

Globalisation, Civilisations and Capitalism

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Abstract: *The rise of South East and East Asia to near dominance in economic production in the global market economy calls for a few remarks upon the well-known Weber thesis about a close link between Western civilisation and modern capitalism. If one employs the value loaded concept of a civilisation in an enquiry into capitalism today, then one finds few traces of the Weber link: Protestantism – rationality – modern capitalism. Instead one finds a clear and unmistakable relation between a parsimonious set of civilisation covering the countries of the world on the one hand and the variation in rule of law on the other hand. Rule of law (Rechtsstaat) is as a matter of fact the core in legal-rational authority, which Weber erroneously placed in his ideal-type of bureaucracy.*

Keywords: *institutional economics, economic sociology, civilisations, rule of law, Weber's thesis, the institutions and mechanisms of government under the laws: low and high politics, the principal-agent problematic in politics, due process of law.*

1. INTRODUCTION

The emergence of globalisation theory looking upon Planet Earth as a whole in terms of politics, economics and culture makes civilisation analysis relevant again, although this field of study could use other methods and starting-points than those of for instance Spengler (1918) and Toynbee (1934-54) focussing upon the life cycle of civilisations or van Sloan with his notion of civilisation leadership as well as Huntington with his somewhat narrow focus upon conflict or clashes between civilisations (1996).

Although the historical study of civilisations received new stimuli from the evolutionary perspective of Diamond (1999) or Morris (2009), the basic concepts in civilisation enquiry of birth, life span and death as well as leadership of or conflict among civilisations are value loaded. A civilisation is a mere statistical concept, aggregating first and foremost country similarities or differences. The categories of civilisations are immense aggregations in the world population, collecting groups of the somewhat 200 countries of the world into a parsimonious set of super groups. Several attempts have been made, but they have all been criticised for either too much simplification or some inherent bias.

It is necessary to reflect upon the value-loaded notion of a civilisation. Alternative lists of civilisations have been suggested (Toynbee, 1934-54), but here we concentrate upon the present vibrant civilisations with important economic activities in both the real and the financial economies. Here, a new scheme for the analysis of the civilisations in the period of globalisation is outlined. And the different civilisations of the world today are further evaluated from the point of view of institutional economics or economic sociology, attempting to grasp the meaning and significance of the global market economy, called “modern capitalism”,

The interconnectedness in the global economy has become so large that any major shock would hurt almost all economies in the world. The amount of interaction in the global economy is typically measured with the IMPEX indicator, which divides imports plus exports with the GDP. Diagram 1 shows the constantly growing IMPEX scores for the global economy, which follows closely the expansive trend for global output and world trade. The so-called KOF index measuring a wide variety of indicators on the occurrence of globalisation in many countries is clearly up since 1980.

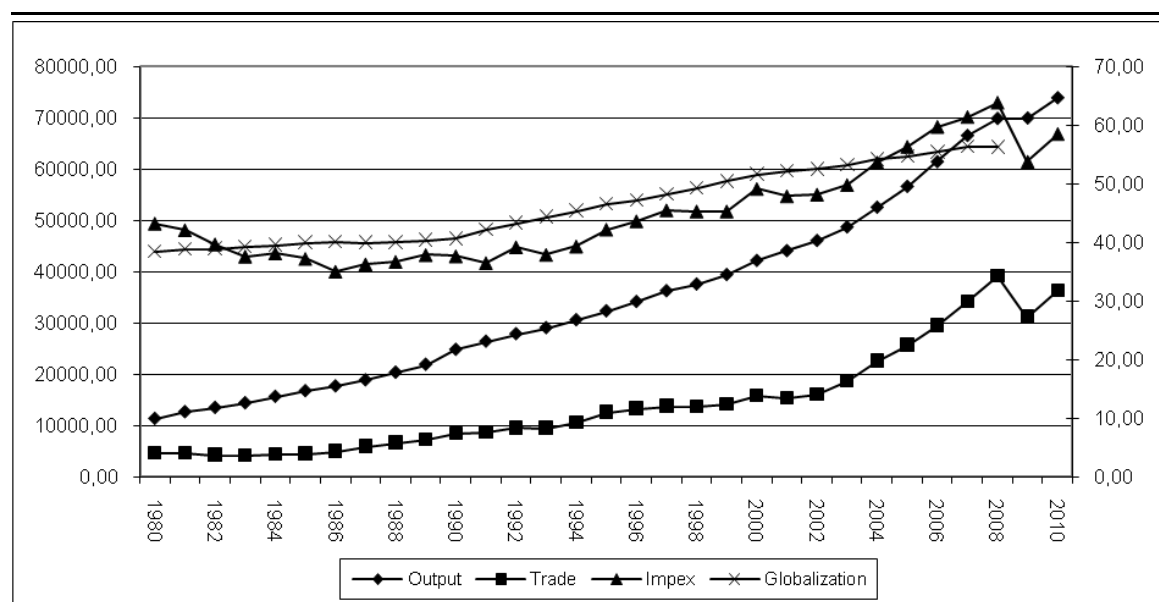


Diagram 1. *Interconnectedness: IMPEX scores, Trade and Global GDP*

Output = Gross domestic product based on purchasing-power-parity (PPP) valuation of country GDP; Current international dollar; Billions (left axis)

Trade = Imports and exports of goods and services; Current dollars; Billions (left axis)

Impex = Trade / Gross domestic product, current prices; Current dollars; Billions (right axis)

Globalization = Means for KOF index (Dreher 2006) for 174 constant countries (right axis)

Sources: IMF (2010) World Economic Outlook Database; available via:

<http://www.imf.org/external/pubs/ft/weo/2010/02/weodata/index.aspx>

Dreher, Axel (2006): Does Globalization Affect Growth?

Evidence from a new Index of Globalization, *Applied Economics* 38, 10: 1091-1110;

data available via: <http://globalization.kof.ethz.ch/>

The close match between the trends in Diagram 1 confirms the basic insight in market economics that only free trade can deliver affluence. Global trade and foreign direct investments remain the engine that power global economic expansion, or as it is typically called capitalism.

Typical of the civilisations of the world today is that they are connected through the a global market economy, i.e. both aspects of it, namely the real economy on the one hand and the financial economy on the other hand. This *ONE* market economy is often called “capitalism”, by both people on the Right (with approval) and people on the Left (with critique). Faced with several civilisations and capitalism, one may enquire into whether the various civilisations on Earth display different relationships to capitalism. But how to approach this notoriously value-loaded concept?

2. THE TWO MEANINGS OF “MODERN CAPITALISM”

This is not the place to comment upon the longish discussion surrounding the phenomenon(a) of what we label “capitalism”, from Karl Marx to Milton Friedman (1962) and Kenneth Galbraith (1982) over W. Sombart (1927) and J.A. Schumpeter (1989), it is enough to make a few key distinctions.

First, one may identify capitalism as a dynamic economic process, characterized by swing between expansion and depression, and measured in rates of economic growth – an outcome definition. In this sense, China is a capitalist country, or perhaps the most capitalist in the world. Capitalism in this approach is driven by the search for profits, short-term or long-run, and it could include both *capitalisme sauvage*. This is “capitalism” as the acquisitive spirit (Tawney, 1920), a universal phenomenon. “Capitalism” referring to economic exploitation includes all forms of activities where the remuneration is often excessive, such as tax farming and share cropping (e.g. the *Zamindari* system) or *Commenda* trading with for instance Venice merchants.

Second, one could mean by “capitalism” *modern capitalism*, i.e. link capitalism with a specific set of institutions, outlined in the school of *Law and Economics* (Coter and Ulen, 2011), which makes it different from Ancient (slavery) or Feudal Capitalism (serfdom). Crucial here is not only the limited liability organisation – *Aktiengesellschaft* - or the *Bourses*, but a high degree of economic freedom for both capital and labour, including full private property. Modern or organised capitalism involves several of the rights and duties that enter the concept of rule of law, in the World Bank framework for analysing good governance (World Bank, 2009). According to this meaning, China is hardly a fully modern or organised capitalist country, especially when taking its high level of corruption into account also.

To Marxists, “capitalism” stands for a determinate period in the evolution of the social systems of mankind, namely the *industrial epoc* when the employment of large scale physical capital in huge factories permitted the appropriation of immense surplus value from the proletariat. Today many Marxists speak of our time period of the dominance of financial capital, i.e. currencies, bonds and stocks. Sombart spoke of three stages in the emergence of capitalism, viz *Early, High and Late Capitalism*. Yet, the distinction between the general concept of capitalism and the specific concept of modern capitalism was clearly spelled out in the early 20th century by Max Weber's in his analysis of economic history (2003) as well as in his painstaking enquiries into the economic ethics of world religions. They actually broke the established racist perspective upon civilisations, typical of late 19th century thinking (Weber, 1915-20). Whereas both Sombart and Schumpeter predicted wrongly the coming end of capitalism, Weber argued that capitalism as exploitation (meaning I) is unerasable and capitalism as institutionalised capitalism (modern capitalism, meaning II) is the most rational form of economic activity that also socialist countries have to acknowledge and adopt.

Weber rejected any biological basis for the classification of civilisations, very similar in tone to his disbelief in primordialist ethnicity (Weber, 1978). What separate men and women is their belief, and not races, he argued with emphasis against for instance his famous competitor in the modern enquiry into capitalism, namely Werner Sombart (Langer, 2012). And, according to Weber, here religion constitutes the most powerful source of belief-systems in the form of articulated dogmas of faith.

Weber focussed upon the economic effects of the world religions, searching for the origins of modern capitalism, which he equated with the requirements of rationality or modernisation. Of the link he suggested in 1904-05 – Protestantism and the market economy, there remains nothing today, as other civilisations or economic centres display presently as much if not more economic dynamism that the Western one. The institutions of modern capitalism, as Weber spelled them out, can be exported to other civilisations than the Western one and they may learn how to put them to work vibrantly.

Let us instead search for civilisation effects outside of the global economic system, within politics. I will argue that the countries of the world today display difference in the respect for rule of law as well as that this variation has a civilisation background. The crucial importance of the rule of law institutions become intelligible when put into the principal-agent framework for analysing politics and political rulership, derived from the new economics of information.

3. HOW TO IDENTIFY CIVILISATIONS: WHAT CULTURAL ITEMS TO USE?

Culture is employed to single out a set of civilisations, but culture covers a huge variety of items, such as behaviour, beliefs and artefacts. One may consider a number of criteria with which to classify countries into a set of civilisations, *inter alia*: i) Language families; ii) Religion; iii) Values; iv) Legacies; v) Economic mode of production; vi) Geography. Since civilisations are constructed by the scholar, the choice between i) – vi) depends upon what one intends to illuminate or show. Given the sharply increasing relevance of religion in the period of globalisation, I will employ the criterion b) above. Again, one may debate what a fruitful classification of the religions in the world today would amount to. A number of criteria have been used (Glasesnap, 2000), *inter alia*:

- a) Monotheistic - polytheistic;
- b) Animism;

- c) Magic;
- d) Salvation: Inner worldly – outer worldly;
- e) Ascetism: World-rejecting – world mastering;
- f) Ethical – prophetic;
- g) Western – Eastern;
- h) Eschatologic – fatalist;
- i) Finite – infinite;
- j) Dualistic – monistic.

If we accept the Weber's idea that religion has had a pervasive impact upon social organisation and politics, then it seems most convenient to focus upon the world religions, i.e. the largest of them: Catholicism, Protestantism, Orthodox, Islam, Hinduism, Buddhism and Confucianism as well as Shintoism. However, the growing number of atheists or agnostics should be taken into account, as these groups are of considerable size in both Western Europe and Eastern Europe, in Russia as well as China. Thus, strong Communism is to be found in Far East Asia, where religion is barely tolerated.

One could, of course, have included several other religions or sects, but they are seldom predominant in a country, with the exception of the *Shias* in Iran. Using countries as the basis for an enquiry into religion, one may suggest a parsimonious list of ten civilisations:

- 1) Western: Protestantism + Catholicism;
- 2) Latin America: Catholicism with some Protestantism;
- 3) Orthodox: Greek and Russian Orthodox;
- 4) Arab Islam;
- 5) Non-Arab Islam;
- 6) Sub-Saharan Africa: animism, Christianity, Islam;
- 7) Hindu;
- 8) Buddhism, Confucianism/Taoism, Shintoism;
- 9) Communist;
- 10) Pacific: animism, Christianity.

One may point out that these groups of countries are not compact in terms of culture, not even when the criterion is world religion or atheism. Thus, religious minorities are to be found in most countries.

Yet, the theory that the world religions have had strong social implications implies that they have formed parts of legacies, or historical traditions that linger one even if the religious ferment may have subsided. In the case of Communism, it is the atheist legacy that counts, leading often to the suppression of religion, as in China at times.

4. HISTORICAL TRADITIONS

Neo-institutionalism and economic sociology has emphasized the importance of long lasting practices, or customs for social, economic and political outcomes. Such legacies may comprise patterns of behaviour, clusters of attitudes as well as long lasting institutions. Civilisations are historical traditions, but historical traditions could be smaller in scope and range than entire civilisations. Historical traditions could be based upon other kinds of culture than religion, such as ethnicity and political history. One may argue that the civilisation categories above harbour such a number of historical traditions, like for instance the following tentative but not exhaustive listing:

- i) Latin America: Spanish and Portugal legacies, Catholicism; Indian legacies, the *latifundia* mode of production, *caudillos*, etc;
- ii) Sub-Saharan Africa: colonialism, tribal society, ethnic heterogeneity;
- iii) Orthodox legacy: Hierarchy in state, society and church; tsarism and *caesaro-papism*; the patriarch legacy, serfdom;
- iv) Islam: Submission to religion, religious jurisprudence, gender inequality, oriental despotism; the *madhi*;
- v) Hindu legacies: Incarnation and Magic, oriental despotism, castes and gurus, *bhakti*;

vi) East and Far East Asian traditions: the *sangha* organisations or monasteries, oriental despotism, *tantrism*, spiritism.

vii) Pacific countries: clans, tribes, *ratu*, colonialism, animism;

viii) Western traditions: secularisation; individualism; institutionalisation of the sciences;

ix) Communist legacy: planned economy, atheism, state control over society.

One may wish to add numerous other traditions to the list above, as it would be difficult to be exhaustive here. Historical developments tend to be complex, meaning that various traditions may coexist with each other under more or less tensions. When different traditions occur, it may be almost impossible to tell which is most important. Important for what? One could examine present day outcomes.

5. CAPITALISM TODAY

Weber saw modern capitalism, or the institutions of the market economy, as the giant difference maker among the civilisations of the world, resulting in economic rationality meaning affluence and power. If capitalism is merely a motivation force, then it has always existed as the incessant search for economic advantages, profits and success. However, if “capitalism” stands for a set of institutions, or rules, then one may wish to enumerate a number of different types of capitalisms: ancient, state, feudal, modern, etc. Weber summed up his position as follows:

“It is only in the modern Western world that rational capitalistic enterprises with fixed capital, free labor, the rational specialization and combination of functions, and the allocation of productive functions on the basis of capitalistic enterprises, bound together in a market economy, are to be found.” (Weber, 1978: 165)

But the institutions of modern capitalism can be exported and adopted by other civilisations, learned and refined, which is exactly what occurred in the 20th century. Thus, even if Protestantism, or Protestant ethics had something to do with the origins of modern capitalism in the West, which is an essentially contested matter, it could never guarantee any persisting advantage. Today, modern capitalism, at least when measured in terms of output, is perhaps stronger in East and South East Asia, with a few strongholds also within Islam.

Modern capitalism is not a difference maker in the world today. All civilisations practice it. If Weber perhaps led us in the wrong direction by focussing upon the amorphous phenomena labelled “capitalism”, then we must ask: Why did he not enquire into the civilisation sources of his famous ideal-types of political power, or legitimate authority? I will show below that the civilisation variation remains as large today as it was in 1900, when it comes legal-rational authority, interpreted as the rule of law.

6. CAPITALISM AS ECONOMIC DYNAMISM

One may raise the question whether we are witnessing the definitive eclipse of what Weber theorized as the dominance of modern Western capitalism, as we do not find European or American countries among top most dynamic countries in the world today. Table 1 shows economic growth among the G20 countries, for 2000-2006 (a) and 2007-2011 (b), where the economic success of the BRIC is obvious.

Sources: USDA-ERS:

<http://www.ers.usda.gov/data-products/international-macroeconomic-data-set.aspx>; Worldbank:

<http://databank.worldbank.org/data/home.aspx>

Consider also the basic economic growth data in Table 2, covering the 67 largest country economies in the world. Over a rather long time span of 12 years, the Nafta and EU countries have performed much worse than the dynamic economies in Latin America, Asia and Africa.

Table 1. Average economic growth in G20 countries

Argentina	ARG	3,75	6,16
Australia	AUS	3,23	2,32
Brazil	BRA	3,36	3,67
Canada	CAN	2,50	0,87
China	CHN	10,25	9,19
France	FRA	1,81	0,01
Germany	DEU	1,40	0,60
India	IND	7,28	6,87
Indonesia	IDN	4,94	5,66
Italy	ITA	1,25	-1,15
Japan	JPN	1,40	-0,77
Korea, Republic of	KOR	4,57	3,07
Mexico	MEX	2,48	0,99
Russia	RUS	6,54	1,34
Saudi Arabia	SAU	3,39	3,83
South Africa	ZAF	4,24	1,98
Turkey	TUR	4,78	3,15
United Kingdom	GBR	2,88	-0,71
United States	USA	2,34	0,18
The European Union	EUU	2,00	-0,20
Euro Area	EMU	2,39	-0,08

Note: Economic growth = $((\text{natural logarithm (GDP year } n) - \text{natural logarithm (GDP year } 1)) / (n-1)) * 100$

Sources: USDA-ERS:

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Table 2. Summary of economic growth per year in total GDP 2000-12 in the largest country economies in the world today

Groups	Mean	Std. Dev.	Freq.
1	2.3	0.84	3
2	4.3	1.1	7
3	3.1	1.0	21
4	3.8	1.8	14
5	5.6	1.8	22
Average	4.1	1.9	6

Note. Groups: (1) Nafta; (2) Latin America; (3) The EU; (4) Asia: East, South East and South; (5) Others.

If Japan with chronic economic stagnation is deleted from Group 4, then only the Nafta and the EU countries would score below the global growth average. The relative decline of the Nafta and the EU has no doubt been painful.

Research in the 20th century had to ask: Did Weber get it right when he argued in several painstaking enquiries into the world religions that other civilisations than the Western could not bring forward the market economy, or modern capitalism (Weber, 1988) The debate concerning his portraits of some of the chief world religions has not ended today, as scholars ask: Did Weber harbour an occidental bias, i.e. *orientalism*? Here I will underline not his omission of Catholicism and Orthodoxy, or his brief as well as rather negative remarks upon Islam due to its social effects. But instead I will emphasize that he concentrated exclusively upon economic outcomes in his civilisation enquiry.

7. INSTITUTIONAL CAPITALISM

Weber identified four types of political regimes: naked power, traditional, charismatic and legal-rational authority. However, he was not clear about the nature of the last type, linking wrongly – I wish to argue – legal-rational authority with his ideal-type model of bureaucracy. Typical of legal-rational authority is, I would wish to emphasize, government based upon rule of law. Let us first state the definition of “legal authority” from Weber:

“The validity of the claims to legitimacy may be based on: 1. Rational grounds – resting on a belief in the legitimacy of enacted rules and the rights of those elevated to authority under such rules to issue commands (legal authority).” (Weber, 1978: 215)

The key terms in this general definition is rules or institutions. Yet, he moves on to equate legal-rational authority with bureaucracy:

“The purest type of exercise of legal authority is that which employs a bureaucratic administrative staff.” (Weber, 1978: 220).

Yet, bureaucracy as a mechanism for carrying out the policies of rulers has, historically speaking, never operated according to the Weberian ideal-type. Bureaucracies have been invaded by affective ties, tribal loyalties and opportunistic selfishness. 20th century research into the bureaucratic phenomenon has resulted in numerous findings that question the applicability of Weber’s bureaucracy model. As a matter of fact, bureaucracies can support traditional domination, as within Chinese Empires or the Ottoman rulership. It may also figure prominently in charismatic rulership, as with The Third Reich or the Soviet State.

Legal-rational authority emerges in a state that honours rule of law. This involves the employment of LAW, both in high politics and in low politics. It differs from all other forms for the exercise of political power by complying with norms and by offering ways to correct abuses of these norms. Thus, this regime is not only legal but also rational in the meaning of the introduction and observation of a set of norms that are secular in nature, protecting the common best of the political community.

This legal-rational dispensation, ranging from constitutional norms at the top to legality and reasonable principles for day-to-day interaction at the bottom, does not have to harbour the democratic polity. What legal-rational authority entails is the following (Raz, 2009):

- 1) Legality: regulations are sanctioned by laws that are sanctioned by a constitution, or *lex superior*;
- 2) Predictability of law enforcement: laws and regulations meet with effective enforcement and wide-spread respect;
- 3) Equality under the law;
- 4) Autonomy of the judiciary;
- 5) Natural reason: no torture, no arbitrary seizure or arrests, no prison sentence without court procedures, property rights.

The occurrence of legal-rational authority, i.e. rule of law may be mapped using the governance indicators from the World Bank Governance project.

8. RULE OF LAW INDICATORS

Rule of law – in German *Rechtsstaat* –include both low politics – the predictable institutionalisation of transparent norms in everyday life – and high politics – the weight of constitutional law in government and administrative law in public services.

In the World Bank Governance project, one encounters the following definition of "rule of law":

Rule of Law (RL)

capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the

police, and the court, as well as the likelihood of crime and violence (Kaufmann, Kraay and Mastruzzi, 2010: 4).

RL is explicitly separated from “voice and accountability”, which is defined as follows in the WB project:

Voice and Accountability (VA) = capturing perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media (Kaufmann, Kraay and Mastruzzi, 2010: 4).

The WB Governance project suggests four additional dimensions of good governance (political stability, government effectiveness, regulatory quality and the control of corruption), but we will only enquire into RL here. The WB Governance project employs a host of indicators in order to measure the occurrence of RL around the globe, which results in a scale from -2 to + 2.

Rule of law with the WB is a complex index, composed of the addition of many often used indicators, such as:

- (a) Fairness of judicial process
- (b) Occurrence of political violence
- © Confidence in courts and police forces
- (d) Security of persons and goods
- (e) Independence of judiciary
- (f) Property rights.

It is true that many countries are so-called constitutional democracies, meaning that they score high on both these two composite indices in the WB Governance Project, rule of law on the one hand and voice and accountability on the other hand. However, the two concepts are distinguishable. From an historical point of view, it must be emphasized that rule of law developed much earlier than the democratic polity.

One may wish to go beyond this conventional classification of political regimes, based upon the Western concept of democracy, and enquire into the relevance of rule of law for any country, whether liberal, illiberal or anarchic. In whatever political regime a human being may live, he/she would value institutions that promote: Transparency of norms in law politics or daily life, constitutionality of high politics, court independence from politics and religion, immunities: a list of rights like *habeas corpus*.

Thus, one may advocate rule of law reforms in all kinds of political regimes without the accusation that one wants to force countries to adopt Western type democracy. Several countries score low on democracy, according to the WB Governance indices, but they achieve a moderate level of rule of law. Let us look at the global variation in rule of law, as measured by the WB. Here, we will employ the notion of a civilisation, as it offers a high level set of aggregates, suitable for globalisation analysis.

9. CULTURAL OUTCOMES: CIVILISATIONS MATTER

Approaching political culture as a set of legacies, the question that this interpretation of civilisations raises is what the more specific social and political impact has been for the present. Broadly speaking, one may search for cultural effects in either the economy – affluence – or in politics – democracy. The former approach is distinctly Weberian, whereas the latter perspective figures prominently in the theory of civic culture.

Here, I will target the rule of law, which is not identical to either the standard economic outcomes or the occurrence of the democratic regime. Concerning affluence and culture – the Weber thesis, it has little relevance for the world today, as other civilisations than the Western have adopted the institutions of capitalism with considerable success. With regard to the democratic political system, it can be argued that it is too much of a dichotomy. One cannot expect that the ideal-type

of competitive democracy with party governance could be introduced in each and every country, at least not in the short run.

Let me focus upon a variable that allows for a large variation and that is related to both the market economy and democracy, to some extent, namely the rule of law. The rules inherent in the notion of rule of law dates far back into political history and philosophy.

The Governance Project of the World Bank has made a tremendous effort at quantifying the occurrence of rule of law, employing all the indices in the literature. The findings are presented in a scale ranging from +2 to -2. Table 1 presents the aggregated scores for the civilisations, introduced above.

Table 2. *Civilisations and Rule of Law 2009*

	Mean	Std. Dev.	Freq.
Communist	755	383	6
Hindu	533	643	2
Muslem NONARAB	724	656	21
Africa	801	622	28
Arab	304	715	18
Asia	475	963	9
Latin America	185	788	34
Orthodox	507	355	8
Pacific	187	630	16
Western	120	668	38
Total	107	984	190

The eta squared statistic from ANOVA - .54 - suggests that civilisation is indeed highly relevant for understanding the country variation in the respect for rule of law. Some of the civilisations display negative overall scoring, although the high standard deviation should be taken into account. Thus, the Communist, Muslim NON-Arab and African civilisations score negative, which is also true of the Orthodox civilisation. We also find negative scores for the Hindu civilisation, but it only comprises two countries: India and Nepal. One may perhaps have expected a more negative score for the Arab civilisation, but the scores for several of the countries in this group is slightly positive: the UAE, Kuwait, Qatar for example. Both Hong Kong and Singapore score strongly positive, like Japan and South Korea.

It should perhaps be pointed out that poverty accounts to some extent for the disrespect for due process of law – see Diagram 2.

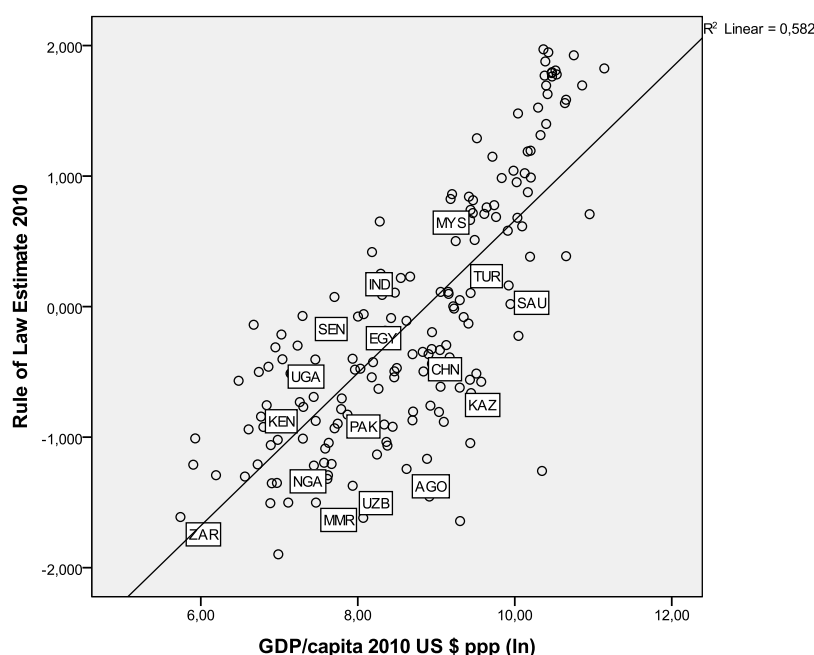


Diagram 2. *Rule of law and affluence (GDP per capita)*

However, culture also matters in the form of civilisations. The Latin American civilisation has still some way to go before the overall ranking is positive. But compared with the 1980s, major improvements have been accomplished.

10. IMPORTANCE OF RULE OF LAW

One may discuss the relevance of rule of law from two different angles, the micro on the one hand and the macro on the other hand. Thus, rule of law may matter for single individuals, or ordinary men and women. Or it has a clear impact upon the political system and the structuring of political institutions.

11. MICRO OR LOW POLITICS

For the individual person, the implementation of some form of rule of law regime, or set of institutions would affect daily considerably. Thus, the single individual would cherish:

Predictability: Public law when properly implemented makes it possible for people to increase the rationality of behaviour. They know what rules apply, how they read as well as how they are applied consistently. This is very important for the making of strategies over a set of alternatives of action.

Transparency: Societies operate on the basis of norms prohibiting, obligating or permitting certain actions in specific situations. Rule of law entails that these norms are common knowledge as well as that they are not sidestepped by other implicit or tacit norms, known only to certain actors.

Due Process of Law: When conflicts occur either between individuals or between persons and the state, then certain procedures are to be followed concerning the prosecution, litigation and sentencing/incarceration. Thus, the police forces and the army are strictly regulated under the supervision of courts with rules about investigations, seizure, detainment and prison sentencing. No one person or agency can take the law into their own hands.

Fairness: Rule of law establishes a number of mechanisms that promote not only the legal order, or the law, but also justice, or the right. For ordinary citizens, the principle of complaint and redress is vital, providing them with an avenue to test each and every decision by government, in both high and low politics. Here one may emphasize the existence of the Ombudsman, as the access to fairness for simple people. People have certain minimum rights against the state, meaning that government faces definitive duties concerning the protection of life and personal integrity. Thus, when there is due process of law – procedural or substantive – one finds e.g. the habeas corpus rights.

One could dare suggest that a majority of individuals in almost each and every country would wish to live under these principles.

12. MACRO OR HIGH POLITICS:

Rule of law at the macro level is conducive to constitutionalism in high politics. Constitutionalism was identified already in Roman political thought as the best regime, with Cicero. It comprises:

Lex superior: If the making of single decisions by the authorities is regulated by agency rules, and agency rules by administrative law, and administrative law by ordinary legislation, then what regulates legislation? Ultimately one arrives at a Kelsen's Basic Norm that both legitimates and restrains the rule of law regime, in the form of a constitution.

Secularism: In terms of religion, it adheres to a secular state based upon religious tolerance. When a state is identified with some religion or religious sect, then it cannot maintain neutrality and anonymity in relation to all groups in society. The idea of multiculturalism is as relevant for ethnically divided societies as for countries with high religious heterogeneity.

Separation of Powers: In order to have respect for the law as the key instrument for governing society and regulating the state, legislation, policy-making and implementation as well as law adjudication must somehow be separated. Under rule of law, this separation of powers targets the political elite active in the state, with the claim that it has to be divided into three different elites: legislators, governors or governments and courts. **Counter-weighting Powers:** Under the rule of law regime there could be no single source of political power, or a hierarchical order of command.

Instead, it favours multiple centres of power, or pluralism. Separation of powers enhances checks and balances in the state.

Court Independence and Judicial Integrity: Government under the laws is not feasible unless the judicial branch of government rests upon the interpretation of law as impartiality, with regard to both government and civil society.

Constitutionalism, harbouring the rule of law regime, is today combined with the democratic polity in almost 50 per cent of the states of the world. However, it is also relevant for non-democratic polities.

13. CONCLUSION: SOLVING THE PRINCIPAL-AGENT PROBLEMATIC IN POLITICS

The significance of the rule of law regime derives from the omnipresent principal-agent problematic in the state, both with regard to policy-making and policy implementation. Political elites – whether they be politicians, royal family, religious leaders, bureaucrats or professionals – must be seen as the agents of the population. How are they to be selected, monitored, remunerated and evaluated as well as held accountable, given the omnipresence of asymmetric information (Rasmusen, 2006)? The rule of law regime solves this problem by two mechanisms:

- a) Government under the laws;
- b) Checks and balances within the state among elites with counter-weighting powers.

The respect for rule of law today occurs unevenly in the major civilisations of the world. Where the enforcement of its principles is weak, like in several countries in the Muslim civilisations, in many states in Sub-Saharan Africa as well as in parts of the Orthodox civilisation, people suffer from politics. The so-called West still enjoys a comfortable advantage in terms of due process of law, both procedural and substantive, which should be emphasized when scholars speak of the decline of the West (Ferguson, 2012).

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