

*Article by former UN Legal Counsel Hans Corell in the Swedish daily Dagens Nyheter on 26 May 2011*

*Translation from the Swedish by the author*

## **Strengthened Rule of Law in Sweden Could Serve as a Model for the World <sup>1</sup>**

**The former Legal Counsel of the United Nations: The Reinfeldt Government should take an initiative to strengthen the rule of law in Sweden. There is room for improvement in particular in the field of law enforcement. The events in North Africa and the Middle East have brought into immediate focus that the conflicts around the world basically have the same reason: absence of democracy and the rule of law. Therefore, a special project has been created – the WJP or the World Justice Project – to systematically review the countries of the world in a rule of law perspective. With respect to Sweden, the result is positive. However, there is room for improvement also on our part, n.b. in the field of law enforcement. The Government should analyze the result carefully and initiate a discussion on how best to strengthen the rule of law in Sweden. We should be a good model and can contribute to strengthening the rule of law and democracy all over the world, writes Hans Corell.**

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The latest events in North Africa and the Middle East bring into immediate focus a constant threat to international peace and security. The reason for the conflicts around the world is basically the same: absence of democracy and the rule of law.

What must be done cannot be explained more accurately than in the preamble to the 1948 United Nations Universal Declaration of Human Rights:

*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*

The UN ought to systematically analyze how its member states meet the rule of law standards. When I made this suggestion a few years ago, the thought was not met with sympathy.

At the initiative of William H. Neukom, former President of the American Bar Association, a project has now been created, the World Justice Project (WJP), within which this plan has been put in practice.

The WJP has begun a systematic review of the countries of the world in a rule of law perspective. The review is presented in the form of an Index which is available on the web.

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<sup>1</sup> As is customary, the title was set by the paper. The author would definitely have preferred the title suggested by him: Rule of Law – A Precondition for International Peace and Security.

The intention is not to name and shame individual states but to assist them in their work to enhance the rule of law.

In a first round, 35 states have been reviewed, among them Sweden. In 2011, 100 of the 192 UN member states will have been reviewed.

The meaning of the English expression rule of law can always be discussed. The WJP applies the following definition:

1. The government and its officials and agents are accountable under the law;
2. The laws are clear, publicized, stable and fair, and protect fundamental rights, including the security of persons and property;
3. The process by which the laws are enacted, administered and enforced is accessible, fair and efficient;
4. Access to justice is provided by competent, independent, and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

In the review, states are being examined in the following areas: limited government powers; absence of corruption; clear, publicized and stable laws; order and security; fundamental rights; open government; regulatory enforcement; access to civil justice; effective criminal justice.

A comparison demonstrates that the result with respect to Sweden is positive. However, there is room for improvements also on our part in the areas of order and security, fundamental rights and freedoms, access to civil justice and effective criminal justice.

At a WJP conference in Kuala Lumpur in January this year, we discussed how one can best put the Index into practice. It was then that the thought of the present article was born. It was further stimulated by the article by the Prime Minister and others in the Dagens Nyheter (DN Debatt) on 27 January about Sweden's good example at the World Economic Forum. My experiences at a major international legal forum in St Petersburg on 20 May added to this. In his, also self-critical, address to the 700 participants from many countries President Dmitry Medvedev focused on the rule of law. Minister of Justice Beatrice Ask was among the Swedish contributors.

The Index demonstrates that many states have a long way to go in this field. This is precisely why it is important that Sweden sets the example by showing that the Index is taken seriously and makes an effort to bring about improvements.

One could even view the subject matter in a development assistance perspective. Sweden has a good reputation in this case with our focus on democracy and human rights. What we do ourselves in this field also promotes our development assistance work through the power of the good example.

With reference to what has been said, I appeal to the Government to take a vigorous initiative with the Index as a point of departure.

Rule of law not only presupposes competent and judicious policemen, an effective prosecution, independent and impartial judges and an independent Bar. The rule of law is dependent on contributions by persons far beyond the lawyers' circle. Not least important is that responsible politicians at the central, regional and local level understand the importance of the rule of law.

In this context should also be mentioned the many who in different situations exercise public authority in relation to individual citizens. Among them are public officials within the tax system, the social services and the many other activities for which the state, the county councils and the local municipalities are responsible. Attention should also be paid to the position of the military authorities in a state under the rule of law.

The Government and the authorities concerned ought therefore to carefully analyze the WJP Index with respect to Sweden and take this analysis as a point of departure for a general discussion on how to strengthen the rule of law not only within the areas reviewed.

As a first step, the Government ought to commission the Legal Advisers of the ministries to make a joint review of the Index and the issues brought to the fore by the same for the purpose of identifying areas where improvements can be made and propose appropriate actions and procedures.

However, also others have an important role to play here. The non-governmental organizations are self-evident in this context, primarily the Swedish Bar Association with its special legal status, the Swedish Police Union and the Swedish Judges Association. Amnesty, Human Rights Watch and Transparency International are given actors.

The question of the rule of law should, however, be discussed in a wider perspective, in particular at the universities and in the organizations within the school system. There has to be an understanding of the importance of the rule of law nationally and internationally also at the grassroots level. Journalists and other representatives of the media have a special responsibility here.

Against this background, I urge the non-governmental organizations to enter deeply into the subject matter, inform their members and consider what contributions they can make. The WJP has elaborated educational material for this purpose.

This article is also directed to representatives of the business community with particular reference to the Global Compact initiated by then UN Secretary-General Kofi Annan. Its purpose is to promote that business assumes a social and environmentally conscious

responsibility in the areas of human rights, labour law, the environment and the fight against corruption. The link with Corporate Social Responsibility (CSR) is a given.

To sum up, the WJP Rule of Law Index should be studied in the widest possible circles. The Government should take a comprehensive initiative. Others should communicate to the Government thoughts and proposals with the view to strengthening the rule of law in different ways.

“A nation must be built on/with law”, as the saying goes.<sup>2</sup> However, nowadays national legislation must also respect international law, in particular the rules for the protection of human rights and freedoms. Sweden and like-minded countries should therefore serve as good models and take the Rule of Law Index seriously so that they also in this respect contribute to strengthening the rule of law all over the world.

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## Fact Box

Read more about the World Justice Project:

<http://www.worldjusticeproject.org/>

Rule of Law Index relating to 35 states:

<http://www.worldjusticeproject.org/rule-of-law-index/>

Rule of Law Index – The result for Sweden:

<http://www.worldjusticeproject.org/node/559>

Rule of Law Index – The result for Sweden in comparison in 2010 (in Swedish):

<http://www.havc.se/res/SelectedMaterial/wjpsweden.pdf>

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<sup>2</sup> “Land skall med lag byggas” is an old Norse saying.