

# RULE OF LAW

The rule of law is a system in which the law is applied equally to everyone—those who govern, and those who are governed. Today, the rule of law is considered to be the main characteristic of democratic regimes, as opposed to military dictatorships, authoritarianism and despotism.

The independence of the judiciary is essential because, under the rule of law, justice must be impartial. Justice settles conflicts by respecting the principle of legality (i.e. the laws) and the principle of equal treatment of people who have recourse to it. In many countries, including Canada, the principle of legality is ensured by the supremacy of the Constitution, which is the set of rules of law that organize the institutions and govern society. It is the supreme law, and all laws in the country must conform to it.

The rule of law implies that all of the State's activities must be authorized by a legal rule. As such, it is essential that the content of this legal rule is carefully drafted. History contains instances where the rule of law has been used by States to legalize oppression by means of legislation that restricts individual freedoms. One example is the laws made by the Nazi government under Adolf Hitler that led to the Holocaust.



The principles and values of a State characterized by the rule of law stem from the rights of human beings, such as:

- // freedom of opinion, speech and religion
- // the right to security, e.g. legal security through access to the law and equality before the law, observance of the rights to legal counsel and a fair trial, and the presumption of innocence
- // economic and social rights, e.g. the right to education, decent housing, and fair and favourable working conditions

At present, not all countries fully embrace the rule of law. In addition, not all countries define the rule of law in the same way, so a government may choose to protect certain freedoms to the detriment of others.

On this subject, note that international organizations, such as the United Nations (UN), are trying to standardize the criteria for the rule of law through their reports and court decisions.

#### For more information:

Hans Kelsen, "Introduction to the problems of legal theory : a translation of the first edition of the *Reine Rechtslehre* or Pure theory of law", (1996).

The main founding texts of the *Canadian constitution: the Constitution Acts of 1867 and 1982*.

[http://](#)

Ohnesorge, J. (2007). The rule of Law. *Annual Review of Law and Social Science*, 3, 99-114.

[http://](#)

World Justice Project: Relying mainly on primary data, the Rule of Law Index measures each country's performance in the area of the rule of law based on eight factors: constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice.

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