

RULE OF LAW OVERVIEW

More than 200 years ago, Alexander Hamilton, James Madison, and John Jay published a series of essays promoting the ratification of the United States Constitution now known as *Federalist Papers*. In explaining the need for an independent judiciary, Alexander Hamilton noted in [The Federalist # 78](#) that the federal courts "were designed to be an intermediate body between the people and their legislature" in order to ensure that the people's representatives acted only within the authority given to Congress under the Constitution.

The U.S. Constitution is the nation's fundamental law. It codifies the core values of the people. Courts have the responsibility to interpret the Constitution's meaning, as well as the meaning of any laws passed by Congress. [The Federalist # 78](#) states further that, if any law passed by Congress conflicts with the Constitution, "the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents."

"Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposed that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental."

The American democratic system is not always based upon simple majority rule. There are certain principles that are so important to the nation that the majority has agreed not to interfere in these areas. For instance, the Bill of Rights was passed because concepts such as freedom of religion, speech, equal treatment, and due process of law were deemed so important that, barring a Constitutional Amendment, not even a majority should be allowed to change them.

Rule of law is a principle under which all persons, institutions, and entities are accountable to laws that are:

- Publicly promulgated
- Equally enforced
- Independently adjudicated
- And consistent with international human rights principles.

The courts play an integral role in maintaining the rule of law, particularly when they hear the grievances voiced by minority groups or by those who may hold minority opinions. Equality before the law is such an essential part of the American system of government that, when a majority, whether acting intentionally or unintentionally, infringes upon the rights of a minority, the Court may see fit to hear both sides of the controversy in court.

Related Resources

- [The Federalist Papers](#)
Mark Dimunation talks about *The Federalist Papers*. The collection of 85 essays by Alexander Hamilton, James Madison, and John Jay were written between 1787 and 1788 to encourage the states to ratify the Constitution.