



Scholars Fear Trump Would Threaten Rule of Law

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Conservative and libertarian legal scholars are warning that electing Donald Trump to the White House in November could create a constitutional crisis.

"Who knows what Donald Trump with a pen and phone would do?" Ilya Shapiro, a lawyer with the Cato Institute, asked The New York Times.

While Trump's fiery rhetoric has called for banning Muslims and removing illegal immigrants without due process, some scholars heavily attacked his criticism this week of U.S. District Court Judge Gonzalo Curiel in San Diego, who is presiding over the civil fraud lawsuit involving Trump University.

"This is how authoritarianism starts, with a president who does not respect the judiciary," David Post, a retired law professor and blogger for the conservative Volokh Conspiracy, told the Times. "You can criticize the judicial system, you can criticize individual cases, you can criticize individual judges.

"But the president has to be clear that the law is the law and that he enforces the law. That is his constitutional obligation."

"If he is signaling that that is not his position, that's a very serious constitutional problem," Post said.

Randy Barnett, a Georgetown University law professor who played a key role in the first major challenge to Obamacare, doubted whether Trump had any commitment to two tenets of the Constitution: the separation of powers and federalism.

"You would like a president with some idea about constitutional limits on presidential powers, on congressional powers, on federal powers — and I doubt he has any awareness of such limits," he told the Times.

Others fear that a President Trump would be worse on these issues.

"I don't think he cares about separation of powers at all," Richard Epstein, a fellow at the Hoover

Institution who also teaches at New York University and the University of Chicago, told the Times.

President George W. Bush "often went beyond what he should have done," he added. "I think Obama's been much worse on that issue pretty consistently, and his underlings have been even more so.

"But I think Trump doesn't even think there's an issue to worry about," Epstein said. "He just simply says whatever I want to do I will do."

However, Republicans remain confident that Trump would respect the rule of law if he wins.

"He'll have a White House counsel," Senate Majority Leader Mitch McConnell of Kentucky told conservative radio host Hugh Hewitt on Monday. "There will be others who point out there's certain things you can do and you can't do."

Arizona Sen. John McCain who recently endorsed Trump told the Times that such fears are unwarranted.

"I still believe we have the institutions of government that would restrain someone who seeks to exceed their constitutional obligations," McCain said. "We have a Congress. We have the Supreme Court. We're not Romania."