

THE RELATIONSHIP BETWEEN THE RULE
OF LAW (RoL) AND LEGAL CULTURE.
A COMPARATIVE QUANTITATIVE ANALYSIS

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The real-life problem

Democratic backsliding

Decline of liberal democracy and constitutionalism

Etc.

A specific arrangement in post-communist countries, but an increasingly Worldwide phenomenon

Attack on the democratic institutions (e.g. Division of Powers and the Rule of Law)



The scholarly problem (a gap?)

- Democracy has been treated as general phenomenon, though the problem of popular majority and other aspects of democracy has been an issue for long (e.g. Dahl's Democracy-Poliarchy)
- Preconditions of democracy has been researched for long and for almost a decade empirically (Lipset's Political Man); though the role of culture as an independent variable occurred decades later.
- Democracy has been researched, understandably by political (social) scientists
- Legal aspects of a full-fledged democracy (Division of Powers; the legal minimum defined by Lon Fuller and fundamental rights, including guarantees for minorities) has been researched
 - Either by political scientists – not being aware of the specificity of law ; or
 - Lawyers, typically focusing on black letter law – not being able to analyse law in reality
- The counter-majoritarian scholarly argument echoed by most populist politicians: democracy = popular majority and only that; institutions, such as Rule of Law (RoL) are seen as barriers to popular will.
 - *NOTE: Our basic presumption is that these elements are necessary preconditions of democracy.*
- The project at hand addresses: cultural preconditions of the RoL and analyses the issue with an empirical, comparative method.
- The very first stage is presented below.

Dependent and independent variables

DEPENDENT: ROL INDEXES:

- ♦ WB Governance indicators: RoL – focuses on economically relevant issues (property rights, contract enforcement – most countries)
- ♦ World Justice Project (most elaborated, several sub-indexes; mixed method)
- ♦ Freedom House – most criticized, but longest period
- ♦ Others, like Bertelsmann
- ♦ *High ($\approx 0,9$) correlation*

INDEPENDENT EXPLANATORY VARIABLES

- ♦ Hofstede's 6 dimensions (several countries)
- ♦ Schwartz 7 dimensions
- ♦ GLOBE 2004 (2*9 / practice and values) (several countries)
- ♦ Inglehart-Welzel (2+2 dimensions) (several countries)
- ♦ Gelfand's Tightness indicator
- ♦ Control variables (presently only GDP/cap.; Gini)

The research approach

POSSIBLY:

- ♦ Theoretical: which cultural indexes may be relevant? E.g. individualism-collectivism (several sets); uncertainty reduction, power distance (several sets)
- ♦ Empirical: Looking for statistical relationships

MAJOR ISSUES

- ♦ Endogeneity: simultaneity bias; or rather Lazarsfeld's third cause
- ♦ Timing for cultural and RoL indexes (cultural may be earlier; though our presumption is that *culture changes slowly*)

WHAT HAS BEEN DONE?

A very early stage of the research; below presented the first empirical findings, not elaborated

- ♦ Theoretically
 - ♦ Methodologically
1. Correlations have been tested for WJP Overall RoL with all cultural indicators.
 2. Regression statistics by cultural index sets and GDP/cap. and GINI involved.
 3. Preliminary, very draft, first result below; rather for being interesting than for being academically relevant.

Correlations results with WJP Overall (2021)

Strong (signif < 0,001), **relevant (signif < 0,02)**

- ♦ Hofstede

- ♦ Power distance
- ♦ Individualism
- ♦ **Long-term orientation**

- ♦ Schwartz

- ♦ Embeddedness
- ♦ Hierarchy
- ♦ Affective autonomy
- ♦ Intellectual autonomy
- ♦ Egalitarianism
- ♦ **Harmony**

- ♦ Inglehart-Welzel

- ♦ Gelfand Tightness

- ♦ Globe

- ♦ Practice

- ♦ Uncertainty avoidance
- ♦ Power distance
- ♦ Loyalty to the smaller group (e.g. family)
- ♦ **Future orientation**
- ♦ **Individualism**

- ♦ Values (*seem less relevant than practice*)

- ♦ Uncertainty avoidance
- ♦ Future orientation
- ♦ Individualism

Regression models

(with the above independent variables) R squares

Explanatory	WJP Overall		WJP Rights	
	With control	No control	With control	No control
Hofstede	0,870	0,509	0,703	0,445
Schwartz	0,906	0,596	0,846	0,629
Globe practice	0,890	0,705	0,799	0,607
Only control (GDP, Gini)	0,838		0,653	

Some preliminary concluding assumptions

- ♦ Relevant variables
 - ♦ Individualism – understandably – relevant in all approaches
 - ♦ Power distance seems also relevant (with a strong negative correlation in all 3 models)
 - ♦ Surprisingly (to me), long-term orientation may also be relevant
 - ♦ Surprisingly (to me), uncertainty avoidance does not seem universally dominant (at least not as measured by Hofstede)
 - ♦ There could be significant differences between measures under similar name and concept (vs. theoretically merging these; Kaasa 2021)
- ♦ Overall explanatory power (R^2 s) (culture vs. controlling variables)
 - ♦ The most widely used indicator performs somewhat worse than others
 - ♦ The two basic controlling variables (Gini, but especially strongly GDP/capita) has a dominant explanatory power. The relationship between these and the culture and RoL indicators has to be further investigated. (I.e. is the wealth that explain both or there is a more intricate relations; possibly even Wealth \rightarrow Culture \rightarrow RoL)

To do

- Better understanding of cultural indicators (how are these measured; questionnaire question level)
- Involvement of additional independent variables: proxi, social level cultural indicators (e.g. religious division of the society) and controlling variables (e.g. on the political and legal system: political stability, party and election system, legal system type)
- More sophisticated statistical analysis with the involvement of experts
- More in depth analysis:
 - Getting closer to indicators more tightly related to law and RoL (above the analysed general, typically work-culture indicators)
 - Better understanding of the cause-effect relationship (experiments?, case studies?, observation?)
- ♦ *I am looking forward to your comments, critique, and suggestions in all regards*

Thank you!

Questions, comments, suggestions

