

Danger for the Western world

Using the rule of law to abolish it

by Wilfried Echterhoff

How Germany, Europe and the entire West should protect our rule of law

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What is the rule of law?

On 23 October 2024, AI Perplexity answered the question "What is the rule of law?" as follows:

"The rule of law is a fundamental principle of modern democracies and one of the core values of the European Union. It is a system of principles that ensures that all persons, institutions and entities, including the state itself, are subject to the law.

The rule of law encompasses several key aspects

- Equality before the law: All citizens and institutions are equally bound by the law, without exceptions or privileges,
- Separation of powers: There is a clear separation between the legislative, executive and judicial branches to prevent abuse of power,
- Independent judiciary: Courts must be able to act impartially and free from political influence.
- Transparency and accountability: Government action must be comprehensible and verifiable,
- Protection of fundamental rights: Fundamental human rights and civil liberties are guaranteed and protected.

Significance for society

The rule of law is of central importance for the functioning of a society:

- It prevents the arbitrary exercise of power by the government,
- It creates legal certainty and thus promotes economic development and investment.
- It is essential for the fight against corruption and the protection of media and academic freedom,
- It guarantees the protection of civil rights and strengthens trust in state institutions.

Rule of law in the EU

In the European Union, the rule of law is enshrined in Article 2 of the Treaty on European Union as one of the fundamental values. The EU has developed various mechanisms to promote and protect the rule of law in its Member States, including annual dialogues, Article 7 procedures and measures to protect the EU budget.

To summarise, the rule of law is a complex and multi-layered concept that aims to ensure justice, equality and freedom in a society by ensuring that the law serves as a tool to strengthen rather than restrict people's freedom."

Threats to the rule of law

The Western world is riddled with people and institutions that are in favour of autocracy or even dictatorship or even aspire to play a leading role in such a system. The media report on them time and again. They use freedom of expression, freedom of movement, freedom of association and freedom of communication to do so. However, their aim is to abolish these freedoms in order to benefit themselves:

- To be able to rule and thus oppress other people,
- in order to significantly enhance their emotional value, because their own importance seems more important to them than that of other people,

- to ruthlessly assert their interests and their supposed truths,
- to enrich themselves materially and financially in a simple way,
- to make other people easily submissive through a position of power,
- to possibly take revenge for perceived injustices, often combined with envy and hatred.

From these circles one hears the following again and again:

"I'm very disappointed with them up there." "They need to be cleaned up properly." The politicians are all idiots, they should all be put up against the wall." "They just want to cheat us." "The police and the courts let the criminals go." "That didn't happen under xxxx (a murdering dictator)." "You need a caliphate." "You need a theocracy." A kingdom (with a violent foundation) is the right thing for Germany." "As soon as I can, I will destroy all my opponents."

People who make such statements generally only become supporters of radical movements, which can of course also be dangerous for the rule of law.

Radical movements that want to abolish the rule of law often proceed as follows:

- They organise demo stations at which demands are made that are directed against the rule of law, e.g. support for terrorism,
- They spread Islamist ideas by distributing writings,
- They form organisations that strive for a theocracy,
- They appear at events to trivialise nationalist ideas,
- They systematically defame other nations or groups,
- They systematically question the state's monopoly on the use of force,
- They join forces with other radical movements in order to be able to use violence more easily.

Statements or demands of this kind usually successfully exploit the right to freedom of expression. What is meant, however, is not a debatable statement, but the preparation of actions to abolish the rule of law.

Countermeasures to preserve the rule of law

The rule of law is at risk when individuals or institutions deliberately exploit the liberal order in order to gain so much influence that they can weaken or even eliminate the rule of law. The entire architecture of a state must therefore be examined and, if necessary, improved to ensure that the state can recognise such developments at an early stage and take swift action against them, both punitively and administratively. Even a well-founded suspicion should be legally sufficient to at least be able to take administrative countermeasures, such as revoking a driving licence, a firearms licence, far-reaching bans on public places, bans on appearances, withdrawal of state payments or non-profit status. The burden of proof that the suspicion is unfounded should be placed on the suspected person or institution (a reversal of the burden of proof already exists, e.g. in the case of problems with driving licences).

Countermeasures to safeguard the rule of law can be taken as follows:

- **Strengthening constitutional institutions**
Legislative measures are currently being prepared in the Federal Republic of Germany to provide the Federal Constitutional Court with better long-term protection than before through new regulations that are to be enshrined in the Basic Law. The aim should be to prevent abuse in the election of judges, in the length of their term of office and in the secure practical enforcement of judgements.
Furthermore, all courts should be better protected against political influence so that judges

do not have to fear any negative consequences if judgements incur the displeasure of politicians or other influential persons or institutions. Experts from the legal system and the administration should be involved in such a project.

Other institutions that protect the rule of law include administrations with a state mandate, the police, military institutions, the offices for the protection of the constitution and the intelligence services. For all of these institutions, the tasks and options for action must now be specifically orientated, e.g. the offices for the protection of the constitution and the secret services should be given improved options for action after it was established that relevant warnings came from abroad rather than from German services.

Dangerous speech

The state needs options for action, which obviously need to be re-systematised between freedom of expression, endangerment and criminal offences. For example, a verbal or media statement can be recognised as a threat. However, specific criteria should be developed for this which, among other things, help to assess the motive or intention and not just the wording of the statement. As soon as the assessment reveals the possibility of a deliberate threat to the rule of law, administrative measures should be implemented, such as requests for explanations, restrictions on public statements or bans on appearances. In the area of police work, there is already the instrument of addressing people at risk and banning them from the premises or banning them from approaching.

Visa restrictions

Entry authorisation to the EU should be regulated more specifically depending on the characteristics of the threat, e.g. a visa could be limited to the purpose of the visit and to the journey between the accommodation and the meeting room. This measure would prevent the visitor from travelling through the Schengen area for several weeks, for example, visiting contacts and creating threats.

Restrictions on activities in favour of non-state countries or groups

There is no legal or moral reason to allow non-state countries or groups or autocratic politicians from abroad to organise activities, rallies or demonstrations or even election campaigns in Germany. Such activities must be banned in advance or stopped immediately by the police.

Integration into a community of values with countries governed by the rule of law

The integration of a state into a community of values with constitutional countries stabilises its members. Economic co-operation and joint military facilities are useful for this. With the EU, NATO and common treaties, the Western world already has a good basis.

Advertising for the rule of law

The population in Germany should be made aware of the advantages of the rule of law through measures such as advertising, information events and school lessons.

Constitutional behaviour of politicians

Some left-wing and right-wing politicians and groups with rigid social certainties, especially those with a religious orientation, tend to act in an autocratic and dictatorial manner. People with narcissism, ruthlessness and domination (the so-called dark triad of personality) are very dangerous if they have instruments of power at their disposal. People with such destructive personalities are repeatedly reported in the media because they are eager for

influence and have already invaded other countries. The danger of these people is actually quite easy to recognise.

Politicians should ensure that they act in a recognisably constitutional manner and comply with the rules of a democracy. The impression must not be created that politicians are undermining the rule of law and the rules of democracy in order to secure advantages or to weaken or even eliminate the rule of law.

Evaluation of the rule of law

Regular assessments should be made of the status of the rule of law in laws, institutions and among politicians. Research methods already exist in individual areas such as corruption, human rights and freedom of the press, but there is still a lack of an overall view from both a professional and a citizen's perspective.

The rule of law brings peace, promotes innovation and economic prosperity.