

DID THE 2008 GLOBAL CRISIS CHANGE THE MANUFACTURING FIRMS' VIEW OF LEGAL/COURT SYSTEMS IN LESS DEVELOPED COUNTRIES?

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Abstract

One of the main problems in emerging countries is corruption in the administration and systems of courts. This research investigates whether the perspectives of manufacturing businesses in Eastern Europe and Central Asia that took part in the BEEPSII (2008) and BEEPSIV (2013) surveys during and after the global crisis of 2008 were different. We evaluate the number of times they interacted with the judicial system both during and after the crisis, the speed at which it proceeded, its fairness and impartiality, and the degree to which the court was able to successfully enforce its rulings. More than five thousand manufacturing enterprises from Asia and Central Europe took part in the surveys. We find that fewer manufacturers went to court following the crisis. After the crisis, there is no discernible change in the manufacturers' opinions regarding the fairness, impartiality, or corruption of the legal system. A few years after the crisis, manufacturers' assessments of the legal system's rate of advancement were seen as noticeably improved, while the court's capacity to carry out its decisions in these nations was thought to be less effective.

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1. Introduction

The primary cause of the worldwide financial crisis of 2008 was the collapse of the US housing market in 2007. What started out as a significant effect on mortgage-backed securities and the credit market eventually extended to a global economic downturn. Consequently, significant reforms were started in the United States and other crisis-affected nations (see for example Greenberg and McGovern, 2012). While some were successful, the results weren't always what was anticipated. For instance, following economic and legal reforms, certain countries affected by the Asian Financial Crisis of 1997 recovered better than others (Japan, Korea, for example). However, due to structural and political complexities, comparable successes were not seen in their less developed counterparts, such as the countries of South East Asia (see Kawai and Schmiegelow, 2014). The EU administration demands the countries of Eastern Europe and Central Asia to improve the independence and transparency of their legal and court administrations. Nevertheless, studies have shown that political meddling and corruption have impeded the progress (see Anderson and Gray, 2007; Hoxhaj, 2020; Boskovic, 2021; Cheesman and Bado, 2023).

One of the key issues still afflicting less developed nations is corruption, and courts are not exempt from its connections. A number of indicators have been constructed to represent how corruption is perceived around the world, and one of the topics included in these surveys is how the legal system is perceived. The two most commonly referred indices are the Corruption Perceptions Index from Transparency International and the Control of Corruption report from the World Bank (see Fazekas and Kocsis, 2017). Based on these two indexes and findings in multiple studies, corruption remains a major problem in many developing and less developed nations, semi-autocratic countries, and countries in which cronyism is widely practiced (see for example Tanzi and Davoodi, 1997; Mauro, 1998; Leite and Weidmann, 1999; Tonoyan et al., 2010).

In this paper, we examine if there were any differences in the perceptions of the manufacturing companies based in the Eastern European and Central Asian nations that took part in the BEEPSII (2008) and BEEPSIV (2013) surveys prior to and following the global crisis of 2008. These surveys were conducted by the European Bank for Reconstruction and Development (EBRD) in collaboration with the World Bank Group (WBG) and the European Investment Bank. The surveys include views from over 5,000 manufacturing companies located in the two regions. We evaluate their views about how many of them interacted with the legal system prior to and following the crisis, as well as about how quickly the legal system moves, how fair or unbiased it is, and how well the court can enforce its rulings.

In comparison to period during the crisis, we find that fewer manufacturers dealt with the courts after the crisis. We discover that there was no discernible difference between the perception of the court system during and after the crisis in terms of its perceived fairness, impartiality, and lack of corruption. However, there was a notable shift in the manufacturers' assessments between during and post-crisis years with respect to the speed at which the legal cases move through the system (better) and the court's failure to enforce its rulings in these countries (worse).

The remainder of this paper is organized as follows: The next section reviews the relevant literature, followed by data and methodology. The empirical results are presented next, followed by the conclusions.

2. Literature review

The collapse of the U.S. housing market in 2007 marked the beginning of the global financial crisis of 2008, which had a devastating effect not only on the credit market and mortgage-backed securities in the U.S., but also on the global economy. The Dodd-Frank Act was passed in the United States in response to the crisis. It increased government authority over the financial sector and provided more safeguards against predatory lending, particularly over financial institutions that were thought to be close to failing. Greenberg and McGovern (2012) who look at how the 2008 crisis has affected the different parts of the civil court system in the U.S., find that the state court systems were under more pressure with more civil claims being filed in state courts with lack of additional budget to enhance the services. At the same time, legal firms were also facing financial constraints to hire and pay more people to provide the legal services and aids to their clients. In the East Asian countries, Kawai and Schmiegelow (2014) find that the Asian Financial Crisis of 1997 led to both economy and law reforms in countries affected by the crisis such as Japan, Korea, the Philippines, Indonesia, Malaysia, and Thailand. However, they discover that despite the major changes initiated to their laws and courts, not all were successful. They find that the changes were only positive for Japan and Korea, but not in the other four countries. According to Andersen and Gray (2007), just like other more developed countries, less and developing countries also put the same emphasis in terms of improving their judicial systems.

As for these Eastern European and Central Asian countries which were mostly part of the Soviet before, and as part of their plans to join the EU, they are required to transform their judicial systems or the courts (Cheesman and Bado, 2023). According to Hoxhaj (2020), the strengthening

of the rule of law and fighting corruption are some of the focuses of the EU accession for Western Balkan countries. Bobek and Kosar (2013) also echo the same thing, i.e. to be eligible for EU accession, judicial independence and judicial reform is a core requirement. As such, this requires an institutional reform, which is basically improving the court administration to make it better functioning and free from political interferences. Boskovic (2021) suggests that reforms in the court administration have been going on for more than 15 years in the Western Balkan countries, but the trust in the judicial system remains low and the impact has been minimum. In other words, the political systems in most of these countries remain semi-autocratic (Hoxhaj, 2010), which is one of the major challenges in the reform process. In some countries even, despite recent constitutional reforms as claimed, there have been signs of democratic backsliding instead.

The issue of corruption also remains part of the core problems plaguing less developed countries, and courts are not immune from being linked to corruption. Judicial corruption refers to any improper influence exerted by any anyone within the court system that undermines the fairness and impartiality of the judicial process (Transparency International, 2007). Transparency International develops and maintains one of the indicators to reflect the perception of corruption globally, with one of the subjects in these surveys are the perception of the judicial system. The other most widely used reference is the World Bank's Control of Corruption Index (Fazekas and Kocsis, 2017). Why does it matter? There is evidence that there is a link between the extent of corruption in the judicial system and economic growth since an independent and impartial judiciary has important consequences for trade, investment and financial markets (Transparency International, 2007).

Overall, according to these indicators, corruption continues to be a widespread problem in these underdeveloped and emerging nations. Several studies have demonstrated that corruption is prevalent in underdeveloped nations (see e.g. Tanzi and Davoodi 1997; Leite and Weidmann, 1999; Henderson and Kuncoro, 2004; Kronenberg, 2004; Osei-Tutu et al., 2010; Kapur and Vaishnav, 2013; Ouedraogo 2017), as well as in countries with centralized economies and political structures (Tonoyan et al. (2010). Mauro (1998) suggests that corruption is more likely to take place in countries where cronyism is widespread, while Mehnaz et al. (2001) and Mbaku (1996) posit that smaller companies find it hard to compete with bigger companies with stronger connections to government officials.

A study which is closely related to this paper is Andersen and Gray (2007) which use the BEEPS from 2005 in their report submitted to the World Bank on the progress of the judicial systems in Eastern Europe and Central Asia. Their report suggests that judicial change or reform is one of the most important problems that most of these countries have to deal with. Based on the survey data they referred to, they find that for the most part, most of these countries have made some progress in making their courts more independent, but there remains the need to make the courts more accountable, fairer, and more honest. Part of the problems is not having the right infrastructure and the right people including the judges and support staff.

3. Data and methodology

Andersen and Gray (2007) use the third EBRD-World Bank Business Environment and Enterprise Performance Survey (BEEPS) from 2005 to assess the judicial systems in "transition" countries in Eastern Europe and Central Asia. We also use the BEEPS which were a joint effort by the European Bank for Reconstruction and Development (EBRD), the World Bank Group (WBG) and the European Investment Bank. However, we use the more recent surveys (BEEPSII and BEEPSIV) which were done in 2008 and 2013, respectively. The two polls include responses from anywhere between 5,000 and over 6,000 manufacturing companies located in the two regions. The manufacturers were from twenty-nine countries including Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, FYR Macedonia, Georgia,

Hungary, Kosovo, Latvia, Lithuania, Moldova, Montenegro, Poland, Romania, Serbia, Slovak Republic, Slovenia, Turkey, and Ukraine in Eastern Europe, and Kyrgyz Republic, Kazakhstan, Uzbekistan, Tajikistan and Mongolia in Central Asia.

In light of the fact that the economic climate was judged unfavorable during the crisis period, this could have led to an increase in the number of financial difficulties in general, including those experienced by manufacturing companies. This would have resulted in these companies having more litigation concerns with their lenders and customers alike, as well as with the courts. On the other hand, it was anticipated that the number of instances would decrease a few years following the crisis, thanks to the recovery that had occurred in certain aspects of the economy. Consequently, the following is the first hypothesis that we have regarding the impact of the crisis:

Hypothesis 1: The overall dealings with court had decreased after the crisis compared to the crisis period.

As part of their efforts to recover as rapidly as possible, the governments must have been spurred by a crisis to implement certain reforms to all aspects of the economy and regulations, including the judicial system. However, according to Greenberg and McGovern (2007), Andersen and Gray (2012), and Kawai and Schmiegelow (2014), there is a possibility that there will be some stalemates as a result of the increased number of cases that need to be processed through the court system initially. This could result in certain parties seeking some favors in order to resolve their cases as quickly as possible.

We expect manufacturers' perception of courts' fairness to remain the same but due to the decreased number of cases, we expect them to see shorter processing times in courts. Due to the decreased number of cases, we also expect courts' ability to enforce their decisions to improve a few years after the crisis. Consequently, we also test the following hypotheses:

Hypothesis 2: The courts' fairness, impartiality and corruption remained the same after the crisis.

Hypothesis 3: The courts' quickness had improved after the crisis.

Hypothesis 4: The courts' ability to enforce their decisions had improved after the crisis.

4. Empirical results

Table 1 compares the percentages of the manufacturing firms that dealt with courts before and after the crisis. Pre-crisis, 32.51% dealt with courts, while post-crisis, 28.55% did so. The difference between the two periods is statistically significant at the 0.01% level ($p < 0.0001$). Post-crisis, significantly fewer manufacturers dealt with courts, when compared to the pre-crisis period.

Table 1. Has the Manufacturing Firm Dealt with Courts?

Variables	Pre-Crisis		Post-Crisis	
	N	%	N	%
Yes	1,620	32.51	1,819	28.55
No	3,363	67.49	4,553	71.45
Total	4,983	100%	6,372	100%
Statistic	df	Value	Prob	
Chi-Square	1	20.8081	<0.0001	

Table 2 shows what percentage of the manufacturers thought the court system was fair, impartial and uncorrupted before and after the crisis. We are seeing that there is no significant difference between the distribution of the answers in the pre-crisis period versus in the post-crisis period. ($p=0.8500$). The percentage of the manufacturers who strongly disagreed with this statement was 26.71% before the crisis. The corresponding percentage was 26.52% post-crisis. The percentage who tended to disagree with this statement was 33.55% before the crisis. The corresponding percentage was 33.87% post-crisis. The percentage who tended to agree was 27.92% before the crisis. The corresponding percentage was 27.35% post-crisis. The percentage who strongly agreed was 11.83% before the crisis. The corresponding percentage was 12.26% post-crisis.

Table 2. The Court System is Fair, Impartial and Uncorrupted

Variables	Pre-Crisis		Post-Crisis	
	N	%	N	%
Strongly disagree	1,190	26.71	1,553	26.52
Tend to disagree	1,495	33.55	1,984	33.87
Tend to agree	1,244	27.92	1,602	27.35
Strongly agree	527	11.83	718	12.26
Total	4,456	100%	5,857	100%
Statistic	df	Value	Prob	
Chi-Square	3	0.7977	0.8500	

Table 3 shows what percentage of the manufacturers thought the court system was quick before and after the crisis. We are seeing that there is a statistically significant difference at the 0.01% level between the two periods ($p<0.0001$). The percentage who strongly disagreed with this statement was 40.62% before the crisis. The corresponding percentage was 35.98% post-crisis. Therefore, there was a drop in the number of manufacturers who strongly disagreed. The percentage who tended to disagree with this statement was 33.75% before the crisis. The corresponding percentage was 34.61% post-crisis. The percentage who tended to agree was 19.62% before the crisis. The corresponding percentage was 21.45% post-crisis. The percentage who strongly agreed was 6.01% before the crisis. The corresponding percentage was 7.96% post-crisis. Overall, post-crisis, we are seeing a significant increase in the number of manufacturers who thought that the court system was quick.

Table 3. The Court System is Quick

Variables	Pre-Crisis		Post-Crisis	
	N	%	N	%
Strongly disagree	1,838	40.62	2,115	35.98
Tend to disagree	1,527	33.75	2,035	34.61
Tend to agree	888	19.62	1,261	21.45
Strongly agree	272	6.01	468	7.96
Total	4,525	100%	5,879	100%
Statistic	df	Value	Prob	
Chi-Square	3	32.8582	<0.0001	

Table 4 shows what percentage of the manufacturers thought the court system was able to enforce its decisions before and after the crisis. We are seeing that there is a statistically significant

difference at the 5% level between the two periods ($p=0.0156$). The percentage who strongly disagreed with this statement was 17.10% before the crisis. The corresponding percentage was 18.18% post-crisis. The percentage who tended to disagree with this statement was 25.12% before the crisis. The corresponding percentage was 26.90% post-crisis. Therefore, there was an increase in the number of manufacturers who strongly disagreed or who tended to disagree. The percentage who tended to agree was 38.60% before the crisis. The corresponding percentage was 35.71% post-crisis. Therefore, there was a drop in the number of manufacturers who tended to agree. The percentage who strongly agreed was 19.19% before the crisis. The corresponding percentage was 19.22% (i.e. almost the same) post-crisis. Overall, post-crisis, we are seeing a significant drop in the number of manufacturers who thought that the court system was able to enforce its decisions.

Table 4. The Court System is Able to Enforce its Decisions

Variables	Pre-Crisis		Post-Crisis	
	N	%	N	%
Strongly disagree	761	17.10	1,052	18.17
Tend to disagree	1,118	25.12	1,558	26.90
Tend to agree	1,718	38.60	2,068	35.71
Strongly agree	854	19.19	1,113	19.22
Total	4,451	100%	5,791	100%
Statistic	df	Value	Prob	
Chi-Square	3	10.3740	0.0156	

Table 5 compares manufacturers' evaluations on the court system's fairness, quickness, and enforcement pre- and post-crisis. The table shows that there is no statistically significant difference between their opinions on fairness before and after the crisis. Before the crisis, the mean score for "degree of fairness" was 2.2487 (i.e. somewhere between "tend to disagree" and "tend to agree"). After the crisis ended, the mean score was 2.2535 (i.e. very close to the pre-crisis value). The difference is insignificant ($p=0.4264$).

Table 5. The Court System's Fairness, Quickness and Enforcement

Variables	Pre-Crisis			Post-Crisis			Mann-W.
	N	Mean	Std	N	Mean	Std	p-value
Degree of fairness	4,456	2.2487	0.9786	5,857	2.2535	0.9823	0.4264
Degree of quickness	4,525	1.9103	0.9138	5,879	2.0139	0.9448	<0.0001
Degree of enforcement	4,451	2.5987	0.9829	5,791	2.5598	0.9971	0.0207

Note: "1" is Strongly disagree, "2" is Tend to disagree", "3" is Tend to agree, and "4" is Strongly agree.

With respect to the "degree of quickness", our findings confirm our findings in Table 3. Table 3 showed that more manufacturers thought the court system was quick post-crisis, when compared to pre-crisis. Here, we are seeing that their mean rating for "degree of quickness" went up from 1.9103 (i.e. somewhere between "strongly disagree" and "tend to disagree") to 2.0139 (i.e. somewhere between "tend to disagree" and "tend to agree"). This increase is significant at the 0.01% level ($p<0.0001$). Overall, manufacturers thought that the court system was quicker after the crisis ended.

With respect to the "degree of enforcement", our findings confirm our findings in Table 4. Table 4 showed that more manufacturers thought the court system was not able to enforce its

decisions post-crisis, when compared to pre-crisis. Here, we are seeing that their mean rating for “degree of enforcement” went down from 2.5987 (i.e. somewhere between “tend to disagree” and “tend to agree”) to 2.5598 (i.e. lower but still in the same category). This drop is significant at the 5% level ($p=0.0207$). Overall, manufacturers thought that the court system was less able to enforce its decisions after the crisis ended.

5. Conclusion

In this paper, we examine if there were any differences in the perceptions of the manufacturing companies on the judicial system/courts. These are the firms based in the Eastern European and Central Asian nations that took part in the BEEPSII and BEEPSIV surveys prior to and following the global crisis of 2008. We evaluate their views about how many of them interacted with the legal system prior to and following the crisis, as well as about how quickly the legal system moves, how fair or unbiased it is, and how well the court can enforce its rulings.

One of the key issues still afflicting less developed nations is corruption, and that includes the court. Based on the Corruption Index developed by Transparency International and findings from various studies in less developed economies, corruption continues to be a major problem. For accession into the EU, Eastern European countries are required to enhance the legal and court administration by making them fair and independent. However, there are claims and evidence that progress has been slow and to some extent, the reforms taken by these countries’ governments have led them to be more autocratic instead.

We find that between the two periods, fewer manufacturers dealt with the courts after the crisis. We discover that there was no significant change in the views of the manufacturers of the court system during and after the crisis in terms of its perceived fairness, impartiality, and lack of corruption. As predicted, there was a significant shift in the manufacturers’ assessments between during-crisis and post-crisis years regarding the speed at which the legal system handled the cases (i.e. better). However, not as predicted, we find the court’s ability to enforce its rulings in these countries was perceived to be significantly by the manufacturers.

This observation can have a number of explanations. Most of these nations still lacked the necessary judges, support personnel, and infrastructure to establish more accountable, equitable, and honest court systems in spite of judicial reforms (Andersen and Gray, 2007). As such, things have actually gotten worse even as some of these countries were establishing the Judicial Council to comply with European standards (Bobek and Kosar, 2013). Part of the reason for this is that many of these nations continued to have high perceptions of corruption, notably in the judicial system (the Transparency Index demonstrated this). In many of these countries, for instance, defendants may be able to bargain for a reduced sentence or a deal by providing evidence about the misconduct of judges (Pahis, 2009). It also contributed to the low public confidence in the legal system, in spite of all the assertions about the efficiency and integrity of the courts being enhanced (Boskovic, 201). In addition, recent constitutional changes in nations like Poland and Hungary have actually resulted in democratic retreat from liberal democratic principles and the rule of law (Hoxhaj, 2020).

We think that the present study offers some evidence on how a global economic crisis affects the courts and judicial systems in underdeveloped countries. Possibly, future research will concentrate on the years 2020–2021, when the Covid epidemic affected the globe. The epidemic rendered every facet of life in the world debilitated. How did the judicial system and the corporations’ interactions with the courts get affected by this? What harm did the connections between firms and customers suffer as well as between firms? Which kind of businesses suffered the most? How were various sectors (manufacturing companies, retailers, wholesalers) doing? More in-depth questions regarding the judicial system to businesses may also be asked in future

research. New surveys may just focus on this topic and collect more detailed information on how an economic crisis affects firms' perceptions on the judicial system.

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