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# Column: U.S. Constitution not perfectly just, but never give up on the rule of law

By Daniel R. Foley • Today • *Updated 9:35 pm*

The leader of the country rejected the results of a national election he had just lost. He summarily suspended the Constitution and ruled by decree and force of arms. I experienced this as a Peace Corps Volunteer in Lesotho, Africa (1969-70), and, after being expelled from the country, I decided to go to law school.

Since then, I have written constitutions and law in Micronesia, served as a civil rights attorney and appellate judge in Hawaii, was a founding member of Hawaii's Access to Justice Commission, mediated and arbitrated legal disputes, and returned to Palau to serve as a part-time Supreme Court justice. I have dedicated my life to a rule of law that is fair and just to all.

The United States Constitution as originally written was not fair and just to all. It enshrined slavery, among other significant shortcomings. The great injustice of slavery led to the Civil War. The people then began to repair the Constitution by adopting the 13th Amendment, ending slavery; the 14th Amendment, providing for due process and equal protection of the law for all persons; and the 15th Amendment, which prohibits denying a person the right to vote based on race.

The 14th and 15th Amendments have required years of legislation and court action to have the people's rights under these Amendments recognized, respected and protected.

Our country is a work in progress. Our federal and state constitutions can work only if legislators and judges adhere to their letter and spirit. When legislators don't do their job, the people should elect new ones who will

faithfully carry out their constitutional duties. When judges stray from the constitution and law, new ones should be selected as well.

A rule of law that is fair and just requires an active and educated citizenry that votes and holds their elective representatives accountable along with independent judges who will enforce the rights of the people guaranteed under the constitution.

Not everyone will agree on what is fair and just, or constitutional. That is to be expected. When this country was founded there were disagreements about what the Constitution meant. Indeed, disagreements continue to this day.

What is important is that these disagreements be resolved lawfully and peacefully, in our legislative bodies, courts and communities. We have seen too many countries where this is not done, resulting in untold suffering and injustice.

One of my heroes is the great civil rights attorney and Supreme Court Justice Thurgood Marshall, who dedicated his life to the fight against racial injustice.

Day after day, year after year, for decades, Justice Marshall fought against overwhelming odds, constant injustice, and threats against his life, to fulfill the promise of the 14th and 15th Amendments to African Americans, and other victims of discrimination and injustice.

Despite all the injustices inflicted on African Americans, Justice Marshall believed in the Constitution, with its post-Civil War Amendments, and never gave up on the rule of law, or the belief it could be made more fair and just.

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We, too, must never give up on fairness, justice and the rule of law.

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**Now retired, Daniel R. Foley served as associate judge of the Hawaii Intermediate Court of Appeals, 2000-2016.**

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