
Book Review

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Reforming Justice: A Journey to Fairness in Asia
Livingston Armitage
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Introduction

Over the past few decades, a considerable amount of money has been spent on international development assistance. In this challenging field, judicial reform efforts have been carried out all over the world. Unfortunately, these efforts have generally led to disappointing performances and results. A valid question is: why? In the book *Reforming Justice: A Journey to Fairness in Asia* Dr. Livingston Armitage provides the reader with a refreshing vision on judicial reform. He convincingly argues that justice should be “repositioned more centrally in evolving notions of equitable development” (p. 1). In explaining why justice should reposition itself, Armitage takes a few steps back and frames his ideas around the concept of justice and the related purpose of judicial reform. In the second part of the book, Armitage links the purpose of judicial reform with the practical issue of evaluation. In the third part, three case studies from across Asia are presented to provide the reader with some illustrative ‘real world’ insights. In the introductory section of the book the author grasps the reader’s attention by presenting his theoretical and practical knowledge on judicial reform in a way that fits the topic of the book perfectly. He shows the reader that he is passionate about the topic and that he will use his theoretical knowledge and personal experiences to reflect on the current developments in the academic literature and in the practical field of development aid to offer a structural, in-depth analysis with some additional new insights.

Justice and the Purpose of Judicial Reform

According to Armitage, “the purpose of judicial reform should be realigned to promote justice, which has at its essence the promotion of fairness and equity” (p. 27). In the light of this statement, Armitage reflects on the idea that justice is a public good and fundamental to human well-being. From a judicial context, Armitage views the courts as the responsible agencies to protect and promote justice. However, ‘justice’ is not just essential to “the work of the courts” (p. 10), it is also “central to the quality of development” (p. 10).

“The imperative for justice – that is, centralizing the concept of fairness – is thematic to development at large. Reforming justice is as essential to development as it is to courts. As justice should be the focus of judicial reform, so equally this focus should not be confined to courts. Justice must apply across development, though this has been rarely asserted to date” (p. 11).

With these statements, Armitage makes the reader aware of the importance of justice in any given society. Automatically, this takes the reader to one of the main motivations of the author to write this book, namely, that efforts of judicial reform need to be focused on the promotion of fairness and equity. The economic rationale for judicial reform has dominated the field for many years. Armitage marks this institutionalist approach to development as being “under challenge for failing to sufficiently meet the needs of the poor” (p. 12).

“[T]he institutionalist theory of judicial reform which serves economic or political purposes is insufficient – even dysfunctional – because it has been unable to create equitable growth. To date, development ideology has privileged doctrines of growth-based economics which have given insufficient attention to distribution in poverty allocation. This ideology has been deficient because of the absence of any dimension of fairness and equity” (p. 12).

In a chronological overview of the history of judicial reform, Armitage shows that, recently, humanistic justifications for judicial reform have entered the discourse. Different from the economic or political justification, the humanistic justification “rests on the validation of promoting fairness and access to justice based on an emerging concept of poverty as deprivation of opportunity and of the human rights of the individual” (p. 48). Armitage points out that in order to build a compelling theory of justice reform that also incorporates the constitutive humanistic dimension, the prevailing institutionalist theory of judicial reform should be revised. The prevalent economic justification has just not provided clear empirical evidence for its success in alleviating poverty (p. 128). Judicial reform still lacks “a clear and compelling justification or theory” (p. 126).

“There is no available evidence that judicial reform has attained its stated goal of poverty alleviation and only patchy empirical evidence to validate the prevailing reform approach. Significantly, this lack of evidence of success is impelling the ongoing evolution of approach. It justifies the reframing of judicial reform from its mainly instrumental role in supporting economic growth to a more constitutive theory which centres on notions of justice as fairness and equity” (p. 28).

Armytage further argues that,

“[s]o long as alleviation of poverty remains the apex goal of development, justice must embrace the distributive dimension of poverty alleviation through the exercise of rights, and judicial reform should be realigned to support that” (p. 125).

In the first part of the book Armytage’s foremost concern appears to be to explain why judicial reform should promote justice. In my view, Armytage has succeeded in reaching his goal. He familiarizes the reader with the relevant theoretical concepts and their practical implications. By doing that, Armytage provides the reader with a background in the classical and modern concepts of liberal philosophy, and links the philosophical justification for judicial reform to the complex world of development performance. In a carefully written and readable way, the in-depth analysis highlights the most relevant features in unraveling the issue of the purpose of judicial reform.

The Evaluation of Performance and Three Asian Case Studies

The central question of the second part of the book is almost deceptively easy: “does judicial reform work” (p. 129). In order to know *whether* judicial reform works, its effectiveness should be evaluated. According to Armytage, evaluating judicial reform is an important method to judge the efficacy of judicial reform (p. 14). However, in order to be able to evaluate the effectiveness of judicial reform, we need to be clear on *what* to measure and *how* to do it (p. 283).

After a more general discussion on the lack of an “established orthodoxy on how to evaluate development effectiveness” (p. 133), Armytage refocuses again on the evaluative practice in judicial reform. In a critical analysis, he reflects on the lack of evaluations of judicial reform and also on evaluations that are undertaken, but that are poorly done (p. 181-185). In answering the question how judicial reform should then be evaluated, Armytage takes the reader back to the first part of the book where he explained that judicial reform should promote justice, in terms of fairness and equity. Armytage states that “an adequate evaluation of judicial reform endeavor can only be provided by reference to a previously agreed normative framework with which evaluative judgments of merit and worth can be made” (p. 186). The author then goes further by arguing that,

“[s]uch a framework exists in the principal treaties of international human rights law. The singularity of this framework is that it is extant and formally endorsed by the overwhelming majority of UN member states. These rights are normative, systematic, universal and actionable as standards of justice on which measures of fairness and equity can be firmly grounded” (p. 186).

In part three, Armytage shows the reader more specifically what is going on in the field of evaluative practices by presenting three case studies from across Asia. The first case study is about the Asian Development Bank and its judicial reform experience. The second case study presents the AusAID’s Law and Justice Sector Program in Papua New Guinea. And the third case study reflects on the diverse experiences of several reform practitioners from around the Asia Pacific region. Due to space limitations, a detailed description of the three case studies cannot be given. But, it can generally be stated that every case study gives an unique insight into the contemporary practice of judicial reform. In that sense, it contributes to the understanding of the various issues that have been raised in the first two parts of the book. Also, it confronts the reader with the current ‘real world’ challenges of judicial reform. And last, but not least, on the basis of some collective findings derived from the case study analysis, Armytage makes the hopeful statement that “it is possible to demonstrate success in judicial reform endeavors – although this has not yet occurred to date, is costly and requires ongoing endeavor” (p. 286). After the final chapter in the book that is titled “The way forward” (p. 279), the book ends with four annexes.

Final Remarks

The book *Reforming Justice: A Journey to Fairness in Asia* provides a coherent analysis of a complex topic that has not gone unchallenged. The author has used his acquired knowledge as a reform practitioner cleverly to connect theory with practice in a way that appeals to an academic public as well as to the development community. Armytage has created a good balance between his insider knowledge and a critical outlook on the reform practices. In a well-structured and comprehensive way, Armytage guides the reader through the past and current difficulties, and the ongoing challenges in the field of judicial reform. This book forms an important contribution to the debate on international assistance in the field of judicial reform by pinpointing the crucial issues that are necessary to discuss, in order to overcome the accumulated confusion in this interesting, but complex field.