

**THE IMPORTANCE OF LEGAL CAPACITY FOR ECONOMIC DEVELOPMENT:
AN UNDERVALUED PRIORITY FOR SUB-SAHARAN AFRICA**

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I. SUMMARY

The development of sub-Saharan Africa continues to receive much international attention, particularly as the world looks to agree successors to the Millennium Development Goals to drive the eradication of poverty. However, historically, academics, policymakers and the commercial sector have looked at development in narrow economic and political terms, such as the value of foreign aid streams, public spending, and the existence of hospitals and clinics, ports and airports. In the past relatively little attention has been paid to the wider governance agenda, and in particular the legal systems that underpin development. Encouragingly, during the last two decades, there has been increasing focus given to the more structural challenges in the development context. This includes the role of laws and the legal system in economic development. In this paper, the Africa Justice Foundation (“AJF”) aims to contribute further to the re-orientation of this debate, by considering the critical importance of legal capacity for economic development and the practical steps, which can be taken to address this.

There are many ways in which more effective legal systems and more robust laws can encourage economic growth; this paper will concentrate on three of the most important. Firstly, the rule of law ensures the protection of property rights, which are essential to encouraging investment. Secondly, by guaranteeing the enforcement of contracts, domestic enterprises are able to conduct business in confidence, while foreign direct investment (FDI) is also encouraged. Thirdly, by introducing effective legislation to target crime and corruption, and safeguarding the independence of the judiciary so that it can prosecute those responsible for these social ills, the economy becomes more attractive to investors, both domestic and foreign. In conjunction with this, AJF believes that a sound legal system is a pre-requisite for the development of a domestic taxation base; which in turn creates a virtuous cycle of investment, growth and accountability. Equally, running alongside these elements is the importance of strengthening governmental legal capacity. This is essential for developing countries to engage effectively in international negotiations with global and regional

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institutions, other countries and foreign investors in order to benefit from international trade in a fair and equitable manner.

AJF exists to contribute, through knowledge sharing and skills transfer, to the strengthening of legal capacity in sub-Saharan Africa; an aim we believe to be essential for economic development. The right interventions in this area, developed via partnerships between governments, non-governmental organizations and AJF, can reduce investment risk and in turn contribute to greater investment both domestic and foreign. This will help turn sub-Saharan Africa's potential into reality.

II. INTRODUCTION

The development of sub-Saharan Africa continues to receive much international attention, particularly as the world looks to agree a new set of Millennium Development Goals to drive the eradication of poverty. However, academics, policymakers and the commercial sector have tended to look at development in narrow economic and political terms, such as the value of foreign aid streams, public spending, the existence of hospitals and clinics, ports and airports, and so on. There has historically been relatively little attention paid to the wider governance agenda, and in particular the legal systems that so often underpin development. In many ways, this is somewhat surprising as such arguments are not new, indeed as far back as 1776 the economist and philosopher Adam Smith powerfully advocated that:

Commerce and manufactures can seldom flourish long in any state which does not enjoy a regular administration of justice, in which the people do not feel themselves secure in the possession of their property, in which the faith of contracts is not supported by law, and in which the authority of the state is not supposed to be regularly employed in enforcing the payment of debts from all those who are able to pay. Commerce and manufactures, in short, can seldom flourish in any state in which there is not a certain degree of confidence in the justice of government.¹

It is perhaps understandable that international attention has traditionally been focused on the more visible challenges to development in Africa. The power of international action and assistance to confront these immediate challenges cannot be underestimated in assisting African countries to turn the tide and tackle the scourge of severe poverty, child mortality, preventable disease, lack of sanitation and clean water. Undoubtedly, such action is life changing, particularly in areas where the international community holds all the answers, for example in respect of international trade rules, debt and climate change adaptation. However, ultimately, most of the answers to the challenges faced by the poorest countries in the world must come from the peoples of those countries. Poverty can never be eradicated by foreign aid alone: national and regional economic growth is critical. Moreover, to ensure that economic development is sustainable, wide and deep, we believe firmly that this growth should be high quality, widely distributed growth.

Encouragingly, during the last two decades, there has been increasing focus given to the more structural challenges in the development context. This includes the role of laws and the legal system in economic development. In this paper, Africa Justice Foundation ("AJF") aims to contribute further to the re-orientation in the debate, by considering the critical importance of legal capacity for economic development and AJF's role in this area.

¹ Adam Smith, *Wealth of Nations*, Book V – Chapter III, (edited by C.J. Bullock), Vol. X. The Harvard Classics, 1909–14, Bartleby.com at 7 (2001).

III. LEGAL CAPACITY AND ECONOMIC DEVELOPMENT

At independence, much of sub-Saharan Africa showed great promise and potential for development. However, the developmental record since has often been regarded as disappointing. The continent remains endowed with vast natural and human resources, the full potential of which remains unrealized, and there is a sad track record of such resources becoming more a curse than a blessing. There is still too limited a manufacturing and services industry. It is far too commonly the case that natural resources are extracted, transported to foreign countries with greater manufacturing capacity and sold back, at a mark-up, to the established and new middle classes of African consumers. There is so much potential for an African economic powerhouse, built on natural resources, manufacturing and services. However, with domestic businesses often struggling to establish or grow, and international businesses too often unwilling to invest, this has led to high levels of formal unemployment and low tax revenues. This leaves nations unable to provide sufficient welfare support, basic public services and infrastructure spending. The consequences can be dire, the results all too real. Too many families live in abject poverty; too few children receive a decent education (whether to primary, secondary or tertiary level); too many never have the *opportunity* to succeed.

The understanding that markets need the support of non-market, public-sector institutions has taken a long time to receive the recognition it deserves.² This is surprising because so many economic models have implicitly or explicitly recognized the importance of institutions for development; although this recognition was often present only in the economic modeling assumptions,³ rather than sitting front and center as a key component of economic policy. Clearly, such assumptions are pivotal to a successful growth model. Yet when such models are applied to the economies of developing countries, such as those in sub-Saharan Africa, the reality underpinning such assumptions is exposed.⁴

By ‘institution’ in this context, we include a wide variety of both formal and informal elements, but all have in common a principal aim ‘to create order and reduce uncertainty.’⁵ Therefore, in the view of AJF, it follows that effective institutions establish a structure that reduces uncertainty and promotes efficiency — thereby reducing investment risks and contributing to stronger economic performance.⁶

There are a variety of organizations, policymakers and academics calling for the promotion of such institutions. For its part, AJF focuses primarily on the role of legal capacity; the area in which its own expertise is most advanced. AJF believes that effective, fair and transparent legal systems, together with coherent, robust and well-drafted laws, encourage economic growth.

² Dani Rodrik, *Institutions for High-Quality Growth: What They Are and How to Acquire Them*, 35 STUDIES IN COMPARATIVE INTERNATIONAL DEVELOPMENT, 3–31 (2000).

³ *Id.* at 5.

⁴ *Id.* at 4.

⁵ *Id.* at 97.

⁶ *Growth and Institutions*, WORLD ECONOMIC OUTLOOK: APRIL 2003; GROWTH AND INSTITUTIONS, IMF, 95 -128, 97 (2003).

For the purposes of this paper, we look at three specific areas in which AJF believes that more effective legal systems and more robust laws can make a difference. Firstly, the rule of law ensures the protection of property rights, which are essential to encouraging investment. Secondly, by guaranteeing the enforcement of contracts, domestic enterprises are able to conduct business in confidence, while foreign direct investment (FDI) is also encouraged. Thirdly, by introducing effective legislation to target crime and corruption, and safeguarding the independence of the judiciary so that it can prosecute those responsible for these social ills, the economy becomes more attractive to investors, both domestic and foreign. In conjunction with this, AJF believes that a sound legal system is a pre-requisite for the development of a domestic taxation base; which in turn creates a virtuous cycle of investment, growth and accountability. Equally, running alongside these elements is the importance of strengthening governmental legal capacity. This is essential for developing countries to engage effectively in international negotiations with global and regional institutions, other countries and foreign investors in order to benefit from international trade in a fair and equitable manner.

A. Property Rights

AJF believes that identifiable and enforceable property rights, where they exist, are a key aspect of an effective legal framework. The evidence suggests that property rights play a key role in encouraging economic development, specifically by encouraging investment (and reinvestment). The need to establish secure property rights derives from the longstanding observation that markets will not evolve where powerful individuals can simply co-opt assets at will.⁷ As such, we regard property rights as fundamental requirements to ensure that, by allowing them to profit from their investment, entrepreneurs continue to invest.⁸

This is particularly relevant for the reinvestment of profits into firms. Evidence demonstrates the correlation between property rights and reinvestment at two separate levels. Firstly, in a cross-country macro-level analysis, it was found that in countries where bribery was routine, courts were ineffective and property rights insecure, reinvestment rates were significantly lower.⁹ Secondly, at the micro firm-level analysis, within a country, it was found that entrepreneurs who perceive their property rights to be more secure show a 75% increase in the share of profits they reinvest.¹⁰ In AJF's view, this strongly suggests that secure property rights are both integral to and necessary for investment.¹¹

Many nations in sub-Saharan Africa suffer from a dearth of legally recognized and readily enforceable property rights. This deficiency potentially has far-reaching, practical consequences for African citizens. A lack of legal protection for property rights can lead, in extreme cases, to the expropriation of land and assets by governments, but when enforced it can guard against arbitrary, punitive and sometimes retrospective taxation.

⁷ Douglass North, *Institutions*, 5 JOURNAL OF ECONOMIC PERSPECTIVES, 100 (1991).

⁸ Simon Johnson, John McMillan & Christopher Woodruff, *Property Rights and Finance*, 92 AMERICAN ECONOMIC REVIEW, 1335–56 (2002).

⁹ *Id.* at 1354.

¹⁰ *Id.*

¹¹ *Id.* at 1355.

The absence of a functioning land registration system also means that entrepreneurs and fledgling companies, unable to obtain evidence of ownership for the purposes of collateral or security, can be denied access to sufficient finance. Small businesses and entrepreneurs are dependent on loans from third parties to establish and grow; without such finance, enterprise is stifled. Without growth at this level, a country's people simply cannot escape from poverty.

Issues surrounding property ownership rights also stretch much further; in a legal sense, inheritance laws can sometimes function poorly and frequently disenfranchise women. It is widely suggested, based on the experiences of those at the sharp-end of helping to provide legal services to the public, that the majority of formal and informal legal disputes in many countries in sub-Saharan Africa are disputes directly or indirectly linked to property, whether between individuals, families, neighbors or corporations. Without clear and widely known laws and a system in place to uphold those laws, people may be losing out on what is often their only valuable asset.

Despite these problems, there are arguably practical solutions available. Many of the disputes which currently monopolize the legal systems of sub-Saharan Africa could be resolved, or even avoided altogether, with the establishment of effective and widely understood land laws and registration systems, grounded in the relevant social and cultural norms. Equally, mechanisms for alternative dispute resolution (ADR) such as mediation and arbitration can ensure that legal rights are applied and enforced without recourse to the formal justice system.

Such preventative remedies provide the much-needed stability required to encourage domestic and foreign investment. On an international level, the establishment and enforcement of bilateral investment or regional treaties, backed by an arbitral tribunal, can provide the same security and stability that FDI demands. There are other solutions out there, but each has in common a need for sufficient public sector legal capacity, well-drafted and thought-through legislation and the system and institutions to enforce it.

B. Making and Enforcing Contracts

The framework for making and respecting contracts is a critical element of legal capacity. In particular, the importance of contract enforcement is well recognized in economic development.¹² This role is manifest in a number of ways; through the reduction of the costs of transactions, expansion of the spheres of business and facilitation of investment (being particularly crucial for foreign investment). Unfortunately, despite strides forward in many jurisdictions, foreign and domestic businesses frequently encounter significant challenges in contract enforcement in countries in sub-Saharan Africa.

1. The Legal and Policy Environment for Contracting

To ensure that markets operate in a free, fair and responsible manner, it may be important to have in place the right legislation and processes to ensure “fair” contract. For example, there may be

¹² Satu Kähkönen & Patrick Meagher, *Contract Enforcement and Economic Performance*, U.S. Agency for International Development (USAID) & Harvard Institute for International Development (HIID), at 25 (1997), available at http://pdf.usaid.gov/pdf_docs/PNACE021.pdf.

a case for legislation to govern unfair contract terms, formalities and requirements for specialist contracts, reinforcing consumer protection and promoting competition and restricting monopolies.

In addition, a transparent and robust framework for public procurement tenders and contracts could ensure that taxpayers get value for money and domestic businesses can engage in economically and socially valuable business opportunities.

2. *Ensuring Predictability, Reducing Investment Costs and Improving Contractual Frameworks*

One of the most important roles of contract enforcement is in reducing the costs of investment and exchange or ‘transaction costs’. The evidence suggests that effective contract enforcement enhances predictability and hence restrains opportunism amongst contracting parties.¹³ Unfortunately, there is a pressing problem in many developing countries that contracts between commercial actors are simply too costly and/or too time-consuming to enforce. In such situations, some contracting actors hence have an incentive to not honor their contracts.¹⁴ The practical implications of this are severe and all too real; where contract enforcement is perceived as poor or costly, commercial actors have far fewer incentives to engage in long-term investments.¹⁵ This can lead to economic short-termism with damaging implications for sustainable growth. Not only do effective systems of contract enforcement need to be in place, but they also need to be suitably low-cost and backed by effective access to justice, so as to ensure widespread uptake. There also needs to be consistency and predictability in the application of legal rules and public policy in the courts. National case reporting and greater legal commentary could assist this.

3. *Expanding the Sphere of Business*

As well as reducing the investment and transaction costs, effective contract enforcement also encourages the creation of more complex commercial agreements, thereby stimulating trade and growth.¹⁶ This desire for more complex commercial agreements is not merely motivated by a blind modernization agenda, but tends to be an integral part of economic development. One of the key benefits of ensuring that contracts can be properly enforced is in expanding the pool of potential suppliers and customers for a business. It is argued that developing societies need such enforcement to move away from systems based on personal ties that become increasingly ineffective.¹⁷ There is an increasing appreciation that there are serious limitations, in terms of geography and scale, to a system of traditional enforcement based solely on personal and social ties. Expanding the sphere of potential suppliers and customers is a vital step in economic development.

4. *The Particular Relevance of Formal Contracts to Foreign Investment*

¹³ *Id.* at 1.

¹⁴ John Ahlquist & Aseem Prakash, *FDI and the Costs of Contract Enforcement in Developing Countries*, 43 POLICY SCIENCES 183 (2010).

¹⁵ *Id.*

¹⁶ Kähkönen & Meagher *supra* note 12 at 1.

¹⁷ Douglass North *supra* note 7 at 101.

While informal networks have proved effective in some limited jurisdictions,¹⁸ they are largely inaccessible to foreign investors, who in an increasingly globalized and interdependent world, may wish to invest in a country. Consequently it has been found that foreign investors are likely to encourage host governments to create a low-cost enforcement system.¹⁹ The evidence also supports the view that foreign direct investment and lower contract enforcement costs are closely associated.²⁰

5. *Effective Courts*

Underpinning a system of effective contract enforcement is the establishment of effective courts. In sub-Saharan Africa there are examples of challenges concerning the independence of courts, as well as a lack of effective access to these courts in many cases. Furthermore there is a need for efficiency in the court process. It has been found by the World Bank that countries with slower courts have, on average, less bank financing for new investment.²¹ Court backlogs are a major and widespread problem. In terms of impact, this is perhaps even more of a pressing issue for the entrepreneur or small businessperson in an African country who is owed money from a customer or supplier than it is for a multinational investor.

As one example to encourage further efficiency in this area, there is strong evidence backing specialization. It is suggested that specialized courts, particularly in the commercial sector can both increase the speed and reduce the cost of contract enforcement.²² These assertions are supported by research conducted in sub-Saharan Africa, which found that such specialization shortened the court process by more than 5 months.²³ More specialized courts could bring significant benefits to both domestic and foreign firms trying to do business in those countries.

AJF strongly believes that reducing investment risks and transaction costs lowers the costs of investment and doing business and incentives the kind of investment upon which growth will flourish. Without compromising social values, norms and policies, ensuring states have in place effective and fair framework for making contracts and an efficient court system to enforce them will make a significant difference.

C. *Tackling Crime and Corruption*

In any discussion related to legal capacity, there is a vital role to be played by the systematic reduction of examples of crime and corruption in the encouragement of economic development. A country suffering high levels of crime and corruption is likely to discourage investment and alienate firms.²⁴ Research has found strong evidence that crime and corruption are frequently considered to be key obstacles to conducting business.²⁵ Hence, in AJF's view, it is vital that effective laws and a

¹⁸ Anthony Ogus, *The Importance of Legal Infrastructure for Regulation (and Deregulation) in Developing Countries*, CENTRE ON REGULATION AND COMPETITION, Working Paper Series, No. 65, at 20 (2004), available at <https://www.wbginvestmentclimate.org/uploads/30.WP65.pdf>.

¹⁹ Ahlquist & Prakash *supra* note 14 at 184.

²⁰ *Id.* at 195.

²¹ *Doing Business: Smarter Regulations for Small and Medium-Size Enterprises*, WORLD BANK, 20 (2013).

²² *Id.* at 92.

²³ *Id.*

²⁴ *World Development Report 2013: Jobs*, WORLD BANK, 25 (2013).

²⁵ *Id.*

robust legal system be used to tackle crime and corruption, in order to encourage both foreign and domestic investment, and stimulate growth.

1. *Why Corruption is Bad for Economic Development*

There are two key ways in which corruption is costly to development. The first is in deterring investment; particularly foreign investment. Corrupt infrastructures may, in many cases, require a multitude of bribes in order to obtain services from the public authorities or to win contracts. In countries afflicted in this way it is found that foreigners simply do not invest;²⁶ here the knock-on effects to domestic growth and prosperity are obvious and unpleasant.

Secondly, the desire for corruption to operate in secrecy often leads to a shift in a country's investments away from highly valued projects, such as hospitals and schools, and instead towards projects in areas such as defense.²⁷ Furthermore this secrecy can cause the powerful in society to maintain closed networks of nepotism, as a greater openness would expose the corruption of themselves and their peers.²⁸ Once again, the consequences of corruption severely damage the prospects for a nation's growth, which is to the detriment of the peoples of those countries.

2. *The Role of Government Lawyers in Corruption and its Elimination*

When seeking to tackle corruption, governments often discover that public sector officials are involved, particularly in the solicitation of bribes. The impact of such activity is considered a dead-weight loss; with resources needlessly used on such unproductive ventures.²⁹ Such issues give rise to considerations of the unique nature of government lawyers (particularly in comparison to their private sector counterparts). Indeed it is argued that government lawyers are expected to have a more public appreciation of their role, placing the public interest ahead of any particular individual's.³⁰ Well-trained and diligent government lawyers can help combat corruption by drafting effective bribery and corruption legislation, whistle-blowing laws, monitoring and investigating allegations of corruption against public officials, as well as contributing to the establishment of the broader aspects of the rule of law and advocating on behalf of the Government before the courts. It is in part because of their unique position and particular importance that AJF has focused much of its energies on building the legal capacity of the public sector.

3. *The Benefits of Tackling Corruption in Sub-Saharan Africa*

Bearing in mind the hugely negative effects of corruption, there is clearly enormous positive potential in tackling such activities. It is argued that reducing corruption can help increase the well

²⁶ Andrei Shleifer & Robert Vishny, *Corruption*, 108 THE QUARTERLY JOURNAL OF ECONOMICS, 599-617 (1993).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Allan Hutchinson, *In the Public Interest: The Responsibilities and Rights of Government Lawyers*, 46 OSGOODE HALL LAW JOURNAL, 105-129 (2008).

being of the majority of citizens in sub-Saharan Africa.³¹ This is sufficiently promising in and of itself, but in addition it has been shown that with such measures economic development can be improved without the need for foreign aid.³² Addressing the causes and dealing with instances of corruption will help to reduce the costs of doing business for domestic entrepreneurs and businesses. It will also allow foreign companies, which may be constrained by the bribery and anti-corruption laws of their country of domicile, to actually invest in those countries and contribute to economic growth. Without a doubt, this is an exciting prospect both for external donors (in these straitened times), as well as those (such as AJF) that always advocate African solutions for African problems.

D. Negotiations for Development

In addition to its firm interest in the rule of law and wider legal sector development, AJF believes that stronger legal capacity in public authorities is essential to ensure that the government is able to engage effectively in international negotiations. In AJF's view, high-quality interaction with global and regional institutions, other countries and foreign investors is essential for developing nations to benefit from international trade in a fair and equitable manner.

AJF considers that the strengthening of public sector legal capacity, in particular through professional development and new legal training amongst government lawyers can provide enormous benefits in negotiations. Many nations in sub-Saharan Africa are rich in resources, though the benefits of these for the peoples of those nations often remain untapped. Unsurprisingly perhaps, there is great interest internationally in what these nations have to offer. We have seen that, for a number of reasons (often related to challenges in the legal infrastructure) foreign investment may not be immediately forthcoming. However, once those initial issues are overcome and foreign investors express concrete interest, the next and crucial phase begins – negotiations by governments and landowners. It is in this phase that it will likely be decided whether such foreign investment leads to national economic growth and benefits to all, or whether opportunities are missed, private coffers are filled and the interests of ordinary citizens are neglected.

Due to their financial largesse and vast experience, multinational corporations are able to field the very best legal services and negotiators in bilateral dealings with governments and landowners. These legal specialists and negotiators are bound only by their duties to shareholders, rather than any broader duty as to social value, and hence driven ultimately by a profit-maximizing objective. Thus it often falls to the responsibility of the host government's officials, supported by government lawyers, to negotiate a deal that is in *their* public's interest. The legal and professional training for government lawyers that AJF facilitates will help to level the playing field between these negotiators – ensuring a fairer and more equitable result. Such a result clearly has ethical and social benefits, but more than this, a fairer deal also makes it more likely that all parties will respect and honor their obligations in the long-term.

Moreover, in an increasingly globalized world, governments (and their lawyers) are required more and more to engage with multilateral and regional institutions; such as the African

³¹ Kwabena Gyimah-Brempong, *Corruption, Economic Growth, and Income Inequality in Africa*, 3 ECONOMICS OF GOVERNANCE, 207 (2002).

³² *Id.*

Development Bank, WTO, ECOWAS, EAC and SADC. Negotiations in this sphere have far-reaching, highly significant consequences. With issues such as climate change, terrorism and piracy showing no recognition of national borders; and international trade and investment becoming a crucial feature of any modern economy, many of the key decisions that will affect sub-Saharan African nations are made at this level. These governments need the legal capacity within their staff to negotiate outcomes in these extraordinarily complex areas that are beneficial to their people.

E. Evidence and International Recognition

In AJF's view, there is a strong evidential link between legal infrastructure and economic growth. Legal capacity matters to people, corporates and governments alike. For example, research has found that improving the reliability of the legal system from the level of Nigeria to the level of South Africa has the same positive effect as a 32.14% increase in the availability of natural resources.³³ As well as encouraging domestic investment, it has been found that legal capacity building has also been shown to encourage FDI. Such findings are support by the reports of numerous multinational companies that operate in the region.³⁴

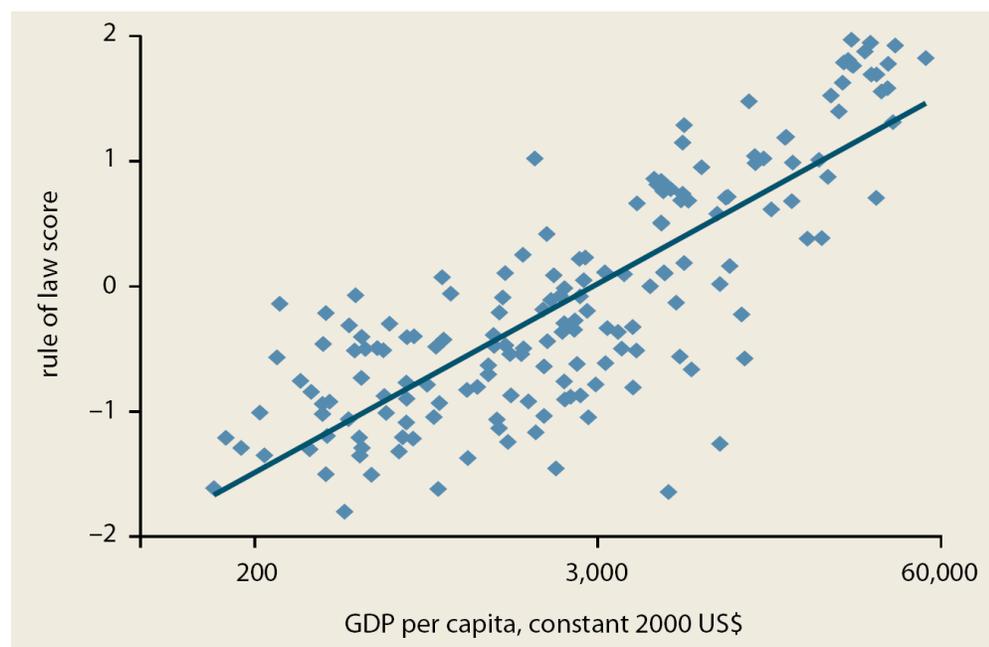


Figure 1: The rule of law is associated with development (World Bank: 2013b, p.297)

This evidence can also be seen on a global scale in the strong correlation between the rule of law and GDP per capita, shown in *Figure 1*. In its most recent World Development Report, the World Bank has highlighted the strong association between institutions that uphold the rule of law and higher levels of development.³⁵

³³ Elizabeth Asiedu, *Foreign Direct Investment in Africa: The Role of Natural Resources, Market Size, Government Policy, Institutions and Political Instability*, 29 *THE WORLD ECONOMY*, 71 (2006).

³⁴ *Id.* at 74.

³⁵ *World Development Report 2013: Jobs*, *supra* note 24 at 297.

This evidence has led to a shift in attention towards the role of legal infrastructure. Having previously concentrated largely on more narrow economic considerations, the World Bank first noted in 1991 that markets need the support of a government-provided legal and regulatory framework.³⁶ Both the World Bank and the International Monetary Fund (IMF) have since consistently expanded upon such assertions. As part of its wider ‘good governance’ agenda the IMF has stressed the importance of the rule of law and the need to tackle corruption as ‘essential elements’ of prosperous economies.³⁷ AJF whole-heartedly agrees and seeks to be at the center of this important agenda.

IV. THE ROLE OF AJF

In the attraction of FDI, perhaps surprisingly, research has shown that investors actually prefer good quality infrastructure to tax incentives when making their investment decisions.³⁸ AJF believes that a stable and predictable legal system can, and does, both attract foreign investment and underpin domestic growth through existing and new small, medium and large sized African businesses. As such, AJF has positioned itself at the heart of this agenda; seeking to build legal capacity in developing countries via knowledge and skills transfer.

AJF was formed in response to requests from African governments and African lawyers for support in legal capacity building. The charity was founded on a belief that strong legal structures enable nations to thrive economically, politically and socially and that without efficient, stable and predictable legal systems African countries will struggle to reach their full potential. The charity has grown in response to increased demand and is now governed by a talented, passionate and diverse Board of Trustees, supported by an Advisory Board and leading figures in law, business and international development. Our method is to transfer some of the legal knowledge and experience accumulated in more developed countries, upon request by and to the economies and societies of the less developed countries in Africa. Our programs are designed through collaboration with and in response to the express needs of the continent's governments and lawyers and through them the societies they serve.

Our first project area focuses on the building of public sector legal capacity. Traditionally, this has principally taken the form of specialist postgraduate training of government lawyers. Since launching in 2010, AJF has successfully facilitated the delivery of world-class training for lawyers from Rwanda, Ethiopia, Sierra Leone and Ghana. In collaboration with developing country governments, AJF provides scholarships for postgraduate legal training in the UK and USA, complemented by a program of advanced training in areas such as negotiation skills, coupled with work experience placements at corporate law firms. This makes a real and tangible difference. AJF Ambassadors return home with better technical knowledge and drafting skills. To date 25 talented

³⁶ *World Development Report 1991: The Challenge of Development*, WORLD BANK (1991), available at <https://openknowledge.worldbank.org/bitstream/handle/10986/5974/WDR%201991%20-%20English.pdf?sequence=1>.

³⁷ *Partnership for Sustainable Global Growth: Interim Committee Declaration*, IMF (1996), available at <http://www.imf.org/external/np/exr/dec.pdf>.

³⁸ David Wheeler & Ashoka Mody, *International Investment Location Decisions: The Case of U.S. Firms*, 33 JOURNAL OF INTERNATIONAL ECONOMICS, 71 (1992).

African lawyers have graduated from post-graduate courses and have committed to remain in their government roles for at least two years, drafting laws which support social justice and stability, encourage commercial business investment and domestic business growth. Furthermore, AJF is currently investigating new project proposals, which involve other means of providing capacity building interventions and technical assistance to African governments to meet the frequent demands we have seen.

Our second project area focuses on wider legal sector development. Within this program, AJF facilitates the development of innovative training products, taught in conjunction with specialist teams of British and African lawyers and academics. Our focus has included mediation training and capacity building for legal aid clinics in Rwanda; support for an online database of Ethiopian statutes and case law; and we are working towards specialized training in legislative drafting for local government lawyers in Kenya. AJF has also received requests for support from Zambia, Botswana and Malawi and is evaluating how best to address these needs.

V. CONCLUSION

Historically the challenges to development in sub-Saharan Africa have been viewed only through an economic and political lens. Fortunately, the last two decades have seen a paradigm shift. Legal infrastructure is slowly but surely becoming a more visible focus. AJF welcomes this shift in emphasis. Significant evidence supports the need for a greater focus on the role of legal systems in economic development. We have selected, for the purposes of this paper, three discrete examples where the evidence suggests that there is a correlation between the legal framework and legal sector capacity, on the one hand, and economic development, on the other. Our experience backs this up. AJF believes that this reflects a wider trend, a golden thread running through development.

AJF believes that building legal capacity can bring both beneficial and significant change. This includes the establishment and maintenance of societies based on the rule of law; an environment in which property rights encourage investment, clear and fair legal frameworks for making contracts and regulating markets and contract enforcement expands business and combating corruption can inspire development. In addition increased public sector legal capacity also means better trained government lawyers who are better equipped to negotiate the complex world of globalized international trade and secure a better deal for their citizens from companies. In this context, AJF is operating to directly contribute to the building of legal capacity via knowledge sharing and skills transfer. The right interventions make a real difference and represent an innovative, progressive and value for money investment in Africa's development. We believe it has the potential to change people's lives and fortunes for the better.