

# *The Rule of Law as the Rule of Reasons*

MATHILDE COHEN

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## **Abstract**

This paper argues that in contemporary legal thinking, the concept of the rule of law has become inseparable from the idea that legal decision-makers should give reasons to justify their decisions. Yet, how far can the concept of the rule of law be understood as establishing a rule of reasons? I examine whether reason giving is necessarily connected with the rule of law in the sense that a legal system would not conform to the rule of law if its decisions were not supported by publicly articulated reasons.

I proceed by arguing that the focus on reason giving vindicates both procedural and substantive conceptions of the rule of law. In my view, reason giving is an essential component of the first conception because all the procedural account seems to require is that the state does whatever it does in a predictable and consistent way and justify it by reasons. Likewise, reason giving can serve to characterize the core of the substantive proposal. Substantive conceptions of the rule of law claim that the rule of law's central purpose is to ensure certain just outcomes. In that perspective, requiring that legal decision-makers give reasons is more apt to protect us against abuse than other forms of decision-making.

In line with this reframing, I conclude that theoretical reflections on the rule of law should pay more attention to the legal duty to give reasons than has been done in the past, thereby leading to a context-sensitive assessment of the rule of law and its virtue(s).