

Who is above the law



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No One Is Above The Law. Man's evolution from primitive savage to civilized member of society has been based on the adoption of certain laws which govern behavior, contribute to individual and common good and reflect the will of the majority. As mankind moves from rigid class hierarchies and authoritarian power structures towards a more enlightened and liberalized culture, which esteems the full realization of individual potential, democracy, and the concept that all men are equal, have become universally acknowledged as best suited to contemporary times. The Rule of Law is essential to democracy and only when no one is above the law can democracy survive.

The Rule of Law is unarguably the cornerstone of a democratic society and its' basic tenet is the acknowledgement that the law is supreme. The law itself reflects the will of the citizens, and the judiciary is authorized to hold all government officials accountable for their actions. It is encapsulated in the conviction that "no man is above the law" (Dicey, qtd. in Li). Its' major principles are (a) The law is the regulator of government power. (b) All men are equal before the law. (c) The law is based on a judicial system which uses fair, transparent, consistent and documented procedures and decisions.

In certain circumstances, individuals are held to be free from liability to answer to the law. This legal status is referred to as 'immunity from the law,' and includes: diplomatic immunity, conferred on government representatives on foreign soil; sovereign immunity, which originated with kings and now includes the federal government and its' officials; judicial immunity, which protects a judge from liability for his decisions. Immunity is also extended to witnesses in exchange for their assistance during a trial

(Criminal Law Web site).

As a rule, officials are granted ‘qualified immunity,’ which shields them from prosecution when they act in good faith. The advocates of immunity allege that it is essential to shield government officials from the law, so that they can execute their duties and make decisions based on the evaluation of the common good, without being influenced by the need to protect themselves from prosecution. Other arguments are the heavy costs of litigation against officials, the distraction of officials from their duties, their hesitancy to exercise independent judgment and the discouragement of capable people from joining government service (everything2 Web site).

Contrary to the above arguments, it is only when every government official, high or low, is held personally accountable for his action, that probity and integrity in public life can become the norm. Immunity based on a subjective ‘discretion,’ cannot be accepted as a fair measure of judicial process. The granting of immunity in any form is to open the door to anarchy. The police can fabricate evidence, falsify documents and indulge in unjustified abuse and harassment, rooted in bigotry (Chaze, Web page). Elected government representatives can resort to cover ups and falsehoods, obstruct investigations and scorn the very concept of democracy. Unqualified judicial immunity is inviting corruption of justice. After all, Presidents and judges and police officers are, like the rest of society, fallible humans. Individual accountability is the bedrock of democracy and must not be undermined in any way. It is the law which guards against government arbitrariness, roots out corruption and protects civil rights and individual liberty. Only when no man is held to be above the law, will the ideal symbolism of blindfolded Justice become a reality which sustains and nurtures true democracy.

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