

# Lawyers Urged to Defend Constitution, Democracy

Richard Pena's NCBP Award Ceremony Remarks Include Call to Action

**A**t the National Conference of Bar Presidents (NCBP) Awards luncheon on Feb. 2, 2024, former Austin Bar and State Bar of Texas president Richard Pena was presented with the prestigious 2024 NCBP Fellows Award. Pena is the first Austin Bar president and only the second bar president from Texas to receive this prestigious award.

After receiving the award, Pena addressed the room full of bar association presidents and leaders from throughout the country. His remarks, reproduced below, received a standing ovation.

*Thank you, Madam President, for the generous introduction, and thank you to NCBP for this honor. It is a pleasure being with you today in Louisville, Ky.*

*Every generation of bar leaders has unique challenges. But no challenges have been as important and consequential as those being faced by bar leaders and lawyers today.*

*These are difficult times for our country. Our institutions are under assault. Our country is be-*

*ing subjected to attacks on voting rights, free speech, our legal system, prosecutors, judges, books, history, and even attacks against the truth.*

*However, the greatest attacks of all are the attacks against our Constitution and Democracy. Make no mistake, these attacks are real and they are a clear and present danger to our way of life.*

*[The] Brookings [Institution] warned earlier this year that American Democracy "is under assault." Brookings points to the recent wave of voter suppression laws across the country and the Jan. 6 insurrection, as well as other coordinated efforts to overturn the 2020 election.*

*In the American Bar Association's (ABA) World Justice Project 2021 Rule of Law Index, the United States declined in standing. The International Institute for Democracy and Electoral Assistance states that the United States is identified as a democracy that is backsliding. Some legal experts and historians feel that today the preservation of our democracy is at stake.*

*I was recently watching televi-*

*sion and watched as an American citizen at a political rally stated that he would be fine with a dictatorship. He went on and said that was what America needed. It was shocking to me that an American citizen would think that. The other side of democracy is autocracy and dictatorship.*

*To many people, autocracy is just a word. To me autocracy is not just a word. It represents a very dark and evil form of government.*

*I have led more than 20 legal delegations to other countries. I have seen autocracies in action and no one, especially lawyers, is safe in such governments. I have been in Russia and China where lawyers are put in jail for representing dissidents and where trials are a sham and the results predetermined.*

*The Chinese government told me and my delegation that we could not meet with lawyers or Tibetan monks, and if we still went, we would be closely watched. In spite of this warning, we went and, indeed, had a government intelligence officer following us. Cameras and microphones are everywhere trying to capture anything that is deemed disloyal to the government. Our delegation had to meet with representatives of the American embassy in our hotel as they told us the American embassy was bugged. These are samples of how autocracies operate. But there are brave lawyers who continue to advocate for a semblance of the rule of law in spite of safety concerns.*

*In 2013, I led a delegation of Texas and U.S. lawyers to Turkey. Today, Turkey is an autocracy operating as a democracy. Criticism and dissent are considered a crime, the law is used as a means of oppression, and political and human rights are severely restricted. It wasn't always that way. But their democracy gave way to the current autocracy when the political party in power felt it would lose power in a free and fair election. We went when the con-*

*solidation of power was starting to take place and Prime Minister Erdogan was cracking down on perceived threats to his rule.*

*Lawyers were at the top of this list. During our visit I met with the president and board members of the Istanbul Bar Association. They proceeded to tell me that they were going on trial in several weeks and were facing two to four years in prison and disbarment. The reason was that they stood up in open court and asked the judge to permit a defendant in a high-profile case a fair trial. The next day they were charged with attempting to influence a member of the judiciary.*

*This was but a long line of attempts of the government to intimidate and silence lawyers. We were told that lawyers in Turkey were being detained and arrested because they were fulfilling their duties to their clients. It was not unusual for lawyers who dared to stand up for the rights of their clients, fair trials, and the rule of law to be detained, prosecuted, and imprisoned. When I asked a bar president why lawyers continued to stand up and be detained or imprisoned, he said, "Because we are lawyers."*

*The transition from democracy to autocracy has happened in other countries. Could it happen here? The answer is yes. The ABA also thinks so. Consequently, ABA President Mary Smith has created the blue-ribbon Task Force for American Democracy.*

*Make no mistake, this threat is real and as lawyers and bar leaders, we have a duty to support and defend the Constitution. As we go forward in this year, every lawyer should take steps to do something in this regard.*

*John F. Kennedy, in his 1961 inauguration speech, said that the torch had been passed to a new generation of Americans. Today, the torch has been passed to this generation of lawyers and bar leaders to defend our Constitution and help save our democracy. **A***

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