

AN ESSAY ON CONSTRUCTIVE OUTRAGE: LAW SCHOOL IN
THE TIMES OF THE MAGA SUPREME COURT AND TRUMP
2.0

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ABSTRACT

Since the beginning of the second Trump administration, the rule of law and democracy has endured an onslaught, with the Supreme Court of the United States orchestrating the crumbling of the Rule of Law. In response, the legal community has researched, analyzed, and reflected these vast abuses of power, providing their students with little more than meager hope that midterm elections can undo the expansion and enablement of this presidency. American law schools must commit to more than articles and niche course offerings to inspire in our students the power and activism needed to change the path this country is embarking on.

This Essay proposes an intensive course for first-year law students, one that highlights the dichotomy of the Constitution as it has been taught and understood for generations, and its active manipulation by the Supreme Court and the Trump presidential administration. This course will serve students with clinical or skills-based opportunities to turn the law they learn in the classroom into protest, policy advocacy, litigation, and constructive research. Beyond this course, this Essay encourages law schools to connect students with lawyers and non-lawyers, all committed to a restoration of the Rule of Law. With a framework of activities, discussion points, case studies, and research questions, this Essay transforms traditional schemas in legal

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education into the tools needed to equip students to mobilize and slow America's slide into authoritarianism.

SYNOPSISⁱ

There is no agreed upon 'start date.' For what seems like an eternity, we have fallen witness to a constant and unprecedented attack on our democracy. It is not enough to decry the recklessness and lawlessness of the trump presidency, a spineless and sycophantic congress, and the *carte blanche* immunity that the nation's highest court has granted the executive. Our nation is in the midst of a Constitutional crisis, and law schools need to adopt an attitude of 'No Business as Usual' to offset the creeping normalization of daily democratic dismantlement and instill courage into efforts seeking to reverse the damage.¹

The rage and despair that many of us in the legal community have experienced since the inception of the imperial presidency—and even earlier with the partisanship of the United States supreme court majority—must be converted into more than analysis, research, reflection and resilience: it demands *activism*. It is incumbent upon law schools to highlight the gulf between the Constitutional landscape—as it has been taught and understood for generations—and its destruction in real time. They must play a leading role in identifying distortions and offering students something more than a hope and a prayer that the mid-term or 2028 presidential elections will reverse course and restore the Rule of Law (ROL).²

i. While the *Washington University Journal of Law & Policy* mandates compliance with the Chicago Manual of Style, I have departed from its convention regarding capitalization of proper nouns and names to convey my irreverence and frustrations with the subjects discussed in this Essay and the harms I believe have been caused to the American legal terrain and society's most vulnerable.

1. One legal scholar uses the term "retrenchment" to describe the supreme court's "egregious misuse of precedents and exemplifies the radical political realignments caused by the re-emergence of Donald Trump as the leader of an antidemocratic Republican Party." Margaret Montoya, *Teaching In a Time of Retrenchment*, 72 UCLA L. REV. DISCOURSE 458, 458 (2025). For Professor Montoya, *Dobbs v. Jackson Women's Health Organization* was the epitome of the retrenchment, along with the "severely compromising" *Trump v. United States*. *Id.* at 458, 461. Be it militaristic, sociological, neoliberal or ideological, 'retrenchment' is a word that "capture[s] the dynamics facing law teachers, scholars, and students in this historic moment." *Id.* at 462.

2. For contextual definitions of commonly-used terms like "Rule of Law" and "Democratic Institutions" see generally Mary-Beth Moylan, *Defense Against the Dark Arts: A Call for Education About the Rule of Law and Democratic Institutions*, 39 GEORGETOWN J. LEGAL ETHICS (forthcoming 2026) (on file with the *Washington University Journal of Law & Policy*). Legal Ethicist

Since the American Bar Association (ABA) issued the *MacCrate Report*,³ if not earlier, our shared goal in the experiential academy has been to graduate lawyers who—through applied learning and clinical training—are equipped to zealously advocate for their clients. Now, more than ever, we need lawyers who will “further the public’s understanding of and confidence in the rule of law and the justice system. . .”⁴ In concert with their colleagues in the bar and on the bench, they must also call out injustice and misconduct by public officials.⁵

In this Essay, I (1) draw attention to the damage that the nation’s high court has caused and (2) call upon American law schools to foster the professional development of lawyers who will work to reverse the assault on the Rule of Law. The jurisprudence of the dishonorable court will remain with us for decades—atop whatever democratic rubble is left in the wake of the corrupt trump regime. The Langdellian law school diet needs more than a niche course here and there to expose students to the contradictions. The legal establishment—namely, the academy, the bar and the bench—has the potential to serve as a megaphone for dissenters.

Early on in the trump 2.0 administration, the Association of American Law Schools (AALS) called upon law schools to act collectively after the president released a flood of executive actions against universities, the legal

Scott Cummings asserts that “rule by the people, for the people—is elegantly simple but notoriously hard to define. Its core principles include treating all citizens as political equals, providing each person the right to participate in self-governance, and guaranteeing inclusive and responsive structures of collective decision-making.” Scott Cummings, *Lawyers in Backsliding Democracy*, 112 CAL. L. REV. 513, 522 (2024). That said, democracy is neither static nor linear but is situated on a spectrum with autocracy and subject to “backsliding.” *Id.* at 523.

3. See generally AMERICAN BAR ASS’N, SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT - AN EDUCATIONAL CONTINUUM (1992). See also, e.g., Peter A. Joy, *The MacCrate Report: Moving Toward Integrated Learning Experiences*, 1 CLIN. L. REV. 101 (1994); Robert MacCrate, *Educating a Changing Profession: From Clinic to Continuum*, 64 TENN. L. REV. 1099 (1997); Gary A. Munneke, *Legal Skills for a Transforming Profession*, 22 PACE L. REV. 105 (2001).

4. MODEL RULES OF PRO. CONDUCT Preamble §§ 1 & 6 (A.B.A. 2020). See also ASS’N OF AM. LAW SCHOOLS, *The Role of Public Citizen and the Rule of Law* (Dec. 3, 2025), <https://www.aals.org/the-role-of-public-citizen-and-the-rule-of-law/> [<https://perma.cc/LT6Q-YVNP>] (various webinar presenters posing the question: How can this largely invisible or sidelined definition of public citizen inform how students are taught about the lawyer’s role in democracy, the rule of law, and about the safeguards of justice?).

5. *Id.* at §§ 5 (lawyer’s duty to challenge rectitude of official action and uphold legal process) & 7 (lawyer is guided by personal conscience and approbation of professional peers, and should exemplify legal profession’s public service ideals).

profession, the judiciary, and individual lawyers.⁶ In response, this Essay proposes a programmatic reorientation of the legal academy—at least in the short-term—under the rubric of *Constructive Outrage*⁷ or *Bisecquicentennial Project 2026*.⁸ Institutions must pilot courses that critically look at the erosion of the separation of powers, hyper-partisanship of the courts, and political polarization that envelops the nation—without fear and apologies for ‘breaching institutional neutrality.’ The centerpiece of this initiative is a course that serves as the framework for analysis and discussion. This course must also be imbued with a clinical or skills-based component whereby students undertake constructive research, lay legal education, policy advocacy, litigation, organizational affiliation and grassroots protest, general strikes, consumer boycotts and other collective actions with the focused end goal: restoring the Rule of Law in America. This initiative is aligned with recent proposals by law professors Michael Millemann, Mary-Beth Moylan, Etienne Toussaint, and Rachel López, in addition to those made by the Holloran Center Rule of Law Working Group.⁹

Beyond course offerings, law schools must also ensure that extracurricular activities continuously focus on the themes of safeguarding democratic institutions and ROL through guest speakers, conferences, law journal articles, externships and clinical work, bench and bar forums, media

6. See, e.g., Letter from Ass’n of Am. L. Schs., Standing Together in Support of Higher Education and the Legal Profession (Mar. 25, 2025), <https://www.aals.org/app/uploads/2025/03/AALS-Letter-on-Threats-to-Law-and-Legal-Education-.pdf> [<https://perma.cc/8Y3C-Z2WU>] (“all lawyers and educators across the political and ideological spectrums should work together” to restore “commitments to fairness and good governance”); Letter from Deans of Am. L. Schs. (Mar. 26, 2025), https://www.jurist.org/news/wp-content/uploads/sites/4/2025/03/03.26.25_Deans-Letter-Final.pdf [<https://perma.cc/P4XZ-PMWN>] (“[the] government should not punish lawyers and law firms for the clients they represent, absent specific findings that such representation was illegal or unethical”).

7. Michael Millemann, University of Maryland Law Professor Emeritus, coined this term in a series of online conversations with the author.

8. In 2026, the United States commemorates the 250th anniversary of the signing of the Declaration of Independence. This is a fitting time to rededicate the nation to upholding the democratic ideals which have been trampled upon by Trump and his minions.

9. The Millemann, Moylan, López, and Toussaint proposals are discussed below. “The Rule of Law Working Group is a joint enterprise of the [University of St. Thomas] Holloran Center for Ethical Leadership in the Professions and the “Pluralizing” *Legal Professional Identity: Democracy, Equity, Justice, and the Law School Curriculum* project” spearheaded by Professor Eduardo Capulong. *Rule of Law Initiative*, UNIV. OF ST. THOMAS SCH. OF L., <https://law.stthomas.edu/about/centers-institutes/holloran-center/rule-of-law/> [<https://perma.cc/5HG2-LY7V>] (last visited Oct. 21, 2025). The Working Group has set out knowledge-, skills- and values-based learning outcomes in addition to sample teaching materials.

statements, and public demonstrations.

I. THE UNITED STATES SUPREME COURT’S LEGITIMACY CRISIS

Approval of the supreme court by United States adults fell from 49% in 2021 to 40% in 2022 according to a Gallup poll.¹⁰ An August 2025 Pew Research Center survey reported that favorable views of the court “remain close to a three-decade low.” In the same study, 50% of Americans expressed an unfavorable opinion of the court.¹¹

Views held by legal scholars and commentators are more nuanced. Reginald Oh—a specialist in Constitutional, Race, and Gender Law—did not mince words when he called out the supreme court majority (during the hiatus between trump 1.0 and trump 2.0) for “render[ing] key decisions that have been the catalyst for the *antithesis* of democracy-authoritarianism.”¹² Constitutional Law and Federal Courts specialist Leah Litman has ridiculed the MAGA justices for “hav[ing] you believe that nothing is amiss, and that when they put on those fancy black robes, they ascend to some higher, apolitical plane.”¹³ In fact, she argues:

The Republican justices are fashioning the law based on the sentiments, political views, and general zeitgeist of a party that has become ensconced in conservative grievance and

10. See Jeffrey M. Jones, *Supreme Court Trust, Job Approval at Historic Lows*, GALLUP (Sept. 29, 2022), <https://news.gallup.com/poll/402044/supreme-court-trust-job-approval-historical-lows.aspx> [<https://perma.cc/8CK5-EY5Q>]. In response to an earlier Gallup poll, one former federal prosecutor remarked that “it is not the structural institution itself that is lacking; it is the people who populate it and their personal failures.” JOYCE VANCE, *GIVING UP IS UNFORGIVABLE: A MANUAL FOR KEEPING A DEMOCRACY* 49 (2025).

11. Joseph Copeland, *Favorable Views of Supreme Court Remain Near Historic Low*, PEW RES. CTR. (Sep. 3, 2025), <https://www.pewresearch.org/short-reads/2025/09/03/favorable-views-of-supreme-court-remain-near-historic-low> [<https://perma.cc/9S5M-EM5U>]. See also Zack Beauchamp, *What Happens When the Public Loses Faith in the Supreme Court?*, VOX (June 26, 2022), <https://www.vox.com/23055620/supreme-court-legitimacy-crisis-abortion-roe> [<https://perma.cc/7B39-VX27>].

12. See Reginald Oh, *The Roberts Court’s Anti-Democracy Jurisprudence and the Reemergence of State Authoritarian Enclaves*, 12 J. RACE, GENDER & ETHNICITY 40, 40 (2023) (emphasis in original).

13. LEAH LITMAN, *LAWLESS: HOW THE SUPREME COURT RUNS ON CONSERVATIVE GRIEVANCE, FRINGE THEORIES, AND BAD VIBES* 7 (2025). Litman borrows the allusion from a MAGA justice who, before ascending to the bench, wrote in his capacity as an appellate judge: “‘As I judge, I see, too, that donning a black robe means something,’ [namely] the ‘cold neutrality of an impartial judge.’” *Id.* at 7 (alteration in original) (quoting Neil M. Gorsuch, *Of Lions and Bears, Judges and Legislators, and the Legacy of Justice Scalia*, 66 CASE W. RES. L. REV. 905, 919–20 (2016)).

hell-bent on minority rule. That's what it means for the Supreme Court to run on vibes rather than (just) law.¹⁴

A defining moment for the court was its coronation of donald trump as the unconstitutional monarch in the unprincipled, slow-walked, and jaw-dropping immunity opinion issued just a few months before the 2024 presidential election. In her forceful dissent, Justice Sonia Sotomayor chided the court's majority for making the president a "king above the law," by creating a "law-free zone" around him. Indeed, that is where we are today. Justice Sotomayor ominously signed off, "[w]ith fear for our democracy, I dissent."¹⁵

There has been no shortage of criticism of the executive immunity decision from the legal community and the popular press. As the justices embarked on their summer holidays and junkets, former prosecutor and legal analyst Andrew Weissmann wrote in a sharp critique: "[i]t is hard not to be cynical" with regard to the majority's "slapdash" reasoning. He went on to say:

[t]hat a Court that overturned *Roe v. Wade* on the grounds that it was purportedly not sufficiently tethered to the constitution issued an immunity decision that is untethered to the constitution is not just ironic, it is revelatory of what we are now dealing with. A lawless Supreme Court is as anathema to a democracy as a lawless president.¹⁶

A year earlier, Professor Oh had concluded:

Legitimacy erodes if the Court issues rulings that stray too far from democratic principlesAnd because

14. *Id.* at 8. Litman explains how "[a] Court that is increasingly insulated from majority will and democratic politics is more susceptible to the fringe positions of a narrow segment of the country." *Id.* at 5–6. Professor Litman's erudite and snarky critique of the high court is matched by Slate's legal commentator Dahlia Lithwick and her guests on the Amicus podcast. See generally AMICUS WITH DAHLIA LITHWICK, <https://slate.com/podcasts/amicus> [https://perma.cc/MW8Z-USTX] (last visited Oct. 21, 2025). Litman also teams up with fellow law professors Melissa Murray and Kate Shaw to regularly roast the MAGA justices on their Strict Scrutiny podcast. See generally STRICT SCRUTINY, <https://www.crooked.com/podcast-series/strict-scrutiny/> [https://perma.cc/LUV2-AQYY] (last visited Oct. 21, 2025).

15. *Trump v. United States*, 603 U.S. 593, 684–85 (2024) (Sotomayor, J., dissenting).

16. See Andrew Weissmann, *Three Flaws in the Supreme Court's Decision on Presidential Criminal Immunity*, JUST SEC. (July 17, 2024), <https://www.justsecurity.org/97781/three-flaws-supreme-court-immunity/> [https://perma.cc/VMG4-8SUW].

authoritarianism is contrary to core principles of the Constitution, the Roberts Court's constitutional jurisprudence has no basis in the Constitution and must ultimately be rejected.¹⁷

More than a year later, in her essay about teaching law school in a time of retrenchment, Professor Emerita Margaret Montoya referred to the decision as “patently favorable to Trump” and “widely seen as severely compromising the Supreme Court’s impartiality.”¹⁸

Early on during the trump 2.0 presidency, in her denial for a stay in a union case, Justice Ketanji Brown Jackson wrote that the court had “jettison[ed] careful judicial decisionmaking” and “truly lost its moorings” in deciding what was worthy of emergency intervention. By showing preferential treatment for the administration—regarding unfettered access by the so-called Department of Government Efficiency (DOGE) to Social Security data while the parties continued to litigate the case—she charged: “[O]nce again, this Court dons its emergency-responder gear, rushes to the scene, and uses its equitable power to fan the flames rather than extinguish them.”¹⁹

The executive’s expansive enabling has only been further enhanced by a constant onset of terse emergency (or expedited) ‘shadow docket’ decisions²⁰—often staying lower court injunctions that temporarily block illegal Executive Orders. These decisions come without the benefit of oral argument or clear reasoning, instead showcasing profound disregard for the consequences of dismissing federal employees, deporting immigrants, and cutting funding for the beneficiaries of public health research grants and

17. Oh, *supra* note 12, at 40.

18. Margaret Montoya, *Teaching in a Time of Retrenchment*, 72 UCLA L. REV. DISCOURSE 458, 461 (2025). In her reading of the immunity decision, one Constitutional law scholar underscores the Court’s “extraordinary view that the president possesses a realm of ‘exclusive constitutional power’” not subject to any check by Congress or the federal courts. M. Isabel Medina, *Teaching Constitutional Law in Polarized Times: Rights and Structure* 72 UCLA L. REV. DISCOURSE 482, 510–11 (2025).

19. *Soc. Sec. Admin. v. Am. Fed’n of State, Cnty. & Mun. Emps.*, No. 24A1063, slip op. at 3 (4th Cir. June 6, 2025) (Jackson, J., dissenting) (internal citation omitted).

20. As *The Nation*’s justice correspondent commonsensically put it: “The emergency docket is supposed to be used for, well, emergencies . . .” Elie Mystal, *Hidden Injustice: The Supreme Court’s abuse of the shadow docket is upending the rule of law*, THE NATION, Jan. 2026, at 10. Mystal writes that it is *not* an emergency “when a lower court forces the Trump administration to follow well-established precedents” or “forces the government to apply due process” or “when Trump doesn’t get his way.” *Id.*

United States Agency for International Development (USAID) humanitarian aid.²¹ Not only are orders on this docket opaque (to the consternation of lower court judges), the court often uses them “to permit what [the court’s] own precedent bars.”²²

In a much-awaited final decision of the 2024-25 term, the court not only sidestepped the merits of *Trump v. CASA* (a challenge to well-settled Fourteenth Amendment doctrine that persons born in the United States are citizens); but in professorial fashion, admonished federal district judges for their allegedly “unauthorized and careless exercise of universal jurisdiction[s].” In unusually condescending language, the majority sniped at criticism of its holding, singling out Justice Jackson’s alleged rhetoric and outlier dissent for “a startling line of attack that is tethered neither to [the Judiciary Act of 1789 and other sources] nor, frankly, to any doctrine whatsoever.” Justice Jackson—who bemoaned “[w]ith deep disillusionment” a ruling that “now requires judges to shrug and turn their backs to intermittent lawlessness,”²³—was scolded by Justice Amy Coney Barrett for:

offer[ing] a vision of the judicial role that would make even the most ardent defender of judicial supremacy blush. In her telling, the fundamental role of courts is to ‘order everyone (including the Executive) to follow the law—full stop.’²⁴

Untethered? Is it really an extreme interpretation of the Constitution that the

21. The ‘shadow’ label does not sit well with all of the court’s brethren. But, as one blogger retorts, “If Supreme Court justices don’t want people to use the term ‘shadow docket,’ then they should make their work less shadowy.” See Jordan Rubin, *Why Justice Brett Kavanaugh’s Bid to Rebrand the Shadow Docket Falls Flat*, MSNBC (Sept 5, 2025, at 12:14 CDT), <https://www.msnbc.com/deadline-white-house/deadline-legal-blog/brett-kavanaugh-shadow-docket-interim-rcna229302> [<https://perma.cc/YJ3T-D5S8>]. The Strict Scrutiny crew prefers a racier allusion to the docket as “just the tip” of the court’s overall caseload. See STRICT SCRUTINY: *Something Wicked This Way Comes: A SCOTUS Term Preview* (Crooked Media, Oct. 6, 2025), <https://crooked.com/podcast/something-wicked-this-way-comes-a-scotus-term-preview/> [<https://perma.cc/SPB4-828T>] [hereinafter Strict Scrutiny, *Something Wicked*].

22. *Trump v. Slaughter*, 222 L. Ed. 2d 1233, 1233–34 (2025) (Kagan, J., dissenting) (on granting of application for a stay). With “all of this supreme decision-making . . . happening in secret,” the justices are not only bypassing precedent and leaving district court judges dissed or mystified, but are essentially telling the administration “that every law is a mere suggestion . . . until the Supreme Court finally weighs in.” Mystal, *supra* note 20, at 10-11.

23. *Trump v. CASA, Inc.*, 606 U.S. 831, 922 (2025) (Jackson, J., dissenting).

24. *Id.* at 857 (quoting Jackson, J., dissenting).

role of the courts is to tell the president that he must follow the law?

These threats to our democracy are bound to remain. In response, there are three pillars in my law school reorientation plan of action: (1) a shake-up of law school curriculum; (2) extracurricular activities, mobilization, and concerted action by national, state and local bar associations; and (3) extra-judicial ‘calling out.’

II. A SHAKE-UP OF LAW SCHOOL CURRICULUM

A central component of this initiative is a credit-earning course—perhaps mandatory for 1Ls—that would lay the framework for critical analysis and discussion of current issues ranging from the supreme court’s legitimacy crisis and the contemporary abuse of presidential power to the congressional ceding of power. It might be entitled Professional Identity, in alignment with ABA Standard 303 and its focus on lawyers’ “special obligations” to society.²⁵ An expanded concept of identity and professionalism has been the subject of commentary and pedagogical protocols for the last couple of decades.²⁶

Course content would also fall under the domains of Professional Responsibility, Public Corruption, Rule of Law Fundamentals,

25. 2025-2056 STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS. § 303 (A.B.A. 2025). Interpretation 303-5 reads, in pertinent in part:

Professional identity focuses on what it means to be a lawyer and the *special obligations* lawyers have to their clients *and society*. . . . [S]tudents should have frequent opportunities for such development during each year of law school and in a variety of courses and co-curricular and professional development activities.

Id. (emphasis added). With good reason, Experientialist Mary-Beth Moylan fears that portions of this requirement (requiring instruction in bias, cross-cultural competency and racism) may be repealed. *See generally* Moylan, *supra* note 2 (recounting pressure from Attorney General Bondi to eliminate DEI language from accreditation standards).

26. *See, e.g.*, Stephen A. Rosenbaum, *The Juris Doctor Is In: Making Room at Law School for Paraprofessional Partners*, 75 TENN. L. REV. 315, 316 nn. 9-11 (2008) (citing to The Carnegie Foundation for the Advancement of Teaching’s seminal work on concepts of apprenticeship of professionalism (encompassed in the French term *formation*) and professional identity, WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WAGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007), and to ROY STUCKEY ET AL., BEST PRACTICES IN LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) on the importance of setting instructional goals relating to professional skills and professionalism). *See also* Eduardo R.C. Capulong, Andrew King-Ries & Monte Mills, *Democratic Lawyering: Upending the “Hidden Curriculum” to Prepare New Lawyers for a New World*, 2 J. TEACHING & LEARNING 181, 193-94 (2025) (citing adoption of ABA standard on professional identity as latest step in decades-long effort to prompt reform of legal education’s approach to “professionalism”).

Constitutional Law, Comparative Law and Law and Social Change. Schools should also regularly offer advanced electives of this course or course modules, as well as traditional courses that outline ROL principles such as Constitutional Law, International Human Rights Law, Civil Procedure, Immigration Law and Refugee and Asylum Law, with an emphasis on the current assault on *stare decisis* decisionmaking²⁷ and reinterpretation of treaties ratified prior by the United States.²⁸ In preparing to teach his 2025 fall semester Civil Procedure class, Constitutional and Federal Courts specialist Stephen Vladeck noted his concern with “how best to teach brand-new law students . . . in the increasingly fraught legal and political moment in which we find ourselves.”²⁹ Recalling Professor Derrick Bell’s call to challenge the entire jurisprudential system, Immigration Law practitioner and scholar Carrie Rosenbaum urges, “[t]he way in which we study and teach immigration law, administrative law, and constitutional law requires a critical lens not only to reckon with systemic injustice, but to envision a path toward dismantling it.”³⁰

Michael Millemann’s course (piloted in Spring 2025 at the University of Maryland School of Law) focused on serious challenges to democracy and the role of lawyers in mending these challenges. Topics included the January 6th insurrection, political and racial gerrymandering, restrictions on the right to vote, threats against local election workers, disinformation campaigns, and attacks on public and private education. Professor Millemann brought in a number of guest speakers—many of whom were actively litigating against the trump administration—emphasizing real world projects, group work, writing, and an integration of theory and practice.³¹

27. At least one member of the aloof and results-oriented court is inclined to abolish *stare decisis* altogether. See Gregory E. Maggs, *Justice Thomas and Stare Decisis*, HARV. J.L. & PUB. POL’Y PER CURIAM, no. 2, 2021, at 1. The Strict Scrutiny professorial trio characterizes the court’s attitude toward precedent as “*stare decisis* sucks.” See Strict Scrutiny, *supra* note 14.

28. See Mike Stone, *Exclusive: Trump to Reinterpret 1987 Missile Treaty to Sell Heavy Attack Drones Abroad*, REUTERS (Sep. 5, 2025, at 12:16 CDT), <https://www.reuters.com/business/aerospace-defense/trump-reinterpret-1987-missile-treaty-sell-heavy-attack-drones-abroad-2025-09-05/> [<https://perma.cc/WM94-4FTH>].

29. Stephen Vladeck, *Bonus 172: Legal Pedagogy and the Dual State*, ONE FIRST (Aug. 14, 2025), <https://www.stevevladeck.com/p/bonus-172-legal-pedagogy-and-the> [<https://perma.cc/9D9B-NM49>].

30. Carrie Rosenbaum, *Colorblind Immigration Racism*, 72 UCLA L. REV. DISCOURSE 554, 587 (2025) (citing Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363, 364 (1992)).

31. See *Law and Social Change: Lawyer’s Roles in Protecting Rule of Law and Democracy*,

His syllabus offers an appealing template:

You will see below that many of the writing projects in this course are based on *referrals from nonprofit democracy-protective organizations, adding a quasi-clinical component to this first year elective seminar.*

Protecting and Making Important Reforms

Another theme in the course will be the ways lawyers, working with others, protect important reforms and advocate for new ones. Through panels and presentations, lawyers and other advocates will describe how they do their reform work.

Exploring all Legal and Reform Strategies

You will learn about the full range of strategies and means that lawyers and lay advocates use to do their work, including litigation, legislation, rulemaking, community-building, popular initiatives, and education.

Representing Marginalized and Disadvantaged Individuals and Communities

The context for much of the work that guest speakers will discuss will be the representation of marginalized and disadvantaged individuals and communities, including [a] focus on noncitizens (Immigration work), minority communities (Environmental Justice work), and formerly incarcerated people (Criminal Justice work).

An Array of Careers and Role Models

You will have the chance to hear from and meet lawyers and non-lawyers who are engaged in an array of exciting and important careers. This will invite you to think about future work options that you may wish to try to develop and

test for yourself.

Learning Methods

You will learn through the videotaped classes, preparation for class and in class, through analysis and discussions of readings, presentations by experts, structured reflections on these presentations, and simulated and team exercises. Writing will be a major component of the course.³²

The course was offered in the early days of an imperial and incompetent president at a time when students were already apprehensive about their legal careers, the state of the union, and the state of the world. The students' apprehension—and hope—is reflected in the comments Professor Millemann received in course evaluations:

[This course] fundamentally shift[ed] my understanding of law, social change, and how one might still contribute meaningfully to change—even when the path forward feels impossible.

I left that class feeling a renewed sense of hope. . . . It showed me that change is possible, even in the face of seemingly insurmountable challenges.

I began this semester scared and frozen, questioning the value of the law. . . . Yet, despite the clear attack on democracy, every speaker this semester offered some semblance of hope, serving as a reminder that action is the antidote to despair.³³

Global Lawyering Skills Educator Mary-Beth Moylan has proffered her own course designs and curricular materials for instilling educational values and safeguarding democratic institutions under the rubrics of professional responsibility and professional identity formation,³⁴ including suggestions for syllabi, readings, and course content.³⁵

32. *Id.* This course is being offered again in Spring 2026 by a different instructor.

33. Comments from Students' Year-End Reflection Memos (on file with the *Washington University Journal of Law & Policy*).

34. *See generally* Moylan, *supra* note 2.

35. *Id.* In the article's Appendix, Professor Moylan includes (1) a research and writing prompt

In my vision of this reorientation course, its clinical component is essential, with a focus on ROL, the preservation and restoration of democratic institutions, and accountability for legal and political actors who have contributed to democratic destruction and demise. In addition to components about litigation, legislation, rulemaking, community-building, white papers, popular initiatives, coalition building and (lay) education, I would add curriculum about other advocacy strategies. Options include training on legacy and social media, popular tribunals, and participation in grassroots protest. Research or clinical work should be undertaken in teams of two to three students where feasible.

A. Possible Subjects for Discussion, Research and/or Case Study

i. Supremacy of the United States Supreme Court?

Given the high court's roughshod treatment of settled precedent and the majority's party-aligned and arrogant conduct, we need to change the narrative on what jurisprudence we choose to honor—whether the case involves reproductive rights, gender identity, affirmative action, labor unions, environmental protection, gun safety or health insurance coverage.³⁶ Students should complement their examination of United States supreme court case law with a heavy dose of *state* appellate decisions,³⁷ legal models

for a 1L or 2L writing skills course; (2) a syllabus of a course on “Lawyers and the Rule of Law” taught by a federal district judge at University of California, Davis and University of the Pacific, McGeorge School of Law; and (3) a reading list to supplement core courses with ROL content, including a reference to the AALS’s Rule of Law Clearinghouse.

36. *The Nation*’s legal columnist reminds readers how a compliant court “that’s willing to play along” can “legitimize the action of despots by declaring them ‘legal’ or ‘constitutional.’” Mystal, *supra* note 20, at 10. To that end, “Donald Trump’s regime has found its willing wingman” in Roberts and the other Republican justices. *Id.*

37. Professor Oh suggests that “[s]hort term, the best shot for protecting rights and democratizing state authoritarian-like enclaves may lie with state courts and direct democracy mechanisms.” Reginald Oh, *The Roberts Court’s Anti-Democracy Jurisprudence and the Reemergence of State Authoritarian Enclaves*, 12 J. RACE, GENDER & ETHNICITY 40, 63 (2023). See, e.g., Dahlia Lithwick et al., *2025’s Most Significant State Constitutional Cases*, STATE CT. REP. (Dec. 18, 2025), <https://statecourtreport.org/our-work/analysis-opinion/2025s-most-significant-state-constitutional-cases> [<https://perma.cc/4HBM-EQA6>]. In her State Court Report, Slate Senior Editor and Amicus host Dahlia Lithwick writes: “[I]n the face of federal overreach. . . [w]e are seeing state after state asserting their prerogative power to combat federal actions — like troop deployment and immigration enforcement — even as the federal government creates rationales (often pretextual claims of ‘emergencies’) for undermining states’ rights.” *Id.* See also Leah Litman et al., *2023’s Most Significant State Constitutional Cases*, STATE CT. REP. (Dec. 19, 2023), <https://statecourtreport.org/our->

in other nations, and international and regional forums.³⁸ They should study cases where interpretation methods stand in contrast with the MAGA court majority. As well, students should look at universal standards of judicial independence.³⁹

Constitutional scholar M. Isabel Medina urges:

A way to disengage despair, frustration, or anger [for students] when considering the impact of particular Supreme Court decisions is to reflect on the changing nature of constitutional norms; the frequent aligning of Justices who appear to be on opposite sides of issues in a particular case; and the changes in Justices themselves, who bring integrity and critical thinking to the constitutional and statutory issues they decide.⁴⁰

Professor Vladeck helps students understand both “the law on the books and the law on the ground” by assigning “judicial decisions that, in [his] view cannot fairly be defended as faithful application of existing doctrine (like [*US v. O’Brien* [391 U.S. 367 (1968)]]—and [he] debate[s] with them why the court (or the Court) did what it did.”⁴¹ In teaching unsettling jurisprudence, such as the dreadful *Dred Scott* high court decision denying citizenship to Black Americans, Professor Toussaint illustrates the principle

work/analysis-opinion/2023s-most-significant-state-constitutional-cases [https://perma.cc/L3GV-5X4C].

38. See, e.g., Paolo G. Carozza, *Uses and Misuses of Comparative Law in International Human Rights: Some Reflections on the Jurisprudence of the European Court of Human Rights* 73 NOTRE DAME L. REV. 1217 (1997) (exploring role that inter-state comparison plays, with particular reference to European Court of Human Rights jurisprudence); Ariel E. Dulitzky, *An Inter-American Constitutional Court? The Invention of the Conventionality Control by the Inter-American Court of Human Rights*, 50 TEX. INT’L L. J. 34 (2015) (examining the conventionality control principle of regional court, including questions on proper balance between national and inter-American judges).

39. See, e.g., *Special Rapporteur on the Independence of Judges and Lawyers*, U.N. HUM. RTS. COUNCIL, OFF. OF THE HIGH COMM’R, <https://www.ohchr.org/en/special-procedures/sr-independence-of-judges-and-lawyers> [https://perma.cc/JE8K-PP8K] (last visited Jan. 1, 2026).

40. M. Isabel Medina, *Teaching Constitutional Law in Polarized Times: Rights and Structure*, 72 UCLA L. REV. DISCOURSE 482, 511 (2025). Professor Medina writes further: “Rather than emphasize discrete doctrines and division of separation of powers questions from rights questions, constitutional law professors, casebooks, and courses should pursue more holistic approaches that facilitate understanding of the way the law develops and how the different doctrines are discrete but also related.” *Id.* at 516-17.

41. Vladeck, *supra* note 29.

of “deconstructive framing.”⁴² His construct encourages law schools “to rethink legal education altogether, devising anti-racist curricula, professional identity trainings, and novel experiential learning programs to produce a new generation of critically conscious lawyers for the crises of our modern age.”⁴³

ii. Monitoring Current Federal Litigation and Investigations Against the Executive Branch

In many schools, students will have the opportunity to monitor cases that are in active litigation throughout federal district or circuit courts. This includes reviewing pleadings, meeting with litigators, and/or observing hearings. Where they do not have access to practitioners or in-person or virtual hearings, students can examine federal pleadings and court orders.⁴⁴

iii. Federal Attorney Discharge and Resignation

Special attention should be given to case studies of whistle-blowers⁴⁵ and lawyers in the Department of Justice, U.S. Attorney Offices or other federal agencies who have taken a public stand against improper orders or corrupt practices.⁴⁶ Students should also study Big Law’s capitulation to

42. Etienne C. Toussaint, *The Miseducation of Public Citizens*, 29 GEO. J. ON POVERTY L. & POVERTY POL’Y 287, 316-22 (2022).

43. *Id.* at 287 (Abstract).

44. Democracy Forward maintains an active litigation docket at <https://democracyforward.org/> [<https://perma.cc/S8JV-V5F9>] (last visited Feb. 11, 2026). To track cases, see, e.g., *Litigation Tracker: Legal Challenges to Trump Administration Actions*, JUST SEC. (Oct. 22, 2025), <https://www.justsecurity.org/107087/tracker-litigation-legal-challenges-trump-administration/> [<https://perma.cc/D6Z5-DBF4>]. For frequent commentary and analysis on current litigation and extra-judicial strategies, former U.S. Attorney Harry Litman hosts a roundtable discussion with prominent journalists, former government officials, and other guests on his *Talking Feds* podcast. See generally TALKING FEDS, <https://www.talkingfeds.com/> [<https://perma.cc/P2FM-PVFV>]. See also SHERRILYN’S NEWSLETTER <https://sherrilyn.substack.com/> [<https://perma.cc/6GMR-3K5Q>] (written by the director of Howard University’s 14th Amendment Center for Law and Democracy and former NAACP Legal Defense Fund Director-Counsel, Sherrilyn Ifill).

45. See e.g., Ruth Marcus, *Why a Devoted Justice Department Employee Became a Whistle-Blower*, THE NEW YORKER (July 19, 2025), <https://www.newyorker.com/news/the-lede/why-a-devoted-justice-department-lawyer-became-a-whistle-blower> [<https://perma.cc/B3FQ-24HT>] (account of loyal DOJ lawyer Erez Reuveni’s refusal to follow Deputy Associate Attorney General [and now Circuit Court Judge] Emil Bove’s order to say “Fuck You” to the court in high profile immigration deportation case of Kilmar Abrego Garcia).

46. See, e.g., David Kurtz, *DOJ Enters the Darkest Period in its Long History*, TALKING POINTS

administration demands to avoid a suspension of government contracts⁴⁷ and responses from attorneys who have defected from Big Law.⁴⁸

Legal ethicist Russell Pearce has suggested that Big Law's rejection of its duty as a public citizen "may be a way to rejuvenate a focus on the public citizen" role for aspiring lawyers. As it is easy for attorneys in autocracies to become "perfect cogs in the machine . . . the challenge for law schools is how to get beyond this neutral partisan model [of lawyering]."⁴⁹ Likewise, private law scholar Etienne Toussaint has observed that prosecutors and other lawyers threatened by the administration are "taking an approach that is antithetical to public citizenship, taking refuge in the rules, as opposed to the role of the lawyer [which] leads to a kind of professional malpractice" when they do not appreciate the responsibility they have to challenge abuses of legal authority under the model rules.⁵⁰

MEMO (Feb. 14, 2025, at 10:15 AM), <https://talkingpointsmemo.com/morning-memo/doj-enters-the-darkest-period-in-its-long-history> [<https://perma.cc/TSH8-MG4T>] (discussing public resignation of attorneys Danielle Sassoon and five other DOJ prosecutors); Jonah E. Bromwich, Benjamin Weiser & William K. Rashbaum, *Adams's Lead Prosecutor Quits Defiantly: 'It Was Never Going to Be Me,'* N.Y. TIMES (Feb. 14, 2025), <https://www.nytimes.com/2025/02/14/nyregion/adams-prosecutor-hagan-scotten-quits.html> [<https://perma.cc/Z5G7-JCZ4>] (describing resignation of a seventh prosecutor, Hagan Scotten, at approximately the same time as Sassoon and others). See also Alan Feuer, Tyler Pager & Devlin Barrett, *Prosecutor Who Rejected Trump's Pressure to Charge James Is Fired*, N.Y. TIMES (Oct. 17, 2025), <https://www.nytimes.com/2025/10/17/us/politics/trump-prosecutor-fired-letitia-james.html> [<https://perma.cc/R4KV-W5GT>] (describing dismissals or resignations of career federal prosecutors who resisted trump's efforts to seek retribution against perceived political opponents); see generally Moylan, *supra* note 2 (discussing whether lawyers should be disciplined for falsities of "political nature" and moral struggle of government lawyers confronting policies that are extreme and dangerous to public).

47. Memorandum from Donald J. Trump on Suspension of Security Clearances and Evaluation of Government Contracts (Feb. 25, 2025) (on file with the *Washington University Journal of Law & Policy*). See VANCE, *supra* note 10, at 19 ("kneecapping" of lawyers (and judges) through veneful executive action is attack on court system's "ability to function as a check against an overly ambitious president").

48. For examples of law firms challenging Executive Orders that interfere with attorney-client relationships, see generally G.S. Hans, *Clinical Academic Freedom: Old Threats, New Protections*, 80 WASH. U. J. L. & POL'Y (forthcoming 2026). See also Rachel Cohen Interview, THE [F]LAW (May 13, 2025), <https://theflaw.org/articles/rachel-cohen-interview/> [<https://perma.cc/W5XT-D3SQ>] (discussing resignation of recent law graduate from Skadden Arps law firm for bending the knee to trump and her criticism of Paul, Weiss firm). On the theory of anticipatory obedience, see TIMOTHY SNYDER, ON TYRANNY: TWENTY LESSONS FROM THE TWENTIETH CENTURY 18 (2017).

49. See ASS'N OF AM. LAW SCHOOLS, *supra* note 4.

50. *Id.*

iv. Examination of Current and Historic International Democratic and Autocratic Practices

Professor Moylan maintains that “[a]ll commentators seem to recognize that fascist regimes of the 1930s and 1940s are serving as a playbook that has been updated by would-be authoritarian leaders today.”⁵¹ And, given the “increasing divergence between the law on the books and the law on the ground,” Professor Vladeck alludes to the breakdown of the rule of law, as was the case in late-Weimar Republic and the dual state of The Third Reich.⁵² Professor Scott Cummings offers a more complex and contemporary scenario of democracies “backsliding” from liberal to illiberal, with the complicity of lawyers.⁵³

Examining both quantitative and qualitative data is a useful way to gauge global trends towards, and away from, democratization and autocratization. V-Dem (Varieties of Democracy) produces a large global dataset on democracy and autocracy with over 31 million data points for 202 countries from 1789 to 2024.⁵⁴ Today, there are only 29 liberal democracies, “the least common regime type in the world” and the lowest number since the end of the Cold War.⁵⁵ With regard to the United States, the researchers wrote, in the early days of the trump administration:

The scale of what is happening in the US is unprecedented and prompts a closer look at what seems to be the fastest evolving episode of autocratization the USA has been through in modern history. . . . The judiciary is a key institution that autocratizers attack during autocratization,

51. See generally Moylan, *supra* note 2.

52. Vladeck, *supra* note 29. Under the Nazi regime, the dual state was characterized by both the *Normenstaat* (“normative state”) and the *Maßnahmenstaat* (“prerogative state”). *Id.* The former consisted of a government that safeguarded the legal order by statutes, court decisions and administrative agency actions “with the goal of maintaining the existing economic order,” while the latter was a government that exercised “unlimited arbitrariness and violence unchecked by any legal guarantees.” *Id.* (quoting ERNST FRAENKEL, *DER DOPPELSTAAT* (1941)). See also generally Moylan, *supra* note 2.

53. Cummings, *supra* note 2, at 518-26.

54. See V-DEM INST., *DEMOCRACY REPORT 2025: 25 YEARS OF AUTOCRATIZATION—DEMOCRACY TRUMPED? 2* (2025), https://www.v-dem.net/documents/60/V-dem-dr_2025_lowres.pdf [<https://perma.cc/Y5MX-PJ8R>]. Although the quantitative data collected to measure democracy trends does not extend past December 31, 2024, the report’s authors relied on other sources, primarily news reports. *Id.* at 46.

55. *Id.* at 13.

especially in the early phase. A regime transition necessarily requires that rule of law is bent in favor of an aspiring autocrat.⁵⁶

We can thus see the “backsliding” alluded to by Professor Cummings as well as the importance of comparative study of lawyers across political contexts and regimes.⁵⁷

v. Restrictions on Freedom of Expression

Students might also study international legislation governing restrictions on the freedom of association and ‘hate speech.’⁵⁸ In a variation on past attempts by local politicians or legislative bodies to thwart advocacy efforts by law school clinics, the Trump administration has targeted a few university-affiliated clinics based on client viewpoint.⁵⁹ Further, the issuance of a presidential national security memorandum⁶⁰—in the wake of

56. *Id.* at 46 (footnotes omitted).

57. Cummings, *supra* note 2, at 519 n.28, 617.

58. *See, e.g.*, International Convention on the Elimination of all Forms of Racial Discrimination, art. 4(a), Dec. 21, 1965, 660 U.N.T.S. 195 (banning dissemination of ideas based on racial superiority or hatred; incitement to racial discrimination; incitement to violence against any group on basis of race, color or ethnic origin; or provision of assistance to racist activities, including financing thereof); International Covenant on Civil and Political Rights, art. 20(b), Mar. 23, 1976, 999 U.N.T.S. 171 (prohibiting advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence). *See also* Strafgesetzbuch [StGB] [Penal Code], §130(1), https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html [<https://perma.cc/GC95-LFZ7>] (criminalizing public incitement of hatred, calling for violence, or assaulting human dignity of groups or individuals based on national, racial, religious or ethnic grounds); Canadian Criminal Code, R.S.C., 1985, c. C-46 (prohibiting public incitement and wilful promotion of hatred against identifiable groups, and Holocaust denial, as a form of antisemitism).

59. *See, e.g.*, G.S. Hans, *Clinical Academic Freedom: Old Threats, New Protections*, 80 WASH. U. L.J. & POL’Y (forthcoming 2026) (accounts of intimidation faced by legal clinics at Northwestern, Tulane and CUNY). *See also* Heidi Kitrosser & Paul Gowder, Northwestern Law Professors Detail Legal Violations in Northwestern/Trump “Deal” (Dec. 8, 2025) (statement by two law school professors decrying administration’s withholding of federal funds as violation of First Amendment and anti-discrimination laws), https://drive.google.com/file/d/11-vsmToCu5WiltRIPFCu23_JmniaalME/view [<https://perma.cc/7ZWQ-5JKD>].

60. Memorandum from Donald J. Trump on Countering Domestic Terrorism and Organized Political Violence to Sec’y of the Treasury et al. (Sep. 25, 2025), <https://www.whitehouse.gov/presidential-actions/2025/09/countering-domestic-terrorism-and-organized-political-violence/> [<https://perma.cc/746T-R6R4>]. *See also* *Turning Powerful Post 9-11 Counterterrorism Tools Onto Domestic Policy Targets*, ARNOLD & PORTER (Sep. 25, 2025), <https://www.arnoldporter.com/en/perspectives/blogs/enforcement-edge/2025/09/turning-counterterrorism-tools-onto-domestic-policy-targets> [<https://perma.cc/KK3R-SMQU>].

the assassination of conservative activist Charlie Kirk (supposedly seeking to counter domestic terrorism and political violence)—also ushers a new area of uncharted territory for free speech in America. A leaked memo revealed that the Attorney General allegedly instructed law enforcement agencies to investigate organizations that use “violence or the threat of violence” to advance goals such as “opposition to law and immigration enforcement; extreme views in favor of mass migration and open borders; adherence to radical gender ideology, anti-Americanism, anti-capitalism, or anti-Christianity;” and “hostility towards traditional views on family, religion and morality.”⁶¹

vi. Examination of Voter Suppression and Gerrymandering

A number of states are in the throes of redistricting or adopting other measures to thwart voter participation.⁶² The supreme court has been on a trajectory for a number of years to diminish the voting power of racial minorities.⁶³ For example, at the end of its 2025 term, the supreme court ordered reargument in *Louisiana v. Callais* to determine if Louisiana’s most recent congressional districting map complies with Section 2 of the Voting Rights Act of 1965.⁶⁴

61. Brad Reed, *Leaked Memo Shows Pam Bondi Wants List of ‘Domestic Terrorism’ Groups Who Express ‘Anti-American Sentiment’*, COMMON DREAMS (Dec. 7, 2025), <https://www.commondreams.org/news/pam-bondi-doj-memo> [<https://perma.cc/3VS4-LLYA>].

62. See e.g., Richard Hasen, *Identifying and Minimizing the Risk of Election Subversion and Stolen Elections in the Contemporary United States*, 135 HARV. L. REV. 265 (2023). Professor Hasen’s Safeguarding Democracy Project promotes interdisciplinary research, collaboration, and advocacy aimed at ensuring free and fair elections in the United States, bridging theory and practice, <https://law.ucla.edu/academics/centers/safeguarding-democracy-project> (last visited Feb. 12, 2026). Amicus host Dahlia Lithwick featured Marc Elias, chair of the Elias Law Group (<https://elias.law/bio/marc-elias/>) and “tireless explainer for voting law” as her guest on AMICUS WITH DAHLIA LITHWICK: *Trump has a New ‘Big Lie’ for the Midterms* (Feb. 7, 2026), *supra* note 14.

63. See, e.g., *Rucho v. Common Cause*, 588 U.S. 684 (2019) (partisan gerrymandering claims present political questions beyond reach of federal courts); *Allen v. Milligan*, 599 U.S. 1 (2023) (electoral map violates statute when it operates to cancel or minimize racial minority voters).

64. *Louisiana v. Callais*, 145 S. Ct. 2608, 2610 (2025). One justice was vigorously opposed to delaying a ruling on a matter where, he claims, the court’s “§ 2 jurisprudence is broken beyond repair . . .” *Id.* (Thomas, J. dissenting). Meanwhile, a prominent Constitutional scholar has questioned whether it is even appropriate for the court “to decide that a federal law is unconstitutional because it is no longer needed,” notwithstanding renewed congressional findings that § 2’s voting practices and procedures must be extended and applied in order to eliminate a discriminatory impact on minority voters. Erwin Chemerinsky, *The Passage of Time*, SCOTUS BLOG (Oct. 25, 2025), <https://www.scotusblog.com/2025/10/the-passage-of-time/> [<https://perma.cc/79FE-WTYZ>].

vii. Violations of International Law

Students could also review the United States' contemporary compliance with international obligations—including those founded on human rights, humanitarian and criminal law—which has been called into question in light of American support of Israeli military campaigns in Gaza and the other Occupied Territories, and episodic incursions by United States forces against Venezuela and other Latin American nations.⁶⁵ Some of these actions have been criticized in statements by U.S.-based associations of lawyers and legal academics.⁶⁶ Research could include topics such as universal jurisdiction and international criminal law tribunals.⁶⁷ Should there be serious efforts to prosecute trump or members of his administration by way of civil or criminal actions, students could pursue externship or clinical opportunities to participate in person or remotely, including

65. See, e.g., Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287. See also the so-called 'Trump Corollary' to the Monroe Doctrine, announced in a Presidential Message, Donald J. Trump, America 250: Presidential Message on the Anniversary of the Monroe Doctrine (Dec. 2, 2025), <https://www.whitehouse.gov/presidential-actions/2025/12/america-250-presidential-message-on-the-anniversary-of-the-monroe-doctrine/> [<https://perma.cc/PP6C-Z9Y4>] ("the American people—not foreign nations nor globalist institutions—will always control their own destiny in our hemisphere."). See also Donald J. Trump, Memorandum on Withdrawing the United States from International Organizations, Conventions, and Treaties that Are Contrary to the Interests of the United States to the Heads of Exec. Dep'ts and Agencies (Jan. 7, 2026), <https://www.whitehouse.gov/presidential-actions/2026/01/withdrawing-the-united-states-from-international-organizations-conventions-and-treaties-that-are-contrary-to-the-interests-of-the-united-states/> [<https://perma.cc/22YZ-68VJ>] (announcing U.S. withdrawal from numerous treaties and agreements and 66 international organizations, agencies and commissions that are 'contrary' to the interests of the United States). (Jan. 7, 2026).

66. The administration has been criticized for such actions as issuing sanctions against the International Criminal Court, forcibly transferring Palestinians from Gaza, withdrawing from longstanding international alliances and treaties, breaching rules protecting asylum seekers and other migrants, dismantling government institutions and dismissing employees and disregarding legally binding obligations to international rules and norms. See e.g., Am. Branch of Int'l L. Ass'n, Statement of President Michael Scharf (Feb 25, 2025), <https://www.ila-americanbranch.org/wp-content/uploads/2025/02/Statement-of-ABILA-President-Michael-Scharf-Feb-22.pdf> [<https://perma.cc/TMH5-4DL6>]; Am. Soc'y of Int'l L., Statement of President Mélida Hodgson (Feb. 13, 2025), https://www.asil.org/sites/default/files/pdfs/ASIL_Statement_2025_Rule_of_Law.pdf [<https://perma.cc/9ECL-L26H>].

67. See, e.g., Máximo Langer & MacKenzie Eason, *The Quiet Expansion of Universal Jurisdiction*, 30 EURO. J. INT'L L. 779 (2019) (examining subtle worldwide growth in universal jurisdiction litigation despite perception of decline in number of cases); William A. Schabas, *International Criminal Tribunals: A Review of 2007*, 6 NORTHWESTERN J. INT'L HUM. RIGHTS. 382 (2008) (overviewing highlights of litigation pending in specialized international *ad hoc* tribunals).

transnational engagements.⁶⁸

Other possible subjects for discussion, research, and/or case study include *monitoring and analyzing impeachment theories and strategies*, *civil disobedience*, and *potential Constitutional amendments*.

B. Possible Clinical Activities

i. Project 2029

An elective course (for 2Ls and 3Ls) could be devoted entirely to drafting a blueprint of governance—borrowing from the infamous Project 2025 template—for restoring gutted agencies and resurrecting policies undermined by the trump administration’s Executive Orders, DOGE funding freezes, international adventurism, and improper data collection.

ii. Litigation

In addition to the usual externship channels, faculty should aggressively seek opportunities for students to have part-time engagement in litigation against government abuse, as discussed above. This could also include opportunities for 1L students.

iii. Supreme Court Reform Proposals

Students could undertake their own efforts to review and analyze some of the many publicized proposals to mitigate ethical and partisan abuses inherent in the current composition, appointment, confirmation, tenure, and general court operation procedures; and/or support legislative efforts to change the status quo.⁶⁹

68. See, e.g., Written Submission of the American Civil Liberties Union (ACLU) to the UN Committee on the Elimination of Racial Discrimination (CERD) (Feb. 3, 2026), <https://www.aclu.org/documents/aclu-aclumn-cerd> [<https://perma.cc/SW6U-YF4U>] (urgent submission requesting Committee use its “early warning” and “urgent action” procedures in response to trump administration’s deployment of immigration enforcement agents in Minnesota, targeting Somali and Latino communities).

69. See, e.g., Norman Eisen, *Term Limits—a Way to Tackle the Supreme Court’s Crisis of Legitimacy*, BROOKINGS INST. (Sep. 26, 2022), <https://www.brookings.edu/blog/fixgov/2022/09/26/term-limits-a-way-to-tackle-the-supreme-courts-crisis-of-legitimacy/.ete> [<https://perma.cc/R9Q9-WBFP>].

iv. Countering Voter Suppression and Gerrymandering

As discussed above, voting rights and state election laws and practices are very much in flux, with legislative and litigation activity increasing as congressional mid-term elections near. In a case currently before the supreme court, the question is whether one state legislature's attempt to garner more Republican votes—at the direct request of a felonious president—is not simply partisan, but is impermissibly race-based.⁷⁰ There may be opportunities for students to support lobbying efforts or litigation. Students can also participate in aggressive campaigns to ‘get out the vote.’⁷¹

v. Street Law©: Lawyers as Civics Teachers

Lawyers have a special responsibility to “further the public’s understanding of and confidence” in ROL.⁷² Put differently, lawyers “teach their fellow citizens how to understand their rights and responsibilities as members of a community—their obligations to obey the law, aspirations to fulfill the spirit of the law, and responsibilities to the good of their neighbors and the general public.”⁷³ To that end, the importance of educating younger students—in high school and middle school—about civic values and the Rule of Law is paramount.⁷⁴ This can range from a class-related activity to

70. See generally *Abbott v. League of United Latin Am. Citizens*, 223 L. Ed. 2d 260 (2025). The new electoral map is arguably the result of transparent and ham-handed racial gerrymandering, or what the *Strict Scrutiny* trio refer to as “boy math.” STRICT SCRUTINY: *Boy Math, Boy Law, Man Problems* (Crooked Media, Nov. 24, 2025).

71. In her “manual for keeping a democracy,” legal commentator Joyce Vance makes the case for the next election always being “the most important one of our lives.” VANCE, *supra* note 10, at 111. In reviewing recent political and legal history on the value of the vote, Vance places great stock on the next elections halting the march to autocracy—provided they are free and fair. *Id.* at 112–35.

72. MODEL RULES OF PRO. CONDUCT Preamble § 6 (A.B.A. 2020). This understanding and confidence is necessary “because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.” *Id.*

73. Bruce A. Green & Russell G. Pearce, *Public Service Must Begin at Home: The Lawyer as Civics Teacher in Everyday Practice*, 50 WM. & MARY L. REV. 1207, 1214 (2009). Global Lawyering Skills Educator Mary-Beth Moylan adds that would-be lawyers are not only civics teachers, but also students—joining with other law students and lawyers to speak out. See ASS’N OF AM. LAW SCHOOLS, *supra* note 4. Civic engagement program partnerships with higher education institutions, community-based organizations and local bar associations have received wide endorsement from different sectors of the intelligentsia. See generally Moylan, *supra* note 2.

74. During an Association of American Law Schools webinar, Izabela Krasnicka of the University of Bialystok law faculty called attention to the importance of educating young people. Izabela Krasnicka, Remarks at Global Lightning Round on Teaching about Democracy, Co-Sponsored Event of

a full-fledged legal clinic supplementing or supplanting the school’s current clinical options.⁷⁵ Pointing to Spring 2025 “Hands Off” marches and assemblies responding to actions from the corrupt presidency, a media commentator and former DOJ lawyer emphasized that “[p]ublic understanding of the rule of law—what it is and why it matters—is critical to preserving it.”⁷⁶

vi. Monitoring Immigration Law Enforcement Activities

Students could monitor apprehension and detention activities conducted by Immigration & Customs Enforcement (ICE) or Border Patrol agents in collaboration with local immigrant rights and affinity organizations. They could accompany and advise migrants who have been detained or are at imminent risk of being detained. They could also engage in lobbying or other forms of policy advocacy, supporting measures: to create ‘ICE Free’ zones, restricting the use of government property or human resources in the enforcement of federal mass detention and deportation round-ups,⁷⁷ or to document immigration agent misconduct and facilitate state prosecution of federal agents.⁷⁸

the Ass’n of Am. L. Schs. Section on Clinical Legal Educ. Int’l Comm. and Externship Subcomm. on Int’l & Semester Away Externships (Apr. 23, 2025). Professor Krasnicka’s lived experience in Poland—which has undergone many challenging transitions, from the Soviet era to *Solidarnosc* to the Law and Justice Party’s capture of an independent judiciary—is a testament to the phases that nations pass through in courting or countering democratic practices, and the need for constant vigilance.

75. The AALS has recognized a number of law school-based programs. *See generally* Moylan, *supra* note 2.

76. VANCE, *supra* note 10, at 94. *See also id.* at 140–43 (discussing importance of civics education at a young age). Vance writes, “What we really need is to have Law Day every day.” *Id.* at 154. “We have to set high expectations for how a functioning democracy should operate—expectations that don’t leave room for kleptocracy or kakistocracy.” *Id.* at 156.

77. *See e.g.*, Mayor of Oakland, Exec. Order – Limiting the Use of City Property to Uses that Serve City Purposes (Jan. 29, 2026), <https://www.oaklandca.gov/files/assets/city/v/1/official-mayor/mayor-lee/documents/exec-order-1.pdf> [<https://perma.cc/EJ6A-XCMB>]; Mayor of Oakland, Exec. Order – Protect the Town, City of Oakland’s Response to Potential National Guard Deployment and/or DHS Surge (Jan. 29, 2026) <https://www.oaklandca.gov/files/assets/city/v/1/official-mayor/mayor-lee/documents/exec.-order-2.pdf>. [<https://perma.cc/3YLF-7QH8>]. *See also* 2025-S8539, 2025-2026 N.Y. Sen (N.Y. 2025) (proposed legislation establishing ICE-Free zones in New York State), <https://www.nysenate.gov/legislation/bills/2025/S8539> [<https://perma.cc/C5PW-ZQKS>]; Press Release, Philadelphia City Council, Philadelphia Elected Leaders Introduce ‘ICE Out’ Legislative Package to Protect Immigrant Communities (Jan. 28, 2026), <https://phlcouncil.com/philadelphia-elected-leaders-introduce-ice-out-legislative-package-to-protect-immigrant-communities/> [<https://perma.cc/TZ3Z-MHHDH>].

78. *See e.g.*, Mayor of Chicago, Exec. Order No. 2026-1 (Feb. 2, 2026), <https://chicityclerk.s3.us>

vii. Court Observation

Again, where federal courts are accessible, students should be encouraged to observe, equipped with checklists geared towards meaningful observation.⁷⁹ Since the trump administration initiated aggressive ICE tactics around the country, various local bar associations and non-profit organizations have sought volunteers to monitor immigration court proceedings which operate under the auspices of the Executive Office for Immigration Review, a sub-agency of the Department of Justice.⁸⁰

viii. Independent Tribunal or Citizens' Court/Shadow Government

Students could study 'alternative governments' or governments in exile. This allows for a critique of, or challenge to, government policies and practices when there is little to no room for bipartisan policymaking through existing legislative or other government structures. The paradigm is the United Kingdom's 'shadow cabinet' led by the opposition party, which mirrors government ministers who present themselves as a 'government-in-waiting.'⁸¹ Similarly, Myanmar's National Unity Government, operating primarily from hiding within the country and via remote operations, has functioned as a government-in-exile since the 2021 military coup d'état.⁸²

west-2.amazonaws.com/s3fs-public-1/reports/0703_001.pdf?VersionId=DB_yGmR8V5v17__Vm4370dLmUJJZlZRH [https://perma.cc/MC47-FX2J] (directing police department to document misconduct by federal immigration agents and pursue prosecution); S.B. 747, 2025-2026 Leg., Reg. Sess. (Cal. 2025), https://legiscan.com/CA/text/SB747/id/3329732 [https://perma.cc/9VP8-2BGZ] ("No Kings Act" introduced Feb. 21, 2025, seeking to hold federal officers accountable for lawless behavior in the state).

79. See, e.g., Nicholas H. Woolf & Jennifer MJ Yim, *The Courtroom-Observation Program of the Utah Judicial Performance Evaluation Commission*, 47 CT. REVIEW 368 (2011) (describing courtroom observation by lay observers as part of national trend in expanding means of evaluating judicial performance).

80. See, e.g., *Immigrant Legal Defense Program*, JUSTICE & DIVERSITY CTR. OF THE BAR ASS'N OF SAN FRANCISCO, https://www.sfbar.org/jdc/immigrant-legal-defense/ [https://perma.cc/5VW2-KX4F] (last visited Jan. 26, 2026). As noted above, observers can also accompany and advise immigrant respondents who have been detained by ICE agents after their case has been dismissed by the Government attorney, in line with a controversial agency practice.

81. See, e.g., Ludger Helms, *Political Oppositions in Democratic and Authoritarian Regimes: A State of the Field(s) Review*, 58 GOV'T & OPPOSITION 391 (2023) (review of current and emerging research on role of party-based opposition).

82. "The Interim National Unity Government of the Republic of the Union of Myanmar is the only and legitimate Government of the Republic of the Union of Myanmar formed by the Committee Representing Pyidaungsu Hluttaw," which translates as 'Union Parliament.' See,

An independent tribunal is an impartial, specialized body, separate from government departments or agencies, created to resolve specific disputes, adjudicate matters, or provide expert oversight on a discrete issue.⁸³ For example, in response to the Department of Homeland Security’s aggressive patrolling of streets, businesses, schools, churches, and homes in Minneapolis, congressional Democrats convened a one-day public forum on Capitol Hill with witnesses to the regime’s “violent tactics and disproportionate use of force” in operations resulting in deaths, harassment, and detention of noncitizens and citizens.⁸⁴ This kind of forum with less partisan membership, emphasizing rigorous and impartial fact-finding, has the potential to be a truly independent tribunal.

With faculty assistance, students can invite experts or other prominent persons to serve as judges to hear testimony—or debate, deliberate and announce a verdict on the legality or constitutionality of particular supreme court decisions or trump administration policies.

ix. Data Archival Rescue and Retrieval

Federal agencies have systematically scrubbed websites that do not meet Trump’s approval—from the petty to the profound.⁸⁵ It is important to preserve these endangered federal texts, emulating what archivists and curators take on when national heritage treasures are at risk in times of armed conflict; or when statistics on health, the environment, the economy, law enforcement abuse, prison conditions, crime, civil rights, etc. are tampered with or deleted. “[T]his kind of systematic erasure has in the

<https://nugmyanmar.org/> [<https://perma.cc/B3SM-VSEF>] (last visited Feb. 17, 2026).

83. See, e.g., Sean Raming, *The 1967 Russell Tribunal and transatlantic anti-war*, 22 J. TRANSATLANTIC STUD. 341 (2024) (impact on public policy debate of panel of public intellectuals convened in 1966 to examine alleged war crimes committed by U.S. in Vietnam); Müge Gürsoy Sökmen, *Testimony from War Tribunal on Iraq*, #IRAQTRIBUNAL (2006), https://www.iraqtribunal.org/muge_sokmen [<https://perma.cc/7SAC-QBLC>] (final session proceedings of citizen-led tribunal assembled to record crimes against Iraqi people and against humanity and “all other inhabitants of this planet”) (last visited Feb. 16, 2026).

84. *Democrats Hold Forum on Trump Immigration Enforcement After Fatal Shootings*, THE HILL (Feb. 3, 2026, at 14:48 PM ET), <https://thehill.com/homenews/5720847-trump-immigration-enforcement-forum/> [<https://perma.cc/796Q-FRXD>].

85. See, e.g., Huo Jingnan & Quil Lawrence, *Here are all the ways people are disappearing from government websites*, MORNING EDITION, NATIONAL PUBLIC RADIO (Mar. 19, 2025) (describing federal agencies scrubbing websites of “photographic and written references about women, people of color, and members of the LGBTQ+ community”), <https://www.npr.org/2025/03/19/nx-s1-5317567/federal-websites-lgbtq-diversity-erased> [<https://perma.cc/M4NA-MHB8>].

past come when governments strip rights from people, starting from the most marginalized groups.”⁸⁶ Students can look for opportunities to engage with academic and/or other organizations involved in data preservation and retrieval.⁸⁷

x. Disinformation/Misinformation Practices and Privacy Protections

Manipulation of information is key to the survival of an authoritarian regime. A former United States Attorney cautions that “[o]ur job is to resist being manipulated” and “fall[ing] for the disinformation trap.”⁸⁸ Social media is rife with false information intended to inflame and provoke, as well as content without necessarily any intent to hurt.⁸⁹ Students could explore media literacy models with a view toward assessing the truthfulness and validity of information and implement literacy strategies for peers, younger students, and/or the general public.⁹⁰

xi. Resisting University Budget Cuts and Interference with Curriculum, Student Discipline, Academic Freedom, and Faculty Recruitment

Efforts by the trump administration and congress to stifle higher education are rampant. Law students can join other members of their campus communities in combatting these efforts through litigation where feasible. They could also help universities resist overbroad document requests and unwarranted investigations by a hobbled Department of Education.⁹¹ They could examine settlements entered into by Columbia,

86. *Id.* Historian Alessio Ponzio observes: “If you erase the memory, we really forget the people. . . . an act of violence that is very subtle but can really destroy the psychology of people. Basically, ‘I’m telling you that I do not recognize you.’”*Id.*

87. *See, e.g., The Wayback Machine*, GOVWAYBACK, <https://govwayback.com/> [<https://perma.cc/NB32-A85V>] (last visited Oct. 23, 2025); DATAUMOS, <https://www.datalumos.org/> [<https://perma.cc/7ENC-X7FD>] (last visited Oct. 23, 2025) (displaying an Inter-University Consortium for Political Social Research archive for government data); DECFINDER, <https://decfinder.devme.ai/> [<https://perma.cc/VHZ5-7RR7>] (last visited Oct. 23, 2025).

88. VANCE, *supra* note 10, at 143.

89. *Id.*, at 143–44.

90. *See e.g.,* Lara Marie Berger et al., *Debunking “Fake News” on Social Media: Immediate and Short-Term Effects of Fact-Checking and Media Literacy Interventions*, 245 J. PUBLIC ECONOMICS 1 (2025) (discussing survey results showing that media literacy is effective tool to fight fake news and enables participants to critically evaluate social media postings).

91. *See, e.g.,* Judith Butler, *Kafka-land at UC Berkeley*, THE NATION (Sep. 16, 2025), <https://www.thenation.com/article/society/judith-butler-letter-uc-berkeley/> [<https://perma.cc/ZXH4->

Brown, UCLA, and other universities.⁹² In the same vein, students can investigate how the administration is trying to reward universities that agree to uphold a series of values and conditions in return for preferential access to federal funding and partnerships.⁹³

xii. Monitoring Lawyer Misconduct by the DOJ and BigLaw

Students could aid efforts by state bar associations to discipline or suspend members who have violated rules of professional responsibility or committed malpractice in service of the federal government.⁹⁴

III. REFLECTION

Typically, law schools embed reflective practices in clinical and externship programs. Law schools should also incorporate these practices in reoriented curriculum, insofar as students are required to write periodic papers or journal entries to share with peers and/or instructors on the

TDEM] (sharing correspondence between herself [prominent retired professor] and the University's chief counsel, contesting release of files with names of 160 members of campus community, without prior notice, to Department of Education, in response to complaint alleging antisemitism).

92. See, e.g., *President & Fellows of Harvard Coll. v. U.S. Dep't of Health & Hum. Serv.*, No. 25-CV-10910, 2025 WL 2528380, at *34, 37–38 (D. Mass. Sep. 3, 2025) (holding that Government violated Harvard University's First Amendment rights and federal law in freezing nearly \$2 billion in grants due to University's alleged mishandling of campus antisemitism).

93. See Josh Moody, *White House Floats Compact for Preferential Treatment*, INSIDE HIGHER ED (Oct. 2, 2025), <https://www.insidehighered.com/news/government/science-research-policy/2025/10/02/white-house-floats-compact-preferential#> [<https://perma.cc/749B-P94A>]; Erwin Chemerinsky, *Trump's 'Compact' With Universities Is Just Extortion*, N.Y. TIMES (Oct. 2, 2025), https://www.nytimes.com/2025/10/02/opinion/trump-compact-universities-constitution.html?unlocked_article_code=1.qk8.celj.R7eML9O2hybG&smid=url-share [<https://perma.cc/7MF6-FFLM>]. As of October 2025, seven universities had rejected the compact and another two were still reviewing its terms. See Lucia Gambacini & Cecilia Mould, *LIVE TRACKER: Who's signed the Compact?*, THE CAVALIER DAILY (Oct. 21, 2025), <https://www.cavalierdaily.com/article/2025/10/live-tracker-whos-signed-the-compact> [<https://perma.cc/88C4-DQ4P>]. The University of Virginia student newspaper also reported that trump wrote in a Truth Social post: "Those Institutions that want to quickly return to the pursuit of Truth and Achievement, they are invited to enter into a forward looking Agreement with the Federal Government to help bring about the Golden Age of Academic Excellence in Higher Education." *Id.* (internal quotation marks omitted).

94. Professor Cummings writes at length about procedures state bar associations can undertake—including disbarment—to discipline lawyers who violate their oaths by engaging in overturning election results, misleading the courts and other misconduct. He also calls for strengthening the Model Rules of Professional Conduct, by moving some of the preambular language to *bona fide* Rules. Cummings, *supra* note 2, at 608–13.

classroom and/or clinical activity experience. Likewise, they may meet in small groups to verbally share those reflections.⁹⁵ Professor Rachel López captured the importance of reflection at this particular point in time:

By incorporating critical perspectives, emphasizing real-world context, and encouraging reflective practice, we can produce lawyers who are not just skilled technicians, but active participants equipped with the critical thinking and relational skills needed to sustain and improve our democracy. At this precarious political moment, reimagining legal education is not just an academic exercise, but an urgent democratic imperative.⁹⁶

A. Extra-Curricular Activities, Mobilization, and Concerted Action by National, State and Local Bar Associations

A second component of the reoriented law school is regularly hosting guest speakers and conferences to keep the ROL theme front and center. It is imperative that law school leadership forcefully and continuously—in tandem with local bench and bar associations—call out totalitarian Government actions. Professor Moylan formulates the problem and poses a question of how to fight back:

Having established that a backsliding of democratic norms is occurring, that support for rule of law principles may wane, and that the legal system and individual lawyers and judges are instrumental in resisting these phenomena, the question becomes how to do so.⁹⁷

And who should lead the resistance? The ABA and state bar authorities have a role to play in ensuring that lawyers

95. Veteran experientialist, Professor Sandy Ogilvy penned an early paper on the value of reflective journals for law students. *See generally* J.P.Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLIN. L. REV. 55 (1996). *See generally also* Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLIN. L. REV. 317 (2014) (presenting organizational model for teaching reflective practice, with reliance on research in fields of cognitive development, moral reasoning and reflective judgment).

96. Rachel López, *Critical Curriculum Design: Teaching Law in an Age of Rising Authoritarianism*, 109 MINN. L. REV. HEADNOTES 81, 82 (2025).

97. *See generally* Moylan, *supra* note 2.

are not contributing to the backsliding of democracy.⁹⁸

This is in line with the ABA Model Rules of Professional Conduct insofar as “it is a lawyer’s duty, when necessary, to challenge the rectitude of official action [and] to uphold legal process.”⁹⁹ A lawyer must also be “guided by . . . the approbation of professional peers [and] should strive to . . . improve the law and the legal profession and to exemplify the legal profession’s ideals of public service.”¹⁰⁰

This also means encouraging more front-facing law school leadership to write and speak to the public. Such a call to action may face pushback from those who believe it violates the propriety or integrity of the Academy. However, speaking out against the impetuosity and dangers of this regime is not partisan.

Law journals should be encouraged to include articles in every issue devoted to the themes of democracy, the Rule of Law, and specific actions by the trump regime, or the MAGA court, which impinge upon those values. This is also a time to maintain academic relations with flourishing democracies—or democracies endangered like our own. Collaborating with colleagues in Europe, the British Commonwealth, or elsewhere in producing publications and sponsoring conferences and roundtables are all options.

Law schools should retool legal clinics to emphasize ROL- and democracy-related lay education and advocacy. By the same token, schools should revamp externship programs and encourage students to undertake field placements with public or private offices working on behalf of causes and persons under political or legal attack. Likewise, students considering placement in firms that signed *faux* pro bono agreements with the trump administration should be carefully counseled about the disadvantages of such undertakings.

As discussed above, in addition to supporting litigation to defend against interference with curriculum, student disciplinary processes, academic freedom, and faculty recruitment, law students can join other

98. *Id.* Professor Moylan concludes, “All lawyers must be historians.” *Id.*

99. MODEL RULES OF PRO. CONDUCT Preamble § 5 (A.B.A. 2020).

100. *Id.* at § 5. Professor Moylan urges “more connection” between law schools and the community of practitioners, including the development of continuing legal education programs for members of the bar. See ASS’N OF AM. LAW SCHOOLS, *supra* note 4, See generally Moylan, *supra* note 2.

members of the campus community and public at-large in activities such as information campaigns, organizing, general strikes and mass-mobilization.¹⁰¹ For example, through court observation, law students can protect international students, graduate instructors, staff, and faculty who risk detention or arrest due to alleged visa violations or visa revocation. Thus, “law students learn to see the value of community organizing campaigns and coalition building efforts to further a participatory and democratic lawyer-community relationship.”¹⁰²

Under the guise of professional identity and professional responsibility, members of the bar must litigate and advocate in defense of dissent and political opposition, flooding the media with legal commentary. In addition to calling out unconstitutional actions by the federal administration,¹⁰³ law school leadership, faculty, and alumni need to prod the ABA and local bar associations to also call out the supreme court when it issues decisions that embolden trump and bolster the imperial presidency. There is immense value in open letters and statements from lawyers’ associations condemning

101. Some may object to promoting organizing and mobilizing—particularly as a (credit-earning) component of the curriculum—as a breach of law school ethics or standards. Typically, students *do* have more freedom than faculty to take to the streets and engage in social media and utter colloquial expressions that violate institutional norms. Sometimes, in moments of crisis, this kind of grassroots action is necessary on university campuses or in the streets. Public Citizen, a decades-old national consumer advocacy non-profit organization and think tank, reminds its readership that “[t]here is no single, definitive solution to defeat authoritarianism and defend democracy. We need lots of approaches.” Email from Public Citizen to mailing list (Dec. 27, 2025, 12:12 PM) (on file with the *Washington University Journal of Law & Policy*). In addition to its multiple law suits against the administration and reporting on federal abuse, Public Citizen mobilizes, organizes, and helps build coalitions. *See id.*

102. Toussaint, *supra* note 42, at 333. In what he describes as “liberatory lawyering,” Professor Toussaint calls on all lawyers “to be vocal in defense of our court system and judicial independence...using our credibility as lawyers to help the public distinguish between actions that are legitimate and actions that are abusing the law . . . and wrapped in legal language to further political ends.” *See ASS’N OF AM. LAW SCHOOLS, supra* note 4.

103. A mere three weeks after the 2025 presidential inauguration, the ABA President released a statement in support of litigation to counter wide-scale attacks on constitutional rights, “wholesale dismantling” of federal agencies, the firing of federal employees, and the criminalization of DEI programs. *See* Press Release, Am. Bar Ass’n, The ABA Supports the Rule of Law (Feb. 10, 2025), <https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/aba-supports-the-rule-of-law/> [<https://perma.cc/6GJP-VNQW>]. *See also* Press Release, The Bar Ass’n of San Francisco, The Bar Association of San Francisco Stands with the Lawyers and Law Firms Targeted by the Trump Administration (Mar. 12, 2025), <https://www.sfb.org/about-us/newsroom/031225-the-bar-association-of-san-francisco-stands-with-the-lawyers-and-law-firms-targeted-by-the-trump-administration/> [<https://perma.cc/AKP8-ESVM>].

acts by authoritarian regimes and Rule of Law violations.¹⁰⁴ Law school leadership, faculty, and alumni need to prod the American Bar Association and local bar associations to call out the MAGA court when it issues decisions that embolden trump and bolster the imperial presidency. They must flood the media with legal commentary. Law graduates should also seek election to local and state boards of directors and keep the issue at the top of the agenda.

B. Extra-Judicial Calling Out

More or equally effective, but perhaps more controversial, is what I refer to as extra-judicial ‘calling out.’ Retired federal appellate judges and state supreme court justices must speak more forcefully and do more than a tsk-tsk à la John Roberts. In statements outside the parameters of a court decision or the perimeters of a courtroom, they need to criticize trump and his henchmen when they ignore court orders, and when they threaten to impeach judges who interfere with callous and cruel directives. They also need to call out the supreme court. For what it is worth, judges from respected courts in Europe and the British Commonwealth might also rise to the occasion to speak up.

Even *sitting* federal judges, who have life appointments and are relatively immune from impeachment, can find forums to do the same thing at conferences, op eds and other platforms—and steer clear of remarks that may affect litigants who might appear before them. This is not an unknown practice, as jurists often ‘do it with decorum’ at speaking engagements while avoiding any breach of ethics.¹⁰⁵

104. On the value of open letters and statements from lawyers’ associations condemning acts by authoritarian regimes and Rule of Law violations, see Stephen A. Rosenbaum, *From A Distance: A “Disciplined” Democracy Comes Undone in Myanmar*, 39 UCLA PAC. BASIN L.J. 47, 55–57 (2022).

105. See, e.g., MODEL CODE OF JUDICIAL CONDUCT Canon 2, r. 2.10(A)-(D) (A.B.A. 2020) (judges shall not make public statements reasonably expected to affect outcome, or impair fairness of, (im)pending court matters, but may “make public statements in the course of official duties [or] may explain court procedures”). Even justices on the high court are not restrained from calling out illegal or unconstitutional acts by government officials outside the contours of a written order or opinion. In contrast to the tepid reprimand issued earlier by the chief justice, Associate Justice Jackson called on the audience of judges attending a First Circuit conference to show “raw courage” in response to attacks on the judiciary by “the elephant in the room.” Josh Gerstein, *Ketanji Brown Jackson Sharply Condemns Trump’s Attacks on Judges*, POLITICO (May 1, 2025), <https://www.politico.com/news/2025/05/01/ketanji-brown-jackson-sharply-condemns-trumps-attacks-on-judges-00323010> [<https://perma.cc/XK3A-LN2V>].

When unable to go public, sitting judges can communicate off-the-record, as several have done in speaking to the media. Almost eight months into trump's second term, political commentator Jennifer Rubin provided a detailed account of district judges' frustrations with the cursory opinions handed down by the supreme court in its shadow docket. Not only do the lower court judges face a hostile administration without support from the chief justice, they are met with disrespect, and even bullying in opinions written by some of the justices.¹⁰⁶

In a surprising display of candor, almost three-quarters of 65 federal district judges responding to a *New York Times* survey said they disagreed with the "appropriate[ness]" of the supreme court's use of the emergency docket since trump reassumed the presidency. They also criticized the "mystical," "overly blunt," and "incredibly demoralizing and troubling" language used by the justices in their opaque and dismissive orders.¹⁰⁷ Critics included judges appointed by presidents from both major parties. Some were even willing to go on the record in describing the court's mishandling of the docket, detailing the impact of shadow docket decisionmaking on "public confidence in the integrity and impartiality of the judiciary" and on morale in the lower branches of the federal courts.¹⁰⁸ In commenting on the reprimand issued by two MAGA justices to a veteran (Republican-appointed) Circuit Judge, accusing him of "defy[ing]" a court order, the former director of the Federal Judicial Center quipped: "For a guy like that to get bench-slapped for not reading the tea leaves properly? That's just not fair."¹⁰⁹

106. See Jennifer Rubin, *Even Federal Court Judges Know the MAGA Justices are Out of Control*, THE CONTRARIAN (Sep. 8, 2025), https://contrarian.substack.com/p/even-federal-court-judges-know-the?utm_source=post-email-title&publication_id=3719374&post_id=173051005&utm_campaign=email-post-title&isFreemail=true&r=mwyx5&triedRedirect=true&utm_medium=email [https://perma.cc/59VA-HUWG].

107. *Id.* See Mattathias Schwartz & Zach Montague, *Federal Judges, Warning of 'Judicial Crisis,' Fault Supreme Court's Emergency Orders*, N.Y. TIMES (Oct. 11, 2025) (internal quotation marks omitted), https://www.nytimes.com/2025/10/11/us/politics/judicial-crisis-supreme-court-trump.html?unlocked_article_code=1.tE8.2vqA.43DJyyIzO677&smid=url-share [https://perma.cc/ERJ5-DXYC].

108. *Id.*

109. *Id.* (internal quotation marks omitted). Former Federal Judicial Center Director, Jeremy Fogel, served as a district court judge for 20 years. Republican appointee, William G. Young, who has sat on the district court for 40 years, later apologized to the supreme court from the bench, but added: "Never, before this admonition, has any judge in any higher court ever thought to suggest that this Court had defied the precedent of a higher court — that was never my intention." *Id.* (internal quotation marks

Law school faculty may not always be able to leverage this kind of engagement by the judiciary. International Human Rights Pioneer Frank Newman invoked the phrase “mobilization of shame” as an important strategy.¹¹⁰ His target was authoritarian regimes engaged in gross human rights violations. The same principle applies here—even though Professor and later California Supreme Court Associate Justice Newman would never have imagined its application against rogue heads of state and high court jurists in the United States.¹¹¹

IV. NEXT STEPS

These courses can take many forms beyond what is set out above. By no means will any one course address all of these topics; student teams will retain the freedom to work on some of the same research or clinical activities. “Let a hundred flowers bloom”—if I may invoke that Maoist mandate as it was perhaps originally intended.¹¹² Courses can and *should* be taught by a variety of professors—but with urgency and enthusiasm.¹¹³ Professor López has made her own vital call for curricular reform:

As democracy faces mounting threats both at home and abroad, law schools must grapple with their role in shaping not just competent lawyers but also engaged citizens capable of safeguarding democratic institutions. Yet the traditional model of teaching students to ‘think like a lawyer’ may be inadvertently undermining the very values and norms essential to stabilizing our democracy.¹¹⁴

Professor López “provid[es] a blueprint for how law schools can better

omitted).

110. Frank C. Newman, *Non-Military Intervention by International and Regional Organizations in Internal Conflicts*, 13 GA. J. INT’L & COMPAR. L. 341, 343 (1983).

111. See *Article III Coalition*, KEEP OUR REPUBLIC, keepourrepublic.org/article-iii-coalition/ [https://perma.cc/9QNW-KADC] (outlining a coalition of a “distinguished group of retired federal district and circuit court judges who stand united to speak about the separation of powers and the importance of an independent judiciary” launched in May 2025) (last visited Jan. 26, 2026).

112. The full phrase attributed to Mao Zedong is translated as “Let a hundred flowers blossom, let a hundred schools of thought contend.” Mao Zedong, *Remarks On the Correct Handling of Contradictions Among the People* (Feb. 27, 1957).

113. “[T]here is no one answer—not just because every *class* is different . . . but because every professor is different.” Vladeck, *supra* note 29.

114. López, *supra* note 96, at 81.

prepare students to safeguard democracy informed by richer theories of democratic engagement—deliberative and contestatory [sic] democracy.”¹¹⁵ She identifies “the traits of ‘engaged citizenship,’ such as empathy for others, critical thinking, and courage to challenge unjust laws, as essential for lawyers in a time of democratic backsliding.”¹¹⁶ Professor Toussaint, in turn, proposes a set of “pedagogical principles of public citizenship lawyering” to guide law students in how to fulfill their ethical duties to promote justice and improve access to justice, as prescribed by the ABA Model Rules of Professional Conduct.¹¹⁷ Professor Cummings observes that there are “deep problems” with American democracy, but “nonetheless . . . there are better versions of democracy worth struggling to achieve and that in that struggle, lawyers have special roles to play in protecting core principles and practices.”¹¹⁸ Mindful of the “rise of new authoritarianisms,” Professors Capulong, King-Ries, and Mills (citing Thomas Jefferson), call for democratic lawyering practices which “capture the commitment to the rule of law, the promise of liberal legalism—in particular due process, pluralism, human rights, equality, and equity—and the sanctity of a people’s right to fundamentally change an existing system if it no longer serves its purpose.”¹¹⁹

I do not pretend to have all the answers about course content or how to keep this matter front and center without burnout or resignation. I also acknowledge that some may view this endeavor as a provocative or inappropriate role for law schools to assume. I hope that I have made clear that what I propose is more than offering a ‘relevant’ course to 1Ls to offset their casebook-driven curriculum as they embark upon their graduate legal studies. It is about instilling the highest level of professional identity and responsibility from Day One at this critical juncture in our democracy. The concepts discussed here should be embedded in every class. As for the standard law school Professional Responsibility course, Ethicist Scott Cummings argues that:

115. *Id.* at 110.

116. *Id.*

117. *See* Toussaint, *supra* note 42, at 294–97.

118. Cummings, *supra* note 2, at 520.

119. Capulong et al., *supra* note 9, at 202–03. The authors caution, however, that “[i]f we simply defend the rule of law without reform, we preserve the status quo. And if we do not articulate and build an alternative, we fail to address the systemic nature of racism, social and economic inequality, and the hierarchical power structures that continue to perpetuate them.” *Id.* at 198.

getting students to think more deeply about the connection between individual ethics and public values transcends the one-class model; it requires a culture shift in which ethics is taught ‘pervasively’ throughout the curriculum, receiving high-level institutional endorsement and adequate resource allocation.¹²⁰

This is not a time for guarded neutrality. This is not a time to check our passion and anger at the classroom door. This is a time for mobilizing legal institutions and the judiciary to speak out—beyond the confines of classrooms and courtrooms. “America’s slide into authoritarianism is reversible. But no one has ever defeated autocracy from the sidelines.”¹²¹

120. Cummings, *supra* note 2, at 614 (2024) (citing Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. LEGAL EDUC. 31 (1992)).

121. See Steven Levitsky et al., *How Will We Know When We Have Lost Our Democracy?*, N.Y. TIMES (May 8, 2025), <https://www.nytimes.com/2025/05/08/opinion/trump-authoritarianism-democracy.html> [<https://perma.cc/Y73M-X92M>]; see also Vanessa Williamson, *Understanding Democratic Decline in the United States*, BROOKINGS INST. (Oct. 17, 2023), <https://www.brookings.edu/articles/understanding-democ-decline-in-the-united-states/> [<https://perma.cc/9QRP-743K>].

