

THE RULE OF LAW



BY RENE VALLADARES, ESQ.

THE RULE OF LAW VS. THE RULE OF MAN

I grew up in Nicaragua, a country where the rule of man, not the rule of law, held sway. The dictatorial Somoza dynastic regime impacted every facet of Nicaraguan society. The Somozas used the criminal justice system to harshly quash dissent: political dissidents disappeared, anti-government protesters were brutally tortured and freedom of expression was crushed.

The resulting savage civil war left the country in ruins. Approximately 30,000 Nicaraguans died. After the Somoza dictatorship finally toppled in 1979, hundreds of thousands were left homeless, as refugees or in exile — shocking numbers for a country of only 2.8 million people.

During the civil war, my family fled Nicaragua and settled in the United States. I was 16 years old. My experiences as a teenager in Nicaragua shaped my admiration for this country's rule of law. Ultimately, my childhood experiences led to a career as a public defender. As a public defender, I am well aware our American criminal justice system is far from perfect. We incarcerate more people than any other country in the world, and a disproportionate majority of those people are poor and members of minority groups. Sometimes we make mistakes and incarcerate innocent people.

Despite the flaws in our system, I treasure our country's deep commitment to the rule of law. Nowhere is that truer than in the decision to provide representation to indigent individuals charged with crimes, an idea rooted in the iconic 1963 case of *Gideon v. Wainwright*.¹ *Gideon* provided for the appointment of counsel for indigent defendants in criminal cases.

The concept of counsel for someone charged with a crime was unheard of in Nicaragua, where “justice” was exacted at the whim of the dictators ruling the country. In the United States, we have long understood that the rule of law only has meaning when all of its citizens have equal access to our legal system.

No, we have not yet fully achieved the potential of *Gideon*. Often poverty and minority status dictate outcomes in criminal cases. Our shortcomings highlight the importance of our continued efforts to maintain and respect the rule of law. Moreover, Nicaragua's tumultuous and destructive reliance on the rule of man demonstrates the absolute necessity of our unrelenting commitment to improving indigent defense and the preservation of the rule of law. **NL**

1. *Gideon vs. Wainwright*, 372 U.S. 335 (1963).

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