

**Democracy:**

## **Restoring Respect for the Rule of Law**

**January 2026**



### **Top Line**

- 1. The rule of law is vital to our country and our democracy**
- 2. However, the rule of law is not healthy in the US today**
- 3. The Trump Administration has further eroded faith in the rule of law**
- 4. As a state, Texas scores poorly on respect for the rule of law**
- 5. We need better policies and practices to restore respect for the rule of law in Texas and the US**

### **Backup**

- 1. The rule of law is vital to our country and our democracy**

**Definition:** First, it is helpful to have a clear definition of what we mean by "rule of law". The website for the United States Courts defines "rule of law" as:

*"a principle stating that all individuals, institutions, and entities, including the government itself, are accountable to and governed by laws that are publicly known, equally enforced, and independently adjudicated." (1)*

A more complete definition is in Appendix 1.

**The rule of law is important to our country for several reasons, including:**

- a. **Ensures accountability of our elected leaders.** This protects our democracy from the arbitrary use of power and is critical for legitimacy and the peaceful transfer of power. The American Bar Association points out "The laws establish and safeguard the structures of society wherein citizens have a meaningful voice in shaping and enacting the rules that govern them. Many scholars and groups dedicated to democracy theorize that **democracy cannot exist without the rule of law.**" (2)
- b. **Protects our rights and freedoms.** The US Constitution, Bill of Rights, and the rule of law guarantee fundamental freedoms — such as due process, equal treatment, freedom of speech, and protection from arbitrary government actions. The rule of law ensures equal treatment of all citizens, regardless of their race, gender or economic condition. (3)
- c. **Strengthens social stability.** By ensuring that laws are applied impartially and that all individuals have equal access to justice, the rule of law helps build trust within society and reduces social tensions. Inclusive legal systems empower marginalized groups, including women, minorities, and vulnerable populations, enabling them to participate more fully in economic activities and benefit from the fruits of development. (4)
- d. **Supports economic opportunity.** According to the World Justice Project, "Research shows that rule of law correlates to higher economic growth, greater peace, more education, and improved health outcomes." (5)

The American Bar Association identifies specific ways the rule of law improves economic opportunity (6), including:

- encouraging investment by establishing and enforcing clear, fair rules
- ensuring fair competition, and
- reducing corruption, which interferes with a free and productive market

**Americans agree that the rule of law is vital.** A 2024 survey found that "96% of both Democrats and Republicans believe that rule of law is essential or important to the future of the country." (7)

## 2. However, the rule of law is not healthy in the US today

- a. **Views of Americans** - Although Americans consider the rule of law to be important, they also feel that it is not working well in the US now.
  - Since 2013, the proportion of respondents who believe that high-ranking officials would be held accountable for breaking the law has dropped 30 percentage points – from 65% in 2013 to 35% in 2024. (7)
  - **Only about 1/3 of us believe officials will be held accountable and that percentage is likely to have fallen further in the first year of Trump's second administration.**
  - Trust in the justice system in general has also fallen – from 68% in 2017 to 56% in 2024. (7)
- b. **Global comparison** – compared to other advanced countries, the US does not perform well on rule of law issues. As shown in the table below, the US is near the bottom in the Overall Index Score and on components of the index. (8)

### Rule of Law Index (2024)

World Justice Project

	Overall Score	Absence of Corruption	Fundamental Rights	Criminal Justice
Sweden	86	91	87	78
Germany	83	84	86	78
Netherlands	83	88	83	75
Australia	80	83	78	72
Canada	80	82	82	74
Austria	79	79	83	79
Japan	79	82	78	77
Belgium	78	80	84	70
United Kingdom	78	83	80	70
Czechia	74	68	79	71
Korea (Republic of)	74	67	75	72
France	72	75	74	65
Spain	71	73	78	67
<b>United States</b>	<b>70</b>	<b>73</b>	<b>68</b>	<b>59</b>
Italy	66	65	72	63
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<b>Average, Excl. US</b>	<b>77</b>	<b>79</b>	<b>80</b>	<b>72</b>

Source: <https://worldjusticeproject.org/rule-of-law-index/global>

Note: Data is not provided for Israel and Switzerland

The US ranks low on the factors that comprise the Overall Index Score, including:

- **Absence of Corruption**, which measures the prevalence of bribery, informal payments, and other inducements in the delivery of public services and the enforcement of regulations. The US was tied for 11<sup>th</sup> place among the 15 countries listed above.
- **Fundamental Rights**, which measures whether individuals are free from discrimination—based on socio-economic status, gender, ethnicity, religion, national origin, sexual orientation, or gender identity—with respect to public services, employment, court proceedings, and the justice system. **The US ranks last among these countries.**
- **Criminal Justice**, which measures whether perpetrators of crimes are effectively apprehended and charged. It also measures whether police, investigators, and prosecutors have adequate resources, are free of corruption, and perform their duties competently. The US also ranks last on the Criminal Justice factor. (8)

c. Several explanations have been proposed for this decline in the Rule of Law in the US, including:

- **Selective Enforcement** – this means applying laws, rules, or regulations inconsistently, targeting some individuals or groups for punishment while overlooking similar violations by others, often based on bias, favoritism, or discriminatory reasons like race, politics, or personal connections. Examples include racial profiling, gender-based discrimination, bias against certain groups, and differential enforcement based on the characteristics of a neighborhood – such as showing more leniency in traffic violations in higher income areas. (9)
- **Sentencing disparities** – this refers to unfair variations in punishments for similar crimes.
  - The US Sentencing Commission found that minorities received longer sentences than whites, and minorities were less likely to receive probationary sentences. (10)

- The National Association of Criminal Defense Lawyers has stated “The combined impacts of biased policing, discretionary charging decisions, sentencing enhancements, and the continuing impacts of the tough-on-crime movement have created and bolstered a criminal legal system in which people of color, particularly Black people, are more likely to be sentenced to prison and are subject to lengthier periods of incarceration.” (11)
- **Supreme Court Rulings** – In recent years the Supreme Court’s conservative majority have made rulings that have weakened the rule of law. These decisions all predated Trump’s second inauguration.
  - **Undermining election protections** - Since 2013, a series of decisions (including *Shelby County v. Holder*) have dismantled core parts of the Voting Rights Act, made it harder to challenge discriminatory redistricting and voting laws, and allowed greater partisan gerrymandering. These moves have made it easier for politicians to entrench power, disadvantaged marginalized groups, and eroded Congress’s ability to ensure equal voting rights. (12)
  - **Increasing corporate power** - The 2010 Supreme Court decision in *Citizens United v. Federal Election Commission* undermined the rule of law by concentrating political influence in the hands of the wealthy and powerful, thus distorting the principle of equal representation. This is the ruling that determined that “corporations are people”, thus giving them unlimited ability to finance candidates for office. This has increased the influence of a wealthy few, reduced transparency, and created a perception of corruption. (13)
  - **Granting Presidents immunity from the law** - *Trump v. United States*, decided in mid-2024, the conservative majority on the Supreme Court granted presidents broad protections from criminal prosecution for “official acts” they undertake while in office. As the Brennan Center points out, “The Court has held for the first time that presidents stand above the criminal law, a radical rejection of a bedrock part of the American legal and political tradition. The idea that lawbreaking presidents could be prosecuted was common sense to the Constitution’s framers, critical to the ratification of the Constitution in the late 18th century, and a background principle against which all presidents have done their jobs in the centuries since then.” (14)

### **3. The Trump Administration has further eroded faith in the rule of law**

None of the above facts, statistics and rulings reflect the enormous damage Trump has done to the rule of law since taking office for the second time in January 2025. Since then, he and his administration have taken a wrecking ball to the concept of rule of law.

Just a few examples include:

- a. Repeatedly breaking the law.** When Trump breaks the law, gets caught and gets away with it, that undermines the public's faith in the rule of law. Here are just a few of many examples (15):
  - Felony convictions - Trump became the first former U.S. president convicted of felonies when a New York jury found him guilty in May 2024 of falsifying business records to cover up a hush money payment to a porn actor who said the two had sex.
  - Retaining classified documents - Trump was charged with illegally retaining classified documents he took from the White House to Mar-a-Lago after he left office in January 2021, and then obstructing government demands to give them back. Photographic evidence made it clear that Trump retained a large number of documents, storing some in Mara Lago. Those charges were dropped when he was re-elected.
  - Sexual abuse - In May 2023, a federal jury found that Trump sexually abused writer E. Jean Carroll in the mid-1990s and later defamed her. The jury awarded Carroll \$5 million.
  
- a. Pardoning criminals, even ones convicted of violent acts.**
  - Brookings points out that "Trump's pardon and commutation of roughly 1,500 January 6 insurrectionists—including David Dempsey, who brutalized police officers—on his first day in the White House contributes to the mounting threats to U.S. democracy by disregarding the impartiality and independence of U.S. rule of law." (16)
  - It is also apparent that Trump has pardoned people in exchange for favors or for money. For example, Trump pardoned a Florida businessman, Paul Walczak, who was convicted of tax evasion, after his mother attended a million dollar per-plate fundraising dinner at Mar-a-Lago for the president's super PAC. This got Walczak out of an 18-month prison sentence and a \$4 million restitution payment. (17)

- In response to the killing of two US citizens in Minneapolis by ICE agents in January 2026, members of the administration, including Vice President JD Vance, have claimed that the ICE agents have “absolute immunity” from state-level prosecution. It also appears that they are unlikely to face Federal prosecution. Thus, what appears to many Americans as murder will not be prosecuted or punished. (30)

**b. Weakening mechanisms that support the rule of law**

- Shortly after taking office, Trump fired the Inspectors General and gutted the Public Integrity Division at the Justice Department. These are important safeguards to ensure that the rule of law is followed by government officials. (18)
- The Inspectors General exist to protect taxpayer money by rooting out corruption, fraud, waste and mismanagement. One way they do so is by conducting investigations into potential violations of ethics provisions or conflict of interest laws. Allegations of unethical and illegal conduct by Trump's Cabinet during his first term triggered IG investigations into at least eight Trump appointees and their conduct: including his secretaries of Transportation, State, Veterans Affairs, Interior, Housing and Urban Development, Health and Human Services, and Commerce. By eliminating the IG's in his second term, Trump removes important legal and ethical guardrails. (19)
- Trump also placed a hold on the Foreign Corrupt Practices Act, which makes it unlawful for U.S. individuals or companies to bribe foreign officials for the purpose of obtaining business. In the absence of this act, ethical companies that do not engage in bribery could be at a disadvantage relative to those that do. (20)

**c. Executive overreach and ignoring the checks and balances** - The Trump administration has aggressively taken powers that by law belong to Congress, including its efforts to remove the heads of independent agencies, impound federal funds, and shut down federal offices. By ignoring the checks and balances designed to keep him accountable to Congress, the president is threatening to become exactly what the framers feared: an all-powerful and unconstrained executive who operates more like a king than the head of a constitutional democracy. (21)

**d. Blatant Corruption and graft**

- Donald Trump refused to divest from his businesses after becoming president. And several businesses, like his Washington hotel, became ready-made avenues for both foreign governments and domestic political allies to curry favor with his administration. (22)
- Many of Trump's actions are clear violations of the **Emoluments Clause**, a part of the Constitution designed to prevent conflicts of interest. (23)
  - The Emoluments Clause provides that "no Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." (Emoluments are "a salary, fee, or profit from employment or office.").
  - As the American Enterprise Institute points out "Trump has expressly organized his business interests in his second term to facilitate the receipt of foreign gifts." Accepting a \$400mm jet from the government of Qatar is just one of many examples.
  - Questions have arisen over foreign participation in the crypto industry, such as large foreign investor purchases of the \$TRUMP memecoin that the president has actively marketed and on which he makes money.

**4. As a state, Texas scores poorly on respect for the rule of law**

Here in Texas, the rule of law is not doing well. As in most things, Texas ranks near the bottom among US states when it comes to observing and protecting the rule of law.

- a. The National Center for Access to Justice has created a widely used "**Justice Index**" which evaluates states on six dimensions of access to justice. Texas scores near the bottom on most of these dimensions, and on the overall Justice Index, which combines all six dimensions. Much more detail is available on their website, <https://ncaj.org/>, but here are a few highlights: (24)
  - **Attorney Access** - NCAJ evaluates policies to ensure that people who should be able to get help from lawyers, are actually able to. **Texas ranks 43rd**.
  - **Self Representation** - In the Self-Representation Index, NCAJ has identified 56 policies that every state should adopt to make equal justice accessible to people who do not have counsel. **Texas ranks 46th**.
  - **Overall Justice Index** - combining the six dimensions - **Texas ranks 45th**.

**b.** The US Chamber of Commerce ranks states based on the "Fairness and Reasonableness of State Liability Systems" - in other words, how fair and reasonable the states' liability systems are perceived to be by U.S. businesses. (25)

- On this ranking Texas also finds itself near the bottom - ranked 38th.
- In specific areas analyzed, Texas ranks 44th when it comes to "Trial Judges' Impartiality", 41st in "Trial Judges' Competence", and 38th in "Juries' Fairness".
- These rankings reflect the perceptions of business leaders, and these perceptions are important, because they influence where businesses decide to locate, invest and do business.

## **5. We need better policies and practices to restore respect for the rule of law in Texas and the US**

At the Federal level, there are several important policy actions that can help to restore the rule of law in the US:

**a. Pass the Protecting our Democracy Act - This was passed by the House in 2021 but has not yet passed the Senate.** Protect Democracy, a pro-democracy organization, provides an extensive summary of the Protecting our Democracy Act:

*"The Protecting Our Democracy Act (PODA) is an historic package of pro-democracy reforms to create or strengthen guardrails that help to prevent abuses of executive power and corruption, make the presidency more transparent and effective, and establish that no president is above the law. PODA ensures that all presidents will put the public's interest above their own and not use their office for personal gain. Protect Democracy strongly supports these vital reforms."*

*"Without these important legislative measures, our democracy is at risk of backsliding into a more authoritarian form of government in which the president wields unchecked power — the very danger our constitutional system was designed to forestall."* (26)

- The Protecting our Democracy Act has provisions that would help to reduce the abuse of Presidential pardons, holding Presidents accountable to the law,

enforcing the Emoluments Clause of the US Constitution (which bars the President from accepting things of value from other countries, such as, for example, a jumbo jet), enforcing Congressional subpoenas, and restoring Congress's "power of the purse".

- Many conservatives support the Act, or at least parts of it. The conservative organization Republicans for the Rule of Law are partnering with Protect Democracy to create the Presidential Accountability Project. (29)
- A more detailed explanation of the Protecting our Democracy Act, and why it is needed, is at <https://protectdemocracy.org/work/protecting-our-democracy-act-2/>)

b. **Restore the Inspectors General that Trump fired.** An analysis by Brookings found that the Inspectors General have had a very positive return on investment - they find far more fraud and abuse than their cost. In addition, the existence of the IG's creates a strong disincentive to commit fraud or waste. (27)

c. **Restore Congressional oversight and the checks and balances** - Congress's failure to hold Trump to the rule of law only encourages him to continue to break the law, and at the same time undermines public confidence in the rule of law. One action is to pass legislation to ensure that presidents who engage in criminal wrongdoing can be held accountable after they leave office. Department of Justice policy prevents prosecution while the President is in office, but he or she could be held accountable after they leave office, which would create a strong incentive to follow the law. (28)

**And at the state level policies should be enacted to protect and enforce the rule of law in Texas. For example:**

- a. Hold elected officials accountable when they break the law
- b. Expand access to justice and legal representation
- c. Make lawmaking more transparent and responsive
- d. Address gerrymandering and redistricting in Texas

**At the Federal and State level, candidates can begin to restore respect for the rule of law by setting a good example – standing up for the Constitution, avoiding campaign contributions that may create a conflict of interest, and calling out instances where the rule of law is not being observed.**

## More Information

1. Presidential Accountability Project (Protect Democracy and Republicans for the Rule of Law), <https://www.ruleoflawrepublicans.com/oversight/>
2. Protect Democracy, provides detailed background on the Protecting our Democracy Act. <https://protectdemocracy.org/work/protecting-our-democracy-act-2/>

## Sources

1. United States Courts, <https://www.uscourts.gov/educational-resources/educational-activities/overview-rule-law#:~:text=Rule%20of%20law%20is%20a,Equally%20enforced>
2. American Bar Association, [https://www.americanbar.org/groups/public\\_interest/election\\_law/american-democracy/our-work/democracy-rule-law-human-rights/](https://www.americanbar.org/groups/public_interest/election_law/american-democracy/our-work/democracy-rule-law-human-rights/)
3. American Bar Association, [https://www.americanbar.org/groups/public\\_education/resources/rule-of-law/rule-of-law-in-american-life--a-long-and-intentional-tradition/](https://www.americanbar.org/groups/public_education/resources/rule-of-law/rule-of-law-in-american-life--a-long-and-intentional-tradition/)
4. American Bar Association, <https://www.americanbar.org/advocacy/global-programs/news/2024/upholding-prosperity-economic-benefits-rule-law/>
5. World Justice Project, <https://worldjusticeproject.org/about-us/overview/what-rule-law>
6. American Bar Association, <https://www.americanbar.org/advocacy/global-programs/news/2024/upholding-prosperity-economic-benefits-rule-law/>
7. US Rule of Law Trends and the 2024 Election, World Justice Project, [https://worldjusticeproject.org/sites/default/files/documents/US\\_Report\\_WJP\\_2024.pdf](https://worldjusticeproject.org/sites/default/files/documents/US_Report_WJP_2024.pdf)
8. World Justice Project, <https://worldjusticeproject.org/rule-of-law-index/global>
9. Lamele & Lamele, <https://www.iamelelawfirmbaltimore.com/different-types-of-selective-enforcement/>
10. United States Sentencing Commission, 11/14/23, <https://www.ussc.gov/research/research-reports/2023-demographic-differences-federal-sentencing>
11. National Association of Criminal Defense Attorneys, 11/23/22, <https://www.nacdl.org/Content/Race-and-Sentencing>
12. Brennan Center, 6/25/20, <https://www.brennancenter.org/our-work/analysis-opinion/7-years-gutting-voting-rights>
13. Roosevelt Institute, 10/2/25, <https://rooseveltinstitute.org/publications/citizens-united-15-years->

later/#:~:text=Yet%20under%20the%20surface%2C%20Citizens,expenditures%20violate%20the%20First%20Amendment.

14. Brennan Center, 7/2/24, <https://www.brennancenter.org/our-work/analysis-opinion/supreme-courts-radical-immunity-ruling-shields-lawbreaking-presidents-and#:%text=Presidents%2C%20the%20Court%20rules%2C%20E2%80%9C,an%20encouragement%20to%20more%20insurrection.>
15. Associated Press, 8/21/25, <https://apnews.com/article/trump-criminal-charges-lawsuits-victory-716c1ae3dd90804b3d848d3d49aa0d84>
16. Brookings, 2/13/25, <https://www.brookings.edu/articles/threats-to-us-democracy-dangerous-cracks-in-us-democracy-pillars/>
17. PBS, 5/27/25, <https://www.pbs.org/newshour/show/a-look-at-trumps-controversial-pardons-for-political-allies-and-loyalists>
18. American Oversight, 2/25/25, <https://americanoversight.org/investigation/trumps-illegal-firing-of-inspectors-general/>
19. Campaign Legal Center, 1/31/25, <https://campaignlegal.org/update/significance-firing-inspectors-general-explained>
20. Forbes, 3/3/25, <https://www.forbes.com/sites/kristenkaufman/2025/03/03/trump-paused-the-foreign-corrupt-practices-act-what-does-it-mean-for-companies/>
21. Brennan Center, 5/13/25, <https://www.brennancenter.org/our-work/analysis-opinion/lawsuits-reveal-administrations-attacks-congressional-power>
22. Brennan Center, "Restoring the Rule of Law", 3/22/21, <https://www.brennancenter.org/our-work/analysis-opinion/restoring-rule-law>
23. American Enterprise Institute, 5/15/25, <https://www.aei.org/op-eds/trump-2-0-and-the-foreign-emoluments-clause/>
24. National Center for Access to Justice, <https://ncaj.org/state-rankings/justice-index>
25. US Chamber Institute for Legal Reform, "2019 LAWSUIT CLIMATE SURVEY", [https://instituteforlegalreform.com/wp-content/uploads/2020/10/2019\\_Lawsuit\\_Climate\\_Survey\\_-\\_Ranking\\_the\\_States.pdf](https://instituteforlegalreform.com/wp-content/uploads/2020/10/2019_Lawsuit_Climate_Survey_-_Ranking_the_States.pdf)
26. Protect Democracy, <https://protectdemocracy.org/work/protecting-our-democracy-act-2/>
27. Brookings, <https://www.brookings.edu/wp-content/uploads/2016/06/CEPMHudakWallackOIG.pdf>
28. Citizens for Responsibility and Ethics in Washington, 2/26/25, <https://www.citizensforethics.org/reports-investigations/crew-reports/five-key-ways-congress-can-ensure-accountability-during-a-lawless-era/>
29. Presidential Accountability Project (Protect Democracy and Republicans for the Rule of Law), <https://www.ruleoflawrepublicans.com/oversight/>

30. Brookings, 1/26/26, <https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/#:~:text=The%20Trump%20administration%20has%20argued,excessive%20force%20or%20probable%20cause.>

## Appendix 1 – More Complete Definition of the Rule of Law

According to the US Courts website (<https://www.uscourts.gov/educational-resources/educational-activities/overview-rule-law#:~:text=Rule%20of%20law%20is%20a,Equally%20enforced>), the “Rule of Law” is “a principle stating that all individuals, institutions, and entities, including the government itself, are accountable to and governed by laws that are publicly known, equally enforced, and independently adjudicated. It ensures that everyone is treated equally under the law and that there are clear, fair, and accessible processes for resolving disputes and holding individuals accountable.”

Core Principles of the Rule of Law:

- 1. Accountability:** All individuals and institutions, including the government, are answerable to the law.
- 2. Just Laws:** Laws are clear, publicized, stable, and protect fundamental rights.
- 3. Open Government:** The processes for enacting, administering, and enforcing laws are accessible, fair, and efficient.
- 4. Accessible and Impartial Dispute Resolution:** Justice is delivered in a timely manner by competent, ethical, and independent individuals.
- 5. Supremacy of Law:** No one is above the law, and the law is applied equally to all.
- 6. Separation of Powers:** Different branches of government have distinct functions and powers to prevent any one entity from becoming too powerful.

In essence, the rule of law means that everyone is subject to and protected by the law, ensuring a just and orderly society.