



## Brand South Africa

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### Research - Internal Analysis 2021 Rule of Law Index

19 November 2021

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#### 1. About the Rule of Law Index

The conceptual framework of the WJP Rule of Law Index is comprised of eight factors further disaggregated into 44 sub-factors. These factors without their sub-factors are presented below and described in detail below:

**Constraints on Government Powers:** 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

**Absence of Corruption:** measures the absence of corruption in government. 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, the judiciary, the military, police, and the legislature.

**Open Government:** measures the openness of government defined by the extent to which a government shares information, empowers people with tools to hold the government accountable, and fosters citizen participation in public policy deliberations. This factor measures whether basic laws and information on legal rights are publicized and evaluates the quality of information published by the government.

**Fundamental Rights:** 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 because 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 United Nations Universal Declaration of Human Rights and are most closely related to rule of law concerns.

**Order and Security:** measures how well a society ensures the security of persons and property. Security is one of the defining aspects of any rule of law society and is 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.

**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. This factor does not assess which activities a government chooses to regulate, nor does it consider how much regulation of a particular activity is appropriate. Rather, it examines how regulations are implemented and enforced.

**Civil Justice:** measures whether ordinary people can resolve their grievances peacefully and effectively through the civil justice system. It measures whether civil justice systems are accessible and affordable as well as free of discrimination, corruption, and improper influence by public officials. It examines whether court proceedings are conducted without unreasonable delays and whether decisions are enforced effectively. It also measures the accessibility, impartiality, and effectiveness of alternative dispute resolution mechanisms.

**Criminal Justice:** evaluates a country's 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. An assessment of the delivery of criminal justice should take into consideration the entire system, including the police, lawyers, prosecutors, judges, and prison officers.

## 2. Background

The World Justice Project (WJP) Rule of Law Index is a report prepared by the World Justice Project. The release of the 2021 Rule of Law Index makes it the latest report in an annual series measuring the rule of law based on the experiences and perceptions of the general public and in-country legal practitioners and experts worldwide.

ItAs noted explained in the section above, it is important to note that the Rule of Law Index presents a portrait of rule of law in countries and jurisdictions by providing scores and

rankings based on eight factors, which are: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice.

The scores and rankings in the WJP Rule of Law Index 2021 are derived from more than 138,000 household surveys and 4,200 legal practitioner and expert surveys worldwide. The Index is the world's most comprehensive dataset of its kind and the only to rely principally on primary data, including the perspectives and experiences of ordinary people.

Globally, the index shows more countries declined than improved in overall rule of law performance for the fourth consecutive year. South Africa ranks 52/139 countries in the 2021 report, with an overall score of 0.58, compared to 45/119 countries in 2020, scoring 0.59. Additionally, South Africa's regional ranking in 2021 is 5/33 countries, led by Rwanda, Namibia, Mauritius and Botswana.

### **3. Key Global Findings**

The 2021 Rule of Law report global findings indicate that more countries benchmarked in the index declined as opposed to improving in the overall rule of law performance since 2018 (four consecutive years).

Globally, the top five countries in the 2021 Rule of Law Index are: Denmark ranked 1<sup>st</sup>, followed by Norway at 2<sup>nd</sup> place, Finland occupying the 3<sup>rd</sup> ranking, Sweden at 4<sup>th</sup> and Germany closing the top five with a 5<sup>th</sup> ranking. With these countries being the top five globally- this is an indication that the economies are the strongest with adherence to the rule of law.

In previous years the index recorded a worsening trend in adherence to the rule of law across the globe as populist movements with anti-democratic instincts swept into power. This year 74.2% of countries surveyed experienced declines in rule of law performance and only 25.8% improved.

According to the WJP, that 74.2% represents 84.7% of the world's population, meaning 6.5 billion people were subjected to a reversal in the rule of law.

#### 4. Findings on South Africa

South Africa's adherence to the rule of law declined ever so slightly in the past year, but the country's ranking has remained unchanged from 2020.

According to the Rule of Law Index released by the World Justice Project (WJP), South Africa is now ranked 52 out of 139 countries surveyed. South Africa's adherence to the rule of law declined ever so slightly in the past year, but the country's ranking has remained unchanged from 2020.

The table below presents South Africa's performance in the 2021 Rule of Law Index:

South Africa's Overall Ranking and pillars performance in the 2021 Index	
Year	2021
Overall Ranking	52/139
1. Constraints on Government Powers	40
2. Absence of Corruption	65
3. Open Government	32
4. Fundamental Rights	45
5. Order and Security	118
6. Regulatory Enforcement	55
7. Civil Justice	47
8. Criminal Justice	53

As presented in the table above. South Africa's three best performing areas are in:

- Open Government ranking 32;
- Followed by Constraints on Government ranked at 40;
- Thirdly, Civil Justice ranked at 47<sup>th</sup>.

The three worst performing areas are the following:

- The third last (worst) performing area is Regulatory Enforcement ranked at 55<sup>th</sup>;
- With the second last (worst) performing area being Absence of Corruption ranked at 65<sup>th</sup>;
- The last and worst performing area being Order and Security ranking 118.

In sub-Saharan Africa the country is ranked fifth out of 33 countries listed, and among upper-middle income countries, South Africa ranks eighth out of 40 peers. Ahead of South Africa in the region were Rwanda, Namibia, Mauritius and Botswana.

Although South Africa's democracy is more intact, its institutions more durable and its climate more transparent than most of its regional counterparts, its ranking has traditionally been dragged down by the lack of security.

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## References

1. World Justice Project. 2021. Rule of Law Index.  
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[https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf)

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