



# **Person of the Year**

## **Serving the Rule of Law**

### **and Good Governance**



**Arab Center for the Development of the Rule of Law and Integrity-  
ACRLI**

2018



The “Arab Center for the Development of the Rule of Law and Integrity” (ACRLI)<sup>1</sup> is launching an initiative in the Arab countries aiming at providing a “Rule of Law Annual Award”, on the occasion of honoring one or more Arab personalities as the “Person of the Year”, which reflects his performance, demeanor and commitment to the principles of the rule of law and good governance, both in public and private sectors. The “Rule of Law Annual Award” is to provide financial support awarded by a donor and covering the fees (financial support) of one academic year, focusing on one aspect of the rule of law and good governance at a European or American university which teaching curriculum includes a diploma in higher university studies specialized in the two fields mentioned above. The “Person of the year” is chosen from the candidates who wish to complete their higher education, based on two main criteria: ① Evaluating his/her scientific level, ② the subject of his/her thesis, by measuring its proximity or distance from the areas of rule of law and good governance.

It should be noted that we have brought together the two concepts (rule of law / good governance) because of their intersection and the large common space between them<sup>2</sup>.

The **rule of law** is a striking principle in history dating back to the Greek philosophers. The basic idea is that the law must be governed, which means that all citizens in any society are subject to the rule of law<sup>3</sup>.

Good governance includes the **role of public authorities in establishing an environment in which economic actors can work, determining how benefits are**

<sup>1</sup> ACRLI a non-profit organization established in 2003 in Lebanon, at the initiative of Dr. Wassim Harb and the participation of a number of Arab personalities from all over the Arab countries. To learn more about the Center and its activities, visit [www.arabruloflaw.org](http://www.arabruloflaw.org)

<sup>2</sup> Appendix 1 - Some international definitions of the concept of rule of law and good governance.

<sup>3</sup> Review of Dr. Wassim Harb's study on the development of the performance of the public sector in the Arab region from the perspective of the rule of law and good governance (Iraqi experience) – 2013, <http://www.arabruloflaw.org/Files/pdf2014/DevelopmentPublicSector-Iraq.pdf>. And the review of the book on the rule of law by Judge Ghaleb Ghanem Former President of the Supreme Judicial Council <http://www.arabruloflaw.org/Files/pdf2008/CompleteBook.pdf>



**distributed in society, and drawing up the relationship between the ruler and the ruled<sup>4</sup>.**

The main objective of this initiative is to contribute to the path and efforts aiming at raising the level of awareness regarding the importance of respect for the principles and criteria of these two concepts, especially in the maintenance and respect of the human rights, and consequently the dignity of the individual and the community, **considering that all this constitutes a key to sustainable development that provides good and dignified living for individuals and groups.**

The international arena is witnessing more and more attention to these two concepts and their standards as the main pillars of progress and advancement.

In order to achieve these goals and to contribute to the advancement and progress of the Arab countries, this initiative was launched in cooperation with friendly and allied institutions and personalities from the world and from the Arab region<sup>5</sup>.

This honoring ceremony is an annual track that is repeated each year<sup>6</sup>, in which the Center is responsible for organizational matters, accompanied by partners from the Arab region and the world, as mentioned above, some of whom share ideas and their presence, and others with the scholarships they provide for the success of the initiative.

To this end, a Supervisory Authority whose work is coordinated and regulated by ACRLI shall have the task of receiving nominations and providing the assessment criteria for the selection of the honored personality from the Arab Region.

This initiative is another milestone that the Center is adding to the construction begun since the beginning of this millennium<sup>7</sup>. It is useful to briefly review the most important achievements it has made in this regard:

<sup>4</sup> Review of the study of Dr. Wassim Harb on the development of the performance of the public sector in the Arab region from the perspective of the rule of law and good governance (the Iraqi experience) – 2013, <http://www.arabruleoflaw.org/Files/pdf2014/DevelopmentPublicSector-Iraq.pdf>

<sup>5</sup> Appendix 2 - Members of the Board of Trustees and the network of allies of the Arab Center for the Development of the Rule of Law and Integrity.

<sup>6</sup> The event will be attended by: the sponsor of the event, regional and international organizations (Arab and non-Arab), civil society organizations, representatives of Arab and non-Arab universities (faculties of law and social and political sciences); Members of the Council of Trustees of the Arab Center for the Development of the Rule of Law and Integrity, Arab personalities, and the media.

<sup>7</sup> For details of these approaches and the various achievements of the Center to ensure the rule of law and good governance, please visit <http://www.arabruleoflaw.org/>



Since 2004, ACRLI has developed the principles and indicators of the rule of law and good governance of two basic institutions - called "authority" – of the state institutions: ① the legislative institution or the parliament, ② the judicial institution. ACRLI carried out practical implementation of the principles of the rule of law relating to these two institutions (the first of its kind in the Arab region) in four Arab countries (Morocco, Egypt, Jordan, Lebanon). Two states characterized by the monarchy and two states characterized by the republican system.

This approach presented the methodologies adopted to develop a set of principles/indicators based on which the performance of these two institutions is measured. The results of the applied field research for these principles were presented in the four countries mentioned above at an Arab conference held in Cairo in 2007 which included an Arab group of judges, lawyers, experts and state officials. The conference analyzed the principles and practical implementation carried out in the four countries. The discussions ended with the adoption of a set of principles/indicators, and the application methodologies that were used as a basic tool in this respect. This achievement led to the convening of a conference of Arab Ministers of Justice in 2009 in Beirut where this standard development approach was evaluated and a committee was assigned including the first judiciary in the four countries, headed by the President of the Lebanese Supreme Judicial Council. This committee presented a report that included the final principles/indicators valid in the Arab countries to be adopted in the measurement and development of Arab judicial institutions<sup>8</sup>.

As for legislative institutions, a set of principles/indicators, as well as field research methodologies were adopted at a broad Arab conference held in Morocco under the auspices of the Arab Parliaments Union in 2008.

In addition to this tool, the Center developed another set of principles / indicators related to the media professionals and media organizations (as the fourth authority). This approach took the same path as previous approaches and concluded with a report adopted at a conference held in Jordan in 2007, in which it was emphasized that these principles would correct the work of media organizations and media professionals from the perspective of the rule of law and good governance.

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<sup>8</sup> Project on Strengthening the Rule of Law in the Arab States,  
[http://www.arabruleoflaw.org/activitiesListing\\_ar.aspx?postingID=306&categoryID=1&Id=133](http://www.arabruleoflaw.org/activitiesListing_ar.aspx?postingID=306&categoryID=1&Id=133)



In 2013, the Center completed a new set of good principles for measuring the performance of public governmental and semi-governmental institutions (independent public institutions). This set of principles was completed through a study developed to reform the system of “Inspectors General Offices”, which was developed in Iraq in 2003. The study covered the principles / indicators and methodologies to be adopted in measuring the performance of ministries and public institutions from the perspective of the rule of law and governance<sup>9</sup>.

The interest in the rule of law and good governance has become increasingly global, and institutions involved in this field have multiplied. Economically and industrially developed countries have taken particular interest in the re-engineering / restructuring of their public institutions, accompanied by a high level of interest in the adoption of reform and development approaches based on measuring institutional and personal performance. The results showed a clear and important success for these approaches in the development of performance and in greater adherence to the rules and norms of the rule of law and good governance at the global level<sup>10</sup>.

The scope of interest has expanded to include higher education institutions. Today, we see the presence of dozens of university institutions, which added to their curriculum the teaching of the rule of law or good governance, especially at the level of postgraduate studies<sup>11</sup>. A few years ago, we also noticed that international institutions launched initiatives to award recognition to those who have demonstrated great performance in the areas of rule of law and good governance<sup>12</sup>.

In the light of this global development, our region and the Arab countries are not properly engaged in this process and do not benefit from its welfares in developing the performance of its institutions, which will be reflected in further progress in the protection of human rights and nature, as well as in providing grounds for sustainable development that provides more good and economic viability for all classes of people at various levels and in all fields, along with the corresponding satisfaction of the peoples of the earth, including the peoples of our region.

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<sup>9</sup> Review of the study of Dr. Waseem Harb on the development of the performance of the public sector in the Arab region from the perspective of the rule of law and good governance (the Iraqi experience) – 2013, <http://www.arabruleoflaw.org/Files/pdf2014/DevelopmentPublicSector-Iraq.pdf>

<sup>10</sup> A guide to leading organizations promoting the rule of law worldwide from the Global Justice Project website: <https://worldjusticeproject.org/resource-hub>

<sup>11</sup> Appendix 3 - Some of the university institutions that have included in their curricula the teaching of the rule of law or good governance

<sup>12</sup> Appendix 4 - Some of the awards of the rule of law in the world



Based on all of the above, the Arab Center launched an initiative to honor personalities from the public and private sectors, characterized by their performance to serve the rule of law and good governance.

To this end, ACRLI adopted a set of principles/criteria that were chosen as the basis for the selection of the personality worthy of honor. It is clear that this set includes a selection of principles<sup>13</sup> adopted through the study of the set of principles / criteria developed by international and regional institutions<sup>14</sup> working for the improvement of sustainable development both in the public and private sectors, and in international institutions.

In addition, in parallel with this honoring, a university scholarship is given to an Arab student wishing to complete his/her higher education and to devote his/her research and thesis to a subject of rule of law and good governance in the region, which constitutes an additional lever serving the generalization and consolidation of the concepts of rule of law and good governance. The “Person of the Year” will be chosen during the honoring ceremony for the personality of the year, who is honored on the basis of his/her achievements in this area as we have already mentioned.

The Center and all those who believe that the concepts of the rule of law and good governance are essential for the protection of human rights, the realization of justice, the protection of the dignity of individuals and groups, the sustainable development of their society and the achievement of civil peace within a participatory framework away from individual and personal conflicts, and away from the scourges of corruption that undermine prosperity and good development, and permeate the bonds of national unity and social solidarity based on human rally.



<sup>13</sup> Principles of the Judiciary, Parliament and Good Media : Strengthening the Rule of Law in the Arab States [http://www.arabruloflaw.org/activitiesListing\\_ar.aspx?postingID=306&categoryID=1&Id=133](http://www.arabruloflaw.org/activitiesListing_ar.aspx?postingID=306&categoryID=1&Id=133)

<sup>14</sup> Appendix 5 - Some of the universal principles of the concept of rule of law and good governance.



## Annex 1- International definitions on the concepts of the Rule of Law and Good Governance

### International Definitions of the ‘Rule of Law’ and Good Governance

#### European Union<sup>1</sup>

The **primacy of the law** is a fundamental principle of any democratic system seeking to foster and promote rights, whether civil and political or economic, social and cultural. This entails means of recourse enabling individual citizens to defend their rights. The principle of placing limitations on the power of the State is best served by a representative government drawing its authority from the sovereignty of the people. The principle must shape the structure of the State and the prerogatives of the various powers. It implies, for example:

- a legislature respecting and giving full effect to human rights and fundamental freedoms;
- an independent judiciary;
- effective and accessible means of legal recourse;
- a legal system guaranteeing equality before the law;
- a prison system respecting the human person;
- a police force at the service of the law;
- an effective executive enforcing the law and capable of establishing the social and economic conditions necessary for life in society.

#### World Bank<sup>2</sup>

The **rule of law** consists of four universal principles namely constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice.

**Governance** is defined as the manner in which power is exercised in the management of a county's economic and social resources for development. Good governance, for the World Bank, is synonymous with sound development management. It is central to creating and sustaining an environment which fosters strong and equitable development, and it is an essential complement to sound economic policies. Governments play a key role in the provision of public goods. They establish the rules that make markets work efficiently and, more problematically, they correct for market failure. In order to play this role, they need revenues, and agents to collect revenues and produce the public goods. This in turn requires systems of accountability, adequate and reliable information, and efficiency in resource management and the delivery of public services<sup>3</sup>.

<sup>1</sup> [http://ec.europa.eu/development/lex/en/1998/com\\_98\\_0146\\_03.htm#Heading4](http://ec.europa.eu/development/lex/en/1998/com_98_0146_03.htm#Heading4)

<sup>2</sup> <https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/factors-rule-law>

<sup>3</sup> <http://documents.worldbank.org/curated/en/604951468739447676/pdf/multi-page.pdf>



## The United Nations

**The Rule of Law as defined by the Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies (S/2004/616):** The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency<sup>4</sup>.

**As mentioned in the UN Charter<sup>5</sup>:** it will be the core purpose of the UN “to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace”.

**As made reference to in the Universal Declaration of Human Rights<sup>6</sup>:** “Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,”

**Good Governance as defined by Office of the High Commissioners for Human Rights:** good governance relates to political and institutional processes and outcomes that are deemed necessary to achieve the goals of development. It has been said that good governance is the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights in a manner essentially free of abuse and corruption, and with due regard for the rule of law. The true test of "good" governance is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights.

## Key attributes of good governance according to the United Nations

The concept of good governance has been clarified by the work of the former Commission on Human Rights. In its resolution 2000/64, the Commission identified the key attributes of good governance:

- transparency
- responsibility
- accountability
- participation
- responsiveness (to the needs of the people)

<sup>4</sup> [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2004/616](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616)

<sup>5</sup> <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

<sup>6</sup> <http://www.un.org/en/universal-declaration-human-rights/index.html>





## World Justice Project

The World Justice Project's definition of the **rule of law** is comprised of the following four universal principles:

- **Accountability**  
The government as well as private actors are accountable under the law.
- **Just Laws**  
The laws are clear, publicized, stable, and just; are applied evenly; and protect fundamental rights, including the security of persons and property and certain core human rights.
- **Open Government**  
The processes by which the laws are enacted, administered, and enforced are accessible, fair, and efficient.
- **Accessible & Impartial Dispute Resolution**  
Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve.



**Annex 2- ACRLI's Board of Trustees, Partners and Allied members**

**I- Board of Trustees' members**

<b>Country</b>	<b>Name and Title</b>
<b>Algeria</b>	<b>Me. Zubaida Assoul</b> President of the Arab Legal Women's Network Lawyer at the Supreme Council and the State Council
<b>Bahrain</b>	<b>Pr. Bahiya El Jichi</b> Judge, member of the Shura Council
<b>Jordan</b>	<b>Pr. Ahmad Obeidat</b> Former prime minister; Former minister of defense Member of the Upper chamber
<b>Iraq</b>	<b>Pr. Medhat Al-Mahmoud</b> - President of the Iraqi Supreme Judicial Council  <b>Dr. Abed El Hussein Shaaban</b> Specialist in International Law, and Expert in Human Rights field; Academic and Author of several publications on law, political science, Islam and Arabic Conflict.
<b>Egypt</b>	<b>Dr. Ahmad Rafaat</b> Former ambassador and professor of international law  <b>Mr. Naguib Sawiris</b> Businessman Chairman and CEO of Orascom Telecom Chairman of Endeavor Egypt  <b>The Late Dr. Mahmoud Cherif Bassiouni</b> A United Nations war crimes expert. Distinguished Research Professor of Law at DePaul University College of Law in Chicago President of the International Institute of Higher Studies in Criminal Sciences, Siracusa, Italy Chairman of the Drafting Committee of the Diplomatic Conference on the Establishment of an International Criminal Court



**The Late Dr. Yehia Al Jammal**  
Former Vice Prime Minister of Egypt

**Lebanon**

**Pr. Salim El Hoss**  
Former Prime Minister of Lebanon  
Former member of Lebanese Parliament  
PhD in business and economics from Indiana  
University in the United States

**Mr. Samir Atallah**  
Journalist, Asharq Alawsat

**Dr. Wassim Harb**  
PhD in Law, Aix-Marseille University, France.  
Former Dean in the Lebanese University.  
Founder of several institutions specialized in Law  
and Informatics. Professor of Law.  
Founder of ACRLI

**Dr. Joseph Torbey** Chairman, World Union of  
Arab Bankers  
Chairman, Lebanese Bankers Association  
Chairman General Manager Credit Libanais Group

**The Late Clovis Maksoud**  
Ambassador of the Arab League, Senior editor of  
Al-Ahram, Professor of International Relations and  
Director of the Center for the Global South at  
American University in Washington, DC

**Libya**

**Dr . Fayza Youness Albasha**  
Criminal Law professor in Al-Fateh University

**Morocco**

**Dr. Omar Azziman**  
Ambassador of Morocco in Madrid, Spain  
Head of new Advisory Committee on  
Regionalization

**Qatar**

**Dr. Sheikha bin abdallah bin Misned**  
Former President of Qatar University

**Sudan**

**The Late Dr. Amin Makki Madani - PhD in Law,**



University of Edinburgh.  
Former High Commissioner, Regional Office of the  
UN High Commissioner for Human Rights of the  
Arab Region, Beirut (UN-OHCHR)

**Tunisia**

**Dr. Zuhair el Muthfer**

Minister Delegate to the Prime Minister, in charge  
of the Civil Service and Administrative  
Development.

**UAE**

**Dr. Habib El Mulla**

PhD in Law, Cambridge University. Professor of  
law at the American University in Dubai. Member of  
the National Assembly of the United Arab Emirates.  
Founder and the Executive Chairman of Habib Al  
Mulla & Co; founder of the Financial Free Zones  
concept; Former Chairman of the DFSA

**Yemen**

**Judge Ismail el Wazir** - Former minister  
Member of the Shura Council

## II- Partners and Allies

- Advocacy, Consultation, and Arbitration Office - (ACA)
- Arab Anti-Corruption Organization - (AACO)
- Arab Institute for Human Rights - Tunisia
- Arab Lawyers Union - (ALU)
- Bar Associations of Beirut
- Bar Associations of Tripoli
- Center of Legal and Judicial Studies- Ministry of Justice in Tunisia
- Chamber of commerce, Industry and Agriculture in Beirut and Mount Lebanon-CCIABML
- Commercial Law Development Program - (CLDP)
- Consultation and Research Institute - (CRI)
- Development Management International - (DMI)
- Dubai Chamber of Commerce
- Dubai Economic Council - (DEC)
- Earth Institute of Columbia University



- Ecole Nationale de la Magistrature de France - (ENM)
- Egyptian Organization for Human Rights - (EOHR)
- European Academy for Law and Legislation -(EALL)
- European Commission - (EC)
- European Investment Bank - (EIB)
- Foundation For the Future - (FFF)
- Friedrich Naumann Foundation - ( FNF)
- Ford Foundation
- GRM International Limited
- Hague Institute for the Internationalization of Law - (HiiL)
- Henry L. Stimson Center
- Higher Judicial Council-Iraq - (HJC)
- Higher Judicial Council in Kurdistan - (KJC)
- International Bar Association - (IBA)
- International Association of Anti-Corruption Authorities - (IAACA)
- International Chamber of Commerce - (ICC)
- International Finance Corporation - (IFC)
- International Foundation for Electoral Systems - (IFES)
- Information International SAL
- Judicial Training Institute-Iraq - (JTI)
- Key Development Service sarl - (KDS)
- MADAMEK Computer and Law Studies and Research Office
- Ministry of Economy, Lebanon
- Ministries of Justice in Iraq
- Ministries of Justice in Kurdistan
- Ministries of Justice in Lebanon
- Ministries of Justice in Tunisia
- Ministries of Justice in Yemen
- Ministries of Development and International Cooperation in Tunisia and Yemen
- Ministry of Economy and Artifacts in Tunisia
- Ministry of Trade and Industry in Yemen
- National Organization for defending Rights and Freedoms - (Hood)
- Middle East Partnership Initiative - (MEPI)



- Najaf Human Rights Centre and Democratic Support - (NHRCDS)
- Notre Dame University - (NDU)
- NGO Coordinating Committee in Iraq - (NCCI)
- Organization for Economic Cooperation and Development - (OECD)
- Safadi Foundation
- Sagesse University
- Tomorrow's Advice Global
- Transparency Palestine - AMAN
- Tunisian Bar Association - Tunisia
- Tunisia Competition Council
- United Nations Development Programme - (UNDP)
- United Arab Emirates University - (UAEU)
- United Nations Office on Drugs and Crime - (UNODC)
- Urban Land Institute - (ULI)
- World Bank
- Women Empowerment Center- Kurdistan, Iraq - (WEC)
- Women Empowerment Organization - (WEO)
- World Justice Project - (WJP)
- Yemeni Center for Conciliation and Arbitration - YCCA



**Annex 3- Some of the International Universities with specialized center for the Rule of Law and Good Governance**

<b>Ohio Northern University- Center for Democratic Governance and Rule of law</b>	<a href="http://www.onu.edu/ruleoflaw">http://www.onu.edu/ruleoflaw</a>
<b>Stanford - Rule of Law Program</b>	<a href="https://law.stanford.edu/rule-of-law-program">https://law.stanford.edu/rule-of-law-program</a>
<b>International Rule of Law and Security Arizona State University</b>	<a href="https://law.asu.edu/degree-programs/programs/international/rule-law-governance/rolg-faq">https://law.asu.edu/degree-programs/programs/international/rule-law-governance/rolg-faq</a>
<b>Temple University Rule of Law</b>	<a href="https://www.law.temple.edu/academics/international/china/">https://www.law.temple.edu/academics/international/china/</a>
<b>Loyola (Chicago) Rule of Law for Development</b>	<a href="https://www.luc.edu/prolaw/degrees/prolaw-llm/">https://www.luc.edu/prolaw/degrees/prolaw-llm/</a>
<b>Fordham University International Law and Justice</b>	<a href="https://www.fordham.edu/info/22610/international_law_and_justice">https://www.fordham.edu/info/22610/international_law_and_justice</a>



#### Annex 4- Some Awards of the Rule of Law in the World

1. Commonwealth Law Conference, Rule of Law Award

<https://www.commonwealthlawyers.com/>

In 2013 CLA partnered with LexisNexis to establish a biennial award recognizing and individual, institution or firm or lawyers who had made an outstanding contribution to the rule of law which had impact both within their own country and to the broader Commonwealth.

2. World Justice Project, Exceptional Rule of Law Journalism

<https://worldjusticeproject.org/our-work/research-scholarship/anthony-lewis-prize-exceptional-rule-law-journalism>

The WJP Anthony Lewis Prize for Exceptional Rule of Law Journalism acknowledges journalists from around the world who have contributed to increased awareness and understanding of the foundational importance of the rule of law. The prize is awarded to a currently working journalist (or a team of journalists working on an in-depth series) who has demonstrated excellence in rule of law reporting. The journalist's work (as demonstrated through key examples of their writing) is judged on how effectively they have contributed to increased awareness and understanding of the foundational importance of the rule of law. Nominees can be from any country in the world, but entries must be in English or have been translated into English. Anyone can nominate a journalist, including self-nominations/applications.

3. American Bar Association, Rule of Law Award

[https://www.americanbar.org/advocacy/rule\\_of\\_law/newsroom\\_events/rule\\_of\\_law\\_award/criteria.html](https://www.americanbar.org/advocacy/rule_of_law/newsroom_events/rule_of_law_award/criteria.html)

The Rule of Law Award (formerly referred to as the CEELI Award) was established in 1994 to honor leaders who have taken significant steps towards implementing democratic and legal reforms in a country or region, or internationally. The recipient of the Rule of Law Award must agree to accept the award in person at the awards ceremony. The honoree can be a person, a group of people or an organization. The ABA Rule of Law Initiative board selects the recipient based on the following criteria: Nominee's role in legal reform the nominee must have acted to change existing legal structures to ensure the establishment of an independent legal system or worked to ensure access to, or the proper function of, the justice system. Nominee's role in protecting human rights in a country: the nominee must have taken important steps to ensure the protection of individual rights, to address ethnic tensions and to build a civil society. Nominee's stature internationally: the nominee will have used his position, prominence or professional capacity to advance democracy and the rule of law not only in his or her country, but throughout the region and the world.





4. Franco-German Prize for Human Rights and the Rule of Law

<https://www.deutschland.de/en/topic/politics/franco-german-prize-for-human-rights-and-the-rule-of-law-boundless-courage>

The Franco-German Prize for Human Rights and the Rule of Law was created to pay tribute to those men and women who pour their hearts and souls into defending human rights and whose action should be commended and supported. Every year, the winners are chosen at the end of a joint selection process conducted by the French and German foreign ministries from a list of candidates put forward by the French and German embassies all over the world.



## **Annex 5 – Some International principles on the Rule of Law and Good Governance**

### **I- The World Justice Project**

#### **1) Constraints on Government Powers**

##### Sub-factors

- 1.1 Government powers are effectively limited by the legislature
- 1.2 Government powers are effectively limited by the judiciary
- 1.3 Government powers are effectively limited by independent auditing and review
- 1.4 Government officials are sanctioned for misconduct
- 1.6 Government powers are subject to non-governmental checks
- 1.6 Transition of power is subject to the law

#### **2) Absence of Corruption**

##### Sub-factors

- 2.1 Government officials in the Executive Branch do not use public office for private gain
- 2.2 Government officials in the judicial branch do not use public office for private gain
- 2.3 Government officials in the police and the military do not use public office for private gain
- 2.4 Government officials in the legislative branch do not use public office for private gain

#### **3) Open Government**

##### Sub-factors

- 3.1 Publicized laws and government data
- 3.2 Right to information
- 3.3 Civic participation



### 3.4 Complaint mechanisms

#### **4) Fundamental Rights**

##### Sub-factors

4.1 Equal treatment and absence of discrimination

4.2 The right to life and security of the person is effectively guaranteed

4.3 Due process of law and rights of the accused

4.4 Freedom of opinion and expression is effectively guaranteed

4.5 Freedom of belief and religion is effectively guaranteed

4.6 Freedom from arbitrary interference with privacy is effectively guaranteed

4.7 Freedom of assembly and association is effectively guaranteed

4.8 Fundamental labor rights are effectively guaranteed

#### **5) Order and Security**

##### Sub-factors

5.1 Crime is effectively controlled

5.2 Civil conflict is effectively limited

5.3 People do not resort to violence to redress personal grievances

#### **6) Regulatory Enforcement**

##### Sub-factors

6.1 Government regulations are effectively enforced

6.2 Government regulations are applied and enforced without improper influence

6.3 Administrative proceedings are conducted without unreasonable delay

6.4 Due process is respected in administrative proceedings

6.5 The Government does not expropriate without adequate compensation



## **7) Civil Justice**

### Sub-factors

- 7.1 People can access and afford civil justice
- 7.2 Civil justice is free of discrimination
- 7.3 Civil justice is free of corruption
- 7.4 Civil justice is free of improper government influence
- 7.5 Civil justice is not subject to unreasonable delays
- 7.6 Civil justice is effectively enforced
- 7.7 ADRs are accessible, impartial, and effective

## **8) Criminal Justice**

### Sub-factors

- 8.1 Criminal investigation system is effective
- 8.2 Criminal adjudication system is timely and effective
- 8.3 Correctional system is effective in reducing criminal behavior
- 8.4 Criminal justice system is impartial
- 8.5 Criminal justice system is free of corruption
- 8.6 Criminal justice system is free of improper government influence
- 8.7 Due process of law and rights of the accused

## **9) Informal Justice**

### Sub-factors

- (9.1) whether these dispute resolution systems are timely and effective
- (9.2) whether they are impartial and free of improper influence
- (9.3) the extent to which these systems respect and protect fundamental rights



## II- American Bar Association

One goal of the World Justice Project is to develop a broadly accepted definition of the rule of law that could be used to measure adherence to the rule of law both in the United States and abroad. The World Justice Project has proposed a working definition of the rule of law that comprises four principles:

1. A system of self-government in which all persons, including the government, are accountable under the law
2. A system based on fair, publicized, and broadly understood and stable laws
3. A fair, robust, and accessible legal process in which rights and responsibilities based in law are evenly enforced
4. Diverse, competent, and independent lawyers and judges

## III- World Bank

### Governance

- 1. The process by which governments are selected, monitored, and replaced:**
  - a) Voice and Accountability: 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.
  - b) Political Stability and Absence of Violence/Terrorism: the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.
- 2. The capacity of the government to effectively formulate and implement sound policies:**
  - a) Government Effectiveness: the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
  - b) Regulatory Quality: the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
  - c) Rule of Law: 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 courts, as well as the likelihood of crime and violence.



- d) Control of Corruption: the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.

## IV- European Union

### A. Legality

#### 1. Supremacy of the law

Is supremacy of the law recognized?

- i. Is there a written Constitution?
- ii. Is conformity of legislation with the Constitution ensured?
- iii. Is legislation adopted without delay when required by the Constitution?
- iv. Does the action of the executive branch conform with the Constitution and other laws?
- v. Are regulations adopted without delay when required by legislation?
- vi. Is effective judicial review of the conformity of the acts and decisions of the executive branch of government with the law available?
- vii. Does such judicial review also apply to the acts and decisions of independent agencies and private actors performing public tasks?
- viii. Is effective legal protection of individual human rights vis-à-vis infringements by private actors guaranteed?

#### 2. Compliance with the law

Do public authorities act on the basis of, and in accordance with standing law?

- i. Are the powers of the public authorities defined by law?
- ii. Is the delineation of powers between different authorities clear?
- iii. Are the procedures that public authorities have to follow established by law?
- iv. May public authorities operate without a legal basis? Are such cases duly justified?
- v. Do public authorities comply with their positive obligations by ensuring implementation and effective protection of human rights?



vi. In cases where public tasks are delegated to private actors, are equivalent guarantees established by law?

### **3. Relationship between international law and domestic law**

- i. Does the domestic legal system ensure that the State abide by its binding obligations under international law? In particular:
- ii. Does it ensure compliance with human rights law, including binding decisions of international courts?
- iii. Are there clear rules on the implementation of these obligations into domestic law?

### **4. Law-making powers of the executive**

- i. Is the supremacy of the legislature ensured?
- ii. Are general and abstract rules included in an Act of Parliament or a regulation based on that Act, save for limited exceptions provided for in the Constitution?
- iii. What are these exceptions? Are they limited in time? Are they controlled by Parliament and the judiciary? Is there an effective remedy against abuse?
- iv. When legislative power is delegated by Parliament to the executive, are the objectives, contents, and scope of the delegation of power explicitly defined in a legislative act?

### **5. Law-making procedures**

Is the process for enacting law transparent, accountable, inclusive and democratic?

- i. Are there clear constitutional rules on the legislative procedure?
- ii. Is Parliament supreme in deciding on the content of the law?
- iii. Is proposed legislation debated publicly by parliament and adequately justified (e.g. by explanatory reports)?
- iv. Does the public have access to draft legislation, at least when it is submitted to Parliament? Does the public have a meaningful opportunity to provide input?
- v. Where appropriate, are impact assessments made before adopting legislation (e.g. on the human rights and budgetary impact of laws)?



vi. Does the Parliament participate in the process of drafting, approving, incorporating and implementing international treaties?

## **6. Exceptions in emergency situations**

i. Are exceptions in emergency situations provided for by law?

ii. Are there specific national provisions applicable to emergency situations (war or other public emergency threatening the life of the nation)? Are derogations to human rights possible in such situations under national law? What are the circumstances and criteria required in order to trigger an exception?

iii. Does national law prohibit derogation from certain rights even in emergency situations? Are derogations proportionate, that is limited to the extent strictly required by the exigencies of the situation, in duration, circumstance and scope?

iv. Are the possibilities for the executive to derogate from the normal division of powers in emergency circumstances also limited in duration, circumstance and scope?

v. What is the procedure for determining an emergency situation? Are there parliamentary control and judicial review of the existence and duration of an emergency situation, and the scope of any derogation thereunder?

## **7. Duty to implement the law**

What measures are taken to ensure that public authorities effectively implement the law?

i. Are obstacles to the implementation of the law analysed before and after its adoption?

ii. Are there effective remedies against non-implementation of legislation?

iii. Does the law provide for clear and specific sanctions for nonobedience of the law?

iv. Is there a solid and coherent system of law enforcement by public authorities to enforce these sanctions?

v. Are these sanctions consistently applied?

## **8. Private actors in charge of public tasks**

Does the law guarantee that non-State entities which, fully or in part, have taken on traditionally public tasks, and whose actions and decisions have a similar impact on ordinary people as those of public authorities, are subject to the requirements of the Rule of Law and accountable in a manner comparable to those of public authorities?





## Legal certainty

### 1. Accessibility of legislation

- i. Are laws accessible?
- ii. Are all legislative acts published before entering into force?
- iii. Are they easily accessible, e.g. free of charge via the Internet and/ or in an official bulletin?

### 2. Accessibility of court decisions

- i. Are counts decisions accessible?
- ii. Are court decisions easily accessible to the public?
- iii. Are exemptions sufficiently justified?

### 3. Foreseeability of the laws

Are the effects of laws foreseeable?

- i. Are the laws written in an intelligible manner?
- ii. Does new legislation clearly State whether (and which) previous legislation is repealed or amended? Are amendments incorporated in a consolidated, publicly accessible, version of the law?

### 4. Stability and consistency of law

- i. Are laws stable and consistent?
- ii. Are laws stable, to the extent that they are changed only with fair warning?
- iii. Are they consistently applied?

### 5. Legitimate expectations

Is respect for the principle of legitimate expectations ensured?

### 6. Non-retroactivity

- i. Is retroactivity of legislation prohibited?
- ii. Is retroactivity of criminal legislation prohibited?
- iii. To what extent is there also a general prohibition on the retroactivity of other laws?
- iv. Are there exceptions, and, if so, under which conditions?



## 7. Nullum crimen sine lege and nulla poena sine lege principles

Do the nullum crimen sine lege and nulla poena sine lege (no crime, no penalty without a law) principles apply?

## 8. Res judicata

- i. Is respect of res judicata ensured?
- ii. Is respect for the *ne bis in idem* principle (prohibition against double jeopardy) ensured?
- iii. May final judicial decisions be revised?
- iv. If so, under which conditions?

## Prevention of abuse (misuse) of powers

- i. Are there legal safeguards against arbitrariness and abuse of power (*détournement de pouvoir*) by public authorities?
- ii. If yes, what is the legal source of this guarantee (Constitution, statutory law, case-law)?
- iii. Are there clear legal restrictions to discretionary power, in particular when exercised by the executive in administrative action?
- iv. Are there mechanisms to prevent, correct and sanction abuse of discretionary powers (*détournement de pouvoir*)? When discretionary power is given to officials, is there judicial review of the exercise of such power?
- v. Are public authorities required to provide adequate reasons for their decisions, in particular when they affect the rights of individuals? Is the failure to State reasons a valid ground for challenging such decisions in courts?

## Equality before the law and non-discrimination

### 1. Principle

Does the Constitution enshrine the principle of equal treatment, the commitment of the State to promote equality as well as the right of individuals to be free from discrimination?

### 2. Non-discrimination

- i. Is respect for the principle of non-discrimination ensured?
- ii. Does the constitution prohibit discrimination?
- iii. Is non-discrimination effectively guaranteed by law?
- iv. Do the Constitution and/or legislation clearly define and prohibit both direct and indirect discrimination?



### **3. Equality in law**

- i. Is equality in law guaranteed?
- ii. Does the constitution require legislation (including regulations) to respect the principle of equality in law? Does it provide that differentiations have to be objectively justified?
- iii. Can legislation violating the principle of equality be challenged in the court?
- iv. Are there individuals or groups with special legal privileges? Are these exceptions and/or privileges based on a legitimate aim and in conformity with the principle of proportionality?
- v. Are positive measures expressly provided for the benefit of particular groups, including national minorities, in order to address structural inequalities?

### **4. Equality before the law**

- i. Is equality before the law guaranteed?
- ii. Does the national legal order clearly provide that the law applies equally to every person irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, and association with a national minority, property, birth or status? Does it provide that differentiations have to be objectively justified, on the basis of a reasonable aim, and in conformity with the principle of proportionality?
- iii. Is there an effective remedy against discriminatory or unequal application of legislation?

## **Access to justice**

### **1. Independence and impartiality**

#### **a. Independence of the judiciary**

- i. Are there sufficient constitutional and legal guarantees of judicial independence?
- ii. Are the basic principles of judicial independence, including objective procedures and criteria for judicial appointments, tenure and discipline and removals, enshrined in the Constitution or ordinary legislation?
- iii. Are judges appointed for life time or until retirement age? Are grounds for removal limited to serious breaches of disciplinary or criminal provisions established by law, or where the judge can no longer perform judicial functions? Is the applicable procedure clearly prescribed in law? Are there legal remedies for the individual judge against a dismissal decision?
- iv. iii. Are the grounds for disciplinary measures clearly defined and are sanctions limited to intentional offences and gross negligence?
- v. Is an independent body in charge of such procedures?
- vi. Is this body not only comprised of judges?
- vii. Are the appointment and promotion of judges based on relevant factors, such as ability, integrity and experience? Are these criteria laid down in law?



- viii. Under which conditions is it possible to transfer judges to another court? Is the consent of the judge to the transfer required? Can the judge appeal the decision of transfer?
- ix. Is there an independent judicial council? Is it grounded in the Constitution or a law on the judiciary? If yes, does it ensure adequate representation of judges as well as lawyers and the public?
- x. May judges appeal to the judicial council for violation of their independence?
- xi. Is the financial autonomy of the judiciary guaranteed? In particular, are sufficient resources allocated to the courts, and is there a specific article in the budget relating to the judiciary, excluding the possibility of reductions by the executive, except if this is done through a general remuneration measure?<sup>69</sup> Does the judiciary or the judicial council have input into the budgetary process?
- xii. Are the tasks of the prosecutors mostly limited to the criminal justice field?
- xiii. Is the judiciary perceived as independent? What is the public's perception about possible political influences or manipulations in the appointment and promotion of the judges/prosecutors, as well as on their decisions in individual cases? If it exists, does the judicial council effectively defend judges against undue attacks?
- xiv. Do the judges systematically follow prosecutors' requests ("prosecutorial bias")?
- xv. Are there fair and sufficient salaries for judges?

#### **b. Independence of individual judges**

- i. Are there sufficient constitutional and legal guarantees for the independence of individual judges?
- ii. Are judicial activities subject to the supervision of higher courts – outside the appeal framework -, court presidents, the executive or other public bodies?
- iii. Does the Constitution guarantee the right to a competent judge ("natural judge pre-established by law")?
- iv. Does the law clearly determine which court is competent? Does it set rules to solve any conflicts of competence?
- v. Does the allocation of cases follow objective and transparent criteria? Is the withdrawal of a judge from a case excluded other than in case a recusal by one of the parties or by the judge him/ herself has been declared founded?

#### **c. Impartiality of the judiciary**

- i. Are there specific constitutional and legal rules providing for the impartiality of the judiciary?
- ii. What is the public's perception of the impartiality of the judiciary and of individual judges?
- iii. Is there corruption in the judiciary? Are specific measures in place against corruption in the judiciary (e.g. a declaration of assets)? What is the public's perception on this issue?

#### **d. The prosecution service: autonomy and control**



Is sufficient autonomy of the prosecution service ensured?

- i. Does the office of the public prosecution have sufficient autonomy within the State structure? Does it act on the basis of the law rather than of political expediency?
- ii. Is it permitted that the executive gives specific instructions to the prosecution office on particular cases? If yes, are they reasoned, in writing, and subject to public scrutiny?
- iii. May a senior prosecutor give direct instructions to a lower prosecutor on a particular case? If yes, are they reasoned and in written form?
- iv. Is there a mechanism for a junior prosecutor to contest the validity of the instruction on the basis of the illegal character or improper grounds of the instruction?
- v. Also, can the prosecutor contesting the validity of the instruction request to be replaced?
- vi. Is termination of office permissible only when prosecutors reach the retirement age, or for disciplinary purposes, or, alternatively, are the prosecutors appointed for a relatively long period of time without the possibility of renewal?
- vii. Are these matters and the grounds for dismissal of prosecutors clearly prescribed by law?
- viii. Are there legal remedies for the individual prosecutor against a dismissal decision?
- ix. Is the appointment, transfer and promotion of prosecutors based on objective factors, in particular ability, integrity and experience, and not on political considerations? Are such principles laid down in law?
- x. Are there fair and sufficient salaries for prosecutors?
- xi. Is there a perception that prosecutorial policies allow selective enforcement of the law?
- xii. Is prosecutorial action subject to judicial control?

#### **e. Independence and impartiality of the Bar**

- i. Are the independence and impartiality of the Bar ensured?
- ii. Is there a recognized, organized and independent legal profession (Bar)?
- iii. ii. Is there a legal basis for the functioning of the Bar, based on the principles of independence, confidentiality and professional ethics, and the avoidance of conflicts of interests?
- iv. Is access to the Bar regulated in an objective and sufficiently open manner, also as remuneration and legal aid are concerned?
- v. Are there effective and fair disciplinary procedures at the Bar?
- vi. What is the public's perception about the Bar's independence?

## **2. Fair trial**

### **a. Access to courts**

Do individuals have an effective access to courts?



- i. Locus standi (right to bring an action): Does an individual have an easily accessible and effective opportunity to challenge a private or public act that interferes with his/her rights?
- ii. Is the right to defence guaranteed, including through effective legal assistance?
- iii. If yes, what is the legal source of this guarantee?
- iv. Is legal aid accessible to parties who do not have sufficient means to pay for legal assistance, when the interests of justice so require?
- v. Are formal requirements, time-limits and court fees reasonable?
- vi. Is access to justice easy in practice? What measures are taken to make it easy?
- vii. Is suitable information on the functioning of the judiciary available to the public?

b. Presumption of innocence

Is the presumption of innocence guaranteed?

- i. Is the presumption of innocence guaranteed by law?
- ii. Are there clear and fair rules on the burden of proof? iii. Are there legal safeguards which aim at preventing other branches of government from making statements on the guilt of the accused?
- iii. Is the right to remain silent and not to incriminate oneself nor members of one's family ensured by law and in practice?
- iv. Are there guarantees against excessive pre-trial detention?

c. Other aspects of the right to a fair trial

i. Are additional fair trial standards enshrined in law and applied in practice?

- i. Is equality of arms guaranteed by law?
- ii. Is it ensured in practice?
- iii. Are there rules excluding unlawfully obtained evidence?
- iv. Are proceedings started and judicial decisions made without undue delay?
- v. Is there a remedy against undue lengths of proceedings?
- vi. Is the right to timely access to court documents and files ensured for litigants?
- vii. Is the right to be heard guaranteed?
- viii. Are judgments well-reasoned?
- ix. Are hearings and judgments public except for the cases provided for in Article 6.1 ECHR or for in absentia trials?
- x. Are appeal procedures available, in particular in criminal cases?
- xi. Are court notifications delivered properly and promptly?

d. Effectiveness of judicial decisions

i. Are judicial decisions effective?

- i. Are judgments effectively and promptly executed?
- ii. Are complaints for non-execution of judgments before national courts and/or the European Court of Human Rights frequent?
- iii. What is the perception of the effectiveness of judicial decisions by the public?

**3. Constitutional justice (if applicable)**



Is constitutional justice ensured in States which provide for constitutional review (by specialised constitutional courts or by supreme courts)?

- i. Do individuals have effective access to constitutional justice against general acts, i.e., may individuals request constitutional review of the law by direct action or by constitutional objection in ordinary court proceedings? What “interest to sue” is required on their part?
- ii. Do individuals have effective access to constitutional justice against individual acts which affect them, i.e. may individuals request constitutional review of administrative acts or court decisions through direct action or by constitutional objection?
- iii. Are Parliament and the executive obliged, when adopting new legislative or regulatory provisions, to take into account the arguments used by the Constitutional Court or equivalent body? Do they take them into account in practice?
- iv. Do Parliament or the executive fill legislative/regulatory gaps identified by the Constitutional Court or equivalent body within a reasonable time?
- v. Where judgments of ordinary courts are repealed in constitutional complaint proceedings, are the cases re-opened and settled by the ordinary courts taking into account the arguments used by the Constitutional Court or equivalent body?
- vi. If constitutional judges are elected by Parliament, is there a requirement for a qualified majority and other safeguards for a balanced composition?
- vii. Is there an ex ante control of constitutionality by the executive and or/legislative branches of government?

## ***Examples of particular challenges to the Rule of Law***

- I. Corruption and conflict of interest
  - a. Preventive measures
    - i. What are the preventive measures taken against corruption?
    - ii. In the exercise of public duties, are specific rules of conduct applicable to public officials? Do these rules take into account: (1) the promotion of integrity in public life by means of general duties (impartiality and neutrality etc.); (2) restrictions on gifts and other benefits; (3) safeguards with respect to the use of public resources and information which is not meant to be public; (4) regulations on contacts with third parties and persons seeking to influence a public decision including governmental and parliamentary work?
    - iii. Are there rules aimed at preventing conflicts of interest in decision-making by public officials, e.g. by requiring disclosure of any conflicts in advance?
    - iv. Are all categories of public officials covered by the above measures, e.g. civil servants, elected or appointed senior officials at State and local levels, judges and other holders of judicial functions, prosecutors etc. ?
    - v. Are certain categories of public officials subject to a system of disclosure of income, assets and interests, or to further requirements at the beginning and the end of a public



office or mandate e.g. specific integrity requirements for appointment, professional disqualifications, post-employment restrictions (to limit revolving doors or so-called “pantouflage”)?

- vi. Have specific preventative measures been taken in specific sectors which are exposed to high risks of corruption, e.g. to ensure an adequate level of transparency and supervision over public tenders, and the financing of political parties and election campaigns?

## **b. Criminal law measures**

- i. What are the criminal law measures taken against corruption?
- ii. To what extent does bribery involving a public official constitute an offence?
- iii. Is corruption defined in policy documents or other texts, in conformity with international standards? Are there criminal law provisions aimed at preserving public integrity, e.g. trading in influence, abuse of office, breach of official duties?
- iv. Which public officials are within the scope of such measures, e.g. civil servants, elected or appointed senior officials including the head of State and members of government and public assemblies, judges and other holders of judicial functions, prosecutors etc. ?
- v. What consequences are attached to convictions for corruption-related offences? Do these include additional consequences such as exclusion from a public office or confiscation of profits?

## **c. Effective compliance with, and implementation of preventive and repressive measures**

- i. How is effective compliance with the above measures ensured?
- ii. How is the overall level of compliance with anti-corruption measures and policies perceived domestically?
- iii. Does the State comply with the results of international monitoring in this field?
- iv. Are effective, proportionate and dissuasive criminal and administrative sanctions provided for corruption-related acts and non-compliance with preventive mechanisms?
- v. Are the bodies responsible for combating corruption and preserving public sector integrity provided with adequate resources, including investigative powers, personnel and financial support? Do these bodies enjoy sufficient operational independence from the executive and the legislature?
- vi. Are measures in place to make the above bodies accessible to individuals and to encourage disclosure of possible corrupt acts, notably reporting hotlines and a policy on whistle-blowers which offers protection against retaliation in the workplace and other negative consequences?
  - vii. Does the State itself assess the effectiveness of its anti-corruption policies, and is adequate corrective action taken when necessary?
- viii. Have any phenomena been observed in practice, which would undermine the effectiveness or integrity of anti-corruption efforts, e.g. manipulation of the legislative process, non-compliance and non-enforcement of court decisions and





sanctions, immunities, interference with the enforcement efforts of anticorruption and other responsible bodies – including political intimidation, instrumentalization of certain public institutions, intimidation of journalists and members of civil society who report on corruption?

## II. Collection of data and surveillance

### a. Collection and processing of personal data

How is personal data protection ensured?

- i. Are personal data undergoing automatic processing sufficiently protected with regard to their collection, storing and processing by the State as well as by private actors? What are the safeguards to secure that personal data are:
  - processed lawfully, fairly and in a transparent manner in relation to the data subject (“lawfulness, fairness and transparency”);
  - collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes (“purpose limitation”)?
  - adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (“data minimization”)?
  - accurate and, where necessary, kept up to date (“accuracy”)?
  - kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed (“storage limitation”);
  - processed in a way that ensures appropriate security of the personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage (“integrity and confidentiality”)?

Is the data subject provided at least with information on:

- the existence of an automated personal data file, its main purposes;
- the identity and the contact details of the controller and of the data protection officer;
- the purposes of the processing for which the personal data are intended;
- the period for which the personal data will be stored;
- the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject or to object to the processing of such personal data;
- the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority; the recipients or categories of recipients of the personal data;
- where the personal data are not collected from the data subject, from which source the personal data originate;
- any further information necessary to guarantee fair processing in respect of the data subject.



- ii. Does a specific independent authority ensure compliance with the legal conditions under domestic law giving effect to the international principles and requirements with regard to the protection of individuals and of personal data?
- iii. Are effective remedies provided for alleged violations of individual rights by collection of data?

b. Targeted surveillance

- i. What are the guarantees against abuse of targeted surveillance?
- ii. Is there a mandate in the primary legislation and is it restricted by principles like the principle of proportionality?
- iii. Are there norms providing for procedural controls and oversight?
- iv. Is an authorization by a judge or an independent body required?
- v. Are there sufficient legal remedies available for an alleged violation of individual rights?

c. Strategic surveillance

What are the legal provisions related to strategic surveillance which guarantee against abuse?

- i. Are the main elements of strategic surveillance regulated in statute form, including the definition of the agencies which are authorized to collect such intelligence, the detailed purposes for which strategic surveillance can be collected and the limits, including the principle of proportionality, which apply to the collection, retention and dissemination of the data collected?
- ii. Does the legislation extend data protection/privacy also to non-citizens/non-residents?
- iii. Is strategic surveillance submitted to preventive judicial or independent authorization?  
Are there independent review and oversight mechanisms in place?
- iv. Are effective remedies provided for alleged violations of individual rights by strategic surveillance?

d. Video surveillance

- i. What are the guarantees against abuse of video surveillance, especially of public places?
- ii. Is video surveillance performed on grounds of security or safety requirements, or for the prevention and control of criminal offences, and submitted in law and in practice to the requirements laid down in Article 8 ECHR?
- iii. Are people notified of their being surveyed in places accessible to the public?
- iv. Do people have access to any video surveillance that may relate to them?

United Nations: Rule of Law Indicators

1) Police

- a. Performance: Effectiveness and efficiency and public confidence
- b. Integrity, transparency and accountability
- c. Treatment of vulnerable groups



- d. Capacity: material resources, human resources, administrative and management capacity.
- 2) Judiciary
- a. Performance: Public confidence, Access to justice and effectiveness and efficiency
  - b. Integrity, transparency and accountability
  - c. Treatment of vulnerable groups
  - d. Capacity: material resources, human resources, and administrative and management capacity
- 3) Prisons
- a. Performance: Security, Safety, Order. Prisoner health, welfare and rehabilitation
  - b. Integrity, transparency and accountability
  - c. Treatment of vulnerable groups
  - d. Capacity: material resources, human resources, and administrative and management capacity