Tracking the Rule of Law:
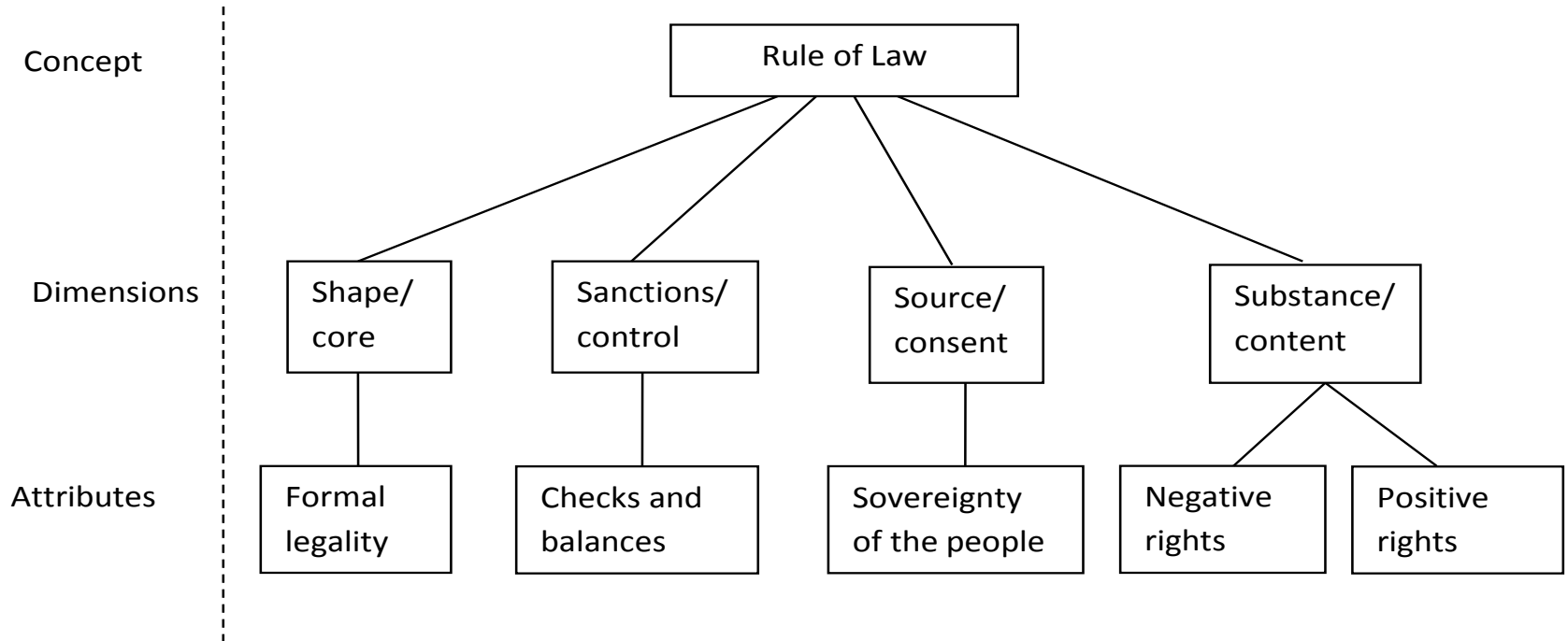# Dimensions and Developments, 1900-2012

Rule of Law Research Consortium Conference on What We Know and Don't Know About The Rule of Law

Presenter: Svend-Erik Skaaning (co-author: Jørgen Møller)

Research agenda

- Carry out a disaggregate, comparative exploration of empirical rule of law dimensions

- Identify longer-term, regional trends in rule of law adherence for the most general empirical dimensions

- (present and explore the Varieties of Democracy data set)
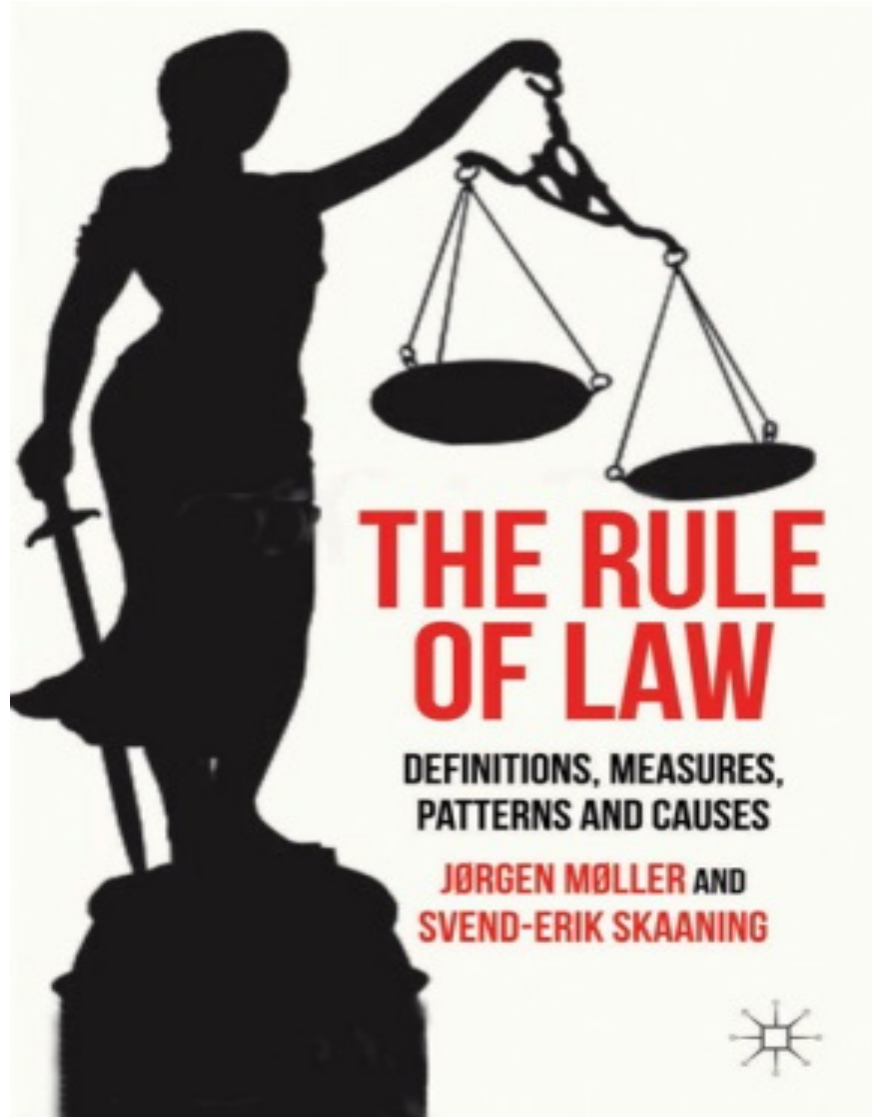
Defining the rule of law

Concept	Rule of Law
Dimensions	Shape/core	Sanctions/control	Source/consent	Substance/content
Attributes	Formal legality	Checks and balances	Sovereignty of the people	Negative rights	Positive rights

- Some agreement about the merits of minimalist definitions in empirical research

Rule of law typology

Simple, hierarchical relationship between theoretical dimensions

Concept	Defining attributes
Rule by law	power exercised via positive law
Formal legality	+ general, public, prospective, certain, and consistently applied
Safeguarded rule of law	+ institutional control (checks and balances)
Liberal rule of law	+ negative content (liberal rights)
Democratic rule of law	+ consent (law-givers chosen by competitive elections)
Social democratic rule of law	+ positive content (social rights)

THE RULE OF LAW

DEFINITIONS, MEASURES, PATTERNS AND CAUSES

JØRGEN MØLLER AND SVEND-ERIK SKAANING

V-Dem Data Set

VARIETIES OF DEMOCRACY

1. **Precision –** 329 indicators (152 factual, 177 evaluative), 20+ RoL indicators

2. **Coders** – 5 experts per country-year indicator (mix of native and international)

3. **Scope** – 174 countries funded, 1900-

4. **Certainty** – IRT measurement model (equivalence in point estimates + confidence intervals)

5. **Transparency and replicability** – Everything, except identity of coders, is made publicly available (released by the end of 2015)

	V-Dem Indicators
Rule by law	State authority over territory
	State authority over population
Formal legality	Executive respects constitution in practice
	Executive bribery and corrupt exchanges
	Executive embezzlement and theft
	Public sector corrupt exchanges
	Public sector theft
	Transparent laws with predictable enforcement
	Access to justice for men
	Access to justice for women
	Rigorous and impartial public administration
Checks & Balances	Legislature questions officials in practice
	Legislature investigates in practice
	Executive oversight
	Judicial accountability
	Judicial corruption decision
	High court independence
	Lower court independence
	Compliance with high court
	Compliance with judiciary

Empirical dimensions

• Use factor analysis to identify three empirical dimensions:
1) constitutionalism, 2) corruption, 3) state authority

	Factor 1	Factor 2	Factor 3
Legislature investigates in practice	**.96**		
Legislature questions officials in practice	**.94**		
Executive oversight	**.91**		
Access to justice for women	**.87**		
Access to justice for men	**.86**		
Lower court independence	**.79**		
High court independence	**.76**		
Transparent laws with predictable enforcement	**.76**		
Executive respects constitution in practice	**.67**		
Compliance with judiciary	**.63**		
Compliance with high court	**.58**		
Rigorous and impartial public administration	**.54**	.40	
Executive bribery and corrupt exchanges		**.94**	
Public sector corrupt exchanges		**.93**	
Public sector theft		**.93**	
Judicial corruption decision		**-.90**	
Executive embezzlement and theft		**.86**	
Judicial accountability		**.71**	
State authority over territory			**.97**
State authority over population			**.96**

Disaggregate analyses

- Empirical dimensions rather resilient across periods (but only two dimensions before the Cold War)

- Much regional variation in empirical dimensionality (differences in the number of factors and the factor loadings and 'clustering' of particular indicators)

- State authority indicators consistently tap into an independent, latent dimension

Regional levels and developments

- Western Europe and Neo-Europe stand out positively regarding constitutionalism and public sector corruption over the whole period

- Noteworthy improvements in constitutionalism in most regions following the third wave of democratization, particularly after the Cold War

- No general, positive developments in public sector corruption and extension of state authority

Ways ahead

Using the V-Dem data to:

- Rerun analyses with 'complete' data set

- Investigate the causes of similarities and differences in empirical dimensions, levels, and developments

- Investigate the consequences of similarities and differences in empirical dimensions, levels, and developments