
The Rule of Law in the United States (And What It Means for the World)

A CORRESPONDENCE WITH BILL WELD
Candidate in the 2020 Republican Presidential Primary

FORUM: *You have had a long career that has intersected with the highest levels of law, government, and business. In your opinion, what is the importance of the rule of law for a society? What does the term “rule of law” actually mean?*

WELD: Rule of law means just that—it means that the law binds even the people elected or appointed to make or enforce it. In practice, it means checks and balances of the type our Framers set up—it means that if you misbehave in office, other people in office will check that misbehavior and see that it’s dealt with.

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I spent the early part of my career dealing with corruption in office. An early job after law school was working for the House Judiciary Committee investigating President Nixon during Watergate. Part of what we analyzed there was the Take Care clause of Article II of the Constitution—the basic requirement that the President execute the law as written. Even apart from Nixon’s involvement in criminal activities, he was violating his oath of office just by trying to snuff out law enforcement investigations that needed to be done instead of doing his job as President. I’ve said before that

Bill Weld, former Governor of Massachusetts and previously a federal prosecutor, began his career as a counsel to the House Judiciary Committee during the Watergate investigation. He is running for President of the United States in the 2020 Republican Presidential Primary.

Trump has been more derelict even than this in his obstruction of necessary and proper investigation into foreign interference in our elections. And now, in his recent attempt to unleash a foreign government on a U.S. citizen without going through any of the normal processes that govern the investigation of a U.S. citizen, Trump is again going beyond not executing the law—he's acting outside it.

What matters here is twofold. The first is standards of conduct in office. In any elected or appointed office—whether you're the President, or a state governor as I was, or a police officer on a beat—you are expected to follow rules that ensure that you're taking care to execute the laws that exist and not go beyond that, and not break the law yourself in the process. That's primarily an ethical imperative. It's something you have to find within yourself when you take that very serious oath. It's not easy. I had to resign from the Reagan Administration because I couldn't be a part of what I considered to be an unacceptable situation. It doesn't always make you popular, but sometimes you just have to do it.

If you violate that—if you break the law while in office or you wind up helping others to do so—then it's incumbent upon the rest of us—especially, again, those who hold office—to see to it that the law is followed, which might mean taking you to task for what you've done in violation of it.

That's the rule of law. If you don't have those two things, that internal honesty and that external accountability and if you don't have enough of those two things or you don't have a baseline level of respect for those two things, then the rule of law is in trouble. And I think we're at a critical point for that. We'll get through it as we have in the past, but people need to do the right thing, and it starts with admitting that unacceptable conduct in office is unacceptable.

FORUM: *President Trump's administration has recently blocked California's ability to set higher emissions standards for cars. As a former governor yourself, where do you fall on this issue? Do you believe such a clash is setting a precedent for future debates on federalism in this country?*

WELD: I'm biased in this case, because I'm an environmentalist. I believe in setting high standards for carbon emissions and other pollutants because I think the long-term health of the planet depends on it. But I think the appropriate way to do that is at the national level via legislation.

I'm not persuaded of the constitutionality of the President ordering a state to void its own laws. The EPA is authorized by Congress to set standards, but states are normally allowed to make their own regulations as

long as they at least meet those standards. Certainly the 10th Amendment, which says the powers not vested in the federal government are vested in the states and people, presumptively means that completely overriding state law takes more than presidential fiat.

This was something Republicans used to insist on as a party. It's a sign of how bad things have gotten that we're now making excuses for dictatorial exercise of presidential power against states' own legislative processes.

FORUM: *One of the most pressing issues surrounding the rule of law in this country has been unfolding during the very drafting of these questions—the recent launch of the impeachment inquiry by House Speaker Nancy Pelosi. Indeed, by the time this edition goes to print, many things may change. But as the situation stands now (September 27, 2019), what are your thoughts? As a former legal counsel on the U.S. House Judiciary Committee during the Watergate impeachment inquiry, do you find parallels between the conduct of President Nixon and President Trump?*

WELD: I was disturbed by Nixon's conduct. It defined my generation and its expectations about conduct of office, but I think Trump is worse by a considerable margin. This goes way beyond breaking into a campaign headquarters and covering it up.

FORUM: *What do you believe will be the consequences, both short and long-term, of these proceedings on the rule of law in this country? Just how durable are our democratic institutions?*

WELD: We're a strong democracy. We've never missed an election in over 230 years, even during the Civil War. We've never had a military coup. We've amended our constitution when necessary to prevent presidents from seeking excessive time in office. Our judiciary still functions. We can be proud of all of that, and we can rely on all of that. But the choice is ours: we can't set the bad example of allowing Trump's corruption and abuse of office to stand unopposed.

FORUM: *Do you see the United States as an example of the rule of law to other countries? If so, is this now changing?*

WELD: We used to be the example people aspired to. When we called ourselves the leader of the free world, it wasn't just because we had the guns and the money—it was because we had the laws and the rule of law. We

were the envy of freedom-loving people and people fighting for freedom because we practiced what we preached and we proved that what they aspired to could be made real. We've lost that by electing the most corrupt administration in our history, and it's an unfortunate reality that that has done damage. Our allies—who we're going to need to confront China and Russia—are going to think twice about working with us when we don't set a good example, to put it mildly.

FORUM: *What are the implications of the rise of populist, nationalist leaders around the world for the global state of the rule of law?*

WELD: Alt-Right nationalists pretend to be draining the swamp and then become the swamp. And they distract from that again by pointing the finger at other people, often by pointing at immigrants or ethnic minorities and attacking the press and other institutions that try to hold them accountable.

So this is a global fight. We see it in parties and politicians like the Sweden Democrats, the German AfD, Marine Le Pen, and others—it starts as a reasonable appeal regarding things that are wrong with the system and it turns into immigrant bashing, hate-spreading, incitement of violence, and corruption when no one's looking.

FORUM: *Do you believe there are countries or regions around the world that are making advances in democracy or the rule of law despite the current wave of populism and authoritarianism?*

WELD: We've seen positive developments in some countries in the past few years. The tiny African republic of The Gambia removed its long-time dictator peacefully by the ballot box in 2016, an election result that surprised everyone. Armenia ousted a government last year and is now working to institutionalize democracy and rule of law. Ethiopia's new prime minister has started a historic process of reform. Moldovan voters ousted a corrupt oligarch and the new pro-democracy prime minister is working tirelessly to solidify rule of law.

But perhaps more importantly, in countries where authoritarians are in government or otherwise dominate the political conversation, people are pushing back. There's some evidence that the populist authoritarian wave has crested. The far-right Freedom Party lost 10 percent of its vote share in Austria's elections last month, compared to the last elections. Slovakia elected a reformist president who ran on an anti-corruption platform, and

the country's populist government could be ousted in parliamentary elections next year.

It's important to note that in the major European democracies, the populists have mostly failed to get into government. Marine Le Pen lost France's presidential election in a landslide, and AfD has yet to be part of any state or federal coalition in Germany. The Sweden Democrats have tried and failed.

Even the major authoritarian states are seeing pushback. Russia saw thousands protesting in the streets when the Kremlin blocked opposition candidates from running in local elections. Even with the most prominent opposition candidates blocked, Putin's loyalists lost seats in local dumas. Hong Kong citizens have been in the streets since June calling for rule of law and free and fair elections, protesting Beijing's heavy hand. So while the news can seem bleak, there is cause for hope.

FORUM: *Any parting words of advice or wisdom for current students of international relations hoping to enter public service during these turbulent times?*

WELD: Don't be afraid, and don't compromise yourself. Now, more than ever, we need honest, pragmatic political leaders who can look at the big picture, work for everyone in this country, and take care of the body politic. It may be discouraging to enter politics at a time when so many people are at each other's throats, but that's the time when we need our best people to step up.

At the same time, don't compromise your integrity. There's always another chance to run for office; there's never a chance to undo involvement in corruption. If you think the only way to make a difference is to be involved in the corruption we see around us, you're not making a difference. You're adding to the mess. So stay involved, but stay clean. *f*

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