

Building Public Confidence in and Support for the Rule of Law and Independent Judiciaries

Paper Presented by Jacques Robert, Member
European Commission for Democracy through Law (Venice Commission),
Council of Europe
(Original text in French)

No justice is perfect and no judicial organization without faults.

Any reform must therefore aim at both structures and mentalities. The former are easier to modify than the latter.

Huge progress – obviously – was accomplished in the largest democracies and also in countries which are on the path to democracy.

The forever increasing control by appropriate jurisdictions over actions carried out by the executive power, the – spectacular – development of the control of the constitutionality of the law through the creation of Constitutional Courts, the concern to ensure to the fullest the absolutely free access by the citizen to justice by the generalization of appeals, the institution – almost everywhere – of the double degree of jurisdiction, the eagerness to ensure the judges' independence, not only on the Bench but also in the Prosecutor's office... as many elements which demonstrate that every one, almost everywhere in the world, is aware of the necessity to give justice a face that is less oppressive, more just, more human.

This being said, Nations might still have different points of view regarding the means to access to such better justice and the objectives are not necessarily the same for everyone.

If national interpretations vary – and this would be justifiable – regarding purposes of the criminal trial and the features of criminal justice which, being the most spectacular, remains the one which strikes the public opinion the most, all seem to agree, however, on the qualities that judges must, above all, possess if an equitable justice is expected of them.

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The purposes of criminal law are fourfold but, in any case, justice must be serene. It is not an easy feat. However, some mechanisms for designation or terms of procedure can be effective.

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There are, foremost, four purposes to criminal law

a. Retributive Justice.

The infraction provided its originator with some advantage or satisfaction contrary to the rules of the city and destroyed the balance provided by the law between the rights and duties of each individual.

Such imbalance must be compensated.

