



The Gilder Lehrman Institute & Annenberg Public Policy Center:

The Civic Mission of Nation

Rule of Law

by Ajay K. Mehrotra, PhD

Emblazoned above the United States Supreme Court building is the famous phrase “Equal Justice Under the Law.” These words capture the essential meaning of the phrase “Rule of Law,” which stands for the concept that no one is above the law; that all members of a community—individuals, institutions, and all entities including the government itself—are bound by and must abide by the law.

To ensure substantive and procedural equality, the Rule of Law entails several requirements. Laws and rules must be clear, transparent, and made public in advance; they must be enforced equally, consistently, and with predictability, and any violations or conflicts should be adjudicated by an impartial and independent judiciary. For some, the Rule of Law also requires adherence to fundamental human rights and democratic norms, though not all experts agree that these two ideas are part of the core meaning of the Rule of Law principle.

While the origins of the Rule of Law concept can be traced back to antiquity, its modern formation is generally associated with thinkers such as Montesquieu and John Locke, among others. These early theorists contrasted the Rule of Law with the absolute authority exercised by monarchs and despotic leaders, who frequently applied rules arbitrarily to their subjects yet insulated themselves from the application of such rules.

In the Anglo-American legal tradition, the origins of the Rule of Law are generally associated with the 1215 Magna Carta, which was Europe’s first constitution. The Magna Carta established a legal system that limited the powers of the king and provided greater protection for his subjects. Over time, the principles embodied in the Magna Carta significantly influenced the development of the English common law and subsequently the US Constitution, particularly the Bill of Rights.

The US Constitution, in fact, provides both structural and procedural elements to ensure the Rule of Law. Structurally, it establishes the separation of national powers, a series of checks and balances, and a federal judiciary that is a separate and independent entity. Procedurally, it provides for such safeguards as the right to trial by jury in all criminal cases and in most civil ones, among many other protections against illegitimate power.

The US Constitution, in fact, provides both structural and procedural elements to ensure the Rule of Law. Structurally, it establishes the separation of national powers, a series of checks and balances, and a federal judiciary that is a separate and independent entity. Procedurally, it provides for such safeguards as the right to trial by jury in all criminal cases and in most civil ones, among many other protections against illegitimate power.

Ajay K. Mehrotra is William G. and Virginia K. Karnes Research Professor of Law at the Northwestern Pritzker School of Law and an affiliated professor of history at Northwestern University. He is also a research professor and former executive director of the American Bar Foundation. Dr. Mehrotra is the author of *Making the Modern American Fiscal State: Law, Politics and the Rise of Progressive Taxation, 1877–1929* (2013) and co-editor (with Isaac William Martin and Monica Prasad) of *The New Fiscal Sociology: Taxation in Comparative and Historical Perspective* (2009).