

THE WORLD BANK INSPECTION PANEL AND QUASI-JUDICIAL
OVERSIGHT: IN SEARCH OF THE 'JUDICIAL SPIRIT' IN PUBLIC
INTERNATIONAL LAW

HET WERELDBANK INSPECTIE PANEL EN QUASI-RECHTERLIJK
TOEZICHT: OP ZOEK NAAR DE 'RECHTERLIJKE INVALSHOEK' IN
HET INTERNATIONAAL PUBLIEKRECHT

Stellingen Behorende tot Doctorale Proefschrift:
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1. The 'international rule of law', although still in the process of being conceptualized, should incorporate elements of '(quasi-) judicial oversight' - which refers to the process whereby courts review the decisions of 'political institutions' against specific normative standards set out in the constitution, or in other normative instruments containing 'higher law'.
2. There is functional, institutional and procedural equivalence between the World Bank Inspection Panel and courts in non-international constitutional systems exercising judicial oversight.
3. Over time, courts exercising judicial oversight tend to increase the degree of de facto judicial independence from political institutions, as well as the degree of judicial influence and power ('judicialization'); thereby realizing outcomes such as resolution of constitutional disputes, human rights protection, and legitimization of political institutions.
4. The World Bank Inspection Panel - while lacking formal decision-making authority and being institutionally dependent on the Bank's Board of Executive Directors - asserts its de facto independence from Bank management and staff, and expands its influence through mechanisms similar to those used by courts exercising judicial oversight.

5. Quasi-judicial oversight exercised in the World Bank Inspection Panel

context exhibits similar limits to when judicial oversight is exercised by courts; therefore, the Inspection Panel can only expand its degree of judicialization and de facto judicial independence to a certain extent before triggering backlash from limiting factors such as political pressure and judicial mental models.

6. Intricate discussions about abstract legal theory may drive many students to boredom or to the verges of despair (I. Brownlie, *The Rule of Law in*

International Affairs - International Law at the Fiftieth Anniversary of the

United Nations, at 22 (1995)), but legal theory remains the conceptual blueprint through which practice-oriented lawyers might gain a better understanding of how 'law' unfolds in public space.

7. Hirschl rightly criticizes the practice of using intimate knowledge of a particular constitutional system as the primary motivation for conducting "freestanding single country" comparative analysis (Hirschl, *The Question*

of Case Selection in Comparative Law, 53 *American Journal of Comparative*

Law 125, at 127 (2005)); however, it is a compelling reason for including

such a constitutional system in a multi-country comparative analysis.

8. International lawyers are often hesitant to acknowledge that they are transposing ideas from the national to the international level for fear of being accused of "mindless borrowing".

9. Lawyers frequently use the word 'system' (e.g., 'legal system' or

'constitutional system') without having an understanding of basic system theory; and without being aware of the potential benefits to be garnered for legal analysis by employing system theory's conceptual frameworks and analytical tools.

10. Universities should make it compulsory for all doctoral candidates to follow an introductory course in project management.

11. Once a lawyer has been married to an engineer for more than five years,

it is inevitable that he or she will begin to describe legal concepts on a Cartesian plane.

