

Justice Ketanji Brown Jackson says she fears for U.S. democracy

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5 Supreme Court Justice Ketanji Brown Jackson said Thursday that the “state of our democracy” keeps her up at night, echoing a theme that has animated some of her recent public appearances and fiery dissents from recent decisions.

10 Over the past two terms, the high court’s conservative supermajority has dramatically expanded the power of the presidency, giving Donald Trump and other presidents broad immunity from official acts taken in office, scaling back the ability of lower courts to block policies through nationwide injunctions and green-lighting many of Trump’s precedent-shattering executive orders for now, even as lawsuits over their legality make their way through the court system.

15 Jackson has emerged as one of the court’s sharpest critics, issuing more dissents than any other justice during the term that ended last month and strongly denouncing aspects of several rulings for Trump.

20 On Saturday, Jackson called the conservative bloc’s decisions “an existential threat to the rule of law.” She leveled the same charge in a June 27 dissent to the majority’s ruling to scale back the power of lower courts to issue nationwide injunctions that have blocked much of Trump’s agenda.

The majority’s ruling is “profoundly dangerous, since it gives the Executive the go-ahead to sometimes wield the kind of unchecked, arbitrary power the Founders crafted our Constitution to eradicate,” Jackson wrote.

25 Jackson’s outspokenness drew a retort from Justice Amy Coney Barrett in her majority opinion in the case. “We will not dwell on Justice Jackson’s argument, which is at odds with more than two centuries’ worth of precedent, not to mention the Constitution itself,” Barrett wrote.

30 Magnus-Stinson asked Jackson how she decides to write a dissent. “It’s because I feel like I might have something to offer and add, and I’m not afraid to use my voice,” said Jackson, noting that she’s not offended by other justices taking issue with her opinions because she has a “thick skin.”

35 Magnus-Stinson also said she noticed that Jackson, a liberal, had sometimes aligned with conservative Justice Neil M. Gorsuch on some opinions, which was unusual. “You end up aligning with different justices at different times because cases vary,” Jackson said. “Sometimes you’ll find someone you wouldn’t normally be aligned with who thinks about this issue the same way that you do.”

There are six conservative justices and three liberals on the Supreme Court. When Magnus-Stinson told Jackson that “the current makeup of the court means that you are sometimes in the minority,” the justice interrupted with a sarcastic, “sometimes” and laughed loudly.

40 Jackson said one of the things that surprised her most since becoming a justice three years ago were the traditions and formalities of the court. “I didn’t realize how formal the court really is. I kind of thought when justices go into conference they let their hair down a little bit — no,” Jackson said. (470 words)