

# The Rule of Law

The Rule of Law is supposedly **the most significant and influential accomplishment of Western constitutional thinking**. The concept dates back to antiquity (Aristotle distinguished ‘the rule of law’ from ‘that of any individual’).

In Anglo-American history, the idea was first expressed in **Magna Carta (1215)**:

*“No free man shall be taken, imprisoned, disseized, outlawed, or banished, or in any way destroyed, nor will he proceed against or prosecute him, except by the lawful judgment of his peers and the Law of the Land.”*

## 4 key components

1. **Accountability:** The government as well as private actors are accountable under the law.
2. **Just Laws:** The laws are clear, publicized, and stable; are applied evenly; and protect fundamental rights, including the security of persons and contract, property, and human rights.
3. **Open government:** The processes by which the laws are enacted, administered, and enforced are accessible, fair, and efficient.
4. **Accessible Justice:** Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve.

Listen to John Carey and answer the questions.

- How does Carey define the rule of law?
- Which ideas from the Magna Carta, Common Sense, and the World Justice Project does he emphasize?
- Carey tells about his trip to Chile. Why does he use that story to describe the rule of law?
- How is the rule of law related to the protection of human rights?
- Why is it difficult to build a critical mass of people who stand up for democracy?
- What factors might encourage people to look the other way?

Sources:

<https://www.britannica.com/topic/constitutional-engineering>

<https://www.facinghistory.org/resource-library/rule-law-and-why-it-matters>

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

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## 8 key factors

1. Constraints on Government Powers
2. Absence of Corruption
3. Open Government
4. Fundamental Rights
5. Order and Security
6. Regulatory Enforcement
7. Civil Justice
8. Criminal Justice

## Challenges

- Some people believe that all they need is the right people in power. Others fear that institutions of public power are merely instruments of the ruling class.
- The notion of the Rule of Law is a complex ideal.
- The independence of the judiciary can be a problem if the independence is misused.
- Legal procedures may be too costly
- Legitimacy can be given to actions performed “according to the law” even when most people would oppose such acts.

### Sources:

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