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**Level: 1st year**

**Module: Constitutional Law**

**LECTURE 5: The rule of Law**

**1. Definition of the rule of law**

The rule of law is an [ideal](https://en.wikipedia.org/wiki/Ideal_%28ethics%29) that all citizens and institutions within a country, State, or community are accountable to the same [laws](https://en.wikipedia.org/wiki/Law), including lawmakers and leaders. It is sometimes stated simply as "no one is above the law". The term **rule of law** is closely related to [constitutionalism](https://en.wikipedia.org/wiki/Constitutionalism) . The rule of law is defined in the *[Encyclopædia Britannica](https://en.wikipedia.org/wiki/Encyclop%C3%A6dia_Britannica%22%20%5Co%20%22Encyclop%C3%A6dia%20Britannica)* as "the mechanism, process, institution, practice, or norm that supports the equality of all citizens before the law, secures a no arbitrary form of government, and more generally prevents the arbitrary use of power.

The rule of law is a durable system of laws, institutions, norms, and community commitment that delivers four universal principles: accountability, just law, open government, and accessible and impartial justice.

This Professor A.V. Dicey outlined the rule of law as the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government.

This means that all people, regardless of their status, race, culture, religion, or any other attribute, should be ruled equally by just laws.  Without responsible and engaged citizens, society is unable to work together to uphold important principles and values which support our rule of law and democratic society.

**2. The principles of the rule of law**

**2.1. No One is Above the Law**

At its most basic level, the rule of law is the concept that both the government and citizens know the law and obey it.

The phrase “equality before the law” is often used in relation to the rule of law and means:

the law should apply to all people equally regardless of their status in society : rich or poor, young or old, regardless of their gender, race, culture, religion, or any other attribute.

**2.2. Equality before the law**

The equality before the law means that all human beings have the right to be treated equally before the law.  They are also entitled to the equal protection of the law, which means all people have the right to be treated fairly and not be discriminated against because of their race, colour, gender, language, religion, political beliefs, status or any other unlawful reason.

Importantly, the law must be superior. All citizens must enjoy equality before the law and be subject to the laws.

It means that the equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts; the “rule of law” in this case excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary courts.All citizens, including those in power, should be fairly and equally ruled by the law.  Under the rule of law, the law should apply to all people equally no matter if they are rich or poor.

As all people are equally subject to the law, all people must equally answer for their actions under the law and the law must be applied to each person in the same way. To ensure all people are bound by laws, there also must be equal access to the protections provided by the law through a fair trial and an independent and impartial judiciary. The equality before becomes a key legal principles of the justice system.

**3. The importance of the rule of law in society**

The rule of law has been considered one of the key dimensions that determine the quality and [good governance](https://en.wikipedia.org/wiki/Good_governance) of a country. Research, like the [Worldwide Governance Indicators](https://en.wikipedia.org/wiki/Worldwide_Governance_Indicators), defines the rule of law as "the extent to which agents have confidence and abide by the rules of society, and in particular the quality of contract enforcement, the police and the courts.

The rule of law is an important component of sustaining peace, as advanced by the General Assembly and Security Council in the twin resolutions on the review of the peacebuilding architecture.

The rule of law is important because a country that adheres to the rule of law results in a society in which:

* [All persons](https://www.ruleoflaw.org.au/principles/equality-before-the-law/) and organisations including the government are subject to and accountable to the law.
* The [law is known and accessible](https://www.ruleoflaw.org.au/principles/law-is-known-and-accessible/).
* The [Court](https://www.ruleoflaw.org.au/principles/separation-of-powers/) system is [independent](https://www.ruleoflaw.org.au/principles/independent-judiciary/) and resolves disputes in an open and impartial manner.
* All persons are [presumed innocent](https://www.ruleoflaw.org.au/principles/presumption-of-innocence/) until proven otherwise by a Court.
* All persons have the right to a [fair and prompt tria](https://www.ruleoflaw.org.au/principles/fair-and-prompt-trial/)l.
* No person should be [arbitrarily](https://www.ruleoflaw.org.au/principles/punishment-only-in-accordance-with-the-law/) arrested, imprisoned, or deprived of their property.
* Punishment is determined by a Court and people can only be punished [in accordance with the law](https://www.ruleoflaw.org.au/principles/punishment-only-in-accordance-with-the-law/).

As a result, it can be said that the Rule of Law is more than simply the government and citizens knowing and obeying the law.  The Rule of Law involves other ideals, for example that citizens remain active and informed and participate in the creation of just laws which regulate their behaviour and protect human rights.

At its heart, the Rule of Law is an ideal or an aspiration that members of a society must continuously work towards. The rule of law is essential in maintaining a free, democratic and fair society.

**References:**

 <https://www.ruleoflaw.org.au/principles/equality-before-the-law/>

<https://worldjusticeproject.org/about-us/overview/what-rule-law>

https://www.un.org/ruleoflaw/what-is-the-rule-of-law/