Learning from Transition: The Impact of Legal and Financial Globalization

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As part of this year’s Core Project we developed two themes that situate transitions in the process of globalization. In October of 2014, we held a workshop devoted to the first theme “Legal Globalization and Transitions.” Legal globalization refers to the outsourcing of lawmaking and law enforcement from domestic to foreign or international institutions, public or private actors. Transition economies were not the only countries affected by legal globalization, but they may have experienced it on the largest scale. In the course of the workshop, we identified two keys pathways by which legal globalization influenced transition economies.

First, legal standardization as a precondition for membership in the European Union has had long-lasting consequences for democratic politics in Eastern Europe. While legal outsourcing by public institutions has afforded recognition of important rights of several minority groups, but it has also impeded self-governance. A second mode of legal outsourcing is individual or corporate actors opting into foreign legal systems to conduct their affairs. In some cases actors have been able to completely sidestep domestic institutions, a practice common especially among post-Soviet oligarchs. Both trends weaken collective self-governance in general, but especially in transition economies, which are still emerging from decades of superimposed rule.

In the Spring of 2015, we will hold another workshop devoted to our second theme: “Financialization and Transitions.” Liberalization of financial markets has been studied extensively, but social scientists and legal scholars have yet to develop a common framework for analyzing its political — including institutional and distributive consequences -- in the transition economies and in the developing world more broadly. Financialization, defined here as the separation and trading of financial value (expected returns) from the underlying asset, can be analyzed from a variety of angles but at least two stand out immediately.

First, countries on the periphery of the global financial system have limited options for protecting themselves against the risks associated with financial integration. New EU member states relinquished their powers to manage capital inflows when acceding to the EU Treaty. Other countries (Brazil, South Korea, Malaysia), however, have toyed with capital controls in the aftermath of major crises, but arguably with limited success. A third group of countries, like Russia, China and Saudi Arabia — have relied on their sizeable reserves to stabilize their volatile economies in the aftermath of the crisis.

Second, post-crisis developments in emerging markets have again brought issues of self-governance to the fore. No effective mechanisms exist to align the costs of financial integration ex post with the benefits reaped ex ante. Additionally, while it has long been assumed that there is a positive correlation between financial market development and democracy, there is increasing evidence that autocratic forms of governance are quite compatible with policies of financial openness; indeed may have an advantage over democracies in times of crises.

Look for additional announcements about the details of our second workshop in the coming weeks.