

Economic resilience as enabler of rule of law resilience

Carmen Giovanazzi

University of Duisburg-Essen

March 2023

1. Introduction

This snapshot analyses economic resilience as an enabler of the rule of law. To date, academic research has largely focussed on the reverse: the relevance of rule of law for economic growth.¹ Therefore, this analysis brings together different considerations to contextualise economic resilience – expressed in terms of economic prosperity and growth, economic (in)equality, and the provision of welfare and public goods – in relation to rule of law resilience. It argues that via several channels, an economically stable environment facilitates social cohesion, peace and order, strengthens trust and engagement in democratic processes, and enhances the acceptance of and compliance with the legal system. By extension, an economically resilient system limits support for anti-democratic movements, thereby strengthening rule of law resilience.

2. Economic resilience and the rule of law

The RESILIO model defines economic resilience as the ability of a national economy to efficiently satisfy the needs of a society, creating circumstances that foster social peace and public order. Therefore, economic resilience is not analysed as an economy's ability to withstand and recover from external shocks or disturbances, either on the micro and macro level, or in terms of asset and output losses.² Rather, the RESILIO model focusses on the economic conditions that strengthen rule of law resilience while also analysing the economic factors that induce its erosion, and it is assumed that a resilient economy is capable of equipping its society in such a way that inclines it towards protecting the rule of law.

The first aspect of economic resilience draws on prosperity and growth: the level of an economy's wellbeing and its prospects for the future. The second aspect entails economic (in)equality and is concerned with the distribution

¹ D. Acemoglu, S. Johnson, J. Robinson (2005). Institutions as the fundamental cause of long-run growth, in: P. Aghion, S. Durlauf (eds.). Handbook of Economic Growth, Vol. 1A, North Holland, pp. 385-472; and S. Haggard, L. Tiede (2011). The Rule of Law and Economic Growth: Where are We? in: World Development 39(5), pp. 673-685.

² S. Hallegate (2014): Economic Resilience: Definition and Measurement, in: World Bank Policy Research, Working Paper 6852.

of wealth, income and opportunities, as well as the welfare system and the provision of public goods. In other words, the first aspect sheds light on how large the cake is, while the second analyses how the cake is distributed.

The philosophical theory building of historical materialism can serve as an analytical underpinning. Developed by Karl Marx and Friedrich Engels, historical materialism assumes that the way production is organised in a society lies at the heart of all social order, and that materialist conditions and the development of productive forces determine the prospects of a society.³ Turning Georg Wilhelm Friedrich Hegel's dialectics around, historical materialism assumes that "[l]ife is not determined by consciousness, but consciousness by life."⁴ Therefore, the role to the economy, the way production is organised and how the fruits of production are distributed are crucial in shaping a society's understanding of itself. For the purpose of this snapshot, this includes assigning value to the rule of law and cultivating an understanding of the worthiness of protecting this very rule, thus strengthening its resilience.

Members of a society may ask themselves: Do we consider economic conditions to be fair or unfair? Is there social mobility and does it work for us? How does the rule of law serve us, and are we therefore willing to protect it? Material conditions lie not only at the foundation of a society's consciousness but also condition the state's institutional capacity, entailing different opportunities and limitations for each member of society.

2.1 Economic growth and prosperity

Gross Domestic Product (GDP) measures the total value of all final goods and services produced in an economy during a given year. It has often been criticised for its paying insufficient regard to health, happiness, the environment and sustainability, or unpaid work, and has

thus been complemented by other measures of well-being.⁵ Yet, it remains the most common measure of economic prosperity and growth. How then does it relate to the resilience of the rule of law?

On a general note, a more prosperous economy as measured by GDP is able to provide for the better design, implementation, and effectiveness of the rule of law. Institutions vital to the rule of law – independent courts, democratic parliaments, or accountable governments – need proper state funding. Likewise, government spending on the functioning rule of law is included in GDP. It follows that all else being equal, richer societies are more likely to be able to materially equip their legal, democratic systems. Hence, per capita GDP and the rule of law are positively correlated.⁶

At the same time, the richer an economy, the more important the protection of property rights and the more desirable a well-functioning rule of law becomes. This holds both for individuals seeking to protect their income and wealth, and for firms that require a clear set of rules to grow their businesses through investment. In turn, this can lead to increased compliance with the law, as people are more likely to follow the rules when they believe that the legal system is fair and effective. In a society operating at subsistence level, citizens are less likely to care about protecting the rule of law because they are concerned with self-preservation, which may include practices that entail the erosion of the rule of law, such as corruption. In other words, one must be able to afford a functioning rule of law, and only then can it generate social peace and order.

One key historical reference for economic wellbeing and social order is John Maynard Keynes' 1919 work *The Economic Consequences of the Peace*.⁷ Keynes, who had attended the Paris Peace Conference, was sharply critical of the Treaty of Versailles. The Treaty assigned the entire

³ F. Engels (1877). Anti-Dühring, part 3, URL: <https://www.marxists.org/archive/marx/works/1877/anti-duhring/ch24.htm> (last checked 15.2.2023).

⁴ K. Marx (1845). The German Ideology, Part 1, Chapter 4, URL: <https://www.marxists.org/archive/marx/works/1845/german-ideology/ch01a.htm> (last checked: 15.2.2023).

⁵ J. E. Stiglitz (2020). GDP Is the Wrong Tool for Measuring What Matters, in: Scientific American, 20.08.2020, URL: <https://www.scientificamerican.com/article/gdp-is-the-wrong-tool-for-measuring-what-matters/> (last checked: 15.2.2023).

⁶ D. Kaufmann, A. Kraay, P. Zoido-Lobaton (1999). Governance Matters, in: The World Bank Development Research Group, Policy Research Working Paper 2196, p. 23.

⁷ J. M. Keynes (1919). The Economic Consequences of the Peace, Macmillan & Co.

First World War guilt to Germany and her allies. In addition to demilitarisation and territorial concessions, war reparations were imposed, the amount of which was to be determined by a commission without German representation. Keynes described the settlement as a “Carthaginian Peace”: Instead of offering a plan for economic recovery and thus the opportunity for increased prosperity across Europe, the Treaty aimed at subjugating the defeated parties. The measures imposed aroused political resentment and resistance among the German population. While the German “fulfillment policy” consisted of demonstrating willingness to meet reparation claims while exposing them as excessive and unfulfillable, it led to the rise of right-wing opposition parties. At the same time, new loans to cover current expenditures and debt service strained state finances. After France had occupied the Ruhr region following insufficient reparations payments, spending on German “passive resistance” through a further massive expansion of the money supply became the main driver of the 1923 German hyperinflation.⁸ The political instability of the Weimar Republic, combined with the subsequent deflation between 1929 and 1932, led to mass unemployment and severe poverty, marking a highly volatile period in German history. Taken together, these conditions formed the material basis for the rise of Hitler and the Nazi regime, which carried out the complete dismantling of the rule of law culminating in the greatest crime against humanity to emanate from German soil, the Shoah.

Since the early 2000s, the European Union (EU) has witnessed a resurgence of the extreme right, authoritarianism, and undemocratic political parties that seek to dismantle the rule of law. Recent examples also come from established Western democracies. After the recession caused by the COVID-19 pandemic, and aggravated by Russian aggression against Ukraine, right-

wing populist parties gained traction, winning elections in Italy, and succeeding in Sweden. In addition to the “cultural backlash” explanation,⁹ economic conditions that turn the electorate against the perceived political establishment and towards support for right-leaning political parties have also been identified. These factors include: the financial and ensuing European debt crisis of 2007-2014 as well as poor responses by governments; changes in economic structures arising from deindustrialisation and the subsequent structural mismatches and growing socio-economic gaps; the rise of new technologies and the financialisation of non-financial firms; economic shocks that stem from market integration pursued in the name of globalisation; and lastly, the rise of neoliberalism, which has largely commodified the provision of formerly non-market operations and decoupled the individual from the collective.¹⁰ Overall, scholars understand “economic grievances, insecurities, and inequalities as main cause for rising support for these parties.”¹¹ While all these factors deserve greater attention than the scope of this snapshot allows for, the next section addresses (in)equality and the role of the state.

2.2 Economic (in)equality and welfare provisions

Economic (in)equalities describe the distribution of income, wealth and opportunities within a society. In terms of inequality, the distribution of income in a market economy does not mirror the value of work performed for society, as reflected in the gender pay gap, for example. Averaging 13 percent in the EU member states in 2020,¹² the gender pay gap is in large part the result of women working part-time and carrying out unpaid care work crucial to well-being. Moreover, paid care work, which is mostly done by women, is poorly paid compared to jobs in the industrial and financial sectors.¹³

⁸ A. Scriba (2014). Die Weimarer Republik, in: Lebendiges Museum Online, Deutsches Historisches Museum, URL: <https://www.dhm.de/lemo/kapitel/weimarer-republik.html> (last checked 20.2.2023).

⁹ P. Norris, R. Inglehart (2019). Cultural Backlash, Trump, Brexit, and Authoritarian Populism, Cambridge University Press.

¹⁰ V. Ausserladscheider (2019). Beyond economic insecurity and cultural backlash: Economic nationalism and the rise of the far right, in: Sociology Compass, 13(4).

¹¹ Ibid.

¹² Statistisches Bundesamt (2020). Germany remains among EU states with highest disparity, URL: https://www.destatis.de/Europa/EN/Topic/Population-Labour-Social-Issues/Labour-market/gender_pay_gap.html (last checked: 15.2.2023).

¹³ European Parliament (2022). Understanding the gender pay gap: definition and causes, URL: <https://www.europarl.europa.eu/news/en/headlines/society/20200109STO69925/understanding-the-gender-pay-gap-definition-and-causes> (last checked: 15.2.2023).

Therefore, disposable income – second level income distribution through taxation and government transfers – plays an important role, and is largely influenced by the willingness of the state to address economic inequality. The same holds for the provision of and investment in public goods. Assuming a rather unequal market distribution, a state providing schools and education, health care, and infrastructure can provide all income groups with more equal opportunities. With respect to rule of law resilience, a more equal distribution of economic resources is highly desirable for the following reasons.

For a start, a more equal society can make more equal use of the rule of law: equality before the law exists *de jure* but is *de facto* associated with costs, be they the actual costs of hiring a lawyer for a lawsuit, or the opportunity costs of spending time in court rather than at work. High levels of economic inequality prevent lower income groups from exercising their rights. Similar risks arise when economic crimes are not adequately investigated and criminals win court cases thanks to their abundant financial resources. In the aftermath of the financial crisis, hardly any of those responsible were brought to justice, while the livelihoods of millions of citizens have been destroyed.¹⁴ This leads to a sense of injustice and powerlessness against the rule of law and government, which is perceived as complicit with the rich and powerful.

As Dani Rodrik has shown, globalisation and the associated shocks of economic integration have produced winners and losers in the exposure to global competition and finance.¹⁵ Resulting from higher income disparities and a shrinking middle class, resentment and frustration have increased demand for economic nationalism. Seizing this feeling of being left behind, far-right and populist parties associated with dismantling the rule of law have been successful in advancing their agendas. Pretending to

offer solutions, such parties have captured and wrought destruction against the rule of law, exemplified by the presidency of Donald Trump, and culminating in his followers' attack on the United States Capitol in 2021.

After the recent Great Recession, real income levels have been depressed across EU countries, coupled with the differential impact between periphery and core, as well as between different income groups.¹⁶ EU-level income inequality increased after 2008, with peripheral countries more negatively affected than core countries and income inequality within countries on the rise. Affecting Mediterranean countries and lower income groups in particular, real income levels or growth rates fell overall, leading to a squeeze of the European middle class. The political capture of economic hardship also appears to be the case in the compromised democracies of the EU: The Hungarian governing party Fidesz, a notorious forerunner in dismantling the rule of law, saw sweeping electoral victories in the poorest regions of the country.¹⁷ The 2015 success of national-conservative coalition led by the Law and Justice Party in Poland was attributed to growing grievances: alienation from liberal elites and a perceived lack of social justice.¹⁸

This is of concern, since the stability of European democracies and welfare systems relies on the middle class. The decline of the middle class and the exposure of vulnerable groups to shocks have induced changes in socioeconomic realities, leading to political and social unrest associated with the rise of undemocratic, authoritarian parties.¹⁹ While economic nationalism provides no answers to today's challenges, for many, greater economic insecurity at the individual level brought about by such massive structural changes seems to increase susceptibility to nationalist promises.

¹⁴ J. Eisinger (2017). The Chickenshit Club, Why the Justice Department Fails to Prosecute Executives, Simon & Schuster.

¹⁵ D. Rodrik (2021). Why Does Globalization Fuel Populism? Economics, Culture, and the Rise of Right-Wing Populism, in: Annual Review of Economics, 13, pp. 133-170.

¹⁶ Eurofound (2017). Income inequalities and employment patterns in Europe before and after the Great Recession, Publications Office of the European Union, URL: https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1663en.pdf (last checked: 15.2.2023).

¹⁷ D. Kalan (2022). A Grudging Vote for Fidesz in Hungary's Poorest Regions, Balkan Insight, 1.4.2022, URL: <https://balkaninsight.com/2022/04/01/a-grudging-vote-for-fidesz-in-hungarys-poorest-regions/> (last checked: 15.2.2023).

¹⁸ M. Sutowski (2018). The 'good shift' – new authoritarianism and beyond, Political Critique, 17.4.2018, URL: <http://politicalcritique.org/cee/poland/2018/the-good-shift-new-authoritarianism-and-beyond/> (last checked: 15.2.2023).

¹⁹ V. Ausserladscheider, op. cit.

Keynes stressed the importance of fundamental uncertainty as an inevitable condition of life which, unlike risk, is not measurable by probability calculus, since potential future events such as economic shocks are unknown.²⁰ Particularly in the face of shocks and crises, the state and its institutions serve as anchors of expectation and must respond in a way that creates economic stability for societies. Consequently, government expenditures are crucial to establish and maintain social peace and order. It follows that the role of the state becomes more relevant to provide livelihoods that are economically stable, generating trust in the rule of law and thereby strengthening its resilience. The provision and enhancement of safe employment opportunities as well as public investment programmes at the national and EU level are highly relevant in this regard. Progressive welfare systems and the provision of public goods should be strongly enhanced to reduce economic inequality all over the European Union and to provide a sense of security and predictability for individuals throughout their lives.

3. Conclusions

The relationship between economic resilience and the resilience of the rule of law is complex and indirect, and its mechanisms have thus far not attracted sufficient attention. This snapshot has identified important links between the two. As both past and present show, economic instability, inequality, and exposure to economic shocks and crises threaten livelihoods and survival, and can cause resentment and social unrest. In turn, this can undermine the functioning of the rule of law if far-right and populist parties willing to dismantle the rule of law are successful in utilising associated fears and anger to gain political power.

The resilience of the rule of law requires enlightened awareness and mature citizens who are conscious of their status, their rights, and their chances of achieving justice within the rule of law. Rule of law resilience requires citizens' trust in democratic processes and a shared understanding of the rule of law as serving them and their goals. Such circumstances require economic well-being and security, a degree of economic inequality that can be

overcome by social mobility, and a political environment in which these factors are understood, perceived as relevant, and responded to.

Consequently, in order to strengthen trust in the legal system and the willingness to protect it, the provision of secure employment opportunities, and economic and financial policies targeting higher economic equality are vitally important. These include EU and state-level employment programmes, progressive wealth and income taxation, public investment programmes assuring equal opportunities (e.g. in housing and transport), as well as welfare systems that protect vulnerable groups from economic hardship. Levelling the risk of social unrest and conflict, such measures can create a more stable, equal, and cohesive society in which the rule of law can thrive

²⁰ J. M. Keynes (1936). *The General Theory of Employment, Interest and Money*, Palgrave Macmillan.

About the author

Carmen Giovanazzi is a doctoral student at the University of Duisburg-Essen. She holds Master's degrees in International Economics from BSEL Berlin, and in Economic Analysis and Policy from Paris Université 7 & 13. Before starting her PhD, she was the head of office for fiscal policymaker Fabio De Masi. Her research interests include corporate governance and corporate finance, income and wealth distribution, macroeconomics, and comparative political economy.

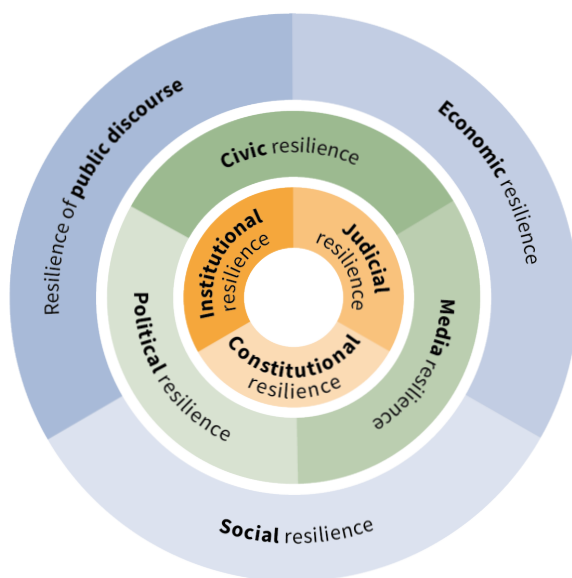
About the project

RESILIO aims to identify institutional and societal factors that make the rule of law more resilient, thus adding a constructive contribution to academic and policy debates. It draws on a “thick” definition of the rule of law, understood as closely connected to democracy and fundamental rights. The resilience of the rule of law means that the rule of law can experience hazardous events or incremental threats without losing its core function, structure and purpose.

About the paper

This paper is part of the **#RESILIOsnapshot** series, a collection of compact analyses that explain ties between resilience factors of the rule of law in the European Union, identified within the RESILIO model.

RESILIENCE FACTORS



RESILIO offers a multi-layered model of the rule of law resilience. Systemic dimension (orange) reflects upon the resilience of the legal setup; subsidiary dimension (green) looks at the phenomena and tendencies present in societies as possible facilitators; and contextual dimension (blue) analyses the broader habitat, determined by structural and systemic variables like economic growth, social cohesion, and general political climate. **RESILIO** also takes into account the horizontal effects of unpredicted and unprecedented crises that can affect all dimensions of rule of law resilience with different intensity.

While each factor is necessary for a resilient rule of law, they are only sufficient in combination.

The considerations in this paper are compatible with the developed conceptual model of the resilience of the rule of law. They focus on **economic resilience** as a contextual factor strengthening the rule of law.

RESILIO is implemented by Institut für Europäische Politik in Berlin and funded by Stiftung Mercator.

For more information, visit the project website: <https://iep-berlin.de/en/projects/future-of-european-integration/resilio/>