

Legal Systems and Economic Development: The Case of Aruba Post-Coronavirus

Don Taylor

University of Aruba, Oranjestad, Aruba

This paper intends to critically review some of the challenges rooted in Aruba's civil law legal heritage in stimulating a post-corona economic recovery which should ideally be driven towards economic diversification. It also seeks to contextualize the effect of Aruba's civil law system on economic growth compared to other Caribbean states with similar size, population, and tourism dependency but with legal systems rooted in the common law. This paper's methodological approach is meta-analytical and includes a critique of the labor laws as well as the substantive role of the state in driving economic performance that is a normative feature in some civil law states. It posits that Aruba's economic responsiveness, to the coronavirus should consider legal origins as a factor that limits its capacity and capability to execute an effective restructuring of tired economic paradigms and introduce new economic models that would challenge its mono-economic status.

Keywords: legal origins, meta-analytical, economic responsiveness, civil law

Introduction and Overview

There is as yet no overarching systematic legal structure that relates specifically to the Caribbean, and this is primarily because the Caribbean is a polyglot area with different and varied colonial connections, spatial limitations and vulnerabilities that make the area peripheral space. Neo-colonial concepts of law and legal values dominate the islands and are reinforced by Caribbean states' continuing dependency on former colonial powers as well as these states' institutional vulnerability (Anghie, 2004). This is particularly true of small island states that are non-independent sub-national jurisdictions (SNIJs). In this paper, we will review the extent to which such dependency leads to dominance by a colonialist legal heritage that limits economic development options in an increasingly dynamic globalized economic and social environment. There appears to be a disconnectedness between legal system heritage and the social and economic realities of Caribbean states. As legal theory develops, the role of legal structures in having an impact on the economic performance of states' economic outcomes becomes more important given the need to adjust to new and varied economic models and increasing technological change (Xu, 2011).

This dominance of colonialist law helps explain the normative position of Aruba's legal system which is solely defined and accepted in Dutch European terms. Colonialist law in SNIJs such as Aruba is one manifestation of the legacy of the colonial encounter, which perpetuates its dominance on the island and limits legal sovereignty (Anghie, 2004). It is also contributing to legal morbidity in that it constrains the capacity of

Don Taylor, Ph.D. student, lecturer, Faculty of Hospitality and Tourism Management Studies, University of Aruba, Oranjestad, Aruba.

the law to reflect contemporary social dynamics such as gay marriage or LGBTQ rights (Dutch Ministry of Education, Culture and Science, 2013). This is so despite the fact that in the case of Aruba whose legal system is rooted in Dutch law, the Netherlands legal system has moved on to represent and reflect modernity, that is, the social values and norms of modern society thus highlighting its inherent flexibility and willingness to adapt to evolving social norms. Aruban law in its current state is somewhat of an anachronism, because it was imposed by a colonial power representing the social norms and values of the colonizer up to the point of some level of independence (*status aparte*) but has not developed in any substantive way to reflect modernity and the current social reality of the island. The existence of such a partly anachronistic legal structure in Aruba has implications for its post-coronavirus recovery and a broad based attempt at economic development.

Economic development is built on a legal superstructure that recognizes legal rights and obligations of the society and facilitates the enforcement of contracts, the protection of property rights and robust dispute settlement mechanisms. In the post-coronavirus environment, viable, sustainable options need to be explored that facilitate a broadly dispersed economic development model that reflects societal imperatives for more diffused economic growth. This paper will be examining this from a position of legal meta-narratives rather than detailed critical micro-analysis of specific legal rules. The reason for this is that the legal system is in the Dutch language and critical micro legal analysis may not be necessary to assess the impact of law on the economy; a meta-analysis may suffice for the purposes of this paper.

Part two of this paper will outline the broad legal paradigms that inform economic development and are legacies of the colonial encounter. In part three, we will look at certain aspects of Aruba's legal system that impedes rather than helps economic development.

In part four, we will briefly review the antinomies of Aruba's GDP growth within a post-crises framework, in part five, we will conclude with a critical analysis of this paper's core points and in part six, we will provide some policy suggestions.

Legal Origins and Economic Development

There is a general recognition of the universalization of Western European law along the lines of legal families and that such law was universalized through conquest and colonialization in the Caribbean. Two main legal traditions exist and dominate international legal rules, common law which is English in origin, and civil law which is derived from Roman Law and could be further classified into French, German, and Scandinavian (Xu, 2011). La Porta, Lopez-de-Silanes, and Shleifer (2008) argued that common law systems are better at fostering economic growth because of the dispersed nature of its origins. In their analysis, they gathered empirical evidence highlighting the fact that the legal rules governing investor protection was a strong predictor of financial development and by implication economic development.

Common law rights are "negative"; civil law rights are "positive" (Nedzel, 2018) in that under the common law the individual has a general right to be free from governmental interference, to the extent such right does not infringe on the rights of other members of the society. Under the civil law, individuals have rights that are guided by the duties and obligations individuals owe society as a whole and not to self.

The common law system did not emerge from the state's intervention to determine and codify social norms; it was not prescriptive, but developed from adherence or violation of social norms arising from social interaction that were argued before judges who established rules for their precedent. The common law system developed from a bottom-up social architecture while the civil law system was more prescriptive and a

top-down interventionist codification of what those social norms should be. In Hartian language, law as it ought to be, not as it is (Hart, 1961). La Porta et al. (2008, p. 286) noted that the law of common law countries is substantially protective of outside investors than the laws of civil law. Civil law states such as the Netherlands place more focus on state centric legal codes that challenge neo-liberal conceptions of *homo economicus* and place limits on the unbridled individualism required for a capitalist economy.

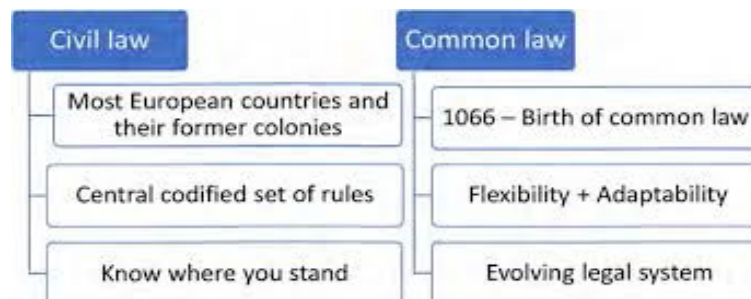


Figure 1. Comparative analysis of dominant legal families.

Table 1

The Civil Law and Common Law Compared in Broad Terms

Feature	Common law	Civil law
Written constitution	Not always	Always
Judicial decisions	Binding	Not binding on 3rd parties; however, administrative and constitutional court decisions on laws and regulations binding on all
Writings of legal scholars	Little influence	Significant influence in some civil law jurisdictions
Freedom of contract	Extensive—only a few provisions implied by law into contractual relationship	More limited—a number of provisions implied by law into contractual relationship

Note. Source: World Bank.

As illustrated, in Figure 1 of the two dominant legal families, the common law system has evolved and continues to do so despite its underlying conservatism and its fundamental historicism. Such evolution appears to be substantially more constructivist than civil law systems. Table 1 highlights the significant impact of jurisprudence and contractual autonomy in developing more dynamism in the common law. As Gaudreault-DesBiens (2015) noted, the Cartesian dimension of the civil law tradition does not leave space for the law's experiential dimension and its tradition of legal formalism and normativist positivism limits its capacity for conceptualization. Common law on the other hand is primarily driven by its structure of judge-made laws that allows for a certain level of pragmatism and real world relevance (Holland & Webb, 2003). The rationale of *ratio decidendi* reasoning and *obiter dicta* analysis allows common law judges wide interpretive space for challenging existing legal paradigms and social norms. An example of the inherent dynamism in common law systems is the fact that legal rules are structured as normative responses to the evolving social reality of the impact of artificial intelligence (AI), robotics and other cutting-edge technologies that challenge existing social and economic norms (Atabekov & Yastrebov, 2018).

Cases in the United States (US) where technological advancements are more rapid than the Caribbean include “Washington v. Emanuel Fair”¹ in which the results of a genotyping software program that analyzed complex DNA mixtures based on AI were used and in which according to the media, “..the match statistics

¹ State of Washington v. Emanuel Demelvin Fair, 77180-9 (Wash. Ct. App. 2018).

delivered by the software were far more definite than the numbers the state crime lab had generated when they analyzed the same samples” (Henterly, 2017). Another recent case is “State v. Loomis”², where the Wisconsin Supreme Court held that a trial court’s use of an algorithmic risk assessment in sentencing did not violate the defendant’s due process rights even though the methodology used to produce the assessment was disclosed neither to the court nor to the defendant³.

These cases are examples of the common law’s flexibility in challenging existing normative paradigms and allow for the development legal rules in very dynamic contexts. The common law courts are able to evolve fairly rapidly in response to technological and other dynamics involved in paradigmatic shifts by developing new laws or by the application of existing laws to new scenarios that could not have been anticipated. In contrast, civil law systems tend to be slower in their response to cultural or social shifts or sudden catastrophic events that have social and economic effects such as the pandemic.

Examples abound in the current pandemic context of lawsuits being brought in US courts by coronavirus affected litigants that challenge existing legal norms of how a *force majeure* clause may be interpreted. A recent article in Hospitality Law noted:

The majority of pleadings tackle the damage to property question head-on. These policyholders assert that the presence of COVID-19 is property damage, whether claiming a direct loss of business income or a civil authority theory of lost revenue.

Some contend that the virus is a contaminant; some argue that the virus causes the formation of organisms known as fomites, which adhere to surfaces for varying periods of time; while some boldly make a naked assertion of property damage. (Siegel & Maxwell, 2020)

The legal determination of these pleadings may become legal precedents and is reflective of the creativity and responsiveness of the common law’s system flexibility. This is because they challenge normative assumptions about property, property rights and concepts of property protection clauses.



Figure 2. Legal families and economic development in developed and developing states.

² State v. Loomis, 881 N.W.2d 749 (Wis. 2016).

³ Harvard Law Review, March 10, 2017 <<https://harvardlawreview.org/2017/03/state-v-loomis/>>, accessed May 12, 2020.

Figure 2 indicates that on average there is significant growth in developed states with common law legal systems compared to those with civil law systems. For developing states, shown on the right of Figure 2, this picture is mixed primarily because of challenges with governance, the rule of law and other economic, political, and social factors that limit economic development. Such level of analysis is challenging to do in the Caribbean because of the territory's spatial differences, resource variations, political history and culture, and varying population size. There is very little in common across the Caribbean largely because of the varying depth of the colonial encounter and the development of differing legal cultures arising from their colonial history. However, it is an interesting area for further research.

Legal traditions in this context (civil or common law) have different values placed on shareholder rights, the rights of labor and the rights of the state which have implications for economic development and the value of property rights in that legal structure (Beck, Demirgüç-Kunt, & Levine, 2003). In addition, whether such property rights are individualized, that is considered rights in *rem* (rights asserted against all the world including the state) or is considered rights that allow for eventual assertion of state ownership (as in long lease land) influence on the perception of the strength of property law rights and is a distinct difference between common law states in the Caribbean and Aruba's civil law system. Common law systems appear to privilege property rights consistent with Lockean theories of property rights and the submission of nature to man's will (Vaughn, 1980).

Property and contracting rights are foundational to the development of the capitalist system, however, while most legal systems recognize such rights, prominence is given to the Lockean concept of property rights in common law systems. It is a recognition of the privilege of property rights above all else compared to a more communitarian approach in civil law systems. The legal right of ownership is an exclusive right that is regarded as a right of exclusivity limited only by constraints imposed by the state. According to Furubotn and Pejovich (1972), a theory of property rights involves the theory of the state.

Under Locke's theory of property rights, the individual is allowed to appropriate or control nature in a manner that exploits it for his own benefit. In doing so, the individual exercises rights over nature to the exclusion of subsequent claims to that property. Locke's theory of property rights was justificatory in developing a theory of private property rights that redefined the intersection of natural law and political theory. This concept of the theoretical legal justification to protect property rights and enforce contracts is an essential precondition to economic development because without it, transaction costs (in terms of unpredictability and enforcement problems) will be prohibitive in many cases. Thus, in the absence of strong legal order, markets will not grow and economies will falter. However, the strength or robustness of the legal order is one component of institutional capacity which is a prerequisite for economic dynamism and responsiveness.

Legal origins therefore matter because they define the role and significance of private property rights in society. As Beck et al. (2003) noted, legal traditions are different in terms of the priority they attach to private property rights compared to the rights of the state. Further, a key private capital accumulation mechanism is the protection of private contracting rights which drives economic and social development. Private capital and privately owned resources are generally allocated to their highest and best use unlike state resources which are politicized and open to state capture. In a crisis such as the pandemic, the best approach to economic recovery and economic diversification is to allow private capital to play a significant role in economic responsiveness. For purposes of this paper, this concept is a measure of the level of structural adjustment necessary to return to economic normality where GDP growth is sustained. The critical importance of private property rights which

limits the role of the state is more pronounced in common law states, which diminishes uncertainty and promotes efficient resource allocation and enhances the capacity of the state to respond relatively quickly to a crisis (Furubotn & Pejovich, 1972).

Aruba Law in Context

Within the Aruban context, a law or national ordinance is a legal rule (decree) that includes regulations that can be considered generally binding⁴. To become law, these legal rules should involve in their decision to make a rule a law, the government and Parliament jointly and as in most common law countries Parliament or Parliament style constitution allows for the supremacy of representative bodies. At the local level, these national ordinances are recognized as sources of legal rules in addition to national decrees, encompassing general measures and ministerial regulations contain generally binding regulations⁵. While other sources of law continue to impact the development of the Aruban legal system, these will not be explored in this paper. However, it should be noted that as in common law states legal jurisprudence is considered a source of law but unlike common law states such jurisprudence is relatively limited where it informs the background and is the evolutionary bases for developing legal rules. Jurisprudence's role as a source of law is not as significant in civil law systems as it is in common law systems. This as indicated by a slew of lawsuits prompted by the virus in the US constrains an effective legal response and exacerbates legal uncertainty that has economic implications.

Civil law systems and common law systems allow for the build-up of different legal economic capacities required for economic development. Economic theory has focused on development paradigms that are constructed on a platform that includes the accumulation of financial, human, physical capital, and access to cutting-edge modern technologies such as artificial intelligence and digitization (Docquier, 2014). For small independent developing states (SIDS) and SNIJs, capital accumulation is a challenge given its openness and lack of sophisticated financial intermediary structures (Taylor, 2017). In Aruba, this is accentuated by the dominance of the state in economic activity that limits the role of the private sector to accumulate wealth and weakens organizational structures that drive capital for economic development. Productive capability and capacity is limited by the relative size of the private sector compared to the dominance of the state. To the extent that the state sector is not productive or invested in productive enterprises that drive economic growth, it limits the development of robust institutional structures that could respond with more dynamism to rebuild and restructure the economy post-coronavirus. This in turn impacts the institutional characteristics such as the organization and functioning of the productive sector, the distribution of political power, the quality of the legal system and government effectiveness (Docquier, 2014). This is compounded by state capture by powerful elites which further politicizes the institutional architecture and limits the effectiveness of institutional quality. The most recent IMF report notes:

...for diversification efforts to reap dividends, Aruba will need to tackle several structural impediments to growth related to the business environment, governance, and labor markets. (International Monetary Fund. Western Hemisphere Dept., 2019, p. 19)

In addition, the report notes the rigidity and inflexibility of its labor laws that were constructed in a particular temporal context, which is inimical to the gig economy and flexible labor markets that modernity

⁴ Bureau Voorlichting Aruba. Retrieved May 12, 2020 from https://secure.overheid.aw/governance-administration/national-ordinances-laws_3901/.

⁵ Ibid.

requires. This also reflects the social welfarism of the civil code and limits the economic dynamism required to recover from the economic effects of the pandemic:

Policy should protect the worker—not the job—and bolster human capital. Labor market regulations are rigid. Procedures for terminating employment contracts appear cumbersome and costly—creating disincentives for voluntary resignations and hiring, thereby impeding labor mobility and job growth. Policy should promote labor market flexibility and at the same time provide effective protection to workers. Severance pay could be replaced by an unemployment insurance program. Additionally, there is a need to strengthen vocational training and better align education curricula with private sector job needs. (International Monetary Fund. Western Hemisphere Dept., 2019, p. 20)

The IMF's concern is that Aruba labor laws as job protection mechanisms limit the necessary flexibility in the job market for rapid response to the pandemic primarily because such flexibility constrains the flow of labor to its highest and best use as an input factor. Further, labor market rigidity burdens capital allocation decisions and limits labor efficiency in the market which in turn depresses human capital productivity⁶. In the Aruban context then, this has an effect on workers generally being less efficient and capital being substantially under-utilized. There is an economic imperative to allow for a much more flexible labor market⁷ which will facilitate for businesses and the economy a higher level of responsiveness to the external shock of this pandemic. From a macro-economic perspective, the existing labor law framework inhibits economic growth and the range and breadth of such economic responsiveness. In comparison to Aruba, Caribbean states with more flexible labor market laws given similar social and political conditions as Aruba may be more competitive in terms of attracting investments and as a consequence would have the capacity to invest in sectors of the economy that incorporate greater technological innovation and dynamism. A more flexible labor market may be a necessary precondition for reducing the high level of dependence on tourism and reducing its mono-economic status.

The Antinomies of Aruba's GDP Growth Within a Post-Crises Framework

A useful basis to assess the economic responsiveness to an external shock for Aruba is the 2008 financial crises which impacted the global community. As the graph and table illustrates (see Figures 3, 4 and Table 2), Aruba's recovery took about two to three years and was shallow compared to the other Caribbean states that had somewhat high levels of tourism dependency and limited resource base. The other Caribbean states' legal systems included in the model were rooted in the colonial era based English common law system. While more research is needed to establish definitive linkages between common law systems and economic responsiveness in those states, there are strong indications that their recovery was faster and more robust than Aruba's.

The most recent IMF report notes that:

Reforms to improve the business climate need to be reinvigorated.

A recent business survey reveals that 64 percent of firms perceive current legislation as impeding job creation and a thriving economy. Several national ordinances were identified as problematic but the two most cumbersome were Establishment of Businesses and Permits and Licensing—about 70 percent of firms believe they create unnecessary red tape. Staff emphasized that addressing these challenges is necessary to stimulate investment, productivity, and growth. (International Monetary Fund. Western Hemisphere Dept., 2019, p. 20)

⁶ World Economic Forum Report. *Labor market efficiency*. Retrieved from <https://reports.weforum.org/global-competitiveness-report-2015-2016/labor-market-efficiency/#view/fn-66>.

⁷ Ibid.

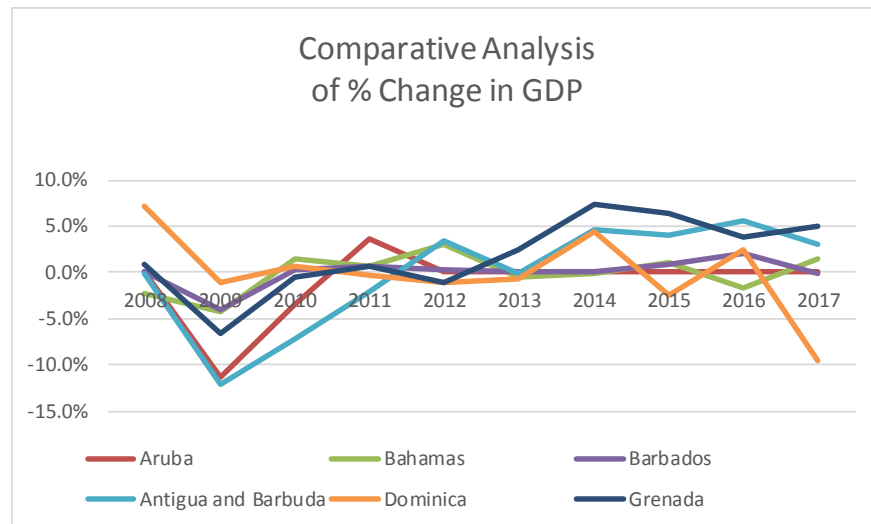


Figure 3. Comparative analysis of percentage change in GDP. Source: Central Bank of Aruba.

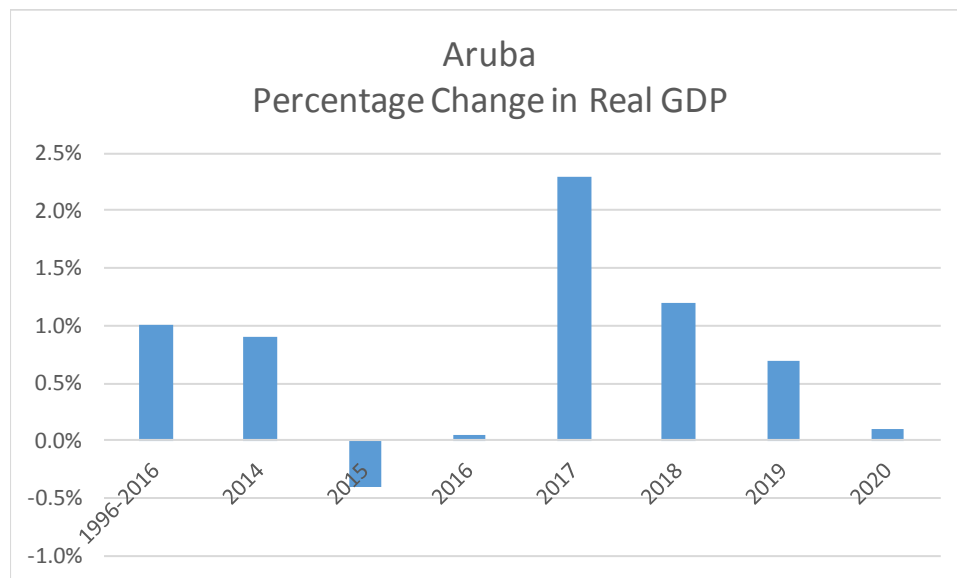


Figure 4. Percentage change in real GDP of Aruba. Source: IMF report on Aruba 2019.

Table 2

Comparative Analysis of Percentage Change in GDP of Selected Caribbean States

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Aruba	0.2%	-11.3%	-3.4%	3.5%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%
Bahamas	-2.3%	-4.2%	1.5%	0.6%	3.1%	-0.4%	-0.1%	1.0%	-1.7%	1.4%
Barbados	0.1%	-4.0%	0.3%	0.7%	0.3%	0.0%	0.0%	0.9%	2.0%	-0.2%
Antigua and Barbuda	0.0%	-12.1%	-7.2%	-2.1%	3.5%	-0.1%	4.7%	4.0%	5.6%	3.0%
Dominica	7.1%	-1.2%	0.7%	-0.2%	-1.1%	-0.6%	4.4%	-2.6%	2.5%	-9.5%
Grenada	0.9%	-6.6%	-0.5%	0.8%	-1.2%	2.4%	7.3%	6.4%	3.7%	5.1%

The IMF note on legal cumbersomeness involved in establishing a business is significant because it limits the global competitiveness of Aruba in attracting foreign capital for non-tourism related investments. It should be noted that Aruba's attractiveness for foreign investment capital is driven by the anticipated returns in the

tourism sector despite the hurdles that may be there in its legal system. However, it does not add value to an economy that should seek to build a different economic architecture that is not tourism dependent. The IMF report does not mention that the lack of legal dynamism may be due to Aruba's legal heritage and the priorities of the civil law system which emphasizes the positive rights of individuals and the development and promotion of human welfare achieved through means other than economic growth.

In a post-coronavirus recovery, international capital flows will be limited because of the global economic impact of the virus.

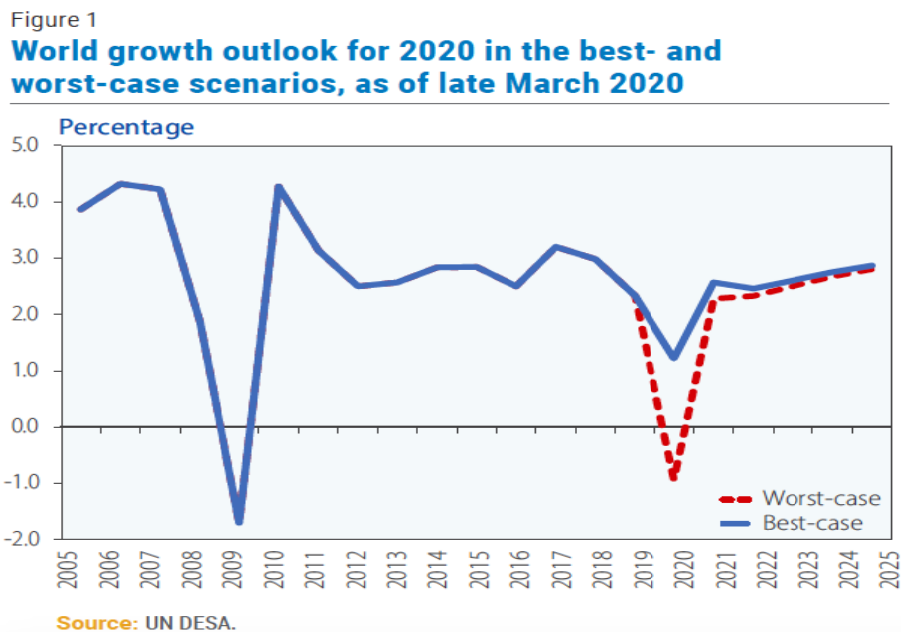


Figure 5. World growth outlook for 2020 in the best- and worst-case scenarios, as of late March 2020.

Figure 5 highlights the potential for a negative change in economic growth as a consequence of the virus which would have serious implications for Aruba's economy given its openness and susceptibility to external shocks. As a consequence, there is expected to be more competition for limited capital flows and Aruba's legal heritage may make it less competitive in the global market for capital that is not linked to deepening its tourism dependency.

Conclusions and Summaries of Paper's Arguments

This paper has argued that Aruba's legal system does not have the flexibility to facilitate the emergence of a fully engaged capitalist driven economic growth that is necessary to recover quickly from the coronavirus. In the absence of a robust capital rich private sector, economic response is being state-led rather than driven by private capital. This has led to a "thousand points of light" approach⁸ with state directives to foster viable economic response options. This level of state involvement in economic response to the pandemic is not uncommon to paternalistic states and may be partly due to the cultural inertia of its legal heritage and its civil law tradition which has allowed significant spaces of state power in determining economic development

⁸ Bush, G. W. Bush's 1,000 points of light. Retrieved May 12, 2020 from <https://www.history.com/speeches/bushs-1000-points-of-light>.

priorities. While there is strong support for property rights embedded in Aruba's legal system, state power as it is represented lacks the dynamism required to drive the individualism and risk taking that entrepreneurs need to take advantage of potential investment opportunities and therefore transform the present mono-economic structure to one that is sustainable diversified and has multiple drivers of economic growth. A common comparison to what Aruba ought to be, using the legal parlance, and given its small size, is Singapore which consistently ranks among the top places in the world to start a business (World Bank, 2018). However, Singapore's legal heritage is common law based and is rooted in the English legal system from which it has evolved⁹. As Nedzel (2018) noted, compared to civil law systems the common law has traditionally been based on a different relationship and level of interaction between the state and the individual. Unlike in the civil law, it is situated in non-instrumental interactions between the state and the individual that is centered on problem-solving that encourages entrepreneurship and hence economic development.

The process of setting positive legal rules law in civil law systems is substantially driven by legislation and rule-making by state administrators which may constrain dynamic shifts in economic priorities. The lack of dynamism and attention to process in Aruba's civil law rooted legal system is reflected in its strong labor laws which limit the ability of companies to reflexively adjust to economic conditions. This along with the potential for state capture and the polder model as applied to a limited extent in this political context means that the tone is set for the continued dominance of the state's activities which represents a substantial portion of the economy. In addition, there is Dutch neo-corporatism, Arubanized for context in which trade unions have the power to structure social and economic policies (Alonso, 2017). This can be regarded as a structural challenge in an economy driven by the underlying legal architecture which privileges the state and consensus approaches to policy over private capital allocation. Such a structure reinforces the assertion of legal origins theory that the civil law is systematically associated with more formalism, longer duration, more corruption and less consistency, than common law systems (M. Schmiegelow & H. Schmiegelow, 2014). Given the small size of the island and the significance of political connectedness, this could lead to politicized public policy decisions that constrain the urgency required to handle socio-economic imperatives brought on by the coronavirus. Paradigmatic shifts are challenging because they also involve social costs and a restructuring of social arrangements (Coase, 1960) that requires structural effort and therefore it is important that such efforts are carefully led and consider the overall legal architecture that may be constraining such shifts. The coronavirus requires a significant and substantive shift in Aruba's economic paradigm and should be contextualized within a particular legal framework that allows for capital to be unbounded by laws that limit its ability to be responsive to this shift. Currently, Aruba's civil law system is embedded with pockets of anachronistic labor and other legal rules that constrain the potential of market forces to drive sustainable economic development forward in a post-coronavirus global economy that will be different from the one left behind. Under the circumstances, a new conceptualization of an economic framework that best fits the legal structure is called for, that is distinct from the neo-liberal focused capitalist conception of shareholder wealth maximization.

Policy Suggestions

While a critical analysis of the challenges of the legal system is a good first step in assessing its role in driving an effective economic response to the pandemic, there are viable steps policy-makers should consider

⁹ Singapore's Ministry of Law. Retrieved May 12, 2020 from <https://www.mlaw.gov.sg>.

given the inertia and conservatism embedded in the legal system that could enhance its value and relevance in a post-coronavirus context. These are as follows:

Consider changes to the labor laws to eliminate labor market rigidity in a manner that promotes human capital productivity and efficiencies in the labor market. As the IMF suggested in its report, Aruba should eliminate its job protection mechanisms and focus on protecting workers' well-being. Further, if employee termination costs are high, entrepreneurs will be less inclined to risk capital in other non-tourist related sectors¹⁰.

Eliminate employment protection policies, such as onerous rules and regulations for terminating employees since this places an undue burden on employers and distorts the allocation of finite capital resources. Further, such policies depress potential employment opportunities and have been shown to lead to a decrease in employment, consumption, and productivity¹¹.

Consider the role of local capital formation and capital allocation in driving economic development. Local capital accumulation is enclavic in that there are cultural or other enclaves where local capital accumulates and is not efficiently deployed within the entire economic system to drive economic growth. The legal system could be structured so that it incentivizes capital to be effectively deployed away from these enclaves into the wider economy. More research on the financial sophistication required could be conducted on this topic (Taylor, 2017).

Aruba's financial system is bank dominated, however, as Taylor and Peterson (2010) noted, states with better developed financial systems, in terms of depth and breadth of systemic assets and capacity, experience faster economic growth. The legal system should encourage the movement from bank dominance to greater development of financial intermediaries to allocate capital within the economic system.

Adjust the legal framework to attract more foreign direct investments in non-traditional sectors such as AI and robotics and other advanced technologies.

References

- Afonso, A. (2017). Challenges for the Dutch polder model: Performance, populism and political economy. *Beleid en Maatschappij*. Retrieved from https://tijdschriften.boombestuurskunde.nl/tijdschrift/benm/2017/1/BenM_1389-0069_2017_044_001_009
- Anghie, A. (2004). *Imperialism, sovereignty and the making of international law*. Cambridge: Cambridge University Press.
- Atabekov, A., & Yastrebov, O. (2018). Legal status of artificial intelligence across countries: Legislation on the move. *European Research Studies Journal*, 21(4), 773-782.
- Bateman, C. G. (2019). There ought to be a law: Gustav Radbruch, Lon L. Fuller, and H.L.A. Hart on the choice between natural law and legal positivism. *J. Juris*, 40(2019), 271-329.
- Beck, T., Demirgüç-Kunt, A., & Levine, R. (2003). Law and finance: Why does legal origin matter? *Journal of Comparative Economics*, 31(4), 653-675.
- Coase, R. H. (1960). The problem of social cost. *The Journal of Law and Economics*, III, 1-44.
- Docquier, F. (2014). Identifying the effect of institutions on economic growth. In M. Schmiegelow and H. Schmiegelow (Eds.), *Institutional competition between common law and civil law: Theory and policy*. Heidelberg: Springer.
- Dutch Ministry of Education, Culture and Science. (2013). *Dutch gender and LGBT-equality policy (2013-2016)*. Policy Paper. Retrieved from <https://www.government.nl/binaries/government/documents/reports/2013/11/01/dutch-gender-and-lgbt-equality-policy-2013-2016/dutch-gender-and-lgbt-equality-policy-2013-2016.pdf>

¹⁰ World Economic Forum Report. *Labor market efficiency*. Retrieved from <https://reports.weforum.org/global-competitiveness-report-2015-2016/labor-market-efficiency/#view/fn-66>.

¹¹ Ibid.

- Dworkin, R. (1986). *Law's empire*. Cambridge: Harvard University Press.
- Furubotn, E. G., & Pejovich, S. (1972). Property rights and economic theory: A survey of recent literature. *Journal of Economic Literature*, 10(4), 1137-1162.
- Gaudreault-DesBiens, J.-F. (2015). Law and economics civilianized: On Ejan Mackaay's law and economics for civil law systems. *Canadian Business Law Journal*, 57(1), 134-142.
- Hart, H. L. A. (1961). *The concept of law*. Oxford: Clarendon Press.
- Henterly, L. (2017, January 11). The troubling trial of Emanuel Fair. *Seattle Weekly*.
- Holland, J., & Webb, J. (2003). *Learning legal rules*. Oxford: Oxford University Press.
- International Monetary Fund. Western Hemisphere Dept. (2019). *Kingdom of the Netherlands—Aruba: 2019 article iv consultation discussions—Press release and staff report*. Retrieved from <https://www.imf.org/en/Publications/CR/Issues/2019/06/03/Kingdom-of-the-Netherlands-Aruba-2019-Article-IV-Consultation-Discussions-Press-Release-and-46958>
- La Porta, R., Lopez-de-Silanes, F., & Shleifer, A. (2008). The economic consequences of legal origins. *Journal of Economic Literature*, 46(2), 285-332.
- Macpherson, C. B. (1951). Locke on capitalist appropriation. *Western Political Quarterly*, 4(4), 550-566.
- Nedzel, N. E. (2018). The international rule of law and economic development. *Washington University Global Studies Law Review*, 17(2), 447-502.
- Schmiegelow, M., & Schmiegelow, H. (2014). *Institutional competition between common law and civil law: Theory and policy*. Heidelberg: Springer.
- Siegel L., & Maxwell, R. (2020). *Major trends in COVID-19 business interruption lawsuits*. Hospitality Law. Retrieved from <https://www.law360.com/articles/1273308/major-trends-in-covid-19-business-interruption-lawsuits?>
- Summers, R. S. (1963). "Is" and "ought" in legal philosophy. *Cornell Law Faculty Publications*. Paper 1129.
- Taylor, D. (2017). Financial sophistication of SIDS. In L. Smith, S. Fullerton-Cooper, and E. Gordon (Eds.), *The Caribbean in a changing world: Surveying the past, mapping the future*. Cambridge, UK: Cambridge Scholars Publishing.
- Taylor, D., & Peterson, R. R. (2010). *Designing financial systems for competitive island economies: Developing the case for the Caribbean*. Research Paper, SALISES, University of the West Indies. Retrieved from <https://pdfs.semanticscholar.org/1144/d13ff76b8d432e3b54f8337cd405d9b8ab25.pdf>
- Vaughn, K. (1980). John Locke's theory of property: Problems of interpretation. In L. P. Liggio (Ed.), *Literature of liberty*. Spring, 1980.
- Wiener, A. (1963). Law and economic development. *University of Detroit Law Journal*, 40(4), 510-530.
- World Bank. (2018). *Doing business 2019, 16th edition*. Retrieved from https://www.doingbusiness.org/content/dam/doing-Business/media/Annual-Reports/English/DB2019-report_web-version.pdf
- Xu, G. (2011). The role of law in economic growth: A literature review. *Journal of Economic Surveys*, 25(5), 833-871.