

thought of as wealth transfer from the general population to UHC beneficiaries, which is only a part of the overall benefit of the UHC scheme. The total benefit would be even larger once health improvement among the beneficiaries is taken into account. However, quantifying such health benefits is beyond the scope of this paper.

## REFERENCES

- Blundell, Richard, and Monica Costa Dias. 2009. "Alternative Approaches to Evaluation in Empirical Microeconomics." *Journal of Human Resources* 44 (3): 565-640.
- Chandoevrit, Worawan, and Bawornpan Ashakul. 2008. "The Impact of the Village Fund on Rural Households." *TDRI Quarterly Review* 23 (2): 9-16.
- Gruber, Jonathan, Nathaniel Hendren, and Robert M. Townsend. 2014. "The Great Equalizer: Health Care Access and Infant Mortality in Thailand." *American Economic Journal: Applied Economics* 6 (1): 91-107.
- Health Insurance System Research Office. 2012. "Thailand's Universal Coverage Scheme: Achievements and Challenges. An independent assessment of the first 10 years (2001-2010)."
- Kaboski, Joseph P., and Robert M. Townsend. 2012. "The Impact of Credit on Village Economies." *American Economic Journal: Applied Economics* 4 (2): 98-133.
- Kirdruang, Phatta. 2011. "Essays in Economics of Public Health Insurance in Developing Countries: Evidence from Thailand and Vietnam." Unpublished manuscript.
- Limwattananon, Supon. 2007. "Catastrophic and Poverty Impacts of Health Payments: Results from National Household Surveys in Thailand." *Bulletin of the World Health Organization* 85 (8): 600-606.
- Limwattananon, Supon, Sven Neelsen, Owen O'Donnell, Phusit Prakongsai, Viroj Tangcharoensathien, Eddy van Doorslaer, and Vuthiphon Vongmongkol. 2015. "Universal Coverage with Supply-side Reform: The Impact on Medical Expenditure Risk and Utilization in Thailand." *Journal of Public Economics* 121: 79-94.
- NaRanong, V., and A. NaRanong. 2006. "Universal Health Care Coverage: Impacts of the 30-Baht Health-Care Scheme on the Poor in Thailand." *TDRI Quarterly Review* 21 (3): 3-10.
- Somkotra, Tawarit, and Leizel P Lagrada. 2008. "Payments for Health Care and Its Effect on Catastrophe and Impoverishment: Experience from the Transition to Universal Coverage in Thailand." *Social Science and Medicine* (1982), 67 (12): 2027-35.
- Wagstaff, Adam, and Wanwiphang Manachotphong. 2012. "The Health Effects of Universal Health Care Evidence from Thailand." *World Bank Policy Research Working Paper*.
- World Bank. 2008. "Thailand: Good Practice in Expanding Health Coverage – Lessons from the Thai Health Care Reforms." In *Good Practices in Health Financing, The World Bank*: 355-383.

# CONCEPTUAL AND STRATEGIC FRAMEWORKS FOR DEVELOPING A RULE OF LAW INDEX AND RELATED INDICATORS FOR THAILAND\*

A research project initiated in 2016 by the public organization of Thailand's Institute of Justice is aimed at promoting the development of a rule of law strategy in Thai society. Its primary objectives are: (a) to effectively promote instruments for supporting the rule of law in Thailand; (b) to promote and enhance true understanding of the fundamental mechanisms of the "rule of law" through a systematic approach, ultimately achieving progressive results in the execution of projects and activities; (c) to establish initial knowledge and basic data for the development of a strategy for developing a rule of law index and related indicators; and (d) to provide data in relation to the "rule of law" index and assist in its implementation in Thai society. The research methodology included literature reviews and examination of relevant academic publications, analysis of the meaning and conceptual framework under which the rule of law

---

\*Based on the executive summary of a research project on this topic submitted to the Thailand Institute of Justice (Public Organization) in August 2016. The researchers are Dr. Ammar Siamwalla (TDRI Distinguished Scholar), Dr. Jakkrit Kuanpoth (TDRI Research Director for Economic Laws), Dr. Nuttanan Wichitaksorn (TDRI Research Fellow), Dr. Boonwara Sumano (TDRI Research Fellow), Mr. Itsakul Unahakate (TDRI Researcher), Mr. Jirawat Suriyashotichyangkul (TDRI Researcher), and Mr. Thanapat Chatinakrob (TDRI Researcher). The full report (in Thai) is available on the TDRI website (<http://tdri.or.th/research/rule-of-law-index/>).



operates, and compilation of data, taking into account the United Nations Sustainable Development Goals and guidelines for developing a strategic framework. Together with in-depth interviews with academics, researchers, and practitioners, a focus group meeting, and a public seminar, extensive scrutiny of the “rule of law” was carried out in constructing the index.

## RESEARCH SUMMARY

**1. With regard to accuracy in the development of a strategic framework, regulating the conceptual framework of the rule of law is important for two reasons: (a) the adoption by voters in a referendum of a newly drafted Thai constitution; and (b) the various international agreements into which Thailand has entered, as they will drive application of the rule of law and promote its active role in national politics and government. A significant issue is the establishment of a proper meaning for the term “rule of law,” which currently is unclear; however, a number of points have already been identified for defining the rule of law.**

1.1 The universal meaning of the rule of law refers to this principle as a mechanism for controlling government power with the aim of creating a just procedure or structure for the public that is

based on peace, democracy, and freedom. However, owing to economic changes in Thai society, the rule of law cannot be limited to the government’s power only, but it is also applicable to operations in civil society, private development organizations, and multinational corporations, as well as any person in business.

1.2 The meaning of the rule of law was defined by Thai academics in the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), the country’s first constitution that clearly legislated for the rule of law, both in its general provisions and in the directive principles of fundamental state policies. These elements reflect the concept of the rule of law as controlled by law, not by individual humans. It is an agreement which regulators, users, and the general public need to follow.

1.3 The rule of law as defined by the government can be divided into two categories: the first is the strict concept dealing with judicial administration: for example, the broad use of the law and its level of transparency. The second is the broad concept dealing with law idealistically and with judicial administration: for instance, laws should be clear, justified and up to date.

**2. The authors studied the procedure of the World Justice Project (WJP) for developing a**

**rule of law index and related indicators, which is aimed at promoting the development of the rule of law in a large number of countries. As a result, they prepared a summary as follows:**

2.1 With regard to the WJP conceptual framework, the Project in 2015 surveyed 102 countries around the world, dividing the subjects into two groups: one of 100,000 comprising representatives of the general public and the other, 2,400 specialists in those countries. There are nine indicators demonstrating different aspects of the rule of law in a society: constraints on government powers; absence of corruption; open government; fundamental rights; order and security; regulatory enforcement; civil justice; criminal justice; and informal justice. It should be pointed out that informal justice is not included among the WJP indicators.

2.2 There are three important parts to the WJP procedure; they involve the collection of data in survey form consisting of opinions of the general public and specialists. For the general public, 87 opinion questions and 56 direct experience questions were used in the survey. The survey is collected from approximately 1,000 people every two years. Quota sampling is in accordance with the statistical principle which compares the quality with the details of data and the survey budget. WJP calls for the sample population to be taken from the three largest cities in a country. For Thailand, the data are from Bangkok, heavily urbanized Nonthaburi Province, and Pakkret District in Nonthaburi Province. As for the specialists, they are composed of 25 specialists from a country's civil and commercial law sectors; the criminal law sector; the labour law sector; and the public health sector. Closed-ended perception questions and questions on hypothetical situations with highly detailed factual assumption are used in obtaining their opinions. The indicator rating scale begins by cutting off suspicious data, after which the answers are given a standard score and normalized. Each answer to the questions is rated with a score between 0 and 1; a "0" score means the least adherence to the rule of law and a score of "1" indicates clear application of the rule of law. All scores are arranged in accordance with 44 sub-indicators under 8 of the 9 main indicators.

Average scores are calculated for the indicators; during this stage, the reliability of the calculated scores are evaluated by utilizing secondary data in terms quantity and quality. The data which are different are scrutinized further for cause, and the data which are similar are compared for accuracy.

2.3 There are advantages and disadvantages to the WJP Index and related indicators. Disadvantages include the collection of data. WJP specifies that the sample population live in three large cities, so this methodology cannot reflect the rule of law in an entire country or consider the diversity of judicial administration in a country. In addition, the research team cannot contact the WJP team to obtain more information; thus, the researchers cannot fully assess the collection of data. Another disadvantage is related to the types of questions; most of the questions inquire about private opinions, which may result in bias among the interviewees. Moreover, the language used in the questions is not always neutral and thus may also affect the interviewees' feelings. An advantage of the index and the indicators is apparent in the score evaluation process, which is an effective method for evaluation by weighting the proportions of the 1,000 members of the general public and the 25 specialists, as the specialists have more direct experience than the general public. However, if there are small numbers of specialists in a country, there is still concern that this may lead to bias.

2.4 In order to develop the WJP Index and related indicators, four aspects must be considered: (a) because there is no question that can reflect every aspect of the rule of law concept, it is necessary to divide each question into multiple questions to cover every aspect of the rule of law; (b) questions should be asked from the perspective of the various backgrounds and careers of the interviewees to cover the overall sample population; (c) the indicators should be detectable by using secondary data; and (d) many indicators have a margin of error and thus when detected may lead to sub-indicators merging into other indicators.

2.5 With regard to recommendations for developing a rule of law index and related indicators for Thailand, existing indicators can be applied

for calculation instead of collecting new data. For example, the 11-aspect Human Security Index of the Ministry of Social Development and Human Security is similar to the WJP Absence of Corruption Indicator and Order and Security Indicator. While the Social Index contained in the five-year National Economic and Social Development Plan of the Office of the National Economic and Social Development Board is similar to the WJP Order and Security Indicator, the Corruption Index of the University of the Thai Chamber of Commerce is similar to the WJP Absence of Corruption Indicator, and the Social Justice Index of Thammasat University is similar to the WJP Fundamental Rights Indicator and Criminal Justice Indicator.

**3. As for the rule of law-related index and indicators in Thailand retrieved by internal and external organizations, the authors concluded that each index was developed for its own purpose, resulting in various conceptual frameworks, and different types of methods for data collection, sampling, and presentation. Each index has its specific objectives which are different from others; therefore, it is not appropriate to apply just any of the various indices as part of the rule of law index assessment. However, the authors have compiled a significant collection of information on indices.**

3.1 In respect of external organizations, there are a number of indices: (a) the WJP Rule of Law Index and related indicators; (b) the Rule of Law Index of the Millennium Challenge Corporation in the United States of America, which is aimed at eliminating poverty, especially in underdeveloped and developing countries; (c) the Rule of Law Index of the Heritage Foundation, an independent research institution which promotes public policy; (d) the Rule of Law Index of the World Economic Forum, an independent institution, the purpose of which organization is to develop and enhance countries' competency; (e) the Corruption Index of Transparency International, an independent institution, which targets corruption, and promotes transparency, responsibility, and sincerity; (f) the Freedom in the World Index of Freedom House,

an independent institution which tries to promote peace and political rights, protect human rights, and support democracy; (g) the Worldwide Governance Indicators of the World Bank, the objective of which is to promote investment for increasing production and accelerating economic growth; (h) the Prosperity Index of Legatum, a charity organization which promotes prosperity; (i) the Transformation Index of the Bertelsmann Foundation, a non-profit organization which promotes research, and supports personal freedom; and (j) the World Competitiveness Yearbook Index of the International Institute for Management Development, an institute which works to develop leadership among individuals, working groups, and organizations.

3.2 There are a number of internal organizations with similar indices: (a) the Human Security Index of Thailand's Ministry of Social Development and Human Security, a ministry which tries to promote human security; (b) the Social Index of the Office of the National Economic and Social Development Board, which is aimed at promoting social security; (c) the Corruption Index of the University of the Thai Chamber of Commerce, which is aimed at surveying and strategically evaluating the severity of corruption, people's attitudes and consciousness; and (d) the Social Justice Index of Thammasat University, which is aimed at narrowing social gaps and fighting against corruption.

**4. With regard to the Sustainable Development Goals (SDGs) and comparison of the SDGs and the rule of law indicators, the authors analyzed and evaluated the indicators in two parts: the first concerns the relationship between the rule of law and the SDGs; the second covers SDG Goal 16 on the rule of law as reported in the *United Nations Sustainable Development Goals Report 2016* as follows:**

4.1 The rule of law will promote sustainable development in the following ways: (a) any of the rule of law indicators can promote economic growth and development; (b) adherence to the rule of law can stimulate economic and social fairness; (c) adherence to the rule of law can eliminate and prevent conflict, crimes, and violence within a com-

munity; (d) adherence to the rule of law can foster social responsibility and the balance of power, and reduce corruption; and (e) adherence to the rule of law can lead to the protection of natural resources and environment, which are the fundamental core of sustainable development.

4.2 As for a comparison of the indicators, the SDG sub-indicators that have the rule of law as a fundamental element are related to seven goals: (a) Goal 8, which promotes sustained, inclusive and sustainable economic growth, is aimed at achieving increased productive employment and decent work for all; (b) Goal 10 is aimed at reducing inequality both nationally and internationally; (c) Goal 13 calls for taking urgent action to combat climate change and its impacts; (d) Goal 14 is aimed at conserving and sustainably using the oceans, seas, and marine resources for sustainable development; (e) Goal 15 calls for protecting, restoring and promoting the sustainable use of terrestrial ecosystems, sustainably managing forests, combating desertification, halting and reversing land degradation, and halting biodiversity loss; (f) Goal 16 is aimed at promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and establishing effective, accountable and inclusive institutions at all levels; and (g) Goal 17 calls for strengthening the means of implementation and revitalizing the global partnership for sustainable development. In effect, the most important SDG is Goal 16 as there are 12 relevant sub-indicators (with a 100 percent match), while Goal 15 comes in second as there are 7 relevant sub-indicators (with a 58 percent match), and the third is Goal 8, for which there are 5 relevant sub-indicators. A clear example of promoting sustainable development and the rule of law in Thailand is through the Universal Health Care Coverage Project.

**5. The authors synthesized the conceptual and strategic framework of the rule of law for Thailand as follows:**

5.1 In respect of the conceptual framework, there are positive connections between the rule of law and sustainable development, as it will help in promoting the implementation and maintenance of

the rule of law in Thailand. In this regard, its nine indicators are flexible enough to serve as the minimum standard for rule of law assessment. As a result, Thailand may have to add additional indicators: (a) ex-post legislated corporate governance mechanism; (b) public participation; (c) hospitality principle; (d) economic and social gaps; and (e) public peacefulness.

5.2 As for the strategic framework, Thailand should develop its index and related indicators within a period of 10 years, and the indicators should be transparent and legitimately valid. The relevant organizations can follow the proposed strategic framework and promote the rule of law in Thailand as follows:

(a) Put into operation a working group consisting of representatives from the public and private sectors, and civil society organizations, with the Thailand Institute of Justice (Public Organization) functioning as a secretariat;

(b) In the short term, Thailand may select some of the indicators, such as absence of corruption, order and security, regulatory enforcement, civil justice, and criminal justice. Thereafter, it may consider adding indicators in accordance with the national situation;

(c) With regard to the WJP statistical methodology, its primary data are obtained from expressions of public opinion, however, this method may not be appropriate for Thailand because of public biases. Thailand should apply primary data from public opinion and secondary data from national organizations;

(d) Types of questions and population sampling can elicit personal and critical opinions or direct experience by adapting them in accordance with the society being surveyed. This approach would lead to the classification of three groups: specialists, the general public and the direct experiences of experts. The sampling would be calculated in accordance with Yamane's formula ( $n=N/(1+N(e)^2)$ );

(e) The statistical calculation may begin with general weighting by giving equal weight to each indicator, meaning that this index value is simple and it is the proper starting point.