



Is Trump tearing up the U.S. Constitution?

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The moment Donald Trump took the oath of office for president on January 20, 2017 the nation began hurtling toward a Constitutional crisis.

By refusing to divest himself of the Trump International Hotel in Washington, D.C. and his vast business interests including lucrative branding agreements, Trump violated the Emoluments Clause of the U.S. Constitution, say many legal scholars.

That matter is now headed for the courts where the U.S. Justice Dept. will have to defend Trump at taxpayer expense.

After signing an executive order banning refugees and immigrants from seven majority Muslim countries, Trump created the basis for a second Constitutional crisis by ordering U.S. Custom and Border Patrol agents to disregard a federal court injunction against the ban.

Lawyers filed additional motions Feb. 7 to force the Trump administration to comply with the court orders to provide lists of names of detained and deported travelers and accused border patrol agents of intimidating many of them.

“If the allegations in this legal memorandum — allegations that are shocking but seem entirely plausible on their face and appear to be supported by the affidavits and other materials referenced in the memo — are indeed true, then the President and those acting under his direction have a great deal to answer for and are skirting ever closer to outright defiance of lawful judicial orders or perhaps even crossing the line. Needless to say, such defiance is powerful grist for the awesome mill of impeachment,” Harvard Law Professor Laurence Tribe told *LawNewz.com*.

In addition Trump issued a secret executive order to annul between 60-100,000 visas, which only came to light during oral arguments in federal court. Those visas were later restored.

After U.S. District Judge James Robart in Seattle issued a broader stay of the executive order, Trump mocked Robart by referring to him as a “so-called judge.”

The next day Trump went even further. “Just cannot believe a judge would put our country in such peril,” he tweeted. “If something happens blame him and court system. People pouring in. Bad!”

With the White House and both houses of Congress in GOP hands, the courts are the main Constitutional bulwarks against Trump’s undemocratic policies.

Continuous efforts to sow contempt for the courts amounts to all out war on the independence of the judiciary and the system of Constitutional checks and balances.

If Trump and the Executive Branch are permitted to ignore court orders, they no longer recognize Marbury v. Madison, the landmark Supreme Court ruling that upholds the separation of judicial and executive powers.

This would be a serious breach of democracy challenging the Constitutional boundaries of the Executive Branch. It would be the first step toward normalizing authoritarian rule and toward elimination of broad democratic rights and institutions altogether, reminiscent of classical fascism.

Meanwhile, opposition to Trump has exploded, fueled by a very broad sense among the public that the existence of basic democratic and Constitutional rights are under threat. Only a majority mass movement encompassing every conceivable sector of the population will halt Trump and the GOP assault on democracy.

Erosion of Constitutional order

The existence of democratic governance relies on the observance of democratic norms and rules adhered to by elected officials in both major parties and on constitutional checks and balances. During the last few years a pattern of overriding democratic norms, rules and assumptions which amount to a “Constitutional Order” has steadily occurred.

The breaching of norms and rights has been driven by the extreme right and GOP and backed by the re-emergence of an oligarchic ruling class that has concentrated economic and political power into the hands of the .1%.

The GOP has mounted assaults on voting rights, including the gutting of the Voting Rights Act and institutionalized their majority through redistricting and gerrymandering. *Citizens United* and unlimited “dark money” has corrupted the system.

Following the election of President Obama in 2008 the GOP engaged in an eight-year obstruction, which culminated in the refusal to hold a hearing for Supreme Court nominee Merrick Garland.

The GOP carried out a post-election legislative coup in North Carolina stripping the new Democratic governor of many powers.

In an unprecedented development, U.S. intelligence agencies alleged the Russian government interfered in the U.S. election process to help elect Trump and sabotage Hillary Clinton’s

campaign. A British investigator, now in hiding, claims that leaders of the Russian government colluded with the Trump campaign.

This could be legal grounds for treason.

If it is discovered the FBI colluded with the Trump campaign to reopen the investigation into Clinton's emails days before the election, that would be grounds for impeachment.

The breaches of democracy and the white supremacy, xenophobia, Islamophobia, anti-Semitism, homophobia and misogyny of Trump and the GOP must not be normalized.

New breaches of democratic norms

In the early weeks of the Trump administration the GOP Senate majority suspended rules in order to ram through several cabinet nominees including to head the EPA, after Democrats boycotted the hearings.

The new chair of the Federal Communications Commission (FCC), Agit Pai, abruptly issued several rulings without public comment reversing Net Neutrality and undermining consumer protections established under the Obama administration.

At a National Prayer Breakfast on Feb. 2, Trump vowed to "destroy" the Johnson law, which prohibits churches from engaging in political activity at the risk of losing their tax-exempt status. This would erode the Constitutional separation between Church and State.

Chief White House strategist Steven K. Bannon was essentially self-appointed to the Principals Committee of the National Security Council through an executive order he wrote and apparently signed but not read by Trump.

Some scholars believe this appointment is illegal.

Efforts to demonize the mass media are aimed at undermining the existence of the free press and its ability to hold elected officials accountable and bring information to the public.

Other pillars of basic democracy are also under assault including public education and collective bargaining laws.

#TheResistance

Trump and his inner cabal of Bannon, National Security Advisor Michael Flynn and Andrew Miller, former speechwriter for Sen. Jeff Sessions, (all associated with the so-called Alt-Right, the rebranded movement of white supremacists, Anti-Semites, Islamophobes and Neo-Nazi's) and others have unfolded tactics that appear chaotic but have far more sinister aims in mind.

Trump's early flurry of executive orders and appointments, especially the announcement of building the wall with Mexico and the Muslim ban, were meant to energize his base and show he was fulfilling his promises.

They were also meant to test limits, normalize the rollback of rights, confuse, split and demoralize the opposition.

How this approach is comports with the transnational corporate interests who are consolidating their hold in the administration is not yet clear. Those interests include Exxon, Koch Brothers, Goldman Sachs, Wells Fargo, General Dynamic and think tanks like the Heritage Foundation and CATO Institute.

Massive opposition emerges

But to the Trump administration's surprise its actions have been met by an immediate, broad and diverse response that seems to grow by the day.

It started with the 4 million who marched across the country in Women's Marches Jan. 21, the rallies at airports against the Muslim ban, \$24 million raised for ACLU in 24 hours, overflowing grassroots meetings, swamped congressional telephone lines and packed town hall meetings.

Trump was stunned by the unprecedented dissent of over 1,000 Foreign Service officers who signed a Dissent Channel memo. Staff of the National Parks and EPA set up rogue twitter accounts.

A majority of Americans oppose the Muslim ban. Opposition also includes 16 state attorneys general, former state department and national security officials, scores of university administrations and over 130 high tech companies.

Entire states and scores of Sanctuary Cities have declared their opposition to the Trump agenda despite threats by the administration to cut-off funding.

Business leaders, including in the high tech and health care industry and those who benefit from global trade, have grown uncomfortable with the erratic actions of Trump when what they crave is stability.

Cultural performers, artists and professional athletes are also speaking out. Scientists are planning a March on Washington.

Fissures have emerged in GOP ranks. On some issues, a few Republican elected officials, including U.S. Senators Lisa Murkowski, Susan Collins, John McCain and Lindsey Graham have broken ranks.

Former vice president Dick Cheney, John Negroponte and other officials of the Bush and Reagan administrations have denounced Trump on the Muslim ban and for breaching some democratic norms.

Conservative commentators like George Will and David Brooks have expressed their strong displeasure.

So far Trump and the Congressional GOP have not backed off of their legislative agenda, although it appears the timetable to repeal the Affordable Care Act has been greatly delayed.

Despite record low approval ratings at this early stage, Trump still has the solid support of his base.

During his first week, Trump met with AFL-CIO Building Trades union leaders to discuss reviving the construction of gas pipelines and passage of an infrastructure bill. This was an overt attempt to split the labor movement including along racial lines and consolidate a base of support among this section of unions.

Trump advisors including Bannon were present for the meeting. This suggests they see cultivating an alliance, including of white workers who supported Trump, as strategic to their plans for building a larger governing alliance based on white supremacy.

But the Trump administration will not hesitate to cross these unions when it comes to passage of right to work legislation, privatizing Medicare and Social Security and repealing the ACA.

The broad multi-class, multi-racial, multi-gender, multi-generational, multi-political current democratic movement that has sprung up will have to continue to expand if the Trump agenda is to be blocked.

This broad loosely formed alliance is based first on the 65 million voters who supported Hillary Clinton plus millions more who stayed home on Election Day.

It includes the entire Democratic Party, which continues to respond to the impact of events. This underscores the need to fight for broad and flexible unity of left and center within in its ranks and resolving differences over a new DNC chair and policy in a unifying manner.

It includes moderate Republicans and means engaging with those who voted for Trump.

The longer-term objective will be to build broad electoral coalitions to elect candidates that can break the GOP Congressional majorities in the 2018 mid-term elections. Already, target districts are being identified.

Above all, it means fighting for the truth and not allowing “alternative facts,” breaches of democracy, and the ideological poisons surrounding the Trump administration to become normalized.