

Access to Justice in the United States

Findings from the Newly Released Rule of Law Index of the World Justice Project

by Roderick B. Mathews and Juan Carlos Botero

The World Justice Project

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

—William H. Neukom, founder, president, and chief executive officer of the World Justice Project

The World Justice Project¹ (WJP) is a multinational and multidisciplinary movement whose mission is to strengthen and reinforce worldwide civil society's understanding that the rule of law is not just for judges, lawyers, and the courts, and that the rule of law is fundamental to safe, secure, and prosperous communities of equity and opportunity.

The rule of law is the cornerstone to improving public health, safeguarding participation, ensuring security, and fighting poverty. Without the rule of law, medicines do not reach health facilities due to corruption, women in rural areas remain unaware of their rights, people are killed in criminal violence, and firms' costs increase because of expropriation risk.

The WJP movement is unique in that it is based in collaboration and mutual support among all of the trades, disciplines, and professions, from architects and engineers to people in education, public safety, faith, journalism, military service, the arts, and beyond—as well as lawyers, judges, and the courts.

The WJP definition of the rule of law² has been vetted over the last three years in multidisciplinary mainstreaming regional conferences on five continents and in two World Justice Forums.³ More than twenty scholars, including two Nobel laureates, have produced original research that establishes that the rule of law is essential to communities of equity and opportunity.

A 501(c)(3) tax exempt organization, WJP achieves its mission through three core initiatives, each informing the others: international and domestic mainstreaming, scholarship and research, and the *Rule of Law Index*.

The WJP Rule of Law Index

The *WJP Rule of Law Index* is a new, trademarked quantitative assessment tool designed by the World Justice Project to annually measure countries' adherence to the rule of law and track changes across time.

The *WJP Rule of Law Index* examines practical situations in which a rule of law deficit may affect the daily lives of ordinary people. For example, the *Index* evaluates whether citizens and companies can access public services without the need to bribe a government officer, whether a basic dispute among neighbors or companies can be peacefully and affordably resolved by an independent adjudicator, or whether people and companies can conduct their daily activities without fear of crime or police abuse.

The *Index* provides new data on the following ten dimensions of the rule of law:

- limited government powers;
- absence of corruption;
- clear, publicized, and stable laws;
- order and security;
- fundamental rights;
- open government;
- regulatory enforcement;
- access to civil justice;

- effective criminal justice; and
- informal justice.

These ten factors are further disaggregated into forty-nine subfactors. The scores of these subfactors are built from more than seven hundred variables drawn from assessments of the general public and local legal experts.

The *Index's* rankings and scores are the product of a rigorous data collection and aggregation process. Data comes from a global poll of the general public (1,000 respondents per country) and detailed questionnaires administered to local legal experts. To date, more than 35,000 regular citizens and 900 experts from around the world have participated. A statistical audit of the *Index* data was conducted by the European Commission's Joint Research Centre. Both the report and the statistical audit are available for download at www.worldjusticeproject.org.

The *Index* data is intended for a variety of audiences, from reform-oriented governments willing to advance the rule of law in their countries to multinational companies interested in testing the temperature of the institutional environment around the world.

The *Index* currently covers 35 countries and is set to expand to 70 countries next year and 100 countries in 2012. It was made possible by funding from the Neukom Family Foundation, Bill & Melinda Gates Foundation, GE Foundation, Ewing Marion Kauffman Foundation, and LexisNexis.

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According to the 2010 report, which assesses countries on thirty-seven rule of law dimensions, the United States scored high in a number of areas, including open government, freedom of speech, freedom of religion, checks and balances on the government’s powers, effective regulatory enforcement, and clear, publicized, and stable laws.

The United States obtained low scores, however, in providing effective access to civil justice. In this category the United States appears to lag behind other developed nations sampled (Australia, Austria, Canada, France, Japan, Netherlands, Singapore, South Korea, Spain, and Sweden). In need of improvement in this category are access to and affordability of legal counsel in civil disputes for low-income people and delivery of civil justice without unreasonable delays.

These problems appear to affect poor Americans the most. According to a *Rule of Law Index* poll of one thousand people in New York, Chicago, and Los Angeles, a significant gap exists between rich and poor individuals in terms of both actual use of and satisfaction with the civil courts system. For example, only 40 percent of low-income respondents who used the court system in the past three years reported that the process was fair, compared to 71 percent of wealthy respondents. This 31 percent gap between poor and rich litigants in the United States is the widest among all developed countries sampled. In France this gap is only 5 percent; in South Korea, 4 percent; and in Spain, it is nonexistent.

Several reputable organizations⁴ have found that fewer than one in five low-income persons in America obtain the legal assistance they need. The *Rule of Law Index* confirms these findings and provides a new comparative perspective on this problem. As Professor Anthony Sebok argued in a recent opinion piece,⁵ there may be a problem of allocation of resources within the civil justice system in the United States.

WJP Projects in Virginia

In addition to developing the *WJP Rule of Law Index*, the World Justice Project is associated with civil education and Law Day events across the United States. One is the Teach the Kids program in Virginia, through which volunteer lawyers have taught middle school students in more than twenty school districts about the rule of law. Teach the Kids is sponsored by the Virginia Bar Association with a grant from the Virginia Law Foundation.

The WJP also has been involved in Law Day programs cosponsored by the Virginia Holocaust Museum and the Virginia Law Foundation. The programs brought together people of different disciplines to discuss such topics as human rights and hate speech, to strengthen understanding of the rule of law.

On the other hand, the *Index* found that the U.S. criminal justice system ranks fourth among all countries surveyed in adjudicating criminal cases in a timely and effective fashion, as well as in guaranteeing due process of law and protecting rights of the accused in U.S. courts. However, in terms of people’s perceptions of the criminal justice system’s equal treatment of defendants regardless of ethnicity, national origin, and socioeconomic status, the United States was found to lag behind income peers included in the sample.

Despite the *Index’s* methodological strengths, its findings must be interpreted in light of certain inherent limitations. While the *Index* is helpful in tracking the “temperature” of the rule-of-law situation in the countries under study, it does not provide a full diagnosis or dictate concrete priorities for action. A 95 percent confidence interval for the *Index’s* nine factors is available at the statistical audit conducted by the European Commission’s Joint Research Centre. For further details, visit www.worldjusticeproject.org.

Endnotes:

- 1 The World Justice Project is the vision of William H. Neukom, a past president of the American Bar Association.
- 2 The WJP definition of the rule of law is at www.worldjusticeproject.org.
- 3 The third International Forum will take place in Barcelona in June 2011 and will be attended by as many as four hundred

representatives from more than ninety countries

- 4 Institute for Survey Research and American Bar Association, 1994; National Center for State Courts, 2006; Legal Services Corporation, 2005 and 2009; American Bar Association, 2010, among others.
- 5 The New York Times, “*Helping Ordinary People*,” November 16, 2010. Available on-line at: <http://www.nytimes.com/roomfordebate/2010/11/15/investing-in-someone-elses-lawsuit/helping-ordinary-people>



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