into the WTO made China's door more open, as foreign firms began to penetrate China's financial and telecommunications sector. Using foreign competition to stimulate the domestic economy is a major objective in seeking to join the WTO. In addition, fundamental changes were made to the constitution in 2004, stressing the role of the non-state sector in supporting economic activity in the country and protecting private property. In 2005, regulations permitted privately owned companies to enter various sectors of the economy such as infrastructure, public utilities, and financial services. These changes have permitted the emergence of the powerful private sector. The growing importance of the private sector in supporting the economy makes it all the more important for China to further modernize the legal framework for business. The Chinese government is working on legislation in three important areas: bankruptcy law, company law, and the implementation of the constitutional amendments on property rights. The second draft of the bankruptcy law has passed the legislature and seems to follow international practice. Additionally, a new company law was passed last year. In 1988, a drafting group proposed interim regulations on anti-monopoly and fair competition. A proposed anti-monopoly regulation is still in the drafting process, but the latest information from the Ministry of Commerce is that it will be sent to the legislature for enactment next year.

In 1993, an unfair competition law was enacted. In 1997, a price law was enacted. And in 1999 a law against aiding and abetting was enacted. The content of these economic laws is sufficient, but there is the more substantial problem of enforcing the laws.

A relatively complete set of laws and regulations covering intellectual property rights is in force, having been updated in 2001. The focus of government policy in this area has now switched to the enforcement of these laws. Adequate protection of intellectual property is also of increasing importance to Chinese companies. China's population makes up one fifth of the world's total population. A strong migrant economy will benefit not only the Chinese people, but the rest of the world, as the Chinese people begin to spend money on goods and services from outside the country.

I spend about half of my time in China and the rest of the time in the United States. Based on my experience working with both foreign multinationals and Chinese corporations, I believe that China will continue to take measures to stimulate effective demand at all levels of international business transactions by accelerating infrastructure construction, maintaining stable agricultural development, promoting technology and industrial programs, and improving the climate for foreign investment. I think that the future remains bright for economic development in China for many years to come.

PROFESSOR JOSEPH J. NORTON

It is really only ten years since the Asian financial crisis, it seems like a long time, but it really is not that long in terms of human history. We tend to forget about it, and we also tend to forget that we have had a number of major financial crises since then, whether in Argentina, Brazil, Turkey, or elsewhere. There is no question in my mind that we will continue unfortunately to have financial crisis, hopefully not of a global systemic nature, but that we will continue to have financial crisis for the foreseeable future. Notwithstanding the crisis, the importance of the financial sector and financial reform is getting increasing attention. All these matters now are taken for granted in the development field. Peter Kyle was saying that he was surprised about being asked to talk about judicial reform in connection with financial sector reform. Really it is only after the Asian financial crisis, and Peter Kyle alluded to this, that we even began to focus upon micro-economic aspects of the financial sector as part of the reform process, and it was only even further after that that we began to focus on the legal aspects and the infrastructural institutional aspects of it. Initially, when we were looking at laws, we were talking about drafting statutes, and it was not clear that there was a connection between the drafting of statutes and the political processes, the administrative processes, the enforcement processes, the judicial process, and the education of not only judges, but of society as a whole in order to receive, accept, own, and implement these reform processes.

So what is being talked about as the current wisdom that has been in place, it really has not been in place in a long time, and I would suggest to you it is still in a very incipient stage in need of further thought. I think that what Ambassador [Dañino] was talking about, those type of connections will continue to go in this area of economic law reform and financial sector law reform. When I was in Colombia about a month ago, it became apparent to me, we were at a conference talking about setting up a mega-regulator and of major reforms they have just done in Colombia. We were talking about financial conglomerates, securitizations, and reform of the stock market. And then when you went out in the streets you realize that probably 80 percent of the population, or at least 60 percent, was really not in the economy, and of that 40 percent that was in the economy, probably less than half of it was effectively banked within the system we were talking about reforming. So this exclusion of people from the economy and the assumption that the reforms that we are undertaking according to international standard, yes, they are important, and they do have a constructive purpose.

What about the other 80 percent of that society? Where do they fit in to that reform? How do we bring them in? This was something that Teresa was talking about and this was something that the Bank has done some really significant work on in the past several years, in looking at Brazil, Colombia and Mexico—this whole question of access. It kind of goes back to what Teresa was talking about with Professor Sin of Harvard, talking about choice and democracy and bringing in people into the system so that there is a sense of equity. In a way, a sense of equity is really a sense of ownership.

What are the legitimate expectations of the legitimate beneficiaries of development? Development is not just to develop an economy for a society that solely serves the elite, that 10 or 20 percent. This is not talking about socialism, but it is how we can bring into the mainstream of economic reform those that are outside of it. A lot of this gets into cultural considerations that are going to be developed in what I will be thinking about over the summer. There is this assumption that whatever is good for the financial sector infrastructure of a country, whatever we on the outside come in as supposed experts and say is good for the system or is good according to international standards, according to these financial sector assessment programs, et cetera, is good for the development of the country. How do we know that, when really when we talk about financial sector reform, we are never really talking about what is the development agenda of that country? Ambassador Dañino did something quite remarkable in Peru with the national agreement where he brought together diverse people to talk about what is the development agenda long-term-wise for his country. That is not an easy achievement. What I am saying is that from a financial sector point of view, how do we bring in a comprehensive development factor to it? Rather than the financial sector reform driving the train, how do we fit it in with the overall development objec-

tives of a particular country when there may not even be any cohesion or agreement? Our students, in studying the World Bank in the past few weeks and looking at the articles of agreement and then looking at your flashy brochure of what you do, you would not recognize that this is the institution where we are talking about hard bricks and mortar, and now we are talking about human capital, and once you get on that road you tie it into poverty. Not only that, you really tie it into democracy and the promotion of democracy. The World Bank cannot get into it directly, but through the issue of human rights, in fact you can.

Financial sector reform really needs to fit into the core notions of development, and I think one of the other things that the legal vice presidency at the Bank has been doing is an integrated approach to legal reform. Legal reform is really new to the development process—I would suggest to you. The World Bank and the Fund is primarily a world of economists. At the IMF the legal staff is a very small staff and has very little influence in terms of the big picture, but an increasing influence. At the World Bank the lawyers are more important and are becoming more involved in the process. This tying financial sector reform with social equity is something on which Ambassador Dañino, in December, put together a marvelous conference, and I had the privilege of being there and listening to the connections between reform and social equity. The issues that were being raised were talking about access, and here I would be talking about success to the financial sector. The access to the financial sector is just the beginning. Access is just one part of the equation, and does not really address the issue of tying it into true developmental goals.

In the United States probably 25 percent of the population is unbanked and probably an additional 15 percent of the population use non-traditional financial institutions to conduct their financial affairs. What are we doing to bring these individuals into the economy? I think there are a number of lessons that can be learned from the United States. That being said, you have to be careful about moving foreign elements and foreign concepts into different cultures. That is going to be one of the main issues that I am going to be looking at this summer aside from looking at how we can connect a broader developmental component as an integrated part of financial sector reform of a developing country. At the moment, international standards really are the eyes of the industrialized countries. How do they really fit in, and to what extent do they need to be enriched, nurtured, and supplemented by broader developmental concepts?

Dr. Genta-Fons talked about the issues of institution building, and I think this is something where lawyers can have a real role to play in this. Institution building, not only in terms of the law and the political processes, but in terms of the judicial and administrative processes, which I think are quite neglected. In looking at law reform, it is not that often that you find a country that has functioning administrative procedures in their particular country. The question of education in this area is very

important, and bringing in the private sector is extremely important. How do you make a financial system relevant to a country's particular developmental stage and objectives and one that is designed to contribute to an optimum meaningful and sustainable economic development and that can not only provide a broad stable financial platform for achieving financial stability with a robust growth in the financial sector but that can do it through inclusiveness and by achieving social equity? This is a real challenge for the next generation of financial sector reform, not only on a global level through the international financial institutions, but particularly in the countries themselves. I am a great believer in a bottom-up philosophy, that at the end of the day it is really the countries that have to reform, and a lot of that has to do with the particular cultures that are within that particular society.

