



# CENTER FOR THE STUDY OF LAW AND SOCIETY BERKELEY LAW

## **CSLS SPEAKER SERIES**

Monday, October 30, 2017

## **ERWIN CHEMERINSKY**

Dean and Jesse H. Choper Distinguished Professor of Law, Berkeley Law

### **“Fighting for the Constitution”**

How should progressives think about the Constitution in light of the Trump presidency and what it likely will mean for the Supreme Court for years to come? There are now four very conservative justices who are under 70 years old. If President Trump gets even one more appointment – and there are three justices who are 79 or older, it will create the most conservative court since at least the mid-1930s and it is likely to last for many years to come.

I am writing a book that addresses the question of how progressives should approach this reality. My premise is that it is essential to articulate and defend a vision of the Constitution that provides an alternative to the approach of these justices. The first step must be to refute the conservative claim that justices can decide cases in a value neutral way, such as by divining the original meaning of the Constitution. That is nonsense. It is simply wrong to think that Supreme Court justices -- liberal or conservative – can decide constitutional cases without making value choices or that decisions in controversial areas are about anything other than the ideology of the justices.

If the conservatives' approach is empty and misleading, how do progressives replace it? The place to start is at the very beginning, with the Preamble to the Constitution, which articulates the core values that the Constitution seeks to achieve: democratic government, effective governance, justice, and liberty.

The largest part of the book details how the Constitution should be interpreted to achieve each of the ideals announced in the Preamble. These values should be the foundation of the progressive vision of the Constitution for the years ahead. The specifics are described in the attached paper and, of course, developed in the book.

Dean Chemerinsky's paper is available at our website and in hard copy at the Center.

**PLACE**                    **WARREN ROOM, Berkeley Law**  
**TIME**                    **12:45 – 2:00pm. LUNCH AVAILABLE STARTING AT 12:30 P.M.**  
**INFO**                    <https://www.law.berkeley.edu/centers/center-for-the-study-of-law-society/>  
**EMAIL**                    [csls@law.berkeley.edu](mailto:csls@law.berkeley.edu)

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