



**RULE OF LAW AROUND THE WORLD**

Country	Rank
Denmark	#1
Norway	#2
Finland	#3
Sweden	#4
Netherlands	#5
United States	#20
Mauritania	#122
Afghanistan	#123
Dem. Republic of Congo	#124
Cambodia	#125
Venezuela	#126

Source: World Justice Project: Rule of Law 2019 Index

## Rule of Law Undermined in the United States

by Richard W. Rahn

MEDIA AND POLITICIANS IGNORE THE CONSTITUTION AND ITS BASIC PROTECTIONS

If your favorite sports league had no rules to govern the game and the actions of the teams in the league, how long could it last?

The rule of law, along with due process, is the cornerstone of civil society. Even communist countries, with an infinitely elastic definition of the rule of law, understand the importance of rules for sports teams, driver protocols and most day-to-day behavior, in order to avoid chaos.

Would you be willing to invest in a country or some other jurisdiction without the rule of law, knowing that the courts and authorities would not necessarily protect your investment? Would you expose your family to a jurisdiction that did not enforce the rule of law? Over the past few centuries, tens of millions of people fled to the United States because they thought that both their property and person would be protected — unlike many of their homelands which were ruled by lawless despots.

Unfortunately, the rule of law has been undermined in the United States by crooked and/or irresponsible public officials who ignore

the U.S. Constitution and its basic protections. The World Justice Project Rule of Law Index now ranks the United States at only 20 out of the 126 countries measured, as can be seen in the accompanying table.

The rule of law requires “due process,” which is the legal requirement that the state must respect all legal rights that are owed to a person, such as the right to know who the accuser is, the charges to which one is being accused, the right to counsel, and so forth. A due process violation occurs when the government harms a person without following the exact course of the law. Due process limits laws and legal proceedings so that judges, not legislators, may define and guarantee fundamental fairness.

The American concept of due process stems from the Magna Carta, Clause 39, issued in 1215, which stated: “No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.” The Fifth and Fourteenth Amendments of the U.S. Constitution each contain a Due Process Clause.

The “impeachment inquiry,” given its secrecy and obvious lack of balance and fairness, violates the concept of due process. The House majority Democrats do not deny this but merely assert that the normal constitutional protections do not apply to Congress. A wise and distinguished professor of law, Andrew Morriss, has noted: “... the ‘impeachment inquiry’ is a kangaroo court ... the Dems are not running a reasoned, thoughtful, respectful of the Constitutional process – that would involve a vote, involving the minority in the terms of the inquiry, and so on.”

Having lived through both the Nixon and Clinton impeachments, it was obvious that key players on both sides were trying to conduct themselves in a professional, lawful process, respecting American traditions, and being perceived as fair. Not all things can be embedded in law, and the American Founders explicitly noted that the American republic could only work if the citizens were wise and fair in the protection of their liberties and their fellow citizens.

The British have codified the concept of “fit and proper” persons. Only the fit and proper are deemed qualified to serve as directors of financial institutions, sports teams, etc. Such people have reputations for both competency and honesty. Mrs. Pelosi selected Rep. Adam Schiff to run the impeachment inquiry. Mr. Schiff has a long and well-deserved (and well-documented) reputation for a lack of truthfulness and very questionable behaviors. By no stretch would he meet the criteria for being “fit and proper,” particularly for such a sensitive job. What does it say about her judgment in selecting him (particularly when she has the clear conflict of interest by being third in line for the presidency)?

Due process procedures are not required for many private businesses and non-profits, but the lack of such procedures has been very financially and reputationally costly to many organizations. In the #MeToo era, the lack of due process has probably ended up costing organizations like NBC (Matt Lauer issue) much more than if they had proper procedures in place. There have been many false accusations by both women and men re #MeToo and other personnel matters. If both sides knew that full due process procedures would be followed, many false claims would probably disappear.

The lack of professionalism and basic knowledge in much of the media has undermined our constitutional protections because of misreporting. Many reporters said that the president’s call to the Ukrainian president was illegal — maybe ill-advised, but not illegal. The United States has a Mutual Legal Assistance Treaty (MLAT) with Ukraine which obligates both sides to request information on potential criminal activity in the country. It would have taken a reporter no more than five minutes to get the facts before reporting misinformation.

News organizations need to start filling their ranks with people with backgrounds in law, economics, history and science — so they can add to the literacy of the people rather than just repeating the common ignorance.

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