

AMERICAN BAR ASSOCIATION

**ADOPTED BY THE HOUSE OF DELEGATES
AUGUST 5-6, 2024**

RESOLUTION

RESOLVED, That the American Bar Association adopts the “Statement of Principles to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy” by the Society for the Rule of Law.

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Statement of Principles to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy

Whereas America is a “nation of laws, not of men.”

Whereas the Constitution of the United States and the rule of law provide for and guarantee that “we the people” possess and shall exercise the powers of self-government through the free and fair elections of our representatives.

Whereas citizens of the United States of America have a duty to preserve, protect, and defend the Constitution of the United States and the rule of law.

Whereas the Constitution’s separation of powers provides that the Congress, the Executive, and the Judiciary each serves as a check and balance on the other two branches of government.

Whereas the independence of the Supreme Court and the Federal Judiciary is essential to constitutional government and the rule of law.

Whereas our government shall uphold the ideals of equality under the law and equal justice for all.

Be It *Resolved* that American citizens have a duty:

To accept the legitimacy, respect the authority, and abide by the decisions and judgments of the federal courts interpreting the Constitution and laws of the United States.

To respect the rule of law by honoring the truth and speaking against untruths that undermine respect for the Constitution, the rule of law, and the courts of the United States.

To oppose any and all efforts by false accusation, threat, or similarly to undermine respect for the federal courts and the individual justices and judges who serve on the courts of the United States.

To support and defend the fundamental American principle that no person is above, beneath, or beyond the law.

To respect, support, and defend the constitutional rights of all Americans.

To accept, honor, and respect the results of elections by the American people.

To respect, support, and insist upon the peaceful transfer of power upon which our constitutional republic is premised and depends.

To respect, support, and defend the right of aggrieved candidates to invoke the judicial process to challenge the results of elections and the corresponding obligation of such candidates to respect the resulting decisions of the courts of law.

To hold government officials, political leaders, candidates for high office, and leaders of the political parties responsible and accountable for the preservation, protection, and defense of the Constitution and the rule of law, and for adherence to the constitutional principles of America's great experiment in democracy and constitutional self-government.

To affirm and reaffirm that the duty and responsibility of government and governmental officials is to the Constitution, the rule of law, and to the American people, and that it is the duty and responsibility of all public officials to serve all citizens, irrespective of their political party or other affiliation, association, or identity.

To honor America by preserving, protecting, and defending the Constitution of the United States, the rule of law, and America's democracy.

REPORT

During the past year, the ABA Presidential Task Force on American Democracy has been working to expose and combat perceived threats to the cornerstones of our democratic form of government. This Resolution supports principles that go to the heart of that endeavor. The principles in the Statement of Principles to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy (“Statement of Principles”), developed by the Society for the Rule of Law, should command the support of every member of our Association.¹ Most, if not all, of the principles have precedents among the policies already adopted by the ABA. It would be of great value to have the ABA adopt this Statement of Principles in toto at this moment when American democracy is facing unparalleled challenges from various forces in our society.

I. THREATS TO DEMOCRACY

Never in our lifetimes has American democracy been under such great threat. A Pew Research poll indicates that only 4 percent of Americans say the political system is working extremely or very well, 23 percent say it is working somewhat well, and 63 percent have not too much or no confidence at all in the future of the U.S. political system.² Other polls indicate that nearly 25 percent of Americans say they are prepared to resort to violence if their desired candidate loses in the next election.³ Meanwhile, foreign adversaries are ramping up efforts to spread disinformation that inflames our body politic.

The crisis for American democracy that was so vividly displayed in 2021 when a mob attacked the U.S. Capitol continues unabated today. A new Monmouth poll finds 30% of respondents believe President Biden's victory came thanks to voter fraud.⁴ Since 2020, threats to and harassment of election workers have actually risen. Some political leaders have begun to question the results of the 2024 election even before the votes are cast. Polls indicate that nearly 25 percent of Americans say they are prepared to resort to violence if their desired candidate loses in the next election.⁵

It is now more important than ever for Americans to understand what each of us should do to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy. The Society for the Rule of Law has emphasized that these principles apply regardless of the party or persons in power. The Statement of Principles developed by the Society for the Rule of Law provides a valuable tool to make that case. Having the

¹ <https://societyfortheruleoflaw.org/statement-of-principles/>.

² Pew Rsch. Ctr., Americans’ Dismal Views of the Nation’s Politics 5 (2023), <https://www.pewresearch.org/politics/2023/09/19/americans-dismal-views-of-the-nations-politics>.

³ PRRI, Threats to American Democracy Ahead of an Unprecedented Presidential Election 6 (2023), <https://www.prii.org/research/threats-to-american-democracy-ahead-of-an-unprecedented-presidential-election>.

⁴ Monmouth University, Most Say Fundamental Rights Under Threat, June 20, 2023, https://www.monmouth.edu/polling-institute/reports/monmouthpoll_US_062023/.

⁵ PRRI, Threats to American Democracy Ahead of an Unprecedented Presidential Election 6 (2023), <https://www.prii.org/research/threats-to-american-democracy-ahead-of-an-unprecedented-presidential-election>.

ABA on record supporting the entire statement will send a great message and empower the ABA and its leaders to contribute optimally to the fight to ensure our democracy and protect the rule of law.

II. STATEMENT OF PRINCIPLES

On July 11, 2024, the Society for the Rule of Law announced the **Statement of Principles to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy**, which in part, asks every citizen to respect and defend the rule of law, maintain a strong commitment to democracy and equality for all, support an independent judiciary, respect for the outcome of elections and the peaceful transfer of governmental power.

According to its website, the Mission Statement of the Society for the Rule of Law reads:

We are a group of attorneys, law students, and other public-spirited citizens who would traditionally be considered conservative or libertarian. We believe in the rule of law, the power of truth, the integrity of the criminal justice system, the imperative of individual rights, and the necessity of civil discourse. We believe these principles apply regardless of the party or persons in power. We believe, as the Founders did, in “a government of laws, not of men.”

We believe in the Constitution. We believe in free speech, a free press, separation of powers, and limited government. We have faith in the resiliency of the American experiment. We seek to provide a voice and a network for like-minded individuals to discuss these ideas, and we hope they will join us in standing up for these principles.⁶

III. ABA POLICY SUPPORTS THE STATEMENT OF PRINCIPLES

The Statement of Principles is consistent with existing ABA policy. The ABA House of Delegates has affirmed its belief that a fair, impartial, and independent judiciary is fundamental to a free society and called on all Americans, including elected officials, to support and defend the judiciary’s role in maintaining the fundamental liberties under the Constitution of the United States.⁷ It has encouraged every lawyer to consider it part of their fundamental professional responsibility to further the public’s understanding of and confidence in the rule of law and the American system of justice.⁸ It has called on state, local, and territorial bar organizations to defend against attacks on the judiciary and opposed any measure that would interfere with or impede the ability of courts to apply independently the law and the U.S. Constitution fairly and impartially.⁹ The ABA Board of Governors has also expressed concern over political attacks on the

⁶ <https://societyfortheruleoflaw.org/about/>.

⁷ 05A10A.

⁸ 00M108.

⁹ 07M10B.

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independence of the judiciary and called on lawyers everywhere to speak out on the critical role that an able, competent, and independent judiciary plays in protecting the rights and freedoms of all Americans under the rule of law.¹⁰

The ABA has taken this action of approving the principle of fair, just, and impartial application and enforcement of the law regardless of the position or status of the accused.¹¹ The House of Delegates has similarly urged lawyers in the U.S. Department of Justice not to make decisions concerning investigations or proceedings based upon partisan political interests and not to perceive that they will be rewarded for, or punished for not, making a decision based upon partisan political interests.¹²

Since 2020, the House of Delegates also has adopted numerous policies opposing actions that fail to accept, honor, and respect election results.¹³ Indeed, then ABA President Patricia Lee Refo wrote on November 16, 2020, in part:

“Our democracy is built upon the rule of law, which requires adhering to the laws and regulations established for elections. If there are any remaining, legitimate concerns about the enforcement or implementation of those laws, courts provide the venue to rule independently and with deliberation on those claims. Once the courts have ruled, individuals have the right to disagree with those decisions, but that disagreement does not affect the validity of the court’s decisions. That is the very essence of the rule of law.”¹⁴

On January 6, 2021, the day of the attack on the U.S. Capitol, President Refo further wrote:

“The peaceful transition of power from one elected president to the next is a revered American tradition going back more than two centuries and serves as a model to the rest of the world. All elected officials and others in positions of civic responsibility must now uphold their oath to defend the Constitution, support a peaceful transition of power, and thereby protect the rule of law.”¹⁵

“[T]he Association supports the United States Constitution as the supreme law of the land and reaffirms its commitment to the doctrine of judicial review as a fundamental principle for a nation governed by the rule of law.”¹⁶

IV. CONCLUSION

¹⁰ 96BOG2.11.

¹¹ 74A303.

¹² 10M102G.

¹³ 23M605; 22M800.

¹⁴ <https://www.americanbar.org/news/abanews/aba-news-archives/2020/11/aba-president-s-statement-re-state-of-the-2020-presidential-elec/>.

¹⁵ <https://www.americanbar.org/news/abanews/aba-news-archives/2021/01/statement-of-aba-president-patricia-lee-refo-re--violence-at-the/>.

¹⁶ 03M112.

The Statement of Principles overlaps largely, if not completely, with existing ABA policy and already permits the ABA to join approvingly in the Statement of Principles. However, in order to fill any gaps between the Statement of Principles and ABA policy, as well as to enable a comprehensive and forceful stance at this critical moment in defense of democracy and the rule of law, we ask that this Resolution be approved. Committing the ABA to the Statement of Principles is one small step to push back against the combined threats to democracy and the rule of law.

Respectfully submitted,

Robin R. Runge, Chair
Section of Civil Rights and Social Justice

August 2024

GENERAL INFORMATION FORM

Submitting Entity: Section of Civil Rights and Social Justice

Submitted By: Robin R. Runge, Chair

1. Summary of the Resolution(s). This Resolution supports the adoption of the “Statement of Principles to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy” developed by the Society for the Rule of Law. It will represent a comprehensive and forceful stance by the ABA in defense of democracy and the rule of law at this critical moment.
2. Indicate which of the ABA’s Four goals the resolution seeks to advance (1-Serve our Members; 2-Improve our Profession; 3-Eliminate Bias and Enhance Diversity; 4-Advance the Rule of Law) and provide an explanation on how it accomplishes this. This Resolution seeks to advance Goal 4 – Advance the Rule of Law – by taking an important step to build on previously approved ABA policies and fill in any policy gaps needed to address threats to democracy and the rule of law.
3. Approval by Submitting Entity. The Executive Committee of the Section of Civil Rights and Social Justice approved sponsorship of this Resolution on July 29, 2024.
4. Has this or a similar resolution been submitted to the House or Board previously?
No.
5. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption? Relevant ABA policies, including 03M112, 05A10A, 00M108, 07M10B, 96BOG2.11, 74A303, 10M102G, 23M605, and 22M800, have affirmed a fair, impartial, and independent judiciary; the principle of fair, just and impartial application and enforcement of the law regardless of the position or status of the accused; opposed actions that fail to accept, honor and respect election results; and affirmed the Constitution as the supreme law of the land. This Resolution is consistent with and builds on existing policies to affirm and fill any gaps needed to support democracy and the rule of law.
6. If this is a late report, what urgency exists which requires action at this meeting of the House? Yes. The crisis for American democracy that was so vividly displayed in 2021 when a mob attacked the U.S. Capitol continues today. During the past year, the ABA Presidential Task Force on American Democracy has been working to expose and combat perceived threats to the cornerstones of our democratic form of government. Because some political leaders have begun questioning the results of the 2024 election even before the votes are cast, it is important for the ABA to take a

strong stance on the protection of democracy and the rule of law now and before the federal election.

- 7. Status of Legislation. (If applicable) N/A

- 8. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates. The ABA will work with relevant stakeholders and the ABA Board of Governors to ensure implementation of this Resolution.

- 9. Cost to the Association. (Both direct and indirect costs) Minimal programming and indirect costs.

- 10. Disclosure of Interest. (If applicable) None.

11. Referrals.

Criminal Justice Section
Judicial Division
Center for Diversity, Equality and Inclusion
Coalition on Racial and Ethnic Justice
Young Lawyers Division
Law Student Division
Senior Lawyers Division
Center for Professional Responsibility
Commission on Cornerstones of Democracy
Litigation Section
Commission on Women in the Profession
International Law Section
Section of State and Local Government Law

12. Name and Contact Information (Prior to the Meeting. Please include name, telephone number and e-mail address).

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13. Name and Contact Information. (Who will present the Resolution with Report to the House?) Please include best contact information to use when on-site at the meeting.

Mark I. Schickman, CRSJ Section Delegate
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EXECUTIVE SUMMARY

1. Summary of the Resolution.

This Resolution and Report supports the adoption of the “Statement of Principles to Preserve, Protect, and Defend the Constitution, the Rule of Law, and American Democracy” developed by the Society for the Rule of Law to make a comprehensive and forceful stance at this critical moment in defense of democracy and the rule of law.

2. Summary of the issue that the resolution addresses.

This Resolution addresses present combined threats to democracy and the rule of law as explored this past year by the ABA Taskforce on American Democracy.

3. Please explain how the proposed policy position will address the issue.

The proposed policy position will address this issue by presenting a firm stance by the ABA to the protection of core principles of democracy and the rule of law, and commitment to programming to provide education around and awareness of those principles.

4. Summary of any minority views or opposition internal and/or external to the ABA which have been identified.

None.