



**WHAT DOES THE RULE OF LAW MEAN – EXPLAINING THE DEFINITION BASED
ON EXAMPLES OF PERSONAL COMMITMENT TO THE RULE OF LAW**

To understand fully what the rule of law means, we have to compare concepts and jurisprudence. The Rule of Law is also called an expression of the relationship between an individual and a state. Cultural norms create law. There are many conceptions of the rule of law. In order to give an answer, we must define what we understand by the Rule of Law. Approach to it differs in time, among other countries etc. Sometimes countries fail to implement the Rule of Law.

According to Stanford Encyclopedia of Philosophy ‘the Rule of Law is one of the ideas of our political morality and it refers to the ascendancy of law as such and of the institutions of the legal system in a system of governance.’¹ Nowadays the rule of law requires *inter alia*: good government, Human rights, Individual rights, Justice, Natural law, Protection from sovereign passions and civil order.

The Greeks believed that law should be universal and general. Solon was said to have established a state in Athens that provided equality of laws to all manners of persons, and that was governed by application of known rules.² Plato and Aristotle wrote about tyranny and the rule of law – ‘Tyranny occurs when absolute power is granted to a ruler. In a tyrannical government, the ruler becomes corrupt and uses his power to further his own interests instead of working for the common good’. ‘The rule of law is the principle that no one is exempt from the law, even those who are in a position of power. The rule of law can serve as

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¹ J. Waldron, The Rule of Law, Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/rule-of-law/>, 24.03.2019.

² *History and Importance of the Rule of Law*, p. 6, http://worldjusticeproject.org/sites/default/files/history_and_importance_of_the_rule_of_law.pdf, 24.03.2019.

a safeguard against tyranny, because just laws ensure that rulers do not become corrupted'.³

Aristotle in 'Politics', Part XVI, describes that the rule of law is arguable.⁴ Aristotle provides a theoretical justification of the rule of law, Plato has a different conception of the rule of law. It is an inferior alternative to rule by man, his philosopher kings, who were to be guided by their perfect knowledge of good.⁵

Plato describes society in which magistrates are servants to the law. Glen Morrow⁶ – an American Professor of Philosophy – criticizes Plato's system of law because of its static character. 'Another respect in which Plato's conception of the rule of law fails to meet a requirement regarded as axiomatic today is the absence of any theory or process of legislation'.⁷ Plato believed that the citizen would be respecting established laws, demonstrating that: 'Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state. That's the way I see it.'⁸

Plato's conception shows that to break the law is to reject a society that formed an individual. According to his theory the law shapes society which in turn shapes individuals living within this society. The scene described in 'Crito' by Plato shows the following dilemma: can citizens

³ History..., p. 6.

⁴ See: Arystoteles, *Polityka*, Warszawa, 2010.

⁵ See: D. Clarke, *The many meanings of the rule of law* [in:] *Law, Capitalism and Power in Asia*, ed. K. Jayasuriya, New York: Routledge, 1998.

⁶ G.R. Morrow – American Professor of Philosophy at University of Pennsylvania, authored many books during his lifetime, his more well-known works being *Studies in the Platonic Epistles* (1935), *Plato's Law of Slavery in its Relation to Greek Law* (1939), and *Plato's Cretan City: A Historical Commentary on Plato's Laws* (1960).

⁷ I.B. Flores, E. Kenneth, E. Himma, *Law, Liberty, and the Rule of Law*, p. 41. <https://books.google.pl/books?id=oXhYJggQYacC&pg=PA41&lpq=PA41&dq=platon+conception+rule+of+law&source=bl&ots=UzEN26VEJe&sig=3qTrCUELxzMuZhQdXqLgK7mQSBg&hl=pl&sa=X&ved=0ahUKEwin25DW7vrNAhULbxQKHeGMCmkQ6AEIPjAE#v=onepage&q=platon%20conception%20rule%20of%20law&f=false>, 24.03.2019.

⁸ J. Cooper [et al.], *Complete Works By Plato*, Indianapolis 1997, p. 1402.

obey the law?⁹ Even though they really want to, sometimes they do not do it. Sometimes the law is strict but it is still the law. We have to obey the rules, be obedient, which means if we live within a society we accept them. We recognize the system of law.¹⁰

Aristoteles' conception of the rule of law: 'It is more proper that law should govern than any one of the citizens: upon the same principle, if it is advantageous to place the supreme power in some particular persons, they should be appointed to be only guardians, and the servants of the laws.'¹¹

There is an example showing the law of justice, that is well known in our culture. In 'Antigone', a drama written by Sophocles, a dilemma of a woman who just lost her brother is presented. She wants to bury him but she cannot do it since it's forbidden by the king Creon. It shows a religious custom, god's law vs king's law. Which one of them is more important? Which one of them can we recognize as the rule of law?¹²

Antigone believes more in the first one. What does it mean? One can say that she rebels against the law of Creon who governs the country in which she lives. But it's a very superficial point of view. She is aware that if she buries her beloved brother she will be punished. She accepts it. She knows she deserves punishment because she shows her disobedience, acting against the rule of king. There is a visible clash between divine justice and Creon's will. Her brother was a traitor so that the king refused his burial. Nevertheless Antigone decided to do it by herself. She recognized the religious law over the king's.¹³

In the Sophocles tragedy, the main conflict in Antigone centers on a distinction between law and justice. But Creon, the maternal uncle of Antigone and Ismene (sister of Antigone), has made a decree: Polynices, the brother of Antigone and Ismene was guilty not only of killing his brother, Eteocles, but also of attacking the state and like all traitors

⁹ See: Platon, *Kriton*, trans. R. Legutko, Kraków–Warszawa 2017.

¹⁰ See: Aristotle, *Ethics & Politics*, Woodstock, Ontario 2017.

¹¹ Aristotle, [2017], p. 161.

¹² Sofokles, *Antygona*, Kraków 2010.

¹³ Sofokles [2010].

Polynices will be denied a proper burial so he has a legal right to forbid a funeral. Nerveless Antigone says that she must act according to religious law, which is the higher law of God. However her sister Ismene declares simply that she cannot go against the law of the citizens and declines to help her to recognize the king's law over religious law just the opposite from her sister. Although Antigone has a moral and ethical power as an individual, Creon has political power as king. The rule of law can be deceiving. Sometimes it takes individuals a time to recognize it.

According to Antigone, human beings, themselves, are imperfect, so the laws made by the king are also imperfect; only the laws made by God are perfect. So, she is motivated by the fact that she has to bury the corpse of her brother at any cost, even at the cost of her death. Obviously, for her the rule of law was established by the religious law not the king.

In the movie 'High Noon'¹⁴ the conception of Justice and the Rule of Law can be found as well. 'With their «lawmen» and «outlaws» American movie Westerns can be a powerful dramatic device to explore the rule of law and related themes – the frontier and civilization, law and order, peace or violence, vigilante justice or due process of law, self-preservation and civic responsibility. These basic rule-of-law themes work well in classic Westerns because these films provide a mythical time and place, set on the frontier in an American past, where law's rule is often weak, precarious, or unsettled. The risks are high and so are the stakes, both for the individual and the community.'¹⁵

In 'High Moon' one man took a stand for justice and the rule of law. It was his wedding day. He was just to marry a beautiful fiancée. It was also his last day as a marshal in a frontier town. Soon he could leave the town for his honeymoon. Marshal Kane wasn't looking for a confrontation on the day of his marriage and his first day of retirement as well; it

¹⁴ *High Noon* is a 1952 American Western film produced by Stanley Kramer from a screenplay by Carl Foreman, directed by Fred Zinnemann, and starring Gary Cooper. The film is a story of a heroic law guardian, who alone defends the frightened and timid inhabitants of the town against four bandit gunslingers. Initially, he counts on the support of his deputies and residents; with time, however, he is convinced that he can only count on himself and on his newly married wife.

¹⁵ *The rule of law in literature and movies*, <https://www.americanbar.org/content/dam/aba/migrated/publiced/features/Part3DialogueROL.authcheckdam.pdf>, 24.03.2019.

came to him and he exactly knew what he had to do. He decided to face the problem.

The shocking news breaks the peace in the city – a convicted killer whose gang terrorised the town five years before, was returning to the town. Kane decided to face the killer knowing it was a matter of life and death. He thought his wife would understand his commitment and will stand by him. The most important scene of this film took place in the church where Kane interrupted the Sunday service to inform parishioners that Miller – the killer is coming back. He asked for help, but people refused to assist Kane in fighting against the criminals. One man confronted the marshal, wondering why he hasn't done anything about killers walking along the streets. Why hasn't he put them into a jail? He responded that they haven't done anything yet so he couldn't do anything. 'There is no law against them sitting on a bench at the depot', he said. Someone in the church said shooting and killing in the streets, no matter what the reason is, will do the town no good. The scene showed us that one man can fight for the matter that is no good for a society, but also the society sometimes can recognize the use of force as a good solution to the problem.

The main character, even though he was no longer a sheriff, thought that he should take fighting for peace and justice into his hands. That means that being the sheriff is not only a job, it is just the way he should live – be loyal to the law forever. It's not just the law, it's a moral obligation. It's a vow for a whole life, it's a value he believed in. He fought in accordance to the rule of law. He sacrificed himself for his society.¹⁶

The next example of concept of the rule of law is The Battle of Athens¹⁷, which is a battle of good against evil, and, if need be, the law of the local government is secondary to that of society. According to Hobbes – a philosopher – in terms of Good and Evil, things can be

¹⁶ The rule of law in literature and movies, [source:] <https://www.americanbar.org/content/dam/aba/migrated/publiced/features/Part3DialogueROL.authcheckdam.pdf>, 25.03.2019.

¹⁷ The Battle of Athens was a rebellion led by citizens in Athens and Etowah, Tennessee, United States, against the local government in August 1946. The citizens, including some World War II veterans, accused the local officials of predatory policing, police brutality, political corruption and voter intimidation.

labeled good and evil either by sovereign states or by individuals.¹⁸ ‘In the absence of a sovereign state, individuals must make their own judgments, and apply their own labels.’¹⁹ The sheriff deputies beating up criminals can be recognized as something good, and this activity may make them confident that they do it right, in accordance with the law. If there is no sovereign state in existence then there is no law, and this kind of behavior cannot be unjust.

It is important to remember that some patterns, labels and borders make us humans, as opposed to animals. People have to follow an example that is shown to them by rulers. They have to differentiate good from evil. In a country where there is no public order, the rule of law does not exist. The rule of law is present in the country where there are components such as: obedience, supremacy, general concept that creates borders, system of order that creates general wealth.

As we can see the rule of law does not exist in the society where political system is unstable or violated. Many citizens of Athens believed that ballot boxes were swapped, but they did not have any proof, they just suspected that the fraud was committed.²⁰ Many of them were arrested whether they were guilty or not. The sheriff and his deputies cared for the money they received, not society. In the system of the rule of law we care about the people and we want to protect them, that is why we create a legal system²¹. Below I would like to share some examples of what the sheriff and his people did, which violated law and social order: ‘Deputies routinely boarded buses passing through and dragged sleepy-eyed passengers to the jail to pay their \$16.50 fine for drunkenness, whether they were guilty or not.’²² ‘The sheriff and his deputies received a fee for every person they booked, incarcerated, and released; the more human

¹⁸ See: C. Ross, *Hobbes on Good and Evil*, https://philosophynow.org/issues/54/Hobbes_on_Good_and_Evil, 24.03.2019.

¹⁹ Ross [2019].

²⁰ L. Seiber, *The Battle of Athens 1985*, vol. 36(2), <https://www.americanheritage.com/content/battle-athens>, 24.03.2019.

²¹ Seiber [1985].

²² Seiber [1985].

transactions, the more money they got.²³ Corruption spread and then people started to protest. The conflict between democrats and republicans blew up.²⁴

Veterans of World War II were used to drinking beer or liquor without being molested. That has changed. The opposite side of the conflict beat the Veterans and they got mad. The more they beat them the madder they got. Aggression increases aggression. The custom of the society is recognized as a rule of law. We can't forbid something that was normally practiced by society, we can change the custom but we cannot do it that fast, it takes time for people to get used to it and start to recognize is as a law. Otherwise that only leads to conflict and creates disorder.²⁵

The Veterans chose the basic right of the democracy – the right to vote. They organized secret meetings and chose their own candidate for elections.²⁶

Two days before the election the GIs ran an advertisement in the *Post-Athenian*: "These young men fought and won a war for good government. They know what it takes and what it means to have a clean government — and they are energetic enough, honest enough and intelligent enough to give us good, clean government."²⁷

Pat Mansfield, the sheriff of McMinn County, began building an army on his own: "In order to see that law and order is maintained... I will have several hundred deputies patrolling the county."²⁸ There was a crowd inside of every voting precinct. During the Election Day all voters were lined up very early in order to vote, it is said that they made the largest turnout in the history of their neighborhood.²⁹ Walter Ellis, a legally appointed GI representative at the first precinct in the courthouse, was arrested and jailed for protesting irregularities. "Tom Gillespie, an elderly

²³ Seiber [1985].

²⁴ Seiber [1985].

²⁵ Seiber [1985].

²⁶ Seiber [1985].

²⁷ Seiber [1985].

²⁸ Seiber [1985].

²⁹ Seiber [1985].

black farmer from Union Road, stepped inside the eleventh-precinct polling place in the Athens Water Works on Jackson Street. Windy Wise, a Cantrell guard, told Gillespie, 'Nigger, you can't vote here'. When Tom protested, Wise struck him with brass knuckles. Gillespie dropped his ballot and ran for the door. Wise pulled a pistol and shot him in the back as he reached the sidewalk.³⁰

It was another election falsification and people started to rebel. They took the matter into their own hands with using guns for the system they recognized.³¹

'Corruption, when and where it exists, demands reform, and even in the most corrupt and boss-ridden communities, there are peaceful means by which reform can be achieved. But there is no substitute, in a democracy, for orderly process.'³²

The voting was believed by citizens to be in accordance with the rule of law but it turned out that it was quite opposite. Not everything that seems to be right, and democratic can be perceived as such. For example there was a referendum in Crimea and most of the Ukrainian citizens voted for joining Russia. Which was obviously a veneer of democracy.

The citizens of Athens fought for their ideas that is definitely what the law recognizes. They stood for it like the Polish movement – SOLIDARITY that fought for freedom and free elections, which are the symbol of independence, as also crucial to the culture of rule of law.

Sometimes all we need is one single citizen that has a strong personality and ideas that make rest of the people follow him blindly. This person was Tom – a man who protested openly and because of that he was shot. I would also compare the Battle of Athens to the story of David and Goliath³³ which tells about the struggle that affects all of us. If we face

³⁰ Seiber [1985].

³¹ Seiber [1985].

³² Seiber [1985].

³³ The story of David and Goliath can be found in First Samuel 17 of the Bible. It tells the story of the giant Goliath, a nine-foot soldier from Gath, who boasted he could beat any individual soldier in the Israelite army. Nobody in the army dared to take him on except David, a shepherd boy who believed strongly in God.

a problem, it is not worth to give up, even if it seems to us that we have no chance of winning. After all it can turn out that we will overcome the problem that is not as hard as we thought. To sum up the actions of the American GI's in the Battle of Athens, Antigone in Sophocles' tragedy, and also Marshal Kane the character from the movie *High Moon*, can be reconciled with the Rule of Law culture. The rule of law is a good, indispensable thing, without it we can lose our stability and humanity and it only leads us to a conflict and disorder. All of the examples mentioned above show that one individual can impact the system. Sometimes the legal system as we know cannot be right. Some rights can just seem fair but in fact they are not that much when we look closely at them.

Individuals make people follow them. It's all thanks to their charisma and ideas they share and existing situation they are in. They show their personal commitment even when it is against a legal order. And thanks to them a bad law can be changed and replaced with a new improved one. I believe that law should be controlled by society and should be changed whenever needed. We evolve so should law.

It is easy to assume the 'Rule of law' means 'law and order'. But it is not that simple. The rule of law gives us a predictable and ordered society. Every person, regardless of who they are, is subject to the same law. In the examples mentioned above different behavior shows us that sometimes we should not comply with the law, as Antigone and Lech Wałęsa.

So when can we disagree with the law and order? The answer to this question can be easy to answer for a certain person when the law is unjust and violates human rights. There is no argument and no reason to adhere to any law when that law is wrong. This is even the case in a modern democratic society where those making and enforcing the law supposedly have some sort of mandate of legitimacy. It would appear that any such law is made to be broken. The Rule of Law is therefore important because it can be the only thing which can check or deter decision-making people from wrong-doing. It is a doctrine to protect all of us.

On the other hand, it does not mean that civil disobedience should not exist. However, it requires from us to consider the bigger implications

of what would otherwise be a deliberate unlawful act. Is a person breaking the law doing it on purpose or is there any higher goal? Can the principle of justice be asserted in any other way than to undermine the standard requirement of legality?

We can assume that each of us takes the daily benefit of the lawful behavior of others, so generally society complies with the law. Nevertheless to disobey a law should never be a selfish ploy. As in the cases of Antigone and Lech Walesa shows there should be a greater and well-defined public good.

The Rule of Law is fundamental to a just society as President Theodore Roosevelt once said, 'Ours is a government of liberty, by, through and under the law. No man is above it, and no man is below it'. The rule of law signifies that all citizens are governed by the same laws, applied through a fair and equal judicial process to resolve disputes peacefully. Faithfulness to the rule of law allows us to live in a civil society in which everyone's rights are respected; where each of us is guaranteed liberty and equality of opportunity.

Nowadays, the countries have written laws in place to help us settle disagreements peacefully through a fair system of justice. It is the job of the courts to interpret the laws. It is up to judges and juries to decide if we have indeed broken the law.³⁴

³⁴ *Law and the Rule of Law*, <http://judiciallearningcenter.org/law-and-the-rule-of-law/>, 24.03.2019.

Summary

The article explains the definition based on examples of personal commitment to the Rule of Law. I try to analyze and explain significant meaning of 'The Rule of Law' in various concepts such as: focus of characters from the movie 'High Moon', like Marshal Kane, and the American GI's in the Battle of Athens and also Antigone by Sophocles, because all of their's actions can be reconciled with the Rule of Law culture. But in order to understand fully what the rule of law means, we have to compare concepts and jurisprudence. The Rule of Law is also called an expression of the relationship between an individual and a state. We have to remember that cultural norms create law, because of that fact we have different conceptions of the rule of law. In order to give the best and most precise answer, we must define what we understand by *the Rule of Law* beginning with the Greeks conception and using a story which help us to understand different legal system.

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