

### Introduction - The Four Universal Principles

Derived from internationally accepted standards, the World Justice Project's definition of the rule of law is a system in which the following four universal principles are upheld:

1. The government and its officials and agents as well as individuals and private entities are accountable under the law.
2. 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. The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient.
4. Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

These four universal principles are further developed in the following nine factors of the WJP Rule of Law Index, which measures how the rule of law is experienced by ordinary people in 99 countries around the globe.

Source: <http://worldjusticeproject.org/what-rule-law>

### Constraints on Government Power

Factor 1 measures the extent to which those who govern are bound by law. It comprises the means, both constitutional and institutional, by which the powers of the government and its officials and agents are limited and held accountable under the law. It also includes non-governmental checks on the government's power, such as a free and independent press. Governmental checks take many forms; they do not operate solely in systems marked by a formal separation of powers, nor are they necessarily codified in law. What is essential, however, is that authority is distributed, whether by formal rules or by convention, in a manner that ensures that no single organ of government has the practical ability to exercise unchecked power. This factor addresses the effectiveness of the institutional checks on government power by the: **Subfactors**

### Constraints on Government Power (cont)

- 1.1 Government powers are defined in the fundamental law
- 1.2 Government powers are effectively limited by the legislature
- 1.3 Government powers are effectively limited by the judiciary
- 1.4 Government powers are effectively limited by independent auditing & review
- 1.5 Government officials are sanctioned for misconduct
- 1.6 Government powers are subject to non-governmental checks
- 1.7 Transition of power is subject to the law

### Factor 2: Absence of Corruption

Factor 2 measures the absence of corruption in a number of government agencies. The factor considers three forms of corruption: bribery, improper influence by public or private interests, and misappropriation of public funds or other resources. These three forms of corruption are examined with respect to government officers in the executive branch:

#### Subfactors

- 2.1 Government officials in the Executive Branch do not use public office for private gain
- 2.2 Government officials in the judicial branch do not use public office for private gain
- 2.3 Government officials in the police and the military do not use public office for private gain
- 2.4 Government officials in the legislative branch do not use public office for private gain

### Factor 3: Open Government

An open government – conventionally understood as a government that shares information, empowers people with tools to hold the government accountable, and fosters citizen participation in public policy deliberations – is a necessary component of a system of government founded on the rule of law.



By [deleted]  
[cheatography.com/deleted-2754/](https://cheatography.com/deleted-2754/)

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### Rule of Law

#### RULE OF LAW: UNITED NATIONS DEFINITION

“The rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.”



### Factor 5: Order and Security

Measures how well the society assures the security of persons and property. Security is one of the defining aspects of any rule of law society and a fundamental function of the state. It is also a precondition for the realization of the rights and freedoms that the rule of law seeks to advance. This factor includes three dimensions that cover various threats to order and security:

#### Subfactors

- 5.1 Crime is effectively controlled
- 5.2 Civil conflict is effectively limited
- 5.3 People do not resort to violence to redress personal grievances

### Factor 4: Fundamental Rights

Measures the protection of fundamental human rights. It recognizes that a system of positive law that fails to respect core human rights established under international law is at best “rule by law”, and does not deserve to be called a rule of law system. Since there are many other indices that address human rights, and as it would be impossible for the Index to assess adherence to the full range of rights, this factor focuses on a relatively modest menu of rights that are firmly established under the Universal Declaration and are most closely related to rule of law concerns. Accordingly, Factor 4 encompasses adherence to the following fundamental rights: effective enforcement of laws that ensure equal protection:.

#### Subfactors

- 4.1 Equal treatment and absence of discrimination
- 4.2 The right to life and security of the person is effectively guaranteed
- 4.3 Due process of law and rights of the accused
- 4.4 Freedom of opinion and expression is effectively guaranteed
- 4.5 Freedom of belief and religion is effectively guaranteed
- 4.6 Freedom from arbitrary interference with privacy is effectively guaranteed
- 4.7 Freedom of assembly and association is effectively guaranteed
- 4.8 Fundamental labor rights are effectively guaranteed

### Factor 6: Regulatory Enforcement

Measures the extent to which regulations are fairly and effectively implemented and enforced. Regulations, both legal and administrative, structure behaviors within and outside of the government. Strong rule of law requires that these regulations and administrative provisions are enforced effectively:

#### Subfactors

- 6.1 Government regulations are effectively enforced
- 6.2 Government regulations are applied and enforced without improper influence
- 6.3 Administrative proceedings are conducted without unreasonable delay
- 6.4 Due process is respected in administrative proceedings
- 6.5 The Government does not expropriate without adequate compensation

### Factor 7: Civil Justice

Measures whether ordinary people can resolve their grievances peacefully and effectively through the civil justice system. The delivery of effective civil justice requires that the system be accessible and affordable:

#### Subfactors

- 7.1 People can access and afford civil justice
- 7.2 Civil justice is free of discrimination
- 7.3 Civil justice is free of corruption
- 7.4 Civil justice is free of improper government influence
- 7.5 Civil justice is not subject to unreasonable delays
- 7.6 Civil justice is effectively enforced
- 7.7 ADRs are accessible, impartial, and effective

### Factor 8: Criminal Justice

Evaluates the criminal justice system. An effective criminal justice system is a key aspect of the rule of law, as it constitutes the conventional mechanism to redress grievances and bring action against individuals for offenses against society. Effective criminal justice systems are capable of investigating and adjudicating criminal offenses successfully and in a timely manner

#### Subfactors

- 8.1 Criminal investigation system is effective
- 8.2 Criminal adjudication system is timely and effective
- 8.3 Correctional system is effective in reducing criminal behavior
- 8.4 Criminal justice system is impartial
- 8.5 Criminal justice system is free of corruption
- 8.6 Criminal justice system is free of improper government influence
- 8.7 Due process of law and rights of the accused

### Factor 9 : Informal Justice

Concerns the role played in many countries by customary and 'informal' systems of justice – including traditional, tribal, and religious courts, and community-based systems – in resolving disputes. These systems often play a large role in cultures in which formal legal institutions fail to provide effective remedies for large segments of the population, or when formal institutions are perceived as remote, corrupt, or ineffective. This factor covers three concepts: whether these dispute resolution systems are timely and effective:..

#### Subfactors

- 9.1 Informal justice is timely and effective
- 9.2 Informal justice is impartial and free of improper influence
- 9.3 Informal justice respects and protects fundamental rights

