

Dr Klearchos A. Kyriakides, Senior Visiting Fellow, School of Law, Cyprus Campus, University of Lancashire and Tutor, Centre for the Rule of Law & European Values, Cyprus¹ - Written Evidence (ROL0092)

The foundations of the rule of law laid by Plato and Aristotle

Summary

1. I refer to the inquiry into the rule of law by the House of Lords Constitution Committee (hereafter 'the Committee'). I also refer to the related Call for Evidence and press release published by the Committee on 11 March 2025.²

2. In response, I am submitting this written evidence in my capacity as a legal academic who has spent more than twenty-two years teaching and writing about the rule of law. My relevant publications include two pieces of written evidence submitted to the Committee's previous Inquiry into the role of the Lord Chancellor and the Law Officers,³ a book chapter entitled 'The Law Officers of the Crown and the Rule of Law in the United Kingdom' and an article entitled 'The rule of law, the Brexit saga and Boris Johnson's first three months as Prime Minister, 24 July – 23 October 2019'.⁴

3. In my written evidence, I go back to first principles as a means of addressing Question 1 in the Call for Evidence: '1) What are the components of the rule of law?' To that end, I pinpoint some of the ideas of Plato and Aristotle, the ancient Greek philosophers whose writings laid the foundations for the proliferation of interpretations of the rule of law, including those published over the past twenty years or so. The latter include those provided by the Secretary-General of the United Nations ('UN'),⁵ the UN Department of Peacekeeping Operations in cooperation with the Office of the UN High Commissioner for Human Rights,⁶ the European Commission for Democracy through Law, otherwise known as the Venice Commission,⁷ Lord Bingham of Cornhill,⁸ other judges⁹ and a host of academics.¹⁰

4. It is open to debate as to whether each of the Platonic and Aristotelian ideas pinpointed by me in this written evidence is a foundation, a component, an enabler or an outcome of the rule of law. To limit the length of this written evidence, I generally refer to each one as 'an idea' and leave it to the Committee to determine what it may be. With that said, my inclination is that these Platonic and Aristotelian ideas should be viewed as among foundations of the rule of law, upon which its components have been built.

5. I have consciously drawn a distinction between a foundation, a component, an enabler and an outcome of the rule of law. This is because my thinking has been influenced by the notion of 'conceptual overreach', as discussed by John Tasioulas, Professor of Ethics and Legal Philosophy in the University of Oxford,¹¹ and as echoed by Lord Sales, a Justice of the Supreme Court of the United Kingdom ('UK'), in a lecture entitled 'What is the rule of law and why does it matter?'¹²

6. On careful reflection, I have formed a clear view. One of the problems with any 'thick' interpretation of the rule of law is that it risks mis-characterising a foundation, an enabler or an outcome as a component. Equally, one of the problems with any

'thin' interpretation of the rule of law is that it risks overlooking one or more of its foundations, enablers and outcomes. If the rule of law is approached in the holistic way I have hinted at, then the gap between the 'thick' approach and the 'thin' approach may be narrowed. Nevertheless, the gap may not be eliminated altogether, especially if one accepts the outlook of Lord Justice Elias who has depicted the rule of law as 'a slippery concept'.¹³

Some basic ideas of relevance to the rule of law, as expressed by Plato

7. In works such as *The Republic*¹⁴ and *Laws*,¹⁵ to name but two emblematic examples, Plato (428/427 BC – 348/347 BC), the student of Socrates, expresses certain views which are products of his time, but he also ventures other views which retain their relevance today. To take the most obvious example, in *The Republic*, Plato intimates that every state, be it 'ill-governed' or 'well-governed', ought to have 'laws' and 'a constitution' which should be implemented in practice and respected by those to whom they apply. They should not, as occurs in an 'ill-governed' state, be 'useless and accomplish nothing'.¹⁶

8. The distinction between 'the laws' and 'the constitution' is a recurring theme of *The Republic*.¹⁷ Albeit impliedly, Plato thereby reminds us that whereas 'the constitution' forms the foundation of any state, 'the laws' are the pillars built on that foundation. In turn, the contents of any constitution or any law may help one ascertain whether a particular state upholds the rule of law or whether, in substance, it is subject to rule by law or one of its variants, such as rule by decree and rule by diktat, each of which has the innate potential to oppress the people or any section of society.

9. More so than in *The Republic*, Plato peppers *Laws* with ideas which may now be seen to be intrinsic to the rule of law. A basic one is the idea that 'the laws' are 'binding alike on ruler and subject',¹⁸ even though 'the laws' may have been made by the former rather than the latter. With these and other sentiments to the same effect, Plato effectively expresses three overlapping ideas, each one of which is surely a foundation of the rule of law.

10. The first is the simple yet consequential idea that every state must be governed by law. In 2017, a variation of this idea was articulated in the following way by Lord Reed in a judgment delivered in the Supreme Court of the UK: 'At the heart of the concept of the rule of law is the idea that society is governed by law.'¹⁹

11. The second is the idea that, as a general rule, the law must be binding upon all so that nobody is above the law. This means that, subject to limited and justified exceptions, the law must be binding upon every transnational organisation, every state, every government, every person, every authority and every other entity, be it public, private or otherwise. This general principle has long been applicable in the UK, in constitutional theory if not always in practice. As Lord Steyn observed in the Appellate Committee of the House of Lords in 2004: 'In our Parliamentary democracy nobody is above the law.'²⁰

12. The third idea stems from the ancient Greek noun *ἰσονομία*, i.e., *isonomia*. This has entered the English language as 'isonomy' which the *Oxford English Dictionary* defines as 'Equality of laws, or of people before the law; equality of political rights among the citizens of a state.'²¹ *Isonomia* has also entered English law as the general

principle of equality before the law, whose offshoots include equal justice under law. To be sure, in ancient Greece, *isonomia* was not universally applied. Indeed, because it was principally of benefit to those males who qualified as citizens in certain city states, such as Ancient Athens during its 'golden age', it was a rather hollow concept in practice. Nevertheless, these historical realities do not prevent *isonomia* and a related concept, *ισότης* (*isotís*), an ancient Greek word meaning 'equality', from forming part of the foundations of the rule of law. For his part, incidentally, Plato subjects the concept of equality to a deep critical analysis which weighs up its pros and cons but includes an eye-catching reference to 'an old and true saying that "equality produces amity", which is right well and fitly spoken ...'.²²

13. In a judgment handed down in the Family Division of the High Court of England and Wales in 2023, Mr Justice Mostyn made the following observation: 'Above the entrance to the US Supreme Court are chiselled the words "Equal Justice Under Law", a principle which is fundamental for any democracy.'²³ As to whether equality before the law and equal justice under the law are 'fundamental' to the rule of law, that is another question. What is not in any doubt is that in a lecture delivered in 2006, Lord Bingham, the then Senior Law Lord, pinpointed eight 'sub-rules' underpinning the rule of law and he framed the third of these around the following words: 'the laws of the land should apply equally to all, save to the extent that objective differences justify differentiation. ...'.²⁴ In his book entitled *The Rule of Law*, which was published in 2010, Lord Bingham re-explored this 'sub-rule', after re-labelling it as 'a principle', in a chapter entitled 'Equality Before the Law'.²⁵ For what it is worth, I agree with Lord Bingham. If stripped of equality before the law, equal justice under the law and related principles, the rule of law may mutate into rule by law or one of its draconian variants, each of which is a potential recipe for inequality and inhumanity.

14. In *Laws*, Plato advances another basic idea. When considering the attributes required by judges in musical competitions, Plato argues that 'the judges of these matters need virtue for the reason that they need to possess not only wisdom in general, but especially courage.' Part of the explanation lies in Plato's stricture that '... the true judge should not take his verdicts from the dictation of the audience, nor yield weakly to the uproar of the crowd or his own lack of education.'²⁶ In a footnote, the translator, R. G. Bury, helpfully explains that 'Judges at musical and gymnastic contests, like all State-officials, took an oath to discharge their duties with fidelity.'²⁷

15. All in all, therefore, judges must be trustworthy and infused with virtue, wisdom, courage and a dedication to procedural fairness which results in the delivery of substantive justice. These attributes are implicit in what the Courts and Tribunals Judiciary characterises as the 'Three Is', namely '[t]he three key values which are central to the role of judicial office holders (JOHs) in England and Wales' – 'Independence, Impartiality and Integrity'.²⁸

16. The *Guide to Judicial Conduct* makes a similar point: 'There are three basic principles guiding judicial conduct: • Judicial independence • Impartiality • Integrity ...'.²⁹ The *Guide* clarifies that these 'are a distillation of the six fundamental values set out in the Bangalore Principles of Judicial Conduct that were endorsed at the 59th session of the UN Human Rights Commission at Geneva in April 2003 and which form the key statement on judicial ethics.' The *Guide* names these values as being 'independence, impartiality, integrity, propriety, equality and competence and diligence.'³⁰

17. What does all this have to do with the rule of law? I would suggest that the rule of law in any state cannot really exist unless its judiciary is independent and trustworthy with every one of its members not only infused with the attributes identified by Plato but also steeped in the Bangalore Principles. I have made this suggestion mindful of what was said in a lecture given in 2011 by Lord Phillips, the President of the Supreme Court of the UK:

'The rule of law is the bedrock of a democratic society. It is the only basis upon which individuals, private corporations, public bodies and the executive can order their lives and activities. If the rule of law is to be upheld it is essential that there should be an independent judiciary. The rule of law requires that the courts have jurisdiction to scrutinise the actions of government to ensure that they are lawful. In modern society the individual citizen is subject to controls imposed by the executive in respect of almost every aspect of life. The authority to impose most of those controls comes, directly or indirectly, from the legislature. The citizen must be able to challenge the legitimacy of executive action before an independent judiciary. Because it is the executive that exercises the power of the State and because it is the executive, in one form or another, that is the most frequent litigator in the courts, it is from executive pressure or influence that judges require particularly to be protected.'³¹

18. Throughout *Laws*, Plato is alive to what may be called the procedural foundations of the rule of law, i.e., those which supplement its substantive foundations. For example, Plato sums up an elongated analysis on one particular issue by surmising that 'a more complete statement will be this', namely that 'the virtuous man is he who passes through life consistently obeying the written rules of the lawgiver, as given in his legislation, approbation and disapprobation.'³² With these and other similar sentiments, Plato recommends that 'the written rules of the lawgiver' should be recorded in writing and made available to the public – so that all those affected may know where they stand and be able to comply.

19. In *Laws*, Plato goes further. He calls for decisions taken by decision-makers with legal consequences to be put down in writing as well:

'... the lawgiver must not only write down the laws, but in addition to the laws, and combined with them, he must write down his decisions as to what things are good and what bad; and the perfect citizen must abide by these decisions no less than by the rules enforced by legal penalties.'³³

20. Even though he did not cite Plato, Lord Diplock effectively conveyed the rationale behind these Platonic ideas in the Appellate Committee of the House of Lords in 1975:

'The acceptance of the rule of law as a constitutional principle requires that a citizen, before committing himself to any course of action, should be able to know in advance what are the legal consequences that will flow from it. Where those consequences are regulated by a statute the source of that knowledge is what the statute says.'³⁴

21. In his aforementioned lecture delivered in 2006, Lord Bingham enunciated the first of his eight 'sub-rules' in a way which was consistent with what Plato and Lord Diplock had previously observed: 'the law must be accessible and so far as possible intelligible,

clear and predictable.³⁵ In a footnote, Lord Bingham alluded to the aforementioned observation of Lord Diplock,³⁶ but not to the stance of Plato.

22. Elsewhere in *Laws*, Plato repeatedly refers to 'public courts'³⁷ and, in at least one place, 'the public courts of the State'.³⁸ Thus, Plato implicitly touches on the principle of open justice while explicitly recognising that 'public courts' are manifestations of the state which bears the ultimate responsibility for the delivery of justice via the courts. I would add that in addition to being generally open to the public in keeping with the principle of open justice, the courts must also be properly funded, adequately staffed, sufficient in number and backed up with an effective legal aid scheme.

23. If one reads books such as *Law and Justice in the Courts of Classical Athens*, one can sense that, though not named as such, open justice was a feature of the Ancient Athenian court system.³⁹ In more recent times, open justice has been spoken of in the same breath as the rule of law. To quote Lord Justice Toulson (as Lord Toulson was then known) in a judgment handed down in 2012 which the Supreme Court of the UK cited in 2019:

'Open justice. The words express a principle at the heart of our system of justice and vital to the rule of law. The rule of law is a fine concept but fine words butter no parsnips. How is the rule of law itself to be policed? It is an age old question. *Quis custodiet ipsos custodes* - who will guard the guards themselves? In a democracy, where power depends on the consent of the people governed, the answer must lie in the transparency of the legal process. Open justice lets in the light and allows the public to scrutinise the workings of the law, for better or for worse.'⁴⁰

24. Another procedural foundation of the rule of law with substantive consequences has to do with compliance with the orders, verdicts and judgments of the courts. They must be executed and thereby implemented in practice. Otherwise, they may be rendered dead letters, with potentially catastrophic consequences for the rule of law and public confidence in the proper administration of justice. In *Laws*, Plato effectively recognises this. 'When all the lawsuits for the year have been finally adjudged,' he counsels, 'we must have laws for the execution of the verdicts to this effect ...'.⁴¹

25. In *Laws*, Plato adds a rider: 'If anyone, when condemned, obstructs the court which condemned him, the officials thus wrongfully obstructed shall summon him before the court of the Law-wardens, and anyone who is cast in such an action, as being guilty of subverting the whole State and its laws, shall be punished by death.'⁴² One does not have to agree with Plato's support for the death penalty in order to endorse the two main premises from which he appears to be operating. One is that there are few offences more deleterious to the rule of law and the proper administration of justice than those relating to the perversion or obstruction of justice. The second is that, subject to the presumption of innocence until proven guilty, those accused of such offences must be brought to justice.

26. In closing this analysis of some of the ideas of Plato which helped to lay the foundations of the rule of law, I relay a timeless warning issued by him in *Laws*:

'For wherever in a State the law is subservient and impotent, over that State I see ruin impending; but wherever the law is lord over the magistrates, and the

magistrates are servants to the law, there I descry salvation and all the blessings that the gods bestow on States.⁴³

Some basic ideas of relevance to the rule of law, as expressed by Aristotle

27. F. A. Hayek was the Austrian-born economist who earned the Nobel Prize in Economic Sciences in 1974. In spite or perhaps because of his background in economics, Hayek explores the origins of the rule of law in *The Constitution of Liberty*, a book published in 1960. Within its pages, Hayek pinpoints some of the foundations of the rule of law which may be traced back to Aristotle (384 BC – 322 BC), the student of Plato.⁴⁴

28. In one passage, Hayek quotes Aristotle in the context of *isonomia*, the idea cited by me earlier vis-à-vis the rule of law and equal justice under law. Hayek emphasizes *isonomia* alongside what he names 'the ideal of government by law', the latter of which he associates with Aristotle. Below are some pertinent passages of Hayek's analysis of *isonomia* (excluding his footnotes) and the thinking of Aristotle:

'The history of the concept [of *isonomia*] in ancient Greece provides an interesting lesson because it probably represents the first instance of a cycle that civilizations seem to repeat. When it first appeared it described a state which Solon had earlier established in Athens when he gave the people "equal laws for the noble and the base" and thereby gave them "not so much the control of public policy, as the certainty of being governed legally in accordance with known rules." ...

'The concept [of *isonomia*] seems to be older than that of *demokratia*, and the demand for equal participation of all in the government appears to have been one of its consequences. ...

'Against this background certain famous passages in [*Politics* by] Aristotle [as translated by William Ellis⁴⁵], though he no longer uses the term "*isonomia*," appear as a vindication of that traditional ideal. In the *Politics* he [i.e., Aristotle] stresses that "it is more proper that the law should govern than any one of the citizens," that the persons holding supreme power "should be appointed to be only guardians and the servants of the law," and that "he who would place the supreme power in mind, would place it in God and the laws." He condemns the kind of government in which "the people govern and not the law" and in which "everything is determined by a majority vote and not by a law." Such a government is to him not that of a free state, "for, where government is not in the laws, then there is no free state, for the law ought to be supreme over all things." A government that "centers all power in the votes of the people cannot, properly speaking, be a democracy: for their decrees cannot be general in their extent." If we add to this the following passage in the *Rhetoric* [by Aristotle, as translated by W. Rhys Roberts⁴⁶], we have indeed a fairly complete statement of the ideal of government by law: "It is of great moment that well drawn laws should themselves define all the points they possibly can, and leave as few as possible to the decision of the judges, [for] the decision of the lawgiver is not particular but prospective and general, whereas members of the assembly and the jury find it their duty to decide on definite cases brought before them."

'There is clear evidence that the modern use of the phrase "government by laws and not by men" derives directly from this statement of Aristotle.'⁴⁷

29. In other works of Aristotle, one finds other ideas or references to ancient Greek practices which form part of the foundations of the rule of law. For instance, in *The Athenian Constitution*, Aristotle draws attention to 'the Arbitrator's verdict written on a tablet', 'written notice of the business to be dealt with by the Council, and of each day's agenda, and of the place of meeting' and 'written notice of the meetings of the Assembly ...'.⁴⁸ In this way, Aristotle follows Plato and co-lays the foundations an idea – that the rule of law has procedural dimensions which call for procedural transparency, procedural fairness and, in relation to the courts, the recording in writing of court orders, verdicts and judgments. Elements of this idea were expressed by Lord Bingham in the seventh of the 'sub-rules' presented by him in 2006. This is the one which revolves around the notion 'that adjudicative procedures provided by the state should be fair.' In Lord Bingham's view: 'The rule of law would seem to require no less.'⁴⁹

30. When discussing the administration of justice in *The Athenian Constitution*, Aristotle identifies the existence of what amounts to a separation of roles between 'the prosecutor', 'the defendant' and 'jurors'.⁵⁰ In *Politics*, Aristotle goes one step further by detecting a three-part separation of powers under every form of constitution:

'All forms of constitution then have three factors in reference to which the good lawgiver has to consider what is expedient for each constitution ... Of these three factors one is, what is to be the body that deliberates about the common interests, second the one connected with the magistracies, that is, what there are to be and what matters they are to control, and what is to be the method of their election, and a third is, what is to be the judiciary.'⁵¹

31. Today, the separation of powers is normally linked to the legislative, executive and judicial branches of government. As a concept, it helps to illustrate the distinctions I drew in the Introduction. Is the separation of powers a foundation, a component, an enabler or an outcome of the rule of law? Irrespective of how this question is answered, what is not in any doubt is that some judges have spoken of the separation of powers at the same time as the rule of law, but as a separate if related concept. To take one example, in the Appellate Committee of the House of Lords in 2003, Lord Hoffman identified 'the underlying principle' at issue as being 'to maintain the rule of law and the separation of powers ...'.⁵² To take a second example, in the Supreme Court of the UK in 2022, Lord Reed referred to two separate tests before adding: 'Both tests have to be applied in a way which reconciles the rule of law with the separation of powers.'⁵³

The Aristotelian origins of 'a government of laws', as adopted by John Adams

32. Of all of the aforementioned ideas advanced by Aristotle, perhaps the most elementary of all is the one recommending that 'it is more proper that the law should govern than any one of the citizens ...'. This idea helps to account for Hayek's reference to 'government by laws and not by men', a variation of 'a government of laws and not of men'. The latter is the celebrated phrase used by John Adams, a lawyer by profession and an aficionado of the classics who carved his name into history as one of the Founding Fathers of the United States of America ('USA'), as its

first Vice President, as its second President and as the father of John Quincy Adams, the sixth President of the USA. The phrase 'a government of laws and not of men' appears in *Volume I of A defence of the constitutions of government of the United States of America*, which was originally written by Adams in 1787.⁵⁴

33. As alluded to by Hayek, the thinking of Adams was influenced by Aristotle, as well as by Livy and the seventeenth century English political philosopher, James Harrington. For instance, in *A defence of the constitutions of government of the United States of America*, Adams writes that 'Aristotle says, that "a government where the laws alone should prevail, would be the kingdom of God."' This indeed shows that this great philosopher had much admiration of such a government⁵⁵ A few lines later, Adams recalls what James Harrington 'says', summarising it with the following words: 'Government *de jure*, or according to ancient prudence, is an art, whereby a civil society of men is instituted and preserved upon the foundation of common interest; or, to follow Aristotle and Livy, it is an empire of laws and not of men.'⁵⁶

34. The rationale behind the concept of 'a government of laws' was famously expressed by Louis Brandeis, an Associate Justice of the Supreme Court of the US from 1916 until 1939, in a dissenting opinion handed down in 1928:

'Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.'⁵⁷

35. From the above, one may reach two conclusions. One conclusion is that 'a government of laws' is a critical part of the foundations of the rule of law and, perhaps also, the sixth 'sub-rule' identified by Lord Bingham in 2006 which he regarded as 'fundamental'. In his words, 'ministers and public officers at all levels must exercise the powers conferred on them reasonably, in good faith, for the purpose for which the powers were conferred and without exceeding the limits of such powers ...'.⁵⁸ The second conclusion is that the idea of 'a government of laws' is Aristotelian in origin, as Adams implicitly acknowledges. Then again, this Aristotelian idea owes its roots to the tradition of respect for the law, as cultivated by Homer, Solon, Pericles, Socrates, Plato and other ancient Greeks, each of whom prepared the intellectual ground for Aristotle to step on. Details are in the works of, among others,⁵⁹ Edward M. Harris, co-editor of *The Law and the Courts in Ancient Greece*,⁶⁰ author of *Democracy and the Rule of Law in Classical Athens*⁶¹ and author of an article entitled 'The Rule of Law in Athenian Democracy and in Plato's *Laws*'.⁶² Further details are in an evocative overview given by Lord Justice Laws in 'From Homer to Socrates – The Rule of Law in Greek Literature', the transcript of a lecture given in 2002.⁶³

Some closing thoughts

36. In closing this written evidence, I draw attention to five quotations, two from Plato and three from Aristotle, as carved into the glass balustrade of the Library of the Supreme Court of the UK which opened in 2009. The quotations are reproduced below in the order in which they are listed on the archived version of the website of the

Supreme Court of the UK. Each one is of enduring relevance to the rule of law and must never be forgotten.

'Man, when perfected, is the best of animals, but when separated from law and justice he is the worst of all' – Aristotle

'Good actions give strength to ourselves and inspire good actions in others' – Plato

'Law is order and good law is good order' – Aristotle

'He who commits injustice is ever made more wretched than he who suffers it' – Plato

'It is in justice that the ordering of society is centred' – Aristotle⁶⁴

22 April 2025

¹ The contents of this written evidence reflect the personal views of the author, as expressed in his capacity as a legal academic. His views should not be interpreted as those of any organisation with which he has had or continues to have any ties. His biographical details and declarations of interest may be found at www.uclancyprus.ac.cy/academic/dr-klearchos-kyriakides/ (accessed 22 April 2025).

Acknowledgments: This written evidence reproduces, refers to or otherwise contains the following: Crown Copyright material or other public sector information licenced under the Open Government Licence v3.0, website of the National Archives of the UK, Kew Gardens, Surrey, www.nationalarchives.gov.uk/doc/open-government-licence/version/3/; and UK Parliamentary Copyright material or other UK Parliamentary information licenced under the Open Parliament Licence, www.parliament.uk/site-information/copyright-parliament/open-parliament-licence/ (accessed 22 April 2025).

² 'Call for Evidence', House of Lords Constitution Committee, <https://committees.parliament.uk/call-for-evidence/3614/> and 'Rule of law inquiry launched by Lords Constitution Committee', House of Lords Constitution Committee, 11 March 2025, <https://committees.parliament.uk/committee/172/constitution-committee/news/205702/rule-of-law-inquiry-launched-by-lords-constitution-committee/> (accessed 18 April 2025).

³ 'Written evidence [dated 15 March 2022] submitted by Dr Klearchos A. Kyriakides (RLC0009)' to the House of Lords Constitution Committee Inquiry into the Role of the Lord Chancellor and the Law Officers, as published by the Committee on 23 March 2022 at <https://committees.parliament.uk/writtenevidence/107146/html/> and 'Supplementary written evidence [dated 18 March 2022] submitted by Dr Klearchos A. Kyriakides (RLC0015)' to the House of Lords Constitution Committee Inquiry into the Role of the Lord Chancellor and the Law Officers, as published by the Committee on 23 March 2022 at <https://committees.parliament.uk/writtenevidence/107320/html%20/> (accessed 21 April 2025).

⁴ Klearchos A. Kyriakides, 'The rule of law, the Brexit saga and Boris Johnson's first three months as Prime Minister, 24 July – 23 October 2019' in Stéphanie Lauhé Shaelou & Andreas Marcou (eds.), *Yearbook on the Rule of Law and European Values: Issue 1* (Pyla, Cyprus: Centre for the Rule of Law & European Values, Jean Monnet Centre of Excellence (2022-25), UCLan Cyprus, January 2025), <https://crolev.eu/wp-content/uploads/2025/02/CRoLEV-Yearbook-Issue-1-January-2025-Rev-Fin.pdf> and <https://crolev.eu/yearbook-role/> (accessed 21 April 2025).

⁵ 'The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary-General', UN Security Council Document S/2004/616, 23 August 2004, <https://digitallibrary.un.org/record/527647?v=pdf> (accessed 21 April 2025).

⁶ *The United Nations Rule of Law Indicators: Implementation Guide and Project Tools: First Edition* (New York: United Nations, 2011), www.un.org/en/events/peacekeepersday/2011/publications/un_rule_of_law_indicators.pdf (accessed 21 April 2025).

⁷ 'CDL-AD(2011)003rev-e Report on the rule of law - Adopted by the Venice Commission at its 86th plenary session (Venice, 25-26 March 2011)', 9, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)003rev-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)003rev-e) and *The Rule of Law Checklist* (Strasbourg: Venice Commission, 2016), 10, www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf (accessed 22 April 2025).

⁸ Lord Bingham, 'The Rule of Law', the transcript of a lecture given in the University of Cambridge on 16 November 2006, www.cpl.law.cam.ac.uk/sir-david-williams-lectures/rt-hon-lord-bingham-cornhill-kg-rule-law as republished in Lord Bingham, 'The rule of law', *Cambridge Law Journal*, 66 (1), March 2007, 67-85, <https://doi.org/10.1017/S0008197307000037> (accessed 18 April 2025). References to 'The Rule of Law' in these endnotes refers to the version of the transcript published in the *Cambridge Law Journal*.

⁹ See, for example, Sir Anthony Clarke MR, 'Kadi, Fundamental Rights and the Rule of Law', the transcript of a lecture delivered on 12 March 2009 at Cambridge University Law Society, as archived by the National Archives of the UK on 11 August 2010 at https://webarchive.nationalarchives.gov.uk/ukgwa/20100811142004mp_/http://old.judiciary.gov.uk/docs/speeches/mor-cam-lecture-2009.pdf, Lord Neuberger of Abbotsbury MR, 'Rights and responsibilities: Civic duty and the rule of law', the transcript of the 2009 Denning Lecture delivered on 23 November 2009 at Inner Temple, as archived by the National Archives of the UK on 11 August 2010 at https://webarchive.nationalarchives.gov.uk/ukgwa/20100811142057mp_/http://old.judiciary.gov.uk/docs/speeches/mor-denning-lecture.pdf, Lord Mance, 'The Rule of Law - Common Traditions and Common Issues', the transcript of a lecture delivered on 1 October 2013 to mark 175th anniversary of founding of Hoge Raad, The Netherlands, as archived by the National Archives of the UK on 18 March 2020 at <https://webarchive.nationalarchives.gov.uk/ukgwa/20200323112845/https://www.supremecourt.uk/news/speeches.html> and Lord Sales, 'What is the rule of law and why does it matter?', the transcript of the Robin Cooke Lecture delivered at Victoria University of Wellington/Te Herenga Waka, 12 December 2024, https://supremecourt.uk/uploads/speech_Lord_Sales_121224_b52c07f7e8.pdf and <https://supremecourt.uk/speeches> (accessed 22 April 2025).

¹⁰ See, for example, Richard Bellamy (ed.), *The Rule of Law and the Separation of Powers* (Abingdon: Routledge, 2005), Gianluigi Palombella and Neil Walker (eds.), *Relocating the Rule of Law* (Oxford: Hart Publishing, 2009), Mortimer Sellers and Tadeusz Tomaszewski (eds.), *The Rule of Law in Comparative Perspective* (Heidelberg: Springer, 2010), Christopher May and Adam Winchester (eds.), *Handbook on the Rule of Law* (Cheltenham: Edward Elgar Publishing, 2018) and Jens Meierhenrich and Martin Loughlin (eds.), *The Cambridge Companion to the Rule of Law* (Cambridge: Cambridge University Press, 2021).

¹¹ John Tasioulas, 'The inflation of concepts Human rights, health, the rule of law – why are these concepts inflated to the status of totalising, secular religions?', Aeon, 29 January 2021, <https://aeon.co/essays/conceptual-overreach-threatens-the-quality-of-public-reason> (accessed 20 April 2025).

¹² Lord Sales, 'What is the rule of law and why does it matter?', *op. cit.*, un-numbered ninth page.

¹³ *Barnfather v Islington Education Authority & Anor* [2003] EWHC 418 (Admin) [48] (Elias LJ), www.bailii.org/ew/cases/EWHC/Admin/2003/418.html (accessed 21 April 2025).

¹⁴ Plato, *The Republic: With an English translation by Paul Shorey: In Two Volumes: I: Books I-V* (Cambridge, MA: Harvard University Press, 1930, 1937 revised reprint) and Plato, *The Republic: With an English translation by Paul Shorey: In Two Volumes: II: Books VI-X* (Cambridge, MA: Harvard University Press, 1935, 1942 reprint).

¹⁵ Plato, *Laws: With an English Translation by R. G. Bury: in Two Volumes: I* (Cambridge, MA: Harvard University Press, 1961) and Plato, *Laws: With an English Translation by R. G. Bury: in Two Volumes: II* (London: William Heinemann, 1926)

¹⁶ Plato, *The Republic: I*, 343.

¹⁷ See, for example, *ibid*, 335 and 343 as well as the distinction drawn between 'the constitution' and 'legislation' in *ibid* 469.

¹⁸ The Athenian, as quoted in Plato, *Laws: I, op. cit.*, 191.

¹⁹ *R (on the application of UNISON) v Lord Chancellor* [2017] UKSC 51 [68] (Lord Reed (with whom Lord Neuberger, Lord Mance, Lord Kerr, Lord Wilson and Lord Hughes agreed)), https://supremecourt.uk/uploads/uksc_2015_0233_judgment_d0f3da86aa.pdf (accessed 21 April 2025).

²⁰ *R v J* [2004] UKHL 42 [38] (Lord Steyn, with whom Lord Bingham of Cornhill agreed), www.bailii.org/uk/cases/UKHL/2004/42.html and <https://publications.parliament.uk/pa/ld200304/ldjudgmt/jd041014/j-1.htm> (accessed 5 April 2024).

²¹ 'Isonomy' in *Oxford English Dictionary* (Oxford: Oxford University Press, online edition), www.oed.com (accessed 21 April 2025).

²² The Athenian, as quoted in Plato, *Laws: I, op. cit.*, 413.

²³ *Augousti v Matharu* [2023] EWHC 1900 (Fam) [91] (Mostyn J), www.bailii.org/ew/cases/EWHC/Fam/2023/1900.html (accessed 21 April 2025).

²⁴ Bingham, 'The Rule of Law', *op. cit.*, 73.

-
- ²⁵ Tom Bingham, *The Rule of Law* (London: Penguin, 2010), 55-59.
- ²⁶ The Athenian, as quoted in *Laws: I*, 109.
- ²⁷ R.G. Bury in *ibid*, 111 (footnote 1).
- ²⁸ 'Three Is: Independence, Impartiality and Integrity', Courts and Tribunals Judiciary of England and Wales, www.judiciary.uk/about-the-judiciary/our-justice-system/three-is/ (accessed 19 April 2025).
- ²⁹ *Guide to Judicial Conduct* (Courts and Tribunals Judiciary, July 2023), 9 (Part 2: Guiding Principles), www.judiciary.uk/wp-content/uploads/2023/06/Guide-to-Judicial-Conduct-2023.pdf and www.judiciary.uk/guidance-and-resources/guide-to-judicial-conduct-revised-july-2023/ (accessed 21 April 2025).
- ³⁰ *Ibid*, 9 (including footnote 5).
- ³¹ Lord Phillips, 'Judicial Independence & Accountability: A View from the Supreme Court', the transcript of a lecture delivered on 8 February 2011 at University College London Constitution Unit, as archived by the National Archives of the UK on 7 January 2022 at <https://webarchive.nationalarchives.gov.uk/ukgwa/20220111011438/https://www.supremecourt.uk/news/speeches.html> (accessed 22 April 2025).
- ³² The Athenian, as quoted in Plato, *Laws: II, op. cit.*, 117.
- ³³ The Athenian, as quoted in *ibid*, 119.
- ³⁴ *Black Clawson International Ltd v. Papierwerke AG* [1975] AC 591 [638] (Lord Diplock), www.bailii.org/uk/cases/UKHL/1975/2.html (accessed 21 April 2025).
- ³⁵ Lord Bingham, 'The Rule of Law', 69.
- ³⁶ *Ibid*, 70 (footnote 15).
- ³⁷ The Athenian, as quoted in Plato, *Laws: II*, 181, 183 and 185.
- ³⁸ The Athenian, as quoted in *ibid*, 525.
- ³⁹ Adriaan Lanni, *Law and Justice in the Courts of Classical Athens* (Cambridge: Cambridge University Press, 2009), 33-35, 44, 79, 176-177 *et al.*
- ⁴⁰ *R (Guardian News and Media Ltd) v City of Westminster Magistrates' Court* [2012] EWCA Civ 420 [1] (Toulson LJ, with whom Hooper LJ and the Master of the Rolls agreed), www.bailii.org/ew/cases/EWCA/Civ/2012/420.html, as quoted in *Cape Intermediate Holdings Ltd v Dring (for and on behalf of Asbestos Victims Support Groups Forum UK)* [2019] UKSC 38 [2] (Lady Hale delivering the judgment of the Supreme Court of the UK), https://supremecourt.uk/uploads/uksc_2018_0184_judgment_b87da0244a.pdf and www.supremecourt.uk/cases/uksc-2018-0184 (accessed 21 April 2025).
- ⁴¹ The Athenian, as quoted in Plato, *Laws: II*, 529.
- ⁴² *Ibid*, 529.
- ⁴³ The Athenian, as quoted in Plato, *Laws: I*, 291.
- ⁴⁴ F. A. Hayek, *The Constitution of Liberty* (Chicago, IL: University of Chicago Press, 1960).
- ⁴⁵ *Everyman's Library: The Politics of Aristotle or a Treatise on Government: Translated by William Ellis* (New York, NY: E.P. Dutton & Co. Inc, 1912, 1947 reprint).
- ⁴⁶ *The Works of Aristotle translated into English under the editorship of W.D. Ross: Volume XI: Rhetorica [translated] by W. Rhys Roberts: De Rhetorica Ad Alexandrum [translated by] E.S. Forster: De Poetica [translated by] Ingram Bywater* (Oxford: The Clarendon Press, 1924), 1354-1420 at 1354a-1354b.
- ⁴⁷ F.A. Hayek, 'The Origins of the Rule of Law' in F.A. Hayek, *The Constitution of Liberty* in Ronald Hamowy (ed.), *The Collected Works of F.A. Hayek: Volume XVII: The Constitution of Liberty: The Definitive Edition* (Chicago, IL: University of Chicago Press, 2011), 232-260 at 239-240 and 241-243.
- ⁴⁸ Aristotle, *The Athenian Constitution: The Eudemian Ethics: On Virtues and Vices: With an English translation by H. Rackham* (Cambridge, MA: Harvard University Press, 1935), 8-181 at 115 and 123.
- ⁴⁹ Lord Bingham, 'The Rule of Law', 80.
- ⁵⁰ Aristotle, *The Athenian Constitution, op. cit.*, 143, 171, 181 *et al.*
- ⁵¹ Aristotle, *Politics: With an English translation by H. Rackham* (Cambridge, MA: Harvard University Press, 1932, 1959 reprint), 345.
- ⁵² *Matthews v Ministry of Defence* [2003] UKHL 4 [29] (Lord Hoffmann), www.bailii.org/uk/cases/UKHL/2003/4.html and <https://publications.parliament.uk/pa/ld200203/ldjudgmt/jd030213/mathws-1.htm> (accessed 22 April 2025).
- ⁵³ *R (SC, CB and 8 children) v Secretary of State for Work and Pensions & Ors* [2021] UKSC 26 [146] (Lord Reed with whom Lord Hodge, Lady Black, Lord Lloyd-Jones, Lord Kitchin, Lord Sales and Lord Stephens agreed), https://supremecourt.uk/uploads/uksc_2019_0135_judgment_167a5bc149.pdf and www.supremecourt.uk/cases/uksc-2019-0135 (accessed 21 April 2025).
- ⁵⁴ John Adams, *A Defence of the Constitutions of Government of the United States of America Against the Attack of M. Turgot in his letter to Dr Price dated the Twenty-Second Day of March 1788: In Three Volumes: Vol. I: A New Edition* (London: Printed for John Stockdale, Piccadilly, 1794), 126 and 127.
- ⁵⁵ *Ibid*, 125.

⁵⁶ Ibid, 126.

⁵⁷ *Olmstead v. United States* 277 U.S. 438, 485 (1928) [438] (Brandeis, J., dissenting), <https://tile.loc.gov/storage-services/service/ll/usrep/usrep277/usrep277438/usrep277438.pdf> and <http://www.loc.gov/item/usrep277438/> (accessed 20 April 2025).

⁵⁸ Bingham, 'The Rule of Law', 78.

⁵⁹ See Douglas M. MacDowell, *The Law in Classical Athens* (Ithaca, NY: Cornell University Press, 1978), Ilias Arnaoutoglou, *Ancient Greek Laws: A Sourcebook* (London: Routledge, 1998) and the other relevant books cited in this written evidence.

⁶⁰ Edward M. Harris and Lene Rubinstein (eds.), *The Law and the Courts in Ancient Greece* (London: Duckworth, 2004).

⁶¹ Edward M. Harris, *Democracy and the Rule of Law in Classical Athens: Essays on Law, Society, and Politics* (Cambridge: Cambridge University Press, 2006).

⁶² Edward M. Harris, 'The Rule of Law in Athenian Democracy and in Plato's *Laws*', *Filosoficky casopis*, Special Issue 2021/2, 29-44, <https://doi.org/10.46854/fc.2021.2s.29> (accessed 20 April 2025).

⁶³ Lord Justice Laws, 'From Homer to Socrates – The Rule of Law in Greek Literature', the transcript of the Howard Memorial Lecture 2002 given at the Law Faculty of the University of Oxford on 16 May 2002, as archived by the National Archives of the UK on 7 January 2008, at https://webarchive.nationalarchives.gov.uk/ukgwa/20080512155852/http://www.judiciary.gov.uk/publications_media/speeches/pre_2004/ljlaws160502.htm (accessed 22 April 2025).

⁶⁴ 'Library' in 'New artwork', Supreme Court of the UK, as archived by the National Archives of the UK on 11 January 2022 at <https://webarchive.nationalarchives.gov.uk/ukgwa/20220111074519/https://www.supremecourt.uk/visiting/new-artwork.html> (accessed 21 April 2025).