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The Rule of Law Index: A Tool to Assess Adherence to the Rule of Law Worldwide

By Juan Carlos Botero

The rule of law is the foundation for communities of equity, opportunity and peace – it is the predicate for the eradication of poverty, violence, corruption, pandemics, and other threats to civil society.

— William H. Neukom, founder and CEO of the World Justice Project

The term Rule of Law is central to our understanding of rights, freedoms and democracy. “Unquestionably, it is important to life in peaceful, free and prosperous societies.”¹ It provides a keystone for democratic theory on a number of levels, transcending the

divide between the legal and the political. Traditionally, the Rule of Law has been viewed as the domain of lawyers and judges. But everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder.

Despite this, all over the world, people are denied basic rights to safety, freedom, and dignity because the Rule of Law is weak or non-existent. When pollution laws are disregarded and inspectors are bribed, the environment suffers. Women fall victim to abuse when their rights are ignored

and when their access to justice is limited. Families suffer when parents are coerced into paying bribes to get their children into health clinics and even schools. Local and international businesses avoid investing in communities where there is a lack of stable rules and regulations, leading to excessive amounts of risk. Rule of Law means better public health, economic development, and political participation. It is the necessary ingredient to all forms of human endeavor, especially in communities of greatest need.

Data on governance and the Rule of Law was scarce two decades ago. Analysis at the global, regional, and national levels was largely based on purely anecdotal evidence, or a few crude indicators. In contrast, there are more than 100 systems of measurement in this field today. These tools stem from rigorously collected data at the country level or across countries. While there is enormous variation in quality among these measurements, data is no longer scarce. Some of these measurements are built upon systematic analysis of qualitative information, others on highly sophisticated aggregation of existing indices, and yet others on extensive quantitative data collection efforts in particular regions or around the world.²

Better data may lead to better planning and evaluation of government programs and institutional reform; better targeting of donor resources; more accurate assessment of political risk by the business community; and increased ability of civil society organizations to hold governments accountable to their citizens. Yet, while data is available, misuse of indicators among government officers and reformers appears to be common. Government agencies collect large amounts of data but they rarely use these data effectively. Moreover, there appears to be a fundamental confusion between raw data and an

effective system of indicators. Data may be easily manipulated and misused.³

The World Justice Project's Rule of Law Index

The WJP Rule of Law Index is a quantitative assessment tool designed to offer a detailed and comprehensive picture of the extent to which countries adhere to the Rule of Law in practice.

The World Justice Project's definition of the Rule of Law is comprised of the following four universal principles:

1. Accountability: The government as well as private actors are accountable under the law.

2. Just Laws: The laws are clear, publicized, stable, and just; are applied evenly; and protect fundamental rights, including the security of persons and property and certain core human rights.

3. Open Government: The processes by which the laws are enacted, administered, and enforced are accessible, fair, and efficient.

4. Accessible and Impartial Dispute Resolution: Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the make-up of the communities they serve.

These four universal principles constitute a working definition of the Rule of Law. They were developed in accordance with internationally accepted standards and norms. Originally articulated by WJP's founder, William H. Neukom, they were tested and refined in consultation with a wide variety of experts worldwide over the past 10 years.

Based on this definition, the WJP Rule of Law Index presents a portrait of the Rule of Law in 113 countries and jurisdictions by providing scores and rankings organized around eight factors: 1) constraints on government powers, 2) absence of corruption, 3) open government, 4) fundamental rights, 5) order and security, 6) regulatory enforcement, 7) civil justice, and 8) criminal justice.

The Index rankings and scores are built from more than 400 variables drawn from two new data sources: (i) a general population poll (GPP), designed by the WJP and conducted by leading local polling companies using a probability sample of 1,000 respondents in the three largest cities of each country; and (ii) a qualified respondents' questionnaire (QRQ) completed by in-country experts in civil and commercial law, criminal law, labor law, and public health.

The GPP includes 207 questions pertaining to citizens' experiences with and perceptions of the government, the police, and the courts, as well as the openness and accountability of the state, the extent of corruption, and the magnitude of common crimes. The QRQ features more technical questions on a variety of Rule of Law dimensions, which require legal expertise to answer properly. To date, more than 300,000 people and 7,500 experts have been interviewed in more than 300 cities around the globe.

The WJP Rule of Law Index is the most comprehensive index of its kind, and it reflects the actual conditions experienced by the population. It has stimulated discussion and actions on the Rule of Law around the world. Its findings have been cited by heads of state, chief justices, legal experts,

WJP RULE OF LAW INDEX Rule of Law Factors

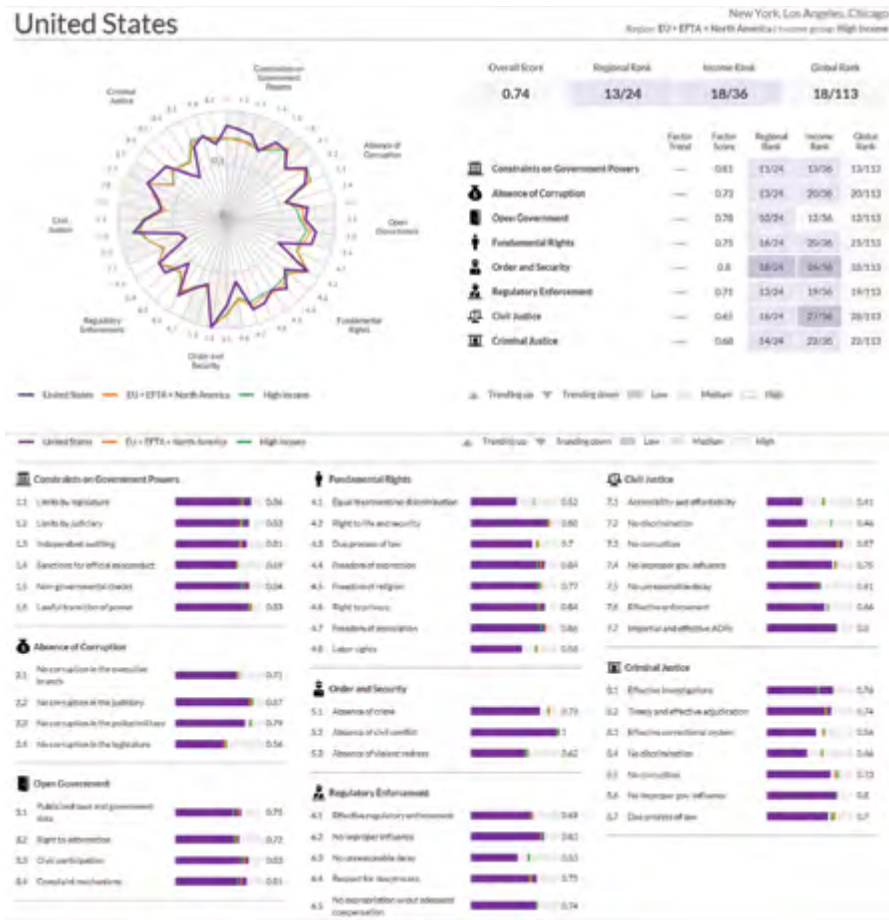


business leaders, government officials, and citizens from around the world as supporting evidence of the need to advance Rule of Law reforms. Leading newspapers in more than 120 countries have reported on or referenced the Index, resulting in more than 2,000 media mentions, including The Economist, The New York Times, and El País, among others.

The Rule of Law Index in the United States

Chart 1 presents the findings of the 2016 iteration of the Rule of Law Index for the United States:

Chart 2 presents the results of the 44 Rule of Law factors for the United States in 2016:



The United States ranks 18th overall, with a relatively uniform performance across all dimensions of the Rule of Law. Areas that appear comparatively strong include judicial independence (sub-factor 1.2), citizens’ access to complaint mechanisms

(sub-factor 3.4), and the effectiveness of criminal justice investigations (sub-factor 8.1); comparatively weak areas include perception of corruption in the legislature (sub-factor 2.4), affordability and accessibility of the civil justice system (sub-factor 7.1), and perception of discrimination in the criminal justice system (sub-factor 8.4).

Access to Civil Justice in Europe and North America: A Case Study on the Use of the Index for Cross-Country Analysis

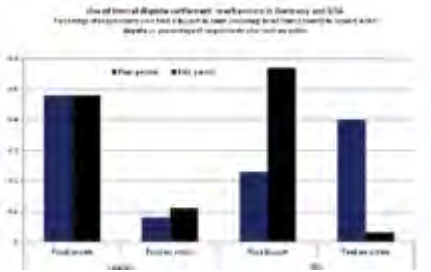
The Rule of Law Index measures outcomes rather than inputs. More specifically, the aim of the Index is to provide a picture of where countries

dispute in Europe and North America provides an example of how the Index may be employed to consider a Rule of Law problem in a new light.

Several reputable organizations have found that fewer than one in five low-income persons in America obtain the legal assistance they need.⁴ The Rule of Law Index confirms these findings and provides a new comparative perspective on this problem.

We asked 1,000 randomly selected individuals per country whether during the past three years someone in their household had a conflict with someone who refused to fulfill a contract or pay a debt. For those who answered affirmatively, we enquired about various dispute-settlement mechanisms employed to solve the dispute.

The following chart disaggregates these results for Germany and the U.S. by top and bottom income quintile of the respondents. Results remain constant if the sample is divided above and below the median.



Facing a common civil dispute, low-income and high-income individuals in Germany behaved in the same way. In both groups, most people used the formal dispute-resolution channels to enforce the contract or to collect the debt, while a few chose to take no action. High-income Americans behaved just like Germans – most of them filed a lawsuit in court (including small-claims court), while a few chose to take no action. Yet, low-income Americans acted very differently – only a few filed a lawsuit, while most of them took no action to enforce the contract or to collect the debt.

The different patterns of behavior among high and low-income indi-

viduals in the U.S. are also present in Canada and the U.K., while not in other western European countries. Poor and rich individuals facing a commercial dispute in Belgium, the Netherlands, Norway or Spain, behaved in the same way as their German counterparts.

Why This Matters

As the following charts show, adherence to the Rule of Law is highly correlated with key indicators of economic and socio-political development:

More importantly, the Rule of Law appears to be associated with key public health outcomes, independently of economic development and other likely confounders. The following chart shows the association between Rule of Law and infant mortality rate: A recent paper published in a top medical journal explored this association further, with the following findings:⁵

“Our results can be simply put: the more that a country adheres to the rule of law, the more likely it is that it has a healthy population, whether defined by lower [infant mortality rate, maternal mortality rate, and cardiovascular disease and diabetes mortality rate, and higher life expectancy], all of which are central to the UN’s Millennium Development Goals or the WHO’s Non-Communicable Disease Action Plan.

Further . . . the rule of law is associated with health in its own right, independent of the associations between countries’ health status and their level of economic development, their health expenditures, their political freedoms, their economic inequality or the status of women. [And] these findings are robust in the sense that they were not dependent on any particular data set.

Do the correlations observed in this study evince an underlying causality, where development of the rule of law somehow improves health outcomes? The design of the study does not permit causality to be inferred, but we propose here three plausi-



ble causal mechanisms, borne out in other studies, that lead us to believe the answer to this question is yes: (1) Corruption; (2) Enforcement of Health Rights and (3) Equity or Social Justice.

... we believe this study requires a re-evaluation of the relationships between economic development and good health – is law actually a determinant of both? As already mentioned, studies associate the rule of law with economic development, in some cases so powerfully that, as Rodrik et al write, ‘the quality of institutions trumps everything else.’ If that is right, the received wisdom of other studies that ‘macro’ economic development is itself a correlate of good health, and ‘micro’ economic inequality is itself a correlate of poor health, may be missing a third

dimension, for both of these associations might depend on the rule of law shaping the economic conditions. That possibility, regrettably, is actively discounted in the studies cited here: none used the rule of law as a control variable. Therefore, caution must be exercised to avoid the fallacy that if economic development correlates with both health and the rule of law, then it must be paramount and determine both.”

In sum, the Rule of Law is not simply an abstract concept for political theorists; it is a living reality for ordinary people, which affects not only their livelihood, but also their health. The Rule of Law is an underappreciated concept, which requires more attention not only from the academy, but also from ordinary citizens worldwide. We are all stakeholders of the Rule of Law. ■

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3. Ibid.; Botero J., et al., “How, when and why do governance, justice and rule of law indicators fail public policy decision making in practice?” *Hague Journal on the Rule of Law*, pp 1-24. Springer International Publishing, January 2016, available on-line at: <http://link.springer.com/article/10.1007%2Fs40803-015-0020-8>.
4. Legal Services Corporation, 2005, 2009 and 2017; Institute for Survey Research and American Bar Association, 1994; National Center for State Courts, 2006; American Bar Association, 2010, among others.
5. Pinzon, A.M., et al., “Association of rule of law and health outcomes: an ecological study,” in *BMJ Open*. Volume 5, Issue 10. October, 2015. Available on-line at: <http://bmjopen.bmj.com/content/5/10/e007004.full>.

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