

To convert into efficient actions the July 19th 2011 resolution on happiness and well-being, United Nations, need to rely on transversal competences including the tools of law.

Lawyers,

- Via their profession and their social and environmental responsibility, are among those who can best understand, and question, the impact of law on people and environment,
- Are trained to use consistent methodology to analyze facts and situations and suggest adequate solutions
- Thanks to their common ethic guarantee independence of thoughts.

The International Happiness Observatory (OIB) is a hub designed to:

- gather knowledge related to the contribution of law to happiness,
- get lawyers to identify, on selected issue, the relevant questions to be examined and provide the most appropriate tools,
- be a facilitator to elaborate roadmaps to better achieve the Millennium Development Goals (MDG).

Solutions for an Effective Transition Based on Legal tools

Introduction

Rationale

Initiatives, works and projects on development increasingly redeem themselves from a sole economic approach, to include a more holistic, ethical, equitable, inclusive and balanced approach that takes into account the interdependence of a number of factors, so as to contribute to the happiness and well being of humanity at large and of all living beings.

The globalized and interconnected world challenges cultures and the result can be either invigorating or, on the contrary, lethal.

Legal and Judicial Challenges

Current ongoing changes of socio-political strategies require a deep understanding of different knowledge fields and their legal implications.

Sound legal institutions and the rule of law are the cornerstones of social progress. ISO 26000 sets the way to a new perspective: the Social and Environmental Responsibility of Lawyers.

Time has come to contribute to the UN goals for the MDGs (*Millennium Development Goals*) with the tools provided by law. In fact, law and legal institutions, deemed to ensure justice and equity, are not sufficiently represented in the contributions and debates towards development projects.

With the momentum of this New York meeting, it is proposed to sponsor a radical change of the economic, social and environmental order. That has of course to be carried out in theory and in concrete terms which poses other challenges to be operational. Obstacles will indeed be substantial.

In the search for “universal needs” that we wish to define in order to meet common ethics and the participation of all, including the powerless and the vulnerable, are essential. It is now accepted that human and economic development should be analyzed in close conjunction. Justice and equity, rights and duties, are to be weaved by mixing the general and the individual approaches. Lawyers are the weavers.

Definition

The central word of the MDGs is “development”.

Lawyers are generally keen on using two approaches: each word must be clearly defined in its meaning (1); and each action should be analyzed by examining its polarity, as an unbalanced world could not possibly warrant happiness (2).

1. In the history of words, the word development was used to describe the transition of a plant, breaking the envelope of the seed, to grow. The current concept of **development** is a scheduled destruction of wealth, natural resources, services and the existing environment intended to “create” growth. In the economic field, this implies the everyday faster obsolescence of material creations, the accumulation and destruction of material and intellectual production, the constant call for new types of consumption. The demand of economic growth requires the destruction to be fast paced. Whether economic, demographic or other, development implies a loss of balance, as the current model has its own limits in terms of production, destruction, replacement and disposal.
2. The development of whatever grows generates a tension at the level of the units impacted. Therefore a balancing action of “**envelopment**” is necessary. The role of law is to provide a form of permanence so as to allow the social ties to have the necessary time to adapt to changes. Face to chaos and disorganization, law is there to think ahead and anticipate in order to maintain a form of peaceful cohesiveness. Otherwise, lawyers would remain nothing but seismographs of organized violence. The word “sustainable” is, in a way the polarity of the development.

The Centre of Bhutan Studies has identified “equitable and sustainable socio-economic development” as one of the four pillars of GNH (*Gross National Happiness*). By the use of the words “equity”, Bhutanese researchers question the very notion of social progress in an innovative and demanding way. **Equity** is therefore the pillar of the scale measuring happiness and well-being generated by a sustainable development.

Targets

Contribute to social progress by establishing, at the core of the works and debates on development, happiness and well-being, the fundamental values of Equity which represent the very basis of Law.
Produce new knowledge and skills in an approach respectful of cultural diversity.

The Solutions of OIB

The Contribution of Law

Saying that happiness owes much to law is not an overstatement. In fact, **by its very, nature law is made for happiness**. All branches of law are susceptible of contributing to happiness. The vocation of law is to determine the objective conditions required to achieve these objectives.

The expertise of lawyers must be used to ensure that the rule of law provides the proper “envelopment” for a balanced and ethical development.

For the time being, we have to work on legislative action within the existing order. During the period of transition from the present order to the new one the law-makers have to be extremely attentive and active. When the new order sets in, again a spurt of legislative activity would be required.

Suggested Practical Actions

➤ An International Expert Body for Law and Happiness

The International Happiness Observatory has been set up with this intention: provide an expertise based on law and happiness which combines the point of view of experts from different parts of the world and different cultures. Some cultural approaches will appear as irreconcilable at first sight. For example, in western cultures, law is made for the happiness of all the people. In eastern culture, the aim is the happiness of all sentient beings. While in Equator for instance, the nature itself is considered as a subject of law. Conjugate this diversity of views is the “trademark” of OIB.

➤ Set up a Model Program of Legislation

This international expert body may establish a model program of tools for legislation which each country which has no resource to do such a task may opt for. Such a program should not have any element of compulsion. Any country that has the necessary resources may elaborate its own program. Elements chosen from such a program may be included in the international program, if they have proved successful. It should not be forgotten that a provision of law which succeeded in one country may fail in another. That may be because the law is not adapted to that country or that the host country does not possess the proper setting for implementation and enforcement. This has to be considered before transplanting a law.

The conditions may differ from one country to another. There should not be international rules but only a set of tools to be adapted by each country. Successful experiences of some countries may be incorporated in international recommendations.

➤ Cooperation and Dissemination

The group of expert –multicultural of course – will think global keeping in mind that the application has to be local. But how to share the works in a creative way? The pyramidal approach has proved its limits. A form of hegemony of thoughts, whether real or felt, can lead some to be reluctant to the ready-made solutions elaborated far away.

That is why the **Johnny-jump-up method of cooperation** is suggested. The *viola odorata* is a plant which has three ways of reproduction: classical pollination, stems, or by producing capsules of seed via self-pollination. This seems an interesting example to follow.

The group of experts will have to preparer **stems**. Each recipient will have to prepare the soil, water the plant which will grow only if the adequate local conditions are met with. This does not exclude pollination via seeds and self-pollination.

For example, Bhutan’s’ experience of governance with the GNH concept has sent **seeds** which led to the UN’s resolution of happiness, OIB, and many more interesting initiatives. Now, by organizing this meeting and the workshops, stems will grow, and each of the participant is invited to help a new plant to grow, keeping a link with the mother plant, but able to become independent.

Self-pollination will mainly consist of thinking and re-thinking law and the rule of law in an innovative way.

Some Illustrations of Fields of Action

➤ A More Effective Functioning of UN

United Nation is the most fundamental international institution for the nations and the people. However, as any other institution, it needs to be updated.

A comprehensive study for elaborating constructive recommendations is scientifically conducted by OIB. These works can be shared at a larger scale.

➤ Mutual Understanding Between Law Makers and the People

In early history, except in penal and fiscal domains, the law has naturally evolved through the contribution of the people themselves. Even now, in democratic governance, delegates of the people make law. The only question is whether there is a **proper dialogue between the voting citizens and their elected representatives**. This is a pre-condition for the law to be conducive to happiness. It has to be created and enforced wherever it does not exist.

The second condition for the law to be conducive to happiness is **the acceptance of the law by the people**. When a legal provision which is considered essential for the happiness of the people is however not likely to be accepted easily, there should be a pre-information campaign in order to enlighten and persuade the people. Such an exercise is indispensable for the happiness of the people. Nowadays it is thought that the adoption of a bill or an act will take care by itself of educating the people about its rationale and benefits, by the simple fact that it has been enacted. Some law makers have gone to the extent of saying that the proposed enactment is not for immediate implementation but for pedagogical purposes.

➤ An Effective and Harmonious Implementation of Law

Law makers should ensure that **new laws do not raise hopes beyond what they can fulfill**. Such laws are dangerous for the existing happiness. Demagogues are great enemies of people's happiness. Leaders should carry out reality checks on their discourse, however palatable those may be.

In order to produce happiness, **law must be effectively implemented and enforced**. It goes without saying that the government should put in place the adequate framework and structure for the implementation of the law (in particular new laws), which has to get over the force of inertia. The implementation of laws has to be periodically reviewed until it becomes routine.

A new law, unless welcome by all citizens, will imply resistance which may be very strong in some cases, when vested interests appear to be threatened. Law makers may be disappointed by the results if they have merely stated what was desired. Therefore, they should **anticipate the obstacles and provide a well conceived package of incentives and deterrent penalties easy to apply**. Law making is not a simple exercise. It requires lots of wisdom.

When the **overhauling of the legislative set up of a country** is contemplated, it is necessary to prepare the order of priorities. For that purpose, a wise law-maker will gauge the amplitude of the impact and the easiness of implementation of the proposed laws. In fact a few laws well accepted and well implemented will generate more happiness than a multitude of laws which remain dead letter after having raised deceived hopes.