RULE OF LAW PRINCIPLES

- Law provides communal order, stability, and restraint
- Law reflects the will of the people and guarantees their civil rights
- Citizens consent to the laws and agree to obey them
- Government and its officials are bound by the law and are answerable to the people for their actions
- The laws are interpreted and applied fairly and equally to all people
- The rule of law is the bedrock for democratic civil societies: Democracy cannot exist without the rule of law
- The principles of the rule of law trace their origins through the philosophies and writings of Plato, Aristotle, Cicero, Thomas Aquinas, Thomas Hobbes, John Locke, Baron de Montesquieu, Jean Jacques Rousseau, John Stuart Mill, and others
- Embedded in any definition of the rule of law is the concept of a compact, contract, or agreement between the people and the government that the government will act fairly and equitably to preserve and protect the rights, freedoms, property and liberty of the individual and the community
- There should be an independent judiciary and legal system accessible to all people
- For the rule of law to function effectively, it must be codified in a constitution that sets the limits of government action and provides for a separation of powers to avoid any one branch of the government from exerting too much power over the government and the citizens
- Good government requires citizens to be actively engaged in the democratic process
- The rule of law principles of stability, certainty, and equality are the foundation for economic and commercial freedom
- The concept of self-determination is a basic principle of the rule of law
- The ancient philosophers – Plato, Aristotle, and Cicero – saw the Law as an enduring ideal that provides order, stability, and a restraining effect on human passion
- For the ancient philosophers and Thomas Aquinas, the Law must be good, virtuous, and just in order to guarantee the individual’s pursuit of happiness
- Laws should not be retroactive – an individual may not be punished for a law that did not exist in the past
- The rule of law acknowledges that individuals are born with certain fundamental rights – natural rights – that government may not take away from them: Life, liberty, property, and the pursuit of happiness
- Liberty is defined as individual independence and autonomy; freedom is defined as the individual rights people enjoy as members of the community, state, and nation
- From ancient Greece and Rome through the Middle Ages, the Enlightenment, to the present, a tension exists within the rule of law and democracy between individual rights and the good of the community