

Life at the World Bank and the Asian Development Bank

By *John Lockhart QC*

I would like to share with you some of my experiences since March 1998 with The World Bank and The Asian Development Bank (ADB).

I spent my sabbatical leave from March 1998 to May 1999 with the World Bank as its Judicial Consultant based in Washington DC. In June 1999 I retired from the Federal Court, after more than 20 years service, and later was appointed to the ADB as an Executive Director.

First, the World Bank. It assists developing member countries in many ways, including legal reform and judicial education. As Judicial Consultant I went on many missions to developing countries in Eastern Europe and Asia, including two to Albania, as part of World Bank teams to discuss with Albanian authorities World Bank assistance to the Albanian program of judicial reform. The program included steps to improve the functioning of the judiciary, the accessibility of laws, the quality of legal education and the introduction of Alternative Dispute Resolution mechanisms. I assisted in the preparation of the establishment of the National Judicial Conference of Albania as a permanent institution, the preparation of a code of ethics for Albanian judges, and the content and budget for the Judicial Training Program.

In December 1998 I went to Slovenia at the invitation of both the Slovenian Government and the Slovenian Association of Judges, and attended a workshop regarding the establishment of a Judicial Training Center in the capital, Ljubljana.

From Slovenia I flew to Thailand to join a joint mission with the International Monetary Fund (IMF) and the ADB to consider various aspects of judicial education and judicial reform. It was a stimulating and productive experience of two Development banks and the IMF working together.

Also in December, back in Washington DC, I attended and successfully completed a stimulating and challenging course on Alternative Dispute Resolution. It was conducted by The United States Centre for Dispute Settlement. It was intensive and high-powered.

In February 1999 I went to China on a mission organised by the IMF. I represented the World Bank. We conducted two seminars with senior officials of the State Administration of China, in Shenzhen and Beijing, on questions related to tax administration and collection, also judicial review.

World Bank and IMF missions took me on several occasions to Jakarta. The missions were concerned with training programs for judges of the Commercial Court of Indonesia and the application of the Indonesian bankruptcy law. With the IMF representative, I participated in discussions with the Government on measures to combat corruption in various levels of government and administration in Indonesia.

In all countries we met with leading ministers, heads of departments, judges and others, including ambassadors. I had many enriching and happy encounters, one of which was meeting the President of Albania. We chatted about a large range of subjects including art - a passion for both of us. The President is an urbane and cultured man - a physicist by profession. I had earlier bought two small paintings from an Albanian artist (Ali Oseku) and during the meeting I noticed on the wall of the President's library a painting by the same artist, who paints in highly abstract form. During the communist regime, the artist spent four years in a northern Albanian jail for daring to paint abstract art.

Whilst developing countries differ from each other in history, culture and tradition, broadly speaking, they have many problems in common. I will mention some of them. Judges of the courts of first instance work in difficult conditions. The courtrooms and offices in the court buildings are often in poor condition. There is a need for proper facilities including computers and copying machines. The judges' staff is not given adequate training. Security measures to protect the judges are poor. Judges are poorly paid and under staffed. The public has insufficient access to the written records of the laws of the countries and to the principal judicial decisions. There is a need for judicial training centres. There is an absence of proper mechanisms to enforce the decisions of courts in civil cases. The law schools have poor facilities. Practising lawyers lack vigorous professional associations.

I came away from the missions with a feeling of optimism about the developing countries that I visited. Many changes have taken place in their economies and governmental structures. The judiciary and the governmental instrumentalities have all been the subject of sweeping new laws. It will take a long time for the cultures themselves to catch up with the new laws; but they have got off to

a good start. The young people in these countries, who will be the leaders in the future, strike me as being dedicated to the reform of their countries. They are highly intelligent and well educated. They are the hope of the future.

Now I am in Manila with the ADB. Let me tell you something about it.

The two largest shareholders (there are 58 in all - 42 regional and 16 non-regional) are Japan and the USA. Australia and the eight other countries that comprise the constituency I represent hold about eight per cent of the voting power in the ADB, of which Australia holds about five per cent. Australia is therefore one of the most influential members of the Asian Development Bank. The ADB engages in a wide range of social and economic development activities aimed at improving the welfare of the people of the Asia and Pacific region. Its five strategic objectives are:

- to foster economic growth;
- to reduce poverty;
- to support human development; including population control;
- to improve the status of women; and
- to protect the environment.

Most of the Asian economies are now beginning to show signs of recovery from the Asian crisis of 1997. This improved growth is due, in general, to expansionary policies and an upturn in trade and investment. Restructuring of banks and firms is high on the ADB's priority list. Building up and improving the legal and institutional framework of developing member countries is essential for the restructuring of their corporate and banking sectors.

The ADB's funds come from several sources. It borrows funds for its ordinary operations from the capital markets of the world, and from the central banks of some member countries, to add to funds generated from its own activities. The Asian Development Bank lends these funds to borrowers, predominantly developing member countries. It also makes 'soft' loans from the Asian Development Fund (ADF), which was established by donor members of the ADB, and is refurbished from time to time. Soft loans are made by the ADB on highly concessional terms to developing countries with a low per capita gross national product and limited debt repayment capacity.

To give you an idea of the extent of lending, in 1998 (the ADB's financial year is the calendar year) the ADB approved loans totalling US\$6 billion, of which Ordinary Capital Resource (OCR) funds accounted for US\$5 billion and ADF monies US\$1 billion.

My work is mainly in Headquarters in Manila, but there is a deal of travel. I travel back to Australia on consultations with Treasury and AusAID. I have travelled to Cambodia, Hong Kong, India, Nepal, Thailand, and later this year will visit the five Pacific Island countries in my constituency. Azerbaijan has recently joined my constituency; and I will visit it later this year or early 2001.

I am closely in touch with the legal systems of many countries, keep abreast with Australian law, and am asked to speak on legal subjects. For instance, in November 1999 I was asked to be keynote after-dinner speaker in Sydney at a conference on insolvency issues in Asia and Pacific countries sponsored by the OECD, the World Bank and the Australian Treasury. In March this year, the Philippine Judicial Academy hosted a most interesting workshop in the Philippines on practice and procedure of appellate courts. Justices Bryan Beaumont and Arthur Emmet of the Federal Court attended and played an important role. I participated also.

The life as Executive Director for Australia and other countries is interesting and much of it challenging and exciting. I miss the exacting, satisfying and definitive work of the Bench; but greatly enjoy the work here.