



President's Perspective

EVERY DAY IS LAW DAY WHEN YOU'RE A LAWYER

By Amy Noe Dudas

PRESIDENT'S PERSPECTIVE

May 1 is Law Day, so let's talk about the Rule of Law.

President Dwight D. Eisenhower established Law Day in 1958 as "a day of national dedication to the principles of government under law."¹ As lawyers, we should observe and celebrate this day as one that underlies the fundamental core of our professional being. In fact, the rules that govern whether we get to be lawyers and continue practicing seem to mandate it.

As I pointed out last month, Rule 12 of the Indiana Rules of Admission to the Bar and the Discipline of Attorneys requires all applicants to the Indiana bar demonstrate "good moral character" and "fitness to practice law."

Good moral character is about being honest, trustworthy, and fair. It includes having respect for other people's rights and, most importantly to this discussion, for the judicial process. Abuse of legal process and violation of a court order are but two considerations in determining character and fitness.² Character and fitness interviewers are looking for evidence the applicant "has adequate knowledge of the standards and ideals of the profession."³

We all took an oath to, among many other things, support the United States and Indiana

Constitutions as well as to respect courts and judicial officers.⁴

But it's the Preamble to the Indiana Rules of Professional Responsibility that really makes it clear the "standards and ideals of the profession" referenced above include, first and foremost, upholding and protecting the rule of law. We have a "special responsibility for the quality of justice." After all, "legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority." And ensuring ongoing public participation and support is *a really big part of our job*, what the Preamble calls our "professional calling."⁵

Not only that, maintaining the independence of our profession is crucial to preserving the rule of law, as it enables us to challenge abuses of legal authority, as we are called to do while, at the same time, protecting and preserving our systems of justice. It is too dangerous to leave the rule of law up to anyone who is *not* bound by these mandates. After all, "lawyers play a vital role in the preservation of society."⁶

LAWYERS PLAY A VITAL ROLE IN THE PRESERVATION OF SOCIETY, Y'ALL.

So, how are we doing?





Each year, the World Justice Project (WJP) ranks 140 countries' adherence to the rule of law in its *Rule of Law Index*, using policy outcomes as its measures, rather than the written law itself. WJP asserts the rule of law is "foundational to peace, justice, respect for human rights, effective democracy, and sustainable development."⁷

The index measures two core principles made up of four factors each. The first principle is limitations

(!!) 27 (2021). In 2021, the United States' adherence to the rule of law was ranked lower than Portugal, Uruguay, Latvia, the Czech Republic, Korea, Hong Kong, Lithuania, and Singapore, to name a few. (Denmark, by the way, has topped the list every year since 2015. Good for the Danes.) For 2022's Index, we've inched up past Portugal to get to 26 again.¹²

There are some notable dips in our adherence to the rule of law over the past seven years. When it comes

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on power, both by the state and by individuals and private entities.⁸ Factors include constraints on government powers, absence of corruption, open government, and fundamental rights.⁹ The second principle is "whether the state limits the actions of members of society and fulfills its basic duties towards its population so that the public interest is served, people are protected from violence, and all members of society have access to dispute settlement and grievance mechanisms."¹⁰ Factors here include order and security, regulatory enforcement, civil justice, and criminal justice.¹¹

The United States ranks 26 out of 140 countries. Here's how we've done since 2015: 19 (2015); 18 (2016); 19 (2017-18); 20 (2019); 21 (2020); and

to holding government officials accountable, the U.S. dropped from 13 in 2016 to 28 in 2022. In terms of respecting fundamental rights (as recognized in the United Nations Universal Declaration of Human Rights), the U.S. enjoyed a high of 21 in 2016 and a shocking low of 42 in 2021 (we've clawed our way back up to 37). We ranked 26 in ensuring the security of persons and property in 2015 and fell all the way to 38 in 2021 (31 in 2022). How do we do as far as the accessibility and affordability of the civil justice system? We ranked 14 in 2015 but dropped to 41 in 2021 (we've rebounded a bit to 36).¹³ It's not just us, though; rankings dropped in 61% of the countries surveyed from 2021 to 2022.

So, colleagues, are we holding up our end of the bargain when it comes to

our vital role in the preservation of society? Some argue this trend has been brought about by an increasing interest in autocratic-leaning political philosophies, which are, of course, not conducive to maintaining a democratic republic such as ours. It's been noted that "[a]n essential test for democracies is not whether [extremist demagogues] emerge but whether [we] work to prevent them from gaining power in the first place..."¹⁴

Lawyers serve as an important check and balance on those in power, and Law Day should remind us we were admitted to practice law based on our demonstrated knowledge of the standards and

ideals of this profession, we took an oath to support our federal and state systems of government, and we are duty-bound to challenge government overreach while protecting and preserving the rule of law.

Crucially, find a respectful way to help your friends and neighbors sort through all the noise. 🙏

FOOTNOTES:

1. American Bar Association, *History of Law Day*, American Bar Association (Feb. 18, 2023), <https://bit.ly/3Z2i9ze>.
2. Ind. Admission and Discipline Rule 12(2).
3. Admis. Disc. R. 12(4).
4. Admis. Disc. R. 22.
5. Ind. Professional Conduct Rule Preamble
6. *Id.*
7. World Justice Project, *Rule of Law Index* 8 (2022).
8. *Id.* at 13.
9. *Id.* at 15.
10. *Id.* at 13.
11. *Id.* at 15.
12. World Justice Project, *WJP Rule of Law Index* (Feb. 18, 2023), <https://bit.ly/418WXJs>.
13. *Id.*
14. Steven Levitsky & Daniel Ziblatt, *How Democracies Die* 7 (2019).

The Indiana Bar Foundation's Mock Trial Diversity Initiative (MTDI), Presented by Krieg DeVault, began in 2021 to retain,

expand, and diversify schools participating in the Indiana Mock Trial program by reducing financial and systemic barriers.

The program focuses on under-resourced schools with a large population of students of color. The number of participating schools in the initiative's second year has increased from eight to 13, impacting more than 175 students statewide.



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The Foundation is proud to partner with these law firms and organizations for the Mock Trial Diversity Initiative Presented by Krieg DeVault.

If you or your organization are interested in being an MTDI sponsor, please contact Foundation Director of Development Kim Berry at kberry@inbarfoundation.org.

