The World Justice Project

Rule of Law Index

Juan Carlos Botero and Alejandro Ponce
World Justice Project
June 2010
The World Justice Project is based on two premises:

1. The Rule of Law is the foundation for communities of opportunity and equity.

2. Multidisciplinary collaboration is the most effective way to advance the Rule of Law.
Based on four principles:

I. Accountable government
II. Good laws
III. Good process
IV. Access to justice
The World Justice Project

- Governance structure
- Financial supporters
- Activities:
  - Mainstreaming (World Justice Forum; Opportunity Fund)
  - Scholarship
  - Rule of Law Index
Multidisciplinary Sponsors

World Federation of Public Health Associations
U.S. Chamber of Commerce
Union Internationale Des Avocats
Transparency International – USA
People to People International
Norwegian Bar Association
National Association of Medical Minority Educators
Karamah: Muslim Women Lawyers for Human Rights
International Trade Union Confederation
International Organization of Employers
International Institute for Applied Systems Analysis
International Chamber of Commerce
International Bar Association
Inter-Pacific Bar Association
Inter-American Bar Association
Human Rights Watch
Human Rights First
Club of Madrid
Canadian Bar Association
Association of International Educators (NAFSA)
American Society of Civil Engineers
American Public Health Association
American Bar Association

17 Disciplines
Architecture
The Arts
Business
Education
Engineering
Environment
Faith
Government
Human Rights
Judiciary
Labor
Law
Media
Military
Public Health
Public Safety & Law
Enforcement
Science
The Rule of Law Index is a work in progress

- 3 years of intensive development, worldwide consultation, “beta testing” and review by over 1000 experts and practitioners
- Index 1.0 – Pilot in 6 countries (2008)
- Index 2.0 – Testing in 35 countries (2009)
- Index 3.0 – Report for 35 countries (2010)

- Index international advisory board
The Rule of Law Index

- The ROL Index is a quantitative assessment tool designed to offer a comprehensive picture of the extent to which countries adhere to the rule of law.

- Contribution:
  1) Comprehensive definition of Rule of Law
  2) New data:
     - Views and experiences of ordinary people
     - Views and opinions of experts
  3) “Translation” of the abstract concept of Rule of Law into outcome indicators based on more than 700 questions

- The scores of the Index can be interpreted as degrees of compliance of a legal system to a definition of Rule of Law.
A project of this nature faces 5 challenges:

1. **Definition**: What is Rule of Law?

2. **Measurement**: How can we measure validly and reliably Rule of Law outcomes?

3. **Summarization**: How can we summarize the information into meaningful indicators?

4. **Acknowledgement of limitations**

5. **Data presentation and Inferences**
What is rule of law?

- The Index takes an intermediate position that encompasses elements of political participation, fundamental human rights, and access to justice.
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>1.</td>
<td>Limited Government Powers</td>
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<td>2.</td>
<td>Corruption</td>
</tr>
<tr>
<td>3.</td>
<td>Clear, Publicized and Stable Laws</td>
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<td>4.</td>
<td>Order and Security</td>
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<td>5.</td>
<td>Fundamental Rights</td>
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<td>6.</td>
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<td>7.</td>
<td>Regulatory Enforcement</td>
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<td>8.</td>
<td>Access to Civil Justice</td>
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<tr>
<td>9.</td>
<td>Effective Criminal Justice</td>
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<tr>
<td>10.</td>
<td>Informal Justice</td>
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</table>
9. Effective criminal justice

9.1 Criminal investigation system is timely and effective

9.2 Criminal adjudication system is timely and effective

9.3 Criminal system is impartial and free of improper influence

9.4 Due process of law and rights of the accused
- Detention
- Torture and abusive treatment to suspects
- Secret trial
- Legal representation
- Rights of prisoners
- 10 self-contained Indices [Partial overlap]

- **Example 1**: A free press is both a manifestation of a Fundamental Right in action (*free speech*), and a non-governmental check on the government’s powers (*checks and balances/accountability*).
1) Focus on “Effectiveness of law” rather than “Law on books”.
2) The WJP Rule of Law Index 3.0 focuses on “outcomes” rather than “inputs”.

**Example 2:**

Outcome: Homicide rate (Crime)
Input: Police resources

- Useful, but this may or may not be the driving reason behind homicide rates
- The index cannot measure all relevant inputs => Focus on outcomes, which are the final goal policymakers want to address.
Measurement

3. Use multiple questions to proxy for abstract concepts
   - Capture concepts which cannot be captured by a single variable
   - Validate results

Example 3:
- Concept: Affordability of civil justice
  - How significant are the following barriers for poor people?
    - Court fees
  - Expected cost of hypothetical procedure
  - Description of actual costs paid by people who used the system to enforce a debt contract.
  - Perception of people about court fees
Building indicators and indices

- Summarize information in indices

- Methodological issues:
  - Missing values
  - Normalization
  - Weighting
  - Aggregation
  - Robustness
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   - Detention
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   - Secret trial
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   - Rights of prisoners
The Index has been designed to:

- Assess countries’ adherence to the rule of law in practice
- Identify a nation’s strengths and weaknesses in comparison to similarly situated countries
- Track changes over time

The Index acknowledges the important role of “informal” systems of justice for resolving disputes
1) Definition:

- Different definitions and value structures.
  - Uwa community in Colombia

- Different legal architectures.
  - Parliamentary democracy, presidential democracy, kingdom

- Different goals. E.g., Criminal system:
  - Retribution and deterrence: USA
  - Rehabilitation and social harmony: Japan
Acknowledging limitations

2) Measurement
   - Cross-cultural differences
   - Sensitive questions
   - Measurement error

3) Sampling
   - Rural vs. urban
Avoid situations where countries use indicators not as a governance tool, but as a goal.

Be careful with cross-country comparisons and rankings

Be careful with linking scores with priorities for reform.

Be transparent: Make measures and assumptions as explicit as possible
Example

- Assume you are not feeling well…
- Go to your physician for a general assessment
  - Check temperature - ✗
  - Check heart rate - ✓
  - Check fatigue - ✗
- Specialist: Further assessment
- Take medicine to get well
## Current status
Countries indexed for 2010

<table>
<thead>
<tr>
<th>Country</th>
<th>Population</th>
<th>% World Populat.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>3,170,000</td>
<td>0.05%</td>
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<tr>
<td>Argentina</td>
<td>40,134,425</td>
<td>0.59%</td>
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<tr>
<td>Australia[9]</td>
<td>21,876,000</td>
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<tr>
<td>Austria</td>
<td>8,355,260</td>
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<td>Bolivia</td>
<td>9,863,000</td>
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<td>Bulgaria</td>
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<td>Canada</td>
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<td>Colombia</td>
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<td>Croatia</td>
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<td>Dominican Republic</td>
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<td>El Salvador</td>
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<td>France</td>
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<td>Japan</td>
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<td>Jordan</td>
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<tr>
<td>Kenya</td>
<td>39,802,000</td>
<td>0.59%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Country</th>
<th>Population</th>
<th>% World Populat.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberia</td>
<td>3,476,608</td>
<td>0.05%</td>
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<tr>
<td>Mexico</td>
<td>107,550,697</td>
<td>1.59%</td>
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<tr>
<td>Morocco</td>
<td>31,538,660</td>
<td>0.47%</td>
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<td>Netherlands</td>
<td>16,528,197</td>
<td>0.24%</td>
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<td>Nigeria</td>
<td>154,729,000</td>
<td>2.28%</td>
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<td>Pakistan</td>
<td>167,157,500</td>
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<td>Peru</td>
<td>29,132,013</td>
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<td>Singapore</td>
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<td>Sweden</td>
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<td>Turkey</td>
<td>71,517,100</td>
<td>1.06%</td>
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<tr>
<td>United States</td>
<td>307,136,000</td>
<td>4.53%</td>
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</tbody>
</table>

**TOTAL**            | **3,090,960,088** | 45.60%          |
Growth Plan and next steps

- WJP Rule of Law Index Report 2010 (In September)
Example 1: Morocco
(Casablanca, Rabat, Fes)

- Limited Government Powers: 0.54
- Corruption: 0.47
- Clear, publicized and stable laws: 0.41
- Order and Security: 0.72
- Fundamental Rights: 0.56
- Open Government: 0.22
- Regulatory Enforcement: 0.47
- Access to Civil Justice: 0.55
- Effective Criminal Justice: 0.63

Bottom Score: 0.00 0.20 0.40 0.60 0.80 1.00
Top score: Morocco

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Example 2: Jordan
(Amman, Az Zarqa, Irbid)

Access to Justice
(Indices 8 and 9)

Sub-index 8.2: People can access legal counsel
Sub-index 8.3: People can access and afford civil courts
Sub-index 8.4: Civil justice is impartial and free of improper influence
Sub-index 8.5: Civil justice is not subject to unreasonable delays
Sub-index 8.6: Civil justice is effectively enforced
Sub-index 8.7: ADRs are accessible, impartial, and effective
Sub-index 9.1: Criminal investigation timely and effective
Sub-index 9.2: Criminal adjudication timely and effective
Sub-index 9.3: Criminal system impartial and free of improper influence
Sub-index 9.4: Due process of law
Access to Justice - Japan

Access to Justice (Indices 8 and 9)

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Access to Justice (Indices 8 and 9)
Access to Justice — Mexico

Access to Justice (Indices 8 and 9)

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Sub-index 9.3: Criminal system impartial and free of improper influence
Sub-index 9.4: Due process of law
Access to Justice – Liberia

Access to Justice (Indices 8 and 9)

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Sub-index 9.2: Criminal system impartial and free of improper influence
Sub-index 9.3: Due process of law
Sub-index 9.4: Civil justice is effectively enforced
Summary

- Defining and measuring the Rule of Law is complex; however measuring has its benefits.

- The *WJP Rule of Law Index* provides a first step by relying on a carefully specified definition of the Rule of Law which is operationalized into more than 500 questions applied to experts and random samples of the general population.

- For more information, please visit: [www.worldjusticeproject.org](http://www.worldjusticeproject.org)
Thank you
“To be truly effective the rule of law needs to form part of the legal and political culture of the country. I cannot stress enough the importance of such a culture, which, if respected, is the greatest protection against injustice. Hence the importance of mainstreaming emphasized by the World Justice Forum… Ultimately, the struggle for a better society is a political struggle. One of the virtues of the rule of law is that it provides space for such contestation to take place.”

Arthur Chaskalson, former Chief Justice of the South African Supreme Court.
 Costs: Formal and Informal Justice

Costs Formal Vs. Informal Dispute Settlement Systems
Costs: Formal and Informal Justice

Informal Justice appears to be less costly in most cases.
Food for thought…

Ethnic Fractionalization vs. Violence by the Police and Military

The World Justice Project
**Fractionalization**

<table>
<thead>
<tr>
<th>Country</th>
<th>Ethnic Fractionalization</th>
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<tbody>
<tr>
<td>Liberia</td>
<td>0.91</td>
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<td>Kenya</td>
<td>0.86</td>
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<td>Nigeria</td>
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<td>Bolivia</td>
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<td>USA</td>
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<td>Morocco</td>
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<td>Dom. Republic</td>
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<td>South Korea</td>
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“Thick” v. “Thin”

- Pros and cons:
  - “Thin” definitions may be more readily applicable to diverse social and political systems.
  - But a system of positive law that fails to respect internationally recognized norms is at best “rule by law,” not “rule of law.”

- The Index takes an intermediate position that encompasses elements of political participation, fundamental human rights, and access to justice.
What is rule of law?

“Thin” definition
- Formal procedural rules
- Accountable government officers
- Effective access to justice
- Effective protection of civil and political rights
- Effective protection of social and economic rights

“Thick” definition
- Democratic elections
- Effective government regulation
- Equality under the law
- Order and security
- Separation of powers
4. Triangulation [Cross-checking data using multiple sources]

Observers:

- Two main sources of new data:
  - A general population poll: Probabilistic sample: 1,000 respondents per country (three largest cities).
  - Qualified respondent’s questionnaires: Completed by in-country experts in civil and commercial law; criminal justice; labor law; and public health.

Measurement tools:

- Three types of questions
  - General perception questions
  - Hypothetical cases with standardized assumptions
  - Experienced based questions
Example 4:

Sub-index 4.3: People do not resort to violence to redress personal grievances

- Mob justice

- People’s perception / Experts’ perception
  
  Please assume that a criminal is apprehended by the neighbors after committing a serious crime. How likely are the following outcomes?:
  
  a) The criminal is beaten by the neighbors
  
  b) The criminal is turned over to the authorities without harm

- People’s experience
  
  During the last year, have you seen a criminal being beaten by the people in this neighborhood?
During the last three years, have you or someone in your household been unfairly subjected to physical abuse by the police or the military? (Percentage of people answering yes)
$y = 0.919x - 0.0159$

$R^2 = 0.3966$
$y = 0.8159x + 0.1799$

$R^2 = 0.7907$