

COURTS AND CIVILITY

Understanding the Rule of Law and Judicial Independence

“The Rule of Law requires that legal rules be publicly known, consistently enforced, and evenhandedly applied.”

—U.S. Supreme Court Justice
Sandra Day O’Connor



The Rule of Law Generally

U.S. Supreme Court Justice Sonia Sotomayor has said, “I firmly believe in the rule of law as the foundation for all our basic rights.” What do you think she meant?

What does it mean to apply the rule of law to the government, and not just to individuals, businesses, and other entities?

How does fair and consistent adherence to the rule of law protect our rights and well-being?

The Rule of Law and an Independent Judiciary

How does the rule of law limit judges?

How does an independent judiciary help support the rule of law?

What threatens the rule of law and judicial independence?

What can you do to promote the rule of law?

The Rule of Law and Civility

What is civility? What does it mean to engage in civil discourse?

Why is it important to maintain civility?

How does civility support the rule of law?

What can you do to promote civility?

HOW OUR GOVERNMENT WORKS

The U.S. Constitution Established
Three Co-Equal Branches



Three Co-Equal Branches

In writing the U.S. Constitution, the Founders made good on their commitment in the Declaration of Independence to create a government in which “We the People” are governed by a system of laws.

The first three articles spell out the three main branches of the U.S. federal government:

Article I – The Legislative Branch

Establishes the structure and powers of Congress, including the Senate and the House of Representatives.

Article II – The Executive Branch

Defines the powers and duties of the President and describes the process for electing a President.

Article III – The Judicial Branch

Establishes the Supreme Court and other federal courts.

WHY IS THE RULE OF LAW IMPORTANT?



Protects Fundamental Rights

- ★ Freedom of Speech, Religion, Press, and Assembly
- ★ Right to Equal Protection
- ★ Right to Vote
- ★ Right to a Trial by Jury
- ★ Right to a Speedy Trial
- ★ Right to Bear Arms
- ★ Right to Be Free from Unreasonable Search and Seizure
- ★ Right to Be Free from Cruel and Unusual Punishment

Affords Due Process

- ★ The right to notice and an opportunity to be heard by a fair and impartial decisionmaker

Ensures Equal Treatment

- ★ Ensures the laws are applied predictably and uniformly
- ★ Applies the law to the government as well as the people
- ★ Holds those in power accountable for their actions

Promotes Justice

- ★ Requires an open, transparent system of making laws
- ★ Promotes security, order, and stability
- ★ Provides access to justice

DISCUSSION/REFLECTION QUESTIONS

- ★ Which fundamental rights are most important to you?
- ★ Which fundamental rights do you most take for granted?
- ★ What is an example of due process in action?
- ★ What are examples of due process being deprived?
- ★ Why does it matter that the government must also abide by the rule of law?
- ★ How does each branch of the federal government hold the other branches accountable?
- ★ Why is this system of government important?
- ★ What are the consequences if the law is applied inconsistently?
- ★ With some exceptions, court filings are in the public record, and court proceedings are open to the public. Why is this important?

HOW DOES THE RULE OF LAW AFFECT ME?

Everyday interactions are shaped by the public's respect for the rule of law.



Driving a car

Traffic signals ensure the safe and orderly flow of vehicles, preventing accidents and injuries.

Driving regulations, like seat belt laws and emission standards, are designed to keep us safe and protect the environment.

Getting a Job

Labor and employment laws protect employees from unfair or discriminatory treatment and promote fair labor practices.

Laws regulate wages, hours, workplace safety, and the rights of both employees and employers.

Buying Goods

Regulations ensure that products are safe and of reasonable quality.

Consumer protection laws aim to protect consumers from fraud, unfair and deceptive trade practices, and predatory lending practices.

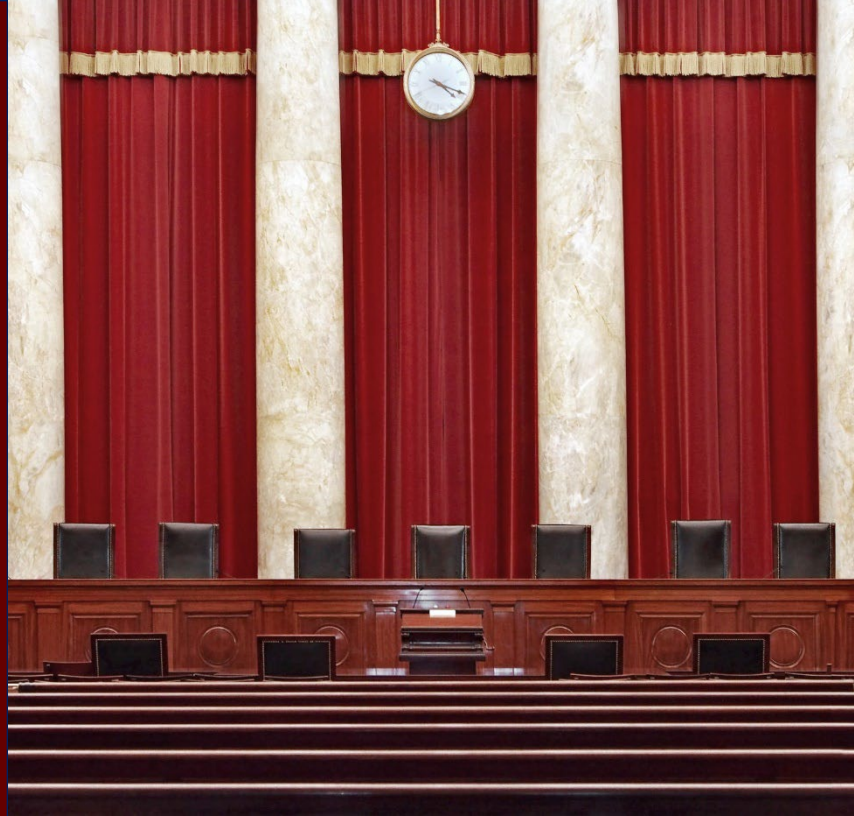
DISCUSSION/REFLECTION QUESTIONS

How does the rule of law shape the examples below?

- ★ Sending and receiving mail.
- ★ Listening, watching, or reading the morning news.
- ★ Walking on the sidewalk to visit a public park.
- ★ Enrolling in a new school.
- ★ Calling 911.
- ★ Ordering food from a restaurant.
- ★ Listening to a new album from your favorite artist.
- ★ Buying a house or signing a lease.
- ★ Taking a flight.
- ★ Requesting medical records.
- ★ Starting a new job.
- ★ Posting on social media.

What other examples can you think of?

WHY IS JUDICIAL INDEPENDENCE IMPORTANT?



What is Judicial Independence?

- ★ Judicial independence refers to the freedom of judges from outside influence or control, allowing them to make impartial decisions based on the facts and law, without fear of political or personal consequences.
- ★ It ensures that the judiciary is free from interference by other branches of government or private interests, which is crucial for upholding the rule of law and protecting individual rights

How Do Courts Maintain Independence?

- ★ Life tenure allows judges to make decisions without political and social pressure.
- ★ Appellate review ensures that judges can make their decisions with the knowledge that another or later court can clarify or correct an error.

What Threatens Judicial Independence?

- ★ Physical and verbal attacks.
- ★ Undue criticism of a court's authority to adjudicate the law with finality.
- ★ The public's loss of confidence in the courts.
- ★ Failing to adhere to a judge's decision.
- ★ Being uninformed about the judicial system.

DISCUSSION/REFLECTION QUESTIONS

- ★ What dangers arise from a judiciary that is subject to popular politics?
- ★ How can courts maintain public trust in the judiciary?
- ★ How have history and current events confirmed or challenged the importance of judicial independence?
- ★ What can you do to defend judges and judicial independence?

HOW CAN I PROMOTE CIVILITY AND CIVIL DISCOURSE?



What Is Civility?

- ★ Civility is claiming and caring for one's identity, needs and beliefs without degrading someone else's in the process.
—*Institute for Civility in Government*
- ★ Civility is fundamental to the rule of law's commitment to consistently enforcing and evenhandedly applying the law.

Civil Discourse Includes:

- ★ Disagreeing without disrespecting
- ★ Listening and seeking common ground
- ★ Being present
- ★ Asking questions
- ★ Building relationships
- ★ Practicing empathy and understanding
- ★ Staying open-minded

DISCUSSION/REFLECTION QUESTIONS

Civil Discourse Reflection Tool:

*Reflect on how you interact with others when discussing a controversial topic.
How much do you relate to each statement below?*

When a conversation gets heated, I become animated, I remain calm, or I withdraw.	I actively create an environment in which individuals can offer differing opinions.	I keep an open mind and can put aside what I plan to say next in order to evaluate the opposing view.
When others disagree with me, I try to find common ground.	I can't control others' behavior or opinions, so I focus on my own actions.	I remain respectful of people, even if they disrespect me.
I ask clarifying questions during conversation.	I don't attempt to control a conversation by talking over others.	I try to listen for what people mean, and not just what they say.

DISCUSSION/REFLECTION QUESTIONS

- ★ In what ways do you currently promote the rule of law in your everyday life?
- ★ How can you demand accountability from government officials and leaders?
- ★ In what areas can you improve your support for the rule of law?
- ★ Where can you participate in civil life and discourse?
- ★ How do fair and accessible legal systems promote the rule of law?

HOW CAN I ENGAGE IN CIVIC LIFE?

“We have a complex system of government. You have to teach it to every generation.”

*–U.S. Supreme Court Justice
Sandra Day O'Connor*



- ★ Promote civics education
- ★ Register to vote
- ★ Work the polls
- ★ Tour your local courthouse
- ★ Write to your representatives
- ★ Run for office
- ★ Combat misinformation and disinformation
- ★ Serve as jurors and witnesses
- ★ Follow the law
- ★ Strive to understand the law and legal system
- ★ Hold elected officials accountable
- ★ Champion a fair, accessible, and independent legal system
- ★ Encourage open and transparent government processes
- ★ Ensure that those who violate the law are held accountable

RESOURCES

*Promoting Civility and Civil Discourse
Scan for access to these resources*



American Bar Association,
What is the Rule of Law

Administrative Office of the U.S. Courts,
Understanding the Federal Courts

Bolch Judicial Institute,
How to Respond to Attacks on Judges and the Judiciary

Civics For Life,
The Fundamentals of American Democracy

Federal Judicial Center,
Inside the Federal Courts

U.S. Courts,
Rule of Law
The Federal Courts and You
Court Shorts: Rule of Law