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Working Paper

Improving Credibility by Delegating Judicial Competence: The Case of the Judicial Committee of the Privy Council

Volkswirtschaftliche Diskussionsbeiträge, No. 67

Provided in Cooperation with:

Fachbereich Wirtschaftswissenschaften, Universität Kassel

Suggested Citation: Voigt, Stefan; Ebeling, Michael; Blume, Lorenz (2004) : Improving Credibility by Delegating Judicial Competence: The Case of the Judicial Committee of the Privy Council, Volkswirtschaftliche Diskussionsbeiträge, No. 67, Universität Kassel, Fachbereich Wirtschaftswissenschaften, Kassel

This Version is available at:

<https://hdl.handle.net/10419/23286>

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Improving Credibility by Delegating
Judicial Competence - the Case of the
Judicial Committee of the Privy Council

von

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Michael Ebeling
Lorenz Blume

Nr. 67/04

Volkswirtschaftliche Diskussionsbeiträge

Improving Credibility by Delegating Judicial Competence

– the Case of the Judicial Committee of the Privy Council

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Abstract:

It is argued that government credibility is an important resource and that it can be improved by delegating decision-making competence beyond the nation-state. It is hypothesized that such delegation should result in higher income and growth. Some former British colonies retained the Judicial Committee of the Privy Council as their final court of appeals even after independence. This court is thus taken as a natural experiment to test our hypothesis. It turns out that retaining the jurisdiction is indeed significant for explaining economic growth.

Key words: Credibility, Delegation of Competence, Judicial Independence, Economic History, Judicial Committee of the Privy Council.

JEL classification: H11, K11, K41, N40, O57, P51.

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Improving Credibility by Delegating Judicial Competence – the Case of the Judicial Committee of the Privy Council

1 Introduction

The Judicial Committee of the Privy Council (JCPC) used to be the final court of appeals for all Commonwealth members. After a supreme court in a member state of the Commonwealth had decided, this decision could be appealed by taking the case to the JCPC. After having become independent, many states abolished the possibility to appeal to the Privy Council, but others kept it. After a long debate, New Zealand recently abolished the possibility to take an appeal to the JCPC. In 2002, the Caribbean Court of Justice entered into force, one of its aims being to replace the JCPC as the court of final appeal. Apparently, the relevance of the JCPC is thus declining.

A sovereign nation-state is usually expected not only to have its own legislature but also its own judiciary. In that sense, recognition of the JCPC as the final court of appeals even after becoming independent appears odd. Yet, a court largely composed of judges from other nation-states is presumably beyond the sphere of direct influence of those governments who retained the JCPC as the final court of appeal. This might have advantages: the factual independence of the judiciary could be higher. This could make government promises more credible which, in turn, could lead to higher investment and – eventually – to higher income and growth. The question thus is whether the recognition of a foreign court is indeed a possible means for governments to increase the credibility of their promises? The history of the JCPC provides us with a natural experiment as some newly independent states continued to recognize the JCPC as their final court whereas others did not.

It has often been pointed out that it can be a disadvantage to be too strong (Weingast 1993). A state that is strong enough to protect private property rights and to enforce private contracts is also strong enough to expropriate private wealth. This can be called the dilemma of the strong state. Rational subjects know this and will therefore invest less than they would if they could be sure that the state will not misuse its strength. States that have not had the chance to build up a reputation as providing for impartial adjudication will be especially affected. In such cases, the creation of a formally independent domestic judiciary will often not be a credible commitment because it can be ignored or even abolished. It might therefore be rational for these countries to delegate some adjudication competence internationally.

Feld and Voigt (2003) have recently shown that the factual independence of the judiciary is (economically and statistically) significant for economic growth whereas *de jure* judicial independence, i.e. independence as written in the laws of a country, is, as such, not a significant explanatory variable for economic growth. This is so for a sample of more than 70 countries. The result appears to be quite robust as the authors controlled for more than a dozen additional potentially relevant variables. This means that the simple promise of an independent judiciary is not sufficient to induce growth but that the factual behavior over long periods of time is decisive.

Governments of newly independent countries who want to create a factually independent judiciary fast might thus be in a trap. Levy and Spiller (1994) hypothesize that in such cases, alternative mechanisms of securing commitment will be necessary. In particular, they think of international guarantees. Signaling one's commitment via the international delegation of competences appears a plausible idea. Yet, we know very little about the economic effects of such delegation.

Recently, Voigt (2004) came up with a first study on the effects of membership in international organizations on the credibility of nation-states. The underlying rationale is that membership in international organizations reduces the discretionary leeway of nation-state governments. Membership can thus increase the costs of reneging upon one's promises. Using country risk ratings as a proxy for the credibility of government promises, higher levels of membership in international organizations interested in the protection of private property rights seem indeed correlated with better risk ratings. The correlation between a country's credibility ratings and membership in international organizations proved to be particularly strong when only the poorer half of the entire sample was taken into consideration. Thus, membership does indeed have its privileges.

In this paper, these two lines of research are combined: on the one hand, the JCPC is, of course, a court and the reasoning concerning the advantages concerning an independent judiciary might be relevant. On the other, the recognition of the JCPC as the final court of appeal implies a delegation of powers beyond the nation-state. The central question to be dealt with in this paper thus is whether recognition of the JCPC helps to improve the credibility of the governments of newly independent states.

Our evidence shows that retaining JCPC jurisdiction after independence has had some positive effect on per capita growth in the respective countries. The significance is relatively robust to alternative specifications of the estimated

models. It is interesting to discuss a possible implication of this finding, namely whether partial delegation of judicial competence beyond the borders of the nation-state could also help other countries that have not been part of the British Empire grow faster.

The rest of the paper is organized as follows: in the next section, the theory underlying our argument is developed in a little more detail. Section three makes the reader familiar with some of the central properties of the JCPC. The fourth section presents the estimation approach and the data on which this study is based. In section five, the estimation results are presented and section six concludes but also contains an outlook on some possible follow-up questions.

2 Some Theory

Credibility can be an important asset of a government. If a government that promises to enforce private property rights is credible, then actors will invest more than if the government is not credible. Higher investment levels translate into additional income. This, in turn, leads to higher utility levels for both the governed and the governing because higher (aggregate) income also means increased tax revenue. The credibility of a government can thus make everybody better off.

The separation of powers has often been discussed as a way to increase government credibility (Landes and Posner 1975, Barzel 1997). Beyond the conventional separation into the three functions of legislating, executing and adjudicating, the delegation to independent or non-majoritarian institutions has received a lot of attention lately (see, e.g. Majone 2001 or Voigt and Salzberger 2002). Independent central banks are the most frequently cited example: on the long run, everybody profits from stable money. On the short run, politicians can, however, increase their popularity by increasing monetary supply. If citizens expect this, the short-term positive effects will, however, not materialize but the policy will nevertheless be costly because it will lead to a higher inflation rate. Delegating monetary authority to an independent central bank can be interpreted as a solution to the problem of time-inconsistent preferences. This problem is not unique to monetary policy but can be identified with regard to a variety of government policies including, e.g., competition policy. Correspondingly, many states have introduced independent agencies that are responsible for policies in these areas.

An independent judiciary can also be interpreted as a kind of delegation although it remains within the confines of the traditional separation of powers. Judicial

independence (JI) implies that judges can expect their decisions to be implemented regardless of whether they are in the (short-term) interest of other government branches upon which implementation depends. It further implies that judges – apart from their decisions not being implemented – do not have to anticipate negative consequences as the result of their decisions, such as (a) being expelled, (b) being paid less, or (c) being made less influential. Three archetypical situations in which the independent judiciary plays a crucial role can be distinguished:

- (1) In cases of conflict between private parties: If they had voluntarily entered into a contract and one of the contracting parties believes that the other side hasn't lived up to the contract, impartial dispute resolution can be important. As long as both sides expect the judiciary to be impartial and hence independent from pressure emanating from either of the contract partners or any other party, they can save on transaction costs while negotiating their contract. On average, lower transaction costs will lead to more welfare-enhancing transactions taking place.
- (2) In cases of conflict between government and the citizens, the citizens are in need of an organization that can adjudicate who is right (who has acted according to the law). The judiciary performs this task. This can, e.g., mean to force the government to pay interest rates on government bonds as promised or to let international firms transfer their profits home as originally promised.
- (3) In cases of conflict between various government branches. In the absence of an impartial arbiter, conflicts between government branches are most likely to develop into simple power games. An independent judiciary can keep them within the rules laid out in the constitution.

Among the many functions of government, the reduction of uncertainty is of paramount importance. Laws passed by the legislature are often attributed that role as they contain information on what actions are illegal – and can thus be expected to occur with low likelihood. But the law will only reduce uncertainty if the citizens can expect the letter of the law to be implemented by government representatives. An independent judiciary could thus also be interpreted as a device to turn promises into credible commitments – e.g. to respect property rights and abstain from expropriation. If it functions like this, citizens will develop a longer time horizon which will lead to more investment in physical capital but also to a higher degree of specialization, i.e., to a different structure of human capital. All this means that JI is expected to be conducive to economic growth.

These effects will only materialize if JI is not only promised but factually enforced. Feld and Voigt (2003) have shown that *de jure* and *de facto* JI often radically diverge, i.e. that the promises concerning JI are not factually enforced: the partial correlation coefficient between the two measures is a mere 0.22. The promises given with regard to domestic JI are thus frequently rather incredible. In order to find out whether the promise of an independent judiciary beyond the respective nation-state could be more credible, and hence lead to higher investment and growth, we need to deal with the relevant aspects of judicial independence in a little more detail.

Attempts of the executive and/or the legislature to influence judicial decision-making often begin by politically motivated appointments. Judges are often appointed not on their merits as lower court judges or good legal scholars but rather on the probability that their decisions will be close to the decisions the politicians would like them to pronounce. In courts operating outside the government's territory, government influence on the appointment of judges will often be marginal or even non-existing at all. This is so because a single government will often have some influence on the appointment of one single judge but not on the majority of judges. If a government wants "its" judge to exert some influence on the dicta pronounced by an international court, it is well-advised to appoint very able judges as only they will be able to convince their colleagues from other countries (Voigt 2003). Control of the judiciary by way of a corresponding appointment policy seems thus unlikely in international settings.

Most other potential channels of influence or pressure on the judges that are often used with regard to domestic courts are also beyond the reach of nation-state governments with regard to courts that operate beyond the nation-state. As governments do not have legislative competence with regard to these courts, they cannot alter the number of judges, their term length, their salary or the way the court allocates cases to its individual members. Moreover, these governments cannot remove judges from the bench should they be unhappy with a particular decision. The use of many potentially damaging instruments is thus beyond the reach of nation-state governments. This leads us to hypothesize that promises regarding the independence of such courts are, c.p., much more credible than promises made with regard to domestic courts.

The basic economic rationale also implies that decision-making need not necessarily be delegated to formal international organizations. It could, instead, be sufficient that the rule-making powers are not exercised by a body completely under the control of domestic constitutional organs. The involvement of an

international body is, therefore, not necessary. This means that we would also speak of international delegation if rule-making powers were conferred to a constitutional organ of another state. Take the example of central banks: monetary authority cannot only be delegated to some international monetary union (as the European one) but also to the central bank of another state by abolishing one's own national bank. A less radical policy measure would be to form a currency board which has the effect that domestic monetary policy is barred from all discretion. The credibility-enhancing effect will depend on two issues, namely (i) the possibility of the delegating government to influence the organization to which monetary policy is delegated, and on (ii) the costliness of re-appropriating the policy consequence, i.e. on terminating the currency board or founding an own central bank.

With regard to internationally delegated adjudication, governments that are unsatisfied with the jurisdiction of a court could simply decide not to accept its jurisdiction anymore, i.e. opt out of its jurisdiction. This is exactly what New Zealand did at the beginning of 2004. A less radical measure to constrain the influence of such courts is to constrain standing, i.e. the quality and number of cases that can be appealed to at such courts. These two aspects thus need to be controlled for.

In this section, we have argued that factual JI is conducive to economic growth but that the short-term interest of nation-state governments makes them vulnerable to attempts to tinker with the independence of courts on the nation-state level. In such situations, delegating competence beyond the nation-state could help to mitigate this problem if the possibility to interfere into the decision-making of the international body is lower than that possibility at home. The factual effect will, however, depend on the costliness to opt out of international delegation, in this case, of the jurisdiction of the JCPC. We now turn to shortly describe the development of the JCPC.

3 The Judicial Committee of the Privy Council

This section serves to make the reader familiar with some of the characteristics of the JCPC that might be relevant for its possible effects on the credibility of promises made by nation-state governments.

The JCPC is the court of final appeal for the UK overseas territories and Crown dependencies and for those Commonwealth countries that have retained the appeal to Her Majesty in Council or, in the case of Republics, to the Judicial Committee. It has competence with regard to criminal and private, but also

administrative and constitutional law and decides on the basis of the relevant national law.¹ In 1931, newly independent states were given the option to retain the jurisdiction of the JCPC or to opt out of it by the Statute of Westminster. Quite a few states like Canada (1933/1949), India (1949), South Africa (1950) and Australia (1986) opted out of the JCPC jurisdiction. Today, 14 independent Commonwealth countries and nine dependencies use the JCPC as final appeals court (appendix 1 contains a list of all the relevant cases). It has at times been noted that, strictly speaking, the JCPC is not a court at all (e.g. Nash 1974, 1171) because it does not pronounce decisions in the usual sense but simply offers advice to Her Majesty, which she, as a matter of convention, always acts upon. Factually however, with regard to all practical purposes, the JCPC can be analyzed like a court: the reason for its becoming active is a dispute, it decides based on the domestic laws of the country out of which the appeal originates, its proceedings are based on a formalized Order of Rules and its decisions are directly binding for the parties involved.

The JCPC is based on the notion that the King is the fountainhead of justice and that all his subjects have a right to his judgment (Beth 1975). As early as during the reign of Elizabeth I (1558 - 1603), cases from the Channel Islands of Jersey and Guernsey were referred to a committee of the Privy Council. Later on, there was pressure by British subjects to extend the committee's competence because they were unsatisfied with the court system administered by the East India Company (*ibid.*). Formally, the JCPC was only created in 1833. The JCPC is made up of persons (i) who are members of the House of Lords, (ii) who are members of higher English courts, (iii) up to four persons who are appointed specifically as members of the JCPC, and (iv) the Lord Chancellor (*ibid.*). During the 20th century, the JCPC often co-opted judges from the dominions. The members are appointed by British politicians but Beth (1975, 233) believes that politics do not matter for the JCPC as its jurisdiction does not apply in the U.K.. The Lord Chancellor, the only member of the JCPC who does not need to be a professionally trained legal scholar, is appointed for his ability to do politics but here it is local politics that matter – and not the jurisdiction of the JCPC. The majority of the JCPC judges are members of the House of Lords. But membership

¹ In addition, the JCPC has a number of domestic competences such as hearing appeals from Jersey, Guernsey and the Isle of Man, for the Disciplinary Committee of the Royal College of Veterinary Surgeons, and against certain schemes of the Church Commissioners under the Pastoral Measure of 1983 (according to the website of the Privy Council). These competences are not presented in any more detail here as we are concerned with the Commonwealth Jurisdiction of the JCPC.

in the House of Lords is not granted based on the likely positions the future-Lords will take as members of the JCPC but based on other, foremost domestic, considerations.

From the local Court that has decided against him, a would-be appellant can get a so-called “leave of appeal” or a “certificate” that allows him to take the case to the JCPC (Rankin 1939, 11f.). It is then up to the JCPC to decide whether it accepts the case. It will make this decision by asking whether “some great principle” or “some very wide public interest” is involved (*Hull vs. McKenna* 1926). The JCPC is a classic court of appeal in the sense that it does not review the evidence again. Until 1966, the JCPC did not publish any dissenting opinions, i.e. the fiction that the Court decided unanimously was upheld (Beth 1975, 225).

Swinfen (1987, 143f.) summarizes the critique often advanced against the JCPC: (1) Appeals to it were costly, which favored rich litigants and powerful corporations; (2) appeals involved very long delays; (3) the members of the JCPC often lacked knowledge concerning local circumstances (regarding local law as well as local customs); this was particularly relevant in those countries that do not use common law but rather civil law such as Guiana, Sri Lanka and South Africa that rely on Roman-Dutch law as well as Mauritius and Quebec that use French law (Beth 1975, 229); (4) the procedures were monarchical whereas many Commonwealth countries were republics. Another often-heard argument referred to the incompatibility of being a sovereign nation with accepting the jurisdiction of the court of another nation. So why did quite a few former colonies retain the JCPC as their highest court?

Campbell (1959) for whom the JCPC is “no more than an anachronistic survival from the days of the Empire” (ibid., 207) deals with the issue. Newly created federal states could count on a tribunal that had some experience with federal constitutional questions. Cox (2002) points out that the JCPC’s jurisdiction is a rich legal resource, that the number of courts to which one could appeal is lower if this level of jurisdiction is taken away without creating replacement at home, that this could also entail a higher degree of judicial activism and that the costs of the JCPC are borne by the British taxpayer, which means that independent states can free-ride on the JCPC.

In most of the discussions preceding the abolishment of the JCPC, the potentially beneficial role of the court in making government promises more credible seems not to have played any significant role. Beth (1975, 238) observed that over time, cases involving family issues such as inheritance, adoption, marriage or divorce played an ever less important role whereas those involving business questions

came to be more and more important. One interpretation of this observation almost suggests itself, namely that the protection of property rights has increased in importance.

A look at the court statistics is interesting because they show how busy the JCPC has been, where the appeals originated from etc. Even a seemingly low number of cases is not sufficient to prove the irrelevance of the JCPC. Given that judges at national high courts do not like to be corrected by the JCPC, its mere existence can already induce a different behavior on to national high court judges. Appendix 2 shows that the number of cases decided by the JCPC has changed quite a bit over the last 75 years. In 1929, the Judicial Committee disposed of 156 appeals, the maximum number of cases disposed of during any year for which statistical data is available. Since then, the number of cases has substantially declined but the decline has not been a steady one. In the late 70ies and early 80ies, a minimum was reached. After Hong Kong became part of China in 1998, the caseload dropped from 75 to 50 cases a year, the recent abolishment of the JCPC as New Zealand's highest court of appeal will certainly lead to another decrease in the court's caseload.

The terms according to which the JCPC serves as the highest court of appeal of a country are usually spelled out in the country's constitution (appendix 1 contains a column that names the relevant articles of the respective constitutions). Opting out of the JCPC's jurisdiction will thus usually presuppose explicit constitutional change, in other words: exit from membership can be assumed to be quite costly. In principle, governments that have declared to recognize the JCPC as their highest court of appeal could also refuse to implement its dicta. Unfortunately, no systematic information on this issue seems to be available. The Privy Council Office, however, seemed to be surprised that non-implementation of JCPC dicta seemed to be a theoretically plausible option². Our results indicate that JCPC membership is conducive to economic growth. This would hardly be the case if dicta were frequently not implemented.³ The possibility to appeal to the JCPC is not distributed uniformly among the countries that rely on the JCPC as their highest court of appeal. Standing requirements can differ substantially. These differences have not, however, been taken into account explicitly here.

² Communication with Mr. J. A. C. Watherston, the Registrar of the Judicial Committee of the Privy Council, March 25, 2003.

³ This reasoning is, of course, not an explanation for high implementation rates. This is a different issue that will, however, not be dealt with here.

4 Estimation Approach and Data Description

We want to know whether countries that retain JCPC jurisdiction are attributed higher credibility than countries that don't. Credibility as such is hard to measure. In Voigt (2004), country risk ratings were used as a proxy for the credibility of the promises made by a country's politicians. Unfortunately, due to data-availability, this proxy cannot be used here: many of the relevant countries are small states for which no country risk data are available. In addition, country risk ratings are only available for a rather short period. Data availability is also a problem for other potentially interesting variables such as interest rate differentials.

In order to get a first hunch concerning the effects of JCPC membership⁴, we therefore decided to estimate its effects on economic growth. If the hypothesis developed above is correct, then JCPC membership should, *c.p.*, result in higher growth rates. We use a variant of Extreme Bounds Analysis (EBA) here. We do not report the extreme bounds but present different estimation results providing for the extreme bounds. We estimate the following equation:

$$\Delta Y_i = \alpha M_i + \beta JCPC_i + \chi Z_i + \varepsilon_i \quad (1)$$

where ΔY_i is the average annual real GDP growth per capita of country i , which we estimate for the decades 1960-1969, 1970-1979 and 1980-1989. M_i is a vector of standard explanatory variables of country i , $JCPC_i$ is a dummy variable which takes on the value 1 if the country has retained JCPC jurisdiction during the entire decade under consideration or at least during more than half of it. If JCPC jurisdiction was not accepted during the respective decade (or only during less than half of it) the country was coded 0⁵. Z_i is a vector of additional explanatory variables in country i that are introduced to check the robustness of the baseline model. ε_i is an error term.

For average real GDP growth per capita data, we draw on Easterly and Levine. In empirical growth studies, it has almost become a convention to draw on the Penn World Tables provided by Heston, Summers and Aten (2001). The Easterly and Levine dataset has the advantage that it provides a higher number of observations for a substantially higher number of states. It is based on data provided by the

⁴ We will informally talk of JCPC "membership" meaning that the respective country has accepted the JCPC as its highest court of appeals.

⁵ Alternatively, the regressions were re-estimated entirely dropping the decades during which a change in JCPC membership occurred. This led to improvements in the R^2 but also to substantially lower number of observations. The results of this alternative coding are not reported below.

World Bank. The vector M_i consists of three variables which are, according to previous studies, robustly linked with economic growth. These variables are the (log of) initial real GDP per capita at the beginning of each decade (i.e. in 1960, 1970 and 1980) and real investment as a share of GDP averaged over the three relevant decades. The sources for these two variables are Summers and Heston (1988 and 2002). Conventionally, the percentage of secondary school enrollment in the total population aged 15 and more is also included in similar studies. In the decade-wise regression carried out here, the schooling variable never reached any conventional level of significance. Furthermore, its inclusion would lead to a substantially lower number of observations. This is why the schooling variable was excluded from the specifications reported in the tables below.

The vector Z_i contains control variables such as continent dummies or decade dummies. These serve to control for specific geographic effects or for short-term (business cycle) effects in the case of the decade dummies. Potentially relevant economic variables contain the premium that had to be paid above the official exchange rate in a given country in log form. A high premium does not only indicate fixed exchange rates but also a preference for holding money in a different currency. The data were obtained from Easterly and Levine (1997). The same authors showed that ethno-linguistic fractionalization could explain a substantial part of Africa's growth tragedy. In order to control for this effect, we include the variable for ethnolinguistic fractionalization contained in their paper. Alternatively, we ran regressions based on the variables computed by Alesina et al. (2003) that have the advantage of explicitly distinguishing between ethnic, linguistic and religious fractionalization. A possible problem with their data set is that it is based on recent data and that we try, of course, to estimate the effects of JCPC membership for the 60s, the 70s, and the 80s.

The empirical strategy follows the lines of the underlying model. We begin by estimating the baseline regression, then add the JCPC dummy. The next step consists of plugging the additional variables into the regressions. We carry out two estimates: the first containing all countries for which data were readily available and the second one consisting exclusively of those states that were members of the Commonwealth during the respective decade⁶. The second approach is important to exclude the possibility that other variables that are highly correlated with JCPC membership drive the result such as English legal origin,

⁶ We identified four observations as outliers, namely Botswana (1970s), Malta (1970s), Zambia (1970s) and Trinidad and Tobago (1980s) and excluded them from the sample.

having been ruled by the British etc. Within these two approaches, we estimate growth effects based on three decades which helps us to increase the number of observations. The cross section analysis is performed by the simple OLS technique while inference is based on t-statistics computed on the basis of White heteroscedasticity consistent standard errors.

We are interested in estimating the effects of JCPC membership on the credibility of governments' promises, particularly with regard to promises concerning the protection of private property rights. Variation in the credibility attributed to different governments would be of little surprise if the promises themselves, i.e. the legal foundations which define property rights vastly differed between the various countries. We refrain from attempting to introduce a continuous variable reflecting differences in *de jure* protection of property rights. Instead, we introduced a dummy variable for Marxism or socialism because regimes characterized as socialist do not attribute high priority to the protection of private property rights.

5 Estimation Results

The estimation results for the large group of countries are presented in table 1. Both (the logarithm of) initial income and investment have the expected sign and are highly significant. Yet, the variance with regard to per capita growth is only modestly explained by these two variables. Adding the dummy for JCPC membership improves the explanation, the variable itself is also significant on the one percent level.

The introduction of the decade dummies shows that the 80s were a bad decade for economic growth. Its introduction further improves the degree to which economic growth can be explained; the JCPC dummy remains significant on the one percent level. Introducing continent dummies has very similar effects: both (sub Saharan) Africa as well as Latin America are bad places for economic growth, but introduction of these two dummies leaves the significance of the JCPC dummy unaffected. Estimating an equation in which the black market premium is included somehow changes things though: the black market premium has the expected sign and is highly significant; its inclusion reduces the significance of the JCPC dummy to the ten percent level. This could be interpreted as implying that JCPC membership will only have beneficial effects given a certain minimum quality of the domestic economic institutions, here proxied for by the black market premium.

Table 1: Pooled OLS-Regressions of per capita gdp growth, decade-average (decades 1960s, 1970s, 1980s), on JCPC Membership and controls, all countries (four excluded)

<i>Variables</i>	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>	<i>(8)</i>	<i>(9)</i>	<i>(10)</i>
Log Initial Income	-0.007** (3.466)	-0.007** (3.715)	-0.003(*) (1.802)	-0.009** (4.907)	-0.007** (3.723)	-0.009** (4.864)	-0.009** (4.901)	-0.008** (4.577)	-0.009** (4.649)	-0.009** (4.912)
Investment in % of GDP	0.002** (8.267)	0.002** (8.517)	0.001** (7.084)	0.001** (6.642)	0.002** (8.289)	0.002** (8.278)	0.002** (8.146)	0.408** (5.008)	0.001** (5.095)	0.001** (4.760)
Dummy JCPC-Membership	—	0.014** (3.147)	0.012** (2.811)	0.015** (3.228)	0.012** (2.465)	0.009(*) (1.825)	0.005 (0.937)	0.010* (2.242)	0.006 (1.403)	0.009(*) (1.877)
Dummy for 70s	—	—	-0.003 (1.097)	—	—	—	—	-0.000 (0.026)	0.000 (0.120)	0.0001 (0.226)
Dummy for 80s	—	—	-0.018** (6.481)	—	—	—	—	-0.012** (4.602)	-0.012** (4.437)	-0.012** (4.237)
Dummy for Africa	—	—	—	-0.018** (4.427)	—	—	—	-0.021** (5.305)	-0.020** (5.155)	-0.018** (-4.372)
Dummy for Latin America	—	—	—	-0.013** (3.827)	—	—	—	-0.014** (4.759)	-0.012** (4.157)	-0.014** (4.807)
Blackmarket Premium	—	—	—	—	—	-0.024** (6.129)	-0.023** (6.071)	-0.022** (5.821)	-0.021** (5.855)	-0.021** (6.026)
Assassinations	—	—	—	—	-15.780(*) (1.663)	—	-9.316 (1.305)	—	-9.834(*) (1.758)	-7.386 (1.216)
Ethnic Fractionalization 1960	—	—	—	—	—	—	—	—	—	-0.012** (2.770)
Constant	3.335	3.448	2.328	5.436	3.530	5.148	5.209	6.299	6.296	6.788
Adjusted R ²	0.234	0.264	0.355	0.328	0.261	0.352	0.352	0.494	0.489	0.505
SER	0.022	0.021	0.020	0.020	0.021	0.020	0.019	0.017	0.017	0.017
J.-B.	2.353	3.348	7.054*	1.981	3.480	7.034*	7.903*	10.509**	11.692**	9.076**
Observations	294	294	294	294	287	280	275	280	275	269

The numbers in parentheses are the absolute values of the estimated t-statistics, based on the White heteroscedasticity-consistent standard errors. ‘***’, ‘**’ or ‘(*)’ show that the estimated parameter is significantly different from zero on the 1, 5, or 10 percent level, respectively. SER is the standard error of the regression, and J.-B. the value of the Jarque-Bera-test on normality of the residuals.

Drawing on cluster analysis, the sample was divided into two sub-samples, one with a low black market premium (254 country decades) and the other one with a high black market premium (26 country decades). For the sub-sample with the low black market premium, the JCPC dummy remains significant on the 5% level when initial income and investment are also taken into account. For the sub-sample with the high black market premium, the JCPC dummy loses its significance. It could thus be argued that JCPC membership only has a conducive effect on growth when a minimum quality of domestic institutions is given.⁷ Column (8) integrates most of the Z vector variables into one equation. With this model, about half of the variance in growth rates can be explained and JCPC membership is still significant on the ten percent level.

Table 2: Pooled OLS-Regressions of per capita gdp growth, decade-average (decades 1960s, 1970s, 1980s), on JCPC Membership and controls, all countries (four excluded)

<i>Variables</i>	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
Log Initial Income	-0.007** (3.715)	-0.009** (4.627)	-0.007** (3.755)	-0.009** (4.860)	-0.007** (3.754)
Investment in % of GDP	0.002** (8.517)	0.002** (8.466)	0.002** (8.436)	0.002** (8.236)	0.002** (8.510)
Dummy JCPC- Membership	0.014** (3.147)	0.013** (3.026)	0.016** (3.517)	0.014** (3.183)	0.014** (3.085)
Linguistic Fractionalization	—	-0.016** (3.171)	—	—	—
Religious Fractionalization	—	—	-0.012* (2.287)	—	—
Ethnic Fractionalization	—	—	—	-0.023** (4.583)	—
Dummy Marxist	—	—	—	—	-0.006 (0.846)
Constant	3.448	4.639	3.915	5.207	3.486
Adjusted R ²	0.264	0.281	0.276	0.330	0.264
SER	0.021	0.021	0.021	0.020	0.021
J.-B.	3.348	1.992	1.536	0.479	3.316
Observations	294	285	294	292	294

The numbers in parentheses are the absolute values of the estimated t-statistics, based on the White heteroscedasticity-consistent standard errors. ‘***’, ‘*’ or ‘(*)’ show that the estimated parameter is significantly different from zero on the 1, 5, or 10 percent level, respectively. SER is the standard error of the regression, and J.-B. the value of the Jarque-Bera-test on normality of the residuals.

⁷ Below, the significance of the JCPC dummy is estimated for a more limited country group, namely only for the memberstates of the Commonwealth. There, the introduction of the black market premium variable leads to the insignificance of the JCPC dummy even after dividing the sample into low vs. high black market premium countries. This insight should be treated with caution though as the number of cases is quite low. There are, e.g., only 14 observations in which a country was both a member of the Commonwealth and experienced a high black market premium.

The estimation results depicted in table 2 confirm this result. Here, fractionalization is divided into linguistic, religious and ethnic fractionalization. All three have the expected negative sign and are significant at least on the five percent level but leave the very high significance of the JCPC dummy unaffected. The dummy variable for Marxist regimes also has the expected negative sign but remains far below conventional significance levels. Provisionally, we thus conclude that JCPC is quite robust to alternative specifications.

It might, however, be argued that we are dealing with a spurious relationship as most legal systems that accept JCPC jurisdiction are based on the common law. Quite a few scholars (e.g. La Porta et al. 1999) have recently argued that the legal origin of a legal system is an important influence on a host of variables such as quality of the infrastructure, degree of corruption etc. It might thus also be relevant for explaining differences in economic growth although growth has not played a role in this discussion. A dummy for common law legal origins is used in table 3. Column (1) shows that the common law variable does not have any significant impact on growth. Column (2) shows that the JCPC variable remains highly significant even after controlling for legal origin. This result might be highly significant: it could be that the results drawing on legal origin are mainly driven by JCPC membership – and not the other way round. This would, of course, mean that much of the discussion has suffered from an omitted variable bias.

Table 3: Influence of legal law origin on annual per capita gdp growth (pooled OLS-Regression, four excluded)

<i>Variables</i>	<i>(1)</i>	<i>(2)</i>
Log Initial Income	-0.007** (3.483)	-0.008** (3.906)
Investment in % of GDP	0.002** (8.168)	0.002** (8.565)
Legal Origin: Common Law	0.003 (1.045)	-0.003 (0.951)
Dummy JCPC-Membership	-	0.016** (3.116)
Constant	3.140	3.552
Adjusted R ²	0.272	0.304
SER	0.021	0.021
Jarque-Bera-Test	3.250	2.158
Observations	247	247

The numbers in parentheses are the absolute values of the estimated t-statistics, based on the White heteroscedasticity-consistent standard errors ‘***’, ‘*’ or ‘(*)’ show that the estimated parameter is significantly different from zero on the 1, 5, or 10 percent level, respectively. SER is the standard error of the regression, and J.-B. the value of the Jarque-Bera-test on normality of the residuals.

In order to exclude other potentially influencing factors such as former British colony etc. that have all found to be significant in former studies, we rerun most of the equations with a reduced sample, namely only with Commonwealth members. As before, countries were coded as Commonwealth members if they belonged to the Commonwealth for at least half of the relevant decade. The results are reported in tables 4 and 5. Since most of the results are quite similar to the broader sample, we can restrict ourselves to the most noteworthy deviations: first, initial income does not have the expected sign anymore but remains insignificant. Within the Commonwealth, no catching up can thus be observed. Second, the dummy variable for Africa remains insignificant and third, ethno-linguistic fractionalization also becomes insignificant (religious as well as ethnic fractionalization remains, however, significant if imputed individually as displayed in table 5). In most of the equations, the JCPC dummy remains significant at least on the ten percent level such that our evaluation of it as being robust in explaining economic growth is basically confirmed. Comparing the equations of the entire sample with those restricted to Commonwealth members, it appears noteworthy that in the restricted sample, neither the constant nor the (Jarque Bera) test for the normality of the residuals are significant for any of the models which can be interpreted as additional indicators for the reliability of these estimations.

Table 4: Pooled OLS-Regressions of per capitagdp growth, decade-average (decades 1960s, 1970s, 1980s), on JCPC Membership and controls, only commonwealth member

<i>Variables</i>	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>	<i>(8)</i>	<i>(9)</i>	<i>(10)</i>
Log Initial Income	0.003 (1.231)	0.002 (0.561)	0.004 (1.541)	0.003 (1.055)	0.001 (0.226)	-0.001 (-0.558)	0.004 (1.460)	0.000 (0.024)	-0.001 (-0.290)	0.004 (1.420)
Investment in % of GDP	0.001** (3.637)	0.001** (3.776)	0.001** (3.193)	0.001** (3.024)	0.001** (3.849)	0.001** (3.071)	0.001* (2.343)	0.001* (2.353)	0.001* (2.251)	0.001 (1.461)
JCPC-Membership	—	0.014** (2.700)	0.011* (2.185)	0.017** (3.422)	0.012(*) (1.889)	0.004 (0.849)	0.013* (2.226)	0.009(*) (1.757)	0.005 (0.928)	0.014** (2.865)
Dummy for 70s	—	—	-0.007 (1.149)	—	—	—	-0.007 (1.176)	0.002 (0.498)	0.003 (0.521)	-0.004 (-0.692)
Dummy for 80s	—	—	-0.016** (2.742)	—	—	—	-0.018** (2.882)	-0.006 (1.154)	-0.006 (1.082)	-0.014* (2.460)
Dummy Africa	—	—	—	-0.006 (0.953)	—	—	-0.006 (0.802)	-0.010(*) (1.583)	-0.008 (1.338)	-0.009 (0.976)
Dummy Latin America	—	—	—	-0.024** (2.980)	—	—	-0.021* (2.425)	-0.024** (3.531)	-0.019* (2.416)	-0.032** (-4.559)
Blackmarket Premium	—	—	—	—	—	-0.037** (6.315)	—	-0.029** (3.900)	-0.029** (3.697)	—
Assassinations	—	—	—	—	-43.051* (1.963)	—	-19.387 (1.157)	—	-4.948 (0.319)	—
Ethnic Fractionalization	—	—	—	—	—	—	—	—	—	-0.019* (-1.989)
Constant	1.068	0.891	1.382	0.920	0.503	1.386	0.818	0.959	1.166	0.002
Adjusted R ²	0.217	0.280	0.325	0.342	0.280	0.494	0.371	0.564	0.524	0.444
SER	0.023	0.022	0.021	0.211	0.217	0.018	0.020	0.017	0.017	0.019
J.-B.	0.062	0.299	0.017	0.411	0.003	0.382	1.526	2.339	2.473	1.985
Observations	77	77	77	77	72	68	72	68	65	68

The numbers in parentheses are the absolute values of the estimated t-statistics, based on the White heteroscedasticity-consistent standard errors. ‘***’, ‘*’ or ‘(*)’ show that the estimated parameter is significantly different from zero on the 1, 5, or 10 percent level, respectively. SER is the standard error of the regression, and J.–B. the value of the Jarque-Bera-test on normality of the residuals.

Table 5: Pooled OLS-Regressions of per capita gdp growth, decade-average (decades 1960s, 1970s, 1980s), on JCPC Membership and controls, only commonwealth members

<i>Variables</i>	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
Log Initial Income	0.002 (0.561)	0.001 (0.306)	0.003 (1.121)	-0.001 (0.206)	0.002 (0.558)
Investment in % of GDP	0.001** (3.776)	0.001** (3.719)	0.001** (3.975)	0.001** (3.635)	0.001** (3.671)
Dummy JCPC- Membership	0.014** (2.700)	0.014** (2.685)	0.013** (2.548)	0.013** (2.533)	0.014** (2.665)
Linguistic Fractionalization	—	-0.003 (0.272)	—	—	—
Religious Fractionalization	—	—	-0.031** (2.933)	—	—
Ethnic Fractionalization	—	—	—	-0.022** (2.604)	—
Dummy socialist	—	—	—	—	0.001 (0.192)
Constant	0.891	0.420	0.443	0.417	0.873
Adjusted R ²	0.280	0.271	0.328	0.283	0.270
SER	0.022	0.022	0.021	0.022	0.022
J.-B.	0.299	0.349	0.026	1.403	0.285
Observations	77	77	77	68	77

The numbers in parentheses are the absolute values of the estimated t-statistics. ‘***’, ‘**’ or ‘(*)’ show that the estimated parameter is significantly different from zero on the 1, 5, or 10 percent level, respectively. SER is the standard error of the regression, and J.-B. the value of the Jarque-Bera-test on normality of the residuals.

In sum, recognizing the possible problems of the estimations with regard to the normality of the residuals, it can be concluded that accepting JCPC jurisdiction after independence has had beneficial growth effects for the respective countries. These effects are not only statistically significant but also economically: all else equal, a country that accepted JCPC jurisdiction grew some 1% per annum faster than a country that did not.

6 Conclusions and Outlook

It was asked whether delegation of judicial decision-making competence could increase the credibility of a government’s promises. Delegation of judicial competence was proxied for by a country’s acceptance of the Judicial Committee of the Privy Council as its highest court of appeal. Rather than testing the effect of JCPC membership on credibility, the effect of membership on a country’s per capita growth rate was estimated. It was shown that JCPC membership does indeed have both a statistically and economically positive effect on economic growth. The growth-enhancing effect of JCPC membership does, however, not

arise independently of the quality of a country's domestic institutions: a high black market premium which can be interpreted as a proxy for the low quality of domestic institutions substantially reduces the growth-enhancing effect of JCPC membership.

Two directions for more detailed analyses seem to suggest themselves: first, it would be interesting to inquire more closely into the transmission channels through which JCPC membership displays its effects on economic growth. Is it primarily domestic or rather international investment that is increased as a consequence of JCPC membership? How about the single effects on productivity? Is it labor, capital, or overall productivity that is enhanced by JCPC membership? Due to limited data availability, these questions are difficult to answer. An alternative method to inquire into these effects would be to analyze country-specific time series data: one would then ask whether exit from the JCPC caused any significant changes in interest rates, country risk ratings and the like.

The second possible research direction would ask to what degree the results with regard to JCPC membership can be generalized concerning other fora to which decision competence is delegated internationally. These include other courts but need not be constrained to courts. As alluded to above, the decision to delegate monetary policy competence can be analyzed within the same theoretical framework. Before trying to come up with general results, case studies that analyze different fora might be a useful intermediate step. These could include the Eastern Caribbean Supreme Court, the delegation of appeal court cases from Tuvalu and Kiribati to the Fiji Court of Appeals, the Court of Justice of the Economic Community of West African States, the Economic Court of the Commonwealth of the Independent States as well as the Central American Court of Justice which existed from 1907 to 1918. *Prima facie*, some of these Courts have been more successful than others. It would be interesting to inquire into the conditions and the causes that have made only some of these courts successful.

References

- Alesina, A., A. Devleeschuwer, W. Easterly, S. Kurlat and R. Wacziarg (2003); Fractionalization, *Journal of Economic Growth* 8:155-94.
- Barzel, Y. (1997); Parliament as a Wealth-Maximizing Institution: The Right to the Residual and the Right to Vote, *International Review of Law and Economics* 17:455-74.
- Beth, L. (1975); The Judicial Committee: Its Development, Organisation and Procedure, *Public Law* 3/4: 219-41.
- Campbell, E. (1959); The Decline of the Jurisdiction of the Judicial Committee of the Privy Council, *Australian Law Journal*, 33:196-209.

- Cox, N. (2002); The abolition or retention of the Privy Council as the final Court of Appeal for New Zealand: Conflict between national identity and legal pragmatism, *New Zealand Law Review*, 20(2):220-38.
- Easterly, W. and A. Kraay (2000); Small States, Small Problems? Income, Growth, and Volatility in Small States, *World Development* 28(11): 2013-27.
- Easterly, W. and R. Levine (1997), 'Africa's Growth Tragedy: Policies and Ethnic Divisions', *Quarterly Journal of Economics*, 112, 1203-50.
- Feld, L. und S. Voigt (2003); Economic Growth and Judicial Independence: Cross Country Evidence Using a New Set of Indicators, *European Journal of Political Economy*, 19(3):497-527 (2003).
- Heston, A., R. Summers and B. Aten (2001), *Penn World Table, Version 6.0*, Center for International Comparisons at the University of Pennsylvania (CICUP), December 2001.
- Landes, W. and R. Posner (1975). The Independent Judiciary in an Interest-Group Perspective, *The Journal of Law and Economics*. 18(3): 875-911.
- La Porta, R., F. Lopez-de-Silanes, A. Shleifer and R. Vishny (1999); The Quality of Government, *The Journal of Law, Economics & Organization*, Vol. 15, No. 1: 222-279.
- Levy, B., P. Spiller (1994), The Institutional Foundations of Regulatory Commitment: A Comparative Analysis of Telecommunications Regulation, *Journal of Law, Economics & Organization*, 10/2, 201-46.
- Majone, G. (2001); Nonmajoritarian Institutions and the Limits of Democratic Governance: A Political Transaction-Cost Approach, *Journal of Institutional and Theoretical Economics* 157:57-78.
- Nash, M. (1974); Functions and Future of the Judicial Committee of the Privy Council, *New Law Journal*, 1171-3.
- Philipp, C. (1990); *Das Judicial Committee of the Privy Council und seine Gerichtsbarkeit für das Commonwealth : Ursprung, Entwicklung und heutige Stellung*. Kiel, Univ., Diss.
- Rankin, G. (1939); The Judicial Committee of the Privy Council, *Cambridge Law Journal*, 7:2-22.
- Swinfen, D. (1987), *Imperial Appeal, The debate on the appeal to the Privy Council, 1833-1986*, Manchester: Manchester University Press.
- Voigt, S. (2003); Iudex Calculat: The ECJ's Quest for Power, *Jahrbuch für Neue Politische Ökonomie*, 22:77-101.
- Voigt, S. (2004); *Membership has its privileges – on the effects of delegating powers internationally*. Mimeo: University of Kassel.
- Voigt, S. and E. Salzberger (2002); Choosing Not to Choose: When Politicians Choose to Delegate Powers, *Kyklos* 55(2):247-68; 2002.
- Weingast, B. (1993); Constitutions as Governance Structures: The Political Foundations of Secure Markets, *Journal of Institutional and Theoretical Economics*, 149(1): 286-311.

*Appendix 1: Commonwealth Member States**

Country	Independent since ...	JCPC Member/Year of abolition	Coding of JCPC Dummy			Legal basis for JCPC jurisdiction Constitution from / section
			1960s	1970s	1980s	
Antigua and Barbuda	01.11.1981	Yes (to Her Majesty in Council)	1	1	1	1981 / Chapter IX, sec. 122
Australia**	01.01.1901	1975/1986	1	1	0	1900/ sec. 74
Bangladesh	16.12.1971	No	1	0	0	
Bahamas	10.07.1973	Yes (to Her Majesty in Council)	1	1	1	1973 / Part 3, sec. 104/105
Barbados	30.11.1966	Yes (to Her Majesty in Council)	1	1	1	1966 /Chapter VII, Part 2, sec. 87/88
Belize	21.09.1981	Yes (to Her Majesty in Council)	1	1	1	1981 / Part VII, sec. 104
Botswana	30.09.1966	1966	1	0	0	
Brunei	01.01.1984	Yes (local head of state)	1	1	1	1959 with later extensions / ?
Canada	01.07.1867	1933 (criminal), 1949 (civ. appeals)	0	0	0	
Cyprus	16.08.1960	1960	0	0	0	
Dominica	03.11.1978	Yes (directly to Judicial committee)	1	1	1	1978 / Chapter VIII, sec. 106
Fiji***	10.10.1970	1987	1	1	1	1970 / Chapter VII, part 3
Gambia	18.02.1965	1998	1	1	1	1970/Chapter VII, part III,sec.98 (4)
Ghana	06.03.1957	1960	0	0	0	
Grenada	07.02.1974	Yes (to Her Majesty in Council)	1	1	1	1973 / Chapter VIII, sec. 104
Guyana	26.05.1966	1966	1	0	0	
Hong-Kong****	01.07.1997	1997	1	1	1	Amendment Order, S.I 1971, 1239
India	15.08.1947	1949	0	0	0	
Ireland, The Rep. of *****	06.12.1921	1933	0	0	0	
Jamaica	06.08.1962	Yes (to Her Majesty in Council)	1	1	1	1962, Chapter VII, part III, sec. 110
Kenya	12.12.1963	1965	0	0	0	
Kiribati	12.07.1979	Yes (directly to Judicial Committee)	1	1	1	1979 / Chapter IX, sec. 123
Lesotho	04.10.1966	1966	1	0	0	
Malawi	06.07.1964	1965	0	0	0	
Malaysia	31.08.1957	1989	1	1	1	1957, amended 1963 / sec. ?
Maldives	26.07.1965	1960	0	0	0	
Malta	21.09.1964	1964	0	0	0	
Mauritius	12.03.1968	Yes (directly to Judicial Committee)	1	1	1	1968 / Chapter VII, sec. 81
Myanmar (Burma)****	04.01.1948	1948	0	0	0	
Nauru	31.01.1968	1968	1	0	0	
New Zealand	26.09.1907	2004	1	1	1	1908, part II, sec. 625

Country	Independent since...	JCPC Member/Year of abolition	Coding of JCPC Dummy			Legal basis for JCPC jurisdiction Constitution from / section
			1960s	1970s	1980s	
Nigeria	01.10.1960	1963	0	0	0	
Pakistan	14.08.1947	1950	0	0	0	
Papua-New Guinea	16.09.1975	1975	1	0	0	
Samoa	01.01.1962	1961	0	0	0	
Seychelles	29.06.1976	1976	1	1	0	
Sierra Leone	27.04.1961	1961	0	0	0	
Singapore	09.08.1965	1997	1	1	1	1965 / Part VIII, sec. 100
Solomon Islands	07.07.1978	1978	1	1	0	
South Africa	31.05.1910	1950	0	0	0	
Sri Lanka	04.02.1948	1971	1	0	0	
St. Kitts and Nevis	19.09.1983	Yes (to Her Majesty in Council)	1	1	1	1983 / Chapter IX, sec. 99
St. Lucia	22.02.1979	Yes (to Her Majesty in Council)	1	1	1	1978 / Chapter VII, sec. 108
St. Vincent /TheGrenadines	27.10.1979	Yes (to Her Majesty in Council)	1	1	1	1979 / Chapter VIII, sec. 99
Swaziland	06.09.1968	1968	1	0	0	
Tansania/Sansibar	26.04.1964	1964	0	0	0	
Tonga	04.06.1970	1970	1	0	0	
Trinidad und Tobago	31.08.1962	Yes (directly to Judicial Committee)	1	1	1	1976 / Chapter 7, part 2, sec. 109
Tuvalu	01.10.1978	Yes (to Her Majesty in Council)	1	1	1	1986 / Part VII, sec. 136
Uganda	09.10.1962	1962	0	0	0	
Vanuatu	30.07.1980	1980	1	1	0	
United Kingdom			0	0	0	
Zambia	24.10.1964	1964	0	0	0	
Zimbabwe	18.04.1980	1980	1	1	0	

* Namibia and Mozambique were not included because they have never been member of the British Empire, and had not been subject to JCPC jurisdiction. They decided to join the Commonwealth in 1990 and 1995 respectively.

** The "Australia Act of 1986" removed the Privy Council from the remaining "direct lines of appeal" in the Australian legal system. Prior to this act, the "Privy Council (Limitation of Appeals) Act of 1968" made the High Court the final court of appeal on both Constitutional and Federal Matters. The exception to this was inter-se constitutional matters, which are still permitted for appeal to the Privy Council if the court issues a certificate under section 47 of the Australian Constitution. The "Privy Council (Appeals from the High Court) Act 1975" removed appeals from the High Court to the Privy Council in both state and common law matters. With these two acts in place, nearly all appeals from the High Court to the Privy Council were removed. However, direct appeals from State Supreme Courts remained possible until the passing of the Australia Act 1986, and its associated State Legislation.

*** rejoined the Commonwealth 1997 after leaving in 1987

**** no or no more member of the Commonwealth; Hong-Kong became part of China in 1998.

Appendix 2: List of cases

	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1949	1950	1951	1952	1953	1954	1955	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1996	1997	1998	1999	2000	2001	2002	
Anguila																																					1	1	
Antigua and Barbuda																															1	2	2	2		2	2		
Australia														1	6	1	4	3	7	3																			
Bahamas																							1	1	1	2	2		1		4	3	4	4	2	3	3	5	
Barbados																									1				1			1		2		2			
Belize																																4	1	4	2	1	3	1	
Bermuda																								1	1				1	2	3		3	1	1	2		2	
Botswana																																							
British Antarctic Territory																																							
British Virgin Island																																				2			
Brunei																											2			1		1		2					
Canada														7	5	7	6	7	2	6																			
Cayman Islands																												1	1		2				2	1	1	2	3
Cook Islands																																							
Dominica																																				2		1	
Falkland Island																																							
Gambia																							1								1	2	2	2		1			
Gibraltar																							1	4		1	1							1	1	1			
Grenada																																			2		1	4	2
Guernsey																												1		1									
Hong-Kong																							3	6	3	12	6	6	6	13	13	12	18	24					
India	89	88	92	91	122	77	100	77*	64*	55*	57*	81*	60*																										
Isle of Man																													1	2								1	
Jamaica																																							
Jersey																																							
Kiribati																																							
Mauritius																																							
New Zealand														0	0	2	0	0	1	0																			
Niue																																							
Sri Lanka / Ceylon	6	0	1	1	2	3	7							0	9	5	21	8	6	5																			
Pakistan														7	0	0	0	0	0	0																			
St. Christopher and Nevis																																							
St. Helena																																							
St. Lucia																																							
St. Vincent and the Grenadines																																							
Singapore																																							
South Africa														0	0	0	0	0	0	0																			
Trinidad and Tobago																																							

** Total before 1978 is not the sum of individual column numbers due to missing country-specific data

Sources: Rankin (1939), Campbell (1959), Philipp (1990)

Appendix 3: List of Variables

<i>Variable</i>	<i>Description</i>	<i>Source</i>
Log Initial Income	Log of initial income: log of real per capita GDP measured at the start of each decade(1960, 1970, 1980)	Summers andHeston (1988)
Investment	Real Investment share of GDP [%] (1996 intl. prices) average of each decade, using all available data in each decade for calculation	Summers and Heston (2002), own calculation
Growth per year	Average annual growth rate of GDP per capita in the 1960s, 1970s and 1980s (excluding Gulf Oil States)	World Bank (various years)
Dummy for JCPC Membership	Dummy variable for JCPC Membership, coded 1 if a country accepts JCPC jurisdiction in the relevant decade for at least 5 or more years, 0 if less or not.	JCPC Homepage
Commonwealth Membership	Dummy variable for Commonwealth Membership, coded as JCPC Dummy	Commonwealth Secretary Homepage
Dummy for 70s	Dummy variable for 1970s	
Dummy for 80s	Dummy variable for 1980s	
Dummy for Africa	Dummy variable for Sub-Saharan african Countries (according to World Bank definition)	Easterly/Levine (Original:World Bank)
Dummy for Latin America	Dummy variable for Latin America and the Carribean	Easterly/Levine
Common Law	Dummy for Common law legal origin Coded 1 for if legal origin is common Law, coded 0 if legal origin is any other	La Porta et. al. (1999)
Blackmarket Premium	Log of 1+black market premium, decade average	Easterly/Levine (Original:World Bank and Pick's Currence Yearb.)
Assassinations	Number of assassinations per thousand population, decade average	Banks (1994)
Ethnic Fractionalization 1960	index of ethnolinguistic fractionalization, 1960. Measures probability that two randomly selected people from a given country will not belong to the same ethnolinguistic group	Atlas Narodov Mira (1960)
Ethnic Fraction.	Index of ethnical fractionalization	Alesina (2003)
Linguistic Fraction.	Index of linguistic fractionalization	Alesina (2003)
Religious Fraction.	Index of religious fractionalization	Alesina (2003)
Dummy Socialist	Dummy variable for countries with socialist economic system	own definition on basis of Nohlen (1993/1994)
Dummy Marxist	Dummy variable for countries with marxist economic system	Szajkowski (1981)

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Fachbereich Wirtschaftswissenschaften

Universität Kassel

Nora-Platiel-Str. 4

34127 Kassel

Internet: <http://www.wirtschaft.uni-kassel.de>

ISSN 1615-2751