

THE GLOBAL JUDICIAL NETWORK: TOWARDS NEW HOPE FOR DEVELOPMENT, DEMOCRACY AND EQUALITY IN THE GLOBAL ERA

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“It is not enough for us to simply exchange stories of how we do things back home. Ultimately it is a banal exercise- a kind of judicial geography lesson”

- Justice Aharon Bahrak
Former President of the Supreme Court of Israel

ABSTRACT

Judges around the world are Networking. In this global age, unprecedented levels of dialogue, interaction, debate and deliberation take place between judges across borders. This new phenomenon has been acclaimed as a positive and novel manifestation of the all pervasive process of globalisation, and generically termed as The Global Judicial Network. Key features of this network are the exchange of concepts and ideals through persuasion, judicial comity and evaluative dialogue as opposed to the strict application of the principal of Binding Judicial Precedent. Judges who were traditionally perceived within the restricted role of applicators and interpreters of domestic law, have now become the new actors of globalisation and global governance.

*On the one hand judicial networking continues as a naturally occurring, positive development across national boundaries. On the other, the same phenomenon is sought to be artificially introduced to a part of the Globe in a different context. This is through various programmes for the reformation of courts and the judiciary, principally through Rule of Law programmes. These programmes almost exclusively target judiciaries of the “Global South” or of “Developing Third World Countries”. The Rule of Law (ROL) programmes identified as a *sin qua non* of development are interestingly spearheaded by the World Bank, the International Monetary Fund (IMF) and the Asian Development Bank (ADB) of whose interests are more financial than judicial. While this may initially appear puzzling, a closer look at the substance of these programmes would reveal that they are designed to promote fundamentally market based agendas, through a legal environment conducive to promote market interests above all else. Within ROL programmes, judges are to carry out a role prescribed by the above mentioned Financial Institutions in which the market interest of the State are paramount over its social interests.*

These negative developments, imposed on judiciaries of the Global South create disparities (or an uneven playing field) within the Global Judicial Network Community. The result is that judges of the Global South are unable to be active and equal participants of the judicial network society, fully appreciating its opportunities and potential.

This paper is firstly an attempt to uncover the negative factors which bring about inequality within the Global judicial network and their effect as felt in the global south. Secondly it would call upon judges of countries to recognise the evolving trends of progressive unifications within the global judicial network community. Within the Judicial Network Society Judges are to play a role of social activists or reformist towards realising social justice through law heralding in development, democracy and equality in this global era.

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