

# Well-Orderedness In State And Society

Jan-Erik Lane

Professor Emeritus at Geneva University

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## Abstract

Today there is a set of well-ordered countries to which many people would like to move. What is their advantage? Reply: they are well-ordered in the public and private sectors adhering to the Keynesian model of a mixed economy.

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**Keywords :** Well-orderedness, rule of law, dictatorships, legal systems; principal-agent interaction, looting

## 1. Introduction

In chiliastic theory like Marxism and Anarchism or anarcho-syndicalism there is the idea of an end-state of human history where liberty and equality would be both realizable. The state as regulator would cease to exist and society flourish unoppressed by institutions that constrain freedom.

The principal-agent model from the economics of information entails that egoism and asymmetrical knowledge make such an end state impossible. Only a country with institutions that restrain opportunistic behaviour can be a happy country.

## 2. RAWLS: The well-ordered country

In A Theory of Justice Rawls pictured the necessary background to the implementation of his principles of justice, namely the well-ordered society. Here there was actually a tautology, as Rawls used his 3 rules of justice to construct this well-ordered society. To be more precise, a well-ordered society fulfills two of his justice notions: freedom and impartiality.

What caused much attention was Rawls' third principle: *maximin* derived from a veil of ignorance. As a matter of fact, this is socialist equality involving considerable transfer payments and free public services. No country has ever tried the maximin strategy for social justice – to maximize the share of the least favoured. This amounts to feasible equality, given losses from taxing the more favoured.

In his later writings, Rawls never returned to socialist equality but emphasized political liberalism.

Freedom, impartiality and equality are focused upon in theories of justice. In the well-ordered countries around the world it is freedom and impartiality that counts.

Barry claims that justice is impartiality but this seems to hold for legal justice much more than for social justice. For instance, how about progressive taxation, central to social justice? Sen argues that Rawls' notion of a state of the veil of ignorance entails transcendentalism, but it merely posits a game where a player does not know whether he happens to be or become rich or poor.

Now, how then to tell whether a country is well-ordered or not? Can one speak about degrees of well-ordered countries? Yes, by linking it up with the concept of rule of law.

### 3. Rule of Law

There is no neat and tidy definition of the expression “rule of law”. The Oxford English Dictionary offers the following entry:

“[t]he authority and influence of law in society, especially when viewed as a constraint on individual and institutional behavior; (hence) the principle whereby all members of a society (including those in government) are considered equally subject to publicly disclosed legal codes and processes.”

One may deconstruct this concept with other concepts or criteria like:

- 1) Strong legal formalism promoting equality under the laws;
- 2) Individual rights covering contract, free labour and private property as well as the joint stock company with *bourses*.
- 3) Checks and balances, i.e. institutionalized mixed government with countervailing competences between executive, legislature and judiciary.

The World Justice project (WJP) maps the existence of rule of law, unpacking a rule of law regime as follows:

- a) Constraints on Government Powers
- b) Absence of Corruption
- c) Open Government
- d) Fundamental Rights
- e) Order and Security
- f) Regulatory Enforcement
- g) Civil Justice
- h) Criminal Justice.

The WJP underlines accountability, judicial independence, legal formalism and balance of power between executive and legislature.

Table 1 presents results of the most recent survey of the RL Index for 138 countries around the world, presenting the mean value by region.

Table 1. Average RL index by world region by 2021.

Region	Min	Average	Max
East Asia & Pacific	0,32	0,60	0,83

Eastern Europe & Central Asia	0,42	0,50	0,61
EU + EFTA + North America	0,52	0,74	0,90
Latin America & Caribbean	0,27	0,52	0,71
Middle East & North Africa	0,35	0,49	0,64
South Asia	0,35	0,44	0,52
Sub-Saharan Africa	0,35	0,46	0,62

Source: WJP 2021.

The scores above are the results of numerous computations. For each aspect of rule of law a country is scored between 0 and 1, allowing a conclusion about more or less, which scores are then aggregated.

#### 4. Most Well-Ordered

Here we find countries scoring between 0.9 and .75. The top well-ordered countries are all Nordic countries and the US comes lower at .69. Why? It may be pointed out that Western Europe, Australia, Canada and Uruguay come in between the Nordics and USA. What is the secret behind Scandinavian well-orderedness?

Perhaps the comparison of the US with small Nordic countries is misplaced. All the large countries of the world perform worse than USA. The large West-European countries score above the US except Italy.

The WJP index mentions a large number of countries that score below .5. They are deficient in terms of:

- I) Accountability
- II) Just law
- III) Open government
- IV) Accessibility and impartiality.

One observes that the majority<sup>1</sup> of mankind lives in ill-ordered countries like Uzbekistan at .5, China at 0.47, and Venezuela at very low 0.27.

Many of the countries that are ill-ordered are Hobbesian, i.e. they are plagued by chaos or tribal conflicts. On the other hand, we also find firm dictatorships.

In the set of ill-ordered countries we have dictatorships of all kinds. Today it is actually difficult to distinguish between ring-wing and left-wing authoritarian regimes. Take the case of Burma!

The ill-ordered countries are to be found in Latin America, Africa, Middle East and Asia as well as the Caribbean and the Pacific. However, there are clear exceptions: Costa Rica and Chile, Botswana and Namibia, Japan and South Korea for example.

#### 5. Dictatorship

The road to ill-orderiness in sub-Saharan Africa has been the making of coups. Once a country is the victim of a coup, this often happens repeatedly. There is no counterweighing force in African countries, except in a few well-ordered ones.

Military coups is one plague, and the other one is long-term mismanagement by a too long sitting president, like in Congo, Zimbabwe and Sudan

Modern dictatorships have a conspicuous economic face. It is driven by the search for material advantages like luxury lifestyle and the accumulation of wealth and properties. Nowhere is this motivation more apparent than in the former USSR and the Gulf monarchies.

Let me call this human drive "*looting*". It is closely connected with the orientation of dictators and their entourage towards the family and kin.

Max Weber writes in his famous article "Politics as a vocation" that politics is all about power. No, I would say. In dictatorships economic benefits is the end and policy the means, whereas in political life economic policies are the means and power the end.

The Weber focus is power, as ends and means. Nowhere does he talk about economic motives. Instead he opposes the ethics of *righteousness* with that of *realism*.

## 6. Latin American *Violenza*

Few countries in Meso America or South America score as well-ordered. On the contrary, they mostly come in at around .5 or lower. In fact, LA political history is much characterized by instability and outright violence, between countries or within them. Chile ranks high although the memory of Pinochet is still fresh.

LA countries have a form of instability and disorder at the basic social level among the interactions of people. A few are drowning in gangster or mob violence, often related to drug battles. It should be pointed out that the Caribbean has both well-ordered and ill-ordered countries. The slaughter of the rain forest and indigenous cultures is heart-breaking.

## 7. Kadi-Justiz

None of the Muslim countries score as well-ordered; except the UAE? It is the quality of the legal system in Dubai that renders such a high evaluation. Yet; the WJP puts open government at UAE to .65 – hardly correct. That Muslim countries are ranked often as ill-ordered reflects the strong position of Sharia Law or Shia legal institutions. Law is what the Kadi and the Mufti arrive at in court, even when deviating from just law and impartiality.

Muslim countries are mostly either dictatorships or in Hobbesian strife between Sunnis and Shias. Several regimes are patrimonial and resources belong to a ruling dynasty. A few Muslim states use the Koran as the Basic Law that is outside of principal-agent modelling of politics and administration. Malaysia and Indonesia are promisingly innovative.

## 8. Leninism

No political theorist has had a practical influence as Lenin. Writing dogmatic elaborations of Marx, he confronted the question of what could be done in a backward society to enhance socialism. Lenin focused on Marx' idea of the dictatorship of the proletariat that had not been spelled out in detail.

Lenin outlined the *Leftist State* with total *control* that would assist *economic* development in its path towards its end state- from each according to capacity, to each according to need. It was a one party state –

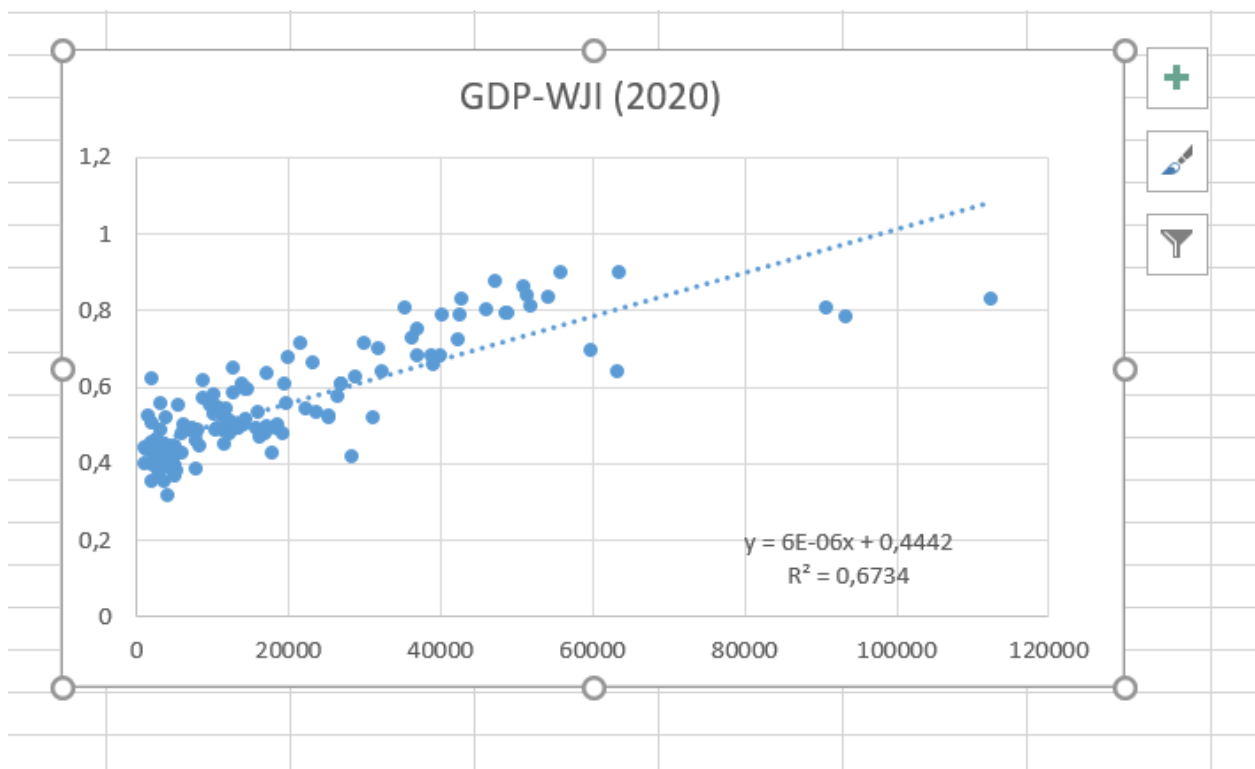
dictatorships of the proletariat. This was the centralised Soviet Union, adopted in one form or another in the countries where the Communist Party took power. Millions of people live under Leninism as polity which has no foundation in principal-agent theory.

The dictatorial state that Communism ushered in is ranked by the WJP as ill-ordered but because of its instability. The crux of the master is the political control of the judiciary. Socialist law is not guided by considerations of justice like Common Law and Civil Law.

**Conclusion: Politics, Economics And The Law**

Well-ordered countries are affluent meaning gdp per capita. Buy not all countries that ate not part of the set of wrll-ordered countries are to be found in the Hobbesian condition of povert4 and conflict. It is true that a few are in dire straits but several outside the set of well-ordered countries are neither poor nor instable. Diagram 1 shows the relationship between the WJP index amd GDP per capita.

Diagram 1. GDP per capita and WJP index (World Bank 2022; WJP 2021).

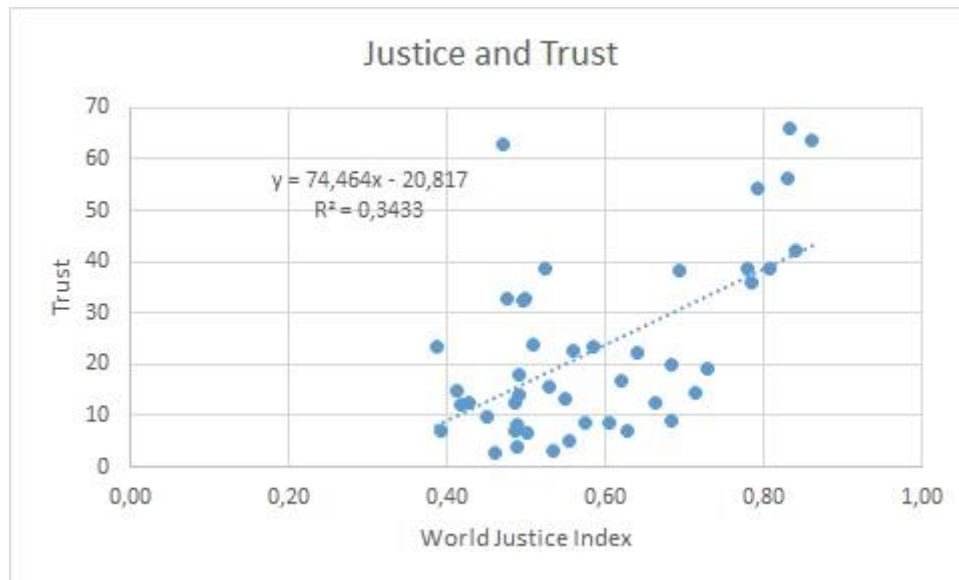


Affluence seems to be a necessary but not sufficient condition for well-orderedness. Culture also matters: the legal system of the country must be either Common Law or Civil Law. Still; the most well-ordered countries in the world employ Scandinavian Law. It has not been exported except its *Ombudsman*.

Much of human suffering is due to a life under injustice or institutions which do not restrain opportunistic behaviour like e.g. looting. In the ill-ordered country without rule of law: accountability, just law, open government and impartiality people are oppressed. The Nordic model goes beyond Nozick's justice solution.

We may add that well-orderedness promotes trust – see Diagram 2.

Diagram 2. Connection justice and trust (WJP 2021; Ortiz-Ospina & Troser, 2016)



Well-ordered countries face abrupt climate change *which* requires cooperation with the **ill**-ordered countries and **it** may not be forthcoming **in** time. The shape of Law shapes the country - both publicly **and** privately.

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