

افغانستان آزاد – آزاد افغانستان

AA-AA

چو کشور نباشد تن من مباد بدین بوم و بر زنده یک تن مباد
همه سر به سر تن به کشتن دهیم از آن به که کشور به دشمن دهیم

www.afgazad.com

afgazad@gmail.com

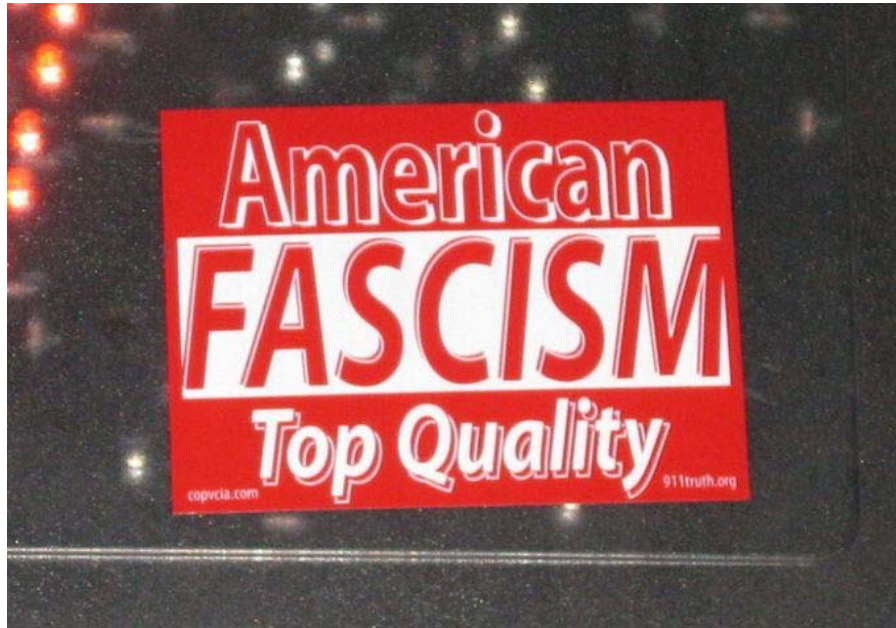
European Languages

زبانهای اروپایی

DANIEL WARNER

30.03.2025

Respect for the Law is the Strongest Weapon Against Fascism



Photograph Source: Alan Turkus – CC BY 2.0

The well-prepared, abundantly funded Heritage Foundation's Project 2025's implementation overwhelms all that has come before. The ill-prepared, leaderless Democrats and opposition are stymied to stop it. No March on Washington like the 1963 March for civil and political rights or the 1967 March against the Vietnam War will slow down the Trump steamroll. Neither the high price of eggs nor Wall Street jitters have had any effect.

What to do? Could courts be the deciding factor to halt the United States slide towards fascism?

Rules are essential to any organized society. Ever since Hammurabi's Code written laws have existed. Although the idea of rules may be a fiction unless they are physically implemented, their very existence since at least 1750 BC shows how societies have historically sought to

govern themselves. When Donald Trump wrote on his Truth Social network last month; “He who saves his Country does not violate any Law,” he directly challenged the relevance of laws. The man who twice swore to uphold the U.S. Constitution placed his saving the country above the law. Trump’s attacks on the judiciary and its role in government checks and balances are more than a constitutional crisis; there is now a societal crisis between liberalism and fascism.

Having consensual rules and implementing them are fundamental to stable societies. The Dominican Republic, for example, has had 32 constitutions since its independence in 1844. The United States, on the other hand, has had one constitution since 1789; it is the oldest written national constitution in force in the world and has been amended only 27 times. The U.S. Constitution is the constitutional gold standard; it has had international influence. The 1848 Swiss Constitution, for example, is in many ways a cut and paste of the U.S. one, something my Swiss friends don’t like to admit.

The implementation of the written law or commonly agreed upon laws such as in the unwritten constitution of the United Kingdom separates liberal societies from fascist states. Fascism revolves around an authoritarian leader who believes he is the incarnation of the nation; someone who acts individually as if he had no obligations to obey society’s laws.

In a very short period of time, President Trump has shown that he has no intention to respect the rule of law and uphold the oath of office he took on January 20, 2025. An example: A federal judge ruled that the government should not deport Venezuelan men to El Salvador without due process. The deportation went ahead anyway. “If anyone is being detained or removed from based on the administration’s assertion that they can do so without judicial review or due process, the president is asserting dictatorial power and ‘constitutional crisis’ doesn’t capture the gravity of the situation,” a Columbia University law professor was quoted in *The New York Times*.

Trump then called for the impeachment of the judge who made the ruling. “If a President doesn’t have the right to throw murderers, and other criminals, out of our Country because a Radical Left Lunatic Judge wants to assume the role of President, then our Country is in very big trouble, and destined to fail!” Trump posted on Truth Social.

Supreme Court Chief Judge John Roberts, in an unusual public statement indirectly rebuking Trump’s threat, said that “For more than two centuries, it has been established that impeachment is not an appropriate response to disagreement concerning a judicial decision,” the Republican appointed Justice declared. “The normal review process exists for that purpose.”

Where will the confrontation between Trump and the judiciary lead? The federal judge, James Boasberg, moved to hold the government in contempt for not following his order. “The government again evaded its obligations,” he wrote. Not following judge’s decisions is a Trump Administration pattern. In refusing to provide Judge Boasberg with details of the mass deportation, the Department of Justice argued that “This is a case about the President’s plenary authority, derived from Article II and the mandate of the electorate,” and that “[J]udicial deference and restraint’ are required to avoid undue interference with the Executive Branch.”

Republican Speaker of the House Mike Johnson also threatened the courts. “We do have authority over the federal courts,” he said at a press conference. We can eliminate an entire district court,” he boasted.

“The problem with this administration is not just acute episodes like what is happening with Judge Boasberg and the Venezuelan deportations,” another law professor was quoted in *The Times*’ article. “It’s a chronic disrespect for constitutional norms and for the other branches of government.”

Trump and Musk are moving to consolidate presidential power at the expense of the Constitution’s separation of powers. In addition to the deportation ruling, CNN reported; “[A] judge in Rhode Island hearing a dispute over a government-wide freeze...added a cautionary footnote: ‘This is what it all comes down to: we may choose to survive as a country by respecting our Constitution, the laws and norms of political and civil behavior...Or, we may ignore these things at our own peril.’ A judge in Seattle declared in a separate case; ‘It has become ever-more apparent that to our president, the rule of law is but an impediment to his policy goals.’”

As far as the case involving the United States Institute of Peace (USIP); DOGE and Washington D.C. police forcibly entered its building, evicting the USIP president George Moose and others. “I’m very offended by how DOGE has operated at the Institute and treated American citizens trying to do a job that they were statutorily tasked to do at the Institute,” District Judge Beryl Howell said. “I mean, this conduct of using law enforcement, threatening criminal investigation, using armed law enforcement from three different agencies ... to carry out the executive order... with all that targeting probably terrorizing employees and staff at the institute when there are so many other lawful ways to accomplish the goals [of the executive order] ...Why?” Howell asked. “Why those ways here — just because DOGE is in a rush?”

(For more information on the USIP case, you can listen to Rachel Maddow at <https://www.tiktok.com/t/ZP82XFM5w/>)

Whatever protests are organized against the MAGA president, whatever MAGA failures occur because of the price of eggs, inflation/recession or the downslide on Wall Street, the legal battles taking place warrant close attention. According to Bloomberg News, “[I]n the first four weeks of the new administration, at least 74 lawsuits were filed, and of those, 58 were brought in federal district courts in Washington, Boston, Seattle and suburban Maryland.”

Cases will soon reach the Supreme Court. Judges Amy Coney Barrett and John Roberts seem prepared to break with the conservative majority to join the three liberal judges. If that happens, there will be more than a just a constitutional crisis. The confrontation between Trump and the courts will be a tipping point between liberalism and fascism.

As Harvard Law Professor and constitutional expert Laurence Tribe eloquently stated in *The Guardian*; “The president, abetted by the supine acquiescence of the Republican Congress and licensed by a US supreme court partly of his own making, is not just temporarily deconstructing the institutions that comprise our democracy. He and his circle are making a bid to reshape the US altogether by systematically erasing and distorting the historical underpinnings of our 235-year-old experiment in self-government under law.”

MARCH 28, 2025

Daniel Warner is the author of An Ethic of Responsibility in International Relations. (Lynne Rienner). He lives in Geneva.