

# COMMENTARY



## Singapore's Leadership in Advancing the Rule of Law

*Stephen J. Brogan, the Managing Partner of Jones Day, published the following article in The Straits Times on January 19, 2016.*

Legal scholars, practitioners, and corporate leaders from around the world gather in Singapore this week to discuss the important development of the rule of law in the widely predicted "Asian Century."

This prediction depends on the continued surge in global trade and investment led by the world's major corporations and financial institutions.

But this economic globalization process depends critically on the integrity of legal systems that enforce contracts and protect property from private and public appropriation.

Singapore's economic success is built on the stability and fairness of its legal rules. The world's leading

corporations could safely bring their people and capital to the country, because they are well-protected by Singapore law.

Singapore sits at the very top of the World Bank's global ratings—no. 1 of 189 countries—for its effectiveness in enforcing contracts and protecting minority investor rights.

It is ranked second in the world in both the Heritage Foundation's Index of Economic Freedom and the World Economic Forum's Global Competitiveness Index, with high marks for its protection of property rights and freedom from corruption.

The investing world has come to appreciate how efficiently and fairly Singapore protects property and investor rights: it is the leading city in the world for new foreign investment projects, according to *Financial Times*.

The development of many other Asian countries has been limited precisely because their legal systems are unreliable. The world is awash in low-cost capital that could be deployed to great effect in less-developed Asian countries.

The principal barrier to such investment is legal risk. Without the capital investment needed for economic development, millions of Asians remain needlessly in poverty.

Singapore's larger neighbors, Indonesia and Vietnam, are good examples of countries with abundant natural and human resources that remain undeveloped because these countries do not have legal institutions that can reliably enforce contracts and protect property rights.

If globalization is to benefit a greater percentage of the world's population, aggressive development of the rule of law is essential.

Legal systems common in underdeveloped nations that only imitate the rule of law but can be arbitrarily abused by those in political power are not sufficient for the investment needs of Asia.

What Asia needs are genuine systems of law administered by impartial, independent, and well-trained judges, aided by able members of the Bar who know how to present evidence and legal argument thoughtfully and with integrity.

Singapore has long understood the kind of legal system needed to attract investment. Recognizing that its prosperity is tied to the development of its neighbors, the Chief Justice has led the creation of a new Singapore International Commercial Court that will extend the benefits of reliable legal process to the region by accepting disputes arising entirely outside of Singapore. This Court offers a forum staffed not only by judges from Singapore's High Court and Court of Appeal but also by accomplished jurists from around the world with expertise in the substantive law relevant to major commercial actors. The Court currently has 12 international judges from both civil and common law jurisdictions.

This is a visionary step that builds on Singapore's success in establishing itself as a world-class center for international dispute resolution through the Singapore International Arbitration Centre.

The new Court gives global investors in South and Southeast Asia a judicial forum with international legal sophistication that can rival any in the world.

It recently began hearing its first case, a US\$800 million (S\$1.2 billion) dispute between Australian and Indonesian companies concerning a joint venture for the production of coal in Indonesia to be decided by three highly experienced jurists from Singapore, England, and Hong Kong.

In addition to the creation of this new Court, Singapore's Chief Justice is leading an Asia-wide effort to create an Asian Business Law Institute modeled after the American Law Institute. The goal is to create for Asian nations a uniform commercial code and a restatement of principles governing conflicts of law. This initiative recognizes and advances the increasing convergence of commercial law around the world, which will provide the framework for global economic development.

By fostering development of its legal institutions and practitioners, Singapore is realizing yet another dimension of former prime minister Lee Kuan Yew's vision for the country.

After achieving success as a global hub for shipping, trade, and finance, Singapore has now become a center of professional excellence in the law for all of South and Southeast Asia. While this well-serves the interests of Singapore's growing legal community, other countries in the region that lack Singapore's legal institutions will be the major beneficiaries of these initiatives in support of the rule of law.

*View the article in The Straits Times at <http://www.straitstimes.com/opinion/singapores-leadership-in-advancingthe-rule-of-law>.*

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