



## **Trump attacks on judiciary are ‘corrosive,’ legal expert says**

Yancey Roy

February 11, 2017

President Donald Trump’s attacks on judges are “corrosive” to the constitutional system of checks and balances, according to legal experts from across the political spectrum, and could have a long-term impact on Americans’ respect for the rule of law.

From the time he became a candidate, Trump repeatedly has made personal attacks against judges who don’t side with him. His comments rarely focus on the law or judicial reasoning, but instead question a judge’s legitimacy or motives. Rule against Trump University? Trump says it’s because the judge is Mexican. Question his travel ban? Trump says the judge is threatening Americans’ safety.

Even Trump’s Supreme Court nominee, Neil Gorsuch, has raised questions about the president’s apparent lack of respect for the judicial branch of government, saying his comments are demoralizing.

Trump, a Republican, isn’t the first president to denounce judicial rulings. But he has done so in a way that crosses the line and could have undermining impacts, experts say.

“The simple answer is that these attacks are incredibly corrosive to our constitutional system of checks and balances,” said Richard Epstein, a law professor at New York University and the University of Chicago, and a senior fellow at the Hoover Institution in Palo Alto, California.

Epstein said Trump was “wholly out of place” when he characterized U.S. District Judge James L. Robart as a “so-called judge” when the jurist halted the president’s executive order barring entry to the United States from seven majority Muslim nations. Epstein added Trump should be “severely castigated for what he has done to public discourse,” while noting disregard for the

judiciary is the continuation of a 30-year trend in national politics by both Democrats and Republicans.

“It’s definitely crossing the line and it’s inappropriate. I can’t think of anyone who would say it’s appropriate for a president to do that,” Ilya Shapiro of the Cato Institute, a libertarian group, said of Trump’s remarks. He pointed out that Trump’s attacks never seem to cite where a judge is wrong on the law, but convey that the judge is corrupt. That’s a big difference from most political criticism.

“It’s worrying and it could contribute to undermining” respect for the judiciary, Shapiro said. “If people don’t think what judges do is legitimate, then people don’t think the law is legitimate and you have a society where social norms break down.”

During the presidential campaign, Trump tried to undermine a federal judge hearing a lawsuit against now-defunct Trump University, saying a judge of Mexican descent ruled against him because of the judge’s ethnic heritage. (During the campaign, Trump had promised to build a wall along the Mexican border.) He derided a three-judge panel in California as “biased” because the jurists questioned the legal underpinning of the travel ban.

Just days ago, Gorsuch told a senator that the president’s remarks about judges were “demoralizing” and “disheartening.” Trump spokesman Sean Spicer, a day later, contended that Gorsuch was speaking generally about whenever a judge is criticized, but his version didn’t match accounts reported by those present during the conversation with Sen. Richard Blumenthal (D-Conn.). Asked further about Trump’s comments, Spicer said Wednesday the president was expressing frustration about the travel ban hearing: “He respects the judiciary. It’s hard for him and a lot of people to understand how something so clear in the law can be so misinterpreted.”

But Senate Minority Leader Chuck Schumer (D-N.Y.) said Trump has “shown a deeply troubling lack of regard or respect for an independent judiciary.” People for the American Way, a liberal group, said the remarks were “a threat to the separation of powers and our constitutional system.”

“I think the last time we had a president that was this critical of judges was Richard Nixon,” said Vincent Bonventre, an Albany Law School professor who analyzes judicial rulings. “But there was a huge difference. Richard Nixon actually understood the judiciary. He just thought judges were going too far in protecting the rights of the accused. Trump’s criticisms are ignorant and reckless. Ignorant because they aren’t based on any study or knowledge about the law these judges are trying to apply. Reckless because he’s trying to undermine their integrity, basing it on nothing other than they disagree with what he’s trying to do.”